

**UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT**

IN RE TEVA SECURITIES LITIGATION	:	No. 3:17-cv-00558 (SRU)
	:	
THIS DOCUMENT RELATES TO:	:	All Class Actions
	:	

Declaration of Professor Geoffrey Parsons Miller

I, Geoffrey Miller, declare as follows:

1. I have been retained to provide an opinion about the reasonableness of Lead Counsel Bleichmar Fonti & Auld LLP's request for an award of attorneys' fees in this action. If called as a witness, I could and would competently testify to the matters stated herein.

Background and Qualifications

2. As set forth in my resume attached hereto as Appendix 1, I am the Stuyvesant Comfort Professor of Law at NYU Law School, where I serve as co-faculty director of the Center on Civil Justice and Senior Faculty Fellow of the Program on Corporate Compliance and Enforcement. I am a founder and past president of the Society for Empirical Legal Studies, a scholarly organization devoted to statistical methods in legal studies. I am a member of the American Law Institute and a 2011 inductee in the American Academy of Arts and Sciences.
3. For nearly thirty years, I have been active in the area of class actions and complex litigation as a teacher, scholar, attorney, consultant, and expert witness. Much of my involvement in these areas concerns the issue of compensation of class counsel.
4. I am presently teaching or have taught classes covering issues of attorneys' fees, including Civil Procedure, Complex Litigation, Corporations, Professional Responsibility, and Securities Regulation. I was a member of the advisory committee for the American Law Institute's Principles of the Law project on Aggregate Litigation, which addressed questions of attorneys' fees in class actions and related cases.
5. I have consulted with attorneys to assist with issues pertaining to awards of attorneys' fees and have testified or provided expert reports in cases in state and federal courts across the

United States, as well as before an international arbitration tribunal. Within this District, I provided an expert opinion regarding attorneys' fees in *In re U.S. Foodservice, Inc. Pricing Litig.*, No. 3:07-MD-1894 (AWT), 2014 WL 12862264 (D. Conn. Dec. 9, 2014).

6. My research on class action cases, especially in the area of attorneys' fees, has been cited as authority by many state and federal courts across the United States and is a leading authority on that topic. A list of cases citing to this empirical research is provided as Appendix 2.
7. I am being compensated in this matter on an hourly basis at my usual billing rate of \$950 per hour.

Materials Reviewed

8. I have reviewed the documents related to this case described in Appendix 3. I have discussed the matter with Lead Counsel, reviewed cases dealing with attorneys' fees in class action settlements and evaluated the statistical reports and analyses of class action legal fee awards set forth in Appendix 3.

Summary of Opinion

9. For the reasons stated below, it is my opinion that Lead Counsel's request for a fee equal to 23.70% of the settlement fund is reasonable when compared to fees awarded in similar cases and in light of the *Goldberger* factors and the facts and circumstances of this case.
10. The following opinion evaluates the fee request in two ways. First, I performed an analysis under the lodestar method, which determines counsel's reasonable hours and reasonable hourly rates and adjusts the product of those figures (the lodestar) by a "multiplier" to take account of risk and other factors. Based on that analysis, I conclude that Class Counsel's hours are reasonable and reflect appropriate and efficient staffing, that Class Counsel's rates are reasonable in the national market for attorneys in large-scale, complex class litigation,

and that the proposed multiplier of 2.17 is within the range of reason when judged against empirical data.

11. Second, I analyzed this case under the percentage approach, which considers the relationship between the proposed fee and the recovery achieved for the class. Empirical data and research (including my own empirical studies of class settlements and other studies) confirm that the requested fee is within the range of reason. While research has recognized a “scaling effect” by which percentage fees decline (on average) in larger settlements, the requested fee accounts for this effect, as it is consistent with the range of fees awarded in settlements of comparable size and does not present any of the factors—such as low risk, an early settlement achieved with minimal effort, or an excessively high multiplier—that can raise concerns about the percentage fee in some large cases. Indeed, given the risks of this case, its magnitude and complexity, its duration and advanced procedural stage, the time and effort expended, the quality of Class Counsel’s representation, and other factors discussed below, it is my opinion that Lead Counsel’s requested fee is appropriate in the present case even if the fee percentage sought here is deemed to be higher than the average fee awarded in cases of similar size.

The Litigation

12. This Court has presided over this complex securities law case for five years and is thoroughly familiar with its history and procedural posture. I will offer only a brief summary of aspects pertinent to my opinion.
13. The case involves claims of misstatements and omissions by Teva Pharmaceutical Industries Ltd., certain of its current or former executives, and Teva Pharmaceutical Finance Netherlands III B.V. (collectively, “Defendants”).

14. The litigation commenced in 2016 with the filing of a putative class action in federal district court in California. That case was transferred to the District of Connecticut. In July 2017, this Court selected Ontario Teachers' Pension Plan Board as lead plaintiff; thereafter, the Court added Anchorage Police & Fire Retirement System (with Ontario Teachers', "Plaintiffs" or "Class Representatives") as a named plaintiff. The Court also approved Ontario Teachers' selection of Bleichmar Fonti & Auld LLP as lead counsel for the putative class.
15. In April 2018, the court dismissed the Consolidated Class Action Complaint with leave to replead. Plaintiffs filed their First Amended Consolidated Class Action Complaint in June 2018. On September 25, 2019, after extensive briefing and argument, this Court denied in substantial part Defendants' motions to dismiss. *Ontario Teachers' Pension Plan Bd. v. Teva Pharm. Indus. Ltd.*, 432 F. Supp. 3d 131 (D. Conn. 2019).
16. In December 2019, Plaintiffs and Defendants jointly moved to consolidate related lawsuits – three putative class actions and seventeen individual cases. Several purported plaintiffs in other class and individual actions opposed the motions in whole or in part. This Court granted the motions to consolidate and established a framework for managing the case going forward.
17. Plaintiffs moved for class certification. In January 2021, the Court heard oral argument on the motion and Defendants' related *Daubert* challenge. On March 9, 2021, the Court issued an 88-page opinion granting class certification, confirming the appointment of Ontario Teachers' Pension Plan Board and Anchorage Police & Fire Retirement System as Class Representatives, denying Defendants' *Daubert* challenge, and confirming the appointment of Bleichmar Fonti & Auld LLP as Class Counsel and Carmody Torrance Sandak & Hennessey LLP as Class Liaison Counsel.

18. Layn R. Phillips, one of the foremost mediators in large-scale class action cases in the United States, assisted the parties in their settlement discussions. Despite Judge Phillips's assistance, this case did not settle quickly or easily. The parties' initial mediation occurred in July 2020, before any depositions had occurred. I understand that the parties did not exchange any settlement demands or offers at that time and that the issues were hotly disputed. The parties resumed mediating in September 2021, after the Class was certified and fact discovery was complete. Expert discovery was completed between the two formal mediation sessions in September 2021. At that point, the parties had the information they needed to make informed assessments of the claims and defenses. However, they remained far apart, and their hard-fought and adversarial negotiations did not produce agreement even after numerous subsequent telephone conferences following the September 2021 sessions.
19. In November 2021, Judge Phillips crafted his own recommendation that the case be settled for \$420,000,000. The parties agreed to Judge Phillips's proposal on December 2, 2021, the day that summary judgment and *Daubert* motions were due to be filed. I have reviewed Judge Phillips's April 3, 2022 declaration, which attests that this case was among the most complex and challenging mediations he has handled.

The Settlement

20. The proposed settlement would resolve the securities class action claims in exchange for a cash payment of \$420,000,000. According to a recent study by NERA Economic Consulting, this was larger than any securities class action settlement nationwide in 2021, and more than four times as large as any settlement in the Second Circuit in that year.¹

¹ Janeen McIntosh and Svetlana Starykh, Recent Trends in Securities Class Action Litigation: 2021 Full-Year Review, NERA Economic Consulting, January 22, 2022 ("2021 NERA Study"), at 21 Table 1.

21. Lead Counsel seeks an award of fees of 23.70% of the settlement amount.

Analysis

22. This Court has substantial discretion to determine whether Lead Counsel's fee request is reasonable under the circumstances. In exercising that discretion, courts in the Second Circuit consider a variety of factors, including the time and labor expended by counsel, the magnitude and complexity of the litigation, the risk of the litigation, the quality of representation, the requested fee in relation to the settlement, and public policy considerations. *Goldberger v. Integrated Resources, Inc.*, 209 F.3d 43, 50 (2d Cir. 2000). Both the lodestar and the percentage approaches are permissible methodologies for estimating a reasonable fee.
23. I apply the lodestar and percentage methodologies, addressing the *Goldberger* factors in the course of my analysis.

Lodestar Analysis

24. As noted above, the lodestar analysis involves assessment of counsel's reasonable hours, counsel's reasonable hourly rates, and the implied lodestar multiplier (requested fee divided by total lodestar). I address these in turn.

Hours

25. This case has been underway for more than five years, much longer than the average securities class action.² During the time the case has pended in this Court, Lead Counsel took or defended forty depositions, obtained production of more than 8 million pages of documents, and exchanged nearly two dozen expert reports. Discovery was often

² The 2021 NERA Study found that only 17% of securities class actions filed between 2003 and 2017 and resolved between 2003 and 2021 remained pending for more than 4 years. *Id.*, at 13 Figure 13.

contentious. The case required multiple hearings before this Court. Defendants vigorously contested Plaintiffs' motion for class certification and sought an interlocutory appeal of this Court's order certifying the class.

26. As this Court is aware, this case involved technical and complex questions on issues such as market efficiency, competitive conditions in the generic prescription drug market, the impact of Defendants' statements or omissions on the price of Teva debt and equity securities, and the relationship between Defendants' drug pricing strategies and the price of Teva securities – among others.
27. This high level of activity and complexity translated into a substantial expenditure of time and labor. I am informed that all Class Counsel (BFA; Bleichmar Fonti & Auld Canada; The Law Offices of Susan R. Podolsky; and Carmody Torrance Sandak & Hennessey LLP) have expended a total of 77,090.70 attorney and professional hours through April 14, 2022. More attorney time has been incurred since then and will be incurred in the future as counsel guides this case to conclusion.
28. While I have not donned a “green visor” to perform a forensic audit of Class Counsel's hours, this herculean task was not necessary because the evidence provided is sufficient to assess the reasonableness of the time incurred.
29. In particular, I have reviewed the Declaration of Joseph A. Fonti regarding final approval of the settlement and Lead Counsel's fee request (the “Fonti Declaration”). The Fonti Declaration is nearly unrivaled, in my opinion, in its detailed descriptions of the nature of the tasks performed across different phases of the litigation. The submission describes the dates and pages of briefs and expert reports, the names and roles of deponents, the number of pages of each deposition transcript, and the taking or defending attorney. It breaks down

Class Counsel's hours into ten categories, each of which covers a discrete period in the life of the case. In addition to its granular account of particular features of the case, the Fonti Declaration provides a context for understanding how these activities fit within Class Counsel's overall litigation strategy.

