

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION**

STEVEN FOX, Individually and on Behalf of All
Others Similarly Situated,

Plaintiff,

vs.

FIFTH THIRD BANCORP, GREG D.
CARMICHAEL, TAYFUN TUZUN, MARK D.
HAZEL, NICHOLAS K. AKINS, B. EVAN
BAYH III, JORGE L. BENITEZ, KATHERINE
B. BLACKBURN, EMERSON L. BRUMBACK,
JERRY W. BURRIS, GARY R. HEMINGER,
JEWELL D. HOOVER, EILEEN A.
MALLESCH, MICHAEL B. MCCALLISTER,
and MARSHA C. WILLIAMS,

Defendants.

Case No. 2020CH05219

Judge: Hon. Celia G. Gamrath

**DECLARATION OF ALFRED L. FATALE III IN SUPPORT OF
(I) PLAINTIFF'S MOTION FOR FINAL APPROVAL OF CLASS ACTION
SETTLEMENT AND PLAN OF ALLOCATION AND (II) LEAD COUNSEL'S MOTION
FOR AN AWARD OF ATTORNEYS' FEES AND PAYMENT OF EXPENSES**

I, ALFRED L. FATALE III, declare as follows, under penalty of perjury:

1. I am a partner in the law firm of Labaton Sucharow LLP (“Labaton Sucharow”).¹ Labaton Sucharow represents Plaintiff Dr. Steven Fox (“Plaintiff”) and serves as provisionally Court-appointed Lead Counsel for the proposed Settlement Class in the above-captioned litigation (the “Action”).

2. I have been actively involved throughout the prosecution and resolution of the Action, am familiar with its proceedings, and have personal knowledge of the matters set forth herein based upon my close supervision of all material aspects of the case.

3. I submit this Declaration in support of Plaintiff’s Motion for Final Approval of Class Action Settlement and Plan of Allocation and Lead Counsel’s Motion for an Award of Attorneys’ Fees and Payment of Expenses. The motions have the full support of Plaintiff. *See* Declaration of Dr. Steven Fox, attached hereto as Exhibit 1.²

I. PRELIMINARY STATEMENT

4. Following extensive, arm’s-length negotiations and a formal mediation process facilitated by a well-respected mediator, Jed D. Melnick, Esq. of JAMS, Plaintiff has agreed to settle all claims asserted, or that otherwise could have been asserted, in the Action against

¹ All capitalized terms not otherwise defined herein have the same meaning as that set forth in the Stipulation and Agreement of Settlement, dated May 9, 2023 (the “Stipulation”), previously filed with the Court as Exhibit 1 to the Memorandum of Law in Support of Plaintiff’s Unopposed Motion for (i) Preliminary Approval of Class Action Settlement, (ii) Certification of the Settlement Class, and (iii) Approval of Notice of the Settlement Class, on May 11, 2023.

² Citations to “Exhibit” or “Ex. ___” herein refer to the exhibits to this Declaration. For clarity, exhibits that themselves have attached exhibits will be referenced as “Ex. __-__.” The first numerical reference is to the designation of the entire exhibit attached hereto and the second alphabetical reference is to the exhibit designation within the exhibit itself.

Defendants,³ in exchange for the payment of \$5,500,000 (the “Settlement Amount”), for the benefit of the Settlement Class.

5. The Action has been vigorously and efficiently litigated for the past three years. The Settlement was achieved only after Plaintiff, through Lead Counsel, as detailed herein: (i) conducted a thorough investigation concerning the alleged materially false and misleading statements and omissions in the Registration Statement⁴ issued in connection with the Company’s March 2019 acquisition of MB Financial (the “MB Financial Acquisition”), through which Fifth Third registered and issued over 131 million new shares of Fifth Third common stock (the “Offering”); (ii) requested, received, and reviewed information regarding Fifth Third’s alleged misconduct through a Freedom of Information Act request submitted to the Consumer Financial Protection Bureau (the “CFPB”); (iii) drafted and filed a thorough and detailed Complaint; (iv) drafted and filed a motion for class certification; (v) successfully opposed Defendants’ motion to dismiss the Complaint; (vi) moved to strike six of Defendant’s eight affirmative defenses; (vii) consulted with experts on damages and causation issues; (viii) successfully negotiated a discovery protocol and case schedule; (ix) engaged in discovery, including propounding document requests, interrogatories, and request for admission, a motion to compel, producing 121 pages of documents

³ “Defendants” are: (i) Fifth Third Bancorp (“Fifth Third” or the “Company”), and (ii) Greg D. Carmichael, Tayfun Tuzun, Mark D. Hazel, Nicholas K. Akins, B. Evan Bayh III, Jorge L. Benitez, Katherine B. Blackburn, Emerson L. Brumback, Jerry W. Burris, Gary R. Heminger, Jewell D. Hoover, Eileen A. Mallesch, Michael B. McCallister, and Marsha C. Williams (collectively, the “Individual Defendants” and, together with Fifth Third, the “Defendants”)

⁴ In connection with the Offering, Defendants filed a registration statement on Form S-4 with the Securities Exchange Commission (“SEC”) on June 21, 2018, which, following an amendment thereto on August 2, 2018, was declared effective by the SEC on August 3, 2018 (the “Form S-4”). On August 3, 2018, both Fifth Third and MB Financial filed with the SEC a prospectus for the Offering on Form 424B3 (the “Proxy/Prospectus”), which forms part of the registration statement (the Proxy/Prospectus and the Form S-4, as amended, are referred to collectively herein as the “Registration Statement”).

from Plaintiff, and analysis of over 30,000 pages of documents produced by Fifth Third prior to the mediation; and (x) engaged in settlement discussions, including the exchange of detailed written mediation statements, under the guidance of a highly regarded and experienced mediator. At the time the Settlement was reached, Plaintiff and Lead Counsel had a deep understanding of the strengths and weaknesses of the claims and defenses in the Action.

6. In deciding to settle, Plaintiff and Lead Counsel took into consideration the significant risks associated with advancing the claims alleged in the Action, as well as the duration and complexity of future legal proceedings, including continued briefing on class certification, fact and expert discovery, summary judgment motions, and trial, all of which are either pending or remained ahead. The Settlement was achieved in the face of staunch opposition by Defendants who would have continued to raise serious arguments concerning, among other things: whether there were any false and misleading statements in the Registration Statement; whether, at the time of the Offering, the Registration Statement omitted material information; whether any purported misstatements or omissions were material to investors; whether Defendants' were under an affirmative duty to disclose the CFPB investigation or the underlying alleged wrongdoing at the time of the Offering; whether Plaintiff has standing to assert claims under Section 12(a)(2) of the Securities Act of 1933 (the "Securities Act"); whether the Individual Defendants were control persons for purposes of Section 15 of the Securities Act; Defendants' negative causation affirmative defense; and damages. In the absence of a settlement, there was a real risk that the Settlement Class could have recovered an amount significantly less than the negotiated Settlement or nothing at all.

7. In addition to seeking approval of the Settlement, Plaintiff is seeking approval of the proposed plan for allocating the proceeds of the Settlement among eligible claimants (the "Plan

of Allocation”). As discussed below, and in the Memorandum of Law in Support of Plaintiff’s Motion for Final Approval of Class Action Settlement and Plan of Allocation (“Approval Brief”), the proposed Plan was developed by Plaintiff’s consulting damages expert, and provides for the fair and equitable distribution of the Net Settlement Fund to Settlement Class Members who submit Claim Forms that are approved for payment.

8. With respect to Lead Counsel’s Fee and Expense Application, as discussed in the Memorandum of Law in Support of Lead Counsel’s Motion for an Award of Attorneys’ Fees and Payment of Expenses (“Fee Brief”), Lead Counsel requests attorneys’ fees, payment of Litigation Expenses, and a service award for Plaintiff, in an amount equal to 33.3% of the Settlement Fund (*i.e.*, \$1,831,500, plus accrued interest). Subtracting out Litigation Expenses totaling \$69,715.91 and a service award to Plaintiff for the time he dedicated to the case in the amount of \$10,000, the requested attorneys’ fee amounts to \$1,751,784.09 or approximately 32% of the Settlement Fund, which would be fair to both the Settlement Class and Lead Counsel, and warrants the Court’s approval. This fee request is within the range of fee percentages regularly awarded in this type of class action.

II. SUMMARY OF PLAINTIFF’S CLAIMS

9. As set forth in the Complaint, Fifth Third is one of the Midwest’s largest banks. ¶3.⁵

10. On May 21, 2018, Fifth Third announced that it would be acquiring MB Financial, a Chicago-based holding company for MB Financial Bank, N.A. ¶¶3, 45. The MB Financial Acquisition was valued at approximately \$4.7 billion, approximately 90 percent of which was to be paid in Fifth Third common stock issued through the Offering. ¶¶3, 50. On March 22, 2019,

⁵ All citations to “¶” are to the Complaint, filed on July 31, 2020, unless otherwise noted.

Fifth Third announced that it had completed the MB Financial Acquisition. ¶53. MB Financial became a subsidiary of Fifth Third, and all of MB Financial's common stock was exchanged for Fifth Third common stock and cash.

11. The Complaint alleges that in connection with the MB Financial Acquisition, MB Financial shareholders were given the following five reasons for approving the transaction, among others: (i) "the similarities in culture and operating strategies of MB Financial and Fifth Third"; (ii) "Fifth Third's business, operations, financial condition, asset quality, earnings, prospects"; (iii) "the historical performance of Fifth Third common stock"; (iv) Fifth Third's record of performance over a substantial period of time and throughout various economic cycles, including its earnings record"; and (v) the "soundness of Fifth Third's financial condition and asset quality." ¶¶7, 46.

12. However, the Complaint alleges that, unbeknownst to MB Financial shareholders and contrary to how the Registration Statement portrayed Fifth Third's business, since at least 2008, Fifth Third had allegedly been engaged in an allegedly illegal "cross-sell" strategy. The Complaint alleges that Fifth Third's cross-sell strategy entailed, among other things, employees opening unauthorized customer accounts and credit cards to meet sales goals under an incentive-compensation program, transferring funds from authorized to unauthorized accounts, enrolling customers in online-banking services and fee-based lines of credit without their knowledge or consent, and charging customers fees related to these unauthorized products and services. ¶¶9-10, 59, 66-67.

13. The Complaint also alleges that prior to and at the time of the Offering, the CFPB was investigating Fifth Third's cross-sell strategy. ¶76. On March 2, 2020, Fifth Third disclosed the CFPB investigation and that CFPB staff had "notified Fifth Third that it intend[ed] to file an

enforcement action in relation to allegedly unauthorized account openings.” ¶73. On March 9, 2020, the CFPB filed an enforcement action against Fifth Third.⁶ ¶¶74-80.

14. Thus, the Complaint alleges that the Registration Statement used to issue stock to acquire MB Financial failed to disclose that: (i) since at least 2008, Fifth Third used an allegedly illegal and allegedly unethical cross-sell strategy to increase the total number of products and services provided and sold to customers (¶59); (ii) at the time of the Offering, the CFPB was investigating Fifth Third in connection with its cross-sell strategy and for various alleged violations of federal law (*id.*); (iii) Fifth Third’s cross-sell strategy was exposing customers to increased cyber-security risks and violated data protection and privacy regulations (¶67); and (iv) Fifth Third’s internal controls were defective, as employees were permitted to execute the cross-sell strategy for at least eight years, from at least 2008 to at least 2016 (¶68). In addition, the Complaint alleges that the Registration Statement misleadingly reported net income for at least 2015 and 2016, while failing to disclose that Fifth Third’s growth, net income, and revenues were based on unlawful and unsustainable conduct. ¶¶71-72.

15. The Complaint alleges that these misrepresentations and omissions caused the class to suffer losses in violation of the Securities Act. The Complaint asserts claims for violations of Sections 11 and 12(a)(2) of the Securities Act against all of the Defendants as well as violations of Section 15 of the Securities Act against the Individual Defendants.

⁶ The CFPB enforcement action is captioned *Bureau of Consumer Financial Protection v. Fifth Third Bank, N.A.*, No. 21-cv-0262 (S.D. Ohio) (the “CFPB Action”).

III. RELEVANT PROCEDURAL HISTORY

A. Commencement of the Action in this Court

16. The Action was commenced on July 31, 2020, when Plaintiff, through his counsel Labaton Sucharow, filed this putative securities class action complaint in the Court. As noted above, the Complaint alleges Sections 11, 12(a)(2), and 15 claims against the Defendants.

B. Motion for Class Certification

17. On August 10, 2020, Plaintiff filed a motion to certify a class consisting of all persons or entities that received or otherwise acquired Fifth Third common stock pursuant and/or traceable to the Registration Statement for the shares issued in connection with the MB Financial Acquisition, with certain carve outs related to Defendants.

18. At the time of the settlement of the Action, the Defendants were in the process of responding to Plaintiff's class certification motion.

C. Defendants' Motion to Dismiss the Complaint

19. On October 13, 2020, Defendants filed a motion to dismiss the Complaint (the "Motion to Dismiss").

20. Defendants argued that the Complaint should be dismissed on five grounds: (i) the Complaint's allegations were allegedly copied in full from the CFPB Complaint; (ii) the Complaint's claims sounded in fraud, and were therefore subject to a heightened pleading standard; (iii) Fifth Third was not required to disclose the ongoing CFPB investigation in the Registration Statement; (iv) the allegedly false and misleading statements in the Complaint were immaterial given the Company's self-identified number of "fewer than 1,100 unauthorized accounts" as a percentage of Fifth Third's total number of accounts; and (v) the Complaint failed to allege standing under Section 12(a)(2).

21. On November 23, 2020, Plaintiff opposed the Motion to Dismiss. Plaintiff argued that the Complaint alleged actionable, materially false and misleading statements and omissions. In particular, Plaintiff argued that no Illinois or even Seventh Circuit law bars a private plaintiff from relying on government pleadings and proceedings in alleging his or her own complaint. Plaintiff further argued even if the Court struck allegations derived from the CFPB Action, the Complaint would survive the Motion because the Complaint also alleged that Defendants had allegedly admitted the central allegations at issue, i.e., (i) a minimum of 1,100 unauthorized accounts, (ii) the CFPB investigation, and (iii) that these facts existed at the time Defendants issued the Registration Statement. ¶81.

22. Plaintiff also argued that the Complaint satisfied the applicable pleading standards by, *inter alia*, providing specific allegations that the Registration Statement contained materially false and misleading statements and omitted material information about Fifth Third's alleged business practices. Moreover, Plaintiff argued that the Complaint, which alleges only non-fraud bases of liability, did not sound in fraud and, therefore, was not subject to any heightened pleading standards.

23. Plaintiff further argued that because the Registration Statement discussed the mere possibility of government investigation when such an investigation was already underway, Defendants were under a duty to disclose the CFPB investigation and that the omission of that investigation was actionable under the Securities Act.

24. With respect to materiality of the number of allegedly unauthorized accounts, Plaintiff argued that materiality is measured not just quantitatively, but also qualitatively. As a result, Plaintiff believed that a jury would find misstatements and omissions about the Company's

business model and a government investigation altered the mix of information to investors in a significantly qualitative way.

25. Finally, Plaintiff argued that because he alleged that he “acquired Fifth Third common stock pursuant and traceable to” the Registration Statement which was allegedly false and misleading, Plaintiff sufficiently alleged standing for his claim under Section 12(a)(2). ¶¶13, 54-72.

26. Defendants filed a reply brief in further support of the Motion to Dismiss on December 21, 2020.

D. The Court Substantially Denies Defendants’ Motion to Dismiss the Complaint

27. After holding oral argument on the Motion to Dismiss on March 16, 2021, the Court denied the Motion to Dismiss in full on March 19, 2021, in a ruling from the bench.

28. First, the Court rejected the purported defense that the Complaint solely relied on the CFPB complaint. The Court determined both that (i) Plaintiff was right to rely at least in part on the CFPB’s allegation, and (ii) the Complaint was also based on “defendants’ own admissions, plaintiff’s own investigation, plaintiff’s review of documents relating to the merger, regulatory filings, transcripts, analyst reports, financial reports, press releases, and news stories.” *See* Trans. of Oral Argument Mar. 19, 2021, at 4-5.

29. Second, the Court held that Plaintiff’s claims did not sound in fraud. The Court’s ruling recognized that Plaintiff’s Securities Act claims are expressly predicated on negligence and that Plaintiff need not prove fraud or an intent to deceive.

30. Third, the Court determined that the Complaint adequately pled false and misleading statements and omissions. Noting the law that once a company makes certain statements, it opens the door to a subject, it is required to tell the full truth, and it cannot omit facts

that would tend to mislead a reasonable investor, the Court found that the Complaint had sufficiently alleged claims under Section 11 and 12(a)(2) of the Securities Act.

31. Fourth, with respect to materiality, the Court held that it was a “fact specific inquiry” and that the Court was unable to say as “a matter of law that the alleged misrepresentations or omissions were not qualitatively material or not required to be disclosed from the standpoint of a reasonable investor like Plaintiff.” Trans. Mar. 19, 2021, at 10.

32. Finally, the Court held that the Plaintiff adequately alleged standing under Section 12(a)(2). Specifically, the Court found that Plaintiff alleged he was a purchaser of a security offered in the prospectus that included an untrue statement of material fact or omitted a material fact, and that nothing more was needed to plead standing.

E. Defendants’ Answer and Plaintiff’s Motion to Strike Affirmative Defenses

33. On April 23, 2021, Defendants filed their Answer and Affirmative Defenses to the Complaint (the “Answer”).

34. On June 11, 2021, Plaintiff filed a Response to the Answer and a Motion to Strike Six of Defendants’ Eight Affirmative Defenses and a Memorandum of Law in Support thereof (“Motion to Strike”). In particular, the Motion to Strike argued that certain affirmative defenses, including due diligence, reasonable care, lack of knowledge, proportionate liability, and offset, were wholly conclusory, legally insufficient, and that Defendants had failed to plead any factual basis in support of those affirmative defenses.

35. On July 21, 2021, Defendants filed a Memorandum of Law in Opposition to the Motion to Strike, and on August 20, 2021, Plaintiff filed a Reply Memorandum of Law in further support of the Motion to Strike.

36. On August 30, 2021, the Court denied the Motion to Strike in large part, finding that Defendants had satisfied their pleading burden. However, the Court did strike, without prejudice, Defendants' affirmative defense number eight which purported to reserve Defendants' rights to supplement, amend, or assert additional affirmative defenses as well as to assert cross-claims, counterclaims, and third-party claims at a future date.

37. On September 20, 2021, Plaintiff filed an amended response to the Answer reflecting the Court's denial of the Motion to Strike.

IV. PLAINTIFF'S INVESTIGATION AND DISCOVERY

38. From March 2020 through the agreement in principle to settle, Lead Counsel conducted a comprehensive investigation into the facts, circumstances and claims asserted in the Action.

39. This investigation included, among other things, a review and analysis of: (i) press releases, news articles, and other public statements issued by or about Fifth Third and the Defendants; (ii) research reports issued by financial analysts concerning the Company and its business; (iii) documents filed publicly with the SEC; (iv) news articles, media reports and other publications concerning Fifth Third and retail banking industry; and (v) other publicly available information and data concerning the Company and its securities.

40. Lead Counsel also thoroughly reviewed and analyzed the Registration Statement and reviewed all available research reports issued by financial analysts concerning the Company's business and operations, as well as transcripts of conference calls hosted by Fifth Third and its executives during which analysts asked questions concerning the Company's operations. These reports and conference calls provided valuable insight into the market's awareness of the Complaint's allegations.

41. Lead Counsel also consulted with experts about damages and causation issues.

42. Lead Counsel's investigation, conducted by and through attorneys and in-house investigators at Labaton Sucharow, also included the identification and contacting of 11 former employees of Fifth Third with potentially relevant knowledge, four of whom were interviewed on a confidential basis.

43. In addition, Lead Counsel monitored, reviewed, and analyzed all filings in the CFPB Action, as well as related securities and derivative cases pending in federal court: *Heavy & Gen. Laborers' Loc. 472 & 172 Pension & Annuity Funds v. Fifth Third Bancorp*, No. 20-cv-2176 (N.D. Ill. May 24, 2022) ("*Heavy Laborers*"), and *In re Fifth Third Bancorp Derivative Litig.*, No. 20-cv-4115 (N.D. Ill. Mar. 30, 2022) ("*Pemberton*").

44. Lead Counsel also served a Freedom of Information Act request on the CFPB and received and reviewed information related to Fifth Third customer complaints.

45. Beginning in May 2021, document discovery, including requests for the production of documents, requests for admissions, and interrogatories, commenced. Specifically, on May 21, 2021, Plaintiff served his first requests for the production of documents and first set of requests for admission on Defendants. Also on May 21, 2021, Defendants served on Plaintiff their first request for the production of documents and first set of interrogatories.

46. Plaintiff served his responses and objections to Defendants requests for the production of documents and first set of interrogatories on June 30, 2021, and July 16, 2021, respectively. Defendants served their responses and objection to Plaintiff's first request for the production of documents and first set of requests for admissions on June 30, 2021.

47. On April 28, 2022, Plaintiff served his first set of interrogatories on Defendants. Defendants served their responses and objection to Plaintiff's first set of interrogatories on June 17, 2022.

48. These written discovery efforts resulted in extensive, assiduous meet and confer sessions among Parties' counsel, through which the Parties and their counsel, notwithstanding the breadth of zealous disagreement from which they began, were ultimately able to focus their discovery disputes down to a significantly narrower subset of issues for the Court to resolve.

49. On October 29, 2021, Plaintiff filed a Motion to Compel the Production of Documents and a Memorandum of Law in support thereof (the "Motion to Compel"). Plaintiff's Motion to Compel argued that the alleged misconduct underlying the Complaint's claims began in 2008 and at least through 2016 and as such, Defendants should be compelled to produce responsive documents from a time period between January 1, 2008 and the present. Defendants, however, would only agree to produce documents created after January 1, 2015.

50. The Motion to Compel also argued that since Plaintiff's claims arose from the facts at issue in the CFPB Action, Defendants should be compelled to produce all documents related to the CFPB Action and the preceding investigation.

51. On November 15, 2021, Defendants opposed the Motion to Compel. Defendants' opposition argued that because only contemporaneous facts could render the Registration Statement false and misleading and the Registration Statement only incorporated net income and revenues for a three-year period beginning with January 1, 2015, only documents after that date were relevant to the Action. The opposition also argued that because documents produced by Fifth Third to the CFPB related to the time period before January 1, 2015, they too had no relevance to the claims in the Action.

52. On November 22, 2021, Plaintiff filed a Reply Memorandum of Law in further support of the Motion to Compel.

53. On December 13, 2021, the Court held a status conference and issued an oral ruling denying the Motion to Compel and entered an order to that effect that same day.

54. Between October 2021 and April 2022, Plaintiff produced 121 pages of document discovery and the Defendants produced over 30,000 pages.

V. SETTLEMENT NEGOTIATIONS

55. In May 2022, the Parties began discussing the possibility of resolving the claims asserted in the Action through mediation.

56. Thereafter, Plaintiff and Defendants engaged Jed Melnick, Esq. (the “Mediator”), a well-respected and experienced mediator, to assist them in exploring a potential resolution of the claims against Defendants.

57. On August 22, 2022, respective counsel for Plaintiff and the Defendants conducted an all-day mediation session with the Mediator to explore a potential negotiated resolution of all claims against Defendant.

58. The mediation involved an extended effort to settle the claims and was preceded by the exchange of mediation statements and supporting materials drawn from the factual record.

59. While the Parties were unable to reach an agreement to settle the Action during the in-person mediation, the Mediator thereafter facilitated an extensive continuing discussion in which the Parties’ respective counsel, and to a significant extent the Parties themselves, were actively involved. Following these prolonged yet ultimately productive discussions, the Parties reached an agreement in principle to settle on November 17, 2022.

60. On November 30, 2022, the Court entered an agreed order staying the Action based on the Parties’ representation that they were in the process of documenting an agreement in principle to resolve the Action.

61. Thereafter, the Parties continued to negotiate the terms of a memorandum of understanding, which was fully executed on January 19, 2023.

62. The Parties then negotiated the full Settlement Stipulation, which was executed as of May 9, 2023, and filed with the Court on May 11, 2023.

63. On May 11, 2023, Plaintiff filed his Unopposed Motion for (i) Preliminary Approval of Class Action Settlement, (ii) Certification of the Settlement Class, and (iii) Approval of Notice to the Settlement Class (the “Preliminary Approval Motion”).

64. On May 17, 2023, the Court held a hearing on Plaintiff’s Preliminary Approval Motion and ordered the Parties to make certain changes to the contents of the Notice to the Settlement Class. The requested changes were made and the Notice was re-filed with the Court. The Court granted the Preliminary Approval Motion, authorizing that notice of the Settlement be sent to Settlement Class Members and scheduling the Settlement Hearing for September 14, 2023, to consider whether to grant final approval to the Settlement.

VI. RISKS FACED BY PLAINTIFF IN THE ACTION

65. Based on their experience, investigation, prosecution, review of discovery produced to date, and mediation of the case, Lead Counsel and Plaintiff have determined that the terms and conditions of the Settlement are fair, reasonable, and adequate to Plaintiff and the other members of the Settlement Class, and in their best interest. As described herein, at the time the Settlement was reached, there were sizable risks facing Plaintiff with respect to establishing both liability and damages in continued litigation. Defendants have denied, and continue to deny, any wrongdoing or that they committed any act or omission giving rise to any liability or any violation of law, and would have continued to vigorously defend against each claim in the Action.

66. Surviving a challenge to a pleading is no guarantee of ultimate success. In agreeing to settle, Plaintiff and Lead Counsel weighed, among other things, the substantial and certain cash

benefit to the Settlement Class against: (i) the difficulties involved in proving falsity and materiality; (ii) the difficulties in overcoming Defendants' negative causation complete affirmative defenses; (iii) the challenges in disproving Defendants' other proffered affirmative defenses, including due diligence, reasonable care, and lack of knowledge, among other unstricken defenses; (iv) the potential impact of Defendants' alternative causation evidenced to reduce the claimed damages; (v) the difficulties and uncertainties involved in certifying a litigation class, and the inevitable delays involved in the inevitable appeals of certification; (vi) the fact that, even if Plaintiff prevailed at summary judgment and trial, any monetary recovery could have been less than the Settlement Amount; and (vii) the delays that would follow even a favorable final judgment, including post-trial motions and appeals.

67. Thus, in entering into the Settlement, Plaintiff and Lead Counsel have taken into account the uncertain outcome of this Action, including in particular the difficulty of proving violations of the federal securities laws alleged in the Action as well as the strength of the defenses that Defendants have asserted or could have asserted during the motion for class certification, motion for summary judgment, and trial.

68. Plaintiff and Lead Counsel have also taken into account that this case would take years to litigate, at great cost, and with a chance of no recovery for Plaintiff and the Settlement Class at the end of trial.

A. Risks Concerning Liability

69. In order for Plaintiff to ultimately prevail on his Sections 11, 12, and 15 claims at summary judgment and at trial, Plaintiff would have to marshal evidence and prove that the Registration Statement contained a material omission or misrepresentation. Defendants would of course argue, as they have throughout the litigation, that the Registration Statement did not contain materially false or misleading statements or omissions.

70. For example, with respect to the Complaint's allegations that the Registration Statement was materially false and misleading for failing to disclose the allegedly improper cross-selling tactics, Defendants would undoubtedly argue that every other court that has considered a version of this aspect of Plaintiff's theory of liability and the underlying facts has ultimately ruled in Fifth Third's favor. In both *Heavy Laborers* and *Pemberton*, Judge Sara Ellis examined nearly identical allegations of false and misleading statements related to Fifth Third's sales practices, risks, and compliance program based on Fifth Third's purported failure to disclose the fact of the CFPB's investigation and alleged underlying misconduct, and found that the statements in the Registration Statement were not false and misleading and could not serve as the basis for an action under the federal securities laws.

71. In *Heavy Laborers*, the plaintiff asserted securities fraud claims under Section 10(b) and 20(a) of the Securities Exchange Act of 1934 based, in part, on the same statements that Plaintiff cites about potential compliance risks from Fifth Third's 2016 and 2017 Form 10-Ks (which are incorporated by reference into the Registration Statement). *See, e.g.*, No. 20 C 2176, 2022 WL 1642221, at *5, 12 (N.D. Ill. May 24, 2022). The court dismissed the complaint in *Heavy Laborers* twice — finally with prejudice — after concluding, among other reasons that: (1) those of plaintiff's best allegations, even after amendment based on the CFPB's amended complaint, could not support the claim that Fifth Third had made any materially misleading statements or omissions (*id.* at *15-19); and (2) Fifth Third's risk and compliance statements and risk disclosures — regardless of whether they contained false and misleading statements or omissions — were immaterial as a matter of law (*id.* at *16).

72. Likewise, in *Pemberton*, the court dismissed the plaintiffs' derivative complaint after concluding, among other things, that they had failed to allege sufficient facts that could show

that the proxy statements issued by Fifth Third, including the one issued in connection with the acquisition of the MB Financial, contained false or misleading statements. *See Pemberton*, 2022 WL 970569, at *17.

73. Plaintiff also would face at summary judgment or trial significant, potentially insurmountable factual hurdles in proving the element of materiality with respect to the allegedly illegal and unethical conduct underlying the Complaint's allegations. Indeed, Defendants would argue that (i) to proceed on the Complaint's theory of liability Plaintiff would need to marshal evidence of severe, widespread misconduct by Fifth Third employees after 2015 and no later than 2018; and (ii) that such evidence does not exist. Defendants' position could find support in the Court's prior ruling concerning discovery as well as the Court's statements that Plaintiff in this Action may be required to prove that at the time of the Offering, not only were the omitted facts material, but also that Fifth Third was in "material default or violation" of consumer finance laws.

74. Defendants have consistently maintained that Fifth Third employees did not engage in widespread misconduct related to cross-selling or the opening of unauthorized accounts. Defendants have also maintained that, to the extent any Fifth Third employees opened unauthorized accounts, they did so many years ago, in such small numbers constituting a low percentage of Fifth Third's total number of accounts, and that any customers affected have already received compensation for any fees they paid.

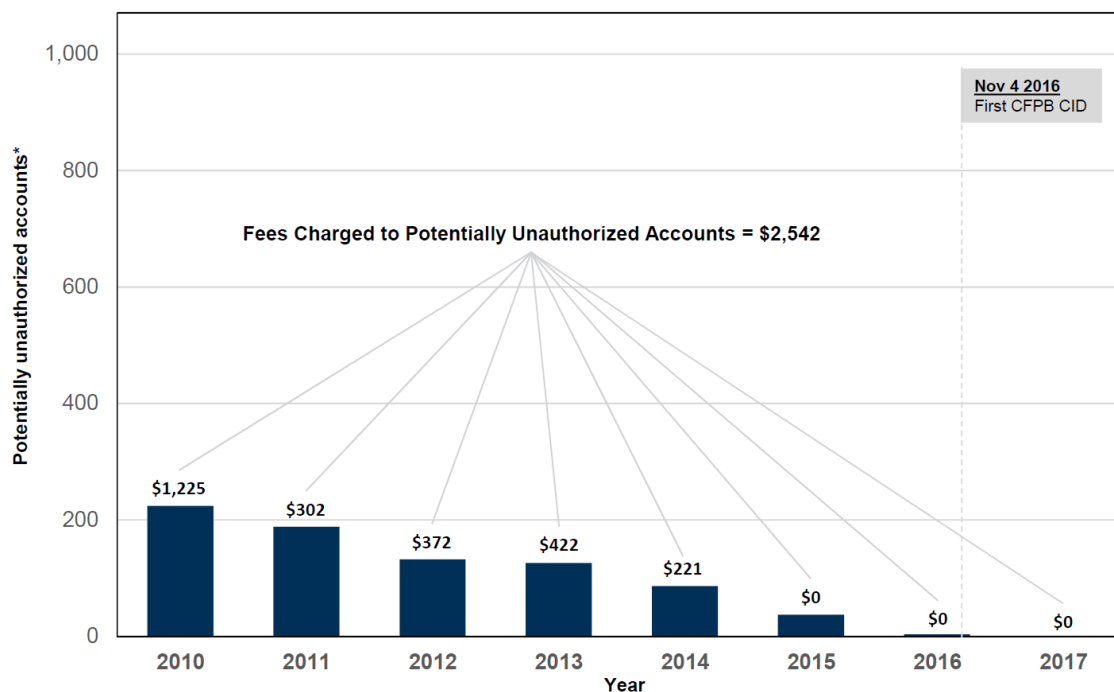
75. Defendants would have continued to support supported their position with analysis from third-party experts, showing that any misconduct preceded the time period at issue in this Action, as limited by the Court's prior orders.

76. For example, since the Action was commenced, Fifth Third has disclosed that to the extent its employees opened any unauthorized accounts, almost all of the potentially authorized

accounts were opened prior to 2015. As disclosed through the CFPB Action, Fifth Third hired Ernst & Young (“E&Y”) in 2020 to conduct a “Red Flag Account Review” of potentially unauthorized accounts. According to Fifth Third’s disclosure, E&Y found fewer than 800 potentially unauthorized accounts, with less than \$2,600 in total fees associated with those accounts.

77. Defendants would argue that E&Y’s review would be confirmed through discovery in this Action and that evidence would completely eviscerate Plaintiff’s claims. Defendants would argue that, as shown through E&Y’s review, the opening of potentially unauthorized account openings fell to essentially zero by 2015 with no fees being generated by these accounts after 2014:

EY Red Flag Account Review Findings



*Potentially unauthorized accounts are those for which there was insufficient information to suggest or establish that the customer authorized the account.

WILLIAMS & CONNOLLY LLP

Dinsmôre

See CFPB Action, Dkt. No. 99-1 (Sept. 20, 2021).

78. In total, Defendants have reported publicly that third-party experts examined all accounts opened between 2010 and 2016 and concluded that less than 0.02% of accounts opened during that period may have been unauthorized. While these claims have not yet been subject to rigorous cross examination or test in the crucible of trial, they constitute a weight of evidence undermining the CFPB's allegations.

79. Thus, Defendants would argue that to the extent Fifth Third employees opened unauthorized accounts between 2015 and 2018, the number of accounts improperly opened was immaterial and would in no event have had a material adverse effect on the Company.

80. Given the potential lack of materiality, Defendants would also argue at summary judgment that Fifth Third was under no duty to disclose the CFPB investigation before it did because the law requires the disclosure of regulatory investigation only when they mature to the point where litigation is apparent and substantially certain to occur. *See Richman v. Goldman Sachs Grp., Inc.*, 868 F. Supp. 2d 261, 275-76 (S.D.N.Y. 2012). Given that Defendants' own pre-litigation investigation into potentially unauthorized accounts produced a miniscule amount of potential employee misconduct, Defendants would argue that it was not apparent and substantially certain that the CFPB would commence litigation. Furthermore, once the CFPB did commence litigation, Defendants would point to the fact once Fifth Third did learn that the CFPB intended to sue, it promptly disclosed the fact in its March 2, 2020 Form 10-K. Finally, Defendants would be able to point to the continuing pendency of the ongoing CFPB action, and lack of smoking guns therefrom, to further bolster (albeit in hindsight) their decision not to disclose the CFPB investigation in connection with their purchase of MB Financial.

81. Not only would Defendants be able to argue that the securities laws do not generally require a company to disclose the existence of a government inquiry, but Defendants would also

be able to argue that it was under no obligation to accuse themselves of wrongdoing at an earlier time, *i.e.*, at the time of the MB Financial Acquisition.

82. Plaintiff may be unable to establish that Regulation S-K required Defendants to disclose the CFPB investigation at the time of the Offering. Further, Plaintiff may be unable to prove that a “trend” of unauthorized account opening existed at the time of the Offering, that Defendants had knowledge of such a trend, or that Fifth Third reasonably expected the alleged trend to have a material impact on the Company’s net sales, revenues, or income.

83. Defendants would argue that no duty to disclose the allegedly illegal and unethical conduct existed at the time of the Offering because, even if such a material trend did exist, and indeed even if such a material trend existed at the time of the Offering, Defendants would nevertheless be entitled to rely on the E&Y review demonstrating that any trend had come to an end by 2015 and would have no bearing on Fifth Third’s continuing operations in 2018.

84. Proving a trend would be potentially impossible for Plaintiff given that the Court has limited Plaintiff’s fact discovery to the time period between 2015 to 2018, despite Plaintiff’s Complaint alleging that “since at least 2008[,] Fifth Third had been using an illegal and unethical ‘cross-sell’ strategy to increase the total number of products and service it provided to customers. ¶¶ 9, 59; *see also* ¶68 (alleging Fifth Third’s internal controls were defective, as employees were permitted to execute the “cross-sell” strategy for at least eight years, from at least 2008 to at least 2016). According to the Court, what happened at Fifth Third prior to 2015 “is of no moment” yet that time period was a central focus of the Complaint’s theory of liability.

85. The Individual Defendants would have raised additional arguments at summary judgment, and trial, including that they conducted robust and thorough due diligence during the offering process to confirm the accuracy and truthfulness of the Registration Statement’s

disclosures, including participating in extensive meetings with key management at the Company and reviewing relevant documents. They would also have continued to propound their affirmative defenses to claims arising under Section 12(a)(2) and 15 of the Securities Act, *e.g.*, reasonable care and lack of knowledge, as pled in their Answer, presumably based on the E&Y Red Flag Account Review and other internal documents.

86. Though Plaintiff believes he had strong counterarguments to Defendants' likely liability defenses, there is no guarantee that the Court at summary judgment, or a jury at trial, would find in Plaintiff's favor on these issues. Moreover, even if Plaintiff succeeded in proving all elements of his claims at trial and had obtained a jury verdict, Defendants would almost certainly challenge the verdict with post-trial motions and, ultimately, appeal. Such an appeal not only would have renewed all the risks overcome by Plaintiff and the Settlement Class at trial, as Defendants would undoubtedly reassert all their arguments summarized above, but also would likely engender significant additional delay and costs before Settlement Class Members could receive any recovery.

B. Risks Related to Negative Causation and Damages

87. Although the Securities Act provides a statutory formula for damages, Defendants would have raised and pressed a "negative causation" defense, arguing that the alleged materially misleading statements and omissions in the Registration Statement did not cause a substantial portion (or all) of the damages Plaintiff claimed, because the declines in the stock price after the Offering were caused, in whole or in part, by other factors.

