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6 Attorneys for Plaintiffs

7  
8 **IN THE UNITED STATES DISTRICT COURT**  
9 **FOR THE DISTRICT OF ARIZONA**

10 In re Arizona Theranos, Inc. Litigation

Case No. 2:16-cv-02138-DGC

Consolidated with  
No. 2:16-cv-2373-HRH  
No. 2:16-cv-2660-HRH  
No. 2:16-cv-2775-DGC  
No. 2:16-cv-3599-DGC

15 **DECLARATION OF LEONARD W.**  
16 **ARAGON FILED IN SUPPORT OF**  
17 **PLAINTIFFS' MOTION FOR FINAL**  
18 **APPROVAL OF CLASS ACTION**  
19 **SETTLEMENT AND FOR AN**  
20 **AWARD OF ATTORNEYS' FEES,**  
21 **EXPENSES AND SERVICE AWARDS**

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1 I, Leonard W. Aragon, do hereby declare and state as follows:

2 1. I am a partner in the law firm of Hagens Berman Sobol Shapiro LLP. I submit  
3 this declaration in support of Lead Counsel's application for an award of attorneys' fees and  
4 reimbursement of expenses in connection with the services my law firm rendered in the  
5 above-entitled action.

6 2. The information in this declaration regarding my firm's time and expenses is  
7 documented and reflected in time and expense printouts and supporting documentation  
8 prepared and maintained by my firm in the ordinary course of business. I am the partner  
9 who oversaw and conducted day-to-day activities in the litigation, and I have reviewed my  
10 firm's records in connection with the preparation of this declaration. The purpose of this  
11 review was to confirm both the accuracy, necessity, and reasonableness of the time and  
12 expenses committed to the litigation by Hagens Berman. My review included the elimination  
13 of time that was unnecessary, duplicative, or devoted to matters not authorized by Lead  
14 Counsel. As a result of this review, reductions were made where appropriate in the exercise  
15 of billing judgment to both time and expenses. As a result of this review and the adjustments  
16 made, the time reflected in Hagens Berman's lodestar calculation and the expenses for which  
17 payment is sought as set forth in this declaration are reasonable in amount and were  
18 necessary for the effective and efficient prosecution and resolution of the litigation. In  
19 addition, I believe that the expenses are those that would normally be charged to a fee-  
20 paying client in the private legal marketplace.

21 3. After the reductions referred to above, Hagens Berman's total lodestar is  
22 \$153,790.00, and the number of hours spent on this litigation by Hagens Berman is 214.2  
23 hours. The following chart reflects the name, status, current hourly rate, total hours, and  
24 total lodestar by the firm in this litigation. The hourly rates are the usual and customary rates  
25 set by the firm for each individual attorney and paralegal over the relevant period, and the  
26 chart was prepared from contemporaneous daily time records of the firm.

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ATTORNEY	STATUS	CURRENT HOURLY RATE	TOTAL HOURS	LODESTAR AT CURRENT RATES
Rob Carey	Partner	\$950.00	50.7	\$48,165.00
Leonard Aragon	Partner	\$800.00	110.5	\$88,400.00
		<b>ATTORNEY TOTAL</b>	<b>161.2</b>	<b>\$136,565.00</b>
PARALEGAL	STATUS	CURRENT HOURLY RATE	TOTAL HOURS	LODESTAR AT CURRENT RATES
Amy Nolan	Paralegal	\$325.00	53	\$17,225.00
		<b>PARALEGAL TOTAL</b>	<b>53</b>	<b>\$17,225.00</b>
		<b>GRAND TOTAL</b>	<b>214.2</b>	<b>\$153,790.00</b>

4. Hagens Berman is prepared to submit *in camera* should the Court request it a detailed task-oriented fee statement showing the work performed by work category and timekeeper.

5. Hagens Berman has expended \$533.23 in litigation expenses in connection with the prosecution of this litigation. These are the type of expenses typically billed by attorneys to paying clients in the marketplace.

CATEGORY	TOTAL
Online Research (Westlaw, Lexis, etc.)	\$286.35
Court Fees	\$18.00
Local Courier	\$228.88
<b>GRAND TOTAL</b>	<b>\$533.23</b>

6. Hagens Berman is prepared to submit *in camera* should the Court request it an itemization summarized by expense category.

1           7.     The following information further explains certain of these expenses:

2           a.     Local Courier and Court Fees: \$246.88. These expenses have been paid to  
3           attorney service firms or individuals who either: (i) served process of the  
4           complaint or subpoenas, (ii) obtained copies of court documents for  
5           plaintiffs, or (iii) provided the certificate for pro hac vice. These costs were  
6           necessary to the prosecution of the case in order, among other things, to  
7           file the complaints, to serve the complaints and subpoenas, file pro hac  
8           vice, and to investigate the facts.

9           b.     Online Legal and Financial Research: \$286.35. These included vendors  
10          such as Westlaw and Pacer. These services were used to obtain access to  
11          factual databases, legal research, and for cite-checking briefs. This expense  
12          represents the expense incurred by Hagens Berman for use of these  
13          services in connection with this litigation. The charges for these vendors  
14          vary depending upon the type of services requested. For example, Hagens  
15          Berman has flat-rate contracts with Westlaw and Lexis for use of their  
16          services. When Hagens Berman utilizes online services provided by a  
17          vendor with a flat-rate contract, access to the service requires the user to  
18          enter a billing code identifying the specific case being litigated. At the end  
19          of each billing period in which such service is used, Hagens Berman's costs  
20          for such services are allocated to specific cases based on the percentage of  
21          use in connection with that specific case in the billing period. If the service  
22          is outside Hagens Berman's flat rate, those costs are billed as separate  
23          charges in the same amount charged to the firm by the vendor. As a result  
24          of the contracts negotiated by Hagens Berman with certain providers, the  
25          Class enjoys substantial savings in comparison with the "market-rate" for *a*  
26          *la carte* use of such services which some law firms pass on to their clients.  
27          For example, the "market rate" charged to others by Westlaw for the types  
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of services used by Hagens Berman is more expensive than the rates negotiated by Hagens Berman.

8. The foregoing expenses pertaining to this litigation are reflected in the books and records of Hagens Berman. These books and records are prepared from receipts, expense vouchers, check records, and other documents and are an accurate record of the expenses.

9. The identification and background of my firm and its participating attorneys is attached hereto as **Exhibit A**.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 26<sup>th</sup> day of October at Phoenix, Arizona.

  
\_\_\_\_\_  
Leonard W. Aragon

# EXHIBIT A





# HAGENS BERMAN

Auto Cases 1-888-381-2889 Email Tip Line

CASES ATTORNEYS NEWS & INSIGHT ABOUT PRACTICES SUCCESS BLOG

## Trailblazer

Managing Partner, Steve Berman,  
recipient of the ABA's Trailblazer Award

... states that 14.7 million people have been





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



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## PARTNER, EXECUTIVE COMMITTEE MEMBER

Thomas M. Sobol .....53  
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## PARTNER

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## INTRODUCTION

# The Firm

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

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

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

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

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

**AN INTERNATIONAL REACH.** The scope of our practice is truly nationwide. We have flourished through our network of offices in nine cities across the United States, including Seattle, Austin, Berkeley, Boston, Chicago, Los Angeles, New York, Phoenix and San Diego and one international office in London, and our eyes are always open to trends of fraud, negligence and wrongdoing that may be taking form anywhere in the world. Our reach is not limited to the cities where we maintain offices. We have cases pending in courts across the country and have a vested interest in fighting global instances of oppression, wrongdoing and injustice.

## INTRODUCTION

# Locations

### SEATTLE

1301 Second Avenue, Suite 2000  
Seattle, WA 98101  
(206) 623-7292 phone  
(206) 623-0594 fax

### BERKELEY

715 Hearst Avenue, Suite 300  
Berkeley, CA 94710  
(510) 725-3000 phone  
(510) 725-3001 fax

### BOSTON

1 Faneuil Hall Sq., 5th Floor  
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(617) 482-3700 phone  
(617) 482-3003 fax

### LONDON

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22 Eastcheap  
Billingsgate, London, EC3M 1EU  
0203 150 1445 phone

### CHICAGO

455 N. Cityfront Plaza Drive, Suite 2410  
Chicago, IL 60611  
(708) 628-4949 phone  
(708) 628-4950 fax

### LOS ANGELES

301 North Lake Avenue, Suite 920  
Pasadena, CA 91101  
(213) 330-7150 phone  
(213) 330-7152 fax

### NEW YORK

68 3rd Street, Suite 249  
Brooklyn, NY 11231  
(212) 752-5455 phone  
(917) 210-3980 fax

### PHOENIX

11 West Jefferson Street, Suite 1000  
Phoenix, AZ 85003  
(602) 840-5900 phone  
(602) 840-3012 fax

### SAN DIEGO

533 F Street  
Suite 207  
San Diego, CA 92101  
(619) 929-3340 phone

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

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

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

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

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

– Associated Press

## Elite Trial Lawyers

*The National Law Journal*

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

*The National Law Journal*

## Most Feared Plaintiffs Firms

*Law360*

**Landmark consumer cases are business as usual** for Steve Berman. //

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

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

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

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

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

## VISA-MASTERCARD ANTITRUST LITIGATION

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

## VOLKSWAGEN FRANCHISE DEALERS LITIGATION

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

## VOLKSWAGEN EMISSIONS LITIGATION

Hagens Berman was named a member of the Plaintiffs' Steering Committee and part of the Settlement Negotiating team in this monumental case that culminated in the largest automotive settlement in history – **\$17.4 billion**.

## TOYOTA UNINTENDED ACCELERATION LITIGATION

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

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

Hagens Berman represented 13 states in the largest recovery in litigation history – **\$260 billion**.

## E-BOOKS ANTITRUST LITIGATION

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

## LCD ANTITRUST LITIGATION

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

## MCKESSON DRUG LITIGATION

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

## DAVITA HEALTHCARE PERSONAL INJURY LITIGATION

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

## DRAM ANTITRUST LITIGATION

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

## AVERAGE WHOLESALE PRICE DRUG LITIGATION

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

## ENRON ERISA LITIGATION

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

## CHARLES SCHWAB SECURITIES LITIGATION

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

# Practice Areas

## PRACTICE AREAS

# Anti-Terrorism

With a long track record of upholding the rights of the voiceless, Hagens Berman fights for justice on behalf of victims of international terrorism. Our anti-terrorism legal team builds on our robust history to forge innovative cases, bringing action against those that support terrorism.

Hagens Berman has always believed in fighting for the rights of those with no voice – those who are victims to tragic circumstances beyond their control. With our guiding principles driving our efforts, the firm has expanded its practice areas to include anti-terrorism litigation.

It's no secret that some businesses and individuals have pled guilty to violating United States laws that prohibit financial transactions with terrorist organizations and foreign states that support terrorism. We believe that the law is one of the most powerful tools to combat terrorism, and our renowned team of litigators brings a fresh perspective to the fight for victims' rights in this complex arena.

Through a deep understanding of both U.S. and international anti-terrorism laws, Hagens Berman builds on its foundation to investigate acts of terrorism and forge ironclad cases against anyone responsible, to help ensure that those at the mercy of the world's most egregious perpetrators of violence are represented with the utmost integrity and determination.

The firm's new practice area carries out our mission of building a safer world through novel applications of the law and steadfast dedication.

### > Chiquita Bananas

Hagens Berman represents American citizens who were victims of terrorism in Colombia. The victims were harmed by Colombian terrorists that Chiquita Brands International Inc. paid so that it could grow bananas in Colombia in regions that were controlled by the terrorists. Chiquita is one of the world's largest producers and marketers of fruits and vegetables and admitted it paid Colombian terrorist organizations as part of a guilty plea to settle criminal charges brought by the U.S. Department of Justice

Chiquita was placed on corporate probation and paid a \$25 million dollar fine because of its conduct in Colombia.

Plaintiffs have sued Chiquita under the U.S. Anti-Terrorism Act, which allows American victims of international terrorism to sue anyone responsible and to recover treble damages and attorney's fees. The claims are pending in the U.S. District Court for the Southern District of Florida as part of the consolidated multi-district litigation to resolve claims related to Chiquita's payments to Colombian terrorist organizations.



## PRACTICE AREAS

# Antitrust

Hagens Berman works to preserve healthy marketplace competition and fair trade by protecting consumers and businesses that purchase goods and services from price fixing, market allocation agreements, monopolistic schemes and other trade restraints. The firm's lawyers have earned an enviable reputation as experts in this often confusing and combative area of commercial litigation. Our attorneys have a deep understanding of the legal and economic issues within the marketplace, allowing us to employ groundbreaking market theories that shed light on restrictive anti-competitive practices.

Hagens Berman represents millions of consumers in several high-profile class-action lawsuits, and takes on major antitrust litigation to improve market conditions for consumers, businesses and investors. We have represented plaintiffs in markets as diverse as debit and credit card services, personal computer components, electric and gas power, airlines, and internet services, and we have prevailed against some of the world's largest corporations.

The firm has also generated substantial recoveries on behalf of health plans and consumers in antitrust involving pharmaceutical companies abusing patent rights to block generic drugs from coming to market. Hagens Berman has served as lead or co-lead counsel in landmark litigation challenging anti-competitive practices, in the Paxil Direct Purchaser Litigation (\$100 million), Relafen Antitrust Litigation (\$75 million), Tricor Indirect Purchaser Antitrust Litigation (\$65.7 million), and Augmentin Antitrust Litigation (\$29 million). Representative antitrust successes on behalf of our clients include:

### > **Visa/MasterCard**

Helped lead this record-breaking antitrust case against credit card giants Visa and MasterCard that challenged charges imposed in connection with debit cards.

**RESULT:** \$3.05 billion settlement and injunctive relief valued at more than \$20 billion.

### > **NCAA: Scholarships/Grants-In-Aid (GIAs)**

In a first-of-its-kind antitrust action and potentially far-reaching case, Hagens Berman filed a class-action affecting approximately 40,000 Division I collegiate athletes who played men's or women's basketball, or FBS football, brought against the NCAA and its most powerful members, including the Pac-12, Big Ten, Big-12, SEC and ACC, claiming these entities violated federal antitrust laws by drastically reducing the number of scholarships and financial aid student-athletes receive to an amount below the actual cost of attendance and far below what the free market would bare.

The firm continues to fight on behalf of student-athletes to level the playing field and bring fairness to college sports and players.

**RESULT:** \$208.9 million settlement, bringing an estimated average amount of \$6,500 to each eligible class member who played his or her sport for four years.

### > **Apple E-books**

With state attorneys general, the firm secured a \$166 million settlement with publishing companies that conspired with Apple to fix e-book prices. The firm then look on Apple for its part in the price-fixing conspiracy. In the final stage in the lawsuit, the Supreme Court denied appeal from Apple, bringing the consumer payback amount to more than twice the amount of losses suffered by the class of e-book purchasers. This represents one of the most successful recovery of damages in any antitrust lawsuit in the country.

**RESULT:** \$560 million total settlements.

## PRACTICE AREAS

# Antitrust

### > Animation Workers Antitrust

Hagens Berman represents a nationwide class of animators and other artistic workers in an antitrust class-action case filed against defendants Pixar, Lucasfilm and its division Industrial Light & Magic, DreamWorks Animation, The Walt Disney Company, Sony Pictures Animation, Sony Pictures Imageworks, Blue Sky Studios, ImageMovers LLC, ImageMovers Digital LLC and others.

**RESULT:** Total settlements have reached \$168 million, resulting in a payment of more than \$13,000 per class member.

### > TFT LCDs

Hagens Berman Sobol Shapiro filed a class-action lawsuit against several major manufacturers of TFT LCD products, claiming the companies engaged in a conspiracy to fix, raise, maintain and stabilize the price of televisions, desktop and notebook computer monitors, mobile phones, personal digital assistants (PDAs) and other devices. After years of representing consumers against multiple defendants in multi-district litigation, the case against Toshiba went to trial. Toshiba was found guilty of price-fixing in 2012, and settled.

**RESULT:** \$470 million in total settlements.

### > DRAM

The suit claimed DRAM (Dynamic Random Access Memory) manufacturers secretly agreed to reduce the supply of DRAM, a necessary component in a wide variety of electronics which artificially raised prices. The class included equipment manufacturers, franchise distributors and purchasers.

**RESULT:** \$375 million settlement.

### > Optical Disk Drives

Hagens Berman fought on behalf of consumers in a lawsuit filed against Philips, Pioneer and others for artificially inflating the price of ODDs for consumers.

**RESULT:** \$180 million in total settlements reclaimed for consumers.

### > Lithium Ion Batteries

Hagens Berman filed a class-action lawsuit against some of the largest electronics manufacturers including Sony, Samsung and Panasonic for illegally fixing the price of lithium ion batteries, pushing costs higher for consumers. Defendants collectively controlled between 60 to 90 percent of the market for lithium-ion batteries between 2000 and 2011 and used that power to fix battery prices.

**RESULT:** \$65 million in total settlements against multiple defendants.

### > AC Nielsen

Represented Information Resources, Inc. ("IRI"), in a suit claiming that AC Nielsen's anti-competitive practices caused IRI to suffer significant losses.

**RESULT:** \$55 million settlement.

### > Dairy Products

The firm filed a class-action suit against several large players in the dairy industry, including the National Milk Producers Federation, Dairy Farmers of America, Land O'Lakes, Inc., Agri-Mark, Inc. and Cooperatives Working Together (CWT) that together produce nearly 70 percent of the milk consumed in the United States. The suit alleging that the groups conspired to fix the price of milk throughout the United States through an organized scheme to limit production, involving the needless and premature slaughtering of 500,000 cows.

**RESULT:** \$52 million settlement on behalf of consumers in 15 states and the District of Columbia who purchased dairy products.

### > Toys "R" Us Baby Products

The firm brought this complaint on behalf of consumers claiming Toys "R" Us and several baby product manufacturers violated provisions of the Sherman Antitrust Act by conspiring to inflate prices of high-end baby products, including car seats, strollers, high chairs, crib bedding, breast pumps and infant carriers. The suit asked the court to end what it claims are anti-competitive activities and seeks damages caused by the company's actions.

**RESULT:** \$35.5 million settlement.

## PRACTICE AREAS

# Antitrust

### > EA Madden

Class action claimed that video game giant Electronic Arts used exclusive licensing agreements with various football organizations to nearly double the price of several of its games.

**RESULT:** \$27 million settlement and imposed limits on EA's ability to pursue exclusive licensing agreements.

### > Resistors Antitrust Litigation

Hagens Berman is co-lead lead counsel, representing direct purchasers of linear resistors (a device in electronics used to limit electric current) against an alleged cartel of manufacturers who conspired to limit linear resistor price competition for nearly a decade. The case is in its early stages and discovery is ongoing.

### > Nespresso

Hagens Berman has assumed responsibility for a large antitrust case against Nespresso, a leading single-serve espresso and coffee maker, for its anticompetitive efforts to exclude environmentally friendly, biodegradable coffee capsules from the market.

In May 2010, our client Ethical Coffee Company ("ECC") sought to introduce an environmentally sound and more economical coffee capsule to be used in Nespresso's widely used coffee makers. It manufactured a single-use coffee capsule that did not contain harmful aluminum found in Nespresso's capsules. Nespresso knew that ECC posed a formidable challenge to its business model, which relied on captive consumers buying coffee capsules only from Nespresso. With a captive market, Nespresso could continue to charge consumers an inflated price, and continue to use the aluminum capsules that harm the environment. The U.S. Court has already ruled that these claims can proceed to discovery. Hagens Berman anticipates damages associated with Nespresso's actions to be in the hundreds of millions of dollars.

**PRACTICE AREAS**

## Automotive - Non-Emissions Cases

In litigating cases we strive to make an impact for a large volume of consumers, especially those who fall victim to the gross negligence and oversight of some of the nation's largest entities: automakers. Hagens Berman's automotive litigation team has been named a 2016 Practice Group of the Year by Law360, highlighting its "eye toward landmark matters and general excellence," in this area of law.

The federal court overseeing the massive multi-district litigation against Toyota appointed the firm to co-lead one of the largest consolidations of class-action cases in U.S. history. The litigation combined more than 300 state and federal suits concerning acceleration defects tainting Toyota vehicles. Hagens Berman and its two co-lead firms were selected from more than 70 law firms applying for the role. Since then, the firm's automotive practice area has grown by leaps and bounds, pioneering new investigations into defects, false marketing and safety hazards affecting millions of drivers across the nation.

The firm was recently named to the National Law Journal's list of Elite Trial Lawyers for its work fighting corporate wrongdoing in the automotive industry. The firm's auto team members who worked on Toyota were also named finalists for Public Justice's Trial Lawyer of the Year award.

**> General Motors Ignition Switch Litigation**

Co-lead counsel in high-profile case on behalf of millions of owners of recalled GM vehicles affected by a safety defect linked to more than 120 fatalities. The suit alleges GM did not take appropriate measures, despite having prior knowledge of the defect. The case is pending, and most recently, the Supreme Court refused to hear GM's appeal regarding the pending suits when it claimed the cases were barred by its 2009 bankruptcy.

**> Toyota Sudden, Unintended Acceleration Litigation**

Co-lead counsel for the economic loss class in this lawsuit filed on behalf of Toyota owners alleging a defect causes vehicles to undergo sudden, unintended acceleration. In addition to safety risks, consumers suffered economic loss from decreased value of Toyota vehicles following media coverage of the alleged defect.

**RESULT:** Settlement package valued at up to \$1.6 billion, which was at the time the largest automotive settlement in history.

**> MyFord Touch**

Hagens Berman represents owners of Ford vehicles equipped with MyFord Touch, an in-car communication and entertainment package, who claim that the system is flawed, putting drivers at risk of an accident while causing economic hardship for owners. The complaint cites internal Ford documents that purportedly show that 500 of every 1,000 vehicles have issues involving MyFord Touch due to software bugs, and failures of the software process and architecture. Owners report that Ford has been unable to fix the problem, even after repeated visits. A federal judge overseeing the case recently certified nine subclasses of owners of affected vehicles in various states.

**> Nissan Quest Accelerator Litigation**

Represented Nissan Quest minivan owners who alleged that their vehicles developed deposits in a part of the engine, causing drivers to apply increased pressure to push the accelerator down. **RESULT:** Settlement providing reimbursement for cleanings or replacements and applicable warranty coverage.

**> Hyundai Kia MPG**

Hagens Berman sued Hyundai and Kia on behalf of owners after the car manufacturers overstated the MPG fuel economy ratings on 900,000 of its cars. The suit seeks to give owners the ability to recover a lump-sum award for the lifetime extra fuel costs, rather than applying every year for that year's losses.

**RESULT:** \$255 million settlement. Lump-sum payment plan worth \$400 million on a cash basis, and worth even more if owners opt for store credit (150 percent of cash award) or new car discount (200 percent of cash award) options.

**PRACTICE AREAS**

## Automotive - Non-Emissions Cases

**> BMW i3 REx**

Hagens Berman is representing BMW owners in a national class-action lawsuit, following reports that BMW's i3 REx model electric cars contain a defect that causes them to suddenly and without warning lose speed and power mid-drive, putting drivers and passengers at risk of crash and injury.

**> Fiat Chrysler Gear Shifter Rollaway Defect**

Hagens Berman has filed a national class-action lawsuit representing owners of Jeep Grand Cherokee, Chrysler 300 and Dodge Charger vehicles. The lawsuit states that Fiat Chrysler fraudulently concealed and failed to remedy a design defect in 811,000 vehicles that can cause cars to roll away after they are parked, causing injuries, accidents and other serious unintended consequences.

**> Ford Shelby GT350 Mustang Overheating**

Hagens Berman represents owners of certain 2016 Shelby GT350 Mustang models in a case alleging that Ford has sold these vehicles as track cars built to reach and sustain high speeds, but failed to disclose that the absence of a transmission and differential coolers can greatly diminish the vehicle's reported track capabilities. Shelby owners are reporting that this defect causes the vehicle to overheat and go into limp mode, while in use, even when the car is not being tracked

**> Tesla AP2 Defect**

The firm represents Tesla owners in a lawsuit against the automaker for knowingly selling nearly 50,000 cars with nonfunctional Enhanced Autopilot AP2.0 software that still has not met Tesla's promises, including inoperative Standard Safety Features on affected models sold in Q4 2016 and Q1 2017.

## PRACTICE AREAS

# Automotive - Emissions Litigation

Having played a lead role in the record-breaking Volkswagen diesel emissions case, Hagens Berman knew the story wasn't over. Since the Dieselgate scandal began, the firm has uniquely dedicated resources to uncovering cheating devices used by other automakers. The firm has become a trailblazer in this highly specialized realm, outpacing federal agencies in unmasking fraud in emissions reporting.

When news broke in 2015 of Volkswagen's massive diesel emissions-cheating scandal, Hagens Berman was the first firm in the nation to file suit against the automaker for its egregious fraud, going on to represent thousands of owners in litigation and take a leading role on the Plaintiffs' Steering Committee that would finalize a \$14.7 billion, record-breaking settlement for owners. Since this case emerged, Hagens Berman has been on the forefront of emissions litigation, relying on our legal team's steadfast and intensive investigative skills to unearth many other emissions-cheating schemes perpetrated by General Motors, Fiat Chrysler, Mercedes and other automakers, staying one step ahead of government regulators in our pursuit of car manufacturers that have violated emissions standards and regulations, as well as consumer confidence.

Hagens Berman's managing partner, Steve Berman, has dedicated the firm's resources to upholding the rights of consumers and the environment, becoming a one-man EPA. The firm is uniquely dedicated to this cause, and is the only firm that has purchased an emission testing machine to determine if other diesel car manufacturers install similar cheating devices, bringing new cases based on the firm's own research, time and testing.

### > Volkswagen Diesel Emissions Litigation

Hagens Berman was the first firm in the nation to file a lawsuit against Volkswagen for its emissions fraud, seeking swift remedies for consumers affected by Volkswagen's fraud and violation of state regulations. The firm was named to the Plaintiffs' Steering Committee leading the national fight against VW, Porsche and Audi on behalf of owners and lessors of affected vehicles, and also served as part of the Settlement Negotiating team.

**RESULT:** The largest automotive settlement in history, \$14.7 billion.

### > Volkswagen Dealers Litigation

Hagens Berman served as lead counsel in a first-of-its-kind lawsuit brought by a franchise dealer. Three family-owned Volkswagen dealers filed a class action against VW stating that it intentionally defrauded dealers by installing so-called "defeat devices" in its diesel cars, and separately carried out a systematic, illegal pricing and allocation scheme that favored some dealers over others and illegally channeled financing business to VW affiliate, Volkswagen Credit, Inc. The settlement garnered nearly unanimous approval of dealers, with 99 percent participation in the settlement.

**RESULT:** \$1.67 billion in benefits to Volkswagen dealers.

### > Mercedes BlueTEC Emissions Litigation

Judge Jose L. Linares appointed the firm as interim class counsel in this class-action case against Mercedes concerning emissions of its BlueTEC diesel vehicles. Hagens Berman currently represents thousands of vehicle owners who were told by Mercedes that their diesel cars were "the world's cleanest and most advanced diesel," when in fact testing at highway speeds, at low temperatures, and at variable speeds, indicate a systemic failure to meet emissions standards. Low temperature testing at highway speeds for example, produced emissions that were 8.1 to 19.7 times the highway emissions standard. The lawsuit adds that testing at low temperatures at variable speeds produced emissions as high as 30.8 times the standard.

**PRACTICE AREAS**

## Automotive - Emissions Litigation

**> Chevy Cruze Diesel Emissions Litigation**

Hagens Berman filed a class-action lawsuit against Chevrolet (a division of General Motors) for installing emissions-cheating software in Cruze Clean Turbo Diesel cars, forcing consumers to pay high premiums for vehicles that pollute at illegal levels. While Chevy marketed these cars as a clean option, the firm's testing has revealed emissions released at up to 13 times the federal standard. In a recent ruling, U.S. District Judge Thomas L. Ludington upheld claims brought by owners.

**> Audi Emissions Litigation**

Hagens Berman unearthed additional emissions-cheating by Audi, affecting its gasoline 3.0-liter vehicles. The firm's investigation shows that the newly discovered defeat device is installed in gasoline engines and changes how the transmission operates when testing is detected to lower CO2 emissions, but otherwise allows excessive CO2 emissions in normal, on-road driving.

**> Fiat Chrysler EcoDiesel Emissions Litigation**

The firm is leading charges against Fiat Chrysler that it sold hundreds of thousands of EcoDiesel-branded vehicles that release illegally high levels of NOx emissions, despite explicitly selling these "Eco" diesels to consumers who wanted a more environmentally friendly vehicle. Hagens Berman was the first firm in the nation to uncover this scheme and file against Fiat Chrysler on behalf of owners of Dodge RAM 1500 and Jeep Grand Cherokee EcoDiesel vehicles. Following the firm's groundbreaking suit, the EPA took notice, filing formal accusations against Fiat Chrysler.

**> Dodge RAM 2500/3500 Diesel Emissions Litigation**

According to the firm's investigation, Dodge has sold hundreds of thousands of Dodge RAM 2500 and 3500 trucks equipped with Cummins diesel engines that release illegally high levels of NOx emissions at up to 14 times the legal limit. This defect causes certain parts to wear out more quickly, potentially costing owners between \$3,000 and 5,000 to fix. The firm is leading a national class action against Fiat Chrysler for knowingly inducing consumers to pay premium prices for vehicles that fail to comply with federal regulations, and ultimately lead to higher costs of repairs for purchasers.

**> General Motors Duramax Emissions Litigation**

Hagens Berman recently pioneered another instance of diesel emissions fraud. The firm's independent testing revealed that GM had installed multiple emissions-masking defeat devices in its Duramax trucks, including Chevy Silverado and GMC Sierra models, in a cover-up akin to Volkswagen's Dieselgate concealment. In real world conditions the trucks emit 2 to 5 times the legal limit of deadly NOx pollutants, and the emissions cheating devices are installed in an estimated 705,000 affected vehicles.



## PRACTICE AREAS

# Civil and Human Rights

Hagens Berman has represented individuals and organizations in difficult civil rights challenges that have arisen in the past two decades. In doing so, we have managed cases presenting complex legal and factual issues that are often related to highly charged political and historical events. Our clients have included such diverse communities as World War II prisoners of war, conscripted civilians and entire villages.

In this cutting-edge practice area, the firm vigilantly keeps abreast of new state and national legislation and case-law developments. We achieve positive precedents by zealously prosecuting in our clients' interests. Some examples of our work in this area include:

### › **World Trade Organization Protests**

During the 1999 World Trade Organization (WTO) protests in Seattle, tens of thousands of Seattle citizens became targets after Seattle officials banned all forms of peaceful protest. Seattle police attacked anyone found in the designated "no protest" zones with rubber bullets and tear gas. Hundreds of peaceful protesters were arrested and incarcerated without probable cause for up to four days. The firm won a jury trial on liability and ultimately secured a settlement from Seattle officials after filing a class action alleging violations of the First and Fourth Amendments.

### › **Hungarian Gold Train**

Following the firm's representation of former forced and enslaved laborers for German companies in the Nazi Slave Labor Litigation, Hagens Berman led a team of lawyers against the U.S. on behalf of Hungarian Holocaust survivors in the Hungarian Gold Train case. The suit claimed that, during the waning days of World War II, the Hungarian Nazi government loaded plaintiffs' valuable personal property onto a train, which the U.S. Army later seized, never returning the property to its owners and heirs.

### › **Dole Bananas**

Hagens Berman filed suit against the Dole Food Company, alleging that it misled consumers about its environmental record. The complaint alleged that Dole purchased bananas from a grower in Guatemala that caused severe environmental damage and health risks to local residents. Dole ultimately agreed to take action to improve environmental conditions, collaborating with a non-profit group on a water filtration project for local communities.

