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Co-Lead Class Plaintiffs' Counsel

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

IN RE ANIMATION WORKERS ANTITRUST
LITIGATION

No. 14-CV-4062 LHK

DECLARATION OF MARC M. SELTZER
IN SUPPORT OF PLAINTIFFS' MOTION
FOR ATTORNEYS' FEES, EXPENSES,
AND SERVICE AWARDS

THIS DOCUMENT RELATES TO:
ALL ACTIONS

Date: November 10, 2016
Time: 1:30 p.m.
Courtroom: Room 8, 4th Floor
Judge: The Honorable Lucy H. Koh

1 I, MARC M. SELTZER declare as follows:

2 1. I am an active member of the State Bar of California and a member of the Bar of this
3 Court. I am a partner with the law firm of Susman Godfrey L.L.P., counsel of record for plaintiff
4 Georgia Cano. My firm and I are Co-Lead Class Plaintiffs' Counsel in the above-entitled action. I
5 have personal knowledge of the matters stated herein and, if called as a witness, could and would
6 competently testify thereto.

7 2. My firm has been involved in every phase of this litigation, including conducting
8 factual investigations regarding the claims at issue in this action, preparation of pleadings, drafting
9 motion papers and responses to defendants' motions, conducting discovery and appearing and
10 arguing matter in Court. A fuller description of the work undertaken by plaintiffs' counsel in this
11 action is set forth in the Declaration of Jeff D. Friedman, filed concurrently herewith.

12 **I. EXPERIENCE AND QUALIFICATIONS OF SUSMAN GODFREY ATTORNEYS**

13 3. Since the firm's founding in 1980, Susman Godfrey has served as lead counsel in
14 hundreds of antitrust class actions and other complex commercial disputes in courts throughout the
15 country. The firm has represented clients in some of the largest and most complex cases ever
16 litigated and earned a reputation for handling those cases effectively and efficiently. The lawyers of
17 Susman Godfrey have tried more than a dozen significant antitrust cases to a jury, in cases yielding
18 over \$1 billion in verdicts, and has been appointed to serve as lead or co-lead counsel in numerous
19 antitrust class actions and other class actions, including, among others, *In re Toyota Motor Corp.*
20 *Unintended Acceleration Marketing Sales Practices*, and *Product Liability Litigation* (C.D. Cal.); *In*
21 *re Automotive Parts Antitrust Litigation* (E.D. Mich.); *In re Vitamin C Antitrust Litigation*
22 (E.D.N.Y.); *In re Crude Oil Commodity Futures Litigation* (S.D.N.Y.); *White v. Nat'l Collegiate*
23 *Athletic Ass'n* (C.D. Cal.); *In re LIBOR-Based Fin. Instruments Antitrust Litigation* (S.D.N.Y.); *In re*
24 *Ready-Mixed Concrete Antitrust Litigation* (S.D. Ind.); *In re Municipal Derivatives Antitrust*
25 *Litigation* (S.D.N.Y.); *In re Universal Serv. Fund Tel. Billing Practices Litigation* (D. Kan.);
26 *Behrend v. Comcast Corp.* (E.D. Pa.); *In re Lease Oil Antitrust Litigation* (S.D. Tex.); *In re Korean*
27 *Air Lines Co. Antitrust Litigation* (C.D. Cal.); *In re Vitamins Antitrust Litigation* (D.D.C.); *In re*
28

1 *Processed Egg Products Antitrust Litigation* (E.D. Pa.); *In re Commercial Explosives Antitrust*
 2 *Litigation* (D. Utah).

3 4. The principal Susman Godfrey attorneys who have worked on this case are myself,
 4 Steven G. Sklaver, Matthew R. Berry, John Schiltz, and Jordan Talge. The firm biographies of these
 5 and all other attorneys who have been responsible for litigating this case are available at my firm's
 6 website www.susmangodfrey.com, and in the document attached hereto as Exhibit A.

7 5. **Marc M. Seltzer**: I am one of Susman Godfrey's most senior partners and resident
 8 head of the firm's Los Angeles office. I have practiced law for more than forty years, and have been
 9 appointed to serve as lead and co-lead counsel for plaintiffs in numerous antitrust and other class
 10 action cases, including *In re Korean Air Lines Co. Antitrust Litigation*, which was settled for \$86
 11 million in cash and travel vouchers. I have also tried antitrust cases to verdict. I now lead my firm's
 12 efforts as one of the co-lead counsel in the *In re Automotive Parts Antitrust Litigation*, in which
 13 plaintiffs' have obtained more than \$600 million in partial settlements. I was named one of three
 14 Class Action MVPs in the nation by Law 360 in recognition of, among other achievements, my
 15 service as one of three co-lead counsel who achieved an unprecedented settlement valued at
 16 approximately \$1.6 billion in *In re Toyota Motor Corp. Unintended Acceleration Marketing Sales*
 17 *Practices, and Product Liability Litigation*. I am a Life Member of the American Law Institute and
 18 also a member of the Advisory Board of the American Antitrust Institute. My other professional
 19 activities and awards are listed in my biography attached as Exhibit A hereto.

20 6. **Steven G. Sklaver**: Mr. Sklaver is a partner in Susman Godfrey's Los Angeles
 21 office, and, like myself, he was named in 2016 by the Los Angeles Daily Journal as one of the top 30
 22 plaintiffs' lawyers in California. Mr. Sklaver has extensive antitrust experience, including
 23 representing, along with myself, the class plaintiffs in *White, et al. v. NCAA*, an antitrust class action
 24 alleging that the NCAA violated the federal antitrust laws by restricting amounts of athletic-based
 25 financial aid to student athletes. Mr. Sklaver is also actively engaged representing the plaintiffs
 26 in *In re Automotive Part Antitrust Litigation*, a massive and exceptionally complex MDL litigation
 27 arising out of what the United States Department of Justice has described as the largest price-fixing
 28

1 cartel in history. As noted above, partial settlements for the class of end user plaintiffs we represent
2 have reached over \$600 million thus far.

3 7. **Matthew Berry**: Mr. Berry is a partner in Susman Godfrey's Seattle office, where he
4 has practiced for nearly ten years after clerking for the Hon. Stephen S. Trott of the United States
5 Court of Appeals for the Ninth Circuit. Mr. Berry is a member of the Susman Godfrey team that was
6 appointed interim co-lead counsel representing over-the-counter plaintiffs in the LIBOR price-fixing
7 class action currently pending in the Southern District of New York. He has represented clients in a
8 wide range of disputes nationwide over the past ten years. Mr. Berry has been named a Washington
9 "Super Lawyer" by Law & Politics magazine from 2013-2016.

10 8. **John Schiltz**: Mr. Schiltz is an associate in Susman Godfrey's Seattle office. He
11 graduated Order of the Coif from University of Virginia School Law and joined the firm in 2014
12 after clerking for the Hon. David M. Ebel of the United States Court of Appeals for the Tenth
13 Circuit.

14 9. **Jordan Talge**: Mr. Talge was, until very recently, an associate in Susman Godfrey's
15 Seattle office. He joined Susman Godfrey in 2012, after clerking for the Hon. Richard C. Tallman of
16 the United States Court of Appeals for the Ninth Circuit. He has represented plaintiffs and
17 defendants in a wide range of commercial disputes nationwide. In July 2016, he accepted a position
18 as Seattle University's Associate General Counsel.

19 II. ATTORNEYS' FEES AND EXPENSES

20 A. Calculation of Susman Godfrey's Lodestar

21 10. Susman Godfrey's lodestar is calculated based on the current hourly rates of the firm.
22 These rates are the same that are charged to all of its clients, including those who pay by the hour.

