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COLORADO  
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CASE NUMBER: 2017CV31757

**Plaintiff(s)** OKLAHOMA POLICE PENSION AND  
RETIREMENT SYSTEM, Individually and on Behalf  
of All Others Similarly Situated

v.

**Defendant(s)** JAGGED PEAK ENERGY INC., et al.

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Case Number: 2017CV31757  
Division: 209

**DECLARATION OF DEBORAH CLARK-WEINTRAUB IN SUPPORT OF  
(I) PLAINTIFF'S MOTION FOR FINAL APPROVAL OF CLASS ACTION  
SETTLEMENT AND PLAN OF ALLOCATION, AND (II) MOTION FOR AWARD OF  
ATTORNEYS' FEES AND EXPENSES AND PLAINTIFF'S REQUEST FOR AN  
AWARD FOR ITS REPRESENTATION OF THE SETTLEMENT CLASS**

I, Deborah Clark-Weintraub, hereby declare as follows:

1. I am an attorney duly licensed to practice law in the State of New York and am a partner of the law firm Scott+Scott Attorneys at Law LLP (“Scott+Scott”). Scott+Scott serves as counsel for Plaintiff Oklahoma Police Pension and Retirement System (“OPPRS” or “Plaintiff”) and the Settlement Class in the above-captioned action (the “Action”).<sup>1</sup> I am familiar with the proceedings in this Action and have personal knowledge of the matters set forth herein based upon my firm’s and my own participation in this Action. If called as a witness, I could and would testify competently thereto.

2. The purpose of this Declaration is to set forth the background of the Action, its procedural history, and the negotiations that led to the proposed \$8,250,000 cash Settlement with Defendants: (i) Jagged Peak Energy Inc. (“Jagged” or the “Company”); (ii) Joseph N. Jagers, Robert W. Howard, Shonn D. Stahlecker, Charles D. Davison, S. Wil Vanloh, Jr., and Blake A. Webster (collectively, the “Individual Defendants,” and with Jagged, the “Jagged Defendants”); and (iii) Citigroup Global Markets Inc., Credit Suisse Securities (USA) LLC, J.P. Morgan Securities LLC, Goldman, Sachs & Co., RBC Capital Markets, LLC, Wells Fargo Securities, LLC, UBS Securities LLC, Keybank Capital Markets Inc., ABN AMRO Securities (USA) LLC, Fifth Third Securities, Inc., Petrie Partners Securities, LLC, Tudor, Pickering, Holt & Co. Securities, Inc., BMO Capital Markets Corp., Deutsche Bank Securities Inc., Evercore Group L.L.C., and Scotia Capital (USA) Inc. (collectively, the “Underwriter Defendants,” and with the Jagged Defendants, “Defendants”). The proposed Settlement will resolve all claims asserted in this Action against Defendants on behalf of the Settlement Class preliminarily certified by the Court on August 23, 2023. This Declaration sets forth the reasons Plaintiff and Plaintiff’s Counsel believe: (i) the Settlement is fair, reasonable, and adequate and should be approved by this Court; (ii) the proposed Plan of Allocation is fair and reasonable and should be approved by this Court; and (iii) the requested attorneys’ fees and expenses and award to Plaintiff for its representation of the Settlement Class are reasonable and should be awarded by this Court.

## **I. PRELIMINARY STATEMENT**

3. After six years of hard-fought litigation, Plaintiff and Plaintiff’s Counsel have succeeded in obtaining a substantial recovery for the Settlement Class of \$8,250,000 in cash. The Settlement Amount has been deposited into an escrow account pending this Court’s determination of the motion for final approval and completion of the claims process. No portion of the Settlement Amount will revert to Defendants. Importantly, the Settlement was reached through extensive

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<sup>1</sup> Capitalized terms not otherwise defined herein have the meanings given to them in the Stipulation of Settlement (“Stipulation”), filed with this Court on August 21, 2023.

arm's-length settlement discussions facilitated by a highly skilled and experienced mediator, Robert M. Meyer of JAMS (the "Mediator") and has the full support of Plaintiff. Ex. 1, ¶9<sup>2</sup>.

4. Plaintiff and Plaintiff's Counsel respectfully submit that this is an excellent result. As explained in the memorandum in support of Plaintiff's motion for preliminary approval ("Preliminary Approval Motion"),<sup>3</sup> and memorandum in support of final approval ("Final Approval Motion") (concurrently filed herewith), the proposed Settlement represents an outstanding result in cases such as this alleging that securities have been offered to investors pursuant to a materially untrue and misleading registration statement and prospectus in violation of the full and fair disclosure requirements of the Securities Act of 1933.

5. Congress enacted the Securities Act of 1933 in the wake of the 1929 stock market crash to promote honest practices in the securities markets. The Securities Act requires companies offering securities to the public to make full and fair disclosure of relevant information and created a private right of action to enforce those obligations. Section 11 of the Securities Act provides, in pertinent part, that "[i]n case any part of the registration statement, when such part became effective, contained an untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary to make the facts stated therein not misleading, any person acquiring such security . . . may . . . sue." 15 U.S.C. §77k(a). This Action alleges that Jagged and several of its former officers and directors violated Sections 11, 12(a)(2), and 15 of the Securities Act of 1933 by issuing a materially untrue and misleading Registration Statement and Prospectus (collectively, the "Offering Documents") in connection with Jagged's January 27, 2017 initial public offering ("IPO").

6. As detailed herein, this Action has a lengthy procedural history. During much of this period, the Parties have been litigating over the sufficiency of the pleadings. Indeed, the pleadings were not settled until November 21, 2022, when appeals related to this Court's initial decision to dismiss the Action in its entirety were finally settled by a ruling of the Colorado Supreme Court. Although Plaintiff was successful in reviving the Action in part, Plaintiff was left with a significantly narrower case involving just two alleged misstatements concerning the expertise of Jagged's management and technical teams and the trajectory of its drilling and completion costs. This narrowing of Plaintiff's claims had important implications for the Action.

7. As an initial matter, Defendants maintained that discovery would disprove the alleged falsity of the two remaining alleged misstatements as Jagged's management and technical teams had decades of experience and, at the time of the IPO, drilling and completion costs were,

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<sup>2</sup> Ex. 1 refers to the Affidavit of Ginger Sigler on behalf of Plaintiff Oklahoma Police Pension and Retirement System in Support of (i) Plaintiff's Motion for Final Settlement Approval of Class Action Settlement and Plan of Allocation, and (ii) Motion for Award of Attorneys' Fees and Expenses and Plaintiff's Request for an Award for Its Representation of the Settlement Class, dated October 26, 2023, submitted herewith.

<sup>3</sup> Plaintiff's Unopposed Motion for Preliminary Approval of Proposed Settlement and Preliminary Certification of Settlement Class, dated August 21, 2023.

in fact, decreasing. In addition, although damages for violations of the Securities Act are calculated pursuant to a strict statutory formula that presumes declines in an issuer's stock price between the offering date and the date an action is filed were caused by the alleged untrue statements and omissions in the registration statement, a defendant may avoid liability for some or all those losses by proving that the decline did not "result[] from" the alleged untrue statements and omissions. 15 U.S.C. §77k(e). This is referred to as the "negative causation" defense. Here, Defendants argued that, even assuming Plaintiff could show the two remaining alleged misstatements were in fact untrue, the Amended Complaint did not identify any post-IPO disclosures that "corrected" these alleged untruths and the declines in Jagged's stock price following the IPO were caused instead by market and industry factors.

8. Assuming Plaintiff "ran the table" on all liability issues at trial and any subsequent appeals, Plaintiff's expert estimated that maximum theoretically recoverable statutory damages applying the damages formula in Section 11(e) of the Securities Act were approximately \$108 million, but that reasonably recoverable damages were closer to \$53 million, and perhaps less, based on Defendants' likely negative causation arguments. Accordingly, the \$8,250,000 Settlement represents the recovery, in a complex and high-risk case, of approximately 7.6% of the maximum theoretically recoverable statutory damages and 15.5% of Plaintiff's best estimate of reasonably recoverable damages. This compares very favorably to settlements in other securities class action cases. For example, NERA Economic Consulting's 2022 annual survey and analysis of securities class action settlements reported that the median settlement value as a percentage of NERA-defined possible losses<sup>4</sup> in securities class action cases with between \$50 million and \$99 million in possible losses filed and settled during the period December 2011-December 2022 was just 3.8%. *See* Ex. 2, 2022 NERA Study at 17.

9. For all of the reasons set forth herein, and considering the excellent result obtained and the significant risks of continued litigation detailed below, Plaintiff and Plaintiff's Counsel respectfully submit that the proposed Settlement is fair, reasonable, and adequate in all respects and merits final approval.

10. In addition to seeking final approval of the Settlement, Plaintiff also seeks approval of the proposed Plan of Allocation, which is consistent with allocation plans that courts have approved in similar cases. The Plan of Allocation was developed by Plaintiff's expert Scott D. Hakala of ValueScope, Inc. and provides for the fair and equitable distribution of the Net Settlement Fund to Settlement Class Members who submit valid Claim Forms and, therefore, is fair and reasonable.

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<sup>4</sup> NERA-Defined Investor Losses is a proprietary variable constructed by NERA assuming that investors had invested in stocks during the class period whose performance was comparable to that of the S&P 500 Index. *See* J. McIntosh, S. Starykh, and E. Flores, *Recent Trends in Securities Class Action Litigation: 2022 Full-Year Review*, at 17 (attached hereto as Exhibit 2) (hereinafter, the "2022 NERA Study").

11. Plaintiff's Counsel also seek an award of attorneys' fees of 30% of the Settlement Amount (or \$2,475,000) and payment of their litigation expenses for necessary costs incurred to prosecute the Action totaling \$79,175.94, with interest on both amounts earned at the same rate earned on the Settlement Fund. *See* Declaration of Daryl F. Scott on Behalf of Scott+Scott Attorneys at Law LLP in Support of the Motion for Award of Attorneys' Fees and Expenses (attached hereto as Exhibit 3), ¶7; and Declaration of Rusty E. Glenn on Behalf of Shuman, Glenn & Stecker in Support of the Motion for Award of Attorneys' Fees and Expenses (attached hereto as Exhibit 4), ¶6. Plaintiff's Counsel respectfully submit that the requested fee is fair and reasonable given the excellent result obtained here and the extensive work performed by Plaintiff's Counsel. As set forth in the accompanying memorandum in support of the Motion for Award of Attorneys' Fees and Expenses, it is also consistent with awards in similar securities class action cases under both the percentage and lodestar methodologies. *See* Motion for Award of Attorneys' Fees and Expenses, at §I. A. and B. A lodestar "cross-check" also supports the requested fee award as the latter equates to a *negative* multiplier of 0.83, meaning that Plaintiff's Counsel are seeking to be paid for less than all of the hours they expended in prosecuting the Action. Plaintiff supports the requested fee award.

12. Finally, Plaintiff requests an award in the amount of \$10,000 for its time, effort and expense in representing and serving the best interests of the Settlement Class, an amount within the range typically granted to plaintiffs in securities and other similar class actions. *See* Motion for Award of Attorneys' Fees and Expenses, at §II.

13. Pursuant to the Amended Order Granting Plaintiff's Unopposed Motion for Preliminary Approval of Class Action Settlement, Approving Form and Manner of Notice, and Setting Date for Hearing on Final Approval of Settlement (the "Preliminary Approval Order"), dated August 23, 2023, the Notice and the Proof of Claim form (collectively the "Claim Package") were mailed to potential Settlement Class Members who could be identified with reasonable effort; the Claim Package was posted on the Internet at [www.jaggedpeaksecuritiessettlement.com](http://www.jaggedpeaksecuritiessettlement.com); and the Summary Notice was published once over a national newswire service. *See* Affidavit of Ann Cavanaugh Regarding Notice Dissemination, Publication, and Requests for Exclusion and Objections Received to Date (attached hereto as Exhibit 5) (hereinafter the "Cavanaugh Aff.").

14. The Court-ordered deadline for requesting exclusion from the Settlement Class or filing objections to the Settlement, POA and Plaintiff's Counsel's Request for Attorneys' Fees and Expenses is November 13, 2023. To date, no objections to any aspect of the Settlement, POA or requested attorneys' fees and expenses have been filed by Settlement Class Members nor have any Settlement Class Members requested exclusion from the Settlement Class.<sup>5</sup> *See* Ex. 5, ¶16.

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<sup>5</sup> Plaintiff will address any objection(s) to the Settlement, POA or request for attorneys' fees and update the Court on any request(s) for exclusion in its reply brief in support of final approval of the Settlement to be filed by December 8, 2023.

## II. SUMMARY OF THE CLAIMS

15. This is an action for violation of Sections 11, 12(a)(2), and 15 of the Securities Act of 1933 arising out of material untrue statements and omissions in the Offering Documents issued in connection with Jagged's January 27, 2017 IPO. Jagged and certain selling shareholders sold a combined 31,599,334 shares in the IPO at a price of \$15 per share for gross proceeds of nearly \$474 million.<sup>6</sup>

16. The initial complaint was filed on May 12, 2017, and amended on July 23, 2018. The Amended Complaint alleged that the Offering Documents for the IPO contained untrue and misleading statements and omissions regarding, *inter alia*, (i) the experience and expertise of Jagged's management and technical teams, and (ii) the Company's focus on reducing drilling times, optimizing completions and reducing costs, and violated Defendants' affirmative obligation under Item 303 of Regulation S-K to disclose "known trends or uncertainties that have or that are reasonably likely to have a material favorable or unfavorable impact on net sales or revenues or income from continuing operations." 17 C.F.R. §229.303(b)(2)(ii).

17. Plaintiff alleges that following the IPO, the true facts concerning Jagged's management and technical teams, including its contractors, and its touted intention and ability to reduce costs emerged as the Company repeatedly lowered its production estimates and disclosed numerous well collapses and sharply higher costs, for which it blamed its admittedly inexperienced workforce, causing its stock price to decline.

## III. RELEVANT PROCEDURAL HISTORY

### A. Plaintiff's Pre-Filing Investigation and Preparation of the Complaints

18. Plaintiff's Counsel undertook a thorough investigation before filing the initial complaint and the Amended Complaint that included a review of U.S. Securities and Exchange Commission filings made by Jagged, analyst and media reports about the Company, and Company press releases. In addition, Plaintiff's Counsel identified, located, and interviewed former employees of Jagged and its contractors who had knowledge of the Company's operations.

19. Plaintiff's Counsel also reviewed and researched relevant legal precedents concerning Plaintiff's claims. All of the foregoing culminated in Plaintiff's filing of the initial complaint on May 12, 2017, and then, an even more detailed operative Amended Complaint on July 23, 2018.

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<sup>6</sup> In the IPO, 28.3 million shares were sold by the Company and 3.3 million shares were sold by the selling shareholders. Gross proceeds to the Company were \$425 million which resulted in net proceeds of \$397 million after deducting offering expenses and underwriting discounts and commissions.

## **B. Commencement of Action and Appellate History**

### **1. Removal and Proceedings in the Denver District Court**

20. The initial complaint was filed in Colorado District Court, Denver County but was improperly removed to the United States District Court for the District of Colorado on June 2, 2017. *See Okla. Police Pension & Ret. Sys. v. Jagged Peak Energy Inc., et al.*, No. 1:17-cv-01346 (D. Colo.). Plaintiff moved to remand but, following the Supreme Court's grant of certiorari in *Cyan, Inc. v. Beaver Cnty. Emps. Ret. Fund*, 137 S. Ct. 2325 (2017), Defendants moved to stay the Action pending the Supreme Court's decision in *Cyan* leading the federal District Court to administratively close the case on October 18, 2017. Following the Supreme Court's unanimous decision reaffirming the jurisdiction of state courts in Securities Act cases, *Cyan, Inc. v. Beaver Cnty. Emps. Ret. Fund*, 138 S. Ct. 1061 (2018), on April 10, 2018, the federal District Court granted Plaintiff's unopposed motion to reopen and remanded the case back to the Denver District Court.

21. As noted above, on July 23, 2018, Plaintiff filed an Amended Complaint pursuant to a stipulated order agreed to by the Parties and Defendants moved to dismiss. After briefing and without holding oral argument, the trial court, on July 28, 2019, issued an order denying Defendants' motion to dismiss Plaintiff's Section 12 and 15 claims, but granting Defendants' motion to dismiss Plaintiff's Section 11 claim. On July 30, 2019, Defendants filed a Motion for Reconsideration, requesting that the Section 12 and 15 claims be dismissed as well. On July 31, 2019, the trial court reversed itself and granted Defendants' motion. On September 18, 2019, Plaintiff filed a Notice of Appeal.

### **2. Plaintiff Successfully Appeals the Trial Court's Orders**

22. On April 1, 2021, the Court of Appeals unanimously reversed the trial court's opinion in part, holding that Plaintiff had stated a Securities Act claim under Sections 11, 12, and 15 in three respects.

23. *First*, the Court of Appeals held that Plaintiff had plausibly alleged that the Offering Document's representation that Jagged planned to "[m]aximize returns by optimizing drilling and completion techniques through the experience and expertise of [its] management and technical teams" was untrue and misleading because, "at the time, management knew, but did not disclose, that Jagged's technical team was incompetent or unqualified and Jagged had awarded contracts that enriched its chief drilling contractor or were otherwise disadvantageous to Jagged" resulting in "'substantial and ongoing additional drilling and production costs,' contrary to representations that [Jagged's] drilling costs were falling." *Okla. Police Pension & Ret. Sys. v. Jagged Peak Energy Inc.*, No. 19CA1718, 2021 Colo. App. LEXIS 460 at \*40-43 (Colo. App., Apr. 1, 2021). *Second*, for the same reasons, the Court of Appeals also held that Plaintiff had plausibly pleaded a claim with respect to the statement that Jagged's drilling plan was focused "on reducing drilling times, optimizing completions and reducing costs." *Id.* at 44-47. *Third*, the Court of Appeals also reversed the dismissal of Plaintiff's claim that Defendants violated their affirmative disclosure obligations under Item 303 of Regulation S-K, 17 C.F.R. §229.303(b)(2)(ii), holding that "[s]ince

Oklahoma allege[s] that managerial mistakes had already resulted in cost overruns and had decreased production at the time of the offering,” and “[this] uncertainty . . . was likely to materially impact revenues, . . . Item 303 obligated Jagged to disclose existing problems with its workforce.” *Id.* at 47-49.

24. However, the Court of Appeals held that Plaintiff had not sufficiently alleged a violation with respect to several forward-looking statements. *Id.* at 26-30 (holding that mixed statements of historical fact and belief concerning quality of Jagged’s acreage in the Delaware Basin were not actionable because Plaintiff had not alleged the factual portion of the statement was false and, to the extent the statement was predictive, it was accompanied by cautionary language and protected by the bespeaks caution doctrine.); *id.* at 35-40 (holding that headings in the “Competitive Strengths” and “Business Overview” sections of the Offering Documents referencing the experience and expertise of Jagged’s management and a sentence stating that Jagged planned to “leverag[e] [its] management team’s extensive experience and technical expertise” were not actionable because Plaintiff had not plausibly alleged that at the time of the Offering, several members of senior management, including Defendant Jagers, were likely to leave and Defendants knew it.); *id.* at 44-45 (holding that statement that Jagged expected to allocate approximately \$527 million of its capital budget to drilling costs was not actionable because Plaintiff failed to allege that Jagged knew it would not meet this estimate.).

25. On May 6, 2021, the Court of Appeals denied Defendants’ petition for rehearing.

### **3. Defendants’ Lose Their Appeal to the Colorado Supreme Court**

26. On June 17, 2021, Defendants filed a petition for a writ of certiorari, which was granted by the Colorado Supreme Court on December 13, 2021. After briefing and oral argument on the merits of Defendants’ appeal, on November 21, 2022, the Colorado Supreme Court affirmed the Court of Appeals’ decision rejecting Jagged’s assertion that the alleged untrue statements that had been sustained by the Court of Appeals were immaterial puffery. *Jagged Peak Energy Inc. v. Okla. Police Pension & Ret. Sys.*, 2022 CO 54, 21-32.

#### **C. The Case Is Remanded to this Court and Merits Discovery Begins**

27. Following the Colorado Supreme Court’s ruling, the Action was returned to this Court.

28. A Case Management Conference was held on February 24, 2023 and a Case Management Order (“CMO”) was entered setting deadlines for completion of pre-trial proceedings and setting a trial date of November 4, 2024. Pursuant to the CMO, the Parties agreed to participate in a mediation session on or before April 28, 2023.

29. At or about the time of and shortly after the CMC, the Parties served initial disclosures and requests for production of documents. The Jagged Defendants also served Plaintiff with interrogatories.



30. In addition, the Parties negotiated a Protective Order for the Production and Exchange of Confidential Information as well as a Stipulation Regarding Electronically-Stored Information Protocol, both of which were ordered by the Court on April 11, 2023.

31. After exchanging responses and objections to the requests for production and interrogatories, the Parties engaged in extensive efforts to resolve objections and narrow their differences, including meeting and conferring via Zoom and telephone on multiple occasions and exchanging written correspondence outlining the legal authority supporting their respective positions. While the Parties were able to reach an agreement on certain issues, others remained unresolved and likely would have required this Court's intervention when the Settlement was reached. Prior to the Settlement, the Parties produced tens of thousands of pages of documents relating to the claims and defenses in the Action. Plaintiff produced over 5,500 pages of documents relating to its purchases and sales of Jagged shares, its investment strategies, and its decision to bring this Action. The Jagged Defendants and Underwriter Defendants produced over 35,000 pages and 29,000 pages, respectively, related to, *inter alia*, the Offering, their due diligence, the experience and expertise of Jagged's management and technical teams, well completion and production, and various financial metrics. Substantial numbers of documents remained to be produced at the time the Settlement was reached.

#### **D. Plaintiff Participated in Arm's-Length Mediation Culminating in the Proposed Settlement**

32. Having agreed that it would be productive to engage a mediator to explore the possibility of reaching a negotiated resolution of the Action, shortly after the Case Management Conference, the Parties engaged Mr. Meyer, a highly experienced and respected mediator who has successfully mediated numerous securities class action cases.<sup>7</sup>

33. In advance of the mediation, the Parties exchanged detailed mediation statements highlighting the factual and legal issues in dispute. Plaintiff's Counsel also consulted extensively with their expert, Dr. Hakala, to critically evaluate estimated recoverable damages and to test anticipated assertions by Defendants regarding the same.

34. The mediation took place at JAMS in Los Angeles, California on April 18, 2023. Although the Parties did not reach an agreement that day, Mr. Meyer remained in contact with them. A few months later, Mr. Meyer made a mediator's proposal that the Action be settled for a non-recourse cash payment of \$8,250,000 which was accepted by the Parties. Throughout the negotiations, Plaintiff and Plaintiff's Counsel were fully prepared to, and indeed did, continue litigating rather than accept a settlement that was not in the best interests of the Settlement Class.

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<sup>7</sup> See <https://www.jamsadr.com/meyer/>.

**E. Plaintiff Successfully Sought Preliminary Approval and Provided Notice of Settlement**

35. Following their acceptance of the Mediator's proposal, the Parties negotiated formal settlement documentation, including the Stipulation, Notice of Pendency and Proposed Settlement, Summary Notice, Proof of Claim form, Preliminary Approval Motion, and proposed Orders, which were filed with the Court on August 21, 2023.

36. On August 23, 2023, the Court granted preliminary approval of the Settlement, directing Notice be disseminated to potential Settlement Class Members and nominees ahead of the final approval hearing.

37. In accordance with the Preliminary Approval Order, on September 13, 2023, the Claims Administrator implemented the comprehensive Court-approved notice program. *See* Ex. 5, ¶¶5-11; *id.*, Exs. A, B. On that same day, the Notice was mailed in accordance with the Preliminary Approval Order. *Id.*, ¶¶5-9. In addition, the Summary Notice was published on September 17, 2023, and the Notice has been, and continues to be, posted on the settlement website, [www.jaggedpeaksecuritiessettlement.com](http://www.jaggedpeaksecuritiessettlement.com), along with other Settlement-related documents. *Id.*, ¶¶11, 13; *id.*, Ex. B. The Notice contains the information necessary for Settlement Class Members to evaluate the benefits of the Settlement and included directions for those Settlement Class Members wishing to: (i) exclude themselves from the Settlement Class; (ii) object to the Settlement, the Plan of Allocation, the award of attorneys' fees and expenses or the requested award to Plaintiff for its representation of the Settlement Class; (iii) file a Proof of Claim; and (iv) attend the Settlement Hearing. *Id.*, Ex. A.

38. While the November 13, 2023 deadline for objections and exclusions has not yet passed, to date, there have been no objections filed to any aspect of the Settlement, Plan of Allocation, requested award of attorneys' fees and expenses to Plaintiff's Counsel or requested award to Plaintiff for its representation of the Settlement Class, and no requests for exclusion from the Settlement Class have been received. *Id.*, ¶16.

39. In sum, it is respectfully submitted that the procedural history of the Action detailed above demonstrates that Plaintiff and Plaintiff's Counsel have aggressively and diligently prosecuted the Action.

**IV. THE SETTLEMENT SATISFIES THE STANDARD FOR APPROVAL, IS FAIR, REASONABLE AND ADEQUATE, AND PROVIDES A SUBSTANTIAL RECOVERY TO SETTLEMENT CLASS MEMBERS**

40. Colorado federal and state courts evaluate whether a proposed class action settlement is fair, reasonable and adequate using the following list of nonexclusive factors: (i) the strength of the plaintiff's case; (ii) the risk and expense of further litigation; (iii) the amount of the settlement; (iv) the extent of discovery completed; (v) the experience and views of counsel; and (vi) the reaction of interested parties to the settlement. *See Thomas v. Rahmani-Azar*, 217 P.3d 945, 948-949 (Colo. App. 2009); *Helen G. Bonfils Found. v. Denver Post Emps. Stock Tr.*, 674

P.2d 997, 998 (Colo. App. 1983); *Voulgaris v. Array Biopharma*, No. 17-cv-02789, 2021 U.S. Dist. LEXIS 249646, at \*38 (D. Colo. Dec. 3, 2021) *aff'd*, 60 F.4th 1259 (10th Cir. 2023). Plaintiff's Counsel respectfully submits that each of these factors strongly favors approval of the proposed Settlement.

**A. The Strength of Plaintiff's Case and the Risk and Expense of Further Litigation**

41. Plaintiff believes that if the Settlement had not occurred it would have adduced evidence in discovery supporting its claims that the Offering Documents contained materially untrue and misleading statements concerning the experience and expertise of Jagged's management and technical teams as well as the Company's drilling and completion techniques, times and costs, and was prepared to continue litigating. Plaintiff also understood, however, that success was not guaranteed. Simply put, there was no assurance that the Settlement Class would have recovered an amount equal to, let alone greater than, the proposed Settlement had the litigation continued.

42. Although the Action survived Defendants' motion to dismiss, that motion tested the sufficiency of the factual allegations in the Amended Complaint, which were presumed to be true. Throughout the litigation, Defendants consistently and vigorously denied that Plaintiff could prove that any of the challenged statements in the Offering Documents were materially untrue and misleading. For example, among other things, Defendants emphasized the decades of experience and expertise of Jagged's management and technical teams and cited to financial data purporting to show that drilling and completion costs were, in fact, decreasing at the time of the IPO. While Plaintiff believed it would be able to adduce evidence in discovery supporting its claims with respect to these issues, there was no guarantee that a jury would have accepted Plaintiff's view of the evidence.

43. Moreover, even if Plaintiff was able to establish liability, the risk of establishing damages and overcoming Defendants' affirmative defense of "negative causation" was a primary concern. Although Section 11(e) of the Securities Act creates a statutory presumption that any diminution in the value of an offered security between the offer date and the date a Section 11 claim is filed is due to the alleged untrue statements and omissions in the offering documents, a defendant may escape liability to the extent it can show that the declines were caused by matters unrelated to those that were allegedly misstated in or omitted from the offering documents. Here, as noted above, while Plaintiff's expert estimated that maximum theoretically recoverable statutory damages were approximately \$108 million, he also estimated that reasonably recoverable damages were closer to \$53 million, and perhaps less, based on Defendants' likely negative causation arguments. Defendants, of course, argued that damages were zero. Although Plaintiff believed that it had strong responses to Defendants' anticipated negative causation arguments, the outcome of a "battle of the experts" on these complex issues was uncertain and militates strongly in favor of approving the Settlement.

44. Further, even if Plaintiff had prevailed on liability, causation, and damages issues at trial, if the Parties' litigation experience in this hard-fought case is any guide, it is reasonably

likely that Defendants would have then filed post-verdict motions and/or appeals. Thus, litigating this Action to finality would have required the Settlement Class to wait additional years and incur additional expense before being able to collect an uncertain recovery. By comparison, the Settlement represents an excellent recovery as well as a certain and immediate one.

## **B. The Settlement Amount**

45. The proposed \$8,250,000 Settlement is reasonable when considering the range of outcomes that Plaintiff would have faced had the case gone to trial.

46. Here, using Plaintiff's expert's maximum theoretical statutory damages and estimated reasonably recoverable damages as the high and low of the reasonable range of recovery, the proposed \$8,250,000 Settlement represents a recovery of between 7.6% and 15.5% of damages. From either perspective, this is an excellent recovery as a percentage of recoverable damages when compared to recoveries in similar securities cases, which are typically below the percentages here. Indeed, as indicated above (*see supra* ¶8), according to NERA's 2022 annual survey of securities class action litigation, the median settlement value as a percentage of NERA-defined possible losses in securities class action cases with between \$50 million and \$99 million in possible losses filed and settled during the period December 2011-December 2022 was just 3.8%. *See* the 2022 NERA Study, Ex. 2.

## **C. The Extent of Discovery Completed**

47. At the time the Settlement was reached, the Parties had exchanged initial disclosures and had begun the discovery process. As noted above, Plaintiff had produced thousands of pages in response to Defendants' discovery requests, which sought, among other things, the production of documents relating to Plaintiff's purchases and sales of Jagged shares, including its investment strategies, as well as documents relating to its decision to bring this Action, including the bases for the allegations contained in the Amended Complaint.

48. For their part, the Jagged Defendants and the Underwriter Defendants collectively had produced over 64,000 pages of documents in response to Plaintiff's RFPs, including: (i) documents relating to the experience and qualifications of members of the Company's management and technical teams; (ii) certain internal financial data at or around the time of the IPO with respect to well completions and production, revenue and adjusted EBITDAX; (iii) agreements with certain of Jagged's contractors; (iv) Board minutes and materials concerning the IPO; (v) underwriter agreements, audit reports, and reserve reports; and (vi) deal files of some of the Underwriter Defendants, including the three Lead Underwriters – J.P. Morgan Securities LLC, Citigroup Global Markets Inc., and Credit Suisse Securities (USA) LLC.

49. In addition, Plaintiff's Counsel consulted extensively with their expert on damages and causation, Dr. Hakala, who calculated statutory damages and estimated reasonably recoverable damages using an event study in light of Defendants' expected negative causation defense.

50. Therefore, although the Action settled relatively early in the discovery period, Plaintiff and its Counsel were nevertheless knowledgeable with respect to the merits and risks of the litigation, including the risks to proving damages.

#### **D. The Experience and Views of Counsel**

51. Plaintiff is represented by highly experienced counsel in securities class action litigation who have a record of achieving significant recoveries for investors in securities matters as well as other complex litigation. *See* Ex. 3, Ex. C; Ex. 4, Ex. A. Based on their substantial experience, their review and analysis of the applicable law, their comprehensive investigation of the underlying facts, and their consultations with Plaintiff's expert on causation and damages detailed above, Plaintiff's Counsel believe that the Settlement is fair, reasonable, and adequate and should be approved by the Court.

#### **E. The Reaction of the Settlement Class**

52. As noted above and in its accompanying affidavit, OPPRS, which has been an active participant in and carefully monitored the Action since its inception, strongly supports the Settlement. *See* Ex. 1, ¶9.

53. In addition, the Court-ordered notice program informed Settlement Class Members of the Settlement's material terms, the Plan of Allocation, the potential amount of fees and expense reimbursement that Plaintiff's Counsel would seek, the potential amount of the award Plaintiff would seek for its representation of the Settlement Class, and of the time and manner by which they could object to any of those points or exclude themselves from the Settlement Class altogether.

54. As set forth in the accompanying Cavanaugh Aff., after obtaining Jagged's shareholder list from the Company, 29 copies of the Claim Package have been mailed to the individuals listed therein (excluding Released Parties) as well as brokerages, custodial banks, and other institutions ("Nominee Holders") that hold securities in "street name" as nominees for the benefit of their customers who are the beneficial owners of the securities. *See* Ex. 5, ¶¶5-6. In addition, A.B. Data sent 487 emails to Nominee Holders with links to the Claim Package. *Id.*, ¶6. The Nominee Holders also include a group of filers/institutions who have requested notification of every securities class action case. *Id.* These Nominee Holders are included in a proprietary database created and maintained by A.B. Data. *Id.* In A.B. Data's experience, many potential class members receive notice through their Nominee Holders. *Id.* In total, as of October 26, 2023, A.B. Data has mailed 17,049 Claim Packages to potential Settlement Class Members and Nominee Holders. *Id.*, ¶10.

55. In addition, copies of the Notice were posted on the settlement website, and the Summary Notice was published in *PR Newswire*. *Id.*, ¶¶11, 13; Ex. B.

56. The deadline for submitting objections or requests for exclusion is November 13, 2023. Although that deadline has not yet passed, as of the date of this Declaration, the Claims

Administrator has not received any objections or exclusion requests. *Id.*, ¶16. This reaction of the Settlement Class indicates support for, and the reasonableness of, finally approving the Settlement.

\* \* \*

57. In sum, the relevant factors weighed by courts in this State, including the strength of Plaintiff's case, the risk and expense of further litigation, the Settlement Amount, the extent of discovery completed, the experience and views of Plaintiff's Counsel, and the reaction of the Settlement Class Members, all strongly support a finding that the Settlement is fair, reasonable, and adequate.

#### V. THE PLAN OF ALLOCATION IS CUSTOMARY, FAIR, AND REASONABLE

58. To receive a distribution from the Net Settlement Fund, Settlement Class Members are required to submit a Proof of Claim form establishing their relevant transactions in Jagged stock, as is customarily done in securities settlements. The Proof of Claim Form was mailed with the Notice and is also available on the settlement website. *Id.*, ¶¶5-13. Claimants have the option of completing the forms online and uploading supporting documentation or mailing them to the Claims Administrator. The Claims Administrator will review the claim forms and supporting documents submitted, provide an opportunity to cure any deficiencies, and mail or wire Settlement Class Members their *pro rata* share of the Net Settlement Fund in accordance with the proposed Plan of Allocation.<sup>8</sup>

59. Pursuant to the Plan of Allocation, each Authorized Claimant's *pro rata* share of the Net Settlement Fund will be based on his/her/its Recognized Claim.

60. The proposed Plan of Allocation was formulated by Plaintiff's expert, Dr. Hakala. The Plan of Allocation follows the statutory framework adopted by Congress in Section 11(e) of the Securities Act and is similar to the plans approved in other securities class action cases alleging violations of the Securities Act of 1933.

61. Section 11(e) of the Securities Act provides a statutory damages formula based on the price paid for the security, and the price at which the security is sold or the price on the date the complaint was filed if the shares have not been sold. Consistent with Section 11(e)'s statutory formula, the Plan of Allocation is based on the decline in value of Jagged's shares that occurred following a series of announcements between March 2017 and May 2018 (which, in turn, reduced the amount of artificial inflation in the stock price alleged to have been caused by the untrue statements and omissions at issue). Specifically, as explained in the Notice, depending on when the Eligible Shares were sold, the Plan of Allocation provides that the Recognized Loss Amount for each common share of Jagged will be the lesser of: (a) the Inflation per Share on the date of purchase minus the Inflation Per Share on the date of sale, as set forth in Table A of the Notice; or (b) the lesser of either the price paid on the date of purchase or the IPO price, *i.e.*, \$15.00, minus

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<sup>8</sup> To receive a distribution, the Authorized Claimant's payment amount must be \$10.00 or more. *See* Ex. 5, Ex. A, Notice at 3.

(i) the price received on the date of sale if the Eligible Shares were sold on or after March 9, 2017, but before May 13, 2017, or (ii) \$11.73 if the Eligible Shares were sold on or after May 13, 2017. *See* Ex. 5, Ex. A, Notice at 3-6. The sum of a Claimant's Recognized Loss Amounts will be the Claimant's Recognized Claim.

62. The Plan of Allocation will apply in the same manner to all Settlement Class Members and, therefore, will result in an equitable distribution of the proceeds among Settlement Class Members who submit valid claims.

63. To the extent funds remain in the Net Settlement Fund after the initial distribution to Authorized Claimants (*e.g.*, due to uncashed checks), the Claims Administrator will make repeated distributions on the same *pro rata* basis for as long as it is economically feasible to do so. At that point, any residual balance that still remains in the Net Settlement Fund which are not feasible or economical to reallocate, shall be donated to the Colorado Lawyer Trust Account Foundation (COLTAF) as provided in Colorado Rule of Civil Procedure 23(g).