30. My review indicates that this litigation was complex, hard-fought, and unusually taxing on attorney time. These demands arose in part from Defendants' vigorous opposition to many areas of discovery, which required multiple motions to compel and numerous conferences with the Court.
31. Lead Counsel has supplied exhibits showing Class Counsel's hours expended by timekeeper as of April 14, 2022. Review of these exhibits allows an assessment of the distribution of work between senior and junior attorneys. There is no science to this distinction, but a reasonable cut can be made between Class Counsel's partner and non-partner time. Based on this demarcation, partners at Lead Counsel Bleichmar Fonti & Auld LLP and other Class Counsel expended 22,075.25 hours (28.64% of the total) and non-partner attorneys expended 55,015.45 hours (71.36% of the total).
32. The ratio between partner and non-partner attorney time, accordingly, was about 1:2.49. I believe this was an appropriate and efficient division of labor for maintaining control over the litigation and overall strategy at the senior level but allocating routine work to more junior attorneys.
33. Class Counsel's hours were effectively employed. Based on what I have observed, both in my review of the record and my interactions with counsel, I consider the representation provided in this case to be among the best I have observed in more than thirty years of involvement in class action litigation – and particularly notable given the tenacious

opposition presented by Defendants' attorneys. The record of this case, in my opinion, confirms the judgment of this Court in 2017 that Class Counsel "will provide more than adequate representation for the plaintiff class."³

34. It is my opinion, therefore, that Class Counsel's hours are reasonable under the circumstances of this case.

Rates

35. Lead Counsel has supplied me with exhibits identifying Class Counsel's timekeepers involved in this matter, their years of graduation from law school, their current positions, their current hourly rates, the number of hours incurred, and their individual lodestar amounts (hours times hourly rate) as of April 14, 2022.
36. Across each category of attorneys, the ranges of Class Counsel's hourly rates were as follows:

Billing Rates by Attorney Category	
Partners	\$340-\$985
Of Counsel/Special Counsel	\$780
Associates	\$300-\$690
Project and Staff Associates	\$415-\$495
Staff Attorneys	\$360-\$450

37. The aggregate lodestar figures across all professional timekeepers were as follows:

Class Counsel's Aggregate Lodestar		
Hours	Blended Hourly Rate	Lodestar
77,090.70	\$595	\$45,837,361.00

³ *Galmi v. Teva Pharmaceuticals Industries, Ltd.*, 302 F. Supp. 3d 485, 506 (D. Conn. 2017).

38. The foregoing table reflects counsel's current rather than historical hourly rates. In my opinion, this is the correct approach. Historical rates (*i.e.*, those in effect when the work was performed) are not adjusted for inflation in the price of legal services. To obtain an accurate measure of the value of legal services rendered in the past, it is not necessary to perform the laborious steps of obtaining a reliable measure of the rate of increase in attorney billing rates (which may vary year by year and across seniority levels) and then applying that measure to compute the appropriate compensation in present dollars for each year in which the attorney performed the work. It is simpler and methodologically appropriate to employ current billing rates, which intrinsically incorporate changes in historical prices for legal services.⁴
39. I believe, further, that the appropriate comparison against which to assess Class Counsel's hourly rates is the nationwide market for attorneys in large-scale, complex class litigation. Although this case is pending in the District of Connecticut, many of Defendants' allegedly wrongful actions took place in Israel and elsewhere in the United States (for example, I understand that Teva's U.S. headquarters were in Pennsylvania and are now in New Jersey). Class members purchased or sold Teva securities on national securities markets. The predecessor of this case was filed in California. It was transferred to the District of Connecticut but could have wound up in another federal district court.
40. The lawyers involved in this case reflect its national scope. Attorneys at Lead Counsel Bleichmar Fonti & Auld LLP practice in New York, California, and Ontario. Defendants' counsel at Kasowitz Benson Torres LLP are based in New York (with several other U.S.

⁴ I have also considered Class Counsel's lodestar using their historical rates, which is similar to their lodestar using current rates (less than a 10% difference). Thus, my opinion regarding the reasonableness of Class Counsel's lodestar would not change if historical rates were used.

offices),⁵ while Morgan Lewis & Bockius LLP, a firm of more than 2,000 lawyers and specialists, maintains offices in more than 30 locations in North America, Europe, Asia, and the Middle East. Its Web Site advertises that “we work in collaboration *around the world* – always ready to respond to the needs of our clients and craft powerful solutions for them.”⁶

41. For all of these reasons, I believe that an assessment of the fee request in this case should compare the hourly rates billed by Class Counsel with the rates charged by other firms in complex, large-scale national cases.
42. On the plaintiffs’ side, hourly rates commensurate with those sought by counsel in the present case are often reported in large-scale class actions. In *In re Frontier Comms. Corp. Stockholders Litig.*, No. 3:17-cv-01617-VAB (D. Conn. Apr. 5, 2022), for example, counsel Bernstein Litowitz Berger & Grossmann LLP submitted hourly rates of \$825 to \$1,300 for partners, \$775 to \$800 for senior counsel, and \$475 to \$700 for associates. In *Scheufele v. Tableau Software, Inc.*, No. 1:17-cv-05753-JGK (S.D.N.Y. 2021), counsel Robbins Geller Rudman & Dowd LLP and Labaton Sucharow LLP reported hourly partner rates from \$760 to \$1,325.
43. Similar rates have been reported in complex class actions within this District. As noted above, I provided an expert opinion in *In re U.S. Foodservice, Inc. Pricing Litig.*, No. 3:07-MD-1894 (AWT), 2014 WL 12862264 (D. Conn. Dec. 9, 2014), where counsel’s submissions reported individual billing rates of up to \$985/hour, equal to Class Counsel’s highest rate here, and a blended rate of \$474.62/hour.⁷

⁵ <https://www.kasowitz.com/find-us/>

⁶ <https://www.morganlewis.com/our-firm> (emphasis supplied).

⁷ See No. 3:07-md-1894 (AWT), ECF 510-1 at 12 of 49; ECF 510-3 at 61 of 112.

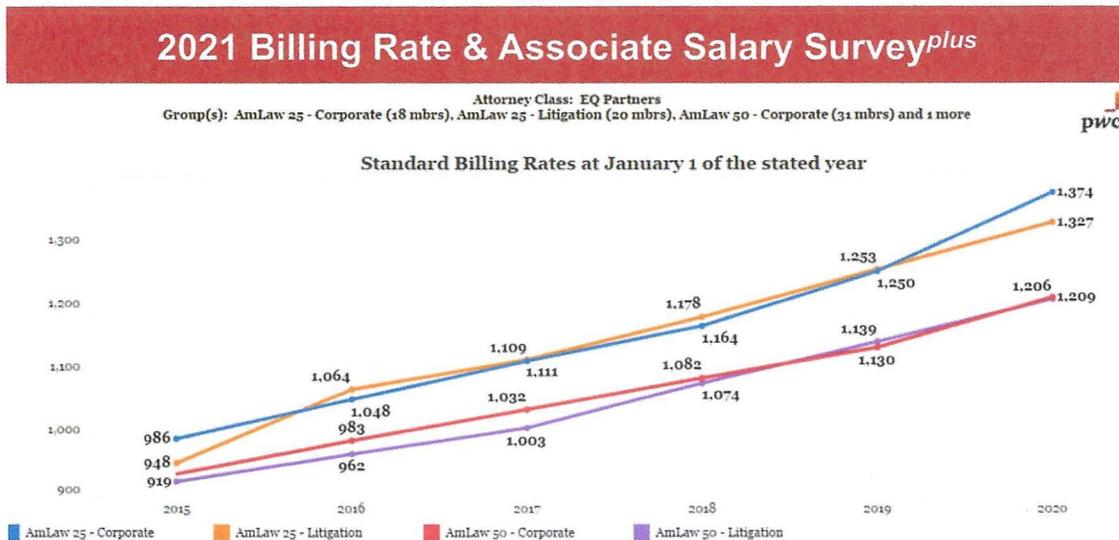
44. As legal rates have increased substantially since this submission in 2014, it is appropriate to adjust these rates into constant dollars (accounting for inflation in the market for legal services). Such an adjustment can be performed using the U.S. Bureau of Labor Statistics' Producer Price Index-Office of Lawyers (PPI-OL) based on the ratio of the index of (a) December in the year of the fee award to (b) March 2022, the most recent month available.⁸ After this adjustment into constant dollars, in *U.S. Foodservice* the highest individual rate was \$1,287/hour, and the blended rate was \$620/hour—both above Class Counsel's corresponding figures.
45. Applying the same methodology to rates submitted in other class actions in the District yields similar results. For example, in *In re Priceline.com, Inc. Sec. Litig.*, No. 3:00-cv-1884, 2007 WL 2115592, at *5 (D. Conn. July 20, 2007), an \$80 million securities settlement, the highest individual rate was \$1,261 in constant dollars (\$770 as submitted) and the blended rate was \$624 in constant dollars (\$381 as submitted)—again above Class Counsel's corresponding figures.⁹ In *Carlson v. Xerox Corp.*, 596 F. Supp. 2d 400, 412 (D. Conn. 2009), *aff'd*, 355 F. App'x 523, 526 (2d Cir. 2009), a \$750 million securities settlement, the highest individual rate was \$1,409 in constant dollars (\$925 as submitted), well above Class Counsel's highest rate of \$985, and the blended rate was \$503 in constant dollars (\$330 as submitted).¹⁰
46. Defense-side hourly rates are also relevant. In this regard, it is instructive to compare the hourly rates reported by Class Counsel with rates reported in a survey of more than 250 U.S.

⁸ PPI-OL data are available at <https://fred.stlouisfed.org/series/PCU541110541110>.

⁹ *See* No. 3:00-cv-1884 (AVC), ECF 463-4 at 14 & 26 of 28; ECF 463-5 at 18 of 19; ECF 463-6 at 9 & 26 of 28; ECF 463-7 at 22 & 35 of 36; ECF 463-8 at 21 of 45.

¹⁰ *See* No. 3:00-cv-01621-AWT, ECF 496-7.

law firms conducted by the international accounting and consulting firm PricewaterhouseCoopers (“PwC”). Although any survey must be evaluated with caution, the PwC data provides a useful perspective. PwC reports the following median billing rates for equity partners in the top 25 and top 50 U.S. firms between 2015 and 2020:¹¹



47. According to this survey, the median average 2020 billing rate for litigation equity partners at AmLaw 25 firms was \$1,327/hour and for AmLaw 50 firms was \$1,206/hour.¹² Notably, these are rates that defense clients pay on a regular basis, regardless of the result. By way of comparison, not a single attorney working on the Plaintiffs’ side of this case – even the most senior partners – billed above \$1,000/hour. The range of partner hourly rates was \$340 to \$985.
48. Data on billing rates in firms nationwide in 2021 – all firms, not only top-tier litigation firms specializing in complex cases – are reported in a study conducted by the legal analytics

¹¹ PwC, “Billing Rate and Associate Salary Survey 2021”.

¹² Morgan Lewis & Bockius LLP, one of the firms representing Defendants here, was ranked seventh in the AmLaw rankings for 2020 and 2021.

company ELM Solutions.¹³ That study found that the average billing rate for partners at New York firms was \$1,034/hour and for New York associates was \$712/hour.¹⁴ All of Class Counsel's partner and associate rates are below the averages of New York firms in this survey.

