

# EXHIBIT 3

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND**

IN RE MUNICIPAL MORTGAGE & EQUITY, LLC,	:	MDL 08-MD-1961
SECURITIES AND DERIVATIVE LITIGATION	:	ALL CLASS ACTIONS

**DECLARATION OF SHERRIE R. SAVETT IN SUPPORT OF PETITION FOR  
ATTORNEYS' FEES AND REIMBURSEMENT OF EXPENSES  
FILED ON BEHALF OF BERGER & MONTAGUE, P.C.**

I, Sherrie R. Savett, declare as follows pursuant to 28 U.S.C. §1746:

1. I am a managing shareholder and Chair of the Securities Litigation Department of the law firm Berger & Montague, P.C., Court-appointed Co-Lead Counsel for the proposed Class in the above-captioned class action (the "Action").

2. I was involved in the prosecution of this case from its inception, am familiar with its proceedings, and have personal knowledge of the matters set forth herein based upon my close supervision and active participation in all material aspects of the Action.

3. I submit this declaration in support of my firm's application for an award of attorneys' fees and reimbursement of the expenses it incurred during the prosecution and settlement of the Action.

4. As Co-Lead Counsel, my firm was responsible for and actively participated in every aspect of this Action, as more fully discussed in the accompanying Declaration of Charles J. Piven, submitted herewith. Time was spent by my firm on the following activities: (i) seeking appointment as lead plaintiff; (ii) conducting extensive factual and legal research and investigation of the claims of plaintiffs and the proposed class, including identifying, locating and interviewing witnesses and consulting with experts; (iii) preparing and filing an initial complaint and a consolidated amended complaint; (iv) conducting legal and factual research in connection with drafting briefs in opposition to Defendants' motions to dismiss the amended

complaint, the appeal to the Fourth Circuit and the petition for certiorari to the Supreme Court; and (v) participating in settlement negotiations and drafting the settlement papers.

5. Appended hereto as Exhibit A is a detailed schedule indicating the amount of time spent by the attorneys and professional support staff of my firm who performed substantial work in this Action.

6. This schedule was prepared from contemporaneous, daily time records regularly prepared and maintained by Berger & Montague, P.C., which are available for review at the Court's request. Time expended in preparing this Declaration in support of my firm's application for fees and reimbursement of expenses has not been included in this schedule. Additional time may be expended during the administration of the Settlement; however counsel will not seek a fee for that work.

7. The hourly rates for the attorneys and professional support staff at my firm included in Exhibit A are the same as the regular current rates charged for their services in non-contingent matters and/or which have been accepted and approved in other securities or shareholder litigations. 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 with my firm.

8. As reflected in Exhibit A, the total number of hours expended in this Action by my firm is 2,959.90 hours and the total lodestar for my firm is \$1,969,166.00.

9. My firm's lodestar figure is based upon the firm's current billing rates, not including charges for expense items, which are billed separately.

10. Annexed hereto as Exhibit B is a detailed schedule of the unreimbursed litigation expenses incurred by my firm in connection with the prosecution of this Action. As the schedule indicates, my firm has incurred a total of \$35,668.31 in expenses.

11. 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 prepaid in the normal course of business and represent an accurate record of the expenses incurred. These records are available for review at the Court's request.

12. With respect to the standing of my firm, attached hereto as Exhibit C is a biography of my firm.

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

Executed on July 15, 2015 at Philadelphia, PA.

  
Sherrie R. Savett

Kal7012954

**EXHIBIT A**

**LODESTAR REPORT**

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

**REPORTING PERIOD: INCEPTION THROUGH JUNE 30, 2015**

<b><i>PROFESSIONAL</i></b>	<b><i>STATUS*</i></b>	<b><i>HOURLY RATE</i></b>	<b><i>TOTAL HOURS TO DATE</i></b>	<b><i>TOTAL LODESTAR TO DATE</i></b>
Sherrie R. Savett	(P)	\$925.00	124.00	\$114,700.00
Barbara A. Podell	(P)	\$745.00	1,167.10	\$869,489.50
Gary E. Cantor	(P)	\$745.00	141.50	\$105,417.50
Arthur Stock	(P)	\$645.00	.50	\$322.50
Robin B. Switzenbaum	(P)	\$685.00	.40	\$274.00
Eric Letchzin	(P)	\$650.00	1,186.80	\$771,420.00
Douglas M. Risen	(P)	\$610.00	1.0	\$610.00
Jeffrey L. Osterwise	(A)	\$500.00	20.0	\$10,000.00
Shoshana M. Savett	(A)	\$475.00	48.10	\$22,847.50
Donald S. Richards	(I)	\$375.00	33.5	\$12,562.50
P.V. Telang	(PL)	\$275.00	34.00	\$9,350.00
Sharon F. Davis	(PL)	\$275.00	157.40	\$43,285.00
Pamela J. Kaskey	(PL)	\$195.00	45.50	\$8,872.50
Eleanor Magnus	(PL)	\$150.00	.10	\$15.00
<b>TOTAL</b>			<b>2,959.90</b>	<b>\$1,969,166.00</b>

- \* (P) Partner
- (A) Associate
- (PL) Paralegal
- (I) Investigator
- (IT) Litigation Technology Support Coordinator

**EXHIBIT B**

**EXPENSE REPORT**

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

**REPORTING PERIOD: INCEPTION THROUGH JUNE 30, 2015**

<i><b>EXPENSE CATEGORY</b></i>	<i><b>TOTAL</b></i>
LexisNexis/Westlaw/Online Library Research	\$14,261.75
Transportation/Lodging/Meals	\$1,771.88
Photocopying/Scanning (In-house)	\$851.60
Commercial Copying/Printing	\$6,751.06
Telephone/Facsimile	\$239.82
Postage, Overnight Delivery Services, Messenger Services	\$356.10
Court Filing Fees	\$160.00
Court Reporters/Transcripts	\$186.30
Consultant/Expert Fees	\$10,000.00
Publication of Notices	\$1,089.80
<i><b>TOTAL</b></i>	<i><b>\$35,668.31</b></i>

**EXHIBIT C**

# Berger & Montague, P.C.

ATTORNEYS AT LAW

1622 Locust Street | Philadelphia, PA 19103

[info@bm.net](mailto:info@bm.net)

[bergermontague.com](http://bergermontague.com)

800-424-6690

## About Berger & Montague

Berger & Montague is a full-spectrum class action and complex civil litigation firm, with nationally known attorneys highly sought after for their legal skills. The firm has been recognized by courts throughout the country for its ability and experience in handling major complex litigation, particularly in the fields of antitrust, securities, mass torts, civil and human rights, whistleblower cases, employment, and consumer litigation. In numerous precedent-setting cases, the firm has played a principal or lead role.

The *National Law Journal*, which recognizes a select group of law firms each year that have done "exemplary, cutting-edge work on the plaintiffs side," has selected Berger & Montague in 11 out of the last thirteen years (2003-05, 2007-13, 2015) for its "Hot List" of top plaintiffs' oriented litigation firms in the United States. The firm has also achieved the highest possible rating by its peers and opponents as reported in *Martindale-Hubbell*.

Currently, the firm consists of 56 lawyers; 18 paralegals; and an experienced support staff. Few firms in the United States have our breadth of practice and match our successful track record in such a broad array of complex litigation.

## History of the Firm

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

The firm has been involved in a series of notable cases, some of them among the most important in the last 40 years of civil litigation. For example, the firm was one of the principal counsel for plaintiffs in the *Drexel Burnham Lambert/Michael Milken* securities and bankruptcy litigation. Claimants in these cases recovered approximately \$2 billion in the aftermath of the collapse of the junk bond market and the bankruptcy of *Drexel* in the late 1980's. The firm was also among the principal trial counsel in the *Exxon Valdez Oil Spill* litigation in Anchorage, Alaska, a trial resulting in a record jury award of \$5 billion against Exxon, later reduced by the U.S. Supreme Court to \$507.5 million. Berger & Montague was lead counsel in the *School Asbestos Litigation*, in which a national class of secondary and elementary schools recovered in excess of \$300 million to defray the costs of asbestos abatement. The case was the first mass tort property damage class action certified on a national basis. Berger & Montague was also lead/liaison counsel in the *Three Mile Island Litigation* arising out of a serious nuclear incident. Additionally, in the human rights area, the firm, through its membership on the executive committee in the *Holocaust Victim Assets Litigation*, helped to achieve a \$1.25 billion settlement with the largest Swiss banks on behalf of victims of Nazi aggression whose deposits were not returned after the Second World War. The firm also



played an instrumental role in bringing about a \$4.37 billion settlement with German industry and government for the use of slave and forced labor during the Holocaust.

## Practice Areas

### Antitrust

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

The *Legal 500*, a guide to worldwide legal services providers, ranked Berger & Montague as a Top-Tier Firm for Antitrust: Civil Litigation and Class Actions in the United States in its 2015 guide and has repeatedly cited Berger & Montague's antitrust practice as "stand[ing] out by virtue of its first-class trial skills."

For five straight years, Berger & Montague has been selected by *Chambers and Partners' USA's* America's Leading Lawyers for Business as one of Pennsylvania's top antitrust firms.

### Commercial Litigation

Berger & Montague helps business clients achieve extraordinary successes in a wide variety of complex commercial litigation matters. Our attorneys appear regularly on behalf of clients in highstakes federal and state court commercial litigation across the United States. We work with our clients to develop a comprehensive and detailed litigation plan, and then organize, allocate and deploy whatever resources are necessary to successfully prosecute or defend the case.

### Commodities and Options

Berger & Montague ranks among the country's preeminent firms for managing and trying complex commodities and options related cases on behalf of individuals and as class actions. The Firm's commodities clients include individual hedge and speculation traders, hedge funds, energy firms, investment funds, and precious metals clients.

### Consumer Protection

Berger & Montague's Consumer Protection Group protects consumers when they are injured by false or misleading advertising, defective products, data privacy breaches, and various other unfair trade practices. Consumers too often suffer the brunt of corporate wrongdoing, particularly in the area of false or misleading advertising, defective products, and data or privacy breaches.

### Corporate Governance and Shareholder Rights

Berger & Montague protects the interests of individual and institutional investors in shareholder derivative actions in state and federal courts across the United States. Our attorneys help individual and institutional investors reform poor corporate governance as well as represent them in litigation against directors of a company for violating their fiduciary duty or provide guidance on shareholder rights.

### **Employment Law**

The Berger & Montague Employment Law group works tirelessly to safeguard the rights of employees, and devote all of their energies to helping our firm's clients achieve their goals. Our attorneys' understanding of federal and state wage and hour laws, federal and state civil rights and discrimination laws, ERISA, the WARN Act, laws protecting whistleblowers, such as federal and state False Claims Acts, and other employment laws, allows us to develop creative strategies to vindicate our clients' rights and help them secure the compensation to which they are entitled.

### **Environmental and Mass Tort**

Berger & Montague lawyers are trailblazers in the fields of environmental class action litigation and mass torts. Our attorneys have earned their reputation in the fields of environmental litigation and mass torts by successfully prosecuting some of the largest, most well-known cases of our time. Our Environmental & Mass Tort Group also prosecutes significant claims for personal injury, commercial losses, property damage, and environmental response costs.

On a second trip to the Tenth Circuit Court of Appeals, Plaintiffs secured a victory in *Merilyn Cook et al. v. Rockwell International Corporation et al.*, case number 14-1112, with the case being sent back to the district court, which in 2008, ordered the companies to pay a total of \$926 million in damages, including \$549 million in prejudgment interest due to extensive pre-trial delays.

Berger & Montague, P.C. has served as lead class counsel and lead trial counsel in what is considered one of the longest running cases in the United States, filed in 1990. Plaintiffs allege that Rocky Flats, a former nuclear weapons facility formerly operated by Dow Chemical Co. and Rockwell International Corp., dispersed plutonium and contaminated 30 square miles of property around the facility. Plaintiffs pursued claims of trespass and nuisance claims under Colorado state law and the federal Price-Anderson Act, passed in 1957 and relating to nuclear power and the hazards of radioactive materials. The decision by the Tenth Circuit Court of Appeals provides the first clear guidance by any court of appeals that the Price Anderson Act as amended in 1988, after the infamous accident at Three Mile Island, was never intended to, and does not, destroy all state law claims, but preserves them.

Berger & Montague, P.C. attorneys on the case include; Managing Shareholder Merrill Davidoff, co-trial counsel and fellow Managing Shareholder David F. Sorensen, and the late shareholder Peter Nordberg, and supported by attorneys Jenna McNaughton, Caitlin Coslett and Ellen Noteware

### **ERISA and Employee Benefits**

Berger & Montague represents employees who have claims under the federal Employee Retirement Income Security Act. We litigate cases on behalf of employees whose 401(k) and pension investments have suffered severe losses as a result of the breach of fiduciary duties by plan administrators and the companies they represent. Berger & Montague has recovered hundreds of millions of dollars in lost retirement benefits for American workers, and also favorably structured their retirement plans.

### **Insurance and Financial Products / Services**

When insurance companies and affiliated financial services entities engage in fraudulent, deceptive or unfair

practices, Berger & Montague helps injured parties recover their losses. We focus on fraudulent, deceptive and unfair business practices across all lines of insurance and financial products and services sold by insurers and their affiliates, which include annuities, securities and other investment vehicles.

### **Lending Practices and Borrowers' Rights**

Berger & Montague's attorneys fight vigorously to protect the rights of borrowers when they are injured by the practices of banks and other financial institutions that lend money or service borrowers' loans. Berger & Montague has successfully obtained multi-million dollar class action settlements for nationwide classes of borrowers against banks and financial institutions and works tirelessly to protect the rights of borrowers suffering from these and other deceptive and unfair lending practices.

### **Representing Opt-Outs in Class Actions**

Berger & Montague offers exceptional representation of businesses, institutional investors, employee benefit or ERISA plans and governmental entities when they wish to opt out of securities and antitrust class actions filed by others and file an individual lawsuit to maximize their recovery or have a say in the proceedings. We advise and represent clients who may opt out of class actions filed by others -- often securities fraud cases and price-fixing and monopolization antitrust claims -- and help them pursue their claims independently of the class action, where they often stand to receive a much greater financial recovery.

### **Securities Litigation**

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

### **Whistleblower, Qui Tam, and False Claims Act**

Berger & Montague has represented whistleblowers in matters involving healthcare fraud, defense contracting fraud, IRS fraud, securities fraud, and commodities fraud, helping to return more than \$1.1 billion to federal and state governments. In return, whistleblower clients retaining Berger & Montague to represent them in state and federal courts have received more than \$100 million in rewards. Berger & Montague's time-tested approach in Whistleblower/Qui Tam representation involves cultivating close, productive attorney-client relationships with the maximum degree of confidentiality for our clients.

## Judicial Praise for Berger & Montague Attorneys

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

### Antitrust Litigation

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

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

\* \* \*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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**Securities Litigation**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

\* \* \*

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

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

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

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

\* \* \*

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

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

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

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

\* \* \*

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

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



## **PROMINENT JUDGMENTS AND SETTLEMENTS**

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

### **Antitrust Litigation**

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

***In re Marchbanks Truck Service Inc., et al. v. Comdata Network, Inc.:*** Berger & Montague was co-lead counsel in this antitrust class action brought on behalf of a class of thousands of Independent Truck Stops. The lawsuit alleged that defendant Comdata Network, Inc. had monopolized the market for specialized Fleet Cards used by long haul truckers. Comdata imposed anticompetitive provisions in its agreements with Independent Truck Stops that artificially inflated the fees Independents paid when accepting the Comdata's Fleet Card for payment. These contractual provisions, commonly referred to as anti-steering provisions or merchant restraints, barred Independents from taking various competitive steps that could have been used to steer fleets to rival payment cards. The settlement for \$130 million and valuable prospective relief was preliminary approved on March 17, 2014, and finally approved on July 14, 2014. In its July 14, 2014 order approving Class Counsel's fee request, entered contemporaneously with its order finally approving the settlement, the Court described this outcome as "substantial, both in absolute terms, and when assessed in light of the risks of establishing liability and damages in this case."

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

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

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

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

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

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

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

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

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

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

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

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

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

***In re Buspirone Antitrust Litigation:*** The firm served on the court-appointed steering committee in this class action, representing a class of primarily pharmaceutical wholesalers and resellers. The Buspirone class action

alleged that pharmaceutical manufacturer BMS engaged in a pattern of illegal conduct surrounding its popular anti-anxiety medication, Buspar, by paying a competitor to refrain from marketing a generic version of Buspar, improperly listing a patent with the FDA, and wrongfully prosecuting patent infringement actions against generic competitors to Buspar. On April 11, 2003, the Court finally approved a \$220 million settlement. (MDL No. 1410 (S.D.N.Y.)).

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

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

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

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

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

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

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

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

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

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

#### **Securities Litigation**

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

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

***In re: Oppenheimer Rochester Funds Group Securities Litigation:*** The firm, as co-lead counsel, obtained a \$89.5 million settlement on behalf of investors in six tax-exempt bond mutual funds managed by OppenheimerFunds, Inc. (No. 09-md-02063-JLK (D. Col.)).

***In re KLA Tencor Securities Litigation:*** The firm, as a member of Plaintiffs' Counsel's Executive Committee, obtained a cash settlement of \$65 million in an action on behalf of investors against KLA-Tencor and certain of its officers and directors. (No. 06-cv-04065 (N.D. Cal.)).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## **FOUNDING PARTNER:**

### **David Berger (1912-2007)**

David Berger was the founder and the Chairman of Berger & Montague. He received his A.B. *cum laude* in 1932 and his LL.B. *cum laude* in 1936, both from the University of Pennsylvania. He was a member of The Order of the Coif and was an editor of the *University of Pennsylvania Law Review*. He had a distinguished scholastic career including being Assistant to Professor Francis H. Bohlen and Dr. William Draper Lewis, Director of the American Law Institute, participating in the drafting of the first Restatement of Torts. He also served as a Special Assistant Dean of the University of Pennsylvania Law School. He was a member of the Board of Overseers of the Law School and Associate Trustee of the University of Pennsylvania. In honor of his many contributions, the Law School established the David Berger Chair of Law for the Improvement of the Administration of Justice.

David Berger was a law clerk for the Pennsylvania Supreme Court. He served as a deputy assistant to Director of Enemy Alien Identification Program of the United States Justice Department during World War II.

Thereafter he was appointed Lt.j.g. in the U.S. Naval Reserve and he served in the South Pacific aboard three aircraft carriers during World War II. He was a survivor of the sinking of the U.S.S. Hornet in the Battle of Santa Cruz, October 26, 1942. After the sinking of the Hornet, Admiral Halsey appointed him a member of his personal staff when the Admiral became Commander of the South Pacific. Mr. Berger was ultimately promoted to Commander. He was awarded the Silver Star and Presidential Unit Citation.

After World War II, he was a law clerk in the United States Court of Appeals. The United States Supreme Court appointed David Berger a member of the committee to draft the Federal Rules of Evidence, the basic evidentiary rules employed in federal courts throughout the United States. David Berger was a fellow of the American College of Trial Lawyers, the International Society of Barristers, and the International Academy of Trial Lawyers, of which he was a former Dean. He was a Life Member of the Judicial Conference of the Third Circuit and the American Law Institute.

A former Chancellor (President) of the Philadelphia Bar Association, he served on numerous committees of the American Bar Association and was a lecturer and author on various legal subjects, particularly in the areas of antitrust, securities litigation, and evidence.

David Berger served as a member of President John F. Kennedy's committee which designed high speed rail lines between Washington and Boston. He drafted and activated legislation in the Congress of the United States which resulted in the use of federal funds to assure the continuance of freight and passenger lines throughout the United States. When the merger of the Pennsylvania Railroad and the New York Central Railroad, which created the Penn Central

Transportation Company, crashed into Chapter 11, David Berger was counsel for Penn Central and a proponent of its reorganization. Through this work, Mr. Berger ensured the survival of the major railroads in the Northeastern section of the United States including Penn Central, New Jersey Central, and others.