## PRACTICE AREAS

# Consumer Protection - General Class Litigation

Hagens Berman is a leader in protecting consumers, representing millions in large-scale cases that challenge unfair, deceptive and fraudulent practices.

We realize that consumers suffer the brunt of corporate wrongdoing and have little power to hold companies responsible or to change those tactics. We believe that when backed by a tenacious spirit and determination, class action cases have the ability to serve as a powerful line of defense in consumer protection.

Hagens Berman pursues class litigation on behalf of clients to confront fraudulent practices that consumers alone cannot effectively dispute. We make consumers' concerns a priority, collecting consumer complaints against suspected companies and exploring all avenues for prosecution.

Hagens Berman's legacy of protecting consumer rights reflects the wide spectrum of scams that occur in the marketplace. The cases that we have led have challenged a variety of practices such as:

- › False, deceptive advertising of consumer products and services
- › False billing and over-charging by credit card companies, banks, telecommunications providers, power companies, hospitals, insurance plans, shipping companies, airlines and Internet companies
- › Deceptive practices in selling insurance and financial products and services such as life insurance and annuities
- › Predatory and other unfair lending practices, and fraudulent activities related to home purchases

A few case examples are:

### › **Expedia Hotel Taxes and Service Fees Litigation**

Hagens Berman led a nationwide class-action suit arising from bundled "taxes and service fees" that Expedia collects when its consumers book hotel reservations. Plaintiffs alleged that by collecting exorbitant fees as a flat percentage of the room rates, Expedia violated both the Washington Consumer Protection Act

and its contractual commitment to charge as service fees only "costs incurred in servicing" a given reservation.

**RESULT:** Summary judgment in the amount of \$184 million. The case settled for cash and consumer credits totaling \$123.4 million.

### › **Stericycle**

The firm served as court-appointed lead counsel in a class-action lawsuit against Stericycle alleging that the company violated contracts and defrauded them by hundreds of millions of dollars through an automatic price-increasing scheme. In February of 2017, a federal judge certified a nationwide consumer class. The class had more than 246,000 class members, with damages estimated preliminarily at \$608 million.

**RESULT:** \$295 million settlement

### › **Tenet Healthcare**

In a pioneering suit filed by Hagens Berman, plaintiffs alleged that Tenet Healthcare charged excessive prices to uninsured patients at 114 hospitals owned and operated by Tenet subsidiaries in 16 different states.

**RESULT:** Tenet settled and agreed to refund to class members amounts paid in excess of certain thresholds over a four-and-a-half year period.

**PRACTICE AREAS**

## Consumer Protection - General Class Litigation

**> Wells Fargo Force-Placed Insurance**

Hagens Berman brought a case against Wells Fargo alleging it used “force-placed” insurance clauses in mortgage agreements, a practice that enables the bank to charge homeowners insurance premiums up to 10 times higher than normal rates.

**RESULT:** Hagens Berman reached a settlement in this case, under which all class members will be sent checks for more than double the amount of commissions that Wells Fargo wrongfully extracted from the force placement of insurance on class members’ properties.

**> Consumer Insurance Litigation**

Hagens Berman has pioneered theories to ensure that in first- and third-party contexts consumers and health plans always receive the treatment and benefits to which they are entitled. Many of our cases have succeeded in expanding coverage owed and providing more benefits; recovering underpayments of benefits; and returning uninsured/underinsured premiums from the misleading tactics of the insurer.

## PRACTICE AREAS

# Consumer Protection - Drug and Supplement Litigation

Hagens Berman aggressively pursues pharmaceutical industry litigation, fighting against waste, fraud and abuse in healthcare. For decades, pharmaceutical manufacturers have been among the most profitable companies in America. But while pharmaceutical companies become richer, consumers, health plans and insurers pay higher costs for prescription and over-the-counter drugs and supplements. We shine the light of public scrutiny on this industry's practices and represent individuals, direct and indirect purchasers, and the nation's most forward-thinking public-interest groups.

The firm's pharmaceutical and dietary supplement litigation practice is second to none in the nation in terms of expertise, commitment and landmark results. Hagens Berman's attorneys have argued suits against dozens of major drug companies and the firm's aggressive prosecution of pharmaceutical industry litigation has recovered more than \$1 billion in gross settlement funds.

### RECENT ANTITRUST RESOLUTIONS

In the last few years, Hagens Berman – as lead or co-lead class counsel – has garnered significant settlements in several antitrust cases involving prescription drugs. In each case, the plaintiffs alleged that a manufacturer of a brand-name drug violated federal or state antitrust laws by delaying generic competitors from coming to market, forcing purchasers to buy the more expensive brand name version instead of the generic equivalent. Examples of our recent successes include:

#### > **Flonase Antitrust Litigation**

Hagens Berman represented purchasers in this case alleging pharmaceutical giant GlaxoSmithKline filed petitions to prevent the emergence of generic competitors to its drug Flonase, all to overcharge consumers and purchasers of the drug, which would have been priced lower had a generic competitor been allowed to come to market.

**RESULT:** \$150 million class settlement.

#### > **Prograf Antitrust Litigation**

Hagens Berman represented purchasers who alleged Astellas Pharma US, Inc. unlawfully maintained its monopoly and prevented generic competition for Prograf, an immunosuppressant used to help prevent organ rejection in transplant patients, harming purchasers by forcing them to pay inflated brand name prices for longer than they should have absent the anticompetitive conduct.

**RESULT:** The parties' motion for final approval of the \$98 million class settlement is under advisement with the court.

#### > **Relafen Antitrust Litigation**

Hagens Berman filed a class-action lawsuit against GlaxoSmithKline, SmithKline Beecham Corporation, Beecham Group PLC and SmithKline Beecham PLC, on behalf of consumers and third-party payors who purchased the drug Relafen or its generic alternatives. The suit alleged that the companies who manufacture and sell Relafen unlawfully obtained a patent which allowed them to enforce a monopoly over Relafen and prevented competition by generic prescription drugs, causing consumers to pay inflated prices for the drug.

**RESULT:** Under the terms of the settlement, the defendants will pay damages of \$75 million to those included in the class. Of the total settlement amount, \$25 million will be allocated to consumers and \$50 million will be used to pay the claims of insurers and other third-party payors.

## PRACTICE AREAS

# Consumer Protection - Drug and Supplement Litigation

### > Skelaxin Antitrust Litigation

The firm represented purchasers in this case alleging King Pharmaceuticals LLC and Mutual Pharmaceutical Company alleging conspired to suppress generic competition and preserve King's monopoly in the market for the brand name muscle relaxant Skelaxin.

**RESULT:** \$73 million class settlement.

### > Tricor Antitrust

In June 2005, Hagens Berman filed an antitrust lawsuit on behalf of a class of consumers and third party payors against pharmaceutical manufacturers Abbott Laboratories and Fournier Industries concerning the brand name cholesterol drug Tricor. HBSS was appointed co-lead class counsel by the Court.

**RESULT:** \$65.7 million recovery for consumers and third party payors who sued Abbott Laboratories and Fournier Industries in an antitrust action concerning the cholesterol drug Tricor.

## FRAUDULENT DRUG PRICING RESOLUTIONS

Hagens Berman has led many complex cases that take on fraud and inflated drug prices throughout the U.S. This includes sweeping manipulation of the average wholesale price benchmark used to set prices for prescription drugs nationwide, fraudulent marketing of prescription drugs and the rampant use of co-pay subsidy cards that drive up healthcare costs. These efforts have led to several significant settlements:

### > McKesson and First DataBank Drug Litigation

The firm discovered a far-reaching fraud by McKesson and became lead counsel in this RICO case against McKesson and First DataBank, alleging the companies fraudulently inflated prices of more than 400 prescription drugs.

**RESULT:** \$350 million settlement and a four percent rollback on the prices of 95 percent of the nation's retail branded drugs, the net impact of which could be in the billions of dollars. The states and federal government then used Hagens Berman's work to bring additional suits. Hagens Berman represented several states and obtained settlements three to seven times more than that of the Attorneys General. Almost \$1 billion was recovered from the McKesson fraud.

### > Average Wholesale Price Drug Litigation

Hagens Berman served as co-lead counsel and lead trial counsel in this sprawling litigation against most of the nation's largest pharma companies, which alleges defendants artificially inflated Average Wholesale Price.

**RESULT:** Approximately \$338 million in class settlements. Hagens Berman's work in this area led to many state governments filing suit and hundreds of millions in additional recovery.

## FRAUDULENT MARKETING RESOLUTIONS

Hagens Berman also litigates against drug companies that fraudulently promote drugs for uses not approved by the Food and Drug Administration (FDA), commonly known as "off-label" uses. We also litigate cases against dietary supplement manufacturers for making false claims about their products. Recent successes include:

### > Neurontin Third Party Payor Litigation

Hagens Berman served as co-lead trial counsel in this case alleging that Pfizer fraudulently and unlawfully promoted the drug Neurontin for uses unapproved by the FDA.

**RESULT:** A jury returned a \$47 million verdict in favor of a single third-party payor plaintiff, automatically trebled to \$142 million, and the court recently approved a \$325 million class settlement.

### > Lupron

Hagens Berman prosecuted a lawsuit against TAP Pharmaceuticals Products, Inc. on behalf of a class of consumers and third-party payors who purchased the drug Lupron. The suit charged that TAP Pharmaceutical Products, Inc., Abbott Laboratories and Takeda Pharmaceutical Company Limited conspired to fraudulently market, sell and distribute Lupron, causing consumers to pay inflated prices for the drug.

**RESULT:** Judge Richard Stearns issued a preliminary approval of the proposed settlement between TAP Pharmaceuticals and the class. Under the terms of the settlement, \$150 million will be paid by TAP on behalf of all defendants.

## PRACTICE AREAS

# Consumer Protection - Drug and Supplement Litigation

### > Celebrex/Bextra

Hagens Berman filed a class-action lawsuit against Pfizer on behalf of individual consumers and third-party payors who paid for the drug Bextra. The firm was praised by Judge Breyer for its “unstinting” efforts on behalf of the class, adding, “The attorneys on both sides were sophisticated, skilled, professional counsel whose object was to zealously pursue their clients’ interest, but not at the cost of abandoning the appropriate litigation goals, which were to see, whether or not, based upon the merits of the cases, a settlement could be achieved.”

**RESULT:** \$89 million settlement.

### > Vioxx Third Party Payor Marketing and Sales Practices Litigation

The firm served as lead counsel for third party payors in the Vioxx MDL, alleging that Merck & Co. misled physicians, consumers and health benefit providers when it touted Vioxx as a superior product to other non-steroidal anti-inflammatory drugs. According to the lawsuit,

The drug had no benefits over less expensive medications, but carried increased risk of causing cardiovascular events.

**RESULT:** \$80 million settlement.

### > Serono Drug Litigation

Hagens Berman served as lead counsel for a class of consumers and third party payors in a suit alleging that global biotechnology company Serono, Inc. schemed to substantially increase sales of the AIDS drug Serostim by duping patients diagnosed with HIV into believing they suffered from AIDS-wasting and needed the drug to treat that condition.

**RESULT:** \$24 million settlement.

### > Bayer Combination Aspirin/Supplement Litigation

Hagens Berman served as lead counsel on behalf of consumers in a suit alleging that Bayer Healthcare LLC deceptively marketed Bayer® Women’s Low-Dose Aspirin + Calcium, an 81 mg aspirin pill combined with calcium, and Bayer® Aspirin With Heart Advantage, an 81 mg aspirin pill combined with phytosterols. Plaintiffs alleged that Bayer overcharged consumers for these products or that these products should not have been sold, because these products were not FDA-approved, could not provide all advertised health benefits, and were inappropriate for long-term use.

**RESULT:** \$15 million settlement.

## OTHER LANDMARK CASES

### > New England Compounding Center Meningitis Outbreak

In 2012, the Center for Disease Control confirmed that New England Compounding Center sold at least 17,000 potentially tainted steroid shots to 75 clinics in 23 states across the country, resulting in more than 64 deaths and 751 cases of fungal meningitis, stroke or paraspinal/peripheral joint infection. HBSS attorneys Thomas M. Sobol and Kristen A. Johnson serve as Court-appointed Lead Counsel for the Plaintiffs’ Steering Committee on behalf of plaintiff-victims in MDL 2419 consolidated before The Honorable Ray W. Zobel in the United States District Court for the District of Massachusetts.

**RESULT:** \$100 million settlement.

**PRACTICE AREAS**

## Employment Litigation

Hagens Berman takes special interest in protecting workers from exploitation or abuse. We take on race and gender discrimination, immigrant worker issues, wage and hour issues, on-the-job injury settlements and other crucial workplace issues.

Often, employees accept labor abuses or a curbing of their rights because they don't know the law, respect their superiors or fear for their jobs. We act on behalf of employees who may lack the individual power to bring about meaningful change in the workplace. We take a comprehensive approach to rooting out systemic employee abuses through in-depth investigation, knowledgeable experts and fervent exploration of prosecution strategies. Hagens Berman is a firm well-versed in taking on complicated employee policies and bringing about significant results. Representative cases include:

**> CB Richard Ellis Sexual Harassment Litigation**

Filed a class action against CB Richard Ellis, Inc., on behalf of 16,000 current and former female employees who alleged that the company fostered a climate of severe sexual harassment and discriminated against female employees by subjecting them to a hostile, intimidating and offensive work environment, also resulting in emotional distress and other physical and economic injuries to the class.

**RESULT:** An innovative and unprecedented settlement requiring changes to human resources policies and procedures, as well as the potential for individual awards of up to \$150,000 per class member. The company agreed to increase supervisor accountability, address sexually inappropriate conduct in the workplace, enhance record-keeping practices and conduct annual reviews of settlement compliance by a court appointed monitor.

**> Costco Wholesale Corporation Wage & Hour Litigation**

Filed a class action against Costco Wholesale Corporation on behalf of 2,000 current and former ancillary department employees, alleging that the company misclassified them as "exempt" executives, denying these employees overtime compensation, meal breaks and other employment benefits.

**RESULT:** \$15 million cash settlement on behalf of the class.

**> Washington State Ferry Workers Wage Litigation**

Represented "on-call" seamen who alleged that they were not paid for being "on call" in violation of federal and state law.

**RESULT:** Better working conditions for the employees and rearrangement in work assignments and the "on-call" system.

**> SunDance Rehabilitation Corporation**

Filed a class action against SunDance challenging illegal wage manipulation, inconsistent contracts and other compensation tricks used to force caregivers to work unpaid overtime.

**RESULT:** \$3 million settlement of stock to be distributed out of the company's bankruptcy estate.

**> Schneider National Carriers - Regional Drivers**

The firm represents a certified class of regional drivers in a suit filed against Schneider National Carriers, claiming that the company failed to pay its workers for all of their on duty time devoted to a variety of work tasks, including vehicle inspections, fueling, and waiting on customers and assignments. The suit also claims that the company does not provide proper meal and rest breaks and the company is liable for substantial penalties under the California Labor Code.

**RESULT:** A \$28 million settlement on behalf of drivers.

**> Schneider National Carriers - Mechanics**

Hagens Berman filed a class-action lawsuit alleging that Schneider National Carriers failed to provide mechanics with proper overtime compensation, meal and rest break premiums, and accurate wage statements as required by California law.

**RESULT:** In March of 2013, the case was settled on terms mutually acceptable to the parties.



## PRACTICE AREAS

# Employment Litigation

### > **Swift Transportation Co. of Arizona LLC**

The firm represents a certified class of Washington-based truck drivers against Swift Transportation. The suit alleges that Swift failed to pay the drivers overtime and other earned wages in violation of Washington state law.

An agreement to settle the case was granted preliminary approval in October 2018. Final approval is pending.

## PRACTICE AREAS

# Environmental Litigation

Since Hagens Berman's founding, the firm has sought to work toward one simple goal: work for the greater good. Hagens Berman has established a nationally recognized environmental litigation practice, having handled several landmark cases in the Northwest, the nation and internationally.

Hagens Berman believes that protecting and restoring our environment from damage caused by irresponsible and illegal corporate action is some of the most rewarding work a law firm can do. As our firm has grown, we have established an internationally recognized environmental litigation practice.

### SCIENCE AND THE LAW

Hagens Berman's success in environmental litigation stems from a deep understanding of the medical and environmental science that measures potential hazards. That expertise is translated into the courtroom as our attorneys explain those hazards to a judge or jury in easily understood terms.

### ENVIRONMENTAL EXPERTS

Our firm's fostered deep relationships with top-notch environmental experts result in resonating arguments and court victories, as well as thoroughly researched and vetted investigations.

### REAL IMPACTS

Environmental law is a priority at our firm and we have taken an active role in expanding this practice area. In 2003, Steve Berman and his wife Kathy worked with the University of Washington to create the Kathy and Steve Berman Environmental Law Clinic, giving law students the training and opportunities needed to become hands-on advocates for the environment.

Hagens Berman's significant environmental cases include:

#### > Exxon Valdez Oil Spill Litigation

Hagens Berman represented various classes of claimants, including fisherman and businesses located in Prince William Sound and other impacted areas who were damaged by one of the worst oil spills in United States history.

**RESULT:** A \$5 billion judgment was awarded by a federal jury, and a \$98 million settlement was achieved with Alyeska, the oil company consortium that owned the output of the pipeline.

#### > Chinook Ferry Litigation

The firm represented a class of property owners who challenged Washington State Ferries' high-speed operation of a new generation of fast ferries in an environmentally sensitive area of Puget Sound. Two of the ferries at issue caused environmental havoc and property damage, compelling property owners to act. A SEPA study conducted in response to the suit confirmed the adverse environmental impacts of the fast ferry service

**RESULT:** A \$4.4 million settlement resulted that is among the most favorable in the annals of class litigation in Washington state.

#### > Grand Canyon Litigation

The firm represented the Sierra Club in a challenge to a Forest Service decision to allow commercial development on the southern edge of the Grand Canyon National Park.

**RESULT:** The trial court enjoined the project.

#### > Kerr-McGee Radiation Case

The firm brought a class action on behalf of residents of West Chicago, Illinois who were exposed to radioactive uranium tailings from a rare earth facility operated by Kerr-McGee.

**RESULT:** A medical monitoring settlement valued in excess of \$5 million

#### > Skagit Valley Flood Litigation

Hagens Berman represented farmers, homeowners and businesses who claimed damages as a result of the 1990 flooding of this community. The case was in litigation for ten years and involved a jury trial of more than five months.

**RESULT:** Following the entry of 53 verdicts against Skagit County, the trial court entered judgments exceeding \$6.3 million. Ultimately, the State Supreme Court reversed this judgment. Despite this reversal, the firm is proud of this representation and believes that the Supreme Court erred.

## PRACTICE AREAS

# Environmental Litigation

### › Idaho Grass Burning Case

In 2002, Hagens Berman brought a class-action lawsuit on behalf of Idaho residents who claimed grass-burning farmers released more than 785 tons of pollutants into the air, including concentrations of polycyclic aromatic hydrocarbons (PAHs), proven carcinogens. Burning the fields annually caused serious health problems, especially to those with respiratory ailments such as cystic fibrosis and asthma. The suit also asserted that Idaho's grass burning policies are far below the standards of other states such as neighboring Washington, where farmers use other techniques to remove grass residue from the fields.

**RESULT:** The lawsuit settled in 2006 under confidential terms.

### › Dole Bananas Case

The firm took on Dole Food Company Inc. in a class-action lawsuit claiming the world's largest fruit and vegetable company lied to consumers about its environmental record and banana-growing practices. The suit alleged that Dole misrepresented its commitment to the environment in selling bananas from a Guatemalan banana plantation that did not comply with proper environmental practices.

**RESULT:** The suit culminated in 2013. Dole and non-profit organization Water and Sanitation Health, Inc. collaborated on a water filter project to assist local communities in Guatemala.

### › Diesel Emissions Litigation

Second to none in uncovering emissions-cheating, the firm has dedicated its time and resources to breaking up the dirty diesel ring. After filing the first lawsuit in the country against Volkswagen, Audi and Porsche for its massive Dieselgate scandal in 2015, the firm went on to unmask emissions-cheating devices installed in vehicles made by Fiat Chrysler, Mercedes and General Motors and continues to investigate diesel cars for excessive, illegal and environmentally harmful levels of emissions.

**RESULT:** The firm's independently researched active cases have led to investigations by the EPA, DOJ and European authorities.

### › San Francisco and Oakland Climate Change Litigation

Hagens Berman represents the cities of San Francisco and Oakland, Calif. in two lawsuits filed against BP, Chevron Corp., Exxon Mobil Corp., Royal Dutch Shell PLC and ConocoPhillips alleging that the Big Oil giants are responsible for the cities' costs of protecting themselves from global warming-induced sea level rise, including expenses to construct seawalls to protect the two cities' more than 5 million residents. The newly filed case

seek an order requiring defendants to abate the global warming-induced sea level rise by funding an abatement program to build sea walls and other infrastructure. Attorneys for the cities say this abatement fund will be in the billions.

### › Florida Sugarcane Burning

Hagens Berman filed a class-action lawsuit against the sugar industry's largest entities on behalf of residents of various areas and townships of Florida that have long suffered from the corporations' wildly hazardous and damaging methods of harvesting sugarcane. The lawsuit states that this outdated method of harvesting has wreaked havoc on these Florida communities. The wildly archaic method of harvesting brings devastating toxic smoke and ash, often called "black snow," raining onto poor Florida communities for six months of the year. The lawsuit's defendants, commonly known as Big Sugar, farm sugarcane on approximately 400,000 acres in the area south and southeast of Lake Okeechobee.

### › Kivalina Global Warming Litigation

A tiny impoverished Alaskan village of Inupiat Eskimos took action against some of the world's largest greenhouse gas offenders, claiming that contributions to global warming are leading to the destruction of their village and causing erosion to the land that will eventually put the entire community under water. Hagens Berman, along with five law firms and two non-profit legal organizations, filed a suit against nine oil companies and 14 electric power companies that emit large quantities of greenhouse gases into the atmosphere. The lawsuit alleged their actions resulted in the destruction of protective ice, exposing the village to severe storms that destroy the ground the village stands on. Relocating the village of Kivalina could cost between \$95 and \$400 million, an expense the community cannot afford.

### › Cane Run Power Plant Coal Ash Case

In 2013, Hagens Berman filed a class-action lawsuit against Louisville Gas and Electric Company alleging it illegally dumped waste from a coal-fired power plant onto neighboring property and homes where thousands of Kentucky residents live. According to the complaint, Louisville Gas and Electric Company's Cane Run Power Plant is fueled by the burning of coal, which also produces coal combustion byproducts—primarily fly ash and bottom ash—that contain significant quantities of toxic materials, including arsenic, chromium and lead. The dust spewed by Cane Run contains known carcinogens, posing significant potential health hazards.

## PRACTICE AREAS

# Governmental Representation

Hagens Berman has been selected by public officials to represent government agencies and bring civil law enforcement and damage recoupment actions designed to protect citizens and the treasury. We understand the needs of elected officials and the obligation to impartially and zealously represent the interests of the public, are often chosen after competitive bidding and have been hired by officials from across the political spectrum.

Hagens Berman has assisted governments in recovering billions of dollars in damages and penalties from corporate wrongdoers and, in the process, helped reform how some industries do business. In serving government, we are often able to leverage the firm's expertise and success in related private class-action litigation. Successes on behalf of government clients include:

### > **Big Tobacco**

We represented 13 states in landmark Medicaid-recoupment litigation against the country's major tobacco companies. Only two states took cases to trial – Washington and Minnesota. The firm served as trial counsel for the state of Washington, becoming only one of two private firms in the entire country to take a state case to trial.

Hagens Berman was instrumental in developing what came to be accepted as the predominant legal tactic to use against the tobacco industry: emphasizing traditional law enforcement claims such as state consumer protection, antitrust and racketeering laws. This approach proved to be nearly universally successful at the pleading stage, leaving the industry vulnerable to a profits-disgorgement remedy, penalties and double damages. The firm also focused state legal claims on the industry's deplorable practice of luring children to tobacco use.

**RESULT:** \$260 billion for state programs, the largest settlement in the history of civil litigation in the U.S.

### > **McKesson Average Wholesale Price Litigation**

This litigation is yet another example of fraudulent drug price inflation impacting not just consumers and private health plans, but public health programs such as Medicaid and local government-sponsored plans as well.

**RESULT:** Hagens Berman has started the AWP class action, which resulted in many states filing cases. The firm represented several of those states in successful litigation.

### > **McKesson Government Litigation**

On the heels of Hagens Berman's class action against McKesson, the firm led lawsuits by states (Connecticut, Utah, Virginia, Montana, Arizona).

**RESULT:** These states obtained recoveries three to seven times larger than states settling in the multi-state Attorneys General settlement. In addition, the firm obtained \$12.5 million for the City of San Francisco and \$82 million for a nationwide class of public payors.

### > **Zyprexa Marketing & Sales Practices Litigation - Connecticut**

Hagens Berman served as outside counsel to then-Attorney General Richard Blumenthal in litigation alleging that Lilly engaged in unlawful off-label promotion of the atypical antipsychotic Zyprexa. The litigation also alleged that Lilly made significant misrepresentations about Zyprexa's safety and efficacy, resulting in millions of dollars in excess pharmaceutical costs borne by the State and its taxpayers.

**RESULT:** \$25 million settlement.

### > **General Motors Ignition Switch Litigation**

Hagens Berman is pleased to be assisting the Arizona Attorney General in its law enforcement action versus GM, as well as the district attorney of Orange County, California who filed a consumer protection lawsuit against GM, claiming the automaker deliberately endangered motorists and the public by intentionally concealing widespread, serious safety defects.

**PRACTICE AREAS**

## Governmental Representation

**> State Opioid Litigation**

Hagens Berman was hired to assist multiple municipalities in lawsuits brought against large pharmaceutical manufacturers including Purdue Pharma, Cephalon, Janssen Pharmaceuticals, Endo Health Solutions and Actavis charging that these companies and others deceived physicians and consumers about the dangers of prescription painkillers.

The firm was first hired by California governmental entities for the counties of Orange and Santa Clara. The state of Mississippi also retained the firm's counsel in its state suit brought against the manufacturer of opioids. The suit alleges that the pharma companies engaged in tactics to prolong use of opioids despite knowing that opioids were too addictive and debilitating for long-term use for chronic non-cancer pain.

In a third filing, Hagens Berman was retained as trial counsel for the state of Ohio. Filed on May 31, 2017, the firm is assisting the Ohio Attorney General's office in its case against five opioid makers. Ohio Attorney General Mike DeWine stated that "drug companies engaged in fraudulent marketing regarding the risks and benefits of prescription opioids which fueled Ohio's opioid epidemic," and that "these pharmaceutical companies purposely misled doctors about the dangers connected with pain meds that they produced, and that they did so for the purpose of increasing sales."

**> Municipal Lending**

Hagens Berman represents the cities of Los Angeles and Miami in a series of lawsuits filed against the nation's largest banks, including CitiGroup, JP Morgan, Wells Fargo and Bank of America alleging that they engage in systematic discrimination against minority borrowers, resulting in reduced property tax receipts and other damages to the cities. The suits seek damages for the City, claiming that the banks' alleged discriminatory behavior resulted in foreclosures, causing a reduction of property tax revenues and increased municipal service costs.

## PRACTICE AREAS

# Intellectual Property

The Hagens Berman intellectual property team has deep experience in all aspects of intellectual property litigation. We specialize in complex and significant damages cases against some of the world's largest corporations.

The firm is primarily engaged in patent infringement litigation at this time. We seek to represent intellectual property owners, including inventors, universities, non-practicing entities, and other groups whose patent portfolios represents a significant creative and capital investment.

Our current and recent engagements include the following:

### > **Bombardier Inc.**

The firm represented Arctic Cat Inc. in patent infringement litigation against Bombardier Recreational Products and BRP U.S. Inc. The complaint alleges that Bombardier's Sea-Doo personal watercraft infringe Arctic Cat's patents covering temporary steerable thrust technology used when the rider turns in off-throttle situations.

**RESULT:** Florida U.S. District Judge Beth Bloom issued a final judgment of \$46.7 million against defendants, trebling initial damages of \$15.5 million awarded in a unanimous jury verdict.

### > **Angry Birds**

Hagens Berman represented a Seattle artist who filed a lawsuit against Hartz Mountain Corporation – one of the nation's largest producers of pet-related products – claiming the company illegally sold the artist's trademarked Angry Birds pet toy line to video game giant Rovio Entertainment Ltd, robbing her of millions of dollars of royalty fees.

**RESULT:** The case settled under confidential terms, which the firm found to be extremely satisfactory for the plaintiff.

### > **Samsung, LG, Apple**

The firm represents FlatWorld Interactives LLC in patent litigation against Samsung, LG and Apple. The complaints allege that the defendants' mobile handsets, tablets, media players and other devices infringe a FlatWorld patent covering the use of certain gestures to control touchscreen displays.

**RESULT:** The case settled.

### > **Oracle**

The firm represents Thought Inc. against Oracle Corporation in a suit alleging infringement of seven patents covering various aspects of middleware systems providing application to database mapping, reading and persistence.

### > **Salesforce**

The firm represents Applications in Internet Time LLC in patent litigation against Salesforce Inc. The suit alleges that our client's patents cover the core architecture of Salesforce's platform for developing, customizing, and updating cloud-based software applications.

### > **Nintendo**

The firm represented Japan-based Shinsedai Company in patent infringement litigation against Nintendo. The suit alleged that our client's patents were infringed by various sports games for the Nintendo Wii.

*Unlike other intellectual property firms, Hagens Berman only represents plaintiffs. This reduces the risk of potential conflicts of interest which often create delays in deciding whether or not to take a case at larger firms.*

## PRACTICE AREAS

# Intellectual Property

### > **Electronic Arts**

Hagens Berman represents the original software developer of the Electronic Arts (EA) NFL Madden Football video game series in a suit alleging that he is owed royalties on EA Madden NFL titles as well as other derivative products. We prevailed in two trials against EA, and the verdicts were designated as the Top Verdict of the Year (2013) by The Daily Journal. The judgment is on appeal and if upheld will return for a final damages phase.

Hagens Berman is also skilled in other aspects of intellectual property law, including trademark, trade dress, trade secret and copyright litigation.

## PRACTICE AREAS

# Investor Fraud - Individual and Class Action Litigation

Investing is a speculative business involving assessment of a variety of risks that can only be properly weighed with full disclosure of accurate information. No investor should suffer undue risk or incur losses due to misrepresentations related to their investment decisions.

Our attorneys work for institutional and individual investors defrauded by unscrupulous corporate insiders and mutual funds. The firm vigorously pursues fraud recovery litigation, forcing corporations and mutual funds to answer to deceived investors.

Hagens Berman is one of the country's leading securities litigation firms advising clients in both individual and class-action cases. The firm has experience, dedication and a team with the horsepower required to drive complex cases to exemplary outcomes. Our attorneys are authorities in an array of issues unique to federal and state securities statutes and related laws. We use a variety of highly experienced experts as an integral part of our prosecution team. Successes on behalf of our investor clients include:

### > Charles Schwab Securities Litigation

Lead counsel, alleging fraud in the management of the Schwab YieldPlus mutual fund.

**RESULT:** \$235 million class settlement for investors.

### > Oppenheimer

Additional counsel for lead plaintiffs in class action alleging Oppenheimer misled investors regarding its Champion and Core Bond Funds.

**RESULT:** \$100 million for the classes.

### > Tremont

Co-lead counsel in a case alleging Tremont Group Holdings breached its fiduciary duties by turning over \$3.1 billion to Bernard Madoff. On Sept. 14, 2015, after nearly two years of negotiations and mediation, the court granted final approval of the plan of allocation and distribution of the funds which markets estimate could yield investors as much as \$1.45 billion.