49. Additional data on hourly rates can be gleaned from a survey of median rates charged by partners at top-tier firms in bankruptcy cases in 2009:¹⁵

Bankruptcy Fee Survey Data (2009)		
Firm	Median Partner Rate	# of Partners Filing Billing Entries
Simpson Thacher	\$980	30
Cleary Gottlieb	\$960	47
Shearman & Sterling	\$950	17
Davis Polk	\$948	14
Skadden Arps	\$945	38
Paul Weiss	\$925	24
Cadwalader	\$900	29
Milbank	\$900	55
Weil Gotshal	\$843	142
Gibson Dunn	\$840	29
Fried Frank	\$830	518 [sic]
Latham & Watkins	\$830	57
White & Case	\$825	21
Paul Hastings	\$810	46
Sidley Austin	\$700	99
Akin Gump	\$690	79
Kirkland	\$675	149
Sonnenschein	\$625	47

¹³ See Associate Billing Rates Are Growing Faster Than Partner Rates, <https://www.law.com/americanlawyer/2022/02/03/associates-billing-rates-are-growing-faster-than-partner-rates/>

¹⁴ For firms nationwide, the average billing rate for partners was \$728/hour and average rate for associates was \$535/hour.

¹⁵ See Amy Kolz, *Bankruptcy Rates Top \$1,000 Mark In 2008-09*, THE AM. LAW DAILY (Dec. 16, 2009).

50. The average of these median rates was \$843/hour, within the range of hourly rates billed by partners in the present case. Notably, this survey was conducted thirteen years ago. As demonstrated by the time trend in the PwC survey cited above, hourly fees have appreciated substantially since then. For example, based on a 2017 survey, the rates for ten leading national firms were:¹⁶

2017 NLJ Billing Report				
Firm	Office Location	Partner Billing Rate Low	Partner Billing Rate High	Partner Billing Rate Average
Simpson Thacher	New York	\$1,340	\$1,360	\$1,350
Willkie Farr	New York	\$1,150	\$1,425	\$1,350
Paul Weiss	New York	\$1,220	\$1,395	\$1,320
Gibson Dunn	New York	\$925	\$1,195	\$1,150
Sidley Austin	Chicago	\$965	\$1,180	\$1,135
Kirkland	Chicago	\$235 (sic)	\$1,410	\$1,115
Brown Rudnick	Boston	\$905	\$1,245	\$1,075
King & Spalding	Atlanta	\$775	\$1,435	\$1,000
DLA Piper	New York	\$725	\$1,120	\$985
Jones Day	Washington D.C.	\$700	\$1,050	\$950

¹⁶ ALM Intelligence, *2017 NLJ Billing Report*.

51. Based on these data and my own experience in large-scale cases, I have no difficulty concluding that Class Counsel's hourly rates, and the resulting lodestar, are reasonable in the circumstances of this case.

Lodestar Multiplier

52. Lead Counsel's fee request of 23.70% of the \$420,000,000 class recovery works out to a 2.17 multiplier over the base lodestar.

53. Lodestar multipliers of 2.17 and above are often observed in large-scale class action fee awards. *See, e.g., Wal-Mart Stores, Inc. v. Visa U.S.A., Inc.*, 396 F.3d 96, 123 & n. 27 (2d Cir. 2005) (upholding multiplier of 3.5 in antitrust class action that obtained about \$3.4 billion in compensatory relief); *Woburn Retirement Syst. v. Salix Phar. Ltd.*, No. 14 Civ. 8925 (KMW), 2017 WL 3579892, at *6 (S.D.N.Y. 2017) (in a \$210 million settlement, finding that a multiplier of 3.14 was within the range of multipliers approved in the Second Circuit); *In re Deutsche Telekom AG Sec. Litig.*, No. 00 Civ. 9475 (NRB), 2005 WL 7984326, at *4 (S.D.N.Y. 2005) (approving a 3.96 multiplier in a \$120 million settlement).

54. Systematic evidence on lodestar multipliers in class action fee awards is set forth in a study I co-authored with Theodore Eisenberg and Roy Germano, published in the NYU Law Review in 2017.¹⁷ Our study found that lodestar multipliers increase as class recoveries increase.¹⁸ The following table displays mean multipliers for 292 cases across deciles of class recovery in the Eisenberg-Miller-Germano study. These ranged from .85 for the smallest

¹⁷ Theodore Eisenberg, Geoffrey Miller and Roy Germano, *Attorneys' Fees in Class Actions: 2009-2013*, 92 N.Y.U. L. Rev. 937 (2017) ("Eisenberg, Miller and Germano").

¹⁸ *Id.* at 966, Figure 1.

cases (recoveries below \$400,000) to 2.72 for cases with recoveries in the highest decile (above \$67.5 million):¹⁹

TABLE 13. MEAN, MEDIAN, AND STANDARD DEVIATION OF
MULTIPLIER, CONTROLLING FOR CLASS RECOVERY
AMOUNT,
2009–2013

<i>Range of Class Recovery Amount (Millions)</i>	<i>Mean</i>	<i>Median</i>	<i>SD</i>	<i>N</i>
Recovery <=0.4	0.85	0.67	0.52	33
Recovery > 0.4 <= 0.75	0.72	0.74	0.32	25
Recovery > 0.75 <= 1.4	1.49	1.42	0.93	20
Recovery > 1.4 <= 2.65	1.26	1.15	0.79	29
Recovery > 2.65 <= 3.9	1.28	1.2	0.75	26
Recovery > 3.9 <= 6.5	1.37	1.03	1.28	29
Recovery > 6.5 <=12	1.48	1.09	0.98	34
Recovery > 12 <= 23.4	1.86	1.35	1.58	29
Recovery > 23.4 <= 67.5	1.65	1.5	1.27	32
Recovery > 67.5	2.72	1.5	3.59	35

Even when looking at cases of all sizes from 2009-2013, this study found mean multipliers of 1.93 for cases in the Second Circuit and 1.79 for securities cases across all circuits.²⁰

55. My earlier study (with Professor Eisenberg) of class action fee awards in published cases between 1993 and 2008 also found that multipliers increase across deciles of class recovery, with a mean multiplier of 3.18 for recoveries in the largest decile (above \$175.5 million):²¹

¹⁹ Id. at 967, Table 13.

²⁰ Id. at 965, Table 12.

²¹ Theodore Eisenberg and Geoffrey Miller, Attorney Fees and Expenses in Class Action Settlements: 1993–2008, 7 *Journal of Empirical Legal Studies* 248, 274 Table 15 (2010) (“Eisenberg and Miller”).

Table 15: Mean, Median, and Standard Deviation of Multiplier, Controlling for Class Recovery Amount, 1993–2008

<i>Range of Class Recovery (Millions) Decile</i>	<i>Mean</i>	<i>Median</i>	<i>SD</i>	<i>N</i>
Recovery ≤ 1.1	0.88	0.74	0.45	33
Recovery $> 1.1 \leq 2.8$	0.95	0.77	0.67	40
Recovery $> 2.8 \leq 5.3$	1.44	1.25	0.74	32
Recovery $> 5.3 \leq 8.7$	1.59	1.25	1.32	34
Recovery $> 8.7 \leq 14.3$	1.49	1.45	0.87	37
Recovery $> 14.3 \leq 22.8$	1.68	1.51	0.85	38
Recovery $> 22.8 \leq 38.3$	1.83	1.44	1.44	33
Recovery $> 38.3 \leq 69.6$	1.98	1.75	1.00	38
Recovery $> 69.6 \leq 175.5$	2.70	2.09	2.43	43
Recovery > 175.5	3.18	2.60	1.99	40

SOURCES: Westlaw, LexisNexis, PACER.

56. A multiplier of 2.17 is well within the range of reason when judged against these data and below the mean multipliers in the largest decile of cases. Indeed, given the trend reflected in these tables, the predicted multiplier for a case with a recovery of \$420 million would be even higher than the numbers reported in these studies.
57. As noted above, the multiplier takes account of the risks faced by class counsel. Because the outcome of a given case cannot be known in advance, risks should be assessed from an ex ante perspective and without regard to whether a settlement is ultimately achieved. The risks in the present case were significant. To survive Defendants' motions to dismiss, Plaintiffs needed to satisfy applicable pleading standards – not only the general plausibility requirement under the Federal Rules, but also the enhanced thresholds under the Private Securities Litigation Reform Act and under Federal Rule 9(b). Many securities class actions

fail at this stage.²² If a motion to dismiss had been successful, counsel would have received no compensation for the hours and expenses they had incurred.

58. Events in this case illustrate this risk. This Court granted the initial motions to dismiss in full in April 2018, but with leave to replead. Defendants renewed their motions after Plaintiffs filed their First Amended Complaint. They argued, *inter alia*, that Plaintiffs had failed to plausibly allege that the statements in issue were false or misleading, that Plaintiffs failed to meet the applicable pleading standards for fraud or scienter, and that the allegations of loss causation were insufficient. Although this Court denied Defendants' motions to dismiss in substantial part in September 2019, it granted the motions in two respects: Plaintiffs' allegations of scienter against Defendants Cavanaugh and Oberman, and Plaintiffs' allegations regarding the failure to disclose the existence of subpoenas from the Department of Justice and the Connecticut Attorney General. Had the Court dismissed the action with prejudice, Class Counsel would have received no compensation for over two years of work.
59. The case continued to be risky even after Plaintiffs substantially defeated the motions to dismiss. As noted above, I understand that the parties were on the verge of filing summary judgment and *Daubert* motions at the time of settlement. Defendants were likely to seek summary judgment on the ground that Plaintiffs could not meet their burden of showing material misrepresentations or omissions – an argument that could have led to dismissal of the entire action and the total loss of the lodestar and expenses incurred. Defendants were also likely to argue that Plaintiffs failed to meet their burden of proof on scienter – an

²² Of securities class actions filed and resolved in federal court between 2012 and 2021, 96% involved a motion to dismiss. Plaintiffs dropped 17% of those cases after the filing of the motion. Courts denied the motions to dismiss in full only in 19% of the cases that remained. The motions were granted without prejudice in 7% of the cases, granted in part and denied in part in 17% of the cases, and granted in full in 56% of the cases. 2021 NERA Study at 14, Figure 14.

argument that, if successful, would have wiped out Plaintiffs' claims under the Exchange Act and eliminated most of Plaintiffs' claimed damages. Even if these arguments failed at the summary judgment stage, Defendants could renew them at trial or on appeal.

60. The presence of multiple related cases also posed risk. Had the motion to consolidate not been granted, counsel could have faced the challenge of conducting a case that substantially overlapped with other pending class actions (and direct cases). Counsel's entitlement to a fee would have been threatened if one of the related class actions proceeded separately and generated a global settlement.
61. Defendants launched a full-court press against class certification. They vigorously challenged Plaintiffs' fraud-on-the-market theory on the ground that Plaintiffs had failed to demonstrate that the securities in issue traded in efficient markets and that damages could be determined on a class-wide basis. If the class had not been certified, counsel would have been left with an individual case that, at most, would have generated only a tiny fraction of the amounts ultimately obtained for the class.
62. Defendants' ability to satisfy a judgment was in question. In 2017, Teva drastically reduced its dividend and warned investors that it might have to renegotiate its debt.²³ Moody's dropped the company's debt rating to one grade above "junk."²⁴ The company reportedly recorded a goodwill impairment charge of \$6.1 billion related to the U.S. generics reporting unit in the second quarter of 2017, followed by an additional \$10.4 billion charge in the

²³ See Adam Reynolds, Pharma Giant Teva's Troubles Were Predicted. The Path to Recovery Could Be Rocky, *Fortune* (Aug. 7, 2017, 10:19 AM), <https://fortune.com/2017/08/07/teva-stock/>

²⁴ *Id.*

fourth quarter of 2017, and a \$4.6 billion charge in 2020.²⁵ Further, I understand that the present securities case is only one among many lawsuits facing Teva, including ongoing U.S. litigation related to opioids. If Teva had become insolvent, Plaintiffs' claims would likely have had to participate with other unsecured claims against the bankruptcy estate. Although Teva has never defaulted on its debt, its financial condition—and the prospect of further financial distress—was a risk factor that pervaded this litigation.