Mr. Berger's private practice included clients in London, Paris, Dusseldorf, as well as in Philadelphia, Washington, New York City, Florida, and other parts of the United States. David Berger instituted the first class action in the antitrust field, and for over 30 years he and the Berger firm were lead counsel and/or co-lead counsel in countless class actions brought to successful conclusions, including antitrust, securities, toxic tort and other cases. He served as one of the chief counsel in the litigation surrounding the demise of Drexel Burnham Lambert, in which over \$2.6 billion was recovered for various violations of the securities laws during the 1980s. The recoveries benefitted such federal entities as the FDIC and RTC, as well as thousands of victimized investors.

In addition, Mr. Berger was principal counsel in a case regarding the Three Mile Island accident near Harrisburg, Pennsylvania, achieving the first legal recovery of millions of dollars for economic harm caused by the nation's most serious nuclear accident. As part of the award in the case, David Berger established a committee of internationally renowned scientists to determine the effects on human beings of emissions of low level radiation.

In addition, as lead counsel in *In re Asbestos School Litigation*, he brought about settlement of this long and vigorously fought action spanning over 13 years for an amount in excess of \$300 million.

David Berger was active in Democratic politics. President Clinton appointed David Berger a member of the United States Holocaust Memorial Council, in which capacity he served from 1994-2004. In addition to his having served for seven years as the chief legal officer of Philadelphia, he was a candidate for District Attorney of Philadelphia, and was a Carter delegate in the Convention which nominated President Carter.

Over his lengthy career David Berger was prominent in a great many philanthropic and charitable enterprises some of which are as follows: He was the Chairman of the David Berger Foundation and a long time honorary member of the National Commission of the Anti-Defamation League. He was on the Board of the Jewish Federation of Philadelphia and, at his last place of residence, Palm Beach, as Honorary Chairman of the American Heart Association, Trustee of the American Cancer Society, a member of the Board of Directors of the American Red Cross, and active in the Jewish Federation of Palm Beach County.

David Berger's principal hobby was tennis, a sport in which he competed for over 60 years. He was a member of the Board of Directors of the International Tennis Hall of Fame and other related organizations for assisting young people in tennis on a world-wide basis.

## **THE SHAREHOLDERS:**

### **Harold Berger**

Harold Berger, a former Judge of the Court of Common Pleas of Philadelphia, is a graduate of the University of Pennsylvania School of Electrical Engineering (B.S.E.E. 1948) and the University of Pennsylvania Law School (J.D. 1951). He is a senior partner and managing principal of the firm and serves on its Executive Committee.

He currently serves as a member of the Board of Overseers of the School of Engineering and Applied Science of the University of Pennsylvania. He has served as Chair of the Third Circuit Class Action and Complex Litigation Committee of the Federal Bar Association and is past Chair of the FBA's National Committee on the Federal and State Judiciary. He is the author of numerous law review articles and has lectured extensively before bar associations and at universities. His biography appears in *Who's Who in America*, *Who's Who in American Law* and *Who's Who in the World*. He has been given the highest rating for legal ability as well as the highest rating for ethical standards by the *Martindale-Hubbell* American legal directory.

Harold Berger has participated in many national litigation and class action matters of a complex nature, including the *Exxon Valdez Oil Spill Litigation*, C.A. No. A89-095 (D. Alaska), which resulted in a record punitive damage award of \$5 billion against Exxon after Trial and in which he served on the case management team and as Co-Chair of the national discovery team. He also participated in the *In re Three Mile Island Litigation*, C.A. No. 79-0432 (M.D. Pa.), where he acted as liaison counsel, and in the nationwide school asbestos property damage class action, *In re Asbestos School Litigation*, Master File No. 83-0268 (E.D. Pa.), where the firm was co-lead counsel. The case was settled for an amount in excess of \$300 million. He also served as co-lead counsel in the *Ashland Oil Spill Litigation*, Master File No. M-14670 (W.D. Pa.), as co-lead counsel in the *Chrysler Motors Corp. Odometer Litigation*, MDL Docket No. 740 (E.D. Mo.), and as lead counsel in the *Collins & Aikman Product Liability Class Action*, C.A. No. 87-2529 (E.D. Pa.).

Harold Berger is a former member of the State and Federal Court Relations Committee of the National Conference of State Trial Judges and is the recipient of numerous awards including a Special American Bar Association Presidential Program Award and Medal and the Special Service Award of the Pennsylvania Conference of State Trial Judges. He is the recipient of the Federal Bar Association's National Service Award for distinguished service to the Federal and State Judiciary. He is a permanent member of the Judicial Conference of the Third Circuit Court of Appeals and served as National Chair of the FBA's Alternate Dispute Resolution Committee.

Recipient of the Alumnus of the Year Award of the Thomas McKean Law Club of the University of Pennsylvania Law School, Harold Berger was honored by the University of Pennsylvania School of Engineering and Applied Science by the dedication of the Honorable Harold Berger Annual Lecture and Award to a technical innovator who has made a lasting contribution to the



quality of our lives. He was further honored by the University by the dedication of a student award in his name for engineering excellence.

Harold Berger has served as Chair of the International Conferences on Global Interdependence held at Princeton University. He has served as Chair of the Aerospace Law Committees of the American, Federal and Inter-American Bar Associations and, in recognition of the importance and impact of his scholarly work, was elected to the International Academy of Astronautics in Paris. He is active in law and engineering alumni affairs at Penn, serving as a University Overseer and as Chair of the Friends of Biddle Law Library. He is a past President of the Eastern District Chapter of the Federal Bar Association and has served as Chair of the Chapter's Class Action and Complex Litigation Committees in addition to serving as Chair of the Bench-Bar Liaison Committee.

Long active in diverse, philanthropic, charitable, community and inter-faith endeavors, Harold Berger currently serves as a Trustee of The Federation of Jewish Charities of Greater Philadelphia, as a Director of the National Museum of Jewish History, as a National Director of the Hebrew Immigrant Aid Society (HIAS) in its endeavors to assist refugees and indigent souls of all faiths, as a Charter Fellow of the Foundation of the Federal Bar Association and as a member of the Hamilton Circle of the Philadelphia Bar Foundation. He is the recipient of "The Children of the American Dream" award of HIAS and Council for his leadership in the civic, legal, academic and Jewish communities.

#### **H. Laddie Montague, Jr.**

H. Laddie Montague, Jr. is a graduate of the University of Pennsylvania (B.A. 1960) and the Dickinson School of Law (L.L.B. 1963) where he was a member of the Board of Editors of the *Dickinson Law Review*. He is currently Chairman of the Board of Governors for Dickinson School of Law of Penn State University. He is a member of the Executive Committee of the firm having joined its predecessor David Berger, P.A. at its inception in 1970. He is the President and shareholder of the firm and is Chairman of the Antitrust Department.

In addition to being one of the courtroom trial counsel for plaintiffs in the mandatory punitive damage class action in the *Exxon Valdez Oil Spill Litigation*, Mr. Montague has served as lead or co-lead counsel in many class actions, including *In re Infant Formula Antitrust Litigation* (1993) and *Bogosian v. Gulf Oil Corp.* (1984), a nationwide class action against thirteen major oil companies. Mr. Montague was co-lead counsel for the State of Connecticut in its litigation against the tobacco industry.

Mr. Montague was one of four co-lead counsel in *In re Brand Name Prescription Drugs Antitrust Litigation*, M.D.L. 997 (N.D. Ill.) and was one of three co-lead counsel in *In Re High Fructose Corn Syrup Antitrust Litigation*, M.D.L. No. 1087 (C.D. Ill.). In addition to the *Exxon Valdez Oil Spill Litigation*, he has tried several complex, protracted cases to jury, including two class actions: *In re Master Key Antitrust Litigation* (1977) and *In re Corrugated Container*

*Antitrust Litigation* (1980). For his work as trial counsel in the *Exxon Valdez Oil Spill Litigation*, Mr. Montague shared the Trial Lawyers for Public Justice 1995 Trial Lawyer of the Year Award.

Mr. Montague has been repeatedly singled out by *Chambers USA: America's Leading Lawyers for Business* as one of the top antitrust attorneys in the City of Philadelphia. He is lauded for his stewardship of the firm's antitrust department, referred to as "the dean of the Bar," stating that his peers in the legal profession hold him in the "highest regard," and explicitly praised for, among other things, his "fair minded[ness]." His is also listed in *Lawdragon 500*, *An International Who's Who of Competition Lawyers*, and *The Legal 500: United States (Litigation)*.

Mr. Montague has been invited and made presentation at the Organization for Economic Cooperation and Development (Paris, 2006); the European Commission and International Bar Association Seminar (Brussels, 2007); the Canadian Bar Association, Competition Section (Ottawa, 2008); and the 2010 Competition Law & Policy Forum (Ontario).

A frequent lecturer on class action litigation, Mr. Montague has presented for the Practicing Law Institute, the Pennsylvania Bar Institute and other groups, including the Antitrust Section of the American Bar Association. He has taught a Complex Litigation course at Temple University's Beasley School of Law and has been a panelist at the Federal Bench-Bar Conference for the Eastern District of Pennsylvania. Mr. Montague was a member of the 1984 faculty of the Columbia Law School Continuing Legal Educational Program entitled "The Trial of an Antitrust Case." Mr. Montague has testified before Congress with respect to antitrust and business fraud legislation, including the Racketeer Influenced and Corrupt Organizations Act ("RICO"). He is currently a member of the Advisory Board of the Antitrust & Trade Regulation Report published by the Bureau of National Affairs.

### **Merrill G. Davidoff**

Merrill G. Davidoff received a B.A. degree from the University of Pennsylvania, and a J.D. from the University of Pennsylvania Law School (*cum laude*). He is admitted to practice law in the Commonwealth of Pennsylvania, the State of New York, the United States Supreme Court, and almost all federal Courts of Appeal. Mr. Davidoff is Co-Chairman of the Antitrust Department with Mr. Montague, Chairs the Environmental Group, and has litigated and tried a wide range of securities, antitrust, and environmental class actions.

In the Rocky Flats Nuclear Weapons Plant class action where Mr. Davidoff is lead counsel, the Court held the United States Department of Energy in contempt of court after a one week trial in November, 1995 (reported at 907 F. Supp. 1460 (D. Colo. 1995)). In 2005-2006, this class action finally went to trial (with Mr. Davidoff as lead trial counsel) and, in February 2006, the jury returned a special verdict for the plaintiffs for \$554 million, the largest property damage class action jury verdict ever. The verdict was the third-largest jury verdict of 2006 in the United States, according to *The National Law Journal*. In 2008, after extensive post-trial motions, the District Court entered a \$926 million judgment for plaintiffs in this case. In July, 2009, the trial

team led by Mr. Davidoff won the Public Justice “Trial Lawyer of the Year” award for its work on the *Rocky Flats* case. The jury verdict in that case was vacated on appeal. In 2015, on a second trip to the Tenth Circuit Court of Appeals, Plaintiffs secured a victory in *Merilyn Cook et al. v. Rockwell International Corporation et al.*, case number 14-1112, with the case being sent back to the district court.

In *In re Foreign Currency Fee Antitrust Litigation*, MDL No. 1409, where Mr. Davidoff and Berger & Montague are co-lead counsel, the Court approved a class action settlement of \$336 million with Visa, MasterCard, and a number of their member banks, which drew more than 10 million claims from class members in one of the largest consumer antitrust class actions.

In *In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation*, MDL No. 1720 (E.D.N.Y.), perhaps the largest pending antitrust case in the United States, H. Laddie Montague, Jr., Mr. Davidoff and Berger & Montague are one of the three Court-appointed co-lead counsel.

Mr. Davidoff has represented diverse clients, including Burger King Corporation; John I. Haas, Inc.; Joh. Barth & Sohn, A.G.; Karhu, Inc.; Rexroth Corporation/Rexroth GmbH; ADVO System, Inc.; the LeFrak Organization; Mannesmann A.G.; Championship Auto Racing Teams, Inc.; Cascade Steel Rolling Mills, Inc.; Carpenter Technology Corp.; the State of New Jersey; and the City of Philadelphia. Mr. Davidoff represented the State of New Jersey in the *Qwest* securities litigation, securing a \$45 million “opt-out” settlement, and currently represents the State of New Jersey in “opt-out” litigation against the former public accounting firm for Lehman Brothers Inc. He has also represented many other large and small companies, sports teams, professional organizations, individuals and professional firms. He has acted as lead counsel and trial counsel in numerous antitrust, commercial, environmental, and securities cases. He represented Championship Auto Racing Teams (“CART”), a major Indy-car race-sanctioning organization, in a series of antitrust cases against Indianapolis Motor Speedway and others. Mr. Davidoff has been a speaker at American Trial Lawyers Association meetings and seminars, and has addressed the Environmental and Toxic Torts Section at the National Convention of ATLA. He is also a member of the Antitrust and Business Law Sections of the American Bar Association, and served on the subcommittee of the American Bar Association Antitrust Section which prepared the 1985 supplements to the “Antitrust Civil Jury Instructions.”

In October, 2007, Mr. Davidoff was on the faculty of a continuing education program for all Pennsylvania Common Pleas (trial court) Judges, and received the following accolade:

On behalf of the Supreme Court of Pennsylvania and AOPC’s Judicial Education Department, thank you for your extraordinary commitment to the *Dealing with Complexities in Civil Litigation* symposia. We appreciate the considerable time you spent preparing and delivering this important course across the state. *It is no surprise to me that the judges rated this among the best programs they have attended in recent years.*

*From: Stephen M. Feiler, Ph.D.  
Director of Judicial Education*

Mr. Davidoff served as co-lead and trial counsel for a plaintiff class in the first mass tort class action trial in federal court which resulted in a precedent-setting settlement for class members, *In re Louisville Explosions Litigation*. In the Canadian Radio-Television and Telecommunications Commission (“CRTC”) Decisions (*Challenge Communications, Ltd. v. Bell Canada*), Mr. Davidoff was lead counsel for Applicant (plaintiff) in three evidentiary hearings before the CRTC. The hearings resulted in the first precedent breaking Bell Canada’s monopoly over the telecommunications equipment which was connected to its telephone network. He was lead counsel in the *Revco Securities Litigation*, an innovative “junk bond” class action, which settled for \$36 million. Mr. Davidoff was lead plaintiffs’ counsel and lead trial counsel in *In re Melridge Securities Litigation*, tried to jury verdicts for \$88 million (securities fraud) and \$240 million (RICO). He was co-lead counsel for the class in *In re Graphite Electrodes Antitrust Litigation*, an international price-fixing case which yielded settlements ranging from 18% to 32% of the plaintiffs’ and class’ purchases from the defendants (aggregate settlements totaled \$134 million). He was one of co-lead counsel in the *Ikon Securities Litigation*, in which a settlement of \$111 million was obtained. He was co-lead counsel and designated lead trial counsel in the *In Re Sunbeam Securities Litigation*, where settlements of \$142 million were reached. One of his areas of concentration is representation in commodities futures and options matters, and expertise in derivatives. He has represented market-makers on the Philadelphia Stock Exchange, where he owned a member firm in the 1990s, as well as broker-dealers and market-makers on other exchanges.

Chambers & Partners highly-regarded Chambers USA Edition has rated Berger & Montague’s Antitrust Practice as “the top choice for plaintiff antitrust representation, particularly in complex class actions.” In one recent edition, Mr. Davidoff was described as a “giant in the field.”

### **Sherrie R. Savett**

#### **Summary**

Sherrie R. Savett, Chair of the Securities Litigation Department and Qui Tam/False Claims Act Department, and member of the Management Committee of the law firm of Berger & Montague, has practiced in the area of securities litigation and class actions since 1975. Eight securities class actions in which Ms. Savett served as lead counsel, are among the largest securities class actions settled in the United States since the enactment of the Private Securities Litigation Reform Act (“PSLRA”) in 1995. In the past decade, she has also worked actively in the False Claims Act arena and was a part of the team that litigated and settled the Average Wholesale Price qui tam cases which settled collectively for over \$1 billion. She has advanced investor protection by helping to establish several significant legal precedents. Ms. Savett speaks and writes often on professional topics, and is also a business and community leader.

## Securities Litigation

Ms. Savett serves or has served as lead or co-lead counsel or as a member of the executive committee in a large number of important securities and consumer class actions in federal and state courts across the country, including:

**Advanced Micro Devices** (class settlement of \$11.5 million);  
**\*Alcatel Alsthom** (class settlement of \$75 million);  
**BankAmerica** (derivative settlement of \$39.25 million);  
**Boston Chicken** (class settlement of \$21.5 million);  
**Bristol-Myers Squibb** (class settlement of \$20 million);  
**Cephalon** (class settlement of \$17 million);  
**\*Cigna** (class settlement of \$93 million);  
**Coastal Physician Group** (class settlement of \$8.15 million);  
**Crocker Bank** (class settlement of \$35 million);  
**Employee Solutions** (class settlement valued at \$15 million);  
**Fidelity/Micron** (class settlement of \$10 million);  
**\*Fleming Companies** (class settlement of \$94 million);  
**Genentech** (class settlement of \$29 million);  
**Global Crossing** (class settlement of \$444 million);  
**Home Shopping Network** (class settlement of \$18.2 million);  
**\*KLA-Tencor** (class settlement of \$65 million);  
**Long Island Lighting** (class settlement of \$48.5 million);  
**Marconi** (class settlement of \$7.1 million);  
**\*Medaphis/Deloitte & Touche** (class settlement of \$96.5 million);  
**MicroWarehouse** (class settlement valued at \$30 million);  
**Motorola** (class settlement of \$15 million);  
**Oak Industries** (class settlement in excess of \$35 million);  
**Plains All American Pipeline LP** (class settlement of \$24.1 million);  
**Policy Management** (class settlement of \$32 million);  
**Policy Management II** (class settlement of \$7.75 million);  
**Public Service Company of New Mexico** (class and derivative settlements of \$33 million);  
**Raychem** (class settlement of \$19.5 million);  
**\*Rite Aid** (class settlement of \$334 million);  
**Safety-Kleen** (class settlement of \$44.5 million achieved two days before trial);  
**Sepracor** (class settlement of \$52.5 million);  
**Shopko Stores** (class settlement of \$4.9 million);  
**SmithKline Beckman** (class settlement of \$22 million);  
**\*Sotheby's Holdings** (class settlement of \$70 million);  
**Summit Technology** (class settlement of \$10 million);  
**Sunrise Medical** (class settlement of \$20 million);  
**Subaru** (class settlement of \$70 million);  
**Synergen** (class settlement of \$28 million);  
**U.S. Bioscience** (class settlement valued at \$15.25 million);

*United HealthCare* (class settlement of \$20.1 million);  
*United Telecommunications* (class settlement of \$28 million);  
*Valujet* (class settlement of \$5 million);  
*W.R. Grace* (derivative settlement of \$8.5 million);  
\**Waste Management* (class settlement of \$220 million); and  
\**Xcel Energy* (class settlement of \$80 million).

\* Listed among the largest securities class actions settled in the United States since the enactment of the PSLRA in 1995.

### **Investor Protection**

Ms. Savett has helped establish several significant precedents. Among them is the holding (the first ever in a federal appellate court) that municipalities are subject to the anti-fraud provisions of SEC Rule 10b-5 under ‘ 10(b) of the Securities Exchange Act of 1934, and that municipalities that issue bonds are not acting as an arm of the state and therefore are not entitled to immunity from suit in the federal courts under the Eleventh Amendment. *Sonnenfeld v. City and County of Denver*, 100 F.3d 744 (10th Cir.1996)

In the *U.S. Bioscience* securities class action, a biotechnology case where critical discovery was needed from the federal Food and Drug Administration, the court ruled that the FDA may not automatically assert its administrative privilege to block a subpoena and may be subject to discovery depending on the facts of the case. *In re U.S. Bioscience Secur. Litig.*, 150 F.R.D. 80 (E.D. Pa. 1993)

In the *CIGNA Corp. Securities Litigation*, the Court denied defendants’ motion for summary judgment, holding that a plaintiff has a right to recover for losses on shares held at the time of a corrective disclosure and his gains on a stock should not offset his losses in determining legally recoverable damages. *In re CIGNA Corp. Securities Litigation*, 459 F. Supp. 2d 338 (E.D. Pa. 2006).

