UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re AppHarvest Securities Litigation	Case No. 1:21-cv-07985-LJL

DECLARATION OF GREGORY M. POTREPKA IN SUPPORT OF (1) LEAD PLAINTIFF'S MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT AND PLAN OF ALLOCATION AND FINAL CERTIFICATION OF SETTLEMENT CLASS, AND (2) LEAD COUNSEL'S MOTION FOR AN AWARD OF ATTORNEYS' FEES AND REIMBURSEMENT OF EXPENSES

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I, Gregory M. Potrepka, Esq., pursuant to 28 U.S.C. §1746, hereby declare as follows:

1. I am over the age of eighteen and duly admitted to practice in Connecticut, New York, and before this Court. I am a partner at the law firm of Court-appointed Lead Counsel Levi & Korsinsky, LLP ("L&K" or "Lead Counsel"), counsel of record for Lead Plaintiff Alan Narzissenfeld ("Lead Plaintiff"), in the above-captioned securities class action (the "Action").[1] I respectfully submit this Declaration in support of (1) Lead Plaintiff's Motion for Final Approval of Class Action Settlement and Plan of Allocation and Final Certification of Settlement Class, and (2) Lead Counsel's Motion for an Award of Attorneys' Fees and Reimbursement of Expenses. On May 8, 2024, counsel for Defendants (defined below), Peter Adams, Esq., confirmed Defendants do not oppose Lead Plaintiff's motion for approval of the Settlement and take no position on Lead Counsel's motion for an award of fees and reimbursement of expenses.

2. I have personally participated in, overseen, and monitored the prosecution of this Action, and have otherwise been kept informed of developments in this litigation by attorneys working with me and under my supervision. Thus, if called upon, I can testify to the matters set forth herein.

I. PRELIMINARY STATEMENT

3. After over two years of adversarial litigation which included a full-day mediation before a highly-experienced mediator, Michelle Yoshida, Esq. ("Ms. Yoshida" or "Mediator"), and subsequent vigorous negotiations facilitated by Ms. Yoshida resulting in her personal recommendation to settle the Action, Lead Plaintiff reached an agreement memorialized in the Stipulation (the "Settlement") that provides for an immediate payment of $4,850,000 in cash (the "Settlement Amount") for resolution of all claims against defendants Jonathan Webb ("Webb"),

[1] Unless otherwise noted, all capitalized terms not defined herein shall have the same meaning ascribed to them in the Stipulation and Agreement of Settlement dated February 20, 2024 (ECF 117-1, the "Stipulation" or "Stip.").

Loren Eggleton ("Eggleton"), and David Lee ((("Lee"), and with Farnsworth and Benson, the "Individual Defendants," who, together with Lead Plaintiff, are the "Parties")), which the Court preliminarily approved on March 6, 2024. ECF 120 (the "Preliminary Approval Order").

4. While Lead Plaintiff and Lead Counsel believe that the allegations in the Second Consolidated Class Action Complaint (ECF 76, "Operative Complaint") have substantial merit, they submit that the Settlement represents an excellent result for the Settlement Class. For the reasons set forth below, Lead Plaintiff and his counsel believe that the Settlement is fair, reasonable, and adequate and thus final approval of the Settlement and Plan of Allocation and final certification of the Settlement Class is warranted and Lead Counsel's application of an award of attorneys' fees and expenses should be granted.

5. Indeed, the Settlement was reached only after vigorous litigation efforts including investigating potential claims and preparing two amended complaints, prevailing on a motion for leave to file a second amended complaint, successfully opposing a motion to dismiss the Operative Complaint, letter briefing regarding a stay of this case, engaging specialized bankruptcy counsel and securing a carve out of the Settlement Class from the third party release in the Bankruptcy,[2] attending a full-day mediation before Ms. Yoshida, briefing in connection the mediation, and vigorous subsequent negotiations facilitated by the Mediator.

6. Further, Lead Counsel's investigation was extensive. This investigation included, among other things, review and analysis of: (i) documents filed publicly by AppHarvest, Inc. ("AppHarvest" or the "Company") with the United States Securities and Exchange Commission ("SEC"); (ii) publicly available information concerning AppHarvest and/or the Individual Defendants, including press releases, news articles, conference call transcripts, and video

[2] *In re AppHarvest Products, LLC*, Case No. 23-90745(DRJ) (S.D. Tex. Bankr.).

recorded interviews; (iii) research reports issued by financial and industry analysts concerning AppHarvest; (iv) other publicly available information and data concerning the Company and its subsidiaries, including information concerning AppHarvest's operations; (v) docket entries from various court proceedings concerning AppHarvest and the Individual Defendants, including items filed in the Bankruptcy; (vi) interviews conducted with former employees; (vii) consultations with bankruptcy counsel; (viii) reports prepared by Lead Plaintiff's damages experts in connection with the mediation; (ix) consultation with a Controlled Environment Agricultural expert; and (x) the applicable law governing the claims and potential defenses in this Action.

7. Lead Counsel's investigation and understanding of the relevant factual and legal issues was honed during settlement discussions. For example, Lead Counsel consulted with damages experts and researched and drafted an extensive mediation statement that addressed liability, damages, collectability, and all other legal and factual considerations pertinent to the case. After the parties exchanged mediation statements, Lead Counsel thoroughly reviewed and analyzed the assertions and authorities within the position statement produced by the Individual Defendants before participating in a full-day mediation with Ms. Yoshida. The mediation ended without an agreement to settle, yet Lead Plaintiff and the Individual Defendants persisted with negotiations in the following weeks through Ms. Yoshida. The Parties agreed to a mediator's proposal to resolve all claims in the Action on December 14, 2023. The proposed Settlement is the result of arm's-length negotiations between and among well-informed, highly experienced counsel, and mitigates the serious risks posed by further litigation, including the very real risk that sources of settlement funding would be depleted.

8. In view of the foregoing, there is no question that the Settlement is the result of

negotiations by counsel who possessed a full understanding of both the strengths and weaknesses of their respective cases and takes into consideration the significant risks specific to this Action. When balanced against the significant risks Lead Plaintiff faced in bringing the Action to trial, the overall amount of potential damages involved and defending a favorable verdict against appeals, the Settlement of $4,850,000 represents an excellent result for the Class. Substantial investigation, legal research and litigation to date informed Lead Counsel that, while they believe this case is meritorious, there are also weaknesses that had to be carefully evaluated in determining what course of action was in the best interests of the Class (*i.e.*, whether to settle and on what terms, or to continue to litigate through summary judgment and a trial on the merits).

9. As set forth in further detail below, despite the fact that Lead Plaintiff's remaining claims were well-founded legally and factually, the specific circumstances involved here presented uncertainties with respect to Lead Plaintiff's ability to prevail through summary judgment and trial, and, even in the event of success at trial, to defend a successful verdict against appeal. Such litigation would presumably incur thousands of hours of the Parties' and this Court's collective time and resources, and even if Lead Plaintiff was successful, this Action would easily have required years of additional litigation before a recovery, if any, was obtained for the Class. Moreover, the ability to collect any such achieved award was questionable as AppHarvest filed for Bankruptcy.

10. Additional evidence that the Settlement represents an excellent result for the Class is the fact that, as of the filing of this Declaration, to date, Lead Plaintiff has only received three requests for exclusion, and zero purported objections to the settlement.

11. Likewise, the Plan of Allocation, developed in consultation with Lead Plaintiff's expert on loss causation and damages, should be approved as fair, reasonable, and adequate as it

equitably distributes the proceeds of the Settlement among Settlement Class members. The Plan of Allocation is similar to allocation plans approved and successfully used in other securities class actions; equitably discounts claims that have been dismissed by the Court's Opinion and Order granting in part the motion to dismiss the Operative Complaint (ECF 97, the "MTD Order"); and ensures that each Authorized Claimant will receive his, her, or its *pro rata* share of the Net Settlement Fund. Notably, as of the date of this Declaration, no Settlement Class members have objected to the Plan of Allocation.

12. Finally, Lead Counsel requests attorneys' fees in the amount of $1,212,500, or 25% of the Settlement, and reimbursement of Lead Counsel's litigation expenses in the amount of $166,987.77. Lead Counsel's fee request is within, if not below, the range of fee percentages frequently awarded in the Second Circuit and this District in this type of action and, under the particular facts of this case, is fully justified in light of the substantial benefits that Lead Counsel conferred on the Class, the risks they undertook, the quality of their representation, the nature and extent of their legal services, and the fact that they pursued the case, even though this considerable all-cash Settlement was far from guaranteed at its outset. Lead Counsel expended considerable time and effort prosecuting the Action on a fully contingent basis and have advanced litigation and investigative expenses in the expectation that, as is customary, they will be paid a percentage of the common fund created by their efforts as attorneys' fees and receive payment for their expenses.

13. For all of the reasons discussed herein and in the accompanying memoranda, Lead Plaintiff and Lead Counsel respectfully submit that the Settlement is an excellent result for the Settlement Class, avoiding numerous significant litigation risks and providing an immediate and substantial benefit to the Settlement Class. Lead Plaintiff and Lead Counsel submit that the

Settlement and Plan of Allocation are fair, reasonable, and adequate and should be approved. In addition, Lead Counsel respectfully submit that the requests for attorneys' fees and reimbursement of litigation expenses should be approved.[3]

II. FACTUAL AND PROCEDURAL BACKGROUND

A. Summary of the Claims and Allegations

14. AppHarvest is a former Controlled Environment Agriculture ("CEA") company with, at all relevant times, Webb serving as Chief Executive Officer, Eggleton serving as Chief Financial Officer, and Lee serving as President. Operative Complaint at ¶¶29-31, 43. The Operative Complaint's allegations arise out of undisclosed labor and productivity issues occurring during AppHarvest's first growing season at its sole operating facility located in Morehead, Kentucky (the "Morehead Facility"). *See generally* Operative Complaint.

15. This is a federal securities class action for violations of Sections 10(b) and 20(a) of the Securities Exchange Act of 1934 (the "Exchange Act") and Rule 10b-5 promulgated thereunder. The Exchange Act claims were brought against AppHarvest and the Individual Defendants (collectively, "Defendants").

16. The Operative Complaint alleges that between February 1, 2021 and August 10, 2021, inclusive (the "Settlement Class Period"), Defendants made misrepresentations or omissions of material fact relating to AppHarvest's prospects and business results because of the undisclosed labor and productivity issues at the Morehead Facility during the Settlement Class Period.

17. Lead Plaintiff alleges the truth was revealed on August 11, 2021, before market

[3] Because this Declaration is submitted in support of a Settlement, it is inadmissible in any subsequent proceeding, other than in connection with the Settlement. In the event that the Settlement is not approved by the Court, this Declaration and the statements contained herein are without prejudice to Plaintiffs' positions on the merits of this Action.

open, when Defendants disclosed, among other items, AppHarvest's revenue outlook for Fiscal Year 2021 which had been revised downward and unexpectedly negative financial results for the fiscal quarter ended June 30, 2021, which caused the prices of publicly traded AppHarvest common stock and warrants to significantly depreciate, and thereby, caused economic harm to the Settlement Class. Operative Complaint at ¶242.

18. Defendants deny that they committed any acts or omissions giving rise to any liability and/or violation of the law.

B. Procedural History

1. Commencement of the Action and Appointment of Lead Plaintiff and Lead Counsel

19. On September 24, 2021, a purported securities class action was filed in the United States District Court for the Southern District of New York captioned *Ragan v. AppHarvest, Inc.*, et al., Case No. 1:21-cv-07985 (S.D.N.Y) (the "*Ragan* Action") on behalf of all investors who purchased or otherwise acquired AppHarvest securities between May 17, 2021 and August 10, 2021, inclusive. ECF 1.

20. On November 22, 2021, one day before lead plaintiff applications were due to be filed, a similar securities class action captioned *Plymouth County Retirement Association v. AppHarvest, Inc., et al*., Case No. 1:21-cv-09676 (S.D.N.Y.) (the "*Plymouth County* Action") was also filed in this Court seeking the same relief against the same defendants on behalf all investors who purchased or otherwise acquired AppHarvest securities between October 9, 2020 and August 10, 2021, inclusive. ECF 39 at 4.

21. On November 23, 2021, pursuant to the Private Securities Litigation Reform Act of 1995 (the "PSLRA"), 15 U.S.C. §78u-4(a)(3)(B), four motions were filed seeking consolidation of the *Ragan* and *Plymouth County* Actions, appointment as lead plaintiff, and approval of lead

counsel. ECF 6 (filed by John Whitlow), 9 (filed by Brandon York and Marc Pierre), 11 (filed by Lead Plaintiff), and 15 (filed by Plymouth County Retirement Association).

22. On December 7, 2021, Lead Plaintiff and Plymouth County Retirement Association filed memoranda in opposition to each respective competing motion for appointment as lead plaintiff. ECF 25-26. Lead Plaintiff argued, *inter alia*, that he had the largest financial interest of any lead plaintiff movant and established a *prima facie* showing of typicality and adequacy and that Plymouth County Retirement Association's motion was dependent on a facially implausible class period beginning on October 9, 2020, when the Morehead Facility's first crops were not even planted until November 2020. ECF 25 at 8. Lead Plaintiff filed a reply memorandum and supporting exhibits on December 9, 2021.

