

The Honorable Benjamin H. Settle

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON AT TACOMA

TROY SLACK, JACOB GRISMER,  
RICHARD ERICKSON, SCOTT PRAYE,  
GARY H. ROBERTS, ROBERT P. ULLRICH,  
HENRY LEDESMA, TIMOTHY HELMICK,  
DENNIS STUBER, ERIC DUBLINSKI,  
SEAN P. FORNEY, individually and as Class  
Representatives,

Plaintiffs,

v.

SWIFT TRANSPORTATION CO. OF  
ARIZONA, LLC,

Defendant.

CLASS ACTION

No. 3:11-cv-05843-BHS

**DECLARATION OF JENIPHR A.E.  
BRECKENRIDGE IN SUPPORT OF  
PLAINTIFFS' MOTION FOR  
ATTORNEYS' FEES, COSTS,  
EXPENSES, AND SERVICE AWARDS**

NOTE ON MOTION CALENDAR:  
January 22, 2019, 10:00 a.m.

I, JENIPHR A.E. BRECKENRIDGE, declare as follows:

1. I am an attorney licensed to practice in the Western District of Washington. I am a partner in the law firm of Hagens Berman Sobol Shapiro LLP ("Hagens Berman" or "Class Counsel"), attorneys of record for Plaintiffs and the Class. I have personal knowledge of the matters stated herein and, if called upon, I could and would competently testify thereto. I submit this declaration in support of Plaintiffs' Motion For Attorneys' Fees, Costs, Expenses, and Service Awards.

2. The attorneys' fees and expenses provision in the parties' Class Action Settlement Agreement and Release (Settlement Agreement) provides that Class Counsel may petition the

1 Court “for approval of Class Counsel’s attorneys’ fees and expenses not to exceed \$2,050,000.”  
 2 Dkt. No. 309-1 at § III.C. Swift has agreed to pay this negotiated amount, or any alternate  
 3 amount that the Court orders, “in addition to and separate from the Settlement Fund.” Dkt. No.  
 4 309-1 at § III.C. This is the amount Class Counsel now seeks. As discussed below, Plaintiffs’  
 5 revised lodestar in the case is \$3,565,930 and revised costs are \$240,000.00. “Revised” here  
 6 means that I carefully reviewed our time and cost records in the case to determine whether we  
 7 should eliminate any time or expenses as redundant, unnecessary, or because they did not  
 8 contribute to the result. Thus, the requested attorneys’ fees and costs award of \$2,050,000.00  
 9 represents \$1,810,000.00 in fees and \$240,000.00 in costs. This represents a negative 0.5  
 10 multiplier to lodestar. I discuss the specifics of our lodestar, including the revisions, in further  
 11 detail below.

12 3. We have also agreed to pay Nelson Boyd, PLLC, who has acted as liaison counsel  
 13 in this case, 6% of any attorneys’ fees and costs award the Court approves. This will be paid out  
 14 of the amount awarded, and will not affect in any way the Settlement Fund available to the Class  
 15 or the distribution to the Class. This 6% payment has also not been taken into account in the  
 16 calculations of Hagen Berman’s original lodestar, revised lodestar, the multiplier, or the original  
 17 or revised costs.

#### 18 **HAGENS BERMAN’S QUALIFICATIONS AND EXPERIENCE**

19 4. Hagens Berman is a leader in class-action litigation. The firm has achieved  
 20 extraordinary results for millions of consumers, investors, employees, inventors, and  
 21 whistleblowers.

22 5. A true and accurate copy of the firm resume with pertinent biographies is attached  
 23 as Exhibit C to this declaration. *See also* <http://www.hbsslaw.com>.

24 6. This case involved the work of several highly experienced current and former  
 25 firm lawyers and professional staff. Hagens Berman lawyers and the professionals who worked  
 26 on this case have litigated and resolved hundreds of complex class action cases at various stages  
 27 in the litigation process from early resolution to post-trial and post-appeal. It is this depth and  
 28

1 breadth of experience that enabled us to assume the Class Counsel role after the Court's Order to  
 2 Show Cause why the case should not be decertified in July 2015 and prosecute the case to its  
 3 successful conclusion for the benefit of the Class.

4 7. It is my opinion, and the opinion of my colleagues who worked on this case, that  
 5 the Settlement is fair and reasonable under the circumstances. All living Class Representatives  
 6 approved the Settlement and support our application for fees and costs.

7 8. We as a firm and as individual lawyers have extensive experience in successfully  
 8 prosecuting class actions throughout the United States, including in our law firm's home state of  
 9 Washington. The firm has represented millions of plaintiffs in large-scale, nationwide cases  
 10 involving, *inter alia*, employment claims, product liability, consumer protection and fraud, tort,  
 11 antitrust, and securities and investment fraud, and has recovered billions for the classes it  
 12 represented. Some of these groundbreaking recoveries include:

- 13 a. *Visa-MasterCard Antitrust Litigation*, Case No. CV-96-5238 (E.D.N.Y.) –  
 14 Hagens Berman was co-lead counsel in this suit that challenged the  
 15 charges imposed in connection with debit cards. The result was the largest  
 16 antitrust settlement in history – a \$3.05 billion cash settlement and  
 17 injunctive relief valued at over \$20 billion.
- 18 b. *In re Toyota Motor Corp. Unintended Acceleration Mktg., Sales Practices,*  
 19 *& Prods. Liab. Litig.*, 8:10ML2151 JVS (C.D. Cal.) – As co-lead counsel,  
 20 we alleged a defect causing dozens of models spanning an eight year  
 21 period to undergo sudden, unintended acceleration. The Firm's efforts  
 22 resulted in a \$1.6 billion settlement that included \$500 million in cash  
 23 payments to class members; installation of a safety-enhancing brake  
 24 override system on millions of vehicles; and a substantial extended  
 25 warranty for millions of consumers. To our knowledge, this was the  
 26 largest automobile class settlement in U.S. history.
- 27 c. *In re Elec. Books Antitrust Litig.*, 11-md-2293 DLC (S.D.N.Y.) – Hagens  
 28 Berman pioneered this litigation as lead counsel against Apple and the  
 largest e-book publishers. We partnered with the U.S. Department of  
 Justice and 33 state attorneys general, representing purchasers of e-books  
 in 19 states and four U.S. territories. Consumers will receive \$560 million  
 in benefits on single damages of \$270 million.
- d. *Average Wholesale Price Drug Litigation* – Hagens Berman was co-lead  
 counsel to several certified classes in litigation against the nation's largest  
 pharmaceutical companies. The suits allege that defendants artificially  
 inflated the Average Wholesale Price used as a benchmark for almost all

1 prescription drug sales in the United States. Hagens Berman was lead trial  
 2 counsel in a consolidated trial resulting in verdicts against AstraZeneca  
 3 and BMS, and class settlements approximating \$338 million were  
 approved in favor of consumers and health plans.

- 4 e. *McKesson and First DataBank Drug Litigation* – Hagens Berman was  
 5 lead counsel in this RICO case alleging that McKesson and First  
 6 DataBank fraudulently inflated the prices of more than 400 prescription  
 7 drugs by manipulating drug-pricing benchmarks. The class action against  
 8 McKesson settled for \$350 million on the eve of trial. The First DataBank  
 9 settlement resulted in a four percent rollback on the prices of 95% of the  
 10 nation’s retail branded drugs – a net impact of potentially billions of  
 11 dollars. Building on the recovery against McKesson, Hagens Berman  
 represents six states (Oregon, Virginia, Utah, Montana, Mississippi, and  
 Connecticut), the City and County of San Francisco, and other local  
 government agencies in their efforts to recoup the damages caused to their  
 health plans by McKesson’s scheme. The county public-payor case (a  
 class of counties) settled for \$82 million, and the City and County of San  
 Francisco settled its claims for \$12.5 million.
- 12 f. *Schwab: YieldPlus Funds* – Hagens Berman filed the first class action  
 13 against Charles Schwab Corporation, alleging that Schwab deceived  
 14 investors about the underlying risk in its YieldPlus Funds Investor Shares  
 and YieldPlus Funds Select Shares. The Court approved a \$235 million  
 15 settlement.
- 16 g. *Enron ERISA Litigation* – Hagens Berman was co-lead counsel in this  
 17 litigation and recovered over \$220 million in settlements for the benefit of  
 former Enron employees. This is the largest ERISA settlement in history.
- 18 h. *DRAM Manufacturers* – Hagens Berman filed a class-action suit against  
 19 the leading DRAM (Dynamic Random Access Memory) manufacturers,  
 20 claiming the companies secretly agreed to reduce the supply of DRAM in  
 21 order to artificially raise prices. DRAM is a necessary component in a  
 22 wide variety of electronics, such as personal computers, cellular  
 23 telephones, and digital cameras because it allows for the storage and  
 retrieval of electronic data. Plaintiffs included equipment manufacturers,  
 franchise distributors, smaller-volume customers, and consumers who  
 purchased DRAM from any of the named defendants. The case settled for  
 \$300 million.
- 24 i. *Volkswagen “Clean Diesel” MDL* (N.D. Cal.). As lead counsel for the  
 25 Volkswagen Franchise Dealers, we received final approval of a settlement  
 of \$1.2 billion, representing a result of nearly full damages for the class.
- 26 j. *In re Stericycle, Inc. Steri-Safe Contract MDL* (N.D. Ill.). As lead counsel  
 27 in this contract-based case involving pricing for medical-waste services,  
 28 we and our clients recovered \$295 million for the class after intensive  
 discovery, litigation, and economic

modeling. The late Judge Milton Shadur, a true lion of the bench, deeply honored Hagens Berman by observing: “[I]t must be said that the track record of Hagens Berman and its lead partner Steve Berman is . . . impressive, having racked up such accomplishments as a \$1.6 billion settlement in the Toyota Unintended Acceleration Litigation and a substantial number of really outstanding big-ticket results.” *In re Stericycle, Inc.*, 2013 WL 5609328, at \*2 (N.D. Ill. Oct. 11, 2013).

## **THE SETTLEMENT AGREEMENT AND ATTORNEYS’ FEES, COSTS, AND EXPENSES**

### **Settlement Agreement**

9. The proposed settlement provides an immediate and substantial non-reversionary benefit of \$5,050,000.00 to the Class and, if approved, will result in the distribution of millions of dollars to the Class. The proposed settlement provides recoveries for overtime pay for all Class Members, and orientation and per diem recoveries for eligible Class Members. The recoveries for the overtime and per diem claims will be made directly to participating Class Members, with no additional action required. The claims process for the orientation claims is simple and straightforward. The recovery for the Class includes full recovery of two days of time that affected Class Members spent in orientation; 66% recovery for Class Members with per diem claims; and an estimated recovery on the Class overtime damages of close to 70%. *See Breckenridge Decl. in Support of Plaintiffs’ Renewed Motion for Preliminary Approval of Class Action Settlement at ¶¶ 6a-d (Dkt. No. 309).*

### **Attorneys’ fees, costs, and expenses under the settlement agreement**

10. As for Plaintiffs’ attorneys’ fees, costs, and expenses, the parties addressed the recovery of these following negotiation of the substantive terms of the proposed class settlement. Regarding attorneys’ fees specifically, as noted, the parties have agreed that Class Counsel may seek approval of attorneys’ fees and expenses not to exceed \$ 2,050,000.00, and that Swift will not oppose that. *See Dkt. No. 309-1 at § III.C.* Of course, this fee request is subject to Court approval, which Plaintiffs now seek.

11. Once class damages were agreed, the Parties began negotiations concerning fees and costs. The parties’ negotiations of fees and costs took place over the course of three weeks beginning after the settlement of Class claims

1 through multiple emails, telephone calls, and one in-person meeting. My law partner Tom Loeser  
 2 and I met with Swift counsel and showed them our billing records for the case as part of the  
 3 negotiations.

4 12. At no point during the fee negotiations between Swift and Class Counsel did  
 5 Class Counsel or Swift discuss or contemplate that any fees should be allocated to the Cochran  
 6 Firm, whom the Court had dismissed from the case based on the Court's concerns regarding  
 7 "adequacy," competency, and delay. At the time of the parties' discussions, Plaintiffs believed  
 8 that to the extent the Cochran Firm would imagine they were entitled to fees following the  
 9 Court's Order to Show Cause, and after the risks their representation posed to the Class's claims,  
 10 any such fee request would be made directly to the Court and would be wholly independent of  
 11 any fee agreement between Plaintiffs and Swift. In fact, Class Counsel could not have even  
 12 negotiated on behalf of the Cochran Firm, which was not involved in the case after the Hagens  
 13 Berman substitution, because Class Counsel had not been in the case at the same time as the  
 14 Cochran Firm and the only evidence Class Counsel had of the fees was the Court's Order to  
 15 Show Cause and the status of the case and the case file at the time of substitution.

16 13. The fact that Cochran Firm fees were beyond the contemplation of the parties was  
 17 evidenced by Class Counsel's agreement to accept to a gross 57% and net 49% reduction in their  
 18 lodestar fee to bring finality to the case.

19 14. We attempted to negotiate separate attorneys' fees and costs from Swift for  
 20 Nelson Boyd's work in the case, but Swift declined. We then agreed to pay Nelson Boyd 6% of  
 21 the fees and costs the Court approves for Hagens Berman in this case. As noted, this amount will  
 22 be paid by Hagens Berman to Nelson Boyd out of any approved fees and costs awarded, and will  
 23 not impact the Settlement Fund or the funds distributed to the Class in anyway.

## 24 SUMMARY OF HAGENS BERMAN TIME ACCRUED

### 25 Time and categories

26 15. Attached as Exhibit A is a chart setting forth Class Counsel's revised lodestar at  
 27 historic rates, which totals \$3,565,930. It is the policy of our firm to maintain daily,  
 28

1 contemporaneous billing records setting forth time entries in increments of one-tenth of an hour.  
 2 I describe this as “revised lodestar” because I personally reviewed all our time entries to identify  
 3 any work that might be deemed excessive, duplicative, or otherwise unnecessary to the  
 4 prosecution of this case. I then eliminated this time from our lodestar. I also eliminated time for  
 5 16 time billers whose work on the case was minimal. This is our practice to ensure that we do not  
 6 include unnecessary time that such lawyers and staff may have expended ramping up on the case  
 7 history and underlying facts for limited contributions to the case.

8 16. In total, our time was reduced by 1,523 hours, or 684,532 dollars. We have  
 9 written off this time, and it is not included in any totals here.

10 17. The entries we reviewed for possible inclusion in our lodestar submittal were for  
 11 time accrued by Hagens Berman professionals since July 2015, when we were first contacted by  
 12 the Cochran Firm regarding the Order to Show Cause and the possibility of substituting in as  
 13 Class Counsel, through November 1, 2018. Following our review and revisions, we arrived at the  
 14 \$3,565,930 in time we now present to the Court.

15 18. To aid the Court in its analysis, I have broken down the Hagens Berman time by  
 16 timekeeper, hours spent, and hourly rate, and we have placed these entries into seven categories  
 17 to aid the Court in its review. *See* Ex. A. These categories are: (a) Investigation / Research; (b)  
 18 Case Management & Client Contact; (c) Discovery; (d) Expert Work; (e) Motions Practice; (f)  
 19 Trial Preparation; (g) Mediation / Settlement / Post Settlement. Descriptions of the work in each  
 20 category follows:

21 (a) **Investigation and research:** Investigation and analysis of fact, legal, and  
 22 technical issues pertaining to plaintiffs’ claims; legal and factual research,  
 23 including analysis of the trucking industry and trucking industry pay practices  
 24 and Swift’s payroll system; and the time Hagens Berman spent in the  
 25 transition of the case from Original Counsel;

26 (b) **Case management and client contact:** Consultation with Class  
 27 Representatives and Class Members throughout the pendency of the case;  
 28

1 innumerable phone conferences and emails and correspondence with Swift  
2 counsel regarding case issues; coordination among counsel and staff re: work  
3 assignments and needed projects and tasks; case management measures with  
4 the Court (including multiple stipulated motions and joint status reports);

5 (c) **Discovery:** Written (Interrogatories, Requests for Production, and Requests  
6 for Admission served after Hagens Berman was appointed lead counsel, as  
7 well as pursuit to completion of stalled discovery outstanding when Hagens  
8 Berman was appointed); deposition (depositions of experts and multiple  
9 depositions of Swift employee fact witnesses and Swift's 30(b)(6) designees);  
10 review and analysis of Swift-produced data and other evidence;

11 (d) **Expert Work:** Identification and retention of Class expert; work with expert  
12 to develop damages model and related report and rebuttal of Swift experts'  
13 opinions and *Daubert* hearing testimony; discovery of Swift's two experts;  
14 and *Daubert* challenges to Swift's two experts; multiple-day hearing on expert  
15 opinions;

16 (e) **Motions Practice:** two successful motions to compel and related conferrals  
17 and discussions: one focused on the production of Swift payroll systems and  
18 practices and the second challenged Swift's privilege claims; court hearings  
19 on motions to compel; *Daubert* motions (multiple rounds) with full  
20 evidentiary hearing, as noted above;

21 (f) **Trial Preparation:** pre-trial submissions; drafting and exchanging jury  
22 instructions with Swift; trial exhibit lists and related objections; deposition  
23 designations for trial and related objections; witness preparation; pre-trial  
24 conference; pre-trial statement; motions *in limine*; trial logistics (arranging for  
25 audio-visual, lodging and conference space during trial);

26 (g) **Mediation / Settlement / Post Settlement:** Consultation with Class  
27 Representatives regarding settlement issues; settlement negotiations and  
28

mediation, and the drafting of mediation briefing; two in-person mediations with Judge Charles Burdell (Ret'd.); continuing negotiations with Swift related to the Settlement; drafting and analysis of term sheets; negotiations of attorneys' fees; drafting and revision of settlement-related documents, including the Settlement Agreement; research and draft initial (2017) and renewed (2018) motions for preliminary approval; working with nine surviving Class Representatives in support of motions for preliminary approval; research and draft multiple submissions to the Court on the scope of the settlement; preparation for and argument at one hearing related to the submissions; continued negotiations related to the settlement leading to the August 2018 Amendment No. 1 to the Settlement Agreement; developing and drafting a suitable notice program in the case; working with the settlement administrator and Swift on notice documents and the claim form;

#### **HAGENS BERMAN HOURLY RATES**

19. The billing rates for each attorney or other professional who worked on this matter were established by Hagens Berman and reflect each professional's experience and training, and they are comparable to rates charged in this judicial district. These rates also represent our firm's customary and actual billing rates for work similar to that performed in this matter. Additional information about each current partner and associate is available on the firm's website and in the firm resume attached as Ex. C to this declaration.

#### **Key attorneys who worked on this matter**

**Steve Berman** has been an attorney for over 35 years and is a founding member and managing partner of Hagens Berman. His current rate is \$975 per hour. Mr. Berman has won countless awards and accolades for his many successes at the helm of some of the largest class settlements in history. Mr. Berman has served as lead or co-lead counsel in securities, consumer, products liability, antitrust, employment class actions, and complex litigation throughout the country.

1       **Jeniphr Breckenridge**, a partner at Hagens Berman, has been an attorney for nearly 30  
2 years and is a firm founder. Her current hourly rate is \$650. Ms. Breckenridge was the attorney  
3 responsible for the day-to-day prosecution of the lawsuit. Ms. Breckenridge's practice  
4 concentrates on class actions, including consumer, automobile defects, securities litigation fraud,  
5 and wage and hour claims.

6       **Ari Brown** was a Hagens Berman partner until September 2016 when he left Hagens  
7 Berman to pursue other, non-legal ventures. Mr. Brown had been an attorney for 17 years. His  
8 hourly rates during his work on the lawsuit were \$525 and \$552. Mr. Brown's practice focused  
9 consumer rights.

10       **Lee Gordon** was a Hagens Berman partner until March 2017 when he voluntarily left  
11 Hagens Berman to pursue other, non-legal ventures. His hourly rates during his work on the  
12 lawsuit were \$650 and \$683. Mr. Gordon has considerable experience in employment related  
13 cases, including the *Costco Wholesale Corporation Litigation* (representing a certified class of  
14 California employees who claim they were wrongly denied overtime compensation, breaks and  
15 other benefits), and the *Schneider National Carriers, Inc. Litigation* (representing two certified  
16 classes of California employees (truck drivers and mechanics) in separate cases seeking to  
17 address alleged unfair pay schemes).

18       **Tom Loeser**, a partner at Hagens Berman, has been an attorney for 19 years. He was an  
19 associate at Wilson Sonsini Goodrich and Rosati until he was appointed to serve as an Assistant  
20 United States Attorney in Los Angeles in 2002. Mr. Loeser was a federal criminal prosecutor,  
21 and served in the Cyber and Intellectual Property Crimes section until he joined Hagens Berman  
22 in 2008. His current rate is \$700 per hour. He has extensive jury trial experience as well as  
23 extensive experience in complex and technology-centered consumer class actions.

