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

IN RE: FUTURE MOTION, INC.

PRODUCTS LIABILITY LITIGATION

No.: 23-md-03087-BLF

**JOINT INITIAL CASE MANAGEMENT  
 STATEMENT**

This document relates to:

ALL ACTIONS

The Parties submit this Initial Case Management Statement, and would respectfully show the  
 Court as follows:

**1. Appointment and Organization of Plaintiffs' Leadership**

**a. Individual Personal Injury/Wrongful Death Actions**

Plaintiffs believe it advisable for appointment of lead counsel. Specifically, individual  
 personal injury/wrongful death action Plaintiffs ("PIWD Plaintiffs") undersigned or listed on this

CMC statement propose **Robert W. Cowan of Bailey Cowan Heckaman PLLC** and **Rene F. Rocha of Morgan & Morgan** to serve as PIWD Plaintiffs' Co-Lead Counsel for the individual personal injury/death actions. A copy of each applicant's *curricula vitae* and/or declaration is attached hereto as Exhibits A and B for the Court's review.

In addition to the appointment of Co-Lead Counsel, PIWD Plaintiffs submit that Plaintiffs' leadership should also include a steering committee, a law and briefing committee, a discovery committee, and a settlement committee. Members of those committees would be selected and proposed on motion before the Court's second Case Management Conference.

Future Motion also believes it is advisable for the appointment of, at least, Lead Counsel for Plaintiffs so that Future Motion can work as efficiently as possible with the Plaintiffs' group. Future Motion proposes that the appointment of Lead Counsel for Plaintiffs occur before further substantive events occur.

**b. Separate Class Action Case**

Plaintiff's Proposal:

Counsel for the putative class in the class action case entitled *Loh v. Future Motion, Inc.*, Case No. 5:21-cv-06088 (N.D. California) (the "Loh Action") respectfully request the Court to appoint M. Anderson Berry at the law firm Clayco C. Arnold, A Professional Corporation, and Jerrod C. Patterson at Hagens Berman Sobol Shapiro LLP as co-lead counsel on behalf of the putative class. The firm and individual resumes for both counsel are attached hereto as Exhibits C and D.

Defendant's Proposal:

Future Motion does not object to the above request that Anderson Berry and Jerrod Patterson be appointed as co-lead counsel on behalf of the putative class. However, its lack of objection is not a concession that counsel meet the adequacy requirements of Federal Rule of Civil Procedure 23(a) and Future Motion expressly reserves its right to challenge counsel's adequacy pursuant to that rule.

1     **2.     Proposed Representative Cases**

2             **a.     PIWD Plaintiffs' Proposal:**

3             PIWD Plaintiffs submit *Bunnell, et al.*, 1:22-cv-01220 ("*Bunnell*") and *Oatridge, et al.*, 5:21-  
4     cv-09906 ("*Oatridge*") as two of four representative cases. Generally, and as discussed more in depth  
5     in Section 7, *infra*, all constituent actions are predicated upon allegations that PIWD Plaintiffs  
6     sustained personal injuries while riding various models of Defendant's Onewheel device. More  
7     specifically, PIWD Plaintiffs allege that while riding their respective Onewheel devices the board  
8     suddenly and unexpectedly stopped, shut down, or otherwise shut off causing the board to cease self-  
9     balancing and "nosedive" forward, resulting in the rider being ejected from the device.

10            In *Bunnell*, Carl Joseph Bunnell was riding his Onewheel XR with his son in Colorado when  
11     he experienced a nosedive. Mr. Bunnell was ejected from the Onewheel and violently slammed into  
12     the concrete sidewalk he was riding on. As a result, Mr. Bunnell suffered severe brain damage, which  
13     ultimately caused his untimely death. In *Oatridge*, Darryl Martin John Oatridge was riding his  
14     Onewheel+ XR in Kansas when he, too, experienced a nosedive. Mr. Oatridge's impact with the  
15     concrete path he was riding on caused cervical neck fractures resulting in quadriplegia.

16            The foregoing cases are representative of the most serious injuries, including a fatal injury, in  
17     the MDL. Plaintiffs would additionally propose that one or two additional cases be selected (by  
18     Plaintiffs) representing less serious injuries. Plaintiffs would select those two additional cases before  
19     the Court's next case management conference.

20            **b.     Defendant's Proposal:**

21            While there is variance in the procedural posture of the cases, the majority of cases are at the  
22     beginning of fact discovery or have had no discovery occur. In addition, Future Motion was advised  
23     that a significant number of new cases would be filed in federal court – perhaps as many or more than  
24     are currently in the MDL. Future Motion also expects additional cases to be removed from state court.

1 Thus, given that most cases were only recently initiated or have yet to be initiated and Future Motion  
2 has only limited information regarding the majority of the cases that will be involved in this  
3 proceeding, Future Motion believes that it is premature to select representative cases. Instead, Future  
4 Motion proposes that a brief period be allowed for cases to be added followed by a period for a  
5 Plaintiff's Fact Sheet (PFS) to be responded to prior to the selection of representative cases.  
6

7 With regard to the selection of representative cases, after PFSs are verified, Future Motion  
8 suggests that Plaintiff's Lead Counsel and Defendant each select four cases involving significant  
9 injuries and four involving less significant injuries. Each side would then be permitted to strike two  
10 cases from each category and merits-based discovery would then proceed on the remaining cases.  
11

12 If instead, Future Motion must identify cases with limited information and more than 30+  
13 outstanding cases to be transferred/filed, then it preliminarily identifies the following five as  
14 representative cases, with the intention of selecting eight total after all cases are added:

- 15 1. Schuyler Elliott v. Future Motion, Inc. (Onewheel+ XR, alleges he broke his left wrist);
- 16 2. Kwynn Koop v. Future Motion, Inc. (Onewheel+ XR, alleges he broke his clavicle, had  
17 fractured ribs, a punctured lung, some contusions, and a head injury);
- 18 3. Stephen Russo v. Future Motion, Inc., et al. (Onewheel+ XR, alleges he suffered a  
19 traumatic brain injury, fluctuating attention, impaired memory, word retrieval impairment,  
20 decreased patience, and confusion caused by head trauma, anxiety, insomnia, PTSD, and  
21 frustration);
- 22 4. Shane Smith v. Future Motion, Inc. (Onewheel+ XR, alleges he sustained a comminuted  
23 fracture of the left clavicle, left elbow abrasions, and a displaced fracture of the right big  
24 toe);  
25  
26  
27  
28

1           5. Bryan Reedy v. Future Motion, Inc., et al (Onewheel Pint, alleges he sustained a loss of  
2           consciousness, and a herniated nucleus pulposus in the cervical spine resulting in central  
3           cord syndrome and a cervical fusion).

4           The identification of representative cases is based on information presently available to Future  
5           Motion. As indicated above, Future Motion understands there are a significant number of cases that  
6           will be included in this proceeding in the near future. Future Motion does not have information on the  
7           nature of these cases, which makes their selection or exclusion as representative cases premature.

8           By identifying preliminary representative cases, Future Motion does not intend any waiver of  
9           *Lexecon*.

### 10           3. **Proposed Presentation of Early Motions**

#### 11           a. **PIWD Plaintiffs' Proposal:**

12           PIWD Plaintiffs do not anticipate the filing of any early motions and will defer to the *Loh* Class  
13           Counsel and Defendants on how to proceed with the presentation of Motions related to *Loh*.

#### 14           b. ***Loh* Class Counsel Proposal:**

15           The parties in the *Loh* Action have previously filed briefing on Future Motion's motion to  
16           dismiss, and motion to strike the class action allegations. The *Loh* parties respectfully request leave to  
17           re-file this briefing on a date specified by the Court. Considering that the *Loh* action is already a  
18           consolidated action, consolidating two separately filed Class Actions, *Loh et al. v. Future Motion, Inc.*  
19           No. 5:21-cv-06088 (N.D. Cal.) and *Wang et al. v. Future Motion, Inc.*, No. 5:22-cv-05064 (N.D. Cal.),  
20           if the Court elects to consolidate the present consolidated class action with the recently filed, and not  
21           yet served, *Nemeth* action, Plaintiffs in the *Loh* Action believe that any future filed related Class  
22           Actions, including *Nemeth*, should be subsumed under the operative Consolidated Class Action  
23           Complaint.  
24  
25  
26  
27  
28

1           **c. Defendant's Proposal:**

2           Prior to coordination, Future Motion had filed and fully briefed motions to dismiss the  
3 operative class action complaint and to strike the class allegations. Given coordination, Future Motion  
4 agrees with the *Loh* plaintiffs and their counsel that the motions and briefs should be re-filed and given  
5 a new hearing date that best aligns with proceedings in the personal injury matters.  
6

7           Nevertheless, Future Motion also respectfully requests that this Court consider whether the  
8 *Loh* and *Nemeth* actions should be consolidated into a single putative class case given the overlap of  
9 allegations, time periods, and putative classes. Should this Court decide that the two matters should  
10 be consolidated, then Future Motion respectfully submits that the *Loh* plaintiffs and *Nemeth* plaintiffs  
11 should submit a new consolidated class action complaint and Future Motion be afforded the  
12 opportunity to challenge it anew, if prudent and consistent with the procedures set forth in the Federal  
13 Rules of Civil Procedure. If this Court opts not to require that *Loh* and *Nemeth* be consolidated, then  
14 Future Motion intends to file a motion to dismiss and a motion to strike once it is properly served by  
15 the *Nemeth* plaintiffs.  
16

17           **4. Proposed Discovery Schedule**

18           **a. Plaintiffs' Proposal:**

19           To avoid the potential loss of relevant evidence and permit the Parties to proceed expeditiously,  
20 PIWD Plaintiffs and Class Counsel Plaintiffs propose first focusing discovery efforts on common fact  
21 discovery of Defendant with an eye toward completion by the end of June 2024. Common fact  
22 discovery of Defendant should consist of, at a minimum:  
23

- 24           • Defendant's service upon Plaintiffs of rules-compliant and comprehensive Rule 26(a)  
25 disclosures with particular focus on production of documents showing applicable  
26 insurance coverages, including primary, excess and umbrella policies, for all policy  
27 periods implicated by the constituent actions, as well as the disclosure of Defendant's  
28 self-insured retention limits, if any, for each implicated policy period;
- written discovery propounded on Defendant focused on issues common to all MDL cases;

- depositions of Defendant and Defendant's corporate witnesses; and
- source code inspections for each model Onewheel device.

After the commencement of common fact discovery, the Parties should proceed with representative-case Plaintiff-specific discovery, followed by expert disclosures and discovery, with an eye towards completion by mid-November 2024.

A detailed proposed schedule follows:

Event	Date
Serve Parties' Initial Disclosures	30 days from first CMC
Parties' Final Proposals of Representative Cases	February 1, 2024
Court's Final Selection of Representative Cases	February 29, 2024
Commencement of Fact Discovery of Representative Plaintiffs	May 1, 2024
Close of Common Fact Discovery of Defendant	July 1, 2024
Close of Representative Plaintiff Fact Discovery	July 31, 2024
Plaintiffs' Expert Designations	September 16, 2024
Class counsel's motion for class certification	September 16, 2024
Defendants' Expert Designations	October 18, 2024
Defendants' opposition to motion for class certification	October 18, 2024
Representative PI Cases Sequenced for Trial	October 18, 2024
Close of Expert Discovery	November 18, 2024
Reply in support of motion for class certification	November 18, 2024
<i>Daubert</i> /Dispositive Motions for first three Representative PIWD Trials <sup>1</sup>	December 16, 2024
Responses to <i>Daubert</i> /Dispositive Motions for PIWD cases	January 13, 2025
Replies to <i>Daubert</i> /Dispositive Motions for PIWD cases	January 27, 2025

<sup>1</sup> Class counsel recommends deferring dispositive rulings and trial pending the completion of the first bellwether PI trial.

<b>Event</b>	<b>Date</b>
Hearing on <i>Daubert</i> /Dispositive Motions for PIWD cases	February 11, 2025
Motions <i>in Limine</i> Filed for PIWD cases	March 11, 2025
Motion <i>in Limine</i> Responses Filed	April 1, 2025
Motion <i>in Limine</i> Replies Filed	April 15, 2025
Final Pretrial Conference (First Representative Trial)	May 15, 2025
First Representative Trial	June 16, 2025
Final Pretrial Conference (Second Representative Trial)	July 16, 2025
Second Representative Trial	August 18, 2025
Final Pretrial Conference (Third Representative Trial)	September 17, 2025
Third Representative Trial	October 20, 2025
Serve Parties' Initial Disclosures	30 days from first CMC
Parties' Final Proposals of Representative Cases	February 1, 2024
Court's Final Selection of Representative Cases	February 29, 2024
Commencement of Fact Discovery of Representative Plaintiffs	May 1, 2024
Close of Common Fact Discovery of Defendant	July 1, 2024
Close of Representative Plaintiff Fact Discovery	July 31, 2024
Plaintiffs' Expert Designations	September 16, 2024
Defendants' Expert Designations	October 18, 2024
Representative Cases Sequenced for Trial	October 18, 2024
Close of Expert Discovery	November 18, 2024
<i>Daubert</i> /Dispositive Motions for first three Representative Trials	December 16, 2024
Responses to <i>Daubert</i> /Dispositive Motions	January 13, 2025
Replies to <i>Daubert</i> /Dispositive Motions	January 27, 2025
Hearing on <i>Daubert</i> /Dispositive Motions	February 11, 2025
Motions <i>in Limine</i> Filed	March 11, 2025
Motion <i>in Limine</i> Responses Filed	April 1, 2025
Motion <i>in Limine</i> Replies Filed	April 15, 2025
Final Pretrial Conference (First Representative Trial)	May 15, 2025



First Representative Trial	June 16, 2025
Final Pretrial Conference (Second Representative Trial)	July 16, 2025
Second Representative Trial	August 18, 2025
Final Pretrial Conference (Third Representative Trial)	September 17, 2025
Third Representative Trial	October 20, 2025

At or near the conclusion of the first three representative trials, the Parties should meet and confer and present the Court with a proposal for either remand of the balance of the untried cases, or additional, future representative trials.

