

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

_____	X	
In re AMERICAN REALTY CAPITAL	:	Civil Action No. 1:15-mc-00040-AKH
PROPERTIES, INC. LITIGATION	:	
_____	:	<u>CLASS ACTION</u>
	:	
This Document Relates To:	:	
	:	
ALL ACTIONS.	:	
_____	X	

**DECLARATION OF BARBARA HART FILED ON BEHALF OF LOWEY  
DANNENBERG, P.C. IN SUPPORT OF APPLICATION FOR AWARD OF  
ATTORNEYS' FEES AND EXPENSES**

I, Barbara Hart, declare as follows:

1. I am President and CEO of the firm of Lowey Dannenberg, P.C. (“Lowey”). I am submitting this declaration in support of my firm’s application for an award of attorneys’ fees and expenses/charges (“expenses”) in connection with services rendered in the above-entitled action.

2. This firm is counsel to class representatives Corsair Select 100 L.P., Corsair Select Master Fund, Ltd., Corsair Capital Partners L.P., Corsair Select L.P., Corsair Capital Partners 100 L.P., and Corsair Capital Investors, Ltd. (collectively “Corsair”), the proposed class representative with the second largest financial interest in the litigation. Lowey attorneys, including my Partner Thomas Skelton and other colleagues, devoted significant time and resources working with Corsair to litigate this important action. This matter was important to Corsair financially and on principle. Lowey took an active role in representing Corsair throughout this five-year litigation, from investigating the claims to defending Corsair’s class certification deposition to assisting with crucial legal briefing. The following are some of the important roles Lowey took to assist Corsair and the Class:

- (a) Investigated claims and reviewed documents;
- (b) Analyzed representations made by Defendants;
- (c) Assisted client with data collection and review and analysis of claims;
- (d) Assisted with motion to dismiss briefing;
- (e) Assisted with negotiations regarding discovery issues;
- (f) Assisted with class certification briefing;
- (g) Prepared for and attending hearings;
- (h) Defended Corsair’s deposition;

- (i) Prepared for and represented Corsair at an interview with the Department of Justice and the Securities & Exchange Commission;
- (j) Assisted with summary judgment research and briefing; and
- (k) Participated in strategy sessions with Lead Counsel.

3. The information in this declaration regarding the firm's time and expenses is taken from time and expense printouts and supporting documentation prepared and/or maintained by the firm in the ordinary course of business. I am the Partner who oversaw and/or conducted the day-to-day activities in the litigation and I reviewed these printouts (and backup documentation where necessary or appropriate) in connection with the preparation of this declaration. The purpose of this review was to confirm both the accuracy of the entries on the printouts as well as the necessity for, and reasonableness of, the time and expenses committed to the litigation. I believe that the time reflected in the firm's lodestar calculation and the expenses for which payment is sought as set forth in this declaration are reasonable in amount and were necessary for the effective and efficient prosecution and resolution of the litigation. In addition, I believe that the expenses are all of a type that would normally be charged to a fee-paying client in the private legal marketplace.

4. The number of hours spent on this litigation by my firm is 2,338.55. A breakdown of the lodestar is provided in **Exhibit A**. The lodestar amount for attorney/paralegal time based on the firm's current rates is \$1,521,906.00. The hourly rates shown in **Exhibit A** are the usual and customary rates set by the firm for each individual.

5. My firm seeks an award of \$22,990.93 in expenses and charges in connection with the prosecution of the litigation. Those expenses and charges are summarized by category in **Exhibit B**.

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



(a) Transportation, Hotels & Meals: \$993.76. In connection with the prosecution of this case, the firm has paid for travel expenses to, among other things, attend court hearings, meet with witnesses, and defend Corsair's deposition. The date, destination and purpose of each trip is set forth in **Exhibit C**.

(b) Telephone, Facsimile: \$28.62. In connection with this case, the firm incurred expenses in hosting teleconference calls using its vendor Arkadin, Inc., for a total expense of \$28.62.

(c) Messenger, Overnight Delivery: \$12.51. In connection with this case, the firm used overnight delivery services, such as FedEx, to delivery documents, for a total expense of \$12.51.

(d) Photocopies: \$3,839.00. In connection with this case, the firm made 19,195 in-house black and white copies, charging \$0.20 per copy for a total of \$3,839.00. Each time an in-house copy machine is used, our billing system requires that a case or administrative billing code be entered and that is how the 19,195 copies were identified as related to this case.

(e) Online Legal and Financial Research: \$2,296.70. This category includes vendors such as PACER, LexisNexis, Bloomberg BNA, and Thomson Reuters. These resources were used to obtain access to SEC filings, factual databases, legal research and for cite-checking of briefs. This expense represents the expense incurred by Lowey for use of these services in connection with this litigation. The charges for these vendors vary depending upon the type of services requested.

(f) eDiscovery Database Hosting: \$15,820.34. In connection with this case, the firm used eDiscovery services to host and review documents during discovery. The firm uses various vendors for assistance with this expense. The total expense for this category is \$15,820.34.

7. The expenses pertaining to this case are reflected in the books and records of this firm. These books and records are prepared from receipts, expense vouchers, check records and other documents and are an accurate record of the expenses.

8. The identification and background of my firm and its partners is attached hereto as **Exhibit D.**

I declare under penalty of perjury that the foregoing is true and correct. Executed this 10<sup>th</sup> day of December, 2019, at White Plains, NY.



---

Barbara Hart

CERTIFICATE OF SERVICE

I hereby certify under penalty of perjury that on December 17, 2019, I authorized the electronic filing of the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the e-mail addresses on the attached Electronic Mail Notice List, and I hereby certify that I caused the mailing of the foregoing via the United States Postal Service to the non-CM/ECF participants indicated on the attached Manual Notice List.

s/ Debra J. Wyman  
\_\_\_\_\_  
DEBRA J. WYMAN

ROBBINS GELLER RUDMAN  
& DOWD LLP  
655 West Broadway, Suite 1900  
San Diego, CA 92101  
Telephone: 619/231-1058  
619/231-7423 (fax)

E-mail: [debraw@rgrdlaw.com](mailto:debraw@rgrdlaw.com)

## Mailing Information for a Case 1:15-mc-00040-AKH In re American Realty Capital Properties, Inc. Litigation

### Electronic Mail Notice List

The following are those who are currently on the list to receive e-mail notices for this case.

- **Jeffrey Simon Abraham**  
jabraham@aftlaw.com
- **Robin L. Alperstein**  
ralperstein@beckerglynn.com,esteckhan@beckerglynn.com,hhill@beckerglynn.com
- **Antonia Marie Apps**  
aapps@milbank.com,ggreen@milbank.com,AutoDocketECF@milbank.com
- **Adam M. Apton**  
aapton@zlk.com
- **Karim Basaria**  
kbasaria@sidley.com
- **Khristoph Becker**  
kbecker@steptoe.com,spu@steptoe.com,ehartman@steptoe.com,ocorn@steptoe.com
- **Stanley D Bernstein**  
bernstein@bernlieb.com,birkeland@bernlieb.com,ecf@bernlieb.com
- **Rebecca A. Beynon**  
rbeynon@kellogghansen.com
- **Brian Roger Blais**  
brian.blais@usdoj.gov,usanysecf@usdoj.gov,CaseView.ECF@usdoj.gov
- **Jeffrey Craig Block**  
jeff@blockesq.com,jason@blockesq.com,pacer-blockleviton-9062@ecf.pacerpro.com
- **Kristen Leigh Bokhan**  
kristen.bokhan@kirkland.com
- **Adam Jerrod Bookman**  
adam.bookman@weil.com,adam-bookman-4279@ecf.pacerpro.com
- **Bruce Roger Braun**  
bbraun@sidley.com,nyefiling@sidley.com,efilingnotice@sidley.com,catherine.stewart@sidley.com,kbasaria@sidley.com,ntygesso@sidley.com,nconrad@sidley.com,tbraun-9612@ecf.pacerpro.com
- **Kristina Anne Bunting**  
kbunting@paulweiss.com,mao\_fednational@paulweiss.com
- **Jennifer Nunez Caringal**  
jcaringal@rgrdlaw.com,SCaesar@rgrdlaw.com,kmccormack@rgrdlaw.com,JCaringal@ecf.courtdrive.com
- **Alexandra Rebecca Clark**  
aclark@pkblp.com
- **Neil Harris Conrad**  
nconrad@sidley.com,efilingnotice@sidley.com,neil-conrad-4222@ecf.pacerpro.com
- **Patrick Joseph Coughlin**  
patc@rgrdlaw.com,smiller@rgrdlaw.com,e\_file\_sd@rgrdlaw.com
- **Jason Robert D'Agnenica**  
jasondag@ssbny.com
- **Glen DeValerio**  
gdevalerio@bermandealerio.com,bdentremont@bermandealerio.com,ecf@bermandealerio.com,bmccarthy@bermandealerio.com
- **Bruce Whitney Dona**  
bruce.dona@ksfcounsel.com
- **Michael Joseph Dowd**  
miked@rgrdlaw.com,debg@rgrdlaw.com,e\_file\_sd@rgrdlaw.com,tome@rgrdlaw.com
- **Daniel S. Drosman**  
ddrosman@rgrdlaw.com,E\_File\_SD@rgrdlaw.com,tholindrake@rgrdlaw.com,DanD@ecf.courtdrive.com
- **H. Miriam Farber**  
mfarber@shearman.com,managing-attorney-5081@ecf.pacerpro.com,CourtAlert@Shearman.com,miriam-farber-7421@ecf.pacerpro.com,manattyoffice@shearman.com
- **Meagan Alicia Farmer**  
mfarmer@gardylaw.com