### **Judicial Praise**

From **Judge Stewart Dalzell**, of the U.S. District Court for the Eastern District of Pennsylvania, *In re U.S. Bioscience Securities Litigation*, Civil Action No. 92-0678, hearing held April 4, 1994 (E.D. Pa. 1994).:

“The quality of lawyering on both sides, but I am going to stress now on the plaintiffs’ side, simply has not been exceeded in any case, and we have had some marvelous counsel appear before us and make superb arguments, but they really don’t come any better than Mrs. Savett . . . , and the arguments we had on the motion to dismiss [Mrs. Savett argued the motion], both sides were fabulous, but plaintiffs’ counsel were as good as they come.”

From **Judge David S. Doty**, of the U.S. District Court for the District of Minnesota, *In re Xcel Energy Sec. Deriv. "ERISA" Litig.*, 364 F. Supp. 2d 980, 992, 995-96 (D. Minn. 2005):

"... [A] just result without the assistance of a governmental investigation," plaintiffs' co-lead counsel Berger & Montague "conducted themselves in an exemplary manner," "consistently demonstrated considerable skill and cooperation to bring this matter to an amicable conclusion," and "moved the case along expeditiously".

From Judge **Wayne R. Andersen**, of the U.S. District Court for the Northern District of Illinois, *In Re: Waste Management, Inc. Securities Litigation*, Civil Action No. 97-C 7709 (N.D. Ill. 1999):

"...[Y]ou have acted the way lawyers at their best ought to act. And I have had a lot of cases...in 15 years now as a judge and I cannot recall a significant case where I felt people were better represented than they are here ... I would say this has been the best representation that I have seen."

From **Judge Stewart Dalzell**, of the U.S. District Court for the Eastern District of Pennsylvania, *In re Rite Aid Inc. Sec. Litig.*, 269 F.Supp. 2d 603, 611 (E.D. Pa. 2003):

"This litigation presented layers of factual and legal complexity which assured that, absent a global settlement, these disputes would take on Dickensian dimensions ... In short, it would be hard to equal the skill class counsel demonstrated here .... [T]hey were at least eighteen months ahead of the United States Department of Justice in ferreting out the conduct that ultimately resulted in the write down of over \$1.6 billion in previously reported Rite Aid earnings.

From U.S. District Judge **Michael M. Baylson**, *In Re: CIGNA Corp. Sec. Litig.*, 2007 U.S. Dist. LEXIS 51089, \*\*17-18 (E.D. Pa. July 13, 2007):

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

### **Professional Leadership**

Ms. Savett is active in her profession, and is a frequent author and lecturer on prosecuting shareholder and consumer class actions. She was formerly on the board of the Philadelphia Bar Foundation.

In April 2013, Ms. Savett spoke at the 2013 ABA Litigation Section Annual Conference in Chicago on two panels. One program on securities litigation was entitled "The Good, The Bad, and The Ugly: Ethical Issues in Class Action Settlements and Opt Outs." The other program

focused on consumer class actions in the real estate area and was entitled “The Foreclosure Crisis Puzzle: Navigating the Changing Landscape of Foreclosure.”

In May 2007, Ms. Savett spoke in Rome, Italy at the conference presented by the Litigation Committee of the Dispute Resolution Section of the International Bar Association and the Section of International Law of the American Bar Association on class certification. Ms. Savett participated in a mock hearing before a United States Court on whether to certify a worldwide class action that includes large numbers of European class members.

She has lectured at the Wharton School of the University of Pennsylvania and at the Stanford Law School on prosecuting shareholder class actions. She is frequently invited to present and serve as panelist in American Bar Association, American Law Institute/American Bar Association and Practising Law Institute (PLI) conferences on securities class action litigation and the use of class actions in consumer litigation. She has been a presenter and panelist at PLI’s Securities Litigation and Enforcement Institute annually since 1995. She has also spoken at major institutional investor and insurance industry conferences, and DRI -- the Voice of the Defense Bar. In February 2009, she was a member of a six person panel who presented an analysis of the current state of securities litigation before over 1,000 underwriters and insurance executives at the PLUS (Professional Liability Underwriting Society) Conference in New York City. She has presented at the Cyber-Risk Conference in 2009 and will present at the PLUS Conference in Chicago on November 16, 2009 on the subject of litigation involving security breaches and theft of personal information.

Ms. Savett is a member of the Editorial Board of the *Securities Litigation Report* and has been a contributor to this publication.

She has written numerous articles on securities and complex litigation issues, including:

“Plaintiffs’ Vision of Securities Litigation: Current Trends and Strategies,” 1762 *PLI*, October 2009

“Plaintiffs’ Vision of Securities Litigation: Trends/Strategies in 2005-2007,” 1620 *PLI*, September 2007

“Plaintiffs’ Vision of Securities Litigation: Trends/Strategies in 2005-2007,” SM086 ALI ABA, June 7-8, 2007

“Securities Class Actions Since the 1995 Reform Act: A Plaintiff’s Perspective,” 1557 *PLI*, September 2006

“Securities Class Actions Since the 1995 Reform Act: A Plaintiff’s Perspective,” 1505 *PLI*, September 2005



“Recent Developments in the Lead Plaintiff and Lead Counsel Provisions of the Private Securities Litigation Reform Act (PSLRA),” 1 *Securities Litigation Report*, (Glasser LegalWorks) December 2004-January 2005

“Primary Liability of ‘Secondary’ Actors under the PSLRA,” 1 *Securities Litigation Report*, (Glasser) November 2004

“Securities Class Actions Since the 1995 Reform Act: A Plaintiff’s Perspective,” 1442 *PLI/Corp.13*, September-October 2004

“Securities Class Actions Since the 1995 Reform Act: A Plaintiff’s Perspective,” SJ084 ALI-ABA 399, May 13-14, 2004

“The ‘Indispensable Tool’ of Shareholder Suits,” *Directors & Boards*, Vol. 28, February 18, 2004

“Plaintiff’s Perspective on How to Obtain Class Certification in Federal Court in a Non-Federal Question Case”, 679 *PLI*, August 2002

“Hurdles in Securities Class Actions: The Impact of Sarbanes-Oxley from a Plaintiff’s Perspective,” 9 *Securities Litigation and Regulation Reporter* (Andrews), December 23, 2003

“Securities Class Actions Since the 1995 Reform Act: A Plaintiff’s Perspective,” SG091 ALI-ABA, May 2-3, 2002

“Securities Class Actions Since the 1995 Reform Act: A Plaintiff’s Perspective,” SF86 ALI-ABA 1023, May 10, 2001

“Greetings from the Plaintiffs’ Class Action Bar: We’ll Be Watching,” SE082 ALI-ABA739, May 11, 2000

“Preventing Financial Fraud,” B0-00E3 *PLI* BO-00E3 April-May 1999

“Shareholders Class Actions in the Post Reform Act Era,” SD79 ALI-ABA 893, April 30, 1999

“What to Plead and How to Plead the Defendant’s State of Mind in a Federal Securities Class Action,” with Arthur Stock, *PLI*, ALI/ABA 7239, November 1998

“The Merits Matter Most: Observations on a Changing Landscape under the Private Securities Litigation Reform Act of 1995,” 39 *Arizona Law Review* 525, 1997

“Everything David Needs to Know to Battle Goliath,” ABA Tort & Insurance Practice Section, *The Brief*, Vol. 20, No.3, Spring 1991

“The Derivative Action: An Important Shareholder Vehicle for Insuring Corporate Accountability in Jeopardy,” *PLI* H4-0528, September 1, 1987

“Prosecution of Derivative Actions: A Plaintiff’s Perspective,” *PLI* H4-5003, September 1, 1986

## **Honors**

Ms. Savett is widely recognized as a leading litigator and a top female leader in the profession by local and national legal rating organizations.

*The Legal Intelligencer* and *Pennsylvania Law Weekly* named her one of the “56 Women Leaders in the Profession” in 2004.

In 2003-2005 and 2007-2009, Berger & Montague was named to the *National Law Journal’s* “Hot List” of 12-20 law firms nationally “who specialize in plaintiffs’ side litigation and have excelled in their achievements.” Having achieved this designation in 6 out of 7 years, the firm is on the *National Law Journal’s* “Hall of Fame.” Ms. Savett’s achievements were mentioned, among others, in each year.

Ms. Savett was named a “Pennsylvania Top 50 Female Super Lawyer” and a “Pennsylvania Super Lawyer” from 2004 through 2009 by *Philadelphia Magazine* after an extensive nomination and polling process among Pennsylvania lawyers.

In 2006 and 2007, she was named one of the “500 Leading Litigators” and “500 Leading Plaintiffs’ Litigators” in the United States by *Lawdragon*. In 2008, Ms. Savett was named as one of the “500 Leading Lawyers in America.” Also in 2008, she was named one of 25 “Women of the Year” in Pennsylvania by *The Legal Intelligencer* and *Pennsylvania Law Weekly* which stated on May 19, 2008 in the *Women in the Profession* in *The Legal Intelligencer* that she “has been a prominent figure nationally in securities class actions for years, and some of her recent cases have only raised her stature.”

In June 2008, Ms. Savett was named by *Lawdragon* as one of the “100 Lawyers You Need to Know in Securities Litigation.”

## **Business and Community Leadership**

A business leader, Ms. Savett is a member of The Forum of Executive Women and a member of the Union League of Philadelphia.

Ms. Savett is active in community affairs. She is currently serving the second year of a three year term as President of The Jewish Federation of Greater Philadelphia, and has served for decades on its Board of Trustees. She also serves as Vice Chairperson of the Board of Directors of the National Liberty Museum and the Board of the Anti-Defamation League. In 2005, she received The Spirit of Jerusalem Medallion, the State of Israel Bonds’ highest honor.

## **Education**

She earned her J.D. from the University of Pennsylvania Law School, and a B.A. *summa cum laude* from the University of Pennsylvania.

## **Personal**

Ms. Savett has three children and three grandchildren. In addition to her family, she enjoys tennis, physical training, travel and collecting art.

### **Daniel Berger**

Daniel Berger graduated with honors from Princeton University (Class of 1969) and Columbia Law School (1974) where he was a Harlan Fiske Stone academic scholar. He is presently a senior member and shareholder of the firm, for which he serves as Managing Shareholder. Over the last 15 years, he has been involved in a number of complicated commercial cases including class action securities, antitrust, mass tort and bankruptcy cases. In the antitrust area, he has headed up the firm's involvement in highly successful litigation against brand and generic prescription drug manufacturers in which the Berger Firm has been co-lead counsel, a member of various executive committees or otherwise played a key role including, *inter alia*, the following cases: *Duane Reade Co. v. Aventis et al.* (\$110 million settlement involving prescription drug Hytrin); *Louisiana Wholesale Drug Co. v. Bristol-Myers Squibb* (\$220 million settlement involving prescription drug Buspar); *Valley Drug Co. v. Abbott Laboratories et al.*,<sup>1</sup> (pending case involving agreements by brand and generic drug companies to delay generic entry); *Louisiana Wholesale Drug Co. v. Schering Plough* (pending case involving agreements by brand and generic drug companies to delay generic entry); and *Louisiana Wholesale Drug Co. v. Glaxo SmithKline Co.* (pending case involving fraud on the U.S. Patent Office and improper FDA listing by a brand prescription drug manufacturer which delayed generic entry. In the civil rights area, he has been counsel in informed consent cases involving biomedical research and human experimentation by federal and state governmental entities.

Daniel Berger also has a background in the study of economics having done graduate level work in applied micro-economics and macro-economic theory, the business cycle and economic history. He has published law review articles in the *Yale Law Journal*, the *Duke University Journal of Law and Contemporary Problems* and the *New York Law School Law Review* and worked with the American Law Institute /American Bar Association program on continuing legal education. He has been affiliated with the Kennedy School of Government through the Shorenstein center of Media and Public Policy at Harvard University.

Mr. Berger has been active in city government in Philadelphia and was a member of the Mayor's Cultural Advisory Council, advising the Mayor of Philadelphia on arts policy and the Philadelphia Cultural Fund, which is responsible for all city grants to arts organizations. Mr. Berger was also a member of the Pennsylvania Humanities Council, one of the State organizations through which the National Endowment for the Humanities makes grants.

Mr. Berger is also an author and journalist and has published in the *Nation* magazine and reviewed books for the *Philadelphia Inquirer*.

### **Todd S. Collins**

Todd S. Collins is a graduate of the University of Pennsylvania (B.A. 1973) and the University of Pennsylvania Law School (J.D. 1978), where he won the 1978 Henry C. Laughlin Prize for Legal Ethics. He is a member of the Pennsylvania and Delaware Bars. Since joining Berger & Montague in 1982, following litigation and corporate experience in Wilmington, Delaware and Philadelphia, he has concentrated on complex class litigation, including cases on behalf of securities purchasers, shareholders, trust beneficiaries, and retirement plan participants and beneficiaries. Mr. Collins serves on the Berger Firm's Planning Committee.

Mr. Collins has served as lead counsel or co-lead counsel in numerous cases that have achieved significant benefits on behalf of the Class. These cases include: *In re AMF Bowling Securities Litigation* (S.D.N.Y.) (\$20 million recovery, principally against investment banks, where defendants asserted that Class suffered no damages); *In re Aero Systems, Inc. Securities Litigation* (S.D. Fla.) (settlement equal to 90 percent or more of Class members' estimated damages); *Price v. Wilmington Trust Co.* (Del. Ch.) (in litigation against bank trustee for breach of fiduciary duty, settlement equal to 70% of the losses of the Class of trust beneficiaries); *In re Telematics International, Inc. Securities Litigation* (S.D. Fla.) (settlements achieved, after extensive litigation, following 11<sup>th</sup> Circuit reversal of dismissal below); *In re Ex-Cell-O Securities Litigation* (E.D. Mich.); *In re Sequoia Systems, Inc.* (D. Mass.); *In re Sapiens International, Inc. Securities Litigation* (S.D.N.Y.); *In re Datastream Securities Litigation* (D.S.C.); *Copland v. Tolson* (Fischer & Porter Corporate Litigation), (C.P. Bucks County, Pa.) (on eve of trial, in case against corporate principals for breach of fiduciary duty, settlement reached that represented 65% or more of claimants' losses, with settlement funded entirely from individual defendants' personal funds); and *In re IKON Office Solutions, Inc. Securities Litigation* (E.D. Pa.). In *IKON*, where Mr. Collins was co-lead counsel as well as chief spokesman for plaintiffs and the Class before the Court, plaintiffs' counsel created a fund of \$111 million for the benefit of the Class.

In addition, Mr. Collins has served as lead or co-lead counsel in several of the leading cases asserting the ERISA rights of 401(k) plan participants. Mr. Collins has served as co-lead counsel in *In re Lucent Technologies, Inc. ERISA Litigation* (D.N.J.); *In re Nortel Networks Corp. ERISA Litigation* (M.D. Tenn.); *In re SPX Corporation ERISA Litigation* (W.D. N.C.); and *King v. Wal-Mart Stores, Inc.* (D. Nev.). In *Lucent*, Mr. Collins and his team achieved a settlement consisting of \$69 million for the benefit of plan participants as well as substantial injunctive relief with respect to the operation of the 401(k) plans.

Mr. Collins is at the forefront of litigation designed to achieve meaningful corporate governance reform. Recently, he brought to a successful conclusion two landmark cases in which corporate

therapeutics are at the core of the relief obtained. In *Oorbeek v. FPL Group, Inc.* (S.D. Fla.), a corporate derivative action brought on behalf of the shareholders of FPL Group, plaintiffs challenged excessive “change of control” payments made to top executives. In settlement, plaintiffs recovered not only a substantial cash amount, but also a range of improvements in FPL’s corporate governance structure intended to promote the independence of the outsider directors.

Similarly, in *Ashworth Securities Litigation* (S.D. Cal.), a Section 10(b) fraud case, in which Mr. Collins was co-lead counsel, plaintiffs again have been successful in recovering millions of dollars and also securing important governance changes. In this case, the changes focused on strengthening the accounting function and improving revenue recognition practices.

In corporate acquisition cases, Mr. Collins has served as co-lead counsel in cases such as *In Re Portec Rail Products, Inc. Shareholders Litig.* (tender offer enjoined), *Silberman v. USANA Health Sciences, Inc. et al.* (D. Utah) (offer enjoined on plaintiffs’ motion) and *Kahn v. Saker, et al.* (Sup. Ct. NJ) (consideration to minority shareholders increased by more than 25 percent as a result of settlement).

### **Eric L. Cramer**

Eric L. Cramer is a shareholder with the Philadelphia law firm of Berger & Montague, P.C., where he has practiced since 1995. He has repeatedly been selected by Chambers USA *America’s Leading Lawyers for Business* as one of Pennsylvania’s top antitrust lawyers; has been deemed a “Super Lawyer” by Philadelphia Magazine; was highlighted in 2011 as one of the top lawyers in the country by *the Legal 500* in the field of complex antitrust litigation; and, was selected as a “Rising Star” and “antitrust ace” by *Lawdragon.com*. Mr. Cramer has focused his practice on complex litigation in the antitrust arena, including prosecuting antitrust class actions in the pharmaceutical and medical device industries. In the last several years, Mr. Cramer and his colleagues have won substantial settlements for their clients and class members from pharmaceutical industry defendants for a combined total of nearly \$1 billion.

Among other writings, Mr. Cramer has co-authored *Antitrust, Class Certification, and the Politics of Procedure*, 17 George Mason Law Review 4 (2010) (<http://ssrn.com/abstract=1578459>); co-wrote *Of Vulnerable Monopolists?: Questionable Innovation in the Standard for Class Certification in Antitrust Cases*, to be published in the Rutgers Camden Law Review (Fall 2010) (<http://ssrn.com/abstract=1542143>); co-authored a Chapter of *American Antitrust Institute’s Private International Enforcement Handbook* (2010), entitled “Who May Pursue a Private Claim?”; contributed to a chapter of the American Bar Association’s *Pharmaceutical Industry Handbook* (July 2009), entitled “Assessing Market Power in the Prescription Pharmaceutical Industry”; and co-authored an article entitled *The Superiority of Direct Proof of Monopoly Power and Anticompetitive Effects in Antitrust Cases Involving Delayed Entry of Generic Drugs*, 39 U.S.F. Law Rev. 81 (Fall 2004).

He is a *summa cum laude* graduate of Princeton University (1989), where he was elected to Phi Beta Kappa. He graduated *cum laude* from Harvard Law School with a J.D. in 1993. He is a Senior Fellow of the American Antitrust Institute, a member of the Advisory Board of the Institute of Consumer & Antitrust Studies at Loyola University Chicago School of Law, a member of the Boards of Public Justice (formerly known as Trial Lawyers for Public Justice) and the Center for Literacy.

### **David F. Sorensen**

Mr. Sorensen graduated from Duke University (B.A. *magna cum laude* 1983) and from Yale University (J.D. 1989). He was Law Clerk to the Hon. Norma L. Shapiro (E.D. Pa.), in 1990-1991. He is admitted to practice law in the Commonwealth of Pennsylvania, the United States Supreme Court, and numerous federal Courts of Appeal.