23. On December 13, 2021, the Court entered its Opinion and Order: (i) consolidating the *Ragan* and *Plymouth County* Actions (ii) amending the case caption of the consolidated *Ragan* and *Plymouth County* Actions to *In re AppHarvest Securities Litigation* and ordering that every subsequent filing be made under Master File No. 21-cv-7985-LJL; (iii) appointing Alan Narzissenfeld as Lead Plaintiff; and (iv) appointing Levi & Korsinsky, LLP as Lead Counsel. ECF 39.

2. Filing the Amended Complaint and Partially Defeating Defendants' Motion to Dismiss

24. On March 2, 2022, Lead Plaintiff filed his First Consolidated Amended Class Action Complaint (the "FAC"), alleging violations of Sections 10(b) and 20(a) of the Securities Exchange Act of 1934 ("Exchange Act"), and SEC Rule 10b-5 promulgated thereunder, against Defendants, on behalf of himself and all other persons or entities other than Defendants who purchased or otherwise acquired securities of AppHarvest between February 1, 2021 and August 10, 2021, inclusive, and were damaged thereby. ECF 46. The FAC was based on an extensive

investigation and analysis by Lead Counsel which included review and analysis of: (i) press releases, news articles, transcripts, and other public statements issued by or concerning AppHarvest and the Individual Defendants; (ii) research reports issued by financial analysts concerning AppHarvest's business; (iii) AppHarvest's filings with the SEC; and (iv) other publicly available information and data concerning AppHarvest, its securities, and the markets therefor. Further, Lead Counsel retained a private investigator to locate and interview former employees of AppHarvest who provided accounts to Lead Counsel of the facts and circumstances occurring during the Settlement Class Period at the Company. Lead Counsel also consulted with relevant damages experts and a Controlled Environment Agricultural expert.

25. In this Action in particular, there was a large trove of information that became publicly available due to: intense interest from shareholders and consumers in AppHarvest's CEA business; the Company's debut on the Nasdaq stock exchange through a combination with a Special Purpose Acquisition Company (a novel form of corporate restructuring during the Settlement Class Period); the Individual Defendants' frequent participation in interviews in every conceivable medium (*e.g.*, television, investor publications, news journalism, podcasts, etc.); the significant rise and fall of AppHarvest's stock price; and the rapid deterioration of the Company's business culminating in the Bankruptcy.

26. Defendants moved to dismiss the FAC on May 2, 2021. ECF 50-52. Nonetheless, Lead Counsel continued their investigation, including by conducting additional interviews of former AppHarvest employees. As a result of Lead Counsel's steadfast investigation, Lead Plaintiff obtained statements from three additional confidential witnesses who were not available to Lead Plaintiff at the time the FAC was filed.

27. On June 30, 2022, Lead Plaintiff moved for leave to amend the First Consolidated

Amended Class Action Complaint (Lead Plaintiff's "Motion to Amend") and concurrently filed a memorandum in opposition to Defendants' motion to dismiss the FAC. ECF 57-60. On July 14, 2022, Defendants filed a memorandum in opposition to Lead Plaintiff's motion for leave to amend. ECF 63. On July 21, 2022, Lead Plaintiff filed a reply in support of the Motion to Amend. ECF 67-68. On July 22, 2022, the Court issued a Memorandum and Order granting Lead Plaintiff's Motion to Amend. ECF 69.

28. On July 25, 2022, Lead Plaintiff filed his Second Consolidated Amended Class Action Complaint, alleging violations of Sections 10(b) and 20(a) of the Exchange Act and SEC Rule 10b-5 promulgated thereunder, against Defendants, on behalf of himself and all other persons or entities other than Defendants who purchased or otherwise acquired publicly traded securities of AppHarvest between February 1, 2021 and August 10, 2021, inclusive, and were damaged thereby. ECF 70.

29. On August 11, 2022, Lead Plaintiff filed an unopposed letter motion for leave to file a corrected Second Consolidated Amended Class Action Complaint, which would be the Operative Complaint. ECF 74. The Court granted the letter motion on August 12, 2022. ECF 75.

30. On August 12, 2022 Lead Plaintiff filed the Operative Complaint. ECF 76.

31. On September 23, 2022, Defendants filed their motion to dismiss the Operative Complaint. ECF 79-81. Lead Plaintiff opposed the motion to dismiss on November 22, 2022, and concurrently filed a motion to strike certain exhibits filed by Defendants in support of their motion to dismiss. ECF 84-87. On January 13, 2023, Defendants filed a reply in further support of their motion to dismiss the Operative Complaint and filed a memorandum in opposition to Lead Plaintiff's motion to strike. ECF 90-91. On January 20, 2023, Lead Plaintiff filed a reply in further support of his motion to strike. ECF 92.

32. On March 22, 2023, Lead Plaintiff filed a letter containing supplemental authority in further opposition to Defendants' motion to dismiss the Operative Complaint. ECF 95. Defendants filed a letter in response and in further support of their motion to dismiss the Operative complaint on March 28, 2023. ECF 96.

33. Defendants' motion to dismiss the Operative Complaint was voluminous. Indeed, Defendants' opening briefing and exhibits alone totaled 394 pages. Defendants argued, among other things, that the Operative Complaint failed to allege: materiality, falsity, scienter, and loss causation. Defendants contended, *inter alia*:

a. none of the statements were materially false or misleading. For example, with respect to statements concerning "Employee Retention and Staffing" Defendants claimed Plaintiff failed to show that "the alleged turnover and COVID-19 absences were material problems, let alone facts indicating how and to what extent they materially impacted the Company's ability to meet its financial guidance" (ECF 80 at 24-25);

b. many of the alleged misstatements, including statements made by Defendant Lee on May 25, 2021 during an interview by a Stephens Inc. analyst, were vague statements of optimism amounting to inactionable puffery (*Id.* at 16, ECF 81-3 at C-2);

c. the Operative Complaint failed to plead scienter (ECF 80 at 30-40), including because Defendants "believed what they were saying" (*id.* at 39); and

d. the Operative Complaint failed to allege causation because Lead Plaintiff purportedly failed "to identify specific facts revealed" on August 11, 2021 that "corrected a specific, earlier misstatement of material fact" (*id.* at 40).

34. Defendants asserted these and similar arguments vigorously and continued to do in connection with the mediation and settlement negotiations, and undoubtedly would have done so in further proceedings such as summary judgment, trial, and any appeals.

35. Because Defendants' arguments were wide-ranging and fact-intensive, Lead Counsel had to devote substantial time and resources to researching and drafting Lead Plaintiff's opposition. For example, Lead Counsel had to research the law on every disputed element of their claims, as well as scour the materials referenced in both the TAC and Defendants' exhibits in order to marshal evidence to counter Defendants' factual assertions. Lead Counsel consulted with experts, including a financial economist, in connection with this work. Lead Counsel's extensive research of the public record, including AppHarvest's SEC filings, other public statements and the market commentary concerning all of these matters, was essential in responding to Defendants' voluminous motions to dismiss.

36. On July 31, 2023, the Court issued the MTD Order granting the motion as to claims asserted against Defendants Webb and Eggleton and denying the motion only as to two statements made by Defendant Lee during an investment conference held by Stephens Inc., on May 25, 2021. ECF 97. Specifically, the Court sustained Lead Plaintiff's claims as to the following statements made by Defendant Lee: "**Um, thankfully COVID has not in any way impacted our operation**[;]" and "**So we haven't had any challenges with recruiting or staffing**." *Id.* at 69-70, 75-77.

3. The Bankruptcy, and Lead Plaintiffs' Negotiations to Carve the Settlement Class Out of AppHarvest's Third-Party Release

37. On July 23, 2023, AppHarvest filed a voluntary Chapter 11 Petition in the United States Bankruptcy Court for the Southern District of Texas. *In Re AppHarvest Products, LLC*, Case No. 23-90745-CML (S.D. Tex. Bankr.). On August 1, 2023, Defendants filed a Notice of Suggestion of Bankruptcy and Automatic Stay of Proceedings, thereby automatically staying the Action as to AppHarvest. ECFs 98-99.

38. As originally proposed, the confirmation plan in the Bankruptcy would have released Lead Plaintiff's and the Settlement Class's claims in this Action against the Individual Defendants. Article IX.B. of the *Joint Plan of Liquidation of AppHarvest Products, LLC and its Debtor Affiliates* [Bankruptcy Docket No. 26] (the "Plan") contained a broad third-party release (the "Third-Party Release") stating, in relevant part:

> Except as otherwise expressly set forth in the Plan or the Confirmation Order, on and after the Effective Date, and with respect to all other Releasing Parties . . . each Released Party is, and is deemed to be, hereby conclusively, absolutely, unconditionally, irrevocably and forever, released by each Releasing Party from any and all Causes of Action, whether known or unknown, foreseen or unforeseen, matured or unmatured, existing or hereafter arising, in law, equity, contract, tort, or otherwise, including any derivative claims asserted on behalf of the Debtors, that such Entity would have been legally entitled to assert (whether individually or collectively), based on or relating to, or in any manner arising from, in whole or in part, the Debtors (including the capital structure, management, ownership, or operation thereof) . . . or upon any other related act or omission, transaction, agreement, event, or other occurrence related or relating to any of the foregoing taking place on or before the Effective Date . . . .

Plan, Art. IX.B.[4]

[4] The Plan also contained an injunction purporting to bar all parties who have held or hold released claims from, among other things, "commencing or continuing in any manner any action or other proceeding of any kind on account of or in connection with or with respect to any such Claims or Interests." *See* Plan, Art. IX.D.

39. The "Releasing Parties" in the Plan who were deemed to grant the Third-Party Release included, among numerous others, "all Holders of Claims or Interests that vote to reject the Plan or are deemed to reject the Plan and who do not affirmatively opt out of the releases provided by the Plan . . . ." *See* Plan, at 12.

40. The claims asserted by Lead Plaintiff on behalf of the Settlement Class arise from the purchase or sale of securities of AppHarvest and were classified under the Plan as "Section 510(b) Claims" in Class 8. Plan, Art. III.B.8. Holders of claims in Class 8 were not entitled to receive any distribution under the Plan and are therefore deemed to reject the Plan. *Id*. Accordingly, based on the Plan's original broad definition of Releasing Parties, Lead Plaintiff and the Settlement Class would have been deemed to grant the Third-Party Release unless they took affirmative steps to opt out, even though they were receiving nothing under the Plan and likely did not receive notice of the Plan or the opt-out mechanism.

41. Thus, based on the definitions of "Released Party" and "Related Party" in the Plan, absent affirmatively opting out or intervention by Lead Plaintiff in the Bankruptcy Court for the benefit of the Settlement Class, Settlement Class Members' claims against each of the Individual Defendants would have released under the Third-Party Release. *See* Plan at 11.

42. Upon learning of the Bankruptcy, Lead Counsel retained Lowenstein Sandler, LLP ("Lowenstein"), a firm with well-regarded expertise in complex bankruptcy matters, to advise Lead Counsel for the benefit of Lead Plaintiff and the Settlement Class. Lowenstein actively participated with Lead Counsel in negotiations with the debtor's counsel in the Bankruptcy and assisted Lead Counsel in drafting an emergency motion for relief from the proposed Plan that would have been filed if Lead Counsel and Lowenstein had been unsuccessful with negotiations.

43. As a result of Lead Counsel's and Lowenstein's efforts and negotiations with

counsel for the debtor, the debtor agreed to include the following language in the Debtor's proposed confirmation order which was approved by the bankruptcy court and resulted in a carve out of the Settlement Class's claims against the Individual Defendants from the bankruptcy release:

> **Release Opt-Out for Lead Plaintiff.** Notwithstanding anything to the contrary set forth in the Plan, Disclosure Statement, solicitation procedures order [ECF No. 72], Plan Supplement or this Confirmation Order, Alan Narzissenfeld ("Lead Plaintiff"), the court-appointed lead plaintiff in the securities class action pending in the United States District Court for the Southern District of New York under the caption, *In re AppHarvest Securities Litigation*, Case No. 1:21-cv-07985 (the "Securities Litigation"), together with each member of the putative class Lead Plaintiff represents in the Securities Litigation (as may be redefined or certified, the "Proposed Class"), is hereby deemed to have opted out of the Third Party Release contained in Article IX.B. of the Plan with respect to all claims asserted or to be asserted against any non-Debtor party in the Securities Litigation (the "Opt-Out Claims"), and shall not be required to execute, complete, or deliver the Release Opt-Out forms in respect of the Opt-Out Claims. Lead Plaintiff and the Proposed Class shall not be deemed Releasing Parties with respect to the Opt-Out Claims.

ECF 117-8 ¶132.

44. Additionally, Lead Counsel's negotiations with counsel for the Debtor resulted in the bankruptcy court entering the following order, for the benefit of Lead Plaintiff and the Settlement Class, regarding the preservation of records:

> **Preservation of Books and Records.** Until the entry of a final order of judgment or settlement in the Securities Litigation (as defined in paragraph 132 of this Order), the Debtors, Purchaser(s), Plan Administrator, and any other transferee of the Debtors' books, records, documents, files, electronic data (in whatever format, including native format), or any tangible object potentially relevant to the Securities Litigation, wherever stored (collectively, the "Potentially Relevant Books and Records") shall preserve and maintain such Potentially Relevant Books and Records, and shall not destroy, abandon, transfer, or otherwise render unavailable such Potentially Relevant Books and Records without providing counsel to the lead plaintiff in the Securities Litigation at least sixty (60) days' advance written notice and an opportunity to object and be heard by a court of competent jurisdiction. In the event Lead Plaintiff timely objects to any such destruction, abandonment, or transfer, the Potentially Relevant Books and Records shall be preserved until the earlier of (a) a final order of the Court or other court of competent jurisdiction and (b) the date the party in possession, custody, or control of such Potentially Relevant Books and Records provides originals or true copies thereof to counsel for Lead Plaintiff.