**RESULT:** \$100 million settlement between investors, Tremont and its affiliates.

### > Boeing

Uncovered critical production problems with the 777 airliner documented internally by Boeing, but swept under the rug until a pending merger with McDonnell Douglas was completed.

**RESULT:** Record-breaking settlement of more than \$92.5 million.

### > J.P. Morgan – Madoff

Case alleges that banking and investment giant J.P. Morgan was complicit in aiding Bernard Madoff's Ponzi scheme. Investors claim that J.P. Morgan operated as Bernard L. Madoff Investment Securities LLC's primary banker for more than 20 years.

**RESULT:** \$218 million settlement amount for the class and a total of \$2.2 billion paid from JPMorgan that will benefit victims of Madoff's Ponzi scheme.

### > Morrison Knudsen

Filed a shareholder class action, alleging that MK's senior officers concealed hundreds of millions in losses.

**RESULT:** More than \$63 million for investors.

### > Raytheon/Washington Group

Charged Raytheon with deliberately misrepresenting the true financial condition of Raytheon Engineers & Constructors division in order to sell this division to the Washington Group at an artificially inflated price.

**RESULT:** \$39 million settlement.

### > U.S. West

Represented shareholders of U.S. West New Vector in a challenge to the proposed buyout of minority shareholders by U.S. West.

**RESULT:** The proposed buyout was stayed, and a settlement was achieved, resulting in a \$63 million increase in the price of the buyout.



## PRACTICE AREAS

# Investor Fraud - Individual and Class Action Litigation

Our current casework includes:

### › **Theranos Investor Litigation**

Hagens Berman represents Theranos investors in a lawsuit that states that Theranos and its officers set in motion a publicity campaign to raise billions of dollars for Theranos and themselves, and to induce investors to invest in Theranos, all the while knowing that its “revolutionary” blood test technology was essentially a hoax. The suit filed against the company, its CEO Elizabeth Holmes and Ramesh Balwani, alleges that Theranos’ statements to investors were built on false statements. At the crux of the court’s recent decision to uphold the investor case against Theranos was a finding that while plaintiffs did not directly purchase their securities from defendants, claims made by Theranos, Holmes and Balwani constituted fraud.

### › **Aequitas Investor Litigation**

The firm represents a group of investors alleging that national law firm Sidley Austin LLP, Oregon law firm Tonkon Torp LLP and accounting firms Deloitte & Touche LLP and EisnerAmper LLP violated Oregon securities laws by participating or materially aiding in misrepresentations made by Aequitas Management LLC and contributing to a \$350 million Ponzi scheme. Investors state, amongst other allegations, that in 2011 Aequitas began purchasing loan receivables from Corinthian College Inc. and had bought the rights to collect \$444 million in loans. Investment managers hid the details of the transactions from investors, and deceived them when Corinthian’s business was hit with regulatory challenges in 2014. When Corinth collapsed in May 2015, the investment group and its managers continued to sell securities and used the money to pay off other investors and fund a lavish lifestyle, until Aequitas ultimately imploded in 2017, the investors claim.

### › **China MediaExpress**

Hagens Berman represents investors in a case against China MediaExpress, which purported to be the owner of a network of advertising terminals on buses throughout China. The case alleges that the company and its auditor (Deloitte Touche Tohmatsu) participated in accounting fraud that ultimately led to the demise of the company. In early 2014, the court entered

a default judgment in the amount of \$535 million and certified a proposed class against China Media Express Holdings Inc. The case will proceed separately against Deloitte Touche Tohmatsu.

On May 6, 2015 Hagens Berman obtained a \$12 million settlement from Deloitte Touche Tohmatsu, one of the largest settlements against an auditor in a Chinese “reverse merger” case which is now awaiting final approval from the court.

### › **Altisource Asset Management Corporation**

The firm was appointed lead counsel in this institutional investor lawsuit brought on behalf of purchasers of Altisource Asset Management Corporation (AAMC). The complaint alleges that AAMC misrepresented or outright concealed its relationship with these companies and the extent to which the interconnected entities engaged in conflicted transactions with themselves. Estimates of class-wide damages are in the hundreds of millions of dollars. The firm recently filed the consolidated complaint and motions to dismiss are pending before the U.S. District Court for the District of the Virgin Islands.

## WHISTLEBLOWERS

In an effort to curb Wall Street excesses, Congress passed the Dodd-Frank Wall Street Reform and Consumer Protection Act, which built vigorous whistleblower protections into the legislation known as the “Wall Street Tip-Off Law.” The law empowers the U.S. Securities and Exchange Commission to award between 10 and 30 percent of any monetary sanctions recovered in excess of \$1 million to whistleblowers who provide information leading to a successful SEC enforcement. It also provides similar rewards for whistleblowers reporting fraud in the commodities markets.

Hagens Berman represents whistleblowers with claims involving violations of the Securities Exchange Act and the Commodities Exchange Act. Unlike traditional whistleblower firms who have pivoted into this area, Hagens Berman has a strong background and history of success in securities, antitrust and other areas of fraud enforcement, making us an ideal partner for these cases. Our matters before the SEC/CFTC include a range of claims, including market manipulation and fraudulent financial statements.

## PRACTICE AREAS

# Investor Fraud - Institutional Investor Portfolio Monitoring and Recovery Services

Hagens Berman is a leading provider of specialized securities litigation services to public, private and Taft-Hartley pension funds. We offer proprietary and unparalleled asset protection and recovery services to both foreign and domestic institutions. Our institutional services provide participants with the ability to identify, investigate and react to potential wrongdoing by companies in which the institution invests.

**PORTFOLIO MONITORING.** Timely information and analysis are the critical ingredients of a successful fraud recovery program. Institutions must receive quick, reliable determinations concerning the source and extent of their losses, the likelihood of recoupment and the best manner for pursuing it. Our Portfolio Monitoring Service provides these services at no cost to participating institutions. The Hagens Berman Portfolio Monitoring Service has three primary components:

**TRACKING.** Alerts clients of any significant portfolio losses due to suspected fraud.

**ANALYSIS.** Provide clients with necessary legal and factual analyses regarding possible recovery options, removing from the institution any burden connected with scrutinizing myriad instances of potential wrongdoing and attempt to decipher whether direct, recoverable injuries have resulted.

**REPORTING.** Attorneys and forensic accounting fraud experts deliver a concise monthly report that furnishes comprehensive answers to these inquiries. On a case-by-case basis, the report specifies each of the securities in which the client lost a significant amount of money, and matches those securities with an analysis of potential fraud likelihood, litigation options and an expert recommendation on how best to proceed for maximum recovery.

Our Portfolio Monitoring Service performs its functions with almost no inconvenience to participating institutions. A client's custodian bank provides us with records detailing the client's transactions from the prior several years and on a regular basis thereafter. Importantly, none of the institution's own personnel is required to share in this task, as we acquire the information directly from the custodian bank.

We provide our Portfolio Monitoring service with no strings attached and allow our clients to act without cost or commitment. In instances where a litigation opportunity arises, we believe our skills make us the ideal choice for such a role, although the client is free to choose others.

When a portfolio loses money because of corporate deception, our litigation services seek to recover a substantial percentage of those losses, thereby increasing a fund's performance metric. As fiduciaries, money managers may not have the ability or desire to risk funds on uncertain litigation using typical hourly-rate law firms. Hagens Berman seeks to minimize the burden on the money manager by pursuing cases on a contingent-fee basis.

## PRACTICE AREAS

# Personal Injury and Abuse

For nearly two decades, Hagens Berman's blend of professional expertise and commitment to our clients has made our firm one of the most well-respected and successful mass tort and personal injury law firms in the nation. We deliver exceptional results for our clients by obtaining impressive verdicts and settlements in personal injury litigation.

Our attorneys have experience in wrongful death, brain injury and other catastrophic injury cases, as well as deep experience in social work negligence, medical malpractice, nursing home negligence and sexual abuse cases.

Hagens Berman also has unparalleled experience in very specific areas of abuse law, recovering damages on behalf of some of the most vulnerable people in our society.

**Sexual Abuse Litigation** Hagens Berman has represented a wide spectrum of individuals who have been victims of sexual abuse, including children and developmentally disabled adults. We treat each case individually, with compassion and attention to detail and have the expertise, resources and track record to stand up to the toughest opponents. In the area of sexual abuse, our attorneys have obtained record-breaking verdicts, including the largest personal injury verdict ever upheld by an appellate court in the state of Washington. More about Hagens Berman's sexual abuse practice can be found on the following page.

**Nursing Home Negligence** Nursing home negligence is a growing problem throughout the nation. As our population ages, reports of elder abuse and nursing home negligence continue to rise. Today, elder abuse is one of the most rapidly escalating social problems in our society. Hagens Berman is uniquely qualified to represent victims of elder abuse and nursing home negligence. Our attorneys have secured outstanding settlements in this area of the law and have committed to holding nursing homes accountable for wrongdoing.

**Social Work Negligence** Social workers play a critical role in the daily lives of our nation's most vulnerable citizens. Social workers, assigned to protect children, the developmentally disabled and

elderly adults, are responsible for critical aspects of the lives of tens of thousands of citizens who are unable to protect themselves. Many social workers do a fine job. Tragically, many do not. The results are often catastrophic when a social worker fails to monitor and protect his or her vulnerable client. All too often, the failure to protect a child or disabled citizen leads to injury or sexual victimization by predators. With more than \$40 million in recoveries on behalf of vulnerable citizens who were neglected by social workers, Hagens Berman is the most experienced, successful and knowledgeable group of attorneys in this dynamic area of the law.

**Workplace Injury** While many workplace injury claims are precluded by workers compensation laws, many instances of workplace injury are caused by the negligence and dangerous oversight of third parties. In these instances, victims may have valid claims. Hagens Berman's personal injury legal team has successfully brought many workplace injury claims, holding third parties liable for our clients' serious bodily injuries.

**Medical Malpractice** Litigating a medical malpractice case takes acute specialization and knowledge of medical treatments and medicine. Notwithstanding these facts, Hagens Berman pursues meritorious medical malpractice claims in instances where clients have suffered life-altering personal injuries. Our firm's personal injury attorneys handle medical malpractice cases with the dedication and detail necessary to make victims whole. Hagens Berman is very selective in accepting medical malpractice cases and has been successful in recovering significant compensation for victims of medical error and negligence.

## PRACTICE AREAS

# Sexual Abuse and Harassment

Hagens Berman's attorneys recently achieved a nationwide sexual harassment settlement on behalf of 16,000 women and also tried the first ever sexual harassment case in Washington state, and has represented women violated by Harvey Weinstein, as well as USC alumnae abused by the university's former gynecologist, Dr. George Tyndall. Our firm is committed to protecting and empowering individuals.

At Hagens Berman, we believe no one is above the law, and that no position of power should shield someone from being held accountable.

Right now, we are witnessing the silencing, belittling and abuse that women everywhere in this nation are subjected to. They are subjected to a system that does not respect them. The backlash against the brave survivors who have stepped forward to report sexual assault is unacceptable.

We believe survivors. Our firm's sexual harassment attorneys have protected their rights for decades throughout their legal careers, and we are dedicated to upholding the rights of the most vulnerable. Women should be heard, respected and protected from systemic abuse.

Sexual harassment is present and pervasive in many workplaces, industries and professional environments, and has damaged the lives and careers of countless individuals. It affects hundreds of thousands of women and men in the U.S., 51 percent of which are harassed by an authority figure, making it harder to come forward for fear of retaliation.

All too often, acts of sexual harassment and sexual misconduct are protected by systemic cover-ups by companies and organized agreements between those in power. Particular industries are more susceptible to these cover-ups including: entertainment and sports media, STEM, law enforcement, food service, politics, military, tech, finance, hospitality and transportation. But sexual harassment is pervasive in many other environments and is often obscured from view for years.

In these industries, victims are routinely subjected to widespread policies and practices that create an environment promoting quid pro quo arrangements in which victims feel pressured to take part in sexual acts and feel powerless against unwanted advancements. Victims are also often punished for not taking part.

The firm has represented women violated by Harvey Weinstein, as well as USC alumnae abused by the university's former gynecologist, Dr. George Tyndall, tried the first ever sexual harassment case in Washington state, and achieved a nationwide sexual harassment settlement on behalf of 16,000 women.

Representative sexual harassment successes and cases on behalf of our clients include:

### > **USC, Dr. Tyndall Sexual Harassment**

In May of 2018, Hagens Berman filed a class-action lawsuit against the University of Southern California (USC) and Dr. George Tyndall, the full-time gynecologist at USC's student health clinic. Tyndall sexually harassed, violated and engaged in wildly inappropriate behavior with female students who sought his medical care, according to news outlets, which stated he saw tens of thousands of female patients during his time at USC.

Official complaints of Dr. Tyndall's behavior began to surface at USC in the 1990s, but despite the university's knowledge of Dr. Tyndall's behavior, it did not report him to the agency responsible for protecting the public from problem doctors. USC did nothing, for decades, as more and more female students were sent into Dr. Tyndall's office.

The settlement's three-tier structure allows class members to

**PRACTICE AREAS**

## Sexual Abuse and Harassment

choose how much they want to engage with the claims process. Those who do not want to revisit a private, traumatic event can simply keep the guaranteed Tier 1 payment of \$2,500. Those who choose to provide additional information in a claim form about their experience with Tyndall and how it affected them are eligible for up to \$20,000 and those who choose to provide an interview are eligible for up to \$250,000. The special master and her team of experts will evaluate claims and allocate awards to Tier 2 and Tier 3 claimants. This focus on choice ensures that all class members receive compensation while giving each class member the autonomy to decide for herself how involved she wants to be in the settlement process.

The class-action settlement also goes beyond monetary compensation and forces USC to implement real changes to their policies and procedures to help ensure that what happened at USC does not happen again.

**RESULT:** \$215 million settlement

### › **Harvey Weinstein Sexual Harassment**

In a first-of-its-kind class-action lawsuit, Hagens Berman represented women on behalf of a class of all victims who were harassed or otherwise assaulted by Harvey Weinstein, seeking to hold him and his co-conspirators accountable for a years-long pattern of sexual harassment and cover-ups.

The lawsuit, filed Nov. 15, 2017, in the U.S. District Court for the Central District of California states that Miramax and The Weinstein Company (which Weinstein co-founded) facilitated Weinstein's organized pattern of predatory behavior, equating to an enterprise that violates the Racketeer Influenced and Corrupt Organizations Act, commonly referred to as the RICO Act, the same law brought against members of the Mafia for organized criminal behavior.

The lawsuit brought various charges against Weinstein and his companies for violating the RICO Act, mail and wire fraud, assault, civil battery, negligent supervision and retention, and intentional infliction of emotional distress.

**RESULT:** Settlement reached

### › **Fairfax Behavioral Health**

Attorneys from Hagens Berman filed a class-action complaint on behalf of a proposed class of hundreds of patients that were arbitrarily strip-searched and video recorded while receiving treatment for mental illness at one of three Fairfax locations in Washington state.

The suit's named plaintiff recalls being ordered to undress for an invasive strip-search when she presented for inpatient admission, even after disclosing her history of sexual abuse to the staff member. She was not given a gown or towel to cover up during the search, and the staff member watched her undress and left the door open where other staff members could see her.

Video cameras were located in the hallway, the holding area outside bathroom, and the room where the strip search was conducted. The cameras recorded her undressing and the strip-search.

The complaint states that Fairfax's practices—and its failure to limit the discretion of its staff—means that a substantial number of its mental health patients do not have reasonable access to inpatient care for mental health disorders.

### › **CB Richard Ellis Sexual Harassment Litigation**

Filed a class action against CB Richard Ellis, Inc., on behalf of 16,000 current and former female employees who alleged that the company fostered a climate of severe sexual harassment and discriminated against female employees by subjecting them to a hostile, intimidating and offensive work environment, also resulting in emotional distress and other physical and economic injuries to the class.

**RESULT:** An innovative and unprecedented settlement requiring changes to human resources policies and procedures, as well as the potential for individual awards of up to \$150,000 per class member. The company agreed to increase supervisor accountability, address sexually inappropriate conduct in the workplace, enhance record-keeping practices and conduct annual reviews of settlement compliance by a court appointed monitor.

## PRACTICE AREAS

# Sexual Abuse and Harassment

### › King County Child Sex Abuse

Hagens Berman represented the victim of eight years of sexual abuse as a minor, at the hands of her brother-in-law. The lawsuit states that from 2005 to 2012, the case's defendant repeatedly sexually abused Hagens Berman's client. She was only eleven years old when the abuse began and was a minor during the entire duration of the abuse. In 2013, the state of Washington charged Willis with three counts of child molestation, to which he pled guilty. Court documents state, "Joshua Blaine Willis used his position of trust, confidence, or fiduciary responsibility to facilitate the commission of the ... offense[s]..."

Court documents in the civil case filed in June of 2017 detail Willis' highly disgusting and horrifying actions including groping and molestation, exposing himself and other highly sexual and inappropriate behavior.

Following the years of sexual abuse, Hagens Berman's client suffers from Post-Traumatic Stress Disorder and the court awarded damages for treatment of her condition and other emotional distress, as well as loss of earning capacity and other economic damages in her "struggle with consistency and stability."

**RESULT:** \$4,031,000 judgment awarded in a King County Superior Court

### › State of Washington Sexual Assault, DSHS

Our client, a disabled Spokane, Wash. woman, was a patient at Eastern State Hospital. The hospital assigned a male nurse to provide one-on-one care and supervision for our client. The nurse trapped our client in a laundry room and raped her. Hagens Berman determined that the nurse, a state employee, had been reprimanded and accused on previous occasions of sexual assault of vulnerable patients. Hagens Berman initiated a negligence and civil rights lawsuit against the hospital and its administrators for failing to protect our client from a known sexual predator and for allowing that predator to remain on staff with the responsibility to care for vulnerable patients.

**RESULT:** \$2.5 million settlement

### › Workplace Sexual Harassment & Other Investigations

Sexual harassment is present and pervasive in many workplaces. It affects hundreds of thousands of women and men in the U.S., 51 percent of which are harassed by a supervisor, making it harder to come forward for fear of retaliation.

All too often, sexual harassment in the workplace is protected by systemic cover-ups by companies and those in power. Particular industries are more susceptible to these cover-ups including: commercial real estate, law enforcement, politics, military, tech, entertainment, sports media, finance, restaurants and hospitality, advertising and trucking.

In these industries, employees are routinely subjected to widespread policies that create an environment promoting quid pro quo arrangements in which they feel pressured to take part in sexual acts and feel powerless against unwanted advancements. Employees are also often punished for not taking part.

Hagens Berman is also investigating sexual harassment and abuse in various specific areas of study, including STEM programs. The firm also maintains a keen watch over various work environments that are statistically prone to instances of misconduct. These include hospitality, college campuses and research labs, boarding schools and the entertainment industry, especially within the area of professional music.

The firm remains committed to uncovering instances of sexual harassment in the workplace, and within fields of study and areas prone to harboring misconduct and abusive behavior.

**PRACTICE AREAS**

## Sports Litigation

Hagens Berman has one of the nation's most highly regarded sports litigation law practices. Our attorneys are the vanguard of new and innovative legal approaches to protect the rights of professional and amateur athletes in cases against large, well-financed interests, including the National Collegiate Athletic Association (NCAA), the National Football League (NFL), the Fédération Internationale de Football Association (FIFA) and other sports governing institutions.

**> NCAA: Scholarships/Grants-In-Aid (GIAs)**

In a first-of-its-kind antitrust action and potentially far-reaching case, Hagens Berman filed a class-action affecting approximately 40,000 Division I collegiate athletes who played men's or women's basketball, or FBS football, brought against the NCAA and its most powerful members, including the Pac-12, Big Ten, Big-12, SEC and ACC, claiming they violated federal antitrust laws by drastically reducing the number of scholarships and financial aid student-athletes receive to an amount below the actual cost of attendance and far below what the free market would bare.

The case resulted in a \$208.9 million settlement, bringing an estimated average amount of \$6,500 to each eligible class member who played his or her sport for four years.

In March of 2019, the firm as co-lead trial counsel on the injunctive aspect of the case which resulted in a change of NCAA rules limiting the financial treatment of athletes, and in a unanimous 9-0 Supreme Court Victory, the injunctive portion of the case also resulted in a monumental victory for plaintiffs. The Court ruled that NCAA college athletes should legally be able to receive compensation from schools or conferences for athletic services other than cash compensation untethered to education-related expenses, prohibiting the NCAA from enforcing rules limiting those payments. The media called the firm's victory in the scholarships case against the NCAA a "major ruling" (ABC World News Tonight), that "will change the game" (ABC Good Morning America), "...the highest court left the NCAA unhoused and naked, with nothing left but its pretensions," (The Washington Post), it "delivered a heavy blow," (AP), and leaves the NCAA "more vulnerable than ever."

**> NCAA: Concussions**

Cases of particular nationwide interest for fans, athletes and the general public involve numerous cases filed by Hagens Berman against the NCAA. Recently, the firm took on the NCAA for its failure to prevent concussions and protect student-athletes who suffered concussions. Steve Berman served as lead counsel in multi-district litigation and led the firm to finalize a settlement bringing sweeping changes to the NCAA's approach to concussion treatment and prevention. The core settlement benefits include a 50-year medical monitoring program overseen by a medical science committee appointed by the court that will screen and track concussions, funded by a \$70 million medical monitoring fund, paid by the NCAA and its insurers. Examinations include neurological and neurocognitive assessments to evaluate potential injuries.

The settlement also mandates significant changes to and enforcement of the NCAA's concussion management policies and return-to-play guidelines. All players will now receive a seasonal, baseline test to better assess concussions sustained during the season. All athletes who have sustained a concussion will now need to be cleared before returning to play. A medical professional trained in the diagnosis of concussions will be present at all games involving contact-sports. The settlement also creates reporting mandates for concussions and their treatment.

**> Player Name, Image & Likeness Rights in Videogames**

Hagens Berman attorneys represented student-athletes who claimed that the NCAA illegally used student-athletes' names, images and likenesses in Electronic Arts' popular NCAA Football, Basketball and March Madness video game series reached a



## PRACTICE AREAS

# Sports Litigation

combined \$60 million settlement with the NCAA and EA, marking the first time the NCAA has agreed to a settlement that pays student-athletes for acts related to their participation in athletics. Settlement checks were sent to about 15,000 players, with average amounts of \$1,100 and some up to \$7,600.

The firm began this case with the knowledge that the NCAA and member schools were resolute in keeping as much control over student-athletes as possible, and fought hard to ensure that plaintiffs would not be exploited for profit, especially by the organization that vowed to prevent the college athletes from exploitation.

The firm also represented NFL legend Jim Brown in litigation against EA for improperly using his likeness in its NFL video games, culminating in a \$600,000 voluntary judgment offered by the video game manufacturer.

### › Continued NIL Litigation

Hagens Berman has continued efforts against the NCAA in an additional pending antitrust case regarding NIL rights. In June 2020, the firm filed its case against the NCAA claiming the institution had knowingly violated federal antitrust laws in abiding by a particular subset of NCAA amateurism rules that prohibit college-athletes from receiving anything of value in exchange for the commercial use of their name and likeness. The firm holds that the NCAA's regulations illegally limiting the compensation that Division I college athletes may receive for the use of their names, images, likenesses and athletic reputations.

In unanimously upholding the rights of NCAA athletes in *Alston*, Justice Gorsuch wrote the NCAA had sought "immunity from the normal operation of the antitrust laws," and Justice Kavanaugh stated, "The NCAA is not above the law." The firm looks forward to continuing to uphold that same sentiment in regard to NCAA athlete name, image and likeness rights.

In July 2021, following the firm's victory in the *Alston* case, the NCAA chose to temporarily lift rules restricting certain NIL deals in what the firm believes will be the first step in another massive change in college sports to support college athletes.

### › FIFA/U.S. Soccer: Concussions

Several soccer players filed a class action against U.S. soccer's governing bodies, which led to life-changing safety measures brought to millions of U.S. youth soccer players. Players represented by Hagens Berman alleged these groups failed to adopt effective policies to evaluate and manage concussions, leaving millions of players vulnerable to long-lasting brain injury.

The settlement against six of the largest youth soccer organizations completely eliminates heading for youth soccer's youngest players, greatly diminishing risks of concussions and traumatic head injuries. Prior to the settlement, no rule limited headers in children's soccer.

It also sets new benchmarks for concussion measurement and safety protocols, and highlights the importance of on-staff medical personnel at youth tournaments. Under the settlement, youth players who have sustained a concussion during practice or a game will need to follow certain return-to-play protocols before they are allowed to play again. Steve Berman, a youth soccer coach, has seen first-hand the settlement's impacts and life-changing effects every time young athletes take to the field.

### › NCAA: Transfer Antitrust

Hagens Berman has taken on the NCAA for several highly recruited college athletes whose scholarships were revoked after a coaching change, or after the student-athletes sought to transfer to another NCAA-member school. The suit claims the organization's limits and transfer regulations violate antitrust law.

The firm's case hinges on a destructive double-standard. While Non-student-athletes are free to transfer and are eligible for a new scholarship without waiting a year, and coaches often transfer to the tune of a hefty pay raise, student-athletes are penalized and forced to sit out a year before they can play elsewhere, making them much less sought after by other college athletic programs. Hagens Berman continues to fight for student-athletes' rights to be treated fairly and terminate the NCAA's anticompetitive practices and overbearing regulations that limit players' options and freedoms.



## PRACTICE AREAS

# Sports Litigation

### › Pop Warner

Hagens Berman represented youth athletes who have suffered traumatic brain injuries due to gross negligence, and filed a lawsuit on behalf of former Pop Warner football player Donovan Hill and his mother Crystal Dixon. The suit claims that the league insisted Hill use improper and dangerous tackling techniques which left the then 13-year-old paralyzed from the neck down.

Hagens Berman sought to hold Pop Warner, its affiliates, Hill's coaches and members of the Lakewood Pop Warner board of directors accountable for the coaches' repeated and incorrect instruction that Hill and his teammates tackle opposing players by leading with the head. In January of 2016, the firm reached a settlement on behalf of Donovan and his mother, the details of which were not made public. Sadly, months later, 17-year-old Donovan passed away. The firm believes that his case will continue to have a lasting impact on young athletes for generations and will help ensure safety in youth sports.

### › MLB Foul Ball Injuries

Hagens Berman filed a class-action lawsuit on behalf of baseball fans, seeking to extend safety netting to all major and minor league ballparks from foul pole to foul pole. The suit alleges that tens of millions attend an MLB game annually, and every year fans of all ages, but often children, suffer horrific and preventable injuries, such as blindness, skull fractures, severe concussions and brain hemorrhages when struck by a fast-moving ball or flying shrapnel from a shattered bat. The lawsuit was dismissed with the court ruling that the plaintiffs lacked standing because the chance of getting hit by a ball is remote.

In December of 2015, MLB's commissioner Rob Manfred issued a recommendation to all 30 MLB teams to implement extended safety measures, including additional safety netting at ballparks. While the firm commends the league for finally addressing the serious safety issue at stake, the firm continues to urge MLB and its commissioner to make these more than recommendations to help end senseless and avoidable injuries to baseball's biggest fans. We believe our case sparked the eventual move to netting. After one of the owners of the Mariners belittled Steve for having filed the case, the firm happily saw the addition of netting extended to the foul poles at T-Mobile Park in the firm's headquarters of Seattle.

### › Other Cases

In addition to its class actions, Hagens Berman has filed several individual cases to uphold the rights of athletes and ensure a fair and safe environment. The firm has filed multiple individual cases to address concussions and other traumatic head injuries among student-athletes at NCAA schools and in youth sports. Hagens Berman continues to represent the interests of athletes and find innovative and effective applications of the law to uphold players' rights.

The firm has also brought many concussions cases on behalf of individual athletes, challenging large universities and institutions for the rights those who have suffered irreversible damage due to gross negligence and lack of even the most basic concussion-management guidelines.

## PRACTICE AREAS

# Whistleblower Litigation

Hagens Berman represents whistleblowers under various programs at both the state and federal levels. All of these whistleblower programs reward private citizens who blow the whistle on fraud. In many cases, whistleblowers report fraud committed against the government and may sue those individuals or companies responsible, helping the government recover losses.

Our depth and reach as a leading national plaintiffs' firm with significant success in varied litigation against industry leaders in finance, health care, consumer products, and other fields causes many whistleblowers to seek us to represent them in claims alleging fraud against the government.

Our firm also has several former prosecutors and other government attorneys in its ranks and has a long history of working with governments, including close working relationships with attorneys at the U.S. Department of Justice. The whistleblower programs under which Hagens Berman pursues cases include:

### FALSE CLAIMS ACT

Under the federal False Claims Act, and more than 30 similar state laws, a whistleblower reports fraud committed against the government, and under the law's *Qui Tam* provision, may file suit on its behalf to recover lost funds. False claims acts are one of the most effective tools in fighting Medicare and Medicaid fraud, defense contractor fraud, financial fraud, under-payment of royalties, fraud in general services contracts and other types of fraud perpetrated against governments.

The whistleblower initially files the case under seal, giving it only to the government and not to the defendant, which permits the government to investigate. After the investigation, the government may take over the whistleblower's suit, or it may decline. If the government declines, the whistleblower can proceed alone on his or her behalf. In successful suits, the whistleblower normally receives between 15 and 30 percent of the government's recovery as a reward.

Since 1986, federal and state false claims act recoveries have totaled more than \$22 billion. Some examples of our cases brought under the False Claims Act include:

#### > In U.S. ex rel. Lagow v. Bank of America

Represented former District Manager at Landsafe, Countrywide Financial's mortgage appraisal arm, who alleged systematic abuse of appraisal guidelines as a means of inflating mortgage values.

**RESULT:** The case was successful, ultimately triggering a settlement of \$1 billion, and our client received a substantial reward.

#### > In U.S. ex rel. Mackler v. Bank of America

Represented a whistleblower who alleged that Bank of America failed to satisfy material conditions of its government contract to provide homeowners mortgage relief under the HAMP program.

**RESULT:** The case succeeded and was settled as part of the 2012 global mortgage settlement, resulting in an award to our client.

#### > In U.S. ex rel. Horwitz v. Amgen

Represented Dr. Marshall S. Horwitz, who played a key role in uncovering an illegal scheme to manipulate the scientific record regarding two of Amgen's blockbuster drugs.

**RESULT:** \$762 million in criminal and civil penalties levied by the U.S. Department of Justice and an award to our client.

#### > In U.S. ex rel. Thomas v. Sound Inpatient Physicians Inc. and Robert A. Bessler

Represented a former regional vice president of operations for Sound Physicians, who blew the whistle on Sound's alleged misconduct.

**RESULT:** Tacoma-based Sound Physicians agreed to pay the United States government \$14.5 million.

#### > In U.S. ex rel. Plaintiffs v. Center for Diagnostic Imaging Inc.

In May 2010, Hagens Berman joined as lead trial counsel a qui tam lawsuit on behalf of two whistleblowers against Center for

## PRACTICE AREAS

# Whistleblower Litigation

Diagnostic Imaging, Inc. (CDI), alleging that CDI violated anti-kickback laws and defrauded federally funded health programs by presenting false claims for payment.

**RESULT:** In 2011, the government intervened in the claims, which the company settled for approximately \$1.3 million. The government declined to intervene, however, in the no-written-orders and kickback claims, leaving those claims for the whistleblowers and their counsel to pursue on their own. The non-intervened claims settled for an additional \$1.5 million payment to the government.

