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10
11 **UNITED STATES DISTRICT COURT**
FOR THE DISTRICT OF NORTHERN CALIFORNIA
12 **SAN JOSE DIVISION**

13
14 IN RE HP PRINTER FIRMWARE UPDATE
15 LITIGATION

Case No. 5:16-cv-05820-EJD-SVK

**PLAINTIFFS’ NOTICE OF MOTION AND
MOTION FOR PRELIMINARY APPROVAL
OF CLASS ACTION SETTLEMENT, AND
MEMORANDUM OF LAW IN SUPPORT
THEREOF**

Date: November 8, 2018, *pending confirmation*

Time: 9:00 a.m.

Place: Courtroom 4

Judge: Hon. Edward J. Davila

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NOTICE OF MOTION AND MOTION

PLEASE TAKE NOTICE that on November 8, 2018, at 9:00 a.m., or as soon thereafter as the matter may be heard before the Honorable Edward J. Davila, United States District Judge for the Northern District of California, Plaintiffs Richard San Miguel, DeLores Lawty, Richard Faust, Christopher Ware, and James Andrews (“Plaintiffs”), will and hereby do move the Court, pursuant to Federal Rule of Civil Procedure 23, for an Order:

1. Granting preliminary approval of the proposed Settlement Agreement (the “Settlement”) with Defendant HP Inc. (“HP”);
2. Provisionally certifying the Settlement Class as defined in the Settlement and below;
3. Appointing Plaintiffs as Class Representatives for the proposed Settlement Class;
4. Appointing Girard Gibbs LLP, Law Offices of Todd M. Friedman, P.C., and Joseph Saveri Law Firm, Inc., as Settlement Class Counsel for the proposed Settlement Class;
5. Approving the proposed notice program, including the proposed forms of notice appended to the Settlement Agreement, and directing that notice be disseminated in accordance with this program;
6. Appointing Epiq Class Action & Claims Solutions, Inc. (“Epiq”) as Claims Administrator and directing it to carry out the duties and responsibilities of the Claims Administrator stated in the Settlement; and
7. Setting a Final Approval Hearing and certain other dates in connection with the settlement approval process.

This motion is based on this notice of motion and motion, the accompanying memorandum of points and authorities, the Settlement, including all exhibits thereto, the Declaration of Elizabeth A. Kramer (“Kramer Decl.”), the Declaration of Todd M. Friedman (“Friedman Decl.”), the Declaration of Cameron Azari (“Azari Decl.”), all papers and records on file in this matter, and such other matters as the Court may consider.

MEMORANDUM OF POINTS AND AUTHORITIES**I. INTRODUCTION**

Plaintiffs seek preliminary approval of a Settlement that provides non-monetary relief and \$1.5 million in cash for owners of certain HP inkjet printers. The settled claims arise from technology known as Dynamic Security that HP activated in these printers and which disabled them if they were equipped with certain third-party replacement cartridges.¹ Plaintiffs allege that HP's unannounced printer intrusions violated the unfair competition laws and constituted trespass to chattels, among other violations. Under the Settlement, HP agrees not to reinstall or reactivate Dynamic Security in the printers at issue in this litigation. None of the \$1.5 million in the Settlement fund will revert to HP.

The parties negotiated the Settlement at arms' length after a year and a half of litigation that saw extensive discovery into HP's technology and business units, and after Plaintiffs moved to certify a nationwide class for the purpose of adjudicating key liability issues, such as whether HP's use of Dynamic Security violated the Computer Fraud and Abuse Act, 18 U.S.C. § 1030, *et seq.* (CFAA). The Settlement avoids protracted litigation while delivering all or most of the relief class members could expect to obtain at trial. First, the Settlement achieves the goal of the litigation by eliminating the threat of forcible printer disablement for all members of the class. Second, just as they would have been able to come forward to claim individual damages had they prevailed on common liability issues at trial, the Settlement allows class members who lost money or time because of HP's printer disablements to make a claim for full recovery of their losses.

Separate from the non-monetary relief and the \$1.5 million fund benefiting class members, HP has agreed to pay for all notice and administration costs required to effect the Settlement. The proposed notice program relies on email notice to over 2 million class members using email addresses in HP's possession, as well as postcard and publication notice. The claims process outlined in the plan of allocation gives priority to class members who sustained documented out-of-pocket losses—e.g., from purchasing replacement cartridges or incurring other expenses—after print interruptions.

¹ Unless otherwise indicated, capitalized terms have the meaning ascribed to them in the Settlement. *See Kramer Decl., Ex. A §§ 1.1-1.35.*

1 Those without receipts or other proof of loss may also make a claim for lost money or time. Plaintiffs
2 believe the \$1.5 million settlement fund will be sufficient to pay all valid claims. According to HP's
3 interrogatory responses, 12,000 printers at most were affected by the September 2016 event that
4 precipitated this litigation. Plaintiffs' counsel will separately apply for an award of attorneys' fees
5 not to exceed the value of their hours expended in prosecuting and resolving these claims, and to be
6 paid by HP separately from the \$1.5 million class fund and the notice and administration costs. The
7 amount of the settlement fund distributable to the class will not be affected by the application for
8 attorneys' fees and costs. The parties will seek to reach agreement on the amount of attorneys' fees
9 HP will pay (upon Court approval), but if no agreement is reached the matter will be submitted for
10 decision.

11 Plaintiffs respectfully submit that the proposed Settlement and its associated procedures meet
12 the criteria for preliminary approval, conform to all Northern District class settlement guidelines, and
13 should be preliminarily approved.

14 **II. SUMMARY OF THE LITIGATION**

15 Numerous consumers reported that their HP printers unexpectedly stopped working on or
16 around September 13, 2016. Plaintiffs Richard San Miguel and DeLores Lawty filed a complaint
17 on October 7, 2016, alleging that HP had violated California's Unfair Competition Law by
18 executing a firmware update that disabled HP inkjet printers fitted with certain replacement ink
19 cartridges manufactured by HP's competitors. Dkt. 1. Plaintiffs alleged that the failed HP printers
20 displayed an error message that the ink cartridges were "damaged or missing" when that was not
21 true, as HP in fact had disabled the printers to induce purchases of its own higher-priced cartridges.
22 *Id.*, ¶ 2. Plaintiffs sought equitable relief and restitution for class members with affected printers.
23 *Id.*, Prayer for Relief.

24 On October 12, 2016, HP modified an apology it had posted on its own website to add an offer
25 of a remedial "patch" that it claimed would restore printer functionality. Dkt. 91-13 (Ex. B, Novak
26 Dep. at 96:24-97:2); 91-10 (HP0000000226). Plaintiffs later alleged that this patch was inadequately
27 disclosed and ineffective. Dkt. 94, ¶¶ 91-100. In December 2016, HP added language to its inkjet
28 printer boxes stating that cartridges using a non-HP chip may not work. Dkts. 91-5 (Ex. 9 at HP-

1 0000008974-75); 91-11 (Ex. 25 at HP-0000008967). Printers so labeled are not at issue in this
2 litigation. Kramer Decl., ¶ 5.

3 On December 7, 2016, HP moved to dismiss, and Plaintiffs opposed the motion on January 6,
4 2017. Dkts. 19, 29. HP argued that it had no duty to keep its printers compatible with third-party ink
5 cartridges with infringing security chips, and that it made no representation of that compatibility. Dkt.
6 19 at 1. An initial case management conference was held on January 18, 2017. Dkt. 43. After the
7 case was reassigned to this Court, the parties stipulated to consolidate the related *Ware* and *Doty*
8 actions under this caption (Dkt. 59), and Plaintiffs filed a consolidated complaint on March 22, 2017
9 (Dkt. 60). HP again moved to dismiss, emphasizing that it had no duty to make its printers compatible
10 with “any and all third-party cartridges.” Dkt. 66 at 1. HP further argued that it did not exceed its
11 authorized access to the printers, so Plaintiffs could not state computer intrusion claims. Plaintiffs
12 opposed the motion (Dkt. 74), and the Court heard argument on July 14, 2017 (Dkt. 83).

13 The parties then engaged in significant discovery for a period of months. Plaintiffs reviewed
14 and analyzed thousands of pages of documents HP produced relating to Dynamic Security and the
15 printer disablements and conducted two Rule 30(b)(6) depositions of HP’s corporate representatives.
16 Kramer Decl., ¶ 9. HP testified in part that it had “turned off” Dynamic Security in the Class Printers
17 as of December 2017. Dkt. 91-13 (Ex. A, Barkley Dep. at 115:3-10, 103-105). Plaintiffs also
18 propounded several sets of written discovery requests, including requests pertaining to HP’s
19 intellectual property defense, and analyzed HP’s responses. Kramer Decl., ¶ 9. In addition, Plaintiffs
20 sought third-party discovery related to class certification and damages issues from approximately 15
21 manufacturers and retailers. *Id.* HP deposed each Plaintiff. *See* Dkts. 91-17 through 91-20.

22 On February 7, 2018, Plaintiffs moved for a hybrid Rule 23(b)(2)–(c)(4) certification of (1) a
23 subclass of California printer owners seeking injunctive relief under the UCL, and (2) a national class
24 of consumers who experienced print interruptions for purposes of adjudicating the liability elements of
25 the CFAA and trespass-to-chattels claims, with individualized damages proceedings to follow. Dkt.
26 91. Plaintiffs explained that “[t]he primary relief” sought is injunctive, and that the amount of
27 individual damages “varies and is too low to justify individual lawsuits.” Dkt. 91 at 16, 22. Plaintiffs
28

1 submitted a consolidated amended complaint conforming to their class certification request. Dkts. 88,
2 92, 94.

3 On March 29, 2018, the Court entered an order granting in part and denying in part HP's
4 motion to dismiss. Dkt. 97. The Court noted Plaintiffs' allegations that HP's use of Dynamic Security
5 prevented "certain varieties of third-party inkjet cartridge microchips, including those manufactured
6 and distributed by Apex Microelectronics and Static Control Components," from communicating with
7 the printers, "incapacitat[ing]" them and "caus[ing] consumers to pay more for HP products." *Id.* at 1,
8 4. The Court upheld Plaintiffs' computer intrusion claims under the CFAA and the California Penal
9 Code and their trespass claims at common law (*id.* at 7-13), together with their statutory consumer
10 fraud claims to the extent they were based on HP's misleading error messages and material omissions
11 (*id.* at 16-17). The Court dismissed Plaintiffs' UCL unfairness and tortious interference claims, among
12 others, with leave to replead. *Id.* at 17-23. The Court invited the parties to stipulate as needed to an
13 extension of time for filing a second amended complaint and completing the class certification
14 proceedings. *Id.* at 24.

15 Informed by the Court's motion to dismiss order, the parties entered into settlement discussions
16 and spent several months negotiating a resolution of these claims. Kramer Decl., ¶ 12.² The parties'
17 settlement talks led to an agreement in principle memorialized in a term sheet signed on July 11, 2018.
18 Kramer Decl., ¶ 13. The Court then allowed 60 days to prepare settlement papers (Dkt. 107), and
19 several weeks of often difficult negotiations followed. Kramer Decl., ¶ 14. The parties were able to
20 agree on a comprehensive set of terms to settle the claims, and they have deferred any effort to resolve
21 the amount of attorneys' fees and litigation expenses that HP will pay to Plaintiffs' counsel for
22 prevailing in the litigation. Kramer Decl., ¶ 14 & Ex. A § 6.1. Plaintiffs will file their fee and cost
23 application in due course. On September 7, 2018, the Court granted the parties' stipulation affording a
24 final, one-week extension for this preliminary approval filing. Dkt. 109.

25
26
27 ² On April 3, 2018, the Court entered the parties' stipulated agreement to abate the class certification
28 proceedings (Dkt. 100), and on April 11 the Court granted an extension of the case schedule to allow
the parties to continue their discussions (Dkt. 102). On May 31, the Court granted a further extension
to allow additional time for these efforts. Dkt. 105.

1 **III. THE PROPOSED SETTLEMENT AND SCHEDULE OF EVENTS**

2 **A. Settlement Terms and Conditions**

3 The proposed Settlement provides for certification of a class defined as all Persons who
4 owned a Class Printer from March 1, 2015 through December 31, 2017 (“Settlement Class”). Kramer
5 Decl., Ex. A § 1.7. The Class Printers are:

- 6
- 7 • HP OfficeJet Pro 6230
 - 8 • HP OfficeJet 6812
 - 9 • HP OfficeJet 6815
 - 10 • HP OfficeJet 6820
 - 11 • HP OfficeJet Pro 6830
 - 12 • HP OfficeJet Pro 6835
 - 13 • HP OfficeJet Pro 8610
 - 14 • HP OfficeJet Pro 8615
 - 15 • HP OfficeJet Pro 8616
 - 16 • HP OfficeJet Pro 8620
 - 17 • HP OfficeJet Pro 8625
 - 18 • HP OfficeJet Pro 8630
 - 19 • HP OfficeJet Pro X551dw
 - 20 • HP OfficeJet Pro X451dn
 - 21 • HP OfficeJet Pro X451dw
 - 22 • HP OfficeJet Pro X576dw
 - 23 • HP OfficeJet Pro X476dn
 - 24 • HP OfficeJet Pro X476dw

25
26 Kramer Decl., Ex. A § 1.8.³ As called for under the Northern District guidelines,⁴ Plaintiffs note that
27 the Settlement Class differs from the injunctive relief class proposed in the complaint for trial in that
28 it includes consumers nationwide, not merely in California, whose printers were subject to Dynamic
Security; and the Settlement Class also differs from the “disablement” class proposed in the
complaint for trial in that it is not limited to consumers who experienced print interruptions (although
only such consumers are now eligible to make a claim). *See* Dkt. 94, ¶ 105; *see also infra* Section
IV.A.2.a (explaining how all class members are similarly situated with respect to their causes of

26 ³ Excluded from the class are HP, its officers, directors, and affiliates at all relevant times, members of
27 their immediate families and their legal representatives, heirs, successors or assigns, and any entity in
28 which HP had or has a controlling interest. Also excluded from the class are any Persons who timely
and validly request exclusion. Kramer Decl., Ex. A § 1.7.

⁴ <https://www.cand.uscourts.gov/ClassActionSettlementGuidance>.

1 action against HP). The class period of March 1, 2015 through December 31, 2017—during which
2 Dynamic Security was enabled on the Class Printers—is consistent with the class period proposed in
3 the complaint.

4 Under the Settlement’s non-monetary relief provisions, HP acknowledges that it has released
5 firmware that turns off Dynamic Security in the Class Printers and agrees that it “will not at any time
6 take any action to employ Dynamic Security on the Class Printers, including by releasing or
7 otherwise making available firmware that enables Dynamic Security.” Kramer Decl., Ex. A § 2.3.
8 HP also agrees to implement customer services procedures to assist class members who inquire as to
9 whether Dynamic Security is on their printer and how to remove it. *Id.*

10 For purposes for monetary relief, HP will pay \$1,500,000 into a Settlement Fund. Kramer
11 Decl., Ex. A §§ 1.32, 2.1. In addition, HP will pay all Administrative Expenses to fund the notice
12 program and the claims process. Kramer Decl., Ex. A §§ 1.1, 2.2. None of these payments will
13 revert to HP. Kramer Decl., Ex. A §§ 2.2, 2.15, 7.4. In regard to the attorneys’ fee application, HP
14 agrees that it will not dispute that Plaintiffs are successful parties within the private attorney general
15 provisions of California Code of Civil Procedure section 1021.5. Kramer Decl., Ex. A § 6.1. There is
16 no agreement as to the amount of attorneys’ fees. The fee award will not reduce the benefits to class
17 members.

18 If the Court approves the Settlement, class members will release all claims that “relate to
19 Dynamic Security and/or any representations regarding the ability to use third-party ink cartridges
20 with the Class Printers, and that were or could have been alleged in the Litigation.” Kramer Decl.,
21 Ex. A §§ 1.30, 1.31, 4.1, 8.17. The release is therefore appropriately limited to the matters at issue in
22 the litigation. The Settlement Exhibits consist of the proposed notice (Ex. 1), claim form (Ex. 2), plan
23 of allocation (Ex. 3), preliminary approval order (Ex. 4), and final order and judgment (Ex. 5). A
24 proposed schedule of upcoming case events is set forth in the preliminary approval order.

25 **B. Notice and Settlement Administration**

26 Plaintiffs propose several methods for notifying the class members of the Settlement and their
27 rights. First, Plaintiffs’ notice program relies on emailing notice of the Settlement to the over 2.2
28 million class members whose email addresses are in HP’s records. Azari Decl., ¶¶ 10-13. Postcard

1 notices will be sent to the remaining class members whose mailing addresses are in HP's records.
2 Azari Decl., ¶¶ 11, 14, 15. The emailed and mailed notices describe the terms of the Settlement, class
3 members' rights and options, and other required information and contain prominent links to the online
4 claim form. Azari Decl., ¶¶ 11, 13, 20. Approximately 2,400,000 class members will receive direct
5 notice. Azari Decl., ¶ 11; Kramer Decl., ¶ 20. Second, an online publication notice campaign geared
6 toward reaching HP printer users will employ banner ads on heavily visited websites, such as
7 Facebook, and an informational release will be issued to approximately 5,000 general media (print
8 and broadcast) outlets across the United States and 5,400 online databases and websites. Azari Decl.,
9 ¶¶ 16, 18, 19.⁵

10 The proposed notice is annexed to the Settlement Agreement. *See* Kramer Decl., Ex. A at Ex.
11 1. This notice complies with all Northern District guidelines. Using plain language, the notice
12 advises class members of the pendency and nature of the case, basic settlement terms, and their right
13 to share in the recovery, to opt out of the class, to object to the Settlement, and to appear before this
14 Court at the Final Approval Hearing. The notice also includes class counsel's contact information,
15 the address of the Settlement website, how to access the case docket, and the date, time, and place of
16 the Final Approval Hearing, and alerts class members that the hearing date may change without
17 further notice but that class members should monitor the Settlement website for updates. The notice
18 further states that class members who wish to opt out should send a letter only to the Claims
19 Administrator with their name, address, signature, and statement that they wish to opt out, and that
20 class members who wish to object should submit written objections only to the Court. The notice
21 also makes clear that the Court can only approve or deny the Settlement, not change its terms.
22 Finally, the notice provides details regarding the plan of allocation and class counsel's anticipated
23 motion for attorneys' fees and reimbursement of litigation expenses and for service awards to
24 Plaintiffs, to be paid separately by HP.

25 The claim form explains that valid claims can only be made by class members who
26 experienced a print interruption while using a non-HP ink cartridge in a Class Printer. *See* Kramer
27

28 ⁵ In addition, HP will cause notice of the Settlement to be provided to the appropriate federal and state
authorities pursuant to the Class Action Fairness Act, 28 U.S.C. § 1715. Kramer Decl., ¶ 20.

1 Decl., Ex. A at Ex. 2. All claimants must provide their contact information and attest that they owned
2 a Class Printer between March 1, 2015 and December 31, 2017; that the Class Printer experienced a
3 print interruption during that time while it had working non-HP ink cartridges installed; and that they
4 have not been reimbursed or otherwise compensated for the lost money or time being claimed.
5 Beyond so attesting, class members can choose one of two options to make a claim. Under the first
6 option, claimants specify the amount of documented losses they incurred because of the print
7 interruption, and attach or upload documentation—e.g., receipts, payment card statements, or
8 photographs—showing those losses. Under the second option, class members make an
9 undocumented claim by providing the month and year in which they experienced the print
10 interruption, the brand of non-HP ink cartridge installed in the printer at the time, and the name of the
11 store or website from which they purchased the non-HP aftermarket cartridges. *See* Kramer Decl.,
12 Ex. A at Ex. 2.

13 HP's interrogatory responses estimate that "fewer than 12,000" printers experienced
14 interruptions due to HP's Dynamic Security challenge in September 2016. Dkt. 91-15 (HP's
15 Responses to Pls.' First Set of Interrogs. at 4:23-25). Similar Dynamic Security challenges also
16 occurred at regular intervals during the class period. Dkt. 91-13 (Ex. A, Barkley Dep. at 160:24-
17 161:6; Ex. B, Novak Dep. at 65:19). Plaintiffs accordingly estimate that 50,000 class members may be
18 eligible to make a claim. Kramer Decl., ¶ 24. On the optimistic assumption that 20% of these class
19 members make a claim, the average payment per class member would be \$150. *Id.* Had Plaintiffs
20 prevailed at trial on the common liability issues, under Plaintiffs' trial plan, individual class members
21 would have been able to submit proof to recover their out-of-pocket expenses in proceedings following
22 the class trial. *Id.* While such individual expenses vary, a full set of HP replacement cartridges costs
23 about \$100 and a replacement HP printer costs about \$150. *Id.*; *see also* Dkt. 94, ¶¶ 26, 42
24 (allegations regarding Faust's and Ware's out-of-pocket losses).

25 The plan of allocation is designed to encourage valid claims against the Settlement Fund and
26 still deter fraudulent claims. Kramer Decl., ¶ 25 & Ex. A at Ex. 3. To ensure that meritorious claims
27 are prioritized and the fund is protected against non-meritorious claims, claims will be calculated in
28 two steps. Kramer Decl., ¶ 25. First, each documented claim will be paid in full, unless the total value

1 of documented claims exceeds the fund, in which case documented claims will be reduced *pro rata*
2 and paid. Kramer Decl., Ex. A at Ex. 3, § III.A.1. Second, after payment of documented claims, the
3 remaining Settlement Fund will be divided *pro rata* among all claimants. Kramer Decl., Ex. A at Ex.
4 3, § III.A.2. Thus, all claimants who do not submit documentation will receive the same amount, and
5 claimants who submit documented claims will also receive, in addition to their documented monetary
6 losses, an additional distribution equal to that made to the undocumented claimants, in compensation
7 for lost time associated with the print interruption. Kramer Decl., ¶ 25. If the *pro rata* Residual
8 Amount exceeds \$250, Class Counsel will notify the Court and propose additional measures. Kramer
9 Decl., Ex. A at Ex. 3, § III.A.3.

10 The proposed Claims Administrator, Epiq, has the expertise to efficiently handle all
11 Settlement-related notice and administration tasks. Azari Decl., ¶¶ 1-8. HP, in consultation with
12 Plaintiffs' counsel, selected Epiq as Claims Administrator after a competitive bidding process that
13 included bids from several other firms. Kramer Decl., ¶ 26. In addition to managing the notice
14 program and receiving and processing claims, Epiq will maintain a dedicated settlement website
15 containing links to the notice, claim form, and all other relevant settlement documents. Azari Decl., ¶
16 13.

17 **IV. LEGAL ARGUMENT**

18 The procedure for judicial approval of a proposed class action settlement under Rule 23(e)
19 involves the following three steps:

- 20 (1) Certification of a settlement class and preliminary approval of the proposed settlement
21 after submission to the Court of a written motion for preliminary approval.
- 22 (2) Dissemination of notice of the proposed settlement to the class members.
- 23 (3) A hearing at which evidence and argument concerning the fairness, adequacy, and
24 reasonableness of the proposed settlement may be presented.

25 *See* Federal Judicial Center, Manual for Complex Litigation § 21.63 (4th ed. 2004). Plaintiffs here
26 respectfully request that the Court take the first step in this process by provisionally certifying the
27 proposed class for settlement purposes, granting preliminary approval of the proposed Settlement, and
28 directing that notice be provided to the class.

1 **A. Certification of the Proposed Settlement Class Is Appropriate.**

2 **1. Rule 23(a) Is Satisfied.**

3 **a. The Class Members Are Too Numerous to Be Joined.**

4 The proposed Class is so numerous that joinder of all members is impracticable. *See* Fed. R.
5 Civ. P. 23(a)(1). HP installed dynamic security on about 3.5 million printers. *See* Dkt. 91-15 (HP’s
6 Responses to Plaintiffs’ First Set of Interrogs. at 5:14).

7 **b. The Action Involves Commons Questions of Law and Fact.**

8 Under Rule 23(a)(2)’s requirement that there be “questions of law or fact common to the
9 class,” the claims “must depend upon a common contention” such that “determination of [their] truth
10 or falsity will resolve an issue that is central to the validity of each one of the claims in one stroke.”
11 *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338 (2011). In this case, commonality is satisfied because
12 the “circumstances of each particular class member . . . retain a common core of factual or legal
13 issues with the rest of the class[.]” *Evon v. Law Offices of Sidney Mickell*, 688 F.3d 1015, 1029 (9th
14 Cir. 2012) (citations and quotations omitted).

15 Plaintiffs’ claims center on whether HP’s Dynamic Security technology, which was present on
16 all Class Printers, unlawfully interferes with the rights and incidents of ownership, and whether HP’s
17 failure to disclose the technology was unlawfully misleading. HP’s use of Dynamic Security not only
18 involves a common course of conduct but it also gives rise to common legal questions. As discussed
19 in the predominance section below, Plaintiffs and all class members could pursue the same remedies
20 against HP arising from Dynamic Security. Because HP’s use and nondisclosure of this technology is
21 common to the claims of all class members, Plaintiffs have met their “minimal” burden of
22 demonstrating commonality. *Astiana v. Kashi Co.*, 291 F.R.D. 493, 502 (S.D. Cal. 2013).

23 **c. Plaintiffs’ Claims Are Typical of Those of the Class.**

24 “[R]epresentative claims are ‘typical’ [under Rule 23(a)(3)] if they are reasonably coextensive
25 with those of absent class members.” *Torres v. Mercer Canyons Inc.*, 835 F.3d 1125, 1141 (9th Cir.
26 2016). “Measures of typicality include ‘whether other members have the same or similar injury,
27 whether the action is based on conduct which is not unique to the named plaintiffs, and whether other
28 class members have been injured in the same course of conduct.’” *Id.* (citation omitted).

1 Here, the claims of Plaintiffs and all class members arise out of the same course of conduct—
2 HP’s undisclosed installation of Dynamic Security—and assert the same theories of liability. As a
3 result, the typicality requirement is satisfied.

4 **d. Plaintiffs and Their Counsel Will Fairly and Adequately Protect the**
5 **Interests of Class Members.**

6 The test for evaluating adequacy of representation under Rule 23(a)(4) is: “(1) Do the
7 representative plaintiffs and their counsel have any conflicts of interest with other class members; and
8 (2) will the representative plaintiffs and their counsel prosecute the action vigorously on behalf of the
9 class?” *Staton v. Boeing Co.*, 327 F.3d 938, 957 (9th Cir. 2003). Both prongs are met here.

10 Plaintiffs are adequate class representatives. They allege that they were harmed in the same
11 way as all class members by having technology implanted on their printers without their knowledge
12 that would disable the printers if they contained certain aftermarket cartridges made by competitors of
13 HP. The common intrusion that Plaintiffs and class members experienced gives Plaintiffs every
14 incentive to vigorously pursue the class claims for equitable and monetary relief. Each Plaintiff made
15 important contributions to the case, including by preparing and sitting for deposition. *See* Dkts. 91-17
16 through 91-20.

17 Proposed settlement class counsel—Girard Gibbs LLP, Law Offices of Todd M. Friedman,
18 P.C., and Joseph Saveri Law Firm, Inc.—are likewise adequate. *See* Kramer Decl., Exs., B & C;
19 Dkts. 91-1 ¶¶ 7-9; 91-21; 91-22. Proposed class counsel are experienced class actions attorneys who
20 have litigated and favorably resolved many cases for the benefit of consumers. *Id.* Their track record
21 in obtaining substantial recoveries for injured consumers, as in this case, demonstrates they possess
22 the necessary skill and expertise to ably represent the settlement class. *Id.*

23 **2. Rule 23(b)(3) Is Satisfied.**

24 **a. Common Questions of Law and Fact Predominate.**

25 Predominance analysis under Rule 23(b)(3) “focuses on the relationship between the common
26 and individual issues in the case, and tests whether the proposed class is sufficiently cohesive”
27 *Ehret v. Uber Techs., Inc.*, 148 F. Supp. 3d 884, 894-95 (N.D. Cal. 2015) (quoting *Abdullah v. U.S.*
28 *Sec. Assocs.*, 731 F.3d 952, 964 (9th Cir. 2013)). “When a proposed class challenges a uniform

1 policy, the validity of that policy tends to be the predominant issue in the litigation.” *Nicholson v.*
2 *UTI Worldwide, Inc.*, No. 3:09-cv-722-JPG-DGW, 2011 WL 1775726, at *7 (S.D. Ill. May 10, 2011)
3 (citation omitted); *see also Bias v. Wells Fargo & Co.*, 312 F.R.D. 528 (N.D. Cal. 2015). Further,
4 when a settlement class is proposed, the manageability criteria of Rule 23(b)(3) do not apply.
5 *Amchem Prods. v. Windsor*, 521 U.S. 591, 620 (1997).

6 This case involves a uniform technology that HP implanted on all class printers without
7 disclosure, and that applied in the same way to each printer regardless of its connected computer’s
8 operating system. *See* Dkt. 91-13 (Ex. B, Novak Dep. 24:9-23, 149:13-17). The effects, scope, and
9 technical basis of Dynamic Security, along with HP’s motives for adopting it and HP’s failure to
10 disclose it to consumers, represent predominating questions of fact. HP’s use of this technology to
11 disable working printers that were running on competing aftermarket cartridges either does, or does
12 not, violate the federal CFAA, state unfair competition laws, and/or the common law prohibition of
13 trespass to chattels.

14 The class members thus are similarly situated in regard to their causes of action against HP.
15 First, no matter where they reside, all class members have standing to recover damages and pursue
16 injunctive relief under the CFAA. *See* 18 U.S.C. § 1030 (g) (“Any person who suffers damage or loss
17 by reason of a violation of this section may maintain a civil action against the violator to obtain
18 compensatory damages and injunctive relief or other equitable relief.”); *Harris v. comScore, Inc.*, 292
19 F.R.D. 579, 581, 585 (N.D. Ill. 2013) (granting nationwide class certification with respect to a CFAA
20 claim where invasive software “operate[d] in a substantively identical fashion on all computers”).
21 Second, based upon the facts of this case, all class members have claims for identical injunctive relief
22 against HP under the statutes or common laws of their home states. *See, e.g.*, Dkt. 94, ¶¶ 173-97 (in
23 addition to Plaintiffs’ claims for equitable relief under California law, San Miguel, Lawty, and Ware
24 asserted consumer protection claims under the laws of Texas, Washington, and New Jersey,
25 respectively); *cf. Phillips Petroleum Co. v. Shutts*, 472 U.S. 797, 806-16 (1985) (court may bind a
26 nationwide class consistent with due process). Third, all or nearly all class members who experienced
27 print interruptions as a result of Dynamic Security could pursue recoveries based on the common law
28

1 prohibition of intentionally interfering with a chattel possessed by another. *See* Dkt. 91 at 25 &
2 Appendix A (44-Jurisdiction Survey of Trespass to Chattels Law).

3 Furthermore, HP’s intellectual property defense raises common issues of law that apply to the
4 case as a whole. *See* Tr. of 7/14/17 Hr’g at 3:25 (HP’s counsel argued that HP is entitled to disable
5 “cartridges that may infringe”). Common issues, therefore, present a significant aspect of the claims
6 and predominate for settlement purposes.

7 **b. A Class Action Is a Superior Means of Resolving These Claims.**

8 A class action is superior under Rule 23(b)(3) because it represents the only realistic method
9 for owners of HP printers that were subject to Dynamic Security to obtain relief. *See, e.g., Valentino*
10 *v. Carter-Wallace, Inc.*, 97 F.3d 1227, 1234-35 (9th Cir. 1996) (holding that a class action may be
11 superior where “classwide litigation of common issues will reduce litigation costs and promote
12 greater efficiency”). Class members lack incentive to bring their own cases given the small potential
13 recovery for each individual printer owner. “Cases, such as this, ‘where litigation costs dwarf
14 potential recovery’ are paradigmatic examples of those well-suited for classwide prosecution.”
15 *Mullins v. Premier Nutrition Corp.*, No. 13-CV-01271-RS, 2016 WL 1535057, at *8 (N.D. Cal. Apr.
16 15, 2016) (quoting *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1023 (9th Cir. 1998)).

17 **B. Preliminary Approval of the Settlement Is Warranted.**

18 “The law favors the compromise and settlement of class action suits.” *In re Magsafe Apple*
19 *Power Adapter Litig.*, No. 5:09-CV-01911-EJD, 2015 WL 428105, at *3 (N.D. Cal. Jan. 30, 2015).
20 Before approving a class settlement under Rule 23(e), the court must be satisfied that the settlement is
21 “fundamentally fair, adequate and reasonable.” *In re Heritage Bond Litig.*, 546 F.3d 667, 674-75 (9th
22 Cir. 2008). The court considers whether the settlement: (1) appears to be the product of serious,
23 informed, non-collusive negotiations; (2) does not grant improper preferential treatment to class
24 representatives or segments of the class; (3) falls within the range of possible approval; and (4) has no
25 obvious deficiencies. *See In re Tableware Antitrust Litig.*, 484 F. Supp. 2d 1078, 1079 (N.D. Cal.
26 2007). The proposed Settlement merits preliminary approval under these factors.

1 **1. The Settlement Resulted From Informed, Arms’ Length Negotiations.**

2 The first factor looks to the circumstances in which the parties settled. *Mendez v. C-Two*
3 *Grp., Inc.*, No. 13-CV-05914-HSG, 2017 WL 1133371, at *4 (N.D. Cal. Mar. 27, 2017). “An initial
4 presumption of fairness is usually involved if the settlement is recommended by class counsel after
5 arm’s-length bargaining.” *Id.* (quoting *Harris v. Vector Mktg. Corp.*, No. 08-cv-5198, 2011 WL
6 1627973, at *8 (N.D. Cal. Apr. 29, 2011)); *see also Linney v. Cellular Alaska P’ship*, Nos. C-96-3008
7 DLJ, 1997 WL 450064, at *5 (N.D. Cal. July 18, 1997), *aff’d*, 151 F.3d 1234 (9th Cir. 1998) (“The
8 involvement of experienced class action counsel and the fact that the settlement agreement was
9 reached in arm’s length negotiations, after relevant discovery had taken place create a presumption
10 that the agreement is fair.”).

11 Settlement negotiations in this case occurred after Plaintiffs moved for class certification, and
12 after discovery and this Court’s ruling on HP’s motion to dismiss had given the parties a thorough
13 understanding of the central issues. Kramer Decl., ¶¶ 9-12. The negotiation process was active and
14 lengthy, but the parties ultimately were able to reach a compromise providing both non-monetary and
15 monetary relief for the owners of the Class Printers. *Id.*, ¶¶ 13, 14, 16, 18. When Plaintiffs’ counsel
16 reached the Settlement, they had researched the law and the facts, reviewed and analyzed several
17 thousand documents produced by HP, deposed its corporate witnesses, consulted with and retained
18 experts, and produced each Plaintiff for a deposition. *Id.*, ¶ 9. Further demonstrating the absence of
19 collusion, the parties have not agreed on a specific attorneys’ fee amount and there is no clear sailing
20 provision in the Settlement.⁶ The first factor, therefore, favors preliminary approval.

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⁶ *See, e.g., Milligan v. Toyota Motor Sales, U.S.A., Inc.*, No. C 09-05418 RS, 2012 WL 10277179, at *9 (N.D. Cal. Jan. 6, 2012) (awarding an agreed-upon fee, based on California fee-shifting law, where the award “will not reduce the class’ recovery.”); *Roberts v. Electrolux Home Prod., Inc.*, No. CV13-2339-CAS VBKx, 2014 WL 4568632, at *14 (C.D. Cal. Sept. 11, 2014) (“[T]he attorneys’ fee award will not reduce any benefits received by the Class. Thus, any objection regarding a so-called ‘clear sailing’ provision is also overruled.”); *Eisen v. Porsche Cars N. Am., Inc.*, No. 2:11-cv-09405-CAS-FFMx, 2014 WL 439006, at *10 (C.D. Cal. Jan. 30, 2014) (rejecting objections to an agreement as to attorneys’ fees as being “without merit” even in the presence of a clear sailing provision).

1 **2. The Settlement Treats the Class Members Fairly and Equally.**

2 The second factor is whether the proposed Settlement provides preferential treatment to any
3 class member, *see Mendez*, 2017 WL 1133371, at *4, which it does not. The class definition is
4 objective, comports with the limited release of liability, aligns with the operative facts and claims,
5 and makes it easy for all class members to self-identify. *See Nicodemus v. Saint Francis Mem'l*
6 *Hosp.*, 3 Cal. App. 5th 1200, 1212 (2016) (a class definition should “use terminology that will convey
7 sufficient meaning to enable persons hearing it to determine whether they are members of the class”
8 (internal quotation marks and citations omitted)). The proposed claim form has been designed for
9 ease of use, allowing class members to submit claims online or by mail. Kramer Decl., Ex. A at Ex.
10 2. Those who paid out of pocket for replacement cartridges, replacement printers, printer repair
11 services, or other costs reasonably attributable to Dynamic Security may submit receipts or other
12 documentation to recover their actual losses. Kramer Decl., Ex. A at Ex. 2. As discussed above, the
13 plan of allocation reasonably prioritizes documented claims given the large number of class members.
14 After those claims have been tallied up and paid (assuming they do not exhaust the fund, which is
15 unlikely given HP’s evidence of the scope of print interruptions), all claimants, including those who
16 did not submit documentation, will receive a *pro rata* share of the remaining Settlement fund.
17 Kramer Decl., Ex. A at Ex. 3, § III.A.

18 The Settlement thus does not favor any segment of printer owners over any other, but places
19 all class members on equal footing, supporting its approval.

20 **3. The Settlement Falls Within the Range of Possible Approval.**

21 Third, “[t]o determine whether a settlement ‘falls within the range of possible approval,’
22 courts focus on ‘substantive fairness and adequacy’ and ‘consider plaintiffs’ expected recovery
23 balanced against the value of the settlement offer.’” *Schuchardt v. Law Office of Rory W. Clark*, No.
24 15 cv-01329-JSC, 2016 WL 232435, at *10 (N.D. Cal. Jan. 20, 2016) (quoting *Tableware*, 484 F.
25 Supp. 2d at 1080). “Immediate receipt of money through settlement, even if lower than what could
26 potentially be achieved through ultimate success on the merits, has value to a class, especially when
27 compared to risky and costly litigation.” *In re LinkedIn User Privacy Litig.*, 309 F.R.D. 573, 587
28 (N.D. Cal. 2015); *see also In re Shell Oil Refinery*, 155 F.R.D. 552, 560 (E.D. La. 1993). Also

1 relevant is the value conferred by a stipulated injunction. *See, e.g., Linney v. Cellular Alaska P'ship*,
2 151 F.3d 1234, 1240 (9th Cir. 1998) (stating that “the value of the injunctive relief . . . far outweighs
3 the value of the settlement fund.”); *Grays Harbor Adventist Christian Sch. v. Carrier Corp.*, No. 05-
4 05437 RBL, 2008 WL 1901988, at *5 (W.D. Wash. Apr. 24, 2008) (finding that an enhanced
5 warranty secured by a settlement accounted for part of its value).

6 The proposed Settlement obtains valuable non-monetary relief in the form of HP's agreement
7 not to reactivate Dynamic Security in the Class Printers, protecting class members going forward. HP
8 also agrees to implement and maintain customer support protocols to assist class members who
9 inquire about whether Dynamic Security is on their printer and how to remove it. Moreover, given
10 the relatively limited number of consumers who experienced print interruptions based on evidence
11 submitted by HP, the monetary relief is substantial and likely to result in substantial payments to
12 eligible claimants. The claims process approximates a post-trial, individual prove-up process, with
13 simplified documentation and proof requirements.

14 In contrast to these benefits, continued litigation and any trial and appeal would have
15 presented significant risks and delay. In a renewed motion to dismiss, and when opposing class
16 certification, HP could have argued that it effectively mooted Plaintiffs' case by disabling the
17 offending technology and placing a warning on printer boxes in response to this lawsuit. There was
18 no guarantee that the Court would have adopted Plaintiffs' proposed class definitions and bifurcated
19 trial plan. And the outcome of HP's intellectual property defense—which relied on an International
20 Trade Commission order banning the import of certain infringing ink cartridges—also was uncertain.
21 *See* Dkts. 91-14 (HP's Responses to Pls.' Third Set of Interrogs. at 6:12); 91-12 (HP-0000002310-
22 2393). Although Plaintiffs dispute HP's arguments and defenses (*e.g.*, Dkt. 91 at 18-21), the class
23 members might have recovered nothing without a settlement. Resolution of their claims ensures a
24 favorable recovery and avoids substantial litigation risks, expenses, and delay.

25 The Settlement provides immediate relief that closely tracks the aims and value of the claims
26 and falls within the range of reasonableness.

1 **4. Experienced Counsel Recommend Approval.**

2 The Settlement has no material deficiencies and is supported by Plaintiffs and all participating
3 counsel as fair, reasonable, and adequate. Kramer Decl., ¶ 30; Friedman Decl., ¶ 15. Experienced
4 counsel’s judgment in this respect carries considerable weight. *See Nat’l Rural Telcoms. Coop. v.*
5 *DIRECTV, Inc.*, 221 F.R.D. 523, 528 (C.D. Cal. 2004) (“‘Great weight’ is accorded to the
6 recommendation of counsel, who are most closely acquainted with the facts of the underlying
7 litigation.” (quoting *In re Painewebber Ltd. P’ships Litig.*, 171 F.R.D. 104, 125 (S.D.N.Y. 1997)));
8 *Bellinghausen v. Tractor Supply Co.*, 306 F.R.D. 245, 257 (N.D. Cal. 2015) (“The trial court is
9 entitled to, and should, rely upon the judgment of experienced counsel for the parties.” (citation
10 omitted)).

11 **C. The Proposed Notice and Notice Program Should Be Approved.**

12 The proposed notice and notice program conform to the Northern District guidelines and the
13 mandates of Rule 23 and due process. *See* Fed. R. Civ. P. 23(c)(2) (requiring “the best notice that is
14 practicable under the circumstances, including individual notice to all members who can be identified
15 through reasonable effort.”). The notice includes all the information required under Rule 23(c)(2)(B):
16 the nature of the action, the class definition, a summary of the class claims, that a class member may
17 enter an appearance through an attorney, that the Court will grant timely exclusion requests, the time
18 and manner for requesting exclusion, and the binding effect of final approval. Kramer Decl., Ex. A at
19 Ex. 1. The notice includes all information necessary for class members to make informed decisions
20 relating to the Settlement, and all information called for under the Northern District guidelines. *See*
21 Section III.B, *supra*.

22 While direct notice is not required, *see Briseno v. ConAgra Foods, Inc.*, 844 F.3d 1121, 1129
23 (9th Cir. 2017), here it is the best notice practicable for the over 2 million class members with known
24 contact information. HP has email or U.S. mail addresses for approximately 2.3 million class
25 members. Kramer Decl., ¶ 20. This large group of class members therefore will receive direct notice
26 via email or U.S. mail. Azari Decl., ¶¶ 10-15; Kramer Decl., ¶ 20. These direct-notice procedures
27 satisfy due process. *See, e.g., In re Online DVD-Rental Antitrust Litig.*, 779 F.3d 934, 941, 946 (9th
28 Cir. 2015) (notice was provided via email and U.S. mail); *McCrary v. Elations Co.*, No. EDCV 13-

1 0242 JGB (SPx), 2016 WL 769703, at *7 (C.D. Cal. Feb. 25, 2016) (same); *In re Magsafe Apple*
2 *Power Adapter Litig.*, 2015 WL 428105, at *10 (emails were the primary notice vehicle).

3 In addition, as outlined in the proposed notice provider's declaration, the publication element
4 of the notice program has been tailored to maximize reach to this class. Azari Decl., ¶¶ 16-19.
5 Notice will be posted not just on the dedicated Settlement website but also on websites that HP
6 printer owners, in particular, are likely to visit. *Id.*; *Briseno*, 844 F.3d at 1129 (“[N]otice by
7 publication . . . on a website . . . is sufficient to satisfy due process.”).

8 The proposed notices and notice program meet all applicable requirements and should be
9 approved by the Court.

10 **D. Settlement Class Counsel Should Be Appointed.**

11 Rule 23(g)(1) requires a court certifying a class to appoint class counsel. In deciding whom to
12 appoint, the court considers: (1) the work counsel has done in identifying or investigating claims in
13 the action; (2) counsel's experience in handling class actions, other complex litigation, and the types
14 of claims asserted in the action; (3) counsel's knowledge of the applicable law; and (4) the resources
15 that counsel will commit to representing the class. Fed. R. Civ. P. 23(g)(1)(A)(i)-(iv).

16 Proposed settlement class counsel here are Girard Gibbs LLP, Law Offices of Todd M.
17 Friedman, P.C., and Joseph Saveri Law Firm, Inc. Attorneys at these firms are experienced consumer
18 advocates and class action litigators with knowledge of the facts and claims in this case. They have
19 undertaken significant investigation and prosecution of the claims, have committed substantial
20 resources on behalf of the class, and should be appointed under Rule 23(g).

21 **V. CONCLUSION**

22 For the foregoing reasons, Plaintiffs respectfully request that the Court enter the proposed
23 Preliminary Approval Order, thereby:

- 24 • preliminarily approving the proposed Settlement;
- 25 • provisionally certifying the proposed Settlement Class;
- 26 • appointing Plaintiffs as Class Representatives;
- 27 • appointing Girard Gibbs LLP, Law Offices of Todd M. Friedman, P.C., and Joseph
28 Saveri Law Firm, Inc. as Settlement Class Counsel;

- approving the Parties' proposed notice program and directing that the notice be carried out under that program;
- appointing Epiq as Claims Administrator; and
- setting a Final Approval Hearing and certain other dates in connection with the settlement approval process.

Dated: September 18, 2018

Respectfully submitted,

GIRARD GIBBS LLP

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ATTESTATION

I, Elizabeth A. Kramer, am the ECF user whose identification and password are being used to file this motion. I hereby attest under penalty of perjury that concurrence in this filing has been obtained from all counsel listed above.

DATED: September 18, 2018

/s/ Elizabeth A. Kramer
Elizabeth A. Kramer

CERTIFICATE OF SERVICE

I hereby certify that on September 18, 2018, I electronically filed the foregoing document using the CM/ECF system, which will send notification of such filing to all counsel of record registered in the CM/ECF system. I also caused a copy of the foregoing document to be served via email on counsel of record for all parties.

/s/ Elizabeth A. Kramer
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7 *Counsel for Plaintiffs*

8
9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 SAN JOSE DIVISION
12

13 IN RE HP PRINTER FIRMWARE UPDATE
14 LITIGATION

Case No. 5:16-cv-05820-EJD-SVK

**DECLARATION OF ELIZABETH A.
KRAMER IN SUPPORT OF PLAINTIFFS'
MOTION FOR PRELIMINARY APPROVAL
OF CLASS ACTION SETTLEMENT**

15 Date: November 8, 2018, *pending confirmation*
16 Time: 9:00 a.m.
17 Place: Courtroom 4
18 Judge: Hon. Edward J. Davila

1 I, Elizabeth A. Kramer, hereby declare, under penalty of perjury, as follows:

2 1. I am an associate at the law firm Girard Gibbs LLP and one of the attorneys of record for
3 Plaintiffs. I submit this declaration in support of Plaintiffs' motion for preliminary approval of the class
4 action settlement with defendant HP Inc. ("HP"). I make this declaration based on my own personal
5 knowledge, and if called to do so, could testify to the matters contained herein.

6 **I. THE LITIGATION AND SETTLEMENT NEGOTIATIONS**

7 2. This is a nationwide class action for injunctive relief and monetary relief on behalf of
8 owners of certain HP inkjet printers. The claims arise from technology known as Dynamic Security that
9 HP activated as part of a firmware update. Dynamic Security disabled the printers if they were
10 equipped with certain third-party ink cartridges. Plaintiffs allege that HP's use of Dynamic Security
11 violates unfair competition laws and constitutes trespass to chattels, among other violations.

12 3. As alleged in their Consolidated Amended Complaint, Plaintiffs became aware of
13 Dynamic Security when their HP printers unexpectedly stopped working in September 2016. Dkt. 94, ¶
14 1. Plaintiffs allege that their failed HP printers displayed an error message that the ink cartridges were
15 "damaged or missing" when that was not true. *Id.*, ¶ 2. In fact, Plaintiffs allege, HP issued a firmware
16 update rendering their printers incompatible with non-HP ink cartridges, so that HP could induce
17 purchases of its own higher-priced cartridges. *Id.*

18 4. Shortly after the firmware update, HP issued an apology on its website, including a
19 public statement from Jon Flaxman, the Chief Operating Officer of HP. *Id.*, ¶ 89. Flaxman conceded
20 "We should have done a better job of communicating about the authentication procedure to customers,
21 and we apologize. . . . Again, to our loyal customers who were affected, we apologize." *Id.* Flaxman
22 also said that HP "will continue to use security features to . . . protect our IP including authentication
23 methods that may prevent some third-party supplies from working." Dkt. 91-9 (HP-0000000053).

