IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

JET CAPITAL MASTER FUND, L.P., Plaintiff, v. HRG GROUP, INC. ET AL., Defendants.	No. 21-cv-552-jdp

DECLARATION OF LAWRENCE M. ROLNICK IN SUPPORT OF LEAD PLAINTIFF'S MOTIONS FOR (I) FINAL APPROVAL OF CLASS ACTION SETTLEMENT AND PLAN OF ALLOCATION AND (II) AWARD OF ATTORNEYS' FEES AND LITIGATION EXPENSES

I, LAWRENCE M. ROLNICK, declare as follows:

1. I, Lawrence M. Rolnick, am a member of the bars of the State of New York and the State of New Jersey and am admitted *pro hac vice* in the above-captioned securities class action (the "Action") (ECF No. 61). I am a member of the law firm Rolnick Kramer Sadighi LLP, the Court-appointed Lead Counsel for the HRG Subclass, and counsel for Lead Plaintiff Jet Capital Master Fund, L.P. ("Jet Capital"). I have personal knowledge of the matters stated in this declaration based on my active supervision of and participation in the prosecution and settlement of this Action.

2. I respectfully submit this declaration in support of Lead Plaintiff's motion, under Rule 23(e)(2) of the Federal Rules of Civil Procedure, for final approval of the proposed settlement of the Action (the "Settlement"), which the Court preliminarily approved by its Order dated November 17, 2021 (ECF No. 102) (the "Preliminary Approval Order").

3. I also respectfully submit this declaration in support of (i) Lead Plaintiff's motion for final approval of the proposed plan for allocating the Net Settlement Fund to eligible HRG Subclass Members (the "Plan of Allocation"); and (ii) Lead Plaintiff's motion, on behalf of Lead Counsel,

for an award of attorneys' fees of 22% of the Settlement Fund, net of Court-approved Litigation Expenses and estimated Notice and Administration Costs, and payment of Lead Counsel's expenses in the amount of $39,834.68 (the "Fee and Expense Application").

I. Introduction

4. The proposed Settlement provides for the resolution of all claims in the Action in exchange for a cash payment of $7.25 million for the benefit of the HRG Subclass. The proposed Settlement provides a considerable benefit to the HRG Subclass by conferring a substantial, certain, and immediate recovery, while avoiding the significant risks and expense of continued litigation.

5. This beneficial Settlement was achieved as a direct result of Lead Plaintiff's and Lead Counsel's efforts to analyze a prior, unfair proposed settlement of the claims of the HRG Subclass, object to that proposed settlement and seek to intervene, successfully seek appointment as Lead Plaintiff of the HRG Subclass, prosecute the Action, and aggressively negotiate a settlement of the Action against highly competent opposing counsel.

6. Specifically, the Settlement provides for an estimated recovery for HRG Subclass Members that is a ***51% increase in estimated recovery*** for HRG Subclass Members from the prior settlement that this Court declined to approve. This settlement represents an estimated recovery of 50 cents per share whereas the prior settlement compensated HRG shareholders only an estimated approximately 33 cents per HRG share.

7. The benefit that the proposed Settlement will provide to the HRG Subclass is particularly meaningful when considered against the substantial risk that the HRG Subclass might recover significantly less (or nothing) if litigation would have continued through adjudication of Defendants' motion to dismiss, extensive fact and expert discovery, class certification, dispositive motions, trial, and any appeals that would likely follow—a process that could last years. There is no guarantee that Lead Plaintiff would have been able to establish Defendants' liability or

damages. Indeed, while Lead Plaintiff disagrees, Defendants argued forcefully that this Action should be dismissed at the pleading stage, including contending that Lead Plaintiff and the members of the HRG Subclass lack standing to bring their claims against Defendants at all.

8. At the time that the Parties reached a settlement-in-principle in this Action, Lead Plaintiff had not yet filed its own operative Complaint in the Action and Defendants had not yet moved to dismiss that complaint. If Defendants' arguments on that motion to dismiss were accepted in whole or in part, it would have dramatically reduced, or eliminated altogether, the HRG Subclass' potential recovery. In particular, Defendants would have argued that the HRG Subclass lacked standing to bring *any* claims against them in this Action. While Jet Capital strongly believes that it and the other HRG Subclass Members have standing under the Exchange Act to bring their claims, the bottom line is that, as this Court has already recognized, there is "no controlling law" on this issue. (ECF No. 74 at 5.) Thus, there was a not insignificant risk that this Court could have ruled in Defendants' favor and dismissed the claims of the HRG Subclass in their entirety. Had this occurred, the HRG Subclass would have recovered nothing.

9. In addition, Defendants would have argued, including by relying on recent authority from District Courts within this Circuit as well as Courts of Appeals from around the nation, that (i) Defendants' statements were inactionable under the federal securities laws (either because they were not false or that they constituted immaterial puffery); and (ii) Defendants lacked the requisite scienter to commit securities fraud. Had the Court accepted either of these arguments, the entire Action would have been dismissed at the pleading stage and the HRG Subclass would have recovered nothing.

10. Moreover, even if the Court denied Defendants' motion to dismiss and permitted Lead Plaintiff's claims to proceed to discovery, there is no guarantee that Lead Plaintiff or the HRG

Subclass could have obtained certification of the HRG Subclass or could establish Defendants' liability after additional dispositive motions, trial, and any appeal that would likely follow. And this process in its entirety would have taken years to play out to conclusion. As discussed below, Defendants had credible arguments that, among other things, their statements were not materially false and misleading, and that they did not act with the requisite scienter.

11. Lead Plaintiff and the HRG Subclass also faced substantial risk in establishing loss causation. Defendants put forth substantial arguments that the price declines on the alleged corrective disclosure dates were not caused—either totally or in part—by the revelation of the alleged fraud. Defendants argued that the alleged disclosures included multiple pieces of negative information unrelated to the fraud that would have to have disaggregated (if possible) in determining the amount of any damages. Through these and other arguments, Defendants would have posed serious challenges to Lead Plaintiff's ability to recover damages even if Lead Plaintiff were successful in establishing liability.

12. Defendants made clear during this litigation—including throughout hard-fought settlement negotiations—that they would have opposed Lead Plaintiff and Lead Counsel at every step of this litigation, and intended to hold Lead Plaintiff to its burden of proof on each element of securities fraud. Establishing the claims of the HRG Subclass would have involved marshalling evidence (if it existed) on multiple complex and hotly contested issues. There could be no guarantee that Lead Plaintiff would make it to summary judgment, let alone prevail at that stage and at trial, or on appeal.

13. As also discussed in more detail below, the Settlement was achieved as a direct result of extensive efforts undertaken solely by Lead Counsel. Those efforts included (i) analyzing the notice of a prior settlement of the HRG Subclass' claims to determine that those claims were being

punitively discounted by 75%; (ii) objecting to the prior settlement on that basis; (iii) seeking to intervene on that basis; (iv) applying to serve as, and being appointed, Lead Plaintiff of the HRG Subclass; (v) litigating the case prior to settlement discussions and after a formal mediation session was unsuccessful; and (v) consulting with economic advisors regarding loss-causation and damages issues presented by this Action, and the HRG Subclass' claims in particular.

14. Lead Counsel also engaged in extensive, hard-fought settlement negotiations with Defendants. These negotiations included participation in a formal mediation process overseen by Jed D. Melnick, Esq. of JAMS ADR (the "Mediator"), an experienced and highly respected mediator of complex securities class actions. As part of the mediation process, the Parties exchanged detailed mediation statements, which addressed, among other things, liability and damages. The Defendants, Spectrum Subclass and HRG Subclass participated in a formal, three-way, all-day mediation session on July 22, 2021 (the "Three-Way Mediation").

15. The Three-Way Mediation did not result in a settlement agreement. However, unbeknownst to Lead Counsel for the HRG Subclass, Lead Counsel for the Spectrum Class continued to engage in settlement discussions with Defendants over the ensuing two weeks.

16. On August 3, 2021, Defendants advised Lead Counsel for the HRG Subclass that it had reached agreement with the Lead Counsel for the Spectrum Subclass. Counsel for Defendants advised us that at that point their stated preference was to litigate a motion to dismiss against the HRG Subclass in order to test the "standing" defense before returning to settlement discussions.

17. After lengthy and time-consuming discussions, Lead Counsel were successful in convincing Defendant to renew settlement discussions without first testing the "standing" defense. Those discussions continued under the auspices of the Mediator for nearly a month. As a result of these negotiations, and pursuant to a Mediator's recommendation, on September 3, 2021, the

Parties finally reached an agreement-in-principle to settle the Action for $7.25 million, a 50% increase in the amount that would have been recovered by the HRG Subclass pursuant to the prior settlement agreement.

18. The support of the settlement by Lead Plaintiff Jet Capital throughout this case is another factor militating in favor of the reasonableness of the Settlement, and its approval. Jet Capital is a sophisticated institutional investor—the very type of class representative that Congress favored when it passed the PSLRA—that closely supervised all aspects of this litigation, and recommends that the Settlement be approved. "A settlement reached under the supervision and with the endorsement of a sophisticated institutional investor . . . is entitled to an even greater presumption of reasonableness." *In re Signet Jewelers Ltd. Sec. Litig.*, 2020 WL 4196468, at *4 (S.D.N.Y. July 21, 2020); *see In re Fed. Nat'l Mortgage Assoc. Sec., Deriv., & "ERISA" Litig.*, 4 F. Supp. 3d 94, 107 (D.D.C. 2013 (endorsement of settlement by "sophisticated institutional investors" "militates in favor of approval").

19. In addition to seeking final approval of the Settlement, Lead Plaintiff seeks approval of the proposed Plan of Allocation as fair and reasonable. As discussed below, the Plan provides for the distribution of the Net Settlement fund on a fully *pro rata* basis to HRG Subclass Members who submit Claim Forms (or submitted claim forms in the prior proposed settlement that was not approved) that are approved for payment by the Court. Unlike the prior settlement that was not approved by this Court, there are no claims or groups of claimants whose claims are subject to a discount. Unlike the prior settlement that was not approved by this Court, Lead Plaintiff Jet Capital does not enjoy a recovery per share that is enhanced when compared to the recoveries of other class members whose claims are discounted. Instead, Jet Capital's claim is treated equally with the claims of every other HRG Subclass member. Each claimant's share will be calculated on the

claimant's losses attributable to the alleged fraud, similar to what would have presented at trial had the Action not settled and had continued to trial following motions for class certification, summary judgment, and other pretrial motions.

20. Lead Counsel worked diligently and efficiently to achieve the proposed Settlement in the face of significant risk, including the risk presented by Defendants' preferred course of litigating the motion to dismiss prior to the negotiation of any settlement with the HRG Subclass. Lead Counsel objected to the prior proposed settlement, sought to intervene, moved for Lead Plaintiff's appointment to represent the HRG Subclass, prosecuted, and settled this case on a fully contingent basis and advanced all expenses, and thus bore all the risk of unfavorable result. For these considerable efforts, Lead Counsel is applying for an award of attorneys' fees of 22% of the Settlement Fund, and payment of Lead Counsel's Litigation Expenses in the amount of $39,834.68. The requested fee is well within the range of percentage awards granted by courts within this Circuit and around the country in securities class actions.

21. For the reasons set forth in this declaration and in the accompanying memoranda and declarations, including the considerable success for the HRG Subclass and the numerous acute litigation risks described herein, Lead Plaintiff and Lead Counsel respectfully submit that the Settlement and the Plan of Allocation are "fair, reasonable, and adequate" in all respects, and the Court should approve them under Federal Rule of Civil Procedure 23(e)(2). As also set forth herein, I respectfully submit that Lead Counsel's Fee and Expense Application is also fair and reasonable and should be approved.

II. The *Spectrum* Action

A. Spectrum and HRG

22. Spectrum is a consumer-goods company that provides products to consumers through retail partners such as Wal-Mart, Home Depot, and Lowe's.

23. HRG Group, Inc. ("HRG"), a publicly traded company, was the controlling shareholder of Spectrum Brands Legacy, Inc. ("Old Spectrum").

24. During the relevant period, Old Spectrum merged into HRG, which was then renamed Spectrum Brand Holdings, Inc. ("Spectrum").

B. Securities Complaints Filed on Behalf of Spectrum Shareholders

25. Beginning in March 2019, related class actions were filed in this Court against Defendants alleging violations of the federal securities laws.

26. Specifically, on March 7, 2019, Levi & Korsinsky LLP filed a lawsuit against Old Spectrum, Andreas R. Rouvé, and Douglas L. Martin asserting claims under Sections 10(b) and 20(a) of the Exchange Act on behalf of a putative class of purchasers of Old Spectrum securities from June 14, 2016 through April 25, 2018. (No. 19-cv-178-jdp, ECF No. 1.)

27. The Private Securities Litigation Reform Act ("PSLRA") provides that "[n]ot later than 20 days after the date on which the complaint is filed, the plaintiff or plaintiffs shall cause to be published, in a widely circulated national business-oriented publication or wire service, a notice advising ***members of the purported plaintiff class*** . . . of the pendency of the action, the claims asserted therein, and the purported class period." 15 U.S.C. § 78u-4(a)(3)(A)(i) (emphasis added).

28. On March 7, 2019, Levi & Korsinsky LLP issued a press release via GlobeNewswire, Inc., "SHAREHOLDER ALERT: Levi & Korsinsky, LLP Notifies Shareholders It Filed a Complaint to Recover Losses Suffered by Spectrum Brands Legacy, Inc. (f/k/a Spectrum Brands Holdings, Inc.) Investors and Sets a Lead Plaintiff Deadline of May 6, 2019." (ECF No. 5-4, at 2.)

29. That press release was addressed to "[a]ll persons or entities who purchased or otherwise acquired securities of Spectrum Brands Legacy, Inc. (f/k/a Spectrum Brands Holdings, Inc.) (NYSE:SPB) between June 14, 2016 and April 25, 2018, inclusive" (ECF No. 5-4, at 2), and did not mention HRG or HRG shareholders.

30. On April 30, 2019, Bernstein Litowitz Berger & Grossmann LLP ("Bernstein Litowitz"), who would eventually be named Lead Counsel in the *Spectrum* Action (as defined below), filed a lawsuit against Old Spectrum, Andreas R. Rouvé, David M. Maura, and Douglas L. Martin asserting claims under Sections 10(b) and 20(a) of the Exchange Act on behalf of a putative class of purchasers of Old Spectrum securities from June 14, 2016 through November 16, 2018. (ECF No. 1.)

31. That same day, April 30, 2019, Bernstein Litowitz issued a press release via PR Newswire, "Bernstein Litowitz Berger & Grossmann LLP Announces Securities Class Action Suit Filed Against Spectrum Brands Holdings, Inc. and Certain of its Officers and Directors, Expanding Class Period Alleged in Related Action." (ECF No. 5-5 at 2.)

32. That press release described the action as filed "on behalf of West Palm Beach Firefighters' Pension Fund against Spectrum Brands Holdings, Inc. ("Spectrum" or the "Company") (NYSE: SPB)" and that the action was "on behalf of investors who purchased Spectrum's publicly traded securities from June 14, 2016 to November 16, 2018, inclusive." The press release did not mention HRG or HRG shareholders. (ECF No. 5-5 at 2.)