23 11. Through July 2016, Susman Godfrey's lodestar is \$2,368,125.00 and its litigation
24 expenses are \$602,373.15, for a total investment of time and expenses \$2,970,498.15. A breakdown
25 of the lodestar by lawyer or paralegal assistant is as follows:
26
27
28

Name	Title	Current Hourly Rate	Cumulative Hours	Cumulative Lodestar
Marc Seltzer	Partner	\$1,200	184.4	\$221,280.00
Steven Sklaver	Partner	\$700	284.4	\$199,080.00
Matthew Berry	Partner	\$550	1207	\$663,850.00
John Schiltz	Associate	\$325	1,472.70	\$478,627.50
Katherine Kunz	Associate	\$475	101.7	\$48,307.50
Jordan Talge	Associate	\$375	1,599.70	\$599,887.50
Andres Healy	Associate	\$425	25.1	\$10,667.50
Moustapha El-Hakam	Staff Attorney	\$275	73.5	\$20,212.50
Kevin Hormann	Staff Attorney	\$275	124.9	\$34,347.50
Aaron Haberman	Staff Attorney	\$275	14.2	\$3,905.00
Norberto Arreola	Paralegal	\$270	114	\$30,780.00
Simon DeGeorges	Paralegal	\$270	57	\$15,390.00
Jeffery McLaren	Paralegal	\$270	9.5	\$2,565.00
Caroline Edwards	Paralegal	\$230	93.3	\$21,459.00
Page Berardi	Paralegal	\$270	65.8	\$17,766.00
TOTAL:			5,427.20	2,368,125.00

12. Pursuant to the Court's order at the preliminary approval hearing, detailed time records supporting the foregoing summary will be submitted *in camera* for the Court's review.

13. Susman Godfrey has expended a total of \$602,373.15 in unreimbursed litigation expenses in prosecuting this litigation. They are the type of expenses customarily billed by my firm, and include such costs as expert expenses, computerized research and other services, and coach air travel in connection with this litigation through July 31, 2016. These expenses are itemized as follows:

DISBURSEMENT	AMOUNTS
B/W Photocopies/Prints	\$3,871.40
Color Photocopies/Prints	\$2,311.00
Expert Fees	\$843.75
Filing Fees	\$630.00
Hotel & Travel Expenses	\$29,586.27

DISBURSEMENT	AMOUNTS
Postage Charges	\$25.76
Contributions to Joint Litigation Fund	\$542,500
Messenger/Delivery Services	\$2,948.62
Miscellaneous Client Charges	\$644.14
Outside Photocopy Services	\$7,571.99
Research Charges	\$10,565.55
Secretarial Overtime	\$795.00
Telephone Expenses	\$79.67
TOTAL:	\$602,373.15

14. Susman Godfrey's unreimbursed litigation expenses include its contributions to the joint litigation fund established by Co-Lead Counsel. The joint expense account has a balance of \$89,598.69 as of July 31, 2016. The joint expenses paid out of the litigation fund are itemized as follows:

DISBURSEMENT	AMOUNTS
Deposition Expenses	\$23,588.90
Expert Fees	\$1,261,217.36
Filing Fees	\$400.00
Messenger/Delivery Services	\$1,209.30
Miscellaneous	\$326.98
Outside Document	\$52,130.79
Subpoena Witness Fees	\$1,867.80
TOTAL:	\$1,340,741.13

15. The litigation expenses incurred in prosecuting this case are reflected in the books and records of my firm. These books and records are prepared from expense vouchers and check records and are an accurate record of the expenses incurred.

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

Executed this 15th day of September, 2016, at Los Angeles, California.

/s/ Marc M. Seltzer
MARC M. SELTZER

EXHIBIT A

SUSMAN GODFREY L.L.P.



Marc M. Seltzer
Partner

Marc M. Seltzer

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Overview

Marc Seltzer has practiced law for more than forty years, litigating complex cases in state and federal courts throughout the United States. Before joining Susman Godfrey, he was a principal in the law firm of Corinblit & Seltzer, a Professional Corporation. Marc Seltzer's relationship with the lawyers of Susman Godfrey began in the late 1970's, when he worked with Steve Susman on the *Corrugated Container* antitrust case. In the ensuing years, Mr. Seltzer joined forces with Susman Godfrey on a number of other cases. In February 1998, Marc Seltzer became a partner of the firm, and opened the firm's Los Angeles office. Since then, the firm's Los Angeles office has become one of the leading litigation boutiques in California.

Marc Seltzer's involvement in nationally prominent litigation began in the mid-1970's, when he was tapped by Jack Corinblit to work on the massive *Equity Funding* securities litigation. That case consisted of more than 100 consolidated class and private action cases, and was settled in 1976 for over \$60 million, then the largest recovery ever achieved in a securities fraud class action. See *In re Equity Funding Corp. of America Securities Litigation*, 438 F. Supp. 1303 (C.D. Cal. 1977). Later, in the 1980's, Mr. Seltzer was appointed by the Los Angeles federal court to serve as sole lead counsel to represent the plaintiff class in the *ZZZZ Best* securities fraud case. The *ZZZZ Best* fraud was described by the United States Attorney for the Central District of California as "the most massive and elaborate securities fraud perpetrated on the West Coast in over a decade," harking back to the *Equity Funding* case. The case resulted in several important published decisions sustaining plaintiffs' claims. See *In re ZZZZ Best Securities Litigation*, 864 F. Supp. 960 (C.D. Cal. 1994).

Since joining the firm, Mr. Seltzer has continued to work on complex litigation. Marc Seltzer was, together with Steve Susman, a member of the Susman Godfrey trial team representing approximately 90 financial institutions in a negligent misrepresentation case against one of the "Big Four" accounting firms. That case settled just prior to the commencement of trial. Marc Seltzer also teamed with Steve Susman in prosecuting the *In re Vitamin Antitrust Litigation*, which was settled pursuant to agreements that made

more than \$1.05 billion available to the class.

In *McCourt v. McCourt*, Mr. Seltzer served as co-trial counsel with Steve Susman in representing Frank McCourt in his marital property litigation with his former wife which involved competing claims to ownership of the Los Angeles Dodgers. In 2015, Mr. Seltzer successfully argued the appeal taken in that case by Ms. McCourt from the order denying her motion to set aside the settlement reached in that case.

In the *In re Toyota Motor Corp. Unintended Acceleration Marketing, Sales Practices, and Products Liability Litigation*, Marc Seltzer was appointed by the Court to serve as one of the co-lead counsel for the economic loss class action plaintiffs. After three years of hard fought litigation, an historic settlement was reached valued by the Court at approximately \$1.6 billion, with the class receiving net benefits valued at approximately \$1.4 billion.

In December 2013, Mr. Seltzer was named to *Law360's* annual list of legal "MVPs." He was one of just three attorneys in the nation selected by *Law360* for recognition in the Class Action category. In 2014, 2015 and 2016, he was named to the *International Who's Who of Competition Lawyers & Economists*. Nominees were selected by *Global Competition Review* based upon "comprehensive, independent survey work with both general counsel and private practice lawyers worldwide."

Mr. Seltzer has been appointed to serve as lead or co-lead counsel for plaintiffs in numerous additional cases noted below. Over his many years of practice, Mr. Seltzer has also represented defendants in a wide variety of cases, including antitrust, securities, copyright, trademark, trade secret, unfair competition and other complex litigation.