24 5. In October 2016, HP updated the apology to include an offer for a remedial "patch" that
25 it claimed would restore printer functionality that had been lost due to the Dynamic Security firmware
26 update. Dkts. 91-13 (Ex. B, Novak Dep. at 96:24-97:2); 91-10 (HP0000000226). Plaintiffs allege that
27 this patch was inadequately disclosed and ineffective. Dkt. 94, ¶¶ 91-100. Thereafter, HP modified the
28 language on certain HP inkjet printer boxes to warn consumers that cartridges using a non-HP chip may

1 not work. Dkts. 91-5 (Ex. 9 at HP-0000008974-75); 91-11 (Ex. 25 at HP-0000008967). Those printers
2 with newly added warnings are not at issue in the litigation.

3 6. In autumn 2016, consumers filed lawsuits against HP, alleging that the Dynamic
4 Security firmware update violated state and federal laws. After an initial case management conference
5 on January 18, 2017, this action and the related actions *Ware v. HP*, 5:16-cv-6519 (N.D. Cal.), and *Doty*
6 *v. HP*, 16-cv-2063 (C.D. Cal.), were assigned to this Court. Dkt. 43. The parties then stipulated to
7 consolidate the related actions as “*In re HP Printer Firmware Update Litigation*.” Dkt. 59.

8 7. In March 2017, Plaintiffs filed a consolidated complaint, alleging violations of the unfair
9 competition laws of California, Texas, Washington, and New Jersey, the Computer Fraud and Abuse
10 Act, 18 U.S.C. § 1030, California’s Computer Crime Law, and common law claims for trespass to
11 chattels and tortious interference. Dkt. 60. HP moved to dismiss the consolidated complaint on April
12 21, 2017. Dkt. 66. Plaintiffs opposed; HP replied; and the Court heard oral argument on July 14, 2017.
13 Dkts. 73, 74, 83.

14 8. The thrust of HP’s arguments in support of its Rule 12(b)(6) motion was that it had no
15 duty to make its printers compatible with “any and all third-party cartridges.” Dkt. 66 at 1. HP further
16 argued that Plaintiffs could not state computer intrusion claims because HP was authorized to access
17 Plaintiffs’ printers. *Id.* at 7-9.

18 9. From summer 2017 through the end of that year, the parties engaged in significant
19 discovery. HP produced thousands of pages of documents in response to Plaintiffs’ Rule 34 requests
20 related to the Dynamic Security firmware update, including internal communications and consumer
21 complaints following the release of the September 2016 update. Plaintiffs reviewed and analyzed the
22 documents HP produced. Plaintiffs propounded several sets of written discovery requests, including
23 relating to HP’s intellectual property defense, and analyzed HP’s responses. Plaintiffs also deposed two
24 HP corporate representatives knowledgeable about Dynamic Security pursuant to Rule 30(b)(6). In
25 those depositions, HP testified in part that it had “turned off” Dynamic Security in the Class Printers as
26 of December 2017. Dkt. 91-13 (Ex. A, Barkley Dep. at 115:3-10, 103-105). In addition, Plaintiffs
27 sought third-party discovery related to class certification and damages issues from approximately 15
28 manufacturers and retailers. HP also deposed each Plaintiff. *See* Dkts. 91-17 through 91-20.

1 10. Plaintiffs filed a motion for class certification on February 7, 2018. Dkt. 91. In the
2 motion, brought under Rules 23(b)(2) and (c)(4), Plaintiffs sought certification of (1) a subclass of
3 California printer owners seeking injunctive relief under the UCL; and (2) a national class of
4 consumers who experienced print interruptions for purposes of adjudicating the liability elements of the
5 CFAA and trespass-to-chattels claims, with individualized damages proceedings to follow. *Id.*
6 Thereafter, Plaintiffs submitted a consolidated amended complaint conforming the class definition to
7 their class certification motion. Dkts. 88, 92, 94.

8 11. On March 29, 2018, the Court entered an order granting in part and denying in part HP's
9 motion to dismiss. Dkt. 97. The Court denied the motion to dismiss Plaintiffs' computer intrusion
10 claims under the Computer Fraud and Abuse Act ("CAFA") and the California Penal Code, and
11 Plaintiffs' common law trespass claims. *Id.* at 7-13. The Court also denied the motion to dismiss
12 Plaintiffs' statutory consumer fraud claims to the extent they were based on HP's misleading error
13 messages and material omissions. *Id.* at 16-17. The Court dismissed Plaintiffs' UCL unfairness and
14 tortious interference claims, among others, with leave to amend. *Id.* at 17-23.

15 12. Following the order on the motion to dismiss, my colleagues and I spent several months
16 negotiating with counsel for HP in an attempt to resolve this action.

17 13. These negotiations were hard-fought, and conducted at arms' length by experienced
18 counsel. In July 2018, the parties reached an agreement in principle. The parties signed a term sheet on
19 July 11, 2018, and asked the Court for 60 days to prepare the settlement papers. Dkt. 170.

20 14. After several weeks of further negotiations regarding the specific terms of the settlement
21 agreement, the parties agreed to a comprehensive set of terms to settle all claims in the litigation and
22 signed the Settlement Agreement ("Settlement") on September 18, 2018. A true and correct copy of the
23 Settlement is attached hereto as **Exhibit A**.

24 15. The Settlement provides that HP will not dispute that Plaintiffs are successful parties
25 within the private attorney general provisions of California Code of Civil Procedure section 1021.5. *See*
26 Ex. A § 6.1. The parties have not reached agreement on the amount of attorney's fees and litigation
27 expenses to be paid by HP to Plaintiffs' counsel. *Id.* Plaintiffs will file an application for attorney's fees
28 and litigation expenses in due course.

II. THE SETTLEMENT

16. The Settlement requires HP to contribute a \$1,500,000 non-reversionary payment to establish a fund (“Settlement Fund”) for the benefit of the proposed settlement class (“Settlement Class”). *See* Ex. A §§ 1.32, 2.1. As explained below, Plaintiffs’ counsel believe this sum will allow a full recovery for class members who file damage claims.

17. The Settlement Class consists of all Persons who owned one or more of the following printers, during the period from March 1, 2015, through December 31, 2017: HP OfficeJet Pro 6230; HP OfficeJet 6812; HP OfficeJet 6815; HP OfficeJet 6820; HP OfficeJet Pro 6830; HP OfficeJet Pro 6835; HP OfficeJet Pro 8610; HP OfficeJet Pro 8615; HP OfficeJet Pro 8616; HP OfficeJet Pro 8620; HP OfficeJet Pro 8625; HP OfficeJet Pro 8630; HP OfficeJet Pro X551dw; HP OfficeJet Pro X451dn; HP OfficeJet Pro X451dw; HP OfficeJet Pro X576dw; HP OfficeJet Pro X476dn; HP OfficeJet Pro X476dw (“Class Printers”). *Id.* §§ 1.7, 1.8. Excluded from the Class are HP, its officers, directors, and affiliates at all relevant times, members of their immediate families and their legal representatives, heirs, successors or assigns, and any entity in which HP had or has a controlling interest. *Id.* § 1.7. Also excluded from the Class are those Persons who timely and validly request exclusion. *Id.*

18. The Settlement precludes HP from taking any action to employ Dynamic Security on the Class Printers, “at any time, including by releasing or otherwise making available firmware that enables Dynamic Security.” *Id.* § 2.3. Under the Settlement, HP also agrees to implement and maintain internal customer service procedures to respond to class member inquiries regarding whether Dynamic Security has been disabled on their Class Printer and to provide assistance as appropriate. *Id.*

19. In addition to establishing the Settlement Fund, HP will pay all Administrative Expenses to fund the notice program and the claims process. *Id.*, §§ 1.1, 2.2. None of these payments will revert to HP. *Id.* §§ 2.2, 2.15, 7.4.

III. NOTICE AND SETTLEMENT ADMINISTRATION

20. Plaintiffs have proposed forms of notice and a notice program that comport with due process, Fed. R. Civ. P. 23, and the Northern District’s Procedural Guidance for Class Action Settlements. The details of the notice program are described in detail in the Declaration of Cameron Azari (“Azari Decl.”), submitted as part of this filing. Pursuant to the notice program, approximately

1 2,400,000 class members will receive direct notice by email and mail. In addition, HP will cause notice
2 of the Settlement to be provided to the appropriate federal and state authorities as required by the Class
3 Action Fairness Act. *See* 28 U.S.C. § 1715.

4 21. A true and correct copy of the proposed Notice is attached to the Settlement as Exhibit 1.
5 Using plain language, the notice advises class members of the pendency and nature of the case, basic
6 settlement terms, and their right to share in the recovery, to opt out of the class, to object to the
7 Settlement, and to appear before the Court at the Final Approval Hearing. Ex. A at Ex. 1. The notice
8 also includes class counsel's contact information, the address of the Settlement website, how to access
9 the case docket, and the date, time, and place of the Final Approval Hearing, and alerts class members
10 that the hearing date may change without further notice but that class members should monitor the
11 Settlement website for updates. *Id.* In addition, the notice informs class members who wish to opt out
12 that they should send a letter only to the Claims Administrator with their name, address, signature, and
13 statement that they wish to opt out of the Settlement. *Id.* The notice informs class members who wish to
14 object that they should submit written objections only to the Court. *Id.* The notice also clearly explains
15 that the Court can only approve or deny the Settlement, not change its terms. *Id.* Finally, the notice
16 describes in detail the plan of allocation and class counsel's anticipated motion for attorneys' fees and
17 reimbursement of litigation expenses and for service awards to Plaintiffs. *Id.* A true and correct copy of
18 the proposed Summary Notice for postcard mailing is attached to the Settlement as Exhibit 1-B.

19 22. A true and correct copy of the proposed Claim Form is attached to the Settlement as
20 Exhibit 2. The Claim Form explains that valid claims can only be made by class members who
21 experienced a print interruption while using a non-HP ink cartridge in a Class Printer. *See* Ex. A at Ex.
22 2. All claimants must provide their contact information and attest that they owned a Class Printer
23 between March 1, 2015 and December 31, 2017; that the Class Printer experienced a print interruption
24 during that time while it had working non-HP ink cartridges installed; and that they have not been
25 reimbursed or otherwise compensated for the out-of-pocket losses being claimed. *Id.*

26 23. The Claim Form then provides Settlement Class members two ways to make a claim.
27 Claimants may specify the amount of documented losses they incurred because of the print
28 interruption, and attach or upload documentation to support those losses, such as receipts, payment card

1 statements, or photographs. *Id.* Alternatively, Settlement Class members may make an undocumented
2 claim by providing the month and year in which they experienced the print interruption, the brand of
3 non-HP ink cartridge installed in the printer at the time, and the name of the store or website from
4 which they purchased the non-HP aftermarket cartridges. *Id.*

5 24. According to HP's interrogatory responses, "fewer than 12,000" printers experienced
6 interruptions due to Dynamic Security firmware update in September 2016. Dkt. 91-15 (HP's
7 Responses to Pls.' First Set of Interrogs. at 4:23-25). Similar Dynamic Security challenges also
8 occurred at regular intervals during the class period, however. *See* Dkt. 91-13 (Ex. A, Barkley Dep. at
9 160:24-161:6; Ex. B, Novak Dep. at 65:19). Therefore, Plaintiffs estimate that approximately 50,000
10 class members may be eligible to make a claim. On the optimistic assumption that 20% of these class
11 members make a claim, the average payment per class member would be \$150. Had Plaintiffs prevailed
12 at trial on the common liability issues, under Plaintiffs' trial plan, individual class members would have
13 been required to submit proof to recover their out-of-pocket expenses in proceedings following the
14 class trial. While such individual expenses vary, a full set of HP replacement cartridges costs about
15 \$100 and a replacement HP printer costs about \$150. *See* Dkt. 94, ¶¶ 26, 42 (allegations regarding
16 Faust's and Ware's out-of-pocket losses).

17 25. A true and correct copy of the proposed Plan of Allocation is attached to the Settlement
18 at Exhibit 3. Under the plan, payments to claimants will be calculated based upon the total number and
19 amount of valid claims. To ensure that meritorious claims are prioritized and the Fund is protected
20 against non-meritorious claims, claims will be calculated in two steps. First, each documented claim
21 will be paid in full, unless the total value of documented claims exceeds the fund, in which case
22 documented claims will be reduced *pro rata* and paid. Ex. A at Ex. 3, § III.A.1. Second, after payment
23 of documented claims, the remaining Settlement Fund will be divided *pro rata* among all claimants.
24 Ex. A at Ex. 3, § III.A.2. Thus, all claimants who do not submit documentation will receive the same
25 amount, and claimants who submit documented claims will also receive, in addition to their
26 documented monetary losses, an additional amount equal to that made to the undocumented claimants,
27 in compensation for lost time associated with the print interruption. If the *pro rata* Residual Amount
28

1 exceeds \$250 per Class Member, Class Counsel will notify the Court and propose additional measures.
2 Ex. A at Ex. 3, § III.A.3.

3 26. The proposed Claims Administrator, Epiq, has the expertise to efficiently handle all
4 Settlement-related notice and administration tasks. *See* Azari Decl., ¶¶ 1-8. I consulted with counsel for
5 HP on potential claims administrators and the parties selected Epiq as Claims Administrator after a
6 competitive bidding process that included bids from several other firms. In addition to managing the
7 notice program and receiving and processing claims, Epiq will maintain a dedicated settlement website
8 containing links to the notice, claim form, and all other relevant settlement documents. Azari Decl., ¶
9 13.

10 **IV. CLASS COUNSEL**

11 27. Girard Gibbs LLP, The Joseph Saveri Law Firm, Inc., and The Law Offices of Todd M.
12 Friedman, P.C. (“Proposed Settlement Class Counsel”) represent the named Plaintiffs in this action. As
13 demonstrated in the materials submitted in connection with Plaintiffs’ motion for class certification,
14 Proposed Settlement Class Counsel have collaborated to prosecute this action vigorously since its
15 inception, including by: (a) conducting a thorough investigation of the claims at issue in this litigation;
16 (b) drafting the Consolidated Complaint on behalf of all Plaintiffs; (c) opposing Defendants’ motion to
17 dismiss the Consolidated Complaint; (d) actively pursuing discovery on behalf of the class, including
18 by serving document requests, establishing a document review platform and undertaking review of
19 thousands of HP’s documents, taking depositions, and retaining and consulting experts; (e) responding,
20 in consultation with Plaintiffs, to discovery requests served on them and defending their depositions; (f)
21 researching and drafting Plaintiffs’ motion for class certification; and (g) engaging in extensive
22 negotiations with Defendants to settle the action. *See* Dkts. 90-1, ¶¶ 3-6; 91-21, ¶ 4; 92-22, ¶¶ 7-13.

23 28. Proposed Settlement Class Counsel committed substantial attorney time and advanced
24 litigation expenses in connection with their prosecution of these class claims, and have not yet received
25 any compensation for the outlay of these resources.

26 29. Proposed Settlement Class Counsel are experienced class action attorneys with
27 substantial knowledge of the law and claims in this case. *See* Dkts. 91-1, ¶¶ 7-9; 91-21, ¶¶ 6-7; 91-22,
28 ¶¶ 15-22. Firm resumes for Girard Gibbs LLP, and The Joseph Saveri Law Firm, Inc. are attached

1 hereto as **Exhibits B-C**. As shown in the firm resumes, courts across the country have appointed each
2 firm as class counsel in complex consumer protection and antitrust cases. *See* Exs. B-C. The firm
3 resumes include a list of cases in which Proposed Settlement Class Counsel have and currently serve in
4 leadership positions as appointed class counsel. *Id.* Mr. Friedman of The Law Offices of Todd M.
5 Friedman, P.C. is contemporaneously filing his declaration in support of Plaintiffs’ motion for
6 preliminary approval, and therein provides his firm’s relevant experience.

7 30. Each of the firms seeking appointment as Settlement Class Counsel has carefully
8 evaluated the proposed Settlement, and independently found its terms to be fair, reasonable, and
9 adequate and in the best interests of the Class. Each named Plaintiff has also reviewed—and supports—
10 the Settlement.

11 I declare under penalty of perjury that the foregoing is true and correct. Executed in San
12 Francisco, California on September 18, 2018.

13
14 By: /s/ Elizabeth A. Kramer
Elizabeth A. Kramer

Exhibit A

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Jordan Elias (State Bar No. 228731)
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Attorneys for Defendant HP Inc.

[Additional Counsel on Signature Page]

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTHERN CALIFORNIA
SAN JOSE DIVISION

IN RE HP PRINTER FIRMWARE
UPDATE LITIGATION

Case No. 5:16-cv-05820-EJD-SVK

**SETTLEMENT AGREEMENT AND
RELEASE**

1 This Settlement Agreement and Release dated September 18, 2018 (the “Agreement”), is made
2 and entered into by and among: (i) Plaintiffs Richard San Miguel, DeLores Lawty, Richard Faust,
3 Christopher Ware, and James Andrews, on behalf of themselves and each of the members of the Class
4 (as defined herein), by and through their counsel in the instant action (“Class Counsel”), and (ii)
5 Defendant HP Inc. (“HP,” the “Company,” or “Defendant”), by and through its counsel of record. The
6 Agreement is intended to fully, finally, and forever resolve, discharge, and settle the Released Claims
7 (as defined herein) as against Defendant, subject to the approval of the Court and the terms and
8 conditions set forth in this Agreement.

9 **I. RECITALS**

10 WHEREAS, on October 7, 2016, Plaintiffs Richard San Miguel and DeLores Lawty filed a
11 Complaint in this action (Dkt. 1);

12 WHEREAS, on March 15, 2017, the Court granted the Parties’ stipulation to consolidate this
13 action with the related actions, *Ware v. HP Inc.*, No. 5:16-cv-06519, and *Doty v. HP, Inc.*, No. 5:17-cv-
14 00521 (Dkt. 59);

15 WHEREAS, on March 22, 2017, Plaintiffs filed a Consolidated Complaint (Dkt. 60), which HP
16 moved to dismiss on April 21, 2017 (Dkt. 66);

17 WHEREAS, on July 14, 2017, the Parties appeared before this Court for argument on HP’s
18 motion;

19 WHEREAS, the Parties thereafter engaged in significant discovery into the claims and
20 defenses, including through review and analysis of thousands of pages of documents and the
21 depositions of each named Plaintiff and of two HP corporate representatives under Fed. R. Civ. P.
22 30(b)(6);

23 WHEREAS, on November 22, 2017, the Court granted the Parties’ stipulation regarding a
24 schedule for class certification proceedings (Dkt. 87);

25 WHEREAS, on February 7, 2018, Plaintiffs filed a Motion for Class Certification (Dkt. 91);

26 WHEREAS, on February 8, 2018, the Court granted the Parties’ stipulation regarding the filing
27 of the Amended Consolidated Complaint (Dkt. 88), which Plaintiffs thereafter filed (Dkt. 94);
28

1 WHEREAS, on March 29, 2018, the Court entered an order granting in part and denying in part
2 HP's Motion to Dismiss Plaintiffs' Consolidated Amended Complaint and permitting Plaintiffs to file a
3 second amended complaint (Dkt. 97);

4 WHEREAS, on April 3, 2018, the Court entered the Parties' stipulation to abate the then-
5 existing dates for the class certification proceedings (Dkt. 100), and on April 11, 2018, the Court
6 granted a further extension of the case schedule to allow the Parties to continue discussions on
7 streamlining the litigation in light of the Court's Order on HP's Motion to Dismiss (Dkt. 102);

8 WHEREAS, the Parties informed the Court that they were exploring resolution, and on May 31,
9 2018, the Court granted the Parties' request to allow additional time for those efforts by extending
10 Plaintiffs' deadline to file a second amended complaint to July 12, 2018 (Dkt. 105);

11 WHEREAS, on July 12, 2018, the Parties informed the Court that they had reached an
12 agreement in principle to settle this litigation (Dkt. 106);

13 WHEREAS, on July 13, 2018, the Court entered the Parties' stipulation providing for the
14 vacatur of then-existing case deadlines and a due date of September 11, 2018, for Plaintiffs' motion for
15 preliminary approval of class action settlement (Dkt. 107);

16 WHEREAS, Plaintiffs in entering into this Agreement recognize and acknowledge the expense
17 and time it would take to prosecute this action through trial and any subsequent appeals, and the risk
18 that this action could ultimately be unsuccessful in light of HP's defenses;

19 WHEREAS, HP has asserted and would assert numerous defenses to the claims alleged by
20 Plaintiffs and expressly denies each of the claims and allegations asserted against HP and any and all
21 liability arising out of the conduct alleged in the complaint;

22 WHEREAS, HP acknowledges that further litigation of this action could be protracted and
23 expensive, and HP has also taken into account the uncertainty and risks inherent in any litigation,
24 especially in complex cases such as this;

25 WHEREAS, Plaintiffs and HP have therefore each independently determined that it is desirable
26 and beneficial for this action to be fully and finally resolved in the manner and upon the terms and
27 conditions set forth in this Agreement; and
28

SETTLEMENT AGREEMENT AND RELEASE
CASE NO. 5:16-CV-05820-EJD-SVK

1 WHEREAS, by entering into this Agreement, HP does not admit any wrongdoing and this
2 Agreement is not and shall not constitute an admission of liability by HP.

3 **NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED** by and among
4 Plaintiffs (for themselves and the Class Members) and HP, by and through its counsel, that, subject to
5 the approval of the Court, the Litigation and the Released Claims shall be finally and fully
6 compromised, settled, and released, and the Litigation shall be dismissed with prejudice, as to all
7 Settling Parties and their Related Parties (as defined below), upon and subject to the terms and
8 conditions of the Agreement, as follows.

9 **II. TERMS AND CONDITIONS OF AGREEMENT**

10 **1. Definitions**

11 As used in the Agreement the following terms have the meanings specified below:

12 1.1 “Administrative Expenses” means the cost of the notice program relating to this
13 Settlement and the reasonable costs of processing and administering claims and disbursements of
14 consideration, and other necessary and reasonable administrative expenses relating to this Settlement.

15 1.2 “Agreement” or “Settlement Agreement” or “Settlement” means this Settlement
16 Agreement and Release.

17 1.3 “Authorized Claimant” means any Class Member whose claim for recovery has been
18 allowed pursuant to the terms of the Agreement.

19 1.4 “Claims Administrator” means Epiq Systems, or such other claims administrator as the
20 Court shall approve.

21 1.5 “Claims Deadline” means the date set forth in the Notice by which Class Members must
22 submit the Claim Form, which shall be one hundred and twenty (120) days after entry of the
23 Preliminary Approval Order or such other time as may be set by the Court.

24 1.6 “Claim Form” means a document, substantially in the form of **Exhibit 2** hereto, that a
25 Class Member must complete and submit to receive a payment from the Net Settlement Fund.

26 1.7 “Class” means all Persons who owned a Class Printer during the period from March 1,
27 2015 through December 31, 2017. Excluded from the Class are HP, its officers, directors, and
28 affiliates at all relevant times, members of their immediate families and their legal representatives,

1 heirs, successors or assigns, and any entity in which HP had or has a controlling interest. Also
2 excluded from the Class are those Persons who timely and validly request exclusion, as set forth
3 below.

4 1.8 “Class Printer” means any of the following product models:

- 5 • HP OfficeJet Pro 6230
- 6 • HP OfficeJet 6812
- 7 • HP OfficeJet 6815
- 8 • HP OfficeJet 6820
- 9 • HP OfficeJet Pro 6830
- 10 • HP OfficeJet Pro 6835
- 11 • HP OfficeJet Pro 8610
- 12 • HP OfficeJet Pro 8615
- 13 • HP OfficeJet Pro 8616
- 14 • HP OfficeJet Pro 8620
- 15 • HP OfficeJet Pro 8625
- 16 • HP OfficeJet Pro 8630
- 17 • HP OfficeJet Pro X551dw
- 18 • HP OfficeJet Pro X451dn
- 19 • HP OfficeJet Pro X451dw
- 20 • HP OfficeJet Pro X576dw
- 21 • HP OfficeJet Pro X476dn
- 22 • HP OfficeJet Pro X476dw

17 1.9 “Class Member” means a Person who falls within the definition of the Class as set forth
18 above and does not exercise their right to opt out of the Class before the Opt-Out Deadline.

19 1.10 “Court” means the United States District Court for the Northern District of California.

20 1.11 “Defendant,” “HP,” and the “Company” mean HP Inc., and its present and former
21 parents, subsidiaries, divisions, affiliates, and each of its respective present and former employees,
22 agents, officers, directors, controlling shareholders, attorneys, predecessors, and successors.

23 1.12 “Dynamic Security” means an HP-developed technology which causes Class Printers to
24 run authentication checks that change over time on installed ink cartridges to determine whether the
25 ink cartridges contain a non-HP security chip, and that may prevent Class Printers from operating with
26 any such ink cartridges.

27 1.13 “Effective Date,” or the date upon which this Settlement becomes “effective,” means the
28 date the Court has entered the Final Order and Judgment and the Final Order and Judgment has been

1 upheld through the resolution of all appeals and writs of certiorari, and through the expiration of all
2 time to appeal and file writs of certiorari, except that the Effective Date shall not be delayed by a
3 modification of or appeal from those parts of the Final Order and Judgment that (i) pertains to either
4 the Plan of Allocation or the Fee and Expense Award; and (ii) has no effect on this Agreement
5 becoming binding, effective, and final in its entirety between Releasing Plaintiffs, Class Members, and
6 Defendant.

7 1.14 “Escrow Account” means the segregated and separate escrow account designated and
8 controlled by the Escrow Agent at one or more national banking institutions into which the Settlement
9 Amount shall be deposited for the benefit of Class Members.

10 1.15 “Escrow Agent” means Epiq Class Action & Claims Solutions, Inc. (“Epiq”), or other
11 neutral third party agreed to by the Settling Parties.

12 1.16 “Fee and Expense Award” means the order awarding attorneys’ fees and reimbursement
13 of actual costs and expenses incurred by Class Counsel in the Litigation.

14 1.17 “Final Approval Hearing” means the hearing to be requested by the Settling Parties and
15 conducted by the Court, following notice to the Class and an opportunity for Class Members to
16 exclude themselves from the Class or object to the Settlement, at which time Plaintiffs shall move the
17 Court to finally approve the fairness, reasonableness and adequacy of the Settlement and to enter the
18 final approval order.

19 1.18 “Final Order and Judgment” means an order, substantially in the form of **Exhibit 5**
20 hereto, to be entered by the Court in this Action granting final approval of this Settlement Agreement
21 and dismissing the Litigation with prejudice.

22 1.19 “Litigation” means the action captioned *In re HP Printer Firmware Update Litigation*,
23 Case No. 4:16-cv-05820-EJD-SVK.

24 1.20 “Net Settlement Fund” means the Settlement Fund less any Taxes and Tax Expenses
25 and other Court-approved deductions.

26 1.21 “Notice” means the Notices of Proposed Settlement of Class Action, which, subject to
27 Court approval, shall be substantially in the forms attached hereto as **Exhibit 1**.

1 1.22 “Objection Date” means the date set forth in the Notice by which Class Members must
2 object to the Settlement, which shall be seventy-five (75) days after entry of the Preliminary Approval
3 Order or such other time as may be set by the Court.

4 1.23 “Opt-Out Deadline” means the date set forth in the Notice by which Class Members
5 must request exclusion from the Class, which shall be seventy-five (75) days after entry of the
6 Preliminary Approval Order or such other time as may be set by the Court.

7 1.24 “Parties” or “Settling Parties” means Plaintiffs and HP collectively.

8 1.25 “Person” means an individual, corporation, limited liability corporation, professional
9 corporation, partnership, limited partnership, limited liability partnership, association, joint stock
10 company, joint venture, estate, legal representative, trust, unincorporated association, government or
11 any political subdivision or agency thereof, and any business or legal entity, and including any of their
12 heirs, successors, representatives, or assigns.

13 1.26 “Plaintiffs” means Richard San Miguel, DeLores Lawty, Richard Faust, Christopher
14 Ware, and James Andrews.

15 1.27 “Plan of Allocation” means the plan for allocating the Net Settlement Fund set forth in
16 **Exhibit 3** hereto, or such other plan for allocating the Net Settlement Fund approved by the Court.

17 1.28 “Preliminary Approval Order” means the Order Preliminarily Approving Settlement and
18 Providing for Notice, substantially in the form attached hereto as **Exhibit 4**.

19 1.29 “Related Parties” means, as applicable, each of a person or entity’s respective present
20 and former parents, subsidiaries, divisions, affiliates, and each of their and a person or entity’s
21 respective present and former employees, members, partners, principals, agents, officers, directors,
22 controlling shareholders, attorneys, agents, related or affiliated entities, predecessors, successors,
23 spouses, estates, heirs, executors, trusts, trustees, administrators, agents, representatives, and assigns,
24 in their capacity as such, and any entity in which a person or entity has a controlling interest.

25 1.30 “Released Claims” means, with respect to claims released by Plaintiffs, any and all
26 claims, rights, causes of action, liabilities, actions, suits, damages, or demands of any kind whatsoever,
27 known or unknown, matured or unmatured, at law or in equity, existing under federal or state law, that
28 relate to Dynamic Security and/or any representations regarding the ability to use third-party ink

1 cartridges with the Class Printers, and that were or could have been alleged in the Litigation.
2 “Released Claims” means, with respect to claims released by HP, any and all claims, rights, causes of
3 action, liabilities, actions, suits, damages, or demands of any kind whatsoever, known or unknown,
4 matured or unmatured, at law or in equity, existing under federal or state law, that arise out of or relate
5 in any way to the institution, prosecution or settlement of the Litigation and that could have brought by
6 HP against the named plaintiffs in the Litigation. Notwithstanding the foregoing, “Released Claims”
7 does not include claims relating to the enforcement of the Settlement.

8 1.31 “Releasing Plaintiffs” means Plaintiffs and each Class Member.

9 1.32 “Settlement Amount” means One Million Five Hundred Thousand Dollars
10 (\$1,500,000.00), which shall be paid to the Escrow Agent by HP, as detailed in Section 2 below,
11 within seven (7) days after the entry of the Final Order and Judgment.

12 1.33 “Settlement Fund” means the Settlement Amount, together with all interest and
13 accretions thereto and which may be reduced by payments or deductions as provided herein or by
14 Court order.

15 1.34 “Summary Notice” means the summary form of notice for postcard mailing, which,
16 subject to approval of the Court, shall be substantially in the form attached hereto as **Exhibit 1-B**.

17 1.35 “Tax” or “Taxes” mean any and all taxes, fees, levies, duties, tariffs, imposts, and other
18 charges of any kind (together with any and all interest, penalties, additions to tax and additional
19 amounts imposed with respect thereto) imposed by any governmental authority.

20 **2. The Settlement**

21 *a. Settlement Consideration*

22 2.1 Within seven (7) days after the entry of the Final Approval Order, HP shall pay or cause
23 to be paid the Settlement Amount in accordance with instructions to be provided by the Escrow Agent.
24 The Settlement Amount may be paid by wire transfer, by delivering to the Escrow Agent a check or
25 checks payable to the Settlement Fund, by any combination of those methods, or in any other manner
26 agreed upon by Plaintiffs and HP. Within seven (7) days of execution of this Agreement, the Escrow
27 Agent shall furnish to HP’s counsel adequate payment instructions consisting of wire transfer
28

1 instructions, instructions for payment by check, and a completed IRS Form W-9 for the Settlement
2 Fund, including an address and tax ID number.

3 2.2 HP shall pay all Administrative Expenses. The Parties will agree upon a plan for
4 necessary and reasonable Administrative Expenses, which will be made available to the Court upon
5 request. The Claims Administrator shall cause periodic invoices to be sent to HP reflecting
6 Administrative Expenses incurred, and HP shall timely reimburse the Claims Administrator for those
7 expenses. HP retains the right to dispute any expenses that are inconsistent with the Parties'
8 Administrative Expenses plan. In the event this Agreement receives preliminary but not final approval
9 and Administrative Expenses are incurred, payment of those expenses shall remain the sole obligation
10 of HP.

11 2.3. HP has released firmware that disables Dynamic Security for the Class Printers. HP will
12 not at any time take any action to employ Dynamic Security on the Class Printers, including by
13 releasing or otherwise making available firmware that enables Dynamic Security. Additionally, HP
14 will implement and maintain internal customer service procedures to respond to Class Member
15 inquiries regarding whether Dynamic Security has been disabled on their Class Printer and provide
16 assistance as appropriate.

17 *c. The Escrow Agent*

18 2.4. The Escrow Agent shall deposit the Settlement Amount plus any accrued interest in a
19 segregated Escrow Account maintained by the Escrow Agent.

20 2.5. The Escrow Agent may invest the Settlement Amount deposited pursuant to ¶ 2.1 hereof
21 in United States Agency or Treasury Securities or other instruments backed by the Full Faith and Credit
22 of the United States Government or an Agency thereof, or fully insured by the United States
23 Government or an Agency thereof, and may reinvest the proceeds of these instruments as they mature
24 in similar instruments at their then-current market rates. All risks related to the investment of the
25 Settlement Fund in accordance with the investment guidelines set forth in this paragraph shall be borne
26 by the Settlement Fund and Defendant shall have no responsibility for, interest in, or liability
27 whatsoever with respect to investment decisions or the actions of the Escrow Agent, or any transactions
28 executed by the Escrow Agent.

1 2.6. The Escrow Agent shall not disburse the Settlement Fund except as provided in the
2 Agreement and by an order of the Court.

3 2.7. Subject to further order(s) and/or directions as may be made by the Court, or as provided
4 in the Agreement, the Escrow Agent is authorized to execute such transactions as are consistent with
5 the terms of the Agreement. Defendant shall have no responsibility for, interest in, or liability
6 whatsoever with respect to the actions of the Escrow Agent, or any transaction executed by the Escrow
7 Agent in its capacity as such.

8 2.8. All funds held by the Escrow Agent shall be deemed and considered to be *in custodia*
9 *legis* of the Court, and shall remain subject to the jurisdiction of the Court, until such time as such
10 funds shall be distributed pursuant to the Agreement and/or further order(s) of the Court.

11 2.9. Upon the occurrence of the Effective Date, neither Defendant nor any other person or
12 entity who or which paid any portion of the Settlement Amount shall have any right to the return of the
13 Settlement Fund or any portion thereof for any reason whatsoever (including, without limitation, the
14 number of Claim Forms submitted, the collective amount of recognized claims of Authorized
15 Claimants, the percentage of recovery of losses, or the amounts to be paid to Authorized Claimants
16 from the Net Settlement Fund), except as set forth in ¶ 7.5 below.

17 *d. Tax Provisions*

18 2.10. The Settling Parties and the Escrow Agent agree to treat the Settlement Fund as being at
19 all times a “qualified settlement fund” within the meaning of Treas. Reg. § 1.468B-1. In addition, the
20 Escrow Agent shall timely make such elections as necessary or advisable to carry out the provisions of
21 this ¶ 2.10, including the “relation-back election” (as defined in Treas. Reg. § 1.468B-1) back to the
22 earliest permitted date. Such elections shall be made in compliance with the procedures and
23 requirements contained in such regulations. It shall be the responsibility of the Escrow Agent to timely
24 and properly prepare and deliver the necessary documentation for signature by all necessary parties,
25 and thereafter to cause the appropriate filing to occur.

26 2.11. For the purpose of § 1.468B of the Internal Revenue Code of 1986, as amended, and the
27 regulations promulgated thereunder, the “administrator” shall be the Escrow Agent. The Escrow Agent
28 shall timely and properly file all informational and other tax returns necessary or advisable with respect

1 to the Settlement Fund (including, without limitation, the returns described in Treas. Reg. § 1.468B-
2 2(k)). Such returns (as well as the election described in ¶ 2.10 hereof) shall be consistent with ¶ 2.10
3 and in all events shall reflect that all Taxes (including any estimated Taxes, interest or penalties) on the
4 income earned by the Settlement Fund shall be paid out of the Settlement Fund as provided herein.

5 2.12. All (i) Taxes (including any estimated Taxes, interest or penalties) arising with respect
6 to the income earned by the Settlement Fund, including any Taxes or tax detriments that may be
7 imposed upon Defendant or its counsel with respect to any income earned by the Settlement Fund for
8 any period during which the Settlement Fund does not qualify as a “qualified settlement fund” for
9 federal or state income tax purposes, and (ii) expenses and costs incurred in connection with the
10 operation and implementation of these Tax provisions (including, without limitation, expenses of tax
11 attorneys and/or accountants and mailing and distribution costs and expenses relating to filing (or
12 failing to file) the returns described in ¶ 2.10) (“Tax Expenses”), shall be paid out of the Settlement
13 Fund; in all events Defendant and its counsel shall have no liability or responsibility for the Taxes or
14 the Tax Expenses. The Escrow Agent, through the Settlement Fund, shall indemnify and hold each of
15 Defendant and their counsel harmless for Taxes and Tax Expenses (including, without limitation, Taxes
16 payable by reason of any such indemnification). Further, Taxes and Tax Expenses shall be treated as,
17 and considered to be, a cost of administration of the Settlement Fund and shall be timely paid by the
18 Escrow Agent out of the Settlement Fund without prior order from the Court, and the Escrow Agent
19 shall be authorized (notwithstanding anything herein to the contrary) to withhold from distribution to
20 Authorized Claimants any funds necessary to pay such amounts, including the establishment of
21 adequate reserves for any Taxes and Tax Expenses (as well as any amounts that may be required to be
22 withheld under Treas. Reg. § 1.468B-2(1)(2)); neither Defendant nor its counsel are responsible nor
23 shall they have any liability for any Taxes or Tax Expenses. The Settling Parties agree to cooperate
24 with the Escrow Agent, each other, and their tax attorneys and accountants to the extent reasonably
25 necessary to carry out these Tax provisions.

26 *d. Termination of Settlement*

27 2.13. If the Settlement Amount is not timely paid to the Escrow Agent pursuant to ¶ 2.1,
28 Plaintiffs may terminate the Settlement but only if (a) Class Counsel has notified Defendant’s counsel

1 in writing of Class Counsel's intention to terminate the Settlement, and (b) the Settlement Amount is
2 not transferred to the Escrow Agent within ten (10) days after Class Counsel have provided such
3 written notice. Failure by Class Counsel or the Escrow Agent to timely furnish adequate payment
4 instructions to HP pursuant to ¶ 2.1 shall not be a basis for termination under this section and any delay
5 in providing such instructions shall extend the period in which the Settlement Amount is be paid under
6 ¶ 2.1 by an equivalent number of days.

7 2.14. In the event that the Agreement is not approved, or fails to become effective for any
8 reason, the Settlement Fund, including accrued interest and less Taxes or Tax Expenses paid, incurred,
9 or due and owing in connection with the Settlement as provided for herein, shall be refunded to
10 Defendant pursuant to written instructions from counsel for Defendant.

11 2.15. Defendant acknowledges that it has no right to reversion of any portion of the Settlement
12 Fund unless the Agreement is not approved or fails to become effective for any reason.

13 **3. Preliminary Approval Order and Final Approval Hearing**

14 3.1 Promptly after execution of the Agreement, Plaintiffs shall submit the Agreement
15 together with its Exhibits to the Court and shall apply for entry of the Preliminary Approval Order,
16 requesting, *inter alia*, the preliminary approval of the Settlement set forth in the Agreement; setting of
17 dates for the mailing of the Notice, Claims Deadline, Opt-Out Deadline, Objection Date, and Final
18 Approval Hearing; approval of the Claims Administrator; approval of the Notice; approval of the Claim
19 Form; and approval of the publication of the Summary Notice. The Notice shall include general
20 information regarding the terms of the Settlement set forth in the Agreement and the proposed Plan of
21 Allocation and the date of the Final Approval Hearing.

22 3.2 Any Class Member who wishes to opt out of the Class must submit a timely written
23 request for exclusion on or before the Opt-Out Deadline, in the manner specified in the Court's
24 Preliminary Approval Order and Notice. Any Class Member who does not submit a timely written
25 request for exclusion will be bound by all proceedings, orders and judgments in the Litigation, whether
26 or not he, she, or it timely submits a Claim Form.

27 3.3 Any Class Member who wishes to object to the fairness, reasonableness, or adequacy of
28 the Settlement, or the application of Class Counsel for a Fee and Expense Award and/or for service

1 awards for Plaintiffs, must timely do so in the manner specified in the Court's Preliminary Approval
2 Order.

3 3.4 Plaintiffs will request that after notice to Class Members is given and Class Members
4 have had an opportunity to exclude themselves from the Class or object to the Settlement, the Court
5 hold the Final Approval Hearing and approve the settlement of the Litigation as set forth herein. At the
6 Final Approval Hearing, Class Counsel will also request that the Court approve the proposed Plan of
7 Allocation and the Fee and Expense Award.

8 3.5. For purposes of the Settlement only, the Parties stipulate to the certification of the Class
9 defined herein pursuant to Rule 23 of the Federal Rules of Civil Procedure. The Parties stipulate to
10 certification, for settlement purposes only, of this Class pursuant to Fed. R. Civ. P. 23(a) and 23(b)(3).
11 Defendant does not agree to class certification for any purpose other than to effectuate this Settlement.
12 Defendant expressly reserves its right to contest certification in the event this Settlement is not
13 approved or fails to become effective for any reason.

14 **4. Releases**

15 4.1 Upon the Effective Date, all Releasing Plaintiffs and anyone claiming through or on
16 behalf of any of them, shall be deemed to have fully, finally, and forever released, relinquished, and
17 discharged all Released Claims against Defendant. Upon the Effective Date, the Releasing Plaintiffs
18 shall be forever barred and enjoined from commencing, instituting, prosecuting or continuing to
19 prosecute any action or other proceeding in any court of law or equity, arbitration tribunal, or
20 administrative forum, asserting any Released Claim against Defendant.

21 4.2 Upon the Effective Date, Defendant shall be deemed to have fully, finally, and forever
22 released, relinquished, and discharged all Released Claims against the named plaintiffs in the
23 Litigation, and Class Counsel, whether arising under federal, state, common or foreign law. Upon the
24 Effective Date, Defendant shall be forever barred and enjoined from commencing, instituting,
25 prosecuting or continuing to prosecute any action or other proceeding in any court of law or equity,
26 arbitration tribunal, or administrative forum, asserting Released Claims against any of the named
27 plaintiffs in the Litigation and Class Counsel.
28

1 4.3 In exchange for the releases and other consideration set forth herein, including full
2 payment of the Settlement Amount, Plaintiffs will dismiss Defendant with prejudice from the Litigation
3 as set forth herein.

4 4.4 The Settling Parties agree that the Court shall retain exclusive and continuing
5 jurisdiction over the Settling Parties and the Class Members to interpret and enforce the terms,
6 conditions, and obligations under this Agreement.

7 **5. Administration and Calculation of Claims, Final Awards and Supervision and**
8 **Distribution of the Settlement Fund**

9 5.1 The Claims Administrator, subject to such supervision and direction of the Court as may
10 be necessary or as circumstances may require, shall administer and calculate the claims submitted by
11 Class Members and shall oversee distribution of the Net Settlement Fund to Authorized Claimants.

12 5.2 The Court shall have and retain exclusive jurisdiction over the Settlement Fund, which
13 shall be applied to pay the Taxes and Tax Expenses described in the Tax Provisions herein and, after
14 the Effective Date, to distribute the Net Settlement Fund to Authorized Claimants as allowed by the
15 Plan of Allocation or the Court.

16 5.3 After the Effective Date, and in accordance with the Plan of Allocation, or such further
17 approval and further order(s) of the Court as may be necessary or as circumstances may require, the Net
18 Settlement Fund shall be distributed to Authorized Claimants, subject to and in accordance with the
19 following.

20 5.4 Within one hundred twenty (120) days after the entry of the Preliminary Approval Order
21 or such other time as may be set by the Court, each Person claiming to be an Authorized Claimant shall
22 be required to submit to the Claims Administrator a completed Claim Form.

23 5.5 Except as otherwise ordered by the Court, all Class Members who fail to timely submit a
24 valid Claim Form within such period, or such other period as may be ordered by the Court, or otherwise
25 allowed, shall be forever barred from receiving any payments pursuant to the Agreement and the
26 Settlement set forth herein, but will in all other respects be subject to and bound by the provisions of
27 the Agreement, the releases contained herein, and the Final Order and Judgment. Notwithstanding the
28 foregoing, Class Counsel shall have the discretion (but not an obligation) to accept late-submitted

1 claims for processing by the Claims Administrator so long as the distribution of the Net Settlement
2 Fund to Authorized Claimants is not materially delayed thereby. Class Counsel shall also have the
3 right, but not the obligation, to advise the Claims Administrator to waive what Class Counsel deems to
4 be *de minimis* or formal or technical defects in any Claim Form submitted.

5 5.6 Claim Forms that do not meet the submission requirements may be rejected. Prior to
6 rejecting a claim in whole or in part, the Claims Administrator shall communicate with the claimant to
7 give him, her, or it the opportunity to remedy any curable deficiencies in the claim submitted. The
8 Claims Administrator shall notify all claimants whose claims the Claims Administrator proposes to
9 reject in whole or in part for curable deficiencies, setting forth the reasons therefor, and shall indicate in
10 such notice that the claimant whose claim is to be rejected has the right to a review by the Court if the
11 claimant so desires and complies with the requirements of ¶ 5.7 below.

12 5.7 If any claimant whose timely claim has been rejected in whole or in part for curable
13 deficiency wishes to contest such rejection, the claimant must, within twenty (20) days after the date of
14 mailing of the notice required in ¶ 5.6 above, serve upon the Claims Administrator a notice and
15 statement of reasons indicating the claimant's grounds for contesting the rejection along with any
16 supporting documentation, and requesting a review thereof by the Court.

17 5.8 The Net Settlement Fund shall be distributed to the Authorized Claimants substantially
18 in accordance with the Plan of Allocation attached hereto, summarized in the Notice, and approved by
19 the Court.

20 5.9 Defendant and its Related Parties shall have no responsibility for, interest in, or liability
21 whatsoever with respect to: (i) any act, omission, or determination by Class Counsel, the Escrow
22 Agent, or the Claims Administrator, or any of their respective designees or agents, in connection with
23 the administration of the Settlement or otherwise; (ii) the management, investment, or distribution of
24 the Settlement Fund; (iii) the Plan of Allocation; (iv) the determination, administration, or calculation
25 of claims to be paid to Authorized Claimants from the Settlement Fund; or (v) the payment or
26 withholding of Taxes or Tax Expenses, or any expenses or losses incurred in connection therewith. No
27 Person shall have any claim of any kind against Defendant or its Related Parties with respect to the
28 matters set forth in ¶¶ 5.1–5.9 hereof; and the Class Members, Plaintiffs, and Class Counsel release

1 Defendant and its Related Parties from any and all liability and claims arising from or with respect to
2 the administration, investment or distribution of the Settlement Fund.

3 5.10 No Person shall have any claim against Plaintiffs, Class Counsel or the Claims
4 Administrator, or any other Person designated by Class Counsel, based on determinations or
5 distributions made substantially in accordance with this Agreement and the settlement contained herein,
6 the Plan of Allocation, or further order(s) of the Court.

7 5.11 It is understood and agreed by the Settling Parties that any proposed Plan of Allocation
8 of the Net Settlement Fund, including, but not limited to, any adjustments to an Authorized Claimant's
9 claim set forth therein, is not a part of this Agreement and is to be considered by the Court separately
10 from the Court's consideration of the fairness, reasonableness, and adequacy of the settlement set forth
11 in this Agreement, and any order or proceeding relating to the Plan of Allocation shall not operate to
12 terminate or cancel the Agreement or affect the finality of the Court's Final Order and Judgment
13 approving the Agreement and the settlement set forth herein.

14 **6. Class Counsel's Attorneys' Fees and Expenses; Service Awards**

15 6.1 Class Counsel shall apply to the Court for the Fee and Expense Award to be paid by HP.
16 HP reserves the right to oppose any application, except that HP shall not dispute that plaintiffs are
17 successful parties for purposes of California Code of Civil Procedure section 1021.5, and that Class
18 Counsel are entitled to reimbursement of out-of-pocket litigation costs actually and reasonably
19 incurred. HP reserves all arguments with respect to the amount of fees and costs to which Class
20 Counsel is entitled under the applicable law. HP shall pay Class Counsel the Fee and Expense Award
21 within ten (10) days after the Effective Date pursuant to instructions to be delivered by Class Counsel
22 within three (3) days after the Effective Date.

