

Exhibit 3Q

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

IN RE MERCK & CO., INC., SECURITIES
DERIVATIVE & “ERISA” LITIGATION

MDL No. 1658 (SRC)

THIS DOCUMENT RELATES TO:
THE CONSOLIDATED SECURITIES CLASS ACTION

Case No. 3:05-CV-1151 (SRC) (CLW)
Case No. 3:05-CV-2367 (SRC) (CLW)

**DECLARATION OF CHRISTOPHER A. SEEGER IN SUPPORT OF
MOTION FOR AN AWARD OF ATTORNEYS’ FEES AND REIMBURSEMENT OF
LITIGATION EXPENSES FILED ON BEHALF OF SEEGER WEISS LLP**

I, Christopher A. Seeger, declare:

1. I am a partner in the law firm of Seeger Weiss LLP. I submit this Declaration in support of our firm’s application for an award of attorneys’ fees in connection with services rendered in the Action, as well as for reimbursement of expenses incurred in connection with the Action. I have personal knowledge of the matters set forth in this Declaration and, if called upon, I could and would testify competently thereto.

2. Beginning in 2002 and continuing through the conclusion of the Vioxx products liability and third party payor litigations (in approximately 2010), I, and many other partners, associates, and professionals within Seeger Weiss, spent the bulk of their professional time focused on Vioxx-related litigation matters. The majority of that time was spent litigating the Vioxx products liability and Vioxx third party payor (TPP) litigations.

3. In that regard, Seeger Weiss maintained important and broad leadership roles in the Vioxx products liability litigation—both for the MDL and in the coordinated state court

proceedings. I served as court-appointed Co-Lead counsel in the MDL proceedings (*In re Vioxx Products Liability Litig.*, MDL No. 1657 (Judge Fallon)), and my partner, David Buchanan, served as Liaison Counsel in the New Jersey coordinated proceedings (*In re Vioxx Litigation*, N.J. Super. Ct., Atlantic County, Case No. 619 MT (Judge Higbee)). Collectively, plaintiffs' counsel in these coordinated proceedings prosecuted the injury claims of more than 50,000 separately-represented claimants. In furtherance of these efforts, the Firm's attorneys, including several partners, served on the Discovery Committee, Science Committee, Trial Committee, and Trial Package Committee for these litigations. For many Seeger Weiss attorneys, the Vioxx litigation was what they did from 2003 until the time when the litigation and settlement administration concluded.

4. In addition to Seeger Weiss's role in the products liability litigation, the Firm served as lead in the Vioxx TPP litigation. There, the Firm was at the forefront of Vioxx TPP litigation seeking reimbursement of Vioxx prescription charges paid for or reimbursed by TPPs. Seeger Weiss spearheaded the prosecution of such cases in the New Jersey state courts (well before Merck withdrew Vioxx from the market), and post-withdrawal, led the TPP litigation through the completion of the negotiated settlement with Merck.

5. During the five years that preceded the global settlement of the products liability liability litigation, Seeger Weiss was lead counsel in two products liability trials (one of which resulted in a \$47.5 million verdict for the injured plaintiff), and was co-counsel or actively supported several other trials in the MDL and related-state court actions throughout the country. More broadly, the Firm managed and hosted the electronic document repository; coordinated and led document review efforts; chaired and second chaired a number of key Merck and non-party witness depositions (including, *inter alia*, those of several defendants, *e.g.*, David Anstice, Ray

Gilmartin, Alise Reicin, and Ed Scolnick); developed several central expert witnesses that testified in both MDL and state trials; and took a leading role in the development of the products liability trial package, exhibit database, and theme grid. In the process, during this litigated phase of the products liability and third party payor litigations, Seeger Weiss expended in excess of 68,000 hours of attorney and legal professional labor for the common benefit of all claimants. (These common benefit hours expended by the Firm are in addition to the tens of thousands of attorney and legal professional labor spent in connection with case-specific products liability claimant efforts.)

6. Seeger Weiss's involvement in the securities litigation began on a parallel track in early 2004 with Milberg Weiss—well before Merck withdrew Vioxx from the market. By that time, Seeger Weiss had already been active in Vioxx litigation for a few years, having retained leading scientific experts (in epidemiology, cardiology, and pharmacology), and was already quite deep in discovery. Indeed, on the day that Vioxx was withdrawn from the market, Seeger Weiss was deposing notable Merck former employee, Lou Sherwood. At the outset, Seeger Weiss provided science and fact support in the securities litigation, assisting and supporting Milberg Weiss with the investigation and development of the amended pleadings, including plaintiffs' falsity allegations. Seeger Weiss served as designated co-counsel on the First Amended Consolidated Complaint, filed in August 2004. As the securities litigation progressed, and the products liability trials proceeded, Seeger Weiss continued to support pleading and briefing efforts, and shared publicly available knowledge and learnings with lead counsel in the securities proceedings as needs and circumstances required. Seeger Weiss primarily coordinated its efforts with and through counsel at Milberg Weiss; in later years, as insight or support was

requested from the Firm, Seeger Weiss coordinated with other Lead and Liaison counsel in the Action.

7. The Firm's billings for the Action are relatively modest, reflecting the discreet and high level contributions of partners of the Firm at various moments of significance early in the securities litigation. The schedule attached hereto as Exhibit 1 is a summary indicating the amount of time spent by attorneys and professional support staff employees of my Firm who were involved in this Action, and the lodestar calculation for those individuals based on my firm's 2016 billing rates. For personnel who are no longer employed by my Firm, the lodestar calculation is based upon the billing rates for such personnel in his or her final year of employment. The schedule was prepared from contemporaneous daily time records regularly prepared and maintained by the Firm.

8. Time expended on the Action after February 15, 2016, has not been included in this request. In addition, any time related to the application for fees and reimbursement of expenses been excluded.

9. The hourly rates for the attorneys and professional support staff in the Firm included in Exhibit 1 are the same as the regular rates charged for their services in non-contingent matters and/or which have been accepted in comparable complex litigation.

10. The total number of hours reflected in Exhibit 1 from inception through and including February 15, 2016, is 116.70. The total lodestar reflected in Exhibit 1 for that period is \$102,209.50, consisting of \$102,107.00 for attorneys' time and \$102.50 for professional support staff time. My Firm's lodestar figures are based upon the Firm's billing rates, which rates do not

include charges for expense items. Expense items are billed separately and such charges are not duplicated in the Firm's billing rates.

11. As detailed in Exhibit 2, my Firm is seeking reimbursement for a total of \$3,128.88 in expenses incurred in connection with the prosecution of this Action. The expenses incurred in this Action are reflected on the books and records of the Firm. These books and records are prepared from expense vouchers, check records and other source materials and are an accurate record of the expenses incurred.

12. With respect to the standing of my Firm, attached hereto as Exhibit 3 is a brief biography of the Firm. Reflected therein is a summary of some of Seeger Weiss's recent and notable accomplishments, as well some basic biographical information on the Firm's principals and senior attorneys.

I declare, under penalty of perjury, that the foregoing facts are true and correct. Executed on April 27, 2016.



Christopher A. Seeger

EXHIBIT 1*In Re Merck & Co. Securities, Derivative & "ERISA" Litigation*

MDL No. 1658 (SRC)

Civil Action No. 05-1151 (SRC)

Civil Action No. 05-2367 (SRC)

[This Document Relates To: The Consolidated Securities Action]

SEEGER WEISS LLP

TIME REPORT

Inception through February 15, 2016

NAME	HOURS	HOURLY RATE	LODESTAR
Partners			
Christopher A. Seeger	5.5	985	5,417.50
Stephen A. Weiss	7.0	895	6,265.00
David Buchanan	88.7	885	78,499.50
Jeffrey S. Grand	12.0	875	10,500.00
Associates			
Perpetua Mgbada	3.0	475	1,425.00
Paralegals			
Michael Wagner	0.5	205	102.50
TOTALS	116.70		\$102,209.50

EXHIBIT 2

In Re Merck & Co. Securities, Derivative & "ERISA" Litigation

MDL No. 1658 (SRC)

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SEEGER WEISS LLP

EXPENSE REPORT

CATEGORY	AMOUNT
Hand Delivery Charges	134.50
Local Transportation	7.00
Internal Copying	799.75
Outside Copying	923.17
Working Meals	1,264.46
TOTAL EXPENSES:	\$3,128.88

Exhibit 3



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Firm Biography

SEEGER WEISS LLP is one of the nation's leading plaintiffs' law firms. The Firm currently numbers approximately 20 attorneys operating out of offices in New York City; Newark, NJ; and Philadelphia, PA. It focuses on mass tort and class action litigation, with particular emphasis in the areas of products liability, pharmaceutical injury, consumer protection, environmental and toxic tort, securities fraud, antitrust, insurance, ERISA, employment, and *qui tam* litigation. The Firm is made up of experienced litigators, including former state and federal prosecutors. Seeger Weiss's reputation for leadership and innovation has resulted in its appointment to numerous plaintiffs' steering and executive committees in a variety of multidistrict litigations throughout the United States, and it regularly serves as court-appointed Liaison Counsel in New York and New Jersey federal and state courts.

The Firm's manifold accomplishments—including favorable jury verdicts for \$47.5 million in *Humeston v. Merck & Co.* (N.J. Super. Ct. Atlantic County); over \$10.5 million in *Kendall v. Hoffman-La Roche, Inc.* (N.J. Super. Ct. Atlantic County); \$11.05 million in *Owens, et al v. ContiGroup Companies, et al* (Mo. Cir. Ct., Jackson County); and \$25.16 million in *McCarrell v. Hoffman-La Roche, Inc.* (N.J. Super. Ct. Atlantic County)—earned it the distinction of being one of only 8 law firms named by the *National Law Journal* to its exclusive "Plaintiffs' Hot List," among numerous awards and recognitions bestowed upon the firm.

Mass Torts and Pharmaceutical Litigation

During the past 15 years, Seeger Weiss has emerged as one of the premier mass torts firms in the United States, particularly in the area of pharmaceutical torts. The Firm's expertise in this area has been recognized by courts throughout the U.S. which have appointed the Firm to numerous plaintiffs' steering committees in a variety of multidistrict litigations, including, among others:

Vioxx. Seeger Weiss has served at the helm of the nationwide Vioxx litigation since its inception, playing highly prominent roles in both the federal and New Jersey state court litigations against Merck & Co, the manufacturers of the prescription arthritis drug now thought to lead to an increased risk of heart attack and stroke. On April 8, 2005, the Honorable Eldon E. Fallon, who presides over the Vioxx multidistrict litigation in New Orleans, Louisiana, appointed firm partner, Christopher A. Seeger, as Co-Lead of the Plaintiffs' Steering Committee. Additionally, partner David R. Buchanan was appointed Co-Liaison counsel in the New Jersey state Vioxx litigation before the Honorable Carol E. Higbee, J.S.C. In a 2005 class certification ruling involving claims brought on behalf of all third-party payors, including health-maintenance organizations, managed-care organizations, employers and unions, challenging Merck's advertising practices and pricing policies, Judge Higbee recognized Seeger Weiss's prominence in Vioxx-litigation in noting that "there is probably no other law firm as knowledgeable about Vioxx."

In 2007, Mr. Seeger served as Lead Co-Counsel in *Humeston v. Merck & Co.* in New Jersey Superior Court, Atlantic County. There, he and other Seeger Weiss partners David R. Buchanan, Moshe Horn and Laurence Nassif obtained a \$47.5 million jury verdict for the plaintiff for injuries caused by Vioxx—as cited in the "Top 20 Personal Injury Awards of the Year (2007)" published by the *New Jersey Law Journal*.

Only months after achieving that verdict, Mr. Seeger, along with co-counsel on the Vioxx Negotiating Committee, concluded a \$4.85 billion global settlement with Merck, covering more than 45,000 personal injury claims for heart attack, sudden cardiac death, and ischemic stroke. It represents the largest "global" settlement of personal injury claims stemming from a pharmaceutical product in U.S. history.

Zyprexa. In 2004, Seeger Weiss partner Christopher Seeger was appointed by the Honorable Jack B. Weinstein of the U.S. District Court for the Eastern District of New York to serve as Liaison Counsel in the multidistrict litigation against Eli Lilly & Co. relating to the anti-psychotic drug Zyprexa. On June 7, 2005, Eli Lilly and Mr. Seeger, on behalf of the Plaintiffs' Steering Committee, announced a \$700 million settlement of over 8,000 Zyprexa claims alleging that Zyprexa caused diabetes and diabetes-related injuries. Mr. Seeger was one of the chief architects and leading negotiators of this landmark settlement. He also took a leading role in negotiating a second-round settlement of \$500 million between plaintiffs and Eli Lilly.

Accutane. In 2005, Seeger Weiss partners Christopher Seeger and Dave Buchanan were jointly named to serve on the Plaintiffs' Steering Committee in connection with consolidated litigation against New Jersey based Hoffman-LaRoche, Inc., involving the company's acne medication, Accutane. The mass tort litigation, which came before the Honorable Carole E. Higbee in Atlantic County, involved the consolidation of claims throughout the state of New

Jersey alleging severe side effects resulting from the use of Accutane, including birth defects; suicidal impulses among young adults; and inflammatory bowel disease (“IBD”), including Crohn’s disease and ulcerative colitis, a debilitating and life-altering disease with no known cure.

To date, Mr. Buchanan—who, with Seeger Weiss partner Christopher Seeger, served as liaison counsel for the New Jersey coordinated proceedings in the Accutane litigation—has served as co-trial counsel in the three cases tried in New Jersey that involved Accutane-related injuries, all of which resulted in verdicts for the Plaintiff. One, *McCarrell v. Hoffman-La Roche, Inc.*, in New Jersey Superior Court, Atlantic County, resulted in a \$25.16 million verdict for the Plaintiff, an Alabama resident who suffered IBD from using Accutane. Seeger Weiss partner Michael Rosenberg also served on the trial team in that case. Another, *Kendall v. Hoffman-La Roche, Inc.*, in the same court, resulted in a verdict for the plaintiff, a Utah woman who suffered the same ailment from using Accutane, of nearly \$10.6 million. The third, a consolidated trial for *Mace v. Hoffmann LaRoche Inc.*, *Speisman v. Hoffmann LaRoche Inc.*, and *Sager v. Hoffmann LaRoche Inc.*, garnered a \$12.9 million award from the New Jersey jury in November 2008.