Mr. Sorensen practices in the areas of complex mass tort and antitrust class action litigation. He helped try a class action property damage case, *Cook v. Rockwell Corp.*, that resulted in a jury verdict of \$554 million on February 14, 2006, after a four-month trial, on behalf of thousands of property owners near the former Rocky Flats nuclear weapons plant located outside Denver, Colorado. The verdict was the third-largest jury verdict of 2006 in the United States, according to *The National Law Journal*; the largest in Colorado history; and was the first time a jury had awarded damages to property owners living near one of the nation's nuclear weapons sites. In 2008, the District Court entered a \$926 million judgment for plaintiffs. In July 2009, the trial team, including Mr. Sorensen, won the "Trial Lawyer of the Year" award from the Public Justice Foundation, for its work on the *Cook* case. The jury verdict in that case was vacated on appeal. In 2015, on a second trip to the Tenth Circuit Court of Appeals, Plaintiffs secured a victory in *Merilyn Cook et al. v. Rockwell International Corporation et al.*, case number 14-1112, with the case being sent back to the district court.

Mr. Sorensen also played a major role in the firm's representation of the State of Connecticut in *State of Connecticut v. Philip Morris, Inc., et al.*, in which Connecticut recovered approximately \$3.6 billion from certain manufacturers of tobacco products.

Mr. Sorensen also has played major roles in a number of antitrust cases representing direct purchasers of prescription drugs. These cases have alleged that pharmaceutical manufacturers have wrongfully kept less expensive generic drugs off of the market, in violation of federal antitrust laws. Several of these cases have resulted in substantial cash settlements, including *In re Terazosin Hydrochloride Antitrust Litigation*, MDL 1317 (S.D. Fla.) (\$75 million); and *In re Remeron Antitrust Litig.* (D.N.J.) (\$75 million). Mr. Sorensen also argued and won class certification in *In re K-Dur Antitrust Litigation*, 2008 WL 2699390 (D.N.J. April 14, 2008), and *In re Nifedipine Antitrust Litigation*, 246 F.R.D. 365 (D.D.C. 2007); and argued and obtained a precedent-setting victory in *In re DDAVP Direct Purchaser Antitrust Litigation*, 585 F.3d 679 (2d Cir. 2009), in which the Second Circuit held that direct purchasers had standing to seek antitrust damages relating to *Walker Process* patent fraud. Most recently, he argued on behalf of direct purchaser plaintiffs in *King Drug Co. v. Cephalon, Inc.*, \_\_ F. Supp. 2d \_\_, 2010 WL

1221793 (E.D. Pa. March 29, 2010), in which the court denied defendants' motions to dismiss antitrust claims arising from agreements between Cephalon and its generic competitors that, plaintiffs allege, have wrongfully blocked generic competition.

Mr. Sorensen presented at symposia in November 2004, and in September 2009, focusing on antitrust issues in the pharmaceutical industry, at the University of San Francisco School of Law, and co-authored, with one of the school's law professors, Joshua P. Davis, *Chimerical Class Conflicts in Federal Antitrust Litigation: The Fox Guarding the Chicken House in Valley Drug*, 39 U.S.F. Law Review 141 (Fall 2004).

In October, 2007, Mr. Sorensen was on the faculty of a continuing education program for all Pennsylvania Common Pleas judges (trial court). He also has been a guest lecturer at the University of Colorado Law School.

Mr. Sorensen has been named as one Pennsylvania's "SuperLawyers," every year since 2005 in the Philadelphia Magazine; and has received the highest peer-review rating, "AV," in Martindale-Hubbell.

#### **Shanon J. Carson**

Shanon J. Carson is a graduate of the Indiana University of Pennsylvania (B.A. *cum laude* 1996 - Criminology) and the Dickinson School of Law of the Pennsylvania State University (J.D. 2000). While in law school, Mr. Carson was Senior Editor of the Dickinson Law Review, and also served as a law clerk for the Honorable William W. Caldwell, Senior Judge, United States District Court, Middle District of Pennsylvania. Since joining Berger & Montague in August of 2000, Mr. Carson has concentrated his practice in the areas of employment discrimination, civil rights, products liability and other commercial litigation, and complex class action litigation. Mr. Carson is admitted to practice in the Commonwealth of Pennsylvania.

#### **Glen L. Abramson**

Glen L. Abramson has been a member of Berger & Montague's Securities Litigation Department since 2003, concentrating his practice in the area of complex securities class action litigation. Prior to joining Berger & Montague, he worked at Dechert LLP in Philadelphia, where he handled complex commercial litigation, product liability, intellectual property, and civil rights disputes. While at Dechert, Mr. Abramson co-chaired a civil rights trial in federal court that led to a six-figure verdict. Mr. Abramson also spent three years as a professional equities trader.

Currently Mr. Abramson represents both public and private institutional investors, as well as high-net-worth individuals, in several high-profile securities fraud class actions. He is actively involved in *In re Mutual Funds Investment Litigation*, where Berger & Montague is a member of the Steering Committee, and represents the interest of investors who were harmed as a result of the mutual fund industry's recent market timing and late trading scandal.

Mr. Abramson is also active in pursuing corporate governance reform on behalf of institutional investors. He is a member of the National Association of Public Pension Attorneys (NAPPA), and had contributed to an article titled “The Indispensable Tool of Shareholder Suits: Private Securities Litigation as a Remedy for Failed Governance” in *Directors & Boards* magazine (Vol. 28, No. 2, Winter 2004). Mr. Abramson has also commented on securities fraud cases for several publications, including *The Economist*.

In 2006, 2007, and 2008, Mr. Abramson was named as a Pennsylvania Super Lawyer - Rising Star. The designation of “Rising Star” is an honor conferred upon only the top 2.5% of attorneys in Pennsylvania who are 40 or younger.

Mr. Abramson was awarded a B.A. from Cornell University where he was elected to Phi Beta Kappa. He holds a J.D. *cum laude* from the Harvard Law School, where he was a member of the Harvard Legal Aid Bureau. He is admitted to practice law in Pennsylvania and New Jersey.

### **Jonathan D. Berger**

Jonathan Berger is a shareholder in the Employment and Commercial Litigation practice groups at Berger & Montague. Mr. Berger concentrates his practice on the prosecution of class actions, collective actions and plaintiff litigation on behalf of employees, consumers, and shareholders across the country.

Mr. Berger also serves as counsel for several commercial hydraulic manufacturers and other companies. As counsel, Mr. Berger provides legal services relating to corporate, commercial, employment, and other business activities.

Since joining the firm in September 1987, Mr. Berger has been involved in class actions and complex commercial litigation including the *Exxon Valdez Oil Spill Litigation*; *In re Asbestos School Litigation*, Master File No. 83-0268 (E.D. Pa.); *In re Domestic Airlines Antitrust Litigation*, 137 F.R.D. 677 (N.D. Ga. 1991); *Ford/Firestone MDL Litigation*; *Unisys ERISA Benefits Litigation*; *Commercial Explosives Antitrust Litigation*; and *Vitamins Antitrust Litigation*. Mr. Berger has also prosecuted complex multi-party litigation involving hydraulic engineered systems.

Mr. Berger has recently litigated wage & hours cases in federal and state courts including: *Chabrier v. Wilmington Finance, Inc.*, No. 06-4176 (E.D. Pa.). Mr. Berger obtained a settlement of \$2,925,000 on behalf of retail loan officers who worked in four offices of Wilmington Finance, Inc. to resolve claims for unpaid overtime wages and related penalties. A significant opinion issued in the case is *Chabrier v. Wilmington Finance, Inc.*, 2008 WL 938872 (E.D. Pa. April 04, 2008) (denying the defendant’s motion to decertify the class); and *Espinosa v. National Beef California, L.P.*, No. ECU04657 (Cal. Super. Ct.) (\$3.35 million settlement).



### **Gary E. Cantor**

Gary E. Cantor is a shareholder in the Securities and Commodities practice groups at Berger & Montague. He concentrates his practice on complex litigation and securities and derivatives valuations.

Mr. Cantor served as co-lead counsel in *Steiner v. Phillips, et al.* (Southmark Securities), Consolidated C.A. No. 3-89-1387-X (N.D. Tex.), (class settlement of \$82.5 million), and *In re Kenbee Limited Partnerships Litigation*, Civil Action No. 91-2174 (GEB) (D. N.J.), (class settlement involving 119 separate limited partnerships resulting in cash settlement, oversight of partnership governance and debt restructuring (with as much as \$100 million in wrap mortgage reductions.)) Mr. Cantor also represented plaintiffs in numerous commodity cases.

In recent years, Mr. Cantor played a leadership role in: *In re: Oppenheimer Rochester Funds Group Securities Litigation*, (No. 09-md-02063-JLK (D. Col.) (\$89.5 million class settlement); *In re KLA-Tencor Corp. Securities Litigation*, Master File No. C-06-04065-CRB (N.D. Cal.) (\$65 million class settlement); *In re Sepracor Inc. Securities Litigation*, Civil Action no. 02-12235-MEL (D. Mass.) (\$52.5 million class settlement.); and *In re Sotheby's Holding, Inc. Securities Litigation*, No. 00 Civ. 1041 (DLC) (S.D.N.Y.) (\$70 million class settlement). He was also actively involved in the *Merrill Lynch Securities Litigation* (\$475 million class settlement); and *Waste Management Securities Litigation* (\$220 million class settlement).

For over 20 years, Mr. Cantor also has concentrated on securities valuations and the preparation of event or damage studies or the supervision of outside damage experts for many of the firm's cases involving stocks, bonds, derivatives and commodities. Mr. Cantor's work in this regard has focused on statistical analysis of securities trading patterns and pricing for determining materiality, loss causation and damages as well as aggregate trading models to determine class-wide damages.

Mr. Cantor was a member of the Moot Court Board at University of Pennsylvania Law School where he authored a comment on computer-generated evidence in the University of Pennsylvania Law Review. He graduated from Rutgers College with highest distinction in economics and was a member of Phi Beta Kappa.

### **Joy P. Clairmont**

Joy Clairmont received her B.A. *cum laude* in international affairs from George Washington University in 1995, and her J.D. from George Washington University Law School in 1998, where she served as a managing editor of *The Environmental Lawyer* law journal. After graduating from law school, she clerked for The Honorable Richard J. Hodgson of the Court of Common Pleas of Montgomery County, Pennsylvania. Ms. Clairmont is a member of the Pennsylvania Bar.

Ms. Clairmont joined Berger & Montague, P.C. in 2000 and focuses her practice on securities class actions and False Claims Act (*qui tam*) litigation. Her *qui tam* litigation work principally involves fraud in the pharmaceutical industry.

Ms. Clairmont was a member of the team in the *Sunbeam Securities Litigation* class action (\$142 million settlement). She has also worked extensively representing whistleblowers in *qui tam* lawsuits in state and federal courts throughout the country. A series of False Claims Act cases against drug companies for fraudulent Medicare and Medicaid drug pricing has led to recoveries to date of over \$390 million, including a \$150 million settlement with GlaxoSmithKline PLC, and a \$190 million settlement with Aventis Pharmaceuticals, Inc.

### **Andrew C. Curley**

Andrew C. Curley is a shareholder in the Antitrust practice group at Berger & Montague. He concentrates his practice in the area of complex antitrust litigation.

Mr. Curley serves as Co-Lead Class Counsel on behalf of a class of independent truck stops and other retail merchants in *Marchbanks Truck Service, Inc. v. Comdata Network, Inc.*, Case No. 07-1078 (E.D. Pa.). The *Marchbanks* litigation settled in January 2014 for \$130 million and significant prospective relief—in the form of, among other things, meaningful and enforceable commitments by the largest over-the-road trucker fleet card issuer in the United States to modify or not to enforce those portions of its merchant services agreements that plaintiffs challenged as anticompetitive, and that an expert economist has determined to be worth an additional \$260 million to \$491 million (bringing the total value of the settlement to between \$390 and \$621 million).

Mr. Curley is also involved in a number of antitrust cases representing direct purchasers of prescription drugs. These cases have alleged that pharmaceutical manufacturers have wrongfully kept less expensive generic drugs off the market, in violation of the antitrust laws. Those cases include *In re Wellbutrin XL Antitrust Litig.*, No. 08-2431 (E.D. Pa.) (\$37.5 million settlement with one of two defendants); *In re Skelaxin (Metaxalone) Antitrust Litig.*, No. 12-MD-2343 (E.D. Tenn.) (\$73 million settlement); *In re Solodyn Antitrust Litig.*, 14 MD 2503 (D. Mass.); and *In re Aggrenox Antitrust Litig.*, No. 3:14-md-02516 (D. Conn.).

From 2010 through 2014, Mr. Curley was named as a Pennsylvania Super Lawyer - Rising Star. The designation of "Rising Star" is an honor conferred upon only the top 2.5% of attorneys in Pennsylvania who are 40 or younger.

Prior to joining Berger & Montague, Mr. Curley practiced in the litigation department of a large Philadelphia law firm where he represented clients in a variety of industries in complex commercial litigation in both state and federal court.

### **Michael C. Dell'Angelo**

Michael C. Dell'Angelo specializes in antitrust, securities and complex litigation. Since joining Berger & Montague, Mr. Dell'Angelo has handled cases in a variety of fields. He has successfully represented public and private institutional investors and high net-worth individuals in securities-related litigation. In antitrust and commercial litigation matters, Mr. Dell'Angelo has represented a wide array of clients, including industrial manufacturers, wholesale purchasers of prescription drug products, and bankruptcy trustees.

Mr. Dell'Angelo has been deemed a Pennsylvania Super Lawyer - Rising Star, a distinction conferred upon him annually since 2007. The designation of "Rising Star" is an honor conferred upon only the top 2.5% of attorneys in Pennsylvania who are 40 or younger. Mr. Dell'Angelo is regularly invited to speak at Continuing Legal Education and other seminars, both locally and abroad. He formerly served as the Third Circuit Editor of the American Bar Association's quarterly publication, *Class Action and Derivative Suits*. Mr. Dell'Angelo is a member of the Philadelphia and American Bar Associations.

Prior to joining Berger & Montague, Mr. Dell'Angelo was an associate at Miller Faucher and Cafferty LLP, where he concentrated in antitrust, securities, and complex commercial litigation. While at Miller Faucher, Mr. Dell'Angelo also practiced before the Federal Trade Commission. He devoted a substantial portion of his practice to the prosecution of numerous class action law suits on behalf of survivors of slave labor during the Holocaust. These suits, against German companies, resulted in a \$5.2 billion German Foundation to pay Nazi-era claims.

Mr. Dell'Angelo's *pro bono* work includes the representation of an Alabama death row inmate. That representation resulted in a reversal of the client's sentencing by the Sixth Circuit and a grant of a writ of habeas corpus vacating the client's death sentence.

Mr. Dell'Angelo graduated from Connecticut College (B.A. 1994) and The Catholic University of America, Columbus School of Law (J.D. 1997). At the Columbus School of Law he was a member of the Moot Court Honor Society and Phi Delta Phi.

### **Lawrence Deutsch**

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

At the Berger firm, Mr. Deutsch has been involved in numerous major shareholder class action cases. He recently served as lead counsel in the Delaware Chancery Court on behalf of Class A

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

Mr. Deutsch currently is court-appointed Lead or a primary attorney in numerous complex litigation cases: As court-appointed lead counsel *In Re Revlon, Inc. Securities Litigation* (Civil Case No. 1:09-cv-01008-GMS); serving as principal attorney on behalf of a class of former principals of Towers Perrin (principals of TPAS, an entity of Towers Perrin) within the consolidated case *Alan H. Dugan et al v. Towers, Perrin, Forster & Crosby, Inc. et al* (Civil Case No. 2:09-cv-05099-MSG); serving as court-appointed lead counsel in *In Re Inergy LP Unitholder Litigation* (Del. Ch. No. 5816-VCP ); one of principal trial counsel for plaintiffs in *Fred Potok v. Floorgraphics, Inc., et al* (Phila Co. CCP 080200944 and Phila Co. CCP 090303768); serving on team of lead counsel in *In Re: Certaineed Fiber Cement Siding Litigation*.

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

Mr. Deutsch recently served as lead counsel for a class of investors in Scudder/Deutsche Bank mutual funds in the nationwide Mutual Funds Market Timing cases. Mr. Deutsch served on the Plaintiffs' Omnibus Steering Committee for the consortium of all cases. These cases recovered over \$300 million in 2010 for mutual fund purchasers and holders against various participants in widespread schemes to "market time" and late trade mutual funds, including \$14 million recovered for Scudder/Deutsche Bank mutual fund shareholders.

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

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

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

### **Candice J. Enders**

Candice Enders is a shareholder and member of Berger & Montague's antitrust department. She received a B.A. in political science from the University of Delaware and earned her J.D. from the University of Pennsylvania.

While in law school, Ms. Enders served as a senior editor on the *University of Pennsylvania Journal of Labor and Employment Law*, volunteered as a legal advocate at the Custody and Support Assistance Clinic, and interned at Philadelphia City Council.

Since joining the Berger firm in 2003, she has concentrated entirely on the litigation of antitrust class action cases, including *In re Microcrystalline Cellulose Antitrust Litigation* (E.D. Pa.) (\$50 million settlement achieved shortly before trial); *In re Methyl Methacrylate (MMA) Antitrust Litigation* (E.D. Pa.) (\$15,100,000 settlement); *In re TFT-LCD (Flat Panel) Antitrust Litigation* (N.D. Cal.); *In re Cathode Ray Tube (CRT) Antitrust Litigation* (N.D. Cal.); and *In re Chocolate Confectionary Antitrust Litigation* (M.D. Pa.).

### **Michael T. Fantini**

Michael T. Fantini is a graduate of Saint Joseph's University (B.S. *magna cum laude* 1986) and George Washington National Law Center (J.D. with honors 1989), where he was a member of the Moot Court Board. Prior to joining the Berger firm, he was a litigation associate in the Washington, D.C. office of Dechert, Price & Rhoads.

Since joining the Berger firm in 1992, Mr. Fantini has concentrated in consumer and securities fraud class action litigation. Some notable consumer cases include: *In re Educational Testing Service Praxis Principles of Learning and Teaching: Grade 7-12 Litigation*, MDL No. 1643 (E.D. La. 2006) (settlement of \$11.1 million on behalf of persons who were incorrectly scored on a teachers' licensing exam); *Block v. McDonald's Corporation*, No: 01CH9137 (Cir. Ct. of Cook County, Ill.) (settlement of \$12.5 million where McDonald's failed to disclose beef fat in french fries); *Fitz, Inc. v. Ralph Wilson Plastics Co.*, No. 1-94-CV-0601 7 (D. N.J.) (claims-made settlement whereby fabricators fully recovered their losses resulting from defective contact adhesives); *Parker, et al. v. American Isuzu Motors, Inc.*; No: 3476 (CCP, Philadelphia County) (claims-made settlement whereby class members recovered \$500 each for their economic damages caused by faulty brakes); *Crawford v. Philadelphia Hotel Operating Co.*, No: 04030070 (CCP Phila. Cty. 2005) (claims-made settlement whereby persons with food poisoning recovered \$1,500 each); *Melfi v. The Coco-Cola Company* (settlement reached in case involving alleged misleading advertising of Enviga drink); and *In re TJX Companies Retail Security*

*Breach Litigation*, Master Docket No. 07-10162 (D. Mass) (class action brought on behalf of persons whose personal and financial data were compromised in the largest computer theft of personal data in history. Some notable securities cases include: *In re PSINet Securities Litigation*, No: 00-1850-A (E.D. Va.) (settlement in excess of \$17 million); *Ahearn v. Credit Suisse First Boston, LLC*, No: 03-10956 (D. Mass.) (settlement of \$8 million); and *In re Nesco Securities Litigation*, 4:01-CV-0827 (N.D. Okla.). Finally, Mr. Fantini is currently representing the City of Philadelphia and the City of Chicago in separate suits against certain online travel companies for their failure to pay hotel taxes.

Mr. Fantini is licensed to practice in the Commonwealth of Pennsylvania and the District of Columbia.