**b. Defendant's Proposal:**

Future Motion believes that a period to add cases should be provided for, with a corresponding period to Answer the new cases or bring motions to dismiss, as necessary. Future Motion also notes that although Plaintiffs have not proposed a Master Complaint, after all 70+ cases are filed in this proceeding, a Master Complaint may ultimately be advisable. After the pleadings are settled, and Lead counsel has been selected, discovery can be commenced.

Future Motion objects to Plaintiffs' unequal proposal to proceed with discovery solely against the Defendant first. The Plaintiffs asserted their claims against and the Plaintiffs have the burden of proof. It is axiomatic that, absent an understanding of the facts at issue in the Plaintiffs' claims, the parties cannot properly identify the scope of relevant discovery against Future Motion and Future Motion cannot fully prepare its defense. Without discovery of all Plaintiffs through the completion of a Plaintiff Fact Sheet, Future Motion is severely restricted in its ability to even identify representative Plaintiffs cases. The purpose of this coordinated proceeding is to allow for a streamlined procedure for discovery, not to preclude Future Motion from its ability to equally conduct discovery of the parties asserting claims against Future Motion.

Future Motion proposes the following schedule through the close of discovery:

DEADLINE	EVENT
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1	January 22, 2024	Applications for the Appointment of Lead
2		Counsel for Plaintiffs.
3	January 29, 2024	Objections to Applications for the
4		Appointment of Lead Counsel for Plaintiffs.
5	February 5, 2024	Ruling on Applications for the Appointment of
6		Lead Counsel for Plaintiffs.
7	February 5, 2024	Period to Allow for Filing and/or Service of
8		Additional Complaints
9	February 12, 2024	Draft Plaintiff's Fact Sheet provided by
10		Defendant to Lead Counsel for Plaintiffs
11	March 13, 2024	Answer(s) to any Additional Complaint(s) or
12		Rule 12 motion(s) to dismiss/strike
13		Complaint(s)
14	March 13, 2024	Final Plaintiff's Fact Sheet Distributed to all
15		Plaintiff's counsel
16	March 27, 2024	Briefs in Opposition(s) to Rule 12 motion(s) to
17		dismiss/strike Complaint(s)
18	April 3, 2024	Reply Briefs in Support of Rule 12 motion(s)
19		to dismiss/strike Complaint(s)
20	April 15, 2024	Completed Plaintiff's Fact Sheets Served
21	To be scheduled by the Court	Hearing on Rule 12 motion(s) to dismiss/strike
22		Complaint(s)
23	To be determined the Court	Ruling on Rule 12 motion(s) to dismiss/strike
24		Complaint(s)
25	May 15, 2024	Representative Cases to be proposed with four
26		cases each in the significant and not-significant
27		injury categories
28		

June 3, 2024	Each Party to Strike two cases in each category from the other side's proposed Representative Cases
30 days after Representative Cases are Identified	Rule 26(a)(1) Initial Disclosures due and opening of fact discovery
30 days after Initial Disclosures	Form Discovery from All Plaintiffs and Form Discovery to All Plaintiffs
60 days after service of Form Discovery	Responses to Form Discovery
90 day time period after responses to Form Discovery	Record Collection / Subpoenas
To be scheduled in the 90 day time period after responses to Form Discovery	Board Inspections, Gear Inspections, Mobile Application Inspections
120 days after record collections/inspections	Depositions
At the end of the deposition schedule	Close of Fact Discovery
60 days after the close of fact discovery	Plaintiffs' Expert Designations
60 days after Plaintiffs' Expert Designations	Defendant's Expert Designations
60 days after Defendant's Expert Designations	Close of Expert Discovery
30 days after Close of Expert Discovery	Rule 702/Dispositive Motions for Representative Cases
14 days after moving brief	Oppositions to Rule 702/Dispositive Motions for Representative Cases
7 days after opposition	Replies in Support of Rule 702/Dispositive Motions for Representative Cases
To be scheduled by the Court	Hearing on Rule 702/Dispositive Motions for Representative Cases
To be determined the Court	Rulings on Rule 702/Dispositive Motions for Representative Cases

1  
2 A coordinated proceeding of Onewheel personal injury cases was recently established in  
3 California state court. The California state court proceedings involves many of the same plaintiffs’  
4 counsel that are involved in the present federal proceeding. Future Motion proposes coordinating  
5 discovery between the state court and federal court cases, as practical, to allow for the efficient conduct  
6 of discovery.  
7

8 Future Motion has not waived *Lexecon* and, therefore, has not agreed to “representative trials.”

9 **5. Status of Constituent Actions**

10 **a. Plaintiffs’ Position:**

11 The procedural posture of each constituent action is (at least for some cases) significantly  
12 variable. In the spirit of brevity, Plaintiffs submit a broad overview of cases that are similarly situated  
13 by their progression on deadlines established in their previous scheduling orders. Generally, the  
14 constituent actions can aptly fit into three categories: cases in which all discovery had previously  
15 closed, cases in which some discovery had been completed, and cases in which little if any discovery  
16 has been completed.  
17

18 **Cases where discovery has previously closed.** Prior to centralization, discovery had  
19 completely closed in six individual actions—*Bailey*, 3:22-cv-00855, *Haggerty*, 1:22-cv-00322, *Koop*,  
20 3:22-cv-00134, *Nacca*, 6:22-cv-00472, *Roesler*, 2:22-cv-00144, and *Smith*, 8:22-cv-00320. *Daubert*  
21 motions were filed in *Haggerty*, *Koop*, *Roesler*, and *Smith*, and motions for summary judgment were  
22 filed in *Haggerty*, *Koop*, and *Roesler*. Notwithstanding the status of those individual cases, Plaintiffs  
23 collectively believe that all cases should still benefit from common general and expert discovery. For  
24 these cases, Plaintiffs reserve the right to rely upon previously conducted discovery, such as prior  
25 written discovery responses, deposition testimony, and case-specific expert reports served.  
26  
27  
28

**Cases where some discovery has been completed.** Prior to centralization discovery, the following 12 cases had completed some amount of discovery—*Brown*, 1:22-cv-04510, *Bunnell*, 1:22-cv-01220, *Downs*, 5:22-cv-01029, *Greer*, 3:22-cv-00810, *Gregie*, 1:22-cv-05528, *Gustafson*, 1:22-cv-02632, *Kinchen*, 4:22-cv-01970, *King*, 8:22-cv-03323, *McNair*, 3:22-cv-00329, *Oatridge*, 5:21-cv-09906, *Thomas*, 6:23-cv-01334, *Reedy*, 3:21-cv-17081, and *Young*, 2:22-cv-01701. In each of those 12 cases, written discovery was exchanged and responded to, subject to certain disputes over the responsiveness of the answers provided and/or documents produced. For example, discovery motions in at least some cases were being prepared and/or pending filing. Plaintiffs collectively believe the completion of general and expert discovery, as discussed in Section 4., *supra*, will permit the cases to be ready for *Daubert* and summary judgment motion practice, and then trial.

**Cases where little discovery has been completed.** The remaining 16 constituent actions have engaged in a little, if any discovery.

With respect to tag-along lawsuits, Plaintiffs are not currently aware of any tag-along lawsuits that were not the subject of the Court's December 18, 2023 Conditional Transfer Order (MDL Dkt. 9).

**b. Defendant's Position:**

There are 38 cases that have thus far been coordinated in this district. The cases and their status are summarized below:

	CASE CAPTION	STATUS
1.	Jason Bailey v. Future Motion, Inc.	Fact discovery closed
2.	James R. Barczy v. Future Motion, Inc.	Answered Complaint. No discovery.
3.	Matthew Boston v. Future Motion, Inc.	Answered Complaint. No discovery.

1	4.	Jason Brown v. Future Motion, Inc., et al.	Exchanged some written fact discovery. No depositions.
2			
3	5.	Ron Bunnell, et al. v. Future Motion, Inc., et al.	Exchanged some written fact discovery. No depositions.
4			
5	6.	Jonathan Wesley Burke v. Future Motion, Inc.	Answered Complaint. No discovery.
6			
7	7.	Christopher Delapaz v. Future Motion, Inc.	Exchanged some written fact discovery. No depositions.
8			
9	8.	Grant Downs v. Future Motion, Inc.	Exchanged some written fact discovery. No depositions.
10			
11	9.	Schulyer Elliott v. Future Motion, Inc.	Exchanged some written fact discovery. No depositions.
12			
13	10.	Christopher John Emmel v. Future Motion, Inc.	Answered Complaint. No discovery.
14			
15	11.	Kirston Gould v. Future Motion, Inc.	Answered Complaint. Served Initial Disclosures.
16			
17	12.	Brandon Greer v. Future Motion, Inc.	Exchanged some written fact discovery. No depositions.
18			
19	13.	Keith Gregie v. Future Motion, Inc., et al.	In fact discovery with some depositions completed.
20			
21	14.	James Gustafson v. Future Motion, Inc., et al.	Exchanged some written fact discovery. No depositions.
22			
23	15.	Michael Haggerty v. Future Motion, Inc., et al.	Fact discovery closed.
24			
25	16.	Brian Kinchen and wife, Lori Kinchen v. Future Motion, Inc.	In fact discovery with some depositions completed.
26			
27	17.	Samuel W. King v. Future Motion, Inc.	In fact discovery with some depositions completed.
28			

1	18.	Kwynn Koop v. Future Motion, Inc., et al.	Fact discovery closed.
2			
3	19.	James Loh, Sean Michael Smith, Giovany Rico, and Bradley Reber, individually, and on behalf of those similarly situated v. Future Motion, Inc.	Motions to dismiss and to strike pending.
4			
5	20.	Orlando Lopez-Roman v. Future Motion, Inc.	Answered Complaint. No discovery.
6			
7	21.	Matthew McAllister v. Future Motion, Inc.	Exchanged some written fact discovery. No depositions.
8			
9	22.	Victor McNair v. Future Motion, Inc.	In fact discovery with one deposition completed.
10			
11	23.	Caleb Metts v. Future Motion, Inc.	Answered Complaint. No discovery.
12			
13	24.	Ralph Nacca v. Future Motion, Inc.	Fact discovery closed.
14			
15	25.	Thomas Nemeth v. Future Motion	Complaint filed, but Future Motion has not been served. No discovery.
16			
17	26.	Thomas Nemeth v. Future Motion	Complaint filed, but Future Motion has not been served. No discovery.
18			
19	27.	Darryl Martin John Oatridge and Bridget Oatridge v. Future Motion, Inc., et al.	Exchanged some written fact discovery. No depositions.
20			
21	28.	Scott Patrick v. Future Motion, Inc., et al.	In fact discovery with one deposition completed.
22			
23	29.	Ian Quincannon v. Future Motion, Inc.	Exchanged some written fact discovery. No depositions.
24			
25	30.	Bryan Reedy v. Future Motion, Inc., et al	In fact discovery with some depositions completed.
26			
27			
28			

31.	Jonathan Reeves v. Future Motion, Inc.	Exchanged some written fact discovery. No depositions.
32.	Kevin Roesler v. Future Motion, Inc.	Fact discovery closed.
33.	Stephen Russo v. Future Motion, Inc., et al.	In fact discovery with one deposition completed
34.	John Scherschel v. Future Motion, Inc.	Answered Complaint. No discovery.
35.	Shane Smith v. Future Motion, Inc.	Fact discovery closed.
36.	Joel Thomas v. Future Motion, Inc.	In fact discovery with one deposition completed.
37.	Anh Truong v. Future Motion, Inc.	Answered Complaint. No discovery.
38.	Whitney Young and Mary Kokstis v. Future Motion, Inc.	In fact discovery with some depositions completed.

Future Motion is not aware of any tag-along lawsuits at this time. However, Future Motion was advised that an additional 30+ cases would be filed. Future Motion is also aware of several lawsuits in state courts that may be subject to removal.