Rezulin. Seeger Weiss plays a major role in products liability actions against Pfizer and Warner Lambert involving Rezulin, a prescription drug used to treat Type II diabetes. The Firm is a court-appointed member of the Executive Committee in the federal suits coordinated by the Judicial Panel on Multidistrict Litigation (“JPML”) before Judge Lewis A. Kaplan in the U.S. District Court for the Southern District of New York. The Firm is also a member of the New Jersey Rezulin Steering Committee in *In re: Rezulin Litigation*, currently pending before the Superior Court of New Jersey, Middlesex County. The Firm also successfully represented numerous individuals who commenced personal injury damage actions in various courts throughout the country, all of which claims have been resolved through confidential settlement.

Notably, in March 2003, following a six-week jury trial, the Firm achieved a \$2 million verdict against Pfizer on behalf of Concepcion Morgado, a Brooklyn resident who sustained liver injury and was hospitalized for 10 days following her Rezulin use. The case was the first and only Rezulin matter to be tried in New York and represented a watershed result in the nationwide Rezulin litigation.

Vytorin and Zetia. Seeger Weiss has taken the lead in Zetia and Vytorin litigation, negotiating a \$41.5 million settlement with Merck & Co., Inc and Schering-Plough Corporation, which resolved nationwide fraud claims that arose from the sale and marketing of the companies’ co-ventured prescription drugs. Plaintiffs contend that Merck conspired with Schering-Plough in 2003 to combine Zocor—an enormously popular statin cholesterol drug, with Zetia—another widely used non-statin cholesterol drug, under the new name Vytorin. The two companies began marketing Vytorin as more effective in reducing cholesterol than Zetia and Zocor alone, as well

as being effective in blocking arterial plaque that can cause heart attack and stroke. The lawsuits allege that the companies have known since 2006 that Vytorin was no more effective than the generic version of Zocor in blocking plaque, despite being effective in lowering LDL, or “bad” cholesterol. In failing to disclose these facts, Merck and Schering-Plough were allegedly able to cause consumers and third-party purchasers to pay significantly higher prices than the cost of equally effective alternatives available on the market.

Founding partners Christopher A. Seeger and Stephen A. Weiss served as Co-Liaison Counsel for the Plaintiffs’ Executive Committee for *In Re Vytorin/Zetia Marketing, Sales Practices and Products Liability Litigation*, the coordinated group of 140 actions against the two pharmaceutical companies, located in Newark before the Honorable Dennis M. Cavanaugh of the United States District Court of New Jersey. Seeger acted as the principal negotiator for the Plaintiffs’ Executive Committee, aided by Weiss and Seeger Weiss partner Diogenes P. Kekatos.

Noteworthy Current Pharmaceutical Mass Tort Prosecutions

Gadolinium. The Firm is at the forefront of litigation against multiple defendant manufacturers of Gadolinium-based contrast agents (“GBCAs”) used in certain diagnostic imaging procedures. In December 2006 the U. S. Food and Drug Administration (“FDA”) issued a second and stronger Public Health Advisory concerning a link between GBCAs used during Magnetic Resonance Imaging (“MRI”) and Magnetic Resonance Angiography (“MRA”) procedures, and a debilitating and potentially fatal skin disorder known as Nephrogenic Systemic Fibrosis or Nephrogenic Fibrosing Dermopathy (“NSF/NFD”). Since it released its first Public Health Advisory in June 2006, the FDA has been further investigating the apparent relationship between contrast agents containing gadolinium and NSF/NFD. As of December 2006, the FDA had received reports of 90 patients that developed NSF/NFD within 2 days to 18 months after exposure to such contrast agents.

In February 2008, the Judicial Panel on Multidistrict Litigation ordered all federal actions involving personal injuries stemming from Gadolinium-based contrast dyes centralized in the U.S. District Court for the Northern District of Ohio, before the Honorable Dan Aaron Polster, who has appointed Seeger Weiss partner Christopher Seeger to serve on the Plaintiffs’ Steering Committee and Executive Committee in the multidistrict litigation against multiple defendant manufacturers of GBCAs used in MRI and MRA diagnostic imaging procedures. Partner Dave Buchanan serves as court-appointed Federal-State Liaison Counsel for the litigation. Also in 2008, Seeger Weiss partners Christopher Seeger and Dave Buchanan were appointed Liaison Counsel in connection with the consolidated mass tort litigation against manufacturers of GBCAs in New Jersey, before the Honorable Jamie D. Happs of the Superior Court of New Jersey, Middlesex County.

Fosamax. In August 2006, the JPML ordered all federal litigation involving Merck & Co.’s prescription medication Fosamax—used in the treatment of osteoporosis but found to have caused a number of adverse effects, in particular, osteonecrosis (death of bone tissue)—centralized in the U.S. District Court for Southern District of New York (Manhattan), before the Honorable John F. Keenan. Seeger Weiss partner Christopher A. Seeger has been appointed Plaintiffs’ Liaison Counsel, and also served on the Executive Committee of the Plaintiffs’ Steering Committee in the multidistrict litigation.

Mirena. In April 2013, the JPML ordered all federal litigation involving Bayer’s intrauterine (“IUD”) device marketed under the brand name Mirena—an IUD containing a hormone, levonorgestrel, designed to be implanted in the uterus for as long as five years—centralized in the U.S. District Court for Southern District of New York (in White Plains, New York), before the Honorable Cathy Seibel. Meanwhile, many hundreds of lawsuits in the New Jersey state courts have been centralized before the Honorable Brian R. Martinotti in Bergen County. The Plaintiffs allege that Bayer failed to warn about the longer-term risks of migration of the Mirena device and perforation of the user’s uterus, having warned about the risk of migration and perforation only at the time of device’s insertion. Other complications that Bayer failed to warn about include migration and embedment of the device in the uterus. Seeger Weiss partners Diogenes P. Kekatos and David R. Buchanan have been appointed as Plaintiffs’ Liaison Counsel in the federal multidistrict and New Jersey state multicounty Mirena litigation, respectively.

Yaz, Yasmin, and Ocella. In November 2009, Seeger Weiss partner Christopher A. Seeger was named to the Plaintiff’s Steering Committee in the *Yasmin and YAZ (Drospirenone) Marketing, Sales Practices and Products Liability Litigation* (MDL No. 2100) by Judge David R. Herndon, United States District Court, Southern District of Illinois. More than a hundred lawsuits have been filed against Bayer Healthcare, the pharmaceutical giant that produces Yaz and Yasmin. This litigation, which is expected to include hundreds of women asserting severe health complications resulting from taking these birth control pills, was centralized in the Southern District of Illinois in October 2009 by order of the United States Judicial Panel on Multidistrict Litigation.

Actos. In November 2012, founding partner Christopher A. Seeger was appointed to the Multidistrict Litigation (MDL) Actos Product Liability Plaintiffs’ Steering Committee. In June 2011, a European study found that among a group of 155,000 patients, one fifth of those who developed bladder cancer had been taking the drug Actos. However, the health warnings that accompany the prescription fail to alert users of this risk. The governments of France and Germany have now banned the type-2 diabetes medication, and the FDA has issued warnings to American doctors who prescribe the drug. Takeda Pharmaceutical Co., the makers of Actos and Asia’s largest pharmaceutical company, may face up to as many as 10,000 claims.

Other Pharmaceutical and Medical Device Prosecutions

Depuy Orthopaedics, Inc ASR Hip Implant Products. Seeger Weiss partner Christopher A. Seeger was named to the Plaintiffs' Executive Committee in the *In Re: Depuy Orthopaedics, Inc ASR Hip Implant Products* (MDL No. 2197) by Judge David A. Katz, United States District Court, Northern District of Ohio in January 2011. More than a hundred lawsuits have been filed against Johnson & Johnson, the pharmaceutical giant that is also the parent company of Depuy Orthopaedics, Inc. In August 2010, Johnson & Johnson and its medical device subsidiary, DePuy Orthopaedics, recalled two acetyabular cups hip replacement systems because of their high rate of failures, after a study from the National Joint Registry of England and Wales showed that 1 out of every 8 patients (12%-13%) who had the devices had to undergo revision surgery within five years of receiving it. By the time of the recall, more than 93,000 patients worldwide were fitted with an ASR hip implant. Roughly a third of those were patients in the United States. This litigation was centralized in the North District of Ohio in December 2010 by order of the United States Judicial Panel on Multidistrict Litigation.

PPA. Seeger Weiss remains actively involved in litigation against numerous manufacturers of pharmaceutical products containing PPA (phenylpropanolamine), until 2000 an ingredient in virtually every over-the-counter cold medication and many appetite suppressant products. The Firm serves on the Plaintiffs' Steering Committee in the federal suits consolidated by the JPML in the U.S. District Court for the Western District of Washington, and as the court-appointed Liaison Counsel in the New York PPA actions coordinated before Judge Helen Freedman. In 2003, the Firm was one of the lead negotiators of a nationwide settlement agreement with the manufacturers of Dexatrim, a leading over-the-counter appetite suppressant that until 2000 contained PPA. The settlement covers the claims of all individuals who suffered stroke-related injuries resulting from the ingestion of PPA-containing Dexatrim.

Propulsid. Seeger Weiss held national leadership positions in pharmaceutical products liability litigation against Johnson & Johnson and Janssen Pharmaceutica, Inc., the manufacturers of Propulsid—a prescription drug used to treat nocturnal heartburn. Seeger Weiss LLP was a member of the court-appointed Plaintiffs' Steering Committees in both the federal litigation, which have been consolidated by the JPML in the Eastern District of Louisiana, and in the statewide consolidated actions in Middlesex County, New Jersey. The Firm served as counsel to numerous individuals who have commenced personal injury damage actions in various courts throughout the country.

Guidant and Medtronic Heart Device Litigations. Seeger Weiss served as a court-appointed member of the Plaintiffs' Steering Committee in multidistrict litigation in the U.S. District Court for the District of Minnesota against Medtronic and Guidant involving defective

heart defibrillators and pacemakers. The heart devices at issue are surgically implanted in persons who have a type of heart disease that creates the risk of a life-threatening heart arrhythmia (abnormal rhythm). Both Medtronic and Guidant had disclosed defects in certain of their defibrillators that caused the devices to fail without warning. The Firm filed one of the first actions in the U.S. against Guidant on behalf of patients.

Other Pharmaceutical Products. In addition to aforementioned pharmaceutical, the Firm serves or has served as counsel in numerous lawsuits in state and federal courts throughout the country brought by individuals who have suffered personal injury or death resulting from the use of various pharmaceutical or medical device products, including **Baycol, Celebrex, Elidel, Ephedra, Fen-Phen, Kugel Mesh** hernia patches, **Lamisil, Neurontin, OxyContin, Ortho Evra** birth control patches, **Protopic, Serevent, Serzone,** and **Sporanox.**

Consumer Litigation

Seeger Weiss LLP has achieved notable recoveries and currently holds leadership roles in many major consumer class action litigations throughout the country. Among the consumer class action litigations in which Seeger Weiss LLP plays or has played a major role are, in alphabetical order:

In re AOL Version 5.0 Software Litigation: Pending in the United States District Court for the Southern District of Florida pursuant to a JPML consolidation order. Plaintiffs seek to recover damages for violations of federal antitrust laws, as well as for damage inflicted on their computers as a result of installing the software. Seeger Weiss LLP is a member of the proposed Plaintiffs' Steering Committee.

In re Armstrong World Industries, Inc.: \$7 million settlement achieved in the United States Bankruptcy Court for the District of Delaware after transfer. The Firm represented the State of Connecticut, one of numerous property damage claimants which sought injunctive relief and monetary damages resulting from the presence of Armstrong-manufactured asbestos-containing resilient floor tile and sheet vinyl in residences and buildings throughout the United States.

In re Bridgestone/Firestone, Inc. ATX, ATX II and Wilderness Tires Products Liability Litigation: Seeger Weiss represented Firestone tire owners and purchasers of Ford Explorers equipped with certain models of Firestone tires. Plaintiffs sought damages flowing from design defects that resulted in severe, life-threatening accidents. Specifically, the consumer class sought a tire recall, recovery for the cost of tire replacement, and recovery for the diminution in the value of Ford Explorer vehicles resulting from the subject design defects. Following the filing of a number of federal class actions, the litigations were transferred for pre-trial proceedings to the

Federal court in Indianapolis. In those coordinated actions, which the JPML had centralized before the Honorable Sarah Evans Barker of the U.S. District Court for the Southern District of Indiana (Indianapolis), Seeger Weiss served as a member of the Plaintiffs' Law Committee. Following extensive discovery and motion practice, Plaintiffs achieved a favorable nationwide settlement of their class claims.

Ecker v. Ford: In 2008, the Superior Court of California granted final approval to the class action settlement in this litigation. The settlement provides full cash reimbursement for qualifying parts and labor for all California owners and lessees of Ford Focus vehicles who experienced premature front brake wear, including reimbursement for brake pads and rotors. The court had earlier appointed the Firm to act as co-lead counsel in the litigation. Seeger Weiss partner Christopher Seeger and associate Scott Alan George were primarily responsible for the litigation.

IBM Deskstar 75GXP Litigation: The Firm represents statewide classes of purchasers of an IBM manufactured hard disk drive, known as the Deskstar 75GXP, in 9 different state and federal courts throughout the country. The actions include claims for violations of consumer protection statutes and breach of warranty resulting from IBM's commercial practices in the marketing and sale of hard disk drives that it knew were inherently unreliable and that it knew would fail at epidemically high rates. In August 2003, Judge Ronald Sabraw issued a tentative ruling certifying a California statewide class of purchasers of the 75GXP in *Michael Granito v. IBM*, pending in California Superior Court in Alameda County. In addition to California, cases are also pending in New Jersey, New York, Florida, Illinois, Connecticut, Ohio, Michigan, and Pennsylvania. The Firm serves as co-lead counsel in these cases.

