

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

Case No. 1:21-cv-23472-RNS

Ryan Birmingham, Roman Leonov, Steven Hansen,
Mitchell Parent, and Jonathan Zarley, individually
and on behalf of all others similarly situated,

Plaintiffs,

v.

Alex Doe, *et al.*,

Defendants.

DECLARATION OF DENNIS A. GONZÁLEZ

I, DENNIS A. GONZÁLEZ, declare under penalty of perjury as follows:

1. I am an attorney with the law firm of Holland & Knight LLP, counsel for Plaintiffs Ryan Birmingham, Roman Leonov, Mitchell Parent, Jonathan Zarley, and Steven Hansen (“Plaintiffs”) in the above-captioned proceeding. I have personal knowledge of the facts set forth in this declaration, unless otherwise stated, and I could and would testify competently to them if called as a witness.
2. I am licensed to practice law in Florida with Bar number 1032050.
3. I respectfully submit this Declaration in support of Plaintiffs’ Motion for Class Certification (the “Motion”).
4. Attached hereto as Exhibit A is a true and correct copy of the Declaration of Roman Leonov in support of Plaintiffs’ Motion.
5. Attached hereto as Exhibit B is a true and correct copy of the Declaration of Mitchell Parent in support of Plaintiffs’ Motion.
6. Attached hereto as Exhibit C is a true and correct copy of the Declaration of Jonathan Zarley in support of Plaintiffs’ Motion.

7. Attached hereto as Exhibit D is a true and correct copy of the Declaration of Ryan Birmingham in support of Plaintiffs' Motion.

8. Attached hereto as Exhibit E is a true and correct copy of the Declaration of Steven Hansen in support of Plaintiffs' Motion.

9. Attached hereto as Exhibit F is a true and correct copy of Holland & Knight LLP's ("H&K") resume in support of Plaintiffs' Motion.

10. At about the time of filing this action, Plaintiffs' counsel solicited information from potential class members ("Claimants") regarding their contributions to and withdrawals from the scheme hosted entirely on RoFx.net (hereinafter "RoFx", "RoFx Scheme", or "Scheme").

11. Claimants have submitted information and documents supporting their investments, withdrawals, and communications with RoFx. The information and documents submitted are hosted on H&K's internal software: "Quickbase".

12. I have personally reviewed the database and, as of February 7, 2023, the Claimant reported information can be summarized as follows:

- a. 639 claim submissions;
- b. Total Claimant contributions of approximately \$38 million and €3 million;
- c. Average Claimant contributions of \$71,546.63 for those that contributed United States Dollars ("USD") and €45,917.51 for those that contributed Euros;
- d. Median Claimant contributions of \$30,000.00 for those that contributed USD and €24,669.50 for those that contributed Euros;
- e. Smallest Claimant contributions of approximately \$3 and €11; and
- f. Largest Claimant contributions of \$2,042,000 and € 328,780.00.

13. Additionally, as of February 8, 2023, H&K's legal team has committed 3,267 hours to the above captioned matter, incurring more than \$1.7 million in costs.

Pursuant to Section 1746 of Title 28 of the United States Code, I declare under penalty of perjury that the foregoing is true and correct.

Executed on: February 10, 2023

Miami, Florida

/s/ Dennis A. González

Dennis A. González

Florida Bar No. 1032050

Dennis.gonzalez@hklaw.com

Holland & Knight LLP

701 Brickell Avenue, Suite 3300

Miami, Florida 33131

Telephone: 305-374-8500

Attorney for Plaintiffs

Exhibit A:

Roman Leonov Declaration

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

Case No. 1:21-cv-23472-RNS

Ryan Birmingham, Roman Leonov, Steven Hansen,
Mitchell Parent, and Jonathan Zarley, individually
and on behalf of all others similarly situated,

Plaintiffs,

v.

Alex Doe, *et al.*,

Defendants.

DECLARATION OF PLAINTIFF ROMAN LEONOV

I, ROMAN LEONOV, declare under penalty of perjury as follows:

1. I am a named Plaintiff in the above-captioned proceeding.
2. I am a citizen and resident of Miami, Florida.
3. I am over the age of 18, am personally familiar with, and have personal knowledge of the facts contained herein, which I could and would testify competently thereto.
4. I understand that, by this motion for class certification, I am moving to be appointed class representative in this action and for my attorneys, Holland & Knight LLP, to be appointed class counsel. I understand that co-lead Plaintiffs Ryan Birmingham, Steven Hansen, Mitchell Parent, and Jonathan Zarley (collectively “Co-Lead Plaintiffs”) are also moving to be appointed as class representatives.
5. I am aware that a class action lawsuit, like this one, is brought on behalf of not only myself, but also, other RoFx.net customers that have been wronged in the same manner between 2018 and 2021 (“Relevant Period”).

6. I understand that a class representative is a representative party who acts on behalf of other class members in directing the litigation and am willing to serve in this capacity alongside the Co-Lead Plaintiffs.

7. I understand that, as a class representative, I have a duty to prosecute the case vigorously and in the best interests of all class members, which includes reviewing important filings with the Court, consulting with counsel on proposed strategies and tactics during the course of the litigation, making recommendations as to whether or not to accept a particular settlement offer and testifying at deposition and trial if called upon to do so.

8. To the best of my knowledge, the class of individuals that I seek to represent in this Action is comprised of all persons who contributed funds to the RoFx foreign exchange trading scheme during the Relevant Period. To the best of my knowledge, I have no conflicts of interest with any member of the class that would prevent me from fairly and adequately representing the best interests of the class. I understand that my compensation in this case will be the same as any other class members except that I may, with Court approval, be reimbursed for my reasonable costs and expenses incurred as a result of my acting as class representative.

9. I first learned of RoFx in November of 2019 through promotions on Facebook and Reddit and via Trustpilot reviews. I remember reading the following representations about the platform:

- a. “the best automated forex trading robot in the world”;
- b. they “guarantee coverage of losses”;
- c. “daily average win rate of approximately 0.0035%”; and
- d. customers could withdraw their funds at their discretion with “no-lock packages.”

10. To confirm the platform's features, I researched RoFx on MyFxBook.com and Trustpilot, where I saw trading information and reviews suggesting the platform. I also read many press releases and related content, including an article published by The Investing Online.

11. Relying on these representations, I registered for a RoFx.net account on or about May of 2020 and made my first investment in September of that same year.

12. Around October of 2020, the RoFx.net owners published news stories on Yahoo Finance and the Associated Press, discussing RoFx's unique robotic trading approach and Warren Buffet's interest in the platform.

13. Between December 2020 and April 2021, I invested a total of \$202,100 with RoFx.net. Each time I elected to deposit funds into my RoFx.net account, the website directed me to send funds to several different entities, including:

14. Global E Advantages LLC,

15. Easy Com LLC,

16. Grovee LLC, and

17. Shopostar LLC.

18. On or about September 17, 2021, RoFx.net was non-functional, and my RoFx.net contributions are thus inaccessible.

Pursuant to Section 1746 of Title 28 of the United States Code, I declare under penalty of perjury that the foregoing is true and correct.

Executed on: February 7, 2023

Location: Miami, Florida (City, State)



Roman Leonov

Plaintiff

Exhibit B:

Mitchell Parent Declaration

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

Case No. 1:21-cv-23472-RNS

Ryan Birmingham, Roman Leonov, Steven Hansen,
Mitchell Parent, and Jonathan Zarley, individually
and on behalf of all others similarly situated,

Plaintiffs,

v.