Education

University of California at Berkeley (B.A., 1969)
UCLA School of Law (J.D., 1972)

Honors and Distinctions

Recipient, 2012 Jewish Federation of Los Angeles' Bruce I. Hochman-Maimonides Torch of Justice Award

Recipient, 2004 American ORT Jurisprudence Award

Named a "Super Lawyer" by Southern California Law & Politics magazine (2004-2015)

Named one of Law Dragon's 500 Leading Plaintiff's Lawyers (2007)

Named one of Law Dragon's 100 Lawyers You Need To Know in Securities Litigation (2008)

Named a Litigation Star by *Benchmark Litigation* (2014 and 2015)

Ranked by Martindale-Hubbe as an AV Preeminent Lawyer (2015)

Named by *US News* as one of the *Best Lawyers in America* (2016)

Named by the *Daily Journal* as a Top Plaintiff Lawyer in California (2016)

Books and Articles

Co-author, California Federal Civil Rules (LexisNexis 2015);

Co-author, California State Antitrust and Unfair Competition Law (Matthew Bender & Co. 2014), published by the Antitrust and Unfair Competition Law Section, State Bar of California

"Choosing Between Class and Derivative Actions," published in Second Annual Institute, Class and Derivative Litigation in the 1990's — The New Frontier (Prentice Hall Law & Bus. 1991); and the same topic for subsequent Annual Institutes

"Measures of Damages in Private Actions for Violations of the Federal Securities Laws: The Basic Rules and Selected Problems," published in Securities Litigation 1990 (PLI 1990)

"Shareholders' Derivative Suits in Contests for Corporate Control," published in Securities Litigation 1986: Prosecution and Defense Strategies (PLI 1986)

Professional Associations and Memberships

Past Vice-Chair of the Executive Committee, Antitrust and Unfair Competition Law Section, State Bar of California

Past President and current member of the Board of Directors of the Ninth Judicial Circuit Historical Society

Past President and current member of the Board of Directors of the Legal Aid Foundation of Los Angeles

Member, Executive Committee of the Litigation Section of the Los Angeles County Bar Association

Member, The Chancery Club

Member, Board of Governors of the Association of Business Trial Lawyers

Member, Board of Directors of the National Equal Justice Library

Member, Board of Directors, American Friends of Hebrew University, Western Region

Member, Board of Trustees of the Lawyers Committee for Civil Rights Under Law

Member, Board of Directors of the Friends of the Los Angeles County Law Library

Life Member of the American Law Institute

Member, Advisory Board of the American Antitrust Institute

Life Fellow of the American Bar Foundation

Member, American Bar Association (and its Business Law, Antitrust Law, Torts and Insurance Law, and Litigation Sections)

Member, American Association for Justice

Member, Consumer Attorneys of California

Member, Selden Society

Notable Representation

In re Korean Air Lines Co., Ltd. Antitrust Litigation, consisting of more than eighty consolidated antitrust class action cases pending in the Los Angeles federal court. Marc Seltzer was appointed by the Los Angeles federal court to serve as one of the co-lead counsel for the class. The case was settled for \$86 million in cash and travel vouchers, with the class receiving approximately \$60 million.

Schulein, et al. v. Petroleum Development Corp., et al., a case in which Marc Seltzer served as lead counsel for the plaintiffs in a class action brought in Santa Ana federal court on behalf of more than 7000 limited partners who invested in the 12 limited partnerships. Plaintiffs alleged the defendants made false and misleading statements and omitted material information regarding the value of the partnerships in its proxy statements used to solicit votes in favor of mergers that cased them out of their investments. After three years of hard fought litigation – and following the court’s denial of defendants’ class decertification motion, partial motions for summary judgment and a motion that the plaintiffs weren’t entitled to seek punitive damages, the case was settled for \$37.5 million in March 2015, with the class receiving approximately \$24 million.

McGuire v. Dendreon Corp., consolidated securities fraud class action cases filed in Seattle federal court in which Marc Seltzer was appointed by the Court to serve as lead counsel for the class. The case was settled on the eve of trial for \$16.5 million, with the class receiving approximately \$12 million.

Clark v. AdvanceMe, Inc., a class action brought in Los Angeles federal court challenging financial arrangements with retail merchants under California’s laws against usury. Marc Seltzer served as lead counsel for the class. The case was settled for approximately \$23.4 million in cash and other economic consideration, with the class receiving approximately \$19 million.

CLRB Hanson Industries, LLC v. Google, Inc., a class action for alleged false advertising which was settled for \$20 million, with the class receiving \$15 million. Marc Seltzer successfully argued the appeal from the judgment approving the settlement before the Ninth Circuit. *See* 465 Fed. Appx. 617 (9th Cir. 2012)

In Re Universal Service Fund Telephone Billing Practices Litigation, an antitrust and breach of contract class action involving more than fifty consolidated cases in which Marc Seltzer served as co-lead trial counsel for plaintiffs. The case was settled as to one defendant for benefits to the class totaling \$25 million, and tried to a verdict as to the remaining defendant. The jury found in favor of defendant on the antitrust claim and returned a verdict in favor of plaintiffs on the breach of contract claim which was affirmed by the Tenth Circuit. The trial court issued numerous published decisions in this

matter. *See, e.g., In Re Universal Service Fund Telephone Billing Practices Litigation*, 300 F. Supp.2d 1107 (D. Kan. 2003).

Masimo Corp. v. Tyco Healthcare Group L.P., an antitrust case in which Marc Seltzer served as co-trial counsel for the plaintiff. The case was tried to a verdict resulting in an award in favor of our client. A new trial was granted as to damages. On retrial, the Court awarded approximately \$45 million in damages (after trebling). The Ninth Circuit affirmed the liability verdict and damages award. *See* 350 Fed. Appx. 95 (9th Cir. 2009). Our client received a net recovery of approximately \$27 million.

White v. NCAA, an antitrust class action brought in Los Angeles federal court challenging limitations on financial assistance provided by colleges and universities to student athletes. Marc Seltzer served as co-lead counsel for the plaintiff class. The case was settled for benefits netting the class approximately \$220 million, plus court-approved attorneys' fees and costs.

In re Structured Settlement Litigation, consolidated class actions brought in the Los Angeles Superior Court in which Marc Seltzer served as one of the lead counsel for the plaintiffs. The plaintiffs were parties to structured settlements who were victimized by the alleged fraudulent conversion of U.S. Treasury bonds backing their settlements. After three years of hotly contested litigation, the case was settled. More than \$100 million was distributed to the class.

Livid Holdings, Ltd. v. Salomon Smith Barney, Inc., a securities fraud case brought on behalf of an investor in a start up company. Marc Seltzer was retained to represent the plaintiff on appeal following the dismissal of the action by the trial court, and was successful in overturning the dismissal of the case. *See Livid Holdings Ltd. v. Salomon Smith Barney, Inc.*, 416 F.3d 940 (9th Cir. 2005). The case was subsequently settled for a confidential amount.

In Motorcar Parts & Accessories Securities Litigation, fourteen consolidated securities fraud class actions in which Marc Seltzer was appointed by the Los Angeles federal court to serve as lead counsel for the class. The case was settled for \$7.5 million. *See Z-Seven Fund, Inc. v. Motorcar Parts & Accessories*, 231 F.3d 1215 (9th Cir. 2000).

In re IDB Communications Group, Inc. Securities Litigation, in which Marc Seltzer served as one of four co-lead counsel appointed by the Los Angeles federal court to represent the plaintiff class in more than twenty consolidated securities fraud class action cases. The case was settled for \$75 million.