23 6.2. Subject to approval of the Court, HP shall pay each Plaintiff a service or incentive award
24 of \$5,000. Such awards shall be in addition to any individual payments to which each Plaintiff may be
25 entitled within the claims process. Such awards shall be paid by HP to Class Counsel, for delivery to
26 each Plaintiff, within ten (10) days after the Effective Date pursuant to instructions to be delivered by
27 Class Counsel within three (3) days after the Effective Date.
28

1 6.3 In the event that the Effective Date does not occur, or the Final Order and Judgment or
2 the order making the Fee and Expense Award is reversed or modified, or this Agreement is canceled or
3 terminated for any other reason, and such reversal, modification, cancellation, or termination becomes
4 final and not subject to review, and in the event that the Fee and Expense Award has been paid, then
5 Class Counsel, including its partners and/or shareholders who have received any portion of the Fee and
6 Expense Award shall, within twenty (20) days after receiving notice from HP's counsel or from a court
7 of competent jurisdiction, refund to HP the Fee and Expense Award.

8 6.4 The procedure for and the allowance or disallowance by the Court of any applications by
9 any plaintiff's counsel for attorneys' fees and expenses, or any Plaintiff for a service or incentive
10 award, are to be considered by the Court separately from the Court's consideration of the fairness,
11 reasonableness and adequacy of the settlement set forth in this Agreement, and any order or proceeding
12 relating to the Fee and Expense Application, or application for service award, or any appeal from any
13 order relating thereto or reversal or modification thereof, shall not operate to terminate or cancel the
14 Agreement, or affect or delay the finality of the Final Order and Judgment approving the Agreement
15 and the settlement of the Litigation set forth herein.

16 6.5. Defendant and its Related Parties are not entitled to any award of fees or expenses from
17 the Settlement Fund.

18 6.6 Defendant and its Related Parties shall have no responsibility for the allocation among
19 Class Counsel, or any other plaintiff's counsel or Person who may assert some claim thereto, of any
20 Fee and Expense Award that the Court may make in the Litigation.

21 **7. Conditions of Settlement, Effect of Disapproval, Cancellation or Termination**

22 7.1 This Agreement shall be conditioned on the occurrence of all of the following events:

- 23 (a) the Court has entered the Preliminary Approval Order;
24 (b) the Court has entered the Final Order and Judgment; and
25 (c) the Settlement Amount has been deposited into the Escrow Account.

26 7.2 Upon the Effective Date, any and all remaining interest or right of Defendant in or to the
27 Settlement Fund, if any, shall be absolutely and forever extinguished.

1 7.3 HP may terminate this Agreement if, after the Opt-Out Deadline, the Claims
2 Administrator determines that the number of timely and valid opt-out requests exceeds 12,000 (the
3 “Opt-out Threshold”). Requests for exclusion from persons or entities who would not otherwise meet
4 the Class definition do not count toward the Opt-Out Threshold. If HP elects to terminate this
5 Agreement pursuant to this paragraph, it will give notice to Class Counsel within fourteen days after
6 the Claims Administrator determines and reports to the Parties the number of timely and valid opt-out
7 requests.

8 7.4 In the event that the Agreement or the settlement set forth in the Agreement is not
9 approved by the Court or otherwise fails to become effective in accordance with its terms, the Settling
10 Parties shall be restored to their respective positions in the Litigation as of March 30, 2018. In such
11 event, the terms and provisions of the Agreement, except ¶¶ 2.12–2.15, 6.3 and 7.3–7.5, shall be null
12 and void, have no further force and effect, and shall not be used in the Litigation or in any other
13 proceeding for any purpose, and any judgment or order entered by the Court in accordance with the
14 terms of the Agreement shall be treated as vacated, *nunc pro tunc*, and shall not be used in the
15 Litigation or in any other proceeding for any purpose. No order of the Court or modification or
16 reversal on appeal of any order of the Court concerning the Plan of Allocation or the amount of any
17 service award, or any attorneys’ fees, costs, expenses, and interest awarded by the Court to Class
18 Counsel or any other plaintiff’s counsel shall operate to terminate or cancel this Agreement or
19 constitute grounds for cancellation or termination of the Agreement.

20 7.5 If the Effective Date does not occur, or if the Agreement is terminated pursuant to its
21 terms, HP shall remain obligated to reimburse the Claims Administrator for all Administrative
22 Expenses incurred by the Claims Administrator, and the Claims Administrator shall have no obligation
23 to repay any Administration Expenses for which it has been paid by HP.

24 **8. Miscellaneous Provisions**

25 8.1 The Settling Parties: (a) acknowledge that it is their intent to consummate this
26 Agreement; and (b) agree to cooperate to the extent reasonably necessary to effectuate and implement
27 all terms and conditions of the Agreement and to exercise their best efforts to accomplish the foregoing
28 terms and conditions of the Agreement.

1 8.2 The Settling Parties and their respective counsel agree that they will act in good faith
2 and will not engage in any conduct that could frustrate the purposes of this Agreement.

3 8.3 The Settling Parties and their respective counsel will not make any public statement that
4 is inconsistent with the Parties' objective of securing court approval of the Settlement.

5 8.4 The determination of the terms and conditions contained herein and the drafting of the
6 provisions of this Agreement have been by mutual understanding after negotiation, with consideration
7 by, and participation of, the Settling Parties and their counsel. This Agreement shall not be construed
8 against any Settling Party on the basis that it was the drafter or participated in the drafting. Any statute
9 or rule of construction that ambiguities are to be resolved against the drafting party shall not be
10 employed in the implementation of this Agreement and the Settling Parties agree that the drafting of
11 this Agreement has been a mutual undertaking.

12 8.5 The Settling Parties intend this Agreement to effect a final and complete resolution of all
13 disputes and claims between Releasing Plaintiffs, on the one hand, and Defendant, on the other hand,
14 with respect to the Litigation. The Settlement resolves claims which are contested and shall not be
15 deemed an admission by any Settling Party as to the merits of any claim or defense. The Settling
16 Parties agree that during the course of the Litigation, the parties and their respective counsel at all times
17 complied with the requirements of Federal Rule of Civil Procedure 11 and California Code of Civil
18 Procedure § 128.7. The Settling Parties agree that the Settlement Amount and the other terms of the
19 settlement were negotiated in good faith by the Settling Parties, and reflect a settlement that was
20 reached voluntarily after consultation with competent legal counsel.

21 8.6 Neither this Agreement nor the settlement contained herein, nor any act performed or
22 document executed pursuant to or in furtherance of the Agreement or the Settlement (a) is or may be
23 deemed to be or may be used as an admission of, or evidence of, the validity of any Released Claim,
24 the truth of any of the allegations in the Litigation of any wrongdoing, fault, or liability of Defendant or
25 its Related Parties, or that Plaintiffs or any Class Members have suffered any damages, harm, or loss; or
26 (b) is or may be deemed to be or may be used as an admission of, or evidence of, any fault or omission
27 on the part of Defendant or its Related Parties in any civil, criminal, or administrative proceeding in
28 any court, administrative agency, or other tribunal.

1 8.7 Defendant may file this Agreement and/or the Final Order and Judgment in any other
2 action that may be brought against it in order to support a defense or counterclaim based on principles
3 of res judicata, collateral estoppel, release, good faith settlement, judgment bar or reduction, or any
4 theory of claim or issue preclusion or similar defense or counterclaim.

5 8.8 All agreements made and orders entered during the course of the Litigation relating to
6 the confidentiality of information shall survive this Agreement.

7 8.9 All of the Exhibits to the Agreement are material and integral parts hereof and are fully
8 incorporated herein by this reference.

9 8.10 The Agreement may be amended or modified only by a written instrument signed by or
10 on behalf of all Settling Parties or their respective successors-in-interest.

11 8.11 The Agreement and the Exhibits attached hereto constitute the entire agreement among
12 the parties hereto and no representations, warranties or inducements have been made to any party
13 concerning the Agreement or its Exhibits other than the representations, warranties, and covenants
14 contained and memorialized in such documents.

15 8.12 Class Counsel, on behalf of the Class, is expressly authorized to take all appropriate
16 action required or permitted to be taken by the Class Members they represent pursuant to the
17 Agreement to effectuate its terms.

18 8.13 Each counsel or other Person executing the Agreement or any of its Exhibits on behalf
19 of any party hereto warrants that such Person has the full authority to do so.

20 8.14 The Agreement may be executed in one or more counterparts. All executed counterparts
21 and each of them shall be deemed to be one and the same instrument. A complete set of executed
22 counterparts shall be filed with the Court. Signatures sent by facsimile or sent in PDF form via e-mail
23 shall be deemed originals.

24 8.15 The Agreement shall be binding upon, and inure to the benefit of, the successors and
25 assigns of the parties hereto.

26 8.16 The Court shall retain jurisdiction with respect to implementation and enforcement of
27 the terms of the Agreement, and all Settling Parties submit to the jurisdiction of the Court for purposes
28

1 of implementing and enforcing the settlement embodied in the Agreement and matters related to this
2 settlement.

3 8.17 Pending approval of the Court of the Agreement and its Exhibits, all proceedings in the
4 Litigation shall be stayed and all Class Members shall be barred and enjoined from prosecuting any of
5 the Released Claims against Defendant.

6 8.18 This Agreement and the Exhibits hereto shall be considered to have been negotiated,
7 executed and delivered, and to be wholly performed, in the State of California, and the rights and
8 obligations of the parties to the Agreement shall be construed and enforced in accordance with, and
9 governed by, the substantive laws of the State of California.

10 IN WITNESS WHEREOF, each of the parties hereto have caused the Agreement to be
11 executed, by their duly authorized attorneys, dated September 18, 2018.

12 **GIRARD GIBBS LLP**

13 /s/ Elizabeth A. Kramer

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20 **JOSEPH SAVERI LAW FIRM, INC.**

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11 *Counsel for Defendant HP Inc.*

Exhibit 1

Exhibit 1-A

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

A court authorized this notice. This is not a solicitation from a lawyer.

If Your HP Printer Stopped Working with Non-HP Replacement Cartridges, You Could Be Eligible for a Payment from a Class Action Settlement

- You could receive a payment from a class action settlement.
- The lawsuit is about Dynamic Security, a technology that HP placed on certain of its inkjet printers. Plaintiffs allege that Dynamic Security caused some of the printers to stop working if they were using certain non-HP replacement ink cartridges.
- Under the settlement, HP agrees not to employ Dynamic Security on the printer models in question. HP will also pay \$1.5 million to printer owners who experienced print interruptions because of Dynamic Security.
- Visit [Website URL] to make a claim. You can also opt out of, comment on, or object to the Settlement.
- Please read this notice carefully. Your legal rights will be affected, and you have a choice to make now.

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS		DEADLINE
SUBMIT A CLAIM FORM	The only way to get a payment.	[Deadline]
EXCLUDE YOURSELF	Get no payment. This is the only option that allows you to keep your right to bring any other lawsuit against HP for claims related to this case.	[Deadline]
COMMENT ON OR OBJECT TO THE SETTLEMENT AND/OR ATTEND A HEARING	You can write the Court about why you like or do not like the Settlement. You can't ask the Court to order a larger settlement. You can also ask to speak to the Court at the hearing on [Hearing Date] about the fairness of the Settlement, with or without your own attorney.	[Deadline]
DO NOTHING	Get no payment. Give up rights.	No Deadline

- These rights and options—**and the deadlines to exercise them**—are explained in this notice.
- The Court in charge of this case still has to decide whether to approve the Settlement. Payments will be made if the Court approves the Settlement and after any appeals are resolved.

WHAT THIS NOTICE CONTAINS

BASIC INFORMATION 3

WHO IS IN THE SETTLEMENT 3

THE SETTLEMENT BENEFITS 4

HOW TO GET A PAYMENT—MAKING A CLAIM 5

THE LAWYERS REPRESENTING YOU 5

EXCLUDING YOURSELF FROM THE SETTLEMENT 6

OBJECTING TO THE SETTLEMENT 7

THE COURT’S FAIRNESS HEARING 8

IF I DO NOTHING 8

GETTING MORE INFORMATION 8

BASIC INFORMATION

1. Why did I get this notice?

A court authorized this notice because people described in paragraph 5 of this notice have the right to know about a legal settlement. If you qualify, you could be eligible to receive a payment.

To know if you qualify, see the answer to Question 5.

The people who sued are called the Plaintiffs. The company they sued, HP Inc. (“HP”), is called the Defendant.

2. What is this lawsuit about?

HP created Dynamic Security and installed it via firmware on certain of its inkjet printer models in 2015 and 2016. Because of Dynamic Security, some HP printers with certain non-HP replacement cartridges stopped printing. Plaintiffs claim that HP used Dynamic Security to steer people to buy its own replacement products. HP denies Plaintiffs’ claims and says that the purpose of Dynamic Security was to protect its intellectual property, reduce cartridge counterfeiting, and protect the quality of the user experience.

3. What is a class action?

In a class action the Plaintiffs act as “class representatives” and sue on behalf of themselves and other people who have similar claims. This group of people is called the “class,” and the people in the class are called “class members.” One court resolves the issues for all class members, except for people who exclude themselves from the class. Judge Edward J. Davila of the United States District Court for the Northern District of California is in charge of this case. The case is *In re HP Printer Firmware Update Litigation*, No. 5:16-cv-05820-EJD (N.D. Cal.).

4. Why is there a Settlement?

The Court did not decide in favor of Plaintiffs or Defendant. Instead, both sides agreed to a Settlement. That way, they avoid the costs and risks of a trial, and class members get benefits or compensation. The class representatives and their attorneys think the settlement is best for the class.

WHO IS IN THE SETTLEMENT

5. Who is in the Settlement?

You are a class member, and are included in the Settlement, if you owned a Class Printer during the period from March 1, 2015 through December 31, 2017. The Class Printers are the following product models:

- HP OfficeJet Pro 6230
- HP OfficeJet 6812
- HP OfficeJet 6815

- HP OfficeJet 6820
- HP OfficeJet Pro 6830
- HP OfficeJet Pro 6835
- HP OfficeJet Pro 8610
- HP OfficeJet Pro 8615
- HP OfficeJet Pro 8616
- HP OfficeJet Pro 8620
- HP OfficeJet Pro 8625
- HP OfficeJet Pro 8630
- HP OfficeJet Pro X551dw
- HP OfficeJet Pro X451dn
- HP OfficeJet Pro X451dw
- HP OfficeJet Pro X576dw
- HP OfficeJet Pro X476dn
- HP OfficeJet Pro X476dw

You can tell what model you own or owned by looking for a model number on the front of your printer. If you are unable to determine which model HP printer you own, please call HP customer service at 800-474-6836 and a customer service representative will assist you.

6. What should I do if I am still not sure whether I am included?

If you are not sure whether you are included in the class, you can ask for free help by calling the Claims Administrator at XXX-XXX-XXXX for more information.

THE SETTLEMENT BENEFITS

7. What does the Settlement provide?

HP has released an update to its firmware that turns off Dynamic Security in the Class Printers, and agrees not to use Dynamic Security on the Class Printers in the future. HP also will pay \$1,500,000 into a Settlement Fund, which will be distributed to class members who submit valid claims.

8. Who can get money from the Settlement, and how much?

To get money from the Settlement, you must be a class member who experienced a print interruption while using a non-HP replacement ink cartridge in a Class Printer between March 1, 2015 and December 31, 2017. You can get reimbursed for expenses you incurred as a result of the print interruption. These expenses may include the costs of a replacement cartridge, a replacement printer, or printer repair services. You can also make a claim without providing any documentation of out-of-pocket losses, if you spent time or money in response to this print interruption. The Fund will first be applied to pay all documented claims of out-of-pocket losses resulting from such print interruptions. After all documented claims have been paid in full, the remaining amount in the Fund will be divided equally among all class members, including class members who made a claim without supporting documentation. So the amount you get will depend on the number of valid documented and undocumented claims.

For information on how to make a claim, see Question 10 and [Website URL]. For information on the Plan of Allocation, see [Website URL].

9. What am I giving up if I stay in the class?

Unless you exclude yourself with an opt-out request (*see* Question 16), you cannot sue, continue to sue, or be part of any other lawsuit against HP about the issues in this case. The “Releases” section in the Settlement Agreement describes the legal claims that you give up if you remain in the settlement class. The Settlement Agreement can be viewed at [Website URL].

HOW TO GET A PAYMENT—MAKING A CLAIM

10. How can I get a payment?

If you owned a Class Printer during the period from March 1, 2015 through December 31, 2017, you can make a claim at [Website URL]. You can also contact the Claims Administrator to request a paper claim form by telephone 8XX-XXX-XXXX, email [email address] or U.S. mail [insert address], and submit the claim form to the same email or U.S. mail address.

11. What is the deadline for submitting a claim form?

To be eligible for payment, claim forms must be submitted electronically or postmarked no later than [DATE].

12. When will I get my payment?

The Court will hold a hearing on [HEARING DATE], to decide whether to approve the Settlement. If the Settlement is approved, the Claims Administrator anticipates that payments will be sent out within 3 months.

Updates regarding the Settlement and when payments will be made will be posted on the Settlement website, [Website URL].

THE LAWYERS REPRESENTING YOU

13. Do I have a lawyer in the case?

Yes. The Court appointed the law firms of Girard Gibbs LLP, Law Offices of Todd M. Friedman, P.C., and Joseph Saveri Law Firm, Inc. to represent you and the other class members. These firms are called Class Counsel. You will not be charged for their services.

14. Should I get my own lawyer?

You do not need to hire your own lawyer because Class Counsel is working on your behalf. If you want your own lawyer, you may hire one, but you will be responsible for any payment for that lawyer’s services. For example, you can ask your own lawyer to appear in Court for you if you want someone other than Class Counsel to speak for you. You may also appear for yourself without a lawyer.

15. How will the lawyers be paid?

You do not have to pay Class Counsel. Class Counsel will seek an award to be paid separately by HP. Such an award will not reduce the \$1.5 million Fund or the amounts paid to Class Members. Class Counsel have not been paid for their services in this case since it began, and will seek an award not to exceed \$2.75 million for work done to date in the litigation, as well reimbursement of reasonable litigation expenses of no more than \$150,000. The fees will compensate Class Counsel for investigating the facts, litigating the case, and negotiating and presenting the Settlement for court approval.

Class Counsel will also ask the Court to approve service award payments of \$5,000 to each of the individual class representatives: Richard San Miguel, DeLores Lawty, Richard Faust, Christopher Ware, and James Andrews. If approved, these awards will be paid by HP separately from the Fund.

The costs of providing this notice and administering the Settlement are being paid by HP.

EXCLUDING YOURSELF FROM THE SETTLEMENT

If you don't want benefits from the Settlement, and you want to keep your right, if any, to sue HP on your own about the legal issues in this case, then you must take steps to get out of the Settlement. This is called excluding yourself from—or “opting out” of—the settlement class.

16. How do I get out of the Settlement?

You may opt out online by [DATE], at [Website URL]. Click on the “Opt Out” tab and provide the requested information.

You may also opt out by sending a letter that includes the following to the address below:

- Your name and address;
- A statement that you want to be excluded from the Settlement; and
- Your signature.

Class Action Opt Out
HP Printer Firmware Settlement
P.O. Box ____
[]

Mailed opt-out requests must be postmarked no later than [DATE].

17. If I don't opt out, can I sue HP for the same thing later?

No. Unless you opt out, you give up the right to sue HP for the claims the Settlement resolves. You must exclude yourself from the class if you want to try to pursue your own lawsuit.

18. What happens if I opt out?

If you opt out of the Settlement, you will not have any rights as a member of the Settlement Class under the Settlement; you will not receive any payment as part of the Settlement; you will not be bound by any further orders or judgments in this case; and you will keep the right, if any, to sue on the claims alleged in the case at your own expense.

COMMENTING ON OR OBJECTING TO THE SETTLEMENT

19. How do I tell the Court if I don't like the Settlement?

If you're a class member and do not opt out of the Settlement, you can ask the Court to deny approval of the Settlement by filing an objection. You can't ask the Court to order a larger settlement; the Court can only approve or deny the Settlement. If the Court denies approval, no settlement payments will be sent out and the lawsuit will continue. If that is what you want to happen, you must object.

You may object to the proposed Settlement in writing. You may also appear at the Fairness Hearing, either in person or through your own attorney. If you appear through your own attorney, you are responsible for paying that attorney.

To object, you must file a document with the Court saying that you object to the proposed Settlement in *In re HP Printer Firmware Update Litigation*, Case 5:16-cv-05820-EJD. Be sure to include:

- Your name, address, and signature; and
- A detailed statement of your objection, including the grounds for the objection together with any evidence you think supports it.

You can mail the objection by First Class U.S. Mail, postmarked no later than **[DATE]**, to the following address:

Clerk of the Court
U.S. District Court for the
Northern District of California
280 South 1st Street, Room 2112
San Jose, CA 95113
Case No. 5:16-cv-05820-EJD

If you do not mail the objection, you must either deliver it in person to this address or file it electronically at <https://www.cand.uscourts.gov/cm-ecf>, no later than **[DATE]**.

20. What's the difference between objecting and excluding?

Objecting is telling the Court that you don't like something about the Settlement. You can object to the Settlement only if you do not exclude yourself from the Settlement. Excluding yourself from the Settlement is opting out and telling the Court that you don't want to be part of the Settlement. If you opt out of the Settlement, you cannot object to it because it no longer affects you. You cannot both opt out and object to the Settlement.

THE COURT'S FAIRNESS HEARING

21. When and where will the Court decide whether to approve the Settlement?

The Court will hold a Fairness Hearing at XX:XX p.m. on [HEARING DATE], in Courtroom 4 of the San Jose federal courthouse, located at 280 South 1st Street, San Jose, CA 95113.

At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. The Court will listen to people who have asked to speak at the hearing.

The Court may also decide how much Class Counsel should receive in fees and expense reimbursements. After the hearing, the Court will decide whether to approve the Settlement.

The Court may reschedule the Fairness Hearing or change any of the deadlines described in this notice. The date of the Fairness Hearing may change without further notice to the class members. Be sure to check the website, [Website URL], for news of any such changes. You can also access the case docket via the Court's Public Access to Court Electronic Records (PACER) system at <https://ecf.cand.uscourts.gov>.

22. Do I have to come to the Fairness Hearing?

No. Class Counsel will answer any questions the Court may have. You may attend at your own expense if you wish. If you send an objection, you do not have to come to the hearing to talk about it. As long as you mailed your written objection on time, the Court will consider it. You may also pay your own lawyer to attend, but it is not necessary.

23. May I speak at the hearing?

You may ask the Court for permission to speak at the Fairness Hearing. To do so, you must include a statement in your written objection (discussed above at Question 19) that you intend to appear at the hearing. Be sure to include your name, address, and signature as well.

You cannot speak at the hearing if you exclude yourself from the class.

IF I DO NOTHING

24. What happens if I do nothing at all?

If you do nothing, you'll be a member of the Settlement Class, you'll get no money from this Settlement, and you won't be able to sue HP for the conduct alleged in this case.

GETTING MORE INFORMATION

25. Are more details about the Settlement available?

Yes. This notice summarizes the proposed Settlement—more details are in the Settlement Agreement, the Plan of Allocation, and other important case documents. You can get a copy of these and other documents at [Website URL], by contacting Class Counsel at eak@girardgibbs.com, by accessing the docket in this case through the Court’s Public Access to Court Electronic Records (PACER) system at <https://ecf.cand.uscourts.gov>, or by visiting the office of the Clerk of the Court for the United States District Court for the Northern District of California, Robert F. Peckham Federal Building and United States Courthouse, 280 South 1st Street, San Jose, CA 95113, between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays.

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

26. How do I get more information?

The website [Website URL] has the claim form, answers to questions about the Settlement and other information to help you determine whether you are eligible for a payment.

You can also call or write to the Claims Administrator at:

HP Printer Firmware Settlement
[]
8XX-XXX-XXXX

Class Counsel can be reached by calling Elizabeth Kramer at (415) 981-4800 or emailing eak@girardgibbs.com.

Dated: _____, 2018

By Order of the Court

The Honorable Edward J. Davila
United States District Judge

Exhibit 1-B

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

In re HP Printer Firmware Update Litigation, No. 5:16-cv-05820-EJD (N.D. Cal.)

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

A court authorized this notice. This is not a solicitation from a lawyer.

A settlement has been reached with HP in a class action lawsuit about Dynamic Security, a technology HP placed on certain of its inkjet printers. Plaintiffs allege Dynamic Security caused printers to stop working if they were using certain non-HP replacement ink cartridges. HP agrees under the settlement not to reactivate Dynamic Security in the Class Printers and to pay \$1.5 million. HP denies that it did anything wrong.

WHO IS INCLUDED?

You are a class member, and are included in the Settlement, if you owned a Class Printer between March 1, 2015 and December 31, 2017. The Class Printers are:

- HP OfficeJet Pro 6230
- HP OfficeJet 6812, 6815, 6820, 6830, 6835
- HP OfficeJet Pro 8610, 8615, 8616, 8620, 8625, 8630
- HP OfficeJet Pro X451dn, X451dw, X476dn, X476dw, X551dw, X576dw

WHAT CAN I GET?

To get money from the Settlement, you must be a class member whose Class Printer experienced a print interruption while using a working non-HP replacement ink cartridge between March 1, 2015 and December 31, 2017. You can get reimbursed for out-of-pocket expenses like the cost of replacement cartridges, a replacement printer, or printing or printer repair services. You can make a claim and attach receipts or other documentation of your losses. Or, you can make a claim for lost money or time without attaching documentation by providing the information requested on the Claim Form about your print interruption. The settlement money will be used to pay all documented claims first, with any remaining money divided equally among all class members. The amount of money claimants will get will depend on the number and type of claims submitted.

HOW DO I SUBMIT A CLAIM?

To get money, you must submit a completed Claim Form postmarked by [date]. You can make a claim at [Website URL]. You can also contact the Claims Administrator to request a paper Claim Form by telephone XXX-XXX-XXXX, email [email address] or U.S. mail [insert address], and submit the claim form to the same email or U.S. mail address.

YOUR OTHER OPTIONS

If you wish to be excluded from the Settlement, you must submit your opt-out request online or by mail postmarked by [date]. If you submit a Claim Form or do nothing, you will be bound by the Settlement and will give up your right to sue HP about Dynamic Security. If you do not opt out, you may comment on or object to the Settlement by [date]. For more information, visit [website URL].

THE COURT'S FAIRNESS HEARING

The Court will hold a hearing on [hearing date] to consider whether to approve the Settlement. The Court will also consider requests by Class Counsel for HP to pay their attorneys' fees and costs, as well as service awards for the representative class plaintiffs, separately from the \$1.5 million fund. The date or time of the hearing may change. Check [website URL] for updates.

ADDITIONAL INFORMATION

This is a summary. For more information about your rights and options, visit [website URL]. You may also call toll-free 1-XXX-XXX-XXXX, or write to [insert name of settlement and administrator address].

For a copy of the Settlement Agreement or Claim Form, visit [website URL] or call 1-XXX-XXX-XXXX.

Exhibit 2

HP Printer Firmware Settlement
c/o Claims Administrator
[Street]
[City State Zip]
[email address]
[website URL]

Your claim must be uploaded or postmarked by: [DATE]

CLAIM FORM INSTRUCTIONS

IMPORTANT: PLEASE READ BEFORE COMPLETING THIS CLAIM FORM

You are a member of the class and eligible for a Settlement payment if you owned one or more of the following HP printers during the period March 1, 2015 through December 31, 2017 (“Class Printers”):

- HP OfficeJet Pro 6230
- HP OfficeJet 6812
- HP OfficeJet 6815
- HP OfficeJet 6820
- HP Officejet Pro 6830
- HP OfficeJet Pro 6835
- HP OfficeJet Pro 8610
- HP OfficeJet Pro 8615
- HP OfficeJet Pro 8616
- HP OfficeJet Pro 8620
- HP OfficeJet Pro 8625
- HP OfficeJet Pro 8630
- HP OfficeJet Pro X551dw
- HP OfficeJet Pro X451dn
- HP OfficeJet Pro X451dw
- HP OfficeJet Pro X576dw
- HP OfficeJet Pro X476dn
- HP OfficeJet Pro X476dw

You can tell what model you own or owned by looking for a model number on the front of your printer. If you are unable to determine which model HP printer you own, please call HP customer service at 800-474-6836 and a customer service representative will assist you.

If you are a member of the class based on the above definition, you may submit a Claim Form. Please complete Sections A, B and C, and return the completed Claim Form to the Claims Administrator by mail at the address above. You may also submit your claim online at [insert website URL].

To get money from the Settlement, you must be a class member who experienced a print interruption while using a non-HP replacement ink cartridge in a Class Printer between March 1, 2015 and December 31, 2017. In addition to compensation for lost time, you can get reimbursed for out-of-pocket expenses like the cost of replacement cartridges, a replacement printer, and/or printing or printer repair services.

To make a claim, you must confirm or provide your current contact information, and swear to certain facts listed in the Claim Form that show you are eligible to get money from the Settlement. Then, you have two options. You can make a claim and attach documentation of your losses (for example, receipts). Or, you can make a claim without

attaching documentation, by providing the information requested on the Claim Form about the print interruption that you experienced.

Option 1: Documented Claim

Make a claim and provide documentation of losses. Fill out the Claim Form and also submit documentation, for example—receipts, payment card statements, or photographs—of out-of-pocket expenses that resulted from the print interruption. Expenses may include amounts paid for replacement cartridges, a replacement printer, and/or printing or printer repair services.

Option 2: Claim without Documentation

Make a claim without documentation of losses. You can fill out the Claim Form and submit it without documentation of losses. However, you must write on the Claim Form: (1) the month and year when the print interruption occurred, (2) the brand of non-HP cartridges installed in the Class Printer at the time, and (3) the seller from which those cartridges were purchased.

The Claims Administrator will review your submission and determine your payment. Documented claims will be paid in full before undocumented claims are paid.

CLAIM FORM

SECTION A: NAME AND CONTACT INFORMATION

Provide your name and contact information below. If your name or contact information changes after you submit this Claim Form, please notify the Claims Administrator of the new information.

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FIRST NAME **MI** **LAST NAME**

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STREET ADDRESS

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CITY

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STATE

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ZIP CODE

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EMAIL ADDRESS

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CONTACT PHONE NUMBER

SECTION B: TYPE OF CLAIM AND PAYMENT ELECTION

There are two ways to make a claim. Please read the **Claim Form Instructions** for more information about these options.

OPTION 1 – DOCUMENTED CLAIM

I am submitting a claim and attaching documented proof of loss.

Enter the total amount of documented losses you are claiming: \$ _____

Note: documentation may include, for example, receipts, payment card statements, or photographs that show out-of-pocket expenses that resulted from your print interruption. Expenses may include amounts paid for replacement cartridges, a replacement printer, and/or printing or printer repair services.

OPTION 2 – CLAIM WITHOUT DOCUMENTATION

I am submitting a claim form without documented proof of loss.

To the best of my knowledge, the following information is true and accurate (fill in the blanks):

- (1) I experienced a print interruption on _____ (month) of ____ (year).
- (2) At the time of the print interruption, I had a _____ (brand name of the non-HP ink cartridge) ink cartridge installed in my Class Printer.
- (3) I purchased the non-HP cartridge(s) from _____ (name of store or website).

PAYMENT ELECTION:

Please indicate below whether you would like to receive your payment in the form of a check mailed to the address provided in Section A, or if you would like your payment emailed to you to digitally deposit. Please choose only one. If you do not complete this section, payment will be sent via mail.

I would like to receive a check via mail. I understand it is my responsibility to inform the Claims Administrator of any changes to my contact information provided in Section A of this Claim Form.

I would like my payment emailed to me to digitally deposit. Please issue my payment to the following email address:

SECTION C: VERIFICATION

By signing below and submitting this Claim Form, I hereby affirm that:

- (1) I am the person identified above and the information provided in this Claim Form is true and accurate;
- (2) I owned one or more of the following HP printers during the period March 1, 2015 through December 31, 2017 (“Class Printers”):
 - HP OfficeJet Pro 6230
 - HP OfficeJet 6812, 6815, 6820, 6830, 6835
 - HP OfficeJet Pro 8610, 8615, 8616, 8620, 8625, 8630
 - HP OfficeJet Pro X451dn, X451dw, X476dn, X476dw, X551dw, X576dw;
- (3) My Class Printer experienced an interruption in printing between March 1, 2015 and December 31, 2017;
- (4) The interruption happened when the Class Printer had working non-HP ink cartridges installed; and
- (5) I have not been reimbursed or otherwise compensated for the out-of-pocket losses I have claimed.

SIGNATURE

DATE

PRINTED NAME

CLAIM FORM REMINDER CHECKLIST:

- 1. Complete sections A, B and C of the Claim Form.
- 2. Remember to attach only **copies** of supporting documents, as these documents will not be returned to you.
- 3. Do not highlight any portion of the Claim Form or any supporting documents.
- 4. Keep copies of the completed Claim Form and supporting documents for your records.
- 5. If your name or contact information changes after you submit this Claim Form, please notify the Claims Administrator of the new information.
- 6. If you have any questions or concerns regarding your claim, please contact the Claims Administrator at the address below, or by emailing [insert email address].

THIS CLAIM FORM MUST BE UPLOADED ON THE SETTLEMENT WEBSITE NO LATER THAN _____, **2019**, OR MAILED TO THE CLAIMS ADMINISTRATOR BY PREPAID, FIRST-CLASS MAIL POSTMARKED NO LATER THAN _____, **2019** to:

HP Printer Firmware Settlement
c/o Claims Administrator
[Street]
[City State Zip]

Exhibit 3

PLAN OF ALLOCATION FOR SETTLEMENT FUND

In re HP Firmware Update Litigation, Case No. 5:16-cv-05820-EJD-SVK

The Settlement Fund will be distributed according to the following plan, subject to approval by the Court. All capitalized terms contained and not otherwise defined herein have the meanings ascribed to them in the Settlement Agreement dated September 18, 2018.

I. General Provisions

A. Class members may submit claims for payments from the Settlement Fund for lost time and reasonable out-of-pocket expenses attributable to Dynamic Security. In addition to compensation for lost time, expenses eligible for reimbursement include the cost of replacement cartridges, a new printer, and/or printing or printer repair services, provided such expenditures are attributable to Dynamic Security. Class members need not submit documentation to make a claim, but, as set forth below, valid documented claims will be paid in full before any undocumented claims are paid.

B. Class members may submit completed Claim Forms by mail or through the Settlement Website.

C. To be eligible for payment, claims must be submitted or postmarked no later than 120 days after the date of entry of the Preliminary Approval Order. Late claims may be considered if deemed appropriate by the Claims Administrator in consultation with Class Counsel, or if ordered by the Court.

D. The Claims Administrator will establish and maintain the Settlement Website, which will be accessible through commonly used internet service providers and will, among other things, be used for the electronic submission of Claim Forms. The Claims Administrator will be responsible for receiving and processing requests for Claim Forms, for promptly delivering Claim Forms to Class members who request them, for establishing, in consultation with Class Counsel, appropriate claim auditing and verification protocols and procedures, and for determining the eligibility of claims for payment consistent with this plan of allocation or as otherwise ordered by the Court.

E. HP will bear the costs of notice and of settlement and claims administration, including the procedures described herein.

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II. The Claim Form

A. There will be one Claim Form.

B. For a claim to be eligible for payment, the claimant must confirm or provide their current contact information, and attest that:

- 1. the claimant owns or owned a Class Printer;
- 2. the Class Printer experienced an interruption in printing between March 1, 2015 and December 31, 2017;
- 3. the interruption occurred when the Class Printer had a working non-HP replacement ink cartridge installed; and
- 4. the claimant has not been reimbursed or otherwise compensated for the out-of-pocket losses at issue in the claim.

C. Additionally, for a claim to be eligible for payment, the claimant must provide either:

- 1. documentation—for example and without limitation, receipts, payment card statements, or photographs—of reasonable out-of-pocket expenses the claimant paid that are attributable to the relevant interruption in printing, including, without limitation, amounts paid for replacement cartridges, a new printer, and/or printing or printer repair services (a “Documented Claim”); **OR**
- 2. a sworn statement identifying, to the best of the claimant’s information and belief, (a) the month and year when the relevant interruption in printing occurred, (b) the brand of non-HP cartridges installed in the Class Printer at the time, and (c) the seller from which those cartridges were purchased.

III. Determination of Class Member Payments

A. After determining which claims are eligible for payment and identifying the total set of eligible claims, the Claims Administrator will allocate the Settlement Fund as follows.

1 1. Each Documented Claim will be paid in full; provided, however, that if the sum
2 of all Documented Claims exceeds the Settlement Fund, they will be proportionally reduced—i.e., the
3 actual amount of each Documented Claim will be reduced according to the percentage by which the
4 value of all such claims exceeds the Fund.

5 2. If the sum of all Documented Claims does not exceed the Fund, after all such
6 claims have been paid in full, the remaining amount in the Settlement Fund (the “Residual Fund”)
7 will be allocated *pro rata* to all eligible claimants on a per-Printer basis (the “Residual Amount”),
8 subject to § III.A.3 below. Payment of the Residual Amount to claimants with Documented Claims
9 will be in addition to amounts due to such claimants under § III.A.1.

10 3. If the Residual Amount exceeds \$250, Class Counsel will notify the Court and
11 propose additional means of distributing the balance of the Residual Fund and/or of providing notice
12 of the Settlement to non-participating Class members.

13 B. If, after all necessary calculations under § III.A:

14 1. there is no Residual Fund, the Claims Administrator will pay only Documented
15 Claims, by check or electronic payment;

16 2. the Residual Amount is less than or equal to \$250, the Claims Administrator
17 will pay all eligible claimants by check or electronic payment;

18 3. the Residual Amount exceeds \$250, the Claims Administrator, pursuant to §
19 III.A.1, will pay each valid Documented Claim in full by check or electronic payment, without regard
20 to any supplemental distributions that may thereafter occur.

Exhibit 4

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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTHERN CALIFORNIA
SAN JOSE DIVISION**

IN RE HP PRINTER FIRMWARE UPDATE
LITIGATION

Case No. 5:16-cv-05820-EJD-SVK

**[PROPOSED] ORDER
PRELIMINARILY APPROVING
CLASS ACTION SETTLEMENT AND
PROVIDING FOR NOTICE**

**[PROPOSED] ORDER PRELIMINARILY
APPROVING SETTLEMENT AND PROVIDING
FOR NOTICE**

5:16-cv-05820-EJD-SVK

1 Plaintiffs Richard San Miguel, DeLores Lawty, Richard Faust, Christopher Ware, and
2 James Andrews (“Plaintiffs”) and Defendant HP Inc. (“HP”) entered into a Settlement Agreement
3 and Release on September 18, 2018 (“Settlement” or “Settlement Agreement”), which, together
4 with the Exhibits annexed thereto, sets forth the terms and conditions for a proposed global
5 resolution of this litigation and for its dismissal with prejudice upon the terms and conditions set
6 forth therein.

7 Plaintiffs have moved the Court for an order preliminarily approving the Settlement under
8 Federal Rule of Civil Procedure 23, certifying a Settlement Class for purposes of settlement, and
9 approving notice to the Settlement Class as described herein. HP does not oppose this request.
10 The Court is familiar with and has reviewed the record, the Settlement Agreement and its exhibits,
11 Plaintiffs’ Memorandum of Points and Authorities in Support of Motion for Preliminary Approval
12 of Class Action Settlement, and the supporting Declaration, and has found good cause for entering
13 the following Order. Unless otherwise specified, all capitalized terms used herein have the same
14 meanings as set forth in the Settlement Agreement.

15 **Settlement Class Certification**

16 1. The Court finds, upon preliminary evaluation and for purposes of the Settlement
17 only, that the requirements of Federal Rules of Civil Procedure 23(a) and (b)(3) have been met.

18 2. The Court preliminarily certifies, for purposes of the Settlement only, a class
19 consisting of all Persons who own or owned one or more of the following printers (“Class
20 Printers”):

- 21 • HP OfficeJet Pro 6230
- 22 • HP OfficeJet 6812
- 23 • HP OfficeJet 6815
- 24 • HP OfficeJet 6820
- 25 • HP OfficeJet Pro 6830
- 26 • HP OfficeJet Pro 6835
- 27 • HP OfficeJet Pro 8610
- 28 • HP OfficeJet Pro 8615
- HP OfficeJet Pro 8616
- HP OfficeJet Pro 8620
- HP OfficeJet Pro 8625
- HP OfficeJet Pro 8630

- HP OfficeJet Pro X551dw
- HP OfficeJet Pro X451dn
- HP OfficeJet Pro X451dw
- HP OfficeJet Pro X576dw
- HP OfficeJet Pro X476dn
- HP OfficeJet Pro X476dw

Excluded from the Class are HP, its officers, directors, and affiliates at all relevant times, members of their immediate families and their legal representatives, heirs, successors or assigns, and any entity in which HP had or has a controlling interest. Also excluded from the Class are those Persons who timely and validly request exclusion.

3. The Court preliminarily finds, for purposes of the Settlement only, that the requirements of Federal Rules of Civil Procedure 23(a) and (b)(3) are satisfied for the Settlement Class. The Court hereby enters the following findings:

a. The number of Settlement Class Members is so numerous that joinder of all members is impracticable—hundreds of thousands of persons purchased Class Printers;

b. Questions of law and fact common to the Settlement Class predominate over individualized questions. The common questions include how Dynamic Security operated, whether HP’s implementation of Dynamic Security was unfair or misleading to Class Members, and the reasons why HP implemented Dynamic Security on the Class Printers.

c. Plaintiffs’ claims are typical of the claims of the Settlement Class. Each of the claims arises from the actual or potential effects of Dynamic Security, and asserts the same theories of liability;

d. Plaintiffs are adequate class representatives, and the Court hereby appoints them to serve as representatives for the Settlement Class. Additionally, the law firms of Girard Gibbs LLP, Law Offices of Todd M. Friedman, P.C., and Joseph Saveri Law Firm, Inc. have significant expertise in prosecuting consumer class actions and have committed the necessary resources to represent the Settlement Class. The Court accordingly appoints these firms as Class Counsel for the Settlement Class under Federal Rule of Civil Procedure 23(g).

Preliminary Approval of the Settlement

4. The Settlement is the product of non-collusive arm’s-length negotiations between

1 experienced counsel who were thoroughly informed of the strengths and weaknesses of the
2 Action, including through discovery and motion practice. The Settlement confers substantial
3 benefits, including monetary and non-monetary relief, upon the Settlement Class and avoids the
4 costs, uncertainty, delays, and other risks associated with continued litigation, trial, and/or appeal.
5 The Settlement falls within the range of possible recovery, compares favorably with the potential
6 recovery as balanced against the risks of continued litigation, does not grant preferential treatment
7 to Plaintiffs or their counsel, and has no obvious deficiencies.

8 5. The Court hereby preliminarily approves the Settlement, as memorialized in the
9 Settlement Agreement and the incorporated Plan of Allocation and Claim Form, as fair,
10 reasonable, and adequate, and in the best interest of Plaintiffs and the other Settlement Class
11 Members, subject to further consideration at the Final Approval Hearing to be conducted as
12 described below.

13 6. The Settlement Amount shall be deposited into an escrow account and shall be
14 managed by the Escrow Agent as detailed in the Settlement Agreement. All funds held by the
15 Escrow Agent shall be deemed and considered to be in *custodia legis* and shall remain subject to
16 the jurisdiction of the Court, until such time as such funds may be distributed pursuant to the
17 Settlement Agreement and further Order of the Court.

18 **Manner and Form of Notice**

19 7. The Court approves, as to form and content, the Notice and Summary Notice, and
20 the Claim Form, annexed to the Settlement Agreement at Exhibits 1 and 2, respectively, and finds
21 that the mailing, distribution, and publication of the Notice and Summary Notice, substantially in
22 the manner and form set forth in Exhibit 1, meet the requirements of Federal Rule of Civil
23 Procedure 23 and due process, constitute the best notice practicable under the circumstances, and
24 will provide due and sufficient notice to all Persons entitled thereto. The proposed notice plan
25 includes direct notice via email with additional direct notice via first class mail to certain class
26 members for whom email addresses are not available, as well as digital publication notice. This
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1 plan, and the Notice and Summary Notice, are reasonably calculated, under the circumstances, to
2 apprise Settlement Class Members of the pendency of the Action, the effect of the proposed
3 Settlement (including the Released Claims contained therein), the anticipated motion for
4 attorneys' fees, costs, and expenses and for service awards, and their rights to participate in, opt
5 out of, or object to any aspect of the proposed Settlement; constitute due, adequate, and sufficient
6 notice to Settlement Class Members; and satisfy the requirements of Rule 23 of the Federal Rules
7 of Civil Procedure, due process, and all other applicable law and rules. The date and time of the
8 Final Approval Hearing shall be included in the Notice and Summary Notice before their
9 dissemination and posting.

10 8. The Court hereby appoints Epiq Class Action & Claims Solutions, Inc. ("Epiq") to
11 serve as the Claims Administrator to supervise and administer the notice procedures, establish and
12 operate a settlement website (the "Website") and a toll-free number, administer the claims
13 processes, distribute cash payments according to the processes and criteria set forth in the
14 Settlement Agreement and the Plan of Allocation, and perform any other duties of the Claims
15 Administrator that are reasonably necessary and/or provided for in the Settlement Agreement.

16 9. All reasonable expenses incurred in identifying and notifying Class Members, and
17 in administering the Settlement Fund, shall be paid by HP as set forth in the Settlement
18 Agreement.

19 10. Class Members who wish to make a claim to recover out of the Settlement Fund
20 shall complete and submit a Claim Form in accordance with the instructions contained therein.
21 The Claims Administrator shall determine the eligibility of claims and allocate the Settlement
22 Fund in accordance with the Plan of Allocation.

23 11. As soon as practicable, and no later than 30 days after entry of this Order, the
24 Claims Administrator shall establish the Website and post the Notice and Claim Form thereon.

25 12. Within 30 days after entry of this Order (the "Notice Date"), the Claims
26 Administrator shall send the Notice, substantially in the form annexed to the Settlement
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1 Agreement, in accordance with the notice plan to all Class Members who have been identified
2 with reasonable effort; and shall cause publication of the Summary Notice to occur, as detailed in
3 Plaintiffs' Motion for Preliminary Approval of Class Action Settlement.

4 13. Within 105 days after entry of this Order, the Claims Administrator shall provide
5 Plaintiffs with one or more affidavits detailing the processes and status of the notice and claims
6 process. Class Counsel shall file such affidavit(s).

7 14. The dates provided for herein may be extended by Order of the Court, for good
8 cause shown, without further notice to the Settlement Class.

9 **The Final Approval Hearing**

10 15. The Court will hold a Final Approval Hearing on _____, 201__
11 [no sooner than 120 days after entry of this Order], at the United States District Court for the
12 Northern District of California, Robert F. Peckham Federal Building & United States Courthouse,
13 280 South 1st Street, Room 2112, San Jose, CA 95113, for the following purposes: (i) to finally
14 determine whether the Settlement Class satisfies the applicable requirements for certification
15 under Federal Rules of Civil Procedure 23(a) and 23(b)(3); (ii) to determine whether the
16 Settlement should be approved as fair, reasonable, and adequate and in the best interests of the
17 Settlement Class; (iii) to rule upon Class Counsel's application for an award of attorneys' fees,
18 costs, and expenses and for service awards to the representative Plaintiffs; and (iv) to consider any
19 other matters that may properly be brought before the Court in connection with the Settlement.

20 16. Class Counsel's application for an award of attorneys' fees, expenses, and costs and
21 for service awards will be considered separately from the fairness, reasonableness, and adequacy
22 of the Settlement. Any appeal from any order relating solely to Class Counsel's application for an
23 award of attorneys' fees, costs, and expenses, and/or to Class Counsel's application for service
24 awards, or any reversal or modification of any such order, shall not operate to terminate or cancel
25 the Settlement or to affect or delay the finality of the judgment approving the Settlement.

26 17. Papers in support of final approval of the Settlement and Class Counsel's
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1 application for attorneys' fees, expenses, and costs and for service awards shall be filed no later
2 than 61 days after entry of this Order. Any papers in opposition shall be filed within 75 days after
3 entry of this Order in accordance with paragraph 19 below. Reply papers shall be filed no later
4 than 14 days before the Final Approval Hearing.

5 **Objections and Appearances at the Final Approval Hearing**

6 18. Any member of the Settlement Class may appear at the Final Approval Hearing and
7 show cause why the proposed Settlement should or should not be approved as fair, reasonable,
8 and adequate, or why judgment should or should not be entered, or to present opposition to Class
9 Counsel's application for attorneys' fees, costs, and expenses, or to Class Counsel's application
10 for service awards. No person shall be heard or entitled to contest the approval of the Settlement,
11 or if approved, the judgment to be entered approving the Settlement, or of Class Counsel's
12 application for an award of attorneys' fees, costs, and expenses and for service awards, unless that
13 person filed an objection with the Clerk of the United States District Court for the Northern
14 District of California, electronically, in person, or by first-class mail, within 45 days after the
15 Notice Date (the "Objection Deadline"). Any Class Member who does not make his or her
16 objection in the time and manner provided for herein shall be deemed to have waived such
17 objection and shall forever be barred from making any objection to the fairness, reasonableness,
18 or adequacy of the proposed Settlement, or to Class Counsel's application for an award of
19 attorneys' fees, costs, and expenses and for service awards. By objecting, or otherwise requesting
20 to be heard at the Final Approval Hearing, a person shall be deemed to have submitted to the
21 jurisdiction of the Court with respect to the objection or request to be heard and the subject matter
22 of the Settlement, including enforcement of its terms.