- **Reid Mason Figel**  
rfigel@kelloggghansen.com, fli@kelloggghansen.com, cparra@kelloggghansen.com
- **Christopher Lee Filburn**  
cfilburn@paulweiss.com, mao\_fednational@paulweiss.com
- **Robert Craig Finkel**  
rfinkel@wolffpopper.com, cdunleavy@wolffpopper.com, mgianfagna@wolffpopper.com
- **Jason A. Forge**  
jforge@rgrdlaw.com, tholindrake@rgrdlaw.com, e\_file\_SD@rgrdlaw.com, JForge@ecf.courtdrive.com
- **Adam Fotiades**  
afotiades@zuckerman.com
- **Molly Bruder Fox**  
mbfox@steptoe.com
- **Christopher Louis Garcia**  
christopher.garcia@weil.com, mco.ecf@weil.com, evert.christensen@weil.com, christopher-garcia-1339@ecf.pacerpro.com, nymao@ecf.pacerpro.com
- **James Philip Gillespie**  
jgillespie@kirkland.com, kevin.mccarthy@kirkland.com, kenymanagingclerk@kirkland.com
- **Daniel Zachary Goldman**  
dgoldman@pkblp.com
- **Andrew Edward Goldsmith**  
agoldsmith@kelloggghansen.com, ecfnofices@kelloggghansen.com, ggolddfeder@kelloggghansen.com, ecf-2ff5a29c9f5d@ecf.pacerpro.com
- **Jonah H. Goldstein**  
jonahg@rgrdlaw.com
- **Douglas W. Greene**  
dgreene@bakerlaw.com, agougisha@bakerlaw.com, bhlitdocket@bakerlaw.com
- **Theresa Hsin-Yi Gue**  
tgue@pkblp.com
- **John Gueli**  
jgueli@shearman.com, managing-attorney-5081@ecf.pacerpro.com, CourtAlert@Shearman.com, manattyoffice@shearman.com, john-gueli-5051@ecf.pacerpro.com
- **Adam Selim Hakki**  
ahakki@shearman.com, managing-attorney-5081@ecf.pacerpro.com, Courtalert@shearman.com, manattyoffice@shearman.com, adam-hakki-1816@ecf.pacerpro.com
- **John Louis Hardiman**  
hardimanj@sullcrom.com, john-hardiman-9552@ecf.pacerpro.com, s&cmanagingclerk@sullcrom.com
- **David Charles Harrison**  
dharrison@lowey.com
- **Barbara J. Hart**  
bhart@lowey.com
- **Steven P. Harte**  
steven@blockesq.com, pacer-blockleviton-9062@ecf.pacerpro.com
- **James Ormerod Heyworth , V**  
jheyworth@sidley.com, nyefiling@sidley.com, james-heyworth-0340@ecf.pacerpro.com
- **William Scott Holleman**  
holleman@bespc.com, ecf@bespc.com
- **Geoffrey Coyle Jarvis**  
gjarvis@ktmc.com, 9343632420@filings.docketbird.com, mswift@ktmc.com
- **Frank James Johnson**  
frankj@johnsonandweaver.com, paralegal@johnsonandweaver.com
- **Rebecca M Katz**  
rkatz@katzlawnewyork.com, disaacson@motleyrice.com, dabel@motleyrice.com, lkorenblit@motleyrice.com, kweil@motleyrice.com
- **Christopher J. Keller**  
ckeller@labaton.com, 5497918420@filings.docketbird.com, lpina@labaton.com, ElectronicCaseFiling@labaton.com
- **Michael Anthony Keough**  
mkeough@steptoe.com, ehartman@steptoe.com, docketadministrators@steptoe.com, rgillis@steptoe.com, ocorn@steptoe.com, cdecamp@steptoe.com
- **Phillip C. Kim**  
pkim@rosenlegal.com
- **Robert Klipper**  
rklipper@kelloggghansen.com, jmarine@kelloggghansen.com



- **Lawrence Paul Kolker**  
kolker@whafh.com
- **Alexia Dorothea Korberg**  
akorberg@paulweiss.com,mao\_fednational@paulweiss.com
- **Daniel Jonathan Kramer**  
dkramer@paulweiss.com,mao\_fednational@paulweiss.com
- **Larry Howard Krantz**  
lkrantz@krantzberman.com
- **Eric Albin Larson**  
elarson@mmmlaw.com,eeckard@mmmlaw.com
- **Angel P. Lau**  
alau@rgrdlaw.com,tdevries@rgrdlaw.com,alau@ecf.courtdrive.com
- **Grace Jheeyoung Lee**  
grace.lee@shearman.com,managing-attorney-5081@ecf.pacerpro.com,CourtAlert@Shearman.com,grace-lee-3889@ecf.pacerpro.com,manattyoffice@shearman.com,stephen.ross@shearman.com,mariusz.jedrzejewski@shearman.com
- **Justin David Lerer**  
jlerer@paulweiss.com,mao\_fednational@paulweiss.com
- **Michelle Lynn Levin**  
mlevin@steptoe.com,spu@steptoe.com,ehartman@steptoe.com,ocorn@steptoe.com
- **Daniel Craig Lewis**  
daniel.lewis@shearman.com,managing-attorney-5081@ecf.pacerpro.com,daniel-lewis-6070@ecf.pacerpro.com,CourtAlert@Shearman.com,manattyoffice@shearman.com
- **Jeremy Alan Lieberman**  
jalieberman@pomlaw.com,ahood@pomlaw.com,disaacson@pomlaw.com,abarbosa@pomlaw.com
- **Neil Robert Lieberman**  
nlieberman@hsgllp.com,crodriguez@hsgllp.com,Managingclerk@hsgllp.com
- **Howard Theodore Longman**  
tsvi@aol.com,hlongman@ssbny.com
- **Morgan Paige Lucas**  
mlucas@steptoe.com,ehartman@steptoe.com,ocorn@steptoe.com
- **John Phillip MacNaughton**  
jpm@mmmlaw.com,wew@mmmlaw.com,elarson@mmmlaw.com
- **Michael David Margulies**  
mmargulies@carltonfields.com
- **Jerry Lee Marks**  
jmarks@milbank.com
- **Rita Kathleen Maxwell**  
rita.maxwell@bracewellllaw.com,mco@bracewellllaw.com
- **Francis Paul McConville**  
fmccconville@labaton.com,HChang@labaton.com,lpina@labaton.com,drogers@labaton.com,9849246420@filings.docketbird.com,electroniccasefiling@labaton.com
- **Glen Garrett McGorty**  
gmcgorty@crowell.com
- **Donald Alan Migliori**  
dmigliori@motleyrice.com,kdotson@motleyrice.com
- **Michael Campion Miller**  
mmiller@steptoe.com,spu@steptoe.com,ocorn@Steptoe.com,ehartman@steptoe.com
- **Mark Tamerlane Millkey**  
mmillkey@rgrdlaw.com,e\_file\_ny@rgrdlaw.com,MMillkey@ecf.courtdrive.com
- **Erin Jennifer Morgan**  
ejmorgan@paulweiss.com,mao\_fednational@paulweiss.com
- **Christopher F. Moriarty**  
cmoriarty@motleyrice.com,sturman@sturman.ch
- **Daniel P. Moylan**  
dmoylan@zuckerman.com,jlinton@zuckerman.com,cvandergriff@zuckerman.com
- **Beth Mueller**  
beth.mueller@kirkland.com,lroberts@kirkland.com,kenymanagingclerk@kirkland.com

- **Mark Francis Murphy**  
mmurphy@steptoe.com
- **Sean Michael Nadel**  
snadel@kelloggghansen.com
- **William H. Narwold**  
bnarwold@motleyrice.com,glevin@motleyrice.com,lmclaughlin@motleyrice.com,vlepine@motleyrice.com,ajanelle@motleyrice.com
- **Shawn Patrick Naunton**  
snaunton@zuckerman.com,lgehlbach@zuckerman.com
- **Gregory Mark Nespole**  
gnespole@zlk.com,jtash@zlk.com
- **Ivy T. Ngo**  
ingo@rgrdlaw.com,e\_file\_sd@rgrdlaw.com
- **Jonathan Ohring**  
johring@milbank.com,DMarcou@milbank.com,mprostko@milbank.com,TQuinn@milbank.com,JKammerman@milbank.com,milbank@ecf.courtdrive.com,jon-ohring-4945@ecf.pacerpro.com,dhooks1@milbank.com,klandis@milbank.com,AutoDocketECF@milbank.com,ggreen@milbank.com,MGrier@milbank.com,molsson@milb
- **Bradley E Oppenheimer**  
boppenheimer@kelloggghansen.com,ecf-780f0d54d6a1@ecf.pacerpro.com,ggoldfeder@kelloggghansen.com
- **Guy Petrillo**  
gpetrillo@pkbllp.com
- **Ashley M. Price**  
APrice@rgrdlaw.com,aprice@ecf.courtdrive.com,e\_file\_sd@rgrdlaw.com,lmix@rgrdlaw.com
- **Kingdar Prussien**  
kprussien@milbank.com,autodocketecf@milbank.com
- **Arlen Pyenson**  
apyenson@crowell.com
- **Fei-Lu Qian**  
fqian@saxenawhite.com,e-file@saxenawhite.com,cwallace@saxenawhite.com
- **Leah Margaret Quadrino**  
lquadrino@steptoe.com,pparker@steptoe.com
- **Daniel Brett Rehns**  
drehns@hrsclaw.com,efilings@hrsclaw.com
- **Kenneth Mark Rehns**  
krehns@saxenawhite.com,krehns@cohenmilstein.com,e-file@saxenawhite.com,cwallace@saxenawhite.com
- **Julie Goldsmith Reiser**  
jreiser@cohenmilstein.com
- **Lorin L. Reisner**  
LReisner@paulweiss.com,mao\_fednational@paulweiss.com
- **Joseph F. Rice**  
jrice@motleyrice.com
- **Ann Kimmel Ritter**  
aritter@motleyrice.com,glevin@motleyrice.com,kweil@motleyrice.com
- **Darren J. Robbins**  
e\_file\_sd@rgrdlaw.com,jcaringal@rgrdlaw.com
- **Lara Elizabeth Romansic**  
lromansic@steptoe.com
- **Laurence Matthew Rosen**  
lrosen@rosenlegal.com
- **David Avi Rosenfeld**  
drosenfeld@rgrdlaw.com,e\_file\_ny@rgrdlaw.com,e\_file\_sd@rgrdlaw.com,drosenfeld@ecf.courtdrive.com
- **Robert M. Rothman**  
rrothman@rgrdlaw.com,e\_file\_ny@rgrdlaw.com,RRothman@ecf.courtdrive.com,e\_file\_sd@rgrdlaw.com
- **Samuel Howard Rudman**  
srudman@rgrdlaw.com,e\_file\_ny@rgrdlaw.com,mblasy@rgrdlaw.com,e\_file\_sd@rgrdlaw.com
- **Peter George Safirstein**  
psafirstein@safirsteinmetcalf.com,sfeerick@safirsteinmetcalf.com

- **Michael Gerard Scavelli**  
mscavelli@steptoe.com,spu@steptoe.com,ehartman@steptoe.com,ocorn@steptoe.com
- **Jed Mastren Schwartz**  
jschwartz@milbank.com,jed-schwartz-8050@ecf.pacerpro.com,milbank@ecf.courtdrive.com,ggreen@milbank.com,AutoDocketECF@milbank.com
- **Kevin S. Sciarani**  
ksciarani@rgrdlaw.com,KSciarani@ecf.courtdrive.com,tdevries@rgrdlaw.com,e\_file\_sd@rgrdlaw.com
- **Joseph R. Seidman**  
seidman@bernlieb.com
- **Jonathan Lucas Shapiro**  
jshapiro@kasowitz.com,courtnotices@kasowitz.com,autodocket@kasowitz.com
- **Jessica T. Shinnfield**  
jshinnfield@rgrdlaw.com,JShinnfield@ecf.courtdrive.com,landracchio@rgrdlaw.com
- **Thomas Michael Skelton**  
tskelton@lowey.com
- **Richard William Slack**  
richard.slack@weil.com,mco.ecf@weil.com,richard-slack-7880@ecf.pacerpro.com,adam.bookman@weil.com,Patrick.Branson@weil.com,nymao@ecf.pacerpro.com,evert.christensen@weil.com,Raquel.Kellert@weil.com
- **Patrick Kevin Slyne**  
pkslyne@ssbny.com
- **Patrick C Smith**  
psmith@dehay.com
- **Audra Jan Soloway**  
asoloway@paulweiss.com,mao\_fednational@paulweiss.com
- **Luigi Spadafora**  
spadafora.l@wsslpl.com
- **Kendra L Stead**  
kstead@sidley.com,efilingnotice@sidley.com,jdent@sidley.com,kendra-stead-0480@ecf.pacerpro.com
- **Michael Howard Steinberg**  
steinbergm@sullcrom.com,michael-h-steinberg-5026@ecf.pacerpro.com,s&cmanagingclerk@sullcrom.com
- **Christopher D. Stewart**  
cstewart@rgrdlaw.com,karenc@rgrdlaw.com,e\_file\_sd@rgrdlaw.com
- **Elizabeth Johnson Stewart**  
elizabeth.stewart@shearman.com,managing-attorney-5081@ecf.pacerpro.com,CourtAlert@Shearman.com,elizabeth-stewart-0821@ecf.pacerpro.com,manattyoffice@shearman.com
- **Ellen Anne Gusikoff Stewart**  
elleng@rgrdlaw.com
- **Daniel Ben Tehrani**  
Daniel.Tehrani@usdoj.gov,CaseView.ECF@usdoj.gov
- **Steven Jeffrey Toll**  
stoll@cohenmilstein.com,efilings@cohenmilstein.com
- **Matthew Tracy**  
tracy.m@wsslpl.com
- **Nicholas Tygesson**  
ntygesso@sidley.com
- **Anil Karim Vassanji**  
avassanji@fklaw.com
- **Melanie Elizabeth Walker**  
mewalker@sidley.com,melanie-walker-7174@ecf.pacerpro.com,efilingnotice@sidley.com
- **Reid Weingarten**  
rweingarten@steptoe.com
- **Joseph Harry Weiss**  
jweiss@weisslawllp.com,infony@weisslawllp.com,joshua-rubin-1257@ecf.pacerpro.com,exec@weisslawllp.com
- **Theodore Von Wells , Jr**  
twells@paulweiss.com,mao\_fednational@paulweiss.com
- **Collin White**  
cwhite@kellogghansen.com

