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**SOQ 23-030-Providing Various Supplemental Professional Legal Services  
when needed for Jefferson Parish**  
Jefferson Parish Government

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30-Oct-2023 09:07:19 AM

## **Professional Legal Services Questionnaire Instructions**

- The Professional Legal Services Questionnaire shall be used for outside legal services.
- **The Professional Legal Services Questionnaire should be completely filled out. Complete and attach ALL sections. Insert “N/A” or “None” if a section does not apply or if there is no information to provide.**
- Questionnaire must be signed by an authorized representative of the Firm. Failure to sign the questionnaire shall result in disqualification of proposer pursuant to J.P. Code of Ordinances Sec. 2-928.
- All subcontractors must be listed in the appropriate section of the Questionnaire. Each subcontractor must provide a complete copy of the Professional Legal Services Questionnaire, applicable licenses, and any other information required by the advertisement. Failure to provide the subcontractors' complete questionnaire(s), applicable licenses, and any other information required by the advertisement shall result in disqualification of proposer pursuant to J.P. Code of Ordinances Sec. 2-928.
- If additional pages are needed, attach them to the questionnaire and include all applicable information that is required by the questionnaire.

## Professional Legal Services Questionnaire

**A. Person or Firm Name & Principal Address:**

Kahn Swick & Foti, LLC

**B. Name, Title, & contact information of Firm Representative, as defined in Section 2-926 of the Jefferson Parish Code of Ordinances, who is licensed to practice law in the State of Louisiana with a minimum of five (5) years' experience:**

Lewis Kahn, Managing Partner  
1100 Poydras St., Suite 960  
New Orleans, Louisiana 70163  
(504) 648-1850 Direct  
(504) 301-7900 Mobile  
(504) 455-1498 Fax  
lewis.kahn@ksfcounsel.com

**C. Location of the principal:**

1100 Poydras St., Suite 960  
New Orleans, Louisiana 70163

**D. Please check the legal field or fields in which Firm is qualified to perform services for Jefferson Parish and include the number of years of experience in that particular field.**

- |  |   |
|--|---|
| <p><input type="checkbox"/> Bond Services (Years: _____)</p> <p><input type="checkbox"/> Elections (Years: _____)</p> <p><input type="checkbox"/> Administrative &amp; Regulatory (Years: _____)</p> <p><input checked="" type="checkbox"/> Antitrust Law (Years: <u>27</u>)</p> <p><input type="checkbox"/> Business Law (Years: _____)</p> <p><input type="checkbox"/> Criminal Justice (Years: _____)</p> <p><input type="checkbox"/> Dispute Resolution (Years: _____)</p> <p><input type="checkbox"/> Environmental, Energy &amp; Resources (Years: _____)</p> <p><input type="checkbox"/> Health Law (Years: _____)</p> <p><input type="checkbox"/> Intellectual Property (Years: _____)</p> <p><input type="checkbox"/> International Law (Years: _____)</p> <p><input type="checkbox"/> Labor &amp; Employment Law (Years: _____)</p> <p><input type="checkbox"/> Public Contract Law (Years: _____)</p> | <p><input type="checkbox"/> Science &amp; Technology Law (Years: _____)</p> <p><input type="checkbox"/> State &amp; Local Government Law (Years: _____)</p> <p><input type="checkbox"/> Taxation (Years: _____)</p> <p><input type="checkbox"/> Tort Trial &amp; Insurance Practices (Years: _____)</p> <p><input checked="" type="checkbox"/> Complex Litigation (including asbestos litigation)<br/>(Years: <u>27</u>)</p> <p><input checked="" type="checkbox"/> Securities (Years: <u>27</u>)</p> <p><input type="checkbox"/> Ethics Law (Years: _____)</p> <p><input type="checkbox"/> Civil Service Matters (Years: _____)</p> <p><input type="checkbox"/> Civil Rights &amp; the Constitution (Years: _____)</p> <p><input type="checkbox"/> Municipal Representation (including liability &amp; intergovernmental conflicts) (Years: _____)</p> <p><input type="checkbox"/> Code Enforcement Matters (Years: _____)</p> |
|--|---|

## Professional Legal Services Questionnaire

__ Public Utilities Law (Years: _____) __ Communications Law (Years: _____) __ Transportation Law (Years: _____) __ Property (Years: _____) __ Trust & Estate Law (Years: _____) __ Other/specific project as required by the advertisement (Years: _____)	__ Oil Spill Litigation (Years: _____) __ Public Finance (Years: _____) __ Land Use, Planning & Zoning Law (Years: _____) __ Economic Development (Years: _____) __ Construction Law (Years: _____)
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**E. List all subcontractors anticipated for this Project. Please note that all subcontractors must submit a fully completed copy of this questionnaire, applicable licenses, and any other information required by the advertisement. See Jefferson Parish Code of Ordinances, Sec. 2-928(a)(3). Please attach additional pages if necessary.**

Name & Address:	Specialty:	Worked with Firm Before (Yes or No):
1. N/A		
2.		
3.		
4.		

## Professional Legal Services Questionnaire

### **F. Professional Training and experience in relation to the type of work required for the outside legal services.**

Kahn Swick & Foti, LLC ("KSF") is one of the nation's premier boutique complex civil litigation law firms with offices in Louisiana (New Orleans, principal office), California, New York and New Jersey providing legal counsel to clients both big and small in cases of significant scope, size and national import. Although specializing in securities litigation, KSF has longstanding experience in a variety of complex and multi-party litigation settings including but not limited to medical and pharmaceutical product liability, general consumer product liability, mergers and acquisitions and antitrust actions.

KSF has its roots in Jefferson Parish, beginning as Kahn Gauthier Law Group, a partnership between the late nationally-known attorney Wendell H. Gauthier and Lewis Kahn. Evolving further over the past 16 years, KSF has litigated cases in federal and state courts across the country, often taking on a leadership role in the direction of the litigation by being appointed as lead or co-lead counsel by the presiding courts, which have resulted in hundreds of millions of dollars in recovery for its clients.

Such actions include the prominent case of *Erica P. John Fund, Inc. v. Halliburton Co., et al.*, No. 3:02-cv-1152 (N.D. Tex. March 31, 2017), with KSF achieving a \$100 million settlement for the Class after nearly 15 years of litigation, including two appearances before the Supreme Court of the United States -- where KSF was twice victorious. Also notable is that prior lead counsel replaced by KSF had years earlier attempted to settle the case for \$6 million -- 1600% less than the amount achieved by our firm.

In *In re Petrobras Securities Litigation*, No. 1:14-cv-9662 (S.D.N.Y.), KSF was a Member of the Plaintiffs' Steering Committee for the Individual Actions ("PSC"), in coordination with the federal securities class action against Brazil's state-controlled petrochemical company arising from "Operação Lava Jato," the largest corruption scandal in the history of Latin America, whereby Plaintiffs alleged Defendants deliberately overpaid on various construction contracts in return for kickbacks. As a Member of the PSC, KSF was found by the Court to have "made a substantial contribution to the class," June 22, 2018 Opinion and Order at 39 (D.E. 834), the result of which was a settlement of \$3 billion for investors which returned approximately 65% more to shareholders than received in other individual actions.

Other notable cases litigated by KSF include: *In re Bank of America Corp. Securities, Derivative, and Employment Retirement Income Security Act (ERISA) Litigation*, 09 Civ. 580 (DC) (S.D.N.Y.) (settlement in derivative action, including \$62.5 million recovery for company and substantial corporate governance changes); *In re Barnes & Noble Stockholder Derivative Litigation*, CA No. 4813-VCS (Del. Ch. Ct.) (settlement in derivative action, resulting in recovery of \$29 million for Barnes & Noble, Inc. in the form of reductions to principal and interest); and *In re Virgin Mobile USA IPO Litigation*, 2:07-cv-05619-SDW-MCA, (D.N.J.) (\$19.5 million recovery for the investor class).

### **G. Size of Firm and capacity for timely completion of newly assigned work considering the number of professional and support personnel required to perform the type of outside legal services tasks and the Firm's current unfinished workload.**

KSF employs 28 attorneys and six support personnel available to provide the highest level of legal services and with the experience to do so. Handling cases of the complex and varied nature as we do requires a dynamic combination of knowledge, experience, organization and strategic execution.

## Professional Legal Services Questionnaire

<b>i. Please specify the total number of support staff that may assist in the completion of a matter for each area of the law selected above: <u>6 Full-time</u></b>		
<b>ii. List any attorneys that may assist in the completion of a matter for each area of the law selected above. If necessary, please attach additional documentation that demonstrates the employment history and experience of the Firm's attorneys that may assist in the completion of this Project (i.e. resume). Please attach additional pages if necessary.</b>		
<b>Name:</b>	<b>Legal Field:</b>	<b>Years of Experience in Legal Field:</b>
<b>1.</b> Please see attached firm resume and bios.		
<b>2.</b>		
<b>3.</b>		
<b>4.</b>		
<b>5.</b>		

## Professional Legal Services Questionnaire

**H. Past performance by person or Firm on Parish contracts. Please attach additional pages if necessary.**

N/A

**I. Adversarial legal proceedings between the Parish and the person or Firm performing professional services, in which the Parish prevailed, and excluding those instances or cases where the person or Firm was added as an indispensable party, or where the person or Firm participated in or assisted the public entity in prosecution of its claim. In the event that the person or Firm fails to provide accurate and detailed information regarding legal proceedings with the Parish, including the absence of legal proceedings, the person or firm shall be deemed unresponsive with regard to this category, and zero (0) points shall be awarded. Please attach additional pages if necessary.**

N/A

## Professional Legal Services Questionnaire

### **J. Prior successful completion of projects of the type and nature of legal services, as defined, for which Firm has provided verifiable references. (List no more than 10 projects.)**

**1.**

*Erica P. John Fund, Inc. v. Halliburton Co., et al.*, No. 3:02-cv-1152 (N.D. Tex. March 31, 2017).

After almost 15 years of hard-fought litigation, KSF obtained a settlement of \$100 million in this seminal securities fraud class action against Halliburton. This result is remarkable in that: (i) this case was litigated twice to the United States Supreme Court where KSF emerged victorious - twice; and (ii) even more notable, a proposed settlement of this very case was attempted by three other class action firms, years earlier, for only \$6 million, 1600% less than the amount achieved by our firm.

**2.**

In *In re Petrobras Securities Litigation*, No. 1:14-cv-9662 (S.D.N.Y.), KSF was a Member of the Plaintiffs' Steering Committee for the Individual Actions ("PSC"), in coordination with the federal securities class action against Brazil's state-controlled petrochemical company arising from "Operação Lava Jato," the largest corruption scandal in the history of Latin America, whereby Plaintiffs alleged Defendants deliberately overpaid on various construction contracts in return for kickbacks. As a Member of the PSC, KSF was found by the Court to have "made a substantial contribution to the class," June 22, 2018 Opinion and Order at 39 (D.E. 834), the result of which was a settlement of \$3 billion for investors which returned approximately 65% more to shareholders than received in other individual actions.

**3.**

*In re Bank of America Corp. Securities, Derivative, and Employment Retirement Income Security Act (ERISA) Litigation*, 09 Civ. 580 (DC) (S.D.N.Y.)

Achieved settlement in derivative action, including \$62.5 million recovery for company and substantial corporate governance changes.

**4.**

*In re Barnes & Noble Stockholder Derivative Litigation*, C.A. No.4813-VCS (Del. Ch. Ct.).

Achieved settlement in derivative action, resulting in recovery of \$29 million for Barnes & Noble, Inc. in the form of reductions to principal and interest.

**5.**

*In re Virgin Mobile USA IPO Litigation*, 2:07-cv-05619-SDW-MCA, (D.N.J.).

Achieved \$19.5 million recovery for the investor class.