24       **Robert Lopez**, a partner at Hagens Berman, has been an attorney for 26 years. His  
25 current rate is \$575 per hour. He has extensive experience in complex commercial litigation and  
26 various other sorts of disputes, including individual, multi-party and class action cases. His cases  
27 have involved product defect, contract, warranty, drug pricing, consumer protection and fraud,  
28

1 securities, antitrust, False Claims Act, and consumer privacy issues.

2 **Christopher O'Hara**, a partner at Hagens Berman, has been an attorney for 25 years.  
3 His current hourly rate is \$625. Mr. O'Hara's practice focuses on antitrust, consumer, tax and  
4 securities litigation. Mr. O'Hara also plays a key role in working with notice and claims  
5 administrators on all the firm's class settlements and class notice programs.

6 **Anthea Grivas**, an associate at Hagens Berman, has been an attorney for 17 years. Her  
7 current hourly rate is \$473. Ms. Grivas has complex multi-party litigation experience with an  
8 emphasis on anti-trust price-fixing, product liability and nationwide class action cases on behalf  
9 of consumers.

#### 10 **Key paralegal who worked on this matter**

11 The firm also relied on the following paralegal, whose rate is usual and customary based  
12 on years of litigation experience.

13 **Robert N. Haegele**. Mr. Haegele is a senior paralegal at Hagens Berman. His current  
14 hourly rate is \$200. Mr. Haegele has over 25 years of litigation paralegal experience, primarily in  
15 highly complex class action litigation. His rate has been approved on multiple occasions by  
16 courts within the Ninth Circuit and throughout the United States.

17 20. The Hagens Berman hourly rates that we applied in this matter are consistent with  
18 prevailing rates in this judicial district.

#### 19 **HAGENS BERMAN ACCRUED EXPENSES**

20 21. Attached as Exhibit B is a chart setting forth Hagens Berman's revised costs,  
21 which total \$240,000 (rounded). Like the accrued time, I describe these as "revised costs"  
22 because I personally reviewed all of the costs, which were maintained contemporaneously by our  
23 accounting department, to identify any that might be deemed duplicative, unnecessary, or  
24 otherwise did not contribute to the result. As a result of this review, I eliminated a single charge  
25 of \$13,000.00 for an expert whose work we did not use and did not contribute to the Class's  
26 benefit.

27 22. To aid the Court in its analysis, I have broken down the Hagens Berman costs,  
28

1 and we have placed these entries into 17 categories to aid the Court in its review. *See* Ex. B.  
 2 Notably, 66% of the accrued expenses are attributable to the work of Dr. Steward and  
 3 Employstats, his firm.

4 23. Based on our experience, we believe that the expenses incurred in this case are  
 5 typical of cases of this sort and size. Reimbursement of costs and expenses is contemplated by  
 6 the Settlement Agreement. *See* Dkt. No. 309-1 at § III.C.

7 **CIRCUMSTANCES SURROUNDING APPOINTMENT OF HAGENS BERMAN**  
 8 **AS CLASS COUNSEL**

9 24. The Court appointed Hagens Berman as Class Counsel on September 2, 2015.  
 10 Dkt. No. 139.

11 25. Class Counsel understands that the Court originally appointed the Cochran Firm  
 12 of Dothan, Alabama as class counsel, with Nelson Boyd of Seattle as local counsel, pursuant to  
 13 Fed. R. Civ. P. 23 at the time it certified the Class in this case (“Original Counsel”), although the  
 14 appointments are not expressly referenced in the class certification order. Dkt. No. 83.

15 26. Class Counsel further understands that Original Counsel worked on the case for  
 16 almost two years after class certification, during which time they unsuccessfully attempted to  
 17 obtain discovery from Swift and to obtain approval of class certification notice and notice plan.

18 27. After Original Counsel filed the second motion for approval of class certification  
 19 notice and notice plan (Dkt. No. 103), the Court issued its Order to Show Cause why the Court  
 20 should not vacate the class certification order. Dkt. No. 121. The Court questioned the  
 21 “competency” of Original Counsel and raised “serious concerns on whether the class is  
 22 adequately served by current counsel.” Dkt. No. 121 at 2-3. The Court found that Original  
 23 Counsel had “significantly delayed the prosecution of this case,” and “wasted almost a year”  
 24 preparing class notice and had “prolonged” the litigation. *Id.* at 3. Citing these factors, the Court  
 25 expressed its concerns that the action could not continue as a class action and should be  
 26  
 27  
 28

1 decertified. *Id.* at 5.

2       28. Within days after the Court issued the Order to Show Cause, Original Counsel,  
3 and specifically the Cochran Firm, contacted Hagens Berman (partners Rob Carey and Steve W.  
4 Berman) to ask if the firm would be willing to substitute as class counsel, subject to Court  
5 approval. I became involved in the case within days of the initial contact and remained involved  
6 in the case continuously. Cochran Firm lawyers told me that they had contacted us because of  
7 our experience and reputation for success in prosecuting complex class actions.  
8

9       29. Hagens Berman agreed, but only after, at Hagens Berman's request, Original  
10 Counsel sought and obtained all Class Representatives' approval of the potential substitution.  
11 Plaintiffs then responded to the Order to Show Cause with a request that substitute counsel be  
12 appointed as class counsel. Dkt. No. 124. Swift objected to the substitution on grounds that the  
13 litigation had been delayed long enough by Original Counsel. Dkt. No. 129. The Court granted  
14 Plaintiffs leave to move for Hagens Berman's substitution over Swift's objection, and  
15 subsequently appointed Hagens Berman as sole Class Counsel. Dkt. No. 139.  
16

17       30. When the Cochran Firm asked Hagens Berman to take over the representation of  
18 the Class, if the Court approved, there were never any discussions or agreements between the  
19 firms or any of the respective lawyers that the Cochran Firm would be entitled to a fee or seek a  
20 fee. I personally never had any discussions with them on this topic and confirmed that my  
21 partners did not either. This was not surprising given the circumstances of Hagens Berman's  
22 appointment and the contents of the Order to Show Cause. Frankly, we would not have agreed to  
23 such an arrangement and could not have supported it given what little we knew of the Original  
24 Counsel's work and the status of the case or even their general reputation. We had never worked  
25 the Cochran Firm, and have not since. We never agreed to request fees for them, share fees with  
26 them, or support any fee requests by them. We reminded the Cochran Firm of this in September  
27  
28

1 2017 after we settled the Class claims and, separately, our attorneys' fees and costs.

2 31. After the Court appointed Hagens Berman as Class Counsel, the only work the  
3 Cochran Firm was asked to do related to transferring the case file to Hagens Berman (including  
4 tracking down missing pieces) and responding to Hagens Berman's questions. Nelson Boyd also  
5 assisted us in transitioning the case and then continued to serve in a liaison capacity.  
6

7 32. At the time Hagens Berman was appointed, the Court had certified a class (in  
8 2013), but a class certification notice and notice plan had not been approved. In addition, despite  
9 the fact that case had been brought four years earlier and a class had been certified, discovery  
10 had not been completed and, frankly, what discovery had been conducted (written and  
11 depositions) was in disarray and subject to extensive, overlapping, and unresolved objections by  
12 Swift. We did not learn this until after the Court appointed us Class Counsel and we began to  
13 receive pieces of the file.  
14

15 33. I quickly learned that other aspects of the case were also in a disarray. For  
16 example, after four years no Protective Order and no ESI Order had been entered in the case. To  
17 me, the most alarming example of the lack of preparedness of the case was the fact that at the  
18 time the Court issued the Order to Show Cause, expert discovery deadlines were imminent –  
19 August 31, 2015 – and Original Counsel had neither had experts conduct any analysis nor  
20 prepared disclosures. I later personally confirmed this by talking to each of the three experts the  
21 Cochran Firm had been in touch with.  
22

23 34. The first work we did in the case was to sort through the multiple sets of written  
24 discovery that Original Counsel had served on Swift, and Swift's extensive objections to that  
25 discovery.  
26

#### 26 HAGENS BERMAN'S WORK IN THE CASE

27 35. This case was unquestionably novel, and it was hard-fought after Hagens Berman  
28

1 was appointed Class Counsel. The case focused on questions concerning overtime pay for  
2 Washington-based truck drivers and how that pay should be calculated, an issue that had not  
3 been fully litigated before. Beyond the usual complexities of an employment class action and  
4 proof of liability, the case required the application of a methodology for determining what driver  
5 overtime should be under Washington's unique statute and how that pay should be calculated  
6 absent any clear precedent. This required Hagens Berman to take a very deep dive with the Class  
7 expert into Swift's complex accounting system.

8         36. On top of the challenges in determining how overtime should be calculated, we  
9 faced numerous obstacles to uncovering the data and other evidence we and our experts required  
10 from Swift to make that determination. We sought the data and evidence through a motion to  
11 compel. In resolving the motion to compel, the Court granted extraordinary relief, ordering Swift  
12 to provide Plaintiffs with an informal, real-time tutorial by Swift personnel on the payroll  
13 system; and allowing Plaintiffs to take the deposition of Swift's expert two times. The Court later  
14 recognized the complexities of Swift's payroll system and the work of the parties and their  
15 experts to unravel it in a later order. Dkt. No. 303 at 9 ("[N]ow that experts have dissected  
16 Swift's complicated accounting system, there may exist a clearer definition of Swift's  
17 Washington-based drivers.").

18         37. Swift produced data and more than 200,000 documents in electronic form after  
19 the Court appointed us, including payroll and pay-related databases, Department of  
20 Transportation log records, and other employment data for the Class. We loaded the electronic  
21 documents and data on a document platform and analyzed them. We also served public records  
22 requests on the Washington Department of Labor and industries related to REOT. We also took  
23 the depositions of more than one dozen Swift employees as fact or Rule 30(b)(6) designees. All  
24 Class Representatives were deposed before we became involved in the case.

25         38. The term "battle of the experts" may be overused in litigation, but here, it was  
26 true. Ultimately, the Court held a two-day *Daubert* hearing two months before trial to attempt to  
27 determine whether there was a clear methodology that should be applied to Plaintiffs' overtime  
28

1 claims. Before and after the hearing, the parties submitted extensive briefing on the issue at the  
2 Court's request. The Court determined that the issue would be submitted to the jury. Although,  
3 the Court did limit the scope of Swift's expert testimony somewhat.

4 39. We moved for partial summary judgment, asking the Court to rule as a matter of  
5 law in favor of Plaintiffs and the Class on Swift's liability for the Overtime Claim and the  
6 Orientation Claim. The motion was fully briefed. The Court granted summary judgment on the  
7 Orientation Claim only. Swift's liability for the Overtime Claim was left for trial.

8 40. Throughout our time on the case, we faced experienced and highly skilled  
9 opposing lawyers from Williams Kastner – a renowned Washington State firm – all with well-  
10 deserved reputations for strong and vigorous advocacy – which they exhibited here – in the  
11 defense of their clients. I had no question that they were prepared to take the case through trial.

12 41. A jury trial was set for September 19, 2017. Even while they pursued summary  
13 judgment and the Daubert briefing and hearing, the Parties prepared for trial. We had prepared  
14 and exchanged LR 16(h) pretrial statement; deposition designation and counter-designations and  
15 related objections; jury instructions; and motions *in limine* – as well as in-person conferral on  
16 these matters. The parties stipulated to several orders *in limine*, and filed motions *in limine* for  
17 the evidentiary issues on which they could not agree.

18 42. The parties got within weeks of the September 2017 trial before the case settled at  
19 the end of August. The Parties participated in a mediation before Judge Charles S. Burdell, Jr.  
20 (Ret'd) at the end of August. It was our second mediation session with Judge Burdell. The first,  
21 two months before, had been unsuccessful. Tom Loeser and I participated in the second  
22 mediation on behalf of the Class. We reached agreement to settle class-wide damages for all  
23 claims for \$5,050,000.00 and prepared a term sheet, which we and Judge Burdell signed. Other  
24 terms agreed to that day include Service Awards for each Class Representative in the amount of  
25 \$7500, that attorneys' fees would be negotiated later and paid separately, and Swift would pay  
26 all settlement administration costs. We did *not* discuss an amount for attorneys' fees that day.

27 43. After the mediation, Tom Loeser and I began to negotiate attorneys' fees and  
28

1 expenses, as I explained above. The negotiations took three weeks. We *never* broached or  
2 considered any fees for the Cochran Firm for the reasons stated above. We raised the possibility  
3 that Nelson Boyd and/or Original Counsel might seek fees, but Swift declined to negotiate the  
4 resolution of any additional fee petitions. As a result of the protracted negotiations, Swift agreed  
5 to pay Class Counsel's fees and costs of \$2,050,000 capped.

6 44. The Court preliminarily approved the Settlement. Swift deposited the settlement  
7 funds into an escrow account where they have been accruing interest since, per the Settlement  
8 Agreement. Preliminary approval was withdrawn after a disagreement arose between the Parties  
9 over the scope of the Settlement release. The settlement of the Orientation and Per Diem Claims  
10 were unaffected. With the Court's guidance, the Parties engaged in several rounds of briefing  
11 concerning their disagreement. The Parties continued their discussions, exchanging data and  
12 other materials, over the next year. In August, 2018, we reached an agreement to amend the  
13 Settlement Agreement. This resulted in Amendment No. 1 to the Settlement Agreement, and the  
14 subsequent and successful renewed motion for preliminary approval, including class notice.

### 15 **RESULT**

16 45. As a result of the work we did in this case, in which we and our clients  
17 continually faced difficult challenges of law and fact, we were able to achieve a \$5.05 million  
18 non-reversionary cash settlement for the Class and an agreement by Swift to pay settlement  
19 administrative expenses and attorneys' fees separately. This is an excellent result for the Class.  
20 Nearly a 70% recovery. As noted above, the trial was shaping up to be a battle of the experts and,  
21 if the jury accepted Swift's expert Angela Sabbe's opinion that Swift had paid overtime, the  
22 Class stood to recover nothing after six years. We are confident that the time and effort spent  
23 bringing this case to this conclusion was reasonable and evidences an efficient use of the Class  
24 resources.

### 25 **ADDITIONAL WORK AHEAD**

26 46. Additional work remains to be done. The final approval hearing is scheduled for  
27 January 22, 2019, and we presently estimate that before then we will need to work approximately  
28

1 50 additional hours to answer questions posed by Class Members or the settlement administrator,  
2 to draft and file final approval papers, to draft responses to any objections by Class Members, to  
3 respond to any fee petitions submitted by the Cochran Firm, and to prepare for argument. Also,  
4 beyond the final approval hearing, assuming final approval is granted, we presently estimate that  
5 an additional 30 hours of work may be necessary to attend to the issues that will arise during the  
6 administration of the settlement and to field inquiries from Class Members regarding the  
7 settlement. While the claims-paid nature of the Overtime and Per Diem claims and the  
8 straightforward method for making Orientation claims under the settlement will minimize issues  
9 such as claims eligibility, because of the long class period and the fact that this has been a class  
10 with a high level of engagement will likely lead to substantially more direct class  
11 communications between Class Counsel and the individual Class Members. These are  
12 conservative projections; we could be required to spend much more time on any or all of these  
13 tasks, as matters develop. Of course, since Class Counsel's attorneys' fees and costs are capped  
14 under the Settlement Agreement, subject to Court approval, Class Counsel will be performing  
15 the work described in this paragraph without additional fees.

#### 16 **CLASS REPRESENTATIVES DESERVE SERVICE AWARDS**

17 47. This matter would never have been brought, and could not have proceeded  
18 through litigation and to the settlement now before the Court were it not for the service of the  
19 Class Representatives: Troy Slack, Jacob Grismer, Richard Erickson, Scott Praye, Gary H.  
20 Roberts, Robert P. Ullrich, Henry Ledesma, Timothy Helmick, Dennis Stuber, Eric Dublinski,  
21 and Sean P. Forney. The Class Representatives persevered through seven years of litigation,  
22 including four years during which very little was accomplished. As set forth in greater detail in  
23 the surviving class representatives' supporting declarations, all the class representatives assisted  
24 with pre-filing investigation and research; consulted with Class Counsel as requested, and on  
25 their own initiative, throughout the pendency of the case; responded to discovery; produced their  
26 own documents and sat for depositions; monitored the proceedings on their own behalf and on  
27 behalf of the Class; consulted with Class Counsel regarding potential and actual settlement  
28

1 terms, both for the 2017 Settlement Agreement and the 2018 Amendment to the Settlement  
 2 Agreement.<sup>1</sup> In addition, Class Representatives who remained employed by Swift experienced  
 3 the concern and fears of retaliation that virtually any employee would feel bringing a legal claim  
 4 against their employer. As one particular example of that concern, after the lawsuit was filed,  
 5 Swift attempted to compel its current Washington drivers to sign an “Acknowledgement” that  
 6 Swift had always paid its drivers overtime when this was an issue at the heart of the case and the  
 7 drivers did not believe that this was the case.

8 48. Mr. Dublinski and Mr. Ledesma passed away during the case. However, each  
 9 contributed his time and support to the case, on behalf of themselves and the Class. Both were  
 10 named plaintiffs on early complaints, consulted with counsel as part of the investigation of their  
 11 individual and Class claims against Swift, responded to written discovery, produced documents,  
 12 and gave depositions. Mr. Ledesma agreed to appear at the trial as a fact witness and reviewed  
 13 and approved the Settlement Agreement.

14 49. We support all Class Representatives requests for \$7,500 service awards, as  
 15 contemplated by the Settlement Agreement. Swift does not oppose this award. *See* Dkt. No. 309-  
 16 1 at § III.D.

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

19 Executed this 19th day of November, 2018, at Seattle, Washington.

20  
 21 /s/ Jeniphr A.E. Breckenridge  
 22 Jeniphr A.E. Breckenridge  
 23  
 24  
 25  
 26

27 <sup>1</sup> *See* Declarations of Troy Slack, Jacob Grismer, Scott Praye, Gary H. Roberts, Robert P. Ullrich, Timothy  
 28 Helmick, Dennis Stuber, and Sean P. Forney filed herewith. Mr. Erickson’s signed declaration did not arrive by the  
 time for this motion’s filing. Plaintiffs will supplement the record.