ECF 117-8 ¶136.

C. Mediation and Settlement Negotiations

45. The parties reached the proposed Settlement through a protracted, good faith, arm's-length negotiation facilitated by Ms. Yoshida, an experienced mediator with Phillips ADR Enterprises, P.C., who specializes in mediating complex litigation, including securities class actions.

46. On October 13, 2023, Lead Plaintiff and the Individual Defendants submitted to the Mediator, and exchanged with each other, mediation statements detailing the strengths and weaknesses of their claims and defenses and competing damages analyses.

47. On October 25, 2023, counsel for all Parties, as well as counsel for the Individual Defendants' insurers, participated in a full-day, in-person mediation. Lead Plaintiff also attended the mediation telephonically. During discussions, counsel for the Parties and carriers engaged in frank discussions with the Mediator concerning the parties' and carriers' respective positions on all issues relating to liability, damages, defenses, collectability, and Lead Plaintiff's likelihood of success at future stages of the litigation, including discovery, summary judgment, and trial. The Parties did not reach agreement at this mediation session but continued to negotiate via telephonic and written discussions with the assistance of the Mediator.

48. On December 12, 2023, the Mediator presented the Parties and their counsel with a double-blind Mediator's Recommendation (the "Recommendation") for the cash payment of $4,850,000.00 to resolve all claims in the Action.

49. On December 14, 2020, the Mediator informed the Parties that each party had accepted the Recommendation.

50. Subsequently, the Parties negotiated a Stipulation more fully documenting the Settlement, and prepared the class notice, postcard notice, summary notice, claim form, and proposed orders for preliminary approval and final approval and entering final judgment. The Parties finalized and executed the Stipulation on February 20, 2024. ECF 117-1.

III. SUMMARY OF THE SETTLEMENT, PLAN OF ALLOCATION, AND NOTICE PROGRAM

A. Summary of the Settlement Terms

51. The proposed Settlement Class, stipulated to by the Parties, includes all persons and entities that purchased or otherwise acquired securities of AppHarvest, Inc., during the period from February 1, 2021 and August 10, 2021, inclusive, and were injured thereby (the same Class Period alleged in the Operative Complaint). ECF 117-1 (Stip.), ¶1(ff). Excluded from the Settlement Class are: (1) the Individual Defendants; (2) the Individual Defendants' immediate family members; (3) any firm, trust, corporation, or other entity in which a defendant has or had a controlling interest; and (4) the legal representatives, affiliates, heirs, successors in interest, or assigns of any such excluded person or entity. *Id.* Also excluded from the Settlement Class will be any Person who or which timely and validly seeks exclusion from the Settlement Class. *Id.*

52. Under the terms of the Settlement, the Individual Defendants were required to pay, or cause to be paid, $4,850,000 into an Escrow Account within 30 calendar days of preliminary settlement approval (the "Settlement Fund"). *Id.* at ¶ 6. In return, the Settlement provides that Lead Plaintiff and the Settlement Class will release all Released Claims against the Released Defendant Parties. *See, e.g.*, *id.* at ¶4.

53. The Individual Defendants caused to be paid $4,850,000, in cash, into the Escrow Account as of April 3, 2024.

54. The Settlement Fund, including any interest earned thereon, shall be used to pay the following: (i) any Taxes; (ii) Notice and Administration Expenses; (iii) attorneys' fees and expenses as approved by the Court; (iv) any other fees and expenses awarded by the Court; and (v) the claims of Authorized Claimants. *Id.* at ¶9.

B. The Court Has Preliminarily Approved The Settlement

55. On December 15, 2023, the Parties notified the Court that they had reached a settlement in principle. ECF 112. On February 20, 2024, Lead Plaintiff filed his Motion for Preliminary Approval of Class Action Settlement, along with the Stipulation and related documents. ECF 115-16.

56. On March 6, 2024, the Court issued the Preliminary Approval Order, thereby preliminarily approving the proposed Settlement, certifying the Settlement Class, and directing dissemination of notice to Settlement Class Members. ECF 120.

57. On March 7, 2024, the Court so-ordered Lead Plaintiff's request to adjourn the Settlement Hearing date and scheduled the Settlement Hearing to be held on June 12, 2024 at 3:00 p.m. ECF 122. On April 3, 2024, the Individual Defendants filed a letter informing the Court that they had served the notice required under the Class Action Fairness Act and requesting that the Settlement Hearing be adjourned. ECF 123. On April 4, 2024, the Court granted the Individual Defendants' letter motion and adjourned the Settlement Hearing to July 11, 2024. ECF 124. The Claims Administrator subsequently updated the Settlement website to reflect the date of the hearing and a copy of the Court's April 4, 2024 order was uploaded thereto. *See* Declaration of Josephine Bravata Concerning: (A) Mailing of the Postcard Notice; (B) Publication of the Summary Notice; and (C) Report on Requests for Exclusion and Objections ("Bravata Decl.") at ¶12.

C. Dissemination of Notice to the Class Was Adequate and Accomplished in Accordance with the Preliminary Approval Order

58. Pursuant to the Preliminary Approval Order, to date, Strategic Claims Services, the Claims Administrator, mailed 32,436 copies of the Postcard Notice and emailed 69,644 direct links to the Notice and Claim Form to potential Settlement Class Members. *See* Bravata Decl. ¶¶6-7. The Claims Administrator also sent the Depository Trust Company ("DTC") a Notice of Pendency of Class Action, Proposed Class Action Settlement, Final Approval Hearing, and Motion for Attorneys' Fees and Expenses ("Notice") and Proof of Claim and Release ("Claim Form") (collectively, the "Notice and Claim Form") for the DTC to publish on its Legal Notice System ("LENS") on March 12, 2024. *Id.*, at 3.

59. The Claims Administrator identified potential Settlement Class Members from transfer records provided by Lead Counsel (who, in turn, received such records from the Individual Defendants), as well as brokerage firms and other banks, financial institutions, and other nominees holding AppHarvest stock in street name for Settlement Class members.

60. The Postcard Notice directed potential Settlement Class members to the Settlement website, www.strategicclaims.net/apph/, where downloadable versions of the long-form Notice and Claim Form are available.

61. The Notice provided, *inter alia*: (i) a description of the nature of the Action and claims asserted; (ii) the definition of the Settlement Class; (iii) the amount of the Settlement; (iv) the reasons for and material terms of the Settlement; (v) the Plan of Allocation; (vi) the maximum amount of attorneys' fees and expenses that will be sought; (vii) the time and manner for requesting an exclusion from the Settlement Class or objecting to the Settlement, Plan of Allocation, or the requested attorneys' fees and expenses; (viii) the date, time, and place of the Settlement Hearing; (ix) the identity and contact information of the representatives of Lead

Counsel and procedures for making inquiries; and (x) the binding effect of a judgment on Settlement Class Members. Bravata Decl., Exhibit A.

62. The Claims Administrator also arranged for the Publication Notice to be transmitted over *PR Newswire* and in print in the *Investor's Business Daily* on April 1, 2024.

63. In addition, the Claims Administrator established and continues to maintain a toll-free telephone number with a live operator during regular business hours dedicated to fielding calls and questions from AppHarvest shareholders. *Id.* at ¶ 12.

64. The deadline to submit a request for exclusion or an objection is May 22, 2024. *See* Bravata Decl., Exhibit A at 2. To date, Lead Plaintiff has only received three requests for exclusion, and no objections to the settlement. Out of the three exclusion requests, one is an invalid exclusion request since it did not provide the required transaction information.

65. On April 25, 2024, the Claims Administrator received a request for exclusion from a putative Settlement Class Member. This request was invalid because it did not include a list of transactions in APPH securities. The Claims Administrator notified this individual of the inadequacy of the exclusion request and provided instructions for addressing the deficiency on April 25, 2024. To date, the Claims Administrator has not received any response.

66. Attached as Exhibit E to the Bravata Decl. are copies of the two valid exclusion requests received by the Claims Administrator.

67. To date, Lead Plaintiff has not received a single objection to the Settlement, the Plan of Allocation, or Lead Counsel's requested attorneys' fees and expenses.

68. The Claims Administrator will submit a supplemental declaration addressing any exclusion requests or objections, if any are received, once the deadlines to do so have passed. Similarly, Lead Plaintiff will address any exclusion requests or objections in his reply papers.

D. The Settlement is Fair, Reasonable, and Adequate

69. In light of the considerations discussed in Lead Plaintiff's Motion for Final Approval of Class Action Settlement and Plan of Allocation and Final Certification of Settlement Class and accompanying Memorandum of Law, Lead Plaintiff and Lead Counsel (an experienced, nationally-recognized securities class action law firm) submit that the Settlement is fair, reasonable, and adequate, satisfies the standards of Rule 23, and provides a significant recovery for the Settlement Class. Continued litigation would have been costly, risky, and drawn out.

70. The Settlement was procedurally fair, reached only after arm's-length negotiations, between experienced counsel knowledgeable about the facts and allegations, with the assistance of a skilled mediator after extensive vigorous litigation.

71. Prior to Settlement, Lead Plaintiff and Lead Counsel conducted an extensive investigation and were sufficiently informed of the case's strengths and weaknesses. *See supra* ¶¶6-7.

72. The immediate benefits of the proposed Settlement outweigh the substantial risks, delay, and expense of continued litigation. Although, based on the extensive investigation and record, Lead Plaintiff and Lead counsel believe their claims have merit, there are also uncertainties and risks in continuing the litigation.

73. If the Parties did not agree to settle, they would have faced an expensive discovery process, class certification, and summary judgment briefing, and the risks of trial. A jury would have to determine numerous complex financial and securities law issues and navigate battles of the experts regarding market efficiency, loss causation, damages, and other issues related to Defendant Lee's liability. For example, a jury would have to determine: (i) whether Defendant Lee made false or misleading statements or omissions; (ii) whether the alleged misrepresentations and

omissions were material; (iii) whether Defendant Lee acted with scienter; (iv) whether AppHarvest common stock and warrants traded in an efficient market, entitling Lead Plaintiff to a presumption of reliance; and (v) the artificial inflation of AppHarvest common stock and warrants, and how much of the price declines on August 11, 2021, as alleged in the Operative Complaint, resulted from the alleged corrective disclosures. Any recovery would be very uncertain and, because of the near certainty of appeals, inevitably delayed by years. Also, there is no way for Lead Plaintiff to anticipate, given the passage of time, whether the memories of each Confidential Witness cited in the Operative Complaint would be consistent with their earlier statements, and there was no guarantee that any other potential witnesses would testify favorably for Lead Plaintiff.

74. These risks were not just hypothetical in this Action. For instance, in their motion to dismiss the Defendants challenged falsity by arguing that the surviving misstatements only "concerned the Company's ability to ***recruit*** and ***hire*** employees during a global pandemic." ECF 97 at 76. Although the Court found that the Operative Complaint's allegations could be construed as "more general" and that Defendant Lee plausibly misstated "how COVID-19 impacted the Company's operations, including its ability to ***staff*** its facility," *id.* at 77, discovery could have disproved the inferences that the Court drew in Lead Plaintiff's favor at the pleadings stage. Lead Counsel anticipates that counsel for the Individual Defendants would take the depositions of the Confidential Witnesses cited in the Operative Complaint at deposition and seek to discredit them and challenge their credibility.

75. Further, proving scienter for Defendant Lee's alleged misstatements is notoriously difficult, risky and uncertain, and, if litigation continued, Defendant Lee was certain to testify that he did not make the surviving misstatements with an intention to deceive or conceal information.

76. Additionally, although Defendant Lee was not entitled to dismissal, the Court observed in its decision on the motion to dismiss that "it is unclear exactly what impact staffing issues had on the Company's ability to meet its financial projections." ECF 97 at 77. In later proceedings, Defendant Lee was certain to argue the specific facts revealed on August 11, 2021, did not "correct" his statements made on May 25, 2021, and that none of the information in the alleged corrective disclosures connected the disappointing results and guidance that were reported to COVID-19, recruiting, or staffing. If Defendant Lee was successful, Lead Plaintiff would have to parse out the fraud-related portion of the stock and warrant price drops, which could have diminished or eliminated recoverable damages entirely.

77. Defendants also informed Lead Plaintiff that they would also challenge the fraud-on-the-market presumption of reliance at class certification, potentially precluding Lead Plaintiff's ability to achieve and maintain class certification through trial. Lead Counsel anticipates Defendant Lee would have contended (among other things) that any misstatements he made that survived the motion to dismiss were too generic to have impacted the price of AppHarvest's securities. Bolstering the argument, Lead Counsel is not aware of any analyst reports that remarked upon Defendant Lee's comments during the interview by Stephens, Inc., on May 25, 2021, potentially undermining materiality and front-end price impact. Further, Lead Counsel anticipates Defendant Lee would challenge price impact, arguing, *inter alia*, that any information alleged in the Operative Complaint concerning labor and staffing challenges was available to, and known by, the market prior to May 25, 2021, and thus, was already reflected in the Company's stock price.

