

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA**

SIMONA OPRIS, ADRIAN ADAM, and
BRITNEY RICHARDSON, on behalf of
themselves and all others similarly situated,

Plaintiffs,

v.

SINCERA REPRODUCTIVE MEDICINE,
formerly known as and operating as
ABINGTON REPRODUCTIVE MEDICINE,
P.C., also known as REGIONAL WOMENS
HEALTH GROUP, LLC, d/b/a/ SINCERA
REPRODUCTIVE MEDICINE

Defendant.

Case No.: 2:21-cv-03072-JHS

**JOINT DECLARATION IN SUPPORT OF UNOPPOSED MOTION FOR AWARD OF
ATTORNEYS' FEES, COSTS, AND SERVICE AWARDS TO REPRESENTATIVE
PLAINTIFFS**

We, Kelly K. Iverson of Lynch Carpenter, LLP, and Kenneth J. Grunfeld of Golomb Spirt Grunfeld P.C., pursuant to 28 U.S.C. § 1746, declare as follow:

1. We are partners at our respective law firms, Lynch Carpenter, LLP (“Lynch Carpenter”) and Golomb Spirt Grunfeld P.C. (“Golomb Spirt Grunfeld”), and are counsel of record for the named Representative Plaintiffs and the conditionally-certified Settlement Class in the above-captioned matter against Defendant Sincera Reproductive Medicine (“Sincera” or “Defendant”).

2. We submit this declaration in Support of Plaintiffs’ Unopposed Motion for Award of Attorneys’ Fees, Costs, and Service Awards to Representative Plaintiffs.

3. The statements herein are to the best of our personal knowledge, information, and belief, and are based on Lynch Carpenter's and Golomb Spirt Grunfeld's books and records and information from their attorneys and staff.

4. We served as co-lead counsel for Plaintiffs and oversaw the prosecution of the entire action. Settlement Class Counsel undertook this action on a contingent fee basis, meaning that to date we have received no payment for our services. We also advanced all litigation expenses, and to date have not received reimbursement for these from any source. Further, our agreements with our clients provided that we would not charge them for fees or expenses in the event of an unsuccessful outcome. Settlement Class Counsel carefully tracked all time spent and expenses incurred in this matter. These records (including, where necessary, backup documentation) have been reviewed to confirm both the accuracy of the entries as well as the necessity for and reasonableness of the time and expenses expended in this litigation. As a result of this review, certain reductions were made to both time and expenses either in the exercise of billing judgment or to conform to our firms' practices. As a result of this review and related reductions, the time reflected in Settlement Class Counsel's lodestar calculation and the expenses for which payment is sought are reasonable in amount and were necessary to prosecute the action and resolve the Settlement before the Court.

5. During the course of this litigation, and as detailed herein, Settlement Class Counsel coordinated to divide work among the firms in an efficient and effective manner. Duplication of efforts was avoided.

6. This matter is a putative class action arising from a Data Incident whereby an unauthorized third-party gained access to Sincera's data environment between August 10, 2020 and September 13, 2020, resulting in potential exfiltration of patients' protected health information

(“PHI”) and personal identifying information (“PII”) (the “Data Incident”). The Data Incident impacted approximately 38,000 patients of Sincera.

7. Prior to commencing this action, Settlement Class Counsel spent many hours investigating the claims against Sincera. Settlement Class Counsel’s factual and legal investigation included gathering information about the types of information compromised in the Data Incident, as well as a review of existing legal authority regarding potential legal claims.

8. On June 1, 2021, Plaintiffs filed a Class Action Complaint in the Court of Common Pleas for Philadelphia County against Sincera, asserting claims for negligence, breach of fiduciary duty, violations of the Pennsylvania Unfair Trade Practices and Consumer Protection Law (“UTPCPL”), 73 P.S. §§ 201-1, *et seq.*, and declaratory relief.

9. On July 9, 2021, Sincera removed Plaintiffs’ Complaint to the Eastern District of Pennsylvania, and Plaintiffs then filed the operative Amended Complaint on August 31, 2021, asserting additional negligence *per se* and breach of confidence claims against Sincera.

10. On September 14, 2021, Sincera moved to dismiss the Amended Complaint for failure to state a claim. After reviewing Sincera’s motion to dismiss, Settlement Class Counsel researched, drafted, and filed Plaintiffs’ opposition to Sincera’s motion, which was subsequently argued by the Parties in person before Your Honor on December 21, 2021.

11. On May 24, 2022, the Court denied in part and granted in part Sincera’s motion. In its Order and Opinion, this Court found that Plaintiffs had stated viable claims for negligence, breach of fiduciary duty/breach of confidences, violations of the UTPCPL, and declaratory judgment, but granted Sincera’s motion regarding the negligence *per se* claim under the Health Insurance Portability and Accountability Act (“HIPAA”), 42 U.S.C. §§ 1320(d), *et seq.* Sincera answered the Amended Complaint on June 13, 2022, denying Plaintiffs’ asserted claims.

12. Following the Court's decision on Sincera's motion to dismiss and the issuance of its Scheduling Order, the Parties commenced discovery.

13. During the course of this litigation, the Parties have engaged in substantial discovery, and briefed numerous discovery disputes related to Plaintiffs' claims. More specifically, in response to interrogatories, requests for production of documents, and requests for admissions, Sincera has produced thousands of pages of documents. This production includes Sincera's organizational charts, privacy-related policies and consent forms, cybersecurity policies, IT policies, training materials, letters and documents sent to state regulators, consumer notice letters, and call center escalation logs. The productions also include Sincera's complete files on each of the three named Plaintiffs, the report Sincera sent to the United States Department of Health and Human Services, Office for Civil Rights Division, and attached documents with regard to the investigation, remediation, and subsequent actions taken by Sincera in response to the Data Incident. Additionally, Plaintiffs prepared and served numerous third-party subpoenas and responded to written discovery propounded by Sincera, including producing responsive documents.

14. On September 28, 2022, Settlement Class Counsel asked for Sincera's consent to file a Second Amended Complaint, which Sincera refused. Plaintiffs thereafter drafted a motion for leave to amend their complaint.

15. Before Plaintiffs moved for leave to amend the Parties' agreed to engage in settlement talks overseen by a private mediator and moved the Court for a stay of the case, which the Court granted on October 4, 2022.

16. On November 4, 2022, the Parties engaged in a full day-long mediation session overseen by the Honorable Diane M. Welsh (Ret.). The mediation session resulted in a settlement

in principle, with the Parties reaching an agreement on the core terms of their proposed settlement, which if approved by the Court, will resolve all claims in the litigation.

17. Following the successful mediation, the Parties then worked towards drafting and finalizing the Settlement Agreement. They further agreed that KCC, LLC (“KCC”) would serve as the Settlement Administrator. The Parties continued drafting and finalizing the Settlement Agreement and proposed exhibits, reaching a final set of documents on or around January 11, 2023, and the Settlement Agreement was subsequently fully executed by all Parties.

18. Settlement Class Counsel thereafter drafted and filed the unopposed Motion for Preliminary Approval, which the Court granted on March 2, 2023.

19. Since the Court granted preliminary approval, Settlement Class Counsel has worked with the chosen settlement administrator, KCC, to implement the notice program and have been fielding inquiries from Settlement Class Members who are interested in learning more about the Settlement. Settlement Class Counsel anticipates spending a significant amount of time in the coming weeks responding to Settlement Class Members; drafting and filing the motion for final approval; responding to objections (if any); and preparing and attending the final approval hearing, as well as post-settlement work and administration.

20. Set forth below in ¶¶ 22 and 28 are summaries reflecting the amount of time Settlement Class Counsel, including their firms’ attorneys and professional staff worked on the action from the inception of the case in 2021 through today’s date, and the corresponding lodestar value of that work. The schedules in ¶¶ 22 and 28 were prepared based upon daily time records maintained by Settlement Class Counsel in the ordinary course of business, and the lodestar calculations are based on the firms’ current hourly billing rates, or the firms’ equivalent rate for the biller as of their last date of employment.

21. The services Settlement Class Counsel performed on behalf of the Settlement Class include, but are not limited to, the following: consulting with the Representative Plaintiffs; investigating the claims; drafting and editing the initial and amended complaint; researching, drafting, and filing Plaintiffs' opposition to Sincera's motion to dismiss and appearing at oral argument before the Court; drafting and serving discovery requests on Sincera; drafting and serving subpoenas on third-parties; reviewing documents produced by Sincera and third-parties; drafting and serving discovery responses and document productions on behalf of Plaintiffs; participating in a mediation session before the Honorable Diane M. Welsh (Ret.); negotiating, drafting, and finalizing the proposed class action settlement agreement release and related exhibits; soliciting bids from settlement administration firms and working with the chosen administrator, KCC, to implement the notice program; drafting and filing the motion for preliminary approval; and responding to Settlement Class Member inquiries about the Settlement.

22. Lynch Carpenter's total compensable time for which it seeks an award of attorneys' fees is summarized below:

<u>Professional</u>	<u>Title</u>	<u>Hours</u>	<u>Rate</u>	<u>Lodestar</u>
Kelly Iverson	Partner	120.6	\$900	\$108,540.00
Jamisen Etzel	Partner	26.7	\$800	\$21,360.00
Matthew Brady	Associate	28.2	\$550	\$15,510.00
Patrick Donathen	Associate	168.2	\$450	\$75,690.00
James LaMarca	Associate	1.5	\$450	\$675.00
Chris Cornelius	Law Clerk	6.6	\$250	\$1,650.00
Jon Romanishin	Paralegal	0.6	\$250	\$150.00
Daniel Hart	Paralegal	3.6	\$250	\$900.00
Total:		356.0	-----	\$224,475.00

23. Thus, the total time Lynch Carpenter has expended on this matter is 356 hours, and the total lodestar value of these professional services is \$224,475.00.