#### **6. Proposed Procession of Class Claims**

Class counsel are unaware of any other class cases that have been added to this proceeding. However, on November 20, 2023, a class action case was filed by separate counsel in the Eastern District of Michigan in *Nemeth v. Future Motion Inc.*, 23-cv-12787 (E.D. Mich.).

As reflected in the proposed schedule above, class counsel suggest conducting discovery in coordination with the PIWD cases, but deferring dispositive motions and trial until after the first PIWD



1 bellwether trial. This approach will maximize efficiencies and provide all parties insight into the merits  
2 of their claims and defenses.

### 3 **7. Preliminary Statement of Facts and Identification of Legal Issues**

#### 4 **a. Plaintiffs' Preliminary Statement of Facts and Identification of Legal Issues:**

5 Defendant's Onewheel products are self-balancing, battery-powered, one-wheeled electric  
6 transports that are often described as electric skateboards. The Onewheel product line is composed of  
7 seven separate models, including the Onewheel, Onewheel+, Onewheel+ XR, Onewheel Pint,  
8 Onewheel Pint X, Onewheel GT, and Onewheel GT S-Series. According to Onewheel's creator and  
9 Defendant's Chief Executive Officer, Kyle Doerksen, each model is "totally different."

10 Notwithstanding the differences between Onewheel models, at least according to Defendant,  
11 each Onewheel is equipped with a "warning system" (which is, ironically, the products' most  
12 dangerous and unpredictable feature) referred to as "pushback." Pushback is allegedly designed to  
13 warn riders to avoid a dangerous situation by purportedly causing the nose of the board to rise upwards.  
14 Often however, instead of or in addition to such pushback, the Onewheel will simply shut off and  
15 cause the board to unbalance and "nosedive" forward, resulting in the rider being ejected from the  
16 device, frequently at high, unsafe speeds. Further, the company has described pushback as "subtle"  
17 and difficult for at least new riders to detect—even though for most boards pushback constitutes the  
18 *only* warning a rider will ever receive prior to a nosedive or other sudden, unexpected shutdown.  
19

20 In November 2022, the Consumer Product Safety Commission (the "CPSC") issued a press  
21 release warning Onewheel users that it "evaluated the Onewheel products and found that [Onewheels]  
22 can cause the rider to be ejected from the product . . . ." (CPSC, *CPSC Warns Consumers to Stop*  
23 *Using Onewheel Self-Balancing Electric Skateboards Due to Ejection Hazard; At Least Four Deaths*  
24 *and Multiple Injuries Report*, (Nov. 16, 2022), [https://www.cpsc.gov/Newsroom/News-](https://www.cpsc.gov/Newsroom/News-Releases/2023/CPSC-Warns-Consumers-to-Stop-Using-Onewheel-Self-Balancing-Electric-)  
25 [Releases/2023/CPSC-Warns-Consumers-to-Stop-Using-Onewheel-Self-Balancing-Electric-](https://www.cpsc.gov/Newsroom/News-Releases/2023/CPSC-Warns-Consumers-to-Stop-Using-Onewheel-Self-Balancing-Electric-)  
26  
27  
28

1 [Skateboards-Due-to-Ejection-Hazard-At-Least-Four-Deaths-and-Multiple-Injuries-Reported.](#)) The  
 2 CPSC, consistent with Plaintiffs’ allegations, identified the Onewheel’s propensity to “suddenly stop”  
 3 as one of the attendant defects resulting in injuries and death. (*Id.*) Not until nearly a year later, in  
 4 September 2023, did the CPSC and Defendant announce the recall of 300,000 Onewheel devices.  
 5 (*CPSC, Future Motion Recalls Onewheel Self-Balancing Electric Skateboards Due to Crash Hazard;*  
 6 *Four Deaths Reported*, (Sept. 29, 2023), [https://www.cpsc.gov/Recalls/2023/Future-Motion-Recalls-](https://www.cpsc.gov/Recalls/2023/Future-Motion-Recalls-Onewheel-Self-Balancing-Electric-Skateboards-Due-to-Crash-Hazard-Four-Deaths-Reported)  
 7 [Onewheel-Self-Balancing-Electric-Skateboards-Due-to-Crash-Hazard-Four-Deaths-Reported.](#)) End  
 8 users of the original Onewheel model and Onewheel+ model were offered a pro-rated refund upon  
 9 disposal of the device. (*Id.*) End users of the Onewheel XR, Onewheel Pint, Onewheel Pint X, and  
 10 Onewheel GT were advised to stop using their devices until they could remotely install a firmware  
 11 update that equipped those models with a “tactile *and* audible warning system” called “Haptic Buzz  
 12 [.]” (*Id.* (emphasis added).) The Haptic Buzz warning system purportedly provides a buzzing  
 13 sensation and sound warning to users when (at least) some conditions known to cause a nosedive are  
 14 imminent.  
 15

16  
 17 Against this backdrop and based upon counsels’ experience with Onewheel-related litigation,  
 18 Plaintiffs believe the following legal issues are likely to arise:

- 19 i. The production of comprehensive Rule 26(a)(1) disclosures, including the  
 20 production of complete insurance agreements that may satisfy all or part of a  
 21 potential Plaintiffs’ judgment;
- 22 ii. The entry of an MDL-wide protective order and its appropriate scope;
- 23 iii. The appropriate progression of discovery;
- 24 iv. The discoverability and admissibility of other similar instances;
- 25 v. The discoverability of the source code for each Onewheel model that is the  
 26 subject of a representative case, including the proper scope of source code  
 27 inspection and terms of any related protocol;
- 28 vi. The proper scope and protocol for subject Onewheel board inspections and test  
 rides;

- vii. The discoverability and admissibility of Defendant's communications with the CPSC, the CPSC's findings, and Defendant's recall.
- viii. Defendant's motion to dismiss *Loh*;
- ix. Motion for remand or other motion practice related to the inclusion or exclusion of *Loh*;
- x. Spoliation of the Onewheel Community Forum;
- xi. Motions for Summary Judgment;
- xii. Motions to exclude or strike expert testimony premised upon *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993) and its progeny.
- xiii. Waiver of venue. *See Lexecon Inc v. Milberg Weiss Bershad Hynes & Lerach*, 523 U.S. 26 (1998).

**b. Defendant's Preliminary Statement of Facts and Identification of Legal Issues:**

Future Motion is the creator and manufacturer of the Onewheel, a one-wheeled electric skateboard. The Onewheel is generally comprised of a motor, battery, footpad sensor and wheel, and has electronic components which allow it to self-balance. The first board introduced in 2014 was the original Onewheel. Since then, Future Motion has introduced five other Onewheel models, distinguished primarily by size and battery range.

A rider of a Onewheel stands sideways on a board like a traditional skateboard. After the board is turned on, and a rider brings it to level, the motor will engage and start balancing the rider. To go forward, a rider leans forward, and to slow down or stop, a rider leans backwards. A board is turned by having the rider put pressure on his or her toes or heels to turn the board in the direction chosen. The board is entirely controlled by the rider. The rider decides how fast to ride, the terrain a board is ridden on, and all other aspects of the riding experience.

Like with other recreational products, there are risks associated with riding a Onewheel. Falls from Onewheels can and do happen for innumerable reasons including terrain variances, loss of balance, striking objects, rider distraction, rider inexperience and many others. In addition, because

1 of physics, there are limits to how fast a Onewheel can be ridden. In order to warn a rider to maintain  
2 a safe and appropriate speed, Future Motion designed and developed its “pushback” safety feature. As  
3 a rider starts to approach the board’s limits, the front of the board will lift up, or “pushback” to signal  
4 to the rider to lean back and slow down. In fact, pushback actually physically moves the rider  
5 backwards as a clear signal to the rider as to what to do. If the rider follows the pushback warning  
6 and leans back to slow down, the board will stop pushing back. However, if the rider decides to lean  
7 forward and push through pushback, the pushback warning will increase, and the rider will experience  
8 an increasing amount of pushback. Thus, the pushback warning is progressive, the closer the rider gets  
9 to the board’s limits, the greater the pushback warning that is provided.  
10

11 The plaintiffs in these cases, other than the class actions, allege that they fell while riding a  
12 Onewheel and allege that the board suddenly stopped or shut off. The plaintiffs assert the same core  
13 set of causes of action against Future Motion, sounding in product liability—strict liability and  
14 negligence claims of design defect, manufacturing defect, and failure to warn. There are a few  
15 plaintiffs that have also asserted causes of actions for violation of a consumer protection statute,  
16 violations of a business and professions code, and/or breach of warranty.  
17

18 There is absolutely no evidence in any of the cases that any design, manufacturing, or warning  
19 defect existed or that an issue with the board in any way contributed to or caused the incidents at issue.  
20 Like with any recreational product, riders can fall from Onewheel boards on occasion. Further, given  
21 its unique design, there is a learning curve for new riders to become proficient. Future Motion provides  
22 extensive warnings and instructions on proper riding techniques in a variety of settings.  
23

24 Future Motion anticipates the critical factual and legal issues:

- 25 i. Future Motion’s motion to dismiss and to strike the class allegations in *Loh*, and anticipated  
26 motions to dismiss and to strike the class allegations in the *Nemeth* class action following  
27 service of a Complaint;  
28

- 1 ii. The entry of an MDL-wide protective order and its appropriate scope;
- 2 iii. The preservation, or spoliation, of the plaintiffs' board and any riding data contained on the
- 3 plaintiffs' mobile application or any other devices;
- 4 iv. Motions for Summary Judgment;
- 5 v. Motions to exclude or strike expert testimony premised upon Federal Rule of Civil Procedure
- 6 702.
- 7

8 Dated: January 11, 2024

Respectfully submitted,

9  
10 By: /s/ Robert W. Cowan

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18 *Bunnell, Misty Odeen, as next friend and representative*  
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20 -and-

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By: /s/ Robert W. Cowan  
Robert W. Cowan

By: /s/ Robert W. Cowan  
Robert W. Cowan

# EXHIBIT A

**ROBERT W. COWAN**

CURRICULUM VITAE  
AND  
SUPPORT FOR APPOINTMENT AS  
PERSONAL INJURY PLAINTIFFS' CO-LEAD COUNSEL

***IN RE: FUTURE MOTION, INC. PRODUCTS LIABILITY LITIGATION***  
MDL 3087

**A. Personal Information**

Name: Robert W. Cowan  
Law Firm: Bailey Cowan Heckaman PLLC ( [www.bchl.com](http://www.bchl.com) )  
Years of Practice: 23  
List of Firm Cases Transferred to MDL:

*Oatridge, et al. v. Future Motion, Inc.*, No. 5:21-cv-09906-BLF, in  
the United States District Court for the Northern District of  
California

*Bunnell, et al. v. Future Motion, Inc.*, No. 22-cv-01220-CNS-KAS,  
in the United States District Court for the District of Colorado

**B. Position(s) Sought**

Co-Lead Personal Injury Plaintiffs' Counsel

**C. MDL Experience (listed in order of role importance)**

MDL Name	Subject Matter & Current Status	Leadership Roles	“Unofficial” Roles Played
MDL 2885 <b><i>In re: 3M Combat Arms Earplug Prods. Liab. Litig.</i></b> , N.D. Fla.	Pensacola-based MDL involving military veterans suffering hearing damage from faulty combat arms earplugs (largest MDL in history); MDL is ongoing	Plaintiffs’ Steering Committee; also served as lead briefing attorney or briefing attorney for two bellwether trial cases that reached jury verdicts ( <i>see</i> § D for more details)	Oversaw progression of his firm’s nearly 3,000 viable claimants’ cases through litigation and settlement
MDL 1769 <b><i>In re: Seroquel Prods. Liab. Litig.</i></b> , M.D. Fla.	Orlando-based MDL involving diabetes linked to antipsychotic drug Seroquel; MDL proceedings resolved in 2013	Plaintiffs’ Lead Briefing Attorney, coordinating and/or personally drafting virtually all affirmative and responsive filings for MDL plaintiffs ( <i>see</i> § D for more detail)	Co-lead counsel on several bellwether trial-selected cases; lead Plaintiffs’ counsel on separate tranche of Seroquel cases filed in Delaware state court
MDL 2789 <b><i>In re: Proton Pump Inhibitor Litig.</i></b> , D.N.J.	Newark, N.J.-based MDL involving kidney-related injuries linked to proton pump inhibitor (heartburn) drugs; MDL is ongoing	Law partner (Camp Bailey) is on Plaintiffs’ Steering Committee (PSC)	Perform PSC-delegated legal research, writing, and conduct 30(b)(6) and liability depositions
MDL 1596 <b><i>In re: Zyprexa Prods. Liab. Litig.</i></b> , E.D.N.Y.	Brooklyn, N.Y.-based MDL involving diabetes linked to antipsychotic drug Zyprexa; the Zyprexa MDL resolved in approximately 2012		Co-lead counsel representing the states of Mississippi and Louisiana in deceptive trade practice act claims against Zyprexa’s manufacturer

MDL Name	Subject Matter & Current Status	Leadership Roles	“Unofficial” Roles Played
MDL 2543 <i>In re: General Motors LLC Ignition Switch Litig.</i> , S.D.N.Y.	Manhattan, N.Y.-based MDL involving GM vehicles with allegedly defective ignition switches linked to personal injury or economic loss; MDL is ongoing		Co-lead counsel on two MDL bellwether trial selections; both cases resolved; oversaw settlement of hundreds of the firm’s cases

#### D. Mass Tort Experience

Since joining BCH and transitioning from the defense side of the civil docket in 2007, Robert has represented well over 25,000 clients in mass tort litigations including the above (*see* § C), as well as in the Paxil II Birth Defect Mass Tort Program in Philadelphia state court (resolved in 2017) and the Essure Product Cases in the California state court coordinated proceeding (JCCP 4887).