**CERTIFICATE OF SERVICE**

On November 19, 2018, I caused to be electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following attorneys of record:

**Jeffrey D. Boyd**  
boyd@nelsonboydlaw.com

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rcamp@wcqp.com

**Joseph D. Lane**  
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**David Wiley**  
dwiley@williamskastner.com

**Jeffrey M. Wells**  
jwells@williamskastner.com

/s/ Jeniphr A.E. Breckenridge  
JENIPHR A.E BRECKENRIDGE

# **Exhibit A**

## Exhibit A

## Hagens Berman Sobol Shapiro LLP

## Time Accrued by Category

Category	Timekeeper	Hours	Rate	Total
Investigation/Research	Breckenridge, Jeniphr	264.0	\$600.00	\$158,400.00
	Breckenridge, Jeniphr	169.2	\$630.00	\$106,596.00
	Brown, Ari	14.9	\$525.00	\$7,822.50
	Gordon, Lee M.	9.6	\$683.00	\$6,556.80
	Grivas, Anthea	17.8	\$473.00	\$8,419.40
	Haegele, Robert	15.6	\$170.00	\$2,652.00
	Haegele, Robert	3.9	\$180.00	\$702.00
<b>Total Investigate/Research</b>		<b>495.0</b>		<b>\$291,148.70</b>
Case Management & Client Contact	Berman, Steve	1.5	\$950.00	\$1,425.00
	Breckenridge, Jeniphr	34.3	\$600.00	\$20,580.00
	Breckenridge, Jeniphr	102.4	\$630.00	\$64,512.00
	Breckenridge, Jeniphr	1.2	\$650.00	\$780.00
	Brown, Ari	.5	\$525.00	\$262.50
	Brown, Ari	19.2	\$552.00	\$10,598.40
	Gordon, Lee M.	7.3	\$683.00	\$4,985.90
	Grivas, Anthea	1.0	\$473.00	\$473.00
	Haegele, Robert	3.1	\$170.00	\$527.00
	Haegele, Robert	41.9	\$180.00	\$7,542.00
	Haegele, Robert	3.5	\$200.00	\$700.00
	O'Hara, Chris	0.5	\$625.00	\$312.50
<b>Total Case Mgmt. &amp; Client Contact</b>		<b>216.4</b>		<b>\$112,698.30</b>
Discovery	Breckenridge, Jeniphr	111.3	\$600.00	\$66,780.00
	Breckenridge, Jeniphr	688.2	\$630.00	\$433,566.00
	Brown, Ari	4.0	\$525.00	\$2,100.00
	Brown, Ari	21.1	\$552.00	\$11,647.20
	Gordon, Lee M.	373.50	\$683.00	\$255,100.50
	Grivas, Anthea	492.2	\$473.00	\$232,810.60
	Haegele, Robert	0.8	\$170.00	\$136.00
	Haegele, Robert	157.4	\$180.00	\$28,332.00
<b>Total Discovery</b>		<b>1,848.5</b>		<b>\$1,030,472.30</b>
Expert Work	Breckenridge, Jeniphr	256.5	\$630.00	\$161,595.00
	Brown, Ari	21.6	\$552.00	\$11,923.20
	Gordon, Lee M.	388.0	\$683.00	\$265,004.00
	Grivas, Anthea	7.5	\$473.00	\$3,547.50
	Haegele, Robert	117.1	\$180.00	\$21,078.00
	Loeser, Thomas	33.6	\$683.00	\$22,948.80
	Lopez, Robert	139.2	\$525.00	\$73,080.00
<b>Total Expert Work</b>		<b>963.5</b>		<b>\$559,176.50</b>

Motions Practice	Berman, Steve	1.0	\$950.00	\$950.00
	Breckenridge, Jeniphr	903.3	\$630.00	\$569,079.00
	Brown, Ari	37.8	\$552.00	\$20,865.60
	Gordon, Lee M.	199.8	\$683.00	\$136,463.40
	Grivas, Anthea	77.1	\$473.00	\$36,468.30
	Haegele, Robert	132.4	\$180.00	\$23,832.00
<b>Total Motions Practice</b>		<b>1,351.4</b>		<b>\$787,658.30</b>
Trial Preparation	Berman, Steve	1.0	\$950.00	\$950.00
	Breckenridge, Jeniphr	258.0	\$630.00	\$162,540.00
	Gordon, Lee M.	13.4	\$683.00	\$9,152.20
	Grivas, Anthea	184.4	\$473.00	\$87,221.20
	Haegele, Robert	112.9	\$180.00	\$20,322.00
	Loeser, Thomas	120.6	\$683.00	\$82,369.80
	Lopez, Robert	2.2	\$525.00	\$1,155.00
<b>Total Trial Preparation</b>		<b>692.5</b>		<b>\$363,710.20</b>
Mediation / Settlement / Post Settlement	Berman, Steve	4.7	\$950.00	\$4,465.00
	Breckenridge, Jeniphr	2.3	\$600.00	\$1,380.00
	Breckenridge, Jeniphr	250.9	\$630.00	\$158,067.00
	Breckenridge, Jeniphr	172.7	\$650.00	\$112,255.00
	Brown, Ari	1.2	\$525.00	\$630.00
	Brown, Ari	0.6	\$552.00	\$331.20
	Grivas, Anthea	14.7	\$473.00	\$6,953.10
	Haegele, Robert	41.3	\$180.00	\$7,434.00
	Haegele, Robert	58.0	\$200.00	\$11,600.00
	Loeser, Thomas	57.3	\$683.00	\$39,135.90
	Loeser, Thomas	2.4	\$700.00	\$1,680.00
	Lopez, Robert	0.7	\$525.00	\$367.50
	O'Hara, Chris	2.5	\$575.00	\$1,437.50
	O'Hara, Chris	108.50	\$605.00	\$65,642.50
	O'Hara, Chris	15.50	\$625.00	\$9,687.50
<b>Total Mediation / Settlement / Post Settlement</b>		<b>733.3</b>		<b>\$421,066.20</b>
<b>Grand Total</b>		<b>6300.6</b>		<b>\$3,565,930.50</b>

### Personnel

	<b>Rates</b>	<b>Role</b>
Steve W. Berman	\$950	Managing Partner
Jeniphr Breckenridge	\$600/\$630/\$650	Partner
Ari Brown	\$525/\$552	Partner
Lee M. Gordon	\$650/\$683	Partner
Anthea Grivas	\$473	Associate
Robert Haegele	\$170/\$180/\$200	Paralegal
Thomas Loeser	\$683/\$700	Partner

Robert Lopez	\$525	Partner
Chris O'Hara	\$575/\$605/\$625	Partner

# **Exhibit B**

**Exhibit B****Hagens Berman Sobol Shapiro LLP****Costs and Expenses**

<b>Expense Category</b>	<b>Total</b>
10 – Airfare	\$2,707.73
15 – Printing/Copies	\$13,958.75
18 – Court Reporters/Depositions	\$17,220.06
20 – Miscellaneous Costs	\$2,141.95
35 – Outside Copy Service	\$1,203.62
40 – Expert Fees	\$155,123.09
50 – Overnight Shipping	\$558.93
52 – Filing Fees	\$115.50
53 – Hotel	\$4,111.68
55 – Online Services/Legal Research	\$35,325.49
59 – Meals	\$985.29
60 – Messenger/Process Services	\$325.50
61 – Mediation	\$4,925.00
70 – Transportation/Travel Expenses	\$904.83
71 – Parking	\$217.54
72 – Court Fees	\$226.00
90 – Telephone	\$160.32
<b>Grand Total</b>	<b>\$240,211.28</b>

# **Exhibit C**



HAGENS BERMAN



EXPERIENCE.  
INNOVATION.  
RESULTS.





Hagens Berman is a national leader in class-action litigation driven by a team of legal powerhouses. With a tenacious spirit, we are motivated to make a positive difference in people's lives.

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## PARTNER

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## INTRODUCTION

## The Firm

Hagens Berman Sobol Shapiro LLP was founded in 1993 with one purpose: to help victims with claims of fraud and negligence that adversely impact a broad group. The firm initially focused on class action and other types of complex, multi-party litigation, but we have always represented plaintiffs/victims. As the firm grew, it expanded its scope while staying true to its mission of taking on important cases that implicate the public interest. The firm represents plaintiffs including investors, consumers, inventors, workers, the environment, governments, whistleblowers and others.

---

*We are one of the nation's leading class-action law firms and have earned an international reputation for excellence and innovation in ground-breaking litigation against large corporations.*

---

**OUR FOCUS.** Our focus is to represent plaintiffs/victims in product liability, tort, antitrust, consumer fraud, securities and investment fraud, employment, whistleblower, intellectual property, environmental, and employee pension protection cases. Our firm is particularly skilled at managing multi-state and nationwide class actions through an organized, coordinated approach that implements an efficient and aggressive prosecutorial strategy to place maximum pressure on defendants.

**WE WIN.** We believe excellence stems from a commitment to try each case, vigorously represent the best interests of our clients, and obtain the maximum recovery. Our opponents know we are determined and tenacious and they respect our skills and recognize our track record of achieving top results.

**WHAT MAKES US DIFFERENT.** We are driven to return to the class every possible portion of its damages—our track record proves it. While many class action or individual plaintiff cases result in large legal fees and no meaningful result for the client or class, Hagens Berman finds ways to return real value to the victims of corporate fraud and/or malfeasance.

**A NATIONWIDE REACH.** The scope of our practice is truly nationwide. We have flourished through our network of offices in ten cities across the United States, including Seattle, Boston, Chicago, Los Angeles, New York, Phoenix, San Francisco, San Diego and Washington, D.C. Our reach is not limited to the cities where we maintain offices. We have cases pending in courts across the country, with substantial activity in California, New York, Washington, Arizona and Illinois.



INTRODUCTION

## Locations

### SEATTLE

1301 Second Avenue, Suite 2000  
Seattle, WA 98101  
(206) 623-7292 phone  
(206) 623-0594 fax

### BERKELEY

715 Hearst Avenue, Suite 202  
Berkeley, CA 94710  
(510) 725-3000 phone  
(510) 725-3001 fax

### BOSTON

55 Cambridge Parkway, Suite 301  
Cambridge, MA 02142  
(617) 482-3700 phone  
(617) 482-3003 fax

### BOSTON, NEWTON CENTRE

1280 Centre Street, Suite 230  
Newton Centre, MA 02459  
(617) 641-9550 phone  
(617) 641-9551 fax

### CHICAGO

455 N. Cityfront Plaza Drive, Suite 2410  
Chicago, IL 60611  
(708) 628-4949 phone  
(708) 628-4950 fax

### LOS ANGELES

301 North Lake Avenue, Suite 920  
Pasadena, CA 91101  
(213) 330-7150 phone  
(213) 330-7152 fax

### NEW YORK

555 Fifth Avenue, Suite 1700  
New York, NY 10017  
(212) 752-5455 phone  
(917) 210-3980 fax

### PHOENIX

11 West Jefferson Street, Suite 1000  
Phoenix, AZ 85003  
(602) 840-5900 phone  
(602) 840-3012 fax

### SAN DIEGO

533 F Street  
Suite 207  
San Diego, CA 92101  
(619) 929-3340 phone

### WASHINGTON, D.C.

1701 Pennsylvania Ave. NW, Suite 200  
Washington, D.C. 20006  
(202) 248-5403 phone  
(202) 580-6559 fax

...the track record of Hagens Berman[’s] **Steve Berman is... impressive**, having racked... a \$1.6 billion settlement in the Toyota Unintended Acceleration Litigation and a substantial number of really outstanding big-ticket results.

— Milton I. Shadur, Senior U.S. District Judge, naming Hagens Berman Interim Class Counsel in Stericycle Pricing MDL

Class counsel has **consistently demonstrated extraordinary skill and effort.**

— U.S. District Judge James Selna, Central District of California, *In re Toyota Motor Corp. Unintended Acceleration Marketing, Sales Practices and Products Liability Litigation*

Berman is considered **one of the nation’s top class-action lawyers.**

— Associated Press

## Elite Trial Lawyers

*The National Law Journal*

## The Plaintiffs’ Hot List: The Year’s Hottest Firms

*The National Law Journal*

## Most Feared Plaintiffs Firms

*Law360*

**Landmark consumer cases are business as usual** for Steve Berman.

— *The National Law Journal*, naming Steve Berman one of the 100 most influential attorneys in the nation for the third time in a row

[A] **clear choice** emerges. That choice is the Hagens Berman firm.

— U.S. District Court for the Northern District of California, *In re Optical Disk Drive Products Antitrust Litigation* (appointing the firm lead counsel)

All right, I think I can conclude on the basis with my five years with you all, watching this litigation progress and seeing it wind to a conclusion, that **the results are exceptional...** You did an exceptionally good job at organizing and managing the case...

— U.S. District Court for the Northern District of California, *In re Dynamic Random Access Memory Antitrust Litigation* (Hagens Berman was co-lead counsel and helped achieve the \$325 million class settlement)

## VISA-MASTERCARD ANTITRUST LITIGATION

The firm served as co-lead counsel in what was then the largest antitrust settlement in history – valued at **\$27 billion**.

## TOYOTA UNINTENDED ACCELERATION LITIGATION

Hagens Berman obtained the then largest automotive settlement in history in this class action that recovered **\$1.6 billion** for vehicle owners.

## STATE OF WASHINGTON, ET AL. V. PHILIP MORRIS, ET AL.

Hagens Berman represented 13 states in the largest recovery in litigation history – **\$206 billion**.

## E-BOOKS ANTITRUST LITIGATION

Hagens Berman secured a combined **\$560 million** settlement on behalf of consumers against Apple and five of the nation's largest publishing companies.

## DAVITA HEALTHCARE PERSONAL INJURY LITIGATION

A Denver jury awarded a monumental **\$383.5 million** jury verdict against GranuFlo dialysis provider DaVita Inc. on June 27, 2018, to families of three patients who suffered cardiac arrests and died after receiving dialysis treatments at DaVita clinics.

## AVERAGE WHOLESAL PRICE DRUG LITIGATION

Hagens Berman was co-lead counsel in this ground-breaking drug pricing case against the world's largest pharmaceutical companies, resulting in a victory at trial. The court approved a total of **\$338 million** in settlements.

## MCKESSON DRUG LITIGATION

Hagens Berman was lead counsel in these racketeering cases against McKesson for drug pricing fraud that settled for more than **\$444 million** on the eve of trials.

## DRAM ANTITRUST LITIGATION

The firm was co-lead counsel, and the case settled for **\$345 million** in favor of purchasers of dynamic random access memory chips (DRAM).

## ENRON ERISA LITIGATION

Hagens Berman was co-lead counsel in this ERISA litigation, which recovered in excess of **\$250 million**, the largest ERISA settlement in history.

## CHARLES SCHWAB SECURITIES LITIGATION

The firm was lead counsel in this action alleging fraud in the management of the Schwab YieldPlus mutual fund; a **\$235 million** class settlement was approved by the court.

# Practice Areas

## PRACTICE AREAS

## Antitrust

Hagens Berman works to preserve healthy marketplace competition and fair trade by protecting consumers and businesses that purchase goods and services from price fixing, market allocation agreements, monopolistic schemes and other trade restraints. The firm's lawyers have earned an enviable reputation as experts in this often confusing and combative area of commercial litigation. Our attorneys have a deep understanding of the legal and economic issues within the marketplace, allowing us to employ groundbreaking market theories that shed light on restrictive anti-competitive practices.

Hagens Berman represents millions of consumers in several high-profile class-action lawsuits, and takes on major antitrust litigation to improve market conditions for consumers, businesses and investors. We have represented plaintiffs in markets as diverse as debit and credit card services, personal computer components, electric and gas power, airlines, and internet services, and we have prevailed against some of the world's largest corporations.

The firm has also generated substantial recoveries on behalf of health plans and consumers in antitrust involving pharmaceutical companies abusing patent rights to block generic drugs from coming to market. Hagens Berman has served as lead or co-lead counsel in landmark litigation challenging anti-competitive practices, in the Paxil Direct Purchaser Litigation (\$100 million), Relafen Antitrust Litigation (\$75 million), Tricor Indirect Purchaser Antitrust Litigation (\$65.7 million), and Augmentin Antitrust Litigation (\$29 million). Representative antitrust successes on behalf of our clients include:

**> Visa/MasterCard**

Helped lead this record-breaking antitrust case against credit card giants Visa and MasterCard that challenged charges imposed in connection with debit cards.

**RESULT:** \$3.05 billion settlement and injunctive relief valued at more than \$20 billion.

**> NCAA: Scholarships/Grants-In-Aid (GIAs)**

In a first-of-its-kind antitrust action and potentially far-reaching case, Hagens Berman filed a class-action affecting approximately 40,000 Division I collegiate athletes who played men's or women's basketball, or FBS football, brought against the NCAA and its most powerful members, including the Pac-12, Big Ten, Big-12, SEC and ACC, claiming these entities violated federal antitrust laws by drastically reducing the number of scholarships and financial aid student-athletes receive to an amount below the actual cost of attendance and far below what the free market would bare.

The firm continues to fight on behalf of student-athletes to level the playing field and bring fairness to college sports and players.

**RESULT:** \$208.9 million settlement, bringing an estimated average amount of \$6,500 to each eligible class member who played his or her sport for four years.

**> Apple E-books**

With state attorneys general, the firm secured a \$166 million settlement with publishing companies that conspired with Apple to fix e-book prices. The firm then look on Apple for its part in the price-fixing conspiracy. In the final stage in the lawsuit, the Supreme Court denied appeal from Apple, bringing the consumer payback amount to more than twice the amount of losses suffered by the class of e-book purchasers. This represents one of the most successful recovery of damages in any antitrust lawsuit in the country.

**RESULT:** \$560 million total settlements.

## PRACTICE AREAS

## Antitrust

## &gt; Animation Workers Antitrust

Hagens Berman represents a nationwide class of animators and other artistic workers in an antitrust class-action case filed against defendants Pixar, Lucasfilm and its division Industrial Light & Magic, DreamWorks Animation, The Walt Disney Company, Sony Pictures Animation, Sony Pictures Imageworks, Blue Sky Studios, ImageMovers LLC, ImageMovers Digital LLC and others.

**RESULT:** Total settlements have reached \$168 million, resulting in a payment of more than \$13,000 per class member.

## &gt; TFT LCDs

Hagens Berman Sobol Shapiro filed a class-action lawsuit against several major manufacturers of TFT LCD products, claiming the companies engaged in a conspiracy to fix, raise, maintain and stabilize the price of televisions, desktop and notebook computer monitors, mobile phones, personal digital assistants (PDAs) and other devices. After years of representing consumers against multiple defendants in multi-district litigation, the case against Toshiba went to trial. Toshiba was found guilty of price-fixing in 2012, and settled.

**RESULT:** \$470 million in total settlements.

## &gt; DRAM

The suit claimed DRAM (Dynamic Random Access Memory) manufacturers secretly agreed to reduce the supply of DRAM, a necessary component in a wide variety of electronics which artificially raised prices. The class included equipment manufacturers, franchise distributors and purchasers.

**RESULT:** \$375 million settlement.

## &gt; Optical Disk Drives

Hagens Berman fought on behalf of consumers in a lawsuit filed against Philips, Pioneer and others for artificially inflating the price of ODDs for consumers.

**RESULT:** \$180 million in total settlements reclaimed for consumers.

## &gt; Lithium Ion Batteries

Hagens Berman filed a class-action lawsuit against some of the largest electronics manufacturers including Sony, Samsung and Panasonic for illegally fixing the price of lithium ion batteries, pushing costs higher for consumers. Defendants collectively controlled between 60 to 90 percent of the market for lithium-ion batteries between 2000 and 2011 and used that power to fix battery prices.

**RESULT:** \$65 million in total settlements against multiple defendants.

## &gt; AC Nielsen

Represented Information Resources, Inc. ("IRI"), in a suit claiming that AC Nielsen's anti-competitive practices caused IRI to suffer significant losses.

**RESULT:** \$55 million settlement.

## &gt; Dairy Products

The firm filed a class-action suit against several large players in the dairy industry, including the National Milk Producers Federation, Dairy Farmers of America, Land O'Lakes, Inc., Agri-Mark, Inc. and Cooperatives Working Together (CWT) that together produce nearly 70 percent of the milk consumed in the United States. The suit alleging that the groups conspired to fix the price of milk throughout the United States through an organized scheme to limit production, involving the needless and premature slaughtering of 500,000 cows.

**RESULT:** \$52 million settlement on behalf of consumers in 15 states and the District of Columbia who purchased dairy products.

## &gt; Toys "R" Us Baby Products

The firm brought this complaint on behalf of consumers claiming Toys "R" Us and several baby product manufacturers violated provisions of the Sherman Antitrust Act by conspiring to inflate prices of high-end baby products, including car seats, strollers, high chairs, crib bedding, breast pumps and infant carriers. The suit asked the court to end what it claims are anti-competitive activities and seeks damages caused by the company's actions.

**RESULT:** \$35.5 million settlement.

## PRACTICE AREAS

## Antitrust

## &gt; EA Madden

Class action claimed that video game giant Electronic Arts used exclusive licensing agreements with various football organizations to nearly double the price of several of its games.

**RESULT:** \$27 million settlement and imposed limits on EA's ability to pursue exclusive licensing agreements.

## &gt; Resistors Antitrust Litigation

Hagens Berman is co-lead counsel, representing direct purchasers of linear resistors (a device in electronics used to limit electric current) against an alleged cartel of manufacturers who conspired to limit linear resistor price competition for nearly a decade. The case is in its early stages and discovery is ongoing.

## &gt; Nespresso

Hagens Berman has assumed responsibility for a large antitrust case against Nespresso, a leading single-serve espresso and coffee maker, for its anticompetitive efforts to exclude environmentally friendly, biodegradable coffee capsules from the market.

In May 2010, our client Ethical Coffee Company ("ECC") sought to introduce an environmentally sound and more economical coffee capsule to be used in Nespresso's widely used coffee makers. It manufactured a single-use coffee capsule that did not contain harmful aluminum found in Nespresso's capsules. Nespresso knew that ECC posed a formidable challenge to its business model, which relied on captive consumers buying coffee capsules only from Nespresso. With a captive market, Nespresso could continue to charge consumers an inflated price, and continue to use the aluminum capsules that harm the environment. The U.S. Court has already ruled that these claims can proceed to discovery. Hagens Berman anticipates damages associated with Nespresso's actions to be in the hundreds of millions of dollars.

## PRACTICE AREAS

## Automotive - Non-Emissions Cases

In litigating cases we strive to make an impact for a large volume of consumers, especially those who fall victim to the gross negligence and oversight of some of the nation's largest entities: automakers. Hagens Berman's automotive litigation team has been named a 2016 Practice Group of the Year by Law360, highlighting its "eye toward landmark matters and general excellence," in this area of law.

The federal court overseeing the massive multi-district litigation against Toyota appointed the firm to co-lead one of the largest consolidations of class-action cases in U.S. history. The litigation combined more than 300 state and federal suits concerning acceleration defects tainting Toyota vehicles. Hagens Berman and its two co-lead firms were selected from more than 70 law firms applying for the role. Since then, the firm's automotive practice area has grown by leaps and bounds, pioneering new investigations into defects, false marketing and safety hazards affecting millions of drivers across the nation.

The firm was recently named to the National Law Journal's list of Elite Trial Lawyers for its work fighting corporate wrongdoing in the automotive industry. The firm's auto team members who worked on Toyota were also named finalists for Public Justice's Trial Lawyer of the Year award.