In re Taxable Municipal Bond Securities Litigation, in which four lawyers, including Marc Seltzer, served on Plaintiffs' Executive Committee, and together with plaintiffs' lead counsel, supervised and managed every aspect of the litigation. This litigation was a consolidated multi-district proceeding brought on behalf of defrauded purchasers of taxable municipal bonds. The case resulted in numerous reported decisions on important recurring issues arising under the federal securities laws. *See, e.g., In re Taxable Municipal Bond Litigation*, [1993 Transfer Binder] Fed. Sec. L. Rep. (CCH) 97,742 (E.D. La. 1993). After several years of intense litigation, the case was settled for approximately \$110 million.

Cowles v. Gannett Outdoor Co., Inc., of Southern California, coordinated class

actions brought in Los Angeles federal court for an alleged conspiracy to suppress competition for leases for billboards sites in Southern California in violation of § 1 of the Sherman Act. Marc Seltzer served as co-lead counsel for the class. The case was settled for \$6.5 million.

Slaven v. B. P. America, Inc., a class action brought in Los Angeles federal court on behalf of fishermen and business owners for economic losses suffered as a result of the spill of more than 200,000 gallons of crude oil from a tanker off the coast of Huntington Beach, California that befouled coastal waters and nearby beaches. The case was brought under the Trans-Alaska Pipeline Authorization Act, admiralty law and the law of California, and resulted in several published decisions in the district court and the Ninth Circuit. *See, e.g., Slaven v. B. P. America, Inc.*, 973 F.2d 1468 (9th Cir. 1992). Marc Seltzer served as co-lead counsel for the class. The case was ultimately settled for \$4 million, plus court-approved attorneys' fees and costs.

In re Carnation Company Securities Litigation, consolidated class actions for violation of the federal securities laws brought in Los Angeles federal court. The plaintiffs alleged that false denials were made relating to the potential takeover of Carnation Company by Nestle, S.A., before the merger of the two firms was announced. Marc Seltzer served as co-lead counsel for the class. The case was settled for \$13 million.

In re International Technology Securities Litigation, consolidated securities class actions filed in Los Angeles federal court. The plaintiffs alleged that the Company's financial statements were materially misleading for failing to earlier write off or set up appropriate accounting reserves relating to the Company's off-site waste disposal operations. Marc Seltzer served as co-lead counsel for plaintiffs. The case was settled for \$12 million in cash and newly-issued securities.

Guenther v. Cooper Life Sciences, Inc., a combined stockholders class and derivative action brought in San Francisco federal court for alleged false and misleading statements regarding the Company's products and prospects. Marc Seltzer served as co-lead counsel for plaintiffs. The case was settled for \$9.85 million in cash plus non-cash economic benefits valued at \$8.3 million.

Heckmann v. Ahmanson, consolidated class and derivative actions arising out of the alleged "greenmailing" of the Walt Disney Co. by Saul Steinberg and a group of his companies. Marc Seltzer was one of the lead counsel for the class of stockholders. The case was settled after three weeks of trial for approximately \$60 million. *See Heckmann v. Ahmanson*, [1989 Transfer Binder] Fed. Sec. L. Rep. ¶ 94, 447 (Cal. Sup. Ct. April 12, 1989) (order denying summary judgment).

Financial Federation, Inc. v. Ashkenazy, in which Marc Seltzer and his co-trial counsel successfully defended at trial an anti-takeover case brought in Los Angeles federal court under the federal securities laws and the RICO statute by a financial institution against persons who allegedly sought to take control of the institution. *See Financial Federation, Inc. v. Ashkenazy*, [1984 Transfer Binder] Fed. Sec. L. Rep. (CCH) 91,489 (C.D. Cal. 1983).

Green v. Occidental Petroleum Corp., in which Marc Seltzer, together with co-counsel, represented plaintiffs in consolidated securities fraud class action

cases that established important precedent in the Ninth Circuit regarding the certification of plaintiff classes and the computation of damages in securities fraud cases. *See Green v. Occidental Petroleum Corp.*, 541 F.2d 1335 (9th Cir. 1976). The case was settled for \$12 million.

Wool v. Tandem Computers, Inc., a securities fraud class action in which Marc Seltzer played a leading role. One of the notable achievements in this case was a victory for the plaintiffs in the Ninth Circuit which established important precedent concerning the measure of damages recoverable in federal securities fraud class action cases, the standard for "controlling person" liability under the federal securities laws and the requirements for pleading fraud with the particularity specified under Rule 9(b), Fed.R. Civ. P. *See Wool v. Tandem Computers, Inc.*, 818 F.2d 1433 (9th Cir. 1987). Following the issuance of the Ninth Circuit's decision, the case was settled for \$16.5 million.

Plaine v. McCabe, a securities class action, in which Marc Seltzer argued before the Ninth Circuit, obtaining a substantial victory for plaintiffs, and establishing significant precedent in the Ninth Circuit regarding the standards for liability and remedies for violations of tender offer disclosure rules under the federal securities laws. *See Plaine v. McCabe*, 797 F.2d 713 (9th Cir. 1986).

Biben v. Card, consolidated securities fraud class actions where Marc Seltzer served as co-lead counsel for plaintiffs. The plaintiffs achieved substantial pretrial victories, including establishing the validity of their claims under the federal securities laws against the defendants in that case. *See Biben v. Card*, [1984-1985 Transfer Binder] Fed. Sec. L. Rep. (CCH) 92,010 (W.D. Mo. 1985), on denial of motion for reconsideration, [1984-1985 Transfer Binder] Fed. Sec. L. Rep. (CCH) 92,083 (W.D. Mo. 1985). The case settled for approximately \$12 million.

Sanwa Bank California v. Facciani, where Marc Seltzer was co-lead counsel for a plaintiff class in which settlements totaling approximately \$26 million in cash were obtained on behalf of defrauded investors who were victimized by an alleged Ponzi scheme.

In re California Indirect-Purchaser Infant Formula Antitrust Class Action Litigation, comprised of several consolidated consumer class actions brought for alleged price-fixing of infant formula products. Marc Seltzer was appointed by the Court to serve as one of two co-lead counsel for plaintiffs and the class. The case was settled for approximately \$20 million.

Small v. Sunset Park, where Marc Seltzer was lead counsel for a class of investors involving an alleged Ponzi scheme in which settlements totaling more than \$16.8 million were achieved (\$11.8 million net to the class), including \$12 million paid in settlement by a then "Big Five" accounting firm.

In re Applied Magnetics Corporation Securities Litigation, consolidated securities fraud class actions, filed in Los Angeles federal court, where Marc Seltzer was appointed co-lead counsel for the class. Plaintiffs successfully defended against defendants' motion to dismiss plaintiffs' consolidated complaint. *See In re Applied Magnetics Corp. Sec. Litig.*, [1994-1995 Transfer Binder] Fed. Sec. L. Rep. (CCH) ¶ 98,345 (C.D. Cal. 1994). The case was subsequently settled.

Schneider v. Traweck, federal and state court securities fraud class actions in which Marc Seltzer was lead counsel for the plaintiffs. Significant victories were obtained on plaintiffs' behalf in defeating motions to dismiss and in obtaining class certification. *See Schneider v. Traweck* [1990 Transfer Binder] Fed. Sec. L. Rep. (CCH) 95,419 and 95,505 (C.D. Cal. 1990). The case was settled for approximately \$14 million, \$10.8 million net to the class.

Johnson v. Boston, where Marc Seltzer was co-lead counsel for a nationwide class of investors in promissory notes victimized by an alleged Ponzi scheme. Approximately \$20 million in settlements were obtained for the defrauded investors.

