

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE:

No. 14-MD-2543 (JMF)

GENERAL MOTORS LLC IGNITION
SWITCH LITIGATION

This Document Relates to:

ALL ECONOMIC LOSS ACTIONS

**DECLARATION OF STEVE W. BERMAN IN SUPPORT OF JOINT MOTION FOR
PRELIMINARY APPROVAL OF CLASS SETTLEMENT, CERTIFICATION OF
CLASS FOR PURPOSES OF SETTLEMENT, APPROVAL OF NOTICE
PROCEDURES, AND APPOINTMENT OF CLASS COUNSEL &
CLASS REPRESENTATIVES**

I, Steve W. Berman, declare under penalty of perjury as follows:

1. I am an attorney admitted *pro hac vice* in this litigation, am the managing partner of the law firm of Hagens Berman Sobol Shapiro LLP, and have personal knowledge of the matters described in this declaration and am competent to testify thereto.

2. Pursuant to Order No. 8, *In re Gen. Motors LLC Ignition Switch Litig.*, Case No. 14-md-02543-JMF (S.D.N.Y. 2014), I serve as Plaintiffs' Co-Lead Counsel with particular responsibility for the Economic Loss part of the MDL Action, along with Elizabeth Cabraser. I respectfully submit this declaration in support of the Motion for Preliminary Approval (the Motion).

3. It is my belief that I, along with Ms. Cabraser, have and will continue to adequately represent the interests of the proposed Class. Below is a discussion demonstrating why we satisfy the requirements of Rule 23(g), as well as an explanation on why the Motion should be approved.

I. The Court Should Appoint Hagens Berman Sobol Shapiro LLP As Class Counsel For Settlement Purposes.

A. Work Done In Identifying, Investigating, And Prosecuting The Claims.

4. I have been diligently discharging my duties as Co-Lead Counsel and have played a very “hands-on” role in this litigation and the MDL Action for more than five years, personally attending to the following tasks, among many others:

- Engaging in fact investigation and drafting of the Proposed Class Claims;
- Supervising all discovery, including discovery motions, depositions of GM personal and third parties, and depositions of class representatives;
- Personally attending a plethora of expert meetings;
- Participating in, and coordinating, all bankruptcy-related issues (including drafting letter briefs, conferring with counsel, attending select hearings, arguing in the Second Circuit, working on proofs of claim, participating in settlement negotiations with the GUC Trust relating to the initial and subsequent GUC Trust settlement, attending the evidentiary hearings on the motion to enforce that settlement;
- Preparing for and attending almost all status conferences (including drafting and editing status conference letters and proposed orders);
- Preparing for and attending all-counsel meetings relating to case organization and management;
- Communicating with Co-Lead Counsel and the Executive Committee;
- Arguing motions before this Court;
- Reviewing and editing all substantive briefing relating to the economic loss class action in the MDL Action;
- Monitoring the bellwether injury and wrongful death cases and, where appropriate, participating in some bellwether trial preparation, as well as select witness examination at the *Scheuer* trial; and
- Negotiating and finalizing all aspects of the proposed Settlement.

5. As outlined in my application to serve as Interim Lead Counsel, *In re Gen. Motors LLC Ignition Switch Litig.*, Case No. 14-md-02543-JMF (S.D.N.Y. 2014) (Dkt. No. 170), my firm

conducted substantial work to identify and investigate potential claims in the MDL Action. We filed seven class actions against New GM,¹ six of which focused on ignition switch defects. These detailed complaints demonstrate that we conducted a thorough investigation before filing. We closely monitored GM recalls and the Congressional investigation, and analyzed the Valukas Report (identifying its shortcomings).

6. We have maintained extensive contacts with members of the proposed Classes, maintaining a database that tracked vehicle trends and helps us communicate with consumers. It contains hundreds of putative class members from across the country, and each one has been contacted by a Hagens Berman attorney or staff member. We have logged several hundred calls from putative class members and have coordinated the depositions of the class representatives, the majority of which have been Hagens Berman clients.