In re Industrial Life Insurance Litigation: The Firm represents purchasers of industrial life insurance policies who were charged race-based and discriminatory rates. The Firm serves on the Plaintiffs' Steering Committee in connection with the several cases that have been sent to the Eastern District of Louisiana by the JPML.

Lester v. Percudani: Pending in the U.S. District Court for the Middle District of Pennsylvania. The Firm represents over 170 first-time homeowners who purchased homes at inflated valuations based upon fraudulent appraisals and in violation of federal mortgage lending guidelines. The action includes federal civil RICO and state consumer fraud claims against a group of RICO co-conspirators. In 2008, the district court denied motions for partial summary judgment that had been filed by two of the Defendants (Chase Home Finance LLC and one of its officers), and later denied their motion for reconsideration of that ruling. Following those rulings, the parties entered court-approved mediation, which recently resulted in a settlement that will provide millions of dollars' worth of relief to the aggrieved homeowners, including substantial mortgage rate reductions.

In re MCI Non-Subscriber Telephone Rates Litigation: \$88 million class settlement completed in the United States District Court for the Southern District of Illinois following a transfer to that district by the JPML. Final approval of the class settlement was entered in March 2001 resolving claims brought by class members to recover overcharges arising from MCI's improper imposition of non-subscriber rates and surcharges on certain of its customers. Seeger Weiss LLP was a member of the Plaintiffs' Steering Committee and served as Chair of the Discovery Committee.

Sims v. Allstate and Dorries v. State Farm: Pending in Illinois state court. The Firm serves as co-counsel in these separate class actions, representing automobile policyholders seeking to recover payment for the diminution in value of their vehicles following accidents in which certain types of body damage was sustained. These cases were certified as class actions in December 2000.

Sternberg v. Apple Computer, Inc. and Gordon v. Apple Computer, Inc.: Nationwide settlement completed in California state court. Plaintiffs recovered class-wide damages resulting from Apple's deceptive advertisements for its iMac and G4 brand computers—specifically the functionality of the DVD playback feature. Seeger Weiss LLP served as co-lead counsel for the classes.

Tennille v. The Western Union Company. Seeger Weiss served as co-Class Counsel in consolidated nationwide class action suits filed in the U.S. District Court for the District of Colorado, alleging that Western Union, in violation of consumer fraud laws, wrongly failed to inform customers who purchased money transfers if a money transfer failed to go through to the intend recipient and that it sat on the funds for years, earning income and administrative fees off them. In many cases, the funds eventually escheated to state governments. Following years of extensive discovery and motion practice, including Western Union's unsuccessful bid to compel arbitration of the claims, in November 2012, the parties reached a settlement, brokered by the Tenth Circuit's chief mediator after Western Union's appeal of the district court's denial of its motion to compel arbitration. Under the settlement, Western Union agreed to the establishment of a cash fund (valued at over \$135 million at the time of final approval of the settlement) for the return to class members of funds not already escheated to states; the payment of interest to those class members whose wire transfer funds had already escheated to a state government; the formation of a process for assisting class members in securing the return of their funds if they have already escheated; the creation of a 7-1/2 year notice plan, whereby Western Union is required to inform customers within 60 days if their wire transfers are unsuccessful; and the undertaking of robust efforts to update customers' stale contact information. The settlement received final approval from U.S. District Judge John L. Kane in June 2013.

Truth-in-Lending Act Litigation: The Firm served as co-counsel in several dozen proposed nationwide class actions that were filed in 2007 and 2008 in the various federal courts in California against banks and other mortgage lenders, asserting claims under the federal Truth-in-Lending Act (“TILA”), and California consumer fraud statutes and common law. These actions sought recovery of damages as well as equitable relief, including rescission, in connection with highly-deceptive so-called Option Adjustable Rate Mortgage (“ARM”) loans. The loan documents given to Option ARM borrowers failed to adequately disclose to borrowers that the initial “teaser” interest rate of 1%-3% would last only 30 days and that, after that time, the minimum payment specified in the payment schedule would be insufficient to cover even monthly interest charges, let alone loan principal. As a result, borrowers who secured these deceptive loans lost equity in their homes and were no longer able to secure the refinancing necessary to get out from under these loans. In several of the lawsuits, the courts sustained the Plaintiffs’ claims against the defendant lenders’ dispositive motions, and several cases resulted in the certification of classes. A number of the suits culminated in settlements providing cash and/or other relief to borrowers. Seeger Weiss partners Christopher A. Seeger, Jonathan Shub, and Diogenes P. Kekatos all played a substantial role in these hard-fought litigations.

In re Vonage Marketing and Sales Practice Litigation: Nationwide settlement proposed in the U.S. District Court for the District of New Jersey. The lawsuit involves Vonage’s promotional “one month free” and “money back guarantee” offers and application of certain charges (disconnection, cancellation and termination fees, and subscription fees despite requests for cancellation), which allegedly violated certain laws. Vonage agreed to pay \$4.75 million to fund the settlement, which offers eligible class members reimbursements for certain payments made by Vonage subscribers.

Workers’ Compensation Litigation: The Firm served as co-counsel in proposed class actions brought in thirteen different states against most of the country’s largest workers’ compensation insurance carriers. The actions sought to recover damages on behalf of numerous corporate entities resulting from the inappropriate imposition of “residual market loads.” In 2006, these cases settled for an aggregate amount of \$25 million.

In re Zynga Privacy Litigation: Pending in the U.S. District Court for the Northern District of California. The suit accuses Zynga, a Facebook partner and game developer, of deliberately sharing personal data of Facebook users. Zynga breached their own privacy policy, as well as industry standards, which that it "does not provide any Personally Identifiable Information to third-party advertising companies." Partner Jonathan Shub was named Interim Co-Lead Class Counsel in December 2010 by Judge James Ware, United States District Court, Northern District of California.

Securities Litigation

Seeger Weiss has emerged as a leading innovator in the realm of securities litigation, with special emphasis on IPO litigation, auction rate securities, securities fraud class action, and, recently, the Bernard Madoff Ponzi scheme. The Firm brought action against some of the largest financial entities in the world, including Goldman Sachs, Morgan Stanley, Credit Suisse, JPMorgan Chase, Bank of America and Merrill Lynch.

IPO Litigation

In re Initial Public Offering Securities Litigation is one of the largest and most significant coordinated securities fraud prosecutions in United States history. In this coordinated action, Seeger Weiss serves on the Plaintiffs' Steering Committee and as Co-Chair of the Plaintiffs' Legal Committee. The litigation consists of 310 class actions involving IPOs marketed between 1998 and 2000. The defendants include 310 individual companies and 55 investment bank underwriters, which includes Wall Street's largest and most well-known investment houses, including Goldman Sachs, Morgan Stanley, and Credit Suisse. The class actions allege that the IPOs were manipulated by the issuers and investment banks to artificially inflate the market price of the securities of those companies by inducing customers to engage in aftermarket "tie-in" agreements in exchange for IPO allocations. The cases further allege that the investment banks extracted significant undisclosed compensation from their customers in exchange for giving them the IPO allocations. The actions are coordinated before Judge Shira A. Scheindlin in the U.S. District Court for the Southern District of New York (Manhattan).

In connection with these actions, the Firm was instrumental in defeating a recusal motion brought by certain of the underwriter-defendants in 2001, and was the principal author of the electronic data preservation protocol that was entered by Judge Scheindlin in the litigation. The Firm has been extensively involved in all phases of the litigation, which recently entered a new phase of class certification proceedings following the U.S. Court of Appeals' 2007 reversal of Judge Scheindlin's certification of six test classes.

Auction Rate Securities

Seeger Weiss is part of a consortium of law firms that have taken a leading role in bringing actions against the broker-dealers involved in the auction rate securities market's collapse. Seeger Weiss has sued UBS, DeutscheBank, Merrill Lynch, Wachovia, TD Ameritrade, Morgan Stanley, JPMorgan Chase, E*Trade, Raymond James, Wells Fargo, Oppenheimer, Bank of America and Royal Bank of Canada, alleging that they knew, but failed to disclose material facts about the auction rates market and the securities they sold to their investors, including that the securities were not cash alternatives, like money market funds but, rather, were complex, long-term financial instruments with 30-year or longer maturity dates; and that they were only liquid at the time of sale because the broker-dealers were artificially supporting and manipulating the auction market to maintain the appearance of liquidity and stability. Indeed, the broker-dealers simultaneously withdrew their support of the auction rate securities market on the same day in February 2008, resulting in its collapse. One *New York Times* reporter has referred to the collapse of the auction rates market as a "hostage crisis," in which thousands of investors, including senior citizens, have hundreds of billions of dollars in investments that they cannot access despite having been told that they were liquid investments that were as good as cash.

The Honorable Shira A. Scheindlin of the U.S. District Court for the Southern District of New York (Manhattan) has appointed Seeger Weiss to serve as Liaison Counsel in *Waldman v. Wachovia*, No. 08 Civ. 2913 (SAS) (S.D.N.Y.). Seeger Weiss also was appointed as Liaison Counsel in *Chandler v. UBS AG*, No. 08 Civ. 2697 (SAS) (LMM) (S.D.N.Y.); *Humphrys v. TD Ameritrade*, No. 08 Civ. 2912 (PAC) (S.D.N.Y.); and *Ciplet v. JPMorgan Chase & Co.*, 08 Civ. 4580 (RMB) (S.D.N.Y.). Additionally, counsel with whom Seeger Weiss is working have been appointed Lead Counsel in these and several other cases against the broker-dealers.

Securities Fraud Class Actions

The Firm holds leadership roles in a variety of national securities class action litigations. For example, Seeger Weiss LLP served as lead counsel in an action against *ATEC Group, Inc.*, in which the Firm recovered \$1.7 million for the class in the United States District Court for the Eastern District of New York. Additionally, Seeger Weiss LLP serves as lead counsel in an action against *The Miix Group*, a medical malpractice insurance carrier based in New Jersey, and several of its former and current directors and officers which is pending in the District of New Jersey, and chaired the Executive Committee in a derivative action against *Legato Systems, Inc.* in California.

The Firm also represents or has represented shareholders in a variety of securities litigations, including those against *ATEC Group* (E.D.N.Y.); *Axonyx* (S.D.N.Y.); *Bell South* (N.D. Ga.); *Bradley Pharmaceutical* (D.N.J.); *Broadcom Corp.* (C.D. Ca.); *Buca, Inc.* (D.

Minn.); *Cryo-Cell International, Inc.* (M.D. Fl.); *eConnect, Inc.* (C.D. Ca.); *FirstEnergy Corp.* (N.D. Ohio); *Friedman, Billings, Ramsey Group* (S.D.N.Y.); *Gander Mountain* (D. Minn.); *Genta* (D.N.J.); officers and directors of *Global Crossing* (C.D. Ca.); *Grand Court Lifestyles, Inc.* (D.N.J.); *Impath* (S.D.N.Y.); *IT Group Securities* (W.D. Pa.); *Mattel, Inc.* (C.D. Ca.); *Matrixx Initiatives* (D. Ariz.); *MBNA* (D. Del.); *MIIX Group* (D.N.J.); *Molson Coors Brewing Company* (D. Del.); *Mutual Benefits Corp.* (S.D. Fla.); *New Era of Networks, Inc.* (M.D.N.C.); *Nuance Communications* (N.D. Ca.); *NVE Corporation* (D. Minn.); *Omnivision Technologies, Inc.* (N.D. Ca.); *Par Pharmaceuticals* (D.N.J.); *Pixelplus, Co.* (S.D.N.Y.); *Procter & Gamble Co.* (S.D. Ohio); *Priceline.com* (D. Conn.); *Purchase Pro* (S.D.N.Y.); *Quintiles Transnational* (D. Colo.); *Read Rite Corporation* (N.D. Ca.); *Sagent Technology* (N.D. Ca.); *Sina Corporation* (S.D.N.Y.); *The Singing Machine, Inc.* (S.D. Fl.); *Terayon, Inc.* (C.D. Ca.); and *Tesoro Petroleum Corp.* (E.D. Tex); *Viisage Technology, Inc.* (D. Mass.), among others.

Madoff Investment Securities Litigation

Seeger Weiss LLP has moved to the forefront of litigation against Bernard L. Madoff Investment Securities, the engine of Madoff's \$50 billion Ponzi scheme, and has been retained to represent more than \$500 million in claims from defrauded shareholders around the world. Madoff's brand of deception, though similar to a pyramid scheme, proved far more insidious because it relied Madoff's good standing and the fundamental trust the trading community placed in his abilities. Investors were lead to believe that their investments would be handled competently by Madoff and that their returns would be produced through sound investments. Thousands of investors and institutions have been defrauded by Madoff and his firm.

Seeger Weiss, along with co-counsel from Milberg LLP, filed a petition in April 2009 that, if granted, could make Madoff's personal assets available for investors to recover a portion of their investments. The petition was filed soon after Judge Louis Stanton reversed an earlier decision that blocked that option. The SEC and the prosecution maintained that nearly all of Madoff's personal assets were linked to his financial crimes, and personal bankruptcy could delay recovery by victims of his Ponzi scheme, but Judge Stanton disagreed, and reversed the prior holding.

General Complex Class Action Litigation

Seeger Weiss has long excelled at general complex class action litigation, having achieved major victories in the past and working on several important class action cases in the present, against large agricultural and pharmaceutical corporations.