Alex Doe, *et al.*,

Defendants.

/

DECLARATION OF PLAINTIFF MITCHELL PARENT

I, MITCHELL PARENT, declare under penalty of perjury as follows:

1. I am a named Plaintiff in the above-captioned proceeding.
2. I am a citizen and resident of Palmetto, Florida.
3. I am over the age of 18, am personally familiar with, and have personal knowledge of the facts contained herein, which I could and would testify competently thereto.
4. I understand that, by this motion for class certification, I am moving to be appointed class representative in this action and for my attorneys, Holland & Knight LLP, to be appointed class counsel. I understand that co-lead Plaintiffs Ryan Birmingham, Steven Hansen, Roman Leonov, and Jonathan Zarley (collectively “Co-Lead Plaintiffs”) are also moving to be appointed as class representatives.
5. I am aware that a class action lawsuit, like this one, is brought on behalf of not only myself, but also, other RoFx.net customers that have been wronged in the same manner between 2018 and 2021 (“Relevant Period”).

6. I understand that a class representative is a representative party who acts on behalf of other class members in directing the litigation and am willing to serve in this capacity alongside the Co-Lead Plaintiffs.

7. I understand that, as a class representative, I have a duty to prosecute the case vigorously and in the best interests of all class members, which includes reviewing important filings with the Court, consulting with counsel on proposed strategies and tactics during the course of the litigation, making recommendations as to whether or not to accept a particular settlement offer and testifying at deposition and trial if called upon to do so.

8. To the best of my knowledge, the class of individuals that I seek to represent in this Action is comprised of all persons who contributed funds to the RoFx foreign exchange trading scheme during the Relevant Period. To the best of my knowledge, I have no conflicts of interest with any member of the class that would prevent me from fairly and adequately representing the best interests of the class. I understand that my compensation in this case will be the same as any other class members except that I may, with Court approval, be reimbursed for my reasonable costs and expenses incurred as a result of my acting as class representative.

9. I first heard about RoFx.net through a series of Facebook ads that were published sometime between March and April of 2020. The ads stated:

- a. “that RoFx was a robot that traded on the client’s behalf”;
- b. “an average daily profit of .38%”;
- c. “that your investment would be safe”; and
- d. “that RoFx was the only place that covered your losses with its reserve fund.”

10. Intrigued by this product, I conducted a Google search looking for anything I could find about “rofx.” This led me to trading information published on MyFxBook.com, reviews on TrustPilot, and articles about Warren Buffet’s interest in the platform.

11. Relying on these representations, I registered for a RoFx.net account in early 2020.

12. Between April 2020 and May 2021, I invested a total of \$491,000 with RoFx.net. Each time I elected to deposit funds into my RoFx.net account, the website directed me to send funds to several different entities, including:

- a. Notus LLC,
- b. Easy Com LLC, and
- c. Shopostar LLC.

13. In September of 2021, I realized that RoFx.net was no longer accessible, and I could no longer access the funds in my account.

Pursuant to Section 1746 of Title 28 of the United States Code, I declare under penalty of perjury that the foregoing is true and correct.

Executed on: February 8th, 2023

Location: Palmetto, Florida (City, State)

Mitchell A Parent

Mitchell Parent

Plaintiff

Exhibit C:

Jonathan Zarley Declaration

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 1:21-cv-23472-RNS

Ryan Birmingham, Roman Leonov, Steven Hansen,
Mitchell Parent, and Jonathan Zarley, individually
and on behalf of all others similarly situated,

Plaintiffs,

v.

Alex Doe, *et al.*,

Defendants.

DECLARATION OF PLAINTIFF JONATHAN ZARLEY

I, JONATHAN ZARLEY, declare under penalty of perjury as follows:

1. I am a named Plaintiff in the above-captioned proceeding.
2. I am a citizen and resident of Kona, Hawaii.
3. I am over the age of 18, am personally familiar with, and have personal knowledge of the facts contained herein, which I could and would testify competently thereto.
4. I understand that, by this motion for class certification, I am moving to be appointed class representative in this action and for my attorneys, Holland & Knight LLP, to be appointed class counsel. I understand that co-lead Plaintiffs Ryan Birmingham, Steven Hansen, Roman Leonov, and Mitchell Parent (collectively “Co-Lead Plaintiffs”) are also moving to be appointed as class representatives.
5. I am aware that a class action lawsuit, like this one, is brought on behalf of not only myself, but also, other RoFx.net customers that have been wronged in the same manner between 2018 and 2021 (“Relevant Period”).

6. I understand that a class representative is a representative party who acts on behalf of other class members in directing the litigation and am willing to serve in this capacity alongside the Co-Lead Plaintiffs.

7. I understand that, as a class representative, I have a duty to prosecute the case vigorously and in the best interests of all class members, which includes reviewing important filings with the Court, consulting with counsel on proposed strategies and tactics during the course of the litigation, making recommendations as to whether or not to accept a particular settlement offer and testifying at deposition and trial if called upon to do so.

8. To the best of my knowledge, the class of individuals that I seek to represent in this Action is comprised of all persons who contributed funds to the RoFx foreign exchange trading scheme during the Relevant Period. To the best of my knowledge, I have no conflicts of interest with any member of the class that would prevent me from fairly and adequately representing the best interests of the class. I understand that my compensation in this case will be the same as any other class members except that I may, with Court approval, be reimbursed for my reasonable costs and expenses incurred as a result of my acting as class representative.

9. I first heard about RoFx in January 2020 after I saw a series of Facebook advertisements. I was intrigued by RoFx because it was touted as totally automated and passive. Specifically, I continued to do research online via Google searches and RoFx.net itself. I remember reading the following representations:

- a. "RoFx was an automated trading platform";
- b. "the investment was safe and guaranteed, with loss coverage";
- c. "up to 12% monthly profit";
- d. "no lock period, allowing him to make withdrawals at any time";

e. “profits were reliable, averaging 0.37%/day dating back to 2009, with an increase to .97%/day in version 2.0”; and

f. “Berkshire Hathaway was interested in the RoFx ICO.”

10. Persuaded by these promises of a secure, guaranteed, and passive income stream, I registered for a RoFx.net account on or about January 27, 2020 and made my first contribution the following day.

11. On or about July 9, 2020, I remember receiving an email from Rofx.net; it introduces a new feature whereby customers could calculate estimated earnings based on account size and program type. I confirmed these purported projections were accurate based on the trading information posted on MyFxBook.com.

12. Between January 2020 and May 2021, I invested a total of \$2,042,000.00 with RoFx.net. Each time I elected to deposit funds into my RoFx.net account, the website directed me to send funds to several different entities, including:

- a. Aware Choice Ltd,
- b. Notus LLC,
- c. Global E- Advantages LLC, and
- d. Shopostar LLC.

13. On September 17, 2021, I realized that the RoFx.net website was unavailable and I could no longer access the funds in my account.

Pursuant to Section 1746 of Title 28 of the United States Code, I declare under penalty of perjury that the foregoing is true and correct.

Executed on: February 8, 2023

Location: Kona, Hawaii (City, State)

A handwritten signature in black ink, appearing to read 'Jonathan Zarley', is written over a horizontal line.

Jonathan Zarley

Plaintiff

Exhibit D:

Ryan Birmingham Declaration

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

Case No. 1:21-cv-23472-RNS

Ryan Birmingham, Roman Leonov, Steven Hansen,
Mitchell Parent, and Jonathan Zarley, individually
and on behalf of all others similarly situated,

Plaintiffs,

v.