### **Ruthanne Gordon**

Ruthanne Gordon, a shareholder at Berger & Montague, is a graduate of the University of Michigan and the University of Pennsylvania Law School. She has concentrated on the litigation of antitrust, securities and environmental class actions, and derivative litigation, including the following complex antitrust cases, among others, in which she has played a lead role: *In re Currency Conversion Fee Antitrust Litigation* (S.D.N.Y.) (after 5½ years of litigation, through the close of fact and expert discovery, achieved a settlement consisting of \$336 million and injunctive relief for a class of U.S. cardholders of Visa- and MasterCard-branded cards; over 10 million class members have filed claims); *Ross v. American Express Company* (\$49.5 million settlement currently pending, achieved after more than 7 years of litigation and after summary judgment was denied); *In re Methyl Methacrylate (MMA) Antitrust Litigation* (E.D. Pa.) (Berger & Montague served as Co-Lead Counsel); *In re Puerto Rico Cabotage Antitrust Litigation* (D.P.R.) (Ms. Gordon served as a court-appointed member of the Plaintiffs' Steering Committee); *In re Microcrystalline Cellulose Antitrust Litigation* (E.D. Pa.) (Berger & Montague served as Co-Lead Counsel in this case which settled for \$50 million shortly before trial); *In re Compact Disc Antitrust Litigation* (C.D. Cal.) (settlement obtained shortly before trial); *State of Connecticut v. Philip Morris, Inc., et al.*, in which the State of Connecticut recovered approximately \$3.6 billion from certain manufacturers of tobacco products; and *In re Commercial Tissue Antitrust Litigation* (N.D. Fla.) (settlement valued at \$54 million achieved after summary judgment briefing).

Ms. Gordon has also played a lead role in litigation involving the following industries, among others: the real estate industry (*Lyons v. Calderone, et al.* (D.N.J.); *Best v. Koger Equity, Inc., et al.* (M.D. Fla.)); the computer industry (*In re Convex Computer Corporation Securities Litigation* (N.D. Tex.); *Heideman v. Toreson, et al.* (N.D. Cal.)); public utilities (*In re Philadelphia Electric Company Derivative Litigation* (Phila. C.C.P.); *In re PSE&G Derivative Litigation* (N.J. Super. Ct. Ch. Div.)); the environmental services industry (*Houston Corporation v. Environmental Systems Company, et al.* (E.D. Ark.)); the tobacco industry (*Friedman v. RJR Nabisco, Inc., et al.* (S.D.N.Y.)); the biotechnology industry (*In re Biogen Inc. Securities Litigation* (D. Mass.)); and the healthcare industry (*In re W.R. Grace & Co. Securities Litigation* (S.D.N.Y.)).

Ms. Gordon has argued issues of first impression before the United States Court of Appeals for the Second Circuit, in *Ross v. American Express Company* (concerning standing to invoke the interlocutory appeal provision of Section 16 of the Federal Arbitration Act, in a case alleging a horizontal price-fixing conspiracy) and before the New Jersey Supreme Court, in *In re PSE&G Derivative Litigation* (concerning the standard for excusal of demand in a duty of care case).

She was counsel in *In re Louisville Explosion Litigation*, a class action case alleging property damage, which was prosecuted through a six-week trial and settled at the close of plaintiffs' case for more than one hundred percent of actual damages. In addition, Ms. Gordon represented a class of Pennsylvania inmates in a federal civil rights class action, which resulted in the establishment of a statewide treatment program for Pennsylvania inmates suffering from post-traumatic stress disorder as a result of their service in the Vietnam war.

As a member of the Antitrust Law Section of the American Bar Association, Ms. Gordon has served as a panelist at the American Bar Association's Antitrust Law Spring Meeting, where she addressed key issues that arise in the prosecution and defense of an antitrust class action lawsuit.

### **Shauna Itri**

Shauna Itri, a shareholder at Berger & Montague, concentrates her practice on complex litigation, representing whistleblowers in qui tam or False Claims Act law suits in state and federal courts throughout the United States. Ms. Itri has worked on a series of False Claims Act cases against large drug companies for fraudulent Medicare and Medicaid drug pricing. This litigation has returned well over \$1 billion to state and federal governments pursuant to the Federal and State False Claims Acts, including a \$150 million settlement with GlaxoSmithKline PLC, and a \$190 million settlement with Aventis Pharmaceuticals, Inc.

In addition to representing whistleblowers, Ms. Itri has also represented shareholders in complex securities class action cases, assisting in litigation that recovered millions of dollars in settlements including: *In re: Adams Golf Securities Litigation*, Civ. Action No. 99-371 (D. Del. 1999) (settled for approximately \$17 million); *In re: American Business Financial Services, Inc. Noteholders Litigation*, No. 05-232 (E.D. Pa.) (settled for approximately \$17 million); and *Mazur v. Concord Camera et al.*, Case No. 04-61159 (S.D. Fla. 2004) (settled for approximately \$2 million).

Ms. Itri received a B.A. and an M.A. from Stanford University in 2000 and 2001. While attending Stanford University, Ms. Itri captained the Stanford University Women's Soccer Team, was on the Scholar Athlete and Honor Roll and served on the Women's Soccer Pacific Ten Conference All-Academic Team.

Ms. Itri earned her Juris Doctor from the Villanova University School of Law where she was Editor-in-Chief of the *Villanova Law School Sports & Entertainment Law Journal* and published an article entitled “*Maurice Clarett v. N.F.L.: An Analysis of Clarett’s Challenge to the Legality of the NFL’s Draft Eligibility Rule Under Antitrust Laws.*”

Ms. Itri is presently an adjunct professor at Villanova University, teaching a white collar crime and corporate deviance course. Ms. Itri was named a "Pennsylvania Super Lawyer Rising Star" in 2010 and 2011 by Philadelphia Magazine after an extensive nomination and polling process among Pennsylvania lawyers. She was placed on Philadelphia's First Judicial District's 2010 Roll of Honor for Pro Bono Service for her service in the community, including acting as a volunteer attorney for the Education Law Center, Veterans Pro Bono Consortium, Philadelphia VIP Mortgage Foreclosure Program, the Homeless Advocacy Project, and HIAS.

### **Peter R. Kahana**

Peter R. Kahana is a shareholder in the Insurance and Antitrust practice groups at Berger & Montague. He is a Phi Beta Kappa graduate of Dickinson College (B.A. *magna cum laude* 1977) with a degree in Philosophy, and graduated from Villanova Law School (J.D. 1980) where he was a member of the *Villanova Law Review*. He is admitted to practice in the Commonwealth of Pennsylvania and has clerked at the appellate court level for The Honorable Gwilym A. Price, Jr., of the Superior Court of Pennsylvania. Following his clerkship, Mr. Kahana joined the Berger firm in 1981.

Mr. Kahana has diverse trial and appellate court experience in complex civil and class action litigation, and he has successfully represented plaintiffs in numerous state and federal courts across the country. Mr. Kahana has played a leading role in major antitrust and environmental litigation, including cases such as *In re Brand Name Prescription Drugs Antitrust Litigation* (\$723 million settlement), *In re Ashland Oil Spill Litigation* (\$30 million settlement), and *In re The Exxon Valdez* (\$287 million compensatory damage and \$507.5 million punitive damage award). In connection with his work as a member of the litigation team that prosecuted *In re The Exxon Valdez*, Mr. Kahana was selected to share in 1995 the Trial Lawyer of the Year Award by the Public Justice Foundation.

Mr. Kahana has also handled many nationwide, multi-state, and state class action cases involving relief for insurance policyholders, as well as consumers of other types of products or services, who have been victimized by fraudulent conduct or unfair business practices. In 2004, Mr. Kahana, and his co-lead class counsel, were named as the recipients of the Association of Trial Lawyers of America’s Steven J. Sharp Public Service Award for their successful settlement (\$20 million) of *Bergonzi v. Central States Health and Life Company of Omaha*, a case involving an insurer’s refusal to pay for health insurance benefits to thousands of cancer victims for chemotherapy and radiation treatment (*Bergonzi v. CSO*, U.S.D.C., D.S.D., Case No. C2-4096). The award is presented annually to those attorneys whose cases tell the story of American civil justice and help educate state and national policy makers and the public about the importance of consumers’ rights.



Other significant cases vindicating the rights of insurance policyholders, in which Mr. Kahana was appointed co-lead class counsel, have included settlement in 2010 for \$72.5 million of a nationwide civil RICO and fraud class action (certified for trial in 2009) against the Hartford and its affiliates for their alleged deceptive business practices in connection with the use of structured settlements (*Spencer, et al. v. The Hartford Financial Services Group, Inc., et al.*, 256 F.R.D. 284 (D. Conn. 2009)); and settlement in 2009 for \$75 million of breach of contract, Unfair Trade Practices Act and insurance bad faith tort claims on behalf of a class of West Virginia policyholders (certified for trial in 2007) alleging that Nationwide Mutual Insurance Company failed to properly offer and provide them with state-required optional levels of uninsured and underinsured motorist coverage (*Nationwide Mutual Insurance Company v. O'Dell, et al.*, Circuit Court of Roane County, W. Va., Civ. Action No. 00-C-37).

In June 2006, Mr. Kahana was selected as a “Pennsylvania Super Lawyer” in a balloting and blue ribbon panel review process designed to identify attorneys in Pennsylvania who have attained a high degree of peer recognition and outstanding professional achievement. Five percent of the lawyers in Pennsylvania are named Super Lawyers.

### **Michael J. Kane**

Michael J. Kane is a graduate of Rutgers University and Ohio Northern University School of Law, with distinction, where he was a member of the Law Review. Mr. Kane is admitted to practice in Pennsylvania and various federal courts.

Mr. Kane joined Berger & Montague’s antitrust practice in 2005, and is a shareholder at the firm. Prior to joining Berger & Montague, Mr. Kane was affiliated with Mager, White & Goldstein, LLP where he represented clients in complex commercial litigation involving alleged unlawful business practices including: violations of federal and state antitrust and securities laws, breach of contract and other unfair and deceptive trade practices. Mr. Kane has served in prominent roles in high profile antitrust, securities, and unfair trade practice cases filed in courts around the country. Mr. Kane served as co-lead counsel in *In re Microsoft Corporation Massachusetts Consumer Protection Litigation* (Mass. Super. Ct., Middlesex Cty.), in which plaintiffs alleged that as a result of Microsoft Corporation’s anticompetitive practices, Massachusetts consumers paid more than they should have for Microsoft’s operating systems and software. The case was settled for \$34 million. Mr. Kane has served as counsel in *In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation*, MDL No. 1720 (E.D.N.Y.), which is perhaps the largest pending antitrust case in the United States. Other cases in which Mr. Kane has had a prominent role include: *In re Currency Conversion Fee Antitrust Litig.* (S.D.N.Y.); *In re Nasdaq Market Makers Antitrust Litig.* (S.D.N.Y.); *In re Compact Disc Antitrust Litig.* (C.D. Cal.); *In re WorldCom, Inc. Securities Litig.* (S.D.N.Y.); *In re Lucent Technologies, Inc. Securities Litig.* (D.N.J.); *City Closets LLC v. Self Storage Assoc., Inc.* (S.D.N.Y.); *Rolite, Inc. v. Wheelabrator Environmental Sys. Inc.*, (E.D. Pa.); and *Amin v. Warren Hospital* (N.J. Super.).

### **Jon J. Lambiras**

Jon J. Lambiras, Esq., CPA, CFE is a graduate of Pepperdine University School of Law (J.D. 2003) and Bryant College (B.S. in Accounting, *cum laude* 1996). Since joining Berger & Montague in 2003, Jon has practiced primarily in the areas of securities fraud and consumer protection class actions. Jon is an attorney, Certified Public Accountant, and Certified Fraud Examiner. Prior to law school he practiced accounting for four years as an auditor of public and private corporations.

Jon has served as a presenter at several continuing legal education (CLE) seminars regarding class action litigation. He has also published articles including:

- *How a CFO Landed in Prison*, FRAUD MAGAZINE (Jan./Feb. 2013);
- *Hacked*, a case study published in *Computer Fraud Casebook: The Bytes That Byte* (Wiley Publishing 2008, ISBN #978-0-470-27814-7);
- *White-Collar Crime: Why the Sentencing Disparity Despite Uniform Guidelines?*, 30 PEPP. L. REV. 459 (2003) (named Student Article of the Year by the Pepperdine Law Review – *i.e.*, best student article among all student articles published in Pepperdine Law Review that year);
- *Inside Job: A Guide to Insider Trading*, 17 THE WHITE PAPER 23 (July/Aug. 2003).

Jon is an officer in the Philadelphia Chapter of the American Association of Attorney-Certified Public Accountants.

Jon has had *significant* involvement in the following securities fraud cases, among others: (i) *In re: Bally Total Fitness Securities Litig.* (settled for \$2 million in 2010); (ii) *In re: Merrill Lynch & Co., Inc. Securities Litig.* (settled for \$475 million in 2009); (iii) *In re: Carreker Corp. Securities Litig.* (settled for \$5.25 million in 2006); (iv) *In re: Medi-Hut Co., Inc. Securities Litig.* (settled for \$5 million in 2006); and (v) *In re: Fleming Companies Securities Litig.* (settled for \$94 million in 2005). Jon has had significant involvement in the following data breach class actions, among others: (i) *In re: TJX Companies, Inc. Retail Security Breach Litig.* (class action for failure to safeguard personal data for more than 45 million consumers - settled in 2008 for various benefits valued at over \$200 million in then-largest credit card data breach in history); (ii) *In re: Countrywide Financial Corp. Customer Data Security Breach Litig.* (class action for failure to safeguard customer data for 17 million individuals - settled in 2010); and (iii) *In re: Heartland Payment Systems, Inc. Customer Data Security Breach Litig.* (class action for failure to safeguard credit card information for 130 million cardholders - settled in 2012).

Jon is also involved in various charitable activities. He has run clothing drives, toy drives, blood drives, and food drives at Berger & Montague.

### **Eric Lechtzin**

Eric Lechtzin joined the firm in 2008 and concentrates his practice in the areas of securities fraud class actions, shareholder derivative suits, mergers and acquisitions, and consumer fraud cases. Prior to joining Berger & Montague, Mr. Lechtzin worked with two nationally prominent law firms where he represented institutional investors, including public pension funds, as well as individual shareholders, in securities fraud class actions and corporate governance litigation. For the first 9 years of his career, Mr. Lechtzin worked at a large Philadelphia law firm, where his practice focused on labor and employment litigation.

Mr. Lechtzin has helped obtain multi-million dollar settlements in a number of federal securities cases, including the following: *In re Transkaryotic Therapies, Inc. Sec. Litig.*, 2005 WL 3178162 (D. Mass. 2005) (\$50 million settlement); *In re Global Crossing Access Charge Litig.*, No. 04-MD-1630 (S.D.N.Y.) (\$15 million settlement); *Taft v. Ackermans*, (KPNQwest Sec. Litig.), No. 02-CV-07951 (S.D.N.Y.) (\$15 million settlement); *In re RenaissanceRe Holdings Ltd. Sec. Litig.*, No. 1:05-CV-06764 (S.D.N.Y.) (\$13.5 million settlement); *In re Van der Moolen Holding N.V. Sec. Litig.*, No. 1:03-CV-8284 (S.D.N.Y.) (\$8 million settlement); *Scott Tanne v. Autobyte, Inc., et al*, No. CV 04-8987 (C.D. Cal.) (\$6.75 million settlement); *In re Hemispherx Biopharma, Inc. Litig.*, 09-CV-5262-PD (E.D. Pa.) (\$3.6 million settlement achieved after defeating defendants' motion to dismiss); *In re Biolase Technology, Inc. Sec. Litig.*, No. 8:04-CV-00947 (C.D. Cal.) (\$2.95 million settlement). Mr. Lechtzin has also helped obtain significant corporate governance reforms in shareholder derivative actions.

Mr. Lechtzin received his B.A. in Political Science and Economics, *magna cum laude*, from Temple University, where he was elected to Phi Beta Kappa, in 1988. Mr. Lechtzin received his J.D. from Temple University James E. Beasley School of Law, in 1991.

### **Lawrence J. Lederer**

Lawrence J. Lederer is a shareholder in the firm's Securities and Commercial Litigation practice groups. He has extensive experience representing and advising institutional investors in securities litigation. He has led the prosecution of many securities class action cases that have resulted in substantial recoveries for investors.

For example, he was co-lead counsel for the State Teachers Retirement System of Ohio which, in August 2009, obtained \$475 million in *In re Merrill Lynch & Co., Inc. Securities, Derivative and ERISA Litigation*, Master File No. 07-cv-9633 (JSR) (DFE) (S.D.N.Y.). This securities class action involved Merrill Lynch's financial exposures to collateralized debt obligations and other financial instruments linked to subprime mortgages. It represents one of the largest recoveries ever under the Private Securities Litigation Reform Act. During a hearing on July 27, 2009, Judge Jed S. Rakoff stated that lead plaintiff had made "very full and well-crafted" and "excellent submissions"; that there was a "very fine job done by plaintiffs' counsel in this case"; and that the attorney fees requested were "eminently reasonable" and "appropriately modest."

Mr. Lederer presently is or recently was also involved in many individual, “opt out” securities cases such as *Commonwealth of Pennsylvania Public School Employees’ Ret. Sys. v. Citigroup, Inc.*, No. 11-2583, 2011 U.S. Dist. LEXIS 55829 (E.D. Pa. May 20, 2011); *State of New Jersey, Department of Treasury, Division of Investment v. Fuld*, 604 F.3d 816 (3d Cir. 2010); *Commonwealth of Pennsylvania Public School Employees’ Ret. Sys. v. Time Warner Inc.*, Case No. 002103, July Term 2003 (Pa. Common Pleas Ct., Phila. Cty.); *In re Waste Management, Inc. Securities Litigation*, 194 F. Supp. 2d 590 (S.D. Tex. 2002); and *Kelly v. McKesson HBOC, Inc.*, C.A. No. 99C-09-265 WCC, 2002 Del. Super. LEXIS 39 (Del. Super. Jan. 17, 2002). The investor plaintiffs in each of these cases obtained recoveries significantly larger than what they would have obtained from the related class actions.

Mr. Lederer also advises and represents government entities in commercial and other matters. For example, he was part of a team of outside counsel for one state Attorney General’s office in multi-state civil enforcement proceedings that resulted in landmark mortgage modifications and related relief for hundreds of thousands of borrowers nationwide against Countrywide Financial Corp. (and its parent, Bank of America Corp.) in December 2008 valued at approximately \$8.6 billion; has advised public pension funds on a wide array of corporate governance and shareholder rights issues; and has advised state government entities concerning financial practices in the structured finance sector, among other areas.

Earlier in his career, Mr. Lederer played a major role in the historic Drexel/Milken/Boesky complex of cases. *See, e.g., In re Michael R. Milken and Associates Securities Litigation*, MDL Dkt. No. 924, Master File No. M21-62 (MP), 1993 U.S. Dist. LEXIS 14242, 1993 WL 413673 (S.D.N.Y. Oct. 7, 1993) (approving approximately \$1.3 billion overall settlement with Michael R. Milken and some 500 other persons and entities); *In re Drexel Burnham Lambert Group Inc.*, 995 F.2d 1138 (2d Cir. 1993) (affirming \$1.3 billion settlement); *Presidential Life Insurance Co. v. Milken, et al.*, 946 F. Supp. 267 (S.D.N.Y. 1996) (approving \$50 million settlement against some 500 defendants); *In re Ivan F. Boesky Securities Litigation*, 948 F.2d 1358 (2d Cir. 1991) (affirming approval of settlements totaling approximately \$29 million; subsequent class, derivative and other settlements approved totaling in excess of \$200 million).