Bayer CropScience Rice Contamination MDL. The Firm served as a member of the court-appointed Plaintiffs' Executive Committee in this MDL brought on behalf of national rice-

growers who sought to recover damages against Bayer CropScience and numerous parents and affiliates to the value of their rice crops resulting from contamination by LLRICE 601 and LLRICE 604, varieties of long-grain rice that have been genetically modified to produce rice crops resistant to glufosinate—the active ingredient in Liberty[®] Herbicide, another Bayer product. This “glufosinate-tolerant” trait allows growers to spray Liberty[®] herbicide over the entire crop, killing all weeds without risking any damage to the rice crop. Following revelations in August 2006 and again in March 2007 that U.S. rice crops had been found to be contaminated with these varieties (which, at the time, had not been approved for commercial use), the world’s leading importers of American rice, including the European Union, Japan, and South Korea, quickly announced embargoes of U.S. rice, triggering sharp declines in the market price of U.S. rice. The JPML centralized these actions, and others similar, before the Honorable Catherine D. Perry of the U.S. District Court for the Eastern District of Missouri (St. Louis). Following the district court’s denial of class certification, the cases proceeded to completion of discovery and trial. Following multiple bellwether trials before Judge Perry, both resulting in significant victories for the Plaintiffs, the parties entered into a global settlement totaling \$750 million.

In re “StarLink” Corn Products Litigation. Similar to the rice contamination litigation against the Bayer companies, this litigation was centralized by the JPML in the U.S. District Court for the Northern District of Illinois, Eastern Division (Chicago). The U.S. Environmental Protection Agency had licensed “StarLink” brand corn—which had been genetically-modified to create its own insecticidal protein, making it resistant to various corn pests—only for the growing of corn used for animal feed and industrial purposes (such as the growing of corn for manufacturing ethanol), was found to have entered the U.S. food chain. The news swiftly led to Japan and other major overseas buyers of U.S. corn placing embargoes on American corn, and the resulting collapse of the export market for U.S. corn and a sharp decline in the market price of U.S. corn. The Firm was one of four court-appointed co-lead counsel for a class of corn farmers in various corn-belt states against Aventis CropScience USA—the developer of StarLink corn seed (which was later purchased by Bayer AG and became Bayer CropScience, the developer of the genetically-modified rice seeds that are the sources of the rice contamination litigation in which the Firm is currently involved)—and Garst Seed Company, the principal licensee and distributor of the corn seed. In the actions, the corn growers sought damages representing the loss in value of their corn crops due to the improper marketing, handling, and distribution of StarLink corn. In April 2003, following much discovery and the denial of the Defendants’ motion to dismiss the Plaintiffs’ claims, U.S. District Judge James B. Moran gave final approval to a \$110 million nationwide settlement of the class claims.

OxyContin Third-Party Payor Litigation. Seeger Weiss has been appointed co-lead counsel in a proposed class action pending in the U.S. District Court for the Southern District of New York (Manhattan) before the Honorable John G. Koeltl. The litigation against the drug’s maker, Purdue Pharma LLP, involves the marketing and promotion of OxyContin. In 2007,

Purdue pled guilty to federal violations of misbranding of OxyContin, for which it was fined over \$600 million in criminal and civil penalties. The Firm represents insurance providers and other “third-party payors,” including self-funded health plans, which have purchased, reimbursed, or otherwise paid for OxyContin for their plan members or participants. The Plaintiffs assert violations of federal RICO and state consumer fraud statutes. Specifically, they allege that, as a result of Defendants’ fraudulent over-promotion and off-label promotion of OxyContin, members of the class paid a much higher price, for many more prescriptions, than they would have absent Defendants’ fraudulent over-promotion. After discovery, spirited negotiations, and briefing and argument on Purdue’s motion to dismiss the complaint, Seeger Weiss secured a \$20 million settlement, which received preliminary approval from the district court in December 2008. A final approval (fairness) hearing is scheduled for May 15, 2009.

Environmental and Toxic Tort Litigation

Seeger Weiss has brought several environmental and toxic tort cases on behalf of homeowners, small landowners and farmers who have suffered from environmental damage and degradation.

Factory Hog and Poultry Farm Environmental Litigation. The Firm is involved in the prosecution of various environmental and common law claims against several of the nation’s largest industrial hog and poultry farm operators. These cases, pending in various jurisdictions throughout the country, were brought on behalf of riparian property owners and other residents in the vicinity of factory hog and poultry farms who have suffered from atmospheric degradation caused by the illegal discharge of harmful toxins and other pollutants contained in the enormous quantities of hog and poultry feces and other wastes produced by the industrial farmer defendants. The Firm serves as co-lead counsel in several of these actions. For example, the Firm serves as court-appointed co-lead counsel in an action pending in the state District Court of Mayes County, Oklahoma pertaining to environmental damages to the Grand Lake O’Cherokees caused by the disposal of massive quantities of chicken litter by the operations of various major poultry integrators and their contract growers. In that action, the Firm achieved the certification of two classes of owners of property around the 44,000-acre lake after a three-day hearing by the District Court, and that ruling was only narrowly overturned by the Oklahoma appellate courts during nearly two and one-half years of appeals. The Firm continues to pursue these claims.

Hog Odor Nuisance Litigation. In September 2006, following a three-week trial in which Firm partner, Stephen A. Weiss, served as co-lead trial counsel, a state court jury sitting in Jackson County, Missouri returned a \$4.5 million combined verdict against industrial hog producers Premium Standard Farms, Inc. and ContiGroup Companies, Inc. in favor of six neighbors of the Defendants’ vast farm operations in northern Missouri. In March 2010, a group of fifteen neighbors brought Premium Standard Farms before the state court again, alleging that

the overpowering hog odors had not abated since the original trial. A Jackson County jury awarded the plaintiffs an \$11.05 million verdict. This verdict is the largest monetary award against a hog farm in an odor nuisance case. Following these verdicts, Mr. Weiss served as lead negotiator of a global settlement that resolved approximately 300 related claims against these Defendants on a confidential basis.

Lead Poisoning Litigation. The Firm represented families and property owners living within Tar Creek, one of the nation's most notorious hazardous waste sites, situated within the former Picher Mining Field in Northeast Oklahoma. The site has ranked consistently near the top of EPA's National Priorities List for over a decade. Seeger Weiss is pursuing two types of cases on behalf of the residents: claims on behalf of seven minor children who have irreversible brain damage as a result of exposure to the lead left behind by the mining companies; and a prospective class of residents whose properties have been devalued and who have been exposed to this toxic mining waste.

Chinese-Manufactured Drywall. Seeger Weiss is currently pursuing action against Chinese manufacturers of contaminated drywall, which is reported to contain high levels of hydrogen sulfides, compounds that when exposed to prolonged heat or humidity, release sulfur gasses resulting in terrible odors, metal corrosion, and physical injuries. Christopher A. Seeger was named to the Plaintiff's Steering Committee in the Chinese-Manufactured Drywall Products Liability Litigation (MDL No. 2047) by Judge Eldon E. Fallon, United States District Court, Eastern District of Louisiana. This litigation, which includes thousands of claimants asserting property damage and personal injury claims, was centralized in the Eastern District of Louisiana in June 2009 by order of the United States Judicial Panel on Multidistrict Litigation.

Mr. Seeger tried the first defective Chinese-manufactured drywall case in the country, resulting in a \$2.6 million verdict for seven Virginia families. Mr. Seeger also tried the second bellwether case, which determined whether manufacturers were responsible for damages the drywall's toxic fumes cause to plumbing, electronics, and appliances, securing a \$164,049 judgment for the Hernandez family.

In October, Mr. Seeger was a part of a negotiating team that obtained a breakthrough settlement to remediate homes affected by Chinese drywall. The agreement was reached with several key defendants including Knauf Plasterboard Tianjin (KPT), builders, drywall suppliers and their insurers, and other Knauf entities, and totaled over \$800 million in recoveries

Asbestos Litigation

Seeger Weiss handles numerous lawsuits seeking compensation for victims of asbestos and mesothelioma and has recovered millions of dollars for mesothelioma victims nationwide. These cases include a \$3.1 million settlement on behalf of an auto mechanic and Navy veteran who was diagnosed with mesothelioma at age 61, and a \$2 million settlement on behalf of an 80-year-old California man who was diagnosed with mesothelioma after having worked on shipyards in California and across the country.

Fair Labor Standards Act Litigation

Seeger Weiss LLP is engaged in a wide variety of Fair Labor Standards Act (“FLSA”) litigation matters representing aggrieved employees in courts throughout the country. The following are examples of such FLSA actions in which the Firm is involved:

Seeger Weiss served as lead counsel in an action—titled *Schaefer-LaRose v. Eli Lilly & Co.*, which was filed in November 2006 and transferred to the U.S. District Court for the Southern District of Indiana—charging that Eli Lilly & Co. had a common practice of refusing to pay overtime compensation to its pharmaceutical representatives—including Sales Representatives, Senior Sales Representatives, Executive Sales Representatives, Senior Executive Sales Representatives, and those with similar job descriptions and duties—in violation of the federal FLSA. The plaintiffs, Lilly employees who promoted or detailed pharmaceutical products to medical professionals, alleged that Lilly unlawfully characterized its employees as exempt in order to deprive them of overtime pay. In February 2008, the court approved Plaintiffs’ motion to conditionally certify the case as a collective action—the FLSA equivalent of a class action. The class consisted of approximately 400 current and former pharmaceutical representatives employed by Lilly across America.

Seeger Weiss was also co-counsel in a similar federal collective action lawsuit charging that Pfizer Inc. had adopted a common practice of refusing to pay overtime compensation to its pharmaceutical representatives—including Professional Healthcare Representatives, Therapeutic Specialty Representatives, Institutional Healthcare Representatives, Specialty Healthcare Representatives, Specialty Representative, and Sales Representatives—in violation of the FLSA. That action, *Coultrip v. Pfizer Inc.*, was filed in October 2006 in the U.S. District Court for Southern District of New York. In August 2008, that court granted Plaintiffs’ motion to certify the case as a FLSA collective action.

The FLSA litigations against the various drug-makers were extremely hard fought and led to a split among the circuit courts of appeals, with the Seventh Circuit affirming the district court’s grant of summary judgment in favor of Eli Lilly and the Ninth Circuit similarly holding

in favor of defendant SmithKline Beecham, while the Second Circuit held in favor of the plaintiffs in a cognate action brought against Novartis. The claims wound their way up to the U.S. Supreme Court, where a sharply-divided Court affirmed the Ninth Circuit in a 5-4 decision in June 2012. Seeger Weiss partner Stephen A. Weiss and Counsel James A. O'Brien III (who argued the plaintiffs' appeal in the Seventh Circuit) spearheaded the litigation for Seeger Weiss.

Pension and ERISA Litigation

Seeger Weiss has represented thousands of clients whose employers recklessly tampered with their retirement benefits.

Schol v. Bakery and Confectionary Union and Industry Int'l Pension Fund. Seeger Weiss represented eight former union employees of the Entemann's Bakery in Bay Shore, New York and two from the now-shuttered Keebler Food Co. plant in Denver, in a class action lawsuit filed against the Bakery and Confectionary Union and Industry International Pension Fund. Many of these and other union workers accepted "buy-out" offers from the company as it downsized its personnel in recent years or accepted management positions, based on the understanding and expectation that they would qualify for a full pension under alternative formulas known as Plan G and Plan C, or more commonly the "Golden 80" and "Golden 90" options, respectively, whereby pension plan participants could qualify for a full pension if their age and combined years of service added up to 80 and 90, respectively. But as of July 1, 2010, Pension Plan participants not already eligible for their full pension under the Golden 80 and 90 formulas lost their right to qualify for those pensions if they were no longer in working in covered (unionized) employment. The result of this amendment was that participants could qualify for a full pension only at age 65 and the only early retirement pension available to them was a reduced benefit that was as much as 60% lower than the Golden 80 and 90 pensions. The *Schol* action—the first one of several filed in the country to challenge the pension plan amendment—was filed in the U.S. District Court for the Eastern District of New York and subsequently transferred to the Southern District of New York (in White Plains, New York), where it was consolidated with a similar action, ***Alcantara v. Bakery and Confectionary Union and Industry Int'l Pension Fund.*** In June 2012, Judge Vincent L. Briccetti granted Plaintiffs' motion for judgment on the pleadings, agreeing with Plaintiffs that the Pension Plan's 2010 amendment violated ERISA's prohibition against the cutback of accrued pension benefits. Judge Briccetti agreed that the pension Plaintiffs had been promised and were earning credits toward was an accrued benefit, and could not be reduced merely because they had not already reached the required number of total credits of age plus years of service before last July 1, 2010. In May 2014, the U.S. Court of Appeals for the Second Circuit affirmed Judge Briccetti's decision in a published opinion, ***Alcantara v. Bakery & Confectionery Union & Indus. Int'l Pension Fund Pension Plan, 751 F.3d 71 (2d Cir. 2014).*** The victory secured by Seeger Weiss and its co-counsel has benefitted over 540 Pension Plan participants. The case was successfully prosecuted by Seeger Weiss partner Diogenes P. Kekatos .

In re Delta Air Lines Inc. Seeger Weiss served as Lead Counsel in a nationwide ERISA multidistrict litigation centralized by the JPML in the federal court in Atlanta, Georgia before the

Honorable Julie E. Carnes. The Firm represented active and retired Delta Air Lines pilots challenging various company pension plan amendments and practices that had caused them to forfeit accrued and vested pension benefits. Plaintiffs challenged, among other things, the methodology employed by Delta in calculating and paying lump sums of pension benefits to pilots, the company's retroactive freeze of a benefit formula previously pegged to increases in investment performance, and automatic reductions of pension benefits of married retirees hired before 1972. In September 2005, the federal court in Atlanta granted final approval to a class action settlement providing for payment of \$16 million in cash to certain retired Delta pilots hired before 1972 or their spouses or beneficiaries and 1 million stock purchase warrants to lump sum pension benefits recipients. The settlement represented a significant recovery in light of Delta Air Lines' rapidly-deteriorating financial plight, with the court's final approval coming only days before Delta filed for bankruptcy protection. Seeger Weiss continued to represent Plaintiffs and class members through a number of twists and turns in the bankruptcy proceedings and beyond, and vigorously fought for and, in 2008, secured the complete and final distribution of all settlement proceeds to the class members.