### > Medtronic

On Feb. 19, 2008 the court unsealed a qui tam lawsuit brought by Hagens Berman against Medtronic, one of the world's largest medical technology companies, for fraudulent medical device applications to the FDA and off-label promotion of its biliary devices.

**RESULT:** The case settled in 2012 for an amount that remained under seal.

## SECURITIES AND EXCHANGE COMMISSION / COMMODITY FUTURES TRADING COMMISSION

Since implementation of the SEC/CFTC Dodd Frank whistleblower programs in 2011, Hagens Berman has naturally transitioned into representation of whistleblowers with claims involving violations of the Securities Exchange Act and the Commodities Exchange Act.

Unlike the False Claims Act, whistleblowers with these new programs do not initially file a sealed lawsuit. Instead, they provide information directly to the SEC or the CFTC regarding violations of the federal securities or commodities laws. If the whistleblower's information leads to an enforcement action, they may be entitled to between 10 and 30 percent of the recovery.

The firm currently represents HFT whistleblower and market expert, Haim Bodek, in an SEC fraud whistleblower case that prompted the U.S. Securities and Exchange Commission to bring record-breaking fines against two exchanges formerly owned

by Direct Edge Holdings (and since acquired by Bats Global Markets, the second-largest financial exchange in the country). The exchanges agreed to pay \$14 million to settle charges that the exchanges failed to accurately and completely disclose how order types functioned on its exchanges and for selectively providing such information only to certain high-frequency trading firms.

Hagens Berman also represents an anonymous whistleblower who brought his concerns and original analysis related to the May 2, 2010 Flash Crash to the CFTC after hundreds of hours spent analyzing data and other information.

Both the U.S. Commodity Futures Trading Commission (CFTC) and the Department of Justice, in separate criminal and civil enforcement actions, brought charges of market manipulation and spoofing against Nav Sarao Futures Limited PLC (Sarao Futures) and Navinder Singh Sarao (Sarao) based on the whistleblower's information.

Hagens Berman has worked alongside government officials and regulators, establishing the credibility necessary to bring a case to the SEC or CFTC. When Hagens Berman brings a claim, we work hard to earn their respect and regulators pay attention.

A few of the firm's most recent whistleblower cases in this area include:

### > EDGA Exchange Inc. and EDGX Exchange Inc.

Represented HFT whistleblower and market expert, Haim Bodek, in an SEC fraud whistleblower case against two exchanges formerly owned by Direct Edge Holdings and since acquired by Bats Global Markets, the second-largest financial exchange in the country for spoofing.

**RESULT:** The case prompted the U.S. Securities and Exchange Commission to bring record-breaking fine of \$14 million against defendants, the largest ever brought against a financial exchange.

**PRACTICE AREAS**

## Whistleblower Litigation

**> Nav Sarao Futures Limited PLC**

Hagens Berman represents an anonymous whistleblower who brought his concerns and original analysis to the CFTC after hundreds of hours spent analyzing data and other information. The claim brought about legal action against a market manipulator who profited more than \$40 million from market fraud and contributed to the May 6, 2010 Flash Crash.

**RESULT:** Both the CFTC and the Department of Justice, in separate criminal and civil enforcement actions, brought charges of market manipulation and spoofing against Nav Sarao Futures Limited PLC and Navinder Singh Sarao based on the whistleblower's information. The case is still pending under seal.

**INTERNAL REVENUE SERVICE**

Hagens Berman also represents whistleblowers under the IRS whistleblower program enacted with the Tax Relief and Health Care Act of 2006.

The IRS program offers rewards to those who come forward with information about persons, corporations or any other entity that cheats on its taxes. In the event of a successful recovery of government funds, a whistleblower can be rewarded with up to 30 percent of the overall amount collected in taxes, penalties and legal fees.

Hagens Berman helps IRS whistleblowers present specific, credible tax fraud information to the IRS. Unlike some traditional False Claims Act firms, Hagens Berman has experience representing governments facing lost tax revenue due to fraud, making us well-positioned to prosecute these cases.

# Appellate Victories

**APPELLATE VICTORIES**

## Strengthening Consumer Law

At Hagens Berman, we distinguish ourselves not merely by the results we obtain, but by how we obtain them. Few class-action firms have our firm's combination of resources and acumen to see a case through as long as needed to obtain a favorable outcome. Our attorneys were instrumental in obtaining these federal appellate decisions that have shaped consumer law and bolstered the rights of millions nationwide:

- › **In Matter of Motors Liquidation Co.**, 829 F.3d 135 (2d Cir. 2016) (General Motors bankruptcy reorganization did not bar claims stemming from defective ignition switches)
- › **George v. Urban Settlement Servs.**, 833 F.3d 1242 (10th Cir. 2016) (complaint adequately alleged Bank of America's mortgage modification program violated RICO)
- › **In re Loestrin 24 Fe Antitrust Litig.**, 814 F.3d 538 (1st Cir. 2016) ("reverse payments" for antitrust purposes under **Actavis** are not limited to cash payments)
- › **Osborn v. Visa Inc.**, 797 F.3d 1057 (D.C. Cir. 2015) (complaint adequately alleged Visa and MasterCard unlawfully agreed to restrain trade in setting ATM access fees)
- › **Little v. Louisville Gas & Elec. Co.**, 805 F.3d 695 (6th Cir. 2015) (Clean Air Act did not preempt state nuisance claims against coal plant for polluting surrounding community)
- › **City of Miami v. Citigroup Inc.**, 801 F.3d 1268 (11th Cir. 2015) (reversing dismissal of complaint alleging Citigroup violated Fair Housing Act by pattern of discriminatory lending)
- › **Rajagopalan v. NoteWorld, LLC**, 718 F.3d 844 (9th Cir. 2013) (non-party could not invoke arbitration clause against plaintiff suing debt services provider)
- › **In re Neurontin Mktg. & Sales Practices Litig.**, 712 F.3d 21 (1st Cir. 2013) (affirming \$142 million verdict for injury suffered from RICO scheme by Neurontin manufacturer Pfizer)
- › **In re NCAA Student-Athlete Name & Likeness Licensing Litig.**, 724 F.3d 1268 (9th Cir. 2013) (First Amendment did not shield video game developer's use of college athletes' likenesses)
- › **Garcia v. Wachovia Corp.**, 699 F.3d 1273 (11th Cir. 2012) (Wells Fargo could not rely on **Concepcion** to evade waiver of any right to compel arbitration)
- › **Agnew v. Nat'l Collegiate Athletic Ass'n**, 683 F.3d 328 (7th Cir. 2012) (NCAA bylaws limiting scholarships per team and prohibiting multi-year scholarships are subject to antitrust scrutiny and do not receive pro-competitive justification at pleading stage)
- › **In re Lupron Mktg. & Sales Practices Litig.**, 677 F.3d 21, 24 (1st Cir. 2012) (approving cy pres provision in \$150 million settlement)
- › **In re Pharm. Indus. Average Wholesale Price Litig.**, 582 F.3d 156 (1st Cir. 2009) (AstraZeneca illegally published inflated average wholesale drug prices, thereby giving windfall to physicians and injuring patients who paid inflated prices)

**We set ourselves apart not only by getting results but by litigating every case through to finish – to trial and appeal, if necessary. This tenacious drive has led our firm to generate groundbreaking precedents in consumer law.**

Hagens Berman has also been active in state courts nationwide. Notable examples of our victories include:

- › **Garza v. Gama**, 379 P.3d 1004 (Ariz. Ct. App. 2016) (reinstating certified class in wage-and-hour action prosecuted by Hagens Berman since 2005)
- › **In re Farm Raised Salmon Cases**, 42 Cal. 4th 1077 (Cal. 2008) (Federal Food, Drug and Cosmetic Act did not preempt state claims for deceptive marketing of food products)
- › **Pickett v. Holland Am. Line-Westours, Inc.**, 35 P.3d 351 (Wash. 2001) (reversing state court of appeals and upholding class action settlement with cruise line)

Legal Team

**MANAGING PARTNER****Steve W. Berman**

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

**CONTACT**

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(206) 623-0594 fax  
steve@hbsslw.com

**YEARS OF EXPERIENCE**

> 41

**PRACTICE AREAS**

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

**BAR ADMISSIONS**

- > Washington
- > Illinois Foreign
- > Registered Attorney in  
England and Wales

**COURT ADMISSIONS**

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

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

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

**CURRENT ROLE**

- > Managing Partner, Hagens Berman Sobol Shapiro LLP

**RECENT CASES****> Emissions Litigation**

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

**> General Motors Ignition Switch Defect Litigation**

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

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

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



- › Second Circuit Court of Appeals
- › Third Circuit Court of Appeals
- › Fifth Circuit Court of Appeals
- › Sixth Circuit Court of Appeals
- › Seventh Circuit Court of Appeals
- › Eighth Circuit Court of Appeals
- › Ninth Circuit Court of Appeals
- › Tenth Circuit Court of Appeals
- › Eleventh Circuit Court of Appeals
- › DC Circuit Court of Appeals
- › Federal Circuit Court of Appeals
- › U.S. Court of Federal Claims
- › Foreign Registered Attorney in England and Wales

#### EDUCATION

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

#### MANAGING PARTNER

## Steve W. Berman

warming-induced sea level rise and related expenses to protect the cities and their millions of residents.

- › **Opioids** - Orange and Santa Clara County, Seattle  
Steve has been retained by various municipalities, including the states of Ohio, Mississippi and Arkansas, Orange County, as well as the city of Seattle to serve as trial counsel in a recently filed state suit against five manufacturers of opioids seeking to recover public costs resulting from the opioid manufacturer's deceptive marketing.
- › **Antitrust Litigation**  
Corporate fraud has many faces, and Steve has taken on some of the largest perpetrators through antitrust law. Steve serves as co-lead counsel in Visa MasterCard ATM, Batteries, Optical Disc Drives and is in the leadership of a class-action lawsuit against Qualcomm for orchestrating a monopoly that led to purchasers paying significantly more for mobile devices. He serves as interim class counsel in a case against Tyson, Purdue and other chicken producers for conspiring to stabilize prices by reducing chicken production. Steve also filed a proposed class-action lawsuit against the world's largest manufacturers of Dynamic Random Access Memory (DRAM) for cornering the market and driving up DRAM prices. Most recently, Steve's antitrust case against the NCAA involving rights of college athletes to receive grant-in-aid scholarships saw a unanimous Supreme Court victory, in what media called a "major ruling" (ABC World News Tonight), that "will change the game" (ABC Good Morning America), and leaves the NCAA "more vulnerable than ever" (AP).
- › **Consumer Protection**  
Steve is a leader in protecting millions of consumers in large-scale cases that challenge unfair, deceptive and fraudulent practices. He leads a class action on behalf of owners of Ford vehicles equipped with MyFord Touch, an in-car entertainment system, who claim the system is flawed, putting drivers at risk of an accident while causing economic hardship. Steve recently filed a class-action lawsuit against Facebook for allowing personal data to be harvested for psychographic profiling.

#### RECENT SUCCESS

- › **Volkswagen Franchise Dealerships** - \$1.6 billion  
Lead counsel for VW franchise dealers suit, in which a settlement of \$1.6 billion has received final approval, and represents a substantial recovery for the class.
- › **Stericycle Sterisafe Contract Litigation** - \$295 million  
Hagens Berman's team, led by Steve Berman, filed a class-action lawsuit against Stericycle, a massive medical waste disposal company and achieved a sizable settlement for hundreds of thousands of its small business customers.
- › **NCAA Grant-in-Aid Scholarships** - \$208 million  
Served as co-lead counsel in the Alston case that successfully challenged the NCAA's limitations on the benefits college athletes can receive as part of a scholarship, culminating in a \$208 million settlement and injunction upheld by the Supreme Court. The recovery amounts to 100 percent of single damages in an exceptional result in an antitrust case. Steve also co-led the 2018 trial on the injunctive aspect of the case which resulted in a change of NCAA rules limiting the financial treatment of athletes.

The injunction, which was upheld in a unanimous Supreme Court decision in June 2021, prohibits the NCAA from enforcing any rules that fix or limit compensation provided to college athletes by schools or conferences in consideration for their athletic services other than cash compensation untethered to education-related expenses. According to the Ninth Circuit, the NCAA is "permanently restrained and enjoined from agreeing to fix or limit compensation or benefits related to education" that conferences

**MANAGING PARTNER****Steve W. Berman**

may make available. In the Supreme Court's 9-0, Justice Kavanaugh stated, "The NCAA is not above the law."

**> Dairy Price-Fixing – \$52 million**

This antitrust suit's filing unearthed a massive collusion between the biggest dairy producers in the country, responsible for almost 70 percent of the nation's milk. Not only was the price of milk artificially inflated, but this scheme ultimately also cost 500,000 young cows their lives.

**CAREER HIGHLIGHTS****> State Tobacco Litigation - \$260 billion**

Special assistant attorney general for the states of Washington, Arizona, Illinois, Indiana, New York, Alaska, Idaho, Ohio, Oregon, Nevada, Montana, Vermont and Rhode Island in prosecuting major actions against the tobacco industry. In November 1998, the initial proposed settlement led to a multi-state settlement requiring the tobacco companies to pay the states \$260 billion and to submit to broad advertising and marketing restrictions – the largest civil settlement in history.

**> Visa MasterCard ATM Antitrust Litigation - \$27 billion**

Co-lead counsel in what was then the largest antitrust settlement in history: a class-action lawsuit alleging that Visa and MasterCard, together with Bank of America, JP Morgan Chase and Wells Fargo, violated federal antitrust laws by establishing uniform agreements with U.S. banks, preventing ATM operators from setting ATM access fees below the level of the fees charged on Visa's and MasterCard's networks.

**> Toyota Sudden, Unintended Acceleration - \$1.6 billion**

Hagens Berman was co-lead counsel in this massive MDL alleging that Toyota vehicles contained a defect causing sudden, unintended acceleration (SUA). It was the largest automotive settlement in history at the time, valued at up to \$1.6 billion. The firm did not initially seek to lead the litigation, but was sought out by the judge for its wealth of experience in managing very complex class-action MDLs. Hagens Berman and managing partner Steve Berman agreed to take on the role of co-lead counsel for the economic loss class and head the plaintiffs' steering committee.

**> Washington Public Power Supply System (WPPSS) - \$700 million settlement**

Represented bondholders and the bondholder trustee in a class-action lawsuit stemming from the failure of two WPPSS nuclear projects. The case was one of the most complex and lengthy securities fraud cases ever filed. The default was one of the largest municipal bond defaults in history. After years of litigation, plaintiffs were awarded a \$700 million settlement agreement brought against more than 200 defendants.

**> E-books Antitrust Litigation - \$560 million settlement**

Fought against Apple and five of the nation's top publishers for colluding to raise the price of e-books, resulting in recovery equal to twice consumers' actual damages. The firm recovered an initial settlement of more than \$160 million with defendant publishing companies in conjunction with several states attorneys general. Steve then led the firm to pursue Apple for its involvement in the e-book price hike. Apple took the case to the Supreme Court, where it was ruled that Apple had conspired to raise prices, and the firm achieved an additional \$450 million settlement for consumers.

**> Enron Pension Protection Litigation - \$250 million settlement**

Led the class-action litigation on behalf of Enron employees and retirees alleging that Enron leadership, including CEO Ken Lay, had a responsibility to protect the interests of those invested in the 401(k) program, an obligation they abrogated. The court selected Steve to co-lead the case against Enron and the other defendants.

**MANAGING PARTNER****Steve W. Berman**

- › **Charles Schwab Securities Litigation** - \$235 million settlement  
 Led the firm to file the first class-action lawsuit against Charles Schwab on Mar. 18, 2008, alleging that Schwab deceived investors about the underlying risk in its Schwab YieldPlus Funds Investor Shares and Schwab YieldPlus Funds Select Shares.
- › **JP Morgan Madoff Lawsuit** - \$218 million settlement  
 Represented Bernard L. Madoff investors in a suit filed against JPMorgan Chase Bank, one of the largest banks in the world.
- › **NCAA Grants-in-Aid Scholarships** - \$208 million settlement, and permanent injunction upheld by the Supreme Court  
 Led the firm's tenacious antitrust class action against the NCAA on behalf of college athletes, claiming that the NCAA had violated the law when it kept the class from being able to receive compensation provided by schools or conferences for athletic services other than cash compensation untethered to education-related expenses. The Supreme Court upheld the favorable opinion of the Ninth Circuit in a 9-0 ruling. Justice Kavanaugh's opinion further underscored the massive win for plaintiffs and the ruling's ongoing effects: "The NCAA couches its arguments for not paying student athletes in innocuous labels. But the labels cannot disguise the reality: The NCAA's business model would be flatly illegal in almost any other industry in America," pushing for further scrutiny of the NCAA's regulations.
- › **Boeing Securities Litigation** - \$92.5 million settlement  
 Represented a class of tens of thousands of shareholders against Boeing, culminating in a proposed settlement that was the second-largest awarded in the Northwest.
- › **NCAA Concussions** - \$75 million settlement, and 50-year medical monitoring fund  
 Led the firm's pioneering NCAA concussions suit that culminated in a proposed settlement that will provide a 50-year medical-monitoring program for student-athletes to screen for and track head injuries; make sweeping changes to the NCAA's approach to concussion treatment and prevention; and establish a \$5 million fund for concussion research, preliminarily approved by the court.
- › **US Youth Soccer Settlement**  
 Revolutionary settlement that changed U.S. Soccer regulations and bought sweeping safety measures to the game. Steve spearheaded a lawsuit against soccer-governing bodies, achieving a settlement that ended heading of the ball for U.S. Soccer's youngest players and greatly diminished risk of concussions and traumatic brain injuries. Additionally, the settlement highlights the importance of on-staff medical personnel at youth tournaments, as well as ongoing concussion education for coaches.

**RECOGNITION**

- › 2023 Best Lawyers in America in Litigation - Securities and Product Liability Litigation - Plaintiffs
- › 2018, 2020, 2022 Titan of the Plaintiffs Bar, Law360
- › 2022 Leading Commercial Litigators, The Daily Journal
- › 2022 Hall of Fame, Lawdragon
- › 2017, 2022 Plaintiffs' Attorneys Trailblazer, The National Law Journal
- › 1999-2022 Washington Super Lawyers
- › 2021 Sports & Entertainment Law Trailblazer, The National Law Journal
- › 2021, 2019, 2018 Honoree for Outstanding Antitrust Litigation Achievement in Private Law Practice, American Antitrust Institute

## MANAGING PARTNER

# Steve W. Berman

- › 2016-2020 Class Action MVP of the Year, Law360
- › 2014-2016, 2018-2019 Elite Trial Lawyers, The National Law Journal
- › 2019-2020 Lawdragon 500 Leading Lawyers in America, Plaintiff Financial Lawyers
- › 2014-2019 Lawdragon 500 Leading Lawyers in America
- › 2018 State Executive Committee member, The National Trial Lawyers
- › 2017 Class Actions (Plaintiff) Law Firm of the Year in California, Global Law Experts
- › 2014 Finalist for Trial Lawyer of the Year, Public Justice
- › 2013 One of the 100 most influential attorneys in America, The National Law Journal
- › 2000 Most powerful lawyer in the state of Washington, The National Law Journal
- › One of the top 10 plaintiffs' firms in the country, The National Law Journal

## ACTIVITIES

- › In April of 2021, the University of Michigan School for Environment and Sustainability (SEAS) launched the Kathy and Steve Berman Western Forest and Fire Initiative with a philanthropic gift from Steve (BS '76) and his wife, Kathy. The program will improve society's ability to manage western forests to mitigate the risks of large wildfires, revitalize human communities and adapt to climate change.

Steve studied at the School of Natural Resources (now SEAS) and volunteered as a firefighter due to his focus on environmental stewardship.

- › In 2003, the University of Washington announced the establishment of the Kathy and Steve Berman Environmental Law Clinic. The Berman Environmental Law Clinic draws on UW's environmental law faculty and extensive cross-campus expertise in fields such as Zoology, Aquatic and Fishery Sciences, Forest Resources, Environmental Health and more. In addition to representing clients in court, the clinic has become a definitive information resource on contemporary environmental law and policy, with special focus on the Pacific Northwest.

## OTHER NOTABLE CASES

- › **VW Emissions Litigation - \$14.7 billion settlement**  
Steve served as a member of the Plaintiffs Steering Committee representing owners of Volkswagen CleanDiesel vehicles that were installed with emissions-cheating software.
- › **McKesson Drug Class Litigation - \$350 million settlement**  
Lead counsel in an action that led to a rollback of benchmark prices of hundreds of brand name drugs, and relief for third-party payers and insurers. His discovery of the McKesson scheme led to follow up lawsuits by governmental entities and recovery in total of over \$600 million.
- › **Average Wholesale Price Litigation - \$338 million settlement**  
Steve served as lead trial counsel, securing trial verdicts against three drug companies that paved the way for settlement.
- › **DRAM Memory Antitrust - \$345 million settlement**  
Forged a class-action suit against leading DRAM (Dynamic Random Access Memory) manufacturers, claiming the companies secretly agreed to reduce the supply of DRAM in order to artificially raise prices.
- › **Hyundai / Kia Fuel Efficiency - \$210 million settlement**  
Led the firm's aggressive fight as court-appointed co-lead counsel against Hyundai and Kia on behalf of defrauded consumers who alleged the automakers had misrepresented fuel economies in vehicles,

## MANAGING PARTNER

# Steve W. Berman

securing what was believed to then be the second-largest automotive settlement in history.

- › **Bextra/Celebrex Marketing and Products Liability Litigation - \$89 million settlement**  
Served as court-appointed member of the Plaintiffs Steering Committee and represented nationwide consumers and third party payers who paid for Celebrex and Bextra. The firm was praised by the court for its “unstinting” efforts on behalf of the class.
- › **McKesson Governmental Entity Class Litigation - \$82 million settlement**  
Steve was lead counsel for a nationwide class of local governments that resulted in a settlement for drug price-fixing claims.
- › **NCAA/Electronic Arts Name and Likeness - \$60 million settlement**  
Represented current and former student-athletes against the NCAA and Electronic Arts concerning illegal use of college football and basketball players’ names and likenesses in video games without permission or consent from the players.
- › **State and Governmental Drug Litigation**  
Steve served as outside counsel for the state of New York for its Vioxx claims, several states for AWP claims and several states for claims against McKesson. In each representation, Steve recovered far more than the states in the NAAG multi-state settlements.
- › **Exxon Mobile Oil Spill**  
Steve represented clients against Exxon Mobil affected by the 10 million gallons of oil spilled off the coast of Alaska by the Exxon Valdez (multimillion-dollar award).
- › **Lumber Liquidators Flooring**  
Steve was court-appointed co-lead counsel in litigation against Lumber Liquidators representing consumers who unknowingly purchased flooring tainted with toxic levels of cancer-causing formaldehyde. The consumer settlement was confidential.

## PRESENTATIONS

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

## PERSONAL INSIGHT

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

**PARTNER, EXECUTIVE COMMITTEE MEMBER****Robert B. Carey**

*Rob added to HB's office a built-in mock courtroom, complete with jury box, audio-visual equipment to record witnesses and lawyers, and separate deliberation rooms for two juries. [Download photo »](#)*

**CONTACT**

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rob@hbsslw.com

**YEARS OF EXPERIENCE**

> 34

**PRACTICE AREAS**

- > Personal Injury Litigation
- > Insurance Bad Faith
- > Breach of Contract Claims

**BAR ADMISSIONS**

- > Arizona
- > Colorado

**COURT ADMISSIONS**

- > U.S. Supreme Court
- > United States Court of Appeals for the Federal Circuit
- > U.S. Court of Appeals, Fifth Circuit
- > U.S. Court of Appeals, Seventh Circuit
- > U.S. Court of Appeals, Ninth Circuit
- > U.S. Court of Appeals, Tenth Circuit
- > Various federal district courts

**EDUCATION**

- > University of Denver, M.B.A., J.D., 1986
- > Arizona State University, B.S., 1983
- > Harvard University, John F. Kennedy School of Government, State & Local Government Program, 1992

Mr. Carey handles various types of injury and consumer claims. Mr. Carey was lead counsel on a jury trial that produced the largest medical-malpractice verdict in 2018, secured class certification in class actions on behalf of consumers and workers where damages are almost \$2 billion, and investigated the dialysis industry's role in deaths caused by central venous catheter infections and misuse of dialysis solutions.

**CURRENT ROLE**

- > Partner & Executive Committee Member, Hagens Berman Sobol Shapiro LLP
- > Leads Hagens Berman's Phoenix office

> Practice focuses on class-action lawsuits, including auto defect, insurance, right of publicity and fraud cases. Mr. Carey's work also extends to bad-faith insurance, personal injury and medical malpractice, with several trials involving verdicts in the hundreds of millions.

- Frequently asked to handle jury trials for high-value cases

**RECENT SUCCESS**

- > In June 2018, a Denver jury awarded a monumental \$383.5 million jury verdict against GranuFlo dialysis provider, DaVita Inc. culminating lawsuits brought by families of three patients who suffered cardiac arrests and died after receiving dialysis treatments at DaVita clinics. Each of the three parties was awarded \$125 million in punitive damages from the jury, with compensatory damages ranging from \$1.5 million to \$5 million.
- > Over the summer of 2012, Rob was lead counsel in Robin Antonick's case against Electronic Arts, where a jury heard evidence that Electronic Arts failed to pay Antonick for over 20 years for his work in coding and developing the legendary Madden NFL Football video game. This trial, held in the Northern District of California, resulted in two verdicts for Antonick and was dubbed a "Top Trial Verdict of 2013" by The Daily Journal, a leading legal publication.
- > Prevailed at the Arizona Court of Appeals for the second time, keeping intact class certification for tens of thousands of truck drivers suing to recover underpayments caused by misuse of Rand McNally's HHG software by Swift Transportation.
- > Helped originate the Toyota Sudden Unintended Acceleration case, filing the initial Hagens Berman complaints for a case that eventually settled for \$1.6 billion
- > Led Hagens Berman's efforts on the \$97 million settlement with Hyundai and Kia corporations over misrepresentations about MPG ratings
- > Helped secure a first-ever (\$60 million) settlement for collegiate student-athletes (Keller, consolidated with O'Bannon) from Electronic Arts (EA) and the NCAA for the misappropriation of the student-athletes' likenesses and images for the EA college football video game series. This groundbreaking suit went up to the U.S. Supreme Court before a settlement was reached, providing student-athletes—even current ones—with cash recoveries for the use of their likenesses without permission.
- > Represented Donovan Hill against Pop Warner after he was paralyzed at 13. With Rachel Fitzpatrick, Rob secured a settlement that "forever changed youth football" (OC Weekly) and was "unprecedented" and owed a debt of gratitude by those who care about the safety of kids playing football (Washington

**PARTNER, EXECUTIVE COMMITTEE MEMBER****Robert B. Carey**

Post). Donovan died tragically during a 2016 surgery.

- › Rob secured a record verdict for a mother suing her deceased son's estate for negligence in starting a home fire. He then took an assignment of the estate's claim and pursued a bad faith claim against the insurer, resulting in lifetime financial security for the badly burned mother.
- › After successfully reforming an insurance policy to cover a client – a student-athlete injured in a roll-over accident that caused incomplete tetraplegia and traumatic brain injury – Rob went to the jury, which awarded damages for all harms and losses requested and for insurance bad faith, with a verdict exceeding over 15 times policy limits.
- › Rob sued the leading auto carrier for refusal to fully cover a pedestrian struck by the carrier's driver. The verdict was valued over seven figures, and included a finding of willful and wanton conduct, trebling the damages.
- › After Rob cross-examined the CEO and CFO of a pharmacy benefits company, the jury entered a verdict for his client in the liability phase of a \$75-million dispute.
- › During his representation of a driver paralyzed by a car's roof collapse, the insurance company ignored that the agent did not understand or offer required high-end coverages. The jury returned a verdict with a value over seven figures, including a finding for treble damages.
- › Rob represented passengers of drunk driver, and persuaded the jury to award future earning capacity, essential services, medical bills and to find willful and wanton conduct against the insurer (treble damages). After a successful trip to the state supreme court, the verdict was maintained and had a value in excess of 15 times the policy limits.

**RECOGNITION**

- › Best Lawyers in America 2023 in Litigation - Insurance and Personal Injury Litigation - Plaintiffs
- › One of 500 Leading Lawyers in America selected (again) by Lawdragon, and the only Arizona or Colorado attorney to make the list.
- › Listed since 2008 as a Top 100 Trial Lawyer by Arizona's Finest Lawyers and National Trial Lawyers
- › Recognized by the judges of the Superior Court of Arizona in Maricopa County for outstanding contributions to the justice system.
- › Member of Hagens Berman's Toyota team selected as a Finalist for Public Justice's 2014 Trial Lawyer of the Year
- › Selected as a Leading Plaintiff Financial Lawyer in America and a Leading Plaintiff Consumers Lawyer in America
- › U.S. Department of Justice, recognized for victims' rights efforts

**EXPERIENCE**

- › Adjunct Professor, Sandra Day O'Connor College of Law, teaching class actions. Has taught law and policy courses at other universities.
- › Judge Pro Tempore, Maricopa County Superior Court, presiding over contract and tort jury trials
- › In the 90s, he served as trial counsel on claims by counties for damages stemming from tobacco-

**PARTNER, EXECUTIVE COMMITTEE MEMBER**

## Robert B. Carey

related illnesses (and acted as special counsel for Hagens Berman in seeking to recover damages in the landmark tobacco litigation), and since then has led dozens of consumer and insurance class actions in various states.

- › While serving as Arizona Chief Deputy Attorney General Mr. Carey helped secure a \$4 billion divestiture and a landmark \$165 million antitrust settlement. He also was a principal drafter of the first major overhaul of Arizona's criminal code and authored the section of the federal Prisoner Litigation Reform Act of 1995 for Senators Dole and Kyl that virtually eliminated frivolous prisoner lawsuits. Mr. Carey oversaw all major legal, policy, legislative and political issues for the Arizona attorney general's office. He developed and spearheaded passage of Arizona's law requiring the DNA testing of all sex offenders and the law requiring that criminals pay the cost of victims' rights.
- › Campaign staffer, intern, and staff member for U.S. Senator John McCain, during and after Senator McCain's first run for public office

### LEGAL ACTIVITIES

- › Member and Former Chairman, Arizona State Bar Class Action and Derivative Suits Committee

### PUBLICATIONS

- › Co-author of "7 Punitive Damages Strategies," Trial Magazine, April 2019
- › Co-author of the Arizona chapter of the ABA's "A Practitioner's Guide to Class Actions"
- › Co-author of the Arizona and Colorado chapters of the ABA's "A Practitioner's Guide to Class Actions" (2d ed.)