Also experienced on the defense side, Mr. Lederer helped obtain a pre-trial dismissal of a securities class action against DRDGold, a gold mining company based in South Africa. *See In re DRDGold Ltd. Securities Litigation*, 05-cv-5542 (VM), 2007 U.S. Dist. LEXIS 7180 (S.D.N.Y. Jan. 31, 2007). He also helped defend an individual charged with “insider trading” in a criminal jury trial in federal court, and in parallel civil enforcement proceedings brought by the SEC. *United States v. Pileggi*, No. 97-cr-612-2, 1998 U.S. Dist. LEXIS 8068 (E.D. Pa. June 3, 1998), *aff’d*, No. 98-1811, 1999 U.S. App. LEXIS 18592 (3d Cir. July 22, 1999).

In bankruptcy litigation, Mr. Lederer helped obtain hundreds of millions of dollars for investors in the complex Chapter 11 proceedings involving Drexel Burnham Lambert, including through appeals before the United States Court of Appeals for the Second Circuit and the United States Supreme Court. *See, e.g., In re The Drexel Burnham Lambert Group, Inc.*, 130 B.R. 910

(Bankr. & S.D.N.Y. Aug. 20, 1991), aff'd, 960 F.2d 285 (2d Cir. 1992), cert. denied, 506 U.S. 1088 (1993). *See also Sapir, et al. v. Delphi Ventures, et al.*, No. 99-cv-8086-JORDAN (S.D. Fla.) (recovery of \$3.8 million following extensive bankruptcy and related proceedings).

Mr. Lederer has achieved the highest peer-review rating, "AV," in Martindale-Hubbell for legal abilities and ethical standards; has repeatedly been selected as one of the Pennsylvania's "Super Lawyers" in the category of securities litigation; and has served on the editorial advisory board of Securities Law360. Mr. Lederer is admitted to practice law in Pennsylvania, the District of Columbia, and several federal courts. Mr. Lederer graduated from Georgetown University Law Center (LL.M. 1988), Western New England College School of Law (J.D. 1987), where he was a member of Western New England Law Review, and the University of Pittsburgh (B.A. 1984), where he was managing editor of The Pitt News, and co-captain (1983) and captain (1984) of the men's varsity tennis team.

### **Daniel R. Miller**

Daniel R. Miller concentrates his practice on complex civil litigation, representing whistleblowers in state and federal False Claim Act cases against companies or contractors who have defrauded federal, state, or local governments, and representing individual and class plaintiffs in consumer protection actions.

Prior to joining Berger & Montague, Mr. Miller was a Deputy Attorney General for the Delaware Department of Justice for more than 16 years and tried more than 125 cases to jury verdict. During his time with the government, Mr. Miller served on numerous national negotiation and litigation teams comprised of state and federal prosecutors. Collectively, those whistleblower cases returned more than \$2 billion to state and federal treasuries.

Whistleblower ("*Qui Tam*") cases are complex matters which often require extensive communication and coordination with the United States Department of Justice, local United States Attorneys Offices, all 50 state Attorneys General Offices, the Food and Drug Administration, the Office of Inspector General, and numerous other federal and state agencies. Now in private practice, Mr. Miller is able to provide his clients with extensive trial experience, unparalleled insight into the personnel, structure, and function of these government entities, and a complete understanding of the investigative sequences utilized by the federal and state prosecutors who lead these cases.

Mr. Miller is the Immediate Past President of the National Association of Medicaid Fraud Control Units ("NAMFCU"), an organization whose members were responsible for securing more than 1,300 criminal convictions and returning more than \$1.3 billion to the Medicaid Program last year. As a member of NAMFCU's Global Case Committee, Mr. Miller routinely worked on large-scale fraud cases. Prior to serving as NAMFCU's President, Mr. Miller was the co-chair of NAMFCU's *Qui Tam* Subcommittee where he coordinated communications and litigation positions for all states which have enacted False Claims Acts. Through these various roles, Mr. Miller helped execute a multi-year plan to increase the level of state involvement in

national fraud investigations and prosecutions. For example, Mr. Miller worked to successfully create and implement a national repository for the storage, review, and use of tens of millions of documents received from target companies. Moreover, Mr. Miller helped develop a robust investigation-based training module for fraud prosecutors. Mr. Miller also co-created and implemented a management structure for the evaluation, investigation, prosecution, and closure of national fraud cases.

From 2003 through 2009, Mr. Miller also served as the Director of Delaware's Medicaid Fraud Control Unit. In that capacity, he often served as team leader in coordinating the investigation and prosecution of health care provider fraud – including cases involving physician groups, nursing homes and hospitals – with local, state, and federal authorities. These multi-disciplinary teams of government lawyers, investigators, and data analysts returned many millions of dollars to state and federal treasuries.

Mr. Miller is nationally recognized for his work in whistleblower cases under state and federal False Claims Acts, and he has been a frequent speaker on these and other topics. Some of his more recent speeches and presentations are listed below.

**September, 2009**

National Association of Medicaid Program Integrity Units – Annual Conference  
“Use of Medicaid Data in Global Fraud Investigations”

**July, 2009**

6th National Pharmaceutical Company Guide to Off-Label Communications  
“Identifying Enforcement Trends”

**May, 2009**

19th Annual ABA National Institute on Health Care Fraud  
“State and Federal False Claims Act Practice and Procedure” and  
“State Enforcement and Medicaid Fraud”

11th Annual Medicaid Rebates Conference  
“The Role of the States in Regulating the Pharmaceutical Industry”

**March, 2009**

1st Annual Summit on Disclosure, Transparency, and Aggregate Spend  
“Assessing Disclosure as a Compliance Tool”

7th Annual Forum on Government Regulation of Prescription Drug Pricing  
“Pricing-Related Government Enforcement”

Widener Law School Healthcare Compliance Program  
“False Claims Act Update”

**January, 2009**

6th Annual Pharmaceutical Compliance Congress  
“Government Perspective on Scientific Exchange and Drug Promotion”

**December, 2008**

Annual Winter Meeting, National Association of Attorneys General  
“The Role of NAMFCU in Global Cases”

**October, 2008**

9th Annual Pharmaceutical Regulatory Compliance Congress  
“Post-Settlement Interactions with the Government”

10th Annual Guidelines for Disseminating Off-Label Information  
“The Role of the States in Off-Label Investigations and Prosecutions”

Creating Compliant Financial Arrangements with Doctors and Hospitals  
“Recent Cases Stemming from Questionable Financial Agreements”

**September, 2008**

1st Annual Forum on Off-Label Therapy  
“The State Approach to Off-Label Enforcement”

**June, 2008**

7th Annual ABA Institute on Civil False Claims Act and Qui Tam Enforcement  
“Current and Future State Qui Tam Enforcement”

**May, 2008**

18th Annual ABA National Institute on Health Care Fraud  
“Sharing of Information Among Government Prosecutors”

4th USDOJ Conference on Pharmaceutical and Device Fraud  
“Best Price/Nominal Price Investigations and Prosecutions”

**April, 2008**

8th Annual National Forum on Fraud and Abuse in the Sale and Marketing of Drugs  
“Off-Label Promotion: Risk Mitigation and Lessons Learned from Recent Settlements”  
“Factoring New State Enforcement Priorities in the Fraud and Abuse Analysis”

**March, 2008**

Symposium on Healthcare Fraud Investigations  
“Preventing and Defending FCA Violations in Healthcare and Qui Tam Lawsuits”

**October, 2007**

9th Annual Conference: Guidelines for Disseminating Off-Label Information  
“Coordination Among Federal and State Agencies in Off-Label Enforcement”

**September, 2007**

7th Annual Taxpayers Against Fraud Conference  
“Multi-Jurisdictional Prosecution of Qui Tam Cases”

**May, 2007**

State False Claims Summit  
“The Interplay Between State Attorneys General and Federal Prosecutors”

Prior to serving as Director of the Medicaid Fraud Unit, Mr. Miller was a Deputy Attorney General in the Criminal Division of the Delaware Department of Justice. During that time he managed a large caseload and prosecuted hundreds of violent offenders, including rapists, armed carjackers, and capital murderers.

Before becoming a prosecutor, Mr. Miller served as a judicial clerk for Delaware Superior Court Judge Susan C. Del Pesco.

Mr. Miller graduated with honors from the University of Delaware in 1989, and Temple University Law School in 1992. He is presently an adjunct professor at Temple Law, teaching trial advocacy.

**Phyllis Maza Parker**

Phyllis Maza Parker is a graduate of Yeshiva University (B.A. *cum laude*), Columbia University (M.A. French Literature), Boston University – Brussels, Belgium (M.S. in Management), and Temple University School of Law (J.D. *cum laude*), where she was a member of the *Temple Law Review* and published a Note on the subject of the Federal Sentencing Guidelines. Her note has since been cited in a court opinion and a law review article. After her first year of law school, Ms. Parker interned with the Honorable Dolores K. Sloviter of the United States Court of Appeals for the Third Circuit. Following graduation from law school, Ms. Parker served as law clerk to the Honorable Murray C. Goldman of the Court of Common Pleas in Philadelphia, Pennsylvania.

Since joining the Berger firm in September 1996, Ms. Parker has concentrated her practice on complex class action litigation, representing both individual and institutional investors. Among other cases, she has been on the litigation team in *In re Xcel Energy, Inc. Securities Litigation* (\$80 million settlement, listed among the 100 largest securities class action settlements in the United States since the enactment of the 1933-1934 securities acts); *In re Reliance Group Holdings, Inc. Securities Litigation* (\$15 million settlement); and *In re The Loewen Group, Inc. Securities Litigation* (\$6 million settlement). She served as lead counsel in *In re Veeco Instruments Inc. Securities Litigation* (\$5.5 million settlement on the eve of trial); as co-lead counsel in *In re Nuvelo, Inc. Securities Litigation* (\$8.9 million settlement); and, most recently,



as co-lead counsel in *Coady v. Perry, et al. (IndyMac Bancorp, Inc.)* (\$6.5 million settlement). Ms. Parker is admitted to practice in Pennsylvania and New Jersey as well as the Eastern District of Pennsylvania, the First, Third and Ninth Circuit Courts of Appeal and the United States Supreme Court. Ms. Parker is a member of The Woman Advocate Committee of the ABA Section of Litigation.

### **Russell D. Paul**

Russell D. Paul joined Berger & Montague, P.C. in 2006, and concentrates on securities class actions, complex securities litigation matters and derivative suits. Prior to joining Berger & Montague, Mr. Paul was with the firm of Grant & Eisenhofer P.A. in Wilmington, Delaware. Mr. Paul began his legal career in the New York office of Skadden, Arps, Slate, Meagher & Flom, L.L.P.

Mr. Paul has litigated securities class actions against Tyco International Ltd., Baxter Healthcare Corp., ALSTOM S.A., Able Laboratories, Inc., Refco Inc., Federal National Mortgage Association (Fannie Mae), Red Robin Gourmet Burgers, Inc. and Toll Brothers. He has also litigated derivative actions in various state courts around the country, including in the Delaware Court of Chancery. He has briefed and argued federal appeals, including arguing before Judges Posner and Easterbrook of the Seventh Circuit. In addition to securities litigation, he has broad corporate law experience, including mergers and acquisitions, venture capital financing, proxy contests and general corporate matters.

Mr. Paul graduated from the Columbia University School of Law in 1989, where he was a Harlen Fiske Stone Scholar and a member of the Moot Court Board. In 1986, Mr. Paul received a dual degree from the University of Pennsylvania, a B.S. in Economics with a concentration in finance, *magna cum laude* from the Wharton School, and a B.A. in American History, *magna cum laude* from the College of Arts and Sciences.

Mr. Paul is admitted to the bar in the states of Delaware, New Jersey, Pennsylvania, and New York.

### **Barbara A. Podell**

Barbara A. Podell, who joined the Berger firm as a shareholder in the Securities Group in early 2002, holds a Bachelor's degree from the University of Pennsylvania (B.A. 1972 *cum laude* with distinction in Art History). She attended the Institute of Fine Arts of New York University, and from 1973 to 1975, was a full-time faculty member at Temple University, Philadelphia, Pennsylvania, in the Department of Art History. In 1978, Ms. Podell received a Juris Doctor degree (*magna cum laude*) from the Temple University School of Law, where she was one of the top nine students in the graduating class and was Editor-in-Chief of the Temple Law Quarterly (Volume 51). Prior to joining the Berger firm, Ms. Podell was a founding member of the firm of

Savett Frutkin Podell & Ryan, P.C., and before that, a shareholder at Kohn, Savett, Klein & Graf, both in Philadelphia.

Ms. Podell has served as lead or co-lead counsel in numerous securities cases in which hundreds of millions of dollars were recovered for investors. Since joining the firm in 2002, Ms. Podell has served as one of the firm's senior litigation attorneys in *In re CIGNA Corp. Securities Litigation* (\$93 million settlement); *In re CryoLife Securities Litigation* (\$23.25 million settlement); *In re ViroPharma Securities Litigation* (\$9 million settlement); and *Ginsburg v. Philadelphia Stock Exchange* (\$99 million settlement).

She is admitted to practice before the Supreme Court of Pennsylvania, the United States Courts of Appeals for the Second and Third Circuits, and the United States District Court for the Eastern District of Pennsylvania. She has achieved an "AV" rating (the highest rating) in Martindale-Hubbell.

Ms. Podell also serves as a volunteer guide at the Philadelphia Museum of Art.

### **Arthur Stock**

Arthur Stock's practice is concentrated in securities and complex financial litigation, consumer class actions and *qui tam* litigation.

Mr. Stock has litigated numerous significant cases vindicating the rights of investors, including *Merrill Lynch Securities Litigation*, which led a \$475 million settlement for investors in Merrill Lynch common stock, one of the largest class action recoveries arising from the subprime mortgage crisis; *Safety-Kleen Securities Litigation*, which achieved a \$45 million recovery for stock investors in a Bankrupt corporation from its former officers and auditor; and *Blasband v. Rales*, which established important precedents in both the Third Circuit Court of Appeals and the Delaware Supreme Court establishing the ability of shareholders to seek recoveries from corporate officers through derivative actions.

Mr. Stock is a graduate of Yale University (B.A. *with distinction in economics* 1984) and the Duke University School of Law (J.D. *with high honors* 1990), where he served as Articles Editor of the *Duke Law Journal*. From 1990 to 1991, Mr. Stock served as a law clerk to the Honorable Jackson L. Kiser, United States District Court for the Western District of Virginia. He joined the Berger Firm in 1991. Mr. Stock is admitted to practice law in the Commonwealth of Pennsylvania.

Mr. Stock also has also lectured on securities litigation before several professional organizations, and has published articles on both securities litigation and contemporary politics. He has served as Treasurer and Member of the Board of Directors of Adoptions from the Heart, a non-profit adoption agency.

## **Robin Switzenbaum**

Robin Blumenfeld Switzenbaum is a graduate of Barnard College (B.A. *cum laude* 1976) and the University of Pennsylvania Law School (J.D. 1985). Before law school, Ms. Switzenbaum was engaged in the development of commercial and residential real estate in Pennsylvania and New Jersey. During that time, Ms. Switzenbaum served on the board of directors of the Home Owners Warranty Council for Southeastern Pennsylvania and the Home Builders Association for Montgomery and Bucks Counties. Before becoming Of Counsel to the Berger firm in October, 1989, Ms. Switzenbaum was an associate with the Philadelphia firm of Saul, Ewing, Remick & Saul specializing in real estate, bankruptcy and zoning matters.

Since joining the Berger firm, Ms. Switzenbaum has concentrated in complex civil and securities litigation. Ms. Switzenbaum was part of the litigation teams in *In re Merrill Lynch Securities Litigation*, Civil Action No. 07-cv-09633 (S.D.N.Y.) (\$475 million settlement); *In re Rite Aid Securities Litigation*, MDL 1360 (E.D. Pa.) (\$334 million settlement), *In re Sunbeam Securities Litigation*, 98-8258-Civ-Middlebrooks (S.D. Fla.) (\$142 million settlement), and *In re CMS Energy Securities Litigation*, 02 CV 72004 (E.D. Mich.) (\$200 million settlement). With Lawrence Deutsch, Ms. Switzenbaum served as lead counsel in *Ginsburg v. Philadelphia Stock Exchange, Inc., et al.*, C.A. No. 2202-CC (Del. Ch.) representing certain shareholders of the Philadelphia Stock Exchange in the Delaware Court of Chancery (\$99 million settlement) against six large investment banks. In another state court action, Ms. Switzenbaum represented a class of holders of a publicly traded common stock who were denied their preemptive rights, *Korman v. InKine Pharmaceutical*, Case No. 04341 (CCP, Phila. County) (\$9 million settlement).

She has also successfully pursued claims on behalf of litigation trusts bringing actions against officers, directors and auditors of insolvent companies, including *Sunterra* (recovery against director and officers and accountants); and *U.S. Aggregates* (recovery against officers). Ms. Switzenbaum has participated in several securities class actions including *In re Northeast Bancorp*, Case No. N-90-24 (D. Conn) (\$4.9 million settlement), *In re Chase Manhattan Bank*, Case No. 90 Civ. 6092 (S.D.N.Y. 1992) (\$17.5 million settlement), *In re Midlantic*, Case No. 90-1275 (D.N.J.) (\$9 million settlement), *In re ShopKo Stores, Inc. Securities Litigation*, Case No. 01-C-1034 (E.D. Wis.) (\$4.9 million settlement), and *In re Medi-Hut Co., Inc. Securities Litigation*, C.A. No. 02-881 (D.N.J.) (\$4.9 million recovery against accountants, plus recovery from company).

Ms. Switzenbaum has been named as one of Pennsylvania's "Local Litigation Stars" in Complex Civil Litigation and Securities by Benchmark Litigation since 2010 and as a Pennsylvania "Super Lawyer" by *Philadelphia Magazine* since 2009.

Ms. Switzenbaum is a member of the bar in Pennsylvania, New Jersey, Florida, and California. Ms. Switzenbaum is a member of the Women's Committee and the Craft Show Committee for the Philadelphia Museum of Art and also serves as a volunteer guide at the Philadelphia Museum of Art and as a member of the Joint Board of Community Legal Services, Inc. and Philadelphia Legal Assistance. She recently chaired the development of a new office building at Broad and

Erie Streets for Community Legal Services. She also recently participated on a panel on 10b-5 litigation pertaining to the financial crisis presented by NERA Economic Research in Washington, D.C.

### **Susan Schneider Thomas**

Susan Schneider Thomas is a graduate of Brandeis University (B.A. *magna cum laude* 1977) and Temple University School of Law (J.D. *cum laude* 1980), where she was a staff member and Associate Articles Editor of the *Temple Law Quarterly* and a judicial intern to the Hon. Edward R. Becker, then on the United States District Court for the Eastern District of Pennsylvania. She was admitted to the Pennsylvania Bar in 1980. In 1980-81, she served as a law clerk to the Hon. Dolores K. Sloviter of the United States Court of Appeals for the Third Circuit. Subsequently she was an associate at Schnader, Harrison, Segal & Lewis, Philadelphia, and Greenfield & Chimicles, in Haverford, Pennsylvania, where she was actively involved in the litigation of complex securities fraud actions.

From 1985 to 1989 as an associate at Berger & Montague, she concentrated her practice in complex securities and derivative actions. Upon leaving the Berger firm, Ms. Thomas joined in establishing the firm of Zlotnick & Thomas and worked there from 1989 through 1995, taking primary responsibility for the litigation of several major class actions including *Geist v. New Jersey Turnpike Authority*, C.A. No. 92-2377 (D.N.J.), a bond redemption case that settled for \$2.25 million and *Burstein v. Applied Extrusion Technologies*, C.A. No. 92-12166-PBS (D. Mass.), which settled for \$3.4 million. Ms. Thomas returned to the Berger firm in 1996, where she has had major responsibilities in many securities and consumer fraud class actions, including *In re CryoLife Securities Litigation*, C.A. No. 1:02-CV-1868 BBM (N.D.Ga.), which settled in 2005 for \$23.25 million and *In re First Alliance Mortgage Co.*, Civ. No. SACV 00-964 (C.D.Cal.), a deceptive mortgage lending action which settled for over \$80 million in cooperation with the FTC.