Lilienthal v. Levi Strauss & Co., an individual minority shareholder's action for alleged breach of fiduciary duty by the majority owners, which resulted in a judgment after trial for the plaintiff providing for a recovery in excess of \$3 million. Plaintiff subsequently collected more than \$2 million net of attorneys' fees. Marc Seltzer was co-trial counsel for the plaintiff with Jack Corinblit.

SUSMAN GODFREY L.L.P.



Steven G. Sklaver

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310.789.3123

Overview

Selected by the Daily Journal as 1 of the 30 Top Plaintiff Lawyers in all of California in 2016, Steven Sklaver, also a member of Susman Godfrey's Executive Committee, has secured substantial litigation victories for both plaintiffs and defendants. For plaintiffs, Sklaver was lead counsel for a certified class of insurance policy owners, helping them achieve what the Court in the Southern District of New York described as "the best settlement pound for pound for the class that I've ever seen." You can read the Court's statement in full [here](#). You can also read more about the case in The Deal's profile on the litigation [here](#). Sklaver was also lead trial and appellate counsel for investors against an insurance company that resulted in a complete victory and full payout of a \$20 million life insurance policy. A copy of the appellate court decision is available [here](#). To listen to Sklaver's appellate oral argument, click [here](#). That matter was the feature cover story of the April 2012 California Lawyer.

For defendants, Sklaver has handled numerous employment class actions across the country. He served, along with the Managing Partner of Susman Godfrey, as trial counsel for Wal-Mart, the world's largest retailer, trying a large employment class action in California. He also defeated class certification in two separate matters for Alta-Dena Certified Dairy, LLC, dairy producers for one of the leading food and beverage companies in the United States.

Sklaver has tried complex commercial and class action disputes — including jury trials and bench trials in federal and state court, as well as arbitrations. Sklaver graduated cum laude from Dartmouth College, magna cum laude and Order of the Coif from Northwestern University School of Law, and clerked for Judge David Ebel on the United States Court of Appeals for the Tenth Circuit. Sklaver also won the National Debate Tournament for Dartmouth College, and is just one of four individuals in debate history to win three national championships at the high school and collegiate level. From 2010-2016, Sklaver has been recognized every year as a "Super Lawyer" in Southern California, awarded to no more than the top 5% of the lawyers in the state of California (Law & Politics Magazine, Thomson Reuters).

Sklaver currently serves on the Board of the Western Center on Law & Poverty

and the Los Angeles Metropolitan Debate League.

Education

Dartmouth College (B.A., *cum laude*)

Northwestern University School of Law (J.D., *magna cum laude* and Order of the Coif)

Judicial Clerkship

Law Clerk to the Honorable David M. Ebel, United States Court of Appeal for the Tenth Circuit

Honors and Distinctions

Northwestern Law Review member and editor

National Debate Tournament (NDT) collegiate championship winner

2010-2016 listings of Southern California "Super Lawyers" awarded to no more than the top 5% of the lawyers in the state of California (Law & Politics Magazine, Thomson Reuters)

Articles and Speeches

"Federal Power to Commandeer State Courts: Implications for the Theory of Judicial Federalism," 32 Ind. L. Rev. 71 (1998) (with Martin H. Redish, Professor, Northwestern University School of Law).

Speaking Engagements

Litigation Update: Will the Arthur Kramer Insurable-Interest Decision Lift the Cloud Over Much of the Litigation in the Market?. The 2011 International Life Settlements Conference (London, England)

Seeking Interlocutory Appellate Review of Class-Certification Rulings: Tactics, Strategies, and Selected Issues. Bridgeport 10th Annual Class Action Litigation Conference (Los Angeles, CA)

PwC 2010 Securities Litigation Study Luncheon. (Los Angeles, CA)

Life Settlement Litigation Update. 2010 Life Settlement Compliance Conference and Legal Round Table (Atlanta, GA)

Litigation: What are the Legal Trends Affecting the Market? The Life Settlements Conference 2010 (Las Vegas, NV)

Audio files

Professional Associations and Memberships

United States Supreme Court

United States Court of Appeals for the Ninth and Tenth Circuits

United States District Courts for the Central, Southern, Northern, and Eastern

Districts of California and District of Colorado

Admitted to state bars of Illinois, Colorado, and California

Los Angeles Advisory Board of the National Association for Urban Debate Leagues

Board of Directors, Western Center on Law & Poverty

Notable Representation

CLASS ACTIONS

Insurance: In a seminal insurance class action filed in the Southern District of New York, resolved in September 2015, Mr. Sklaver served as lead counsel in a case that challenged Phoenix Life Insurance Company's and PHL Variable Insurance Company's decision to raise the cost of insurance ("COI") nationwide on life insurance policy owners. After winning class certification and defeating two motions for class decertification and a motion for summary judgment, the case settled the day of the final Pretrial Conference — less than two months before trial. Settlement terms included: \$48.5 million cash fund (\$34 million after fees and expenses), COI freeze through 2020, and a covenant by Phoenix not to challenge the policies, worth \$9 billion in face value, when the policies mature on the grounds of lack of insurable interest or misrepresentations in the application.

At the final approval hearing, the Court concluded, *"I want to say publicly that I think this is an excellent settlement. I think this is a superb – this may be the best settlement pound for pound for the class that I've ever seen."* You can read the statement in full on page 3 [here](#).

You can also read more about the case in The Deal's feature on the matter [here](#).

Antitrust: In *re Automotive Part Antitrust Litigation*. In the largest price-fixing cartel ever brought to light, Mr. Sklaver and a team of Susman Godfrey lawyers run a massive MDL litigation in which the firm serves as co-lead counsel for a class of consumer plaintiffs in multidistrict price-fixing cases pending in a Detroit, Michigan federal court. The actions, alleging anti-competitive conduct, were brought by indirect purchasers of component parts included in over 20 million automobiles, and involve parts such as wire harnesses, instrument panel clusters, fuel senders, heater control panels and alternators.

The Department of Justice has imposed fines exceeding \$2.6 billion pursuant to guilty plea agreements with some of the defendants, and its investigation is still ongoing. The Susman Godfrey team together with its co-lead counsel has defeated multiple motions to dismiss. Settlements have been reached with a certain defendants for a combined \$224.6 million thus far. Final settlement (after fees and expenses) is to be determined later in 2016. The case remains ongoing against the remaining defendants.

LIFE SETTLEMENTS

Represented Jonathan Berck, as Trustee of the Rosamond Janis Insurance Trust in a \$5 million rescission claim brought by the Lincoln Life and Annuity Company of New York for alleged violations of New York's insurable interest laws and other "STOLI" (stranger originated life insurance) related claims. RESULT: Summary judgment granted in favor of my client. A copy of the summary judgment order is available [here](#).

Won reversal in a \$20 million life settlement rescission lawsuit against Lincoln Life & Annuity Company of New York. Lincoln's lawsuit was based on allegations that the insurance policies lacked an insurable interest because they were procured by third-parties for investment purposes and because there were net worth and other misrepresentations in the applications. The appellate court ordered that the trial court enter judgment in favor of the trust. The appellate court also affirmed our trial court victory that Lincoln's fraud claim was time barred because the policies were incontestable. The case is *Lincoln Life & Annuity Co. of New York v. Jonathan Berck, as Trustee of the Jack Teren Insurance Trust*, Court of Appeal Case No. D056373 (Cal. Ct. App. May 17, 2011). A copy of the appellate court decision is available [here](#). To listen to Mr. Sklaver's appellate oral argument, click [here](#). The *Teren* case was the feature, cover story of the April 2012 *California Lawyer*.