### NOTABLE CASES

- › Propane Exchange Tank Litigation
- › Hyundai/Kia MPG Litigation
- › Swift Truckers Litigation
- › Toyota Unintended Acceleration Litigation
- › NCAA Student-Athlete Name and Likeness Licensing Litigation
- › Hyundai Subframe Defect Litigation
- › Hyundai Occupant Classification System / Airbag Litigation
- › Hyundai Horsepower Litigation
- › Arizona v. McKesson False Claims and Consumer Protection Litigation (representing State of Arizona)
- › Apple Refurbished iPhone/iPad Litigation
- › Jim Brown v. Electronic Arts
- › LifeLock Sales and Marketing Litigation
- › Rexall Sundown Cellasene Litigation



**PARTNER**

## Leonard W. Aragon

*Before attending college, Mr. Aragon fulfilled his dream as a scout for the 2/68 Armored Tank Battalion.*

**CONTACT**

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**YEARS OF EXPERIENCE**

> 20

**PRACTICE AREAS**

- > Commercial Litigation
- > Mass Tort
- > Appellate Advocacy
- > Personal Injury

**COURT ADMISSIONS**

- > U.S. District Court, District of Arizona
- > U.S. District Court, District of Colorado

**EDUCATION**

- > Stanford Law School, J.D., 2001
- > Arizona State University, B.A., History and Political Science, summa **cum laude**, 1998

**INDUSTRY EXPERIENCE**

- > Consumer Fraud
- > Software
- > Sports Law
- > Health Care
- > Pharmaceuticals
- > Election Law
- > Gambling
- > Administrative Procedures Act

**CURRENT ROLE**

- > Partner and Management Committee Member, Hagens Berman Sobol Shapiro LLP
- > Practice focuses on nationwide class actions and other complex litigation
- > Currently counsel for plaintiffs in the highly publicized cases **Keller v. Electronic Arts** and **In re NCAA Student-Athlete Name and Likeness Licensing Litigation** which alleges that video game manufacturer Electronic Arts, the National Collegiate Athletic Association, and the Collegiate Licensing Company used the names, images and likenesses of student-athletes in violation of state right of publicity laws and the NCAA's contractual agreements with the student-athletes. The plaintiffs reached a settlement with EA and the CLC in May for \$40 million and reached a settlement in June with the NCAA for \$20 million. The parties are in the process of seeking approval from the Court for the two settlements.

**RECENT SUCCESS**

- > Multimillion-dollar jury verdict believed to be the largest in Columbiana County, Ohio history
- > Multimillion-dollar class-action settlement on behalf of a nationwide class of student-athletes whose images were used on a website affiliated with CBS Interactive without their permission or compensation
- > Obtained two jury verdicts in favor of the original developer of the Madden Football video game franchise in phased trial over unpaid royalties

**RECOGNITION**

- > Super Lawyers, Rising Star: Class Action/Mass Tort

**LEGAL ACTIVITIES**

- > Adjunct Professor, Sandra Day O'Connor College of Law, Arizona State University
- > State Bar of Arizona Bar Leadership Institute Class I
- > Pro bono work in insurance, immigration, family and contract law

**NOTABLE CASES**

- > **In re NCAA Student-Athlete Name and Likeness Licensing Litigation**
- > **Keller v. Electronic Arts Inc.**
- > **Antonick v. Electronic Arts Inc.**
- > **In re Swift Transportation Co., Inc.**
- > **Hunter v. Hyundai Motor America**
- > **Jim Brown v. NCAA; Liebich v. Maricopa County Community College District**
- > **Liebich v. Maricopa County Community College District**

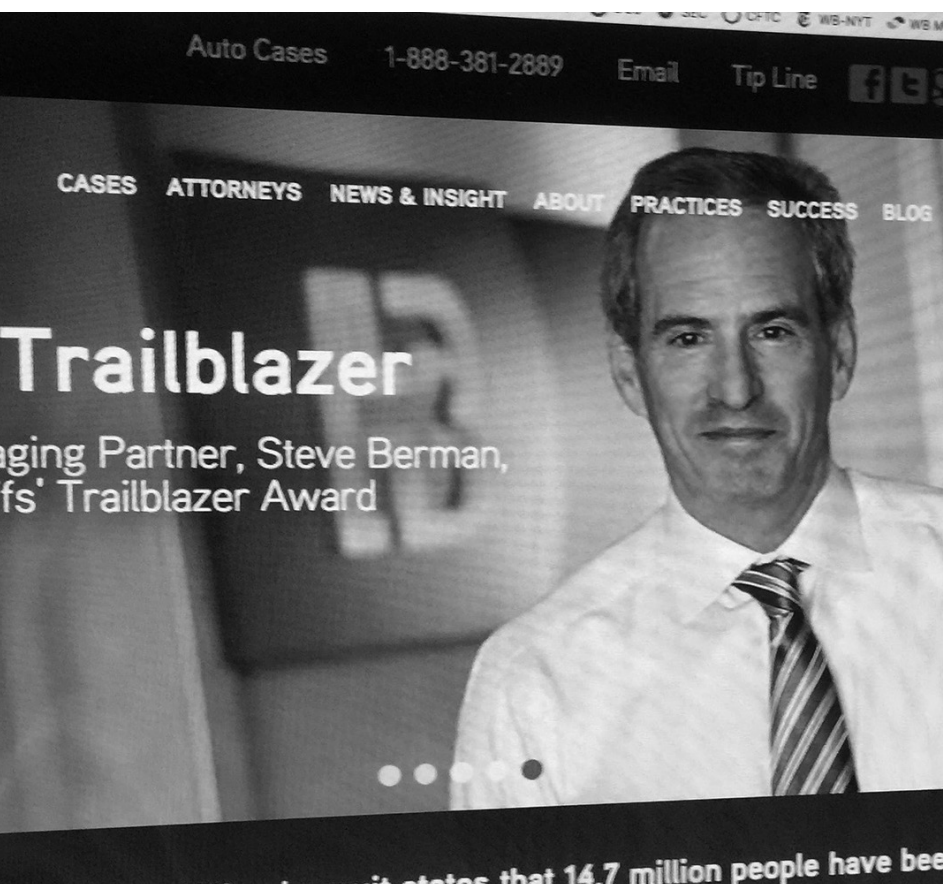
**PERSONAL INSIGHT**

Before entering the practice of law, Mr. Aragon was a scout for the 2/68 Armored Tank Battalion, communications director for a successful congressional campaign, and waited on season tickets holders at America West Arena so that he could secretly watch the Phoenix Suns.

# EXHIBIT A



# HAGENS BERMAN





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

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## INTRODUCTION

# The Firm

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

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

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

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

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

**AN INTERNATIONAL REACH.** The scope of our practice is truly nationwide. We have flourished through our network of offices in nine cities across the United States, including Seattle, Austin, Berkeley, Boston, Chicago, Los Angeles, New York, Phoenix and San Diego and one international office in London, and our eyes are always open to trends of fraud, negligence and wrongdoing that may be taking form anywhere in the world. Our reach is not limited to the cities where we maintain offices. We have cases pending in courts across the country and have a vested interest in fighting global instances of oppression, wrongdoing and injustice.

**INTRODUCTION**

# Locations

**SEATTLE**

1301 Second Avenue, Suite 2000  
Seattle, WA 98101  
(206) 623-7292 phone  
(206) 623-0594 fax

**BERKELEY**

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(510) 725-3001 fax

**BOSTON**

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(617) 482-3700 phone  
(617) 482-3003 fax

**LONDON**

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22 Eastcheap  
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0203 150 1445 phone

**CHICAGO**

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Chicago, IL 60611  
(708) 628-4949 phone  
(708) 628-4950 fax

**LOS ANGELES**

301 North Lake Avenue, Suite 920  
Pasadena, CA 91101  
(213) 330-7150 phone  
(213) 330-7152 fax

**NEW YORK**

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(212) 752-5455 phone  
(917) 210-3980 fax

**PHOENIX**

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(602) 840-3012 fax

**SAN DIEGO**

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San Diego, CA 92101  
(619) 929-3340 phone

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

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

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

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

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

– Associated Press

## Elite Trial Lawyers

*The National Law Journal*

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

*The National Law Journal*

## Most Feared Plaintiffs Firms

*Law360*

**Landmark consumer cases are business as usual** for Steve Berman.

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

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

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

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

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



## VISA-MASTERCARD ANTITRUST LITIGATION

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

## VOLKSWAGEN FRANCHISE DEALERS LITIGATION

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

## VOLKSWAGEN EMISSIONS LITIGATION

Hagens Berman was named a member of the Plaintiffs' Steering Committee and part of the Settlement Negotiating team in this monumental case that culminated in the largest automotive settlement in history – **\$17.4 billion**.

## TOYOTA UNINTENDED ACCELERATION LITIGATION

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

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

Hagens Berman represented 13 states in the largest recovery in litigation history – **\$260 billion**.

## E-BOOKS ANTITRUST LITIGATION

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

## LCD ANTITRUST LITIGATION

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

## MCKESSON DRUG LITIGATION

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

## DAVITA HEALTHCARE PERSONAL INJURY LITIGATION

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

## DRAM ANTITRUST LITIGATION

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

## AVERAGE WHOLESALE PRICE DRUG LITIGATION

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

## ENRON ERISA LITIGATION

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

## CHARLES SCHWAB SECURITIES LITIGATION

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

# Practice Areas

## PRACTICE AREAS

# Anti-Terrorism

With a long track record of upholding the rights of the voiceless, Hagens Berman fights for justice on behalf of victims of international terrorism. Our anti-terrorism legal team builds on our robust history to forge innovative cases, bringing action against those that support terrorism.

Hagens Berman has always believed in fighting for the rights of those with no voice – those who are victims to tragic circumstances beyond their control. With our guiding principles driving our efforts, the firm has expanded its practice areas to include anti-terrorism litigation.

It's no secret that some businesses and individuals have pled guilty to violating United States laws that prohibit financial transactions with terrorist organizations and foreign states that support terrorism. We believe that the law is one of the most powerful tools to combat terrorism, and our renowned team of litigators brings a fresh perspective to the fight for victims' rights in this complex arena.

Through a deep understanding of both U.S. and international anti-terrorism laws, Hagens Berman builds on its foundation to investigate acts of terrorism and forge ironclad cases against anyone responsible, to help ensure that those at the mercy of the world's most egregious perpetrators of violence are represented with the utmost integrity and determination.

The firm's new practice area carries out our mission of building a safer world through novel applications of the law and steadfast dedication.

### > Chiquita Bananas

Hagens Berman represents American citizens who were victims of terrorism in Colombia. The victims were harmed by Colombian terrorists that Chiquita Brands International Inc. paid so that it could grow bananas in Colombia in regions that were controlled by the terrorists. Chiquita is one of the world's largest producers and marketers of fruits and vegetables and admitted it paid Colombian terrorist organizations as part of a guilty plea to settle criminal charges brought by the U.S. Department of Justice

Chiquita was placed on corporate probation and paid a \$25 million dollar fine because of its conduct in Colombia.

Plaintiffs have sued Chiquita under the U.S. Anti-Terrorism Act, which allows American victims of international terrorism to sue anyone responsible and to recover treble damages and attorney's fees. The claims are pending in the U.S. District Court for the Southern District of Florida as part of the consolidated multi-district litigation to resolve claims related to Chiquita's payments to Colombian terrorist organizations.

## PRACTICE AREAS

# Antitrust

Hagens Berman works to preserve healthy marketplace competition and fair trade by protecting consumers and businesses that purchase goods and services from price fixing, market allocation agreements, monopolistic schemes and other trade restraints. The firm's lawyers have earned an enviable reputation as experts in this often confusing and combative area of commercial litigation. Our attorneys have a deep understanding of the legal and economic issues within the marketplace, allowing us to employ groundbreaking market theories that shed light on restrictive anti-competitive practices.

Hagens Berman represents millions of consumers in several high-profile class-action lawsuits, and takes on major antitrust litigation to improve market conditions for consumers, businesses and investors. We have represented plaintiffs in markets as diverse as debit and credit card services, personal computer components, electric and gas power, airlines, and internet services, and we have prevailed against some of the world's largest corporations.

The firm has also generated substantial recoveries on behalf of health plans and consumers in antitrust involving pharmaceutical companies abusing patent rights to block generic drugs from coming to market. Hagens Berman has served as lead or co-lead counsel in landmark litigation challenging anti-competitive practices, in the Paxil Direct Purchaser Litigation (\$100 million), Relafen Antitrust Litigation (\$75 million), Tricor Indirect Purchaser Antitrust Litigation (\$65.7 million), and Augmentin Antitrust Litigation (\$29 million). Representative antitrust successes on behalf of our clients include:

### > **Visa/MasterCard**

Helped lead this record-breaking antitrust case against credit card giants Visa and MasterCard that challenged charges imposed in connection with debit cards.

**RESULT:** \$3.05 billion settlement and injunctive relief valued at more than \$20 billion.

### > **NCAA: Scholarships/Grants-In-Aid (GIAs)**

In a first-of-its-kind antitrust action and potentially far-reaching case, Hagens Berman filed a class-action affecting approximately 40,000 Division I collegiate athletes who played men's or women's basketball, or FBS football, brought against the NCAA and its most powerful members, including the Pac-12, Big Ten, Big-12, SEC and ACC, claiming these entities violated federal antitrust laws by drastically reducing the number of scholarships and financial aid student-athletes receive to an amount below the actual cost of attendance and far below what the free market would bare.

The firm continues to fight on behalf of student-athletes to level the playing field and bring fairness to college sports and players.

**RESULT:** \$208.9 million settlement, bringing an estimated average amount of \$6,500 to each eligible class member who played his or her sport for four years.

### > **Apple E-books**

With state attorneys general, the firm secured a \$166 million settlement with publishing companies that conspired with Apple to fix e-book prices. The firm then look on Apple for its part in the price-fixing conspiracy. In the final stage in the lawsuit, the Supreme Court denied appeal from Apple, bringing the consumer payback amount to more than twice the amount of losses suffered by the class of e-book purchasers. This represents one of the most successful recovery of damages in any antitrust lawsuit in the country.

**RESULT:** \$560 million total settlements.

## PRACTICE AREAS

# Antitrust

### > Animation Workers Antitrust

Hagens Berman represents a nationwide class of animators and other artistic workers in an antitrust class-action case filed against defendants Pixar, Lucasfilm and its division Industrial Light & Magic, DreamWorks Animation, The Walt Disney Company, Sony Pictures Animation, Sony Pictures Imageworks, Blue Sky Studios, ImageMovers LLC, ImageMovers Digital LLC and others.

**RESULT:** Total settlements have reached \$168 million, resulting in a payment of more than \$13,000 per class member.

### > TFT LCDs

Hagens Berman Sobol Shapiro filed a class-action lawsuit against several major manufacturers of TFT LCD products, claiming the companies engaged in a conspiracy to fix, raise, maintain and stabilize the price of televisions, desktop and notebook computer monitors, mobile phones, personal digital assistants (PDAs) and other devices. After years of representing consumers against multiple defendants in multi-district litigation, the case against Toshiba went to trial. Toshiba was found guilty of price-fixing in 2012, and settled.

**RESULT:** \$470 million in total settlements.

### > DRAM

The suit claimed DRAM (Dynamic Random Access Memory) manufacturers secretly agreed to reduce the supply of DRAM, a necessary component in a wide variety of electronics which artificially raised prices. The class included equipment manufacturers, franchise distributors and purchasers.

**RESULT:** \$375 million settlement.

### > Optical Disk Drives

Hagens Berman fought on behalf of consumers in a lawsuit filed against Philips, Pioneer and others for artificially inflating the price of ODDs for consumers.

**RESULT:** \$180 million in total settlements reclaimed for consumers.

### > Lithium Ion Batteries

Hagens Berman filed a class-action lawsuit against some of the largest electronics manufacturers including Sony, Samsung and Panasonic for illegally fixing the price of lithium ion batteries, pushing costs higher for consumers. Defendants collectively controlled between 60 to 90 percent of the market for lithium-ion batteries between 2000 and 2011 and used that power to fix battery prices.

**RESULT:** \$65 million in total settlements against multiple defendants.

### > AC Nielsen

Represented Information Resources, Inc. ("IRI"), in a suit claiming that AC Nielsen's anti-competitive practices caused IRI to suffer significant losses.

**RESULT:** \$55 million settlement.

### > Dairy Products

The firm filed a class-action suit against several large players in the dairy industry, including the National Milk Producers Federation, Dairy Farmers of America, Land O'Lakes, Inc., Agri-Mark, Inc. and Cooperatives Working Together (CWT) that together produce nearly 70 percent of the milk consumed in the United States. The suit alleging that the groups conspired to fix the price of milk throughout the United States through an organized scheme to limit production, involving the needless and premature slaughtering of 500,000 cows.

**RESULT:** \$52 million settlement on behalf of consumers in 15 states and the District of Columbia who purchased dairy products.

### > Toys "R" Us Baby Products

The firm brought this complaint on behalf of consumers claiming Toys "R" Us and several baby product manufacturers violated provisions of the Sherman Antitrust Act by conspiring to inflate prices of high-end baby products, including car seats, strollers, high chairs, crib bedding, breast pumps and infant carriers. The suit asked the court to end what it claims are anti-competitive activities and seeks damages caused by the company's actions.

**RESULT:** \$35.5 million settlement.

## PRACTICE AREAS

# Antitrust

### > EA Madden

Class action claimed that video game giant Electronic Arts used exclusive licensing agreements with various football organizations to nearly double the price of several of its games.

**RESULT:** \$27 million settlement and imposed limits on EA's ability to pursue exclusive licensing agreements.

### > Resistors Antitrust Litigation

Hagens Berman is co-lead lead counsel, representing direct purchasers of linear resistors (a device in electronics used to limit electric current) against an alleged cartel of manufacturers who conspired to limit linear resistor price competition for nearly a decade. The case is in its early stages and discovery is ongoing.

### > Nespresso

Hagens Berman has assumed responsibility for a large antitrust case against Nespresso, a leading single-serve espresso and coffee maker, for its anticompetitive efforts to exclude environmentally friendly, biodegradable coffee capsules from the market.

In May 2010, our client Ethical Coffee Company ("ECC") sought to introduce an environmentally sound and more economical coffee capsule to be used in Nespresso's widely used coffee makers. It manufactured a single-use coffee capsule that did not contain harmful aluminum found in Nespresso's capsules. Nespresso knew that ECC posed a formidable challenge to its business model, which relied on captive consumers buying coffee capsules only from Nespresso. With a captive market, Nespresso could continue to charge consumers an inflated price, and continue to use the aluminum capsules that harm the environment. The U.S. Court has already ruled that these claims can proceed to discovery. Hagens Berman anticipates damages associated with Nespresso's actions to be in the hundreds of millions of dollars.

**PRACTICE AREAS**

## Automotive - Non-Emissions Cases

In litigating cases we strive to make an impact for a large volume of consumers, especially those who fall victim to the gross negligence and oversight of some of the nation's largest entities: automakers. Hagens Berman's automotive litigation team has been named a 2016 Practice Group of the Year by Law360, highlighting its "eye toward landmark matters and general excellence," in this area of law.

The federal court overseeing the massive multi-district litigation against Toyota appointed the firm to co-lead one of the largest consolidations of class-action cases in U.S. history. The litigation combined more than 300 state and federal suits concerning acceleration defects tainting Toyota vehicles. Hagens Berman and its two co-lead firms were selected from more than 70 law firms applying for the role. Since then, the firm's automotive practice area has grown by leaps and bounds, pioneering new investigations into defects, false marketing and safety hazards affecting millions of drivers across the nation.

The firm was recently named to the National Law Journal's list of Elite Trial Lawyers for its work fighting corporate wrongdoing in the automotive industry. The firm's auto team members who worked on Toyota were also named finalists for Public Justice's Trial Lawyer of the Year award.

**> General Motors Ignition Switch Litigation**

Co-lead counsel in high-profile case on behalf of millions of owners of recalled GM vehicles affected by a safety defect linked to more than 120 fatalities. The suit alleges GM did not take appropriate measures, despite having prior knowledge of the defect. The case is pending, and most recently, the Supreme Court refused to hear GM's appeal regarding the pending suits when it claimed the cases were barred by its 2009 bankruptcy.

**> Toyota Sudden, Unintended Acceleration Litigation**

Co-lead counsel for the economic loss class in this lawsuit filed on behalf of Toyota owners alleging a defect causes vehicles to undergo sudden, unintended acceleration. In addition to safety risks, consumers suffered economic loss from decreased value of Toyota vehicles following media coverage of the alleged defect.

**RESULT:** Settlement package valued at up to \$1.6 billion, which was at the time the largest automotive settlement in history.

**> MyFord Touch**

Hagens Berman represents owners of Ford vehicles equipped with MyFord Touch, an in-car communication and entertainment package, who claim that the system is flawed, putting drivers at risk of an accident while causing economic hardship for owners. The complaint cites internal Ford documents that purportedly show that 500 of every 1,000 vehicles have issues involving MyFord Touch due to software bugs, and failures of the software process and architecture. Owners report that Ford has been unable to fix the problem, even after repeated visits. A federal judge overseeing the case recently certified nine subclasses of owners of affected vehicles in various states.

**> Nissan Quest Accelerator Litigation**

Represented Nissan Quest minivan owners who alleged that their vehicles developed deposits in a part of the engine, causing drivers to apply increased pressure to push the accelerator down.  
**RESULT:** Settlement providing reimbursement for cleanings or replacements and applicable warranty coverage.

**> Hyundai Kia MPG**

Hagens Berman sued Hyundai and Kia on behalf of owners after the car manufacturers overstated the MPG fuel economy ratings on 900,000 of its cars. The suit seeks to give owners the ability to recover a lump-sum award for the lifetime extra fuel costs, rather than applying every year for that year's losses.

**RESULT:** \$255 million settlement. Lump-sum payment plan worth \$400 million on a cash basis, and worth even more if owners opt for store credit (150 percent of cash award) or new car discount (200 percent of cash award) options.

**PRACTICE AREAS**

## Automotive - Non-Emissions Cases

**> BMW i3 REx**

Hagens Berman is representing BMW owners in a national class-action lawsuit, following reports that BMW's i3 REx model electric cars contain a defect that causes them to suddenly and without warning lose speed and power mid-drive, putting drivers and passengers at risk of crash and injury.

**> Fiat Chrysler Gear Shifter Rollaway Defect**

Hagens Berman has filed a national class-action lawsuit representing owners of Jeep Grand Cherokee, Chrysler 300 and Dodge Charger vehicles. The lawsuit states that Fiat Chrysler fraudulently concealed and failed to remedy a design defect in 811,000 vehicles that can cause cars to roll away after they are parked, causing injuries, accidents and other serious unintended consequences.

**> Ford Shelby GT350 Mustang Overheating**

Hagens Berman represents owners of certain 2016 Shelby GT350 Mustang models in a case alleging that Ford has sold these vehicles as track cars built to reach and sustain high speeds, but failed to disclose that the absence of a transmission and differential coolers can greatly diminish the vehicle's reported track capabilities. Shelby owners are reporting that this defect causes the vehicle to overheat and go into limp mode, while in use, even when the car is not being tracked

**> Tesla AP2 Defect**

The firm represents Tesla owners in a lawsuit against the automaker for knowingly selling nearly 50,000 cars with nonfunctional Enhanced Autopilot AP2.0 software that still has not met Tesla's promises, including inoperative Standard Safety Features on affected models sold in Q4 2016 and Q1 2017.



**PRACTICE AREAS**

## Automotive - Emissions Litigation

Having played a lead role in the record-breaking Volkswagen diesel emissions case, Hagens Berman knew the story wasn't over. Since the Dieselgate scandal began, the firm has uniquely dedicated resources to uncovering cheating devices used by other automakers. The firm has become a trailblazer in this highly specialized realm, outpacing federal agencies in unmasking fraud in emissions reporting.

When news broke in 2015 of Volkswagen's massive diesel emissions-cheating scandal, Hagens Berman was the first firm in the nation to file suit against the automaker for its egregious fraud, going on to represent thousands of owners in litigation and take a leading role on the Plaintiffs' Steering Committee that would finalize a \$14.7 billion, record-breaking settlement for owners. Since this case emerged, Hagens Berman has been on the forefront of emissions litigation, relying on our legal team's steadfast and intensive investigative skills to unearth many other emissions-cheating schemes perpetrated by General Motors, Fiat Chrysler, Mercedes and other automakers, staying one step ahead of government regulators in our pursuit of car manufacturers that have violated emissions standards and regulations, as well as consumer confidence.

Hagens Berman's managing partner, Steve Berman, has dedicated the firm's resources to upholding the rights of consumers and the environment, becoming a one-man EPA. The firm is uniquely dedicated to this cause, and is the only firm that has purchased an emission testing machine to determine if other diesel car manufacturers install similar cheating devices, bringing new cases based on the firm's own research, time and testing.

### > Volkswagen Diesel Emissions Litigation

Hagens Berman was the first firm in the nation to file a lawsuit against Volkswagen for its emissions fraud, seeking swift remedies for consumers affected by Volkswagen's fraud and violation of state regulations. The firm was named to the Plaintiffs' Steering Committee leading the national fight against VW, Porsche and Audi on behalf of owners and lessors of affected vehicles, and also served as part of the Settlement Negotiating team.

**RESULT:** The largest automotive settlement in history, \$14.7 billion.

### > Volkswagen Dealers Litigation

Hagens Berman served as lead counsel in a first-of-its-kind lawsuit brought by a franchise dealer. Three family-owned Volkswagen dealers filed a class action against VW stating that it intentionally defrauded dealers by installing so-called "defeat devices" in its diesel cars, and separately carried out a systematic, illegal pricing and allocation scheme that favored some dealers over others and illegally channeled financing business to VW affiliate, Volkswagen Credit, Inc. The settlement garnered nearly unanimous approval of dealers, with 99 percent participation in the settlement.

**RESULT:** \$1.67 billion in benefits to Volkswagen dealers.

### > Mercedes BlueTEC Emissions Litigation

Judge Jose L. Linares appointed the firm as interim class counsel in this class-action case against Mercedes concerning emissions of its BlueTEC diesel vehicles. Hagens Berman currently represents thousands of vehicle owners who were told by Mercedes that their diesel cars were "the world's cleanest and most advanced diesel," when in fact testing at highway speeds, at low temperatures, and at variable speeds, indicate a systemic failure to meet emissions standards. Low temperature testing at highway speeds for example, produced emissions that were 8.1 to 19.7 times the highway emissions standard. The lawsuit adds that testing at low temperatures at variable speeds produced emissions as high as 30.8 times the standard.

## PRACTICE AREAS

# Automotive - Emissions Litigation

### › **Chevy Cruze Diesel Emissions Litigation**

Hagens Berman filed a class-action lawsuit against Chevrolet (a division of General Motors) for installing emissions-cheating software in Cruze Clean Turbo Diesel cars, forcing consumers to pay high premiums for vehicles that pollute at illegal levels. While Chevy marketed these cars as a clean option, the firm's testing has revealed emissions released at up to 13 times the federal standard. In a recent ruling, U.S. District Judge Thomas L. Ludington upheld claims brought by owners.

### › **Audi Emissions Litigation**

Hagens Berman unearthed additional emissions-cheating by Audi, affecting its gasoline 3.0-liter vehicles. The firm's investigation shows that the newly discovered defeat device is installed in gasoline engines and changes how the transmission operates when testing is detected to lower CO2 emissions, but otherwise allows excessive CO2 emissions in normal, on-road driving.

### › **Fiat Chrysler EcoDiesel Emissions Litigation**

The firm is leading charges against Fiat Chrysler that it sold hundreds of thousands of EcoDiesel-branded vehicles that release illegally high levels of NOx emissions, despite explicitly selling these "Eco" diesels to consumers who wanted a more environmentally friendly vehicle. Hagens Berman was the first firm in the nation to uncover this scheme and file against Fiat Chrysler on behalf of owners of Dodge RAM 1500 and Jeep Grand Cherokee EcoDiesel vehicles. Following the firm's groundbreaking suit, the EPA took notice, filing formal accusations against Fiat Chrysler.

### › **Dodge RAM 2500/3500 Diesel Emissions Litigation**

According to the firm's investigation, Dodge has sold hundreds of thousands of Dodge RAM 2500 and 3500 trucks equipped with Cummins diesel engines that release illegally high levels of NOx emissions at up to 14 times the legal limit. This defect causes certain parts to wear out more quickly, potentially costing owners between \$3,000 and 5,000 to fix. The firm is leading a national class action against Fiat Chrysler for knowingly inducing consumers to pay premium prices for vehicles that fail to comply with federal regulations, and ultimately lead to higher costs of repairs for purchasers.

### › **General Motors Duramax Emissions Litigation**

Hagens Berman recently pioneered another instance of diesel emissions fraud. The firm's independent testing revealed that GM had installed multiple emissions-masking defeat devices in its Duramax trucks, including Chevy Silverado and GMC Sierra models, in a cover-up akin to Volkswagen's Dieselgate concealment. In real world conditions the trucks emit 2 to 5 times the legal limit of deadly NOx pollutants, and the emissions cheating devices are installed in an estimated 705,000 affected vehicles.

## PRACTICE AREAS

# Civil and Human Rights

Hagens Berman has represented individuals and organizations in difficult civil rights challenges that have arisen in the past two decades. In doing so, we have managed cases presenting complex legal and factual issues that are often related to highly charged political and historical events. Our clients have included such diverse communities as World War II prisoners of war, conscripted civilians and entire villages.

In this cutting-edge practice area, the firm vigilantly keeps abreast of new state and national legislation and case-law developments. We achieve positive precedents by zealously prosecuting in our clients' interests. Some examples of our work in this area include:

### > **World Trade Organization Protests**

During the 1999 World Trade Organization (WTO) protests in Seattle, tens of thousands of Seattle citizens became targets after Seattle officials banned all forms of peaceful protest. Seattle police attacked anyone found in the designated "no protest" zones with rubber bullets and tear gas. Hundreds of peaceful protesters were arrested and incarcerated without probable cause for up to four days. The firm won a jury trial on liability and ultimately secured a settlement from Seattle officials after filing a class action alleging violations of the First and Fourth Amendments.

### > **Hungarian Gold Train**

Following the firm's representation of former forced and enslaved laborers for German companies in the Nazi Slave Labor Litigation, Hagens Berman led a team of lawyers against the U.S. on behalf of Hungarian Holocaust survivors in the Hungarian Gold Train case. The suit claimed that, during the waning days of World War II, the Hungarian Nazi government loaded plaintiffs' valuable personal property onto a train, which the U.S. Army later seized, never returning the property to its owners and heirs.

### > **Dole Bananas**

Hagens Berman filed suit against the Dole Food Company, alleging that it misled consumers about its environmental record. The complaint alleged that Dole purchased bananas from a grower in Guatemala that caused severe environmental damage and health risks to local residents. Dole ultimately agreed to take action to improve environmental conditions, collaborating with a non-profit group on a water filtration project for local communities.

## PRACTICE AREAS

# Consumer Protection - General Class Litigation

Hagens Berman is a leader in protecting consumers, representing millions in large-scale cases that challenge unfair, deceptive and fraudulent practices.

We realize that consumers suffer the brunt of corporate wrongdoing and have little power to hold companies responsible or to change those tactics. We believe that when backed by a tenacious spirit and determination, class action cases have the ability to serve as a powerful line of defense in consumer protection.

Hagens Berman pursues class litigation on behalf of clients to confront fraudulent practices that consumers alone cannot effectively dispute. We make consumers' concerns a priority, collecting consumer complaints against suspected companies and exploring all avenues for prosecution.

Hagens Berman's legacy of protecting consumer rights reflects the wide spectrum of scams that occur in the marketplace. The cases that we have led have challenged a variety of practices such as:

- › False, deceptive advertising of consumer products and services
- › False billing and over-charging by credit card companies, banks, telecommunications providers, power companies, hospitals, insurance plans, shipping companies, airlines and Internet companies
- › Deceptive practices in selling insurance and financial products and services such as life insurance and annuities
- › Predatory and other unfair lending practices, and fraudulent activities related to home purchases

A few case examples are:

### › **Expedia Hotel Taxes and Service Fees Litigation**

Hagens Berman led a nationwide class-action suit arising from bundled "taxes and service fees" that Expedia collects when its consumers book hotel reservations. Plaintiffs alleged that by collecting exorbitant fees as a flat percentage of the room rates, Expedia violated both the Washington Consumer Protection Act

and its contractual commitment to charge as service fees only "costs incurred in servicing" a given reservation.

**RESULT:** Summary judgment in the amount of \$184 million. The case settled for cash and consumer credits totaling \$123.4 million.