More recently, Ms. Thomas has concentrated her practice in the area of healthcare *qui tam* litigation. As co-counsel for a whistleblower, she worked extensively with the U.S. Department of Justice and various State Attorney General offices in the prosecution of False Claims Act cases against pharmaceutical manufacturers that recovered nearly \$1.5 billion for Medicare and Medicaid programs. She has investigated or is litigating False Claims Act cases involving defense contractors, private busing companies contracting with school districts, purveyors of food supplies to school districts, off-label marketing by drug companies, federal grant fraud, under-value transfers of federal lands, and fraud in connection with for-profit colleges and student loan programs.

### **Martin I. Twersky**

Mr. Twersky, a graduate of Yeshiva University (B.A. 1969, M.S. 1973), has practiced Antitrust Law and Complex Litigation at the firm for almost 30 years, during which time he has successfully represented numerous plaintiffs and defendants in both individual and class actions

pending in state and federal courts. His practice has involved litigation in the oil and gas, banking, airline, waste hauling, agricultural chemicals and other regulated industries. He is a graduate of the University of Pennsylvania Law School (J.D. 1980). Among other cases, he has played a leading role in the following class action cases: *In re: Graphite Antitrust Litigation* (E.D. Pa.) (settlements of more than \$120 million dollars); *In re: Catfish Antitrust Litigation* (N.D. Miss.) (as a member of the trial team he helped obtained settlements of more than \$27 million dollars); *In re: Revco Securities Litigation* (N.D. Ohio) (“Junk Bond” class action where settlements of \$36 million were reached); *Bogosian v. Gulf Oil* (E.D. Pa.) (landmark litigation with settlements and injunctive relief on behalf of a nationwide class of gasoline dealers); and *Lease Oil Antitrust* (S.D. Tex.), where in a significant class action decision, the Fifth Circuit affirmed the granting of an injunction prohibiting settlements in related state court actions (*see* 200 F.3d 317 (5th Cir. 2000), *cert. denied*, 530 U.S. 1263). Mr. Twersky was appointed one of the co-lead counsel in *In re: Abrasive Grains Antitrust Litig.* (95-cv-7574) (W.D.N.Y.). Mr. Twersky has also played a key role in various non-class action cases, such as *Kutner Buick v. America Motors*, 848 F.2d 614 (3rd Circuit 1989) (breach of contract) (cited in the Advisory Committee Notes to the 1991 Amendment to Rule 50, Fed. R. Civ. P.), *Florham Park v. Chevron* (D.N.J. 1988) (Petroleum Marketing Act case), and *Frigitemp v. IDT Corp.*, 638 F. Supp. 916 (S.D. N.Y. 1986) and 76 B.R. 275, 1987 LEXIS 6547 (S.D. N.Y. 1987) (RICO case brought by the Trustee of Frigitemp Corp. against General Dynamics and others involving extortion of kickbacks from Frigitemp officers). Mr. Twersky also served prominently in savings-and-loan related securities and fraud litigation in federal and state courts in Florida, where the firm represented the Resolution Trust Corporation and officers of a failed bank in complex litigation involving securities, RICO and breach of fiduciary duty claims. *E.g.*, *Royal Palm v. Rapaport*, Civ. No. 88-8510 (S.D. Fla.) and *Rapaport v. Burgoon*, CL-89-3748 (Palm Beach County).

## **SENIOR COUNSEL**

### **David A. Langer**

David A. Langer is senior counsel in the Antitrust practice group at Berger & Montague. He concentrates his practice in complex antitrust litigation.

Mr. Langer has had a primary role in the prosecution of the following antitrust class actions: *In re Currency Conversion Fee Antitrust Litigation* (S.D.N.Y.) (after 5½ years of litigation, through the close of fact and expert discovery, achieved a settlement consisting of \$336 million and injunctive relief for a class of U.S. Visa and MasterCard cardholders; extraordinary settlement participation from class members drawing more than 10 million claimants in one of the largest consumer antitrust class actions); *Ross and Wachsmuth v. American Express Co., et al.* (S.D.N.Y.) (\$49.5 million settlement achieved after more than 7 years of litigation and after summary judgment was denied); *Ross, et al. v. Bank of America, N.A. (USA), et al.* (S.D.N.Y.) (obtained settlements with four of the nations' largest card issuers (Bank of America, Capital One, Chase and HSBC) to drop their arbitration clauses for their credit cards for 3.5 years, and a settlement with the non-bank defendant arbitration provider (NAF), who agreed to cease administering arbitration proceedings involving business cards for 3.5 years); and *In re Linerboard Antitrust Litigation* (E.D. Pa.) (helped obtain settlements of more than \$200 million dollars).

Mr. Langer was one of the trial team chairs in the 5-week consolidated bench trial of arbitration antitrust claims in *Ross v. American Express* and *Ross v. Bank of America*, where the Honorable William H. Pauley, III of the United States District Court for the Southern District of New York, commended the "extraordinary talents of Plaintiffs' counsel."

Mr. Langer has also had a primary role in appellate proceedings, obtaining relief for his clients in a number of matters, including: *Ross, et al. v. American Express Co., et al.*, 547 F.3d 137 (S.D.N.Y. 2008) (precluding an alleged co-conspirator from relying on the doctrine of equitable estoppel to invoke arbitration clauses imposed by its competitor co-conspirators); *Ross, et al. v. Bank of America, N.A. (USA), et al.*, 524 F.3d 217 (S.D.N.Y. 2008) (holding that antitrust plaintiffs possess Article III standing to challenge the defendants' collusive imposition of arbitration clauses barring participation in class actions); *In re Pharmacy Benefit Managers Antitrust Litig.*, 700 F.3d 109 (3d Cir. 2012) (finding opposing party waived right to compel arbitration and reversing district court).

While at Vermont Law School, Mr. Langer was Managing Editor and a member of the *Vermont Law Review*.

### **Jennifer MacNaughton**

Jennifer MacNaughton is senior counsel in Berger & Montague's antitrust department. She received her B.A., summa cum laude, in Political Science and German from Tulane University,

her J.D. from the University of Pennsylvania, and her M.P.P. from Georgetown Public Policy Institute (no McCourt School of Public Policy).

As a member of the trial team in the class action environmental case, *Cook v. Rockwell Int'l Corp.*, Ms. MacNaughton helped secure a \$554 million jury verdict on behalf of property owners whose land was contaminated by the former Rocky Flats nuclear weapons facility near Denver, Colorado. (The jury verdict in that case was vacated on appeal. In 2015, on a second trip to the Tenth Circuit Court of Appeals, Plaintiffs secured a victory in *Merilyn Cook et al. v. Rockwell International Corporation et al.*, case number 14-1112, with the case being sent back to the district court.

She has contributed to the success of numerous other cases, including: *Rochester Drug Co-Operative, Inc. v. Braintree Labs., Inc.* (\$17.25 million settlement); *In re Puerto Rican Cabotage Antitrust Litig.* (\$52.25 million total settlements); *In re Currency Conversion Fee* (\$336 million settlement); and *In re Graphite Electrodes* (\$47.875 million in settlements with two defendants).

### **Ellen T. Noteware**

Ellen T. Noteware is a graduate of Cornell University (B.S. 1989) and the University of Wisconsin-Madison Law School (J.D. cum laude 1993) where she won the Daniel H. Grady Prize for the highest grade point average in her class, served as Managing Editor of the Law Review, and earned Order of the Coif honors. She is currently a member of the Pennsylvania and New York bars.

Since joining Berger & Montague, Ms. Noteware has successfully represented investors, retirement plan participants, employees, consumers and direct purchasers of prescription drug products in a variety of class action cases. Ms. Noteware currently concentrates her practice on prosecuting antitrust class actions on behalf of direct purchasers of brand name drugs who are harmed when brand companies block cheaper generic competitors from entering the market. To date, five of her cases have resulted in substantial settlements: *In re Ovcon Antitrust Litigation*, (D.D.C.) \$22 million; *In re Tricor Direct Purchaser Antitrust Litigation*, (D. Del.) \$250 million; *In re Oxycontin Antitrust Litig.*, (S.D.N.Y.) \$16 million; *Meijer, Inc. v. Abbott Laboratories*, (N.D. Cal.) (Norvir) \$52 million; and *In re Metoprolol Succinate Direct Purchaser Antitrust Litigation*, (D. Del.) \$20 million.

Ms. Noteware is also extensively involved in litigation Employee Retirement Income Securities Act ("ERISA") breach of fiduciary duty class action cases. Her ERISA settlements include: *In re Nortel Networks Corp. ERISA Litigation* (M.D. Tenn.) \$21 million; *In re Lucent Technologies, Inc. ERISA Litigation* (D.N.J.) \$69 million; *In re SPX Corporation ERISA Litigation* (W.D. N.C.) \$3.6 million. Ms. Noteware is currently actively litigating two ERISA cases against financial institutions who operated improper securities lending programs.

As a key member of the trial team that litigated *Cook v. Rockwell Corp.* (D. Colo.), Ms Noteware helped secure the largest jury verdict in Colorado history and the third largest jury trial verdict

nationwide in 2006 -- \$554 million on behalf of thousands of individuals who owned property near the contaminated former Rocky Flats nuclear weapons facility outside Denver, Colorado. Ms. Noteware and the rest of the trial team received the Trial Lawyer of the Year Award from the Public Justice Foundation in recognition of the efforts. The jury verdict in that case was vacated on appeal. In 2015, on a second trip to the Tenth Circuit Court of Appeals, Plaintiffs secured a victory in *Merilyn Cook et al. v. Rockwell International Corporation et al.*, case number 14-1112, with the case being sent back to the district court.

#### Prominent Judgments & Settlements:

- *New Jersey v. Qwest*, (NJ Superior Court) opt-out securities fraud litigation which settled for \$45 million.
- *In re TriCor Antitrust Litig.*, (D. Del.) direct purchaser antitrust action alleging brand name pharmaceutical company delayed generic competition settled in 2009 for \$250 million.
- *Meijer, Inc. v. Abbott Laboratories*, (N.D. Cal.) \$52 million settlement in direct purchaser antitrust case involving the HIV medication Norvir.
- *Cook v. Rockwell Corp.*, (D. Colo.) jury verdict of \$554 million in environmental contamination action.
- *In re Nortel Networks Corp. ERISA Litig.*, (M.D. Tenn.) breach of fiduciary duty action settled for \$21.5 million.

#### **Daniel Simons**

Mr. Simons is an associate in Berger & Montague's antitrust department. He received a Bachelor of Arts in Political Science, magna cum laude, from Yeshiva University in 1997. In addition to winning the Political Science departmental award two years running, Mr. Simons also garnered three awards for scholastics and student leadership upon graduation.

He earned his J.D. with honors, at Temple Law School, where he headed three student groups, served on Temple Law Review, and interned in the Health Care Fraud Unit of the United States Attorney's Office. Following graduation, he clerked for the Honorable Berle M. Schiller of the Eastern District of Pennsylvania. He has also served as a volunteer in the Philadelphia Reads Program.

Mr. Simons's practice focuses on complex commercial litigation in the pharmaceutical and health care sectors. He has worked on several highly-watched pieces of litigation, including *In re Nifedipine Antitrust Litigation*, 246 F.R.D. 365 (D.D.C. 2007); *In re DDAVP Direct Purchaser Antitrust Litigation*, 585 F.3d 679 (2d Cir. 2009); and *King Drug Co. v. Cephalon*,



*Inc.*, 2010 WL 1221793 (E.D. Pa. Mar. 29, 2010). He has also co-authored a chapter in *The International Handbook on Private Enforcement of Competition Law* (2010), entitled “*Parties Entitled to Pursue a Claim.*”

Mr. Simons is licensed to practice in Pennsylvania and New Jersey, and has been admitted to the bar of the United States Supreme Court, the Courts of Appeal for the Second, Third, Ninth, and D.C. Circuits, as well as the United States District Courts for the Eastern District of Pennsylvania and for the District of New Jersey. He is a member of the American Bar Association and its Antitrust Section. He helped found the Old York Road Revitalization Group – a project aimed at commercial development of a collection of northern Philadelphia suburbs – and serves on its governing board.

### **Lane L. Vines**

Lane L. Vines is a senior associate in the Securities and Commercial Litigation practice groups at Berger & Montague. He concentrates his practice in the areas of securities and investor fraud litigation. He has extensive experience prosecuting both class action and individual opt-out securities cases for state government entities, public pension funds, and other large investors. Examples of securities cases in which Mr. Vines was substantially involved include: *In re NetBank, Inc. Securities Litigation*, 1:07-cv-2298-TCB (N.D. Ga.); *Commonwealth of Pennsylvania Public School Employees’ Retirement System, et al. v. Time Warner Inc., et al.*, Case No. 002103, July Term, 2003 (Pa. Common Pleas Ct.-Phila. Cty.); *In re Aerosonic Corporation Securities Litigation*, No. 8:03-CV-2373-T-24 SCB-TBM (M.D. Fla.); *In re Waste Management, Inc. Securities Litigation*, 194 F. Supp. 2d 590 (S.D. Tex. 2002); *Kelly v. McKesson HBOC, Inc.*, C.A. No. 99C-09-265 WCC, 2002 Del. Super. LEXIS 39 (Del. Super. Jan. 17, 2002); and *In re Merrill Lynch & Co., Inc. Research Reports Securities Litigation*, 02 MDL 1484 (JFK), 2007 U.S. Dist. LEXIS 93423 (S.D.N.Y. Dec. 20, 2007). Mr. Vines also participated in the securities class action litigation *In re Merrill Lynch & Co., Inc. Securities, Derivative and ERISA Litigation*, Master File No. 07-cv-9633 (JSR) (DFE) (S.D.N.Y.), where a \$475 million recovery was obtained on behalf of lead plaintiff State Teachers Retirement System of Ohio and other members of a class of similarly situated investors, relating to Merrill Lynch’s disclosures and financial exposures concerning asset-backed securities such as collateralized debt obligations and other financial derivative instruments linked to subprime mortgages.

Mr. Vines also has experience in the defense of securities and commercial cases. For example, he was one of the firm’s principal attorneys defending a public company which obtained a pre-trial dismissal in full of a proposed securities fraud class action against a gold mining company based in South Africa. See *In re DRDGold Ltd. Securities Litigation*, 05-cv-5542 (VM), 2007 U.S. Dist. LEXIS 7180 (S.D.N.Y. Jan. 31, 2007).

Mr. Vines is a graduate of the University of Wisconsin-Madison (B.B.A.-Accounting, Graduated with Distinction, 1988) and Villanova University School of Law (J.D. 1997). During law school, Mr. Vines was a member of the *Villanova Law Review* and served as a Managing Editor of

Outside Works. In that role, he selected outside academic articles for publication and oversaw the editorial process through publication.

Before joining Berger & Montague in 1999, Mr. Vines was a law clerk for the Honorable James R. Melinson, Chief U.S. Magistrate Judge for the Eastern District of Pennsylvania. He is admitted to practice in Pennsylvania and New Jersey, as well as several federal courts including the Supreme Court of the United States. He is a member of the Villanova Law J. Willard O'Brien American Inn of Court, and serves as a Committee Member for Cub Scout Pack 371 in Radnor, Pennsylvania. Mr. Vines has been a guest lecturer at Villanova Law School ("Accounting for Lawyers" course in August 30, 2011 and November 7, 2012) and is currently acting as a *pro bono* legal consultant on discovery issues for the Farmworker Legal Aid Clinic (throughout 2013). He previously was appointed by the Narberth (Pennsylvania) Borough Council and served on the Narberth Planning Commission. He has also served as an officer or director and participated in numerous other civic organizations. Prior to law school, Mr. Vines worked as an auditor for a Big 4 public accounting firm and a property controller for a commercial real estate development firm, and served as the Legislative Assistant to the Minority Leader of the Philadelphia City Council.

## **OUR ASSOCIATES**

### **Adrienne C. Beatty**

Adrienne Beatty is a staff attorney in the firm's Consumer Protection, Insurance Products & Financial Services, Lending Practices & Borrowers' Rights, and Employment Law practice groups. Ms. Beatty primarily focuses on consumer class actions concerning financial practices and insurance products. Ms. Beatty is a member of the Pennsylvania and New Jersey Bars.

Ms. Beatty is a graduate of Colgate University and Villanova University School of Law. During law school, Ms. Beatty served as Article Editor for the Villanova Law Review.

### **Zachary D. Caplan**

Zachary D. Caplan is an associate in Berger & Montague's antitrust department. Mr. Caplan is a graduate of New York University's Stern School of Business and the University of Pennsylvania Law School. While in law school, Mr. Caplan was a senior editor of the *University of Pennsylvania Journal of Business Law*, participated in the Civil Practice Clinic, and interned with the United States Department of Justice Antitrust Division.

### **Camille Fundora**

Ms. Fundora is a staff attorney in the Firm's Employment Law, Consumer Protection, and Lending Practices & Borrowers' Rights practice groups. Ms. Fundora primarily focuses on wage and hour class and collective actions arising under the Fair Labor Standards Act and state laws.

Prior to joining Berger & Montague, Ms. Fundora practiced in the litigation department at a boutique Philadelphia law firm where she represented clients in a variety of personal injury, disability, and employment discrimination matters. Ms. Fundora is a graduate of Widener University School of Law.

Ms. Fundora is an active member of the Pennsylvania, Philadelphia and Hispanic Bar Associations.

### **Caitlin Goldwater Coslett**

Caitlin Goldwater Coslett concentrates her practice on complex litigation, including antitrust, environmental and mass tort litigation. Since joining Berger & Montague in 2009, she has worked on a variety of matters, including *In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation*, *Cook v. Rockwell International Corp.* (mass tort litigation), and *In re Urethane [Polyether Polyols] Antitrust Litigation*. Ms. Coslett has also worked on a number of antitrust class actions on behalf of direct purchasers of prescription drugs in which the

purchasers allege that pharmaceutical manufacturers have wrongfully kept less expensive generic drugs out of the market. *E.g., In re Modafinil Antitrust Litigation.*

Ms. Coslett was a Lederman/Milbank Fellow in Law and Economics at New York University School of Law where she was also an articles selection editor for the *NYU Review of Law and Social Change*.

Ms. Coslett is one of the top 100 rated female chess players in the U.S.

### **Alexandra J. Koropecy**

Alexandra L. Koropecy is an associate at Berger & Montague, where she is a member of the firm's Employment Law, Consumer Protection and Lending Practices & Borrowers' Rights practice groups. In the Employment Law practice group, Ms. Koropecy primarily focuses on wage and hour class and collective actions arising under state and federal law. Ms. Koropecy's work in the Consumer Protection and Lending Practices & Borrowers' Rights practice groups involves consumer class actions concerning financial practices.

Ms. Koropecy is a graduate of the University of Pennsylvania and Villanova University School of Law. During law school, Ms. Koropecy served as a managing editor of the *Villanova Sports and Entertainment Law Journal* and as president of the Labor and Employment Law Society. Ms. Koropecy also interned at the United States Attorney's Office and served as a summer law clerk for the Honorable Eduardo C. Robreno of the United States District Court for the Eastern District of Pennsylvania.

### **Patrick F. Madden**

Patrick F. Madden is a member of Berger & Montague's employee rights practice group. Mr. Madden joined Berger & Montague in September 2010 after serving as a summer associate and law clerk at the firm.

Mr. Madden is a graduate of the University of Pennsylvania with a major in urban studies (B.A. 2004, honors) and Temple University, James E. Beasley School of Law (J.D. 2010). While at Temple, Mr. Madden was the Executive Editor of Publications for the *Temple Journal of Science, Technology & Environmental Law*, and also served as an intern for the Honorable Petrese Tucker, United States District Court, Eastern District of Pennsylvania.