23 19. Attendance at the Final Approval Hearing is not necessary, but persons wishing to
24 be heard orally in opposition to approval of the Settlement, the Plan of Allocation, and/or the
25 application for an award of attorneys' fees, costs, and expenses and for service awards must
26 indicate in their written objection their intention to appear at the hearing. Persons who intend to
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1 object to the Settlement, the Plan of Allocation, and/or the application for attorneys' fees, costs,
2 and expenses and for service awards, and who wish to present evidence at the Final Approval
3 Hearing, must include in their written objection(s) the identity of any witness(es) they may call to
4 testify and copies of any exhibit(s) they intend to offer at the hearing. If an objector hires an
5 attorney to represent him or her for the purposes of making an objection, the attorney must file a
6 notice of appearance with the Court by the Objection Deadline.

7 **Exclusion from the Settlement Class**

8 20. Any requests for exclusion are due no later than 45 days after the Notice Date (the
9 "Opt-Out Deadline"). Any person who would otherwise be a member of the Settlement Class who
10 wishes to be excluded from the Settlement Class must notify the Claims Administrator in writing
11 of that intent either (i) by first-class mail postmarked no later than the Opt-Out Deadline or (ii) by
12 submission on the Settlement Website no later than the Opt-Out Deadline. The written notification
13 must include the person's name, address, and signature and a statement that the person wishes to
14 be excluded from the Settlement in this Action. All persons who submit valid and timely
15 notifications of exclusion in the manner set forth in this paragraph shall have no rights under the
16 Settlement Agreement, shall not share in the monetary relief provided by the Settlement, and shall
17 not be bound by the Settlement Agreement or any Orders or final judgment of the Court.

18 21. Any member of the Settlement Class who does not notify the Claims Administrator
19 of his, her, or its intent to be excluded from the Settlement Class in the manner stated herein shall
20 be deemed to have waived his or her right to be excluded from the Settlement Class. If the Court
21 approves the Settlement, any such person shall forever be barred from requesting exclusion from
22 the Settlement Class in this or any other proceeding, and shall be bound by the Settlement and the
23 judgment, including the release of the Released Claims against HP provided for in the Settlement
24 Agreement and the Final Order and Judgment.

25 **Termination of the Settlement**

26 22. If the Settlement fails to become effective in accordance with its terms, or if the
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1 Final Order and Judgment is not entered or is reversed or vacated on appeal, this Order shall be
2 null and void, the Settlement Agreement shall be deemed terminated, and the Parties shall return
3 to their positions without any prejudice, as provided for in the Settlement Agreement.

4 **Limited Use of This Order**

5 23. The fact and terms of this Order and the Settlement, all negotiations, discussions,
6 drafts and proceedings in connection with this Order and the Settlement, and any act performed or
7 document signed in connection with this Order and the Settlement, shall not, in this or any other
8 Court, administrative agency, arbitration forum, or other tribunal, constitute an admission, or
9 evidence, or be deemed to create any inference (i) of any acts of wrongdoing or lack of
10 wrongdoing, (ii) of any liability on the part of HP to Plaintiffs, the Settlement Class, or anyone
11 else, (iii) of any deficiency of any claim or defense that has been or could have been asserted in
12 this Action, (iv) of any damages or absence of damages suffered by Plaintiffs, the Settlement
13 Class, or anyone else, or (v) that the benefits obtained by the Settlement Class under the
14 Settlement correspond to the relief that could or would have been obtained from HP in this Action
15 if it were not settled at this time. The fact and terms of this Order and the Settlement, and all
16 negotiations, discussions, drafts, and proceedings associated with this Order and the Settlement,
17 including the judgment and the release of the Released Claims provided for in the Settlement
18 Agreement, shall not be offered or received in evidence or used for any other purpose in this or
19 any other proceeding in any court, administrative agency, arbitration forum, or other tribunal,
20 except as necessary to enforce this Order, the Final Order and Judgment, and/or the Settlement.

21 **Reservation of Jurisdiction**

22 24. The Court retains exclusive jurisdiction over the Action to consider all further
23 matters arising out of or connected with the Settlement.

24 25. Pending further order of the Court, all litigation activity and events, except those
25 contemplated by this Order or in the Settlement Agreement or Plan of Allocation, are hereby
26 STAYED.

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IT IS SO ORDERED.

DATED: _____

HON. EDWARD J. DAVILA
UNITED STATES DISTRICT JUDGE

Exhibit 5

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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTHERN CALIFORNIA
SAN JOSE DIVISION**

IN RE HP PRINTER FIRMWARE UPDATE
LITIGATION

Case No. 5:16-cv-05820-EJD-SVK

**[PROPOSED] FINAL ORDER AND
JUDGMENT**

1 This matter came before the Court for hearing pursuant to the Order Preliminarily Approving
2 Class Action Settlement and Providing for Notice, dated _____, 2018 (“Preliminary
3 Approval Order”), on the motion of Plaintiffs for approval of the proposed class action settlement (the
4 “Settlement”) with Defendant HP Inc. (“HP”). Due and adequate notice having been given of the
5 Settlement as required by the Preliminary Approval Order, the Court having considered all papers filed
6 and proceedings conducted herein, and good cause appearing therefor, it is hereby ORDERED,
7 ADJUDGED and DECREED as follows:

8 1. This Final Order and Judgment incorporates by reference the definitions in the
9 Settlement Agreement with HP dated September 18, 2018 (the “Agreement”), and all defined terms
10 used herein have the same meanings ascribed to them in the Agreement.

11 2. This Court has jurisdiction over the subject matter of this litigation and over all Parties
12 thereto.

13 3. The Court reaffirms its findings, rendered in the Preliminary Approval Order, that for
14 purposes of the Settlement, all prerequisites for maintenance of a class action set forth in Federal Rules
15 of Civil Procedure 23(a) and (b)(3) are satisfied. The Court hereby makes final its appointments of
16 Class Counsel and Class Representatives and its preliminary certification of the Settlement Class
17 consisting of all Persons who own or owned one or more of the following printers:

- 18 • HP OfficeJet Pro 6230
- 19 • HP OfficeJet 6812
- 20 • HP OfficeJet 6815
- 21 • HP OfficeJet 6820
- 22 • HP OfficeJet Pro 6830
- 23 • HP OfficeJet Pro 6835
- 24 • HP OfficeJet Pro 8610
- 25 • HP OfficeJet Pro 8615
- 26 • HP OfficeJet Pro 8616
- 27 • HP OfficeJet Pro 8620
- 28 • HP OfficeJet Pro 8625
- HP OfficeJet Pro 8630
- HP OfficeJet Pro X551dw
- HP OfficeJet Pro X451dn
- HP OfficeJet Pro X451dw
- HP OfficeJet Pro X576dw
- HP OfficeJet Pro X476dn
- HP OfficeJet Pro X476dw

1 Excluded from the Class are HP, its officers, directors, and affiliates at all relevant times, members of
2 their immediate families and their legal representatives, heirs, successors or assigns, and any entity in
3 which HP had or has a controlling interest. Also excluded from the Class are those Persons who
4 timely and validly request exclusion.

5 4. Pursuant to Federal Rule of Civil Procedure 23(e), the Court hereby grants final
6 approval of the Settlement and finds that it is, in all respects, fair, reasonable, and adequate and in the
7 best interests of the Settlement Class.

8 5. The Court finds that notice of this Settlement was given to Class Members in accordance
9 with the Preliminary Approval Order and constituted the best notice practicable of the proceedings and
10 matters set forth therein, including the Settlement, to all Persons entitled to such notice, and that this
11 notice satisfied the requirements of Federal Rule of Civil Procedure 23 and of due process.

12 6. The Court directs the Parties and the Claims Administrator to implement the Settlement
13 according to its terms and conditions, including the Plan of Allocation.

14 7. Upon the Effective Date, Plaintiffs and all Settlement Class Members shall be deemed to
15 have, and by operation of this Judgment shall have, fully, finally, and forever released, relinquished,
16 and discharged HP from all Released Claims. Upon the Effective Date, HP shall be deemed to have,
17 and by operation of this Judgment shall have, fully, finally, and forever released, relinquished, and
18 discharged Plaintiffs and all Settlement Class Members from all Released Claims.

19 8. The Persons identified in Exhibit 1 hereto requested exclusion from the Settlement Class
20 as of the Opt-Out Deadline. These Persons shall not share in the monetary benefits of the Settlement,
21 and this Final Order and Judgment does not affect their legal rights to pursue any claims they may
22 have against HP.

23 9. Neither Class Counsel's application for attorneys' fees, reimbursement of litigation
24 expenses, and service awards for Plaintiffs, nor any order entered by this Court thereon, shall in any
25 way disturb or affect this Judgment, and all such matters shall be considered separate from this
26 Judgment.

27 10. Neither the Settlement, nor any act performed or document executed pursuant to or in
28 furtherance of the Settlement or its associated agreements, is or may be deemed to be or may be used

1 as an admission of, or evidence of, (a) the validity of any Released Claim, (b) any wrongdoing or
2 liability of HP, or (c) any fault or omission of HP in any proceeding in any court, administrative
3 agency, arbitral forum, or other tribunal.

4 11. Without affecting the finality of this Judgment, this Court reserves exclusive jurisdiction
5 over all matters related to administration, consummation, enforcement, and interpretation of the
6 Settlement, its associated agreements, and this Final Order, including (a) distribution or disposition of
7 the Settlement Fund; (b) further proceedings, if necessary, on the application for attorneys' fees,
8 reimbursement of litigation expenses, and service awards for Plaintiffs; and (c) the Settling Parties for
9 the purpose of construing, enforcing, and administering the Settlement. If HP fails to fulfill its
10 obligations under the Settlement, the Court retains authority to vacate the provisions of this Judgment
11 releasing, relinquishing, and discharging the Released Claims.

12 12. If the Settlement does not become effective under the terms of the Agreement, then this
13 Judgment shall be rendered null and void to the extent provided by and in accordance with the
14 Agreement and shall be vacated and, in such event, all orders entered and releases delivered in
15 connection herewith shall be null and void to the extent provided by and in accordance with the
16 Agreement.

17 13. The Action is hereby dismissed, with prejudice.

18 **IT IS SO ORDERED.**

19
20 DATED: _____

21 HON. EDWARD J. DAVILA
22 UNITED STATES DISTRICT JUDGE
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Exhibit B



Firm Resume

Girard Gibbs is a national litigation firm representing plaintiffs in class and collective actions in state and federal courts, and in arbitration matters worldwide. The firm serves individuals, institutions and business clients in cases involving consumer protection, securities, antitrust, personal injury, whistleblower laws, and employment laws.

Our clients range from individual consumers and small businesses to Fortune 100 corporations and public pension funds. We have recovered over a billion dollars on behalf of our clients in class actions and non- class cases. In addition to litigation, our firm also provides consulting and strategic counseling services to institutional clients and professionals in securities litigation, corporate governance and international business matters. We are committed to achieving favorable results for all of our clients in the most expeditious and economical manner possible.

Girard Gibbs has been distinguished as a Tier 1 law firm for plaintiffs' mass tort and class-action litigation in the "Best Law Firms" list in the survey published in the U.S. News & World Report's Money Issue. And *The National Law Journal (NLJ)* has named Girard Gibbs to its elite "Plaintiffs' Hot List," a selection of top U.S. plaintiffs' firms recognized for wins in high-profile cases.

Thirteen of the firm's attorneys have been selected as Northern California Super Lawyers and Rising Stars. Three of the firm's senior attorneys, Daniel Girard, Eric Gibbs, and Michael Danko, have additionally been recognized among the "Top 100 Super Lawyers" in Northern California, and were selected by their peers for *The Best Lawyers in America* 2012- 2017. *Best Lawyers* also designated Mr. Girard as the 2013 "Lawyer of the Year" in San Francisco for class action litigation. Mr. Girard and Mr. Gibbs have both earned *AV-Preeminent* ratings from Martindale-Hubbell, recognizing them in the highest class of attorneys for professional ethics and legal skills.

Partners

<i>Daniel Girard</i>	<i>p. 2</i>
<i>Eric Gibbs</i>	<i>p. 4</i>
<i>Dena Sharp</i>	<i>p. 6</i>
<i>Adam Polk</i>	<i>p. 7</i>
<i>Jordan Elias</i>	<i>p. 8</i>

Associates

<i>Simon Grille</i>	<i>p. 8</i>
<i>Scott Grzeczyk</i>	<i>p. 8</i>
<i>Emily Jenks</i>	<i>p. 9</i>
<i>Mani Khamvongsa</i>	<i>p. 9</i>
<i>Elizabeth Kramer</i>	<i>p. 9</i>
<i>Michael Marchese</i>	<i>p. 10</i>
<i>Angelica Ornelas</i>	<i>p. 10</i>
<i>Trevor Tan</i>	<i>p. 10</i>
<i>Tom Watts</i>	<i>p. 11</i>

Of Counsel

<i>David Berger</i>	<i>p. 11</i>
<i>Aaron Blumenthal</i>	<i>p. 11</i>
<i>Caroline Corbitt</i>	<i>p. 12</i>
<i>Michael Danko</i>	<i>p. 12</i>
<i>A.J. De Bartolomeo</i>	<i>p. 13</i>
<i>Dylan Hughes</i>	<i>p. 14</i>
<i>Amanda Karl</i>	<i>p. 15</i>
<i>John Kehoe</i>	<i>p. 15</i>
<i>Linda Lam</i>	<i>p. 16</i>
<i>Steve Lopez</i>	<i>p. 16</i>
<i>Karen Barth Menzies</i>	<i>p. 17</i>
<i>Kristine Meredith</i>	<i>p. 17</i>
<i>Robert Mosier</i>	<i>p. 18</i>
<i>Geoffrey Munroe</i>	<i>p. 19</i>
<i>Andre Mura</i>	<i>p. 19</i>
<i>Michael Schrag</i>	<i>p. 20</i>
<i>David Stein</i>	<i>p. 21</i>
<i>Steven Tindall</i>	<i>p. 21</i>
<i>Amy Zeman</i>	<i>p. 22</i>

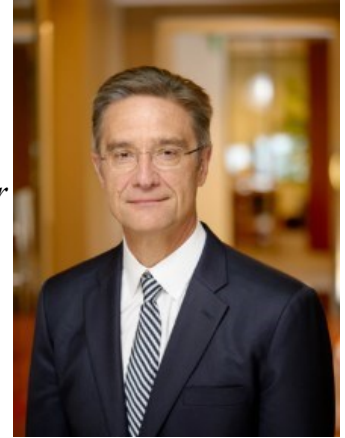
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<i>False Advertising</i>	<i>p. 22</i>
<i>Defective Products</i>	<i>p. 24</i>
<i>Other Consumer</i>	<i>p. 25</i>
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<i>Antitrust</i>	<i>p. 31</i>
<i>Government Reform</i>	<i>p. 31</i>

ATTORNEYS

Partners

Daniel Girard serves as the firm's managing partner and coordinates the prosecution of various consumer protection, securities, and antitrust legal matters handled by the firm. Some of Mr. Girard's recent case work includes serving as lead counsel and primary settlement negotiator in *In re Peregrine Group Customer Litigation* (\$70 million in client recoveries); *In re Sears Holdings Corp. Derivative Litigation* (\$40 million recovery); *In re Oppenheimer California Fund Securities Litigation* (\$50.75 million recovery); and *Billitteri v. Securities America, Inc.*, (\$150 million recovery). He served as a member of the Steering Committee in the Jay Peak EB-5 Visa Litigation (*Daccache v. Raymond James Financial, Inc.*) (\$150 million partial settlement). He also led *Paeste v. Government of Guam*, in which the Court entered an injunction reforming income tax refund payment procedures for the Territory of Guam.



His previous work includes serving as a member of the executive committee charged with managing *In re Lehman Brothers Holdings Securities and ERISA Litigation*, multidistrict proceedings arising out of the collapse of Lehman Brothers Holdings, Inc., the largest bankruptcy in United States history. The Lehman litigation resulted in recoveries of over \$735 million. He served on the Executive Committee in the *Natural Gas Antitrust Cases I, II, III and IV* antitrust litigation against numerous natural gas companies for manipulating the market for natural gas in California. The *Natural Gas* litigation resulted in total settlements of nearly \$160 million.

Mr. Girard currently represents purchasers of universal life insurance in several pending matters, including as liaison counsel in *Larson v. John Hancock* in Alameda County, California Superior Court, where a \$59.75 million settlement is awaiting final approval. He represents investors in Woodbridge Mortgage Investments, a California-based enterprise that filed for bankruptcy after raising over \$1 billion in private securities sales. He serves as lead counsel in an action against Wells Fargo for violating the Telephone Consumer Protection Act. Mr. Girard is one the lead counsel in *In re Wal-Mart Stores Derivative Litigation*, representing CalSTRS in derivative litigation arising out of alleged violations of the Foreign Corrupt Practices Act. He also oversees the firm's work on several antitrust matters, including the *In re Capacitors Antitrust Litigation*. Mr. Girard has been retained by a range of clients in litigation and advisory matters, including the California Teachers' Retirement System, the California Public Employees Retirement System, Kansas Public Employees Retirement System, the State of Wisconsin Investment Board, the American Federation of Government Employees, Allianz of America, Inc., Fireman's Fund Insurance Company, and German photographer Gunter Sachs.

Mr. Girard was appointed by the Chief Justice William H. Rehnquist to serve on the United States Judicial Conference's Advisory Committee on Civil Rules in 2004 and reappointed for a second term by Chief Justice John G. Roberts in 2007. As a member of the Civil Rules Advisory Committee's Discovery Subcommittee, he participated in the Committee's drafting of amendments governing electronic discovery, summary judgment and expert discovery. In 2015, he was appointed by Chief Justice Roberts to serve on the Standing Committee on Rules of Practice and Procedure. He is also a member of the American Law Institute. He served several terms on the Advisory Board of the Institute for the

Advancement of the American Legal System, a national, non-partisan organization dedicated to improving the process and culture of the civil justice system.

Mr. Girard is the co-author of *Limiting Evasive Discovery: A Proposal for Three Cost-Saving Amendments to the Federal Rules*, 87 DENV. U. L. REV. 473 (2010) and *Managez efficacement vos litiges d'affaires*, Extrait du magazine, Décideurs N°121, November 2010. Other published articles include: *Stop Judicial Bailouts*, The National Law Journal, December 1, 2008, and *Billions to Answer For*, Legal Times, September 15, 2008. His speaking engagements in the last five years include the following presentations: *Panelist for Class Action Settlements and Discovery presentations*, HB Litigation Conferences, May 3, 2016; *Panelist for Data Breach & Privacy presentation*, HB Litigation Conferences, February 11, 2016; *Panelist for "Hello 'Proportionality', Goodbye 'Reasonably Calculated'"*, Joint Conference of ABA Section of Litigation and Duke Law Center for Judicial Studies, January 28, 2016; *Invited Participant in Special MDL Conference*, Duke Law Center for Judicial Studies, October 8, 2015; *Co-panelist with Judge James P. O'Hara on Discovery Amendments to Federal Rules of Civil Procedure*; Kansas City Metropolitan Bar Association, D. Kan., and W. D. of Mo., September 17, 2015; *Panelist in Private Breakfast Seminar on Class Action Risk Mitigation Strategies*, Lazareff LeBars, September 22, 2015; *Invited Participant on Judicial Conference Advisory Committee on Civil Rules*, Rule 23 Mini-Conference, September 11, 2015; *Attorney Faculty in Managing Complex Litigation Workshop for US District Judges*, Federal Judicial Center, August 25-25, 2015; *Moderator and Panelist on panels addressing proposed Rule 23 amendments*, Class Action Settlement Conference, Duke Law Center for Judicial Studies, July 2015; *Panelist on Role of Consumer Class Actions in the Herbal Supplements Industry*, HarrisMartin's MDL Conference: Herbal Supplements Litigation, May 27, 2015; *Panelist on Transferee Judge Case Management*; Multidistrict Litigation Institute, Duke Law Center for Judicial Studies, April 9-10 2015; *Roundtable Participant on Settlement Class Actions*, George Washington University Law School, April 8, 2015; *Lessons from Recent Data Breach Litigation*, Western Trial Lawyers, February 26, 2015; *Speaker in Privacy & Cybersecurity Webinar*, State Bar of California, February 24, 2015; *Panelist on Preservation Issues*, Proportionality Discovery Conference, Duke Law Center for Judicial Studies, November 13-14, 2014; *Roundtable Participant on Public and Private Enforcement after Halliburton, ATP and Boilermakers*, Duke Law Center for Judicial Studies, September 26, 2014; *Co-panelist on Consolidation and Coordination in Generic Drug Cases*, HarrisMartin's Antitrust Pay for Delay Conference, September 22, 2014; *Guest Lecturer on Civil Litigation Seminar*, UC Berkeley, Hastings School of Law, September 18, 2014; *Panel Moderator on Selection and Appointment of Plaintiff's Steering Committee*, MDL Best Practices, Duke Law Center for Judicial Studies, September 11-12, 2014; *Panel on Shareholder Class Action Lawsuits under the New Companies Act*, Joint Conference of the Society of Indian Law Firms and the American Bar Association, Delhi, India, February 14-15, 2015; *Panelist on Symposium on Class Actions*, University of Michigan Law School Journal of Law Reform, March 2013; *Co-taught Seminar on Class Actions and Complex Litigation*, Duke University Law School, January 2013; *Recent Developments in U.S. Arbitration Law*, Conference on Business Law in Africa, Abidjan, Côte d'Ivoire, October 2012; *Bringing and Trying a Securities Class Action Case*, American Association for Justice 2012 Annual Convention, July 2012; *Panel on Class Actions*, U.S. Judicial Conference Standing Committee on Rules of Practice and Procedure, Phoenix, January 2012; *Panel on Paths to (Mass) Justice*, Conference on Globalization of Class Actions and Mass Litigation, The Hague, December 2011; *Contentieux et Arbitrage International: les bons réflexes à acquérir (Litigation and International Arbitration: acquiring the right reflexes)*, Paris, France, March 2011; *Panel on Proposals for Rule Amendments and Preservation Obligations*, United States Judicial Conference Advisory Committee on Rules of Practice and Procedure, January 2011.

Mr. Girard is a member of the Business Law Section of the American Bar Association. He is past Chair of the Business Law Section's Subcommittee on Class Actions, Co-Chair of the Business and Corporate Litigation Committee's Task Force on Litigation Reform and Rule Revision, and Vice-Chair of the Business and Corporate Litigation Committee. He has served as a guest lecturer on class actions and complex litigation at the UC Davis School of Law, UC Berkeley (Boalt Hall), UC Hastings College of the Law, Vanderbilt Law School and Stanford Law School.

Mr. Girard has been selected among *The Best Lawyers in America* (2012-2017) for his work in class action and securities litigation, and was also named 2013 "Lawyer of the Year" in San Francisco for Mass Tort Litigation/Class Actions - Plaintiffs. Mr. Girard has been consistently honored as a Northern California Super Lawyer (2007-2018), and has also earned the distinction of being included in the "Top 100 Super Lawyers" in Northern California. He has been named among the highest class of attorneys for professional ethics and legal skills with an *AV-Preeminent* rating by Martindale Hubbell, and was featured in the 2012 edition of San Francisco's Top AV-Preeminent Rated Lawyers.

He served as a member of the Board of Trustees of St. Matthew's Episcopal Day School in San Mateo, California from 2003-2008, including three years as board chair from 2005-2008. He served as a volunteer conservation easement monitor for the Peninsula Open Space Trust from 1991 to 2010.

Mr. Girard is a 1984 graduate of the School of Law, University of California at Davis, where he served as an editor of the Law Review. He received his undergraduate degree from Cornell University in 1979. Mr. Girard is a member of the California Bar and is admitted to practice before the United States Supreme Court.

Eric Gibbs specializes in the prosecution of consumer and employment class actions. Mr. Gibbs has served as court-appointed lead counsel, class counsel and liaison counsel in numerous class actions throughout the United States.

He has successfully prosecuted more than 75 class action matters, including cases involving defective products, telecommunications, credit cards, unfair competition, false advertising, truth-in-lending, product liability, credit repair, employment misclassification and wage and hour under both state and federal law. Some of the recent cases in which Mr. Gibbs served as court appointed class counsel and achieved favorable results for class members include *Smith vs. The Regents of the University of California* (negotiated a material change in UCSF's privacy practices on behalf of a certified class of current and former patients of the UCSF medical center for unlawful disclosure of confidential medical information); *In Re: Pre-Filled Propane Tank Marketing and Sales Practices Litigation* (negotiated cash reimbursements of up to \$75 per class member for the purchase of allegedly under-filled propane tanks), *Browne et al. v. American Honda Motor Co., Inc.* (negotiated class settlement providing for cash reimbursements of up to \$150 for rear brake pad replacement expenses in certain Honda and Acura vehicles), *Collado v. Toyota Motor Sales, U.S.A., Inc.* (negotiated a class settlement providing for a free warranty extension and cash reimbursements for many Prius owners who paid for headlight repairs), *In Re Mercedes-Benz Tele Aid Contract Litigation* (negotiated a class settlement providing for cash reimbursements of \$650, or new vehicle credits for up to \$1,300), *Parkinson v. Hyundai Motor America* (achieved nationwide class certification and settlement providing for cash reimbursements for certain flywheel / clutch parts repairs in 2003 Hyundai Tiburons), *Refuerzo v. Spansion LLC*, (negotiated more



than \$8.5 million in cash settlements on behalf of a certified class of former employees in a class action for violations of the WARN Act), *In Re General Motors Dex-Cool Cases* (negotiated cash reimbursements from \$50 to \$800 per class member vehicle repair), *Bacca v. BMW of North America* (negotiated reimbursement for sub-frame repair expenses and Nationwide Sub-frame Inspection and Repair Program), and *Piercy v. NetZero* (achieved nationwide class settlement providing cash reimbursements, and changes in billing and account practices). He conducted a two-week arbitration resulting in a liability and damages award on behalf of a certified class of current and former account representatives of Masco Retail Cabinet Group who alleged they were misclassified under the Fair Labor Standards Act. Mr. Gibbs was appointed as interim class counsel on the Plaintiffs' Executive Committee in *In re Chase Bank U.S.A., N.A. "Check Loan" Contract Litigation*, multidistrict litigation alleging that Chase Bank wronged consumers by offering them long-term fixed-rate loans, and then attempting to deny them the benefit of their bargain by more-than-doubling their loan payments. He led settlement negotiations in the case, which resulted in a \$100 million settlement with Chase eight weeks prior to trial. He also served as interim class counsel in *Milano v. Interstate Battery System of America, Inc.*, representing purchasers of automobile batteries in a breach of warranty action.

Other significant consumer class actions in which Mr. Gibbs acted in a leadership role include *Mitchell v. American Fair Credit Association* and *Mitchell v. Bankfirst, N.A.*, which generated one of the largest settlements in the United States under the credit services laws (over \$40 million); *Providian Credit Card Cases*, which resulted in one of the largest class action recoveries in the United States arising out of consumer credit card litigation (\$105 million); *In Re iPod Cases* (achieved settlement in California state-court class action alleging material misrepresentations with respect to iPods' battery life, and obtained warranty extensions, battery replacements, cash payments, and store credits for those class members who experienced an iPod battery failure), *Roy v. Hyundai Motor America* (negotiated nationwide class settlement providing for the repair of allegedly defective passenger-side airbags, reimbursement for transportation related expenses, and an alternative dispute resolution program allowing for trade-ins and buy-backs), *Paul v. HCI Direct* (achieved nationwide class certification and settlement on behalf of consumers charged for merchandise they allegedly did not knowingly order), *Kim v. BMW of North America* (negotiated nationwide class settlement providing for notification program and free vehicle repair related to defective passenger-side airbags), *In re LookSmart Litigation*, a nationwide class action settlement providing for cash and benefits valued at approximately \$20 million; and *Fantauzzo v. Razor*, where plaintiffs alleged that defendant marketed and sold electric scooters with defective stopping mechanisms, and the court approved a nationwide class action settlement providing for, among other remedies, a recall of the potentially defective electric scooters.

Mr. Gibbs has lectured on consumer class actions, including as a featured speaker addressing *Strategic Considerations Under CAFA following Supreme Court's Rulings in Shady Grove and Purdue* at the Bridgeport 9th Annual Class Action Litigation Conference; *Current Issues Arising in Attorney Fee Negotiations, Including Best Practices* at the 2010 AAJ Annual Convention; *Dealing With Objectors* at the Consumer Attorneys of California 3rd Annual Class Action Seminar; *What is a Class Action?* At the CAOC Annual Ski Seminar; *After the Class Action Fairness Act* at CAOC's 1st Annual Class Action Seminar; *Class Certification In Consumer Cases* for the Litigation Section of the Barristers Club of the San Francisco Bar Association; and *Successfully Obtaining Attorneys' Fees Under Fee-Shifting Statutes* for the Consumer Rights Section of the Barristers Club of the San Francisco Bar Association. Mr. Gibbs is the co-author of *Consumer Class Actions in the Wake of Daugherty v. American Honda Motor Company*, CAOC's Forum Magazine, January/February 2009.

Mr. Gibbs has been selected by his peers for inclusion in *The Best Lawyers in America* (2012-2017) for his work in Mass Tort Litigation/Class Actions, and honored as a Northern California Super Lawyer (2010-2017). He also earned the distinction of being included among the “Top 100 Super Lawyers” in Northern California. With an *AV-Preeminent* rating from Martindale-Hubbell, Mr. Gibbs has been named among the highest class of attorneys for professional ethics and legal skills, and was featured in the 2012 edition of San Francisco’s *Top AV-Preeminent Rated Lawyers*.

Mr. Gibbs is a member of the Board of Governors of the Consumer Attorneys of California, the Board of Governors of the American Association for Justice, the co-chair of AAJ’s Consumer Privacy and Data Breach Litigation Group, and is the former co-chair and editor of the Quarterly Newsletter for the Class Action Litigation Group of AAJ. He is also a member of the American Bar Association, the National Association of Consumer Advocates, the Alameda County Bar Association, and the San Francisco Trial Lawyers Association.

Mr. Gibbs is a 1995 graduate of the Seattle University School of Law. He received his undergraduate degree from San Francisco State University in 1991. Before joining Girard Gibbs, he worked for two years as a law clerk for the Consumer Protection Division of the Washington Attorney General’s Office. He is a member of the California Bar.

Dena Sharp devotes her practice to representing plaintiffs in complex litigation throughout the United States. She currently leads the firm’s work as co-lead counsel in *In re Lidoderm Antitrust Litigation*, a “pay-for-delay” pharmaceutical antitrust case, and she serves on the End-Payer Plaintiffs’ Steering Committee in *In re Generic Pharmaceuticals Pricing Antitrust Litigation*, which involves wide-ranging allegations of price fixing against numerous drug companies. She has played key roles in multidistrict litigation including *In re Capacitors Antitrust Litigation* and *In re Nexium Antitrust Litigation*.



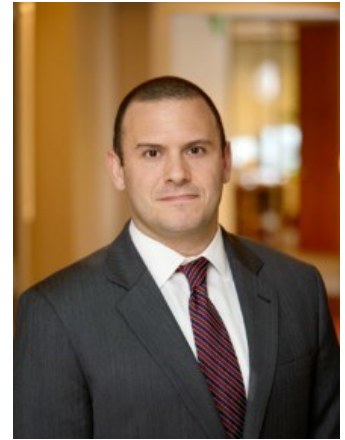
Ms. Sharp managed the firm’s work in *In re Oppenheimer California Fund Securities Litigation* (\$50.75 million recovery), and was instrumental in the successful prosecution of other securities matters including *In re Lehman Brothers Holdings Securities and ERISA Litigation* (\$120 million recovery), *Billitteri v. Securities America, Inc.* (\$150 million recovery), and *In re SLM Corporation Securities Litigation* (\$35 million recovery).

Outside the courtroom, Ms. Sharp is a co-author of the widely-cited *Sedona Principles: Best Practices and Principles for Electronic Document Production (Third Edition)*. She serves on the board of directors of the Impact Fund, a public interest law non-profit organization that offers grants, advocacy and education to support litigation on behalf of marginalized communities. A Vice Chair of the Advisory Council for the Duke Law School Center for Judicial Studies, Ms. Sharp serves on the three-person editorial board of the influential *Duke Law Proportionality Guidelines and Best Practices*, and is co-author of a chapter in a forthcoming ABA book on class action practice.

Ms. Sharp is a graduate, *cum laude*, of the University of California, Hastings College of Law, where she was a member of the Thurston Society, received the Best Oral Advocate Award, and was the recipient of the Witkin award in her Legal Writing and Criminal Law courses. She received her undergraduate degree in history, *magna cum laude* from Brown University. During law school, Ms. Sharp

externed for the Honorable Phyllis J. Hamilton of the Northern District of California, and the Honorable John E. Munter of the San Francisco Superior Court. She is fluent in Spanish and German, and is admitted to the California Bar.

Adam Polk is a partner at Girard Gibbs LLP. Adam devotes his practice to representing plaintiffs in complex securities, antitrust, and consumer class actions. Mr. Polk takes a client-focused approach to each matter he is involved with. His experience covers all aspects of civil litigation, from initial case investigation and complaint preparation through settlement or trial. He currently serves on the co-lead counsel team in *In re Nexus 6P Products Liability Litigation*, pending in the Northern District of California. Adam has taken a substantive role in several recent matters that have resolved favorably for his clients, including *Booth v. Strategic Retail Trust, Inc., et al.* (\$5 million settlement); *In re Sears Holdings Corporation Stockholder and Derivative Litigation* (\$40 million settlement); and *Daccache v. Raymond James Financial, Inc. et al.* (\$150 million partial settlement).



Prior to joining Girard Gibbs, Mr. Polk externed for Northern District of California Judges Sandra Brown Armstrong and Claudia Wilken and worked as an associate with a mid-sized regional firm where he represented both plaintiffs and defendants.

Adam is an active member of the American Bar Association's Class Action and Derivative Suits subcommittee, where he is a frequent contributor of written content regarding emerging issues in class action litigation. Mr. Polk has been selected by his peers as a Northern California Super Lawyer, Rising Star, every year since 2013.

Adam Polk is a 2010 graduate of the University of California, Hastings College of the Law.

Jordan Elias specializes in the prosecution of consumer and antitrust class actions. He has authored numerous briefs that resulted in favorable decisions to consumers, including *Pavoni v. Chrysler Group, LLC*, 789 F.3d 1095 (9th Cir. 2015); *In re Cipro Cases I & II*, 61 Cal. 4th 116 (2015); and *Sullivan v. DB Investments, Inc.*, 667 F.3d 273 (3d Cir. 2011) (en banc).



Before joining Girard Gibbs, Mr. Elias spent several years at Lief Cabraser Heimann & Bernstein where he pursued claims against monopolists and price-fixing cartels and against the nation's largest banks for deceptive practices. He also served as head writer for the plaintiffs in the wrongful death litigation against Toyota over its vehicles' sudden acceleration problems.

Early in his career, Jordan clerked for the late Judge Cynthia Holcomb Hall of the U.S. Court of Appeals for the Ninth Circuit. He also successfully represented technology companies in securities and intellectual property litigation at Wilson Sonsini Goodrich & Rosati.

Mr. Elias currently serves on the San Francisco Bar Association's Executive Committee. He teaches continuing legal education courses for the American Law Institute, the Practising Law Institute, Strafford Publications, and Law Seminar International. His articles on antitrust and class action law have

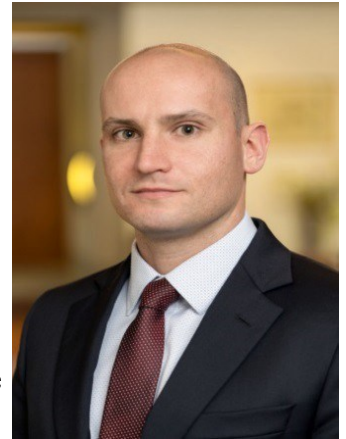
appeared in American Bar Association and State Bar of California publications. Mr. Elias has been honored as a Northern California Super Lawyer every year since 2014, and in 2012 and 2013, he was recognized as a Rising Star. In 2016, he received a California Lawyer Attorney of the Year (CLAY) award.

Mr. Elias is a 2003 graduate of Stanford Law School, where he was a member of the Law Review. He received his undergraduate degree, *magna cum laude*, from Yale College in 1998. Mr. Elias is a member of the California Bar.

Associates

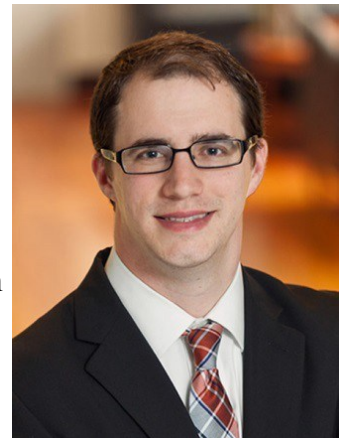
Simon S. Grille is committed to seeking justice for plaintiffs harmed by corporate misconduct. Prior to joining Girard Gibbs, Mr. Grille worked at a prominent Bay Area law firm where he represented victims of toxic exposure in complex civil litigation. Mr. Grille also has experience working in-house at a multinational company and as an extern for the Honorable Arthur S. Weissbrodt of the United States Bankruptcy Court, Northern District of California.

Mr. Grille is a 2013 graduate of UCLA School of Law, where he was honored as a distinguished brief writer and an outstanding oral advocate in multiple moot court competitions. Mr. Grille also served as a Senior Articles Editor for the Entertainment Law Review. Mr. Grille received his undergraduate degree in Political Science from UC Berkeley in 2008.



Scott Grzenczyk specializes in the prosecution of complex antitrust, consumer protection, and employment matters. He plays a principal role in *In re Lidoderm Antitrust Litigation*, where the firm serves as co-lead counsel. Mr. Grzenczyk also plays an active role in the firm's prosecution of antitrust price-fixing cases involving the prescription drugs clobetasol, desonide, fluocinonide, and propranolol. He leads the firm's litigation efforts in *Crawford v. Government of Guam*, a class action pending in the United States District Court for the District of Guam in which the firm represents native inhabitants of Guam bringing Due Process and Equal Protection claims against the Government of Guam.

Mr. Grzenczyk has successfully litigated cases in every district court in California and successfully argued before the Ninth Circuit Court of Appeals in a key immigration case (*Singh v. Holder*, 638 F.3d 1196 (9th Cir. 2011)). He has been selected as a Rising Star by Northern California Super Lawyers (2013-2017), recognizing him as one of the best young attorneys practicing in Northern California.

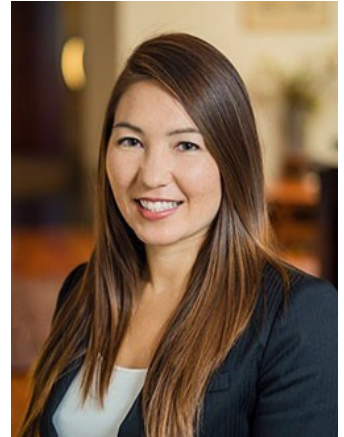


Mr. Grzenczyk is a 2011 graduate of the University of California, Davis, School of Law, where he was the Chair of the Moot Court Board and the Executive Editor of the *UC Davis Journal of International Law and Policy*. He was the recipient of the Witkin Award for Legal Research and Writing, Best Brief and Best Advocate awards in his moot court class, and numerous awards at national moot court competitions. He was also a member of the Law School's national mock trial team and the law school faculty named him as a member of the Order of the Barristers. Mr. Grzenczyk received his undergraduate degree in

political science and certificate in political theory from Princeton University in 2006. Mr. Grzenczyk is admitted to the California Bar. He is also admitted to practice before the United States District Courts for the Northern, Central, Eastern and Southern Districts of California and the Ninth Circuit Court of Appeals.

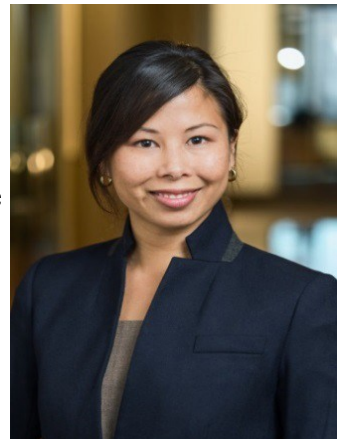
Emily Jenks is a 2010 graduate of the Santa Clara University School of Law, where she served as an Associate on the *Computer and High Technology Law Journal* and focused her studies on intellectual property and high tech law.

Ms. Jenks received her undergraduate degree in international relations with emphasis on global economy from San Francisco State University in 2005. Prior to joining Girard Gibbs, she managed large scale eDiscovery projects in antitrust, product liability, as well as bribery and corruption. Ms. Jenks is fluent in Japanese and is admitted to the California Bar.



Mani Khamvongsa focuses her practice on antitrust enforcement on behalf of class action plaintiffs harmed by corporate wrongdoing. In addition, she has experience with complex litigation matters concerning pharmaceuticals, telecommunications, and software. Previously, Ms. Khamvongsa worked at the U.S. Department of Justice, Antitrust Division, on criminal matters involving price fixing and bid rigging. She also investigated the merger of companies for anticompetitive market effects.

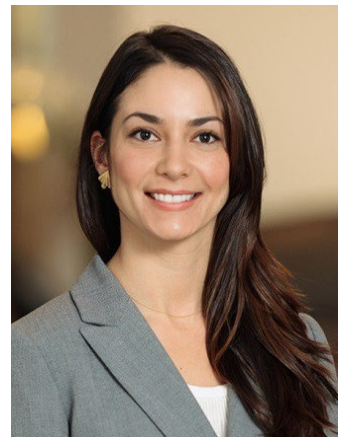
Ms. Khamvongsa graduated from the University of California, Hastings College of the Law, where she worked with the Refugee and Human Rights Clinic to obtain asylum for a victim of gender violence. She also interned for the Criminal Division of the U.S. Attorney's Office, the San Francisco District Attorney's Office, and the American Civil Liberties Union of Northern California. Before law school, she received her undergraduate degree from Oberlin College with a double major in Politics and Environmental Studies.



Ms. Khamvongsa is a member of the California Bar and admitted to practice before the U.S. Court of Appeals for the Ninth Circuit and the U.S. District Court for the Northern District of California.

Elizabeth Kramer interned at Girard Gibbs for two consecutive summers while attending the University of San Francisco, School of Law, and joined the firm full time after graduating in 2013.

While at USF, Ms. Kramer was a member of the Investor Justice Clinic, representing elderly and low-income individuals before FINRA and in settlement negotiations to resolve alleged wrongdoing by securities firms. She recovered \$35,000 for clients during her tenure at the Clinic. Ms. Kramer was also on the board of the Women's Law Association as chair of community outreach. She graduated with honors from the University of California at Santa Cruz with a degree in Psychology. Ms. Kramer is admitted to the California Bar.



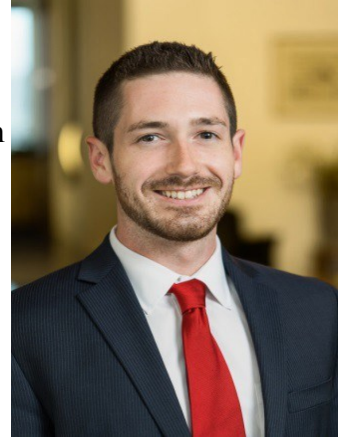
In 2016 and 2017, Ms. Kramer was honored as a Northern California
GIRARD GIBBS LLP FIRM RESUME

Super Lawyers Rising Star.

Michael Marchese is a 2015 graduate of the University of California, Hastings College of the Law.

Prior to joining Girard Gibbs, he completed a post-graduate fellowship in the Litigation Division of the Oakland City Attorney's Office. As a law student at UC Hastings, he interned at the California Coastal Commission and the Sierra Club, and was an Executive Editor of the Hastings Communications and Entertainment Law Journal.

He received his undergraduate degree with honors in Legal Studies in Business from Tulane University in 2012. Mr. Marchese is admitted to the California Bar.



Angelica Ornelas is a 2011 graduate of the University of California, Berkeley School of Law (Boalt Hall).

Prior to joining Girard Gibbs, Ms. Ornelas served as a judicial law clerk at the United States District Court for the Northern District of California and the United States Bankruptcy Court for the District of Nevada.

Ms. Ornelas also worked as a fellow at the California Monitor Program, a program developed by the California Attorney General's Office to oversee the implementation of the landmark \$25 billion National Mortgage Settlement.



Trevor Tan is a 2011 graduate of the University of Chicago Law School.

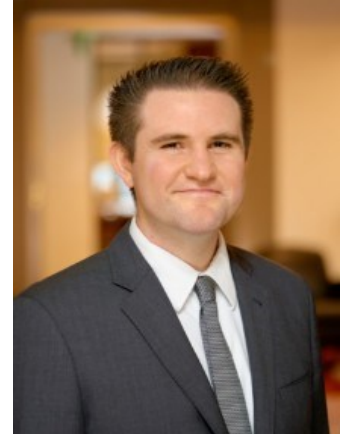
Before joining the firm, Mr. Tan was a judicial law clerk for a district judge at the United States District Court for the Central District of California and previously clerked for several judges of the Los Angeles County Superior Court.

Mr. Tan received his undergraduate degree with honors in political science from the University of California, Irvine in 2006.

During law school, Mr. Tan was an extern with the Honorable George H. Wu of the United States District Court for the Central District of California and a law clerk at the Illinois Attorney General. After graduating from law school, he was a fellow at the Young Center for Immigrant Children's Rights where he advocated on behalf of unaccompanied minors facing deportation.



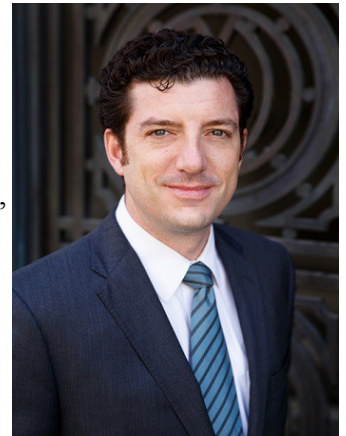
Tom Watts is a graduate of the University of California, Berkeley, where he double-majored in Classical Languages and Astrophysics, and of Harvard Law School and Harvard Kennedy School, where he earned a J.D. magna cum laude and a Master's in Public Policy



During law school, Mr. Watts interned for the California Assembly Judiciary Committee, where he analyzed legal and policy issues relating to pending legislation. He also interned for Public Advocates, where he focused on educational equity advocacy, and the Santa Clara County Counsel's Impact Litigation and Social Justice Section, where he worked on consumer protection cases. Shortly before graduating, he interned for the U.S. Department of Justice's Civil Appellate Section, where he drafted briefs relating to novel issues of constitutional and administrative law. He also served as Executive Online Editor for the Harvard Law & Policy Review and taught introductory economics at Harvard College.

Of Counsel

David Berger is a 2008 graduate of Northwestern University School of Law. He competed on the Jessup Moot Court team and defended juveniles through the Bluhm Legal Clinic's Children and Family Justice Center. Prior to joining Girard Gibbs, Mr. Berger was a law clerk in the United States District Court for the Northern District of California. He also spent several years litigating complex commercial and intellectual property cases at Robins, Kaplan, Miller & Ciresi in Minneapolis, Minnesota. There, Mr. Berger recovered millions of dollars for the State of Minnesota by proving that a chain of dentists submitted false claims to state-funded health plans. He represented people injured by the Interstate 35-W bridge collapse in victim compensation proceedings. He also represented inter-governmental organizations and companies in high-stakes commercial and intellectual property disputes.

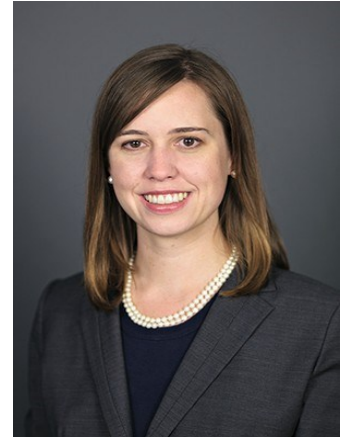


Aaron Blumenthal represents consumers and whistleblowers in class action lawsuits involving allegations of corporate misconduct. He has prosecuted a variety of consumer protection cases ranging from false advertising to defective products. He is also involved in the investigation and development of new cases.