#### › General Motors Ignition Switch Litigation

Co-lead counsel in high-profile case on behalf of millions of owners of recalled GM vehicles affected by a safety defect linked to more than 120 fatalities. The suit alleges GM did not take appropriate measures, despite having prior knowledge of the defect. The case is pending, and most recently, the Supreme Court refused to hear GM's appeal regarding the pending suits when it claimed the cases were barred by its 2009 bankruptcy.

#### › Toyota Sudden, Unintended Acceleration Litigation

Co-lead counsel for the economic loss class in this lawsuit filed on behalf of Toyota owners alleging a defect causes vehicles to undergo sudden, unintended acceleration. In addition to safety risks, consumers suffered economic loss from decreased value of Toyota vehicles following media coverage of the alleged defect.

**RESULT:** Settlement package valued at up to \$1.6 billion, which was at the time the largest automotive settlement in history.

#### › MyFord Touch

Hagens Berman represents owners of Ford vehicles equipped with MyFord Touch, an in-car communication and entertainment package, who claim that the system is flawed, putting drivers at risk of an accident while causing economic hardship for owners. The complaint cites internal Ford documents that purportedly show that 500 of every 1,000 vehicles have issues involving MyFord Touch due to software bugs, and failures of the software process and architecture. Owners report that Ford has been unable to fix the problem, even after repeated visits. A federal judge overseeing the case recently certified nine subclasses of owners of affected vehicles in various states.

#### › Nissan Quest Accelerator Litigation

Represented Nissan Quest minivan owners who alleged that their vehicles developed deposits in a part of the engine, causing drivers to apply increased pressure to push the accelerator down.

**RESULT:** Settlement providing reimbursement for cleanings or replacements and applicable warranty coverage.

#### › Hyundai Kia MPG

Hagens Berman sued Hyundai and Kia on behalf of owners after the car manufacturers overstated the MPG fuel economy ratings on 900,000 of its cars. The suit seeks to give owners the ability to recover a lump-sum award for the lifetime extra fuel costs, rather than applying every year for that year's losses.

**RESULT:** \$255 million settlement. Lump-sum payment plan worth \$400 million on a cash basis, and worth even more if owners opt for store credit (150 percent of cash award) or new car discount (200 percent of cash award) options.

## PRACTICE AREAS

## Automotive - Non-Emissions Cases

› **Honda and Acura HandsFreeLink Defect**

The firm represents owners of Honda and Acura vehicles equipped with the HandsFreeLink Bluetooth phone-pairing system, alleging that it contains a battery-draining defect that has plagued vehicle owners for more than a decade.

› **BMW i3 REx**

Hagens Berman is representing BMW owners in a national class-action lawsuit, following reports that BMW's i3 REx model electric cars contain a defect that causes them to suddenly and without warning lose speed and power mid-drive, putting drivers and passengers at risk of crash and injury.

› **Fiat Chrysler Gear Shifter Rollaway Defect**

Hagens Berman has filed a national class-action lawsuit representing owners of Jeep Grand Cherokee, Chrysler 300 and Dodge Charger vehicles. The lawsuit states that Fiat Chrysler fraudulently concealed and failed to remedy a design defect in 811,000 vehicles that can cause cars to roll away after they are parked, causing injuries, accidents and other serious unintended consequences.

› **Ford Shelby GT350 Mustang Overheating**

Hagens Berman represents owners of certain 2016 Shelby GT350 Mustang models in a case alleging that Ford has sold these vehicles as track cars built to reach and sustain high speeds, but failed to disclose that the absence of a transmission and differential coolers can greatly diminish the vehicle's reported track capabilities. Shelby owners are reporting that this defect causes the vehicle to overheat and go into limp mode, while in use, even when the car is not being tracked

› **Tesla AP2 Defect**

The firm represents Tesla owners in a lawsuit against the automaker for knowingly selling nearly 50,000 cars with nonfunctional Enhanced Autopilot AP2.0 software that still has not met Tesla's promises, including inoperative Standard Safety Features on affected models sold in Q4 2016 and Q1 2017.

## PRACTICE AREAS

## Automotive - Emissions Litigation

Having played a lead role in the record-breaking Volkswagen diesel emissions case, Hagens Berman knew the story wasn't over. Since the Dieselgate scandal began, the firm has uniquely dedicated resources to uncovering cheating devices used by other automakers. The firm has become a trailblazer in this highly specialized realm, outpacing federal agencies in unmasking fraud in emissions reporting.

When news broke in 2015 of Volkswagen's massive diesel emissions-cheating scandal, Hagens Berman was the first firm in the nation to file suit against the automaker for its egregious fraud, going on to represent thousands of owners in litigation and take a leading role on the Plaintiffs' Steering Committee that would finalize a \$14.7 billion, record-breaking settlement for owners. Since this case emerged, Hagens Berman has been on the forefront of emissions litigation, relying on our legal team's steadfast and intensive investigative skills to unearth many other emissions-cheating schemes perpetrated by General Motors, Fiat Chrysler, Mercedes and other automakers, staying one step ahead of government regulators in our pursuit of car manufacturers that have violated emissions standards and regulations, as well as consumer confidence.

Hagens Berman's managing partner, Steve Berman, has dedicated the firm's resources to upholding the rights of consumers and the environment, becoming a one-man EPA. The firm is uniquely dedicated to this casue, and is the only firm that has purchased an emission testing machine to determine if other diesel car manufacturers install similar cheating devices, bringing new cases based on the firm's own research, time and testing.

#### › Volkswagen Diesel Emissions Litigation

Hagens Berman was the first firm in the nation to file a lawsuit against Volkswagen for its emissions fraud, seeking swift remedies for consumers affected by Volkswagen's fraud and violation of state regulations. The firm was named to the Plaintiffs' Steering Committee leading the national fight against VW, Porsche and Audi on behalf of owners and lessors of affected vehicles, and also served as part of the Settlement Negotiating team.

**RESULT:** The largest automotive settlement in history, \$14.7 billion.

#### › Volkswagen Dealers Litigation

Hagens Berman served as lead counsel in a first-of-its-kind lawsuit brought by a franchise dealer. Three family-owned Volkswagen dealers filed a class action against VW stating that it intentionally defrauded dealers by installing so-called "defeat devices" in its diesel cars, and separately carried out a systematic, illegal pricing and allocation scheme that favored some dealers over others and illegally channeled financing business to VW affiliate, Volkswagen Credit, Inc. The settlement garnered nearly unanimous approval of dealers, with 99 percent participation in the settlement.

**RESULT:** \$1.67 billion in benefits to Volkswagen dealers.

#### › Mercedes BlueTEC Emissions Litigation

Judge Jose L. Linares appointed the firm as interim class counsel in this class-action case against Mercedes concerning emissions of its BlueTEC diesel vehicles. Hagens Berman currently represents thousands of vehicle owners who were told by Mercedes that their diesel cars were "the world's cleanest and most advanced diesel," when in fact testing at highway speeds, at low temperatures, and at variable speeds, indicate a systemic failure to meet emissions standards. Low temperature testing at highway speeds for example, produced emissions that were 8.1 to 19.7 times the highway emissions standard. The lawsuit adds that testing at low temperatures at variable speeds produced emissions as high as 30.8 times the standard.

## PRACTICE AREAS

## Automotive - Emissions Litigation

> **Chevy Cruze Diesel Emissions Litigation**

Hagens Berman filed a class-action lawsuit against Chevrolet (a division of General Motors) for installing emissions-cheating software in Cruze Clean Turbo Diesel cars, forcing consumers to pay high premiums for vehicles that pollute at illegal levels. While Chevy marketed these cars as a clean option, the firm's testing has revealed emissions released at up to 13 times the federal standard. In a recent ruling, U.S. District Judge Thomas L. Ludington upheld claims brought by owners.

> **Audi Emissions Litigation**

Hagens Berman unearthed additional emissions-cheating by Audi, affecting its gasoline 3.0-liter vehicles. The firm's investigation shows that the newly discovered defeat device is installed in gasoline engines and changes how the transmission operates when testing is detected to lower CO2 emissions, but otherwise allows excessive CO2 emissions in normal, on-road driving.

> **Fiat Chrysler EcoDiesel Emissions Litigation**

The firm is leading charges against Fiat Chrysler that it sold hundreds of thousands of EcoDiesel-branded vehicles that release illegally high levels of NOx emissions, despite explicitly selling these "Eco" diesels to consumers who wanted a more environmentally friendly vehicle. Hagens Berman was the first firm in the nation to uncover this scheme and file against Fiat Chrysler on behalf of owners of Dodge RAM 1500 and Jeep Grand Cherokee EcoDiesel vehicles. Following the firm's groundbreaking suit, the EPA took notice, filing formal accusations against Fiat Chrysler.

> **Dodge RAM 2500/3500 Diesel Emissions Litigation**

According to the firm's investigation, Dodge has sold hundreds of thousands of Dodge RAM 2500 and 3500 trucks equipped with Cummins diesel engines that release illegally high levels of NOx emissions at up to 14 times the legal limit. This defect causes certain parts to wear out more quickly, potentially costing owners between \$3,000 and 5,000 to fix. The firm is leading a national class action against Fiat Chrysler for knowingly enducing consumers to pay premium prices for vehicles that fail to comply with federal regulations, and ultimately lead to higher costs of repairs for purchasers.

> **General Motors Duramax Emissions Litigation**

Hagens Berman recently pioneered another instance of diesel emissions fraud. The firm's independent testing revealed that GM had installed multiple emissions-masking defeat devices in its Duramax trucks, including Chevy Silverado and GMC Sierra models, in a cover-up akin to Volkswagen's Dieselgate concealment. In real world conditions the trucks emit 2 to 5 times the legal limit of deadly NOx pollutants, and the emissions cheating devices are installed in an estimated 705,000 affected vehicles.

**PRACTICE AREAS**

## Civil and Human Rights

Hagens Berman has represented individuals and organizations in difficult civil rights challenges that have arisen in the past two decades. In doing so, we have managed cases presenting complex legal and factual issues that are often related to highly charged political and historical events. Our clients have included such diverse communities as World War II prisoners of war, conscripted civilians and entire villages.

In this cutting-edge practice area, the firm vigilantly keeps abreast of new state and national legislation and case-law developments. We achieve positive precedents by zealously prosecuting in our clients' interests. Some examples of our work in this area include:

### › **World Trade Organization Protests**

During the 1999 World Trade Organization (WTO) protests in Seattle, tens of thousands of Seattle citizens became targets after Seattle officials banned all forms of peaceful protest. Seattle police attacked anyone found in the designated "no protest" zones with rubber bullets and tear gas. Hundreds of peaceful protesters were arrested and incarcerated without probable cause for up to four days. The firm won a jury trial on liability and ultimately secured a settlement from Seattle officials after filing a class action alleging violations of the First and Fourth Amendments.

### › **Hungarian Gold Train**

Following the firm's representation of former forced and enslaved laborers for German companies in the Nazi Slave Labor Litigation, Hagens Berman led a team of lawyers against the U.S. on behalf of Hungarian Holocaust survivors in the Hungarian Gold Train case. The suit claimed that, during the waning days of World War II, the Hungarian Nazi government loaded plaintiffs' valuable personal property onto a train, which the U.S. Army later seized, never returning the property to its owners and heirs.

### › **Dole Bananas**

Hagens Berman filed suit against the Dole Food Company, alleging that it misled consumers about its environmental record. The complaint alleged that Dole purchased bananas from a grower in Guatemala that caused severe environmental damage and health risks to local residents. Dole ultimately agreed to take action to improve environmental conditions, collaborating with a non-profit group on a water filtration project for local communities.

## PRACTICE AREAS

## Consumer Protection - General Class Litigation

Hagens Berman is a leader in protecting consumers, representing millions in large-scale cases that challenge unfair, deceptive and fraudulent practices.

We realize that consumers suffer the brunt of corporate wrongdoing and have little power to hold companies responsible or to change those tactics. We believe that when backed by a tenacious spirit and determination, class action cases have the ability to serve as a powerful line of defense in consumer protection.

Hagens Berman pursues class litigation on behalf of clients to confront fraudulent practices that consumers alone cannot effectively dispute. We make consumers' concerns a priority, collecting consumer complaints against suspected companies and exploring all avenues for prosecution.

Hagens Berman's legacy of protecting consumer rights reflects the wide spectrum of scams that occur in the marketplace. The cases that we have led have challenged a variety of practices such as:

- › False, deceptive advertising of consumer products and services
- › False billing and over-charging by credit card companies, banks, telecommunications providers, power companies, hospitals, insurance plans, shipping companies, airlines and Internet companies
- › Deceptive practices in selling insurance and financial products and services such as life insurance and annuities
- › Predatory and other unfair lending practices, and fraudulent activities related to home purchases

A few case examples are:

› **Expedia Hotel Taxes and Service Fees Litigation**

Hagens Berman led a nationwide class-action suit arising from bundled "taxes and service fees" that Expedia collects when its consumers book hotel reservations. Plaintiffs alleged that by collecting exorbitant fees as a flat percentage of the room rates, Expedia violated both the Washington Consumer Protection Act

and its contractual commitment to charge as service fees only "costs incurred in servicing" a given reservation.

**RESULT:** Summary judgment in the amount of \$184 million. The case settled for cash and consumer credits totaling \$123.4 million.

› **Stericycle**

The firm served as court-appointed lead counsel in a class-action lawsuit against Stericycle alleging that the company violated contracts and defrauded them by hundreds of millions of dollars through an automatic price-increasing scheme. In February of 2017, a federal judge certified a nationwide consumer class. The class had more than 246,000 class members, with damages estimated preliminarily at \$608 million.

**RESULT:** \$295 million settlement

› **Tenet Healthcare**

In a pioneering suit filed by Hagens Berman, plaintiffs alleged that Tenet Healthcare charged excessive prices to uninsured patients at 114 hospitals owned and operated by Tenet subsidiaries in 16 different states.

**RESULT:** Tenet settled and agreed to refund to class members amounts paid in excess of certain thresholds over a four-and-a-half year period.

## PRACTICE AREAS

## Consumer Protection - General Class Litigation

## &gt; Wells Fargo Force-Placed Insurance

Hagens Berman brought a case against Wells Fargo alleging it used “force-placed” insurance clauses in mortgage agreements, a practice that enables the bank to charge homeowners insurance premiums up to 10 times higher than normal rates.

**RESULT:** Hagens Berman reached a settlement in this case, under which all class members will be sent checks for more than double the amount of commissions that Wells Fargo wrongfully extracted from the force placement of insurance on class members’ properties.

## &gt; Consumer Insurance Litigation

Hagens Berman has pioneered theories to ensure that in first- and third-party contexts consumers and health plans always receive the treatment and benefits to which they are entitled. Many of our cases have succeeded in expanding coverage owed and providing more benefits; recovering underpayments of benefits; and returning uninsured/underinsured premiums from the misleading tactics of the insurer.

## PRACTICE AREAS

## Consumer Protection - Drug and Supplement Litigation

Hagens Berman aggressively pursues pharmaceutical industry litigation, fighting against waste, fraud and abuse in healthcare. For decades, pharmaceutical manufacturers have been among the most profitable companies in America. But while pharmaceutical companies become richer, consumers, health plans and insurers pay higher costs for prescription and over-the-counter drugs and supplements. We shine the light of public scrutiny on this industry's practices and represent individuals, direct and indirect purchasers, and the nation's most forward-thinking public-interest groups.

The firm's pharmaceutical and dietary supplement litigation practice is second to none in the nation in terms of expertise, commitment and landmark results. Hagens Berman's attorneys have argued suits against dozens of major drug companies and the firm's aggressive prosecution of pharmaceutical industry litigation has recovered more than \$1 billion in gross settlement funds.

## RECENT ANTITRUST RESOLUTIONS

In the last few years, Hagens Berman – as lead or co-lead class counsel – has garnered significant settlements in several antitrust cases involving prescription drugs. In each case, the plaintiffs alleged that a manufacturer of a brand-name drug violated federal or state antitrust laws by delaying generic competitors from coming to market, forcing purchasers to buy the more expensive brand name version instead of the generic equivalent. Examples of our recent successes include:

## &gt; Flonase Antitrust Litigation

Hagens Berman represented purchasers in this case alleging pharmaceutical giant GlaxoSmithKline filed petitions to prevent the emergence of generic competitors to its drug Flonase, all to overcharge consumers and purchasers of the drug, which would have been priced lower had a generic competitor been allowed to come to market.

**RESULT:** \$150 million class settlement.

## &gt; Prograf Antitrust Litigation

Hagens Berman represented purchasers who alleged Astellas Pharma US, Inc. unlawfully maintained its monopoly and prevented generic competition for Prograf, an immunosuppressant used to help prevent organ rejection in transplant patients, harming purchasers by forcing them to pay inflated brand name prices for longer than they should have absent the anticompetitive conduct.

**RESULT:** The parties' motion for final approval of the \$98 million class settlement is under advisement with the court.

## &gt; Relafen Antitrust Litigation

Hagens Berman filed a class-action lawsuit against GlaxoSmithKline, SmithKline Beecham Corporation, Beecham Group PLC and SmithKline Beecham PLC, on behalf of consumers and third-party payors who purchased the drug Relafen or its generic alternatives. The suit alleged that the companies who manufacture and sell Relafen unlawfully obtained a patent which allowed them to enforce a monopoly over Relafen and prevented competition by generic prescription drugs, causing consumers to pay inflated prices for the drug.

**RESULT:** Under the terms of the settlement, the defendants will pay damages of \$75 million to those included in the class. Of the total settlement amount, \$25 million will be allocated to consumers and \$50 million will be used to pay the claims of insurers and other third-party payors.

## PRACTICE AREAS

## Consumer Protection - Drug and Supplement Litigation

> **Skelaxin Antitrust Litigation**

The firm represented purchasers in this case alleging King Pharmaceuticals LLC and Mutual Pharmaceutical Company alleging conspired to suppress generic competition and preserve King's monopoly in the market for the brand name muscle relaxant Skelaxin.

**RESULT:** \$73 million class settlement.

> **Tricor Antitrust**

In June 2005, Hagens Berman filed an antitrust lawsuit on behalf of a class of consumers and third party payors against pharmaceutical manufacturers Abbott Laboratories and Fournier Industries concerning the brand name cholesterol drug Tricor. HBSS was appointed co-lead class counsel by the Court.

**RESULT:** \$65.7 million recovery for consumers and third party payers who sued Abbott Laboratories and Fournier Industries in an antitrust action concerning the cholesterol drug Tricor.

## FRAUDULENT DRUG PRICING RESOLUTIONS

Hagens Berman has led many complex cases that take on fraud and inflated drug prices throughout the U.S. This includes sweeping manipulation of the average wholesale price benchmark used to set prices for prescription drugs nationwide, fraudulent marketing of prescription drugs and the rampant use of co-pay subsidy cards that drive up healthcare costs. These efforts have led to several significant settlements:

> **McKesson and First DataBank Drug Litigation**

The firm discovered a far-reaching fraud by McKesson and became lead counsel in this RICO case against McKesson and First DataBank, alleging the companies fraudulently inflated prices of more than 400 prescription drugs.

**RESULT:** \$350 million settlement and a four percent rollback on the prices of 95 percent of the nation's retail branded drugs, the net impact of which could be in the billions of dollars. The states and federal government then used Hagens Berman's work to bring additional suits. Hagens Berman represented several states and obtained settlements three to seven times more than that of the Attorneys General. Almost \$1 billion was recovered from the McKesson fraud.

> **Average Wholesale Price Drug Litigation**

Hagens Berman served as co-lead counsel and lead trial counsel in this sprawling litigation against most of the nation's largest pharma companies, which alleges defendants artificially inflated Average Wholesale Price.

**RESULT:** Approximately \$338 million in class settlements. Hagens Berman's work in this area led to many state governments filing suit and hundreds of millions in additional recovery.

## FRAUDULENT MARKETING RESOLUTIONS

Hagens Berman also litigates against drug companies that fraudulently promote drugs for uses not approved by the Food and Drug Administration (FDA), commonly known as "off-label" uses. We also litigate cases against dietary supplement manufacturers for making false claims about their products. Recent successes include:

> **Neurontin Third Party Payor Litigation**

Hagens Berman served as co-lead trial counsel in this case alleging that Pfizer fraudulently and unlawfully promoted the drug Neurontin for uses unapproved by the FDA.

**RESULT:** A jury returned a \$47 million verdict in favor of a single third-party payor plaintiff, automatically trebled to \$142 million, and the court recently approved a \$325 million class settlement.

> **Lupron**

Hagens Berman prosecuted a lawsuit against TAP Pharmaceuticals Products, Inc. on behalf of a class of consumers and third-party payors who purchased the drug Lupron. The suit charged that TAP Pharmaceutical Products, Inc., Abbott Laboratories and Takeda Pharmaceutical Company Limited conspired to fraudulently market, sell and distribute Lupron, causing consumers to pay inflated prices for the drug.