Alex Doe, *et al.*,

Defendants.

/

DECLARATION OF PLAINTIFF RYAN BIRMINGHAM

I, RYAN BIRMINGHAM, declare under penalty of perjury as follows:

1. I am a named Plaintiff in the above-captioned proceeding.
2. I am a citizen and resident of Leeds, Maine.
3. I am over the age of 18, am personally familiar with, and have personal knowledge of the facts contained herein, which I could and would testify competently thereto.
4. I understand that, by this motion for class certification, I am moving to be appointed class representative in this action and for my attorneys, Holland & Knight LLP, to be appointed class counsel. I understand that co-lead Plaintiffs Mitchell Parent, Steven Hansen, Roman Leonov, and Jonathan Zarley (collectively “Co-Lead Plaintiffs”) are also moving to be appointed as class representatives.
5. I am aware that a class action lawsuit, like this one, is brought on behalf of not only myself, but also, other RoFx.net customers that have been wronged in the same manner between 2018 and 2021 (“Relevant Period”).

6. I understand that a class representative is a representative party who acts on behalf of other class members in directing the litigation and am willing to serve in this capacity alongside the Co-Lead Plaintiffs.

7. I understand that, as a class representative, I have a duty to prosecute the case vigorously and in the best interests of all class members, which includes reviewing important filings with the Court, consulting with counsel on proposed strategies and tactics during the course of the litigation, making recommendations as to whether or not to accept a particular settlement offer and testifying at deposition and trial if called upon to do so.

8. To the best of my knowledge, the class of individuals that I seek to represent in this Action is comprised of all persons who contributed funds to the RoFx foreign exchange trading scheme during the Relevant Period. To the best of my knowledge, I have no conflicts of interest with any member of the class that would prevent me from fairly and adequately representing the best interests of the class. I understand that my compensation in this case will be the same as any other class members except that I may, with Court approval, be reimbursed for my reasonable costs and expenses incurred as a result of my acting as class representative.

9. I learned about RoFx between 2017 and 2018 through different forex trading review sites, Google searches, and Trustpilot. Therein, I remember reading the following representations about the platform:

- a. “this is the best robot/company to invest in, especially for beginners”;
- b. “utilized a robotic trading platform to make trade decisions on customers’ behalf”;
- c. “customers would receive a return on investment in the form of RoFx daily trading profits”;
- d. “a no loss guarantee, where RoFx would cover all daily losses”;

- e. “the principal was guaranteed or insured”; and
- f. “was partnered with Warren Buffet and Berkshire Hathaway.”

10. Relying on these representations, I registered for a RoFx.net account on June 3, 2018.

11. Between June 2018 to mid-2021, I invested a total of \$100,000 with RoFx.net. Relying on the RoFx promise of a 2% referral fee, I recruited my wife (Jill Birmingham), father (Kerry Birmingham), and grandmother (Phyllis Harrington). Together, we contributed approximately \$400,000 to the RoFx Scheme. Each time we elected to deposit funds into our RoFx.net accounts, the website directed us to send funds to several different entities, including:

- a. Aware Choice (from 2018 to 2019);
- b. Brass Marker (in 2019);
- c. Auro Advantages (in 2019);
- d. Notus (in 2019);
- e. Easy Com (in 2021); and
- f. Shopostar (in 2021).

12. In September of 2021, RoFx.net went offline, and both my family and I lost access to all of the funds in our accounts.

Pursuant to Section 1746 of Title 28 of the United States Code, I declare under penalty of perjury that the foregoing is true and correct.

Executed on: February⁰⁹_____, 2023
 Location: _____ Leeds, ME (City, State)

DocuSigned by:

 1C4BD8C0F143415...
Ryan Birmingham
Plaintiff

Exhibit E:

Steven Hansen Declaration

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

Case No. 1:21-cv-23472-RNS

Ryan Birmingham, Roman Leonov, Steven Hansen,
Mitchell Parent, and Jonathan Zarley, individually
and on behalf of all others similarly situated,

Plaintiffs,

v.

Alex Doe, *et al.*,

Defendants.

/

DECLARATION OF PLAINTIFF STEVEN HANSEN

I, STEVEN HANSEN, declare under penalty of perjury as follows:

1. I am a named Plaintiff in the above-captioned proceeding.
2. I am a citizen and resident of Gilbert, Arizona.
3. I am over the age of 18, am personally familiar with, and have personal knowledge of the facts contained herein, which I could and would testify competently thereto.
4. I understand that, by this motion for class certification, I am moving to be appointed class representative in this action and for my attorneys, Holland & Knight LLP, to be appointed class counsel. I understand that co-lead Plaintiffs Ryan Birmingham, Mitchell Parent, Roman Leonov, and Jonathan Zarley (collectively “Co-Lead Plaintiffs”) are also moving to be appointed as class representatives.
5. I am aware that a class action lawsuit, like this one, is brought on behalf of not only myself, but also, other RoFx.net customers that have been wronged in the same manner between 2018 and 2021 (“Relevant Period”).

6. I understand that a class representative is a representative party who acts on behalf of other class members in directing the litigation and am willing to serve in this capacity alongside the Co-Lead Plaintiffs.

7. I understand that, as a class representative, I have a duty to prosecute the case vigorously and in the best interests of all class members, which includes reviewing important filings with the Court, consulting with counsel on proposed strategies and tactics during the course of the litigation, making recommendations as to whether or not to accept a particular settlement offer and testifying at deposition and trial if called upon to do so.

8. To the best of my knowledge, the class of individuals that I seek to represent in this Action is comprised of all persons who contributed funds to the RoFx foreign exchange trading scheme during the Relevant Period. To the best of my knowledge, I have no conflicts of interest with any member of the class that would prevent me from fairly and adequately representing the best interests of the class. I understand that my compensation in this case will be the same as any other class members except that I may, with Court approval, be reimbursed for my reasonable costs and expenses incurred as a result of my acting as class representative.

9. Through Google searches, I first learned about RoFx in late December 2018. I remember reading the following representations about the platform:

- a. “utilized a robotic trading platform to make trade decisions on customers’ behalf”;
- b. “customers would receive a return on investment in the form of RoFx daily trading profits”;
- c. had “a no loss guarantee, where RoFx would cover all daily losses”;
- d. contributions were safe because “the principal was guaranteed or insured”; and
- e. “was partnered with Warren Buffet and Berkshire Hathaway.”

10. Relying on these representations, I registered for a RoFx.net account in 2019. Then, between 2019 and 2021, through my company Colton Capital Partners, I contributed \$1,325,000 to fund my RoFx.net account. Each time I elected to deposit funds into my RoFx.net account, the website directed me to send funds to several different entities, including:

- a. Aware Choice (in 2019);
- b. Notus (in 2020); and
- c. Shopostar (from 2020 to 2021).

11. On or about September 17, 2021, I was no longer able to access the RoFx.net website—including my account and the funds that I had contributed thereto.

Pursuant to Section 1746 of Title 28 of the United States Code, I declare under penalty of perjury that the foregoing is true and correct.