Aaron attended the University of California, Berkeley School of Law (Boalt Hall), where he graduated *Order of the Coif* (a distinction awarded only to the top 10 percent of the graduating class). In law school, Aaron worked on consumer issues— writing and publishing a law review article on the practical strategies for combatting class action waivers in a post-*Concepcion* world.



Caroline Corbitt is a 2015 graduate of the University of Southern California, Gould School of Law, where she served as Executive Editor of the Southern California Interdisciplinary Law Journal. Ms. Corbitt was a summer 2013 extern for the Honorable Laurel Beeler, Magistrate Judge of the United States District Court, Northern District of California. Ms. Corbitt has also externed at the Federal Trade Commission and the California Department of Justice, Antitrust Division.



Before law school, Ms. Corbitt worked in book publishing in San Francisco, California. She received her undergraduate degree in history and literature from Harvard University in 2009.

Michael S. Danko is a renowned trial lawyer with more than 25 years of legal experience. He represents individuals who have suffered catastrophic personal injuries, as well as families of wrongful death victims in cases involving product defects, defective medications and medical devices, airplane and helicopter accidents, and dangerous structures. He has tried cases in state and federal courts throughout the country, and has won numerous eight-figure verdicts on behalf of his clients.



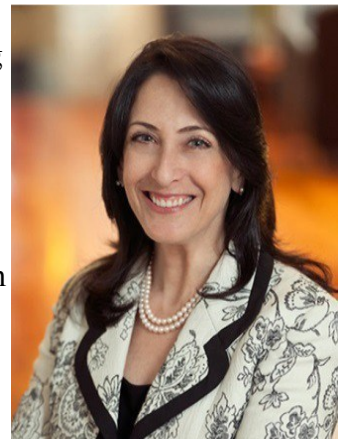
Mr. Danko represents dozens of victims of a Pacific Gas & Electric gas explosion and serves on the Plaintiffs' Steering Committee in a California state coordinated proceeding *San Bruno Fire Cases*, JCCP No. 4648. He also serves on the Science Committee for Plaintiffs in *In Re Yasmin and Yaz (Drospirenone) Marketing, Sales Practices and Products Liability Litigation*, MDL No. 2100.

In 2009, he won a \$15 million jury verdict for a client injured by a defective aircraft part, which earned him a nomination for 2009 California Trial Lawyer of the Year by the Consumer Attorneys of California.

Mr. Danko's trial advocacy has helped bring about significant reforms and changes to corporate policies. As lead counsel in *In Re Deep Vein Thrombosis Litigation*, MDL No. 04-1606 (N.D. Cal.), he represented more than one hundred air travelers who suffered strokes, pulmonary emboli, or heart attacks as a result of airline-induced blood clots. He developed theories of liability and proof regarding the cause of his clients' injuries that led to virtually every major air carrier warning air travelers about the risks of deep vein thrombosis and measures to mitigate those risks. Mr. Danko also represented parents of children who were injured or killed by a popular candy made by a foreign manufacturer. His work in proving that the candy's unusual ingredients and consistency made it a choking hazard resulted in the candy being removed from Costco and Albertson's stores nationwide, and helped lead the FDA to ban the candy from further import into the United States.

He has been named a Northern California Super Lawyer each year since the award's inception in 2004. He is a *Lawdragon 500* finalist. In 2010, he was named one of the Best Lawyers in America. He is a member of the American Association for Justice, the Lawyer Pilots Bar Association and the Consumer Attorneys of California, where he serves on the board of governors. Mr. Danko received his AB degree from Dartmouth College, *magna cum laude*, in 1980, and earned his JD from the University of Virginia School of Law in 1983.

A.J. De Bartolomeo has more than twenty years of experience in complex litigation, including the prosecution and defense of class actions arising under the securities, communications, consumer protection and copyright laws. Her experience extends to the prosecution of pharmaceutical and medical device litigation as well as the collection of class action recoveries and claims administration in bankruptcy proceedings. She has served as court-appointed lead counsel and class counsel in several class actions throughout the United States, and presently serves as a member of the Plaintiffs' Steering Committee in three MDL mass tort actions.



Ms. De Bartolomeo served as Lead Counsel in *Telstar v. MCI, Inc.* (S.D.N.Y.) (achieved settlement for over \$2.8 million in cash on behalf of class of commercial subscribers alleging FCA violations), *Lehman v. Blue Shield* (Cal. Super. Ct. San Francisco County) (parties negotiated a settlement for over \$6.5 million in cash on behalf of class of subscribers overpaying insurance premiums), *Powers Law Offices v. Cable & Wireless, USA* (D. Mass.) (Bankr. D. Del.) (achieved settlement for over \$2.2 million in cash after Chapter 7 filing on behalf of Rule 23(b)(3) certified class of commercial customers alleging FCA violations), and *In re Cosmo Store Services*, (Bankr. C.D. Cal.) (achieved settlement for \$1 million in cash after Chapter 11 filing on behalf of class of unsecured creditor employees). Ms. De Bartolomeo has also held a leadership position in *In re American Express Advisors Securities Litigation* (S.D.N.Y.), *CALSTRS v. Quest Communications, et al.* (Cal. Super. Ct. San Francisco County), *Cromwell v. Sprint Communications* (D. Kan.), and *Brennan v. AT&T Corp.* (S.D. Ill.). Ms. De Bartolomeo served as second chair in *In re MCI Non-Subscriber Rates Litigation* (MDL, S.D. Ill.) (\$88 million settlement). From 2005 to 2008, A. J. De Bartolomeo served on the Discovery and Law Committees in the *In Re Medtronic, Inc. Implantable Defibrillators Product Liability Litigation*, MDL No. 05-1726 (JMR/AJB) (D. Minn.).

Ms. De Bartolomeo is currently court-appointed to the Plaintiffs' Steering Committee in the *Yaz & Yasmin* birth control litigation (MDL 2100) and she also serves as Co-Chair of the Law and Briefing Committee. She is also court-appointed to the Steering Committee in the *Pradaxa* blood thinner personal injury and product liability lawsuits (MDL 2385), coordinated in federal court in East St. Louis, as well as

Actos diabetes drug personal injury and product liability lawsuits (MDL 2299), coordinated in the Western District of Louisiana.

Ms. De Bartolomeo has been named among the highest class of attorneys for professional ethics and legal skills with an AV-Preeminent rating by *Martindale Hubbel*, and was honored as a *Northern California Super Lawyer* (2013). She is a member of the American Bar Association Sections on Litigation, Business Law and Communications, the American Bankruptcy Institute, Consumer Attorneys of California and the American Association for Justice. In July 2012, she was elected as an officer of the Women's Trial Lawyer Caucus of the American Association of Justice, and she currently serves as Second Vice-Chair. She also is also a former member of the National Association of Public Pension Attorneys, where she was an active participant in the Task Force on Securities Litigation and Damage Calculation, as well as a member of the Council of Institutional Investors.

Ms. De Bartolomeo has been invited to speak on consumer and securities class actions, mass tort actions, as well as the settlement approval process before plaintiff and defense law firms, institutional investors and government committees; most recently, for Bridgeport Continuing Education, the Women's Leadership Summit at the AAJ Annual Convention and the Fact-finding Mission to Class Actions in the United States, sponsored by the Japan Federation of Bar Associations and Kyoto Bar Association. She is the author of "*Facilitating the Class Action Approval Process*," AAJ's Women Trial Lawyers Caucus Newsletter, summer 2010.

Ms. De Bartolomeo is a 1988 graduate of the University of California, Hastings College of the Law. She received her undergraduate degree from Fairfield University in 1982, and a General Course degree in Economics from the University of London, London School of Economics and Political Science (1981). Before joining Girard Gibbs, Ms. De Bartolomeo was an associate with Robins Kaplan Miller & Ciresi and a Staff Attorney with the Securities and Exchange Commission (Enforcement Division). She is admitted to the California Bar. She also is admitted to practice before the United States Supreme Court, the United States Courts of Appeals for the First and Ninth Circuits, and the United States District Courts for the District of Michigan, the Southern District of Texas, the Eastern District of Wisconsin, and the Northern, Eastern, Central and Southern Districts of California.

Dylan Hughes specializes in the prosecution of consumer and employment class actions. He represents consumers in a variety of cases ranging from false advertising to defective products, and employees in misclassification and wage and hour cases under state and federal laws. Mr. Hughes has extensive experience prosecuting complex automobile-defect cases and helped achieve recoveries on behalf of class members in the *In Re General Motors Dex-Cool Cases* (settlement of \$50 to \$800 cash reimbursements per class member vehicle repair) and *In Re General Motors Cases*, a certified California state court class action against General Motors alleging violations of California's "Secret Warranty" law, California Civil Code § 1794.90 *et seq.* Mr. Hughes was also involved in the *Parkinson v. Hyundai Motor America* lawsuit, in which plaintiffs certified a nationwide class alleging Hyundai sold vehicles with defective flywheel systems, before ultimately reaching a favorable settlement for the class.



Mr. Hughes has been selected for inclusion in Northern California Super Lawyers every year since 2012. He is a 2000 graduate of the University of California, Hastings College of Law. He received his

undergraduate degree from the University of California at Berkeley in 1995. Mr. Hughes was a spring 2000 extern for the Honorable Charles A. Legge of the United States District Court, Northern District of California.

Before joining Girard Gibbs, Mr. Hughes was a law clerk for the Honorable Paul A. Mapes, Administrative Law Judge of the Office of Administrative Law Judges, United States Department of Labor. Mr. Hughes is a member of the American Bar Association, Consumer Attorneys of California, the Class Action Litigation Group of the American Association for Justice and the Consumer Rights Section of the Barristers Club. He is admitted to the California Bar and is admitted to practice before the United States Court of Appeals for the Ninth Circuit as well as the United States District Courts for the Northern and Central Districts of California.

Amanda Karl represents consumers, employees and others who have been harmed by corporations. She is a 2014 graduate (Order of the Coif) of the University of California at Berkeley School of Law (Boalt Hall), where she served as the Managing Editor of the California Law Review, Director of the Workers' Rights Disability Law Clinic and Research Assistant to Professor Robert Berring, Jr. She also worked throughout law school as a Clinical Law Student at the East Bay Community Law Center, assisting with litigation targeting criminal record reporting violations, and as a law clerk at Equal Rights Advocates, where she worked on women's employment issues involving wage and hour law, pregnancy discrimination, ADA and Title VII. Ms. Karl received her undergraduate degree, magna cum laude, in Sociology and Human Rights from Columbia University in 2009.



Following graduation from law school, Ms. Karl served as a law clerk to the Honorable Richard A. Paez, United States Court of Appeals for the Ninth Circuit (2014-2015), and as a law clerk to the Honorable Claudia Wilken, Northern District of California (2015-2016).

John Kehoe prosecutes securities and financial fraud cases in federal and state courts on behalf of institutional and individual clients. He has served as lead counsel in a number of precedent-setting cases including *In re Bank of America Corporation Securities Litigation* (\$2.4 billion settlement); *In re Wachovia Preferred Securities and Bond/Notes Litigation* (\$627 million settlement); *In re Initial Public Offering Securities Litigation* (\$586 million settlement resolving 309 consolidated actions); *In re Lehman Brothers Securities and ERISA Litigation* (\$516 million settlement); and *In re Marvell Technology Group Ltd. Securities Litigation* (\$72 million settlement). He also had a significant prosecutorial role in *In re Brocade Securities Litigation* (\$160 million settlement).



John has represented clients before the Second and Eleventh Circuit Courts of Appeals, and he is active in merger and acquisition litigation before The Delaware Court of Chancery, including serving on the Executive Committee in *In re Safeway Stockholders Litigation*, through which value of the transaction to stockholders was increased by more than \$80 million.

Prior to attending law school, John worked as a law enforcement officer in the State of Vermont (1986-94), serving as a member of the tactical Special Reaction Team and the Major Accident

Investigation Team. He is a program faculty member with the National Institute of Trial Advocacy, and served as an adjunct faculty member with the Trial Advocacy Training Program at the Louisiana State University School of Law.

John is a frequent speaker at conferences focused on shareholder rights and corporate governance issues. He received his Juris Doctorate, *magna cum laude*, from Syracuse University College of Law. He also received a Masters of Public Administration from the University of Vermont, and Bachelor of Arts from DePaul University, where he was starting goalkeeper on the Division Isoccer team, and an exchange student to the University of Economics in Budapest, Hungary.

John is Of Counsel to Gibbs Law Group and a shareholder at Kehoe Law Firm.

Linda Lam focuses her practice on representing consumers, small businesses, and employees in complex contingency litigation. Before joining the firm, Ms. Lam was an associate attorney at a national employee benefits and employment law firm, where she represented workers and retirees.

Ms. Lam graduated *magna cum laude* from the University of California, Hastings College of the Law in 2014, where she was inducted into the Order of the Coif. In law school, Ms. Lam served as the Production Editor for the Hastings Race and Poverty Law Journal. She worked as a research assistant to Professor Reuel Schiller. Additionally, Ms. Lam worked on a team in the Refugee and Human Rights Clinic to win asylum status for a domestic violence victim from Mexico. In 2012, she externed for the Honorable Joseph Spero in the Northern District of California.



Steve Lopez is a 2014 graduate of the University of California at Berkeley School of Law (Boalt Hall), where he was a Publishing Editor for the California Law Review and an Editor for the Berkeley Journal of Employment and Labor Law. Mr. Lopez was also a member of the La Raza Law Students Association and the Legal Aid Society–Employment Law Center’s Berkeley Workers’

Rights Clinic, where he successfully argued a client’s unemployment insurance appeal in an administrative hearing. He was the recipient of the American Jurisprudence Award in Insurance Law, and the Prosser Prize in Remedies and Employee Benefit Law.



Before law school, Mr. Lopez performed research for a consulting firm specializing in improving justice programs. He received his undergraduate degree in economics and international relations from the University of Virginia in 2008.

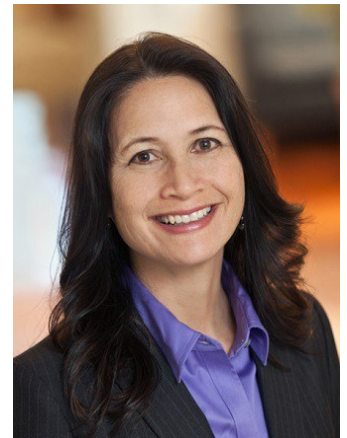
Karen Barth Menzies is a nationally-recognized mass tort attorney with more than twenty years of experience in federal and state litigation. Courts throughout the country have appointed Karen to serve in leadership positions including Lead Counsel, Liaison Counsel and Plaintiff Steering Committee in some of the largest pharmaceutical and device mass tort cases. Karen currently serves in leadership positions in the Zolofit Birth Defect Litigation (federal and California state courts), Transvaginal Mesh Litigation (federal and California state courts), Fosamax Femur Fracture Litigation (California state court), Lexapro/Celexa Birth Defect Litigation Missouri state court).



Karen is particularly focused on women's health issues and drugs that cause harm to children. She currently represents women suffering permanent baldness following breast cancer chemotherapy treatments with Taxotere, and children who experienced severe side effects after taking the widely-prescribed medication Risperdal. Karen believes in advocating for drug safety and for the victims in the face of profit-driven corporations. She has testified twice before FDA advisory boards as well as the California State Legislature on the safety concerns regarding the SSRI antidepressants and the manufacturers' misconduct.

Karen frequently publishes and presents on issues involving drug safety, mass tort litigation, FDA reform and federal preemption for both legal organizations (plaintiff and defense) and medical groups.

Kristine Keala Meredith is a trial attorney specializing in product liability litigation. She served as co-lead counsel with Mr. Danko representing more than one hundred air travelers who suffered strokes, pulmonary emboli, or heart attacks as a result of airline-induced blood clots in *In Re Deep Vein Thrombosis Litigation*, MDL No. 1606.



Ms. Meredith served on the Law and Motion committee in *In Re Yasmin and Yaz (Drospirenone) Marketing, Sales Practices and Products Liability Litigation*, MDL No. 2100, where she assisted in the successful opposition to 15 *Daubert* motions in fewer than three weeks. Before devoting her practice to representing plaintiffs, Ms. Meredith worked on the national defense counsel teams for medical device manufacturers in multi-district litigation including *In re Silicone Gel Breast Implants Product Liability Litigation*, MDL No. 926, and *In re Orthopedic Bone Screw Product Liability Litigation*, MDL No. 1014. She also represented doctors and hospitals in defense of medical malpractice actions, where she worked with some of the world's leading medical experts.

In 2010, Ms. Meredith was named a Northern California Super Lawyer. She is currently an officer of the American Association for Justice and the San Mateo County Trial Lawyers Association. She is also a member of the San Francisco Trial Lawyers Association and the Consumer Attorneys of California. She is a former chair of the Minority Issues Committee of the San Francisco Bar Association Barrister Club.

She obtained her B.S. with honors from the University of California at Davis and was awarded a scholarship to attend Brigham Young University's J. Reuben Clark Law School. While in law school, she was awarded the Distinguished Student Service Award and spent a semester at Howard University Law School in Washington, D.C., as a member of the faculty/student diversity exchange.

Robert A. Mosier is of counsel to Gibbs Law Group LLP and managing attorney of Sanders Viener Grossman LLP's Los Angeles office.

Mr. Mosier's practice is almost exclusively focused on representing plaintiffs harmed by large pharmaceutical and medical device companies. He represents clients injured by Granuflo, Tylenol, Risperdal, Medtronic Infuse, Reglan Crestor, Pain Pumps, Transvaginal Mesh, DePuy ASR and Pinnacle Hips, Januvia, Byetta and Yaz. Mr. Mosier serves as court-appointed co-lead counsel and liaison counsel and on leadership committees in consolidated litigation throughout the United States.



Mr. Mosier currently serves as Plaintiffs' Co-Lead Counsel in the Risperdal and Invega Product Liability Cases JCCP 4775 litigation, and as Plaintiff's Liaison Counsel in the In re Infusion Pain Pump JCCP 4615 litigation. Mr. Mosier is appointed to the Plaintiff's Steering Committee in the In Re Incretin Mimetics Product Liability Litigation MDL 2452, and the In Re Zolofit Birth Defect Cases JCCP4771.

Mr. Mosier is appointed to the Science Committee in the In re Fresenius Granuflo/Naturalyte Dialysate Products MDL 2428.

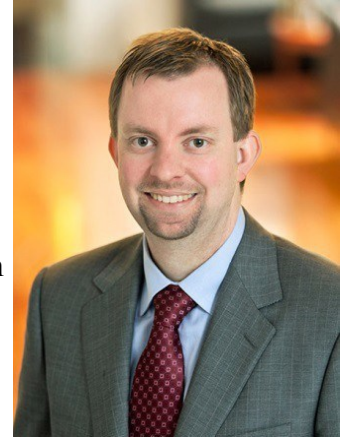
Prior to joining Sanders Viener Grossman as trial counsel and managing attorney, Mr. Mosier was a partner at McGregor & Mosier, where he obtained numerous multi-million dollar settlements for injured plaintiffs in medical malpractice, brain injury, birth injury, and other significant injury matters through trial. Mr. Mosier also represented victims involved in unique injury and death cases, including hot air balloon crashes, trucking deaths and molestation cases.

Before working to represent the rights of injured plaintiffs, Mr. Mosier represented hospitals, physicians, and medical providers accused of malpractice at one of California's preeminent medical malpractice defense firms. During his tenure as a defense attorney, Mr. Mosier gained invaluable insight and education into the practice of medicine, health care and medical insurance issues.

Mr. Mosier has held an AV Preeminent Attorney rating from Martindale Hubble since 2002, is a National Trial Lawyers – Top 100 Attorney, and an Arizona Top Rated Attorney – Top Trial Lawyers in America.

Mr. Mosier frequently speaks at national legal conventions on various issues involving mass tort litigation. He has prosecuted diverse appellate court issues, obtaining published opinions in the areas of constitutional law, separation of court jurisdiction and dischargeability of intentional tort claims. While working as a medical malpractice defense attorney, Mr. Mosier served as liaison counsel for the Orange County Medical Association/ Orange County Bar Association committee and was frequently invited to speak to hospitals and their staffs on medical/legal issues affecting doctor-patient care.

Geoffrey Munroe represents plaintiffs in high-profile class action and mass tort cases in both federal and state courts throughout the United States. He was selected as a Rising Star by Northern California Super Lawyers (2010-2014), recognizing him as one of the best young attorneys practicing in Northern California, and as a Northern California Super Lawyer in 2015. He is the co-author of "*Consumer Class Actions in the Wake of Daugherty v. American Honda Motor Company*," CAOC's Forum Magazine, January/February 2009, and a frequent contributor to the Class Action Litigation Group Newsletter of the American Association for Justice.



Mr. Munroe is a 2003 graduate of the University of California at Berkeley School of Law (Boalt Hall), where he was the recipient of the American Jurisprudence Award in Torts, Business Law & Policy and Computer Law. He received his undergraduate degree in chemistry from the University of California at Berkeley in 2000. Mr. Munroe is a member of the Public Justice Class Action Preservation Project Committee, the Class Action Litigation Group of the American Association for Justice and the Consumer Attorneys of California. He is a member of the California Bar and is admitted to practice before the United States Court of Appeals for the Ninth Circuit, as well as the United States District Courts for the Northern, Central and Southern Districts of California.

Andre Mura represents plaintiffs in class action and complex litigation concerning consumers' and workers' rights, products liability, drug and medical devices, federal jurisdiction, and constitutional law. Prior to joining Gibbs Law Group LLP, Mr. Mura was senior litigation counsel at the Center for Constitutional Litigation PC, where he represented plaintiffs in high-stakes appeals and complex litigation in state supreme courts and federal appellate courts. Mr. Mura also authored briefs filed in the U.S. Supreme Court, at both the petition and merits stages, and argued dispositive motions in trial courts nationwide.



Recently, Mr. Mura successfully opposed Wal-Mart's motion to dismiss in *Reynolds v. Wal-Mart* (N.D. Fla.), a putative class action in federal court concerning deceptive food labeling. Before the U.S. Court of Appeals for the Ninth Circuit, sitting en banc, Mr. Mura also recently represented plaintiffs injured by propoxyphene, an ingredient found in Darvocet and Darvon pain relief drugs and generic pain relievers.

Mr. Mura's advocacy before the U.S. Supreme Court includes *J. McIntyre Machinery, Ltd. v. Nicastro*, 131 S. Ct. 2780 (2011), for which he drafted merits briefing addressing whether personal jurisdiction exists over a foreign manufacturer. Mr. Mura was the lead author of an amicus curiae brief for the American Association for Justice and Public Justice in *Mutual Pharmaceutical Co., Inc. v. Bartlett*, 133 S. Ct. 2466 (2013), a case examining whether federal drug safety law preempts state-law liability for defectively designed generic drugs. In *Qwest Services Corp. v. Blood*, 132 S. Ct. 1087 (2012), Mr. Mura was counsel of record for plaintiffs in opposing Supreme Court review of an \$18 million punitive damages award. SCOTUSblog, the blog of the Supreme Court of the United States, selected Mr. Mura's petition for certiorari in *Malaterre v. Amerind Risk Management Corp.*, No. 11-441 as "Petition of the Day."

Before the Missouri Supreme Court in *Watts v. Lester E. Cox Medical Centers*, 376 S.W.3d 633 (Mo. 2012), Mr. Mura successfully argued that a state law limiting compensatory damages in medical malpractice cases violated his client's constitutional right to trial by jury. In ruling in favor of Mr. Mura's client, the high court agreed to overturn a 20-year-old precedent. In *Texaco, Inc. & Chevron Corp. v. Simon*, Mr. Mura argued before the Mississippi Supreme Court in a case concerning Texaco's and Chevron's liability for pregnant women's exposure to leaded gas. The case settled favorably after oral argument but before decision.

Mr. Mura is a member of the American Bar Association (ABA) Tort Trial and Insurance Practice Section (TIPS) Plaintiffs Policy Task Force. He serves as vice-chair of the ABA-TIPS Appellate Advocacy Committee and as chair of the ABA-TIPS Supreme Court Monitoring Subcommittee. Mr. Mura is a member and former co-chair of the Young Lawyers Committee of the National Center for State Courts, as well as a member of the American Association for Justice and the Consumer Attorneys of California. He served as an executive member of the moot court board while attending The George Washington University Law School.

Michael Schrag has nearly 20 years of experience representing individual and small business plaintiffs in complex class actions against large corporations in litigation concerning banking, credit cards, telecommunications, and real estate. Mr. Schrag has also successfully litigated product liability, personal injury, medical malpractice, employment, and contingent breach of contract cases.

Mr. Schrag currently serves as Co-Lead Counsel in *Beaver v. Tarsadia Hotels*, in which the court granted plaintiffs' summary judgment on the issue of liability in a large unfair competition class action against real estate developers. Mr. Schrag also represents a putative class of small business owners in a RICO and fraud class action against insurer AIG. The court recently denied AIG's motion to dismiss.



Mr. Schrag served as Co-Lead Counsel in *Ammari v. Pacific Bell Directory*, representing consumers who overpaid an AT&T subsidiary for advertising in Yellow Pages directories. Plaintiffs prevailed at trial and on two appeals to obtain a \$27 million judgment for class members, a result the *National Law Journal* deemed as one of the top 100 verdicts in 2009.

Mr. Schrag has helped initiate and prosecute several class actions against Visa, MasterCard, and major U.S. banks, such as Chase and Bank of America, for failing to disclose and fixing the price of currency conversion fees charged to cardholders using credit and debit cards abroad. After prevailing at trial in *Schwartz v. Visa, et. al.*, plaintiffs were successful in obtaining a \$336 million global settlement for the class in *In re Currency Conversion Fee Antitrust Litigation* (MDL No. 1409).

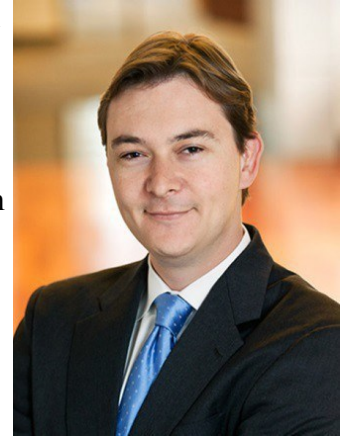
Mr. Schrag helped recover over \$10 million on behalf of his clients in *In Re Sulzer Hip Prosthesis and Knee Prosthesis Liability Litigation*, a multidistrict litigation that awarded a total of \$1 billion to patients who received defective hip implants.

Mr. Schrag is a 1996 graduate of the University of California at Berkeley School of Law (Boalt Hall) and received his undergraduate degree in 1989 from Columbia College at Columbia University. Mr. Schrag began his career prosecuting securities class actions and serving as a law clerk to the Honorable Judith N. Keep, U.S. District Judge, Southern District of California. Before joining Gibbs Law Group, Mr.

Schrag was a partner and co-founder of Meade & Schrag, LLP, where he prosecuted class actions and also litigated personal injury, medical malpractice, breach of contract, and business litigation matters.

David Stein specializes in representing plaintiffs in consumer protection and financial fraud cases.

Mr. Stein helped generate a \$25 million settlement in an automobile defect lawsuit involving Honda and Acura vehicles, and cash reimbursements for purchasers of Prius vehicles in a lawsuit against Toyota. Currently, Mr. Stein is one of the attorneys serving as court-appointed Lead Counsel who are representing consumers against Ford Motor Company in a lawsuit alleging that the 2013 Ford Fusion Hybrid and C-MAX Hybrid vehicles do not achieve the MPG rating that Ford advertised.



Mr. Stein is also representing investors in a lawsuit against U.S. Bank arising from the collapse of Peregrine Financial Group, Inc. In two settlements the former Peregrine customers have recovered more than \$70 million as a result of Peregrine's collapse. Prior to the Peregrine litigation, Mr. Stein helped secure a judgment against the Government of Guam and several of its highest ranking officials in a suit involving the government's unlawful administration of income tax refunds.

For the last three years Mr. Stein has been named a Rising Star by Northern California Super Lawyers. Before joining Girard Gibbs in 2009, Mr. Stein served as judicial law clerk to U.S. District Court Judge Keith Starrett and U.S. Magistrate Judge Karen L. Hayes, and published the article, *Wrong Problem, Wrong Solution: How Congress Failed the American Consumer*, 23 Emory Bankr. Dev. J. 619 (2007).

Steven Tindall has represented plaintiffs in employment and class action litigation for nearly twenty years. His experience extends to a wide array of complex employment matters, including individual and class action lawsuits involving employee misclassification, wage and hour claims, sexual harassment, discrimination, retaliation, WARN Act, FCRA, and ERISA violations. He has represented employees against large corporations in a variety of industries including technology, financial services, construction, transportation, and private education.



Steven clerked for Hon. Judith N. Keep of the United States District Court for the Southern District of California and for Hon. Claudia Wilken of the U.S. District Court for the Northern District of California. Prior to joining Gibbs Law Group, he was a partner at Rukin Hyland Doria & Tindall, and at Lief Cabraser Heimann & Bernstein. He previously focused on plaintiffs' class action litigation in the fields of wage and hour law, antitrust, and consumer protection. Steven has also litigated a number of mass tort personal injury and toxic tort cases.

Steven received his B.A. degree in English Literature from Yale University, graduating summa cum laude, Phi Beta Kappa, and with distinction in his major. He earned his J.D. degree from the

University of California at Berkeley School of Law (Boalt Hall) in 1996. While at Boalt, Steven co-directed the East Bay Workers' Rights Clinic.

Amy Zeman represents clients in a wide variety of medical mass tort matters, including individuals harmed by transvaginal mesh, the birth-control medications Yaz and Yasmin, the diabetes drug Actos, the anti-psychotic medication Risperdal, and the Mirena intrauterine device, among others. Ms. Zeman also represents consumers in class action litigation, with experience working closely with class representatives and consumer contacts and participating in all stages of litigation. Ms. Zeman has been involved in successful actions against Chase Bank, Ducati, and Dish Network, among others. Super Lawyers Magazine recognized Ms. Zeman as a Rising Star in 2013 and 2014.



Prior to attending law school, Ms. Zeman pursued a career in the financial sector. Ms. Zeman served the members of the Marin County Federal Credit Union for almost seven years, acting as the Accounting and Compliance Manager. She is a 2010 graduate, *magna cum laude*, of the University of California, Hastings College of Law, where she was a member of the Thurston Society and served on the *Hastings Law Journal*. She received her undergraduate degrees in German and Art History and Archaeology, *summa cum laude*, from the University of Missouri in 1998. Ms. Zeman was a spring 2010 extern for the Honorable Marilyn Hall Patel of the United States District Court, Northern District of California. She was selected as a Rising Star by Northern California Super Lawyers (2013), recognizing her as one of the best young attorneys practicing in Northern California. Ms. Zeman is admitted to the California Bar.

SIGNIFICANT RECOVERIES

Some of the cases in which the firm has had a leadership role are described below:

False Advertising & Deceptive Marketing

In re Hyundai and Kia Horsepower Litigation, No. 02CC00287 (Cal. Super. Ct. Orange County). Girard Gibbs served as lead counsel in this coordinated nationwide class action against Hyundai for falsely advertising the horsepower ratings of more than 1 million vehicles over a ten year period. The case was aggressively litigated on both sides over several years. In all, over 850,000 Hyundai owners received notice of the settlement, which provided cash and other benefits, and which had an estimated value of as much as \$125 million.

In re Chase Bank USA, N.A. "Check Loan" Contract Litigation, No. 09-2032 (N.D. Cal.). Girard Gibbs and several other firms led this nationwide class action lawsuit alleging deceptive marketing and loan practices by Chase Bank USA, N.A. After a nationwide class was certified, U.S. District Court Judge Maxine M. Chesney granted final approval of a \$100 million settlement on behalf of Chase cardholders.

Hyundai and Kia Fuel Economy Litigation, No. 2:13-ml-2424 (C.D. Cal.). In a lawsuit alleging false advertising in connection with the fuel efficiency of various Hyundai and Kia models, the court appointed Eric Gibbs as liaison counsel. The firm regularly reported to the Court, coordinated a wide-

ranging discovery process, and advanced the view of over twenty-five firms seeking relief under the laws of over twenty states. Ultimately Mr. Gibbs helped negotiate a revised nationwide class action settlement with an estimated value of up to \$120 million.

In re Providian Credit Card Cases, J.C.C.P. No. 4085 (Cal. Super. Ct. San Francisco County). Girard Gibbs served as court-appointed co-lead counsel in this nationwide class action suit brought on behalf of Providian credit card holders. The lawsuit alleged that Providian engaged in unlawful, unfair and fraudulent business practices in connection with the marketing and fee assessments for its credit cards. The Honorable Stuart Pollack approved a \$105 million settlement, plus injunctive relief—one of the largest class action recoveries in the United States arising out of consumer credit card litigation.

In re MCI Non-Subscriber Telephone Rates Litigation, MDL Docket No. 1275 (S.D. Ill.). This class action lawsuit was brought on behalf of MCI subscribers charged various rates and surcharges instead of the lower rates MCI had advertised. Ten cases were consolidated for pretrial proceedings before the Honorable David R. Herndon, U.S. District Judge for the Southern District of Illinois. Judge Herndon appointed Girard Gibbs as co-lead counsel for the consolidated actions. On March 29, 2001, Judge Herndon granted final approval of a settlement for over \$90 million in cash.

Skold v. Intel Corp., No. 1-05-CV-039231 (Cal. Super. Ct., Santa Clara Cty.) Girard Gibbs represented Intel consumers through a decade of hard-fought litigation, ultimately certifying a nationwide class under an innovative “price inflation” theory and negotiating a settlement that provided refunds and \$4 million in cy pres donations. In approving the settlement, Judge Peter Kirwan wrote: “It is abundantly clear that Class Counsel invested an incredible amount of time and costs in a case which lasted approximately 10 years with no guarantee that they would prevail.... Simply put, Class Counsel earned their fees in this case.”

Steff v. United Online, Inc., No. BC265953, (Los Angeles Super. Ct.). This nationwide class action suit was brought against NetZero, Inc. and its parent, United Online, Inc., by former NetZero customers. Plaintiffs alleged that defendants falsely advertised their internet service as unlimited and guaranteed for a specific period of time. The Honorable Victoria G. Chaney of the Los Angeles Superior Court granted final approval of a settlement that provided full refunds to customers whose services were cancelled and which placed restrictions on Defendants’ advertising.

Stoddard v. Advanta Corp., No. 97C-08-206-VAB (Del. Superior Ct.). This nationwide class action lawsuit was brought on behalf of cardholders who were promised a fixed APR for life in connection with balance transfers, but whose APR was then raised pursuant to a notice of change in terms. The Honorable Vincent A. Bifferato appointed the firm as co-lead counsel and approved a \$7.25 million settlement.

Khaliki v. Helzberg’s Diamond Shops, Inc., No. 11-0010-CV-W-NKL (W.D. Mo.). Girard Gibbs and co-counsel represented consumers who alleged deceptive marketing in connection with the sale of princess-cut diamonds. The firms achieved a positive settlement, which the court approved, recognizing “that Class Counsel provided excellent representation” and achieved “a favorable result relatively early in the case, which benefits the Class while preserving judicial resources.” The court went on to recognize that “Class Counsel faced considerable risk in pursuing this litigation on a contingent basis, and obtained a favorable result for the class given the legal and factual complexities and challenges presented.”

In re: Tyson Foods Inc., Chicken Raised Without Antibiotics Consumer Litigation, No. RDB-08-1982 (D. Md.). Girard Gibbs served as Class Counsel on behalf of consumers who purchased chicken products that were alleged to have been misleadingly labeled as “raised without antibiotics.” After discovery, counsel negotiated a \$5 million settlement that required Tyson to pay cash to class members and make a substantial cy pres contribution to food banks.

Defective Products

In re iPod Cases, JCCP No. 4355 (Cal. Super. Ct. San Mateo Cty). Girard Gibbs, as court appointed co-lead counsel, negotiated a settlement that provided warranty extensions, battery replacements, cash payments, and store credits for class members who experienced battery failure. In approving the settlement, the Hon. Beth L. Freeman said that the class was represented by “extremely well qualified” counsel who negotiated a “significant and substantial benefit” for the class members.

Sugarman v. Ducati North America, Inc., No. 5:10-cv-05246-JF (N.D. Cal.). Girard Gibbs served as class counsel on behalf of Ducati motorcycle owners who the fuel tanks on their motorcycles degraded and deformed due to incompatibility with the motorcycles’ fuel. In January 2012, the Court approved a settlement that provided an extended warranty and repairs, writing, “The Court recognizes that class counsel assumed substantial risks and burdens in this litigation. Representation was professional and competent; in the Court’s opinion, counsel obtained an excellent result for the class.”

Parkinson v. Hyundai Motor America, No. CV 8:06-0345 (C.D. Cal.). Girard Gibbs served as class counsel in this class action featuring allegations that the flywheel and clutch system in certain Hyundai vehicles was defective. After achieving nationwide class certification, Girard Gibbs negotiated a settlement that provided for reimbursements to class members for their repairs, depending on their vehicle’s mileage at time of repair, from 50% to 100% reimbursement. The settlement also provided full reimbursement for rental vehicle expenses for class members who rented a vehicle while flywheel or clutch repairs were being performed. After the settlement was approved, the court wrote, “Perhaps the best barometer of ... the benefit obtained for the class ... is the perception of class members themselves. Counsel submitted dozens of letters from class members sharing their joy, appreciation, and relief that someone finally did something to help them.”

In Re Medtronic, Inc. Implantable Defibrillators Product Liability Litigation, MDL No. 05-1726 JMR (D.Minn.). Girard Gibbs served on the discovery and law committees and provided legal, discovery, and investigative support in this lawsuit, following a February 2005 recall of certain models of Medtronic implantable cardioverter defibrillator devices. Approximately 2,000 individual cases were filed around the country and consolidated in an MDL proceeding in District Court in Minnesota. The cases were settled in 2007 for \$75 million.

Browne v. Am. Honda Motor Co., Inc., No. CV 09-06750 (C.D. Cal.). Girard Gibbs and co-counsel served as class counsel, representing plaintiffs who alleged that about 750,000 Honda Accord and Acura TSX vehicles were sold with brake pads that wore out prematurely. Girard Gibbs negotiated a settlement in which improved brake pads were made available and class members who had them installed could be reimbursed. The settlement received final court approval in July 2010 and provided an estimated value of approximately \$25 million.

In Re General Motors Dex-Cool Cases., No. HG03093843 (Cal. Super Ct. Alameda Cty). In these class action lawsuits filed throughout the country, plaintiffs alleged that General Motors’ Dex- Cool

engine coolant damaged certain vehicles' engines, and that in other vehicles, Dex-Cool formed a rusty sludge that caused vehicles to overheat. After consumer classes were certified in both Missouri and California, General Motors agreed to cash payments to class members nationwide. On October 27, 2008, the California court granted final approval to the settlement.

Roy v. Hyundai Motor America, No. SACV 05-483-AHS (C.D. Cal.). Girard Gibbs served as court appointed co-lead counsel in this nationwide class action suit brought on behalf of Hyundai Elantra owners and lessees, alleging that an air bag system in vehicles was defective. Girard Gibbs helped negotiate a settlement whereby Hyundai agreed to repair the air bag systems, provide reimbursement for transportation expenses, and administer an alternative dispute resolution program for trade-ins and buy-backs. In approving the settlement, the Honorable Alicemarie H. Stotler presiding, described the settlement as “pragmatic” and a “win-win” for all involved.

Other Consumer Protection Recoveries

Mitchell v. American Fair Credit Association, No. 785811-2 (Cal. Super. Ct. Alameda Cty); ***Mitchell v. Bankfirst, N.A.***, No. C-97-1421-MMC (N.D. Cal.). This class action lawsuit was brought on behalf of California members of the American Fair Credit Association (AFCA). Plaintiffs alleged that AFCA operated an illegal credit repair scheme. The Honorable James Richman certified the class and appointed the firm as class counsel. In February 2003, Judge Ronald Sabraw of the Alameda County Superior Court and Judge Maxine Chesney of the U.S. District Court for the Northern District of California granted final approval of settlements valued at over \$40 million.

In Re Mercedes-Benz Tele Aid Contract Litigation, MDL No. 1914, CV No. 07-2720-DRD (D.N.J.), Girard Gibbs and co-counsel served as co-lead class counsel on behalf of consumers who were not told their vehicles' navigation systems were on the verge of becoming obsolete. Counsel successfully certified a nationwide litigation class, before negotiating a settlement valued between approximately \$25 million and \$50 million. In approving the settlement, the court acknowledged that the case “involved years of difficult and hard-fought litigation by able counsel on both sides” and that “the attorneys who handled the case were particularly skilled by virtue of their ability and experience.”

In re America Online Spin-Off Accounts Litigation, MDL No. 04-1581-RSWL (C.D. Cal.). Girard Gibbs served as court-appointed co-lead counsel in this nationwide class action suit brought on behalf of America Online subscribers who were billed for a second account without their knowledge, authorization or consent. The litigation settled for \$25 million and changes in AOL's billing and account practices.

In re LookSmart Litigation, No. 02-407778 (Cal. Super. Ct. San Francisco Cty). This nationwide class action suit was brought against LookSmart, Ltd. on behalf of LookSmart's customers who paid an advertised “one time payment” to have their web sites listed in LookSmart's directory, only to be later charged additional payments to continue service. Plaintiffs' claims included breach of contract and violation of California's consumer protection laws. On October 31, 2003, the Honorable Ronald M. Quidachay granted final approval of a nationwide class action settlement providing cash and benefits valued at approximately \$20 million.

In re America Online, Inc. Version 5.0 Software Litigation, MDL Docket No. 1341 (S.D. Fla.). Girard Gibbs served as co-lead counsel in this MDL proceeding, which centralized 45 class actions. The action involved alleged violations of state consumer protection statutes, the Computer Fraud and Abuse

Act, and federal antitrust laws based on AOL's distribution of its Version 5.0 software upgrade. The Honorable Alan S. Gold granted final approval to a \$15.5 million cash settlement on August 1, 2002.

In re PayPal Litigation, No. C-02-1227-JF (PVT) (N.D.Cal., S.J. Div. 2002). Girard Gibbs served as co-lead counsel in this nationwide class action alleging violations of California consumer protection statutes and the Electronic Funds Transfer Act (EFTA). The plaintiffs alleged that PayPal unlawfully restricted access to consumers' PayPal accounts. On September 24, 2004, Judge Fogel granted final approval to a settlement valued at \$14.35 million in cash and returned funds, plus injunctive relief to ensure compliance with the EFTA.

Powers Law Offices, P.C. v. Cable & Wireless USA, Inc., No. 99-CV-12007-EFH (D. Mass 1999). In this class action brought on behalf of cable and wireless subscribers overcharged for recurring and incorrect fees, Girard Gibbs prosecuted the case from 1999 through 2005. On October 27, 2005, Judge Harrington granted final approval of the \$8 million settlement and the bankruptcy court approved the 30% distribution from the unsecured creditors' fund of the bankruptcy liquidation proceeds.

Lehman v. Blue Shield of California, No. CGC-03-419349 (Cal. Super. Ct. San Francisco County). In this class action lawsuit alleging that Blue Shield engaged in unlawful, unfair and fraudulent business practices when it modified the risk tier structure of its individual and family health care plans, a \$6.5 million settlement was negotiated on behalf of former and current Blue Shield subscribers residing in California. The Honorable James L. Warren granted final approval of the settlement in March 2006.

Telestar v. MCI, Inc., No. C-05-Civ-10672-JGK (S.D.N.Y.). This class action was brought on behalf of MCI commercial subscribers who were charged both interstate and intrastate fees for the same frame relay on prorate line service during the same billing period. On April 17, 2008, the Honorable John G. Koeltl granted final approval of a settlement for over \$2.8 million in cash.

Wixon v. Wyndham Resort Development Corp., No. C-07-02361 JSW (BZ) (N.D. Cal.). Girard Gibbs served as class and derivative counsel in this litigation brought against a timeshare developer and the directors of a timeshare corporation for violations of California state law. Plaintiffs alleged that the defendants violated their fiduciary duties as directors by taking actions for the financial benefit of the timeshare developer to the detriment of the owners of timeshare interests. On September 14, 2010, Judge White granted approval of a settlement of the plaintiffs' derivative claims.

Berrien, et al. v. New Raintree Resorts, LLC, et al., No. CV-10-03125 CW (N.D. Cal.). Girard Gibbs filed this class action on behalf of timeshare owners, challenging the imposition of unauthorized special assessment fees. On November 15, 2011, the Parties reached a proposed settlement of the claims asserted by the Plaintiffs on behalf of all class members who were charged the special assessment. On March 13, 2012, the Court issued its Final Class Action Settlement Approval Order and Judgment, approving the proposed settlement.

Benedict, et al. v. Diamond Resorts Corporation, et al., No. CV 12-00183-DAE (D. Hawaii). Girard Gibbs filed this class action on behalf of timeshare owners, challenging the imposition of an unauthorized special assessment fee. On November 6, 2012, the parties reached a proposed settlement of the claims asserted by the plaintiffs on behalf of all class members who were charged the special assessment. On June 6, 2013, the Court approved the settlement.

Allen Lund Co., Inc. v. AT&T Corp., No. C 98-1500-DDP (C.D. Cal.). This class action lawsuit was brought on behalf of small businesses whose long-distance service was switched to Business Discount Plan, Inc. Girard Gibbs was appointed class counsel by the Honorable Dean D. Pregerson. The settlement, providing for full cash refunds and free long-distance telephone service, was approved in December 1999.

Mackouse v. The Good Guys - California, Inc., No. 2002-049656 (Cal. Super Ct. Alameda Cty). This nationwide class action lawsuit was brought against The Good Guys and its affiliates alleging violations of the Song-Beverly Warranty Act and other California consumer statutes. The Plaintiff alleged that The Good Guys failed to honor its service contracts, which were offered for sale to customers and designed to protect a customer's purchase after the manufacturer's warranty expired. In May 9, 2003, the Honorable Ronald M. Sabraw granted final approval of a settlement that provides cash refunds or services at the customer's election.

Mager v. First Bank of Marin, No. CV-S-00-1524-PMP (D. Nev.). This nationwide class action was brought on behalf of people who were enrolled in First Bank of Marin's credit card program. In May 2002, the Judge Pro of the U.S. District Court for the District of Nevada approved a settlement providing for cash and non-cash benefits to class members.

Whitaker v. Health Net of Cal., Inc., et al., No. 2:11-cv-00910-KJM-DAD (E.D. Cal.) and ***Shurtleff v. Health Net of Cal., Inc.***, No. 34-2012-00121600-CU-CL (Cal. Super Ct. Sacramento Cty). Girard Gibbs served as co-lead counsel in this patient privacy case. On June 24, 2014, the court granted final approval of a settlement that provided class members with credit monitoring, established a \$2 million fund to reimburse consumers for related identity theft incidents, and instituted material upgrades to and monitoring of Health Net's information security protocols.

Smith v. Regents of the University of California, San Francisco, No. RG-08-410004 (Cal. Super Ct. Alameda Cty). Girard Gibbs represented a patient who alleged that UCSF's disclosure of its patients' medical data to outside vendors violated California medical privacy law. The firm succeeded in negotiating improvements to UCSF's privacy procedures on behalf of a certified class of patients of the UCSF medical center. In approving the stipulated permanent injunction, Judge Stephen Brick found that "plaintiff Smith has achieved a substantial benefit to the entire class and the public at large."

In re Countrywide Financial Corp. Customer Data Security Breach Litigation, No. 3:08-MD-01988 (W.D. Ky.). Girard Gibbs served as a member of the executive committee representing a class of millions of customers and potential customers of Countrywide whose personal information was stolen by a former Countrywide employee and then sold to other mortgage lenders. The class settlement provided for free credit monitoring, reimbursement of out-of-pocket expenses incurred as a result of the theft, and reimbursement of up to \$50,000 per class member for identity theft losses.

In re Sony BMG CD Technologies Litigation, No. 1:05-cv-09575-NRB (S.D.N.Y.). Girard Gibbs served as co-lead counsel in this class action for violation of the Computer Fraud and Abuse Act, 18 U.S.C. § 1030, *et seq.* on behalf of millions of consumers who purchased SONY BMG music compact discs encoded with digital rights management software which limited CD functionality and acted as spyware on the users' computers. Judge Naomi Reice Buchwald granted approval to a settlement that provided for a nationwide recall of certain CDs, the dissemination of software utilities to remove the offending DRM, cash and other compensation for consumers, and injunctive relief governing SONY BMG's use of DRM.

In re H&R Block Express IRA Litigation, MDL No. 1786 (W.D. Mo.). Girard Gibbs served as co-lead counsel in this MDL involving H&R Block’s marketing and sale of its “Express IRA” investment products. The firms negotiated a coordinated settlement with the New York Attorney General that provided class members with more than \$19 million in cash (resulting in a full recovery for consumers) and non-cash benefits entitling Express IRA holders to convert their investments to alternative IRAs with lower fees.