Beginning in 2019, Robert’s firm began representing clients in MDL 2885, *In re: 3M Combat Arms Earplugs Products Liability Litigation*. Two years later, he was appointed to leadership on Plaintiffs’ Steering Committee by Judge M. Casey Rodgers. Robert led pretrial preparation and served as a member of the trial team for a bellwether case that, at the time of its trial, produced the highest value single-plaintiff jury verdict in the MDL. Subsequently, Robert was the lead law and briefing attorney for another bellwether trial in 2022. MDL 2885 is the largest MDL in history, and Robert oversaw the litigation and progression through settlement for his firm’s nearly 3,000 participating cases.

Robert’s most significant mass tort experience involved serving as national lead briefing counsel for plaintiffs in the *In re Seroquel Products Liability Litigation* MDL (1769). Robert’s law partner served as national co-lead counsel for approximately 15,000 plaintiffs’ claims. From late 2007 to 2013, Robert had direct responsibility for and oversight over all plaintiffs’ MDL trial- and appellate-level briefing, as well as helped manage all other aspects of the litigation. Robert and his small staff wrote more than 90 percent of plaintiffs’ filings during his time working on the MDL, and Robert argued many of those issues to the Court.

From 2013 to 2015, Robert was instrumental in helping overcome a second round of removals by the defendant in BCH's Paxil II birth defect litigation Mass Tort Program (MTP) in Philadelphia. On the eve of a slate of MTP trials concerning birth defects allegedly caused by pregnant mothers' use of Paxil, defendant GlaxoSmithKline (GSK) unexpectedly re-removed all the BCH trial cases to federal court. Many of the cases were then transferred to federal courts in plaintiffs' "home" jurisdictions. Within days of removal, Robert drafted and filed the ultimately successful motions to remand (and, in some cases, second and third motions to remand) and, over the next 2 years, argued many of those remands in federal court. Finally, after appeal to the United States Court of Appeals for the Third Circuit, the court decided GSK had wrongly removed the cases the second time, and all the removed trial cases were eventually remanded to the Philadelphia Court of Common Pleas from which they had been removed.

Robert has been a lead lawyer in a dozen or more high-stakes trials and arbitrations since 2009. In 2011, Robert and his trial team won a unanimous jury verdict and over \$320 million in civil penalties (subsequently reduced to over \$124 million) on behalf of South Carolina consumers in an unfair trade practices case against Ortho-McNeil-Janssen Pharmaceuticals (OMJP) involving its drug Risperdal. Robert wrote and oversaw all the trial briefing in the case, and argued most legal issues to the trial court. Robert and his team successfully defended appeals of the plaintiff's judgment all the way to the United States Supreme Court, which denied certiorari in early 2016.

The year after the South Carolina verdict, Robert and his trial team again defeated OMJP in another Risperdal-related deceptive trade practices case, this time representing Arkansas consumers. More recently, Robert and his trial team won over \$11 million on behalf of a widow of a U.S. Navy veteran who died from mesothelioma. Robert and his team again wrote all the trial briefing, and Robert argued most legal issues to the trial court. Subsequently, he and his appellate team beat back appeals of the judgment through the Missouri appellate courts all the way to the United States Supreme Court, which denied certiorari in 2018.

## **E. Settlement Experience**

Robert was directly involved in settling state-law consumer protection cases against Ortho-McNeil-Janssen Pharmaceuticals (OMJP), AstraZeneca Pharmaceuticals (AZ), and/or Bristol Myers Squibb (BMS) in Arkansas (AZ 2012, OMJP 2015), New Mexico (AZ 2012, OMJP 2013), Mississippi (OMJP 2016, AZ 2017, BMS 2018), and Kentucky (OMJP, 2016) on behalf of each of those states' attorneys general and after each of those litigations had been pending for at least 2-3 years, if not significantly longer. Each of those cases settled between \$3 million up to \$15.5 million. In 2018, Robert also helped settle through mediation hundreds of cases involving personal injuries allegedly caused by defective automobile design/components; Robert and his law partner directly negotiated the settlement, and Robert oversaw its administration through the

supervising court. Since 2019, Robert and his law partners directly negotiated mass tort settlements involving Bayer's Essure contraception device (over 2,000 cases) and Monsanto's pesticide Roundup (nearly 2,000 cases), drafted and finalized settlement agreements, and was primarily responsible for coordinating the administration of those mass settlements with the respective oversight courts, establishing treasury regulations-based qualified settlement funds, and communicating with the respective special masters, settlement administrators, and the clients.

## F. Curriculum Vitae

### - LEGAL EXPERIENCE -

August 2007 to  
Present

**Bailey Cowan Heckaman PLLC**, Houston, Texas, *Partner*

- See information above

January 2005 to  
July 2007

**Feldman & Rogers, L.L.P.**, Houston, Texas, *Attorney*

- Represented large public and private sector entities in business/commercial, employment, and construction litigation at the trial and appellate levels
- Represented the City of Houston and Houston Police Department Chief in high-profile First Amendment employment retaliation appeal before the U.S. Court of Appeals for the Fifth Circuit; drafted briefing on the merits for same

April 2004 to  
January 2005

**Porter & Hedges, L.L.P.**, Houston, Texas, *Attorney*

- Represented notable former Merrill Lynch analyst in Enron shareholder litigation
- Defended mezzanine lenders against multimillion dollar fraud and conspiracy claims stemming from the failure of a secondary oil and gas project in West Texas
- Represented developer and manufacturer of application response-time-monitor software in prosecution of trade secret claims against competitor

August 2001 to  
April 2004

**Shook, Hardy & Bacon L.L.P.**, Houston, Texas, *Attorney*

- Represented Carlos Slim-Helú, Teléfonos de México ("Telmex"), and related corporate affiliates and principals in successful defense of tortious interference lawsuits in Texas
- Drafted successful brief on the merits to the U.S. Court of Appeals for the Fifth Circuit in *McLean v. Philip Morris USA Inc.* (the "Marlboro Man" case)



**- EDUCATION -**

**South Texas College of Law, Houston, Texas**

- J.D., *Magna Cum Laude*, May 2001
- G.P.A.: 3.506; Class Rank: 8th out of 241 (Top 5%)
- South Texas Law Review, Member
- Honors: 2001 Scribes Award Winner, National Brief Writing Champion, presented by the American Society of Writers on Legal Subjects  
Best Brief & First Place, ABA National Appellate Advocacy Competition  
Best Brief, National Moot Court Competition (Association of the Bar of the City of New York)  
Best Brief & First Place, State Bar of Texas Moot Court Tournament  
Best Brief & First Place, Spong National Moot Court Tournament (William & Mary)

**University of Houston, Houston, Texas**

- Bachelor of Arts: Political Science, December 1990

**- PUBLISHED WORKS-**

*Making Foreign Depositions Less Foreign—Deposition Testimony In Foreign Jurisdictions For Use In Texas Courts*, THE ADVOCATE (State Bar of Texas Litigation Section) Fall 2004, Vol. 28 (with Steven R. Selsberg of Mayer, Brown, Rowe & Maw L.L.P.)

*Choice of Law and Claims of Privilege—A Defense Tool Often Overlooked*, IADC PRODUCTS LIABILITY NEWSLETTER (Int'l Ass'n of Def. Counsel, Chicago, IL) Oct. 2001, No. 1 (with Stephen E. Scheve of Shook, Hardy & Bacon L.L.P.)

Note, *Pizza Hut Pays the Dough as the Tenth Circuit Hands Employers A Bigger Slice of the Sexual Harassment Liability Pie in Lockard v. Pizza Hut, Inc.*, 41 S. TEX. L. REV. 1157 (2000)

# EXHIBIT B

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

**IN RE: FUTURE MOTION, INC.**

MDL No. 3087

Judge Beth Labson Freeman

**DECLARATION OF RENE ROCHA IN SUPPORT OF APPOINTMENT TO  
PLAINTIFF'S CO-LEAD COUNSEL**

I am a partner with Morgan & Morgan's Complex Litigation Group. I joined the firm in the aftermath of the Deepwater Horizon Oil Spill and coordinate the firm's interdisciplinary Environmental Toxic Tort Practice Group along with Frank Petosa. I have been involved in a wide array of complex products liability cases and environmental litigations, and have received court appointed leadership positions in several such cases. I have received several awards and recognitions from legal publications for his work in these areas. My experience and collaborative skills have been recognized with the Law360 MVP, an award given to the top attorneys in the Country in either the plaintiff or defense bar, and a Law360 Rising Star, an award bestowed on the top attorneys in the Country who are under 40.

I successfully moved the J.P.M.L. for the creation of MDL 2820, *In re Dicamba Herbicides*, and was appointed to the Plaintiffs' Executive Committee by Judge Limbaugh in 2018. I chaired the Science & Expert Committee and coordinated legal strategy for the litigation, including strategies for litigation and settlement. As part of my duties on the Science & Expert Committee, I developed a detailed understanding of the degradation of pesticide products, and the means by which exposures could be assessed. *Dicamba* involved thousands of claims against multiple defendants, and required me to undertake a deep and probing inquiry into similarities and differences in chemical structures and effects among various herbicide products. I also served on the Settlement Team, and along with my colleagues, was able to successfully negotiate a global settlement for American farmers totaling \$400 million.

I served in similar roles in *In re: Columbia Gas Cases*, (Superior Court, Sussex County, Massachusetts) where I was responsible for coordinating experts, as well as litigation and settlement strategies in a case involving claims of residents, business owners, property owners, and employees who suffered dramatic disruptions, emotional distress, and economic losses as a result of the over pressurization of gas utility system. Along with my colleagues, I was able to successfully lead the litigation to a swift and successful resolution through a \$143 million settlement in 2020.

I am currently a member of the Plaintiffs Executive Committee in MDL 3060, *In re: Hair Relaxer Marketing, Sales Practices, and Products Liability Litigation*, where I am chair of the Science & Expert Committee. In that role, I am responsible for analyzing the design, composition and manufacture of chemical cosmetic products, and the risks resulting from such products. Additionally, I am integral to the development and coordination of litigation strategies, case framing, and discovery matters.

I regularly manage significant litigation dockets which require the management of a team of lawyers and technical experts, and several of our cases are on the forefront of environmental exposure and legal issues. I am co-lead counsel for related litigation against Lockheed Martin in the Middle District of Florida relating to toxic exposures caused by operational emissions and historic contamination of air, soil, and groundwater in Orlando, FL. As co-lead counsel, I have been responsible for Litigation Strategies, Science & Experts, and a number of other important tasks. Due to the significant breadth of chemicals involved in the contamination, and the number of different environmental media at issue in that litigation, I have developed a deep and intimate understanding of human exposure science, fate & transport, and the process of cancer causation.

My understanding of product manufacture, human exposure science, fate & transport, and the process of cancer causation has also been honed by my experience as putative class counsel in various actions against industrial users of ethylene oxide (see e.g., *Letart v. Union Carbide* S.D.W.V. 2:19 cv-878; *Sommerville v. Union Carbide*, S.D.W.V. 2:19 cv-877). Those cases involve medical monitoring claims relating to environmental exposures of the known carcinogen ethylene oxide.

I practice exclusively in large, complex cases involving numerous plaintiffs with a broad scope of legal claims. These cases almost entirely involve cases brought by a number of different Plaintiffs' counsel, and often involve claims against numerous defendants as well. I have been recognized as a leader in this field, and excel at managing and integrating competing legal theories and strategies from colleagues at multiple firms. I began my career co-representing hundreds of fishermen, business owners, wage earners, property owners, clean-up workers, municipalities and banks seeking damages resulting from the BP oil spill in the Gulf of Mexico. I continued to excel in collaborative environments with numerous Plaintiffs counsel, including in my work in the *In re East Palestine Train Derailment* (Chair of Damages Committee); Southern California Gas leak Cases, California Coordinated Proceeding No. 4861 (Discovery and Well Integrity Committees); Testosterone Replacement Therapy Products Liability Litigation MDL 2545 (trial co-counsel in the first VTE bellwether trial, Science and Expert, Discovery and Auxilium Committees); Xarelto Products Liability Litigation MDL 2592; Invokana (Canagliflozin) Products Liability Litigation MDL 2750 (Bellwether Committee); Lipitor (Atorvastatin) Marketing, Sales Practices and Products Liability Litigation MDL 2502 (member of the Science and Expert and Discovery Committees); BP Oil Spill Litigation MDL 2179 (Phase I & II Trial Teams, Discovery); Chinese Drywall Products Liability Litigation MDL 2047 (Taishan Trial Team).