Executed on: February 9 Day, 2023
Location: Glenwood Utah (City, State)



Steven Hansen
Plaintiff

Exhibit F:

Holland & Knight LLP Resume

Class Action Litigation and Arbitration

- Holland & Knight guides clients throughout the entire class action process, from the moment a suit is threatened until a resolution is reached.
- Our Class Action Team provides prompt crisis management counseling and strategic planning advice to help clients limit their exposure and cost.
- Members of our team are well versed in traditional class action litigation, as well as class arbitrations and international class actions.

Class action litigation and arbitration can pose a tremendous threat to even the most respected and financially stable companies. A prompt, carefully constructed and thorough response plan is paramount to protecting your interests. From the moment a suit is threatened, Holland & Knight's Class Action Team can guide you through the cumbersome and high-stakes process, whether it involves settlement, litigation or arbitration in the United States or abroad.

Experience Spanning Multiple Industries and Issues

Our team defends clients across a wide range of industries on a diverse array of issues, including mass torts, consumer law, employment law, securities class action litigation and environmental matters. Our clients include companies of all sizes that operate in the United States and around the world in fields such as accounting, banking, food and beverage, healthcare, insurance, manufacturing, retailing, securities, telecommunications, transportation and travel.

Proactive Crisis Management to Achieve Your Objectives

Often, a swiftly implemented crisis communication plan can mean the difference between a positive and a negative outcome. Our High-Stakes Communications Team can assist you in rapidly addressing issues that arise throughout the course of class action suits, including reputation protection, spokesperson preparation, risk assessments, simulation exercises, high profile media relations, vigilant mainstream and on-line media monitoring and rapid response to inaccuracies or misleading information. Working collaboratively with you, we address all requirements of the situation, from litigation communications to Congressional testimony.

Planning for a Positive Outcome

Once a class action suit is filed, our team can help you plan how best to respond, including strategies for potentially avoiding or limiting the suit. From the outset of each case, we work closely with you to determine your desired results, evaluate the risks and devise the most effective strategy to support your business goals. Our approach is to limit your exposure and cost through meticulous planning, careful budgeting and steady reevaluation throughout the course of the matter. Our focus is always on achieving the best business result for you, whether that entails litigating the matter through trial and appeal or achieving a prompt and advantageous settlement.

Comprehensive Representation for Your Global Needs

Class actions are not restricted to the courts or even to U.S. citizens or residents. We can defend your interests in every forum and at every level, including arbitrations as well as trials and appeals in federal and state courts across the United States. We have amassed extensive experience in all aspects of class action litigation, including:

- litigating class certification
- conducting class and merits discovery
- guiding clients through the court approval and notice process
- litigating the merits in large class action lawsuits
- negotiating complicated class action settlements
- handling appeals involving class certification and related issues

In many instances, class actions can spawn copycat litigation, often by competing plaintiffs' counsel. Due to the size and our geographic scope of our firm, which includes offices throughout the United States and in several cities internationally, we have a strong history of defending such litigation. In some instances, we leverage Holland & Knight offices close to the second or third lawsuit; in others, we use tactics such as multidistrict consolidation to efficiently resolve these types of claims.

Representative Engagements

We have handled class action litigation in numerous areas of law, including antitrust, consumer finance, data, employment, employee benefits, product liability and securities, to name a few. Below are examples of our experience.

Antitrust

- Served as trial counsel representing a leading forest products company in a series of nationwide direct and indirect purchaser antitrust class actions alleging supply restrictions and price fixing in the oriented strand board (OSB) market
- Represented a manufacturer in multiple class action lawsuits involving an alleged conspiracy to fix prices
- Represented an international offshore drilling company in a class action lawsuit alleging a conspiracy among drilling companies to fix the wages and benefits paid to their offshore workers
- Represented several charitable organizations in a nationwide class action lawsuit alleging a conspiracy to fix the rates of return for charitable gift annuities
- Represented corrugated container manufacturers in a class action, and subsequent opt-out litigation, alleging coordinated restrictions on linerboard supply
- Represented the world-leading producer of decorative surfacing products in a class action alleging price-fixing conspiracy
- Representation of international food manufacturing company in prosecution of claims for class benefits in antitrust price fixing matter
- Defended an international manufacturer of industrial gases in consolidated class actions and opt-out actions alleging price fixing. The matters were consolidated by the Judicial Panel for Multidistrict Litigation. A jury returned a defense verdict following an extended trial.

- Defended an international pharmaceutical manufacturer in class action and opt-out actions alleging price fixing and Robinson-Patman Act violations
- Represented an international industry trade association in response to Civil Investigative Demand, grand jury subpoena and class action lawsuits regarding price fixing for food products

Consumer Finance

- Settled a nationwide class action on the eve of the class certification hearing that was brought against a large department store retailer alleging improper access of consumer credit reports; the exposure on the case exceeded \$1 billion and the case settled for a few hundred thousand dollars of attorneys' fees
- Defeated a class certification in a nationwide class action filed against an American bank arising out of its practice of not reporting credit limits on consumer's credit reports; plaintiffs had sought disgorgement by the bank of its annual fees charged to consumers for the four years prior to filing the lawsuit
- Obtained a defense verdict in a jury trial in state court in Philadelphia for a multinational investment bank in a case alleging defamation and tortious interference claims
- Defeated a class action against a Delaware-based bank challenging its definition of "minimum payment" on its credit card statements
- Settled on an individual basis a nationwide class action against a multinational investment bank alleging Truth in Lending Act (TILA) violations
- Defended a national financial services company in class action alleging a violation of the Illinois Consumer Fraud Act in the administration of customer accounts

Data

- Siegfried, et al. v. Dick's Sporting Goods Inc., No. 2:22-cv-04877-ER (E.D. Pa.). Defending sporting goods retail company against a putative class action alleging violations of the Video Privacy Protection Act (VPPA) arising from third-party website tracking and collecting data from plaintiff's video viewing.
- Passariello, et al. v. Forbes Media LLC, No. 2:22-cv-08908 (C.D. Cal.). Defending media company against a putative class action alleging violations of the Video Privacy Protection Act (VPPA) arising from third-party website tracking and collecting data from plaintiff's video viewing.
- Perkins, et. al v. The Goodyear Tire and Rubber Company, No. 2:05-mc-02025 (W.D. Pa.) Defending tire manufacturing company against a putative class action alleging violations of the Massachusetts Wiretap Act arising from keystroke monitoring software on defendant's website.
- Alves, et. al v. The Goodyear Tire and Rubber Company, No. 1:22-cv-11820 (D. Mass.) Defending tire manufacturing company against a putative class action alleging violations of the Massachusetts Wiretap Act arising from keystroke monitoring software on defendant's website.
- Cuevas, et. al v. Sony Pictures Entertainment, Inc., No. 1:22-cv-04858 (N.D. IL). Defending media company against a putative class action alleging violations of the Video Privacy Protection Act (VPPA) arising from third-party website tracking and collecting data from plaintiff's video viewing.
- Mangum, et al. v. AMC Networks, Inc., No. 1:22-cv-04857 (N.D. IL). Defending media company against a putative class action alleging violations of the Video Privacy Protection Act (VPPA) arising from third-party website tracking and collecting data from plaintiff's video viewing.