In re Adobe Systems, Inc. Privacy Litigation, No. 5:13-cv-05226-LHK (N.D. Cal.): Girard Gibbs was appointed as lead counsel in this consolidated litigation on behalf of consumers who asserted privacy and consumer fraud claims arising from a 2013 data breach. In September 2014, Girard Gibbs obtained a pivotal ruling when the court denied Adobe’s motion to dismiss for lack of standing, ruling that the Supreme Court’s opinion in *Clapper v. Amnesty International USA*, 133 S. Ct. 1138 (2013), did not change existing standing jurisprudence. 66 F. Supp. 3d 1197 (N.D. Cal. 2014). Before this opinion, many data breach defendants had obtained dismissals for lack of standing based on *Clapper*. The Adobe ruling has been followed by a number of district courts, and most recently by the Seventh Circuit Court of Appeals in *Remijas v. Neiman Marcus Group, LLC*. 794 F.3d 688, 693-94 (7th Cir. 2015).

Securities and Financial Recoveries

In re Digex, Inc. Shareholder Litigation, Consol. Case No. 18336 (Del. Ch. Ct. 2000). Girard Gibbs represented the Kansas Public Employees Retirement System, one of two institutional lead plaintiffs in this lawsuit, in which minority shareholders of Digex, Inc. sued to enjoin MCI WorldCom’s planned acquisition of a controlling interest in Digex through a merger with Intermedia Communications, Inc. In a settlement approved by Delaware Chancery Court on April 6, 2000, a fund consisting of \$165 million in MCI WorldCom stock and \$15 million in cash was secured for Digex shareholders, as well as non-cash benefits valued at \$450 million.

Billitteri v. Securities America, Inc., No. 3:09-cv-01568-F (N.D. Tex.). Girard Gibbs served as lead counsel in an action against broker-dealer Securities America, Inc. and its corporate parent, Ameriprise, Inc. in connection with sales of investments in the Provident Royalties and Medical Capital investment schemes. Mr. Girard coordinated negotiations resulting in a \$150 million settlement, with \$80 million allocated to class plaintiffs represented by Girard Gibbs and \$70 million allocated to individual investors who had initiated arbitration proceedings. The settlements returned over 40% of investment losses.

In re Lehman Brothers Equity/Debt Securities Litigation, No. 08-Civ-5523 (S.D.N.Y. 2008). Girard Gibbs was appointed class counsel for a certified class of retail investors in structured products sold by UBS Financial Services, Inc., following the collapse of Lehman Brothers Holdings, Inc., the largest bankruptcy in United States history. The plaintiffs alleged that UBS misrepresented Lehman’s financial condition and failed to disclose that the “principal protection” feature of many of the notes depended upon Lehman’s solvency. Girard Gibbs negotiated a settlement that established a \$120 million fund to resolve the claims.

In re Prison Realty Securities Litigation, No. 3:99-0452 (M.D. Tenn.). Girard Gibbs served as co-lead counsel in this securities class action brought against a real estate investment trust and its officers and directors relating to a merger between Corrections Corporation of America and CCA Prison Realty Trust. On February 13, 2001, the Court granted final approval to a settlement for over \$120 million in cash and stock.

In re American Express Financial Advisors Securities Litigation, No. 04-cv-01773-DAB (S.D.N.Y.). Girard Gibbs served as co-lead counsel in this class action, brought on behalf of individuals who bought financial plans and invested in mutual funds from American Express Financial Advisors. The case alleged that American Express steered its clients into underperforming “shelf space funds” to reap kickbacks and other financial benefits. On July 13, 2007, the Court granted final approval to a cash settlement of \$100 million in addition to other relief.

Scheiner v. i2 Technologies, Inc., et al., No. 3:01-CV-418-H (N.D. Tex.). Girard Gibbs represented lead plaintiff, the Kansas Public Employees Retirement System, and served as co-lead counsel on behalf of investors in i2 Technologies. The Honorable Barefoot Sanders approved cash settlements for \$88 million from the company, its officers and its former auditor, Arthur Andersen LLP. As part of the settlement, i2 agreed to institute significant corporate governance reforms.

In re Peregrine Financial Group Customer Litigation, No. 415546 (Cal. Super. Ct. S.F. County). Girard Gibbs served as co-lead counsel for futures and commodities investors who alleged they lost millions of dollars in the collapse of Peregrine Financial Group, Inc. The case resulted in settlements with JPMorgan Chase & Co. and U.S. Bank N.A., totaling approximately \$60 million.

CalSTRS v. Qwest Communications, et al., No. 415546 (Cal. Super. Ct. S.F. County). Girard Gibbs represented the California State Teachers Retirement System in this opt-out securities fraud case against Qwest Communications, Inc. and certain of its officers and directors, as well as its outside auditor Arthur Andersen. The case resulted in a precedent-setting \$45 million settlement for California school teachers.

In re SLM Corp. Securities Litigation, No. 08-Civ-1029-WHP. Girard Gibbs served as lead counsel representing investors of SLM Corporation in litigation alleging that Sallie Mae, the leading provider of student loans in the U.S., misled the public about its financial performance in order to inflate the company’s stock price. After achieving nationwide class certification, Girard Gibbs negotiated a settlement that established a \$35 million fund to resolve investors’ claims.

In re Winstar Communications Securities Litigation, No. 01 Civ. 11522 (S.D.N.Y) Girard Gibbs represented Allianz of America, Inc., Fireman’s Fund and other large private institutional investors against Grant Thornton and other defendants arising out of plaintiffs’ investments in Winstar Communications, Inc. The firm achieved a settlement on the eve of trial that provided a recovery rate more than 30 times higher than what class members received in a related class action. The recovery (after attorney fees) returned a remarkable 78.5% of the losses plaintiffs may have recovered at trial.

In re Total Renal Care Securities Litigation, No. 99-01750 (C.D. Cal.). This securities fraud action arose out of restatement of earnings by a healthcare provider, brought under the PSLRA by the Louisiana Teachers’ Retirement System and the Louisiana School Employees’ Retirement System. The case settled for \$25 million and issuer’s commitment to adopt comprehensive corporate governance reforms. Girard Gibbs served as liaison counsel.

In re Oxford Tax Exempt Fund Securities Litigation, No. WMN-95-3643 (D. Md.). Girard Gibbs served as co-lead counsel in this class and derivative litigation brought on behalf of a real estate limited partnership with assets of over \$200 million. Settlement providing for exempt issuance of securities under

section 3(a)(10) of Securities Act of 1933, public listing of units, and additional settlement benefits valued at over \$10 million approved January 31, 1997.

Calliott v. HFS, Inc., No. 3:97-CV-0924-L (N.D. Tex.). Girard Gibbs intervened on behalf of an institutional client in this securities class action arising out of bankruptcy of Amre, Inc., a seller of home remodeling and repair services. Girard Gibbs was designated lead plaintiff’s counsel under the Private Securities Litigation Reform Act. Settlements for \$7.3 million were approved August 1999 and December 2000.

In re Towers Financial Corporation Noteholders Litigation, MDL No. 994 (S.D.N.Y.). This class action was brought against promoters and professionals associated with a failed investment scheme described by the SEC as the then “largest Ponzi scheme in U.S. history.” The case resulted in \$6 million in partial settlements, and a \$250 million judgment entered against four senior Towers executives. Girard Gibbs served as liaison counsel and as a plaintiffs’ executive committee member. *See In re Towers Financial Corporation Noteholders Litigation*, 177 F.R.D. 167 (S.D.N.Y. 1997) (“class counsel—particularly Plaintiffs’ Liaison counsel, Daniel Girard—has represented the plaintiffs diligently and ably in the several years that this litigation has been before me”).

Mass Tort

In re Actos (Pioglitazone-Products Liability Litigation), MDL No. 6:11-md-2299 (W.D. La.). Girard Gibbs lawyers were among those court-appointed to the Plaintiffs Steering Committee and also served on the Daubert and Legal Briefing Committees, in litigation that resulted in a \$2.37 billion settlement.

In re Yasmin and Yaz (Drospirenone) Marketing, Sales, Practices and Products Liability Litigation, MDL No. 2385, No. 3:09-md-02100-DRH-CJP (S.D. Ill.). Girard Gibbs attorneys were appointed to the Plaintiffs Steering Committee and served as Co-Chair of the Plaintiffs’ Law and Briefing Committee, in litigation ultimately resulting in settlements worth approximately \$1.6 billion.

In re Pradaxa (Dabigatran Etexilate) Products Liability Litigation, MDL No. 2385, No. 3:12-md-02385-DRH-SCW (S.D. Ill.), Girard Gibbs lawyers were appointed by the court to the Plaintiffs Steering Committee in mass tort litigation that resulted in settlements worth approximately \$650 million.

Employment

Mitchell v. Acosta Sales, LLC, No. 11-1796 (C.D. Cal. 2011). Girard Gibbs and co-counsel served as class counsel representing Acosta employees who alleged that they were required to work off-the-clock and were not reimbursed for required employment expenses. Girard Gibbs helped negotiate a \$9.9 million settlement for merchandiser employees who were not paid for all the hours they worked. The Court granted final approval of the settlement in September 2013.

Rubaker v. Spansion, LLC, No. 09-842 (N.D. Cal. 2009). Girard Gibbs and co-counsel filed a class action lawsuit on behalf of former Spansion employees that alleged that the company had failed to provide terminated employees from California and Texas with advance notice of the layoff, as required by the Workers Adjustment and Retraining Notification Act (WARN Act). The bankruptcy court approved

the class action settlement negotiated by Girard Gibbs and co-counsel in 2010. The settlement was valued at \$8.6 million and resulted in cash payments to the former employees.

Antitrust

In re TFT-LCD (Flat Panel) Antitrust Litigation, MDL 1827 (N.D. Cal.). Girard Gibbs serves as liaison counsel in this multi-district antitrust litigation against numerous TFT-LCD (Flat Panel) manufacturers alleging a conspiracy to fix prices, which has achieved settlements of more than \$400 million to date.

In re Natural Gas Antitrust Cases I, II, III and IV, J.C.C.P. No. 4221 (Cal. Super. Ct. San Diego Cty). Girard Gibbs served in a leadership capacity in this coordinated antitrust litigation against numerous natural gas companies for manipulating the California natural gas market, which has achieved settlements of nearly \$160 million.

Government Reform

Paeste v. Government of Guam, No. 1:11-cv-0008 (D. Guam). Girard Gibbs and co-counsel served as Class Counsel in litigation alleging the Government of Guam had a longstanding practice of delaying tax refunds for years on end. After certifying a litigation class, Plaintiffs prevailed on both of their claims at the summary judgment stage, and obtained a permanent injunction reforming the government's administration of tax refunds.

Ho v. San Francisco Unified School District, No. C-94-2418-WHO (N.D. Cal.). This civil rights action was brought on behalf of a certified class of San Francisco public school students of Chinese descent to terminate racial and ethnic quotas imposed under 1983 desegregation consent decree. *See Ho v. San Francisco Unified Sch. Dist.*, 965 F. Supp. 1316 (N.D. Cal. 1997), *aff'd* 147 F.3d 854 (9th Cir. 1998); *see also* 143 Cong. Rec. S6097, 6099 (1997) (statement of United States Senator Hatch referring to testimony of class representative before Senate Judiciary Committee).

Exhibit C



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FIRM RESUME

FIRM HISTORY AND BACKGROUND

The Joseph Saveri Law Firm, Inc. specializes in antitrust law and complex civil and class action litigation and business disputes in federal and state courts throughout the United States, and in cases across the globe. The Firm was founded in 2012 by Joseph Saveri. Since that time, Mr. Saveri and his growing staff of experienced attorneys have been fighting on behalf of individuals and businesses against anticompetitive business practices, serving as lead and co-counsel on a variety of cases involving price-fixing, illegal reverse-payment agreements, agreements regarding hiring and recruiting, and antitrust cases involving sports leagues and other industries.

The Firm has a track record of leading and prosecuting cases across the United States. Its attorneys have recovered more than \$3 billion in settlements and successful resolutions for their clients, and has received the following honors:

- *ACQ5*: Law Award–Antitrust Litigation Law Firm of the Year (2016); Global Award–Antitrust Litigation Law Firm of the Year (2014);
- *Acquisition International*: “Antitrust Litigation Law Firm of the Year – 2017” as part of its 2017 Global Excellence Awards;
- American Antitrust Institute: Honoree—“Outstanding Antitrust Litigation Achievement in Private Law Practice” (2017); Finalist—“Outstanding Antitrust Litigation Achievement in Private Law Practice” (2015);
- *Best Lawyers/U.S. News & World Report*: *Best Law Firms* (2013-2018);
- *Corporate Insider*: 2018 Business Excellence Award – “Most Outstanding Antitrust Litigation Law Firm—USA;
- Corporate *LiveWire*: Corporate *LiveWire* Innovation and Excellence Awards—Most Outstanding Antitrust Litigation Law Firm (2015);
- *Daily Journal*: Top Boutiques in California 2016 (one of 20 firms);

- KMH Media Group Global 100 2017 edition: “Antitrust Law Firm of the Year—USA,” “Antitrust Litigation Law Firm of the Year,” “Class Actions Law Firm of the Year—USA,” “Complex Business Disputes Law Firm of the Year—USA”; and
- *Lawyers Worldwide Awards Magazine’s* Five Star Lawyers 2017: “Civil & Antitrust Litigation Law Firm of the Year – USA.”

With 30 years of civil litigation experience, Mr. Saveri has handled cases involving numerous industries, including banking and financial services, insurance, energy, pharmaceuticals, agricultural products, computer hardware, computer software, manufacturing inputs, travel and transportation, paper products, cosmetics, and consumer electronics. He has established himself as one of the country’s top litigators in the antitrust field.

Mr. Saveri has investigated, prosecuted, and successfully resolved numerous antitrust class actions and other complex cases. He has served both as a court-appointed leader of such efforts and as a valued member of the teams operating under the leadership of others. As lead or co-lead counsel in many of these cases, he has taken a personal leadership role in organizing litigation, setting strategy, establishing and directing teams of lawyers, and assigning specific tasks to teams of attorneys in a way that ensures the efficient use of resources and maximizes the talents of the litigation team. Throughout these cases, he has displayed the energy, vision, and commitment that leadership requires, combined with the ability to listen, share, and work cooperatively so that the litigation team operates equitably, efficiently, and without friction. He serves or has served as lead counsel in many cases, including most recently the *Capacitors*, *Titanium Dioxide*, *High-Tech Employees*, and *Cipro* litigation.

CASE PROFILES

Cases in which the Firm and/or Mr. Saveri serves or has served include:

1. *In re Titanium Dioxide Antitrust Litigation*, No. 1:10-cv-00318-RDB (D. Md.). The Firm served as Co-Lead Counsel to a class of direct purchasers of titanium dioxide. This case produced a settlement of \$165 million on the day before the trial was to commence.
2. *In re High-Tech Employees Antitrust Litigation*, No. 5:11-cv-02509-LHK (N.D. Cal.). The Firm served as Co-Lead Class Counsel for a class of over 60,000 employees of

leading technology companies against their employers for their alleged agreements to restrict recruiting in an effort to suppress wages. Three defendants agreed to settlements, now finalized, totaling \$20 million. Following the court's denial of their motions for summary judgment, the remaining defendants agreed to a settlement totaling \$415 million, which has also received final approval.

3. *In Re Capacitors Antitrust Litigation*, No. 3:14-cv-03264-JD (N.D. Cal.). The Firm has been appointed sole Lead Counsel representing a class of direct purchasers of capacitors used in electronic devices. Plaintiffs allege that Defendants formed a cartel and conspired to fix, raise, and stabilize prices in the multi-billion-dollar market for aluminum, tantalum, and film capacitors. The Court has denied Defendants' motions to dismiss. The case is currently in discovery and class certification is fully briefed. Initial settlements in the case exceed \$100 million.
4. *In re Dental Supplies Antitrust Litigation*, No. 1:16-cv-00696-BMC-GRB (E.D.N.Y.). The Firm serves as a member of Plaintiffs' Executive Committee in a proposed class action of direct purchasers against the primary dental product distributors in the United States. Plaintiffs allege that Patterson Companies, Inc., Henry Schein, Inc., and Benco Dental Supply Company illegally boycotted competitor dental product distributors to maintain and extend their dominant position in the market for dental supplies and equipment. As a result, Plaintiffs (and similarly situated dental practices) paid inflated prices for important dental products, including imaging devices, dental chairs, high-tech equipment, sterilization products, x-ray film, acrylics, alloys, waxes, and impression materials, among others.
5. *In re Cipro Cases I and II*, J.C.C.P. Nos. 4154, 4220 (San Diego County Sup. Ct.). The Firm serves as Co-Lead Counsel for consumers who purchased Cipro, a blockbuster antibiotic drug. Plaintiffs alleged that Bayer Corporation, Barr Laboratories, two other generic drug companies, and other Defendants entered into an unlawful agreement to keep a generic version of the drug off the market, which allowed Bayer to sell Cipro at inflated prices. In November 2013, the California Superior Court for the County of San Diego approved a \$74 million class action settlement between Bayer and the Class. On May 7, 2015, the California Supreme Court reversed the judgment of the Court of Appeal and remanded the case for further proceedings. In that decision, the California Supreme Court ruled in Plaintiffs' favor and adopted a "structured" rule of reason as the standard for adjudicating reverse payment antitrust cases. Following remand to the Superior Court, Plaintiffs reached a \$100 million settlement agreement with Defendants Hoechst Marion Roussel, The Rugby Group,

Inc., and Watson Pharmaceuticals, which the court approved on November 4, 2016. In January 2017, on the eve of trial, Plaintiffs settled with Barr, the sole remaining defendant, for \$225 million, bringing the total Class recovery to \$399 million: a record for this type of case.

6. *G.U.E. Tech, LLC v. Panasonic Avionics Corporation*, No. 8:15-cv-00789-CJC-DFM (C.D. Cal.). The Firm served as counsel for a video game and software company that alleged intentional interference with its business and trade libel. The parties have reached a settlement resolving all claims.
7. *Fond du Lac Bumper Exchange Inc. v. Jui Li Enterprise Company Ltd. et al.*, No. 2:09-cv-00852-LA (E.D. Wisc.). The Firm serves as counsel for a class of auto parts distributors who allege that Taiwanese manufacturers of aftermarket sheet metal auto parts colluded to artificially raise prices and eliminate competition. The court has granted final approval to settlements by two defendants totaling \$25 million, and has granted Plaintiffs' Motion for Class Certification.
8. *Cung Le et al. v. Zuffa, LLC*, No. 2:15-cv-01045-RFB-PAL (D. Nev.). The Firm serves as Co-Lead Counsel for Elite Professional Mixed Martial Arts (MMA) Fighters in a class action against Ultimate Fighting Championship ("UFC"). Plaintiffs allege that UFC illegally acquired and maintained monopoly power in the market for promoting Elite Professional MMA Bouts and monopsony power in the market for Elite Professional MMA Fighters' Services, and used that monopoly and monopsony power to suppress compensation for MMA fighters who fought for the UFC. The UFC's motion to dismiss was denied. Discovery and class certification briefings are complete, and summary judgment proceedings are scheduled for fall 2018.
9. *In re Lidoderm Antitrust Litigation*, No. 3:14-md-02521-WHO (N.D. Cal.). The Firm serves as End-Payers' Interim Liaison Counsel in a certified class action lawsuit brought by indirect purchasers of Lidoderm against Endo Pharmaceuticals Inc., Teikoku Seiyaku Co., Inc., and Actavis Inc. (as well as their respective subsidiaries). Plaintiffs claim that Defendants entered into an illegal pay-for-delay agreement in which Endo provided nearly \$100 million worth of branded Lidoderm to Actavis to keep generic lidocaine patches off the market. Endo further promised not to launch an authorized generic version of Lidoderm to compete with Actavis's generic version for seven-and-a-half months. Plaintiffs allege that this unlawful reverse payment caused Plaintiffs to pay higher prices for Lidoderm. In 2017, the Court granted

Plaintiffs' motion to certify a class of Lidoderm End-Payers. The case settled in early 2018 before trial for \$105 million, pending Court approval.

10. *In re Opana ER Antitrust Litigation*, No. 1:14-cv-10150 (N.D. Ill.). The Firm represents Plaintiffs in a proposed class action brought by indirect purchasers against brand and generic manufacturers of Opana ER. Plaintiffs allege that Defendants Endo Pharmaceuticals Inc. and Impax Laboratories entered an illegal pay-for-delay or reverse payment agreement whereby Endo provided Impax over \$100 million in cash, as well as other valuable consideration, in exchange for Impax's promise to keep generic versions of Opana ER off the market. Plaintiffs allege that this prevented generic competition and resulted in higher prices.
11. *In re Aluminum Warehousing Antitrust Litigation*, No. 1:13-md-02481-KBF (S.D.N.Y.). The Firm represents a class of direct purchasers of aluminum which was stored in warehouses owned and operated by Defendants JPMorgan Chase, Goldman Sachs, Glencore Xstrata, and their respective subsidiaries. Plaintiffs allege that Defendants conspired to manipulate the amount of time aluminum was stored in LME-approved warehouses, which cost consumers billions of dollars in added premiums.
12. *Chip Tech, Ltd. v. AVX Corp., et al.*, No. 3:15-cv-03820-JD (N.D. Cal.). The Firm serves as counsel for a putative class of direct purchasers of resistors used in electronic devices. Plaintiffs allege that Defendants formed a cartel and conspired to fix, raise, and stabilize prices in the multi-billion-dollar market for resistors.
13. *Gordon v. Amadeus IT Group, S.A., et al.*, No. 1:15-cv-05457-KPF (S.D.N.Y.). The Firm serves as Co-Lead counsel for a proposed class of airline passengers against the leading providers of global distribution systems ("GDS"), which are used to book air travel. Plaintiffs allege that Defendants colluded to block competition and charge inflated GDS fees. In December 2017, the Court issued an order granting Plaintiffs' motion for certification of a settlement class and preliminary approval of class action settlement with Defendants Travelport Worldwide Limited and Travelport LP.
14. *In re EpiPen Marketing, Sales Practices, and Antitrust Litigation*, 2:17-md-02785-DDC-TJJ (D. Kan.). The Firm is on the Plaintiffs' Steering Committee leading a class action alleging that Pfizer and Mylan—manufacturer and distributor of the epinephrene autoinjector EpiPen, respectively—have unlawfully created and abused a monopoly for the life-saving product. From 2007 to 2016, Mylan hiked the list price for two EpiPens by over 600%. Plaintiffs seek to recover damages and overpayments

from at least 2009 through the present, as well as injunctive relief under the federal antitrust laws and various state consumer protection and antitrust laws.

15. *In re Restasis (Cyclosporine Ophthalmic Emulsion) Antitrust Litigation*, MDL No. 2819-NG-LB (E.D.N.Y.). The Firm is Interim Co-Lead Counsel for End-Payor Plaintiffs in an antitrust class action filed against Allergan, Inc., for an alleged scheme to delay generic competition to Allergan's blockbuster Restasis drug (used primarily for the treatment of chronic dry eyes). The firm brought suit on behalf of its client and named class representative, the Self-Insured Schools of California, a Joint Powers Authority providing health benefits to over 300,000 public school district employees and their family members. Plaintiffs allege that Allergan unlawfully extended its monopoly in the market for Restasis through a series of fraudulent and anticompetitive acts. The suit is currently part of a Multi-District Litigation pending in the United States District Court for the Eastern District of New York.
16. *Paskenta Band of Nomlaki Indians et al. v. Crosby et al.*, No. 2:15-cv-00538-MCE-CMK (E.D. Cal.). The Firm is Co-Lead Counsel in a suit in which it represents the Paskenta Band of Nomlaki Indians pursuing the recovery of tens of millions of dollars converted by former tribal officials. The Tribe brings civil RICO and various state law claims alleging that these former tribal officials, with a number of associated individuals, banks, and benefit providers, operated a RICO Enterprise that facilitated the looting of tribal moneys. These former tribal officials spent the Tribe's funds on luxury homes, expensive cars, private jet travel, exclusive entertainment and vacations, and their personal expenses.
17. *In re Generic Pharmaceuticals Pricing Antitrust Litigation*, No. 2:16-md-02724-CMR (E.D. Pa.). The Firm is on the Plaintiffs' Steering Committee for End-Payor Plaintiffs and its client, the Self-Insured Schools of California, and similarly situated U.S. consumers and insurers, against Mylan Inc., Mylan Pharmaceuticals Inc., and Sun Pharmaceutical Industries, Inc. The antitrust suit charges the generic drug manufacturers with conspiring to fix and raise prices for albuterol sulfate tablets, forcing consumers to pay inflated prices for the medication to treat asthma and other breathing problems. The case is part of a broader MDL, *In re Generic Pharmaceuticals Pricing Antitrust Litigation*, which involves private class action suits alleging price-fixing of albuterol sulfate and 17 additional drugs by most of the generic drug manufacturers in the United States.

18. *Corwin et al. v. Weyerhaeuser Company*, No. 2:17-cv-1501-RSL (W.D. Wash.). The Firm is seeking damages on behalf of homeowners exposed to defective Weyerhaeuser wooden beams, or “joists,” used in construction of new homes nationwide between December 2016 and July 2017. The joists were manufactured with a Flak Jacket protective coating that contained fire-resistant, formaldehyde-based resin that off-gasses toxic levels of the carcinogen formaldehyde. Homeowners exposed to the toxic joists have reported a strong, chemical odor in their homes and numerous health problems. The joists’ defective and dangerous nature is so severe that affected homes and other structures are uninhabitable. Occupants have been advised to vacate their residences. Plaintiffs allege that Weyerhaeuser’s remediation efforts to affected homeowners are woefully insufficient. The suit seeks recovery of costs associated with repairing, removing, and replacing the defective joists, and costs of repairing related property damage. Plaintiffs also seek damages for the diminution of the value of their homes as well as injunctive relief.
19. *Meijer v. Abbott Laboratories*, Nos. 4:07-cv-5470, 4:07-cv-5702, 4:07-cv-5985 (N.D. Cal.). Mr. Saveri served as Liaison Counsel on behalf of the class of Direct Purchaser Plaintiffs in the Norvir Antitrust Litigation. The case involved claims under Section One and Section Two of the Sherman Act in connection with the sale, marketing, and pricing of the bundled drugs Norvir and Kaletra by Abbott Laboratories. Mr. Saveri participated in all phases of the litigation, including trial. Among other things, his work during jury selection of the case resulted in the landmark decision by the Ninth Circuit Court of Appeals in *SmithKline Beecham Corp. v. Abbott Laboratories*, 740 F.3d 471 (9th Cir. 2014), confirming that equal protection prohibits discrimination based on sexual orientation in jury selection and that the Supreme Court’s decision in *Batson v. Kentucky*, 476 U.S. 79 (1986), applies in civil cases. Following jury selection, the Direct Purchasers settled their claims in full for \$52 million.
20. *Microsoft Private Antitrust Litigation*. Representing businesses and consumers, Mr. Saveri prosecuted multiple private antitrust cases against Microsoft Corporation in state courts across the country, including Florida, New York, North Carolina, and Tennessee. Plaintiffs alleged that Microsoft engaged in anticompetitive conduct and/or violated state deceptive and unfair business practices statutes to harm competition and monopolize the markets for Intel-compatible, personal computer operating system software, as well as word processing and spreadsheet software. In August 2006, the New York Supreme Court granted final approval to a settlement that makes available up to \$350 million in benefits for New York businesses and consumers. In August 2004, the court in the North Carolina action granted final

approval to a settlement valued at over \$89 million. In June 2004, the court in the Tennessee action granted final approval to a \$64 million settlement. In November 2003, in the Florida Microsoft litigation, the court granted final approval to a \$202 million settlement, one of the largest antitrust settlements in Florida history. Mr. Saveri served as Co-Lead Counsel in the New York, North Carolina, and Tennessee cases, and held leadership roles in the Florida case.

21. *In re Lupron Marketing and Sales Practices Litigation*, MDL No. 1430 (D. Mass.). In May 2005, the Court granted final approval to a settlement of a class action brought by patients, insurance companies, and health and welfare benefit plans that paid for Lupron, a prescription drug used to treat prostate cancer, endometriosis, and precocious puberty. The settlement requires the Defendants Abbott Laboratories, Takeda Pharmaceutical Company Limited, and TAP Pharmaceuticals to pay \$150 million, inclusive of costs and fees, to persons or entities that paid for Lupron from January 1, 1985 through March 31, 2005. Plaintiffs charged that the Defendants conspired to overstate the drug's average wholesale price, which resulted in Plaintiffs paying more for Lupron than they should have paid. Mr. Saveri served as Co-Lead Plaintiffs' Counsel.
22. *In re Buspirone Antitrust Litigation*, MDL No. 1413 (S.D.N.Y.). In November 2003, Mr. Saveri obtained a \$90 million cash settlement for individual consumers, consumer organizations, and third party payors that purchased BuSpar, a drug prescribed to alleviate symptoms of anxiety. Plaintiffs alleged that Bristol-Myers Squibb Co. ("BMS"), Danbury Pharmacal, Inc., Watson Pharmaceuticals, Inc., and Watson Pharma, Inc. entered into an unlawful agreement in restraint of trade under which BMS paid a potential generic manufacturer of BuSpar to drop its challenge to BMS's patent and refrain from entering the market. Mr. Saveri served as Plaintiffs' Co-Lead Counsel.
23. *California Vitamin Cases*, J.C.C.P. No. 4076 (San Francisco County Superior Ct.). Mr. Saveri served as Co-Liaison Counsel and Co-Chairman of the Plaintiffs' Executive Committee on behalf of a class of California indirect vitamin purchasers (in every level of the chain of distribution) against vitamin manufacturers alleged to have engaged in price fixing of particular vitamins. In January 2002, the Court granted final approval of a \$96 million settlement with certain vitamin manufacturers. In December 2006, the Court granted final approval to over \$8.8 million in additional settlements.

24. *Pharmaceutical Cases I, II, and III*, J.C.C.P. Nos. 2969, 2971, and 2972 (San Francisco County Sup. Ct.). Mr. Saveri served as Co-Lead and Co-Liaison Counsel representing a certified class of indirect purchasers (consumers) on claims against the major pharmaceutical manufacturers for violations of the Cartwright Act and the Unfair Competition Act. The class alleged that Defendants unlawfully fixed discriminatory prices on prescription drugs to retail pharmacists in comparison with the prices charged to certain favored purchasers, including HMOs and mail order houses. In April 1999, the Court approved a settlement providing \$148 million in free, brand-name prescription drugs to health agencies that serve California's poor and uninsured. In October 2001, the Court approved a settlement with the remaining Defendants in the case, which provided an additional \$23 million in free, brand-name prescription drugs to these agencies.
25. *In re Electrical Carbon Products Antitrust Litigation*, MDL No. 1514 (D.N.J.). Mr. Saveri represented the City and County of San Francisco and a class of direct purchasers of carbon brushes and carbon collectors on claims that producers fixed the price of carbon brushes and carbon collectors in violation of the Sherman Act.
26. *In re Travel Agency Commission Antitrust Litigation*, MDL No. 1058 (D. Minn.). Mr. Saveri served as Co-Lead Counsel for a certified class of U.S. travel agents on claims against the major U.S. air carriers, who allegedly violated the federal antitrust laws by fixing the commissions paid to travel agents. In 1997, the court approved an \$82 million settlement.
27. *In re Brand Name Prescription Drugs*, MDL No. 997 (N.D. Ill.). Mr. Saveri served as Class Counsel for a class of tens of thousands of retail pharmacies against the leading pharmaceutical manufacturers and wholesalers of brand name prescription drugs for alleged price-fixing from 1989 to 1995 in violation of the federal antitrust laws. Class Plaintiffs charged that Defendants engaged in price discrimination against retail pharmacies by denying those discounts provided to hospitals, health maintenance organizations, and nursing homes. In 1996 and 1998, the Court approved settlements with certain manufacturers totaling \$723 million.

ATTORNEY BIOGRAPHIES

JOSEPH R. SAVERI | Mr. Saveri began his career doing general litigation work at the San Francisco law firm of McCutchen, Doyle, Brown & Enersen. In 1992, he joined the plaintiffs' firm Lief Cabraser Heimann & Bernstein, where he served as the firm's Managing Partner. He also founded and chaired the firm's Antitrust and Intellectual Property practice group, which was recognized in 2012 as one of the top five practice groups in California. He left Lief Cabraser in May of 2012 to start his own firm, the Joseph Saveri Law Firm, Inc.

Mr. Saveri has performed virtually every aspect of complex and class action litigation, including factual and economic analysis of market conditions and pricing practices, drafting of pleadings, law and motion matters, organizing electronic discovery, creating a discovery plan, administering and directing on-line review of documents requiring coordination of dozens of lawyers fluent in English and foreign languages, propounding written discovery, taking and defending percipient and expert witness depositions, organizing the factual record, briefing and arguing summary judgment, and trial and appellate work.

From 2010 through 2013, Mr. Saveri was chosen to serve as a Lawyer Representative for the United States District Court for the Northern District of California and the Ninth Circuit Court of Appeals. He has served and serves on a number of court committees charged with developing rules and programs regarding complex litigation, ediscovery, and a variety of other matters. He was chosen to serve as a member of the Northern District's Civil Rules Advisory Committee from 2009-2012, the committee to establish rules and procedures for expedited trials (which the court adopted as General Order No. 64, "Expedited Trial Procedures"), and the committee which crafted new ediscovery rules and procedures recently adopted by the court.

Mr. Saveri is also a frequent author of articles on antitrust and complex litigation issues, and a frequent lecturer on a variety of matters, including antitrust, complex litigation, class action practice, and discovery. He serves as an author of *California Antitrust and Unfair Competition Law*, the legal treatise published by the State Bar of California's Antitrust and Unfair Competition Section. He is also a member of the Advisory Board of the American Antitrust Institute and a Fellow of the Litigation Counsel of America.

Mr. Saveri has received numerous accolades from a broad array of legal entities, including:

- *ACQ5* (*Acquisition Finance* magazine): Global Award—Antitrust Litigation Lawyer of the Year (2014, 2015); Law Award—Antitrust Litigation Lawyer of the Year (2014);
- *Acquisition International* (magazine): “One to Watch” (2014);
- ALM Media Properties: Selected as “Top Rated Lawyer” and featured as same in *American Lawyer*, *Corporate Counsel*, and the *National Law Journal* (2012-2017);
- America’s Top 100 LLC: Lifetime Achievement Award—one of “America’s Top 100 Attorneys” (2016);
- *Best Lawyers: Best Lawyers in America* book edition (2012-2019). Also *Best Lawyers Northern California*—Antitrust Law (2017-2018); *Best Lawyers Business Edition San Francisco*—Antitrust Law (2014 (winter), 2015 (winter, summer), 2016 (winter, summer)); *Best Lawyers San Francisco: Litigation*—Antitrust (2015);
- Chambers USA: “Band 1” (top-ranked) plaintiffs’ antitrust attorney for California and nationwide (2014-2017);
- *Daily Journal*: “Top Plaintiff Lawyers” (2018); “Top 100 Lawyers in California” (2016); CLAY Award—California Lawyer Attorney of the Year (2016); One of California’s Leading Labor & Employment Lawyers (2014);
- KMH Media Group Global 100 2017 edition: “Antitrust Litigation Lawyer of the Year—USA”;
- *Law 360*: “Titan of the Plaintiffs’ Bar” for his leadership and vision in extending the reach of antitrust cases into new areas such as pharmaceutical reverse payments and “no-poach” agreements by high-tech employers (2014);
- Martindale-Hubbell: AV Preeminent rating—Top Rated Lawyers (2008-2017);
- *National Law Journal*: “Trailblazers—Mergers & Acquisitions and Antitrust” (2015);
- *Super Lawyers: Super Lawyers Northern California*—Antitrust Litigation (2006-2018). Also “*Super Lawyers Top 100 Northern California*” (2015-2016); *Super Lawyers Business Edition*—“Top Attorneys in Antitrust Law” (2011-2018); *Super Lawyers Corporate Counsel Edition*—“Top Attorneys in Antitrust Law” (2010, 2012); and
- *Who’s Who Legal*: One of the top plaintiffs’ attorneys worldwide via *Who’s Who Legal: Competition* (publication of *Who’s Who Legal* and *Global Competition Review* (2015-2017)).

Mr. Saveri is admitted to practice in California, the U.S. Supreme Court, the U.S. Court of Appeals (First, Second, Fifth, Seventh, Eighth, and Ninth Circuits), and the United

States District Court of California (Central, Eastern, Northern, and Southern Districts), Illinois (Northern District), Michigan (Eastern District), and Wisconsin (Eastern District). He received his J.D. from the University of Virginia Law School in 1987. He received his B.A. in History and Economics (double major), with Honors, in 1984 from the University of California, Berkeley.

STEVEN N. WILLIAMS | In over twenty-five years of practice Steven N. Williams has handled successfully and with distinction all aspects of litigation and trial in state and federal courts and in private arbitration.

Mr. Williams has played a lead role in many of the most prominent antitrust class cases litigated in the United States over the last decade, including *In re Automotive Parts Antitrust Litigation*, *In re Static Random Access Memory Litigation*, *Precision Associates v. Panalpina World Transport*, and *In re Transpacific Air Transportation Litigation*. He has helped recover more than \$2 billion and has been responsible for new law including ground-breaking decisions narrowing the scope of the Filed Rate Doctrine and permitting civil damage claims in *E. & J. Gallo Winery v. EnCana Corp.*, 503 F.3d 1027 (2007) and *Wortman v. All Nippon Airways*, 854 F.3d 606 (2017), and a ruling that “umbrella damages” are available under California state law. *County of San Mateo v. CSL, Ltd.*, 2014 U.S. Dist. LEXIS 116342 (N.D. Cal. Aug. 20, 2014).

Mr. Williams, previously a long-time partner at Cotchett, Pitre & McCarthy, LLP, practices in the fields of litigation, trial, and client counseling, with an emphasis on representation of civil plaintiffs in antitrust matters. He has served in leadership positions in more than a dozen antitrust class cases throughout the United States. During his career, he has represented claimants in cases involving memory chips, pharmaceuticals, air passenger transportation, air cargo transportation, cathode ray tubes, capacitors, resistors, flash memory, lithium ion batteries, financial products and services, poultry, and water. He has been appointed to represent classes, and in non-class cases he has represented the Chief Justice of California, the Judicial Council of California, Consumers Union of United States, Inc., the United Farm Workers, Dolores Huerta, public pension funds, private investment funds, many cities and counties of California, public utilities including water districts, and individual consumers. His current caseload includes representing a class alleging that Nestlé Waters of North America has been misleading consumers for years by falsely claiming that its “Poland Spring” water is natural spring water, and leading a class action alleging that Pfizer and Mylan—manufacturer and distributor of the EpiPen, respectively—have unlawfully created and abused a monopoly for the essential, life-saving product.

Mr. Williams has written and lectured on various topics including antitrust, multidistrict litigation, complex litigation, electronic discovery, MTBE litigation, regulatory developments in environmental law, contractual issues in environmental cleanups, and habeas corpus. He has spoken at many venues, including the American Bar Association Antitrust Section Spring Meeting, the California State Bar Antitrust, UCL and Privacy Section, the New York State Bar Association Antitrust Section, and the Consumer Attorneys of California. He is the author or co-author of several publications, including: "Should United States Courts Defer to Foreign Governments?," Chambers and Partners's Cartels 2019 global practice guide; "'Pepper' as a Back Door to 'Illinois Brick' (and 'ARC America')?," and "Should 'Hanover Shoe' and 'Illinois Brick' Be Discarded?," August 2018 *The Recorder* (with firm Senior Associate Jiamie Chen); *Antitrust Law Developments (Eighth)*, American Bar Association; "Federal and State Class Antitrust Actions Should Not Be Tried in a Single Trial," *The Journal of the Antitrust and Unfair Competition Law Section of the State Bar of California*, Fall 2014; "Recoveries for Violations of Federal and California Antitrust Statutes Should Not Be Apportioned," Competition, Antitrust and Unfair Competition Law Section, California State Bar, Fall 2014; "Antitrust Whistleblowers Get Clarity," Los Angeles and San Francisco *Daily Journal*, 2013; "Courts Rein in the Cost of E-Discovery When Lawyers and Their Clients Won't," *California Lawyer*, April 2012; and *California's 2009 E-Discovery Laws, Text and Analysis*, LexisNexis 2009.

Mr. Williams was appointed by the Consumer Attorneys of California as a member of the California Discovery Subcommittee for revision of California discovery rules and statutes relating to electronic discovery and electronically stored information, 2007-2008. He has given yearly presentations to CAOC on topics of civil discovery in California. He is currently in leadership for the American Bar Association Antitrust Section and is a member of the International Cartel Task Force, the Advisory Board of the American Antitrust Institute, and the Executive Committee of the Committee to Support the Antitrust Laws. He is an advisor to the Executive Committee of the California Lawyers Association Section on Antitrust, Unfair Competition Law, and Privacy Law, and was chair of the 2017 Golden State Antitrust Institute. He is also a Board Member of Public Justice and past Chairman of the Board of Community Gatepath, an organization dedicated to serving the needs of developmentally disabled children and adults.

Mr. Williams has received numerous professional accolades during his legal career. Chambers USA has ranked him 2015-2018 as a Band 1 or Band 2 attorney for "Antitrust: Mainly Plaintiff—California" and 2017-2018 as a Band 2 attorney for "Antitrust: Plaintiff—Nationwide." He has been rated AV Preeminent by Martindale Hubbell since 2002. He has been designated 2005-2018 as a "Super Lawyer" and 2016-

2018 as a "Top 100 Northern California Super Lawyer" by Thomson Reuters *Super Lawyers* publication. From 2014-2018 he has been ranked by *Who's Who Legal* as one of the top plaintiffs' attorneys worldwide via *Who's Who Legal: Competition*, a publication of Who's Who Legal and Global Competition Review. And, in 2018 he was selected and profiled by the California *Daily Journal* as one of thirty "Top Plaintiff Lawyers" in California.

Mr. Williams is admitted to practice in California, New Jersey, New York, the U.S. Supreme Court, the U.S. Court of Appeals (Second, Third, Fifth, Sixth, Ninth, and District of Columbia Circuits), and the United States District Court of California (Eastern, Central, Northern, and Southern Districts), Michigan (Eastern District), New Jersey, and New York (Eastern and Southern Districts). He received his J.D. from the Fordham University School of Law and his B.A. in Russian and Slavic Studies from New York University.

ASSOCIATES

JAMIE CHEN | Ms. Chen has prosecuted and defended a wide array of cases over the past eight years, including civil as well as criminal antitrust and white collar matters.

Prior to joining the Firm, Ms. Chen worked as an Assistant United States Attorney in the District of Nevada, prosecuting million-dollar financial crimes, assisting with Ninth Circuit briefs and oral arguments for the Appellate Division, and serving as identity theft prosecutions coordinator. In addition, she practiced with two preeminent law firms in Washington, D.C., where she worked on antitrust and white collar matters (including defending a Fortune 500 company at trial in a price-fixing matter), served as antitrust counsel in a billion-dollar acquisition, and represented a Wall Street bank in a complex investigation and prosecution involving foreign exchange pricing practices.

Ms. Chen is a contributing author in the upcoming issue of the California Lawyers Association's *Competition* publication and has served as Moderator for a July 2018 American Bar Association/California Lawyers Association MCLE antitrust program. In August 2018, Firm partner Steven Williams and she co-authored "'Pepper' as a Back Door to 'Illinois Brick' (and 'ARC America')?" and "Should 'Hanover Shoe' and 'Illinois Brick' Be Discarded?" for *The Recorder*.

Ms. Chen previously served as judicial law clerk for Chief Judge Lawrence J. O'Neill of the United States District Court for the Eastern District of California, where she drafted dispositive opinions in matters ranging from civil rights to patent infringement and gained

familiarity with how the court approaches key issues such as class certification and sufficiency of allegations of complex wrongful conduct.

Ms. Chen earned her B.A. in Government from Dartmouth and her J.D. from the University of Pennsylvania Law School. During law school, she served as Symposium Editor and Senior Editor of the *University of Pennsylvania Journal of International Law*. She is admitted to practice in California (pending) and New York.

NICOMEDES SY HERRERA | Mr. Herrera represents clients of the Firm on a broad range of complex, high-impact business and trade disputes, with a particular focus on major antitrust actions.

Prior to joining the Firm, Mr. Herrera practiced at the Manhattan offices of major international law firms—including Torys LLP and Lowenstein Sandler PC—representing Fortune 100 clients. He has successfully litigated matters involving securities fraud, theft of trade secrets, corporate governance, employment litigation, misappropriation of intellectual property, financial and accounting fraud, white collar crime, and major contract disputes. He also pursued a series of class and derivative actions on behalf of injured investors against financial asset managers for claims worth over \$1 billion. Early in his appellate career, he successfully briefed and argued the seminal *Harrison v. Barkley* litigation that clarified the scope of Eighth and Fourteenth Amendment due process protections.

Mr. Herrera is admitted to practice in California and New York, and has successfully pursued cases from pre-trial investigations through the appellate process. He has practiced before federal and state trial and appellate courts throughout the United States, including California, New York, Delaware, New Jersey, Pennsylvania, Ohio, Missouri, Tennessee, and Alabama. He has also handled appeals before the intermediate and highest state appellate courts in many states, and before the United States Court of Appeals for the Second, Third, Sixth, Seventh, Eighth, and Ninth Circuits. He is also an experienced advocate before non-judicial tribunals and has successfully represented business clients in international and domestic arbitrations.

Mr. Herrera graduated *cum laude* from Columbia University, where he earned a B.A. in Political Science. He received his J.D. from Columbia Law School, where he was a Harlan Fiske Stone Scholar.

Mr. Herrera is active in charitable work. He is a founder, and continues to serve on the board, of a publicly-supported charitable foundation. He also organized and co-led a

committee of lawyers to establish the Pope Francis Legal Help Center in Oakland, where he continues to volunteer on a *pro bono* basis.

DEMETRIUS LAMBRINOS | Prior to and since joining the Firm, Mr. Lambrinos has spent his career litigating nationwide antitrust class actions against global cartels on behalf of consumers. These suits have resulted in hundreds of millions of dollars in settlements. He has been involved in all case aspects, from initial case investigation to depositions and through trial. He has first-chaired numerous depositions, argued substantive motions, written briefs, prepared experts to testify, and successfully conducted other high-level legal activities.

Mr. Lambrinos is also active in the community. He is currently on the board of the Bay Area Urban Debate League, a nonprofit that helps underserved Bay Area high schools develop and maintain after-school debate programs. As a board member, he has helped raised over \$850,000 to further this mission.

Mr. Lambrinos was named a Northern California “Rising Star” in 2015 and 2016 by Thomson Reuters’s *Super Lawyers* publication and designated a “Super Lawyer” in 2018. Mr. Lambrinos received his B.A. from the University of Redlands, Johnston College (Philosophy). He graduated from the University of Iowa College of Law, J.D.-M.B.A. (emphasis in Law and Economics), receiving special honors, with distinction. He is admitted to practice in California and before the U.S. Court of Appeals for the Ninth Circuit, and the U.S. District Courts for the Northern District of California and the Eastern District of Michigan.

JAMES DALLAL | While at the Firm Mr. Dallal has focused on complex class actions involving antitrust claims. He has practiced in all phases of antitrust litigation from pleadings through discovery, class certification, dispositive motions, and appellate briefing. Prior to joining the Firm he worked for a boutique plaintiffs’ firm in Los Angeles that assisted borrowers in their suits against the financial industry.

Mr. Dallal attended Rice University (B.A., History), Hastings College of the Law (J.D. *cum laude*), and Université Panthéon-Assas in Paris (LLM. in European Law, first in class and *mention bien*). Prior to attending law school he worked as a paralegal for a major international firm in its patent litigation group. He has certified proficiency in French and Portuguese.

Mr. Dallal was named a Northern California “Rising Star” in 2017 and 2018 by Thomson Reuters’s *Super Lawyers* publication. He is admitted to practice in California and before the U.S. Court of Appeals in the Ninth Circuit and the U.S. District Courts for the Northern Districts of California and Texas.

KYLA GIBBONEY | Ms. Gibboney specializes in complex civil litigation, with a particular focus on antitrust class actions. She graduated from the University of California, Berkeley, with a B.A. in English Literature (major) and Theater and Performance Studies (minor), and received her J.D., *cum laude*, from the University of California Hastings College of the Law.

Ms. Gibboney was named in 2018 a Northern California “Rising Star” by Thomson Reuters’s *Super Lawyers* publication. She is admitted to practice in California and before the U.S. Court of Appeals for the Ninth Circuit and the U.S. District Court for the Northern District of California.

