

COMMONWEALTH OF MASSACHUSETTS

WORCESTER, ss.

SUPERIOR COURT
C.A. NO. 1785CV02005B

JANICE MAGLIACANE, on behalf of herself
and others similarly situated,

Plaintiff,

v.

CITY OF GARDNER,

Defendant/Third Party
Plaintiff,

v.

SUEZ WATER ENVIRONMENTAL
SERVICES, INC. (formerly known as
United Water Environmental Services, Inc.),

Third Party Defendant.

**AFFIDAVIT OF IAN J. MCLOUGHLIN IN SUPPORT OF PLAINTIFF'S MOTION
FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT AND APPLICATION
OF AN AWARD FOR ATTORNEY'S FEES AND EXPENSES**

I, Ian J. McLoughlin, declare under penalty of perjury:

1. I am a partner with the law firm Shapiro Haber & Urmy LLP ("Shapiro Haber"), counsel to Plaintiff in this action.
2. I submit this affidavit in support of Plaintiff's Motion for Final Approval of Class Action Settlement (the "Motion") and Shapiro Haber's Application for an Award for Attorney's Fees and Expenses (the "Application").

3. The defined terms I use in this affidavit have the meanings provided in the Stipulation and Agreement of Settlement dated July 2025 between the parties (the “Stipulation” or “Settlement”) attached to the Motion as Exhibit A.

4. On March 29, 2024, the Parties conducted a full-day mediation session with Attorney John Ryan in an attempt to resolve their dispute, and the Parties had additional settlement negotiations over the next several months through Attorney Ryan following the mediation. The Parties’ mediation efforts ultimately resulted in Settlement, the terms of which are memorialized in the Stipulation.

5. My firm conducted an investigation and took discovery in this action to inform ourselves concerning the value of the case and to assess the benefits of a Settlement, including discovery from Defendants and third parties as to the number of Class members, the number of coil replacements by Class members and the cost of such coil replacements. The City and SUEZ also produced additional information to Plaintiff concerning their defenses, which permitted my firm to consider fully the risks associated with pressing forward with Plaintiff’s claims. We also conducted extensive briefing on the key legal issues on motions to dismiss, appeal of the motion to dismiss ruling and on class certification over the eight plus year course of this litigation. In whole, we obtained the necessary information in order to fully evaluate the risks and benefits of continued litigation before negotiating the Settlement. Such risks included the possibility that Defendant would prevail on one or more of its affirmative defenses, including statute of limitations and its defense that the City was a governmental entity exercising a “discretionary function” within the scope of its office. Plaintiff also faced the risk of failing to establish liability, if for example the City and SUEZ, or their experts, convinced a jury that Plaintiff had not proven beyond a preponderance of the evidence that the water the City and SUEZ supplied to

Gardner residents was (1) corrosive and (2) the cause of the coil failures. At a minimum, continued litigation would have involved a complex, lengthy and expensive “battle of the experts,” on which a jury ultimately could have come out either way. In the face of these risks, the benefits of the settlement – immediate recovery of a considerable percentage of Plaintiff and the Class’s damages, weighed in favor of the settlement.

6. My firm is highly experienced in class action litigation, specializing in particular in consumer class actions. The attorneys of record (including myself and Michelle Blaunder) together have dozens of years’ experience litigating such actions. I attach hereto as **Exhibit A** a resume detailing Shapiro Haber’s relevant experience in class actions, including consumer class actions.

7. Based on Shapiro Haber’s knowledge and understanding to evaluate the risks and the benefits of the proposed settlement, we strongly believe that it confers a significant benefit to Class Members, particularly relative to continued litigation, which would pose risks, delay and further expense (including with respect to experts and expert discovery). Based on our evaluation, and considering not only the aggregate value of the Settlement but also the structural aspects of the Settlement that will encourage and facilitate claim submission, we have concluded that this Settlement presents a highly favorable recovery for the Class.

8. As set forth in the accompanying Application, Shapiro Haber is seeking the sum of \$129,936 in attorney’s fees and expenses to be paid out of the \$325,000 common fund established as part of the proposed class action settlement in this matter. Shapiro Haber is requesting 33% of the common fund amount, or \$107,250, in attorney’s fees to compensate Plaintiff’s counsel for the time they expended in the case, and an additional \$22,686 to reimburse Plaintiff’s counsel for expenses they incurred. As detailed in the Application, Plaintiff’s request

for an award of attorney’s fees and expenses to her counsel in the amount of \$129,936 is reasonable and indeed represents less than 10% of Shapiro Haber & Urmy’s lodestar in prosecuting this litigation on behalf of Plaintiff and the Class.

9. The following schedule sets forth the amount of time spent by the attorneys and paralegals at my firm in prosecuting this action on behalf of the Plaintiff and the Class through January 20, 2026.¹ The schedule sets forth the current hourly rates of each of those attorneys and paralegals or the rates that would be charged for those professionals if they were still employed by Shapiro Haber & Urmy LLP. This schedule was prepared from contemporaneous daily time records maintained by my firm in the ordinary course, which can and will be provided to the Court if requested:

<u>Name</u>	<u>Position</u>	<u>Rate</u>	<u>Hours</u>	<u>Lodestar</u>
Edward F. Haber	Senior Partner	\$975.00	47	\$45,825.00
Michelle H. Blauner	Partner	\$865.00	842.6	\$728,849.00
Ian J. McLoughlin	Partner	\$755.00	280.6	\$211,853.00
Adam M. Stewart	Senior Associate	\$600.00	751.1	\$450,660.00
Jonathan Dinerstein	Associate	\$400.00	236.1	\$94,440.00
Tyler Jankauskas	Paralegal	\$235.00	120.5	\$28,317.50
Ben Luongo	Paralegal	\$235.00	48.7	\$11,444.50
		Total	2,326.6	\$1,572,389

10. The hourly rates set forth above are within the range of rates customarily charged by attorneys practicing complex litigation in the Boston area. Had my firm not prosecuted this action, my firm could and would have devoted the time described above to other cases. The

¹ We also expect to spend additional time after this in connection with the administration of the Settlement.

major commitment of time that my firm devoted to this case precluded us from spending that time working on other cases and accepting other representations.

11. Through January 20, 2026, my firm has incurred \$22,686.19 in out-of-pocket costs and expenses in the prosecution of the case, which include without limitation the costs of maintaining a database for the review of discovery documents, deposition transcripts, service fees and mediation expenses. All the costs and expenses summarized below were reasonably and necessarily incurred in connection with the prosecution and settlement of this action and were recorded in the books and records maintained by Shapiro Haber in the ordinary course. A breakdown of those expenses by category follows. This summary was prepared from detailed expense records of my firm, which can and will be produced to the Court if requested:

<u>Category</u>	<u>Expense</u>
Delivery	\$349.52
Discovery Database Fees	\$ 6,784.29
Filing Fees	\$968.00
Mediation Expense	\$2,250.00
Printing/Copies	\$2,186.92
Postage	\$128.88
Press Release	\$159.00
Research Expenses	\$6,599.66
Telephone Conference	\$22.00
Subpoena Service	\$1,259.72
Transcripts	\$ 1,297.40
Travel, Parking, Mileage and Meals	\$680.80
Total	\$ 22,686.19

12. Plaintiff Janice Magliacane Progin is seeking a service award in the amount of \$15,000 for her assistance in and time devoted to this case. Ms. Magliacane's assistance in this

litigation was invaluable. She conducted the initial investigation in this case, including through meetings with the Mayor of the City of Garder, meetings with contractors who replaced the corroded heating coils, review of water records provided by the City, and meetings with and review of documents maintained by the Massachusetts Department of Environmental Protection (“MADEP”), which led to the discovery that the MADEP had approved the use of an anti-corrosion treatment for the water supply which was never used. She also has been a very active participant in the litigation. She also responded to written discovery (including detailed interrogatories and the collection and production of documents), appeared for deposition, attended the mediation and assisted Class Counsel in the consideration of the Settlement.

13. Pursuant to paragraph 16 of the Stipulation, Plaintiff will file an affidavit from the Settlement Administrator no later than 7 days prior to the Final Approval hearing attesting that the Notice and Summary Notice have been disseminated in accordance with the Preliminary Approval Order. To date, no objections have been filed.