- Fiorentino, et al. v. FloSports, Inc., No. 1:22-cv-11502 (D. Mass.). Defending media company against a putative class action alleging violations of the Video Privacy Protection Act (VPPA) arising from third-party website tracking and collecting data from plaintiff's video viewing.
- McCausland, et al. v. Gray Television, Inc., No. 1:22-cv-07539 (S.D. NY). Defending media company against a putative class action alleging violations of the Video Privacy Protection Act (VPPA) arising from third-party website tracking and collecting data from plaintiff's video viewing.
- Massengill, et al. v. A. Duda & Sons, Inc., No. 6:22-cv-01549 (M.D. Fla., Orlando Div.). Defending diversified land company against a consumer class action arising from a ransomware incident whereby an unauthorized party gained access to defendant's private network.
- Wolff, et al. v. Lower, LLC, No. 1:22-cv-02003 (D. Md.) and Foster, et al. v. Lower, LLC, No. 1:22-cv-01581 (D. Md., Northern Div., Baltimore). Defending financial services company against consumer class actions arising from a supposed breach of data security whereby an unauthorized party gained access to defendant's private network.
- Lamb, et al. v. Forbes Media LLC, No. 1:22-cv-06319 (S.D. NY). Defending media company against a putative class action alleging violations of the Video Privacy Protection Act (VPPA) arising from third-party website tracking and collecting data from plaintiff's video viewing.
- Doe, et al. v. Dignity Health Medical Foundation, USCF Medical Center, and Meta Platforms, Inc. f/k/a Facebook, Inc., No. 3:22-cv-04293 (N.D. CA) consolidated with Doe et al. v. Meta Platforms, Inc., No. 3:22-cv-03580 (N.D. CA), Doe v. Meta Platforms, Inc., No. 3:22-cv-04680 (N.D. CA) and Doe v. Meta Platforms, Inc., No. 3:22-cv-04963 (N.D. CA) as Doe v. Meta Platforms, Inc., No. 3:22-cv-03580 (N.D. CA). Defending medical provider against a putative class action alleging violations of invasion of privacy arising from co-defendant third-party website tracking and collecting data from plaintiff's use of medical provider patient portals.
- Byars, et al. v. Rite Aid Corp, et al., No. 5:22-cv-1377 (C.D. CA). Defending drug store chain against a putative class action alleging violations of the California Invasion of Privacy Act (CIPA) arising from keystroke monitoring software on defendant's website.
- Byars, et al. v. The Goodyear Tire and Rubber Co., No. 5:22-cv-01358 (C.D. CA). Defending tire manufacturing company against a putative class action alleging violations of the California Invasion of Privacy Act (CIPA) arising from keystroke monitoring software on defendant's website.
- Prestel, et. al v. Christianity Today International, No. 22-cv-00551-JMB-SJB (W.D. Mich.). Defended magazine publisher against a putative class action alleging violations of the Michigan Preservation of Personal Privacy Act (PPPA) arising from disclosure of personal reading information to third parties. Case settled on an individual basis.
- Haggerty and Swearingin, et. al v. Consumer Safety Technology, LLC d/b/a Intoxalock and Does 1 through 10, No. 22-cv-01414 (Sup. Ct. Cal., Merced Cty.). Defending ignition interlock service provider against a putative class action alleging violations of the California Invasion of Privacy Act (CIPA) arising from recordings of telephone conversations.
- Ring, et al. v. NYP Holdings, Inc., No. 1:22-cv-03312 (S.D. NY). Defended media company against a putative class action alleging violations of the Video Privacy Protection Act (VPPA) arising from third-party website tracking and collecting data from plaintiff's video viewing. Plaintiff voluntarily dismissed his complaint.
- Owens-Wilmoth et al. v. Simon Eye Management, LLC, and Simon Eye Associates, P.A., No. N22C-03-105 JRJ (Sup. Ct. DE). Defending eye care industry service provider against putative class action arising from a supposed breach of data security.

- Desue, et al. v. 20/20 Eye Care Network, Inc. et al., No. 0:21-cv-61275-RAR (S.D. Fla.); Bowen, et al. v. 20/20 Eye Care Network, Inc. et al., No.: 0:21-cv-61292-RAR (S.D. Fla., Ft. Lauderdale); Hoffman-Mock, et al. v. 20/20 Eye Care Network, Inc. et al., No.: 0:21-cv-61406-RAR (S.D. Fla., Ft. Lauderdale); Runkle, et al. v. 20/20 Eye Care Network, Inc. et al., No.: 0:21-cv-61357-RAR (S.D. Fla., Ft. Lauderdale); and Fraguada, et al. v. 20/20 Eye Care Network, Inc. et al., No. 0:21-cv-61302-RAR (S.D. Fla., Ft. Lauderdale), Johnson et al. v. 20/20 Eye Care Network Inc. et al., No. 0:21-cv-61755-RAR) to be consolidated as Desue, et al., v. 20/20 Eye Care Network, Inc. et al., No. 0:21-cv-61275-RAR (S.D. Fla.). Defending eye care industry service provider against putative national class actions brought under Florida and Pennsylvania law arising from an announced data incident involving the personal information of millions of patients; motion to dismiss the Consolidated Complaint granted, dismissing all statutory and common law claims, without prejudice.
- Baron, Enloe, Lerra, et al. v. Syniverse Corporation, No. 8:21-cv-02349-SCB-SPF (M.D. FL, Tampa Div.). Defending telecommunications company against a consumer class action arising from a supposed breach of data security whereby an unauthorized party gained access to defendant's operational and information technology systems.
- Curtis, et al. v. Citywide Home Loans, LLC, No. 210905370 (3d. Jud. Dist., UT, Salt Lake Cty.). Defending independent mortgage lender against employee class action arising from a supposed breach of data security whereby an unauthorized third party gained access to defendant's virtual private network.
- Opris, et al. v. Sincera Reproductive Medicine f/k/a Abington Reproductive Medicine, No. 21-cv-03072-JHS, (E.D. Pa.). Defending health care provider against putative class action arising from data breach incident.
- Davidson, et al. v. Healthgrades Operating Company, Inc., No. 1:21-cv-01250-RBJ (D. Colo.). Currently defending health technology company against consumer class action arising from a supposed breach of data security whereby an unauthorized individual gained access to one of defendant's archived servers.
- Ramirez, et al. v. The Paradies Shops, LLC, No. 1:21-cv-03758-ELR (N.D. Ga.). Defended retail company against putative class action arising from data breach incident. The court dismissed the case in its entirety. Appealed in Ramirez v. The Paradies Shops, LLC, No. 22-12853-JJ (11th Cir. Court of Appeals) and currently defending.
- Makkinje, et al. v. AthenaHealth, Inc., No. 8:21-cv-00861-MSS-TGW (M.D. Fla.). Defended healthcare technology company against a putative class action alleging violations of the Florida wiretap statute arising from the use of "session replay" software on its website. Case removed to federal court, No. 8:21-cv-00861 (M.D. Fla.). Plaintiff voluntarily dismissed her complaint.
- Makkinje, et al. v. Market America, Inc., No. 8:21-cv-01929-TPB-CPT (M.D. Fla.) Defended online marketing company against a putative class action alleging violations of the Florida wiretap statute arising from the use of "session replay" software on its website. Plaintiff voluntarily dismissed her complaint.
- Fridman et al. v. 1-800 Contacts Inc., No. 1:21-cv-21700-BB (S.D. Fla.). Defended online retailer against a putative class action alleging violations of the Florida wiretap statute arising from the use of "session replay" software on its website. Case removed to federal court, No. 1:21-cv-21700-BB (S.D. Fla.). Case settled on an individual basis.
- Harris et al. v. Six Continents Hotels Inc., No. 3:21-cv-439-BD-PDB (M.D. Fla.). Defended hotel chain against a putative class action alleging violations of the Florida wiretap statute arising from the use of "session replay" software on its website. Case removed to federal court, No. 3:21-cv-00439-BJD-PDB (M.D. Fla.) After a Motion to Compel Arbitration, Strike Class Claims and Dismiss was filed, plaintiff voluntarily dismissed her complaint.