## Professional Legal Services Questionnaire

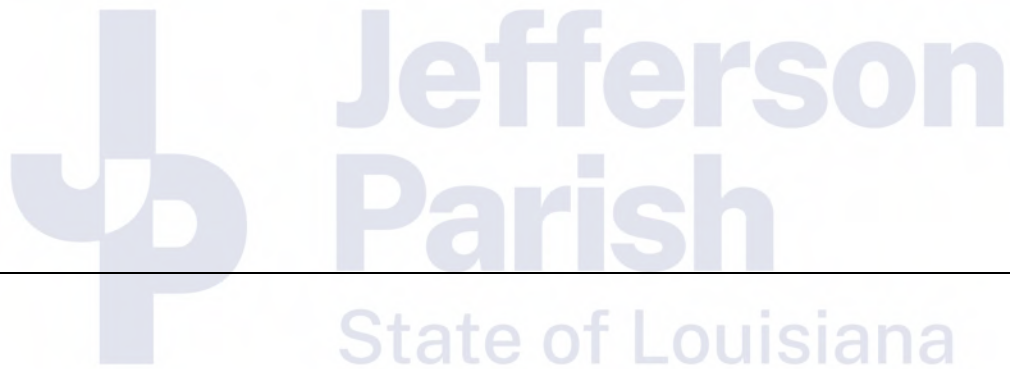
**6.**

*In re Tesco PLC Securities Litigation*, No. 2:14-cv-08495-RMB (S.D.N.Y.).  
Achieved a \$12 million settlement for the investor class.

**7.**

Please see attached firm resume for additional information.

**8.**



**9.**

**10.**

## Professional Legal Services Questionnaire

**K. Use this space to provide any additional information or description of resources supporting Firm's qualifications for the proposed project.**

Please see attached firm resume for additional information regarding KSF's achievements and recognition.

**L. To the best of my knowledge, the foregoing is an accurate statement of facts.**

**Signature:** \_\_\_\_\_

**Print Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

Managing Partner

**Date:** \_\_\_\_\_

11/1/2023



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## The Firm

Kahn Swick & Foti, LLC (“KSF”) ([www.ksfcounsel.com](http://www.ksfcounsel.com)) is a boutique law firm with offices in New York City, San Francisco, Chicago, New Orleans, and New Jersey. KSF focuses predominantly on class actions, in the areas of securities and mergers & acquisitions, and on shareholder derivative and other complex litigation. Since its inception in 2000, KSF has recovered hundreds of millions of dollars for its clients.

KSF’s Lawyers have extensive experience litigating complex cases in the following practice areas: (i) securities litigation; (ii) corporate governance and derivative litigation; (iii) consumer protection litigation; (iv) shareholder merger and acquisition class action litigation; and (v) antitrust litigation. A sampling of the firm’s current cases and recent recoveries is set forth below.

*“[Kahn Swick & Foti] earned my unyielding admiration and respect in this case for the efficient and exceptionally reasonable way in which they found a prompt, fair, and equitable solution to the complex problems their clients faced...”*

Hon. Mark W. Bennett,  
United States District Judge  
In Re: Elgaouni v. Meta Financial Group, Inc.

## Securities Litigation

### SETTLED CASES

***In re Petrobras Securities Litigation***, No. 1:14-cv-9662 (S.D.N.Y.). *Member of Plaintiffs’ Steering Committee* for the Individual Actions (“PSC”), federal securities class action against Brazil’s state-controlled petrochemical company arising from “Operação Lava Jato,” the largest corruption scandal in the history of Latin America, whereby Plaintiffs alleged Defendants deliberately overpaid on various construction contracts in return for kickbacks. The Class action settled in 2018 for **\$3 billion** and, as a member of the PSC, KSF was found by the Court to have “made a substantial contribution to the class,” June 22, 2018 Opinion and Order at 39 (D.E. 834).

***Pearlstein v. BlackBerry Ltd., et al.***, No. 1:13-CV-07060-CM (S.D.N.Y.). *Lead Counsel*. The Hon. Colleen McMahon, United States District Judge for the Southern District of New York, entered a Final Judgment in this federal securities class action, approving a **\$165 million** settlement between Lead Plaintiffs, represented by Lead Counsel KSF, and BlackBerry, Limited. The settlement, one of the largest securities

litigation recoveries of 2022 and achieved on the eve of trial, resolved Plaintiffs' claims that BlackBerry made materially false and misleading statements and omissions regarding the sales of, and accounting relating to, its BB10 smartphones.

***Erica P. John Fund, Inc. v. Halliburton Co., et al.***, No. 3:02-cv-1152 (N.D. Tex.). *Co-Class Counsel*, federal securities class action against oilfield services company and a high-level officer, in which Class Counsel obtained a unanimous decision by the U.S. Supreme Court in *Erica P. John Fund, Inc. v. Halliburton Co., et al.*, 563 U.S. 804 (2011) vacating and remanding a decision of the Fifth Circuit, and then successfully defeated Defendants' attack on the *Basic v. Levinson* presumption of reliance in *Halliburton Co. v. Erica P. John Fund, Inc.*, 134 S. Ct. 2398 (2014). These two Supreme Court decisions led to certification of the class, and ultimately resulted in a cash settlement of **\$100 million** for investors.

***In re Chicago Bridge & Iron Secs. Litig.***, Case No. 1:17-cv-1580-LGS (S.D.N.Y.). On August 2, 2022, the Hon. Lorna G. Schofield, United States District Judge for the Southern District of New York, entered a Final Judgment in this federal securities class action, approving a **\$44 million** settlement obtained by Plaintiffs and KSF, as Lead Counsel, against a large engineering, procurement, and construction company, and certain officers and directors. The lawsuit alleged that Defendants made materially false and misleading statements and omissions regarding the performance of, and accounting relating to, CBI's nuclear business.

***Dr. Joseph F. Kasper, et. al. v. AAC Holdings, Inc., et. al.***, 3:15-cv-00923 (Consolidated) (M.D. Tenn.). *Co-Lead Counsel*, federal securities class action against a for-profit substance abuse treatment provider, and certain officers and directors, arising from Defendants' misleading statements regarding a criminal investigation into the death of a patient, resulting in a settlement of **\$25 million** for investors.

***In re Virgin Mobile USA IPO Litigation***, 2:07-cv-05619-SDW-MCA (D.N.J.), *Co-Lead Counsel*, federal securities IPO-related class action against a company providing wireless communication services, certain officers and directors, certain controlling shareholder entities, and Virgin's underwriters, resulting in a cash settlement of **\$19.5 million** for investors.

***Dougherty v. Esperion Therapeutics, Inc., et al.***, No. 2:16-cv-10089 (E.D. Mich.). *Co-Lead Counsel*, federal securities action against a pharmaceutical company and its chief executive officer, arising from misleading statements assuring the market that its sole drug candidate would not require a completed (and costly) cardiovascular outcomes trial prior to approval, resulting in a settlement of **\$18.25 million** for investors.

***In Re Eletrobras Securities Litigation***, Case No. 1:15-cv-05754 (Consolidated) (S.D.N.Y.). Co-Lead Counsel, federal securities class action against Centrais Eletricas Brasileiras S.A. and several of its former directors and officers, by U.S. investors after the company reported large losses related to a sprawling corruption scandal in Brazil. Nearly three years of protracted litigation resulted in a settlement of **\$14.75 million** for investors.

***Abramson v. NewLink Genetics Corp., et al.***, 1:16-cv-03545-AJN (S.D.N.Y.). Lead Counsel, federal securities action against a pharmaceutical company and certain officers arising from Defendants' misleading statements regarding the about the scientific literature and the design of their clinical trial for a pancreatic cancer treatment candidate, resulting in a settlement of **\$13.5 million** for investors.

***In re Tesco PLC Securities Litigation***, 14 Civ. 8495 (RMB) (S.D.N.Y.), *Lead Counsel*, federal securities class action against one of the world's largest grocery and general merchandise retailers based in the U.K., resulting in an all-cash settlement of **\$12 million** for investors in ADRs and F shares in the United States.

***In re BigBand Networks, Inc Securities Litigation***, 3:07-CV-05101-SBA (C.D. Cal.), *Co-Lead Counsel*, federal securities class action brought against a computer hardware corporation, certain officers and directors of the Company, and the Company's Underwriters, resulting in a cash settlement of **\$11 million** for investors.

***Kanefsky v. Honeywell International Inc. et al.***, Case No. 2:18-cv-15536-WJM-JAD (D. N.J.). On May 3, 2022, the Hon. William J. Martini, United States District Judge for the District of New Jersey, entered a Final Judgment approving a **\$10 million** settlement in this securities class action lawsuit in which KSF served as lead counsel. The lawsuit alleged that Defendants made materially false and misleading statements and failed to disclose material information regarding Honeywell's liabilities relating to former subsidiary Bendix Friction Materials' use of asbestos in certain, noting automotive products.

***In re U.S. Auto Parts Networks, Inc. Securities Litigation***, 2:07-cv-02030-GW-JC (C.D. Cal.), *Lead Counsel*, federal securities IPO-related class action against an online automotive supply company, certain members of its board of directors, and its underwriters, resulting in a cash settlement of **\$10 million** for investors.



## Corporate Governance and Derivative Litigation

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### SETTLED CASES

***Orrego v. Lefkofsky (Groupon, Inc. Derivative Litigation)***, No. 12 CH 12420 (Ill. Cir. Ct, Cook Cnty., Ch. Div.). KSF acted as Co-Lead Counsel in the consolidated shareholder derivative action filed in the Chancery Division of the Cook County Circuit Court in Illinois, which was brought derivatively on behalf of Groupon, Inc. against certain of its current and former directors and officers for allegedly breaching their fiduciary duties by, among other things, causing Groupon to issue or make materially false and misleading statements and failing to implement necessary controls over Groupon's accounting function. KSF facilitated a settlement comprising of comprehensive corporate governance reforms with an estimated value of **\$159 million**, including changes to the Compensation Committee Charter, implementation of director education requirements, enhanced Independent Director meeting obligations, augmentations to the Audit Committee and Disclosure Committee rules and procedures, creation of a new Director of Compliance position, and the retention of an independent auditing firm to conduct an assessment of the company's internal audit department.

***In re Bank of America Corp. Securities, Derivative, & Employment Retirement Income Security Act (ERISA) Litigation***, 09 Civ.580 (DC) (S.D.N.Y.). KSF served as court appointed Co-Lead Counsel in the Southern District of New York, and sued current and former executive officers and directors of the company, on behalf of shareholders. The substance of this action focused on Bank of America's January 1, 2009, acquisition of Merrill Lynch & Co., Inc. in a stock-for-stock transaction. This action alleged, among other things, that certain material information was omitted from the proxy statement filed with the Securities and Exchange Commission and mailed to stockholders on November 3, 2008. This proxy was critical in allowing defendants to obtain shareholder consent for the issuance of shares necessary to consummate the Merger. KSF was successful in resolving this action after defeating motions to dismiss by multiple defendants. In addition to major corporate governance reforms, KSF was also able to recover over **\$62.5 million** for the company.

***Bassett Family Trust v. Costolo, et al. (Twitter, Inc. Derivative Litigation)***, C.A. No. 2019-0806 (Del. Ch.). As counsel for the plaintiff in this demand wrongfully-refused shareholder derivative action, KSF brought breach of fiduciary claims derivatively on behalf of Twitter, Inc. ("Twitter") against certain of its current and former directors and officers for breaches of duties involving false and misleading statements about Twitter's user engagement and growth and for insider trading. Plaintiffs were able to secure a settlement providing that Twitter's board of directors will pay **\$38 million** in cash to Twitter. Twitter's board will also

adopt a series of corporate governance reforms, which include (among other things): (i) enhanced board independence and oversight reforms, including amendments to the charters for the Disclosure Committee and the Audit Committee; (ii) enhancements to oversight of corporate strategy and risk, internal controls, and disclosures, including the creation of the Independent Chief Compliance Officer; and (iii) enhancements to corporate policies regarding compliance training, compensation, insider trading, and recapture of cash-based incentive compensation.