### › **Stericycle**

The firm served as court-appointed lead counsel in a class-action lawsuit against Stericycle alleging that the company violated contracts and defrauded them by hundreds of millions of dollars through an automatic price-increasing scheme. In February of 2017, a federal judge certified a nationwide consumer class. The class had more than 246,000 class members, with damages estimated preliminarily at \$608 million.

**RESULT:** \$295 million settlement

### › **Tenet Healthcare**

In a pioneering suit filed by Hagens Berman, plaintiffs alleged that Tenet Healthcare charged excessive prices to uninsured patients at 114 hospitals owned and operated by Tenet subsidiaries in 16 different states.

**RESULT:** Tenet settled and agreed to refund to class members amounts paid in excess of certain thresholds over a four-and-a-half year period.

**PRACTICE AREAS**

## Consumer Protection - General Class Litigation

**> Wells Fargo Force-Placed Insurance**

Hagens Berman brought a case against Wells Fargo alleging it used “force-placed” insurance clauses in mortgage agreements, a practice that enables the bank to charge homeowners insurance premiums up to 10 times higher than normal rates.

**RESULT:** Hagens Berman reached a settlement in this case, under which all class members will be sent checks for more than double the amount of commissions that Wells Fargo wrongfully extracted from the force placement of insurance on class members’ properties.

**> Consumer Insurance Litigation**

Hagens Berman has pioneered theories to ensure that in first- and third-party contexts consumers and health plans always receive the treatment and benefits to which they are entitled. Many of our cases have succeeded in expanding coverage owed and providing more benefits; recovering underpayments of benefits; and returning uninsured/underinsured premiums from the misleading tactics of the insurer.

## PRACTICE AREAS

# Consumer Protection - Drug and Supplement Litigation

Hagens Berman aggressively pursues pharmaceutical industry litigation, fighting against waste, fraud and abuse in healthcare. For decades, pharmaceutical manufacturers have been among the most profitable companies in America. But while pharmaceutical companies become richer, consumers, health plans and insurers pay higher costs for prescription and over-the-counter drugs and supplements. We shine the light of public scrutiny on this industry's practices and represent individuals, direct and indirect purchasers, and the nation's most forward-thinking public-interest groups.

The firm's pharmaceutical and dietary supplement litigation practice is second to none in the nation in terms of expertise, commitment and landmark results. Hagens Berman's attorneys have argued suits against dozens of major drug companies and the firm's aggressive prosecution of pharmaceutical industry litigation has recovered more than \$1 billion in gross settlement funds.

### RECENT ANTITRUST RESOLUTIONS

In the last few years, Hagens Berman – as lead or co-lead class counsel – has garnered significant settlements in several antitrust cases involving prescription drugs. In each case, the plaintiffs alleged that a manufacturer of a brand-name drug violated federal or state antitrust laws by delaying generic competitors from coming to market, forcing purchasers to buy the more expensive brand name version instead of the generic equivalent. Examples of our recent successes include:

#### > **Flonase Antitrust Litigation**

Hagens Berman represented purchasers in this case alleging pharmaceutical giant GlaxoSmithKline filed petitions to prevent the emergence of generic competitors to its drug Flonase, all to overcharge consumers and purchasers of the drug, which would have been priced lower had a generic competitor been allowed to come to market.

**RESULT:** \$150 million class settlement.

#### > **Prograf Antitrust Litigation**

Hagens Berman represented purchasers who alleged Astellas Pharma US, Inc. unlawfully maintained its monopoly and prevented generic competition for Prograf, an immunosuppressant used to help prevent organ rejection in transplant patients, harming purchasers by forcing them to pay inflated brand name prices for longer than they should have absent the anticompetitive conduct.

**RESULT:** The parties' motion for final approval of the \$98 million class settlement is under advisement with the court.

#### > **Relafen Antitrust Litigation**

Hagens Berman filed a class-action lawsuit against GlaxoSmithKline, SmithKline Beecham Corporation, Beecham Group PLC and SmithKline Beecham PLC, on behalf of consumers and third-party payors who purchased the drug Relafen or its generic alternatives. The suit alleged that the companies who manufacture and sell Relafen unlawfully obtained a patent which allowed them to enforce a monopoly over Relafen and prevented competition by generic prescription drugs, causing consumers to pay inflated prices for the drug.

**RESULT:** Under the terms of the settlement, the defendants will pay damages of \$75 million to those included in the class. Of the total settlement amount, \$25 million will be allocated to consumers and \$50 million will be used to pay the claims of insurers and other third-party payors.

## PRACTICE AREAS

# Consumer Protection - Drug and Supplement Litigation

### > Skelaxin Antitrust Litigation

The firm represented purchasers in this case alleging King Pharmaceuticals LLC and Mutual Pharmaceutical Company alleging conspired to suppress generic competition and preserve King's monopoly in the market for the brand name muscle relaxant Skelaxin.

**RESULT:** \$73 million class settlement.

### > Tricor Antitrust

In June 2005, Hagens Berman filed an antitrust lawsuit on behalf of a class of consumers and third party payors against pharmaceutical manufacturers Abbott Laboratories and Fournier Industries concerning the brand name cholesterol drug Tricor. HBSS was appointed co-lead class counsel by the Court.

**RESULT:** \$65.7 million recovery for consumers and third party payors who sued Abbott Laboratories and Fournier Industries in an antitrust action concerning the cholesterol drug Tricor.

## FRAUDULENT DRUG PRICING RESOLUTIONS

Hagens Berman has led many complex cases that take on fraud and inflated drug prices throughout the U.S. This includes sweeping manipulation of the average wholesale price benchmark used to set prices for prescription drugs nationwide, fraudulent marketing of prescription drugs and the rampant use of co-pay subsidy cards that drive up healthcare costs. These efforts have led to several significant settlements:

### > McKesson and First DataBank Drug Litigation

The firm discovered a far-reaching fraud by McKesson and became lead counsel in this RICO case against McKesson and First DataBank, alleging the companies fraudulently inflated prices of more than 400 prescription drugs.

**RESULT:** \$350 million settlement and a four percent rollback on the prices of 95 percent of the nation's retail branded drugs, the net impact of which could be in the billions of dollars. The states and federal government then used Hagens Berman's work to bring additional suits. Hagens Berman represented several states and obtained settlements three to seven times more than that of the Attorneys General. Almost \$1 billion was recovered from the McKesson fraud.

### > Average Wholesale Price Drug Litigation

Hagens Berman served as co-lead counsel and lead trial counsel in this sprawling litigation against most of the nation's largest pharma companies, which alleges defendants artificially inflated Average Wholesale Price.

**RESULT:** Approximately \$338 million in class settlements. Hagens Berman's work in this area led to many state governments filing suit and hundreds of millions in additional recovery.

## FRAUDULENT MARKETING RESOLUTIONS

Hagens Berman also litigates against drug companies that fraudulently promote drugs for uses not approved by the Food and Drug Administration (FDA), commonly known as "off-label" uses. We also litigate cases against dietary supplement manufacturers for making false claims about their products. Recent successes include:

### > Neurontin Third Party Payor Litigation

Hagens Berman served as co-lead trial counsel in this case alleging that Pfizer fraudulently and unlawfully promoted the drug Neurontin for uses unapproved by the FDA.

**RESULT:** A jury returned a \$47 million verdict in favor of a single third-party payor plaintiff, automatically trebled to \$142 million, and the court recently approved a \$325 million class settlement.

### > Lupron

Hagens Berman prosecuted a lawsuit against TAP Pharmaceuticals Products, Inc. on behalf of a class of consumers and third-party payors who purchased the drug Lupron. The suit charged that TAP Pharmaceutical Products, Inc., Abbott Laboratories and Takeda Pharmaceutical Company Limited conspired to fraudulently market, sell and distribute Lupron, causing consumers to pay inflated prices for the drug.

**RESULT:** Judge Richard Stearns issued a preliminary approval of the proposed settlement between TAP Pharmaceuticals and the class. Under the terms of the settlement, \$150 million will be paid by TAP on behalf of all defendants.

## PRACTICE AREAS

# Consumer Protection - Drug and Supplement Litigation

### > Celebrex/Bextra

Hagens Berman filed a class-action lawsuit against Pfizer on behalf of individual consumers and third-party payors who paid for the drug Bextra. The firm was praised by Judge Breyer for its “unstinting” efforts on behalf of the class, adding, “The attorneys on both sides were sophisticated, skilled, professional counsel whose object was to zealously pursue their clients’ interest, but not at the cost of abandoning the appropriate litigation goals, which were to see, whether or not, based upon the merits of the cases, a settlement could be achieved.”

**RESULT:** \$89 million settlement.

### > Vioxx Third Party Payor Marketing and Sales Practices Litigation

The firm served as lead counsel for third party payors in the Vioxx MDL, alleging that Merck & Co. misled physicians, consumers and health benefit providers when it touted Vioxx as a superior product to other non-steroidal anti-inflammatory drugs. According to the lawsuit,

The drug had no benefits over less expensive medications, but carried increased risk of causing cardiovascular events.

**RESULT:** \$80 million settlement.

### > Serono Drug Litigation

Hagens Berman served as lead counsel for a class of consumers and third party payors in a suit alleging that global biotechnology company Serono, Inc. schemed to substantially increase sales of the AIDS drug Serostim by duping patients diagnosed with HIV into believing they suffered from AIDS-wasting and needed the drug to treat that condition.

**RESULT:** \$24 million settlement.

### > Bayer Combination Aspirin/Supplement Litigation

Hagens Berman served as lead counsel on behalf of consumers in a suit alleging that Bayer Healthcare LLC deceptively marketed Bayer® Women’s Low-Dose Aspirin + Calcium, an 81 mg aspirin pill combined with calcium, and Bayer® Aspirin With Heart Advantage, an 81 mg aspirin pill combined with phytosterols. Plaintiffs alleged that Bayer overcharged consumers for these products or that these products should not have been sold, because these products were not FDA-approved, could not provide all advertised health benefits, and were inappropriate for long-term use.

**RESULT:** \$15 million settlement.

## OTHER LANDMARK CASES

### > New England Compounding Center Meningitis Outbreak

In 2012, the Center for Disease Control confirmed that New England Compounding Center sold at least 17,000 potentially tainted steroid shots to 75 clinics in 23 states across the country, resulting in more than 64 deaths and 751 cases of fungal meningitis, stroke or paraspinal/peripheral joint infection. HBSS attorneys Thomas M. Sobol and Kristen A. Johnson serve as Court-appointed Lead Counsel for the Plaintiffs’ Steering Committee on behalf of plaintiff-victims in MDL 2419 consolidated before The Honorable Ray W. Zobel in the United States District Court for the District of Massachusetts.

**RESULT:** \$100 million settlement.



**PRACTICE AREAS**

## Employment Litigation

Hagens Berman takes special interest in protecting workers from exploitation or abuse. We take on race and gender discrimination, immigrant worker issues, wage and hour issues, on-the-job injury settlements and other crucial workplace issues.

Often, employees accept labor abuses or a curbing of their rights because they don't know the law, respect their superiors or fear for their jobs. We act on behalf of employees who may lack the individual power to bring about meaningful change in the workplace. We take a comprehensive approach to rooting out systemic employee abuses through in-depth investigation, knowledgeable experts and fervent exploration of prosecution strategies. Hagens Berman is a firm well-versed in taking on complicated employee policies and bringing about significant results. Representative cases include:

**> CB Richard Ellis Sexual Harassment Litigation**

Filed a class action against CB Richard Ellis, Inc., on behalf of 16,000 current and former female employees who alleged that the company fostered a climate of severe sexual harassment and discriminated against female employees by subjecting them to a hostile, intimidating and offensive work environment, also resulting in emotional distress and other physical and economic injuries to the class.

**RESULT:** An innovative and unprecedented settlement requiring changes to human resources policies and procedures, as well as the potential for individual awards of up to \$150,000 per class member. The company agreed to increase supervisor accountability, address sexually inappropriate conduct in the workplace, enhance record-keeping practices and conduct annual reviews of settlement compliance by a court appointed monitor.

**> Costco Wholesale Corporation Wage & Hour Litigation**

Filed a class action against Costco Wholesale Corporation on behalf of 2,000 current and former ancillary department employees, alleging that the company misclassified them as "exempt" executives, denying these employees overtime compensation, meal breaks and other employment benefits.

**RESULT:** \$15 million cash settlement on behalf of the class.

**> Washington State Ferry Workers Wage Litigation**

Represented "on-call" seamen who alleged that they were not paid for being "on call" in violation of federal and state law.

**RESULT:** Better working conditions for the employees and rearrangement in work assignments and the "on-call" system.

**> SunDance Rehabilitation Corporation**

Filed a class action against SunDance challenging illegal wage manipulation, inconsistent contracts and other compensation tricks used to force caregivers to work unpaid overtime.

**RESULT:** \$3 million settlement of stock to be distributed out of the company's bankruptcy estate.

**> Schneider National Carriers - Regional Drivers**

The firm represents a certified class of regional drivers in a suit filed against Schneider National Carriers, claiming that the company failed to pay its workers for all of their on duty time devoted to a variety of work tasks, including vehicle inspections, fueling, and waiting on customers and assignments. The suit also claims that the company does not provide proper meal and rest breaks and the company is liable for substantial penalties under the California Labor Code.

**RESULT:** A \$28 million settlement on behalf of drivers.

**> Schneider National Carriers - Mechanics**

Hagens Berman filed a class-action lawsuit alleging that Schneider National Carriers failed to provide mechanics with proper overtime compensation, meal and rest break premiums, and accurate wage statements as required by California law.

**RESULT:** In March of 2013, the case was settled on terms mutually acceptable to the parties.

## PRACTICE AREAS

# Employment Litigation

### > **Swift Transportation Co. of Arizona LLC**

The firm represents a certified class of Washington-based truck drivers against Swift Transportation. The suit alleges that Swift failed to pay the drivers overtime and other earned wages in violation of Washington state law.

An agreement to settle the case was granted preliminary approval in October 2018. Final approval is pending.

## PRACTICE AREAS

# Environmental Litigation

Since Hagens Berman's founding, the firm has sought to work toward one simple goal: work for the greater good. Hagens Berman has established a nationally recognized environmental litigation practice, having handled several landmark cases in the Northwest, the nation and internationally.

Hagens Berman believes that protecting and restoring our environment from damage caused by irresponsible and illegal corporate action is some of the most rewarding work a law firm can do. As our firm has grown, we have established an internationally recognized environmental litigation practice.

### SCIENCE AND THE LAW

Hagens Berman's success in environmental litigation stems from a deep understanding of the medical and environmental science that measures potential hazards. That expertise is translated into the courtroom as our attorneys explain those hazards to a judge or jury in easily understood terms.

### ENVIRONMENTAL EXPERTS

Our firm's fostered deep relationships with top-notch environmental experts result in resonating arguments and court victories, as well as thoroughly researched and vetted investigations.

### REAL IMPACTS

Environmental law is a priority at our firm and we have taken an active role in expanding this practice area. In 2003, Steve Berman and his wife Kathy worked with the University of Washington to create the Kathy and Steve Berman Environmental Law Clinic, giving law students the training and opportunities needed to become hands-on advocates for the environment.

Hagens Berman's significant environmental cases include:

#### > Exxon Valdez Oil Spill Litigation

Hagens Berman represented various classes of claimants, including fisherman and businesses located in Prince William Sound and other impacted areas who were damaged by one of the worst oil spills in United States history.

**RESULT:** A \$5 billion judgment was awarded by a federal jury, and a \$98 million settlement was achieved with Alyeska, the oil company consortium that owned the output of the pipeline.

#### > Chinook Ferry Litigation

The firm represented a class of property owners who challenged Washington State Ferries' high-speed operation of a new generation of fast ferries in an environmentally sensitive area of Puget Sound. Two of the ferries at issue caused environmental havoc and property damage, compelling property owners to act. A SEPA study conducted in response to the suit confirmed the adverse environmental impacts of the fast ferry service

**RESULT:** A \$4.4 million settlement resulted that is among the most favorable in the annals of class litigation in Washington state.

#### > Grand Canyon Litigation

The firm represented the Sierra Club in a challenge to a Forest Service decision to allow commercial development on the southern edge of the Grand Canyon National Park.

**RESULT:** The trial court enjoined the project.

#### > Kerr-McGee Radiation Case

The firm brought a class action on behalf of residents of West Chicago, Illinois who were exposed to radioactive uranium tailings from a rare earth facility operated by Kerr-McGee.

**RESULT:** A medical monitoring settlement valued in excess of \$5 million

#### > Skagit Valley Flood Litigation

Hagens Berman represented farmers, homeowners and businesses who claimed damages as a result of the 1990 flooding of this community. The case was in litigation for ten years and involved a jury trial of more than five months.

**RESULT:** Following the entry of 53 verdicts against Skagit County, the trial court entered judgments exceeding \$6.3 million. Ultimately, the State Supreme Court reversed this judgment. Despite this reversal, the firm is proud of this representation and believes that the Supreme Court erred.

## PRACTICE AREAS

# Environmental Litigation

### › Idaho Grass Burning Case

In 2002, Hagens Berman brought a class-action lawsuit on behalf of Idaho residents who claimed grass-burning farmers released more than 785 tons of pollutants into the air, including concentrations of polycyclic aromatic hydrocarbons (PAHs), proven carcinogens. Burning the fields annually caused serious health problems, especially to those with respiratory ailments such as cystic fibrosis and asthma. The suit also asserted that Idaho's grass burning policies are far below the standards of other states such as neighboring Washington, where farmers use other techniques to remove grass residue from the fields.

**RESULT:** The lawsuit settled in 2006 under confidential terms.

### › Dole Bananas Case

The firm took on Dole Food Company Inc. in a class-action lawsuit claiming the world's largest fruit and vegetable company lied to consumers about its environmental record and banana-growing practices. The suit alleged that Dole misrepresented its commitment to the environment in selling bananas from a Guatemalan banana plantation that did not comply with proper environmental practices.

**RESULT:** The suit culminated in 2013. Dole and non-profit organization Water and Sanitation Health, Inc. collaborated on a water filter project to assist local communities in Guatemala.

### › Diesel Emissions Litigation

Second to none in uncovering emissions-cheating, the firm has dedicated its time and resources to breaking up the dirty diesel ring. After filing the first lawsuit in the country against Volkswagen, Audi and Porsche for its massive Dieselgate scandal in 2015, the firm went on to unmask emissions-cheating devices installed in vehicles made by Fiat Chrysler, Mercedes and General Motors and continues to investigate diesel cars for excessive, illegal and environmentally harmful levels of emissions.

**RESULT:** The firm's independently researched active cases have led to investigations by the EPA, DOJ and European authorities.

### › San Francisco and Oakland Climate Change Litigation

Hagens Berman represents the cities of San Francisco and Oakland, Calif. in two lawsuits filed against BP, Chevron Corp., Exxon Mobil Corp., Royal Dutch Shell PLC and ConocoPhillips alleging that the Big Oil giants are responsible for the cities' costs of protecting themselves from global warming-induced sea level rise, including expenses to construct seawalls to protect the two cities' more than 5 million residents. The newly filed case

seek an order requiring defendants to abate the global warming-induced sea level rise by funding an abatement program to build sea walls and other infrastructure. Attorneys for the cities say this abatement fund will be in the billions.

### › Florida Sugarcane Burning

Hagens Berman filed a class-action lawsuit against the sugar industry's largest entities on behalf of residents of various areas and townships of Florida that have long suffered from the corporations' wildly hazardous and damaging methods of harvesting sugarcane. The lawsuit states that this outdated method of harvesting has wreaked havoc on these Florida communities. The wildly archaic method of harvesting brings devastating toxic smoke and ash, often called "black snow," raining onto poor Florida communities for six months of the year. The lawsuit's defendants, commonly known as Big Sugar, farm sugarcane on approximately 400,000 acres in the area south and southeast of Lake Okeechobee.

### › Kivalina Global Warming Litigation

A tiny impoverished Alaskan village of Inupiat Eskimos took action against some of the world's largest greenhouse gas offenders, claiming that contributions to global warming are leading to the destruction of their village and causing erosion to the land that will eventually put the entire community under water. Hagens Berman, along with five law firms and two non-profit legal organizations, filed a suit against nine oil companies and 14 electric power companies that emit large quantities of greenhouse gases into the atmosphere. The lawsuit alleged their actions resulted in the destruction of protective ice, exposing the village to severe storms that destroy the ground the village stands on. Relocating the village of Kivalina could cost between \$95 and \$400 million, an expense the community cannot afford.

### › Cane Run Power Plant Coal Ash Case

In 2013, Hagens Berman filed a class-action lawsuit against Louisville Gas and Electric Company alleging it illegally dumped waste from a coal-fired power plant onto neighboring property and homes where thousands of Kentucky residents live. According to the complaint, Louisville Gas and Electric Company's Cane Run Power Plant is fueled by the burning of coal, which also produces coal combustion byproducts—primarily fly ash and bottom ash—that contain significant quantities of toxic materials, including arsenic, chromium and lead. The dust spewed by Cane Run contains known carcinogens, posing significant potential health hazards.

## PRACTICE AREAS

# Governmental Representation

Hagens Berman has been selected by public officials to represent government agencies and bring civil law enforcement and damage recoupment actions designed to protect citizens and the treasury. We understand the needs of elected officials and the obligation to impartially and zealously represent the interests of the public, are often chosen after competitive bidding and have been hired by officials from across the political spectrum.

Hagens Berman has assisted governments in recovering billions of dollars in damages and penalties from corporate wrongdoers and, in the process, helped reform how some industries do business. In serving government, we are often able to leverage the firm's expertise and success in related private class-action litigation. Successes on behalf of government clients include:

### > **Big Tobacco**

We represented 13 states in landmark Medicaid-recoupment litigation against the country's major tobacco companies. Only two states took cases to trial – Washington and Minnesota. The firm served as trial counsel for the state of Washington, becoming only one of two private firms in the entire country to take a state case to trial.

Hagens Berman was instrumental in developing what came to be accepted as the predominant legal tactic to use against the tobacco industry: emphasizing traditional law enforcement claims such as state consumer protection, antitrust and racketeering laws. This approach proved to be nearly universally successful at the pleading stage, leaving the industry vulnerable to a profits-disgorgement remedy, penalties and double damages. The firm also focused state legal claims on the industry's deplorable practice of luring children to tobacco use.

**RESULT:** \$260 billion for state programs, the largest settlement in the history of civil litigation in the U.S.

### > **McKesson Average Wholesale Price Litigation**

This litigation is yet another example of fraudulent drug price inflation impacting not just consumers and private health plans, but public health programs such as Medicaid and local government-sponsored plans as well.

**RESULT:** Hagens Berman has started the AWP class action, which resulted in many states filing cases. The firm represented several of those states in successful litigation.

### > **McKesson Government Litigation**

On the heels of Hagens Berman's class action against McKesson, the firm led lawsuits by states (Connecticut, Utah, Virginia, Montana, Arizona).

**RESULT:** These states obtained recoveries three to seven times larger than states settling in the multi-state Attorneys General settlement. In addition, the firm obtained \$12.5 million for the City of San Francisco and \$82 million for a nationwide class of public payors.

### > **Zyprexa Marketing & Sales Practices Litigation - Connecticut**

Hagens Berman served as outside counsel to then-Attorney General Richard Blumenthal in litigation alleging that Lilly engaged in unlawful off-label promotion of the atypical antipsychotic Zyprexa. The litigation also alleged that Lilly made significant misrepresentations about Zyprexa's safety and efficacy, resulting in millions of dollars in excess pharmaceutical costs borne by the State and its taxpayers.

**RESULT:** \$25 million settlement.

### > **General Motors Ignition Switch Litigation**

Hagens Berman is pleased to be assisting the Arizona Attorney General in its law enforcement action versus GM, as well as the district attorney of Orange County, California who filed a consumer protection lawsuit against GM, claiming the automaker deliberately endangered motorists and the public by intentionally concealing widespread, serious safety defects.

## PRACTICE AREAS

# Governmental Representation

### > State Opioid Litigation

Hagens Berman was hired to assist multiple municipalities in lawsuits brought against large pharmaceutical manufacturers including Purdue Pharma, Cephalon, Janssen Pharmaceuticals, Endo Health Solutions and Actavis charging that these companies and others deceived physicians and consumers about the dangers of prescription painkillers.

The firm was first hired by California governmental entities for the counties of Orange and Santa Clara. The state of Mississippi also retained the firm's counsel in its state suit brought against the manufacturer of opioids. The suit alleges that the pharma companies engaged in tactics to prolong use of opioids despite knowing that opioids were too addictive and debilitating for long-term use for chronic non-cancer pain.

In a third filing, Hagens Berman was retained as trial counsel for the state of Ohio. Filed on May 31, 2017, the firm is assisting the Ohio Attorney General's office in its case against five opioid makers. Ohio Attorney General Mike DeWine stated that "drug companies engaged in fraudulent marketing regarding the risks and benefits of prescription opioids which fueled Ohio's opioid epidemic," and that "these pharmaceutical companies purposely misled doctors about the dangers connected with pain meds that they produced, and that they did so for the purpose of increasing sales."

### > Municipal Lending

Hagens Berman represents the cities of Los Angeles and Miami in a series of lawsuits filed against the nation's largest banks, including CitiGroup, JP Morgan, Wells Fargo and Bank of America alleging that they engage in systematic discrimination against minority borrowers, resulting in reduced property tax receipts and other damages to the cities. The suits seek damages for the City, claiming that the banks' alleged discriminatory behavior resulted in foreclosures, causing a reduction of property tax revenues and increased municipal service costs.

## PRACTICE AREAS

# Intellectual Property

The Hagens Berman intellectual property team has deep experience in all aspects of intellectual property litigation. We specialize in complex and significant damages cases against some of the world's largest corporations.

The firm is primarily engaged in patent infringement litigation at this time. We seek to represent intellectual property owners, including inventors, universities, non-practicing entities, and other groups whose patent portfolios represents a significant creative and capital investment.

Our current and recent engagements include the following:

### > **Bombardier Inc.**

The firm represented Arctic Cat Inc. in patent infringement litigation against Bombardier Recreational Products and BRP U.S. Inc. The complaint alleges that Bombardier's Sea-Doo personal watercraft infringe Arctic Cat's patents covering temporary steerable thrust technology used when the rider turns in off-throttle situations.

**RESULT:** Florida U.S. District Judge Beth Bloom issued a final judgment of \$46.7 million against defendants, trebling initial damages of \$15.5 million awarded in a unanimous jury verdict.

### > **Angry Birds**

Hagens Berman represented a Seattle artist who filed a lawsuit against Hartz Mountain Corporation – one of the nation's largest producers of pet-related products – claiming the company illegally sold the artist's trademarked Angry Birds pet toy line to video game giant Rovio Entertainment Ltd, robbing her of millions of dollars of royalty fees.

**RESULT:** The case settled under confidential terms, which the firm found to be extremely satisfactory for the plaintiff.

### > **Samsung, LG, Apple**

The firm represents FlatWorld Interactives LLC in patent litigation against Samsung, LG and Apple. The complaints allege that the defendants' mobile handsets, tablets, media players and other devices infringe a FlatWorld patent covering the use of certain gestures to control touchscreen displays.

**RESULT:** The case settled.

### > **Oracle**

The firm represents Thought Inc. against Oracle Corporation in a suit alleging infringement of seven patents covering various aspects of middleware systems providing application to database mapping, reading and persistence.

### > **Salesforce**

The firm represents Applications in Internet Time LLC in patent litigation against Salesforce Inc. The suit alleges that our client's patents cover the core architecture of Salesforce's platform for developing, customizing, and updating cloud-based software applications.

### > **Nintendo**

The firm represented Japan-based Shinsedai Company in patent infringement litigation against Nintendo. The suit alleged that our client's patents were infringed by various sports games for the Nintendo Wii.

*Unlike other intellectual property firms, Hagens Berman only represents plaintiffs. This reduces the risk of potential conflicts of interest which often create delays in deciding whether or not to take a case at larger firms.*

**PRACTICE AREAS**

## Intellectual Property

**> Electronic Arts**

Hagens Berman represents the original software developer of the Electronic Arts (EA) NFL Madden Football video game series in a suit alleging that he is owed royalties on EA Madden NFL titles as well as other derivative products. We prevailed in two trials against EA, and the verdicts were designated as the Top Verdict of the Year (2013) by The Daily Journal. The judgment is on appeal and if upheld will return for a final damages phase.

Hagens Berman is also skilled in other aspects of intellectual property law, including trademark, trade dress, trade secret and copyright litigation.



## PRACTICE AREAS

# Investor Fraud - Individual and Class Action Litigation

Investing is a speculative business involving assessment of a variety of risks that can only be properly weighed with full disclosure of accurate information. No investor should suffer undue risk or incur losses due to misrepresentations related to their investment decisions.

Our attorneys work for institutional and individual investors defrauded by unscrupulous corporate insiders and mutual funds. The firm vigorously pursues fraud recovery litigation, forcing corporations and mutual funds to answer to deceived investors.

Hagens Berman is one of the country's leading securities litigation firms advising clients in both individual and class-action cases. The firm has experience, dedication and a team with the horsepower required to drive complex cases to exemplary outcomes. Our attorneys are authorities in an array of issues unique to federal and state securities statutes and related laws. We use a variety of highly experienced experts as an integral part of our prosecution team. Successes on behalf of our investor clients include:

### > Charles Schwab Securities Litigation

Lead counsel, alleging fraud in the management of the Schwab YieldPlus mutual fund.

**RESULT:** \$235 million class settlement for investors.

### > Oppenheimer

Additional counsel for lead plaintiffs in class action alleging Oppenheimer misled investors regarding its Champion and Core Bond Funds.

**RESULT:** \$100 million for the classes.

### > Tremont

Co-lead counsel in a case alleging Tremont Group Holdings breached its fiduciary duties by turning over \$3.1 billion to Bernard Madoff. On Sept. 14, 2015, after nearly two years of negotiations and mediation, the court granted final approval of the plan of allocation and distribution of the funds which markets estimate could yield investors as much as \$1.45 billion.

**RESULT:** \$100 million settlement between investors, Tremont and its affiliates.

### > Boeing

Uncovered critical production problems with the 777 airliner documented internally by Boeing, but swept under the rug until a pending merger with McDonnell Douglas was completed.

**RESULT:** Record-breaking settlement of more than \$92.5 million.

### > J.P. Morgan – Madoff

Case alleges that banking and investment giant J.P. Morgan was complicit in aiding Bernard Madoff's Ponzi scheme. Investors claim that J.P. Morgan operated as Bernard L. Madoff Investment Securities LLC's primary banker for more than 20 years.

**RESULT:** \$218 million settlement amount for the class and a total of \$2.2 billion paid from JPMorgan that will benefit victims of Madoff's Ponzi scheme.

### > Morrison Knudsen

Filed a shareholder class action, alleging that MK's senior officers concealed hundreds of millions in losses.

**RESULT:** More than \$63 million for investors.

### > Raytheon/Washington Group

Charged Raytheon with deliberately misrepresenting the true financial condition of Raytheon Engineers & Constructors division in order to sell this division to the Washington Group at an artificially inflated price.

**RESULT:** \$39 million settlement.

### > U.S. West

Represented shareholders of U.S. West New Vector in a challenge to the proposed buyout of minority shareholders by U.S. West.

**RESULT:** The proposed buyout was stayed, and a settlement was achieved, resulting in a \$63 million increase in the price of the buyout.

## PRACTICE AREAS

# Investor Fraud - Individual and Class Action Litigation

Our current casework includes:

### › Theranos Investor Litigation

Hagens Berman represents Theranos investors in a lawsuit that states that Theranos and its officers set in motion a publicity campaign to raise billions of dollars for Theranos and themselves, and to induce investors to invest in Theranos, all the while knowing that its “revolutionary” blood test technology was essentially a hoax. The suit filed against the company, its CEO Elizabeth Holmes and Ramesh Balwani, alleges that Theranos’ statements to investors were built on false statements. At the crux of the court’s recent decision to uphold the investor case against Theranos was a finding that while plaintiffs did not directly purchase their securities from defendants, claims made by Theranos, Holmes and Balwani constituted fraud.