Prior to attending law school, Mr. Madden worked at the United States Department of Labor, Office of Labor-Management Standards as an investigator.

### **Yael May**

Ms. May earned a B.A. with distinction in political science and urban studies from the University of Pennsylvania in 2006 (*magna cum laude*) and a J.D. from the University of Pennsylvania Law School in 2009. While at Penn Law, Ms. May was a Public International Law Fellow, served as a senior editor of the *Journal of Law and Social Change*, and worked as a student advocate in the Child Advocacy Clinic as well as the Transnational Legal Clinic. Ms. May received the Wapner, Newman and Wigrizer Award for civil trial advocacy.

Prior to joining Berger & Montague in 2010, Ms. May worked for the Botswana Network on Ethics, Law, and HIV/AIDS (BONELA) while living in Gaborone, Botswana. During her time at BONELA, Ms. May worked on HIV discrimination litigation and produced policy reports on human rights and AIDS.

Yael May is a member of Berger & Montague's securities department. Ms. May is admitted to practice law in Pennsylvania. She is fluent in Spanish and proficient in Hebrew.

### **Jeff Osterwise**

Jeff Osterwise is a graduate of Duke University (B.A. in Political Science and certificate in Markets & Management, 1999) and the Duke University School of Law (J.D., 2005).

Since joining Berger & Montague, P.C. in August 2005, Mr. Osterwise has practiced primarily in the areas of securities, consumer protection, and commercial litigation.

Mr. Osterwise is actively involved in Berger & Montague's representation of the City of Philadelphia and the City of Chicago in separate actions against certain online travel companies for their failure to pay hotel taxes. He is also involved in the firm's representation of former shareholders of a corporation who were harmed by the corporation's merger with a competitor.

Mr. Osterwise has also been significantly involved in *In re Mutual Funds Investment Litigation* (\$13.966 million settlement on behalf of investors harmed by mutual fund market timing), *In re Veeco Instruments Inc. Securities Litigation* (\$5.5 million settlement on behalf of an investor class), and *In re Force Protection, Inc. Derivative Action* (shareholder derivative action seeking relief on behalf of the corporation for breaches of fiduciary duty, waste, gross mismanagement and unjust enrichment by current and former Force Protection officers and directors).

### **Jacob M. Polakoff**

Jacob M. Polakoff is a 2006 graduate of the joint JD/MBA program at the University of Miami, where he was the recipient of the Dean's Certificate of Achievement in Legal Research & Writing, was awarded a Graduate Assistantship, and was honored with the Award for Academic Excellence in Graduate Studies.

Mr. Polakoff holds a 2002 B.S.B.A. from Boston University's School of Management, where he concentrated in finance.

Since joining Berger & Montague, P.C. in August 2006, Mr. Polakoff has worked in the commercial litigation and class action securities litigation areas. He is admitted to practice law in Pennsylvania, New Jersey, and the United States District Court for the Eastern District of Pennsylvania.

Mr. Polakoff was selected as a 2010 Pennsylvania Super Lawyer – Rising Star.

#### **Shoshana Savett**

Shoshana Savett received a B.A. from the University of Pennsylvania in 1999. She graduated from Temple Law School in 2003 and is admitted to practice law in Pennsylvania and New Jersey. Ms. Savett is an associate in the securities department.

Shoshana worked on numerous class action that have achieved significant benefits on behalf of the Class. These cases include: *In re Merrill Lynch Securities Litigation*, Civil Action No. 07-cv-09633 (S.D.N.Y.) (\$475 million settlement); *Ginsburg v. Philadelphia Stock Exchange, Inc., et al.*, C.A. No. 2202-CC (Del. Ch.) representing certain shareholders of the Philadelphia Stock Exchange in the Delaware Court of Chancery (\$99 million settlement); *In re Sepracor Inc. Securities Litigation*, Civil Action no. 02-12235-MEL (D. Mass.) (\$52.5 million settlement approved September 6, 2007).

#### **Sarah R. Schalman-Bergen**

Sarah R. Schalman-Bergen is a member of Berger & Montague's antitrust department. Ms. Schalman-Bergen is a graduate of Harvard Law School (J.D. *cum laude*, 2007), where she served as an executive editor of the *Harvard Civil Rights-Civil Liberties Law Review*. She is also a graduate of Tufts University (B.A. *summa cum laude*, 2001).

Prior to joining Berger & Montague in 2009, Ms. Schalman-Bergen was an associate in the litigation department of WolfBlock LLP. While at WolfBlock, Ms. Schalman-Bergen served as the Shestack Public Interest Fellow, and divided her caseload between general commercial litigation and HIV discrimination litigation on behalf of the AIDS Law Project of Pennsylvania. Ms. Schalman-Bergen is admitted to practice law in Pennsylvania.

### **Eugene R. Tompkins**

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

### **Y. Michael Twersky**

Y. Michael Twersky concentrates his practice on complex litigation. Since 2011, Mr. Twersky has been involved in numerous complex litigations, including insurance, antitrust, and other consumer cases litigated by the firm.

Mr. Twersky has worked on a wide variety of matters including an insurance case in which the Court found that a large insurance company had breached its policy when it denied benefits under an accidental death insurance plan.

Mr. Twersky has also worked on a number of antitrust class actions alleging that pharmaceutical manufacturers wrongfully kept less expensive generic drugs off the market, in violation of the antitrust laws, including *In re Skelaxin (Metaxalone) Antitrust Litig.*, and *In re Nexium Antitrust Litigation*.

Mr. Twersky graduated from Temple University Beasley School of Law in 2011, where he was a member of the Rubin Public Interest Law Honors Society and a Class Senator. In addition Mr. Twersky advised various clients in business matters as part of Temple University's Business Law Clinic.

### **Nick Urban**

Nick Urban joined Berger & Montague's antitrust department as an associate in September, 2009. Mr. Urban is a graduate of the University of Pennsylvania Law School where he was a Senior Editor for the *Journal of Law and Social Change*. Mr. Urban graduated from the University of San Diego with a B.A. in Sociology.

### **Benjamin A. Waters**

Benjamin A. Waters is an associate in the securities department of Berger & Montague. He concentrates his practice on complex litigation, including consumer protection, securities fraud, and whistleblower, qui tam, & False Claims Act litigation.

Mr. Waters graduated from the University of Pennsylvania Law School in 2012, where he served

as an Arthur Littleton and H. Clayton Louderback Legal Writing Instructor. He also served as a senior editor of the University of Pennsylvania Journal of Constitutional Law.



## **OF COUNSEL:**

### **Russ Henkin**

Russ Henkin graduated from American University in Washington, D.C. in 1969 with a Bachelor of Science Degree with honors. He graduated from the University of Pennsylvania Law School in 1972. Mr. Henkin was law clerk to Honorable Maurice W. Sporkin in the Pennsylvania Court of Common Pleas for Philadelphia County from 1972 through 1975. From 1973 through 1975, he also worked in a small personal injury firm, trying plaintiffs' personal injury cases. He worked as an associate with the Berger firm from 1975 through 1980. During that time, he was involved in or tried complex civil litigation matters. His cases included fraud matters, securities matters, breach of contract, restrictive employment covenant litigation, eminent domain litigation, and divorce, among other fields.

From 1980 through 1991, he was associated with another firm, again involved in trials of complex civil litigation matters. His cases involved antitrust, bankruptcy litigation and reorganization, contracts, malpractice, products liability, employment discrimination, commercial disparagement litigation, business separation litigation, emotional distress litigation, claims and defense under the Racketeer Influenced and Corrupt Organization Act ("RICO"), stock fraud and foreclosure/workout and other trials. Representative results included confirmation of a \$20 million plan of reorganization for a psychiatric hospital company, and successful defense against a \$30 million RICO suit.

In June 1991, Mr. Henkin returned to the Berger firm, and is again trying complex civil matters. Those matters involve areas such as stock fraud, class action personal injury, breach of contract and consumer fraud, and lender liability. In one of his cases, he achieved a \$30 million recovery in a claimed 10 year verbal contract case.

Mr. Henkin is admitted to practice law in the Commonwealth of Pennsylvania and the State of Florida.

### **Jay Robert Stiefel**

Jay Robert Stiefel studied History at the University of Pennsylvania (B.A. with Distinction 1968, General Honors Program, Dean's List) and as a graduate student at Oxford University (Christ Church, 1968-69), where he was elected Chairman of the Graduate Common Room, chaired the Shakespeare at Stratford program and was a member of the Christ Church and Oxford University Boat Clubs. His International Relations degree from the University of Pennsylvania (M.A. 1971) was pursuant to an interdisciplinary program including courses in International Law at the Law School and Economics at the Wharton School of Business. He was elected a member of the Executive Committee of the International Relations Program of the Graduate School of Arts & Sciences (1970-71).

Mr. Stiefel worked at the British House of Commons as a member of the Conservative Parliamentary Power Committee's Subcommittee on Amendments, chaired by Sir John Eden, Bt., and as Parliamentary Personal Assistant to Sir Peter F.H. Emery, P.C. (1969-70). Other residencies and work abroad, and nineteen years of linguistic studies, including at the Universités de Bordeaux et de la Toulouse (French, Certificat d'Assiduité 1965), have made Mr. Stiefel conversant in foreign languages, customs and practices. He was one of two U.S. Delegates to the International Conference on the U.S. Bicentennial, Philadelphia (1970).

Mr. Stiefel graduated from the Dickinson School of Law (J.D. 1974) where he was an editor of the Dickinson Law Review and a member of the Appellate Moot Court Board and of the Legal Aid Society. He completed programs on Public and Private International Law at the Hague Academy of International Law, The Netherlands, where he served as U.S. Embassy Liaison (1972); and on the British legal system at Emmanuel College, Cambridge University (1997, 1998). He has lectured on law at Temple University and authored law review articles on International and Constitutional Law. For his paper, "The Rights of the Accused Before Trial," delivered at Oxford University (1977), Mr. Stiefel was awarded le Prix des Anciens Presidents, the top prize of the Association Internationale des Jeunes Avocats (Young Lawyers International Association), a bar association whose U.S. operations he was elected to head (1978). He received the Outstanding Service Award of the Young Lawyers' Section of the Philadelphia Bar Association for his service on its Executive Committee (1981). He has also served on the PBA's Committees on International Law, Services to the Spanish-speaking Community, the Federal Courts and Lawyers for the Arts.

Mr. Stiefel has played a lead or principal role in complex securities actions throughout the country, in which many legal precedents were established and significant monetary and remedial benefits achieved. These include, among others, *Employee Solutions Securities Litigation*, Master File No. Civ-97-545-PHX-RGS (OMP) (D. Ariz.) (class settlement of in excess of \$15 million); *Rospach Corporation Securities Litigation*, Case No. 1:90-CV-806 et al. (W.D. Mich.) (class settlement of in excess of \$6.5 million); *Long Island Lighting Company Securities Litigation*, 84-CIV-0588 (LDW) (E.D.N.Y.) (class settlement of in excess of \$48.5 million); *Washington Public Power Supply System Securities Litigation*, M.D.L. 551 (W.D. Wash) (class settlements of over \$700 million); *Charal v. Andes* (re *The Franklin Mint*), C.A. Nos. 77-1725 and 78-1610 (E.D. Pa.) (\$6 million class settlement); *Dura-Bilt Corporation v. Chase Manhattan Corp.*, 79 Civ. 4666, 71 Civ. 3800 (S.D.N.Y.); *Berman v. HNC Mortgage & Realty Investors*, C.A. No. B78-111 (D.Conn.); *AM International, Inc. Securities Litigation*, M.D.L. No. 494 (S.D.N.Y.) (class settlements of cash and warrants valued at approximately \$20 million); *Cincinnati Gas & Electric Company Securities Litigation*, Master File No. C-1-83-1721 (S.D. Ohio) (class settlement of \$13.9 million); *Consumers Power Company Securities Litigation*, Civ. Act. No. 83-CV-6448 AA(E.D. Mich); *Oak Industries Securities Litigation*, No. 83-0537-G(M) (S.D. Cal.) (class settlement of in excess of \$33 million); *Lundy v. Interfirst Corporation*, No. 3-84-0952H (N.D. Tex.) (class settlement of \$6.7 million); and *Council on Social Work Education, Inc., et al. v. Texas Instruments Inc., et al.*, C.A. No. CA-83-1083-H (N.D. Tex.) (class settlement of \$12 million).

Mr. Stiefel has been a board member of various cultural and civic organizations in Philadelphia, including the Philadelphia Chamber Orchestra, Historic Rittenhouse, Inc., the Oxford & Cambridge Society, which he co-founded, and the Center City Residents' Association, chairing its Celebration of Center City Living (1995). He is also a shareholder of the Library Company of Philadelphia and serves on the Advisory Board of the American Philosophical Society Library. He is a member of the Numismatic & Antiquarian Society of Philadelphia. Mr. Stiefel's philanthropic interests include Independence Hall National Historical Park and various university museums and libraries, for which he was inducted into the De La Salle Society (2001). His sports are squash, tennis, and hiking. He is a member of the Philadelphia Club.

Mr. Stiefel is also an historian of early American commerce and the decorative arts. He has lectured at Winterthur Museum, the American Philosophical Society, Oxford University, the American Museum in Britain, and also before the Decorative Arts Trust, The Washington Decorative Arts Forum, and the Alexandria Association, among other venues. Mr. Stiefel serves on the Advisory Committee of the Delaware Antiques Show for Winterthur (1998-present). He has been admitted to various educational programs of the Attingham Trust in Great Britain and elsewhere (Summer School, 1996; and several Study Weeks since). Mr. Stiefel's "Philadelphia Cabinetmaking and Commerce, 1718-1753: the Account Book of John Head, Joiner" and "The Head Account Book as Artifact" inaugurated the American Philosophical Society's online historical journal, the *Library Bulletin*, vol. 1, no. 1, new series (Winter 2001); and were the subject of two feature articles: Lita Solis-Cohen, "Account Book Becomes Rosetta Stone for Philadelphia Furniture," *Maine Antiques Digest* (April 2001), and "The Cabinetmaker's Account," *Masterpiece* (June 2001). Mr. Stiefel's articles on Philadelphia's colonial craftsmen have appeared in various publications, including the *Bulletin of the Pewter Collectors' Club of America* (Winter 2002); the *Catalogue of Antiques and Fine Art* (Spring 2003 and 2004) and the *Magazine Antiques* (August 2006).

Mr. Stiefel is admitted to practice in the Commonwealth of Pennsylvania and before other federal courts throughout the country.

### **Tyler E. Wren**

Tyler E. Wren is a trial lawyer with over 35 years of experience in both the public and private sectors.

Mr. Wren has represented both plaintiffs and defendants in a broad spectrum of litigation matters, including class actions, environmental, civil rights, commercial disputes, personal injury, insurance coverage, election law, zoning and historical preservation matters and other government affairs. Mr. Wren routinely appears in both state and federal courts, as well as before local administrative agencies.

Mr. Wren graduated from the Georgia Institute of Technology with a B.S. in Industrial Management and obtained his law degree from the University of Georgia School of Law. Following his graduation from law school, Mr. Wren served as staff attorney to the

Committee of Seventy, a local civic watchdog group. Mr. Wren then spent a decade in the Philadelphia City Solicitor's Office in various positions in which his litigation and counseling skills were developed: Chief Assistant City Solicitor for Special Litigation and Appeals, Divisional Deputy City Solicitor for the Environment, Counsel to the Philadelphia Board of Ethics and Counsel to the Philadelphia Planning Commission.

After leaving government employ and before joining Berger & Montague in 2010, Mr. Wren was in private practice, including nine years with the Sprague and Sprague firm, headed by nationally recognized litigator Richard Sprague. Mr. Wren was also the editor and principal author, Volumes 8-12 (Civil Litigation) of Dunlap-Hanna Pennsylvania Forms, 1987-1990.

Mr. Wren was recently named as one of Pennsylvania's "Super Lawyers" in the area of Administrative Law. Mr. Wren has for many years held an AV rating by Martindale-Hubbell, the highest rating available for both professional competence and ethical integrity.

A member of the Pennsylvania Bar since 1973, Mr. Wren is also admitted to the United States District Court for the Eastern District of Pennsylvania, the United States Court of Appeals for the Third Circuit and the United States Supreme Court. Mr. Wren is also a member of the Pennsylvania Bar Association and the Philadelphia Bar Association.

Mr. Wren is also active in community affairs, serving as the elected Vice Chair of the East Nantmeal Township Board of Supervisors (Chester County, PA) and a member of the board of directors of the East Nantmeal Land Trust.

## **SPECIAL COUNSEL**

### **Abbott A Leban**

Abbott A. Leban joined Berger & Montague in 2004 as Senior Counsel in its Securities Litigation Department. Since 2008, he has continued his association with the firm as Of Counsel and resident attorney in the firm's office in Wilmington, Delaware.

Mr. Leban is admitted to the practice of law in the District of Columbia, New York, Pennsylvania, and Delaware. He is also admitted in the U.S. Supreme Court, the U.S. Court of Appeals for the District of Columbia Circuit and the Fifth Circuit, and the U.S. District Courts for Delaware and the Southern District of New York. He is a member of the American and the Delaware State Bar Associations and was an original member of the National Association of Public Pension Attorneys. His local associations include the Delaware Center for Justice, Inc. and the American Civil Liberties Union of Delaware.

Mr. Leban received his B.A. from Columbia College and the J.D. degree from Yale Law School. He held a judicial clerkship in the U.S. Court of Appeals for the District of Columbia Circuit and continued in federal government service in Washington as an attorney in the (now defunct) U.S. Civil Aeronautics Board; as an Assistant U. S. Attorney for D.C.; and on the professional staff of U.S. Sen. Kenneth B. Keating (R.-N.Y.), ending as his Executive Assistant.

In 1965, Mr. Leban began a long career in the finance, insurance, and real estate ("FIRE") sector. In Equitable Life's Law Department, he was the company's first-time officer and counsel for Federal Relations. At Colonial Penn Group, Inc., of Philadelphia (CPG), he was initially President/COO of its New York-based life insurance subsidiary and later CPG's Senior V.P. and Corporate Secretary, with responsibilities for its legal, government relations, human resources, and corporate and public affairs departments. With the taking effect of ERISA in 1974, he also served as the chairman of the company's pension trusts and supervised them in the early years of the ERISA regime. In the early 1980s, Mr. Leban joined with another CPG executive in the founding management of American Homestead, Inc., of Mt. Laurel, New Jersey, a mortgage banking concern, which developed and pioneered in offering reverse mortgage products to the "house-rich, cash-poor" segment of the senior population.

In 1987, the new administration of Pennsylvania Governor Robert P. Casey appointed Mr. Leban as the chief counsel of each of the three state-level public-employee retirement systems, with then combined assets of approximately \$20 billion. In addition to corporate governance initiatives on behalf of the state and public school funds, he represented PSERS, as an *ex officio* member, along with CalPERS, on the official equity committee in Chapter 11 proceedings, *In re Texaco, Inc.*, 81 B.R. 806 (Bankr. S.D.N.Y. 1988). That committee played a key role in the settlement of the Pennzoil-Texaco lawsuit judgment and the inclusion of important governance provisions in Texaco's reorganization plan.

Mr. Leban left state government in 1991 to join the Philadelphia law firm now known as Blank Rome. As chair of the firm's Public Pension Fund Practice Group within its Corporate Department, he concentrated his work on varied corporate, tax, fiduciary, litigation, and legislative matters on behalf of both in-state and sister-state public pension funds. When his colleagues, the resident litigation partners in Blank Rome's Wilmington office, formed their own firm in 1997, Mr. Leban joined them in Delaware soon after they commenced business. Among other securities class actions in that period, he was a member of that firm's litigation team as counsel for co-lead plaintiff Colorado PERA in the *Oxford Health Plans Litigation* in the Southern District of New York and for the Florida SBA as co-lead plaintiff in the *DaimlerChrysler Securities Litigation* in the District Court for Delaware.

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