***In re Barnes & Noble Stockholder Derivative Litigation***, C.A. No. 4813 (Del. Ch.). As Co-Lead Counsel in this shareholder derivative action filed in the Court of Chancery of the State of Delaware on behalf of Barnes & Noble, Inc. against certain of its officers and directors, including Chairman Leonard Riggio, related to the company's 2009 acquisition of Mr. Riggio's private company Barnes & Noble College Booksellers, Inc., alleging that the purchase price, and the process by which it was agreed to, was not entirely fair to Barnes & Noble, Inc. and harmed shareholders, KSF helped obtain a settlement resulting in the recovery of **\$29 million** for Barnes & Noble, Inc. in the form of reductions to the principal and interest payable to Mr. Riggio.

***Weil v. Baker (ArthroCare Corporation Derivative Litigation)***, No. 08-CA-00787 (W.D. Tex.). As Co-Lead Counsel in the consolidated federal derivative action on behalf of ArthroCare Corporation against certain of its officers and directors arising from alleged improprieties in the company's marketing of spine wands, KSF helped obtain a cash settlement of **\$8 million**, along with important corporate governance changes.

***In re Fitbit, Inc. Stockholder Derivative Litigation***, Consolidated C.A. No. 2017-0402 (Del. Ch.). As Co-Lead Counsel in this shareholder derivative action filed in the Court of Chancery of the State of Delaware on behalf of Fitbit, Inc. ("Fitbit") against certain of its officers and directors, KSF alleged that certain insiders made stock sales in the company's initial public offering and—after agreeing to release the insiders from lock-up agreements that barred them from trading for 180 days after the initial public offering—an early secondary offering, taking take advantage of an artificially positive market response to Fitbit's flagship PurePulse heartrate monitoring technology. KSF was successful in resolving this action after defeating the defendants' motion to dismiss, recovering **\$5 million** for Fitbit.

***In re Conduent Incorporated Shareholder Derivative Litigation***, Lead Case No. 650903/2021 (N.Y. Sup. Ct., N.Y. Cnty., Ch. Div.). KSF acted as Co-Lead Counsel in the consolidated shareholder derivative action filed in the New York Supreme Court, New York County, which was brought derivatively on behalf of Conduent Incorporated against certain of its current and former directors and officers for allegedly breaching their fiduciary duties by (i) failing to oversee its electronic tolling line of business, resulting in

finances, government complaints, and revenue withholding and (ii) causing the Company to make materially false and misleading statements in press releases and SEC filings about the known issues with its legacy information technology infrastructure that was impacting the Company's financial guidance and growth. KSF facilitated a settlement comprising of robust and fulsome corporate governance reforms, including Board refreshment, formation of the Corporate Social Responsibility and Public Policy Committee, separation of the Chief Executive Officer and Chairperson positions, enhancements to the duties and responsibilities of the Audit Committee regarding financial reporting and internal controls, creation of a Board-level Risk Oversight Committee, addition of the Chief Risk Officer to the management-level Disclosure Committee, adoption of an enhanced Amended Compensation Recoupment Policy.

***In re FAB Universal Corporation Shareholder Derivative Litigation***, Lead Case No. 14-cv-687 (S.D.N.Y.). As sole Lead Counsel in this consolidated action, KSF brought breach of fiduciary claims derivatively on behalf of FAB Universal Corporation against certain of its current and former directors and officers. Claims brought included breaches of duties of loyalty, due care, good faith, independence, candor and full disclosure to shareholders; misappropriation of material, non-public information of the Company by certain individual defendants; and violations of Section 14(a) of the Securities Exchange Act of 1934 and Rule 14a-9 promulgated thereunder. The action focused on defendants' publication of false and misleading statements concerning the Company's kiosk business in China, and the failure to disclose the issuance of \$16.4 million worth of bonds to Chinese investors in April 2013. KSF obtained a settlement involving numerous corporate governance reforms, including the creation of a new Disclosure Committee to put effective procedures and protocols in place and designed to ensure that all of the Company's public statements are vetted for accuracy, integrity and completeness. KSF was also able to cause the Company to modify the Charter of the Audit Committee to provide that at least one non-executive member of the Audit Committee has general expertise in accounting or financial management. Modifications were also caused to be made to the Company's Corporate Governance Committee and to the Company's Code of Conduct.

***In re Fifth Street Finance Corp. Stockholder Litigation***, Consolidated C.A. No. 12157 (Del. Ch.). As Co-Lead Counsel in this shareholder derivative action filed in the Delaware Court of Chancery on behalf of Fifth Street Finance Corporation ("FSC") against certain current and former directors of FSC, its investment advisor, Fifth Street Asset Management Inc. ("FSAM"), and current and former directors and officers of FSAM, KSF alleged that certain FSC and FSAM officers and directors caused FSC to pursue reckless asset growth strategies, to employ aggressive accounting and financial reporting practices, and to pay excessive fees under FSC's investment advisory agreement with FSAM, in order to inflate the perceived value of FSAM in the lead up to FSAM's initial public filing. KSF was instrumental in obtaining a settlement

consisting of certain changes to FSC's investment advisory agreement and governance enhancements. The changes to the investment advisory agreement include a waiver by FSAM of fees equal to \$10 million and an acknowledgment that plaintiffs were a substantial and remedial factor in the reduction of base management fees from 2% to 1.75%. The governance enhancements include additional Board governance provisions, enhanced policies, practices and procedures regarding FSC's valuation of its investments, increased disclosure of relevant issues, and increased consultation with outside advisors and independent third parties.

***Lowry v. Basile (Violin Memory, Inc. Derivative Litigation)***, No. 4:13-cv-05768 (N.D. Cal.). As counsel for the plaintiff in this shareholder derivative action, KSF brought breach of fiduciary claims derivatively on behalf of Violin Memory, Inc. against certain of its current and former directors and officers for breaches of duties and waste of corporate assets. The action focused on defendants' publication of false and misleading statements concerning the Company's operating results and financial condition and alleged waste of corporate assets by granting outsized compensation to the CEO that was not in line with the performance of the Company. KSF obtained a settlement involving numerous corporate governance reforms, including the formalization of a Disclosure Committee to put effective procedures and protocols in place and designed to ensure that all of the Company's public statements are vetted for accuracy, integrity and completeness. KSF was also able to cause the Company to modify the Charter of the Compensation Committee to provide that the committee will create annual and long-term performance goals for the CEO, whose compensation will be based on whether those performance goals are achieved. Modifications were also caused to be made to the Company's Audit Committee and to the Company's Corporate Governance Guidelines.

***In re Moody's Corporation Shareholder Derivative Litigation***, No. 1:08-CV-9323 (S.D.N.Y.). As Lead Counsel for the demand-excused shareholder derivative actions filed on behalf of Moody's Corporation against current and former executive officers and directors of the company, asserting various claims, including for breach of fiduciary duty, in connection with, inter alia, Moody's credit ratings on various mortgage-backed securities, KSF helped obtain a settlement in which the settling defendants agreed that Moody's had implemented or will adopt, enhance and/or maintain certain governance, internal control, risk management and compliance provisions, designed to identify, monitor and address legal, regulatory and internal compliance issues throughout the business and operations of Moody's Investors Service, Inc., the credit rating agency operating subsidiary of the company.

***In re Morgan Stanley & Co., Inc. Auction Rate Securities Derivative Litigation***, No. 1:08-CV-07587 (S.D.N.Y.). As Lead Counsel for shareholders in this federal derivative action against a prominent broker-dealer to redress harms to the company from its sales and marketing of auction rate securities, KSF obtained

substantial corporate governance reforms that promised to avoid a recurrence of similar harms in the future.

***In re Star Scientific, Inc. Virginia Circuit Court Derivative Litigation***, Lead Case No. CL13-2997-6 (Va. Cir. Ct., City of Richmond). KSF acted as court appointed Lead Counsel in the consolidated state court shareholder derivative action filed on behalf of Star Scientific, Inc. against certain current and former directors and officers. This action focused on defendants' false statements and misrepresentations concerning the Company's product Anatabloc. Specifically, the action stated that defendants had caused or allowed the Company concealed: (i) private placements and related-party transactions; (ii) government investigations of the Company; and (iii) a December 2013 warning letter from the U.S. Food and Drug Administration. In resolving this matter, KSF obtained sweeping corporate governance changes, including but not limited to, the creation of a new board-level committee to review and oversee the Company's legal, regulatory, compliance, and government affairs functions. KSF also caused the Company to modify the charter of the Audit Committee to strengthen disclosure oversight and risk management. Modifications were also caused to be made to the Company's Compensation Committee. The Company was caused to adopt a set of Corporate Governance Guidelines. A new Governance and Nominating Committee was created and the position of Compliance Officer tasked with oversight and administration of the Company's corporate governance policies was added. Changes were also made to the Company's Corporate Code of Business Conduct and Ethics.

## Consumer Protection Litigation

### SETTLED CASES

***In re: General Motors Corp. Speedometer Products Liability Litigation***, MDL No. 1896, *Co-Lead Counsel*. Appointed co-lead counsel for national class of 4.2 million purchasers of certain GM trucks with defective speedometers. The case was resolved successfully by GM agreeing to fix defective speedometers for free and to reimburse class members for all past repair costs.

***Rose Goudeau, et. al. v. The Administrators of the Tulane Educational Fund, et. al.***, No. 2004-04758, Sec. 13, Div. J (Civil District Court for the Parish of Orleans), *Class Co-Counsel*. Nationwide class action certified on behalf of near relatives of individuals who donated their bodies to the Tulane Willed Body Program. The complaint alleged that the Tulane Willed Body Program sold the donated bodies and/or body parts to third parties. A settlement of **\$8,300,000** was obtained for the class members.

**Barbara Thomas, et. al. v. ClearCredit, et. al.**, No. 03-2580 (E.D. La.). Co-Lead Counsel in national class action involving violations of the Fair Credit Reporting Act. Settled for approximately **\$6 million** in benefits to the consumer class along with injunctive relief.

**Sterling Savings Bank v. Poleline Self-Storage LLC**, No. CV-09-10872 (Idaho Dist. Ct.), *Class Counsel*. In this putative class action, a borrower alleged that the Bank improperly used the 365/360 method of interest calculation on several commercial loans. A settlement of **\$3.5 million** was recovered for bank customers.

## Shareholder M&A Class Action Litigation

### SETTLED CASES

**In re Saba Software, Inc. Stockholder Litigation**, Consol. Case No. 10697 (Delaware Court of Chancery 2015). *Member of Executive Committee*. Class action for breach of fiduciary duties to shareholders relating to a proposed merger of software company. Settlement consisted of **\$19.5 million** common fund.

**In re American Capital, Ltd. Shareholder Litigation**, Case No. 422598-V (Circuit Court for Montgomery County, Maryland 2016). *Co-Lead Counsel*. Class action for breach of fiduciary duties to shareholders against both the target board and senior management and an activist investor fund (as a controller) relating to a proposed merger of a publicly traded private equity company. Settlement consisted of **\$17.5 million** common fund from the target's board and the activist investor.

**Kenneth Riche, et al v. James C. Pappas, et al.**, C.A. No. 2018-0177 (Del. Ch). *Co-Lead Counsel*. Class action for breach of fiduciary duties to shareholders against the target board and activist investors relating to a proposed merger of a publicly traded geothermal company. Settlement consisted of **\$6.5 million** common fund, which represented a significant 7.7% premium to the \$84 million adjusted enterprise value of the merger to the non-defendants shareholders/class members.

**Rice v. Genworth Financial Incorporated, et al.**, Consol. Case No. 3:17-cv-00059 (Eastern District of Virginia 2017). *Co-Lead Counsel*. Class action for violation of Section 14(a) relating to a proposed merger of insurance company. Settlement consisted of additional material disclosures to proxy statements.

**Wojno v. FirstMerit Corp., et al.**, Case No. 5:16-cv-00461 (Northern District of Ohio 2016). *Co-Lead Counsel*. Class action for violation of Section 14(a) relating to a proposed merger of bank holding company. Settlement consisted of additional material disclosures to proxy statements.