63. This litigation was risky, not only because of uncertainties surrounding the legal and factual claims and Teva's financial condition, but also because of the substantial outlay of cash and counsel time required. Counsel had to fund this litigation for years with no payment, and while incurring over \$9.7 million in expenses that might never be recouped. In my opinion, the risks Class Counsel faced further confirm that the requested multiplier is reasonable in the circumstances of this case.

Percentage Analysis

64. I turn now to an analysis of Lead Counsel's fee request using the percentage method. Lead Counsel seeks a fee award equal to 23.70% of the \$420,000,000 settlement.
65. In analyzing the requested fee percentage, I draw on empirical evidence on fee awards in settled class action cases. These data provide objective information about prevailing norms and standards.
66. Courts in the Second Circuit have awarded counsel fees in large cases similar to the percentage fee requested in the present case. *See, e.g., Christine Asia Co., Ltd. v. Ma*, No. 1:15-md-02631 (SDA) (S.D.N.Y., October 16, 2019) (awarding 25% of a \$250,000,000

²⁵ See Sophie Shulman, Analysis: Teva Pharmaceuticals is bogged down by legal issues, fails to kick-start growth, CTECH (Aug. 11, 2020, 13:57 PM), <https://www.calcalistech.com/ctech/articles/0,7340,L-3869892,00.html>

settlement fund); *NECA-IBEW Health & Welfare Fund v. Goldman Sachs & Co.*, No. 1:08-cv-10783-LAP (S.D.N.Y. 2016) (awarding 21% of \$272 million).

67. Lead Counsel's fee request is within the range of reason when judged against studies of fee awards in class action settlements generally. My study of class action fee awards in published cases between 2009 and 2013 (co-authored with Professor Theodore Eisenberg and Roy Germano) reports mean fee percentages of 27% across 450 cases nationwide,²⁶ 28% for 116 cases in the Second Circuit,²⁷ and 23% for 74 securities cases.²⁸ My earlier study (with Professor Eisenberg) of class action fee awards in published cases between 1993 and 2008 found a mean percentage fee of 23% for 689 cases nationwide,²⁹ 23% for 145 cases in the Second Circuit,³⁰ and 23% for 268 securities cases nationwide.³¹ Professor Brian Fitzpatrick's study of federal class action settlements in 2006 and 2007 found a mean fee percentage of 24.7% in 233 securities cases,³² 23.8% in 72 cases in the Second Circuit,³³ and 25% across all 444 cases in his study.³⁴

²⁶ Eisenberg, Miller and Germano, 937, 951 Table 3 (2017).

²⁷ Id. at 951 Table 3 (2017).

²⁸ Id. at 952 Table 4 (2017).

²⁹ Eisenberg and Miller, 259 Table 3 (2010).

³⁰ Id. at 260, Table 4.

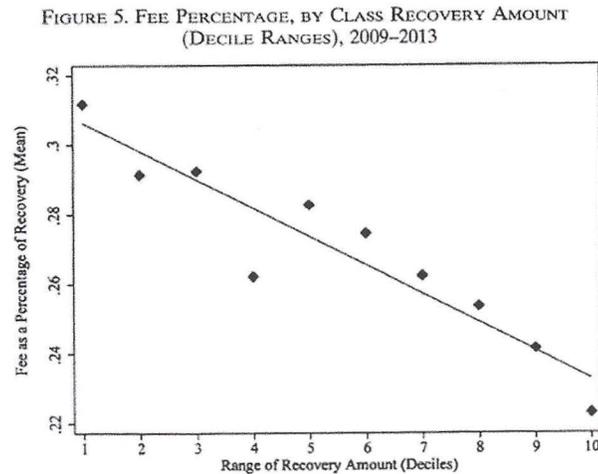
³¹ Id. at 262, Table 5.

³² Brian T. Fitzpatrick, An Empirical Study of Class Action Settlements and Their Fee Awards, 7 *Journal of Empirical Legal Studies* 811, 835, Table 8 (2010) ("Fitzpatrick").

³³ Id. at 836 Table 9.

³⁴ Id. at 835 Table 8.

68. The empirical studies cited above observed a “scaling effect” in which average percentage fees decline as class recoveries increase. Eisenberg, Miller and Germano display the effect graphically across ten deciles of class recoveries.³⁵



69. In light of this observed scaling effect, the requested percentage fee should be evaluated in comparison to fees awarded in cases with recoveries of similar size. The percentage fee requested in the present case is within the range of fees reported for the largest class recoveries in the leading empirical studies. Specifically:

- The 2021 NERA Study found median fee awards of 24.5% in securities settlements between \$100 million and \$500 million, a range that includes the \$420 million settlement in this case.³⁶ Lead Counsel’s requested fee of 23.70% is below that value.
- Eisenberg, Miller and Germano found that for recoveries above \$67.5 million, the mean percentage fee was 22.3%, close to the 23.70% fee requested here.³⁷

³⁵ Eisenberg, Miller and Germano, *supra*, at 948 Figure 5.

³⁶ 2021 NERA Study, *supra*, at 27, Figure 25.

³⁷ Eisenberg, Miller and Germano, *supra*, at 948 Figure 5. Eisenberg and Miller’s 2010 study (covering cases from 1993 to 2008) found a mean percentage fee of 12% for 68 cases in the highest decile (recoveries above \$175.5 million). Eisenberg and Miller, *supra*, at 265 Table 7.

- Fitzpatrick found a mean percentage fee of 18.4% for 45 cases with recoveries in the highest decile (\$72.5 million to \$6.6 billion)³⁸ and a mean percentage fee of 17.8% (with a median of 19.5%) for settlements between \$250 million and \$500 million. Professor Fitzpatrick also found a standard deviation of 7.9%,³⁹ meaning that most fee awards were within a range 7.9% above and 7.9% below the 17.8% mean award.
70. While each study above has a slightly different data set and approach, taken together, they provide a robust indication of the fee percentages awarded in cases of comparable size. Because Lead Counsel’s requested fee is within the general range identified in these studies, and considering the facts and circumstances of this case, the requested fee is reasonable, in my opinion, even taking account of the empirically observed “scaling” of fee percentages in large settlements.
71. I note that the requested fee percentage is higher than the mean percentages reported in Fitzpatrick’s paper and my two studies. This does not affect my opinion that the requested fee is reasonable. The real world is not like the fictional Lake Wobegon, where everyone is above average. But neither is it a place where everyone is average. The very concept of an average implies that some cases are above average, and some are below. For that reason, provided that it is justified by other considerations, a percentage fee can be reasonable even if it is above the average fees reported for cases with similar recoveries. That is the case here.
72. *First*, some large cases present significant economies of scale, thus allowing counsel to resolve the litigation quickly without the expenditure of a large number of hours. When these

However, this appears to be an outlier and I view the mean and median fee awards from the studies described above as more relevant for purposes of this opinion.

³⁸ Fitzpatrick, *supra*, at 839 Table 11.

³⁹ *Id.*

economies are present, courts appropriately award percentage fees that take account of the lower effort expended by class counsel. Where economies of scale are not present, however, courts award suitably compensatory fees even in larger cases.

73. The present case is an example of a labor-intensive matter. This litigation did not settle early or with little effort. To the contrary, as detailed above, it was litigated for over five years. Discovery was contentious, and the complexity of the action demanded forty depositions and detailed analysis by four experts for the Class. Class Counsel had to participate in three mediation sessions and reach the verge of summary judgment before finally achieving an agreement. The duration and advanced procedural stage of this action, coupled with the presence of a tenacious adversary, led to Class Counsel expending a large number of hours (over 77,000) that yielded a substantial lodestar (over \$45.8 million).
74. *Second*, as noted above, the lodestar multiplier implied by Lead Counsel's fee request is substantially below the average multiplier for a case with a recovery of similar size. Because the multiplier is below the norm for similar cases, the requested fee can be judged as reasonable even if the percentage standing alone is above the averages reported in empirical studies.
75. *Third*, the risks of this case justify a suitably compensatory fee. As detailed above, this action could have been defeated at the motion to dismiss, consolidation, class certification, summary judgment, trial, or on appeal. Class Counsel faced external risks regarding Teva's financial condition. Class Counsel expended over 77,000 professional hours and millions of dollars in expenses, all of which would be lost if this case had failed.
76. I recognize that Class Counsel seek a significant fee award in dollar terms. But the size of the request is no reason, in itself, to award less. The large cases examined in the empirical

studies involved large fee awards. Courts awarded these fees in recognition of the size of the class recoveries and of case-specific circumstances that warranted the compensation granted.

77. I note, in this regard, that courts within the District of Connecticut have awarded fees in large settlements that equate to dollar amounts similar to or larger than Lead Counsel's request. *See, e.g., Carlson v. Xerox Corp.*, 355 F. App'x 523, 526 (2d Cir. 2009) (affirming fee award of 16%, or \$120 million, in \$750 million securities settlement); *In re U.S. Foodservice, Inc. Pricing Litig.*, No. 3:07-MD-1894 (AWT), 2014 WL 12862264 (D. Conn. Dec. 9, 2014) (fee award of 33.3%, or \$99 million, in \$297 million settlement of RICO and contract class action). In my academic research, I have evaluated fee awards using inflation-adjusted dollars to account for the passage of time.⁴⁰ Here, using the Consumer Price Index for All Urban Consumers (CPI-U) as the rate of inflation, the award in *Xerox* equals about \$159.76 million in current dollars, and the award in *U.S. Foodservice* equals about \$121.22 million in current dollars.⁴¹

78. The *Goldberger* factors are relevant to this analysis. The factors of the time and labor expended, the magnitude and complexity of the litigation, the risk of the litigation, the quality of representation, and the requested fee in relation to the settlement (each addressed above) all speak favorably for Class Counsel's performance and provide reasons for awarding a fee commensurate with the value conferred.

79. The same is true with regard to public policy considerations. The \$420 million settlement obtained by Class Counsel both provides significant compensation to class members and acts as a deterrent to companies or individuals who might think about violating the securities laws

⁴⁰ See Eisenberg and Miller, *supra*, at 253 (2010).

⁴¹ See CPI Inflation Calculator, available at https://www.bls.gov/data/inflation_calculator.htm.

in the future. In this respect, Class Counsel acted as “private attorneys general” by successfully pursuing litigation in the service of otherwise-unrepresented people.