64. The Plan of Allocation in its entirety was set forth in the Notice that was distributed to all Settlement Class members. *See* Ex. 5, Ex. A, Notice at 3-6. To date, no objections to the Plan of Allocation have been filed. *Id.*, ¶16. Plaintiff's Counsel respectfully submit that the Plan of Allocation is customary, fair, and reasonable, and should be approved by the Court.

## **VI. PLAINTIFF'S COUNSEL'S REQUEST FOR AN AWARD OF ATTORNEYS' FEES AND EXPENSES AND PLAINTIFF'S REQUEST FOR AN AWARD FOR ITS REPRESENTATION OF THE SETTLEMENT CLASS**

### **A. The Requested Fee Is Reasonable Under the Factors Considered by Colorado Courts**

65. In addition to seeking final approval of the Settlement and the Plan of Allocation, Plaintiff's Counsel are making an application for a fee award of 30% of the Settlement Amount, plus interest at the same rate as earned on the Settlement Fund until paid (the Settlement Fund is currently in an Escrow account) for the 2,913.4 hours of total time they devoted to this Action on a purely contingent basis. Ex. 3, ¶6; Ex. 4, ¶5. This request is consistent with the amount stated in the Notice, the excellent result achieved, and the extensive work performed, and is fully supported by the Plaintiff, a sophisticated institutional investor. *See* Ex. 5, Ex. A, Notice at 7; Ex. 1, ¶¶9-12.

66. As explained in the accompanying Motion for Award of Attorneys' Fees and Expenses, Colorado courts have long recognized that attorneys who represent a class and achieve a benefit for class members are entitled to compensation for their services, and that attorneys who obtain a recovery for a class in the form of a common fund are entitled to an award of fees and expenses from that fund. Motion for Award of Attorneys' Fees and Expenses, at §I. Plaintiff's Counsel believe the requested fee is reasonable and appropriate considering the result obtained, the resources they expended in prosecuting the Action and the inherent risk of nonpayment from representing the Settlement Class on a contingent basis. As further detailed in the accompanying

Motion for Award of Attorneys' Fees and Expenses, an award of 30% of the Settlement Amount is within the range of fee awards granted by Colorado and other courts in class action securities cases such as this. Motion for Award of Attorneys' Fees and Expenses, at §I.

67. The factors that courts use in assessing whether a fee request is reasonable are set forth in the Motion for Award of Attorneys' Fees and Expenses (*see* §I.A.1-6), which also explains why the request here satisfies them. This Declaration provides further discussion of those factors (to the extent not already mentioned above).

### **1. The Time and Labor Expended by Plaintiff's Counsel**

68. Since May 2017, Plaintiff's Counsel have expended a substantial amount of time and effort in prosecuting the Action and negotiating the Settlement. *See supra*, ¶¶18-39; and Ex. 3, ¶6; Ex. 4, ¶5. Indeed, as detailed above, the Action was settled only after six years of vigorous litigation. *See, supra* ¶¶18-39.

69. Moreover, Plaintiff's Counsel will continue to work through the final approval hearing and until any appeals in connection therewith have been exhausted. Thereafter, Plaintiff's Counsel will prepare a motion to distribute the Net Settlement Fund to Authorized Claimants once the work of the Claims Administrator is completed. Plaintiff's Counsel respectfully submit that this extensive and effective work supports the requested fee. Further, the Notice informed potential Settlement Class Members of Plaintiff's intent to request a fee award of up to 30% of the Settlement Amount and to date, there have been no objections to the requested award. *See* Ex. 5, ¶16.

70. Attached hereto as Exhibits 3 and 4 are Declarations from Plaintiff's Counsel in support of their request for an award of attorneys' fees and expenses. Included in or with these Declarations are two charts. The first summarizes the number of hours worked by each attorney and professional support staffer employed by the firms and the values of that time at current hourly rates, *i.e.*, the "lodestar."<sup>9</sup> It is respectfully submitted that the hours of Plaintiff's Counsel were reasonable and necessary to prosecute the Action, and the hourly rates, reflected in the individual fee declarations are reasonable and customary based on the experience and standing of the attorneys. The second chart summarizes the expenses incurred by Plaintiff's Counsel in prosecuting the Action by category. As set forth in the Declarations, these charts were prepared from contemporaneous records regularly prepared and maintained by the firms.

71. Plaintiff's Counsel have collectively expended 2,913.4 hours in the prosecution and investigation of this Action. The resulting collective lodestar is \$2,967,826.00. Ex. 3, ¶6;

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<sup>9</sup> This time does not include any time from August 21, 2023, onwards that has been devoted to preparing the final approval papers and will necessarily be spent from this date forward working with the Claims Administrator in connection with Settlement administration and distribution, among other things.



Ex. 4, ¶5. Pursuant to the lodestar “crosscheck,” the requested fee of 30% of the \$8,250,000 Settlement Fund (\$2,475,000 plus accrued interest) results in a negative multiplier of 0.83 on Plaintiff’s Counsels’ lodestar, meaning that Plaintiff’s Counsel are seeking to be paid for less than all of the hours they expended in prosecuting the Action.

## **2. The Novelty and Difficulty of the Questions Raised in the Action**

72. Given their nature, courts have recognized that, in general, securities class actions are highly complex. *See Voulgaris v. Array Biopharma Inc.*, 2021 WL 6331178, at \*13. This complexity makes the outcome of any securities class action case highly uncertain, notwithstanding the perceived strength of the claims. Moreover, as detailed above, Plaintiff faced significant risks to establishing liability and damages. All of this supports the requested 30% fee award here especially considering that an above-average percentage of reasonably recoverable damages has been obtained.

## **3. The Customary Fee and Awards in Similar Cases**

73. A fee award of 30% of the Net Settlement Fund is consistent with (and in some instances lower than) awards in similar cases. *See Voulgaris*, 2021 WL 6331178 (awarding 33% of \$8.5 million settlement); *In re Crocs, Inc. Sec. Litig.*, No. 07-cv-02351, 2014 U.S. Dist. LEXIS 134396 (D. Colo. Sept. 18, 2014) (awarding 30% of \$10 million settlement); *Brody v. Hellman*, 167 P.3d 192 (Colo. App. 2007) (awarding 30% of \$50 million settlement); *Peace Officers' Annuity & Ben. Fund of Ga. v. Davita Inc.*, No. 17-cv-0304, 2021 U.S. Dist. LEXIS 131699 (D. Colo. July 15, 2021) (awarding 30% of \$135 million settlement); *In re Oppenheimer Rochester Funds Group Sec. Litig.*, No. 09-md-02063, 2014 U.S. Dist. LEXIS 142673 (D. Colo. July 31, 2014) (awarding 30% of \$50.75 million settlement); *In re Rhythms Sec. Litig.*, No. 02-CV-35, 2009 WL 10690662 (D. Colo. Apr. 3, 2009) (awarding 30% of \$17.5 million settlement); *Lucken Family Ltd. P'ship, LLLP v. Ultra Res., Inc.*, No. 09-cv-01543, 2010 WL 5387559 (D. Colo. Dec. 22, 2010) (awarding 30% of ~\$11 million settlement).

## **4. The Amount Involved and Results Obtained**

74. Perhaps the most important factor considered in making a fee award is the result obtained. *Voulgaris*, 2021 WL 6331178, at \*13; *see also In re Crocs, Inc.*, 2014 U.S. Dist. LEXIS 134396, at \*14. Here, the Settlement Amount supports Plaintiff’s Counsel’s requested fee. As noted above, while Plaintiff’s expert estimated maximum, presumptive statutory damages of approximately \$108 million under Section 11(e) of the Securities Act, he also estimated that reasonably recoverable damages were likely lower – \$53 million or even less – in the event that Defendants succeeded in establishing some measure of negative causation. On the other hand, Defendants maintained that recoverable damages were zero. Thus, the Settlement represents a 15.5% recovery of Plaintiff’s best estimate of reasonably recoverable damages and represents a substantial recovery when compared against settlements achieved in similar cases. *Supra*, ¶8.

75. That the Settlement is an excellent outcome for the Settlement Class is also demonstrated by the significant obstacles Plaintiff's Counsel overcame in order to achieve it, including this Court's initial dismissal of the Action in its entirety.

**5. The Skill Required to Perform the Legal Service Properly and the Experience, Reputation, and Ability of Plaintiff's Counsel**

76. Plaintiff's Counsel have extensive experience in the specialized field of securities class action litigation as well as a significant history of achieving successful results in such cases.

77. Scott+Scott is highly experienced and skilled in securities class action litigation and has a long and successful track record in such cases including *Alaska Elec. Pension Fund v. Pharmacia Corp.*, No. 03-cv-01519 (D.N.J.) (\$164 million settlement); *In re LendingClub Corp. S'holder Litig.*, No. CIV. 537300 (Cal. Super. Ct. San Mateo Cnty.) (part of \$125 million global settlement); *In re Micro Focus Int'l PLC Sec. Litig.*, Lead Case No. 18CIV01549 (Cal. Super. Ct., San Mateo Cnty.) (\$107.5 million settlement); *Okla. Firefighters Pension & Ret. Sys. v. Newell Brands Inc., et al.*, No. HUD-L-003492-18 (Super. Ct. N.J.), (~\$102.5 million settlement); *In re Priceline.com Inc. Sec. Litig.*, No. 00-cv-01884 (D. Conn.) (\$80 million settlement); *Irvine v. ImClone Sys., Inc.*, No. 02-cv-00109 (S.D.N.Y.) (\$75 million settlement); *Cornwell v. Credit Suisse Grp.*, No. 08-cv-03758 (S.D.N.Y.) (\$70 million settlement); *Policemen's Annuity & Benefit Fund of the City of Chi. v. Bank of Am., NA*, No. 1:12-cv-2865 (S.D.N.Y.) (\$69 million settlement); *In re Sandisk LLC Sec. Litig.*, No. 3:15-cv-01455-VC (N.D. Cal.) (\$50 million settlement). See Ex. 3, Ex. C.

78. Shuman, Glenn & Stecker also has extensive experience in class actions with a specialty in securities matters. See *In re Qwest Comms. Int'l Sec. Litig.*, Case No. 01-cv-1451 (D. Colo.) (liaison counsel) (\$450 million settlement); *In re Tele-Communications, Inc. Sev. Litig.* Case No. 97CV421 (Colo.) (co-lead counsel) (\$26.5 million settlement); *Muhr v. Transcrypt Int'l, Inc.*, Case No. CI98-333 (Neb. (co-lead counsel) (\$25 million settlement)); *In re Samsonite Corp. Sec. Litig.*, Case No. 98-K-1878 (D. Colo) (co-lead counsel) (\$24 million settlement). See Ex. 4, Ex. A.

79. This experience was evident in the diligent and difficult work undertaken by Plaintiff's Counsel in prosecuting this Action and arriving at the Settlement in the face of Defendants' vigorous opposition and serious hurdles to success described herein. Defendants are represented by Vinson & Elkins LLP, Shoemaker Ghiselli + Schwartz LLC, Paul, Weiss, Rifkind, Wharton & Garrison LLP, and Holland & Hart LLP, respected firms that zealously represented the interests of their clients. In the face of this experienced and well-financed opposition, Plaintiff's Counsel were nevertheless able to achieve an outstanding Settlement for the Settlement Class. Thus, this factor supports the requested fee.

## 6. The Contingent Nature of the Fee and Undesirability of the Action

80. Plaintiff's Counsel, who worked on a contingent basis, bore the risk that no recovery would be achieved. From the outset, Plaintiff's Counsel understood that they were embarking on a complex, expensive, risky, and lengthy litigation with no guarantee of ever being compensated for the substantial investment of time and money the case would require.

81. Courts have recognized that attorneys are entitled to a larger fee when their compensation is contingent in nature. *See In re Crocs, Inc.*, 2014 U.S. Dist. LEXIS 134396, at \*14 (“A contingent fee arrangement often weighs in favor of a greater fee because ‘[s]uch a large investment of money [and time] place[s] incredible burdens upon law practices.’”). Even with the most vigorous and competent efforts, success in contingent-fee litigation, such as this, is never assured. In addition, even when successful, the road to recovery can be long.

82. Plaintiff's Counsel's persistent efforts in the face of vigorous, unstinting opposition, notwithstanding the risk of non-payment, is what resulted in the outstanding recovery for the Settlement Class and supports the requested fee.

### B. Plaintiff's Requested Award for Its Representation of the Settlement Class Is Reasonable

83. The requested \$10,000 award to Plaintiff for its work representing the interests of the Settlement Class in this case is also fair and reasonable. This amount is disclosed in the Notice, and no objections to it have been received to date. *See* Ex. 5, ¶16; *id.* Ex. A, Notice at 7.

84. As discussed in Plaintiff's supporting Affidavit, OPPRS has been committed to pursuing the Settlement Class' claims from the outset. It has actively and effectively fulfilled its obligation as Plaintiff, complying with all of the demands placed on it during the litigation and settlement of this Action, and providing valuable assistance to Plaintiff's Counsel. *See* Ex. 1, ¶13. Among other things, OPPRS reviewed filings, was involved in discovery efforts, including the search for and production of documents, regularly communicated with counsel, and assessed the proposed Settlement. *Id.*, ¶13.

85. The efforts expended by OPPRS during the course of the Action are precisely the types of activities courts have found to support an award to class representatives, and were necessary to achieving this outstanding result for the Settlement Class. Accordingly, the requested amount is fair and reasonable given the complexity and duration of the litigation.

## VII. CONCLUSION

86. For the reasons set forth above, and in the accompanying Final Approval Motion and Motion for Award of Attorneys' Fees and Expenses, in particular the significant recovery for the Settlement Class and substantial risks of continued litigation, Plaintiff and Plaintiff's Counsel respectfully submit that the Settlement and Plan of Allocation should be approved as fair, reasonable, and adequate. Likewise, in view of the significant recovery in the face of substantial

opposition and risks, quality of work performed, contingent nature of the fee, and standing and experience of Plaintiff's Counsel, the latter respectfully request that the Fee and Expense Award be approved in full. Finally, for its commitment to diligently representing the Settlement Class and obtaining the best possible recovery, Plaintiff respectfully requests that the modest requested award of \$10,000 requested by Plaintiff should be awarded.

I declare under penalty of perjury that the foregoing facts are true and correct.

Executed this 30th day of October 2023 at New York, New York.



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DEBORAH CLARK-WEINTRAUB

# **EXHIBIT 1**

<p>DISTRICT COURT, DENVER COUNTY,          COLORADO          Court Address: 1437 Bannock Street, Room 256,          Denver, CO, 80202</p>	<p style="text-align: center;">▲ COURT USE ONLY ▲</p>
<p><b>Plaintiff(s)</b> OKLAHOMA POLICE PENSION AND          RETIREMENT SYSTEM, Individually and on Behalf          of All Others Similarly Situated</p> <p>v.</p> <p><b>Defendant(s)</b> JAGGED PEAK ENERGY INC., et al.</p>	
<p><b>Attorneys for Plaintiff:</b>          SHUMAN, GLENN &amp; STECKER          Rusty E. Glenn (Atty. Reg. No. 39183)          600 17th Street, Suite 2800 South,          Denver, CO 80202          Tel.: (303) 861-3003; Fax: (303) 536-7849</p> <p>Scott+Scott Attorneys at Law LLP          Deborah Clark-Weintraub (<i>admitted pro hac vice</i>)          Thomas L. Laughlin, IV (<i>admitted pro hac vice</i>)          Emilie B. Kokmanian (<i>admitted pro hac vice</i>)          Mandeep Minhas (<i>admitted pro hac vice</i>)          230 Park Ave., 17th Fl., New York, NY 10169          Tel.: (212) 223-6444; Fax: (212) 223-6334</p>	<p>Case Number: 2017CV31757          Division: 209</p>
<p style="text-align: center;"><b>AFFIDAVIT OF GINGER SIGLER ON BEHALF OF OKLAHOMA POLICE          PENSION AND RETIREMENT SYSTEM IN SUPPORT OF (I) PLAINTIFF'S          MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT AND PLAN          OF ALLOCATION, AND (II) MOTION FOR AWARD OF ATTORNEYS' FEES AND          EXPENSES AND PLAINTIFF'S REQUEST FOR AN AWARD FOR ITS          REPRESENTATION OF THE SETTLEMENT CLASS</b></p>	

I, GINGER SIGLER, hereby state under penalty of perjury as follows:

1. I am the Executive Director of the Oklahoma Police Pension and Retirement System (“OPPRS” or the “Plaintiff”), Plaintiff in the above-captioned securities class action (the “Action”). I am authorized to submit this affidavit on Plaintiff’s behalf.

2. OPPRS is a defined benefit plan that qualifies under section 401(a) of the Internal Revenue Code. OPPRS provides pension as well as other comprehensive benefits to approximately 10,000 working and retired qualified police officers of the participating 150 municipal members and three state agency members.

3. I respectfully submit this affidavit in support of the proposed Settlement, the requested award of attorneys’ fees and expenses, and Plaintiff’s request for an award of \$10,000 in connection with the time, effort and expense Plaintiff expended in representing and serving the best interests of the Settlement Class.

4. I have personal knowledge of the matters set forth in this affidavit, as I, or others working under my direction and/or with whom I work in collaboration with, have been directly involved in monitoring and overseeing the prosecution of this Action, and, if called as a witness, could and would competently testify thereto.

**Work Performed by Plaintiff on Behalf of the Class**

5. OPPRS purchased 53,710 shares of Jagged common stock in or traceable to Jagged’s initial public offering (the “IPO”) on January 27, 2017, at issue here.

6. Plaintiff sought to serve as a class representative in this Action because it wanted to represent and protect the interests of all investors who, like itself, purchased Jagged common stock in the IPO. From the start of the Action, I, and others at OPPRS, have been fully engaged in the Action and committed to assisting Plaintiff’s Counsel in vigorously prosecuting this case on behalf of the Settlement Class. Most of the work that OPPRS performed in carrying out its obligations to the Class Members was undertaken by myself, occasionally reaching out to colleagues for further assistance.

7. For over six years, I, and others under my direction and/or with whom I work, have actively participated in the prosecution of the Action, including: (i) communicating with Scott+Scott Attorneys At Law LLP (“Scott+Scott”), Plaintiff’s lead counsel, concerning the status, progress, and any updates related to the Action; (ii) reviewing pleadings, briefs, orders, and other documents filed in the Action; (iii) assisting in the collection and production of documents responsive to Defendants’ document requests; and (iv) conferring with Scott+Scott concerning mediation and settlement of this Action.

### **Plaintiff Supports Approval of the Settlement**

8. Based on my and my staff's involvement in the Action, and when considering the merits of the Action and the risks and benefits of litigating as opposed to settling the Action, Plaintiff believes the \$8,250,000 cash settlement is an excellent resolution for the Settlement Class given the risks of continued litigation and the Settlement Class' reasonably recoverable damages, which Plaintiff's expert estimated could be as low as \$53 million. Plaintiff believes that the Settlement, which represents a recovery of approximately 15.5% of this amount, is an outstanding recovery for the Settlement Class, which would not have been possible without the diligent efforts of OPPRS and Plaintiff's Counsel. Thus, Plaintiff believes the Settlement represents a fair, reasonable, and adequate recovery on behalf of the Settlement Class and that final approval of the proposed Settlement is in the best interest of each Settlement Class Member.

### **Plaintiff Supports the Requested Fee and Expense Award**

9. Plaintiff has approved and supports Plaintiff's Counsel's request for an award of attorneys' fees of 30% of the Settlement Amount and payment of Plaintiff's Counsel's requested litigation expenses, with interest on both amounts.

10. The lodestar cross-check indicates that Plaintiff's Counsel's fee request is reasonable. Plaintiff's Counsel and its staff have spent, in the aggregate, 2913.4 hours prosecuting the Action, producing a total lodestar amount of \$2,967,826.00 when multiplied by Plaintiff's Counsel's current billing rates. Thus, the amount of attorneys' fees requested by Plaintiff's Counsel, \$2,475,000.00 plus interest, represents a negative multiplier of 0.83 to Plaintiff's Counsel's aggregate lodestar.

11. The requested fee is also fair and reasonable considering the work performed and the result obtained. Over the course of the past six years, Plaintiff's Counsel expended significant time and labor to prosecute this Action. Notably, Plaintiff's Counsel made extensive efforts to locate confidential witnesses who provided information critical to drafting the Amended Complaint which survived, in part, Defendants' motion to dismiss. In addition, Plaintiff's Counsel diligently opposed Defendants' lengthy efforts to have the Action dismissed in its entirety. Plaintiff's Counsel also engaged in discovery, including the exchange of initial disclosures and requests for production of documents which gave rise to numerous disputes that were resolved only after lengthy discussions with Defendants. By the time the Settlement was reached, the Parties had collectively produced tens of thousands of pages of documents for review. Plaintiff's Counsel also retained and worked with an experienced expert on causation and damages, Scott D. Hakala of ValueScope, Inc., to analyze causation and damages issues. While both Plaintiff and Plaintiff's Counsel were confident as to the merits of Plaintiff's claims, success in this Action was far from assured. Securities class action cases such as this are inherently complex, and the decisions of the Colorado Court of Appeals and the Colorado Supreme Court substantially narrowed the claims in the case. Plaintiff's Counsel's ability to reach a settlement of this size despite the multiple risks inherent in this Action – in particular, Defendants' significant negative causation arguments – strongly supports the requested fee.



12. In summary, given the high-quality representation, responsiveness, and diligence of Plaintiff's Counsel in prosecuting this Action, as well as the resulting recovery of \$8,250,000 for the Settlement Class in the face of the risk of no recovery at all, Plaintiff believes Plaintiff's Counsel's requested award of attorneys' fees is both fair and reasonable. Plaintiff further believes that the litigation expenses requested are reasonable and were necessary for the successful prosecution and resolution of this Action.

**Plaintiff Respectfully Requests an Award for Its Time, Effort and Expense Representing the Settlement Class**

13. Plaintiff has not received, nor has Plaintiff been promised or offered, any financial incentive or compensation for serving as a Plaintiff in the Action. Plaintiff understands, however, the Court may authorize an award to a representative serving on behalf of the Settlement Class directly relating to their representation of the Settlement Class. Plaintiff knows that the grant of such an award is entirely in the discretion of the Court. It is also Plaintiff's understanding that the Settlement Class has been given notice of the request by the Plaintiff to seek an award of up to \$10,000 in the aggregate for its efforts in bringing and prosecuting the Action. As noted above, Plaintiff litigated this Action for over six years and devoted significant time and effort to protect the interests of the Settlement Class. See ¶7, *supra*. The Settlement Class benefited from the Plaintiff's actions. Plaintiff therefore respectfully requests an award of \$10,000.00 in connection with the time, effort and expense Plaintiff spent representing the Settlement Class in the Action.

Executed this 26<sup>th</sup> day of October 2023 at Oklahoma City, Oklahoma.



Ginger Sigler  
GINGER SIGLER  
EXECUTIVE DIRECTOR OF THE  
OKLAHOMA POLICE PENSION  
AND RETIREMENT SYSTEM

State of Oklahoma )  
County of Oklahoma )

The above and foregoing Affidavit was subscribed and sworn to before me on this 26 day of October, 2023 by Ginger Sigler.

Darcie Gordon  
Notary Public

My commission expires: 10/29/27

## **EXHIBIT 2**

24 January 2023



# Recent Trends in Securities Class Action Litigation: 2022 Full-Year Review

Federal Filings Declined for the Fourth Consecutive Year

Average and Median Settlement Values Increased by More than 50%  
Compared to 2021

By Janeen McIntosh, Svetlana Starykh, and Edward Flores

# Recent Trends in Securities Class Action Litigation: 2022 Full-Year Review

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By Janeen McIntosh, Svetlana Starykh, and Edward Flores<sup>1</sup>

24 January 2023

## Foreword

I am excited to share NERA's Recent Trends in Securities Class Action Litigation: 2022 Full-Year Review with you. This year's edition builds on work carried out over more than three decades by many members of NERA's Securities and Finance Practice. This year's report continues our analyses of trends in filings and settlements and presents new analyses related to current topics such as event-driven litigation. Although space does not permit us to present all the analyses the authors have undertaken while working on this year's edition or to provide details on the statistical analysis of settlement amounts, we hope you will contact us if you want to learn more about our research or our work related to securities litigations. On behalf of NERA's Securities and Finance Practice, I thank you for taking the time to review our work and hope you find it informative.

**Dr. David Tabak**, Managing Director

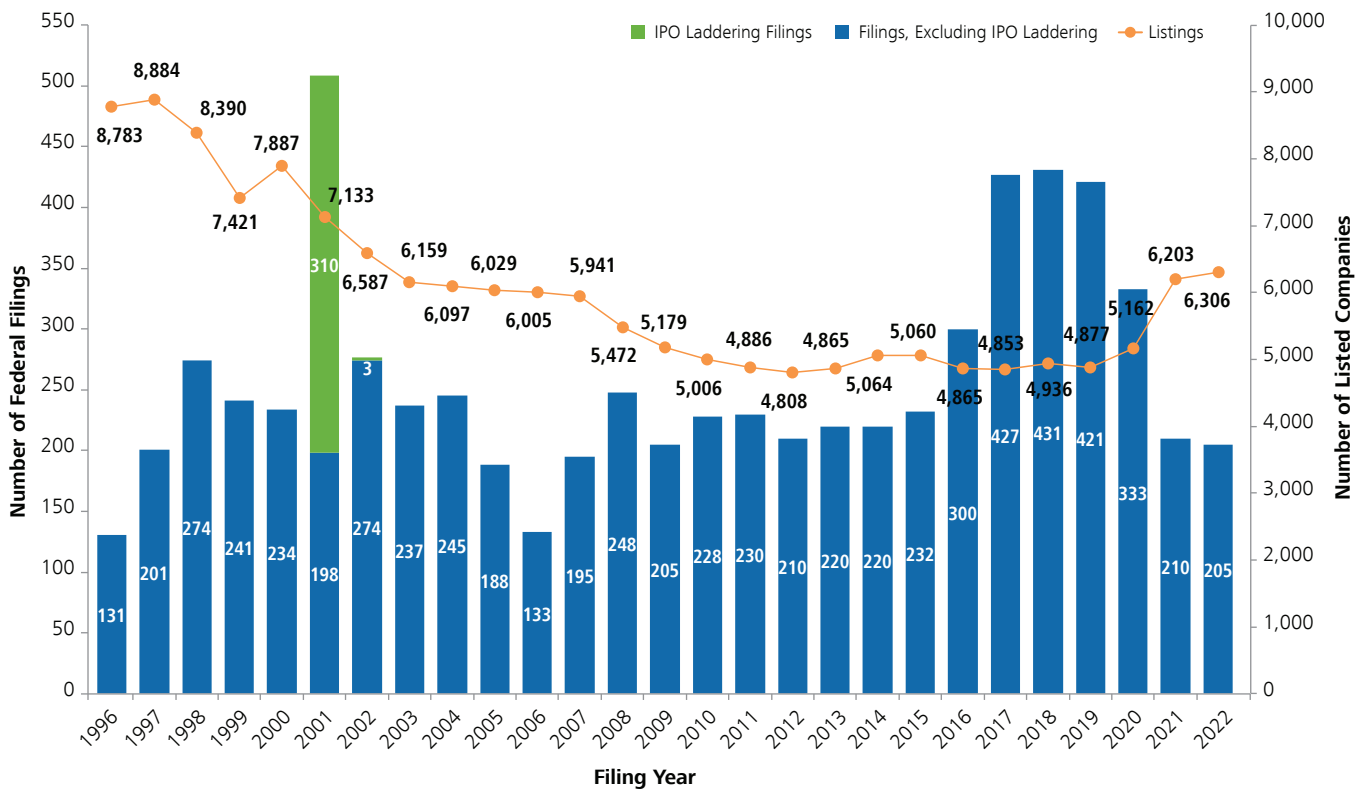
## Introduction

Filings of new securities class actions declined each year from 2019 through 2022. In 2022, there were 205 new federal securities class action suits filed. This significant decline from the 431 cases filed in 2018 was largely due to the lower number of merger-objection and Rule 10b-5 cases filed in 2022. Similarly, there were fewer cases resolved in 2022 than in 2021. The decline in resolutions, since 2021, was driven by the decrease in dismissed non-merger-objection and non-crypto unregistered securities cases, a category that declined by more than 30%.<sup>2</sup> The aggregate settlement amount for cases settled in 2022 was \$4 billion, which is approximately \$2 billion higher than the inflation-adjusted amount for 2021. With more cases settling for higher values in 2022 compared to 2021, the average settlement value increased by over 70% to \$38 million and the median settlement value increased by over 50% to \$13 million.

## Trends in Filings

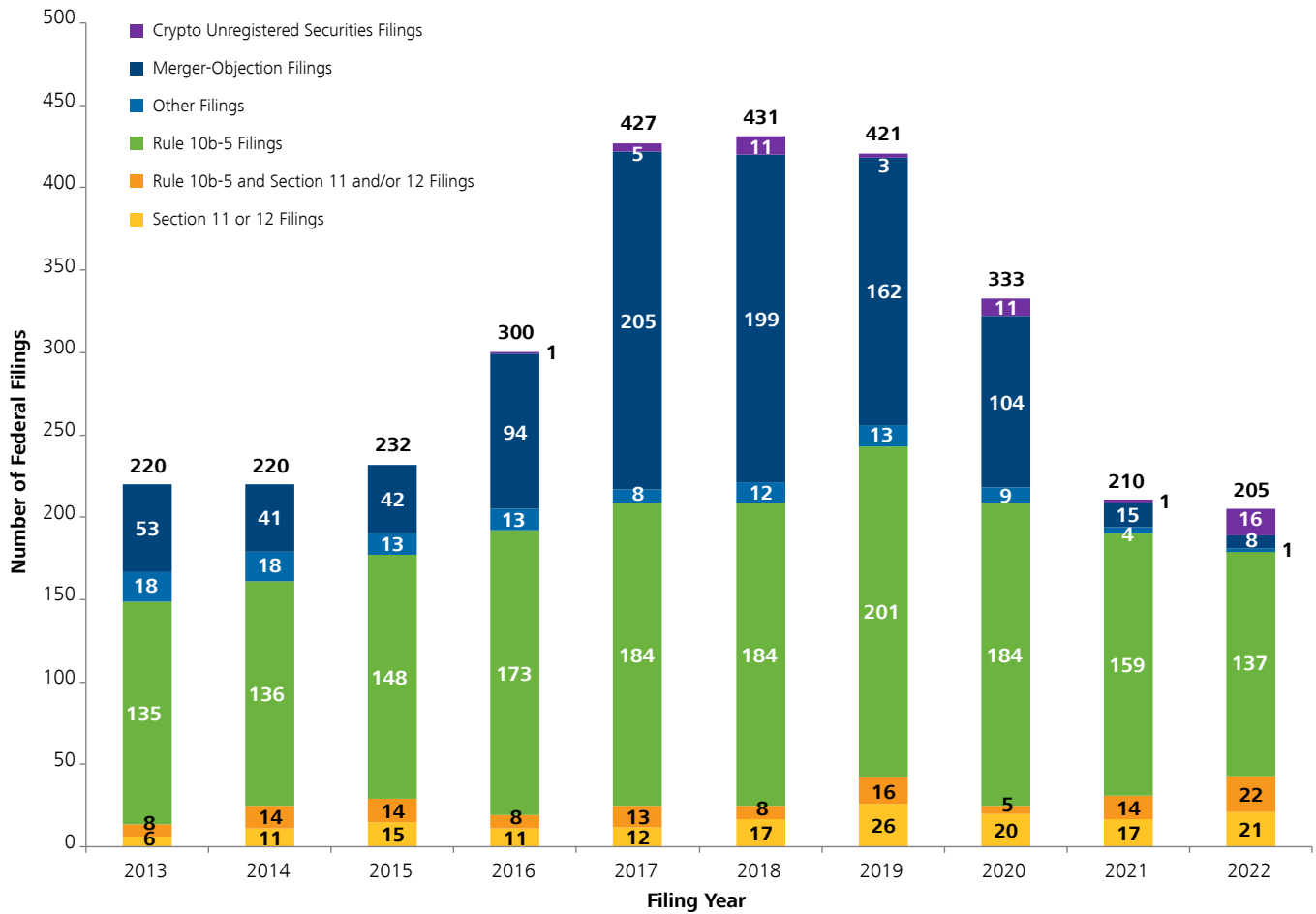
For the fourth consecutive year, there was a decline in the number of new federal securities class action suits filed (see Figure 1).<sup>3</sup> In 2022, there were 205 new cases filed, a decline from the 210 new cases filed in 2021. This decline is a continuation of the downward trend observed since 2018, when more than 400 cases were recorded. This decline has been driven by the lower levels of merger-objection cases and cases with only Rule 10b-5 claims filed in each year (see Figure 2). Of the cases filed in 2022, suits against defendants in the health technology and services sector and the electronic technology and services sector were the most common, each accounting for 27% of total cases (see Figure 3). Although there was a decline in the aggregate number of cases filed in the Second, Third, and Ninth Circuits to the lowest level within the 2018–2022 period, the majority of new filings continue to be concentrated in these jurisdictions (see Figure 4). Of the cases filed in 2022, 33% included an allegation related to misled future performance, the most common allegation for the year. The proportion of cases with an allegation related to a regulatory issue increased from 19% in 2021 to 26% in 2022 (see Figure 5).<sup>4</sup>

Figure 1. **Federal Filings and Number of Companies Listed in the United States**  
January 1996–December 2022



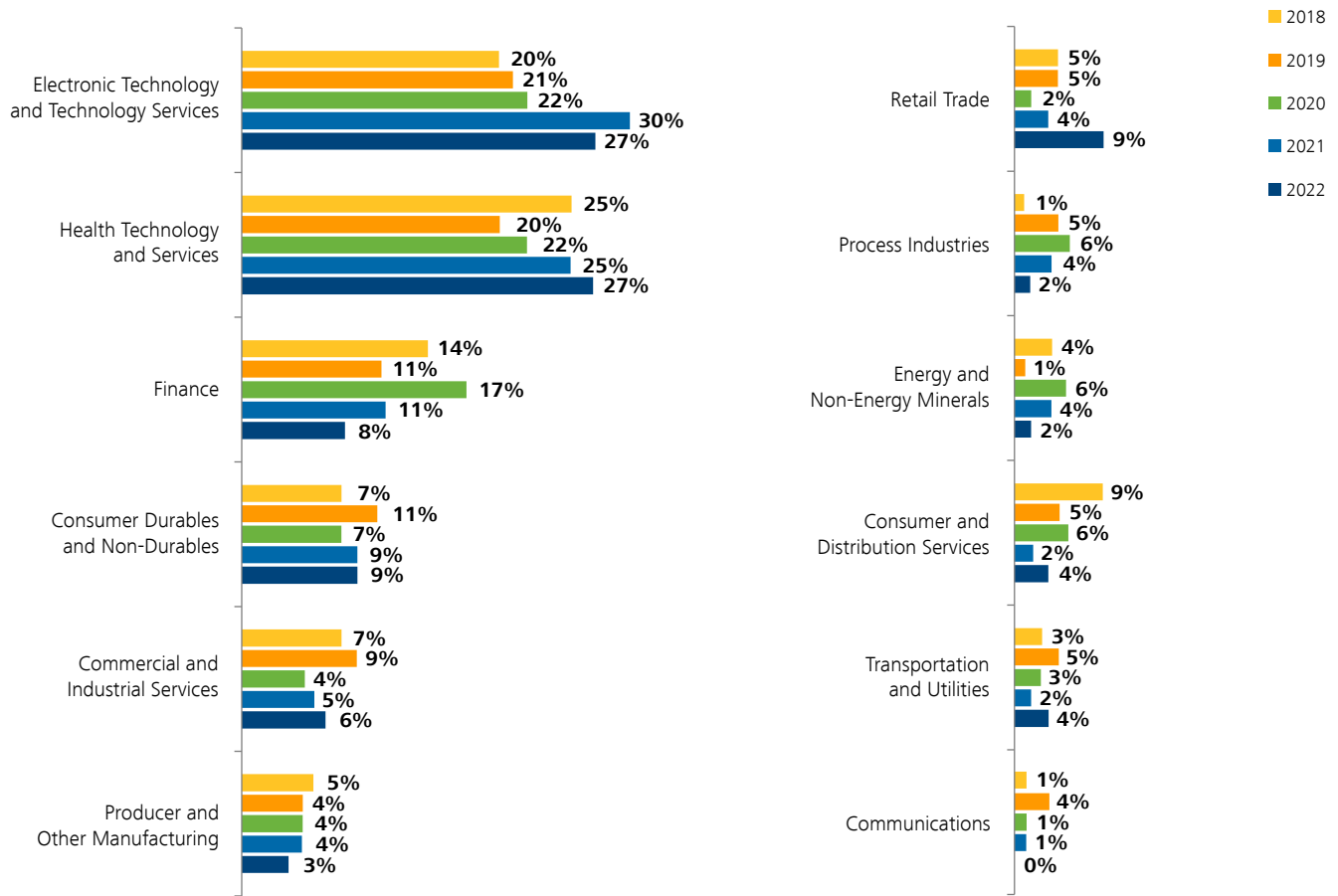
Note: Listed companies include those listed on the NYSE and Nasdaq. Listings data obtained from World Federation of Exchanges (WFE). The 2022 listings data is as of November 2022.