C. The *Spectrum* Action and Appointment of Lead Plaintiffs

33. On June 12, 2019, these two lawsuits were consolidated as *In re Spectrum Brands Securities Litigation*, No. 19-cv-347-jdp (the "*Spectrum* Action"). (ECF No. 8.)

34. In addition, the June 12, 2019 order appointed the Public School Teachers' Pension and Retirement Fund of Chicago and the Cambridge Retirement System (the "Spectrum Subclass Lead Plaintiffs") as lead plaintiffs and Bernstein Litowitz as lead counsel. (ECF No. 8.)

35. In support of their motion to be appointed lead plaintiffs, both of the Spectrum Subclass Lead Plaintiffs submitted charts detailing their purported losses in Old Spectrum and Spectrum stock. Those charts included only the CUSIPs for Old Spectrum and Spectrum stock (84763R101

and 84790A105); the charts did not include the CUSIP for HRG stock (41146A106), nor did the charts list any transactions in HRG stock. (ECF No. 5-2.)

36. The order discussed only the Spectrum Subclass Lead Plaintiffs' purported losses in Legacy Spectrum stock. (*See* ECF No. 8, at 6-7 ("the retirement fund says that it purchased nearly 74,000 shares of Spectrum stock and lost more than $2.4 million during the class period as a result of its purchases and sales of Spectrum stock; the retirement system says that it purchased nearly 30,000 shares and lost more than $1 million").) The order did not discuss HRG or purchasers of HRG stock.

D. The Amended Complaint in the *Spectrum* Action Includes HRG Shareholders

37. On July 12, 2019, the Spectrum Subclass Lead Plaintiffs filed the operative complaint (the "Complaint") in the *Spectrum* Action. (ECF No. 14.)

38. The Complaint asserted claims under Sections 10(b) and 20(a) of the Exchange Act against Spectrum, Old Spectrum, HRG, Rouvé, Maura and Martin.

39. Notably, the Complaint purported to bring claims on behalf of three putative classes: (i) purchasers from January 26, 2017 to July 13, 2018 of HRG stock; (ii) purchasers from January 26, 2017 to July 13, 2018 of Old Spectrum stock; and (iii) purchasers from July 13, 2018 to November 19, 2018, of Spectrum stock.

40. Thus, although no PSLRA notice had ever been given to HRG stockholders, the Complaint purported to assert claims on their behalf.

41. Among other things, the Complaint alleged that Defendants falsely stated that Spectrum was successfully executing two major supply-chain consolidation projects in its Global Auto Care and Hardware and Home Improvement divisions, when in fact those consolidations were suffering from fundamental logistical, operational, and technical problems that were far more serious than

those disclosed to investors.

42. The Amended Complaint further alleged that the prices of Spectrum's, Old Spectrum's, and HRG's common stock were artificially inflated during as a result of Defendants' allegedly false and misleading statements, and declined when the truth was revealed.

43. The Public School Teachers' Pension and Retirement Fund of Chicago submitted a certification of transactions alongside the Complaint, much as it had done in connection with its lead plaintiff motion. (ECF No. 14-1.) But unlike its earlier certification, this time, in addition to transactions in Old Spectrum and Spectrum stock, also listed was a purchase of 7,500 shares of HRG stock on May 6, 2017. (ECF No. 14-1 at 4.)

E. Defendants' Motion to Dismiss Raises the Insufficient PSLRA Notice to HRG Shareholders

44. On August 26, 2019, Defendants moved to dismiss the Complaint. (ECF No. 20.) In their brief, Defendants argued, among other things, that the claims of HRG shareholders should be dismissed because "[n]o wire notice or complaint apprised former HRG shareholders of their potential claims in this action. The wire notices filed in this action mention only a single security: Spectrum Brands Holdings, Inc. Not one mentions HRG Group, Inc." (ECF No. 21 at 49.)

45. Defendants also noted that "[i]t is only for the first time in the . . . Complaint that pre-Merger HRG shareholders are explicitly added to the putative class. Lead Plaintiff Public School Teachers' Pension & Retirement Fund of Chicago listed no purchases of pre-Merger HRG securities as part of its declaration in support of its application to be lead plaintiff, but rather identified only its transactions in Spectrum securities. The first time Public School Teachers identified a purchase of pre-Merger HRG shares was in its declaration appended to the Amended Complaint, which was not filed until one month after the ruling on the lead plaintiff motion. The . . . Complaint is also the first pleading in which HRG is named as a Defendant. (. . . Compl. ¶ 25.)

Where the prior complaints and wire notices neither named HRG shareholders as potential plaintiffs or named HRG as a defendant, it is unreasonable to assume any pre-Merger HRG shareholders were put on notice of this action." (ECF No. 21 at 51 (emphasis added).)

46. Defendants' brief noted that "[i]n an attempt to resolve this dispute," *i.e.*, the Complaint's assertion of claims on behalf of HRG stock purchasers, "on July 18, 2019, counsel for Defendants raised this issue with liaison counsel for the class, but liaison counsel declined to withdraw these claims." (ECF No. 21 at 44 n.13.) Thus, according to Defendants, counsel for the Spectrum Subclass Lead Plaintiffs was informally informed of the fact that they had no legal authority to represent the HRG class even before they were formally placed on notice of the issue in the motion to dismiss.

47. Defendants also argued that purchasers of HRG stock lacked standing to bring any Exchange Act claims. Specifically, Defendants contended that the Supreme Court's decision in *Blue Chip Stamps v. Manor Drug Stores*, 421 U.S. 723, 747, 749 (1975), barred these claims because HRG did not make any of the challenged statements, which were made exclusively by Old Spectrum or Spectrum. Defendants also claimed that the Second Circuit's decision in Ontario *Public Service Employees Union Pension Trust Fund v. Nortel Networks Corp.*, 369 F.3d 27 (2d Cir. 2004), barred "holders of securities other than the securities issued by the company alleged to have made misrepresentations from bringing suit and claiming harm to these other securities." (ECF No. 21 at 44-48.)

48. In response to Defendants' motion to dismiss, Bernstein Litowitz neither issued a corrected PSLRA notice to encompass HRG stockholders, nor withdrew the Complaint's claims on behalf of a putative class of HRG stockholders.

49. Rather, on October 10, 2019, the Spectrum Subclass Lead Plaintiffs opposed Defendants'

motion to dismiss, arguing, among other things, that the original PSLRA notice did encompass HRG shareholders (despite HRG appearing nowhere in the notice, and no plaintiff putting forth its HRG purchases in the lead plaintiff process). (ECF No. 26 at 57-59.)

50. Defendants filed their reply brief on November 6, 2019, arguing that HRG was not mentioned in the notice and asserting that a further publication of notice was not appropriate. (ECF No. 30 at 32-34.)

51. Thus, despite repeated notice, counsel for the Spectrum Subclass Lead Plaintiffs refused to issue a revised notice re-opening the lead plaintiff appointment process to allow HRG investors to apply before this Court for appointment as lead plaintiff to act on behalf of the HRG class. Instead, Bernstein Litowitz continued to act on behalf of HRG class and the Spectrum class.

52. Defendants' motion to dismiss the Complaint was fully briefed on November 6, 2019. (ECF No. 30.)

III. The Prior Settlement and the Jet Capital Funds' Objection

53. The Court deferred ruling on the motion to dismiss to permit the parties in the *Spectrum* Action to attempt to resolve the claims in that action through mediation. (ECF Nos. 33-34.)

54. On August 10, 2020, Bernstein Litowitz filed a motion for preliminary approval of a settlement of the *Spectrum* Action for $39 million, including the settlement and release of all HRG shareholder claims covered by the class (the "Prior Settlement"). (ECF No. 44.)

55. On September 29, 2020, the Court preliminarily approved the Prior Settlement and the notice regime. (ECF No. 48.) ***That notice was the first time HRG shareholders, including Jet Capital, were notified that their claims against Defendants were part of an existing class action, and that those claims were now being compromised.***

56. The notice was 27 pages long, with 93 numbered paragraphs. HRG shareholders were informed, in paragraph 61, in a single partial sentence and footnote, that their claims in the Class

were being discounted by 75% (confusingly described as a multiplier of "0.25," instead of a discount of 75%). (ECF No. 55-1.)

57. On December 24, 2020, Lead Plaintiffs filed their motion to approve the Prior Settlement, including the plan of allocation contained therein. (ECF No. 49.)

58. Rolnick Kramer Sadighi LLP represents Jet Capital, Jet Capital SRM Master Fund L.P., and Walleye Investments Fund (collectively, the "Jet Capital Funds").

59. The Jet Capital Funds purchased HRG stock and were members of the class that were to be included in the Prior Settlement.

60. Specifically, the Jet Capital Funds are investment funds managed by a common manager, Jet Capital Investors LP, with offices in New York City. The Jet Capital Funds purchased a net position of 4,200,000 premerger HRG shares during the class period at a weighted average price of $17.72 per share (premerger prices, unadjusted). The Jet Capital Funds made purchases of HRG stock from February 7, 2017 through February 22, 2018. (ECF No. 55-6.)

61. By comparison, the Public School Teachers' Pension and Retirement Fund of Chicago purchased only 7,500 shares of HRG stock and Cambridge Retirement System purchased no HRG stock at all. Jet Capital therefore had a position in HRG that was more than 500 times larger than the Spectrum Subclass Lead Plaintiffs.

62. On April 26, 2018, the date of the first corrective disclosure alleged in the Complaint, the Jet Capital Funds suffered a market loss of approximately $14 million on its HRG position.

63. By comparison, the Public School Teachers' Pension and Retirement Fund of Chicago suffered a market loss that day of approximately $25,000 on its HRG position.

64. When Jet Capital became aware of the steep 75% discount imposed on the claims of HRG shareholders, it contacted counsel for Defendants and informed them that Jet would consider

opting out of the class action settlement rather than suffer such a steep discount. After discussions with counsel for Defendants, Jet Capital decided to try to take steps to diminish the impact of the proposed discount on all HRG shareholders.

65. On January 8, 2021, the Jet Capital Funds, represented by Rolnick Kramer Sadighi LLP, objected to the Prior Settlement (the "Objection"). (ECF No. 54.)

66. Among other things, the 25-page Objection, which was supported by ten exhibits, including the Jet Capital Funds' trading records and plans of allocation from other securities class action settlements, argued that (i) the PSLRA notice issued by Bernstein Litowitz was defective as to HRG shareholders; (ii) the 75% discount in the Prior Settlement for HRG shareholders was unfair, arbitrary, and unjustified and (iii) the discount unfairly benefited Lead Plaintiff because it had a much larger stake in the Spectrum class than the HRG class and thus enjoyed a larger overall allocation as a result of the discount.

67. In addition, also on January 8, 2021, the Jet Capital Funds, represented by Rolnick Kramer Sadighi LLP, moved to intervene in the *Spectrum* Action for the limited purpose of objecting to the plan of allocation in the Prior Settlement. (ECF No. 57.)

68. The intervention motion argued, among other things, that "[d]espite the requirements of the Private Securities Litigation Reform Act (PSLRA), the Intervenors and other similarly situated HRG claimants were not provided with a notice and opportunity to participate in the consolidation of the action and the appointment of lead counsel. Lead Plaintiffs' failure to provide the adequate notice foreclosed the Court from appointing a lead plaintiff that would have been in a position to protect HRG shareholders. The consequences of that are now clear, as HRG claimants face a 75% reduction in their claim pursuant to the proposed Plan of Allocation. Instead, the settlement proceeds are unfairly shifted to Lead Plaintiffs, because they traded in Spectrum and Spectrum

Legacy [*i.e.*, Old Spectrum] rather than HRG. For these reasons, granting the Intervenors' the right to intervene is necessary to protect their interest in the settlement." (ECF No. 57 ¶ 8.)

69. The intervention motion also argued that another effect of the 75% discount was to "unfairly shift[]" "settlement proceeds" "to Lead Plaintiffs, because they traded in Spectrum and Spectrum Legacy [*i.e.*, Old Spectrum] rather than HRG." (ECF No. 57 ¶ 8.)

70. On January 15, 2021, the Spectrum Subclass Lead Plaintiffs filed a reply brief in support of the Prior Settlement and defending the 75% discount for HRG claims. (ECF No. 63.) In addition, the Spectrum Subclass Lead Plaintiffs opposed the Jet Capital Funds' intervention motion. (ECF No. 66.) The Spectrum Subclass Lead Plaintiffs did not deny that the 75% discount shifted settlement proceeds to them, because they traded primarily in Spectrum and Old Spectrum, rather than HRG, but asserted only that they "fairly and adequately represented all Class members' claims." (ECF No. 63 at 14.)

71. On January 19, 2021, the Jet Capital Funds filed a 17-page reply brief in support of their intervention motion and Objection. (ECF No. 68.) Among other things, the reply responded to the Spectrum Subclass Lead Plaintiffs' arguments attempting to justify the 75% HRG discount.

72. On January 22, 2021, the Spectrum Subclass Lead Plaintiffs filed a motion to strike portions of the Jet Capital Funds' reply brief, or for leave to file an 8-page sur-reply, which it attached to its motion. (ECF Nos. 69, 69-1.)

73. In response, the Jet Capital Funds filed a 5-page opposition. (ECF No. 70.)

74. On February 3, 2021, the Spectrum Subclass Lead Plaintiffs filed a notice of supplemental authority in support of the 75% HRG discount, to which the Jet Capital Funds responded on February 4, 2021. (ECF Nos. 72, 73.)

IV. The Court Rejects of the Prior Settlement, Agreeing That the PSLRA Notice Was Deficient.

75. On February 6, 2021, the Court issued an order (i) denying the Prior Settlement without prejudice; (ii) denying the fee application in connection with the Prior Settlement without prejudice; (iii) denying the Jet Capital Funds' intervention motion; (iv) denying the Spectrum Subclass Lead Plaintiffs' motion to strike; (v) directing the Spectrum Subclass Lead Plaintiffs "to promptly notify the class of this order by including a copy of it on the settlement website"; and (vi) giving the Spectrum Subclass Lead Plaintiffs "until February 19, 2021, to: (1) inform the court whether they wish to publish an amended notice or dismiss the claims of class members who purchased HRG stock; and (2) submit a memorandum and proposed schedule, as discussed in the opinion." (ECF No. 74 at 8-9.)

76. The Order also stated that ***"[t]he court agrees with Jet that plaintiffs didn't provide adequate notice to HRG stock purchasers.*** Section 78u-4(a)(3)(A)(i) requires the plaintiffs to identify 'the claims asserted' in the published notice, so plaintiffs should have published an amended notice when they filed the amended complaint to add more claims. A primary purpose of publication is to alert larger shareholders of their opportunity to serve as a lead plaintiff. See 15 U.S.C. § 78u- 4(a)(3)(A)(i)(II). By failing to publish an amended notice, plaintiffs deprived HRG stock purchasers such as Jet of that opportunity." (ECF No. 74 at 4 (emphasis added).)

