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*Class Counsel*

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

JOHN DOE, JOHN DOE II, JOHN DOE III,  
JANE DOE, JANE DOE II, JANE DOE III,  
JANE DOE IV, JANE DOE V, and ALEXIS  
SUTTER, individually and on behalf of all  
others similarly situated,

Plaintiffs,

v.

KAISER FOUNDATION HEALTH PLAN,  
INC., KAISER FOUNDATION HOSPITALS,  
and KAISER FOUNDATION HEALTH PLAN  
OF WASHINGTON,

Defendants.

Case No. 3:23-cv-02865-EMC

**DECLARATION OF TYLER S. GRADEN  
IN SUPPORT OF (I) PLAINTIFFS'  
MOTION FOR FINAL APPROVAL OF  
PROPOSED CLASS ACTION  
SETTLEMENT AND PLAN OF  
ALLOCATION; AND (II) CLASS  
COUNSEL'S MOTION FOR  
ATTORNEYS' FEES, LITIGATION  
EXPENSES, AND SERVICE AWARDS**

Judge: Hon. Edward M. Chen  
Date: May 7, 2026  
Time: 1:30 p.m.  
Court: 5

CMC Filed: December 6, 2024  
Trial Date: January 25, 2027

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1 I, Tyler S. Graden, hereby declare as follows:

2 1. I, Tyler S. Graden, am a partner at the law firm of Kessler Topaz Meltzer & Check,  
3 LLP (“KTMC”). KTMC, together with Carella Byrne Cecchi Brody & Agnello, PC (“Carella  
4 Byrne”), serve as counsel for Plaintiffs John Doe, John Doe II, Jane Doe, Jane Doe II, Jane Doe III,  
5 Jane Doe IV, Jane Doe V, and Alexis Sutter (collectively, “Plaintiffs” or “Settlement Class  
6 Representatives”) and the proposed Settlement Class (“Settlement Class” or “Class”) in the above-  
7 captioned matter (“Action”). I have personal knowledge of the matters set forth herein, based on  
8 my active supervision of and participation in the prosecution and resolution of the Action. If called  
9 upon to do so, I could and would testify competently thereto.

10 2. I submit this Declaration in support of Plaintiffs’ Motion pursuant to Rule 23 of the  
11 Federal Rules of Civil Procedure (“Rules”) for final approval of the proposed Settlement with  
12 Defendant Kaiser Foundation Health Plan, Inc. (“Kaiser” or “Defendant” and, together with  
13 Plaintiffs, the “Parties”). If approved, the Settlement will resolve all claims asserted against  
14 Defendant and certain related entities for a common-fund recovery of \$46 million (with the  
15 possibility of an increase to \$47.5 million).

16 3. This Settlement amount is in addition to the substantial non-monetary relief that  
17 Class Counsel already achieved during the litigation, namely succeeding in having Kaiser remove  
18 the offending internet technologies that were embedded in the Kaiser website (“Website”) and  
19 mobile applications (“Apps”) and change its privacy notification practices. The Court preliminarily  
20 approved the Settlement and directed notice thereof to the Settlement Class by Order dated  
21 December 5, 2025 (ECF No. 393) (“Preliminary Approval Order”).<sup>1</sup>

22 4. I also respectfully submit this Declaration in support of: (i) the proposed plan for  
23 allocating the net proceeds of the Settlement to eligible Settlement Class Members (“Plan of  
24 Allocation” or “Plan”); and (ii) Class Counsel’s Motion for an award of attorneys’ fees in the  
25 amount of 33% of the Settlement Fund, payment of Class Counsel’s litigation expenses in the total  
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27 <sup>1</sup> All capitalized terms that are not otherwise defined herein shall have the meanings provided in the  
28 Amended Stipulation of Settlement dated December 1, 2025 (ECF Nos. 390-1; 392-2) (“Stipulation”  
or “Stip.”).

1 amount of \$605,103.06, and Service Awards to Plaintiffs in the aggregate amount of \$40,000  
2 (\$5,000 for each of the eight (8) Settlement Class Representatives) as compensation for Plaintiffs’  
3 service on behalf of the Settlement Class as well as the risks associated with their involvement in  
4 the Action (“Fee and Expense Application”).

5 5. For the reasons discussed below and in the accompanying memoranda,<sup>2</sup> I, on behalf  
6 of Class Counsel, respectfully submit that: (i) the terms of the Settlement are fair, reasonable, and  
7 adequate in all respects and should be approved by the Court; (ii) the proposed Plan of Allocation  
8 is fair, reasonable, and adequate and should be approved by the Court; and (iii) the Fee and Expense  
9 Application is fair, reasonable, supported by the facts and the law, and should be granted in full.  
10 The Settlement, Plan of Allocation, and Fee and Expense Application have the full support of  
11 Plaintiffs. *See* Exs. 1A through 1H hereto.

## 12 **I. INTRODUCTION**

13 6. The proposed Settlement before the Court provides for the resolution of all claims  
14 in the Action in exchange for a cash payment of \$46 million, which may increase up to \$47.5 million  
15 if certain conditions are met, for the benefit of the Settlement Class. This is in addition to the  
16 substantial non-monetary recovery already obtained, namely the removal of the offending internet  
17 technologies embedded in the Website and Apps at the heart of this litigation and changes to  
18 Kaiser’s privacy notification practices. As detailed herein, the Settlement provides a significant  
19 benefit to the Settlement Class by conferring a substantial, certain, and near-term monetary  
20 recovery—and serving as a substantial deterrent against Kaiser and other healthcare providers  
21 repeating similar conduct in the future—while avoiding the risks of continued litigation, including  
22 that Settlement Class Members could recover less than the Settlement Amount or nothing at all.

23 7. Privacy breach cases such as this are among the riskier and more uncertain areas of  
24 class action litigation, as the case law addressing these cases remains relatively undeveloped. As

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26 <sup>2</sup> In conjunction with this Declaration, Plaintiffs and Class Counsel are submitting: (i) Plaintiffs’  
27 Motion for Final Approval of Proposed Class Action Settlement and Plan of Allocation, and  
28 Memorandum of Points and Authorities in Support Thereof (“Settlement Memorandum”); and (ii)  
Class Counsel’s Motion for Attorneys’ Fees, Litigation Expense and Service Awards, and  
Memorandum of Points and Authorities in Support Thereof (“Fee and Expense Memorandum”).

1 this Court recognized in its October 24, 2025 Order in connection with preliminary approval: “The  
2 risk of continuing litigation is significant.” Order re Pls.’ Mot. for Preliminary Approval, at 3, ECF  
3 No. 384 (“October 24 Order”).

4 8. Indeed, in its first Motion to Dismiss Order, this Court dismissed seventeen (17) of  
5 twenty-one (21) counts brought in the First Amended Complaint. *See* ECF No. 124. After this initial  
6 dismissal, Plaintiffs re-pled many of these claims, including additional factual support, as part of  
7 their Consolidated Master Class Action Complaint (“CMCAC”). However, the risk of dismissal  
8 remained and had Kaiser prevailed on these challenges (or others), the Settlement Class’s recovery  
9 would have been significantly reduced or eliminated.

10 9. The Settlement is the result of extensive efforts by Plaintiffs and Class Counsel over  
11 the course of two years. These efforts included: (i) conducting an extensive investigation into the  
12 alleged misconduct, working with experts to investigate and develop the claims, and conducting  
13 legal research into potential causes of action under various laws and statutes; (ii) preparing an initial  
14 complaint, two amended complaints, and one consolidated master complaint; (iii) submitting a  
15 motion for preliminary injunction resulting in Kaiser’s removal of the offending code at issue in  
16 the Action from its Website and Apps; (iv) opposing three motions to dismiss; (v) opposing three  
17 motions to compel arbitration; (vi) participating in extensive discovery, including the review of  
18 nearly 40,000 documents produced by Defendant; (vii) Plaintiffs’ service and negotiation of  
19 subpoenas on nine third parties; (viii) multiple days of in-person review of highly confidential  
20 designated source-code material by experts; (ix) attending and arguing at six in-person discovery  
21 conferences before Magistrate Judge Peter H. Kang<sup>3</sup>; and (x) engaging in protracted settlement  
22 negotiations, including mediations before two separate, highly experienced and respected retired  
23 federal judges who served as JAMS mediators.

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27 <sup>3</sup> The Discovery Management Conferences were held on July 18, 2024 (ECF No. 213), October 18,  
28 2024 (ECF No. 242), November 15, 2024 (ECF No. 263), December 17, 2024 (ECF No. 276),  
January 24, 2025 (ECF No. 296), and March 13, 2025 (ECF No. 322).

1 10. Due to these efforts (and others), Plaintiffs and Class Counsel were well-informed  
2 of the strengths and weaknesses of the claims against Kaiser at the time they achieved the  
3 Settlement, and believe that the Settlement is in the best interests of the Settlement Class.

4 11. As described in their declarations submitted herewith, Plaintiffs also actively  
5 participated in the Action and supervised the work of Class Counsel, and they strongly endorse final  
6 approval of the Settlement and Class Counsel's fees and expenses. *See* Exs. 1A through 1H hereto.

7 12. As further detailed below, the proposed plan for allocating the Net Settlement Fund  
8 provides for the equitable distribution of the Net Settlement Fund to Settlement Class Members  
9 who submit valid claims on a *pro rata* basis.

10 13. For two years, Class Counsel worked diligently in prosecuting this Action on a fully  
11 contingent basis and advanced all litigation-related expenses, and thus exclusively bore the risk of  
12 an unfavorable result. For their efforts in achieving the Settlement, Class Counsel respectfully  
13 request attorneys' fees in the amount of 33% of the Settlement Fund and payment of the reasonable  
14 litigation expenses incurred in connection with the institution, prosecution, and settlement of the  
15 Action on behalf of the Settlement Class.

16 14. As discussed in the Fee and Expense Memorandum, a 33% fee award is merited here  
17 and is in line with fee awards in other cases in this Circuit which similarly resulted in substantial  
18 recoveries for class members following contentious litigation. Moreover, the present fee request  
19 will result in a fee that is approximately 1.3 times Class Counsel's total lodestar as of September  
20 30, 2025—i.e., \$11.9 million which is based on over 19,000 hours of attorney and professional  
21 support staff time at their current billing rates. Class Counsel respectfully submit that the requested  
22 33% fee is fair and reasonable in light of Class Counsel's extensive efforts, the result achieved in  
23 the Action, and the risks and complexity of the litigation.

24 15. Class Counsel also respectfully submit that the expenses incurred in litigating this  
25 Action (\$605,103.06) were expended for the benefit of the Settlement Class and warrant the Court's  
26 approval. In addition, Plaintiffs' request for Service Awards in the aggregate amount of \$40,000  
27 (i.e., \$5,000 each) also warrants approval.

28

1           16. Class Counsel are proud of the achievements embodied by this Settlement and  
2 respectfully submit that the Court should grant final approval of the Settlement, approve the Plan  
3 of Allocation, and grant Class Counsel’s request for fees, expense reimbursement, and service  
4 awards.

## 5 **II. BACKGROUND OF THE ACTION**

### 6 **A. Factual and Procedural Background**

7           17. Plaintiffs are members of Kaiser’s health plans who used Kaiser’s Websites and  
8 Apps for various healthcare-related functions. *See* CMCAC ¶¶ 1-2, 24-69, ECF No. 271. Plaintiffs  
9 allege that they reasonably expected that their communications and interactions on the Websites  
10 and Apps would not be shared with a third-party, but Kaiser disclosed sensitive personal and  
11 confidential patient communication and information to third parties, such as Quantum Metric,  
12 Twitter, Adobe, Microsoft Bing, and Google (collectively, “Third-Party Wiretappers”)—  
13 unbeknownst to Plaintiffs and other Kaiser members. *Id.* ¶¶ 3, 23.

14           18. Specifically, Plaintiffs allege that Kaiser installed third-party code that allowed the  
15 Third-Party Wiretappers to intercept the content of patients’ communications with Kaiser in real-  
16 time as users “access[ed] specific medical information, click[ed] buttons that divulge[d] sensitive  
17 and protected patient status, and personal and health information, and enter[ed] information into  
18 various fields on Kaiser’s [Websites] or [Apps].” *Id.* ¶ 6. Plaintiffs further alleged that Kaiser  
19 embedded the third-party code on its Websites and Apps even though it knew that the code would  
20 disclose and permit Third-Party Wiretappers to intercept and collect user information. The  
21 intercepted information included medical histories, prescriptions and test results, appointment  
22 schedules, online medical evaluations, symptoms searches, messages to insurance providers,  
23 healthcare-related bills and payments, and information associated with other tasks performed while  
24 on the Websites and Apps. *Id.*

25           19. Plaintiffs filed their initial Complaint in the Action on June 9, 2023 (*see* ECF No.  
26 1), followed by the First Amended Class Action Complaint (“FAC”) on September 15, 2023 (*see*  
27  
28

1 ECF No. 44), which included plaintiffs from additional states and claims under additional state  
2 laws.<sup>4</sup>

3 20. Prior to filing these complaints, Class Counsel worked with one of their expert, Ross  
4 Malaga, Ph.D., who was able to identify and capture the transmission of highly sensitive, Personally  
5 Identifiable Information (“PII”), including Protected Health Information (“PHI”), via Third-Party  
6 Wiretappers’ code when Plaintiffs communicated with their Kaiser healthcare providers through  
7 the Website and Apps. This information was specifically detailed in the FAC and later served as  
8 the basis for Dr. Malaga’s declaration in support of Plaintiffs’ motion for preliminary injunction.

9 21. After filing the Complaint, Class Counsel immediately began seeking discovery. On  
10 August 9, 2023, Plaintiffs served Kaiser with Notices of Plaintiffs’ subpoenas issued to Adobe, Inc.,  
11 Alphabet, Inc., Microsoft Inc., and X Holdings Corp. (f/k/a Twitter, Inc.), all of which Plaintiffs  
12 identified as Third-Party Wiretappers in Plaintiffs’ initial Complaint and the later filed FAC. Kaiser  
13 also immediately began pushing back, with the Parties filing a joint discovery letter on September  
14 28, 2023, with Kaiser seeking a Protective Order and asking the Court to quash the subpoena. *See*  
15 ECF No. 55. After the dispute was referred to Magistrate Judge Kang, on December 17, 2023, the  
16 Court rejected Kaiser’s efforts. *See* ECF No. 102. On October 6, 2023, Plaintiffs also served Kaiser  
17 with a First Request for Production of Documents, which led to months of meet-and-confers and  
18 letter briefing on discovery disputes before Judge Kang. *See* ECF No. 128.

19 22. On October 4, 2023, Plaintiffs also filed a Motion for Preliminary Injunction,  
20 requesting Kaiser’s removal of the offending code from its Websites and Apps. ECF No. 58. In  
21 connection with this Motion, Plaintiffs submitted a detailed declaration prepared by their expert,  
22 Ross Malaga, who explained not just the way the offending technology worked, but also provided  
23 specific examples of how Plaintiffs’ PHI had been compromised and sent to the Third-Party  
24 Wiretappers through code embedded on the Website and Apps. *See* ECF No. 60.

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28 <sup>4</sup> These Complaints included Defendants: Kaiser Foundation Health Plan, Inc., Kaiser Foundation  
Hospitals, and The Permanente Medical Group, Inc.

1           23. In response to Plaintiffs’ Motion for Preliminary Injunction, Kaiser argued that an  
2 injunction was not necessary because Kaiser had removed the third-party code trackers at the heart  
3 of Plaintiffs’ claims and implemented banners to provide more fulsome disclosure of Kaiser’s  
4 privacy policy. Specifically, Kaiser submitted the Declaration of Bill D. Vourthis who explained  
5 that, as of November 8, 2023, five months after Plaintiffs filed suit and one month after Plaintiffs  
6 moved for a preliminary injunction, Kaiser disabled, deleted, or modified the internet technologies  
7 provided by Adobe, Bing, Google, Twitter, and Quantum Metric that are at the heart of Plaintiffs’  
8 claims from its website. ECF No. 96 ¶ 3. Mr. Vourthis further explained that Kaiser had also  
9 disabled, deleted, or modified those same internet technologies from its Apps by releasing new  
10 versions of the Apps on October 31, November 1, and November 10, 2023. *Id.* ¶¶ 5-6. All users were  
11 then required to implement and update to the latest version of the Apps by November 10, 2023, or  
12 November 13, 2023 for users of the Kaiser Permanente Washington App. *Id.* As of September 14,  
13 2024, Kaiser also completed its migration of Dynatrace technology to the on-premises deployment  
14 model offered by Dynatrace, such that all Website and App visitor data was then collected and stored  
15 solely on Kaiser’s on-premises server. *Id.* ¶ 9.

16           24. Moreover, after Plaintiffs brought this lawsuit and moved for a preliminary  
17 injunction, Kaiser also implemented a consent banner on the Website. As described in the Vourthis  
18 Declaration:

19           KFHP has also implemented a consent banner on the pages of the Website which  
20 informs Website visitors that: Kaiser Permanente uses web tracking technologies on  
21 this site and may share such data with its third parties to enhance your experience and  
22 optimize our ability to make users aware of our services. By navigating the site, you  
23 agree to the use of these web technologies as described in our Privacy Statement.”  
Attached as Exhibit 1 is a print out of the Site homepage showing the banner that is  
24 now in place. The banner will remain until the Website visitor either clicks on the  
25 “X” to manually close the banner or clicks on the link to the Privacy Statement. A  
26 user cannot navigate to any of the Site’s pages until the user clicks the “X” or views  
27 the Privacy Statement.

28           *Id.* ¶ 10. While Plaintiffs maintain that such banners alone would not have been sufficient to alert  
Kaiser Permanente members as to the pre-November 2023 conduct at issue, with the offending  
technology removed from the Website and Apps as of November 2023, Plaintiffs believe that the

1 implementation of this banner provided Kaiser Permanente members with meaningful information  
2 about Kaiser’s post-November 2023 conduct.

3 25. Kaiser similarly implemented two permanent banners on the new versions of the  
4 Apps that were released in early November 2023. As described in the Vourthis Declaration:

5 When a user opens the new version of the Kaiser Permanente App, a permanent  
6 banner is displayed at the top of the log-in page. This banner is permanent, meaning  
7 it stays on the log-in page. This banner informs users that: “Kaiser Permanente uses  
8 tracking technologies in this application and may share data with its third parties. By  
9 using this application, you agree to the use of these technologies as described in our  
10 Privacy Statement.” A second permanent banner is on the home page of the App and  
11 contains the same wording.

12 *Id.* ¶ 11. The same banner notifications were implemented for Kaiser Permanente members in  
13 Washington. *Id.* ¶ 12. Accordingly, having achieved the relief they sought through their Motion for  
14 a Preliminary Injunction, Plaintiffs withdrew their Motion. *See* ECF Nos. 95, 101.

15 26. On October 17, 2023, the Court held the Initial Case Management Conference. ECF  
16 No. 77. In the Joint Case Management Statement (ECF No. 68), Kaiser argued that discovery should  
17 be stayed until a decision on Kaiser’s forthcoming Motions to Dismiss and Motions to Compel  
18 Arbitration. *See* ECF No. 68 at 9. The Court declined to stay discovery, and allowed discovery  
19 necessary for class certification, calculation of damages, and settlement to proceed. The Court also  
20 rejected any bifurcation between class discovery and merits discovery.

21 27. Shortly after the Initial Case Management Conference, on November 14, 2023,  
22 Kaiser then filed a Motion to Compel Arbitration of Plaintiff John Doe’s claims and a Motion to  
23 Dismiss the FAC. ECF Nos. 82, 88. Plaintiffs opposed these Motions on January 15, 2024 (ECF  
24 Nos. 108, 109) and Kaiser filed replies on February 14, 2024 (ECF Nos. 110, 112). Oral argument  
25 was held on March 14, 2024. ECF No. 117.

26 28. While Kaiser’s Motions to Dismiss and Compel Arbitration remained *sub judice*,  
27 Plaintiffs continued moving discovery forward. The Parties negotiated, and briefed issues relating  
28 to, unique issues related to the contents of the Protective Order such as the handling of highly  
confidential source code, which were ultimately resolved by Judge Kang. *See* ECF No. 100. On  
December 29, 2023, Plaintiffs also served their First Set of Interrogatories on Kaiser. Class Counsel

1 also engaged in numerous meet-and-confers with Kaiser’s counsel, attempting to reach agreement  
2 on the types of documents that would or would not be produced pursuant to this Court’s guidance  
3 at the Case Management Conference. During this period, Class Counsel also continued working  
4 with their experts, including Ross Malaga and other consulting experts, regarding the operation of  
5 the Third-Party Wiretapper’s code. Between December 2023 and April 1, 2024, Kaiser made nine  
6 (9) separate document productions.

7 29. In February 2024, Kaiser also served its First Set of Requests for Production of  
8 Documents on Plaintiffs, to which Plaintiffs responded in March 2024.

9 30. On March 26, 2024, the Court granted Kaiser’s Motion to Compel Arbitration of  
10 Plaintiff John Doe’s claims (ECF No. 119) and on April 11, 2024, the Court denied and granted in  
11 part Kaiser’s Motion to Dismiss the FAC (ECF No. 124). More specifically, the Court dismissed  
12 without prejudice federal and state statutory privacy claims, including claims brought under the  
13 California data privacy statutes. *Id.* The Court’s orders were largely without prejudice.

14 31. On April 12, 2024, *one day* after the Court issued its opinion on Kaiser’s Motion to  
15 Dismiss the FAC, Kaiser began notifying regulators that it had shared patients’ PII and PHI,  
16 including, *inter alia*, IP address, name, member status, symptom searches, and information showing  
17 how the member interacted with and navigated through the Website or Apps. *See* ECF No. 127. In  
18 these notices, Kaiser further admitted:

19 [O]n October 25, 2023, Kaiser confirmed that certain third-party online technologies  
20 previously installed on some portions of its website and mobile application were  
21 configured to transmit limited information about Kaiser members and patients to the  
22 vendor-developer as part of the technology’s standard functionality. These online  
23 technologies (sometimes called “cookies” or “pixels”) were provided by Google,  
24 Microsoft Bing, and Twitter, third-party vendors engaged by Kaiser to support the  
25 performance and use of the Kaiser website and mobile application.

26 *Id.* As Kaiser’s counsel subsequently acknowledged during a discovery hearing: “**This litigation**  
27 **was part and parcel of what spurred the investigation into those technologies.**” Disc. Hr’g Tr.  
28 at 53:25-54:1 (July 18, 2024), ECF No. 217 (emphasis added).

29 32. In addition to notifying regulators of the privacy breach, Kaiser proceeded to issue  
30 individual notifications of the privacy breach to its members, which Class Counsel understand was

1 completed in May 2024. *See* ECF No. 374 at 1-2. As these notifications were disseminated,  
2 additional follow-on suits were filed in state and federal court and other firms were retained by  
3 Kaiser members subject to arbitration provisions.

4 33. On May 9, 2024, Plaintiffs filed their Second Amended Class Action Complaint  
5 (“SAC”). ECF No. 131. On July 3, 2024, Kaiser filed a Motion to Compel Arbitration and a Motion  
6 to Dismiss the SAC. ECF Nos. 195, 205. Plaintiffs opposed these Motions on August 22, 2024. ECF  
7 Nos. 223, 226. Kaiser’s Motion to Dismiss and Motion to Compel were mooted by the Court  
8 following the consolidation of two related cases—*Sutter v. Kaiser Foundation Health Plan, Inc.*,  
9 Case No. 24-cv-03352 and *Newton v. Kaiser Foundation Health Plan, Inc.*, Case No. 24-cv-03625—  
10 with the Action after an in-person hearing on August 27, 2024. *See* ECF Nos. 220, 233. *See also*  
11 ECF No. 222 (Joint Status Conference Statement).

12 34. On June 7, 2024, KTMC and Carella Byrne moved for appointment as co-lead  
13 counsel pursuant to Federal Rule of Civil Procedure 23(g). ECF No. 167. Noting the *Sutter* and  
14 *Newton* plaintiffs’ agreement with respect to the appointment of KTMC and Carella Byrne as co-  
15 lead counsel and in consideration of their efforts in litigating the Action, the Court appointed KTMC  
16 and Carella Byrne as Interim Co-Lead Class Counsel on August 27, 2024. *See* ECF No. 233.

17 35. On December 6, 2024, Plaintiffs filed the operative CMCAC. ECF No. 271. The  
18 CMCAC asserted that Kaiser’s disclosure of Kaiser members’ protected information and  
19 communications violated their privacy and rights under the Electronic Communications Privacy Act,  
20 18 U.S.C. § 2510, HIPAA, and various state statutes. CMCAC ¶ 23. More specifically, Plaintiffs  
21 asserted claims under federal and state data privacy statutes, state consumer protection statutes, state  
22 data breach statutes, and the common law among others, repleading several claims that had  
23 previously been dismissed.

24 36. In the meantime, with the Motions to Dismiss and Compel Arbitration decided, Class  
25 Counsel continued seeking discovery. On April 30, 2024, the Parties submitted a Joint Discovery  
26 Letter Brief regarding Kaiser’s responses to Plaintiffs’ First Request for Production of Documents.  
27 *See* ECF No. 128. On May 10, 2024, after having reviewed Kaiser’s initial production and ensuing  
28

1 events, Plaintiffs served Kaiser with a Second Request for Production of Documents. Kaiser also  
2 continued making rolling document productions, and supplemented its interrogatory responses, as  
3 the Parties' meet-and-confers continued. On June 27, 2024, the Parties submitted a second Joint  
4 Discovery Letter Brief, this time concerning Kaiser's responses to Plaintiffs' Second Request for  
5 Production of Documents. *See* ECF No. 185.

6 37. Kaiser also continued seeking discovery from Plaintiffs, with the Parties filing a Joint  
7 Discovery Letter Brief re Plaintiffs' Responses and Objections to Defendants' First Set of Requests  
8 for Production of Documents on June 26, 2024. ECF No. 183. On July 29, 2024, Kaiser also served  
9 a Second Set of Request for Production of Documents on Plaintiffs, and on August 8, 2024, Kaiser  
10 served demands for inspection of Plaintiffs' personal electronic devices.

11 38. On June 28, 2024, Judge Kang entered an Order Resolving Discovery Dispute Letter  
12 Brief Dated April 30, 2024. ECF No. 188. Judge Kang also held an in-person discovery hearing on  
13 July 18, 2024 (ECF No. 169) and entered an Order regarding the dispute on July 23, 2024 (ECF No.  
14 216). In light of the consolidation of the *Doe*, *Newton*, and *Sutter* actions, and the mediation planned  
15 for October 2024, the Parties requested that the Discovery Management Conference originally  
16 scheduled to be held before Judge Kang on September 24, 2024, be continued to a date after October  
17 7, 2024. *See* ECF No. 234.

18 39. After the Parties did not reach agreement at the October 2024 mediation, the Parties  
19 entered a period of intense discovery, with Judge Kang holding monthly, in-person discovery  
20 conferences. Throughout this period, the Parties were able to quickly bring disputes to Judge Kang's  
21 attention for resolution. These conferences also, in many cases, had the added benefit of helping the  
22 Parties reach agreement leading up to the conferences, without the need for judicial intervention.

23 During this period:

- 24 • On October 11, 2024, the Parties filed a Discovery Management Statement detailing  
25 (1) the status of discovery; (2) the Parties' progress in meeting discovery deadlines  
26 (including deadlines set by Court order or directive); (3) discovery disputes which  
27 are ripe for (and for which the Parties request) resolution; (4) discovery issues on  
28 which the Parties are still meeting and conferring and do not presently require Court  
action; and (5) any other issues or obstacles to discovery the Parties have encountered  
which would risk impacting the overall discovery schedule. ECF No. 239.

- 1 • On October 16, 2024, the Parties filed a Joint Discovery Letter Brief re Kaiser's  
2 Response to Interrogatory No. 1 (ECF No. 240) and a Joint Discovery Letter Brief re  
3 Plaintiffs' Production of Records in Response to Defendant's Request for Production  
4 Nos. 16 and 18 (ECF No. 241).
- 5 • On October 18, 2024, the Parties attended an in-person discovery conference before  
6 Judge Kang. ECF No. 242.
- 7 • On October 30, 2024, Judge Kang issued Discovery Management Order No. 1. ECF  
8 No. 250.
- 9 • On November 6, 2024, the Parties filed a Joint Discovery Letter Brief Regarding  
10 Kaiser's Response to Interrogatory No. 4. ECF No. 257.
- 11 • On November 8, 2024, the Parties filed a Discovery Management Statement. ECF  
12 No. 258.
- 13 • On November 15, 2024, the Parties attended an in-person discovery conference  
14 before Judge Kang. ECF No. 263.
- 15 • On November 20, 2024, Judge Kang issued Discovery Management Order No. 2.  
16 ECF No. 267.
- 17 • On December 10, 2024, the Parties filed a Joint Discovery Letter Brief re Plaintiffs'  
18 Responses to Defendants' Requests for Production Nos. 11-12 and 23-30. ECF No.  
19 272. On the same date, the Parties also filed a Discovery Management Statement.  
20 ECF No. 273.
- 21 • On December 17, 2024, the Parties attended an in-person discovery conference  
22 before Judge Kang. ECF No. 276.
- 23 • On January 17, 2025, the Parties filed a Joint Discovery Letter Brief Regarding  
24 Defendants' Privilege Logs. ECF No. 291. On the same date, the Parties also filed a  
25 Discovery Management Statement. ECF No. 292.
- 26 • On January 21, 2025, Judge Kang issued Discovery Management Order No. 3. ECF  
27 No. 293.
- 28 • On January 24, 2025, the Parties attended an in-person discovery conference before  
Judge Kang. ECF No. 296.
- On March 6, 2025, the Parties filed a Discovery Management Statement. ECF No.  
318.
- On March 13, 2025, the Parties attended an in-person discovery conference before  
Judge Kang. ECF No. 322.
- On March 14, 2025, Judge Kang entered an Order resolving the Parties' dispute  
regarding Kaiser's privilege logs. ECF No. 325.
- On April 8, 2025, the Parties filed a Discovery Management Statement. ECF No. 332.  
Judge Kang subsequently reset the Discovery Management Conference, initially  
scheduled for April 29, 2025, for May 5, 2025. However, the May 5, 2025 Discovery  
Management Conference was subsequently adjourned after the parties agreed to  
attempt a second mediation. ECF Nos. 338, 339.

1           40. Class Counsel also attended multiple days of in-person review of Kaiser’s highly-  
2 confidential source code at Defendant’s Counsel’s offices in New York City led by two experts—  
3 Ross Malaga on November 8, 2024 and Christopher Wilson on March 10, 2025—during which  
4 both experts reviewed and analyzed hundreds of documents related to the implementation of third-  
5 party code on Kaiser’s Websites and Apps. Specifically, they analyzed, among others, code  
6 contained within Kaiser’s Adobe Launch files and an Android application package.

7           41. As discovery progressed, Class Counsel also identified additional third-party  
8 advertising and marketing agencies with relevant information, which were subpoenaed in January  
9 2025. Class Counsel also continued conferring with the Third-Party Wiretappers, who were  
10 subpoenaed at the outset of the litigation, serving amended subpoenas in January 2025.

11           42. On January 28, 2025, Kaiser filed its third Motion to Compel Arbitration and  
12 Request to Stay and Motion to Dismiss the CMCAC. ECF Nos. 300, 301, 303, 304. Plaintiffs  
13 opposed these motions on March 4, 2025. ECF Nos. 313, 314, 315. On April 13, 2025, the Court  
14 granted Kaiser’s Motion to Compel Arbitration and Request to Stay as to California Plaintiff John  
15 Doe. ECF No. 335. Oral argument on the Motion to Dismiss was taken off calendar following the  
16 Parties’ Joint Notice of Preliminary Settlement. ECF No. 343.

17           **B. The Parties’ Settlement**

18           43. The proposed Settlement was reached only after extensive, arm’s-length negotiations,  
19 including two mediations with retired federal judges. The first mediation before Hon. Wayne R.  
20 Andersen (Ret.) was held in October of 2024 over the course of two days. The Parties exchanged  
21 detailed mediation submissions and supporting evidence in advance of the mediation session.

22           44. Following this mediation, litigation continued in earnest, and approximately seven  
23 months later, the second mediation before retired Hon. Jay C. Gandhi (Ret.) was held on May 13,  
24 2025. This second mediation was hard fought. Both before and during the May 2025 mediation, the  
25 Parties exchanged information about the size of the class, the relief to which class members may be  
26 entitled if Plaintiffs prevailed at trial or on appeal, the benefits to be provided if a settlement was  
27  
28

1 reached, and the Parties’ positions on the merits. The Parties ultimately reached an agreement in  
2 principle to resolve the Action at the mediation.

3 45. In the ensuing months, the Parties negotiated the full terms of the Settlement set  
4 forth in the Stipulation and related exhibits. The negotiations over the documents were extensive  
5 and resulted in the exchange of numerous drafts and many meet and confers.

6 46. During the same time, Class Counsel also requested and reviewed detailed bids  
7 obtained from several organizations specializing in class action notice and claims administration,  
8 and conducted follow-up communications with certain of these firms. As a result of this bidding  
9 process, Class Counsel selected Strategic Claims Services (“SCS”) to serve as the Settlement  
10 Administrator for the Settlement.

11 47. On August 13, 2025, the Parties executed the Stipulation. ECF No. 345-4, Ex. 1. On  
12 August 19, 2025, Plaintiffs filed their Motion for Preliminary Approval of Proposed Class Action  
13 Settlement with the Court (“Preliminary Approval Motion”). ECF No. 345.

14 48. Following the filing of the Preliminary Approval Motion, two groups of Settlement  
15 Class members (“Objectors”)<sup>5</sup> raised objections to their being included in the Settlement Class,  
16 among other issues (ECF Nos. 351, 352, 363) to which Plaintiffs and Kaiser responded (ECF Nos.  
17 353, 355, 376). On October 3, 2025, the Court also ordered supplemental briefing on the  
18 Preliminary Approval Motion (ECF No. 362), to which Plaintiffs and Kaiser responded on October  
19 10, 2025 (ECF Nos. 373, 374). As part of their response, the Parties responded to certain questions,  
20 and agreed to make certain modifications to the notices, as requested by the Court. *Id.* Certain  
21 Objectors also filed a response. ECF No. 375.

22 49. On October 23, 2025, the Court held an in-person hearing on Plaintiffs’ Preliminary  
23 Approval Motion. Following the hearing, the Court entered its Order re Plaintiffs’ Motion for  
24 Preliminary Approval concluding it was inclined to grant preliminary approval but advising the  
25 Parties that certain modifications to the class definition and the procedure for opting out should be  
26

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27 <sup>5</sup> One set of objectors are represented by Labaton Keller Sucharow LLP, Milberg Coleman Bryson  
28 Phillips Grossman, PLLC, and Bryson Harris Suchiu Demay, PLLC (together, “Labaton Objectors”) and the other set of objectors are represented by Potter Handy, LLP (“Potter Objectors”).

1 made. October 24 Order. The Court also scheduled a further hearing on the Preliminary Approval  
2 Motion on November 25, 2025 at 1:30 p.m., and directed the Parties to confer with each other and  
3 with the Objectors on opt-out procedures.

4 50. In the following weeks, the Parties agreed to revised the Class Definition, lengthen  
5 the opt-out period, institute a procedure so that the Settlement Administrator could receive large  
6 groups of opt-outs, configure the Settlement Website to allow opt-outs and claims to be submitted  
7 electronically through prepopulated online forms. *See* ECF No. 388. The Objectors did not agree  
8 to the revised Class Definition, and also requested that they be directly provided with their clients'  
9 Class Identification Numbers. *Id.*

10 51. Following the November 25, 2025 hearing, the Parties agreed to additional  
11 modifications to the Class Definition and to institute a procedure to provide Objectors' counsel with  
12 their clients' Class Identification Numbers, as directed by the Court. ECF No. 390. On December 1,  
13 2025, the Parties filed the Amended Stipulation of Settlement instituting these changes. *Id.* On  
14 December 2, 2025, the Parties also agreed to revise certain language in the Appendices to the  
15 Settlement Agreement, as requested by certain Objectors. ECF No. 392.

16 52. The Court entered its Amended Order Preliminarily Approving Settlement and  
17 Approving Notice of Proposed Settlement of Class Action and Fairness Hearing on December 5,  
18 2025. Preliminary Approval Order. By the Preliminary Approval Order, the Court found that  
19 preliminary approval of the Settlement was appropriate and that "it will likely be able to finally  
20 approve the proposed Settlement under Rule 23(e)(2) as being fair, reasonable, and adequate to the  
21 Settlement Class, subject to further consideration at the Fairness Hearing[.]" ECF No 393 ¶ 5. The  
22 Court set the final hearing for May 7, 2026 at 1:30 p.m. *Id.* ¶ 23.

### 23 **III. RISKS OF CONTINUED LITIGATION**

24 53. In addition to the substantial, non-monetary relief already achieved, the Settlement  
25 provides a certain and near-term benefit to the Settlement Class in the form of a \$46 million (which  
26 could increase up to \$47.5 million) cash payment. Plaintiffs and Class Counsel believe that the  
27 Settlement is a favorable result for the Settlement Class in light of the substantial risks that Plaintiffs  
28

1 would face in continuing to litigate the Settlement Class’s claims—through class certification,  
2 summary judgment, trial, and post-trial appeals.

3 54. Although Plaintiffs and Class Counsel believe that the Settlement Class’s claims are  
4 meritorious and that they would have prevailed had the Action continued, Kaiser raised various  
5 factual and legal defenses that could not be ignored. Plaintiffs and Class Counsel appreciated that  
6 there were multiple obstacles and risks that they would have encountered in the Action had the  
7 Parties not agreed to settle.

8 55. For example, this Court has already raised questions as to whether “Kaiser allowed  
9 the code on its website and apps for the benefit of third parties (as opposed to itself).” October 24  
10 Order at 3. The question would undoubtedly have been a key defense raised at summary judgment  
11 and trial.

12 56. Throughout the Action, Kaiser has also repeatedly sought to compel members to  
13 arbitration, relief which the Court granted (ECF Nos. 119, 335), posing a considerable risk for  
14 Settlement Class Members in California with similar arbitration agreements. The risk here is  
15 particularly heightened considering that nearly every Kaiser Member in California, approximately  
16 70% of the Settlement Class (*see* ECF No. 373), is arguably subject to the same arbitration provision  
17 that this Court previously found enforceable.

18 57. Kaiser has also asserted significant legal arguments challenging Plaintiffs’ claims  
19 under federal law as well as various state statutory laws concerning privacy, state common law, and  
20 state constitutional law. Some of these arguments had already been accepted by the Court, with this  
21 Court initially dismissing seventeen (17) of the twenty-one (21) claims Plaintiffs brought in their  
22 FAC, including Plaintiffs’ claims for violation of the Federal Electronic Communications Privacy  
23 Act, California Invasion of Privacy Act, California Confidentiality of Medical Information Act,  
24 common law claims for intrusion upon seclusion and other state statutory claims. *See* ECF No. 124.  
25 While Plaintiffs re-pled many of these claims as part of the CMCAC, including additional factual  
26 support, the risk of dismissal remained.