14. Class Counsel negotiated a cap of \$25,000 on the Settlement Administrator’s expenses in this matter.

Signed under penalties of perjury on January 26, 2026.

/s/ Ian J. McLoughlin
Ian J. McLoughlin

Certificate of Service

I hereby certify that a true copy of the above document was served upon counsel of record for Defendant and Third-Party Defendant by e-mail on January 26, 2026.

/s/ Ian J. McLoughlin
Ian J. McLoughlin

Exhibit A

SHAPIRO HABER & URMY LLP

With over 40 years of experience litigating, trying, and winning multimillion dollar cases across the country, Shapiro Haber & Urmy LLP (“Shapiro Haber & Urmy”), a Boston-based boutique litigation firm, has long been a national leader in the field of complex, high-stakes litigation. Each of our attorneys has the educational background, expertise, and creativity to litigate against the largest, most prominent law firms in the country – and win. Unlike many other law firms in which only a few, if any, of the lawyers have actually tried a case to conclusion, our lawyers have successfully tried dozens of cases to verdict and have obtained outstanding results for our clients when efforts to reach a negotiated settlement have failed. As a result, we approach each case – large or small – with the expectation that it may be tried, and with the rigor and attention to detail that excellent trial preparation requires.

Partners Edward Haber and Michelle Blauner were named Massachusetts Super Lawyers in every year from 2006 forward. Counsel Thomas Urmy, Jr. was named a Massachusetts Super Lawyer Counsel in every year from 2006 to 2020 and Thomas Shapiro was named a Massachusetts Super Lawyer in every year from 2006 through 2017. Attorneys Haber, Shapiro, and Urmy were recognized as Top Rated Litigators by *The American Lawyer* in 2016 and attorney Blauner was recognized as one of the top 50 women lawyers in Massachusetts in from 2011 to 2013. Partner Ian McLoughlin was named a Massachusetts Rising Star from 2009 through 2015, and a Massachusetts Super Lawyer from 2016 forward. Partner Patrick Valley was named a Massachusetts Rising Star from 2013 through 2020, and a Massachusetts Super Lawyer from 2021 forward. The firm has consistently been awarded the “AV” rating by Martindale-Hubbell, which is given only to firms that have earned a very high measure of professional esteem and have adhered to the highest ethical standards.

The firm’s commitment to success in high-stakes, high-profile litigation is matched by its commitment to providing access to quality legal representation on a pro bono or reduced-fee basis to low-wage individuals who otherwise might not be able to afford legal help. Our attorneys have represented low-wage workers in the fields of hospitality, janitorial services, and retail, in actions seeking to recover unpaid wages ranging from hundreds to tens of thousands of dollars. In each of these smaller cases we incur large fees and expenses, often far in excess of the wages sought to be recovered. We believe our duty as members of the bar is to represent those who otherwise would not have any means to obtain relief in court, and we welcome that responsibility. Reflecting this commitment, in 2011 the firm received the Law Firm Award from the Political Asylum/Immigration Representation Project for its pro bono work in representing asylum seekers.

LEGAL PROFESSIONALS

PARTNERS

Edward F. Haber, Partner

- 1966, B.A., Cornell University
- 1969, J.D. *cum laude*, Harvard Law School

Michelle H. Blauner, Partner

- 1983, B.A. *with highest distinction*, Cornell University
- 1986, J.D. *cum laude*, Harvard Law School

Ian J. McLoughlin, Partner

- 1997, B.A. *cum laude*, Gonzaga University
- 2000, J.D. *magna cum laude*, Boston University School of Law

Patrick J. Vallely, Partner

- 2002, B.A. *magna cum laude*, University of Dayton
- 2005, J.D. *with honors*, University of Chicago Law School

ASSOCIATES

Emilie C. Castro-Schwarz, Associate

- 2014, B.A. *magna cum laude*, Barnard College
- 2020, J.D. *with honors*, Columbia Law School, Columbia University

COUNSEL

Thomas V. Urmey, Jr., Counsel

- 1960, B.A. *cum laude*, Amherst College
- 1964, L.L.B., Yale Law School

Thomas G. Shapiro, Counsel

- 1965, B.A. *magna cum laude*, Harvard College
- 1969, J.D. *cum laude*, Harvard Law School

JUDICIAL RECOGNITION

- “Given their representation of the lead plaintiffs to date... Shapiro Haber & Urmy LLP, with substantial experience with securities class action litigation, [is] adequate to serve as class counsel.” *In re AVEO Pharm., Inc. Sec. Litig.*, (D. Mass.)
- Shapiro Haber & Urmy litigated “with considerable skill and experience” and demonstrated “excellent lawyering.” *Kenney v. State St. Corp.* (D. Mass.)
- Shapiro Haber & Urmy is “highly skilled” and has “significant class action experience.” *Arnett v. Bank of Am., N.A.* (D. Or.).
- “Shapiro Haber & Urmy is an eleven-lawyer firm with a national reputation for litigating a variety of national class actions.” *Davis v. Footbridge Eng’g Servs., LLC* (D. Mass.).
- “I think that [Shapiro Haber & Urmy] has done an excellent job on this and makes my job much, much easier.” *Olmeda v. AM Broadband, LLC*, (D. Mass.)
- “[Shapiro Haber & Urmy’s] skillful and zealous representation over a six-year period enabled the settling classes to obtain a favorable and certain cash recovery....The high quality of representation provided... is evident from the extensive record of this case...” *In re Merrill Lynch & Co., Inc. Research Reports Securities Litig.* (S.D.N.Y.).
- Shapiro Haber & Urmy “has broad-based experience in complex litigation, including experience in securities fraud class actions in this district and others.” *Swack v. Credit Suisse First Boston* (D. Mass.).
- “I am satisfied that [Shapiro Haber & Urmy] will prosecute this action vigorously and will protect the interests of the absent class members.” *McLaughlin v. Liberty Mutual Ins. Co.* (D. Mass.).
- Shapiro Haber & Urmy is “highly qualified both generally, and in the specific context of private class actions under the Federal securities laws.” *Coopersmith, et al. v. Lehman Brothers, Inc.* (D. Mass.).
- Shapiro Haber & Urmy is “highly qualified to act as lead counsel for the Class” and “has extensive experience in prosecuting class actions, including as lead counsel.” *US Trust Co. of NY v. Albert* (S.D.N.Y.).
- Shapiro Haber & Urmy “comes with a wealth of experience and skill in prosecuting class actions.” *US West, Inc. v. Macallister* (D. Colo.).

QUALIFICATIONS AND EXPERIENCE

CONSUMER LITIGATION

- In *Burkhart v. Genworth Financial, Inc.*, C.A. No. 2018-0691-NAC (Del. Ch.), Shapiro Haber & Urmy represents a putative class of more than one million long-term care (“LTC”) insurance policyholders, who have brought suit against Genworth Life Insurance Company (“GLIC”) for fraudulent conveying more than \$1.5 billion in assets to its affiliates when it terminated a capital support agreement without consideration. Plaintiffs allege that GLIC intended to defraud its LTC policyholders when it terminated the capital support agreement and that the GLIC was insolvent or undercapitalized at the time of the transaction because GLIC was left with insufficient assets to pay its expected liabilities under the policies. Shapiro Haber & Urmy successfully argued to the Delaware Chancery Court, that Plaintiffs, who had not yet made claims under their policies, had standing to sue for fraudulent conveyance. *Burkhart v. Genworth Fin., Inc.*, No. 2018-0691-JRS, 2020 Del. Ch. LEXIS 44, at *1 (Ch. Jan. 31, 2020).
- Shapiro Haber & Urmy, is liaison counsel and a member of the executive committee in *In re Evenflo Co., Inc. Marketing, Sales Practices and Product Liability Litig.*, MDL No. 1:20-md-02938-DJC (D.Mass.). Shapiro Haber & Haber represents consumers and proposed classes in various states who sued the maker of the Evenflo Big Kid booster carseat for allegedly selling the car seat with misleading advertising and safety claims, placing children weighing less than 40 pounds in grave danger during a car crash. After the district court dismissed the case for lack of standing, the First Circuit reversed and held that consumers who alleged that they overpaid for children's car seats because they relied on the manufacturer's misrepresentations about safety and testing plausibly demonstrated their standing to seek monetary relief because overpayment was a cognizable form of injury under U.S. Const. art. III, § 2, cl. 1. *Xavier v. Evenflo Co. (In re Evenflo Co.)*, 54 F.4th 28 (1st Cir. 2022)
- Shapiro Haber & Urmy represents Janice Magliacane, in *Magliacane v. City of Gardner*, 1785-CV0-2005 (Mass. Super. Ct.). She brought a class action against the City relating to its sale and delivery of corrosive water to its residents that led to corrosion of copper heating coils in residents’ hot water heaters. On appeal from the trial court’s dismissal of the case, the Supreme Judicial Court ruled for the first time that a class action could be brought under the Massachusetts Torts Claim Act and that the statute does not require that each individual class member provide written notice of their claim. The SJC also held for the first time that fraudulent concealment tolls the presentment requirement

under the MTCA. *Magliacane v. City of Gardner*, 483 Mass. 842 (2020). On December 28, 2022, the Superior Court certified the Class under Mass. R. Civ. P. 23.