- Belanger et al. v. Norwegian Cruise Line Holdings Ltd., No. 2021 30222 CICI (7th Cir. Fla., Volusia Cty.). Defended cruise line against a putative class action alleging violations of the Florida wiretap statute arising from the use of “session replay” software on its website. After a Motion to Compel Arbitration, Strike Class Claims and Dismiss was filed, plaintiff voluntarily dismissed her complaint.
- Graham and Morgan, et al. v. Universal Health Service, Inc., No. 2:20-cv-05375 (E.D. Pa.). Defended healthcare provider against a putative class action arising from a ransomware incident. Class-wide damages theories and two named plaintiffs dismissed by the Court. The one remaining plaintiff voluntarily dismissed his complaint.
- Murray, et al. v. Community Care Physicians, P.C., and BST & Co. CPAs, LLP, No. 904955-20 (N.Y. Sup. Court, Albany Co.). Defended health care provider against a putative class action arising from a ransomware incident allegedly involving information maintained at a vendor. The Court dismissed the case in its entirety.
- Clark, et al., v. Women’s Care Florida, LLC et al., No. 16-2019-CA-007337-MA (4th Cir. Fla., Duval Cty.); Colon-Gonzalez, et al. v. Women's Care Florida, LLC et al., No.: 16-2019-CA-007863 (4th Cir. Fla., Duval Cty.); and Craft, et al. v. Women's Care Florida, LLC et al., No: 8:19-cv-3066-MSS-JSS (M.D. Fla.), to be consolidated as Cherrae Clark, Kylie Colon-Gonzalez, and Amaris Laguerra, et al. v. North Florida OB GYN, LLC, North Florida Obstetrical & Gynecological Associates, P.A., and Women’s Care Florida, LLC, Physician Business Services, LLC, No. 16-2019-CA-007337-MA (4th Cir. Fla., Duval Cty.). Defended health care provider against putative class actions under Florida law arising from ransomware incident. The Consolidated Complaint, in its entirety, was dismissed.
- John Doe and Jane Doe, Individually and on Behalf of all Others Similarly Situated v. Partners Healthcare System, Inc., Massachusetts General Hospital, Brigham Women's Hospital and Dana-Farber Cancer Institute, Suffolk Superior Court C.A. No. 1984CV01651-BLS1, defending non-profit hospitals against claims under state and common law with respect to alleged privacy violations on their websites arising from the use of cookies and other third party technology tools.
- White, et al. v. Sony Electronics Inc., et al., No. 2:17-cv-01775, (D.N.J.). Defended smart TV manufacturer in putative national class action alleging violations of federal privacy law (VPPA, CFAA, ECPA), New Jersey consumer protection laws, contract law and common law. Most counts dismissed on Rule 12(b)(6). Dismissed by stipulation.
- Christie v. National Institute for Newman Studies, 3:16-cv-06572-FLW-TJB (D.N.J.). Defeated action against national Catholic scholarship organization and its board of directors for claims of hacking made under federal, state, and common law; summary judgment granted on all counts.
- Enslin, et al. v. The Coca-Cola Company, et al., No. 2:14-cv-06476-JHS (E.D. Pa.), (granting summary judgment to defendants, denying class certification as moot), reconsideration denied, 2017 WL 3727033 (E.D. Pa. Aug. 29, 2017), aff’d, Nos. 17-3153, 17-3256, 2018 WL 3060098 (3d Cir. June 20, 2018). Enslin, et al. v. Coca-Cola Co., 136 F. Supp. 3d 654 (E.D. Pa. 2015) (granting in part motion to dismiss for failure to state a claim). Successfully defended against alleged privacy violations under federal and state law including violations of the Driver’s Privacy Protection Act (DPPA), in connection with the theft of 55 laptops containing employee information.
- Bell, et al. v. Blizzard Entertainment, Inc., No.: 12-CV-09475 (C.D. Cal.). Successfully defended worldwide video game developer and publisher in nationwide class action over its alleged data security practices in relation to an alleged breach.
- Quesada v. Banc of America Investment Services, Inc., et al., 2013 WL 623288 (N.D. Cal. Feb. 19, 2013). Defeated certification in putative class action bring claims under California’s Invasion of Privacy Act (CIPA) for allegedly undisclosed recording of customer service telephone calls. Case settled individually.
- Graczyk, et al. v. West Publishing Corporation, 660 F.3d 275 (7th Cir. 2011); Young v. West Publishing

- Corporation, 724 F.Supp. 2d 1268 (S.D. Fla. 2010); Johnson v. West Publishing Corporation, 801 F. Supp. 2d 862 (W.D. Mo. 2011), reversed without opinion by, Johnson v. West Publishing Corporation, 504 Fed.Appx. 531 (8th Cir. Apr 09, 2013) (No. 12-1172, 12-1176). Successfully defended West in putative national class actions under the Driver's Privacy Protection Act, obtaining dismissals of all cases.
- In re Sci. Applications Int'l Corp. (SAIC) Backup Tape Data Theft Litig., 45 F. Supp. 3d 14 (D.D.C. 2014). As co-counsel, obtained dismissal with respect to 31 of 33 claimants on behalf of a major insurance, systems and information technology vendor for the federal government in a multidistrict litigation (MDL) involving eight privacy class actions seeking to impose billions in liability against the company under the FCRA, state consumer protection statutes, and common law theories following the loss of tapes containing protected health information (PHI) and other sensitive personal information on millions of adults and minors.
- In Re: Countrywide Financial Corp. Customer Data Security Breach Litigation, MDL 2012 WL 2873892 (W.D. Ky.). Defended client from more than 40 putative class actions arising from the alleged theft and resale of mortgage-related consumer information; putative national class settlement for class exceeding 17 million persons given final approval; opt out litigation dismissed on our client's motion in Holmes v. Countrywide Finan. Corp., 2012 WL 2873892 (W.D. Ky. Jul. 12, 2012).
- In Re: Lending Tree, LLC, Customer Data Security Breach Litigation, MDL 1974 (W.D.N.C.). Obtained two decisions compelling eight putative national class actions to individual (non-class) arbitration.
- Beam, et al. v. E-TRADE Financial Corporation, No. CV-2011-64-7 (Ark. Cir. Ct.); Baxter, et al. v. Skype, Inc., Case No. CV-2011-56-7 (Ark. Cir. Ct); Baxter, et al. v. Philips Electronics North America Corporation, Case No. CV-201105402 (Ark. Cir. Ct.). October 6, 2011. Secured voluntary dismissals for clients E- TRADE, Skype and PENAC in multimillion-dollar "flash cookie" privacy class actions.
- Jurgens, et al. v. J.C. Penney Corporation, Inc., No. 12PH-CV00900 (Mo. Cir. Ct.). Negotiated and secured approval of a nationwide class action settlement for J.C. Penney over its use of HTML and Flash Cookies / Local Shared Objects (LSOs).
- Wood, et al. v. Macy's, No. 12PH-CV-00952 (Mo. Cir. Ct.). Negotiated and secured approval of a nationwide class action settlement for Macy's over its use of HTML and Flash Cookies / Local Shared Objects (LSOs).
- Saenz, et al. v. Kaiser Permanente International, No. 1:09-05562 (N.D. Cal.). Obtained voluntary dismissal for client in putative class action alleging violation of California privacy law resulting in hundreds of alleged identity thefts from a population of approximately 29,000 employees.
- Rowe, et al. v. UniCare Life and Health Insurance Company, No. 09-CV-02286 (N.D.IL). Secured final approval for nationwide class action settlement; plaintiffs alleged that the defendant had improperly set data security permissions, resulting in the exposure of healthcare, insurance and payment information for about a quarter-million insureds.
- Lockwood, et al. v. Certegy Check Services, Inc., No. 07-CV-01434 (M.D. Fla.). Defended a series of five putative national class actions arising from the theft of consumer information; plaintiffs sought to impose up to \$8.5 billion in statutory liability under the Fair Credit Reporting Act (FCRA); proposed favorable settlement given final approval; settlement class includes in excess of 30 million consumers.
- Mercado, et al. v. Wachovia Bank, N.A. and Wachovia Corporation, Case No. 1:05-CV-03393 (D.N.J.); Mingo, et al. v. Wachovia Bank, N.A. and Wachovia Corporation, Case No. 2:05-CV-06308 (E.D. Pa.); Chaney, et al. v. Wachovia Bank, N.A., Case No. 1:05-CV-03972 (D.N.J.). Defended national bank against alleged consumer class action arising when consumer was arrested for stealing and reselling consumer data; plaintiffs in three separate actions voluntarily dismissed all claims against the bank.