- **Regis C. Worley , Jr**  
rworley@rgrdlaw.com
- **Debra J. Wyman**  
debraw@rgrdlaw.com,DebraW@ecf.courtdrive.com,e\_file\_sd@rgrdlaw.com,scaesar@rgrdlaw.com
- **Genevieve Graeme York-Erwin**  
gyorkerwin@bakerlaw.com

### Manual Notice List

The following is the list of attorneys who are **not** on the list to receive e-mail notices for this case (who therefore require manual noticing). You may wish to use your mouse to select and copy this list into your word processing program in order to create notices or labels for these recipients.

**Ar Capital LLC**

,

**Dwight Phillip Bostwick**  
Zuckerman Spaeder, LLP  
1800 M Street, N.W., Ste. 1000  
Washington, DC 20036-5802

**Scott Alexander Edelman**  
Milbank LLP  
55 Hudson Yards  
New York City, NY 10001-2163

**Kevin Patton**

,

**William Taylor**  
Zuckerman Spaeder LLP  
1800 M Street, N.W  
Washington, DC 20036

**David C. Walton**  
Robbins Geller Rudman & Dowd LLP (SAN DIEGO)  
655 West Broadway  
Suite 1900  
San Diego, CA 92101

**Abby M. Wenzel**

,

# **EXHIBIT A**



**EXHIBIT A**

In re American Realty Capital Properties Litigation  
 Lowey Dannenberg, P.C.  
 Inception through November 30, 2019

<i>NAME</i>		<i>HOURS (\$)</i>	<i>RATE (\$)</i>	<i>LODESTAR</i>
Barbara Hart	(P)	379.30	945	\$358,438.50
Richard Cohen	(P)	0.25	945	\$236.25
Thomas Skelton	(P)	537.25	945	\$507,701.25
David Harrison	(P)	193.75	840	\$162,750.00
Scott Papp	(A)	61.00	625	38,125.00
Deborah Rogozinski	(A)	82.50	550	\$45,375.00
Sung-Min Lee	(A)	5.00	600	\$3,000.00
Noelle Ruggiero	(A)	210.75	575	\$121,181.25
Christian Levis	(A)	15.50	575	\$8,912.50
Roland St. Louis	(A)	3.75	450	\$1,687.50
Christina McPhaul	(A)	107.25	365	\$39,146.25
Amir Alimehri	(A)	183.50	340	\$62,390.00
Brianna Wilson	(A)	256.25	350	\$89,687.50
Justin Teres	(A)	144.50	350	\$50,575.00
Alesandra Greco	(SA)	5.00	300	\$1,500.00
David Zepeda	(SA)	2.50	300	\$750.00
<b>Paralegals</b>				
Katherine Vogel		49.00	290	\$14,210.00
Stephen Fay		33.00	160	\$5,280.00
Gregory Santiago		25.50	160	\$4,080.00
Sylvia Hoffmann		21.00	160	\$3,360.00
Kemly Bracero		13.25	160	\$2,120.00
Maribel Valentin		8.75	160	\$1,400.00
<b>TOTAL</b>		<b>2,338.55</b>		<b>\$1,521,906.00</b>

(P) Partner

(A) Associate

(SA) Summer Associate

# **EXHIBIT B**

**EXHIBIT B**

In re American Realty Capital Properties Litigation  
 Lowey Dannenberg, P.C.  
 Inception through November 30, 2019

<i>CATEGORY</i>		<i>AMOUNT</i>
Transportation, Hotels & Meals		\$993.76
Telephone, Facsimile		\$28.62
Messenger, Overnight Delivery		\$12.51
Photocopies		
In-House Black and White Copies: (19,195 copies at \$0.20 per page)		\$3,839.00
Online Legal and Financial Research		\$2,296.70
eDiscovery Database Hosting		\$15,820.34
<b><i>TOTAL</i></b>		<b><i>\$22,990.93</i></b>

# **EXHIBIT C**

**EXHIBIT C**

In re American Realty Capital Properties Litigation  
 Lowey Dannenberg, P.C.  
 Inception through November 30, 2019

Transportation, Hotels & Meals: \$993.76

<i>NAME</i>	<i>DATE</i>	<i>DESTINATION</i>	<i>PURPOSE</i>
David Harrison and Barbara Hart	1/5/2015	SDNY Courthouse	1/5/2015 Status Conference (Travel and Meal Fare)
Thomas Skelton and Barbara Hart	2/10/2015	SDNY Courthouse	2/10/2015 Status Conference (Train Fare)
Thomas Skelton	8/7/2015	SDNY Courthouse	8/7/2015 Status Conference (Train, Parking, Meal Expense)
Thomas Skelton	8/10/2015	SDNY Courthouse	8/10/2015 Status Conference (Train and Parking)
Thomas Skelton and Barbara Hart	5/16/2017	SDNY Courthouse	5/16/2017 Status Conference (Train)
Thomas Skelton and Barbara Hart	7/13/2017	New York	Client Meeting (Train, Parking, Meal)
Thomas Skelton and Barbara Hart	7/18/2017	New York	Client Meeting (Train and Parking)
Thomas Skelton and Barbara Hart	7/19/2017	New York	Client Deposition (Train and Parking)
Amir Alimehri and Thomas Skelton	4/17/2019	SDNY Courthouse	Summary Judgment Hearing (Travel and Meal)
Amir Alimehri	6/12/2019	SDNY Courthouse	Status Conference (Travel and Meal)



# **EXHIBIT D**



LOWEY DANNENBERG

Securities Litigation

## Firm Resume



[www.lowey.com](http://www.lowey.com)

[info@lowey.com](mailto:info@lowey.com)

New York  
44 South Broadway  
Suite 1100  
White Plains, NY 10601  
(914) 997-0500

Pennsylvania  
One Tower Bridge, 100 Front St.  
Suite 520  
West Conshohocken, PA 19428  
(215) 399-4770

# Contents

<b>1 Firm Overview</b>	<b>6 Lowey Dannenberg's Recognized Expertise</b>
<b>2 Securities Litigation</b>	<b>8 Financial Benchmark, Indices and Bond Manipulation</b>
2 In re Beacon Associates Litigation/ In re J.P. Jeanneret Associates, Inc.	8 In re Mexican Government Bonds Antitrust Litigation
2 In re Juniper Networks, Inc. Securities Litigation	8 Laydon v. Mizuho Bank, Ltd., et al.; Sonterra Capital Master Fund Ltd., et al. v. UBS AG, et al. (Euroyen TIBOR and Yen-LIBOR)
3 In re ACS Shareholder Litigation	9 Sullivan, et al. v. Barclays plc, et al. (Euribor)
3 In re Bayer AG Securities Litigation	9 In re European Government Bonds Antitrust Litigation
3 In re WorldCom Securities Litigation	9 In re London Silver Fixing Ltd., Antitrust Litig.
3 Federated American Leaders Fund, Inc.	10 Dennis, et al. v. JPMorgan Chase & Co., et al.
3 In re Philip Services Corp. Securities Litigation	<b>11 Commodities Litigation</b>
3 In re New York Stock Exchange/ Archipelago Merger Litigation	11 Sumitomo
4 Delcath Systems, Inc. v. Ladd, et al.	11 Amaranth
4 Salomon Brothers Municipal Partners Fund, Inc. v. Thornton	12 Pacific Inv. Mgmt. Co. ("PIMCO")
4 In re DaimlerChrysler AG Securities Litigation	12 In re Natural Gas
4 Doft & Co. v. Travelocity.com, Inc.	12 White v. Moore Capital Management, L.P.
5 MMI Investments, LP v. NDCHealth Corp., et al.	12 In re Crude Oil Commodity Futures Litigation
5 Omnicare, Inc. v. NCS Healthcare, Inc.	13 Kraft Wheat Manipulation
5 meVC Draper Fisher Jurvetson Fund 1, Inc. v. Millennium Partners	13 Lansing and Cascade Wheat Manipulation
5 In re CINAR Securities Litigation	13 Optiver
5 In re Reliance Securities Litigation	<b>14 Antitrust and Prescription Overcharge</b>
	<b>16 Consumer Protection</b>
	16 In re Apple Processor Litigation
	16 In re FedLoan Student Loan Servicing Litigation
	16 Broder v. MBNA Corp.
	16 In Re Archstone Westbury Tenant Litigation
	16 Lyons v. Litton Loan Servicing LP
	17 In re Warfarin Sodium Antitrust Litigation
	17 Snyder v. Nationwide Insurance Company