24. Lynch Carpenter's lodestar figures do not include charges for expense items. Expense items are billed separately, and such charges are not duplicated in the firm's current billing rates. Further, expense items do not contain any general overhead costs and do not contain a surcharge over the amount paid to the corresponding vendor(s).

25. Lynch Carpenter incurred \$9,214.19 in expenses that were reasonably necessary to the prosecution of this litigation. Lynch Carpenter's total expenses for which it seeks reimbursement of is summarized below:

<u>Category</u>	<u>Expenses</u>
Filing and Service Fees	\$2,438.00
Mediation Fee	\$6,110.75
Travel	\$665.44
Total:	\$9,214.19

26. We believe the expenses for which Lynch Carpenter seeks reimbursement are a reasonable amount and were necessary for the effective and efficient prosecution of this action. We also believe that the expenses submitted are of the type normally charged to and paid by fee-paying clients.

27. The above hourly rates for Lynch Carpenter's attorneys and professional support staff are the firm's current hourly rates or the firm's equivalent rate for the biller as of their last date of employment. The hourly rates for attorneys and professional support staff at Lynch Carpenter are the same as the regular rates charged for their services in hourly and contingent fee matters. The time and lodestar spent preparing Plaintiffs' Unopposed Motion for Award of Attorneys' Fees, Costs, and Service Awards to Representative Plaintiffs were excluded from the above values.

28. Golomb Spirt Grunfeld's total compensable time for which it seeks an award of attorneys' fees is summarized below:

<u>Professional</u>	<u>Title</u>	<u>Time</u>	<u>Rate</u>	<u>Lodestar</u>
Kenneth Grunfeld	Attorney	280.30	\$750	\$210,225.00
Richard Golomb	Attorney	18.10	\$950	\$17,195.00
Samerah Moment	Paralegal	28.40	\$125	\$3,550.00
Total:		326.80	-----	\$230,970.00

29. Thus, the total time Golomb Spirt Grunfeld has expended on this matter is 326.80 hours, and the total lodestar value of these professional services is \$230,970.00.

30. Golomb Spirt Grunfeld lodestar figures do not include charges for expense items. Expense items are billed separately, and such charges are not duplicated in the firm's current billing rates. Further, expense items do not contain any general overhead costs and do not contain a surcharge over the amount paid to the corresponding vendor(s).

31. Golomb Spirt Grunfeld incurred \$920.62 in expenses that were reasonably necessary to the prosecution of this litigation. Golomb Spirt Grunfeld's total expenses for which it seeks reimbursement of is summarized below:

<u>Category</u>	<u>Expenses</u>
Filing and Service	\$710.46
Online Research	\$145.34
Postage/Delivery	\$18.32
Transportation	\$46.50
Total:	\$920.62

32. The expenses for which Golomb Spirt Grunfeld seeks reimbursement are a reasonable amount and were necessary for the effective and efficient prosecution of this action. The expenses submitted are of a type normally charged to and paid by fee-paying clients.

33. The above hourly rates for Golomb Spirt Grunfeld's attorneys and professional support staff are the firm's current hourly rates or the firm's equivalent rate for the biller as of their last date of employment. The hourly rates for attorneys and professional support staff at Golomb Spirt Grunfeld are the same as the regular rates charged for their services in hourly and contingent

fee matters. The time and lodestar spent preparing the Plaintiffs' Unopposed Motion for Award of Attorneys, Fees, Costs, and Service Awards to Representative Plaintiffs were excluded from the above values.

34. Combined, the two firms representing Plaintiffs and the Settlement Class in this matter reported 682.80 hours necessary for the prosecution of this action, and a total lodestar of \$455,445.00. The firms also reported a combined total of \$10,314.81 in expenses prosecuting this action. Based on the ratio of Settlement Class Counsel's lodestar (exclusive of expenses) to the \$400,000.00 combined fee and expense request, Settlement Class Counsel's fee request amounts to approximately 88% of their total lodestar.

35. The Representative Plaintiffs performed valuable services for members of the Settlement Class by bringing their claims to Settlement Class Counsel for investigation, agreeing to serve as representative plaintiffs, reviewing the complaint and amended complaint, remaining available to consult with Settlement Class Counsel when necessary regarding the progress of the litigation, and reviewing the progress of the litigation. Additionally, Plaintiffs Opris, Adam, and Richardson searched for and produced documents and responded to written discovery requests, and the Patels were prepared to do the same as needed.

36. Settlement Class Counsel have significant experience in consumer class-action litigation, including data breach class actions such as this one. Co-lead counsel Kelly K. Iverson has significant complex litigation experience, and in recent years has obtained leadership positions in numerous large class action cases, including: *In re: Philips Recalled CPAP, Bi-Level Pap, and Mechanical Ventilator Products Liability Litig.*, Case No. 2:21-mc-01230-JFC (W.D. Pa.) (co-lead counsel); *In re: Erie COVID-19 Business Interruption Protection Ins. Litig.*, Case No. 1:21-mc-00001-MRH (W.D. Pa.) (co-lead counsel); *In re: East Palestine Train Derailment*, Case No. 4:23-

cv-00242 (N.D. Ohio) (plaintiff's steering committee); *In re: Samsung Customer Data Security Breach Litig.*, MDL No. 3055 (D.N.J.) (plaintiff's steering committee); *In re Blackbaud, Inc. Customer Data Security Breach Litig.*, MDL No. 2972 (D.S.C.) (plaintiff's steering committee); *In re Solara Medical Supplies Data Breach Litig.*, 3:19-cv-02284-H-KSC (S.D. Cal.) (plaintiff's steering committee); *In re: Railway Industry Employee No-Poach Antitrust Litig.*, MDL No. 2850 (W.D. Pa.) (liaison counsel).

37. Similarly, Co-lead counsel Kenneth J. Grunfeld has significant complex litigation and data breach experience, and in recent years has obtained leadership positions in numerous large class action cases, including: *Katz et al. v. Einstein Healthcare Network*, No. 02045 (Phila. C.P.) (data breach co-lead); *Mateo v. Service Employees Int'l Union, Local 32BJ*, NO, 004121-22 (Bergan Co., N.J. Sup. Ct.) (data breach Lead Counsel); *Checchia v. Bank of America, N.A.*, No. 2:21-cv-3585 (E.D. Pa.) (local counsel); *Stephen Giercyk v. National Union Fire Insurance Company of Pittsburgh, et al.*, No. 2:13-cv-06272 (D.N.J.) (co-lead); *Rose v. Travelers et al.*, No. 19-977 (E.D. Pa.) (Lead Counsel); *Aughtman v. Yes To Inc. et al*, No. 2:20-cv-01233-VAP-JPR (C.D. Cal.) (co-lead); *Thompson et al. v. 1-800 Contacts, Inc. et al*, No. 2:16-cv-01183 (D. Utah) (plaintiff's steering committee).

38. As demonstrated by Lynch Carpenter's Firm Resume attached as Exhibit A and Golomb Spirt Grunfeld's Firm Resume attached as Exhibit B, Settlement Class Counsel have extensive experience in class action litigation, including data breach litigation.

39. We declare under penalty of perjury that the foregoing is true and correct.

Executed on June 9, 2023
In Pittsburgh, Pennsylvania

/s/ Kelly K. Iverson
Kelly K. Iverson

Executed on June 9, 2023
In Philadelphia, Pennsylvania

/s/ Kenneth J. Grunfeld
Kenneth J. Grunfeld

Exhibit A



LYNCH CARPENTER

Pittsburgh ▪ San Diego ▪ Chicago
Los Angeles ▪ Philadelphia

OUR MISSION

Lynch Carpenter is a national law firm with a singular mission – to provide a voice to those who have been silenced by the disproportionate powers which too often exist in America. With lawyers based in Pittsburgh, San Diego, Los Angeles, Philadelphia, and Chicago, Lynch Carpenter has created an inclusive national community of like-minded legal talent to represent plaintiffs in complex litigation. Lynch Carpenter lawyers have developed strong collaborative working relationships with counsel throughout the nation and have been involved in numerous high-profile multidistrict litigation proceedings, frequently in leadership roles.

The Lynch Carpenter platform is self-made, without reliance upon the legacy of a long-established “repeat player” law firm, and is based upon the fundamental principle that input from a broad base of lawyers with diverse backgrounds, working together with mutual respect, will result in the strongest possible organization. At Lynch Carpenter, diversity is utilized, not tokenized. To this end, the firm strives to provide equal opportunities for promotion and leadership to its attorneys and supporting professionals. Fourteen of the 23 Lynch Carpenter attorneys have been appointed to leadership positions in multidistrict or otherwise consolidated litigation, or in class-action matters involving financial fraud (including securities fraud, derivative actions, and lending fraud), data breach, privacy, consumer fraud, breach of contract, labor and employment, antitrust, and civil rights, in federal and state courts throughout the country.