***In re BTU International, Inc. Stockholders Litigation***, Consol. C.A. No. 10310-CB (Delaware Court of Chancery 2014). *Co-Lead Counsel*. Class action for breach of fiduciary duties to shareholders relating to a proposed merger of electronics and solar goods companies. Settlement consisted of additional material disclosures to proxy statements. First known settlement to pass the exacting Trulia standards articulated by the Court of Chancery.

***In re EnergySolutions, Inc. Shareholder Litigation***, C.A. 8203 (Delaware Court of Chancery 2014). *Plaintiff's Co-Lead Counsel*. Class action for breach of fiduciary duties to shareholders relating to a proposed merger of nuclear energy related companies worth \$1.1 billion (\$375 million in proposed shareholder consideration). Settlement consisted of \$0.40 price bump which increased the consideration to shareholders by more than 10% or approximately \$38 million. Settlement also included over 20 pages of additional disclosures to proxy statement relating to process and pricing claims.

***Hill v. Cohen, et al. (Summit Financial Services Group, Inc.)***, 2013 CA 017640 (15th Judicial Circuit Court, Florida). *Co-lead Counsel*. Class action for breach of fiduciary duties to shareholders relating to a proposed merger of a financial services company. Contingent and delayed aspects of the proposed merger consideration, worth several million dollars, were accelerated and paid to shareholders ahead of schedule and settlement involved several pages of additional disclosures were made to the proxy statement.

***In re InSite Vision Inc. Consolidated Shareholder Litigation***, Lead Case No. RG-15774540 (c/w Case No. RG-15777471). *Counsel for Plaintiffs*. Class action for breach of fiduciary duties to shareholders relating to a proposed merger of medical companies. Litigation was followed by a public bidding war that resulted in a \$30 million increase in merger compensation.

***In re Medtox Scientific, Inc. Shareholders Litigation***, Court File No. 62-CV-12-5118 (Minnesota District Court 2013). *Plaintiffs' Lead Counsel*. Class action for breach of fiduciary duties to shareholders relating to a proposed merger of medical technology companies. Settlement consisted of additional material disclosures to proxy statement.

***Heron v. International Rectifier Corporation, et al.***, Case No. BC556078 (Superior Court of the State of California, County of Los Angeles). *Co-Lead Counsel*. Class action for breach of fiduciary duties to shareholders relating to a proposed merger of electronics companies. Settlement consisted of additional material disclosures to proxy statements.

***Sachs Investment Group v Sun Healthcare Group, Inc., et al.*** 30-2012-580354-CU-SL (Superior Court of the State of California 2013). *Plaintiffs' Counsel*. Class action for breach of fiduciary duties to shareholders

relating to a proposed merger of healthcare companies. Settlement consisted of additional material disclosures to proxy statement.

*In re Susser Holdings Corp. Stockholders Litigation*, C.A. 9613 (Delaware Court of Chancery 2014). *Co-Lead Counsel*. Class action for breach of fiduciary duties to shareholders relating to a proposed merger of convenience store and gas station companies. Settlement consisted of additional material disclosures to proxy statements regarding hidden value of individual distribution rights in limited partnership.

## Antitrust Litigation

### RECENT VICTORIES

*Oliver, et al. v. American Express Company, et al.*, No. 1:19-cv-00566-NGG-SMG (E.D.N.Y). On April 30, 2020, the Hon. Nicholas G. Garaufis, United States District Court Judge for the Eastern District of New York, entered an Order denying, in part, defendants' motion to dismiss. This matter, in which Kahn Swick & Foti, LLC is a member of Plaintiffs' Executive Committee, seeks damages, restitution, and injunctive relief against the American Express Company and American Express Travel Related Services Company, Inc. (collectively, "Amex"), on behalf of persons that used an electronic form of payment other than an Amex charge or credit card to purchase goods and services sold by merchants across the country at prices allegedly inflated by Amex's non-discrimination provisions. Judge Garaufis ruled that plaintiffs adequately pled violations of 22 state antitrust and/or consumer protection laws and allowed plaintiffs' case to proceed against Amex for these violations.

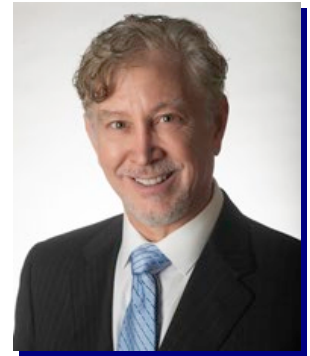


## Attorneys

### PARTNERS

#### Lewis S. Kahn

Lewis Kahn is a founding partner of KSF and serves as the firm's managing partner. Mr. Kahn's practice is devoted to representing institutional and retail investors in connection with damages suffered as a result of securities fraud, breaches of fiduciary duties by corporate boards, and other egregious corporate conduct.



Mr. Kahn oversees the firm's securities practice, which has been responsible for settlements including the long-running securities class action against Halliburton where KSF was Co-Class Counsel with David Boies, a case in which the firm twice beat back [Halliburton's attempt in the United States Supreme Court to eviscerate shareholder rights](#), and obtained a **\$100 million** settlement for the Class after prior and subsequently replaced national securities counsel attempted to settle the case for \$6 million. Most recently, Mr. Kahn negotiated settlement of *Pearlstein v. Blackberry Ltd., et al.*, No. 1:13-CV-07060-CM (S.D.N.Y.), for **\$165 million**, one of the largest securities litigation recoveries of 2022 and achieved on the eve of trial, resolving Plaintiffs' claims that BlackBerry made materially false and misleading statements and omissions regarding the sales of, and accounting relating to, its BB10 smartphones. Other matters have included *In re Virgin Mobile USA IPO Litigation*, 2:07-cv-05619-SDW-MCA (**\$19.5 million settlement**), *In re Tesco PLC Securities Litigation*, 14 Civ. 8495 (**\$12 million settlement**), *In re BigBand Networks, Inc. Securities Litigation*, 3:07-CV-05101-SBA (**\$11 million settlement**), *In re U.S. Auto Parts Networks, Inc. Securities Litigation*, 2:07-cv-02030-GW-JC (**\$10 million settlement**), *In re Bank of America Corp. Securities, Derivative, and Employment Retirement Income Security Act (ERISA) Litigation*, 09 Civ.580 (DC) (S.D.N.Y.) (**\$62.5 million** cash payment to Bank of America o/b/o Board), *In re Barnes & Noble Stockholder Derivative Litigation*, C.A. No. 4813-VCS (Del. Ch. Ct.) (recovery of **\$29 million** for Barnes & Noble, Inc. in the form of reductions to the principal and interest payable to CEO), and *In re EnergySolutions, Inc. Shareholder Litigation*, C.A. 8203-VCG (Del. Ch. 2014) (\$0.40 price bump which increased the consideration to shareholders by more than 10% or approximately **\$38 million**).

In addition to securities lawsuits, Mr. Kahn has significant experience with consumer fraud and mass tort class actions. Mr. Kahn has been appointed to various leadership positions in federal class action litigation over the years.

Mr. Kahn holds a Bachelor's degree from New York University in 1990 and received a Juris Doctor from Tulane Law School in 1994. Mr. Kahn is a member of the Louisiana Bar and is licensed to practice in all Louisiana state courts, as well as the United States Supreme Court, the United States Courts of Appeal for the Second, Fifth and Ninth Circuits, and the United States District Courts for the Eastern, Middle and Western Districts of Louisiana.

### **Michael A. Swick**

Michael A. Swick is a co-founding partner of KSF and heads the firm's case starting department, overseeing case evaluation and initiation in the firm's securities, shareholder derivative and mergers & acquisitions practice groups. Prior to founding KSF, Mr. Swick had a distinguished career working at several of the nation's premiere class action litigation firms.



Relying on analytical skills honed at Tulane Law School and Columbia University's Graduate program of Arts & Sciences, throughout his career, Mr. Swick has played an important role in investigating large securities frauds and in developing and initiating litigations against the nation's largest corporations. Over his career, Mr. Swick has also participated in the litigation of cases that have resulted in hundreds of millions of dollars in recoveries for aggrieved shareholders and institutional investors.

Mr. Swick also works closely with the firm's institutional investor clients and participates in the management and development of KSF's portfolio monitoring systems.

In addition to his unique educational background, following law school, Mr. Swick also worked on the New York Mercantile Exchange, where he was involved first-hand, in the open-outcry trading of crude oil and natural gas futures and options contracts.

Mr. Swick received a Juris Doctor from Tulane Law School in 1994, and a Master of Political Philosophy from Columbia University Graduate School of Arts & Sciences in 1989 as well as a joint B.A. in Philosophy and Political Science from State University of New York at Albany in 1988. Mr. Swick was admitted to the State Bar of New York in 1997 and is admitted to practice before the United States District Court for the Southern District of New York, and the United States Supreme Court.

### Charles C. Foti, Jr.

Charles C. Foti, Jr. served as the Attorney General for the state of Louisiana from 2004-2008, after serving for 30 years as one of the most innovative law enforcement officials in the United States as Orleans Parish Criminal Sheriff. Throughout his career, General Foti has remained committed to public service.



As Attorney General for the state of Louisiana, General Foti's achievements include:

- Recovering over **\$24 million** for Louisiana consumers in consumer fraud matters, **\$8 million** in anti-trust litigation, **\$9.1 million** for state employees through Office of Group Benefits, over **\$2 million** for auto complaints, over **\$33 million** in Medicaid Fraud.
- Investigating and apprehending numerous contractor fraud criminals in the wake of one of the worst natural disasters in United States history, Hurricane Katrina.
- Doubling the number of arrests for crime against children through the Louisiana Internet Crimes Against Children Task Force.

Prior to serving as Louisiana Attorney General, over the course of a distinguished career spanning decades, General Foti took countless cases to trial. General Foti served as the head of the criminal division of the city of New Orleans Attorney's Office. He served as the police attorney for the city of New Orleans and prosecuted federal cases including prisoner overcrowding cases. He also served as an assistant District Attorney for Orleans Parish. Even early in his career, he tried cases as in house counsel for the nationally-known insurance carrier, Allstate.

In his tenure as Orleans Parish Criminal Sheriff, General Foti oversaw the enormous expansion of the parish jail, growing from 800 prisoners in 1973 to more than 7,000 currently. As the prison expanded, so did the need for education and rehabilitation skills for prisoners. As Sheriff, General Foti started the first reading and GED programs, work release programs, drug treatment programs and the nation's first boot camp at the local level, all to prepare prisoners for a future without crime. Administratively, General Foti managed a multi-million dollar budget and a complex organization of more than 1,400 employees.

General Foti has for many years been an advocate for the elderly. As Sheriff, he and a small army of volunteers provided Thanksgiving meals for senior citizens in the New Orleans area. He started a back-to-work program for senior citizens that helps people over the age of 55 get back into the workforce.

General Foti received his Juris Doctor degree from Loyola University Law School in 1965, after serving his country in the United States Army from 1955 through 1958.

### Kim E. Miller

Kim E. Miller is a KSF partner who specializes in securities litigation and other complex class action litigation. Ms. Miller also supervises the New York City office of KSF. Prior to joining the firm in 2006, Ms. Miller was a partner at one of the nation's leading plaintiff class action firms. Ms. Miller also spent two years as a securities litigator on the defense side.

*"One of the best lawyers to appear in front of me in a long time..."*

Hon. Charles R. Breyer,  
United States District Judge  
In Re:ShoreTel, Inc. Sec. Litig.

Over the course of her career, Ms. Miller has represented many thousands of harmed investors in class actions filed throughout the country. In a recent Order and final judgment in which KSF served as Lead Counsel, *Elgaouni v. Meta Financial Group, Inc.*, 10-4108-MWB (N.D. Iowa) (June 29, 2012) (Bennett, J.), the Federal District Court noted:

"Indeed, I find that this action has been a model of how complex class actions should be conducted. Counsel for the Lead Plaintiff, Kim Miller, and her firm, Kahn Swick & Foti, L.L.C., and [Defense Counsel] showed the utmost professionalism and civility, required very limited court intervention while diligently pursuing their objectives, and sought and obtained a fair and reasonable settlement before incurring substantial costs for discovery and trial preparation, all to the benefit of the Lead Plaintiff, Class Members, and the Defendants....I applaud their skill, expertise, zealousness, judgment, civility, and professionalism in putting the best interests of their respective clients first and not only foremost, but exclusively ahead of their law firms' financial interests. Ms. Miller and [Defense Counsel] and their respective law firms earned my unyielding admiration and respect in this case for the efficient and exceptionally reasonable way in which they found a prompt, fair, and equitable solution to the complex problems their clients faced in this litigation, and they accomplished all of this with virtually no judicial intervention. In sum, my only deeply held regret in this case is that bioscience has not sufficiently advanced to allow the cloning of Ms. Miller and [Defense Counsel] for lead counsel roles in all complex civil class action litigation in the Northern District of Iowa."