LOWEY DANNENBERG

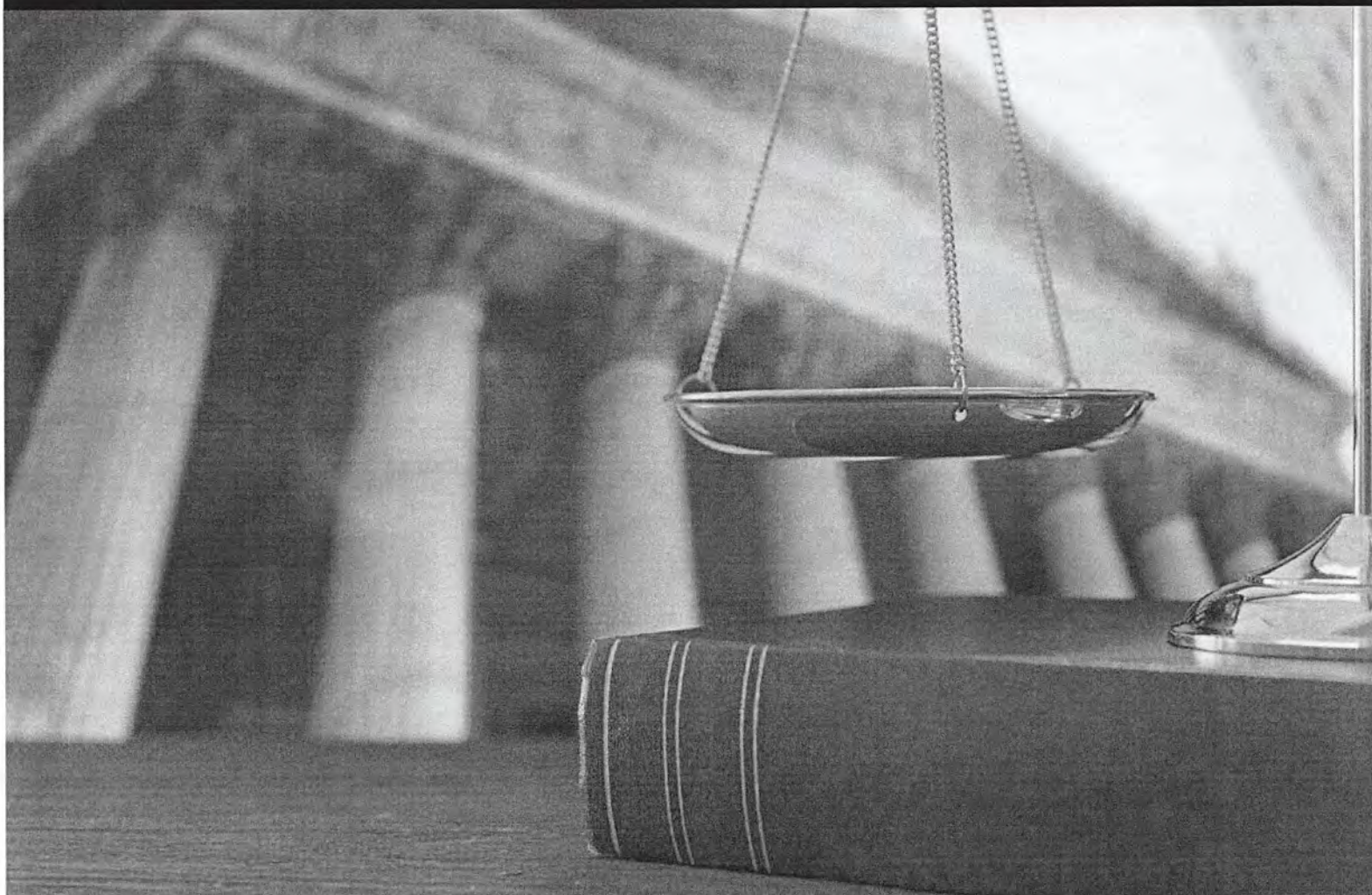
### Firm Overview

Since the firm's founding by Stephen Lowey in the 1960s, Lowey Dannenberg, P.C. ("Lowey Dannenberg") has represented sophisticated clients in complex cases.

Lowey Dannenberg uses its three-pronged expertise in securities, antitrust, and commodities litigation to secure clients' investments and recover money lost to fraud and misconduct.

Lowey Dannenberg has recovered billions of dollars for its clients and the classes they represent. Those clients include some of the nation's largest pension funds, e.g., the California State Teachers' Retirement System, the Pennsylvania State Treasury Department, the New York State Common Retirement Fund, The Connecticut Retirement Plans and Trust Funds, and the New York City Pension Funds; sophisticated institutional investors, including Federated Investors, which manages more than \$450 billion in assets; and Fortune 100 companies like Aetna, Anthem, CIGNA, Humana, and Verizon.

Fortune 100 clients have lauded Lowey Dannenberg in Corporate Counsel Magazine as their "Go To" firm.





## Securities Litigation

Lowey Dannenberg represents clients in cases involving financial fraud, stemming from options backdating, Ponzi schemes, fraudulent financial statements, benchmark manipulation, front running and conspiracies to gauge and defraud investors.

Its securities litigation practice group has recovered billions of dollars for defrauded investors; but the value of Lowey's accomplishments is more than dollars. The firm has also achieved landmark recoveries on behalf of institutional investors where benchmarks, indices, commodities futures, and bond pricing are manipulated.

Lowey Dannenberg's public pension clients include the California State Teachers' Retirement System (CalSTRS), New York City Pension Funds, New York State Common Retirement Fund, Connecticut Retirement Plans and Trust Fund, The Commonwealth of Pennsylvania State Employees Retirement System and Treasurer of the Commonwealth of Pennsylvania, UFCW Pension Fund of Local 1776, Plumbers & Steamfitters Local 267 Pension Fund and Insurance Fund, Plumbers Local 112 Health Fund, and Local 73 Retirement Fund, Health and Welfare Fund and Annuity Fund. Representative private institutional clients include Federated Investors Inc., The Longview Funds, Sonterra, and the Corsair Family of Funds.

### Notable Recoveries

Notable achievements for our clients include:

#### **In re Beacon Associates Litigation/ In re J.P. Jeanneret Associates, Inc.**

*In re Beacon Associates Litigation*, 09-CV-0777 (S.D.N.Y.); *In re Jeanneret Associates, Inc., et al.*, 09-CV-3907 (S.D.N.Y.). Lowey Dannenberg represented unions, as Lead Plaintiffs, in litigation arising from Bernie Madoff's Ponzi scheme. The Honorable Colleen McMahon of the United States District Court for the Southern District of New York approved of the \$219.9 million settlement of Madoff

feeder-fund litigation encompassing the *In re Beacon* and *In re Jeanneret* class actions. Lowey Dannenberg, Lead Counsel, achieved this outstanding result by working collaboratively with the United States Secretary of Labor and the New York Attorney General. Plaintiffs in these cases asserted claims under the federal securities laws, ERISA, and state laws arising out of hundreds of millions of dollars of losses sustained by unions and other investors in Bernard Madoff feeder funds. The settlement recovered an extraordinary 70% of investors' losses. This settlement, combined with liquidation assets, is expected to restore the bulk of losses to the pension funds. In granting final approval, Judge McMahon praised both the result and the lawyering: "[i]n the history of the world there has never been such a response to a notice of a class action settlement that I am aware of, certainly, not in my experience," and that "[t]he settlement process really was quite extraordinary." Judge McMahon stated that "[t]he quality of representation is not questioned here, especially for those attorneys (principally from Lowey Dannenberg) who worked so hard to achieve this creative and, in my experience, unprecedented global settlement." *In re Beacon Associates Litig.*, 09 CIV. 777 CM, 2013 WL 2450960, at \*14 (S.D.N.Y. May 9, 2013).

#### **In re Juniper Networks, Inc. Securities Litigation**

*In re Juniper Networks, Inc. Sec. Litig.*, No. C-06-04327 JW (N.D. Cal.). As Lead Counsel for the Lead Plaintiff, the New York City Pension Funds, Lowey Dannenberg achieved a settlement of \$169.5 million, one of the largest settlements in an options backdating cases.



**In re ACS Shareholder Litigation**

*In re ACS Shareholder Litigation*, Consolidated C.A. No. 4940-VCP (Del. Ch.). Lowey Dannenberg successfully challenged a multi-billion-dollar merger between Xerox Corp. and Affiliated Computer Systems ("ACS"), which favored Affiliated's CEO at the expense of our client, Federated Investors, and other ACS shareholders. In expedited proceedings, Lowey achieved a \$69 million settlement as well as structural protections in the shareholder vote on the merger.

**In re Bayer AG Securities Litigation**

*In re Bayer AG Securities Litigation*, 03 Civ. 1546 (WHP) (S.D.N.Y.). We represented the New York State Common Retirement Fund as Lead Plaintiff in a securities fraud class action arising from Bayer's marketing and recall of its Baycol drug. Lowey Dannenberg was Lead Counsel for the New York State Common Retirement Fund. The class action settled for \$18.5 million.

**In re WorldCom Securities Litigation**

*In re WorldCom Securities Litigation*, Master File No. 02 Civ. 3288 (DLC) (S.D.N.Y.). Lowey Dannenberg's innovative strategy and zealous prosecution produced an extraordinary recovery in the fall of 2005 for the New York City Pension Funds in the *WorldCom Securities Litigation*, substantially superior to that of any other WorldCom investor in either class or opt-out litigation. Following our advice to opt out of a class action in order to litigate their claims separately, the New York City Pension Funds recovered almost \$79 million, including 100% of their damages resulting from investments in WorldCom bonds.

**Federated American Leaders Fund, Inc.**

*Federated American Leaders Fund, Inc.*, No. 08-cv-01337-PB (D.N.H.). In 2008, Lowey Dannenberg successfully litigated an opt-out case on behalf of client Federated Investors, Inc., arising out of the *Tyco Securities Litigation*. The client asserted claims unavailable to the class (including a claim for violation of § 18 of the Securities Exchange Act of 1934 and a claim for violations of the New Jersey RICO statute). Pursuit of an opt-out strategy resulted in a recovery of substantially more than the client would have received had it merely remained passive and participated in the class action settlement.

**In re Philip Services Corp. Securities Litigation**

*In re Philip Services Corp., Securities Litigation*, No. 98 Civ. 835 (AKH) (S.D.N.Y.). On March 19, 2007, the United States District Court for the Southern District of New York approved a \$79.75 million settlement of a class action, in which Lowey Dannenberg acted as Co-Lead Counsel, on behalf of United States investors of Philip Services Corp., a bankrupt Canadian resource recovery company. \$50.5 million of the settlement was paid by the Canadian accounting firm of Deloitte & Touche, LLP, perhaps the largest recovery from a Canadian auditing firm in a securities class action, and among the largest obtained from any accounting firm. Earlier in the litigation, the United States Court of Appeals for the Second Circuit issued a landmark decision protecting the rights of United States citizens to sue foreign companies who fraudulently sell their securities in the United States. *DiRienzo v. Philip Services Corp.*, 294 F.3d 21 (2d Cir. 2002).

**In re New York Stock Exchange/  
Archipelago Merger Litigation**

*In re New York Stock Exchange/Archipelago Merger Litigation*, No. 601646/05 (N.Y. Sup. Ct.). Lowey Dannenberg acted as co-lead counsel for a class of seatholders seeking to enjoin the merger between the New York Stock Exchange ("NYSE") and Archipelago Holdings, Inc. As a result of the action, the merger terms were revised, providing the seatholders with more than \$250 million in additional consideration. Further, the NYSE agreed to retain an independent financial adviser to report to the court as to the fairness of the deal to the NYSE seatholders. Plaintiffs also provided the court with their expert's analysis of the new independent financial adviser's report so that seatholders could assess both reports prior to the merger vote. The court noted that "these competing presentations provide a fair and balanced view of the proposed merger and present the NYSE Seatholders with an opportunity to exercise their own business judgment with eyes wide open. The presentation of such differing viewpoints ensures transparency and complete disclosure." *In re New York Stock Exchange/Archipelago Merger Litigation*, No. 601646/05, 2005 WL 4279476, at \*14 (N.Y. Sup. Ct. Dec. 5, 2005).

**Delcath Systems, Inc. v. Ladd, et al.**

*Delcath Systems, Inc. v. Ladd, et al.*, No. 06 Civ. 6420 (S.D.N.Y.). On September 25, 2006, Lowey Dannenberg helped Laddcap Value Partners win an emergency appeal, reversing a federal district court's order disqualifying the votes Laddcap solicited to replace the board of directors of Delcath Systems, Inc. Prior to Lowey Dannenberg's involvement in the case, on September 20, 2006, the district court enjoined Laddcap, Delcath's largest stockholder, from submitting stockholder consents on the grounds of alleged and unproven violations of federal securities law. After losing an injunction proceeding in the district court on September 20, 2006, and with the election scheduled to close on September 25, 2006, Laddcap hired Lowey Dannenberg to prosecute an emergency appeal, which Lowey won on September 25, 2006, the last day of the election period. *Delcath Systems, Inc. v. Ladd*, 466 F.3d 257 (2d Cir. 2006). Shortly thereafter, the case settled with Laddcap gaining seats on the board, reimbursement of expenses, and other benefits.