My law firm have unmatched resources that can be devoted to this litigation. While growing every day, Morgan & Morgan currently employ almost 1,000 lawyers and over 3,000 support staff throughout offices in all 50 states. Each year, tens of thousands of people,

businesses, and governments entrust Morgan & Morgan to represent them in legal matters ranging from personal injury and workers compensation to class actions, medical malpractice, environmental, and complex commercial transactions.

Morgan & Morgan established the Complex Litigation Group to handle multi-party complex civil matters such as class actions, mass torts, qui tams, toxic torts, environmental, and government enforcement actions. This group draws on the expertise of 30 dedicated trial attorneys supported by 25 briefing attorneys, 100 highly skilled document review attorneys, 25 paralegals and support staff, along with a retired FBI special agent and a retired HHS-OIG special agent. The backbone of this operation is state of-the-art technology which empowers the team members to take a true collaborative approach in each matter.

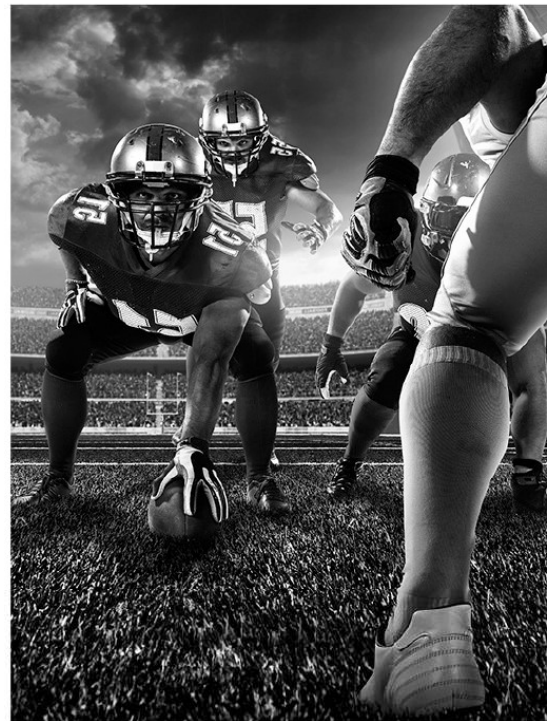
The attorneys who make up this group have impressive diverse backgrounds including litigators from top 50 defense firms, senior government counselors, elected officials, and named partners from highly successful plaintiff firms. An indication of the success of this group lies in the number of appointments to Plaintiff Steering Committee and leadership positions within class and mass litigation and the staggering dollar value of recoveries in cases since its inception.

I also have the willingness and availability to commit to this project. I am excited to devote my energies to MDL 3087, and finding justice for individuals who have been harmed by unsafe products.

# EXHIBIT C



## HAGENS BERMAN



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



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## INTRODUCTION

## The Firm

Hagens Berman Sobol Shapiro LLP was founded in 1993 with one purpose: to help victims with claims of fraud and negligence that adversely impact a broad group. Through the firm's focus on class-action litigation and other complex, multi-party cases, it fights for those seeking representation against wrongdoing and fraud. As the firm grew, it expanded its scope while staying true to its mission of taking on important cases that implicate the public interest and the greater good. We represent plaintiffs including consumers, inventors, investors, workers, the environment, governments, whistleblowers and others.

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

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### OUR FOCUS

Our focus is to represent plaintiffs in [antitrust](#), [consumer fraud](#), product liability, tort, [sexual harassment](#), [securities and investment fraud](#), [employment](#), [whistleblower law](#), [intellectual property](#), [environmental](#) and employee pension protection cases. Our firm is particularly skilled at managing multistate and nationwide class actions through an organized, coordinated approach. Our skilled team implements an efficient and aggressive prosecutorial strategy to place maximum pressure on defendants.

### WE WIN

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

### WHAT MAKES US DIFFERENT

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

### AN INTERNATIONAL REACH

Our firm offers clients an international scope of practice. We have flourished through our core network of U.S. offices, and with a global expansion, Hagens Berman has grown geographically to where our eyes have always been: trends of fraud, negligence and wrongdoing taking form anywhere in the world. The firm now does business through endeavors in London and Amsterdam. Our reach is not limited to the cities where we maintain offices. We have cases pending in several countries and have a vested interest in fighting global instances of oppression and injustice.

INTRODUCTION

## Locations

### SEATTLE

1301 Second Avenue, Suite 2000  
Seattle, WA 98101  
T 206-623-7292  
F 206-623-0594

### CHICAGO

455 N. Cityfront Plaza Drive, Suite 2410  
Chicago, IL 60611  
T 708-628-4949  
F 708-628-4950

### PHOENIX

11 West Jefferson Street, Suite 1000  
Phoenix, AZ 85003  
T 602-840-5900  
F 602-840-3012

### BERKELEY

715 Hearst Avenue, Suite 202  
Berkeley, CA 94710  
T 510-725-3000  
F 510-725-3001

### LOS ANGELES

301 North Lake Avenue, Suite 920  
Pasadena, CA 91101  
T 213-330-7150  
F 213-330-7152

### SAN DIEGO

533 F Street  
Suite 207  
San Diego, CA 92101  
T 619-929-3340

### BOSTON

1 Faneuil Sq., 5th Floor  
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T 617-482-3700  
F 617-482-3003

### NEW YORK

555 Fifth Avenue, Suite 1700  
New York, NY 10017  
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F 917-210-3980

### LONDON

Hagens Berman UK LLP  
125 Old Broad Street  
London, EC2N 1AR  
T 0203 150 1445

## INTRODUCTION

### Quotes

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

— *U.S. District Court for the Northern District of California, In re Optical Disk Drive Products Antitrust Litigation* (Appointing the firm lead counsel in the case which would later usher in \$180 million in settlements.)

“Landmark consumer cases are business as usual for Steve Berman.”

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

“Berman is considered one of the nation’s top class action lawyers.”

— *Associated Press*

“unprecedented success in the antitrust field”

— *California Magistrate Judge Nathanael M. Cousins*  
*A July 2015 order awarding attorneys’ fees in student-athlete name and likeness litigation*

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

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

“aggressive and independent advocacy”

— *Hon. Thomas M. Durkin*  
*Order Appointing Hagens Berman as Interim Class Counsel in In re Broiler Chicken Antitrust Litigation*

“Class counsel has consistently demonstrated extraordinary skill and effort.”

— *Hon. James Selna, Central District of California, In re Toyota Motor Corp. Unintended Acceleration Marketing, Sales Practices and Products Liability Litigation*, (The firm was appointed co-lead counsel without submitting to lead the case, and later achieved what was then the largest settlement in history brought against an automaker – \$1.6 billion.)

“...I have never worked with such professional, decent counsel.”

— *Hon. Dennis M. Cavanaugh, United States District Judge (Retired), Transcript Of Proceedings Fairness Hearing for In Re Mercedes-Benz Emissions Litigation*, (Hagens Berman helped secure a \$700 million settlement for class members and served as interim class counsel.)

“...the track record of Hagens Berman[‘s] Steve Berman is...impressive, having racked... a \$1.6 billion settlement in the Toyota Unintended

Acceleration Litigation and a substantial number of really outstanding big-ticket results.”

— Hon. Milton I. Shadur, Senior U.S. District Judge, naming Hagens Berman interim class counsel in Stericycle Pricing MDL (Hagens Berman served as lead counsel and secured a \$255 million settlement for class members.)

“...when you get good lawyers this is what happens; you get these cases resolved.”

— Hon. Dennis M. Cavanaugh, United States District Judge (Retired)  
Proceedings Fairness Hearing for In Re Mercedes-Benz Emissions Litigation

“...Class counsel have devoted considerable time and resources to this litigation...”

— Hon. Dennis M. Cavanaugh, United States District Judge (Retired)  
Proceedings Fairness Hearing for In Re Mercedes-Benz Emissions Litigation

“...This result...puts significant money into the pockets of all of the class members, is an excellent result. ...I’ve also looked at the skill and quality of counsel and the quality of the work... and find that to have been at a high level.”

— Hon. Beth Labson Freeman, United States District Judge  
Final Approval of Settlement Hearing for Dean Sheikh et al v. Tesla, Inc.

“...respective clients certainly got their money’s worth with these attorneys and the work that they did on their behalf. ...Plaintiffs did an excellent job on behalf of their clients in this case.”

— Hon. Dennis M. Cavanaugh, United States District Judge (Retired)  
Proceedings Fairness Hearing for In Re Mercedes-Benz Emissions Litigation

“Class Member reaction to the Mercedes Settlement is overwhelmingly positive.”

— Hon. Dennis M. Cavanaugh (Ret.) Special Master, In Re Mercedes-Benz Emissions Litigation

“I will reiterate that class counsel has demonstrated over many years, superior experience and capability in handling class actions of this sort.”

— Hon. Beth Labson Freeman, United States District Judge, Final Approval of Settlement Hearing for Dean Sheikh et al v. Tesla, Inc.

“Not only did they work hard and do what was appropriate under the circumstances; their behavior was exemplary throughout. They were fair and firm. There were no pushovers involved here.”

— Hon. Dennis M. Cavanaugh, United States District Judge (Retired)  
Proceedings Fairness Hearing for In Re Mercedes-Benz Emissions Litigation

## INTRODUCTION

## Victories & Settlements

The firm has recovered more than \$320 billion on behalf of class members in large-scale complex litigation.

### \$206 BILLION

#### STATE TOBACCO LITIGATION

Hagens Berman represented 13 states prosecuting major actions against Big Tobacco. The settlement led to a multistate settlement requiring the tobacco companies to pay the states and submit to advertising and marketing restrictions. It was the largest civil settlement in history.

### \$25 BILLION

#### VISA CHECK/MASTERMONEY ANTITRUST LITIGATION

The firm served as co-lead counsel in what was then the largest antitrust settlement in history. The class-action lawsuit alleged that Visa and MasterCard engaged in an anticompetitive scheme to monopolize the debit card services market and charge merchants artificially inflated interchange fees by tying merchant acceptance of their debit card services, Visa Check and MasterMoney, to merchant acceptance of their credit card services. Settlements secured categories of relief that court decisions valued at as much as \$25-87 billion.

### \$14.7 BILLION

#### VOLKSWAGEN EMISSIONS LITIGATION

Hagens Berman was named a member of the plaintiffs' steering committee and part of the settlement negotiating team in this monumental case that culminated in the largest automotive settlement in history. The firm was the first law firm to file against Volkswagen regarding its Dieselgate emissions-cheating scandal.

### \$1.6 BILLION

#### TOYOTA UNINTENDED ACCELERATION LITIGATION

Hagens Berman served as co-lead counsel and secured what was then the largest automotive settlement in history in this class action that recovered \$1.6 billion for vehicle owners.

### \$1.6 BILLION

#### VOLKSWAGEN FRANCHISE DEALERS LITIGATION

The firm served as lead counsel representing VW franchise dealers in this lawsuit related to VW's Dieselgate scandal. The settlement recovered nearly full damages for the class.

### \$1.45 BILLION

#### MERACORD

The firm secured a default judgment on behalf of consumers for a useless debt-settlement conspiracy, following years of plaintiff victories in the case. Hagens Berman filed its lawsuit in 2011, on behalf of consumers nationwide, claiming the company violated Washington law and the federal Racketeer Influenced and Corrupt Organizations Act.

### \$1.3 BILLION

#### HYUNDAI KIA THETA II GDI FIRE HAZARD LITIGATION I

Hagens Berman is co-lead counsel in this case accusing automakers of selling vehicles with failure-prone engines that could sometimes catch fire. The case is still pending litigation pertaining to other affected models.

### \$700 MILLION

#### MERCEDES BLUETEC EMISSIONS LITIGATION

A monumental settlement was reached on behalf of owners of Mercedes vehicles affected by Daimler's emissions cheating. The case was initially filed and researched by Hagens Berman, based on the firm's independent vehicle testing, and the firm served as co-lead counsel. The consumer settlement followed a \$1.5 billion settlement between Mercedes and the U.S. Justice Department and California Air Resources Board. The settlement includes an \$875 million civil penalty for violating the Clean Air Act.

**\$700 MILLION****WASHINGTON PUBLIC POWER SUPPLY SYSTEM (WPPSS) SECURITIES LITIGATION**

Hagens Berman represented bondholders and the trustee in a class action stemming from the failure of two nuclear projects. Plaintiffs were awarded a \$700 million settlement.

**\$616 MILLION****E-BOOKS ANTITRUST LITIGATION**

Hagens Berman served as co-lead counsel against Apple and five of the nation's largest publishing companies and secured a combined \$616 million settlement, returning class members nearly twice their losses in recovery, following the firm's victory over Apple after it appealed the case to the U.S. Supreme Court.

**\$535 MILLION****CHINA MEDIAEXPRESS HOLDINGS, INC. SECURITIES LITIGATION**

Hagens Berman, which served as lead counsel in the case, alleged on behalf of a class of investors that China MediaExpress Holdings made false and misleading statements, including misrepresentations about its revenues, the number of buses in its network and the nature of its business relationships. The lawsuit resulted in relief for investors valued at \$535 million.