In re BellSouth Corp. ERISA Litigation. Seeger Weiss represented tens of thousands of aggrieved BellSouth management employees in a class action suit against the company and the administrators of the employees' 401K plan, in connection with "Enron-like" breaches of fiduciary duty. These claims stemmed from Defendants' failures to advise employees of investment diversification options and their having created a falsely optimistic outlook in Defendant BellSouth's stock as a prudent investment for the plan. Defendants encouraged employees to invest their earnings in company stock at a time when the company was noting positive operating results, artificially-optimistic revenue growth, and other financial indicators that were found to be materially false, including revelations of accounting irregularities and losses from the company's risky venture into the highly-speculative Latin American wireless phone market. In 2006, after considerable motion practice and discovery in the litigation, the federal court in Atlanta, Georgia, which oversaw the litigation, granted final approval to a class action settlement that provides for, among other things, BellSouth to make matching 401K plan contributions to employees for a three-year period in cash rather than company stock; for employees during that period to have the same investment options for the company's matching contributions as they have for their own contributions; the availability of certain additional investment choices; and during that period a guaranteed minimum percentage for one of the components in the formula used to determine the company's matching contributions.

Insurance Litigation

For over a decade, the Firm has played a pivotal role in many notable insurance market practices class actions brought against members of the life insurance industry. These nationwide suits resulted from alleged misrepresentations made in connection with the sale of certain life

insurance products, including “vanishing premium” policies which, due to market-sensitive dividend projections, required customers to pay premiums on a more prolonged basis than originally expected. The Firm has also reviewed annuity claims in the Claims Review Process.

In 2009, the firm was appointed Lead Counsel in the *WellPoint, Inc. Out-of-Network “UCR” Rates Litigation* (MDL No. 2074) by Judge Philip S. Gutierrez, United States District Court, Central District of California. This litigation, originally four antitrust cases, was centralized on August 27, 2009 by order of the U.S. Judicial Panel on Multidistrict Litigation. The plaintiffs allege that several large insurance companies, including WellPoint Inc., Anthem Inc., and Blue Cross of California colluded to lower reimbursement rates for out-of-network health care services. The insurers were reported to have knowingly created and used flawed data to produce reimbursements far below the usual, customary and reasonable rates. The plaintiffs’ claim that the insurance companies used a rigged database created by Ingenix, a subsidiary of UnitedHealth Group Inc., which was once the largest provider of health care billing information in the country. The briefing of Defendants’ motion to dismiss the consolidated class action complaint in that litigation was recently completed, and the court is to hear oral argument on that motion shortly.

The firm serves on the Plaintiffs’ Executive Committee in the analogous *Aetna UCR Litigation* (MDL No. 2010), pending before Judge Faith S. Hochberg in the United District Court, District of New Jersey. That litigation raises similar ERISA, civil RICO, federal antitrust, and other claims against Aetna, Ingenix, and UnitedHealth Group pertaining to reimbursement rates for out-of-network health care services. That court currently has Defendants’ motion to dismiss the consolidated class action complaint under advisement, and Plaintiffs are scheduled to file their motion for class certification shortly.

In 1995, the firm was appointed as the national Policyowner Representative in *Wilson v. New York Life Insurance Company* sales practices litigation, the first settlement of a nationwide class action relating to the vanishing premium insurance product. *Wilson* involved claims brought by a class of approximately 3.2 million New York Life policyowners who suffered damages as the result of allegedly improper sales practices by the company and its agents, including the alleged failure to properly disclose the market-sensitivity of the company’s premium payment projections. As Policyowner Representative, the firm served as the principal advocate on behalf of members of the class who elected to pursue individual claim relief before independent appeal boards.

Following its appointment in the *New York Life* litigation, the firm served as the Attorney Representative in the *In re Prudential Life Insurance Sales Practices Litigation*. In that role, the firm, and others serving under its auspices, represented individual class members in connection with over 53,000 separate claim arbitrations.

In addition to the *New York Life* and *Prudential* matters, the firm has served as the Policyowner Representative, Attorney Representative, or Claim Evaluator in the following insurance and annuity sales practices class actions: *Ace Seat Cover Company v. The Pacific Life Insurance Co.*; *Benacquisto v. American Express Financial Corporation*; *Duhaime v. John Hancock Mutual Life Ins. Co.*; *Garst v. The Franklin Life Insurance Co.*; *In re General American Life Insurance Co. Sales Practices Litigation*, *In re Great Southern Life Insurance Co. Sales Practices Litigation*; *Grove, et al. v. Principal Mutual Life Insurance Co.*; *Joseph F. Kreidler, et al. v. Western-Southern Life Assurance Co.*; *Lee v. US Life Corp.*; *In re Lutheran Brotherhood Variable Products Co. Sales Practices Litigation*; *Manners and Philip A. Levin v. American General Life Insurance Co.*; *In re Manufacturers Life Insurance Co. Premium Litigation*; *In re Metropolitan Life Insurance Co. Sales Practices Litig.*; *Moody v. American General Life and Accident Insurance Co.*; *In re New England Mutual Life Insurance Company Sales Practices Litigation*; *Roy v. Independent Order of Foresters*; *Murray v. Indianapolis Life Insurance Co.*; *Snell v. Allianz Life Insurance Company of North America*; *In re Sun Life Assurance Company of Canada Insurance Litigation*; *Varacallo, et al. v. Massachusetts Mutual Life Insurance Co.*; and *Wemer v. The Ohio National Life Insurance Co.*

Nursing Home Litigation

Seeger Weiss LLP has served as counsel in over two dozen personal injury and wrongful death actions on behalf of victims of severe nursing home abuses and neglect. These cases, both pending and settled, were litigated in various state courts throughout the country and have earned the Firm a national reputation in the area of nursing home litigation.

Personal Injury Litigation

The Firm maintains a highly-selective docket of matters involving serious personal injury or wrongful death. Unlike many personal injury practices in which attorneys may handle hundreds of slip-and-fall matters at a time, the Firm's philosophy is to allow its attorneys to concentrate on a smaller number of "high-end" catastrophic injury cases, thereby permitting the highest quality of attention and service available in the field.

In Re National Football League Players' Concussion Injury Litig. Most recently, in July 2014, Judge Anita B. Brody the U.S. District Court for the Eastern District of Pennsylvania granted preliminary approval of a proposed nationwide class action settlement of thousands of lawsuits filed by former professional football players, alleging that the National Football League failed to take the necessary precautions to protect its players from long-term brain injuries from concussive and sub-concussive impacts. The litigation, *In re National Football League Players*

Concussion Injury Litigation, was centralized in that court by the Judicial Panel on Multidistrict Litigation in January 2012 and gained significant media attention.

Judge Brody appointed Seeger Weiss founding partner Christopher A. Seeger as Co-Lead counsel for the Plaintiffs, and several other Seeger Weiss partners and other attorneys, including David R. Buchanan and TerriAnne Benedetto, have been actively involved in the litigation. The proposed settlement, which was achieved after many months of spirited negotiations led by Mr. Seeger, including before a court-appointed mediator, was presented to the district court for final approval at a November 19, 2014 hearing.

If final approval is granted, the settlement will provide an uncapped Monetary Award Fund for 65 years which will pay all valid claims for certain neuro-cognitive impairments, with individual awards of up to \$5 million; \$75 million to fund a Baseline Assessment Program Fund that will offer eligible retired NFL players a baseline neuropsychological and neurological examination to determine the existence and extent of any cognitive deficits, and in the event retired players are found to suffer from moderate cognitive impairments certain supplemental benefits in the form of specified medical treatment and/or evaluation, including, as needed, counseling and pharmaceutical coverage; and a \$10 million Education Fund to fund safety and injury-prevention programs for football players.

Wildcats Bus Crash Litigation. In June 2009, Seeger Weiss was lauded for its staunch representation of 11 victims and their families in the Wildcats Bus Accident Case, after the defendants' agreed during trial to accept 100% of the responsibility for the tragic crash. The horrific accident, which resulted in four fatalities and countless other serious injuries, occurred when a Coach Canada bus carrying an "under 21" Canadian female hockey team named the Wildcats veered off of Interstate 390 near Rochester, New York and struck a parked tractor-trailer on the shoulder of the roadway. Led by Christopher Seeger, Moshe Horn and Marc Albert, the Seeger Weiss team took more than 20 depositions, reviewed thousands of pages of documents and retained multiple experts in preparation for the trial in the Supreme Court, Livingston County. Seeger Weiss represented a total of eleven victims of the accident and their families. In March 2010, a jury awarded \$2.25 million to three of the victims and their families, who were represented by partners Moshe Horn and Marc Albert. Following this verdict, the Firm successfully negotiated a global settlement of \$36 million on behalf of all of the Wildcats bus accident victims.

Other Personal Injury Matters. Partner Christopher A. Seeger represented a six-year-old boy and his family in a medical malpractice action against a hospital for failing to timely diagnose meningitis, which resulted in severe brain damage to the boy. The case settled for \$3.25 million in the Supreme Court of Kings County.

Partners Christopher A. Seeger and Stephen A. Weiss represented the wife and two minor children of a 41-year-old successful technologist who was tragically killed when a boat upon which he was a passenger collided with the Greenport Breakwater, a 1,000 foot long structure constructed of large boulders in Greenport, Long Island. The victim was thrown from the boat upon impact and ultimately drowned. This case was settled for \$2.9 million.

Seeger Weiss secured a \$1.4 million verdict for client Debbie D'Amore in her case against Met Life and American Building Maintenance for serious injuries which she suffered as a result of a fall on July 13, 2004 at the Met Life Building in New York City. Ms. D'Amore was vigorously represented by Christopher Seeger and Marc Albert of Seeger Weiss LLP over the course of the week-long trial held before the Honorable Judge Michael Stallman of the Supreme Court, New York County. The jury deliberated over a two day period and returned with a \$1.4 million verdict, \$1 million of which was awarded for Ms. D'Amore's past pain and suffering, with \$400,000 awarded for future pain and suffering. The jury found defendants Met Life and its cleaning contractor, American Building Maintenance responsible for the fall and the serious injuries which Ms. D'Amore sustained as a result. Ms. D'Amore suffered a tri-malleolar ankle fracture in the fall which required multiple surgeries, including ultimately, an ankle fusion.

Antitrust Litigation

Seeger Weiss LLP has been involved in nationally-prominent antitrust litigation, where it has recently expanded its presence.

Compact Disc Litigation. Seeger Weiss was involved in this consumer antitrust litigation, which sought damages against the wholesale sellers of pre-recorded music sold in the form of compact discs. The Plaintiffs alleged that the Defendants had conspired to artificially inflate the retail prices of compact discs in violation of the Sherman Act. The litigation was settled favorably in the United States District Court for the District of Maine, where the litigation had been centralized for coordinated pretrial proceedings by the JPML.

McDonough v. Toys "R" Us, Inc. Seeger Weiss represents a proposed class of consumers and smaller retailers of baby and juvenile products against Babies "R" Us (an affiliate of the Toys "R" Us chain) and several manufacturers of baby products, including strollers, bedding, car seats, and other items, in consolidated actions pending in the U.S. District Court for the Eastern District of Pennsylvania (Philadelphia) before the Honorable Anita B. Brody. The Plaintiffs allege that Babies "R" Us conspired with the manufacturers of baby products in a scheme whereby the manufacturers required other retailers to sell their products at prices above those being charged by Babies "R" Us. As a result, Babies "R" Us was able to monopolize the retail market, resulting in consumers being forced to pay more for baby products. The district court denied the Defendants' motion to dismiss the consolidated complaints. Briefing of

Plaintiffs' motion for class certification has been completed, and a decision from the court is expected shortly.

Monsanto Genetically-Modified Soybean and Corn Seed Litigation. The Firm serves as Co-Lead Counsel in *Schoenbaum v. E.I. DuPont de Nemours and Company*, thirteen consolidated proposed class actions against Monsanto Company, E.I. DuPont de Nemours and Company, and Pioneer Hi-Bred International Inc. currently pending before the Honorable E. Richard Webber in the U.S. District Court for the Eastern District of Missouri (St. Louis). These lawsuits, brought on behalf of farmers who purchased genetically-modified Roundup Ready soybean and YieldGard corn seeds, allege violations of federal and state antitrust, state unfair trade practices statutes, and common law claims for unjust enrichment. The claims stem from the defendants' conspiracy to fix the price of these seeds through the imposition of "technology fees," ostensibly for the purpose of allowing Monsanto to recoup its research and development costs of those seed products but which, in reality, capitalized on and exploited Monsanto's development of those seeds in order to monopolize -the market for those seeds and thereby charge and collect premium prices. After extensive briefing, both pre- and post-argument, and an all-day hearing on the Defendants' motion to dismiss the Plaintiffs' Master Consolidated Amended Action Complaint, the district court sustained most of Plaintiffs' claims. Following spirited motion practice, which included discovery disputes and the Plaintiffs' motion for leave to file an amended complaint in order to, among other things, assert additional claims against Monsanto for misuse of patent, Plaintiffs reached individual settlements with all of the defendants. The settlements will provide a significant recovery to each of the more than two dozen named Plaintiffs.

In re Packed Ice Antitrust Litigation. The Firm represents direct purchasers of packaged ice in a proposed class action brought against the five American and Canadian manufacturers and distributors who possess the dominant share of the \$2.5 billion per year packaged ice industry in North America. The Firm has been appointed Co-Chair of the Class Certification Committee in that litigation. Plaintiffs allege that Defendants have violated the antitrust laws by conspiring to fix prices and allocate market share for packaged ice. The U.S. Justice Department's Antitrust Division commenced an investigation into the packaged ice industry sometime prior to March 2008 and grand jury subpoenas were issued to the Defendants. The cases from around the country have been centralized in the U.S. District Court for the Eastern District of Michigan, and a hearing will be held in March 2009 respecting the selection of Lead Counsel.