27  
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1 58. Choice of law issues could have presented a potential hurdle, as Plaintiffs have  
2 asserted claims violations of various common and statutory laws of California, the District of  
3 Columbia, Georgia, Maryland, Oregon, Virginia, and Washington,

4 59. Kaiser would also undoubtedly argue that individualized issues predominate, such as  
5 consent, and that class certification should not be granted. This poses considerable risk in class  
6 actions alleging privacy violations through internet technology. To illustrate, District Judge  
7 Gonzalez Rogers recently denied class certification on a Rule 23(b)(3) damages class in a privacy  
8 case, finding that individualized issues relating to Google’s implied consent defense would  
9 overwhelm the damages claims for all causes of action. *Calhoun v. Google LLC*, 349 F.R.D. 588,  
10 592 (N.D. Cal. 2025); *see also In re TD Ameritrade Acct. Holder Litig.*, 2011 WL 4079226, at \*5  
11 (N.D. Cal. Sept. 13, 2011) (“[D]efendants in data breach cases have been successful in thwarting  
12 plaintiffs’ efforts to obtain class certification.”) (citing *In re TJX Cos. Retail Sec. Breach Litig.*, 246  
13 F.R.D. 389, 397 (D. Mass. 2007) (refusing to certify class of banks alleging damages resulting from  
14 retailer’s data breach because of individual causation issues)); Order at 5-6, *Stollenwerk v. Tri-West*  
15 *Healthcare All.*, No. 03-cv-0185 (D. Ariz. June 10, 2008), ECF No. 139 (finding individualized  
16 issues relating to proof of causation predominate over common questions involving theft of  
17 computer equipment containing personal information). And, even if Plaintiffs were able to obtain a  
18 certified litigation class here, there would be a risk of decertification.

19 60. In addition, because privacy breach case law is still relatively undeveloped,  
20 particularly with respect to damages, privacy breach cases are among the more risky and uncertain  
21 areas of class action litigation. To the extent the Court found that Plaintiffs had not successfully re-  
22 pled claims providing for statutory damages, or dismissed those statutory claims at summary  
23 judgment, Plaintiffs may have only been left with a claim for nominal damages.

24 61. To be sure, there were serious risks attendant to the continued prosecution of the  
25 Action, and no guarantee that further litigation would have resulted in a higher recovery, or any  
26 recovery at all.

27  
28

1 **IV. NEXT STEPS AND PLAINTIFFS' COMPLIANCE WITH THE COURT'S**  
 2 **PRELIMINARY APPROVAL ORDER**

3 62. In its Preliminary Approval Order, the Court appointed SCS as the Settlement  
 4 Administrator to supervise and administer the notice procedure in connection with the Settlement  
 5 as well as to process Claims and issue payments to eligible Settlement Class Members. *See* ECF  
 6 No. 393 ¶ 9. In accordance with the Preliminary Approval Order, SCS, working under Class  
 7 Counsel's supervision, will, among other things: (i) disseminate notice to the individuals listed on  
 8 the May 2024 Notice List provided by Kaiser (i.e., all current or former Kaiser Permanente  
 9 members) by no later than January 16, 2026; and (ii) develop and maintain the Settlement Website,  
 10 [www.KaiserPrivacySettlement.com](http://www.KaiserPrivacySettlement.com), which will provide information regarding the Settlement and  
 11 relevant documents as well as portals for submitting Claims and opt outs.<sup>6</sup>

12 63. The Short Form Notice to be mailed/mailed to Settlement Class Members contains  
 13 important information concerning the Settlement and direct recipients to the Settlement Website  
 14 for additional information regarding the Settlement (and the Action), including the Long Form  
 15 Notice, Claim Form, and Plan of Allocation. Collectively, the notices provide the definitions for  
 16 the Settlement Class, a description of the Settlement, information regarding the claims asserted in  
 17 the Action and information to enable Settlement Class Members to determine whether to: (i)  
 18 participate in the Settlement by submitting a Claim Form; (ii) object to any aspect of the Settlement,  
 19 the Plan of Allocation, and/or Class Counsel's Fee and Expense Application; or (iii) request to be  
 20 excluded from the Settlement Class. The notices also inform Settlement Class Members of Class  
 21 Counsel's intent to: (i) apply to the Court for attorneys' fees in an amount not to exceed 33% of the  
 22 Settlement Fund; (ii) request reimbursement/payment of litigation expenses in an amount not to  
 23 exceed \$900,000; and (iii) request Service Awards to Plaintiffs in an aggregate amount not to  
 24 exceed \$40,000.

25  
 26  
 27 <sup>6</sup> In accordance with the Stipulation and Preliminary Approval Order, Kaiser agreed to issue notice  
 28 of the Settlement pursuant to the Class Action Fairness Act, 28 U.S.C. §1715 within ten (10) days  
 from when the Stipulation was originally filed with this Court.

1           64. As will be set forth in the notices, the deadline for Settlement Class Members to  
2 submit an objection to the Settlement or any aspect thereof, to request exclusion from the Settlement  
3 Class, or to submit a Claim in order to be eligible to receive a payment from the Settlement is March  
4 12, 2026. Any objections or requests for exclusion received will be addressed in Plaintiffs’ reply  
5 submission to be filed on April 2, 2026.

6           65. Settlement Class Members with questions regarding the Settlement will be able to  
7 contact SCS by sending an email to info@KaiserPrivacySettlement.com or calling 1-855-783-3816.  
8 Questions from Settlement Class Members can also be directed to Class Counsel.

9 **V. THE PROPOSED PLAN FOR ALLOCATING THE NET SETTLEMENT**  
10 **FUND TO SETTLEMENT CLASS MEMBERS**

11           66. As explained in the Stipulation (and notices to be disseminated), Settlement Class  
12 Members who wish to participate in the distribution of the Net Settlement Fund (i.e., the portion of  
13 the Settlement Amount (plus interest) remaining after the deduction of Court-order payments for  
14 attorneys’ fees and costs (if any), and Court-awarded Service Awards, the Settlement  
15 Administrator’s expenses and fees, and any taxes) must fill out and submit a Claim to the Settlement  
16 Administrator. The Net Settlement Fund will be distributed to Authorized Claimants<sup>7</sup> in accordance  
17 with the Plan of Allocation (previously submitted to the Court at ECF No. 390-1 and to be posted  
18 on the Settlement Website), or other plan of allocation approved by the Court.

19           67. The Plan of Allocation (“Plan”) proposed by Plaintiffs provides a simple and  
20 equitable method for allocating the Net Settlement Fund to eligible Settlement Class Members—  
21 i.e., each eligible Settlement Class Member will receive his or her *pro rata* share of the Net  
22 Settlement Fund, where the *pro rata* share will be calculated by dividing the Net Settlement Fund  
23 by the total number of valid Claims.  
24  
25  
26

27 <sup>7</sup> As defined in Paragraph 1.2 of the Stipulation, an “Authorized Claimant” is a “Settlement Class  
28 Member who submits a Claim to the Settlement Administrator that is approved by the Court for  
payment from the Net Settlement Fund.”

1           68. Settlement payments will be issued to eligible Settlement Class Members following  
 2 the Effective Date.<sup>8</sup> Any funds remaining after an initial distribution to Authorized Claimants will  
 3 be redistributed, if cost effective, to Authorized Claimants on a *pro rata* basis. Any amounts that are  
 4 not cost effective to redistribute to eligible Settlement Class Members will be contributed to the  
 5 Institute for Public Health Innovation (“IPHI”).<sup>9</sup> The IPHI is a non-profit organization dedicated to  
 6 creating healthier, more equitable communities across the District of Columbia, Maryland, and  
 7 Virginia. See <https://www.institutephi.org>. The IPHI is the fiscal sponsor for the Common Health  
 8 Coalition, which engages in work regarding the exchange of data between healthcare and public  
 9 health systems, coordination between health care and public health, emergency preparedness, and  
 10 disease detection. See <https://commonhealthcoalition.org/>.

## 11 VI. THE FEE AND EXPENSE APPLICATION

12           69. In addition to seeking final approval of the Settlement and approval of the Plan of  
 13 Allocation, Class Counsel are applying for an award of attorneys’ fees and payment of litigation  
 14 expenses incurred during the course of the Action. Specifically, Class Counsel are applying to the  
 15 Court for an award of attorneys’ fees in the amount of 33% of the Settlement Fund (“Fee  
 16 Application”) and payment of litigation expenses in the total amount of \$605,103.66 (“Expense  
 17 Application”). Class Counsel further request Service Awards of \$5,000 to each of the eight  
 18 Plaintiffs for their efforts in the Action and for their assistance in achieving a strong Settlement for  
 19 the Settlement Class, as well as the reputational and other risks they undertook in bringing this  
 20 Action. The legal authorities supporting the requested fees and expenses are discussed in Class  
 21 Counsel’s Fee and Expense Memorandum. The primary factual bases for the requested fees and  
 22 expenses are set forth below.

23  
 24  
 25  
 26 <sup>8</sup> As defined in Paragraph 1.7 of the Stipulation, the “Effective Date” is the Final Order and Judgment  
 Approving Settlement becomes final as a matter of law and non-appealable (i.e., 30 days from entry  
 of the Order).

27 <sup>9</sup> Plaintiffs do not have a relationship with IPHI and Defendant has represented to Plaintiffs that it  
 28 does not have a relationship to IPHI that would involve any offset of costs Defendant would  
 otherwise incur.

1           **A.     The Fee Application**

2           70.     For their efforts on behalf of the Settlement Class, Class Counsel are applying for a  
3 fee award to be paid from the Settlement Fund on a percentage basis. The percentage method is the  
4 standard and appropriate method of fee recovery in a common-fund case like this one, because it  
5 aligns the lawyers' interest in being paid a fair fee with the interests of Plaintiffs and the Settlement  
6 Class in achieving the maximum recovery in the shortest amount of time required under the  
7 circumstances. Use of the percentage method has been recognized as appropriate by the U.S.  
8 Supreme Court and the Ninth Circuit for cases of this nature where an all-cash common fund has  
9 been recovered.

10          71.     Based on the result achieved, the work performed, the significant risks of the  
11 litigation, and the fully contingent nature of the representation, Class Counsel respectfully submit  
12 that the requested fee award of 33% of the Settlement Fund is fair and reasonable in light of all the  
13 circumstances in this case.

14          72.     As discussed in the Fee and Expense Memorandum, a 33% fee award is merited here  
15 and is in line with fee awards in other cases in this Circuit which similarly resulted in substantial  
16 recoveries for class members following contentious litigation. Further, the requested fee represents  
17 a lodestar multiplier of approximately 1.3 on the time devoted to the Action by Class Counsel from  
18 inception through September 2025, based on their current hourly rates. As discussed in the Fee and  
19 Expense Memorandum, a lodestar multiplier of approximately 1.3 falls on the lower end of the  
20 range of multipliers commonly awarded in class actions, including in this District.

21          73.     Plaintiffs, who have been actively involved in this Action, have evaluated the Fee  
22 Application and support the fee requested. *See* Exs. 1A through 1H.

23                   **1.     The Favorable Results Achieved**

24          74.     As described above, the \$46 million Settlement (which could increase to \$47.5 if  
25 certain conditions are met) is particularly favorable in light of, and takes into consideration, the  
26 significant challenges Plaintiffs would face if the Action continued. When considered in view of  
27 the substantial risks to obtaining a larger recovery (or any recovery) were the Action to continue,  
28

1 the Settlement is an excellent result. The Settlement is also in line with recoveries obtained in cases  
2 involving similar claims. *See* ECF No. 345-2, Ex. 1 (comparable settlements chart).

3 75. Moreover, Plaintiffs and Class Counsel already succeeded in having Kaiser remove  
4 the offending code at issue in the Action from its Website and Apps and notify regulators and Kaiser  
5 members of the privacy breach. *See supra* ¶¶ 6, 23-25, 31. This conduct change provides an  
6 additional and substantial non-monetary benefit to the Settlement Class.

7 **2. The Work Performed by Class Counsel**

8 76. As also detailed above, Class Counsel zealously advocated for their clients and the  
9 Settlement Class over the course of two (2) years, pressing for discovery, working with multiple  
10 experts, briefing, and arguing several motions, reviewing documents, subpoenaing numerous third  
11 parties, among other efforts. *See supra* ¶¶ 19- 42.

12 77. Throughout the litigation, Class Counsel maintained an appropriate level of staffing  
13 that avoided unnecessary duplication of effort and ensured the efficient prosecution of the Action.  
14 As one of the lead partners on the case, I personally monitored and maintained control of the work  
15 performed by other lawyers at KTMC and Carella Byrne throughout the litigation. More junior  
16 attorneys and paralegals worked on matters appropriate to their skill and experience level.

17 78. KTMC has reviewed its time and expense records. The purpose of this review was to  
18 confirm both the accuracy of the time entries and expenses and the necessity for, and reasonableness  
19 of, the time and expenses committed to the Action. I believe that the time reflected in my firm's  
20 lodestar calculation and the expenses for which payment is sought as stated in this Declaration are  
21 reasonable in amount and were necessary for the effective and efficient prosecution and resolution  
22 of the Action.

23 79. Attached hereto as Exhibit 2 is a detailed summary indicating the amount of time  
24 spent by each KTMC attorney and professional support staff employee who devoted ten (10) or more  
25 hours to the Action from its inception through and including September 30, 2025, and the lodestar  
26 calculation for those individuals based on their current hourly rates. Exhibit 2 was prepared from  
27 contemporaneous daily time records regularly prepared and maintained by KTMC, which are  
28

1 available at the request of the Court. Time expended in preparing Class Counsel's application for  
2 fees and expenses and this Declaration is not included in my firm's lodestar calculation.

3 80. The hourly rates for the KTMC attorneys and professional support staff employees  
4 included in Exhibit 2 are their standard rates. My firm's hourly rates are largely based upon a  
5 combination of the title, cost to the firm, and the specific years of experience for each attorney and  
6 professional support staff employee, as well as market rates for practitioners in the field. These  
7 hourly rates are the same as, or comparable to, rates submitted by KTMC and accepted by courts in  
8 other complex class actions. *See, e.g., Cabrera v. Google LLC*, 2025 WL 2494429, at \*9 (N.D. Cal.  
9 Aug. 29, 2025); *Sjunde AP-Fonden, et al. v. General Electric Company, et al.*, No. 1:17-cv-8457-  
10 JMF (S.D.N.Y. Apr. 24, 2025), ECF No. 500; *In re: Intuniv Antitrust Litig.*, No. 16-cv-12653-ADB  
11 (D. Mass. Nov. 6, 2024), ECF No. 750; *The Electrical Welfare Trust Fund, et al. v. United States of*  
12 *America*, No. 19-353 C (Fed. Cl. May 16, 2024), ECF No. 150; *Matthew Opheim, et al. v.*  
13 *Volkswagen Aktiengesellschaft et al.*, No. 2:20-cv-02483-AME (D.N.J. Aug. 14, 2024), ECF No.  
14 185.

15 81. The total number of hours expended on this Action by my firm from its inception  
16 through September 30, 2025, is 15,238.90 hours. The total lodestar for my firm for that period based  
17 on the timekeepers' current hourly rates is \$8,994,587. My firm's lodestar figures do not include  
18 costs for expense items.

19 82. In addition, KTMC has expended time on this matter since September 30, 2025 in  
20 connection with preliminary approval of the Settlement (e.g., preparing supplemental submissions  
21 in support of preliminary approval of the Settlement, preparing for and attending preliminary  
22 approval conferences, and conferring with Kaiser's Counsel and counsel for the Objectors regarding  
23 Settlement terms) and preparing the Motion for final approval of the Settlement, which hours are not  
24 included in Exhibit 2 (nor in KTMC's total lodestar figure). KTMC will continue to work on this  
25 matter following approval of the Settlement, including devoting time to overseeing the efforts of the  
26 Settlement Administrator in disseminating notice of the Settlement to the Settlement Class,  
27  
28

1 processing Claims and distributing the Net Settlement Fund to eligible Settlement Class Members.  
2 Class Counsel are not seeking compensation for this additional time.

3 83. Attached hereto as Exhibit 3 is a chart that reflects the hours spent by each KTMC  
4 timekeeper on each of the following litigation task categories during the course of the Action:<sup>10</sup>

5 (1) **Administrative:** This category includes time spent on administrative tasks,  
6 including finalizing and preparing court filings, maintaining case files, and  
7 corresponding within the firm regarding various aspects of the case;

8 (2) **Attorney Meetings / Litigation Strategy:** This category includes time spent on  
9 meetings between attorneys, including time devoted to discussing litigation  
10 strategies at various postures of the case and conferences with defense counsel;

11 (3) **Case Management:** This category includes time spent on general case  
12 management, including ad-hoc preparations for a hearing or logistics  
13 coordination;

14 (4) **Client Communications:** This category includes time spent on communications  
15 with the clients, including regular case updates and plaintiff discovery-related  
16 matters;

17 (5) **Court Appearances:** This category includes time spent on appearing in front of  
18 the Court, including monthly status conferences and discovery management  
19 conferences as well as oral argument on motions;

20 (6) **Discovery:** This category includes time spent on discovery efforts, including  
21 serving discovery requests on Kaiser, meeting and conferring with Kaiser on the  
22 scope of these requests, preparing plaintiff discovery production and  
23 interrogatory responses, and conducting third-party discovery;

24 (7) **Document Review Tier 1:** This category includes time spent on reviewing  
25 documents produced by Kaiser by a junior-level attorney;

26  
27  
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<sup>10</sup> Time entries that related to more than one major litigation task category were allocated to the  
litigation task category that most of the billed time fit into.

- 1 (8) **Document Review Tier 2:** This category includes time spent on reviewing  
2 documents produced by Kaiser by a supervising attorney;
- 3 (9) **Experts / Consultants:** This category includes time spent on consulting with  
4 experts, including time spent on expert-led review of highly confidential source-  
5 code and calculation of potential damages;
- 6 (10) **Investigation / Factual Research:** This category includes time spent on  
7 investigating the alleged misconduct and potential claims asserted in the Action,  
8 including investigating potential plaintiffs and researching potential causes of  
9 action;
- 10 (11) **Legal Research:** This category includes time spent on various ad-hoc legal  
11 research assignments, including research into discovery issues;
- 12 (12) **Pleadings / Motions / Briefs:** This category includes time spent on preparing,  
13 filing, and opposing pleadings and motions filed with the Court, including  
14 researching the legal claims alleged in the multiple complaints as well as the  
15 arguments and issues raised in the multiple motions to dismiss; and
- 16 (13) **Mediations & Settlement:** This category includes time spent on extended  
17 settlement negotiations with Kaiser’s counsel, including two mediation sessions  
18 and preparation of mediation briefing; drafting and negotiating the initial  
19 Stipulation and related documents; drafting the motion for preliminary approval  
20 of the settlement as well as supplemental briefings; and preparing for the related  
21 hearing on the motion.

22 84. I believe that the number of hours expended and the services performed by the  
23 attorneys and professional support staff employees at KTMC were reasonable and necessary for the  
24 effective and efficient prosecution and resolution of the Action.

25 85. Attached hereto as Exhibit 4 is the Declaration of James E. Cecchi on behalf of  
26 Carella Byrne (“Cecchi Declaration” or “Cecchi Decl.”), which includes schedules summarizing  
27 the lodestar and the litigation expenses Carella Byrne incurred.  
28

1 86. Exhibit 5 contains a chart that summarizes the information set forth herein for  
2 KTMC and in the Cecchi Declaration, listing the total hours expended, lodestar amounts (i.e., hours  
3 multiplier by hourly rates), and litigation expenses for each law firm. Exhibits 2 through 4 further  
4 indicate the amount of time spent on the Action by the attorneys and professional support staff of  
5 each firm and the lodestar calculations based on their current hourly rates.<sup>11</sup> Exhibits 2 through 4  
6 also provide a breakdown of counsel's time by task category (by timekeeper). A summary of Class  
7 Counsel's lodestar by task category is attached hereto as Exhibit 6. Exhibits 2 through 4 were  
8 prepared from contemporaneous daily time records maintained and prepared by the respective  
9 firms.

10 87. As set forth in Exhibit 5, Class Counsel collectively expended a total of 19,072.00  
11 hours in the investigation, prosecution, and resolution of the Action from its inception through  
12 September 30, 2025. The resulting total lodestar is \$11,985,717.00. Thus, pursuant to a lodestar  
13 "cross-check," Class Counsel's fee request of 33% of the Settlement Fund, if awarded, would yield  
14 a lodestar multiplier of approximately 1.3 on Class Counsel's combined lodestar even if Kaiser  
15 contributed the maximum amount of \$47.5 million to the Settlement Fund. The requested fee  
16 multiplier falls on the lower end of the range of multipliers typically awarded in comparable class  
17 actions involving significant contingency risk in this Circuit. *See Fee and Expense Motion at 2.*

18 88. Class Counsel's time and lodestar calculations are reasonable and were necessary  
19 for the effective and efficient prosecution and resolution of the Action.

### 20 3. The Experience and Standing of Class Counsel

21 89. As demonstrated by the firm resumes included as Exhibit 7 and Cecchi Decl., Ex. 4,  
22 KTMC and Carella Byrne are experienced law firms in the class action field, with long and  
23 successful track records representing plaintiffs in such cases. Class Counsel's extensive experience  
24  
25

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26 <sup>11</sup> Class Counsel have submitted hourly rates ranging from \$805 to \$1,300 per hour for partners, \$370  
27 to \$900 per hour for other attorneys, \$225 to \$405 per hour for paralegals, and \$300 to \$400 per hour  
28 for in-house investigators, with most of the hourly rates falling well below the top end of these  
amounts. *See Exs. 2-4.* These hourly rates are reasonable for this type of complex litigation. *See Fee  
and Expense Motion at § D(2).*

1 in litigating and trying consumer fraud class actions and the ability of their attorneys added valuable  
2 leverage during the Parties' settlement negotiations.

3 **4. The Standing and Caliber of Defendant's Counsel**

4 90. The quality of work performed by Class Counsel in obtaining the Settlement should  
5 also be evaluated in light of the quality of opposing counsel. Kaiser was represented in the Action  
6 by a team of extremely able counsel from Sheppard, Mullin, Richter & Hampton LLP and Crowell  
7 & Moring LLP, who vigorously litigated the Action at every stage.

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

10 91. The prosecution of Plaintiffs' claims was undertaken entirely on a contingent-fee  
11 basis, and the considerable risks assumed by Class Counsel in bringing this Action to a successful  
12 conclusion are described above. The risks assumed by Class Counsel here, and the time and  
13 expenses incurred by Class Counsel without any payment, were substantial.

14 92. From the outset, Class Counsel understood that they would be engaging in complex,  
15 expensive, lengthy, and hard-fought litigation with no guarantee of ever being compensated for the  
16 substantial investment of time and the outlay of money that the prosecution of the case would  
17 require. In undertaking that responsibility, Class Counsel were obligated to ensure that sufficient  
18 resources (in terms of attorney and professional support staff time) were dedicated to the litigation.  
19 Class Counsel also advanced all of the costs necessary to pursue the case vigorously on a fully  
20 contingent basis, including funds to compensate experts, consultants, court reporters, and vendors,  
21 and to cover the considerable out-of-pocket costs that a case like this typically demands. Because  
22 complex class action litigation often proceeds for several years before reaching a conclusion, the  
23 financial burden on contingent-fee counsel is far greater than on a firm that is paid on an ongoing  
24 basis. Indeed, Class Counsel have received no compensation during the course of this Action and  
25 no reimbursement of out-of-pocket expenses, yet they have incurred substantial time and expenses  
26 in prosecuting this Action for the benefit of Settlement Class Members who were allegedly harmed  
27 by Kaiser's alleged misconduct.  
28

1 93. Class Counsel also bore the risk that no recovery would be achieved in the Action.  
2 As discussed above, this case presented a number of significant risks and uncertainties from the  
3 outset, including challenges in pleading and ultimately proving the alleged misconduct and  
4 damages.

5 94. Class Counsel’s persistent efforts in the face of substantial risks and uncertainties  
6 have resulted in a substantial monetary recovery for the Settlement Class as well as Kaiser’s  
7 removal of the offending code at issue in the Action from its Websites and Apps and changes to its  
8 privacy notification policies. In circumstances such as these, we believe the requested fee is  
9 reasonable and should be approved.

10 **6. The Reaction of Settlement Class Members to the Fee Application**

11 95. Settlement Class Members will be able to weigh in on Class Counsel’s Fee  
12 Application once the notice campaign has commenced. Class Counsel will address any objections  
13 to the Fee Application in its April 2, 2026 reply submission.

14 **B. The Expense Application**

15 **1. Class Counsel’s Request for Litigation Expenses Is Fair and**  
16 **Reasonable and Warrants Approval**

17 96. Class Counsel also respectfully seek payment of \$605,103.06 from the Settlement  
18 Fund for expenses that were reasonably and necessarily incurred in connection with the prosecution  
19 and resolution of the Action. The notices inform the Settlement Class that Class Counsel will be  
20 seeking payment of litigation expenses in an amount not to exceed \$900,000.

21 97. From the outset of the Action, Class Counsel were aware that they might not recover  
22 any of their expenses and, even in the event of a recovery, would not recover any of their out-of-  
23 pocket expenditures until such time as the Action might be successfully resolved. Class Counsel  
24 also understood that, even assuming the case was ultimately successful, an award of expenses would  
25 not necessarily compensate them for the lost use of funds advanced to litigate the claims. Thus,  
26 Class Counsel were motivated to, and did, take significant steps to minimize expenses whenever  
27 practicable without jeopardizing the vigorous and efficient prosecution of the Action.  
28

1 98. Class Counsel maintained strict control over the expenses in this Action. Many of  
2 the expenses incurred were paid out of a litigation fund created and collectively contributed to by  
3 Class Counsel, and which was maintained by KTMC (“Litigation Fund”). KTMC and Carella Byrne  
4 collectively contributed \$220,000.00 to the Litigation Fund,<sup>12</sup> in addition to payments made directly  
5 by each firm.

6 99. Expense items are reported separately and are not duplicated in my firm’s hourly  
7 rates. As set forth in Exhibit 8 hereto, KTMC is seeking payment for \$454,464.20 in expenses  
8 incurred in connection with the prosecution and resolution of the Action

9 100. Carella Byrne’s expenses are detailed in the Cecchi Declaration, attached hereto as  
10 Exhibit 4, which identifies each category of expenses and the amount incurred for each category.

11 101. A summary of Class Counsel’s total expenses is set forth in Exhibit 10.

12 102. The following is additional information regarding Class Counsel’s combined  
13 requested expenses, as set forth in Exhibit 10.

14 (a) **Court Filings & Other Fees** (\$2,678.00). This amount includes: (i) fees paid  
15 to obtain Certificates of Good Standing for submission with Northern District of California *pro hac*  
16 *vice* applications; and (ii) Northern District of California filing and *pro hac vice* application fees.

17 (b) **Express / Overnight Mail & Postage** (\$1,714.77). In connection with the  
18 prosecution of the Action, Class Counsel incurred charges associated with overnight delivery via  
19 FedEx Corporation and postage.

20 (c) **Research** (\$88,760.14). During the course of this Action, Class Counsel  
21 incurred costs associated with online legal and factual research necessary to the investigation,  
22 prosecution, and resolution of the Action. These costs include charges from online vendors such as  
23 Westlaw, LexisNexis, PACER, and others, and reflect costs associated with obtaining access to court  
24 filings and performing legal and factual research. The expenses in this category are tracked using  
25  
26

27 \_\_\_\_\_  
28 <sup>12</sup> The Litigation Fund has earned \$3,854.18 in interest, and there is a residual of \$328.01 remaining  
in the Litigation Fund.

1 the specific client-matter number for the Action and are based upon the costs assessed by each  
2 vendor. There are no administrative charges in this figure.

3 (d) **Printing & Copying** (\$5,935.42). KTMC incurred costs related to document  
4 reproduction. For internal printing and copying, my firm charges \$0.10 per page. Each time a  
5 photocopy is made or a document is printed, KTMC’s billing system requires that a case or  
6 administrative billing code be entered into the copy-machine or computer being used, and this is  
7 how the 50,085 pages copied or printed (for a total of \$5,008.50) were identified as attributable to  
8 this Action. KTMC also incurred \$926.92 for external printing costs (e.g., charges from an outside  
9 copy vendor).

10 (e) **Travel (Transportation, Lodging & Meals)** (\$119,427.28). Over the past  
11 two years, KTMC and Carella Byrne attorneys have incurred travel-related expenses for travel to,  
12 among other things, mediations in Chicago and Los Angeles, monthly in-person appearances in San  
13 Francisco, and in person code-review of Defendant’s data in New York City. KTMC and Carella  
14 Byrne applied “caps” to certain of these travel expenses. Also included in this amount are meals  
15 related to working late hours on filings and in-office team meetings.

16 (f) **Court Reporters** (\$1,672.25). This amount consists of charges from court  
17 reporters for transcription services at Court hearing/conferences, and for copies of transcripts paid  
18 by Class Counsel.

19 (g) **Experts / Consultants** (\$234,129.17). This amount reflects payments to  
20 Plaintiffs’ experts and IMS Consulting & Expert Services (n/k/a IMS Legal Strategies) for their  
21 expert services during the litigation.

22 (h) **Litigation Fund Contributions** (\$145,000.00). KTMC maintained a joint  
23 litigation fund on behalf of Class Counsel for the management of large expenses (such as  
24 expert/consultant expenses) in the Action (“Litigation Fund”). KTMC contributed \$145,000.00 to  
25 the Litigation Fund, which held a combined total of \$223,854.18 when Carella Byrne’s contribution  
26 and interest are included. As detailed in Exhibit 9, payments were made from the Litigation Fund  
27  
28

1 for: Experts/Consultants (\$125,266.25), Document Hosting/Management & Review (\$69,781.22),  
2 Court Reporters (\$85.15), Service of Process (\$799.55), and Mediation (\$27,594.00).

3 (i) **Document Hosting / Management & Review** (\$39,387.80). This amount  
4 reflects payment made by KTMC outside of the Litigation Fund to an outside vendor, Innovative  
5 Driven, for hosting/managing the document database utilized to review and analyze the documents  
6 produced by Kaiser.

7 (j) **Process Service** (\$2,134.75). This amount reflects payments for service of  
8 third-party subpoenas.

9 (k) **Mediation** (\$39,470.26). The Parties participated in two mediations during  
10 the course of the Action. This amount reflects payment by Class Counsel for Plaintiffs' share of the  
11 first mediation in October 2024 before Hon. Wayne R. Andersen (Ret.) of JAMS Mediation and the  
12 second mediation before retired Hon. Jay C. Gandhi (Ret.) was held on May 13, 2025.

13 **2. Service Awards to Plaintiffs Are Fair and Reasonable**

14 103. In addition, Plaintiffs seek Service Awards in the aggregate amount of \$40,000 (i.e.,  
15 \$5,000 each) for their efforts in representing the Settlement Class in the Action. As set forth in their  
16 accompanying declarations, Plaintiffs have been committed to pursuing the Settlement Class's  
17 claims and have provided valuable assistance to Class Counsel during the prosecution and  
18 resolution of the Action. These efforts are precisely the types of activities courts have found to  
19 support service awards

20 104. As described in their declarations, attached hereto as Exhibits 1A through 1H,  
21 Plaintiffs have been actively involved in this case and have devoted a substantial amount of time to  
22 this litigation, all while taking the risk that their PHI would become public at or before trial.  
23 Plaintiffs were dedicated to ensuring that Kaiser protect Class Members' PHI and without their  
24 efforts Kaiser may not have stopped Kaiser's misconduct.

25 **VII. CONCLUSION**

26 105. For all the reasons set forth above, Class Counsel respectfully submit that the  
27 Settlement and Plan of Allocation should be approved as fair, reasonable, and adequate. Class  
28

1 Counsel further submit that: (i) the requested fee in the amount of 33% of the Settlement Fund  
2 should be approved as fair and reasonable, and (ii) the requests for Class Counsel’s litigation  
3 expenses in the amount of \$605,103.06 and Plaintiffs’ Service Awards in the aggregate amount of  
4 \$40,000 should also be approved.

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

6 Executed this 22nd day of December, 2025.

7  
8 By: /s/ Tyler S. Graden  
Tyler S. Graden

9 **KESSLER TOPAZ**  
10 **MELTZER & CHECK, LLP**

11 *Counsel for Plaintiffs and the proposed*  
12 *Settlement Class*

# EXHIBIT 1A

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24 *Class Counsel*

25 **UNITED STATES DISTRICT COURT**  
26 **NORTHERN DISTRICT OF CALIFORNIA**  
27 **SAN FRANCISCO DIVISION**

28 JOHN DOE, JOHN DOE II, JOHN DOE III,  
JANE DOE, JANE DOE II, JANE DOE III,  
JANE DOE IV, JANE DOE V, and ALEXIS  
SUTTER, Individually and on behalf of all  
others similarly situated,

Plaintiffs,

v.

KAISER FOUNDATION HEALTH PLAN,  
INC., KAISER FOUNDATION HOSPITALS,  
and KAISER FOUNDATION HEALTH  
PLAN OF WASHINGTON,

Defendants.

**Lead Case No. 3:23-cv-02865-EMC**

**DECLARATION OF JOHN DOE IN  
SUPPORT OF PLAINTIFFS' MOTION  
FOR FINAL APPROVAL OF  
PLAINTIFFS' MOTION FOR FINAL  
APPROVAL OF PROPOSED CLASS  
ACTION SETTLEMENT AND PLAN OF  
ALLOCATION AND CLASS COUNSEL'S  
MOTION FOR ATTORNEYS' FEES,  
LITIGATION EXPENSES AND SERVICE  
AWARDS**

District Judge: Hon. Edward M. Chen  
Magistrate Judge: Hon. Peter H. Kang

1 I, John Doe ( [REDACTED] ) declare pursuant to 28 U.S.C. § 1746 under the penalty of perjury  
2 as follows:<sup>1</sup>

3 1. I am a named plaintiff in the above-captioned Action and one of the Settlement Class  
4 Representatives. I submit this Declaration in support of Plaintiffs’ Motion for Final Approval of  
5 Proposed Class Action Settlement and Plan of Allocation and Class Counsel’s Motion for Attorneys’  
6 Fees, Litigation Expenses and Service Awards. I have personal knowledge of the matters set forth  
7 in this Declaration, as I have been directly involved in monitoring and overseeing the prosecution  
8 of the Action, as well as the negotiations leading to the Settlement, and I could and would testify  
9 competently to these matters.

10 2. I retained experienced counsel who this Court has appointed to serve as Interim Co-  
11 Lead Class Counsel (“Class Counsel”). Prior to my retention of counsel, we had several discussions  
12 about the responsibilities of serving as a representative plaintiff, my commitment to fulfilling these  
13 responsibilities and seeing this Action through to completion, including providing testimony at trial,  
14 if any, in this Action, and the factual and legal bases for the claims asserted against Defendants. I  
15 believe that I have fulfilled these duties.

16 3. As stated most recently in the Consolidated Master Class Action Complaint (“Master  
17 Complaint”), as a member of a Kaiser health plan, I used Kaiser’s websites and mobile applications  
18 for various healthcare-related functions. As alleged in the Master Complaint, despite my expectation  
19 that my interactions and communications through Kaiser’s websites and mobile applications would  
20 not be shared with third parties, I believe that Kaiser disclosed my sensitive personal and  
21 confidential information and communications, identifying information, and personal health  
22 information (“PHI”) to a number of third parties—unbeknownst to me as well as other Kaiser Plan  
23 members.

24 4. I have been involved in this litigation since before the filing of the First Amended  
25 Complaint on September 15, 2023, as I participated in and assisted counsel in their continued  
26

27 <sup>1</sup> Capitalized terms not defined herein have the meanings set forth in the Amended Stipulation of  
28 Settlement dated December 1, 2025 (ECF Nos. 390-1; 392-1).

1 investigation prior to the filing of this complaint. Specifically, I attended multiple video conference  
2 sessions with Class Counsel's expert, Mr. Ross A. Malaga, and permitted him to conduct a  
3 comprehensive and invasive search of my computer and mobile device in order to obtain specific  
4 information about my personal and confidential information that Kaiser was improperly sharing  
5 with third parties. This information included contents of my patient status, identifying information,  
6 personal and sensitive health information, and confidential communications with my health care  
7 providers through Kaiser's websites and mobile applications. The information obtained from Mr.  
8 Malaga in connection with Class Counsel's ongoing investigation helped to form the foundation of  
9 the allegations and claims alleged against Defendants.

10 5. I reviewed and approved the filing of the First Amended Complaint and each of the  
11 subsequent two complaints filed in this Action. Thereafter, I was actively involved in monitoring  
12 the progress of the Action. This included:

- 13 (1) frequent telephonic and written updates and communications from counsel  
14 on the status of the litigation and court rulings and orders;
- 15 (2) discussions with counsel about various strategic decisions in the litigation;
- 16 (3) my review of pleadings and legal memoranda including but not limited to,  
17 those filed in connection with the Motions to Dismiss, Plaintiffs' Motion for  
18 Preliminary Injunction, and discovery motion practice; and
- 19 (4) discussions with counsel regarding various legal rulings by this Court.

20 6. I also actively participated in discovery. For example, I reviewed and discussed with  
21 my attorneys the extensive discovery served on me by Defendants. This included searching for and  
22 gathering documents and other information in response to the 37 requests for production served on  
23 me by Defendants. Several of Defendants' requests required me to spend an extensive amount of  
24 time extracting personally invasive digital information from my various electronic devices. In  
25 addition, I reviewed and discussed with my attorneys, and provided responses to, the 7  
26 interrogatories served on me by Defendants.

27 7. I was kept informed of the settlement negotiations as they progressed. Specifically,  
28 before the first formal mediation with retired U.S. District Judge for the Northern District of Illinois,

1 Hon. Wayne R. Andersen in October 2024, I conferred with Class Counsel regarding the parties’  
2 respective positions and the potential range of acceptable settlement amounts and discussed the  
3 settlement strategy with counsel. I was updated following that unsuccessful mediation session. I  
4 again conferred with my counsel in connection with the second mediation session that followed on  
5 May 13, 2025, with retired U.S. Magistrate Judge for the Central District of California, Hon. Jay C.  
6 Gandhi and authorized the Settlement.

7 8. I have reviewed the Stipulation of Settlement in this Action, dated August 13, 2025,  
8 along with all exhibits and the confidential Supplemental Agreement. I have also reviewed the  
9 Amended Stipulation of Settlement in this Action, dated December 1, 2025. Based on my  
10 involvement throughout the prosecution and resolution of the claims asserted in the Action, I believe  
11 that the proposed Settlement is fair, reasonable, and adequate to the Class. I also believe that the  
12 proposed Settlement represents an excellent recovery, particularly in light of the substantial risks of  
13 continuing to prosecute the claims in this Action and that our efforts here have already caused the  
14 offending third-party software code on Kaiser's websites and mobile applications to be removed.  
15 Therefore, I endorse final approval of the Settlement by the Court

16 9. I have spent approximately 20-30 hours working with Class Counsel on this Action.  
17 The hours that I dedicated to this case came at the sacrifice of time that would have been spent at  
18 work, with my family and/or attending to personal business.

19 10. In addition to the time I spent participating in this case, I took a risk that my PHI  
20 would become public at or before trial. Despite these risks, I chose to pursue this case because I felt  
21 that it was important that all Kaiser Plan Members’ personal and confidential information, including  
22 their PHI, was kept secure.

23 11. I believe my contributions to the case directly benefitted the class, including stopping  
24 Kaiser from their improper conduct. Indeed, after filing Plaintiffs’ Motion for Preliminary  
25 Injunction, we succeeded in having Kaiser voluntarily remove the offending code from its websites  
26 and mobile applications and Kaiser also implemented banners to provide more fulsome disclosure  
27 of Kaiser’s privacy policy.