Lynch Carpenter represents a wide variety of clients, including individual consumers and employees, small businesses, non-profits, issue advocacy groups, and governmental entities. Over the past ten years, Lynch Carpenter lawyers emerged as national leaders in data breach and privacy litigation, and in that time have negotiated or contributed to class recoveries totaling more than \$250 million in that sector alone. Along the way, the Lynch Carpenter team has generated seminal legal authority in both trial and appellate courts. For example, in 2018, as a direct result of Lynch Carpenter’s tenacious appellate advocacy, the Pennsylvania Supreme Court became one of the first state high courts to recognize that a common-law duty of reasonable care applies to the collection and storage of sensitive electronically-stored data. This landmark opinion, *Dittman v. UPMC*, 196 A.3d 1036 (Pa. 2018), paved the way for data breach victims to bring viable negligence claims against companies whose inadequate security practices allow major breach incidents to happen.

In October 2020, *The Legal Intelligencer* named Lynch Carpenter (under its predecessor name) “Litigation Department of the Year” for general litigation in Pennsylvania. In 2021, the firm was named as a finalist for Litigation Department of the Year in the Pennsylvania region by *The American Lawyer*. Several of its partners co-author the current edition of *Class Actions: The Law of 50 States* published by Law Journal Press. Lynch Carpenter’s attorneys are recipients of numerous additional individual awards, as described in more detail in the individual biographies on the firm’s website.

Lynch Carpenter continues to grow and establish itself as a leader in representing plaintiffs in complex litigation throughout the country. The firm remains committed to developing its younger lawyers and providing them with opportunities for professional growth, both inside and outside of the firm. In leading major complex litigation, the firm draws strength from its decentralized management structure, which fosters collaboration within the firm and enables the assembly of internal litigation teams for each case. In this way, Lynch Carpenter epitomizes the synergistic benefits which result from a group of good lawyers working together to do good things.

REPRESENTATIVE AND NOTABLE CASES

PRIVACY & DATA BREACH LITIGATION

In re TikTok, Inc., Consumer Privacy Litig., No. 20-cv-4699 (MDL No. 2948) (N.D. Ill.). Judge Lee appointed Katrina Carroll as Co-lead Counsel in this multidistrict litigation alleging that one of the world's biggest social media platforms captured, collected, and transmitted personal data from TikTok users and their devices without their consent and/or knowledge, including private information and biometric information within the meaning of the Illinois Biometric Information Privacy Act. In August 2022, a settlement for \$92 million received final approval.

In re Equifax, Inc. Customer Data Security Breach Litig., MDL 2800 (N.D. Ga.). The Equifax data breach compromised the nation's entire credit reporting system. More than 400 lawsuits filed by consumers and financial institutions were consolidated in the MDL. Gary Lynch was appointed co-lead counsel for financial institution plaintiffs. After significant dispositive motions practice and initial rounds of discovery, the parties negotiated a settlement of the financial institution class action that provides up to \$7.75 million in cash benefits, plus additional injunctive relief. The court granted preliminary approval of the settlement in June 2020 and final approval in October 2020.

In re Blackbaud, Inc. Customer Data Breach Litig., MDL 2972 (D.S.C.). In 2020, data security company Blackbaud, Inc. was target for a ransomware attack. In the litigation that followed, brought by Blackbaud's customers, Kelly Iverson was appointed to the Plaintiffs' Steering Committee. On October 19, 2021, the Honorable J. Michelle Childs denied Blackbaud's motion to dismiss Plaintiffs' negligence and gross negligence claims.

In re Wawa, Inc. Data Security Litig., 2:19-cv-6019 (E.D. Pa.). Gary Lynch was appointed co-lead counsel for a putative class of financial institution plaintiffs in consolidated actions brought against Wawa, Inc. arising out of a 2019 payment card data breach involving the convenience store's point-of-sale systems. A consolidated amended complaint was filed in July 2020, and in 2021 the district court denied the defendant's motion to dismiss the primary claims. In March 2023, the parties submitted for preliminary approval of a settlement that would provide up to \$37. million in relief for the class.

Popa v. Harriet Carter Gifts, Inc., 52 F.4th 121 (3d Cir. 2022). *Popa v. Harriet Carter Gifts, Inc.*, 52 F.4th 121 (3d Cir. 2022) - Lynch Carpenter won reversal of a district court's summary judgment for defendants in a case regarding applicability of Pennsylvania's Wiretapping and Electronic Surveillance Control Act ("WESCA"), 18 PA. CONS. STAT. 5702 *et seq.* The Third Circuit rejected the defendants' attempt to establish a "direct party" exception to WESCA, which would have undermined the two-party consent requirement of the statute. The Third Circuit also confirmed that defendants bear the burden of proving a prior consent defense, and that the location of electronic interception of website communications under WESCA is at the point where software re-routes transmissions from a user's device, not where the Website Communications are ultimately received. As of March 2023, the remanded case remains in litigation in the Western District of Pennsylvania.

In re Marriott International Customer Data Security Breach Litigation, MDL No. 2879 (D. MD.). Lynch Carpenter was appointed to the Plaintiffs' Steering Committee in this multidistrict litigation related to the data breach involving Starwood guest information dating back to at least 2014. The MDL includes more than 100 cases and is in pretrial litigation. The District Court certified several bellwether classes in May 2022.

In re: Zillow Group, Inc. Session Replay Software Litig., 2:22-cv-1282 (W.D. Wash.). Lynch Carpenter serves as co-lead counsel on behalf of visitors to Zillow’s website who allege they were illegally wiretapped by software operating on the page. An amended complaint was filed in April 2023.

Opris v. Sincera Reproductive Medicine, 2:21-cv-3072 (E.D. Pa.). Lynch Carpenter serves as co-lead counsel in this data breach case involving the 2020 compromise of patients’ personal identifiable information and protected health information from a reproductive health services provider. In May 2022, Judge Slomsky denied the majority of the defendant’s motion to dismiss. A class settlement received preliminary approval in March 2023.

In re Home Depot Customer Data Breach Litig., 1:14-md-02583, MDL 2583 (N.D. Ga.). In this multidistrict litigation, Lynch Carpenter attorneys represented financial institutions in litigation related to the major data breach at the retailer which continued for almost six months in 2014 and resulted in the compromise of approximately 56 million payment card accounts. Lynch Carpenter was appointed by Judge Thrash to be one of three lead counsel managing the financial institution track of the litigation. In September 2017, the Court granted final approval to a comprehensive class settlement that provides over \$27 million in relief to the financial institution class.

First Choice Federal Credit Union v. The Wendy’s Company et al, 2:16-cv-0506, (W.D. Pa.). This class action arose out of a malware installed on the point-of-sale systems of Wendy’s franchised restaurants for the purpose of capturing and ex-filtrating customer payment card data. Approximately 18 million payment cards were exposed. The United States District Court for the Western District of Pennsylvania consolidated several proposed class actions and appointed Lynch Carpenter as Co-lead Counsel on behalf of the plaintiff financial institutions. In November 2018, after three rounds of in-person mediation, Wendy’s agreed to pay \$50 million into a non-reversionary fund and to adopt and/or maintain certain reasonable safeguards to manage its data security risks. When the settlement received final approval in November 2019, the Honorable Maureen P. Kelly noted Class Counsel’s “national reputation,” “significant experience in these types of class actions and in data breach litigation,” and “high level of skill and efficiency.” Judge Kelly further explained:

This case has gone on for three and a half years...This was a very involved case and everyone brought to the table an incredible wealth of knowledge, was always prepared, really was thorough and professional in everything that was provided to the Court. And as involved as this case was, if every case I had was as well organized and professionally presented as this case has been, my life would be much easier... The briefs I got in this case and any filings were just so well-done and detailed. And my law clerks and I have discussed that a number of times. I want to thank counsel for the way you have conducted yourselves and the way you’ve all presented this case.

Dittman et al v. UPMC d/b/a The University of Pittsburgh Medical Center and UPMC McKeesport, Allegheny Cty., Pa. No. GD-14-003285; 196 A.3d 1036 (Pa. 2018). Lynch Carpenter represented several employees of the health care group UPMC in a class action stemming from a breach of UPMC’s personnel files. On November 21, 2018, the Supreme Court of Pennsylvania issued a landmark decision, reversing two lower courts, regarding the viability of common law negligence claims in the wake of a data breach. The Court found that UPMC engaged in affirmative conduct by collecting and storing employee data, and that general principles of negligence support holding actors to “a duty to others to exercise the care of a reasonable man to protect [others] against an unreasonable risk of harm to them arising out of the act.” As to the economic loss doctrine, the Court agreed with Plaintiffs’

interpretation of Pennsylvania legal precedent on the issue, finding that the question of whether the economic loss doctrine applies necessarily turns on the “source of the duty alleged,” and, accordingly, a plaintiff may seek pecuniary damages under a negligence theory if the duty sought to be enforced arises independently of any contractual relationship between the parties. After remand to the trial court, additional motions practice, and initiating discovery, the parties reached a multimillion-dollar settlement that received final approval in December 2021.

Biscan v. Shields Health Care Group, Inc., 1:22-cv-10901-PBS (D. Mass). Jude Saris appointed Elizabeth Pollock Avery as Interim Co-Lead Counsel, and Hannah Barnett as member of the Interim Executive Committee in this data breach case against a healthcare company involving patients from several states.