- In *Lee v. Conagra Brands, Inc.*, No. 1:17-cv-11042-RGS (D. Mass.), Shapiro Haber & Urmy represented a class of consumers under the Massachusetts consumer protection Act for claims arising from Conagra's deceptive marketing of Wesson Oil as "100% Natural," when the oil in fact contained genetically modified organisms. Shapiro Haber & Urmy successfully appealed the district court's dismissal of those claims, obtaining a landmark decision from the First Circuit holding that claims relating to "natural" advertising are not preempted by federal law and clarifying the applicable pleading standard for injury and damages under the Massachusetts Consumer Protection Act. *Lee v. Conagra Brands, Inc.*, 958 F.3d 70 (1st Cir. 2020). The case settled upon remand.
- In *Starr v. VSL Pharmaceuticals, Inc.*, No. 8:19-cv-02713-TDC (D. Md.), Shapiro Haber & Urmy serves as co-lead counsel representing consumers in a number of states asserting violations of the federal RICO statute, various state consumer protection acts, and common law relating to the defendants' deceptive marketing and sale of the medical probiotic food VSL#3. Plaintiffs claim that the defendants, the owners and distributors of VSL#3, defrauded consumers into believing a new formulation of VSL#3 sold after May 2016 was the same as the original clinically tested formulation of VSL#3 sold prior to that time, when in reality it was not. The claims are on behalf of certified nationwide and statewide classes of consumers who purchased VSL#3 from June 2016 to the present. Shapiro Haber & Urmy successfully defeated defendants' motion to dismiss on December 28, 2020, including with respect to the federal RICO claim, and the case has been vigorously litigated since that time, including Plaintiffs' successful motion for class certification.
- In *Levine v. Volvo Cars of North America, LLC*, No. 2:18-cv-03760-CCC-JBC (D.N.J.), Shapiro Haber & Urmy is the lead counsel representing a class of owners and lessees of certain model year Volvo XC90s, asserting claims against Volvo for consumer deception and breach of warranty relating to Volvo's deceptive marketing of its XC90 vehicles as being compatible with Android Auto. Shapiro Haber & Urmy successfully defeated an attempt at the dismissal of the case on the pleadings, resulting in an important decision relating to the pleading standards for consumer deceptions claims, the requirements of substantive state consumer protection law, and defense strategies of "picking off" class representatives. *Levine v. Volvo Cars of N. Am., LLC*, No. 18-cv-03760, 2022 U.S. Dist. LEXIS 145525 (D.N.J. Aug. 12, 2022).

- In *Jones v. Google, LLC*, No. 5:19-cv-07016-BLF (N.D. Cal.), Shapiro Haber & Urmy represents a class of children, the personal information of whom Google, Youtube, and various Youtube content creators unlawfully collected and used for their own commercial purposes in violation of state law, when children accessed child-specific areas of Youtube. The case involves cutting-edge issues of online privacy and the online protection of minors from improper commercial exploitation. After the district court dismissed the case on preemption grounds, the plaintiffs successfully appealed the district court's decision to the Ninth Circuit, resulting in an important decision regarding the preemption of consumer protection claims. *Jones v. Google LLC*, 56 F.4th 735 (9th Cir. 2022). That decision clarifies that state law may provide private remedies for the invasion of children's privacy, notwithstanding the existence of federal law that also addresses the same issues.
- In *Aspinall v. Philip Morris Cos.*, Civ. Action. No. 98-6002-H (Mass. Super. Ct.), Shapiro Haber & Urmy represented plaintiffs in a class action against Philip Morris. The suit was brought under the Massachusetts Consumer Protection Act, M.G.L. c. 93A, and sought to recover damages from defendants on behalf of all persons who purchased Marlboro Light cigarettes in the Commonwealth of Massachusetts. The case alleged that by using words such as “Light” and “Lowered Tar and Nicotine” on the packaging of Marlboro Lights, defendants falsely represented to purchasers that the cigarettes contained and delivered lower levels of tar and nicotine to human smokers than did regular cigarettes. In October of 2001, the Superior Court certified the case as a class action. Shapiro Haber & Urmy successfully argued against defendants’ appeal from the class certification decision, which was affirmed by the Supreme Judicial Court in August of 2004, *Aspinall v. Philip Morris Companies, Inc.*, 442 Mass. 381 (2004). The firm also successfully prevailed, before both the Superior Court and the Supreme Judicial Court, against Philip Morris’ argument that a consumer’s claims under c. 93A were preempted by federal law and the actions of the Federal Trade Commission. *Aspinall v. Philip Morris Companies, Inc.*, 453 Mass. 431 (2009). On February 19, 2016, after a five-week trial, the Court found that Philip Morris violated c. 93A, and awarded statutory damages plus prejudgment interest, totaling \$15 million.
- In *Smith v. Keurig*, No. 4:18-cv-06690-HSG (N.D. Cal.), Shapiro Haber & Urmy represents a certified nationwide class of consumers who purchased Keurig coffee pods deceptively marketed and labeled as recyclable. The case concerns cutting-edge issues involving the intersection of federal regulation and state consumer protection law. After defeating a motion to dismiss in a related action, Shapiro Haber & Urmy helped procure

a \$10 million, non-reversionary cash settlement for Keurig consumers, for which the district court recently granted final approval.

- In *Crane v. Sexy Hair Concepts, LLC*, No. 17-10300-FDS (D. Mass.), Shapiro Haber & Urmy was the lead counsel representing a nationwide class of consumers who purchased Sexy Hair shampoos and conditioners that were deceptively marketed as being free of sulfates and salts. Shapiro Haber & Urmy defeated an attempt to dismiss the plaintiffs' claims, resulting in a decision that affirmed important principles of consumer protection law under the Massachusetts consumer protection statute. *Crane v. Sexy Hair Concepts, LLC*, 2017 U.S. Dist. LEXIS 220112 (D. Mass. Oct. 10, 2017). After Shapiro Haber & Urmy obtained that favorable decision, the case settled for a non-reversionary cash settlement of \$2.33 million.
- In *Munsell v. Colgate Palmolive Co*, No. 1:19-cv-12512-NMG (D. Mass.), Shapiro Haber & Urmy represented Massachusetts and Rhode Island consumers under the Massachusetts and Rhode Island consumer protection acts relating to Colgate and Tom's of Maine's deceptive marketing of Tom's of Maine toothpaste and deodorant products as "natural" when those products in fact contain artificial, synthetic or chemically processed ingredients. Shapiro Haber & Urmy defeated the defendants' motion to dismiss and continues to litigate the case on behalf of the proposed classes. *Munsell v. Colgate-Palmolive Co.*, 2020 U.S. Dist. LEXIS 88745 (D. Mass. May 20, 2020).
- In *Carriuolo v. General Motors, LLC*, Case No. 14-cv-61429 (S.D. Fl.), Shapiro Haber & Urmy represented a class of Florida purchasers and lessees of Cadillac CTS vehicles. The case concerned General Motors' misrepresentations that certain Cadillac CTS vehicles had obtained federal safety ratings that they had not in fact obtained. Shapiro Haber & Urmy successfully moved for certification of a class of Florida purchasers of the vehicles, which was affirmed on an interlocutory appeal by the United States Court of Appeals for the Eleventh Circuit. *Carriuolo v. GM Co.*, 823 F.3d 977 (11th Cir. 2016). That landmark decision construed Florida law and Rule 23 to reject common defense arguments against class certification, paving the way for future consumer actions under Florida's consumer protection law. After the Court of Appeals affirmed the class certification order, Shapiro Haber & Urmy procured a class settlement that provided \$1,000 cash to each class member, plus a \$1,000 voucher towards the future purchase of a vehicle.
- In *Perlow v. ABC Financial Services, Inc.*, 1684-CV-03611-BLS2 (Mass. Super. Ct.), Shapiro Haber & Urmy represented Matthew Perlow, who brought a class action against ABC Financial and Seas & Associates LLC alleging that certain debt collection letters

sent to him and others did not contain the information required by Massachusetts debt collection law. Following over two years of litigation, Shapiro Haber & Urmy obtained a settlement of \$1.8 million for the benefit of the class. The settlement resulted in monetary recovery for tens of thousands of consumers as well as sizable cy pres awards to the National Consumer Law Center and Massachusetts IOLTA.