**\$470 MILLION****LCD ANTITRUST LITIGATION**

Hagens Berman served as a member of the Executive Committee representing consumers in multi-district litigation. Total settlements exceeded \$470 million.

**\$453 MILLION****GLUMETZA ANTITRUST LITIGATION**

The court denied summary judgment and paved the way for trial in this litigation against brand and generic manufacturers of the diabetes drug Glumetza. Hagens Berman served as co-lead counsel for the direct purchaser class. U.S. District Judge William Alsup approved \$453.85 million in settlements resolving direct purchasers' allegations. The result was the largest antitrust recovery to receive final approval in 2022.

**\$444 MILLION****MCKESSON DRUG LITIGATION**

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

**\$383.5 MILLION****DAVITA HEALTHCARE PERSONAL INJURY LITIGATION**

A Denver jury awarded a monumental \$383.5 million verdict to families of three patients who died after receiving dialysis treatments at DaVita clinics.

**\$345 MILLION****DRAM ANTITRUST LITIGATION**

The firm was co-lead counsel in this antitrust case which settled for \$345 million in favor of purchasers of dynamic random access memory chips (DRAM).

**\$340 MILLION****RANBAXY INC.**

Hagens Berman served as co-lead counsel representing Meijer Inc. and Meijer Distribution Inc. in a class-action lawsuit against drugmaker Ranbaxy. The lawsuit alleged it recklessly stuffed the generic drug approval queues with grossly inadequate applications and deceiving the FDA into granting tentative approvals to lock in statutory exclusivities to which Ranbaxy was not entitled. Ranbaxy then excluded competition at the expense of U.S. drug purchasers. The settlement was part of a \$485 million settlement for all plaintiffs. The result was the second largest antitrust recovery to receive final approval in 2022.

**\$338 MILLION****AVERAGE WHOLESALE PRICE DRUG LITIGATION**

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

**\$325 MILLION****NEURONTIN PFIZER LITIGATION**

The firm brought suit against Pfizer and its subsidiary, Parke-Davis, accusing the companies of a fraudulent scheme to market and sell the drug Neurontin for a variety of "off-label" uses for which it is not approved or medically efficacious.

**\$307 MILLION****ECODIESEL EMISSIONS CHEATING LITIGATION**

The firm achieved a settlement on behalf of owners of EcoDiesel Dodge 1500 and Jeep Grand Cherokee vehicles in response to Fiat Chrysler's emissions-cheating. Under the settlement, class members who repair their vehicles and submit a claim will receive \$3,075. The total value of the deal is estimated at \$307 million, granted all owners submit a valid claim.

**\$300 MILLION****HYUNDAI/KIA HYDRAULIC ELECTRONIC CONTROL UNIT (HECU) FIRE HAZARD**

Approximately three million Hyundai and Kia vehicles nationwide were affected by a dangerous defect in the hydraulic and electronic control units (HECU), also known as anti-lock brake (ABS) modules which posed a risk of non-collision engine fires. Conservatively, plaintiffs' experts valued the settlement achieved by Hagens Berman as co-class counsel in the range of \$326 million to \$652 million.

**\$295 MILLION****STERICYCLE, STERI-SAFE LITIGATION**

Hagens Berman served as lead counsel representing small businesses including veterinary clinics, medical clinics and labs in a class-action lawsuit alleging Stericycle's billing practices and accounting software violated consumer laws and constituted breach of contract.

**\$255 MILLION****HYUNDAI & KIA FUEL ECONOMY LITIGATION**

Hagens Berman filed a class-action lawsuit on behalf of consumers alleging Hyundai and Kia overstated fuel economy for many vehicles they sold in the United States.

**\$250 MILLION****ENRON ERISA LITIGATION**

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

**\$250 MILLION****BOFA COUNTRYWIDE APPRAISAL RICO**

Hagens Berman served as co-lead counsel in a nationwide class-action lawsuit against Bank of America, Countrywide Financial and appraisal firm LandSafe Inc. on behalf of a class of home buyers accusing the suit's defendants of carrying out a series of phony appraisals in an attempt to secure more loans.

**\$235 MILLION****CHARLES SCHWAB SECURITIES LITIGATION**

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

**\$234 MILLION****AEQUITAS CAPITAL MANAGEMENT**

The firm settled this case on behalf of 1,600 investors of the now-defunct Aequis companies. It is believed to be the largest securities settlement in Oregon history.

**\$218 MILLION****JP MORGAN MADOFF**

Hagens Berman settled this case on behalf of Bernard L. Madoff investors in a suit filed against JPMorgan Chase Bank, its parents, subsidiaries and affiliates. The settlement against JPMorgan involved three simultaneous, separately negotiated settlements totaling more than \$2.2 billion.

**\$215 MILLION****USC, DR. GEORGE TYNDALL SEXUAL ABUSE AND HARASSMENT**

The firm served as co-lead counsel and secured a \$215 million settlement on behalf of a class of thousands of survivors of sexual assault against the University of Southern California and its Dr. George Tyndall, the full-time gynecologist at USC's student health clinic.

**\$212 MILLION****TOYOTA, LEXUS DENSO FUEL PUMP DEFECT**

Hagens Berman represented consumers in a lawsuit alleging that Toyota Motor Corp. sold vehicles with faulty engines made by Denso International America Inc. The defect left vehicle owners at risk of spontaneous vehicle shutdown, engine stall and other safety risks that increased the likelihood of a crash or injury. The settlement brought relief to more than 3.3 million vehicle owners.

**\$208 MILLION****NCAA SCHOLARSHIP CAP ANTITRUST LITIGATION**

Hagens Berman was co-lead counsel in the damages portion of this historic antitrust class action claiming the NCAA unlawfully capped the value of athletic scholarships. In a historic ruling, the U.S. Supreme Court unanimously upheld a trial victory regarding the injunctive portion of the case securing monumental improvements for college athletes, and forever changing college sports. Steve Berman served as trial counsel.

**\$205 MILLION****OPTICAL DISC DRIVES (ODD) ANTITRUST LITIGATION**

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

**\$200 MILLION****NEW ENGLAND COMPOUNDING PHARMACY MENINGITIS OUTBREAK LITIGATION**

Hagens Berman attorneys served as lead counsel for the plaintiffs' steering committee on behalf of plaintiff-victims of the 2012 fungal meningitis outbreak that led to more than 64 deaths and hundreds of joint infection cases.



**\$181 MILLION****BROILER CHICKEN ANTITRUST LITIGATION**

Hagens Berman serves as interim class counsel in a case against Tyson, Purdue and 16 other chicken producers for allegedly conspiring to stabilize chicken prices by reducing production. The firm continues to litigate the case against remaining defendants.

**\$169 MILLION****ANIMATION WORKERS**

Hagens Berman was co-lead counsel for a class of approximately 10,000 animators and other artistic workers in an antitrust class action against Pixar, DreamWorks, The Walt Disney Company, Sony and others for allegedly conspiring to restrain competition and suppress industry wages. A \$169 million settlement resulted in a payment of more than \$13,000 per class member.

**\$150 MILLION****FLONASE ANTITRUST LITIGATION**

Hagens Berman was co-lead counsel representing purchasers in this case alleging GlaxoSmithKline filed petitions to prevent the emergence of generic competitors to its drug Flonase to overcharge consumers and purchasers of the drug, which would have been priced lower had a generic competitor been allowed to come to market.

**\$150 MILLION****LUPRON CONSUMER LITIGATION**

Hagens Berman served as co-lead counsel on behalf of consumers and third-party payors who purchased the drug Lupron. Under the terms of the settlement, TAP Pharmaceuticals paid \$150 million on behalf of all defendants.

**\$125 MILLION****PHARMACEUTICAL AWP LITIGATION**

Hagens Berman was lead counsel against 11 pharmaceutical companies, including Abbott Laboratories and Watson Pharmaceuticals, resulting in multiple settlements between 2006 and 2012. Defendants agreed to pay \$125 million in a nationwide settlement for intentionally inflating reports of the average wholesale prices (AWP) on certain prescription medications.

**\$123.4 MILLION****EXPEDIA LITIGATION**

Hagens Berman led this class action arising from bundled “taxes and service fees” that Expedia collects when its consumers book hotel reservations. Plaintiffs alleged that by collecting exorbitant fees as a flat percentage of the

room rates, Expedia violated both the Washington Consumer Protection Act and its contractual commitment to charge as service fees only “costs incurred in servicing” a given reservation.

**\$120 MILLION****LOESTRIN ANTITRUST LITIGATION**

Hagens Berman served as interim co-lead counsel for the certified class of direct purchasers. The parties reached a proposed settlement shortly before trial.

**\$113 MILLION****BATTERIES ANTITRUST LITIGATION**

Hagens Berman served as co-lead counsel and secured a settlement in this class-action lawsuit against some of the largest electronics manufacturers for allegedly illegally fixing the price of lithium-ion batteries, pushing costs higher for consumers.

**\$108 MILLION****FIAT CHRYSLER LOW OIL PRESSURE**

As co-lead counsel, Hagens Berman represented a class of owners of Fiat Chrysler vehicles allegedly prone to spontaneous shut off when oil pressure is low. A federal judge approved a settlement valued at \$108 million comprised of comprehensive relief including extended warranties, software upgrades, free testing and repairs and repair reimbursements.

**\$100 MILLION****APPLE IOS APP STORE LITIGATION**

In this lawsuit against Apple, the firm served as interim lead counsel in this matter and represented U.S. iOS developers against the tech giant. The suit accused Apple of monopolizing distribution services for iOS apps and in-app digital products, allegedly resulting in commission overcharges. Apple agreed to pay \$100 million and make developer-friendly changes to its App Store policy.

**\$120 MILLION****GENERAL MOTORS**

Hagens Berman represented owners of GM-branded vehicles as co-lead counsel in a national class-action lawsuit seeking compensation, statutory penalties and punitive damages against GM on behalf of owners of millions of vehicles affected by alleged safety defects and recalls. The court granted final approval to a \$120 million settlement on behalf of affected GM vehicle owners on Dec. 18, 2020. Under the settlement, a trust controlled by creditors in GM’s 2009 bankruptcy contributed up to \$50 million.

## PRACTICE AREAS

## Automotive – Defect, Fraud & Products Liability

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

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

Hagens Berman's work fighting corporate wrongdoing in the automotive industry has repeatedly earned it a spot in the National Law Journal's list of Elite Trial Lawyers, and the firm's auto team who worked on *Toyota* were also named finalists for Public Justice's Trial Lawyer of the Year award.

Our firm has been a leader in this area of law for nearly a decade, and our settled cases include the following matters related to public safety, defect mitigation and more.

### TOYOTA SUDDEN, UNINTENDED ACCELERATION LITIGATION

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

**RESULT:** \$1.6 billion settlement, which was the largest automotive settlement in history at the time, surpassed only by the firm's future settlements

### HYUNDAI/KIA THETA II GDI ENGINE FIRE HAZARD LITIGATION I

As co-lead counsel against Hyundai and Kia, Hagens Berman helped secure a \$1.3 billion settlement on behalf of owners of cars affected by an engine defect causing spontaneous fires. The compensation includes lifetime warranty protection, software installation aimed to detect and prevent the engine defect, reimbursements for repair-related costs and lost value due to engine failures or fires, and payment for repair delays.

**RESULT:** \$1.3 billion settlement

**HYUNDAI/KIA ENGINE FIRE HAZARD LITIGATION II**

Following the firm's \$1.3 billion settlement on behalf of owners of cars affected by an engine defect causing spontaneous fires in millions of Hyundai and Kia cars, Hagens Berman, which served as co-lead counsel in this case, also secured an additional settlement concerning engines not included in the first settlement. The newest settlement brings relief to owners of about 2.1 million vehicles with Gamma GDI and Nu GDI engines as well as Theta II MPI engines. "The settlement is comprehensive in compensating class members for the harms suffered and providing protection against future harms," Judge Staton said, noting that the deal is substantially similar to the one finalized in May 2021 in *In Re: Hyundai and Kia Engine Litigation*, which was valued at up to \$1.3 billion.

**RESULT:** Settlement comparable to prior \$1.3 billion in *In Re: Hyundai and Kia Engine Litigation*

**HYUNDAI/KIA HYDRAULIC ELECTRONIC CONTROL UNIT (HECU) FIRE HAZARD LITIGATION**

Hagens Berman filed this class-action lawsuit against automakers Hyundai and Kia on behalf of owners and lessees of approximately three million U.S. vehicles regarding a defect affecting the vehicles' hydraulic and electronic control units. The defect, which the lawsuit alleges Hyundai and Kia were aware of upon selling the affected vehicles, can cause electrical short-circuits and engine fires. Conservatively, plaintiffs' expert values the settlement in the range of \$326 million to \$652 million, depending on relief claimed by affected owners and lessors.