In re Anthem, Inc. Customer Data Security Breach Litig., No. 5:15-md-02617, MDL 2617 (N.D. Cal.). Lynch Carpenter attorneys represented customers of a national health insurer which experienced a data breach involving the personal information, including social security numbers, of up to an estimated 80 million customers. The case was consolidated and transferred to the Northern District of California in June 2015. Lynch Carpenter attorneys participated in discovery related to Highmark, the Pennsylvania-based member of the Blue Cross Blue Shield Association and a co-defendant in the MDL. The parties reached a settlement valued at \$117 million, which was approved by the Court.

In re Target Corporation Customer Data Breach Litig., 0:14-md-02522, MDL 2522 (D. Minn.). This multidistrict litigation arose out of the massive data breach that occurred in late 2013. Judge Magnuson appointed Gary Lynch to the five-member Plaintiffs’ Executive Committee that managed the litigation on behalf of all Plaintiffs’ tracks (consumer, financial institution, and shareholder). A settlement agreement which provided \$10 million to affected individual customers was granted final approval in November 2015. A separate settlement providing approximately \$39 million in relief to plaintiff financial institutions was granted final approval in May 2016.

Greater Chautauqua Federal Credit Union et al v. Kmart Corporation et al, No. 15-cv-02228 (N.D. Ill.). In this consolidated data breach case in which financial institutions were seeking recovery for losses sustained as a result of a 2014 data breach at one of the nation’s largest discount retail chains, Judge Lee appointed Gary Lynch to the Plaintiffs’ Executive Committee, and Katrina Carroll to serve as Liaison Counsel. A settlement was reached and approved in June 2017.

In re Ashley Madison Customer Data Security Breach Litig., MDL No. 2669 (E.D. Mo.). In this well-publicized data breach case Lynch Carpenter attorneys represented individuals whose highly sensitive account information was leaked from a social media company. The case was consolidated and transferred to the Eastern District of Missouri in December 2015. Judge Ross appointed Gary Lynch and Katrina Carroll (while with her prior firm) to the Executive Committee. A class settlement for \$11.2 million was given final approval in November 2017.

In re Vizio, Inc. Consumer Privacy Litig., MDL No. 2693 (C.D. Cal.). This action was filed on behalf of individuals who purchased Vizio “Smart TVs,” which contained software that collected information about the users in a manner that allegedly violates numerous consumer protection statutes. The case was consolidated and transferred to the Central District of California in April 2016, and Lynch Carpenter was appointed to the Plaintiffs’ Steering Committee. The case was settled and received final approval in 2019, providing for a \$17 million common fund.

Veridian Credit Union v. Eddie Bauer LLC, 2:17-cv-356 (W.D. Wash.). Lynch Carpenter served as co-lead counsel on behalf of a class of financial institutions in this class action against Eddie Bauer arising out of payment card data breach of the retailer's point-of-sale systems in 2016, which led to the exposure of up to 1.4 million payment cards. After overcoming a motion to dismiss and engaging in substantial discovery, the parties negotiated a class action settlement, which was approved in 2019. The agreement made up to \$2.8 million available in direct cash relief to class members and provided for an addition \$7 million worth of injunctive relief and other benefits.

In Re: Solara Medical Supplies Data Breach Litigation, 19-cv-02284 (S.D. Cal.). In January 2020, Judge Marilyn Huff appointed Kelly Iverson to the Plaintiffs' Steering Committee in this data breach action that affected both the personally identifiable information as well as protected health information of Plaintiffs' and the classes. The case settled for a class settlement of \$9.76 million.

In re Community Health Systems, Inc., Customer Data Security Breach Litigation, 2:15-cv-00222, MDL 2595 (N.D. Ala.). Gary Lynch served as a member of the plaintiffs' steering committee in consolidated multidistrict litigation stemming from a 2014 data breach involving one of the nation's largest hospital chains. The breach affected over 200 hospitals and the sensitive personal information of approximately 4.5 million patients was compromised. The action settled on a class basis for up to \$3.1 million.

In re Arby's Restaurant Group, 1:17-mi-55555 (N.D. Ga.). In October 2016, computer hackers accessed Arby's inadequately protected point-of-sale system and installed malware that infected nearly 1,000 Arby's restaurant locations. Gary Lynch was appointed by Judge Totenberg as Chair of the Financial Institution Plaintiffs' Executive Committee. The case settled and received final approval in November 2020.

Vance v. International Business Machines Corp., 1:20-cv-577 (N.D. Ill.). Lynch Carpenter attorneys were appointed Co-lead Counsel in this class action claiming IBM violated Illinois's Biometric Information Privacy Act when it collected, obtained, disclosed, redisclosed, disseminated, and otherwise profited from Illinois residents' unique facial geometric measurements without providing notice or obtaining consent. In September 2020, Lynch Carpenter defeated nearly all of the arguments raised in IBM's motion to dismiss, allowing the case to proceed forward toward class certification.

In Re: Clearview AI, Inc., Consumer Privacy Litig., 1:21-cv-00135 (N.D. Ill.). Lynch Carpenter attorneys served as counsel in this multidistrict litigation on behalf of a proposed class of Illinois citizens alleging that Clearview, in violation of the Illinois Biometric Information Privacy Act, scraped over 3 billion facial images from the internet, scanned their biometrics, and built a searchable database allowing users to instantly identify an unknown individual with only a photograph. Clearview then gave access to these biometrics to hundreds of law enforcement agencies, private entities, and individuals.

Lewert v. PF Chang's China Bistro, Inc., No. 1:14-cv-04787 (N.D. Ill.): Katrina Carroll served as Court-appointed co-lead counsel representing P.F. Chang's customers who had their personal financial information compromised in a 2014 security breach. This matter was one of the first data breach cases on record. Ms. Carroll oversaw all of the appellate briefing in ultimately obtaining a landmark ruling in the Seventh Circuit on Article III standing, hailed by Law360 as one of the "top privacy cases" of 2016.

Salam v. Lifewatch, Inc., No. 1:13-cv-09305 (N.D. Ill.): In this hard-fought litigation, Lynch

Carpenter partner Katrina Carroll is currently involved as court-appointed Co-lead Counsel on behalf of a certified class in this privacy matter brought under the Telephone Consumer Protection Act (“TCPA”). Ms. Carroll has been directly involved in all aspects of litigation, including discovery and motion practice which culminated in a total victory for plaintiffs in contested class certification.

CONSUMER PROTECTION/PRODUCTS LIABILITY

In re Philips Recalled CPAP, Bi-Level PAP, and Mechanical Ventilator Products Liability Litig., MDL No. 3014 (W.D. Pa.). In February 2022, Kelly Iverson was appointed as one of four co-lead counsel from a pool of 75 applicants. The MDL includes over 300 actions involving allegations regarding the potentially harmful degradation of sound abatement foam on recalled continuous positive airway pressure (CPAP) machines and the manufacturers’ conduct in marketing and ultimate recall of the machines. The actions are in the early pretrial stages.

In re Robinhood Outage Litig., No. 20-cv-1626 (N.D. Cal.). In July 2020, Jamisen Etzel was appointed to the executive committee overseeing consolidated actions brought by consumers who sustained losses when the trading application Robinhood suffered severe service outages during a period of intense market volatility. A class settlement was preliminarily approved in December 2022.

Morrow v. Ann Inc., 16-cv-3340 (S.D.N.Y.). Lynch Carpenter attorneys were co-class counsel in a case alleging deceptive pricing practices by a major national retail chain. After plaintiffs overcame a motion to dismiss, the case settled for \$6.1 million worth of class benefits. The settlement was approved in April 2018.

Luca v. Wyndham Hotel Group, LLC, 2:16-cv-746 (W.D. Pa.). Lynch Carpenter attorneys were co-lead counsel in a class action against the Wyndham hotel companies for violations of New Jersey consumer protection statutes. Plaintiffs alleged that Wyndham’s websites deceptively masked the resort fees charged at certain hotels and forced patrons to agree to illegal terms and conditions. In 2017, plaintiffs defeated a motion to dismiss filed by two of the primary operating subsidiaries. A class settlement worth up to \$7.6 million was reached in 2019 and approved later that year.

Van v. LLR, Inc., 3:18-cv-0197 (D. Ak.); 962 F.3d 1160 (9th Cir. 2020). Lynch Carpenter partners Jamisen Etzel and Kelly Iverson won a significant consumer rights ruling from the United States Court of Appeals for the Ninth Circuit. The appeals court reversed a district court dismissal for lack of standing, and, in a published decision, held that the temporary loss of money is a sufficient “injury-in-fact” under Article III of the Constitution to confer standing on a consumer to file a federal lawsuit. In September 2021, the District of Alaska certified a class of consumers asserting claims under Alaska’s Unfair Trade Practices and Consumer Protection Act. A 23(f) appeal is currently pending in the Ninth Circuit.

Mednick v. Precor, Inc., No. 14-cv-03624 (N.D. Ill.): Lynch Carpenter partner Katrina Carroll served as court-appointed Co-lead Counsel in this products liability matter concerning the heart rate monitoring feature on Precor fitness machines. Due to Ms. Carroll’s efforts, the plaintiffs defeated a contested class certification motion and obtained class certification for a multi-state consumer class. Ms. Carroll was instrumental in negotiating a class settlement providing meaningful relief for class members shortly thereafter, for which the Court recently issued final approval.