- Shapiro Haber & Urmy served as liaison counsel in *Duncan et al. v. Nissan North America, Inc.*, 1:16-CV-12120-DJC (D. Mass.) in which they represent consumers in Oregon, Colorado, Texas, Massachusetts, North Carolina, New York, Florida, Maryland and New Jersey in connection with their purchase or lease of certain Nissan model vehicles manufactured, sold and warranted by Nissan that allegedly have a defective Timing Chain System. The case was recently settled, and the court has granted preliminary approval to the settlement, which provides consumers with various forms of relief, including an extension of the warranty coverage on their vehicles.
- Shapiro Haber & Urmy represented putative classes of plaintiffs in litigation throughout the United States, charging Bank of America with breach of contract and breach of the covenant of good faith and fair dealing in connection with the purchase of hazard and flood insurance in excess of the coverage amounts required by the mortgage agreements. In two of those cases, *Kolbe v. Bank of America*, 695 F.3d 111 (1st Cir. 2012), *en banc review granted*, and *Lass v. Bank of America*, 695 F.3d 129 (1st Cir. 2012), the Court of Appeals for the First Circuit reversed the district court's orders dismissing the claims. Shapiro Haber & Urmy successfully settled the case for \$30 million.
- Shapiro Haber & Urmy represented a class of consumers in litigation in federal and state court in Florida against Homeward Residential, Inc. for breach of the covenant of good faith and fair dealing, and unfair business practices associated with its force-placed hazard insurance practices. Shapiro Haber & Urmy defeated Homeward's efforts to dismiss the case. *Martorella v. Deutsche Bank Nat'l Trust Co.*, 2013 WL 1137514 (S.D. Fla. Mar. 18, 2013). The parties settled the case for a refund of 12.5% of the force-placed insurance premiums, which was approved by the state court and is being administered.

- Shapiro Haber & Urmy represented Massachusetts consumers who sued U-Haul for attempted price fixing in violation of M.G.L. c. 93A. In reversing the dismissal of the case, the United States Court of Appeals for the First Circuit, recognized for the first time that attempted price fixing, which harms consumers, can violate Massachusetts consumer protection laws. *Liu v. Amerco*, 677 F.3d 489 (1st Cir. 2012).
- Shapiro Haber and Urmy represented a class of Massachusetts consumers who sued Southwestern Bell (doing business as Cellular One) for breach of contract and violations of M.G.L. c. 93A by overcharging consumers. After the district court decertified the class, Shapiro Haber & Urmy successfully appealed the ruling to the United States Court of Appeals for the First Circuit, which reversed. *Smilow v. Sw. Bell Mobile Sys.*, 323 F.3d 32, 34 (1st Cir. 2003). The case, thereafter, was successfully settled. Shapiro Haber & Urmy also represented consumers and business owners by prosecuting consumer class action suits against:
 - Seven Massachusetts automobile insurance companies for nonpayment of interest on arbitration awards;
 - Shell Vacation homes in connection with the sale of timeshares;
 - Starbucks for misrepresentation and overcharges in the sale of coffee;
 - Earth Friendly products for misrepresenting its products as “100% Natural” or “All Natural”;
 - Building Products of Canada for selling defective roofing shingles;
 - Various health maintenance organizations for failure to pay claims of non-participating medical service providers for medical services in a timely fashion;
 - Zions First National Bank for charging and collecting excessive overdraft fees;
 - Re\$submitIt, LLC for unauthorized fees charged for insufficient funds checks;
 - U-Haul for attempted price-fixing in violation of the Massachusetts consumer protection statute;
 - Wozo, LLC for deceptive internet marketing;
 - American Medical Security, Inc. for unfair insurance practices;
 - NVIDIA for the sale of defective products in violation of state consumer protection statutes;

- Lenovo for the sale of defective products in violation of state consumer protection statutes;
- TJX Companies, Inc. and Princeton Review related to the theft of personal and financial information of customers;
- E.I. DuPont De Nemours & Company for the potential of serious health hazards resulting from the manufacturing, sales and advertising of “Teflon”;
- Gillette for engaging in deceptive marketing practices with respect to its M3P razor and blades.

CONSUMER LITIGATION APPEALS

Attorneys in our firm had principal responsibility for the brief, and presented the oral argument, in the following appeals in consumer class actions.

- *Xavier v. Evenflo Co. (In re Evenflo Co.)*, 54 F.4th 28 (1st Cir. 2022)
- *Lee v. Conagra Brands, Inc.*, 958 F.3d 70 (1st Cir. 2020)
- *Magliacane v. Gardner*, 483 Mass. 842 (2020)
- *Carruolo v. GM Co.*, 823 F.3d 977 (11th Cir. 2016)
- *Kolbe v. BAC Home Loans Servicing, LP*, 695 F.3d 111 (1st Cir. 2012), *vacated by Kolbe v. BAC Home Loans Servicing, LP*, 738 F.3d 432 (1st Cir. 2013) (*en banc*)
- *Downing v. Globe Direct LLC*, 682 F.3d 18 (1st Cir. 2012)
- *Liu v. Amerco*, 677 F.3d 489 (1st Cir. 2012)
- *Aspinall v. Philip Morris, Inc.*, 453 Mass. 431 (2009)
- *Good v. Altria Group, Inc.*, 501 F.3d 29 (1st Cir. 2007), *aff'd* 129 S. Ct. 528 (2008)
- *Aspinall v. Philip Morris Cos., Inc.*, 442 Mass. 381 (2004)
- *Smilow v. Sw. Bell Mobile Sys., Inc.*, 323 F.3d 32 (1st Cir. 2003)
- *Roberts v. Enterprise Rent-A-Car Co. of Boston, Inc.*, 438 Mass. 187 (2002)

SECURITIES AND DERIVATIVE LITIGATION

- In *In Re Altria Group, Inc. Derivative Litigation*, Lead Case No. 3:20-cv-00772 (DJN) (E.D. Va.), Shapiro Haber & Urmy represents shareholders of Altria in bringing derivative claims against the company arising from its ill-fated investment in Juul Labs, Inc. (“JLI”). The claims are predicated on allegations that Defendants damaged Altria by causing it to invest billions of dollars in JLI while fully aware of the catastrophic risks to Altria posed by JLI’s products and business practices, including JLI’s history of targeting underage consumers. The investment exposed Altria to a raft of lawsuits brought by consumers, regulators and government entities arising out of harm caused by underage e-cigarette use. Altria suffered enormous financial, reputational, and legal-regulatory damage, which it has acknowledged in write downs of over 90% of the value of its investment in JLI. In a creative settlement which was approved by the Court, Altria committed \$117 million to fund third-party programs to prevent underage use of tobacco and existing or newly developed nicotine delivery system products, including e-vapor products. The deployment of the funds will be supervised by an independent monitor, charged with overseeing Altria’s deployment of the funding commitment, and ensuring that it is directed to effective third-party underage use prevention and cessation programs. Operating together with the various additional corporate and policy commitments, this remedial package is designed to prevent recurrence of similar alleged wrongdoing and loss; lay the foundation necessary to restore Altria’s credibility with regulators and investors; and contribute significantly to the public policy goal of reducing underage use of nicotine delivery systems. The settlement as in the top 5 securities settlements in 2022, and the no. 2 derivative settlement of the year.
- In *Fisher v. United States*, No. 13-608C (Ct. Fed. Cl.), and *Reid v. United States*, No. 14-152C (Ct. Fed. Cl.), Shapiro Haber & Urmy represents shareholders of Fannie Mae and Freddie Mac in bringing derivative claims against the United States arising from the government’s takings of assets from both companies during the financial crisis. Shapiro Haber & Urmy successfully defended against a motion to dismiss filed by the government challenging the shareholders’ claims based on jurisdictional and standing arguments. The resulting decision addressed important, previously unresolved questions concerning shareholders’ standing to bring claims against the United States notwithstanding the government’s role as conservator for the companies. *Fisher v. United States*, 2020 U.S. Claims LEXIS 962 (Ct. Cl. May 8, 2020); *Reid v. United States*, 2020 U.S. Claims LEXIS 963 (Ct. Cl. May 8, 2020).