78. Indeed, the Second Circuit's recent decision in *Arkansas Teacher Retirement System v. Goldman Sachs Group, Inc.*, 77 F.4th 74, 81 (2d Cir. 2023) heightened these very same concerns, where the Second Circuit, after approximately 13 years of litigation, decertified the class

and effectively ended the case finding statements about Goldman's business practices and approach to conflicts-of-interest management were too "generic" to have impacted Goldman's stock price, and there was an insufficient nexus between the front-end statement and back-end price decline. *Id*. at 104. Defendant Lee would no doubt have challenged price impact at class certification, summary judgment, and trial. While Lead Plaintiff believes that a class would have been certified, there was an ongoing risk that any certified class could have been disturbed prior to trial or on appeal if Defendant Lee successfully moved to decertify the Settlement Class. Furthermore, any appeal pursuant to Federal Rule of Civil Procedure 23(f) would have added considerable delay and complexity.

79. Additionally, the scope of merits discovery and class certification discovery would be large given the complexity of the allegations in the Operative Complaint, including evidence necessary to establish price impact. The parties would have had to incur substantial costs and engage in prolonged litigation through class certification, summary judgment, trial, and likely appeals. Discovery costs (including document production and hosting fees) would be significant. Lead Counsel would anticipate, given the complexities, reviewing, at least, hundreds of thousands of documents, if not more, and taking many depositions.

80. In addition to fact discovery, the Parties would have to engage in expert discovery on the merits, class certification, reliance, loss causation, and damages, amongst other topics. The parties would present dueling experts and incur substantial costs (including for expert reports and testimony regarding market efficiency, price impact, loss causation, damages, and merits). Even assuming a favorable trial outcome, Defendant Lee would likely appeal, further delaying any benefit to the Settlement Class. Moreover, even if a larger judgment were recoverable at trial,

courts recognize that delay occasioned by trial, post-trial, and appellate processes greatly reduces the value of any award.

81. Further, Lead Plaintiff faced considerable risks collecting any future judgment or settlement from alternative sources given the Bankruptcy. Lead Plaintiff's and the Settlement Class's claims against AppHarvest were extinguished, without entitlement to payment, in the Bankruptcy. *In Re AppHarvest Products, LLC*, Case No. 23-90745-CML (S.D. Tex. Bankr.) at Dkt. No. 458 (Second Amended Joint Plan of Liquidation of AppHarvest Products, LLC and its Debtor Affiliates, Article III.B.) (stating that all "Class 9 – Section 510(b) Claims," including the claims asserted against AppHarvest in this Action, "shall be cancelled, released, discharged, and extinguished and will be of no further force or effect, and Holders of such Claims shall not receive any distribution, property or other value under the Plan on account of such Claims."); Dkt. 461 ([proposed] Order Approving the Debtors' Disclosure Statement and Confirming the Amended Joint Plan of Liquidation of AppHarvest Products, LLC and its Debtor Affiliates); Dkt 666 (Notice of (I) Entry of Order Confirming the Second Amended Joint Plan of Liquidation of AppHarvest Products, LLC and Its Debtor Affiliates, (II) Somerset Closing, and (III) Occurrence of the Effective Date). Moreover, upon information and belief, Lead Counsel does not believe Defendant Lee would have had adequate personal assets to satisfy a judgment larger than the Settlement Amount. Thus, in this Action, liability insurance policies were likely the only sources of funding for any potential settlement. However, before the Settlement was reached, there was no guarantee that the insurance would be available to Lead Plaintiff if it continued litigation. The wasting policies were paying defense costs and likely would have been exhausted had the case proceeded through trial and appeal(s).

82. The Settlement provides for a recovery of $4,850,000. In consultation with their experts, Lead Counsel estimates if the Court had sustained the Operative Complaint in full (which it did not), and Lead Plaintiff fully prevailed on his alleged claims at both summary judgment and trial, and if the Court and jury accepted Lead Plaintiff's damages theory (including proof of loss causation, which would be hotly contested) over the entire Settlement Class Period from February 1, 2021 through August 10, 2021, Lead Plaintiff's ***best case scenario***—the maximum aggregate, theoretical damages—would be approximately $104 million in damages for AppHarvest common stock, and approximately $8 million in damages for AppHarvest warrants, for a combined total of approximately $112 million in damages. Under Lead Plaintiff's estimated best-case scenario, assuming a 100% claims take rate and no disaggregation of confounding information, the Settlement represents approximately a 4.3% recovery, which is well within the zone of reasonableness for a complex securities class action like this one.

83. However, a full damages recovery was counterfactual and implausible given that the sole remaining alleged misstatements were made on May 25, 2021. Lead Plaintiff's damages expert estimated that for purchases made between May 26, 2021 and August, 10, 2021, inclusive, aggregate damages were approximately $33 million for AppHarvest common stock and $3 million for AppHarvest warrants, for a combined total of approximately $36 million in damages. Accordingly, when accounting for the Court's orders in the Action, the Settlement represents an excellent 13.4% recovery.

E. The Plan of Allocation is Fair, Reasonable, and Adequate

84. As stated in the Notice provided to potential Settlement Class members, Settlement Class members who wish to participate in the Settlement must submit a Claim Form by May 22, 2024. Bravata Decl., Exhibit A at 2. The Notice explains that the Net Settlement Fund, including

any interest earned thereon, after deduction of certain enumerated fees and expenses, shall be paid to Authorized Claimants on a *pro rata* basis according to the Court-approved Plan of Allocation. *Id.* at 12.

85. Lead Counsel prepared the proposed Plan of Allocation in consultation with Lead Plaintiff's financial and damages experts. Under the Plan of Allocation, a Recognized Loss amount will be calculated for Settlement Class Members' transactions in publicly traded AppHarvest common stock and warrants during the Settlement Class Period based principally on the differences in the estimated amounts of artificial inflation in these securities on the date of purchase and the date of sale. *Id.* at 13-15. Based on Lead Plaintiff's expert's calculations, the Plan of Allocation utilizes the "constant dollar" method and estimates that the alleged artificial inflation in the price of AppHarvest common stock and warrants during the Settlement Class Period is $3.34 per share and $1.68 per warrant, respectively. *Id.* at 12.

86. The Plan of Allocation also takes into account the Court's dismissal of certain claims asserted by the Settlement Class relating to statements made prior to May 25, 2021. Accordingly, Recognized Loss calculations for purchases of publicly traded AppHarvest common stock and warrants will be multiplied by 10% (i.e., discounting by 90%) to reflect the substantially lower likelihood of success on the dismissed claims, which would be viable only if the Court's dismissal was reversed on appeal, and such claims would then face the additional risk of proof due to passage of time. *Id.* at 13.

87. Lead Counsel believes that the Plan provides a fair and reasonable method to equitably distribute the settlement proceeds among eligible Settlement Class Members. Indeed, the objective of the proposed Plan is to equitably distribute the net Settlement proceeds to those

members of the Settlement Class who suffered economic losses as a result of the alleged misrepresentations asserted in the Action.

F. The Settlement Class Should be Finally Certified

88. The Court's Preliminary Approval Order preliminarily certified the Settlement Class for the purposes of Settlement only under Fed. R. Civ. P. 23(a) and (b)(3). ECF 120 at ¶2.A. There have been no changes to alter the propriety of class certification for settlement purposes. Accordingly, Lead Plaintiff and Lead Counsel believe the preliminary certification should be affirmed.

IV. LEAD COUNSEL'S REQUEST FOR ATTORNEYS' FEES AND EXPENSES IS REASONABLE AND SHOULD BE APPROVED

A. The Fee Application

89. As compensation for their efforts, Lead Counsel requests an award of attorneys' fees in the amount of 25% of the Settlement Fund, or $1,212,500, and reimbursement of $166,987.77 in expenses reasonably incurred in the prosecution and settlement of the Action. *See* Memorandum of Law in Support of Lead Counsel's Unopposed Motion for an Award of Attorneys' Fees and Reimbursement of Litigation Expenses (the "Fee Memorandum") filed herewith. Lead Counsel has vigorously prosecuted this case on a fully contingent basis for well over two years without any compensation whatsoever and incurring substantial expenses without any guarantee of success.

90. The Notice provides that Lead Counsel would apply for a fee award in an amount up to one-quarter (25%) of the Settlement Fund and that Lead Counsel would request reimbursement of litigation expenses in an amount not to exceed $250,000.

91. As discussed in the Fee Memorandum, the trend in the Second Circuit is to use the percentage-of-fund method (the "percentage method") in determining the appropriate fee recovery

as it directly aligns the interests of the class and counsel, incentivizing efficient prosecution and early resolution of litigation. It is also supported by the Supreme Court and the PSLRA. The requested fee is well within the range of fees awarded by courts in the Second Circuit and this District.

92. Based on the time and labor expended by Lead Counsel, the risks and complexities of the litigation, the quality of representation, the results achieved, and the contingent nature of the representation, Lead Counsel respectfully submits the requested fee award is fair and reasonable and should be approved by the Court.

B. Lead Counsel's Work and Expertise

93. Lead Counsel devoted significant time and effort prosecuting this litigation and achieving the Settlement, supporting the requested fee. Prior to reaching the agreement in principle to settle the Action, Lead Counsel conducted an extensive investigation and analysis of the allegations in preparing the FAC and the Operative Complaint. This investigation and analysis included reviewing: (i) documents filed publicly by AppHarvest with the SEC; (ii) publicly available information concerning AppHarvest and/or the Individual Defendants, including press releases, news articles, conference call transcripts, and video recorded interviews; (iii) research reports issued by financial and industry analysts concerning AppHarvest; (iv) other publicly available information and data concerning the Company and its subsidiaries, including information concerning AppHarvest's operations; (v) docket entries from various court proceedings concerning AppHarvest and the Individual Defendants, including items filed in the Bankruptcy; (vi) interviews conducted with former employees; (vii) consultations with bankruptcy counsel; (viii) reports prepared by Lead Plaintiff's damages experts in connection with the mediation; (ix)

consultation with a Controlled Environment Agricultural expert; and (x) the applicable law governing the claims and potential defenses in this Action.

94. Furthermore, Lead Counsel contacted and interviewed numerous former employees of AppHarvest and consulted with relevant damages experts and CEA experts.

95. Lead Counsel also performed extensive legal research and analysis at the pleading stage, in moving for leave to amend, and in opposing Defendants' motion to dismiss the Operative Complaint. These efforts included addressing complex issues on falsity, materiality, scienter, and loss causation. Lead Counsel also performed extensive research of factual and legal issues relating to AppHarvest's Bankruptcy, including: determining the effect(s) of AppHarvest's Bankruptcy on the Action (i.e., any application of the automatic stay or the merits of a discretionary stay); and with respect to negotiations Lead Counsel and Lowenstein undertook to carve the Settlement Class out of the third-party release, including drafting an emergency motion for relief from the proposed confirmation plan.

96. Lead Counsel further expended considerable time engaging in the extensive, good faith, arm's-length negotiations leading to the Settlement, including: (i) finding an appropriate mediator; (ii) drafting Lead Plaintiff's mediation statement; (iii) analyzing the Individual Defendants' mediation statement and damages analyses; (iv) preparing for and participating in an all-day mediation; (v) consulting with damages experts as to the value of the Settlement Class's damages; and (vi) participating in additional negotiations via telephone and email in regards to the Settlement Amount.

97. Subsequent to the settlement in principle, Lead Counsel negotiated the final settlement terms, and drafted and finalized the Settlement documents. Lead Counsel also consulted with experts regarding the Plan of Allocation and prepared the documents required for preliminary

and final approval of the Settlement. Lead Counsel will continue to expend necessary time and resources in ensuring the finalization of the claims process.

98. The expertise and experience of Lead Counsel is an important factor to be weighed in assessing a fair fee. As demonstrated in Lead Counsel's firm resume (Ex. 2), Lead Counsel is comprised of experienced and skilled practitioners in the securities litigation field and are responsible for significant settlements as well as legal decisions that enable litigation such as this to be successfully prosecuted.

99. At all times, Lead Counsel provided comprehensive and focused efforts to achieve the best possible results for the Class, with no certainty of reimbursement for their time. As set forth herein and in Lead Counsel's lodestar report (Ex. 3.A), Lead Counsel undertook 2,439.93 hours in connection with this matter for a total lodestar of $1,609,971.25. The hourly rates for Lead Counsel range from $900 to $1,000 for partners, and $500 to $550 for other attorneys. Ex. 3.A. The hourly rate for professional staff is $325. Ex. 3.A. These rates are comparable to those normally charged by securities action law firms. In the exercise of Lead Counsel's billing judgment, Lead Counsel's total lodestar figure is exclusive of any billing entries for attorneys and other professionals who expended less than ten hours in total on this matter.

	HOURS	Rate	LODESTAR
Amanda Foley (Associate)	580.5	$550	$319,275.00
Amanda Herda (Legal Assistant)	89.1	$325	$28,957.50
Arden Westphalen (Legal Assistant)	29.35	$325	$9,538.75
Cole von Richthofen (Associate)	29.35	$500	$14,675.00
Gregory Potrepka (Partner)	944.5	$900	$850,050.00
Kaitlyn Goetten (Legal Intern)	42.2	$325	$13,715.00

Michael Keating (Associate)	308	$500	$154,000.00
Rachel Berger (Associate)	141.08	$500	$70,540.00
Samantha Phillips (Legal Assistant)	187.6	$325	$60,970.00
Shannon Hopkins (Partner)	88.25	$1,000	$88,250.00
TOTAL	**2,439.93**		**$1,609,971.25**

100. The requested fee represents an approximately 25% discount from the total lodestar here, and as discussed in the Fee Memorandum, represents a negative multiplier which is on the very low end of multipliers commonly awarded in securities class actions and other complex litigation in this Circuit and District and strongly indicates the reasonableness of the proposed fee. Moreover, the lodestar multiplier does not include additional time that was expended in moving for final approval of the Settlement and that will be expended in completing the claims process.