B. Our Experience In Handling Class Actions And Other Complex Litigation.

7. Hagens Berman's focus is the litigation of complex class actions and MDLs on behalf of plaintiffs throughout the country. We have been appointed lead or co-lead counsel in many of the largest consumer fraud, product liability, securities, and antitrust cases in history. I have dedicated myself to complex class-action work for over 30 years.

8. The dozens of MDLs and multi-state class actions in which our firm has held leadership positions include many—such as this one—where several types of claims are consolidated for prosecution. We become experts in the facts, the law, and the science of the case and marshal a counsel team committed to doing the same.

¹ *Benton v. GM LLC*, No. 5:14-CV-590 (C.D. Cal.); *Dinco v. GM LLC*, No. 2:14-cv-3638 (C.D. Cal.); *Heuler v. GM LLC*, No. 14-cv-492 (C.D. Cal.); *McConnell v. GM LLC*, No. 8:14-cv-424 (C.D. Cal.); *Ratzlaff v. GM LLC*, No. 2:14-cv-2424 (C.D. Cal.); *Satele v. GM LLC*, No. 14-cv-485 (C.D. Cal.); and *Andrews v. GM LLC*, No. 5:14-cv- 1239 (C.D. Cal.).

9. Our leadership has achieved substantial, often unprecedented, results for class members. The following are just a few examples (the balance can be found on our website and in our resume):

- *Volkswagen “Clean Diesel” MDL* (N.D. Cal.). As lead counsel for the Volkswagen Franchise Dealers, we received final approval of a settlement of \$1.2 billion, representing a result of nearly full damages for the class. I also serve on the Plaintiffs’ Steering Committee and played a role in obtaining a settlement of \$14.7 billion on behalf of consumers that included injunctive relief in the form of an optional buyback of the affected vehicles.
- *In re Stericycle, Inc. Steri-Safe Contract MDL* (N.D. Ill.). As lead counsel in this contract-based case involving pricing for medical-waste services, we recovered \$295 million for the class after intensive discovery, litigation, and economic modeling. The late Judge Milton Shadur, a true lion of the bench, deeply honored my firm and me by observing: “[I]t must be said that the track record of Hagens Berman and its lead partner Steve Berman is . . . impressive, having racked up such accomplishments as a \$1.6 billion settlement in the *Toyota Unintended Acceleration Litigation* and a substantial number of really outstanding big-ticket results.” *In re Stericycle, Inc.*, 2013 WL 5609328, at *2 (N.D. Ill. Oct. 11, 2013).
- *In re Toyota Motor Corp. Unintended Acceleration Mktg., Sales Practices & Prods. Liab. Litig.*, No. 8:10ML2151 JVS (C.D. Cal.). As co-lead counsel for the economic loss classes in this successful, complex MDL, I and the firm challenged a defect causing dozens of models spanning an 8-year period to undergo sudden, unintended acceleration. The resulting \$1.6 billion settlement included \$500 million in cash payments to class members, many of whom received checks for thousands of dollars; installation of a safety-enhancing brake override system on millions of vehicles; and a program that substantially extended warranties for millions of consumers.
- *In re Elec. Books Antitrust Litig.*, No. 11-md-2293 DLC (S.D.N.Y.). We pioneered this litigation as lead counsel against Apple and the largest brick- and-mortar publishers for antitrust violations. We worked in novel partnership with the Department of Justice and 33 State Attorneys General, representing purchasers of e-books in 19 states and four U.S. territories. The case settled for \$560 million on single damages of \$270 million.
- *In re Charles Schwab Corp. Sec. Litig.*, No. 08-cv-1510 WHA (N.D. Cal.). Appointed sole lead counsel in this class action, we alleged Schwab falsely marketed its YieldPlus Fund as a safe money market alternative. A \$235 million class settlement was reached shortly before we began trial—with checks mailed directly to members for the first time in a securities case, that we are aware of.