Figure 2. **Federal Filings by Type**  
January 2013–December 2022



*For the fourth consecutive year, there was a decline in the number of new federal securities class action suits filed.*

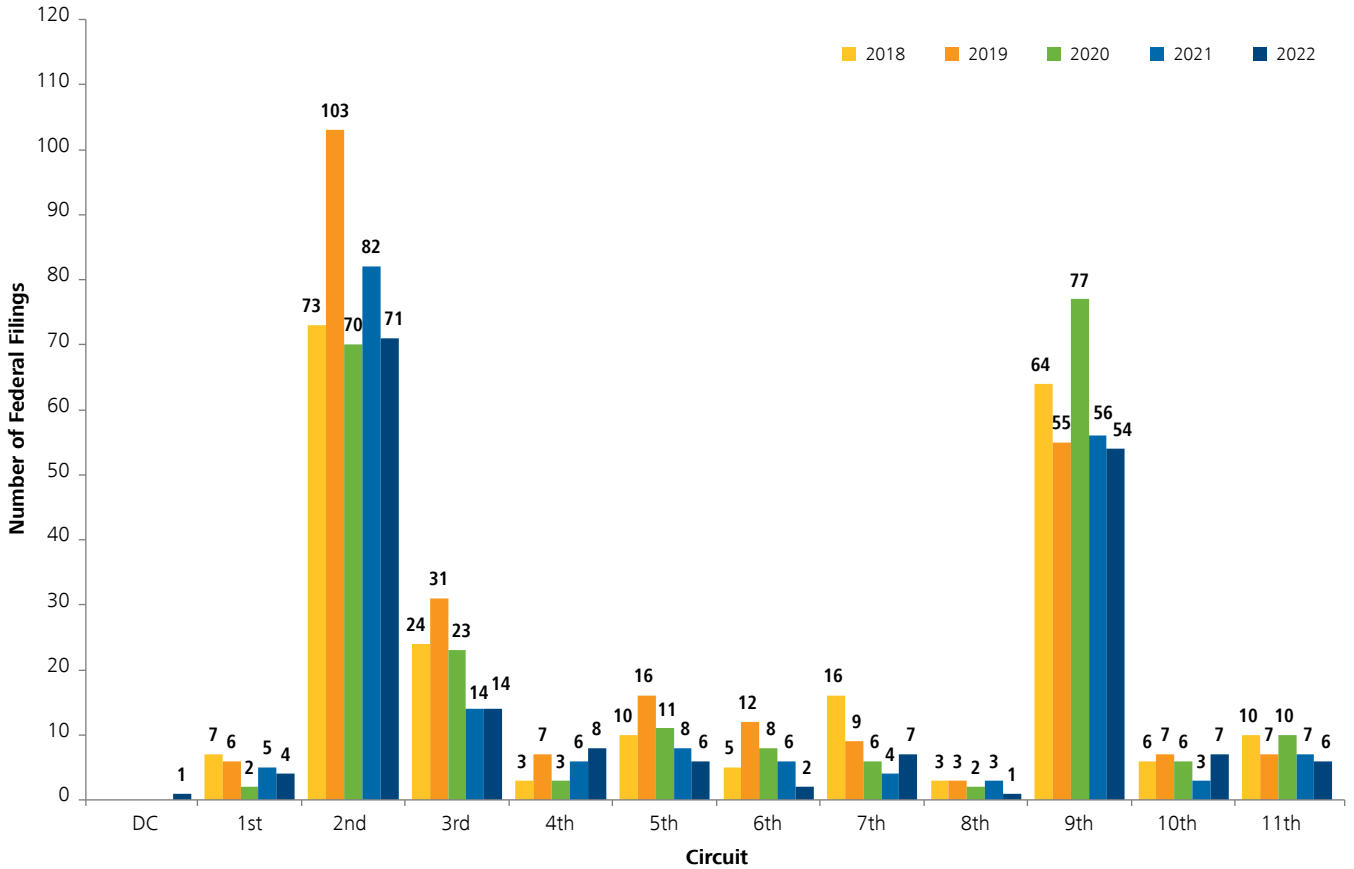
Figure 3. **Percentage of Federal Filings by Sector and Year**  
 Excludes Merger Objections and Crypto Unregistered Securities  
 January 2018–December 2022



Note: This analysis is based on the FactSet Research Systems, Inc. economic sector classification. Some of the FactSet economic sectors are combined for presentation.

*Filings against defendants in the health technology and services sector and the electronic technology and services sector were the most common in 2022, each accounting for 27% of total cases.*

Figure 4. **Federal Filings by Circuit and Year**  
 Excludes Merger Objections and Crypto Unregistered Securities  
 January 2018–December 2022

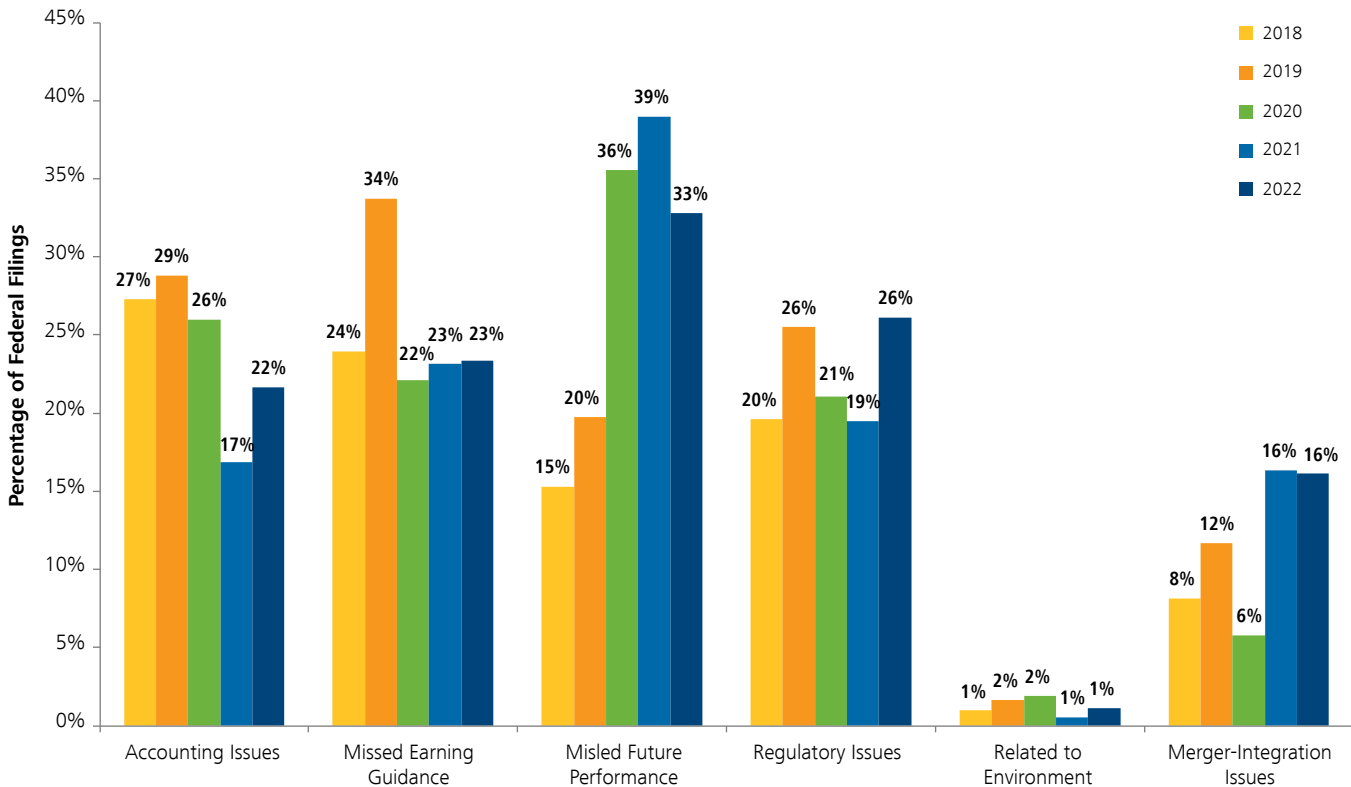


*Although there was a decline in the aggregate number of cases filed in the Second, Third, and Ninth Circuits to the lowest level within the 2018–2022 period, the majority of new filings continue to be concentrated in these jurisdictions.*



Figure 5. **Allegations**

Shareholder Class Actions with Alleged Violations of Rule 10b-5, Section 11, and/or Section 12  
January 2018–December 2022



## Event-Driven and Special Cases

Here we summarize activity and trends in filings over the 2019–2022 period in potential development areas we have identified for securities class actions (see Figures 6 and 7).<sup>5</sup>

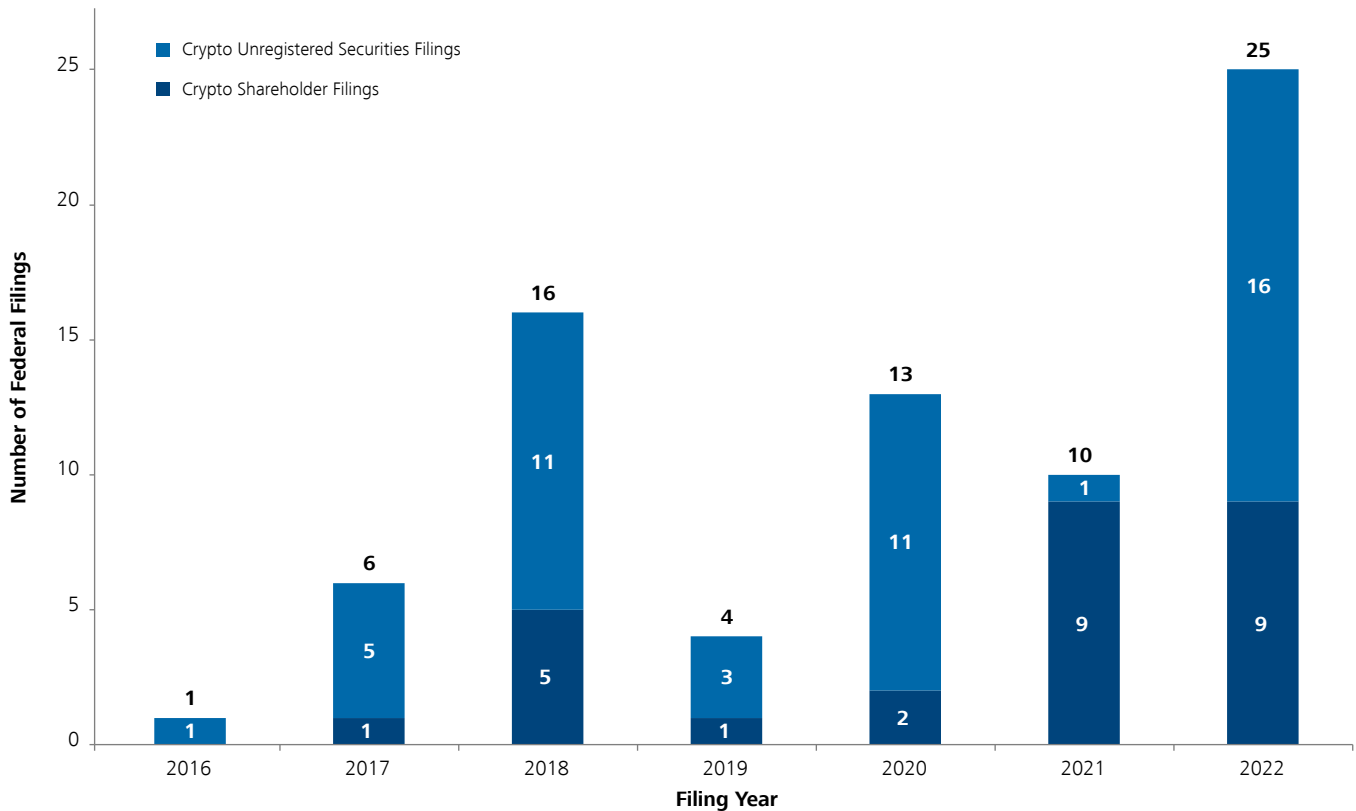
### ESG Cases

Environmental, social, and governance (ESG) disclosures and companies’ commitments to meet disclosure guidelines have been a developing area of interest to investors and government agencies such as the Securities and Exchange Commission over the recent decade.<sup>6</sup> Along with that interest have come waves of lawsuits filed by plaintiffs alleging fraud related to ESG disclosures. For example, in a securities class action suit filed against CBS Corporation in 2018, plaintiffs alleged the defendant made false and misleading statements and/or failed to disclose that CBS executives engaged in widespread workplace sexual harassment and that the defendant’s purported policies were inadequate to prevent the conduct. This suit was settled in 2022 for \$14,750,000. Similarly, in the ongoing securities suit filed against Activision Blizzard, Inc., in 2021, plaintiffs allege the defendant made false and misleading statements and/or failed to disclose that there was discrimination against women and minority employees and the existence of numerous complaints about unlawful harassment, discrimination, and retaliation made to human resources that were not addressed. As focus and interest in this area continues, this may lead to a higher number of ESG-related cases being filed.

### Crypto Cases

The first securities class action related to cryptocurrency was filed against GAW Miners, LLC, in June 2016. Since 2017, there have been year-to-year fluctuations in the number of new crypto federal filings each year. In 2022, there were 25 crypto federal class actions suits filed. This is more than double the number of similar suits filed in 2021. This uptick was driven by the increase in the number of crypto unregistered securities cases.

Figure 6. **Number of Crypto Federal Filings**  
January 2016–December 2022



### Bribery/Kickbacks

Over the 2019–2020 period, there were 14 cases filed related to allegations of bribery or kickbacks. In 2021, there was a reduction in the number of these cases filed, with only one bribery/kickback-related case filed in that year. In 2022, four such cases were filed.

### Cannabis

In 2019 and 2020, there were seven and six securities class action cases filed against defendants in the cannabis industry, respectively. Since then, there has only been one suit filed against these defendants each year.

### Cybersecurity Breach

Since 2019, there have been at least three securities class action suits filed each year related to a cybersecurity breach. More specifically, between 2019 and 2020, there were a total of six such cases filed, and an additional five suits brought in 2021. In 2022, the number of new federal suits declined slightly to three filings.

### COVID-19

Since the emergence of the COVID-19 pandemic in March 2020, 77 securities class action suits have been filed with claims related to the pandemic. Between March 2020 and December 2020, 33 cases were filed with COVID-19-related claims. In 2021, the number of suits filed declined to 20, but then increased slightly to 24 in 2022.

### Environment

Over the 2019–2022 period, 12 environment-related securities class action suits have been filed. Of these, only three were filed in 2021–2022.

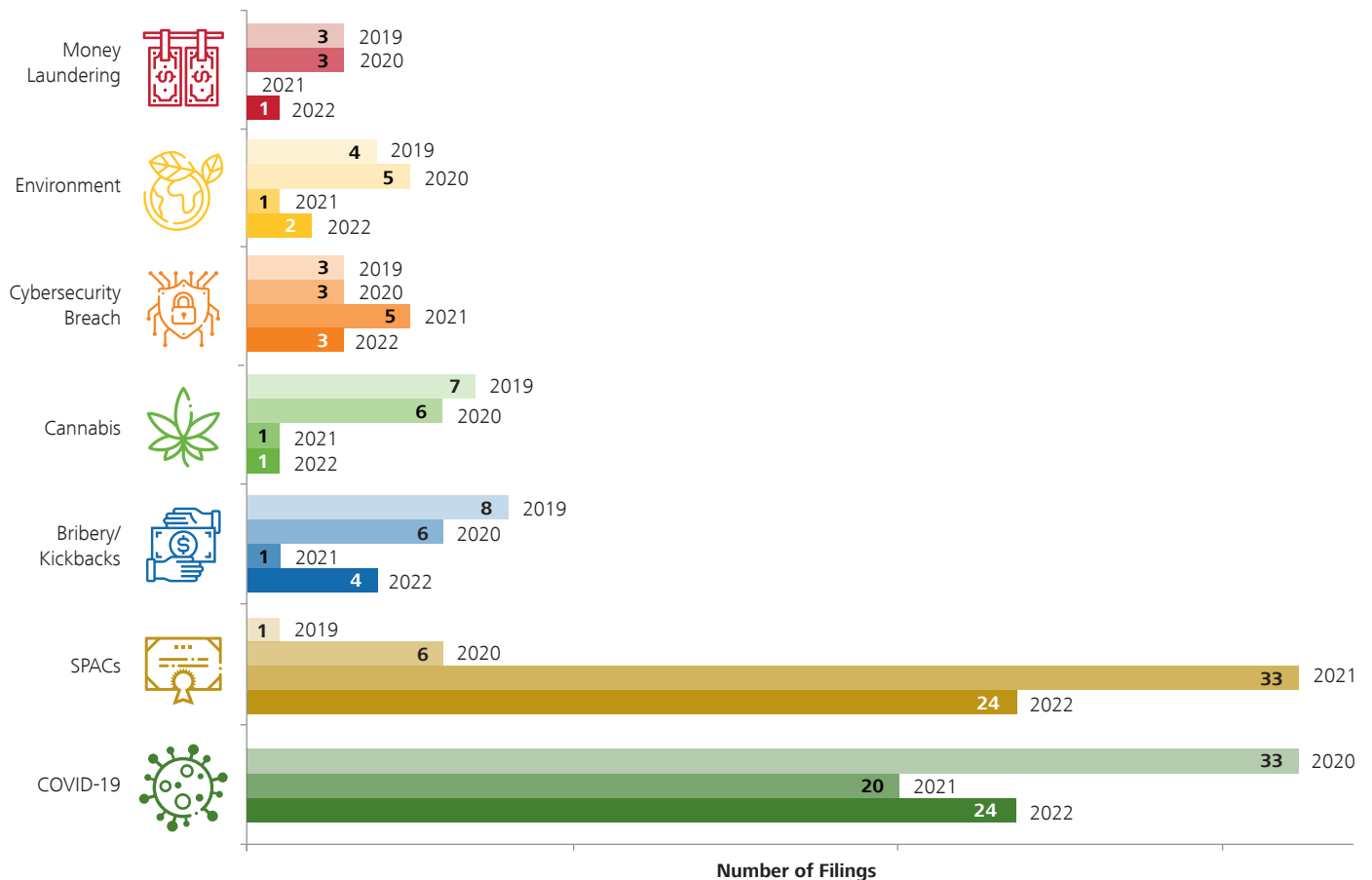
### Money Laundering

In 2019 and 2020, there were three cases filed each year with claims related to money laundering. Between 2021 and 2022, only one such suit has been filed.

### SPAC

In 2019, only one case related to special purpose acquisition companies (SPACs) was filed. Since then, new federal cases related to these claims have increased substantially, with six filings in 2020 and 33 cases filed in 2021. During 2022, there were 24 securities class action suits filed related to SPACs, a 27% decline from 2021.<sup>7</sup>

Figure 7. **Event-Driven and Other Special Cases by Filing Year**  
January 2019–December 2022



## Trends in Resolutions

The number of resolved cases—dismissed and settled cases—declined in 2022 to 214 from 248 in 2021 (see Figure 8).<sup>8</sup> Although 2022 was a record-setting year for the number of settled non-merger-objection, non-crypto unregistered securities cases during the 2013–2022 period, there was a larger decrease in the number of dismissed non-merger-objection, non-crypto unregistered securities cases, which led to a decline in overall resolutions. In addition, in 2022, the number of merger-objection cases resolved declined to 14, a substantial decrease from the 2017–2020 period, when more than 130 such cases were resolved each year. Of the cases filed since 2015, as of 31 December 2022, a larger portion has been dismissed than have settled (see Figure 9). This is consistent with historical trends, which indicate that settlements occur later in the litigation cycle and dismissals tend to occur in the earlier stages. Taking the time between first complaint and resolution to represent the length of time taken to resolve a suit, more than half the cases resolve between one and three years, and 17% of cases resolve more than four years after the first complaint was filed (see Figure 10).

Figure 8. **Number of Resolved Cases: Dismissed or Settled**  
January 2013–December 2022

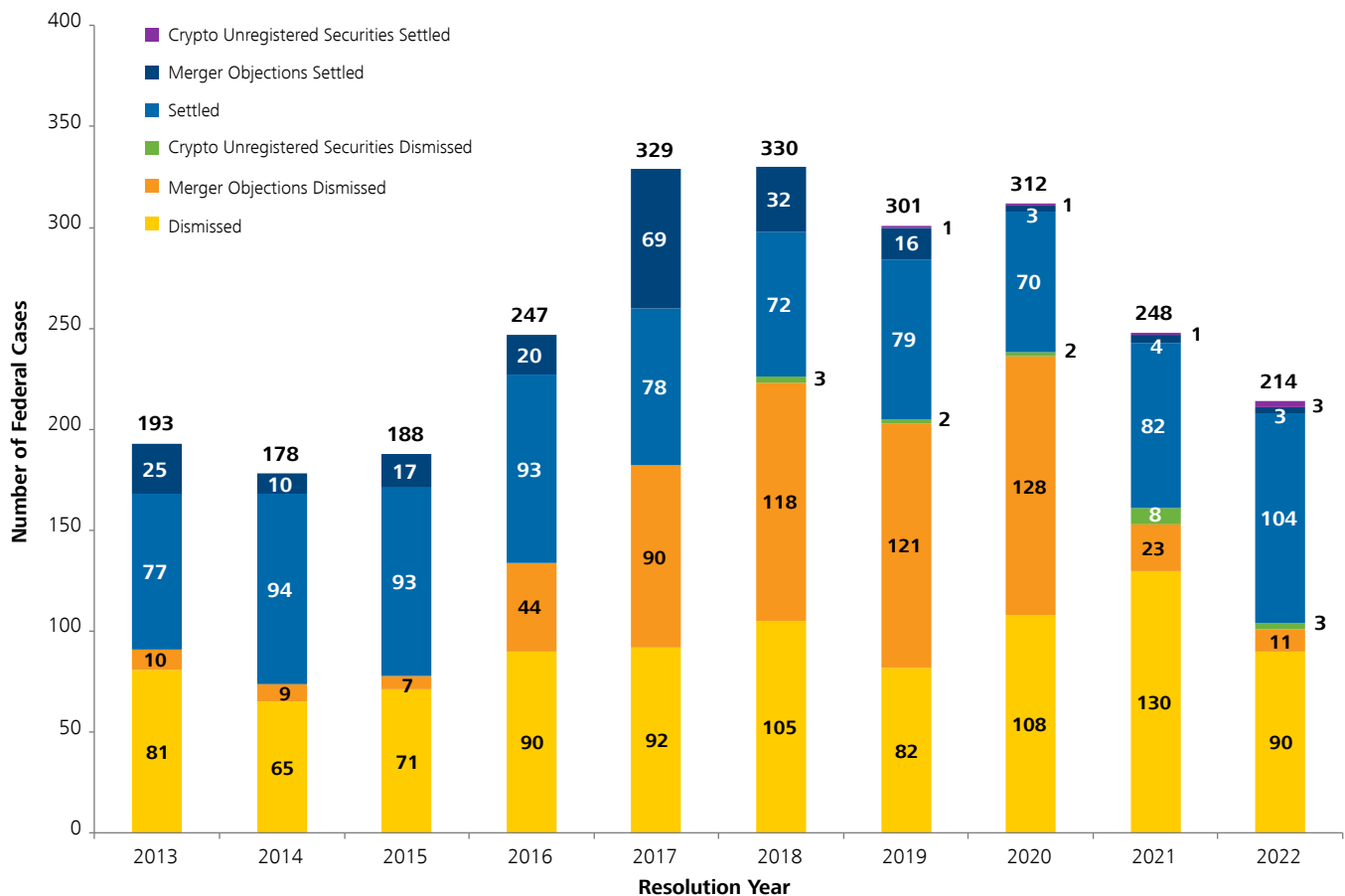
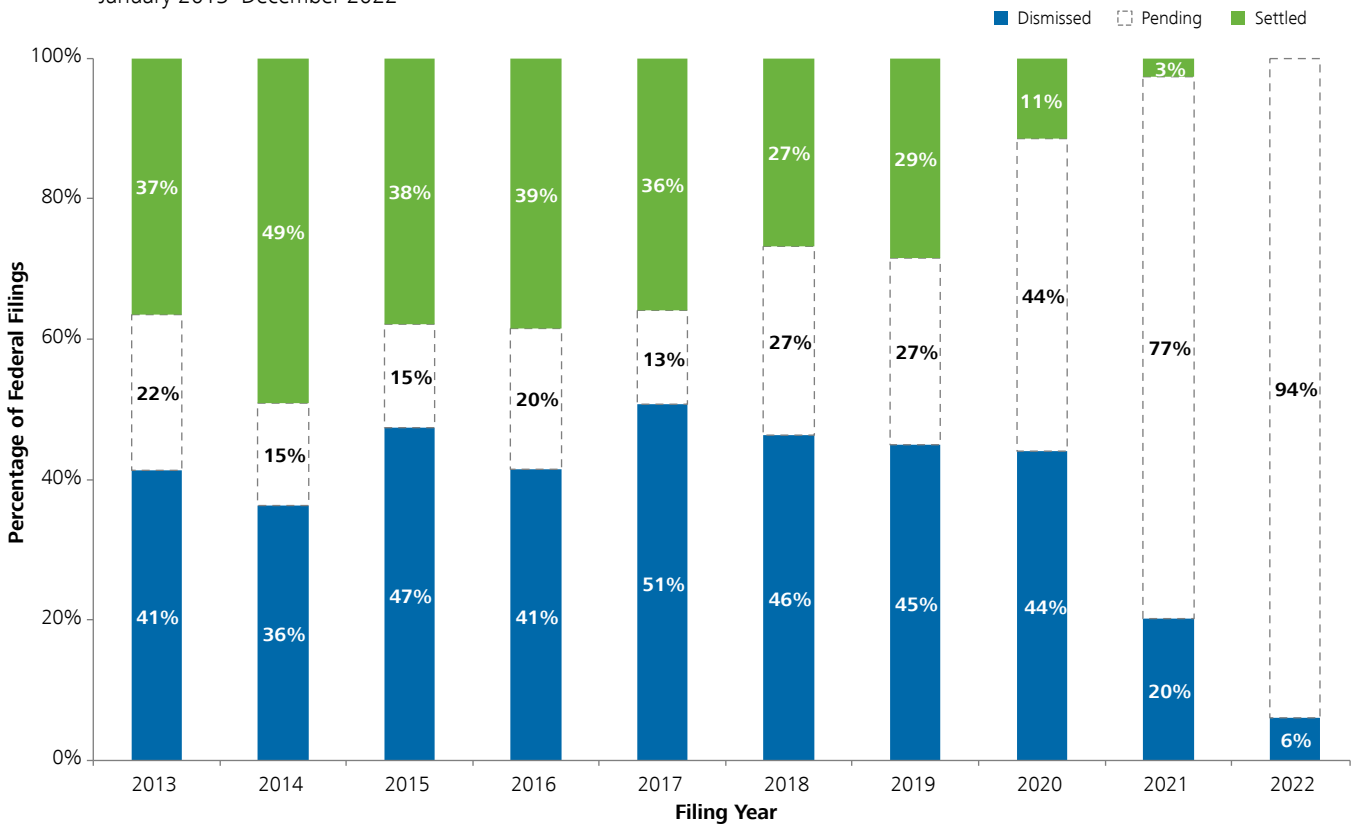
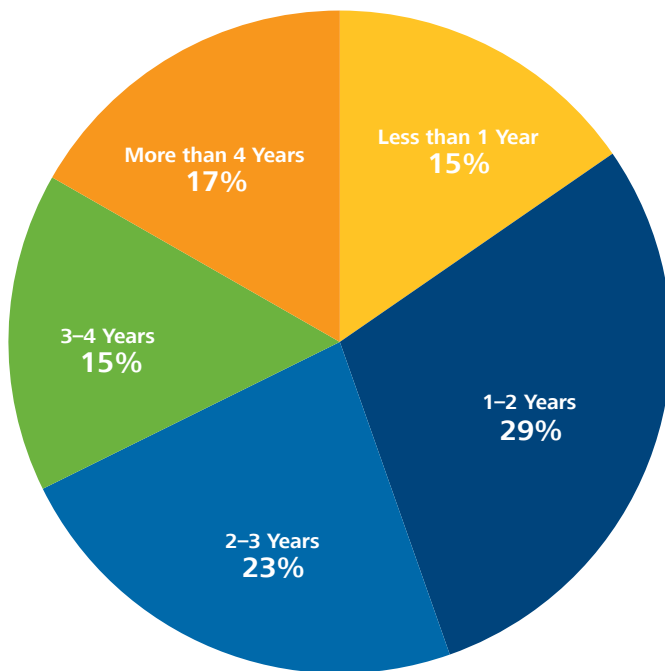


Figure 9. **Status of Cases as Percentage of Federal Filings by Filing Year**  
 Excludes Merger Objections, Crypto Unregistered Securities, and Verdicts  
 January 2013–December 2022



Note: Dismissals may include dismissals without prejudice and dismissals under appeal. Component values may not add to 100% due to rounding.

Figure 10. **Time from First Complaint Filing to Resolution**  
 Excluding Merger Objections and Crypto Unregistered Securities  
 Cases Filed January 2003–December 2018 and Resolved January 2003–December 2022



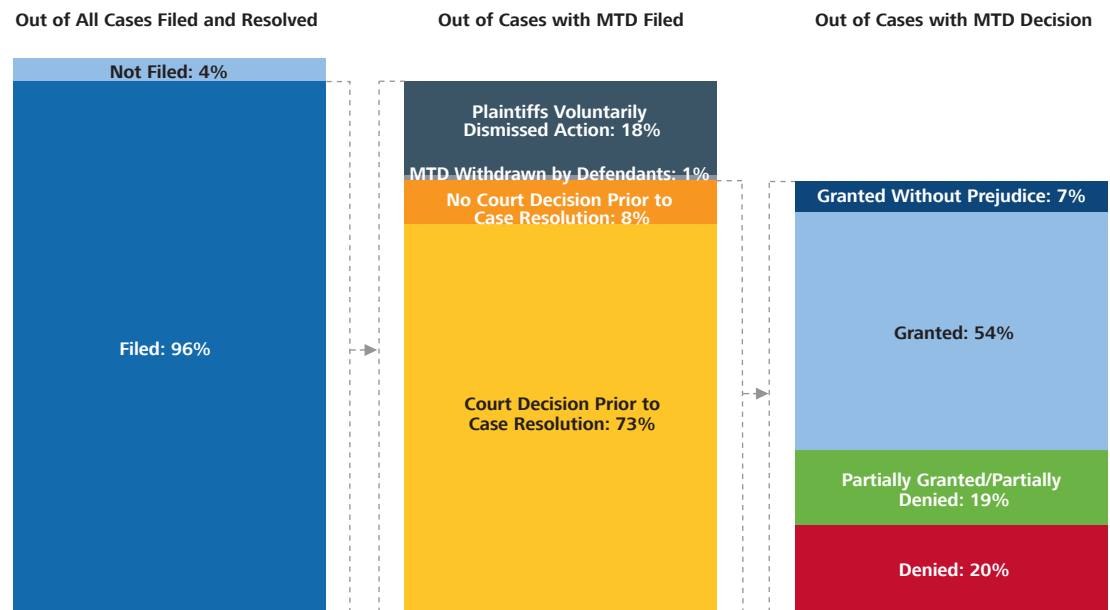
## Analysis of Motions

NERA's federal securities class action database tracks filing and resolution activity as well as decisions on motions to dismiss, motions for class certification, and the status of any motion as of the resolution date. For this analysis, we include securities class actions that were filed and resolved over the 2013–2022 period in which purchasers of common stock are part of the class and in which a violation of Rule 10b-5, Section 11, and/or Section 12 is alleged.

### Motion to Dismiss

A motion to dismiss was filed in 96% of the securities class action suits filed and resolved. A decision was reached in 73% of these cases, while 18% were voluntarily dismissed by plaintiffs, 8% settled before a court decision was reached, and 1% of the motions were withdrawn by defendants. Among the cases where a decision was reached, 61% were granted (with or without prejudice) and only 20% were denied (see Figure 11).

Figure 11. **Filing and Resolutions of Motions to Dismiss**  
Cases Filed and Resolved January 2013–December 2022



### Motion for Class Certification

A motion for class certification was filed in only 17% of the securities class action suits filed and resolved, as most cases are either dismissed or settled before the class certification stage is reached. A decision was reached in 60% of the cases where a motion for class certification was filed. Almost all of the other 40% of cases were resolved with a settlement. Among the cases where a decision was reached, the motion for class certification was granted (with or without prejudice) in 86% of cases (see Figure 12). Approximately 65% of decisions on motions for class certification occur within three years of the filing of the first complaint, with nearly all decisions occurring within five years (see Figure 13). The median time was about 2.7 years.