77. The Order also addressed the Spectrum Subclass Lead Plaintiffs' argument that "that HRG shareholders should have realized that any reference in their notice to Spectrum stock included HRG stock as well." The Court stated that "But if that's true, why did plaintiffs expressly add references to HRG stock purchasers in their amended complaint and identify such purchasers as a separate group? Plaintiffs don't answer that question." (ECF No. 74 at 4.)

78. The Court also observed that "[t]he case took a wrong turn when plaintiffs chose to amend

their complaint without publishing a new notice or asking the court to approve an additional lead plaintiff to represent the HRG stock purchasers." (ECF No. 74 at 7.)

79. Further, the Order "agree[d] with Jet that ***the current lead plaintiffs aren't adequate representatives of HRG stock purchasers.***" (ECF No. 74 at 5.)

80. Thus, as to the 75% HRG discount, the Court stated that "[t]he problem isn't that the parties determined that some claims should receive a discount; ***it is that they made the determination without an adequate representative for the adversely affected class members***." (ECF No. 74 at 7.)

81. As to the issue of HRG stockholders' standing to bring Exchange Act claims against Defendants, the Order concluded that "[i]t is enough to say that neither the parties nor Jet have identified any controlling law on the question." (ECF No. 74 at 5.)

V. Jet Capital Is Appointed Lead Plaintiff of the HRG Subclass

82. In response to the Court's February 6, 2021 order, on February 19, 2021, the Spectrum Subclass Lead Plaintiffs proposed that a subclass for HRG investors be established in the *Spectrum* Action, and that Bernstein Litowitz would issue a new PSLRA notice to HRG investors, and a new lead plaintiff process would be undertaken to identify a lead plaintiff for the HRG Subclass. (ECF No. 75.)

83. On April 2, 2021, the Court approved the HRG PSLRA notice and lead plaintiff process. (ECF No. 76.)

84. On May 26, 2021, pursuant to the HRG PSLRA notice and lead plaintiff process, Jet Capital moved for appointment as lead plaintiff for the HRG Subclass. (ECF No. 77.)

85. No other HRG stockholder moved to be considered as lead plaintiff for the HRG Subclass, ***including the Public School Teachers' Pension and Retirement Fund of Chicago***.

86. On June 10, 2021, the Court appointed Jet Capital as Lead Plaintiff for the HRG Subclass.

(ECF No. 85.)

VI. Efforts to Resolve this Action and the *Spectrum* Action

87. On June 28, 2021, Jet Capital, the Spectrum Subclass Lead Plaintiffs, and Defendants informed the Court that a mediation was scheduled for July 2021 before Mr. Melnick (who mediated the Prior Settlement) to try and resolve the claims of the Spectrum Subclass and the HRG Subclass in a three-way mediation session with Defendants (the "Three-Way Mediation").

A. The July 22, 2021 Three-Way Mediation

88. In advance of the mediation session, Jet Capital, the Spectrum Subclass Lead Plaintiffs, and Defendants submitted written mediation statements addressing multiple issues, including liability and damages. Counsel for the HRG Subclass wrote extensively on the so-called standing issue, including citing cases and law not identified by Bernstein Litowitz in opposition to the motion to dismiss.

89. The July 22, 2021 Three-Way Mediation, was a formal, all-day remote mediation session before Mr. Melnick. During that session, Lead Plaintiff Jet Capital's counsel, Spectrum Subclass Lead Plaintiffs' counsel, and Defendants' counsel made presentations to Mr. Melnick and discussed the merits of this Action, including liability and damages. Despite vigorous settlement negotiations, the Three-Way Mediation ended without any agreement among the Parties.

B. The *Spectrum* Subclass Settles and Defendants Press to Litigate the "Standing" Issue with the HRG Subclass.

90. After the July 22 mediation session, Rolnick Kramer Sadighi LLP as Lead Counsel for the HRG Subclass did not have additional discussions with Defendants' Counsel about resolving the claims of the HRG Subclass.

91. This was apparently not true of Bernstein Litowitz as Lead Counsel for the Spectrum Subclass Lead Plaintiffs.

92. Rather, after the July 22 mediation session, and unbeknownst to Lead Counsel for the HRG

Subclass, the Spectrum Subclass Lead Plaintiffs and Defendants continued settlement discussions through Mr. Melnick. (ECF No. 88.)

93. In advance of a status update due to the Court the next day, on August 3, 2021, Defendants' counsel emailed me, as Lead Counsel for the HRG Subclass, and asked for a proposed schedule for Jet Capital to file an amended complaint on behalf of the HRG Subclass (if it wished to do so) and for briefing on Defendants' motion to dismiss the Complaint or any amended complaint.

94. When I responded to this email, Defendants' counsel informed me that on that same day (August 3, 2021), the Spectrum Subclass Lead Plaintiffs and Defendants had executed a memorandum of understanding to resolve the claims of only the Spectrum Subclass. (*See also* ECF No. 88.) Defendants' counsel then asked me to propose a schedule for future proceedings as to the HRG Subclass that could be submitted to the Court.

95. As a tactical matter, settlement with the Spectrum Subclass allowed counsel for Defendants to litigate the standing issue with the HRG Subclass, a defense they believed to be extremely strong, without jeopardizing the settlement of the much larger Spectrum Subclass.

96. On August 4, 2021, the Spectrum Subclass Lead Plaintiffs and Defendants informed the Court of their settlement-in-principle of the Spectrum Subclass. Despite that the claims of the Spectrum Subclass were previously stayed pending resolution of an anticipated motion to dismiss the claims of the HRG Subclass, Defendants and the Spectrum Subclass Lead Plaintiffs told the Court "that the two subclasses should now proceed on completely separate tracks for all purposes going forward so as not to delay the settlement approval process for the Spectrum Subclass." Jet Capital took no position on that request, but stated that "some coordination between the two Subclasses may still be necessary." (ECF No. 88.)

97. The August 4 update also presented the Court with a proposed schedule for further

litigation of the HRG Subclass. That proposed schedule provided that any amended complaint on behalf of the HRG Subclass would be filed by September 20, 2021; Defendants would answer or move to dismiss by November 4, 2021; Jet Capital would oppose any motion to dismiss by December 20, 2021; and Defendants would file a reply in support of any motion to dismiss by January 21, 2022. (ECF No. 88.)

98. On August 6, 2021, the Court issued an order to show cause why the Spectrum Subclass and the HRG Subclass should not be severed "so that each subclass can be resolved separately." The Court's order stated that "Defendants and lead counsel for the Spectrum subclass ask that the two subclasses 'proceed on completely separate tracks' because defendants plan to file a motion to dismiss the claims of the HRG subclass." (ECF No. 89.)

99. Thereafter, I inquired of Mr. Melnick whether settlement discussions might resume with Defendants. He informed me that Defendants had little interest in settlement discussions with the HRG Subclass, and consistent with the representations made to the Court on August 3 and August 6, 2021, intended to litigate a motion to dismiss with the HRG Subclass that would resolve the "standing" issue. (Melnick Decl. ¶ 13.)

100. On August 20, 2021, Jet Capital, the Spectrum Subclass Lead Plaintiffs and Defendants responded to the Court's August 6, 2021 order to show cause and proposed that the claims of the Spectrum Subclass and the HRG Subclass be severed under Federal Rule of Civil Procedure 21 "to enable (i) the separate settlement of the Spectrum Subclass's claims and a final judgment with respect to those claims, and (ii) the separate litigation of the HRG Subclass's claims (as a separate civil action under its own docket number)." (ECF No. 90.)

101. In order to protect the claims of the HRG Subclass, Jet Capital obtained an agreement from Defendants that they would not raise timeliness defenses against the HRG Subclass by virtue of

the severance and requested that any severance order reflect this agreement. (ECF No. 90 at 2 (citing *Allstate Prop. & Cas. Ins. Co. v. Omega Flex, Inc.*, 2013 WL 786764, at *4 (S.D. Ind. Mar. 1, 2013); *Elmore v. Henderson*, 227 F.3d 1009, 1012 (7th Cir. 2000)).)

102. The August 20 response also stated that "[w]ith respect to the HRG Subclass, Jet Capital and Defendants will file a proposed schedule setting forth deadlines for Jet Capital to file an amended complaint and for Defendants to respond to that complaint." (ECF No. 90.)

103. On August 23, 2021, the Court requested that Jet Capital, the Spectrum Subclass Lead Plaintiffs, and Defendants file a proposed severance order. (ECF No. 93.) Citing *Elmore*, which Jet Capital had cited in the August 20 response, the Court stated that "[n]o language regarding tolling of the statute of limitations is necessary because a severed claim preserves its original filing date." (ECF No. 93.)

104. On August 25, 2021, Jet Capital, the Spectrum Subclass Lead Plaintiffs, and Defendants filed the proposed severance order, and on August 27, 2021, the Court severed the claims of the Spectrum Subclass from the HRG Subclass, and thereafter created this Action (No. 21-cv-552-jdp). (ECF Nos. 94-95.)

105. Shortly after the cases were severed, the Spectrum Subclass Lead Plaintiffs filed a motion to preliminarily approve the settlement of the Spectrum Subclass' claims. (No. 19-cv-347-jdp, ECF No. 96.) Lead Counsel reviewed the Spectrum Subclass settlement papers to ensure that the settlement did not prejudice the rights of the HRG Subclass.

C. The Hard-Fought Negotiations to Settle This Action on Behalf of the HRG Subclass.

106. The Defendants strategy to settle with the Spectrum Subclass put enormous pressure on the HRG Subclass. By resolving the vast exposure to the Subclass, the Defendants could test the standing defense with the HRG Subclass before returning to settlement discussions. Defendants

made no effort to hide this strategy and expressed their intention to litigate the motion to dismiss with the HRG Subclass before resuming settlement discussions. This strategy presented a clear risk to the HRG Subclass because it meant it had to take the chance of forfeiting any recovery—an outcome even worse than the 75% discount imposed through the prior settlement. In an effort to protect the HRG Subclass from such an outcome, Mr. Melnick and I spent enormous effort trying to convince the Defendants to return to the settlement table. After weeks of discussions, settlement discussions resumed between Rolnick Kramer Sadighi LLP and Defendants' Counsel about resolving the claims of the HRG Subclass, with Mr. Melnick serving as mediator in those discussions.

107. These discussions were professional, but contentious and hard-fought. In particular, during these discussions, Defendants made clear that they preferred to litigate the motion to dismiss, and having settled with the Spectrum Subclass, had the ability to do so before settling the claims of the HRG Subclass.

108. After about a month of discussions, the parties had exchanged numerous bids and asks but were still far apart. To close the gap, Mr. Melnick issued a mediator's recommendation that the Action be resolved in exchange for a payment of $7.25 million. On September 3, 2021, Mr. Melnick informed the Parties that both sides had accepted the mediator's proposal.

109. The Settlement of $7.25 million avoided the substantial risk that the HRG Subclass would face on the motion to dismiss and improved the recovery to HRG class members by more than 50% substantially diminishing the punitive impact of the 75% discount imposed in the prior class action settlement. Believing it struck the right balance, Jet Capital executed a settlement term sheet with Defendants on September 20, 2021.

VII. The HRG Subclass Settlement

110. On October 12, 2021, Jet Capital moved for preliminary approval of the Settlement and of

a notice plan (ECF No. 98), which was granted on November 17, 2021 (ECF No. 102).

111. The Settlement provides an immediate and certain benefit to the HRG Subclass in the form of a $7.25 million cash payment. This is an objectively excellent result for the HRG Subclass.

112. The Prior Settlement would have provided HRG Subclass Members an estimated recovery of 33 cents per HRG share. The proposed Settlement will provide HRG Subclass Members an estimated recovery of 50 cents per HRG share. That represents an improvement of over 50% over the Prior Settlement and greatly diminishes the punitive 75% discount imposed by that Settlement.

113. This improvement in recovery occurred even as the litigation risks for the HRG Subclass *increased* following the proposed settlement of the *Spectrum* Action, because, with the *Spectrum* Action settled, Defendants eliminated their largest exposure and would now be able to litigate a legal issue (standing) that they believed they could win against the HRG Subclass. Moreover, even if they failed to prevail on that motion, the Defendants would now be able to devote all of their resources towards defending this Action.

114. Lead Plaintiff believes that it could have succeeded on the standing issue, although it acknowledges that the issue presented significant risk. For example, last year, the Eastern District of Virginia permitted Section 10(b) claims by Altria shareholders against JUUL, in which Altria had taken a 35% stake, challenging self-referential statements made by JUUL to proceed. The court rejected defendants' argument that Altria investors lacked standing to bring claims against the JUUL defendants, reasoning that JUUL "can face liability for its own statements that Altria investors may have relied upon," given "the intertwined nature of Altria's and JUUL's businesses and the alleged casual effect of JUUL's misrepresentations on the value of Altria's stock." *See Klein* v. *Altria Grp., Inc.*, 2021 WL 955992, at *9-10 (E.D. Va. Mar. 12, 2021). Other courts have found standing in similar circumstances. *See Semerenko v. Cendant Corp.*, 223 F.3d 165, 174-78

(3d Cir. 2000) (investors in tender offer target could have standing to bring Section 10(b) claims against offeror); *Zelman v. JDS Uniphase Corp.*, 376 F. Supp. 2d 956, 958-63 (N.D. Cal. 2005) (purchasers of UBS-issued notes linked to performance of other company had standing to bring Section 10(b) claims against that company); *In re WorldCom, Inc. Sec. Litig.*, 2004 WL 1435356, at *8-9 (S.D.N.Y. June 24, 2004) (similar); *In re Williams Sec. Litig.*, 339 F. Supp. 2d 1206, 1236-37 (N.D. Okla. 2003) (shareholders of issuer had standing to bring Section 10(b) claims against controlling shareholder of corporation for misstatements by controlling shareholder that affected issuer stock); *In re Nat'l Golf Props. Inc.*, 2003 WL 23018761, at *8-9 (C.D. Cal. Mar. 19, 2003) (shareholders of issuer had standing to bring Section 10(b) claims against company whose financial information was disclosed in prospectus); *Muzinich & Co. v. Raytheon Co.*, 2002 U.S. Dist. LEXIS 26962, at *2-15 (D. Idaho May 1, 2002) (shareholders of corporation that acquired subsidiary permitted to bring Section 10(b) claims against selling corporation for misstating subsidiary's value).

115. Although Lead Plaintiff believes that its claims and the claims of the HRG Subclass were meritorious, there was a significant risk that either this Court at the motion-to-dismiss or summary judgment stages, or a jury at trial, would accept Defendants' arguments. The benefit that the proposed Settlement will provide to the HRG Subclass is particularly meaningful when evaluated against the Prior Settlement (a 51% per-share increase in recovery) and the substantial risk that the HRG Subclass might recover significantly less—or nothing at all—if litigation would have continued through a motion-to-dismiss, class certification, summary judgment, trial, and any appeals that would likely follow. And that process could have taken years.

VIII. The Significant Risks of Continued Litigation

116. The Settlement was achieved without this Court ruling on Defendants' anticipated motion to dismiss the claims of the HRG Subclass. In that motion, Defendants would have urged dismissal

on numerous bases.