- In *Kimson Chemical, Inc. v. Luckin Coffee, Inc.*, Index No. 651939/2020 (Part 49) (N.Y. Supreme Court), Shapiro Haber & Urmy is counsel in a putative class action brought by Kimson Chemical, Inc., under the Securities Act of 1933 against Luckin Coffee Inc., certain officers and directors of Luckin, and underwriters relating to allegedly negligently prepared and materially false and misleading Registration Statements and Prospectuses in connection with Luckin Coffee’s IPO in 2019 and Secondary Offering in 2020.
- In *Raudonis v. RealtyShares, Inc.*, 1:20-cv-10107-PBS (D. Mass.), Shapiro Haber & Urmy is lead counsel in a class action against RealtyShares, Inc., RS Lending, Inc., Navjot Athwal, Edward Forst and IIRR Management Services, LLC, on behalf of all persons who (1) purchased debt securities offered or sold by RealtyShares or RS Lending relating to loans to Franchise Growth, LLC and/or associated entities for property acquisition and construction (the “Franchise Growth Class”); or (2) who purchased debt securities offered or sold by RealtyShares or RS Lending relating to loans to Ingersoll Financial, LLC for property acquisition and repair of properties across the United States, known as the Nationwide SFR Packages. The action brings claims under federal and state securities laws and the common law relating to alleged misrepresentations made in connection with the debt securities at issue.
- In *In re Fitbit, Inc. Stockholder Derivative Litigation*, No. 2017-0402-JRS (Del. Ch. Ct.), Shapiro Haber & Urmy represented shareholders in a derivative lawsuit on behalf of Fitbit, Inc. arising from stock transactions in which Fitbit’s officers and directors entered while in possession of material nonpublic information about the company. Shapiro Haber & Urmy defeated a motion to dismiss filed by the defendants, resulting in an important decision in the Delaware Court of Chancery affirming the adequacy of the shareholders’ substantive allegations and allegations of demand futility, which built upon important information obtained through a books and records request. *In re Fitbit, Inc. S’holder Deriv. Litig.*, 2018 Del. Ch. LEXIS 571 (Ch. Ct. Dec. 14, 2018). Shapiro Haber & Urmy was then able to leverage that favorable decision to obtain a settlement on behalf of Fitbit.
- Shapiro Haber & Urmy was liaison counsel in an action brought on behalf of the Federal Home Loan Bank of Boston (the “Bank”) in the Massachusetts Superior Court, arising from the sale to the Bank by numerous financial institutions of over \$5.9 billion in Private Label Mortgage-Backed Securities, by means of offering documents which Plaintiffs allege were materially false and misleading. *Fed. Home Loan Bank of Boston v. Ally Fin., et. al.*, 1184CV01533-BLS1 (Mass. Super. Ct.). The Bank has sought rescission and damages under M.G.L. c. 110A, M.G.L. c. 93, and applicable common

law. The Bank has resolved its claims against many of the financial institution defendants, but the claims against certain Credit Suisse entities remain pending and are expected to go to trial in 2021.

- Shapiro Haber & Urmy was at the forefront of shareholder litigation addressing the nationwide epidemic of improperly backdated stock options. The firm was lead counsel or part of the leadership team in derivative actions in both state and federal courts concerning the improper backdating (or other manipulation) of stock options granted to officers, directors, and executives of the following corporations: Affiliated Computer Services, Inc.; Cablevision Systems Corp.; Linear Technology Corp.; Maxim Integrated Products; Staples, Inc.; and UnitedHealth Group, Inc. The United Health derivative action settled for over \$700 million in cash and re-priced or surrendered options – the largest derivative action options settlement on record. Other notable settlements included Maxim (approximately \$38 million in cash and re-priced and surrendered options); Affiliated Computer Services (approximately \$40 million in cash and re-priced and surrendered options); Cablevision (approximately \$34 million in cash and other consideration); Staples (approximately \$8.2 million in cash and re-priced options); Linear (\$4.5 million in cash and re-priced options as well as corporate governance changes).
- Shapiro Haber & Urmy was one of the court-appointed lead counsel in the consolidated derivative action brought on behalf of the HealthSouth Corporation against its former CEO, Richard Scrushy, its other former officers and directors, and others. This action coordinated derivative actions brought on behalf of HealthSouth in the Delaware Chancery Court, the Federal District Court in Alabama, and the state court in Birmingham, Alabama. The legal team, on which Shapiro Haber & Urmy served as one of the lead counsel, obtained the following recoveries for HealthSouth: (i) summary judgment in the Delaware Chancery Court for over \$17 million, *In re HealthSouth Corp. S'holders Litig.*, 845 A.2d 1096 (Del. Ch. 2003), *aff'd*, 847 A.2d 1121 (Del. 2004); (ii) summary judgment in the Circuit Court of Jefferson County, Alabama for over \$47 million, see *Tucker v. Scrushy*, 2006 WL 37028 (Ala. Cir. Ct. Jan. 3, 2006), *aff'd*, 2006 WL 2458818 (Ala. Aug. 25, 2006); (iii) a settlement of the derivative claims against some of the officers and directors of HealthSouth for \$100 million; (iv) a \$133 million settlement of the derivative claims against HealthSouth's former investment advisor, uBS; and (v) a \$2.8 billion dollar judgment against Mr. Scrushy after a bench trial in the Circuit Court of Jefferson County, Alabama.
- Shapiro Haber & Urmy served as liaison counsel in *Godinez v. Alere, Inc. et al.*, 1:16-

cv-10766-PBS (D. Mass.) that was brought on behalf of investors in Alere common stock relating to alleged misstatements concerning the company's INRatio product line. The case resulted in a \$20 million settlement for the benefit of the class.

- Shapiro Haber & Urmy served as liaison counsel in *In re Aveo Pharmaceuticals, Inc. Sec. Litig.*, 1:13-cv-11157-DJC (D. Mass.) that was brought on behalf of investors in Aveo common stock relating to alleged misstatements concerning the company's lead drug candidate, tivozanib, and regulatory communications with the United States Food and Drug Administration. The lawsuit resulted in a settlement that produced a \$15 million cash payment and warrants to purchase 2 million shares of Aveo common stock at a certain strike price for the benefit of the class.
- In *In re Amicas, Inc. Shareholder Litig.*, 10-cv-0174-BLS2 (Mass. Super. Ct.), Shapiro Haber & Urmy served as liaison counsel in a shareholder action that sought to enjoin the acquisition of Amicas, Inc. by Thoma Bravo, LLC. Among other things, Plaintiffs alleged that the defendants had concealed from shareholders a superior offer to acquire Amicas from Merge Healthcare, inc. The Court enjoined the shareholder vote on Thoma Bravo's acquisition of Amicas, and Amicas was subsequently acquired by Merge Healthcare at a share price that resulted in a \$26 million increase in shareholder value. The Court ruled that Plaintiffs and their attorneys had substantially assisted in obtaining the \$26 million in additional value for the company's shareholders.
- Shapiro Haber & Urmy was the court-appointed co-chairman of the Plaintiffs' Executive Committee in *In re Merrill Lynch Analyst Reports Sec. Litig.*, 02-MDL-1484 (S.D.N.Y.). The firm was also court-appointed lead counsel in two of the Merrill Lynch securities analyst cases: *InfoSpace Analyst Reports Sec. Litig.*, and *Internet Capital Group Analyst Reports Sec. Litig.* The Court approved a settlement in the amount of \$125 million.
- Shapiro Haber & Urmy was lead counsel in two analyst conflict of interest cases against Credit Suisse First Boston on behalf of the shareholders of Winstar Communications, Inc. and Razorfish, Inc., both of which produced multimillion-dollar recoveries. *Ahearn v. Credit Suisse First Boston (Winstar)* (D. Mass.); *Swack v. Credit Suisse First Boston (Razorfish)* (D. Mass.).
- Shapiro Haber & Urmy was on the executive committee prosecuting a securities class action alleging fraud against the former officers and auditors of now bankrupt Winstar Communications, Inc. The lawsuit also alleged that Lucent Technologies participated in the fraud. The case against the former officers settled for \$18.125