80. Moreover, the complaint in this case alleged that Teva, the largest manufacturer of generic drugs in the world, artificially hiked the prices on several of its products in order to boost its profits, and then concealed this fact from the investing public. This litigation served the public interest by investigating Teva’s practices and helping to ensure that investors are accurately informed about pharmaceutical firms’ pricing strategies.

The Role of Lead Plaintiffs

81. A final point concerns the role of the representative plaintiffs, Class Representatives Ontario Teachers’ Pension Plan Board and Anchorage Police & Fire Retirement System. These entities have overseen Class Counsel’s conduct ever since their appointment and are capable of evaluating the reasonableness of Lead Counsel’s fee request from the perspective of the best interests of the class. This Court’s ruling on the motions for appointment as lead plaintiff recognized that Ontario Teachers’ “is an institutional investor with experience as lead plaintiff in a securities action.” The Court noted that Ontario Teachers’ “maintains an in-house legal department with attorneys dedicated to the oversight of this action” who, in turn, will “supervise retained counsel and actively participate in the litigation with its client and the class’s best interests in mind.”⁴² Anchorage Police & Fire Retirement System, likewise, has the capacity and incentive to provide careful oversight of Class Counsel’s conduct of this litigation, including the request for attorney fees.
82. Based on my review of Class Representatives’ declarations, it is my opinion that Ontario Teachers’ and Anchorage were extensively involved in the prosecution and resolution of this

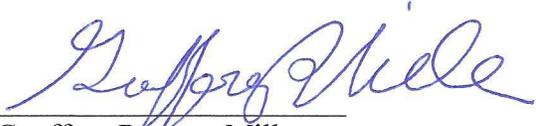
⁴² *Galmi*, 302 F. Supp. 3d at 506.

case by directly supervising Class Counsel, reviewing draft filings, providing deposition testimony, and participating in each formal mediation session and numerous subsequent conferences. Moreover, Class Representatives' declarations attest to their arm's-length negotiation and careful consideration of the requested fee, and their independent review of the quality and amount of Class Counsel's work, the result achieved, the risks Class Counsel faced, fee awards in other cases, Class Counsel's rates, and other relevant factors. The presence of knowledgeable and active class representatives and their diligence in this case provides an additional safeguard over the reasonableness of the fee request.

Conclusion

83. For the reasons stated above, it is my opinion that a fee equal to 23.70% of the settlement fund is reasonable under the circumstances.

Executed this 25th day of April 2022.



Geoffrey Parsons Miller

Appendix 1: Resume

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Education

Columbia Law School, J.D. (1978)
Editor-in-Chief, Columbia Law Review (1977-78)
Princeton University, A.B. *magna cum laude* (1973)

Work Experience

New York University Law School (1995-present)
Stuyvesant P. Comfort Professor of Law
Co-Director, Program in Corporate Compliance and Enforcement (2014-2017)
Senior Faculty Fellow, Program in Corporate Compliance and Enforcement
(2017-present)
Faculty Co-Director, Center on Civil Justice at NYU Law School (2015-present)
Faculty Director, NYU Center for Financial Institutions (1994-present)
Co-Director, NYU Center for Law, Economics and Organization (2006-2012)
Chair, Academic Personnel Committee (1999-2000; 2004-2006)
Chair, Promotions and Tenure Committee (2007-2009; 2018-2019)

University of Chicago Law School (1983-1995)
Kirkland & Ellis Professor (1989-1995)
Editor, Journal of Legal Studies (1989-1995)
Director, Program in Law and Economics (1994-1995)
Director, Legal Theory Workshop (1989-1993)
Associate Dean (1987-1989)
Professor of Law (1987-1989)
Assistant Professor of Law (1983-1987)

Distinguished Visiting Professor, Vanderbilt Law School, 2014
Visiting Professor, University of Frankfurt, Summer 2013

Faculty Member, Study Center Gerzensee, Switzerland, Spring 2012, Summer 2016
Visiting Lecturer, University of Genoa Department of Law, 2011
Visiting Lecturer, Collegio Carlo Alberto (Moncalieri, Italy), 2011, 2013
Visiting Scholar, European University Institute, Florence, Italy, Fall/Winter 2010
Visiting Chair on Private Actors and Globalisation, Hague Institute for the Internationalisation of Law, Fall/Winter 2010
Robert B. and Candace J. Haas Visiting Professor of Law, Harvard Law School,
Fall 2009
Max Schmidheiny Guest Professor, University of St. Gallen, Switzerland
Summer 2009
Faculty Member, NYU-NUS in Singapore, 2009, 2011, 2013
Fresco Endowed Professor of Law, University of Genoa, Italy, Summer 2008,
Spring 2009, Summer 2010
Visiting Scholar, University of Minnesota Law School, Spring 2008
Visiting Lecturer, University of Bolzano, Italy, Summer 2007
Commerzbank Visiting Professor, Institute for Law & Finance, University of Frankfurt,
Germany, Summer 2004, Summer 2005, Summer 2010
Visiting Professor, Columbia Law School, Fall 2001
Visiting Professor, University of Sydney, Australia, Summer 2002; Summer 2006;
Spring 2009
Zaeslin Visiting Professor, University of Basel, Switzerland, Summers 2001-2021
Visiting Scholar, CentER for Economic Research, Tilburg, Holland, Summer 1996
John M. Olin Visiting Scholar, Cornell University Law School, Summer 1992,
Spring 1996; Winter 1997, Summer 2005, Spring 2008, Spring 2009, Spring 2010
Visiting Scholar, Bank of Japan, Spring 1995
Visiting Professor, New York University Law School, Fall 1994
Consultant, Federal Reserve Bank of Chicago, 1992-1994
Visiting Scholar, New York University Law School, Fall 1993
Simpson Grierson Butler White Visiting Professor, University of Auckland,
New Zealand, Summer 1993

Associate, Ennis, Friedman, Bersoff & Ewing
Washington, D.C. (1982-83)

Attorney Adviser, Office of Legal Counsel
U.S. Department of Justice (1980-82)

Clerk, Hon. Byron R. White
Supreme Court of the United States (1979-80)

Clerk, Hon. Carl McGowan
U.S. Court of Appeals, District of Columbia (1978-79)

Scholarly and Law Reform Activities

Member, American Law Institute (elected 2015)

American Law Institute, Reporter, Principles of the Law, Compliance, Enforcement, and Risk Management for Corporations, Nonprofits, and Other Organizations (2014-present)

Fellow, American Academy of Arts and Sciences (2011-2020)

Society for Empirical Legal Studies

Fellow (2014-present),

Co-Founder and Co-President (2006-2007)

Board Member (2006-2014)

Corporate Service

Board member of the Board of Directors, State Farm Bank (2010-2021). Audit Committee Chair (2015-2021)

Publications

Books

The Economics of Securities Law I (editor) (Edward Elgar 2016)

The Economics of Securities Law II (editor) (Edward Elgar 2016)

The Economics of Financial Law I (editor) (Edward Elgar 2016)

The Economics of Financial Law II (editor) (Edward Elgar 2016)

Banking Law and Regulation, Little, Brown & Co. 1992 (with Jonathan R. Macey); Second Edition, Aspen Law & Business 1997 (with Jonathan R. Macey), Third Edition, Aspen Law & Business 2001 (with Jonathan R. Macey and Richard Scott Carnell); Fourth Edition, Aspen Law & Business 2008 (with Richard Scott Carnell and Jonathan R. Macey), under title “The Law of Banking and Financial Institutions”; Fifth Edition (with Richard Scott Carnell and Jonathan R. Macey), under title “The Law of Financial Institutions, Wolters Kluwer Law & Business (2013) [translated into Chinese, The Commercial Press, 2016]; Sixth Edition, under title “The Law of Financial Institutions,” Wolters Kluwer Law & Business (2017)

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Banking Law and Regulation: Teacher's Manual (1992; Second Edition 1997; Third Edition 2001, Fourth Edition 2008) (with Jonathan R. Macey and Richard Scott Carnell)

The Law of Governance, Risk Management and Compliance (Wolters Kluwer Law and Business 2014); Second Edition 2017.

The Law of Governance, Risk Management and Compliance Teachers Manual (Wolters Kluwer Law and Business, 2014; Second Edition 2017.

The Governance of International Banking (co-authored with Fabrizio Cafaggi, with Tiago Andreotti, Maciej Borowicz, Agnieszka Janczuk, Eugenia Macchiavello and Paolo Saguato) (Edward Elgar 2013)

Ways of a King: Legal and Political Ideas in the Bible (Vandenhoeck & Ruprecht 2011)

Trust, Risk, and Moral Hazard in Financial Markets (Il Mulino 2011)

The Origins of the Necessary and Proper Clause (with Gary Lawson, Robert Natelson, and Guy Seidman) (Cambridge University Press 2010)

The Economics of Ancient Law (editor) (Edward Elgar 2010)

Bank Mergers and Acquisitions (editor, with Yakov Amihud) (Kluwer Academic Publishers 1998)

La Banca Central en América Latina: Aspectos Económicos y Jurídicos [Central Banks in Latin America and Their New Legal Structure] (in Spanish) (editor, with Ernesto Aguirre and Roberto Junguito Bonnet) (Tercer Mundo: Bogotá 1997)

Costly Policies: State Regulation and Antitrust Exemption in Insurance Markets (AEI Press 1993) (with Jonathan R. Macey)

Articles

Attorneys' Fees

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Attorneys' Fees in Class Action Settlements: An Empirical Study, 1 Journal of Empirical Legal Studies 27 (2004) (with Theodore Eisenberg)

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Constitutional Law

The President's Power of Interpretation: Implications of a Unified Theory of Constitutional Law, 56 Law and Contemporary Problems 35 (1993)

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Compliance and Risk Management

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An Economic Analysis of Effective Compliance Programs, in Jennifer Arlen, ed., Research Handbook on Corporate Crime and Financial Misdealing (Edward Elgar, 2017)

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Financial Institutions

Introduction, in The Economics of Financial Law (Geoffrey Miller, editor) (Edward Elgar, 2017)

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The Basel Committee, Global Administrative Law, and the Developing World, in Benedict Kingsbury and Richard Stewart, eds, *India, the South and the Shaping of Global Administrative Law* (Oxford University Press India 2008) (with Michael Barr)

Comment: Credit Risk Transfer, Hedge Funds, and the Supply of Liquidity, in Peter Nobel and Marina Gets, eds., *Law and Economics of Risk in Finance*, University of St. Gallen Series in Law and Economics 73 (2008)

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Ancient Law

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The Dark Age: How the Biblical Narratives Demonstrate the Necessity for Law and Government (NYU School of Law, Public Law Research Paper No. 10-18)

Origin of Obligation: Genesis 2:4b-3:24 (NYU School of Law, Public Law Research Paper No. 09-60)

Sovereignty and Conquest in the Hebrew Bible, NYU School of Law, Public Law Research Paper No. 10-61 (2010)

Golden Calves, Stone Tablets, and Fundamental Law: A Political Interpretation of Exodus 32 (NYU School of Law, Public Law Research Paper No. 10-02)

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The Legal-Economic Approach to Biblical Interpretation, 150 *Journal of Institutional and Theoretical Economics* [Zeitschrift für die gesamte Staatswissenschaft] 755 (1994)