Figure 12. **Filing and Resolutions of Motions for Class Certification**  
Cases Filed and Resolved January 2013–December 2022

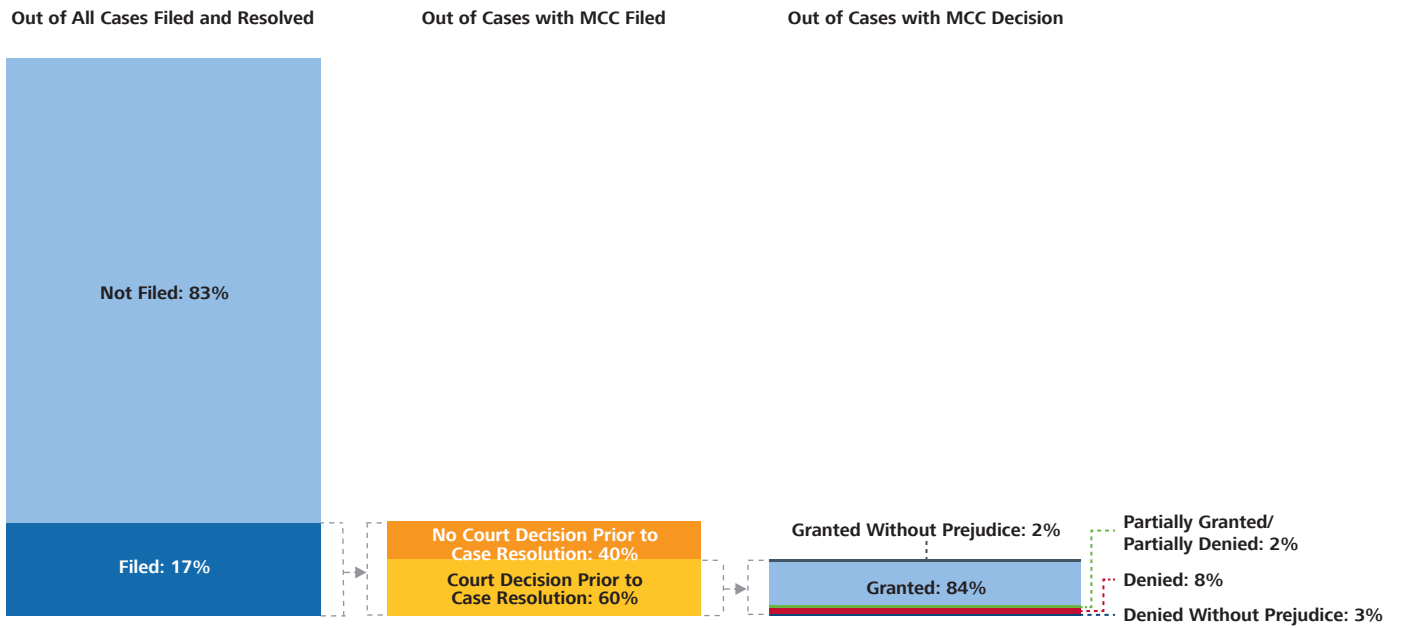
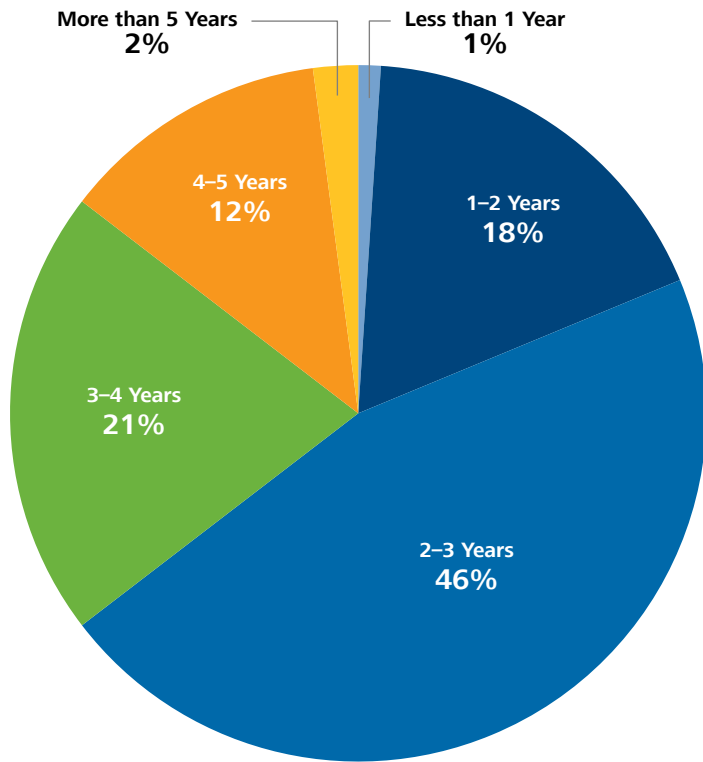


Figure 13. **Time from First Complaint Filing to Class Certification Decision**  
Cases Filed and Resolved January 2013–December 2022



## Trends in Settlement Values

Aggregate settlements for 2022 totaled \$4 billion, which is more than double the inflation-adjusted total for 2021 of \$1.9 billion.<sup>9</sup> In 2022, the average settlement value was \$38 million, an increase of more than 70% compared to the 2021 inflation-adjusted average settlement value (see Figures 14 and 15). The distribution of 2022 settlement values differed from the settlements in 2021, with more cases settling for higher values, and more consistent with the distribution of settlement values observed in 2020 (see Figure 16). This shift is also evident in the median settlement values. The median settlement value for 2022 is \$13 million, which is approximately \$5 million higher than the 2021 inflation-adjusted median value of \$8 million (see Figure 17).<sup>10</sup>

Figure 14. **Average Settlement Value**

Excludes Merger Objections, Crypto Unregistered Securities, and Settlements for \$0 to the Class  
January 2013–December 2022

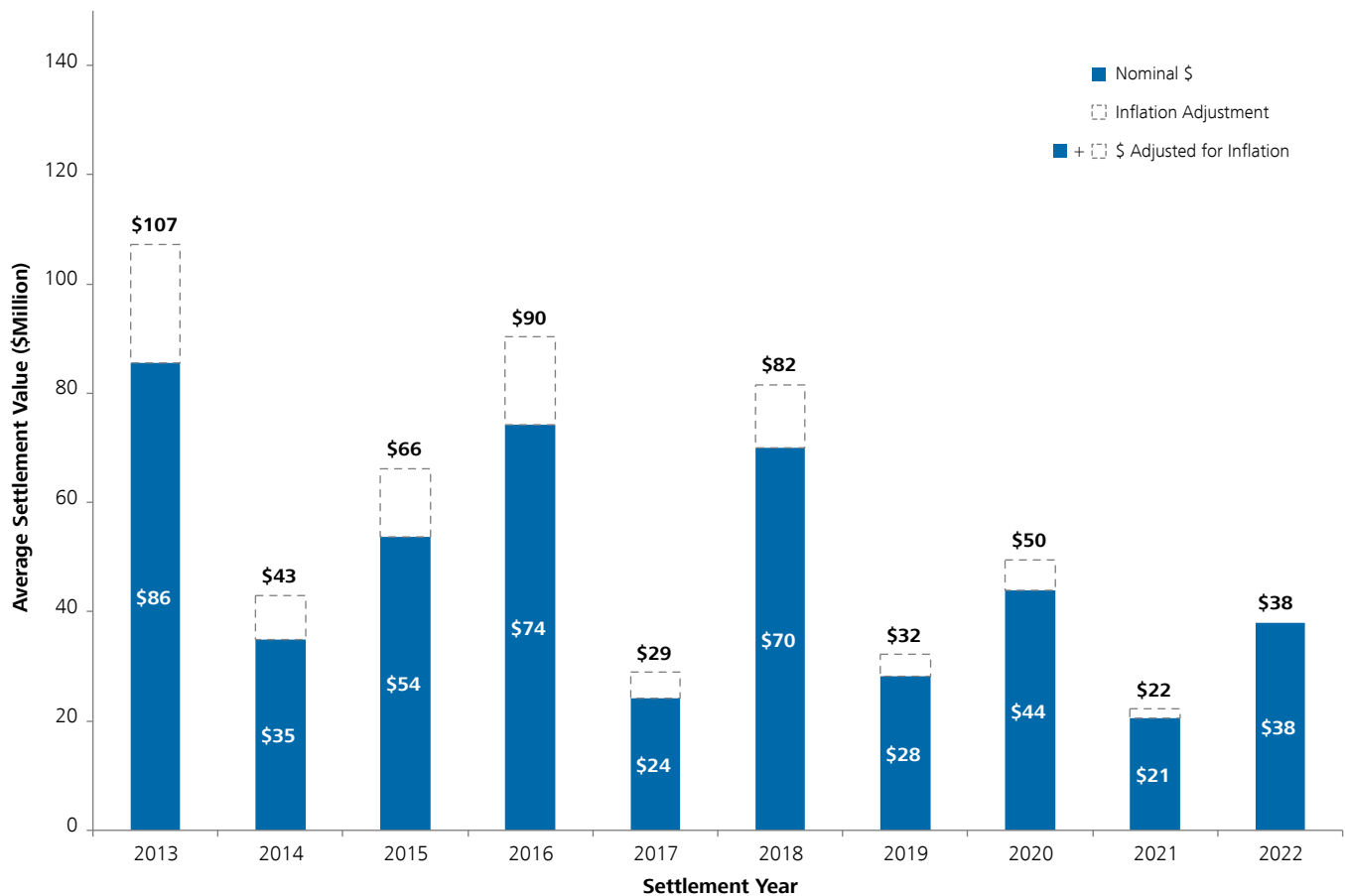




Figure 15. **Average Settlement Value**

Excludes Settlements over \$1 Billion, Merger Objections, Crypto Unregistered Securities, and Settlements for \$0 to the Class  
January 2013–December 2022

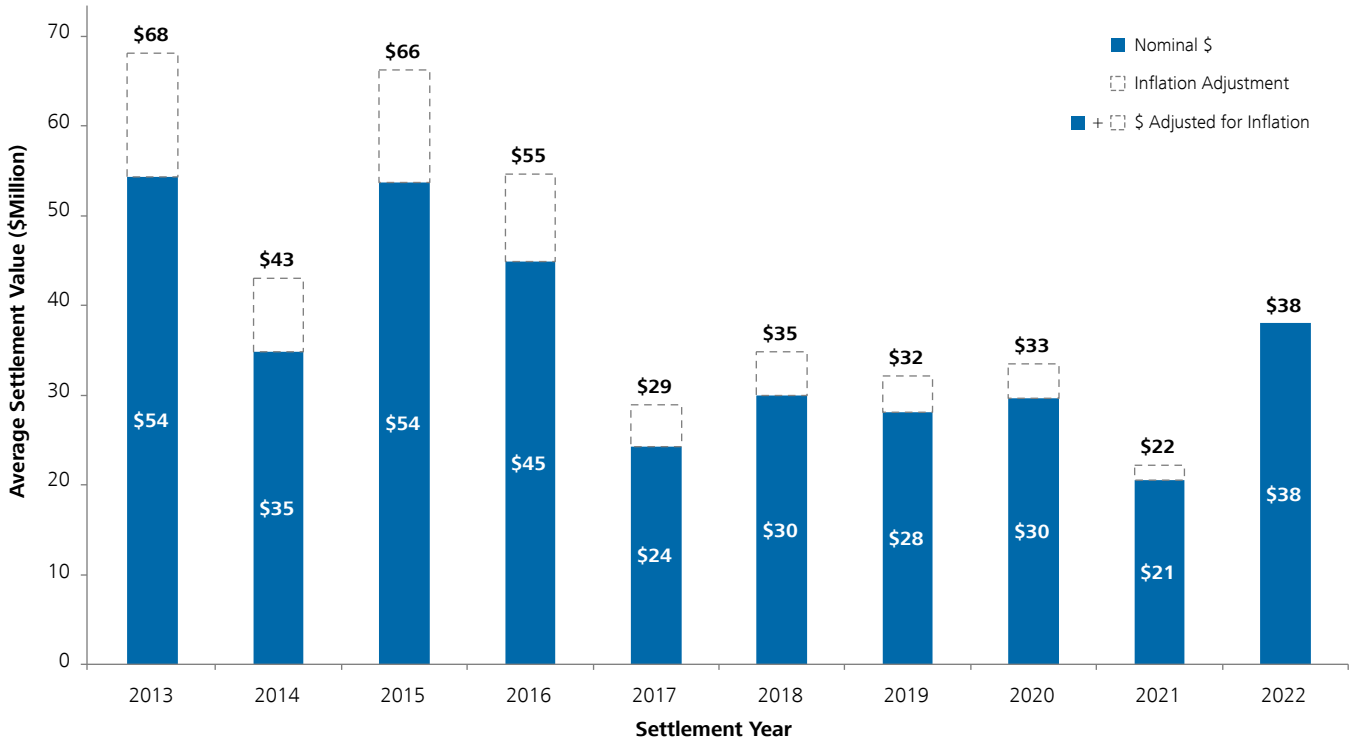


Figure 16. **Distribution of Settlement Values**

Excludes Merger Objections, Crypto Unregistered Securities, and Settlements for \$0 to the Class  
January 2018–December 2022

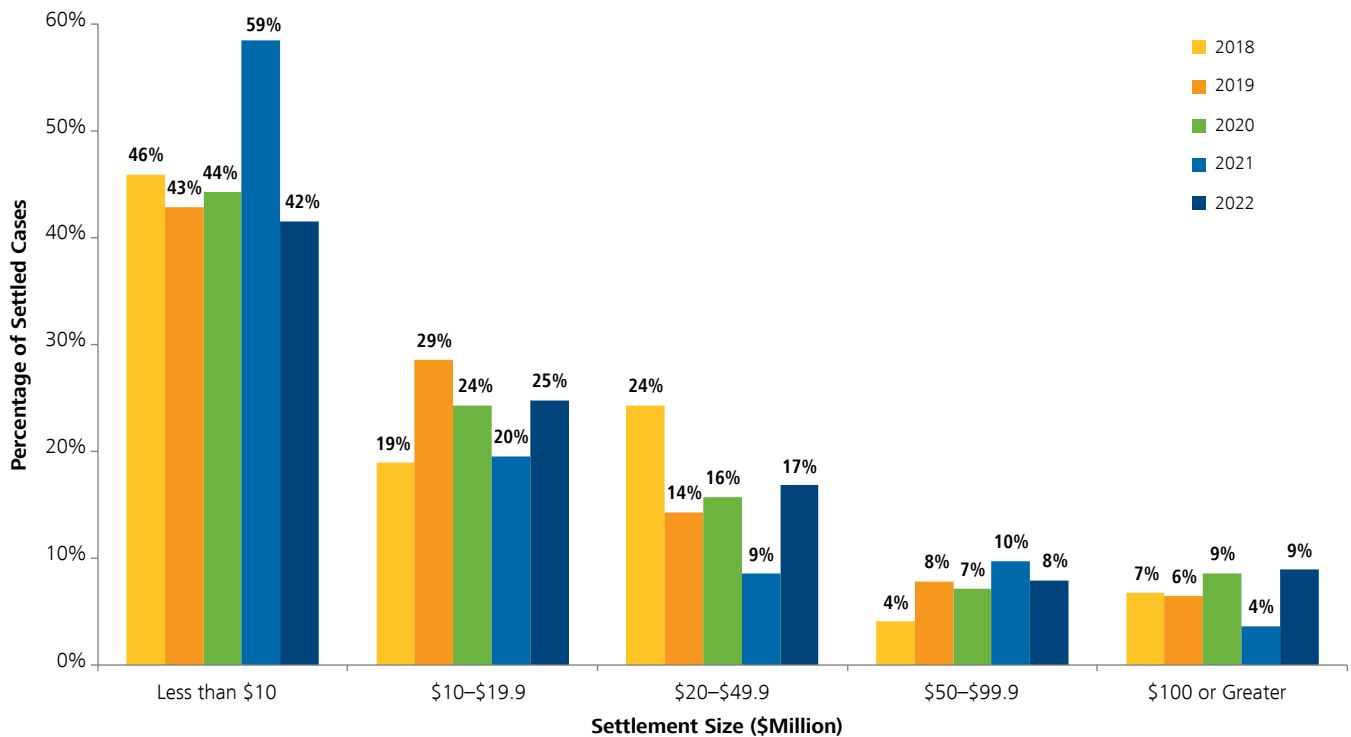
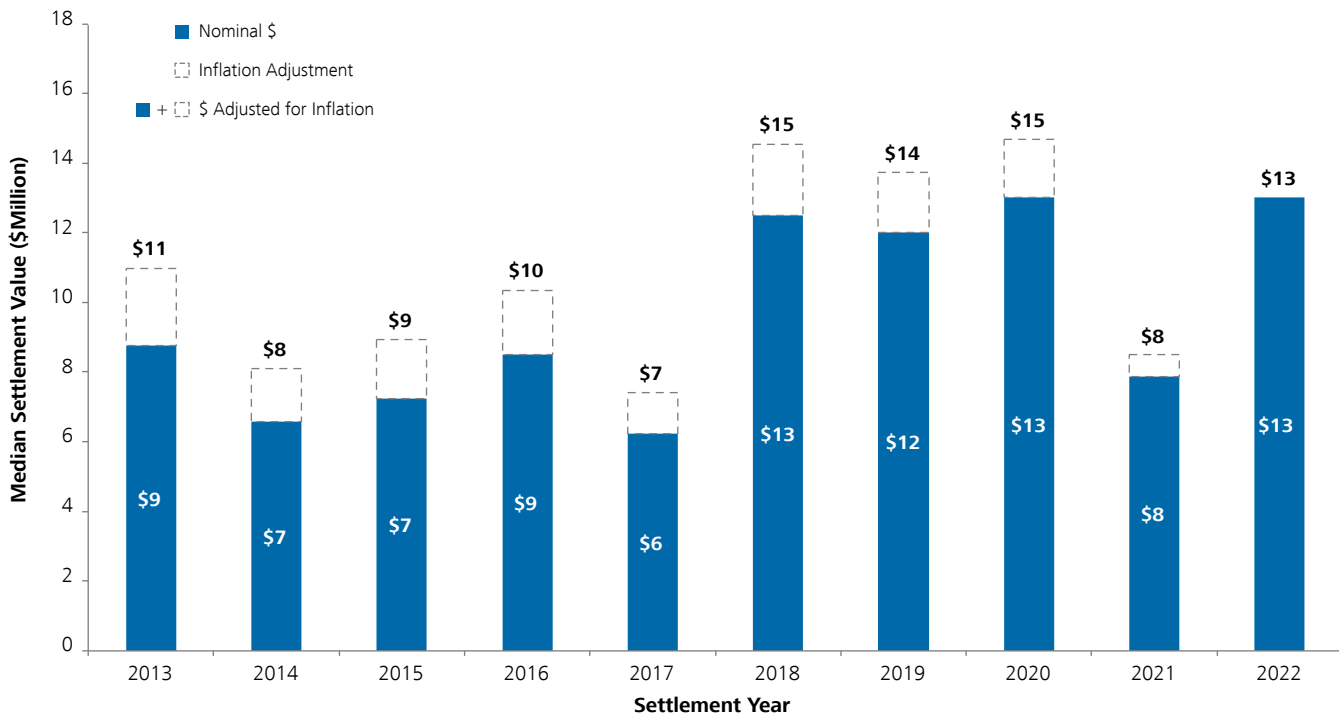


Figure 17. **Median Settlement Value**

Excludes Settlements over \$1 Billion, Merger Objections, Crypto Unregistered Securities, and Settlements for \$0 to the Class January 2013–December 2022



### Top Settlements

The top 10 settlements in 2022 ranged from \$98 million to \$809.5 million and totaled \$2.2 billion. The highest settlement reached was against Twitter, Inc., for a case filed in California in 2016 (see Table 1).

Table 1. **Top 10 2022 Securities Class Action Settlements**

Ranking	Defendant	Filing Date	Settlement Date	Total Settlement Value (\$Million)	Plaintiffs' Attorneys' Fees and Expenses Value (\$Million)	Circuit	Economic Sector
1	Twitter, Inc.	16 Sept 16	11 Nov 22	\$809.5	\$185.7	9th	Technology Services
2	Teva Pharmaceutical Industries Ltd.	6 Nov 16	2 Jun 22	\$420.0	\$109.3	2nd	Health Technology
3	Luckin Coffee Inc.	13 Feb 20	22 Jul 22	\$175.0	\$31.3	2nd	Consumer Non-Durables
4	BlackBerry Ltd.	4 Oct 13	29 Sept 22	\$165.0	\$59.5	2nd	Technology Services
5	Granite Construction Inc.	13 Aug 19	24 Feb 22	\$129.0	\$21.7	9th	Industrial Services
6	Endo International plc.	14 Nov 17	23 Feb 22	\$113.4	\$20.9	3rd	Health Technology
7	Walgreen Co.	10 April 15	7 Oct 22	\$105.0	\$31.1	7th	Retail Trade
8	Novo Nordisk A/S	11 Jan 17	27 Jun 22	\$100.0	\$31.7	3rd	Health Technology
9	Stamps.com, Inc.	13 Mar 19	24 Jan 22	\$100.0	\$17.3	9th	Commercial Services
10	Mattel, Inc.	24 Dec 19	2 May 22	\$98.0	\$14.8	9th	Consumer Durables
<b>Total</b>				<b>\$2,214.9</b>	<b>\$523.4</b>		

The top 10 federal securities class action settlements, as of 31 December 2022, consists of settlements ranging from \$1.14 billion to \$7.24 billion. From 2018 to 2021, this list remained unchanged because there were no settlements reached in excess of \$1.1 billion during this time. In 2022, this list was updated to incorporate the \$1.21 billion partial settlement in the ongoing suit against Valeant Pharmaceuticals International, Inc. (see Table 2).

Table 2. **Top 10 Federal Securities Class Action Settlements** (As of 31 December 2022)

Ranking	Defendant	Filing Date	Settlement Year(s)	Total Settlement Value (\$Million)	Codefendant Settlements		Plaintiffs' Attorneys' Fees and Expenses Value (\$Million)	Circuit	Economic Sector
					Financial Institutions Value (\$Million)	Accounting Firms Value (\$Million)			
1	ENRON Corp.	22 Oct 01	2003–2010	\$7,242	\$6,903	\$73	\$798	5th	Industrial Services
2	WorldCom, Inc.	30 Apr 02	2004–2005	\$6,196	\$6,004	\$103	\$530	2nd	Communications
3	Cendant Corp.	16 Apr 98	2000	\$3,692	\$342	\$467	\$324	3rd	Finance
4	Tyco International, Ltd.	23 Aug 02	2007	\$3,200	No codefendant	\$225	\$493	1st	Producer Manufacturing
5	Petroleo Brasileiro S.A.- Petrobras	8 Dec 14	2018	\$3,000	\$0	\$50	\$205	2nd	Energy Minerals
6	AOL Time Warner Inc.	18 Jul 02	2006	\$2,650	No codefendant	\$100	\$151	2nd	Consumer Services
7	Bank of America Corp.	21 Jan 09	2013	\$2,425	No codefendant	No codefendant	\$177	2nd	Finance
8	Household International, Inc.	19 Aug 02	2006–2016	\$1,577	Dismissed	Dismissed	\$427	7th	Finance
9	Valeant Pharmaceuticals International, Inc.*	22 Oct 15	2020	\$1,210	\$0	\$0	\$160	3rd	Health Technology
10	Nortel Networks	2 Mar 01	2006	\$1,143	No codefendant	\$0	\$94	2nd	Electronic Technology
<b>Total</b>				<b>\$32,334</b>	<b>\$13,249</b>	<b>\$1,017</b>	<b>\$3,358</b>		

\*Denotes a partial settlement, which is included here due to its sizable amount. Note that this case is not included in any of our resolution or settlement statistics.

## NERA-Defined Investor Losses

To estimate the potential aggregate loss to investors as a result of investing in the defendant's stock during the alleged class period, NERA has developed a proprietary variable, NERA-Defined Investor Losses, using publicly available data. The NERA-Defined Investor Loss measure is constructed assuming investors had invested in stocks during the class period whose performance was comparable to that of the S&P 500 Index. Over the years, NERA has reviewed and examined more than 2,000 settlements and found, of the variables analyzed, this proprietary variable to be the most powerful predictor of settlement amount.<sup>11</sup>

A statistical review reveals that settlement values and NERA-Defined Investor Losses are highly correlated, although the relationship is not linear. The ratio is higher for cases with lower NERA-Defined Investor Losses than for cases with higher Investor Losses (see Figure 18). Since 2013, annual median Investor Losses have ranged from a high of \$972 million to a low of \$358 million. For cases settled in 2022, the median Investor Losses were \$972 million, which is 33% higher than the 2021 value and the highest recorded value during the 2013–2022 period. Between 2020 and 2022, the median ratio of settlement amount to Investor Losses has been stable at 1.8% (see Figure 19).

Figure 18. **Median Settlement Value as a Percentage of NERA-Defined Investor Losses**  
By Investor Losses  
Cases Filed and Settled December 2011–December 2022

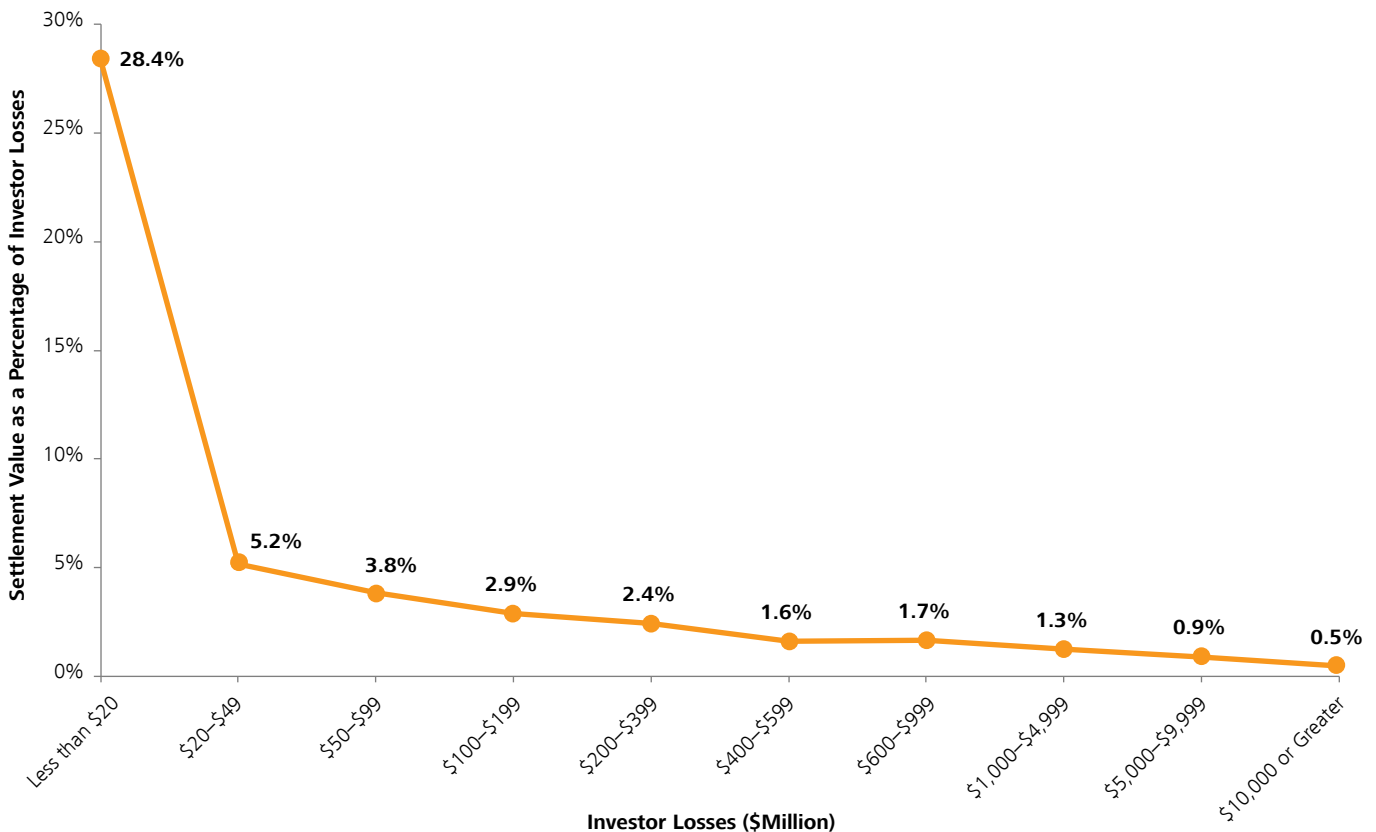
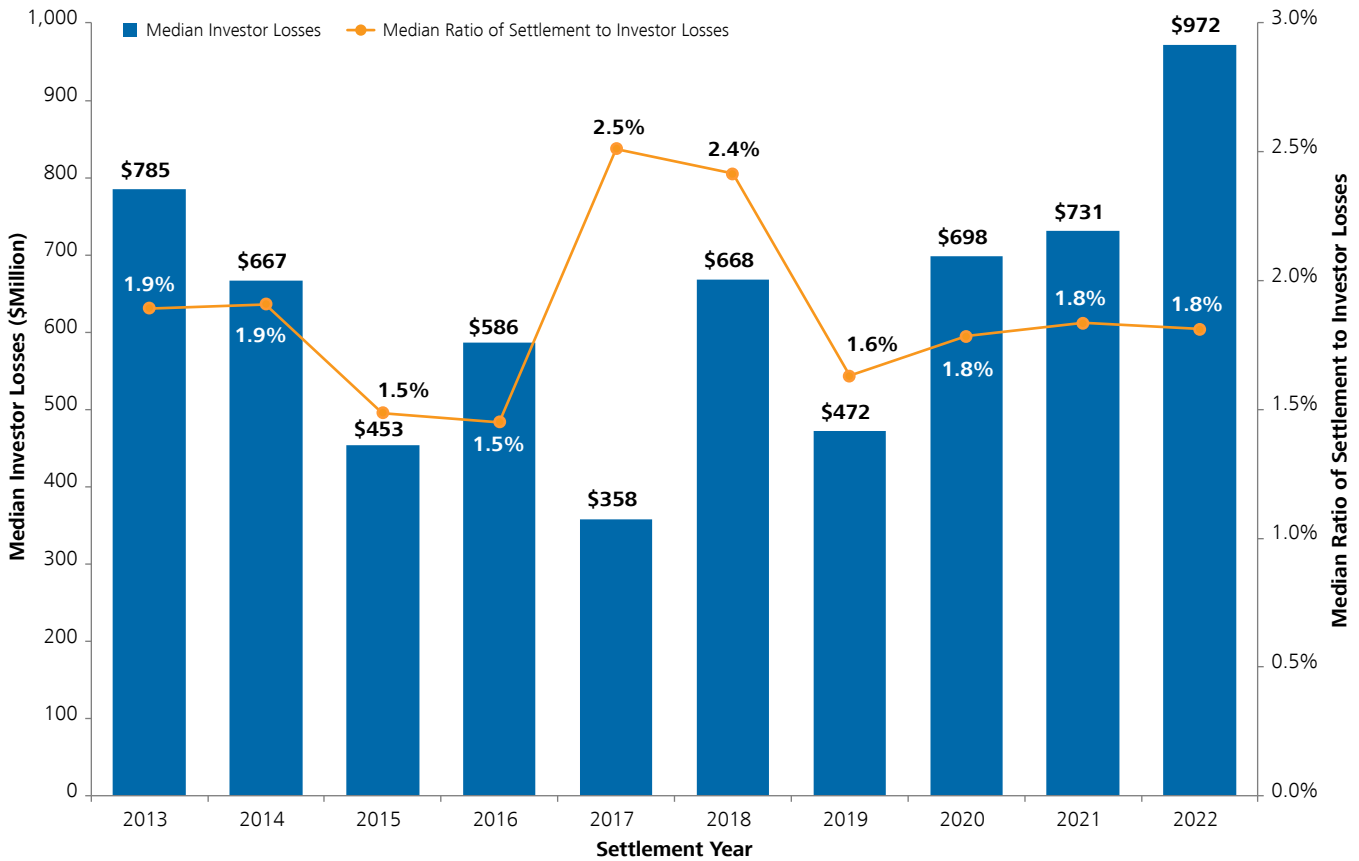


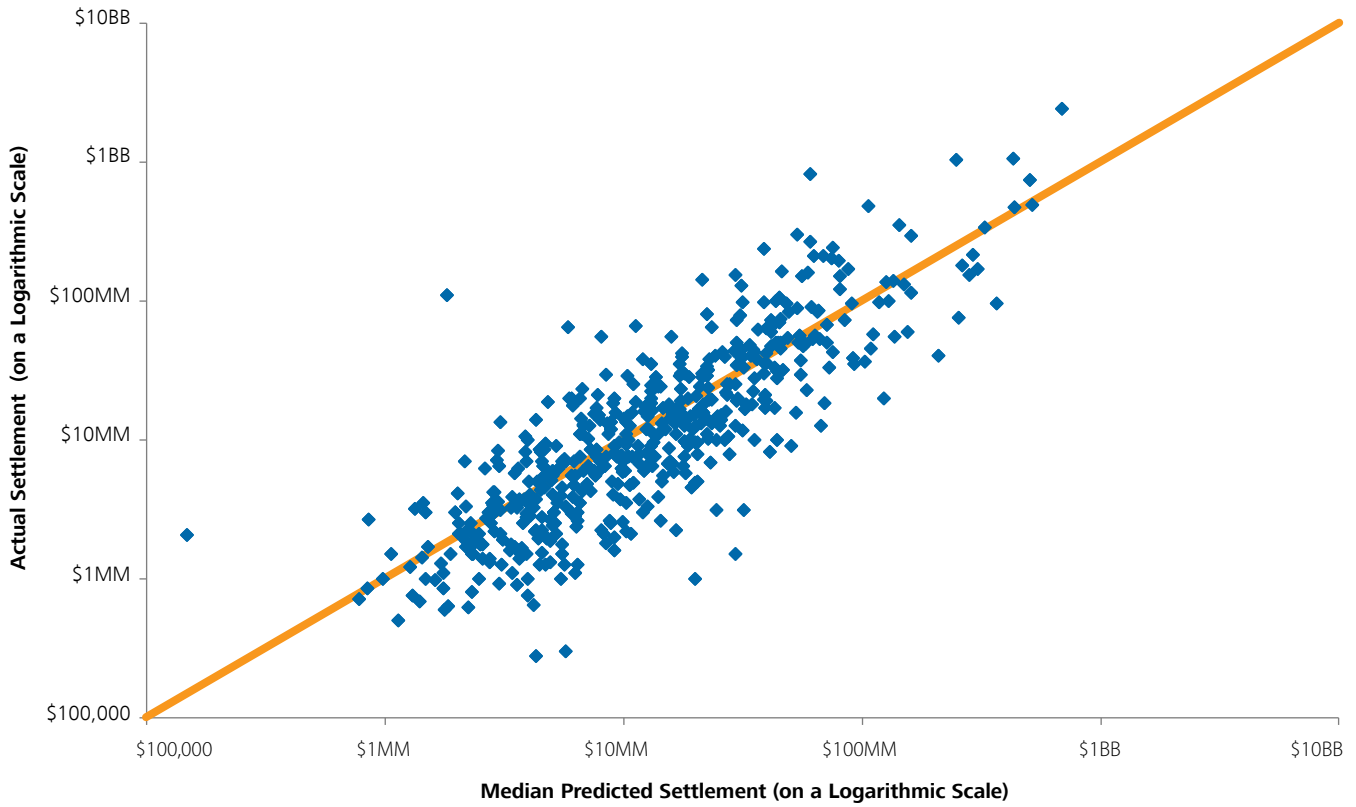
Figure 19. **Median NERA-Defined Investor Losses and Median Ratio of Settlement to Investor Losses by Settlement Year**  
January 2013–December 2022



NERA has identified the following key factors as driving settlement amounts:

- NERA-Defined Investor Losses;
- The market capitalization of the issuer immediately after the end of the class period;
- The types of securities (in addition to common stock) alleged to have been affected by the fraud;
- Variables that serve as a proxy for the merit of plaintiffs' allegations (e.g., whether the company has already been sanctioned by a government or regulatory agency or paid a fine in connection with the allegations);
- The stage of litigation at the time of settlement; and
- Whether an institution or public pension fund is named lead plaintiff (see Figure 20).

Figure 20. **Predicted vs. Actual Settlements**  
Investor Losses Using S&P 500 Index  
Cases Settled December 2011–December 2022



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*Among cases settled between December 2011 and December 2022, factors in NERA’s statistical model account for a substantial fraction of the variation observed in actual settlements.*

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## Trends in Plaintiffs' Attorneys' Fees and Expenses

In 2022, aggregate plaintiffs' attorneys' fees and expenses amounted to \$1 billion (see Figure 21). This marks the first year since 2018 that aggregate plaintiffs' attorneys' fees and expenses exceeded \$1 billion. The 2022 aggregate fees and expenses is double the amount observed in 2021, driven by an increase in the aggregate fees and expenses associated with settlements between \$10 million and \$499.9 million and by the \$186 million in fees and expenses associated with settlements between \$500 million and \$999.9 million. Although there are year-to-year fluctuations in the aggregate fees and expenses, the trend in the median of plaintiffs' attorneys' fees and expenses as a percentage of settlement amount has remained stable (see Figure 22). The data reveal that fees and expenses represent an increasing percentage of settlement value as settlement value decreases—a pattern that is consistent in cases settled since 2013 as well as in cases settled between 1996 and 2012. For cases settled in the recent period with a settlement value of \$1 billion or higher, fees and expenses accounted for 8.8% of the settlement value. This percentage increases to more than 30% for cases with a settlement value under \$10 million.

Figure 21. **Aggregate Plaintiffs' Attorneys' Fees and Expenses by Settlement Size**  
January 2013–December 2022

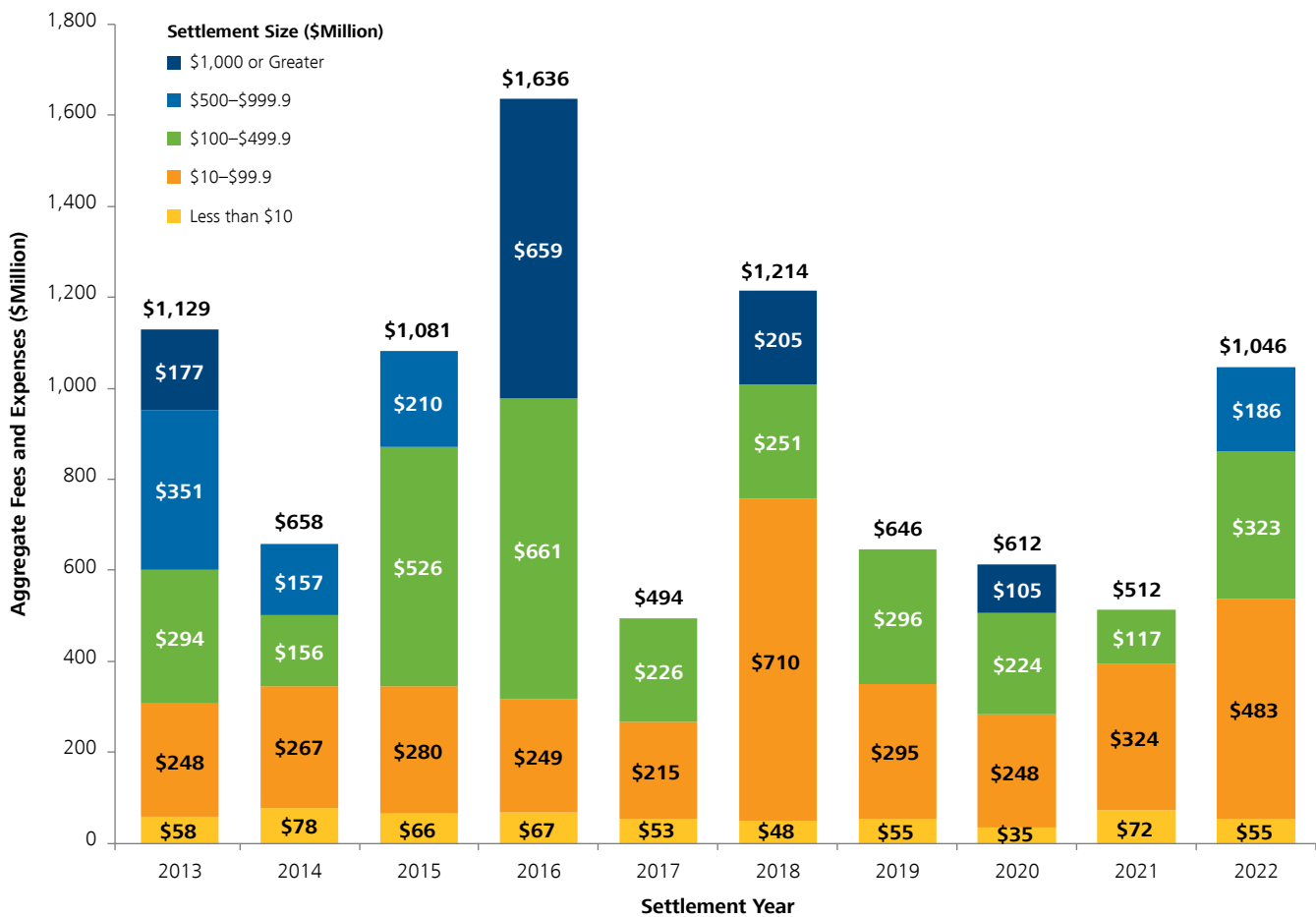
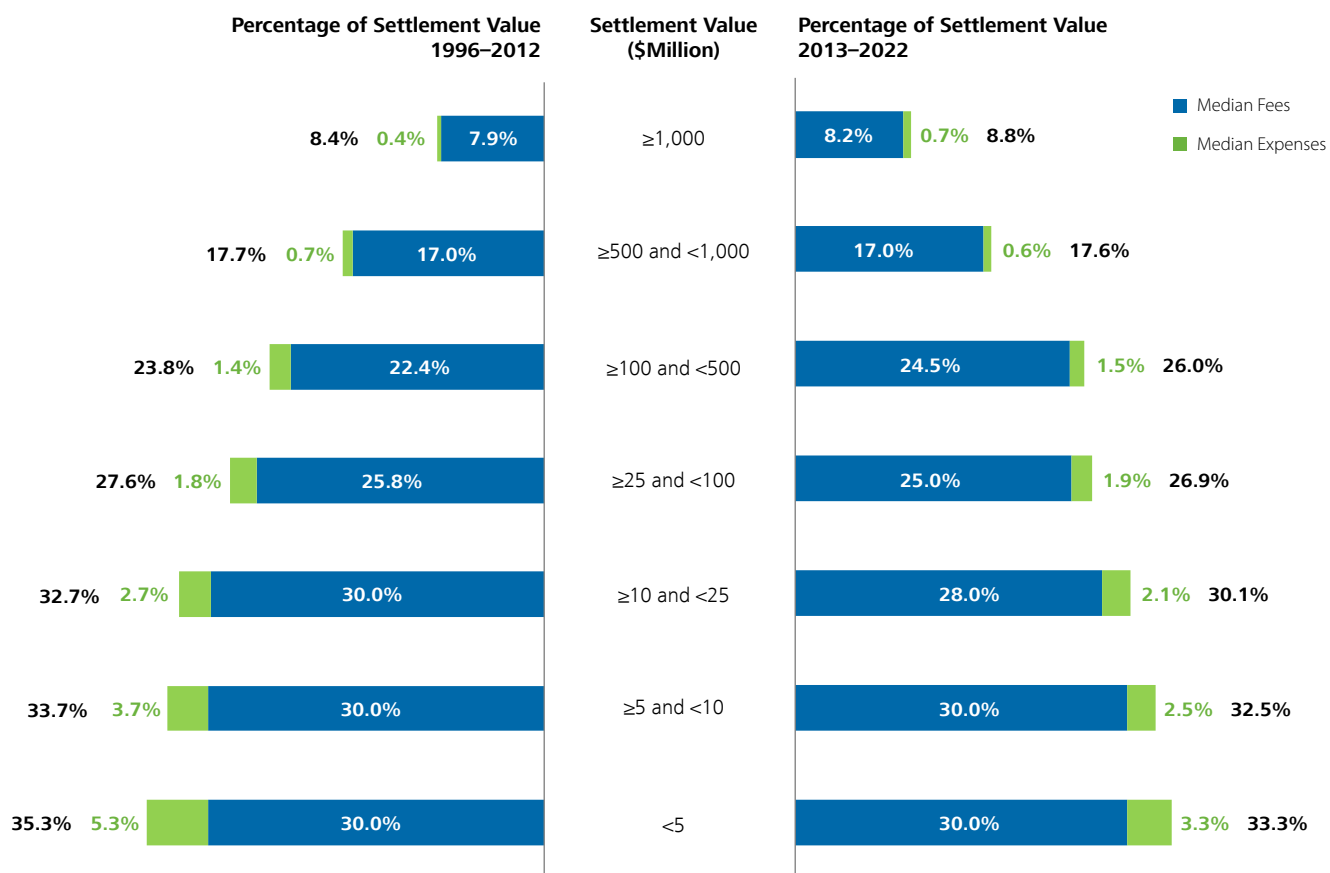


Figure 22. **Median of Plaintiffs' Attorneys' Fees and Expenses by Size of Settlement**  
 Excludes Merger Objections, Crypto Unregistered Securities, and Settlements for \$0 to the Class



Note: Component values may not add to total value due to rounding.