**RESULT:** Judge Richard Stearns issued a preliminary approval of the proposed settlement between TAP Pharmaceuticals and the class. Under the terms of the settlement, \$150 million will be paid by TAP on behalf of all defendants.

## PRACTICE AREAS

## Consumer Protection - Drug and Supplement Litigation

## &gt; Celebrex/Bextra

Hagens Berman filed a class-action lawsuit against Pfizer on behalf of individual consumers and third-party payors who paid for the drug Bextra. The firm was praised by Judge Breyer for its “unstinting” efforts on behalf of the class, adding, “The attorneys on both sides were sophisticated, skilled, professional counsel whose object was to zealously pursue their clients’ interest, but not at the cost of abandoning the appropriate litigation goals, which were to see, whether or not, based upon the merits of the cases, a settlement could be achieved.”

RESULT: \$89 million settlement.

## &gt; Vioxx Third Party Payor Marketing and Sales Practices

## Litigation

The firm served as lead counsel for third party payors in the Vioxx MDL, alleging that Merck & Co. misled physicians, consumers and health benefit providers when it touted Vioxx as a superior product to other non-steroidal anti-inflammatory drugs. According to the lawsuit,

The drug had no benefits over less expensive medications, but carried increased risk of causing cardiovascular events.

RESULT: \$80 million settlement.

## &gt; Serono Drug Litigation

Hagens Berman served as lead counsel for a class of consumers and third party payors in a suit alleging that global biotechnology company Serono, Inc. schemed to substantially increase sales of the AIDS drug Serostim by duping patients diagnosed with HIV into believing they suffered from AIDS-wasting and needed the drug to treat that condition.

RESULT: \$24 million settlement.

## &gt; Bayer Combination Aspirin/Supplement Litigation

Hagens Berman served as lead counsel on behalf of consumers in a suit alleging that Bayer Healthcare LLC deceptively marketed Bayer® Women’s Low-Dose Aspirin + Calcium, an 81 mg aspirin pill combined with calcium, and Bayer® Aspirin With Heart Advantage, an 81 mg aspirin pill combined with phytosterols. Plaintiffs alleged that Bayer overcharged consumers for these products or that these products should not have been sold, because these products were not FDA-approved, could not provide all advertised health benefits, and were inappropriate for long-term use.

RESULT: \$15 million settlement.

## OTHER LANDMARK CASES

## &gt; New England Compounding Center Meningitis Outbreak

In 2012, the Center for Disease Control confirmed that New England Compounding Center sold at least 17,000 potentially tainted steroid shots to 75 clinics in 23 states across the country, resulting in more than 64 deaths and 751 cases of fungal meningitis, stroke or paraspinal/peripheral joint infection. HBSS attorneys Thomas M. Sobol and Kristen A. Johnson serve as Court-appointed Lead Counsel for the Plaintiffs’ Steering Committee on behalf of plaintiff-victims in MDL 2419 consolidated before The Honorable Ray W. Zobel in the United States District Court for the District of Massachusetts.

RESULT: \$100 million settlement.

## PRACTICE AREAS

## Employment Litigation

Hagens Berman takes special interest in protecting workers from exploitation or abuse. We take on race and gender discrimination, immigrant worker issues, wage and hour issues, on-the-job injury settlements and other crucial workplace issues.

Often, employees accept labor abuses or a curbing of their rights because they don't know the law, respect their superiors or fear for their jobs. We act on behalf of employees who may lack the individual power to bring about meaningful change in the workplace. We take a comprehensive approach to rooting out systemic employee abuses through in-depth investigation, knowledgeable experts and fervent exploration of prosecution strategies. Hagens Berman is a firm well-versed in taking on complicated employee policies and bringing about significant results. Representative cases include:

› **CB Richard Ellis Sexual Harassment Litigation**

Filed a class action against CB Richard Ellis, Inc., on behalf of 16,000 current and former female employees who alleged that the company fostered a climate of severe sexual harassment and discriminated against female employees by subjecting them to a hostile, intimidating and offensive work environment, also resulting in emotional distress and other physical and economic injuries to the class.

**RESULT:** An innovative and unprecedented settlement requiring changes to human resources policies and procedures, as well as the potential for individual awards of up to \$150,000 per class member. The company agreed to increase supervisor accountability, address sexually inappropriate conduct in the workplace, enhance record-keeping practices and conduct annual reviews of settlement compliance by a court appointed monitor.

› **Costco Wholesale Corporation Wage & Hour Litigation**

Filed a class action against Costco Wholesale Corporation on behalf of 2,000 current and former ancillary department employees, alleging that the company misclassified them as "exempt" executives, denying these employees overtime compensation, meal breaks and other employment benefits.

**RESULT:** \$15 million cash settlement on behalf of the class.

› **Washington State Ferry Workers Wage Litigation**

Represented "on-call" seamen who alleged that they were not paid for being "on call" in violation of federal and state law.

**RESULT:** Better working conditions for the employees and rearrangement in work assignments and the "on-call" system.

› **SunDance Rehabilitation Corporation**

Filed a class action against SunDance challenging illegal wage manipulation, inconsistent contracts and other compensation tricks used to force caregivers to work unpaid overtime.

**RESULT:** \$3 million settlement of stock to be distributed out of the company's bankruptcy estate.

› **Schneider National Carriers - Regional Drivers**

The firm represents a certified class of regional drivers in a suit filed against Schneider National Carriers, claiming that the company failed to pay its workers for all of their on duty time devoted to a variety of work tasks, including vehicle inspections, fueling, and waiting on customers and assignments. The suit also claims that the company does not provide proper meal and rest breaks and the company is liable for substantial penalties under the California Labor Code.

**RESULT:** A \$28 million settlement on behalf of drivers.

› **Schneider National Carriers - Mechanics**

Hagens Berman filed a class-action lawsuit alleging that Schneider National Carriers failed to provide mechanics with proper overtime compensation, meal and rest break premiums, and accurate wage statements as required by California law.

**RESULT:** In March of 2013, the case was settled on terms mutually acceptable to the parties.

## PRACTICE AREAS

## Employment Litigation

### > [Swift Transportation Co. of Arizona LLC](#)

The firm represents a certified class of Washington-based truck drivers against Swift Transportation. The suit alleges that Swift failed to pay the drivers overtime and other earned wages in violation of Washington state law.

The case is scheduled for trial in the U.S. District Court for the Western District of Washington in Tacoma in September 2017.

## PRACTICE AREAS

## Environmental Litigation

Since Hagens Berman's founding, it has sought to work toward one simple goal: work for the greater good. Hagens Berman has established a nationally recognized environmental litigation practice, having handled several landmark cases in the Northwest, the nation and internationally.

Hagens Berman believes that protecting and restoring our environment from damage caused by irresponsible and illegal corporate action is some of the most rewarding work a law firm can do. Our firm has established an internationally recognized environmental litigation practice.

## SCIENCE AND THE LAW

Hagens Berman's success in environmental litigation stems from a deep understanding of the medical and environmental science that measures potential hazards. That expertise is translated into the courtroom as our attorneys explain those hazards to a judge or jury in easily understood terms.

## ENVIRONMENTAL EXPERTS

The firm has fostered deep relationships with top-notch environmental experts that result in resonating arguments and court victories, as well as thoroughly researched and vetted investigations.

## REAL IMPACTS

Environmental law is a priority at our firm and we have taken an active role in expanding this practice area. In 2003, Steve Berman and his wife Kathy worked with the University of Washington to create the Kathy and Steve Berman Environmental Law Clinic, giving law students the training and opportunities needed to become hands-on advocates for the environment.

Hagens Berman's significant environmental cases include:

## &gt; Exxon Valdez Oil Spill Litigation

Hagens Berman represented various classes of claimants, including fisherman and businesses located in Prince William Sound and other impacted areas who were damaged by one of the worst oil spills in United States history.

**RESULT:** A \$5 billion judgment was awarded by a federal jury, and a \$98 million settlement was achieved with Alyeska, the oil company consortium that owned the output of the pipeline.

## &gt; San Francisco and Oakland Climate Change Litigation

Hagens Berman represents the cities of San Francisco and Oakland, Calif. in two lawsuits filed against BP, Chevron Corp., Exxon Mobil Corp., Royal Dutch Shell PLC and ConocoPhillips alleging that the Big Oil giants are responsible for the cities' costs of protecting themselves from global warming-induced sea level rise, including expenses to construct seawalls to protect the two cities' more than 5 million residents. The newly filed case seek an order requiring defendants to abate the global warming-induced sea level rise by funding an abatement program to build sea walls and other infrastructure. Attorneys for the cities say this abatement fund will be in the billions.

## &gt; Chinook Ferry Litigation

The firm represented a class of property owners who challenged Washington State Ferries' high-speed operation of a new generation of fast ferries in an environmentally sensitive area of Puget Sound. Two of the ferries at issue caused environmental havoc and property damage, compelling property owners to act. A SEPA study conducted in response to the suit confirmed the adverse environmental impacts of the fast ferry service

**RESULT:** A \$4.4 million settlement resulted that is among the most favorable in the annals of class litigation in Washington state.

## &gt; Grand Canyon Litigation

The firm represented the Sierra Club in a challenge to a Forest Service decision to allow commercial development on the southern edge of the Grand Canyon National Park.

**RESULT:** The trial court enjoined the project.

## PRACTICE AREAS

## Environmental Litigation

## &gt; Kerr-McGee Radiation Case

The firm brought a class action on behalf of residents of West Chicago, Illinois who were exposed to radioactive uranium tailings from a rare earth facility operated by Kerr-McGee.

**RESULT:** A medical monitoring settlement valued in excess of \$5 million

## &gt; Skagit Valley Flood Litigation

Hagens Berman represented farmers, homeowners and businesses who claimed damages as a result of the 1990 flooding of this community. The case was in litigation for ten years and involved a jury trial of more than five months.

**RESULT:** Following the entry of 53 verdicts against Skagit County, the trial court entered judgments exceeding \$6.3 million. Ultimately, the State Supreme Court reversed this judgment. Despite this reversal, the firm is proud of this representation and believes that the Supreme Court erred.

## &gt; Idaho Grass Burning Case

In 2002, Hagens Berman brought a class-action lawsuit on behalf of Idaho residents who claimed grass-burning farmers released more than 785 tons of pollutants into the air, including concentrations of polycyclic aromatic hydrocarbons (PAHs), proven carcinogens. Burning the fields annually caused serious health problems, especially to those with respiratory ailments such as cystic fibrosis and asthma. The suit also asserted that Idaho's grass burning policies are far below the standards of other states such as neighboring Washington, where farmers use other techniques to remove grass residue from the fields.

**RESULT:** The lawsuit settled in 2006 under confidential terms.

## &gt; Dole Bananas Case

The firm took on Dole Food Company Inc. in a class-action lawsuit claiming the world's largest fruit and vegetable company lied to consumers about its environmental record and banana-growing practices. The suit alleged that Dole misrepresented its commitment to the environment in selling bananas from a Guatemalan banana plantation that did not comply with proper environmental practices.

**RESULT:** The suit culminated in 2013. Dole and non-profit organization Water and Sanitation Health, Inc. collaborated on a water filter project to assist local communities in Guatemala.

## &gt; Diesel Emissions Litigation

Second to none in uncovering emissions-cheating, the firm has dedicated its time and resources to breaking up the dirty diesel ring. After filing the first lawsuit in the country against Volkswagen, Audi and Porsche for its massive Dieselgate scandal in 2015, the firm went on to unmask emissions-cheating devices installed in vehicles made by Fiat Chrysler, Mercedes and General Motors and continues to investigate diesel cars for excessive, illegal and environmentally harmful levels of emissions.

**RESULT:** The firm's independently researched active cases have led to investigations by the EPA, DOJ and European authorities.

## &gt; Kivalina Global Warming Litigation

A tiny impoverished Alaskan village of Inupiat Eskimos took action against some of the world's largest greenhouse gas offenders, claiming that contributions to global warming are leading to the destruction of their village and causing erosion to the land that will eventually put the entire community under water. Hagens Berman, along with five law firms and two non-profit legal organizations, filed a suit against nine oil companies and 14 electric power companies that emit large quantities of greenhouse gases into the atmosphere. The lawsuit alleged their actions resulted in the destruction of protective ice, exposing the village to severe storms that destroy the ground the village stands on. Relocating the village of Kivalina could cost between \$95 and \$400 million, an expense the community cannot afford.

## &gt; Cane Run Power Plant Coal Ash Case

In 2013, Hagens Berman filed a class-action lawsuit against Louisville Gas and Electric Company alleging it illegally dumped waste from a coal-fired power plant onto neighboring property and homes where thousands of Kentucky residents live. According to the complaint, Louisville Gas and Electric Company's Cane Run Power Plant is fueled by the burning of coal, which also produces coal combustion byproducts—primarily fly ash and bottom ash—that contain significant quantities of toxic materials, including arsenic, chromium and lead. The dust spewed by Cane Run contains known carcinogens, posing significant potential health hazards.

## PRACTICE AREAS

## Governmental Representation

Hagens Berman has been selected by public officials to represent government agencies and bring civil law enforcement and damage recoupment actions designed to protect citizens and the treasury. We understand the needs of elected officials and the obligation to impartially and zealously represent the interests of the public, are often chosen after competitive bidding and have been hired by officials from across the political spectrum.

Hagens Berman has assisted governments in recovering billions of dollars in damages and penalties from corporate wrongdoers and, in the process, helped reform how some industries do business. In serving government, we are often able to leverage the firm's expertise and success in related private class-action litigation. Successes on behalf of government clients include:

#### › Big Tobacco

We represented 13 states in landmark Medicaid-recoupment litigation against the country's major tobacco companies. Only two states took cases to trial – Washington and Minnesota. The firm served as trial counsel for the state of Washington, becoming only one of two private firms in the entire country to take a state case to trial.

Hagens Berman was instrumental in developing what came to be accepted as the predominant legal tactic to use against the tobacco industry: emphasizing traditional law enforcement claims such as state consumer protection, antitrust and racketeering laws. This approach proved to be nearly universally successful at the pleading stage, leaving the industry vulnerable to a profits-disgorgement remedy, penalties and double damages. The firm also focused state legal claims on the industry's deplorable practice of luring children to tobacco use.

**RESULT:** \$206 billion for state programs, the largest settlement in the history of civil litigation in the U.S.

#### › McKesson Average Wholesale Price Litigation

This litigation is yet another example of fraudulent drug price inflation impacting not just consumers and private health plans, but public health programs such as Medicaid and local government-sponsored plans as well.

**RESULT:** Hagens Berman has started the AWP class action, which resulted in many states filing cases. The firm represented several of those states in successful litigation.

#### › McKesson Government Litigation

On the heels of Hagens Berman's class action against McKesson, the firm led lawsuits by states (Connecticut, Utah, Virginia, Montana, Arizona).

**RESULT:** These states obtained recoveries three to seven times larger than states settling in the multi-state Attorneys General settlement. In addition, the firm obtained \$12.5 million for the City of San Francisco and \$82 million for a nationwide class of public payors.

#### › Zyprexa Marketing & Sales Practices Litigation - Connecticut

Hagens Berman served as outside counsel to then-Attorney General Richard Blumenthal in litigation alleging that Lilly engaged in unlawful off-label promotion of the atypical antipsychotic Zyprexa. The litigation also alleged that Lilly made significant misrepresentations about Zyprexa's safety and efficacy, resulting in millions of dollars in excess pharmaceutical costs borne by the State and its taxpayers.

**RESULT:** \$25 million settlement.

#### › General Motors Ignition Switch Litigation

Hagens Berman is pleased to be assisting the Arizona Attorney General in its law enforcement action versus GM, as well as the district attorney of Orange County, California who filed a consumer protection lawsuit against GM, claiming the automaker deliberately endangered motorists and the public by intentionally concealing widespread, serious safety defects.

## PRACTICE AREAS

## Governmental Representation

## &gt; State Opioid Litigation

Hagens Berman was hired to assist multiple municipalities in lawsuits brought against large pharmaceutical manufacturers including Purdue Pharma, Cephalon, Janssen Pharmaceuticals, Endo Health Solutions and Actavis charging that these companies and others deceived physicians and consumers about the dangers of prescription painkillers.

The firm was first hired by California governmental entities for the counties of Orange and Santa Clara. The state of Mississippi also retained the firm's counsel in its state suit brought against the manufacturer of opioids. The suit alleges that the pharma companies engaged in tactics to prolong use of opioids despite knowing that opioids were too addictive and debilitating for long-term use for chronic non-cancer pain.

In a third filing, Hagens Berman was retained as trial counsel for the state of Ohio. Filed on May 31, 2017, the firm is assisting the Ohio Attorney General's office in its case against five opioid makers. Ohio Attorney General Mike DeWine stated that "drug companies engaged in fraudulent marketing regarding the risks and benefits of prescription opioids which fueled Ohio's opioid epidemic," and that "these pharmaceutical companies purposely misled doctors about the dangers connected with pain meds that they produced, and that they did so for the purpose of increasing sales."

## &gt; Municipal Lending

Hagens Berman represents the cities of Los Angeles and Miami in a series of lawsuits filed against the nation's largest banks, including CitiGroup, JP Morgan, Wells Fargo and Bank of America alleging that they engage in systematic discrimination against minority borrowers, resulting in reduced property tax receipts and other damages to the cities. The suits seek damages for the City, claiming that the banks' alleged discriminatory behavior resulted in foreclosures, causing a reduction of property tax revenues and increased municipal service costs.

## PRACTICE AREAS

## Intellectual Property

The Hagens Berman intellectual property team has deep experience in all aspects of intellectual property litigation. We specialize in complex and significant damages cases against some of the world's largest corporations.

The firm is primarily engaged in patent infringement litigation at this time. We seek to represent intellectual property owners, including inventors, universities, non-practicing entities, and other groups whose patent portfolios represents a significant creative and capital investment.

Our current and recent engagements include the following:

› **Bombardier Inc.**

The firm represented Arctic Cat Inc. in patent infringement litigation against Bombardier Recreational Products and BRP U.S. Inc. The complaint alleges that Bombardier's Sea-Doo personal watercraft infringe Arctic Cat's patents covering temporary steerable thrust technology used when the rider turns in off-throttle situations.

**RESULT:** Florida U.S. District Judge Beth Bloom issued a final judgment of \$46.7 million against defendants, trebling initial damages of \$15.5 million awarded in a unanimous jury verdict.

› **Angry Birds**

Hagens Berman represented a Seattle artist who filed a lawsuit against Hartz Mountain Corporation – one of the nation's largest producers of pet-related products – claiming the company illegally sold the artist's trademarked Angry Birds pet toy line to video game giant Rovio Entertainment Ltd, robbing her of millions of dollars of royalty fees.

**RESULT:** The case settled under confidential terms, which the firm found to be extremely satisfactory for the plaintiff.

› **Samsung, LG, Apple**

The firm represents FlatWorld Interactives LLC in patent litigation against Samsung, LG and Apple. The complaints allege that the defendants' mobile handsets, tablets, media players and other devices infringe a FlatWorld patent covering the use of certain gestures to control touchscreen displays.

**RESULT:** The case settled.

› **Oracle**

The firm represents Thought Inc. against Oracle Corporation in a suit alleging infringement of seven patents covering various aspects of middleware systems providing application to database mapping, reading and persistence.

› **Salesforce**

The firm represents Applications in Internet Time LLC in patent litigation against Salesforce Inc. The suit alleges that our client's patents cover the core architecture of Salesforce's platform for developing, customizing, and updating cloud-based software applications.

› **Nintendo**

The firm represented Japan-based Shinsedai Company in patent infringement litigation against Nintendo. The suit alleged that our client's patents were infringed by various sports games for the Nintendo Wii.

*Unlike other intellectual property firms, Hagens Berman only represents plaintiffs. This reduces the risk of potential conflicts of interest which often create delays in deciding whether or not to take a case at larger firms.*

## PRACTICE AREAS

## Intellectual Property

### > Electronic Arts

Hagens Berman represents the original software developer of the Electronic Arts (EA) NFL Madden Football video game series in a suit alleging that he is owed royalties on EA Madden NFL titles as well as other derivative products. We prevailed in two trials against EA, and the verdicts were designated as the Top Verdict of the Year (2013) by The Daily Journal. The judgment is on appeal and if upheld will return for a final damages phase.

Hagens Berman is also skilled in other aspects of intellectual property law, including trademark, trade dress, trade secret and copyright litigation.

## PRACTICE AREAS

## Investor Fraud – Individual and Class Action Litigation

Investing is a speculative business involving assessment of a variety of risks that can only be properly weighed with full disclosure of accurate information. No investor should suffer undue risk or incur losses due to misrepresentations related to their investment decisions.

Our attorneys work for institutional and individual investors defrauded by unscrupulous corporate insiders and mutual funds. The firm vigorously pursues fraud recovery litigation, forcing corporations and mutual funds to answer to deceived investors.