A. Defendants Would Have Argued That the HRG Subclass Lacked Standing to Bring *Any* Claims.

117. Notably, Defendants would have argued (as they did in their prior motion to dismiss in the *Spectrum* Action) that the HRG Subclass lacked standing to bring *any* claims, because they did not purchase Old Spectrum or Spectrum securities.

118. While Jet Capital strongly believes that it and the other HRG Subclass Members have standing under the Exchange Act to bring their claims, the bottom line is that, as this Court has already recognized, there is "no controlling law" on this issue. (ECF No. 74 at 5.)

119. Thus, there was a serious and acute risk that this Court would have ruled in Defendants' favor and dismissed the claims of the HRG Subclass on standing, which would have eliminated any recovery for the HRG Subclass Members.

B. Defendants' Other Arguments for Dismissal of this Action, or Significant Reduction in Damages.

120. In addition to the threshold standing issue, Jet Capital faced numerous other significant risks to its claims.

121. There was significant risk that Defendants' statements about the progress of Spectrum's consolidations would be found inactionable under the federal securities laws.

122. For example, Defendants would have continued to argue that their statements about the consolidation-efforts progress, including the "transitory" nature of the consolidation issues, were not false.

123. Defendants argued that the consolidations were progressing adequately during much of the Class Period. Similarly, Defendants also claimed that issues facing the consolidations were, in fact, transitory, because those issues were significantly resolved by the end of the Class Period.

124. Indeed, Defendants would likely point to several decisions issued after Defendants' never-

decided motion to dismiss to bolster their position.

125. For example, two recent district court decisions within this Circuit held inactionable statements about "significant progress" on a key corporate initiative, touting the "compelling financial benefits" of a merger, describing an integration project as "on target," a corporate project's "success and effects." *City of Warren Police & Fire Ret. Sys. v. ZebraTech Corp.*, 2020 WL 6118571, at *6-7 (N.D. Ill. Oct. 16, 2020); *W. Palm Beach Firefighters' Pension Fund v. Conagra Brands, Inc.*, 495 F. Supp. 3d 622, 649, 653 (N.D. Ill. 2020).

126. And both the Ninth and Eleventh Circuits have affirmed dismissal of securities fraud claims based on challenged statements about the "progress" or "on track" nature of corporate projects. *Wochos v. Tesla, Inc.*, 985 F.3d 1180 (9th Cir. 2021); *Carvelli v. Ocwen Fin. Corp.*, 943 F.3d 1307 (11th Cir. 2019).

127. These arguments, if adopted by the Court or later by the jury, would have made certain of Defendants' statements about the consolidations true, and, therefore, inactionable under the Exchange Act.

128. There was significant risk that Defendants would have been found to have made the challenged statements without the scienter necessary to establish a claim under the federal securities laws.

129. For example, Defendants would have continued to argue that Spectrum was making adequate progress in consolidating its distribution networks, and that Defendants were only made aware of any deeper issues directly before Defendants disclosed those issues to the market. Given this, Defendants would argue, the requisite scienter to support a securities fraud claim could not be established. These arguments would potentially be supported by decisions issued after the briefing on Defendants' never-adjudicated motion to dismiss.

130. Thus, in *In re Target Corp. Securities Litigation*, the Eighth Circuit affirmed the dismissal of securities claims alleging that Target had pervasive inventory-control issues in its Canadian stores, because the challenged statements were "perfectly consistent with the narrative that Target had serious problems that none of its executives understood" and "[t]hat every time one issue was fixed, others sprang up hydra-like to replace it further supports the non-fraudulent explanation for Target's statements to investors." 955 F.3d 738, 745 (8th Cir. 2020).

131. Moreover, the scienter allegations in the Complaint were supported in part by confidential witness allegations. In discovery, these allegations may not have been corroborated.

132. Again, if this occurring, it may have negated scienter, which is a required element of a Section 10(b) claim.

133. Even if liability were successfully established, Jet Capital would have still faced significant hurdles in proving loss causation and damages. "Defendants would assert that the losses were due to market, industry and general economic conditions rather than wrongful conduct." *Great Neck*, 212 F.R.D. at 410.

134. For example, Defendants would have argued that a significant portion of the declines in the stock prices of HRG and Spectrum on the corrective disclosure dates reflected investors' reaction to poor performance of Spectrum as a company, based on a number of factors entirely unrelated to the financial impact caused by issues related to the consolidations.

135. Defendants would also have argued that those stock-price declines were attributable to information about other business units of Spectrum not implicated in the Complaint's allegations.

136. Moreover, Defendants would have argued to cut-off the class in April 2018, based on the disclosure in that month of problems with the consolidations, which would preclude purchasers of HRG stock after that date from recovering any damages.

137. If Defendants prevailed on these arguments, recoverable damages would be eliminated or significantly reduced.

138. The Settlement is also reasonable when considered in relation to the range of potential recoveries for the HRG Subclass had it prevailed at trial—which was far from certain, given the numerous reasons shown above.

139. As one court observed about a securities class action settlement, "if the settlement was disapproved and the case tried, plaintiffs would face substantial risks. The factual and legal issues in the case are not simple, and a jury would have to evaluate conflicting evidence on such issues as scienter, materiality, causation and damages, as well as conflicting expert testimony." *Great Neck*, 212 F.R.D. at 409.

140. Jet Capital's damages expert estimates that the Prior Settlement represented a recovery of 3.3% of the realistic maximum recoverable damages for the HRG Subclass. This proposed Settlement represents an approximate 5% recovery of the realistic maximum damages for the HRG Subclass.

141. This is a ***51% increase in recovery from the Prior Settlement*** and an excellent result for the HRG Subclass, given the risks of litigation—including the unique risks faced by the HRG Subclass that Old Spectrum and Spectrum stock purchasers did not face.

142. Indeed, "shareholder class actions are difficult and unpredictable, and skepticism about optimistic forecasts of recovery is warranted." *Great Neck*, 212 F.R.D. at 409.

IX. Lead Plaintiffs' Compliance with the Notice Provisions of the Preliminary Approval Order.

143. The Court's Preliminary Approval Order approved the dissemination of notice to the HRG Subclass. In accordance with the Preliminary Approval Order, Lead Counsel instructed JND Legal Administration ("JND"), the Court-approved Claims Administrator, to disseminate copies of the

Notice and Claim Form by mail and to publish the Summary Notice. The details of JND's notice campaign pursuant to the Preliminary Approval Order are set forth in the accompanying Declaration of Luiggy Segura of JND, filed herewith.

144. In particular, on December 9, 2021, JND mailed 83,641 Notice Packets to potential HRG Subclass Members and nominees by first-class mail. (Segura Decl. ¶ 6.) Through February 4, 2022, JND disseminated 85,407 copies of the Notice Packet. (Segura Decl. ¶ 9.) In addition, JND has re-mailed 980 Notice Packets to persons whose original mailings were returned by the U.S. Postal Service ("USPS") and for whom updated addresses were provided to JND by the USPS or were obtained through other means. (Segura Decl. ¶ 9.)

145. In accordance with Paragraph 7(c) of the Preliminary Approval Order, JND caused the Summary Notice of (I) Pendency of Class Action and Proposed Settlement; (II) Settlement Hearing; and (III) Motion for Attorneys' Fees and Litigation Expenses (the "Summary Notice") to be published in *Investor's Business Daily* and released via PR Newswire on October 15, 2021. (Segura Decl. ¶ 10.) Copies of proof of publication of the Summary Notice in Investor's Business Daily and over PR Newswire are attached to the Segura Declaration as Exhibits B and C, respectively.

146. On December 9, 2021, JND established a case-specific, toll-free telephone helpline, 1-888-921-1535, with an interactive voice response system and live operators, to accommodate potential HRG Class Members with questions about the Action and the Settlement. The automated attendant answers the calls and presents callers with a series of choices to respond to basic questions. Callers requiring further help have the option to be transferred to a live operator during business hours. JND continues to maintain the telephone helpline and will update the interactive voice response system as necessary through the administration of the Settlement. (Segura Decl. ¶ 11.)

147. On December 9, 2021, JND established a website dedicated to the Settlement, www.HRGSecuritiesLitigation.com, to assist potential HRG Class Members. The website includes information regarding the Action and the proposed Settlement, including the exclusion, objection, and claim filing deadlines, and details about the Court's Settlement Hearing. Copies of the Notice and Claim Form, the Stipulation, HRG Preliminary Approval Order, and other documents related to the Action are posted on the website and are available for downloading. The website became operational on December 9, 2021, and is accessible 24 hours a day, 7 days a week. JND will update the website as necessary through the administration of the Settlement. (Segura Decl. ¶ 12.)

148. The deadline for HRG Subclass Members to file objections to the Settlement, the Plan of Allocation, and the Fee and Expense Application, or to request exclusion from the HRG Subclass is February 22, 2022. To date, no objections and no valid exclusion requests have been received. JND received one purported exclusion request, but the individual requested exclusion had not purchased any HRG shares and thus is not an HRG Subclass Member. (Segura Decl. ¶ 13 & Ex. D.) Lead Counsel will file reply papers on or before March 4, 2022, after the deadline for submitting objections and requests for exclusion, which will address any objections and requests for exclusion received.

X. Allocation of Settlement Proceeds

149. In accordance with the Preliminary Approval Order, all HRG Subclass Members who wish to participate in the distribution of the Net Settlement Fund had to submit a valid Claim Form by January 25, 2022, except that any HRG Subclass Member who submitted a claim form in connection with the Prior Settlement was not required to re-submit a new Claim Form. As described in the Notice, the Net Settlement Fund will be distributed among eligible HRG Subclass Members according to the plan of allocation approved by the Court.

150. Jet Capital's damages expert, in consultation with Lead Counsel, developed the Plan of Allocation, which is comparable to plans of allocation that courts have approved in numerous other securities class action.

151. The Plan of Allocation, which is described in the Notice, is based on the Complaint's allegations that Defendants' materially false and misleading statements and omissions artificially inflated the price of HRG common stock during the Class Period and that a series of public disclosures that partially corrected the challenged statements removed the inflation from HRG and Spectrum stock.

152. The Plan of Allocation calculates a "Recognized Loss Amount" for each purchase or acquisition of HRG common stock during the Class Period that is listed in the Claim Form and for which adequate documentation is provided by the claimant.

153. The calculation of Recognized Loss Amounts under the proposed Plan of Allocation will depend on when the claimant purchased and/or sold the shares, whether the claimant held the shares through the statutory 90-day look-back period, *see* 15 U.S.C. § 78u-4(e), and the value of the shares when the claimant purchased, sold, or held them.

154. Under the Plan of Allocation, the sum of a claimant's Recognized Loss Amounts is the Claimant's "Recognized Claim," and the Net Settlement Fund will be allocated to Authorized Claimants on a *pro rata* basis based on the relative size of their Recognized Claims.

155. Unlike in the Prior Settlement, there are no discounts applied to the claims of any HRG investors in this Settlement. Thus, Lead Plaintiff gets no benefit from discount imposed on other members of class.

156. The Claims Administrator will calculate claimants' Recognized Loss Amounts using the transaction information that claimants provide to the Claims Administrator in their Claim Forms.

157. As stated above, if an HRG Subclass Member already submitted a claim form in the Prior Settlement, they do not need to submit another claim form.

158. Once the Claims Administrator has processed all submitted claims, notified claimants of deficiencies or ineligibility, processed responses, and made claim determinations, the Claims Administrator will make distributions to eligible Authorized Claimants in the form of checks and wire transfers.

159. If any monies remain in the Net Settlement Fund, the Claims Administrator will conduct additional re-distributions until it is no longer cost effective. At that time, any remaining balance will be contributed to non-sectarian, not-for-profit, 501(c)(3) organization(s), recommended by Lead Counsel and approved by the Court.

160. The proposed Plan is thus a fair and reasonable method for allocating the Net Settlement Fund to eligible HRG Subclass Members.

161. To date, no objection to the Plan of Allocation has been received. The only objection to the plan of allocation in the Prior Settlement was made by the Jet Capital Funds on the basis of the 75% discount that the Prior Settlement applied to HRG stockholders. That discount has been eliminated in the Plan of Allocation in this Settlement.

XI. The Fee and Expense Application

162. In addition to seeking final approval of the Settlement and Plan of Allocation, Lead Counsel is also applying to the Court for an award of attorneys' fees and payment of Litigation Expenses by Lead Counsel.

163. Specifically, Lead Counsel is applying for an award of 22% of the Settlement Fund, net of Court-approved Litigation Expenses, actual Notice and Administration Costs, and estimated remaining Notice and Administration Costs, and for a payment of $39,834.68 in Lead Counsel's Litigation Expenses. The amount of Lead Counsel's incurred expenses for which Lead Counsel

seeks payment is significantly below the maximum expense amount of $500,000 stated in the Notice.

164. No law firm other than Lead Counsel (Rolnick Kramer Sadighi LLP) will receive any portion of the attorneys' fees awarded in this Action.

165. Based on the below discussion, and on the decisions and other legal authorities discussed in the accompanying Fee Memorandum, I respectfully submit that Lead Counsel's motion for fees and expenses should be granted.

166. Lead Counsel is applying for a fee award to be paid from the Settlement Fund on a percentage basis. As discussed in the accompanying fee memorandum, the percentage-of-common-fund methodology is preferred in this Circuit.

167. Based on the quality of the result achieved, the extent and quality of the work performed, the significant risks of the litigation, and the fully contingent nature of the representation, Lead Counsel respectfully submits that the requested fee award is reasonable and should be approved. As discussed in the Fee Memorandum, a fee award of 22% of the Settlement Fund, net of Court-approved Litigation Expenses and incurred plus estimated Notice and Administration Costs, is fair and reasonable for attorneys' fees in securities class actions such as this Action and is well within the range of percentages awarded in this Circuit and elsewhere for comparable settlements.

168. Lead Plaintiff Jet Capital supervised and monitored Lead Counsel's prosecution of this Action and endorses the requested fee award.

169. Set forth below is a summary chart of the hours expended and lodestar amounts for Lead Counsel (from inception through January 31, 2022), as well as a summary of Lead Counsel's Litigation Expenses (from inception through January 31, 2022). In addition, a firm resume for Lead Counsel is attached hereto.

Professional	Title	Rates	Hours	Lodestar
Marc Kramer	Partner	$1250 $1325	62.5	$79,790
Lawrence M. Rolnick	Partner	$1250 $1325	194	$251,887.70
Richard Bodnar	Senior Counsel	$725 $775	139.4	$102,320
Matthew Peller	Senior Counsel	$875	146.5	$128,930.50
Brandon Fierro	Counsel	$795	16.9	$13,435.50
Jarett Sena	Associate	$650	55.5	$35,597.50
Anna Menkova	Associate	$550	41	$22,500
Cruz de Leon	Paralegal	$400 $425	36.2	$14,782.50
Total			**692**	**$649,243.70**

Category	Amount
Mediation Fees (Jed D. Melnick, Esq., JAMS)	$15,059.34
Economic Expert Fees (Scott Dalrymple, CPA; Partner; BVA Group)	$20,000
Wisconsin Counsel Fees (Bassford Remele PA)	$4,550
Delivery, duplication and mailing fees	$225.34
Total	$39,834.68

170. No time expended, or expenses incurred, in preparing the application for fees and expenses has been included. Lead Counsel has and will continue to invest substantial time and effort in this case after the cut-off imposed for its lodestar submissions on this application.