**Salomon Brothers Municipal Partners Fund, Inc. v. Thornton**

*Salomon Brothers Municipal Partners Fund, Inc. v. Thornton*, No. 05-cv-10763 (S.D.N.Y.). Lowey Dannenberg represented Karpus Investment Management in its successful proxy contest and subsequent litigation to prevent the transfer of management by Citigroup to Legg Mason of the Salomon Brothers Municipal Partners Fund. We defeated the Fund's preliminary injunction action which sought to compel Karpus to vote shares it had solicited by proxy but withheld from voting in order to defeat a quorum and prevent approval of the transfer. *Salomon Brothers Mun. Partners Fund, Inc. v. Thornton*, 410 F. Supp. 2d 330 (S.D.N.Y. 2006).

**In re DaimlerChrysler AG Securities Litigation**

*In re DaimlerChrysler AG Sec. Litigation*, Master Docket No. 00-993-JJF (D. Del.). Lowey Dannenberg represented Glickenhau & Co., a major registered investment advisor and, at the time, the second largest stockholder of Chrysler, in an individual securities lawsuit against DaimlerChrysler AG. Successful implementation of the firm's opt-out strategy led to a recovery for its clients far in excess of that received by other class members. See *Tracinda Corp. v. DaimlerChrysler AG*, 197 F. Supp. 2d 42 (D. Del. 2002); *In re DaimlerChrysler AG Sec. Litig.*, 269 F. Supp. 2d 508 (D. Del. 2003).

**Doft & Co. v. Travelocity.com, Inc.**

*Doft & Co. v. Travelocity.com, Inc.*, No. Civ. A. 19734 (Del. Ch.). Following a three-day bench trial in a statutory appraisal proceeding, the Delaware Chancery Court awarded the firm's clients, an institutional investor and investment advisor, \$30.43 per share plus compounded prejudgment interest, for a transaction in which the public shareholders who did not seek appraisal were cashed out at \$28 per share. *Doft & Co. v. Travelocity.com, Inc.*, No. Civ. A. 19734, 2004 WL 1152338 (Del. Ch. May 20, 2004), modified, 2004 WL 1366994 (Del. Ch. June 10, 2004).



**MMI Investments, LP v. NDCHealth Corp., et al.**

*MMI Investments, LP v. NDCHealth Corp., et al.*, 05 Civ. 4566 (S.D.N.Y.). Lowey Dannenberg filed an individual action on behalf of hedge fund, MMI Investments, asserting claims for violations of the federal securities laws and the common law, including claims not available to the class, most notably a claim for violation of § 18 of the Securities Exchange Act of 1934 and a claim for common law fraud. After zealously litigating the client's claims, the Firm obtained a substantial settlement, notwithstanding the fact that the class claims were dismissed.

**Omnicare, Inc. v. NCS Healthcare, Inc.**

*Omnicare, Inc. v. NCS Healthcare, Inc.* Lowey Dannenberg, as Co-Lead Counsel on behalf of an institutional investor, obtained an injunction from the Delaware Supreme Court, enjoining a proposed merger between NCS Healthcare, Inc. and Genesis Health Ventures, Inc., in response to Lowey Dannenberg's argument that the NCS board breached its fiduciary obligations by agreeing to irrevocable merger lock-up provisions. As a result of the injunction, the NCS shareholders were able to benefit from a competing takeover proposal by Omnicare, Inc., a 300% increase from the enjoined transaction, providing NCS's shareholders with an additional \$99 million. *Omnicare, Inc. v. NCS Healthcare, Inc.*, 818 A.2d 914 (Del. 2003).

**meVC Draper Fisher Jurvetson Fund 1, Inc. v. Millennium Partners**

*meVC Draper Fisher Jurvetson Fund 1, Inc. v. Millennium Partners*. Lowey Dannenberg successfully represented an affiliate of Millennium Partners, a major private investment fund, in litigation in the Delaware Chancery Court over a board election. Lowey's efforts resulted in the voiding of two elections of directors of meVC Draper Fisher Jurvetson Fund 1, Inc., a NYSE-listed closed end mutual fund, on grounds of breach of fiduciary duty. In a subsequent proxy contest litigation in the United States District Court for the Southern District of New York, the entire board of directors was ultimately replaced with Millennium's slate. *meVC Draper Fisher Jurvetson Fund 1, Inc. v. Millennium Partners*, 260 F. Supp. 2d 616 (S.D.N.Y. 2003); *Millenco L.P. v. meVC Draper Fisher Jurvetson Fund 1, Inc.*, 824 A.2d 11 (Del. Ch. 2002).

**In re CINAR Securities Litigation**

*In re CINAR Securities Litigation*, Master File No. 00 CV 1086 (E.D.N.Y. Dec. 2, 2002). Lowey Dannenberg acted as Lead Counsel, obtaining a \$27.25 million settlement on behalf of client the Federated Kaufmann Fund and a class of purchasers of securities of CINAR Corporation. The court found that "the quality of [Lowey Dannenberg's] representation has been excellent."

**In re Reliance Securities Litigation**

*In re Reliance Securities Litigation*, MDL No. 1304 (D. Del. 2002). In proceedings in which Lowey Dannenberg acted as co-counsel to a Bankruptcy Court-appointed estate representative, the firm obtained recoveries in a fraudulent conveyance action totaling \$106 million.



## Lowey Dannenberg's Recognized Expertise

Courts have repeatedly recognized the attorneys of Lowey Dannenberg as expert practitioners in the field of complex litigation.

On March 15, 2013, the Honorable Colleen McMahon of the United States District Court for the Southern District of New York granted final approval of the \$219 million settlement of Madoff feeder-fund litigation encompassing the *In re Beacon* and *In re Jeanneret* class actions. In a subsequent written decision, with glowing praise, Judge McMahon stated:

- > "The quality of representation is not questioned here, especially for those attorneys (principally from Lowey Dannenberg) who worked so hard to achieve this creative and, in my experience, unprecedented global settlement."
- > "I thank everyone for the amazing work that you did in resolving these matters. **Your clients—all of them—have been well served.**"
- > "Not a single voice has been raised in opposition to this remarkable settlement, or to the Plan of Allocation that was negotiated by and between the Private Plaintiffs, the NYAG and the DOL."
- > "All formal negotiations were conducted with the assistance of two independent mediators - one to mediate disputes between defendants and the investors and another to mediate claims involving the Bankruptcy Estate. Class Representatives and other plaintiffs were present, in person or by telephone, during the negotiations. The US Department of Labor and the New York State Attorney General participated in the settlement negotiations. **Rarely has there been a more transparent settlement negotiation. It could serve as a prototype for the resolution of securities-related class actions, especially those that are adjunctive to bankruptcies.**"

- > "The proof of the pudding is that an astonishing 98.72% of the Rule 23(b)(3) Class Members who were eligible to file a proof of claim did so (464 out of 470), and only one Class Member opted out [that Class Member was not entitled to recover anything under the Plan of Allocation]. I have never seen this level of response to a class action Notice of Settlement, and I do not expect to see anything like it again."
- > "I am not aware of any other Madoff-related case in which counsel have found a way to resolve all private and regulatory claims simultaneously and with the concurrence of the SIPC/Bankruptcy Trustee. Indeed, I am advised by Private Plaintiffs' Counsel that the Madoff Trustee is challenging settlements reached by the NYAG in other feeder fund cases [Merkin, Fairfield Greenwich] which makes the achievement here **all the more impressive.**"

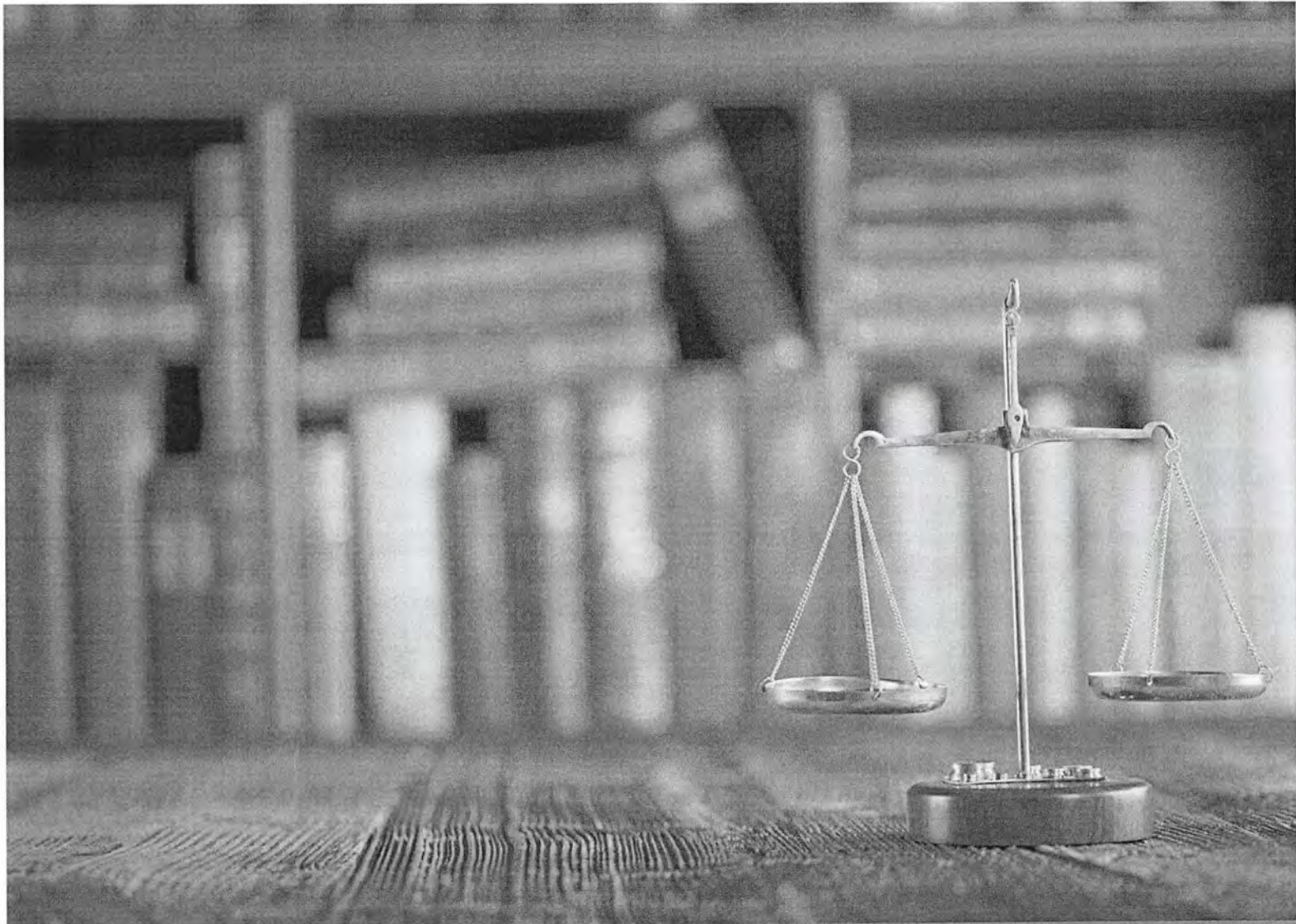
In *Juniper Networks, Inc. Securities Litigation*, the court, in approving the settlement, acknowledged that "[t]he successful prosecution of the complex claims in this case required the participation of highly skilled and specialized attorneys." *In re Juniper Networks, Inc.*, C06-04327, Order dated August 31, 2010 (N.D. Cal.). In the *WorldCom Securities Litigation*, the court repeatedly praised the contributions and efforts of the firm. On November 10, 2004, the court found that "the Lowey Firm... has worked tirelessly to promote harmony and efficiency in this sprawling litigation."