- Chaney, et al. v. Wachovia Bank, N.A., (D.N.J.) - successfully defended national bank against alleged consumer class action arising from a supposed breach of data security by criminal employee activity; plaintiff dismissed all claims without prejudice.
- Giordano, et al. v. Wachovia Securities, LLC and United Parcel Service, 2006 WL 2177036 (D.N.J. 2006). Established as a matter of first impression the Constitutional point that increased risk of identity theft is not an injury-in-fact and cannot confer federal court subject matter jurisdiction.

Employment

- Obtained denials of class and collective action certification in cases involving claims of employment discrimination, unequal pay, FLSA and other federal and state laws, in some cases without any discovery
- Obtained dismissal of purported nationwide class/collective action involving claims that franchisor was joint employer of workers at thousands of restaurants who allegedly worked off the clock in violation of the FLSA and state law counterparts; this theory threatened the franchisor's entire business model
- Representing a global provider of technology used to evaluate the structural integrity of critical energy, industrial and public infrastructure in multiple wage-and-hour actions, including two putative class actions, a PAGA action and arbitration; current representation involves a plaintiff-lab scientist seeking to recover wages and penalties on behalf of a putative statewide class consisting of 1,200-plus employees based on the company's alleged failure to properly calculate overtime payments due to an improper regular rate calculation, to pay for all time worked, to provide meal and rest breaks, to provide accurate wage statements, to reimburse for business expenses, and alleged liability for penalties arising out of the alleged Labor Code violations, as well as seeking civil penalties in a separate stand-alone PAGA action
- Representing a multidivisional packaging manufacturer in putative statewide cross-divisional wage-and-hour class action brought by manufacturing employee alleging claims for: failure to calculate overtime on the proper regular rate of pay (i.e., bonuses not included in the regular rate of pay); failure to provide complete and accurate wage statements; failure to timely pay unpaid wages at termination; and unfair competition in federal court, as well as claims for PAGA penalties in a separate state court action
- Representing a luxury goods retailer and manufacturer in potential PAGA action concerning alleged unpaid overtime, failure to provide accurate wage statement, failure to provide personnel file and other wage based claims
- Represented a manufacturer of specialized industrial equipment, consumables and related service businesses in putative statewide class action and representative action asserting that in more than 30 corporate locations, employees were subject to alleged unlawful policies resulting in alleged violations of the California Labor Code and penalties under PAGA
- Represented a national home goods provider in state class actions alleging various claims under California Labor Code and PAGA, involving thousands of employees; plaintiffs sought unpaid compensation and penalties as a result of, among other things, allegedly off-the-clock work, alleged meal and rest period violations, alleged failure to timely pay final wages, and alleged failure to provide accurate wage statements and penalties

Employee Benefits

- Defense of a putative class action lawsuit filed against the plan sponsor of an ESOP, its board of directors, and other alleged fiduciaries accused of violating ERISA in connection with the termination of the ESOP in 2017, the redemption of the ESOP's stock in 2017, the distribution of benefits to ESOP participants, and the sale of the plan sponsor's assets to a private equity group
- Obtained landmark settlement in putative ERISA class action against an ESOP in which the trial court ultimately certified a non-opt out class action and dismissed all class members' claims with prejudice and without defendants paying anything of value to absent class members or plaintiff's counsel
- Representation of institutional trustees in class actions in which plaintiffs alleged that the trustee caused the ESOP to pay more than adequate consideration for shares of the company in a multistage transaction
- Representation of members of board of directors of a major sugar corporation and certain other defendants in four putative ERISA and shareholder class actions, winning summary judgment on all but one claim and settling the remainder of the case on very favorable terms for the clients
- Representation of plan sponsor in action brought by six former participants seeking damages on behalf of an employee stock bonus plan in excess of \$40 million, prevailing on a motion that disallowed the plaintiffs to proceed absent certifying a class action and convinced the court that plaintiffs could not proceed on behalf of the entire plan or absent plan participants; successfully achieved dismissal of all but one plaintiff and negotiated a favorable settlement with the final plaintiff on an individual basis
- Defense of ERISA action brought by ESOP retirement plan on behalf of plan participants against fiduciaries, company directors and service providers alleging claims for breach of fiduciary duty under ERISA and state law claims for fraud and negligent misrepresentation arising out of bankrupt company's ESOP claiming losses in excess of \$50 million to the plan
- Defense of plan sponsor, board of directors and trustee in putative ERISA class action lawsuit arising out of \$200 million ESOP transaction in which the primary allegations included claims for breach of fiduciary duty, engaging in a prohibited transaction and failing to monitor appointees
- Defense of a putative class action lawsuit filed against the plan sponsor of an ESOP, its board of directors, institutional trustee and selling shareholders accused of violating ERISA in connection with the formation of an ESOP and first-phase transaction based on the alleged failure to provide accurate financial information and properly value the company's shares for the transaction
- Defense of individual trustee in a putative class action lawsuit filed against the plan sponsor of an ESOP, its board of directors, individual trustee and selling shareholders accused of violating ERISA in connection with a second-stage transaction based on the alleged failure to identify accounting irregularities that the plaintiffs alleged resulted in the ESOP paying more than adequate consideration for the company's shares in the second-stage transaction
- Defense of insurance company issuer of 401(k) platforms in nationwide putative class actions challenging the fee structure of thousands of 401(k) plans; after a two-week trial, the lawsuit settled on favorable terms