- *New England Carpenters Health & Benefit Fund v. McKesson Corp., et al.*, No. 1:05-cv-11148 PBS (D. Mass.). As co-lead we pioneered these racketeering cases alleging a conspiracy to increase by 4% the list price on most brand-name drugs. After certification of a nationwide class, the case settled for \$350 million and a roll back of drug prices for all brand-name drugs. Our work led to follow-on litigation by federal, state and local governments that netted another \$500 million in recoveries. The States we represented in those actions received three to nine times the settlement amounts received by States not represented by us.
- *In re Pharm. Indus. Avg. Wholesale Pricing Litig. (AWP)*, No. 01-cv-12257 PBS (D. Mass.). As co-lead counsel in this MDL, and myself as lead trial counsel, we proved that the nation's major pharmaceutical companies fraudulently inflated their prices by billions of dollars. A bellwether trial resulted in a plaintiffs' verdict against three of the four defendants. The cases concluded with \$338 million in settlements and consumers received three times actual damages (unprecedented, to our knowledge).
- *Attorneys General Tobacco Litigation*: In the historic litigation against the tobacco industry, we represented 13 states and advanced groundbreaking legal claims to secure a global settlement worth \$260 billion, still the largest recovery in history. Only two law firms, including Hagens Berman, went to trial in these Attorneys General actions, and I served as co-lead trial counsel.

10. We appreciate the many court acknowledgements of our class action leadership. Recently, Judge Griesa lauded Hagens Berman's commitment through ten years of litigation where the risk of non-recovery was "extremely high." "Even when recovery seemed unlikely . . . , Hagens Berman steadfastly continued to represent the class. Hagens Berman's willingness to take this case on a contingency basis in spite of the risks involved, and to continue to represent the class even when success appeared unlikely, is a testament to its commitment." *Brecher v. Argentina*, No. 1:06-cv-15297, ECF No. 148 (S.D.N.Y. Apr. 27, 2017). In *Toyota*, Judge Selna commented: "Class counsel has consistently demonstrated extraordinary skill and effort." Dkt. No. 3933 at 12. Former Chief Judge Vaughn Walker, in selecting our firm as sole lead in *In re Optical Disk Drive Prod. Antitrust Litig.*, 10-md-2143, Dkt. No. 96 at 4-5 (N.D. Cal.) found, "[a] clear choice emerges. That choice is the Hagens Berman firm."

11. My firm and I have also received several industry honors. I am honored to have been named to *Law360's* Titans of the Plaintiffs' Bar for 2018 and to have been named MVP of the Year for 2017. I also received *The National Law Journals* 2017 Plaintiffs' Trailblazer Award, which highlighted my work in corporate reform, groundbreaking cases, and novel settlement-distribution methods. I have been named a member of the 2014-2015 Lawdragon 500 Leading Lawyers in America; voted one of the 100 most influential attorneys in America by *The National Law Journal* three times; voted most powerful lawyer in the State of Washington by *The National Law Journal*; and, along with my team was selected as a Finalist for Public Justice's 2014 Trial Lawyer of the Year. Additionally, our firm has been recognized on numerous occasions for its outstanding accomplishments. For example, it was named a firm of Elite Trial Lawyers by *The National Law Journal* in 2016. It also has been chosen as Global Law Experts' Class Actions (Plaintiff) Law Firm of the Year for two years running. These awards, among others, speak to our dedication to, and outstanding results on behalf of, those we have served.

12. Attached as Exhibit A is a true and correct copy of the first pages of Hagens Berman's current firm resume. The full resume is over 200 pages long. We will be happy to submit the entire resume to the Court very promptly should the Court wish to review it. Attached as Exhibit B is a true and correct copy of my current resume, which includes an attachment listing leadership and committee roles in certain notable cases.