... [Lowey Dannenberg] has done a superb job in its role as Liaison Counsel, conducting itself with professionalism and efficiency...." *In re WorldCom, Inc. Securities Litigation*, No. 02 Civ. 3288, 2004 WL 2549682, at \*3 (S.D.N.Y. Nov. 10, 2004).



In the *In re Bayer AG Securities Litigation*, 03 Civ. 1546, 2008 WL 5336691, at \*5 (S.D.N.Y. Dec. 15, 2008) order approving a settlement of \$18.5 million for the class of plaintiffs, Judge William H. Pauley III noted that the attorneys from Lowey Dannenberg are “nationally recognized complex class action litigators, particularly in the fields of securities and shareholder representation,” that “provided high-quality representation.”

In the *In re Luminent Mortgage Capital, Inc., Securities Litigation*, No. C07-4073 (N.D. Cal.) hearing for final approval of settlement and award of attorneys’ fees, Judge Phyllis J. Hamilton noted that “[t]he \$8 million settlement . . . is excellent, in light of the circumstance.” Judge Hamilton went on to say that “most importantly, the reaction of the class has been exceptional with only two opt- outs and no objections at all received.” See Tr. of Hearing on Plaintiff’s Motion for Final Approval of Settlement/Plan of Allocation and for an Award of Attorneys’ Fees and Reimbursement of Expenses, *In re Luminent Mortgage Capital, Inc., Securities Litigation*, No. C07-4073-PJH (N.D. Cal. Apr. 29, 2009), ECF No. 183.





## Financial Benchmark, Indices and Bond Manipulation

Lowey Dannenberg serves as court appointed lead or co-lead counsel on some of the most important and complex financial benchmark indices and bond manipulation cases against some of the world's largest financial institutions.

### **In re Mexican Government Bonds Antitrust Litigation**

Lowey Dannenberg serves as Court-appointed sole Lead Counsel in an action prosecuting ten global financial institutions for colluding to fix the prices of debt securities issued by the Mexican Government between 2006 and 2016. U.S. investors held hundreds of billions of dollars in these instruments during this time period. The eight named plaintiffs are institutional investors that transacted in Mexican government debt and assert claims for violations of the Sherman Antitrust Act and for state law unjust enrichment. The case is pending before Judge J. Paul Oetken in the Southern District of New York.

### **Laydon v. Mizuho Bank, Ltd., et al.; Sonterra Capital Master Fund Ltd., et al. v. UBS AG, et al. (Euroyen TIBOR and Yen-LIBOR)**

Lowey Dannenberg is leading the prosecution against international financial institutions responsible for intentional and systematic manipulation of the London Interbank Offered Rate ("LIBOR") for the Japanese Yen and Euroyen TIBOR (the Tokyo Interbank Offered Rate). *Laydon v. Mizuho Bank, Ltd. et al.* 12-cv-03419 (S.D.N.Y.) (Daniels, J.). Co-Lead Plaintiffs include CalSTRS.

A second action, on behalf of over-the-counter investors in Euroyen-based derivatives, is currently on appeal before the United States Court of Appeals, Second Circuit. *Sonterra Capital Master Fund, Ltd., et al. v. UBSAG*, No. 17-944 (2d Cir.).

Lowey Dannenberg has thus far recovered \$307 million for the Settlement Class, and received substantial cooperation from settling defendants that it is using in the action against the remaining defendants.

On November 10, 2016, Judge Daniels granted final approval of a \$35 million settlement with HSBC Holdings plc and HSBC Bank plc, a \$23 million settlement with Citigroup, Inc. and several Citi entities, and a cooperation settlement with R.P. Martin. See Final Approval Order of Settlements with R.P. Martin Holdings Limited, Martin Brokers (UK) Ltd., Citibank, N.A., Citigroup Inc., Citibank Japan Ltd., Citigroup Global Markets Japan Inc., HSBC Holdings plc and HSBC Bank plc, *Laydon v. Mizuho Bank, Ltd.*, No. 12-cv-3419 (S.D.N.Y. Nov. 10, 2016), ECF No. 720; Final Approval Order of Settlements with R.P. Martin Holdings Limited, Martin Brokers (UK) Ltd., Citibank, N.A., Citigroup Inc., Citibank Japan Ltd., Citigroup Global Markets Japan Inc., HSBC Holdings plc and HSBC Bank plc, *Sonterra Capital Master Fund Ltd., et al. v. UBS AG, et al.*, No. 15-cv-5844 (S.D.N.Y. Nov. 10, 2016), ECF No. 298.

On December 7, 2017, Judge Daniels also granted final approval of a \$77 million settlement with Deutsche Bank AG and DB Group Services (UK) Ltd. and a \$71 million settlement with JPMorgan Chase & Co. and related entities. See Final Approval Order of Settlements with Deutsche Bank AG and DB Groups Services (UK) Ltd., JPMorgan Chase & Co., JPMorgan Chase Bank, National Association, and J.P. Morgan Securities plc. See *Laydon v. Mizuho Bank, Ltd.*, No. 12-cv-3419 (S.D.N.Y. Dec. 7, 2017), ECF No. 838 and *Sonterra Capital Master Fund Ltd., et al. v. UBS AG, et al.*, No. 15-cv-5844 (S.D.N.Y. Dec. 7, 2017), ECF No. 389.



On July 12, 2018, Judge Daniels granted final approval of a \$30 million settlement with the Bank of Tokyo-Mitsubishi UFJ, Ltd. and Mitsubishi UFJ Trust and Banking Corporation. Final Approval Order of Settlement with Defendants The Bank of Tokyo-Mitsubishi UFJ, Ltd. and Mitsubishi UFJ Trust and Banking Corporation, *Laydon v. Mizuho Bank, Ltd.*, No. 12-cv-3419 (S.D.N.Y. Jul. 12, 2018), ECF No. 891; Final Approval Order of Settlement with Defendants The Bank of Tokyo-Mitsubishi UFJ, Ltd. and Mitsubishi UFJ Trust and Banking Corporation, *Sonterra Capital Master Fund Ltd., et al. v. UBS AG, et al.*, No. 15-cv-5844 (S.D.N.Y. Jul. 12, 2018), ECF No. 423.

Most recently, on September 11, 2019, Judge Daniels granted preliminary approval of \$71 million in settlements with Sumitomo Mitsui Trust Bank, The Bank of Yokohama Ltd., Shinkin Central Bank, The Shoko Chukin Bank Ltd., Resona Bank Ltd., Mizuho Bank Ltd., The Norinchukin Bank, and Sumitomo Mitsui Banking Corp.

#### **Sullivan, et al. v. Barclays plc, et al. (Euribor)**

Lowey Dannenberg is leading the prosecution against international financial institutions responsible for setting the Euro Interbank Offered Rate ("Euribor"), a global reference rate used to benchmark, price and settle over \$200 trillion of financial products. Co-Lead Plaintiffs include the California State Teachers' Retirement System (CalSTRS). Lowey Dannenberg has recovered a total of \$491.5 million for Euribor-based derivatives investors.

On May 18, 2018, Judge Castel appointed Lowey Dannenberg as Co-Class Counsel to a certified Settlement Class and granted (1) final approval of a \$94 million settlement with Barclays plc and related Barclays entities; (2) final approval of a \$45 million settlement with Defendants HSBC Holdings plc and HSBC Bank plc; and (3) final approval of a \$170 million settlement with Defendants Deutsche Bank AG and DB Group Services (UK) Ltd. See Final Approval Order of Settlements with Barclays plc, Barclays Bank plc, Barclays Capital Inc., Deutsche Bank AG and DB Group Services (UK) Ltd., HSBC Holdings plc and HSBC Bank plc, *Sullivan v. Barclays plc*, No. 13-cv-2811 (PKC) (S.D.N.Y.), ECF No. 424.

Additionally, on May 17, 2019, Judge Castel subsequently granted final approval of a \$182.5 million settlement with Citigroup, Inc., Citibank, N.A., J.P. Morgan Chase & Co., and JPMorgan Chase Bank, N.A. *Sullivan v. Barclays plc*, No. 13-cv-2811 (PKC) (S.D.N.Y.), ECF No. 498.

#### **In re European Government Bonds Antitrust Litigation**

On April 26, 2019, Lowey was appointed Interim Co-Lead Counsel for the putative class. *In re Europe Government Bonds Antitrust Litigation*, 1:19-CV-02601 (S.D.N.Y.), ECF No. 32. Plaintiffs in this case allege that Defendants conspired with each other to enter into an unlawful agreement to fix the bid and ask prices in the European Government Bond market.

#### **In re London Silver Fixing Ltd., Antitrust Litig.**

Lowey Dannenberg is serving as Co-Lead Counsel on behalf of a class of silver investors, including Commodity Exchange Inc. ("COMEX") silver futures contracts traders, against banks that allegedly colluded to fix the London Silver Fix, a global benchmark that impacts the value of more than \$30 billion in silver and silver-based financial instruments. Judge Valerie E. Caproni sustained Sherman Antitrust Act and CEA claims alleged in Lowey Dannenberg's complaint, which relied predominately on sophisticated econometric analysis that Lowey Dannenberg developed in conjunction with a team of leading financial markets experts. See *In re London Silver Fixing Ltd., Antitrust Litig.*, No. 14-md-2573, 2016 WL 5794777 (S.D.N.Y. Oct. 3, 2016). In appointing Lowey Dannenberg, the Court praised Lowey Dannenberg's experience, approach to developing the complaint, attention to detail, and the expert resources that the firm brought to bear on behalf of the class. See *In re London Silver Fixing Ltd., Antitrust Litig.*, Case No. 14-md-2573 (VEC), ECF No. 17 (Nov. 25, 2014 S.D.N.Y.) (Caproni, J.). On November 23, 2016, Judge Caproni granted preliminary approval of a \$38 million settlement with Deutsche Bank AG and several of its subsidiaries. See Order Preliminarily Approving Class Action Settlement and Conditionally Certifying a Settlement Class, *In re London Silver Fixing, Ltd., Antitrust Litig.*, No. 14-md-2573 (S.D.N.Y. Nov. 23, 2016), ECF No. 166. The case is ongoing against the remaining defendants.

**Dennis, et al. v. JPMorgan Chase & Co., et al.**

Lowey Dannenberg is Co-Lead Counsel in an antitrust class action against numerous global financial institutions responsible for setting the Australian Bank Bill Swap Reference Rate ("BBSW"), pending before Judge Lewis A. Kaplan in the Southern District of New York. *Dennis, et al. v. JPMorgan Chase & Co., et al.*, No. 16-cv-6496 (LAK) (S.D.N.Y.). Lowey Dannenberg has thus far negotiated a settlement with the JPMorgan defendants for \$7 million, while also receiving cooperation to use in prosecuting the action against the remaining defendants. The case alleges that the defendants engaged in uneconomic transactions in Prime Bank Bills, a type of short-term debt instrument, to manipulate BBSW.



## Commodities Litigation

Lowey Dannenberg has successfully prosecuted, as court-appointed lead or co-lead counsel, or as individual plaintiff's counsel, the most important and complex commodity manipulation actions since the enactment of the Commodity Exchange Act ("CEA"). In prosecuting these cases, Lowey Dannenberg has successfully certified classes of investors harmed by market manipulation schemes.