171. As shown above, the rates for the attorneys at Rolnick Kramer Sadighi LLP who worked on this matter varied from $550 per hour to $1325 per hour. I believe that these rates are fair and reasonable for the work performed. In addition, I believe that these rates are consistent with, if not lower than, the rates of other law firms in the New York City area that specialize, as does Rolnick Kramer Sadighi LLP, in complex securities litigation. Moreover, Rolnick Kramer Sadighi LLP was formed in September 2020, and thus these rates were set within the last several years.

172. As shown above, Lead Counsel expended a total of 692 hours in the prosecution (including objecting to the Prior Settlement) and settlement of the Action from the commencement of Lead Counsel's work in the *Spectrum* Action and this Action. The resulting lodestar is $649,243.70. The requested fee of 22% of the Settlement Fund, net of the requested Litigation Expenses and estimated Notice and Administration Costs, represents $1,509,236.37 (plus interest accrued at the same rate as the Settlement Fund), and therefore represents a multiplier of approximately 2.32 on Lead Counsel's lodestar. As shown in the Fee Memorandum, the requested multiplier cross-check is within the range of multipliers typically cited in this Circuit and elsewhere in comparable securities class actions and in other class actions involving significant contingency-fee risk.

173. As detailed above, Lead Counsel devoted substantial time to this Action and protecting the interests of the HRG Subclass, including successfully objecting to the Prior Settlement, which unfairly and unjustifiably penalized HRG shareholders, successfully seeking to have Jet Capital appointed Lead Plaintiff of the HRG Subclass, and negotiating the Settlement, which provides for a 51% greater recovery for the HRG Subclass than the Prior Settlement.

174. I devoted substantial time to this case, including communicating with Lead Counsel for the Spectrum Subclass Plaintiffs and Defendants, participating in the mediation, reviewing and editing court submissions, motions and correspondence. Other experienced attorneys at my firm were also involved in the litigation and settlement negotiations. More junior attorneys and paralegals also worked on matters appropriate to their skill and experience level.

175. As shown in Lead Counsel's firm resume, Rolnick Kramer Sadighi LLP is an experienced and skilled law firm in the securities-litigation field. The attorneys at Rolnick Kramer Sadighi LLP have a long and successful track record representing investors in securities fraud litigation and other complex litigation.

176. Rolnick Kramer Sadighi LLP's litigation efforts in the *Spectrum* Action and this Action included (i) analyzing the notice of a prior settlement of the HRG Subclass' claims to determine that those claims were being punitively discounted; (ii) objecting to the prior settlement on that basis; (iii) seeking to intervene on that basis; (iv) applying to serve as, and being appointed, Lead Plaintiff of the HRG Subclass; (v) litigating the case prior to settlement discussions and after a formal mediation session was unsuccessful; (v) consulting with economic advisors regarding loss-causation and damages issues presented by this Action, and the HRG Subclass' claims in particular; and (vi) successfully negotiating a settlement for the HRG Subclass that provides for a 51% increase in recovery versus the Prior Settlement, even after the Spectrum Subclass Lead Plaintiffs settled the *Spectrum* Action and in the face of Defendants' intent to continue litigating against the HRG Subclass.

177. In addition to representing a 51% increase in recovery for the HRG Subclass versus the Prior Settlement, the quality of the work performed by Lead Counsel in attaining the Settlement should also be evaluated in light of Defendants' representation by Paul, Weiss, Rifkind, Wharton & Garrison LLP ("Paul Weiss"), one of the country's top defense firms, which vigorously represented Defendants in the *Spectrum* Action and this Action. For example, Paul Weiss's Class Action practice was recently named one of *Law360*'s 2021 Practice Groups of the Year and the firm was ranked third in *American Lawyer*'s 2021 "A-List."

178. The objection to the Prior Settlement and prosecution of this Action was undertaken by Lead Counsel entirely on a contingent-fee basis. The risks assumed by Lead Counsel in bringing the claims of the HRG Subclass to a successful conclusion are described above. Those risks are also relevant to an award of attorneys' fees.

179. From the outset, Lead Counsel undertook to object to the prior Settlement on behalf of the

Jet Capital Funds with no guarantee of ever being compensated for those efforts. Objections to securities class action settlements are rarely compensated, but represent a sometimes vital check on the settlement process. Here, Lead Counsel believed that an objection was necessary to prevent the interests of HRG purchasers from being injured by an excessive 75% discount on their claims.

180. After its objection was successful, Jet Capital, represented by Lead Counsel, successfully sought to represent the HRG Subclass and to prosecute the claims on the HRG Subclass. Lead Counsel bore the risk that no recovery would be achieved for the HRG Subclass. As discussed above, this case presented multiple risks and uncertainties that could have prevented any recovery whatsoever for the HRG Subclass. Becoming Lead Plaintiff in a class action does not guarantee a settlement, especially in the face of Defendants' arguments that this case should have been dismissed on the pleadings, as described above.

181. It is also in the public interest to have competent counsel (such as Lead Counsel) and institutional investors (such as Lead Plaintiff) enforce the securities laws. To further this policy, the law firms that bring successful securities class actions must be adequately compensated, especially in light of the inherently risky nature of such complex and contingent-value lawsuits.

182. For the reasons explained above, I believe the requested fee is reasonable and should be approved.

183. Lead Counsel also seek payment from the Settlement Fund of $39,834.68 in Litigation Expenses that were reasonably incurred in the *Spectrum* Action and this Action. These expenses are summarized above and are for: (i) Wisconsin counsel fees; (ii) expert fees for analysis of the damages in this Action, in particular as to the HRG Subclass; (iii) mediation fees; and (iv) delivery, duplication and mailing fees. All of these Litigation Expenses were reasonable and necessary to the protection of the interests of the HRG Subclass and the successful litigation of the Action.

184. The Notice informed potential HRG Subclass Members that Lead Counsel would seek payment of Litigation Expenses in an amount not to exceed $500,000. The total amount requested, $39,834.68, is significantly below the $500,000 that HRG Subclass Members were notified could be sought. To date, no HRG Subclass Member has objected to the maximum amount of expenses disclosed in the Notice. Lead Counsel will address objections, if any, that are subsequently filed in its reply papers.

185. Based on the above, Lead Counsel respectfully submits that its Litigation Expenses should be paid in full from the Settlement Fund.

XII. Conclusion

186. For all the reasons described above, Lead Counsel Rolnick Kramer Sadighi LLP and Lead Plaintiff Jet Capital respectfully submit that the Settlement and Plan of Allocation should be approved as fair, reasonable, and adequate. Lead Counsel further respectfully urges that the requested fee in the amount of 22% of the Settlement Fund net of Court-approved Litigation Expenses and estimated Notice and Administration Costs, should be approved as fair and reasonable, and the request for payment of $39,834.68 in Litigation Expenses should also be approved.

I declare, under penalty of perjury, that the foregoing facts are true and correct.
Executed this 7th day of February, 2022.

/s/ Lawrence M. Rolnick
Lawrence M. Rolnick

RKS

ROLNICK KRAMER SADIGHI LLP

Firm Resume

Overview

Rolnick Kramer Sadighi LLP ("RKS") is a New York based securities litigation firm dedicated to serving the investment management industry, including hedge funds, mutual funds, private equity, credit, real estate and structured finance firms. With offices in both New York and New Jersey, RKS boasts 13 attorneys who have litigated securities cases in courts throughout the United States.

RKS's Founding Partners have each spent their careers maximizing returns for their clients and over the last decade have recovered over one billion dollars for investment managers and professional investors. Their deep expertise in high-stakes litigation uniquely positions RKS to provide world-class counsel to clients on a range of complex issues, including securities fraud, class action opt-outs, appraisal rights, credit issues, debt-holder rights and structured finance.

Our team focuses on partnering with institutional investors–including hedge funds, mutual and venturefunds, and investment advisors–on high-yield, value-creating litigation strategies. By proactively identifying and seizing opportunities for litigation, our group has successfully secured major recoveries on behalf of Franklin Templeton, Janus Henderson Investors, Appaloosa Management, Highfields Capital, Valinor Management, Fred Alger Management, and other industry leaders.

Having served investors for more than two decades, our lawyers are well-versed in the procedures and nuances behind effective litigation–and we are exceptionally well-positioned to maximize returns. Our strength is in leveraging litigation for value creation and recovery, chiefly through opt-outs, appraisals, debt-holder rights, and activist litigation. The proprietary trading and legal- damages analytical tools we have developed enable us to more efficiently assess client opportunities and mitigate risk.

We see appraisals as a means for institutional investors to yield substantial premiums and/or the recovery of stock value in major transactions such as mergers and acquisitions (see our Valuation Litigation and Shareholder Rights blog), as well as a useful part of a larger merger litigation strategy.

Our lawyers also help debt holders recover losses and enhance returns in matters relating to securities fraud, restructuring disputes, collateral dilution, successor liability, contract disputes, and other issues. Through these methods, we enable our portfolio manager and general counsel clients to become profit centers within their organizations, recovering losses and improving the bottom line.

Clients value our team for maximizing recoveries and returns while minimizing the aggravations associated with complex litigation. We tailor our approach to individual businesses, ensuring that the strategies we pursue are consistent with each client's vision for success and are poised for optimum results.

Types of Clients

- Institutional and private investment funds
- Hedge funds
- Credit-focused funds
- Private Investors
- Shareholder Activists
- Debt Holders

Representative Matters

Class Action Securities Fraud Claims

In addition to our extensive experience representing institutional investors in direct claims, the lawyers who will be working on this matter have substantial experience representing classes in securities fraud class action litigation, including in the following matters:

- *In re Chembio Diagnostics, Inc. Securities Litigation*, Civil Action No. 2:20-cv-02706 (E.D.N.Y.) (Ross, J.): RKS attorneys serve as co-lead counsel for a class of public investors, representing Special Situations Funds for a class of public investors, in a securities fraud class action in the Eastern District of New York.
- *In re Nortel Networks Corp. Securities Litigation*, Civil Action No. 05-MD-1659 (S.D.N.Y.) (Nortel II) (Preska, J.): RKS attorneys and Bernstein Litowitz served as lead counsel, representing New Jersey and another co-lead plaintiff, in a securities fraud class action in the Southern District of New York. In December 2006, the case was settled for $1.3 billion, one of the largest settlements since the inception of the PSLRA.
- *In re Electronic Data Systems Corp. Securities Litigation*, Civil Action No. 6:03-MD-1512 (E.D. Tex.) (Davis, J.): RKS attorneys and Bernstein Litowitz served as co-lead counsel, representing New Jersey in a securities fraud class action filed in the Eastern District of Texas. In 2006, the case was settled for $137.5 million, one of the largest settlements ever against a corporation that had not issued a restatement for the relevant class period.
- *In re SFBC Int'l, Inc., Securities & Derivative Litigation*, Civil Action No. 2:06-165 (D.N.J.) (Chesler, J.): RKS attorneys, along with Bernstein Litowitz, represented an Arkansas public pension fund in a plaintiffs' securities class action asserting Section 10(b)/Rule 10b-5 claims against a company and its officers for misleading statements and omissions.
- *The Department of the Treasury of the State of New Jersey and its Division of Investment v. Cliffs Natural Resources Inc.*, Civil Action No. 14-cv-1031 (N.D. Oh.) (Polster, J.): RKS attorneys and Bernstein Litowitz served as lead counsel, representing New Jersey in a securities fraud class action in the Northern District of Ohio. In 2016, the case was settled for $84 million.
- *Isolde v. Trinity Industries, Inc., et al.*, Civil Action No. 3:15-cv-02093 (N.D. Tex.) (Kinkeade, J.): RKS attorneys, Robbins Geller and Bernstein Litowitz served as lead counsel, representing the lead plaintiff in a securities fraud class action filed in the Northern District of Texas. In 2019, the case was settled for $7.5 million.
- *Special Situations Fund III, L.P., et al. v. Quovadx, Inc., et al.*, Civil Action No. 1:04-cv-01006 (D. Col.) (Matsch, J.): RKS attorneys served as lead counsel in a securities fraud class action filed in the District of Colorado. In 2007, the case was settled for $7.8 million.
- *Special Situations Fund III QP, L.P., et al. v. Marrone Bio Innovations, Inc., et al.*, Civil Action No. 2:14-cv-02571 (E.D. Cal.) (England, J.): RKS attorneys served as lead counsel representing

the lead plaintiff in a securities fraud class action filed in the Eastern District of California. In 2016, the case was settled for $12 million.

Direct Action Securities Fraud Claims

- *Cohen & Steers Institutional Realty Shares, Inc., et al. v. American Realty Capital Partners, Inc., et al.*, Civil Action No. 1:18-cv-06770 (SDNY) (Hellerstein, J.); *Archer Capital Master Fund, L.P., et al. v. American Realty Capital Properties, Inc., et al*., Civil Action No. 1:16-cv-05471 (SDNY) (Hellerstein, J.); *Atlas Master Fund, Ltd. et al. v. American Realty Capital Properties, Inc., et al.*, Civil Action No. 1:16-cv-05474 (SDNY) (Hellerstein, J.); *Fir Tree Capital Opportunity Master Fund, L.P. et al. v. American Realty Capital Properties, Inc., et al.*, Civil Action No. 1:17-cv-04975 (SDNY) (Hellerstein, J.); *Jet Capital Master Fund, L.P., et al. v. American Realty Capital Properties, Inc*. et al., Civil Action No. 1:15-cv-00307 (SDNY) (Hellerstein, J.); *Lakewood Capital Properties, LP v. American Realty Capital Properties, Inc. et al*., Index No. 653676/2019 (N.Y. Sup., N.Y. Cnty): Represented investor groups, including Cohen & Steers, Archer Capital Management, Atlas Master Fund, Fir Tree Partners, and Jet Capital Investors in the U.S. District Court for the Southern District of New York and New York state court against VEREIT, Inc. (f/k/a American Realty Capital Properties Inc.), and several of its former senior executives in connection with accounting fraud.
- *Discovery Global Citizens Master Fund, Ltd., et al. v. Valeant Pharmaceuticals International, Inc. et al.*, Civil Action No. 3:16-cv-07321; *MSD Torchlight Partners, L.P., et al. v. Valeant Pharmaceuticals International, et al.*, Civil Action No. 3:16-cv-07324; *BlueMountain Foinaven Master Fund L.P., et al. v. Valeant Pharmaceuticals International, Inc., et al.*, Civil Action No. 3:16-cv-07328; *Incline Global Master LP et al. v. Valeant Pharmaceuticals International, Inc., et al.*, Civil Action No. 3:16-cv-07328; *VALIC Company I, et al. v. Valeant Pharmaceuticals International, Inc., et al.*, Civil Action No. 3:16-cv-07496; *Janus Aspen Series et al. v. Valeant Pharmaceuticals International, Inc., et al.*, Civil Action No. 3:16-cv-07497; *GMO Trust, et al. v. Valeant Pharmaceuticals International, Inc., et al.*, Civil Action No. 3:18-cv-00089; *Brahman Partners II, L.P., et al. v. Valeant Pharmaceuticals International, Inc., et al.*, Civil Action No. 3:18-cv-00893; *The Prudential Insurance Company of America et al. v. Valeant Pharmaceuticals International, Inc.*, Civil Action No. 3:18-cv-01223 (DNJ) (Shipp, J.): Representing multiple investors, including Janus Capital Group, SunAmerica Asset Management, Brahman Capital, MSD Partners, Grantham, Mayo, Van Otterloo & Co., Discovery Capital Management, and Incline Global Management, in the U.S. District Court for the District of New Jersey against Valeant Pharmaceuticals and several of its former executives in connection with the company's undisclosed relationship with a related entity and artificially inflated financials.
- *Discovery Global Citizens Master Fund, Ltd. et al. v. Petrobras Global Finance B.V. et al.*, Civil Action No. 1:15-cv-09126 (SDNY) (Rakoff, J.): Represented Discovery Capital Management in a direct securities fraud action against Petrobras and others related to its alleged bid-rigging

and kickback scheme. Discovery's claims were sustained after a motion to dismiss. The matter was confidentially settled before trial.