### › Aequitas Investor Litigation

The firm represents a group of investors alleging that national law firm Sidley Austin LLP, Oregon law firm Tonkon Torp LLP and accounting firms Deloitte & Touche LLP and EisnerAmper LLP violated Oregon securities laws by participating or materially aiding in misrepresentations made by Aequitas Management LLC and contributing to a \$350 million Ponzi scheme. Investors state, amongst other allegations, that in 2011 Aequitas began purchasing loan receivables from Corinthian College Inc. and had bought the rights to collect \$444 million in loans. Investment managers hid the details of the transactions from investors, and deceived them when Corinthian’s business was hit with regulatory challenges in 2014. When Corinth collapsed in May 2015, the investment group and its managers continued to sell securities and used the money to pay off other investors and fund a lavish lifestyle, until Aequitas ultimately imploded in 2017, the investors claim.

### › China MediaExpress

Hagens Berman represents investors in a case against China MediaExpress, which purported to be the owner of a network of advertising terminals on buses throughout China. The case alleges that the company and its auditor (Deloitte Touche Tohmatsu) participated in accounting fraud that ultimately led to the demise of the company. In early 2014, the court entered

a default judgment in the amount of \$535 million and certified a proposed class against China Media Express Holdings Inc. The case will proceed separately against Deloitte Touche Tohmatsu.

On May 6, 2015 Hagens Berman obtained a \$12 million settlement from Deloitte Touche Tohmatsu, one of the largest settlements against an auditor in a Chinese “reverse merger” case which is now awaiting final approval from the court.

### › Altisource Asset Management Corporation

The firm was appointed lead counsel in this institutional investor lawsuit brought on behalf of purchasers of Altisource Asset Management Corporation (AAMC). The complaint alleges that AAMC misrepresented or outright concealed its relationship with these companies and the extent to which the interconnected entities engaged in conflicted transactions with themselves. Estimates of class-wide damages are in the hundreds of millions of dollars. The firm recently filed the consolidated complaint and motions to dismiss are pending before the U.S. District Court for the District of the Virgin Islands.

## WHISTLEBLOWERS

In an effort to curb Wall Street excesses, Congress passed the Dodd-Frank Wall Street Reform and Consumer Protection Act, which built vigorous whistleblower protections into the legislation known as the “Wall Street Tip-Off Law.” The law empowers the U.S. Securities and Exchange Commission to award between 10 and 30 percent of any monetary sanctions recovered in excess of \$1 million to whistleblowers who provide information leading to a successful SEC enforcement. It also provides similar rewards for whistleblowers reporting fraud in the commodities markets.

Hagens Berman represents whistleblowers with claims involving violations of the Securities Exchange Act and the Commodities Exchange Act. Unlike traditional whistleblower firms who have pivoted into this area, Hagens Berman has a strong background and history of success in securities, antitrust and other areas of fraud enforcement, making us an ideal partner for these cases. Our matters before the SEC/CFTC include a range of claims, including market manipulation and fraudulent financial statements.

**PRACTICE AREAS**

## Investor Fraud - Institutional Investor Portfolio Monitoring and Recovery Services

Hagens Berman is a leading provider of specialized securities litigation services to public, private and Taft-Hartley pension funds. We offer proprietary and unparalleled asset protection and recovery services to both foreign and domestic institutions. Our institutional services provide participants with the ability to identify, investigate and react to potential wrongdoing by companies in which the institution invests.

**PORTFOLIO MONITORING.** Timely information and analysis are the critical ingredients of a successful fraud recovery program. Institutions must receive quick, reliable determinations concerning the source and extent of their losses, the likelihood of recoupment and the best manner for pursuing it. Our Portfolio Monitoring Service provides these services at no cost to participating institutions. The Hagens Berman Portfolio Monitoring Service has three primary components:

**TRACKING.** Alerts clients of any significant portfolio losses due to suspected fraud.

**ANALYSIS.** Provide clients with necessary legal and factual analyses regarding possible recovery options, removing from the institution any burden connected with scrutinizing myriad instances of potential wrongdoing and attempt to decipher whether direct, recoverable injuries have resulted.

**REPORTING.** Attorneys and forensic accounting fraud experts deliver a concise monthly report that furnishes comprehensive answers to these inquiries. On a case-by-case basis, the report specifies each of the securities in which the client lost a significant amount of money, and matches those securities with an analysis of potential fraud likelihood, litigation options and an expert recommendation on how best to proceed for maximum recovery.

Our Portfolio Monitoring Service performs its functions with almost no inconvenience to participating institutions. A client's custodian bank provides us with records detailing the client's transactions from the prior several years and on a regular basis thereafter. Importantly, none of the institution's own personnel is required to share in this task, as we acquire the information directly from the custodian bank.

We provide our Portfolio Monitoring service with no strings attached and allow our clients to act without cost or commitment. In instances where a litigation opportunity arises, we believe our skills make us the ideal choice for such a role, although the client is free to choose others.

When a portfolio loses money because of corporate deception, our litigation services seek to recover a substantial percentage of those losses, thereby increasing a fund's performance metric. As fiduciaries, money managers may not have the ability or desire to risk funds on uncertain litigation using typical hourly-rate law firms. Hagens Berman seeks to minimize the burden on the money manager by pursuing cases on a contingent-fee basis.

## PRACTICE AREAS

# Personal Injury and Abuse

For nearly two decades, Hagens Berman's blend of professional expertise and commitment to our clients has made our firm one of the most well-respected and successful mass tort and personal injury law firms in the nation. We deliver exceptional results for our clients by obtaining impressive verdicts and settlements in personal injury litigation.

Our attorneys have experience in wrongful death, brain injury and other catastrophic injury cases, as well as deep experience in social work negligence, medical malpractice, nursing home negligence and sexual abuse cases.

Hagens Berman also has unparalleled experience in very specific areas of abuse law, recovering damages on behalf of some of the most vulnerable people in our society.

**Sexual Abuse Litigation** Hagens Berman has represented a wide spectrum of individuals who have been victims of sexual abuse, including children and developmentally disabled adults. We treat each case individually, with compassion and attention to detail and have the expertise, resources and track record to stand up to the toughest opponents. In the area of sexual abuse, our attorneys have obtained record-breaking verdicts, including the largest personal injury verdict ever upheld by an appellate court in the state of Washington. More about Hagens Berman's sexual abuse practice can be found on the following page.

**Nursing Home Negligence** Nursing home negligence is a growing problem throughout the nation. As our population ages, reports of elder abuse and nursing home negligence continue to rise. Today, elder abuse is one of the most rapidly escalating social problems in our society. Hagens Berman is uniquely qualified to represent victims of elder abuse and nursing home negligence. Our attorneys have secured outstanding settlements in this area of the law and have committed to holding nursing homes accountable for wrongdoing.

**Social Work Negligence** Social workers play a critical role in the daily lives of our nation's most vulnerable citizens. Social workers, assigned to protect children, the developmentally disabled and

elderly adults, are responsible for critical aspects of the lives of tens of thousands of citizens who are unable to protect themselves. Many social workers do a fine job. Tragically, many do not. The results are often catastrophic when a social worker fails to monitor and protect his or her vulnerable client. All too often, the failure to protect a child or disabled citizen leads to injury or sexual victimization by predators. With more than \$40 million in recoveries on behalf of vulnerable citizens who were neglected by social workers, Hagens Berman is the most experienced, successful and knowledgeable group of attorneys in this dynamic area of the law.

**Workplace Injury** While many workplace injury claims are precluded by workers compensation laws, many instances of workplace injury are caused by the negligence and dangerous oversight of third parties. In these instances, victims may have valid claims. Hagens Berman's personal injury legal team has successfully brought many workplace injury claims, holding third parties liable for our clients' serious bodily injuries.

**Medical Malpractice** Litigating a medical malpractice case takes acute specialization and knowledge of medical treatments and medicine. Notwithstanding these facts, Hagens Berman pursues meritorious medical malpractice claims in instances where clients have suffered life-altering personal injuries. Our firm's personal injury attorneys handle medical malpractice cases with the dedication and detail necessary to make victims whole. Hagens Berman is very selective in accepting medical malpractice cases and has been successful in recovering significant compensation for victims of medical error and negligence.

## PRACTICE AREAS

# Sexual Abuse and Harassment

Hagens Berman's attorneys recently achieved a nationwide sexual harassment settlement on behalf of 16,000 women and also tried the first ever sexual harassment case in Washington state, and has represented women violated by Harvey Weinstein, as well as USC alumnae abused by the university's former gynecologist, Dr. George Tyndall. Our firm is committed to protecting and empowering individuals.

At Hagens Berman, we believe no one is above the law, and that no position of power should shield someone from being held accountable.

Right now, we are witnessing the silencing, belittling and abuse that women everywhere in this nation are subjected to. They are subjected to a system that does not respect them. The backlash against the brave survivors who have stepped forward to report sexual assault is unacceptable.

We believe survivors. Our firm's sexual harassment attorneys have protected their rights for decades throughout their legal careers, and we are dedicated to upholding the rights of the most vulnerable. Women should be heard, respected and protected from systemic abuse.

Sexual harassment is present and pervasive in many workplaces, industries and professional environments, and has damaged the lives and careers of countless individuals. It affects hundreds of thousands of women and men in the U.S., 51 percent of which are harassed by an authority figure, making it harder to come forward for fear of retaliation.

All too often, acts of sexual harassment and sexual misconduct are protected by systemic cover-ups by companies and organized agreements between those in power. Particular industries are more susceptible to these cover-ups including: entertainment and sports media, STEM, law enforcement, food service, politics, military, tech, finance, hospitality and transportation. But sexual harassment is pervasive in many other environments and is often obscured from view for years.

In these industries, victims are routinely subjected to widespread policies and practices that create an environment promoting quid pro quo arrangements in which victims feel pressured to take part in sexual acts and feel powerless against unwanted advancements. Victims are also often punished for not taking part.

The firm has represented women violated by Harvey Weinstein, as well as USC alumnae abused by the university's former gynecologist, Dr. George Tyndall, tried the first ever sexual harassment case in Washington state, and achieved a nationwide sexual harassment settlement on behalf of 16,000 women.

Representative sexual harassment successes and cases on behalf of our clients include:

### > **USC, Dr. Tyndall Sexual Harassment**

In May of 2018, Hagens Berman filed a class-action lawsuit against the University of Southern California (USC) and Dr. George Tyndall, the full-time gynecologist at USC's student health clinic. Tyndall sexually harassed, violated and engaged in wildly inappropriate behavior with female students who sought his medical care, according to news outlets, which stated he saw tens of thousands of female patients during his time at USC.

Official complaints of Dr. Tyndall's behavior began to surface at USC in the 1990s, but despite the university's knowledge of Dr. Tyndall's behavior, it did not report him to the agency responsible for protecting the public from problem doctors. USC did nothing, for decades, as more and more female students were sent into Dr. Tyndall's office.

The settlement's three-tier structure allows class members to

## PRACTICE AREAS

# Sexual Abuse and Harassment

choose how much they want to engage with the claims process. Those who do not want to revisit a private, traumatic event can simply keep the guaranteed Tier 1 payment of \$2,500. Those who choose to provide additional information in a claim form about their experience with Tyndall and how it affected them are eligible for up to \$20,000 and those who choose to provide an interview are eligible for up to \$250,000. The special master and her team of experts will evaluate claims and allocate awards to Tier 2 and Tier 3 claimants. This focus on choice ensures that all class members receive compensation while giving each class member the autonomy to decide for herself how involved she wants to be in the settlement process.

The class-action settlement also goes beyond monetary compensation and forces USC to implement real changes to their policies and procedures to help ensure that what happened at USC does not happen again.

**RESULT:** \$215 million settlement

### › **Harvey Weinstein Sexual Harassment**

In a first-of-its-kind class-action lawsuit, Hagens Berman represented women on behalf of a class of all victims who were harassed or otherwise assaulted by Harvey Weinstein, seeking to hold him and his co-conspirators accountable for a years-long pattern of sexual harassment and cover-ups.

The lawsuit, filed Nov. 15, 2017, in the U.S. District Court for the Central District of California states that Miramax and The Weinstein Company (which Weinstein co-founded) facilitated Weinstein's organized pattern of predatory behavior, equating to an enterprise that violates the Racketeer Influenced and Corrupt Organizations Act, commonly referred to as the RICO Act, the same law brought against members of the Mafia for organized criminal behavior.

The lawsuit brought various charges against Weinstein and his companies for violating the RICO Act, mail and wire fraud, assault, civil battery, negligent supervision and retention, and intentional infliction of emotional distress.

**RESULT:** Settlement reached

### › **Fairfax Behavioral Health**

Attorneys from Hagens Berman filed a class-action complaint on behalf of a proposed class of hundreds of patients that were arbitrarily strip-searched and video recorded while receiving treatment for mental illness at one of three Fairfax locations in Washington state.

The suit's named plaintiff recalls being ordered to undress for an invasive strip-search when she presented for inpatient admission, even after disclosing her history of sexual abuse to the staff member. She was not given a gown or towel to cover up during the search, and the staff member watched her undress and left the door open where other staff members could see her.

Video cameras were located in the hallway, the holding area outside bathroom, and the room where the strip search was conducted. The cameras recorded her undressing and the strip-search.

The complaint states that Fairfax's practices—and its failure to limit the discretion of its staff—means that a substantial number of its mental health patients do not have reasonable access to inpatient care for mental health disorders.

### › **CB Richard Ellis Sexual Harassment Litigation**

Filed a class action against CB Richard Ellis, Inc., on behalf of 16,000 current and former female employees who alleged that the company fostered a climate of severe sexual harassment and discriminated against female employees by subjecting them to a hostile, intimidating and offensive work environment, also resulting in emotional distress and other physical and economic injuries to the class.

**RESULT:** An innovative and unprecedented settlement requiring changes to human resources policies and procedures, as well as the potential for individual awards of up to \$150,000 per class member. The company agreed to increase supervisor accountability, address sexually inappropriate conduct in the workplace, enhance record-keeping practices and conduct annual reviews of settlement compliance by a court appointed monitor.

## PRACTICE AREAS

# Sexual Abuse and Harassment

### › King County Child Sex Abuse

Hagens Berman represented the victim of eight years of sexual abuse as a minor, at the hands of her brother-in-law. The lawsuit states that from 2005 to 2012, the case's defendant repeatedly sexually abused Hagens Berman's client. She was only eleven years old when the abuse began and was a minor during the entire duration of the abuse. In 2013, the state of Washington charged Willis with three counts of child molestation, to which he pled guilty. Court documents state, "Joshua Blaine Willis used his position of trust, confidence, or fiduciary responsibility to facilitate the commission of the ... offense[s]..."

Court documents in the civil case filed in June of 2017 detail Willis' highly disgusting and horrifying actions including groping and molestation, exposing himself and other highly sexual and inappropriate behavior.

Following the years of sexual abuse, Hagens Berman's client suffers from Post-Traumatic Stress Disorder and the court awarded damages for treatment of her condition and other emotional distress, as well as loss of earning capacity and other economic damages in her "struggle with consistency and stability."

**RESULT:** \$4,031,000 judgment awarded in a King County Superior Court

### › State of Washington Sexual Assault, DSHS

Our client, a disabled Spokane, Wash. woman, was a patient at Eastern State Hospital. The hospital assigned a male nurse to provide one-on-one care and supervision for our client. The nurse trapped our client in a laundry room and raped her. Hagens Berman determined that the nurse, a state employee, had been reprimanded and accused on previous occasions of sexual assault of vulnerable patients. Hagens Berman initiated a negligence and civil rights lawsuit against the hospital and its administrators for failing to protect our client from a known sexual predator and for allowing that predator to remain on staff with the responsibility to care for vulnerable patients.

**RESULT:** \$2.5 million settlement

### › Workplace Sexual Harassment & Other Investigations

Sexual harassment is present and pervasive in many workplaces. It affects hundreds of thousands of women and men in the U.S., 51 percent of which are harassed by a supervisor, making it harder to come forward for fear of retaliation.

All too often, sexual harassment in the workplace is protected by systemic cover-ups by companies and those in power. Particular industries are more susceptible to these cover-ups including: commercial real estate, law enforcement, politics, military, tech, entertainment, sports media, finance, restaurants and hospitality, advertising and trucking.

In these industries, employees are routinely subjected to widespread policies that create an environment promoting quid pro quo arrangements in which they feel pressured to take part in sexual acts and feel powerless against unwanted advancements. Employees are also often punished for not taking part.

Hagens Berman is also investigating sexual harassment and abuse in various specific areas of study, including STEM programs. The firm also maintains a keen watch over various work environments that are statistically prone to instances of misconduct. These include hospitality, college campuses and research labs, boarding schools and the entertainment industry, especially within the area of professional music.

The firm remains committed to uncovering instances of sexual harassment in the workplace, and within fields of study and areas prone to harboring misconduct and abusive behavior.



**PRACTICE AREAS**

## Sports Litigation

Hagens Berman has one of the nation's most highly regarded sports litigation law practices. Our attorneys are the vanguard of new and innovative legal approaches to protect the rights of professional and amateur athletes in cases against large, well-financed interests, including the National Collegiate Athletic Association (NCAA), the National Football League (NFL), the Fédération Internationale de Football Association (FIFA) and other sports governing institutions.

**> NCAA: Scholarships/Grants-In-Aid (GIAs)**

In a first-of-its-kind antitrust action and potentially far-reaching case, Hagens Berman filed a class-action affecting approximately 40,000 Division I collegiate athletes who played men's or women's basketball, or FBS football, brought against the NCAA and its most powerful members, including the Pac-12, Big Ten, Big-12, SEC and ACC, claiming they violated federal antitrust laws by drastically reducing the number of scholarships and financial aid student-athletes receive to an amount below the actual cost of attendance and far below what the free market would bare.

The case resulted in a \$208.9 million settlement, bringing an estimated average amount of \$6,500 to each eligible class member who played his or her sport for four years.

In March of 2019, the firm as co-lead trial counsel on the injunctive aspect of the case which resulted in a change of NCAA rules limiting the financial treatment of athletes, and in a unanimous 9-0 Supreme Court Victory, the injunctive portion of the case also resulted in a monumental victory for plaintiffs. The Court ruled that NCAA college athletes should legally be able to receive compensation from schools or conferences for athletic services other than cash compensation untethered to education-related expenses, prohibiting the NCAA from enforcing rules limiting those payments. The media called the firm's victory in the scholarships case against the NCAA a "major ruling" (ABC World News Tonight), that "will change the game" (ABC Good Morning America), "...the highest court left the NCAA unhoused and naked, with nothing left but its pretensions," (The Washington Post), it "delivered a heavy blow," (AP), and leaves the NCAA "more vulnerable than ever."

**> NCAA: Concussions**

Cases of particular nationwide interest for fans, athletes and the general public involve numerous cases filed by Hagens Berman against the NCAA. Recently, the firm took on the NCAA for its failure to prevent concussions and protect student-athletes who suffered concussions. Steve Berman served as lead counsel in multi-district litigation and led the firm to finalize a settlement bringing sweeping changes to the NCAA's approach to concussion treatment and prevention. The core settlement benefits include a 50-year medical monitoring program overseen by a medical science committee appointed by the court that will screen and track concussions, funded by a \$70 million medical monitoring fund, paid by the NCAA and its insurers. Examinations include neurological and neurocognitive assessments to evaluate potential injuries.

The settlement also mandates significant changes to and enforcement of the NCAA's concussion management policies and return-to-play guidelines. All players will now receive a seasonal, baseline test to better assess concussions sustained during the season. All athletes who have sustained a concussion will now need to be cleared before returning to play. A medical professional trained in the diagnosis of concussions will be present at all games involving contact-sports. The settlement also creates reporting mandates for concussions and their treatment.

**> Player Name, Image & Likeness Rights in Videogames**

Hagens Berman attorneys represented student-athletes who claimed that the NCAA illegally used student-athletes' names, images and likenesses in Electronic Arts' popular NCAA Football, Basketball and March Madness video game series reached a



## PRACTICE AREAS

# Sports Litigation

combined \$60 million settlement with the NCAA and EA, marking the first time the NCAA has agreed to a settlement that pays student-athletes for acts related to their participation in athletics. Settlement checks were sent to about 15,000 players, with average amounts of \$1,100 and some up to \$7,600.

The firm began this case with the knowledge that the NCAA and member schools were resolute in keeping as much control over student-athletes as possible, and fought hard to ensure that plaintiffs would not be exploited for profit, especially by the organization that vowed to prevent the college athletes from exploitation.

The firm also represented NFL legend Jim Brown in litigation against EA for improperly using his likeness in its NFL video games, culminating in a \$600,000 voluntary judgment offered by the video game manufacturer.

### › Continued NIL Litigation

Hagens Berman has continued efforts against the NCAA in an additional pending antitrust case regarding NIL rights. In June 2020, the firm filed its case against the NCAA claiming the institution had knowingly violated federal antitrust laws in abiding by a particular subset of NCAA amateurism rules that prohibit college-athletes from receiving anything of value in exchange for the commercial use of their name and likeness. The firm holds that the NCAA's regulations illegally limiting the compensation that Division I college athletes may receive for the use of their names, images, likenesses and athletic reputations.

In unanimously upholding the rights of NCAA athletes in *Alston*, Justice Gorsuch wrote the NCAA had sought "immunity from the normal operation of the antitrust laws," and Justice Kavanaugh stated, "The NCAA is not above the law." The firm looks forward to continuing to uphold that same sentiment in regard to NCAA athlete name, image and likeness rights.

In July 2021, following the firm's victory in the *Alston* case, the NCAA chose to temporarily lift rules restricting certain NIL deals in what the firm believes will be the first step in another massive change in college sports to support college athletes.

### › FIFA/U.S. Soccer: Concussions

Several soccer players filed a class action against U.S. soccer's governing bodies, which led to life-changing safety measures brought to millions of U.S. youth soccer players. Players represented by Hagens Berman alleged these groups failed to adopt effective policies to evaluate and manage concussions, leaving millions of players vulnerable to long-lasting brain injury.

The settlement against six of the largest youth soccer organizations completely eliminates heading for youth soccer's youngest players, greatly diminishing risks of concussions and traumatic head injuries. Prior to the settlement, no rule limited headers in children's soccer.

It also sets new benchmarks for concussion measurement and safety protocols, and highlights the importance of on-staff medical personnel at youth tournaments. Under the settlement, youth players who have sustained a concussion during practice or a game will need to follow certain return-to-play protocols before they are allowed to play again. Steve Berman, a youth soccer coach, has seen first-hand the settlement's impacts and life-changing effects every time young athletes take to the field.

### › NCAA: Transfer Antitrust

Hagens Berman has taken on the NCAA for several highly recruited college athletes whose scholarships were revoked after a coaching change, or after the student-athletes sought to transfer to another NCAA-member school. The suit claims the organization's limits and transfer regulations violate antitrust law.

The firm's case hinges on a destructive double-standard. While Non-student-athletes are free to transfer and are eligible for a new scholarship without waiting a year, and coaches often transfer to the tune of a hefty pay raise, student-athletes are penalized and forced to sit out a year before they can play elsewhere, making them much less sought after by other college athletic programs. Hagens Berman continues to fight for student-athletes' rights to be treated fairly and terminate the NCAA's anticompetitive practices and overbearing regulations that limit players' options and freedoms.

## PRACTICE AREAS

# Sports Litigation

### > Pop Warner

Hagens Berman represented youth athletes who have suffered traumatic brain injuries due to gross negligence, and filed a lawsuit on behalf of former Pop Warner football player Donovan Hill and his mother Crystal Dixon. The suit claims that the league insisted Hill use improper and dangerous tackling techniques which left the then 13-year-old paralyzed from the neck down.

Hagens Berman sought to hold Pop Warner, its affiliates, Hill's coaches and members of the Lakewood Pop Warner board of directors accountable for the coaches' repeated and incorrect instruction that Hill and his teammates tackle opposing players by leading with the head. In January of 2016, the firm reached a settlement on behalf of Donovan and his mother, the details of which were not made public. Sadly, months later, 17-year-old Donovan passed away. The firm believes that his case will continue to have a lasting impact on young athletes for generations and will help ensure safety in youth sports.

### > MLB Foul Ball Injuries

Hagens Berman filed a class-action lawsuit on behalf of baseball fans, seeking to extend safety netting to all major and minor league ballparks from foul pole to foul pole. The suit alleges that tens of millions attend an MLB game annually, and every year fans of all ages, but often children, suffer horrific and preventable injuries, such as blindness, skull fractures, severe concussions and brain hemorrhages when struck by a fast-moving ball or flying shrapnel from a shattered bat. The lawsuit was dismissed with the court ruling that the plaintiffs lacked standing because the chance of getting hit by a ball is remote.

In December of 2015, MLB's commissioner Rob Manfred issued a recommendation to all 30 MLB teams to implement extended safety measures, including additional safety netting at ballparks. While the firm commends the league for finally addressing the serious safety issue at stake, the firm continues to urge MLB and its commissioner to make these more than recommendations to help end senseless and avoidable injuries to baseball's biggest fans. We believe our case sparked the eventual move to netting. After one of the owners of the Mariners belittled Steve for having filed the case, the firm happily saw the addition of netting extended to the foul poles at T-Mobile Park in the firm's headquarters of Seattle.

### > Other Cases

In addition to its class actions, Hagens Berman has filed several individual cases to uphold the rights of athletes and ensure a fair and safe environment. The firm has filed multiple individual cases to address concussions and other traumatic head injuries among student-athletes at NCAA schools and in youth sports. Hagens Berman continues to represent the interests of athletes and find innovative and effective applications of the law to uphold players' rights.

The firm has also brought many concussions cases on behalf of individual athletes, challenging large universities and institutions for the rights those who have suffered irreversible damage due to gross negligence and lack of even the most basic concussion-management guidelines.

**PRACTICE AREAS**

## Whistleblower Litigation

Hagens Berman represents whistleblowers under various programs at both the state and federal levels. All of these whistleblower programs reward private citizens who blow the whistle on fraud. In many cases, whistleblowers report fraud committed against the government and may sue those individuals or companies responsible, helping the government recover losses.

Our depth and reach as a leading national plaintiffs' firm with significant success in varied litigation against industry leaders in finance, health care, consumer products, and other fields causes many whistleblowers to seek us to represent them in claims alleging fraud against the government.

Our firm also has several former prosecutors and other government attorneys in its ranks and has a long history of working with governments, including close working relationships with attorneys at the U.S. Department of Justice. The whistleblower programs under which Hagens Berman pursues cases include:

**FALSE CLAIMS ACT**

Under the federal False Claims Act, and more than 30 similar state laws, a whistleblower reports fraud committed against the government, and under the law's *Qui Tam* provision, may file suit on its behalf to recover lost funds. False claims acts are one of the most effective tools in fighting Medicare and Medicaid fraud, defense contractor fraud, financial fraud, under-payment of royalties, fraud in general services contracts and other types of fraud perpetrated against governments.

The whistleblower initially files the case under seal, giving it only to the government and not to the defendant, which permits the government to investigate. After the investigation, the government may take over the whistleblower's suit, or it may decline. If the government declines, the whistleblower can proceed alone on his or her behalf. In successful suits, the whistleblower normally receives between 15 and 30 percent of the government's recovery as a reward.

Since 1986, federal and state false claims act recoveries have totaled more than \$22 billion. Some examples of our cases brought under the False Claims Act include:

**> In U.S. ex rel. Lagow v. Bank of America**

Represented former District Manager at Landsafe, Countrywide Financial's mortgage appraisal arm, who alleged systematic abuse of appraisal guidelines as a means of inflating mortgage values.

**RESULT:** The case was successful, ultimately triggering a settlement of \$1 billion, and our client received a substantial reward.

**> In U.S. ex rel. Mackler v. Bank of America**

Represented a whistleblower who alleged that Bank of America failed to satisfy material conditions of its government contract to provide homeowners mortgage relief under the HAMP program.

**RESULT:** The case succeeded and was settled as part of the 2012 global mortgage settlement, resulting in an award to our client.

**> In U.S. ex rel. Horwitz v. Amgen**

Represented Dr. Marshall S. Horwitz, who played a key role in uncovering an illegal scheme to manipulate the scientific record regarding two of Amgen's blockbuster drugs.

**RESULT:** \$762 million in criminal and civil penalties levied by the U.S. Department of Justice and an award to our client.

**> In U.S. ex rel. Thomas v. Sound Inpatient Physicians Inc. and Robert A. Bessler**

Represented a former regional vice president of operations for Sound Physicians, who blew the whistle on Sound's alleged misconduct.

**RESULT:** Tacoma-based Sound Physicians agreed to pay the United States government \$14.5 million.

**> In U.S. ex rel. Plaintiffs v. Center for Diagnostic Imaging Inc.**

In May 2010, Hagens Berman joined as lead trial counsel a qui tam lawsuit on behalf of two whistleblowers against Center for

## PRACTICE AREAS

# Whistleblower Litigation

Diagnostic Imaging, Inc. (CDI), alleging that CDI violated anti-kickback laws and defrauded federally funded health programs by presenting false claims for payment.

**RESULT:** In 2011, the government intervened in the claims, which the company settled for approximately \$1.3 million. The government declined to intervene, however, in the no-written-orders and kickback claims, leaving those claims for the whistleblowers and their counsel to pursue on their own. The non-intervened claims settled for an additional \$1.5 million payment to the government.

### > Medtronic

On Feb. 19, 2008 the court unsealed a qui tam lawsuit brought by Hagens Berman against Medtronic, one of the world's largest medical technology companies, for fraudulent medical device applications to the FDA and off-label promotion of its biliary devices.

**RESULT:** The case settled in 2012 for an amount that remained under seal.

## SECURITIES AND EXCHANGE COMMISSION / COMMODITY FUTURES TRADING COMMISSION

Since implementation of the SEC/CFTC Dodd Frank whistleblower programs in 2011, Hagens Berman has naturally transitioned into representation of whistleblowers with claims involving violations of the Securities Exchange Act and the Commodities Exchange Act.

Unlike the False Claims Act, whistleblowers with these new programs do not initially file a sealed lawsuit. Instead, they provide information directly to the SEC or the CFTC regarding violations of the federal securities or commodities laws. If the whistleblower's information leads to an enforcement action, they may be entitled to between 10 and 30 percent of the recovery.

The firm currently represents HFT whistleblower and market expert, Haim Bodek, in an SEC fraud whistleblower case that prompted the U.S. Securities and Exchange Commission to bring record-breaking fines against two exchanges formerly owned

by Direct Edge Holdings (and since acquired by Bats Global Markets, the second-largest financial exchange in the country). The exchanges agreed to pay \$14 million to settle charges that the exchanges failed to accurately and completely disclose how order types functioned on its exchanges and for selectively providing such information only to certain high-frequency trading firms.

Hagens Berman also represents an anonymous whistleblower who brought his concerns and original analysis related to the May 2, 2010 Flash Crash to the CFTC after hundreds of hours spent analyzing data and other information.

Both the U.S. Commodity Futures Trading Commission (CFTC) and the Department of Justice, in separate criminal and civil enforcement actions, brought charges of market manipulation and spoofing against Nav Sarao Futures Limited PLC (Sarao Futures) and Navinder Singh Sarao (Sarao) based on the whistleblower's information.

Hagens Berman has worked alongside government officials and regulators, establishing the credibility necessary to bring a case to the SEC or CFTC. When Hagens Berman brings a claim, we work hard to earn their respect and regulators pay attention.