88. In seeking to reduce or eliminate the recoverable damages in the Action, Defendants would likely have argued that some or all of the decline in Fifth Third's stock price from the Offering through the commencement of the Action was attributable to events and information unrelated to the Registration Statement's allegedly false and misleading statements or

omissions. Defendants would have sought to support this argument with stock price data demonstrating that the price of Fifth Third stock rose immediately after disclosure of the CFPB's investigation and immediately after the filing of the CFPB's civil enforcement action. Defendants would also have likely hired financial economists and other experts to opine on other factors affecting Fifth Third's share price during the relevant time period. Defendants have also indicated that they would be pursuing additional theories of alternate causes for investor losses, including arguing that portions of Fifth Third's share price decline could be attributed instead to investors' reactions to the COVID-19 pandemic — an issue that has divided courts.

89. While Plaintiff's consulting damages expert estimated that if Plaintiff and the class were to prevail in establishing liability at trial maximum aggregate damages (assuming Defendants were unable to prove any negative causation) would be approximately \$287.9 million under the relevant statutory damages formula, when considering the negative causation arguments Plaintiff reasonably expects Defendants to raise, Plaintiff acknowledges the possibility that those damages could be completely eliminated.⁷

90. While Lead Counsel would work extensively with Plaintiff's damages expert with a view towards presenting compelling arguments to the jury and prevailing on these matters at

⁷ Although loss causation is not an element of Plaintiff's Securities Act claims, the statute provides Defendants with an affirmative defense of negative causation. *See* 15 U.S.C. § 77k(e) ("if the defendant proves that any portion or all of such damages represents other than the depreciation in value of such security resulting from such part of the registration statement, with respect to which his liability is asserted, not being true or omitting to state a material fact required to be stated therein or necessary to make the statements therein not misleading, such portion of or all such damages shall not be recoverable"); 15 U.S.C. § 77l(b) ("if the person who offered or sold such security proves that any portion or all of the amount recoverable under subsection (a)(2) represents other than the depreciation in value of the subject security resulting from such part of the prospectus or oral communication, with respect to which the liability of that person is asserted, not being true or omitting to state a material fact required to be stated therein or necessary to make the statement not misleading, then such portion or amount, as the case may be, shall not be recoverable").

trial, Defendants would have put forth well-qualified experts of their own showing that any damages Plaintiff could have recovered should be significantly, if not entirely, reduced after disaggregation of the ancillary matters negatively impacting Fifth Third's share price during the relevant time period. Defendants' arguments, if credited by the Court or jury, would significantly reduce, and even eliminate, the availability of statutory damages.

91. For instance, Defendants would have continued to propound evidence of their compelling argument that the loss in stock value from the time of the Offering to commencement of this litigation was not related to any alleged falsity in the Registration Statement because when the market learned of the CFBP investigation and Fifth Third's internal investigation, the price of Fifth Third's stock increased rather than decreased.

92. The opening price of Fifth Third's stock on March 22, 2019, the date the MB Financial Acquisition closed and Plaintiff's and the Settlement Class's shares in MB Financial were converted into the right to receive shares in Fifth Third common stock and cash, was \$25.36.

93. Between February 20, 2020, and the market close on February 28, 2020, the last trading day before Fifth Third first announced the CFPB investigation, Fifth Third's stock had dropped from \$29.83 to \$24.40 (a decline of over 18%), Defendants' Answer indicates that they will propound evidence that this decline was caused by market and economic conditions related to the emerging COVID-19 pandemic.

94. When Fifth Third disclosed to investors, in its 2019 10-K Annual Report filed before the commencement of trading on March 2, 2020, that the CFPB had informed the bank that the agency intended to file an enforcement action in relation "to alleged unauthorized account openings," Fifth Third's stock price rose approximately 1% to close at \$25.72. Fifth Third's share price continued to rise the following morning of March 3, 2020, until the United States Federal

Reserve issued a press release announcing an emergency rate cut in response to the COVID-19 crisis later that same morning, after which Fifth Third's stock price closed at \$24.44.

95. At the same time, the Nation's financial markets were starting to confront the COVID-19 pandemic and between March 2, 2020 and March 10, 2020, inclusive, the Nasdaq (on which Fifth Third is listed) dropped by 2.6%.

96. Over the weekend of March 7-8, 2020, and with the recommencement of trading on March 9, 2020, referred to by some in the media as "Black Monday," the stock markets crashed amid widespread economic panic and turmoil related to the COVID-19 pandemic — the Nasdaq closed at an approximately 7.3% decline from the close of trading on Friday March 6, 2020, while Fifth Third's stock price dropped from \$20.20 to \$18.30 over the same period. The following day, on March 10, 2020, markets rebounded and Fifth Third responded to the CFPB Action in a press release denying the charges and disclosing the results of its own investigation into alleged unauthorized account opening; the Nasdaq rose approximately 5.0%, while Fifth Third stock rose by approximately 5.2% (from a close of \$18.30 the previous day to a close of \$19.26).

97. Moreover, while Fifth Third's stock closed at \$19.86 per share on the date the Action was commenced, the stock price quickly recovered as the COVID-19 pandemic subsided and closed at a high of \$50.45 on January 14, 2022. Fifth Third's stock continues to trade above its \$25.36 price on the morning of the MB Financial Acquisition closed.

98. Thus, it is quite possible, and indeed likely that a jury may agree with Defendants that any decline in Fifth Third's stock price was the result of factors unrelated to the allegedly false and misleading Registration Statement and even had liability been proven. In such case, Plaintiff's and the Class's damages would have been reduced to zero dollars, underscoring the risk of proceeding to trial.

99. As the case proceeded through further discovery and to trial, the Parties' respective damages experts would have strongly disagreed with each other's assumptions and their respective methodologies, presenting contradictory and complex information to the Court and jury. The risk that the jury, or the Court, would credit Defendants' damages positions over those of Plaintiff had considerable consequences in terms of the amount of recovery for the Settlement Class, even assuming liability were proven.

100. Thus, the benefits created by the Settlement weigh in favor of granting final approval. Considering the risks of continued litigation and the time and expense that would be incurred to prosecute the Action through trial, the \$5.5 million Settlement is a meaningful and certain recovery that is in the best interest of the Settlement Class.

VII. PLAINTIFF'S COMPLIANCE WITH THE PRELIMINARY APPROVAL ORDER AND REACTION OF THE SETTLEMENT CLASS TO DATE

101. Pursuant to the Preliminary Approval Order, the Court appointed KCC, LLC ("KCC") as the Claims Administrator for the Settlement and instructed KCC to disseminate copies of the Notice of Pendency of Class Action, Proposed Settlement, and Motion for Attorneys' Fees and Expenses and Proof of Claim (collectively the "Notice Packet") by mail and to publish the Summary Notice of Pendency of Class Action, Proposed Settlement, and Motion for Attorneys' Fees and Expenses.

102. The Notice, attached as Exhibit A to the Declaration of Lance Cavallo Regarding: (A) Mailing of Notice and Claim Form; (B) Publication of Summary Notice; and (C) Report on Requests for Exclusion Received to Date ("Mailing Declaration"), *see* Exhibit 2 hereto, provides potential Settlement Class Members with information about the terms of the Settlement and contains, among other things: (i) a description of the Action and the Settlement; (ii) an explanation of Settlement Class Members' rights to object to the Settlement, the Plan of Allocation, and/or the

Fee and Expense Application, or exclude themselves from the Settlement Class; (iii) the manner for submitting a Claim Form in order to be eligible for a payment from the net proceeds of the Settlement; and (iv) the terms of the proposed Plan of Allocation for distributing the proceeds of the Settlement. The Notice also informs Settlement Class Members of Lead Counsel's intention to apply for an award of attorneys' fees and Litigation Expenses limited to 33.3% of the Settlement Fund (which may include an application for a service award to Plaintiff related to this representation of the Settlement Class in an amount no greater than \$10,000).

103. As detailed in the Mailing Declaration, on June 1, 2023, the Claims Administrator began mailing Notice Packets to potential Settlement Class Members, as well as to banks, brokerage firms, and other third-party nominees whose clients may be Settlement Class Members. Ex. 2 at ¶¶2-8. To disseminate the Notice, the Claims Administrator obtained the names and addresses of potential Settlement Class Members using information provided by Fifth Third's transfer agent, banks, brokers, and other nominees whose clients may be Settlement Class Members. *Id.* at ¶¶3-7. In total, to date, the Claims Administrator has mailed 128,110 Notice Packets to potential nominees and Settlement Class Members by first-class mail, postage prepaid. *Id.* at ¶8.

104. On June 15, 2023, KCC caused the Summary Notice to be published in *The Wall Street Journal* and to be transmitted over *PR Newswire* for dissemination across the internet. *Id.* at ¶9 and Exhibit B attached thereto.

105. KCC also maintains and posts information regarding the Settlement on a dedicated website established for the Settlement, www.FifthThirdBancorpSecuritiesSettlement.com, to provide Settlement Class Members with information, including downloadable copies of the Notice Packet and the Stipulation, and an online claim portal. *Id.* at ¶11.

106. Pursuant to the terms of the Preliminary Approval Order, the deadline for Settlement Class Members to submit objections to the Settlement, the Plan of Allocation, or the Fee and Expense Application, or to request exclusion from the Settlement Class is August 24, 2023. To date, no objections or requests for exclusion have been received.

107. Plaintiff will address any objections and requests for exclusion in his reply papers, which are due to be filed with the Court on September 7, 2023.

VIII. PLAN OF ALLOCATION FOR DISTRIBUTING SETTLEMENT PROCEEDS TO ELIGIBLE CLAIMANTS

108. Pursuant to the Preliminary Approval Order, and as set forth in the Notice, all members of the Settlement Class who want to participate in the distribution of the Net Settlement Fund (*i.e.*, the Settlement Fund less any (a) Taxes, (b) Notice and Administration Expenses, (c) Litigation Expenses as awarded by the Court, and (d) attorneys' fees awarded by the Court) must submit valid Claim Forms no later than September 9, 2023.

109. As set forth in the Notice, the Claims Administrator will calculate Claimants' "Recognized Losses" using the transactional information provided by Claimants in their Claim Forms, which can be mailed to the Claims Administrator, submitted online using the Settlement website, or, for large investors with hundreds of transactions, via e-mail to the Claims Administrator's electronic filing team. Because most securities are held in "street name" by the brokers that buy them on behalf of clients, the Claims Administrator, Lead Counsel, and Defendants do not have Settlement Class Members' transactional data and a claims process is required. The Net Settlement Fund will be distributed among members of the Settlement Class who submit eligible claims according to the Plan of Allocation approved by the Court. The Plan of Allocation is set forth in full at pages 10 to 12 of the Notice. *See* Ex. 2-A.

110. The proposed Plan of Allocation was developed with the assistance of Plaintiff's consulting damages expert. Lead Counsel believes that the Plan of Allocation provides a fair and reasonable method to equitably distribute the Net Settlement Fund among Authorized Claimants who suffered economic losses allegedly as a result of the alleged wrongdoing. The Plan is intended to be generally consistent with an assessment of damages that Plaintiff and Lead Counsel believe were recoverable in the Action. In general, the Recognized Loss Amounts calculated under the Plan are based principally on the statutory formula for damages under Section 11(e) of the Securities Act, 15 U.S.C. §77k(e).

111. The Plan of Allocation provides for distribution of the Net Settlement Fund among Authorized Claimants on a *pro rata* basis based on the "Recognized Loss" formulas. Using the Plan of Allocation, the Claims Administrator will calculate a Recognized Loss Amount for each purchase of Fifth Third publicly trade common stock acquired pursuant or traceable to the Registration Statement for the Offering that is listed in the Claim Form and for which adequate documentation is provided. For purposes of the Settlement, purchases and acquisitions will be considered pursuant or traceable to the Registration Statement for the Offering if and only if the Fifth Third shares were received in exchange for MB Financial common stock in connection with the MB Financial Acquisition. Shares of Fifth Third common stock purchased or otherwise acquired on the open market are not eligible for a recovery.

112. Once the Claims Administrator has processed all submitted claims, notified Claimants of deficiencies or ineligibility, processed responses, and made claim determinations, distributions will be made to eligible Claimants in the form of checks and wire transfers. After an initial distribution of the Net Settlement Fund, if there is any balance remaining in the Net Settlement Fund (whether by reason of tax refunds, uncashed checks or otherwise) after at least

six (6) months from the date of initial distribution, the Claims Administrator will, if feasible and economical, after payment of Notice and Administration Expenses and Taxes, if any, re-distribute the balance among eligible claimants who have cashed their checks. These re-distributions will be repeated until the balance in the Net Settlement Fund is no longer feasible to distribute. *See* Stipulation at ¶26; Ex. 2-A at ¶71.

113. Any balance that still remains in the Net Settlement Fund after re-distribution(s), which is not feasible or economical to reallocate, after payment of any outstanding Notice and Administration Expenses or Taxes, shall be donated as follows: 50% to the Consumer Federation of America, a private, non-profit, non-sectarian 501(c)(3) organization, and 50% to the Legal Aid Society of Metropolitan Family Services, or as otherwise approved by the Court. Consistent with Section 2-807 of the Illinois Code of Civil Procedure, both organizations are well-established 501(c)(3) organizations that have existed for more than three years and have principal purposes of serving the public good and, among other things, promoting the interests of consumers such as members of the Settlement Class. *See generally* <https://www.metrofamily.org/legal-aid-society/about-las/>; <https://consumerfed.org/for-consumers/>. The Legal Aid Society of Metropolitan Family Services is a recipient of funding under the Illinois Equal Justice Act. *See* <https://iejf.org/civil-legal-aid-grants/grants-2022/>.

114. To date, there have been no objections to the Plan of Allocation.

115. In sum, the Plan of Allocation was designed to equitably allocate the Net Settlement Fund among eligible Settlement Class Members. Accordingly, Plaintiff and Lead Counsel respectfully submit that the Plan of Allocation is fair and reasonable and should be approved by the Court.

IX. LEAD COUNSEL'S FEE AND EXPENSE APPLICATION

116. For its efforts on behalf of the Settlement Class, Lead Counsel is applying for compensation from the Settlement Fund on a percentage basis. As explained in Lead Counsel's Fee and Expense Application, consistent with the Notice to the Settlement Class, Lead Counsel seeks an award of attorneys' fees and Litigation Expenses limited to 33.3% of the Settlement Fund (*i.e.*, \$1,831,500, plus accrued interest). Included in this request is Lead Counsel's request for an award of \$10,000 to Plaintiff in connection with his representation of the class. Lead Counsel submits that, for the reasons discussed below and in the accompanying memorandum of law, such awards would be reasonable and appropriate under the circumstances before the Court.

A. The Time and Labor of Lead Counsel

117. The work undertaken by Lead Counsel to investigate and prosecute this case and arrive at the present Settlement has been time-consuming and challenging. As more fully set forth above, the Action settled only after counsel overcame multiple legal and factual challenges. Among other efforts, Lead Counsel conducted a comprehensive investigation into the class's claims; researched and prepared a Complaint; briefed a through opposition to Defendants' Motion to Dismiss the Complaint; moved for class certification; moved to strike Defendants' Affirmative Defenses; engaged in discovery including briefing on a Motion to Compel; consulted with experts on damages and causation issues; and engaged in a hard-fought settlement process with experienced defense counsel and an experienced Mediator.

118. At all times throughout the pendency of the Action, Lead Counsel's efforts were driven and focused on advancing the litigation to bring about the most successful outcome for the Settlement Class, whether through settlement or trial, by the most efficient means necessary.

119. Attached hereto is a declaration from Lead Counsel in support of the Fee and Expense Application. *See* Declaration on Behalf of Labaton Sucharow LLP (attached as Exhibit 3 hereto).

120. Included with the declaration are schedules that summarize time spent prosecuting the Action by Lead Couns, as well as Lead Counsel's expenses incurred by category (the "Fee and Expense Schedules"). The attached declaration and the Fee and Expense Schedules report the amount of time spent by each attorney and professional support staff employed the firm and the "lodestar" calculations, *i.e.*, their hours multiplied by their current hourly rates. As explained in the declaration, the reported time was prepared using daily time records regularly prepared and maintained by the firm.

121. The hourly rates of Lead Counsel here range from \$950 to \$1,275 for partners, \$750 to \$875 for of counsels, and \$435 to \$525 for associates and staff attorneys. *See* Ex. 3-A. It is respectfully submitted that the hourly rates for the attorneys and professional support staff included in the schedule are reasonable and customary. Exhibit 4, attached hereto, is a table of hourly rates for defense firms compiled by Labaton Sucharow from fee applications submitted by such firms nationwide in bankruptcy proceedings in 2022. The analysis shows that across all types of attorneys, Lead Counsel's rates here are consistent with, or lower than, the firms surveyed.

122. Lead Counsel have expended 3,277 hours in the prosecution and investigation of the Action. *See* Ex. 3-A. The resulting lodestar is \$2,024,603.50. *Id.* Pursuant to a lodestar "cross-check," the requested fee of \$1,751,784.09, which would amount to approximately 32% of the Settlement Fund, results in a negative "multiplier" of approximately 0.87 on the lodestar, which does not include any time that will necessarily be spent from this date forward administering the Settlement, preparing for and attending the Settlement Hearing, and assisting class members.

B. The Risks and Unique Complexities of Contingent Class Action Litigation

123. This Action presented substantial challenges from the outset of the case. The specific risks Plaintiff faced in proving Defendants' liability and damages under the Securities Act are detailed above. These case-specific risks are in addition to the more typical risks accompanying securities class action litigation, such as the fact that this Action was undertaken on a contingent basis.

124. From the outset, Lead Counsel understood that it was embarking on a complex, expensive, and lengthy litigation with no guarantee of ever being compensated for the investment of time and money the case would require. In undertaking that responsibility, Lead Counsel was obligated to ensure that sufficient resources were dedicated to the prosecution of the Action, and that funds were available to compensate staff and to cover the considerable costs that a case such as this requires. With an average lag time of several years for these cases to conclude, the financial burden on contingent-fee counsel is far greater than on a firm that is paid on an ongoing basis. Indeed, Lead Counsel has received no compensation during the litigation but has incurred 3,277 hours of time for a total lodestar of \$2,024,603.50 and has incurred \$69,715.91 in expenses in prosecuting the Action for the benefit of the Settlement Class.

125. Lead Counsel also bore the risk that no recovery would be achieved (or that a judgment could not be collected, in whole or in part). Even with the most vigorous and competent of efforts, success in contingent fee litigation, such as this, is never assured. Lead Counsel knows from experience that the commencement of a class action does not guarantee a settlement. To the contrary, it takes hard work and diligence by skilled counsel to develop the facts and theories that are needed to sustain a complaint or win at trial, or to convince sophisticated defendants to engage in serious settlement negotiations at meaningful levels.

126. Lead Counsel is aware of many hard-fought lawsuits where, because of the discovery of facts unknown when the case was commenced, or changes in the law during the pendency of the case, or a decision of a judge or jury following a trial on the merits, excellent professional efforts of members of the plaintiffs' bar produced no fee for counsel.

127. The many appellate decisions affirming summary judgments and directed verdicts for defendants in securities cases show that surviving a request for dismissal is not a guarantee of recovery. *See, e.g., In re Oracle Corp. Sec. Litig.*, 627 F.3d 376 (9th Cir. 2010); *In re Silicon Graphics, Inc. Sec. Litig.*, 183 F.3d 970 (9th Cir. 1999); *Phillips v. Scientific-Atlanta, Inc.*, 489 F. App'x. 339 (11th Cir. 2012); *In re Smith & Wesson Holding Corp. Sec. Litig.*, 669 F.3d 68 (1st Cir. 2012); *In re Digi Int'l Inc. Sec. Litig.*, 14 F. App'x. 714 (8th Cir. 2001); *Geffon v. Micrion Corp.*, 249 F.3d 29 (1st Cir. 2001).

128. Even plaintiffs who succeed at trial may find their verdict overturned by a post-trial motion for a directed verdict or on appeal. *See, e.g., In re BankAtlantic Bancorp, Inc.*, No. 07-cv-61542 (S.D. Fla. 2010) (in securities class action tried by Labaton Sucharow, after plaintiffs' jury verdict, court granted defendants' motion for judgment as a matter of law on loss causation grounds), *aff'd*, 688 F. 3d 713 (11th Cir. 2012) (trial court erred, but defendants entitled to judgment as matter of law on lack of loss causation); *Ward v. Succession of Freeman*, 854 F.2d 780 (5th Cir. 1998) (reversing plaintiffs' jury verdict for securities fraud); *Anixter v. Home-Stake Prod. Co.*, 77 F.3d 1215 (10th Cir. 1996) (overturning plaintiffs' verdict obtained after two decades of litigation); *Glickenhau & Co., et al. v. Household Int'l, Inc., et al.*, 787 F.3d 408 (7th Cir. 2015) (remanding for additional trial after jury verdict in favor of plaintiffs and 13 years of litigation); *Robbins v. Koger Props., Inc.*, 116 F.3d 1441 (11th Cir. 1997) (reversing \$81 million jury verdict and dismissing case with prejudice). And, the path to maintaining a favorable jury verdict can be

arduous and time-consuming. *See, e.g., In re Apollo Grp., Inc. Sec. Litig.*, Case No. CV-04-2147-PHX-JAT, 2008 WL 3072731 (D. Ariz. Aug. 4, 2008), *rev'd*, No. 08-16971, 2010 WL 5927988 (9th Cir. June 23, 2010) (securities class action litigated for seven years; trial court rejecting unanimous verdict for plaintiffs, which was later reinstated by the Ninth Circuit Court of Appeals) and judgment re-entered (*id.*) after denial by the Supreme Court of the United States of defendants' Petition for Writ of Certiorari (*Apollo Grp. Inc. v. Police Annuity and Benefit Fund*, 562 U.S. 1270 (2011)).

129. Successfully opposing a motion for summary judgment is also not a guarantee that plaintiffs will prevail at trial. Indeed, while only a few securities class actions have been tried before a jury, several have been lost in their entirety, such as *In re JDS Uniphase Securities Litigation*, Case No. C-02-1486 CW (EDL), slip op (N.D. Cal. Nov. 27, 2007), litigated by Labaton Sucharow.

130. Even plaintiffs who succeed at trial may find their verdict overturned on appeal. *See, e.g., Glickenhau & Co., et al. v. Household Int'l, Inc., et al.*, 787 F.3d 408 (7th Cir. 2015) (reversing and remanding jury verdict of \$2.46 billion after 13 years of litigation on loss causation grounds and error in jury instruction); *Ward v. Succession of Freeman*, 854 F.2d 780 (5th Cir. 1998) (reversing plaintiffs' jury verdict for securities fraud); *Anixter v. Home-Stake Prod. Co.*, 77 F.3d 1215 (10th Cir. 1996) (overturning plaintiffs' verdict obtained after two decades of litigation). And, the path to maintaining a favorable jury verdict can be arduous and time consuming. *See, e.g., In re Apollo Grp., Inc. Sec. Litig.*, Case No. CV-04-2147-PHX-JAT, 2008 WL 3072731 (D. Ariz. Aug. 4, 2008), *rev'd*, No. 08-16971, 2010 WL 5927988 (9th Cir. June 23, 2010) (securities class action litigated for seven years; trial court rejecting unanimous verdict for plaintiffs, which was later reinstated by the Ninth Circuit Court of Appeals) and judgment re-entered (*id.*) after

denial by the Supreme Court of the United States of defendants' Petition for Writ of Certiorari (*Apollo Grp. Inc. v. Police Annuity and Benefit Fund*, 562 U.S. 1270 (2011)).

131. Losses such as those described above are exceedingly expensive for plaintiff's counsel to bear. The fees that are awarded in successful cases are used to cover enormous overhead expenses incurred during the course of litigations and are taxed by federal, state, and local authorities.

132. Courts have repeatedly held that it is in the public interest to have experienced and able counsel enforce the securities laws and regulations pertaining to the duties of officers and directors of public companies. Vigorous private enforcement of the federal securities laws and state corporation laws can only occur if private plaintiffs can obtain some parity in representation with that available to large corporate defendants. If this important public policy is to be carried out, courts should award fees that will adequately compensate private counsel, taking into account the enormous risks undertaken with a clear view of the economics of a securities class action.

C. The Skill Required and Quality of the Work

133. The expertise and experience of Lead Counsel is described in its firm resume, annexed to the declaration. *See* Ex. 3-C.

134. Lead Counsel Labaton Sucharow has been approved by courts to serve as lead counsel in numerous securities class actions throughout the United States. Here, Labaton Sucharow attorneys have devoted considerable time and effort to this case, thereby greatly benefiting the outcome by bringing to bear many years of collective experience. For example, Labaton has served as lead counsel in a number of high profile matters: *In re Am. Int'l Grp., Inc. Sec. Litig.*, No. 04-8141 (S.D.N.Y.) (representing the Ohio Public Employees Retirement System, State Teachers Retirement System of Ohio, and Ohio Police & Fire Pension Fund and reaching settlements of \$1 billion); *In re Countrywide Sec. Litig.*, No. 07-5295 (C.D. Cal.) (representing the

New York State and New York City Pension Funds and reaching settlements of more than \$600 million); *In re Schering-Plough Corp. / ENHANCE Securities Litigation*, Civil Action No. 08-397 (DMC) (JAD) (D.N.J.) (representing Massachusetts Pension Reserves Investment Management Board and reaching a settlement of \$473 million). *See* Ex. 3-C.

D. Request for Litigation Expenses

135. Lead Counsel seeks payment of \$69,715.91 from the Settlement Fund for Litigation Expenses reasonably and necessarily incurred in connection with commencing and prosecuting the claims against Defendants. The Notice informed the Settlement Class that Lead Counsel would seek attorneys' fees and Litigation Expenses limited to 33.3% of the Settlement Fund. *See* Ex. 2-A.

136. As set forth in the Fee and Expense Schedules, Lead Counsel has incurred a total of \$69,715.91 in Litigation Expenses in connection with the prosecution of the Action. *See* Ex. 3-B. As attested to, these expenses are reflected on the books and records maintained by Labaton Sucharow. These books and records are prepared from expense vouchers, check records, and other source materials and are an accurate record of the expenses incurred. The requested expenses are detailed in Lead Counsel's declaration, which identifies the specific category of expense—*e.g.*, computer research, experts' fees, costs related to mediation, duplicating, court and service fees, and postage expenses.

137. A significant component of Lead Counsel's expenses is the cost of Plaintiff's consulting damages and causation expert, which totals \$20,115.00, or approximately 29% of total expenses. *See* Ex. 3-B. The services of Plaintiff's damages and causation expert were necessary for preparing estimates of damages, analyzing causation issues, and assisting with the preparation of the Plan of Allocation.

138. Lead Counsel also paid \$18,714.93 in mediation fees assessed by the Mediator in this matter (approximately 27% of total expenses). *Id.*

139. Another category of expenses was for document management litigation support, which totals \$14,779.80 (approximately 21% of total expenses).

140. Online legal and factual research totals \$10,947.17, or approximately 16% of total expenses. *Id.* These are the costs of computerized factual and legal research services, such as Pacer, Westlaw, Thomson Research, and LexisNexis. These services allowed counsel to perform media searches on the Company, obtain analysts' reports and financial data for the Company, and conduct legal research.

141. The other expenses for which Lead Counsel seeks payment are the types of expenses that are necessarily incurred in litigation. These expenses include, among others, duplicating costs, service and filing fees, and postage and delivery expenses.

142. All of the Litigation Expenses incurred, which total \$69,715.91, were necessary to the successful prosecution and resolution of the claims against Defendants.

143. In view of the complex nature of the Action, the expenses incurred were reasonable and necessary to pursue the interests of the class. Accordingly, Lead Counsel respectfully submits that the expenses incurred by Lead Counsel should be paid in full from the Settlement Fund.

X. A SERVICE AWARD TO PLAINTIFF WOULD BE FAIR AND REASONABLE

144. Additionally, Plaintiff seeks an award in the amount of \$10,000, which is commensurate with the time he dedicated to prosecuting the Action on behalf of the class.

145. As discussed in Plaintiff's supporting declaration, attached hereto as Exhibit 1, he actively and effectively fulfilled his obligations as a representative of the class, complying with all of the demands placed on him during the litigation and settlement of the Action. He (i) regularly

communicated with Lead Counsel regarding the progress of the Action; (ii) reviewed and discussed significant pleadings, motions, and briefs filed in the Action; (iii) produced documents and written discovery responses to Defendants; and (iv) evaluated and approved the proposed Settlement. *See* Ex. 1. These efforts required Plaintiff to dedicate time to the Action that he would have otherwise devoted to his other professional and personal endeavors.

XI. THE REACTION OF THE SETTLEMENT CLASS TO THE FEE AND EXPENSE APPLICATION

146. As mentioned above, consistent with the Preliminary Approval Order, to date a total of 128,110 Notice Packets have been mailed to potential Settlement Class Members and their nominees advising them that Lead Counsel would seek an award of attorneys' fees and Litigation Expenses limited to 33.3% of the Settlement Fund. *See* Ex. 2-A. Additionally, the Summary Notice was published in *The Wall Street Journal* and transmitted over *PR Newswire*. Ex. 2 at ¶9. The Notice and the Stipulation have also been available on the settlement website maintained by the Claims Administrator. *Id.* at ¶11.⁸ While the August 24, 2023 deadline set by the Court for Settlement Class Members to object to the requested fees and expenses has not yet passed, to date no objections to the Fee and Expense Application have been received. Lead Counsel will respond to any objections received in its reply papers, which are due no later than September 7, 2023.

XII. MISCELLANEOUS EXHIBITS

147. Attached hereto as Exhibit 5 is a compendium of unreported cases, in alphabetical order, cited in the accompanying Fee Brief.

XIII. CONCLUSION

148. In view of the significant recovery for the Settlement Class and the substantial risks of this litigation, as described above and in the accompanying memorandum of law, Plaintiff and

⁸ Lead Counsel's Fee and Expense Application will also be posted on the Settlement website.

Lead Counsel respectfully submit that the Settlement should be approved as fair, reasonable, and adequate and that the proposed Plan of Allocation should likewise be approved as fair, reasonable, and adequate. In view of the significant recovery in the face of substantial risks, the quality of work performed, the contingent nature of the fee, as described above and in the accompanying memorandum of law, Lead Counsel respectfully submits that attorneys' fees and Litigation Expenses (including expenses in the amount of \$69,715.91 and a \$10,000 service award for Plaintiff) in the amount of 33.3% of the Settlement Fund be awarded.

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

Executed this 10th day of August 2023.



ALFRED L. FATALE III

Exhibit 1

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION**

STEVEN FOX, Individually and on Behalf of All
Others Similarly Situated,

Plaintiff,

vs.

FIFTH THIRD BANCORP, GREG D.
CARMICHAEL, TAYFUN TUZUN, MARK D.
HAZEL, NICHOLAS K. AKINS, B. EVAN
BAYH III, JORGE L. BENITEZ, KATHERINE
B. BLACKBURN, EMERSON L. BRUMBACK,
JERRY W. BURRIS, GARY R. HEMINGER,
JEWELL D. HOOVER, EILEEN A.
MALLESCH, MICHAEL B. MCCALLISTER,
and MARSHA C. WILLIAMS,

Defendants.

Case No. 2020CH05219

Judge: Hon. Celia G. Gamrath

**DECLARATION OF PLAINTIFF DR. STEVEN FOX IN SUPPORT OF
APPROVAL OF PROPOSED CLASS ACTION SETTLEMENT AND REQUEST FOR
ATTORNEYS' FEES AND LITIGATION EXPENSES**

FILED DATE: 8/10/2023 3:09 PM 2020CH05219

I, DR. STEVEN FOX, declare as follows:

1. I am the Plaintiff in this proposed securities class action (the “Action”).¹ I respectfully submit this declaration in support of final approval of the proposed settlement of the Action for \$5,500,000 (the “Settlement”), approval of the proposed Plan of Allocation for distributing the proceeds of the Settlement, and approval of Lead Counsel’s request for attorneys’ fees and expenses. I also respectfully submit this declaration in support of a service award, based on the effort I dedicated to the litigation on behalf of the proposed class. I have personal knowledge of the statements herein and, if called as a witness, could competently testify thereto.

2. I initiated this Action by filing a class action complaint on July 31, 2020. Since that time, I have assisted Lead Counsel Labaton Sucharow LLP with the litigation. In that regard, I have regularly consulted with Lead Counsel regarding the progress of the litigation and, later on, the proposed Settlement, participated in discovery (including producing documents), and reviewed and discussed significant pleadings, motions, and briefs filed by Lead Counsel. My involvement has included numerous telephonic meetings dating back to prior to the filing of my initial complaint.

3. I consulted with my counsel concerning the mediation and authorized Lead Counsel to settle the Action. In making the determination that the Settlement represented a fair, reasonable, and adequate result for the class, together with my counsel, I weighed the substantial benefits to the class against the significant risks and uncertainties of continued litigation. After doing so, I believe that the Settlement represents a favorable recovery, and that final approval of the Settlement is in the best interest of the Settlement Class.

¹ Unless otherwise indicated, capitalized terms have those meanings contained in the Stipulation and Agreement of Settlement, dated as of May 9, 2023.

FILED DATE: 8/10/2023 3:09 PM 2020CH05219

4. I also believe that Lead Counsel's request, on behalf of all Plaintiff's Counsel, for an award of attorneys' fees and Litigation Expenses (including a service award to me) limited to 33.3% of the Settlement Fund is fair and reasonable under the circumstances of this case. I have evaluated Lead Counsel's request in light of the effort required to pursue the case to date, the risks and challenges in the litigation, as well as the recovery obtained for the Settlement Class. I understand that Lead Counsel will also devote additional time in the future to administering the Settlement. I further believe that the Litigation Expenses requested are reasonable and represent the costs and expenses that were necessary for the successful prosecution and resolution of this case. Based on the foregoing, I fully support Lead Counsel's motion for attorneys' fees and payment of Litigation Expenses.

5. I understand the Court may make an award relating to my representation of the class. Accordingly, I am requesting the amount of \$10,000 in connection with my efforts in the Action. This request is based on the time I devoted to the litigation, including but not limited to: time spent consulting with counsel prior to filing the initial complaint; reviewing draft pleadings and motion papers; participating in document discovery by making my hard copy and electronic files available to counsel for review and production; and participating in the mediation process. I estimate that I dedicated approximately 32 hours to these activities on behalf of the class. The time spent on this case was time that I would have otherwise devoted to other personal and business endeavors.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 8th
day of August, 2023.

DocuSigned by:

Dr. Steven Fox

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DR. STEVEN FOX

FILED DATE: 8/10/2023 3:09 PM 2020CH05219

Exhibit 2

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION**

STEVEN FOX, Individually and on Behalf of All
Others Similarly Situated,

Plaintiff,

vs.

FIFTH THIRD BANCORP, GREG D.
CARMICHAEL, TAYFUN TUZUN, MARK D.
HAZEL, NICHOLAS K. AKINS, B. EVAN
BAYH III, JORGE L. BENITEZ, KATHERINE
B. BLACKBURN, EMERSON L. BRUMBACK,
JERRY W. BURRIS, GARY R. HEMINGER,
JEWELL D. HOOVER, EILEEN A.
MALLESCH, MICHAEL B. MCCALLISTER,
and MARSHA C. WILLIAMS,

Defendants.

Case No. 2020CH05219

Judge: Hon. Celia G. Gamrath

**DECLARATION OF LANCE CAVALLO REGARDING
(A) MAILING OF NOTICE AND CLAIM FORM; (B) PUBLICATION OF
SUMMARY NOTICE; AND (C) REPORT ON REQUESTS FOR EXCLUSION
RECEIVED TO DATE**

I, Lance Cavallo, declare and state as follows:

1. I am a Vice President of Class Actions at Kurtzman Carson Consultants LLC (“KCC”). Pursuant to the Court’s May 17, 2023 Order Granting Preliminary Approval of Class Action Settlement, Approving Form and Manner of Notice as Revised and Amended on May 17, 2023, and Setting Date for Hearing on Final Approval of Settlement (“Preliminary Approval Order”), the Court approved the retention of KCC as Claims Administrator in connection with the proposed Settlement of the above-captioned

litigation (the “Action”).¹ I have personal knowledge of the matters stated herein and, if called upon, could and would testify thereto.

MAILING OF THE NOTICE AND CLAIM FORM

2. Pursuant to the Preliminary Approval Order, KCC is responsible for disseminating notice of the Settlement. Specifically, KCC is responsible for mailing the Notice of Pendency of Class Action, Proposed Settlement, and Motion for Attorneys’ Fees and Expenses (“Notice”) and Proof of Claim and Release (“Claim Form”, together with the Notice, the “Notice Packet”). A copy of the Notice Packet is attached hereto as Exhibit A.

3. In accordance with the Stipulation and Preliminary Approval Order, KCC received lists from the transfer agent of Fifth Third Bancorp (“Fifth Third”), containing the names and addresses of 1,268 persons and entities who acquired Fifth Third Bancorp publicly traded common stock pursuant and/or traceable to the Registration Statement issued in connection with Fifth Third Bancorp’s March 22, 2019 acquisition of MB Financial Inc. On June 1, 2023, KCC disseminated the Notice Packet by first-class mail to the 1,268 potential Settlement Class Members contained on the lists.

4. As in most class actions of this nature, a large majority of potential class members are beneficial owners whose securities are held in “street name” – *i.e.*, the securities were purchased by brokerage firms, banks, institutions and other third-party

¹ All terms with initial capitalization not otherwise defined herein shall have the meanings ascribed to them in the Stipulation and Agreement of Settlement, dated as of May 9, 2023 (the “Stipulation”).

nominees in the name of the nominee, on behalf of the beneficial owner. KCC maintains a proprietary database with the names and addresses of the largest and most common U.S. banks, brokerage firms, and nominees, including national and regional offices of certain nominees (the “Nominee Database”). KCC’s Nominee Database is updated from time to time as new nominees are identified, and others merge or cease to exist. At the time of the initial mailing, the Nominee Database contained 279 mailing records. On June 1, 2023, KCC caused Notice Packets to be mailed to the 279 mailing records contained in KCC’s Nominee Database.

5. The Notice directed those who acquired Fifth Third Bancorp publicly traded common stock pursuant and/or traceable to the Registration Statement issued in connection with Fifth Third Bancorp’s March 22, 2019 acquisition of MB Financial Inc. for the beneficial interest of persons or entities other than themselves to provide KCC with the names and addresses (and, if available, email addresses) of each of the beneficial owners. KCC then caused Notice Packets to be mailed promptly to the beneficial owners. Alternatively, nominees could request copies of the Notice Packet, in bulk, from KCC to promptly mail directly to the beneficial owners.

6. KCC also provided a copy of the Notice to the Depository Trust Company (“DTC”) for posting on its Legal Notice System (“LENS”). The LENS may be accessed by any broker or other nominee that participates in DTC’s security settlement system. The Notice was posted on DTC’s LENS on June 1, 2023.