J as Constitutionalist: A Legal-Economic Interpretation of Exodus 17:8-16 and Related Texts, 70 *Chicago-Kent Law Review* 1829 (1995)

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Law and Society

Parental Bonding and the Design of Child Support Obligations, in William S. Comanor, ed., *The Law and Economics of Child Support Payments* 210-240 (Edward Elgar 2004)

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Custody and Couvade: The Importance of Paternal Bonding in the Law of Family Relations, 33 *Indiana Law Review* 691 (2000)

Norm Enforcement in the Public Sphere: The Case of Handicapped Parking, 71 *George Washington Law Review* 895-933 (2004)

Norms and Interests, 32 *Hofstra Law Review* 637 (2003)

Female Genital Mutilation: A Cultural-Legal Analysis (manuscript)

Circumcision: A Legal-Cultural Analysis, 9 *Virginia Journal of Social Policy and the Law* 498-585 (2002), pre-published as New York University Public Law and Legal Theory Working Paper Series, Working Paper 5 (2000)

Law, Pollution, and the Management of Social Anxiety, 7 *Michigan Women's Law Journal* 221-289 (2001)

Other:

Richard Posner, 61 *N.Y.U. Annual Survey of American Law* 13 (2004)

Introduction: The Law and Economics of Risk, 19 *Journal of Legal Studies* 531 (1990) (with Richard A. Epstein)

Law School Curriculum: A Reply to Kennedy, 14 *Seton Hall Law Review* 1077 (1984) (under pen name of Chris Langdell)

Book Reviews

Defusing the Banks' Financial Time Bomb, *BusinessWeek* (Mar. 11, 2010) (review of Robert Pozen, *Too Big to Save? How to Fix the U.S. Financial System*)

Love & Joy: Law, Language and Religion in Ancient Israel, by Yochanan Muffs, 58 *Journal of Near Eastern Studies* 144-45 (1999)

Jesus and the Jews: The Pharisaic Tradition in John; The Trial Of Jesus; Jesus And The Law, by Alan Watson, 1 Edinburgh Law Review 273 (1997)

No Contest: Corporate Lawyers and the Perversion of Justice in America, by Ralph Nader and Wesley J. Smith, Washington Post (October 13, 1996)

The Rise and Fall of the Classical Corporation: Hovenkamp's Enterprise and American Law: 1836-1937, 59 University of Chicago Law Review 1677 (1993)

Property Rights and the Constitution: A Review of James W. Ely, Jr.'s The Guardian of Every Other Right, 37 American Journal of Legal History 378 (1993)

Anatomy of A Disaster: Why Bank Regulation Failed, 86 Northwestern University Law Review 742 (1992)

The Glittering Eye of Law, 84 Michigan Law Review 1901 (1986)

A Rhetoric of Law, 52 University of Chicago Law Review 247 (1985)

Major Lectures

Revelation as a Source of Legal Authority (Keynote Address, Conference on Religious Liberty, Touro Law School 2013)

Trust, Risk, and Moral Hazard in Financial Markets (University of Genoa, Fresco Chair Lectures in Law and Finance, June 2010)

A Simple Theory of Takeover Regulation in the United States and Europe; Intellectual Hazard (Commerzbank Lectures, University of Frankfurt, May 2010)

The European Union's Takeover Directive and Its Implementation in Italy (University of Rome III, 2008)

Catastrophic Financial Failures: Enron, HIH and More (Ross Parsons Lecture, Sydney, Australia, 2002)

Das Kapital: Solvency Regulation of the American Business Enterprise (Coase Lecture, University of Chicago Law School, 1993)

Banking in the Theory of Finance; The Simple Economics of Litigation and Settlement; The Economic Structure of Corporation Law (University of Auckland, New Zealand, 1993)

Journal Referee Reports

American Law and Economics Review
Journal of Legal Studies
Journal of Law, Economics and Organization
Review of Law and Economics

Conferences Organized

Law and Banking Conference 2019 (Paris), 2018 (New York), 2017 (Bad Homburgm, co-sponsored with University of Frankfurt); 2016 (New York); 2015 (Zurich); 2014 (New York); 2013 (Zurich); 2012 (New York); 2011 (Florence)

Achieving and Responsible Enterprise: Principles of Effective Compliance and Enforcement (May 8, 2015)

Global Economic Policy Forum, New York 2013 (keynote speakers included Federal Reserve Bank of New York President William Dudley and former Governor of the Bank of England Baron King of Lothbury); New York 2008 (keynote speaker was Jean-Claude Trichet, Chairman of the European Central Bank); 2007 (keynote speaker was Ben Bernanke, Chairman of the Board of Governors of the Federal Reserve)

The Good Bank Debate (New York 2013) (co-sponsored with Mazars)

Judicial Dialogue on Mass Litigation, Florence Italy, October 15-16, 2010 (co-organizer of conference co-sponsored by NYU Law School, the American Law Institute, and the European University Institute)

Finlawmetrics 2010: Central Banking, Regulation & Supervision after the Financial Crisis (co-sponsor and member of steering committee)

Finlawmetrics 2009: After The Big Bang: Reshaping Central Banking, Regulation and Supervision (Milan, Italy, Spring 2009) (co-sponsor and member of steering committee)

NYU Global Economic Policy Forum 2009: The Future of Regulation and Capital Markets (November 5, 2009) (co-organized with Professor Alan Rechtschaffen and with the NYU Law School Alumni Association)

Third Annual Conference on Empirical Legal Studies (Cornell University, Ithaca, New York, Fall 2008) (co-organizer)

Second Annual Conference on Empirical Legal Studies (New York, New York, November 10-11, 2007). Major conference (425 participants) exploring all aspects of the empirical study of law. Co-organized with Jennifer Arlen, Bernard Black, Theodore Eisenberg and Michael Heise.

First Annual Conference on Empirical Legal Studies (Austin, Texas, October 2006). Major conference exploring all aspects of the empirical study of law. Co-organized with Jennifer Arlen, Bernard Black, Theodore Eisenberg and Michael Heise.

Conference on Legal Aspects of the International Activities of Central Banks, Lima Peru, October 1997. This conference, co-sponsored by the central bank of Peru, brought together leaders in the legal and economic issues facing central banks in the management of their external reserves.

Conference on the Governance of Institutional Investors (New York, New York, February 14, 1997). This conference, sponsored by the NYU Stern School of Business Salomon Center in association with the New York University Law School Center for the Study of Central Banks, brought together top executives, attorneys, scholars and others interested in the management and organization, both economic and legal, of the nation's large institutional investors, including its mutual fund industry.

Conference on Bank Mergers and Acquisitions (New York, New York, October 11, 1996). This conference, sponsored by the NYU Stern School of Business Salomon Center in association with the New York University Law School's Center for the Study of Central Banks, brought together leading academics, lawyers, and investment bankers to discuss some of the broader implications of bank mergers and acquisitions. Co-organizer of this conference was Professor Yakov Amihud of the Stern School's Finance Department.

Conference in Central Banks in Latin America (Bogota, Colombia, February, 1996). This conference, co-sponsored by the central bank of Colombia with technical assistance from the Legal Affairs Department of the International Monetary Fund, brought together leaders of Latin American central banks, the international financial community, and scholars from a variety of disciplines, to discuss issues related to the independence of central banks and economic development.

Conference on Central Banks in Asia (Shanghai, China, October, 1995). This conference, co-sponsored with KPMG-Peat Marwick, brought together leaders from commercial banks, investment banks, and industrial firms, as well as central bankers, to discuss Asian central banks to address issues such as the proposed law granting a degree of independence to the central bank of China.

Conference on Ancient Law (Berkeley, California, March 1995). This conference, organized with Professors James Lindgren of Chicago-Kent Law School and Laurent Mayali of the University of California at Berkeley Law School, brought together important figures from a variety of disciplines interested in Ancient Law.

Conference on Central Banks in Eastern Europe and the Newly Independent States (Chicago, Illinois, April 1994). This conference brought together the Prime Minister of Estonia, three present or former Ministers of Finance of Eastern European states (including Boris Fyoderov, former Finance Minister of the Russian Republic), the heads of the central banks of eleven nations in Eastern Europe and the Newly Independent States, together with a wide variety of highly-placed officials from these countries and from the west, to discuss issues related to the independence of central banks and economic development.

Professional Memberships and Positions

New York State Bar

District of Columbia Bar

American Bar Association

American Law Institute (1988-1996; 2017-present)

Member, Paolo Baffi Centre Scientific Advisory Board, Milan, Italy (2008- 2016)

Member, International Academic Council, University of St. Gallen,
Switzerland (2004-2016)

Chairman, Section on Business Associations, American Association of Law
Schools (1995)

Member of the Board of Directors, American Law and Economics Association
(1995-1998)

Member of the Foreign Advisory Committee, Latin American Law and
Economics Association (1995-2000)

Member of the Foreign Advisory Board, Universidad Tucurato Di Tella School of Law,
Buenos Aires, Argentina (1992-1999)

Member of the Editorial Board, Supreme Court Economic Review

Member of the Advisory Board, University of Hong Kong Faculty of Law Asian Institute
of International Financial Law (2001-present)

Courses

Governance, Risk and Compliance (Study Center Gerzensee, Switzerland 2016)

Law and Business of Bitcoin and Block Chain (2015; 2017; 2019-2022) (with David Yermack)

Compliance and Risk Management for Attorneys (2014, 2015, 2017)

Professional Responsibility (1985-93; 1996-98; 2003-2007; 2013; 2019-2022)

The Crisis of 2008 (2009, 2010)

Reading Class: Restructuring Finance (2009); Cutting Issues in Finance (2014-2015);

Reading Class: Law and Politics in Shakespeare (2015-2016; 2019)

Property (1986-87)

Corporations (1985-88; 1991-93; 1997-2000; 2005; 2008; 2012; 2014; 2016)

Seminar on Separation of Powers (1985, 1987)

Civil Procedure (1983-84; 2004-2005; 2011; 2013; 2016; 2018-2020)

Federal Regulation of Banking (1983, 1989-93; 1995-97; 2003, 2006-2010; 2012; 2015)

Law and Business of Banking (2012; with Gerald Rosenfeld)
Land Development (1984-85)
Securities Law (1990-91)
Workshop in Legal Theory (1989-91)
Seminar on Financial Institutions (1992-93 (with Merton Miller) (1996-97)
Ethics in Class Action Practice (Continuing Legal Education Seminar 2002-2005)
Law and Economics (University of Basel, Switzerland 2005, 2007-2014)
Advanced Seminar on Law and Economics (University of Genoa, Italy 2008)
Banking and the Financial Crisis (University of Genoa, Italy 2009)
Trust, Risk, and Moral Hazard in Financial Markets (University of Genoa, Italy, 2010)
International Banking (University of Sydney, Australia, 2002, 2006)
Introduction to Banking Law (University of Basel, Switzerland 2001, 2002, 2003, 2004, 2009, 2010; 2011; 2012; 2013; 2014; 2015; 2016; 2017; 2018)
Banking in the Theory of Finance (University of Frankfurt, Germany 2004, 2005)
Banking Regulation in Crisis (University of Frankfurt, Germany, 2010)
Banking: Law and Economics Issues after the Financial Crisis (Study Center Gerzensee, 2012)

Other Activities

Fellow, Society for Empirical Legal Studies (2015-2020)

Member, Board of Directors, American Law and Economics Association (1996-1999)

Member, Board of Advisors, The Independent Review (1996-present)

Member, Board of Advisors, Asian Institute of International Financial Law (2001-present)

Member, Editorial Advisory Board, Supreme Court Economic Review (1995-2001)

Member, Editorial Advisory Board, The Brookings-Wharton Papers on Financial Policy (1997-present)

President, Section on Financial Institutions and Consumer Financial Services, American Association of Law Schools (1999)

President, Section on Business Associations, American Association of Law Schools (1995)

Member, Board of Contributors, American Bar Association Preview of Supreme Court Cases (1985-1993)

Consultant, Administrative Conference of the United States (1988-89; 1991-1992)

Board of Directors and Volunteer Listener, D.C. Hotline (1980-83)

Awards

1992 Paul M. Bator Award for Excellence in Teaching, Scholarship and Public Service, from the Federalist Society for Law and Public Policy Studies

Podell Distinguished Teaching Award (NYU Law School 2016)

Languages

Moderate reading knowledge of Spanish, French, and Italian.