million and the case against Lucent settled for \$12 million. The case against the auditors settled shortly before trial in June 2013 for \$10 million. *In re Winstar Commc'ns Inc. Sec. Litig.* (S.D.N.Y.).

- Shapiro Haber & Urmy represented a class of persons who had sold businesses to Waste Management, Inc. for common stock of Waste Management. The case arose from Waste Management's restatement of its financial statements. Shapiro Haber & Urmy obtained summary judgment against Waste Management as to liability for a majority of the class members. Shapiro Haber & Urmy also successfully defended defendant's appeal of the class certification order, *Mowbray v. Waste Management Holdings, Inc.*, 208 F.3d 288 (2000). The case was subsequently settled for a combination of cash and stock with a total value of \$25 million.
- Shapiro Haber & Urmy was co-lead counsel in a class action alleging fraud against former officers and auditors of Actrade Financial Technologies. The case settled for \$5,250,000. *In re Actrade Fin. Techs., Inc. Sec. Litig.* (S.D.N.Y.).
- Shapiro Haber & Urmy represented the Commonwealth of Massachusetts Pension Reserves Investment Trust ("PRIT") in a securities fraud action against Bear Stearns & Co., Inc. in the United States District Court for the Southern District of California. The case arose out of the sale of \$81 million in subordinated debentures issued by Weintraub Entertainment Group ("WEG"), a start-up film company. In February 1987, PRIT bought \$5 million in bonds from Bear Stearns, the placement agent for the issuer. WEG declared bankruptcy in 1990, and the bondholders lost virtually their entire investment. A class action was filed in San Diego against Bear Stearns and others. PRIT also filed suit in 1991, and in 1993 our action was consolidated with the class action for discovery and trial. The case was tried to a jury in San Diego in the summer of 1998. Shapiro Haber & Urmy partner Thomas V. Urmy was PRIT's trial counsel. After a four-week trial, the jury found that Bear Stearns had committed securities fraud and entered a \$6.57 million verdict in favor of PRIT, representing 100% of the damages sought by PRIT at the trial. The case was subsequently settled while on appeal to the Ninth Circuit. *Pension Reserves Inv. Trust v. Bear Stearns & Co.* (S.D. Cal.).
- Shapiro Haber & Urmy represented shareholders of three ING Principal Protection Funds who brought suit alleging that the advisory fees charged are excessive and violate Section 36(b) of the Investment Company Act of 1940. The action was settled for payment by the defendants to the ING Principal Protection Funds of significant funds and a substantial reduction in investment advisory fees to be charged, which

resulted in millions of dollars of future savings to the funds and their shareholders. *Price v. ING Funds Distributors, LLC* (D. Mass.).

- Shapiro Haber & Urmy was liaison counsel prosecuting a class action, pending in the United States District Court for the District of Massachusetts, alleging that State Street Bank and Trust Company breached its custodial agreements and other duties to its custodial clients in connection with a multimillion scheme to defraud committed by their investment advisor. *Handal v. State Street Corp.* (D. Mass.).
- Shapiro Haber & Urmy represented a Massachusetts bank in litigation against Merrill Lynch involving the sale of auction rate securities. *Cooperative Bank v. Merrill Lynch Pierce Fenner & Smith, Inc.* (S.D.N.Y. remanded to D. Mass.).
- Shapiro Haber & Urmy was one of plaintiffs' counsel in shareholder derivative litigation against Cendant Corporation, which arose from one of the largest financial frauds in American history. The case was settled for \$54 million. *In Re Cendant Corp. Deriv. Action Litig.* (D.N.J.).
- Shapiro Haber & Urmy represented the Trustee of UNIFI Communications, Inc., in a breach of fiduciary duty lawsuit against its former directors, alleging that they grossly mismanaged UNIFI in the period leading up to its bankruptcy, causing UNIFI's insolvency to deepen. Shapiro Haber & Urmy recovered \$3.95 million for UNIFI and its creditors. *Ferrari v. Ranalli* (D. Mass.)
- Shapiro Haber & Urmy represented shareholders of EcoScience Corp. in a breach of fiduciary duty lawsuit against its former directors, arising out of the merger between EcoScience and Agro Power Development, Inc. The case, brought in the Delaware Chancery Court, charged that the merger was accomplished by means of a false proxy statement and resulted in the payment of an unfair price to EcoScience shareholders. Shapiro Haber & Urmy recovered \$2 million for EcoScience's shareholders. *Smalley v. DeGiglio* (Del. Ch.).
- Shapiro Haber & Urmy represented shareholders in a class action alleging securities violations in connection with a secondary offering of Digital Equipment Corp. securities. After dismissal by the District Court, partner Thomas Shapiro successfully argued the appeal to the First Circuit in *Shaw v. Digital Equipment Corp.*, 83 F.3d 1194 (1st Cir. 1996). The case was settled for \$5.2 million.
- Shapiro Haber & Urmy has recovered substantial settlements for defrauded shareholders by prosecuting securities class action suits on behalf of shareholders of,

inter alia: Bank of New England Corp. (\$6.5 million); Bank of New England Corp. bondholders (\$8.4 million); Biopure Corp. (\$10 million); Centennial Tech., Inc. (stock and cash with a value of approximately \$20 million); Inso Corp. (\$12 million); Kendall Square Research Corp. (cash, stock, and warrants, with a total value of approximately \$17 million); Kurzweil Applied Intelligence, Inc. (\$9.625 million); Lotus Dev. Corp. (\$7.5 million); MicroCom, Inc. (\$6 million); Molten Metal Tech., Inc. (\$11.85 million); Monarch Capital Corp. (\$5 million); Open Environment Corp. (\$6 million); Pegasystems, Inc. (\$5.25 million); Picturetel Corp. (\$12 million); Presstek, Inc. (\$20 million); Minoco Oil and Gas Drilling Limited Partnerships (\$15 million).

SECURITIES LITIGATION TRIALS

Attorneys in the firm have conducted the following jury trials in securities cases. Attorneys in the firm have also conducted numerous civil and criminal jury trials in non-securities matters.

- Mr. Urmy obtained a favorable jury verdict on behalf of the PRIT Fund in a case tried in the United States District Court for the Southern District of California.
- Messrs. Shapiro and Haber were chief trial counsel in a securities class action entitled *Fulco v. Continental Cablevision*, C.A. No. 89-1342-Y, in a three-week jury trial before Judge Young in the United States District Court in Boston. The case was brought on behalf of the limited partners in four partnerships that owned and operated cable television systems. The jury returned a verdict for the plaintiffs for approximately \$4.5 million.
- Mr. Shapiro was chief trial counsel in a securities fraud class action against Polaroid Corporation in federal court in Boston, which resulted in a jury verdict with an estimated value of \$30 million. A panel of the Court of Appeals for the First Circuit found error in the jury instructions and remanded the case for a new trial. Polaroid then petitioned for and received *en banc* reconsideration. Sitting *en banc*, the First Circuit reversed the judgment. *Backman v. Polaroid Corp.*, 910 F.2d 10 (1st Cir. 1990).
- Mr. Shapiro represented a business owner in a suit against a public company in Massachusetts that acquired his business in exchange for \$11 million in company stock. The suit alleged that the stock price was artificially inflated as a result of false financial statements. Mr. Shapiro conducted the bench trial in 2009 against lawyers from three of the largest firms in Boston.