During law school, Ms. Gibboney served as a legal extern for the Antitrust Division of the Department of Justice, where she gained hands-on trial and regulatory experience. She completed judicial externships for Magistrate Judge Kandis A. Westmore of the Northern District of California and Justice Sandra L. Margulies of the California Court of Appeal for the First District. She was also active in the pro bono community and served as the Executive Articles Editor of the *Hastings Constitutional Law Quarterly*.

RYAN J. MCEWAN | Mr. McEwan focuses his practice on complex civil and class action litigation in state and federal court. Since joining the Firm, he has participated in all phases of antitrust litigation, including pre-filing investigation, law and motion practice, discovery, pre-trial, jury selection, trial, and appellate briefing.

Mr. McEwan was selected as an Honoree for the American Antitrust Institute 2017 Antitrust Enforcement Awards for Outstanding Antitrust Litigation Achievement by a Young Lawyer for his work on *In re Cipro Cases I and II*. He was named “Antitrust

California Lawyer Attorney of the Year” in the *Daily Journal/California Lawyer* 2016 CLAY Awards. In 2015-2018 he was named a Northern California “Rising Star” by Thomson Reuters’s *Super Lawyers* publication.

Prior to joining the Firm, Mr. McEwan served as a fellowship attorney in the Antitrust Section of the California Department of Justice. He received his B.A. in Political Science from the University of Oregon. He earned his J.D., *magna cum laude*, Order of the Coif, from the University of California Hastings College of the Law. During law school, he served as a judicial extern to the Honorable John E. Munter of the San Francisco Superior Court, Complex Litigation Department. As an extern to Judge Munter, he focused on complex commercial litigation, including contractual disputes, intellectual property rights, and employment class actions.

Mr. McEwan is admitted to practice in California and before the U.S. Court of Appeals for the Second, Eighth, and Ninth Circuits, and the U.S. District Court for the Northern District of California. He is the co-author of *Deactivating Actavis: The Clash Between the Supreme Court and (Some) Lower Courts*, 67 Rutgers U. L. Rev. 557.

V PRENTICE | Mr. Prentice specializes in class actions and other complex civil litigation. Prior to joining the Firm, he served as a Law Clerk for the Honorable Marsha S. Berzon of the United States Court of Appeals for the Ninth Circuit, where he worked on a wide range of legal issues, including questions of civil procedure, statutory construction, and federal preemption.

Before his clerkship, Mr. Prentice was a Rockefeller Brothers Fund Fellow at the Vera Institute of Justice in New York. During law school, he represented veterans in federal court class actions and administrative proceedings as an intern at the Jerome N. Frank Legal Services Organization in New Haven, CT. He also served as the Managing Editor of the *Yale Human Rights and Development Law Journal*, worked as a teaching assistant, and helped produce documentary films about contemporary legal issues as a member of the Yale Visual Law Project.

Mr. Prentice received his B.A. in International Affairs, *summa cum laude*, from George Washington University. He earned his M.A. in Environmental Management from Freie Universität Berlin and his J.D. from Yale Law School. He is admitted to practice in the State of California and the U.S. District Court of California (Central and Northern Districts).

KEVIN RAYHILL | Mr. Rayhill specializes in complex class actions involving antitrust claims. He represents plaintiffs harmed by the anticompetitive practices of powerful corporations in markets such as automobiles, steel, commodities warehousing, long-haul trucking, paint manufacture, plastics, and commercial food products.

Mr. Rayhill is a graduate of Oberlin College (B.A., Religion), the Berklee College of Music (Professional Diploma), and the University of California Hastings College of the Law (J.D.). While in law school, he held internships at the California Attorney General's Office (Environment, Land Use, and Natural Resources Division) and the San Francisco City Attorney's Office (Energy and Telecommunications Team), and an externship with Justice Stuart R. Pollak of the California Court of Appeal (First District). Upon graduation he worked as a Legal Research Attorney at the Superior Court of San Francisco (Criminal Division).

Kevin is admitted to practice in California and before the U.S. Court of Appeals for the Ninth Circuit and the U.S. District Courts for the Central, Eastern, and Northern Districts of California, and the Eastern District of Wisconsin.

STAFF ATTORNEYS

ELISSA A. BUCHANAN | Ms. Buchanan's background includes work on antitrust, construction defect, and corporate securities and shareholder litigation. Prior to joining the Firm, Ms. Buchanan worked as a contract attorney on construction defect litigation and antitrust and personal injury class actions. During law school, she interned at California Lawyers for the Arts, where she worked with artist clients to find solutions to copyright and trademark issues. She also was a technical editor for the *Journal of Law and Social Justice* and volunteered for Law in Motion, a program that provides opportunities for the law school community to reflect on issues of social justice and access to equal justice through various activities and events. She is admitted to practice in California.

JULIE HAN | Ms. Han assists in the Firm's representation of clients in antitrust class actions and conducts both relevancy and privilege reviews of Korean and Japanese documents. Prior to joining the Firm, she worked for Quinn Emanuel in the San Francisco Bay Area as a contract attorney and managed the discovery review team to assist the firm's intellectual property litigation.

Ms. Han is admitted to practice in California. She received her B.A. (Architectural Engineering) from Chung-Ang University, Seoul, and B.S. in Business Administration (concentration in International Business) from San Francisco State University. She earned her J.D. at the University of the Pacific School of Law. During law school, she worked as a legal intern at the Office of Legislation and Policy of the California Department of Corporations. During the internship, she researched the lending issues of the State and drafted legislation analyses on California finance and mortgage lending law.

OF COUNSEL

JOSHUA P. DAVIS | Professor Davis has been involved in class actions in general and in antitrust class actions for over twenty years. He graduated from NYU School of Law, serving as the Senior Articles Editor of the *Law Review* and receiving the Frank Sommer Award for the top general scholarship and achievement in his class. He clerked for the Honorable Patrick Higginbotham, the United States Court of Appeals for the Fifth Circuit. He was a partner at Lieff Cabraser Heimann & Bernstein LLP until he joined the law faculty of the University of San Francisco School of Law, where he is currently the Director of its Center for Law and Ethics after serving as Associate Dean for Academic Affairs. He has written dozens of law review articles, many of them on class actions and private antitrust enforcement. He is on the board of the American Antitrust Institute and is one of the top scholars in the country writing on class certification in antitrust cases. He has also participated as part of the team prosecuting numerous active antitrust and other class actions.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

IN RE HP PRINTER FIRMWARE UPDATE
LITIGATION

Case No.: 5:16-cv-05820-EJD-SVK

DECLARATION OF CAMERON R. AZARI, ESQ. ON SETTLEMENT NOTICE PLAN

I, Cameron Azari, declare as follows:

1. My name is Cameron R. Azari, Esq. I have personal knowledge of the matters set forth herein, and I believe them to be true and correct.

2. I am a nationally recognized expert in the field of legal notice and I have served as an expert in dozens of federal and state cases involving class action notice plans.

3. I am the Director of Legal Notice for Hilsoft Notifications (“Hilsoft”); a firm that specializes in designing, developing, analyzing and implementing large-scale legal notification plans. Hilsoft is a business unit of Epiq Class Action & Claims Solutions, Inc. (“Epiq”).

4. Hilsoft has been involved with some of the most complex and significant notices and notice programs in recent history. With experience in more than 400 cases, including more than 35 MDLs, notices prepared by Hilsoft have appeared in 53 languages with distribution in almost every country, territory and dependency in the world. Judges, including in published decisions, have recognized and approved numerous notice plans developed by Hilsoft, and those decisions invariably have withstood appellate challenges and collateral reviews by other courts.

EXPERIENCE RELEVANT TO THIS CASE

5. I have served as a notice expert and have been recognized and appointed by courts to design and provide notice in many large and significant cases, including: *In re Takata*

Airbag Products Liability Litigation, Case No. 1:15-md-02599-FAM (“*Takata MDL*”) (S.D. Fla) (\$1.2 billion in settlements with BMW, Mazda, Subaru, Toyota, Honda and Nissan regarding Takata airbags. The Notice Plans included individual mailed notice to more than 51.5 million potential Class Members and extensive nationwide media via consumer publications, U.S. Territory newspapers, radio spots, internet banners, mobile banners, and specialized behaviorally targeted digital media. Combined, the Notice Plans reached more than 95% of adults aged 18 and over in the U.S. who owned or leased a subject vehicle an average of 4.0 times each.); *In re: Volkswagen “Clean Diesel” Marketing, Sales Practices and Product Liability Litigation (Bosch Settlement)*, MDL No. 2672 (N.D. Cal.) (comprehensive notice program for the *Volkswagen Emissions Litigation* provided individual notice to more than 946,000 vehicle owners via first class mail and to more than 855,000 via email. A targeted internet campaign further enhanced the notice effort.); *Callaway v. Mercedes-Benz USA, LLC*, Case No. 14-cv-02011 JVS (DFMx) (C.D. Cal) (individual notice reached more than 645,000 vehicle owners via first class mail; final approval is pending.); *In re: Payment Card Interchange Fee and Merchant Discount Antitrust Litigation*, MDL No. 1720 (E.D.N.Y.) (in a \$7.2 billion settlement with Visa and MasterCard, the intensive notice program included over 19.8 million direct mail notices and insertions in over 1,500 newspapers, consumer magazines, national business publications, trade and specialty publications, and language and ethnic targeted publications, as well as online banner notices, which generated more than 770 million adult impressions.); *In Re: Oil Spill by the Oil Rig “Deepwater Horizon” in the Gulf of Mexico, on April 20, 2010*, MDL No. 2179 (E.D. La.) (dual landmark settlement notice programs to distinct “Economic and Property Damages” and “Medical Benefits” settlement classes after BP oil spill disaster. Notice effort included over 7,900 television spots, over 5,200 radio spots, and over

5,400 print insertions and reached over 95% of Gulf Coast residents.); and *In Re: Checking Account Overdraft Litigation*, MDL No. 2036 (S.D. Fla.) (multiple bank settlements between 2010-2018 involved direct mail and email to millions of class members as well as publication in relevant local newspapers. Representative banks include Fifth Third Bank, National City Bank, Bank of Oklahoma, Webster Bank, Harris Bank, M & I Bank, PNC Bank, Compass Bank, Commerce Bank, Citizens Bank, Great Western Bank, TD Bank, BancorpSouth, Comerica Bank, Susquehanna Bank, Associated Bank, Capital One, M&T Bank, Iberiabank and Synovus.).

6. Many other court opinions and comments regarding my testimony, and the adequacy of our notice efforts, are included in Hilsoft's curriculum vitae included as **Attachment 1**.

7. In forming expert opinions, my staff and I draw from our in-depth class action case experience, as well as our educational and related work experiences. I am an active member of the Oregon State Bar, having received my Bachelor of Science from Willamette University and my Juris Doctor from Northwestern School of Law at Lewis and Clark College. I have served as the Director of Legal Notice for Hilsoft since 2008 and have overseen the detailed planning of virtually all of our court-approved notice programs during that time. Before assuming my current role with Hilsoft, I served in a similar role as Director of Epiq Legal Noticing (previously called Huntington Legal Advertising). Overall, I have over 18 years of experience in the design and implementation of legal notification and claims administration programs, having been personally involved in well over one hundred successful notice programs.

8. This declaration details the Settlement Notice Plan ("Notice Plan" or "Plan") proposed here for the Settlement in *In re HP Printer Firmware Update Litigation*, Case No.

5:16-cv-05820-EJD-SVK, in the United States District Court for the Northern District of California, San Jose Division. The facts in this declaration are based on my personal knowledge, as well as information provided to me by my colleagues in the ordinary course of my business at Hilsoft and Epiq.

NOTICE PLAN

9. The Notice Plan is designed to provide notice to the following Settlement Class:

All Persons who owned a Class Printer from March 1, 2015 through December 31, 2017.

The Class Printers are: HP OfficeJet Pro 6230; HP OfficeJet 6812; HP OfficeJet 6815; HP OfficeJet 6820; HP OfficeJet Pro 6830; HP OfficeJet Pro 6835; HP OfficeJet Pro 8610; HP OfficeJet Pro 8615; HP OfficeJet Pro 8616; HP OfficeJet Pro 8620; HP OfficeJet Pro 8625; HP OfficeJet Pro 8630; HP OfficeJet Pro X551dw; HP OfficeJet Pro X451dn; HP OfficeJet Pro X451dw; HP OfficeJet Pro X576dw; HP OfficeJet Pro X476dn; and HP OfficeJet Pro X476dw.

10. Rule 23 of the Federal Rules of Civil Procedure directs that the best notice practicable under the circumstances must include “individual notice to all members who can be identified through reasonable effort.”¹ The proposed Notice Plan satisfies this requirement. The Notice Plan provides for emailing or mailing individual notice to all Class Members who are reasonably identifiable. In my opinion, providing individual notice to the Class satisfies the requirements of due process, including its “desire to actually inform” requirement.²

¹ FRCP 23(c)(2)(B).

² “But when notice is a person’s due, process which is a mere gesture is not due process. The means employed must be such as one desirous of actually informing the absentee might reasonably adopt to accomplish it. The reasonableness and hence the constitutional validity of any chosen method may be defended on the ground that it is in itself reasonably certain to inform those affected” *Mullane v. Cent. Hanover Bank & Trust Co.*, 339 U.S. 306, 315 (1950).

Individual Notice

11. It is my understanding that email and/or mailing addresses exist in HP's records for a substantial majority of Settlement Class Members. This data will be used to send an Email Notice or a Postcard Notice to Settlement Class Members that clearly and concisely summaries the Settlement. Approximately 2,400,000 Settlement Class Members will receive direct notice. Both the Email and Postcard Notices will direct the recipients to a website dedicated to the Settlement where they can access additional information.

Email Notice

12. The Email Notice will be disseminated to all potential Settlement Class members for whom a facially valid email address is available. The Email Notice will be created using an embedded html text format. This format will provide easy-to-read text without graphics, tables, images and other elements that would increase the likelihood that the message could be blocked by Internet Service Providers (ISPs) and/or SPAM filters. Each Email Notice will be transmitted with a unique message identifier. If the receiving e-mail server cannot deliver the message, a "bounce code" will be returned along with the unique message identifier. For any Email Notice for which a bounce code is received indicating that the message was undeliverable, at least two additional attempts will be made to deliver the Notice by email.

13. The Email Notice will include an embedded link to the case website. By clicking the link, recipients will be able to easily access a more detailed Notice, the Settlement Agreement, the Claim Form and other information about the settlement. They also will be able to easily file an online claim.

Direct Mail

14. Epiq will send a Postcard Notice to all records with an associated physical address where a deliverable email address is not available. The Postcard Notice will be sent via United States Postal Service (“USPS”) first class mail. Prior to mailing, all mailing addresses will be checked against the National Change of Address (“NCOA”) database maintained by the USPS.³ Any addresses that are returned by the NCOA database as invalid will be updated through a third-party address search service. In addition, the addresses will be certified via the Coding Accuracy Support System (“CASS”) to ensure the quality of the zip code, and verified through Delivery Point Validation (“DPV”) to verify the accuracy of the addresses. This address updating process is standard for the industry and for the majority of promotional mailings that occur today.

15. Postcard Notices returned as undeliverable will be re-mailed to any new address available through postal service information, for example, to the address provided by the postal service on returned pieces for which the automatic forwarding order has expired, or to better addresses that may be found using a third-party lookup service (“ALLFIND”, maintained by LexisNexis). This process is also commonly referred to as ‘skip-tracing.’ Upon successfully locating better addresses, Postcard Notices will be promptly re-mailed.

Internet Banner Notices

16. Banner Notices measuring 728 x 90 pixels and 300 x 250 pixels will be placed online across the *Google Display Network*. In addition, banners will be placed on a *Google Display Network’s* Custom Intent Audience targeted to consumers who actively search for “HP

³ The NCOA database contains records of all permanent change of address submissions received by the USPS for the last four years. The USPS makes this data available to mailing firms and lists submitted to it are automatically updated with any reported move based on a comparison with the person’s name and known address.

Printer” related topics. Banner Notices measuring 254 x 133 pixels will also be placed on *Facebook*. Furthermore, banners will be placed on *Facebook* targeted to users who have identified an interest which includes HP-branded printers.

17. Combined, approximately 70.3 million adult impressions will be generated by the Banner Notice, which will run for a 31-day period. Clicking on the banner will link the reader to the case website at which they can obtain detailed information about the Settlement.

Internet Sponsored Search Listings

18. To facilitate locating the case website, sponsored search listings will be acquired on the three most highly-visited internet search engines: *Google*, *Yahoo!* and *Bing*. When search-engine visitors search on common keyword combinations—for example, “HP Printer Settlement,” “HP Printer Disablement,” “OfficeJet Settlement,” and “HP Firmware Lawsuit”—the sponsored search listing generally will be displayed at the top of the page prior to the search results or in the upper right-hand column of the web-browser screen.

Informational Release

19. To build additional reach and extend exposures, a party-neutral Informational Release will be issued to approximately 5,000 general media (print and broadcast) outlets across the United States and 5,400 online databases and websites. The Informational Release will serve a valuable role by providing additional notice exposures beyond those already provided by the paid media.

Case Website, Toll-free Telephone Number and Postal Mailing Address

20. A dedicated website will be established for the Settlement with an easy-to-remember domain name. Settlement Class Members will be able to obtain detailed information about the case and review key documents, including the Claim Form, the Settlement Notices,

the Settlement Agreement, the Plan of Allocation, the Consolidated Amended Complaint, and the Preliminary Approval Order, as well as answers to frequently asked questions (FAQs). Importantly, Settlement Class Members will have the opportunity to file a claim on the case website. The case website address will be displayed prominently on all notice documents.

21. A toll-free telephone number will also be established to allow Settlement Class Members to call for additional information, listen to answers to FAQs and request that a Notice be mailed to them. The toll-free telephone number will be prominently displayed in the Notice documents as well.

22. The case website and toll-free telephone number will provide information for Settlement Class Members in both English and Spanish.

23. A post office box for correspondence about the Settlement will also be established and maintained, allowing Settlement Class Members to contact the Settlement Administrator by mail with any specific requests or questions, including requests for exclusion.

CONCLUSION

24. In class action notice planning, execution, and analysis, we are guided by due process considerations under the United States Constitution, by state and local rules and statutes, and by case law pertaining to the recognized notice standards under Rule 23. This framework directs that the notice program be optimized to reach the class and, in a settlement class action notice situation such as this, that the notice or notice program itself not limit knowledge of the availability of benefits—nor the ability to exercise other options—to class members in any way. All of these requirements will be met in this case.

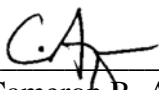
25. Using the combination of individual notice to known Class members and nationwide online media, the Notice Plan will effectively reach at least an estimated 70% of the

Class. In 2010, the Federal Judicial Center issued a Judges' Class Action Notice and Claims Process Checklist and Plain Language Guide. This Guide states that, "the lynchpin in an objective determination of the adequacy of a proposed notice effort is whether all the notice efforts together will reach a high percentage of the class. It is reasonable to reach between 70–95%." Here, we have developed a Notice Plan that will readily meet that standard.

26. The Notice Program described above provides for the best notice practicable under the circumstances of this case, conforms to all aspects of the Rule 23, and comports with the guidance for effective notice set out in the Manual for Complex Litigation, Fourth.

27. The Notice Plan schedule affords sufficient time to provide full and proper notice to Class Members before the opt-out and objection deadlines.

I declare under penalty of perjury that the foregoing is true and correct. Executed on September 18, 2018, at Beaverton, Oregon.



Cameron R. Azari

Attachment 1

HILSOFT NOTIFICATIONS

Hilsoft Notifications is a leading provider of legal notice services for large-scale class action and bankruptcy matters. We specialize in providing quality, expert, notice plan development – designing notice programs that satisfy due process requirements and withstand judicial scrutiny. For more than 23 years, Hilsoft Notifications’ notice plans have been approved and upheld by courts. Hilsoft Notifications has been retained by defendants and/or plaintiffs on more than 300 cases, including more than 30 MDL cases, with notices appearing in more than 53 languages and in almost every country, territory and dependency in the world. Case examples include:

- Hilsoft designed and implemented monumental notice campaigns to notify current or former owners or lessees of certain BMW, Mazda, Subaru, Toyota, Honda, and Nissan vehicles as part of \$1.2 billion in settlements regarding Takata airbags. The Notice Plans included individual mailed notice to more than 51.5 million potential Class Members and notice via consumer publications, U.S. Territory newspapers, radio spots, internet banners, mobile banners, and specialized behaviorally targeted digital media. Combined, the Notice Plans reached more than 95% of adults aged 18+ in the U.S. who owned or leased a subject vehicle with a frequency of 4.0 times each. ***In re: Takata Airbag Products Liability Litigation (OEMs – BMW, Mazda, Subaru, Toyota, Honda and Nissan)***, MDL No. 2599 (S.D. Fla.).
- A comprehensive notice program within the *Volkswagen Emissions Litigation* that provided individual notice to more than 946,000 vehicle owners via first class mail and to more than 855,000 via email. A targeted internet campaign further enhanced the notice effort. ***In re: Volkswagen “Clean Diesel” Marketing, Sales Practices and Product Liability Litigation (Bosch Settlement)***, MDL No. 2672 (N.D. Cal.).
- Hilsoft designed and implemented an extensive settlement Notice Plan for a class period spanning more than 40 years for smokers of light cigarettes. The Notice Plan delivered a measured reach of approximately 87.8% of Arkansas Adults 25+ with a frequency of 8.9 times and approximately 91.1% of Arkansas Adults 55+ with a frequency of 10.8 times. Hispanic newspaper notice, an informational release, radio PSAs, sponsored search listings and a case website further enhanced reach. ***Miner v. Philip Morris USA, Inc.***, No. 60CV03-4661 (Ark. Cir.).
- One of the largest claim deadline notice campaigns ever implemented, for BP’s \$7.8 billion settlement claim deadline relating to the Deepwater Horizon oil spill. Hilsoft Notifications designed and implemented the claim deadline notice program, which resulted in a combined measurable paid print, television, radio and Internet effort that reached in excess of 90% of adults aged 18+ in the 26 identified DMAs covering the Gulf Coast Areas an average of 5.5 times each. ***In re Oil Spill by the Oil Rig “Deepwater Horizon” in the Gulf of Mexico, on April 20, 2010***, MDL No. 2179 (E.D. La.).
- Large asbestos bar date notice effort, which included individual notice, national consumer publications, hundreds of local and national newspapers, Spanish newspapers, union labor publications, and digital media to reach the target audience. ***In re: Energy Future Holdings Corp., et al. (Asbestos Claims Bar Date Notice)***, 14-10979(CSS) (Bankr. D. Del.).
- Landmark \$6.05 billion settlement reached by Visa and MasterCard. The intensive notice program involved over 19.8 million direct mail notices to class members together with insertions in over 1,500 newspapers, consumer magazines, national business publications, trade & specialty publications, and language & ethnic targeted publications. Hilsoft also implemented an extensive online notice campaign with banner notices, which generated more than 770 million adult impressions, a case website in eight languages, and acquisition of sponsored search listings to facilitate locating the website. ***In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation***, MDL No. 1720 (E.D.N.Y.).

- BP's \$7.8 billion settlement of claims related to the Deepwater Horizon oil spill emerged from possibly the most complex class action in U.S. history. Hilsoft Notifications drafted and opined on all forms of notice. The 2012 notice program designed by Hilsoft reached at least 95% Gulf Coast region adults via television, radio, newspapers, consumer publications, trade journals, digital media and individual notice. ***In re Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico, on April 20, 2010***, MDL No. 2179 (E.D. La.).
- Momentous injunctive settlement reached by American Express regarding merchant payment card processing. The notice program provided extensive individual notice to more than 3.8 million merchants as well as coverage in national and local business publications, retail trade publications and placement in the largest circulation newspapers in each of the U.S. territories and possessions. ***In re American Express Anti-Steering Rules Antitrust Litigation (II)***, MDL No. 2221 (E.D.N.Y.) ("Italian Colors").
- Overdraft fee class actions have been brought against nearly every major U.S. commercial bank. For related settlements, Hilsoft Notifications has developed programs that integrate individual notice and paid media efforts. PNC, Citizens, TD Bank, Fifth Third, Harris Bank M&I, Comerica Bank, Susquehanna Bank, Capital One, M&T Bank and Synovus are among the more than 20 banks that have retained Hilsoft. ***In re Checking Account Overdraft Litigation***, MDL No. 2036 (S.D. Fla.).
- Possibly the largest data breach in U.S. history with approximately 130 million credit and debit card numbers stolen. ***In re Heartland Data Security Breach Litigation***, MDL No. 2046 (S.D. Tex.)
- Largest and most complex class action in Canadian history. Designed and implemented groundbreaking notice to disparate, remote aboriginal people in the multi-billion dollar settlement. ***In re Residential Schools Class Action Litigation***, 00-CV-192059 CPA (Ont. Super. Ct.).
- Extensive point of sale notice program of a settlement providing payments up to \$100,000 related to Chinese drywall – 100 million notices distributed to Lowe's purchasers during a six-week period. ***Vereen v. Lowe's Home Centers***, SU10-CV-2267B (Ga. Super. Ct.).
- Largest discretionary class action notice campaign involving virtually every adult in the U.S. for the settlement. ***In re Trans Union Corp. Privacy Litigation***, MDL No. 1350 (N.D. Ill.).
- Most complex national data theft class action settlement involving millions of class members. ***Lockwood v. Certegy Check Services, Inc.***, 8:07-cv-1434-T-23TGW (M.D. Fla.).
- Largest combined U.S. and Canadian retail consumer security breach notice program. ***In re TJX Companies, Inc., Customer Data Security Breach Litigation***, MDL No. 1838 (D. Mass.).
- Most comprehensive notice ever in a securities class action for the \$1.1 billion settlement of ***In re Royal Ahold Securities and ERISA Litigation***, MDL No. 1539 (D. Md.).
- Most complex worldwide notice program in history. Designed and implemented all U.S. and international media notice with 500+ publications in 40 countries and 27 languages for \$1.25 billion settlement. ***In re Holocaust Victims Assets, "Swiss Banks"***, No. CV-96-4849 (E.D.N.Y.).
- Largest U.S. claim program to date. Designed and implemented a notice campaign for the \$10 billion program. ***Tobacco Farmer Transition Program***, (U.S. Dept. of Ag.).
- Multi-national claims bar date notice to asbestos personal injury claimants. Opposing notice expert's reach methodology challenge rejected by court. ***In re Babcock & Wilcox Co***, No. 00-10992 (E.D. La.).

LEGAL NOTICING EXPERTS

Cameron Azari, Esq., Director of Legal Notice

Cameron Azari, Esq. has more than 17 years of experience in the design and implementation of legal notification and claims administration programs. He is a nationally recognized expert in the creation of class action notification campaigns in compliance with Fed R. Civ. P. 23(c)(2) (d)(2) and (e) and similar state class action statutes. Cameron has been responsible for hundreds of legal notice and advertising programs. During his career, he has been involved in an array of high profile class action matters, including *In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation (MasterCard & Visa)*, *In re: Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico, Heartland Payment Systems*, *In re: Checking Account Overdraft Litigation, Lowe's Home Centers, Department of Veterans Affairs (VA)*, and *In re Residential Schools Class Action Litigation*. He is an active author and speaker on a broad range of legal notice and class action topics ranging from amendments to FRCP Rule 23 to email noticing, response rates and optimizing settlement effectiveness. Cameron is an active member of the Oregon State Bar. He received his B.S. from Willamette University and his J.D. from Northwestern School of Law at Lewis and Clark College. Cameron can be reached at caza@legalnotice.com.

Lauran Schultz, Executive Director

Lauran Schultz consults extensively with clients on notice adequacy and innovative legal notice programs. Lauran has more than 20 years of experience as a professional in the marketing and advertising field, specializing in legal notice and class action administration for the past seven years. High profile actions he has been involved in include companies such as BP, Bank of America, Fifth Third Bank, Symantec Corporation, Lowe's Home Centers, First Health, Apple, TJX, CNA and Carrier Corporation. Prior to joining Epiq in 2005, Lauran was a Senior Vice President of Marketing at National City Bank in Cleveland, Ohio. Lauran's education includes advanced study in political science at the University of Wisconsin-Madison along with a Ford Foundation fellowship from the Social Science Research Council and American Council of Learned Societies. Lauran can be reached at lschultz@hilsoft.com.

ARTICLES AND PRESENTATIONS

- **Cameron Azari** Co-Author, "A Practical Guide to Chapter 11 Bankruptcy Publication Notice." E-book, published, May 2017.
- **Cameron Azari** Featured Speaker, "Proposed Changes to Rule 23 Notice and Scrutiny of Claim Filing Rates," DC Consumer Class Action Lawyers Luncheon, December 6, 2016.
- **Cameron Azari** Speaker, "2016 Cybersecurity & Privacy Summit. Moving From 'Issue Spotting' To Implementing a Mature Risk Management Model." King & Spalding, Atlanta, GA, April 25, 2016.
- **Cameron Azari** Speaker, "Live Cyber Incident Simulation Exercise." Advisen's Cyber Risk Insights Conference, London, UK, February 10, 2015.
- **Cameron Azari** Speaker, "Pitfalls of Class Action Notice and Claims Administration." PLI's Class Action Litigation 2014 Conference, New York, NY, July 9, 2014.
- **Cameron Azari** Co-Author, "What You Need to Know About Frequency Capping In Online Class Action Notice Programs." *Class Action Litigation Report*, June 2014.
- **Cameron Azari** Speaker, "Class Settlement Update – Legal Notice and Court Expectations." PLI's 19th Annual Consumer Financial Services Institute Conference, New York, NY, April 7-8, 2014 and Chicago, IL, April 28-29, 2014.
- **Cameron Azari** Speaker, "Legal Notice in Consumer Finance Settlements - Recent Developments." ACI's Consumer Finance Class Actions and Litigation, New York, NY, January 29-30, 2014.
- **Cameron Azari** Speaker, "Legal Notice in Building Products Cases." HarrisMartin's Construction Product Litigation Conference, Miami, FL, October 25, 2013.

- **Cameron Azari** Co-Author, “Class Action Legal Noticing: Plain Language Revisited.” *Law360*, April 2013.
- **Cameron Azari** Speaker, “Legal Notice in Consumer Finance Settlements Getting your Settlement Approved.” ACI’s Consumer Finance Class Actions and Litigation, New York, NY, January 31-February 1, 2013.
- **Cameron Azari** Speaker, “Perspectives from Class Action Claims Administrators: Email Notices and Response Rates.” CLE International’s 8th Annual Class Actions Conference, Los Angeles, CA, May 17-18, 2012.
- **Cameron Azari** Speaker, “Class Action Litigation Trends: A Look into New Cases, Theories of Liability & Updates on the Cases to Watch.” ACI’s Consumer Finance Class Actions and Litigation, New York, NY, January 26-27, 2012.
- **Lauran Schultz** Speaker, “Legal Notice Best Practices: Building a Workable Settlement Structure.” CLE International’s 7th Annual Class Action Conference, San Francisco, CA, May 2011.
- **Cameron Azari** Speaker, “Data Breaches Involving Consumer Financial Information: Litigation Exposures and Settlement Considerations.” ACI’s Consumer Finance Class Actions and Litigation, New York, NY, January 2011.
- **Cameron Azari** Speaker, “Notice in Consumer Class Actions: Adequacy, Efficiency and Best Practices.” CLE International’s 5th Annual Class Action Conference: Prosecuting and Defending Complex Litigation, San Francisco, CA, 2009.
- **Lauran Schultz** Speaker, “Efficiency and Adequacy Considerations in Class Action Media Notice Programs.” Chicago Bar Association, Chicago, IL, 2009.
- **Cameron Azari** Author, “Clearing the Five Hurdles of Email - Delivery of Class Action Legal Notices.” *Thomson Reuters Class Action Litigation Reporter*, June 2008.
- **Cameron Azari** Speaker, “Planning for a Smooth Settlement.” ACI: Class Action Defense – Complex Settlement Administration for the Class Action Litigator, Phoenix, AZ, 2007.
- **Cameron Azari** Speaker, “Noticing and Response Rates in Class Action Settlements” – Class Action Bar Gathering, Vancouver, British Columbia, 2007.
- **Cameron Azari** Speaker, “Structuring a Litigation Settlement.” CLE International’s 3rd Annual Conference on Class Actions, Los Angeles, CA, 2007.
- **Cameron Azari** Speaker, “Notice and Response Rates in Class Action Settlements” – Skadden Arps Slate Meagher & Flom, LLP, New York, NY, 2006.
- **Cameron Azari** Speaker, “Notice and Response Rates in Class Action Settlements” – Bridgeport Continuing Legal Education, Class Action and the UCL, San Diego, CA, 2006.
- **Cameron Azari** Speaker, “Notice and Response Rates in Class Action Settlements” – Stoel Rives litigation group, Portland, OR / Seattle, WA / Boise, ID / Salt Lake City, UT, 2005.
- **Cameron Azari** Speaker, “Notice and Response Rates in Class Action Settlements” – Stroock & Stroock & Lavan litigation group, Los Angeles, CA, 2005.
- **Cameron Azari** Author, “Twice the Notice or No Settlement.” *Current Developments – Issue II*, August 2003.
- **Cameron Azari** Speaker, “A Scientific Approach to Legal Notice Communication” – Weil Gotshal litigation group, New York, NY, 2003.

JUDICIAL COMMENTS

Judge Charles R. Breyer, *In re: Volkswagen “Clean Diesel” Marketing, Sales Practices and Products Liability Litigation* (May 17, 2017) MDL No. 2672 (N.D. Cal.):

The Court is satisfied that the Notice Program was reasonably calculated to notify Class Members of the proposed Settlement. The Notice “apprise[d] interested parties of the pendency of the action and afford[ed] them an opportunity to present their objections.” Mullane v. Cent. Hanover Bank & Trust Co., 339 U.S. 306, 314 (1950). Indeed, the Notice Administrator reports that the notice delivery rate of 97.04% “exceed[ed] the expected range and is indicative of the extensive address updating and re-mailing protocols used.” (Dkt. No. 3188-2 ¶ 24.)

Judge Joseph F. Bataillon, *Klug v. Watts Regulator Company* (April 13, 2017) No. 8:15-cv-00061-JFB-FG3 (D. Neb.):

The court finds that the notice to the Settlement Class of the pendency of the Class Action and of this settlement, as provided by the Settlement Agreement and by the Preliminary Approval Order dated December 7, 2017, constituted the best notice practicable under the circumstances to all persons and entities within the definition of the Settlement Class, and fully complied with the requirements of Federal Rules of Civil Procedure Rule 23 and due process. Due and sufficient proof of the execution of the Notice Plan as outlined in the Preliminary Approval Order has been filed.

Judge Yvonne Gonzalez Rogers, *Bias v. Wells Fargo & Company, et al.* (April 13, 2017) No. 4:12-cv-00664-YGR (N.D. Cal.):

The form, content, and method of dissemination of Notice of Settlement given to the Settlement Class was adequate and reasonable and constituted the best notice practicable under the circumstances, including both individual notice to all Settlement Class Members who could be identified through reasonable effort and publication notice.

Notice of Settlement, as given, complied with the requirements of Rule 23 of the Federal Rules of Civil Procedure, satisfied the requirements of due process, and constituted due and sufficient notice of the matters set forth herein.

Notice of the Settlement was provided to the appropriate regulators pursuant to the Class Action Fairness Act, 28 U.S.C. § 1715(c)(1).

Judge Carlos Murguia, *Whitton v. Deffenbaugh Industries, Inc., et al* (December 14, 2016) No. 2:12-cv-02247 (D. Kan.) and **Gary, LLC v. Deffenbaugh Industries, Inc., et al** (December 14, 2016) No. 2:13-cv-2634 (D. Kan.):

The Court determines that the Notice Plan as implemented was reasonably calculated to provide the best notice practicable under the circumstances and contained all required information for members of the proposed Settlement Class to act to protect their interests. The Court also finds that Class Members were provided an adequate period of time to receive Notice and respond accordingly.

Judge Yvette Kane, *In re: Shop-Vac Marketing and Sales Practices Litigation* (December 9, 2016) MDL No. 2380 (M.D. Pa.):

The Court hereby finds and concludes that members of the Settlement Class have been provided the best notice practicable of the Settlement and that such notice satisfies all requirements of due process, Rule 23 of the Federal Rules of Civil Procedure, the Class Action Fairness Act of 2005, 28 U.S.C. § 1715, and all other applicable laws.

Judge Timothy D. Fox, *Miner v. Philip Morris USA, Inc.* (November 21, 2016) No. 60CV03-4661 (Ark. Cir.):

The Court finds that the Settlement Notice provided to potential members of the Class constituted the best and most practicable notice under the circumstances, thereby complying fully with due process and Rule 23 of the Arkansas Rules of Civil Procedure.

Judge Eileen Bransten, *In re: HSBC Bank USA, N.A., Checking Account Overdraft Litigation* (October 13, 2016) No. 650562/2011 (Sup. Ct. N.Y.):

This Court finds that the Notice Program and the Notice provided to Settlement Class members fully satisfied the requirements of constitutional due process, the N.Y. C.P.L.R., and any other applicable laws, and constituted the best notice practicable under the circumstances and constituted due and sufficient notice to all persons entitled thereto.

Judge Jerome B. Simandle, *In re: Caterpillar, Inc. C13 and C15 Engine Products Liability Litigation* (September 20, 2016) MDL No. 2540 (D. N.J.):

The Court hereby finds that the Notice provided to the Settlement Class constituted the best notice practicable under the circumstances. Said Notice provided due and adequate notice of these proceedings and the matters set forth herein, including the terms of the Settlement Agreement, to all persons entitled to such notice, and said notice fully satisfied the requirements of Fed. R. Civ. P. 23, requirements of due process and any other applicable law.

Judge Marcia G. Cooke, *Chimeno-Buzzi v. Hollister Co. and Abercrombie & Fitch Co.* (April 11, 2016) No. 14-23120 (S.D. Fla.):

Pursuant to the Court's Preliminary Approval Order, the Settlement Administrator, Epiq Systems, Inc. [Hilsoft Notifications], has complied with the approved notice process as confirmed in its Declaration filed with the Court on March 23, 2016. The Court finds that the notice process was designed to advise Class Members of their rights. The form and method for notifying Class Members of the settlement and its terms and conditions was in conformity with this Court's Preliminary Approval Order, constituted the best notice practicable under the circumstances, and satisfied the requirements of Federal Rule of Civil Procedure 23(c)(2)(B), the Class Action Fairness Act of 2005 ("CAFA"), 28 U.S.C. § 1715, and due process under the United States Constitution and other applicable laws.

Judge Christopher S. Sontchi, *In re: Energy Future Holdings Corp, et al.*, (July 30, 2015) 14-10979(CSS) (Bankr. D. Del.):

Notice of the Asbestos Bar Date as set forth in this Asbestos Bar Date Order and in the manner set forth herein constitutes adequate and sufficient notice of the Asbestos Bar Date and satisfies the requirements of the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules.

Judge David C. Norton, *In re: MI Windows and Doors Inc. Products Liability Litigation* (July 22, 2015) MDL No. 2333, No. 2:12-mn-00001 (D. S.C.):

The court finds that the Notice Plan, as described in the Settlement and related declarations, has been faithfully carried out and constituted the best practicable notice to Class Members under the circumstances of this Action, and was reasonable and constituted due, adequate, and sufficient notice to all Persons entitled to be provided with Notice.

The court also finds that the Notice Plan was reasonably calculated, under the circumstances, to apprise Class Members of: (1) the pendency of this class action; (2) their right to exclude themselves from the Settlement Class and the proposed Settlement; (3) their right to object to any aspect of the proposed Settlement (including final certification of the Settlement Class, the fairness, reasonableness, or adequacy of the proposed Settlement, the adequacy of the Settlement Class's representation by Named Plaintiffs or Class Counsel, or the award of attorney's and representative fees); (4) their right to appear at the fairness hearing (either on their own or through counsel hired at their own expense); and (5) the binding and preclusive effect of the orders and Final Order and Judgment in this Action, whether favorable or unfavorable, on all Persons who do not request exclusion from the Settlement Class. As such, the court finds that the Notice fully satisfied the requirements of the Federal Rules of Civil Procedure, including Federal Rule of Civil Procedure 23(c)(2) and (e), the United States Constitution (including the Due Process Clause), the rules of this court, and any other applicable law, and provided sufficient notice to bind all Class Members, regardless of whether a particular Class Member received actual notice.

Judge Robert W. Gettleman, *Adkins v. Nestle Purina PetCare Company, et al.*, (June 23, 2015) No. 12-cv-2871 (N.D. Ill.):

Notice to the Settlement Class and other potentially interested parties has been provided in accordance with the notice requirements specified by the Court in the Preliminary Approval Order. Such notice fully and accurately informed the Settlement Class members of all material elements of the proposed Settlement and of their opportunity to object or comment thereon or to exclude themselves from the Settlement; provided Settlement Class Members adequate instructions and a variety of means to obtain additional information; was the best notice practicable under the circumstances; was valid, due, and sufficient notice to all Settlement Class members; and complied fully with the laws of the State of Illinois, Federal Rules of Civil Procedure, the United States Constitution, due process, and other applicable law.

Judge James Lawrence King, *Steen v. Capital One, N.A.* (May 22, 2015) No. 2:10-cv-01505-JCZ-KWR (E.D. La.) and No. 1:10-cv-22058-JLK (S.D. Fla.) as part of ***In Re: Checking Account Overdraft Litigation***, MDL 2036 (S.D. Fla.)

The Court finds that the Settlement Class Members were provided with the best practicable notice; the notice was reasonably calculated, under [the] circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections." *Shutts*, 472 U.S. at 812 (quoting *Mullane*, 339 U.S. at 314-15). This Settlement with Capital One was widely publicized, and any Settlement Class Member who wished to express comments or objections had ample opportunity and means to do so. Azari Decl. ¶¶ 30-39.

Judge Rya W. Zobel, *Gulbankian et al. v. MW Manufacturers, Inc.*, (December 29, 2014) No. 1:10-cv-10392-RWZ (D. Mass.):

This Court finds that the Class Notice was provided to the Settlement Class consistent with the Preliminary Approval Order and that it was the best notice practicable and fully satisfied the requirements of the Federal Rules of Civil Procedure, due process, and applicable law. The Court finds that the Notice Plan that was implemented by the Claims Administrator satisfies the requirements of FED. R. CIV. P. 23, 28 U.S.C. § 1715, and Due Process, and is the best notice practicable under the circumstances. The Notice Plan constituted due and sufficient notice of the Settlement, the Final Approval Hearing, and the other matters referred to in the notices. Proof of the giving of such notices has been filed with the Court via the Azari Declaration and its exhibits.

Judge Edward J. Davila, *Rose v. Bank of America Corporation, and FIA Card Services, N.A.*, (August 29, 2014) No. 5:11-CV-02390-EJD; 5:12-CV-04009-EJD (N.D. Cal.):

The Court finds that the notice was reasonably calculated under the circumstances to apprise the Settlement Class of the pendency of this action, all material elements of the Settlement, the opportunity for Settlement Class Members to exclude themselves from, object to, or comment on the settlement and to appear at the final approval hearing. The notice was the best notice practicable under the circumstances, satisfying the requirements of Rule 23(c)(2)(B); provided notice in a reasonable manner to all class members, satisfying Rule 23(e)(1)(B); was adequate and sufficient notice to all Class Members; and, complied fully with the laws of the United States and of the Federal Rules of Civil Procedure, due process and any other applicable rules of court.

Judge James A. Robertson, II, *Wong et al. v. Alacer Corp.* (June 27, 2014) No. CGC-12-519221 (Cal. Super. Ct.):

Notice to the Settlement Class has been provided in accordance with the Preliminary Approval Order. Based on the Declaration of Cameron Azari dated March 7, 2014, such Class Notice has been provided in an adequate and sufficient manner, constitutes the best notice practicable under the circumstances and satisfies the requirements of California Civil Code Section 1781, California Civil Code of Civil Procedure Section 382, Rules 3.766 of the California Rules of Court, and due process.

Judge John Gleeson, *In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation*, (December 13, 2013) No. 1:05-cv-03800 (E.D. NY.):

The Class Administrator notified class members of the terms of the proposed settlement through a mailed notice and publication campaign that included more than 20 million mailings and publication in more than 400 publications. The notice here meets the requirements of due process and notice standards... The objectors' complaints provide no reason to conclude that the purposes and requirements of a notice to a class were not met here.

Judge Lance M. Africk, *Evans, et al. v. TIN, Inc., et al*, (July 7, 2013) No. 2:11-cv-02067 (E.D. La.):

The Court finds that the dissemination of the Class Notice... as described in Notice Agent Lauran Schultz's Declaration: (a) constituted the best practicable notice to Class Members under the circumstances; (b) constituted notice that was reasonably calculated, under the circumstances...; (c) constituted notice that was reasonable, due, adequate, and sufficient; and (d) constituted notice that fully satisfied all applicable legal requirements, including Rules 23(c)(2)(B) and (e)(1) of the Federal Rules of Civil Procedure, the United States Constitution (including Due Process Clause), the Rules of this Court, and any other applicable law, as well as complied with the Federal Judicial Center's illustrative class action notices.

Judge Edward M. Chen, *Marolda v. Symantec Corporation*, (April 5, 2013) No. 08-cv-05701 (N.D. Cal.):

Approximately 3.9 million notices were delivered by email to class members, but only a very small percentage objected or opted out . . . The Court . . . concludes that notice of settlement to the class was adequate and satisfied all requirements of Federal Rule of Civil Procedure 23(e) and due process. Class members received direct notice by email, and additional notice was given by publication in numerous widely circulated publications as well as in numerous targeted publications. These were the best practicable means of informing class members of their rights and of the settlement's terms.

Judge Ann D. Montgomery, *In re Zurn Pex Plumbing Products Liability Litigation*, (February 27, 2013) No. 0:08cv01958 (D. Minn.):

The parties retained Hilsoft Notifications ("Hilsoft"), an experienced class-notice consultant, to design and carry out the notice plan. The form and content of the notices provided to the class were direct, understandable, and consistent with the "plain language" principles advanced by the Federal Judicial Center.

*The notice plan's multi-faceted approach to providing notice to settlement class members whose identity is not known to the settling parties constitutes "the best notice [*26] that is practicable under the circumstances" consistent with Rule 23(c)(2)(B).*

Magistrate Judge Stewart, *Gessele et al. v. Jack in the Box, Inc.*, (January 28, 2013) No. 3:10-cv-960 (D. Or.):

Moreover, plaintiffs have submitted [a] declaration from Cameron Azari (docket #129), a nationally recognized notice expert, who attests that fashioning an effective joint notice is not unworkable or unduly confusing. Azari also provides a detailed analysis of how he would approach fashioning an effective notice in this case.

Judge Carl J. Barbier, *In re Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico, on April 20, 2010 (Medical Benefits Settlement)*, (January 11, 2013) MDL No. 2179 (E.D. La.):

Through August 9, 2012, 366,242 individual notices had been sent to potential [Medical Benefits] Settlement Class Members by postal mail and 56,136 individual notices had been e-mailed. Only 10,700 mailings—or 3.3%—were known to be undeliverable. (Azari Decl. ¶¶ 8, 9.) Notice was also provided through an extensive schedule of local newspaper, radio, television and Internet placements, well-read consumer magazines, a national daily business newspaper, highly-trafficked websites, and Sunday local newspapers (via newspaper supplements). Notice was also provided in non-measured trade, business and specialty publications, African-American, Vietnamese, and Spanish language publications, and Cajun radio programming. The combined measurable paid print, television, radio, and Internet effort reached an estimated 95% of adults aged 18+ in the Gulf Coast region an average of 10.3 times each, and an estimated 83% of all adults in the United States aged 18+ an average of 4 times each. (Id. ¶¶ 8, 10.) All notice documents were designed to be clear, substantive, and informative. (Id. ¶ 5.)

The Court received no objections to the scope or content of the [Medical Benefits] Notice Program. (Azari Supp. Decl. ¶ 12.) The Court finds that the Notice and Notice Plan as implemented satisfied the best notice practicable standard of Rule 23(c) and, in accordance with Rule 23(e)(1), provided notice in a reasonable manner to Class Members who would be bound by the Settlement, including individual notice to all Class Members who could be identified through reasonable effort. Likewise, the Notice and Notice Plan satisfied the requirements of Due Process. The Court also finds the Notice and Notice Plan satisfied the requirements of CAFA.

Judge Carl J. Barbier, *In re Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico, on April 20, 2010* (Economic and Property Damages Settlement), (December 21, 2012) MDL No. 2179 (E.D. La.):

The Court finds that the Class Notice and Class Notice Plan satisfied and continue to satisfy the applicable requirements of Federal Rule of Civil Procedure 23(c)(2)(b) and 23(e), the Class Action Fairness Act (28 U.S.C. § 1711 et seq.), and the Due Process Clause of the United States Constitution (U.S. Const., amend. V), constituting the best notice that is practicable under the circumstances of this litigation. The notice program surpassed the requirements of Due Process, Rule 23, and CAFA. Based on the factual elements of the Notice Program as detailed below, the Notice Program surpassed all of the requirements of Due Process, Rule 23, and CAFA.