At another recent settlement hearing in which KSF served as Lead Counsel, *In re ShoreTel, Inc. Sec. Litig.*, 3:08-cv-00271-CRB (N.D. Cal.), the Federal District Court (Breyer, J.) noted, with respect to Ms. Miller, “You’re one of the best lawyers to appear in front of me in a long time....”

In addition to litigating many securities fraud and IPO-related securities cases, Ms. Miller has worked extensively on cases involving allegations of improper directed brokerage arrangements and excessive charges in mutual fund cases brought pursuant to the 1934 Securities Exchange Act and/or the Investment Company Act of 1940. She was also involved in the mutual funds late trading/market timing litigation. Ms. Miller’s class action trial experience includes participating as a trial team member in a four-month jury trial involving fraud-based claims the resulted in a jury verdict in favor of Plaintiffs and the Class.

In the course of her career, Ms. Miller has been involved in a variety of cases in which large settlements were reached, including:

- **Settlement value of \$127.5 million.** *Spahn v. Edward D. Jones & Co., L.P.*, 04-cv-00086-HEA (E.D. Mo.)
- **\$110 Million Recovery.** *In re StarLink Corn Prods. Liab. Litig.*, MDL No. 1403 (N.D. Ill.)
- **\$100 Million Recovery.** *In re American Express Financial Advisors, Inc. Sec. Litig.*, 1:04-cv-01773-DAB (S.D.N.Y.)

Ms. Miller is KSF’s lead litigator in its securities class action practice. While at KSF, Ms. Miller has supervised all aspects of the following successful litigations, among many others: *Erica P. John Fund, Inc. v. Halliburton Company, et al.*, 3:02-CV-1152-M (N.D. Tex.) (**\$100 million**); *In re Virgin Mobile USA IPO Litig.*, 2:07-cv-05619-SDW-MCA (D.N.J.) (**\$19.5 million settlement**); *In re BigBand Networks, Inc. Sec. Litig.*, 3:07-CV-05101-SBA (N.D. Cal.) (**\$11 million settlement**); and *In re U.S. Auto Parts Networks, Inc. Sec. Litig.*, 2:07-cv-02030-GW-JC (C.D. Cal.) (**\$10 million settlement**).

After graduating with honors from Stanford University in 1992 with a double major in English and Psychology, Ms. Miller earned her Juris Doctor degree from Cornell Law School, *cum laude*, in 1995. While at Cornell, Ms. Miller was the Co-Chair of the Women’s Law Symposium, Bench Brief Editor of the Moot Court Board, and a member of the Board of Editors of the Cornell Journal of Law & Public Policy. She was also a judicial intern for The Honorable David V. Kenyon in the Central District of California. Her *pro bono* work includes representing families of 9/11 victims at *In re September 11 Victim Compensation Fund* hearings. Ms. Miller has also served as a fundraiser for the New York Legal Aid Society. She is admitted to practice before the United States Supreme Court, the States of California and New York, and before the

United States District Courts for the Southern and Eastern Districts of New York and the Northern, Southern, and Central Districts of California. She is also admitted to the United States Courts of Appeal for the Second, Fifth, Ninth and Eleventh Circuits.

### Ramzi Abadou

Mr. Abadou is a KSF partner who oversees the Firm's San Francisco office. He specializes in securities litigation and is responsible for numerous precedent-setting securities decisions, including:



- *In re UnitedHealth Group PSLRA Litig.*, 2007 U.S. Dist. LEXIS 40623 (D. Minn. 2007) (**\$925.5 million recovery**);
- *In re Eletrobras Secs. Litig.*, 245 F. Supp. 3d 450 (S.D.N.Y. 2017) (**\$14.75 million recovery**);
- *Kasper v. AAC Holdings, Inc.*, 2016 U.S. Dist. LEXIS 87492 (M.D. Tenn. 2016) (**\$25 million recovery**);
- *Dougherty v. Esperion Therapeutics*, 2020 U.S. Dist. LEXIS 216515 (E.D. Mich. 2020) (**\$18.25 million recovery**);
- *Khoja v. Orexigen Therapeutics*, 2021 U.S. Dist. LEXIS 230105 (S.D. Cal. 2021) (**\$4.8 million recovery**);
- *In re SemGroup Energy Partners, L.P.*, 729 F. Supp. 2d 1276 (N.D. Ok. 2010) (**\$28 million recovery**);
- *Minneapolis Firefighters' Relief Ass'n v. Medtronic, Inc.*, 278 F.R.D. 454 (D. Minn. 2011) (**\$85 million recovery**);
- *In re CytRx Corp. Sec. Litig.*, 2015 U.S. Dist. LEXIS 91447 (C.D. Cal. 2015) (**\$8.5 million recovery**).

Mr. Abadou also prevailed in litigation before the United States Court of Appeals for the Ninth Circuit and the United States Supreme in *Khoja v. Orexigen Therapeutics, Inc.*, 899 F.3d 988 (9th Cir. 2018) *cert. denied sub nom. Hagan v. Khoja*, 139 S. Ct. 2615 (2019). *Orexigen* significantly altered the civil pleading practice landscape in the Ninth Circuit, leading *Securities Law360* to describe *Orexigen* one of the "Biggest Securities Decisions of 2018."

In 2010, Mr. Abadou was named one of the *Daily Journal's* Top 20 Lawyers in California under 40 and, since 2015, has been selected to *Super Lawyers* annually as a leading securities litigation practitioner. He has been invited to lecture on securities litigation at Stanford University Law School, the University of San Diego School of Law, Boston College Law School and is a Law Lecturer at U.C. Berkeley Law School. Mr. Abadou has been covered by the press in *Bloomberg*, *The Guardian*, *SFGate*, *NBC News* among others.

He obtained a B.A. from Pitzer College in 1994 and an M.A. from Columbia University in 1997. He earned his J.D. from Boston College Law School in 2002.

Mr. Abadou is a member of the San Francisco Bar Association, the Federal Bar Association for the Northern District of California and is a pro bono panelist with Federal Bar Association Justice & Diversity Project. He is admitted to the California Bar and is licensed to practice in all California state courts, as well as all United States District Courts in California, the Eastern District of Michigan, the United States Court of Appeals for the Ninth and Eleventh Circuits, and the Supreme Court of the United States.

### **Dennis White**

Dennis is a partner in KSF's Chicago office and oversees the firm's Institutional Investor Services. In addition to over twenty plus years of legal experience in regulatory compliance, public policy, procurement, and legislative approval, Dennis brings significant public pension administration experience.



Prior to joining KSF, Dennis most recently served as the Executive Director of the Municipal Employees' Annuity and Benefit Fund of Chicago, a \$3.5 Billion pension fund. He also has served as a Trustee and the Interim Executive Director of the Cook County Pension Fund (the "CCPF"), a \$14.3 Billion pension fund that provides pension, disability and other benefits to employees of both Cook County and the Forest Preserve District of Cook County. He initially was elected to serve on the Board of Trustees as the Forest Preserve District's representative on the CCPF Board, while serving as the Chief Attorney of the Forest Preserve District of Cook County.

Prior to leading the Forest Preserve District's legal department as the Chief Attorney, Dennis began his legal career as a staff attorney in the legal division of the Board of Governors of the Federal Reserve System in Washington, D.C. Subsequently, he joined the Washington, D.C. office of Rudnick and Wolfe law firm (now known as DLA Piper); worked as a staff attorney and business executive for General Motors Corporation in Detroit, Michigan; and joined the Chicago office of Holland & Knight, LLP law firm as Senior Counsel.

Dennis earned his B.S. in Mechanical Engineering from the University of Illinois at Urbana-Champaign, his J.D. from Northwestern University Law School, and his M.B.A. from the University of Chicago Booth School of Business.



**Melinda A. Nicholson**

Melinda A. Nicholson, a partner in KSF's Louisiana office, focuses on shareholder derivative and class action litigation, representing institutional and individual shareholders in corporate governance litigation and securities fraud actions, and antitrust matters. Ms. Nicholson also oversees KSF's shareholder derivative practice.



Ms. Nicholson has been involved in a number of significant derivative and class action cases throughout the country seeking recovery for harmed shareholders and individuals, obtaining seminal decisions in shareholders' favor, including:

- *Oliver, et al. v. American Express Company, et al.*, No. 1:19-cv-00566 (E.D.N.Y.). On April 30, 2020, the Hon. Nicholas G. Garaufis, United States District Court Judge for the Eastern District of New York, entered an Order denying, in part, defendants' motion to dismiss. This matter, in which Kahn Swick & Foti, LLC is a member of Plaintiffs' Executive Committee, seeks damages, restitution, and injunctive relief against the American Express Company and American Express Travel Related Services Company, Inc. (collectively, "Amex"), on behalf of persons that used an electronic form of payment other than an Amex charge or credit card to purchase goods and services sold by merchants across the country at prices allegedly inflated by Amex's non-discrimination provisions. Judge Garaufis ruled that plaintiffs adequately pled violations of 22 state antitrust and/or consumer protection laws and allowed plaintiffs' case to proceed against Amex for these violations.
- *In re Fitbit, Inc. Stockholder Derivative Litigation*, Consolidated C.A. No. 2017-0402 (Del. Ch.). On December 14, 2018, Vice Chancellor Joseph R. Slight III of the Delaware Chancery Court rejected a motion to dismiss a stockholder derivative suit alleging insider trading and breach of fiduciary duty claims against executive officers and directors of Fitbit, Inc. ("Fitbit"). The lawsuit, in which Ms. Nicholson serves as co-lead counsel, alleges that certain insiders made \$385 million in stock sales in the company's initial public offering and—after agreeing to release the insiders from lock-up agreements that barred them from trading for 180 days after the initial public offering—an early secondary offering, taking take advantage of an artificially positive market response to Fitbit's flagship PurePulse heartrate monitoring technology. Vice Chancellor Slight held that the plaintiffs' complaint—bolstered by internal company documents obtained by KSF and its co-counsel—reasonably alleges that, while Fitbit was actively promoting its PurePulse technology, the company internally was struggling to correct and contain news about serious problems with the accurate functioning of their devices containing PurePulse. In the opinion, Vice Chancellor Slight further



held that the complaint adequately pled that the directors and officers who sold stock traded on inside information, and “designed the secondary offering to accommodate sellers’ interests.”

- *Dougherty v. Esperion Therapeutics, Inc., et al.*, No. 16-10089 (E.D. Mich.). On September 27, 2018, the Sixth Circuit Court of Appeals reversed and remanded the lower court’s dismissal of the securities class action filed on behalf of a putative class of Esperion Therapeutics, Inc. investors. In a decision written by Senior Circuit Judge Eugene Edward Siler, Jr., the Sixth Circuit held that the district court erred by concluding that lead plaintiffs had not adequately alleged scienter, stating that, “Esperion has offered no innocent inference stronger than Plaintiffs’ inference that Esperion knowingly or recklessly made material misrepresentations or omissions in its [] communications with investors.” The Court further held that defendants’ “innocent inference” explanations were either implausible or actually supported lead plaintiffs’ allegation of recklessness.