7. Following the initial mailing, through August 8, 2023, KCC has received an additional 47,776 unique names and addresses of potential Settlement Class Members

from individuals or nominees requesting that a Notice Packet be mailed to such persons or entities. Additionally, KCC has received bulk requests from nominees for an additional 78,775 Notice Packets for forwarding directly to their customers. All such requests have been responded to in a timely manner, and KCC will continue to disseminate Notice Packets upon receipt of any additional requests and/or upon receipt of updated addresses. Additionally, KCC has caused to be re-mailed 12 Notice Packets to potential Settlement Class Members whose original mailing was returned as undeliverable by the United States Post Office. KCC conducted research through the National Change of Address database to find and re-mail Postcard Notices to these potential Settlement Class Members.

8. As a result of the efforts described above, as of August 8, 2023, KCC has mailed a total of 128,110 Notice Packets to potential Settlement Class Members and nominees.

PUBLICATION OF THE SUMMARY NOTICE

9. Pursuant to the Preliminary Approval Order, KCC caused the Summary Notice to be published in *The Wall Street Journal* and transmitted over *PR Newswire* on June 15, 2023. Attached hereto as Exhibit B are confirmations of such publication and transmittal.

TELEPHONE HOTLINE

10. KCC established and continues to maintain a toll-free telephone number (1-855-662-0528) for potential Settlement Class Members to call and obtain information about the Settlement, request a Notice Packet, and/or seek assistance from an operator

during regular business hours. The toll-free telephone number is set forth in the Notice, Claim Form, Summary Notice, and on the Settlement Website.

SETTLEMENT WEBSITE

11. To further assist potential Settlement Class Members, KCC, in coordination with Lead Counsel, designed, implemented and currently maintains a website dedicated to the Settlement, www.FifthThirdBancorpSecuritiesSettlement.com (the “Settlement Website”). The address for the Settlement Website is set forth in the Notice, Claim Form, and Summary Notice. The Settlement Website became operational on June 1, 2023, and is accessible 24 hours a day, 7 days a week.

12. The Settlement Website lists the exclusion, objection, and claim submission deadlines, as well as the date and time of the Court’s final Settlement Hearing and instructions for joining remotely. In addition, the Settlement Website contains links to copies of the Stipulation, the Preliminary Approval Order, the Notice, and the Claim Form, all of which can be downloaded by potential Settlement Class Members. The Settlement Website also enables potential Settlement Class Members to file a claim online and contains detailed instructions for entities that wish to submit claims electronically. KCC will continue operating, maintaining and, as appropriate, updating the Settlement Website until the conclusion of the administration.

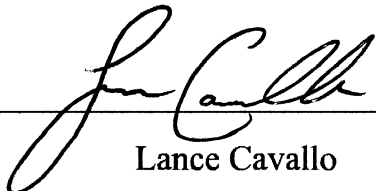
REPORT ON REQUESTS FOR EXCLUSION RECEIVED TO DATE

13. The Notice, Summary Notice, and Settlement Website inform potential Settlement Class Members that requests for exclusion from the Settlement Class must be addressed to *Fifth Third Bancorp Securities Litigation*, c/o KCC Class Action Services,

Exclusions, P.O. Box 5100, Larkspur, CA 94977-5100, such that they are received no later than August 24, 2023. The Notice also sets forth the information that must be included in each request for exclusion. As of August 8, 2023, KCC has received zero (0) requests for exclusion from the Settlement Class. KCC will submit a supplemental declaration after the August 24, 2023 exclusion deadline, which will report on any exclusion requests received.

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

Executed in Wantagh, New York on August 9, 2023.



Lance Cavallo

Exhibit A

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

STEVEN FOX, Individually and on Behalf of All
Others Similarly Situated,

Plaintiff,

vs.

FIFTH THIRD BANCORP, GREG D. CARMICHAEL,
TAYFUN TUZUN, MARK D. HAZEL, NICHOLAS K.
AKINS, B. EVAN BAYH III, JORGE L. BENITEZ,
KATHERINE B. BLACKBURN, EMERSON L.
BRUMBACK, JERRY W. BURRIS, GARY R.
HEMINGER, JEWELL D. HOOVER, EILEEN A.
MALLESCH, MICHAEL B. MCCALLISTER, and
MARSHA C. WILLIAMS,

Defendants.

Case No. 2020CH05219

Judge: Hon. Celia G. Gamrath

**NOTICE OF PENDENCY OF CLASS ACTION, PROPOSED SETTLEMENT,
AND MOTION FOR ATTORNEYS' FEES AND EXPENSES**

If you acquired Fifth Third Bancorp publicly traded common stock pursuant and/or traceable to the Registration Statement issued in connection with Fifth Third Bancorp's March 22, 2019 acquisition of MB Financial Inc., you may be entitled to a payment from a class action settlement.

A Court authorized this Notice. This is not a solicitation from a lawyer.

- The purpose of this Notice is to inform you of the pendency of this securities class action (the "Action"), the proposed settlement of the Action (the "Settlement"),¹ and a hearing to be held by the Court to consider: (i) whether the Settlement should be approved; (ii) whether the proposed plan for allocating the proceeds of the Settlement (the "Plan of Allocation") should be approved; and (iii) Lead Counsel's application for attorneys' fees and expenses (see pages 2 and 8 below). This Notice describes important rights you may have and what steps you must take if you wish to participate in the Settlement, wish to object, or wish to be excluded from the Settlement Class.
- If approved by the Court, the Settlement will create a \$5.5 million cash fund, plus earned interest, for the benefit of eligible Settlement Class Members, after the deduction of attorneys' fees and expenses awarded by the Court, Notice and Administration Expenses, and Taxes. This is an average recovery of approximately \$0.10 per allegedly damaged share, before these deductions.
- The Settlement resolves claims by plaintiff Steven Fox ("Plaintiff"), that have been asserted on behalf of himself and all other members of the Settlement Class (defined below) against Fifth Third Bancorp ("Fifth Third" or the "Company"), Greg D. Carmichael, Tayfun Tuzun, Mark D. Hazel, Nicholas K. Akins, B. Evan Bayh III, Jorge L. Benitez, Katherine B. Blackburn, Emerson L. Brumback, Jerry W. Burris, Gary R. Heminger, Jewell D. Hoover, Eileen A. Mallesch, Michael B. McCallister, and Marsha C. Williams (collectively, the "Individual Defendants" and, together with Fifth Third, the "Defendants").
- It avoids the costs and risks of continuing the litigation; pays money to eligible investors; and releases the Released Defendant Parties (defined below) from liability.

If you are a Settlement Class Member, your legal rights will be affected by this Settlement whether you act or do not act. Please read this Notice carefully.

¹ The terms of the Settlement are in the Stipulation and Agreement of Settlement, dated May 9, 2023 (the "Stipulation"), which can be viewed at www.FifthThirdBancorpSecuritiesSettlement.com. All capitalized terms not defined in this Notice have the same meanings as defined in the Stipulation.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
SUBMIT A CLAIM FORM ON OR BEFORE SEPTEMBER 9, 2023	The <u>only</u> way to get a payment. See Question 8 below for details.
EXCLUDE YOURSELF FROM THE SETTLEMENT CLASS ON OR BEFORE AUGUST 24, 2023	Get no payment. This is the only option that, assuming your claim is timely brought, might allow you to ever bring or be part of any other lawsuit against Defendants and/or the other Released Defendant Parties concerning the Released Claims. See Question 11 below for details.
OBJECT ON OR BEFORE AUGUST 24, 2023	Write to the Court about why you do not like the Settlement, the Plan of Allocation, and/or Lead Counsel's Fee and Expense Application. If you object, you will still be a member of the Settlement Class. See Question 16 below for details.
PARTICIPATE IN A HEARING ON SEPTEMBER 14, 2023 AT 9:15 A.M. CDT AND FILE A NOTICE OF INTENTION TO APPEAR BY AUGUST 24, 2023	Ask to speak to the Court at the Settlement Hearing about the Settlement, which will be held remotely via Zoom using Meeting ID: 928 4730 2982 and Passcode: 411367. See Question 20 below for details.
DO NOTHING	Get no payment. Give up rights.

- These rights and options—and the deadlines to exercise them—are explained in this Notice.
- The Court in charge of this case still has to decide whether to approve the Settlement. Payments will be made to all Settlement Class Members who timely submit valid Claim Forms, if the Court approves the Settlement and after any appeals are resolved. Please be patient.

SUMMARY OF THE NOTICE

Statement of the Settlement Class's Recovery

1. Subject to Court approval, Plaintiff, on behalf of the Settlement Class, has agreed to settle the Action in exchange for a payment of \$5,500,000 in cash (the "Settlement Amount"), which will be deposited into an interest-bearing Escrow Account (the "Settlement Fund"). Based on Plaintiff's consulting damages expert's estimate of the number of shares of Fifth Third publicly traded common stock eligible to participate in the Settlement, and assuming that all investors eligible to participate in the Settlement do so, it is estimated that the average recovery, before deduction of any Court-approved fees and expenses, such as attorneys' fees, Litigation Expenses, Taxes, and Notice and Administration Expenses, would be approximately \$0.10 per allegedly damaged share. If the Court approves Lead Counsel's Fee and Expense Application (discussed below), the average recovery would be approximately \$0.07 per allegedly damaged share. **These average recovery amounts are only estimates and Settlement Class Members may recover more or less than these estimated amounts.** A Settlement Class Member's actual recovery will depend on, for example: (i) the total number and value of claims submitted; (ii) the amount of the Net Settlement Fund; and (iii) whether and when the Settlement Class Member sold Fifth Third publicly traded common stock. See the Plan of Allocation beginning on page 10 for information on the calculation of your Recognized Claim.

Statement of Potential Outcome of Case if the Action Continued to Be Litigated

2. The Parties disagree about both liability and damages and do not agree about the amount of damages that would be recoverable if Plaintiff were to prevail on each claim alleged. The issues on which the Parties disagree include, for example, whether: (i) the Defendants made any false or misleading statements in the Registration Statement issued in connection with the acquisition of MB Financial Inc. ("MB Financial"); (ii) class members suffered any damages; and (iii) the COVID-19 pandemic or the disclosure of the investigation by the Consumer Financial Protection Bureau ("CFPB") caused the alleged decline in Fifth Third's stock price.

3. Defendants have denied and continue to deny any and all allegations of wrongdoing or fault asserted in the Action, deny that they have committed any act or omission giving rise to any liability or violation of law, and deny that Plaintiff and the Settlement Class have suffered any loss attributable to Defendants' actions or omissions. While Plaintiff believes he has meritorious claims, he recognizes that there are significant obstacles in the way to recovery.

Statement of Attorneys' Fees and Expenses Sought

4. Lead Counsel, on behalf of all Plaintiff's Counsel, will apply to the Court for an award of attorneys' fees and Litigation Expenses limited to 33.3% of the Settlement Fund (which may include an application for a service award to Plaintiff related to his representation of the Settlement Class in an amount no greater than \$10,000). Defendants do not anticipate objecting to the Fee and Expense Application. If the Court approves Lead Counsel's Fee and Expense

Application in full, the average amount of fees and expenses, assuming claims are submitted for all shares eligible to participate in the Settlement, will be approximately \$0.03 per allegedly damaged share of Fifth Third common stock. A copy of the Fee and Expense Application will be posted on www.FifthThirdBancorpSecuritiesSettlement.com after it has been filed with the Court.

5. Notice and Administration Expenses in connection with the Settlement will be based on, among other things, the number of notices mailed and claims received, but are estimated to be in the range of \$240,000 to \$375,000.

Reasons for the Settlement

6. For Plaintiff, the principal reason for the Settlement is the guaranteed cash benefit to the Settlement Class. Plaintiff has concluded that the terms and conditions of the Settlement are fair, reasonable, and adequate to Plaintiff and the other members of the Settlement Class, and in their best interests. In entering into the Settlement, Plaintiff has taken into account the uncertain outcome of this litigation, including in particular the difficulty of proving violations of the federal securities laws alleged in the Action, as well as the strength of the defenses that Defendants have asserted or could have asserted in connection with the motion for class certification, motion for summary judgment, and trial. Plaintiff has also taken into account that this case would take years to litigate, at great cost, and with a chance of no recovery for the Plaintiff and Settlement Class at the end of a trial.

7. For Defendants, who deny all allegations of wrongdoing or liability whatsoever and deny that Settlement Class Members were damaged, the principal reasons for entering into the Settlement are to end the burden, expense, uncertainty, and risk of further litigation.

Identification of Attorneys' Representatives

8. Plaintiff and the Settlement Class are represented by Lead Counsel, Alfred L. Fatale III, Esq. Labaton Sucharow LLP, 140 Broadway, New York, NY 10005, (888) 219-6877, www.labaton.com, settlementquestions@labaton.com.

9. Further information regarding the Action, the Settlement, and this Notice may be obtained by contacting the Claims Administrator: KCC Class Action Services LLC, (855) 662-0528, info@FifthThirdBancorpSecuritiesSettlement.com, www.FifthThirdBancorpSecuritiesSettlement.com; or Lead Counsel.

Please Do Not Call the Court with Questions About the Settlement.

BASIC INFORMATION

1. Why did I get this Notice?

10. You or someone in your family may have owned shares of MB Financial and acquired Fifth Third publicly traded common stock pursuant and/or traceable to the Registration Statement issued in connection with Fifth Third's March 22, 2019 acquisition of MB Financial (the "MB Financial Acquisition"). **Receipt of this Notice does not mean that you are a Member of the Settlement Class or that you will be entitled to receive a payment. If you wish to be eligible for a payment, you are required to submit the Claim Form that is being distributed with this Notice. See Question 8 below.**

11. The Court directed that this Notice be sent to Settlement Class Members because they have a right to know about the proposed Settlement of this class action lawsuit, and about all of their options, before the Court decides whether to approve the Settlement.

12. The Court in charge of the Action is the Circuit Court of Cook County, Illinois, and the case is known as *Fox v. Fifth Third Bancorp, et al.*, No. 2020-CH-05219. The Action is assigned to the Honorable Celia G. Gamrath.

2. What is this case about and what has happened so far?

13. Fifth Third is one of the largest banks in the Midwest and provides its customers with an array of financial products and services. On May 21, 2018, Fifth Third announced that it had signed a definitive agreement to acquire MB Financial, a Chicago-based holding company for MB Financial Bank, N.A. As consideration for the MB Financial Acquisition, on or about March 22, 2019, Fifth Third issued approximately 131 million new shares of Fifth Third common stock directly to former shareholders of MB Financial common stock as follows: every MB Financial shareholder received 1.45 shares of newly issued Fifth Third common stock, as well as \$5.54 in cash, for each share of MB Financial common stock they owned (the "Offering").

14. Plaintiff's claims arise from allegedly material misstatements and omissions in the Registration Statement issued in connection with the MB Financial Acquisition. Plaintiff alleges that, prior to the Offering, Fifth Third used a "cross-sell" strategy to boost its sales that entailed, among other things, the opening of customer accounts and credit cards to meet sales goals under an incentive-compensation program, transferring funds to accounts, enrolling customers in online-banking services and fee-based lines of credit without their knowledge or consent, and charging customer fees related to these products and services. As alleged in the Complaint, the CFPB launched an

investigation into the practices. In general, the Complaint alleges that the Registration Statement failed to disclose the alleged cross-sell strategy; the pending CFPB investigation; alleged failures in Fifth Third's internal controls; and the nature of Fifth Third's financial performance. Plaintiff alleges the Registration Statement contained inaccurate statements of material fact in violation of the Securities Act of 1933.

15. Defendants have denied and continue to deny any wrongdoing or that they committed any act or omission giving rise to any liability or any violation of law, including the securities laws. Defendants deny that they made any false or misleading statements in the MB Financial Registration Statement and also deny that Plaintiff or any other member of the class suffered any damages. Defendants have consistently maintained that Fifth Third employees did not engage in widespread misconduct related to cross-selling or the opening of unauthorized accounts. They have also maintained that, to the extent any Fifth Third employees opened unauthorized accounts, they did so a decade or more ago, in very small numbers, and any customers affected long ago received compensation for any fees they paid.

16. On July 31, 2020, Plaintiff filed a Complaint for Violations of the Securities Act of 1933 in the Circuit Court of Cook County, Illinois on behalf himself and all persons and entities who purchased or otherwise acquired Fifth Third publicly traded common stock pursuant and/or traceable to the Registration Statement, which allegedly contained misstatements and omissions.

17. On October 13, 2020, Defendants filed a Motion to Dismiss Plaintiff's Complaint. On November 23, 2020, Plaintiff filed his opposition to Defendants' Motion to Dismiss, and on December 21, 2020, Defendants filed a reply in further support of their Motion to Dismiss.

18. The Court held oral argument on the Motion to Dismiss on March 16, 2021 and held an additional hearing on March 19, 2021. The Court issued an oral ruling denying the Motion to Dismiss and entered a written order to that effect on March 24, 2021.

19. On April 23, 2021, Defendants filed their Answer and Affirmative Defenses to Plaintiff's Complaint (the "Answer"). On June 11, 2021, Plaintiff filed a Response to the Answer and a Motion to Strike Six of Defendants' Eight Affirmative Defenses and a Memorandum of Law in Support thereof (the "Motion to Strike"). On July 21, 2021, Defendants filed a Memorandum of Law in Opposition to the Motion to Strike. On August 20, 2021, Plaintiff filed a Reply Memorandum of Law in further support of the Motion to Strike. The Court issued an order denying the Motion to Strike on August 30, 2021. Plaintiff filed an amended response to the Answer on September 20, 2021, reflecting the Court's order on the Motion to Strike.

20. On August 10, 2020, Plaintiff filed his motion to certify the class, appoint a class representative, and appoint class counsel.

21. Discovery commenced in May 2021, which included requests for the production of documents, requests for admissions, and interrogatories. Between October 2021 and April 2022, Plaintiff produced 121 pages of document discovery and Defendants produced over 30,000 pages.

22. In May 2022, the Parties began to discuss the possibility of resolving the Action. The Parties engaged Jed D. Melnick, Esq., a well-respected and experienced mediator affiliated with JAMS (the "Mediator"), to assist them in exploring a potential negotiated resolution. On August 22, 2022, counsel for the Parties met with Mr. Melnick in an attempt to reach a settlement. The mediation involved an extended effort to settle the claims and was preceded by the exchange of mediation statements. The Parties did not agree to resolve the Action at the mediation but agreed to continue settlement discussions, facilitated by the Mediator. With continued assistance of Mr. Melnick, the Parties reached an agreement in principle to settle the Action, which was memorialized in a Term Sheet executed on January 19, 2023, subject to the negotiation of a mutually acceptable stipulation of settlement.

3. Why is this a class action?

23. In a class action, one or more persons or entities (in this case, Plaintiff), sue on behalf of people and entities who have similar claims. Together, these people and entities are a "class," and each is a "class member." Class actions allow the adjudication of many individuals' similar claims that might be too small economically to bring as individual actions. One court resolves the issues for all class members at the same time, except for those who exclude themselves, or "opt-out," from the class.

4. What are the reasons for the Settlement?

24. The Court did not finally decide in favor of Plaintiff or Defendants. Instead, both sides agreed to a settlement. Plaintiff and Lead Counsel believe that the claims asserted in the Action have merit. They have taken into account, however, the uncertain outcome of this litigation, including in particular the difficulty of proving violations of the federal securities laws alleged in the Action as well as the strength of the defenses that Defendants have asserted or could have asserted in connection with the motion for class certification, motion for summary judgment, and trial. Plaintiff and Lead Counsel have also taken into account that this case would take years to litigate, at great cost, and with a chance of no recovery for the Plaintiff and Settlement Class at the end of a trial. Based upon their investigation,

prosecution, review of discovery produced to date, and mediation of the case, Plaintiff and Lead Counsel believe that the proposed Settlement is fair, reasonable, and adequate, and in the best interests of the Settlement Class.

25. Defendants have denied and continue to deny any wrongdoing or that they have committed any act or omission giving rise to any liability or violation of law, including the U.S. securities laws. Defendants have denied and continue to deny that they made any false or misleading statements in the Registration Statement. Defendants have denied and continue to deny each and every one of the claims that was alleged or could have been alleged by Plaintiff in the Action, on behalf of the proposed class, including all claims in the Complaint, as well as any allegations that Plaintiff or any member of the proposed class has suffered damages or was otherwise harmed by the conduct alleged in the Action. Defendants continue to believe that the claims asserted against them in the Action are without merit and reserve their rights to challenge, among other things, class certification if the Settlement does not become effective as set forth herein.

WHO IS IN THE SETTLEMENT

5. How do I know if I am part of the Settlement Class?

26. The Court directed, for the purposes of the proposed Settlement, that everyone who fits the following description is a Settlement Class Member and subject to the Settlement, unless they are an excluded person (see Question 6 below) or take steps to exclude themselves from the Settlement Class (see Question 11 below):

All persons and entities that purchased or acquired Fifth Third publicly traded common stock pursuant and/or traceable to the Registration Statement issued in connection with Fifth Third's March 22, 2019 acquisition of MB Financial Inc., and who were allegedly damaged thereby.

27. You are a Settlement Class Member only if you owned shares of MB Financial and acquired Fifth Third publicly traded common stock pursuant and/or traceable to the Offering in connection with the MB Financial Acquisition on or about March 22, 2019. Check your investment records or contact your broker to see if you have any eligible acquisitions.

6. Are there exceptions to being included?

28. Yes. There are some individuals and entities who are excluded from the Settlement Class by definition. Excluded from the Settlement Class are: (i) Defendants; (ii) the Individual Defendants' Immediate Family members; (iii) the officers, directors, affiliates and subsidiaries of Fifth Third, at all relevant times, including Fifth Third's employee retirement or benefits plan and their participants or beneficiaries to the extent they acquired Fifth Third common stock pursuant and/or traceable to the Registration Statement through any such plans; and (iv) any firm or entity in which any Defendant has or had a controlling interest. Also excluded from the Settlement Class are any persons or entities who or which exclude themselves by submitting a timely and valid request for exclusion from the Settlement Class in accordance with the procedures described in Question 11 below.

THE SETTLEMENT BENEFITS

7. What does the Settlement provide?

29. In exchange for the Settlement and the release of the Released Claims against the Released Defendant Parties (see Question 10 below), Defendants have agreed to cause a \$5.5 million cash payment to be made, which, along with any interest earned, will be distributed after deduction of Court-awarded attorneys' fees and Litigation Expenses, Notice and Administration Expenses, Taxes, and any other fees or expenses approved by the Court (the "Net Settlement Fund"), to Settlement Class Members who send in valid and timely Claim Forms.

8. How can I receive a payment?

30. To qualify for a payment from the Net Settlement Fund, you must submit a timely and valid Claim Form. A Claim Form is included with this Notice. You may also obtain one from the website dedicated to the Settlement: www.FifthThirdBancorpSecuritiesSettlement.com, or from Lead Counsel's website: www.labaton.com. You can also request that a Claim Form be mailed to you by calling the Claims Administrator toll-free at (855) 662-0528.

31. Please read the instructions contained in the Claim Form carefully. Fill out the Claim Form, include all the documents the form requests, sign it, and either mail it to the Claims Administrator using the address listed in the Claim Form or submit it online at www.FifthThirdBancorpSecuritiesSettlement.com. Claim Forms must be **postmarked (if mailed) or received no later than September 9, 2023**.

9. When will I receive my payment?

32. The Court will hold a Settlement Hearing on **September 14, 2023** to decide, among other things, whether to finally approve the Settlement. Even if the Court approves the Settlement, there may be appeals which can take time to resolve, perhaps more than a year. It also takes a long time for all of the Claim Forms to be accurately reviewed and processed. Please be patient.

10. What am I giving up to receive a payment and by staying in the Settlement Class?

33. If you are a Settlement Class Member and do not timely and validly exclude yourself from the Settlement Class, you will remain in the Settlement Class and that means that, upon the "Effective Date" of the Settlement, you will release all "Released Claims" against the "Released Defendant Parties."

(a) **"Released Claims"** means any and all claims, demands, rights, actions, causes of action, liabilities, damages, losses, obligations, judgments, duties, suits, costs, expenses, matters and issues whether known or Unknown (as defined below), contingent or absolute, suspected or unsuspected, disclosed or undisclosed, liquidated or unliquidated, mature or unmatured, accrued or unaccrued, apparent or unapparent, that have been, could have been, or in the future can or might be asserted in any court, tribunal or proceeding (including but not limited to any claims under federal, state, foreign or common law, including the federal securities laws and any state disclosure law) by or on behalf of Plaintiff or any other member of the Settlement Class, whether individual, direct, class, representative, legal, equitable, or any other type or in any other capacity, against Defendants and the Released Defendant Parties, that the Plaintiff Releasors (a) asserted in the Action; or (b) could have asserted in the Action or in any forum that arise out of, are based upon, or relate to, both (i) the allegations, transactions, facts, matters or occurrences, representations or omissions involved, set forth, or referred to in the Action and (ii) the purchase or acquisition of Fifth Third publicly traded common stock pursuant and/or traceable to the Registration Statement for the Offering. For the avoidance of doubt, Released Claims do not include: (i) the causes of action asserted in *In re Fifth Third Bancorp Derivative Litigation*, No. 20-cv-4115 (N.D. Ill.); (ii) claims to enforce the Settlement; or (iii) the claims of any Person who submits a request for exclusion that is accepted by the Court.

(b) **"Released Defendant Parties"** means Defendants and each of their respective former, present or future parents, subsidiaries, divisions, controlling persons, associates, related entities and affiliates and each and all of their respective present and former employees, members, partners, principals, officers, directors, controlling shareholders, agents, attorneys, advisors (including financial or investment advisors), accountants, auditors, consultants, underwriters, investment bankers, commercial bankers, general or limited partners or partnerships, limited liability companies, members, joint ventures and insurers and reinsurers of each of them, in their capacities as such; and the predecessors, successors, assigns, estates, Immediate Family, heirs, executors, trusts, trustees, administrators, agents, legal representatives, and assignees of each of them, in their capacities as such.

(c) **"Unknown Claims"** means any and all Released Claims that the Plaintiff Releasors do not know or suspect to exist in his, her, or its favor at the time of the release of the Released Defendant Parties, and any and all Released Defendants' Claims that any Defendant does not know or suspect to exist in his, her, or its favor at the time of the release of the Released Plaintiff Parties, which if known by him, her, or it might have affected his, her, or its decision(s) with respect to the Settlement, including the decision to object to the terms of the Settlement or to exclude himself, herself, or itself from the Settlement Class. With respect to any and all Released Claims and Released Defendants' Claims, the Parties stipulate and agree that, upon the Effective Date, Plaintiff and Defendants shall expressly, and each Plaintiff Releasor shall be deemed to have, and by operation of the Judgment or Alternative Judgment shall have, waived and relinquished any and all provisions, rights and benefits conferred by any law of any state or territory of the United States or foreign law, or principle of common law, which is similar, comparable, or equivalent to Cal. Civ. Code § 1542, which provides:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

The Plaintiff Releasors or Defendants may hereafter discover facts, legal theories, or authorities in addition to or different from those which any of them now knows, suspects, or believes to be true with respect to the Action, the Released Claims, or the Released Defendants' Claims, but Plaintiff and Defendants shall expressly, fully, finally, and forever settle and release, and each other Plaintiff Releasor shall be deemed to have fully, finally, and forever settled and released, and upon the Effective Date and by operation of the Judgment or Alternative Judgment shall have settled and released, fully, finally, and forever, any and all Released Claims and Released Defendants' Claims as applicable, without regard to the subsequent discovery or existence of such different or additional facts, legal theories, or authorities. Plaintiff and Defendants acknowledge, and all other Plaintiff Releasors by operation of law shall be deemed to have acknowledged, that the inclusion of "Unknown Claims" in the definition of Released Claims and Released Defendants' Claims was separately bargained for and was a material element of the Settlement.

34. The “Effective Date” will occur when an Order entered by the Court approving the Settlement becomes Final and is not subject to appeal. If you remain a member of the Settlement Class, all of the Court’s orders, whether favorable or unfavorable, will apply to you and legally bind you.

35. Upon the “Effective Date,” Defendants will also provide a release of any claims against Plaintiff and the Settlement Class arising out of or related to the institution, prosecution, or settlement of the claims in the Action.

EXCLUDING YOURSELF FROM THE SETTLEMENT CLASS

36. If you want to keep any right you may have to sue or continue to sue Defendants and the other Released Defendant Parties on your own concerning the Released Claims, then you must take steps to remove yourself from the Settlement Class. This is called excluding yourself or “opting out.” **Please note:** If you decide to exclude yourself, there is a risk that any lawsuit you may file to pursue claims alleged in the Action may be dismissed, including because the suit is not filed within the applicable time periods required for filing suit.

11. How do I exclude myself from the Settlement Class?

37. To exclude yourself from the Settlement Class, you must mail a signed letter stating that you request to be “excluded from the Settlement Class in *Fox v. Fifth Third Bancorp, et al.*, No. 2020–CH-05219.” You cannot exclude yourself by telephone or e-mail. Each request for exclusion must also: (i) state the name, address, telephone number, and e-mail address of the person or entity requesting exclusion; (ii) state the date(s), price(s) (if provided), and number(s) of shares of Fifth Third publicly traded common stock acquired pursuant and/or traceable to the Registration Statement issued in connection with Fifth Third’s acquisition of MB Financial on or about March 22, 2019; (iii) state the date(s), price(s) (if provided), and number of shares of Fifth Third publicly traded common stock sold from March 22, 2019 through May 8, 2023; and (iv) be signed by the person or entity requesting exclusion or an authorized representative. Only members of the Settlement Class can request exclusion. A request for exclusion must be mailed so that it is **received no later than August 24, 2023** at:

Fifth Third Bancorp Securities Litigation
c/o KCC Class Action Services
Exclusions
P.O. Box 5100
Larkspur, CA 94977-5100

38. This information is needed to determine whether you are a member of the Settlement Class. **Remember, you are only a Settlement Class Member if you owned MB Financial common stock and acquired Fifth Third shares in the Offering in connection with the MB Financial Acquisition.** Your exclusion request must comply with these requirements in order to be valid. If you ask to be excluded, do not submit a Claim Form because you cannot receive any payment from the Net Settlement Fund. Also, you cannot object to the Settlement because you will not be a Settlement Class Member. However, if you submit a valid exclusion request, you will not be legally bound by anything that happens in the Action, and you may be able to sue (or continue to sue) Defendants and the other Released Defendant Parties in the future.

12. If I do not exclude myself, can I sue Defendants and the other Released Defendant Parties for the same thing later?

39. No. If you are a member of the Settlement Class, unless you properly exclude yourself, you will give up any rights to sue Defendants and the other Released Defendant Parties for any and all Released Claims. If you have a pending lawsuit against any of the Released Defendant Parties, **speak to your lawyer in that case immediately.** You must exclude yourself from this Settlement Class to continue your own lawsuit if it involves Released Claims. Remember, the exclusion deadline is **August 24, 2023.**

13. If I exclude myself, can I get money from the proposed Settlement?

40. No, only Settlement Class Members are eligible to recover money from the Settlement.

THE LAWYERS REPRESENTING YOU

14. Do I have a lawyer in this case?

41. Labaton Sucharow LLP is Lead Counsel in the Action and Law Office of Michael D. Smith, P.C. is Liaison Counsel – together they are Plaintiff’s Counsel. Plaintiff’s Counsel represent all Settlement Class Members. You will not be separately charged for these lawyers. The Court will determine the amount of attorneys’ fees and expenses, which will be paid from the Settlement Fund. If you want to be represented by your own lawyer, you may hire one at your own expense.

15. How will the lawyers be paid?

42. Plaintiff's Counsel have been prosecuting the Action on a contingent fee basis and have not been paid for any of their work. Lead Counsel, on behalf of itself and Liaison Counsel, will seek attorneys' fees and Litigation Expenses limited to 33.3% of the Settlement Fund (which may include an application for a service award to Plaintiff related to his representation of the Settlement Class in an amount no greater than \$10,000). Lead Counsel has agreed to share the awarded attorneys' fees with Liaison Counsel, and payment to them will in no way increase the fees that are deducted from the Settlement Fund. Any attorneys' fees and expenses awarded by the Court will be paid from the Settlement Fund. Settlement Class Members are not personally liable for any such fees or expenses.

OBJECTING TO THE SETTLEMENT, THE PLAN OF ALLOCATION, OR THE FEE AND EXPENSE APPLICATION

16. How do I tell the Court that I do not like something about the proposed Settlement?

43. If you are a Settlement Class Member, you can object to the Settlement or any of its terms, the proposed Plan of Allocation of the Net Settlement Fund, and/or Lead Counsel's Fee and Expense Application. You may write to the Court about why you think the Court should not approve any or all of the Settlement terms or related relief. If you would like the Court to consider your views, you must file a proper objection within the deadline, and according to the following procedures.

44. To object, you must send a signed letter stating that you object to the proposed Settlement, the Plan of Allocation, and/or the Fee and Expense Application in "*Fox v. Fifth Third Bancorp, et al.*, No. 2020-CH-05219." The objection must also: (i) state the name, address, telephone number, and e-mail address of the objector and must be signed by the objector; (ii) contain a statement of the Settlement Class Member's objection or objections and the specific reasons for each objection, including any legal and evidentiary support (including witnesses) the Settlement Class Member wishes to bring to the Court's attention; and (iii) include documents sufficient to prove your membership in the Settlement Class, such as documents showing the date(s), price(s) (if provided), and number(s) of shares of all Fifth Third publicly traded common stock acquired pursuant and/or traceable to the Registration Statement issued in connection with Fifth Third's acquisition of MB Financial Inc. on or about March 22, 2019 and shares of Fifth Third publicly traded common stock sold from March 22, 2019 through May 8, 2023. Unless otherwise ordered by the Court, any Settlement Class Member who does not object in the manner described in this Notice will be deemed to have waived any objection and will be forever foreclosed from making any objection to the proposed Settlement, the Plan of Allocation, and/or Lead Counsel's Fee and Expense Application. Your objection must be filed with the Court at the address below **no later than August 24, 2023** and be mailed or delivered to the following counsel so that it is **received no later than August 24, 2023**:

Court
Circuit Court of Cook County
 Chancery Division
 Hon. Celia G. Gamrath
 Richard J. Daley Center
 50 W. Washington St.
 Room 2508
 Chicago, IL 60602

Lead Counsel
Labaton Sucharow LLP
 Alfred L. Fatale III, Esq.
 140 Broadway
 New York, NY 10005

Defendants' Counsel Representative
Skadden, Arps, Slate, Meagher & Flom LLP
 Charles F. Smith, Esq.
 Marcella L. Lape, Esq.
 155 North Wacker Drive
 Suite 2700
 Chicago, IL 60606

45. You do not need to attend the Settlement Hearing to have your written objection considered by the Court. However, any Settlement Class Member who has complied with the procedures described in this Question 16 and below in Question 20 may appear at the Settlement Hearing and be heard, to the extent allowed by the Court. An objector may appear in person or arrange, at his, her, or its own expense, for a lawyer to represent him, her, or it at the Settlement Hearing.

17. What is the difference between objecting and seeking exclusion?

46. Objecting is telling the Court that you do not like something about the proposed Settlement, Plan of Allocation, or Lead Counsel's Fee and Expense Application. You can still recover money from the Settlement. You can object *only* if you stay in the Settlement Class. Excluding yourself is telling the Court that you do not want to be part of the Settlement Class. If you exclude yourself from the Settlement Class, you may not object because the Settlement and the Action no longer affect you.

THE SETTLEMENT HEARING

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

47. The Court will hold the Settlement Hearing on **September 14, 2023 at 9:15 a.m. CDT**, remotely, at the Court's discretion, via Zoom using Meeting ID: 928 4730 2982 and Passcode: 411367. Directions will also be posted in advance on the Settlement website.

48. At this hearing, the Honorable Celia G. Gamrath will consider whether: (i) the Settlement is fair, reasonable, adequate, and should be approved; (ii) the Plan of Allocation is fair and reasonable, and should be approved; and (iii) the application of Lead Counsel for an award of attorneys' fees and payment of Litigation Expenses is reasonable and should be approved. The Court will take into consideration any written objections filed in accordance with the instructions in Question 16 above. We do not know how long it will take the Court to make these decisions.

49. You should be aware that the Court may change the date and time of the Settlement Hearing without another notice being sent to Settlement Class Members. If you want to attend the hearing, you should check with Lead Counsel or visit the Settlement website, www.FifthThirdBancorpSecuritiesSettlement.com, beforehand to be sure that the hearing date and/or time has not changed.

19. Do I have to come to the Settlement Hearing?

50. No. Lead Counsel will answer any questions the Court may have. But, you are welcome to attend at your own expense. If you submit a valid and timely objection, the Court will consider it and you do not have to come to Court to discuss it. You may have your own lawyer attend (at your own expense), but it is not required. If you do hire your own lawyer, he or she must file and serve a Notice of Appearance in the manner described in the answer to Question 20 below **no later than August 24, 2023**.

20. May I speak at the Settlement Hearing?

51. If you are a member of the Settlement Class, you may ask the Court for permission to speak at the Settlement Hearing. To do so, you must, **no later than August 24, 2023**, submit a statement to the Court, Lead Counsel, and Defendants' Counsel that you, or your attorney, intend to appear in "*Fox v. Fifth Third Bancorp, et al.*, No. 2020-CH-05219." Persons who intend to present evidence at the Settlement Hearing must also include in their objections (prepared and submitted in accordance with the answer to Question 16 above) the identities of any witnesses they may wish to call to testify and any exhibits they intend to introduce into evidence at the Settlement Hearing. You may not speak at the Settlement Hearing if you exclude yourself from the Settlement Class or if you have not provided written notice of your intention to speak at the Settlement Hearing in accordance with the procedures described in this Question 20 and Question 16 above.

IF YOU DO NOTHING

21. What happens if I do nothing at all?

52. If you do nothing and you are a member of the Settlement Class, you will receive no money from this Settlement, and you will be precluded from starting a lawsuit, continuing with a lawsuit, or being part of any other lawsuit against Defendants and the other Released Defendant Parties concerning the Released Claims. To share in the Net Settlement Fund, you must submit a Claim Form (see Question 8 above). To start, continue, or be a part of any other lawsuit against Defendants and the other Released Defendant Parties concerning the Released Claims, you must exclude yourself from the Settlement Class (see Question 11 above).

GETTING MORE INFORMATION

22. Are there more details about the Settlement?

53. This Notice summarizes the proposed Settlement. More details are contained in the Stipulation. You may review the Stipulation filed with the Court or other documents in the case, at your expense, during business hours at the Circuit Court of Cook County, Chancery Division, Richard J. Daley Center, Room 802, 50 West Washington St., Chicago, Illinois, 60602.