Blog Posts

Whistleblowing in the Wind, Compliance and Enforcement (June 29, 2016)

Banking's Cultural Revolution, Compliance and Enforcement (June 8, 2016)

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Return of the Tenth Amendment?: Federal Control and State Autonomy over Low Level Radioactive Wastes, 1991-92 ABA Preview of Supreme Court Cases 284 (1992)

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RICO Standing for Securities Fraud: Does the Purchaser-Seller Rule of Rule 10b-5 Apply?, 1991-92 ABA Preview of Supreme Court Cases 155 (1991)

Banking and Investment: Introduction to UPA Index and Microfiche Collection (University Publications of America 1991)

Source of Strength in the Court: Can Bank Holding Companies be Required to Support Failing Subsidiary Banks?, 1991-92 ABA Preview of Supreme Court Cases 42 (1991)

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Punitive Damages Redux: If the Eighth Amendment Doesn't Apply, What About the Due Process Clause?, 1990-91 ABA Preview of Supreme Court Cases 47 (1990)

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- *T.K. Through Leshore v. Bytedance Technology Co., Ltd.*, 2022 WL 888943 (N.D. Illinois 2022)
- *In Re Flint Water Cases*, 2022 WL 340675 (E.D. Michigan 2022)
- *Hager v. Omnicare, Inc.*, 2021 WL 5311307 (S.D. West Virginia 2021)
- *Stechert v. Travelers Home and Marine Insurance Company*, 2021 WL 5235221 (E.D. Pennsylvania 2021)
- *Blondell v. Bouton*, 2021 WL 4173679 (E.D. New York 2021)
- *Strack, Trustee of Patricia Ann Strack Revocable Trust Dtd 2/15/99 v. Continental Resources, Inc.*, --- P.3d ----, 2021 WL 1540516 (Supreme Court of Oklahoma 2021)
- *In re Apple Inc. Device Performance Litigation*, No. 5:18-md-02827-EJD, 2021 WL 1022866 (N.D. California 2021)
- *Monroe County Employees' Retirement System v. Southern Company*, No: 1:17-cv-241-WMR, 2021 WL 451670 (N.D. Georgia 2021)
- *Wood v. Saroj & Manju Investments Philadelphia LLC*, No. 19-2820-KSM, 2020 WL 7711409 (E.D. 2020)
- *City of Birmingham Retirement and Relief System v. Credit Suisse Group AG.*, No. 17 Civ. 10014 (LGS), 2020 WL 7413926 (S.D.N.Y. 2020)
- *In re General Motors LLC Ignition Switch Litigation*, Nos. 14-MD-2543 (JMF) and 14-MC-2543 (JMF), 2020 WL 748129 (S.D.N.Y. 2020)
- *In re LIBOR-Based Financial Instruments Antitrust Litigation*, 11 MD 2262 (NRB), 2020 WL 6891417 (S.D.N.Y. 2020)
- *In re National Prescription Opiate Litigation*, 976 F.3d 664 (6th Circuit 2020) (dissenting opinion)
- *Shah v. Zimmer Biomet Holdings, Inc.*, 2020 WL 5627171 (N.D. Indiana 2020)
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- *Amador v. Baca*, No. 2:10-cv-01649-SVW-JEM, 2020 WL 5628938 (C.D. California 2020)
- *In re Yahoo! Inc. Customer Data Security Breach Litigation*, 2020 WL 4212811 (N.D. California 2020)
- *Bettencourt v. Jeanne D'Arc Credit Union*, No. 17-cv-12548-NMG, 2020 WL 3316223 (D. Massachusetts 2020)
- *In re GSE Bonds Antitrust Litigation*, No. 19-cv-1704 (JSR), 2020 WL 3250593 (S.D.N.Y. 2020)
- *Claudet v. Cytec Retirement Plan*, No. 17-10027, 2020 WL 3128611 (E.D. Louisiana 2020)
- *In re Samsung Top-load Washing Machine Marketing, Sales Practices and Products Liability Litigation*, MDL Case No. 17-ml-2792-D, 2020 WL 2616711 (W.D. Oklahoma 2020)
- *In re Wells Fargo & Company Shareholder Derivative Litigation*, 445 F.Supp.3d 508 (N.D. California 2020)

- *Dotson v. P.S. Management, Inc.*, No. 2:17-cv-00896, 2020 WL 8571844 (S.D. West Virginia 2020)
- *In re Xarelto (Rivaroxaban) Products Liability Litigation*, MDL NO. 2592, 2020 WL 1433923 (E.D. Louisiana 2020)
- *In re Equifax Inc. Customer Data Security Breach Litigation*, 2020 WL 256132 (N.D. Georgia 2020)
- *Arkansas Teacher Retirement System v. State Street Bank and Trust Company*, Nos. 11-10230-MLW, 11-12049-MLW, and 12-11698-MLW. --- F.Supp.3d ----2020 WL 949885 (D. Massachusetts 2020)
- *In Re: The Home Depot, Inc., Customer Data Security Breach Litigation*, 2020 WL 415923 (N.D. Georgia 2020)
- *In re Chinese-Manufactured Drywall Products Liability Litigation*, 2020 WL 128589 (E.D. Louisiana 2020)
- *Flores v. Zorbalas*, No. 27-CV-16-14225, 2019 WL 7142886 (Minnesota Court of Appeals 2019)
- *In re Transpacific Passenger Air Transportation Antitrust Litigation*, 2019 WL 6327363 (N.D. California 2019) (referring to Eisenberg-Miller-Germano paper as a “seminal study”)
- *Espinal v. Victor’s Café 52nd Street, Inc.*, 2019 WL 5425475 (S.D. New York 2019)
- *Christine Asia Co., Ltd. v. Yun Ma*, 2019 WL 5257534 (S.D. New York 2019)
- *Tussey v. ABB, Inc.*, 2019 WL 3859763 (W.D. Missouri 2019)
- *In re Yahoo! Inc. Customer Data Security Breach Litigation*, 2019 WL 387322 (N.D. California 2019) (referring to Eisenberg and Miller’s study of class action attorneys’ fees as a “leading study”)
- *Grice v. Pepsi Beverages Co.*, 363 F.Supp.3d 401 (S.D.N.Y. 2019) (“[c]ourts often look to empirical evidence of attorney's fees awarded in similar cases as a starting point for the baseline reasonable fee inquiry”)
- *Hale v. State Farm Mutual Automobile Insurance Company*, 2018 WL 6606079 (S.D. Illinois 2018)
- *Cabot East Broward 2 LLC v. Cabot*, 2018 WL 5905415 (S.D. Florida 2018)
- *In re Vioxx Products Liability Litigation*, 2018 WL 4613941 (E.D. Louisiana 2019)
- *Rodman v. Safeway Inc.*, 2018 WL 4030558 (N.D. California 2018)
- *Welsh v. Navy Federal Credit Union*, 2018 WL 7283639 (W.D. Texas 2018)
- *In re Anthem, Inc. Data Breach Litigation*, 2018 WL 3960068 (N.D. California 2018) (“leading study”)
- *Carrel v. MedPro Group, Inc.*, 2018 WL 3617258 (N.D. Indiana 2018)
- *Rudman v. CHC Group Ltd.*, 2018 WL 3594828 (S.D.N.Y. 2018)
- *In re Akorn, Inc. Securities Litigation*, 2018 WL 2688877 (N.D. Illinois 2018)
- *Leung v. XPO Logistics, Inc.*, 326 F.R.D. 185 (N.D. Illinois 2018)
- *Xiao Ling Chen v. XpresSpa at Terminal 4 JFK LLC*, 2018 WL 1633027 (E.D.N.Y. 2018)

- *In re: National Collegiate Athletic Association Athletic Grant-In-Aid Cap Antitrust Litigation*, No. 4:14-cv-02758-CW, 2017 WL 6040065 (N.D. Ca. 2017)
- *In re Sears, Roebuck and Co. Front-Loading Washer Products Liability Litig.*, --- F.3d ---, 2017 WL 3470400 (7th Cir. 2017)
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- *Chieftain Royalty Company v. Enervest Energy Institutional Fund XIII-A*, 861 F.3d 1182 (10th Cir. 2017)
- *Nitsch v. DreamWorks Animation SKG Inc.*, 2017 WL 2423161 (N.D. Ca. 2017)
- *McGreevy v. Life Alert Emergency Response, Inc.*, --- F.Supp.3d ---, 2017 WL 1534452 (S.D.N.Y. 2017)
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- *Thomas v. FTS USA, LLC*, 2017 WL 1148283 (E.D. Va. 2017)
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- *In re: Cathode Ray Tube (CRT) Antitrust Litigation*, 2016 WL 721680 (N.D. Ca. 2016)
- *In re High-Tech Employee Antitrust Litigation*, 2015 WL 5158730 (N.D. Ca. 2015)
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- *In re Capital One Telephone Consumer Protection Act Litigation*, 80 F.Supp.3d 781 (N.D. Ill. 2015)
- *In re Dairy Farmers of America, Inc.*, 80 F.Supp.3d 838 (N.D. Ill. 2015)
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- *In re Lupron Marketing and Sales Practices Litigation*, 2005 WL 2006833 (D. Mass. 2005)

- *In re Relafen Antitrust Litigation*, 221 F.R.D. 260 (D. Mass. 2004)
- *Allapattah Services, Inc. v. Exxon Corp.*, 362 F.3d 739 (11th Cir. 2004)
- *In re Cendent Corp. Litigation*, 264 F.3d 201 (3d Cir. 2001)
- *Scardeletti v. Debarr*, 265 F.3d 195 (4th Cir. 2001)
- *In re Microstrategy Inc.*, 172 F. Supp. 2d 778 (E.D. Va. 2001)
- *In re Auction Houses Antitrust Litigation*, 197 F.R.D. 71 (S.D.N.Y. 2000)
- *Burke v. Ruttenberg*, 102 F. Supp. 2d 1280 (N.D. Al. 2000)
- *AUSA Life Ins. Co. v. Ernst & Young*, 206 F.3d 202 (2d Cir., 2000)
- *Davis v. Carl Cannon Chevrolet-Olds, Inc.*, 182 F.3d 792 (11th Cir. 1999)
- *In re Texlon Corp. Securities Litigation*, 67 F. Supp. 2d 803 (N.D. Oh. 1999)
- *In re Baan Co. Securities Litigation*, 186 F.R.D. 214 (D.D.C. 1999)
- *In re Quantum Health Resources Inc.*, 962 F. Supp. 1254 (C.D. Ca. 1997)
- *Strong v. BellSouth Telecommunications Inc.*, 173 F.R.D. 167 (W.D. La. 1997)