C. Counsel's Knowledge Of The Applicable Law.

13. We know this area of law very well and have successfully litigated class actions across a range of defective products. In the auto defect arena alone, we have represented putative or certified classes against Toyota (unintended acceleration defects); Ford (defects in dashboard

computers,² engine defects, and transmission defects); Chrysler (rear lift-gate and paint delamination defects); Nissan (defects in a throttle acceleration system³); Hyundai (misrepresentation of fuel economy and horsepower metrics,⁴ air bag defects, and defects in sub-frames and rear trailing arms); Kia (defective gas tanks); and Volkswagen, Mercedes, Fiat-Chrysler, and GM in diesel emissions fraud cases.⁵

14. In *Toyota*, as lead counsel, we extensively researched and briefed, *inter alia*, Article III standing; federal preemption; the Magnuson-Moss Act (15 U.S.C. § 2301); the TREAD Act (49 U.S.C. § 30101, *et seq.*); arbitration clauses; notice, presentment, and privity requirements under various state warranty laws; consumer protection laws of every jurisdiction in the U.S.; proximate causation; and multiple forms of equitable and monetary relief. We are also well-versed in the regulations governing NHTSA and auto manufacturer recall obligations. We also prepared the class certification motion, although the case settled shortly before the deadline for filing it.

15. We have long-standing relationships with a stable of leading automotive experts in mechanical engineering, electrical engineering, “embedded” computer hardware and software, accident reconstruction, and economic losses and have worked with several of them in this MDL.

D. Resources That Counsel Will Commit To Representing the Classes.

16. Our track record demonstrates that we regularly commit our national resources of our 65+ lawyer firm in complex multi-state class actions to prosecute in a timely manner. We are fortunate to have the ability to fund litigation costs over many years of litigation and trial, often

² *In re MyFord Touch Consumer Litig.*, No. 13-cv-03072-EMC (N.D. Cal.).

³ *Daffin v. Ford Motor Co.*, No. C-1-00-458 (S.D. Ohio).

⁴ *In re Hyundai & Kia Fuel Economy Litig.*, No. 13-ml-02424-GW (C.D. Cal.).

⁵ *In re Volkswagen “Clean Diesel” Mktg., Sales Practices, & Prods. Liab. Litig.*, MDL No. 2672 (N.D. Cal.); *In re Mercedes-Benz Emissions Litig.*, No. 16-cv-00881-JLL (D.N.J.); *In re Chrysler-Dodge-Jeep EcoDiesel Mktg., Sales Practices & Prods. Liab. Litig.*, No. 3:17-md-02777-EMC (N.D. Cal.); *Counts v. General Motors LLC*, No. 1:16-cv-12541-TLL-PTM (E.D. Mich.); *In re Duramax Diesel Litig.*, No. 1:17-cv-11661-TLL-PTM (E.D. Mich.).

alone, although here we also have the additional resources of the Lief Cabraser firm and the Executive Committee members.

17. As discussed above, I have devoted a substantial amount of time to serving as Co-Lead Counsel in the MDL Action and this litigation. I have personally devoted over 3,150 hours to carrying out my Co-Lead Counsel duties in this MDL Action, helped try the first personal injury case in the MDL, and helped prosecute the economic loss plaintiffs' claims in the Bankruptcy Court.

18. Other senior partners of the Hagens Berman team have played critical roles in this case and include Sean Matt, Andrew Volk, and Craig Spiegel. All told, 19 Hagens Berman attorneys (excluding contract lawyers) have assisted me in prosecuting this case. As a firm, we have collectively recorded over 57,000 hours of attorney, contract attorney, and paralegal time.

19. My firm has already advanced more than \$5,100,000 in out-of-pocket costs in the prosecution of the case.

20. In sum, we have devoted substantial resources to pursuing the interests of the putative Classes and will continue to do so for the long-haul. We have been committed to taking this action to trial, if need be, and beyond.

II. The Settlement is Fair, Adequate, And Reasonable.

21. The Settlement Agreement was negotiated by counsel for the Plaintiffs, New GM, the GUC Trust, and counsel to the Participating Unitholders⁶ in good faith and at arm's length using the services of the independent Court-appointed economic loss mediator, retired Judge Layn R. Phillips. After due diligence, the Parties entered into the Settlement Agreement.

⁶ Capitalized terms used but not defined herein shall have the meaning ascribed to them in the Settlement Agreement.