54. You can also get a copy of the Stipulation, and other documents related to the Settlement, as well as additional information about the Settlement by visiting the website dedicated to the Settlement, www.FifthThirdBancorpSecuritiesSettlement.com, or the website of Lead Counsel, www.labaton.com. You may also call the Claims Administrator toll free at (855) 662-0528, e-mail the Claims Administrator at info@FifthThirdBancorpSecuritiesSettlement.com, or write to the Claims Administrator at *Fifth Third Bancorp Securities Litigation*, c/o KCC Class Action Services, P.O. Box 301170, Los Angeles, CA 90030-1170. **Please do not call the Court with questions about the Settlement.**

PLAN OF ALLOCATION OF THE NET SETTLEMENT FUND

23. How will my claim be calculated?

55. The Plan of Allocation (the “Plan of Allocation” or “Plan”) set forth below is the plan for the distribution of the Settlement proceeds that is being proposed by Plaintiff and Lead Counsel to the Court for approval. The Court may approve this Plan of Allocation or modify it without additional notice to the Settlement Class. Any order modifying the Plan of Allocation will be posted on the Settlement website at: www.FifthThirdBancorpSecuritiesSettlement.com and at www.labaton.com.

56. The Settlement Amount and the interest it earns is the “Settlement Fund.” The Settlement Fund, after deduction of Court-approved attorneys’ fees and expenses, Notice and Administration Expenses, Taxes, and any other fees or expenses approved by the Court is the “Net Settlement Fund.” The Net Settlement Fund will be distributed to members of the Settlement Class who timely submit valid Claim Forms that show a Recognized Claim according to the Plan of Allocation approved by the Court.

57. The objective of this Plan of Allocation is to equitably distribute the Net Settlement Fund among Authorized Claimants who suffered economic losses allegedly as a result of violations of the Securities Act with respect to shares of Fifth Third publicly traded common stock acquired pursuant and/or traceable to the Registration Statement issued in connection with Fifth Third’s acquisition of MB Financial on March 22, 2019. To design this Plan, Lead Counsel has conferred with Plaintiff’s consulting damages expert. This Plan is intended to be generally consistent with an assessment of, among other things, the damages that Plaintiff and Lead Counsel believe were recoverable in the Action. The Plan of Allocation, however, is not a formal damages analysis and the calculations made pursuant to the Plan are not intended to be estimates of, nor indicative of, the amounts that Settlement Class Members might have been able to recover after a trial.

58. An individual Settlement Class Member’s recovery will depend on, for example: (i) the total number and value of claims submitted; (ii) whether the Claimant acquired Fifth Third publicly traded common stock in the Offering; and (iii) whether and when the Claimant sold his, her, or its shares of common stock. Because the Net Settlement Fund is less than the total losses alleged to be suffered by Settlement Class Members, the formulas described below for calculating Recognized Losses are not intended to estimate the amount that will actually be paid to Authorized Claimants. Rather, these formulas provide the basis on which the Net Settlement Fund will be distributed among Authorized Claimants on a *pro rata* basis. An Authorized Claimant’s “Recognized Claim” shall be the amount used to calculate the Authorized Claimant’s *pro rata* share of the Net Settlement Fund. If the sum total of Recognized Claims of all Authorized Claimants who are entitled to receive payment out of the Net Settlement Fund is greater than the Net Settlement Fund, each Authorized Claimant shall receive his, her, or its *pro rata* share of the Net Settlement Fund. The *pro rata* share shall be the Authorized Claimant’s Recognized Claim divided by the total of the Recognized Claims of all Authorized Claimants, multiplied by the total amount in the Net Settlement Fund.

59. If the Net Settlement Fund exceeds the sum amount of the Recognized Claims of all Authorized Claimants entitled to receive payment out of the Net Settlement Fund, the excess amount in the Net Settlement Fund shall be distributed *pro rata* to all Authorized Claimants entitled to receive payment.

60. Section 11 of the Securities Act serves as the basis for the calculation of the Recognized Loss Amounts under the Plan of Allocation. Section 11 of the Securities Act provides a statutory formula for the calculation of damages. The formulas stated below, which were developed by Plaintiff’s consulting damages expert, generally track the statutory formula.

61. Defendants, their respective counsel, and all other Released Defendant Parties will have no responsibility or liability for the investment of the Settlement Fund, the distribution of the Net Settlement Fund, the Plan of Allocation or the payment of any claim. Plaintiff, Lead Counsel, and anyone acting on their behalf, likewise will have no liability for their reasonable efforts to execute, administer, and distribute the Settlement.

CALCULATION OF RECOGNIZED LOSS AMOUNTS

62. For purposes of determining whether a Claimant has a “Recognized Claim,” purchases, acquisitions, and sales of Fifth Third common stock will first be matched on a First In/First Out (“FIFO”) basis. If, in addition to Fifth Third shares acquired in the Offering, a Settlement Class Member has purchases/acquisitions or sales of Fifth Third common stock from March 22, 2019 through May 8, 2023, all such purchases/acquisitions and sales shall be matched on a FIFO basis. Post-Offering sales will be matched first against any holdings prior to the Offering and then against purchases/acquisitions thereafter in chronological order, beginning with shares of Fifth Third common stock acquired in the Offering and continuing with the earliest subsequent purchase/acquisition of Fifth Third common stock.

63. A "Recognized Loss Amount" will be calculated as set forth below for each share of Fifth Third publicly traded common stock acquired pursuant or traceable to the Registration Statement for the Offering that is listed in the Claim Form and for which adequate documentation is provided. ***For purposes of the Settlement, purchases and acquisitions will be considered pursuant or traceable to the Registration Statement for the Offering if and only if the Fifth Third shares were received in exchange for MB Financial common stock in connection with the MB Financial Acquisition. Shares of Fifth Third common stock purchased or otherwise acquired on the open market are not eligible for a recovery.*** To the extent that the calculation of a Claimant's Recognized Loss Amount results in a negative number, that number shall be set to zero. The sum of a Claimant's Recognized Loss Amounts will be the Claimant's "Recognized Claim".

64. **For each share of Fifth Third publicly traded common stock acquired as part of the Offering on or about March 22, 2019, in exchange for MB Financial common stock, and:**

- A. Sold before the opening of trading on July 31, 2020,² the Recognized Loss Amount for each such share shall be \$25.48³ ***minus*** the sale price.
- B. Sold after the opening of trading on July 31, 2020, and through the close of trading on May 8, 2023, the Recognized Loss Amount for each such share shall be \$25.48 ***minus*** the sale price (not to be less than \$19.86, the closing share price on July 31, 2020).
- C. Retained through the close of trading on May 8, 2023, the Recognized Loss Amount for each such share shall be \$25.48 ***minus*** \$19.86, the closing share price on July 31, 2020.

ADDITIONAL PROVISIONS

65. Fifth Third publicly traded common stock acquired in the Offering in exchange for MB Financial common stock in connection with the MB Financial Acquisition is the only security eligible for recovery under the Plan of Allocation.

66. Purchases or acquisitions and sales of Fifth Third publicly traded common stock shall be deemed to have occurred on the "contract" or "trade" date as opposed to the "settlement," "payment," or "sale" date. The receipt or grant by gift, inheritance or operation of law of Fifth Third publicly traded common stock shall not be deemed a purchase, acquisition, or sale of such shares for the calculation of a Claimant's Recognized Claim, nor shall the receipt or grant be deemed an assignment of any claim relating to the purchase/acquisition of such shares unless: (i) the donor or decedent acquired such shares of Fifth Third common stock in the Offering; (ii) no Claim Form was submitted by or on behalf of the donor, on behalf of the decedent, or by anyone else with respect to such shares of Fifth Third common stock; and (iii) it is specifically so provided in the instrument of gift or assignment.

67. In accordance with the Plan of Allocation, the Recognized Loss Amount on any portion of a purchase or acquisition that matches against (or "covers") a "short sale" is zero. The Recognized Loss Amount on a "short sale" that is not covered by a purchase or acquisition is also zero.

68. In the event that a Claimant has an opening short position in Fifth Third common stock on the date prior to the Offering (prior to the opening of trading on March 22, 2019), the Fifth Third common stock shares acquired in the Offering shall be matched against such opening short position in accordance with the FIFO matching described above and any portion of such purchase or acquisition that covers such short sales will not be entitled to recovery.

69. The Net Settlement Fund will be allocated among all Authorized Claimants whose prorated payment is \$10.00 or greater. If the prorated payment to any Authorized Claimant calculates to less than \$10.00, it will not be included in the calculation and a distribution will not be made to that Authorized Claimant.

70. Payment according to this Plan of Allocation will be deemed conclusive against all Authorized Claimants. Recognized Claims will be calculated as defined herein by the Claims Administrator and cannot be less than zero.

² For purposes of the statutory calculations, July 31, 2020 (the date of the filing of the initial complaint in the Action) is the date of suit.

³ The closing price of Fifth Third common stock was \$25.48 on March 21, 2019, the day the MB Financial Acquisition was completed.

71. Distributions will be made to eligible Authorized Claimants after all claims have been processed and after the Court has finally approved the Settlement. If there is any balance remaining in the Net Settlement Fund (whether by reason of tax refunds, uncashed checks or otherwise) after at least six (6) months from the date of initial distribution of the Net Settlement Fund, the Claims Administrator shall, if feasible and economical, after payment of Notice and Administration Expenses, Taxes, and attorneys' fees and expenses, if any, redistribute such balance among Authorized Claimants who have cashed their initial checks in an equitable and economic fashion. Any balance that still remains in the Net Settlement Fund after re-distribution(s), which is not feasible or economical to reallocate, after payment of outstanding Notice and Administration Expenses, Taxes, and attorneys' fees and expenses, if any, shall be donated as follows: 50% to the Consumer Federation of America, a private, non-profit, non-sectarian 501(c)(3) organization, and 50% to the Legal Aid Society of Metropolitan Family Services, or as otherwise approved by the Court.

72. Payment pursuant to the Plan of Allocation or such other plan as may be approved by the Court shall be conclusive against all Claimants. No person shall have any claim against Plaintiff, Lead Counsel, their damages expert, Claims Administrator, or other agent designated by Lead Counsel, arising from determinations or distributions to Claimants made substantially in accordance with the Stipulation, the Plan of Allocation approved by the Court, or further orders of the Court. Plaintiff, Defendants, their respective counsel, and all other Released Parties shall have no responsibility for or liability whatsoever for the investment or distribution of the Settlement Fund, the Net Settlement Fund, the Plan of Allocation or the determination, administration, calculation, or payment of any Claim Form or non-performance of the Claims Administrator, the payment or withholding of taxes owed by the Settlement Fund or any losses incurred in connection therewith.

73. Each Claimant is deemed to have submitted to the jurisdiction of the Court with respect to his, her, or its claim.

SPECIAL NOTICE TO SECURITIES BROKERS AND NOMINEES

74. If you acquired Fifth Third publicly traded common stock pursuant and/or traceable to the Registration Statement issued in connection with the Offering for the beneficial interest of a person or entity other than yourself, the Court has directed that **WITHIN TEN (10) CALENDAR DAYS OF YOUR RECEIPT OF THIS NOTICE, YOU MUST EITHER:** (i) provide to the Claims Administrator the name and last known address of each person or entity for whom or which you acquired Fifth Third common stock in the Offering; or (ii) request additional copies of this Notice and the Claim Form from the Claims Administrator, which will be provided to you free of charge, and **WITHIN TEN (10) CALENDAR DAYS** of receipt, mail the Notice and Claim Form directly to all such beneficial owners of those securities. If you choose to follow procedure (b), the Court has also directed that, upon making that mailing, **YOU MUST SEND A STATEMENT** to the Claims Administrator confirming that the mailing was made as directed and keep a record of the names and mailing addresses used. You must also provide email addresses for all such beneficial owners to the Claims Administrator, to the extent they are available. You may request reimbursement from the Settlement Fund of your reasonable out-of-pocket expenses actually incurred in connection with the foregoing of up to: \$0.10 per Notice Packet, plus postage at the current pre-sort rate used by the Claims Administrator, for Notice Packets mailed by nominees; or \$0.10 per mailing record and email address provided to the Claims Administrator. Expenses will be paid upon request and submission of appropriate supporting documentation and timely compliance with the above directives. All communications concerning the foregoing should be addressed to the Claims Administrator:

Fifth Third Bancorp Securities Litigation
c/o KCC Class Action Services
P.O. Box 301170
Los Angeles, CA 90030-1170
info@FifthThirdBancorpSecuritiesSettlement.com

Dated: June 1, 2023

BY ORDER OF THE CIRCUIT
COURT OF COOK COUNTY, ILLINOIS

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

STEVEN FOX, Individually and on Behalf of All
Others Similarly Situated,

Plaintiff,

vs.

FIFTH THIRD BANCORP, GREG D. CARMICHAEL,
TAYFUN TUZUN, MARK D. HAZEL, NICHOLAS K.
AKINS, B. EVAN BAYH III, JORGE L. BENITEZ,
KATHERINE B. BLACKBURN, EMERSON L.
BRUMBACK, JERRY W. BURRIS, GARY R.
HEMINGER, JEWELL D. HOOVER, EILEEN A.
MALLESCH, MICHAEL B. MCCALLISTER, and
MARSHA C. WILLIAMS,

Defendants.

Case No. 2020CH05219

Judge: Hon. Celia G. Gamrath

PROOF OF CLAIM AND RELEASE

A. GENERAL INSTRUCTIONS

1. To recover as a member of the Settlement Class based on your claims in the action entitled *Fox v. Fifth Third Bancorp, et al.*, No. 2020-CH-05219 (the "Action"), you must complete and, on page 7 below, sign this Proof of Claim and Release form ("Claim Form"). If you fail to submit a timely and properly addressed (as set forth in paragraph 3 below) Claim Form, your claim may be rejected and you may not receive any recovery from the Net Settlement Fund created in connection with the proposed Settlement.

2. Submission of this Claim Form, however, does not assure that you will share in the proceeds of the Settlement.

**3. THIS CLAIM FORM MUST BE SUBMITTED ONLINE AT
WWW.FIFTHTHIRDBANCORPSECURITIESSETTLEMENT.COM NO LATER THAN SEPTEMBER 9, 2023 OR,
IF MAILED, BE POSTMARKED NO LATER THAN SEPTEMBER 9, 2023, ADDRESSED AS FOLLOWS:**

Fifth Third Bancorp Securities Litigation
c/o KCC Class Action Services
P.O. Box 301170
Los Angeles, CA 90030-1170

If you are NOT a member of the Settlement Class (as defined in the Notice of Pendency of Class Action, Proposed Settlement, and Motion for Attorneys' Fees and Expenses ("Notice"), which accompanies this Claim Form), DO NOT submit a Claim Form.

4. If you are a member of the Settlement Class and you have not timely requested exclusion in response to the Notice, you are bound by the terms of any judgment entered in the Action, including the releases provided for, **WHETHER OR NOT YOU SUBMIT A CLAIM FORM OR RECEIVE A PAYMENT.**

B. CLAIMANT IDENTIFICATION

1. If you owned MB Financial Inc. ("MB Financial") common stock and acquired Fifth Third Bancorp ("Fifth Third") publicly traded common stock pursuant and/or traceable to the offering of Fifth Third common stock in connection with Fifth Third's March 22, 2019 acquisition of MB Financial (the "Offering") and held the stock in your name, you are the beneficial purchaser as well as the record purchaser. If, however, you acquired the common stock of Fifth Third in the Offering through a third party, such as a brokerage firm, you are the beneficial purchaser and the third party is the record purchaser.

2. For purposes of the Settlement, purchases/acquisitions will be considered pursuant or traceable to the Offering if and only if the Fifth Third shares were received in exchange for MB Financial common stock as a result of the March 22, 2019 MB Financial Acquisition. Claimants must provide adequate documentation of this condition. Open market purchases of Fifth Third common stock are not eligible for a recovery.

3. Use Part I of this form entitled "Claimant Identification" to identify each beneficial purchaser/acquirer of Fifth Third common stock in the Offering that forms the basis of this claim, as well as the purchaser/acquirer of record if different. **THIS CLAIM MUST BE FILED BY THE ACTUAL BENEFICIAL PURCHASER(S) OR THE LEGAL REPRESENTATIVE OF SUCH PURCHASER(S).**

4. All joint purchasers must sign this claim. Executors, administrators, guardians, conservators, other third parties, and trustees must complete and sign this claim on behalf of persons represented by them and their authority must accompany this claim and their titles or capacities must be stated. The Social Security (or taxpayer identification) number and telephone number of the beneficial owner may be used in verifying the claim. Failure to provide the foregoing information could delay verification of your claim or result in rejection of the claim.

C. IDENTIFICATION OF TRANSACTIONS

1. Use Part II of this form entitled "Schedule of Transactions in Connection with the Offering" to supply all required details of your transaction(s). If you need more space or additional schedules, attach separate sheets giving all of the required information in substantially the same form. Sign and print or type your name on each additional sheet.

2. On the schedules, provide all of the requested information with respect to all of your purchases/acquisitions and all of your sales of Fifth Third common stock from March 22, 2019 through May 8, 2023, inclusive, which were pursuant or traceable to the Offering, whether such transactions resulted in a profit or a loss. You must also provide all of the requested information with respect to all of the shares of MB Financial you held at the close of trading on March 21, 2019, Fifth Third common stock you held at the opening of trading on March 22, 2019, and Fifth Third common stock held at the close of trading on May 8, 2023. Failure to report all such transactions may result in the rejection of your claim.

3. The date of covering a "short sale" is deemed to be the date of purchase of Fifth Third common stock. The date of a "short sale" is deemed to be the date of sale of Fifth Third common stock.

4. Copies of broker confirmations or other documentation of your transactions in the Offering and in Fifth Third common stock must be attached to your claim. Failure to provide this documentation could delay verification of your claim or result in rejection of your claim. The Parties do not have information about all your transactions in Fifth Third common stock.

5. **NOTICE REGARDING ELECTRONIC FILES:** Certain claimants with large numbers of transactions may request to, or may be requested to, submit information regarding their transactions in electronic files. (This is different than submitting a claim using the Settlement website.) All such claimants **MUST** also submit a manually signed paper Claim Form whether or not they submit electronic copies. If you wish to file your claim electronically, you must contact the Claims Administrator at (855) 662-0528 to obtain the required file layout. No electronic files will be considered to have been properly submitted unless the Claims Administrator issues to the claimant a written acknowledgment of receipt and acceptance of electronically submitted data.

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CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

Fox v. Fifth Third Bancorp, et al.

Case No. 2020CH05219

PROOF OF CLAIM AND RELEASE

**Must Be Postmarked (if Mailed)
or Received (if Submitted Online)
No Later Than September 9, 2023**

FTBS

Please Type or Print in the Boxes Below
Do NOT use Red Ink, Pencil, or Staples

The Claims Administrator will use this information for all communications regarding this Claim Form. If this information changes, you MUST notify the Claims Administrator in writing at the address above. Complete names of all persons and entities must be provided.

PART I. CLAIMANT IDENTIFICATION

Last Name M.I. First Name

Last Name (Co-Beneficial Owner) M.I. First Name (Co-Beneficial Owner)

Individual(s) Corporation UGMA-Custodian IRA Partnership Estate Trust Other

Company Name (Beneficial Owner - If Claimant is not an Individual) or Custodian Name if an IRA (specify)

Trustee/Asset Manager/Nominee/Record Owner's Name (If Different from Beneficial Owner Listed Above)

Account#/Fund# (Not Necessary for Individual Filers)

Last Four Digits of Social Security Number or Taxpayer Identification Number

Telephone Number (Primary Daytime) Telephone Number (Alternate)

Email Address

MAILING INFORMATION

Address

Address (cont.)

City State ZIP Code

Foreign Province Foreign Postal Code Foreign Country Name/Abbreviation

FOR CLAIMS PROCESSING ONLY OB CB ATP BE FL OP KE DR ME RE ICI EM ND SH MM / DD / YYYY



FILED DATE: 8/10/2023 3:09 PM 2020CH05219

PART II – SCHEDULE OF TRANSACTIONS IN CONNECTION WITH THE OFFERING

1. **HOLDINGS OF MB FINANCIAL, INC. SHARES AS OF MARCH 21, 2019** – State the total number of shares of MB Financial, Inc. common stock held as of the close of trading on March 21, 2019. (Must be documented.)

Proof Enclosed?
 Y N

If none, you are not a member of the Settlement Class and are not eligible for a recovery from the Settlement. **Do not submit a Claim Form.**

2. **HOLDINGS OF FIFTH THIRD SHARES AT OPENING OF TRADING ON MARCH 22, 2019** – State the total number of shares of Fifth Third common stock acquired on the open market and held at the opening of trading on March 22, 2019. (Must be documented.)

Proof Enclosed?
 Y N

If none, write “zero” or “0.”

3. **ACQUISITIONS OF FIFTH THIRD SHARES IN THE OFFERING** – State the total number of shares of Fifth Third common stock you were issued in the Offering on or about March 22, 2019 in exchange for shares of MB Financial Inc. (Must be documented.)

Proof Enclosed?
 Y N

If none, you are not a member of the Settlement Class and are not eligible for a recovery from the Settlement. **Do not submit a Claim Form.**

4. **OPEN MARKET PURCHASES/ACQUISITIONS FROM MARCH 22, 2019 THROUGH MAY 8, 2023.** State the total number of shares of Fifth Third common stock you purchased on the open market from the opening of trading on March 22, 2019 through May 8, 2023. (Must be documented.)¹

Proof Enclosed?
 Y N

If none, write “zero” or “0.”

¹ Information about your open market purchases/acquisitions from March 22, 2019 through May 8, 2023 is needed in order to balance and calculate your claim. However, they are not acquisitions eligible for a recovery.



5. **SALES FROM MARCH 22, 2019 THROUGH MAY 8, 2023** – Separately list each and every sale/disposition of Fifth Third common stock from after the opening of trading on March 22, 2019 through and including the close of trading on May 8, 2023. (Must be documented.)

SALES														
Date of Sale (List Chronologically)				Number of Shares Sold	Sale Price Per Share	Total Sales Price (Excluding taxes, interest, commissions, and fees)	Proof of Sales Enclosed?							
M	M	D	D	Y	Y	Y	Y							
1.		/		/				\$		\$			00	<input type="radio"/> Y <input type="radio"/> N
2.		/		/				\$		\$			00	<input type="radio"/> Y <input type="radio"/> N
3.		/		/				\$		\$			00	<input type="radio"/> Y <input type="radio"/> N
4.		/		/				\$		\$			00	<input type="radio"/> Y <input type="radio"/> N

6. **HOLDINGS AS OF CLOSE OF TRADING ON MAY 8, 2023** – State the total number of shares of Fifth Third common stock held as of the close of trading on May 8, 2023. (Must be documented.)

Proof Enclosed?
 Y N

If none, write "zero" or "0."

IF YOU NEED ADDITIONAL SPACE TO LIST YOUR TRANSACTIONS, YOU MUST PHOTOCOPY THIS PAGE AND CHECK HERE. INCLUDE THE BENEFICIAL OWNER'S FULL NAME AND LAST FOUR DIGITS OF SOCIAL SECURITY NUMBER/TAXPAYER IDENTIFICATION NUMBER ON EACH PAGE

YOU MUST READ AND SIGN THE RELEASE ON PAGE 6. FAILURE TO SIGN THE RELEASE MAY RESULT IN A DELAY IN PROCESSING OR THE REJECTION OF YOUR CLAIM.



FILED DATE: 8/10/2023 3:09 PM 2020CH05219

PART III – ACKNOWLEDGMENTS AND RELEASE

A. SUBMISSION TO JURISDICTION OF COURT AND ACKNOWLEDGMENTS

I (We) submit this Proof of Claim and Release under the terms of the Stipulation and Agreement of Settlement, dated May 9, 2023 (the “Stipulation”) described in the Notice. I (We) also submit to the jurisdiction of the Circuit Court of Cook County, Illinois with respect to my (our) claim as a Settlement Class Member and for purposes of enforcing the release set forth herein. I (We) further acknowledge that I am (we are) bound by and subject to the terms of any judgment that may be entered in the Action. I (We) agree to furnish additional information to the Claims Administrator to support this claim (including transactions in other securities) if requested to do so. I (We) have not submitted any other claim in the Action covering the same purchases or sales of Fifth Third common stock and know of no other person having done so on my (our) behalf.

B. RELEASE AND ACKNOWLEDGEMENT

1. Upon the occurrence of the Court’s approval of the Settlement, as detailed in the accompanying Notice, I (we) agree and acknowledge that my (our) signature(s) below shall effect and constitute a full and complete release and discharge by me (us) and my (our) successors, assigns, executors, administrators, representatives, attorneys, and agents, in their capacities as such (or, if I am (we are) submitting this Proof of Claim and Release Form on behalf of a corporation, a partnership, estate or one or more other persons, by it, him, her or them, and by its, his, her or their successors, assigns, executors, administrators, representatives, attorneys, and agents, in their capacities as such) of each of the “Released Defendant Parties” of all “Released Claims,” as those terms are defined in the Stipulation.

2. Upon the occurrence of the Court’s approval of the Settlement, as detailed in the accompanying Notice, I (we) agree and acknowledge that my (our) signature(s) below shall effect and constitute an agreement by me (us) and my (our) successors, assigns, executors, administrators, representatives, attorneys, and agents, in their capacities as such (or, if I am (we are) submitting this Proof of Claim and Release Form on behalf of a corporation, a partnership, estate or one or more other persons, by it, him, her or them, and by its, his, her or their successors, assigns, executors, administrators, representatives, attorneys, and agents, in their capacities as such) to permanently refrain from prosecuting or attempting to prosecute any Released Claims against any of the Released Defendant Parties.

3. I (We) acknowledge that the inclusion of “Unknown Claims” in the definition of “Released Claims” set forth in the Stipulation was separately bargained for and is a material element of the Settlement of which this release is a part.

4. I (We) hereby warrant and represent that I (we) have not assigned or transferred or purported to assign or transfer, voluntarily or involuntarily, any matter released pursuant to this release or any other part or portion thereof.

5. I (We) hereby warrant and represent that I (we) have included the information requested about all of my (our) transactions in Fifth Third common stock that are the subject of this claim, as well as the opening and closing positions in such securities held by me (us) on the dates requested in this Claim Form.

6. I (We) certify that I am (we are) not subject to backup withholding under the provisions of Section 3406(a)(1)(C) of the Internal Revenue Code. (Note: If you have been notified by the Internal Revenue Service that you are subject to backup withholding, please strike out the prior sentence.)

I (We) declare under penalty of perjury under the laws of the United States of America that all of the foregoing information supplied on this Claim Form by the undersigned is true and correct.



Executed this _____ day of _____ in _____
(Month/Year) (City/State/Country)

Signature of Claimant

Signature of Joint Claimant, if any

Print Name of Claimant

Print Name of Joint Claimant, if any

(Capacity of person(s) signing, e.g.,
Beneficial Purchaser or Acquirer, Executor or Administrator)

(Capacity of person(s) signing, e.g.,
Beneficial Purchaser or Acquirer, Executor or Administrator)

**ACCURATE CLAIMS PROCESSING TAKES A SIGNIFICANT AMOUNT OF TIME.
THANK YOU FOR YOUR PATIENCE.**

Reminder Checklist:

1. Please sign the above release and acknowledgment.
2. If this claim is being made on behalf of Joint Claimants, then both must sign.
3. Remember to attach copies of supporting documentation, if available.
4. **Do not send** originals of certificates.
5. Keep a copy of your Claim Form and all supporting documentation for your records.
6. If you desire an acknowledgment of receipt of your Claim Form, please send it Certified Mail, Return Receipt Requested.
7. If you move, please send your new address to the address below.
8. **Do not use red pen or highlighter** on the Claim Form or supporting documentation.

**THIS CLAIM FORM MUST BE SUBMITTED ONLINE OR MAILED NO LATER THAN SEPTEMBER 9, 2023,
ADDRESSED AS FOLLOWS:**

Fifth Third Bancorp Securities Litigation
c/o KCC Class Action Services
P.O. Box 301170
Los Angeles, CA 90030-1170
www.FifthThirdBancorpSecuritiesSettlement.com



FILED DATE: 8/10/2023 3:09 PM 2020CH05219

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Exhibit B

NEW HIGHS AND LOWS

WSJ.com/newhighs

The following explanations apply to the New York Stock Exchange, NYSE Arca, NYSE American and Nasdaq Stock Market stocks that hit a new 52-week intraday high or low in the latest session. % CHG-Daily percentage change from the previous trading session.

Table with columns for Stock, 52-Wk % High/Low, and % Change. Includes sections for 'Highs' and 'Lows' with various stock tickers and their performance metrics.

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CLASS ACTION

UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA SAN FRANCISCO DIVISION. In re NUTANIX, INC. SECURITIES LITIGATION. Case No. 3:19-cv-01651-WHO. CLASS ACTION SUMMARY NOTICE.

CLASS ACTION

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS COUNTY DEPARTMENT, CHANCERY DIVISION. STEVEN FOX, Individually and on Behalf of All Others Similarly Situated, Plaintiff, vs. FIFTH THIRD BANCORP, GREG D. CARMICHAEL, TAYFUN TUZUN, MARK D. HAZEL, NICHOLAS K. AKINS, B. EVAN BAYH III, JORGE L. BENITEZ, KATHERINE B. BLACKBURN, EMERSON L. BRUMBACK, JERRY W. BURRIS, GARY R. HEMINGER, JEWELL D. HOOVER, EILEEN A. MALLESCH, MICHAEL B. MCCALLISTER, and MARSHA C. WILLIAMS, Defendants.

ANNOUNCEMENTS

YOUR BOOK We Write Your Biography for Your Family. Or We Write & Publish a Book of Your Success In Business & Lessons Learned. Earn Royalties on Book Sales. BizSuccessBooks.com LegaciesandMemories.com (904) 293-9893 Since 1999

PUBLIC NOTICES

Paladin Reinsurance Corporation This company advises all creditors that it is entering into a Commutation Plan under Section 1321(b) of the New York Insurance Law and Department Regulation 141 (11 NYCRR Section 128).

THE WALL STREET JOURNAL.

THE MARKETPLACE ADVERTISE TODAY (800) 366-3975 For more information visit: wsj.com/classifieds

Advertisement for 'The Marketplace' featuring a 'SOLD' sign and contact information for classifieds.

BANKRUPTCIES

IN THE UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE. In re: Desolation Holdings LLC, Bitrex, Inc. et al., Debtors. Chapter 11 Case No. 23-10597 (BLS) (Jointly Administered). GENERAL BAR DATE IS AUGUST 31, 2023, AT MIDNIGHT (PREVAILING EASTERN TIME) NOTICE OF DEADLINES FOR FILING OF PROOFS OF CLAIM.

IF YOU ARE A SETTLEMENT CLASS MEMBER, to be eligible to share in the distribution of the Net Settlement Fund, you must submit a Claim Form postmarked or submitted online no later than September 9, 2023.

UNITED STATES DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA. IN RE THE HONEST COMPANY, INC. SECURITIES LITIGATION. CLASS ACTION SUMMARY NOTICE OF PENDENCY OF CLASS ACTION.

Labaton Sucharow LLP Announces Proposed Settlement in the Fifth Third Bancorp Securities Litigation

NEWS PROVIDED BY
Labaton Sucharow LLP →
15 Jun, 2023, 08:00 ET

NEW YORK, June 15, 2023 /PRNewswire/ -- The following statement is being issued by Labaton Sucharow LLP regarding the Fifth Third Bancorp Securities Litigation:

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

STEVEN FOX, Individually and on Behalf of All
Others Similarly Situated,

Plaintiff,

vs.

FIFTH THIRD BANCORP, GREG D.
CARMICHAEL, TAYFUN TUZUN, MARK D.
HAZEL, NICHOLAS K. AKINS, B. EVAN
BAYH III, JORGE L. BENITEZ, KATHERINE
B. BLACKBURN, EMERSON L. BRUMBACK,
JERRY W. BURRIS, GARY R. HEMINGER,
JEWELL D. HOOVER, EILEEN A. MALLESCHE,
MICHAEL B. MCCALLISTER, and MARSHA
C. WILLIAMS,

Defendants.

Case No. 2020CH05219

Judge: Hon. Celia G. Gamrath

**SUMMARY NOTICE OF PENDENCY OF CLASS ACTION, PROPOSED
SETTLEMENT, AND MOTION FOR ATTORNEYS' FEES AND EXPENSES**

To: All who acquired Fifth Third Bancorp ("Fifth Third") publicly traded common stock pursuant and/or traceable to the Registration Statement issued in connection with Fifth Third's March 22, 2019 acquisition of MB Financial Inc.

YOU ARE HEREBY NOTIFIED, pursuant to an Order of the Circuit Court of Cook County, Illinois, that plaintiff Steven Fox ("Plaintiff"), on behalf of himself and the proposed Settlement Class, and Fifth Third and the other Defendants in the Action, have reached a proposed settlement of the above-captioned class action (the "Action") in the amount of \$5,500,000 that, if approved, will resolve the Action in its entirety (the "Settlement"). (All terms not defined herein have the definitions assigned to them in the Stipulation and Agreement of Settlement, dated May 9, 2023 ("Stipulation").)

A hearing will be held before the Honorable Celia G. Gamrath, remotely via Zoom, at the Court's discretion, at 9:15 a.m. CDT on September 14, 2023 (the "Settlement Hearing") using Zoom Meeting ID: 928 4730 2982 and Passcode: 411367 to, among other things, determine whether the Court should: (i) approve the proposed Settlement as fair, reasonable, and adequate; (ii) dismiss the Action with prejudice, as provided in the Stipulation; (iii) approve the proposed Plan of Allocation for distribution of the Net Settlement Fund; and (iv) approve Lead Counsel's Fee and Expense Application. The Court may change the date or location of the Settlement Hearing without providing another notice. Please check the Settlement website for information about the hearing: www.FifthThirdBancorpSecuritiesSettlement.com. You do NOT need to attend the Settlement Hearing to receive a distribution from the Net Settlement Fund.

IF YOU ARE A MEMBER OF THE SETTLEMENT CLASS, YOUR RIGHTS WILL BE AFFECTED BY THE PROPOSED SETTLEMENT AND YOU MAY BE ENTITLED TO A MONETARY PAYMENT. If you have not yet received a Notice and Proof of Claim and Release form ("Claim Form"), you may obtain copies of these documents by visiting the website dedicated to the Settlement, www.FifthThirdBancorpSecuritiesSettlement.com, or by contacting the Claims Administrator at:

Fifth Third Bancorp Securities Litigation

c/o KCC Class Action Services

P.O. Box 301170

Los Angeles, CA 90030-1170

Inquiries, other than requests for the Notice/Claim Form or for information about the status of a claim, may also be made to Lead Counsel:

Alfred L. Fatale III, Esq.

LABATON SUCHAROW LLP

140 Broadway

New York, NY 10005

www.labaton.com

settlementquestions@labaton.com

(888) 219-6877

If you are a Settlement Class Member, to be eligible to share in the distribution of the Net Settlement Fund, you must submit a Claim Form **postmarked or submitted online no later than September 9, 2023**. If you are a Settlement Class Member and do not timely submit a valid Claim Form, you will not be eligible to share in the distribution of the Net Settlement Fund, but you will nevertheless be bound by all judgments or orders entered by the Court in the Action, whether favorable or unfavorable.

If you are a Settlement Class Member and wish to exclude yourself from the Settlement Class, you must submit a written request for exclusion in accordance with the instructions set forth in the Notice such that it is **received no later than August 24, 2023**. If you properly exclude yourself from the Settlement Class, you will not be bound by any judgments or orders entered by the Court in the Action, whether favorable or unfavorable, and you will not be eligible to share in the distribution of the Net Settlement Fund.

Any objections to the proposed Settlement, the proposed Plan of Allocation, and/or Lead Counsel's Fee and Expense Application must be filed with the Court and mailed to counsel for the Parties in accordance with the instructions in the Notice, such that they are **filed and received no later than August 24, 2023**.

**PLEASE DO NOT CONTACT THE COURT, DEFENDANTS, OR
DEFENDANTS' COUNSEL REGARDING THIS NOTICE.**

DATED: June 15, 2023

BY ORDER OF THE CIRCUIT COURT OF
COOK COUNTY, ILLINOIS

Media Contact:

Labaton Sucharow LLP, Janel C. Laughlin, (212) 907-0700

SOURCE Labaton Sucharow LLP

FILED DATE: 8/10/2023 3:09 PM 2020CH05219



Exhibit 3

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION**

STEVEN FOX, Individually and on Behalf of All
Others Similarly Situated,

Plaintiff,

vs.

FIFTH THIRD BANCORP, GREG D.
CARMICHAEL, TAYFUN TUZUN, MARK D.
HAZEL, NICHOLAS K. AKINS, B. EVAN
BAYH III, JORGE L. BENITEZ, KATHERINE
B. BLACKBURN, EMERSON L. BRUMBACK,
JERRY W. BURRIS, GARY R. HEMINGER,
JEWELL D. HOOVER, EILEEN A.
MALLESCH, MICHAEL B. MCCALLISTER,
and MARSHA C. WILLIAMS,

Defendants.

Case No. 2020CH05219

Judge: Hon. Celia G. Gamrath

**DECLARATION OF ALFRED L. FATALE III ON BEHALF OF
LABATON SUCHAROW LLP IN SUPPORT OF APPLICATION
FOR AN AWARD OF ATTORNEYS' FEES AND LITIGATION EXPENSES**

I, ALFRED L. FATALE III, declare as follows:

1. I am a partner in the law firm of Labaton Sucharow LLP (“Labaton Sucharow”). I am submitting this declaration in support of my firm’s application for an award of attorneys’ fees and litigation expenses in connection with services rendered in the above-captioned action (the “Action”) from inception through August 7, 2023 (the “Time Period”).

2. My firm, which served as Lead Counsel in the Action, oversaw all aspects of the litigation, which is described in detail in the accompanying Declaration of Alfred L. Fatale III in Support of (I) Plaintiff’s Motion for Final Approval of Class Action Settlement and Plan of

Allocation and (II) Lead Counsel's Motion for an Award of Attorneys' Fees and Payment of Expenses, filed herewith.

3. The information in this declaration regarding my firm's time and expenses is taken from time and expense records prepared and maintained by the firm in the ordinary course of business. These records (and backup documentation where necessary) were reviewed to confirm both the accuracy of the entries as well as the necessity for and reasonableness of the time and expenses committed to the Action. As a result of this review and the adjustments made, I believe that the time reflected in the firm's lodestar calculation and the expenses for which payment is sought are reasonable in amount and were necessary for the effective and efficient prosecution and resolution of the Action. In addition, I believe that the expenses are all of a type that would normally be paid by a fee-paying client in the private legal marketplace.