28

1           12.     It is my understanding that the other Kaiser Plan Members were not aware that Kaiser  
2 was sharing their sensitive personal and confidential information and communications, identifying  
3 information, and PHI with third parties, and I believe that without my efforts, Kaiser’s misconduct  
4 would not have stopped. In fact, the day after this Court denied in part Kaiser’s motion to dismiss,  
5 Kaiser notified regulators of the privacy breach and begin sending notification letters to the over 13  
6 million Kaiser members who, like me, were affected by that privacy breach.

7           13.     In addition to causing the cessation of Kaiser’s invasive misconduct, I believe that  
8 this Settlement—which consists of a cash payment of \$46 million to be paid by Defendants (and  
9 which may be increased to \$47.5 million depending on certain conditions)—is in the best interest  
10 of all class members.

11           14.     In light of the foregoing, I respectfully request that this Court approve a service award  
12 to me in the amount of \$5,000.

13           15.     I believe that the request for an award of attorneys’ fees in the amount of 33% of the  
14 Settlement Fund is fair and reasonable in light of the work that Class Counsel performed on behalf  
15 of the Class, the substantial recovery obtained (both monetary and non-monetary benefits), and the  
16 litigation risks faced (including the obstacles to prevailing at trial and obtaining a larger recover for  
17 the Class). I further believe that the expenses requested for payment by Class Counsel (an amount  
18 not to exceed \$900,000) are reasonable, and represent costs and expenses necessary for the  
19 prosecution and resolution of this Action.

20           I hereby declare, pursuant to 28 U.S.C. §1746, and under the penalties of perjury, that the  
21 foregoing statements made by me are true.

22  
23  
24  
25  
26  
27  
28

DATED: 12/18/2025 \_\_\_\_\_

Signed by: \_\_\_\_\_  
\_\_\_\_\_

# EXHIBIT 1B

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24 *Class Counsel*

25 **UNITED STATES DISTRICT COURT**  
26 **NORTHERN DISTRICT OF CALIFORNIA**  
27 **SAN FRANCISCO DIVISION**

28 JOHN DOE, JOHN DOE II, JOHN DOE III,  
JANE DOE, JANE DOE II, JANE DOE III,  
JANE DOE IV, JANE DOE V, and ALEXIS  
SUTTER, Individually and on behalf of all  
others similarly situated,

Plaintiffs,

v.

KAISER FOUNDATION HEALTH PLAN,  
INC., KAISER FOUNDATION HOSPITALS,  
and KAISER FOUNDATION HEALTH  
PLAN OF WASHINGTON,

Defendants.

**Lead Case No. 3:23-cv-02865-EMC**

**DECLARATION OF JOHN DOE II IN  
SUPPORT OF PLAINTIFFS' MOTION  
FOR FINAL APPROVAL OF  
PLAINTIFFS' MOTION FOR FINAL  
APPROVAL OF PROPOSED CLASS  
ACTION SETTLEMENT AND PLAN OF  
ALLOCATION AND CLASS COUNSEL'S  
MOTION FOR ATTORNEYS' FEES,  
LITIGATION EXPENSES AND SERVICE  
AWARDS**

District Judge: Hon. Edward M. Chen  
Magistrate Judge: Hon. Peter H. Kang

1 I, John Doe II ( [REDACTED] ) declare pursuant to 28 U.S.C. § 1746 under the penalty  
2 of perjury as follows:<sup>1</sup>

3 1. I am a named plaintiff in the above-captioned Action and one of the Settlement Class  
4 Representatives. I submit this Declaration in support of Plaintiffs’ Motion for Final Approval of  
5 Proposed Class Action Settlement and Plan of Allocation and Class Counsel’s Motion for Attorneys’  
6 Fees, Litigation Expenses and Service Awards. I have personal knowledge of the matters set forth  
7 in this Declaration, as I have been directly involved in monitoring and overseeing the prosecution  
8 of the Action, as well as the negotiations leading to the Settlement, and I could and would testify  
9 competently to these matters.

10 2. I retained experienced counsel who this Court has appointed to serve as Interim Co-  
11 Lead Class Counsel (“Class Counsel”). Prior to my retention of counsel, we had several discussions  
12 about the responsibilities of serving as a representative plaintiff, my commitment to fulfilling these  
13 responsibilities and seeing this Action through to completion, including providing testimony at trial,  
14 if any, in this Action, and the factual and legal bases for the claims asserted against Defendants. I  
15 believe that I have fulfilled these duties.

16 3. As stated most recently in the Consolidated Master Class Action Complaint (“Master  
17 Complaint”), as a member of a Kaiser health plan, I used Kaiser’s websites and mobile applications  
18 for various healthcare-related functions. As alleged in the Master Complaint, despite my expectation  
19 that my interactions and communications through Kaiser’s websites and mobile applications would  
20 not be shared with third parties, I believe that Kaiser disclosed my sensitive personal and  
21 confidential information and communications, identifying information, and personal health  
22 information (“PHI”) to a number of third parties—unbeknownst to me as well as other Kaiser Plan  
23 members.

24 4. I have been involved in this litigation since before the filing of the First Amended  
25 Complaint on September 15, 2023, as I participated in and assisted counsel in their continued  
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27 <sup>1</sup> Capitalized terms not defined herein have the meanings set forth in the Amended Stipulation of  
28 Settlement dated December 1, 2025 (ECF Nos. 390-1; 392-1).

1 investigation prior to the filing of this complaint. Specifically, I attended multiple video conference  
2 sessions with Class Counsel's expert, Mr. Ross A. Malaga, and permitted him to conduct a  
3 comprehensive and invasive search of my computer and mobile device in order to obtain specific  
4 information about my personal and confidential information that Kaiser was improperly sharing  
5 with third parties. This information included contents of my patient status, identifying information,  
6 personal and sensitive health information, and confidential communications with my health care  
7 providers through Kaiser's websites and mobile applications. The information obtained from Mr.  
8 Malaga in connection with Class Counsel's ongoing investigation helped to form the foundation of  
9 the allegations and claims alleged against Defendants.

10 5. I reviewed and approved the filing of the First Amended Complaint and each of the  
11 subsequent two complaints filed in this Action. Thereafter, I was actively involved in monitoring  
12 the progress of the Action. This included:

- 13 (1) frequent telephonic and written updates and communications from counsel  
14 on the status of the litigation and court rulings and orders;
- 15 (2) discussions with counsel about various strategic decisions in the litigation;
- 16 (3) my review of pleadings and legal memoranda including but not limited to,  
17 those filed in connection with the Motions to Dismiss, Plaintiffs' Motion for  
18 Preliminary Injunction, and discovery motion practice; and
- 19 (4) discussions with counsel regarding various legal rulings by this Court.

20 6. I also actively participated in discovery. For example, I reviewed and discussed with  
21 my attorneys the extensive discovery served on me by Defendants. This included searching for and  
22 gathering documents and other information in response to the 37 requests for production served on  
23 me by Defendants. Several of Defendants' requests required me to spend an extensive amount of  
24 time extracting personally invasive digital information from my various electronic devices. In  
25 addition, I reviewed and discussed with my attorneys, and provided responses to, the 7  
26 interrogatories served on me by Defendants.

27 7. I was kept informed of the settlement negotiations as they progressed. Specifically,  
28 before the first formal mediation with retired U.S. District Judge for the Northern District of Illinois,

1 Hon. Wayne R. Andersen in October 2024, I conferred with Class Counsel regarding the parties’  
2 respective positions and the potential range of acceptable settlement amounts and discussed the  
3 settlement strategy with counsel. I was updated following that unsuccessful mediation session. I  
4 again conferred with my counsel in connection with the second mediation session that followed on  
5 May 13, 2025, with retired U.S. Magistrate Judge for the Central District of California, Hon. Jay C.  
6 Gandhi and authorized the Settlement.

7 8. I have reviewed the Stipulation of Settlement in this Action, dated August 13, 2025,  
8 along with all exhibits and the confidential Supplemental Agreement. I have also reviewed the  
9 Amended Stipulation of Settlement in this Action, dated December 1, 2025. Based on my  
10 involvement throughout the prosecution and resolution of the claims asserted in the Action, I believe  
11 that the proposed Settlement is fair, reasonable, and adequate to the Class. I also believe that the  
12 proposed Settlement represents an excellent recovery, particularly in light of the substantial risks of  
13 continuing to prosecute the claims in this Action and that our efforts here have already caused the  
14 offending third-party software code on Kaiser's websites and mobile applications to be removed.  
15 Therefore, I endorse final approval of the Settlement by the Court.

16 9. I have spent approximately 20-30 hours working with Class Counsel on this Action.  
17 The hours that I dedicated to this case came at the sacrifice of time that would have been spent at  
18 work, with my family and/or attending to personal business.

19 10. In addition to the time I spent participating in this case, I took a risk that my PHI  
20 would become public at or before trial. Despite these risks, I chose to pursue this case because I felt  
21 that it was important that all Kaiser Plan Members’ personal and confidential information, including  
22 their PHI, was kept secure.

23 11. I believe my contributions to the case directly benefitted the class, including stopping  
24 Kaiser from their improper conduct. Indeed, after filing Plaintiffs’ Motion for Preliminary  
25 Injunction, we succeeded in having Kaiser voluntarily remove the offending code from its websites  
26 and mobile applications and Kaiser also implemented banners to provide more fulsome disclosure  
27 of Kaiser’s privacy policy.

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1           12.     It is my understanding that the other Kaiser Plan Members were not aware that Kaiser  
2 was sharing their sensitive personal and confidential information and communications, identifying  
3 information, and PHI with third parties, and I believe that without my efforts, Kaiser’s misconduct  
4 would not have stopped. In fact, the day after this Court denied in part Kaiser’s motion to dismiss,  
5 Kaiser notified regulators of the privacy breach and begin sending notification letters to the over 13  
6 million Kaiser members who, like me, were affected by that privacy breach.

7           13.     In addition to causing the cessation of Kaiser’s invasive misconduct, I believe that  
8 this Settlement—which consists of a cash payment of \$46 million to be paid by Defendants (and  
9 which may be increased to \$47.5 million depending on certain conditions)—is in the best interest  
10 of all class members.

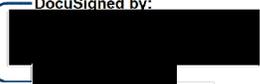
11          14.     In light of the foregoing, I respectfully request that this Court approve a service award  
12 to me in the amount of \$5,000.

13          15.     I believe that the request for an award of attorneys’ fees in the amount of 33% of the  
14 Settlement Fund is fair and reasonable in light of the work that Class Counsel performed on behalf  
15 of the Class, the substantial recovery obtained (both monetary and non-monetary benefits), and the  
16 litigation risks faced (including the obstacles to prevailing at trial and obtaining a larger recover for  
17 the Class). I further believe that the expenses requested for payment by Class Counsel (an amount  
18 not to exceed \$900,000) are reasonable, and represent costs and expenses necessary for the  
19 prosecution and resolution of this Action.

20           I hereby declare, pursuant to 28 U.S.C. §1746, and under the penalties of perjury, that the  
21 foregoing statements made by me are true.

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23  
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28

DATED: 12/19/2025 \_\_\_\_\_

DocuSigned by:  
  
\_\_\_\_\_

# EXHIBIT 1C

1 **KESSLER TOPAZ**  
2 **MELTZER & CHECK, LLP**  
3 Jennifer L. Joost (Bar No. 296164)  
4 jjoost@ktmc.com  
5 One Sansome Street, Suite 1850  
6 San Francisco, CA 94104  
7 Telephone: (415) 400-3000  
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9 -and-

10 **KESSLER TOPAZ**  
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24 *Class Counsel*

25 **UNITED STATES DISTRICT COURT**  
26 **NORTHERN DISTRICT OF CALIFORNIA**  
27 **SAN FRANCISCO DIVISION**

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JANE DOE, JANE DOE II, JANE DOE III,  
JANE DOE IV, JANE DOE V, and ALEXIS  
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PLAN OF WASHINGTON,

Defendants.

**Lead Case No. 3:23-cv-02865-EMC**

**DECLARATION OF JANE DOE IN**  
**SUPPORT OF PLAINTIFFS' MOTION**  
**FOR FINAL APPROVAL OF**  
**PLAINTIFFS' MOTION FOR FINAL**  
**APPROVAL OF PROPOSED CLASS**  
**ACTION SETTLEMENT AND PLAN OF**  
**ALLOCATION AND CLASS COUNSEL'S**  
**MOTION FOR ATTORNEYS' FEES,**  
**LITIGATION EXPENSES AND SERVICE**  
**AWARDS**

District Judge: Hon. Edward M. Chen  
Magistrate Judge: Hon. Peter H. Kang

1 I, Jane Doe ( [REDACTED] ) declare pursuant to 28 U.S.C. § 1746 under the penalty of  
2 perjury as follows:<sup>1</sup>

3 1. I am a named plaintiff in the above-captioned Action and one of the Settlement Class  
4 Representatives. I submit this Declaration in support of Plaintiffs’ Motion for Final Approval of  
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6 Fees, Litigation Expenses and Service Awards. I have personal knowledge of the matters set forth  
7 in this Declaration, as I have been directly involved in monitoring and overseeing the prosecution  
8 of the Action, as well as the negotiations leading to the Settlement, and I could and would testify  
9 competently to these matters.

10 2. I retained experienced counsel who this Court has appointed to serve as Interim Co-  
11 Lead Class Counsel (“Class Counsel”). Prior to my retention of counsel, we had several discussions  
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19 that my interactions and communications through Kaiser’s websites and mobile applications would  
20 not be shared with third parties, I believe that Kaiser disclosed my sensitive personal and  
21 confidential information and communications, identifying information, and personal health  
22 information (“PHI”) to a number of third parties—unbeknownst to me as well as other Kaiser Plan  
23 members.

24 4. I have been involved in this litigation since before the filing of the initial Complaint  
25 on June 9, 2023, as I participated in and assisted counsel in their continued investigation prior to the  
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28 Settlement dated December 1, 2025 (ECF Nos. 390-1; 392-1).

1 filing of this complaint. Specifically, I attended multiple video conference sessions with Class  
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7 websites and mobile applications. The information obtained from Mr. Malaga in connection with  
8 Class Counsel's ongoing investigation helped to form the foundation of the allegations and claims  
9 alleged against Defendants.

10 5. I reviewed and approved the filing of the First Amended Complaint and each of the  
11 subsequent two complaints filed in this Action. Thereafter, I was actively involved in monitoring  
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- 13 (1) frequent telephonic and written updates and communications from counsel  
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14 offending third-party software code on Kaiser's websites and mobile applications to be removed.  
15 Therefore, I endorse final approval of the Settlement by the Court.

16 9. I have spent approximately 20-30 hours working with Class Counsel on this Action.  
17 The hours that I dedicated to this case came at the sacrifice of time that would have been spent at  
18 work, with my family and/or attending to personal business.

19 10. In addition to the time I spent participating in this case, I took a risk that my PHI  
20 would become public at or before trial. Despite these risks, I chose to pursue this case because I felt  
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3 information, and PHI with third parties, and I believe that without my efforts, Kaiser’s misconduct  
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5 Kaiser notified regulators of the privacy breach and begin sending notification letters to the over 13  
6 million Kaiser members who, like me, were affected by that privacy breach.

7 13. In addition to causing the cessation of Kaiser’s invasive misconduct, I believe that  
8 this Settlement—which consists of a cash payment of \$46 million to be paid by Defendants (and  
9 which may be increased to \$47.5 million depending on certain conditions) —is in the best interest  
10 of all class members.

11 14. In light of the foregoing, I respectfully request that this Court approve a service award  
12 to me in the amount of \$5,000.

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19 prosecution and resolution of this Action.

20 I hereby declare, pursuant to 28 U.S.C. §1746, and under the penalties of perjury, that the  
21 foregoing statements made by me are true.

22  
23  
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DATED: 12/18/2025

DocuSigned by:  
[Redacted Signature]  
[Redacted Name]

# EXHIBIT 1D

1 **KESSLER TOPAZ**  
2 **MELTZER & CHECK, LLP**  
3 Jennifer L. Joost (Bar No. 296164)  
4 jjoost@ktmc.com  
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24 *Class Counsel*

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**Lead Case No. 3:23-cv-02865-EMC**

**DECLARATION OF JANE DOE II IN**  
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3 information, and PHI with third parties, and I believe that without my efforts, Kaiser’s misconduct  
4 would not have stopped. In fact, the day after this Court denied in part Kaiser’s motion to dismiss,  
5 Kaiser notified regulators of the privacy breach and begin sending notification letters to the over 13  
6 million Kaiser members who, like me, were affected by that privacy breach.

7           13.     In addition to causing the cessation of Kaiser’s invasive misconduct, I believe that  
8 this Settlement—which consists of a cash payment of \$46 million to be paid by Defendants (and  
9 which may be increased to \$47.5 million depending on certain conditions)—is in the best interest  
10 of all class members.

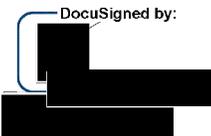
11           14.     In light of the foregoing, I respectfully request that this Court approve a service award  
12 to me in the amount of \$5,000.

13           15.     I believe that the request for an award of attorneys’ fees in the amount of 33% of the  
14 Settlement Fund is fair and reasonable in light of the work that Class Counsel performed on behalf  
15 of the Class, the substantial recovery obtained (both monetary and non-monetary benefits), and the  
16 litigation risks faced (including the obstacles to prevailing at trial and obtaining a larger recover for  
17 the Class). I further believe that the expenses requested for payment by Class Counsel (an amount  
18 not to exceed \$900,000) are reasonable, and represent costs and expenses necessary for the  
19 prosecution and resolution of this Action.

20           I hereby declare, pursuant to 28 U.S.C. §1746, and under the penalties of perjury, that the  
21 foregoing statements made by me are true.

22  
23  
24  
25  
26  
27  
28

DATED: 12/19/2025

DocuSigned by:  


# EXHIBIT 1E

1 **KESSLER TOPAZ**  
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9 -and-

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24 *Class Counsel*

**CARELLA BYRNE CECCHI**  
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Facsimile: (973) 994-1744

25 **UNITED STATES DISTRICT COURT**  
26 **NORTHERN DISTRICT OF CALIFORNIA**  
27 **SAN FRANCISCO DIVISION**

28 JOHN DOE, JOHN DOE II, JOHN DOE III,  
JANE DOE, JANE DOE II, JANE DOE III,  
JANE DOE IV, JANE DOE V, and ALEXIS  
SUTTER, Individually and on behalf of all  
others similarly situated,

Plaintiffs,

v.

KAISER FOUNDATION HEALTH PLAN,  
INC., KAISER FOUNDATION HOSPITALS,  
and KAISER FOUNDATION HEALTH  
PLAN OF WASHINGTON,

Defendants.

**Lead Case No. 3:23-cv-02865-EMC**

**DECLARATION OF JANE DOE III IN  
SUPPORT OF PLAINTIFFS' MOTION  
FOR FINAL APPROVAL OF  
PLAINTIFFS' MOTION FOR FINAL  
APPROVAL OF PROPOSED CLASS  
ACTION SETTLEMENT AND PLAN OF  
ALLOCATION AND CLASS COUNSEL'S  
MOTION FOR ATTORNEYS' FEES,  
LITIGATION EXPENSES AND SERVICE  
AWARDS**

District Judge: Hon. Edward M. Chen  
Magistrate Judge: Hon. Peter H. Kang

1 I, Jane Doe III ( [REDACTED] ) declare pursuant to 28 U.S.C. § 1746 under the penalty of  
2 perjury as follows:<sup>1</sup>

3 1. I am a named plaintiff in the above-captioned Action and one of the Settlement Class  
4 Representatives. I submit this Declaration in support of Plaintiffs’ Motion for Final Approval of  
5 Proposed Class Action Settlement and Plan of Allocation and Class Counsel’s Motion for Attorneys’  
6 Fees, Litigation Expenses and Service Awards. I have personal knowledge of the matters set forth  
7 in this Declaration, as I have been directly involved in monitoring and overseeing the prosecution  
8 of the Action, as well as the negotiations leading to the Settlement, and I could and would testify  
9 competently to these matters.

10 2. I retained experienced counsel who this Court has appointed to serve as Interim Co-  
11 Lead Class Counsel (“Class Counsel”). Prior to my retention of counsel, we had several discussions  
12 about the responsibilities of serving as a representative plaintiff, my commitment to fulfilling these  
13 responsibilities and seeing this Action through to completion, including providing testimony at trial,  
14 if any, in this Action, and the factual and legal bases for the claims asserted against Defendants. I  
15 believe that I have fulfilled these duties.

16 3. As stated most recently in the Consolidated Master Class Action Complaint (“Master  
17 Complaint”), as a member of a Kaiser health plan, I used Kaiser’s websites and mobile applications  
18 for various healthcare-related functions. As alleged in the Master Complaint, despite my expectation  
19 that my interactions and communications through Kaiser’s websites and mobile applications would  
20 not be shared with third parties, I believe that Kaiser disclosed my sensitive personal and  
21 confidential information and communications, identifying information, and personal health  
22 information (“PHI”) to a number of third parties—unbeknownst to me as well as other Kaiser Plan  
23 members.

24 4. I have been involved in this litigation since before the filing of the First Amended  
25 Complaint on September 15, 2023, as I participated in and assisted counsel in their continued  
26

27 <sup>1</sup> Capitalized terms not defined herein have the meanings set forth in the Amended Stipulation of  
28 Settlement dated December 1, 2025 (ECF Nos. 390-1; 392-1).

1 investigation prior to the filing of this complaint. Specifically, I attended multiple video conference  
2 sessions with Class Counsel's expert, Mr. Ross A. Malaga, and permitted him to conduct a  
3 comprehensive and invasive search of my computer and mobile device in order to obtain specific  
4 information about my personal and confidential information that Kaiser was improperly sharing  
5 with third parties. This information included contents of my patient status, identifying information,  
6 personal and sensitive health information, and confidential communications with my health care  
7 providers through Kaiser's websites and mobile applications. The information obtained from Mr.  
8 Malaga in connection with Class Counsel's ongoing investigation helped to form the foundation of  
9 the allegations and claims alleged against Defendants.

10 5. I reviewed and approved the filing of the First Amended Complaint and each of the  
11 subsequent two complaints filed in this Action. Thereafter, I was actively involved in monitoring  
12 the progress of the Action. This included:

- 13 (1) frequent telephonic and written updates and communications from counsel  
14 on the status of the litigation and court rulings and orders;
- 15 (2) discussions with counsel about various strategic decisions in the litigation;
- 16 (3) my review of pleadings and legal memoranda including but not limited to,  
17 those filed in connection with the Motions to Dismiss, Plaintiffs' Motion for  
18 Preliminary Injunction, and discovery motion practice; and
- 19 (4) discussions with counsel regarding various legal rulings by this Court.

20 6. I also actively participated in discovery. For example, I reviewed and discussed with  
21 my attorneys the extensive discovery served on me by Defendants. This included searching for and  
22 gathering documents and other information in response to the 37 requests for production served on  
23 me by Defendants. Several of Defendants' requests required me to spend an extensive amount of  
24 time extracting personally invasive digital information from my various electronic devices. In  
25 addition, I reviewed and discussed with my attorneys, and provided responses to, the 7  
26 interrogatories served on me by Defendants.

27 7. I was kept informed of the settlement negotiations as they progressed. Specifically,  
28 before the first formal mediation with retired U.S. District Judge for the Northern District of Illinois,

1 Hon. Wayne R. Andersen in October 2024, I conferred with Class Counsel regarding the parties’  
2 respective positions and the potential range of acceptable settlement amounts and discussed the  
3 settlement strategy with counsel. I was updated following that unsuccessful mediation session. I  
4 again conferred with my counsel in connection with the second mediation session that followed on  
5 May 13, 2025, with retired U.S. Magistrate Judge for the Central District of California, Hon. Jay C.  
6 Gandhi and authorized the Settlement.

7 8. I have reviewed with the Stipulation of Settlement in this Action, dated August 13,  
8 2025, along with all exhibits and the confidential Supplemental Agreement. I have also reviewed  
9 the Amended Stipulation of Settlement in this Action, dated December 1, 2025. Based on my  
10 involvement throughout the prosecution and resolution of the claims asserted in the Action, I believe  
11 that the proposed Settlement is fair, reasonable, and adequate to the Class. I also believe that the  
12 proposed Settlement represents an excellent recovery, particularly in light of the substantial risks of  
13 continuing to prosecute the claims in this Action and that our efforts here have already caused the  
14 offending third-party software code on Kaiser’s websites and mobile applications to be removed.  
15 Therefore, I endorse final approval of the Settlement by the Court.

16 9. I have spent approximately 20-30 hours working with Class Counsel on this Action.  
17 The hours that I dedicated to this case came at the sacrifice of time that would have been spent at  
18 work, with my family and/or attending to personal business.

19 10. In addition to the time I spent participating in this case, I took a risk that my PHI  
20 would become public at or before trial. Despite these risks, I chose to pursue this case because I felt  
21 that it was important that all Kaiser Plan Members’ personal and confidential information, including  
22 their PHI, was kept secure.

23 11. I believe my contributions to the case directly benefitted the class, including stopping  
24 Kaiser from their improper conduct. Indeed, after filing Plaintiffs’ Motion for Preliminary  
25 Injunction, we succeeded in having Kaiser voluntarily remove the offending code from its websites  
26 and mobile applications and Kaiser also implemented banners to provide more fulsome disclosure  
27 of Kaiser’s privacy policy.

28

1           12.     It is my understanding that the other Kaiser Plan Members were not aware that Kaiser  
2 was sharing their sensitive personal and confidential information and communications, identifying  
3 information, and PHI with third parties, and I believe that without my efforts, Kaiser’s misconduct  
4 would not have stopped. In fact, the day after this Court denied in part Kaiser’s motion to dismiss,  
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7           13.     In addition to causing the cessation of Kaiser’s invasive misconduct, I believe that  
8 this Settlement—which consists of a cash payment of \$46 million to be paid by Defendants (and  
9 which may be increased to \$47.5 million depending on certain conditions)—is in the best interest  
10 of all class members.

11          14.     In light of the foregoing, I respectfully request that this Court approve a service award  
12 to me in the amount of \$5,000.

13          15.     I believe that the request for an award of attorneys’ fees in the amount of 33% of the  
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15 of the Class, the substantial recovery obtained (both monetary and non-monetary benefits), and the  
16 litigation risks faced (including the obstacles to prevailing at trial and obtaining a larger recover for  
17 the Class). I further believe that the expenses requested for payment by Class Counsel (an amount  
18 not to exceed \$900,000) are reasonable, and represent costs and expenses necessary for the  
19 prosecution and resolution of this Action

20           I hereby declare, pursuant to 28 U.S.C. §1746, and under the penalties of perjury, that the  
21 foregoing statements made by me are true.

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27  
28

DATED: 12/19/2025 \_\_\_\_\_

DocuSigned by:  
[Redacted Signature]  
[Redacted Name]

# EXHIBIT 1F

1 **KESSLER TOPAZ**  
2 **MELTZER & CHECK, LLP**  
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4 jjoost@ktmc.com  
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7 Telephone: (415) 400-3000  
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9 -and-

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Facsimile: (973) 994-1744

24 *Class Counsel*

25 **UNITED STATES DISTRICT COURT**  
26 **NORTHERN DISTRICT OF CALIFORNIA**  
27 **SAN FRANCISCO DIVISION**

28 JOHN DOE, JOHN DOE II, JOHN DOE III,  
JANE DOE, JANE DOE II, JANE DOE III,  
JANE DOE IV, JANE DOE V, and ALEXIS  
SUTTER, Individually and on behalf of all  
others similarly situated,

Plaintiffs,

v.

KAISER FOUNDATION HEALTH PLAN,  
INC., KAISER FOUNDATION HOSPITALS,  
and KAISER FOUNDATION HEALTH  
PLAN OF WASHINGTON,

Defendants.

**Lead Case No. 3:23-cv-02865-EMC**

**DECLARATION OF JANE DOE IV IN**  
**SUPPORT OF PLAINTIFFS' MOTION**  
**FOR FINAL APPROVAL OF**  
**PLAINTIFFS' MOTION FOR FINAL**  
**APPROVAL OF PROPOSED CLASS**  
**ACTION SETTLEMENT AND PLAN OF**  
**ALLOCATION AND CLASS COUNSEL'S**  
**MOTION FOR ATTORNEYS' FEES,**  
**LITIGATION EXPENSES AND SERVICE**  
**AWARDS**

District Judge: Hon. Edward M. Chen  
Magistrate Judge: Hon. Peter H. Kang

1 I, Jane Doe IV ( [REDACTED] ) declare pursuant to 28 U.S.C. § 1746 under the penalty of  
2 perjury as follows:<sup>1</sup>

3 1. I am a named plaintiff in the above-captioned Action and one of the Settlement Class  
4 Representatives. I submit this Declaration in support of Plaintiffs’ Motion for Final Approval of  
5 Proposed Class Action Settlement and Plan of Allocation and Class Counsel’s Motion for Attorneys’  
6 Fees, Litigation Expenses and Service Awards. I have personal knowledge of the matters set forth  
7 in this Declaration, as I have been directly involved in monitoring and overseeing the prosecution  
8 of the Action, as well as the negotiations leading to the Settlement, and I could and would testify  
9 competently to these matters.

10 2. I retained experienced counsel who this Court has appointed to serve as Interim Co-  
11 Lead Class Counsel (“Class Counsel”). Prior to my retention of counsel, we had several discussions  
12 about the responsibilities of serving as a representative plaintiff, my commitment to fulfilling these  
13 responsibilities and seeing this Action through to completion, including providing testimony at trial,  
14 if any, in this Action, and the factual and legal bases for the claims asserted against Defendants. I  
15 believe that I have fulfilled these duties.

16 3. As stated most recently in the Consolidated Master Class Action Complaint (“Master  
17 Complaint”), as a member of a Kaiser health plan, I used Kaiser’s websites and mobile applications  
18 for various healthcare-related functions. As alleged in the Master Complaint, despite my expectation  
19 that my interactions and communications through Kaiser’s websites and mobile applications would  
20 not be shared with third parties, I believe that Kaiser disclosed my sensitive personal and  
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22 information (“PHI”) to a number of third parties—unbeknownst to me as well as other Kaiser Plan  
23 members.

24 4. I have been involved in this litigation since before the filing of the First Amended  
25 Complaint on September 15, 2023, as I participated in and assisted counsel in their continued  
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8 Malaga in connection with Class Counsel's ongoing investigation helped to form the foundation of  
9 the allegations and claims alleged against Defendants.

10 5. I reviewed and approved the filing of the First Amended Complaint and each of the  
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4 again conferred with my counsel in connection with the second mediation session that followed on  
5 May 13, 2025, with retired U.S. Magistrate Judge for the Central District of California, Hon. Jay C.  
6 Gandhi and authorized the Settlement.

7 8. I have reviewed the Stipulation of Settlement in this Action, dated August 13, 2025,  
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9 Amended Stipulation of Settlement in this Action, dated December 1, 2025. Based on my  
10 involvement throughout the prosecution and resolution of the claims asserted in the Action, I believe  
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12 proposed Settlement represents an excellent recovery, particularly in light of the substantial risks of  
13 continuing to prosecute the claims in this Action and that our efforts here have already caused the  
14 offending third-party software code on Kaiser's websites and mobile applications to be removed.  
15 Therefore, I endorse final approval of the Settlement by the Court.

16 9. I have spent approximately 20-30 hours working with Class Counsel on this Action.  
17 The hours that I dedicated to this case came at the sacrifice of time that would have been spent at  
18 work, with my family and/or attending to personal business.

19 10. In addition to the time I spent participating in this case, I took a risk that my PHI  
20 would become public at or before trial. Despite these risks, I chose to pursue this case because I felt  
21 that it was important that all Kaiser Plan Members’ personal and confidential information, including  
22 their PHI, was kept secure.

23 11. I believe my contributions to the case directly benefitted the class, including stopping  
24 Kaiser from their improper conduct. Indeed, after filing Plaintiffs’ Motion for Preliminary  
25 Injunction, we succeeded in having Kaiser voluntarily remove the offending code from its websites  
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27 of Kaiser’s privacy policy.

28

1 12. It is my understanding that the other Kaiser Plan Members were not aware that Kaiser  
2 was sharing their sensitive personal and confidential information and communications, identifying  
3 information, and PHI with third parties, and I believe that without my efforts, Kaiser’s misconduct  
4 would not have stopped. In fact, the day after this Court denied in part Kaiser’s motion to dismiss,  
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6 million Kaiser members who, like me, were affected by that privacy breach.

7 13. In addition to causing the cessation of Kaiser’s invasive misconduct, I believe that  
8 this Settlement—which consists of a cash payment of \$46 million to be paid by Defendants (and  
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10 of all class members.

11 14. In light of the foregoing, I respectfully request that this Court approve a service award  
12 to me in the amount of \$5,000.

13 15. I believe that the request for an award of attorneys’ fees in the amount of 33% of the  
14 Settlement Fund is fair and reasonable in light of the work that Class Counsel performed on behalf  
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18 not to exceed \$900,000) are reasonable, and represent costs and expenses necessary for the  
19 prosecution and resolution of this Action.

20 I hereby declare, pursuant to 28 U.S.C. §1746, and under the penalties of perjury, that the  
21 foregoing statements made by me are true.

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23  
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28

DATED: 12/18/2025 \_\_\_\_\_

DocuSigned by:  
\_\_\_\_\_  
\_\_\_\_\_

# EXHIBIT 1G

1 **KESSLER TOPAZ**  
2 **MELTZER & CHECK, LLP**  
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4 jjoost@ktmc.com  
5 One Sansome Street, Suite 1850  
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9 -and-

10 **KESSLER TOPAZ**  
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24 *Class Counsel*

25 **UNITED STATES DISTRICT COURT**  
26 **NORTHERN DISTRICT OF CALIFORNIA**  
27 **SAN FRANCISCO DIVISION**

28 JOHN DOE, JOHN DOE II, JOHN DOE III,  
JANE DOE, JANE DOE II, JANE DOE III,  
JANE DOE IV, JANE DOE V, and ALEXIS  
SUTTER, Individually and on behalf of all  
others similarly situated,

Plaintiffs,

v.

KAISER FOUNDATION HEALTH PLAN,  
INC., KAISER FOUNDATION HOSPITALS,  
and KAISER FOUNDATION HEALTH  
PLAN OF WASHINGTON,

Defendants.

**Lead Case No. 3:23-cv-02865-EMC**

**DECLARATION OF JANE DOE V IN  
SUPPORT OF PLAINTIFFS' MOTION  
FOR FINAL APPROVAL OF  
PLAINTIFFS' MOTION FOR FINAL  
APPROVAL OF PROPOSED CLASS  
ACTION SETTLEMENT AND PLAN OF  
ALLOCATION AND CLASS COUNSEL'S  
MOTION FOR ATTORNEYS' FEES,  
LITIGATION EXPENSES AND SERVICE  
AWARDS**

District Judge: Hon. Edward M. Chen  
Magistrate Judge: Hon. Peter H. Kang

1 I, Jane Doe V ( [REDACTED] ) declare pursuant to 28 U.S.C. § 1746 under the penalty of  
2 perjury as follows:<sup>1</sup>

3 1. I am a named plaintiff in the above-captioned Action and one of the Settlement Class  
4 Representatives. I submit this Declaration in support of Plaintiffs’ Motion for Final Approval of  
5 Proposed Class Action Settlement and Plan of Allocation and Class Counsel’s Motion for Attorneys’  
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10 2. I retained experienced counsel who this Court has appointed to serve as Interim Co-  
11 Lead Class Counsel (“Class Counsel”). Prior to my retention of counsel, we had several discussions  
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18 Preliminary Injunction, and discovery motion practice; and
- 19 (4) discussions with counsel regarding various legal rulings by this Court.

20 6. I also actively participated in discovery. For example, I reviewed and discussed with  
21 my attorneys the extensive discovery served on me by Defendants. This included searching for and  
22 gathering documents and other information in response to the 37 requests for production served on  
23 me by Defendants. Several of Defendants' requests required me to spend an extensive amount of  
24 time extracting personally invasive digital information from my various electronic devices. In  
25 addition, I reviewed and discussed with my attorneys, and provided responses to, the 7  
26 interrogatories served on me by Defendants.

27 7. I was kept informed of the settlement negotiations as they progressed. Specifically,  
28 before the first formal mediation with retired U.S. District Judge for the Northern District of Illinois,

1 Hon. Wayne R. Andersen in October 2024, I conferred with Class Counsel regarding the parties'  
2 respective positions and the potential range of acceptable settlement amounts and discussed the  
3 settlement strategy with counsel. I was updated following that unsuccessful mediation session. I  
4 again conferred with my counsel in connection with the second mediation session that followed on  
5 May 13, 2025, with retired U.S. Magistrate Judge for the Central District of California, Hon. Jay C.  
6 Gandhi and authorized the Settlement.

7 8. I have reviewed the Stipulation of Settlement in this Action, dated August 13, 2025,  
8 along with all exhibits and the confidential Supplemental Agreement. I have also reviewed the  
9 Amended Stipulation of Settlement in this Action, dated December 1, 2025. Based on my  
10 involvement throughout the prosecution and resolution of the claims asserted in the Action, I believe  
11 that the proposed Settlement is fair, reasonable, and adequate to the Class. I also believe that the  
12 proposed Settlement represents an excellent recovery, particularly in light of the substantial risks of  
13 continuing to prosecute the claims in this Action and that our efforts here have already caused the  
14 offending third-party software code on Kaiser's websites and mobile applications to be removed.  
15 Therefore, I endorse final approval of the Settlement by the Court.

16 9. I have spent approximately 20-30 hours working with Class Counsel on this Action.  
17 The hours that I dedicated to this case came at the sacrifice of time that would have been spent at  
18 work, with my family and/or attending to personal business.

19 10. In addition to the time I spent participating in this case, I took a risk that my PHI  
20 would become public at or before trial. Despite these risks, I chose to pursue this case because I felt  
21 that it was important that all Kaiser Plan Members' personal and confidential information, including  
22 their PHI, was kept secure.

23 11. I believe my contributions to the case directly benefitted the class, including stopping  
24 Kaiser from their improper conduct. Indeed, after filing Plaintiffs' Motion for Preliminary  
25 Injunction, we succeeded in having Kaiser voluntarily remove the offending code from its websites  
26 and mobile applications and Kaiser also implemented banners to provide more fulsome disclosure  
27 of Kaiser's privacy policy.

28

1           12.     It is my understanding that the other Kaiser Plan Members were not aware that Kaiser  
2 was sharing their sensitive personal and confidential information and communications, identifying  
3 information, and PHI with third parties, and I believe that without my efforts, Kaiser’s misconduct  
4 would not have stopped. In fact, the day after this Court denied in part Kaiser’s motion to dismiss,  
5 Kaiser notified regulators of the privacy breach and begin sending notification letters to the over 13  
6 million Kaiser members who, like me, were affected by that privacy breach.

7           13.     In addition to causing the cessation of Kaiser’s invasive misconduct, I believe that  
8 this Settlement—which consists of a cash payment of \$46 million to be paid by Defendants (and  
9 which may be increased to \$47.5 million depending on certain conditions)—is in the best interest  
10 of all class members.

11          14.     In light of the foregoing, I respectfully request that this Court approve a service award  
12 to me in the amount of \$5,000.