In re Rust-Oleum Restore Marketing, Sales Practices and Prods. Liab. Litig. No. 1:15-cv-1364 (N.D. Ill.): In this sprawling products liability MDL relating to defective deck resurfacing products, Katrina Carroll was instrumental in negotiating a \$9.3 million settlement providing meaningful relief to consumers, which received final approval in March of 2017 by the Honorable Amy J. St. Eve of the United States District Court for the Northern District of Illinois, now a sitting Judge of the Court of Appeals for the Seventh Circuit.

FINANCIAL FRAUD, LENDING PRACTICES, AND SECURITIES

In re: FedLoan Student Loan Servicing Litigation – MDL No. 2833, (E.D. Pa.). Lynch Carpenter serves as court-appointed co-lead counsel on behalf of student loan borrowers and federal grant recipients in this multidistrict litigation. The claims relate to widespread and systemic failures on the part of a student loan servicer and the U.S. Department of Education to adequately service the programs and advise its participant. A consolidated complaint was filed in November 2019. As of January 2022, a motion to dismiss is fully briefed and currently awaiting resolution by the Court.

CitiMortgage SCRA Litigation, (S.D.N.Y.). Lynch Carpenter attorneys were tri-lead counsel in this class action against CitiMortgage on behalf of Sergeant Jorge Rodriguez in the Southern District of New York. This case alleges that CitiMortgage improperly foreclosed upon Mr. Rodriguez's home (and the homes of similarly situated individuals) while he was serving his country in Iraq, in violation of the Servicemembers Civil Relief Act. The case settled and received final approval in October 2015, securing a total recovery of \$38.2 million for members of our military service.

In re Community Bank of Northern Virginia and Guaranty National Bank of Tallahassee Secondary Mortgage Loan Litigation, (W.D. Pa./3d Cir.). Lynch Carpenter attorneys were co-lead class counsel in this national litigation on behalf of second mortgage borrowers under the Real Estate Settlement Procedures Act. The class was certified by the district court and affirmed by the Third Circuit, 795 F.3d 380 (2015). A class settlement was finalized in early 2017 and obtained a total recovery of \$24 million.

In re Tenet Healthcare Corp. Securities Litigation, 02-cv-8462 (C.D. Cal.). Prior to joining the firm, Katrina Carroll represented the State of New Jersey's Division of Investment in this securities class action against Tenet Healthcare and its outside auditor, KPMG, related to false and misleading public statements those entities made between 2000 and 2002 about Tenet's financial health. Katrina played a large role in drafting motions *in limine* briefing issues regarding the admissibility of plaintiff's expert witness report. Tenet settled in 2006 for \$215 million, and KPMG settled in 2008 for \$65 million.

In re Motorola Securities Litig., 03-cv-287 (N.D. Ill.). Katrina Carroll represented the State of New Jersey's Division of Investment in this securities class action against Motorola, stemming from misrepresentations made by the company regarding a \$2 billion loan it made to a Turkish entity that was not repaid. The case settled a few days before trial for \$190 million.

Figueroa v. Capital One, 18-cv-692 (S.D. Cal.). Todd Carpenter and Eddie Kim served as Class Counsel in a class action challenging the unlawful assessment of multiple ATM fees in contravention of the customer account agreement, which resulted in a \$13 million settlement.

Bingham v. Acorns Grow, 30-2019-0150842 (Cal. Sup. Ct. Orange Cnty.). Eddie Kim served as

Class Counsel in a class action on behalf of customers of a financial mobile app that automatically transferred “spare change” from each purchase using debit cards issued by customers’ banks into an Acorns Grow investment account. This action challenged the app’s failure to prevent overdrafts of customers’ checking accounts as a result of the automated transfers and the resultant assessment of overdraft fees. A \$2.5 million settlement is pending court approval.

Schertzer v. Bank of America, 19-cv-264 (S.D. Cal.). Lynch Carpenter attorneys represent bank customers who were assessed out-of-network ATM fees for balance inquiries transpiring from deceptive ATM prompts utilized by independent ATM operators Cardtronics and FCTI. Plaintiffs prevailed on challenges to the pleadings and a ruling on the motion for class certification is pending.

COVID-19 CLOSURES LITIGATION

Tuition & Fee Refund Litigation, various. Lynch Carpenter attorneys represents numerous college students who paid for in-person learning, but were forced to leave campus and move to remote learning in the wake of the Covid-19 pandemic. Many cases continue to litigate. However, a number of class settlements have been reached that have provided millions of dollars of tuition and fee refunds to college students around the country.

WAGE AND HOUR & EMPLOYMENT DISCRIMINATION LITIGATION

Genesis Healthcare v. Symczyk (U.S. Supreme Court). Gary Lynch served as Counsel of Record before the United States Supreme Court in an appeal addressing the application of mootness principles in a putative collective action filed under Section 216(b) of the Fair Labor Standards Act. When defendant served the plaintiff with a Rule 68 offer of judgment for “make whole” relief, the district court dismissed the case as moot. Gary Lynch successfully argued the appeal in the United States Court of Appeals for the Third Circuit, which held that the FLSA collective action did not become moot upon the plaintiff’s receipt of a Rule 68 offer of judgment for full satisfaction of her individual claim. The Supreme Court reversed in a 5-4 opinion, with Justice Kagan writing a strong dissent on behalf of our client—a position which was subsequently adopted by the majority of the Court in *Campbell-Ewald Co. v. Gomez*, 577 U.S. 153 (2016). Plaintiff’s position before the Supreme Court was supported by the United States as Amicus Curiae.

Verma v. 3001 Castor Inc., (E.D. Pa.). As co-class counsel, Lynch Carpenter attorneys won a \$4.59 million jury verdict in 2018 for misclassified workers at a Philadelphia nightclub. The claims were brought under the FLSA and Pennsylvania Minimum Wage Act. The trial verdict was fully affirmed by the Third Circuit in August 2019.

Copley v. Evolution Well Services, LLC, 2:20-cv-01442 (W.D. Pa.). In February 2022, Lynch Carpenter obtained collective certification under the FLSA of several hundred “hitch employees.” These employees spent hours per week travelling to remote job sites, time for which they were unpaid. On February 10, 2023, Judge Wiegand preliminarily approved a \$2.55 million dollar settlement for the FLSA collective, as well as Pennsylvania and Ohio state classes.

Wintjen v. Denny’s, Inc. et al., 2:19-cv-00069 (W.D.Pa.). On November 18, 2021, Judge Wiegand of the Western District of Pennsylvania granted class and conditional certification and appointed Lynch Carpenter LLP as class counsel. The class encompasses all tipped employees within the Commonwealth

of Pennsylvania and involves Denny's failure to comply with the tip credit notification requirements as well as the 80/20 rule regarding sidework.

ANTITRUST

In Re Railway Industry Employee No-Poach Antitrust Litigation, MDL 2850, (W.D. Pa.), Chief Judge Joy Flowers Conti appointed Lynch Carpenter partner Kelly K. Iverson as Plaintiffs' Liaison Counsel on behalf of the class of employees who alleged the defendants and their co-conspirators entered into unlawful agreements to reduce and eliminate competition among them for employees and to suppress the compensation of those employees. The two defendants agreed to class settlements worth a combined \$48.95 million, and final approval was granted in August 2020.

In Re Blue Cross Blue Shield Antitrust Litigation, MDL No. 2406, (N.D. Ala.). Lynch Carpenter attorneys represent healthcare subscriber plaintiffs in four states in this nationwide class action challenging the anti-competitive practices of Blue Cross/Blue Shield's nationwide network of local insurers who do not compete with each other based on geographic boundaries. A \$2.7 billion settlement received preliminary approval in early 2021.

CIVIL RIGHTS

ADA (Americans with Disabilities Act) Accessibility Litigation. Lynch Carpenter is currently counsel for plaintiffs in a substantial number of putative class actions filed on behalf of individuals with disabilities to enforce the ADA's accessibility requirements. Over the last ten years, Lynch Carpenter attorneys have represented individuals with visual and mobility disabilities in seeking improved access to physical locations, ATMs, Point of Sale devices, and websites.

Exhibit B

1835 MARKET STREET
SUITE 2900
PHILADELPHIA, PA 19103
WWW.GOLOMBLEGAL.COM



GOLOMB · SPIRT · GRUNFELD

A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW

ABOUT OUR FIRM

Golomb Spirt Grunfeld, P.C. is a boutique firm located in the heart of Center City, Philadelphia.

PRACTICE AREAS

Our law firm is nationally recognized as having the intellect, persistence, experience and resources to succeed in the most challenging cases.

We serve clients nationwide in various practice areas that include:

- Class Action
- Commercial/Consumer Litigation
- Toxic, Environmental and Pharmaceutical Litigation
- Mass Tort Litigation
- Personal Injury
- Medical Malpractice

SUCCESS IN THE MOST DIFFICULT CASES

For Over 25 years, Golomb Spirt Grunfeld has established an unmatched reputation for successfully representing those victimized by chemical and other environmental exposures, insurance or corporate wrongdoing, complex consumer class actions and commercial transactions, medical malpractice and significant highway and construction accidents. Many of our greatest successes have come from cases that other firms declined to handle because of the complexity or expense. With experience ranging from challenging environmental cases involving chemicals and other toxins, to the most difficult class action and medical cases, our team has the intellect, persistence, experience, and resources to produce unmatched results.

Other lawyers turn to Golomb Spirt Grunfeld with their most important cases. Referrals are a pillar of our practice. Leading attorneys across the nation refer their complex class actions and toxic exposure cases to us – and governmental agencies hire us to represent them against corporate wrongdoers in consumer and environmental matters.