- *BG Litigation Recovery I, LLC v. Barrick Gold Corporation et al.*, Civil Action No. 1:15-cv-08457; *Highfields Capital I LP, et al. v. Regent, et al.*, Civil Action No. 1:15-cv-08465 (SDNY) (Berman, J.): Represented Highfields Capital Management and another investor in direct actions against Barrick Gold Corporation related to fraud allegations involving its major South American mining project, Pascua Lama. Highfields 'claims and the other investors 'claims were sustained on a motion to dismiss, and the matter was confidentially settled.
- *Pennant Master Fund LP et al. v. Signet Jewelers Limited et al.*, Civil Action No. 1:19-cv-02757; *The Alger Funds et al. v. Signet Jewelers Limited et al.*, Civil Action No. 1:19-cv-02758; *Scopia Windmill Fund LP et al. v. Signet Jewelers Limited et al.*, Civil Action No. 1:19-cv-09916; *Marcato LP et al. v. Signet Jewelers Limited et al.*, Civil Action No. 1:19-cv-09917 (SDNY) (McMahon, J.): Represented Pennant Capital Management, Marcato Capital, Scopia Capital Management, and Fred Alger & Company, Inc. in an action against Signet Jewelers.
- *Fred Alger Investment Management, Inc. et al. v. LendingClub Corporation et al.*, Civil Action No. 3:18-cv-02872; *Valinor Capital Partners, L.P. et al. v. LendingClub Corporation et al.*, Civil Action No. 3:18-cv-02887 (N.D. Cal.) (Alsup, J.): Represented entities related to Fred Alger Management and Valinor Capital Management in direct actions against LendingClub Corporation related to allegations regarding fraud by its former CEO and other executives. The matter was confidentially settled.
- *Broadway Gate Master Fund, Ltd. et al. v. Ocwen Financial Corporation et al.*, Civil Action No. 9:16-cv-80056 (S.D. Fl.) (Dimitrouleas, J.); *Brahman Partners II, L.P., et al. v. Ocwen Financial Corporation, et al.*, Civil Action No. 9:18-cv-80359 (S.D. Fl.) (Middlebrooks, J.); *Owl Creek I, L.P. et al. v. Ocwen Financial Corporation, et al.*, Civil Action No. 9:18-cv-80506 (S.D. Fl.) (Reinhart, J.): Represented Pennant Capital Management, Owl Creek, and Brahman Capital in a claim against Ocwen Financial regarding multiple alleged frauds perpetrated on investors. The matter was confidentially settled on the eve of trial.
- *Deangelis v. Corzine et al.*, Civil Action No. 1:11-cv-07866 (SDNY) (Marrero, J.): Represented the largest institutional equity investor, Cadian Capital Management, in direct claims for alleged securities fraud against MF Global and former New Jersey Governor Jon Corzine.
- Counseled a major institutional investor regarding securities fraud claims against a Fortune 25 company, successfully settling the matter without filing a complaint.
- *Franklin U.S. Rising Dividends Fund et al. v. American International Group, Inc.*, Civil Action No. 1:14-cv-07008 (SDNY) (Batts, J.); *In re: Tyco International, Ltd. Securities, Derivative & "ERISA" Litigation*, Civil Action No. MDL 1335 (D.N.H.) (Barbadoro, J.); *Franklin Mutual Beacon Fund et al. v. Beazer Homes (USA), Inc. et al.*, Civil Action No. 1:09-cv-02578 (N.D. Ga.) (Pannell, J.): Represented Franklin Mutual Advisers in direct claims for securities fraud against multiple companies, including Tyco, Beazer Homes, and AIG.

- *In re: Adelphia Communications Corp. Securities & Derivative Litigation*, Civil Action No. 1:03-md-01529; *W.R. Huff Asset Management Co., L.L.C. v. Deloitte & Touche*, Civil Action No. 03-cv-05752; *Appaloosa Investment, et al. v. Deloitte & Touche, et al.*, Civil Action No. 1:03-cv-07301 (SDNY) (Furman, J.): Represented Appaloosa Management, Franklin Mutual Advisers, and W.R. Huff Asset Management Co., recovering hundreds of millions of dollars from claims arising out of the Adelphia securities scandal.
- *In re: Suprema Specialties, Inc., et al.*, Civil Action No. 04-3755 (3d Cir.): Represented Special Situations Funds in a securities fraud involving Suprema Cheese, including successful appeal to the U.S. Court of Appeals for the Third Circuit.

Appraisal and Valuation Claims

- *In re MPM Holdings Inc. Appraisal and Stockholder Litigation*, C.A. No. 2019-0519 (Del. Ch.): Representing Highland Capital Management in a consolidated appraisal/fiduciary duty case.
- *HBK Master Fund L.P., et al. v. Pivotal Software, Inc.*, C.A. No. 2020-0165 (Del. Ch.): Representing HBK Capital Management in an appraisal action.
- *Reynolds American Inc. v. Third Motion Equities Master Fund Ltd., et al.*, Docket No. 17 CVS 7086 (Forsyth County, NC) (Bledsoe, J.): Represented a shareholder group in an appraisal action regarding the purchase of Reynolds American Inc. by British American Tobacco.
- *Cede & Co v. Digital River Inc.*, C.A. No. 10905 (Del. Ch.) (Glasscock, J.): Represented a hedge fund investor, Nokota Capital Management LP, in Digital River Inc., who pursued statutory appraisal rights in Delaware arising out of Digital River's merger acquisition by an investor group led by Siris Capital Group LLC.
- *In re Appraisal of Team Health Holdings*, C.A. No. 2017-0154 (Del. Ch.) (Montgomery-Reeves, J.): Represented an investor group in a Delaware appraisal claim with respect to a merger involving a medical staffing solutions company, TeamHealth. The matter was confidentially settled before depositions.
- Represented a major investor, Hudson Bay, in a Delaware appraisal claim with respect to a merger involving two Fortune 500 companies in the telecommunications space. The matter was confidentially settled pre-petition.
- *In re Appraisal of Dell, Inc.*, C.A. No. 9322 (Del. Ch.) (Laster, J.): Represented the Magnetar Funds in their claims against Dell in an appraisal case involving nearly half a billion dollars ' worth of Dell shares. The case was brought by shareholders challenging the value of the merger price paid by Michael Dell and Silver Lake in their take-private acquisition of Dell in October 2013. The matter also involved statutory interest.
- *Cede & Co v. Aeroflex Holding Corp.*, C.A. No. 10308 (Del. Ch.) (Laster, J.): Represented an investor, Nokota Capital Management LP, against Aeroflex Holding Corp., which pursued its statutory right to appraisal in Delaware following the company's acquisition by British

defense contractor Cobham plc for $1.5 billion. The case was favorably resolved by a confidential settlement prior to trial.

- *Huff Fund Investment Partnership et al v. CKx Inc.*, C.A. No. 6844 (Del. Ch.) (Glasscock, J.): Represented the largest outside investor group, Huff Fund Investment Partnership d/b/a Musashi II Ltd., in CKx Inc. (n/k/a CORE Media Group); the group pursued their statutory right to appraisal of their $50+ million stake in the company following the acquisition of CKx by an affiliate of Apollo Global Management in 2011. CKx was the owner and manager of such iconic brands as American Idol, Elvis Presley Enterprises, and Muhammad Ali.
- *Special Situations Fund III LP v. Leucadia National Corp;* C.A. No. 1598 (Del. Ch.) (Strine, J.): Represented Special Situations Funds in a Delaware appraisal action involving Leucadia's acquisition of MK Resources.

Debt Claims/Activist Issues/Litigation Strategy

- *In the Matter of the Trusts established under the Pooling and Servicing Agreements*, Civil Action No. 20-1708 (2d Cir.) (SDNY) (Failla, J.): Representing Appaloosa in claims arising out of the structured finance underlying the $5 billion sale of Stuyvesant Town in New York City.
- *ING Prime Rate Trust et al. v. Freescale Semiconductor Inc., et al*., Index No. 600906/2009 (N.Y. Sup., NY Cnty) (Ramos, J.): Represented a group of senior lenders under a credit agreement in an action against Freescale Semiconductor Inc. The breach of contract and declaratory judgment action was brought by several funds affiliated with institutional investors ING, INVESCO, Babson, Denali, Eaton Vance, and others, which lent approximately $400 million to Freescale. The plaintiffs alleged that Freescale breached the credit agreement when it issued approximately $924 million in incremental term loans. The case was successfully settled on confidential terms.

Attorney Biography

Lawrence M. Rolnick
Founding Partner

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Larry has over 30 years of experience representing investors to recover their losses, defend their rights as stakeholders, and pursue value-generating litigation strategies across the spectrum of investment approaches. Larry has been instrumental in recovering over $1 billion for professional investors and their clients. While Larry's primary focus is the recovery of losses arising from securities fraud via direct action, he has extensive experience in every aspect of investor litigation. He has represented clients as both plaintiffs and defendants in direct securities claims, class actions, opt out actions, indenture and credit agreement-related actions, appraisal proceedings, bondholder litigations, activist actions and litigation involving structured finance among other areas.

Larry founded Rolnick Kramer Sadighi LLP along with his partners to focus his practice on investor rights and recoveries. By partnering with clients, he ensures that the nature of the client-lawyer relationship always remains focused on getting results for his clients, and not simply on the hours billed.

Born and raised in New Jersey, Larry has litigated across the United States, with cases in courts in New York, Delaware, Illinois, Florida, California, Colorado, North Carolina, Connecticut, Texas, among other places, as well as arbitral fora including FINRA, AAA, JAMS, and others.

Representative Matters

- Representing multiple investors, including Janus Capital Group, SunAmerica Asset Management, Brahman Capital, MSD Partners, Grantham, Mayo, Van Otterloo & Co., Discovery Capital Management, and Incline Global Management, in the United States District Court for the District of New Jersey against Valeant Pharmaceuticals and several of its former executives in connection with the Company's undisclosed relationship with a related entity and artificially inflated financials.

- Representing a major investor in a securities fraud action against a major generic pharmaceuticals 'manufacturer. The investor's claims were upheld on a motion to dismiss, including claims under Section 18 of the Exchange Act – claims only available to investors who take direct action.
- Representing Appaloosa in claims arising out of the structured finance underlying the $5 billion sale of Stuyvesant Town in New York City.
- Representing Highfields Capital management and Brahman Capital Management in a securities fraud action in the District of Connecticut related to generic drug price fixing. Case includes claims involving losses sustained on swap contracts – claims that are almost never covered by Class actions and thus can only generally be recovered via direct action.
- Counseled a major institutional investor regarding securities fraud claims against a Fortune 25 company, successfully settling the matter without filing a complaint.
- Represented Pennant Capital Management in a securities fraud action against Ocwen Financial Corp., a major mortgage servicer. Pennant's claims were sustained at both the motion to dismiss and summary judgment stages. The matter was favorably settled immediately prior to trial for a cash amount nearly equal to the entirety of the cash portion of the total class action settlement.
- Represented group of investment funds including Fred Alger Management, Marcato Capital Management, Scopia Capital Management, and Pennant Capital Management in securities fraud action against Signet Jewelers. The matter was confidentially resolved.
- Represented several investor groups, including Cohen & Steers, Balyasny Asset Management, Jet Capital Management and Archer Capital Management, in the U.S. District Court for the Southern District of New York against VEREIT, Inc. (f/k/a American Realty Capital Properties Inc.), and several of its former senior executives in connection with accounting fraud. The matter was confidentially resolved.
- Represented Franklin Templeton Investments in a direct action against American International Group Inc. for securities fraud related to allegations that AIG inflated its earnings and paid illegal commissions in a bid-rigging scheme. Franklin won an appeal before the Second Circuit Court of Appeals, and the panel reversed a dismissal by the district court and remanded for further proceedings; soon after, the matter was settled.
- Represented Cohen & Steers in the Supreme Court of the State of New York against Brixmor Property Group and others arising out of alleged accounting fraud. The matter was confidentially resolved.
- Represented Discovery Capital Management in a direct securities fraud action against Petrobras and others related to its alleged bid-rigging and kickback scheme. Discovery's claims were sustained after a motion to dismiss. The matter was confidentially settled before trial.
- Represented Highfields Capital Management and another investor in direct actions against Barrick Gold Corporation related to fraud allegations involving its major South

American mining project, Pascua Lama. Highfields ’claims and the other investors ’claims were sustained on a motion to dismiss, and the matter was confidentially settled.

- Represented entities related to Fred Alger Management and Valinor Capital Management in direct actions against LendingClub Corporation related to allegations regarding fraud by its former CEO and other executives. The matter was confidentially settled.
- Represented Appaloosa Management, Franklin Mutual Advisers, and W.R. Huff Asset Management Co. in prosecuting hundreds of millions of dollars of claims arising out of the Adelphia securities scandal.
- Represented Franklin Mutual Advisors in direct claims for securities fraud against Tyco International and certain of its former officers.
- Represented Cadian Capital in direct claims for alleged securities fraud against MF Global and former New Jersey governor Jon Corzine.

Attorney Biography

Marc B. Kramer
Founding Partner

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During a more than 30-year career, Marc has recovered over $1 billion for investors, focusing on value-generating litigation including class action opt-out/direct actions, bondholders' rights, and investor appraisal rights. Representative clients include: Appaloosa Management, Franklin Templeton Investments, SunAmerica Asset Management, Balyasny Asset Management, Highfields Capital Management, Pennant Capital Management, Nokota Capital Management, Chatham Asset Management, Discovery Capital Management, Owl Creek Asset Management, Fred Alger & Co., Inc., Jet Capital Management and Special Situations Funds, among many others.