13          15.     I believe that the request for an award of attorneys’ fees in the amount of 33% of the  
14 Settlement Fund is fair and reasonable in light of the work that Class Counsel performed on behalf  
15 of the Class, the substantial recovery obtained (both monetary and non-monetary benefits), and the  
16 litigation risks faced (including the obstacles to prevailing at trial and obtaining a larger recover for  
17 the Class). I further believe that the expenses requested for payment by Class Counsel (an amount  
18 not to exceed \$900,000) are reasonable, and represent costs and expenses necessary for the  
19 prosecution and resolution of this Action.

20           I hereby declare, pursuant to 28 U.S.C. §1746, and under the penalties of perjury, that the  
21 foregoing statements made by me are true.

22  
23  
24  
25  
26  
27  
28

DATED: 12/18/2025 \_\_\_\_\_

Signed by: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

# EXHIBIT 1H

1 **KESSLER TOPAZ**  
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9 -and-

10 **KESSLER TOPAZ**  
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14 Melissa L. Yeates (appearance *pro hac vice*)  
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Facsimile: (973) 994-1744

24 *Interim Co-Lead Class Counsel*

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

25 JOHN DOE, JOHN DOE II, JOHN DOE III,  
26 JANE DOE, JANE DOE II, JANE DOE III,  
27 JANE DOE IV, JANE DOE V, and ALEXIS  
28 SUTTER, Individually and on behalf of all  
others similarly situated,

Plaintiffs,

v.

KAISER FOUNDATION HEALTH PLAN,  
INC., KAISER FOUNDATION HOSPITALS,  
and KAISER FOUNDATION HEALTH  
PLAN OF WASHINGTON,

Defendants.

**Lead Case No. 3:23-cv-02865-EMC**

**DECLARATION OF ALEXIS SUTTER IN  
SUPPORT OF PLAINTIFFS' MOTION  
FOR FINAL APPROVAL OF  
PLAINTIFFS' MOTION FOR FINAL  
APPROVAL OF PROPOSED CLASS  
ACTION SETTLEMENT AND PLAN OF  
ALLOCATION AND CLASS COUNSEL'S  
MOTION FOR ATTORNEYS' FEES,  
LITIGATION EXPENSES AND SERVICE  
AWARDS**

District Judge: Hon. Edward M. Chen  
Magistrate Judge: Hon. Peter H. Kang

1 I, Alexis Sutter, declare pursuant to 28 U.S.C. § 1746 under the penalty of perjury as  
2 follows:<sup>1</sup>

3 1. I am a named plaintiff in the above-captioned Action and one of the Settlement Class  
4 Representatives. I submit this Declaration in support of Plaintiffs’ Motion for Final Approval of  
5 Proposed Class Action Settlement and Plan of Allocation and Class Counsel’s Motion for Attorneys’  
6 Fees, Litigation Expenses and Service Awards. I have personal knowledge of the matters set forth  
7 in this Declaration, as I have been directly involved in monitoring and overseeing the prosecution  
8 of the Action, as well as the negotiations leading to the Settlement, and I could and would testify  
9 competently to these matters.

10 2. I retained my counsel, Migliaccio & Rathod LLP and the Law Offices of Robert  
11 Mackey, in connection with the filing of my initial complaint on June 4, 2024. Shortly thereafter, I  
12 supported the consolidation of my complaint with the Action and the appointment of Interim Co-  
13 Lead Class Counsel (“Class Counsel”). Prior to my retention of counsel, I had several discussions  
14 about the responsibilities of serving as a representative plaintiff, my commitment to fulfilling these  
15 responsibilities and seeing this Action through to completion, including providing testimony at trial,  
16 if any, in this Action, and the factual and legal bases for the claims asserted against Defendants. I  
17 believe that I have fulfilled these duties.

18 3. As stated most recently in the Consolidated Master Class Action Complaint (“Master  
19 Complaint”), as a member of a Kaiser health plan, I used Kaiser’s websites and mobile applications  
20 for various healthcare-related functions. As alleged in the Master Complaint, despite my expectation  
21 that my interactions and communications through Kaiser’s websites and mobile applications would  
22 not be shared with third parties, I believe that Kaiser disclosed my sensitive personal and  
23 confidential information and communications, identifying information, and personal health  
24 information (“PHI”) to a number of third parties—unbeknownst to me as well as other Kaiser Plan  
25 members.

26

27 \_\_\_\_\_  
28 <sup>1</sup> Capitalized terms not defined herein have the meanings set forth in the Amended Stipulation of Settlement dated December 1, 2025 (ECF Nos. 390-1; 392-1).

1           4.       I reviewed and approved the filing of my initial complaint and the Master Complaint.  
2       Thereafter, I was actively involved in monitoring the progress of the Action. This included:

- 3                   (1)     frequent telephonic and written updates and communications from counsel  
4                   on the status of the litigation and court rulings and orders;
- 5                   (2)     discussions with counsel about various strategic decisions in the litigation;
- 6                   (3)     my review of pleadings and legal memoranda including but not limited to,  
7                   those filed in connection with the Motion to Dismiss and discovery motion  
8                   practice; and
- 8                   (4)     discussions with counsel regarding various legal rulings by this Court.

9           5.       I also actively participated in discovery. For example, I reviewed and discussed with  
10       my attorneys the extensive discovery served on me by Defendants. This included searching for and  
11       gathering documents and other information in response to the 37 requests for production served on  
12       me by Defendants. Several of Defendants’ requests required me to spend an extensive amount of  
13       time extracting personally invasive digital information from my various electronic devices. In  
14       addition, I reviewed and discussed with my attorneys, and provided responses to, the 7  
15       interrogatories served on me by Defendants.

16          6.       I was kept informed of the settlement negotiations on May 13, 2025, with retired  
17       U.S. Magistrate Judge for the Central District of California, Hon. Jay C. Gandhi and authorized the  
18       Settlement.

19          7.       I have reviewed the Stipulation of Settlement in the Action, dated August 13, 2025,  
20       along with all exhibits and the confidential Supplemental Agreement. I have also reviewed the  
21       Amended Stipulation of Settlement in this Action, dated December 1, 2025. Based on my  
22       involvement throughout the prosecution and resolution of the claims asserted in the Action, I believe  
23       that the proposed Settlement is fair, reasonable, and adequate to the Class. I also believe that the  
24       proposed Settlement represents an excellent recovery, particularly in light of the substantial risks of  
25       continuing to prosecute the claims in this Action and since the litigation here has already caused the  
26       offending third-party software code on Kaiser's websites and mobile applications to be removed.  
27       Therefore, I endorse final approval of the Settlement by the Court.

28

1           8.       I have spent approximately 15-20 hours working on the Action. The hours that I  
2 dedicated to this case came at the sacrifice of time that I would have spent at work, with my family,  
3 and/or attending to personal business.

4           9.       In addition to the time I spent participating in this case, I took a risk that my PHI  
5 would become public at or before trial. Despite these risks, I chose to pursue this case because I felt  
6 that it was important that all Kaiser Plan members' personal and confidential information, including  
7 their PHI, was kept secure.

8           10.      It is my understanding that the other Kaiser Plan members were not aware that Kaiser  
9 was sharing their sensitive personal and confidential information and communications, identifying  
10 information, and PHI with third parties.

11          11.      I believe that this Settlement—which consists of a cash payment of \$46 million to be  
12 paid by Defendants (and which may be increased to \$47.5 million depending on certain  
13 conditions)—is in the best interest of all Settlement Class Members.

14          12.      In light of the foregoing, I respectfully request that this Court approve a service award  
15 to me in the amount of \$5,000.

16          13.      I believe that the request for an award of attorneys' fees in the amount of 33% of the  
17 Settlement Fund is fair and reasonable in light of the work that Class Counsel performed on behalf  
18 of the Class, the substantial recovery obtained (both monetary and non-monetary benefits), and the  
19 litigation risks faced (including the obstacles to prevailing at trial and obtaining a larger recover for  
20 the Class). I further believe that the expenses requested for payment by Class Counsel (an amount  
21 not to exceed \$900,000) are reasonable, and represent costs and expenses necessary for the  
22 prosecution and resolution of this Action.

23           I hereby declare, pursuant to 28 U.S.C. §1746, and under the penalties of perjury, that the  
24 foregoing statements made by me are true.

25 DATED: December 18, 2025



\_\_\_\_\_  
Alexis Sutter

26  
27  
28

# EXHIBIT 2

**EXHIBIT 2**

*Doe et al. v. Kaiser Foundation Health Plan, Inc. et al.*  
No. 3:23-cv-02865-EMC (N.D. Cal.)

**KESSLER TOPAZ MELTZER & CHECK, LLP****TIME REPORT**

Inception through September 30, 2025

NAME	HOURLY RATE	HOURS	LODESTAR
<b>PARTNERS</b>			
Enck, Jennifer	\$805	78.90	\$63,514.50
Graden, Tyler	\$965	2,330.30	\$2,248,739.50
Meltzer, Joseph	\$1,195	262.90	\$314,165.50
Winchester, Robin	\$1,195	48.30	\$57,718.50
Yeates, Melissa	\$1,145	1,051.50	\$1,203,967.50
<b>ASSOCIATES / COUNSEL</b>			
Jacobson, Jordan	\$750	863.20	\$647,400.00
Macken, Matthew	\$510	1,381.60	\$704,616.00
Newcomer, Michelle	\$750	63.80	\$47,850.00
Park, Alex	\$480	606.00	\$290,880.00
Shawa, Farai	\$510	20.50	\$10,455.00
Sheronas, Kelsey	\$510	517.90	\$264,129.00
Swofford, Justin	\$510	179.60	\$91,596.00
<b>STAFF ATTORNEYS</b>			
Peoples, Andrew	\$455	1,598.50	\$727,317.50
Riegel, Sara	\$455	249.00	\$113,295.00
<b>PARALEGALS / LAW CLERKS</b>			
Corson, Megan	\$320	471.10	\$150,752.00
Hemsley, Courtney	\$405	586.60	\$237,573.00
<b>INVESTIGATORS</b>			
Eidle, Sarah	\$300	84.00	\$25,200.00
Molina, Henry	\$400	23.00	\$9,200.00
Righter, Caitlyn	\$370	89.00	\$32,930.00
Seidel, Kerry	\$400	66.80	\$26,720.00
<b>CONTRACT ATTORNEYS</b>			
Block, Adam	\$370	941.20	\$348,244.00
Gillis, Martha	\$370	727.80	\$269,286.00

NAME	HOURLY RATE	HOURS	LODESTAR
Grenier, Dominique	\$370	726.00	\$268,620.00
Pham, Hien T.	\$370	1,581.60	\$585,192.00
Slifer, Eric	\$370	689.80	\$255,226.00
<b>TOTALS:</b>		<b>15,238.90</b>	<b>\$8,994,587.00</b>

# EXHIBIT 3

EXHIBIT 3

Doe et al v. Kaiser Foundation Health Plan, Inc. et al.  
Case No. 3:23-cv-02865 (N.D. Cal.)

KESSLER TOPAZ MELTZER & CHECK, LLP

TASK-BASED LODESTAR REPORT Inception  
through September 30, 2025

Categories:

- |   |                            |                                      |                           |
|---|----------------------------|--------------------------------------|---------------------------|
| (1) Administrative                        | (5) Court Appearances      | (9) Experts/Consultants              | (13) Settlement/Mediation |
| (2) Attorney Meetings/Litigation Strategy | (6) Discovery              | (10) Investigations/Factual Research |                           |
| (3) Case Management                       | (7) Document Review Tier 1 | (11) Legal Research                  |                           |
| (4) Client Communications                 | (8) Document Review Tier 2 | (12) Pleadings/Motions/Briefs        |                           |

Name	1	2	3	4	5	6	7	8	9	10	11	12	13	Total Hours	Rate	Total Lodestar
<b>Partners</b>																
Enck, Jennifer													78.9	78.90	\$805	\$63,514.50
Graden, Tyler		91.70	17.80	56.60	206.80	929.30			211.90		8.70	554.20	253.30	2330.30	\$965	\$2,248,739.50
Meltzer, Joseph		26.90			6.00	27.80			3.60		9.20	67.00	122.40	262.90	\$1,195	\$314,165.50
Winchester, Robin		15.00		20.40		3.80	1.50		4.80		1.00	1.80	48.30	48.30	\$1,195	\$57,718.50
Yeates, Melissa		194.10	4.30	1.10	41.80	320.70			126.50		1.20	257.30	104.50	1051.50	\$1,145	\$1,203,967.50
<b>Associates / Counsel</b>																
Jacobson, Jordan		68.10	1.90	7.70	80.10	443.60			4.00		26.70	218.80	12.30	863.20	\$750	\$647,400.00
Macken, Matthew		78.30	1.50	7.00	8.70	450.90			40.00		14.90	682.10	98.20	1381.60	\$510	\$704,616.00
Newcomer, Michelle						62.60			1.20					63.80	\$750	\$47,850.00
Park, Alex		8.90	6.10		2.00	14.10			2.70		137.40	394.50	40.30	606.00	\$480	\$290,880.00
Shawa, Farai						11.60					0.50	8.40		20.50	\$510	\$10,455.00
Sheronas, Kelsey		15.70		0.50		67.70			10.00		74.90	349.10		517.90	\$510	\$264,129.00
Swofford, Justin					2.30	5.30			1.60		137.60	32.80		179.60	\$510	\$91,596.00
<b>Staff Attorneys</b>																
Peoples, Andrew		65.30		120.70		607.10		528.00	1.00		232.30	43.60	0.50	1598.50	\$455	\$727,317.50
Riegel, Sara							249.00							249.00	\$455	\$113,295.00
<b>Paralegals</b>																
Corson, Megan	410.30										1.40	59.40		471.10	\$320	\$150,752.00
Hemsley, Courtney	439.70											146.90		586.60	\$405	\$237,573.00
<b>Investigators</b>																
Eidle, Sarah											84.00			84.00	\$300	\$25,200.00
Molina, Henry											23.00			23.00	\$400	\$9,200.00
Righter, Caitlyn											89.00			89.00	\$370	\$32,930.00
Seidel, Kerry											66.80			66.80	\$400	\$26,720.00
<b>Contract Attorney</b>																
Block, Adam							941.20							941.20	\$370	\$348,244.00
Gillis, Martha							727.80							727.80	\$370	\$269,286.00
Grenier, Dominique							726.00							726.00	\$370	\$268,620.00
Pham, Hien T							1581.60							1581.60	\$370	\$585,192.00
Slifer, Eric							689.80							689.80	\$370	\$255,226.00
<b>TOTAL:</b>	<b>850.00</b>	<b>564.00</b>	<b>31.60</b>	<b>214.00</b>	<b>347.70</b>	<b>2,944.50</b>	<b>4916.90</b>	<b>528.00</b>	<b>407.30</b>	<b>262.80</b>	<b>644.80</b>	<b>2815.10</b>	<b>712.20</b>	<b>15,238.90</b>		<b>\$8,994,587.00</b>

# EXHIBIT 4

1 **KESSLER TOPAZ**  
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9 -and-

10 **KESSLER TOPAZ**  
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Telephone: (973) 994-1700  
Facsimile: (973) 994-1744

24 *Class Counsel for Plaintiffs and*  
25 *the proposed Settlement Class*

26 **UNITED STATES DISTRICT COURT**  
27 **NORTHERN DISTRICT OF CALIFORNIA**  
28 **SAN FRANCISCO DIVISION**

JOHN DOE, JOHN DOE II, JOHN DOE III,  
JANE DOE, JANE DOE II, JANE DOE III,  
JANE DOE IV, JANE DOE V, and ALEXIS  
SUTTER, individually and on behalf of all  
others similarly situated,

Plaintiffs,

v.

KAISER FOUNDATION HEALTH PLAN,  
INC., KAISER FOUNDATION HOSPITALS,  
and KAISER FOUNDATION HEALTH PLAN  
OF WASHINGTON,

Defendants.

Case No. 4:23-cv-02865-EMC

**DECLARATION OF JAMES E. CECCHI**  
**ON BEHALF OF CARELLA BYRNE**  
**CECCHI BRODY & AGNELLO, PC IN**  
**SUPPORT OF ATTORNEYS' FEES AND**  
**LITIGATION EXPENSES**

Judge: Hon. Edward M. Chen  
Date: May 7, 2026  
Time: 1:30 p.m.  
Court: 5

1 I, JAMES E. CECCHI, declare as follows:

2 1. I am a partner in the law firm of Carella Byrne Cecchi Brody & Agnello, PC (“Carella  
3 Byrne”). I submit this Declaration in support of Class Counsel’s motion for an award of attorneys’  
4 fees in connection with services rendered in the above-captioned class action (“Action”), as well as  
5 for payment of expenses incurred by my firm in connection with the Action. I have personal  
6 knowledge of the matters set forth herein.<sup>1</sup>

7 2. My firm, as one of the Class Counsel firms in the Action, was involved in all aspects  
8 of the prosecution and resolution of the Action, as set forth in the Declaration of Tyler S. Graden in  
9 Support of (I) Plaintiffs’ Motion for Final Approval of Settlement and Allocation Methodology; and  
10 (II) Class Counsel’s Motion for Attorneys’ Fees, Litigation Expenses, and Service Awards, filed  
11 herewith.

12 3. Carella Byrne has reviewed its time and expense records. The purpose of this review  
13 was to confirm both the accuracy of the time entries and expenses and the necessity for, and  
14 reasonableness of, the time and expenses committed to the Action. I believe that the time reflected  
15 in my firm’s lodestar calculation and the expenses for which payment is sought as stated in this  
16 Declaration are reasonable in amount and were necessary for the effective and efficient prosecution  
17 and resolution of the Action.

18 4. Attached hereto as Exhibit 1 is a detailed summary indicating the amount of time  
19 spent by each Carella Byrne attorney and professional support staff employee who devoted ten (10)  
20 or more hours to the Action from its inception through and including September 30, 2025, and the  
21 lodestar calculation for those individuals based on their current hourly rates. Exhibit 1 was prepared  
22 from contemporaneous daily time records regularly prepared and maintained by Carella Byrne,  
23 which are available at the request of the Court. All time expended in preparing Class Counsel’s  
24 application for fees and expenses and this Declaration has been excluded.

25  
26  
27 <sup>1</sup> All terms with initial capitalization not otherwise defined herein shall have the meanings ascribed  
28 to them in the Amended Stipulation of Settlement dated December 1, 2025 (ECF Nos. 390-1; 392-1)  
 (“Stipulation”).

1  
2           5.       The hourly rates for the Carella Byrne attorneys and professional support staff  
3 employees included in Exhibit 1 are their standard rates. My firm's hourly rates are largely based  
4 upon a combination of the title, cost to the firm, and the specific years of experience for each attorney  
5 and professional support staff employee, as well as market rates for practitioners in the field. These  
6 hourly rates are the same as, or comparable to, rates submitted by Carella Byrne and accepted by  
7 courts in other complex class actions. *See, e.g., In re Effexor XR Antitrust Litigation*, 11-cv-05479,  
8 ECF No. 761 (D.N.J. Sept. 12, 2024) (approving Carella Byrne fees in antitrust litigation); *id. at*  
9 ECF No. 833 (D.N.J. Aug. 19, 2025) (same); *In re Am. Fin. Resources, Inc. Data Breach Litig.*, 22-  
10 cv-1757, ECF No. 81 (D.N.J. Oct. 3, 2024) (approving Carella Byrne fees in data breach litigation);  
11 *In re Am. Med. Collection Agency Inc. Customer Data Sec. Breach Litig.*, 19-md-02904, ECF No.  
12 609 (D.N.J. Nov. 3, 2023) (approving Carella Byrne fees in data breach litigation).

13           6.       The total number of hours expended on this Action by my firm from its inception  
14 through September 30, 2025, is 3,833.10 hours. The total lodestar for my firm for that period based  
15 on the timekeepers' current hourly rates is \$2,991,130.00 (i.e., \$2,938,277.50 for attorney time and  
16 \$52,852.50 for professional support staff time). My firm's lodestar figures do not include costs for  
17 expense items.

18           7.       In addition, Carella Byrne has expended an additional approximately 144.50 hours  
19 on this matter since September 30, 2025 in connection with preliminary approval of the Settlement  
20 (e.g., preparing supplemental submissions in support of preliminary approval of the Settlement,  
21 preparing for and attending preliminary approval conferences, and conferring with Kaiser's Counsel  
22 and counsel for the Objectors regarding Settlement terms) and preparing the motion for final  
23 approval of the Settlement, which hours are not included in Exhibit 1 (nor in the total lodestar figure).  
24 Carella Byrne will continue to work on this matter following approval of the Settlement, including  
25 devoting time to overseeing the efforts of the Settlement Administrator in disseminating notice of  
26 the Settlement to the Settlement Class, processing Claims and distributing the Net Settlement Fund  
27 to eligible Settlement Class Members. Class Counsel are not seeking compensation for this  
28 additional time.

1           8. Attached hereto as Exhibit 2 is a chart that reflects the hours spent by each timekeeper  
2 on each of the following task categories during the course of the Action:<sup>2</sup>

- 3           (1) **Administrative:** This category includes time spent on administrative tasks,  
4 including finalizing and preparing court filings, maintaining case files, and  
5 corresponding within the firm regarding various aspects of the case;
- 6           (2) **Attorney Meetings / Litigation Strategy:** This category includes time spent on  
7 meetings between attorneys, including time devoted to discussing litigation  
8 strategies at various postures of the case and conferences with defense counsel;
- 9           (3) **Case Management:** This category includes time spent on general case  
10 management, including ad hoc preparations for a hearing or logistics  
11 coordination;
- 12           (4) **Client Communications:** This category includes time spent on communications  
13 with the clients, including regular case updates and plaintiff discovery-related  
14 matters;
- 15           (5) **Court Appearances:** This category includes time spent on appearing in front of  
16 the Court, including monthly status conferences and discovery management  
17 conferences as well as oral argument on motions;
- 18           (6) **Discovery:** This category includes time spent on discovery efforts, including  
19 serving discovery requests on Kaiser, meeting and conferring with Kaiser on the  
20 scope of these requests, preparing plaintiff discovery production and interrogatory  
21 responses, and conducting third-party discovery;
- 22           (7) **Document Review Tier 1:** This category includes time spent on reviewing  
23 documents produced by Kaiser by a junior-level attorney;
- 24           (8) **Document Review Tier 2:** This category includes time spent on reviewing  
25 documents produced by Kaiser by a supervising attorney;
- 26           (9) **Experts / Consultants:** This category includes time spent on consulting with  
27

28 <sup>2</sup> Time entries that related to more than one major litigation category were apportioned to the event or event(s) that most adequately captured the billed time.

1 experts, including time spent on expert-led review of highly confidential source-  
2 code and calculation of potential damages;

3 (10) **Investigation / Factual Research:** This category includes time spent on  
4 investigating the alleged misconduct and potential claims asserted in the Action,  
5 including investigating potential plaintiffs and researching potential causes of  
6 action;

7 (11) **Legal Research:** This category includes time spent on researching legal issues  
8 that were not in relation to a specific pleading, motion, or brief, including research  
9 into discovery issues;

10 (12) **Pleading / Motions / Briefs:** This category includes time spent on preparing,  
11 filing, and opposing pleadings and motions filed with the Court, including  
12 researching the legal claims alleged in the multiple complaints as well as issues  
13 raised in the multiple motions to dismiss; and

14 (13) **Mediations & Settlement:** This category includes time spent on extended  
15 settlement negotiations with Kaiser's counsel, including two mediation sessions  
16 and preparation of mediation briefing; drafting and negotiating the Settlement  
17 Agreement and related documents; drafting the motion for preliminary approval  
18 of the settlement as well as supplemental briefings; and preparing for the related  
19 hearing on the motion and the continued hearing.

20 9. I believe that the number of hours expended and the services performed by the  
21 attorneys and professional support staff employees at Carella Byrne were reasonable and necessary  
22 for the effective and efficient prosecution and resolution of the Action.

23 10. Expense items are reported separately and are not duplicated in my firm's hourly  
24 rates. As set forth in Exhibit 3 hereto, Carella Byrne is seeking payment for \$150,638.86 in expenses  
25 incurred in connection with the prosecution and resolution of the Action.

26 11. The following is additional information regarding the expenses in Exhibit 3.

27 (a) **Court Filings & Other Fees** (\$1,284.00). This amount includes fees paid in  
28 relation to Pro Hac Vice admissions.

1 (b) **Express / Overnight Mail & Postage** (\$501.44). In connection with the  
2 prosecution of the Action, Carella Byrne incurred charges associated with Federal Express overnight  
3 correspondence.

4 (c) **Online Factual / Legal Research** (\$523.40). During the course of this  
5 Action, Carella Byrne incurred costs associated with online legal and factual research necessary to  
6 the investigation, prosecution, and resolution of the Action. These costs include charges from online  
7 vendors such as Westlaw, Courtlink, PACER, and others, and reflect costs associated with obtaining  
8 access to court filings and performing legal and factual research. The expenses in this category are  
9 tracked using the specific client-matter number for the Action and are based upon the costs assessed  
10 by each vendor. There are no administrative charges in this figure.

11 (d) **Travel (Transportation, Lodging & Meals)** (\$38,444.35). Over the past two  
12 years, Carella Byrne attorneys have incurred travel-related expenses for travel to, among other  
13 things, mediations in Chicago and Los Angeles, monthly in-person appearances in San Francisco,  
14 and in person code-review of Defendant's data in New York City. Carella Byrne applied "caps" to  
15 certain of these travel expenses as is routinely done by my firm. Also included in this amount are  
16 meals related to working late hours on filings and in-office team meetings.

17 (e) **Service of Process** (\$640.00). This amount consists of charges from process  
18 servers for service of third-party discovery subpoenas issued in connection with the litigation.

19 (f) **Experts / Consultants** (\$34,245.67). This amount reflects payments to  
20 Plaintiffs' experts Christo Wilson, Ph.D. and David Choffnes, Ph.D., as well as to a consultant, EIM  
21 International.

22 (i) Christopher Wilson Ph.D. (\$26,745.67). Plaintiffs retained Christopher  
23 Wilson Ph.D., a professor at Khoury College of Computer Sciences at Northeastern University, to  
24 conduct a second eight-hour source code review at the offices of Kaiser's counsel. Dr. Wilson  
25 reviewed hundreds of documents and specifically analyzed code contained with Kaiser's Adobe  
26 Launch files and an Android application package.

27 (ii) David Choffnes, Ph.D. (\$6,150.00). Plaintiffs consulted with David Choffnes  
28 Ph.D., a professor at Khoury College of Computer Sciences at Northeastern University and Executive

1 Director of the Cybersecurity and Privacy Institute, regarding the analysis of data collected by Kaiser  
2 to confirm whether Kaiser was revealing personal, identifying, and confidential medical information  
3 and communications through third party code installed on its websites and mobile applications, as  
4 well as analysis of how the code worked.

5 (iii) EIM International (\$1,350). Plaintiffs consulted with Peter Lieber of EIM  
6 International, a data systems consultant, to create a database to host the raw data sets of information  
7 produced by Defendant. The data sets consisted of millions of individual entries and exceeded the  
8 capability of typical database tools, such as Excel.

9 (g) **Litigation Fund Contributions** (\$75,000). Kessler Topaz Meltzer & Check, LLP  
10 maintained a joint litigation fund on behalf of Class Counsel for the management of large expenses  
11 (such as expert/consultant expenses) in the Action (“Litigation Fund”). Carella Byrne contributed  
12 \$75,000 to the Litigation Fund.

13 12. The Litigation Fund facilitated payment of certain common expenses in connection  
14 with the prosecution and resolution of the Action.

15 13. The expenses incurred by Carella Byrne in the Action are reflected on the books and  
16 records of my firm. These books and records are prepared from expense vouchers, check records,  
17 and other source materials and are an accurate record of the expenses incurred. I believe these  
18 expenses were reasonable and expended for the benefit of the Settlement Class in the Action.

19 14. With respect to the standing of my firm, attached hereto as Exhibit 4 is a firm résumé,  
20 which includes information about my firm and biographical information concerning the firm’s  
21 attorneys.

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

23 Executed on December 22, 2025

24  
25   
26 James Cecchi (Dec 22, 2025 17:06:22 EST)  
27 JAMES E. CECCHI

**EXHIBIT 1**

*Doe et al. v. Kaiser Foundation Health Plan, Inc. et al.*  
No. 3:23-cv-02865-EMC (N.D. Cal.)

**CARELLA BYRNE CECCHI BRODY & AGNELLO, PC****TIME REPORT**

Inception through September 30, 2025

NAME	HOURLY RATE	HOURS	LODESTAR
<b>PARTNERS</b>			
Cecchi, James	\$1,300.00	200.00	\$260,000.00
Cooper, Kevin	\$925.00	1,607.50	\$1,486,937.50
Innes, Michael	\$950.00	87.30	\$82,935.00
<b>ASSOCIATES / COUNSEL</b>			
Jacobs, Zach	\$900.00	308.50	\$277,650.00
Lee, Grant	\$850.00	158.30	\$134,555.00
Lillie, Raymond	\$450.00	43.20	\$19,440.00
Manory, William	\$550.00	61.50	\$33,825.00
O'Brien, James	\$850.00	58.20	\$49,470.00
O'Toole, Brian	\$600.00	11.80	\$7,080.00
Steele, Jordan	\$600.00	46.80	\$28,080.00
Tyson, Steven	\$550.00	294.80	\$162,140.00
<b>PARALEGALS / LAW CLERKS</b>			
Adimando, Matthew	\$225.00	11.20	\$2,520.00
Falduto, Jeff	\$225.00	12.20	\$2,745.00
Febus, Priscilla	\$225.00	14.60	\$3,285.00
Jamgochian, Jessica	\$225.00	47.50	\$10,687.50
Manory, William (LC)	\$225.00	43.80	\$9,855.00
Razzaq, Zanib	\$225.00	24.80	\$5,580.00
Siffringer, Ryan	\$225.00	40.00	\$9,000.00
Teixeira, Dylan	\$225.00	26.80	\$6,030.00
Wasserman, Anya	\$225.00	14.00	\$3,150.00
<b>CONTRACT ATTORNEYS</b>			
Karia, Tejus	\$550.00	39.80	\$21,890.00
Kenney, Heather	\$550.00	340.50	\$187,275.00
Zamor, Cinelynn	\$550.00	340.00	\$187,000.00

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NAME	HOURLY RATE	HOURS	LODESTAR
<b>TOTALS:</b>		<b>3,833.10</b>	<b>\$2,991,130.00</b>

**EXHIBIT 2**

*Doe et al. v. Kaiser Foundation Health Plan, Inc. et al.*  
No. 3:23-cv-02865-EMC (N.D. Cal.)

**CARELLA BYRNE CECCHI BRODY & AGNELLO, PC****TASK-BASED LODESTAR REPORT**

Inception through September 30, 2025

<b>CATEGORY</b>	<b>HOURS</b>	<b>LODESTAR</b>
Administrative	161.50	\$150,552.50
Attorney Meetings / Litigation Strategy	180.40	\$183,955.00
Case Management	110.80	\$66,232.50
Client Communications	20.80	\$13,375.00
Court Appearances	31.30	\$28,982.50
Discovery	517.80	\$478,602.50
Document Review Tier 1	758.30	\$404,715.00
Document Review Tier 2	1,102.60	\$867,645.00
Experts / Consultants	23.30	\$21,482.50
Investigation / Factual Research	250.30	\$242,455.00
Legal Research	230.30	\$133,010.00
Mediations & Settlement	156.60	\$166,965.00
Pleading / Motions / Briefs	289.10	\$233,157.50
<b>TOTALS:</b>	<b>3,833.10</b>	<b>\$2,991,130.00</b>

EXHIBIT 2

*Doe v. Kaiser Foundation Health Plan, Inc.*  
Case No. 3:23-cv-02865 (N.D. Cal.)

CARELLA BYRNE CECCHI BRODY & AGNELLO, PC

TASK-BASED LODESTAR REPORT  
Inception through September 30, 2025

**Categories:**

- |   |                            |                                      |                           |
|---|----------------------------|--------------------------------------|---------------------------|
| (1) Administrative                        | (5) Court Appearances      | (9) Experts/Consultants              | (13) Settlement/Mediation |
| (2) Attorney Meetings/Litigation Strategy | (6) Discovery              | (10) Investigations/Factual Research |                           |
| (3) Case Management                       | (7) Document Review Tier 1 | (11) Legal Research                  |                           |
| (4) Client Communication                  | (8) Document Review Tier 2 | (12) Pleadings/Motions/Briefs        |                           |

Name	1	2	3	4	5	6	7	8	9	10	11	12	13	Total Hours	Rate	Total Lodestar
<b>Partners</b>																
Cecchi, James	25.80	48.40				2.00				61.80		2.00	60	200.00	\$1,300	\$260,000.00
Cooper, Kevin	74.70	73.60	13.10	4.80	28.50	491.50		590.80	16.50	154.40	31.90	47.70	80	1,607.50	\$925	\$1,486,937.50
Innes, Michael	17.80	9.80	2.00		2.00	0.50		30.40	2.00	1.00		21.30	0.5	87.30	\$950	\$82,935.00
<b>Associates / Counsel</b>																
Jacobs, Zach	28.70	46.70	41.90		0.80	15.20		50.40	4.80	8.20	15.40	80.30	16.1	308.50	\$900	\$277,650.00
Lee, Grant		1.90				8.20		80.00		8.10	25.60	34.50		158.30	\$850	\$134,555.00
Lillie, Raymond								43.20						43.20	\$450	\$19,440.00
Manory, William											61.50			61.50	\$550	\$33,825.00
O'Brien, James											4.50	53.70		58.20	\$850	\$49,470.00
O'Toole, Brian											6.70	5.10		11.80	\$600	\$7,080.00
Steele, Jordan	5.10		6.40	2.70		0.40				0.80	15.70	15.70		46.80	\$600	\$28,080.00
Tyson, Steven				13.30				277.60				3.90		294.80	\$550	\$162,140.00
<b>Paralegals</b>																
Adimando, Matthew											7.20	4.00		11.20	\$225	\$2,520.00
Falduto, Jeff	8.70											3.50		12.20	\$225	\$2,745.00
Febus, Priscilla										5.20	4.40	5.00		14.60	\$225	\$3,285.00
Jamgochian, Jessica			42.70								4.80			47.50	\$225	\$10,687.50
Manory, William (LC)	0.70						1.00	30.20			11.90			43.80	\$225	\$9,855.00
Razzaq, Zanib			1.20							7.00	6.30	10.30		24.80	\$225	\$5,580.00
Siffringer, Ryan							37.00				3.00			40.00	\$225	\$9,000.00
Teixeira, Dylan			3.50							3.80	18.50	1.00		26.80	\$225	\$6,030.00
Wasserman, Anya											9.00	5.00		14.00	\$225	\$3,150.00
<b>Contract Attorney</b>																
Karia, Tejus							39.80							39.80	\$550	\$21,890.00
Kenney, Heather							340.50							340.50	\$550	\$187,275.00
Zamor, Cinelynn							340.00							340.00	\$550	\$187,000.00
<b>TOTAL:</b>	<b>161.50</b>	<b>180.40</b>	<b>110.80</b>	<b>20.80</b>	<b>31.30</b>	<b>517.80</b>	<b>758.30</b>	<b>1102.60</b>	<b>23.30</b>	<b>250.30</b>	<b>230.30</b>	<b>289.10</b>	<b>156.60</b>	<b>3,833.10</b>		<b>\$2,991,130.00</b>

**EXHIBIT 3**

*Doe et al. v. Kaiser Foundation Health Plan, Inc. et al.*  
 No. 3:23-cv-02865-EMC (N.D. Cal.)

**CARELLA BYRNE CECCHI BRODY & AGNELLO, PC**

**EXPENSE REPORT**

CATEGORY	AMOUNT
Court Filing & Other Fees	\$1,284.00
Express / Overnight Mail & Postage	\$501.44
Online Legal and Factual Research	\$523.40
Travel (Transportation, Lodging & Meals)	\$38,444.35
Service of Process	\$640.00
Experts / Consultants	\$34,245.67
Litigation Fund Contributions	\$75,000.00
<b>TOTAL EXPENSE REQUEST</b>	<b>\$150,638.86</b>

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**EXHIBIT 4**

*Doe et al. v. Kaiser Foundation Health Plan, Inc. et al.*  
No. 3:23-cv-02865-EMC (N.D. Cal.)

**CARELLA BYRNE CECCHI BRODY & AGNELLO, PC**  
**FIRM RESUME**



## CLASS ACTION RESUME

Formed in 1976, Carella Byrne is one of the leading law firms in the New Jersey – New York metropolitan area, serving a diverse clientele ranging from small businesses to Fortune 500 corporations. Carella Byrne’s class action practice - founded and led by James E. Cecchi - is the preeminent consumer class action firm in the State of New Jersey and across the United States. Mr. Cecchi has held leadership positions in many of the nation’s most complex and important consumer class actions effecting consumer rights in the last ten years. The most recent examples, to name a few are: (1) *In re Volkswagen “Clean Diesel” Marketing, Sales Practices, and Products Liability Litigation*; (2) *In re Takata Airbag Product Defect Litigation*; (3) *In re National Prescription Opiate Litigation*; (4); *In re American Medical Collection Agency, Inc., Customer Data Security Breach Litigation*; (5) *In re Mercedes-Benz Emissions Litigation*; (6) *In re Liquid Aluminum Sulfate Antitrust Litigation*; (7) *In re Volkswagen Timing Chain Product Liability Litigation*; (8) *In re Insulin Pricing Litigation*.

### REPRESENTATIVE MATTERS

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- *In re: Volkswagen “Clean Diesel” Marketing, Sales Practices, and Products Liability Litigation*, MDL No. 2672 (N.D. Cal.) (Hon. Charles R. Breyer) (James Cecchi appointed to Steering Committee and as Settlement Class Counsel; settlement in excess of \$15,000,000,000 for consumer fraud and warranty claims arising from the use of a defeat device to evade U.S. emissions regulations.)
- *In re: Takata Airbag Products Liability Litigation*, MDL No. 2599 (S.D. Fla.) (Hon. Frederico A. Moreno) (James Cecchi appointed to Steering Committee and as Settlement Class Counsel; settlement in excess of \$1,500,000,000 for consumer fraud and warranty claims arising from use of defective and dangerous airbags; the case is ongoing as it pertains to second-wave defendants, including Mercedes Benz USA.)
- *In re: American Medical Collection Agency, Inc. Customer Data Security Breach Litigation*, MDL No. 2904 (D.N.J.) (Hon. Madeline Cox Arleo) (James Cecchi appointed sole Lead Counsel in national Multi-District data breach litigation.)
- *In re National Prescription Opiate Litigation*, MDL No. 2804 (N.D. Ohio) (Hon. Dan A. Polster) (James Cecchi appointed to Plaintiffs’ Executive Committee relating to marketing of opioid drugs. Recent settlements include a proposed \$26 billion settlement with the nation's largest drug distributors and Johnson & Johnson. Recent trial team victories include Track 3 bellwether of \$650.6 million.)
- *In re: Mercedes-Benz Emissions Litigation*, Civil Action No. 16-cv-881 (D.N.J.) (Hon. Kevin McNulty) (James Cecchi appointed as Interim Co-Lead Counsel for Plaintiffs and the Proposed Class in a case arising out of the alleged use of a defeat device to evade U.S. emissions regulations; settlement with value in excess of \$700,000,000 granted final approval.)