A FOCUSED TEAM

At Golomb Spirt Grunfeld we take a hands-on approach. Every representation undertaken by the firm receives the highest degree of attention, resources, and skill. Our boutique size means that we are selective in what we accept and that every client receives the personalized attention of a senior partner.

The lawyers at Golomb Spirt Grunfeld are very active in professional and charitable organizations; our partners have earned leadership positions in regional and national trial bars and professional associations. We regularly instruct other professionals through continuing legal education and undertake pro bono work ranging from the representation of 9/11 victims to assisting local underprivileged clients through Volunteers for the Indigent Program.

PARTNER PROFILES

RICHARD M. GOLOMB

Mr. Golomb is managing shareholder and a founding partner of Golomb Spirt Grunfeld, P.C. He has more than thirty-five years of experience representing those who have been catastrophically injured as a result of medical negligence, defective products, dangerous drugs, construction accidents and other personal injury claims. He also represents victims of consumer, banking and mortgage fraud in class actions. For the past 25 years he has represented victims of environmental exposures and wronged consumers in class action litigation.

Early in his career, Mr. Golomb was an associate, and then shareholder, with a Philadelphia catastrophic injury firm for eleven years before striking out on his own in 1996. Mr. Golomb has served as lead or co-counsel in more than 1,100 cases which resulted in million and multi-million dollar verdicts and settlements for clients in individual and class action claims.

Mr. Golomb has served in leadership in more than a dozen multi-district litigations in pharmaceutical, consumer class actions and anti-trust matters. As examples, Mr. Golomb has served on the Bank Overdraft MDL executive committee which, to date, has recovered more than \$1.3 billion dollars for consumers charged excessive overdraft fees through the re-sequencing of their transactions and as liaison counsel in the Benicar MDL which settled for \$358. He has also served as co-lead in a number of class actions against most of the major national banks for the deceptive sales and marketing of their payment protection products. To date, through these class actions and representation of various states through their Attorneys General, banks and credit card companies have been made to pay over \$200 million. Additionally, Mr. Golomb currently serves in leadership positions in a number of MDL's and coordinated matters representing individuals in pharmaceutical mass tort cases, and represents more than 300 women who have been diagnosed with ovarian cancer as a result of their perineal use of talcum powder and serves as co-lead counsel in the New Jersey MCL as well as member of the Executive Committee in the MDL litigation.

An active member of the bar, Mr. Golomb has served as president of the Philadelphia Trial Lawyers Association and as an elected member of the executive board of the Philadelphia Bar Association. He also served as an officer of the American Association for Justice for three years. As a governor for the American Association for Justice, Mr. Golomb was twice recognized with the Distinguished Service Award and is a three-time recipient of the Weidemann-Wysocki Association's Medal of Honor. He was also awarded the Citation of Excellence by the American Association for Justice for his pro bono service in representing families victimized by the events of Sept. 11, 2001 and was a finalist in AAJ's Trial Lawyer of the Year.

Mr. Golomb was honored by the Pennsylvania Association for Justice with the Distinguished Service Award in 2010 for a career advocating for the rights of innocent victims and the lawyers who represent them. He has also served as a trustee of the Civil Justice Foundation, a fellow of the Roscoe Pound institute, as the American Association for Justice's delegate to the Civil Justice Roundtable.

Additionally, Mr. Golomb served as an elected member of the Board of Governors of the Philadelphia Bar Association and as the chairman of that body's state Civil Committee. He served two terms as a hearing officer for the Pennsylvania Supreme Court Disciplinary Board and was a member of the Judicial Selection and Retention Committee for five years.

Mr. Golomb is a frequent lecturer and author who addresses trial advocacy subjects for the plaintiffs' and defense bar in areas such as expert witness preparation, evidence, cross-examination and ethics.

Mr. Golomb is a fellow, member or is listed in the following:

- International Academy of Trial Lawyers
- International Society of Barristers
- Academy of Trial Advocacy
- American Association of Justice Leaders Forum
- Best Lawyers in America
- Super Lawyers, Philadelphia Top 100

KENNETH J. GRUNFELD

Ken joined the firm in January 2010 after many years defending pharmaceutical manufacturers, national railroads, asbestos companies and corporate clients in consumer protection, products liability, insurance coverage and other complex commercial disputes while working at one of Philadelphia's largest and most prestigious defense firms. As a result he brings with him a unique perspective and a wealth of trial and appellate work experience in both state and federal courts. In January 2012, Mr. Grunfeld became a partner.

Today his practice focuses on representing consumers and payors in class actions against pharmaceutical manufacturers, financial institutions like banks, credit card companies and insurers, consumer electronics companies and other national corporate defendants. He also represents injured people, shareholders, State Attorneys General and the U.S. Attorney General's Office. He has been named by Super Lawyers as a Pennsylvania Rising Star and as a Super Lawyer numerous times throughout his career and was named as a Finalist for American Association for Justice's prestigious Trial Lawyer of the Year Award in 2012. He is a Board Member of the Class Action Law Group of AAJ and serves as a hearing officer for the Pennsylvania Supreme Court Disciplinary Board.

Mr. Grunfeld graduated from The University of Michigan and received his law degree with honors from the Villanova University Law School Order of the Coif and as a member of the Villanova Law Review. He is licensed to practice in Pennsylvania, New Jersey and Michigan and has been admitted to practice *pro hac vice* in dozens of other jurisdictions.

ANDREW R. SPIRT

Andrew R. Spirt joined the firm in 2005 and has handled a wide variety of personal injury and civil matters during his tenure. In January 2013, Mr. Spirt became a partner of the firm.

Through more than 20 years of practice, Mr. Spirt has successfully secured substantial settlements and jury verdicts in Pennsylvania and New Jersey in cases involving medical negligence, motor vehicle accidents and premises liability. Prior to joining the firm, he practiced for many years in the Philadelphia area where he handled catastrophic personal injury litigation, as well as a wide variety of complex commercial litigation cases.

Mr. Spirt graduated from American University in 1990 and Texas Wesleyan School of Law in 1994. He is licensed to practice in PA and NJ and, is a member of the Philadelphia Trial Lawyers Association.

ASSOCIATE PROFILES

KEVIN FAY

Kevin Fay is an attorney with Golomb Spirt Grunfeld. Mr. Fay returned to the firm in October 2021 after several years defending insurance companies and other corporate clients as a partner handling complex litigation matters for one of Philadelphia's leading defense firms. Prior to beginning his litigation career, Mr. Fay practiced corporate transaction law as well as business and family immigration law. He represented a range of foreign and domestic clients that did business in a wide variety of industries. Mr. Fay's career trajectory thus gives him a broad perspective when he investigates cases on behalf of victims who have been injured by corporate negligence and wrongdoing.

Mr. Fay has extensive experience in pre-trial, trial, and appellate work in both state and federal courts involving a wide variety of subject areas, including class actions, catastrophic injuries, breach of contract, consumer protection, and medical malpractice matters. He has represented clients in a diversity of cases involving defective products, dangerous drugs, food poisoning, car accidents, banking fraud, credit card fraud, racketeering, trademark infringement and medical monitoring, to name a few. Mr. Fay is a born problem-solver who carefully analyzes the specific issues while also mastering the whole problem, so that his work is firmly grounded in context and precedent. A former valedictorian, Mr. Fay graduated summa cum laude from New England Law – Boston in 2007 and he received his undergraduate degree from Boston College in 2000. He is admitted to practice in Pennsylvania, New Jersey, and Massachusetts and has been admitted *pro hac vice* in numerous other jurisdictions.

DAVID ROSENFELD

David A. Rosenfeld is an associate with Golomb Spirt Grunfeld, P.C. where he represents clients in a wide array of civil litigation matters. Prior to joining the firm, Mr. Rosenfeld served as a law clerk at Golomb Spirt Grunfeld, P.C., working extensively on class action and mass tort litigation as well as medical malpractice claims and personal injury claims.

Mr. Rosenfeld earned his undergraduate degree from Franklin & Marshall College and his law degree from Temple University's Beasley School of Law, where he was selected as a Law Faculty Scholar and earned the Outstanding Oral Advocate Distinction. While in law school, Mr. Rosenfeld served as Team Captain of Temple's Jessup Moot Court team, representing the school in regional and national competitions focused on relevant issues of public international law. Additionally, Mr. Rosenfeld had the privilege of serving as a Judicial Law Clerk to the Honorable Ellen Ceisler of the Philadelphia Court of Common Pleas who now serves on the bench of the Commonwealth Court of Pennsylvania.

Mr. Rosenfeld is a member of the Board of Directors of the Andrew McDonough B+ Foundation—a charitable organization that is the largest provider of financial assistance to families battling pediatric cancer in the United States.

Mr. Rosenfeld is licensed to practice in Pennsylvania and New Jersey.

SUPPORT STAFF

While our clients always get hands-on attention from our attorneys. At Golomb Spirt Grunfeld, we understand that it takes a motivated and cohesive team to manage complex cases. Our support staff is comprised of law clerks, paralegals and secretaries that have more than 20 years of legal experience specializing in the areas of class action, mass tort, personal injury and medical malpractice litigation

CASE HIGHLIGHTS

Golomb Spirt Grunfeld has a well-earned reputation for litigating some of the most complex mass tort, class action and individual cases in the United States.