4. The schedule attached hereto as Exhibit A is a summary indicating the amount of time spent by attorneys and professional support staff members of my firm who were involved in the prosecution of the Action, and the lodestar calculation based on my firm's current hourly rates. For personnel who are no longer employed by my firm, the lodestar calculation is based upon the rates for such personnel in his or her final year of employment by my firm. The schedule was prepared from daily time records regularly prepared and maintained by my firm, which are available at the request of the Court. Time expended in preparing this application for fees and payment of expenses has not been included in this request.

5. The total number of reported hours spent on this Action by my firm during the Time Period is 3,277. The total lodestar amount for reported attorney/professional staff time based on the firm's current rates is \$2,024,603.50.

6. The hourly rates for the attorneys and professional support staff of my firm included in Exhibit A are my firm's usual and customary hourly rates, which have been approved by courts in

other contingent securities class action litigations. My firm's lodestar figures are based upon the firm's hourly rates, which do not include the costs of expense items. Expense items are recorded separately and are not duplicated in my firm's hourly rates.

7. As detailed in Exhibit B, my firm has incurred a total of \$69,715.91 in expenses in connection with the prosecution of the Action. The expenses are reflected on the books and records of my firm. These books and records are prepared from expense vouchers, check records, and other source materials and are an accurate record of the expenses incurred.

8. The following is additional information regarding certain of these expenses:

(a) Court, Witness & Service Fees: \$3,276.35. These expenses have been paid to court reporters for hearing transcripts or courts in connection with attorney admissions and court filings.

(b) Experts: \$20,115.00. My firm retained a consulting economic expert to provide advice and expertise in the area of damages and negative causation, and to assist with the preparation of the proposed Plan of Allocation for distributing the proceeds of the Settlement among eligible claimants.

(c) Mediation: \$18,714.93. This expense is Plaintiff's share of the fees of the Mediator, Jed D. Melnick of JAMS, who assisted the Parties in reaching and negotiating the proposed Settlement.

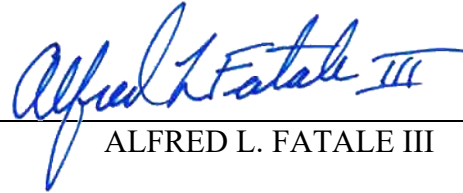
(d) Litigation Support: \$14,779.80. These are the fees and expenses of an e-discovery vendor that have been incurred in connection with the electronic documents produced in the Action. This figure includes four months of ongoing costs of approximately \$1,200 per month to cover fees incurred between the submission of this declaration and the Effective Date of the Settlement. The database will be deactivated when the Settlement has become effective. If less than

four months of fees are incurred, the actual amount of the fees will be deducted from the Settlement Fund.

(e) Online Legal & Factual Research: \$10,947.17. These expenses relate to the usage of electronic databases, such as PACER, Westlaw, LexisNexis Risk Solutions and LexisNexis. These databases were used to obtain access to financial data, factual information, and legal research.

9. With respect to the standing of my firm, attached hereto as Exhibit C is a brief biography of my firm as well as biographies of the firm's partners and of counsels.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 9th day of August, 2023.



ALFRED L. FATALE III

Exhibit A

Fox v. Fifth Third Bancorp, et al., Case No. 2020CH05219

EXHIBIT A

LODESTAR REPORT

FIRM: Labaton Sucharow LLP

REPORTING PERIOD: Inception through August 7, 2023

PROFESSIONAL	STATUS	HOURLY RATE	HOURS	LODESTAR
Gardner, J.	(P)	\$1,275	51.4	\$65,535.00
Zeiss, N.	(P)	\$1,075	69.2	\$74,390.00
Fatale, A.	(P)	\$950	387.6	\$368,220.00
Rosenberg, E.	(OC)	\$875	220.0	\$192,500.00
Dubbin, J.	(OC)	\$750	390.6	\$292,950.00
Cividini, D.	(OC)	\$750	86.5	\$64,875.00
Wood, C.	(A)	\$525	447.8	\$235,095.00
Duenas, M.	(A)	\$525	211.2	\$110,880.00
Rowley, R.	(A)	\$475	12.9	\$6,127.50
Menkova, A.	(A)	\$450	189.5	\$85,275.00
Izzo, D.	(A)	\$450	47.0	\$21,150.00
Carrigan, R.	(SA)	\$450	747.1	\$336,195.00
Gopie, N.	(SA)	\$435	218.8	\$95,178.00
Frenkel, G.	(I)	\$475	17.5	\$8,312.50
Frasca, C.	(PL)	\$390	61.2	\$23,868.00
Manzolillo, S.	(PL)	\$390	48.8	\$19,032.00
Malonzo, F.	(PL)	\$380	5.6	\$2,128.00
Boria, C.	(PL)	\$375	23.0	\$8,625.00
Pina, E.	(PL)	\$375	10.8	\$4,050.00
Jordan, E.	(PL)	\$335	30.5	\$10,217.50
TOTALS			3,277.0	\$2,024,603.50

Partner (P) Staff Attorney (SA)
Of Counsel (OC) Investigator (I)
Associate (A) Paralegal (PL)

Exhibit B

Fox v. Fifth Third Bancorp, et al., Case No. 2020CH05219

EXHIBIT B

EXPENSE REPORT

FIRM: Labaton Sucharow LLP

REPORTING PERIOD: Inception through August 7, 2023

CATEGORY		TOTAL AMOUNT
Duplicating		\$1,865.80
Postage / Overnight Delivery Services		\$16.86
Court / Witness / Service Fees		\$3,276.35
Online Legal & Factual Research		\$10,947.17
Expert Fees – Damages & Loss Causation		\$20,115.00
Litigation Support ¹		\$14,779.80
Mediation		\$18,714.93
TOTAL		\$69,715.91

¹ This amount includes \$4,800 for four months of ongoing storage costs related to Plaintiff's e-discovery vendor. Once the Settlement reaches its Effective Date, the stored data will no longer be maintained and the ongoing costs will cease.

Exhibit C

**Labaton
Sucharow**

Labaton Sucharow Credentials

2023

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ABOUT THE FIRM

Labaton Sucharow has recovered billions of dollars for investors, businesses, and consumers

Founded in 1963, Labaton Sucharow LLP has earned a reputation as one of the leading plaintiffs' firms in the United States. For sixty years, Labaton Sucharow has successfully exposed corporate misconduct and recovered billions of dollars in the United States and around the globe on behalf of investors and consumers. Our mission is to continue this legacy and to continue to advance market fairness and transparency in the areas of securities, corporate governance and shareholder rights, and data privacy and cybersecurity litigation, as well as whistleblower representation. Our Firm has recovered significant losses for investors and secured corporate governance reforms on behalf of the nation's largest institutional investors, including public pension, Taft-Hartley, and hedge funds, investment banks, and other financial institutions.

Along with securing newsworthy recoveries, the Firm has a track record for successfully prosecuting complex cases from discovery to trial to verdict. As *Chambers and Partners* has noted, the Firm is "*considered one of the greatest plaintiffs' firms,*" and *The National Law Journal* "Elite Trial Lawyers" recently recognized our attorneys for their "*cutting-edge work on behalf of plaintiffs.*" Our appellate experience includes winning appeals that increased settlement values for clients and securing a landmark U.S. Supreme Court victory in 2013 that benefited all investors by reducing barriers to the certification of securities class action cases.

Our Firm provides global securities portfolio monitoring and advisory services to more than 250 institutional investors, including public pension funds, asset managers, hedge funds, mutual funds, banks, sovereign wealth funds, and multi-employer plans—with collective assets under management (AUM) in excess of \$3.5 trillion. We are equipped to deliver results due to our robust infrastructure of more than 70 full-time attorneys, a dynamic professional staff, and innovative technological resources. Labaton Sucharow attorneys are skilled in every stage of business litigation and have challenged corporations from every sector of the financial market. Our professional staff includes financial analysts, paralegals, e-discovery specialists, certified public accountants, certified fraud examiners, and a forensic accountant. We have one of the largest in-house investigative teams in the securities bar.



WITH OFFICES IN **NEW YORK,**
DELAWARE, AND **WASHINGTON, D.C.,**
LABATON SUCHAROW IS ON THE
GROUND IN KEY JURISDICTIONS FOR
PROTECTING INVESTORS

SECURITIES LITIGATION: As a leader in the securities litigation field, the Firm is a trusted advisor to more than 250 institutional investors with collective assets under management in excess of \$3.5 trillion. Our practice focuses on portfolio monitoring and domestic and international securities litigation for sophisticated institutional investors. Since the passage of the Private Securities Litigation Reform Act of 1995, we have recovered more than \$21 billion in the aggregate. Our success is driven by the Firm's robust infrastructure, which includes one of the largest in-house investigative teams in the plaintiffs' bar.

CORPORATE GOVERNANCE AND SHAREHOLDER RIGHTS LITIGATION: Our breadth of experience in shareholder advocacy has also taken us to Delaware, where we press for corporate reform through our Wilmington office. These efforts have already earned us a string of enviable successes, including the historic \$1 billion cash settlement three weeks before trial in *In re Dell Technologies Inc. Class V Stockholders Litigation*, the largest shareholder settlement ever in any state court in America and the 17th largest shareholder settlement of all time in federal and state court, and a \$153.75 million settlement on behalf of shareholders in *In re Freeport-McMoRan Copper & Gold Inc. Derivative Litigation*, one of the largest derivative settlements ever achieved in the Court of Chancery.

CONSUMER, CYBERSECURITY, AND DATA PRIVACY PRACTICE: Labaton Sucharow is dedicated to putting our expertise to work on behalf of consumers who have been wronged by fraud in the marketplace. Built on our world-class litigation skills, deep understanding of federal and state rules and regulations, and an unwavering commitment to fairness, our Consumer, Cybersecurity, and Data Privacy Practice focuses on protecting consumers and improving the standards of business conduct through litigation and reform. Our team achieved a historic \$650 million settlement in the *In re Facebook Biometric Information Privacy Litigation* matter—the largest consumer data privacy settlement ever, and one of the first cases asserting biometric privacy rights of consumers under Illinois' Biometric Information Privacy Act (BIPA).

WHISTLEBLOWER LITIGATION: Our Whistleblower Representation Practice leverages the Firm's securities litigation expertise to protect and advocate for individuals who report violations of the federal securities laws. We secured an award of \$83 million—the largest award granted to date by the SEC's Whistleblower Program—for three whistleblowers who tipped the SEC off to long-running misconduct at Merrill Lynch.

“Labaton Sucharow is ‘superb’ and ‘at the top of its game.’ The Firm’s team of ‘hard-working lawyers...push themselves to thoroughly investigate the facts’ and conduct ‘very diligent research.’”

– The Legal 500

SECURITIES CLASS ACTION LITIGATION

Labaton Sucharow is a leader in securities litigation and a trusted advisor to more than 250 institutional investors. Since the passage of the Private Securities Litigation Reform Act of 1995 (PSLRA), the Firm has recovered more than \$21 billion in the aggregate for injured investors through securities class actions prosecuted throughout the United States and against numerous public corporations and other corporate wrongdoers.

These notable recoveries would not be possible without our exhaustive case evaluation process. The Firm has developed a proprietary system for portfolio monitoring and reporting on domestic and international securities litigation, and currently provides these services to more than 250 institutional investors, which manage collective assets of more than \$3.5 trillion. The Firm's in-house investigators also gather crucial details to support our cases, whereas other firms rely on outside vendors or fail to conduct any confidential investigation at all.

As a result of our thorough case evaluation process, our securities litigators can focus solely on cases with strong merits. The benefits of our selective approach are reflected in the low dismissal rate of the securities cases we pursue, a rate well below the industry average. Over the past decade, we have successfully prosecuted headline-making class actions against AIG, Bear Stearns, Massey Energy, Schering-Plough, Fannie Mae, Amgen, Facebook, and SCANA, among others.

NOTABLE SUCCESSES

Labaton Sucharow has achieved notable successes in financial and securities class actions on behalf of investors, including the following:

In re American International Group, Inc. Securities Litigation, No. 04-cv- 8141 (S.D.N.Y.)

In one of the most complex and challenging securities cases in history, Labaton Sucharow secured more than \$1 billion in recoveries on behalf of co-lead plaintiffs Ohio Public Employees Retirement System, State Teachers Retirement System of Ohio, and Ohio Police and Fire Pension Fund in a case arising from allegations of bid rigging and accounting fraud. To achieve this remarkable recovery, the Firm took over 100 depositions and briefed 22 motions to dismiss. The full settlement entailed a \$725 million settlement with American International Group (AIG), \$97.5 million settlement with AIG's auditors, \$115 million settlement with former AIG officers and related defendants, and an additional \$72 million settlement with General Reinsurance Corporation, which was approved by the Second Circuit on September 11, 2013.

In re Countrywide Financial Corp. Securities Litigation, No. 07-cv-05295 (C.D. Cal.)

Labaton Sucharow, as lead counsel for the New York State Common Retirement Fund and the five New York City public pension funds, sued one of the nation's largest issuers of mortgage loans for credit risk misrepresentations. The Firm's focused investigation and discovery efforts uncovered incriminating evidence that led to a \$624 million settlement for investors. On February 25, 2011,

the court granted final approval to the settlement, which is one of the top 20 securities class action settlements in the history of the PSLRA.

In re HealthSouth Corp. Securities Litigation, No. 03-cv-01500 (N.D. Ala.)

Labaton Sucharow served as co-lead counsel to New Mexico State Investment Council in a case stemming from one of the largest frauds ever perpetrated in the healthcare industry. Recovering \$671 million for the class, the settlement is one of the top 15 securities class action settlements of all time. In early 2006, lead plaintiffs negotiated a settlement of \$445 million with defendant HealthSouth. On June 12, 2009, the court also granted final approval to a \$109 million settlement with defendant Ernst & Young LLP. In addition, on July 26, 2010, the court granted final approval to a \$117 million partial settlement with the remaining principal defendants in the case—UBS AG, UBS Warburg LLC, Howard Capek, Benjamin Lorello, and William McGahan.

In re Schering-Plough/ENHANCE Securities Litigation, No. 08-cv-00397 (D. N.J.)

As co-lead counsel, Labaton Sucharow obtained a \$473 million settlement on behalf of co-lead plaintiff Massachusetts Pension Reserves Investment Management Board. After five years of litigation, and three weeks before trial, the settlement was approved on October 1, 2013. This recovery is one of the largest securities fraud class action settlements against a pharmaceutical company. The Special Masters' Report noted, "The outstanding result achieved for the class is the direct product of outstanding skill and perseverance by Co-Lead Counsel . . . no one else . . . could have produced the result here—no government agency or corporate litigant to lead the charge and the Settlement Fund is the product solely of the efforts of Plaintiffs' Counsel."

In re Waste Management, Inc. Securities Litigation, No. H-99-2183 (S.D. Tex.)

In 2002, the court approved an extraordinary settlement that provided for the recovery of \$457 million in cash, plus an array of far-reaching corporate governance measures. Labaton Sucharow represented lead plaintiff Connecticut Retirement Plans and Trust Funds. At that time, this settlement was the largest common fund settlement of a securities action achieved in any court within the Fifth Circuit and the third largest achieved in any federal court in the nation. Judge Harmon noted, among other things, that Labaton Sucharow "obtained an outstanding result by virtue of the quality of the work and vigorous representation of the class."

In re General Motors Corp. Securities Litigation, No. 06-cv-1749 (E.D. Mich.)

As co-lead counsel in a case against automotive giant General Motors (GM) and its auditor Deloitte & Touche LLP (Deloitte), Labaton Sucharow obtained a settlement of \$303 million—one of the largest settlements ever secured in the early stages of a securities fraud case. Lead plaintiff Deka Investment GmbH alleged that GM, its officers, and its outside auditor overstated GM's income by billions of dollars and GM's operating cash flows by tens of billions of dollars, through a series of accounting manipulations. The final settlement, approved on July 21, 2008, consisted of a cash payment of \$277 million by GM and \$26 million in cash from Deloitte.

Wyatt v. El Paso Corp., No. H-02-2717 (S.D. Tex.)

Labaton Sucharow secured a \$285 million class action settlement against the El Paso Corporation on behalf of the co-lead plaintiff, an individual. The case involved a securities fraud stemming from

the company's inflated earnings statements, which cost shareholders hundreds of millions of dollars during a four-year span. On March 6, 2007, the court approved the settlement and also commended the efficiency with which the case had been prosecuted, particularly in light of the complexity of the allegations and the legal issues.

In re Bear Stearns Cos., Inc. Securities, Derivative & ERISA Litigation, No. 08-cv-2793 (S.D.N.Y.)

Labaton Sucharow served as co-lead counsel, representing lead plaintiff State of Michigan Retirement Systems and the class. The action alleged that Bear Stearns and certain officers and directors made misstatements and omissions in connection with Bear Stearns' financial condition, including losses in the value of its mortgage-backed assets and Bear Stearns' risk profile and liquidity. The action further claimed that Bear Stearns' outside auditor, Deloitte & Touche LLP, made misstatements and omissions in connection with its audits of Bear Stearns' financial statements for fiscal years 2006 and 2007. Our prosecution of this action required us to develop a detailed understanding of the arcane world of packaging and selling subprime mortgages. Our complaint has been called a "tutorial" for plaintiffs and defendants alike in this fast-evolving area. After surviving motions to dismiss, on November 9, 2012, the court granted final approval to settlements with the defendant Bear Stearns for \$275 million and with Deloitte for \$19.9 million.

In re Massey Energy Co. Securities Litigation, No. 10-CV-00689 (S.D. W.Va.)

As co-lead counsel representing the Commonwealth of Massachusetts Pension Reserves Investment Trust, Labaton Sucharow achieved a \$265 million all-cash settlement in a case arising from one of the most notorious mining disasters in US history. On June 4, 2014, the settlement was reached with Alpha Natural Resources, Massey's parent company. Investors alleged that Massey falsely told investors it had embarked on safety improvement initiatives and presented a new corporate image following a deadly fire at one of its coalmines in 2006. After another devastating explosion, which killed 29 miners in 2010, Massey's market capitalization dropped by more than \$3 billion. Judge Irene C. Berger noted, "Class counsel has done an expert job of representing all of the class members to reach an excellent resolution and maximize recovery for the class."

Eastwood Enterprises, LLC v. Farha (WellCare Securities Litigation), No. 07-cv-1940 (M.D. Fla.)

On behalf of the New Mexico State Investment Council and the Public Employees Retirement Association of New Mexico, Labaton Sucharow served as co-lead counsel and negotiated a \$200 million settlement over allegations that WellCare Health Plans, Inc., a Florida-based healthcare service provider, disguised its profitability by overcharging state Medicaid programs. Further, under the terms of the settlement approved by the court on May 4, 2011, WellCare agreed to pay an additional \$25 million in cash if, at any time in the next three years, WellCare was acquired or otherwise experienced a change in control at a share price of \$30 or more after adjustments for dilution or stock splits.

In re SCANA Corporation Securities Litigation, No. 17-cv-2616 (D.S.C.)

Labaton Sucharow served as co-lead counsel in this matter against a regulated electric and natural gas public utility, representing the class and co-lead plaintiff West Virginia Investment Management

Board. The action alleges that for a period of two years, the company and certain of its executives made a series of misstatements and omissions regarding the progress, schedule, costs, and oversight of a key nuclear reactor project in South Carolina. Labaton Sucharow conducted an extensive investigation into the alleged fraud, including by interviewing 69 former SCANA employees and other individuals who worked on the nuclear project. In addition, Labaton Sucharow obtained more than 1,500 documents from South Carolina regulatory agencies, SCANA's state-owned junior partner on the nuclear project, and a South Carolina newspaper, among others, pursuant to the South Carolina Freedom of Information Act (FOIA). This information ultimately provided the foundation for our amended complaint and was relied upon by the court extensively in its opinion denying defendants' motion dismiss. In late 2019, we secured a \$192.5 million recovery for investors—the largest securities fraud settlement in the history of the District of South Carolina.

In re Bristol-Myers Squibb Securities Litigation, No. 00-cv-1990 (D.N.J.)

Labaton Sucharow served as lead counsel representing the lead plaintiff, union-owned LongView Collective Investment Fund of the Amalgamated Bank (LongView), against drug company Bristol-Myers Squibb (BMS). LongView claimed that the company's press release touting its new blood pressure medication, Vanlev, left out critical information— that undisclosed results from the clinical trials indicated that Vanlev appeared to have life-threatening side effects. The FDA expressed serious concerns about these side effects and BMS released a statement that it was withdrawing the drug's FDA application, resulting in the company's stock price falling and losing nearly 30 percent of its value in a single day. After a five-year battle, we won relief on two critical fronts. First, we secured a \$185 million recovery for shareholders, and second, we negotiated major reforms to the company's drug development process that will have a significant impact on consumers and medical professionals across the globe. Due to our advocacy, BMS must now disclose the results of clinical studies on all of its drugs marketed in any country.

In re Fannie Mae 2008 Securities Litigation, No. 08-cv-7831 (S.D.N.Y.)

As co-lead counsel representing co-lead plaintiff Boston Retirement System, Labaton Sucharow secured a \$170 million settlement on March 3, 2015, with Fannie Mae. The lead plaintiffs alleged that Fannie Mae and certain of its current and former senior officers violated federal securities laws, by making false and misleading statements concerning the company's internal controls and risk management with respect to Alt-A and subprime mortgages. The lead plaintiffs also alleged that defendants made misstatements with respect to Fannie Mae's core capital, deferred tax assets, other-than- temporary losses, and loss reserves. Labaton Sucharow successfully argued that investors' losses were caused by Fannie Mae's misrepresentations and poor risk management, rather than by the financial crisis. This settlement is a significant feat, particularly following the unfavorable result in a similar case involving investors in Fannie Mae's sibling company, Freddie Mac.

In re Broadcom Corp. Class Action Litigation, No. 06-cv-05036 (C.D. Cal.)

Labaton Sucharow served as lead counsel on behalf of lead plaintiff New Mexico State Investment Council in a case stemming from Broadcom Corp.'s \$2.2 billion restatement of its historic financial statements for 1998-2005. In August 2010, the court granted final approval of a \$160.5 million settlement with Broadcom and two individual defendants to resolve this matter. It is the second largest up-front cash settlement ever recovered from a company accused of options backdating.

Following a Ninth Circuit ruling confirming that outside auditors are subject to the same pleading standards as all other defendants, the district court denied the motion by Broadcom's auditor, Ernst & Young, to dismiss on the ground of loss causation. This ruling is a major victory for the class and a landmark decision by the court—the first of its kind in a case arising from stock-options backdating. In October 2012, the court approved a \$13 million settlement with Ernst & Young.

In re Satyam Computer Services Ltd. Securities Litigation, No. 09-md-2027 (S.D.N.Y.)

Satyam Computer Services Ltd. (Satyam), referred to as “India’s Enron,” engaged in one of the most egregious frauds on record. In a case that rivals the Enron and Bernie Madoff scandals, the Firm represented lead plaintiff UK-based Mineworkers’ Pension Scheme, which alleged that Satyam, related entities, Satyam’s auditors, and certain directors and officers made materially false and misleading statements to the investing public about the company’s earnings and assets, artificially inflating the price of Satyam securities. On September 13, 2011, the court granted final approval to a settlement with Satyam of \$125 million and a settlement with the company’s auditor, PricewaterhouseCoopers, in the amount of \$25.5 million. Judge Barbara S. Jones commended lead counsel during the final approval hearing, noting the “quality of representation[,] which I found to be very high.”

In re Mercury Interactive Corp. Securities Litigation, No. 05-cv-3395 (N.D. Cal.)

Labaton Sucharow served as co-lead counsel on behalf of co-lead plaintiff Steamship Trade Association/International Longshoremen’s Association Pension Fund, which alleged that Mercury Interactive Corp. (Mercury) backdated option grants used to compensate employees and officers of the company. Mercury’s former CEO, CFO, and General Counsel actively participated in and benefited from the options backdating scheme, which came at the expense of the company’s shareholders and the investing public. On September 25, 2008, the court granted final approval of the \$117.5 million settlement.

In re CannTrust Holdings Inc. Securities Litigation, No. 1:19-cv-06396-JPO (S.D.N.Y.)

As U.S. lead counsel, Labaton Sucharow represents lead plaintiffs Granite Point Master Fund, LP; Granite Point Capital; and Scorpion Focused Ideas Fund in this action against CannTrust Holdings Inc., a cannabis company primarily traded on the Toronto Stock Exchange and the New York Stock Exchange. Class actions against the company were commenced in both the U.S. and Canada. The U.S. class action asserts CannTrust made materially false and misleading statements and omissions concerning its compliance with relevant cannabis regulations and an alleged scheme to increase its cannabis production. The parties reached a landmark settlement totaling CA\$129.5 million to resolve claims in both countries. The U.S. settlement was approved on December 2, 2021.

In re Oppenheimer Champion Fund Securities Fraud Class Actions, No. 09- cv-525 (D. Colo.) and In re Core Bond Fund, No. 09-cv-1186 (D. Colo.)

Labaton Sucharow served as lead counsel and represented individuals and the proposed class in two related securities class actions brought against Oppenheimer Funds, Inc., among others, and certain officers and trustees of two funds—Oppenheimer Core Bond Fund and Oppenheimer

Champion Income Fund. The lawsuits alleged that the investment policies followed by the funds resulted in investor losses when the funds suffered drops in net asset value although they were presented as safe and conservative investments to consumers. In May 2011, the Firm achieved settlements amounting to \$100 million: \$52.5 million in *In re Oppenheimer Champion Fund Securities Fraud Class Actions* and a \$47.5 million settlement in *In re Core Bond Fund*.

In re Computer Sciences Corporation Securities Litigation, No. 11-cv-610 (E.D. Va.)

As lead counsel representing Ontario Teachers' Pension Plan Board, Labaton Sucharow secured a \$97.5 million settlement in this "rocket docket" case involving accounting fraud. The settlement was the third largest all-cash recovery in a securities class action in the Fourth Circuit and the second largest all-cash recovery in such a case in the Eastern District of Virginia. The plaintiffs alleged that IT consulting and outsourcing company, Computer Sciences Corporation (CSC), fraudulently inflated its stock price by misrepresenting and omitting the truth about the state of its most visible contract and the state of its internal controls. In particular, the plaintiffs alleged that CSC assured the market that it was performing on a \$5.4 billion contract with the UK National Health Service when CSC internally knew that it could not deliver on the contract, departed from the terms of the contract, and as a result, was not properly accounting for the contract. Judge T.S. Ellis III stated, "I have no doubt—that the work product I saw was always of the highest quality for both sides."

In re Nielsen Holdings PLC Securities Litigation, No. 18-7143 (S.D.N.Y.)

As lead counsel representing Public Employees' Retirement System of Mississippi, Labaton Sucharow achieved a \$73 million settlement in a securities class action against the data analytics company Nielsen Holdings PLC over allegations the company misrepresented the strength and resiliency of its business and the impact of the European Union's General Data Protection Regulation (GDPR). On January 4, 2021, the Firm overcame defendants' motion to dismiss, and the case advanced into discovery. We mediated and ultimately reached an agreement to settle the matter for \$73 million in February 2022. The settlement was preliminarily approved by the court on April 4, 2022. The court granted final approval of the settlement on July 21, 2022.

In re Resideo Technologies Inc. Securities Litigation, No. 19-cv-2863 (D. Minn.)

The Firm serves as co-lead counsel representing Naya Capital Management in an action alleging Resideo failed to disclose the negative effects of a spin-off on the company's product sales, supply chain, and gross margins, and misrepresented the strength of its financial forecasts. On March 30, 2021, the Firm overcame defendants' motion to dismiss in its entirety, and discovery in the action commenced promptly. Discussion of resolving the claims began in January 2021, resulting in an agreement in principle to settle the action for \$55 million July 2021. The \$55 million settlement was granted final approval on March 24, 2022.

Public Employees' Retirement System of Mississippi v. Endo Int'l plc, et al., No. 2017-02081-MJ (Pa. Ct. of C.P. Montgomery Cty.)

Labaton Sucharow served as lead counsel in a securities class action against Endo Pharmaceuticals. The case settled for \$50 million, the largest class settlement obtained in any court pursuant to the Securities Act of 1933 in connection with a secondary public offering. The action alleged that Endo

failed to disclose adverse trends facing its generic drugs division in advance of a secondary public offering that raised \$2 billion to finance the acquisition of Par Pharmaceuticals in 2015. The Firm overcame several procedural hurdles to reach this historic settlement, including successfully opposing defendants' attempts to remove the case to federal court and to dismiss the class complaint in state court. The court approved the settlement on December 5, 2019.

In re JELD-WEN Holding, Inc. Securities Litigation, No. 3:20-cv-00112-JAG
(E.D. Va.)

Representing Public Employees' Retirement System of Mississippi, Labaton Sucharow is court-appointed co-lead counsel in a securities class action lawsuit against JELD-WEN Holding, Inc. and certain of its executives related to allegedly false and misleading statements and omissions concerning JELD-WEN's allegedly anticompetitive conduct and financial results in the doorskins and interior molded door markets and the merit of a lawsuit filed against JELD-WEN by an interior door manufacturer. The parties reached an agreement to settle the action for \$40 million in April 2021. The court granted final approval of the settlement on November 22, 2021.

City of Warren Police and Fire Retirement System v. World Wrestling Entertainment, Inc. et al., No. 20-cv-02031 (S.D.N.Y.)

Labaton Sucharow served as court-appointed lead counsel in a securities class action against World Wrestling Entertainment, Inc. (WWE). The Firm represented Firefighters Pension System of the City of Kansas City Missouri Trust in the action alleging WWE defrauded investors by making false and misleading statements in connection with certain of its key overseas businesses in the Middle East North Africa region from February 7, 2019, through February 5, 2020. The lead plaintiff further alleged that the price of WWE publicly traded common stock was artificially inflated as a result of the company's allegedly false and misleading statements and omissions, and that the price declined when the truth was allegedly revealed through a series of partial revelations. The parties reached an agreement to settle the action for in November 2020, and on June 30, 2021, the court granted final approval of the \$39 million settlement.

In re Uniti Group Inc. Securities Litigation, No. 4:19-cv-00756 (E.D Ark.)

Labaton Sucharow served as co-lead counsel in a securities class action against Uniti Group Inc. in an action alleging misstatements and omissions concerning the validity and propriety of the April 24, 2015 REIT Spin-Off, through which Uniti was formed, and the Master Lease Uniti entered into with Windstream Services with respect to telecommunications equipment. On March 31, 2021, the Court issued an Order denying Defendants' motion to dismiss in its entirety and denied Defendants' motion for reconsideration of that ruling on December 22, 2021. In discovery, the parties participated in dozens of depositions and produced and reviewed millions of pages of documents. The parties held a private mediation on March 24, 2022 and on March 25, 2022 the parties settled the action for \$38, 875, 000, which was approved by the Court on November 7, 2022.

Pension Trust Fund for Operating Engineers v. DeVry Education Group, Inc., No. 16-cv-05198 (N.D. Ill.)

In a case that underscores the skill of our in-house investigative team, Labaton Sucharow secured a \$27.5 million recovery in an action alleging that DeVry Education Group, Inc. issued false statements

to investors about employment and salary statistics for DeVry University graduates. The Firm took over as lead counsel after a consolidated class action complaint and an amended complaint were both dismissed. Labaton Sucharow filed a third amended complaint on January 29, 2018, which included additional allegations based on internal documents obtained from government entities through the Freedom of Information Act and allegations from 13 new confidential witnesses who worked for DeVry. In denying defendants' motion to dismiss, the court concluded that the "additional allegations . . . alter[ed] the alleged picture with respect to scienter" and showed "with a degree of particularity . . . that the problems with DeVry's [representations] . . . were broad in scope and magnitude."

Vancouver Alumni Asset Holdings Inc. v. Daimler A.G., et al., No. 16-cv-2942
(C.D. Cal)

Serving as lead counsel on behalf of Public School Retirement System of Kansas City, Missouri, Labaton Sucharow secured a \$19 million settlement in a class action against automaker Daimler AG. The action arose out of Daimler's misstatements and omissions touting its Mercedes-Benz diesel vehicles as "green" when independent tests showed that under normal driving conditions the vehicles exceeded the nitrous oxide emissions levels set by U.S. and E.U. regulators. Defendants lodged two motions to dismiss the case. However, the *Daimler* litigation team was able to overcome both challenges, and on May 31, 2017, the court granted in part and denied in part Defendants' motions and allowed the case to proceed to discovery. The court then stayed the action after the U.S. Department of Justice intervened. The *Daimler* litigation team worked with the DOJ and defendants to partially lift the stay in order to allow lead plaintiffs to seek limited discovery. Thereafter, in December 2019, the parties agreed to settle the action for \$19 million.

Avila v. LifeLock, Inc., No. 15-cv-1398 (D. Ariz.)

As co-lead counsel representing Oklahoma Police Pension and Retirement System and Oklahoma Firefighters Pension and Retirement System, the Firm secured a \$20 million settlement in a securities class action against LifeLock. The action alleged that LifeLock misrepresented the capabilities of its identity theft alerts to investors. While LifeLock repeatedly touted the "proactive," "near real-time" nature of its alerts, in reality the timeliness of such alerts to customers did not resemble a near real-time basis. The LifeLock litigation team played a critical role in securing the \$20 million settlement. After being dismissed by the District Court twice, the LifeLock team was able to successfully appeal the case to the Ninth Circuit and secured a reversal of the District Court's dismissals. The case settled shortly after being remanded to the District Court. On July 22, 2020, the court issued an order granting final approval of the settlement.

Pierrelouis v. Gogo Inc., et al., No. 18-C-4473 (N.D. Ill.)

Serving as co-counsel, we secured a \$17.3 million settlement in class action against inflight entertainment company Gogo, Inc. The suit alleged that Gogo made false and misleading public statements about its "2Ku" in-flight antenna-and-satellite Wi-Fi system, which it installed on partner airplanes although executives had knowledge that the systems would not work following the application of de-icing fluid to those planes. The case had been dismissed the suit without prejudice in 2019, prior to our involvement. In April 2021, we survived motion to dismiss following the inclusion of additional allegations and details gained from interviews from anonymous former

employees. In October 2021, the parties agreed to settle the matter for \$17.3 million. Final Judgment and order was entered on October 13, 2022.

In re Prothena Corporation PLC Securities Litigation, No. 18-cv-6425 (S.D.N.Y)

Labaton Sucharow, as co-lead counsel, secured a \$15.75 million recovery in a securities class action against development-stage biotechnology company, Prothena Corp. The action alleged that Prothena and certain of its senior executives misleadingly cited the results of an ongoing clinical study of NEOD001—a drug designed to treat amyloid light chain amyloidosis and one of Prothena’s principal assets. Despite telling investors that early phases of testing were successful, defendants later revealed that the drug was “substantially less effective than a placebo.” Upon this news, Prothena’s stock price dropped nearly 70 percent. On August 26, 2019, the parties executed a Stipulation and Agreement of Settlement for \$15.75 million. Final Judgment was entered on December 4, 2019.

In re Acuity Brands, Inc. Securities Litigation, No. 18-cv-02140 (N.D. Ga.)

Labaton Sucharow serves as co-lead counsel representing Public Employees' Retirement System of Mississippi in a securities class action lawsuit against Acuity Brands, Inc., a leading provider of lighting solutions for commercial, institutional industrial, infrastructure, and residential applications throughout North America and select international markets. The suit alleges that Acuity misled investors about the impact of increased competition on its business, including its relationship with its largest retail customer, Home Depot. Despite defendants’ efforts, the court denied their motion to dismiss in significant part in August 2019 and granted class certification in August 2020, rejecting their arguments in full. Defendants appealed the class certification order to the Eleventh Circuit Court of Appeals, which the Firm vigorously opposed. Subsequently, the parties mediated and agreed on a \$15.75 million settlement-in-principle in October 2021. In light of the settlement-in-principle, the Eleventh Circuit stayed the appeal and removed the case from the docket. The court approved the settlement on June 7, 2022.

LEAD COUNSEL APPOINTMENTS IN ONGOING LITIGATION

Labaton Sucharow’s institutional investor clients are regularly chosen by federal judges to serve as lead plaintiffs in prominent securities litigations brought under the PSLRA. Dozens of public pension funds and union funds have selected Labaton Sucharow to represent them in federal securities class actions and advise them as securities litigation/investigation counsel.

In re PG&E Corporation Securities Litigation, No. 18-cv-03509 (N.D. Cal.)

Labaton Sucharow represents the Public Employees Retirement Association of New Mexico in a securities class action lawsuit against PG&E related to wildfires that devastated Northern California in 2017.

In re Goldman Sachs Group, Inc. Securities Litigation, No. 10-cv-03461 (S.D.N.Y.)

Labaton Sucharow represents Arkansas Teacher Retirement System in a high-profile litigation based on the scandals involving Goldman Sachs’ sales of the Abacus CDO.

Boston Retirement System v. Uber Technologies, Inc., et al., No. 19-cv-6361-RS (N.D. Cal.)

Labaton Sucharow serves as lead counsel in a securities class action against Uber Technologies, Inc., arising in connection with the company's more than \$8 billion IPO. The action alleges that Uber's IPO registration statement and prospectus made material misstatements and omissions in violation of Sections 11, 12(a)(2), and 15 of the Securities Act of 1933.

Hill v. Silver Lake Group, L.L.C. (Intelsat S.A.), No. 20-CV-2341 (N.D. Cal.)

The court appointed Labaton Sucharow as lead counsel in the *Intelsat* securities litigation, noting that the Firm "has strong experience prosecuting securities class actions and has served as lead counsel in many high-profile securities actions.

In re Allstate Corporation Securities Litigation, No. 16-cv-10510 (N.D. Ill.)

Labaton Sucharow serves as lead counsel representing the Carpenters Pension Trust Fund for Northern California, the Carpenters Annuity Trust Fund for Northern California, and the City of Providence Employee Retirement System in a securities case against The Allstate Corporation, the company's CEO Thomas J. Wilson, and its former President of Allstate Protection Lines Matthew E. Winter.

Defined Benefit Plan of Mid-Jersey Trucking Industry and Teamsters Local 701 Pension and Annuity Fund v. PayPal Holdings, Inc., et al, No. 3:22-cv-05864

On February 15, 2023, Labaton Sucharow was appointed co-lead counsel in a securities class action against PayPal Holdings, Inc. ("PayPal"). The action alleges that during the class period PayPal touted the massive growth in new active accounts as one of the most important indicators of the company's performance while failing to disclose that many of the additional users acquired through its cash account creation incentive campaigns were illusory, because those incentive campaigns were easily susceptible to fraud and ultimately generated no future revenue for the company.

Weston v. DocuSign, Inc., No. 22-824 (N.D. Cal.)