- *In Re: Vytorin/Zetia Marketing, Sales Practices and Products Liability Litigation*, MDL No. 1938 (D.N.J.) (Hon. Dennis M. Cavanaugh); *In re Schering-Plough/Enhance Securities Litigation*, Civil Action No.: 08-cv-397 (D.N.J.) (Hon. Dennis M. Cavanaugh); *In re Merck & Co., Inc. Vytorin/Zetia Securities Litigation*, Civil Action No.: 08-cv-2177 (D.N.J.) (Hon. Dennis M. Cavanaugh) (consumer and securities fraud claims arising from marketing and sale of anti-cholesterol drugs Vytorin and Zetia) (Co-Lead Counsel in Consumer Cases which settled for \$41,500,000 and Liaison Counsel in Securities Cases which collectively settled for \$688,000,000.)
- *In re: Liquid Aluminum Sulfate Antitrust Litigation*, MDL No. 2687 (D.N.J.) (Hon. Jose L. Linares) (James Cecchi appointed as Lead Counsel and secured a settlement of greater than \$100,000,000.)
- *In Re Effexor XR Antitrust Litigation*, Civil Action No. 11-cv-5661 (D.N.J.) (Hon. Joel A. Pisano) (claims on behalf of indirect purchasers of brand-name drug alleging that manufacturer obtained patent by fraud and enforced patent by sham litigation to maintain illegal monopoly of brand-name drug. James Cecchi appointed as Chair of Plaintiffs' Indirect Purchaser Executive Committee.)
- *Davis Landscape v. Hertz Equipment Rental*, Civil Action No. 06-cv-3830 (D.N.J.) (Hon. Dennis M. Cavanaugh) (Co-Lead Counsel in settlement valued at over \$50,000,000 on behalf of contested nationwide class asserting claims that HERTZ' loss/damage waiver charges violated the New Jersey Consumer Fraud Act because it provides no benefit to customers.)
- *In Re: Merck & Co., Inc., Securities, Derivative & "ERISA" Litigation*, MDL No. 1658 (D.N.J.) (Hon. Stanley R. Chesler) (securities fraud claims arising from Merck's failure to disclose problems with commercial viability of anti-pain drug Vioxx which settled for more than \$1,000,000,000.)
- *In re: Mercedes-Benz Tele-Aid Contract Litigation*, MDL No. 1914 (Hon. Dickson R. Debevoise) (Co-Lead Counsel in \$40,000,000 settlement of consumer fraud claims arising from Mercedes' failure to notify Tele-Aid customers of mandated change from analog to digital system, and charging customers to replace system Mercedes knew would be obsolete.)

# EXHIBIT 5

**EXHIBIT 5**

*Doe et al. v. Kaiser Foundation Health Plan, Inc. et al.*  
No. 3:23-cv-02865-EMC (N.D. Cal.)

<b>NAME</b>	<b>HOURS</b>	<b>LODESTAR</b>	<b>EXPENSES</b>
<b>KESSLER TOPAZ MELTZER &amp; CHECK, LLP</b>	15,238.90	\$8,994,587.00	\$454,464.20
<b>CARELLA BYRNE CECCHI BRODY &amp; AGNELLO, PC</b>	3,833.10	\$2,991,130.00	\$150,638.86
<b>TOTAL:</b>	19,072.00	\$11,985,717.00	\$605,103.06

# EXHIBIT 6

**EXHIBIT 6**

*Doe et al. v. Kaiser Foundation Health Plan, Inc. et al.*  
No. 3:23-cv-02865-EMC (N.D. Cal.)

**Breakdown of Counsel's Hours by Task Category**

Inception through September 30, 2025

CATEGORY	KTMC		CARELLA BYRNE	
	HOURS	LODESTAR	HOURS	LODESTAR
Administrative	850.00	\$309,374.50	161.50	\$150,552.50
Attorney Meetings / Litigation Strategy	564.00	\$493,804.00	180.40	\$183,955.00
Case Management	31.60	\$27,218.50	110.80	\$66,232.50
Client Communications	214.00	\$144,775.00	20.80	\$13,375.00
Court Appearances	347.70	\$321,238.00	31.30	\$28,982.50
Discovery	2,944.50	\$2,237,491.50	517.80	\$478,602.50
Document Review Tier 1	4,916.90	\$1,841,655.50	758.30	\$404,715.00
Document Review Tier 2	528.00	\$240,240.00	1,102.60	\$867,645.00
Experts / Consultants	407.30	\$391,331.00	23.30	\$21,482.50
Investigation / Factual Research	262.80	\$94,050.00	250.30	\$242,455.00
Legal Research	644.80	\$329,114.00	230.30	\$133,010.00
Mediations & Settlement	712.20	\$1,909,396.00	156.60	\$166,965.00
Pleading / Motions / Briefs	2,815.10	\$654,899.00	289.10	\$233,157.50
<b>TOTALS:</b>	<b>15,238.90</b>	<b>\$8,994,587.00</b>	<b>3,833.10</b>	<b>\$2,991,130.00</b>

<b>Combined Total Hours:</b>	<b>19,072.00</b>
<b>Combined Total Lodestar:</b>	<b>\$11,985,717.00</b>

# EXHIBIT 7



**KESSLERTOPAZ**  
**MELTZERCHECK** LLP  
ATTORNEYS AT LAW

**FIRM PROFILE**

Since 1987, Kessler Topaz Meltzer & Check, LLP has specialized in the prosecution of securities class actions and has grown into one of the largest and most successful shareholder litigation firms in the field. With offices in Radnor, Pennsylvania and San Francisco, California, the Firm is comprised of 94 attorneys as well as an experienced support staff consisting of over 80 paralegals, in-house investigators, legal clerks and other personnel. With a large and sophisticated client base (numbering over 350 institutional investors from around the world -- including public and Taft-Hartley pension funds, mutual fund managers, investment advisors, insurance companies, hedge funds and other large investors), Kessler Topaz has developed an international reputation for excellence and has extensive experience prosecuting securities fraud actions. For the past several years, the National Law Journal has recognized Kessler Topaz as one of the top securities class action law firms in the country. In addition, the Legal Intelligencer recently awarded Kessler Topaz with its Class Action Litigation Firm of The Year award. Lastly, Kessler Topaz and several of its attorneys are regularly recognized by Legal500 and Benchmark: Plaintiffs as leaders in our field.

Kessler Topaz has recovered billions of dollars in the course of representing defrauded shareholders from around the world and takes pride in the reputation we have earned for our dedication to our clients. Kessler Topaz devotes significant time to developing relationships with its clients in a manner that enables the Firm to understand the types of cases they will be interested in pursuing and their expectations. Further, the Firm is committed to pursuing meaningful corporate governance reforms in cases where we suspect that systemic problems within a company could lead to recurring litigation and where such changes also have the possibility to increase the value of the underlying company. The Firm is poised to continue protecting rights worldwide.

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## NOTEWORTHY ACHIEVEMENTS

*During the Firm's successful history, Kessler Topaz has recovered billions of dollars for defrauded stockholders and consumers. The following are among the Firm's notable achievements:*

### SECURITIES FRAUD LITIGATION

#### *In re Bank of America Corp. Securities, Derivative, and Employee Retirement Income Security Act (ERISA) Litigation, Master File No. 09 MDL 2058: (S.D.N.Y. 2009)*

Kessler Topaz, as Co-Lead Counsel, brought an action on behalf of lead plaintiffs that asserted claims for violations of the federal securities laws against Bank of America Corp. ("BoA") and certain of BoA's officers and board members relating to BoA's merger with Merrill Lynch & Co. ("Merrill") and its failure to inform its shareholders of billions of dollars of losses which Merrill had suffered before the pivotal shareholder vote, as well as an undisclosed agreement allowing Merrill to pay up to \$5.8 billion in bonuses before the acquisition closed, despite these losses. On September 28, 2012, the Parties announced a \$2.425 billion case settlement with BoA to settle all claims asserted against all defendants in the action which has since received final approval from the Court. BoA also agreed to implement significant corporate governance improvements. The settlement, reached after almost four years of litigation with a trial set to begin on October 22, 2012, amounts to 1) the sixth largest securities class action lawsuit settlement ever; 2) the fourth largest securities class action settlement ever funded by a single corporate defendant; 3) the single largest settlement of a securities class action in which there was neither a financial restatement involved nor a criminal conviction related to the alleged misconduct; 4) the single largest securities class action settlement ever resolving a Section 14(a) claim (the federal securities provision designed to protect investors against misstatements in connection with a proxy solicitation); and 5) by far the largest securities class action settlement to come out of the subprime meltdown and credit crisis to date.

#### *In re Tyco International, Ltd. Sec. Litig., No. 02-1335-B (D.N.H. 2002):*

Kessler Topaz, which served as Co-Lead Counsel in this highly publicized securities fraud class action on behalf of a group of institutional investors, achieved a record \$3.2 billion settlement with Tyco International, Ltd. ("Tyco") and their auditor PricewaterhouseCoopers ("PwC"). The \$2.975 billion settlement with Tyco represents the single-largest securities class action recovery from a single corporate defendant in history. In addition, the \$225 million settlement with PwC represents the largest payment PwC has ever paid to resolve a securities class action and is the second-largest auditor settlement in securities class action history.

The action asserted federal securities claims on behalf of all purchasers of Tyco securities between December 13, 1999 and June 7, 2002 ("Class Period") against Tyco, certain former officers and directors of Tyco and PwC. Tyco is alleged to have overstated its income during the Class Period by \$5.8 billion through a multitude of accounting manipulations and shenanigans. The case also involved allegations of looting and self-dealing by the officers and directors of the Company. In that regard, Defendants L. Dennis Kozlowski, the former CEO and Mark H. Swartz, the former CFO have been sentenced to up to 25 years in prison after being convicted of grand larceny, falsification of business records and conspiracy for their roles in the alleged scheme to defraud investors.

As presiding Judge Paul Barbadoro aptly stated in his Order approving the final settlement, "[i]t is difficult to overstate the complexity of [the litigation]." Judge Barbadoro noted the extraordinary effort required to pursue the litigation towards its successful conclusion, which included the review of

more than 82.5 million pages of documents, more than 220 depositions and over 700 hundred discovery requests and responses. In addition to the complexity of the litigation, Judge Barbadoro also highlighted the great risk undertaken by Co-Lead Counsel in pursuit of the litigation, which he indicated was greater than in other multi-billion dollar securities cases and “put [Plaintiffs] at the cutting edge of a rapidly changing area of law.” In sum, the Tyco settlement is of historic proportions for the investors who suffered significant financial losses and it has sent a strong message to those who would try to engage in this type of misconduct in the future.

*In re Tenet Healthcare Corp. Sec. Litig., No. CV-02-8462-RSWL (Rx) (C.D. Cal. 2002):*

Kessler Topaz served as Co-Lead Counsel in this action. A partial settlement, approved on May 26, 2006, was comprised of three distinct elements: (i) a substantial monetary commitment of \$215 million by the company; (ii) personal contributions totaling \$1.5 million by two of the individual defendants; and (iii) the enactment and/or continuation of numerous changes to the company’s corporate governance practices, which have led various institutional rating entities to rank Tenet among the best in the U.S. in regards to corporate governance. The significance of the partial settlement was heightened by Tenet’s precarious financial condition. Faced with many financial pressures — including several pending civil actions and federal investigations, with total contingent liabilities in the hundreds of millions of dollars — there was real concern that Tenet would be unable to fund a settlement or satisfy a judgment of any greater amount in the near future. By reaching the partial settlement, we were able to avoid the risks associated with a long and costly litigation battle and provide a significant and immediate benefit to the class. Notably, this resolution represented a unique result in securities class action litigation — personal financial contributions from individual defendants. After taking the case through the summary judgment stage, we were able to secure an additional \$65 million recovery from KPMG – Tenet’s outside auditor during the relevant period – for the class, bringing the total recovery to \$281.5 million.

*In re Wachovia Preferred Securities and Bond/Notes Litigation, Master File No. 09 Civ. 6351 (RJS) (S.D.N.Y. 2009):*

Kessler Topaz, as court-appointed Co-Lead Counsel, asserted class action claims for violations of the Securities Act of 1933 on behalf of all persons who purchased Wachovia Corporation (“Wachovia”) preferred securities issued in thirty separate offerings (the “Offerings”) between July 31, 2006 and May 29, 2008 (the “Offering Period”). Defendants in the action included Wachovia, various Wachovia related trusts, Wells Fargo as successor-in-interest to Wachovia, certain of Wachovia’s officer and board members, numerous underwriters that underwrote the Offerings, and KPMG LLP (“KPMG”), Wachovia’s former outside auditor. Plaintiffs alleged that the registration statements and prospectuses and prospectus supplements used to market the Offerings to Plaintiffs and other members of the class during the Offerings Period contained materially false and misleading statements and omitted material information. Specifically, the Complaint alleged that in connection with the Offerings, Wachovia: (i) failed to reveal the full extent to which its mortgage portfolio was increasingly impaired due to dangerously lax underwriting practices; (ii) materially misstated the true value of its mortgage-related assets; (iii) failed to disclose that its loan loss reserves were grossly inadequate; and (iv) failed to record write-downs and impairments to those assets as required by Generally Accepted Accounting Principles (“GAAP”). Even as Wachovia faced insolvency, the Offering Materials assured investors that Wachovia’s capital and liquidity positions were “strong,” and that it was so “well capitalized” that it was actually a “provider of liquidity” to the market. On August 5, 2011, the Parties announced a \$590 million cash settlement with Wells Fargo (as successor-in-interest to Wachovia) and a \$37 million cash settlement with KPMG, to settle all claims asserted against all defendants in the action. This settlement was approved by the Hon. Judge Richard J. Sullivan by order issued on January 3, 2012.

*In re Initial Public Offering Sec. Litig., Master File No. 21 MC 92 (SAS) (S.D.N.Y. 2001):*

This action settled for \$586 million on January 1, 2010, after years of litigation overseen by U.S. District Judge Shira Scheindlin. Kessler Topaz served on the plaintiffs' executive committee for the case, which was based upon the artificial inflation of stock prices during the dot-com boom of the late 1990s that led to the collapse of the technology stock market in 2000 that was related to allegations of laddering and excess commissions being paid for IPO allocations.

*In re Longtop Financial Technologies Ltd. Securities Litigation, No. 11-cv-3658 (S.D.N.Y. 2011):*

Kessler Topaz, as Lead Counsel, brought an action on behalf of lead plaintiffs that asserted claims for violations of the federal securities laws against Longtop Financial Technologies Ltd. ("Longtop"), its Chief Executive Officer, Weizhou Lian, and its Chief Financial Officer, Derek Palaschuk. The claims against Longtop and these two individuals were based on a massive fraud that occurred at the company. As the CEO later confessed, the company had been a fraud since 2004. Specifically, Weizhou Lian confessed that the company's cash balances and revenues were overstated by hundreds of millions of dollars and it had millions of dollars in unrecorded bank loans. The CEO further admitted that, in 2011 alone, Longtop's revenues were overstated by about 40 percent. On November 14, 2013, after Weizhou Lian and Longtop failed to appear and defend the action, Judge Shira Scheindlin entered default judgment against these two defendants in the amount of \$882.3 million plus 9 percent interest running from February 21, 2008 to the date of payment. The case then proceeded to trial against Longtop's CFO who claimed he did not know about the fraud – and was not reckless in not knowing – when he made false statements to investors about Longtop's financial results. On November 21, 2014, the jury returned a verdict on liability in favor of plaintiffs. Specifically, the jury found that the CFO was liable to the plaintiffs and the class for each of the eight challenged misstatements. Then, on November 24, 2014, the jury returned its damages verdict, ascribing a certain amount of inflation to each day of the class period and apportioning liability for those damages amongst the three named defendants. The Longtop trial was only the 14th securities class action to be tried to a verdict since the passage of the Private Securities Litigation Reform Act in 1995 and represents a historic victory for investors.

*Operative Plasterers and Cement Masons International Association Local 262 Annuity Fund v. Lehman Brothers Holdings, Inc., No. 1:08-cv-05523-LAK (S.D.N.Y. 2008):*

Kessler Topaz, on behalf of lead plaintiffs, asserted claims against certain individual defendants and underwriters of Lehman securities arising from misstatements and omissions regarding Lehman's financial condition, and its exposure to the residential and commercial real estate markets in the period leading to Lehman's unprecedented bankruptcy filing on September 14, 2008. In July 2011, the Court sustained the majority of the amended Complaint finding that Lehman's use of Repo 105, while technically complying with GAAP, still rendered numerous statements relating to Lehman's purported Net Leverage Ratio materially false and misleading. The Court also found that Defendants' statements related to Lehman's risk management policies were sufficient to state a claim. With respect to loss causation, the Court also failed to accept Defendants' contention that the financial condition of the economy led to the losses suffered by the Class. As the case was being prepared for trial, a \$517 million settlement was reached on behalf of shareholders --- \$426 million of which came from various underwriters of the Offerings, representing a significant recovery for investors in this now bankrupt entity. In addition, \$90 million came from Lehman's former directors and officers, which is significant considering the diminishing assets available to pay any future judgment. Following these settlements, the litigation continued against Lehman's auditor, Ernst & Young LLP. A settlement for \$99 million was subsequently reached with Ernst & Young LLP and was approved by the Court.

*Minneapolis Firefighters' Relief Association v. Medtronic, Inc. et al.*, Case No. 0:08-cv-06324-PAM-AJB (D. Minn. 2008):

Kessler Topaz brought an action on behalf of lead plaintiffs that alleged that the company failed to disclose its reliance on illegal “off-label” marketing techniques to drive the sales of its INFUSE Bone Graft (“INFUSE”) medical device. While physicians are allowed to prescribe a drug or medical device for any use they see fit, federal law prohibits medical device manufacturers from marketing devices for any uses not specifically approved by the United States Food and Drug Administration. The company’s off-label marketing practices have resulted in the company becoming the target of a probe by the federal government which was revealed on November 18, 2008, when the company’s CEO reported that Medtronic received a subpoena from the United States Department of Justice which is “looking into off-label use of INFUSE.” After hearing oral argument on Defendants’ Motions to Dismiss, on February 3, 2010, the Court issued an order granting in part and denying in part Defendants’ motions, allowing a large portion of the action to move forward. The Court held that Plaintiff successfully stated a claim against each Defendant for a majority of the misstatements alleged in the Complaint and that each of the Defendants knew or recklessly disregarded the falsity of these statements and that Defendants’ fraud caused the losses experienced by members of the Class when the market learned the truth behind Defendants’ INFUSE marketing efforts. While the case was in discovery, on April 2, 2012, Medtronic agreed to pay shareholders an \$85 million settlement. The settlement was approved by the Court by order issued on November 8, 2012.

*In re Brocade Sec. Litig.*, Case No. 3:05-CV-02042-CRB (N.D. Cal. 2005):

The complaint in this action alleges that Defendants engaged in repeated violations of federal securities laws by backdating options grants to top executives and falsified the date of stock option grants and other information regarding options grants to numerous employees from 2000 through 2004, which ultimately caused Brocade to restate all of its financial statements from 2000 through 2005. In addition, concurrent SEC civil and Department of Justice criminal actions against certain individual defendants were commenced. In August, 2007 the Court denied Defendant’s motions to dismiss and in October, 2007 certified a class of Brocade investors who were damaged by the alleged fraud. Discovery is currently proceeding and the case is being prepared for trial. Furthermore, while litigating the securities class action Kessler Topaz and its co-counsel objected to a proposed settlement in the Brocade derivative action. On March 21, 2007, the parties in *In re Brocade Communications Systems, Inc. Derivative Litigation*, No. C05-02233 (N.D. Cal. 2005) (CRB) gave notice that they had obtained preliminary approval of their settlement. According to the notice, which was buried on the back pages of the Wall Street Journal, Brocade shareholders were given less than three weeks to evaluate the settlement and file any objection with the Court. Kessler Topaz client Puerto Rico Government Employees’ Retirement System (“PRGERS”) had a large investment in Brocade and, because the settlement was woefully inadequate, filed an objection. PRGERS, joined by fellow institutional investor Arkansas Public Employees Retirement System, challenged the settlement on two fundamental grounds. First, PRGERS criticized the derivative plaintiffs for failing to conduct any discovery before settling their claims. PRGERS also argued that derivative plaintiff’s abject failure to investigate its own claims before providing the defendants with broad releases from liability made it impossible to weigh the merits of the settlement. The Court agreed, and strongly admonished derivative plaintiffs for their failure to perform this most basic act of service to their fellow Brocade shareholders. The settlement was rejected and later withdrawn. Second, and more significantly, PRGERS claimed that the presence of the well-respected law firm Wilson, Sonsini Goodrich and Rosati, in this case, created an incurable conflict of interest that corrupted the entire settlement process. The conflict stemmed from WSGR’s dual role as counsel to Brocade and the Individual Settling Defendants, including WSGR Chairman and former Brocade Board Member

Larry Sonsini. On this point, the Court also agreed and advised WSGR to remove itself from the case entirely. On May 25, 2007, WSGR complied and withdrew as counsel to Brocade. The case settled for \$160 million and was approved by the Court.

*In re Satyam Computer Services, Ltd. Sec. Litig., No. 09 MD 02027 (BSJ) (S.D.N.Y.):*

Kessler Topaz served as Co-Lead Counsel in this securities fraud class action in the Southern District of New York. The action asserts claims by lead plaintiffs for violations of the federal securities laws against Satyam Computer Services Limited (“Satyam” or the “Company”) and certain of Satyam’s former officers and directors and its former auditor PricewaterhouseCoopers International Ltd. (“PwC”) relating to the Company’s January 7, 2009, disclosure admitting that B. Ramalinga Raju (“B. Raju”), the Company’s former chairman, falsified Satyam’s financial reports by, among other things, inflating its reported cash balances by more than \$1 billion. The news caused the price of Satyam’s common stock (traded on the National Stock Exchange of India and the Bombay Stock Exchange) and American Depository Shares (“ADSs”) (traded on the New York Stock Exchange (“NYSE”)) to collapse. From a closing price of \$3.67 per share on January 6, 2009, Satyam’s common stock closed at \$0.82 per share on January 7, 2009. With respect to the ADSs, the news of B. Raju’s letter was revealed overnight in the United States and, as a result, trading in Satyam ADSs was halted on the NYSE before the markets opened on January 7, 2009. When trading in Satyam ADSs resumed on January 12, 2009, Satyam ADSs opened at \$1.14 per ADS, down steeply from a closing price of \$9.35 on January 6, 2009. Lead Plaintiffs filed a consolidated complaint on July 17, 2009, on behalf of all persons or entities, who (a) purchased or otherwise acquired Satyam’s ADSs in the United States; and (b) residents of the United States who purchased or otherwise acquired Satyam shares on the National Stock Exchange of India or the Bombay Stock Exchange between January 6, 2004 and January 6, 2009. Co-Lead Counsel secured a settlement for \$125 million from Satyam on February 16, 2011. Additionally, Co-Lead Counsel was able to secure a \$25.5 million settlement from PwC on April 29, 2011, who was alleged to have signed off on the misleading audit reports.

*In re BankAtlantic Bancorp, Inc. Sec. Litig., Case No. 07-CV-61542 (S.D. Fla. 2007):*

On November 18, 2010, a panel of nine Miami, Florida jurors returned the first securities fraud verdict to arise out of the financial crisis against BankAtlantic Bancorp. Inc., its chief executive officer and chief financial officer. This case was only the tenth securities class action to be tried to a verdict following the passage of the Private Securities Litigation Reform Act of 1995, which governs such suits. Following extensive post-trial motion practice, the District Court upheld all of the Jury’s findings of fraud but vacated the damages award on a narrow legal issue and granted Defendant’s motion for a judgment as a matter of law. Plaintiffs appealed to the U.S. Court of Appeals for the Eleventh Circuit. On July 23, 2012, a three-judge panel for the Appeals Court found the District Court erred in granting the Defendant’s motion for a judgment as a matter of law based in part on the Jury’s findings (perceived inconsistency of two of the Jury’s answers to the special interrogatories) instead of focusing solely on the sufficiency of the evidence. However, upon its review of the record, the Appeals Court affirmed the District Court’s decision as it determined the Plaintiffs did not introduce evidence sufficient to support a finding in its favor on the element of loss causation. The Appeals Court’s decision in this case does not diminish the five years of hard work which Kessler Topaz expended to bring the matter to trial and secure an initial jury verdict in the Plaintiffs’ favor. This case is an excellent example of the Firm’s dedication to our clients and the lengths it will go to try to achieve the best possible results for institutional investors in shareholder litigation.

*In re AremisSoft Corp. Sec. Litig.*, C.A. No. 01-CV-2486 (D.N.J. 2002):

Kessler Topaz is particularly proud of the results achieved in this case before the Honorable Joel A. Pisano. This case was exceedingly complicated, as it involved the embezzlement of hundreds of millions of dollars by former officers of the Company, one of whom remains a fugitive. In settling the action, Kessler Topaz, as sole Lead Counsel, assisted in reorganizing AremisSoft as a new company to allow for it to continue operations, while successfully separating out the securities fraud claims and the bankrupt Company's claims into a litigation trust. The approved Settlement enabled the class to receive the majority of the equity in the new Company, as well as their pro rata share of any amounts recovered by the litigation trust. During this litigation, actions have been initiated in the Isle of Man, Cyprus, as well as in the United States as we continue our efforts to recover assets stolen by corporate insiders and related entities.

*In re CVS Corporation Sec. Litig.*, C.A. No. 01-11464 JLT (D. Mass. 2001):

Kessler Topaz, serving as Co-Lead Counsel on behalf of a group of institutional investors, secured a cash recovery of \$110 million for the class, a figure which represents the third-largest payout for a securities action in Boston federal court. Kessler Topaz successfully litigated the case through summary judgment before ultimately achieving this outstanding result for the class following several mediation sessions, and just prior to the commencement of trial.

*In re Marvell Technology, Grp., Ltd. Sec. Litig.*, Master File No. 06-06286 RWM:

Kessler Topaz served as Co-Lead Counsel in this securities class action brought against Marvell Technology Group Ltd. ("Marvell") and three of Marvell's executive officers. This case centered around an alleged options backdating scheme carried out by Defendants from June 2000 through June 2006, which enabled Marvell's executives and employees to receive options with favorable option exercise prices chosen with the benefit of hindsight, in direct violation of Marvell's stock option plan, as well as to avoid recording hundreds of millions of dollars in compensation expenses on the Marvell's books. In total, the restatement conceded that Marvell had understated the cumulative effect of its compensation expense by \$327.3 million, and overstated net income by \$309.4 million, for the period covered by the restatement. Following nearly three years of investigation and prosecution of the Class' claims as well as a protracted and contentious mediation process, Co-Lead Counsel secured a settlement for \$72 million from defendants on June 9, 2009. This Settlement represents a substantial portion of the Class' maximum provable damages, and is among the largest settlements, in total dollar amount, reached in an option backdating securities class action.

*In re Delphi Corp. Sec. Litig.*, Master File No. 1:05-MD-1725 (E.D. Mich. 2005):

In early 2005, various securities class actions were filed against auto-parts manufacturer Delphi Corporation in the Southern District of New York. Kessler Topaz its client, Austria-based mutual fund manager Raiffeisen Kapitalanlage-Gesellschaft m.b.H., were appointed as Co-Lead Counsel and Co-Lead Plaintiff, respectively. The Lead Plaintiffs alleged that (i) Delphi improperly treated financing transactions involving inventory as sales and disposition of inventory; (ii) improperly treated financing transactions involving "indirect materials" as sales of these materials; and (iii) improperly accounted for payments made to and credits received from General Motors as warranty settlements and obligations. As a result, Delphi's reported revenue, net income and financial results were materially overstated, prompting Delphi to restate its earnings for the five previous years. Complex litigation involving difficult bankruptcy issues has potentially resulted in an excellent recovery for the class. In addition, Co-Lead Plaintiffs also reached a settlement of claims against Delphi's outside auditor, Deloitte & Touche, LLP, for \$38.25 million on behalf of Delphi investors.

*In re Royal Dutch Shell European Shareholder Litigation*, No. 106.010.887, Gerechtshof Te Amsterdam (Amsterdam Court of Appeal):

Kessler Topaz was instrumental in achieving a landmark \$352 million settlement on behalf non-US investors with Royal Dutch Shell plc relating to Shell's 2004 restatement of oil reserves. This settlement of securities fraud claims on a class-wide basis under Dutch law was the first of its kind, and sought to resolve claims exclusively on behalf of European and other non-United States investors. Uncertainty over whether jurisdiction for non-United States investors existed in a 2004 class action filed in federal court in New Jersey prompted a significant number of prominent European institutional investors from nine countries, representing more than one billion shares of Shell, to actively pursue a potential resolution of their claims outside the United States. Among the European investors which actively sought and supported this settlement were Alecta pensionsförsäkring, ömsesidigt, PKA Pension Funds Administration Ltd., Swedbank Robur Fonder AB, AP7 and AFA Insurance, all of which were represented by Kessler Topaz.

*In re Computer Associates Sec. Litig.*, No. 02-CV-1226 (E.D.N.Y. 2002):

Kessler Topaz served as Co-Lead Counsel on behalf of plaintiffs, alleging that Computer Associates and certain of its officers misrepresented the health of the company's business, materially overstated the company's revenues, and engaged in illegal insider selling. After nearly two years of litigation, Kessler Topaz helped obtain a settlement of \$150 million in cash and stock from the company.

*In re The Interpublic Group of Companies Sec. Litig.*, No. 02 Civ. 6527 (S.D.N.Y. 2002):

Kessler Topaz served as sole Lead Counsel in this action on behalf of an institutional investor and received final approval of a settlement consisting of \$20 million in cash and 6,551,725 shares of IPG common stock. As of the final hearing in the case, the stock had an approximate value of \$87 million, resulting in a total settlement value of approximately \$107 million. In granting its approval, the Court praised Kessler Topaz for acting responsibly and noted the Firm's professionalism, competence and contribution to achieving such a favorable result.

*In re Digital Lightwave, Inc. Sec. Litig.*, Consolidated Case No. 98-152-CIV-T-24E (M.D. Fla. 1999):

The firm served as Co-Lead Counsel in one of the nation's most successful securities class actions in history measured by the percentage of damages recovered. After extensive litigation and negotiations, a settlement consisting primarily of stock was worth over \$170 million at the time when it was distributed to the Class. Kessler Topaz took on the primary role in negotiating the terms of the equity component, insisting that the class have the right to share in any upward appreciation in the value of the stock after the settlement was reached. This recovery represented an astounding approximately two hundred percent (200%) of class members' losses.

*In re Transkaryotic Therapies, Inc. Sec. Litig.*, Civil Action No. 03-10165-RWZ (D. Mass. 2003):

After five years of hard-fought, contentious litigation, Kessler Topaz as Lead Counsel on behalf of the Class, entered into one of largest settlements ever against a biotech company with regard to non-approval of one of its drugs by the U.S. Food and Drug Administration ("FDA"). Specifically, the Plaintiffs alleged that Transkaryotic Therapies, Inc. ("TKT") and its CEO, Richard Selden, engaged in a fraudulent scheme to artificially inflate the price of TKT common stock and to deceive Class Members by making misrepresentations and nondisclosures of material facts concerning TKT's prospects for FDA approval of Replagal, TKT's experimental enzyme replacement therapy for Fabry disease. With the assistance of the Honorable Daniel Weinstein, a retired state court judge from California, Kessler Topaz secured a \$50 million settlement from the Defendants during a complex and arduous mediation.

*In re PNC Financial Services Group, Inc. Sec. Litig., Case No. 02-CV-271 (W.D. Pa. 2002):*

Kessler Topaz served as Co-Lead Counsel in a securities class action case brought against PNC bank, certain of its officers and directors, and its outside auditor, Ernst & Young, LLP (“E&Y”), relating to the conduct of Defendants in establishing, accounting for and making disclosures concerning three special purpose entities (“SPEs”) in the second, third and fourth quarters of PNC’s 2001 fiscal year. Plaintiffs alleged that these entities were created by Defendants for the sole purpose of allowing PNC to secretly transfer non-performing assets worth hundreds of millions of dollars from its own books to the books of the SPEs without disclosing the transfers or consolidating the results and then making positive announcements to the public concerning the bank’s performance with respect to its non-performing assets. Complex issues were presented with respect to all defendants, but particularly E&Y. Throughout the litigation E&Y contended that because it did not make any false and misleading statements itself, the Supreme Court’s opinion in *Central Bank of Denver, N.A. v. First Interstate Bank of Denver, N.A.*, 511 U.S. 164 (1993) foreclosed securities liability for “aiding or abetting” securities fraud for purposes of Section 10(b) liability. Plaintiffs, in addition to contending that E&Y did make false statements, argued that Rule 10b-5’s deceptive conduct prong stood on its own as an independent means of committing fraud and that so long as E&Y itself committed a deceptive act, it could be found liable under the securities laws for fraud. After several years of litigation and negotiations, PNC paid \$30 million to settle the action, while also assigning any claims it may have had against E&Y and certain other entities that were involved in establishing and/or reporting on the SPEs. Armed with these claims, class counsel was able to secure an additional \$6.6 million in settlement funds for the class from two law firms and a third party insurance company and \$9.075 million from E&Y. Class counsel was also able to negotiate with the U.S. government, which had previously obtained a disgorgement fund of \$90 million from PNC and \$46 million from the third party insurance carrier, to combine all funds into a single settlement fund that exceeded \$180 million and is currently in the process of being distributed to the entire class, with PNC paying all costs of notifying the Class of the settlement.

*In re SemGroup Energy Partners, L.P., Sec. Litig., No. 08-md-1989 (DC) (N.D. Okla.):*

Kessler Topaz, which was appointed by the Court as sole Lead Counsel, litigated this matter, which ultimately settled for \$28 million. On April 20, 2010, in a fifty-page published opinion, the United States District Court for the Northern District of Oklahoma largely denied defendants’ ten separate motions to dismiss Lead Plaintiff’s Consolidated Amended Complaint. The Complaint alleged that: (i) defendants concealed SemGroup’s risky trading operations that eventually caused SemGroup to declare bankruptcy; and (ii) defendants made numerous false statements concerning SemGroup’s ability to provide its publicly-traded Master Limited Partnership stable cash-flows. The case was aggressively litigated out of the Firm’s San Francisco and Radnor offices and the significant recovery was obtained, not only from the Company’s principals, but also from its underwriters and outside directors.

*In re Liberate Techs. Sec. Litig., No. C-02-5017 (MJJ) (N.D. Cal. 2005):*

Kessler Topaz represented plaintiffs which alleged that Liberate engaged in fraudulent revenue recognition practices to artificially inflate the price of its stock, ultimately forcing it to restate its earning. As sole Lead Counsel, Kessler Topaz successfully negotiated a \$13.8 million settlement, which represents almost 40% of the damages suffered by the class. In approving the settlement, the district court complimented Lead Counsel for its “extremely credible and competent job.”

*In re Riverstone Networks, Inc. Sec. Litig., Case No. CV-02-3581 (N.D. Cal. 2002):*

Kessler Topaz served as Lead Counsel on behalf of plaintiffs alleging that Riverstone and certain of its officers and directors sought to create the impression that the Company, despite the industry-wide downturn in the telecom sector, had the ability to prosper and succeed and was actually prospering. In that regard, plaintiffs alleged that defendants issued a series of false and misleading statements concerning the Company's financial condition, sales and prospects, and used inside information to personally profit. After extensive litigation, the parties entered into formal mediation with the Honorable Charles Legge (Ret.). Following five months of extensive mediation, the parties reached a settlement of \$18.5 million.

## SHAREHOLDER DERIVATIVE ACTIONS

*In re Facebook, Inc. Class C Reclassification Litig., C.A. No. 12286-VCL (Del. Ch. Sept. 25, 2017):*

Kessler Topaz served as co-lead counsel in this stockholder class action that challenged a proposed reclassification of Facebook's capital structure to accommodate the charitable giving goals of its founder and controlling stockholder Mark Zuckerberg. The Reclassification involved the creation of a new class of nonvoting Class C stock, which would be issued as a dividend to all Facebook Class A and Class B stockholders (including Zuckerberg) on a 2-for-1 basis. The purpose and effect of the Reclassification was that it would allow Zuckerberg to sell billions of dollars worth of nonvoting Class C shares without losing his voting control of Facebook. The litigation alleged that Zuckerberg and Facebook's board of directors breached their fiduciary duties in approving the Reclassification at the behest of Zuckerberg and for his personal benefit. At trial Kessler Topaz was seeking a permanent injunction to prevent the consummation of the Reclassification. The litigation was carefully followed in the business and corporate governance communities, due to the high-profile nature of Facebook, Zuckerberg, and the issues at stake. After almost a year and a half of hard fought litigation, just one business day before trial was set to commence, Facebook and Zuckerberg abandoned the Reclassification, granting Plaintiffs complete victory.

*In re CytRx Stockholder Derivative Litig., Consol. C.A. No. 9864-VCL (Del. Ch. Nov. 20, 2015):*

Kessler Topaz served as co-lead counsel in a shareholder derivative action challenging 2.745 million "spring-loaded" stock options. On the day before CytRx announced the most important news in the Company's history concerning the positive trial results for one of its significant pipeline drugs, the Compensation Committee of CytRx's Board of Directors granted the stock options to themselves, their fellow directors and several Company officers which immediately came "into the money" when CytRx's stock price shot up immediately following the announcement the next day. Kessler Topaz negotiated a settlement recovering 100% of the excess compensation received by the directors and approximately 76% of the damages potentially obtainable from the officers. In addition, as part of the settlement, Kessler Topaz obtained the appointment of a new independent director to the Board of Directors and the implementation of significant reforms to the Company's stock option award processes. The Court complimented the settlement, explaining that it "serves what Delaware views as the overall positive function of stockholder litigation, which is not just recovery in the individual case but also deterrence and norm enforcement."

*International Brotherhood of Electrical Workers Local 98 Pension Fund v. Black, et al., Case No. 37-2011-00097795-CU-SL-CTL (Sup. Ct. Cal., San Diego Feb. 5, 2016) ("Encore Capital Group, Inc."):*

Kessler Topaz, as co-lead counsel, represented International Brotherhood of Electrical Workers Local 98 Pension Fund in a shareholder derivative action challenging breaches of fiduciary duties and other

violations of law in connection with Encore's debt collection practices, including robo-signing affidavits and improper use of the court system to collect alleged consumer debts. Kessler Topaz negotiated a settlement in which the Company implemented industry-leading reforms to its risk management and corporate governance practices, including creating Chief Risk Officer and Chief Compliance Officer positions, various compliance committees, and procedures for consumer complaint monitoring.

*In re Southern Peru Copper Corp. Derivative Litigation*, Consol. CA No. 961-CS (Del. Ch. 2011):

Kessler Topaz served as co-lead counsel in this landmark \$2 billion post-trial decision, believed to be the largest verdict in Delaware corporate law history. In 2005, Southern Peru, a publicly-traded copper mining company, acquired Minera Mexico, a private mining company owned by Southern Peru's majority stockholder Grupo Mexico. The acquisition required Southern Peru to pay Grupo Mexico more than \$3 billion in Southern Peru stock. We alleged that Grupo Mexico had caused Southern Peru to grossly overpay for the private company in deference to its majority shareholder's interests. Discovery in the case spanned years and continents, with depositions in Peru and Mexico. The trial court agreed and ordered Grupo Mexico to pay more than \$2 billion in damages and interest. The Delaware Supreme Court affirmed on appeal.