The Notice Program, as duly implemented, surpasses other notice programs that Hilsoft Notifications has designed and executed with court approval. The Notice Program included notification to known or potential Class Members via postal mail and e-mail; an extensive schedule of local newspaper, radio, television and Internet placements, well-read consumer magazines, a national daily business newspaper, and Sunday local newspapers. Notice placements also appeared in non-measured trade, business, and specialty publications, African-American, Vietnamese, and Spanish language publications, and Cajun radio programming. The Notice Program met the objective of reaching the greatest possible number of class members and providing them with every reasonable opportunity to understand their legal rights. See Azari Decl. ¶¶ 8, 15, 68. The Notice Program was substantially completed on July 15, 2012, allowing class members adequate time to make decisions before the opt-out and objections deadlines.

The media notice effort alone reached an estimated 95% of adults in the Gulf region an average of 10.3 times each, and an estimated 83% of all adults in the United States an average of 4 times each. These figures do not include notice efforts that cannot be measured, such as advertisements in trade publications and sponsored search engine listings. The Notice Program fairly and adequately covered and notified the class without excluding any demographic group or geographic area, and it exceeded the reach percentage achieved in most other court-approved notice programs.

Judge Alonzo Harris, *Opelousas General Hospital Authority, A Public Trust, D/B/A Opelousas General Health System and Arklamiss Surgery Center, L.L.C. v. FairPay Solutions, Inc.*, (August 17, 2012) No. 12-C-1599 (27th Jud. D. Ct. La.):

Notice given to Class Members and all other interested parties pursuant to this Court's order of April 18, 2012, was reasonably calculated to apprise interested parties of the pendency of the action, the certification of the Class as Defined for settlement purposes only, the terms of the Settlement Agreement, Class Members rights to be represented by private counsel, at their own costs, and Class Members rights to appear in Court to have their objections heard, and to afford persons or entities within the Class Definition an opportunity to exclude themselves from the Class. Such notice complied with all requirements of the federal and state constitutions, including the Due Process Clause, and applicable articles of the Louisiana Code of Civil Procedure, and constituted the best notice practicable under the circumstances and constituted due and sufficient notice to all potential members of the Class as Defined.

Judge James Lawrence King, *In re Checking Account Overdraft Litigation (IBERIABANK)*, (April 26, 2012) MDL No. 2036 (S.D. Fla.):

*The Court finds that the Notice previously approved was fully and properly effectuated and was sufficient to satisfy the requirements of due process because it described "the substantive claims . . . [and] contained information reasonably necessary to [allow Settlement Class Members to] make a decision to remain a class member and be bound by the final judgment." *In re Nissan Motor Corp. Antitrust Litig.*, 552 F.2d 1088, 1104-05 (5th Cir. 1977). The Notice, among other things, defined the Settlement Class, described the release as well as the amount and method and manner of proposed distribution of the Settlement proceeds, and informed Settlement Class Members of their rights to opt-out or object, the procedures for doing so, and the time and place of the Final Approval Hearing. The Notice also informed Settlement Class Members that a class judgment would bind them unless they opted out, and told them where they could obtain more information, such as access to a full copy of the Agreement. Further, the Notice described in summary form the fact that Class Counsel would be seeking attorneys' fees of up to 30 percent of the Settlement. Settlement Class Members were provided with the best practicable notice "reasonably calculated, under [the] circumstances, to apprise them of the pendency of the action and afford them an opportunity to present their objections." *Mullane*, 339 U.S. at 314. The content of the Notice fully complied with the requirements of Rule 23.*

Judge Bobby Peters, Vereen v. Lowe's Home Centers, (April 13, 2012) SU10-CV-2267B (Ga. Super. Ct.):

The Court finds that the Notice and the Notice Plan was fulfilled, in accordance with the terms of the Settlement Agreement, the Amendment, and this Court's Preliminary Approval Order and that this Notice and Notice Plan constituted the best practicable notice to Class Members under the circumstances of this action, constituted due and sufficient Notice of the proposed Settlement to all persons entitled to participate in the proposed Settlement, and was in full compliance with Ga. Code Ann § 9-11-23 and the constitutional requirements of due process. Extensive notice was provided to the class, including point of sale notification, publication notice and notice by first-class mail for certain potential Class Members.

The affidavit of the notice expert conclusively supports this Court's finding that the notice program was adequate, appropriate, and comported with Georgia Code Ann. § 9-11-23(b)(2), the Due Process Clause of the Constitution, and the guidance for effective notice articulate in the FJC's Manual for Complex Litigation, 4th.

Judge Lee Rosenthal, In re Heartland Payment Systems, Inc. Customer Data Security Breach Litigation, (March 2, 2012) MDL No. 2046 (S.D. Tex.):

*The notice that has been given clearly complies with Rule 23(e)(1)'s reasonableness requirement... Hilsoft Notifications analyzed the notice plan after its implementation and conservatively estimated that notice reached 81.4 percent of the class members. (Docket Entry No. 106, ¶ 32). Both the summary notice and the detailed notice provided the information reasonably necessary for the presumptive class members to determine whether to object to the proposed settlement. See Katrina Canal Breaches, 628 F.3d at 197. Both the summary notice and the detailed notice "were written in easy-to-understand plain English." In re Black Farmers Discrimination Litig., — F. Supp. 2d —, 2011 WL 5117058, at *23 (D.D.C. 2011); accord AGGREGATE LITIGATION § 3.04(c).15 The notice provided "satisf[ies] the broad reasonableness standards imposed by due process" and Rule 23. Katrina Canal Breaches, 628 F.3d at 197.*

Judge John D. Bates, Trombley v. National City Bank, (December 1, 2011) 1:10-CV-00232 (D.D.C.)

The form, content, and method of dissemination of Notice given to the Settlement Class were in full compliance with the Court's January 11, 2011 Order, the requirements of Fed. R. Civ. P. 23(e), and due process. The notice was adequate and reasonable, and constituted the best notice practicable under the circumstances. In addition, adequate notice of the proceedings and an opportunity to participate in the final fairness hearing were provided to the Settlement Class.

Judge Robert M. Dow, Jr., Schulte v. Fifth Third Bank, (July 29, 2011) No. 1:09-cv-6655 (N.D. Ill.):

The Court has reviewed the content of all of the various notices, as well as the manner in which Notice was disseminated, and concludes that the Notice given to the Class fully complied with Federal Rule of Civil Procedure 23, as it was the best notice practicable, satisfied all constitutional due process concerns, and provided the Court with jurisdiction over the absent Class Members.

Judge Ellis J. Daigle, Williams v. Hammerman & Gainer Inc., (June 30, 2011) No. 11-C-3187-B (27th Jud. D. Ct. La.):

Notices given to Settlement Class members and all other interested parties throughout this proceeding with respect to the certification of the Settlement Class, the proposed settlement, and all related procedures and hearings—including, without limitation, the notice to putative Settlement Class members and others more fully described in this Court's order of 30th day of March 2011 were reasonably calculated under all the circumstances and have been sufficient, as to form, content, and manner of dissemination, to apprise interested parties and members of the Settlement Class of the pendency of the action, the certification of the Settlement Class, the Settlement Agreement and its contents, Settlement Class members' right to be represented by private counsel, at their own cost, and Settlement Class members' right to appear in Court to have their objections heard, and to afford Settlement Class members an opportunity to exclude themselves from the Settlement Class. Such notices complied with all requirements of the federal and state constitutions, including the due process clause, and applicable articles of the Louisiana Code of Civil Procedures, and constituted the best notice practicable under the circumstances and constituted due and sufficient notice to all potential members of the Settlement Class.

Judge Stefan R. Underhill, *Mathena v. Webster Bank, N.A.*, (March 24, 2011) No. 3:10-cv-1448 (D. Conn.):

The form, content, and method of dissemination of Notice given to the Settlement Class were adequate and reasonable, and constituted the best notice practicable under the circumstances. The Notice, as given, provided valid, due, and sufficient notice of the proposed settlement, the terms and conditions set forth in the Settlement Agreement, and these proceedings to all persons entitled to such notice, and said notice fully satisfied the requirements of Rule 23 of the Federal Rules of Civil Procedure and due process.

Judge Ted Stewart, *Miller v. Basic Research, LLC*, (September 2, 2010) No. 2:07-cv-871 (D. Utah):

Plaintiffs state that they have hired a firm specializing in designing and implementing large scale, unbiased, legal notification plans. Plaintiffs represent to the Court that such notice will include: 1) individual notice by electronic mail and/or first-class mail sent to all reasonably identifiable Class members; 2) nationwide paid media notice through a combination of print publications, including newspapers, consumer magazines, newspaper supplements and the Internet; 3) a neutral, Court-approved, informational press release; 4) a neutral, Court-approved Internet website; and 5) a toll-free telephone number. Similar mixed media plans have been approved by other district courts post class certification. The Court finds this plan is sufficient to meet the notice requirement.

Judge Sara Loi, *Pavlov v. Continental Casualty Co.*, (October 7, 2009) No. 5:07cv2580 (N.D. Ohio):

As previously set forth in this Memorandum Opinion, the elaborate notice program contained in the Settlement Agreement provides for notice through a variety of means, including direct mail to each class member, notice to the United States Attorney General and each State, a toll free number, and a website designed to provide information about the settlement and instructions on submitting claims. With a 99.9% effective rate, the Court finds that the notice program constituted the "best notice that is practicable under the circumstances," Fed. R. Civ. P. 23(c)(2)(B), and clearly satisfies the requirements of Rule 23(c)(2)(B).

Judge James Robertson, *In re Department of Veterans Affairs (VA) Data Theft Litigation*, (September 23, 2009) MDL No. 1796 (D.D.C.):

The Notice Plan, as implemented, satisfied the requirements of due process and was the best notice practicable under the circumstances. The Notice Plan was reasonably calculated, under the circumstances, to apprise Class Members of the pendency of the action, the terms of the Settlement, and their right to appear, object to or exclude themselves from the Settlement. Further, the notice was reasonable and constituted due, adequate and sufficient notice to all persons entitled to receive notice.

Judge Lisa F. Chrystal, *Little v. Kia Motors America, Inc.*, (August 27, 2009) No. UNN-L-0800-01 (N.J. Super. Ct.):

The Court finds that the manner and content of the notices for direct mailing and for publication notice, as specified in the Notice Plan (Exhibit 2 to the Affidavit of Lauran R. Schultz), provides the best practicable notice of judgment to members of the Plaintiff Class.

Judge Barbara Crowder, *Dolen v. ABN AMRO Bank N.V.*, (March 23, 2009) No. 01-L-454, 01-L-493 (3rd Jud. Cir. Ill.):

The Court finds that the Notice Plan is the best notice practicable under the circumstances and provides the Eligible Members of the Settlement Class sufficient information to make informed and meaningful decisions regarding their options in this Litigation and the effect of the Settlement on their rights. The Notice Plan further satisfies the requirements of due process and 735 ILCS 5/2-803. That Notice Plan is approved and accepted. This Court further finds that the Notice of Settlement and Claim Form comply with 735 ILCS 5/2-803 and are appropriate as part of the Notice Plan and the Settlement, and thus they are hereby approved and adopted. This Court further finds that no other notice other than that identified in the Notice Plan is reasonably necessary in this Litigation.

Judge Robert W. Gettleman, *In re Trans Union Corp.*, (September 17, 2008) MDL No. 1350 (N.D. Ill.):

The Court finds that the dissemination of the Class Notice under the terms and in the format provided for in its Preliminary Approval Order constitutes the best notice practicable under the circumstances, is due and sufficient notice for all purposes to all persons entitled to such notice, and fully satisfies the requirements of the Federal Rules of Civil Procedure, the requirements of due process under the Constitution of the United States, and any other applicable law... Accordingly, all objections are hereby OVERRULED.

Judge Steven D. Merryday, *Lockwood v. Certegy Check Services, Inc.*, (September 3, 2008) No. 8:07-cv-1434-T-23TGW (M.D. Fla.):

The form, content, and method of dissemination of the notice given to the Settlement Class were adequate and reasonable and constituted the best notice practicable in the circumstances. The notice as given provided valid, due, and sufficient notice of the proposed settlement, the terms and conditions of the Settlement Agreement, and these proceedings to all persons entitled to such notice, and the notice satisfied the requirements of Rule 23, Federal Rules of Civil Procedure, and due process.

Judge William G. Young, *In re TJX Companies*, (September 2, 2008) MDL No. 1838 (D. Mass.):

The form, content, and method of dissemination of notice provided to the Settlement Class were adequate and reasonable, and constituted the best notice practicable under the circumstances. The Notice, as given, provided valid, due, and sufficient notice of the proposed settlement, the terms and conditions set forth in the Settlement Agreement, and these proceedings to all Persons entitled to such notice, and said Notice fully satisfied the requirements of Fed. R. Civ. P. 23 and due process.

Judge Philip S. Gutierrez, *Shaffer v. Continental Casualty Co.*, (June 11, 2008) SACV-06-2235-PSG (PJWx) (C.D. Cal.):

...was reasonable and constitutes due, adequate, and sufficient notice to all persons entitled to receive notice; and met all applicable requirements of the Federal Rules of Civil Procedure, the Class Action Fairness Act, the United States Constitution (including the Due Process Clauses), the Rules of the Court, and any other applicable law.

Judge Robert L. Wyatt, *Gunderson v. AIG Claim Services, Inc.*, (May 29, 2008) No. 2004-002417 (14th Jud. D. Ct. La.):

Notices given to Settlement Class members...were reasonably calculated under all the circumstances and have been sufficient, as to form, content, and manner of dissemination...Such notices complied with all requirements of the federal and state constitutions, including the due process clause, and applicable articles of the Louisiana Code of Civil Procedure, and constituted the best notice practicable under the circumstances and constituted due and sufficient notice to all potential members of the Settlement Class.

Judge Mary Anne Mason, *Palace v. DaimlerChrysler Corp.*, (May 29, 2008) No. 01-CH-13168 (Ill. Cir. Ct.):

The form, content, and method of dissemination of the notice given to the Illinois class and to the Illinois Settlement Class were adequate and reasonable, and constituted the best notice practicable under the circumstances. The notice, as given, provided valid, due, and sufficient notice of the proposed Settlement, the terms and conditions set forth in the Settlement Agreement, and these proceedings, to all Persons entitled to such notice, and said notice fully satisfied the requirements of due process and complied with 735 ILCS §§5/2-803 and 5/2-806.

Judge David De Alba, *Ford Explorer Cases*, (May 29, 2008) JCCP Nos. 4226 & 4270 (Cal. Super. Ct.):

[T]he Court is satisfied that the notice plan, design, implementation, costs, reach, were all reasonable, and has no reservations about the notice to those in this state and those in other states as well, including Texas, Connecticut, and Illinois; that the plan that was approved—submitted and approved, comports with the fundamentals of due process as described in the case law that was offered by counsel.

Judge Kirk D. Johnson, *Webb v. Liberty Mutual Ins. Co.*, (March 3, 2008) No. CV-2007-418-3 (Ark. Cir. Ct.):

The Court finds that there was minimal opposition to the settlement. After undertaking an extensive notice campaign to Class members of approximately 10,707 persons, mailed notice reached 92.5% of potential Class members.

Judge Carol Crafton Anthony, *Johnson v. Progressive Casualty Ins. Co.*, (December 6, 2007) No. CV-2003-513 (Ark. Cir. Ct.):

Notice of the Settlement Class was constitutionally adequate, both in terms of its substance and the manner in which it was disseminated...Notice was direct mailed to all Class members whose current whereabouts could be identified by reasonable effort. Notice reached a large majority of the Class members. The Court finds that such notice constitutes the best notice practicable...The forms of Notice and Notice Plan satisfy all of the requirements of Arkansas law and due process.

Judge Kirk D. Johnson, *Sweeten v. American Empire Insurance Co.*, (August 20, 2007) No. CV-2007-154-3 (Ark. Cir. Ct.):

The Court does find that all notices required by the Court to be given to class members was done within the time allowed and the manner best calculated to give notice and apprise all the interested parties of the litigation. It was done through individual notice, first class mail, through internet website and the toll-free telephone call center...The Court does find that these methods were the best possible methods to advise the class members of the pendency of the action and opportunity to present their objections and finds that these notices do comply with all the provisions of Rule 23 and the Arkansas and United States Constitutions.

Judge Robert Wyatt, *Gunderson v. F.A. Richard & Associates, Inc.*, (July 19, 2007) No. 2004-2417-D (14th Jud. D. Ct. La.):

This is the final Order and Judgment regarding the fairness, reasonableness and adequacy. And I am satisfied in all respects regarding the presentation that's been made to the Court this morning in the Class memberships, the representation, the notice, and all other aspects and I'm signing that Order at this time.

Judge Lewis A. Kaplan, *In re Parmalat Securities Litigation*, (July 19, 2007) MDL No. 1653-LAK (S.D.N.Y.):

The Court finds that the distribution of the Notice, the publication of the Publication Notice, and the notice methodology...met all applicable requirements of the Federal Rules of Civil Procedure, the United States Constitution, (including the Due Process clause), the Private Securities Litigation Reform Act of 1995 (15 U.S.C. 78u-4, et seq.) (the "PSLRA"), the Rules of the Court, and any other applicable law.

Judge Joe Griffin, *Beasley v. The Reliable Life Insurance Co.*, (March 29, 2007) No. CV-2005-58-1 (Ark. Cir. Ct.):

[T]he Court has, pursuant to the testimony regarding the notification requirements, that were specified and adopted by this Court, has been satisfied and that they meet the requirements of due process. They are fair, reasonable, and adequate. I think the method of notification certainly meets the requirements of due process...So the Court finds that the notification that was used for making the potential class members aware of this litigation and the method of filing their claims, if they chose to do so, all those are clear and concise and meet the plain language requirements and those are completely satisfied as far as this Court is concerned in this matter.

Judge Lewis A. Kaplan, *In re Parmalat Securities Litigation*, (March 1, 2007) MDL No. 1653-LAK (S.D.N.Y.):

The court approves, as to form and content, the Notice and the Publication Notice, attached hereto as Exhibits 1 and 2, respectively, and finds that the mailing and distribution of the Notice and the publication of the Publication Notice in the manner and the form set forth in Paragraph 6 of this Order...meet the requirements of Rule 23 of the Federal Rules of Civil Procedure, the Securities Exchange Act of 1934, as amended by Section 21D(a)(7) of the Private Securities Litigation Reform Act of 1995, 15 U.S.C. § 78u-4(a)(7), and due process, and is the best notice practicable under the circumstances and shall constitute due and sufficient notice to all persons and entities entitled thereto.

Judge Anna J. Brown, *Reynolds v. The Hartford Financial Services Group, Inc.*, (February 27, 2007) No. CV-01-1529-BR (D. Or):

[T]he court finds that the Notice Program fairly, fully, accurately, and adequately advised members of the Settlement Class and each Settlement Subclass of all relevant and material information concerning the proposed settlement of this action, their rights under Rule 23 of the Federal Rules of Civil Procedure, and related matters, and afforded the Settlement Class with adequate time and an opportunity to file objections to the Settlement or request exclusion from the Settlement Class. The court finds that the Notice Program constituted the best notice practicable under the circumstances and fully satisfied the requirements of Rule 23 and due process.

Judge Kirk D. Johnson, *Zarebski v. Hartford Insurance Company of the Midwest*, (February 13, 2007) No. CV-2006-409-3 (Ark. Cir. Ct.):

Based on the Court's review of the evidence admitted and argument of counsel, the Court finds and concludes that the Class Notice, as disseminated to members of the Settlement Class in accordance with provisions of the Preliminary Approval Order, was the best notice practicable under the circumstances to all members of the Settlement Class. Accordingly, the Class Notice and Claim Form as disseminated are

finally approved as fair, reasonable, and adequate notice under the circumstances. The Court finds and concludes that due and adequate notice of the pendency of this Action, the Stipulation, and the Final Settlement Hearing has been provided to members of the Settlement Class, and the Court further finds and concludes that the notice campaign described in the Preliminary Approval Order and completed by the parties complied fully with the requirements of Arkansas Rule of Civil Procedure 23 and the requirements of due process under the Arkansas and United States Constitutions.

Judge Richard J. Holwell, *In re Vivendi Universal, S.A. Securities Litigation*, 2007 WL 1490466, at *34 (S.D.N.Y.):

In response to defendants' manageability concerns, plaintiffs have filed a comprehensive affidavit outlining the effectiveness of its proposed method of providing notice in foreign countries. According to this...the Court is satisfied that plaintiffs intend to provide individual notice to those class members whose names and addresses are ascertainable, and that plaintiffs' proposed form of publication notice, while complex, will prove both manageable and the best means practicable of providing notice.

Judge Samuel Conti, *Ciabattari v. Toyota Motor Sales, U.S.A., Inc.*, (November 17, 2006) No. C-05-04289-SC (N.D. Cal.):

After reviewing the evidence and arguments presented by the parties...the Court finds as follows...The class members were given the best notice practicable under the circumstances, and that such notice meets the requirements of the Due Process Clause of the U.S. Constitution, and all applicable statutes and rules of court.

Judge Ivan L.R. Lemelle, *In re High Sulfur Content Gasoline Prods. Liability Litigation*, (November 8, 2006) MDL No. 1632 (E.D. La.):

This Court approved a carefully-worded Notice Plan, which was developed with the assistance of a nationally-recognized notice expert, Hilsoft Notifications...The Notice Plan for this Class Settlement was consistent with the best practices developed for modern-style "plain English" class notices; the Court and Settling Parties invested substantial effort to ensure notice to persons displaced by the Hurricanes of 2005; and as this Court has already determined, the Notice Plan met the requirements of Rule 23 and constitutional due process.

Judge Catherine C. Blake, *In re Royal Ahold Securities and "ERISA" Litigation*, (November 2, 2006) MDL No. 1539 (D. Md.):

The global aspect of the case raised additional practical and legal complexities, as did the parallel criminal proceedings in another district. The settlement obtained is among the largest cash settlements ever in a securities class action case and represents an estimated 40% recovery of possible provable damages. The notice process appears to have been very successful not only in reaching but also in eliciting claims from a substantial percentage of those eligible for recovery.

Judge Elaine E. Bucklo, *Carnegie v. Household International*, (August 28, 2006) No. 98 C 2178 (N.D. Ill.):

[T]he Notice was disseminated pursuant to a plan consisting of first class mail and publication developed by Plaintiff's notice consultant, Hilsoft Notification[s]...who the Court recognized as experts in the design of notice plans in class actions. The Notice by first-class mail and publication was provided in an adequate and sufficient manner; constitutes the best notice practicable under the circumstances; and satisfies all requirements of Rule 23(e) and due process.

Judge Joe E. Griffin, *Beasley v. Hartford Insurance Company of the Midwest*, (June 13, 2006) No. CV-2005-58-1 (Ark. Cir. Ct.):

Based on the Court's review of the evidence admitted and argument of counsel, the Court finds and concludes that the Individual Notice and the Publication Notice, as disseminated to members of the Settlement Class in accordance with provisions of the Preliminary Approval Order, was the best notice practicable under the circumstances...and the requirements of due process under the Arkansas and United States Constitutions.

Judge Norma L. Shapiro, *First State Orthopedics et al. v. Concentra, Inc., et al.*, (May 1, 2006) No. 2:05-CV-04951-NS (E.D. Pa.):

The Court finds that dissemination of the Mailed Notice, Published Notice and Full Notice in the manner set forth here and in the Settlement Agreement meets the requirements of due process and Pennsylvania law. The Court further finds that the notice is reasonable, and constitutes due, adequate, and sufficient notice to all persons entitled to receive notice, is the best practicable notice; and is reasonably calculated, under the circumstances, to apprise members of the Settlement Class of the pendency of the Lawsuit and of their right to object or to exclude themselves from the proposed settlement.

Judge Thomas M. Hart, *Froeber v. Liberty Mutual Fire Ins. Co.*, (April 19, 2006) No. 00C15234 (Or. Cir. Ct.):

The court has found and now reaffirms that dissemination and publication of the Class Notice in accordance with the terms of the Third Amended Order constitutes the best notice practicable under the circumstances.

Judge Catherine C. Blake, *In re Royal Ahold Securities and "ERISA" Litigation*, (January 6, 2006) MDL No. 1539 (D. Md.):

I think it's remarkable, as I indicated briefly before, given the breadth and scope of the proposed Class, the global nature of the Class, frankly, that again, at least on a preliminary basis, and I will be getting a final report on this, that the Notice Plan that has been proposed seems very well, very well suited, both in terms of its plain language and in terms of its international reach, to do what I hope will be a very thorough and broad-ranging job of reaching as many of the shareholders, whether individual or institutional, as possibly can be done to participate in what I also preliminarily believe to be a fair, adequate and reasonable settlement.

Judge Catherine C. Blake, *In re Royal Ahold Securities & "ERISA" Litigation*, 437 F.Supp.2d 467, 472 (D. Md. 2006):

The court hereby finds that the Notice and Notice Plan described herein and in the Order dated January 9, 2006 provided Class Members with the best notice practicable under the circumstances. The Notice provided due and adequate notice of these proceedings and the matters set forth herein, including the Settlement and Plan of Allocation, to all persons entitled to such notice, and the Notice fully satisfied the requirements of Rule 23 of the Federal Rules of Civil Procedure and the requirements of due process.

Judge Robert H. Wyatt, Jr., *Gray v. New Hampshire Indemnity Co., Inc.*, (December 19, 2005) No. CV-2002-952-2-3 (Ark. Cir. Ct.):

Notice of the Settlement Class was constitutionally adequate, both in terms of its substance and the manner in which it was disseminated. The Notice contained the essential elements necessary to satisfy due process, including the Settlement Class definition, the identities of the Parties and of their counsel, a summary of the terms of the proposed settlement, Class Counsel's intent to apply for fees, information regarding the manner in which objections could be submitted, and requests for exclusions could be filed. The Notice properly informed Class members of the formula for the distribution of benefits under the settlement...Notice was direct mailed to all Class members whose current whereabouts could be identified by reasonable effort. Notice was also effected by publication in many newspapers and magazines throughout the nation, reaching a large majority of the Class members multiple times. The Court finds that such notice constitutes the best notice practicable.

Judge Michael J. O'Malley, *Defrates v. Hollywood Entm't Corp.*, (June 24, 2005) No. 02 L 707 (Ill. Cir. Ct.):

[T]his Court hereby finds that the notice program described in the Preliminary Approval Order and completed by HEC complied fully with the requirements of due process, the Federal Rules of Civil Procedure and all other applicable laws.

Judge Wilford D. Carter, *Thibodeaux v. Conoco Phillips Co.*, (May 26, 2005) No. 2003-481 F (14th J.D. Ct. La.):

Notice given to Class Members...were reasonably calculated under all the circumstances and have been sufficient, both as to the form and content...Such notices complied with all requirements of the federal and state constitutions, including the due process clause, and applicable articles of the Louisiana Code of Civil Procedure, and constituted the best notice practicable under the circumstances and constituted due process and sufficient notice to all potential members of the Class as Defined.

Judge Michael Canaday, *Morrow v. Conoco Inc.*, (May 25, 2005) No. 2002-3860 G (14th J.D. Ct. La.):

The objections, if any, made to due process, constitutionality, procedures, and compliance with law, including, but not limited to, the adequacy of notice and the fairness of the proposed Settlement Agreement, lack merit and are hereby overruled.

Judge John R. Padova, *Nichols v. SmithKline Beecham Corp.*, (April 22, 2005) No. 00-6222 (E.D. Pa.):

Pursuant to the Order dated October 18, 2004, End-Payor Plaintiffs employed Hilsoft Notifications to design and oversee Notice to the End-Payor Class. Hilsoft Notifications has extensive experience in class action notice situations relating to prescription drugs and cases in which unknown class members need to receive notice...After reviewing the individual mailed Notice, the publication Notices, the PSAs and the informational release, the Court concludes that the substance of the Notice provided to members of the End-Payor Class in this case was adequate to satisfy the concerns of due process and the Federal Rules.

Judge Douglas Combs, *Morris v. Liberty Mutual Fire Ins. Co.*, (February 22, 2005) No. CJ-03-714 (D. Okla.):

I am very impressed that the notice was able to reach – be delivered to 97 ½ percent members of the class. That, to me, is admirable. And I'm also – at the time that this was initially entered, I was concerned about the ability of notice to be understood by a common, nonlawyer person, when we talk about legalese in a court setting. In this particular notice, not only the summary notice but even the long form of the notice were easily understandable, for somebody who could read the English language, to tell them whether or not they had the opportunity to file a claim.

Judge Joseph R. Goodwin, *In re Serzone Products Liability Litigation*, 231 F.R.D. 221, 231 (S.D. W. Va. 2005):

The Notice Plan was drafted by Hilsoft Notifications, a Pennsylvania firm specializing in designing, developing, analyzing and implementing large-scale, unbiased legal notification plans. Hilsoft has disseminated class action notices in more than 150 cases, and it designed the model notices currently displayed on the Federal Judicial Center's website as a template for others to follow...To enhance consumer exposure, Hilsoft studied the demographics and readership of publications among adults who used a prescription drug for depression in the last twelve months. Consequently, Hilsoft chose to utilize media particularly targeting women due to their greater incidence of depression and heavy usage of the medication.

Judge Richard G. Stearns, *In re Lupron® Marketing and Sales Practice Litigation*, (November 24, 2004) MDL No. 1430 (D. Mass.):

After review of the proposed Notice Plan designed by Hilsoft Notifications...is hereby found to be the best practicable notice under the circumstances and, when completed, shall constitute due and sufficient notice of the Settlement and the Fairness Hearing to all persons and entities affected by and/or entitled to participate in the Settlement, in full compliance with the notice requirements of Rule 23 the Federal Rules of Civil Procedure and due process.

Judge Richard G. Stearns, *In re Lupron® Marketing and Sales Practice Litigation*, (November 23, 2004) MDL No. 1430 (D. Mass.):

I actually find the [notice] plan as proposed to be comprehensive and extremely sophisticated and very likely be as comprehensive as any plan of its kind could be in reaching those most directly affected.

Judge James S. Moody, Jr., *Mantzouris v. Scarritt Motor Group Inc.*, (August 10, 2004) No. 8:03 CV- 0015-T-30 MSS (M.D. Fla.):

Due and adequate notice of the proceedings having been given and a full opportunity having been offered to the members of the Class to participate in the Settlement Hearing, or object to the certification of the Class and the Agreement, it is hereby determined that all members of the Class, except for Ms. Gwendolyn Thompson, who was the sole person opting out of the Settlement Agreement, are bound by this Order and Final Judgment entered herein.

Judge Robert E. Payne, *Fisher v. Virginia Electric & Power Co.*, (July 1, 2004) No. 3:02CV431 (E.D. Va.):

The record here shows that the class members have been fully and fairly notified of the existence of the class action, of the issues in it, of the approaches taken by each side in it in such a way as to inform meaningfully those whose rights are affected and to thereby enable them to exercise their rights intelligently...The success rate in notifying the class is, I believe, at least in my experience, I share Ms. Kauffman's experience, it is as great as I have ever seen in practicing or serving in this job...So I don't believe we could have had any more effective notice.

Judge John Kraetzer, *Baiz v. Mountain View Cemetery*, (April 14, 2004) No. 809869-2 (Cal. Super. Ct.):

The notice program was timely completed, complied with California Government Code section 6064, and provided the best practicable notice to all members of the Settlement Class under the circumstances. The Court finds that the notice program provided class members with adequate instructions and a variety of means to obtain information pertaining to their rights and obligations under the settlement so that a full opportunity has been afforded to class members and all other persons wishing to be heard...The Court has determined that the Notice given to potential members of the Settlement Class fully and accurately informed potential Members of the Settlement Class of all material elements of the proposed settlement and constituted valid, due, and sufficient notice to all potential members of the Settlement Class, and that it constituted the best practicable notice under the circumstances.

Hospitality Mgmt. Assoc., Inc. v. Shell Oil Co., 356 S.C. 644, 663, 591 S.E.2d 611, 621 (Sup. Ct. S.C. 2004):

Clearly, the Cox court designed and utilized various procedural safeguards to guarantee sufficient notice under the circumstances. Pursuant to a limited scope of review, we need go no further in deciding the Cox court's findings that notice met due process are entitled to deference.

Judge Joseph R. Goodwin, *In re Serzone Prods. Liability Litigation*, 2004 U.S. Dist. LEXIS 28297, at *10 (S.D. W. Va.):

The Court has considered the Notice Plan and proposed forms of Notice and Summary Notice submitted with the Memorandum for Preliminary Approval and finds that the forms and manner of notice proposed by Plaintiffs and approved herein meet the requirements of due process and Fed.R.Civ.P. 23(c) and (e), are the best notice practicable under the circumstances, constitute sufficient notice to all persons entitled to notice, and satisfy the Constitutional requirements of notice.

Judge James D. Arnold, *Cotten v. Ferman Mgmt. Servs. Corp.*, (November 26, 2003) No. 02-08115 (Fla. Cir. Ct.):

Due and adequate notice of the proceedings having been given and a full opportunity having been offered to the member of the Class to participate in the Settlement Hearing, or object to the certification of the Class and the Agreement...

Judge Judith K. Fitzgerald, *In re Pittsburgh Corning Corp.*, (November 26, 2003) No. 00-22876-JKF (Bankr. W.D. Pa.):

The procedures and form of notice for notifying the holders of Asbestos PI Trust Claims, as described in the Motion, adequately protect the interests of the holders of Asbestos PI Trust Claims in a manner consistent with the principles of due process, and satisfy the applicable requirements of the Bankruptcy Code and the Federal Rules of Bankruptcy Procedure.

Judge Carter Holly, *Richison v. American Cemwood Corp.*, (November 18, 2003) No. 005532 (Cal. Super. Ct.):

As to the forms of Notice, the Court finds and concludes that they fully apprised the Class members of the pendency of the litigation, the terms of the Phase 2 Settlement, and Class members' rights and options...Not a single Class member—out of an estimated 30,000—objected to the terms of the Phase 2 Settlement Agreement, notwithstanding a comprehensive national Notice campaign, via direct mail and publication Notice...The notice was reasonable and the best notice practicable under the circumstances, was due, adequate, and sufficient notice to all Class members, and complied fully with the laws of the State of California, the Code of Civil Procedure, due process, and California Rules of Court 1859 and 1860.

Judge Thomas A. Higgins, *In re Columbia/HCA Healthcare Corp.*, (June 13, 2003) MDL No. 1227 (M.D. Tenn.):

Notice of the settlement has been given in an adequate and sufficient manner. The notice provided by mailing the settlement notice to certain class members and publishing notice in the manner described in the settlement was the best practicable notice, complying in all respects with the requirements of due process.

Judge Harold Baer, Jr., *Thompson v. Metropolitan Life Ins. Co.*, 216 F.R.D. 55, 68 (S.D.N.Y. 2003):

In view of the extensive notice campaign waged by the defendant, the extremely small number of class members objecting or requesting exclusion from the settlement is a clear sign of strong support for the settlement... The notice provides, in language easily understandable to a lay person, the essential terms of the settlement, including the claims asserted...who would be covered by the settlement...[T]he notice campaign that defendant agreed to undertake was extensive...I am satisfied, having reviewed the contents of the notice package, and the extensive steps taken to disseminate notice of the settlement, that the class notice complies with the requirements of Rule 23 (c)(2) and 23(e). In summary, I have reviewed all of the objections, and none persuade me to conclude that the proposed settlement is unfair, inadequate or unreasonable.

Judge Edgar E. Bayley, *Dimitrios v. CVS, Inc.*, (November 27, 2002) No. 99-6209; ***Walker v. Rite Aid Corp.*,** No. 99-6210; and ***Myers v. Rite Aid Corp.*,** No. 01-2771 (Pa. Ct. C.P.):

The Court specifically finds that: fair and adequate notice has been given to the class, which comports with due process of law.

Judge Dewey C. Whitenton, *Ervin v. Movie Gallery, Inc.*, (November 22, 2002) No. 13007 (Tenn. Ch.):

The content of the class notice also satisfied all due process standards and state law requirements...The content of the notice was more than adequate to enable class members to make an informed and intelligent choice about remaining in the class or opting out of the class.

Judge James R. Williamson, *Kline v. The Progressive Corp.*, (November 14, 2002) No. 01-L-6 (Ill. Cir. Ct.):

Notice to the Settlement Class was constitutionally adequate, both in terms of its substance and the manner in which it was disseminated. The notice contained the essential elements necessary to satisfy due process...

Judge Marina Corodemus, *Talalai v. Cooper Tire & Rubber Co.*, (September 13, 2002) No. L-008830.00 (N.J. Super. Ct.):

Here, the comprehensive bilingual, English and Spanish, court-approved Notice Plan provided by the terms of the settlement meets due process requirements. The Notice Plan used a variety of methods to reach potential class members. For example, short form notices for print media were placed...throughout the United States and in major national consumer publications which include the most widely read publications among Cooper Tire owner demographic groups.

Judge Harold Baer, Jr., *Thompson v. Metropolitan Life Ins. Co.*, (September 3, 2002) No. 00 Civ. 5071-HB (S.D.N.Y.):

The Court further finds that the Class Notice and Publication Notice provided in the Settlement Agreement are written in plain English and are readily understandable by Class Members. In sum, the Court finds that the proposed notice texts and methodology are reasonable, that they constitute due, adequate and sufficient notice to all persons entitled to be provided with notice, and that they meet the requirements of the Federal Rules of Civil Procedure (including Fed. R. Civ. P. 23(c)(2) and (e)), the United States Constitution (including the Due Process Clause), the Rules of the Court, and any other applicable law.

Judge Milton Gunn Shuffield, *Scott v. Blockbuster Inc.*, (January 22, 2002) No. D 162-535 (Tex. Jud. Dist. Ct.) ultimately withstood challenge to Court of Appeals of Texas. *Peters v. Blockbuster* 65 S.W.3d 295, 307 (Tex. App.-Beaumont, 2001):

In order to maximize the efficiency of the notice, a professional concern, Hilsoft Notifications, was retained. This Court concludes that the notice campaign was the best practicable, reasonably calculated, under all

the circumstances, to apprise interested parties of the settlement and afford them an opportunity to present their objections...The notice campaign was highly successful and effective, and it more than satisfied the due process and state law requirements for class notice.

Judge Marina Corodemus, *Talalai v. Cooper Tire & Rubber Co.*, (October 30, 2001) No. MID-L-8839-00-MT (N.J. Super. Ct.):

The parties have crafted a notice program which satisfies due process requirements without reliance on an unreasonably burdensome direct notification process...The form of the notice is reasonably calculated to apprise class members of their rights. The notice program is specifically designed to reach a substantial percentage of the putative settlement class members.

Judge Marina Corodemus, *Talalai v. Cooper Tire & Rubber Co.*, (October 29, 2001) No. L-8830-00-MT (N.J. Super. Ct.):

I saw the various bar graphs for the different publications and the different media dissemination, and I think that was actually the clearest bar graph I've ever seen in my life...it was very clear of the time periods that you were doing as to each publication and which media you were doing over what market time, so I think that was very clear.

Judge Stuart R. Pollak, *Microsoft I-V Cases*, (April 1, 2001) J.C.C.P. No. CJC-00-004106 (Cal. Super. Ct.):

[C]oncerning dissemination of class notice; and I have reviewed the materials that have been submitted on that subject and basically I'm satisfied. I think it's amazing if you're really getting 80 percent coverage. That's very reassuring. And the papers that you submitted responded to a couple things that had been mentioned before and I am satisfied with all that.

Judge Stuart R. Pollak, *Microsoft I-V Cases*, (March 30, 2001) J.C.C.P. No. 4106 (Cal. Super. Ct.):

Plaintiffs and Defendant Microsoft Corporation have submitted a joint statement in support of their request that the Court approve the plan for dissemination of class action notice and proposed forms of notice, and amend the class definition. The Court finds that the forms of notice to Class members attached hereto as Exhibits A and B fairly and adequately inform the Class members of their rights concerning this litigation. The Court further finds that the methods for dissemination of notice are the fairest and best practicable under the circumstances, and comport with due process requirements.

LEGAL NOTICE CASES

Hilsoft Notifications has served as a notice expert for planning, implementation and/or analysis in the following partial listing of cases:

<i>Andrews v. MCI (900 Number Litigation)</i>	S.D. Ga., CV 191-175
<i>Harper v. MCI (900 Number Litigation)</i>	S.D. Ga., CV 192-134
<i>In re Bausch & Lomb Contact Lens Litigation</i>	N.D. Ala., 94-C-1144-WW
<i>In re Ford Motor Co. Vehicle Paint Litigation</i>	E.D. La., MDL No. 1063
<i>Castano v. Am. Tobacco</i>	E.D. La., CV 94-1044
<i>Cox v. Shell Oil (Polybutylene Pipe Litigation)</i>	Tenn. Ch., 18,844
<i>In re Amino Acid Lysine Antitrust Litigation</i>	N.D. Ill., MDL No. 1083
<i>In re Dow Corning Corp. (Breast Implant Bankruptcy)</i>	E.D. Mich., 95-20512-11-AJS

<i>Kunhel v. CNA Ins. Companies</i>	N.J. Super. Ct., ATL-C-0184-94
<i>In re Factor Concentrate Blood Prods. Litigation (Hemophiliac HIV)</i>	N.D. Ill., MDL No. 986
<i>In re Ford Ignition Switch Prods. Liability Litigation</i>	D. N.J., 96-CV-3125
<i>Jordan v. A.A. Friedman (Non-Filing Ins. Litigation)</i>	M.D. Ga., 95-52-COL
<i>Kalhammer v. First USA (Credit Card Litigation)</i>	Cal. Cir. Ct., C96-45632010-CAL
<i>Navarro-Rice v. First USA (Credit Card Litigation)</i>	Or. Cir. Ct., 9709-06901
<i>Spitzfaden v. Dow Corning (Breast Implant Litigation)</i>	La. D. Ct., 92-2589
<i>Robinson v. Marine Midland (Finance Charge Litigation)</i>	N.D. Ill., 95 C 5635
<i>McCurdy v. Norwest Fin. Alabama</i>	Ala. Cir. Ct., CV-95-2601
<i>Johnson v. Norwest Fin. Alabama</i>	Ala. Cir. Ct., CV-93-PT-962-S
<i>In re Residential Doors Antitrust Litigation</i>	E.D. Pa., MDL No. 1039
<i>Barnes v. Am. Tobacco Co. Inc.</i>	E.D. Pa., 96-5903
<i>Small v. Lorillard Tobacco Co. Inc.</i>	N.Y. Super. Ct., 110949/96
<i>Naef v. Masonite Corp (Hardboard Siding Litigation)</i>	Ala. Cir. Ct., CV-94-4033
<i>In re Synthroid Mktg. Litigation</i>	N.D. Ill., MDL No. 1182
<i>Raysick v. Quaker State Slick 50 Inc.</i>	D. Tex., 96-12610
<i>Castillo v. Mike Tyson (Tyson v. Holyfield Bout)</i>	N.Y. Super. Ct., 114044/97
<i>Avery v. State Farm Auto. Ins. (Non-OEM Auto Parts)</i>	Ill. Cir. Ct., 97-L-114
<i>Walls v. The Am. Tobacco Co. Inc.</i>	N.D. Okla., 97-CV-218-H
<i>Tempest v. Rainforest Café (Securities Litigation)</i>	D. Minn., 98-CV-608
<i>Stewart v. Avon Prods. (Securities Litigation)</i>	E.D. Pa., 98-CV-4135
<i>Goldenberg v. Marriott PLC Corp (Securities Litigation)</i>	D. Md., PJM 95-3461
<i>Delay v. Hurd Millwork (Building Products Litigation)</i>	Wash. Super. Ct., 97-2-07371-0
<i>Gutterman v. Am. Airlines (Frequent Flyer Litigation)</i>	Ill. Cir. Ct., 95CH982
<i>Hoeffner v. The Estate of Alan Kenneth Vieira (Un-scattered Cremated Remains Litigation)</i>	Cal. Super. Ct., 97-AS 02993
<i>In re Graphite Electrodes Antitrust Litigation</i>	E.D. Pa., MDL No. 1244
<i>In re Silicone Gel Breast Implant Prods. Liability Litigation, Altrichter v. INAMED</i>	N.D. Ala., MDL No. 926
<i>St. John v. Am. Home Prods. Corp. (Fen/Phen Litigation)</i>	Wash. Super. Ct., 97-2-06368

Crane v. Hackett Assocs. (Securities Litigation)	E.D. Pa., 98-5504
In re Holocaust Victims Assets Litigation (Swiss Banks)	E.D.N.Y., CV-96-4849
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<i>Wolfegeher v. Commerce Bank (Overdraft Fees)</i>	S.D. Fla., MDL No. 2036
<i>Harris v. Associated Bank (Overdraft Fees)</i>	S.D. Fla., MDL No. 2036
<i>Case v. Bank of Oklahoma (Overdraft Fees)</i>	S.D. Fla., MDL No. 2036
<i>Nelson v. Rabobank, N.A. (Overdraft Fees)</i>	Cal. Super. Ct., RIC 1101391
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<i>Gessele et al. v. Jack in the Box, Inc.</i>	D. Or., No. 3:10-cv-960
<i>RBS v. Citizens Financial Group, Inc. (Overdraft Fees)</i>	S.D. Fla., MDL No. 2036
<i>Mosser v. TD Bank, N.A. (Overdraft Fees)</i>	S.D. Fla., MDL No. 2036
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<i>In re Zurn Pex Plumbing, Products Liability Litigation</i>	D. Minn., MDL No. 1958
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<i>Eno v. M & I Marshall & Ilsley Bank (Overdraft Fees)</i>	S.D. Fla., MDL No. 2036
<i>Casayuran v. PNC Bank (Overdraft Fees)</i>	S.D. Fla., MDL No. 2036
<i>Anderson v. Compass Bank (Overdraft Fees)</i>	S.D. Fla., MDL No. 2036
<i>Evans, et al. v. TIN, Inc. (Environmental)</i>	E.D. La., 2:11-cv-02067
<i>Opelousas General Hospital Authority v. Qmedtrix Systems, Inc.</i>	27 th Jud. D. Ct. La., 12-C-1599-C
<i>Williams v. SIF Consultants of Louisiana, Inc. et al.</i>	27 th Jud. D. Ct. La., 09-C-5244-C
<i>Miner v. Philip Morris Companies, Inc. et al.</i>	Ark. Cir. Ct., 60CV03-4661
<i>Fontaine v. Attorney General of Canada (Mistassini Hostels Residential Schools)</i>	Qué. Super. Ct., 500-06-000293-056 & No. 550-06-000021-056 (Hull)
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Hawthorne v. Umpqua Bank (Overdraft Fees)	N.D. Cal., 11-cv-06700-JST
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In re MI Windows and Doors Products Liability Litigation (Building Products)	D. S.C., MDL No. 2333
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<i>Ono v. Head Racquet Sports USA</i>	C.D.C.A., 2:13-cv-04222-FMO(AGRx)
<i>Opelousas General Hospital Authority v. PPO Plus, L.L.C., et al.</i>	27 th Jud. D. Ct. La., 13-C-5380
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<i>Forgione v. Webster Bank N.A. (Overdraft Fees)</i>	Sup. Ct.Conn., X10-UWY-CV-12-6015956-S
<i>Small v. BOKF, N.A.</i>	D. Col., 13-cv-01125
<i>Anamaria Chimeno-Buzzi & Lakedrick Reed v. Hollister Co. & Abercrombie & Fitch Co.</i>	S.D. Fla., 14-cv-23120-MGC
<i>In re: HSBC Bank USA, N.A., Checking Account Overdraft Litigation</i>	Sup. Ct. N.Y., No. 650562/11
<i>In re: Volkswagen "Clean Diesel" Marketing, Sales Practices and Product Liability Litigation (Bosch)</i>	N.D. Cal., MDL No. 2672
<i>Hawkins v. First Tennessee Bank, N.A., et al. (Overdraft Fees)</i>	13 th Jud. Cir. Tenn., No. CT-004085-11
<i>Greater Chautauqua Federal Credit Union v. Kmart Corp., et al. (Data Breach)</i>	N.D. Ill., No. 1:15-cv-02228
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<i>Farnham v. Caribou Coffee Company, Inc. (TCPA)</i>	W.D. Wis., No. 16-cv-00295-WMC
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<i>In re: Syngenta Litigation</i>	4 th Jud. Dist. Minn., No. 27-CV-15-3785
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<i>In re: Takata Airbag Products Liability Litigation (OEMs – BMW, Mazda, Subaru, Toyota, Honda, and Nissan)</i>	S.D. Fla, MDL No. 2599

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