Labaton Sucharow was appointed lead counsel in a securities class action against DocuSign, which offers software that helps people send and sign agreements and other documents electronically. The firm represents Deka International S.A. Luxembourg and Public Employee Retirement System of Idaho, two entities with the greatest financial interest in the case—more than \$45 million net losses. At issue is whether the company misled investors about the strength of its business "falsely assuring investors it would continue experiencing growth and demand for its product after COVID-19 restrictions were lifted."

Allison v. Oak Street Health Inc., No. 22- cv-0149 (N.D. Ill.)

Labaton Sucharow represents Boston Retirement System in a securities class action against Oak Street Health alleging the Company was engaged in overly-aggressive patient acquisition and recruitment strategies that placed the Company at heightened and significant risk of government scrutiny and prosecution.

AWARDS AND ACCOLADES

CONSISTENTLY RANKED AS A LEADING FIRM:



The National Law Journal "2023 Elite Trial Lawyers" recognized Labaton Sucharow as the **2023 Securities Litigation and Shareholder Rights Firm of the Year** and **Diversity Initiative Firm of the Year**. The Firm was also a finalist for **Plaintiffs Firm of the Year** and **Consumer Protection Firm of the Year**. Additionally, the Firm was recognized as **2022 Securities Law Firm of the Year** and **2022 Shareholder Rights Litigation Firm of the Year**.



Benchmark Litigation recognized Labaton Sucharow both nationally and regionally, in **New York** and **Delaware**, in its 2023 edition and named 8 Partners as **Litigation Stars** and **Future Stars** across the U.S. The Firm received top rankings in the **Securities** and **Dispute Resolution** categories. The publication also named the Firm a **"Top Plaintiffs Firm"** in the nation and was shortlisted for Plaintiff Firm of the Year.



Labaton Sucharow is recognized by *Chambers USA 2023* among the leading plaintiffs' firms in the nation, receiving a total of three practice group rankings and eight partners ranked or recognized. *Chambers* notes that the Firm is **"top flight all-round," a "very high-quality practice," with "good, sensible lawyers."**



Labaton Sucharow has been recognized as one of the **Nation's Best Plaintiffs' Firms** by *The Legal 500*. In 2023, the Firm earned a **Tier 1 ranking in Securities Litigation** and was also ranked for its excellence in **M&A Litigation**. 11 Labaton Sucharow attorneys were ranked or recommended in the guide noting the Firm as **"superb," "very knowledgeable and experienced,"** and **"excellent at identifying the strongest claims in each case and aggressively prosecuting those claims without wasting time and resources on less strategically relevant issues."**



Lawdragon recognized 15 Labaton Sucharow attorneys among the **500 Leading Plaintiff Financial Lawyers** in the country in their 2023 guide. The guide recognizes attorneys that are "the best in the nation – many would say the world – at representing plaintiffs." *Lawdragon* also included one of our Partners in their **Hall of Fame**.



Labaton Sucharow was named a **2021 Securities Group of the Year** by *Law360*. The award recognizes the attorneys behind significant litigation wins and major deals that resonated throughout the legal industry.



Labaton Sucharow was named **Gender Diversity North America Firm of the Year** by *Euromoney's* 2023 Women in Business Law Americas Awards. The Firm was also named a finalist in six additional categories. *Euromoney's* WIBL Awards recognizes firms advancing diversity in the profession.

PRO BONO AND COMMUNITY INVOLVEMENT

It is not enough to achieve the highest accolades from the bench and bar, and demand the very best of our people. At Labaton Sucharow, we believe that community service is a crucial aspect of practicing law and that pursuing justice is at the heart of our commitment to our profession and the community at large. As a result, we shine in pro bono legal representation and as public and community volunteers.

Our Firm has devoted significant resources to pro bono legal work and public and community service. In fact, our Pro Bono practice is recognized by *The National Law Journal* as winner of the “**Law Firm of the Year**” in Immigration for 2019 and 2020. We support and encourage individual attorneys to volunteer and take on leadership positions in charitable organizations, which have resulted in such honors as the Alliance for Justice’s “**Champion of Justice**” award, a tenant advocacy organization’s “**Volunteer and Leadership Award,**” and board participation for the Ovarian Cancer Research Fund.

Our continued support of charitable and nonprofit organizations, such as the Legal Aid Society, City Bar Justice Center, Public Justice Foundation, Change for Kids, Sidney Hillman Foundation, and various food banks and other organizations, embodies our longstanding commitment to fairness, equality, and opportunity for everyone in our community, which is manifest in the many programs in which we participate.

Immigration Justice Campaign

Our attorneys have scored numerous victories on behalf of asylum seekers around the world, particularly from Cuba and Uganda, as well as in reuniting children separated at the border. Our Firm also helped by providing housing, clothing, and financial assistance to those who literally came to the U.S. with only the clothes on their back.

Advocacy for the Mentally Ill

Our attorneys have provided pro bono representation to mentally ill tenants facing eviction and worked with a tenants’ advocacy organization defending the rights of city residents.

Federal Pro Se Legal Assistance Project

We represented pro se litigants who could not afford legal counsel through an Eastern District of New York clinic. We assisted those pursuing claims for racial and religious discrimination, helped navigate complex procedural issues involving allegations of a defamatory accusation made to undermine our client’s disability benefits, and assisted a small business owner allegedly sued for unpaid wages by a stranger.

New York City Bar Association Thurgood Marshall Scholar

We are involved in the Thurgood Marshall Summer Law Internship Program, which places diverse New York City public high school students with legal employers for the summer. This program runs

annually, from April through August, and is part of the City Bar's continuing efforts to enhance the diversity of the legal profession.

Diversity Fellowship Program

We provide a fellowship as a key component of the Firm's objective to recruit, retain, and advance diverse law students. Positions are offered to exceptional law students who can contribute to the diversity of our organization and the broader legal community.

Brooklyn Law School Securities Arbitration Clinic

Our Firm partnered with Brooklyn Law School to establish a securities arbitration clinic. The program, which ran for five years, assisted defrauded individual investors who could not otherwise afford to pay for legal counsel and provided students with real-world experience in securities arbitration and litigation.

Change for Kids

We support Change for Kids (CFK) as a strategic partner of P.S. 182 in East Harlem. One school at a time, CFK rallies communities to provide a broad range of essential educational opportunities at under-resourced public elementary schools, as well as enables students to discover their unique strengths and develop the requisite confidence to achieve.

Lawyers' Committee for Civil Rights Under Law

We are long-time supporters of the Lawyers' Committee for Civil Rights Under Law, a nonpartisan, nonprofit organization formed in 1963 at the request of President John F. Kennedy. The Lawyers' Committee involves the private bar in providing legal services to address racial discrimination. We have been involved at the federal level on U.S. Supreme Court nominee analyses and national voters' rights initiatives. Edward Labaton is a member of the Board of Directors.

Sidney Hillman Foundation

Our Firm supports the Sidney Hillman Foundation. Created in honor of the first president of the Amalgamated Clothing Workers of America, Sidney Hillman, the foundation supports investigative and progressive journalism by awarding monthly and yearly prizes.

COMMITMENT TO DIVERSITY, EQUITY, AND INCLUSION

Labaton Sucharow

DEI
DIVERSITY
EQUITY &
INCLUSION

“Now, more than ever, it is important to focus on our diverse talent and create opportunities for young lawyers to become our future leaders.

We are proud that our DEI Committee provides a place for our diverse lawyers to expand their networks and spheres of influence, develop their skills, and find the sponsorship and mentorship necessary to rise and realize their full potential.” – *Carol C. Villegas, Partner*

In its sixty-year history, Labaton Sucharow has earned global recognition for its success in securing historic recoveries and reforms for investors and consumers. We strive to attain the same level of achievement in promoting fairness and equality within our practice and throughout the legal profession and believe this can be realized by building and maintaining a team of professionals with a broad range of backgrounds, orientations, and interests. Partner Christine M. Fox serves as Chair of the Committee.

As a national law firm serving a global clientele, diversity is vital to reaching the right result and provides us with distinct points of view from which to address each client’s most pressing needs and complex legal challenges. Problem solving is at the core of what we do...and equity and inclusion serve as a catalyst for understanding and leveraging the myriad strengths of our diverse workforce.

Research demonstrates that diversity in background, gender, and ethnicity leads to smarter and more informed decision-making, as well as positive social impact that addresses the imbalance in business today—leading to generations of greater returns for all. We remain committed to developing initiatives that focus on tangible diversity, equity, and inclusion goals involving recruiting, professional development, retention, and advancement of diverse and minority candidates, while also raising awareness and supporting real change inside and outside our Firm.

In recognition of our efforts, we’ve been named Gender Diversity North America Firm of the Year and Diverse Women Lawyers North America Firm of the Year by *Euromoney* and have been consistently shortlisted for their Women in Business Law Awards, including in the Americas Firm of the Year, Women in Business Law, United States – North East, Career Development, and Talent Management categories. In addition, the Firm is a repeated recipient of *The National Law Journal* “Elite Trial Lawyers” Diversity Initiative Award and has been selected as a finalist for *Chambers & Partners’* Diversity and Inclusion Awards in the Outstanding Firm and Inclusive Firm of the Year categories. Our Firm understands the importance of extending leadership positions to diverse lawyers and is committed to investing time and resources to develop the next generation of leaders and counselors. We actively recruit, mentor, and promote to partnership minority and female lawyers.



WOMEN'S INITIATIVE



Women's Networking and Mentoring Initiative

Labaton Sucharow is the first securities litigation firm with a dedicated program to foster growth, leadership, and advancement of female attorneys. Established more than a decade ago, our Women's Initiative has hosted seminars, workshops, and networking events that encourage the advancement of female lawyers and staff, and bolster their participation as industry collaborators and celebrated thought innovators. We engage important women who inspire us by sharing their experience, wisdom, and lessons learned. We offer workshops on subject matter that ranges from professional development, negotiation, and public speaking, to business development and gender inequality in the law today.

Institutional Investing in Women and Minority-Led Investment Firms

Our Women's Initiative hosts an annual event on institutional investing in women and minority-led investment firms that was shortlisted for a *Chambers & Partners'* Diversity & Inclusion award. By bringing pension funds, diverse managers, hedge funds, investment consultants, and legal counsel together and elevating the voices of diverse women, we address the importance and advancement of diversity investing. Our 2018 inaugural event was shortlisted among *Euromoney's* Best Gender Diversity Initiative.

MINORITY SCHOLARSHIP AND INTERNSHIP

To take an active stance in introducing minority students to our practice and the legal profession, we established the Labaton Sucharow Minority Scholarship and Internship years ago. Annually, we present a grant and Summer Associate position to a first-year minority student from a metropolitan New York law school who has demonstrated academic excellence, community commitment, and unwavering personal integrity. Several past recipients are now full-time attorneys at the Firm. We also offer two annual summer internships to Hunter College students.

WHAT THE BENCH SAYS ABOUT US

The Honorable Judge Lewis Liman of the Southern District of New York, upon appointing Labaton Sucharow as co-lead counsel, noted the following:

"Historically, there has been a dearth of diversity within the legal profession. Although progress has been made...still just one tenth of lawyers are people of color and just over a third are women. A firm's commitment to diversity...demonstrate[s] that it shares with the courts a commitment to the values of equal justice under law...[and] is one that is able to attract, train, and retain lawyers with the most latent talent and commitment regardless of race, ethnicity, gender, or sexual orientation."

PROFESSIONAL PROFILES



Christopher J. Keller Chairman

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Christopher J. Keller is Chairman of Labaton Sucharow LLP and head of the Firm's Executive Committee. He is based in the Firm's New York office. Chris focuses on complex securities litigation cases and works with institutional investor clients, including some of the world's largest public and private pension funds with tens of billions of dollars under management.

In his role as Chairman, Chris is responsible for establishing and executing upon Labaton Sucharow's strategic priorities, including advancing business initiatives and promoting a culture of performance, collaboration, and collegiality. Commitment to these priorities has helped the Firm deepen its practice area expertise, extend its worldwide reach and earn industry recognition for workplace culture.

Chris's distinction in the plaintiffs' bar has earned him recognition from *Lawdragon* as an Elite Lawyer in the Legal Profession, one of the Leading Lawyers in America, and one of the country's top Plaintiff Financial Lawyers. *Chambers & Partners USA* has recognized him as a Noted Practitioner, and he has received recommendations from *The Legal 500* for excellence in the field of securities litigation.

Described by *The Legal 500* as a "sharp and tenacious advocate" who "has his pulse on the trends," Chris has been instrumental in the Firm's appointments as lead counsel in some of the largest securities matters arising out of the financial crisis, such as actions against Countrywide (\$624 million settlement), Bear Stearns (\$275 million settlement with Bear Stearns Companies and \$19.9 million settlement with Deloitte & Touche LLP, Bear Stearns' outside auditor), and Goldman Sachs.

Chris is a frequent commentator on legal issues and has been featured in the *Wall Street Journal*, *Financial Times*, *Law360*, and *National Law Journal*, among others. Educating institutional investors is a significant element of Chris's advocacy efforts for shareholder rights. He is regularly called upon for presentations on developing trends in the law and new case theories at annual meetings and seminars for institutional investors.

Chris has been integral in the prosecution of traditional fraud cases such as *In re Schering-Plough Corporation/ENHANCE Securities Litigation*; *In re Massey Energy Co. Securities Litigation*, where the Firm obtained a \$265 million all-cash settlement with Alpha Natural Resources, Massey's parent company; as well as *In re Satyam Computer Services, Ltd. Securities Litigation*, where the Firm obtained a settlement of more than \$150 million. Chris was also a principal litigator on the trial team of *In re Real Estate Associates Limited Partnership Litigation*. The six-week jury trial resulted in a \$185 million plaintiffs' verdict, one of the largest jury verdicts since the passage of the Private Securities Litigation Reform Act.

Educating institutional investors is a significant element of Chris's advocacy efforts for shareholder rights. He is regularly called upon for presentations on developing trends in the law and new case theories at annual meetings and seminars for institutional investors.

Chris is a member of several professional groups, including the New York State Bar Association and the New York County Lawyers' Association. He is a prior member of the Board of Directors of the City Bar Fund, the nonprofit 501(c)(3) arm of the New York City Bar Association aimed at engaging and supporting the legal profession in advancing social justice.



Eric J. Belfi Partner

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Eric J. Belfi is a Partner in the New York office of Labaton Sucharow LLP and a member of the Firm's Executive Committee. An accomplished litigator with a broad range of experience in commercial matters, Eric represents many of the world's leading pension funds and other institutional investors. Eric actively focuses on domestic and international securities and shareholder litigation, as well as direct actions on behalf of governmental entities. As an integral member of the Firm's Case Development Group, Eric has brought numerous high-profile domestic securities cases that resulted from the credit crisis, including the prosecution against Goldman Sachs. Along with his domestic securities litigation practice, Eric leads the Firm's Non-U.S. Securities Litigation Practice, which is dedicated exclusively to analyzing potential claims in non-U.S. jurisdictions and advising on the risks and benefits of litigation in those forums. Overseeing the Financial Products and Services Litigation Practice, Eric focuses on bringing individual actions against malfeasant investment bankers, including cases against custodial banks that allegedly committed deceptive practices relating to certain foreign currency transactions. Additionally, Eric advises his domestic and international clients on complex ESG issues.

Eric is recognized by *Chambers & Partners USA* and *Lawdragon* has recognized him as one of the country's Leading Plaintiff Financial Lawyers as the result of their research into top verdicts and settlements, and input from "lawyers nationwide about whom they admire and would hire to seek justice for a claim that strikes a loved one."

In his work with the Case Development Group, Eric was actively involved in securing a combined settlement of \$18.4 million in *In re Colonial BancGroup, Inc. Securities Litigation*, regarding material misstatements and omissions in SEC filings by Colonial BancGroup and certain underwriters. Eric's experience includes noteworthy M&A and derivative cases such as *In re Medco Health Solutions Inc. Shareholders Litigation* in which he was integrally involved in the negotiation of the settlement that included a significant reduction in the termination fee.

Under Eric's direction, the Firm's Non-U.S. Securities Litigation Practice—one of the first of its kind—also serves as liaison counsel to institutional investors in such cases, where appropriate. Eric represents nearly 30 institutional investors in over a dozen non-U.S. cases against companies including SNC-Lavalin Group Inc. in Canada, Vivendi Universal, S.A. in France, OZ Minerals Ltd. in Australia, Lloyds Banking Group in the U.K., and Olympus Corporation in Japan. Eric's international experience also includes securing settlements on behalf of non-U.S. clients including the U.K.-based Mineworkers' Pension Scheme in *In re Satyam Computer Securities Services Ltd. Securities Litigation*, an action related to one of the largest securities frauds in India, which resulted in \$150.5 million in collective settlements. While representing two of Europe's leading pension funds, Deka Investment GmbH and Deka International S.A., Luxembourg, in *In re General Motors Corp. Securities*

Litigation, Eric was integral in securing a \$303 million settlement in relation to multiple accounting manipulations and overstatements by General Motors.

As head of the Financial Products and Services Litigation Practice, Eric represented the Commonwealth of Virginia in its False Claims Act case against Bank of New York Mellon, Inc, among other matters.

Prior to joining Labaton Sucharow, Eric served as an Assistant Attorney General for the State of New York and as an Assistant District Attorney for the County of Westchester. As a prosecutor, Eric investigated and prosecuted white-collar criminal cases, including many securities law violations. He presented hundreds of cases to the grand jury and obtained numerous felony convictions after jury trials.

Eric is a member of the National Association of Public Pension Attorneys (NAPPA) Securities Litigation Working Group and the Cold Spring Harbor Laboratory Corporate Advisory Board. He is a frequent speaker in the U.S. and abroad on the topics of shareholder litigation and U.S.-style class actions in European countries and has also discussed socially responsible investments for public pension funds including at a roundtable called “The Impact of Non-U.S. Securities Actions and the Rise of ESG Litigation on Dutch Investors.”

Eric earned his Juris Doctor from St. John’s University School of Law and received his bachelor’s degree from Georgetown University.



Jake Bissell-Linsk Partner

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Jake Bissell-Linsk is a Partner in the New York office of Labaton Sucharow LLP. Jake focuses his practice on securities fraud class actions.

Jake has been recognized as a Rising Star of the Plaintiffs Bar by *The National Law Journal* "Elite Trial Lawyers" and as a Next Generation Lawyer by *Lawdragon*.

Jake has litigated federal securities cases in jurisdictions across the country at both the District Court and Appellate Court level. He is currently litigating cases against Lucid Motors and Lordstown Motors involving de-SPAC mergers in the automotive industry; against Intelsat alleging insiders sold \$246 million in stock shortly after learning the FTC would reject a bet-the-company deal; against AT&T, citing 58 former AT&T employees, regarding misleading reports of the success of its video streaming service DirecTV Now; and against Cronos alleging it improperly booked revenue from round-trip transactions for cannabis processing.

In addition to these varied securities fraud cases, Jake has litigated a number of cases involving take-private mergers, including several cases involving Chinese-based and Cayman-incorporated firms that were delisted from U.S. exchanges.

Jake has played a pivotal role in securing favorable settlements for investors in a variety of securities class actions, including recent cases against Nielsen (\$73 million settlement), in a suit that involved allegations of inflated goodwill and the effect of the EU's GDPR on the company, and Mindbody (\$9.75 million settlement), in a suit alleging false guidance and inadequate disclosures prior to a private equity buyout.

Jake's pro bono experience includes assisting pro se parties through the Federal Pro Se Legal Assistance Project.

Jake was previously a Litigation Associate at Davis Polk & Wardwell LLP, where he worked on complex commercial litigation including contract disputes, bankruptcies, derivative suits, and securities claims. He also assisted defendants in government investigations and provided litigation advice on M&A transactions.

Jake earned his Juris Doctor, *magna cum laude*, from the University of Pennsylvania Law School. He served as Senior Editor of the University of Pennsylvania Law Review and Associate Editor of the East Asia Law Review. While in law school, Jake interned for Judge Melvin L. Schweitzer at the New York Supreme Court (Commercial Division). He received his bachelor's degree, *magna cum laude*, from Hamline University.



Michael P. Canty Partner

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Michael P. Canty is a Partner in the New York office of Labaton Sucharow LLP, where he serves on the Firm's Executive Committee and as its General Counsel. In addition, he leads one of the Firm's Securities Litigation Teams and serves as head of the Firm's Consumer Cybersecurity and Data Privacy Group.

Highly regarded as one of the country's elite litigators, Michael has been recognized by *The Legal 500* and *Benchmark Litigation* as a "litigation star." In addition, he has been named a Plaintiffs' Trailblazer and a NY Trailblazer by *The National Law Journal* and the *New York Law Journal*, respectively, for his impact on the practice and business of law, as well as one of the Leading Plaintiff Financial Lawyers in America and one of the country's Leading Plaintiff Consumer Lawyers by *Lawdragon*.

Michael has successfully prosecuted a number of high-profile securities matters on behalf of institutional investors. Recent notable settlements include *Hatamian v. Advanced Micro Devices, Inc.* (\$29.5 million settlement), *Ronge v. Camping World Holdings* (\$12.5 million settlement), and *Palm Tran, Inc. Amalgamated Transit Union Loc. 1577 Pension Plan v. Credit Acceptance Corp.* (\$12 million settlement).

In addition to his securities practice, Michael has extensive experience representing consumers in high-profile data privacy litigation. Most notably, one of Michael's most recent successes was the historic \$650 million settlement in the *In re Facebook Biometric Information Privacy Litigation* matter—the largest consumer data privacy settlement ever and one of the first cases asserting consumers' biometric privacy rights under Illinois' Biometric Information Privacy Act (BIPA). Michael currently serves as co-lead counsel in *Garner v. Amazon.com, Inc.* alleging Amazon's illegal wiretapping and surreptitious recording through its Alexa-enabled devices.

Prior to joining Labaton Sucharow, Michael served as an Assistant U.S. Attorney in the U.S. Attorney's Office for the Eastern District of New York, where he was the Deputy Chief of the Office's General Crimes Section. During his time as a federal prosecutor, Michael also served in the Office's National Security and Cybercrimes Section. Prior to this, he served as an Assistant District Attorney for the Nassau County District Attorney's Office, where he handled complex state criminal offenses and served in the Office's Homicide Unit.

Michael has extensive trial experience both from his days as a prosecutor in New York City for the U.S. Department of Justice and as a Nassau County Assistant District Attorney. Michael served as trial counsel in more than 35 matters, many of which related to violent crime, white-collar, and terrorism-related offenses. He played a pivotal role in *United States v. Abid Naseer*, where he prosecuted and convicted an al-Qaeda operative who conspired to carry out attacks in the United

States and Europe. Michael also led the investigation in *United States v. Marcos Alonso Zea*, a case in which he successfully prosecuted a citizen for attempting to join a terrorist organization in the Arabian Peninsula and for providing material support for planned attacks.

Before becoming a prosecutor, Michael worked as a Congressional Staff Member for the U.S. House of Representatives. He primarily served as a liaison between the Majority Leader's Office and the Government Reform and Oversight Committee. During his time with the House of Representatives, Michael managed congressional oversight of the United States Postal Service and reviewed and analyzed counter-narcotics legislation as it related to national security matters.

Michael is a frequent commentator on legal issues and has been featured in *The Washington Post*, *Law360*, and *The National Law Journal*, among others and has appeared on CBS and NPR.

He is a member of the Federal Bar Council American Inn of Court, which endeavors to create a community of lawyers and jurists and promotes the ideals of professionalism, mentoring, ethics, and legal skills. He is also a member of the National Association of Public Pension Attorneys.

Michael earned his Juris Doctor, *cum laude*, from St. John's University's School of Law. He received his Bachelor of Arts, *cum laude*, from Mary Washington College.



James T. Christie Partner

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James Christie is a Partner in the New York office of Labaton Sucharow LLP. James focuses on prosecuting complex securities fraud cases on behalf of institutional investors. He is currently involved in litigating cases against major U.S. and non-U.S. corporations, such as Alexion Pharmaceuticals, 2U, Precision Castparts, Flex, iQIYI, and Weatherford International. James also serves as Assistant General Counsel to the Firm and is a Co-Chair of the Firm's Technology Committee.

James is recommended by *The Legal 500* and has been recognized as a Next Generation Lawyer by *Lawdragon* and a Rising Star of the Plaintiffs Bar by *The National Law Journal* "Elite Trial Lawyers." James has also been selected to *Benchmark Litigation's* "40 & Under List."

James was an integral part of the Firm team that helped recover \$192.5 million for investors in a settlement for *In re SCANA Corporation Securities Litigation*. James also assisted in recovering \$20 million on behalf of investors in a securities class action against LifeLock Inc., where he played a significant role in obtaining a key appellate victory in the Ninth Circuit Court of Appeals reversing the district court's order dismissing the case with prejudice. In addition, James assisted in the \$14.75 million recovery secured for investors against PTC Therapeutics Inc., a pharmaceutical manufacturer of orphan drugs, in *In re PTC Therapeutics, Inc. Securities Litigation*. He was also part of the team that represented the lead plaintiff, the Public Employees' Retirement System of Mississippi, in *Public Employees' Retirement System of Mississippi v. Sprouts Farmers Market Inc.*, which resulted in a \$9.5 million settlement against Sprouts Farmers Market and several of its senior officers and directors.

James previously served as a Judicial Intern in the U.S. District Court for the Eastern District of New York under the Honorable Sandra J. Feuerstein.

He is a member of the American Bar Association and the Federal Bar Council.

James earned his Juris Doctor from St. John's University School of Law, where he was the Senior Articles Editor of the St. John's Law Review, and his Bachelor of Science, *cum laude*, from St. John's University Tobin College of Business.



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Thomas A. Dubbs is a Partner in the New York office of Labaton Sucharow LLP. Tom focuses on the representation of institutional investors in domestic and multinational securities cases. Tom serves or has served as lead or co-lead counsel in some of the most important federal securities class actions in recent years, including those against American International Group, Goldman Sachs, the Bear Stearns Companies, Facebook, Fannie Mae, Broadcom, and WellCare.

Tom is highly-regarded in his practice. He has been named a top litigator by *Chambers & Partners USA* for more than 10 consecutive years and has been consistently ranked as a Leading Lawyer in Securities Litigation by *The Legal 500*. *Law360* named him an MVP of the Year for distinction in class action litigation and he has been recognized by *The National Law Journal* and *Benchmark Litigation* for excellence in securities litigation. *Lawdragon* has recognized Tom as one of the country's Leading Plaintiff Financial Lawyers and named him to their Hall of Fame. Tom has also received a rating of AV Preeminent from the publishers of the Martindale-Hubbell directory. In addition, *The Legal 500* has inducted Tom into its Hall of Fame—an honor presented to only four plaintiffs' securities litigators "who have received constant praise by their clients for continued excellence."

Tom has played an integral role in securing significant settlements in several high-profile cases, including *In re American International Group, Inc. Securities Litigation* (settlements totaling more than \$1 billion); *In re Bear Stearns Companies, Inc. Securities Litigation* (\$275 million settlement with Bear Stearns Companies plus a \$19.9 million settlement with Deloitte & Touche LLP, Bear Stearns' outside auditor); *In re HealthSouth Securities Litigation* (\$671 million settlement); *Eastwood Enterprises LLC v. Farha et al. (WellCare Securities Litigation)* (over \$200 million settlement); *In re Fannie Mae 2008 Securities Litigation* (\$170 million settlement); *In re Broadcom Corp. Securities Litigation* (\$160.5 million settlement with Broadcom, plus \$13 million settlement with Ernst & Young LLP, Broadcom's outside auditor); *In re St. Paul Travelers Securities Litigation* (\$144.5 million settlement); *In re Amgen Inc. Securities Litigation* (\$95 million settlement); and *In re Vesta Insurance Group, Inc. Securities Litigation* (\$78 million settlement).

Representing an affiliate of the Amalgamated Bank, Tom successfully led a team that litigated a class action against Bristol-Myers Squibb, which resulted in a settlement of \$185 million as well as major corporate governance reforms. He has argued before the U.S. Supreme Court and has argued 10 appeals dealing with securities or commodities issues before the U.S. Courts of Appeals.

Due to his reputation in securities law, Tom frequently lectures to institutional investors and other groups, such as the Government Finance Officers Association, the National Conference on Public Employee Retirement Systems, and the Council of Institutional Investors. He is a prolific author of articles related to his field, including "Textualism and Transnational Securities Law: A Reappraisal of

Justice Scalia's Analysis in *Morrison v. National Australia Bank*," which he penned for the *Southwestern Journal of International Law*. He has also written several columns in U.K. publications regarding securities class actions and corporate governance.

Prior to joining Labaton Sucharow, Tom was Senior Vice President & Senior Litigation Counsel for Kidder, Peabody & Co. Incorporated, where he represented the company in many class actions, including the *First Executive* and *Orange County* litigation and was first chair in many securities trials. Before joining Kidder, Tom was head of the litigation department at Hall, McNicol, Hamilton & Clark, where he was the principal partner representing Thomson McKinnon Securities Inc. in many matters, including the *Petro Lewis* and *Baldwin-United* class actions.

Tom serves as a FINRA Arbitrator and is an Advisory Board Member for the Institute for Transnational Arbitration. He is a member of the New York State Bar Association and the Association of the Bar of the City of New York, as well as a patron of the American Society of International Law. Tom is an active member of the American Law Institute and is currently an adviser on the proposed Restatement of the Law Third, Conflict of Laws; he was also a member of the Consultative Groups for the Restatement of the Law Fourth, U.S. Foreign Relations Law, and the Principles of Law, Aggregate Litigation. Tom also serves on the Board of Directors for The Sidney Hillman Foundation.

Tom earned his Juris Doctor and his bachelor's degree from the University of Wisconsin-Madison. He received his master's degree from the Fletcher School of Law and Diplomacy, Tufts University.



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Alfred L. Fatale III is a Partner in the New York office of Labaton Sucharow LLP and currently leads a team of attorneys focused on litigating securities claims arising from initial public offerings, secondary offerings, and stock-for-stock mergers.

Alfred's success in moving the needle in the legal industry has earned him recognition from *Chambers & Partners USA* as well as *The National Law Journal* as a Plaintiffs' Lawyer Trailblazer, and *The American Lawyer* as a Northeast Trailblazer. *Business Today* named Alfred one of the "Top 10 Most Influential Securities Litigation Lawyer in New York." *Lawdragon* has recognized him as one of the country's Leading Plaintiff Financial Lawyers and Next Generation Lawyers. *Benchmark Litigation* also named him to their "40 & Under List."

Alfred represents individual and institutional investors in cases related to the protection of the financial markets and public securities offerings in trial and appellate courts throughout the country. In particular, he is leading the Firm's efforts to litigate securities claims against several companies in state courts following the U.S. Supreme Court's decision in *Cyan, Inc. v. Beaver County Employees Retirement Fund*. Since joining the Firm in 2016, Alfred has lead the investigation and prosecution of several successful cases, including *In re ADT Inc. Securities Litigation*, resulting in a \$30 million recovery; *In re BrightView Holdings, Inc. Securities Litigation*, resulting in a \$11.5 million recovery; *John Ford, Trustee of the John Ford Trust v. UGI Corporation*, resulting in a \$10.25 million recovery; *Plymouth County Retirement Association v. Spectrum Brands Holdings Inc.*, resulting in a \$9 million recovery; *In re SciPlay Corp. Securities Litigation*, resulting in an \$8.275 million recovery; and *In re Livent Corp. Securities Litigation*, resulting in a \$7.4 million recovery. Alfred is also overseeing the firm's efforts in litigating several cases in federal courts. This includes a securities class action against Uber Technologies Inc. arising from the company's \$8 billion IPO. Prior to joining Labaton Sucharow, Alfred was an Associate at Fried, Frank, Harris, Shriver & Jacobson LLP, where he advised and represented financial institutions, investors, officers, and directors in a broad range of complex disputes and litigations including cases involving violations of federal securities law and business torts.

Alfred is an active member of the American Bar Association and the New York City Bar Association.

Alfred earned his Juris Doctor from Cornell Law School, where he was a member of the *Cornell Law Review* as well as the Moot Court Board. He also served as a Judicial Extern under the Honorable Robert C. Mulvey. He received his bachelor's degree, *summa cum laude*, from Montclair State University.



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Christine M. Fox is a Partner in the New York office of Labaton Sucharow LLP. With more than 25 years of securities litigation experience, Christine prosecutes complex securities fraud cases on behalf of institutional investors. In addition to her litigation responsibilities, Christine serves as the Chair of the Firm's DEI Committee.

Christine is recognized by *Lawdragon* as one of the Leading Plaintiff Financial Lawyers in America.

Christine is actively involved in litigating matters against FirstCash Holdings, Hain Celestial, Oak Street Health, Catalent, Barclays, and Unity Software. She has played a pivotal role in securing favorable settlements for investors in class actions against Barrick Gold Corporation, one of the largest gold mining companies in the world (\$140 million recovery); Nielsen, a data analytics company that provides clients with information about consumer preferences (\$73 million recovery); CVS Caremark, the nation's largest pharmacy retail chain (\$48 million recovery); Nu Skin Enterprises, a multilevel marketing company (\$47 million recovery); and Intuitive Surgical, a manufacturer of robotic-assisted technologies for surgery (\$42.5 million recovery); and World Wrestling Entertainment, a media and entertainment company (\$39 million recovery).

Christine is actively involved in the Firm's pro bono immigration program and reunited a father and child separated at the border. She is currently working on their asylum application.

Prior to joining the Firm, Christine worked at a national litigation firm focusing on securities, antitrust, and consumer litigation in state and federal courts. She played a significant role in securing class action recoveries in a number of high-profile securities cases, including *In re Merrill Lynch Co., Inc. Research Reports Securities Litigation* (\$475 million recovery); *In re Informix Corp. Securities Litigation* (\$136.5 million recovery); *In re Alcatel Alsthom Securities Litigation* (\$75 million recovery); and *In re Ambac Financial Group, Inc. Securities Litigation* (\$33 million recovery).

She is a member of the American Bar Association, New York State Bar Association, and Puerto Rican Bar Association.

Christine earned her Juris Doctor from the University of Michigan Law School and received her bachelor's degree from Cornell University.

Christine is conversant in Spanish.



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Jonathan Gardner serves as the Managing Partner of Labaton Sucharow LLP and as a member of its Executive Committee. He is based in the Firm's New York office. Jonathan helps direct the growth and management of the Firm.

With more than 30 years of experience, Jonathan oversees all of the Firm's litigation matters, including prosecuting complex securities fraud cases on behalf of institutional investors. Jonathan has played an integral role in developing the Firm's groundbreaking ADR Practice in response to the use of mandatory arbitration clauses by companies in consumer contracts.

A *Benchmark Litigation* "Star" acknowledged by his peers as "engaged and strategic," Jonathan has also been named an MVP by *Law360* for securing hard-earned successes in high-stakes litigation and complex global matters. He is ranked by *Chambers & Partners USA* describing him as "an outstanding lawyer who knows how to get results" and recommended by *The Legal 500*, whose sources remarked on Jonathan's ability to "understand the unique nature of complex securities litigation and strive for practical yet results-driven outcomes" and his "considerable expertise and litigation skill and practical experience that helps achieve terrific results for clients." Jonathan is also recognized by *Lawdragon* as one of the Leading Lawyers in America and one of the country's top Plaintiff Financial Lawyers.

Jonathan has played an integral role in securing some of the largest class action recoveries against corporate offenders since the global financial crisis. He led the Firm's team in the investigation and prosecution of *In re Barrick Gold Securities Litigation*, which resulted in a \$140 million recovery. He has also served as the lead attorney in several cases resulting in significant recoveries for injured class members, including *In re Hewlett-Packard Company Securities Litigation* (\$57 million recovery); *Public Employees' Retirement System of Mississippi v. Endo International PLC* (\$50 million recovery); *Medoff v. CVS Caremark Corporation* (\$48 million recovery); *In re Nu Skin Enterprises, Inc., Securities Litigation*, (\$47 million recovery); *In re Intuitive Surgical Securities Litigation* (\$42.5 million recovery); *In re Carter's Inc. Securities Litigation* (\$23.3 million recovery against Carter's and certain officers, as well as its auditing firm PricewaterhouseCoopers); *In re Aeropostale Inc. Securities Litigation* (\$15 million recovery); *In re Lender Processing Services Inc.* (\$13.1 million recovery); and *In re K-12, Inc. Securities Litigation* (\$6.75 million recovery).

Jonathan has led the Firm's representation of investors in many high-profile cases including *Rubin v. MF Global Ltd.*, which involved allegations of material misstatements and omissions in a Registration Statement and Prospectus issued in connection with MF Global's IPO. The case resulted in a recovery of \$90 million for investors. Jonathan also represented lead plaintiff City of Edinburgh Council as Administering Authority of the Lothian Pension Fund in *In re Lehman Brothers Equity/Debt Securities Litigation*, which resulted in settlements exceeding \$600 million against

Lehman Brothers' former officers and directors, Lehman's former public accounting firm, as well the banks that underwrote Lehman Brothers' offerings. In representing lead plaintiff Massachusetts Bricklayers and Masons Trust Funds in an action against Deutsche Bank, Jonathan secured a \$32.5 million recovery for a class of investors injured by the bank's conduct in connection with certain residential mortgage-backed securities.

Jonathan has also been responsible for prosecuting several of the Firm's options backdating cases, including *In re Monster Worldwide, Inc. Securities Litigation* (\$47.5 million settlement); *In re SafeNet, Inc. Securities Litigation* (\$25 million settlement); *In re Semtech Securities Litigation* (\$20 million settlement); and *In re MRV Communications, Inc. Securities Litigation* (\$10 million settlement). He also was instrumental in *In re Mercury Interactive Corp. Securities Litigation*, which settled for \$117.5 million, one of the largest settlements or judgments in a securities fraud litigation based on options backdating. Jonathan also represented the Successor Liquidating Trustee of Lipper Convertibles, a convertible bond hedge fund, in actions against the fund's former independent auditor and a member of the fund's general partner as well as numerous former limited partners who received excess distributions. He successfully recovered over \$5.2 million for the Successor Liquidating Trustee from the limited partners and \$29.9 million from the former auditor.

Jonathan is a member of the Federal Bar Council, New York State Bar Association, and the Association of the Bar of the City of New York.

Jonathan earned his Juris Doctor from St. John's University School of Law. He received his bachelor's degree from American University.



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Thomas G. Hoffman, Jr. is a Partner in the New York office of Labaton Sucharow LLP. Thomas focuses on representing institutional investors in complex securities actions. He is currently prosecuting cases against BP and Allstate.

Thomas was instrumental in securing a \$1 billion recovery in the eight-year litigation against AIG and related defendants. He also was a key member of the Labaton Sucharow team that recovered \$170 million for investors in *In re 2008 Fannie Mae Securities Litigation*.