- Mr. Shapiro represented a customer in an NASD arbitration trial against Oppenheimer & Co. and the broker and recovered out-of-pocket losses, unrealized investment gains per a model portfolio theory, interest on the damages, and an award of attorneys' fees.
- Mr. Haber and Ms. Blauner represented one partner in a suit against another partner for breach of fiduciary duty. The case was tried to a jury in the federal court in Boston, which returned a verdict in favor of our client in the full amount of the damages sought. The verdict was affirmed on appeal. *Wartski v. Bedford*, 926 F.2d 11 (1st Cir. 1991).
- Mr. Shapiro was co-trial counsel for a defendant in a jury-waived trial on an indictment for fraud in the sale of securities, filing false financial statements, and conspiracy. Mr. Shapiro was also on the brief in the appeal from that conviction. *United States v. Lieberman*, 608 F.2d 889 (1st Cir. 1979).

SECURITIES LITIGATION APPEALS

Attorneys at Shapiro Haber & Urmy had principal responsibility for the brief and presented the oral argument in the following appeals in securities cases.

- *In re PolyMedica Corp. Sec. Litig.*, 432 F.3d 1 (1st Cir. 2005)
- *Lentell v. Merrill Lynch & Co., Inc.*, 396 F.3d 161 (2d Cir. 2005)
- *Geffon v. Micrion Corp.*, 249 F.3d 29 (1st Cir. 2001)
- *Mowbray v. Waste Mgmt.*, 203 F.3d 288 (1st Cir. 2000)
- *Wells v. Monarch Capital Corp.*, 129 F.3d 1253 (Table) (1st Cir. 1997)
- *Alpha Group Consultants Ltd. v. Bear Stearns*, 119 F.3d 5 (Table) (9th Cir. 1997)
- *Glassman v. Computervision, Inc.*, 90 F.3d 617 (1st Cir. 1996)
- *Shaw v. Digital Equip. Corp.*, 82 F.3d 1194 (1st Cir. 1996)
- *Wartski v. Bedford*, 926 F.2d 11 (1st Cir. 1991)
- *Backman v. Polaroid Corp.*, 910 F.2d 10 (1st Cir. 1990)
- *Roeder v. Alpha Indus., Inc.*, 814 F.2d 22 (1st Cir. 1987)
- *Frishman v. Maginn*, 75 Mass. App. Ct. 103 (2009)
- *Wolf v. Prudential-Bache Sec., Inc.*, 41 Mass. App. Ct. 474 (1996)
- *Kessler v. Sinclair*, 37 Mass. App. Ct. 573 (1994)

ANTITRUST LITIGATION

- Shapiro Haber & Urmy played a leading role as a member of the Plaintiffs' Steering Committee in *In re Plasma Derivative Protein Therapies Antitrust Litig.*, C.A. No. 09-cv-07666 (N.D. Ill.), successfully defeating three lengthy and substantial motions to dismiss in that case. This was a complex, nationwide putative class action against manufacturers of plasma protein derivative therapies, which are proteins used to treat seriously ill patients across the United States. The action, filed on behalf of all direct purchasers of plasma-derivative protein therapies, alleged that plasma manufacturers agreed to restrict supply and therefore increase prices. In deciding to appoint the firm to its leadership position, the Court highlighted Shapiro Haber & Urmy's extensive experience litigating complex class actions. The case recently settled for \$128 million.
- Shapiro Haber & Urmy represented several of the nation's largest bedding manufacturers and licensors as plaintiffs in *In re Polyurethane Foam Antitrust Litig.*, C.A. No. 10-md- 02196 (N.D. Ohio). Plaintiffs alleged that Defendants and their co-conspirators contracted, combined, or conspired to fix, raise, maintain, and/or stabilize prices and allocate customers for polyurethane foam in the United States.
- Shapiro Haber & Urmy was part of the Executive Committee in *In Re: Nexium (Esomeprazole) Antitrust Litig.*, C.A. No. 12-md-02409 (D. Mass.), representing a putative class of consumers and third-party payors who purchased or paid for Nexium products. Plaintiffs allege that Defendants conspired and entered into anticompetitive agreements designed to shield Defendant AstraZeneca and its brand name drug, Nexium, from competition with generic, lower-priced versions of the drug.
- Shapiro Haber & Urmy assisted in the representation of a certified class of dairy farmers in the Northeastern United States who allege that the defendants unlawfully monopolized and fixed the prices that they paid dairy farmers for their milk and unlawfully allocated markets. The defendants included Dairy Farmers of America, Inc., Dairy Marketing Services, LLC, and Dean Foods Company. The Court approved a settlement between Plaintiffs and Defendant Dean Foods Company that provided for \$30 million in settlement funds. The case is *Allen v. Dairy Farmers of America, Inc., et al.*, C.A. No. 09-cv-230 (D. Vt.).

- In *In re: Automotive Parts Antitrust Litig.*, Master File No. 12-md-02311 (E.D. Mich.), Shapiro Haber & Urmy represented a putative class of indirect purchasers of various auto parts. The action alleges that Defendants fixed and maintained the prices at which such parts were sold.
- In *In re Optical Disk Drive Products Antitrust Litig.*, C.A. No. 10-md-2143 (N.D. Cal.), Shapiro Haber & Urmy represented purchasers of optical disc drives, as well as products containing optical disc drives, including DVD players, computers, and other electronic devices. The action alleges that Defendants and their co-conspirators fixed and maintained an artificial price at which optical disc drives, as well as products containing optical disc drives, were sold in the United States.
- Shapiro Haber & Urmy was appointed Vice Chair of the Executive Committee representing the class of direct purchasers in *In re Marine Products Antitrust Litig.*, C.A. No. 10-cv-2319 (C.D. Cal.) (continuing as *Ace Marine Rigging & Supply, Inc. v. Virginia Harbor Services, Inc., et al.*, C.A. No. 11-cv-00436 (C.D. Cal) and *Board of Commissions of the Port of New Orleans v. Virginia Harbor Services, Inc., et al.*, C.A. No. 11-cv-004367 (C.D. Cal)). The firm represented a class of direct purchasers of several products used in the marine industry to protect vessels, docks, and piers. The class action alleged that manufacturers of these marine products collaborated to rig bids and divide the market in order to avoid competition and maximize profits.

WHISTLEBLOWER ACTIONS

Shapiro Haber & Urmy has handled a number of whistleblower cases over the years, including under the federal False Claims Act and pursuant to the Securities and Exchange Commission's ("SEC") recently promulgated regulations under the Dodd-Frank Act. For example, the firm served as counsel to a whistleblower alleging that Raytheon had violated the federal False Claims Act. In addition, the firm currently represents whistleblowers in three separate matters brought pursuant to the SEC's new whistleblower program. In each of those cases, the firm is assisting the whistleblower in providing information to the SEC about possible violations of the federal securities laws by the whistleblowers' former employers.