*Quinn v. Knight*, No. 3:16-cv-610 (E.D. Va. Mar. 16, 2017) ("Apple REIT Ten"):

This shareholder derivative action challenged a conflicted "roll up" REIT transaction orchestrated by Glade M. Knight and his son Justin Knight. The proposed transaction paid the Knights millions of dollars while paying public stockholders less than they had invested in the company. The case was brought under Virginia law, and settled just ten days before trial, with stockholders receiving an additional \$32 million in merger consideration.

*Kastis v. Carter*, C.A. No. 8657-CB (Del. Ch. Sept. 19, 2016) ("Hemispherx Biopharma, Inc."):

This derivative action challenged improper bonuses paid to two company executives of this small pharmaceutical company that had never turned a profit. In response to the complaint, Hemispherx's board first adopted a "fee-shifting" bylaw that would have required stockholder plaintiffs to pay the company's legal fees unless the plaintiffs achieved 100% of the relief they sought. This sort of bylaw, if adopted more broadly, could substantially curtail meritorious litigation by stockholders unwilling to risk losing millions of dollars if they bring an unsuccessful case. After Kessler Topaz presented its argument in court, Hemispherx withdrew the bylaw. Kessler Topaz ultimately negotiated a settlement requiring the two executives to forfeit several million dollars' worth of accrued but unpaid bonuses, future bonuses and director fees. The company also recovered \$1.75 million from its insurance carriers, appointed a new independent director to the board, and revised its compensation program.

*Montgomery v. Erickson, Inc., et al.*, C.A. No. 8784-VCL (Del. Ch. Sept. 12, 2016):

Kessler Topaz represented an individual stockholder who asserted in the Delaware Court of Chancery class action and derivative claims challenging merger and recapitalization transactions that benefitted the company's controlling stockholders at the expense of the company and its minority stockholders. Plaintiff alleged that the controlling stockholders of Erickson orchestrated a series of transactions with the intent and effect of using Erickson's money to bail themselves out of a failing investment. Defendants filed a motion to dismiss the complaint, which Kessler Topaz defeated, and the case proceeded through more than a year of fact discovery. Following an initially unsuccessful mediation and further litigation, Kessler Topaz ultimately achieved an \$18.5 million cash settlement, 80% of which was distributed to members of the stockholder class to resolve their direct claims and 20% of which was paid to the company to resolve the derivative claims. The settlement also instituted changes to the company's governing documents to prevent future self-dealing transactions like those that gave rise to the case.

*In re Helios Closed-End Funds Derivative Litig., No. 2:11-cv-02935-SHM-TMP (W.D. Tenn. 2011):* Kessler Topaz represented stockholders of four closed-end mutual funds in a derivative action against the funds' former investment advisor, Morgan Asset Management. Plaintiffs alleged that the defendants mismanaged the funds by investing in riskier securities than permitted by the funds' governing documents and, after the values of these securities began to precipitously decline beginning in early 2007, cover up their wrongdoing by assigning phony values to the funds' investments and failing to disclose the extent of the decrease in value of the funds' assets. In a rare occurrence in derivative litigation, the funds' Boards of Directors eventually hired Kessler Topaz to prosecute the claims against the defendants on behalf of the funds. Our litigation efforts led to a settlement that recovered \$6 million for the funds and ensured that the funds would not be responsible for making any payment to resolve claims asserted against them in a related multi-million dollar securities class action. The fund's Boards fully supported and endorsed the settlement, which was negotiated independently of the parallel securities class action.

*In re Viacom, Inc. Shareholder Derivative Litig., Index No. 602527/05 (N.Y. Sup. Ct. 2005):* Kessler Topaz represented the Public Employees' Retirement System of Mississippi and served as Lead Counsel in a derivative action alleging that the members of the Board of Directors of Viacom, Inc. paid excessive and unwarranted compensation to Viacom's Executive Chairman and CEO, Sumner M. Redstone, and co-COOs Thomas E. Freston and Leslie Moonves, in breach of their fiduciary duties. Specifically, we alleged that in fiscal year 2004, when Viacom reported a record net loss of \$17.46 billion, the board improperly approved compensation payments to Redstone, Freston, and Moonves of approximately \$56 million, \$52 million, and \$52 million, respectively. Judge Ramos of the New York Supreme Court denied Defendants' motion to dismiss the action as we overcame several complex arguments related to the failure to make a demand on Viacom's Board; Defendants then appealed that decision to the Appellate Division of the Supreme Court of New York. Prior to a decision by the appellate court, a settlement was reached in early 2007. Pursuant to the settlement, Sumner Redstone, the company's Executive Chairman and controlling shareholder, agreed to a new compensation package that, among other things, substantially reduces his annual salary and cash bonus, and ties the majority of his incentive compensation directly to shareholder returns.

*In re Family Dollar Stores, Inc. Derivative Litig., Master File No. 06-CVS-16796 (Mecklenburg County, NC 2006):*

Kessler Topaz served as Lead Counsel, derivatively on behalf of Family Dollar Stores, Inc., and against certain of Family Dollar's current and former officers and directors. The actions were pending in Mecklenburg County Superior Court, Charlotte, North Carolina, and alleged that certain of the company's officers and directors had improperly backdated stock options to achieve favorable exercise prices in violation of shareholder-approved stock option plans. As a result of these shareholder derivative actions, Kessler Topaz was able to achieve substantial relief for Family Dollar and its shareholders. Through Kessler Topaz's litigation of this action, Family Dollar agreed to cancel hundreds of thousands of stock options granted to certain current and former officers, resulting in a seven-figure net financial benefit for the company. In addition, Family Dollar has agreed to, among other things: implement internal controls and granting procedures that are designed to ensure that all stock options are properly dated and accounted for; appoint two new independent directors to the board of directors; maintain a board composition of at least 75 percent independent directors; and adopt stringent officer stock-ownership policies to further align the interests of officers with those of Family Dollar shareholders. The settlement was approved by Order of the Court on August 13, 2007.

*Carbon County Employees Retirement System, et al., Derivatively on Behalf of Nominal Defendant Southwest Airlines Co. v. Gary C. Kelly, et al. Cause No. 08-08692 (District Court of Dallas County, Texas):*

As lead counsel in this derivative action, we negotiated a settlement with far-reaching implications for the safety and security of airline passengers. Our clients were shareholders of Southwest Airlines Co. (Southwest) who alleged that certain officers and directors had breached their fiduciary duties in connection with Southwest's violations of Federal Aviation Administration safety and maintenance regulations. Plaintiffs alleged that from June 2006 to March 2007, Southwest flew 46 Boeing 737 airplanes on nearly 60,000 flights without complying with a 2004 FAA Airworthiness Directive requiring fuselage fatigue inspections. As a result, Southwest was forced to pay a record \$7.5 million fine. We negotiated numerous reforms to ensure that Southwest's Board is adequately apprised of safety and operations issues, and implementing significant measures to strengthen safety and maintenance processes and procedures.

*The South Financial Group, Inc. Shareholder Litigation, C.A. No. 2008-CP-23-8395 (S.C. C.C.P. 2009):*

Represented shareholders in derivative litigation challenging board's decision to accelerate "golden parachute" payments to South Financial Group's CEO as the company applied for emergency assistance in 2008 under the Troubled Asset Recovery Plan (TARP). We sought injunctive relief to block the payments and protect the company's ability to receive the TARP funds. The litigation was settled with the CEO giving up part of his severance package and agreeing to leave the board, as well as the implementation of important corporate governance changes one commentator described as "unprecedented."

## **OPTIONS BACKDATING**

In 2006, the Wall Street Journal reported that three companies appeared to have "backdated" stock option grants to their senior executives, pretending that the options had been awarded when the stock price was at its lowest price of the quarter, or even year. An executive who exercised the option thus paid the company an artificially low price, which stole money from the corporate coffers. While stock options are designed to incentivize recipients to drive the company's stock price up, backdating options to artificially low prices undercut those incentives, overpaid executives, violated tax rules, and decreased shareholder value.

Kessler Topaz worked with a financial analyst to identify dozens of other companies that had engaged in similar practices, and filed more than 50 derivative suits challenging the practice. These suits sought to force the executives to disgorge their improper compensation and to revamp the companies' executive compensation policies. Ultimately, as lead counsel in these derivative actions, Kessler Topaz achieved significant monetary and non-monetary benefits at dozens of companies, including:

*Comverse Technology, Inc.:* Settlement required Comverse's founder and CEO Kobi Alexander, who fled to Namibia after the backdating was revealed, to disgorge more than \$62 million in excessive backdated option compensation. The settlement also overhauled the company's corporate governance and internal controls, replacing a number of directors and corporate executives, splitting the Chairman and CEO positions, and instituting majority voting for directors.

*Monster Worldwide, Inc.:* Settlement required recipients of backdated stock options to disgorge more than \$32 million in unlawful gains back to the company, plus agreeing to significant corporate governance measures. These measures included (a) requiring Monster’s founder Andrew McKelvey to reduce his voting control over Monster from 31% to 7%, by exchanging super-voting stock for common stock; and (b) implementing new equity granting practices that require greater accountability and transparency in the granting of stock options moving forward. In approving the settlement, the court noted “the good results, mainly the amount of money for the shareholders and also the change in governance of the company itself, and really the hard work that had to go into that to achieve the results....”

*Affiliated Computer Services, Inc.:* Settlement required executives, including founder Darwin Deason, to give up \$20 million in improper backdated options. The litigation was also a catalyst for the company to replace its CEO and CFO and revamp its executive compensation policies.

## MERGERS & ACQUISITIONS LITIGATION

*City of Daytona Beach Police and Fire Pension Fund v. ExamWorks Group, Inc., et al., C.A. No. 12481-VCL (Del. Ch.):*

On September 12, 2017, the Delaware Chancery Court approved one of the largest class action M&A settlements in the history of the Delaware Chancery Court, a \$86.5 million settlement relating to the acquisition of ExamWorks Group, Inc. by private equity firm Leonard Green & Partners, LP.

The settlement caused ExamWorks stockholders to receive a 6% improvement on the \$35.05 per share merger consideration negotiated by the defendants. This amount is unusual especially for litigation challenging a third-party merger. The settlement amount is also noteworthy because it includes a \$46.5 million contribution from ExamWorks’ outside legal counsel, Paul Hastings LLP.

*In re ArthroCare Corporation S’holder Litig., Consol. C.A. No. 9313-VCL (Del. Ch. Nov. 13, 2014):*

Kessler Topaz, as co-lead counsel, challenged the take-private of Arthrocare Corporation by private equity firm Smith & Nephew. This class action litigation alleged, among other things, that Arthrocare’s Board breached their fiduciary duties by failing to maximize stockholder value in the merger. Plaintiffs also alleged that the merger violated Section 203 of the Delaware General Corporation Law, which prohibits mergers with “interested stockholders,” because Smith & Nephew had contracted with JP Morgan to provide financial advice and financing in the merger, while a subsidiary of JP Morgan owned more than 15% of Arthrocare’s stock. Plaintiffs also alleged that the agreement between Smith & Nephew and the JP Morgan subsidiary violated a “standstill” agreement between the JP Morgan subsidiary and Arthrocare. The court set these novel legal claims for an expedited trial prior to the closing of the merger. The parties agreed to settle the action when Smith & Nephew agreed to increase the merger consideration paid to Arthrocare stockholders by \$12 million, less than a month before trial.

*In re Safeway Inc. Stockholders Litig., C.A. No. 9445-VCL (Del. Ch. Sept. 17, 2014):*

Kessler Topaz represented the Oklahoma Firefighters Pension and Retirement System in class action litigation challenging the acquisition of Safeway, Inc. by Albertson’s grocery chain for \$32.50 per share in cash and contingent value rights. Kessler Topaz argued that the value of CVRs was illusory, and Safeway’s shareholder rights plan had a prohibitive effect on potential bidders making superior offers to acquire Safeway, which undermined the effectiveness of the post-signing “go shop.”

Plaintiffs sought to enjoin the transaction, but before the scheduled preliminary injunction hearing took place, Kessler Topaz negotiated (i) modifications to the terms of the CVRs and (ii) defendants' withdrawal of the shareholder rights plan. In approving the settlement, Vice Chancellor Laster of the Delaware Chancery Court stated that "the plaintiffs obtained significant changes to the transaction . . . that may well result in material increases in the compensation received by the class," including substantial benefits potentially in excess of \$230 million.

*In re MPG Office Trust, Inc. Preferred Shareholder Litig.*, Cons. Case No. 24-C-13-004097 (Md. Cir. Oct. 20, 2015):

Kessler Topaz challenged a coercive tender offer whereby MPG preferred stockholders received preferred stock in Brookfield Office Properties, Inc. without receiving any compensation for their accrued and unpaid dividends. Kessler Topaz negotiated a settlement where MPG preferred stockholders received a dividend of \$2.25 per share, worth approximately \$21 million, which was the only payment of accrued dividends Brookfield DTLA Preferred Stockholders had received as of the time of the settlement.

*In re Globe Specialty Metals, Inc. Stockholders Litig.*, C.A. 10865-VCG (Del. Ch. Feb. 15, 2016):

Kessler Topaz served as co-lead counsel in class action litigation arising from Globe's acquisition by Grupo Atlantica to form Ferroglobe. Plaintiffs alleged that Globe's Board breached their fiduciary duties to Globe's public stockholders by agreeing to sell Globe for an unfair price, negotiating personal benefits for themselves at the expense of the public stockholders, failing to adequately inform themselves of material issues with Grupo Atlantica, and issuing a number of materially deficient disclosures in an attempt to mask issues with the negotiations. At oral argument on Plaintiffs' preliminary injunction motion, the Court held that Globe stockholders likely faced irreparable harm from the Board's conduct, but reserved ruling on the other preliminary injunction factors. Prior to the Court's final ruling, the parties agreed to settle the action for \$32.5 million and various corporate governance reforms to protect Globe stockholders' rights in Ferroglobe.

*In re Dole Food Co., Inc. Stockholder Litig.*, Consol. C.A. No. 8703-VCL, 2015 WL 5052214 (Del. Ch. Aug. 27, 2015):

On August 27, 2015, Vice Chancellor J. Travis Laster issued his much-anticipated post-trial verdict in litigation by former stockholders of Dole Food Company against Dole's chairman and controlling stockholder David Murdock. In a 106-page ruling, Vice Chancellor Laster found that Murdock and his longtime lieutenant, Dole's former president and general counsel C. Michael Carter, unfairly manipulated Dole's financial projections and misled the market as part of Murdock's efforts to take the company private in a deal that closed in November 2013. Among other things, the Court concluded that Murdock and Carter "primed the market for the freeze-out by driving down Dole's stock price" and provided the company's outside directors with "knowingly false" information and intended to "mislead the board for Mr. Murdock's benefit." Vice Chancellor Laster found that the \$13.50 per share going-private deal underpaid stockholders, and awarded class damages of \$2.74 per share, totaling \$148 million. That award represents the largest post-trial class recovery in the merger context. The largest post-trial derivative recovery in a merger case remains Kessler Topaz's landmark 2011 \$2 billion verdict in *In re Southern Peru*.

*In re Genentech, Inc. Shareholders Lit.*, Cons. Civ. Action No. 3991-VCS (Del. Ch. 2008):

Kessler Topaz served as Co-Lead Counsel in this shareholder class action brought against the directors of Genentech and Genentech's majority stockholder, Roche Holdings, Inc., in response to Roche's July 21, 2008 attempt to acquire Genentech for \$89 per share. We sought to enforce provisions of an Affiliation Agreement between Roche and Genentech and to ensure that Roche fulfilled its fiduciary obligations to Genentech's shareholders through any buyout effort by Roche.

After moving to enjoin the tender offer, Kessler Topaz negotiated with Roche and Genentech to amend the Affiliation Agreement to allow a negotiated transaction between Roche and Genentech, which enabled Roche to acquire Genentech for \$95 per share, approximately \$3.9 billion more than Roche offered in its hostile tender offer. In approving the settlement, then-Vice Chancellor Leo Strine complimented plaintiffs' counsel, noting that this benefit was only achieved through "real hard-fought litigation in a complicated setting."

*In re GSI Commerce, Inc. Shareholder Litig., Consol. C.A. No. 6346-VCN (Del. Ch. Nov. 15, 2011):* On behalf of the Erie County Employees' Retirement System, we alleged that GSI's founder breached his fiduciary duties by negotiating a secret deal with eBay for him to buy several GSI subsidiaries at below market prices before selling the remainder of the company to eBay. These side deals significantly reduced the acquisition price paid to GSI stockholders. Days before an injunction hearing, we negotiated an improvement in the deal price of \$24 million.

*In re Amicas, Inc. Shareholder Litigation, 10-0174-BLS2 (Suffolk County, MA 2010):* Kessler Topaz served as lead counsel in class action litigation challenging a proposed private equity buyout of Amicas that would have paid Amicas shareholders \$5.35 per share in cash while certain Amicas executives retained an equity stake in the surviving entity moving forward. Kessler Topaz prevailed in securing a preliminary injunction against the deal, which then allowed a superior bidder to purchase the Company for an additional \$0.70 per share (\$26 million). The court complimented Kessler Topaz attorneys for causing an "exceptionally favorable result for Amicas' shareholders" after "expend[ing] substantial resources."

*In re Harleysville Mutual, Nov. Term 2011, No. 02137 (C.C.P., Phila. Cnty.):* Kessler Topaz served as co-lead counsel in expedited merger litigation challenging Harleysville's agreement to sell the company to Nationwide Insurance Company. Plaintiffs alleged that policyholders were entitled to receive cash in exchange for their ownership interests in the company, not just new Nationwide policies. Plaintiffs also alleged that the merger was "fundamentally unfair" under Pennsylvania law. The defendants contested the allegations and contended that the claims could not be prosecuted directly by policyholders (as opposed to derivatively on the company's behalf). Following a two-day preliminary injunction hearing, we settled the case in exchange for a \$26 million cash payment to policyholders.

## CONSUMER PROTECTION & FIDUCIARY LITIGATION

*In re: J.P. Jeanneret Associates Inc., et al., No. 09-cv-3907 (S.D.N.Y.):* Kessler Topaz served as lead counsel for one of the plaintiff groups in an action against J.P. Jeanneret and Ivy Asset Management relating to an alleged breach of fiduciary and statutory duty in connection with the investment of retirement plan assets in Bernard Madoff-related entities. By breaching their fiduciary duties, Defendants caused significant losses to the retirement plans. Following extensive hard-fought litigation, the case settled for a total of \$216.5 million.

*In re: National City Corp. Securities, Derivative and ERISA Litig, No. 08-nc-7000 (N.D. Ohio):* Kessler Topaz served as a lead counsel in this complex action alleging that certain directors and officers of National City Corp. breached their fiduciary duties under the Employee Retirement Income Security Act of 1974. These breaches arose from an investment in National City stock during

a time when defendants knew, or should have known, that the company stock was artificially inflated and an imprudent investment for the company's 401(k) plan. The case settled for \$43 million on behalf of the plan, plaintiffs and a settlement class of plan participants.

*Alston, et al. v. Countrywide Financial Corp. et al., No. 07-cv-03508 (E.D. Pa.):*

Kessler Topaz served as lead counsel in this novel and complex action which alleged that Defendants Countrywide Financial Corporation, Countrywide Home Loans, Inc. and Balboa Reinsurance Co. violated the Real Estate Settlement Procedure Act ("RESPA") and ultimately cost borrowers millions of dollars. Specifically, the action alleged that Defendants engaged in a scheme related to private mortgage insurance involving kickbacks, which are prohibited under RESPA. After three and a half years of hard-fought litigation, the action settled for \$34 million.

*Trustees of the Local 464A United Food and Commercial Workers Union Pension Fund, et al. v. Wachovia Bank, N.A., et al., No. 09-cv-00668 (D.N.J.):*

For more than 50 years, Wachovia and its predecessors acted as investment manager for the Local 464A UFCW Union Funds, exercising investment discretion consistent with certain investment guidelines and fiduciary obligations. Until mid-2007, Wachovia managed the fixed income assets of the funds safely and conservatively, and their returns closely tracked the Lehman Aggregate Bond Index (now known as the Barclay's Capital Aggregate Bond Index) to which the funds were benchmarked. However, beginning in mid-2007 Wachovia significantly changed the investment strategy, causing the funds' portfolio value to drop drastically below the benchmark. Specifically, Wachovia began to dramatically decrease the funds' holdings in short-term, high-quality, low-risk debt instruments and materially increase their holdings in high-risk mortgage-backed securities and collateralized mortgage obligations. We represented the funds' trustees in alleging that, among other things, Wachovia breached its fiduciary duty by: failing to invest the assets in accordance with the funds' conservative investment guidelines; failing to adequately monitor the funds' fixed income investments; and failing to provide complete and accurate information to plaintiffs concerning the change in investment strategy. The matter was resolved privately between the parties.

*In re Bank of New York Mellon Corp. Foreign Exchange Transactions Litig., No. 1:12-md-02335 (S.D.N.Y.):*

On behalf of the Southeastern Pennsylvania Transportation Authority Pension Fund and a class of similarly situated domestic custodial clients of BNY Mellon, we alleged that BNY Mellon secretly assigned a spread to the FX rates at which it transacted FX transactions on behalf of its clients who participated in the BNY Mellon's automated "Standing Instruction" FX service. BNY Mellon determining this spread by executing its clients' transactions at one rate and then, typically, at the end of the trading day, assigned a rate to its clients which approximated the worst possible rates of the trading day, pocketing the difference as riskless profit. This practice was despite BNY Mellon's contractual promises to its clients that its Standing Instruction service was designed to provide "best execution," was "free of charge" and provided the "best rates of the day." The case asserted claims for breach of contract and breach of fiduciary duty on behalf of BNY Mellon's custodial clients and sought to recover the unlawful profits that BNY Mellon earned from its unfair and unlawful FX practices. The case was litigated in collaboration with separate cases brought by state and federal agencies, with Kessler Topaz serving as lead counsel and a member of the executive committee overseeing the private litigation. After extensive discovery, including more than 100 depositions, over 25 million pages of fact discovery, and the submission of multiple expert reports, Plaintiffs reached a settlement with BNY Mellon of \$335 million. Additionally, the settlement is being administered by Kessler Topaz along with separate recoveries by state and federal agencies which bring the total recovery for BNY Mellon's custodial customers to \$504 million. The settlement was approved on September 24, 2015. In approving the settlement, Judge Lewis Kaplan praised counsel

for a “wonderful job,” stating that counsel “fought tooth and nail at every step of the road.” In further recognition of the efforts of counsel, Judge Kaplan noted that “[t]his was an outrageous wrong by the Bank of New York Mellon, and plaintiffs’ counsel deserve a world of credit for taking it on, for running the risk, for financing it and doing a great job.”

*CompSource Oklahoma v. BNY Mellon Bank, N.A.*, No. CIV 08-469-KEW (E.D. Okla. October 25, 2012):

Kessler Topaz served as Interim Class Counsel in this matter alleging that BNY Mellon Bank, N.A. and the Bank of New York Mellon (collectively, “BNYM”) breached their statutory, common law and contractual duties in connection with the administration of their securities lending program. The Second Amended Complaint alleged, among other things, that BNYM imprudently invested cash collateral obtained under its securities lending program in medium term notes issued by Sigma Finance, Inc. -- a foreign structured investment vehicle (“SIV”) that is now in receivership -- and that such conduct constituted a breach of BNYM’s fiduciary obligations under the Employee Retirement Income Security Act of 1974, a breach of its fiduciary duties under common law, and a breach of its contractual obligations under the securities lending agreements. The Complaint also asserted claims for negligence, gross negligence and willful misconduct. The case recently settled for \$280 million.

*Transatlantic Holdings, Inc., et al. v. American International Group, Inc., et al.*, American Arbitration Association Case No. 50 148 T 00376 10:

Kessler Topaz served as counsel for Transatlantic Holdings, Inc., and its subsidiaries (“TRH”), alleging that American International Group, Inc. and its subsidiaries (“AIG”) breached their fiduciary duties, contractual duties, and committed fraud in connection with the administration of its securities lending program. Until June 2009, AIG was TRH’s majority shareholder and, at the same time, administered TRH’s securities lending program. TRH’s Statement of Claim alleged that, among other things, AIG breached its fiduciary obligations as investment advisor and majority shareholder by imprudently investing the majority of the cash collateral obtained under its securities lending program in mortgage backed securities, including Alt-A and subprime investments. The Statement of Claim further alleged that AIG concealed the extent of TRH’s subprime exposure and that when the collateral pools began experiencing liquidity problems in 2007, AIG unilaterally carved TRH out of the pools so that it could provide funding to its wholly owned subsidiaries to the exclusion of TRH. The matter was litigated through a binding arbitration and TRH was awarded \$75 million.

*Board of Trustees of the AFTRA Retirement Fund v. JPMorgan Chase Bank, N.A. – Consolidated Action No. 09-cv-00686 (SAS) (S.D.N.Y.)*:

On January 23, 2009, the firm filed a class action complaint on behalf of all entities that were participants in JPMorgan’s securities lending program and that incurred losses on investments that JPMorgan, acting in its capacity as a discretionary investment manager, made in medium-term notes issue by Sigma Finance, Inc. – a now defunct structured investment vehicle. The losses of the Class exceeded \$500 million. The complaint asserted claims for breach of fiduciary duty under the Employee Retirement Income Security Act (ERISA), as well as common law breach of fiduciary duty, breach of contract and negligence. Over the course of discovery, the parties produced and reviewed over 500,000 pages of documents, took 40 depositions (domestic and foreign) and exchanged 21 expert reports. The case settled for \$150 million. Trial was scheduled to commence on February 6, 2012.

*In re Global Crossing, Ltd. ERISA Litigation, No. 02 Civ. 7453 (S.D.N.Y. 2004):*

Kessler Topaz served as Co-Lead Counsel in this novel, complex and high-profile action which alleged that certain directors and officers of Global Crossing, a former high-flier of the late 1990's tech stock boom, breached their fiduciary duties under the Employee Retirement Income Security Act of 1974 ("ERISA") to certain company-provided 401(k) plans and their participants. These breaches arose from the plans' alleged imprudent investment in Global Crossing stock during a time when defendants knew, or should have known, that the company was facing imminent bankruptcy. A settlement of plaintiffs' claims restoring \$79 million to the plans and their participants was approved in November 2004. At the time, this represented the largest recovery received in a company stock ERISA class action.

*In re AOL Time Warner ERISA Litigation, No. 02-CV-8853 (S.D.N.Y. 2006):*

Kessler Topaz, which served as Co-Lead Counsel in this highly-publicized ERISA fiduciary breach class action brought on behalf of the Company's 401(k) plans and their participants, achieved a record \$100 million settlement with defendants. The \$100 million restorative cash payment to the plans (and, concomitantly, their participants) represents the largest recovery from a single defendant in a breach of fiduciary action relating to mismanagement of plan assets held in the form of employer securities. The action asserted claims for breach of fiduciary duties pursuant to the Employee Retirement Income Security Act of 1974 ("ERISA") on behalf of the participants in the AOL Time Warner Savings Plan, the AOL Time Warner Thrift Plan, and the Time Warner Cable Savings Plan (collectively, the "Plans") whose accounts purchased and/or held interests in the AOLTW Stock Fund at any time between January 27, 1999 and July 3, 2003. Named as defendants in the case were Time Warner (and its corporate predecessor, AOL Time Warner), several of the Plans' committees, as well as certain current and former officers and directors of the company. In March 2005, the Court largely denied defendants' motion to dismiss and the parties began the discovery phase of the case. In January 2006, Plaintiffs filed a motion for class certification, while at the same time defendants moved for partial summary judgment. These motions were pending before the Court when the settlement in principle was reached. Notably, an Independent Fiduciary retained by the Plans to review the settlement in accordance with Department of Labor regulations approved the settlement and filed a report with Court noting that the settlement, in addition to being "more than a reasonable recovery" for the Plans, is "one of the largest ERISA employer stock action settlements in history."

*In re Honeywell International ERISA Litigation, No. 03-1214 (DRD) (D.N.J. 2004):*

Kessler Topaz served as Lead Counsel in a breach of fiduciary duty case under ERISA against Honeywell International, Inc. and certain fiduciaries of Honeywell defined contribution pension plans. The suit alleged that Honeywell and the individual fiduciary defendants, allowed Honeywell's 401(k) plans and their participants to imprudently invest significant assets in company stock, despite that defendants knew, or should have known, that Honeywell's stock was an imprudent investment due to undisclosed, wide-ranging problems stemming from a consummated merger with Allied Signal and a failed merger with General Electric. The settlement of plaintiffs' claims included a \$14 million payment to the plans and their affected participants, and significant structural relief affording participants much greater leeway in diversifying their retirement savings portfolios.

*Henry v. Sears, et. al., Case No. 98 C 4110 (N.D. Ill. 1999):*

The Firm served as Co-Lead Counsel for one of the largest consumer class actions in history, consisting of approximately 11 million Sears credit card holders whose interest rates were improperly increased in connection with the transfer of the credit card accounts to a national bank. Kessler Topaz successfully negotiated a settlement representing approximately 66% of all class members' damages, thereby providing a total benefit exceeding \$156 million. All \$156 million was distributed automatic-

ally to the Class members, without the filing of a single proof of claim form. In approving the settlement, the District Court stated: “. . . I am pleased to approve the settlement. I think it does the best that could be done under the circumstances on behalf of the class. . . . The litigation was complex in both liability and damages and required both professional skill and standing which class counsel demonstrated in abundance.”

## ANTITRUST LITIGATION

### *In re: Flonase Antitrust Litigation, No. 08-cv-3149 (E.D. Pa.):*

Kessler Topaz served as a lead counsel on behalf of a class of direct purchaser plaintiffs in an antitrust action brought pursuant to Section 4 of the Clayton Act, 15 U.S.C. § 15, alleging, among other things, that defendant GlaxoSmithKline (GSK) violated Section 2 of the Sherman Act, 15 U.S.C. § 2, by engaging in “sham” petitioning of a government agency. Specifically, the Direct Purchasers alleged that GSK unlawfully abused the citizen petition process contained in Section 505(j) of the Federal Food, Drug, and Cosmetic Act and thus delayed the introduction of less expensive generic versions of Flonase, a highly popular allergy drug, causing injury to the Direct Purchaser Class. Throughout the course of the four year litigation, Plaintiffs defeated two motions for summary judgment, succeeded in having a class certified and conducted extensive discovery. After lengthy negotiations and shortly before trial, the action settled for \$150 million.

### *In re: Wellbutrin SR Antitrust Litigation, No. 04-cv-5898 (E.D. Pa.):*

Kessler Topaz was a lead counsel in an action which alleged, among other things, that defendant GlaxoSmithKline (GSK) violated the antitrust, consumer fraud, and consumer protection laws of various states. Specifically, Plaintiffs and the class of Third-Party Payors alleged that GSK manipulated patent filings and commenced baseless infringement lawsuits in connection wrongfully delaying generic versions of Wellbutrin SR and Zyban from entering the market, and that Plaintiffs and the Class of Third-Party Payors suffered antitrust injury and calculable damages as a result. After more than eight years of litigation, the action settled for \$21.5 million.

### *In re: Metoprolol Succinate End-Payor Antitrust Litigation, No. 06-cv-71 (D. Del.):*

Kessler Topaz was co-lead counsel in a lawsuit which alleged that defendant AstraZeneca prevented generic versions of Toprol-XL from entering the market by, among other things, improperly manipulating patent filings and filing baseless patent infringement lawsuits. As a result, AstraZeneca unlawfully monopolized the domestic market for Toprol-XL and its generic bio-equivalents. After seven years of litigation, extensive discovery and motion practice, the case settled for \$11 million.

### *In re Remeron Antitrust Litigation, No. 02-CV-2007 (D.N.J. 2004):*

Kessler Topaz was co-lead counsel in an action which challenged Organon, Inc.’s filing of certain patents and patent infringement lawsuits as an abuse of the Hatch-Waxman Act, and an effort to unlawfully extend their monopoly in the market for Remeron. Specifically, the lawsuit alleged that defendants violated state and federal antitrust laws in their efforts to keep competing products from entering the market, and sought damages sustained by consumers and third-party payors. After lengthy litigation, including numerous motions and over 50 depositions, the matters settled for \$36 million.

# OUR PROFESSIONALS

## PARTNERS

**ASHER S. ALAVI**, a Partner of the Firm, concentrates his practice exclusively on whistleblower litigation, particularly cases brought under the qui tam provisions of the federal False Claims Act. Mr. Alavi has worked on a variety of whistleblower cases involving fraud against government programs, including cases involving healthcare fraud, kickback violations, and government contract fraud. Asher has devoted his entire post-college career to working on behalf of whistleblowers, both as a lawyer and as an advocate for whistleblower rights. During law school, Mr. Alavi served as a Note Editor for Boston College Law School's Journal of Law and Social Justice, and interned with the Department of Justice's Office of Professional Responsibility.

**JULES D. ALBERT**, a Partner of the Firm, concentrates his practice in mergers and acquisition litigation and stockholder derivative litigation. Mr. Albert received his law degree from the University of Pennsylvania Law School, where he was a Senior Editor of the University of Pennsylvania Journal of Labor and Employment Law and recipient of the James Wilson Fellowship. Mr. Albert also received a Certificate of Study in Business and Public Policy from The Wharton School at the University of Pennsylvania. Mr. Albert graduated magna cum laude with a Bachelor of Arts in Political Science from Emory University. Mr. Albert is licensed to practice law in Pennsylvania, and has been admitted to practice before the United States District Court for the Eastern District of Pennsylvania.

Mr. Albert has litigated in state and federal courts across the country, and has represented stockholders in numerous actions that have resulted in significant monetary recoveries and corporate governance improvements, including: *In re Sunrise Senior Living, Inc. Deriv. Litig.*, No. 07-00143 (D.D.C.); *Mercier v. Whittle, et al.*, No. 2008-CP-23-8395 (S.C. Ct. Com. Pl., 13th Jud. Cir.); *In re K-V Pharmaceutical Co. Deriv. Litig.*, No. 06-00384 (E.D. Mo.); *In re Progress Software Corp. Deriv. Litig.*, No. SUCV2007-01937-BLS2 (Mass. Super. Ct., Suffolk Cty.); *In re Quest Software, Inc. Deriv. Litig.* No 06CC00115 (Cal. Super. Ct., Orange Cty.); and *Quaco v. Balakrishnan, et al.*, No. 06-2811 (N.D. Cal.).

**NAUMON A. AMJED**, a Partner of the Firm, concentrates his practice on new matter development with a focus on analyzing securities class action lawsuits, direct (or opt-out) actions, non-U.S. securities and shareholder litigation, SEC whistleblower actions, breach of fiduciary duty cases, antitrust matters, data breach actions and oil and gas litigation. Mr. Amjed is a graduate of the Villanova University School of Law, cum laude, and holds an undergraduate degree in business administration from Temple University, cum laude. Mr. Amjed is a member of the Delaware State Bar, the Bar of the Commonwealth of Pennsylvania, the New York State Bar, and is admitted to practice before the United States Courts for the District of Delaware, the Eastern District of Pennsylvania and the Southern District of New York.

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As a member of the Firm's lead plaintiff practice group, Mr. Amjed has represented clients serving as lead plaintiffs in several notable securities class action lawsuits including: *In re Bank of America Corp. Securities, Derivative, and Employee Retirement Income Security Act (ERISA) Litigation*, No. 09MDL2058 (S.D.N.Y.) (settled -- \$2.425 billion); *In re Wachovia Preferred Securities and Bond/Notes Litigation*, No. 09-cv-6351 (RJS) (S.D.N.Y.) (\$627 million recovery); *In re Lehman Bros. Equity/Debt Securities Litigation*, No. 08-cv-5523 (LAK) (S.D.N.Y.) (\$615 million recovery) and *In re JPMorgan Chase & Co. Securities Litigation*, No. 12-3852-GBD ("London Whale Litigation") (\$150 million recovery). Additionally, Mr. Amjed served on the national Executive Committee representing financial institutions suffering losses from Target Corporation's 2013 data breach – one of the largest data breaches in history. The Target litigation team was responsible for a landmark data breach opinion that substantially denied Target's motion to dismiss and was also responsible for obtaining certification of a class of financial institutions. See *In re Target Corp. Customer Data Sec. Breach Litig.*, 64 F. Supp. 3d 1304 (D. Minn. 2014); *In re Target Corp Customer Data Sec. Breach Litig.*, No. MDL 14-2522 PAM/JJK, 2015 WL 5432115 (D. Minn. Sept. 15, 2015). At the time of its issuance, the class certification order in Target was the first of its kind in data breach litigation by financial institutions.

Mr. Amjed also has significant experience conducting complex litigation in state and federal courts including federal securities class actions, shareholder derivative actions, suits by third-party insurers and other actions concerning corporate and alternative business entity disputes. Mr. Amjed has litigated in numerous state and federal courts across the country, including the Delaware Court of Chancery, and has represented shareholders in several high profile lawsuits, including: *LAMPERS v. CBOT Holdings, Inc. et al.*, C.A. No. 2803-VCN (Del. Ch.); *In re Alstom SA Sec. Litig.*, 454 F. Supp. 2d 187 (S.D.N.Y. 2006); *In re Global Crossing Sec. Litig.*, 02— Civ. — 910 (S.D.N.Y.); *In re Enron Corp. Sec. Litig.*, 465 F. Supp. 2d 687 (S.D. Tex. 2006); and *In re Marsh McLennan Cos., Inc. Sec. Litig.* 501 F. Supp. 2d 452 (S.D.N.Y. 2006).

**ETHAN J. BARLIEB**, a Partner of the Firm, concentrates his practice in the areas of ERISA, consumer protection and antitrust litigation. Mr. Barlieb received his law degree, magna cum laude, from the University of Miami School of Law in 2007 and his undergraduate degree from Cornell University in 2003. Mr. Barlieb is licensed to practice in Pennsylvania and New Jersey.

Prior to joining Kessler Topaz, Mr. Barlieb was an associate with Pietragallo Gordon Alfano Bosick & Raspanti, LLP, where he worked on various commercial, securities and employment matters. Before that, Mr. Barlieb served as a law clerk for the Honorable Mitchell S. Goldberg in the U.S. District Court for the Eastern District of Pennsylvania.

**STUART L. BERMAN**, a Partner of the Firm, concentrates his practice on securities class action litigation in federal courts throughout the country, with a particular emphasis on representing institutional investors active in litigation. Mr. Berman received his law degree from George Washington University National Law Center, and is an honors graduate from Brandeis University. Mr. Berman is licensed to practice in Pennsylvania and New Jersey.

Mr. Berman regularly counsels and educates institutional investors located around the world on emerging legal trends, new case ideas and the rights and obligations of institutional investors as they relate to securities fraud class actions and individual actions. In this respect, Mr. Berman has been instrumental in courts appointing the Firm's institutional clients as lead plaintiffs in class actions as well as in representing institutions individually in direct actions. Mr. Berman is currently representing institutional investors in direct actions against Vivendi and Merck, and took a very active role in the precedent setting Shell settlement on behalf of many of the Firm's European institutional clients.

Mr. Berman is a frequent speaker on securities issues, especially as they relate to institutional investors, at events such as The European Pension Symposium in Florence, Italy; the Public Funds Symposium in Washington, D.C.; the Pennsylvania Public Employees Retirement (PAPERS) Summit in Harrisburg, Pennsylvania; the New England Pension Summit in Newport, Rhode Island; the Rights and Responsibilities for Institutional Investors in Amsterdam, Netherlands; and the European Investment Roundtable in Barcelona, Spain. Mr. Berman also serves as General Counsel to Kessler Topaz.