Thomas earned his Juris Doctor from UCLA School of Law, where he was Editor-in-Chief of the *UCLA Entertainment Law Review* and served as a Moot Court Executive Board Member. In addition, he served as a judicial extern to the Honorable William J. Rea, United States District Court for the Central District of California. Thomas received his bachelor's degree, with honors, from New York University.



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James W. Johnson is a Partner in the New York office of Labaton Sucharow LLP. Jim focuses on litigating complex securities fraud cases. In addition to his active caseload, Jim holds a variety of leadership positions within the Firm, including serving on the Firm's Executive Committee.

Jim is "well respected in the field," earning him recognition from *Chambers & Partners USA*, *The Legal 500*, *Benchmark Litigation*, and *Lawdragon*, who named him as one of the Leading Lawyers in America and one of the country's top Plaintiff Financial Lawyers. *Business Today* named Jim one of the "Top 10 Most Influential Securities Litigation Lawyer in New York." He has also received a rating of AV Preeminent from the publishers of the *Martindale-Hubbell* directory.

In representing investors who have been victimized by securities fraud and breaches of fiduciary responsibility, Jim's advocacy has resulted in record recoveries for wronged investors. Currently, he is prosecuting the high-profile case against financial industry leader Goldman Sachs—*In re Goldman Sachs Group, Inc. Securities Litigation*.

A recognized leader in his field, Jim has successfully litigated a number of complex securities and RICO class actions. These include *In re HealthSouth Corp. Securities Litigation* (\$671 million settlement); *Eastwood Enterprises LLC v. Farha et al. (WellCare Securities Litigation)* (\$200 million settlement); *In re Amgen Inc. Securities Litigation* (\$95 million settlement); *In re Vesta Insurance Group, Inc. Securities Litigation* (\$79 million settlement); and *In re SCANA Securities Litigation* (\$192.5 million settlement). Other notable successes include *In re National Health Laboratories, Inc. Securities Litigation*, which resulted in a recovery of \$80 million in the federal action and a related state court derivative action, and *In re Bristol Myers Squibb Co. Securities Litigation*, in which the court approved a \$185 million settlement including significant corporate governance reforms and recognized plaintiff's counsel as "extremely skilled and efficient."

Jim also represented lead plaintiffs in *In re Bear Stearns Companies, Inc. Securities Litigation*, securing a \$275 million settlement with Bear Stearns Companies, plus a \$19.9 million settlement with Deloitte & Touche LLP, Bear Stearns' outside auditor. In *County of Suffolk v. Long Island Lighting Co.*, Jim represented the plaintiff in a RICO class action, securing a jury verdict after a two-month trial that resulted in a \$400 million settlement. The Second Circuit quoted the trial judge, the Honorable Jack B. Weinstein, as stating, "Counsel [has] done a superb job [and] tried this case as well as I have ever seen any case tried." On behalf of the Chugach Native Americans, he also assisted in prosecuting environmental damage claims resulting from the Exxon Valdez oil spill.

Jim is a Member of the American Bar Association and the Association of the Bar of the City of New York, where he served on the Federal Courts Committee. He is also a Fellow in the Litigation Council of America and a Member of the Advisory Board of the Institute for Law and Economic Policy.



Jim earned his Juris Doctor from New York University School of Law and his bachelor's degree from Fairfield University.

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Francis P. McConville is a Partner in the New York office of Labaton Sucharow LLP. Francis focuses on prosecuting complex securities fraud cases on behalf of institutional investor clients. As a lead member of the Firm's Case Development Group, he focuses on the identification, investigation, and development of potential actions to recover investment losses resulting from violations of the federal securities laws and various actions to vindicate shareholder rights in response to corporate and fiduciary misconduct.

Francis has been named a "Rising Star" of securities litigation in *Law360's* list of attorneys under 40 whose legal accomplishments transcend their age. *Lawdragon* has recognized him as one of the country's Leading Plaintiff Financial Lawyers and Next Generation Lawyers. *Benchmark Litigation* also named him to their "40 & Under List."

Francis has played a key role in filing several matters on behalf of the Firm, including *In re PG&E Corporation Securities Litigation*; *In re SCANA Securities Litigation* (\$192.5 million settlement); and *In re Nielsen Holdings PLC Securities Litigation* (\$73 million settlement).

Prior to joining Labaton Sucharow, Francis was a Litigation Associate at a national law firm primarily focused on securities and consumer class action litigation. Francis has represented institutional and individual clients in federal and state court across the country in class action securities litigation and shareholder disputes, along with a variety of commercial litigation matters. He assisted in the prosecution of several matters, including *Kiken v. Lumber Liquidators Holdings, Inc.* (\$42 million recovery); *Hayes v. MagnaChip Semiconductor Corp.* (\$23.5 million recovery); and *In re Galena Biopharma, Inc. Securities Litigation* (\$20 million recovery).

Francis has served on *Law360's* Securities Editorial Advisory Board.

Francis received his Juris Doctor, *magna cum laude*, from New York Law School, where he was named a John Marshall Harlan Scholar, and received a Public Service Certificate. Francis served as Associate Managing Editor of the *New York Law School Law Review* and worked in the Urban Law Clinic. He earned his Bachelor of Arts degree from the University of Notre Dame.



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Domenico “Nico” Minerva is a Partner in the New York office of Labaton Sucharow LLP. A former financial advisor, his work focuses on securities, antitrust, and consumer class actions and shareholder derivative litigation, representing Taft-Hartley, public pension funds, hedge funds, asset managers, insurance companies, and banks across the world. Nico advises leading pension funds and other institutional investors on issues related to corporate fraud in the U.S. securities markets.

Nico is described by clients as “always there for us” and known to provide “an honest answer and describe all the parameters and/or pitfalls of each and every case.” As a result of his work, the Firm has received a Tier 2 ranking in Antitrust Civil Litigation and Class Actions from *Legal* 500. *Lawdragon* has recognized Nico as one of the country’s Leading Plaintiff Financial Lawyers.

Nico’s extensive securities litigation experience includes the case against global security systems company Tyco and co-defendant PricewaterhouseCoopers (*In re Tyco International Ltd., Securities Litigation*), which resulted in a \$3.2 billion settlement—the largest single-defendant settlement in post-PSLRA history.

He also has counseled companies and institutional investors on corporate governance reform. Nico has played an important role in *In re Dell Technologies Inc. Class V Stockholders Litigation*. The \$1 billion recovery in Dell currently stands as the largest shareholder settlement ever in any state court in America and the 17th largest shareholder settlement of all time in federal and state court.

Nico has also done substantial work in antitrust class actions. These include pay-for-delay or “product hopping” cases in which pharmaceutical companies allegedly obstructed generic competitors in order to preserve monopoly profits on patented drugs, such as *Mylan Pharmaceuticals Inc. v. Warner Chilcott Public Limited Co.*, *In re Lidoderm Antitrust Litigation*, *In re Solodyn (MinocyclineHydrochloride) Antitrust Litigation*, *In re Niaspan Antitrust Litigation*, *In re Aggrenox Antitrust Litigation*, and *Sergeants Benevolent Association Health & Welfare Fund et al. v. Actavis PLC et al.* In the anticompetitive matter *The Infirmary LLC vs. National Football League Inc et al.*, Nico played an instrumental part in challenging an exclusivity agreement between the NFL and DirectTV over the service’s “NFL Sunday Ticket” package. He also litigated on behalf of indirect purchasers in a case alleging that growers conspired to control and suppress the nation’s potato supply, *In re Fresh and Process Potatoes Antitrust Litigation*.

On behalf of consumers, Nico represented a plaintiff in *In Re ConAgra Foods Inc.*, over misleading claims that Wesson-brand vegetable oils are 100% natural.

An accomplished speaker, Nico has given numerous presentations to investors on topics related to corporate fraud, wrongdoing, and waste and has also discussed socially responsible investments for

public pension funds including at a roundtable called “The Impact of Non-U.S. Securities Actions and the Rise of ESG Litigation on Dutch Investors.” He is also an active member of the National Association of Public Pension Plan Attorneys.

Nico earned his Juris Doctor from Tulane University Law School, where he completed a two-year externship with the Honorable Kurt D. Engelhardt of the United States District Court for the Eastern District of Louisiana. He received his bachelor's degree from the University of Florida.



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Michael H. Rogers is a Partner in the New York office of Labaton Sucharow LLP. An experienced litigator, Mike focuses on prosecuting complex securities fraud cases on behalf of institutional investors.

He is actively involved in prosecuting *In re Goldman Sachs, Inc. Securities Litigation* and *Murphy v. Precision Castparts Corp.*, among other cases.

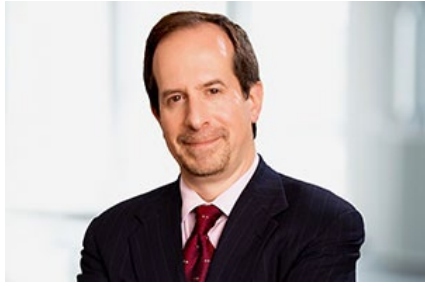
Mike is recommended by *The Legal 500*.

Mike has been a member of the lead counsel teams in many successful class actions, including those against Countrywide Financial (\$624 million settlement), HealthSouth (\$671 million settlement), State Street (\$300 million settlement), SCANA (\$192.5 million settlement), CannTrust (CA \$129.5 million settlement), Mercury Interactive (\$117.5 million settlement), Computer Sciences Corp. (\$97.5 million settlement), Jeld-Weld Holding (\$40 million recovery), Virtus Investment Partners (\$20 million settlement), and Acuity Brands (\$15.75 million settlement).

Prior to joining Labaton Sucharow, Mike was an attorney at Kasowitz, Benson, Torres & Friedman LLP, where he practiced securities and antitrust litigation, representing international banking institutions bringing federal securities and other claims against major banks, auditing firms, ratings agencies and individuals in complex multidistrict litigation. He also represented an international chemical shipping firm in arbitration of antitrust and other claims against conspirator ship owners. Mike began his career as an attorney at Sullivan & Cromwell, where he was part of Microsoft's defense team in the remedies phase of the Department of Justice antitrust action against the company.

Mike earned his Juris Doctor, *magna cum laude*, from the Benjamin N. Cardozo School of Law, Yeshiva University, where he was a member of the *Cardozo Law Review*. He earned his bachelor's degree, *magna cum laude*, from Columbia University.

Mike is proficient in Spanish.



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Ira A. Schochet is a Partner in the New York office of Labaton Sucharow LLP. A seasoned litigator with three decades of experience, Ira focuses on class actions involving securities fraud. Ira has played a lead role in securing multimillion dollar recoveries in high-profile cases such as those against Countrywide Financial Corporation (\$624 million), Weatherford International Ltd (\$120 million), Massey Energy Company (\$265 million), Caterpillar Inc. (\$23 million), Autoliv Inc. (\$22.5 million), and Fifth Street Financial Corp. (\$14 million).

A highly regarded industry veteran, Ira has been recommended in securities litigation by *The Legal 500*, named a Leading Plaintiff Financial Lawyer by *Lawdragon* and been awarded an AV Preeminent rating, the highest distinction, from Martindale-Hubbell.

Ira is a longtime leader in the securities class action bar and represented one of the first institutional investors acting as a lead plaintiff in a post-Private Securities Litigation Reform Act case and ultimately obtained one of the first rulings interpreting the statute's intent provision in a manner favorable to investors in *STI Classic Funds, et al. v. Bollinger Industries, Inc.* His efforts are regularly recognized by the courts, including in *Kamarasy v. Coopers & Lybrand*, where the court remarked on "the superior quality of the representation provided to the class." In approving the settlement he achieved in *In re InterMune Securities Litigation*, the court complimented Ira's ability to secure a significant recovery for the class in a very efficient manner, shielding the class from prolonged litigation and substantial risk.

Ira has also played a key role in groundbreaking cases in the field of merger and derivative litigation. In *In re Freeport-McMoRan Copper & Gold Inc. Derivative Litigation*, he achieved the second largest derivative settlement in the Delaware Court of Chancery history, a \$153.75 million settlement with an unprecedented provision of direct payments to stockholders by means of a special dividend. In another first-of-its-kind case, Ira was featured in *The AmLaw Litigation Daily* as Litigator of the Week for his work in *In re El Paso Corporation Shareholder Litigation*. The action alleged breach of fiduciary duties in connection with a merger transaction, including specific reference to wrongdoing by a conflicted financial advisory consultant, and resulted in a \$110 million recovery for a class of shareholders and a waiver by the consultant of its fee.

From 2009-2011, Ira served as President of the National Association of Shareholder and Consumer Attorneys (NASCAT), a membership organization of approximately 100 law firms that practice class action and complex civil litigation. During this time, he represented the plaintiffs' securities bar in meetings with members of Congress, the Administration, and the SEC.

From 1996 through 2012, Ira served as Chairman of the Class Action Committee of the Commercial and Federal Litigation Section of the New York State Bar Association. During his tenure, he served

on the Executive Committee of the Section and authored important papers on issues relating to class action procedure including revisions proposed by both houses of Congress and the Advisory Committee on Civil Procedure of the United States Judicial Conference. Examples include “Proposed Changes in Federal Class Action Procedure,” “Opting Out on Opting In,” and “The Interstate Class Action Jurisdiction Act of 1999.” Ira has also lectured extensively on securities litigation at seminars throughout the country.

Ira earned his Juris Doctor from Duke University School of Law and his bachelor’s degree, *summa cum laude*, from the State University of New York at Binghamton.



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Brendan W. Sullivan is a Partner in the Delaware office of Labaton Sucharow LLP. He focuses on representing investors in corporate governance and transactional matters, including class action litigation.

Prior to joining Labaton Sucharow, Brendan was an Associate at Paul, Weiss, Rifkind, Wharton & Garrison LLP where he gained substantial experience in class and derivative matters relating to mergers and acquisitions and corporate governance. During law school, he was a Summer Associate at Morris, Nichols and a Law Clerk for Honorable Judge Leonard P. Stark, U.S. District Court for the District of Delaware.

Brendan's pro bono experience includes representing a Delaware charter school in a mediation concerning a malpractice claim against its former auditor.

Brendan earned his Juris Doctor from Georgetown University Law Center where he was the Notes Editor on the *Georgetown Law Journal* and his Bachelor of Arts in English from the University of Delaware.



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Irina Vasilchenko is a Partner in the New York office of Labaton Sucharow LLP and head of the Firm's Associate Training Program. Irina focuses on prosecuting complex securities fraud cases on behalf of institutional investors and has over a decade of experience in such litigation.

Irina is recognized as an up-and-coming litigator whose legal accomplishments transcend her age. She has been named repeatedly to *Benchmark Litigation's* "40 & Under List" and also has been recognized as a Future Star by *Benchmark Litigation* and a Rising Star by *Law360*, one of only six securities attorneys in its 2020 list. Additionally, *Lawdragon* has named her one of the Leading Plaintiff Financial Lawyers in America.

Currently, Irina is involved in prosecuting the high-profile case against financial industry leader Goldman Sachs, *In re Goldman Sachs Group, Inc. Securities Litigation*, arising from its Abacus and other subprime mortgage-backed CDOs during the Financial Crisis, including defending against an appeal of the class certification order to the U.S. Supreme Court and to the Second Circuit. She is also actively prosecuting *Weston v. DocuSign, Inc.*; *In re Teladoc Health, Inc. Securities Litigation*; and *Meitav Dash Provident Funds and Pension Ltd. v. Spirit AeroSystems Holdings, Inc.*

Recently, Irina played a pivotal role in securing a historic \$192.5 million settlement for investors in energy company SCANA Corp. over a failed nuclear reactor project in South Carolina, as well as a \$19 million settlement in a shareholders' suit against Daimler AG over its Mercedes Benz diesel emissions scandal. Since joining Labaton Sucharow, she also has been a key member of the Firm's teams that have obtained favorable settlements for investors in numerous securities cases, including *In re Massey Energy Co. Securities Litigation* (\$265 million settlement); *In re Fannie Mae 2008 Securities Litigation* (\$170 million settlement); *In re Amgen Inc. Securities Litigation* (\$95 million settlement); *In re Hewlett-Packard Company Securities Litigation* (\$57 million settlement); *Vancouver Alumni Asset Holdings Inc. v. Daimler A.G.* (\$19 million settlement); *Perrelouis v. Gogo Inc.* (\$17.3 million); *In re Acuity Brands, Inc. Securities Litigation* (\$15.75 million settlement); and *In re Extreme Networks, Inc. Securities Litigation* (\$7 million settlement).

Irina maintains a commitment to pro bono legal service, including representing an indigent defendant in a criminal appeal case before the New York First Appellate Division, in association with the Office of the Appellate Defender. As part of this representation, she argued the appeal before the First Department panel. Prior to joining Labaton Sucharow, Irina was an Associate in the general litigation practice group at Ropes & Gray LLP, where she focused on securities litigation.

She is a member of the New York State Bar Association and New York City Bar Association.

Irina received her Juris Doctor, *magna cum laude*, from Boston University School of Law, where she was an editor of the *Boston University Law Review* and was the G. Joseph Tauro Distinguished Scholar, the Paul L. Liacos Distinguished Scholar, and the Edward F. Hennessey Scholar. Irina earned a Bachelor of Arts in Comparative Literature, *summa cum laude* and Phi Beta Kappa, from Yale University.

Irina is fluent in Russian and proficient in Spanish.



Carol C. Villegas Partner

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Carol C. Villegas is a Partner in the New York office of Labaton Sucharow LLP. Carol focuses on prosecuting complex securities fraud and consumer cases on behalf of institutional investors and individuals. Leading one of the Firm's litigation teams, she is actively overseeing litigation against Lordstown, PayPal, Oak Street Health, DocuSign, Flo Health, Amazon, and Hain, among others. In addition to her litigation responsibilities, Carol holds a variety of leadership positions within the Firm, including serving on the Firm's Executive Committee, as Chair of the Firm's Women's Networking and Mentoring Initiative, and as the Chief of Compliance.

Carol's development of innovative case theories in complex cases, her skillful handling of discovery work, and her adept ability during oral arguments has earned her accolades from *Chambers & Partners USA* as well as *Law360* as a Class Action MVP, *The National Law Journal* as a Plaintiffs' Trailblazer, and the *New York Law Journal* as a Top Woman in Law, New York Trailblazer, and Distinguished Leader. *Business Today* named Carol one of the "Top 10 Most Influential Securities Litigation Lawyer in New York." *The National Law Journal* "Elite Trial Lawyers" has repeatedly recognized her superb ability to excel in high-stakes matters on behalf of plaintiffs and selected her to its class of Elite Women of the Plaintiffs Bar. She has also been recognized as a Future Star by *Benchmark Litigation* and a Next Generation Partner by *The Legal 500*, where clients praised her for helping them "better understand the process and how to value a case." *Lawdragon* has named her one of the Leading Lawyers in America, Top Plaintiff Financial Lawyers, and Leading Plaintiff Consumer Lawyers and Crain's New York Business selected Carol to its list of Notable Women in Law. *Euromoney's* "Women in Business Law Awards" has also shortlisted Carol as a Securities Litigator of the Year and a Privacy and Data Protection Lawyer of the Year, and *Chambers and Partners* selected Carol as a finalist for Diversity & Inclusion: Outstanding Contribution.

Notable recent successes include *In re Nielsen Holdings PLC Securities Litigation* (\$73 million settlement) and *City of Warren Police and Fire Retirement System v. World Wrestling Entertainment, Inc.* (\$39 million settlement). Carol has also played a pivotal role in securing favorable settlements for investors, including in cases against DeVry, a for-profit university; AMD, a multi-national semiconductor company; Liquidity Services, an online auction marketplace; Aeropostale, a leader in the international retail apparel industry; Vocera, a healthcare communications provider; and Prothena, a biopharmaceutical company, among others. Carol

has also helped revive a securities class action against LifeLock after arguing an appeal before the Ninth Circuit. The case settled shortly thereafter.

Prior to joining Labaton Sucharow, Carol served as the Assistant District Attorney in the Supreme Court Bureau for the Richmond County District Attorney's office, where she took several cases to trial. She began her career as an Associate at King & Spalding LLP, where she worked as a federal litigator.

Carol is an active member of the New York State Bar Association's Women in the Law Section and Chair of the Board of Directors of the City Bar Fund, the nonprofit 501(c)(3) arm of the New York City Bar Association. She is also a member of the National Association of Public Pension Attorneys, the National Association of Women Lawyers, and the Hispanic National Bar Association. In addition, Carol previously served on *Law360's* Securities Editorial Board.

Carol earned her Juris Doctor from New York University School of Law, where she was the recipient of The Irving H. Jurow Achievement Award for the Study of Law and received the Association of the Bar of the City of New York Diversity Fellowship. She received her bachelor's degree, with honors, from New York University.

She is fluent in Spanish.



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Michael C. Wagner is a Partner in the Delaware office of Labaton Sucharow LLP. Michael focuses on representing shareholders in corporate governance and transactional matters, including class action and derivative litigation.

He has successfully prosecuted cases against Dole, Versum Materials, Arthrocare, and Genetech, among others.

Michael is recommended by *The Legal 500* and has been recognized by *Lawdragon* as one of the Leading Plaintiff Financial Lawyers in America.

Previously, Michael was a Partner at Smith, Katzenstein & Jenkins, LLP and at Kessler Topaz Meltzer & Check, LLP. As a litigator for more than 25 years, he has prosecuted a wide variety of matters for investors, in Delaware and in other jurisdictions across the country, at both the trial and appellate levels. He has previously represented investment banks, venture capital funds, and hedge fund managers as well as Fortune 500 companies.

His pro bono work includes guardianship and PFA matters.

Michael earned his Juris Doctor from the University of Pittsburgh School of Law. He served as Associate Editor before becoming Lead Executive Editor for the *Journal of Law and Commerce*. Michael received his bachelor's degree from Franklin and Marshall College.



Mark S. Willis Partner

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Mark S. Willis is a Partner in the D.C. office of Labaton Sucharow LLP. With more than three decades of experience, his practice focuses on domestic and international securities litigation. Mark advises leading pension funds, investment managers, and other institutional investors from around the world on their legal remedies when impacted by securities fraud and corporate governance breaches.

Mark is recommended by *The Legal 500* for excellence in securities litigation and has been named one of *Lawdragon's* Leading Plaintiff Financial Lawyer in America. Under his leadership, the Firm has been awarded *Law360* Practice Group of the Year Awards for Class Actions and Securities.

In U.S. matters, Mark currently represents Caisse de dépôt et placement du Québec, one of Canada's largest institutional investors, against PayPal in one of the largest ongoing U.S. shareholder class actions, as well as the Utah Retirement Systems in several pending shareholder actions. He represented institutions from the UK, Spain, the Netherlands, Denmark, Germany, Belgium, Canada, Japan and the U.S. in a novel lawsuit in Texas against BP plc that salvaged claims dismissed from the parallel U.S. class action. In the *Converium* class action, Mark represented a Greek institution in a nearly four-year battle that eventually became the first U.S. class action settled on two continents (i.e., New York and Amsterdam). The Dutch portion of this \$145 million trans-Atlantic recovery involved a landmark decision that substantially broadened that court's jurisdictional reach to a scenario where the claims were not brought under Dutch law, the wrongdoing occurred outside the Netherlands, and none of the parties were domiciled there. In the *Parmalat* case, known as the "Enron of Europe" due to the size and scope of the fraud, Mark represented a group of European institutions and eventually recovered nearly \$100 million and negotiated governance reforms with two large European banks, making this the first time in a shareholder class action that such reforms were secured from non-issuer defendants.

Mark also heads the firm's Non-U.S. practice, advising clients in over 100 cases in jurisdictions such as Australia, Japan, Brazil, Canada, the UK, Germany, the Netherlands, Italy, Denmark, and elsewhere. This practice is wholly unique in that it is genuinely global, independent, and fully comprehensive.

Mark has written on corporate, securities, and investor protection issues—often with an international focus—in industry publications such as *International Law News*, *Professional Investor*, *European Lawyer*, and *Investment & Pensions Europe*. He has also authored several chapters in international law treatises on European corporate law and on the listing and subsequent disclosure obligations for issuers listing on European stock exchanges. He also speaks at conferences and at client forums on investor protection through the U.S. federal securities laws, corporate governance measures, and the impact on shareholders of non-U.S. investor remedies.



Mark earned his Juris Doctor from the Pepperdine University School of Law and his master's degree from Georgetown University Law Center.

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Nicole M. Zeiss Partner

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Nicole M. Zeiss is a Partner in the New York office of Labaton Sucharow. A litigator with two decades of experience, Nicole leads the Firm's Settlement Group, which analyzes the fairness and adequacy of the procedures used in class action settlements. Her practice focuses on negotiating and documenting complex class action settlements and obtaining the required court approval of the settlements, notice procedures, and payments of attorneys' fees.

Nicole was part of the Labaton Sucharow team that successfully litigated the \$185 million settlement in *In re Bristol-Myers Squibb Securities Litigation*. She played a significant role in *In re Monster Worldwide, Inc. Securities Litigation* (\$47.5 million settlement). Nicole also litigated on behalf of investors who have been damaged by fraud in the telecommunications, hedge fund, and banking industries. Over the past decade, Nicole has been actively involved in finalizing the Firm's securities class action settlements, including in cases against Massey Energy Company (\$265 million), SCANA (\$192.5 million), Fannie Mae (\$170 million), and Schering-Plough (\$473 million), among many others.

Prior to joining Labaton Sucharow, Nicole practiced poverty law at MFY Legal Services. She also worked at Gaynor & Bass practicing general complex civil litigation, particularly representing the rights of freelance writers seeking copyright enforcement.

Nicole is a member of the New York City Bar Association and the New York State Bar Association. Nicole also maintains a commitment to pro bono legal services.

She received a Juris Doctor from the Benjamin N. Cardozo School of Law, Yeshiva University, and earned a Bachelor of Arts in Philosophy from Barnard College.



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Garrett J. Bradley is Of Counsel to Labaton Sucharow LLP. Garrett has decades of experience helping institutional investors, public pension funds, and individual investors recover losses attributable to corporate fraud. A former state prosecutor, Garrett has been involved in hundreds of securities fraud class action lawsuits that have, in aggregate, recouped hundreds of millions of dollars for investors. Garrett's past and present clients include some of the country's largest public pension funds and institutional investors.

Garrett has been consistently named a "Super Lawyer" in securities litigation by *Super Lawyers*, a Thomson Reuters publication, and was previously named a "Rising Star." He was selected as one of "New England's 2020 Top Rated Lawyers" by *ALM Media* and *Martindale-Hubbell*. The American Trial Lawyers Association has named him one of the "Top 100 Trial Lawyers in Massachusetts." The Massachusetts Academy of Trial Attorneys gave him their Legislator of the Year award, and the Massachusetts Bar Association named him Legislator of the Year.

Prior to joining the firm, Garrett worked as an Assistant District Attorney in the Plymouth County District Attorney's office. He also served in the Massachusetts House of Representatives, representing the Third Plymouth District, for sixteen years.

Garrett is a Fellow of the Litigation Counsel of America, an invitation-only society of trial lawyers comprised of less than 1/2 of 1% of American lawyers. He is also a member of the Public Justice Foundation and the Million Dollar Advocates Forum.

Garrett earned his Juris Doctor from Boston College Law School and his Bachelor of Arts from Boston College.



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Guillaume Buell is Of Counsel to Labaton Sucharow LLP. With over a decade of experience in securities law, Guillaume represents investors based in the United States and abroad in connection with domestic and international securities litigation, corporate governance matters, and shareholder rights disputes. His clients include public pension and Taft-Hartley funds, asset managers, high net worth individuals, and other sophisticated investors. As part of the Firm's Non-U.S. Securities Litigation Practice, which is one of the first of its kind, Guillaume serves as liaison counsel to institutional investors in select overseas matters. He also advises clients in connection with complex consumer matters.

Guillaume has been recognized by *Lawdragon* as a Next Generation Lawyer.

Guillaume has represented investors and obtained significant recoveries in cases against CVS Caremark, Rent-A-Center, Castlight Health, Nu Skin Enterprises, and Genworth Financial, among others.

Prior to joining Labaton Sucharow, Guillaume was an attorney with Cahill Gordon & Reindel LLP in New York and Hicks Davis Wynn, P.C. in Houston, where he provided legal counsel to a wide range of Fortune 500 and other corporate clients in the aviation, construction, energy, financial, consumer, pharmaceutical, and insurance sectors in state and federal litigations, government investigations, and internal investigations.

Guillaume is an active member of the National Association of Public Pension Attorneys (NAPPA), where he serves as an appointed member of its Fiduciary & Governance Committee and Securities Litigation Committee. In addition, he is actively involved with the National Conference on Public Employee Retirement Systems, the Canadian Pension & Benefits Institute, the Michigan Association of Public Employee Retirement Systems, the National Association of Shareholder and Consumer Attorneys, the International Foundation of Employee Benefit Plans, and the Georgia Association of Public Pension Trustees.

Guillaume received his Juris Doctor from Boston College Law School and was the recipient of the Boston College Law School Award for outstanding contributions to the law school community. He was also a member of the National Environmental Law Moot Court Team, which advanced to the national quarterfinals and received best oralists recognition. While in law school, Guillaume was a Judicial Intern with the Honorable Loretta A. Preska, United States District Court for the Southern District of New York, and an Intern with the Government Bureau of the Attorney General of Massachusetts. He received his Bachelor of Arts, *cum laude* with departmental honors, from Brandeis University.



Guillaume is fluent in French and conversant in German. He is an Eagle Scout and actively involved in his hometown's local civic organizations.



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Hui Chang is Of Counsel in the New York office of Labaton Sucharow LLP and concentrates her practice in the area of shareholder litigation and client relations. As a co-manager of the Firm's Non-U.S. Securities Litigation Practice, Hui focuses on advising institutional investor clients regarding fraud-related losses on securities, and on the investigation and development of securities fraud class, group, and individual actions outside of the United States.

Hui previously served as a member of the Firm's Case Development Group, where she was involved in the identification, investigation, and development of potential actions to recover investment losses resulting from violations of the federal securities laws, and corporate and fiduciary misconduct, and assisted the Firm in securing a number of lead counsel appointments in several class actions.

Prior to joining Labaton Sucharow, Hui was a Litigation Associate at a national firm primarily focused on securities class action litigation, where she played a key role in prosecuting a number of high-profile securities fraud class actions, including *In re Petrobras Sec. Litigation* (\$3 billion recovery).

Hui earned her Juris Doctor from the University of California, Hastings College of Law, where she worked as a Graduate Research Assistant and a Moot Court Teaching Assistant. She received her bachelor's degree from the University of California, Berkeley.

Hui is fluent in Portuguese and proficient in Taiwanese.



Derick I. Cividini Of Counsel

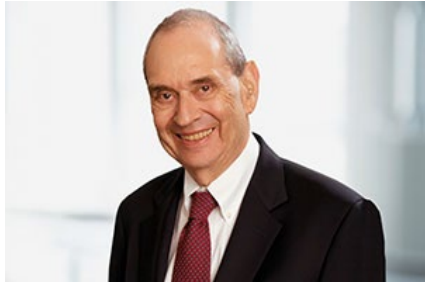
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Derick I. Cividini is Of Counsel in the New York office of Labaton Sucharow LLP and serves as the Firm's Director of E-Discovery. Derick focuses on prosecuting complex securities fraud cases on behalf of institutional investors, including class actions, corporate governance matters, and derivative litigation. As the Director of E-discovery, he is responsible for managing the Firm's discovery efforts, particularly with regard to the implementation of e-discovery best practices for ESI (electronically stored information) and other relevant sources.

Derick was part of the team that represented lead plaintiff City of Edinburgh Council as Administering Authority of the Lothian Pension Fund in *In re Lehman Brothers Equity/Debt Securities Litigation*, which resulted in settlements totaling \$516 million against Lehman Brothers' former officers and directors as well as most of the banks that underwrote Lehman Brothers' offerings.

Prior to joining Labaton Sucharow, Derick was a litigation attorney at Kirkland & Ellis LLP, where he practiced complex civil litigation. Earlier in his litigation career, he worked on product liability class actions with Hughes Hubbard & Reed LLP.

Derick earned his Juris Doctor and Master of Business Administration from Rutgers University and received his bachelor's degree in Finance from Boston College.



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Joseph H. Einstein is Of Counsel in the New York office of Labaton Sucharow LLP. A seasoned litigator, Joe represents clients in complex corporate disputes, employment matters, and general commercial litigation. He has litigated major cases in state and federal courts and has argued many appeals, including appearing before the U.S. Supreme Court.

Joe has an AV Preeminent rating, the highest distinction, from the publishers of the Martindale-Hubbell directory.

His experience encompasses extensive work in the computer software field including licensing and consulting agreements. Joe also counsels and advises business entities in a broad variety of transactions.

Joe serves as a Mediator for the U.S. District Court for the Southern District of New York. He has served as a Commercial Arbitrator for the American Arbitration Association and currently is a FINRA Arbitrator and Mediator. Joe is a former member of the New York State Bar Association Committee on Civil Practice Law and Rules, and the Council on Judicial Administration of the Association of the Bar of the City of New York. He also is a former member of the Arbitration Committee of the Association of the Bar of the City of New York.

Joe received his Bachelor of Laws and Master of Laws from New York University School of Law. During his time at NYU, Joe was a Pomeroy and Hirschman Foundation Scholar and served as an Associate Editor of the *New York University Law Review*.



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Lara Goldstone is Of Counsel in the New York office of Labaton Sucharow LLP. Lara advises leading pension funds and other institutional investors in the United States and Canada on issues related to corporate fraud in the U.S. securities markets. Her work focuses on monitoring the well-being of institutional investments and counseling clients on best practices in securities, antitrust, corporate governance and shareholder rights and consumer class action litigation.

Lara has achieved significant settlements on behalf of clients. She represented investors in high-profile cases against LifeLock, KBR, Fifth Street Finance Corp., NII Holdings, Rent-A-Center, and Castlight Health. Lara has also served as legal adviser to clients who have pursued claims in state court, derivative actions in the form of serving books and records demands, non-U.S. actions and antitrust class actions including pay-for-delay or “product hopping” cases in which pharmaceutical companies allegedly obstructed generic competitors in order to preserve monopoly profits on patented drugs, such as *In re Generic Pharmaceuticals Pricing Antitrust Litigation*.

Before joining Labaton Sucharow, Lara worked as a Legal Intern in the Larimer County District Attorney’s Office and the Jefferson County District Attorney’s Office. She also volunteered at Crossroads Safehouse, which provided legal representation to victims of domestic violence. Prior to her legal career, Lara worked at Industrial Labs where she worked closely with Federal Drug Administration standards and regulations. In addition, she was a teacher in Irvine, California.

She is a member of the Firm’s Women’s Initiative.

Lara earned her Juris Doctor from the University of Denver Sturm College of Law, where she was a judge of the Providence Foundation of Law & Leadership Mock Trial and a competitor of the Daniel S. Hoffman Trial Advocacy Competition. She received her bachelor’s degree from George Washington University, where she was a recipient of a Presidential Scholarship for academic excellence.



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Elizabeth Rosenberg is Of Counsel in the New York office of Labaton Sucharow LLP. Elizabeth focuses on litigating complex securities fraud cases on behalf of institutional investors, with a focus on obtaining court approval of class action settlements, notice procedures and payment of attorneys' fees.

Prior to joining Labaton Sucharow, Elizabeth was an Associate at Whatley Drake & Kallas LLP, where she litigated securities and consumer fraud class actions. Elizabeth began her career as an Associate at Milberg LLP where she practiced securities litigation and was also involved in the pro bono representation of individuals seeking to obtain relief from the World Trade Center Victims' Compensation Fund.

Elizabeth earned her Juris Doctor from Brooklyn Law School. She received her bachelor's degree from the University of Michigan.



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John Vielandi is Of Counsel in the New York office of Labaton Sucharow LLP. John researches, analyzes and assesses potential new shareholder litigations with a focus on breaches of fiduciary duty and mergers and acquisitions.

John has successfully prosecuted cases against Versum Materials, Inc.; Stamps.com Inc.; and Expedia Group, Inc.

John joined the Firm from Bernstein Litowitz Berger & Grossmann, where he was a key member of the teams that litigated numerous high profile actions, including *City of Monroe Employees' Retirement System v. Rupert Murdoch et al.* and *In re Vaalco Energy, Inc. Consolidated Stockholder Litigation*. While in law school, John was a legal intern at the New York City Office of Administrative Trials and Hearings and a judicial intern for the Honorable Carolyn E. Demarest of the New York State Supreme Court.

John earned his Juris Doctor from Brooklyn Law School, where he was the Notes and Comments Editor for the *Journal of Corporate, Financial and Commercial Law*, and was awarded the CALI Excellence for the Future Award. He received his bachelor's degree from Georgetown University.