## Conclusion

In 2022, new filings of federal securities class actions declined for the fourth consecutive year as a result of fewer merger-objection and Rule 10b-5 cases filed. Of the 205 cases filed in 2022, more than 20% were SPAC or crypto-related filings. Total resolutions declined by 14% from 248 in 2021 to 214 in 2022 due to the continued reduction in non-merger-objection and non-crypto unregistered cases. The average settlement value and median settlement value for cases settled in 2022 were \$38 million and \$13 million, respectively, an increase over the 2021 values.



## Notes

- 1 This edition of NERA's report on "Recent Trends in Securities Class Action Litigation" expands on previous work by our colleagues Lucy P. Allen, Dr. Vinita Juneja, Dr. Denise Neumann Martin, Dr. Jordan Milev, Robert Patton, Dr. Stephanie Plancich, and others. The authors thank Dr. David Tabak and Benjamin Seggerson for helpful comments on this edition. We thank Vlad Lee and other researchers in NERA's Securities and Finance Practice for their valuable assistance. These individuals receive credit for improving this report; any errors and omissions are those of the authors. NERA's proprietary securities class action database and all analyses reflected in this report are limited to federal case filings and resolutions.
- 2 In this study we introduced a new category of "special" cases, crypto cases, which consist of two mutually exclusive subgroups: (1) crypto shareholder class actions, which include a class of investors in common stock, American depositary receipts/ American depositary shares (ADR/ADS), and/or other registered securities, along with crypto- or digital-currency-related allegations; and (2) crypto unregistered securities class actions, which do not have class investors in any registered securities that are traded on major exchanges (New York Stock Exchange, Nasdaq). We include crypto shareholder class actions in all our analyses that include standard cases. Crypto unregistered securities class actions are excluded from some analyses, which is noted in the titles of our figures.
- 3 NERA tracks securities class actions that have been filed in federal courts. Most of these cases allege violations of federal securities laws; others allege violations of common law, including breach of fiduciary duty, as with some merger-objection cases; still others are filed in federal court under foreign or state law. If multiple actions are filed against the same defendant, are related to the same allegations, and are in the same circuit, we treat them as a single filing. The first two actions filed in different circuits are treated as separate filings. If cases filed in different circuits are consolidated, we revise our count to reflect the consolidation. Therefore, case counts for a particular year may change over time. Different assumptions for consolidating filings would probably lead to counts that are similar but may, in certain circumstances, lead observers to draw a different conclusion about short-term trends in filings. Data for this report were collected from multiple sources, including Institutional Shareholder Services, Dow Jones Factiva, Bloomberg Finance, FactSet Research Systems, Nasdaq, Intercontinental Exchange, US Securities and Exchange Commission (SEC) filings, complaints, case dockets, and public press reports.
- 4 Most securities class action complaints include multiple allegations. For this analysis, all allegations from the complaint are included and thus the total number of allegations exceeds the total number of filings.
- 5 It is important to note that due to the small number of cases in some of these categories, the findings summarized here may be driven by one or two cases.
- 6 ESG securities class action cases filed in federal courts are included in NERA's database and the analyses in this report. For this update, no analyses have been prepared on this development area specifically.
- 7 Report updated on 7 February 2023. Analyses for the "SPACs" group were updated to incorporate "blank check" company-related cases and cases that were not originally classified as SPACs prior to publishing.
- 8 Here "dismissed" is used as shorthand for all class actions resolved without settlement; it includes cases in which a motion to dismiss was granted (and not appealed or appealed unsuccessfully), voluntary dismissals, cases terminated by a successful motion for summary judgment, or an ultimately unsuccessful motion for class certification.
- 9 While annual average settlement values can be a helpful statistic, these values may be affected by one or a few very high settlement amounts. Unlike averages, the median settlement value is unaffected by these very high outlier settlement amounts. To understand what more typical cases look like, we analyze the average and median settlement values for cases with a settlement amount under \$1 billion, thus excluding these outlier settlement amounts. For the analysis of settlement values, we limit our data to non-merger-objection and non-crypto unregistered securities cases with settlements of more than \$0 to the class.
- 10 For our analysis, NERA includes settlements that have had the first settlement-approval hearing. This means we do not include partial settlements or tentative settlements that have been announced by plaintiffs and/or defendants. As a result, although we include the Valeant partial settlement in Table 2 due to its sizable amount, this case is not included in any of our resolution or settlement statistics.
- 11 NERA-Defined Investor Losses is only calculable for cases involving allegations of damages to common stock based on one or more corrective disclosures moving the stock price to its alleged true value. As a result, we have not calculated this metric for cases such as merger objections.

## About NERA

NERA Economic Consulting ([www.nera.com](http://www.nera.com)) is a global firm of experts dedicated to applying economic, finance, and quantitative principles to complex business and legal challenges. For more than six decades, we have been creating strategies, studies, reports, expert testimony, and policy recommendations for government authorities and the world's leading law firms and corporations. We bring academic rigor, objectivity, and real-world industry experience to issues arising from competition, regulation, public policy, strategy, finance, and litigation.

NERA's clients value our ability to apply and communicate state-of-the-art approaches clearly and convincingly, our commitment to deliver unbiased findings, and our reputation for quality and independence. Our clients rely on the integrity and skills of our unparalleled team of economists and other experts backed by the resources and reliability of one of the world's largest economic consultancies. Continuing our legacy as the first international economic consultancy, NERA serves clients from major cities across North America, Europe, and Asia Pacific.

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*The opinions expressed herein do not necessarily represent the views of NERA Economic Consulting or any other NERA consultant.*



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# **EXHIBIT 3**

<p>DISTRICT COURT, DENVER COUNTY,  COLORADO  Court Address: 1437 Bannock Street, Room 256,  Denver, CO, 80202</p>	<p style="text-align: center;">▲ COURT USE ONLY ▲</p>
<p><b>Plaintiff(s)</b> OKLAHOMA POLICE PENSION AND  RETIREMENT SYSTEM, Individually and on Behalf  of All Others Similarly Situated</p> <p>v.</p> <p><b>Defendant(s)</b> JAGGED PEAK ENERGY INC., et al.</p>	
<p><b>Attorneys for Plaintiff:</b>  SHUMAN, GLENN &amp; STECKER  Rusty E. Glenn (Atty. Reg. No. 39183)  600 17th Street, Suite 2800 South,  Denver, CO 80202  Tel.: (303) 861-3003; Fax: (303) 536-7849</p> <p>Scott+Scott Attorneys at Law LLP  Deborah Clark-Weintraub (<i>admitted pro hac vice</i>)  Thomas L. Laughlin, IV (<i>admitted pro hac vice</i>)  Emilie B. Kokmanian (<i>admitted pro hac vice</i>)  Mandeep Minhas (<i>admitted pro hac vice</i>)  230 Park Ave., 17th Fl., New York, NY 10169  Tel.: (212) 223-6444; Fax: (212) 223-6334</p>	<p>Case Number: 2017CV31757  Division: 209</p>
<p style="text-align: center;"><b>DECLARATION OF DARYL F. SCOTT ON BEHALF OF SCOTT+SCOTT  ATTORNEYS AT LAW LLP IN SUPPORT OF MOTION FOR AN AWARD OF  ATTORNEYS' FEES AND EXPENSES</b></p>	

I, DARYL F. SCOTT, hereby declare as follows:

1. I am a partner with the law firm of Scott+Scott Attorneys at Law LLP (“Scott+Scott” or the “Firm”). I submit this Declaration in support of my Firm’s application for an award of attorneys’ fees and expenses in connection with the above-captioned action (the “Action”). I have personal knowledge of the facts in this Declaration and if called as a witness, I could and would testify competently thereto.

2. The Firm serves as lead counsel for Plaintiff Oklahoma Police Pension and Retirement System (“Plaintiff”) and the Settlement Class in the Action. The Firm has represented Plaintiff and the Settlement Class on a fully contingent basis since the inception of the Action. To date, the Firm has received no fees, reimbursements, or other compensation or payments in connection with its representation of Plaintiff and the Settlement Class.

3. The work performed by the Firm in the Action is described in the Declaration of Deborah Clark-Weintraub in Support of (i) Plaintiff’s Motion for Final Approval of Class Action Settlement and Plan of Allocation, and (ii) Motion for an Award of Attorneys’ Fees and Expenses and Plaintiff’s Request for an Award for Its Representation of the Settlement Class.

4. The information contained in this Declaration is taken from time and expense records prepared and maintained by the Firm in the ordinary course of business. The information was prepared by the Firm’s accounting staff and reviewed by me. The purpose of the review was to confirm the accuracy of, and the necessity for, the time and expenses committed to the Action. During my review, I exercised billing judgment and reduced or eliminated time entries and expense items. I believe the time (reflected in the Firm’s lodestar) and the expenses for which payment is sought were reasonable and necessary to prosecute the Action. I also believe the expenses are of a type normally charged to a fee-paying client in the private legal marketplace.

5. Exhibit A, which was prepared from daily time records prepared and maintained by the Firm, summarizes the time the Firm’s attorneys and staff spent prosecuting the Action. Exhibit A calculates lodestar by multiplying hours recorded by current hourly rates. For personnel no longer employed by the Firm, lodestar is based on hourly rates in their final year. The billing rates for attorneys and staff are the usual and customary rates set by the Firm for each timekeeper. The billing rates exclude expenses which are set forth in Exhibit B.

6. The hours submitted by the Firm, from inception of the Action through August 21, 2023, are set forth in Exhibit A and total 2,688.3 hours. The lodestar during the same period totals \$2,827,276.00.

7. Exhibit B summarizes the expenses incurred by the Firm from the inception of the Action. The expenses for which the Firm seeks reimbursement total \$79,175.94.

8. The expenses set forth in Exhibit B are reflected in the accounting records of the Firm. The accounting records were prepared from expense vouchers, check records, and other source materials and are an accurate record of the expenses incurred.

9. Additional information concerning some of these expenses follows:
- (a) **Consultants/Experts: \$25,022.50.** Plaintiff retained Scott D. Hakala, CFA of ValueScope, Inc. to advise it with respect to causation and damages issues and to prepare the proposed Plan of Allocation.
  - (b) **Electronic Discovery: \$6,463.90.** There were tens of thousands of pages of documents produced by the Parties all of which were stored on an electronic discovery platform that enabled the sorting, review and assessment of the evidence in the case.
  - (c) **Mediation: \$9,775.00.** The Parties retained Robert M. Meyer of JAMS, a mediator with a strong national reputation and extensive experience in mediating securities class action cases, who oversaw the Parties' in-person mediation and subsequent negotiations that facilitated the resolution of the Action.
  - (d) **Online Legal and Other Research: \$16,846.42.** These charges are for Westlaw, Lexis, and other online services, billed at cost, used to obtain analyst reports and undertake legal research.
  - (e) **Transportation, Hotels, & Meals: \$11,813.56.** Travel expenses in connection with oral argument before the Colorado Supreme Court and the mediation held at JAMS in Los Angeles, California.

10. Exhibit C contains biographical information about the Firm and the attorneys who worked on the Action.

I declare under penalty of perjury that the foregoing facts are true and correct.

Executed this 26 day of October 2023 at Richmond, Virginia.

  
\_\_\_\_\_  
DARYL F. SCOTT

# **EXHIBIT A**



**EXHIBIT A**

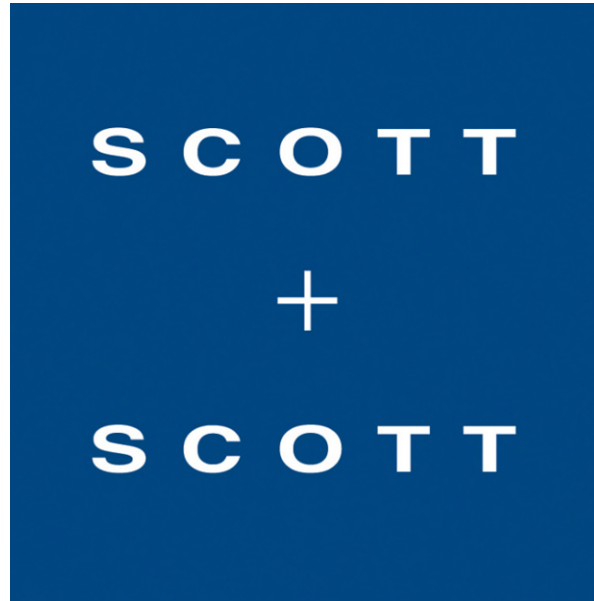
<b>PROFESSIONAL</b>	<b>STATUS</b>	<b>HOURLY RATE</b>	<b>TOTAL HOURS</b>	<b>TOTAL LODESTAR AT HOURLY RATES</b>
David Scott	P	\$1,900	104.30	\$ 198,170.00
Debbie Weintraub	P	\$1,850	469.20	\$ 868,020.00
Donald Broggi	P	\$1,850	74.60	\$ 138,010.00
Michael Burnett	P	\$1,250	52.20	\$ 65,250.00
Sean Masson	P	\$900	83.10	\$ 74,790.00
Thomas Laughlin	P	\$1,095	561.20	\$ 614,514.00
Anjali Bhat	A	\$695	306.80	\$ 213,226.00
Emilie Kokmanian	A	\$695	433.60	\$ 301,352.00
Mandeep Minhas	A	\$550	103.00	\$ 56,650.00
Randy Moonan	A	\$650	30.30	\$ 19,695.00
Rhiana Swartz	A	\$825	124.10	\$ 102,382.50
J. Alex Vargas	I	\$675	121.80	\$ 82,215.00
Ellen Dewan	PL	\$415	95.70	\$ 39,715.50
Kimberly Jager	PL	\$415	58.20	\$ 24,153.00
Matthew Molloy	PL	\$415	70.20	\$ 29,133.00
<b>TOTAL</b>			<b>2,688.3</b>	<b>\$ 2,827,276.00</b>

# **EXHIBIT B**

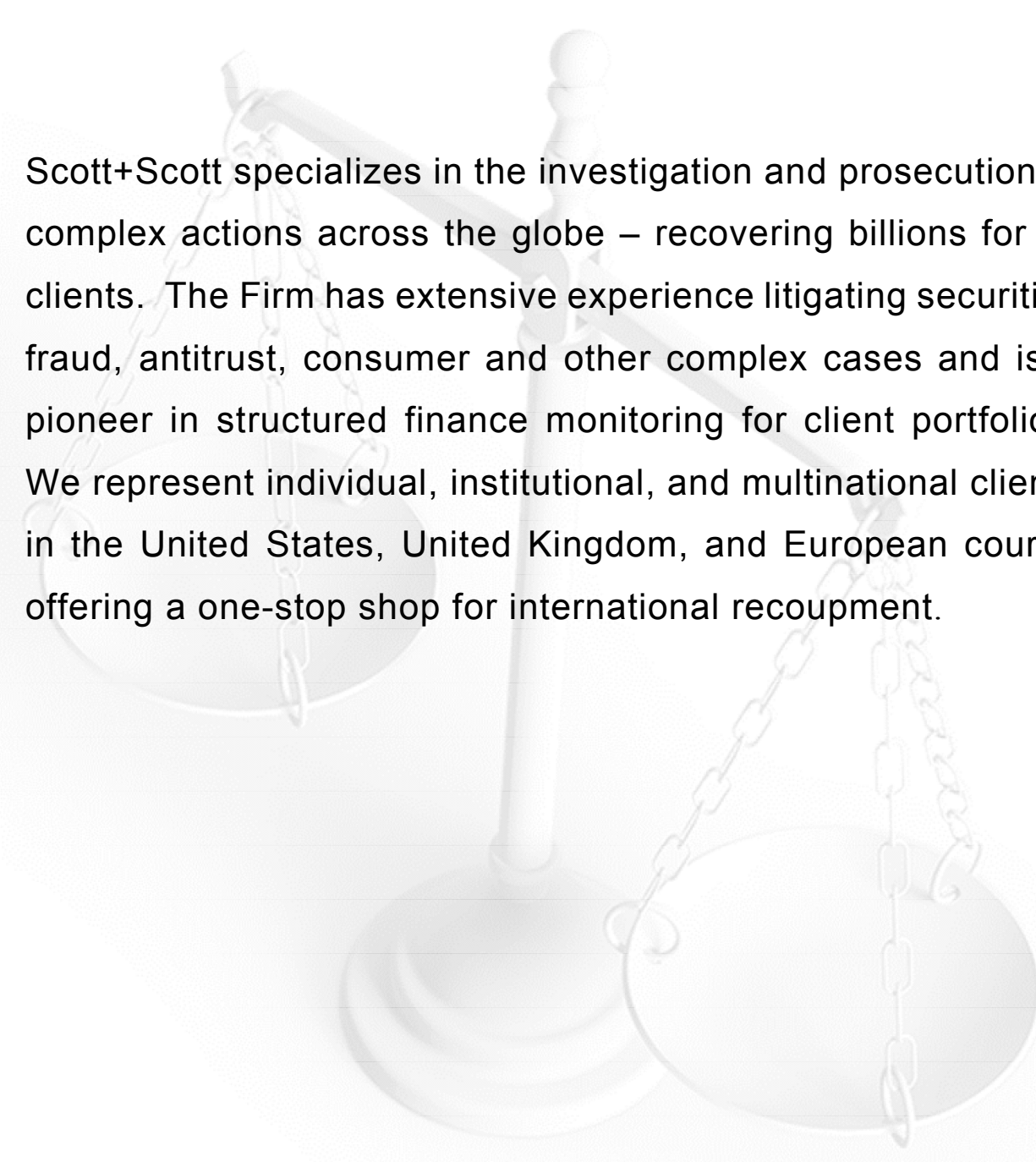
## EXHIBIT B

<b>EXPENSE</b>	<b>AMOUNT</b>
Courier	\$ 228.39
Document Storage	\$ 6,463.90
Expert	\$ 25,022.50
Filing, Witness & Other Fees	\$ 3,649.40
Mediation	\$ 9,775.00
OnLine Legal and Other Research	\$ 16,846.42
Photocopies	\$ 1,871.25
Professional Fees	\$ 3,125.00
Telephone	\$ 380.52
Travel (Meals, Hotels & Transportation)	\$ 11,813.56
<b>TOTAL</b>	<b>\$ 79,175.94</b>

# **EXHIBIT C**



# FIRM RESUME



Scott+Scott specializes in the investigation and prosecution of complex actions across the globe – recovering billions for its clients. The Firm has extensive experience litigating securities fraud, antitrust, consumer and other complex cases and is a pioneer in structured finance monitoring for client portfolios. We represent individual, institutional, and multinational clients in the United States, United Kingdom, and European courts, offering a one-stop shop for international recoupment.



# THE FIRM

Scott+Scott was founded in 1975 and began its securities litigation practice in 1997. The Firm has since grown into one of the most respected U.S.-based law firms specializing in the investigation and prosecution of complex securities, antitrust and other commercial actions in both the United States and Europe. Today, the Firm is comprised of more than 135 team members, including more than 100 attorneys supported by a seasoned staff of paralegals, IT and document management professionals, financial analysts, and in-house investigators.

Scott+Scott's largest offices are in New York, N.Y. and San Diego, C.A., with additional U.S. offices located in Connecticut, Virginia, Ohio, and Arizona. The Firm's European offices are currently located in London, Amsterdam, and Berlin.

Scott+Scott has extensive experience litigating cases on behalf of our institutional and individual clients throughout the United States, having served as court-appointed lead or co-lead counsel in numerous securities, antitrust, and consumer class actions, as well derivative and other complex proceedings, in both state and federal courts. The Firm also represents large investors and numerous corporations in commercial and other litigation in courts within the European Union (EU) and the United Kingdom.

Scott+Scott's attorneys are recognized experts and leaders in complex litigation and corporate governance. They have been regular speakers on CLE panels as well as at institutional investor educational conferences around the world and before boards of directors and trustees responsible for managing institutional investments. Scott+Scott attorneys educate institutional investors and governmental entities on the importance of fulfilling fiduciary obligations through the adoption of appropriate asset recovery services, as well as through the development and enforcement of corporate governance initiatives. The Firm's vast experience in structured debt financial litigation has also enabled us to provide clients with in-depth monitoring of their structured finance products, which often come with substantial undisclosed risks due to investors' limited ability to assess what they are acquiring. The Firm also has experience evaluating and monitoring for our clients' debt and debentures originating from private placements and non-public companies, including municipal bonds and derivatives.



# SECURITIES AND CORPORATE GOVERNANCE

Scott+Scott has extensive experience litigating claims for violations of the federal securities laws on behalf of our municipal, institutional, and individual investor clients, serving as lead counsel in numerous securities class actions brought under the Securities Act of 1933, the Securities Exchange Act of 1934, and other statutes.

Scott+Scott recognizes that, particularly since the passage of the Private Securities Litigation Reform Act of 1995, bringing successful claims for violations of the federal securities laws requires not only significant litigation experience, but also the ability to bear the skills of its in-house investigators and financial analysts (and often outside consultants) to build a case that can survive both early-stage motions to dismiss and later stage motions for summary judgment. Our philosophy is also based on our view that efforts to negotiate a successful settlement are typically built on the quality of pre-filing investigation diligence, and our willingness to litigate deep into discovery and, if necessary, through summary judgment and trial.

Our securities litigators have experience practicing in state and federal courts across the country. The Firm's attorneys have regularly retained and worked with leading accounting experts, damages experts, and relevant industry experts to build their clients' cases against defendants involved in virtually every type of industry, from pharmaceuticals to dot.coms, from retailers to manufacturers, and from investment banks to accounting firms. The Firm has also submitted *amicus curiae* briefs to the United States Supreme Court on behalf of its clients on important securities laws issues, including in support of the plaintiffs in *California Public Emps.' Ret. Sys. ANZ Securities, Inc.*, 137 S. Ct. 2042 (2017) and *Cyan Inc. v. Beaver County Emp. Ret. Fund*, 138 S. Ct. 1061 (2018).

When appropriate, Scott+Scott prosecutes actions on a class or individual basis. Through our commitment to the best interests of those the Firm represents, Scott+Scott has successfully obtained exceptional monetary results and precedent-setting corporate governance reforms on behalf of investors.



# SECURITIES CASE EXAMPLES

**Securities class actions where Scott+Scott currently serves as lead or co-lead counsel include:**

- *In re Lyft, Inc., Secs. Litig.*, No. CGC-19-575293 (Cal. Super. Ct. San Francisco Cnty.)
- *Okla. Firefighters Pens. vs. Newell Brands Inc.*, No. L-003492-18 (N.J. Sup. Ct. Hudson Cnty.)
- *Erie Cnty. Empl. Ret. Sys. v. NN, Inc.*, No. 656462/2019 (N.Y. Supr. Ct. N.Y. Cnty.)
- *In re DouYu Int'l Hold'gs Ltd. Sec. Litig.*, No. 651703/2020 (N.Y. Supr. Ct. N.Y. Cnty.)
- *In re Cloudera, Inc. Secs. Litig.*, No. 19CV348674 (Cal. Super. Ct. Santa Clara Cnty.)
- *In re Infinity Q Divers. Alpha Fund Sec. Lit.*, No. 651295/2021 (N.Y. Supr. Ct. N.Y. Cnty.)
- *Okla. Police Pension Fund & Ret. Sys. v. Jagged Peak Energy, Inc.*, No. 2017 CV 31757 (Colo. Dist. Ct., Denver Cnty.)
- *In re Micro Focus Int'l PLC Secs. Litig.*, No. 18CIV01549 (Cal. Super. San Mateo Cnty.)
- *In re Slack Techs., Inc. S'holder Litig.*, No. 19CIV05370 (Cal. Super. San Mateo Cnty.)
- *Mancour v. SmileDirectClub, Inc.*, No.: 19-1169-IV (Tenn. Chancery Ct, Davidson Cnty.)
- *Huang v. PPDAl Grp, Inc.*, No. 654482/2018 (N.Y. Supr. Ct. N.Y. Cnty.)
- *Boston Ret. Sys. v. Uber Tech., Inc.*, No. 3:20-cv-08610 (N.D. Cal.)
- *Robert Charles Class A, L.P. v. JPMorganChase & Co.*, No. 1:18-cv-11115 (S.D.N.Y.)
- *Garnett v. Wang [In re RLX Tech., Inc.]*, No. 21-cv-5125 (S.D.N.Y.)
- *Marechal v. Acadia Pharm. Inc.*, No. 3:21-cv-762 (S.D. Cal.)
- *Gupta v. Athenex, Inc.*, No. 21-cv-337 (W.D.N.Y.)
- *Abadilla v. Precigen, Inc.*, No. 5:20-cv-06936 (N.D. Cal.)
- *Kanugonda v. Funko, Inc.*, No. 2:18-cv-00812 (W.D. Wash.)
- *Corwin v. ViewRay, Inc.*, No. 1:19-cv-2115 (N.D. Ohio)
- *Mo-Kan Iron Workers Pension Fund v. Teligent, Inc.*, No. 1:19-cv-03354 (S.D.N.Y.)
- *Silverberg v. DryShips Inc.*, No. 2:17-cv-04547 (E.D.N.Y.)

- *Robinson v. Diana Containerships Inc.*, No. 2:17-cv-06160 (E.D.N.Y.).

**Securities class actions which have been resolved where Scott+Scott served as lead or co-lead counsel include:**

- *Alaska Elec. Pension Fund v. Pharmacia Corp.*, No. 03-cv-01519 (D.N.J.) (\$164 million settlement);
- *In re LendingClub Corp. S'holder Litig.*, No. CIV 537300 (Cal. Super. Ct, San Mateo Cnty.) (part of \$125 global settlement)
- *In re Priceline.com, Inc. Sec. Litig.*, No. 00-cv-01884 (D. Conn.) (\$80 million settlement);
- *Irvine v. ImClone Sys., Inc.*, No. 02-cv-00109 (S.D.N.Y.) (\$75 million settlement);
- *Cornwell v. Credit Suisse Grp.*, No. 08-cv-03758 (S.D.N.Y.) (\$70 million settlement);
- *Policemen's Annuity & Benefit Fund of Chi. v. Bank of Am., N.A.*, No. 12-cv-02865 (S.D.N.Y.) (\$69 million settlement);
- *In re SanDisk LLC Sec. Litig.*, No. 15-cv-01455 (N.D. Cal.) (\$50 million settlement);
- *Weston v. RCS Cap. Corp.*, No. 14-cv-10136 (S.D.N.Y.) (\$31 million settlement);
- *In re Greensky Sec. Litig.*, No. 1:18 Civ. 11071 (S.D.N.Y.) (\$27.5M settlement)
- *In re Wash. Mut. Mortg.-Backed Sec. Lit.*, No. 2:09-cv-00037 (W.D. Wash.) (\$26 million recovery)
- *ATRS v Insulet Corp.*, No. 15-12345 (D. Mass.) (\$19.5 million settlement);
- *In re King Digit. Ent. PLC S'holder Litig.*, No. CGC-15-544770 (Cal. Sup. Ct. San Francisco Cnty.) (\$18.5 million settlement)
- *In re Evoqua Water Corp. Sec. Litig.*, No. 1:18-cv-10320 (S.D.N.Y.) (\$16.65 million settlement);
- *In re Conn's, Inc. Secs. Litig.*, No. 4:14-cv-00548 (S.D. Tex.) (\$22.5 million settlement)
- *Collins v. Oilsands Quest Inc.*, No. 11 Civ. 1288 (S.D.N.Y.) (\$10.235 million settlement)
- *Kaplan v. S.A.C. Cap. Advisors, L.P.*, No. 1:12cv-9350 (S.D.N.Y.) (\$10 million settlement)
- *Rosenberg v. Cliffs Natural Res. Inc.*, No. CV 14 828140 (Ct. Common Pleas Cuyahoga Cnty. Ohio) (\$10 million settlement)
- *In re Endochoice Holdings, Inc., Sec. Litig.*, No. 2016 CV 277772 (Ga. Sup. Ct. Fulton Cnty.) (\$8.5 million settlement)



- *In re Netshoes Secs. Litig.*, No. 157435/2018 (N.Y. Sup. Ct. N.Y. Cnty.) (\$8 million settlement)
- *City of Omaha Police & Fire Ret. Sys. v. LHC Grp, Inc.*, No. 6:12-CV-01609 (W.D. La.) (\$7.85 million settlement)
- *In re Pac. Coast Oil Trust Secs. Litig.*, No. BC550418 (Cal. Sup. Ct. Los Angeles Cnty.) (\$7.6 million settlement)
- *In re Pacific Biosci. of C.A., Inc. Sec. Litig.* (Cal. Sup. Ct. San Mateo Cnty.) (\$7.6 million recovery)
- *Plymouth Cnty. Contributory Ret. Sys. v. Adamas Pharms., Inc.*, No. RG19018715 (Cal. Sup. Ct. Alameda Cnty.) (\$7.5M settlement)
- *St. Lucie Cnty. Fire Dist. Firefighters' Pens. Trust v. Southwestern Energy Co.*, No. 2016-70651 (Tex. Dist. Ct. Harris Cnty.) (\$7 million settlement)

# SHAREHOLDER DERIVATIVE CASE EXAMPLES

**Shareholder derivative actions where Scott+Scott currently serves in a sole or leadership role include:**

- *In re Facebook Derivative Litig.*, Consol. No. 2018-0307 (Del. Ch.)
- *Evergreen Capital Mgmt. LLC v. Pacific Coast Energy Co. LP*, No. 20STCV26290 (Cal. Sup. Ct.)
- *In re Alphabet, Inc., S'holder Deriv. Litig.*, No. 3:21-cv-09388-RS (N.D. Cal.)
- *Lindsey v. Immelt*, Index No. 202019718 (N.Y. Sup. Ct.)
- *Bottoni v. Hernandez*, No. 20-cv-01442 (S.D.Tex.)
- *Savage v. Kotick*, No. 22STCV17478 (Cal. Sup. Ct.)
- *In re Exelon Corp. Deriv. Litig.*, No. 1:21-cv-03611 (N.D. Ill.)
- *Asbestos Workers Philadelphia Pension Fund v. Scharf*, No. 3:23-cv-01168-TLT (N.D. Cal.)
- *Presura v. Casey*, (Del. Ch.)
- *Trimm v. Schultz*, (Wash. Sup. Ct., Kings County)

**Representative shareholder derivative actions litigated by Scott+Scott which have been successfully resolved include:**

- *Irving Firemen's Relief & Ret. Fund v. Page*, C.A. No. 2019-0355-Sg (Del. Ch. 2020) (\$310 million in funding for corporate governance reform programs over 10 years);
- *In re DaVita Healthcare Partners Deriv. Litig.*, No. 13-cv-01308 (D. Colo.) (corporate governance reforms valued at \$100 million);
- *Buffalo Grove Police Pension Fund v. Diefenderfer*, No. 19-cv-00062 (E.D. Pa.) (claims vs. Navient Corp. officers & directors settled for corporate governance reforms valued at \$139 million);
- *Tharp v. Acacia Commc'ns, Inc.*, No 1:17-cv-11504 (D. Mass.) (claims vs. company and corporate officers & directors settled for corporate governance reforms valued at \$57-\$71 million);

- *N. Miami Beach Gen. Emps. Ret. Fund v. Parkinson*, No. 10-cv-06514 (N.D. Ill.)(corporate governance reforms valued between \$50 and \$60 million);
- *In re Marvell Tech. Grp. Ltd. Deriv. Litig.*, No. 06-cv-03894 (N.D. Cal.) (\$54.9 million settlement and corporate governance reforms);
- *Rudi v. Wexner*, No. 2:20-cv-3068 (S.D. Ohio) (\$90 million in funding for corporate governance reform programs over at least 5 years);
- *In re Universal Health Servs., Inc. Derivative Litig.*, No. 2:17-cv-02187 (E.D. Pa.) (Settled for corporate governance reforms conservatively valued at \$110 million);
- *In re Altria Group, Inc. Deriv. Litig.*, Consol. No. 3:20-cv-00772 (E.D. Va.) (successfully resolved for corporate governance reforms with multi-year funding commitment of \$117 million); and
- *In re Symantec Corp. S'holder Deriv. Litig.*, Consol. C.A. No. 2019-0224-JTL (Del. Ch.) (successfully resolved for \$12 million cash payment to company and corporate governance reforms).

# ACCOLADES

## U.S. News & World Report “Best Law Firms”

The Firm is currently ranked by U.S. News & World Report as a “Best Law Firm” in commercial litigation in the New York region.

## American Antitrust Institute

The 2018 Antitrust Annual Report recognized *In re Foreign Currency Benchmark Rates Antitrust Litigation* as the #1 settlement of 2018, as well as ranking the Firm #1 nationally for aggregate settlements: 2013-2018.

## Global Competition Review

At the 6th Annual Global Competition Review (“GCR”) Awards, Scott+Scott won for Litigation of the Year – Cartel Prosecution, which recognized the Firm’s efforts in the foreign exchange settlements in the United States, a landmark case in which major banks conspired to manipulate prices paid in the \$5.3 trillion-per-day foreign exchange market and have thus far settled for more than \$2 billion.

## Law 360 Glass Ceiling Report

Scott+Scott is recognized as one of the top law firms in the nation for female attorneys by the legal publication Law360. The Glass Ceiling Report honors firms that “are demonstrating that the industry’s gender diversity goals can turn into a measurable result, and boost the number of women at all levels of a law firm.”<sup>1,2</sup> This selection highlights the importance Scott+Scott places on diversity and inclusion within the Firm.

## Center for Constitutional Rights

Scott+Scott was the recipient of the 2010 Center for Constitutional Rights’ Pro Bono Social Change Award for its representation of the Vulcan Society, an association of African-American firefighters, in challenging the racially discriminatory hiring practices of the New York City Fire Department.