**RESULT:** Settlement valued at more than \$300 million

**HYUNDAI KIA FUEL ECONOMY LITIGATION**

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

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

**TOYOTA, LEXUS DENSO FUEL PUMP LITIGATION**

The firm filed this class action regarding a defect in the DENSO fuel pump installed in the affected Toyota and Lexus vehicles which can leave vehicle owners at risk of spontaneous vehicle shutdown, engine stall and other safety risks that increase the likelihood of a crash or injury.

**RESULT:** Settlement valued between \$212 million and \$288 million

**HYUNDAI KIA CAR THEFT DEFECT LITIGATION**

Serving as co-lead counsel, the firm achieved swift relief in this class action stemming from Hyundai and Kia's failure to equip nearly nine million 2011-2022 models with an immobilizer, a common antitheft device in modern cars which prevents most vehicles from being started unless a code is transmitted from the vehicle's smart key. The lack of immobilizer in affected vehicles spawned viral "Kia Challenge" TikTok videos demonstrating simple measures "Kia Boys" take to steal affected Hyundai and Kia vehicles using only a common USB charging cord or similar metal object to start the engine, allowing thieves to steal them in less than 90 seconds.

**RESULT:** Settlement-in-principle valued at more than \$200 million

**GENERAL MOTORS IGNITION SWITCH LITIGATION**

The firm served as co-lead counsel in a high-profile case on behalf of millions of owners of recalled GM vehicles affected by a safety defect linked to more than 120 fatalities. The lawsuit alleged GM did not take appropriate remedial measures, despite having prior knowledge of the defect.

**RESULT:** \$120 million settlement

**FIAT CHRYSLER (FCA) LOW OIL PRESSURE SHUT OFF LITIGATION**

Hagens Berman represented owners of Chrysler, Dodge, Fiat, Jeep and Ram vehicles affected by a defect causing overconsumption of oil and spontaneous vehicle shut off during low oil pressure. In 2022 a federal judge approved a settlement for owners of vehicles with 2.4L TigerShark MultiAir II engines.

**RESULT:** \$108 million settlement

**HONDA INFOTAINMENT SYSTEM LITIGATION**

In 2019, owners of Honda vehicles filed a class-action lawsuit against the automaker for a defect affecting the vehicles' infotainment system which was prone to failing to boot, freezing during use and suffering general malfunctions and glitches. Owners reported the issues on vehicles with as few as 580 miles. The U.S. district judge called the settlement for vehicle owners a "significant effort" in light of the difficulties and complexities of the case.

**RESULT:** \$33 million settlement

**FORD MYFORD TOUCH LITIGATION**

Hagens Berman served as co-lead counsel on behalf of owners of Ford vehicles equipped with MyFord Touch, an in-car communication and entertainment package, who claim that the flawed system put drivers at risk of an accident while causing economic hardship for owners. The complaint cites internal Ford documents that show that 500 of every 1,000 vehicles have issues involving MyFord Touch due to software bugs, and failures of the software process and architecture. Owners report that Ford has been unable to fix the problem, even after repeated visits.

**RESULT:** \$17 million settlement

**ACURA RDX INFOTAINMENT SYSTEM LITIGATION**

In this class-action lawsuit filed against American Honda Motor Co. Inc., owners of 2019 and 2020 Acura RDX vehicles accused the automaker of knowingly selling the vehicles with defective infotainment systems, posing a serious safety risk to drivers. The alleged defect causes many of the vehicles' features associated with the infotainment system to malfunction, including the navigation system, audio system, as well as safety features like the backup camera.

**RESULT:** \$10.5 million settlement

**TESLA AUTOPILOT AP2 ROLLOUT DELAY LITIGATION**

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

**RESULT:** \$5.4 million settlement

**NISSAN QUEST ACCELERATOR LITIGATION**

Hagens Berman represented Nissan Quest minivan owners alleging their vehicles developed deposits in a part of the engine, causing drivers to apply increased pressure to push the accelerator down.

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

**PENDING LITIGATION AGAINST AUTOMAKERS**

The firm has filed several pending cases against major automakers, including the following class actions promoting consumers' rights:

**FCA CHRYSLER PACIFICA HYBRID MINIVAN ENGINE SHUTDOWN LITIGATION**

Over 67,000 Chrysler plug-in hybrid electric vehicles are at risk for spontaneous power loss while the vehicle is in motion due to a serious wiring defect in the transmission of the gasoline-driven portion of the powertrain. The automaker's response to this potentially life-threatening issue falls short, leaving Chrysler customers with little recourse. According to a recall report filed with the National Highway Traffic Safety Administration in January 2023, 100% of 2017-2023 Chrysler Pacifica PHEVs are at risk for sudden engine shutoff due to this defect. Loss of motive power is total and comes without warning, giving drivers little or no opportunity to maneuver vehicles to safety, and can occur while moving at highway speeds.

**FCA CHRYSLER PACIFICA HYBRID MINIVAN FIRE HAZARD LITIGATION**

In this automotive class-action lawsuit, the firm serves as co-lead counsel representing owners of 2017 and 2018 Chrysler Pacifica plug-in hybrid electric minivans. Twelve fires have been reported in Chrysler Pacifica hybrid minivans. All of the vehicles that caught fire were parked and turned off; eight of the 12 vehicles were plugged in and charging. In the recall report filed with the National Highway Traffic Safety Administration, Chrysler said the "root cause is unknown." Hagens Berman filed a consolidated master complaint Nov. 4, 2022. The complaint highlights Fiat Chrysler's proposed "fix" as a "Hobson's choice foisted on consumers" that fails to solve the issue. Even after having the recall performed, at least two Hybrid Pacifica vehicles have exploded into flames in owners' garages and driveways.

**FCA DODGE RAM 1500 & 1500 CLASSIC ECODIESEL TRUCKS EGR COOLER FIRE HAZARD LITIGATION**

Hagens Berman represents owners of certain Dodge Ram 1500 trucks at risk for vehicle fire. Affected trucks have been built with defective EGR coolers that can crack due to thermal fatigue. This can allow coolant to leak into the running engine, which can result in combustion and a vehicle fire.

**FORD, GM, FCA CP4 HIGH-INJECTION FUEL PUMP DEFECT LITIGATION**

Hagens Berman has filed multiple class-action lawsuits against the "Big Three" — Ford, GM, and FCA — in addition to Nissan on behalf of diesel truck owners due to a defective high-pressure fuel injection pump in affected vehicles. The defective part generates metallic shavings and can lead to catastrophic failure of the engine. The complaints allege defendants routinely denied repair under warranty, even though the repair costs at least \$7,000, and in some cases exceeds \$10,000. After Hagens Berman filed suit against FCA with respect to the 3.0-liter engine cars and trucks, FCA issued a safety recall for those vehicles. In March 2023, Hon. Bernard A. Friedman allowed the majority of claims against Ford to continue.

**FORD ESCAPE AND BRONCO SPORT FUEL INJECTOR FIRE HAZARD DEFECT LITIGATION**

At least 521,000 Ford vehicles are at risk for spontaneous fires due to a serious defect which can lead to fuel accumulating on top of the exhaust/turbo system, where it can easily ignite. The automaker has yet to establish an underlying cause for this defect, and its proposed fixes are shoddy stopgaps that may leave

consumers in doubt as to the safety of their vehicles. Shortly after issuing its dubious recall remedy, Ford retracted it because it did not alleviate the risk of fires. Ford has yet to issue a bona fide fix for these vehicles. Hagens Berman seeks damages from Ford in a class-action lawsuit filed on behalf of affected owners.

#### **FORD ESCAPE, MAVERICK AND LINCOLN CORSAIR HYBRID FIRES LITIGATION**

Ford has recalled more than 100,000 of its Escape, Maverick and Lincoln Corsair hybrid models manufactured since 2020 for a risk of spontaneously catching fire due to a safety defect. The issue has been traced to leaking fluid from the vehicles' engine block or oil pan. In response, rather than fix the faulty engine blocks and oil pans, Ford has issued "fix" instructions to its dealers that ask them to remove blinds from the grill shutter and drill holes in the floor of the engine compartment, potentially causing flammable fluids to drip into the roadway and owners' garages and driveways. The firm's class-action lawsuit against Ford was filed in August of 2022.

#### **FORD MUSTANG MACH-E SHUTDOWN DEFECT LITIGATION**

Owners of 2021-2022 Ford Mustang Mach-E vehicles filed a class-action lawsuit against the automaker in relation to a defective high voltage main battery contactor that can reportedly suddenly and unexpectedly cause the vehicle to lose power, disabling the engine and key safety features. The defect presents a high risk of crash, injury and death. Ford's remedies have so far been unsuccessful and may be increasing charging times and decreasing the engine power for owners.

#### **FORD SHELBY GT350 MUSTANG OVERHEATING DEFECT LITIGATION**

Hagens Berman represents owners of certain model 2016 Shelby GT350 Mustangs in a case alleging Ford sold the vehicles as track cars built to reach and sustain high speeds, but failed to disclose that the absence of transmission and differential coolers can greatly diminish the vehicles' reported track capabilities. Shelby owners are reporting that this defect causes the vehicle to overheat and go into limp mode while in use, even when the car is not being tracked. The Eleventh Circuit ruled on Ford's 23(f) appeal and denied Ford's attempt to decertify 6 of the 7 classes. Attorneys are preparing for trial in the first half of 2024.

#### **GM PCV SYSTEM FREEZE DEFECT LITIGATION**

Hagens Berman represents those affected by a serious defect in various GM vehicles. In affected vehicles, colder temperatures can cause the PCV system to become at risk of freezing, building pressure in the vehicle's crankcase. The defect can lead to a range of consequences for vehicle owners, from a seal replacement that may cost over a thousand dollars, to complete engine failure costing several thousands of dollars. Many vehicle owners complain of no warning before the seal fails, leaving them stranded in freezing temperatures and putting them at risk for injury or death.

#### **HONDA CIVIC ELECTRONIC POWER STEERING DEFECT LITIGATION**

The firm filed a class-action lawsuit accusing American Honda Motor Company of selling 2022-2023 Civics which it knew were equipped with dangerously faulty electronic power steering (EPS) systems. The EPS system failure occurs without warning and under various driving conditions, causing the vehicles to lose steering control at high speeds. The National Highway Traffic Safety Administration opened a preliminary investigation after receiving 145 reports of "momentary increase in steering effort," described as "sticky steering," which could result in the inability to avoid a road hazard.

#### **TESLA MODEL S & MODEL X SOFTWARE BATTERY DRAIN DEFECT LITIGATION**

Hagens Berman has filed a lawsuit on behalf of owners and lessors of Tesla Model S and Model X vehicles, alleging that Tesla's automatic software updates are responsible for a drastic drop in battery performance and

driving range in affected vehicles. In some cases, attorneys allege, the software update renders batteries fully inoperable, and drivers are told they must purchase a new \$15,000 battery.

#### **VW ATLAS WIRING HARNESS DEFECT LITIGATION**

Hagens Berman represents owners and lessors of more than 222,000 defective Volkswagen Atlas vehicles affected by a dangerous manufacturing defect in the door wiring harness. The defect can cause vehicles' systems to malfunction, affecting the functionality of airbags, brakes and more. This defect can place drivers, passengers and other traffic or pedestrians in immediate safety risk and danger of crashes.





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**YEARS OF EXPERIENCE**  
20

**PRACTICE AREAS**  
Civil & Human Rights  
Antitrust Litigation  
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Class Action  
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**BAR ADMISSIONS**  
▪ District of Columbia  
▪ New York  
▪ Washington

**CLERKSHIPS**  
▪ The Honorable Louis F. Oberdorfer, U.S. District Court for D.C.  
▪ U.S. Senate Judiciary Committee, Senator Leahy, Washington, D.C.

**EDUCATION**  
**Berkeley Law**  
University of California, Berkeley  
School of Law, J.D., top 15% of  
graduating class, 2002

**JOHNS HOPKINS**  
SCHOOL of ADVANCED  
INTERNATIONAL STUDIES  
Johns Hopkins University, School  
of Advanced International  
Studies, M.A., International

## PARTNER

# Jerrod C. Patterson

Served as federal prosecutor for more than nine years, prosecuting tax cases, fraud and other financial crimes. Extensive experience trying complex cases to verdict.

## CURRENT ROLE

- Partner, Hagens Berman Sobol Shapiro LLP
- Practice focuses on antitrust and other fraud and RICO cases, including [Generic Pharmaceuticals Pricing Antitrust](#), [Dodge RAM 2500 and 3500 Emissions](#), and [Ford/GM/FCA CP4 Injection Pump Defect](#)
- Extensive experience in handling complex multidistrict cases
- Mr. Patterson brings to the firm extensive trial experience and a history of prosecuting complex fraud cases, including tax fraud, bank fraud, wire fraud, money laundering and prescription fraud.