### Sumitomo

In *In re Sumitomo Copper Litigation* ("Sumitomo"), Master File No. 96 CV 4854 (S.D.N.Y.) (Pollack, J.), Lowey Dannenberg was appointed as one of three executive committee members. Stipulation and Pretrial Order No. 1, dated October 28, 1996, at ¶ 13. Plaintiffs' counsel's efforts in *Sumitomo* resulted in a settlement on behalf of the certified class of more than \$149 million, which represented **the largest** class action recovery in the history of the CEA at the time. *In re Sumitomo Copper Litig.*, 182 F.R.D. 85, 95 (S.D.N.Y. 1998). One of the most able and experienced United States District Court judges in the history of the federal judiciary, the Honorable Milton Pollack, took note of counsel's skill and sophistication:

*The unprecedented effort of Counsel exhibited in this case led to their successful settlement efforts and its vast results. Settlement posed a saga in and of itself and required enormous time, skill and persistence. Much of that phase of the case came within the direct knowledge and appreciation of the Court itself. Suffice it to say, the Plaintiffs' counsel did not have an easy path and their services in this regard are best measured in the enormous recoveries that were achieved under trying circumstances in the face of natural, virtually overwhelming, resistance.*

*In re Sumitomo Copper Litig.*, 74 F. Supp. 2d 393, 396 (S.D.N.Y. 1999). Lowey will apply the same "skill and persistence" Judge Pollack recognized in *Sumitomo* when representing the Class here.

### Amaranth

Lowey Dannenberg served as co-lead counsel in *In re Amaranth Natural Gas Commodities Litigation*, Master File No. 07 Civ. 6377 (S.D.N.Y.) (SAS) ("Amaranth"), a certified CEA class action alleging manipulation of NYMEX natural gas futures contract prices in 2006 by Amaranth LLC, one of the country's largest hedge funds prior to its widely-publicized multi-billion dollar collapse in September 2006. Significant victories Lowey Dannenberg achieved in the *Amaranth* litigation include:

- > On April 27, 2009, Plaintiffs' claims for primary violations and aiding-and-abetting violations of the CEA against Amaranth LLC and other Amaranth defendants were sustained. *Amaranth*, 612 F. Supp. 2d 376 (S.D.N.Y. 2009).
- > On April 30, 2010, the Court granted Plaintiffs' motion for pre-judgment attachment pursuant to Rule 64 of the Federal Rules of Civil Procedure and Section 6201 of the New York Civil Practice Law and Rules against Amaranth LLC, a Cayman Islands company and the "Master Fund" in the Amaranth master-feeder-fund hedge fund family. *Amaranth*, 711 F. Supp. 2d 301 (S.D.N.Y. 2010).
- > On September 27, 2010, the Court granted Plaintiffs' motion for class certification. *Amaranth*, 269 F.R.D. 366 (S.D.N.Y. 2010). In appointing Lowey Dannenberg as co-lead counsel for plaintiffs and the Class, the Court specifically noted "the impressive resume" of Lowey Dannenberg and that "Plaintiffs' counsel has vigorously represented the interests of the class throughout this litigation." On December 30, 2010, the Second Circuit Court of Appeals denied Amaranth's petition for appellate review of the class certification decision.



> On April 11, 2012, the Court entered a final order and judgment approving the \$77.1 million settlement reached in the action. The \$77.1 million settlement is **more than ten times greater** than the \$7.5 million joint settlement achieved by the Federal Energy Regulatory Commission ("FERC") and the Commodity Futures Trading Commission ("CFTC") against Amaranth Advisors LLC and at that time, represented the **fourth largest** class action recovery in the 85-plus year history of the CEA.

#### Pacific Inv. Mgmt. Co. ("PIMCO")

Lowey Dannenberg served as counsel to certified class representative Richard Hershey in a class action alleging manipulation by PIMCO of the multi-billion-dollar market of U.S. 10-Year Treasury Note futures contracts traded on the Chicago Board of Trade ("CBOT"). *Hershey v. Pacific Inv. Management Co. LLC*, 571 F.3d 672 (7th Cir. 2009). The case settled in 2011 for \$118.75 million, the **second largest** recovery in the history of the CEA at that time.

#### In re Natural Gas

Lowey Dannenberg served as co-lead counsel in *In re Natural Gas Commodity Litigation*, Case No. 03 CV 6186 (VM) (S.D.N.Y.) ("*In re Natural Gas*"), which involved manipulation of the price of natural gas futures contracts traded on the NYMEX by more than 20 large energy companies.

Plaintiffs alleged that Defendants, including El Paso, Duke, Reliant, and AEP Energy Services, Inc., manipulated the prices of NYMEX natural gas futures contracts by making false reports of the price and volume of their trades to publishers of natural gas price indices across the United States, including Platts. Lowey Dannenberg won significant victories throughout the litigation, including:

- > defeating Defendants' motions to dismiss (*In re Natural Gas*, 337 F. Supp. 2d 498 (S.D.N.Y. 2004));
- > prevailing on a motion to enforce subpoenas issued to two publishers of natural gas price indices for the production of trade report data (*In re Natural Gas*, 235 F.R.D. 199 (S.D.N.Y. 2005)); and

- > successfully certifying a class of NYMEX natural gas futures traders who were harmed by defendants' manipulation of the price of natural gas futures contracts traded on the NYMEX from January 1, 2000 to December 31, 2002. *In re Natural Gas*, 231 F.R.D. 171, 179 (S.D.N.Y. 2005), petition for review denied, *Cornerstone Propane Partners, LP, et al. v. Reliant Energy Services, Inc., et al.*, Docket No. 05-5732 (2d Cir. August 1, 2006).

The total settlement obtained in this complex litigation—\$101 million—was at the time, the **third largest** recovery in the history of the CEA.

#### White v. Moore Capital Management, L.P.

Lowey Dannenberg is counsel to a class representative in an action alleging manipulation of NYMEX palladium and platinum futures prices in 2007 and 2008 in violations of the Sherman Antitrust Act, CEA, and RICO. *White v. Moore Capital Management, L.P.*, Case No. 10 CV 3634 (S.D.N.Y.) (Pauley, J.). Judge Pauley granted final approval of a settlement in the amount of \$70 million in 2015.

#### In re Crude Oil Commodity Futures Litigation

Lowey Dannenberg is counsel to a class representative and large crude oil trader in a Sherman Antitrust Act class action involving the alleged manipulation of NYMEX crude oil futures and options contracts. *In re Crude Oil Commodity Futures Litigation*, Case No. 11-cv-03600 (S.D.N.Y.) (Forrest, J.). The Court granted final approval to a \$16.5 million settlement in January 2016.





### Kraft Wheat Manipulation

Lowey Dannenberg serves as Co-Lead Counsel for a class of wheat futures and options traders pursuing claims against Kraft Foods Group, Inc. and Mondelēz Global LLC, alleging Kraft manipulated the prices of Chicago Board of Trade wheat futures and options contracts. On June 27, 2016, Judge Edmond E. Chang denied Defendants' motion to dismiss in large part, sustaining Plaintiffs' claims under the Sherman Act, the CEA, and for unjust enrichment. *See Ploss v. Kraft Foods Group, Inc.*, No. 15 C 2937, 2016 WL 3476678 (N.D. Ill. June 27, 2016). The case is currently pending in the Northern District of Illinois.

### Lansing and Cascade Wheat Manipulation

Lowey Dannenberg is serving as Co-Lead Counsel for a class of wheat futures and options traders pursuing claims under the Sherman Act, the CEA, and for unjust enrichment against Lansing Trade Group, LLC and Cascade Commodity Consulting, LLC, alleging they manipulated the prices of Chicago Board of Trade wheat futures and options contracts in 2015. *See Budicak Inc., et al v. Lansing Trade Group, LLC, et al.*, No. 19-CV-2449 (D. Kan.). The case is currently pending.

### Optiver

Lowey Dannenberg was Co-Lead Counsel in a proposed class action alleging that Optiver US, LLC and other Optiver defendants manipulated NYMEX light sweet crude oil, heating oil, and gasoline futures contracts prices in violation of the Sherman Antitrust Act and CEA. *In re Optiver Commodities Litigation*, Case No. 08 CV 6842 (S.D.N.Y.) (LAP), Pretrial Order No. 1, dated February 11, 2009. The Honorable Loretta A. Preska of the Southern District of New York granted final approval of a \$16.75 million settlement in June 2015.





## Antitrust and Prescription Overcharge

Lowey Dannenberg is the nation's premier litigation firm for health insurers to recover overcharges for prescription drug and other medical products and services. The firm's skills in this area are recognized by the largest payers for pharmaceuticals in the United States, including Aetna, CIGNA, Humana, and Anthem, Inc. who consistently retain Lowey Dannenberg to assert claims against pharmaceutical manufacturers for misconduct, including monopoly and restraint of trade, resulting in overpriced medication.

In 1998, Lowey Dannenberg filed the first-ever generic delay class action antitrust cases for endpayers (a term reflecting consumers and health insurers). Those cases were centralized by the JPML under the caption *In re Cardizem CD Antitrust Litigation*, MDL No. 1278 (E.D. Mich.).

Lowey Dannenberg served as the lead class counsel for indirect purchaser endpayers in the following generic delay antitrust class action lawsuits:

- > *In re Cardizem CD Antitrust Litigation*, MDL No. 1278 (E.D. Mich.). Class certification, 200 F.R.D. 326 (E.D. Mich. 2001), Affirmance of partial summary judgment for plaintiffs, 332 F.3d 896 (6th Cir. 2003), \$80 million class settlement.
- > *In re Terazosin Hydrochloride Antitrust Litigation*, MDL No. 1317 (S.D. Fla.). Certification of 17-state litigation class, 220 F.R.D. 672 (S.D. Fla. 2004), Approval of 17-state settlement (after submission of final pretrial order, jury interrogatories and *motions in limine*) for \$28.7 million, 2005 WL 2451958 (S.D. Fla. July 8, 2005).
- > *In re Wellbutrin XL Antitrust Litigation*, Civ. No. 08-2433. Partial settlement for \$11.75 million (unreported).

Lowey Dannenberg has prosecuted and won three landmark decisions in favor of third-party payer health insurers in prescription drug cases:

- > *In re Avandia Marketing Sales Practices and Products Liability Litigation*, 685 F.3d 353 (3d Cir. 2012), *cert. denied, sub nom. GlaxoSmithKline v. Humana Med. Plans, Inc.*, 81 U.S.L.W. 3579 (Apr. 15, 2013) (establishing reimbursement recovery rights for Medicare Advantage Organization under the Medicare Secondary Payer Act).

- > *Desiano v. Warner-Lambert*, 326 F.3d 339 (2d Cir. 2003) (establishing the direct (non- subrogation) rights of commercial health insurers to recover overcharges from drug companies for drugs prescribed to their customers). The case was subsequently settled for a confidential amount for 35 health insurers.
- > *In re Neurontin Mktg. & Sales Practices Litigation*, 712 F.3d 51 (1st Cir. 2013) (holding drug manufacturers accountable to health insurers for RICO claims attributable to marketing fraud).