**DAVID A. BOCIAN**, a Partner of the Firm, focuses his practice on whistleblower representation and False Claims Act litigation. Mr. Bocian received his law degree from the University of Virginia School of Law and graduated cum laude from Princeton University. He is licensed to practice law in the Commonwealth of Pennsylvania, New Jersey, New York and the District of Columbia.

Mr. Bocian began his legal career in Washington, D.C., as a litigation associate at Patton Boggs LLP, where his practice included internal corporate investigations, government contracts litigation and securities fraud matters. He spent more than ten years as a federal prosecutor in the U.S. Attorney's Office for the District of New Jersey, where he was appointed Senior Litigation Counsel and managed the Trenton U.S. Attorney's office. During his tenure, Mr. Bocian oversaw multifaceted investigations and prosecutions pertaining to government corruption and federal program fraud, commercial and public sector kickbacks, tax fraud, and other white collar and financial crimes. He tried numerous cases before federal juries, and was a recipient of the Justice Department's Director's Award for superior performance by an Assistant U.S. Attorney, as well as commendations from federal law enforcement agencies including the FBI and IRS.

Mr. Bocian has extensive experience in the health care field. As an adjunct professor of law, he has taught Healthcare Fraud and Abuse at Rutgers School of Law – Camden, and previously was employed in the health care industry, where he was responsible for implementing and overseeing a system-wide compliance program for a complex health system.

**GREGORY M. CASTALDO**, a Partner of the Firm, concentrates his practice in the area of securities litigation. Mr. Castaldo received his law degree from Loyola Law School, where he received the American Jurisprudence award in legal writing. He received his undergraduate degree from the Wharton School of Business at the University of Pennsylvania. He is licensed to practice law in Pennsylvania and New Jersey.

Mr. Castaldo served as one of Kessler Topaz's lead litigation partners in *In re Bank of America Corp. Securities, Derivative, and Employee Retirement Income Security Act (ERISA) Litigation*, No. 09 MDL 2058 (S.D.N.Y.) (settled -- \$2.425 billion). Mr. Castaldo also served as the lead litigation partner in *In re Tenet Healthcare Corp.*, No. 02-CV-8462 (C.D. Cal. 2002), securing an aggregate recovery of \$281.5 million for the class, including \$65 million from Tenet's auditor. Mr. Castaldo also played a primary litigation role in the following cases: *In re Liberate Technologies Securities Litigation*, No. C-02-5017 (MJJ) (N.D. Cal. 2005) (settled — \$13.8 million); *In re Sodexo Marriott Shareholders Litigation*, Consol. C.A. No. 18640-NC (Del. Ch. 1999) (settled — \$166 million benefit); *In re Motive, Inc. Securities Litigation*, 05-CV-923 (W.D. Tex. 2005) (settled — \$7 million cash, 2.5 million shares); and *In re Wireless Facilities, Inc., Securities Litigation*, 04-CV-1589 (S.D. Cal. 2004) (settled — \$16.5 million). In addition, Mr. Castaldo served as one of the lead trial attorneys for shareholders in the historic *In re Longtop Financial Technologies Ltd. Securities Litigation*, No. 11-cv-3658 (S.D.N.Y.) trial, which resulted in a verdict in favor of investors on liability and damages.

**DARREN J. CHECK**, a Partner of the Firm, manages Kessler Topaz's portfolio monitoring & claims filing service, *SecuritiesTracker*<sup>™</sup>, and works closely with the Firm's litigators and new matter development department. He consults with institutional investors from around the world with regard to implementing systems to best identify, analyze, and monetize claims they have in shareholder litigation.

In addition, Mr. Check assists Firm clients in evaluating opportunities to take an active role in shareholder litigation, arbitration, and other loss recovery methods. This includes U.S. based litigation and arbitration, as well as actions in an increasing number of jurisdictions around the globe. With an increasingly complex investment and legal landscape, Mr. Check has experience advising on traditional class actions, direct actions (opt-outs), non-U.S. opt-in actions, fiduciary actions, appraisal actions and arbitrations to name a few. Over the last twenty years Mr. Check has become a trusted advisor to hedge funds, mutual fund managers, asset managers, insurance companies, sovereign wealth funds, central banks, and pension funds throughout North America, Europe, Asia, Australia, and the Middle East.

Mr. Check regularly speaks on the subjects of shareholder litigation, corporate governance, investor activism, and recovery of investment losses at conferences around the world. He has also been actively involved in the precedent setting Shell and Fortis settlements in the Netherlands, the Olympus shareholder case in Japan, direct actions against Petrobras and Merck, and securities class actions against Bank of America, Lehman Brothers, Royal Bank of Scotland (U.K.), and Hewlett-Packard. Currently Mr. Check represents investors in numerous high profile actions in the United States, the Netherlands, Germany, France, Japan, and Australia.

Mr. Check received his law degree from Temple University School of Law and is a graduate of Franklin & Marshall College. He is admitted to practice in numerous state and federal courts across the United States.

**EMILY N. CHRISTIANSEN**, a Partner of the Firm, focuses her practice in securities litigation and international actions, in particular. Ms. Christiansen received her Juris Doctor and Global Law certificate, cum laude, from Lewis and Clark Law School in 2012. Ms. Christiansen is a graduate of the University of Portland, where she received her Bachelor of Arts, cum laude, in Political Science and German Studies. Ms. Christiansen is currently licensed to practice law in New York and Pennsylvania.

While in law school, Ms. Christiansen worked as an intern in Trial Chambers III at the International Criminal Tribunal for the Former Yugoslavia. Ms. Christiansen also spent two months in India as foreign legal trainee with the corporate law firm of Fox Mandal. Ms. Christiansen is a 2007 recipient of a Fulbright Fellowship and is fluent in German.

Ms. Christiansen devotes her time to advising clients on the challenges and benefits of pursuing particular litigation opportunities in jurisdictions outside the U.S. In those non-US actions where Kessler Topaz is actively involved, Emily liaises with local counsel, helps develop case strategy, reviews pleadings, and helps clients understand and successfully navigate the legal process. Her experience includes non-US opt-in actions, international law, and portfolio monitoring and claims administration. In her role, Ms. Christiansen has helped secure recoveries for institutional investors in litigation in Japan against Olympus Corporation (settled - ¥11 billion) and in the Netherlands against Fortis Bank N.V. (settled - €1.2 billion).

**JOSHUA E. D'ANCONA**, a Partner of the Firm, concentrates his practice in the securities litigation and lead plaintiff departments of the Firm. Mr. D'Ancona received his J.D., magna cum laude, from the Temple University Beasley School of Law in 2007, where he served on the Temple Law Review and as president of the Moot Court Honors Society, and graduated with honors from Wesleyan University. He is licensed to practice in Pennsylvania and New Jersey.

Before joining the Firm in 2009, he served as a law clerk to the Honorable Cynthia M. Rufe of the United States District Court for the Eastern District of Pennsylvania.

**RYAN T. DEGNAN**, a Partner of the Firm, concentrates his practice on new matter development with a specific focus on analyzing securities class action lawsuits, antitrust actions, and complex consumer actions. Mr. Degnan received his law degree from Temple University Beasley School of Law, where he was a Notes and Comments Editor for the Temple Journal of Science, Technology & Environmental Law, and earned his undergraduate degree in Biology from Johns Hopkins University

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While a law student, Mr. Degnan served as a Judicial Intern to the Honorable Gene E.K. Pratter of the United States District Court for the Eastern District of Pennsylvania. Mr. Degnan is licensed to practice in Pennsylvania and New Jersey. As a member of the Firm's lead plaintiff litigation practice group, Mr. Degnan has helped secure the Firm's clients' appointments as lead plaintiffs in: *In re HP Securities Litigation*, No. 12-cv-5090, 2013 WL 792642 (N.D. Cal. Mar. 4, 2013); *In re JPMorgan Chase & Co. Securities Litigation*, No. 12-3852- GBD ("London Whale Litigation") (\$150 million recovery); *Freedman v. St. Jude Medical, Inc., et al.*, No. 12-cv-3070 (D. Minn.); *United Union of Roofers, Waterproofers & Allied Workers Local Union No. 8 v. Ocwen Fin. Corp.*, No. 14 Civ. 81057 (WPD), 2014 WL 7236985 (S.D. Fla. Nov. 7, 2014); *Louisiana Municipal Police Employees' Retirement System v. Green Mountain Coffee Roasters, Inc., et al.*, No. 11-cv-289, 2012 U.S. Dist. LEXIS 89192 (D. Vt. Apr. 27, 2012); and *In re Longtop Financial Technologies Ltd. Securities Litigation*, No. 11-cv-3658, 2011 U.S. Dist. LEXIS 112970 (S.D.N.Y. Oct. 4, 2011). Additional representative matters include: *In re Bank of New York Mellon Corp. Foreign Exchange Transactions Litigation*, No. 12-md-02335 (S.D.N.Y.) (\$335 million settlement); and *Policemen's Annuity and Benefit Fund of the City of Chicago, et al. v. Bank of America, NA, et al.*, No. 12-cv- 02865 (S.D.N.Y.) (\$69 million settlement).

**JENNIFER L. ENCK**, a Partner of the Firm, concentrates her practice in the area of securities litigation and settlement matters. Ms. Enck's practice includes negotiating and documenting complex class action settlements, obtaining the required court approval for settlements and developing and assisting with the administration of class notice programs.

**TYLER S. GRADEN**, a Partner of the Firm, concentrates his practice in the area of consumer protection and unlawful business practice litigation, representing individuals, retirement plan beneficiaries, businesses and government entities as plaintiffs in class actions and arbitrations. Prior to joining the Firm, Mr. Graden worked at a boutique defense litigation firm in Philadelphia and as an investigator with the Chicago District Office of the Equal Employment Opportunity Commission.

**GRANT D. GOODHART III**, a Partner of the Firm, concentrates his practice in the areas of merger and acquisition litigation and shareholder derivative actions. Through his practice, Mr. Goodhart helps institutional and individual shareholders obtain significant financial recoveries and corporate governance reforms. Mr. Goodhart graduated from Temple University Beasley School of Law in 2015. While in law school, Mr. Goodhart interned as a law clerk to the Hon. Thomas C. Branca of the Montgomery County Court of Common Pleas, the Hon. Anne E. Lazarus of the Pennsylvania Superior Court, and U.S. Magistrate Judge Lynne A. Sitarski of the U.S. District Court for the Eastern District of Pennsylvania. Grant also served as the Executive Articles Editor for the *Temple International and Comparative Law Journal*.

**SEAN M. HANDLER**, a Partner of the Firm and member of Kessler Topaz's Management Committee, currently concentrates his practice on all aspects of new matter development for the Firm including securities, consumer and intellectual property. Mr. Handler earned his Juris Doctor, cum laude, from Temple University School of Law, and received his Bachelor of Arts degree from Colby College, graduating with distinction in American Studies. Mr. Handler is licensed to practice in Pennsylvania, New Jersey and New York. As part of his responsibilities, Mr. Handler also oversees the lead plaintiff appointment process in securities class actions for the Firm's clients. In this role,

Mr. Handler has achieved numerous noteworthy appointments for clients in reported decisions including *Foley v. Transocean*, 272 F.R.D. 126 (S.D.N.Y. 2011); *In re Bank of America Corp. Sec., Derivative & Employment Ret. Income Sec. Act (ERISA) Litig.*, 258 F.R.D. 260 (S.D.N.Y. 2009) and *Tanne v. Autobytel, Inc.*, 226 F.R.D. 659 (C.D. Cal. 2005) and has argued before federal courts throughout the country.

Mr. Handler was also one of the principal attorneys in *In re Brocade Securities Litigation* (N.D. Cal. 2008), where the team achieved a \$160 million settlement on behalf of the class and two public pension fund class representatives. This settlement is believed to be one of the largest settlements in a securities fraud case in terms of the ratio of settlement amount to actual investor damages.

Mr. Handler also lectures and serves on discussion panels concerning securities litigation matters, most recently appearing at American Conference Institute's National Summit on the Future of Fiduciary Responsibility and Institutional Investor's The Rights & Responsibilities of Institutional Investors.

**NATHAN A. HASIUK**, a Partner of the Firm, concentrates his practice on securities litigation. Mr. Hasiuk received his law degree from Temple University Beasley School of Law, and graduated summa cum laude from Temple University. He is licensed to practice in Pennsylvania and New Jersey and has been admitted to practice before the United States District Court for the District of New Jersey. Prior to joining the Firm, Mr. Hasiuk was an Assistant Public Defender in Philadelphia.

**GEOFFREY C. JARVIS**, a Partner of the Firm, focuses on securities litigation for institutional investors. Mr. Jarvis graduated from Harvard Law School in 1984, and received his undergraduate degree from Cornell University in 1980. He is licensed to practice in Pennsylvania, Delaware, New York and Washington, D.C. Following law school, Mr. Jarvis served as a staff attorney with the Federal Communications Commission, participating in the development of new regulatory policies for the telecommunications industry. Mr. Jarvis had a major role in Oxford Health Plans Securities Litigation, Daimler Chrysler Securities Litigation, and Tyco Securities Litigation all of which were among the top ten securities settlements in U.S. history at the time they were resolved, as well as a large number of other securities cases over the past 16 years. He has also been involved in a number of actions before the Delaware Chancery Court, including a Delaware appraisal case that resulted in a favorable decision for the firm's client after trial, and a Delaware appraisal case that was tried in October, argued in 2016, which is still awaiting a final decision. Mr. Jarvis then became an associate in the Washington office of Rogers & Wells (subsequently merged into Clifford Chance), principally devoted to complex commercial litigation in the fields of antitrust and trade regulations, insurance, intellectual property, contracts and defamation issues, as well as counseling corporate clients in diverse industries on general legal and regulatory compliance matters.

**JENNIFER L. JOOST**, a Partner in the Firm's San Francisco office, focuses her practice on securities litigation. Ms. Joost received her law degree, cum laude, from Temple University Beasley School of Law, where she was the Special Projects Editor for the Temple International and Comparative Law Journal. Ms. Joost earned her undergraduate degree with honors from Washington University in St. Louis. She is licensed to practice in Pennsylvania and California and is admitted to practice before the United States Courts of Appeals for the Second, Fourth, Ninth, and Eleventh Circuits, and the United States District Courts for the Eastern District of Pennsylvania, the Northern District of California and the Southern District of California.

Ms. Joost has represented institutional investors in numerous securities fraud class actions including *In re Bank of America Corp. Securities, Derivative, and Employee Retirement Income Security Act (ERISA) Litigation*, No. 09 MDL 2058 (S.D.N.Y.) (settled -- \$2.425 billion); *In re Citigroup Bond Litigation*, No. 08-cv-09522-SHS (S.D.N.Y.) (\$730 million recovery); *David H. Luther, et al., v. Countrywide Financial Corp., et al.*, 2:12-cv-05125 (C.D.Cal. 2012) (settled -- \$500 million); *In re JPMorgan Chase & Co. Securities Litigation*, No. 12-3852-GBD ("London Whale Litigation") (\$150 million recovery); *Minneapolis Firefighters' Relief Association v. Medtronic, Inc.*, No. 08-cv-06324-PAM-AJB (D. Minn.) (settled -- \$85 million); *In re MGM Mirage Securities Litigation*, Case No. 2:09-cv-01558-GMN-VCF (D. Nev.) (\$75 million settlement); and *In re Weatherford Int'l Securities Litigation*, No. 11-cv-01646-LAK-JCF (S.D.N.Y.) (settled -- \$52.5 million).

**STACEY KAPLAN**, a Partner in the Firm's San Francisco office, concentrates her practice on prosecuting securities class actions. Ms. Kaplan received her J.D. from the University of California at Los Angeles School of Law in 2005, and received her Bachelor of Business Administration from the University of Notre Dame in 2002, with majors in Finance and Philosophy. Ms. Kaplan is admitted to the California Bar and is licensed to practice in all California state courts, as well as the United States District Courts for the Northern and Central Districts of California.

During law school, Ms. Kaplan served as a Judicial Extern to the Honorable Terry J. Hatter, Jr., United States District Court, Central District of California. Prior to joining the Firm, Ms. Kaplan was an associate with Robbins Geller Rudman & Dowd LLP in San Diego, California.

**DAVID KESSLER**, a retired Partner of the Firm, is a worldwide leader in securities litigation. His reputation and track record earn instant credibility with judges and bring opponents to the bargaining table in complex, high-stakes class actions. Mr. Kessler has been recognized for excellence by publications including Benchmark Plaintiff and Law Dragon.

As co-head of the firm's securities litigation practice, Mr. Kessler has led several of the largest class actions ever brought under the federal securities laws and the Private Securities Litigation Reform Act of 1995. Since the financial crisis began in 2008, he has helped recover well over \$5 billion for clients and class members who invested in financial companies such as Wachovia, Bank of America, Citigroup and Lehman Brothers. Prior to 2008, Mr. Kessler guided some of the largest cases both in size—including allegations of a massive scandal regarding the unfair allocation of IPO shares by more than 300 public companies—and in notoriety—including the Tyco fraud and mismanagement litigation that resolved for over \$3 billion.

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Mr. Kessler brings his background as a certified public accountant to bear in actions involving complex loss causation issues and damages arising from losses in public offerings, open market purchases, and mergers and acquisitions. As head of the firm's settlement department, Mr. Kessler also has extensive experience in mediation, settlements, claims administration and distributions.

A sought-after lecturer on securities litigation issues, Mr. Kessler has been invited to speak by plaintiffs' firms, defense firms, mediators and insurance carriers on a variety of topics related to securities class actions. He recently assisted in authoring a chapter on mediations in a publication soon to be released by a federal mediator.

**JOSHUA A. MATERESE**, a Partner of the Firm, is an experienced and trusted securities litigator. He devotes his practice almost entirely to advising and representing institutional and individual investors in class or direct actions arising from fraud, market manipulation, or other corporate misconduct. Mr. Materese currently serves as one of the lead trial attorneys in pending securities class actions involving General Electric, Kraft-Heinz, Goldman Sachs, and Boeing, and in direct actions involving Teva Pharmaceutical and Perrigo Co. During his career, Mr. Materese has helped clients recover substantial monetary losses, including most recently *In re Allergan, Inc. Proxy Violation Securities Litigation*, No. 14-cv-02004 (C.D. Cal.) (\$290 million recovery), *In re JPMorgan Chase & Co. Sec. Litig.*, No. 12-cv-03852 (S.D.N.Y.) (\$150 million recovery); *Lou Baker v. SeaWorld Entertainment, Inc., et al.*, No. 14-cv-02129 (S.D. Cal.) (\$65 million recovery); *Quinn v. Knight*, No. 16-cv-00610 (E.D. Va.) (\$32 million recovery). Josh also successfully litigated claims on behalf of over 100 U.S. and international institutional investors in direct actions against Brazil's state-run oil company, Petrobras, arising out of a decade-long bid-rigging scheme—the largest corruption scandal in Brazil's history.

In addition to his direct litigation responsibilities, Mr. Materese advises the Firm's institutional clients on potential claims they may have in shareholder litigation. He is one of the partners at the Firm responsible for client relations and outreach in the U.S., and assists with overseeing Kessler Topaz's proprietary portfolio monitoring and claims filing service, *SecuritiesTracker*<sup>TM</sup>.

Mr. Materese also maintains an active pro bono practice. He serves as Co-Chair of the Firm's Pro Bono Committee and frequently represents clients referred to the Firm on matters concerning federal disability benefits, felony pardons, and wrongful convictions.

**MARGARET E. MAZZEO**, a Partner of the Firm, concentrates her practice in the area of securities fraud litigation. Since joining the firm, Ms. Mazzeo has represented shareholders in several securities fraud class actions and direct actions, through all aspects of pre-trial proceedings, including complaint drafting, litigating motions to dismiss and for summary judgment, conducting document, deposition and expert discovery, and appeal. Ms. Mazzeo was a member of the trial team that recently won a jury verdict in favor of investors in the *In re Longtop Financial Technologies Ltd. Securities Litigation*, No. 11-cv-3658 (S.D.N.Y.) action.

**JAMIE E. MCCALL**, a Partner of the Firm, concentrates on securities fraud litigation. Prior to joining the Firm, Mr. McCall spent twelve years with the Department of Justice in the U.S. Attorney's Offices for Miami, Florida and Wilmington, Delaware, where he oversaw complex criminal investigations ranging from securities, tax, bank and wire frauds, to the theft of trade secrets and cybercrime.

Mr. McCall has successfully tried numerous jury trials, including a seven-week securities fraud trial, which arose from financial conduct during the Great Recession, and resulted in trial verdicts against four bank executives and a \$60 million civil settlement to victim-shareholders; and a five-week multi-defendant stalking-murder case, which stemmed from the 2013-shootout at the New Castle County Courthouse in Delaware, and resulted in first-in-the-nation convictions for "cyberstalking resulting in death" under the Violence Against Women Act. For his work on both of these cases, Mr. McCall was twice awarded the Director's Award for Superior Performance by the Department of Justice. Most recently, Mr. McCall served as the section chief for the National Security and Cybercrime Division for the Delaware U.S. Attorney's office. Mr. McCall also spent several years practicing civil law at Morgan, Lewis & Bockius in Philadelphia, where he worked on major, high-stakes litigation matters involving Fortune 250 companies. Mr. McCall began his legal career as a Judge Advocate in the Marine Corps, working primarily as a prosecutor and achieving the rank of Captain. In 2004, Mr. McCall served for nearly five months as the principal legal advisor to 1st Battalion, 5th Marine Regiment in and around Fallujah, Iraq, including during the First Battle of Fallujah.

Mr. McCall maintains an active membership in the Federal Bar Association, District of Delaware chapter. He has presented on numerous issues involving corporate and securities fraud. He was also a featured interview on CBS's "60 Minutes" in a segment about theft of original correspondence by Christopher Columbus, most recently aired in August 2020. Mr. McCall has received numerous awards for his work in securities fraud and cybercrime, along with respective military service awards, including the Navy & Marine Corps Commendation Medal, Navy & Marine Corps Achievement Medal, Combat Action Ribbon, and Global War Against Terrorism Expeditionary Medal.

**JOSEPH H. MELTZER**, a Partner of the Firm, leads the firm's Fiduciary, Consumer Protection and Antitrust groups.

A pioneer in prosecuting breach of fiduciary duty cases, Mr. Meltzer has been lead or co-lead counsel in numerous nationwide class actions brought under fiduciary laws including ERISA. Joe represents institutional investor clients in a variety of breach of fiduciary duty cases and has some of the largest settlements in fiduciary breach actions including several recoveries in the hundreds of millions of dollars.

The firm also has a robust Consumer Protection department which represents individuals, businesses, and governmental entities that have sustained losses as a result of defective products or improper business practices. Kessler Topaz is highly selective in these matters – the firm litigates only complex cases that it deems suitable for judicial resolution.

In his antitrust work, Mr. Meltzer represents clients injured by anticompetitive and unlawful business practices, including overcharges related to prescription drugs, health care expenditures and commodities. Mr. Meltzer has also represented various states in pharmaceutical pricing litigation as a Special Assistant Attorney General.

**MATTHEW L. MUSTOKOFF** is a Partner of the Firm and is a nationally recognized securities litigator. He has argued and tried numerous high-profile cases in federal courts throughout the country in fields as diverse as securities fraud, corporate takeovers, antitrust, unfair trade practices, and patent infringement.

Mr. Mustokoff is currently litigating several nationwide securities cases on behalf of U.S. and overseas investors. He serves as lead counsel for shareholders in *In re Celgene Securities Litigation* (D.N.J.), involving allegations that Celgene fraudulently concealed clinical problems with a developmental multiple sclerosis drug. Mr. Mustokoff is also class counsel in *Sjunde AP-Fonden v. The Goldman Sachs Group* (S.D.N.Y.), a securities fraud case implicating Goldman Sachs' pivotal role in the 1Malaysia Development Berhad (1MDB) money laundering scandal, one of the largest financial frauds involving a Wall Street firm in recent memory. Mr. Mustokoff recently led the team that secured a \$130 million recovery for plaintiffs in *In re Allergan Generic Drug Pricing Securities Litigation* (D.N.J.), arising out of the industrywide price-fixing scheme in the generic drug market. This marks the first settlement of a federal securities case stemming from the long-running price-fixing conspiracy which is believed to be the largest domestic pharmaceutical cartel in U.S. history.

Mr. Mustokoff played a major role in prosecuting *In re Citigroup Bond Litigation* (S.D.N.Y.), involving allegations that Citigroup concealed its exposure to subprime mortgage debt on the eve of the 2008 financial crisis. The \$730 million settlement marks the second largest recovery ever in a Securities Act class action brought on behalf of corporate bondholders. Mr. Mustokoff represented the class in *In re Pfizer Securities Litigation* (S.D.N.Y.), a twelve-year fraud case alleging that Pfizer concealed adverse clinical results for its pain drugs Celebrex and Bextra. The case settled for \$486 million following a victory at the Second Circuit Court of Appeals reversing the district court's dismissal of the action on the eve of trial. Mr. Mustokoff also served as class counsel in *In re JPMorgan Chase Securities Litigation* (S.D.N.Y.), arising out of the 2012 "London Whale" derivatives trading scandal. The case resulted in a \$150 million recovery. Mr. Mustokoff served as lead counsel to several prominent mutual funds in securities fraud actions in Manhattan federal court against Brazil's state-run oil company, Petrobras, involving a decade-long bid-rigging scheme, the largest corruption scandal in Brazil's history. In *Connecticut Retirement Plans & Trust Funds v. BP plc* (S.D. Tex.), a multi-district litigation stemming from the 2010 Deepwater Horizon oil-rig explosion in the Gulf of Mexico, Mr. Mustokoff successfully argued the opposition to BP's motion to dismiss and obtained a landmark decision sustaining fraud claims under English law on behalf of investors on the London Stock Exchange—the first in a U.S. court. Mr. Mustokoff's significant courtroom experience includes serving as one of the lead trial lawyers for shareholders in the only securities fraud class action arising out of the 2008 financial crisis to be tried to jury verdict.

Prior to joining the Firm, Mr. Mustokoff practiced at Weil, Gotshal & Manges LLP in New York where he represented clients in SEC enforcement actions, white collar criminal matters, and shareholder litigation. A frequent speaker and writer on securities law and litigation, Mr. Mustokoff's publications have been cited in more than 75 law review articles and treatises. He has published in the Rutgers University Law Review, Maine Law Review, Temple Political & Civil Rights Law Review, Hastings Business Law Journal, Securities Regulation Law Journal, Review of Securities & Commodities Regulation, and The Federal Lawyer, among others. He has been a featured panelist at the American Bar Association's Section of Litigation Annual Conference and NERA Economic Consulting's Securities and Finance Seminar. Since 2010, Mr. Mustokoff has served as the Co-Chair of the ABA Subcommittee on Securities Class Actions.

**JONATHAN NEUMANN**, a Partner of the Firm, concentrates his practice on securities fraud and fiduciary matters. Mr. Neumann represents sophisticated investors in complex litigation brought under federal and state laws. In this role, Mr. Neumann has litigated many high stakes cases from the pleading stage to the eve of trial, resulting in substantial recoveries for aggrieved investors.

Prior to joining the Firm, Mr. Neumann served as a law clerk to the Hon. Douglas E. Arpert of the United States District Court for the District of New Jersey. While in law school, Mr. Neumann was an editor for the Temple International and Comparative Law Journal and a member of the Moot Court Honor Society.

**SHARAN NIRMUL**, a Partner of the Firm, concentrates his practice in the area of securities, consumer and fiduciary class action and complex commercial litigation, exclusively representing the interests of plaintiffs and particularly, institutional investors. Mr. Nirmul represents a number of the world's largest institutional investors in cutting edge, high stakes complex litigation. In addition to his securities litigation practice, he has been at the forefront of developing the Firm's fiduciary litigation practice and has litigated ground-breaking cases in areas of securities lending, foreign exchange, and MBS trustee litigation. Mr. Nirmul was instrumental in developing the underlying theories that propelled the successful recoveries for customers of custodial banks in *Compsource Oklahoma v. BNY Mellon*, a \$280 million recovery for investors in BNY Mellon's securities lending program, and *AFTRA v. JP Morgan*, a \$150 million recovery for investors in JP Morgan's securities lending program. In *Transatlantic Re v. A.I.G.*, Mr. Nirmul recovered \$70 million for Transatlantic Re in a binding arbitration against its former parent, American International Group, arising out of AIG's management of a securities lending program.

Focused on issues of transparency by fiduciary banks to their custodial clients, Mr. Nirmul served as lead counsel in a multi-district litigation against BNY Mellon for the excess spreads it charged to its custodial customers for automated FX services. Litigated over four years, involving 128 depositions and millions of pages of document discovery, and with unprecedented collaboration with the U.S. Department of Justice and the New York Attorney General, the litigation resulted in a settlement for the Bank's custodial customers of \$504 million. Mr. Nirmul also spearheaded litigation against the nation's largest ADR programs, Citibank, BNY Mellon and JP Morgan, which alleged they charged hidden FX fees for conversion of ADR dividends. The litigation resulted in \$100 million in recoveries for ADR holders and significant reforms in the FX practices for ADRs. Mr. Nirmul has served as lead counsel in several high-profile securities fraud cases, including a \$2.4 billion recovery for Bank of America shareholders arising from BoA's shotgun merger with Merrill Lynch in 2009. More recently, Mr. Nirmul was lead trial counsel in litigation arising from the IPO of social media company Snap, Inc., which has resulted in a \$187.5 million settlement for Snap's investors, claims against Endo Pharmaceuticals, arising from its disclosures concerning the efficacy of its opioid drug, Opana ER, which resulted in a recovery of \$80.5 million for Endo's shareholders, and claims against Ocwen Financial, arising from its mortgage servicing practices and disclosures to investors, which settled on the eve of trial for \$56 million. Mr. Nirmul currently serves as lead trial counsel in pending securities class actions involving General Electric, Kraft-Heinz, and the stunning collapse of Luckin Coffee Inc., following disclosure of a massive accounting fraud just ten months after its IPO. He also served on the Executive Committee for the multi-district litigation involving the Chicago Board Options Exchange and the manipulation of its key product, the Cboe Volatility Index.

Mr. Nirmul received his law degree from The George Washington University National Law Center and undergraduate degree from Cornell University. He was born and grew up in Durban, South Africa.

**LEE D. RUDY**, a partner of the Firm, practices in the area of corporate governance litigation, with a focus on transactional and derivative cases. Representing both institutional and individual shareholders in these actions, he has helped cause significant monetary and corporate governance improvements for those companies and their shareholders.

Mr. Rudy regularly practices in the Delaware Court of Chancery, where he served as co-lead trial counsel in the landmark case of *In re S. Peru Copper Corp. S'holder Derivative Litig.* (2011), a \$2 billion trial verdict against Southern Peru's majority shareholder, and *In re Facebook, Inc. Class C Reclassification Litigation* (2017), which forced Facebook and its founder Mark Zuckerberg to abandon plans to issue a new class of nonvoting stock to entrench Zuckerberg as the company's majority stockholder. Mr. Rudy also recently served as lead counsel in *In re Allergan, Inc. Proxy Violation Securities Litigation* (C.D. Cal. 2017), which was brought by a class of Allergan stockholders who sold shares while Pershing Square and its founder Bill Ackman were buying Allergan stock in advance of a secret takeover attempt by Valeant Pharmaceuticals, and which settled for \$250 million just weeks before trial. Mr. Rudy previously served as lead counsel in dozens of high profile derivative actions relating to the "backdating" of stock options.

Prior to civil practice, Mr. Rudy served for several years as an Assistant District Attorney in the Manhattan (NY) District Attorney's Office, and as an Assistant United States Attorney in the US Attorney's Office (D.N.J.), where he tried dozens of jury cases to verdict. Mr. Rudy received his law degree from Fordham University, and his undergraduate degree, cum laude, from the University of Pennsylvania. Mr. Rudy is licensed to practice in Pennsylvania and New York.

**RICHARD A. RUSSO, JR.**, a partner of the Firm, concentrates his practice in the area of securities litigation, and principally represents the interests of plaintiffs in class actions and complex commercial litigation.

Mr. Russo specializes in prosecuting complex securities fraud actions arising under the Securities Exchange Act of 1934 and the Securities Act of 1933, and has significant experience in all stages of pre-trial litigation, including drafting pleadings, litigating motions to dismiss and motions for summary judgment, conducting extensive document and deposition discovery, and appeals.

Mr. Russo has represented both institutional and individual investors in a number of notable securities class actions. These matters include *In re Bank of America Securities Litigation*, where shareholders' \$2.43 billion recovery represents one of the largest recoveries ever achieved in a securities class action and the largest recovery arising out of the 2008 subprime crisis; *In re Citigroup Inc. Bond Litigation*, where the class's \$730 million recovery was the second largest recovery ever for claims brought under Section 11 of the Securities Act of 1933; and *In re Lehman Brothers*, where shareholders recovered \$616 million from Lehman's officers, directors, underwriters and auditors following the company's bankruptcy filing.

Mr. Russo is currently representing shareholders in high-profile securities fraud actions against General Electric, Precision Castparts Corp., Kraft Heinz Corp. and Luckin Coffee Co. Mr. Russo has also assisted in prosecuting whistleblower actions and patent infringement matters.

In 2016, Mr. Russo was selected as an inaugural member of Benchmark Litigation's Under 40 Hot List, an award meant to honor the achievements of the nation's most accomplished attorneys under the age of 40. Mr. Russo was again selected as a member of the 40 & Under Hot List in 2018, 2019, and 2020. Rick has also been selected by his peers as a Pennsylvania Super Lawyers Rising Star on five occasions.

**MARC A. TOPAZ**, a retired Partner of the Firm, has a keen eye for what makes a successful case. As one of the firm's most experienced litigators, he helps clients focus their efforts on cases with a favorable mix of facts, law and potential recovery. Mr. Topaz oversees case initiation and development in complex securities fraud, ERISA, fiduciary, antitrust, shareholder derivative, and mergers and acquisitions actions.

Mr. Topaz has counselled clients in high-profile class action litigation stemming from the subprime mortgage crisis, including cases seeking recovery for shareholders in companies affected by the crisis, and cases seeking recovery for 401K plan participants who suffered losses in their retirement plans.

Mr. Topaz's commitment to making things right for clients shows in the cases he pursues. Recognizing the importance of effective corporate governance policies in safeguarding investments, Mr. Topaz has used fiduciary duty litigation to fight for meaningful policy changes. He also played an active role in using option-backdating litigation as a vehicle to re-price erroneously issued options and improve corporate governance.

**JOHNSTON DE F. WHITMAN, JR.** is a Partner of the Firm, and his primary practice area is securities litigation.

Mr. Whitman represents individual and institutional investors pursuing claims for securities fraud. In this capacity, Mr. Whitman has helped clients obtain substantial recoveries in numerous class actions alleging claims under the federal securities laws, and has also assisted in obtaining favorable recoveries for institutional investors pursuing direct securities fraud claims.

**ROBIN WINCHESTER**, a Partner of the Firm, represents private investors and public institutional investors in derivative, class and individual actions and has helped recover hundreds of millions of dollars for corporations and stockholders injured by purported corporate fiduciaries.

Ms. Winchester has extensive experience in federal and state stockholder litigation seeking to hold wayward fiduciaries accountable for corporate abuses.

Ms. Winchester seeks not only to recover losses for the corporations and stockholders who have been harmed but also to ensure corporate accountability by those who have been entrusted by stockholders to act as faithful fiduciaries. She litigates cases involving all areas of corporate misconduct including excessive executive compensation, misuse and waste of corporate assets, unfair related-party transactions, failure to ensure compliance with state and federal laws, insider selling and other breaches of fiduciary duty which impinge on stockholder rights. Ms. Winchester has successfully resolved dozens of cases which have required financial givebacks as well as the implementation of extensive corporate governance reforms that will hopefully prevent similar misconduct from recurring, strengthen the company, and make the members of the board of directors more effective and responsive representatives of stockholder interests.

[MELISSA L. YEATES](#), is a Partner in the Firm's Fiduciary, Consumer Protection, and Antitrust Group. A seasoned litigator with nearly two decades of experience litigating in federal courts nationwide, Ms. Yeates manages and litigates complex class action litigation, with a focus on consumer fraud, unfair trade practices, breach of contract and implied duties, warranty, and antitrust actions.

Ms. Yeates has played a leading role in the Firm's successful litigation of claims against numerous large corporations accused of defrauding consumers and engaging in anticompetitive conduct. Her practice has also focused on new matter development, including the investigation and analysis of consumer fraud, antitrust, and securities matters. Prior to joining the Firm, Ms. Yeates clerked for the Honorable Stanley S. Brotman in the District of New Jersey and defended corporations in complex commercial, antitrust, product liability, and patent matters. Ms. Yeates's 12 years of experience as a litigator at large defense firms makes her uniquely suited to evaluate potential claims, develop litigation strategy, and negotiate cooperatively and effectively with defense counsel. Ms. Yeates currently represents consumers and entities in class action litigation against, among others, General Motors Company, FCA US LLC, Toyota Motor Corporation, Bank of Nova Scotia, Netflix, Hulu, State Farm Mutual Automobile Insurance Company, and the federal government.

[ERIC L. ZAGAR](#), a Partner of the Firm, co-manages the Firm's Mergers and Acquisitions and Shareholder Derivative Litigation Group, which has excelled in the highly specialized area of prosecuting cases involving claims against corporate officers and directors.

Since 2001, Mr. Zagar has served as lead or co-lead counsel in numerous shareholder derivative actions nationwide and has helped recover billions of dollars in monetary value and substantial corporate governance relief for the benefit of shareholders.

[ANDREW L. ZIVITZ](#), a Partner of the Firm, has achieved extraordinary results in securities fraud cases. His work has led to the recovery of more than \$1 billion for damaged clients and class members.

Mr. Zivitz has represented dozens of major institutional investors in securities class actions and private litigation. He is skilled in all aspects of complex litigation, from developing and implementing strategies, to conducting merits and expert discovery, to negotiating resolutions. Mr. Zivitz has served as lead or co-lead counsel in many of the largest securities class actions in the U.S., including cases against Bank of America, Celgene, Goldman Sachs, Hewlett-Packard, JPMorgan, Pfizer, Tenet Healthcare, and Walgreens.

Mr. Zivitz's extensive courtroom experience serves his clients well in trial situations, as well as pre-trial proceedings and settlement negotiations. He served as one of the lead plaintiffs' attorneys in the only securities fraud class action arising out of the financial crisis to be tried to a jury verdict, has handled a *Daubert* trial in the U.S. District Court for the Southern District of New York, and successfully argued dispositive motions before federal district and appeals courts throughout the country.

## COUNSEL

**JORDAN E. JACOBSON**, Counsel to the Firm, concentrates her practice in the areas of consumer protection and antitrust litigation. Jordan received her law degree from Georgetown University in 2014 and her undergraduate degrees in history and political science from Arizona State University in 2011. Prior to joining the Firm, Jordan clerked for the honorable Deborah J. Saltzman, United States Bankruptcy Judge, in the Central District of California. Jordan was also previously an associate at a large defense firm, and an attorney in the General Counsel's office of the Pension Benefit Guaranty Corporation in Washington, D.C. Jordan is licensed to practice law in Pennsylvania, California, and Virginia.