Appendix 3: Materials Reviewed

Pleadings:

- Consolidated Class Action Complaint, September 22, 2017
- Amended Class Action Complaint, June 22, 2018
- Second Amended Class Action Complaint, December 13, 2019

Decisions, Orders, and Transcripts:

- Rulings on Motion for Appointment as Lead Plaintiff, July 11, 2017
- Order Granting Motions to Dismiss Without Prejudice, April 3, 2018
- Transcript of Hearing, April 3, 2018
- Transcript of Hearing, March 12, 2019
- Opinion on Motion to Dismiss, September 25, 2019
- Order, March 10, 2020
- Order Regarding Pre-Trial Consolidation of Related Actions, April 28, 2020
- Class Certification/Daubert Motions Hearing, January 29, 2021
- Telephonic Status Conference, March 3, 2021
- Order, March 9, 2021
- Ruling and Order on Class Certification, March 9, 2021
- Second Circuit Order Denying Defendants' Request for Leave to Appeal, June 22, 2021

Briefing on Class Certification:

- Plaintiffs' Memorandum of Law in Support of Motion for Class Certification and Appointment of Class Representatives and Class Counsel
- Expert Report of David I. Tabak, Ph.D. (for Plaintiffs)
- Defendants' Opposition to Plaintiffs' Motion for Class Certification and Appointment of Class Representatives and Class Counsel
- Expert Report of John J. McConnell (for Defendants)
- Expert Report of Mukesh Bajaj, Ph.D. (for Defendants)
- Expert Report of Christopher M. James, Ph.D. (for Defendants)
- Plaintiffs' Reply Memorandum of Law in Further Support of Motion for Class Certification and Appointment of Class Representatives and Class Counsel
- Rebuttal Expert Report of David I. Tabak, Ph.D. (for Plaintiffs)

- Memorandum of Law in Support of Defendants' Motion to Exclude Plaintiffs' Expert David Tabak
- Additional Declaration of Mukesh Bajaj, Ph.D.
- Plaintiffs' Memorandum of Law in Opposition to Defendants' Motion to Exclude the Opinions of David Tabak, Ph.D.
- Defendants' Reply in Support of Motion to Exclude Plaintiffs' Expert David Tabak
- Defendants' Rule 23(f) Petition for Permission to Appeal Order Granting Class Certification
- Plaintiffs'/Respondents' Answer to Defendants' Rule 23(f) Petition
- Defendants' Motion for Leave to File Reply in Support of Rule 23(f) Petition

Merits Expert Reports:

- Expert Report of Christopher M. James, Ph.D. (for Defendants)
- Expert Report of David Bradford (for Plaintiffs)
- Expert Report of David I. Tabak, Ph.D. (for Plaintiffs)
- Expert Report of D. Paul Regan, CPA/CFF, plus schedules (for Plaintiffs)
- Expert Report of Lynn E. Turner (for Plaintiffs)
- Rebuttal Expert Report of David I. Tabak, Ph.D. (for Plaintiffs)
- Expert Report of Eric M. Gaier, Ph.D. (for Defendants)
- Rebuttal Expert Report of Christopher M. James, Ph.D. (for Defendants)
- Rebuttal Report of Prof. Steven Davidoff Solomon (for Defendants)
- Supplemental Section 11 and Section 12 Negative Causation Expert Report of Christopher M. James, Ph.D. (for Defendants)
- Expert Report of Howard Scheck (for Defendants)
- Expert Reply Report of Christopher M. James, Ph.D. (for Defendants)
- Expert Reply Report of David Bradford (for Plaintiffs)
- Reply Expert Report of David I. Tabak, Ph.D. (Damages) (for Plaintiffs)
- Reply Report of D. Paul Regan, CPA/CFF (for Plaintiffs)
- Additional Rebuttal Expert Report of David I. Tabak, Ph.D. (Negative Causation) (for Plaintiffs)
- Reply Report of Lynn E. Turner (for Plaintiffs)

Briefing on Motions to Dismiss

- Defendant Kesselman & Kesselman D/B/A Pwc Israel's Motion to Dismiss the Consolidated Class Action Complaint

- Teva Securities Act-Only Defendants' Motion to Dismiss the Consolidated Class Action Complaint
- Defendants Teva Pharmaceutical Industries Ltd., Vigodman, Desheh, Altman, Oberman, Olafsson, Peterburg, and Bhattacharjee's Motion to Dismiss the Consolidated Class Action Complaint
- Underwriter Defendants' Motion to Dismiss the Consolidated Class Action Complaint
- Plaintiffs' Omnibus Brief in Opposition To Defendants' Motions to Dismiss the Complaint
- Defendant Bank of China Limited London Branch's Motion to Dismiss the Consolidated Class Action Complaint
- Plaintiffs' Opposition to Defendant Bank of China Limited London Branch's Motion to Dismiss the Consolidated Class Action Complaint
- Bank of China Limited London Branch's Reply Memorandum of Law in Support of Its Motion to Dismiss the Consolidated Class Action Complaint
- Reply Memorandum of Law in Support of The Teva Securities Act-Only Defendants' Motion to Dismiss
- Reply Memorandum of Law in Support of Defendants Teva Pharmaceutical Industries Ltd., Vigodman, Desheh, Altman, Oberman, Olafsson, Peterburg, and Bhattacharjee's Motion to Dismiss
- Reply Memorandum of Law In Support of Defendant Kesselman & Kesselman D/B/A PWC Israel's Motion to Dismiss Plaintiffs' Consolidated Class Action Complaint
- Underwriter Defendants' Reply Memorandum of Law in Support Oof Their Motion to Dismiss the Consolidated Class Action Complaint
- Teva Defendants' Response to Plaintiffs' Submission of Additional Authority
- Defendants Maureen Cavanaugh and Allan Oberman's Motion to Dismiss
- Defendant Teva Pharmaceutical Finance Netherlands III B.V.'S Motion to Dismiss
- Defendants Teva Pharmaceutical Industries Ltd., Erez Vigodman, Eyal Desheh, Deborah Griffin and Sigurdur Olafsson's Motion to Dismiss
- Plaintiffs' Opposition to Defendants Teva Pharmaceutical Industries Ltd., Erez Vigodman, Eyal Desheh, Deborah Griffin And Sigurdur Olafsson's Motion to Dismiss Claims Under the Securities Exchange Act of 1934
- Plaintiffs' Opposition to the Motion to Dismiss by Defendants Oberman and Cavanaugh
- Plaintiffs' Opposition to the 33 Act Defendants' Motion to Dismiss the Securities Act Claims in the Amended Consolidated Class Action Complaint
- Reply Memorandum of Law In Support of Defendants Maureen Cavanaugh and Allan Oberman's Motion to Dismiss

- Reply Memorandum of Law in Support of Teva Pharmaceutical Finance Netherlands III B.V.’S Motion to Dismiss
- Reply Memorandum of Law In Support of Defendants Teva Pharmaceutical Industries Ltd., Erez Vigodman, Eyal Desheh, Deborah Griffin, and Sigurdur Olafsson’s Motion to Dismiss
- Plaintiffs’ Sur-reply to Provide Supplemental Authority in Further Opposition to Defendants’ Motions to Dismiss
- Plaintiffs’ Further Sur-reply to Provide Supplemental Authority in Further Opposition to Defendants’ Motions to Dismiss

Settlement Materials:

- Memorandum of Law in Support of Class Representatives’ Unopposed Motion for Preliminary Approval of Class Settlement and Authorization to Disseminate Notice of Settlement
- Stipulation of Settlement
- Notice of Settlement
- Proof of Claim and Release
- Summary Notice of Pendency and Proposed Settlement of Class Action
- Long-Form Notice of Pendency and Proposed Settlement of Class Action
- Order Preliminarily Approving Settlement and Providing for Class Notice
- Declaration of Jeffrey Davis, Ontario Teachers’ Pension Plan Board, in Support of Final Approval of Class Settlement and Plan of Allocation, Awards of Attorneys’ Fees and Litigation Expenses, and Awards of Reasonable Costs and Expenses to Class Representatives
- Declaration of Edward Jarvis, Anchorage Police & Fire Retirement System, in Support of Final Approval of Class Settlement and Plan of Allocation, Awards of Attorneys’ Fees and Litigation Expenses, and Awards of Reasonable Costs and Expenses to Class Representatives

Lodestar Information:

- Declaration of Joseph A. Fonti in Support of (I) Class Representatives’ Motion for Final Approval of Class Settlement and Approval of Plan of Allocation and (II) Lead Counsel’s Motion for Awards of Attorneys’ Fees, Litigation Expenses, and Reasonable Costs and Expenses to Class Representatives
- Declaration of Joseph A. Fonti in Support of Lead Counsel’s Motion for Awards of Attorneys’ Fees and Litigation Expenses, Filed on Behalf of Lead Counsel Bleichmar Fonti & Auld LLP and Bleichmar Fonti & Auld Canada
- Declaration of Susan R. Podolsky in Support of Lead Counsel’s Motion for Awards of Attorneys’ Fees and Litigation Expenses, Filed on Behalf of The Law Offices of Susan R. Podolsky
- Declaration of Marc Kurzman in Support of Lead Counsel’s Motion for Awards of Attorneys’ Fees and Litigation Expenses, Filed on Behalf of Carmody Torrance Sandak & Hennessey LLP

Academic Literature, Empirical Studies, and Reports

- ALM Intelligence, *2017 NLJ Billing Report*
- Theodore Eisenberg and Geoffrey Miller, Attorney Fees and Expenses in Class Action Settlements: 1993–2008, 7 *Journal of Empirical Legal Studies* 248 (2010)
- Theodore Eisenberg, Geoffrey Miller and Roy Germano, Attorneys' Fees in Class Actions: 2009-2013, 92 *N.Y.U. L. Rev.* 937 (2017)
- Brian T. Fitzpatrick, An Empirical Study of Class Action Settlements and Their Fee Awards, 7 *Journal of Empirical Legal Studies* 811 (2010)
- Amy Kolz, *Bankruptcy Rates Top \$1,000 Mark In 2008-09*, *The Am. Law Daily* (Dec. 16, 2009)
- *Associate Billing Rates Are Growing Faster Than Partner Rates*, <https://www.law.com/americanlawyer/2022/02/03/associates-billing-rates-are-growing-faster-than-partner-rates/> (summarizing Wolters Kluwer ELM Solutions, *2021 Real Rate Report*).
- Janeen McIntosh and Svetlana Starykh, *Recent Trends in Securities Class Action Litigation: 2021 Full-Year Review*, NERA Economic Consulting, January 22, 2022
- PwC, *Billing Rate and Associate Salary Survey 2021*