22. The Settlement resolves a number of complex issues in the MDL, some of which have already been decided in New GM's favor. The challenges confronting Plaintiffs at this juncture are many and include:

- The Court granted summary judgment against Plaintiffs' benefit-of-the-bargain damages in the three bellwether states, thereby posing a fundamental barrier to *any* recovery by plaintiffs nationwide unless overturned by the Second Circuit;⁷
- The Court held that claims for lost time damages generally require proof of lost income; and
- The Court held that many states would not allow the Delta Ignition Switch Plaintiffs' successor liability claims.

23. The Settlement also resolves a host of complex issues in the Bankruptcy Court arising from the Late Claim Motions, including, but not limited to, whether Plaintiffs should be granted authority to file late proofs of claim (and whether such authority can be granted solely on due process grounds), whether the Plaintiffs' claims are equitably moot, whether additional grounds exist to object to the Plaintiffs' claims, and the amount of said claims in the event that they are allowed.

24. Litigation of these issues has been ongoing for several years, and has consumed significant time, money, and resources from the Parties and the Court. Continued litigation of the matters resolved by the Settlement Agreement would be complex and costly, and subjecting the Parties to uncertain results. The Settlement, on the other hand, will substantially reduce costs and the expenditure of resources and eliminate the risk of uncertain litigation outcomes.

25. The Settlement Agreement resolves multiple disputes, claims and issues to which the Parties are involved in varying degrees, and in related but not necessarily identical ways, such

⁷ The Court described its summary judgment ruling as "chang[ing] the landscape in dramatic ways." *See In re Gen. Motors LLC Ignition Switch Litig.*, 407 F. Supp. 3d 212, 241 (S.D.N.Y. 2019).

that each Party's overall obligations to one or more other Parties constitutes good and sufficient consideration for the overall benefits each Party is to receive from one or more of the other Parties. Indeed, as the Court has noted, in "five-plus years of litigation, hundreds of depositions, millions of documents exchanged in discovery, and untold trees felled and ink spilled by the parties and the Court, the parties should have enough data to agree on a settlement value for this litigation; the risks of delay and reversal are merely additional data to factor into the calculus." *In re Gen. Motors LLC Ignition Switch Litig.*, 2019 WL 6827277, at *14 (S.D.N.Y. Dec. 12, 2019).

26. The settlements, compromises, releases and transfers contemplated in the Settlement Agreement are fair, reasonable and given in exchange for valuable and reasonably equivalent consideration.

27. I also believe that, in light of my intimate familiarity with the liability and damage evidence in the case, Judge Phillips' Allocation Decision is within the range of reasonableness.

28. In light of the inherent risks and costs associated with litigation, the Settlement Agreement is fair, reasonable, and adequate, and clearly falls above the lowest rung in the range of reasonableness. Moreover, the Settlement Agreement treats Class members equitably and was the result of good faith, arm's-length negotiations

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

Executed this 27th day of March 2020 at Seattle, Washington.

/s/ Steve W. Berman
Steve W. Berman

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document was served upon the attorney of record for each other party through the Court's electronic filing service on March 27, 2020, which will send notification of such filing to the e-mail addresses registered.

/s/ Steve W. Berman _____

Steve W. Berman

Exhibit A



HAGENS BERMAN



EXPERIENCE.
INNOVATION.
RESULTS.





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

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INTRODUCTION

The Firm

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

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

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

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

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

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

INTRODUCTION

Locations

SEATTLE

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

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

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

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

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

– Associated Press

Elite Trial Lawyers

The National Law Journal

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

The National Law Journal

Most Feared Plaintiffs Firms

Law360

Landmark consumer cases are business as usual for Steve Berman.

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

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

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

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

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

VISA-MASTERCARD ANTITRUST LITIGATION

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

VOLKSWAGEN FRANCHISE DEALERS LITIGATION

The firm served as lead counsel representing VW franchise dealers in this suit related to the automaker's Dieselgate scandal. A **\$1.6 billion** settlement was reached, and represents a result of nearly full damages for the class.

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 – **\$17.4 billion**.