<sup>1</sup> <https://www.law360.com/articles/1310926>

<sup>2</sup> <https://www.law360.com/articles/1162859/the-best-law-firms-for-female-attorneys>.

# WORLD-CLASS ATTORNEYS

We pride ourselves on the caliber of legal talent on our team. In addition to some of the best and brightest rising stars, we have attorneys who have served with distinction in the U.S. Department of Justice, been admitted to the U.S. Supreme Court, served in OAGs at the state level, argued before the UK's CAT and High Courts, and received virtually every accolade offered in our profession.



# ADMISSIONS

**U.S. Admissions:** United States Supreme Court; United States Courts of Appeal for the First, Second, Third, Fifth, Sixth, Seventh, Eighth, Ninth, Tenth, and Eleventh Circuits; United States District Courts for the Districts of California (Northern, Southern, Eastern, and Central), Colorado, Connecticut, Florida (Northern), Illinois (Northern), Massachusetts, Michigan (Eastern), Missouri (Eastern), New Jersey, New York (Southern, Eastern, and Western), Ohio (Northern and Southern), Pennsylvania (Eastern and Western), Texas (Northern, Western, and Southern), Wisconsin (Eastern and Western), and the District of Columbia; and the courts of the States of Arizona, California, Connecticut, Delaware, Florida, Maryland, Pennsylvania, Massachusetts, Nebraska, New Jersey, New York, Ohio, West Virginia, Wisconsin, Texas, and the District of Columbia.





# ATTORNEY BIOGRAPHIES

## DAVID R. SCOTT

### PRACTICE EMPHASIS

Managing Partner David R. Scott represents multinational corporations, hedge funds, and institutional investors in high-stakes, complex litigation, including antitrust, commercial, and securities actions.

### ADMISSIONS

States of New York, Pennsylvania, and Connecticut; United States Tax Court; United States Courts of Appeal: Second, Third, and Fifth Circuits; United States District Courts: Southern District of New York, Connecticut, Eastern District of Pennsylvania, Northern and Southern Districts of Texas, and Colorado

### EDUCATION

New York University School of Law (LL.M. in taxation); Temple University School of Law (J.D., Moot Court Board, 1989); St. Lawrence University (B.A., cum laude, 1986)

### HIGHLIGHTS

Mr. Scott is the Managing Partner of Scott+Scott with offices in New York, Amsterdam, London, Berlin, California, Connecticut, Virginia, Arizona, and Ohio.

In addition to managing the firm's lawyers worldwide, Mr. Scott advises some of the world's largest multinational corporations in cartel damages and other complex matters. He has been retained to design corporate policies for the global recoupment of losses, and transatlantic private enforcement programs.

He currently represents multinational companies and hedge funds in cases involving, among other things, price-fixing in the trucks, foreign exchange, high voltage power cables, cardboard, and payment card sectors.

Mr. Scott's antitrust cases in the United States have resulted in significant recoveries for victims of price-fixing cartels. Among other cases, Mr. Scott served as co-lead counsel in *Dahl v Bain Cap. Partners*, No. 1:07-cv-12388 (D. Mass.), an action alleging that the largest private equity firms in the United States colluded to suppress prices that shareholders received in leveraged buyouts and that the defendants recently agreed to settle for \$590.5 million. He was lead counsel in *Red Lion Med. Safety v. Ohmeda*, No. 06-cv-1010 (E.D. Cal.), a lawsuit alleging that Ohmeda, one of the leading manufacturers of medical anesthesia equipment in the United States, excluded



independent service organizations from the market for servicing its equipment. The case was successfully resolved in settlement negotiations before trial.

Mr. Scott has received widespread recognition for his antitrust and competition law work. He has been elected to Who's Who Legal: Competition 2015- 2020, which lists the world's top antitrust and competition law lawyers, selected based on comprehensive, independent survey work with both general counsel and lawyers in private practice around the world. He has also received a highly recommended ranking by Benchmark Litigation for each of the years 2013-2015. In addition, Mr. Scott is continually recognized in the U.S. by Best Lawyers and Super Lawyers.

In addition to his extensive competition law work, Mr. Scott has also taken the lead in bringing claims on behalf of institutional investors, such as sovereign wealth funds, corporate pension schemes, and public employee retirement funds. For example, he has been retained to pursue losses against mortgaged-backed securities trustees for failing to protect investors. He also represented a consortium of regional banks in litigation relating to toxic auction rate securities ("ARS") and obtained a sizable recovery for the banks in a confidential settlement. This case represents one of the few ARS cases in the country to be successfully resolved in favor of the plaintiffs.

Mr. Scott is frequently quoted in the press, including in publications such as The Financial Times, The Economist, The Guardian, The Daily Telegraph, The Wall Street Journal, and Law360. He is regularly invited to speak at conferences around the world and before Boards of Directors and trustees responsible for managing institutional investments.



# DEBORAH CLARK-WEINTRAUB

## PRACTICE EMPHASIS

Deborah Clark-Weintraub has extensive experience in all types of class action litigation.

## ADMISSIONS

State of New York; United States Courts of Appeal: First, Second, Sixth, Seventh and Eighth Circuits; United States District Courts: Southern and Eastern Districts of New York, Eastern District of Michigan and Eastern District of Wisconsin

## EDUCATION

Hofstra Law School, Hempstead, NY (J.D., with distinction, 1986); St. John's University, Queens, NY (B.A., *summa cum laude*, 1981)

## HIGHLIGHTS

Ms. Weintraub is a partner in the firm's New York office and focuses her practice on securities litigation.

Ms. Weintraub has represented investors in numerous cases that have resulted in substantial recoveries, including *In re Oxford Health Plans, Inc. Securities Litigation*, MDL No. 1222 (S.D.N.Y.) (\$300 million settlement); *In re CVS Corporation Securities Litigation*, No. 01-11464 (D. Mass.) (\$110 million settlement); *Policemen's Annuity and Benefit Fund of the City of Chicago v. Bank of America, NA*, No. 1:12-cv-2865 (S.D.N.Y.) (\$69 million settlement); *In re SanDisk LLC Securities Litigation*, No. 3:15-cv-01455-VC (N.D. Cal.) (\$50 million settlement); *Weston v. RCS Capital Corp.*, No. 1:14-cv-10136 (S.D.N.Y.) (\$31 million settlement); and *In re Conn's, Inc. Securities Litigation*, No. 4:14-cv-00548 (S.D. Tex.) (\$22.5 million settlement), among others.

Ms. Weintraub has also obtained substantial recoveries in consumer litigation, including *Young v. Wells Fargo & Co.*, No. 4:08-cv-00507-RP-CFB (S.D. Iowa) (\$25.7 million settlement).

Ms. Weintraub is currently representing investors in several ongoing securities class action cases, including *Oklahoma Firefighters Pension and Ret. Sys. v. Newell Brands, Inc.*, No. HUD-L-003492-18 (N.J. Super. Ct.); *In re Lyft, Inc. Securities Litigation*, No. CGC-19-575293 (Cal. Super. Ct.); *Erie County Emps. Ret. Sys. v. NN, Inc.*, No. 656462/2019 (N.Y. Sup. Ct.); *In re JPMorgan Precious Metals Spoofing Litigation*, No. 1:18-cv-10356-GHW (S.D.N.Y.); *In re Merrill, BOFA, and Morgan Stanley Spoofing Litigation*, No. 19-cv-6002 (LJL) (S.D.N.Y.); and *City of Warren Police & Fire Ret. Sys. v. CVS Health Corp.*, No. PC-2019-5658 (R.I. Super. Ct.).



Ms. Weintraub is the co-author of *Gender Bias and the Treatment of Women as Advocates*, *Women in Law* (1998), and the *Dissenting Introduction* defending the merits of securities class action litigation contained in the 1994 monograph *Securities Class Actions: Abuses and Remedies*, published by the National Legal Center for the Public Interest.

While in law school, Ms. Weintraub was a member and research editor of the *Hofstra Law Review*. Following her graduation from Hofstra Law School, Ms. Weintraub served as a law clerk to the Honorable Jacob Mishler, United States District Judge for the Eastern District of New York (1986-1987).

Super Lawyers 2019 - 2021



# **EMILIE B. KOKMANIAN**

## **PRACTICE EMPHASIS**

Ms. Kokmanian is an associate in the Firm’s New York office where she specializes in both federal and state securities litigation on behalf of individual and institutional shareholders.

Prior to joining Scott+Scott, Ms. Kokmanian spent three years as a litigation associate at a leading class action law firm in Québec where she represented aggrieved shareholders in several high-profile securities class actions pertaining to corporate fraud in the securities markets. Ms. Kokmanian also practiced in civil and commercial litigation.

## **ADMISSIONS**

State of New York; Québec

## **EDUCATION**

Université de Montréal (J.D., 2013 & L.L.B., 2011)

## **HIGHLIGHTS**

Co-authored with Anais Kadian; Canada: Human Rights Champion or Pawn to Autocratic Regimes in the Global Arms Trade?, Response to the “Final report: Review of export permits to Turkey” published by Global Affairs Canada, House of Commons – Standing Committee on Foreign Affairs and International Development, May 4, 2021

Co-authored with Michael Miami; Investigations in Securities Litigation in the U.S.: A Deep Dive Into the Role and Impact of Confidential Witnesses, *Développements récents en enquêtes internes et réglementaires*, vol. 522 (2022).

## **REPRESENTATIVE CASES**

Ms. Kokmanian has been involved in several cases, including *Bausch Health Companies Inc. c. California State Teachers’ Retirement System*, 2021 QCCA 1547; *California States Teachers’ Retirement System c. Bausch Health Companies Inc.*, 2020 QCCS 275; and *Amaya inc. c. Derome*, 2018 QCCA 120.



# **MANDEEP S. MINHAS**

## **BIO**

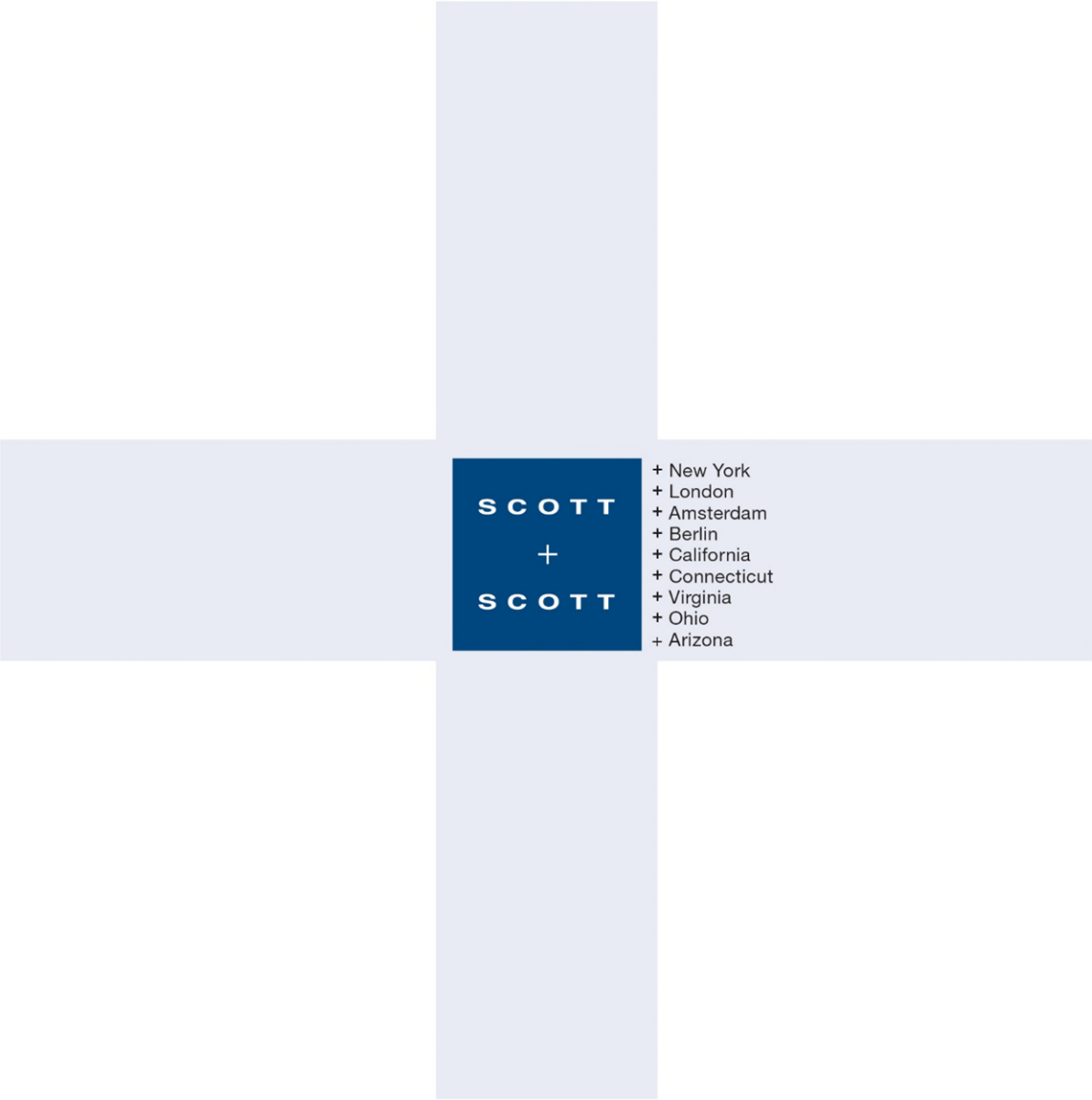
Mr. Minhas is an associate in the Firm's New York office. He specializes in federal and state securities litigation on behalf of individual and institutional shareholders. Before joining Scott+Scott, Mr. Minhas was an associate at a trial firm in New York. He has represented plaintiffs on complex international matters including unfair competition, racketeering, and human trafficking.

## **ADMISSIONS**

State of New York; U.S. District Courts for the Southern, Eastern, and Northern Districts of New York

## **EDUCATION**

Boston College Law School (J.D., 2020); Columbia University (M.A., 2016); University of Texas (B.A., 2013)



SCOTT

+

SCOTT

- + New York
- + London
- + Amsterdam
- + Berlin
- + California
- + Connecticut
- + Virginia
- + Ohio
- + Arizona

# **EXHIBIT 4**



DISTRICT COURT, DENVER COUNTY, COLORADO Court Address: 1437 Bannock Street, Room 256, Denver, CO, 80202	<p style="text-align: center;">▲ COURT USE ONLY ▲</p>
<b>Plaintiff(s)</b> OKLAHOMA POLICE PENSION AND RETIREMENT SYSTEM, Individually and on Behalf of All Others Similarly Situated  v.  <b>Defendant(s)</b> JAGGED PEAK ENERGY INC., et al.	
<b>Attorneys for Plaintiff:</b> SHUMAN, GLENN & STECKER Rusty E. Glenn (Atty. Reg. No. 39183) 600 17th Street, Suite 2800 South, Denver, CO 80202 Tel.: (303) 861-3003; Fax: (303) 536-7849	Case Number: 2017CV31757 Division: 209
<b>DECLARATION OF RUSTY E. GLENN ON BEHALF OF          SHUMAN, GLENN &amp; STECKER IN SUPPORT OF MOTION FOR AN AWARD OF          ATTORNEYS' FEES AND EXPENSES</b>	

I, RUSTY E. GLENN, hereby declare as follows:

1. I am an attorney at law admitted to the bar of the State of Colorado and partner at the firm of Shuman, Glenn & Stecker (“Shuman, Glenn & Stecker” or the “Firm”). I submit this Declaration in support of my Firm’s application for an award of attorneys’ fees and expenses in connection with the above-captioned action (the “Action”).

2. My firm served as local counsel on behalf of Plaintiff Oklahoma Police Pension and Retirement System (“Plaintiff”) and the Settlement Class. In that capacity, Shuman, Glenn & Stecker provided typical local counsel legal services, which include the following: (i) reviewing all pleadings, motions, briefs, filings, etc. for local rules compliance; (ii) reviewing, revising and editing pleadings, motions and briefs; (iii) communicating with opposing counsel and the court regarding deadlines, extensions and filing schedules; (iv) reviewing, revising and commenting on mediation and settlement papers; and (v) advising on Colorado Court of Appeals and Supreme Court rules and procedures.

3. The information contained in this Declaration is taken from time and expense records prepared and maintained by the Firm in the ordinary course of business. The information was prepared and reviewed by me. The purpose of the review was to confirm the accuracy of, and

the necessity for, the time and expenses committed to the Action. During my review, I exercised billing judgment and reduced or eliminated time entries and expense items. I believe the time (reflected in the Firm's lodestar) and the expenses for which payment is sought were reasonable and necessary to prosecute the Action. I also believe the expenses are of a type normally charged to a fee-paying client in the private legal marketplace.

4. The following chart was prepared from daily time records prepared and maintained by the Firm, and summarizes the time the Firm's attorneys and staff spent prosecuting the Action. This chart calculates lodestar by multiplying hours recorded by current hourly rates. The billing rates for attorneys and staff are the usual and customary rates set by the Firm for each timekeeper and exclude expenses, which are set forth separately below in paragraph 6.

<b>NAME</b>	<b>HOURS</b>	<b>RATE</b>	<b>LODESTAR</b>
Kip B. Shuman (P) <sup>1</sup>	31.5	\$900	\$28,250.00
Rusty E. Glenn (P)	131.5	\$825	\$108,487.50
Brett D. Stecker (P)	4.5	\$825	\$3,712.50
<b>TOTAL</b>	<b>225.1</b>		<b>\$140,550.00</b>

5. The hours submitted by the Firm, from inception of the Action through August 21, 2023, are set forth in Exhibit A and totals 131.5 hours. The lodestar during the same period totals \$140,550.00.

6. The following chart summarizes the expenses incurred by the Firm from the inception of the Action. The expenses for which the Firm seeks reimbursement total \$5,635.50. The expenses are reflected in the accounting records of the Firm. The accounting records were prepared from expense vouchers, check records, and other source materials and are an accurate record of the expenses incurred.

<b>EXPENSE CATEGORY</b>	<b>AMOUNT</b>
Court Filing/Service Fees	\$1,338.02
On-Line Legal Research	\$4,297.48
<b>TOTAL</b>	<b>\$5,635.50</b>

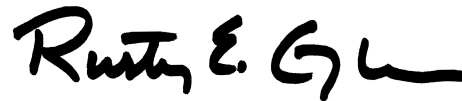
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<sup>1</sup> (P) = Partner

7. Exhibit A contains biographical information about the Firm and the attorneys who worked on the Action.

I declare under penalty of perjury that the foregoing facts are true and correct.

Executed this 25th day of October 2023 at Denver, Colorado.

A handwritten signature in black ink that reads "Rusty E. Glenn". The signature is written in a cursive, slightly slanted style.

---

RUSTY E. GLENN

# **Exhibit A**




**SHUMAN, GLENN & STECKER**

*Shuman, Glenn & Stecker prides itself with its unwavering dedication to serving clients at the highest legal and ethical standards in the prosecution of corporate securities fraud throughout the United States. We are passionate about advancing the rights of defrauded shareholders and work steadfastly to redress*

## MISSION STATEMENT

*clients. We take great pleasure in our commitment to two fundamental principles - client communication and satisfaction. We view our size as an asset which facilitates communication and enables us to better serve our clients. We believe our success as a law firm cannot only be measured by the amount of money we recover, but also the trust we develop with our clients and their approval of our work done on their behalf.*

WE ARE PROUD TO ACKNOWLEDGE THAT RISKMETRICS GROUP'S SECURITIES CLASS ACTION SERVICES DIVISION RECOGNIZED THE SHUMAN LAW FIRM AS ONE OF THE TOP 50 PLAINTIFFS' LAW FIRMS IN THE UNITED STATES, RANKED BY TOTAL DOLLAR AMOUNT OF FINAL SECURITIES CLASS ACTION SETTLEMENTS IN 2008 IN WHICH THE LAW FIRM SERVED AS LEAD OR CO-LEAD COUNSEL.




Shuman, Glenn & Stecker is a nationally recognized law firm with offices in San Francisco, Denver and Philadelphia. We specialize in representing shareholders who have suffered financial losses from corporate securities fraud or other corporate malfeasance.

Since its inception in 1994, Kip B. Shuman, principal of Shuman, Glenn & Stecker has worked to recover hundreds of millions of dollars on behalf of defrauded investors. Shuman, Glenn & Stecker attorneys have acted as class counsel for institutional investors, including public pension funds, labor unions, as well as thousands of individual investors in securities class actions and derivative litigation.

## FIRM BACKGROUND

Shuman, Glenn & Stecker served as counsel in over forty derivative lawsuits emanating from the well-publicized stock option backdating scandal that came to light in 2006. In these cases, corporate executives of publicly-traded companies manipulated company stock options in a manner that allowed the executives to enrich themselves to the tune of hundreds of millions of dollars at the expense of the companies and shareholders. Shuman, Glenn & Stecker has played a central role in causing many corporate executives who received manipulated stock options to return their ill-gotten profits to the companies they served.

*continued on next page*



In many instances, Shuman, Glenn & Stecker has caused the manipulated stock options to be either rescinded or re-priced to ensure that executives cannot profit from their wrongdoing. In addition, Shuman, Glenn & Stecker has caused the boards of directors of these companies to adopt robust corporate governance changes that are specifically designed to create a system of checks and balances which ensure that stock option manipulation will not occur in the future. These cases provide one recent example of Shuman, Glenn & Stecker's commitment to protecting the rights of shareholders. See pages 6-8 for a partial list of stock option backdating derivative cases and the results achieved.

## ACCOLADES

*In comparison with the thousand-plus attorney mega-firms commonly seen today, Shuman, Glenn & Stecker and its predecessor firms, has been frequently recognized by the courts for the high quality of its work and results achieved.*


- At a hearing to appoint lead plaintiffs, lead counsel, and liaison counsel in *In Re Rhythms Securities Litigation*, United States District Court Senior Judge John L. Kane complimented Mr. Shuman on having done an “excellent job” in all of the class action securities matters held in his court to date.

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- In *In re Qwest Communications International, Inc., Securities Litigation*, which is believed to be the largest securities fraud case in the history of the State of Colorado, the Court in granting approval of the final settlement of the action stated: “I have for my duration as the presiding judge in this case respected and admired your competent counsel, because as I have commented and as my lead law clerk have commented repeatedly, the quality of your brief-ing and your argument and authority was exemplary and something that I would hope would be emulated by other counsel in the same or similar circumstances.”
- In *Queen Uno v. Coeur D’Alene Mines Corporation*, the Court recognized the “skill and experience, reputation and ability” of plaintiffs’ counsel, stating that counsel are “well respected litigators in the securities field,” “highly skilled in class action litiga-tion and federal securities law,” and that “ the substantial amount recovered is testament to their skill.”
- Likewise, in approving the final settlement of another national securities fraud class action, *Schaffer v. Evolving Systems, Inc.*, the court recognized the effort and ability of plaintiffs’ counsel, stating that “the \$10 million settlement ... is a good recovery, in fact, almost extraordinarily good. And I commend counsel for having achieved that result.”



*Shuman, Glenn & Stecker attorneys have exceptional success in prosecuting shareholder class actions and derivative actions. Below is a sample of their more notable cases.*

- *Rasner v. FirstWorld Communications Inc.*, Case No. 00-K-1376 (D. Colo.) (co-lead counsel) (\$25.925 million recovered).

- *In re Tele-Communications, Inc. Sec. Litig.*, Case No. 97CV421 (Colo.) (co-lead counsel) (\$26.5 million recovered).

## NOTABLE CASES

- *Muhr v. Transcript Int'l, Inc.*, Case No. CI98-333 (Neb.) (co-lead counsel) (approximately \$25 million recovered).

- *In re Samsonite Corp. Sec. Litig.*, Case No. 98-K-1878 (D. Colo.) (co-lead counsel) (\$24 million recovered).

- *Queen Uno Ltd. Partnership v. Coeur D'Alene Mines Corp.*, Case No. 97-WY-1431 (D. Colo.) (co-lead counsel) (\$13 million recovered).

- *In re Secure Computing Corp. Sec. Litig.*, Case No. C-99-1927 (N.D. Cal.) (co-lead counsel) (\$10.1 million recovered).

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- *Angres v. Smallworldwide PLC*, Case No. 99-K-1254 (D. Colo.) (co-lead counsel) (\$9.85 million recovered).
- *In re Qwest Comms. Int'l Sec. Litig.*, Case No. 01-cv-1451 (D. Colo.) (liaison counsel) (\$450 million recovered).
- *In re First American Corporation Shareholder Derivative Litigation*, Case No. SACV-06-1230 (C.D. Cal.) (corporate reforms obtained included, separating roles of the Chairman of the Board and CEO, enhanced Chairman of the Board duties, the creation of lead independent director, and revised compensation guidelines).
- *In re Quest Software, Inc. Derivative Litigation*, Case No. SACV-06-751 (C.D. Cal.) (corporate reforms obtained included, separating roles for Chairman of Board and CEO, enhanced Chairman of the Board duties, amendments to stock option plans, revisions to compensation committee and audit committee charters, and revised compensation guidelines).
- *In re NVIDIA Corp. Derivative Litigation*, Case No. C-06-06110 (N.D. Cal.) (payments, re-pricing and other benefits to the company for mispriced stock options valued at over \$15 million; corporate reforms obtained included, enhanced board of director duties and independence requirements, creation of lead independent director with specified duties, and revised compensation and stock option policies).



- *In re Newport Resources, Inc. Derivative Litigation*, Case No. 06-7340 (E.D. La.) (payment of \$8.3 million to the company for mispriced stock options; creation and implementation of code of ethics for senior officers and directors, creation and implementation of policy on reporting, cooperating with investigation and discipline in connection with policy violations, modifications to company policy regarding remediation actions related to material weaknesses in internal controls over financial reporting).
- *In re Meade Instruments Corp. Derivative Litigation*, Case No. 06CC00205 (Cal. Super. Ct., Orange County) (corporate reforms included, enhanced timing, disclosures, and documentation of company equity compensation awards of awards, the creation of a compliance officer and enhanced duties for compensation and audit committees).
- *In re Cheesecake Factory Incorporated Derivative Litigation*, Case No. CV-06-6234 (C.D. Cal.) (repayment to the company by certain directors and officers for mispriced exercised stock options; corporate reforms included, the addition of an independent director, maintenance of a lead independent director with specified duties, enhanced board of director duties and independence requirements, and revised compensation and stock option policies).



**KIP B. SHUMAN**

[kip@shumanlawfirm.com](mailto:kip@shumanlawfirm.com)

Kip B. Shuman, founding member of the firm, has prosecuted class actions and derivative actions in Colorado and through-out the United States for more than twenty-five years. Mr. Shuman concentrates his practice on representing injured shareholders through securities class actions and derivative litigation.

Mr. Shuman graduated from U.C.L.A. in 1984 and the University of San Francisco School of Law in 1989.

## OUR SECURITIES LITIGATION TEAM

Mr. Shuman has lectured in the area of class actions, teaching a continuing legal education course entitled, Litigating the Class Action Lawsuit in Colorado. He was also a panelist at the 35th Rocky Mountain Securities Conference and presented on the topic of Pleading Requirements in the Tenth Circuit after the Private Securities Litigation Reform Act of 1995.

Mr. Shuman is a member of both the Colorado and California State Bars, and is admitted to practice before the U.S. District Courts for the Northern and Central Districts of California, the U.S. District Court for Colorado, and the United States Ninth and Tenth Circuit Courts of Appeals.

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**RUSTY E. GLENN**

[rusty@shumanlawfirm.com](mailto:rusty@shumanlawfirm.com)

Rusty E. Glenn, a partner of the firm, concentrates his practice on representing injured shareholders through securities class actions and derivative litigation.

Mr. Glenn received his B.S., *summa cum laude*, from Baker University in 2004, an M.A. in Economics from the University of Kansas Graduate School of Economics in 2006 and his law degree from the University of Kansas School of Law in 2007 where he was awarded the Hinkle Elkouri Tax Procedure Award for his scholastic achievement and community service in providing volunteer income tax assistance to low-income individuals. He also studied at Bahceshir University in Istanbul, Turkey under U.S. Supreme Court Justice Antonin Scalia.

Mr. Glenn's professional experience includes two years as Constituent Director for Kansas Senate Democratic Leader Anthony Hensley. In addition, Mr. Glenn gained experience in the investigation and prosecution of financial crimes and corporate fraud while working for the Federal Bureau of Investigation in Washington, D.C. and Kansas City, Missouri. Upon graduation from law school, Mr. Glenn joined Shuman, Glenn & Stecker's predecessor firm and has prosecuted numerous class actions and derivative actions in the more than decade since.

Mr. Glenn is a member of the Colorado State Bar, and is admitted to practice before the United States District Court for the District of Colorado, and the United States Tenth Circuit Court of Appeals.

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**BRETT D. STECKER**

[brett@shumanlawfirm.com](mailto:brett@shumanlawfirm.com)

Brett D. Stecker, a partner of the firm, has concentrated his practice on representing injured shareholders through securities class actions and derivative litigation since 2006. Mr. Stecker joined Shuman, Glenn & Stecker as a partner in 2019 and previously was a member of a well-known Pennsylvania shareholder rights law firm for over 13 years. Mr. Stecker has served as lead or co-lead counsel in scores of shareholder class and derivative actions in state and federal courts across the U.S.

Prior to specializing in shareholder rights, Mr. Stecker was associated with two prominent Philadelphia law firms, where he represented Fortune 500 companies as well as large regional financial institutions in various complex commercial litigation matters.

Mr. Stecker graduated from Franklin & Marshall College in 1997 with a B.A. in government, and received his Juris Doctor from the Villanova University School of Law in 2000. While at Villanova University School of Law, Mr. Stecker served as an Executive Member of the Moot Court Board and competed in moot court competitions held at law schools across the U.S.

Mr. Stecker has been a member of both the Pennsylvania and New Jersey state bars since 2000. He is admitted to practice before the Pennsylvania Supreme Court, the United States District Court for the Eastern District of Pennsylvania, and the U.S. Court of Appeals for the Second and Ninth Circuits.





**SHUMAN, GLENN & STECKER**

**Contact Information**

Tele: (303) 861-3003

Fax: (303) 536-7849

Web: [www.shumanlawfirm.com](http://www.shumanlawfirm.com)

**San Francisco**

100 Pine Street, Ste. 1250

San Francisco, CA 94111

**Denver**

600 17th Street, Ste. 2800 South

Denver, CO 80202

**Philadelphia**

326 W. Lancaster Avenue

Ardmore, PA 19003



# **EXHIBIT 5**

<p>DISTRICT COURT, DENVER COUNTY,          COLORADO          Court Address: 1437 Bannock Street, Room 256,          Denver, CO, 80202</p>	<p style="text-align: center;">▲ COURT USE ONLY ▲</p>
<p><b>Plaintiff(s)</b> OKLAHOMA POLICE PENSION AND          RETIREMENT SYSTEM, Individually and on Behalf          of All Others Similarly Situated</p> <p>v.</p> <p><b>Defendant(s)</b> JAGGED PEAK ENERGY INC., et al.</p>	
<p><b>Attorneys for Plaintiff:</b>          SHUMAN, GLENN &amp; STECKER          Rusty E. Glenn (Atty. Reg. No. 39183)          600 17th Street, Suite 2800 South,          Denver, CO 80202          Tel.: (303) 861-3003; Fax: (303) 536-7849</p> <p>Scott+Scott Attorneys at Law LLP          Deborah Clark-Weintraub (<i>admitted pro hac vice</i>)          Thomas L. Laughlin, IV (<i>admitted pro hac vice</i>)          Emilie B. Kokmanian (<i>admitted pro hac vice</i>)          Mandeep Minhas (<i>admitted pro hac vice</i>)          230 Park Ave., 17th Fl., New York, NY 10169          Tel.: (212) 223-6444; Fax: (212) 223-6334</p>	<p>Case Number: 2017CV31757          Division: 209</p>
<p style="text-align: center;"><b>AFFIDAVIT OF ANN CAVANAUGH REGARDING NOTICE DISSEMINATION,          PUBLICATION, AND REQUESTS FOR EXCLUSION AND OBJECTIONS          RECEIVED TO DATE</b></p>	

I, ANN CAVANAUGH, hereby state under penalty of perjury as follows:

1. I am employed as a Project Manager by A.B. Data, Ltd. (“A.B. Data”), whose principal office is located at 600 A.B. Data Drive, Milwaukee, Wisconsin 53217. The following statements are based on my personal knowledge and information provided to me by other A.B. Data employees and, if called to testify, I could and would do so competently.

2. Pursuant to the Court’s Amended Order Granting Plaintiff’s Unopposed Motion for Preliminary Approval of Class Action Settlement, Approving Form and Manner of Notice, and Setting Date for Hearing on Final Approval of Settlement dated August 23, 2023 (“Preliminary Approval Order”), A.B. Data was authorized to act as the Claims Administrator for the Settlement in the above-captioned action (the “Action”).<sup>1</sup> I oversaw the notice services that A.B. Data provided in accordance with the Preliminary Approval Order.

3. I submit this affidavit in order to provide the Court and the parties to the Action with information regarding: (i) mailing of the Court-approved Notice of Pendency and Proposed Settlement of Class Action (the “Notice”) and Proof of Claim form (the “Proof of Claim”) (collectively, the “Claim Package,” attached hereto as Exhibit A); (ii) publication of the Summary Notice of Pendency of Class Action and Proposed Settlement (the “Summary Notice”); (iii) establishment of the website and toll-free telephone number dedicated to this Settlement; and (iv) the number of requests for exclusion from the Settlement Class and objections to the Settlement received by A.B. Data to date.

#### **DISSEMINATION OF THE CLAIM PACKAGE**

4. Pursuant to the Preliminary Approval Order, A.B. Data is responsible for disseminating the Claim Package to potential Settlement Class Members. The “Settlement Class” consists of all Persons who purchased or otherwise acquired the common stock of Jagged Peak Energy Inc. (“Jagged”) in or traceable to Jagged’s initial public offering (“IPO”) on January 27, 2017. Excluded from the Settlement Class are: (i) Defendants; (ii) Defendants’ Counsel; and (iii) Defendants’ Released Parties, *provided, however*, that any Investment Vehicle shall not be excluded from the Settlement Class. Also excluded from the Settlement Class are any Persons who timely and validly seek exclusion from the Settlement Class in accordance with the requirements set by the Court.

5. A.B. Data received a transfer list via email from Jagged’s counsel, which contained the names and addresses of potential Settlement Class Members. A.B. Data reviewed the list in consultation with Plaintiff’s and Defendants’ counsel to identify Released Parties, resulting in a usable mailing list of 29 unique names and addresses. A.B. Data had the unique name and address data printed on Claim Packages, posted the Claim Packages for First-Class Mail, postage prepaid,

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<sup>1</sup> Capitalized terms not otherwise defined herein have the meanings given to them in the Stipulation of Settlement (“Stipulation”), filed with this Court on August 21, 2023.

and delivered the Claim Packages on September 13, 2023, to the United States Post Office for mailing.

6. In addition, on September 13, 2023, as part of its normal mailing procedures, A.B. Data mailed, by First-Class Mail, Claim Packages to 4,967 brokerages, custodial banks, and other institutions (“Nominee Holders”) that hold securities in “street name” as nominees for the benefit of their customers who are the beneficial owners of the securities. In addition, A.B. Data sent 487 emails to Nominee Holders with links to the Claim Package. The Nominee Holders also include a group of filers/institutions who have requested notification of every securities class action settlement. These Nominee Holders are included in a proprietary database created and maintained by A.B. Data. In A.B. Data’s experience, many potential class members receive notice through their Nominee Holders.

7. As part of the notice program for this Settlement, on September 13, 2023, A.B. Data also delivered electronic copies of the Claim Package via email to be published by the Depository Trust Company (“DTC”) on the DTC Legal Notice System (“LENS”). LENS enables the participating bank and broker nominees to review the Claim Package and contact A.B. Data for copies of the Claim Package for their beneficial holders.

8. A.B. Data has acted as a repository for shareholder and nominee inquiries and communications received in this Action. In this regard, A.B. Data has forwarded the Claim Package on request to Nominee Holders who purchased or acquired Jagged common stock in or traceable to Jagged’s IPO for the beneficial interest of other persons. A.B. Data has also forwarded the Claim Package directly to beneficial owners upon receipt of the names and addresses from such beneficial owners or Nominee Holders.

9. Following the initial mailing, A.B. Data received 16 responses from Nominee Holders to the outreach efforts described above, which included computer files containing a total of 2,803 names and addresses of potential Settlement Class Members. These Nominee Holders requested that A.B. Data send Claim Packages directly to their clients. In addition, two institutions requested that A.B. Data send them a total of 9,250 Claim Packages for forwarding directly to their clients. Each of these requests has been completed in a timely manner.

10. As of October 26, 2023, A.B. Data has mailed a total of 17,049 Claim Packages to potential Settlement Class Members and Nominee Holders.

### **PUBLICATION OF THE SUMMARY NOTICE**

11. In accordance with the Preliminary Approval Order, on September 27, 2023, A.B. Data caused the Summary Notice to be published in the *Investor’s Business Daily* and transmitted over *PR Newswire*, as shown in the confirmations of publication attached hereto as Exhibit B.