In re Rail Freight Fuel Surcharge Antitrust Litigation. The Firm represents shipping customers in a proposed class action brought against the country's four major railroads for antitrust violations. The Defendants in this multidistrict litigation, pending in the U.S. District Court for the District of Columbia, are alleged to have conspired to fix the prices of "rail fuel surcharges" above competitive levels, causing the Plaintiffs to pay exorbitant rates for unregulated rail freight transportation services—rates that were unrelated to fuel costs. The

district court denied the Defendants' motions to dismiss the direct purchasers' claims and the indirect purchasers' federal antitrust claims. The district court held a two-day hearing on Plaintiffs' motion for class certification in October 2010 and, in June 2012, issued an exhaustive 145-page decision, granting the motion. In August 2013, the D.C. Circuit remanded the case for further proceedings, principally in light of the Supreme Court's then-recent decision in *Comcast Corp. v. Behrend*, 133 S. Ct. 1426 (2013). Further proceedings have been conducted on remand, including additional expert witness discovery and voluminous briefing. The district court will soon hold a multi-day hearing on the class certification motion. Seeger Weiss serves as Co-Chair of the Law and Briefing Committee.

Other Commercial Litigation

In addition to its diverse complex litigation practice, Seeger Weiss LLP is engaged in a wide variety of commercial litigation matters representing individuals and businesses in state and federal courts throughout the country. The following are examples of such commercial actions in which the Firm is involved:

Automobile Dealership Warranty Litigation: The Firm represents dozens of franchised automobile dealerships located throughout New York State in separate actions against the "Big Three" automobile manufacturers — Ford, General Motors, and DaimlerChrysler. These actions are pending in federal court in New York and are based on the manufacturers' failure to comply with the New York State Vehicle & Traffic Law § 465. These actions assert claims that in violation of New York State statute and the franchise agreement that governs the relationship between the dealerships and the factories, the manufacturers have failed to adequately reimburse the dealerships for parts used in performing repairs pursuant to the manufacturers' warranties. In addition to the three federal court actions, the Firm also represents close to a dozen franchised Chrysler dealerships in arbitrations pending before the American Arbitration Associations asserting the same claims.

Arzoomanian v. British Telecommunications PLC. The Firm represented a small businessman who had brokered a multi-million dollar global telecommunications deal between two multi-national corporations, British Telecommunications PLC ("BT") and Unilever PLC, and then was cut out of the deal by the companies and refused his fee. In 2004, the Firm successfully overcame BT's motion to dismiss the action on *forum non conveniens* grounds (in which BT argued that the action should not have been brought in the United States). After extensive discovery—both in the United States and overseas—and further motion practice, the case was settled in 2007. This is one of a number of cases that the Firm has handled on behalf of small businesses which have been wronged by behemoth corporations.

In re ETS Praxis Principles of Learning and Teaching: Grades 7-12 Litigation is a consolidated national class action on behalf of more than 4,100 prospective teachers as to whom

ETS negligently and wrongfully reported failing scores on the Praxis Principles of Learning and Teaching test for grades 7 through 12 (the "PPLT" test) during the period from January 2003 through April 2004. The PPLT is a test that is required in many states in order for teachers to obtain their teaching certification. In December 2004, the various class actions filed around the country were transferred to the Honorable Sarah Vance of the United States District Court for the Eastern District of Louisiana (New Orleans). Judge Vance appointed Seeger Weiss LLP to the position of State Court Litigation Liaison Counsel. This case was settled in 2006 for \$11.1 million.

HMO Litigation. The Firm was counsel to individual doctor-members of the Connecticut State Medical Society ("CSMS") and the Medical Society of the State of New York ("MSSNY") in connection with various putative statewide class actions filed in Connecticut and New York state courts, respectively against several national health management organizations (HMOs). The class members sought damages resulting from the defendants' improper, unfair and deceptive practices designed to deny, impede or delay lawful reimbursement to CSMS and MSSNY physicians which rendered necessary healthcare services to members of the HMO managed care plans. The case was successfully resolved.

VOIP, Inc. v. Google, Inc. The Firm represents VOIP, Inc. in a trade secrets and breach of contract action filed in New York State Supreme Court in February 2011. The suit claims that Google developed its "Click to Call" feature, which allows users to make Internet phone calls by just clicking on a link, using misappropriated VoIP trade secrets.



Selected Attorney Biographies

Partners

Christopher A. Seeger

Position: Founding Member Co-Managing Partner.

Admitted: New Jersey, 1990; New York, 1991;

U.S. District Court for the Southern District of New York and U.S. District Court for the District of New Jersey, 1991; U.S. District Court for the Eastern District of New York, 2000; U.S. District Court for the District of Colorado, 2011.

Education: Hunter College of the City University of New York (B.A., *summa cum laude*, 1987); Benjamin N. Cardozo School of Law (J.D., *magna cum laude*, 1990).

Honors: Managing Editor, *Cardozo Law Review*.

Author: "The Fixed Price Preemptive Right in the Community Land Trust Lease," 11 *Cardozo Law Review* 471, 1990; "Developing Assisted Living Facilities," *New York Real Estate Law Reporter*, Volume XII, Number 10, August 1998.

Lecturer: "The Use of ADR in Class Actions and Mass Torts," New York University School of Continuing and Professional Studies, October 13, 2000.

Director: American Friends of Rabin Medical Center, Inc.; Benjamin N. Cardozo School of Law, Yeshiva University, 1999-2000.

Co-Chair: Cardozo Law School Alumni Annual Fund, 1998-2000.

Awards: Best Lawyers in America, 2006, 2012; New York Super Lawyer, 2006-2013; New Jersey SuperLawyers, 2006-2014; Law Dragon 500, 2007-2013; Best Lawyers, Mass Tort Litigation; Hunter College Hall of Fame, 2007; Cardozo Alumnus of the Year, 2009.

Member: The Association of the Bar of the City of New York; New Jersey State Bar Association; Board of Advisors, *New York Real Estate Law Reporter*; Annual Fund Committee, 1999-present; American Bar Association; American Association for Justice, Trail Lawyers for Public Justice; Fellow, American Bar Foundation.

Practice Areas: Consumer Fraud, Products Liability, Antitrust; Insurance, Class Actions, Mass Torts.

Stephen A. Weiss

Position: Founding Member and Co-Managing Partner.

Admitted: New York, 1991; U.S. District Courts for the Southern and Eastern Districts of New York, 1991.

Education: Brandeis University (B.A., 1986); Benjamin N. Cardozo School of Law (J.D., 1990).

Honors: Business Editor, *Cardozo Law Review*, 1989-1990.

Author: "Environmental Liability Disclosure Under the Federal Securities Law," *Law Education Institute, Inc.*, 1998; "Liability Issues and Recent Case Law Developments Under CERCLA, New Environmental Issues of Liabilities of Government Agencies & Government Contractors," *Federal Publications, Inc.*, Chapter 4, 1995; "New York Proposes Legislation to Restrict Shareholder Derivative Suits," *Insights*, Vol. 8, No. 3, p. 24, 1994; "Suretyship as Adequate Protection Under Section 361 of the Bankruptcy Code," *Cardozo Law Review*, Vol. 12, p. 285, 1990.

Director or Officer: Benjamin N. Cardozo School of Law, Yeshiva University, 2000-present; New York State Trial Lawyers Association, 2012-present; New York State Academy of Trial Lawyers, Vice President, 1st Department, 2012-2013.

Co-Chair: Cardozo Law School Alumni Annual Fund, 1998-2000.

Awards: International Humanitarian Achievement Award, Shaare Zedek Medical Center, 2002; Trial Lawyer of the Year, Finalist, Public Justice Foundation, 2010.

Member: American Association for Justice; American Bar Association; Badge of Honor Memorial Foundation, General Counsel, 2008-present.

Practice Areas: Complex Litigation, including Antitrust, Consumer, Employment, Environmental, Insurance, Products Liability, Pharmaceutical, Qui Tam and Securities Litigation.

David R. Buchanan

Position: Member.

Admitted: New Jersey, 1993; New York, 1994; U.S. District Court for the District of New Jersey, 1993; U.S. District Court for the Southern District of New York, 1994; U.S. District Court for the Eastern District of New York, 1999.

Education: University of Delaware (B.S., 1990); Benjamin N. Cardozo Law School (J.D., *magna cum laude*, 1993)

Honors: Samuel Belkin Scholar, 1993; Member, 1991-93, and Administrative Editor, 1992-93, *Cardozo Law Review*.

Awards: Best Lawyers in America, 2007, 2012; New York Super Lawyer, 2007; Legal 500; Law Dragon 3000

Member: American Bar Association (Litigation, Intellectual Property sections).

Practice Areas: Complex and Mass Tort Litigation, including Antitrust, Consumer, Environmental, Insurance, Intellectual Property, Pharmaceutical, Products Liability, and Securities Litigation.

Diogenes P. Kekatos

Position: Member.

Admitted: New York, 1984; U.S. District Courts for the Southern and Eastern Districts of New York, 1984; U.S. Courts of Appeals for the Second, Third, Seventh, Eighth, Ninth, and Tenth Circuits, 1985, 2008-14; U.S. Supreme Court, 1987.

Education: Columbia College, Columbia University (B.A., Dean's List all 8 semesters, 1980); Brooklyn Law School (J.D., 1983).

Honors: Named to New York *Super Lawyers*, 2013 and 2014; recipient of letters of commendation from the U.S. Court of Appeals Staff Counsels and from Attorney General Janet Reno for outstanding performance and high level of professionalism in appellate mediation, 1999.

Experience: Special Assistant U.S. Attorney, 1986-88, and Assistant U.S. Attorney, 1988-2000; Office of the United States Attorney for the Southern District of New York, and Chief, Financial Litigation Unit, 1988-90; and Immigration Unit, 1990-2000. Has argued some 130 appeals and motions in the U.S. Court of Appeals for the Second Circuit, including a successful *en banc* rehearing, with scores of cases resulting in published opinions; and has handled hundreds of appellate mediations.

Awards: Executive Office for U.S. Attorneys Director's Award for Superior Performance as an Assistant U.S. Attorney, 1996; Award from U.S. Attorney Mary Jo White for Exceptional Achievement, 1995; and numerous other award nominations.

Practice Areas: Class Action and Complex Litigation, Federal Civil Litigation, Federal Appellate Litigation.

Moshe Horn

Position: Member.

Admitted: New York and New Jersey, 1994; U.S. District Courts for the Southern and Eastern Districts of New York.

Education: George Washington University (B.A., 1989); Benjamin N. Cardozo School of Law (J.D., 1993).

Honors: Member of Championship team in a national Securities Law Moot Court competition at Fordham University, 1993; Winner tri-state trial competition, runner up Best Advocate, 1993.

Experience: Assistant District Attorney, New York County, 1993-2002 (where he held numerous supervisory positions and tried 50 jury cases); Senior Associate, Kaye Scholer LLP, 2002-2004. Member of the Firm's trial team that achieved a \$47.5 million verdict for Vioxx-related cardiovascular injury in *Humeston v. Merck & Co.* in 2007 in the New Jersey Superior Court, Atlantic County. Member of the Firm's trial team that achieved a \$1.4 million verdict for Currently an Adjunct Professor of Law at Benjamin N. Cardozo School of Law, teaching "Introduction to Trial Advocacy." Has previously taught "Advanced Trial

Advocacy” and “Mass Torts,” and served as advisor and coach to the law school’s Mock Trial Team.

Member: American Bar Association, American Association for Justice, New York State Trial Lawyers Association.

Practice Areas: Pharmaceutical and Medical Device Litigation, Personal Injury Litigation, Complex Litigation, Asbestos Litigation, Criminal Defense.

Michael L. Rosenberg

Position: Member.

Admitted: New Jersey, 1989; U.S. District Court, District of New Jersey, 1989; New York, 1990.

Education: Rutgers-Camden School of Law (J.D., 1989), University of Delaware (B.A. 1986).

Experience: Has been with the Firm since its 1999 inception. Has negotiated individual settlements on behalf of hundreds of clients injured by pharmaceutical products, including over-the-counter medicines containing PPA and the anti-cholesterol drug Baycol. Played an integral role in the settlement of personal injury claims against the manufacturers of Dexatrim, a PPA-containing weight loss product, on behalf of 500 stroke victims who claimed that their strokes were caused by Dexatrim. The settlement is valued at approximately \$200 million. Serves as a member of the Delaco Trust Advisory Committee tasked with overseeing the administration of the settlement. Was a member of the trial team that won a \$2.6 million verdict for the Plaintiff in *McCarrell v. Hoffman-La Roche, Inc.*, in New Jersey Superior Court, Atlantic County.

Member: American Bar Association and American Association for Justice.

Practice Areas: Complex and Mass Tort Litigation, including Pharmaceutical, Products Liability and Insurance Litigation.

Terrienne Benedetto

Position: Member.

Admitted: Pennsylvania, 1990; New Jersey, 1991; U.S. District Courts for the District of New Jersey, 1991; Eastern District of Pennsylvania, 1991; Western District of Wisconsin, 1993; New York Supreme Court, Appellate Division, Third Department, 2009; and New York Superior Court, 2009.

Education: Franklin & Marshall College (B.A., 1986); Villanova University (J.D., 1990).

Honors: Member of the *Villanova Law Review*; Law Clerk to the Honorable Jacob Kalish of the Commonwealth Court of Pennsylvania, and the Honorable William W. Vogel of the Montgomery County Court of Common Pleas.

Author: “Database Technology: A Valuable Tool for Defeating Class Action Certification,” published in *Pennsylvania Law Weekly*, Vol. XX, No. 47, November 24, 1997, and *Mealey’s Litigation Report: Lead*, Vol. 7, No. 14, April 24, 1998.