TOYOTA UNINTENDED ACCELERATION LITIGATION

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

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

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

E-BOOKS ANTITRUST LITIGATION

Hagens Berman served as co-lead counsel in this matter and secured a combined **\$560 million** settlement on behalf of consumers against Apple and five of the nation's largest publishing companies.

LCD ANTITRUST LITIGATION

Hagens Berman served as a member of the Executive Committee representing consumers against multiple defendants in multi-district litigation. The total settlements exceeded **\$470 million**.

MCKESSON DRUG LITIGATION

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

DAVITA HEALTHCARE PERSONAL INJURY LITIGATION

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

DRAM ANTITRUST LITIGATION

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

AVERAGE WHOLESALE PRICE DRUG LITIGATION

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

ENRON ERISA LITIGATION

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

CHARLES SCHWAB SECURITIES LITIGATION

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

Exhibit B

**MANAGING PARTNER**

Steve W. Berman

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

CONTACT

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YEARS OF EXPERIENCE

> 39

PRACTICE AREAS

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

BAR ADMISSIONS

- > Washington
- > Illinois

COURT ADMISSIONS

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

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

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

CURRENT ROLE

- > Managing Partner, Hagens Berman Sobol Shapiro LLP

RECENT CASES**> Emissions Litigation**

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

> General Motors Ignition Switch Defect Litigation

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

> Climate Change – New York City, King County, Wash.

Steve has always been a fighter for the rights of the environment. In 2017, he began the firm's latest endeavor to combat global climate change through novel applications of the law. Steve currently represents the city of New York and Washington state's King County in lawsuits filed against the world's largest producers of oil: BP, Chevron Corp., Exxon Mobil Corp., Royal Dutch Shell PLC and

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

EDUCATION

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

MANAGING PARTNER

Steve W. Berman

ConocoPhillips. The cases seek to hold the Big Oil titans accountable for their brazen impact on global warming-induced sea level rise and related expenses to protect the cities and their millions of residents.

› *Opioids* - Orange and Santa Clara County, Seattle

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

› *Antitrust Litigation*

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

› *Consumer Protection*

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

RECENT SUCCESS

› *Volkswagen Franchise Dealerships* - \$1.6 billion

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

› *Stericycle Sterisafe Contract Litigation* - \$295 million

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

› *NCAA Grant-in-Aid Scholarships* - \$208 million

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

› *Dairy Price-Fixing* - \$52 million

This antitrust suit's filing unearthed a massive collusion between the biggest dairy producers in the

MANAGING PARTNER**Steve W. Berman**

country, responsible for almost 70 percent of the nation's milk. Not only was the price of milk artificially inflated, but this scheme ultimately also cost 500,000 young cows their lives.