Since joining KSF, Ms. Nicholson has also been involved in a number of cases which ultimately resulted in successful settlements, including:

- *Orrego v. Lefkofsky (Groupon, Inc. Derivative Litigation)*, No. 12 CH 12420 (Ill. Cir. Ct, Cook Cnty., Ch. Div.) (settlement consisting of broad corporate governance reforms with an estimated value of **\$159 million**);
- *In re Bank of America Corporation Securities, Derivative, & Employee Retirement Income Security Act (ERISA) Litigation*, No. 09-MD-2058 (S.D.N.Y.) (Court-approved settlement including **\$62.5 million cash recovery** and substantial corporate governance changes);
- *Bassett Family Trust v. Costolo, et al. (Twitter, Inc. Derivative Litigation)*, C.A. No. 2019-0806 (Del. Ch.) (settlement resulted **\$38 million** payment and targeted corporate governance reforms);
- *In re Fifth Street Finance Corp. Stockholder Litigation*, Consolidated C.A. No. 12157 (Del. Ch.) (settlement resulted in governance enhancements and advisory fee reductions worth an estimated **\$30 million**);
- *In re Barnes & Noble Stockholder Derivative Litigation*, C.A. No. 4813 (Del. Ch.) (settlement resulted in **\$29 million recovery** for the company);
- *In re Fitbit, Inc. Stockholder Derivative Litigation* Consolidated C.A. No. 2017-0402 (Del. Ch.) (settlement resulted in **\$5 million recovery** for the company);
- *In re FAB Universal Corporation Shareholder Derivative Litigation*, Lead Case No. 14-cv-687 (S.D.N.Y.) (settlement involving broad corporate governance reforms);

- *Lowry v. Basile (Violin Memory, Inc. Derivative Litigation)*, No. 4:13-cv-05768 (N.D. Cal.) (broad corporate governance reform settlement); and
- *In re Moody's Corporation Shareholder Derivative Litigation*, 1:08-CV-9323 (S.D.N.Y.) (settlement involving comprehensive corporate governance reforms).

Prior to joining the firm in 2010, Ms. Nicholson worked for defense firms in New York, handling complex commercial litigations and regulatory investigations involving a variety of legal issues, including fiduciary obligations, securities violations, contractual breaches, antitrust and insurance coverage. Ms. Nicholson completed a joint B.A./J.D. program at Tulane University, receiving a B.A. in Political Science, with a concentration in American Politics and Policies and a minor in Economics, from Tulane in 2003 and a J.D. from Tulane in 2005. While at Tulane Law School, Ms. Nicholson served as a Notes and Comments Managing Editor for the Tulane Law Review, which published her comment, *The Constitutional Right to Self-Representation: Proceeding Pro Se and the Requisite Scope of Inquiry When Waiving Right to Counsel*, 79 TUL. L. REV. 755 (2005). She has received numerous awards, including the Dean's Medal for attaining the highest grade point average during the third year, the George Dewey Nelson Memorial Award for attaining the highest grade point average in common law subjects throughout the three years of law study, and Order of the Coif. She graduated from the law school *summa cum laude* and ranked second in her class.

Ms. Nicholson is regularly asked to give presentations and conduct CLEs addressing her practice areas.

Ms. Nicholson is admitted to practice in Louisiana and New York, and before the United States District Courts for the Eastern District of Louisiana, Western District of Louisiana, Southern District of New York, Eastern District of New York, District of Colorado, and Eastern District of Michigan.

### Michael J. Palestina

Mr. Palestina practices securities and other complex class action litigation. He focuses his practice on securities litigation involving mergers and acquisitions. In his capacity as a KSF partner, Mr. Palestina currently serves as lead, co-lead, or executive committee counsel in several ongoing M&A cases and has previously served in the same capacity in several successfully resolved M&A cases.



For example, Mr. Palestina took part in the successful resolution of *In re EnergySolutions, Inc. Shareholder Litigation*, Consol. C.A. 8203-YCG (Del. Ch. 2013), a securities class action involving claims for breach of fiduciary duties to shareholders relating to a proposed merger of nuclear

energy related companies worth \$1.1 billion (\$375 million in proposed shareholder consideration), where there was a \$0.40 price increase, which increased the consideration to shareholders by more than 10%, or approximately \$38 million, and over 20 pages of additional disclosures to the proxy statement relating to process and pricing claims. Mr. Palestina also served as one of three co-lead counsel in *In re American Capital, Ltd. Shareholder Litigation*, Case No. 422598-V (Circuit Court for Montgomery County, Maryland 2016), a securities class action involving claims for breach of fiduciary duty in connection with the sale of American Capital Ltd. against both American Capital's board and senior officers and Elliott Management Corporation, the activist investor fund that agitated for the sale. Therein, Mr. Palestina was instrumental in obtaining a **\$17.5 million settlement** from American Capital's board members and officers and Elliott, in so doing defeating a motion to dismiss by Elliott and obtaining an unprecedented ruling that Elliott may be considered a controller and subject to entire fairness review at trial. More recently, in March 2020, after litigating the matter **to the eve of trial**, Mr. Palestina obtained a \$6.5 million settlement recovery for former U.S. Geothermal Inc. shareholders in connection with its merger with Ormat Technologies, Inc; this recovery represented a 7.7% premium to the adjusted enterprise value of the buyout.

Several of Mr. Palestina's current cases also implicate evolving and novel areas of corporate merger law. For example, in *Helen Moore v. Macquarie Infrastructure and Real Assets, et al. (Cleco Corporation Merger)*, Case No. 251,417, c/q 251,456 and 251,515, Div. "C" (9th JDC, Louisiana, 2014), in which Mr. Palestina serves as one of two Interim Co-Lead Counsel, he was instrumental in securing a landmark Louisiana appellate decision finding that merger-related challenges are direct, and not derivative, in nature. Mr. Palestina is also currently litigating several similar cases that touch on the same direct-vs-derivative issue under Maryland law.

Prior to joining KSF, Mr. Palestina clerked for the honorable Catherine D. Kimball, former Chief Justice of the Louisiana Supreme Court, and practiced law at a well-respected New Orleans litigation firm. While there, Mr. Palestina gained valuable trial experience, focused on complex commercial litigation, and represented a number of judges and his fellow lawyers regarding ethical issues before the State's judicial and attorney disciplinary systems.

Mr. Palestina graduated from Tulane University in 2005 with a Bachelor of Arts in Political Science. He earned his J.D. in 2008 from Loyola University of New Orleans College of Law, where he graduated *magna cum laude*, was a William L. Crowe, Sr. Scholar, and was inducted into the Order of Barristers. While in law school, Mr. Palestina was a member of the Loyola Law Review and Loyola Moot Court, was the first place oralist in the Loyola Intramural Moot Court Competition, and represented Loyola at the Stetson International Environmental Moot Court Competition (where he was the fourth place oralist overall) and on the National Team at the New York Bar Association's National Moot Court Competition (where his

team advanced to the finals). Mr. Palestina also served as a research assistant to the Leon Sarpy Professor of Law Professor Kathryn Venturatos Lorio, whom he assisted in a revision of her Westlaw treatise on Louisiana Succession and Donations, and as a Judicial Intern to Magistrate Joseph C. Wilkinson, Jr. of the United States Federal District Court for the Eastern District of Louisiana. Mr. Palestina's Law Review article, *Of Registry: Louisiana's Revised Public Records Doctrine*, was published in the Loyola Law Review.

Mr. Palestina is licensed to practice in Louisiana state and federal courts.

### J. Ryan Lopatka

J. Ryan Lopatka, a partner in KSF's Chicago office, focuses primarily on federal securities class action litigation.

Mr. Lopatka was a member of the team that litigated against Halliburton Company in one of the most closely followed securities cases of all time. The litigation, which spanned more than a decade, included two landmark decisions from the Supreme Court. The first, *Erica P. John Fund, Inc. v. Halliburton*, 1331 S.Ct. 2179 (2011), a 9-0 unanimous opinion, reversed the rulings of the district court and Fifth Circuit Court of Appeals denying the investors' motion for class certification on loss causation grounds. The second, *Halliburton Co. v. Erica P. John Fund, Inc.*, 134 S.Ct. 2389 (2014), preserved the fraud-on-the-market doctrine, and helped pave the way towards a **\$100 million recovery** for the class.



More recent successes include *Pearlstein v. BlackBerry Limited, et al.*, No. 13-cv-7060 (S.D.N.Y.) and *In re Chicago Bridge & Iron N.V. Securities Litigation*, No. 1:17-cv-1580 (S.D.N.Y.), which resulted in settlement agreements on the eve of trial for **\$165 million** and **\$44 million**, respectively.

Mr. Lopatka successfully argued before the United States Court of Appeals for the Second Circuit to vacate an order from the Southern District of New York granting motion to dismiss in a securities class action against NewLink Genetics Corp. The 26-page ruling from the three-judge panel in *Abramson v. NewLink Genetics Corp.*, 2020 U.S. App. LEXIS 21545 (2d Cir. July 13, 2020) revitalized investors' claims against the bio-pharmaceutical company, and further developed the law of the Second Circuit with regard to loss causation and the actionability of opinion statements under the Supreme Court's 2015 decision in *Omnicare, Inc. v. Laborers Dist. Council Const. Industry Pension Fund*, 575 U.S. 175 (2015). After remand, KSF secured a **\$13.5 million** settlement for the class, an achievement the late Hon. William H. Pauley commended: "you turned a case that was a loser in the district court into a victory for plaintiffs...."

Mr. Lopatka also dedicates his time to promote best practices in complex litigation. For example, Mr. Lopatka served alongside attorneys representing both plaintiffs and defendants as a project member with the Electronic Discovery Reference Model (EDRM) to identify common problems and solutions (including potential amendments to the Federal Rules of Civil Procedure) related to the process of recording documents withheld from production on a claim that they contain attorney-client communication or work product.

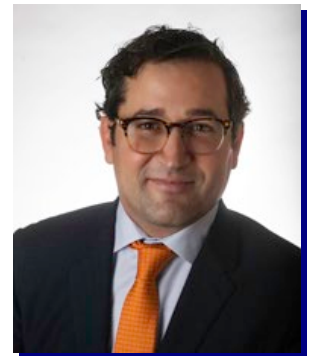
Mr. Lopatka received his J.D. from Tulane University Law School in 2010. During the summer of 2009, he studied international capital markets and securities law at Cambridge University and Queen Mary School of Law in London, England. He received his B.A. with honors in history from Loyola University New Orleans in 2004.

Mr. Lopatka is admitted to practice in Louisiana and Illinois.

### Craig J. Geraci

Craig J. Geraci, Jr. is a partner in KSF's Louisiana office and focuses on federal securities litigation and other complex class action litigation. He is actively involved in cases pending before federal courts across the United States.

Mr. Geraci has litigated numerous securities matters and helped recover more than **\$325 million** for shareholders allegedly defrauded by publicly traded companies and their officers. For example, Mr. Geraci was a member of the litigation team in *Halliburton Co. v. Erica P. John Fund, Inc.*, 134 S.Ct. 2389 (2014), a landmark securities-fraud class action, where the U.S. Supreme Court ruled for KSF's client on the most important issue in the case, and in *Erica P. John Fund, Inc. v. Halliburton*, 131 S.Ct. 2179 (2011), where the Court ruled unanimously for KSF's client. The *Halliburton* case ultimately resulted in a **settlement of \$100 million**. More recently, Mr. Geraci was a member of the litigation teams in *In re Chicago Bridge & Iron Company N.V. Securities Litigation*, No. 1:17-cv-1580 (S.D.N.Y.) and *Pearlstein v. BlackBerry Limited, et al.*, No. 1:13-cv-7060 (S.D.N.Y.), both of which settled on the eve of a jury trial for **\$44 million** and **\$165 million**, respectively.



Mr. Geraci received his J.D. from Tulane University Law School in 2009 and received a B.S. with a major in finance from the University of New Orleans in 2005.

Prior to joining KSF, Mr. Geraci focused his practice on complex commercial and corporate litigation, primarily for clients in the energy industry. In that role, he litigated numerous matters in state and federal courts across the country, including a case where he helped obtain a unanimous verdict in a three-week jury trial, awarding more than \$4 million in contract damages and \$2.7 million in fraud and punitive damages. He also presented oral argument, as a second-year associate, before the U.S. Court of Appeals for the Federal Circuit.