Hagens Berman is one of the country's leading securities litigation firms advising clients in both individual and class-action cases. The firm has experience, dedication and a team with the horsepower required to drive complex cases to exemplary outcomes. Our attorneys are authorities in an array of issues unique to federal and state securities statutes and related laws. We use a variety of highly experienced experts as an integral part of our prosecution team. Successes on behalf of our investor clients include:

› **Charles Schwab Securities Litigation**

Lead counsel, alleging fraud in the management of the Schwab YieldPlus mutual fund.

**RESULT:** \$235 million class settlement for investors.

› **Oppenheimer**

Additional counsel for lead plaintiffs in class action alleging Oppenheimer misled investors regarding its Champion and Core Bond Funds.

**RESULT:** \$100 million for the classes.

› **Tremont**

Co-lead counsel in a case alleging Tremont Group Holdings breached its fiduciary duties by turning over \$3.1 billion to Bernard Madoff. On Sept. 14, 2015, after nearly two years of negotiations and mediation, the court granted final approval of the plan of allocation and distribution of the funds which markets estimate could yield investors as much as \$1.45 billion.

**RESULT:** \$100 million settlement between investors, Tremont and its affiliates.

› **Boeing**

Uncovered critical production problems with the 777 airliner documented internally by Boeing, but swept under the rug until a pending merger with McDonnell Douglas was completed.

**RESULT:** Record-breaking settlement of more than \$92.5 million.

› **J.P. Morgan – Madoff**

Case alleges that banking and investment giant J.P. Morgan was complicit in aiding Bernard Madoff's Ponzi scheme. Investors claim that J.P. Morgan operated as Bernard L. Madoff Investment Securities LLC's primary banker for more than 20 years.

**RESULT:** \$218 million settlement amount for the class and a total of \$2.2 billion paid from JPMorgan that will benefit victims of Madoff's Ponzi scheme.

› **Morrison Knudsen**

Filed a shareholder class action, alleging that MK's senior officers concealed hundreds of millions in losses.

**RESULT:** More than \$63 million for investors.

› **Raytheon/Washington Group**

Charged Raytheon with deliberately misrepresenting the true financial condition of Raytheon Engineers & Constructors division in order to sell this division to the Washington Group at an artificially inflated price.

**RESULT:** \$39 million settlement.

› **U.S. West**

Represented shareholders of U.S. West New Vector in a challenge to the proposed buyout of minority shareholders by U.S. West.

**RESULT:** The proposed buyout was stayed, and a settlement was achieved, resulting in a \$63 million increase in the price of the buyout.

## PRACTICE AREAS

## Investor Fraud - Individual and Class Action Litigation

Our current casework includes:

› **Theranos Investor Litigation**

Hagens Berman represents Theranos investors in a lawsuit that states that Theranos and its officers set in motion a publicity campaign to raise billions of dollars for Theranos and themselves, and to induce investors to invest in Theranos, all the while knowing that its “revolutionary” blood test technology was essentially a hoax. The suit filed against the company, its CEO Elizabeth Holmes and Ramesh Balwani, alleges that Theranos’ statements to investors were built on false statements. At the crux of the court’s recent decision to uphold the investor case against Theranos was a finding that while plaintiffs did not directly purchase their securities from defendants, claims made by Theranos, Holmes and Balwani constituted fraud.

› **Aequitas Investor Litigation**

The firm represents a group of investors alleging that national law firm Sidley Austin LLP, Oregon law firm Tonkon Torp LLP and accounting firms Deloitte & Touche LLP and EisnerAmper LLP violated Oregon securities laws by participating or materially aiding in misrepresentations made by Aequitas Management LLC and contributing to a \$350 million Ponzi scheme. Investors state, amongst other allegations, that in 2011 Aequitas began purchasing loan receivables from Corinthian College Inc. and had bought the rights to collect \$444 million in loans. Investment managers hid the details of the transactions from investors, and deceived them when Corinthian’s business was hit with regulatory challenges in 2014. When Corinth collapsed in May 2015, the investment group and its managers continued to sell securities and used the money to pay off other investors and fund a lavish lifestyle, until Aequitas ultimately imploded in 2017, the investors claim.

› **China MediaExpress**

Hagens Berman represents investors in a case against China MediaExpress, which purported to be the owner of a network of advertising terminals on buses throughout China. The case alleges that the company and its auditor (Deloitte Touche Tohmatsu) participated in accounting fraud that ultimately led to the demise of the company. In early 2014, the court entered

a default judgment in the amount of \$535 million and certified a proposed class against China Media Express Holdings Inc. The case will proceed separately against Deloitte Touche Tohmatsu.

On May 6, 2015 Hagens Berman obtained a \$12 million settlement from Deloitte Touche Tohmatsu, one of the largest settlements against an auditor in a Chinese “reverse merger” case which is now awaiting final approval from the court.

› **Altisource Asset Management Corporation**

The firm was appointed lead counsel in this institutional investor lawsuit brought on behalf of purchasers of Altisource Asset Management Corporation (AAMC). The complaint alleges that AAMC misrepresented or outright concealed its relationship with these companies and the extent to which the interconnected entities engaged in conflicted transactions with themselves. Estimates of class-wide damages are in the hundreds of millions of dollars. The firm recently filed the consolidated complaint and motions to dismiss are pending before the U.S. District Court for the District of the Virgin Islands.

**WHISTLEBLOWERS**

In an effort to curb Wall Street excesses, Congress passed the Dodd-Frank Wall Street Reform and Consumer Protection Act, which built vigorous whistleblower protections into the legislation known as the “Wall Street Tip-Off Law.” The law empowers the U.S. Securities and Exchange Commission to award between 10 and 30 percent of any monetary sanctions recovered in excess of \$1 million to whistleblowers who provide information leading to a successful SEC enforcement. It also provides similar rewards for whistleblowers reporting fraud in the commodities markets.

Hagens Berman represents whistleblowers with claims involving violations of the Securities Exchange Act and the Commodities Exchange Act. Unlike traditional whistleblower firms who have pivoted into this area, Hagens Berman has a strong background and history of success in securities, antitrust and other areas of fraud enforcement, making us an ideal partner for these cases. Our matters before the SEC/CFTC include a range of claims, including market manipulation and fraudulent financial statements.

## PRACTICE AREAS

# Investor Fraud - Institutional Investor Portfolio Monitoring and Recovery Services

Hagens Berman is a leading provider of specialized securities litigation services to public, private and Taft-Hartley pension funds. We offer proprietary and unparalleled asset protection and recovery services to both foreign and domestic institutions. Our institutional services provide participants with the ability to identify, investigate and react to potential wrongdoing by companies in which the institution invests.

**PORTFOLIO MONITORING.** Timely information and analysis are the critical ingredients of a successful fraud recovery program. Institutions must receive quick, reliable determinations concerning the source and extent of their losses, the likelihood of recoupment and the best manner for pursuing it. Our Portfolio Monitoring Service provides these services at no cost to participating institutions. The Hagens Berman Portfolio Monitoring Service has three primary components:

**TRACKING.** Alerts clients of any significant portfolio losses due to suspected fraud.

**ANALYSIS.** Provide clients with necessary legal and factual analyses regarding possible recovery options, removing from the institution any burden connected with scrutinizing myriad instances of potential wrongdoing and attempt to decipher whether direct, recoverable injuries have resulted.

**REPORTING.** Attorneys and forensic accounting fraud experts deliver a concise monthly report that furnishes comprehensive answers to these inquiries. On a case-by-case basis, the report specifies each of the securities in which the client lost a significant amount of money, and matches those securities with an analysis of potential fraud likelihood, litigation options and an expert recommendation on how best to proceed for maximum recovery.

Our Portfolio Monitoring Service performs its functions with almost no inconvenience to participating institutions. A client's custodian bank provides us with records detailing the client's transactions from the prior several years and on a regular basis thereafter. Importantly, none of the institution's own personnel is required to share in this task, as we acquire the information directly from the custodian bank.

We provide our Portfolio Monitoring service with no strings attached and allow our clients to act without cost or commitment. In instances where a litigation opportunity arises, we believe our skills make us the ideal choice for such a role, although the client is free to choose others.

When a portfolio loses money because of corporate deception, our litigation services seek to recover a substantial percentage of those losses, thereby increasing a fund's performance metric. As fiduciaries, money managers may not have the ability or desire to risk funds on uncertain litigation using typical hourly-rate law firms. Hagens Berman seeks to minimize the burden on the money manager by pursuing cases on a contingent-fee basis.

## PRACTICE AREAS

# Personal Injury and Abuse

For nearly two decades, Hagens Berman's blend of professional expertise and commitment to our clients has made our firm one of the most well-respected and successful mass tort and personal injury law firms in the nation. We deliver exceptional results for our clients by obtaining impressive verdicts and settlements in personal injury litigation.

Our attorneys have experience in wrongful death, brain injury and other catastrophic injury cases, as well as deep experience in social work negligence, medical malpractice, nursing home negligence and sexual abuse cases.

Hagens Berman also has unparalleled experience in very specific areas of abuse law, recovering damages on behalf of some of the most vulnerable people in our society.

**Sexual Abuse Litigation** Hagens Berman has represented a wide spectrum of individuals who have been victims of sexual abuse, including children and developmentally disabled adults. We treat each case individually, with compassion and attention to detail and have the expertise, resources and track record to stand up to the toughest opponents. In the area of sexual abuse, our attorneys have obtained record-breaking verdicts, including the largest personal injury verdict ever upheld by an appellate court in the state of Washington.

**Nursing Home Negligence** Nursing home negligence is a growing problem throughout the nation. As our population ages, reports of elder abuse and nursing home negligence continue to rise. Today, elder abuse is one of the most rapidly escalating social problems in our society. Hagens Berman is uniquely qualified to represent victims of elder abuse and nursing home negligence. Our attorneys have secured outstanding settlements in this area of the law and have committed to holding nursing homes accountable for wrongdoing.

**Social Work Negligence** Social workers play a critical role in the daily lives of our nation's most vulnerable citizens. Social workers, assigned to protect children, the developmentally disabled and elderly adults, are responsible for critical aspects of the lives of

tens of thousands of citizens who are unable to protect themselves. Many social workers do a fine job. Tragically, many do not. The results are often catastrophic when a social worker fails to monitor and protect his or her vulnerable client. All too often, the failure to protect a child or disabled citizen leads to injury or sexual victimization by predators. With more than \$40 million in recoveries on behalf of vulnerable citizens who were neglected by social workers, Hagens Berman is the most experienced, successful and knowledgeable group of attorneys in this dynamic area of the law.

**Workplace Injury** While many workplace injury claims are precluded by workers compensation laws, many instances of workplace injury are caused by the negligence and dangerous oversight of third parties. In these instances, victims may have valid claims. Hagens Berman's personal injury legal team has successfully brought many workplace injury claims, holding third parties liable for our clients' serious bodily injuries.

**Medical Malpractice** Litigating a medical malpractice case takes acute specialization and knowledge of medical treatments and medicine. Notwithstanding these facts, Hagens Berman pursues meritorious medical malpractice claims in instances where clients have suffered life-altering personal injuries. Our firm's personal injury attorneys handle medical malpractice cases with the dedication and detail necessary to make victims whole. Hagens Berman is very selective in accepting medical malpractice cases and has been successful in recovering significant compensation for victims of medical error and negligence.

## PRACTICE AREAS

## Sports Litigation

Hagens Berman has one of the nation's most highly regarded sports law practices. Our attorneys are the vanguard of new and innovative legal approaches to protect the rights of professional and amateur athletes in cases against large, well-financed interests, including the National Collegiate Athletic Association (NCAA), the National Football League (NFL) and the Fédération Internationale de Football Association (FIFA).

› **NCAA: Concussions**

Cases of particular nationwide interest for fans, athletes and the general public involve numerous cases filed by Hagens Berman against the NCAA. Recently, the firm has taken on the NCAA for its failure to prevent concussions and protect student-athletes who suffered concussions. Steve Berman serves as lead counsel in multi-district litigation as the firm finalizes a settlement that will bring sweeping changes to the NCAA's approach to concussion treatment and prevention; provide a 50-year medical-monitoring program for student-athletes to screen for and track head injuries; and establish a \$5 million fund for concussion research.

The core settlement benefits include a 50-year medical monitoring program overseen by a medical science committee appointed by the court that will screen and track concussions, funded by a \$70 million medical monitoring fund, paid by the NCAA and its insurers. Examinations include neurological and neurocognitive assessments to evaluate potential injuries.

The settlement also mandates significant changes to and enforcement of the NCAA's concussion management policies and return-to-play guidelines. All players will now receive a seasonal, baseline test to better assess concussions sustained during the season. All athletes who have sustained a concussion will now need to be cleared before returning to play. A medical professional trained in the diagnosis of concussions will be present at all games involving contact-sports. The settlement also creates reporting mandates for concussions and their treatment.

› **Player Likeness Rights**

Hagens Berman attorneys representing student-athletes who claimed that the NCAA illegally used student-athletes' names, images and likenesses in Electronic Arts' popular NCAA Football, Basketball and March Madness video game series reached a combined \$60 million settlement with the NCAA and EA, marking the first time the NCAA has agreed to a settlement that pays student-athletes for acts related to their participation in athletics. Settlement checks were sent to about 15,000 players, with average amounts of \$1,100 and some up to \$7,600.

The firm began this case with the knowledge that the NCAA and member schools were resolute in keeping as much control over student-athletes as possible, and fought hard to ensure that plaintiffs would not be exploited for profit, especially by the organization that vowed to prevent the athlete from exploitation.

The firm also represented NFL legend Jim Brown in litigation against EA for improperly using his likeness in its NFL video games, culminating in a \$600,000 voluntary judgment offered by the video game manufacturer.

› **FIFA/U.S. Soccer: Concussions**

Several current and former soccer players filed a class action against U.S. soccer's governing bodies, which led to life-changing safety measures brought to millions of U.S. youth soccer players. Players represented by Hagens Berman alleged these groups failed to adopt effective policies to evaluate and manage concussions, leaving millions of players vulnerable to long-lasting brain injury.

## PRACTICE AREAS

## Sports Litigation

The settlement against six of the largest youth soccer organizations completely eliminates heading for youth soccer's youngest players, greatly diminishing risks of concussions and traumatic head injuries. Prior to the settlement, no rule limited headers in children's soccer.

It also sets new benchmarks for concussion measurement and safety protocols, and highlights the importance of on-staff medical personnel at youth tournaments. Under the settlement, youth players who have sustained a concussion during practice or a game will need to follow certain return-to-play protocols before they are allowed to play again. Steve Berman, a youth soccer coach, has seen first-hand the settlement's impacts and life-changing effects every time young athletes take to the field,

#### › NCAA: Transfer Antitrust

Hagens Berman has also recently taken on the NCAA on behalf of several highly recruited college athletes whose scholarships were revoked after a coaching change, or after the student-athletes sought to transfer to another NCAA-member school. The suit claims that the organization's limits and Draconian transfer regulations violate federal antitrust laws.

It the firm's most recent suit against the sports-governing entity, a Division I student-athlete at Northwestern University was faced with repeated harassment from the university to transfer, in order to underhandedly free up his athletic scholarship. According to the complaint, the university resorted to falsified records of misconduct, verbal harassment and more.

The firm's case hinges on a destructive double-standard. While Non-student-athletes are free to transfer and are eligible for a new scholarship without waiting a year, and coaches often transfer to the tune of a hefty pay raise, student-athletes are penalized and forced to sit out a year before they can play elsewhere, making them much less sought after by other college athletic programs. Hagens Berman continues to fight for student-athletes' rights to be treated fairly and terminate the NCAA's anticompetitive practices and overbearing regulations that limit players' options and freedoms.

#### › NCAA: Scholarships/Grants-In-Aid (GIAs)

In a first-of-its-kind antitrust action and potentially far-reaching case, Hagens Berman filed a class-action affecting approximately 40,000 Division I collegiate athletes who played men's or women's basketball, or FBS football, brought against the NCAA and its most powerful members, including the Pac-12, Big Ten, Big-12, SEC and ACC, claiming these entities violated federal antitrust laws by drastically reducing the number of scholarships and financial aid student-athletes receive to an amount below the actual cost of attendance and far below what the free market would bare.

The firm continues to fight on behalf of student-athletes to level the playing field and bring fairness to college sports and players. The case resulted in a \$208.9 million settlement, bringing an estimated average amount of \$6,500 to each eligible class member who played his or her sport for four years.

#### › Pop Warner

Hagens Berman represents youth athletes who have suffered traumatic brain injuries due to gross negligence, and filed a lawsuit on behalf of former Pop Warner football player Donovan Hill and his mother Crystal Dixon. The suit claims that the league insisted Hill use improper and dangerous tackling techniques which left the then 13-year-old paralyzed from the neck down.

Hagens Berman sought to hold Pop Warner, its affiliates, Hill's coaches and members of the Lakewood Pop Warner board of directors accountable for the coaches' repeated and incorrect instruction that Hill and his teammates tackle opposing players by leading with the head.

In January of 2016, the firm reached a settlement on behalf of Donovan and his mother, the details of which were not released. Sadly, months later, 17-year-old Donovan passed away. The firm believes that his case will continue to have a lasting impact on young athletes for generations and will help ensure safety in youth sports.

#### › MLB Foul Ball Injuries

Hagens Berman filed a class-action lawsuit on behalf of baseball fans, seeking to extend safety netting to all major and minor

## PRACTICE AREAS

## Sports Litigation

league ballparks from foul pole to foul pole. The suit alleges that tens of millions attend an MLB game annually, and every year fans of all ages, but often children, suffer horrific and preventable injuries, such as blindness, skull fractures, severe concussions and brain hemorrhages when struck by a fast-moving ball or flying shrapnel from a shattered bat.

In December of 2015, MLB's commissioner Rob Manfred issued a recommendation to all 30 MLB teams to implement extended safety measures, including additional safety netting at ballparks. While the firm commends the league for finally addressing the serious safety issue at stake, the firm continues to urge MLB and its commissioner to make these more than recommendations to help end senseless and avoidable injuries to baseball's biggest fans.

## &gt; Other Cases

In addition to its class actions, Hagens Berman has filed several individual cases to uphold the rights of athletes and ensure a fair and safe environment. The firm has filed multiple individual cases to address concussions and other traumatic head injuries among student-athletes at NCAA schools and in youth sports. Hagens Berman continues to represent the interests of athletes and find innovative and effective applications of the law to uphold players' rights.

The firm has also brought many concussions cases on behalf of individual athletes, challenging large universities and institutions for the rights those who have suffered irreversible damage due to gross negligence and lack of even the most basic concussion-management guidelines.

## PRACTICE AREAS

## Terrorism

With a long track record of upholding the rights of the voiceless, Hagens Berman fights for justice on behalf of victims of international terrorism. Our anti-terrorism legal team builds on our robust history to forge innovative cases, bringing action against those that support terrorism.

Hagens Berman has always believed in fighting for the rights of those with no voice – those who are victims to tragic circumstances beyond their control. With our guiding principles driving our efforts, the firm has expanded its practice areas to include anti-terrorism litigation.

It's no secret that some businesses and individuals have pled guilty to violating United States laws that prohibit financial transactions with terrorist organizations and foreign states that support terrorism. We believe that the law is one of the most powerful tools to combat terrorism, and our renowned team of litigators brings a fresh perspective to the fight for victims' rights in this complex arena.

Through a deep understanding of both U.S. and international anti-terrorism laws, Hagens Berman builds on its foundation to investigate acts of terrorism and forge ironclad cases against anyone responsible, to help ensure that those at the mercy of the world's most egregious perpetrators of violence are represented with the upmost integrity and determination.

The firm's new practice area carries out our mission of building a safer world through novel applications of the law and steadfast dedication.

## › Chiquita Bananas

Hagens Berman represents American citizens who were victims of terrorism in Colombia. The victims were harmed by Colombian terrorists that Chiquita Brands International Inc. paid so that it could grow bananas in Colombia in regions that were controlled by the terrorists. Chiquita is one of the world's largest producers and marketers of fruits and vegetables and admitted it paid Colombian terrorist organizations as part of a guilty plea to settle criminal charges brought by the U.S. Department of Justice

Chiquita was placed on corporate probation and paid a \$25 million dollar fine because of its conduct in Colombia.

Plaintiffs have sued Chiquita under the U.S. Anti-Terrorism Act, which allows American victims of international terrorism to sue anyone responsible and to recover treble damages and attorney's fees. The claims are pending in the U.S. District Court for the Southern District of Florida as part of the consolidated multidistrict litigation to resolve claims related to Chiquita's payments to Colombian terrorist organizations.

## PRACTICE AREAS

## Whistleblower Litigation

Hagens Berman represents whistleblowers under various programs at both the state and federal levels. All of these whistleblower programs reward private citizens who blow the whistle on fraud. In many cases, whistleblowers report fraud committed against the government and may sue those individuals or companies responsible, helping the government recover losses.