Represents investors, trusts, trustees, brokers, and insureds in life settlement and STOLI litigation across the country against insurance companies seeking to rescind policies with face values worth more than \$125 million. Mr. Sklaver is also a frequent speaker and commentator on life settlement and STOLI litigation, in both trade publications and conferences.

FINANCIAL FRAUD

Represented Royal Standard Minerals, which was the plaintiff in a federal securities lawsuit against a "group" of more than ten dissident shareholders for failing to file Schedule 13-D disclosures. RESULT: Preliminary injunction granted and final judgment entered that, among other things, required for three years the votes of all shares owned by any of the defendants to be voted as directed by the Board of Directors of my client.

Represented plaintiff who held millions of WorldCom shares as an opt-out to the class in *In re WorldCom Securities Litig.* RESULT: Settled on confidential terms.

Represented plaintiff Accredited Home Lenders in a TRO and breach of contract action over a wrongful default declared by Wachovia in a credit repurchase agreement. RESULT: The case was resolved favorably, following the entry of a TRO.

Represented Walter Hewlett in his challenge to the Hewlett-Packard/Compaq merger. In preparation for that trial, Mr. Sklaver deposed Compaq's former CEO Michael Capellas about his famous handwritten journal note which, describing the merger, stated "at our course and speed we will fail." Mr. Capellas was right.

EMPLOYMENT

Represented one of the world's largest retailers in the defense of a four month long jury trial, wage and hour class action pending in California. One of the world's largest retailers appointed Susman Godfrey L.L.P. to be its national trial counsel for wage and hour litigation.

ANTITRUST

Lead day-to-day lawyer for the class in *White, et al. v. NCAA*, a certified, antitrust class action alleging that the NCAA violated the federal antitrust laws by restricting amounts of athletic based financial aid. ESPN Magazine coverage of the lawsuit may be found [here](#). RESULT: The NCAA settled and paid an additional \$218 million for use by current student-athletes to cover the costs of attending college, paid \$10 million to cover educational and professional development expenses for former student-athletes, and enacted new legislation to permit Division I institutions to provide year-round comprehensive health insurance to student-athletes.

ENTERTAINMENT

Represented NAACP image award winner Morris Taylor "Buddy" Sheffield in his breach of contract lawsuit against ABC Cable Networks Group regarding the creation of *Hannah Montana*. RESULT: Defendant settled less than four weeks before trial.

PRO BONO

Appointed to represent Carl Petersen, who was charged by the United States Attorney's Office with being a felon in possession of a firearm — a charge that carries a five-year prison sentence and an 89% conviction rate. RESULT: Acquittal. Jury deliberation lasted less than four hours.

Appointed by the United States Court of Appeals for the Tenth Circuit as appellate counsel in five cases, including: *United States v. Petersen*; *United States v. Blaze* (specifically noting Mr. Sklaver's "good workmanship"); and *Sorrentino v. IRS* (appointed as amicus curiae by and for the Court)

SUSMAN GODFREY L.L.P.



Matthew R. Berry

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Seattle, Washington 98101-3000

mberry@susmangodfrey.com
206.373.7394

Overview

Matt Berry represents plaintiffs and defendants in state and federal courts across the United States, including courts in Alaska, California, Delaware, Louisiana, Massachusetts, New York, Texas, and Washington. Since joining Susman Godfrey, Mr. Berry has worked on a wide variety of complex commercial litigation including patent infringement, pharmaceutical licensing, patent licensing, piercing the corporate veil, audit malpractice, bankruptcy plan confirmation, breach of contract, life settlement insurance, wage and hour class action, and violations of the False Claims Act.

Mr. Berry's representative cases include:

Green Mountain Glass v. Ardagh (District of Delaware) (2014-)

Mr. Berry represents Green Mountain Glass in a patent infringement action filed in the District of Delaware against Ardagh Group. The lawsuit alleges that Ardagh infringes patents relating to glass recycling, and is set for trial in April 2017.

In re Animation Workers (Northern District of California) (2014-)

Mr. Berry represents a class of animation employees in an antitrust action against a number of large animation companies, including Pixar, DreamWorks, Disney, Sony, and Lucasfilms. The Court certified the class in 2016, and trial is scheduled for 2017.

United States ex rel. David M. Kester v. Novartis Pharmaceuticals (Southern District of New York) (2014-2016)

Mr. Berry represented a whistleblower in what resulted in one of the largest settlements ever in the United States by a single whistleblower in a False Claims Act case. Susman Godfrey attorneys teamed up with Vogel Slade & Goldstein, the U.S. Attorney's Office for the Southern District of New York, and several different state attorneys general to secure over \$450 million in settlements from Novartis Pharmaceuticals Corp., Accredo Health Group, and Bioscrip Corp. The case alleged that Novartis defrauded the Medicare and

Medicaid programs by illegally paying kickbacks to pharmacies so they would recommend to doctors and patients six of Novartis' specialty medications. Mr. Berry took many of the depositions of the Novartis and Bioscrip executives, including Novartis's in-house and outside counsel relating to its advice of counsel defense.

In re Marriage of McCourt (Los Angeles Superior Court) (2010 - 2015).

Mr. Berry represented Frank McCourt in the marital proceedings pending in Los Angeles Superior Court that involved a dispute over the ownership of property, including the Los Angeles Dodgers. Jamie McCourt attempted to set aside the Stipulated Judgment and Marital Settlement Agreement, claiming that she did not know that the Dodgers Assets could sell for an amount exceeding \$2 billion. After a hearing on the motion, the Court has issued a Statement of Decision that rejects each of Jamie's claims. The California Court of Appeal denied Jamie's appeal and the California Supreme Court denied Jamie's petition for review.

Zillow Inc. v. Trulia Inc. (W.D. Washington) (2013 - 2014).

Mr. Berry currently represented Zillow in a patent infringement action that it filed against Trulia in the Western District of Washington. Zillow successfully resolved the litigation after defeating Trulia's motion to dismiss.

Interval Licensing LLC v. AOL, Inc., et al. (W.D. Washington) (2010-)

Mr. Berry currently represents Interval Licensing in a patent litigation against eleven defendants, including Google, Yahoo, Apple, eBay, Facebook, and AOL. Interval Research was founded by Paul Allen in 1992 to perform advanced research and development in the areas of information systems, communications, and computer science. Interval was issued approximately 300 patents in less than a decade, and four of those patents are the patents-in-suit. Interval Licensing is wholly owned and controlled by Paul Allen. See articles about the case [here](#) and [here](#).

Medivation v. UC Regents and Aragon (San Francisco Superior Court, Complex Division) (2011- 2013).

Mr. Berry represented Aragon Pharmaceuticals in a breach of contract action in the Complex Civil Division of the San Francisco Superior Court. Medivation filed the action against the Regents of the University of California alleging that it owns the right to develop certain chemical compounds for the treatment of advanced stages of prostate cancer that the Regents had licensed to Aragon, including the compound ARN-509. Within weeks of being retained, Mr. Berry and his team at Susman Godfrey successfully obtained leave of court for Aragon to intervene in the action to protect its property interest in the compounds. We then secured an accelerated discovery schedule that allowed us to complete fact and expert discovery and file summary judgment motions in less than a year after the case was first assigned to a judge in the complex division. On December 20, 2012, the court granted Aragon's motion for

summary adjudication and held that Medivation has no rights to the compounds that were licensed to Aragon. Less than a month later, the court dismissed Medivation's remaining claims, granted Aragon all of the relief sought in its complaint, and held that Aragon was entitled to final judgment in its favor. This is a significant victory for Aragon – less than four months after final judgment was entered in Aragon's favor, Johnson & Johnson announced that it would acquire Aragon for \$650 million in cash up front along with \$350 million in contingent development milestone payments that could bring the total transaction value to \$1 billion.