Lowey Dannenberg has defended and won dismissals for health insurers in the following class actions: *Roche v. Aetna, Inc.*, 165 F. Supp. 3d 180 (D.N.J. 2016), *aff'd*, 2017 WL 942649 (3d Cir. Mar. 9, 2017); *Wurtz v. Rawlings Co., LLC*, No. 12-cv-1182 (JMA), 2016 WL 7174674 (E.D.N.Y. Nov. 17, 2016); *Mattson v. Aetna Life Ins. Co.*, 124 F. Supp. 3d 381 (D.N.J. 2015); *Meek-Horton v. Trover Solutions*, 910 F. Supp. 2d 690 (S.D.N.Y. 2013); *Potts v. Rawlings Co., LLC*, 897 F. Supp. 2d 185 (S.D.N.Y. 2012); *Kesselman v. The Rawlings Company, LLC*, 668 F. Supp. 2d 604 (S.D.N.Y. 2009); *Elliot Plaza Pharmacy v. Aetna U.S. Healthcare*, No. 06-cv-623, 2009 WL 702837 (N.D. Okla. Mar. 16, 2009); *Main Drug, Inc. v. Aetna U.S. Healthcare*, 475 F.3d 1228 (11th Cir. 2007), *aff'g*, *Main Drug, Inc. v. Aetna U.S. Healthcare*, 455 F. Supp. 2d 1323 (M.D. Ala. 2006) and 455 F. Supp. 2d 1317 (M.D. Ala. 2005); and *Medfusion Rx, LLC v. Humana Health Plan, Inc.*, Case No. CV-08-PWG-0451-S (N.D. Ala.) (2008). We are also currently defending a class action lawsuit in *Minerley v. Aetna, Inc., et al.*, Civ. 13- 1377 (NLH) (D.N.J.).



In 2013, America's Health Insurance Plans, a national association representing the health insurance industry, hired Lowey Dannenberg to represent it before the United States Supreme Court as *amicus curiae* in *FTC v. Actavis, Inc.*, 133 S. Ct. 2223 (2013), concerning how "pay-for-delay" agreements between brand name drug companies and generic companies should be evaluated under federal antitrust law. The Firm also successfully secured the first reported precedent under New York's Donnelly (Antitrust) Act in federal court in the wake of the Supreme Court's *Shady Grove Orthopedic Assocs. v. Allstate Ins. Co.*, 130 S. Ct. 1431 (2010) decision, reinvigorating class certification. See *In re Wellbutrin XL Antitrust Litig.*, 756 F. Supp. 2d 670, 677-80 (E.D. Pa. 2010).

Lowey Dannenberg recently achieved substantial settlements on behalf of its clients in the following cases:

- > *Humana Inc. v. Boehringer Ingelheim Pharma GmbH & Co. KG, et al.*, No. 3:14-cv-00572 (SRU) (D. Conn.). Lowey Dannenberg represented Humana Inc. in a generic delay antitrust case against defendant Boehringer Ingelheim Pharmaceuticals, Inc., the Aggrenox brand manufacturer, and generic manufacturer Barr Pharmaceuticals Inc. (later acquired by Teva Pharmaceuticals), before Judge Underhill in the District of Connecticut. Class actions on behalf of direct purchasers reached a \$146 million settlement and indirect purchasers reached a \$54 million settlement. Lowey achieved a confidential settlement on behalf of Humana. *In re Aggrenox Antitrust Litigation*, MDL No. 2516 (SRU) (D. Conn.). The litigation asserted claims under state antitrust law, claiming a \$100 million co-promotion agreement was a disguised pay-for-delay, and as a result, Humana overpaid for Aggrenox.
- > *Government Employees Health Association v. Endo Pharmaceuticals, Inc., et al.*, No. 3:14-cv-02180-WHO (N.D. Cal.). Lowey Dannenberg represented Government Employees Health Association ("GEHA") in a generic delay antitrust case concerning Lidoderm, the brand name for a prescription pain patch for the treatment of after-shingles pain, sold by Endo Pharmaceuticals, Inc., Teikoku Pharma USA, and Teikoku Seiyaku Co., Ltd. The defendants paid a combined \$270 million to settle class claims and Lowey negotiated a substantial confidential settlement on behalf of GEHA. *In re Lidoderm Antitrust Litigation*, MDL No. 2521 (N.D. Cal.).





## Consumer Protection

Lowey Dannenberg has served as lead or co-lead counsel in many challenging consumer protection cases. The firm has recovered millions of dollars on behalf of consumers injured as a result of unfair business practices. The firm's Consumer Protection Group has experience litigating class actions under state and federal consumer protection law and before state and federal courts.

### **In re Apple Processor Litigation**

Lowey Dannenberg currently serves as Court-appointed interim co-lead counsel in *In re Apple Processor Litigation*, No. 5:18-cv-0147 (EJD) (N.D. Cal.), a proposed class action against Apple alleging that Plaintiffs and the class were harmed by defects in the central processing units (CPUs) that Apple designed and placed in millions of its devices. These defects caused the devices purchased by Plaintiffs and the class to contain security vulnerabilities known as "Meltdown" and "Spectre." The case is currently pending.

### **In re FedLoan Student Loan Servicing Litigation**

Attorneys from Lowey Dannenberg serve as co-lead counsel. Judge C. Darnell Jones, II appointed Lowey Dannenberg attorneys as Co-Lead Counsel and Executive Committee members in *In re FedLoan Student Loan Servicing Litigation*, No. 18-MD-2833 (E.D. Pa.) ("*FedLoan*"). Lowey Dannenberg filed the first action in the *FedLoan* litigation alleging that one of the nation's largest student loan servicers, the Pennsylvania Higher Education Assistance Agency, failed to properly service student loans in order to maximize the fees it received from the Department of Education under its loan servicing contract. The alleged scheme harmed student loan borrowers by causing them to accrue additional interest on their loans, improperly extending their repayment terms, and erroneously placing their loans into forbearance. The litigation is ongoing.

### **Broder v. MBNA Corp.**

Lowey Dannenberg served as Lead Counsel in *Broder v. MBNA Corp.*, No. 605153/98 (Sup. Ct., N.Y. County), and recovered \$22.8 million dollars on behalf of a class of holders of credit cards issued by MBNA Bank, who took cash advances in response to a deceptive MBNA promotion. The Court noted that Lowey Dannenberg is an "able law firm having long-standing experience in commercial class action litigation."

### **In Re Archstone Westbury Tenant Litigation**

As lead counsel, Lowey Dannenberg successfully represented a class of renters of mold-infested apartments in a \$6.3 million settlement of a complex landlord-tenant class action in *In Re Archstone Westbury Tenant Litigation*, Index No. 21135/07 (N.Y. Sup. Ct. Nassau County).

### **Lyons v. Litton Loan Servicing LP**

In *Lyons v. Litton Loan Servicing LP, et al.*, No. 13-cv-00513 (S.D.N.Y.), Lowey Dannenberg served as Class Counsel and recovered \$4.1 million on behalf of a class of homeowners alleging that mortgage servicers colluded to force them to buy unnecessary lender-placed insurance.

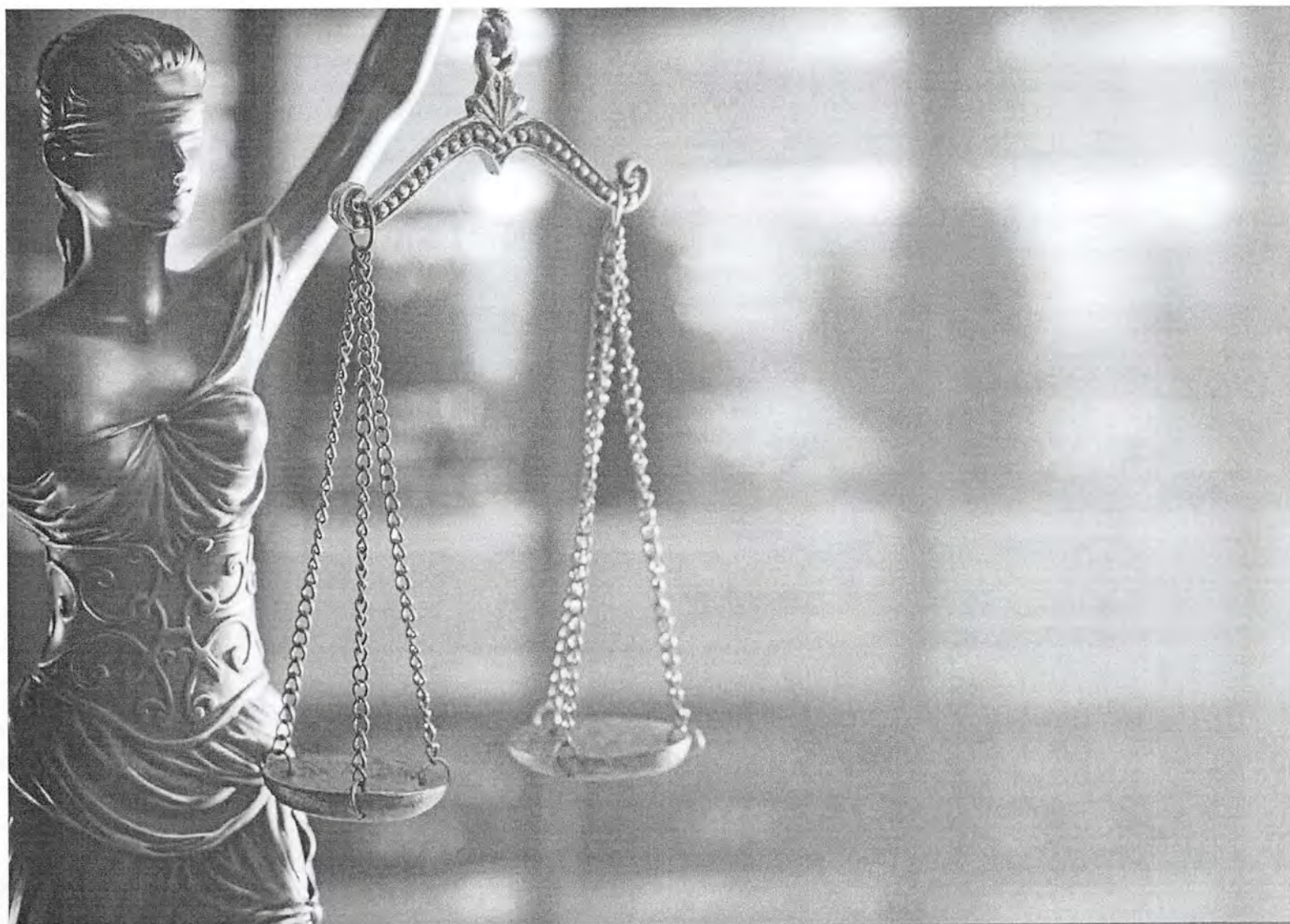


### **In re Warfarin Sodium Antitrust Litigation**

In *In re Warfarin Sodium Antitrust Litigation*, 391 F.3d 516 (3rd Cir. 2004), the Third Circuit Court of Appeals affirmed the United States District Court for the District of Delaware's approval of a \$44.5 million class action settlement paid by DuPont Pharmaceuticals to consumers and third-party payers nationwide to settle claims of unfair marketing practices in connection with the prescription blood thinner, Coumadin. Lowey Dannenberg, appointed by the District Court to the Plaintiffs' executive committee as the representative of third-party payers, successfully argued the appeal.

### **Snyder v. Nationwide Insurance Company**

In *Snyder v. Nationwide Insurance Company*, Index No. 97/0633 (Sup. Ct. Onondaga Co. December 17, 1998), Lowey Dannenberg, as co-lead counsel, secured a \$100 million dollar settlement for consumers purchasing "vanishing premium" life insurance policies. In approving the settlement, the Court found that the attorneys of Lowey Dannenberg are "great attorneys" who did a "very, very good job" for the class.







LOWEY DANNENBERG