Mr. Geraci is admitted to practice in Louisiana, Mississippi, Alabama, and Texas, and he is a member of those states' bar associations. Further, Mr. Geraci is admitted to practice before the United States Court of Appeals for the Second Circuit, Fifth Circuit, and Federal Circuit and the United States District Courts for the Eastern, Middle, and Western Districts of Louisiana, the Northern, Eastern, and Southern Districts of Texas, and the Northern and Southern Districts of Mississippi.

## SPECIAL COUNSEL

### Vincent Giblin

**Special Counsel to KSF - DeCotiis Fitzpatrick Cole & Giblin, LLP - Paramus, NJ**

Vincent Giblin, as Special Counsel to KSF, is an experienced trial attorney and partner with DeCotiis Fitzpatrick Cole & Giblin LLP. Prior to his career in the private sector, Mr. Giblin served as an Assistant U.S. Attorney in the District of New Jersey. For his efforts at the U.S. Attorney's Office, Mr. Giblin received special recognition from the U.S. Secret Service, U.S. Postal Inspection Service and the Federal Bureau of Investigation. He was also bestowed with the 2002 Administrator's Award, one of the highest honors by the U.S. Drug Enforcement Administration, for his outstanding achievement in law enforcement. Trials that Mr. Giblin participated in include: *United States v. Robert Kosch and Ravidath Ragbir*, a wire fraud conspiracy involving fraudulent mortgage proceeds; *United States v. Luis Cruz*, a gang-related crack cocaine conspiracy; and *Walsh v. Walsh*, a minority shareholder action.



Mr. Giblin regularly appears as trial counsel in state and federal courts. Mr. Giblin handles complex federal litigation, white collar criminal defense, and compliance matters for private corporate and not-for-profit organizations. Mr. Giblin has substantial experience with class action litigation including securities litigation, trade secret litigation, First Amendment issues, international business torts, and minority shareholder actions and bankruptcy-related litigation. Mr. Giblin currently serves as the outside

general counsel for the International Union of Operating Engineers representing over 450,000 members nationally.

Mr. Giblin received a B.A. from Rutgers College in 1992 where he was a member of the Rutgers Intercollegiate Lacrosse Team. Following receiving his J.D. from Seton Hall University School of Law in 1995, he served as a law clerk for the Hon. Clarkson S. Fisher, U.S.D.J. for the U.S. District Court of the District of New Jersey. Mr. Giblin is admitted to practice in New Jersey, and is admitted to practice before the United States Court of Appeals for the Third Circuit, and the United States District Courts for the District of New Jersey, Southern District of New York, and District of Columbia.

## OF COUNSEL

### Melissa Harris

Melissa Harris, Of Counsel in KSF's New Orleans office, practices securities and other complex commercial and class action litigation. Ms. Harris has successfully litigated numerous securities matters in which shareholders stand to recover more than **\$100 million** for shareholders allegedly defrauded by publicly traded companies and their officers. For example, Ms. Harris was a member of the litigation team in *Pearlstein v. Blackberry*, No. 13-7060 (S.D.N.Y.) (**\$165 million settlement**), and *In re Chicago Bridge & Iron Company N.V. Securities Litigation*, No. 17-1580 (S.D.N.Y.) (**\$44 million settlement**) has been granted. Ms. Harris is also litigating several pending securities fraud cases that have survived motions to dismiss and are now settlement stage, including *Farrar v. Workhorse*, No. 21-cv-2072, pending in the Central District of California, and *In re Pareteum Securities Litigation*, No. 19-9767, pending in the Southern District of New York. Ms. Harris also has substantial experience in shareholder derivative suits and securities litigation involving mergers and acquisitions.



Prior to joining KSF, Ms. Harris worked at a well-respected regional law firm in New Orleans, where she handled defense of complex commercial litigation, government contracts disputes, and government investigations in state and federal courts around the country, as well as before federal agencies, including the Consumer Financial Protection Bureau, Federal Trade Commission, and United States Department of Justice. Ms. Harris also represented financial institutions and other companies in lawsuits under the federal False Claims Act and related state and local false claims laws. Ms. Harris has extensive experience with ESI and e-discovery and has presented and published on this topic numerous times.



Before moving to New Orleans, Ms. Harris clerked in federal court for four years in Hattiesburg, Mississippi for the Honorable M. Keith Starrett and the Honorable Michael T. Parker. A native New Yorker, Ms. Harris began her career at a large, prestigious defense firm in New York City where she handled complex commercial litigation, including antitrust, securities, and white-collar criminal matters, and regulatory investigations.

Ms. Harris graduated from Fordham Law School *magna cum laude*, in the top 2% of her class. Ms. Harris was a member of the *Fordham Law Review*, was Order of the Coif, and received the Archibald R. Murray Public Service Award and the West Award for Outstanding Academic Achievement. Ms. Harris received her undergraduate degree from Vassar College *cum laude*, with a major in Classics and a minor in Religion.

Ms. Harris is admitted to practice in Louisiana and New York state courts, as well as in the United States District Courts for the Eastern, Middle, and Western Districts of Louisiana and the Southern and Eastern Districts of New York, and the United States Court of Federal Claims. She is a member of the Federal Bar Association, American Bar Association, Louisiana State Bar Association, and New Orleans Bar Association.

### Daniel Kuznicki

Daniel Kuznicki, Of Counsel in KSF's New York office focuses on securities litigation, representing shareholders in class actions concerning allegations of securities fraud and breaches of fiduciary duties in connection with corporate governance and mergers and acquisitions.

Before turning his attention to class action litigation, Mr. Kuznicki's practice focused on litigation and corporate matters involving trademarks, licensing, contracts, securities and real estate.



Mr. Kuznicki earned his juris doctorate from New York University School of Law in 2008 and graduated summa cum laude in 2005 with a bachelor's degree in Talmudic Law from Yeshiva Bnei Torah Institute.

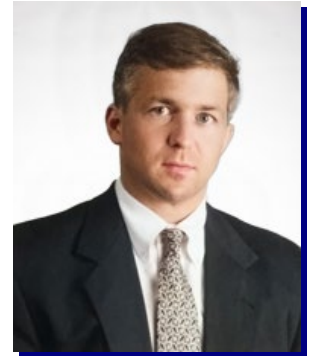
Mr. Kuznicki is admitted to practice law in the State of New York, and the United States District Court for the Southern District of New York, as well as the United States Court of Appeals for the Second Circuit.



### C. Mark Whitehead III

Mark Whitehead, Of Counsel in KSF's New Orleans office, practices complex class action litigation.

Mr. Whitehead has been practicing in the field of mass torts and class actions since 2001. He has been involved in numerous environmental cases involving class claims for property damage and medical monitoring. Mark also represented the Boilermakers' Union Local 1814 in New Orleans, LA. He served on the plaintiff's committee for consolidated Vioxx mass tort litigation in New Jersey and has served on the science committee of the Plaintiff's Steering Committee in the PPA multi-district litigation, as well as serving similar roles in the Bextra/Celebrex, Vioxx, PPA, Fen-Phen, and Avandia MDLs. Mark is currently serving as a member of the science, bellwether trial, and expert witness committees in the Xarelto MDL. Mark has authored and co-authored publications in fields as diverse as aviation, neurosurgery, vascular surgery, and cardiology and was the recipient of the American Venous Forum Research Award. He has also served as acting coroner for Vermilion Parish and was on the Eunice, Louisiana Regional Airport Commission.



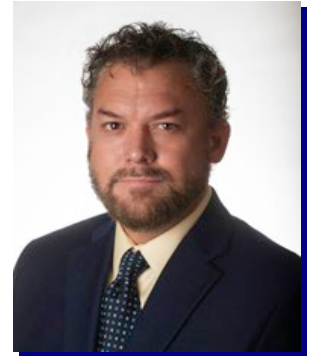
Mr. Whitehead received his J.D. from Tulane University Law School in 2000 after receiving his M.D. from Tulane University School of Medicine in 1995 and a B.S. from the University of Georgia in 1991.

Mr. Whitehead is admitted to practice in Louisiana and Florida state courts, as well as in the United States District Courts for the Eastern District of Louisiana, Middle District of Louisiana, Western District of Louisiana, United States District Courts for the Northern and Southern Districts of Florida, and the Fifth Circuit Court of Appeals. He is a member of the American Association for Justice, Louisiana Association for Justice, Florida Justice Association, Louisiana Bar Association, Florida Bar Association, District of Columbia Bar Association, Louisiana State Medical Society, and the Vermilion Parish Medical Society (past treasurer and vice president).

**Andrew J. Gibson**

Mr. Gibson is of counsel to KSF. Andrew focuses his practice on merger and acquisition litigation, shareholder derivative actions, and other complex class action litigation.

Mr. Gibson is also responsible for the formation and management of the firm's Business Loss Claim division, wherein he represents hundreds of businesses and non-profit organizations in claims under the Deepwater Horizon Economic and Property Damage Settlement. He also has broad experience representing clients in commercial and casualty litigation in Louisiana state and federal courts and has obtained a consistently successful record for his clients.



Mr. Gibson received his J.D. from Loyola University New Orleans College of Law in 2004. While in school, he served as a Teaching Assistant and Staff member for the Moot Court program, was twice elected to the Executive Board of the Student Bar Association, and clerked at a nationally recognized law firm. During the summer of 2003, he studied Latin American civil law systems and international arbitration at the University of Costa Rica School of Law in San Jose, Costa Rica. He earned a Bachelor of Science degree in Business with a concentration in Pre-Law from the E.J. Ourso College of Business at Louisiana State University in 1997 and went on to work as a manager in the marketing department of a regional telecommunications company.

Mr. Gibson is a proud veteran of the United States Marine Corps where he served in the infantry as a Non-Commissioned Officer.

Mr. Gibson is very active in the local business community and has served on the Board of Directors and as Chairman of the Governmental Affairs Committee for the Saint Tammany West Chamber of Commerce, as a member of the St. Tammany Parish Home Rule Charter Committee (2014-15) and as a member of the St. Tammany Parish Inspector General Task Force (2013-2014).

## ASSOCIATES

### Alexander L. Burns

Alexander L. Burns is an associate in KSF's Louisiana office and focuses on federal securities class actions.

Mr. Burns graduated with honors from the University of Southern Mississippi in 2000 with a B.S.B.A. in accounting. In 2001, he earned his Master of Professional Accountancy and has been a licensed CPA since 2003. From 2001 to 2004 Mr. Burns was employed by Ernst & Young, L.L.P., auditing the financial statements of both privately held and publicly traded entities spanning a variety of industries including casino gaming, health care, insurance, and energy. Following the Enron scandal of the early 2000s, and anticipating the need for attorneys with a strong understanding of accounting issues, Mr. Burns left E&Y to attend law school in 2004.

Mr. Burns received his J.D. and B.C.L. from Louisiana State University's Paul M. Hebert Law Center in 2007. While at LSU, he was awarded the CALI Award for Academic Excellence in Contracts, served as Treasurer of the Trial Advocacy Board, and competed on various interschool mock trial teams. Mr. Burns has since practiced civil litigation, representing his clients' interests in contentious matters in both state and federal courts.

Mr. Burns is a licensed Certified Public Accountant in Louisiana. As an attorney, he is admitted to practice in Louisiana, the related Federal District Courts, the United States District Court for the Eastern District of Michigan, the United States Court of Appeals for the Fifth Circuit, and the United States Court of Appeals for the Ninth Circuit.



### James Fetter

Mr. Fetter is an associate attorney at KSF and primarily focuses on securities litigation.

Prior to joining KSF, Mr. Fetter was an associate at a prominent civil rights law firm in Baltimore, Maryland. Mr. Fetter clerked on the U.S. Court of Appeals for the Fourth Circuit for the Honorable Albert Diaz. Mr. Fetter also worked as an associate at a AmLaw100 firm, where he focused on commercial litigation, products liability, and ADA compliance.