VoiceAge Corp. v. RealNetworks, Inc. (Southern District of New York) (2012 - 2013).

Mr. Berry defended RealNetworks in an action where VoiceAge was seeking over \$30 million in damages for a purported breach of a patent licensing agreement involving the RealPlayer. After defeating VoiceAge's motion for summary judgment, the case settled for a confidential amount.

Lincoln Life & Annuity Co. of New York v. Berck (California Court of Appeals) (2010-2013).

Mr. Berry won reversal in a \$20 million life settlement rescission lawsuit against Lincoln Life & Annuity Company of New York in the California Court of Appeal. Lincoln's lawsuit was based on allegations that the insurance policies lacked an insurable interest because they were procured by third-parties for investment purposes and because there were net worth and other misrepresentations in the applications. The California Court of Appeal reversed the trial court and ordered that the trial court enter judgment in favor of the trust. The Court of Appeals opinion is available at 2011 WL 1878855 (2011). A copy of the appellate court decision is available [here](#).

Education

University of Idaho (B.S., Finance, summa cum laude)
University of Washington (J.D., high honors)

Judicial Clerkship

Law Clerk to the Honorable Stephen S. Trott, United States Court of Appeals for the Ninth Circuit

Legal Extern to the Honorable Robert S. Lasnik, United States District Court for the Western District of Washington

Honors and Distinctions

Washington "Super Lawyer" 2013, 2014, 2015 & 2016 Law & Politics magazine (Thomson Reuters)

Member, William L. Dwyer American Inn of Court

Order of the Coif

Executive Articles Editor, Washington Law Review

Author, Does Delaware's Section 102(b)(7) Protect Reckless Directors from Personal Liability? Only if Delaware Courts Act in Good Faith, 79 Wash. L. Rev. 1125 (2004).

Vice President, Moot Court Honor Board

Graue Scholar

Professional Associations and Memberships

Washington State Bar

United States District Court for the Western District of Washington

United States District Court for the Eastern District of Washington

United States District Court for the Eastern District of Texas

United States Court of Appeals for the Ninth Circuit

United States Court of Appeals for the Fifth Circuit

United States Supreme Court

Notable Representation

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United States ex rel. David M. Kester v. Novartis Pharmaceuticals (Southern District of New York) (2014-2016)

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counsel defense.

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Medivation v. UC Regents and Aragon (San Francisco Superior Court, Complex Division) (2011- 2013).

Mr. Berry represented Aragon Pharmaceuticals in a breach of contract action in the Complex Civil Division of the San Francisco Superior Court. Medivation filed the action against the Regents of the University of California alleging that it owns the right to develop certain chemical compounds for the treatment of advanced stages of prostate cancer that the Regents had licensed to Aragon, including the compound ARN-509. Within weeks of being retained, Mr. Berry and his team at Susman Godfrey successfully obtained leave of court for Aragon to intervene in the action to protect its property interest in the compounds. We then secured an accelerated discovery schedule that allowed us to complete fact and expert discovery and file summary judgment motions in less than a year after the case was first assigned to a judge in the complex division. On December 20, 2012, the court granted Aragon's motion for summary adjudication and held that Medivation has no rights to the compounds that were licensed to Aragon. Less than a month later, the court dismissed Medivation's remaining claims, granted Aragon all of the relief sought in its complaint, and held that Aragon was entitled to final judgment in

its favor. This is a significant victory for Aragon – less than four months after final judgment was entered in Aragon’s favor, Johnson & Johnson announced that it would acquire Aragon for \$650 million in cash up front along with \$350 million in contingent development milestone payments that could bring the total transaction value to \$1 billion.

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Mr. Berry defended RealNetworks in an action where VoiceAge was seeking over \$30 million in damages for a purported breach of a patent licensing agreement involving the RealPlayer. After defeating VoiceAge’s motion for summary judgment, the case settled for a confidential amount.

Lincoln Life & Annuity Co. of New York v. Berck (California Court of Appeals) (2010-2013).

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Union Oil Company of Cal. v. Forest Oil Corp. (D. Alaska) (2011-2012).

Mr. Berry successfully represented Forest Oil Corporation in an action in Alaska federal court in which Union Oil sued Forest Oil seeking over \$48 million in damages alleged to have been incurred in the operation of oil and gas leases in Alaska. This case settled for a confidential amount.

Lincoln National Life Ins. Co. v. Snyder (D. Delaware) (2010-2012).

Mr. Berry successfully represented an insurance trust in a case involving an \$18.5 million life insurance policy issued by Lincoln National Life Insurance Company. Lincoln sought a declaration that the policy was void ab initio and that Lincoln was entitled to keep over \$1.6 million in premiums that the trust paid. The trust obtained a favorable settlement after it successfully obtained an order from the court that the trust was entitled to a full refund of premiums plus interest should Lincoln rescind the policy for lack of insurable interest. A copy of the court’s decision is available [here](#) (722 F. Supp. 2d 546 (D. Del. 2010)).

In re Lehman Brothers Bankruptcy (Bankruptcy Ct., S.D.N.Y.) (2011).

Mr. Berry was retained as litigation counsel by Lehman Brothers International (Europe) (in administration) to oppose confirmation of the bankruptcy plan filed by Lehman Brothers Holdings Inc., the worldwide corporate parent.

LBHI's proceedings in the Southern District of New York entailed the largest bankruptcy in U.S. history. LBIE prepared to litigate LBHI's proposed use of "substantive consolidation" to ignore the separate existence of LBIE. With discovery underway and the confirmation hearing looming, LBHI settled with LBIE, thereby resolving claims among the two and certain of their affiliates worth over \$3 billion.

Metropolitan Mortgage v. PricewaterhouseCoopers (E.D. Washington) (2006-2008).

Mr. Berry successfully represented the bankruptcy estate of Metropolitan Mortgage in an audit malpractice case against PricewaterhouseCoopers in Washington federal court. The case settled for \$30 million the day before trial was scheduled to begin.

Defense of Wage and Hour Class Action

Mr. Berry represented one of the world's largest retailers in a wage and hour class action with over 65,000 class members in Massachusetts state court.

Intellectual Property

Mr. Berry has represented clients in a number of intellectual property cases, including patent infringement actions in Texas, New York, Washington, and Delaware. Mr. Berry also represented Intellectual Ventures in an amicus brief filed with the United States Supreme Court in *KSR International Co. v. Teleflex, Inc.* [Click here to view the brief.](#)

SUSMAN GODFREY L.L.P.



John Schiltz

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206.505.3845

Overview

John Schiltz represents plaintiffs and defendants in a wide range of commercial disputes nationwide. He joined Susman Godfrey after serving as a law clerk to Judge David M. Ebel, on the U.S. Court of Appeals for the Tenth Circuit.

After graduating with high honors from the University of Montana, Schiltz taught high school math in Kansas City's urban core as a member of Teach For America. He went on to attend the University of Virginia School of Law, where he served on the Virginia Law Review and helped represent clients before the U.S. Supreme Court as a member of the Supreme Court Litigation Clinic. At graduation, Schiltz was elected to the Order of the Coif.

Schiltz lives in Seattle with his wife, Lauren, and their chocolate lab, Porter.