Experience: At the beginning of her career as a class action litigator, was co-counsel for defendants in *Reilly v. Gould Inc.*, 965 F. Supp. 588 (M.D. Pa. 1997); *Dombrowski v. Gould Electronics Inc.*, 954 F. Supp. 1006 (M.D. Pa. 1996); and *Ascher v. Pennsylvania Insurance Guaranty Association*, 722 A.2d 1078 (Pa. Super. 1998). Thereafter, joined nationally recognized plaintiffs' firms where she represented individuals, small businesses and the Office of the Attorney General for the Commonwealth of Pennsylvania in numerous antitrust and consumer fraud class actions, many resulting multimillion dollar settlements, including *In re Lupron Marketing and Sales Practices Litigation*, MDL No. 1430 (D. Mass.); *In re Pharmaceutical Industry Average Wholesale Price Litigation*, MDL No. 1456 (D. Mass.); *In re Graphite Electrodes Antitrust Litigation*, No. 2:97-CV-4182 (E.D. Pa.); *In re Magnetic Audiotape Antitrust Litigation*, No. 99 Civ. 1580 (S.D.N.Y.); *In re Vitamins Antitrust Litigation*, MDL No. 1285 (D.D.C.); *In re Maltol Antitrust Litigation*, No. 99 Civ. 5931 (S.D.N.Y.); *In re Compact Disc Antitrust Litigation*, MDL No. 1216 (C.D. Cal.); *In re Flat Glass Antitrust Litigation*, MDL No. 1200 (W.D. Pa.); and *In re Carpet Antitrust Litigation*, MDL No. 1075 (N.D. Ga.).

Member: Pennsylvania Trial Lawyers Association, Philadelphia Bar Association.

Practice Areas: Complex Commercial and Class Action Litigation, including Consumer Protection, Antitrust, Products Liability, and Securities Litigation.

Counsel

James A. O'Brien III

Position: Counsel.

Admitted: New York, 2000; Massachusetts, 1988; U.S. District Court, District of Massachusetts, 1991.

Education: University of Massachusetts at Amherst (B.A., 1984); New England School of Law (J.D., 1988).

Experience: Attorney Advisor, U.S. Department of Labor, 1988-89; Assistant District Counsel, U.S. Immigration and Naturalization Service, 1990; Special Assistant United States Attorney, 1990-2001, Southern District of New York.

Practice Areas: Class Action and Complex Litigation, Federal Civil Litigation, Federal Appellate Litigation.

Scott Alan George

Position: Counsel.

Admitted: Pennsylvania and New Jersey, 1998; U.S. District Courts for the Eastern District of Pennsylvania and the District of New Jersey, 1998; U.S. Court of Appeals for the Third Circuit, 1998.

Education: Goddard College (B.A., 1989); Temple University School of Law (J.D., *cum laude*, 1998).

Honors: Member of the Moot Court Honor Society.

Practice Areas: Class Action Litigation.

Christopher Van de Kieft

Position: Counsel.

Admitted: New York, 2003; U.S. District Courts for the Southern and Eastern Districts of New York, 2005.

Education: Johns Hopkins University (B.A., 1990), Benjamin N. Cardozo School of Law (J.D., 2002).

Honors: Editor-in-Chief, *Cardozo Law Review*; recipient of Cardozo Law School's prestigious Samuel Belkin Award, awarded each year to one graduating student for "exceptional contribution to the growth and development of the Law School."

Experience: Prior to attending law school, served in the U.S. Army from 1990-98, attaining rank of Captain. Prior to joining the Firm was an associate at Fried Frank Harris Shriver & Jacobson.

Practice Areas: Pharmaceutical and Medical Device Mass Tort Litigation; Class Action Litigation.

Associates

Parvin K. Aminolroaya

Position: Associate.

Admitted: New Jersey, 2008; New York, 2009; U.S. District Court, District of New Jersey, 2008.

Education: Fordham University (B.A., 2004, with honors); Benjamin N. Cardozo School of Law (J.D., 2008).

Honors: Jacob Burns Medal awarded for outstanding contribution to Moot Court; Benjamin N. Cardozo Writing Award; Editorial Board, Moot Court Honor Society; First Place Oralists Team and First Place Brief, Regional Competition of the New York City Bar Association, National Moot Court Competition, 2007; First Place Brief and Second Place Oralists Team, Fordham Irving Kaufman Securities Moot Court Competition, 2007.

Member: Executive Committee, Benjamin N. Cardozo School of Law Alumni Association.

Practice Areas: Securities Fraud, Investment Fraud, Complex Commercial Litigation.

Asim M. Badaruzzaman

Position: Associate.

Admitted: New Jersey, 2010.

Education: Rutgers University (B.A., with honors, 2006); Seton Hall University School of Law (J.D., 2009).

Honors: Best Brief Author for Appellate Advocacy, 2008; William Paterson Award, New Jersey Lawyer Chapter of the American Constitution Society.

Experience: Marketing Contractor at Anadigics, Inc., 2006-2007; Research Assistant to Professor Mark P. Denbeaux, 2007; Legal Intern to Professor Meetali Jaine at the Center for Social Justice at Seton Hall, 2007; Intern at the Civil Litigation Clinic, 2009; Law clerk at Seeger Weiss LLP, 2008; Associate at Seeger Weiss LLP, 2009.

Member: American Bar Association, New Jersey State Bar Association.

Practice Areas: Pharmaceutical Drug Injury, Medical Device Liability, Mass Tort Litigation.

Asa R. Danes

Position: Associate.

Admitted: New York State, 2004; United States District Courts for the Eastern and Southern Districts of New York, 2006 and Western District of Tennessee, 2009.

Education: Oberlin College (B.A., 1994); Brooklyn Law School (J.D., *cum laude*, 2001).

Honors: Notes and Comments Editor, *Brooklyn Journal of International Law*.

Experience: Associate at Paul, Hastings, Janofsky & Walker LLP; Law Clerk to the Honorable James T. Trimble, Jr. in the United States District Court for the Western District of Louisiana.

Practice Areas: Complex personal injury matters; mass tort, consumer fraud and securities class actions; shareholder derivative and corporate governance disputes and other commercial litigation.

Michael C. Hughes

Position: Associate.

Admitted: New Jersey, 2013; U.S. District Court, District of New Jersey, 2013, New York, 2014.

Education: Seton Hall University (B.A., 2009); Seton Hall University School of Law (J.D., 2013).

Experience: Law Clerk and Contract Attorney at Seeger Weiss, LLP; Legal Extern to Hoboken Mayor Dawn Zimmer and Office of Corporation Counsel; Legal Intern at Meadowlands Hospital Medical Center In-House Counsel; Law Clerk at Blume Donnelly Fried Forte Zerres & Molinari (formerly Blume Goldfaden Berkowitz Donnelly Fried & Forte, P.C.)

Honors: Certificate, J.D. Program Health Law Concentration

Practice Areas: Pharmaceutical Injury Litigation, Medical Device Litigation, Mass Tort Litigation.

James J. Leavy

Position: Associate.

Admitted: New Jersey, 2008; U.S. District Court, District of New Jersey, 2008.

Education: University of Phoenix (B.A., 2005, with honors 3.89/4.00); Seton Hall University School of Law (J.D., 2008).

Honors: Interscholastic Moot Court Board, Member; 2008 Lefkowitz National Moot Court Championships, 3rd Place; 2008 Lefkowitz National Moot Court Eastern Regional Champion & Best Brief Award; 2007 BMI Entertainment and Media Law Moot Court Competition, Quarterfinalist.

Practice Areas: Mass Torts and Pharmaceutical Product Liability Litigation.

Perpetua N. MgBada

Position: Associate.

Admitted: New York, 1995; Nigeria 1984.

Education: University of Maiduguri, Bornu State (LL.B., 1983); University of Nigeria, Enugu State (LL.M., 1998).

Experience: Works on various Mass Torts and Pharmaceutical Product Liability cases, including information management, maintaining spreadsheets, case reviews, all intake related functions, reviewing medical records, preparing settlement enrollment materials, reviewing cases for ineligibility and points, preparing appeals, preparing extraordinary injury claims and uploading relevant documents to the portal, as well as handling client contact.

Practice Areas: Mass Torts and Pharmaceutical Product Liability.

Mahesh Nair

Position: Associate.

Admitted: New York, 2009.

Education: New York University (B.A., 2004); Benjamin N. Cardozo School of Law (J.D., 2007).

Honors: Coach and Oralist, Moot Court Honor Society.

Practice Areas: Pharmaceutical and Medical Device Mass Tort Litigation, False Claims Act/Qui Tam Litigation.

Andrea Mercedes Pi-Sunyer

Position: Associate.

Admitted: New York, 1996.

Education: Oberlin College (B.A., 1987); Northeastern University School of Law (J.D., 1994).

Experience: Processes settlements obtained in the firm's pharmaceutical injury practice; Has worked with hundreds of clients in this process and has guided them through complex issues, including helping them decide whether a structured settlement or a Special Needs Trust is most appropriate for their needs; Has significant experience negotiating with Medicare and Medicaid when clients have obtained relief in pharmaceutical injury cases and works extensively with co-counsel in states throughout the country to obtain court approval for certain settlements involving minors, estates, or guardianships; Has more than one hundred hours of training and practicum in both Basic Mediation Training and Divorce Mediation.

Practice Areas: Pharmaceutical Injury Litigation, focusing on settlement effectuation matters involving the Firm's clients.

Swarna Ramakrishnan

Position: Associate.

Admitted: New Jersey, 2013, New York, 2013

Education: State University of New York at Albany (B.A., 2009, with honors), Albany Law School (J.D., 2013)

Experience: Legal intern at the New York State Office of Cyber Security and Critical Infrastructure (2010-2011); Summer law clerk at King and Petracca (2011); Research Assistant to Professor James Thuo Gathii (2011) Law Intern at Albany Law Clinic & Justice Center Health Law Clinic (2011); Law Clerk at Carter Conboy P.C. (2012-2013).

Member: New York State Bar Association, New Jersey State Bar Association.

Practice Areas: Pharmaceutical and Medical Device Mass Tort Litigation.

Denise K. Stewart

Position: Associate.

Admitted: Florida, 1982 (currently inactive); New Jersey, 1990; U.S. District Court for the District of New Jersey, 1990.

Education: Monmouth University (B.A., 1972); University of Miami School of Law (J.D., 1982).

Experience: Prior to joining the Firm at its inception in 1999, litigated personal injury and professional malpractice cases in Florida. Has been involved in state and federal complex mass tort and multidistrict litigation, including New Jersey litigation against Hoffmann-La Roche relating to gastrointestinal injuries stemming from use of the prescription acne drug Accutane; New Jersey litigation against Ortho-McNeil Pharmaceutical involving strokes, deep vein thromboses, and other thrombotic events related to use of the birth control patch Ortho Evra; and a nationwide settlement involving individuals who suffered strokes caused by use of over-the-counter products containing PPA.

Practice Areas: Pharmaceutical Product Liability Litigation.

David R. Tawil

Position: Associate.

Admitted: New Jersey, 2014.

Education: New York University (B.A. History, 2007); Tulane University (J.D., 2012).

Honors: Senior Notes and Comments Editor, Tulane Journal of International and Comparative Law; Associate Justice, Tulane University Law School's Moot Court Board.

Author: *Kiobel v. Royal Dutch Petroleum Co.: The Second Circuit Rejects Corporate Liability Under the Alien Tort Statute* (19 Tul. J. Int'l & Comp. L. 709) and *Implications of PLIVA, Inc. v. Mensing: The Reemergence of Federal Preemption* (unpublished).

Experience: Law clerk to the Honorable Jessica R. Mayer, J.S.C., one of New Jersey's three Multicounty Litigation judges; certified trained mediator by the New Jersey Courts.

Member: John C. Lifland American Inn of Court.

Practice Areas: Drug and Medical Devices.

Exhibit 3R

**DECLARATION OF WILLIAM T. MAY
IN SUPPORT OF MOTION FOR AN AWARD OF ATTORNEYS' FEES AND
REIMBURSEMENT OF LITIGATION EXPENSES FILED ON BEHALF OF
BARRY, PALMER, THAGGARD, MAY & BAILEY, LLP
[Formerly known as Hammack, Barry, Thaggard & May, LLP]**

I, William T. May, declare as follows:

1. I am a partner in the law firm of BARRY, PALMER, THAGGARD, MAY & BAILEY, LLP [Formerly known as Hammack, Barry, Thaggard & May, LLP]. I submit this Declaration in support of our firm's application for an award of attorneys' fees in connection with services rendered in the Action, as well as for reimbursement of expenses incurred in connection with the Action. I have personal knowledge of the matters set forth in this Declaration and, if called upon, I could and would testify competently thereto.

2. In August 2011, my firm was contacted by the office of the Attorney General of the State of Mississippi to assist and participate in the subject litigation in association with the law firm of Bernstein, Litowitz, Berger & Grossmann, LLP . Our law firm conferred with attorneys from the Mississippi Attorney General's office and attorneys with the Bernstein law firm with regard to handling of various components of the subject litigation. One of our partners, William Hammack, traveled to New York and met personally with attorneys involved in the subject litigation and returned to Mississippi with work assignments to assist in the underlying litigation.

Our firm's work included: (1) review of documents and flagging thereof for utilization in depositions; (2) review and summary of specific depositions from the Vioxx litigation.

Multiple depositions were summarized by our firm and analyzed for use in the underlying litigation and additional multiple conferences were held with attorneys of the Bernstein Firm pertaining to same.

Our firm's total work expended in this action is reflected in the itemized time entries

3. The schedule attached hereto as Exhibit 1 is a summary indicating the amount of time spent by attorneys and professional support staff employees of my firm who were involved in this Action, and the lodestar calculation for those individuals based on my firm's 2016 billing rates. For personnel who are no longer employed by my firm, the lodestar calculation is based upon the billing rates for such personnel in his or her final year of employment by my firm. The schedule was prepared from contemporaneous daily time records regularly prepared and maintained by my firm.

4. Time expended on the Action after February 15, 2016, has not been included in this request. In addition, any time related to the application for fees and reimbursement of expenses been excluded.

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

6. The total number of hours reflected in Exhibit 1 from inception through and including February 15, 2016, is 210. The total lodestar reflected in Exhibit 1 for that period is \$38,759.90 for attorneys' time.

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

8. As detailed in Exhibit 2, my firm is seeking reimbursement for a total of \$2,729.43 in expenses incurred in connection with the prosecution of this Action.

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

I declare, under penalty of perjury, that the foregoing facts are true and correct. Executed on April 20, 2016.