Marc founded Rolnick Kramer Sadighi LLP with his partners because his view was that a traditional hourly billable model did not properly align value-creating lawyers and their clients. By pursuing a model focused on results, rather than on hours, Marc works within a structure where compensation is based solely upon value-creation. Accordingly, Marc typically represents investors on a contingent basis, sharing the risk with his clients and matching incentives to results.

Marc is also involved in various communal and charitable activities. Currently, he is a member of the Board of a prominent family philanthropic foundation. Marc is also a member of the Board of Governors of Hillel International; a member of the Board of Directors of the Center for Israel Education; and serves as a member of the Board of the Golda Och Academy Foundation (a Solomon Schechter school).

Representative Opt-Out Matters

- Representing multiple investors, including Janus Capital Group, SunAmerica Asset Management, Brahman Capital, MSD Partners, Grantham, Mayo, Van Otterloo & Co., Discovery Capital Management, and Incline Global Management, in the United States District Court for the District of New Jersey against Valeant Pharmaceuticals and several of its former executives in connection with the Company's undisclosed relationship with a related entity and artificially inflated financials.
- Representing a major investor in a securities fraud action against a major generic pharmaceuticals 'manufacturer, Mylan N.V.. The investor's claims were upheld on a motion to dismiss, including claims under Section 18 of the Exchange Act – claims only available to investors who take direct action.
- Representing Highfields Capital Management in a securities fraud action in the District of Connecticut against Teva Pharmaceutical Industries related to allegations of generic drug price fixing. Case includes claims involving losses sustained on swap contracts – claims that are almost never covered by Class actions and thus can only generally be recovered via direct action.
- Represented Pennant Capital Management in a securities fraud action against Ocwen Financial Corp., a major mortgage servicer. Pennant's claims were sustained at both the motion to dismiss and summary judgment stages. The matter was favorably settled immediately prior to trial for a cash amount nearly equal to the entirety of the cash portion of the total class action settlement.
- Represented group of investment funds including Fred Alger Management, Marcato Capital Management, and Scopia Capital Management in securities fraud action against Signet Jewelers. The matter was confidentially resolved.
- Represented several investor groups, including Cohen & Steers, Balyasny Asset Management, Jet Capital Management and Archer Capital Management, in the U.S. District Court for the Southern District of New York against VEREIT, Inc. (f/k/a American Realty Capital Properties Inc.), and several of its former senior executives in connection with accounting fraud. Claims included losses suffered on swap contracts not covered by the Class. The matter was confidentially resolved.
- Represented Cohen & Steers in the Supreme Court of the State of New York against Brixmor Property Group and others arising out of alleged accounting fraud. The matter was confidentially resolved.
- Represented Discovery Capital Management in a direct securities fraud action against Petrobras and others related to its alleged bid-rigging and kickback scheme. Discovery's claims were sustained after a motion to dismiss. The matter was confidentially settled before trial.
- Represented Highfields Capital Management and another investor in direct actions against Barrick Gold Corporation related to fraud allegations involving its major South

American mining project, Pascua Lama. Highfields ’claims and the other investors ’claims were sustained on a motion to dismiss, and the matter was confidentially settled.

- Represented entities related to Fred Alger Management and Valinor Capital Management in direct actions against LendingClub Corporation related to allegations regarding fraud by its former CEO and other executives. The matter was confidentially settled.
- Represented Appaloosa Management, Franklin Mutual Advisers, and W.R. Huff Asset Management Co. in prosecuting hundreds of millions of dollars of claims arising out of the Adelphia securities scandal.
- Represented Franklin Mutual Advisors in direct claims for securities fraud against Tyco International and certain of its former officers.
- Represented Cadian Capital in direct claims for alleged securities fraud against MF Global and former New Jersey governor Jon Corzine.
- Represented Special Situations Funds in a separately filed companion case to the Suprema class action for damages for securities purchased by SSF in Suprema Specialties.

Representative Appraisal Rights Matters

- Represented Special Situations Funds in a Delaware appraisal action involving Leucadia's acquisition of MK Resources.
- Represented Nokota Capital Management in Digital River Inc., in pursuing statutory appraisal rights in Delaware arising out of Digital River's merger acquisition by an investor group led by Siris Capital Group LLC.
- Represented the largest outside investor group in CKx Inc. (n/k/a CORE Media Group); the group pursued their statutory right to appraisal of their $50+ million stake in the company following the acquisition of CKx by an affiliate of Apollo Global Management in 2011. CKx was the owner and manager of such iconic brands as American Idol, Elvis Presley Enterprises, and Muhammad Ali.
- Represented a hedge fund investor in Aeroflex Holding Corp., which pursued their statutory right to appraisal in Delaware following the company's acquisition by British defense contractor Cobham plc for $1.5 billion. The case was favorably resolved by a confidential settlement prior to trial.

Education

- Dickinson School of Law (J.D.), Dickinson Law Review
- Rutgers, The State University of New Jersey (B.A.)

Bar Admissions

- New York
- New Jersey

Attorney Biography

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Rich is an experienced securities litigator focusing on value-generating legal strategy. Rich brings to each matter a deep knowledge of the quantitative methods side of securities litigation, especially damages computation, event studies, econometrics/economics and the theories, tools, and strategies involved in the preservation and maximization of the value of client's securities claims. He reviews each client's trading pattern and situation to offer oftentimes bespoke strategy for each client – including opt outs, direct action, class actions, class participation, and the use of varied forums and tactics.

Rich also works extensively with experts on finance and economics on a wide range of issues, including market efficiency, valuation, damages, accounting, and trader analysis.

Rich's clients appreciate his dedication to all facets of the securities litigation process, which is driven by a belief in the basic premise that investors 'rights are critical to the functioning and purpose of the capital markets.

Representative Matters

- Represented multiple investment funds, including Jet Capital, Cohen & Steers, and Lakewood Capital, in a securities fraud case against VEREIT (f/k/a ARCP) in a case involving allegations of intentional accounting fraud by top company executives. For certain clients, case involved complex damages issues including determination of damages based on swap-contracts and availability of 'intraday 'damages theory. All matters were confidentially settled.
- Represented entities related to Fred Alger Management and Valinor Capital Management in direct actions against LendingClub Corporation related to allegations regarding fraud by its former CEO and other executives. For certain clients, case involved complex issues of proper determination of damage and loss on pre-IPO securities. The matter was confidentially settled.

- Represented Discovery Capital Management as plaintiff in a securities fraud case against a leading South American oil company. Case involved application of 'leakage 'damages model – a valuable, but underutilized, damages theory in securities litigation. The matter was confidentially settled.
- Represented investment funds in a state court action bringing federal strict liability claims for violations of securities laws. Case involving quantitative methods issues surrounding proper calculation of fraud damages under state law. The matter was confidentially settled.
- Represented investors including Scopia Capital and Fred Alger Management in securities fraud claims against Signet Jewelers Inc. The matter was confidentially resolved.
- Counseled a major institutional investor regarding securities fraud claims against a Fortune 25 company, successfully settling the matter without filing a complaint.
- Counseled a set of major institutional investors with respect to their securities fraud claims against a major internet technology company, successfully settling the matter without filing a complaint.
- Representing investors such as Brahman Capital, Incline Global, Janus, and Grantham Mayo in a securities fraud action against Valeant International (n/k/a Bausch Health).
- Won $475 million arbitration award on behalf of Chinese insurer in international arbitration venued in Hong Kong relating to $5 billion cross-border M&A transaction.
- Defeated critical portions of motion to dismiss investor RICO claims related to oil and gas investment in Northern District of Texas.
- Successfully defended Rutgers University against Section 1983 claims, defeating the claims via a motion to dismiss.

Education

- Harvard Law School (J.D.), cum laude
- Syracuse University (B.A.), summa cum laude

Bar Admissions

- New York
- New Jersey
- Texas

Attorney Biography

Matthew Peller
Senior Counsel

mpeller@rksllp.com
212.597.2822

Matthew has over 14 years of experience working on a variety of complex litigation matters, with particular emphasis on securities, derivative, and other shareholder actions.

Representative matters:

- Global energy company in 30+ securities and shareholder actions in state and federal court (including numerous motion and appeal victories);
- Mexican airline in Securities Act class action challenging revenue recognition (motion to dismiss granted; no appeal taken);
- Global financial institution in Securities Act class action focused on credit-market exposures (summary judgment granted; affirmed on appeal);
- Leading financial institution in federal and state shareholder derivative actions challenging executive and director compensation;
- Global auto manufacturer in emissions-related RICO and securities class actions;
- Mexican congolomerate in shareholder derivative actions in the Delaware Court of Chancery;
- Numerous non-U.S. companies in shareholder derivative actions in state court.

Education

- Cornell Law School (J.D.)
- Cornell University (B.A.)

Bar Admissions

- New York
- New Jersey

Attorney Biography

Brandon Fierro
Counsel

bfierro@rksllp.com
212.597.2815

Brandon is a securities and business litigator with a commercial focus and pragmatic approach. Committed to maximizing investors' returns through securities and debtholder litigation, Brandon adds significant value for institutional and professional investor clients with keen analysis and creative solutions to complex problems.

Early in his career, Brandon served as a law clerk to the Honorable Stanley Chesler of the U.S. District Court for the District of New Jersey. Prior to his career in law, he was a stage manager and assistant director with World Wrestling Entertainment and part of the team responsible for WWE's live weekly programming.

Brandon happily contributes to a number of important causes through pro bono work on behalf of immigrant families escaping persecution, as well as his support of charities focused on animal welfare and the environment, including The National Forest Foundation and The American Chestnut Foundation.

Representative Matters

- Representing investors including GMO, Prudential, Incline Global, and Brahman Capital in ongoing securities litigation against the "Pharmaceutical Enron," Valeant Pharmaceuticals International, Inc. (now Bausch Health Companies Inc.).
- Representing HealthCor Management in securities claims against Mallinckrodt plc currently pending in Washington, DC.
- Representing Highfields Capital Management in securities litigation against SeaWorld Entertainment, Inc. related to the documentary "Blackfish."
- Representing Special Situations Funds as the lead plaintiff in a securities fraud class action on behalf of investors in Chembio Diagnostics, relating to disclosures about the efficacy of Chembio's rapid COVID-19 test.
- Representing a private equity firm in litigation related to its investment in a specialty pharmaceutical company. Recently obtained affirmance from the New York Supreme

Court, Appellate Division of an order granting partial summary judgment in favor of our client.

- Previously defeated motions to dismiss securities fraud cases brought by investment funds who opted out of class action filed against one of the nation's largest non-bank mortgage servicers. In one opt out, on behalf of Pennant Management, went on to defeat the defendants' motion for summary judgment and litigated the claim to the brink of trial, at which point the defendant agreed to pay a substantial premium to settle the claim.
- Obtained substantial eight-figure settlement on behalf of multiple investment funds in direct "opt out" actions against real estate company VEREIT (formerly ARCP).
- Obtained outsized class settlements on behalf of investors in Cliffs Natural Resources and Trinity Industries.

Education

- Seton Hall University School of Law (J.D), magna cum laude
- Syracuse University (B.A.)

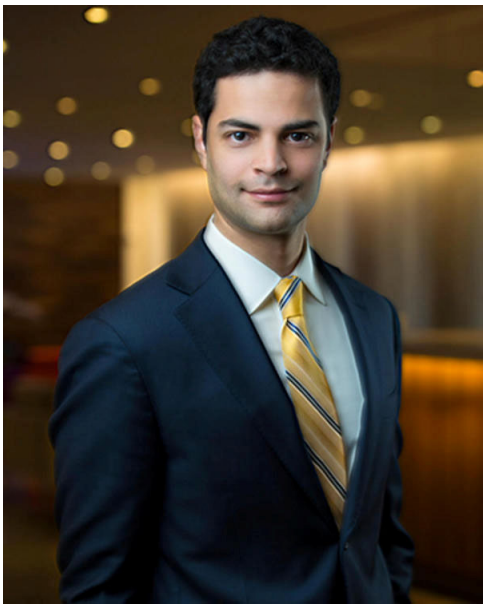
Bar Admissions

- New York
- New Jersey

Attorney Biography

Jarett Sena
Associate

jsena@rksllp.com
212.597.2838



Jarett represents institutional investors, hedge funds and other investors in connection with business valuation matters, fiduciary duty claims, shareholder rights, securities claims, and other complex commercial disputes. Jarett has extensive experience litigating all aspects of a business valuation dispute in Delaware Chancery and other courts around the country -- from inception to trial and on appeal. As a go-to member of the RKS trial team, he focuses on using the legal process to create value for shareholders.

As a frequent contributor of RKS 'Valuation and Shareholder Rights Blog, an online forum providing extensive coverage of issues of shareholder and investor rights, Jarett is appreciated for his insights on value-enhancing tools available to investors.

Jarett is also committed to pro bono service, including obtaining asylum for children. Prior to joining the firm, Jarett served as a judicial clerk to the Hon. Allison E. Accurso of the Superior Court of New Jersey, Appellate Division.

Representative Matters

- Litigated numerous business valuation disputes on behalf of institutional investors in Delaware Chancery Court that have resulted in confidential settlements at various stages of the litigation, including early on in discovery and at the eve of trial. Matters include actions against a major healthcare company, a medical transport company, a telecommunications company, a leading distributor of refrigerated foods, as well as others.
- Litigated numerous valuation disputes to trial, including discounted cash flow inputs, adjustments to projections, perpetuity growth rate assumptions, and control premiums.

- Representing multiple investors including Janus Capital Group, SunAmerica Asset Management, Brahman Capital, MSD Partners, Grantham, Mayo, Van Otterloo & Co., Discovery Capital Management, and Incline Global Management against Valeant Pharmaceuticals International, Inc. and certain of its executives in a case dubbed the "pharmaceutical Enron."
- Successfully defended the rights of shareholders of HRG Group Inc. to be fairly and adequately represented in a recent proposed securities class action settlement.
- Representing a long-time client Special Situations Funds as co-lead counsel for a class of public investors in the securities of Chembio Diagnostics for misstatements made about its COVID-19 antibody test.

Education

- Fordham University School of Law (J.D), cum laude
- University of Wisconsin (B.A.)

Bar Admissions

- New York
- New Jersey

Attorney Biography

Anna Menkova
Associate

amenkova@rksllp.com
212.597.2832

Anna represents professional investors in complex securities and debtholder matters in federal and state courts across the nation. Anna's practice focuses on value enhancing opportunities for clients through shareholder opt-out, appraisal rights, and creditors' rights lawsuits.

Prior to joining the firm, Anna litigated complex securities fraud cases on behalf of institutional investors, with a particular focus on Section 11 and state law based claims. While attending St. John's University School of Law, Anna was a Legal Intern at the Consumer Justice for the Elderly: Litigation Clinic, and was a Clinic Liaison for Multilingual Legal Advocates.

Anna has participated in pro bono service, successfully representing international victims of torture seeking asylum. Anna is also conversational in Russian.

Education

- St. John's University School of Law (J.D.), magna cum laude
- University of Wisconsin (B.A.)