## TELEPHONE HELPLINE AND WEBSITE

12. On September 13, 2023, A.B. Data established and continues to maintain a case-specific, toll-free telephone helpline – 1-877-777-9635 – to accommodate potential Settlement Class Member inquiries. The toll-free number was set forth in the Notice and is posted on the settlement website for the Action. A.B. Data has promptly responded to all inquiries to the toll-free telephone helpline and will continue to do so.

13. On September 13, 2023, A.B. Data established and continues to maintain a website dedicated to this Settlement ([www.jaggedpeaksecuritiessettlement.com](http://www.jaggedpeaksecuritiessettlement.com)) to provide additional information to Settlement Class Members and to provide answers to frequently asked questions. The web address was set forth in the Claim Package and the Summary Notice. The website includes information regarding the Action and the Settlement, including the exclusion, objection, and claim-filing deadlines, and the date, time, and location of the Court's Settlement Hearing. Copies of the Notice, Proof of Claim, Stipulation of Settlement, and Preliminary Approval Order are posted on the website and are available for downloading. Settlement Class Members can also complete and submit a Proof of Claim through the website.

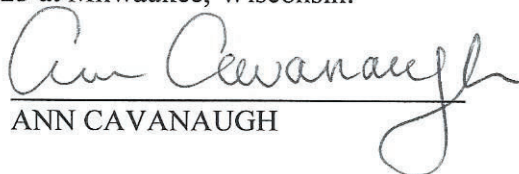
## REQUESTS FOR EXCLUSION & OBJECTIONS RECEIVED TO DATE

14. The Notice informs potential Settlement Class Members that written requests for exclusion from the Settlement Class must be mailed to Jagged Peak Securities Litigation Settlement, EXCLUSIONS, c/o A.B. Data, Ltd., P.O. Box 173001, Milwaukee, WI 53217, such that they are postmarked no later than November 13, 2023. A.B. Data has monitored and will continue to monitor all mail delivered to this address.

15. The Notice also informs potential Settlement Class Members that objections must be in writing and filed with the Court, such that they are received on or before November 13, 2023, and that the objector must also serve the papers on Plaintiff's Counsel and Defendants' Counsel such that they are received on or before November 13, 2023. The Notice also sets forth the information that must be included in each request for exclusion and objection. Should any potential Settlement Class Member erroneously forward their request for objection to the Claims Administrator, the Claims Administrator will report them to Plaintiff's and Defendants' Counsel and the Court.

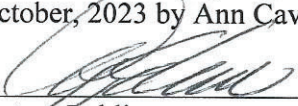
16. As of the date of this affidavit, A.B. Data's records indicate that it has not received any requests for exclusion and has not received any objections from Settlement Class Members.

Executed this 27 day of October 2023 at Milwaukee, Wisconsin.

  
ANN CAVANAUGH

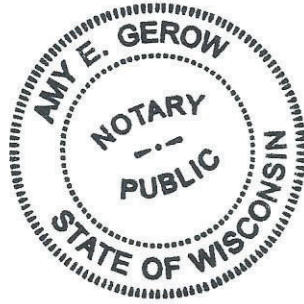
State of Wisconsin  
County of Milwaukee

The above and foregoing Affidavit was subscribed and sworn to before me on this 27 day of October, 2023 by Ann Cavanaugh.

  
\_\_\_\_\_

Notary Public

My commission expires: 8/9/2024



# EXHIBIT A

DISTRICT COURT, DENVER COUNTY, COLORADO Court Address: 1437 BANNOCK STREET, RM 256, DENVER, CO, 80202	Case No.: 2017CV31757 Division: 209
<b>Plaintiff(s)</b> OKLAHOMA POLICE PENSION AND RETIREMENT SYSTEM, Individually and on Behalf of All Others Similarly Situated  v.  <b>Defendant(s)</b> JAGGED PEAK ENERGY INC., et al.	

**NOTICE OF PENDENCY AND PROPOSED SETTLEMENT OF CLASS ACTION**

**TO: ALL PERSONS AND ENTITIES WHO PURCHASED OR OTHERWISE ACQUIRED JAGGED PEAK ENERGY INC.’S (“JAGGED” OR THE “COMPANY”) COMMON STOCK IN OR TRACEABLE TO THE COMPANY’S JANUARY 27, 2017 INITIAL PUBLIC OFFERING (“IPO”)<sup>1</sup>**

**IN ORDER TO QUALIFY FOR A SETTLEMENT PAYMENT, YOU MUST TIMELY SUBMIT A PROOF OF CLAIM FORM (“PROOF OF CLAIM”) BY DECEMBER 12, 2023.**

**THIS NOTICE WAS AUTHORIZED BY THE COURT. IT IS NOT A LAWYER SOLICITATION. PLEASE READ THIS NOTICE CAREFULLY AND IN ITS ENTIRETY.**

**WHY SHOULD I READ THIS NOTICE?**

This Notice is given pursuant to an Order issued by the District Court, City and County of Denver, Colorado (the “Court”). This Notice serves to inform you of the proposed settlement (the “Settlement”) of the above-captioned class action lawsuit (the “Action”) and the hearing (the “Settlement Hearing”) to be held by the Court to consider the fairness, reasonableness, and adequacy of the Settlement, as set forth in the Stipulation of Settlement, dated August 21, 2023 (the “Stipulation”), entered into by and between Oklahoma Police Pension and Retirement System (the “Plaintiff”) on behalf of itself and all members of the putative Settlement Class, and Jagged Peak Energy Inc., Joseph N. Jagers, Robert W. Howard, Shonn D. Stahlecker, Charles D. Davison, S. Wil Vanloh, Jr., Blake A. Webster, Citigroup Global Markets Inc., Credit Suisse Securities (USA) LLC, J.P. Morgan Securities LLC, Goldman, Sachs & Co., RBC Capital Markets, LLC, Wells Fargo Securities, LLC, UBS Securities LLC, Keybank Capital Markets Inc., ABN AMRO Securities (USA) LLC, Fifth Third Securities, Inc., Petrie Partners Securities, LLC, Tudor, Pickering, Holt & Co. Securities, Inc., BMO Capital Markets Corp., Deutsche Bank Securities Inc., Evercore Group L.L.C., and Scotia Capital (USA) Inc. (collectively, “Defendants”), by their respective counsel.<sup>2</sup>

**This Notice is intended to inform you how the Action and proposed Settlement may affect your rights and what steps you may take in relation to it.**

<sup>1</sup> For purposes of the Settlement only, the “Settlement Class” includes all persons and entities who purchased or otherwise acquired Jagged’s common stock in or traceable to the Company’s January 27, 2017 IPO, *i.e.*, between January 27, 2017 and July 26, 2017, inclusive, unless excluded by the terms of the Stipulation.

<sup>2</sup> Unless otherwise defined herein, all capitalized terms shall maintain the same meaning as those set forth in the Stipulation. The Stipulation can be viewed and/or downloaded at: [www.JaggedPeakSecuritiesSettlement.com](http://www.JaggedPeakSecuritiesSettlement.com).



## WHAT IS THIS LAWSUIT ABOUT?

### I. THE ALLEGATIONS

This is a securities class action alleging claims under §§11, 12(a)(2), and 15 of the Securities Act of 1933 on behalf of persons who acquired stock in Jagged pursuant or traceable to its IPO. Plaintiff alleges that the Offering Documents for the IPO contained untrue and misleading statements and omissions and violated Defendants' affirmative obligation under Item 303 of Regulation S-K to disclose "known trends or uncertainties that have or that are reasonably likely to have a material favorable or unfavorable impact on net sales or revenues or income from continuing operations." Although the Action was initially dismissed by the District Court, this decision was reversed in part by the Colorado Court of Appeals in a decision that was affirmed by the Colorado Supreme Court. Following these appeals, the Action was focused on two alleged misstatements: (1) that Jagged planned to "[m]aximize returns by optimizing drilling and completion techniques through the experience and expertise of [its] management and technical teams;" and (2) that Jagged's drilling plan was focused "on reducing drilling times, optimizing completions, and reducing costs." Plaintiff alleged that these statements were untrue and misleading because, at the time of the IPO, management knew, but did not disclose, that Jagged's technical team was incompetent or unqualified and Jagged had awarded contracts that enriched its chief drilling contractor or were otherwise disadvantageous to Jagged resulting in substantial and ongoing additional drilling and production costs, contrary to the Offering Documents' representations that Jagged's drilling costs were falling. Plaintiff alleges that the alleged truth hidden by these untrue statements and omissions was revealed to investors in a series of announcements between March 2017 and May 2018, causing Jagged's stock price to decline.

Defendants deny all of Plaintiff's allegations. Without limiting the generality of the foregoing in any way, Defendants have denied, and continue to deny, among other things, that any misstatements or materially misleading omissions were made or that Plaintiff or the Settlement Class have suffered any damages. Defendants do not admit any liability or wrongdoing in connection with the allegations set forth in the Litigation or any facts related thereto.

**THE COURT HAS NOT RULED AS TO WHETHER DEFENDANTS ARE LIABLE TO PLAINTIFF OR THE SETTLEMENT CLASS. THIS NOTICE IS NOT INTENDED TO BE AN EXPRESSION OF ANY OPINION BY THE COURT WITH RESPECT TO THE TRUTH OF THE ALLEGATIONS IN THE LITIGATION OR THE MERITS OF THE CLAIMS OR DEFENSES ASSERTED. THIS NOTICE IS SOLELY TO ADVISE YOU OF THE PROPOSED SETTLEMENT OF THE LITIGATION AND YOUR RIGHTS IN CONNECTION WITH THAT SETTLEMENT.**

### II. PROCEDURAL HISTORY

The initial complaint was filed in this Court by Plaintiff on May 12, 2017. On June 2, 2017, Defendants removed the Action to the United States District Court for the District of Colorado. Although Plaintiff moved to remand, proceedings were stayed in the Federal District Court pending the U.S. Supreme Court's decision in *Cyan, Inc. v. Beaver County Employees Ret. Fund*, 138 S. Ct. 1061 (2018), which ultimately reaffirmed the jurisdiction of state courts in Securities Act cases, at which time the case was remanded to this Court. Plaintiff filed its amended complaint on July 23, 2018, and Defendants moved to dismiss the Action in its entirety. After briefing but without holding oral argument, this Court dismissed the Action. Plaintiff appealed the dismissal to the Colorado Court of Appeals which issued a decision on April 1, 2021, that affirmed the dismissal of some of the alleged untrue statements and omissions but reversed as to others. Defendants petitioned the Colorado Supreme Court for a writ of certiorari, which was granted by the Colorado Supreme Court on December 13, 2021. After briefing and oral argument, on November 21, 2022, the Colorado Supreme Court affirmed the Court of Appeals' decision and the Action was remanded to this Court.

Thereafter, this Court entered a Case Management Order and the Parties commenced discovery. The Parties also agreed to engage in mediation. On April 18, 2023, the Parties attended a mediation session conducted by a third-party neutral mediator, Robert M. Meyer of JAMS (the "Mediator"). Prior to the mediation, Plaintiff and Defendants submitted and exchanged mediation statements summarizing their respective positions. While the parties did not reach an agreement to settle the Action at the mediation, they continued their negotiations through the Mediator and thereafter agreed to settle the Action on the terms set forth in the Stipulation, subject to the Court's approval. The Stipulation (together with the exhibits thereto) reflects the final and binding agreement between the Parties.

## HOW DO I KNOW IF I AM A SETTLEMENT CLASS MEMBER?

If you purchased shares of Jagged common stock in or traceable to the IPO, *i.e.*, between January 27, 2017, and July 26, 2017, and were damaged thereby, or are the legal representative, heir, executor, administrator, successor, or assign of a person or entity who was such a purchaser or acquirer, you may be a Settlement Class Member.

As set forth in the Stipulation, excluded from the Settlement Class are: (i) Defendants; (ii) Defendants' Counsel; and (iii) Defendants' Released Parties, *provided, however*, that any Investment Vehicle shall not be excluded from the Settlement Class. Also excluded from the Settlement Class will be any Persons who timely and validly seek exclusion from the Settlement Class in accordance with the requirements set by the Court.

**PLEASE NOTE:** Receipt of this Notice does not mean that you are a Settlement Class Member or that you will be entitled to receive a payment from the Settlement. If you are a Settlement Class Member and you wish to be eligible to participate in the distribution of proceeds from the Settlement, you are required to submit the Proof of Claim that is being distributed with this Notice and the required supporting documentation, as set forth therein, **postmarked or submitted online on or before December 12, 2023.**

## WHAT IS THE MONETARY VALUE OF THE PROPOSED SETTLEMENT?

The Settlement, if approved, will result in the creation of a cash settlement fund of \$8,250,000 (the "Settlement Fund"). The Settlement Fund, plus accrued interest and minus the costs of this Notice and all costs associated with the administration of the Settlement Fund, as well as attorneys' fees and expenses, and the award to Plaintiff for representing the Settlement Class, as approved by the Court (the "Net Settlement Fund"), will be distributed to eligible Settlement Class Members pursuant to the Plan of Allocation that is described in the next section of this Notice.

## WHAT IS THE PROPOSED PLAN OF ALLOCATION?

The objective of the Plan of Allocation is to equitably distribute the Net Settlement Fund among Settlement Class Members based on their respective alleged economic losses resulting from the securities law violations alleged in the Action.

The Claims Administrator shall determine each Settlement Class Member's share of the Net Settlement Fund based upon the recognized loss formula (the "Recognized Claim") described below. A Recognized Claim will be calculated for each share of Jagged common stock purchased or otherwise acquired in the IPO. The calculation of a Recognized Claim will depend upon several factors, including when the shares were purchased or otherwise acquired and in what amounts, whether the shares were ever sold, and, if so, when they were sold and for what amounts. The Recognized Claim is not intended to estimate the amount a Settlement Class Member might have been able to recover after a trial, nor to estimate the amount that will be paid to Settlement Class Members pursuant to the Settlement. The Recognized Claim is the basis upon which the Net Settlement Fund will be proportionately allocated to Settlement Class Members.

Your share of the Net Settlement Fund will depend on the number of valid Proofs of Claim that other Settlement Class Members send in, how many shares of Jagged common stock you purchased or otherwise acquired in the IPO, whether you sold any of those shares, and when you sold them.

The calculation of claims below is not an estimate of the amount you will receive. It is a formula for allocating the Net Settlement Fund among all Authorized Claimants. Furthermore, if any of the formulas set forth below yield an amount less than \$10.00, the claim per share is \$0.00.

## PROPOSED PLAN OF ALLOCATION OF NET SETTLEMENT FUND AMONG SETTLEMENT CLASS MEMBERS

Publicly tradable common shares of Jagged purchased in or traceable to the Company's IPO, *i.e.*, January 27, 2017 through July 26, 2017, inclusive<sup>3</sup> are potentially eligible for damages (the "Eligible Shares") based on their Recognized Claim (as a percentage of the Aggregate Recognized Claims of all Authorized Claimants), as set forth below.<sup>4</sup> The total

<sup>3</sup> The lock-up period expired on July 26, 2017, making tracing impossible as of this date.

<sup>4</sup> Common shares deemed purchased and sold on the same day shall not be eligible for damages.

number of Eligible Shares that were damaged is estimated to be no more than 37.0 million. The expected gross recovery per damaged share is expected to be at least \$0.22 per share.

**A. Calculation of Recognized Losses on Purchases of Jagged Common Stock in Or Traceable To the IPO**

For each Eligible Share purchased in or traceable to the IPO, *i.e.*, between January 27, 2017 through July 26, 2017, inclusive, the Recognized Loss for each such Share shall be based on the inflation per Share on the date of purchase, minus the inflation per Share on the date of sale, as set forth in the following Table A below; *provided, however*, that all such losses will be limited by the loss limitation rules set forth in ¶¶A.1-3 below (in which case the lower amount will apply).<sup>5</sup>

**Table A: Inflation per Share on Eligible Shares as of Relevant Purchase and Sale Dates<sup>6</sup>**

Period	Beginning Date	Ending Date	Inflation Per Share
1	1/27/2017	3/8/2017	\$1.79
2	3/9/2017	3/13/2017	\$1.42
3	3/14/2017	3/15/2017	\$1.29
4	3/16/2017	3/26/2017	\$1.03
5	3/27/2017	5/11/2017	\$0.77
6	5/12/2017	8/9/2017	\$1.20
7	8/10/2017	8/13/2017	\$1.08
8	8/14/2017	1/9/2018	\$0.88
9	1/10/2018	1/24/2018	\$0.64
10	1/25/2018	2/21/2018	\$0.50
11	2/22/2018	5/10/2018	\$0.32
12	5/11/2018	Current	\$0.00

- Shares sold on or before March 8, 2017, will have no Recognized Loss because the inflation per share on the date of purchase and sale is the same.
- For Eligible Shares sold on or after March 9, 2017, but before May 13, 2017, the Recognized Loss for each Share will be the lesser of: (a) the Inflation per Share on the date of purchase minus the Inflation Per Share on the date of sale, as set forth in Table A; or (b) the lesser of either the price paid on the date of purchase (“Purchase Price”) or \$15.00<sup>7</sup> minus the price received on the date of sale (“Sales Price”).
- For Eligible Shares sold on or after May 13, 2017, the Recognized Loss will be the lesser of: (a) the Inflation Per Share on the date of purchase, minus the Inflation Per Share on the date of sale, as set forth in Table A; or (b) the lesser of either the price paid on the date of purchase (“Purchase Price”) or \$15.00 minus the greater of either the price received on the date of sale (“Sales Price”) or \$11.73.<sup>8</sup>

<sup>5</sup> Section 11(e) of the Securities Act provides that damages for violations of Section 11 shall be calculated pursuant to the following formula: The difference between the amount paid for the security (not exceeding the price at which the security was offered to the public) and (1) the value thereof as of the time such suit was brought, or (2) the price at which such security shall have been disposed of in the market before suit, or (3) the price at which such security shall have been disposed of after suit but before judgment if such damages shall be less than the damages representing the difference between the amount paid for the security (not exceeding the price at which the security was offered to the public) and the value thereof as of the time such suit was brought.

<sup>6</sup> Inflation per share was based on an event study analysis that identified corrective disclosures potentially related to the alleged untrue statements and omissions.

<sup>7</sup> The IPO price was \$15.00.

<sup>8</sup> The \$11.73 price is the estimated value of the shares at the close of trading on May 12, 2017, the date the Action was filed. This value is based on the event study and takes into account subsequent events.

## **B. Additional Provisions Relating to the Calculation of Recognized Losses**

For Settlement Class Members who made multiple purchases, acquisitions, or sales between January 27, 2017 and July 26, 2017, the first-in, first-out (“FIFO”) method will be applied to those purchases, acquisitions, and sales for purposes of calculating Recognized Losses. Under the FIFO method, all purchases of publicly tradeable Jagged shares in or traceable to the IPO will be matched in chronological order with subsequent sales of Jagged shares, if any.

The date of purchase or date of sale is the “contract” or “trade” date as distinguished from the “settlement” date. All purchase, acquisition, and sale prices shall exclude any fees and commissions. The receipt or grant by gift, devise, or operation of law of Jagged shares during the Relevant Period shall not be deemed a purchase or sale of Jagged common stock for the calculation of a claimant’s Recognized Claim, nor shall it be deemed an assignment of any claim relating to the purchase of such shares unless specifically provided in the instrument of gift or assignment.

Gains on short sales of Jagged shares (if any) made on or between January 27, 2017 and July 26, 2017, will be used to offset losses. For short sales, the date of covering a “short sale” is deemed to be the date of purchase of the Jagged share. The date of a “short sale” is deemed to be the date of sale of the Jagged share. Under the Plan of Allocation, however, the Recognized Loss on short sales is zero.

Option contracts are not securities eligible to participate in the Settlement. With respect to Jagged shares purchased or sold through the exercise of an option, the purchase/sale date of the Jagged share is the exercise date of the option and the purchase/sale price of the Jagged share is the exercise price of the option.

## **C. Allocation of Net Settlement Proceeds Based on Recognized Losses**

A Claimant’s “Recognized Claim” under the Plan of Allocation shall be the sum of his, her, or its Recognized Loss amounts for their Eligible Shares, as determined in accordance with §§ A and B above.

To the extent a Claimant had a market gain with respect to his, her, or its overall transactions in Eligible Shares, the value of the Claimant’s Recognized Claim shall be zero, but such Claimant shall in any event be bound by the Settlement. To the extent that a Claimant suffered an overall market loss with respect to his, her, or its Eligible Shares, but that market loss was less than the total Recognized Claim calculated above, then the Claimant’s Recognized Claim shall be limited to the amount of the actual market loss.

For purposes of determining whether a Claimant had a market gain with respect to his, her, or its overall transactions in Eligible Shares or suffered a market loss, the Claims Administrator shall determine the difference between (i) the “Total Purchase Amount”<sup>9</sup> and (ii) the sum of (a) the “Total Sales Proceeds”<sup>10</sup> (for Eligible Shares sold on or before August 11, 2017), and (b) the Holding Value<sup>11</sup> (for Eligible Shares not sold, and still held as of August 11, 2017).

The Net Settlement Fund will be distributed to Authorized Claimants on a *pro rata* basis based on the relative size of their Recognized Claims. Specifically, a “Distribution Amount” will be calculated for each Authorized Claimant, which shall be the Authorized Claimant’s Recognized Claim divided by the aggregate Recognized Claims of all Authorized Claimants, multiplied by the total amount in the Net Settlement Fund. If any Authorized Claimant’s Distribution Amount calculates to less than \$10.00, it will not be included in the calculation and no distribution will be made to such Authorized Claimant, who will nevertheless be bound by the Settlement.

The Net Settlement Fund will not be distributed to Authorized Claimants unless and until the Court has (a) approved the Settlement and either this Plan of Allocation or a modified plan and entered Orders with respect to Plaintiff’s Counsel’s request for an award of attorneys’ fees and expenses and Plaintiff’s request for compensation in connection with its representation of the Settlement Class; and (b) the time for any petition for rehearing, appeal, or review, whether by certiorari

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<sup>9</sup> The “Total Purchase Amount” is the total amount the Claimant paid (excluding commissions and other charges) for the Jagged common stock purchased or acquired in the IPO.

<sup>10</sup> “Total Sales Proceeds” is the total amount a Claimant received (excluding commissions and other charges) for the Jagged common stock sold.

<sup>11</sup> The Claims Administrator shall ascribe a value of \$11.30 per share for Eligible Shares still held as of the close of trading on August 11, 2017, and the resulting total value of such shares using that per share value shall be the “Holding Value.”

or otherwise, with respect to each of the foregoing has expired. Approval of the Settlement is separate from approval of this or any other Plan of Allocation. Any determination with respect to a plan of allocation will not affect the Settlement, if approved.

Each Claimant shall be deemed to have submitted to the jurisdiction of the Court with respect to his, her, or its Proof of Claim. Payment pursuant to the Plan of Allocation set forth above shall be conclusive against all Authorized Claimants.

You should contact the Claims Administrator or Plaintiff's Counsel if you disagree with any determinations that may be made by the Claims Administrator regarding your Proof of Claim. If you are unsatisfied with the determinations, you may ask the Court, which retains jurisdiction over all Settlement Class Members and the claims administration process, to decide the issue by submitting a written request. Distributions will be made to Authorized Claimants after all claims have been processed and after the Court has finally approved the Settlement.

**DO I NEED TO CONTACT PLAINTIFF'S COUNSEL IN ORDER TO PARTICIPATE IN DISTRIBUTION OF THE SETTLEMENT FUND?**

No. If you have received this Notice and timely submit your Proof of Claim to the designated address, you need not contact Plaintiff's Counsel. If your address changes, please contact the Claims Administrator at:

*Jagged Peak Securities Litigation Settlement*  
Claims Administrator  
c/o A.B. Data, Ltd.  
P.O. Box 173136  
Milwaukee, WI 53217  
[www.JaggedPeakSecuritiesSettlement.com](http://www.JaggedPeakSecuritiesSettlement.com)

**THERE WILL BE NO PAYMENTS IF THE STIPULATION IS TERMINATED.**

The Stipulation may be terminated under several circumstances outlined in it. If the Stipulation is terminated, the Action will proceed as if the Stipulation had not been entered into.

**WHAT ARE THE REASONS FOR SETTLEMENT?**

The Settlement was reached after an investigation by Plaintiff's Counsel and following the denial, in part, of the Defendants' motion to dismiss the amended complaint by the Colorado Court of Appeals and the Colorado Supreme Court. The Court has not reached any final decisions in connection with Plaintiff's claims. Instead, Plaintiff and Defendants have agreed to the Settlement, which was reached with the substantial assistance of a highly respected mediator of complex class actions. In reaching the Settlement, the Parties have avoided the cost, delay, and uncertainty of further litigation.

As in any litigation, Plaintiff and the proposed Settlement Class would face an uncertain outcome if they did not agree to the Settlement. The Parties expected that the Action could continue for a lengthy period of time and that if Plaintiff succeeded, Defendants would file further appeals that would postpone final resolution of the Action. Continuation of the Action against Defendants could result in a judgment greater than the Settlement. Conversely, continuing the Action could result in no recovery at all or a recovery that is less than the amount of the Settlement.

Plaintiff believes that the Settlement is fair and reasonable to the members of the Settlement Class. It has reached this conclusion for several reasons. Specifically, if the Settlement is approved, the Settlement Class will receive a certain and immediate monetary recovery. Additionally, Plaintiff's Counsel believes that the significant and immediate benefits of the Settlement, when weighed against the significant risk, delay, and uncertainty of continued litigation, are a very favorable result for the Settlement Class.

## WHO REPRESENTS THE SETTLEMENT CLASS?

The following attorneys are counsel for the Settlement Class:

Deborah Clark-Weintraub, Esq.  
Emilie Kokmanian, Esq.  
Mandeep Minhas, Esq.  
SCOTT+SCOTT ATTORNEYS AT LAW LLP  
The Helmsley Building  
230 Park Avenue, 17th Floor  
New York, NY 10169  
Telephone: 800-404-7770

If you have any questions about the Action or Settlement, you are entitled to consult with Plaintiff's Counsel by contacting counsel at the phone number listed above.

You may obtain a copy of the Stipulation by contacting the Claims Administrator at:

*Jagged Peak Securities Litigation Settlement*  
Claims Administrator  
c/o A.B. Data, Ltd.  
P.O. Box 173136  
Milwaukee, WI 53217  
[www.JaggedPeakSecuritiesSettlement.com](http://www.JaggedPeakSecuritiesSettlement.com)

## HOW WILL PLAINTIFF'S COUNSEL BE PAID?

Plaintiff's Counsel will file a motion for an award of attorneys' fees and expenses that will be considered at the Settlement Hearing. Plaintiff's Counsel will apply for an attorneys' fee award in the amount of up to 30% of the Settlement Fund, plus payment of Plaintiff's Counsel's expenses incurred in connection with the Action in an amount not to exceed \$150,000. In addition, Plaintiff may seek a payment of up to \$10,000 for its efforts in representing the Settlement Class. Such sums, as may be approved by the Court, will be paid from the Settlement Fund. Settlement Class Members are not personally liable for any such fees or expenses.

The Fee and Expense Award requested will be the only payment to Plaintiff's Counsel for their efforts in achieving the Settlement and for their risk in undertaking this representation on a wholly contingent basis. The fees requested will compensate Plaintiff's Counsel for their work in achieving the Settlement. The Court will decide what constitutes a reasonable fee award and may award less than the amount requested by Plaintiff's Counsel.

## CAN I EXCLUDE MYSELF FROM THE SETTLEMENT?

Yes. If you do not want to receive a payment from the Settlement, or you want to keep the right to sue or continue to sue Defendants on your own about the legal issues in the Action, then you must take steps to get out of the Settlement Class. This is called excluding yourself from, or "opting out" of, the Settlement Class. If you are requesting exclusion because you want to bring your own lawsuit based on the matters alleged in the Action, you may want to consult an attorney and discuss whether any individual claim that you may wish to pursue would be time-barred by the applicable statutes of limitation or repose.

To exclude yourself from the Settlement Class, you must send a signed letter by mail saying that you want to be excluded from the Settlement Class in the following Litigation: *Oklahoma Police Pension and Retirement System v. Jagged Peak Energy Inc.*, Case No. 2017CV31757. Be sure to include your name, address, telephone number, and the date(s), price(s), and number of shares of Jagged common stock that you purchased or acquired in or traceable to the IPO. Your exclusion request must be **postmarked no later than November 13, 2023**, and sent to the Claims Administrator at:

*Jagged Peak Securities Litigation Settlement*

EXCLUSIONS

c/o A.B. Data, Ltd.

P.O. Box 173001

Milwaukee, WI 53217

You cannot exclude yourself by phone or email. If you make a proper request for exclusion, you will not receive a settlement payment, and you cannot object to the Settlement. If you make a proper request for exclusion, you will not be legally bound by anything that happens in this lawsuit.

**CAN I OBJECT TO THE SETTLEMENT, REQUESTED ATTORNEYS' FEES,  
REQUESTED PAYMENT OF COSTS AND EXPENSES, REQUESTED PAYMENT  
TO THE PLAINTIFF, AND/OR PLAN OF ALLOCATION?**

Yes. If you are a Settlement Class Member, you may object to the terms of the Settlement. Whether or not you object to the terms of the Settlement, you may also object to the requested attorneys' fees, costs, and expenses, Plaintiff's request for an award for representing the Settlement Class, and/or the Plan of Allocation. In order for any objection to be considered, you must file a written statement, accompanied by proof of Settlement Class membership, with the Court and send a copy to Plaintiff's Counsel and Defendants' Counsel at the addresses listed below **by November 13, 2023**. The Court's address is 1437 Bannock Street, Room 256, Denver, CO 80202; Plaintiff's Counsel's address is Scott+Scott Attorneys at Law LLP c/o Deborah Clark-Weintraub, The Helmsley Building, 230 Park Avenue, 17th Fl., New York, NY 10169; and Defendants' Counsel's address is Vinson & Elkins LLP, c/o Andrew E. Jackson, 2001 Ross Avenue, Suite 3900, Dallas, TX 75201. Attendance at the Settlement Hearing is not necessary. Persons wishing to be heard orally at the Settlement Hearing are required to indicate in their written objection their intention to appear at the hearing and identify any witnesses they may call to testify and exhibits, if any, they intend to introduce into evidence.

**WHAT IS THE DIFFERENCE BETWEEN OBJECTING AND EXCLUDING  
MYSELF FROM THE SETTLEMENT?**

Objecting is telling the Court that you do not like something about the proposed Settlement, the Plan of Allocation, Plaintiff's request for an award for representing the Settlement Class, or Plaintiff's Counsel's request for an award of attorneys' fees and expenses. You can object only if you stay in the Settlement Class. Excluding yourself is telling the Court that you do not want to be part of the Settlement Class. If you exclude yourself, you have no basis to object because the Action no longer applies to you.

**WHAT ARE MY RIGHTS AND OBLIGATIONS UNDER THE SETTLEMENT?**

If you are a Settlement Class Member and you do not exclude yourself from the Settlement Class, you may receive the benefit of, and you will be bound by, the terms of the Settlement, as described in this Notice, upon approval by the Court.

**HOW CAN I GET A PAYMENT?**

In order to qualify for a payment, you must timely complete and return the Proof of Claim that accompanies this Notice. A Proof of Claim is enclosed with this Notice and also may be downloaded at [www.JaggedPeakSecuritiesSettlement.com](http://www.JaggedPeakSecuritiesSettlement.com). Read the instructions carefully; fill out the Proof of Claim; sign it; and mail or submit it online so that it is **postmarked (if mailed) or received (if submitted online) no later than December 12, 2023**. The Proof of Claim may be submitted online at [www.JaggedPeakSecuritiesSettlement.com](http://www.JaggedPeakSecuritiesSettlement.com). If you do not submit a timely Proof of Claim with all of the required information, you will not receive a payment from the Settlement Fund; however, unless you expressly exclude yourself from the Settlement Class, as described above, you will still be bound in all other respects by the Settlement, Judgment, and releases contained in them.

## WHAT CLAIMS WILL BE RELEASED BY THE SETTLEMENT?

If the Settlement is approved by the Court, the Court will enter a Judgment. If the Judgment becomes Final pursuant to the terms of the Stipulation, (i) all Settlement Class Members shall be deemed to have, and by operation of the Final Judgment shall have, fully, finally, and forever released, relinquished, and discharged any and all of the Released Defendants' Parties from all Released Claims; and (ii) all Released Defendants' Parties shall be deemed to have, and by operation of the Final Judgment shall have, fully, finally, and forever released, relinquished, and discharged any and all of the Released Plaintiff's Parties from all Released Defendants' Claims.

- “Released Defendants’ Parties” means each Defendant, each of their respective Immediate Family Members, and each of their respective past or present direct or indirect parents, subsidiaries, divisions, affiliates, partners, general partners, limited partners, partnerships, principals, shareholders, joint venturers, members, officers, directors, managers, managing directors, supervisors, employees, attorneys, including Defendants’ Counsel, auditors, accountants, advisors, investment bankers, representatives, insurers and reinsurers, of each of them, trusts, trustees, trustors, agents, predecessors, successors, estates, assigns, assignees, heirs, executors, and administrators in their capacities as such.
- “Released Claims” means all claims (including, but not limited to, “Unknown Claims,” as defined below), debts, disputes, demands, losses, rights, actions or causes of action of any nature whatsoever, liabilities, damages, obligations, sums of money due, judgments, suits, amounts, matters, issues, and charges of any kind whatsoever (including, but not limited to, any claims for interest, attorneys’ fees, expert or consulting fees, and any other costs, expenses, amounts, or liabilities whatsoever), whether fixed or contingent, accrued or unaccrued, liquidated or unliquidated, at law or in equity, matured or unmatured, foreseen or unforeseen, whether individual or class in nature, whether arising under federal or state statutory or common law or any other law, rule, or regulation, whether foreign or domestic, that Plaintiff or any member of the Settlement Class, or any of their successors, assigns, executors, administrators, representatives, attorneys, and agents, in their capacities as such: (1) asserted, whether directly or indirectly, in any of the complaints filed in this Action against any of the Released Defendants’ Parties; or (2) could have asserted in the Action or in any other action or in any other forum or could in the future be asserted in any forum, by Plaintiff or any member of the Settlement Class against any of the Released Defendants’ Parties, which both (a) arise out of, are based on, are related in any way to, or are in consequence of any of the allegations, acts, transactions, facts, events, matters, occurrences, disclosures, non-disclosures, representations, statements, acts, or omissions or failures to act that were involved, set forth, alleged, or referred to, in any of the complaints in the Action, and (b) arise out of, are based on, or relate to the purchase, sale, or acquisition of Jagged common stock in or traceable to the IPO or the disposition or holding of such shares (except for claims to enforce the Settlement).
- “Released Plaintiff’s Parties” means Plaintiff, each and every other Settlement Class Member, each of their respective Immediate Family Members, and each of their respective past and present direct or indirect parents, subsidiaries, divisions, affiliates, partners, general partners, limited partners, partnerships, principals, shareholders, joint venturers, members, officers, directors, managers, managing directors, supervisors, employees, attorneys, including Plaintiff’s Counsel, auditors, accountants, advisors, investment bankers, representatives, insurers and reinsurers of each of them, trusts, trustees, trustors, agents, predecessors, successors, estates, assigns, assignees, heirs, executors, and administrators in their capacities as such.
- “Released Defendants’ Claims” means any and all claims (including, but not limited to, “Unknown Claims” as defined below), debts, disputes, demands, losses, rights, actions or causes of action of any nature whatsoever, liabilities, damages, obligations, sums of money due, judgments, suits, amounts, matters, issues, and charges of any kind whatsoever (including, but not limited to, any claims for interest, attorneys’ fees, expert or consulting fees, and any other costs, expenses, amounts, or liabilities whatsoever), whether fixed or contingent, accrued or unaccrued, liquidated or unliquidated, at law or in equity, matured or unmatured, foreseen or unforeseen, whether individual or class in nature, whether arising under federal or state statutory or common law or any other law, rule, or regulation, whether foreign or domestic that the Released Defendants’ Parties or any of them have against Plaintiff, members of the Settlement Class, or Plaintiff’s Counsel, which arise out of or relate in any way to the institution, prosecution, assertion, settlement, or resolution of the Action (except for claims to enforce the Settlement).
- “Unknown Claims” means any and all Released Claims of every nature and description against the Released Defendants’ Parties that Plaintiff or any other Settlement Class Member does not know or suspect to exist in his, her, or its favor at the time of their release of the Released Claims, and any and all Released Defendants’ Claims of



every nature and description against the Released Plaintiff's Parties that any Defendant does not know or suspect to exist in his, her, or its favor at the time of their release of the Released Defendants' Claims, and including, without limitation, those which, if known by such Plaintiff, Settlement Class Member, or Defendant, might have affected his, her, or its decision(s) with respect to the Settlement or the releases. With respect to any and all Released Claims and Released Defendants' Claims, the Parties stipulate and agree that, upon the Effective Date, Plaintiff and Defendants shall expressly, and each other Settlement Class Member shall be deemed to have, and by operation of the Judgment or Alternate Judgment, if applicable, shall have, to the fullest extent permitted by law, expressly waived and relinquished any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States, or principle of common law, which is similar, comparable, or equivalent to Cal. Civ. Code § 1542, which provides:

**A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor or released party.**

Plaintiff and Defendants acknowledge, and other Settlement Class Members by operation of law shall be deemed to have acknowledged, that the inclusion of "Unknown Claims" in the definition of Released Claims and Released Defendants' Claims was separately bargained for and was a material element of the Settlement.