Our depth and reach as a leading national plaintiffs' firm with significant success in varied litigation against industry leaders in finance, health care, consumer products, and other fields causes many whistleblowers to seek us to represent them in claims alleging fraud against the government.

Our firm also has several former prosecutors and other government attorneys in its ranks and has a long history of working with governments, including close working relationships with attorneys at the U.S. Department of Justice. The whistleblower programs under which Hagens Berman pursues cases include:

## FALSE CLAIMS ACT

Under the federal False Claims Act, and more than 30 similar state laws, a whistleblower reports fraud committed against the government, and under the law's *Qui Tam* provision, may file suit on its behalf to recover lost funds. False claims acts are one of the most effective tools in fighting Medicare and Medicaid fraud, defense contractor fraud, financial fraud, under-payment of royalties, fraud in general services contracts and other types of fraud perpetrated against governments.

The whistleblower initially files the case under seal, giving it only to the government and not to the defendant, which permits the government to investigate. After the investigation, the government may take over the whistleblower's suit, or it may decline. If the government declines, the whistleblower can proceed alone on his or her behalf. In successful suits, the whistleblower normally receives between 15 and 30 percent of the government's recovery as a reward.

Since 1986, federal and state false claims act recoveries have totaled more than \$22 billion. Some examples of our cases brought under the False Claims Act include:

› **In U.S. ex rel. Lagow v. Bank of America**

Represented former District Manager at Landsafe, Countrywide Financial's mortgage appraisal arm, who alleged systematic abuse of appraisal guidelines as a means of inflating mortgage values.

**RESULT:** The case was successful, ultimately triggering a settlement of \$1 billion, and our client received a substantial reward.

› **In U.S. ex rel. Mackler v. Bank of America**

Represented a whistleblower who alleged that Bank of America failed to satisfy material conditions of its government contract to provide homeowners mortgage relief under the HAMP program.

**RESULT:** The case succeeded and was settled as part of the 2012 global mortgage settlement, resulting in an award to our client.

› **In U.S. ex rel. Horwitz v. Amgen**

Represented Dr. Marshall S. Horwitz, who played a key role in uncovering an illegal scheme to manipulate the scientific record regarding two of Amgen's blockbuster drugs.

**RESULT:** \$762 million in criminal and civil penalties levied by the U.S. Department of Justice and an award to our client.

› **In U.S. ex rel. Thomas v. Sound Inpatient Physicians Inc. and Robert A. Bessler**

Represented a former regional vice president of operations for Sound Physicians, who blew the whistle on Sound's alleged misconduct.

**RESULT:** Tacoma-based Sound Physicians agreed to pay the United States government \$14.5 million.

› **In U.S. ex rel. Plaintiffs v. Center for Diagnostic Imaging Inc.**

In May 2010, Hagens Berman joined as lead trial counsel a qui tam lawsuit on behalf of two whistleblowers against Center for

## PRACTICE AREAS

## Whistleblower Litigation

Diagnostic Imaging, Inc. (CDI), alleging that CDI violated anti-kickback laws and defrauded federally funded health programs by presenting false claims for payment.

**RESULT:** In 2011, the government intervened in the claims, which the company settled for approximately \$1.3 million. The government declined to intervene, however, in the no-written-orders and kickback claims, leaving those claims for the whistleblowers and their counsel to pursue on their own. The non-intervened claims settled for an additional \$1.5 million payment to the government.

#### > Medtronic

On Feb. 19, 2008 the court unsealed a qui tam lawsuit brought by Hagens Berman against Medtronic, one of the world's largest medical technology companies, for fraudulent medical device applications to the FDA and off-label promotion of its biliary devices.

**RESULT:** The case settled in 2012 for an amount that remained under seal.

#### SECURITIES AND EXCHANGE COMMISSION / COMMODITY FUTURES TRADING COMMISSION

Since implementation of the SEC/CFTC Dodd Frank whistleblower programs in 2011, Hagens Berman has naturally transitioned into representation of whistleblowers with claims involving violations of the Securities Exchange Act and the Commodities Exchange Act.

Unlike the False Claims Act, whistleblowers with these new programs do not initially file a sealed lawsuit. Instead, they provide information directly to the SEC or the CFTC regarding violations of the federal securities or commodities laws. If the whistleblower's information leads to an enforcement action, they may be entitled to between 10 and 30 percent of the recovery.

The firm currently represents HFT whistleblower and market expert, Haim Bodek, in an SEC fraud whistleblower case that prompted the U.S. Securities and Exchange Commission to bring record-breaking fines against two exchanges formerly owned by Direct Edge Holdings (and since acquired by Bats Global

Markets, the second-largest financial exchange in the country). The exchanges agreed to pay \$14 million to settle charges that the exchanges failed to accurately and completely disclose how order types functioned on its exchanges and for selectively providing such information only to certain high-frequency trading firms.

Hagens Berman also represents an anonymous whistleblower who brought his concerns and original analysis related to the May 2, 2010 Flash Crash to the CFTC after hundreds of hours spent analyzing data and other information.

Both the U.S. Commodity Futures Trading Commission (CFTC) and the Department of Justice, in separate criminal and civil enforcement actions, brought charges of market manipulation and spoofing against Nav Sarao Futures Limited PLC (Sarao Futures) and Navinder Singh Sarao (Sarao) based on the whistleblower's information.

Hagens Berman has worked alongside government officials and regulators, establishing the credibility necessary to bring a case to the SEC or CFTC. When Hagens Berman brings a claim, we work hard to earn their respect and regulators pay attention.

A few of the firm's most recent whistleblower cases in this area include:

#### > EDGA Exchange Inc. and EDGX Exchange Inc.

Represented HFT whistleblower and market expert, Haim Bodek, in an SEC fraud whistleblower case against two exchanges formerly owned by Direct Edge Holdings and since acquired by Bats Global Markets, the second-largest financial exchange in the country for spoofing.

**RESULT:** The case prompted the U.S. Securities and Exchange Commission to bring record-breaking fine of \$14 million against defendants, the largest ever brought against a financial exchange.

## PRACTICE AREAS

## Whistleblower Litigation

> [Nav Sarao Futures Limited PLC](#)

Hagens Berman represents an anonymous whistleblower who brought his concerns and original analysis to the CFTC after hundreds of hours spent analyzing data and other information. The claim brought about legal action against a market manipulator who profited more than \$40 million from market fraud and contributed to the May 6, 2010 Flash Crash.

**RESULT:** Both the CFTC and the Department of Justice, in separate criminal and civil enforcement actions, brought charges of market manipulation and spoofing against Nav Sarao Futures Limited PLC and Navinder Singh Sarao based on the whistleblower's information. The case is still pending under seal.

## INTERNAL REVENUE SERVICE

Hagens Berman also represents whistleblowers under the IRS whistleblower program enacted with the Tax Relief and Health Care Act of 2006.

The IRS program offers rewards to those who come forward with information about persons, corporations or any other entity that cheats on its taxes. In the event of a successful recovery of government funds, a whistleblower can be rewarded with up to 30 percent of the overall amount collected in taxes, penalties and legal fees.

Hagens Berman helps IRS whistleblowers present specific, credible tax fraud information to the IRS. Unlike some traditional False Claims Act firms, Hagens Berman has experience representing governments facing lost tax revenue due to fraud, making us well-positioned to prosecute these cases.

# Appellate Victories

## APPELLATE VICTORIES

## Strengthening Consumer Law

At Hagens Berman, we distinguish ourselves not merely by the results we obtain, but by how we obtain them. Few class-action firms have our firm's combination of resources and acumen to see a case through as long as needed to obtain a favorable outcome. Our attorneys were instrumental in obtaining these federal appellate decisions that have shaped consumer law and bolstered the rights of millions nationwide:

- **In Matter of Motors Liquidation Co.**, 829 F.3d 135 (2d Cir. 2016) (General Motors bankruptcy reorganization did not bar claims stemming from defective ignition switches)
- **George v. Urban Settlement Servs.**, 833 F.3d 1242 (10th Cir. 2016) (complaint adequately alleged Bank of America's mortgage modification program violated RICO)
- **In re Loestrin 24 Fe Antitrust Litig.**, 814 F.3d 538 (1st Cir. 2016) ("reverse payments" for antitrust purposes under **Actavis** are not limited to cash payments)
- **Osborn v. Visa Inc.**, 797 F.3d 1057 (D.C. Cir. 2015) (complaint adequately alleged Visa and MasterCard unlawfully agreed to restrain trade in setting ATM access fees)
- **Little v. Louisville Gas & Elec. Co.**, 805 F.3d 695 (6th Cir. 2015) (Clean Air Act did not preempt state nuisance claims against coal plant for polluting surrounding community)
- **City of Miami v. Citigroup Inc.**, 801 F.3d 1268 (11th Cir. 2015) (reversing dismissal of complaint alleging Citigroup violated Fair Housing Act by pattern of discriminatory lending)
- **Rajagopalan v. NoteWorld, LLC**, 718 F.3d 844 (9th Cir. 2013) (non-party could not invoke arbitration clause against plaintiff suing debt services provider)
- **In re Neurontin Mktg. & Sales Practices Litig.**, 712 F.3d 21 (1st Cir. 2013) (affirming \$142 million verdict for injury suffered from RICO scheme by Neurontin manufacturer Pfizer)
- **In re NCAA Student-Athlete Name & Likeness Licensing Litig.**, 724 F.3d 1268 (9th Cir. 2013) (First Amendment did not shield video game developer's use of college athletes' likenesses)
- **Garcia v. Wachovia Corp.**, 699 F.3d 1273 (11th Cir. 2012) (Wells Fargo could not rely on **Concepcion** to evade waiver of any right to compel arbitration)
- **Agnew v. Nat'l Collegiate Athletic Ass'n**, 683 F.3d 328 (7th Cir. 2012) (NCAA bylaws limiting scholarships per team and prohibiting multiyear scholarships are subject to antitrust scrutiny and do not receive procompetitive justification at pleading stage)
- **In re Lupron Mktg. & Sales Practices Litig.**, 677 F.3d 21, 24 (1st Cir. 2012) (approving cy pres provision in \$150 million settlement)
- **In re Pharm. Indus. Average Wholesale Price Litig.**, 582 F.3d 156 (1st Cir. 2009) (AstraZeneca illegally published inflated average wholesale drug prices, thereby giving windfall to physicians and injuring patients who paid inflated prices)

**We set ourselves apart not only by getting results but by litigating every case through to finish – to trial and appeal, if necessary. This tenacious drive has led our firm to generate groundbreaking precedents in consumer law.**

Hagens Berman has also been active in state courts nationwide. Notable examples of our victories include:

- **Garza v. Gama**, 379 P.3d 1004 (Ariz. Ct. App. 2016) (reinstating certified class in wage-and-hour action prosecuted by Hagens Berman since 2005)
- **In re Farm Raised Salmon Cases**, 42 Cal. 4th 1077 (Cal. 2008) (Federal Food, Drug and Cosmetic Act did not preempt state claims for deceptive marketing of food products)
- **Pickett v. Holland Am. Line-Westours, Inc.**, 35 P.3d 351 (Wash. 2001) (reversing state court of appeals and upholding class action settlement with cruise line)

Legal Team



## MANAGING PARTNER

## Steve W. Berman

*Served as lead counsel for the largest settlement in world history against Big Tobacco, and at the time the largest automotive, antitrust, ERISA and securities settlements in U.S. history.*

## CONTACT

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(206) 623-0594 fax  
steve@hbsslaw.com

## YEARS OF EXPERIENCE

> 38

## PRACTICE AREAS

- > Antitrust/Trade Law
- > Consumer Protection
- > Governmental Representation
- > Securities/Investment Fraud
- > Whistleblower/**Qui Tam**
- > Patent Litigation

## BAR ADMISSIONS

- > Washington
- > Illinois

## COURT ADMISSIONS

- > Supreme Court of the United States
- > Supreme Court of Illinois
- > Supreme Court of Washington
- > U.S. District Court for the Eastern and Western Districts of Washington
- > U.S. District Court for the Northern and Central Districts of Illinois
- > U.S. District Court for the District of Colorado
- > U.S. District Court for the Eastern District of Michigan
- > First Circuit Court of Appeals
- > Second Circuit Court of Appeals

Steve Berman represents consumers, investors and employees in large, complex litigation held in state and federal courts. Steve's trial experience has earned him significant recognition and led The National Law Journal to name him one of the 100 most powerful lawyers in the nation, and to repeatedly name Hagens Berman one of the top 10 plaintiffs' firms in the country. Steve was named an MVP of the Year by Law360 in 2016 and 2017 for his class-action litigation and received the 2017 Plaintiffs' Trailblazer award. He was recognized for the third year in a row as an Elite Trial Lawyer by The National Law Journal.

Steve co-founded Hagens Berman in 1993 after his prior firm refused to represent several young children who consumed fast food contaminated with E. coli—Steve knew he had to help. In that case, Steve proved that the poisoning was the result of Jack in the Box's cost cutting measures along with gross negligence. He was further inspired to build a firm that vociferously fought for the rights of those unable to fight for themselves. Berman's innovative approach, tenacious conviction and impeccable track record have earned him an excellent reputation and numerous historic legal victories. He is considered one of the nation's most successful class-action attorneys, and has been praised for securing record-breaking settlements and tangible benefits for class members. Steve is particularly known for his tenacity in forging consumer settlements that return a high percentage of recovery to class members.

## CURRENT ROLE

- > Managing Partner, Hagens Berman Sobol Shapiro LLP

## RECENT CASES

## &gt; Emissions Litigation

Steve has pioneered pursuing car manufacturers who have been violating emissions standards, including: Mercedes BlueTEC vehicles, GM Chevy Cruze, Dodge Ram 2500 and 3500 trucks, Dodge Ram 1500 and Jeep Cherokee EcoDiesel vehicles, Chevy Silverado, GMC Sierra as well as other models made by Ford, Audi and BMW. Steve and the firm's unmatched work in emissions-cheating investigations is often ahead of the EPA and government regulators.

## &gt; General Motors Ignition Switch Defect Litigation

Steve serves as lead counsel seeking to obtain compensation for the millions of GM car owners who overpaid for cars that had hidden safety defects.

## &gt; NCAA Grant-in-Aid Scholarships

Served as co-lead counsel in the Alston case that successfully challenged the NCAA's limitations on the benefits student-athletes can receive as part of a scholarship, culminating in a \$208 million settlement. The recovery amounts to 100 percent of single damages in an exceptional result in an antitrust case. Steve will co-lead a trial this year on the injunctive aspect of the case that could result in a change of NCAA rules limiting the financial treatment of athletes. The trial may change the landscape for how NCAA football and basketball players are compensated.

- › Third Circuit Court of Appeals
- › Fifth Circuit Court of Appeals
- › Sixth Circuit Court of Appeals
- › Seventh Circuit Court of Appeals
- › Eighth Circuit Court of Appeals
- › Ninth Circuit Court of Appeals
- › Eleventh Circuit Court of Appeals
- › DC Circuit Court of Appeals
- › Federal Circuit Court of Appeals
- › U.S. Court of Federal Claims

#### EDUCATION

- › University of Chicago Law School, J.D., 1980
- › University of Michigan, B.A., 1976

#### MANAGING PARTNER

## Steve W. Berman

#### › Climate Change – New York City, San Francisco and Oakland

Steve has always been a fighter for the rights of the environment. In 2017, he began the firm's latest endeavor to combat global climate change through novel applications of the law. Steve currently represents the cities of New York City, San Francisco and Oakland in multiple lawsuits filed against the world's largest producers of oil: BP, Chevron Corp., Exxon Mobil Corp., Royal Dutch Shell PLC and ConocoPhillips. The cases seek to hold the Big Oil titans accountable for their brazen impact on global warming-induced sea level rise and related expenses to protect the cities and their millions of residents.

#### › Opioids – Orange County and Santa Clara County, Seattle

Steve has been retained by various municipalities, including the states of Ohio, Mississippi and Arkansas, Orange County, as well as the city of Seattle to serve as trial counsel in a recently filed state suit against five manufacturers of opioids seeking to recover public costs resulting from the opioid manufacturer's deceptive marketing.

#### › Antitrust Litigation

Corporate fraud has many faces, and Steve has taken on some of the largest perpetrators through antitrust law. Steve serves as co-lead counsel in Visa MasterCard ATM, Batteries, Optical Disc Drives and is in the leadership of a class-action lawsuit against Qualcomm for orchestrating a monopoly that led to purchasers paying significantly more for mobile devices. He serves as interim class counsel in a case against Tyson, Purdue and other chicken producers for conspiring to stabilize prices by reducing chicken production. Most recently, Steve filed a proposed class-action lawsuit against the world's largest manufacturers of Dynamic Random Access Memory (DRAM) for cornering the market and driving up DRAM prices.

#### › Consumer Protection

Steve is a leader in protecting millions of consumers in large-scale cases that challenge unfair, deceptive and fraudulent practices. He leads a class action on behalf of owners of Ford vehicles equipped with MyFord Touch, an in-car entertainment system, who claim the system is flawed, putting drivers at risk of an accident while causing economic hardship. Steve recently filed a class-action lawsuit against Facebook for allowing personal data to be harvested for psychographic profiling.

#### RECENT SUCCESS

#### › Volkswagen Franchise Dealerships – \$1.6 billion

Lead counsel for VW franchise dealers suit, in which a settlement of \$1.6 billion has received final approval, and represents a substantial recovery for the class.

#### › Stericycle Sterisafe Contract Litigation – \$295 million

Hagens Berman's team, led by Steve Berman, filed a class-action lawsuit against Stericycle, a massive medical waste disposal company and achieved a sizable settlement for hundreds of thousands of its small business customers.

#### › Dairy Price-Fixing – \$52 million

This antitrust suit's filing unearthed a massive collusion between the biggest dairy producers in the country, responsible for almost 70 percent of the nation's milk. Not only was the price of milk artificially inflated, but this scheme ultimately also cost 500,000 young cows their lives.

## MANAGING PARTNER

## Steve W. Berman

## CAREER HIGHLIGHTS

› **State Tobacco Litigation** - \$206 billion

Special assistant attorney general for the states of Washington, Arizona, Illinois, Indiana, New York, Alaska, Idaho, Ohio, Oregon, Nevada, Montana, Vermont and Rhode Island in prosecuting major actions against the tobacco industry. In November 1998, the initial proposed settlement led to a multi-state settlement requiring the tobacco companies to pay the states \$206 billion and to submit to broad advertising and marketing restrictions – the largest civil settlement in history.

› **Visa MasterCard ATM Antitrust Litigation** - \$27 billion

Co-lead counsel in what was then the largest antitrust settlement in history: a class-action lawsuit alleging that Visa and MasterCard, together with Bank of America, JP Morgan Chase and Wells Fargo, violated federal antitrust laws by establishing uniform agreements with U.S. banks, preventing ATM operators from setting ATM access fees below the level of the fees charged on Visa's and MasterCard's networks.

› **Toyota Sudden, Unintended Acceleration** - \$1.6 billion

Hagens Berman was co-lead counsel in this massive MDL alleging that Toyota vehicles contained a defect causing sudden, unintended acceleration (SUA). It was the largest automotive settlement in history at the time, valued at up to \$1.6 billion. The firm did not initially seek to lead the litigation, but was sought out by the judge for its wealth of experience in managing very complex class-action MDLs. Hagens Berman and managing partner Steve Berman agreed to take on the role of co-lead counsel for the economic loss class and head the plaintiffs' steering committee.

› **Washington Public Power Supply System (WPPSS)** - \$700 million settlement

Represented bondholders and the bondholder trustee in a class-action lawsuit stemming from the failure of two WPPSS nuclear projects. The case was one of the most complex and lengthy securities fraud cases ever filed. The default was one of the largest municipal bond defaults in history. After years of litigation, plaintiffs were awarded a \$700 million settlement agreement brought against more than 200 defendants.

› **E-books Antitrust Litigation** - \$560 million settlement

Fought against Apple and five of the nation's top publishers for colluding to raise the price of e-books, resulting in recovery equal to twice consumers' actual damages. The firm recovered an initial settlement of more than \$160 million with defendant publishing companies in conjunction with several states attorneys general. Steve then led the firm to pursue Apple for its involvement in the e-book price hike. Apple took the case to the Supreme Court, where it was ruled that Apple had conspired to raise prices, and the firm achieved an additional \$450 million settlement for consumers.

› **Enron Pension Protection Litigation** - \$250 million settlement

Led the class-action litigation on behalf of Enron employees and retirees alleging that Enron leadership, including CEO Ken Lay, had a responsibility to protect the interests of those invested in the 401(k) program, an obligation they abrogated. The court selected Steve to co-lead the case against Enron and the other defendants.

› **Charles Schwab Securities Litigation** - \$235 million settlement

Led the firm to file the first class-action lawsuit against Charles Schwab on Mar. 18, 2008, alleging that Schwab deceived investors about the underlying risk in its Schwab YieldPlus Funds Investor Shares and Schwab YieldPlus Funds Select Shares.