C. Standing and Caliber of Opposing Counsel

101. The quality of the work performed by Lead Counsel in attaining the Settlement should also be evaluated in light of the quality of the opposition. Defendants were represented by experienced and qualified attorneys well-versed in securities litigation at Cooley LLP. In the face of this knowledgeable and formidable opposition, Lead Counsel was nevertheless able to develop a case that was sufficiently strong to persuade the Individual Defendants to settle it on terms that are favorable to the Settlement Class.

D. The Risks of Contingent Litigation

102. Lead Counsel undertook and prosecuted this Action for over two years on an entirely contingent basis with no guarantee of any compensation. Lead Counsel knew from the outset that they would expend a substantial amount of time prosecuting this Action yet receive no compensation if the Action ultimately proved unsuccessful. Thus, the contingent nature of

payment of fees and expenses and the risks and complexity of the Action should be given substantial weight by the Court in considering the instant application for fees and expenses.

103. As described above, this Action involved serious legal and practical hurdles that could have resulted in no recovery at all. Continued litigation would have entailed significant risks to the Settlement Class, as the Action could be derailed in any number of ways before a final judgment in Lead Plaintiff's favor was entered (and withstood possible appeal).

104. As a result of consistent and persistent efforts in the face of substantial risks and uncertainties, Lead Counsel achieved a significant recovery for the benefit of the Settlement Class.

E. The Reaction of the Settlement Class to the Requested Fee

105. As discussed above, the Postcard Notice has been mailed to 32,436 potential Settlement Class members and emails included direct links to the Notice and Claim Form on the Settlement website have been sent to an additional 69,644 potential Settlement Class Members. The Notice and Postcard Notice contain information regarding the 25% fee award requested by Lead Counsel.

106. As of the date of this filing, there have been no objections to any aspect of the proposed Fee Application.

F. Payment of the Requested Expenses and Costs is Fair and Reasonable

107. Lead Counsel is also moving for payment of $166,987.77 in litigation expenses reasonably and actually incurred in connection with commencing and prosecuting the claims against Defendants, as outlined in the accompanying declarations and summarized below. *See* Ex. 3 and 3.B. Lead Counsel advanced all of the litigation expenses. Pursuant to the Preliminary Approval Order, Lead Plaintiff notified Settlement Class members that Lead Counsel would seek

a maximum of $250,000.00 in expenses. Thus, Lead Counsel's requested expenses is over $83,000 ***less*** than what was included in the Notice.

108. A categorical breakdown of the expenses for which Lead Counsel seeks reimbursement follows:

CATEGORY	**EXPENSES**
Filing Fees	$301.35
Expert Fees	$20,053.25
Process Server Fees	$682.20
Outside Counsel	$90,400.00
Mediation Fees	$11,250.00
Postage Fees	$51.22
Computer Research Fees	$3,760.25
Investigator Fees	$40,489.50
TOTAL EXPENSES	**$166,987.77**

109. To the extent certain of the above categories may require additional information to clarify their meaning and scope, Lead Counsel provides the following explication:

a. Expert Fees: Lead Counsel collectively incurred $15,849.75 in expenses paid to Forensic Economics, Inc., Crowninshield Financial Research, and Matthew D. Cain, Ph.D. These entities are experts in the fields of financial economics, market efficiency, loss causation, and damages. They provided Lead Counsel with advice and counsel as to numerous complex issues concerning the markets for AppHarvest common stock and warrants, and further assisted Lead Counsel during the mediation and settlement negotiations with the Defendants. In addition, Lead Counsel incurred $4,203.50 in expenses for the retention of and consultation with a Controlled Environment Agricultural expert to inform its understanding of AppHarvest's operations and develop the allegations in the Operative Complaint.

b. Outside Counsel Fees: Lead Counsel collectively incurred fees of $90,400 for external counsel. Of this amount, over 98% was paid to Lowenstein in connection with protecting

the rights of the settlement class in AppHarvest's bankruptcy. Lowenstein actively participated with Lead Counsel in negotiations with the debtor's counsel in the Bankruptcy and assisted Lead Counsel in drafting an emergency motion for relief from the proposed Plan. As a result of Lead Counsel's and Lowenstein's efforts and negotiations with counsel for the debtor, the debtor agreed to include a carve-out for the putative class in this Action from the third-party release included in the bankruptcy confirmation plan. Absent these efforts, any recovery for the Settlement Class would likely have been impossible. The remainder of the Outside Counsel fees that Lead Counsel incurred in this Action regarding the retention of Tornatore Law, LLC for representation of Confidential Witnesses in connection with this Action.

c. Investigation Fees: Lead Counsel incurred $40,489.50 in expenses paid to L.R. Hodges & Associates, LTD ("L.R. Hodges"). Lead Counsel retained L.R. Hodges to provide private investigation services and conduct numerous fact interviews with former AppHarvest employees, including individuals who were cited by plaintiffs as Confidential Witnesses, and other relevant third parties in the preparation of the amended complaints in the Action.

d. Mediation Fees: The total $11,250.00 mediation fee for which Lead Counsel request reimbursement was paid to Phillips ADR Enterprises, P.C. for the services of Ms. Yoshida, who conducted a full-day mediation sessions and numerous follow up discussions with the parties leading to the settlement of the litigation.

e. Computer Research Fees: This category includes fees paid to vendors such as LexisNexis, Thomson Reuters-Westlaw, CapitalIQ, and Pacer.

110. The expenses requested are reflected in the records of Lead Counsel, prepared in the normal course of business and are an accurate record of the expenses incurred. *See* Exs. 3 and 3.B. The expenses noted are reasonable and were incurred for items necessary to the prosecution

of the Action. The expenses were incurred largely in conjunction with experts, mediation, private investigation, computer-based legal research, and the services of external, expert bankruptcy counsel. These expenses were all incurred for the benefit of the Settlement Class, and as explained in the Fee Memorandum, are of the type generally billed to, and reimbursed by, individual clients in standard billing arrangements.

111. From the beginning of the case, Lead Counsel were aware that they might never recover any of their expenses, and, at the very least, would not recover anything until the Action was successfully resolved. Lead Counsel also understood that, even assuming the case was ultimately successful, reimbursement for expenses would not compensate them for the lost use of funds advanced by them to prosecute this Action. Thus, Lead Counsel were motivated to, and did, take steps to assure that only necessary expenses were incurred for the vigorous and efficient prosecution of the case.

112. In view of the complex nature of the Action, the litigation expenses incurred were reasonable and necessary to pursue the interests of the Class. Accordingly, Lead Counsel respectfully submit that the request for expenses be granted.

V. EXHIBITS

113. Attached hereto as Exhibit 1 is a true and correct copy of the Declaration of Lead Plaintiff Alan Narzissenfeld in Support of: (a) Lead Plaintiff's Unopposed Motion for Final Approval of Class Action Settlement and Plan of Allocation and Final Certification of Settlement Class; and (b) Lead Counsel's Unopposed Motion for Award of Attorney's Fees and Reimbursement of Litigation Expenses.

114. Attached hereto as Exhibit 2 is a current, true, and correct copy of the firm resume of Levi & Korsinsky, LLP.

115. Attached hereto as Exhibit 3 is the Declaration of Gregory M. Potrepka on Behalf of Levi & Korsinsky, LLP in Support of Application for an Award of Attorneys' Fees and Expenses ("Fee Application Decl.").

116. Attached as Exhibit A to the Fee Application Decl. is a true and correct schedule of the amount of time spent by attorneys and professional support staff members at Levi & Korsinsky LLP on the prosecution of the Action, and the lodestar calculation based on Levi & Korsinsky LLP's current hourly rates.

117. Attached as Exhibit B to the Fee Application Decl. is a true and correct summary of the expenses incurred by Lead Counsel in litigating this Action for which Lead Counsel seeks reimbursement.

118. Attached as Exhibit 4 is the Declaration of Josephine Bravata Concerning: (A) Mailing of the Postcard Notice; (B) Publication of the Summary Notice; and (C) Report on Requests for Exclusion and Objections.

VI. CONCLUSION

119. In view of the significant recovery to the Settlement Class, the substantial risks of this litigation, the substantial efforts of Lead Counsel, the quality of the work performed, the contingent nature of the fee, and the standing and experience of Lead Counsel, Plaintiffs and Lead Counsel respectfully submit that: the Settlement should be finally approved as fair, reasonable, and adequate; the Plan of Allocation should be approved as fair and reasonable; the Settlement Class be finally certified for settlement purposes only; a fee in the amount of 25% of the Settlement Fund, or $1,212,500.00, should be awarded to Lead Counsel; and litigation expenses in the amount of $166,987.77 should be reimbursed in full.

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

Dated: May 8, 2024

/s/ Gregory M. Potrepka
Gregory M. Potrepka

CERTIFICATE OF SERVICE

I, Gregory M. Potrepka, hereby certify that this document was filed through the CM/ECF system and will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) on this 8th day of May, 2024.

/s/ *Gregory M. Potrepka*
Gregory M. Potrepka

Exhibit 1

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re AppHarvest Securities Litigation	Case No. 1:21-cv-07985-LJL

DECLARATION OF ALAN NARZISSENFELD IN SUPPORT OF: (A) LEAD PLAINTIFF'S UNOPPOSED MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT AND PLAN OF ALLOCATION AND FINAL CERTIFICATION OF SETTLEMENT CLASS; AND (B) LEAD COUNSEL'S UNOPPOSED MOTION FOR AWARD OF ATTORNEYS' FEES AND LITIGATION EXPENSES

I, ALAN NARZISSENFELD, hereby declare under penalty of perjury as follows:

1. I understand that I am the Court-appointed Lead Plaintiff in the above-captioned securities class action (the "Action"), and that the Court has preliminarily appointed me as a class representative. I submit this declaration in support of my Unopposed Motion for Final Approval of Class Action Settlement and Plan of Allocation and Final Certification of Settlement Class, and Lead Counsel's Unopposed Motion for Award of Attorneys' Fees and Litigation Expenses filed herewith.

2. I am aware and understand as a representative plaintiff in a securities class action, I have responsibilities and duties to act in the best interests of other similarly situated members of the Settlement Class. I am over the age of 18 and have personal knowledge of the matters set forth in this Declaration, as I have been directly involved in monitoring and overseeing the prosecution of the Action, as well as the negotiations leading to the Settlement, and I could and would testify competently to these matters.

I. LEAD PLAINTIFF ALAN NARZISSENFELD'S OVERSIGHT OF THE LITIGATION

3. I reside in Casselberry, Florida and have invested securities for over 30 years. Based on my own research of AppHarvest, Inc. ("AppHarvest"), I purchased or otherwise acquired

AppHarvest securities during the Class Period alleged in the Action and suffered a loss due to the allegations in the Action. On my own initiative, I contacted and retained Levi & Korsinsky, LLP ("Levi & Korsinsky" or "Lead Counsel") to obtain more information concerning this Action and to seek appointment as Lead Plaintiff.

4. Throughout the litigation, I received periodic status reports from Lead Counsel on case developments, and participated in regular discussions concerning the prosecution of the Action, the strengths of and risks to the claims, and potential settlement. In particular, throughout the course of this Action, I: (a) researched news related to AppHarvest and its securities; (b) engaged in numerous telephone calls and emails with my attorneys regarding the progress of the case; (c) reviewed significant filings filed in the Action and discussed them with my attorneys; (d) reviewed Court orders and discussed them with my attorneys; (e) consulted with my attorneys regarding the implications of AppHarvest's bankruptcy on this Action; (f) consulted with my attorneys regarding the possibility of pursuing mediation, the overall settlement prospects and objectives, and status of the parties' negotiations; and (g) evaluated and approved the proposed Settlement in light of all of the circumstances concerning the Action.

II. APPROVAL OF THE SETTLEMENT

5. Through my active participation and my communications with Lead Counsel, I was kept informed of the progress of this Action, as well as all Settlement negotiations, including those with the mediator Ms. Michelle Yoshida, Esq. As a result of the mediation with Ms. Yoshida and subsequent negotiations, I conferred with my attorneys regarding the parties' respective positions and the mediator's recommendation.

6. I authorized Lead Counsel to settle this case for $4.85 million in cash. In doing so, I considered the merits of the Action. In concluding that the Settlement is fair and reasonable, I

weighed the Settlement's substantial benefits to the Class against the significant risks and uncertainties of continued litigation of this case.

7. Based on my involvement throughout the prosecution and resolution of the claims asserted in the Action, I believe that the Settlement provides a fair, reasonable, and adequate recovery for the Settlement Class, particularly in light of the risks of continued litigation. Thus, I strongly endorse approval of the Settlement by the Court.

III. LEAD COUNSEL'S MOTION FOR AN AWARD OF ATTORNEYS' FEES AND REIMBURSEMENT OF LITIGATION EXPENSES

8. I believe that Lead Counsel's request for an award of attorneys' fees in the amount of one-quarter (25%) of the Settlement Fund is fair and reasonable in light of the work Lead Counsel performed on behalf of the Settlement Class. I have evaluated Lead Counsel's fee request by considering the work performed, the recovery obtained for the Settlement Class, the fact that Lead Counsel agreed to represent the Settlement Class and myself on an entirely contingent basis and also agreed to advance all litigation costs and expenses, and the risks of the Action, and have authorized this fee request for the Court's ultimate determination.