Mr. Fetter graduated *magna cum laude* and Order of the Coif from The Ohio State University Moritz College of Law, where he was an executive articles editor for the Ohio State Law Journal. During his time in law school, Mr. Fetter served as an extern at the U.S. District Court for the Southern District of Ohio and the Ohio Supreme Court. Mr. Fetter was also a legal intern at Disability Rights Ohio and a summer associate at an AmLaw100 firm. Mr. Fetter also served as a nonvoting board member for the ACLU of Ohio. Mr. Fetter received his undergraduate degree from Emory University and a Ph.D. in Political Science from the University of Notre Dame.

### Jyoti Kehl

Jyoti Kehl is an associate in KSF's Louisiana office and focuses primarily on federal securities class action litigation.

Since joining the firm in 2018, Jyoti has materially contributed to the prosecution of a number of securities class actions, including *Pearlstein v. BlackBerry Ltd.* (\$165 million settlement achieved on the eve of trial, pending final approval); *In re Chicago Bridge & Iron Company N.V. Sec. Litig.* (\$44 million settlement, pending final approval); and *Kanefsky v. Honeywell International Inc.* (\$10 million settlement). Recently, she collaborated on drafting an amended complaint in *Farrar v. Workhorse Group, Inc.*, which survived in substantial part Defendants' motion to dismiss.

Jyoti received her J.D. cum laude from Tulane University School of Law in 2018, where she was a member of the International Criminal Court appellate moot court team and a Rule XX Student Attorney with the Tulane Criminal Justice Clinic. She received her B.A. in political science with an emphasis in international political economy from the University of California, Santa Barbara.

Ms. Kehl is admitted to practice in Louisiana.



### Nicolas Kravitz

Nicolas Kravitz is an associate in KSF's New Orleans office who prosecutes shareholder derivative lawsuits to redress breaches of fiduciary duty and other wrongdoing by public companies' boards of directors and executive officers. To date, Mr. Kravitz has been involved in litigation that has benefitted shareholders by successfully recovering more than **\$50 million** and implementing robust corporate governance reforms worth millions more, including:



- **\$46.75 million** recovery plus substantial corporate governance reforms obtained in settlement on behalf of Twitter, Inc. shareholders in the action *Bassett Family Trust v. Costolo, et al.*, No. 2019-0806-PAF (Del. Ch.);
- **\$5 million** recovery obtained in settlement on behalf of Fitbit, Inc. shareholders in the action *In re Fitbit, Inc. Stockholder Derivative Litigation*, No. 2017-0402-JRS (Del. Ch.);
- Substantial corporate governance reforms obtained in settlement on behalf of Surgalign Holdings, Inc. shareholders in the action *In re RTI Surgical Derivative Litigation*, No. 1:20-cv-3347 (MFK) (N.D. Ill.); and
- Substantial corporate governance reforms obtained on behalf of GoPro, Inc. shareholders in the action *In re GoPro Stockholder Derivative Litigation*, No. 4:18-cv-00920-CW (N.D. Cal.).

Mr. Kravitz received his J.D., *cum laude*, from Georgetown University Law Center in 2014. Prior to joining KSF, he practiced corporate litigation in Wilmington, Delaware focusing on complex matters in the Delaware Court of Chancery, where he served as trial counsel in numerous matters and gained specialized experience in fiduciary duty litigation.

Mr. Kravitz is admitted to practice in Louisiana, Delaware, and the United States District Court for the District of Delaware.

### Brian C. Mears

Brian C. Mears is an Associate Attorney in KSF's New Orleans office and focuses on securities litigation involving mergers and acquisitions. Mr. Mears has helped KSF secure material proxy disclosures, and, when necessary, monetary relief when shareholders were deprived of the fair value of their investment as a result of M&A transactions. For example, in March 2020, KSF helped secure a **\$6.5 million** common fund for U.S. Geothermal Inc. shareholders after the company was acquired by Ormat Technologies, Inc.



Mr. Mears received his J.D. and M.B.A. from Tulane University Law School. Prior to joining KSF, Mr. Mears completed a judicial clerkship and worked at a boutique civil litigation firm in New Orleans where his practice focused on employment and maritime personal injury matters in federal and state courts. During his time in law school, Mr. Mears was a member of the Sports Lawyers Journal, and he interned with the general counsel's office at Octagon, Inc., one of the world's largest sports agencies, and with the San

## Kahn Swick & Foti, LLC

Antonio Spurs. Prior to attending law school, Mr. Mears was a member of the women's basketball coaching staff at Tulane University.

Mr. Mears is admitted to practice in all Louisiana state courts and the United States District Court for the Eastern District of Louisiana.

Mr. Mears is a member of the Federal Bar Association, the American Bar Association, the American Association for Justice, the New Orleans Bar Association, and the Academy of New Orleans Trial Lawyers.

## Edward Nasser

Edward Nasser is an associate in KSF's New York office working on shareholder derivative lawsuits. Prior to joining KSF, he practiced at large defense firms in New York handling complex commercial litigation and white-collar criminal and regulatory investigations. Mr. Nasser received his J.D. from Harvard Law School in 2018 and B.A. from New York University in 2013. Mr. Nasser is admitted in the state of New York as well as the United States District Courts for the Southern and Eastern Districts of New York. Mr. Nasser is a member of the Board of Directors of the Rikers Debate Project, a nonprofit organization that teaches competitive debate to people incarcerated on Rikers Island.

## Gina Palermo

Gina Palermo is an Associate Attorney in KSF's New Orleans office and focuses on securities litigation involving mergers and acquisitions.

Prior to joining KSF, Ms. Palermo worked at two boutique civil litigation firms in New Orleans, representing both individuals and businesses in complex commercial litigation, securities actions, construction disputes, and personal injury matters in federal and state courts. She also served as Assistant General Counsel to the Port of New Orleans and New Orleans Public Belt Railroad for three years, where she drafted and negotiated contracts and commercial leases and oversaw litigation for both entities.



Ms. Palermo received her J.D. from Louisiana State University Paul M. Hebert Law School in 2010, where she graduated cum laude. During her time in law school, Ms. Palermo was a Senior Editor of the Louisiana Law Review and interned with Chief Judge Burrell J. Carter at the First Circuit Court of Appeals. Her article, "Waking the Neighbors: Determining a Landowner's Liability for Rowdy Tenants Under Louisiana Law," was published in the Louisiana Law Review. Ms. Palermo received her B.A. in journalism from

Louisiana State University in 2007, where she graduated summa cum laude and was awarded the University Medal for academic achievement.

Ms. Palermo is admitted to practice in all Louisiana state and federal courts.

### Alexandra Pratt

Alexandra Pratt is an associate attorney for the firm and focuses primarily on securities litigation.

Prior to joining KSF, Ms. Pratt clerked in federal court in the Eastern District of Texas for the Honorable John D. Love and in the Supreme Court of Virginia for the Honorable Senior Justice Charles S. Russell. While at the Supreme Court of Virginia, Ms. Pratt also served as the law clerk for the Office of the Chief Staff Attorney.



Ms. Pratt received her J.D., *cum laude*, from William & Mary Law School, where she was a member of the Bill of Rights Journal. During her time in law school, Ms. Pratt served as the chief of staff of the Center for Legal and Court Technology and interned with the United States Attorney's Office in the Eastern District of Virginia and the general counsel's office of Huntington Ingalls, the largest military shipbuilding company in the United States. She received her undergraduate degrees from the University of Virginia.

### Rhosean Scott

Rhosean Scott is a staff attorney for the firm and focuses primarily on federal securities class action litigation.

Prior to joining KSF, Ms. Scott worked at several New York litigation boutiques representing plaintiffs in complex securities class actions. She has extensive experience investigating and conducting discovery in securities fraud and antitrust matters on behalf of individual and institutional investors. As part of the KSF team, Ms. Scott is currently prosecuting *In re Parateum Securities Litigation*, *Sam Farrar v. Workhorse Group Inc. et al.*, and *Pearlstein v. Blackberry Ltd., et al.*



Ms. Scott is a graduate of Tulane University Law School and served as a judicial law clerk to the Hon. Charles R. Jones of the Louisiana Fourth Circuit Court of Appeal. She received a B.A. in Economics from Emory University.



Ms. Scott is admitted to practice in New York.

### Jenn Tetreault

Jenn Tetreault is an associate attorney, primarily focusing on shareholder derivative actions on behalf of shareholders who have been harmed by the wrongdoing of the board of directors, officers, or majority shareholders of publicly traded companies.

Prior to joining KSF, Ms. Tetreault worked in general plaintiff's litigation at two firms in Phoenix metropolitan area of Arizona representing individuals and entities in, among other things, complex corporate litigation, construction disputes, contract actions, class actions, and civil rights litigation in federal, state, and appellate courts.

Ms. Tetreault received her J.D. from the Arizona State University Sandra Day O'Connor School of Law School in 2019, where she graduated *magna cum laude* and with the highest *pro bono* distinctions. During her time in law school, Ms. Tetreault was a Senior Research Editor of the *Arizona State Journal*, a Board Chair on the Moot Court, and interned with the Maricopa County Public Defender's Office and Chief Judge Mary H. Murguia at the Ninth Circuit Court of Appeals. Ms. Tetreault received her B.A. in philosophy from Arizona State University, Barrett Honors College in 2010, where she graduated *cum laude*.

### Matthew P. Woodard

Matthew P. Woodard is an associate at KSF's New Orleans office, where his practice focuses on prosecuting complex securities fraud class actions.

Matthew played a key role in securing KSF's appointment as Lead and Co-Lead Counsel in actions against The Boston Beer Company, Inc., Waterdrop, Inc., Workhorse Group, Inc., CarLotz, Inc., Qudian Inc., Honeywell International, Inc., Intellipharma International, Inc., Pilgrim's Pride Corporation, and Chicago Bridge & Iron Company N.V.



He is as a member of a litigation team that has helped recover more than \$336 million for shareholders. *Pearlstein et al. v. BlackBerry et al.* (**\$165 million** settlement); *Erica P. John Fund, Inc. v. Halliburton* (**\$100 million** settlement); *In re Chicago Bridge & Iron Co. N.V. Sec. Litig.* (**\$44 million** settlement); *Abramson v. NewLink Genetics Corp. et al.* (**\$13.5 million** settlement); *In re Tesco PLC Sec. Litig.* (**\$12 million** settlement).



## Kahn Swick & Foti, LLC

Matthew received his Bachelor of Arts degree in English, *cum laude* with honors, from The University of the South: Sewanee and his Juris Doctor degree from Tulane University School of Law. During law school, Matthew served as the Senior Managing Editor for the Tulane Journal of Law & Sexuality: Volume 21.

Mr. Woodard is admitted to practice in Louisiana and is a member of the Louisiana State Bar Association.

## OTHER PROFESSIONALS

### Chuck Jouandot

#### Law Office Administrator

Mr. Jouandot handles all law firm administration, including overseeing accounting and human resources. He has previously served as President of a \$400 million dollar bank. Mr. Jouandot holds a B.S. in Management from the University of New Orleans.



### Ashley Errington

#### Paralegal

Ashley Errington graduated from Brigham Young University, where she majored in Middle Eastern Studies/Arabic and minored in Spanish. She also studied the general sciences at Delgado Community College. Ms. Errington has 17 years of experience as a litigation paralegal. In her free time, she serves on the Assyrian Studies Association's Archive Committee, and volunteers with Days for Girls.



## Bronwyn Gibson

### Legal Assistant

Bronwyn Gibson provides legal and administrative support for all partners and staff. She performs a variety of legal duties such as correspondence with clients, special projects, online file organization and has strong working knowledge of LexisNexis Courtlink used to research and organize diversified workload. She received her bachelor's degree from University of Louisiana at Lafayette.



## Sue Toledo

### Human Resources and Accounting

Sue Toledo, Accounting/HR Department. Born and raised in New Orleans, Louisiana, Ms. Toledo has been with Kahn Swick & Foti, LLC for over 10 years. She has over 30 years of experience working with law firms in the Administration Department. Ms. Toledo attended the University of New Orleans.