CLASS ACTION & ATTORNEY GENERAL EXPERIENCE

CREDIT CARD PAYMENT PROTECTION

Golomb Spirt Grunfeld led a collaboration of firms bringing dozens of class action complaints filed in federal courts across the country against credit card companies regarding “Payment Protection Plans”, an add-on product of virtually no value wrongfully marketed and sold to unsuspecting credit card holders. Golomb Spirt Grunfeld also served as Deputy Attorney General to a number of state’s Attorneys General bringing actions on behalf of their citizens against credit card companies regarding Payment Protection and other protection-type products. Nationwide settlements have been reached in actions arising out of their deceptive conduct in the marketing and sales practices, which have resulted in over \$200 million in settlements for class members and States combined.

REWARD POINTS CLASS ACTION

Golomb Spirt Grunfeld has successfully settled a nationwide class action against a major credit card issuing bank regarding its wrongful practice of closing customers’ accounts and taking their earned rewards points without providing any compensation for those points. Credit card companies that advertise reward points as assets having real value that do not expire cannot claim that those reward points have been “forfeited” after the company decides to terminate a customers’ account for any reason, or for no reason at all. Lawyers at Golomb Spirt Grunfeld were able to negotiate a class-wide settlement such that these customers would be compensated for the reward points taken from them.

INMATE DEBIT CARD CLASS ACTION

Golomb Spirt Grunfeld represents multiple classes of federal inmate releasees against leading banks that issue debit cards on which the releasees were forced to receive their funds upon release. The debit cards were subject to a variety of inadequately disclosed or excessive fees, which cost releasees hundreds of thousands of dollars simply to access their own money. Golomb Spirt Grunfeld successfully negotiated class-wide settlements on behalf of all releasees that resulted in complete refunds of all fees that had been unfairly levied from releasees’ debit card accounts in the United States.

ANGIE’S LIST CLASS ACTION

Golomb Spirt Grunfeld successfully settled a nationwide class action on behalf of consumers who were paying members of Angie’s List, a company that permits members to read and publish online reviews and ratings of local businesses and contractors. Angie’s List claimed that “businesses don’t pay” to be on Angie’s List, without adequately disclosing that businesses pay substantial sums which could affect search results. Golomb Spirt Grunfeld negotiated a nationwide settlement that resulted in monetary relief, free membership benefits, and disclosure changes.

DISABILITY INSURANCE CLASS ACTION

Golomb Spirt Grunfeld brought a number of class action complaints filed in over a dozen federal courts across the country against a collection of insurers, brokers and underwriters that offered a group disability accident insurance product that virtually never paid benefits. Plaintiffs' alleged that the product was "jackpot" insurance framed as legitimate disability insurance that never was, and never could have been, approved by various states' Departments of Insurance, because the defendants were selling the product to an illegally formed group that they themselves created. After years of hard fought litigation, Golomb Spirt Grunfeld, the Defendants agreed to pay \$15 Million to settle the matter.

BANK OVERDRAFT LITIGATION

Golomb Spirt Grunfeld has brought a number of class action complaints filed in state and federal courts against state and national banks that have wrongfully employed unfair and illegal business practices in charging overdraft fees to dramatically increase the likelihood customers using debit, ATM, or check cards will overdraw their accounts and be assessed fees. We are also proud to serve on the Plaintiffs' Executive Committee in *In Re: Checking Account Overdraft Litigation, MDL No. 2036*, a coordinated, nationwide effort to bring to these banks to justice on behalf of millions of Americans that have paid billions of dollars in overdraft fees to banks. In the first overdraft case litigated, a judge ordered Wells Fargo to pay over \$200 million to a class of injured California bank customers. Bank of America alone has agreed to settle with a nationwide class of plaintiffs for \$410 million, and the total recovery for consumers in the MDL is now over \$1 billion.

FEDERAL EXPRESS CLASS ACTION

Golomb Spirt Grunfeld sued Federal Express in the United States District Court for the Middle District of Florida on behalf of over 200 truckers over wrongfully-terminated hauling contracts. Despite an express clause in the contracts, Federal Express failed to provide the truckers with proper notice of termination.

TAX PREPARATION LITIGATION

Golomb Spirt Grunfeld has brought multiple class action cases against national tax preparation companies regarding their marketing and selling of various illegal products. Often these products are sold in direct violation of a number of states' laws specifically enacted to regulate this type of practice and to protect the rights of taxpayers. These cases resulted in a favorable nationwide settlement on behalf of the Class.

TAKATA AIRBAG RECALL

Golomb Spirt Grunfeld is part of a nationwide team that has successfully settled cases involving the largest automotive recall in history in class actions involving defective Takata airbags found in millions of vehicles manufactured by Honda, BMW, Chrysler, Daimler Trucks, Ford, General Motors, Mazda, Mitsubishi, Nissan, Subaru, and Toyota. Lawyers at Golomb Spirt Grunfeld represented car owners that have been compensated as a result of the defective Takata airbags found in their vehicles.

PROPERTY AND LIFE INSURANCE FRAUD

Golomb Spirt Grunfeld have brought class actions against property and life insurance companies nationwide regarding premium increases and failure to provide coverage under clear policy terms. As a result of our efforts, tens of thousands of insureds have recovered money for damages they have suffered at the hands of their own insurance carriers.

EMPLOYMENT LAW

We handle employment cases on a class-wide basis. Situations that may be addressed in this area include minimum wage and overtime pay, unfair labor practices, all types of discrimination, employee benefits, and whistleblower claims. We also handle cases involving the violation of the Fair Labor Standards Act (FLSA). FLSA cases are brought on behalf of clients whose job title is misclassified by their employers so that employees are not compensated for overtime worked.

SALES TAX OVERCHARGE

Merchants are under strict duties to correctly charge sales tax to their customers. Golomb Spirt Grunfeld has successfully litigated class actions against retail merchants for charging too much sales tax on coupon or discounted items. These cases are evident on the customers' receipts. Merchants may be liable to customers for hundreds of thousands of dollars of overcharged sales tax regardless of whether the money is remitted to appropriate taxing authorities.

DATA BREACH AND PRIVACY CASES

Data breach lawsuits are highly public and result in significant losses to individuals. Lawyers at Golomb Spirt Grunfeld have extensive experience working on privacy and data breach cases on behalf of various plaintiff classes. The firm has served as lead class counsel on behalf of customers whose personally identifiable information has been stolen as well as on behalf of financial institutions that suffered losses as a result of merchants' failures to adequately safeguard customers' information. The firm has also brought actions against technology companies for violating federal and state laws prohibiting wiretapping.

TCPA JUNK FAX CASES

Our firm has experience helping clients defend themselves against junk faxers. In seeking to put an end to spammers disrupting the lives of individuals and small businesses, we aggressively litigate in the field of Telephone Consumer Protection Act (TCPA) law. We also bring cases involving robocalls and spam texts.

MERCHANT PAYMENT PROCESSING

Golomb Spirt Grunfeld have brought class actions against companies that offer payment processing services to small and mid-sized businesses. These companies provide hardware and software that allows small and mid-sized businesses to accept payment cards from customers. Payment processors, equipment leasers and independent sales organizations (ISOs) employ aggressive, misleading and often illegal sales techniques to convince businesses to process payment card transactions on their network.

PREDATORY OR ILLEGAL LENDING PRACTICES

Predatory lending is the practice of convincing borrowers to agree to unfair and abusive loan terms. These can include arranging for loans with very high interest rates or other loan costs, inflated appraisal values and loan amounts, hidden charges and fees, and other unfair or deceptive terms or conditions that result in the consumer paying too much for a loan, losing equity in the property, or losing the property itself. Golomb Spirt Grunfeld have successfully litigated class actions against lenders that engage in various illegal schemes.

ANTITRUST / UNFAIR COMPETITION

We handle claims involving violations of federal and state antitrust/competition laws. We are currently involved in cases alleging a wide array of anticompetitive conduct, including illegal tying, exclusive dealing, monopolization, and price fixing.

PRESQUE ISLE COLON AND RECTAL SURGERY V. HIGHMARK HEALTH

Golomb Spirt Grunfeld served as lead counsel for a class of independent healthcare providers and practices who were unfairly subjected to predatory, anticompetitive reimbursements from and other conduct by Highmark Health, the largest health insurer in Western Pennsylvania. After two years of extensive briefing and litigation, Golomb Spirt Grunfeld successfully negotiated a class-wide settlement for monetary and non-monetary relief.

MISLABELING / FALSE ADVERTISING

The Lanham Act permits businesses to sue other businesses that engage in false advertising and other forms of unfair competition. Golomb Spirt Grunfeld represented a spring water extractor in a federal lawsuit against his direct and indirect competitors who are alleged to mislabel and pass-off well water as true spring water.

RETAIL ADVERTISING/PRICING

Brick-and-mortar as well as internet retailers sometimes entice consumers with advertisements or pricing offers, but then do not honor those ads or offers later. Golomb Spirt Grunfeld has successfully represented many individual consumers in class action lawsuits against large, national retailers for unfair and deceptive advertising and pricing.

1-800 CONTACTS

A government investigation revealed that 1-800 Contacts, the nation's leading supplier of contact lenses, wrongfully suppressed competition by forcing competitors to restrict their online advertising so that consumers were more likely to go on to 1-800 Contacts' webpage to buy contact lenses than competitors' webpages. A series of nationwide class actions challenge this conduct under the federal antitrust laws, and analogous state laws. Golomb Spirt Grunfeld serves on the Plaintiffs' Steering Committee in this multi-lawsuit action consolidated in the United States District Court for the District of Utah.