9. I further believe that the litigation expenses being requested for reimbursement to Lead Counsel are reasonable, and represent costs and expenses necessary for the prosecution and resolution of the claims in the Action. Based on the foregoing, and consistent with my obligation to the Settlement Class to obtain the best result at the most efficient cost, I fully support Lead Counsel's motion for an award of attorneys' fees and reimbursement of litigation expenses.

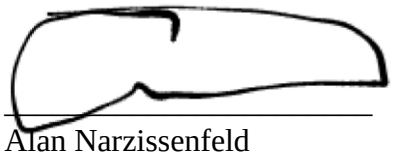
IV. CONCLUSION

10. In conclusion, I was closely involved throughout the prosecution and settlement of the claims in this Action, strongly endorse the Settlement as fair and adequate, and believe that the Settlement represents a significant recovery for the Settlement Class. Accordingly, I respectfully

request that the Court approve (a) Lead Plaintiff's motion for final approval of the proposed Settlement, approval of the Plan of Allocation, and final certification of the Settlement Class; (b) Lead Counsel's motion for an award of attorney's fees and reimbursement of out-of-pocket litigation expenses.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 3rd day of May, 2024.



Alan Narzissenfeld

Exhibit 2



New York

33 Whitehall Street
17th Floor
New York, NY 10004
Tel : 212-363-7500
Fax : 212-363-7171

Washington, D.C.

1101 Vermont Ave. NW
Suite 700
Washington, D.C. 20005
Tel: 202-524-4290
Fax: 202-333-2121

Conneticut

1111 Summer Street,
Suite 403
Stamford, CT 06905
Tel : 203-992-4523

Los Angeles

445 South Figueroa Street
31st Floor
Los Angeles, CA 90071
Tel: 213-985-7290

San Francisco

1160 Battery Street East,
Suite 100 - #3425
San Francisco, CA 94111
Tel: 415-373-1671
Fax: 415-484-1294

Levi & Korsinsky, LLP

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- GREGORY M. POTREPKA
- MARK S. REICH
- DANIEL TEPPER
- ELIZABETH K. TRIPODI

Counsel
- ANDREW E. LENCYK
- COURTNEY E. MACCARONE
- BRIAN STEWART

Senior Associates
- JORDAN A. CAFRITZ
- MORGAN EMBLETON
- DAVID C. JAYNES
- CORREY A. SUK

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- CINAR ONEY
- COLE VON RICHTHOFEN
- MAX WEISS

Staff Attorneys
- KATHY AMES-VALDIVIESO
- KAROLINA CAMPBELL
- LEAH FARRAR
- CHRISTINA FUHRMAN
- RUBEN MARQUEZ

About the Firm

Levi & Korsinsky, LLP is a national law firm with decades of combined experience litigating complex securities, class, and consumer actions in state and federal courts throughout the country. Our main office is located in New York City and we also maintain offices in Connecticut, California, and Washington, D.C.

We represent the interests of aggrieved shareholders in class action and derivative litigation through the vigorous prosecution of corporations that have committed securities fraud and boards of directors who have breached their fiduciary duties. We have served as Lead and Co-Lead Counsel in many precedent–setting litigations, recovered hundreds of millions of dollars for shareholders via securities fraud lawsuits, and obtained fair value, multi-billion dollar settlements in merger transactions.

We also represent clients in high-stakes consumer class actions against some of the largest corporations in America. Our legal team has a long and successful track record of litigating high-stakes, resource-intensive cases and consistently achieving results for our clients.

Our attorneys are highly skilled and experienced in the field of securities class action litigation. They bring a vast breadth of knowledge and skill to the table and, as a result, are frequently appointed Lead Counsel in complex shareholder and consumer litigations in various jurisdictions. We are able to allocate substantial resources to each case, reviewing public documents, interviewing witnesses, and consulting with experts concerning issues particular to each case. Our attorneys are supported by exceptionally qualified professionals including financial experts, investigators, and administrative staff, as well as cutting-edge technology and e-discovery systems. Consequently, we are able to quickly mobilize and produce excellent litigation results. Our ability to try cases, and win them, results in substantially better recoveries than our peers.

We do not shy away from uphill battles – indeed, we routinely take on complex and challenging cases, and we prosecute them with integrity, determination, and professionalism.















Practice Areas

Levi & Korsinsky

- Securities Fraud Class Actions
- Derivative, Corporate Governance & Executive Compensation
- Mergers & Acquisitions
- Consumer Litigation

Securities Class Action

Over the last four years, Levi & Korsinsky has been lead, or co-lead counsel in over 50 securities class actions that have resulted in nearly $200 million in recoveries for investors. The Firm is currently actively litigating as either sole or co-lead counsel securities class actions claiming billions of dollars in damages suffered by injured investors. Since 2020, Levi & Korsinsky has consistently ranked in the Top 10 in terms of number of settlements achieved for shareholders each year, according to reports published by ISS. In Lex Machina's Securities Litigation Report, Levi & Korsinsky ranked as one of the Top 5 Securities Firms for the period from 2018 to 2020. Law360 dubbed the Firm one of the "busiest securities firms" in what is "on track to be one of the busiest years for federal securities litigation" in 2018. Since 2019, Lawdragon Magazine has ranked multiple members of Levi & Korsinsky among the 500 Leading Plaintiff Financial Lawyers in America.

Some of the Firm's recent settlements include:

In **In re U.S. Steel Consolidated Cases**, No. 2:17-579-CB (W.D. Pa.), the Firm obtained a recovery of $40 million on behalf of a certified class of U.S. Steel investors who sustained damages in connection with false and materially misleading statements about its Carnegie Way initiative. The settlement followed years of hard-fought discovery and class certification litigation.

In two related actions, **In re Nutanix, Inc. Securities Litigation**, No. 3:19-cv-01651-WHO (N.D. Cal.) and **John P. Norton, on Behalf of the Norton Family Living Trust UAD 11/15/2002 v. Nutanix, Inc., et. al.**, No. 3:21-cv-04080-WHO (N.D. Cal.), the Firm achieved a settlement providing for the payment of $71 million to eligible class members. The case was based on false and misleading misstatements that allegedly concealed from shareholders Nutanix's rapidly declining sales pipeline, revenue, and billings.

As Lead Counsel in **In re Avon Products Inc. Securities Litigation**, No. 1:19-cv-1420-MKV (S.D.N.Y.), the Firm achieved a $14.5 million cash settlement to successfully resolve claims alleged by a class of investors that the beauty company loosened its recruiting standards in its critical market in Brazil, eventually causing its stock price to crater. The case raised important issues concerning the use of confidential witnesses located abroad in support of scienter allegations and the scope of the attorney work product doctrine with respect to what discovery could be sought of confidential sources who are located in foreign countries.

Securities Class Action

In **Rougier v. Applied Optoelectronics, Inc.**, No. 4:17-cv-2399-GHC-CAB (S.D. Tex.), the Firm served as sole Lead Counsel, prevailed against Defendants' Motion to Dismiss, and achieved class certification before the Parties reached a settlement. The Court granted final approval of a $15.5 million settlement on November 24, 2020.

In **Martin v. Altisource Residential Corp.**, No. 15-cv-00024 (AET) (GWC) (D.V.I.) the Firm acted as sole Lead Counsel and successfully defeated multiple motions to dismiss directed at the amended class complaints alleging that defendants misrepresented aspects of its relationship with mortgage servicer Ocwen Financial Corp. After engaging in substantial discovery, the Firm obtained a $15.5 million recovery for the class of investors in Altisource Residential.

In **In re Illumina Inc. Securities Litigation**, No. 3:16-cv-3044-L-MSB (S.D. Cal.) the Firm acted as sole Lead Counsel and obtained a recovery of $13.85 million for a class of Illumina investors who were misled by false and misleading statements concerning sales of its "Hiseq" sequencing instrument. Settlement followed successfully defeating Defendants' motion to dismiss and extensive discovery.

> **"Plaintiffs' selected Class Counsel, the law firm of Levi & Korsinsky, LLP, has demonstrated the zeal and competence required to adequately represent the interests of the Class. The attorneys at Levi & Korsinsky have experience in securities and class actions issues and have been appointed lead counsel in a significant number of securities class actions**
>
> The Honorable Christina Bryan in *Rougier v. Applied Optoelectronics, Inc.*, No. 4:17-cv-02399-GHC-CAB (S.D. Tex. Nov. 13, 2019)

In **In Re Helios and Matheson Analytics, Inc. Sec. Litig.**, No. 1:18-cv-6965-JGK (S.D.N.Y.), the Firm served as sole Lead Counsel. Although the company had filed a voluntary Bankruptcy petition for liquidation and had numerous creditors (including private parties and various state and federal regulatory agencies), the Firm was able to reach a settlement. The settlement was obtained at a time when a motion to dismiss filed by the defendants was still pending and a risk to the Class. In its role as Lead Counsel, the Firm achieved a settlement of $8.25 million on behalf of the class. The Court granted final approval of the settlement on May 13, 2021.

Securities Class Action

In **In re Navient Corp. Securities Litigation**, No. 17-cv-8373 (RBK/AMD) (D.N.J.), the Firm represented Navient investors misled about its loan servicing practices and compliance with regulatory requirements designed to protect customers with student loans. After obtaining class certification and moving for summary judgment against defendants, the Firm obtained a $7.5 million recovery for the class.

In **Kirkland, et al. v. WideOpenWest, Inc.**, et al., Index No. 653248/2018 (N.Y. Sup.) the Firm was Co-Lead Counsel and achieved a settlement of $7,025,000 for shareholders.

> **"I find the firm to be well-qualified to serve as Lead Counsel."**
>
> The Honorable Andrew L. Carter, Jr. In *Snyder v. Baozun Inc.*, No. 1:19-cv-11290-ALC-KNF (S.D.N.Y. Sept. 8, 2020)

Securities Class Action

Levi & Korsinsky has been appointed lead or co-lead counsel in the following securities actions:

- **Ventrillo et al v. Paycom Software Inc et al,** No. 5:23-cv-01019 (W.D. Okla. April 23, 2024)
- **Shih v. Amylyx Pharmaceuticals, Inc. et al,** No. 1:24-cv-00988-AS (S.D.N.Y. April 17, 2024)
- **Olmstead v. Biovie, Inc. et al,** No. 3:24-cv-00035-LRH-CSD (D. Nev. April 15, 2024)
- **Wilhite v. Expensify, Inc., et al.,** No. 3:23-cv-01784-JR (D. Or. February 29, 2024)
- **Walling v. Generac Holdings, Inc., et al.,** No. 3:23-cv-0808 (W.D. Wis. February 7, 2024)
- **Hubacek v. ON Semiconductor Corporation et al.,** No. 1:23-cv-01429-GBW (D. Del. February 29, 2024)
- **Ragan v. Farfetch Limited, et al.,** No. 8:23-cv-2857-MJM (D. Md. January 19, 2024)
- **Gurevitch v. KeyCorp et al.,** No. 1:23-cv-01520-DCN (N.D. Ohio December 26, 2023)
- **Lowe v. Tandem Diabetes Care, Inc. et al.,** No. 3:23-cv-01657-H-BLM (S.D. Cal. December 5, 2023)
- **Perez v. Target Corporation et al.,** No. 0:23-cv-00769-PJS-TNL (D. Minn. November 13, 2023)
- **Thant v. Rain Oncology Inc. et al.,** No. 5:23-cv-03518-EJD (N.D. Cal. November 1, 2023)

In appointing the Firm Lead Counsel, the Honorable Analisa Torres noted our "extensive experience" in securities litigation.