## EXPERIENCE

- Prior to joining Hagens Berman, Mr. Patterson served as an Assistant United States Attorney at the U.S. Attorney's Office in Seattle, WA.
  - Prosecuted complex fraud cases, including tax fraud, bank fraud, wire fraud, money laundering, and prescription fraud
  - Served as Project Safe Childhood Coordinator; led efforts to investigate and prosecute child pornography and child exploitation cases
  - Led prosecution of large-scale drug trafficking organizations, including cartels and street gangs, to interdict drug smuggling and investigate money laundering
- Trial Attorney, U.S. Department of Justice Washington, D.C., Tax Division, Northern Criminal Enforcement Section
  - Co-chaired prosecution of two defendants, in separate trials, for scheme to defraud the Cleveland Catholic Diocese
- Special Assistant U.S. Attorney, U.S. Attorney's Office for D.C. Nov. 2006 – May 2007
  - Prosecuted 22 bench trials in Sex Offense/Domestic Violence Section
- Associate, Wilmer Cutler Pickering (WilmerHale)

## RECOGNITION

- Outstanding Performance as a Special Assistant U.S. Attorney, U.S. Attorney General, 2010
- Outstanding Tax Division Attorney, Assistant Attorney General, 2009
- Outstanding Tax Division Attorney, Assistant Attorney General, 2008



Economics and International Relations, Graduated *with distinction* (top 10%), 1997



**BROWN  
UNIVERSITY**

Brown University A.B.,  
International Relations, magna  
cum laude, 1995

- Best Financial Investigation in the Nation, Organized Crime and Drug Enforcement Task Force, 2012

#### NOTABLE CASES

- CP4 High-Pressure Fuel Pump Litigation, A series of class action cases against GM, Ford, FCA and Nissan for their use of a defective high pressure fuel pump that generates metallic shavings and can lead to catastrophic failure of the engine
- *In re Animation Workers Antitrust Litig.*, 14-cv-4062 LHK (N.D. Cal.): Class-action antitrust case against major animation studios for conspiring to fix wages of their animators. The parties settled the case for \$169 million
- *In re Generic Pharmaceuticals Pricing Antitrust Litig.* (E.D. Pa.): Class-action antitrust case against over two dozen generic pharmaceutical manufacturers for conspiring to fix the price of generic drugs
- *In re Lithium Ion Batteries Antitrust Litig.*, 12-cv-5129 YGR (N.D. Cal.): Class-action antitrust case against large battery producers for conspiring to fix prices. The parties settled the case for a total of \$113 million
- As a federal prosecutor, led or co-chaired 11 federal jury trials, and 22 bench trials

#### PERSONAL INSIGHT

Although not a Washington state native, Mr. Patterson has quickly adopted Seattle as his hometown. In his spare time, he and his family enjoy the local wineries, lakes and hiking trails.

# EXHIBIT D



## **Arnold Law Firm Biography**

### **Sacramento Office**

865 Howe Avenue  
Sacramento, CA 95825  
916-777-7777  
916.239.4778 (d)  
415.595.3302 (c)

### **Los Angeles Office**

12100 Wilshire Blvd., Ste 800  
Los Angeles, CA 90025  
Phone: 747.777.7748

**justice4you.com**  
**databreachattorneys.com**



Founded in 1975 by Clayeo C. Arnold, the Arnold Law Firm is a litigation-oriented practice with locations in Sacramento and Los Angeles, California. In keeping with its founding principles, our firm consciously works for the interests of individual people and small businesses — not for large corporations or insurance companies.

The Arnold Law Firm prosecutes class action, mass tort, *qui tam*, product defect, employment, and personal injury cases. We pride ourselves on being a practice of trial lawyers, typically trying a minimum of ten cases per year to verdict. In addition to our practice throughout the state of California in both state and federal courts, we also pursue class action, *qui tam* and multi-district litigation claims on a nationwide basis.

Our team of twelve attorneys collectively encompass a broad and diverse professional background, including plaintiff contingency work, public entity representation, criminal defense, and civil defense. We have current and past board members of Capital City Trial Lawyers Association, as well as members of numerous prestigious professional organizations, including the American Board of Trial Advocates, American Association for Justice, Association of Trial Lawyers of America, Sacramento County Bar Association, and Consumer Attorneys of California.

Our firm's operating structure is comprised of multiple teams directed towards specific practice areas. These teams regularly and intentionally collaborate and exchange information between their practice areas to improve the quality of representation for all of our



## **Arnold Law Firm Biography**

(continued)

clients.

For over four decades the Arnold Law Firm has developed a respected and extensive network of co-counsel and experienced contract counsel to rapidly expand our capabilities as necessary on an *ad hoc* basis (e.g., document review). We employ a robust staff of highly qualified and experienced legal staff including assistants and paralegals to ensure that attorney time is spent in the most efficient manner possible.

The Arnold Law Firm employs technology to increase productivity thereby resulting in more efficient and effective legal representation and driving excellent results on behalf of its clients. Specifically, the firm increases its efficiency by using numerous forms of legal and practice management software including template software, client management software, and secure internet-based client management for mass tort or multi-plaintiff litigation. We also invest in appropriate billing and tracking software for contemporaneous hourly record keeping.

The Arnold Law Firm places substantial value on representing clients in a manner that is both effective and courteous. Integrity with clients, the courts, and adverse counsel are all considered to be as indispensable as successful results.

Our highly accomplished counsel has a long history of successfully handling class actions across a range of industries, including data breach cases.



## **M. Anderson Berry Biography**



The Arnold Law Firm has a proven track record of success and the ability to work efficiently and cooperatively with others. In addition, our firm has the availability and resources necessary to litigate complex class actions.

### **M. Anderson Berry**

M. Anderson Berry heads the data breach complex litigation and *qui tam* practices for the Arnold Law Firm. He brings substantial experience in complex litigation matters with a history of litigating in an efficient and practical manner, including as Lead Class Counsel, Co-Lead Class Counsel, and as a member of numerous Plaintiffs' Executive Committees.

Mr. Berry has an extensive background in privacy and consumer/government fraud litigation, actively participating in a currently sealed False Claims Act case involving widespread cybersecurity fraud upon the United States, and the class action litigations filed in federal and state courts across the nation, set out below.

Before joining the Arnold Law Firm in 2017, Mr. Berry worked as an Assistant United States Attorney for the Eastern District of California. As part of the Affirmative Civil Enforcement unit, Mr. Berry handled a wide variety of complex cases and recovered millions of dollars for the United States.

Before working for the Department of Justice, Mr. Berry practiced at one of the world's largest law firms, Jones Day, where he represented clients in international arbitration and complex commercial litigation, including defending class action allegations.



## M. Anderson Berry Biography

(continued)

Mr. Berry was first selected as the Northern California Super Lawyers Rising Star in 2015 in the field of complex civil litigation.

Mr. Berry attended the University of California, Berkeley, where he majored in English and graduated with highest honors. Mr. Berry was inducted into the Phi Beta Kappa Honor Society and served as President of the English Undergraduate Associate.

After working as a private investigator for both criminal and civil investigations in the San Francisco Bay Area, Anderson graduated from U.C. Berkeley School of Law, where he was a Senior Editor for both the *Berkeley Journal of Criminal Law* and *Berkeley Journal of International Law*.

He was admitted to the California Bar in 2009 and is admitted to practice in the Northern, Eastern, Southern and Central Districts of California. Mr. Berry is also admitted to practice in the Northern District of Illinois, the Eastern District of Michigan, the Northern and Southern Districts of Indiana, the Districts of Colorado and Nebraska, and the Fourth and Ninth Circuit Courts of Appeals.

Mr. Berry was raised in Moraga, California and now lives in Fair Oaks, California, with his wife and three young sons.

### **Select Data Breach Cases**

*John Doe, et al. v. Fred Hutchinson Cancer Center, et al.*,  
2:23-cv-01893-JHC (W.D. Wa.) (**Co-Lead Counsel**);  
*In Re: Entertainment Partners Data Breach Litigation*, 2:23-  
cv-06546-CAS (C.D. Ca.) (**Co-Lead Counsel**)  
*In Re: Snap Finance Data Breach*, 2:22-cv-00761-TS-JCB  
(D.UT.) (**Co-Lead Counsel**) (settled)  
*Ware v. San Geronio Memorial Hosp.*, CVRI2301216 (Sup.  
Crt of CA, Riverside) (**Co-Lead Counsel**)  
*In Re: Overby-Seawell Co. Customer Data Security Breach*



## M. Anderson Berry Biography

(continued)

*Lit.*, 1:23-md-03056-SDG (N.D. Ga.) (**Co-Lead Counsel**);

*Holmes v. Elephant Insurance Company, et al.*, 3:22-cv-00487-JAG (E.D. VA.) (**Co-Lead Counsel**);

*In Re: Arthur J. Gallagher Data Breach Litigation*, 1:21-cv-04056 (N.D.Ill.) (**Co-Lead Counsel**);

*Petimat Dudurkaewa et al. v. Midfirst Back et al.*, 5:23-cv-00817-R (W.D. Ok.) (**Executive Comm.**);

*In Re: CaptureRx Data Breach Litigation*, 5:21-cv-00523 (W.D.TX.)(**Co-Lead Counsel**) (settled);

*Rossi v. Claire's Stores*, 1:20-cv-05090 (N.D. Il.) (**Co-Lead Counsel**) (settled);

*Desue v. 20/20 Eye Care Network, Inc. et al.*, 0:21-cv-61275 (S.D. Fla.) (**Executive Comm.**);

*In re: Mednax Services, Inc. Customer Data Security Breach Litigation*, 21-MD-02994 (S.D. Fl.) (**Executive Comm.**);

*Bowdle v. King's Seafood Co. LLC*, 8:21-cv-01784-CJC-JDE, (CD. Cal.) (Class Counsel) (settled);

*Hashemi et al. v. Bosley, Inc.* 2:21-cv-00946 (CD. Cal.) (Class Counsel) (settled);

*Heath et al. v. Insurance Technologies Corp et al.*, 3:21-cv-01444 (N.D. Tex.) (Class Counsel) (settled);

*Carrera Aguillo et al. v. Kemper Corporation et al.*, 1:21-cv-01883 (N.D. Ill.) (Class Counsel) (settled);

*Ahn et al. v. Herff Jones, LLC*, 1:21-cv-01381 (S.D. Ind.) (settled);

*Bitmouni v. Paysafe Limited*, 3:21-cv-00641-JCS (N.D. Cal.) (Class Counsel) (settled);

*Gaston v. FabFitFun, Inc.*, 2:20-cv-09534 (C.D. Cal.) (Class Counsel) (settled);

*In Re: Ambry Genetics Data Breach Litigation*, 8:20-cv-00791 (C.D. Cal.) (settled);

*In Re: Morgan Stanley Data Security Litigation*, 1:20-cv-05914 (S.D.N.Y.) (settled);

*Pfeiffer et al. v. RadNet, Inc.*, 2:20-cv-09553-RGK-SK (C.D. Cal.)(Class Counsel) (settled);



## Gregory Haroutunian Biography



### Gregory Haroutunian

Gregory Haroutunian is the Senior Associate and of the data breach complex litigation and *qui tam* practices for the Arnold Law Firm. He brings substantial experience in complex litigation matters with a history of litigating in an efficient and practical manner.

Mr. Haroutunian has an extensive background in complex litigation, privacy and consumer/government fraud litigation, actively participating in a currently sealed False Claims Act case involving widespread cybersecurity fraud upon the United States, and the class action litigations filed in federal courts across the nation, set out below.

Before joining the Arnold Law Firm in 2021, Mr. Haroutunian worked in diverse practices across the nation including litigating dozens of products liability medical device cases in state and federal courts throughout the country and employment and construction related complex class-action and surety bond litigations involving multi-million dollar settlements throughout New York and New Jersey.

Mr. Haroutunian attended Columbia College, Columbia University, where he majored in Political Science and served with the New York State Senate Minority Leader's Office.

After working as a paralegal for a small general litigation and elder law firm in New York City, Gregory attended the Georgetown University Law Center where he graduated *cum laude*. While at Georgetown Gregory held a year-long judicial internship under Chief Administrative Law Judge Ronnie A. Yoder of the United States Department of Transportation and served as a legal intern at the National Whistleblowers' Center and the firm Kohn, Kohn, & Colapinto where he had his first experiences in *qui tam* and fraud cases.

Work that Mr. Haroutunian did at Georgetown comparing and analyzing aviation regulations was subsequently published in the Law Journal of the Pacific.





**Gregory Haroutunian  
Biography (cont.)**

He was admitted to the New Jersey and New York Bars in 2013 and the California Bar in 2020 and is admitted to practice in the Northern, Eastern, Southern, and Central Districts of California, the Southern and Northern Districts of New York, and the District of New Jersey. Mr. Haroutunian is also admitted to practice in the Southern and Northern Districts of Indiana and the District of Colorado.

Mr. Haroutunian has been separately appointed Class Counsel in the following matters:

*Bitmouni v. Paysafe Payment Processing Solutions, LLC*, No. 3:21-cv-00641-JCS (N.D. Cal.) (Class Counsel);

*In re: Ethos Technologies Inc. Data Breach Litig.*, No. 3:22-cv-09203-SK (N.D. Cal.) (Class Counsel).

Mr. Haroutunian was raised in Montvale, New Jersey.