**LISA LAMB PORT**, Counsel to the Firm, concentrates her practice on consumer, antitrust, and securities fraud class actions. Ms. Lamb Port received her law degree, Order of the Coif, summa cum laude, from the Villanova University School of Law in 2003 and her Bachelor of Arts, cum laude, from Princeton University in 2000. Ms. Lamb Port is licensed to practice law in the Commonwealth of Pennsylvania. Prior to joining Kessler Topaz, Ms. Lamb Port was a partner at another class action firm, where she represented institutional and individual investors in securities fraud, breach of fiduciary duty, and shareholder derivative cases, as well as in litigation resulting from mergers and acquisitions.

**DONNA SIEGEL MOFFA** serves as Counsel to the Firm. Throughout her career, both in private practice and in her early years as an attorney in the Bureau of Consumer Protection at the Federal Trade Commission in Washington, D.C., she has concentrated her work in the area of consumer protection litigation. Ms. Moffa has substantial experience handling and supervising all aspects of the prosecution and resolution of national class action litigation asserting claims challenging predatory lending, lending discrimination, violations of RESPA, consumer fraud and unfair, deceptive and anticompetitive practices in federal courts throughout the country. Currently, Ms. Moffa is involved in a number of antitrust class action lawsuits alleging that large pharmaceutical manufacturers have engaged in improper reverse payment and generic suppression schemes. Ms. Moffa also has been involved in significant appellate work, in both state and federal appeals courts representing individuals, classes, and non-profit organizations participating as amici curiae in appeals.

**MICHELLE M. NEWCOMER**, Counsel to the Firm, concentrates her practice in the area of securities litigation. Ms. Newcomer has been involved in dozens of class actions in which the Firm has served as Lead or Co-Lead Counsel, through all aspects of pre-trial proceedings, including complaint drafting, litigating motions to dismiss, for class certification and for summary judgment, conducting document, deposition and expert discovery, and appeals. Ms. Newcomer was also part of the trial team in the Firm's most recent securities fraud class action trial, which resulted in a jury verdict on liability and damages in favor of investors. Ms. Newcomer has represented many types of individual and institutional investors, including public pension funds, asset managers and Sovereign Wealth Funds. Ms. Newcomer's experience includes traditional class actions, direct actions, and non-U.S. collective actions. Ms. Newcomer began her legal career with the Firm in 2005. Prior to joining the Firm, she was a summer law clerk for the Hon. John T.J. Kelly, Jr. of the Pennsylvania Superior Court.

## ASSOCIATES

**MATTHEW C. BENEDICT**, an Associate of the Firm, concentrates his practice in the area of mergers and acquisition litigation and stockholder derivative litigation. Mr. Benedict has represented both plaintiffs and defendants in numerous high-profile securities fraud class actions concerning Wall Street institutions' conduct before, during, and in the wake of the 2008 financial crisis.

**MARIAMA BARRY**, an Associate of the Firm, concentrates her practice in securities litigation. Mariama received her law degree from Penn State Dickinson Law. While in law school, she was an active member of the advocacy programs. She was a competing member of the National Moot Court Team and the National Mock Trial team. She also interned with the Pennsylvania Office of Attorney General in the Bureau of Consumer Protection and the Community Justice Project. Mariama also served as an Academic Tutor for Property Law, a Teaching Assistant for Legal Writing & Analysis, and a Pardon Coach for the Pardon Project.

**LYNDSEY B. CAMPBELL**, an Associate of the Firm, concentrates her practice in securities fraud litigation. Before joining the firm, Ms. Campbell served as a judicial law clerk to the Honorable Joel H. Slomsky, United States District Judge for the Eastern District of Pennsylvania. Ms. Campbell graduated from Villanova University Charles Widger School of Law and received her bachelor's degree in English literature from James Madison University. She also received a master's degree in English literature from the University of Virginia. While in law school, Ms. Campbell was a judicial intern for the Honorable Joel H. Slomsky. She also was a member of the Villanova Law Moot Court Board and worked as a Research Assistant.

**BENNET CHO-SMITH**, an Associate of the Firm, focuses his practice in securities litigation. Mr. Cho-Smith graduated *cum laude* from the Georgetown University Law Center in 2024. While at Georgetown, Mr. Cho-Smith served as the Managing Editor of the Georgetown Journal of Law and Public Policy, was a member of the Appellate Advocacy Moot Court Team, and founded Georgetown's Plaintiff Law Association. During law school, Mr. Cho-Smith served as a law clerk with the Campaign Legal Center and with the Consumer Protection Division of the National Association of Attorneys General.

**CORY D. CONLEY**, an Associate of the Firm, received his JD from Emory University School of Law, and his undergraduate degree from New York University. During Law School, he served as a competitor and coach of Emory's Philip C. Jessup International Law Moot Court Competition team, and as a member of the Emory Law School Supreme Court Advocacy Program. Mr. Conley previously served as an intern with the Queens District Attorney's Office in New York City.

**EVAN R. HOEY**, an Associate of the Firm, focuses his practice in securities litigation. Mr. Hoey received his law degree from Temple University Beasley School of Law, where he graduated *cum laude*, and graduated *summa cum laude* from Arizona State University. He is licensed to practice in Pennsylvania and is admitted to practice before the United States District Court for the Eastern District of Pennsylvania.

**GABRIELLA N. IGBOKO**, an Associate of the Firm, focuses her practice in global securities litigation. Ms. Igboko earned her law degree from The George Washington University Law School and her undergraduate degree from Fordham University.

**DYLAN J. ISENBERG**, an Associate of the Firm, focuses his practice in securities litigation. Mr. Isenberg graduated cum laude from Temple University's James E. Beasley School of Law and received his undergraduate degree in Government from Hamilton College. While in Law School, Mr. Isenberg served as a judicial intern to the Hon. Noel L. Hillman of the U.S. District Court for the District of New Jersey and to the Hon. Ashley M. Chan of the U.S. Bankruptcy Court for the Eastern District of Pennsylvania. Prior to law school, Mr. Isenberg lobbied on behalf of national trade associations and worked for a member of the U.S. Senate.

**MAX S.S. JOHNSON**, an Associate of the Firm, focuses his practice in securities litigation. Mr. Johnson graduated magna cum laude from the Pepperdine Caruso School of Law in 2022. While at Pepperdine, Mr. Johnson served as a Literary Citation Editor for the Pepperdine Law Review. Prior to attending law school, Mr. Johnson earned his undergraduate degree from the University of Puget Sound in the Business Leadership Program

**GRACE JOYCE**, an Associate of the Firm, concentrates her practice on new matter development with a focus on initiating and progressing cases involving shareholder derivative and securities fraud, class and individual actions. Ms. Joyce received her law degree from Rutgers Law School and her undergraduate degree from Ithaca College. In law school, Ms. Joyce interned as a law clerk to the Honorable Zahid Quraishi of the United States District Court for the District of New Jersey, and worked as a law clerk at McEldrew Purtell.

**NAKIB A. KABIR**, an Associate of the Firm, concentrates his practice in the areas of corporate governance and mergers and acquisitions litigation. Mr. Kabir graduated *cum laude* from Duquesne Law School in 2022 and his undergraduate degree from the State University of New York at Fredonia in 2019. While in law school, Mr. Kabir was the Executive Articles Editor for the Duquesne Law Review and participated in Duquesne's Trial Advocacy program, where he was a national quarterfinalist in the AAJ STAC Trial Advocacy competition.

**AUBRIE L. KENT**, an Associate of the Firm, concentrates her practice in securities litigation. Ms. Kent graduated from the Emory University School of Law with honors in 2024. At Emory, she served as a Notes and Comments Editor on the Emory Law Journal and was the 2023 recipient of the Journal's Mary Laura "Chee" Davis Award for Writing Excellence. While in law school, she interned with Judge Jason Ashford in Houston County, Georgia. Ms. Kent received her B.A. From Portland State University in 2018 and her MPhil from the University of Cambridge in 2019.

**KEVIN M. KENNEDY**, an Associate of the Firm, concentrates his practice on the areas of corporate governance and merger and acquisition litigation. Mr. Kennedy received his law degree from Temple University's Beasley School of Law in 2022 and his undergraduate degree from La Salle University in 2010. While in law school, Mr. Kennedy interned as a law clerk to the Hon. Anthony J. Scirica of the Third Circuit Court of Appeals. Mr. Kennedy also served as a Note/Comment Editor and the Symposium Editor for the Temple Law Review.

**JOSHUA S. KESZCZYK**, an Associate of the Firm, concentrates his practice in new matter development with a focus on analyzing securities class action lawsuits and direct (or opt-out) actions. Prior to joining the firm, Mr. Keszczyk was an associate at Dechert LLP, where he focused his practice on secured financial transactions involving various asset classes.

**LAUREN C. LUMMUS**, an Associate of the Firm, concentrates her practice in the areas of corporate governance and merger and acquisition litigation. Ms. Lummus received her law degree from the Temple University Beasley School of Law in 2022 and her undergraduate degree from Haverford College in 2017. While in law school, Ms. Lummus interned as a law clerk for the Honorable Carolyn H. Nichols of the Pennsylvania Superior Court and U.S. Magistrate Judge Timothy R. Rice of the U.S. District Court for the Eastern District of Pennsylvania. Ms. Lummus also served as Co-President of the Women's Law Caucus, Research Editor for the Temple International & Comparative Law Journal, and Teaching Assistant for two legal research and writing courses.

**MATTHEW T. MACKEN**, an Associate of the Firm, concentrates his practice in consumer protection. Mr. Macken graduated from Temple University's Beasley School of Law in 2022. During law school, Mr. Macken served as Managing Editor of the Temple Law Review. As a student, Mr. Macken interned for a judge in the U.S. District Court for the Eastern District of Pennsylvania, as well as in Philadelphia Legal Assistance's Unemployment Compensation Unit and Community Legal Services' Homeownership and Consumer Rights Unit.

**MICHAEL W. MCCUTCHEON**, an Associate of the Firm, concentrates his practice in the areas of corporate governance and mergers & acquisitions litigation. Mr. McCutcheon graduated cum laude from Rutgers Law School in 2021, earning a certificate in corporate and business law for completing a specialized curriculum in those subjects. He earned his bachelor of science degree from the University of Delaware in 2017, majoring in economics and finance. While in law school, Mr. McCutcheon served as an Executive Board member for the moot court program, and was a Staff Editor for the Rutgers Journal of Law and Public Policy. He also interned for the Honorable Donald J. Stein in New Jersey Superior Court, General Civil Division.

**VANESSA M. MILAN**, an Associate of the Firm, concentrates her practice in the area of securities fraud litigation. Ms. Milan is an associate in the Firm's Philadelphia office and received her law degree from Temple University Beasley School of Law in 2019 and her undergraduate degrees in Government & Law and English from Lafayette College in 2016. While in law school, Ms. Milan served as an Articles Editor for the Temple Law Review. Prior to joining the firm, Ms. Milan served as a judicial law clerk to the Honorable Robert D. Mariani, United States District Court Judge for the Middle District of Pennsylvania. Ms. Milan is licensed to practice law in New York and Pennsylvania.

**JONATHAN NAJI**, an Associate of the Firm, develops and initiates cases involving shareholder derivative and securities fraud, class and individual actions. Mr. Naji seeks to help individuals recover losses caused by unlawful conduct. Mr. Naji received his law degree from Temple University Beasley School of Law and graduated from Franklin & Marshall College. In law school, Mr. Naji interned as a law clerk to the Honorable C. Darnell Jones II of the United States District Court for the Eastern District of Pennsylvania and worked as a summer associate at Berger Harris, LLP.

**KYE KYUNG (ALEX) PARK**, an Associate of the Firm, concentrates his practice in consumer protection. Mr. Park received his law degree from Temple University James E. Beasley School of Law in 2022 and his undergraduate degree from University of North Carolina at Chapel Hill in 2016. During law school, Mr. Park served as Staff Editor of the Temple Law Review. He is licensed to practice in Pennsylvania.

**BARBARA SCHWARTZ**, an Associate of the Firm, concentrates her practice on new matter development with a focus on analyzing consumer and antitrust class action lawsuits. Ms. Schwartz received her law degree from Yale Law School in 2013 and her undergraduate degree from Temple University in 2010. Prior to joining the firm, Ms. Schwartz was an associate with Duane Morris, where she handled various complex commercial and antitrust matters.

**RYAN SHELTON-BENSON**, an Associate of the Firm, concentrates his practice in the area of securities fraud litigation. Mr. Shelton-Benson graduated magna cum laude from Rutgers Law School and received his undergraduate degree in Public Relations from the University of South Carolina. While in Law School, he served as a judicial extern to the Hon. Karen M. Williams of the U.S. District Court for the District of New Jersey.

**IGOR SIKAVICA**, an Associate of the Firm, practices in the area of corporate governance litigation, with a focus on transactional and derivative cases. Mr. Sikavica received his J.D. from the Loyola University Chicago School of Law and his LL.B. from the University of Belgrade Faculty Of Law. Mr. Sikavica is licensed to practice in Pennsylvania. Mr. Sikavica's licenses to practice law in Illinois and the former Yugoslavia are no longer active. Prior to joining Kessler Topaz, Mr. Sikavica has represented clients in complex commercial, civil and criminal matters before trial and appellate courts in the United States and the former Yugoslavia. Also, Mr. Sikavica has represented clients before international courts and tribunals, including – the International Criminal Tribunal for the Former Yugoslavia (ICTY), European Court of Human Rights and the UN Committee Against Torture.

**NATHANIEL SIMON**, an Associate of the Firm, concentrates his practice in securities litigation. Before joining the firm, Mr. Simon served as a judicial law clerk to the Honorable Mark A. Kearney, United States District Judge for the Eastern District of Pennsylvania. Mr. Simon received his law degree from Villanova University, Charles Widger School of Law in 2018 and his undergraduate degree from Gettysburg College in 2014. While in law school, Mr. Simon served as an Articles Editor for the Villanova Law Review.

**JUSTIN J. SWOFFORD**, an Associate of the Firm, concentrates his practice in consumer-protection litigation. Justin graduated cum laude from Penn State Law and received his undergraduate degree in communication studies from California State University, Stanislaus. While in law school, he served as a Senior Editor of the Penn State Law Review and as a Judicial Intern to the Honorable William Arbuckle of the United States District Court for the Middle District of Pennsylvania. Before joining the Firm, Mr. Swofford clerked for the Honorable James K. Bredar of the United States District Court for the District of Maryland.

**MARIANNE A. UY**, an Associate of the Firm, concentrates her practice in securities litigation. Ms. Uy received her law degree from Temple University - Beasley School of Law and her undergraduate degree in Industrial and Labor Relations from Cornell University. While in law school, Ms. Uy interned at the National Labor Relations Board, the Department of Labor, and for the Honorable Nina Wright Padilla of the Philadelphia Court of Common Pleas, Commerce Program. Additionally, Ms. Uy served as Student Attorney for the Sheller Center for Social Justice, Diversity Editor and Research Editor for Temple Law Review, and Teaching Assistant for Legal Research & Writing courses.

**FARAI VYAMUCHARO-SHAWA**, an Associate of the Firm, concentrates his practice in the areas of securities litigation and corporate governance. Mr. Shawa graduated from the Temple University Beasley School of Law in 2021. While in law school, Mr. Shawa worked as a legal intern with the Philadelphia Eagles and as a summer associate at Skadden Arps Slate Meagher and Flom LLP. Mr. Shawa was also a member of the Temple Trial Team, ICC Moot Court Team and President of the International Law Society. Prior to joining the Firm, Mr. Shawa practiced corporate litigation at a prominent defense firm in Wilmington, Delaware.

## STAFF ATTORNEYS

**SARA ALSALEH**, a Staff Attorney of the Firm, received her law degree from Widener University School of Law in Wilmington, Delaware and her undergraduate degree in Marketing, with a minor in International Business, from Pennsylvania State University in State College, Pennsylvania. Ms. Alsaleh currently concentrates her practice at the Firm in the area of securities fraud litigation.

Prior to joining the Firm, Ms. Alsaleh practiced in the areas of pharmaceutical & health law litigation. Ms. Alsaleh clerked at the U.S. Food and Drug Administration, as well as the Delaware Department of Justice (Consumer Protection & Fraud Division), where she was heavily involved in protecting consumers within a wide variety of subject areas.

**LAMARLON R. BARKSDALE**, a Staff Attorney of the Firm, was a former Assistant District Attorney in the Philadelphia DA's Office and veteran of the US Navy.

Mr. Barksdale has experience with securities fraud litigation, complex pharmaceutical litigation, criminal litigation and bankruptcy litigation. Mr. Barksdale has also lectured criminal law courses at Delaware Technical and Community College, Newark, Delaware. At KTMC, Mr. Barksdale practices in the area of securities fraud litigation.

**ELIZABETH W. CALHOUN**, a Staff Attorney of the Firm, concentrates her practice in securities litigation. Ms. Calhoun has represented investors in major securities fraud and has also represented shareholders in derivative and direct shareholder litigation.

Ms. Calhoun has over ten years of experience in pharmaceutical-related litigation including both securities and products liability matters. Prior to joining Kessler, Topaz, Meltzer & Check, Ms. Calhoun was employed with the Wilmington, Delaware law firm of Grant & Eisenhofer, P.A. and before that was an associate in the Philadelphia offices of Dechert, LLP and Ballard Spahr, LLP.

**STEPHEN J. DUSKIN**, a Staff Attorney of the Firm, concentrates his practice in the area of antitrust litigation. Mr. Duskin received his law degree from Rutgers School of Law at Camden in 1985, and his undergraduate degree in Mathematics from the University of Rochester in 1976. Mr. Duskin is licensed to practice law in Pennsylvania.

Prior to joining Kessler Topaz, Mr. Duskin practiced corporate and securities law in private practice and in corporate legal departments, and also worked for the U.S. Securities and Exchange Commission and the Resolution Trust Corporation.

**DONNA K. EAGLESON**, a Staff Attorney of the Firm, concentrates her practice in the area of securities litigation discovery matters. She received her law degree from the University of Dayton School of Law in Dayton, Ohio. Ms. Eagleson is licensed to practice law in Pennsylvania.

Prior to joining Kessler Topaz, Ms. Eagleson worked as an attorney in the law enforcement field, and practiced insurance defense law with the Philadelphia firm Margolis Edelstein.

**PATRICK J. EDDIS**, a Staff Attorney of the Firm, concentrates his practice in the area of corporate governance litigation. Mr. Eddis received his law degree from Temple University School of Law in 2002 and his undergraduate degree from the University of Vermont in 1995. Mr. Eddis is licensed to practice in Pennsylvania.

Prior to joining Kessler Topaz, Mr. Eddis was a Deputy Public Defender with the Bucks County Office of the Public Defender. Before that, Mr. Eddis was an attorney with Pepper Hamilton LLP, where he worked on various pharmaceutical and commercial matters.

**DEEMS A. FISHMAN**, a Staff Attorney of the Firm, concentrates his practice in the area of Securities Fraud.

**KIMBERLY V. GAMBLE**, a Staff Attorney of the Firm, concentrates her practice in the area of securities litigation. She received her law degree from Widener University, School of Law in Wilmington, DE. While in law school, she was a CASA/Youth Advocates volunteer and had internships with the Delaware County Public Defender's Office as well as The Honorable Judge Ann Osborne in Media, Pennsylvania. She received her Bachelor of Arts degree in Sociology from The Pennsylvania State University. Ms. Gamble is licensed to practice law in the Commonwealth of Pennsylvania. Prior to joining Kessler Topaz, she worked in pharmaceutical litigation.

**KEITH S. GREENWALD**, a Staff Attorney of the Firm, concentrates his practice in the area of securities litigation. Mr. Greenwald received his law degree from Temple University, Beasley School of Law in 2013 and his undergraduate degree in History, summa cum laude, from Temple University in 2004. Mr. Greenwald is licensed to practice law in Pennsylvania.

Prior to joining Kessler Topaz, Mr. Greenwald was a contract attorney on various projects in Philadelphia and was at the International Criminal Tribunal for the Former Yugoslavia, at The Hague in The Netherlands, working in international criminal law.

**CANDICE L.H. HEGEDUS**, a Staff Attorney of the Firm, concentrates her practice in securities fraud class actions. She received her law degree from Villanova University Charles Widger School of Law and her Bachelor of Arts from Muhlenberg College, cum laude. Ms. Hegedus is licensed to practice in Pennsylvania.

Prior to joining the firm, Ms. Hegedus spent several years at another class action litigation firm where she practiced in the areas of securities fraud, antitrust and consumer matters.

**JOSHUA A. LEVIN**, a Staff Attorney of the Firm, concentrates his practice in the area of securities litigation. Mr. Levin received his law degree from Widener University School of Law, and earned his undergraduate degree from The Pennsylvania State University. Mr. Levin is licensed to practice in Pennsylvania and New Jersey. Prior to joining Kessler Topaz, he worked in pharmaceutical litigation.

**STEFANIE J. MENZANO**, a Staff Attorney of the Firm, currently focuses her practice in the area of securities fraud litigation. Ms. Menzano has contributed to the successful resolution of high-profile securities matters, including *In re JPMorgan Chase & Co. Securities Litigation*, *In re Snap Inc. Securities Litigation*, *In re Celgene Corporation Securities Litigation*, *In re Allergan Generic Drug Pricing Securities Litigation*, and *In re Kraft Heinz Securities Litigation*.

**JOHN J. MCCULLOUGH**, a Staff Attorney of the Firm, concentrates his practice in the area of securities litigation. In 2012, Mr. McCullough passed the CPA Exam. Mr. McCullough earned his Juris Doctor degree from Temple University School of Law, and his undergraduate degree from Temple University. Mr. McCullough is licensed to practice in Pennsylvania.

**STEVEN D. MCLAIN**, a Staff Attorney of the Firm, concentrates his practice in mergers and acquisition litigation and stockholder derivative litigation. He received his law degree from George Mason University School of Law, and his undergraduate degree from the University of Virginia. Mr. McLain is licensed to practice in Virginia. Prior to joining Kessler, Topaz, he practiced with an insurance defense firm in Virginia.

**TIMOTHY A. NOLL**, a Staff Attorney of the Firm, concentrates his practice in the area of securities fraud litigation. Mr. Noll received his law degree from the Southwestern University School of Law and his undergraduate degree in Communications from Temple University. Prior to joining the Firm, Mr. Noll was a staff attorney at Grant & Eisenhofer, P.A. and also worked in pharmaceutical litigation.

**ANDREW M. PEOPLES**, a Staff Attorney of the Firm, concentrates his practice in the area of Consumer Protection.

**ALLYSON M. ROSSEEL**, a Staff Attorney of the Firm, concentrates her practice at Kessler Topaz in the area of securities litigation. She received her law degree from Widener University School of Law, and earned her B.A. in Political Science from Widener University. Ms. Rosseel is licensed to practice law in Pennsylvania and New Jersey. Prior to joining the Firm, Ms. Rosseel was employed as general counsel for a boutique insurance consultancy/brokerage focused on life insurance sales, premium finance and structured settlements.

**MICHAEL J. SECHRIST**, a Staff Attorney of the Firm, Concentrates his practice in the area of securities litigation. Mr. Sechrist received his law degree from Widener University School of Law in 2005 and his undergraduate degree in Biology from Lycoming College in 1998. Mr. Sechrist is licensed to practice law in Pennsylvania. Prior to joining Kessler Topaz, Mr. Sechrist worked in pharmaceutical litigation.

**ROBERTA A. SHANER**, a Staff Attorney of the Firm, concentrates her practice in the area of securities litigation. She received her JD degree from the New York University School of Law. She graduated from Dartmouth College with a BA in Asian Area Studies. Ms. Shaner is licensed in Pennsylvania.

**MELISSA J. STARKS**, a Staff Attorney of the Firm, concentrates her practice in the area of securities litigation. Ms. Starks earned her Juris Doctor degree from Temple University--Beasley School of Law, her LLM from Temple University--Beasley School of Law, and her undergraduate degree from Lincoln University. Ms. Starks is licensed to practice in Pennsylvania.

**MICHAEL P. STEINBRECHER**, a Staff Attorney of the Firm, concentrates his practice in the area of securities litigation. Prior to joining Kessler Topaz, Mr. Steinbrecher worked in pharmaceutical litigation.

**ERIN E. STEVENS**, a Staff Attorney of the Firm, concentrates her practice in the area of securities litigation. Ms. Stevens was a former associate attorney at a general practice firm where she litigated for a variety of civil and bankruptcy cases.

**BRIAN W. THOMER**, a Staff Attorney of the Firm, concentrates his practice in the area of securities fraud litigation. Prior to joining Kessler Topaz, Mr. Thomer worked in pharmaceutical litigation.

**ANNE M. ZANESKI**, is a Staff attorney in the Firm's Securities Practice Group. Ms. Zaneski focuses her practice in the areas of securities and consumer litigation on behalf of institutional and individual investors. Selected matters that Ms. Zaneski has been involved with include the Valeant Pharmaceuticals-Pershing Square Capital insider trading certified class action team (\$250 million settlement) and Lehman Brothers securities fraud litigation co-counsel team (\$616 million settlement).

Prior to joining the Firm, Ms. Zaneski was an associate with a New York securities litigation boutique law firm where she was part of the team on the *Engel, et al. v. Refco* commodities case at the National Futures Association still one of the largest collected arbitration awards (\$43 million) on behalf of public customers against a brokerage firm. Ms. Zaneski also previously served as a legal counsel for the New York City Economic Development Corporation and New York City Industrial Development Agency in the areas of project finance, bond financing and complex litigation, involving infrastructure projects in a variety of industries including healthcare, education and sports and entertainment, and facilitating tax-exempt and taxable financings. While in law school, Ms. Zaneski was a recipient of the CALI Excellence Award and Kosciuszko Foundation Scholarship and a member of the Securities Arbitration Clinic.

## PROFESSIONALS

**JUSTIN CHANEY**, Client Services Representative at the Firm, concentrates his practice in the Business Development Department where he is responsible for onboarding new clients and liaising between the firm, its clients, and their custodian banks.

Mr. Chaney also provides quality control oversight for ongoing client data collection and online reporting access. He has over two decades of experience in litigation support, and holds an M.B.A. and a B.S. in Organizational Management. Mr. Chaney joined the Firm in 2019.

**JEAN F. CHUBA**, serves as the Director of Operations for Portfolio Monitoring & Claims Administration, overseeing the Operations Team responsible for supporting the Firm's comprehensive *SecuritiesTracker*<sup>™</sup> service available to institutional investors. In this role, Ms. Chuba provides vision, direction and oversight to several teams, including client services, client implementation, data intake, claims administration and payments, and client reporting.

Ms. Chuba has over 18 years of experience at Kessler Topaz working with institutional investors and securities class actions, having previously worked as a paralegal in the Firm's Lead Plaintiff department and as a manager of claims administration and client reporting. From her experience and vast knowledge of all of these areas, Ms. Chuba is well equipped to continuously optimize workflow and productivity across the department to best serve the Firm's institutional clients participating in the *SecuritiesTracker*<sup>™</sup> program.

**BRAM HENDRIKS**, European Client Relations Manager at Kessler Topaz, guides European institutional investors through the intricacies of U.S. class action litigation as well as securities litigation in Europe and Asia. His experience with securities litigation allows him to translate complex document and discovery requirements into straightforward, practical action. For shareholders who want to effect change without litigation, Mr. Hendriks' advises on corporate governance issues and strategies for active investment.

Mr. Hendriks' has been involved in some of the highest-profile U.S. securities class actions of the last 20 years. Before joining Kessler Topaz, he handled securities litigation and policy development for NN Group N.V., a publicly-traded financial services company with approximately EUR 197 billion in assets under management. He previously oversaw corporate governance activities for a leading Amsterdam pension fund manager with a portfolio of more than 4,000 corporate holdings.

A globally-respected investor advocate, Mr. Hendriks' has co-chaired the International Corporate Governance Network Shareholder Rights Committee since 2009. In that capacity, he works with investors from more than 50 countries to advance public policies that give institutional investors a voice in decision-making. He is a sought-after speaker, panelist and author on corporate governance and responsible investment policies.

Based in the Netherlands, Mr. Hendriks' is available to meet with clients personally and provide hands-on-assistance when needed.

**WILLIAM MONKS**, CPA, CFF, CVA, Director of Investigative Services at Kessler Topaz, brings nearly 30 years of white collar investigative experience as a Special Agent of the Federal Bureau of Investigation (FBI) and “Big Four” Forensic Accountant. As the Director, he leads the Firm’s Investigative Services Department, a group of highly trained professionals dedicated to investigating fraud, misrepresentation and other acts of malfeasance resulting in harm to institutional and individual investors, as well as other stakeholders.

Mr. Monks’s recent experience includes being the corporate investigations practice leader for a global forensic accounting firm, which involved widespread investigations into procurement fraud, asset misappropriation, financial statement misrepresentation, and violations of the Foreign Corrupt Practices Act (FCPA).

While at the FBI, Mr. Monks worked on sophisticated white collar forensic matters involving securities and other frauds, bribery, and corruption. He also initiated and managed fraud investigations of entities in the manufacturing, transportation, energy, and sanitation industries. During his 25 year FBI career, Mr. Monks also conducted dozens of construction company procurement fraud and commercial bribery investigations, which were recognized as a “Best Practice” to be modeled by FBI offices nationwide.

Mr. Monks also served as an Undercover Agent for the FBI on long term successful operations targeting organizations and individuals such as the KGB, Russian Organized Crime, Italian Organized Crime, and numerous federal, state and local politicians. Each matter ended successfully and resulted in commendations from the FBI and related agencies.

Mr. Monks has also been recognized by the FBI, DOJ, and IRS on numerous occasions for leading multi-agency teams charged with investigating high level fraud, bribery, and corruption investigations. His considerable experience includes the performance of over 10,000 interviews incident to white collar criminal and civil matters. His skills in interviewing and detecting deception in sensitive financial investigations have been a featured part of training for numerous law enforcement agencies (including the FBI), private sector companies, law firms and accounting firms.

Among the numerous government awards Mr. Monks has received over his distinguished career is a personal commendation from FBI Director Louis Freeh for outstanding work in the prosecution of the West New York Police Department, the largest police corruption investigation in New Jersey history.

Mr. Monks regards his work at Kessler Topaz as an opportunity to continue the public service that has been the focus of his professional life. Experience has shown and Mr. Monks believes, one person with conviction can make all the difference. Mr. Monks looks forward to providing assistance to any aggrieved party, investor, consumer, whistleblower, or other witness with information relative to a securities fraud, consumer protection, corporate governance, qui-tam, anti-trust, shareholder derivative, merger & acquisition or other matter.

**MICHAEL G. KANIA**, Client Implementation and Data Manager at the Firm, has over 20 years of experience in securities custody operations, specializing in securities class actions, corporate actions, and proxy voting. Mr. Kania has designed and built securities class action claims processes and applications to support the filing and payment of tens of thousands claims annually, recovering billions of dollars for damaged investors. Mr. Kania has worked with some of largest institutional investors worldwide to educate them about the securities litigation process and to provide or suggest securities litigation solutions to meet their needs. Prior to joining the Firm, Mr. Kania was employed with The Bank of New York Mellon, where he was a Vice President and Manager in Asset Servicing (Securities Custody) Operations.

**KATHLEEN MCGUIGAN**, serves as the Manager of the Firm's Claims Administration Department. In this role, Ms. McGuigan oversees the analysis of transactional data from the Firm's clients and manages the preparation and filing of proof of claim forms in securities class action settlements. Ms. McGuigan also oversees the Firm's claims auditing services. Ms. McGuigan has been with the Firm for 7 years.

**MICHAEL A. PENNA**, serves as the Firm's Client Relations Manager and focuses specifically on the Taft-Hartley community. Coming from a family with a long line of labor union workers, Mr. Penna followed suit and has over 10 years of experience in servicing the Taft-Hartley world in finance and accounting.

Prior to joining the firm, Mr. Penna served in many roles in the Taft-Hartley world, spending seven years as an auditor for various labor union funds across the country followed by becoming the assistant controller for the Iron Workers District Council of Philadelphia.

**KATELYN A. ROSENBERG**, is the manager of the Settlement Claims Payments Team. Ms. Rosenberg oversees all incoming settlement payments and organization of outgoing payments to our clients. She began her work at Kessler Topaz with the Data Intake Team before shifting gears to work as a Claims Payment Analyst, and eventually to Manager of the Settlement Claims Payments Team. Prior to working for Kessler Topaz her background was primarily in education and school counseling.

**NICOLE B. SCHOEFLING** serves as the Director of Marketing at Kessler Topaz, where she is responsible for developing and executing strategies that align with the Firm's broader objectives. Nicole collaborates closely with leadership, attorneys, and key administrative teams to seamlessly integrate marketing initiatives into the Firm's operations, while overseeing a wide range of business development functions, including event and sponsorship coordination, presentations, conferences, proposals, media relations, and award nominations.

Additionally, Nicole oversees the Firm's online presence, including the website, publications, social media, and other external communication channels. She has played a pivotal role in the development and redesign of the website and has used her technical expertise to enhance the Firm's digital footprint. Nicole graduated from the University of Pennsylvania's software engineering program in 2019 and earned her undergraduate degree from Saint Joseph's University in 2013.

**JAMIE R. SERAFIN** serves as the Director of Information Technology at the Firm, bringing nearly 30 years of experience in managing and directing all aspects of technology within the legal industry. With a career dedicated to optimizing systems, enhancing security, and supporting the unique technology needs of law firms, Jamie provides both strategic leadership and hands-on expertise to ensure the Firm's IT operations run seamlessly.

Outside of his professional role, Jamie enjoys spending time outdoors and values time with family and friends.

**CHRISTOPHER T. SMITH**, Senior Portfolio Analyst at the Firm, concentrates his practice in the area of business development for securities fraud litigation, opt out and direct actions, and global portfolio monitoring for institutional investors.

Mr. Smith has over 15 years of experience in financial services community, beginning his career at PaineWebber/UBS in their Philadelphia office. Prior to joining Kessler Topaz, Mr. Smith worked in case development for Wapner Newman, where he helped develop cases for the firm's FINRA Arbitration Practice.

**IAN YEATES**, Director of Financial Research & Analysis at Kessler Topaz brings a wealth of experience in investment research and data analysis to the firm. Mr. Yeates leads a group of professionals within Kessler Topaz's Lead Plaintiff Department that are dedicated to protecting the firm's clients by identifying and researching corporate fraud or malfeasance that has resulted in harm to investors and other stakeholders. By leveraging the firm's resources and technology, Mr. Yeates and his team efficiently evaluate and identify potential new matters to pursue on behalf of Kessler Topaz's clients.

Prior to joining Kessler Topaz, Ian spent several years in the private equity industry. Mr. Yeates spent four years with Hamilton Lane Advisors, L.P. before joining the National Bank of Kuwait ("NBK") in New York. At NBK, Mr. Yeates was part of a team tasked with evaluating, structuring and monitoring investments for the bank's proprietary private equity portfolio.

**JUAN PABLO VILLATORO**, Head of the Firm's *SecuritiesTracker*<sup>™</sup> Development. Mr. Villatoro has over 15 years of experience and is responsible for driving continuous improvement and best practices for portfolio monitoring and claims filing for the U.S. and international institutional investors. As a visionary, accomplished Operations and Development Executive, Mr. Villatoro has become an expert in US and non-U.S. securities litigation for domestic and international clients on numerous opt-in securities matters. Over the last few years, Mr. Villatoro has spearheaded the development of best-in-class Securities Litigation Class Action monitoring and claims filing platforms. He is responsible for the development and design of technology platforms and the creation and maintenance of databases and sophisticated data analytics.

# EXHIBIT 8

**EXHIBIT 8**

*Doe et al. v. Kaiser Foundation Health Plan, Inc. et al.*  
No. 3:23-cv-02865-EMC (N.D. Cal.)

**KESSLER TOPAZ MELTZER & CHECK, LLP****EXPENSE REPORT**

<b>CATEGORY</b>	<b>AMOUNT</b>
Filing Fees	\$1,403.00
Express / Overnight Mail & Postage	\$1,213.33
Research	\$88,236.74
Internal Printing & Copying Service	\$5,008.50
External Printing & Copying Service	\$926.92
Travel (Transportation, Lodging & Meals)	\$80,982.93
Court Reporters	\$1,590.10
Experts / Consultants	\$74,617.25
Litigation Fund Contributions	\$148,854.18
Web Hosting Document Review	\$39,387.80
Process Server	\$695.20
Mediation	\$11,876.26
Litigation Fund Residual	(\$328.01)
<b>TOTAL EXPENSE REQUEST</b>	<b>\$454,464.20</b>

# EXHIBIT 9

**EXHIBIT 9**

*Doe et al. v. Kaiser Foundation Health Plan, Inc. et al.*  
No. 3:23-cv-02865-EMC (N.D. Cal.)

**KESSLER TOPAZ MELTZER & CHECK, LLP****LITIGATION FUND**

<b>CONTRIBUTIONS TO THE LITIGATION FUND</b>	
	<b>Amount</b>
Kessler Topaz Meltzer & Check, LLP	\$145,000.00
Carella, Byrne, Cecchi, Brody & Agnello, P.C	\$75,000.00
Interest	\$3,854.18
<b>TOTAL:</b>	<b>\$223,854.18</b>

<b>EXPENSES INCURRED BY THE LITIGATION FUND</b>	
<b>Category</b>	<b>Amount</b>
Experts / Consultants	\$125,266.25
Document Hosting / Management & Review	\$69,781.22
Court Reporters	\$85.15
Service of Process	\$799.55
Mediation	\$27,594.00
<b>TOTAL EXPENSES INCURRED:</b>	<b>\$223,526.17</b>

\* The difference between the Contributions to the Litigation Fund and the Expenses Incurred by the Litigation Fund (i.e., \$328.01) has been subtracted from Kessler Topaz Meltzer & Check, LLP's total expense request.

# EXHIBIT 10

**EXHIBIT 10**

*Doe et al. v. Kaiser Foundation Health Plan, Inc. et al.*  
No. 3:23-cv-02865-EMC (N.D. Cal.)

**Counsel's Litigation Expenses by Category**

(Amounts Below Paid By KTMC and Carella Byrne Do Not Include Litigation Fund Contributions)

<b>CATEGORY</b>	<b>KTMC</b>	<b>CARELLA BYRNE</b>	<b>LITIGATION FUND</b>	<b>TOTAL</b>
Filing Fees	\$1,403.00	\$1,284.00	—	<b>\$2,687.00</b>
Express / Overnight Mail & Postage	\$1,213.33	\$501.44	—	<b>\$1,714.77</b>
Research	\$88,236.74	\$523.40	—	<b>\$88,760.14</b>
Internal Printing & Copying Service	\$5,008.50	—	—	<b>\$5,008.50</b>
External Printing & Copying Service	\$926.92	—	—	<b>\$926.92</b>
Travel (Transportation, Lodging & Meals)	\$80,982.93	\$38,444.35	—	<b>\$119,427.28</b>
Court Reporters	\$1,590.10	—	\$85.15	<b>\$1,675.25</b>
Experts / Consultants	\$74,617.25	\$34,245.67	\$125,266.25	<b>\$234,129.17</b>
Web Hosting Document Review	\$39,387.80	—	\$69,781.22	<b>\$109,169.02</b>
Process Server	\$695.20	\$640.00	\$799.55	<b>\$2,134.75</b>
Mediation	\$11,876.26	—	\$27,594.00	<b>\$39,470.26</b>
<b>TOTAL EXPENSE REQUEST:</b>	<b>\$305,938.03</b>	<b>\$75,638.86</b>	<b>\$223,526.17</b>	<b>\$605,103.06</b>