ERISA LITIGATION

- Shapiro Haber & Urmy was lead counsel prosecuting an ERISA class action on behalf of the participants in State Street Corporation's Salary Savings Plan against State Street Corp. and the administrators of the Plan. Plaintiff alleges that State Street breached its fiduciary duties to the Plan participants by continuing to offer State Street stock as an investment option under the Plan, when the stock was overvalued and no longer a prudent investment alternative, and that defendants made material misrepresentations about the company's foreign exchange trading revenue in communications with Plan participants who had invested in State Street stock. The case settled for \$10 million. *Kenney v. State Street Corp.* (D. Mass.).
- Shapiro Haber & Urmy also was as liaison counsel prosecuting an ERISA class action in the United State District Court for the District of Massachusetts on behalf of a plan administrator of a 401(k) Plan, against Massachusetts Mutual Life Insurance Company arising out of MassMutual's receipt of revenue sharing payments from the mutual funds on its platform as kickbacks and/or a "pay to play" scheme in connection with the placing, retaining and adding the mutual funds on the menu of available funds in its 401(a) and 401(k) programs. The case settled for \$10 million. *Golden Star, Inc. v. Mass Mutual Life Insurance Co.*, (D. Mass.).
- Shapiro Haber & Urmy represented former employees of Stone & Webster, Inc. to recover damages suffered by the company's retirement plans for breach of fiduciary duty under ERISA by certain former officers and directors of Stone & Webster who were fiduciaries of the plans when they continued to offer Stone & Webster stock as an investment option in the period before Stone & Webster filed for bankruptcy. The action settled for \$8 million. *Stein v. Smith* (D. Mass.)
- Shapiro Haber & Urmy LLP's litigated a class action under ERISA relating to Aetna's Life Insurance Company's improper denial of health insurance benefits in refusing to cover medical expenses incurred from the non-hospital use of a continuous passive motion machine prescribed by the plaintiff's and class members' health care professionals to treat knee injuries. In settlement, Shapiro Haber & Urmy obtained 56% of the amount of each claim for benefits for members of the settlement class. *Jaggard v. Aetna Life Ins. Co.* (D. Mass.).
- Shapiro Haber & Urmy LLP litigated a class action under ERISA against Digital Equipment Corporation and John Hancock Life Insurance Company arising out of Digital's decision to refund surplus life insurance premiums to current company

employees but not to former company employees. Shapiro Haber & Urmy represented a class of former Digital Equipment employees who were participants in the life insurance plan, and who maintained that Digital Equipment had discriminated against its former employees who had paid excessive premiums under the life insurance plan. Shapiro Haber & Urmy LLP successfully settled and obtained a multimillion-dollar settlement for the class. *Michniewich v. Digital Equipment Corp.* (D. Mass.).

WAGE AND HOUR LITIGATION

Shapiro Haber & Urmy represents Pepperidge Farm distributors in three cases originally filed in Massachusetts, California, and Illinois, in which the distributors allege that Pepperidge Farm treated them as employees while classifying them as independent contractors, thus depriving them of important benefits owed by law to employees. The cases are *Sayward v. Pepperidge Farm, Inc.*, No. 1:13-cv-12770-GAO (D. Mass.); *Alfred v. Pepperidge Farm, Inc.*, No. 2:14-cv-7086-JAK (C.D. Cal.); and *Mulhern v. Pepperidge Farm, Inc.*, No. 1:16-cv-02119 (N.D. Ill.). After obtaining certification of the California class over Pepperidge Farm's opposition, see *Alfred v. Pepperidge Farm, Inc.*, 322 F.R.D. 519 (C.D. Cal. 2017), Shapiro Haber & Urmy settled the three cases on a class-wide basis for more than \$22.5 million.

Shapiro Haber & Urmy has successfully represented plaintiff employees in many wage and hour individual and class actions for employee misclassification and in actions seeking to recover overtime pay owed to them under both state and federal law. Such cases have been successfully prosecuted in federal and state courts in Massachusetts and other states, recovering millions of dollars in damages from employers such as Electronic Arts; Sony Computer Entertainment America, Inc.; Arbella Insurance Company; Liberty Mutual Insurance Company; Continental Insurance Company; USAA; Ames Department Stores, Inc.; Argenbright, Inc.; Abercrombie & Fitch; Lane Bryant, Inc.; Express; United Parcel Service; Footbridge, AM Broadband LLC; and CVS.

ATTORNEY BIOGRAPHIES

Partners:

Edward F. Haber

Mr. Haber graduated from Cornell University in 1966 and from Harvard Law School (*cum laude*) in 1969. Upon graduation from Harvard Law School, he taught at the Boston College Law School during the 1969-1970 academic year. Mr. Haber has an AV rating from Martindale-Hubbell for decades and has been named a Massachusetts Super Lawyer every year from 2006 through the present. He has also been named to the national list of Super Lawyers in the Corporate Counsel Edition for securities litigation and was recognized as a Top Rated Litigator by *The American Lawyer* in 2016. Mr. Haber is a member of the Bars of the Commonwealth of Massachusetts, the Supreme Court of the United States, the United States Courts of Appeals for the First and Seventh Circuits, and the United States District Court for the District of Massachusetts.

Michelle H. Blauner

Ms. Blauner is a 1983 graduate of Cornell University (with highest distinction) and a 1986 graduate of Harvard Law School (*cum laude*), where she was managing editor of the *Harvard Civil Rights-Civil Liberties Law Review*. Ms. Blauner is one of the leading class action litigators in Massachusetts and has been named a Massachusetts Super Lawyer in the field of Class Actions/Mass Tort in every year from 2006 through the present. She has also been recognized as one of the top 50 Woman Massachusetts Super Lawyers. Upon graduation, she became an associate at the Boston law firm of Foley, Hoag & Elliot. In 1988 she joined the firm as an associate, and she became a partner in 1993. Ms. Blauner is a member of the Bars of the Commonwealth of Massachusetts, the United States District Courts for the District of Massachusetts, and the United States Court of Appeals for the First Circuit and the Seven Circuit.

Ian J. McLoughlin

Mr. McLoughlin is a 1997 graduate of Gonzaga University (*cum laude*) and a 2000 graduate of Boston University School of Law (*magna cum laude*). He was named a Massachusetts Super Lawyer Rising Star from 2009 to 2015, and a Massachusetts Super Lawyer from 2016 to the present in the fields of class actions and business litigation. He was a litigation associate at the Boston law firm of Foley Hoag LLP from 2000 to 2007 and joined Shapiro Haber & Urmey in 2008. He became a partner in 2012. He worked as Senior Enforcement Counsel at FINRA in 2017 and 2018, and returned to Shapiro Haber & Urmey in 2019. He is a member of the Bars of the Commonwealth of Massachusetts, the United States Court of Appeals for the First Circuit, and the United States District Courts for the District of Massachusetts.

Patrick J. Valley

Mr. Valley is a 2002 graduate of the University of Dayton (*magna cum laude*) and a 2005 graduate of The University of Chicago Law School (*with honors*), where he was Editor in Chief of the *Chicago Journal of International Law*. He was named a Massachusetts Super Lawyer Rising Star from 2013 through 2020, and was selected a Massachusetts Super Lawyer from 2021 to the present. He was a litigation associate at the Boston law firm of Foley Hoag from 2005 to 2012 and joined Shapiro Haber & Urmey in 2012. He is a member of the Bars of the Commonwealth of Massachusetts and the United States District Court for the District of Massachusetts.

Associates:

Emilie C. Castro-Schwarz

Ms. Schwarz is a 2014 graduate of Barnard College (*magna cum laude*) and a 2020 graduate of Columbia Law School (as a Harlan Fiske Stone Scholar), where she was the published winner of the 2019 Outstanding Note Award for the *Columbia Journal of Transnational Law*. She was a litigation associate at the New York office of Latham & Watkins LLP practicing complex commercial and white collar litigation and joined Shapiro Haber & Urmey in 2023. She is a member of the New York State Bar Association.

Counsel:

Thomas G. Shapiro

Mr. Shapiro graduated from Harvard College (*magna cum laude*) in 1965 and from Harvard Law School (*cum laude*) in 1969. Mr. Shapiro is well known for his expertise and experience in securities litigation. He has an AV rating from Martindale-Hubbell and has been named a Massachusetts Super Lawyer numerous times, most recently in 2017. He has also been named to the national list of Super Lawyers in the Corporate Counsel Edition for securities litigation and was recognized as a Top Rated Litigator by *The American Lawyer* in 2016. He is a member of the Bars of the Commonwealth of Massachusetts, the United States District Court for the District of Massachusetts, the United States Court of Appeals for the First Circuit, and the Supreme Court of the United States.

Thomas V. Urmy, Jr.

Mr. Urmy graduated from Amherst College (*cum laude*) in 1960 and from Yale Law School in 1964. He has an AV rating from Martindale-Hubbell and has been named a Massachusetts Super Lawyer numerous times, most recently in 2019. In 2016, he was also recognized as a Top Rated Litigator by *The American Lawyer*. Mr. Urmy is a member of the Bars of the Commonwealth of Massachusetts, the United States District Courts for the District of Massachusetts and the Southern and Eastern Districts of New York, the United States Courts of Appeals for the First, Second, Third, Ninth, and District of Columbia Circuits, and the United States Supreme Court.