White Pine Invs. v. CVR Ref., LP, No. 1:20-CV-2863-AT (S.D.N.Y. Jan. 5, 2021)

- **Villanueva v. Proterra Inc. et al.,** No. 5:23-cv-03519-BLF (N.D. Cal. October 23, 2023)
- **Martin v. BioXcel Therapeutics, Inc. et al.,** No. 3:23-cv-00915-SVN (D. Conn. October 4, 2023)
- **Scott Petersen v. Stem, Inc., et al.,** No. 3:23-cv-02329-MMC (N.D. Cal. August 22, 2023)
- **Solomon v. Peloton Interactive, Inc. et al.,** No. 1:23-cv-04279-MKB-JRC (E.D.N.Y. September 7, 2023)
- **Thant v. Veru, Inc., et al.,** No. 1:22-cv-23960-KMW (S.D. Fla. July 27, 2023)
- **Zhang V. Gaotu Techedu Inc., et al.,** No. 1:22-cv-07966-PKC-CLP (E.D.N.Y. July 16, 2023)
- **Jaramillo v. Dish Network Corporation, et al.,** No. 1:23-cv-00734-GPG-SKC (D. Colo. July 16, 2023)
- **Howard M. Rensin, Trustee Of The Rensin Joint Trust v. United States Cellular Corporation, et al.,** No. 1:23-cv-02764-MMR (N.D. Ill. July 11, 2023)
- **Holland v. Rite Aid Corporation, et al.,** No. 1:23-cv-00589-JG (N.D. Ohio June 22, 2023)
- **Baylor v. Honda Motor Co., Ltd., et al.,** No. 2:23-cv-00794-GW-AGR (C.D. Cal. May 8, 2023)

Securities Class Action

- **Olsson v. PLDT Inc. et al.,** No. 2:23-cv-00885-CJC-MAA (C.D. Cal. April 26, 2023)
- **Ryan v. FIGS, Inc. et al.,** No. 2:22-cv-07939-ODW (C.D. Cal. February 14, 2023)
- **Schoen v. Eiger Biopharmaceuticals, Inc., et al.,** No. 3:22-cv-6985-RS (N.D. Cal. February 3, 2023)
- **Fernandes v. Centessa Pharmaceuticals plc, et al.,** No. 1:22-cv-08805-GHW-SLC (S.D.N.Y. December 12, 2022)
- **Gilbert v. Azure Power Global Limited, et al.,** No. 1:22-cv-07432-GHW (S.D.N.Y. December 8, 2022
- **Pugley v. Fulgent Genetics, Inc. et al.,** No. 2:22-cv-06764-CAS-KLS (C.D. Cal. November 30, 2022)
- **Michalski v. Weber Inc., et al.,** No. 1:22-cv-03966-EEB (N.D. Ill. November 29, 2022)
- **Edge v. Tupperware Brands Corporation, et al.,** No. 6:22-cv-1518-RBD-LHP (M.D. Fla. September 16, 2022)
- **Carpenter v. Oscar Health, Inc., et al.,** No. 1:22-cv-03885-VSB-VF (S.D.N.Y. September 27, 2022)
- **In re Nano-X Imagining Ltd. Securities Litigation,** No. 1:20-cv-04355-WFK-MMH (E.D.N.Y. August 30, 2022)
- **Patterson v. Cabaletto Bio, Inc., et al.,** No. 2:22-cv-00737-JMY (E.D. Pa. August 10, 2022)

"I find the firm to be well-qualified to serve as Lead Counsel."

The Honorable Andrew L. Carter, Jr. In *Snyder v. Baozun Inc.*, No. 1:19-CV-11290 (S.D.N.Y. Sept. 8, 2020)

- **Rose v. Butterfly Network, Inc., et al.,** No. 2:22-cv-00854-MEF-JBC (D.N.J. August 8, 2022)
- **Winter v. Stronghold Digital Mining, Inc., et al.,** No. 1:22-cv-03088-RA (S.D.N.Y. August 4, 2022)
- **Poirer v. Bakkt Holdings, Inc.,** No. 1:22-cv-02283-EK-PK (E.D.N.Y. August 3, 2022)
- **In re Meta Materials Inc. Securities Litigation,** No. 1:21-cv-07203-CBA-JRC (E.D.N.Y. July 15, 2022)
- **Deputy v. Akebia Therapeutics, Inc. et al.,** No. 1:22-cv-01411-AMD-VMS (E.D.N.Y. June 28, 2022)
- **In re Grab Holdings Limited Securities Litigation,** No. 1:22-cv-02189-JLR (S.D.N.Y. June 7, 2022)
- **In re AppHarvest Securities Litigation,** No. 1:21-cv-07985-LJL (S.D.N.Y. December 13, 2021)
- **In re Coinbase Global, Inc. Securities Litigation,** No. 3:21-cv-05634-TLT (N.D. Cal. November 5, 2021)
- **Miller v. Rekor Systems, Inc. et al.,** No. 1:21-cv-01604-GLR (D. Md. September 16, 2021)
- **Zaker v. Ebang International Holdings Inc. et al.,** No. 1:21-cv-03060-KPF (S.D.N.Y. July 21, 2021)
- **Valdes v. Kandi Technologies Group, Inc. et al.,** No. 2:20-cv-06042-LDH-AYS (E.D.N.Y. April 20, 2021)

Securities Class Action

- **John P. Norton, On Behalf Of The Norton Family Living Trust UAD 11/15/2002 V. Nutanix, Inc. Et Al,** No. 3:21-cv-04080-WHO (N.D. Cal. September 8, 2021)
- **The Daniels Family 2001 Revocable Trust v. Las Vegas Sands Corp., et al.,** No. 1:20-cv-08062-JMF (D. Nev. Jan. 5, 2021)
- **In re QuantumScape Securities Class Action Litigation,** No. 3:21-cv-00058-WHO (N.D. Cal. April 20, 2021)
- **In re Minerva Neurosciences, Inc. Sec. Litig.,** No. 1:20-cv-12176-GAO (D. Mass. March 5, 2021)
- **White Pine Investments v. CVR Refining, LP, et al.,** No. 1:20-cv-02863-AT (S.D.N.Y Jan. 5, 2021)
- **Yaroni v. Pintec Technology Holdings Limited, et al.,** No. 1:20-cv-08062-JMF (S.D.N.Y. Dec. 15, 2020)
- **Nickerson v. American Electric Power Company, Inc., et al.,** No. 2:20-cv-04243-SDM-EPD (S.D. Ohio Nov. 24, 2020)
- **Ellison v. Tufin Software Technologies Ltd., et al.,** No. 1:20-cv-05646-GHW (S.D.N.Y. Oct. 19, 2020)
- **Hartel v. The GEO Group, Inc., et al.,** No. 9:20-cv-81063-RS-SMM (S.D. Fla. Oct. 1, 2020)
- **Posey v. Brookdale Senior Living, Inc., et al.,** No. 3:20-cv-00543-AAT (M.D. Tenn. Sept. 14, 2020)

"Class Counsel have demonstrated that they are skilled in this area of the law and therefore adequate to represent the Settlement Class as

The Honorable Barry Ted Moskowitz in *In re Regulus Therapeutics Inc. Sec. Litig.*, No. 3:17-CV-182-BTM-RBB (S.D. Cal. Oct. 30, 2020)

- **Snyder v. Baozun Inc.,** No. 1:19-cv-11290-ALC-KNF (S.D.N.Y. Sept. 8, 2020)
- **In re Dropbox Sec. Litig.,** No. 5:19-cv-06348-BLF-SVK (N.D. Cal. Jan. 16, 2020)
- **Zhang v. Valaris plc,** No. 1:19-cv-7816-NRB (S.D.N.Y. Dec. 23, 2019)
- **In re Sundial Growers Inc. Sec. Litig.,** No. 1:19-cv-08913-ALC-SN (S.D.N.Y. Dec. 20, 2019)
- **Ferraro Family Foundation, Inc. v. Corcept Therapeutics Incorporated,** No. 5:19-cv-1372-LHK-SVK (N.D. Cal. Oct. 7, 2019)
- **Roberts v. Bloom Energy Corp.,** No. 4:19-cv-02935-HSG (N.D. Cal. Sept. 3, 2019)
- **Luo v. Sogou Inc.,** No. 1:19-cv-00230-LJL (S.D.N.Y. Apr. 2, 2019)
- **In re Aphria Inc. Sec. Litig.,** No. 1:18-cv-11376-GBD-JEW (S.D.N.Y. Mar. 27, 2019)
- **Chew v. MoneyGram International, Inc.,** No. 1:18-cv-07537-MMP (N.D. Ill. Feb. 12, 2019)

Securities Class Action

- **Tung v. Dycom Industries, Inc.,**
No. 9:18-cv-81448-RS-WM (S.D. Fla. Jan. 11, 2019)
- **Guyer v. MGT Capital Investments, Inc.,**
No. 1:18-cv-09228-ER (S.D.N.Y. Jan. 9, 2019)
- **In re Adient plc Sec. Litig.,**
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- **In re Prothena Corp. plc Sec. Litig.,**
No. 1:18-cv-06425-ALC (S.D.N.Y. Oct. 31, 2018)
- **Pierrelouis v. Gogo Inc.,**
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- **Balestra v. Cloud With Me Ltd.,**
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- **Balestra v. Giga Watt, Inc.,**
No. 2:18-cv-00103-MKD (E.D. Wash. June 28, 2018)
- **Chandler v. Ulta Beauty, Inc.,**
No. 1:18-cv-01577-MMP (N.D. Ill. June 26, 2018)
- **In re Longfin Corp. Sec. Litig.,**
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- **Chahal v. Credit Suisse Group AG,**
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- **In re Bitconnect Sec. Litig.,**
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- **In re Aqua Metals Sec. Litig.,**
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- **Davy v. Paragon Coin, Inc.,**
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- **In re Navient Corporation Sec. Litig.,**
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- **Huang v. Depomed, Inc.,**
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- **In re Regulus Therapeutics Inc. Sec. Litig.,**
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- **Murphy III v. JBS S.A.,**
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- **Ohren v. Amyris, Inc.,**
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- **Beezley v. Fenix Parts, Inc.,**
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- **M & M Hart Living Trust v. Global Eagle Entertainment, Inc.,**
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- **In re Insys Therapeutics, Inc.,**
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- **In re Agile Therapeutics, Inc. Sec. Litig.,**
No. 3:17-cv-00119-AET-LHG (D.N.J. May 15, 2017)
- **Roper v. SITO Mobile Ltd.,**
No. 2:17-cv-01106-ES-MAH (D.N.J. May 8, 2017)
- **In re Illumina, Inc. Sec. Litig.,**
No. 3:16-cv-03044-JL-MSB (S.D. Cal. Mar. 30, 2017)

Securities Class Action

- **In re PTC Therapeutics, Inc.,**
No. 2:16-cv-01224-KM-MAH (D.N.J. Nov. 14, 2016)
- **The TransEnterix Investor Group v. TransEnterix, Inc.,**
No. 5:16-cv-00313-JCD (E.D.N.C. Aug. 30, 2016)
- **Gormley v. magicJack Vocaltec Ltd.,**
No. 1:16-cv-01869-VM (S.D.N.Y. July 12, 2016)
- **Azar v. Blount Int'l Inc.,**
No. 3:16-cv-00483-MHS (D. Or. July 1, 2016)
- **Plumley v. Sempra Energy,**
No. 3:16-cv-00512-RTB-AGS (S.D. Cal. June 6, 2016)
- **Francisco v. Abengoa, S.A.,**
No. 1:15-cv-06279-ER (S.D.N.Y. May 24, 2016)
- **De Vito v. Liquid Holdings Group, Inc.,**
No. 2:15-cv-06969-KM-JBC (D.N.J. Apr. 7, 2016)
- **Ford v. Natural Health Trends Corp.,**
No. 2:16-cv-00255-TJH-AFM (C.D. Cal. Mar. 29, 2016)
- **Levin v. Resource Capital Corp.,**
No. 1:15-cv-07081-LLS (S.D.N.Y. Nov. 24, 2015)
- **Martin v. Altisource Residential Corp.,**
No. 1:15-cv-00024-AET-GWC (D.V.I. Oct. 7, 2015)
- **Paggos v. Resonant, Inc.,**
No. 2:15-cv-01970-SJO-MRW (C.D. Cal. Aug. 7, 2015)
- **Fragala v. 500.com Ltd.,**
No. 2:15-cv-01463-JFW-CFE (C.D. Cal. July 7, 2015)
- **Stevens v. Quiksilver Inc.,**
No. 8:15-cv-00516-JVS-JCG (C.D. Cal. June 26, 2015)
- **In re Ocean Power Technologies, Inc. Sec. Litig.,**
No. 3:14-cv-3799-FLW-LHG (D.N.J. Mar. 17, 2015)
- **In re Energy Recovery Inc. Sec. Litig.,**
No. 3:15-cv-00265-EMC-LB (N.D. Cal. Jan. 20, 2015)
- **Ford v. TD Ameritrade Holding Corporation, et al.,**
No. 8:14-cv-00396-JFB-SMB (D. Neb. Dec. 2, 2014)
- **In re China Commercial Credit Sec. Litig.,**
No. 1:15-cv-00557-ALC (D.N.J. Oct. 31, 2014)
- **In re Violin Memory, Inc. Sec. Litig.,**
No. 4:13 cv-05486-YGR (N.D. Cal. Feb. 26, 2014)
- **Berry v. KiOR, Inc.,**
No. 4:13-cv-02443-LHR (S.D. Tex. Nov. 25, 2013)
- **In re OCZ Technology Group, Inc. Sec. Litig.,**
No. 3:12-cv-05265-RS (N.D. Cal. Jan. 4, 2013)
- **In re Digital Domain Media Group, Inc. Sec. Litig.,**
No. 2:12-cv-14333-JEM-FJL (S.D. Fla. Sept. 20, 2012)

> **"The Court of Chancery approved the settlement on April 4, 2024, and remarked that it was "strong" and a "great settlement."**
>
> Vice Chancellor Lori W. Will in *Karsan Value Fund v. Kostecki Brokerage Pty, Ltd. et al.*, Case No. C.A. No. 2021-0899-LWW (Delaware Chancery)



Derivative, Corporate Governance & Executive Compensation

As a leader in achieving important corporate governance reforms for the benefit of shareholders, the Firm protects shareholders by enforcing the obligations of corporate fiduciaries. Our efforts include the prosecution of derivative actions in courts around the country, making pre-litigation demands on corporate boards to investigate misconduct, and taking remedial action for the benefit of shareholders. In situations where a company's board responds to a demand by commencing its own investigation, we frequently work with the board's counsel to assist with and monitor the investigation, ensuring that the investigation is thorough and conducted in an appropriate manner.

We have also successfully prosecuted derivative and class action cases to hold corporate executives and board members accountable for various abuses and to help preserve corporate assets through longlasting and meaningful corporate governance changes, thus ensuring that prior misconduct does not reoccur. We have extensive experience challenging executive compensation and recapturing assets for the benefit of companies and their shareholders. We have secured corporate governance changes to ensure that executive compensation is consistent with shareholder-approved compensation plans, company performance, and federal securities laws.