Bar Admissions

- New York

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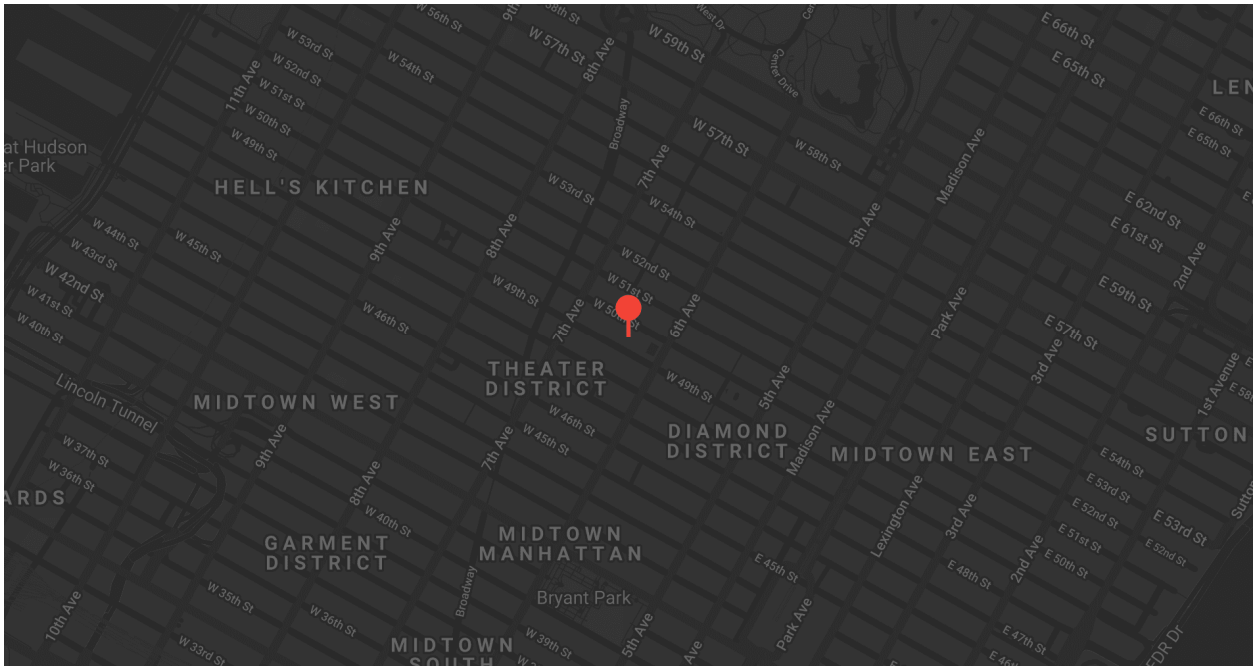
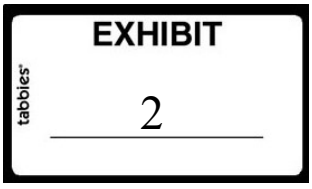


UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

SUMIT GUPTA, Individually and on Behalf of All Others Similarly Situated, Plaintiffs, v. POWER SOLUTIONS INTERNATIONAL, INC., DANIEL P. GOREY, JAY J. HANSEN, ELLEN R. HOFFING, KENNETH LANDINI, MICHAEL P. LEWIS, MARY E. VOGT, and GARY S. WINEMASTER, Defendants.	Case No. 1:16-cv-08253 Consolidated with: Case No. 1:16-cv-9599 Judge: Honorable Virginia M. Kendall **May 13, 2019 Final Approval Hearing**

~~[PROPOSED]~~ ORDER AWARDING ATTORNEYS' FEES AND REIMBURSEMENT OF LITIGATION EXPENSES

This matter came on for hearing on May 13, 2019 (the "Final Approval Hearing") on Lead Counsel's motion for an award of attorneys' fees and reimbursement of Litigation Expenses. The Court having considered all matters submitted to it at the Final Approval Hearing and otherwise; and it appearing that notice of the Final Approval Hearing substantially in the form approved by the Court was mailed to all Settlement Class Members who or which could be identified with reasonable effort, and that a summary notice of the hearing substantially in the form approved by the Court was published in *Investor's Business Daily* and was transmitted over the *PR Newswire* pursuant to the specifications of the Court; and the Court having considered and determined the fairness and reasonableness of the award of attorneys' fees and Litigation Expenses requested,



NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. This Order incorporates by reference the definitions in the Stipulation and Agreement of Settlement dated January 22, 2019 (ECF No. 135-1) (the "Stipulation") and all capitalized terms not otherwise defined herein shall have the same meanings as set forth in the Stipulation.

2. The Court has jurisdiction to enter this Order and over the subject matter of the Action and all parties to the Action, including all Settlement Class Members.

3. Notice of Lead Counsel's motion for an award of attorneys' fees and reimbursement of Litigation Expenses was given to all Settlement Class Members who could be identified with reasonable effort. The form and method of notifying the Settlement Class of the motion for an award of attorneys' fees and expenses satisfied the requirements of Rule 23 of the Federal Rules of Civil Procedure, the Private Securities Litigation Reform Act of 1995 (15 U.S.C. §§ 77z-1(a)(7), 78u-4(a)(7)), due process, and all other applicable law and rules, constituted the best notice practicable under the circumstances, and constituted due and sufficient notice to all persons and entities entitled thereto.

4. Plaintiffs' Counsel are hereby awarded attorneys' fees in the amount of 33 1/3 % of the Settlement Fund and $81,867.58 in reimbursement of Plaintiffs' Counsel's litigation expenses (which fees and expenses shall be paid from the Settlement Fund), which sums the Court finds to be fair and reasonable. Lead Counsel shall allocate the attorneys' fees awarded amongst Plaintiffs' Counsel in a manner which they, in good faith, believe reflects the contributions of such counsel to the institution, prosecution and settlement of the consolidated Action.

5. In making this award of attorneys' fees and reimbursement of expenses to be paid from the Settlement Fund, the Court has considered and found that:

(a) The Settlement has created a fund consisting of $8,500,000 in cash that has been funded into escrow pursuant to the terms of the Stipulation, and that numerous Settlement Class Members who submit acceptable Claim Forms will benefit from the Settlement that occurred because of the efforts of Plaintiffs' Counsel;

(b) Copies of the Postcard Notice were mailed to 12,577 potential Settlement Class Members and nominees stating that Lead Counsel would apply for attorneys' fees in an amount not exceed 33.3% of the Settlement Fund and reimbursement of Litigation Expenses in an amount not to exceed $175,000. There were no objections to the requested attorneys' fees and Litigation Expenses;

(c) Lead Counsel has conducted the litigation and achieved the Settlement with skill, perseverance and diligent advocacy;

(d) The Action raised a number of complex issues;

(e) Had Lead Counsel not achieved the Settlement there would remain a significant risk that Plaintiffs and the other members of the Settlement Class may have recovered less or nothing from Defendants;

(f) Plaintiffs' Counsel devoted over 3,554 hours, with a lodestar value of approximately $1,822,491 to achieve the Settlement; and

(g) The amount of attorneys' fees awarded and expenses to be reimbursed from the Settlement Fund are fair and reasonable and consistent with awards in similar cases.

6. Lead Plaintiff Richard Giunta is hereby awarded $5,000, and Plaintiff David Leibowitz is awarded $5,000 from the Settlement Fund as reimbursement for their reasonable costs and expenses directly related to their representation of the Settlement Class.

7. Any appeal or any challenge affecting this Court's approval regarding any attorneys' fees and expense application shall in no way disturb or affect the finality of the Judgment.

8. Exclusive jurisdiction is hereby retained over the parties and Settlement Class Members for all matters relating to this Action, including the administration, interpretation, effectuation or enforcement of the Stipulation and this Order.

9. In the event that the Settlement is terminated or the Effective Date of the Settlement otherwise fails to occur, this Order shall be rendered null and void to the extent provided by the Stipulation.

10. There is no just reason for delay in the entry of this Order, and immediate entry by the Clerk of the Court is expressly directed.

Dated: May 13, 2019

HON. VIRGINIA M. KENDALL
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

PETER IKAI VAN NOPPEN, Individually and On Behalf of All Others Similarly Situated, Plaintiff, vs. INNERWORKINGS, INC., ERIC D. BELCHER, and JOSEPH M. BUSKY, Defendants.	)	Case No. 14 CV 1416 Judge John Robert Blakey CLASS ACTION

ORDER AWARDING ATTORNEYS' FEES AND PAYMENT OF EXPENSES

WHEREAS:

A. As of May 11, 2016, Lead Plaintiff Plymouth County Retirement System ("Plymouth" or "Lead Plaintiff"), on behalf of itself and the Settlement Class, on the one hand, and InnerWorkings, Inc. ("InnerWorkings" or the "Company"), Eric D. Belcher and Joseph M. Busky (the "Individual Defendants" and, collectively with InnerWorkings, the "Defendants"), on the other, entered into a Stipulation and Agreement of Settlement (the "Stipulation") in the above-titled litigation (the "Action");

B. Pursuant to the Order Granting Preliminary Approval of Class Action Settlement, Approving Form and Manner of Notice, and Setting Date for Hearing on Final Approval of Settlement, entered May 25, 2016 (the "Preliminary Approval

EXHIBIT
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Order"), the Court scheduled a hearing for October 13, 2016, at 9:45 a.m. (the "Settlement Hearing") to, among other things: (i) determine whether the proposed Settlement of the Action on the terms and conditions provided for in the Stipulation is fair, reasonable, and adequate, and should be approved by the Court; (ii) determine whether a judgment as provided for in the Stipulation should be entered; and (iii) rule on Lead Counsel's Fee and Expense Application;

C. The Court ordered that the Notice of Pendency of Class Action, Proposed Settlement, and Motion for Attorneys' Fees and Expenses (the "Notice") and a Proof of Claim and Release form ("Proof of Claim"), substantially in the forms attached to the Preliminary Approval Order as Exhibits 1 and 2, respectively, be mailed by first-class mail, postage prepaid, on or before ten (10) business days after the date of entry of the Preliminary Approval Order ("Notice Date") to all potential Settlement Class Members who could be identified through reasonable effort, and that a Summary Notice of Pendency of Class Action, Proposed Settlement, and Motion for Attorneys' Fees and Expenses (the "Summary Notice"), substantially in the form attached to the Preliminary Approval Order as Exhibit 3, be published in *Investor's Business Daily* and transmitted over *PR Newswire* within fourteen (14) calendar days of the Notice Date;

D. The Notice and the Summary Notice advised potential Settlement Class Members of the date, time, place, and purpose of the Settlement Hearing. The Notice further advised that any objections to the Fee and Expense Application,

among other things, were required to be filed with the Court and served on counsel for the Parties such that they were received by September 21, 2016;

E. The provisions of the Preliminary Approval Order as to notice were complied with;

F. On September 6, 2016, Lead Plaintiff moved for final approval of the Settlement and Lead Counsel moved for an award of fees and expenses, as set forth in the Preliminary Approval Order. The Settlement Hearing was duly held before this Court on October 13, 2016, at which time all interested Persons were afforded the opportunity to be heard; and

G. This Court has duly considered Lead Counsel's motion for an award of attorneys' fees and expenses, the affidavits, declarations, memoranda of law submitted in support thereof, the Stipulation, and all of the submissions and arguments presented with respect to the proposed Settlement;

NOW, THEREFORE, after due deliberation, IT IS ORDERED, ADJUDGED AND DECREED that:

1. The Court has jurisdiction over the subject matter of this Action and over all parties to the Action, including all Settlement Class Members, counsel, and the Claims Administrator.

2. All capitalized terms used herein have the meanings set forth and defined in the Stipulation.

3. Notice of Lead Counsel's application for attorneys' fees and payment of expenses was given to all Settlement Class Members who could be identified with

reasonable effort. The form and method of notifying the Settlement Class of the application for attorneys' fees and expenses met the requirements of Rules 23 and 54 of the Federal Rules of Civil Procedure, Section 21D(a)(7) of the Securities Exchange Act of 1934, 15 U.S.C. § 78u-4(a)(7), as amended by the Private Securities Litigation Reform Act of 1995 (the "PSLRA"), due process, and any other applicable law, constituted the best notice practicable under the circumstances, and constituted due and sufficient notice to all persons and entities entitled thereto.

4. The Court hereby awards Lead Counsel attorneys' fees in the amount of $1,807,500, plus interest at the same rate earned by the Settlement Fund, which is 30% of the Settlement Fund, and payment of litigation expenses in the amount of $124,535.43, plus interest at the same rate earned by the Settlement Fund, which sums the Court finds to be fair and reasonable.

5. The award of attorneys' fees and litigation expenses may be paid to Lead Counsel from the Settlement Fund subject to the terms, conditions, and obligations of the Stipulation, which terms, conditions, and obligations are incorporated herein.

6. In making this award of attorneys' fees and payment of litigation expenses to be paid from the Settlement Fund, the Court has analyzed the factors considered within the Seventh Circuit and found that:

(a) The Settlement has created a common fund of $6,025,000 in cash and that numerous Settlement Class Members who submit acceptable Claim Forms will benefit from the Settlement created by the efforts of Lead Counsel;

(b) The requested attorneys' fees and payment of litigation expenses have been reviewed and approved as fair and reasonable by Lead Plaintiff, a sophisticated institutional investor that was directly involved in the prosecution and resolution of the Action and which has a substantial interest in ensuring that any fees paid are duly earned and not excessive;

(c) The amount of attorneys' fees awarded are fair and reasonable and consistent with market-rates and fee awards approved in cases within the Seventh Circuit and other Circuits with similar recoveries;

(d) Lead Counsel is highly experienced in the field of securities class actions and conducted the Action and achieved the Settlement with skillful and diligent advocacy;

(e) Lead Counsel undertook the Action on a contingent basis, and has borne all the ensuing risk, including the risk of no recovery, given, among other things, the risks of succeeding in a case governed by the PSLRA and those presented by Defendants' defenses concerning scienter, loss causation, and damages;

(f) The Action involves difficult factual and legal issues and, in the absence of settlement, would involve lengthy proceedings whose resolution would be uncertain;

(g) Lead and Liaison Counsel have devoted more than 2,400 hours, with a lodestar value of $1,542,726.00, to achieve the Settlement; and

(h) Notice was disseminated to Settlement Class Members stating that Lead Counsel would be submitting an application for attorneys' fees in an amount not to exceed 30% of the Settlement Fund, plus interest, and payment of litigation expenses incurred in connection with the prosecution of this Action in an amount not to exceed $225,000, plus interest. No Settlement Class Members have filed an objection to the application for fees and expenses submitted by Lead Counsel.

7. Any appeal or challenge affecting this Court's approval of any attorneys' fee or expense application in the Action shall in no way disturb or affect the finality of the Judgment entered with respect to the Settlement.

8. In the event that the Settlement is terminated or does not become Final or the Effective Date does not occur in accordance with the terms of the Stipulation, this order shall be rendered null and void to the extent provided by the Stipulation and shall be vacated in accordance with the Stipulation.

Date: November 2, 2016

ENTERED:

John Robert Blakey
United States District Judge