ENERGY SUPPLY LITIGATION

Golomb Spirt Grunfeld has successfully brought multiple class action cases against electricity or natural gas suppliers who engage in fraudulent advertising, pricing, and other practices that unfairly increase customers' energy bills or fees.

**STERLING FINANCIAL CORPORATION SECURITIES
CLASS ACTION**

Golomb Spirt Grunfeld facilitated settlement of a multimillion dollar matter on behalf of thousands of investors who were injured as a result of alleged violations of federal law. The United States District Court for the Eastern District of Pennsylvania created a \$10.25 million settlement fund for the benefit of those investors who acquired stock at allegedly inflated prices. It was estimated that \$13.5 million shares were damaged as a result of fraud.

RICO CLASS ACTIONS – NATIONAL VOCATIONAL TRAINING SCHOOL

Golomb Spirt Grunfeld represented current and former students who sued a national vocational school, alleging that they had been fraudulently misled as to the education they would receive. Golomb Spirt Grunfeld served as co-lead counsel in this groundbreaking consumer class action in which plaintiffs and absent national class members sought education from a publicly traded corporation in the field of diagnostic medical sonography. Golomb Spirt Grunfeld succeeded in demonstrating the chain of schools fraudulently misrepresented the nature of the ultrasound program and otherwise failed to provide the education represented. Students received federally guaranteed student loans but were largely unable to obtain promised jobs in their area of study. The school had no meaningful admissions criteria and often hired unqualified administrative and educational personnel. Field placements did not materialize, and students were unprepared to take qualifying exams. Students were stuck with loan repayments for which they received little or nothing in return. In approving certification of the class, and later the class settlement, the United States District Court said of counsel representing plaintiffs that “[t]he skill of each of these attorneys is reflected both in settlement and in the aggressive manner in which they pursued this litigation from start to finish.” *Cullen*, 197 F.R.D. at 149. The Court noted in conclusion, “the highly skilled class counsel provided excellent representation both for named plaintiffs and absent class members.” *Id.* The class settlement of \$7.3 million was the largest common fund of its kind.

PHARMACEUTICAL EXPERIENCE

Golomb Spirt Grunfeld serves in leadership positions in several Multidistrict Litigation (MDL) cases and is instrumental in coordinating matters while representing individuals in pharmaceutical cases. Our Pharmaceutical Litigation experience includes:

TALCUM-BASED PRODUCTS MASS TORT LITIGATION

Golomb Spirt Grunfeld represents women across the country who have been diagnosed with ovarian cancer caused by their long-term use of talcum powder for feminine hygiene. Since the 1980's, studies have showed a positive relationship between talcum powder and ovarian cancer. Evidence presented in court has shown that the maker of popular talc-based powders knew of the risk of ovarian cancer, but failed to warn women using these products. Golomb Spirt Grunfeld is at the forefront of this important litigation and has been appointed to the Plaintiffs' Executive Committee in this multidistrict litigation pending the United States District Court of New Jersey and serves as co-lead counsel in the State Court litigation pending in New Jersey.

BENICAR LITIGATION

Golomb Spirt Grunfeld currently represents individuals who suffered severe gastrointestinal problems, including chronic diarrhea, nausea, significant weight loss and a rare condition called Sprue-Like Enteropathy, from their use of Benicar, a blood pressure medication. Plaintiffs have alleged that the manufacturer knew or should have known of the risk of gastrointestinal problems, but the company failed to warn patients of the risks. In this multidistrict litigation, which is currently pending in the United States District Court for the District of New Jersey, Mr. Golomb was appointed by the Court as Liaison Counsel and is an Executive Committee member for the Plaintiffs.

MENINGITIS MASS TORT LITIGATION

In October 2012, a wide-spread outbreak of fungal meningitis made national headlines. The meningitis outbreak was traced to several lots of contaminated steroid injections produced at an unsterile compounding pharmacy in Framingham, Massachusetts. As a result, more than 70 people died and more than 700 individuals were diagnosed with fungal meningitis. Golomb Spirt Grunfeld took an active role in the litigation against the New England Compounding Center and other related entities. Mr. Golomb was appointed as Chair of the New Jersey Litigation by the Plaintiffs' Executive Committee. In addition, the firm served as co-chair of the American Association of Justice's Fungal Meningitis Litigation Group, which coordinates the efforts of lawyers handling these complex cases. In May 2015, a \$200 million settlement plan was approved that set aside funds for victims of the outbreak and their families.

TESTOSTERONE REPLACEMENT THERAPY (LOW T) LITIGATION

Golomb Spirt Grunfeld represents men from over a dozen different states who suffered a cardiac event while taking a testosterone replacement drug. These drugs were falsely billed as a panacea for "Low T," a fictitious disease state concocted by the drug manufacturers. Each defendant manufacturer in this multidistrict litigation in the United States District Court for the Northern District of Illinois recently settled on a nationwide basis.

GRANUFLO MASS TORT LITIGATION

Golomb Spirt Grunfeld represented families throughout the United States whose loved ones suffered catastrophic heart injuries during or soon after receiving dialysis. Dialysis patients who were administered Granuflo and/or NaturaLyte (dialysate solution used to filter toxins from the blood), manufactured by Fresenius Medical Care, faced a serious risk of sudden cardiac arrest due Fresenius' failure to provide adequate warnings with their products. Golomb Spirt Grunfeld served on the Plaintiffs' Steering Committee in the MDL. Recently, Fresenius entered into a \$250 million settlement to resolve the litigation.

ADDERALL CLASS ACTION

Golomb Spirt Grunfeld served as co-lead counsel on behalf of classes of indirect-purchaser consumers who were overcharged for Adderall XR®, a prescription ADHD medication. The manufacturer of Adderall XR® entered into multiple anticompetitive agreements to delay entry of generic versions of its drug, which resulted in consumers paying higher prices for the branded medication than they would have paid had a generic version been available in the market. Multiple cases were filed across the country, and after years of hard-fought litigation, the matter was settled on a global, nationwide basis for \$14.75 million.

BUDEPRION XL MARKETING & SALES PRACTICE LITIGATION

Golomb Spirt Grunfeld brought a number of class action complaints filed in federal courts against the manufacturer and distributor of a generic version of a popular antidepressant medication under the Consumer Protection Laws of California and other states. We also serve as liaison counsel in an MDL proceeding in the United States District Court for the Eastern District of Pennsylvania. After United States District Judge Berle Schiller denied defendants' Motion to Dismiss based on the preemption defense and after plaintiffs fully briefed class certification, the parties reached a favorable settlement on behalf of the proposed class.

VALSARTAN LITIGATION

In the summer of 2018, the FDA announced the first of a series of recalls for valsartan, a common generic drug used to treat high blood pressure. The FDA's investigation has revealed valsartan manufactured by multiple companies was contaminated with one or more nitrosamines, which are established carcinogens. Evidence suggests this nitrosamine contamination may be linked to liver, stomach, colon, and other cancers. Our firm has been appointed by the Court to leadership positions in this multidistrict litigation pending in the United States District Court of New Jersey.

INTUNIV ANTITRUST LITIGATION

Our firm serves as co-counsel on behalf of consumers nationwide who were overcharged for Intuniv®, a medication prescribed to minors to treat attention deficit hyperactivity disorder (ADHD). The manufacturer of Intuniv® unfairly delayed entry of cheaper generic versions of the drug by entering into an anticompetitive agreement with the lead generic manufacturer. As a result, consumers paid far more for Intuniv® than they would have had a generic version been available earlier.

ENVIRONMENTAL & TOXIC EXPOSURE LITIGATION

From its inception, Golomb Spirt Grunfeld has represented a broad range of individuals, and classes of individuals and communities, in environmental and toxic exposure cases:

BERYLLIUM

Golomb Spirt Grunfeld has been a national leader in representing hundreds of individuals and communities exposed environmentally and occupationally to the toxin beryllium. Respiratory exposure causes an incurable granulomatous disease of the lung and produces disability and death. From out plant environmental exposures, to individual machinists grinding metallic and ceramic forms of the toxin, Golomb Spirt Grunfeld has successfully represented victims in Pennsylvania, New Jersey, Maryland, Georgia, Florida and Mississippi.

SULFUR DIOXIDE/TRIOXIDE

Individual and class action litigation in the state courts of Pennsylvania, as well as Federal Bankruptcy Court, on behalf of oil refinery workers exposed to SO₂/3 with chronic Reactive Airways Disease.

DRINKING WATER

MTBE/Storage Tank & Spill Prevention Act litigation in the United States District Court for the Eastern District of Pennsylvania on behalf of a community of landowners suffering well water contamination.

LEAD PAINT

Golomb Spirt Grunfeld has represented dozens of lead poisoned children in Philadelphia as the result of lead-based paint in substandard housing. In addition, Golomb Spirt Grunfeld served on the Plaintiffs' Executive Committee of the Mattel Lead Paint Class Action which resulted in an approved class settlement exceeding 50 million dollars.

ADDITIONALLY, GOLOMB SPIRT GRUNFELD HAS RECEIVED MORE THAN 100 VERDICTS OR SETTLEMENTS IN EXCESS OF \$1 MILLION FOR OUR CLIENTS IN INDIVIDUAL CASES