## MANAGING PARTNER

## Steve W. Berman

- **JP Morgan Madoff Lawsuit** - \$218 million settlement  
Represented Bernard L. Madoff investors in a suit filed against JPMorgan Chase Bank, one of the largest banks in the world.
- **Boeing Securities Litigation** - \$92.5 million settlement  
Represented a class of tens of thousands of shareholders against Boeing, culminating in a proposed settlement that was the second-largest awarded in the Northwest.
- **NCAA Concussions** - \$75 million settlement, and 50-year medical monitoring fund  
Led the firm's pioneering NCAA concussions suit that culminated in a proposed settlement that will provide a 50-year medical-monitoring program for student-athletes to screen for and track head injuries; make sweeping changes to the NCAA's approach to concussion treatment and prevention; and establish a \$5 million fund for concussion research, preliminarily approved by the court.
- **US Youth Soccer Settlement**  
Revolutionary settlement that changed U.S. Soccer regulations and bought sweeping safety measures to the game. Steve spearheaded a lawsuit against soccer-governing bodies, achieving a settlement that ended heading of the ball for U.S. Soccer's youngest players and greatly diminished risk of concussions and traumatic brain injuries. Additionally, the settlement highlights the importance of on-staff medical personnel at youth tournaments, as well as ongoing concussion education for coaches.

## RECOGNITION

- 2018 State Executive Committee member, The National Trial Lawyers
- 2018 Top Attorney of the Year, International Association of Top Professionals
- 2016 & 2017 Class Action MVP of the Year, Law360
- 2017 Plaintiffs' Trailblazer, The National Law Journal
- 2017 Class Actions (Plaintiff) Law Firm of the Year in California, Global Law Experts
- 2003-2017 Washington Super Lawyers
- 2014-2016 Elite Trial Lawyers, The National Law Journal
- 2014-2015 Lawdragon 500 Leading Lawyers in America
- 2014 Finalist for Trial Lawyer of the Year, Public Justice
- 2013 One of the 100 most influential attorneys in America, The National Law Journal
- 2000 Most powerful lawyer in the state of Washington, The National Law Journal
- One of the top 10 plaintiffs' firms in the country, The National Law Journal

## OTHER NOTABLE CASES

- **VW Emissions Litigation** - \$14.7 billion settlement  
Steve served as a member of the Plaintiffs Steering Committee representing owners of Volkswagen CleanDiesel vehicles that were installed with emissions-cheating software.
- **McKesson Drug Class Litigation** - \$350 million settlement  
Lead counsel in an action that led to a rollback of benchmark prices of hundreds of brand name drugs, and relief for third-party payers and insurers. His discovery of the McKesson scheme led to follow up lawsuits by governmental entities and recovery in total of over \$600 million.
- **Average Wholesale Price Litigation** - \$338 million settlement  
Steve served as lead trial counsel, securing trial verdicts against three drug companies that paved the way for settlement.

## MANAGING PARTNER

## Steve W. Berman

› **DRAM Memory Antitrust - \$345 million settlement**

Forged a class-action suit against leading DRAM (Dynamic Random Access Memory) manufacturers, claiming the companies secretly agreed to reduce the supply of DRAM in order to artificially raise prices.

› **Hyundai / Kia Fuel Efficiency - \$255 million settlement**

Led the firm's aggressive fight against Hyundai and Kia on behalf of defrauded consumers who alleged the automakers had misrepresented fuel economies in vehicles, securing what was believed to then be the second-largest automotive settlement in history.

› **Bextra/Celebrex Marketing and Products Liability Litigation - \$89 million settlement**

Served as court-appointed member of the Plaintiffs Steering Committee and represented nationwide consumers and third party payers who paid for Celebrex and Bextra. The firm was praised by the court for its "unstinting" efforts on behalf of the class.

› **McKesson Governmental Entity Class Litigation - \$82 million settlement**

Steve was lead counsel for a nationwide class of local governments that resulted in a settlement for drug price-fixing claims.

› **NCAA/Electronic Arts Name and Likeness - \$60 million settlement**

Represented current and former student-athletes against the NCAA and Electronic Arts concerning illegal use of college football and basketball players' names and likenesses in video games without permission or consent from the players.

› **State and Governmental Drug Litigation**

Steve served as outside counsel for the state of New York for its Vioxx claims, several states for AWP claims and several states for claims against McKesson. In each representation, Steve recovered far more than the states in the NAAG multi-state settlements.

› **Exxon Mobile Oil Spill**

Steve represented clients against Exxon Mobil affected by the 10 million gallons of oil spilled off the coast of Alaska by the Exxon Valdez (multi-million dollar award).

› **Lumber Liquidators Flooring**

Steve was court-appointed co-lead counsel in litigation against Lumber Liquidators representing consumers who unknowingly purchased flooring tainted with toxic levels of cancer-causing formaldehyde. The consumer settlement was confidential.

**PRESENTATIONS**

- › Steve is a frequent public speaker and has been a guest lecturer at Stanford University, University of Washington, University of Michigan and Seattle University Law School.

**PERSONAL INSIGHT**

Steve was a high school and college soccer player and coach. Now that his daughter's soccer skills exceed his, he is relegated to being a certified soccer referee and spends weekends being yelled at by parents, players and coaches. Steve is also an avid cyclist and is heavily involved in working with young riders on the international Hagens Berman Axeon cycling team and the Hagens Berman | Supermint Pro Cycling women's team.



## PARTNER

## Jeniphr A.E. Breckenridge

*Ms. Breckenridge has practiced with the firm since its founding in 1993.*

## CONTACT

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jeniphr@hbsslaw.com

## YEARS OF EXPERIENCE

> 29

## PRACTICE AREAS

- > Securities / Investor Fraud
- > Consumer Rights
- > Products Liability

## INDUSTRY EXPERIENCE

- > Aeronautics
- > Pharmaceutical Fraud

## COURT ADMISSIONS

- > Supreme Court of Washington
- > USDC, Western District of Washington
- > U.S. Court of Appeals, Third Circuit

## EDUCATION

- > University of Maryland Law School, J.D., Notes and Comments Editor, Maryland Law Review
- > Georgetown University, B.A.

## CURRENT ROLE

- > Partner, Hagens Berman Sobol Shapiro LLP, where she has practiced since the firm's founding
- > Practice concentrates on class actions, including consumer, automobile defects, securities litigation fraud, and wage and hour claims

## NOTABLE CASES

- > Metropolitan Securities Litigation
- > Boeing Securities Litigation
- > Raytheon Securities Litigation
- > Average Wholesale Price Litigation
- > In re Pet Food Products Liability Litigation
- > Toyota Unintended Acceleration Litigation
- > State Tobacco cases



## PARTNER

## Thomas E. Loeser

*Mr. Loeser obtained judgments in cases that have returned billions of dollars to millions of consumers and more than \$100 million to the government.*

## CONTACT

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## YEARS OF EXPERIENCE

> 19

## PRACTICE AREAS

- > Consumer Rights
- > False Claims Act/**Qui Tam**
- > Government Fraud
- > Corporate Fraud
- > Data Breach/Identity Theft and Privacy

## INDUSTRY EXPERIENCE

- > Automotive
- > Consumer Fraud
- > Cyber and Intellectual Property Crimes
- > Racketeering
- > False Claims
- > Government Fraud
- > Technology
- > Software
- > Recreation
- > Athletic Apparel

## BAR ADMISSIONS

- > California
- > Illinois
- > District of Columbia

## COURT ADMISSIONS

- > District of Columbia
- > U.S. District Court for the District of Columbia

## CURRENT ROLE

- > Partner, Hagens Berman Sobol Shapiro LLP
- > Practice focuses on class actions, False Claims Act and other whistleblower cases, consumer protection and data breach/identity-theft/privacy cases
- > Successfully litigated class-action lawsuits against mortgage lenders, appraisal management companies, automotive manufacturers, national banks, home builders, hospitals, title insurers, technology companies and data processors
- > Currently prosecuting consumer protection class-action cases against banks, automobile manufacturers, lenders, loan servicing companies, technology companies, national retailers, payment processors and False Claims Act whistleblower suits now under seal
- > Obtained judgments in cases that have returned billions of dollars to millions of consumers and more than \$100 million to the government

## RECOGNITION

- > Washington Super Lawyers, 2016 - 2018
- > Washington Top Lawyers, 2016 - 2018
- > Martindale-Hubbell® AV Preeminent rating, 2015 - 2018

## EXPERIENCE

- > Experience trying cases in federal and state courts in San Francisco, Los Angeles and Seattle
- > Served as lead or co-lead counsel in 12 federal jury trials and has presented more than a dozen cases to the Ninth Circuit Court of Appeals
- > As a federal prosecutor in Los Angeles, Mr. Loeser was a member of the Cyber and Intellectual Property Crimes Section and regularly appeared in the Central District trial courts and the Ninth Circuit Court of Appeals
- > Assistant U.S. Attorney, U.S. Department of Justice
- > Wilson Sonsini Goodrich & Rosati

## NOTABLE CASES

- > Volkswagen Emissions Defect Litigation
- > Shea Homes Construction Defect Litigation
- > Meracord/Noteworld Debt Settlement Litigation
- > Defective RV Refrigerators Litigation
- > New Jersey Medicare Outlier Litigation

## PARTNER

Thomas E. Loeser

- › U.S. District Court for the Northern District of California
- › U.S. District Court for the Southern District of California
- › U.S. District Court for the Central District of California
- › U.S. District Court for the Western District of Washington
- › Ninth Circuit Court of Appeals
- › Center for Diagnostic Imaging Qui Tam Litigation
- › Countrywide FHA Fraud Qui Tam Litigation
- › Chicago Title Insurance Co. Litigation
- › KB Homes Captive Escrow Litigation
- › Aurora Loan Modification Litigation
- › Wells Fargo HAMP Modification Litigation
- › JPMorgan Chase Force-Placed Flood Insurance Litigation
- › Wells Fargo Force-Placed Insurance Litigation
- › Target Data Breach Litigation
- › Cornerstone Advisors Derivative Litigation
- › Honda Civic Hybrid Litigation
- › Hyundai MPG Litigation

## EDUCATION

- › Duke University School of Law, J.D., **magna cum Laude**, Order of the Coif, Articles Editor Law and Contemporary Problems, 1999
- › University of Washington, M.B.A., **cum laude**, Beta Gamma Sigma, 1994
- › Middlebury College, B.A., Physics with Minor in Italian, 1988

## LANGUAGES

- › French
- › Italian



## PARTNER

## Robert F. Lopez

*Mr. Lopez continues practice on qui tam matters at the firm, representing whistleblowers in cases involving violations of federal and state laws that prohibit the making of false claims for government payments.*

## CONTACT

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## PRACTICE AREAS

- › Complex Commercial Litigation
- › Health Care & Pharmaceuticals Litigation
- › Intellectual Property Litigation
- › Privacy Litigation
- › Antitrust Litigation
- › Securities Litigation
- › **Qui Tam** Litigation

## BAR ADMISSIONS

- › Washington

## COURT ADMISSIONS

- › Western District of Washington
- › Eastern District of Washington
- › U.S. Court of Appeals for the Ninth Circuit

## EDUCATION

- › Gonzaga University, B.A., English Literature; Arnold Scholar
- › University of Washington School of Law, J.D.

## CURRENT ROLE

- › Partner, Hagens Berman Sobol Shapiro LLP
- › Offers a broad range of legal experience in the fields of:
  - Complex commercial litigation
  - Health care and pharmaceuticals litigation
  - Product defect litigation
  - False Claims Act litigation
  - Intellectual property litigation
  - Privacy litigation
  - Securities litigation
  - Antitrust litigation
  - Creditor-debtor litigation
- › Member of firm's **In re Carrier IQ, Inc. Consumer Privacy Litigation** team
- › Member of the firm's team representing the plaintiffs and proposed class in *Free Range Content Inc. v. Google Inc.*, an class-action case based on allegations that Google unlawfully denies payments to thousands of website owners and operators who place ads on their sites sold through Google AdWords
- › Continues practice on **qui tam** matters at the firm, representing whistleblowers in cases involving violations of federal and state laws that prohibit the making of false claims for government payments

## EXPERIENCE

- › Experienced in prosecuting and defending appeals in the federal and state courts of appeal; representing institutions and consumers in nationwide class-action lawsuits, including in the federal multidistrict litigation setting; advising clients in non-litigation settings with respect to trademark, trade-name, copyright and Internet-communications law
- › Member of firm's team representing one of the relators in the 2012 settlement with Amgen Inc., in which the company agreed to pay \$612 million to the U.S. and various state governments in order to resolve claims that it caused false claims to be submitted to Medicare, Medicaid and other government insurance programs
- › Member of the firm's team that prosecuted **In re Charles Schwab Corp. Securities Litigation**
- › Experienced in class-action litigation against DaimlerChrysler Corporation relating to product defects in its Neon automobiles, nationwide class-action cases against Trex Company, Inc. and Fiber Composites, Inc.
- › Founding Member and Partner, Socius Law Group PLLC
- › Partner, Betts, Patterson & Mines, P.S.

PARTNER

Robert F. Lopez

NOTABLE CASES

- › In re Pharmaceutical Industry Average Wholesale Price Litigation
- › Amgen Inc. Qui Tam Litigation
- › In re Metropolitan Securities Litigation
- › In re Charles Schwab Corp. Securities Litigation
- › In re Carrier IQ, Inc. Consumer Privacy Litigation



## PARTNER

## Christopher A. O'Hara

*Plays key role in working with notice and claims administrators on all the firm's class settlements and class notice programs*

## CONTACT

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## YEARS OF EXPERIENCE

> 31

## PRACTICE AREAS

- > Antitrust Litigation
- > Consumer Rights
- > Tax Law
- > Securities Litigation
- > Pharmaceutical Fraud

## BAR ADMISSIONS

- > Washington
- > Arizona

## COURT ADMISSIONS

- > U.S. Court of Appeals, Ninth Circuit

## EDUCATION

- > University of Washington, B.A., Political Science, French Language and Literature, 1987
- > Seattle University School of Law, J.D., **cum laude**, 1993

## CURRENT ROLE

- > Partner, Hagens Berman Sobol Shapiro LLP
- > Practice focuses on antitrust, consumer, tax and securities class actions
- > Serves as plaintiffs' counsel in Hotel Occupancy Tax litigation against major online travel companies in various jurisdictions across the country
- > Active member of firm's Microsoft defense team negotiating claims administration policy and processing rules in twenty consumer and antitrust class-action state settlements around the country
- > Key role in working with claims administrators on all class settlements and class notice programs

## RECENT SUCCESS

- > Worked on related litigation against Expedia on behalf of a nationwide class of consumers who purchased hotel reservations and paid excessive "taxes and fees" charges. That case resulted in summary judgment in plaintiffs' favor and an eventual settlement for cash and credits totaling \$134 million. Mr. O'Hara also played a leading role for the firm on the \$235 million settlement of **In re Charles Schwab Securities Litigation** and the \$1.6 billion settlement of **In re Toyota Motor Corp. Unintended Acceleration Marketing, Sales Practices and Products Liability Litigation**.
- > Mr. O'Hara deposed more than a dozen of Big Tobacco's expert witnesses, research scientists and marketing executives for the tobacco litigation, focusing predominantly on the state of Arizona case. Coordinated Arizona's national and local expert witnesses, while contributing to all aspects of discovery and motion practice. Mr. O'Hara played a leading role in the firm's successful defense of the state of Arizona against claims brought by several Arizona counties in the aftermath of the state's tobacco litigation.

## RECOGNITION

- > Rising Star, Washington Law and Politics, 2003

## EXPERIENCE

- > Crowell & Moring, Paralegal, 1988-1990
- > Cozen & O'Connor, Associate, 1993-1997

## NOTABLE CASES

- > **Tobacco Litigation** (\$206 billion multi-state settlement)
- > **Expedia Litigation** (\$134 million settlement)
- > **Charles Schwab Yieldplus Funds Litigation** (\$235 million settlement)
- > **Toyota Unintended Acceleration Litigation** (\$1.6 billion settlement)
- > **Microsoft Antitrust Litigation**

## LANGUAGES

- > French



## ASSOCIATE

## Anthea D. Grivas

*Working on behalf of consumers, continuing a long-standing dedication to public interest legal advocacy.*

## CONTACT

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## YEARS OF EXPERIENCE

> 17

## PRACTICE AREAS

- > Consumer Protection
- > Anti-Trust
- > Civil and Human Rights

## BAR ADMISSIONS

- > Washington

## EDUCATION

- > University of Washington  
School of Law, J.D., 2001
- > University of Washington, B.A.  
Political Science, 1995

## CURRENT ROLE

- > Associate, Hagens Berman Sobol Shapiro LLP
- > Significant complex multi-party litigation experience with an emphasis on anti-trust price-fixing, product liability and nationwide class action cases on behalf of consumers. Ms. Grivas develops successful litigation theories and strategies, drafts legal motions and handles all aspects of large-scale multi-firm case discovery.
- > Ms. Grivas' contributions to the firm have included:
  - Member of **In re Automotive Parts Antitrust Litigation** team
  - Drafted interrogatories and discovery motions, managed multi-firm review and oversaw in-house deposition preparation in **In re Toyota Motor Corp. Sudden, Unintended Acceleration** matter
  - Extensive discovery work in an anti-trust case brought against several of the world's largest manufacturers of TFT-LCD products
  - Part of team working on class-action litigation brought by collegiate student athletes who suffered concussions/traumatic brain injuries
  - Litigation against a large, publicly traded medical waste disposal company on behalf of small businesses
  - Nationwide class-action cases brought by homeowners with catastrophic property damage claims against makers of water connectors
  - Litigation involving the world's largest fruit and vegetable company, claiming it misled consumers about its environmental record

## RECENT SUCCESS

- > **NCAA Concussions** – part of HB legal team whose efforts resulted in settlement providing medical-monitoring program for current and former student-athletes, sweeping changes to the NCAA's approach to concussion treatment and prevention, and a \$5 million concussion research fund.
- > **In re Toyota Motor Corp. Sudden, Unintended Acceleration** – part of HB legal team that obtained record settlement on behalf of auto purchasers.
- > **In re TFT-LCD (Flat Panel) Antitrust Litigation** – part of HB legal team that obtained settlement on behalf of TFT-LCD product purchasers.
- > **Trabakoolas v. Watts Water Technologies, Inc.** – part of HB legal team that obtained settlement on behalf of customers.
- > **Dole Bananas** – part of HB legal team whose efforts resulted in settlement on behalf of local communities in Guatemala.

## ASSOCIATE

## Anthea D. Grivas

## RECOGNITION

- › Ms. Grivas has been recognized by the University of Washington's law school for her commitment to advocacy on behalf of the public interest, and was awarded the university's annual dean's list award for high scholarship.
- › Public Justice recognized the **In re Toyota Motor Corp. Sudden, Unintended Acceleration** team for its work on behalf of auto consumers.

## EXPERIENCE

- › Ms. Grivas has a long-standing dedication to legal advocacy on behalf of traditionally underrepresented groups. She is a former co-chair of an organization that helps prepare Violence Against Women Act self-petitions on behalf of survivors of domestic violence, has represented refugees with disabilities in INS administrative proceedings, worked as an advocate for families receiving Temporary Assistance for Needy Families benefits, and has visited womens' shelters to conduct public assistance trainings.
- › As a summer law clerk, Ms. Grivas worked on *Arc of Washington vs. Quasim*, a significant case brought on behalf of individuals with developmental disabilities. She was tasked with researching and constructing a legal argument against the state of Washington's claim of deliberative process privilege, and her work helped expose a state audit report containing what the *Seattle Post-Intelligencer* described as "damning revelations" regarding the state's limited oversight of services for disabled individuals.
- › Ms. Grivas also has a strong technical background, incorporating over a decade of electronic discovery institutional knowledge, and has seven years of experience in litigation impacting the software industry, including work in the compliance phase of *US v. Microsoft*.

## LEGAL ACTIVITIES

- › Northwest Immigrant Rights Project
- › Solid Ground/Fremont Public Association
- › Public Interest Law Association
- › Women's Law Caucus
- › Immigrant Families Advocacy Project
- › American Civil Liberties Union of Washington
- › KCBA Neighborhood Legal Clinics program

## PUBLICATIONS

- › Author, "An Unreal Dream: The Impact of DNA Technology on the American Criminal Justice System," (DeNovo, XVI.IV, 2002)

## NOTABLE CASES

- › **Toyota Motor Corp. Sudden, Unintended Acceleration**
- › **In re TFT-LCD flat panel litigation**
- › **NCAA Concussions**

## PERSONAL INSIGHT

Ms. Grivas is a lifelong musician who has performed at the Northwest Folklife Festival, Northwest Orchestra Festival, the Nippon Kan theater and as principal violinist and concertmaster with a local symphony orchestra.