The above description of the proposed Settlement is only a summary. The complete terms are set forth in the Stipulation (including its exhibits), which may be obtained at [www.JaggedPeakSecuritiesSettlement.com](http://www.JaggedPeakSecuritiesSettlement.com), or by contacting Plaintiff's Counsel.

### THE SETTLEMENT HEARING

The Court will hold a Settlement Hearing on December 15, 2023, at 12:00 p.m. M.T., before the Honorable Sarah B. Wallace, 1437 Bannock Street, Denver, Colorado 80202 for the purpose of determining whether: (i) the Settlement, as set forth in the Stipulation, for \$8,250,000 in cash should be approved by the Court as fair, reasonable, and adequate; (ii) Judgment, as provided under the Stipulation, should be entered; (iii) to award Plaintiff's Counsel attorneys' fees and expenses out of the Settlement Fund and, if so, in what amount; (iv) to award Plaintiff compensation for its time and expenses in representing the Settlement Class out of the Settlement Fund and, if so, in what amount; and (v) the Plan of Allocation should be approved by the Court. Details about the Settlement Hearing will be posted on the website ([www.JaggedPeakSecuritiesSettlement.com](http://www.JaggedPeakSecuritiesSettlement.com)) once available. Any updates and/or changes to the scheduling of the Settlement Hearing will be posted there as well. The Court may adjourn or continue the Settlement Hearing without further notice to members of the Settlement Class.

Any Settlement Class Member may appear at the Settlement Hearing and be heard on any of the foregoing matters; provided, however, that no such Person shall be heard unless his, her, or its objection is made in writing and is filed, together with proof of membership in the Settlement Class and with copies of all other papers and briefs to be submitted by them in support of their objection, with the Court no later than November 13, 2023, and showing proof of service on the following counsel:

Deborah Clark-Weintraub  
SCOTT+SCOTT  
ATTORNEYS AT LAW LLP  
230 Park Avenue, 17th Fl.  
New York, NY 10169

*Attorneys for Plaintiff*

Andrew E. Jackson  
VINSON & ELKINS LLP  
2001 Ross Avenue, Ste. 3900  
Dallas, TX 75201

*Attorneys for Defendants*

Unless otherwise directed by the Court, any Settlement Class Member who does not make his, her, or its objection in the manner provided above shall be deemed to have waived all objections to the Settlement and shall be foreclosed from raising (in this or any other proceeding or on any appeal) any objection and any untimely objection shall be barred.

If you hire an attorney (at your own expense) to represent you for purposes of objecting, your attorney must serve a notice of appearance on counsel listed above and file it with the Court (at the address set out above) by no later than November 13, 2023.

## INJUNCTION

Pending Final determination by the Court of whether the Settlement should be approved, the Court has issued an order enjoining (i) all Settlement Class Members from instituting, commencing, maintaining, or prosecuting any action in any court or tribunal that asserts Released Claims against any of the Released Defendants' Parties; and (ii) all Released Defendants' Parties from instituting, commencing, maintaining, or prosecuting any action in any court or tribunal that asserts Released Defendants' Claims against any of the Released Plaintiff's Parties.

### HOW DO I OBTAIN ADDITIONAL INFORMATION?

This Notice contains only a summary of the terms of the proposed Settlement. The records in the Action may be examined and copied at any time during regular office hours, and subject to customary copying fees, at the Office of the Clerk of the District Court, City and County of Denver. In addition, all of the Settlement documents, including the Stipulation, this Notice, the Proof of Claim, and proposed Judgment, may be obtained by contacting the Claims Administrator at:

*Jagged Peak Securities Litigation Settlement*  
Claims Administrator  
c/o A.B. Data, Ltd.  
P.O. Box 173136  
Milwaukee, WI 53217  
Email: [info@JaggedPeakSecuritiesSettlement.com](mailto:info@JaggedPeakSecuritiesSettlement.com)  
Telephone: 877-777-9635  
[www.JaggedPeakSecuritiesSettlement.com](http://www.JaggedPeakSecuritiesSettlement.com)

In addition, you may contact Plaintiff's Counsel identified above if you have any questions about the Action or the Settlement.

### DO NOT WRITE TO OR TELEPHONE THE COURT FOR INFORMATION.

### SPECIAL NOTICE TO BANKS, BROKERS, AND OTHER NOMINEES

If you held any Jagged common stock purchased in or traceable to the IPO, as a nominee for a beneficial owner, then, within 14 (fourteen) calendar days after you receive this Notice, you must either: (i) send a copy of this Notice by First-Class Mail to all such Persons; or (ii) provide a list of the names and addresses of such Persons to the Claims Administrator:

*Jagged Peak Securities Litigation Settlement*  
Claims Administrator  
c/o A.B. Data, Ltd.  
P.O. Box 173136  
Milwaukee, WI 53217  
Email: [info@JaggedPeakSecuritiesSettlement.com](mailto:info@JaggedPeakSecuritiesSettlement.com)  
Telephone: 877-777-9635  
[www.JaggedPeakSecuritiesSettlement.com](http://www.JaggedPeakSecuritiesSettlement.com)

If you choose to mail the Notice and Proof of Claim yourself, you may obtain from the Claims Administrator (without cost to you) as many additional copies of these documents as you will need to complete the mailing.

Regardless of whether you choose to complete the mailing yourself or elect to have the mailing performed for you, you may obtain reimbursement for reasonable administrative costs actually incurred in connection with forwarding the Notice, and which would not have been incurred but for the obligation to forward the Notice upon submission of appropriate documentation to the Claims Administrator.

DATED: September 13, 2023

BY ORDER OF THE DISTRICT COURT, CITY  
AND COUNTY OF DENVER, COLORADO  
THE HONORABLE SARAH B. WALLACE,  
DISTRICT COURT JUDGE

DISTRICT COURT, DENVER COUNTY, COLORADO Court Address: 1437 BANNOCK STREET, RM 256, DENVER, CO, 80202	Case No.: 2017CV31757 Division: 209
<b>Plaintiff(s)</b> OKLAHOMA POLICE PENSION AND RETIREMENT SYSTEM, Individually and on Behalf of All Others Similarly Situated  v.  <b>Defendant(s)</b> JAGGED PEAK ENERGY INC., et al.	

**PROOF OF CLAIM**

**I. GENERAL INSTRUCTIONS**

1. To recover as a Settlement Class Member based on the claims in the action entitled *Oklahoma Police Pension and Retirement System v. Jagged Peak Energy Inc.*, Case No. 2017CV31757 (the “Action”),<sup>1</sup> you must complete and sign this Proof of Claim. If you fail to file a properly addressed Proof of Claim (as set forth in ¶3 below), your claim may be rejected and you may be precluded from any recovery from the Net Settlement Fund created in connection with the proposed Settlement.

2. Submission of this Proof of Claim, however, does not assure that you will share in the proceeds of the Settlement of the Action.

3. YOU MUST MAIL OR SUBMIT ONLINE YOUR COMPLETED AND SIGNED PROOF OF CLAIM, ACCOMPANIED BY COPIES OF THE DOCUMENTS REQUESTED HEREIN, **ON OR BEFORE DECEMBER 12, 2023**, ADDRESSED AS FOLLOWS:

*Jagged Peak Securities Litigation Settlement*  
 Claims Administrator  
 c/o A.B. Data, Ltd.  
 P.O. Box 173136  
 Milwaukee, WI 53217  
 Online Submissions: [www.JaggedPeakSecuritiesSettlement.com](http://www.JaggedPeakSecuritiesSettlement.com)

If you are NOT a Settlement Class Member, as defined in the Notice of Pendency and Proposed Settlement of Class Action (“Notice”), DO NOT submit a Proof of Claim.

4. If you are a Settlement Class Member and you do not timely request exclusion, you are bound by the terms of any judgment entered in the Action, including the releases provided therein, WHETHER OR NOT YOU SUBMIT A PROOF OF CLAIM.

**II. CLAIMANT IDENTIFICATION**

You are a member of the Settlement Class if you purchased or otherwise acquired the common stock of Jagged Peak Energy Inc. (“Jagged” or the “Company”) in or traceable to the Company’s initial public offering (the “IPO”) on January 27, 2017, *i.e.*, between January 27, 2017, and July 26, 2017, inclusive, unless you are an excluded party under the terms of the Stipulation.

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<sup>1</sup> This Proof of Claim form (“Proof of Claim”) incorporates by reference the definitions in the Stipulation of Settlement (“Stipulation”), which can be obtained at [www.JaggedPeakSecuritiesSettlement.com](http://www.JaggedPeakSecuritiesSettlement.com).

Use Part I of this form entitled “Claimant Information” to identify each purchaser or acquiror of record (“nominee”) of the Jagged common stock that forms the basis of this claim. **THIS CLAIM MUST BE FILED BY THE ACTUAL BENEFICIAL PURCHASER(S) OR ACQUIRER(S) OR THE LEGAL REPRESENTATIVE OF SUCH PURCHASER(S) OR ACQUIRER(S) OF THE JAGGED COMMON STOCK UPON WHICH THIS CLAIM IS BASED.**

All joint purchasers or acquirers must sign this claim. Executors, administrators, guardians, conservators, and trustees must complete and sign this claim on behalf of persons represented by them and their authority must accompany this claim and their titles or capacities must be stated. The Social Security (or Taxpayer Identification) Number and telephone number of the beneficial owner may be used in verifying the claim. Failure to provide the foregoing information could delay verification of your claim or result in rejection of the claim.

### **III. CLAIM FORM**

Use Part II of this form entitled “Schedule of Transactions in Jagged Common Stock” to supply all required details of your transaction(s). If you need more space or additional schedules, attach separate sheets giving all of the required information in substantially the same form. Sign and print or type your name on each additional sheet.

On the schedules, provide all of the requested information with respect to **all** of your purchases and acquisitions of Jagged common stock that took place in or traceable to the Company’s IPO, *i.e.*, between January 27, 2017 and July 26, 2017, inclusive, and **all** of your sales of Jagged common stock on or after January 27, 2017, whether such transactions resulted in a profit or a loss. Failure to report all such transactions may result in the rejection of your claim.

List each transaction separately and in chronological order, by trade date, beginning with the earliest. You must accurately provide the month, day, and year of each transaction you list.

The date of covering a “short sale” is deemed to be the date of purchase of Jagged common stock. The date of a “short sale” is deemed to be the date of sale of Jagged common stock.

**COPIES OF BROKER CONFIRMATIONS OR OTHER DOCUMENTATION OF YOUR TRANSACTIONS IN JAGGED COMMON STOCK SHOULD BE ATTACHED TO YOUR CLAIM. FAILURE TO PROVIDE THIS DOCUMENTATION COULD DELAY VERIFICATION OF YOUR CLAIM OR RESULT IN REJECTION OF YOUR CLAIM.**

NOTICE REGARDING ELECTRONIC FILES: Certain Claimants with large numbers of transactions may request, or may be requested, to submit information regarding their transactions in electronic files. All such Claimants **MUST** also submit a manually signed paper Proof of Claim whether or not they also submit electronic copies. If you wish to submit your claim electronically, you must contact the Claims Administrator at [www.JaggedPeakSecuritiesSettlement.com](http://www.JaggedPeakSecuritiesSettlement.com) or (877) 777-9635 to obtain the required file layout. No electronic files will be considered to have been properly submitted unless the Claims Administrator issues to the Claimant a written acknowledgment of receipt and acceptance of electronically submitted data.

**PROOF OF CLAIM AND RELEASE**

**PART I: CLAIMANT INFORMATION**

The Claims Administrator will use this information for all communications regarding this Claim Form. Please also note that, if eligible for payment, the check will be issued according to the information listed below. If this information changes, you **MUST** notify the Claims Administrator in writing at the address above. Complete names of all persons and entities must be provided.

Beneficial Owner's Name:

Co-Beneficial Owner's Name:

Entity Name (if Claimant is not an individual):

Representative or Custodian Name (if different from Beneficial Owner(s) listed above):

Address 1 (street name and number):

Address 2 (apartment, unit, or box number):

City State/Province Zip/Postal Code Country

Last Four Digits of your Social Security Number or Taxpayer Identification Number:

Telephone Number (home): Telephone Number (work):

<input type="text"/>	<input type="text"/>
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Email Address:

Account Number (if filing for multiple accounts, file a separate Claim Form for each account):

Claimant Account Type (check appropriate box):

- |   |                                       |
|---|---------------------------------------|
| <input type="checkbox"/> Individual (includes joint owner accounts) | <input type="checkbox"/> Pension Plan |
| <input type="checkbox"/> Corporation                                | <input type="checkbox"/> Estate       |
| <input type="checkbox"/> IRA/401k                                   | <input type="checkbox"/> Trust        |
| <input type="checkbox"/> Other (please specify): _____              |                                       |

**PART II: SCHEDULE OF TRANSACTIONS IN JAGGED COMMON STOCK**

**A. Separately list each purchase of Jagged common shares during the period from January 27, 2017 through and including July 26, 2017 (must be documented).**

Trade Date(s) Month/Day/Year (chronologically)	Number of Shares Purchased	Purchase Price Per Share	Total Purchase Price (excluding commissions, taxes, and fees)	Proof of Purchase Enclosed
1.	1.	1.	1.	<input type="checkbox"/> Yes <input type="checkbox"/> No
2.	2.	2.	2.	<input type="checkbox"/> Yes <input type="checkbox"/> No
3.	3.	3.	3.	<input type="checkbox"/> Yes <input type="checkbox"/> No

**B. State the total number of Jagged common shares purchased or acquired between July 27, 2017 and January 9, 2020, inclusive:**

**C. Separately list each sale of Jagged common shares (including short sales, if any) on or after January 27, 2017 (must be documented).**

Trade Date(s) Month/Day/Year (chronologically)	Number of Shares Sold	Sale Price Per Share	Total Sales Price (excluding commissions, taxes, and fees)	Proof of Sale Enclosed
1.	1.	1.	1.	<input type="checkbox"/> Yes <input type="checkbox"/> No
2.	2.	2.	2.	<input type="checkbox"/> Yes <input type="checkbox"/> No
3.	3.	3.	3.	<input type="checkbox"/> Yes <input type="checkbox"/> No

If none, check here

**D. Number of shares of Jagged common stock owned as of the close of trading on January 9, 2020 (if other than zero, must be documented; if a net short position, enter a negative value):**

Proof of Position Enclosed:  Yes  No

**IF YOU REQUIRE ADDITIONAL SPACE, ATTACH COMPLETED EXTRA SCHEDULES IN THE SAME FORMAT AS ABOVE (OR COPY OR DOWNLOAD, AND COMPLETE, ADDITIONAL COPIES OF THE ABOVE "SCHEDULE OF TRANSACTIONS IN JAGGED COMMON STOCK"). PRINT THE BENEFICIAL OWNER'S FULL NAME AND THE LAST FOUR DIGITS OF THEIR TAXPAYER IDENTIFICATION NUMBER ON EACH ADDITIONAL PAGE.**

**YOU MUST READ AND SIGN THE RELEASE BELOW.  
FAILURE TO SIGN THE RELEASE MAY RESULT IN A DELAY  
IN PROCESSING OR THE REJECTION OF YOUR CLAIM.**

**IV. SUBMISSION TO JURISDICTION OF COURT AND ACKNOWLEDGMENTS**

I (We) submit this Proof of Claim under the terms of the Stipulation described in the Notice. I (We) also submit to the jurisdiction of the District Court, City and County of Denver, State of Colorado, with respect to my (our) claim as a Settlement Class Member and for purposes of enforcing the release set forth herein. I (We) further acknowledge that I am (we are) bound by and subject to the terms of any judgment that may be entered in the Action. I (We) agree to furnish additional information to the Claims Administrator to support this claim if requested to do so. I (We) have not submitted any other claim covering the same purchases, acquisitions, or sales of Jagged common stock acquired in or traceable to the IPO and know of no other Person having done so on my (our) behalf.

**V. RELEASE**

1. I (We) hereby acknowledge full and complete satisfaction of, and do hereby fully, finally, and forever settle, release, and discharge from the Released Claims each and all of the Released Defendant Parties, defined below.

2. “Released Claims” means all claims (including, but not limited to, “Unknown Claims,” as defined below), debts, disputes, demands, losses, rights, actions or causes of action of any nature whatsoever, liabilities, damages, obligations, sums of money due, judgments, suits, amounts, matters, issues, and charges of any kind whatsoever (including, but not limited to, any claims for interest, attorneys’ fees, expert or consulting fees, and any other costs, expenses, amounts, or liabilities whatsoever), whether fixed or contingent, accrued or unaccrued, liquidated or unliquidated, at law or in equity, matured or unmatured, foreseen or unforeseen, whether individual or class in nature, whether arising under federal or state statutory or common law or any other law, rule, or regulation, whether foreign or domestic, that Plaintiff or any member of the Settlement Class, or any of their successors, assigns, executors, administrators, representatives, attorneys, and agents, in their capacities as such: (1) asserted, whether directly or indirectly, in any of the complaints filed in this Action against any of the Released Defendants’ Parties; or (2) could have asserted in the Action or in any other action or in any other forum or could in the future be asserted in any forum, by Plaintiff or any member of the Settlement Class against any of the Released Defendants’ Parties, which both (a) arise out of, are based on, are related in any way to, or are in consequence of any of the allegations, acts, transactions, facts, events, matters, occurrences, disclosures, non-disclosures, representations, statements, acts, or omissions or failures to act that were involved, set forth, alleged, or referred to, in any of the complaints in the Action, and (b) arise out of, are based on, or relate to the purchase, sale, or acquisition of Jagged common stock in or traceable to the IPO or the disposition or holding of such shares (except for claims to enforce the Settlement).

3. “Released Defendants’ Parties” means each Defendant, each of their respective Immediate Family Members, and each of their respective past or present direct or indirect parents, subsidiaries, divisions, affiliates, partners, general partners, limited partners, partnerships, principals, shareholders, joint venturers, members, officers, directors, managers, managing directors, supervisors, employees, attorneys, including Defendants’ Counsel, auditors, accountants, advisors, investment bankers, representatives, insurers and reinsurers, of each of them, trusts, trustees, trustors, agents, predecessors, successors, estates, assigns, assignees, heirs, executors, and administrators in their capacities as such.

4. “Released Parties” means the Released Defendants’ Parties and the Released Plaintiff’s Parties.

5. “Released Plaintiff’s Parties” means Plaintiff, each and every other Settlement Class Member, each of their respective Immediate Family Members, and each of their respective past and present direct or indirect parents, subsidiaries, divisions, affiliates, partners, general partners, limited partners, partnerships, principals, shareholders, joint venturers, members, officers, directors, managers, managing directors, supervisors, employees, attorneys, including Plaintiff’s Counsel, auditors, accountants, advisors, investment bankers, representatives, insurers and reinsurers of each of them, trusts, trustees, trustors, agents,



predecessors, successors, estates, assigns, assignees, heirs, executors, and administrators in their capacities as such.

6. "Unknown Claims" means any and all Released Claims of every nature and description against the Released Defendants' Parties that Plaintiff or any other Settlement Class Member does not know or suspect to exist in his, her, or its favor at the time of their release of the Released Claims, and any and all Released Defendants' Claims of every nature and description against the Released Plaintiff's Parties that any Defendant does not know or suspect to exist in his, her, or its favor at the time of their release of the Released Defendants' Claims, and including, without limitation, those which, if known by such Plaintiff, Settlement Class Member, or Defendant, might have affected his, her, or its decision(s) with respect to the Settlement or the releases. With respect to any and all Released Claims and Released Defendants' Claims, the Parties stipulate and agree that, upon the Effective Date, Plaintiff and Defendants shall expressly, and each other Settlement Class Member shall be deemed to have, and by operation of the Judgment or Alternate Judgment, if applicable, shall have, to the fullest extent permitted by law, expressly waived and relinquished any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States, or principle of common law, which is similar, comparable, or equivalent to Cal. Civ. Code § 1542, which provides:

**A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor or released party.**

Plaintiff and Defendants acknowledge, and other Settlement Class Members by operation of law shall be deemed to have acknowledged, that the inclusion of "Unknown Claims" in the definition of Released Claims and Released Defendants' Claims was separately bargained for and was a material element of the Settlement.

7. I (We) hereby warrant and represent that I (we) have not assigned or transferred, or purported to assign or transfer, voluntarily or involuntarily, any matter released pursuant to this release or any other part or portion thereof.

8. I (We) hereby warrant and represent that I (we) have included information about all of my (our) transactions in Jagged common stock acquired in or traceable to the IPO.

9. I (We) certify that I am (we are) NOT subject to backup tax withholding. (If you have been notified by the Internal Revenue Service that you are subject to backup withholding, please strike out the prior sentence.)

I (We) declare under penalty of perjury under the laws of the State of Colorado that all of the foregoing information supplied on this Proof of Claim by the undersigned is true and correct.

Executed this \_\_\_\_\_ day of \_\_\_\_\_  
(Month/Year)

in \_\_\_\_\_  
(City) (State/Province and Country)

\_\_\_\_\_  
(Sign your name here)

\_\_\_\_\_  
(Type or print your name here)

\_\_\_\_\_  
(Capacity of person(s) signing,  
e.g., Beneficial Purchaser or Acquirer,  
Executor, or Administrator)

**ACCURATE CLAIMS PROCESSING TAKES A SIGNIFICANT AMOUNT OF TIME.  
THANK YOU FOR YOUR PATIENCE.**

Reminder Checklist:

1. Please sign the above release and acknowledgment.
2. Remember to attach copies of supporting documentation.
3. **Do not send** originals of certificates or other documentation as they will not be returned.
4. Keep a copy of your Proof of Claim and all supporting documentation for your records.
5. The Claims Administrator will acknowledge receipt of your claim by mail within 45 days of receipt. Your claim is not deemed filed until you receive an acknowledgment postcard. If you do not receive an acknowledgment postcard within 45 days, please contact the Claims Administrator at [info@JaggedPeakSecuritiesSettlement.com](mailto:info@JaggedPeakSecuritiesSettlement.com).
6. If you move, please send your new address to the address below.
7. **Do not use red pen or highlighter** on the Proof of Claim or supporting documentation.

**THIS PROOF OF CLAIM MUST BE SUBMITTED ONLINE OR MAILED  
NO LATER THAN DECEMBER 12, 2023, ADDRESSED AS FOLLOWS:**

*Jagged Peak Securities Litigation Settlement*  
Claims Administrator  
c/o A.B. Data, Ltd.  
P.O. Box 173136  
Milwaukee, WI 53217  
Online Submissions: [www.JaggedPeakSecuritiesSettlement.com](http://www.JaggedPeakSecuritiesSettlement.com)

# EXHIBIT B

36 Mo Performance Rating	YTD 12Wk % Chg	5Yr % After Tax Rtn	Net Asset Value	36 Mo Performance Rating	YTD 12Wk % Chg	5Yr % After Tax Rtn	Net Asset Value	36 Mo Performance Rating	YTD 12Wk % Chg	5Yr % After Tax Rtn	Net Asset Value	36 Mo Performance Rating	YTD 12Wk % Chg	5Yr % After Tax Rtn	Net Asset Value	36 Mo Performance Rating	YTD 12Wk % Chg	5Yr % After Tax Rtn	Net Asset Value
C MidCap	+2	-4	+2	23.10	-0.43														
<b>Hartford Funds I</b>																			
\$25.7 bil 888-843-7824																			
A+ Intl Value	+13	+2	+4	17.08	-0.19														
E Schr EM E	+1	-7	+1	14.65	-0.30														
B- SchrintlStk	+6	+6	+5	15.32	-0.25														
A SchrlusMCO	+3	-1	+5	17.00	-0.27														
<b>Heartland Funds</b>																			
\$1.4 bil 800-432-7856																			
A+ MidCap Val	+6	+1	+7	13.22	-0.17														
A Value+	-5	-4	+4	35.20	-0.34														
A Value	+5	+1	+4	42.69	-0.61														
<b>Hennessy Funds</b>																			
\$2.8 bil 800-966-4354																			
A+ Crnst MidCap	+18	+5	+9	19.66	-0.25														
A+ Crnst Val	+1	+2	+5	19.13	-0.23														
A Crst Utility	-3	-1	+4	23.61	-0.36														
<b>Hillman</b>																			
\$226 mil 800-773-8863																			
A HillmanValu	+10	-2	+7	28.28	-0.34														
<b>Homestead Funds</b>																			
\$2.2 bil 800-258-3030																			
A- Sm-Co Stock	+2	-3	+2	23.04	-0.48														
A Stock Index	+14	-1	+2	31.68	-0.52														
A Value	+3	+1	+6	47.02	-0.66														
<b>Hotchkiss and Wiley</b>																			
\$2.9 bil 866-493-8637																			
A+ Lg Cap Val	+6	+3	+5	41.08	-0.51														
A+ Mid Cap Val	+9	+8	+5	48.61	-0.63														
A Sm Cap Val	+6	+3	+6	69.79	-0.87														
A Value	+5	+1	+2	35.60	-0.36														
<b>IFP US Equity Funds</b>																			
\$1.9 bil 855-233-0437																			
A- FranchPrtnr	+14	-1	+9	18.88	-0.33														
<b>Invesco Funds A</b>																			
\$119 bil 800-959-4246																			
B- Cap Appr	+19	-3	+7	56.51	-1.3														
B- Charter	+13	-2	+5	16.55	-0.29														
A+ ComstockStk	+6	+0	+6	31.98	-0.29														
A+ Comstock	+4	+2	+5	27.40	-0.28														
D- DiscrnyMCG	+6	+5	+1	21.00	-0.58														
A- Div Inc	+0	-1	+4	23.96	-0.29														
A+ Divsd Div	+0	-1	+4	17.42	-0.24														
A+ Energy	+4	+3	+2	29.68	-0.38														
A Eq & Income	+2	+0	+3	9.95	-0.09														
A Eq-Wtd500	+3	-2	+5	65.47	-1.1														
C+ Global Fd	+17	-4	+4	87.23	-1.9														
E Global Opp	+0	-13	-3.0	43.51	-0.98														
A+ Gr & Income	+3	+1	+4	21.03	-0.24														
D- HY Mun	-1	-5	+1	8.14	-1.0														
A- Main SAC	+14	-2	+6	21.63	-0.37														
A- Main St MC	+4	-3	+3	24.20	-0.49														
A- Main Street	+12	-3	+6	48.62	-0.87														
D- Muni Income	+1	+3	+1	11.49	-0.11														
A- Rising Div	+9	-2	+6	22.86	-0.35														
D- RO Muni Opp	+1	+2	+6	6.52	-0.08														
D- RO NY Mun	+1	-4	+2	14.42	-0.18														
A S&P 500 Idx	+14	-1	+7	46.00	-0.76														
A+ SC Value	+8	+4	+7	38.43	-0.33														
A- Sm Cap Eqty	+6	-1	+3	12.22	-0.24														
A+ SP MLP AI	+16	+12	+2	6.25	-0.07														
A+ SP MLP In	+14	+8	+4	4.93	-0.04														
<b>Invesco Funds P</b>																			
\$2.5 bil 800-959-4246																			
C- Summit	+21	-4	+7	20.01	-0.49														
<b>Invesco Funds Y</b>																			
\$31.6 bil 800-959-4246																			
E Dev Mkt	+5	+6	0	36.64	-0.63														
E Intl SM Co	-1	-8	+1	38.43	-0.63														
D- OppentlGro	+6	-7	+3	35.23	-0.59														
A+ SP MLP SI	+15	+9	+3	7.33	-0.05														
<b>Ivy Funds</b>																			
\$36 Mo Performance Rating	YTD 12Wk % Chg	5Yr % After Tax Rtn	Net Asset Value	\$36 Mo Performance Rating	YTD 12Wk % Chg	5Yr % After Tax Rtn	Net Asset Value	\$36 Mo Performance Rating	YTD 12Wk % Chg	5Yr % After Tax Rtn	Net Asset Value	\$36 Mo Performance Rating	YTD 12Wk % Chg	5Yr % After Tax Rtn	Net Asset Value	\$36 Mo Performance Rating	YTD 12Wk % Chg	5Yr % After Tax Rtn	Net Asset Value

36 Mo Performance Rating	YTD 12Wk % Chg	5Yr % After Tax Rtn	Net Asset Value	36 Mo Performance Rating	YTD 12Wk % Chg	5Yr % After Tax Rtn	Net Asset Value	36 Mo Performance Rating	YTD 12Wk % Chg	5Yr % After Tax Rtn	Net Asset Value	36 Mo Performance Rating	YTD 12Wk % Chg	5Yr % After Tax Rtn	Net Asset Value	36 Mo Performance Rating	YTD 12Wk % Chg	5Yr % After Tax Rtn	Net Asset Value
D- Intl Port	+0	-2	+1	22.79	-0.13														
A- IntlProtch Idx	+0	+4	+15	211.97	-3.5														
E Intl Trs	-1	-2	0	19.30	-0.07														
E Intl-TB	+0	-3	0	98.34	-0.06														
E Intl-Tm Inv	+1	-2	+1	8.17	-0.05														
E Intl-Tm Trs	-1	-2	0	9.61	-0.04														
D Intl-Tm Tdx	+1	-2	+2	13.71	-0.07														
E Intl Gro	+4	+9	+5	93.61	-1.3														
A Lg-CpJ	+15	-1	+9	99.76	-2.7														
E Lg-Tm Inv	-2	-5	0	7.42	-0.15														
E Lg-Tm Trs	-6	-10	-2.0	8.03	-0.19														
D- Lg-Tm Tdx	+0	-3	+2	10.36	-0.09														
D- Lg-Tm Tdx	+1	+0	+2	10.60	-0.03														
C+ MCI G	+8	-3	+6	83.31	-1.9														
A MCV I	+0	-1	+5	68.93	-1.1														
B+ Md-CpJ	+4	-2	+6	259.34	-5.0														
A- Mtrls Idx	+2	-2	+7	88.13	-1.8														
D- NJ Lng-Tm	+1	-3	+2	10.74	-0.09														

# Scott+Scott Attorneys at Law LLP Announce a Notice of Pendency of Class Action and Proposed Settlement for the Jagged Peak Securities Litigation Settlement

NEWS PROVIDED BY

**Scott+Scott Attorneys at Law LLP →**

25 Sep, 2023, 10:00 ET

NEW YORK, Sept. 25, 2023 /PRNewswire/ --

DISTRICT COURT, DENVER COUNTY, COLORADO	
Court Address: 1437 BANNOCK STREET, RM 256, DENVER, CO, 80202	Case No.: 2017CV31757 Division: 209
<b>Plaintiff(s)</b> OKLAHOMA POLICE PENSION AND RETIREMENT SYSTEM, Individually and on Behalf of All Others Similarly Situated	
v.	
<b>Defendant(s)</b> JAGGED PEAK ENERGY INC., et al.	

## **SUMMARY NOTICE OF PENDENCY OF CLASS ACTION AND PROPOSED SETTLEMENT**

**To: ALL PERSONS AND ENTITIES WHO PURCHASED OR OTHERWISE ACQUIRED JAGGED PEAK ENERGY INC.'S COMMON STOCK IN OR TRACEABLE TO THE COMPANY'S JANUARY 27, 2017 INITIAL PUBLIC OFFERING**






**THIS NOTICE WAS AUTHORIZED BY THE COURT. IT IS NOT A LAWYER SOLICITATION. PLEASE READ THIS NOTICE CAREFULLY AND IN ITS ENTIRETY.**

YOU ARE HEREBY NOTIFIED that a hearing will be held on December 15, 2023, at 12:00 p.m. M.T., before the Honorable Sarah B. Wallace, District Court, City and County of Denver in the State of Colorado, 1437 Bannock Street, Room 256, Denver, CO, 80202, to determine whether: (i) the proposed Settlement of the above-captioned action (the "Action"), as set forth in the Stipulation of Settlement (the "Stipulation" or "Settlement"), for \$8,250,000 in cash should be approved as fair, reasonable, and adequate;<sup>1</sup> (ii) the Judgment, as provided under the Stipulation, should be entered; (iii) the Plan of Allocation should be approved; (iv) to award Plaintiff's Counsel attorneys' fees and expenses out of the Settlement Fund, and, if so, in what amount; and (v) to award Plaintiff compensation for its efforts prosecuting the Action on behalf of the Class and, if so, in what amount. Any changes to the hearing date and time will be published on [www.JaggedPeakSecuritiesSettlement.com](http://www.JaggedPeakSecuritiesSettlement.com).

The Action is a securities class action brought on behalf of all persons and entities who purchased or otherwise acquired Jagged Peak Energy Inc.'s common stock in the Company's January 27, 2017 initial public offering ("IPO") against Jagged Peak Energy Inc., certain of its officers and directors, and underwriters of the IPO for, among other things, allegedly making materially untrue and misleading statements in the Registration Statement and Prospectus filed with the U.S. Securities and Exchange Commission in connection with the IPO. Plaintiff alleges that these purportedly untrue and misleading statements inflated the price of the Company's stock, resulting in damages to Settlement Class Members<sup>2</sup> when the truth was revealed. Defendants deny all of Plaintiff's allegations.

IF YOU PURCHASED OR ACQUIRED JAGGED PEAK ENERGY INC. COMMON STOCK IN, OR TRACEABLE TO, THE JANUARY 27, 2017 IPO, YOUR RIGHTS MAY BE AFFECTED BY THE SETTLEMENT OF THE ACTION.

To share in the distribution of the Settlement Fund, you must establish your rights by submitting a Proof of Claim form ("Proof of Claim") by mail (**postmarked no later than December 12, 2023**) or electronically (**no later than December 12, 2023**). Your failure to submit your Proof of Claim by December 12, 2023, will subject your claim to rejection and preclude your receiving any of the recovery in connection with the Settlement of the Action. If you are 

member of the Settlement Class and do not request exclusion therefrom, you will be bound by the Settlement and the Judgment and releases entered in the Action whether or not you submit a Proof of Claim.

If you have not yet received the Notice, which more completely describes the Settlement and your rights thereunder (including your rights to object to the Settlement or exclude yourself from the Settlement Class), and a Proof of Claim, you may obtain these documents, as well as a copy of the Stipulation and other settlement documents, online at [www.JaggedPeakSecuritiesSettlement.com](http://www.JaggedPeakSecuritiesSettlement.com), or by writing to:

*Jagged Peak Securities Litigation Settlement*

Claims Administrator

c/o A.B. Data Ltd.

P.O. Box 173136

Milwaukee, WI 53217

(877) 777-9635

Inquiries should NOT be directed to the Defendants, Court, or Clerk of the Court. Inquiries, other than requests for the Notice or a Proof of Claim, may be made to Plaintiff's Counsel:

SCOTT+SCOTT ATTORNEYS AT LAW LLP

Deborah Clark-Weintraub, Esq.

230 Park Avenue, 17th Floor

New York, NY 10169

[www.scott-scott.com](http://www.scott-scott.com)

(800) 404-7770

IF YOU DESIRE TO BE EXCLUDED FROM THE SETTLEMENT CLASS, YOU MUST SUBMIT A WRITTEN REQUEST FOR EXCLUSION IN ACCORDANCE WITH THE INSTRUCTIONS SET FORTH IN THE NOTICE SUCH THAT IT IS *POSTMARKED NO LATER THAN NOVEMBER 13, 2023*. ALL MEMBERS OF THE SETTLEMENT CLASS WHO HAVE NOT REQUESTED EXCLUSION FROM THE SETTLEMENT CLASS WILL BE BOUND BY THE SETTLEMENT EVEN IF THEY DO NOT SUBMIT A TIMELY PROOF OF CLAIM.

IF YOU ARE A MEMBER OF THE SETTLEMENT CLASS, YOU HAVE THE RIGHT TO OBJECT TO THE SETTLEMENT, THE PROPOSED PLAN OF ALLOCATION, REQUEST BY PLAINTIFF'S COUNSEL FOR AN AWARD OF ATTORNEYS' FEES AND EXPENSES, AND REQUEST BY PLAINTIFF FOR COMPENSATION FOR ITS EFFORTS PROSECUTING THE ACTION ON BEHALF OF THE SETTLEMENT CLASS. ANY OBJECTIONS MUST BE FILED WITH THE COURT AND SENT TO PLAINTIFF'S COUNSEL AND DEFENDANTS' COUNSEL BY NOVEMBER 13, 2023, IN THE MANNER AND FORM EXPLAINED IN THE NOTICE.

Dated this 25<sup>th</sup> day of September 2023.

BY THE COURT:

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SARAH B. WALLACE

District Court Judge

<sup>1</sup> Unless otherwise defined herein, all capitalized terms shall maintain the same meaning as those set forth in the Stipulation, which can be viewed and/or obtained at [www.JaggedPeakSecuritiesSettlement.com](http://www.JaggedPeakSecuritiesSettlement.com).

<sup>2</sup> For purposes of the Settlement, the "Settlement Class" includes all persons and entities who purchased or otherwise acquired Jagged Peak Energy Inc.'s common stock in, or traceable to, the Company's January 27, 2017 IPO, unless excluded by terms of the Stipulation.

SOURCE Scott+Scott Attorneys at Law LLP