Education

University of Virginia School of Law (J.D., Order of the Coif)

University of Missouri-St. Louis (M. Ed., Curriculum & Instruction)

University of Montana (B.A., philosophy, *high honors*; B.A. political science, *high honors*)

Judicial Clerkship

Law clerk to the Honorable David M. Ebel, United States Court of Appeals for the Tenth Circuit

Honors and Distinctions

Order of the Coif

Member, University of Virginia Supreme Court Litigation Clinic

Editorial Board, Virginia Law Review

Professional Associations

State Bar of Colorado

State Bar of Washington

U.S. Court of Appeals for the Tenth Circuit

U.S. Court of Appeals for the Eleventh Circuit

SUSMAN GODFREY L.L.P.



Jordan Talge

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Seattle, Washington 98101-3000

jtalge@susmangodfrey.com
206.505.3842

Overview

Jordan Talge is a commercial litigator who has represented plaintiffs and defendants in a range of high-stakes cases across the United States. From arguing at *Markman* hearings in patent-infringement lawsuits to representing plaintiffs in antitrust class actions to leading settlement negotiations with Fortune 500 companies, Mr. Talge has enjoyed a wealth of experience since joining Susman Godfrey in 2012.

Before starting his legal career, Mr. Talge spent nearly four years working as a Legislative Assistant to United States Senator Norm Coleman in Washington, D.C., handling issues including veterans, defense, transportation, and trade. Mr. Talge lives in Seattle with his wife, Karen, a nurse at Seattle Children's Hospital, their daughters, Lillian Cecilia ("Lil"), Hattie Pearl, and Alice Paulette, and their Pembroke Welsh Corgi, Ferdinand.

Education

University of Washington School of Law (J.D. 2011)

Concordia College, Moorhead, MN (B.A., Double-Major in Political Science and Economics, Minor in German)

Judicial Clerkship

Law Clerk to the Honorable Richard C. Tallman, United States Court of Appeals for the Ninth Circuit (2011-2012)

Honors and Distinctions

University of Washington School of Law:

Recipient of the Dean's Medal (graduate who combines highest academic achievement and outstanding contributions to the law school community)

Editor-in-Chief of the Washington Law Review

Recipient of the Vivian A. Carkeek Prize (best student comment published in the Washington Law Review)

Order of the Coif

United States Senate:

Recipient of the United States Army Commander's Award for Public Service, awarded by General Larry Shellito, Adjutant General of the Minnesota Army National Guard, "for outstanding support and assistance to the Minnesota National Guard's service members, their families, and their employers. His demonstrated ability to produce results . . . have proven invaluable to the command."

Proclamation by Mayor Mark Voxland of the City of Moorhead, Minnesota, declaring July 25, 2008, "Jordan Talge Appreciation Day."

Concordia College:

Faculty Scholar; Dean's List; Magna Cum Laude; Two-year captain of the Cobber football team; D3Football.com First Team All-American; Football Gazette First Team All-American; Associated Press Second Team Little All-American; ESPN the Magazine Second Team Academic All-American; Football Gazette West Region Defensive Player of the Year; Finalist for the Gagliardi Trophy (Division III national player of the year); NCAA Post-Graduate Scholar; school record for most interceptions in a single season.

Professional Associations and Memberships
Washington State Bar

Minnesota State Bar

U.S. Court of Appeals for the Ninth Circuit

American Bar Association

United States District Court for the Western District of Washington

Publications

No Direction Home: Constitutional Limitations on Washington's Homeless Encampment Ordinances, 85 Wash. L. Rev. 781 (2010)

SUSMAN GODFREY L.L.P.



Katherine H. Kunz

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Houston, Texas 77002-5096
kkunz@susmangodfrey.com
713.653.7828

Overview

Katherine represents both plaintiffs and defendants in all types of commercial litigation in federal and state courts, including intellectual property litigation, commercial disputes and antitrust matters. Katherine joined Susman Godfrey in 2012 after starting her career at Cravath, Swaine & Moore LLP following clerkships with Judge Jack Zouhary of the United States District Court for the Northern District of Ohio, and Judge Emilio M. Garza of the United States Court of Appeals for the Fifth Circuit.

Education

Northwestern University School of Law., J.D., *cum laude*

Yale University, B.A., Ethics, Politics & Economics, *cum laude*

Judicial Clerkships

Law Clerk to the Honorable Emilio M. Garza, United States Court of Appeals for the Fifth Circuit

Law Clerk to the Honorable Jack Zouhary, United States District Court for the Northern District of Ohio

Honors and Distinctions

The Journal of Criminal Law and Criminology, Editor-in-Chief

Intern to the Honorable Rebecca R. Pallmeyer, United States District Court for the Northern District of Illinois

Professional Affiliations and Memberships

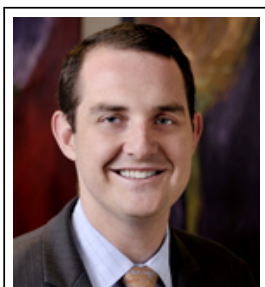
State Bars of Texas and New York

United States Courts of Appeals for the Second and Fifth Circuits

United States District Courts for the Southern, Eastern, Western, and Northern Districts of Texas; and Southern and Eastern Districts of New York

Federal Bar Association
American Bar Association; Litigation Section
New York State Bar Association
Texas Bar Association
Houston Bar Association
Houston Young Lawyers' Association

SUSMAN GODFREY L.L.P.



Andres C. Healy
Associate

Andres C. Healy

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206.505.3843

Overview

Andres Healy joined Susman Godfrey after graduating first in his class from the University of Florida Levin College of Law and completing federal clerkships at both the appellate and trial court levels. Before law school, Mr. Healy worked as a journalist in the Central Florida area.

Education

University of Florida Levin College of Law (J.D., summa cum laude, 2010)

University of Central Florida (B.A., Journalism, summa cum laude, 2005)

Judicial Clerkships

Law Clerk to the Honorable Robert S. Lasnik, United States District Court for the Western District of Washington, 2011-2012

Law Clerk to the Honorable Richard C. Tallman, United States Court of Appeals for the Ninth Circuit, 2010-2011

Honors and Distinctions

2010 recipient of the Levin College's W.D. Macdonald Prize for academic distinction

2010 recipient of the Levin College's Judge James Whitfield Award for achievements in constitutional law and related writings

"Best Individual Oralist" and "Best Claimant's Brief" recognition (top 5% of more than 1500 competitors) at 2010 Vis International Arbitral Moot competition in Vienna, Austria

"Top Oralist" round award at 2010 Florida Bar Vis competition in Miami, Florida

Brick Law Review Prize

University of Central Florida journalism department's 2005 "Outstanding Graduate"

Publications

From White Knight to Rogue: The Unraveling of a Veteran Prosecutor
(published as an edited chapter in Michael Seigel's LAWYERS CROSSING LINES textbook, ISBN No. 1594606846)

The Constitutionality of 10 U.S.C. § 802(A)(10): Does the Military Need a Formal Invitation to Reign in "Cowboy" Civilian Contractors?, Note, 62 FLA. L. REV. 519 (2010)

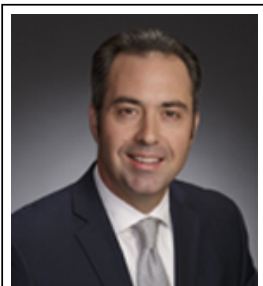
Bar Memberships

State Bar of Florida

State Bar of Washington

United States Court of Appeals for the Ninth Circuit

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Honors and Distinctions

Houston Law Review, Senior Articles Editor

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Publications

The Death of the DMCA? How Viacom v. Youtube May Define the Future of Digital Content, 46 Hous. L. Rev. 1345 (2009)

Professional Associations and Memberships

State Bar of Texas

United States District Court for the Southern District of Texas

United States District Court for the Eastern District of Texas

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