WILLIAM T. MAY

EXHIBIT 1

In Re Merck & Co. Securities, Derivative & "ERISA" Litigation
 MDL No. 1658 (SRC)
 Civil Action No. 05-1151 (SRC)
 Civil Action No. 05-2367 (SRC)
 [This Document Relates To: The Consolidated Securities Action]

BARRY, PALMER, THAGGARD, MAY & BAILEY, LLP
 [Formerly known as Hammack, Barry Thaggard & May, LLP]

TIME REPORT

Inception through February 15, 2016

NAME	HOURS	HOURLY RATE	LODESTAR
Partners			
William T. May	76.20	200.00	15,240.00
William C. Hammack	54.90	225.00	12,352.90
Lee Thaggard	26.10	150.00	3,915.00
Of Counsel			
Senior Counsel			
Associates			
John Roach	22.30	140.00	3,122.00
Robert Bailey	21.90	140.00	3,010.00
Kacey Bailey	8.00	140.00	1,120.00
Staff Attorneys			
Paralegals			
Litigation Support			
TOTALS	210	184.00 Average	\$38,759.90

EXHIBIT 2

In Re Merck & Co. Securities, Derivative & "ERISA" Litigation
 MDL No. 1658 (SRC)
 Civil Action No. 05-1151 (SRC)
 Civil Action No. 05-2367 (SRC)

[This Document Relates To: The Consolidated Securities Action]

BARRY, PALMER, THAGGARD, MAY & BAILEY, LLP
 [Formerly known as Hammack, Barry Thaggard & May, LLP]

EXPENSE REPORT

CATEGORY	AMOUNT
Postage & Express Mail	.45
Out of Town Travel	2,157.73
Working Meals	571.25
TOTAL EXPENSES:	\$2,729.43

#979954

Exhibit 3S

UNITED STATES DISTRICT COURT

DISTRICT OF NEW JERSEY

**IN RE MERCK & CO., INC.
SECURITIES,
DERIVATIVE & “ERISA” LITIGATION**

**MDL No. 1658 (SRC)
Civil Action No. 05-1151 (SRC) (CLW)
Civil Action No. 05-2367 (SRC) (CLW)**

**THIS DOCUMENT RELATES TO:
THE SECURITIES CLASS ACTION**

**DECLARATION OF MICHAEL R. ALLWEISS IN SUPPORT OF
MOTION FOR AN AWARD OF ATTORNEY’S FEES AND
REIMBURSEMENT OF LITIGATION EXPENSES
FILED ON BEHALF OF LOWE, STEIN, HOFFMAN, ALLWEISS & HAUVER, LLP**

I, Michael R. Allweiss, declare as follows:

1. I am a partner in the law firm of Lowe, Stein, Hoffman, Allweiss & Hauver, LLP.

I submit this Declaration in support of our firm’s application for an award of attorneys’ fees in connection with services rendered in the Action, as well as for reimbursement of expenses incurred in connection with the Action. I have personal knowledge of the matters set forth in this Declaration and, if called upon, I could and would testify competently thereto.

2. I served as local counsel working with Robert Harwood and others on behalf of Park East and all others similarly situated. I reviewed, prepared, and handled necessary and appropriate pleadings and other filings in the matter entitled “*Park East, Inc., on behalf of itself, and all others similarly situated v. Merck & Co., Inc., et al.*,” bearing case number 04-3278, Div. T., Mag. 1, in the United States District Court for the Eastern District of Louisiana. When the case was transferred my involvement ceased.

3. The schedule attached hereto as Exhibit 1 is a summary indicating the amount of time spent by attorneys and professional support staff employees of my firm who were involved in this Action, and the lodestar calculation for those individuals based on my firm's 2016 billing rates. For personnel who are no longer employed by my firm, the lodestar calculation is based upon the billing rates for such personnel in his or her final year of employment by my firm. The schedule was prepared from contemporaneous daily time records regularly prepared and maintained by my firm.

4. Time expended on the Action after February 15, 2016, has not been included in this request. In addition, any time related to the application for fees and reimbursement of expenses has been excluded.

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

6. The total number of hours reflected in Exhibit 1 from inception through and including February 15, 2016, is 21.5 hours. The total lodestar reflected in Exhibit 1 for that period is \$7,722.50, consisting of \$7,687.50 for attorneys' time and \$35.00 for professional support staff time.

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

8. As detailed in Exhibit 2, my firm is seeking reimbursement for a total of \$708.44 in expenses incurred in connection with the prosecution of this Action.

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

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

I declare, under penalty of perjury, that the foregoing facts are true and correct. Executed on April 21, 2016.


MICHAEL R. ALLWEISS

EXHIBIT 1

In Re Merck & Co. Securities, Derivative & "ERISA" Litigation
 MDL No. 1658 (SRC)
 Civil Action No. 05-1151 (SRC)
 Civil Action No. 05-2367 (SRC)
 [This Document Relates To: The Consolidated Securities Action]

LOWE, STEIN, HOFFMAN, ALLWEISS & HAUVER, LLP

TIME REPORT

Inception through February 15, 2016

NAME	HOURS	HOURLY RATE	LODESTAR
Partners			
Michael R. Allweiss (MRA)	20.5	\$375.00	\$7,687.50
Of Counsel			
Senior Counsel			
Associates			
Staff Attorneys			
Paralegals			
Litigation Support			
Eddie A. Marroquin (EAM)	1.0	\$35.00	\$35.00
TOTALS	21.5		\$7,722.50

EXHIBIT 2

In Re Merck & Co. Securities, Derivative & "ERISA" Litigation
 MDL No. 1658 (SRC)
 Civil Action No. 05-1151 (SRC)
 Civil Action No. 05-2367 (SRC)
 [This Document Relates To: The Consolidated Securities Action]

LOWE, STEIN, HOFFMAN, ALLWEISS & HAUVER, LLP

EXPENSE REPORT

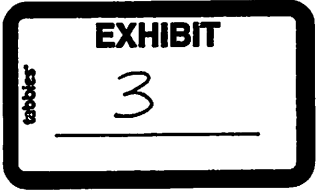
CATEGORY	AMOUNT
Court Fees	\$160.00
On-Line Legal Research	\$19.73
Telephone/Faxes	\$2.40
Postage & Express Mail	\$93.76
Hand Delivery Charges	\$10.00
Local Transportation	\$2.30
Internal Copying	\$420.25
TOTAL EXPENSES:	\$708.44

#979954

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Practice Areas

Appeals
Bankruptcy and Insolvency
BP Claims Process
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Commercial Litigation
Director and Officer Liability
Estate Planning, Trust Administration and Wealth Preservation
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Federal, State and Local Taxation
Health Care
Insurance Coverage and Subrogation
Insurance Defense
Labor and Employment
Legal Ethics and Professional Responsibility
Mergers and Acquisitions
Premises Liability Defense
Professional Liability
Real Estate
Surety Law

Lowe Stein offers extraordinary service, quality, and value. Our attorneys are aware of the many challenges facing today's businesses and strive to help clients make business decisions that contribute to growth and profitability. We have the knowledge, skill, and experience to effectively evaluate legal issues, formulate strategies, and implement the best possible plan of action for the continued success of the business. We provide sound legal counsel and help clients avoid costly legal entanglements. In the event litigation does arise, our attorneys are well versed in all litigation venues, including trials, appeals, mediation, and arbitration and are recognized by other members of the bar as skilled negotiators and by the judiciary as excellent trial attorneys.

- Appeals
- Bankruptcy and Insolvency
- BP Claims Process
- Business and Commercial Transactions
- Civil Rights
- Commercial Litigation
- Director and Officer Liability
- Estate Planning, Trust Administration and Wealth Preservation
- Family Law
- Federal, State and Local Taxation
- Health Care
- Insurance Coverage and Subrogation
- Insurance Defense
- Labor and Employment
- Legal Ethics and Professional Responsibility
- Mergers and Acquisitions
- Premises Liability Defense
- Professional Liability
- Real Estate
- Surety Law

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- Paula H. Lee
- Melanie C. Lockett
- Robert C. Lowe
- Gregory S. Marsiglia
- Kim Ngan Nguyen
- Marynell L. Piglia
- David M. Prados
- Suzette Marie Smith
- Mark S. Stein

Michael R. Allweiss

Michael R. Allweiss has a diverse litigation practice. His experience includes several multi week trials and arbitrations involving a wide range of complex factual and legal issues requiring multilayered analyses and thinking. Mr. Allweiss began his practice in 1976 and since 1980 has been AV peer review rated, Martindale Hubbell's highest peer recognition for ethical standards and legal ability.

Mr. Allweiss has served as lead or co-lead trial counsel in a wide variety of lawsuits and arbitration proceedings, including disputes which have at their core concerns centered on securities fraud, insurance coverage, constitutional and civil rights, professional liability of accountants, attorneys and physicians, employment disputes and complex commercial cases involving cutting edge technologies in areas such as refrigerated transport and voice over internet protocol. Many of Mr. Allweiss' cases require a highly imaginative and detailed approach to achieve successful resolution of the controversy.

A number of the cases which Mr. Allweiss has tried in state or federal court or through arbitration involved multi-national and Fortune 500 corporations, national law firms and financial institutions. He has represented such entities, as well as interests adverse to such entities. He has also represented and been adverse to corporate directors, officers, and law enforcement, and other public officials. He has been engaged by a public body to investigate misuse of public funds, and has represented a former Louisiana State Governor.

At the same time as Mr. Allweiss has carried on his practice, he has been active in community and professional events. Mr. Allweiss has spoken at the annual Louisiana State Bar Association Convention and to groups of CPA's and valuation analysts on questions surrounding complex damage calculations in various commercial contexts. He has presented as a speaker for the Louisiana Masters of the Courtroom Series. Mr. Allweiss was an instructor of trial advocacy at Tulane University for approximately twenty (20) years.

Mr. Allweiss has been honored by the Louisiana State Bar Association with the Crystal Gavel Award for his work promoting adult literacy and his engagement as the Chair of the Board NOLA 180^o which operates the Langston Hughes Academy, a New Orleans based Charter School formed after Hurricane Katrina. He is also a co-founder of the Tour de Lis, a growing bicycling based fund raiser focused on the ongoing fight against cancer and honoring its survivors. Mr. Allweiss is listed in the Best Lawyers in America and Super Lawyers

SELECTED CASES

Co-lead trial counsel in a ten (10) week arbitration in New York City which resulted in a substantial financial award in favor of the inventor of a unique device used in refrigerated trucking. In addition to the



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E-mail: mallweiss@lowestein.com



significant financial award, the entrepreneur/inventor was awarded a return of national and international patents.

Lead trial counsel on behalf of a Creditors Committee against a major communications company in connection with the inappropriate promotion and sale of complex voice over internet protocol telephony equipment. The case resulted in a confidential settlement.

Co-Class counsel in a thirteen (13) year certified national class action lawsuit arising from the asserted failure to honor committed benefits to a class of some 33,000 people who accepted early retirement. The case resulted in a settlement of the nationwide class.

Co-trial counsel in several week trial arising out of an improper plugging and abandoning of an oil well in Western Louisiana.

Co-trial counsel in successful claim against a major oil company arising out of misrepresentations in connection with the sale of oil and gas properties.

Successful defense of major national law firm against allegations of securities fraud.

Successful defense of claims against international products manufacturer of hoist and material handling equipment.

Lead counsel in a significant civil rights case arising out of inappropriate strip search of a non-violent traffic law violator. Mr. Alweiss has since successfully represented several other individuals who suffered similar violations of their constitutional rights.

Successful representation of a class of employees terminated in violation of WARN Act requirements.

Counsel to class representatives in connection with certified national class action concerning anti-trust violations arising out of advertising practices by the music industry. The case resulted in a settlement in excess of \$140,000,000.

Representation of nationally known performer in connection with successfully pursued claims of mismanagement and related breaches of contract.

Defense of law and accounting firms in connection with several lawsuits filed by or on behalf of federal entities stemming from failures of financial institutions, including banks and savings and loan institutions.

Prosecution and defense of claims against numerous and varied product manufacturers including drug manufacturers, automobile and motorcycle manufacturers, and manufacturers of various industrial equipment.

Co-lead counsel and successfully argued for plaintiffs in a series of cases involving questions of federal jurisdiction and preemption arising out of breach of warranty claims relating to cellular telephones. *Pinney v. Nokia*, 402 F.3d 430 (4th Cir. 2005).

PERSONAL INFORMATION

Education: Tulane University School of Law, J.D. 1976 - Tulane Moot Court Board of Judges

Washington University, St. Louis, B.A. 1973
Admissions: Illinois 1976-2008

Louisiana 1977 - Current

Courts: United States Supreme Court

United States Court of Appeals for the Third, Fourth and Fifth Circuits

United States District Court for the Eastern District of Louisiana

United States District Court for the Middle District of Louisiana

United States District Court for the Western District of Louisiana



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EXHIBIT 4*In Re Merck & Co. Securities, Derivative & "ERISA" Litigation*

MDL No. 1658 (SRC)

Civil Action No. 05-1151 (SRC)

Civil Action No. 05-2367 (SRC)

[This Document Relates To: The Consolidated Securities Action]

BREAKDOWN OF EXPENSES BY CATEGORY

CATEGORY	AMOUNT
Court Fees	\$ 19,608.64
PSLRA Notice Costs	5,624.08
On-Line Legal Research	950,863.61
On-Line Factual Research	88,715.09
Special Publications	14,349.09
Document Management/Litigation Support	1,654,795.25
Telephone/Faxes	7,469.20
Postage & Express Mail	57,264.26
Hand Delivery Charges	12,124.60
Local Transportation	117,853.86
Internal Copying	238,548.48
Outside Copying	299,983.80
Out of Town Travel	148,004.40
Working Meals	117,448.28
Depositions/Meetings Hosting	19,865.60
Experts	4,580,711.05
Specialized & Local Counsel	713,228.59
Mediation Fees	109,605.37
Court Reporting and Transcripts	282,032.29
Staff Overtime	1,489.38
Service of Process	33,771.10
TOTAL EXPENSES:	\$9,473,356.02

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