CAREER HIGHLIGHTS

- › ***State Tobacco Litigation*** - \$206 billion
Special assistant attorney general for the states of Washington, Arizona, Illinois, Indiana, New York, Alaska, Idaho, Ohio, Oregon, Nevada, Montana, Vermont and Rhode Island in prosecuting major actions against the tobacco industry. In November 1998, the initial proposed settlement led to a multi-state settlement requiring the tobacco companies to pay the states \$206 billion and to submit to broad advertising and marketing restrictions – the largest civil settlement in history.
- › ***Visa MasterCard ATM Antitrust Litigation*** - \$27 billion
Co-lead counsel in what was then the largest antitrust settlement in history: a class-action lawsuit alleging that Visa and MasterCard, together with Bank of America, JP Morgan Chase and Wells Fargo, violated federal antitrust laws by establishing uniform agreements with U.S. banks, preventing ATM operators from setting ATM access fees below the level of the fees charged on Visa's and MasterCard's networks.
- › ***Toyota Sudden, Unintended Acceleration*** - \$1.6 billion
Hagens Berman was co-lead counsel in this massive MDL alleging that Toyota vehicles contained a defect causing sudden, unintended acceleration (SUA). It was the largest automotive settlement in history at the time, valued at up to \$1.6 billion. The firm did not initially seek to lead the litigation, but was sought out by the judge for its wealth of experience in managing very complex class-action MDLs. Hagens Berman and managing partner Steve Berman agreed to take on the role of co-lead counsel for the economic loss class and head the plaintiffs' steering committee.
- › ***Washington Public Power Supply System (WPPSS)*** - \$700 million settlement
Represented bondholders and the bondholder trustee in a class-action lawsuit stemming from the failure of two WPPSS nuclear projects. The case was one of the most complex and lengthy securities fraud cases ever filed. The default was one of the largest municipal bond defaults in history. After years of litigation, plaintiffs were awarded a \$700 million settlement agreement brought against more than 200 defendants.
- › ***E-books Antitrust Litigation*** - \$560 million settlement
Fought against Apple and five of the nation's top publishers for colluding to raise the price of e-books, resulting in recovery equal to twice consumers' actual damages. The firm recovered an initial settlement of more than \$160 million with defendant publishing companies in conjunction with several states attorneys general. Steve then led the firm to pursue Apple for its involvement in the e-book price hike. Apple took the case to the Supreme Court, where it was ruled that Apple had conspired to raise prices, and the firm achieved an additional \$450 million settlement for consumers.
- › ***Enron Pension Protection Litigation*** - \$250 million settlement
Led the class-action litigation on behalf of Enron employees and retirees alleging that Enron leadership, including CEO Ken Lay, had a responsibility to protect the interests of those invested in the 401(k) program, an obligation they abrogated. The court selected Steve to co-lead the case against Enron and the other defendants.
- › ***Charles Schwab Securities Litigation*** - \$235 million settlement
Led the firm to file the first class-action lawsuit against Charles Schwab on Mar. 18, 2008, alleging that

MANAGING PARTNER**Steve W. Berman**

Schwab deceived investors about the underlying risk in its Schwab YieldPlus Funds Investor Shares and Schwab YieldPlus Funds Select Shares.

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

RECOGNITION

- › 2016-2019 Class Action MVP of the Year, Law360
- › 2018-2019 Honoree for Outstanding Antitrust Litigation Achievement in Private Law Practice, American Antitrust Institute
- › 2014-2016, 2018-2019 Elite Trial Lawyers, The National Law Journal
- › 2003-2019 Washington Super Lawyers
- › 2014-2019 Lawdragon 500 Leading Lawyers in America
- › 2018, 2016 Practice Group of the Year (Automotive), Law360
- › 2018 State Executive Committee member, The National Trial Lawyers
- › 2018 Top Attorney of the Year, International Association of Top Professionals
- › 2017 Plaintiffs' Trailblazer, The National Law Journal
- › 2017 Class Actions (Plaintiff) Law Firm of the Year in California, Global Law Experts
- › 2014 Finalist for Trial Lawyer of the Year, Public Justice
- › 2013 One of the 100 most influential attorneys in America, The National Law Journal
- › 2000 Most powerful lawyer in the state of Washington, The National Law Journal
- › One of the top 10 plaintiffs' firms in the country, The National Law Journal

OTHER NOTABLE CASES

- › ***VW Emissions Litigation*** - \$14.7 billion settlement
Steve served as a member of the Plaintiffs Steering Committee representing owners of Volkswagen CleanDiesel vehicles that were installed with emissions-cheating software.
- › ***McKesson Drug Class Litigation*** - \$350 million settlement
Lead counsel in an action that led to a rollback of benchmark prices of hundreds of brand name drugs,

MANAGING PARTNER**Steve W. Berman**

and relief for third-party payers and insurers. His discovery of the McKesson scheme led to follow up lawsuits by governmental entities and recovery in total of over \$600 million.

› ***Average Wholesale Price Litigation - \$338 million settlement***

Steve served as lead trial counsel, securing trial verdicts against three drug companies that paved the way for settlement.

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

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

› ***Hyundai / Kia Fuel Efficiency - \$210 million settlement***

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

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

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

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

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

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

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

› ***State and Governmental Drug Litigation***

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

› ***Exxon Mobile Oil Spill***

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

› ***Lumber Liquidators Flooring***

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

PRESENTATIONS

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

PERSONAL INSIGHT

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