Exhibit 4

	Firms	Count	Low	25th Percentile	Median	75th Percentile	High
2022							
Partners							
	1) Akin Gump Strauss Hauer & Feld LLP	21	\$1,205	\$1,400	\$1,525	\$1,775	\$1,775
	2) Davis Polk & Wardwell LLP	18	\$1,925	\$1,925	\$1,950	\$1,950	\$1,950
	3) Jones Day	12	\$1,100	\$1,188	\$1,250	\$1,400	\$1,550
	4) Kasowitz Benson Torres LLP	2	\$540	\$705	\$870	\$1,035	\$1,200
	5) Kirkland & Ellis LLP	32	\$1,185	\$1,310	\$1,610	\$1,804	\$1,995
	6) Kramer Levin Naftalis & Frankel LLP	6	\$1,275	\$1,325	\$1,413	\$1,538	\$1,575
	7) Latham & Watkins LLP	11	\$1,265	\$1,315	\$1,505	\$1,875	\$2,075
	8) Morrison & Foerster LLP	4	\$1,075	\$1,113	\$1,250	\$1,394	\$1,450
	9) O'Melveny & Meyers LLP	1	\$1,225	\$1,225	\$1,225	\$1,225	\$1,225
	10) Paul Hastings, LLP	6	\$920	\$1,331	\$1,388	\$1,463	\$1,475
	11) Paul, Weiss, Rifkind, Wharton & Garrison LLP	7	\$1,560	\$1,790	\$1,935	\$2,025	\$2,025
	12) Quinn Emanuel Urquhart & Sullivan, LLP	4	\$1,320	\$1,320	\$1,503	\$1,771	\$2,030
	13) Sidley Austin LLP	12	\$1,225	\$1,269	\$1,338	\$1,400	\$1,550
	14) Skadden, Arps, Slate, Meagher & Flom LLP	24	\$848	\$1,175	\$1,607	\$1,785	\$1,980
	15) Weil, Gotshal & Manges LLP	10	\$1,140	\$1,432	\$1,474	\$1,670	\$1,950
	16) Willkie Farr & Gallagher LLP	11	\$1,275	\$1,325	\$1,650	\$1,800	\$1,900
Of Counsel							
	1) Akin Gump Strauss Hauer & Feld LLP	34	\$670	\$925	\$1,065	\$1,146	\$1,330
	2) Davis Polk & Wardwell LLP	14	\$1,465	\$1,465	\$1,465	\$1,465	\$1,465
	3) Jones Day	4	\$1,025	\$1,044	\$1,088	\$1,144	\$1,200
	4) Kramer Levin Naftalis & Frankel LLP	2	\$1,105	\$1,105	\$1,105	\$1,105	\$1,105
	5) Latham & Watkins LLP	3	\$1,210	\$1,273	\$1,335	\$1,400	\$1,465
	6) Morrison & Foerster LLP	2	\$965	\$968	\$970	\$973	\$975
	7) O'Melveny & Meyers LLP	2	\$685	\$716	\$748	\$779	\$810
	8) Paul, Weiss, Rifkind, Wharton & Garrison LLP	2	\$1,525	\$1,525	\$1,525	\$1,525	\$1,525
	9) Quinn Emanuel Urquhart & Sullivan, LLP	1	\$1,285	\$1,285	\$1,285	\$1,285	\$1,285
	10) Sidley Austin LLP	3	\$1,075	\$1,150	\$1,225	\$1,225	\$1,225
	11) Skadden, Arps, Slate, Meagher & Flom LLP	7	\$857	\$933	\$1,269	\$1,410	\$1,495
	12) Weil, Gotshal & Manges LLP	1	\$978	\$978	\$978	\$978	\$978
	13) Willkie Farr & Gallagher LLP	1	\$1,900	\$1,900	\$1,900	\$1,900	\$1,900
Associates							
	1) Akin Gump Strauss Hauer & Feld LLP	9	\$605	\$670	\$710	\$860	\$965
	2) Davis Polk & Wardwell LLP	66	\$515	\$935	\$1,190	\$1,310	\$1,315
	3) Jones Day	15	\$550	\$625	\$725	\$763	\$1,100
	4) Kasowitz Benson Torres LLP	2	\$625	\$625	\$625	\$625	\$625
	5) Kirkland & Ellis LLP	53	\$503	\$795	\$910	\$1,035	\$1,295
	6) Kramer Levin Naftalis & Frankel LLP	8	\$615	\$715	\$880	\$1,030	\$1,090
	7) Latham & Watkins LLP	22	\$655	\$882	\$990	\$1,115	\$1,165
	8) Morrison & Foerster LLP	5	\$715	\$715	\$755	\$765	\$1,050
	9) O'Melveny & Meyers LLP	1	\$540	\$540	\$540	\$540	\$540
	10) Paul Hastings, LLP	8	\$680	\$891	\$955	\$1,050	\$1,120
	11) Paul, Weiss, Rifkind, Wharton & Garrison LLP	12	\$735	\$998	\$1,173	\$1,228	\$1,525
	12) Sidley Austin LLP	17	\$560	\$775	\$895	\$1,050	\$1,100
	13) Skadden, Arps, Slate, Meagher & Flom LLP	45	\$380	\$628	\$785	\$1,055	\$1,275
	14) Weil, Gotshal & Manges LLP	17	\$536	\$655	\$840	\$1,075	\$1,200
	15) Willkie Farr & Gallagher LLP	12	\$825	\$1,041	\$1,098	\$1,195	\$1,240
Paralegals							
	1) Akin Gump Strauss Hauer & Feld LLP	5	\$265	\$355	\$420	\$420	\$475
	2) Davis Polk & Wardwell LLP	18	\$220	\$368	\$375	\$506	\$935
	3) Jones Day	3	\$350	\$375	\$400	\$413	\$425
	4) Kasowitz Benson Torres LLP	2	\$295	\$308	\$320	\$333	\$345
	5) Kirkland & Ellis LLP	4	\$365	\$365	\$373	\$384	\$395
	6) Kramer Levin Naftalis & Frankel LLP	2	\$400	\$410	\$420	\$430	\$440
	7) Latham & Watkins LLP	3	\$330	\$393	\$455	\$470	\$485
	8) Morrison & Foerster LLP	1	\$445	\$445	\$445	\$445	\$445
	9) Paul, Weiss, Rifkind, Wharton & Garrison LLP	1	\$455	\$455	\$455	\$455	\$455
	10) Quinn Emanuel Urquhart & Sullivan, LLP	1	\$455	\$455	\$455	\$455	\$455
	11) Sidley Austin LLP	11	\$350	\$405	\$425	\$435	\$475
	12) Skadden, Arps, Slate, Meagher & Flom LLP	14	\$246	\$322	\$362	\$495	\$495
	13) Weil, Gotshal & Manges LLP	6	\$234	\$292	\$346	\$383	\$495
	14) Willkie Farr & Gallagher LLP	8	\$280	\$291	\$313	\$356	\$425
Law Clerk							
	1) Akin Gump Strauss Hauer & Feld LLP	1	\$510	\$510	\$510	\$510	\$510
	2) Davis Polk & Wardwell LLP	2	\$535	\$550	\$565	\$580	\$595
Staff Attorney							
	1) Jones Day	1	\$550	\$550	\$550	\$550	\$550
	2) Kirkland & Ellis LLP	1	\$485	\$485	\$485	\$485	\$485
	3) Latham & Watkins LLP	3	\$470	\$470	\$470	\$490	\$510
	4) Skadden, Arps, Slate, Meagher & Flom LLP	3	\$422	\$441	\$460	\$467	\$473

Position	Type	Firms	Count	Low	25th	Median	75th	High
				Rate (%Diff.)	Percentile	Rate (%Diff.)	Percentile	Rate (%Diff.)
All Partners		All Firms Sampled	181	\$540 (-14%)	\$1,315 (+44%)	\$1,525 (+53%)	\$1,795 (+60%)	\$2,075 (+54%)
		Labaton Sucharow LLP	23	\$625	\$913	\$1,000	\$1,125	\$1,350
Senior Partners		All Firms Sampled	154	\$540 (-36%)	\$1,350 (+46%)	\$1,565 (+57%)	\$1,823 (+58%)	\$2,075 (+54%)
		Labaton Sucharow LLP	21	\$850	\$925	\$1,000	\$1,150	\$1,350
Mid-Level Partners		All Firms Sampled	18	\$1,100 (+38%)	\$1,284 (+60%)	\$1,363 (+70%)	\$1,501 (+88%)	\$1,925 (+141%)
		Labaton Sucharow LLP	1	\$800	\$800	\$800	\$800	\$800
Junior Partners		All Firms Sampled	9	\$1,075 (+72%)	\$1,235 (+98%)	\$1,275 (+104%)	\$1,275 (+104%)	\$1,925 (+208%)
		Labaton Sucharow LLP	1	\$625	\$625	\$625	\$625	\$625
Of Counsel		All Firms Sampled	76	\$670 (+22%)	\$967 (+45%)	\$1,135 (+57%)	\$1,424 (+82%)	\$1,900 (+90%)
		Labaton Sucharow LLP	16	\$550	\$669	\$725	\$781	\$1,000
All Associates		All Firms Sampled	292	\$380 (-11%)	\$769 (+71%)	\$935 (+87%)	\$1,165 (+117%)	\$1,525 (+154%)
		Labaton Sucharow LLP	24	\$425	\$450	\$500	\$538	\$600
Senior Associates		All Firms Sampled	63	\$553 (+23%)	\$1,038 (+89%)	\$1,165 (+98%)	\$1,280 (+113%)	\$1,525 (+154%)
		Labaton Sucharow LLP	8	\$450	\$550	\$588	\$600	\$600
Mid-Level Associates		All Firms Sampled	92	\$503 (+1%)	\$933 (+87%)	\$1,055 (+111%)	\$1,173 (+123%)	\$1,315 (+150%)
		Labaton Sucharow LLP	7	\$500	\$500	\$500	\$525	\$525
Junior Associates		All Firms Sampled	137	\$380 (-11%)	\$660 (+47%)	\$795 (+77%)	\$910 (+92%)	\$1,315 (+177%)
		Labaton Sucharow LLP	9	\$425	\$450	\$450	\$475	\$475
Staff Attorneys		All Firms Sampled	8	\$422 (+34%)	\$468 (+22%)	\$472 (+16%)	\$491 (+16%)	\$550 (+22%)
		Labaton Sucharow LLP	23	\$315	\$383	\$405	\$425	\$450
Law Clerks		All Firms Sampled	3	\$510 (+13%)	\$523 (+16%)	\$535 (+19%)	\$565 (+26%)	\$595 (+32%)
		Labaton Sucharow LLP	1	\$450	\$450	\$450	\$450	\$450
Paralegals		All Firms Sampled	79	\$220 (-40%)	\$338 (-10%)	\$380 (+1%)	\$443 (+13%)	\$935 (+115%)
		Labaton Sucharow LLP	14	\$365	\$375	\$375	\$390	\$435

Exhibit 5

Compendium of Unreported Cases

<i>Bristol Cnty. Ret. Sys. v. Allscripts Healthcare Sols, Inc.</i> , No. 1:12-cv-03297, slip op. (N.D. Ill. July 22, 2015).....	1
<i>Burton v. Bway Corp.</i> , No. 2018 CH 09797, slip op. (Cir. Ct. Cook Cnty. Apr. 4, 2023).....	2
<i>Conlee v. WMS Indus. Inc.</i> , No. 1:11-cv-03503-JBZ, slip op. (N.D. Ill. May 20, 2014).....	3
<i>Labarre v. Ceridian HMC, Inc.</i> , No. 2019 CH 06489, slip op. (Cir. Ct. Cook Cnty. Nov. 30, 2022)	4
<i>Pierrelouis v. Gogo, Inc.</i> , No. 18-cv-04473, slip op. (E.D. Ill. Oct. 13, 2022)	5

TAB 1

FILED DATE: 8/10/2023 3:09 PM 2020CH05219

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

BRISTOL COUNTY RETIREMENT)	No. 1:12-cv-03297
SYSTEM, Individually and on Behalf of All)	
Others Similarly Situated,)	<u>CLASS ACTION</u>
)	
Plaintiff,)	Judge Jorge L. Alonso
)	Magistrate Judge Young B. Kim
vs.)	
)	
ALLSCRIPTS HEALTHCARE SOLUTIONS,)	
INC., et al.,)	
)	
Defendants.)	
)	
_____)	

ORDER AWARDING ATTORNEYS' FEES AND EXPENSES

THIS MATTER having come before the Court on the motion of Lead Plaintiffs for an award of attorneys' fees and expenses; the Court, having considered all papers filed and proceedings conducted herein, having found the Settlement of the Action to be fair, reasonable and adequate, and otherwise being fully informed in the premises and good cause appearing therefore;

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that:

1. All of the capitalized terms used herein shall have the same meanings as set forth in the Settlement Agreement dated April 1, 2015 (the "Settlement Agreement").

2. The Court has jurisdiction over the subject matter of this application and all matters relating thereto, including all members of the Class who have not timely and validly requested exclusion.

3. Pursuant to and in full compliance with Rule 23 of the Federal Rules of Civil Procedure, the Court finds and concludes that due and adequate notice of Lead Plaintiffs' motion for an award of attorneys' fees and expenses was directed to all Persons and entities who are Class Members, including individual notice to those who could be identified with reasonable effort, advising them of the application for fees and expenses and of their right to object thereto, and a full and fair opportunity was accorded to all Persons and entities who are members of the Class to be heard with respect to the motion for fees and expenses.

4. The Court hereby awards Lead Counsel attorneys' fees of 33% of the Settlement Amount and expenses of \$119,060.10, together with the interest earned thereon for the same time period and at the same rate as that earned on the Settlement Fund until paid. Said fees shall be allocated among other Plaintiffs' Counsel by Lead Counsel in a manner which, in their good-faith judgment, reflects each counsel's contribution to the institution, prosecution, and resolution of the Action. The Court finds that the amount of fees awarded is fair and reasonable under the "percentage-of recovery" method considering, among other things that:

- (a) the requested fee is consistent with percentage fees negotiated *ex ante* in the private market for legal services;
- (b) the contingent nature of the Action favors a fee award of 33%;
- (c) the Settlement Fund of \$9.75 million was not likely at the outset of the Action;
- (d) the awarded fee is in accord with Seventh Circuit authority and consistent with empirical data regarding fee awards in cases of this size;
- (e) the quality legal services provided by Lead Counsel produced the Settlement;
- (f) the Lead Plaintiffs appointed by the Court to represent the Class reviewed and approved the requested fee;
- (g) the stakes of the litigation favor the fee awarded; and
- (h) the reaction of the Class to the fee request supports the fee awarded.

5. The awarded attorneys' fees and expenses, and interest earned thereon, shall be paid to Lead Counsel from the Settlement Fund immediately after the date this Order is executed subject to the terms, conditions, and obligations of the Settlement Agreement, which terms, conditions, and obligations are incorporated herein.

IT IS SO ORDERED.

7/22/15



JORGE L. ALONSO
UNITED STATES DISTRICT JUDGE

TAB 2

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

JERMAINE BURTON, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

BWAY CORPORATION, a Delaware
Corporation,

Defendant.

Case No. 2018 CH 09797

Calendar 10

Judge Caroline Kate Moreland

[PROPOSED] FINAL JUDGMENT AND ORDER OF DISMISSAL WITH PREJUDICE

This matter coming before the Court on Plaintiff's Motion for and Memorandum in Support of Final Approval of Class Action Settlement between Plaintiff Jermaine Burton ("Plaintiff"), Defendant BWAY Corporation ("Defendant") (Plaintiff and Defendant are collectively referred to as the "Parties"), the terms of which are set forth in the Class Action Settlement Agreement (the "Settlement Agreement"), and Plaintiff's Motion and Memorandum of Law for Attorneys' Fees, Expenses, and Incentive Award, the Court having been advised in the premises, and having duly considered the papers and arguments of all interested parties, and having held a Final Approval Hearing on March 30, 2023,

IT IS HEREBY ORDERED, DECREED, AND ADJUDGED AS FOLLOWS:

1. Unless defined herein, all capitalized terms in this order shall have the respective meanings ascribed to the same terms in the Class Action Settlement Agreement.
2. This Court has subject-matter jurisdiction to approve the Settlement Agreement, including all attached exhibits, and personal jurisdiction over all Parties, including all Class Members.

3. On November 29, 2022, the Court preliminarily approved the Settlement Agreement, and certified, for settlement purposes, the Settlement Class consisting of:

All current and former employees of BWAY Corporation who, while residents of the State of Illinois, used a finger scanner at a BWAY facility in the State of Illinois between August 1, 2013 and August 20, 2018.

Excluded from the Settlement Class are (1) any Judge or Magistrate presiding over this action and members of their families, (2) Defendant, Defendant's subsidiaries, parent companies, successors, predecessors, and any entity in which Defendant or its parents have a controlling interest, (3) persons who properly execute and file a timely request for exclusion from the Settlement Class, and (4) the legal representatives, successors or assigns of any such excluded persons.

The Court now confirms certification of the Settlement Class.

4. Notice to the Settlement Class has been provided in accordance with the Court's Preliminary Approval Order, and the substance of and dissemination program for the Notice—which included direct notice via U.S. Mail and email and the creation of the Settlement Website, www.BWAYBIPASettlement.com—provided the best practicable notice under the circumstances. The Notice reached 99.36% of the Settlement Class and was reasonably calculated, under the circumstances, to apprise the Settlement Class of the pendency of the Action and their rights to object to or exclude themselves from the Settlement and to appear at the Final Approval Hearing. Therefore, the Notice was reasonable and constituted due, adequate, and sufficient notice to all persons entitled to receive notice and fulfilled the requirements of 735 ILCS 5/2-803, due process, and the rules of the Court.

5. The Settlement Agreement was the result of arm's-length negotiations conducted in good faith by experienced attorneys familiar with the legal and factual issues of this case and is supported by the Class Representative and Class Counsel. The Class Representative and Class Counsel adequately represented the Settlement Class for purposes of entering into and implementing the Settlement Agreement.

6. The Court has considered each of the factors set forth in *City of Chicago v. Korshak*, 206 Ill. App. 3d 968, 971–72 (1st Dist. 1990). The Court finds that the Settlement Agreement is fair, reasonable, and adequate as to, and in the best interests of, the Settlement Class Members in light of the complexity, expense, and duration of the litigation and the risks involved in establishing liability and damages and in maintaining the class action through trial and appeal. The consideration provided to Class Members under the Settlement Agreement constitutes fair value given in exchange for the Released Claims. The Court finds that the consideration to be paid to Class Members is reasonable, considering the facts and circumstances of the claims and affirmative defenses raised in the Action and the potential risks and likelihood of success of alternatively pursuing litigation on the merits.

7. No Class Member has objected to any of the terms of the Settlement Agreement, and no members of the Settlement Class have submitted timely requests for exclusion.

8. The Parties and their counsel are directed to implement and consummate the Settlement Agreement according to its terms and conditions. The Parties and Class Members are bound by the terms and conditions of the Settlement Agreement.

9. The Settlement Agreement is hereby finally approved in all respects, and the Parties are hereby directed to perform its terms.

10. Other than as provided in the Settlement Agreement and this order, the Parties shall bear their own attorneys' fees and costs incurred in any way related to the Action.

11. Subject to the terms and conditions of the Settlement Agreement, this Court hereby enters this Final Approval Order and dismisses the Action on the merits and with prejudice.

12. Upon the Effective Date of the Settlement Agreement, and in consideration of the Settlement relief described in the Settlement Agreement, Plaintiff and each Settlement Class Member and their respective present or past heirs, executors, estates, administrators, assigns and agents, and each of them, shall be deemed to have released, and by operation of this Final Approval Order shall have, fully, finally, and forever, released, acquitted, relinquished and completely discharged any and all past and present claims or causes of action, whether known or unknown (including "Unknown Claims" as defined in the Settlement Agreement), arising from Defendant's alleged collection, possession, capture, purchase, receipt through trade, obtaining, sale, profit from, disclosure, redisclosure, dissemination, storage, transmittal, and/or protection from disclosure of alleged biometric information or biometric identifiers through the use of finger scanning time clocks at Defendant's Illinois facilities, including but not limited to all violations of the Illinois Biometric Information Privacy Act ("BIPA"), against Defendant, its current and former and future owners, its affiliated companies, parents, subsidiaries, officers, directors, shareholders, and their agents, assigns, employees, and representatives. For the avoidance of doubt, Kronos Incorporated and its parents and subsidiaries are not included as Released Parties or covered by this release.

13. This release applies to all pending and future lawsuits or other proceedings maintained by or on behalf of the Plaintiff and all other Settlement Class Members and Releasing Parties.

14. The Parties may, without further approval from the Court, agree to and adopt such amendments, modifications, and expansions of the Settlement Agreement and its implementing documents (including all exhibits) that (i) shall be consistent in all material respects with this Final Approval Order; and (ii) do not limit the rights of Class Members.

15. The Court awards to Class Counsel \$547,312.50 as a fair and reasonable attorneys' fee, which shall include all attorneys' fees and reimbursable expenses associated with the Action. This amount shall be paid from the Escrow Account pursuant to the terms in the Settlement Agreement.

16. The Court awards to the Class Representative an incentive award of \$5,000.00 for his time and effort serving the Settlement Class in this Action. This amount shall be paid from the Escrow Account pursuant to the terms in the Settlement Agreement.

17. To the extent that any Settlement Payments made to Class Members pursuant to the Settlement Agreement are not cashed within one hundred and eighty (180) days of issuance or an electronic deposit is unable to be processed within one hundred and eighty (180) days of the first attempt, such funds will first be redistributed to Class Members who cashed their checks or successfully received their electronic payments, if feasible and in the interests of the Settlement Class. If redistribution is not feasible or if residual funds remain after redistribution, such funds shall be paid to Chicago Legal Aid as a *cy pres* recipient pursuant to 735 ILCS 5/2-807(b).

18. Without affecting the finality of this Final Approval Order for purposes of appeal, the Court retains jurisdiction as to all matters related to the administration, consummation, enforcement, and interpretation of the Settlement Agreement and this Final Approval Order, and for any other necessary purpose.

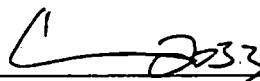
IT IS SO ORDERED.

ENTERED: _____

Judge Caroline Kate Moreland

APR 04 2023

Circuit Court - 2033



JUDGE CAROLINE KATE MORELAND
COOK COUNTY CIRCUIT JUDGE

TAB 3

FILED DATE: 8/10/2023 3:09 PM 2020CH05219

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

WAYNE C. CONLEE, Individually and on)	No. 1:11-cv-03503-JBZ
Behalf of All Other Similarly Situated,)	
)	<u>CLASS ACTION</u>
Plaintiff,)	
)	Judge James B. Zagel
vs.)	Magistrate Judge Young Kim
)	
WMS INDUSTRIES INC., et al.,)	
)	
Defendants.)	
_____)	

ORDER AWARDING ATTORNEYS' FEES AND EXPENSES

THIS MATTER having come before the Court on the motion of Lead Plaintiff for an award of attorneys' fees and expenses; the Court, having considered all papers filed and proceedings conducted herein, having found the settlement of the Action to be fair, reasonable, and adequate and otherwise being fully informed in the premises and good cause appearing therefore;

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that:

1. All of the capitalized terms used herein shall have the same meanings as set forth in the Stipulation of Settlement dated December 17, 2013 (the "Stipulation").

2. The Court has jurisdiction over the subject matter of this application and all matters relating thereto, including all members of the Class who have not timely and validly requested exclusion.

3. Pursuant to and in full compliance with Rule 23 of the Federal Rules of Civil Procedure, the Court finds and concludes that due and adequate notice of Lead Plaintiff's motion for an award of attorneys' fees and expenses was directed to all Persons and entities who are Class Members, including individual notice to those who could be identified with reasonable effort, advising them of the application for fees and expenses and of their right to object thereto, and a full and fair opportunity was accorded to all Persons and entities who are members of the Class to be heard with respect to the motion for fees and expenses.

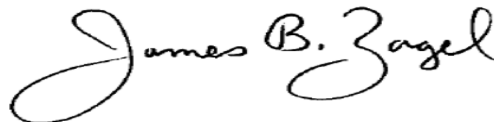
4. The Court hereby awards Lead Counsel attorneys' fees of 33% of the Settlement Fund and expenses of \$65,936.77, together with the interest earned thereon for the same time period and at the same rate as that earned on the Settlement Fund until paid. Said fees shall be allocated among Lead Plaintiff's counsel by Lead Counsel in a manner which, in their good-faith judgment, reflects each counsel's contribution to the institution, prosecution, and resolution of the Litigation. The Court finds that the amount of fees awarded is fair and reasonable under the "percentage-of-recovery" method considering, among other things that:

- (a) the requested fee is consistent with percentage fees negotiated *ex ante* in the private market for legal services;
- (b) the contingent nature of the Action favors a fee award of 33%;
- (c) the Settlement Fund of \$3.7 million was not likely at the outset of the Action;
- (d) the awarded fee is in accord with Seventh Circuit authority and consistent with empirical data regarding fee awards in cases of this size;
- (e) the quality legal services provided by Lead Counsel produced the settlement;
- (f) the Lead Plaintiff appointed by the Court to represent the Class reviewed and approved the requested fee;
- (g) the stakes of the litigation favor the fee awarded; and
- (h) the reaction of the Class to the fee request supports the fee awarded.

5. The awarded attorneys' fees and expenses, and interest earned thereon, shall be paid to Lead Counsel from the Settlement Fund immediately after the date this Order is executed subject to the terms, conditions, and obligations of the Stipulation, which terms, conditions, and obligations are incorporated herein.

IT IS SO ORDERED.

DATED: 5/20/14



THE HONORABLE JAMES B. ZAGEL
UNITED STATES DISTRICT JUDGE

TAB 4

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

RACHEL LABARRE, individually and on behalf
of the Settlement Class,

Plaintiff,

v.

CERIDIAN HCM, INC., a Delaware corporation,

Defendant,

Case No. 2019 CH 06489

Calendar 2

Hon. Celia Gamrath, presiding for
purposes of final approval

FINAL JUDGMENT AND ORDER OF DISMISSAL WITH PREJUDICE

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As a result of Judge Raymond W. Mitchell’s ascension to the Court of Appeals, Judge Celia Gamrath is sitting in the stead of Calendar 2 for purposes of ruling on the pending motions. This matter coming before the Court on Plaintiff’s Motion for and Memorandum in Support of Final Approval of Class Action Settlement between Plaintiff Rachel LaBarre (“Plaintiff”), Defendant Ceridian HCM, Inc. (“Defendant”) (Plaintiff and Defendant are collectively referred to as the “Parties”), the terms of which are set forth in the Class Action Settlement Agreement (the “Settlement Agreement”), and Plaintiff’s Motion and Memorandum of Law for Attorneys’ Fees, Expenses, and Incentive Award, the Court having been advised in the premises, and having duly considered the papers and arguments of all interested parties, and having held a Final Approval Hearing on November 30, 2022,

IT IS HEREBY ORDERED, DECREED, AND ADJUDGED AS FOLLOWS:

1. Unless defined herein, all capitalized terms in this order shall have the respective meanings ascribed to the same terms in the Settlement Agreement.

2. This Court has subject-matter jurisdiction to approve the Settlement Agreement, including all attached exhibits, and personal jurisdiction over all Parties, including all Class Members.

3. On May 18, 2022, the Court, through Judge Raymond W. Mitchell, preliminarily approved the Settlement Agreement, and certified, for settlement purposes, the Settlement Class consisting of:

All individuals who scanned their fingers in Illinois on a timeclock issued, leased, or sold by Ceridian, and for whom any alleged biometric data relating to that scan was shared with or stored by Ceridian, between May 18, 2014, and May 17, 2022.

Excluded from the Settlement Class are: (1) persons who were settlement class members in *Edmond v. DPI Specialty Foods, Inc.*, 2018-CH-09573 (Cir. Ct. Cook Cnty.), *Gonzalez v. Richelieu Foods, Inc.*, No. 20-cv-04354 (N.D. Ill.), *Terry v. Griffith Foods Grp., Inc.*, 2019-CH-12910 (Cir. Ct. Cook Cnty.), *Quarles v. Pret a Manger (USA) Ltd.*, 20-cv-7179 (N.D. Ill.), and *Struck and Jones v. Woodman's Food Market*, 2021-CH-053 (19th Jud. Cir., Lake Cnty.), (2) persons who executed Defendant's on-screen consent prior to any use of finger scanners provided by Defendant, (3) any Judge or Magistrate presiding over this Action and members of their families, (4) Defendant, Defendant's subsidiaries, parent companies, successors, predecessors, and any entity in which Defendant or its parents have a controlling interest, (5) persons who properly execute and file a timely request for exclusion from the Settlement Class, and (6) the legal representatives, successors or assigns of any such excluded persons.

The Court now confirms final certification of the Settlement Class for purposes of entering final judgment.

4. Notice to the Settlement Class has been provided in accordance with the Court's Preliminary Approval Order, and the substance of and dissemination program for the Notice—which included direct notice via U.S. Mail and email, two rounds of reminder notices, and the creation of the Settlement Website—provided the best practicable notice under the circumstances reaching 94.8% of the Settlement Class; was reasonably calculated, under the circumstances, to apprise the Settlement Class of the pendency of the Action and their rights to object to or exclude

themselves from the Settlement and to appear at the Final Approval Hearing; was reasonable and constituted due, adequate, and sufficient notice to all persons entitled to receive notice; and fulfilled the requirements of 735 ILCS 5/2-803, due process, and the rules of the Court.

5. The Settlement Agreement was the result of arm's-length negotiations conducted in good faith by experienced attorneys familiar with the legal and factual issues of this case, was reached with the assistance of Judge James F. Holderman (ret.) of JAMS Chicago who served as the Parties' mediator, and is supported by the Class Representative and Class Counsel. The Class Representative and Class Counsel adequately represented the Settlement Class for purposes of entering into and implementing the Settlement Agreement.

6. The Court has considered each of the factors set forth in *City of Chicago v. Korshak*, 206 Ill. App. 3d 968, 971–72 (1st Dist. 1990). The Court finds that the Settlement Agreement is fair, reasonable, and adequate as to, and in the best interests of, the Settlement Class Members in light of the complexity, expense, and duration of the litigation and the risks involved in establishing liability and damages and in maintaining the class action through trial and appeal. The consideration provided under the Settlement Agreement constitutes fair value given in exchange for the Released Claims. The Court finds that the consideration to be paid to Class Members who submitted Approved Claims is reasonable, considering the facts and circumstances of the claims and affirmative defenses available in the Action and the potential risks and likelihood of success of alternatively pursuing litigation on the merits.

7. The Court further finds the Parties achieved an excellent Approved Claims rate of 26.2% as a result of the Notice program. See *In re Facebook Biometric Info. Priv. Litig.*, 522 F. Supp. 3d at 620, 629, 632 (N.D. Cal. 2021) (describing similar 22% claims rate in BIPA settlement with Facebook as “impressive” and “unprecedented”).

8. The Court construes the document filed by Brenda Herron to be a request for exclusion from the Settlement Class. To the extent she would have been a Class Member she is excluded.

9. Two other members of the Settlement Class—Gabriel Vasquez and David Hurtado—have submitted requests for exclusion. Gabriel Vasquez and David Hurtado are excluded from the Settlement Class and the Settlement.

10. The Parties and their counsel are directed to implement and consummate the Settlement Agreement according to its terms and conditions. The Parties and Class Members are bound by the terms and conditions of the Settlement Agreement.

11. The Settlement Agreement is hereby finally approved in all respects, and the Parties are hereby directed to perform its terms.

12. Other than as provided in the Settlement Agreement and this order, the Parties shall bear their own attorneys' fees and costs incurred in any way related to the Action.

13. Subject to the terms and conditions of the Settlement Agreement, this Court hereby enters this Final Approval Order and dismisses the Action on the merits and with prejudice. As set forth below, the Settlement is deemed to have released all pending and future lawsuits or other proceedings maintained by or on behalf of Plaintiff and all other Settlement Class Members and Releasing Parties.

14. Upon the Effective Date of the Settlement Agreement, and in consideration of the Settlement relief described in the Settlement Agreement, Plaintiff and each Settlement Class Member and their respective present or past heirs, executors, estates, administrators, assigns and agents, and each of them, shall be deemed to have released, and by operation of this Final Approval Order shall have, fully, finally, and forever released, acquitted, relinquished and

completely discharged any and all claims of every nature and description, known or unknown (including “Unknown Claims” as defined in the Settlement Agreement), that have been or could have been asserted in the Action based on acts and/or omissions in connection with or arising out of the collection, possession, capture, purchase, receipt through trade, obtaining, sale, lease, trade, profit from, disclosure, redisclosure, dissemination, storage, transmittal, and/or protection from disclosure of alleged biometric information or biometric identifiers through the use of finger scanners, whether such conduct was alleged or unalleged, including any violation of the Biometric Information Privacy Act, against Ceridian and all of its present or former administrators, predecessors, successors, assigns, parents, subsidiaries, holding companies, investors, sister and affiliated companies, divisions, associates, affiliated and related entities, employers, employees, agents, representatives, consultants, independent contractors, directors, managing directors, officers, partners, principals, members, attorneys, vendors, accountants, fiduciaries, financial and other advisors, investment bankers, insurers, reinsurers, employee benefit plans, underwriters, shareholders, lenders, auditors, investment advisors, and any and all present and former companies, firms, trusts, corporations, officers and directors. For the avoidance of doubt, Defendant’s customers (including, specifically, employers that used a Ceridian timeclock in Illinois) are not included as Released Parties or covered by this release.

15. The Parties may, without further approval from the Court, agree to and adopt such amendments, modifications, and expansions of the Settlement Agreement and its implementing documents (including all exhibits) that (i) shall be consistent in all material respects with this Final Judgment; and (ii) do not limit the rights of Class Members.

16. The Court awards to Class Counsel \$1,222,575.90 as a fair and reasonable attorneys’ fee, which shall include all attorneys’ fees and reimbursable expenses associated with

the Action. This amount shall be paid from the Escrow Account pursuant to the terms in the Settlement Agreement.

17. The Court awards to the Class Representative an incentive award of \$5,000.00 for her time and effort serving the Settlement Class in this Action. This amount shall be paid from the Escrow Account pursuant to the terms in the Settlement Agreement.

18. To the extent that any Settlement Payments made to Class Members pursuant to the Settlement Agreement are not cashed within one hundred and eighty (180) days of issuance or an electronic deposit is unable to be processed within one hundred and eighty (180) days of the first attempt, the total amount of such residual funds shall be paid to the Illinois Bar Foundation as a *cy pres* recipient. If any residual funds are paid to the Illinois Bar Foundation, Plaintiff shall inform the Court via email, indicating the amount of such funds.

19. Without affecting the finality of this Final Approval Order for purposes of appeal, the Court retains jurisdiction as to all matters related to the administration, consummation, enforcement, and interpretation of the Settlement Agreement and this Final Approval Order, and for any other necessary purpose.

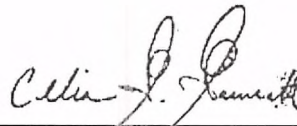
IT IS SO ORDERED.

Judge Celia G. Gamrath

NOV 30 2022

Circuit Court - 2031

ENTERED: _



JUDGE CELIA GAMRATH
COOK COUNTY CIRCUIT JUDGE

Calendar 6 Contact Information
Chambers Phone 312 603 4890
Email ccc.chancerycalendar6@cookcountyil.gov
Zoom ID - 928 4730 2982
Password - 411367

TAB 5

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

ASHLEY PIERRELOUIS, Individually and
on Behalf of All Others Similarly Situated,

Plaintiff,

v.

GOGO INC., MICHAEL J. SMALL,
NORMAN SMAGLEY, BARRY ROWAN,
and JOHN WADE,

Defendants.

Civil Action No. 18-cv-04473

Honorable Jorge L. Alonso

**AMENDED ORDER AWARDING ATTORNEYS' FEES AND
REIMBURSEMENT OF LITIGATION EXPENSES**

This matter came on for hearing on August 30, 2022 (the "Settlement Hearing") on Lead Counsel's motion for an award of attorneys' fees and reimbursement of Litigation Expenses. The Court having considered all matters submitted to it at the Settlement Hearing and otherwise; and it appearing that notice of the Settlement Hearing substantially in the form approved by the Court was provided to all Settlement Class Members who or which could be identified with reasonable effort; and that a summary notice of the hearing substantially in the form approved by the Court was published in *Investor's Business Daily* and was transmitted over the *PR Newswire* pursuant to the specifications of the Court; and the Court having considered and determined the fairness and reasonableness of the award of attorneys' fees and Litigation Expenses requested,

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. This Order incorporates by reference the definitions in the Stipulation and Agreement of Settlement dated April 12, 2022 (ECF No. 150-1) (the "Stipulation") and all capitalized terms not otherwise defined herein shall have the same meanings as set forth in the Stipulation.

2. The Court has jurisdiction to enter this Order and over the subject matter of the action and all Parties to this Action, including all Settlement Class Members.

3. Notice of Lead Counsel's motion for an award of attorneys' fees and reimbursement of Litigation Expenses was given to all Settlement Class Members who could be identified with reasonable effort. The form and method of notifying the Settlement Class of the motion for an award of attorneys' fees and expenses satisfied the requirements of Rule 23 of the Federal Rules of Civil Procedure, the Private Securities Litigation Reform Act of 1995 (15 U.S.C. §78u-4(a)(7)), due process, and all other applicable law and rules, constituted the best notice practicable under the circumstances, and constituted due and sufficient notice to all persons and entities entitled thereto.

4. Lead Counsel is hereby awarded attorneys' fees in the amount of 33⅓% of the Settlement Fund (including interest earned thereon at the same rate as the Settlement Fund) and \$139,347.45 in reimbursement of counsel's out-of-pocket litigation expenses (which fees and expenses shall be paid from the Settlement Fund), which sums the Court finds to be fair and reasonable.

5. In making this award of attorneys' fees and reimbursement of expenses to be paid from the Settlement Fund, the Court has considered and found that:

- a. The Settlement has created a fund of \$17,300,000 in cash that has been funded into escrow pursuant to the terms of the Stipulation, and that numerous Settlement Class Members who submit acceptable Claim Forms will benefit from the Settlement that occurred because of the efforts of Plaintiff's Counsel;
- b. At least 21,851 copies of the Notice were mailed to potential Settlement Class Members and nominees stating that Lead Counsel would apply for attorneys' fees in an amount not to exceed 33⅓% of the Settlement Fund and reimbursement of Litigation Expenses in an amount not to exceed \$350,000, which may include \$20,000 for reimbursement of the reasonable costs and expenses incurred by Lead

Plaintiff. There were no objections to the requested attorneys' fees and reimbursement of Litigation Expenses;

- c. Plaintiff's Counsel conducted the litigation and achieved the Settlement with skill, perseverance and diligent advocacy, and they are highly experienced in the field of securities class action litigation;
- d. The Action involves complex factual and legal issues and, in the absence of settlement, would involve lengthy proceedings whose resolution would be uncertain;
- e. Had Plaintiff's Counsel not achieved the Settlement there would remain a significant risk that Plaintiff and the other members of the Settlement Class may have recovered less or nothing from Defendants;
- f. Plaintiff's Counsel devoted over 3,699.55 hours with a lodestar value of approximately \$2,448,271.50, to achieve the Settlement; and
- g. The amount of attorneys' fees awarded from the Settlement Fund are fair and reasonable and consistent with fee awards approved in similarly complex cases within the Seventh Circuit.

6. Lead Plaintiff Daniel Rogers is hereby awarded \$20,000 from the Settlement Fund as reimbursement for his reasonable costs and expenses directly related to his representation of the Settlement Class.

7. Any appeal or any challenge affecting this Court's approval regarding any attorneys' fees and expense application shall in no way disturb or affect the finality of the Judgment.

8. Exclusive jurisdiction is hereby retained over the Parties and the Settlement Class Members for all matters relating to this Action, including the administration, interpretation, effectuation or enforcement of the Stipulation and this Order.

9. In the event that the Settlement is terminated or the Effective Date of the Settlement otherwise fails to occur, this Order shall be rendered null and void to the extent provided by the Settlement.

10. There is no just reason for delay in the entry of this Order, and immediate entry by the Clerk of the Court is expressly directed.

SO ORDERED this 13th day of October, 2022.

A handwritten signature in black ink, consisting of a large, stylized 'J' and 'A' with a dot, enclosed within a large, loopy oval shape.

The Honorable Jorge L. Alonso
United States District Judge