- Defense of corporate plan sponsors of large 401(k) plans in multiple ERISA class action lawsuits challenging the reasonableness of fees, expenses and investment options associated with 401(k) and 403(b) plans and seeking hundreds of millions in damages
- Representation of financial services institution in ERISA plan class action involving the alleged improper offering of insurance product
- Defense of life insurance companies in nationwide ERISA class actions against claims of breach of fiduciary duties and prohibited transactions in a recent wave of attack on stable value investment options offered by insurance companies in 401(k) and 403(b) plans; our team successfully achieved early dismissals and settlement of the lawsuits
- Representation of financial services institution in an ERISA plan class action involving alleged failure to divest plan of company securities; the plaintiff voluntarily dismissed after class certification was denied
- Defense of insurance company in ERISA class action brought on behalf of all claimants denied long-term disability benefits; successfully opposed class certification and class-wide discovery, and secured a favorable settlement on the remaining individual claim
- Defense of national airline against an ERISA class action alleging multiple benefits and breach of fiduciary duty claims arising out of the company's administration of its medical benefits plan and the plan's reimbursement of out-of-network medical expenses

Product Liability

- Served as regional and trial counsel for a major pharmaceutical company in nationwide class actions and individual wrongful death cases in "bet-the-company" litigation arising from a nationwide drug recall of oversized morphine tablets
- Defense liaison counsel for generics pharmaceutical defendants in the *Zantac* multidistrict litigation (MDL) and national counsel for pharmaceutical company in personal injury product liability and consumer and third party payor putative class action litigation related to ranitidine (Zantac) drug products and alleged exposure to N-Nitrosodimethylamine (NDMA), over cancer risk claims; won dismissal of all cases on all causes of action on behalf of generics defendants in the MDL, which involves over 150,000 plaintiff claimants
- Defended consolidated nationwide class action litigation alleging antitrust violations with respect to development and marketing of HIV combination antiretroviral therapy (cART) medications; won dismissal on all causes of action
- Lead counsel for privatized military housing operator defending purported class actions alleging mold exposure to residents on U.S. military bases
- Lead counsel in defense of purported class actions alleging injury from excess benzene content in FDA-regulated hand sanitizers

Securities

- Obtained motion to dismiss in a case of first impression in the U.S. Court of Appeals for the Eleventh Circuit that held no general duty to disclose material facts existed, even in a prospectus; the case, affirmed on appeal, is cited as one of ten most significant securities litigation decisions of that year
- Obtained dismissal for pharmaceutical company based on Private Securities Litigation Reform Act of 1995 (PSRLA) statutory safe harbor and on truth-on-the-market defense

- Persuaded plaintiffs' counsel not to file a securities class action based on cookie jar reserve theory by explaining in detail the company's reserve policies
- Successful motion to dismiss in the U.S. District Court for the Southern District of New York in an action against underwriters of private offerings of asset-backed securities
- Obtained summary judgment on breach of contract and blue sky law claim against major financial institution selling derivatives pursuant to an ISDA Agreement
- Obtained a \$193 million judgment for a defendant class in connection with a determination of the rights of unit investment trust holders arising out of a WPPS municipal bond default
- Obtained a \$3.6 million verdict in a three and a half month trial involving federal and Georgia state securities law violations
- Obtained a dismissal of an attempted class action by investors in a limited partnership for a national restaurant franchise in the state of Washington
- Obtained a directed verdict and ultimate settlement, after a three-week trial, for defendants in an action brought by investors in oil and gas limited partnerships
- obtained a motion to dismiss in Delaware for a TV network in a derivative action challenging a \$415 million stock purchase by another TV network
- Obtained dismissal of a derivative action challenging the merger between two U.S. food franchise chains
- Represented a technology company and several of its officers and directors in a class action lawsuit involving alleged violations of federal securities laws
- Represented an energy company and its board of directors in a class action lawsuit involving claims for breach of fiduciary duty in connection with a merger and acquisition
- Represented a luxury retailer and its board of directors in a class action lawsuit involving claims for breach of fiduciary duty in connection with a merger and acquisition
- Successfully defended the chief financial officer of a Nasdaq-listed company in a securities class action brought in the U.S. District Court for the Northern District of Texas; dismissal obtained

Other

- Obtained dismissal for a trustee of residential mortgage-backed securitization (RMBS) trusts of putative class action involving disputed mortgage foreclosure fees and costs
- Successfully defended an automobile manufacturer in putative class action asserting warranty, deceptive trade practices and other claims
- Represented a computer hardware manufacturer in putative class actions asserting warranty, deceptive trade practices and other claims, including successful defense of a claim involving floppy disk controllers with a demand of \$2.4 billion and successful defense of claim involving laser printer cartridges
- Represented a major pharmaceutical company in third-party payer litigation brought by state attorneys general, pension funds and private insurers, including grant of motion to dismiss putative class action
- Represented a leading retailer of toys, clothing and baby products and obtained dismissal of putative class action relating to its return policy
- Represented a hospital in a class action lawsuit alleging statutory billing violations

- Represented an international energy company's affiliate in a class action lawsuit involving the alleged failure to pay royalties owed on flared natural gas
- Represented a major transportation company in a class action lawsuit involving claims for negligence, breach of contract and breach of fiduciary duty arising from the tax treatment of a special dividend
- Defended supplement leader BSN in national class action alleging consumer fraud claims over several popular creatine and energy sports supplement products
- Obtained dismissal with prejudice of consumer class action brought against a national retailer for the alleged violation of the Magnuson-Moss Warranty Act
- Representation of office and financial management entity in class action seeking to allege a violation of the Illinois Biometric Information Privacy Act
- *Toben v. Bridgestone Retail Operations, LLC* – Defeated class certification and obtained summary judgment for national automobile service center in consumer fraud class action challenging fees. The trial court's judgment was affirmed by the United States Court of Appeals for the Eighth Circuit. (*Toben v. Bridgestone Retail Operations, LLC.*, 751 F.3d 888 (8th Cir. 2014)).
- *Alliano v. Timothy Ferriss and Random House* – Obtained dismissal of a consumer fraud class action brought against a publisher and best-selling author arising from a dispute regarding access to Internet-based materials. The dismissal was affirmed on appeal by the Illinois Appellate Court. (*Alliano v. Timothy Ferriss and Random House*, 2013 IL App (1st) 120242, March 29, 2013).
- *Glen Ellyn Pharmacy, Inc. v. Proven Pharmaceuticals, LLC.* – Defended pharmaceutical manufacturer in class action alleging violation of the Telephone Consumer Protection Act and Illinois Consumer Fraud Act. 14 C 09958 (N.D. Ill. 2014).
- Defended an international manufacturer of bulk and compressed gas in a nationwide class action for violation of state consumer fraud acts arising from billing practices
- Represented former executives of industry-leading privately held company in civil fraud class actions and opt-out actions arising from alleged fraudulent billing and pricing practices
- Lead trial counsel defeating class action claims against a company for alleged deceptive practices and unjust enrichment related to insurance subrogation claims in Washington state and federal court
- Co-lead trial counsel defending class action claims for breach of contract and unjust enrichment related to personal injury protection payments to medical providers, among other things, in Washington state court
- Lead trial counsel obtaining summary judgment dismissal of class action claims for breach of contract, among other things, related to statutory insurance disclosures in Nevada federal court
- Co-lead trial counsel obtaining orders striking plaintiff's expert and granting summary judgment dismissal of class action claims for breach of contract related to payment of "diminished value" damages in Washington federal court
- Represented a major product manufacturer in multiple nationwide and state consumer warranty class actions alleging product performance and value issues
- Obtained dismissal of nationwide class claims against public accommodation with more than 13,000 facilities on grounds that plaintiffs lacked standing except as to a handful of locations; complaint sought order requiring remediation costing hundreds of millions of dollars and a money judgment for billions of dollars
- Obtained dismissals of nationwide class actions in federal court alleging that client's facilities are inaccessible to blind individuals