A few of the firm's most recent whistleblower cases in this area include:

### > EDGA Exchange Inc. and EDGX Exchange Inc.

Represented HFT whistleblower and market expert, Haim Bodek, in an SEC fraud whistleblower case against two exchanges formerly owned by Direct Edge Holdings and since acquired by Bats Global Markets, the second-largest financial exchange in the country for spoofing.

**RESULT:** The case prompted the U.S. Securities and Exchange Commission to bring record-breaking fine of \$14 million against defendants, the largest ever brought against a financial exchange.

**PRACTICE AREAS**

## Whistleblower Litigation

**> Nav Sarao Futures Limited PLC**

Hagens Berman represents an anonymous whistleblower who brought his concerns and original analysis to the CFTC after hundreds of hours spent analyzing data and other information. The claim brought about legal action against a market manipulator who profited more than \$40 million from market fraud and contributed to the May 6, 2010 Flash Crash.

**RESULT:** Both the CFTC and the Department of Justice, in separate criminal and civil enforcement actions, brought charges of market manipulation and spoofing against Nav Sarao Futures Limited PLC and Navinder Singh Sarao based on the whistleblower's information. The case is still pending under seal.

**INTERNAL REVENUE SERVICE**

Hagens Berman also represents whistleblowers under the IRS whistleblower program enacted with the Tax Relief and Health Care Act of 2006.

The IRS program offers rewards to those who come forward with information about persons, corporations or any other entity that cheats on its taxes. In the event of a successful recovery of government funds, a whistleblower can be rewarded with up to 30 percent of the overall amount collected in taxes, penalties and legal fees.

Hagens Berman helps IRS whistleblowers present specific, credible tax fraud information to the IRS. Unlike some traditional False Claims Act firms, Hagens Berman has experience representing governments facing lost tax revenue due to fraud, making us well-positioned to prosecute these cases.

# Appellate Victories

**APPELLATE VICTORIES**

## Strengthening Consumer Law

At Hagens Berman, we distinguish ourselves not merely by the results we obtain, but by how we obtain them. Few class-action firms have our firm's combination of resources and acumen to see a case through as long as needed to obtain a favorable outcome. Our attorneys were instrumental in obtaining these federal appellate decisions that have shaped consumer law and bolstered the rights of millions nationwide:

- › **In Matter of Motors Liquidation Co.**, 829 F.3d 135 (2d Cir. 2016) (General Motors bankruptcy reorganization did not bar claims stemming from defective ignition switches)
- › **George v. Urban Settlement Servs.**, 833 F.3d 1242 (10th Cir. 2016) (complaint adequately alleged Bank of America's mortgage modification program violated RICO)
- › **In re Loestrin 24 Fe Antitrust Litig.**, 814 F.3d 538 (1st Cir. 2016) ("reverse payments" for antitrust purposes under **Actavis** are not limited to cash payments)
- › **Osborn v. Visa Inc.**, 797 F.3d 1057 (D.C. Cir. 2015) (complaint adequately alleged Visa and MasterCard unlawfully agreed to restrain trade in setting ATM access fees)
- › **Little v. Louisville Gas & Elec. Co.**, 805 F.3d 695 (6th Cir. 2015) (Clean Air Act did not preempt state nuisance claims against coal plant for polluting surrounding community)
- › **City of Miami v. Citigroup Inc.**, 801 F.3d 1268 (11th Cir. 2015) (reversing dismissal of complaint alleging Citigroup violated Fair Housing Act by pattern of discriminatory lending)
- › **Rajagopalan v. NoteWorld, LLC**, 718 F.3d 844 (9th Cir. 2013) (non-party could not invoke arbitration clause against plaintiff suing debt services provider)
- › **In re Neurontin Mktg. & Sales Practices Litig.**, 712 F.3d 21 (1st Cir. 2013) (affirming \$142 million verdict for injury suffered from RICO scheme by Neurontin manufacturer Pfizer)
- › **In re NCAA Student-Athlete Name & Likeness Licensing Litig.**, 724 F.3d 1268 (9th Cir. 2013) (First Amendment did not shield video game developer's use of college athletes' likenesses)
- › **Garcia v. Wachovia Corp.**, 699 F.3d 1273 (11th Cir. 2012) (Wells Fargo could not rely on **Concepcion** to evade waiver of any right to compel arbitration)
- › **Agnew v. Nat'l Collegiate Athletic Ass'n**, 683 F.3d 328 (7th Cir. 2012) (NCAA bylaws limiting scholarships per team and prohibiting multi-year scholarships are subject to antitrust scrutiny and do not receive pro-competitive justification at pleading stage)
- › **In re Lupron Mktg. & Sales Practices Litig.**, 677 F.3d 21, 24 (1st Cir. 2012) (approving cy pres provision in \$150 million settlement)
- › **In re Pharm. Indus. Average Wholesale Price Litig.**, 582 F.3d 156 (1st Cir. 2009) (AstraZeneca illegally published inflated average wholesale drug prices, thereby giving windfall to physicians and injuring patients who paid inflated prices)

**We set ourselves apart not only by getting results but by litigating every case through to finish – to trial and appeal, if necessary. This tenacious drive has led our firm to generate groundbreaking precedents in consumer law.**

Hagens Berman has also been active in state courts nationwide. Notable examples of our victories include:

- › **Garza v. Gama**, 379 P.3d 1004 (Ariz. Ct. App. 2016) (reinstating certified class in wage-and-hour action prosecuted by Hagens Berman since 2005)
- › **In re Farm Raised Salmon Cases**, 42 Cal. 4th 1077 (Cal. 2008) (Federal Food, Drug and Cosmetic Act did not preempt state claims for deceptive marketing of food products)
- › **Pickett v. Holland Am. Line-Westours, Inc.**, 35 P.3d 351 (Wash. 2001) (reversing state court of appeals and upholding class action settlement with cruise line)

Legal Team



**MANAGING PARTNER****Steve W. Berman**

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

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**YEARS OF EXPERIENCE**

> 41

**PRACTICE AREAS**

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

**BAR ADMISSIONS**

- > Washington
- > Illinois Foreign
- > Registered Attorney in  
England and Wales

**COURT ADMISSIONS**

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

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

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

**CURRENT ROLE**

- > Managing Partner, Hagens Berman Sobol Shapiro LLP

**RECENT CASES****> Emissions Litigation**

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

**> General Motors Ignition Switch Defect Litigation**

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

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

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

- › Second Circuit Court of Appeals
- › Third Circuit Court of Appeals
- › Fifth Circuit Court of Appeals
- › Sixth Circuit Court of Appeals
- › Seventh Circuit Court of Appeals
- › Eighth Circuit Court of Appeals
- › Ninth Circuit Court of Appeals
- › Tenth Circuit Court of Appeals
- › Eleventh Circuit Court of Appeals
- › DC Circuit Court of Appeals
- › Federal Circuit Court of Appeals
- › U.S. Court of Federal Claims
- › Foreign Registered Attorney in England and Wales

#### EDUCATION

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

#### MANAGING PARTNER

## Steve W. Berman

warming-induced sea level rise and related expenses to protect the cities and their millions of residents.

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

Steve has been retained by various municipalities, including the states of Ohio, Mississippi and Arkansas, Orange County, as well as the city of Seattle to serve as trial counsel in a recently filed state suit against five manufacturers of opioids seeking to recover public costs resulting from the opioid manufacturer's deceptive marketing.

#### › Antitrust Litigation

Corporate fraud has many faces, and Steve has taken on some of the largest perpetrators through antitrust law. Steve serves as co-lead counsel in Visa MasterCard ATM, Batteries, Optical Disc Drives and is in the leadership of a class-action lawsuit against Qualcomm for orchestrating a monopoly that led to purchasers paying significantly more for mobile devices. He serves as interim class counsel in a case against Tyson, Purdue and other chicken producers for conspiring to stabilize prices by reducing chicken production. Steve also filed a proposed class-action lawsuit against the world's largest manufacturers of Dynamic Random Access Memory (DRAM) for cornering the market and driving up DRAM prices. Most recently, Steve's antitrust case against the NCAA involving rights of college athletes to receive grant-in-aid scholarships saw a unanimous Supreme Court victory, in what media called a "major ruling" (ABC World News Tonight), that "will change the game" (ABC Good Morning America), and leaves the NCAA "more vulnerable than ever" (AP).

#### › Consumer Protection

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

#### RECENT SUCCESS

#### › Volkswagen Franchise Dealerships - \$1.6 billion

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

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

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

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

Served as co-lead counsel in the Alston case that successfully challenged the NCAA's limitations on the benefits college athletes can receive as part of a scholarship, culminating in a \$208 million settlement and injunction upheld by the Supreme Court. The recovery amounts to 100 percent of single damages in an exceptional result in an antitrust case. Steve also co-led the 2018 trial on the injunctive aspect of the case which resulted in a change of NCAA rules limiting the financial treatment of athletes.

The injunction, which was upheld in a unanimous Supreme Court decision in June 2021, prohibits the NCAA from enforcing any rules that fix or limit compensation provided to college athletes by schools or conferences in consideration for their athletic services other than cash compensation untethered to education-related expenses. According to the Ninth Circuit, the NCAA is "permanently restrained and enjoined from agreeing to fix or limit compensation or benefits related to education" that conferences

**MANAGING PARTNER****Steve W. Berman**

may make available. In the Supreme Court's 9-0, Justice Kavanaugh stated, "The NCAA is not above the law."

**> Dairy Price-Fixing – \$52 million**

This antitrust suit's filing unearthed a massive collusion between the biggest dairy producers in the country, responsible for almost 70 percent of the nation's milk. Not only was the price of milk artificially inflated, but this scheme ultimately also cost 500,000 young cows their lives.

**CAREER HIGHLIGHTS****> State Tobacco Litigation - \$260 billion**

Special assistant attorney general for the states of Washington, Arizona, Illinois, Indiana, New York, Alaska, Idaho, Ohio, Oregon, Nevada, Montana, Vermont and Rhode Island in prosecuting major actions against the tobacco industry. In November 1998, the initial proposed settlement led to a multi-state settlement requiring the tobacco companies to pay the states \$260 billion and to submit to broad advertising and marketing restrictions – the largest civil settlement in history.

**> Visa MasterCard ATM Antitrust Litigation - \$27 billion**

Co-lead counsel in what was then the largest antitrust settlement in history: a class-action lawsuit alleging that Visa and MasterCard, together with Bank of America, JP Morgan Chase and Wells Fargo, violated federal antitrust laws by establishing uniform agreements with U.S. banks, preventing ATM operators from setting ATM access fees below the level of the fees charged on Visa's and MasterCard's networks.

**> Toyota Sudden, Unintended Acceleration - \$1.6 billion**

Hagens Berman was co-lead counsel in this massive MDL alleging that Toyota vehicles contained a defect causing sudden, unintended acceleration (SUA). It was the largest automotive settlement in history at the time, valued at up to \$1.6 billion. The firm did not initially seek to lead the litigation, but was sought out by the judge for its wealth of experience in managing very complex class-action MDLs. Hagens Berman and managing partner Steve Berman agreed to take on the role of co-lead counsel for the economic loss class and head the plaintiffs' steering committee.

**> Washington Public Power Supply System (WPPSS) - \$700 million settlement**

Represented bondholders and the bondholder trustee in a class-action lawsuit stemming from the failure of two WPPSS nuclear projects. The case was one of the most complex and lengthy securities fraud cases ever filed. The default was one of the largest municipal bond defaults in history. After years of litigation, plaintiffs were awarded a \$700 million settlement agreement brought against more than 200 defendants.

**> E-books Antitrust Litigation - \$560 million settlement**

Fought against Apple and five of the nation's top publishers for colluding to raise the price of e-books, resulting in recovery equal to twice consumers' actual damages. The firm recovered an initial settlement of more than \$160 million with defendant publishing companies in conjunction with several states attorneys general. Steve then led the firm to pursue Apple for its involvement in the e-book price hike. Apple took the case to the Supreme Court, where it was ruled that Apple had conspired to raise prices, and the firm achieved an additional \$450 million settlement for consumers.

**> Enron Pension Protection Litigation - \$250 million settlement**

Led the class-action litigation on behalf of Enron employees and retirees alleging that Enron leadership, including CEO Ken Lay, had a responsibility to protect the interests of those invested in the 401(k) program, an obligation they abrogated. The court selected Steve to co-lead the case against Enron and the other defendants.

**MANAGING PARTNER****Steve W. Berman**

- › **Charles Schwab Securities Litigation** - \$235 million settlement  
Led the firm to file the first class-action lawsuit against Charles Schwab on Mar. 18, 2008, alleging that Schwab deceived investors about the underlying risk in its Schwab YieldPlus Funds Investor Shares and Schwab YieldPlus Funds Select Shares.
- › **JP Morgan Madoff Lawsuit** - \$218 million settlement  
Represented Bernard L. Madoff investors in a suit filed against JPMorgan Chase Bank, one of the largest banks in the world.
- › **NCAA Grants-in-Aid Scholarships** - \$208 million settlement, and permanent injunction upheld by the Supreme Court  
Led the firm's tenacious antitrust class action against the NCAA on behalf of college athletes, claiming that the NCAA had violated the law when it kept the class from being able to receive compensation provided by schools or conferences for athletic services other than cash compensation untethered to education-related expenses. The Supreme Court upheld the favorable opinion of the Ninth Circuit in a 9-0 ruling. Justice Kavanaugh's opinion further underscored the massive win for plaintiffs and the ruling's ongoing effects: "The NCAA couches its arguments for not paying student athletes in innocuous labels. But the labels cannot disguise the reality: The NCAA's business model would be flatly illegal in almost any other industry in America," pushing for further scrutiny of the NCAA's regulations.
- › **Boeing Securities Litigation** - \$92.5 million settlement  
Represented a class of tens of thousands of shareholders against Boeing, culminating in a proposed settlement that was the second-largest awarded in the Northwest.
- › **NCAA Concussions** - \$75 million settlement, and 50-year medical monitoring fund  
Led the firm's pioneering NCAA concussions suit that culminated in a proposed settlement that will provide a 50-year medical-monitoring program for student-athletes to screen for and track head injuries; make sweeping changes to the NCAA's approach to concussion treatment and prevention; and establish a \$5 million fund for concussion research, preliminarily approved by the court.
- › **US Youth Soccer Settlement**  
Revolutionary settlement that changed U.S. Soccer regulations and bought sweeping safety measures to the game. Steve spearheaded a lawsuit against soccer-governing bodies, achieving a settlement that ended heading of the ball for U.S. Soccer's youngest players and greatly diminished risk of concussions and traumatic brain injuries. Additionally, the settlement highlights the importance of on-staff medical personnel at youth tournaments, as well as ongoing concussion education for coaches.

**RECOGNITION**

- › 2023 Best Lawyers in America in Litigation - Securities and Product Liability Litigation - Plaintiffs
- › 2018, 2020, 2022 Titan of the Plaintiffs Bar, Law360
- › 2022 Leading Commercial Litigators, The Daily Journal
- › 2022 Hall of Fame, Lawdragon
- › 2017, 2022 Plaintiffs' Attorneys Trailblazer, The National Law Journal
- › 1999-2022 Washington Super Lawyers
- › 2021 Sports & Entertainment Law Trailblazer, The National Law Journal
- › 2021, 2019, 2018 Honoree for Outstanding Antitrust Litigation Achievement in Private Law Practice, American Antitrust Institute

**MANAGING PARTNER****Steve W. Berman**

- › 2016-2020 Class Action MVP of the Year, Law360
- › 2014-2016, 2018-2019 Elite Trial Lawyers, The National Law Journal
- › 2019-2020 Lawdragon 500 Leading Lawyers in America, Plaintiff Financial Lawyers
- › 2014-2019 Lawdragon 500 Leading Lawyers in America
- › 2018 State Executive Committee member, The National Trial Lawyers
- › 2017 Class Actions (Plaintiff) Law Firm of the Year in California, Global Law Experts
- › 2014 Finalist for Trial Lawyer of the Year, Public Justice
- › 2013 One of the 100 most influential attorneys in America, The National Law Journal
- › 2000 Most powerful lawyer in the state of Washington, The National Law Journal
- › One of the top 10 plaintiffs' firms in the country, The National Law Journal

**ACTIVITIES**

- › In April of 2021, the University of Michigan School for Environment and Sustainability (SEAS) launched the Kathy and Steve Berman Western Forest and Fire Initiative with a philanthropic gift from Steve (BS '76) and his wife, Kathy. The program will improve society's ability to manage western forests to mitigate the risks of large wildfires, revitalize human communities and adapt to climate change.

Steve studied at the School of Natural Resources (now SEAS) and volunteered as a firefighter due to his focus on environmental stewardship.

- › In 2003, the University of Washington announced the establishment of the Kathy and Steve Berman Environmental Law Clinic. The Berman Environmental Law Clinic draws on UW's environmental law faculty and extensive cross-campus expertise in fields such as Zoology, Aquatic and Fishery Sciences, Forest Resources, Environmental Health and more. In addition to representing clients in court, the clinic has become a definitive information resource on contemporary environmental law and policy, with special focus on the Pacific Northwest.

**OTHER NOTABLE CASES**

- › **VW Emissions Litigation - \$14.7 billion settlement**  
Steve served as a member of the Plaintiffs Steering Committee representing owners of Volkswagen CleanDiesel vehicles that were installed with emissions-cheating software.
- › **McKesson Drug Class Litigation - \$350 million settlement**  
Lead counsel in an action that led to a rollback of benchmark prices of hundreds of brand name drugs, and relief for third-party payers and insurers. His discovery of the McKesson scheme led to follow up lawsuits by governmental entities and recovery in total of over \$600 million.
- › **Average Wholesale Price Litigation - \$338 million settlement**  
Steve served as lead trial counsel, securing trial verdicts against three drug companies that paved the way for settlement.
- › **DRAM Memory Antitrust - \$345 million settlement**  
Forged a class-action suit against leading DRAM (Dynamic Random Access Memory) manufacturers, claiming the companies secretly agreed to reduce the supply of DRAM in order to artificially raise prices.
- › **Hyundai / Kia Fuel Efficiency - \$210 million settlement**  
Led the firm's aggressive fight as court-appointed co-lead counsel against Hyundai and Kia on behalf of defrauded consumers who alleged the automakers had misrepresented fuel economies in vehicles,

**MANAGING PARTNER****Steve W. Berman**

securing what was believed to then be the second-largest automotive settlement in history.

- › **Bextra/Celebrex Marketing and Products Liability Litigation - \$89 million settlement**  
Served as court-appointed member of the Plaintiffs Steering Committee and represented nationwide consumers and third party payers who paid for Celebrex and Bextra. The firm was praised by the court for its “unstinting” efforts on behalf of the class.
- › **McKesson Governmental Entity Class Litigation - \$82 million settlement**  
Steve was lead counsel for a nationwide class of local governments that resulted in a settlement for drug price-fixing claims.
- › **NCAA/Electronic Arts Name and Likeness - \$60 million settlement**  
Represented current and former student-athletes against the NCAA and Electronic Arts concerning illegal use of college football and basketball players’ names and likenesses in video games without permission or consent from the players.
- › **State and Governmental Drug Litigation**  
Steve served as outside counsel for the state of New York for its Vioxx claims, several states for AWP claims and several states for claims against McKesson. In each representation, Steve recovered far more than the states in the NAAG multi-state settlements.
- › **Exxon Mobile Oil Spill**  
Steve represented clients against Exxon Mobil affected by the 10 million gallons of oil spilled off the coast of Alaska by the Exxon Valdez (multimillion-dollar award).
- › **Lumber Liquidators Flooring**  
Steve was court-appointed co-lead counsel in litigation against Lumber Liquidators representing consumers who unknowingly purchased flooring tainted with toxic levels of cancer-causing formaldehyde. The consumer settlement was confidential.

**PRESENTATIONS**

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

**PERSONAL INSIGHT**

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

**PARTNER, EXECUTIVE COMMITTEE MEMBER****Robert B. Carey**

*Rob added to HB's office a built-in mock courtroom, complete with jury box, audio-visual equipment to record witnesses and lawyers, and separate deliberation rooms for two juries. [Download photo »](#)*

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**YEARS OF EXPERIENCE**

> 34

**PRACTICE AREAS**

- > Personal Injury Litigation
- > Insurance Bad Faith
- > Breach of Contract Claims

**BAR ADMISSIONS**

- > Arizona
- > Colorado

**COURT ADMISSIONS**

- > U.S. Supreme Court
- > United States Court of Appeals for the Federal Circuit
- > U.S. Court of Appeals, Fifth Circuit
- > U.S. Court of Appeals, Seventh Circuit
- > U.S. Court of Appeals, Ninth Circuit
- > U.S. Court of Appeals, Tenth Circuit
- > Various federal district courts

**EDUCATION**

- > University of Denver, M.B.A., J.D., 1986
- > Arizona State University, B.S., 1983
- > Harvard University, John F. Kennedy School of Government, State & Local Government Program, 1992

Mr. Carey handles various types of injury and consumer claims. Mr. Carey was lead counsel on a jury trial that produced the largest medical-malpractice verdict in 2018, secured class certification in class actions on behalf of consumers and workers where damages are almost \$2 billion, and investigated the dialysis industry's role in deaths caused by central venous catheter infections and misuse of dialysis solutions.

**CURRENT ROLE**

- > Partner & Executive Committee Member, Hagens Berman Sobol Shapiro LLP
- > Leads Hagens Berman's Phoenix office

> Practice focuses on class-action lawsuits, including auto defect, insurance, right of publicity and fraud cases. Mr. Carey's work also extends to bad-faith insurance, personal injury and medical malpractice, with several trials involving verdicts in the hundreds of millions.

- Frequently asked to handle jury trials for high-value cases

**RECENT SUCCESS**

- > In June 2018, a Denver jury awarded a monumental \$383.5 million jury verdict against GranuFlo dialysis provider, DaVita Inc. culminating lawsuits brought by families of three patients who suffered cardiac arrests and died after receiving dialysis treatments at DaVita clinics. Each of the three parties was awarded \$125 million in punitive damages from the jury, with compensatory damages ranging from \$1.5 million to \$5 million.
- > Over the summer of 2012, Rob was lead counsel in Robin Antonick's case against Electronic Arts, where a jury heard evidence that Electronic Arts failed to pay Antonick for over 20 years for his work in coding and developing the legendary Madden NFL Football video game. This trial, held in the Northern District of California, resulted in two verdicts for Antonick and was dubbed a "Top Trial Verdict of 2013" by The Daily Journal, a leading legal publication.
- > Prevailed at the Arizona Court of Appeals for the second time, keeping intact class certification for tens of thousands of truck drivers suing to recover underpayments caused by misuse of Rand McNally's HHG software by Swift Transportation.
- > Helped originate the Toyota Sudden Unintended Acceleration case, filing the initial Hagens Berman complaints for a case that eventually settled for \$1.6 billion
- > Led Hagens Berman's efforts on the \$97 million settlement with Hyundai and Kia corporations over misrepresentations about MPG ratings
- > Helped secure a first-ever (\$60 million) settlement for collegiate student-athletes (Keller, consolidated with O'Bannon) from Electronic Arts (EA) and the NCAA for the misappropriation of the student-athletes' likenesses and images for the EA college football video game series. This groundbreaking suit went up to the U.S. Supreme Court before a settlement was reached, providing student-athletes—even current ones—with cash recoveries for the use of their likenesses without permission.
- > Represented Donovan Hill against Pop Warner after he was paralyzed at 13. With Rachel Fitzpatrick, Rob secured a settlement that "forever changed youth football" (OC Weekly) and was "unprecedented" and owed a debt of gratitude by those who care about the safety of kids playing football (Washington



**PARTNER, EXECUTIVE COMMITTEE MEMBER****Robert B. Carey**

Post). Donovan died tragically during a 2016 surgery.

- › Rob secured a record verdict for a mother suing her deceased son's estate for negligence in starting a home fire. He then took an assignment of the estate's claim and pursued a bad faith claim against the insurer, resulting in lifetime financial security for the badly burned mother.
- › After successfully reforming an insurance policy to cover a client – a student-athlete injured in a roll-over accident that caused incomplete tetraplegia and traumatic brain injury – Rob went to the jury, which awarded damages for all harms and losses requested and for insurance bad faith, with a verdict exceeding over 15 times policy limits.
- › Rob sued the leading auto carrier for refusal to fully cover a pedestrian struck by the carrier's driver. The verdict was valued over seven figures, and included a finding of willful and wanton conduct, trebling the damages.
- › After Rob cross-examined the CEO and CFO of a pharmacy benefits company, the jury entered a verdict for his client in the liability phase of a \$75-million dispute.
- › During his representation of a driver paralyzed by a car's roof collapse, the insurance company ignored that the agent did not understand or offer required high-end coverages. The jury returned a verdict with a value over seven figures, including a finding for treble damages.
- › Rob represented passengers of drunk driver, and persuaded the jury to award future earning capacity, essential services, medical bills and to find willful and wanton conduct against the insurer (treble damages). After a successful trip to the state supreme court, the verdict was maintained and had a value in excess of 15 times the policy limits.

**RECOGNITION**

- › Best Lawyers in America 2023 in Litigation - Insurance and Personal Injury Litigation - Plaintiffs
- › One of 500 Leading Lawyers in America selected (again) by Lawdragon, and the only Arizona or Colorado attorney to make the list.
- › Listed since 2008 as a Top 100 Trial Lawyer by Arizona's Finest Lawyers and National Trial Lawyers
- › Recognized by the judges of the Superior Court of Arizona in Maricopa County for outstanding contributions to the justice system.
- › Member of Hagens Berman's Toyota team selected as a Finalist for Public Justice's 2014 Trial Lawyer of the Year
- › Selected as a Leading Plaintiff Financial Lawyer in America and a Leading Plaintiff Consumers Lawyer in America
- › U.S. Department of Justice, recognized for victims' rights efforts

**EXPERIENCE**

- › Adjunct Professor, Sandra Day O'Connor College of Law, teaching class actions. Has taught law and policy courses at other universities.
- › Judge Pro Tempore, Maricopa County Superior Court, presiding over contract and tort jury trials
- › In the 90s, he served as trial counsel on claims by counties for damages stemming from tobacco-



**PARTNER, EXECUTIVE COMMITTEE MEMBER****Robert B. Carey**

related illnesses (and acted as special counsel for Hagens Berman in seeking to recover damages in the landmark tobacco litigation), and since then has led dozens of consumer and insurance class actions in various states.

- › While serving as Arizona Chief Deputy Attorney General Mr. Carey helped secure a \$4 billion divestiture and a landmark \$165 million antitrust settlement. He also was a principal drafter of the first major overhaul of Arizona's criminal code and authored the section of the federal Prisoner Litigation Reform Act of 1995 for Senators Dole and Kyl that virtually eliminated frivolous prisoner lawsuits. Mr. Carey oversaw all major legal, policy, legislative and political issues for the Arizona attorney general's office. He developed and spearheaded passage of Arizona's law requiring the DNA testing of all sex offenders and the law requiring that criminals pay the cost of victims' rights.
- › Campaign staffer, intern, and staff member for U.S. Senator John McCain, during and after Senator McCain's first run for public office

**LEGAL ACTIVITIES**

- › Member and Former Chairman, Arizona State Bar Class Action and Derivative Suits Committee

**PUBLICATIONS**

- › Co-author of "7 Punitive Damages Strategies," Trial Magazine, April 2019
- › Co-author of the Arizona chapter of the ABA's "A Practitioner's Guide to Class Actions"
- › Co-author of the Arizona and Colorado chapters of the ABA's "A Practitioner's Guide to Class Actions" (2d ed.)

**NOTABLE CASES**

- › Propane Exchange Tank Litigation
- › Hyundai/Kia MPG Litigation
- › Swift Truckers Litigation
- › Toyota Unintended Acceleration Litigation
- › NCAA Student-Athlete Name and Likeness Licensing Litigation
- › Hyundai Subframe Defect Litigation
- › Hyundai Occupant Classification System / Airbag Litigation
- › Hyundai Horsepower Litigation
- › Arizona v. McKesson False Claims and Consumer Protection Litigation (representing State of Arizona)
- › Apple Refurbished iPhone/iPad Litigation
- › Jim Brown v. Electronic Arts
- › LifeLock Sales and Marketing Litigation
- › Rexall Sundown Cellasene Litigation

**PARTNER**

## Leonard W. Aragon

*Before attending college, Mr. Aragon fulfilled his dream as a scout for the 2/68 Armored Tank Battalion.*

**CONTACT**

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**YEARS OF EXPERIENCE**

> 20

**PRACTICE AREAS**

- > Commercial Litigation
- > Mass Tort
- > Appellate Advocacy
- > Personal Injury

**COURT ADMISSIONS**

- > U.S. District Court, District of Arizona
- > U.S. District Court, District of Colorado

**EDUCATION**

- > Stanford Law School, J.D., 2001
- > Arizona State University, B.A., History and Political Science, summa **cum laude**, 1998

**INDUSTRY EXPERIENCE**

- > Consumer Fraud
- > Software
- > Sports Law
- > Health Care
- > Pharmaceuticals
- > Election Law
- > Gambling
- > Administrative Procedures Act

**CURRENT ROLE**

- > Partner and Management Committee Member, Hagens Berman Sobol Shapiro LLP
- > Practice focuses on nationwide class actions and other complex litigation
- > Currently counsel for plaintiffs in the highly publicized cases **Keller v. Electronic Arts** and **In re NCAA Student-Athlete Name and Likeness Licensing Litigation** which alleges that video game manufacturer Electronic Arts, the National Collegiate Athletic Association, and the Collegiate Licensing Company used the names, images and likenesses of student-athletes in violation of state right of publicity laws and the NCAA's contractual agreements with the student-athletes. The plaintiffs reached a settlement with EA and the CLC in May for \$40 million and reached a settlement in June with the NCAA for \$20 million. The parties are in the process of seeking approval from the Court for the two settlements.

**RECENT SUCCESS**

- > Multimillion-dollar jury verdict believed to be the largest in Columbiana County, Ohio history
- > Multimillion-dollar class-action settlement on behalf of a nationwide class of student-athletes whose images were used on a website affiliated with CBS Interactive without their permission or compensation
- > Obtained two jury verdicts in favor of the original developer of the Madden Football video game franchise in phased trial over unpaid royalties

**RECOGNITION**

- > Super Lawyers, Rising Star: Class Action/Mass Tort

**LEGAL ACTIVITIES**

- > Adjunct Professor, Sandra Day O'Connor College of Law, Arizona State University
- > State Bar of Arizona Bar Leadership Institute Class I
- > Pro bono work in insurance, immigration, family and contract law

**NOTABLE CASES**

- > **In re NCAA Student-Athlete Name and Likeness Licensing Litigation**
- > **Keller v. Electronic Arts Inc.**
- > **Antonick v. Electronic Arts Inc.**
- > **In re Swift Transportation Co., Inc.**
- > **Hunter v. Hyundai Motor America**
- > **Jim Brown v. NCAA; Liebich v. Maricopa County Community College District**
- > **Liebich v. Maricopa County Community College District**

**PERSONAL INSIGHT**

Before entering the practice of law, Mr. Aragon was a scout for the 2/68 Armored Tank Battalion, communications director for a successful congressional campaign, and waited on season tickets holders at America West Arena so that he could secretly watch the Phoenix Suns.

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**ATTESTATION**

Pursuant to Section II.C of the Electronic Case Filing Administrative Policies and Procedures Manual, I hereby attest that the signatory listed, and on whose behalf the filing is submitted, concur in the filing's content and have authorized the filing.

DATED: November 22, 2023

/s/ Roger N. Heller  
Roger N. Heller