In **Franchi v. Barabe**, No. 2020-0648-KSJM (Del. Ch.), the Firm secured $6.7 million in economic benefits for Selecta Biosciences, Inc. in connection with insiders' participation in a private placement while in possession of material non-public information as well as the adoption of significant governance reforms designed to prevent a recurrence of the alleged misconduct.

The Firm was lead counsel in the derivative action styled **Police & Retirement System of the City of Detroit et al. v. Robert Greenberg et al., C.A No. 2019-0578-MTZ (Del. Ch.). The action resulted in a settlement where Skechers Inc. cancelled approximately $20 million in equity awards issued to Skechers' founder Robert** Greenberg and two top officers in 2019 and 2020. Also, under the settlement. Skechers' board of directors must retain a consultant to advise on compensation decisions going forward.



Derivative, Corporate Governance & Executive Compensation

In **In re Google Inc. Class C Shareholder Litigation**, C.A. No. 7469-CS (Del. Ch.), we challenged a stock recapitalization transaction to create a new class of nonvoting shares and strengthen the corporate control of the Google founders. We helped achieve an agreement that provided an adjustment payment to existing shareholders harmed by the transaction as well as providing enhanced board scrutiny of the Google founders' ability to transfer stock. Ultimately, Google's shareholders received payments of $522 million.

In **In re Activision, Inc. Shareholder Derivative Litigation**, No. 06-cv-04771-MRP-JTL (C.D. Cal.), we were Co-Lead Counsel and challenged executive compensation related to the dating of options. This effort resulted in the recovery of more than $24 million in excessive compensation and expenses, as well as the implementation of substantial corporate governance changes.

> **"...a model for how [the] great legal profession should conduct itself."**
>
> Justice Timothy S. Driscoll in *Grossman v. State Bancorp, Inc.*, Index No. 600469/2011 (N.Y. Sup. Ct. Nassau Cnty. Nov. 29, 2011)

In **Pfeiffer v. Toll** (Toll Brothers Derivative Litigation), No. 4140-VCL (Del. Ch.), we prevailed in defeating defendants' motion to dismiss in a case seeking disgorgement of profits that company insiders reaped through a pattern of insider-trading. After extensive discovery, we secured a settlement returning $16.25 million in cash to the company, including a significant contribution from the individuals who traded on inside information.

In **Rux v. Meyer**, No. 11577-CB (Del. Ch.), we challenged the re-purchase by Sirius XM of its stock from its controlling stockholder, Liberty Media, at an inflated, above-market price. After defeating a motion to dismiss and discovery, we obtained a settlement where SiriusXM recovered $8.25 million, a substantial percentage of its over-payment.

In **In re EZCorp Inc. Consulting Agreement Derivative Litig.,** C.A. No. 9962-VCL (Del. Ch.), we challenged lucrative consulting agreements between EZCorp and its controlling stockholders. After surviving multiple motions to dismiss. We obtained a settlement where EZCorp was repaid $6.45 million it had paid in consulting fees, or approximately 33% of the total at issue and the consulting agreements were discontinued.



Derivative, Corporate Governance & Executive Compensation

In **Scherer v. Lu** (Diodes Incorporated), No. 13-358-GMS (D. Del.), we secured the cancellation of $4.9 million worth of stock options granted to the company's CEO in violation of a shareholder-approved plan, and obtained additional disclosures to enable shareholders to cast a fullyinformed vote on the adoption of a new compensation plan at the company's annual meeting.

In **MacCormack v. Groupon, Inc.,** No. 13-940-GMS (D. Del.), we caused the cancellation of $2.3 million worth of restricted stock units granted to a company executive in violation of a shareholder-approved plan, as well as the adoption of enhanced corporate governance procedures designed to ensure that the board of directors complies with the terms of the plan; we also obtained additional material disclosures to shareholders in connection with a shareholder vote on amendments to the plan.

In **Edwards v. Benson** (Headwaters Incorporated), No. 13-cv-330 (D. Utah), we caused the cancellation of $3.2 million worth of stock appreciation rights granted to the company's CEO in violation of a shareholder-approved plan and the adoption of enhanced corporate governance procedures designed to ensure that the board of directors complies with the terms of the plan.

In **Pfeiffer v. Begley** (DeVry, Inc.), No. 12-CH-5105 (Ill. Cir. Ct. DuPage Cty.), we secured the cancellation of $2.1 million worth of stock options granted to the company's CEO in 2008-2012 in violation of a shareholder-approved incentive plan.

In **Basch v. Healy** (EnerNOC), No. 13-cv-766 (D. Del.), we obtained a cash payment to the company to compensate for equity awards issued to officers in violation of the company's compensation plan and caused significant changes in the company's compensation policies and procedures designed to ensure that future compensation decisions are made consistent with the company's plans, charters and policies. We also impacted the board's creation of a new compensation plan and obtained additional disclosures to stockholders concerning the board's administration of the company's plan and the excess compensation.

In **Kleba v. Dees,** No. 3-1-13 (Tenn. Cir. Ct. Knox Cty.), we recovered approximately $9 million in excess compensation given to insiders and the cancellation of millions of shares of stock options issued in violation of a shareholder-approved compensation plan. In addition, we obtained the adoption of formal corporate governance procedures designed to ensure that future compensation decisions are made independently and consistent with the plan.



Derivative, Corporate Governance & Executive Compensation

In **Lopez v. Nudelman** (CTI BioPharma Corp.), No. 14-2-18941-9 SEA (Wash. Super. Ct. King Cty.), we recovered approximately $3.5 million in excess compensation given to directors and obtained the adoption of a cap on director compensation, as well as other formal corporate governance procedures designed to implement best practices with regard to director and executive compensation.

In **In re Corinthian Colleges, Inc. Shareholder Derivative Litigation**, No. 06-cv-777-AHS (C.D. Cal.), we were Co-Lead Counsel and achieved a $2 million benefit for the company, resulting in the re-pricing of executive stock options and the establishment of extensive corporate governance changes.

In **In re Corinthian Colleges, Inc. Shareholder Derivative Litigation**, No. 06-cv-777-AHS (C.D. Cal.), we were Co-Lead Counsel and achieved a $2 million benefit for the company, resulting in the re-pricing of executive stock options and the establishment of extensive corporate governance changes.

In **Pfeiffer v. Alpert (Beazer Homes Derivative Litigation)**, No. 10-cv-1063-PD (D. Del.), we successfully challenged certain aspects of the company's executive compensation structure, ultimately forcing the company to improve its compensation practices.

In **In re Cincinnati Bell, Inc., Derivative Litigation**, No. A1105305 (Ohio, Hamilton Cty. C.P.), we achieved significant corporate governance changes and enhancements related to the company's compensation policies and practices in order to better align executive compensation with company performance. Reforms included the formation of an entirely independent compensation committee with staggered terms and term limits for service.

In **Woodford v. Mizel** (M.D.C. Holdings, Inc.), No. 1:11-cv-879 (D. Del.), we challenged excessive executive compensation, ultimately obtaining millions of dollars in reductions of that compensation, as well as corporate governance enhancements designed to implement best practices with regard to executive compensation and increased shareholder input.

Mergers & Acquisitions

Levi & Korsinsky has achieved an impressive record in obtaining injunctive relief for shareholders, and we are one of the premier law firms engaged in mergers & acquisitions and takeover litigation, consistently striving to maximize shareholder value. In these cases, we regularly fight to obtain settlements that enable the submission of competing buyout bid proposals, thereby increasing consideration for shareholders.

We have litigated landmark cases that have altered the landscape of mergers & acquisitions law and resulted in multi-million dollar awards to aggrieved shareholders.

In **In re Schuff International, Inc. Stockholders Litigation**, No. 10323-VCZ (Del. Ch.), we served as Co-Lead Counsel for the plaintiff class in achieving the largest recovery as a percentage of the underlying transaction consideration in Delaware Chancery Court merger class action history, obtaining an aggregate recovery of more than $22 million -- a gross increase from $31.50 to $67.45 in total consideration per share (a 114% increase) for tendering stockholders.

> **Vice Chancellor Sam Glasscock, III said "it's always a pleasure to have counsel who are articulate and exuberant..." and referred to our approach to merger litigation as "wholesome" and "a model of... plaintiffs' litigation in the merger arena."**
>
> *Ocieczanek v. Thomas Properties Group*, C.A. No. 9029-VCG (Del. Ch. May 15, 2014)

In **In re Bluegreen Corp. Shareholder Litigation**, No. 502011CA018111 (Cir. Ct. for Palm Beach Cty., FL), as Co-Lead Counsel, we achieved a common fund recovery of $36.5 million for minority shareholders in connection with a management-led buyout, increasing gross consideration to shareholders in connection with the transaction by 25% after three years of intense litigation.

In **In re CNX Gas Corp. Shareholder Litigation**, No. 5377-VCL (Del. Ch.), as Plaintiffs' Executive Committee Counsel, we obtained a landmark ruling from the Delaware Chancery Court that set forth a unified standard for assessing the rights of shareholders in the context of freeze-out transactions and ultimately led to a common fund recovery of over $42.7 million for the company's shareholders.

Mergers & Acquisitions

In **Chen v. Howard-Anderson**, No. 5878-VCL (Del. Ch.), we represented shareholders in challenging the merger between Occam Networks, Inc. and Calix, Inc., obtaining a preliminary injunction against the merger after showing that the proxy statement by which the shareholders were solicited to vote for the merger was materially false and misleading. Post-closing, we took the case to trial and recovered an additional $35 million for the shareholders.

In **In re Sauer-Danfoss Stockholder Litig.**, No. 8396 (Del. Ch.), as one of plaintiffs' co-lead counsel, we recovered a $10 million common fund settlement in connection with a controlling stockholder merger transaction.

In **In re Yongye International, Inc. Shareholders' Litigation**, No. A-12-670468-B (District Court, Clark County, Nevada), as one of plaintiffs' co-lead counsel, we recovered a $6 million common fund settlement in connection with a management-led buyout of minority stockholders in a China-based company incorporated under Nevada law.

In **In re Great Wolf Resorts, Inc. Shareholder Litigation**, No. 7328-VCN (Del. Ch.), we achieved tremendous results for shareholders, including partial responsibility for a $93 million (57%) increase in merger consideration and the waiver of several "don't-ask-don't-waive" standstill agreements that were restricting certain potential bidders from making a topping bid for the company.

In **In re Talecris Biotherapeutics Holdings Shareholder Litigation**, C.A. No. 5614-VCL (Del. Ch.), we served as counsel for one of the Lead Plaintiffs, achieving a settlement that increased the merger consideration to Talecris shareholders by an additional 500,000 shares of the acquiring company's stock and providing shareholders with appraisal rights.

In **In re Minerva Group LP v. Mod-Pac Corp.**, Index No. 800621/2013 (N.Y. Sup. Ct. Erie Cty.), we obtained a settlement in which defendants increased the price of an insider buyout from $8.40 to $9.25 per share, representing a recovery of $2.4 million for shareholders.

In **Stephen J. Dannis v. J.D. Nichols**, No. 13-CI-00452 (Ky. Cir. Ct. Jefferson Cty.), as Co-Lead Counsel, we obtained a 23% increase in the merger consideration (from $7.50 to $9.25 per unit) for shareholders of NTS Realty Holdings Limited Partnership. The total benefit of $7.4 million was achieved after two years of hard-fought litigation, challenging the fairness of the going-private, squeeze-out merger by NTS's controlling unitholder and Chairman, Defendant Jack Nichols. The unitholders bringing the action alleged that Nichols' proposed transaction grossly undervalued NTS's units. The 23% increase in consideration was a remarkable result given that on October 18, 2013, the Special Committee appointed by the Board of Directors had terminated the existing merger agreement with Nichols. Through counsel's tenacious efforts the transaction was resurrected and improved.

Mergers & Acquisitions

In **Dias v. Purches**, No. 7199-VCG (Del. Ch.), Vice Chancellor Sam Glasscock, III of the Delaware Chancery Court partially granted shareholders' motion for preliminary injunction and ordered that defendants correct a material misrepresentation in the proxy statement related to the acquisition of Parlux Fragrances, Inc. by Perfumania Holding, Inc.

In **In re Complete Genomics, Inc. Shareholder Litigation**, No. 7888-VCL (Del. Ch.), we obtained preliminary injunctions of corporate merger and acquisition transactions, and Plaintiffs successfully enjoined a "don't-ask-don't-waive" standstill agreement.

In **In re Pamrapo Bancorp Shareholder Litigation**, Docket C-89-09 (N.J. Ch. Hudson Cty.) & HUD-L-3608- 12 (N.J. Law Div. Hudson Cty.), we defeated defendants' motion to dismiss shareholders' class action claims for money damages arising from the sale of Pamrapo Bancorp to BCB Bancorp at an allegedly unfair price through an unfair process. We then survived a motion for summary judgment, ultimately securing a settlement recovering $1.95 million for the Class plus the Class's legal fees and expenses up to $1 million (representing an increase in consideration of 15-23% for the members of the Class).

In **Forgo v. Health Grades, Inc.**, No. 5716-VCS (Del. Ch.), as Co-Lead Counsel, our attorneys established that defendants had likely breached their fiduciary duties to Health Grades' shareholders by failing to maximize value as required under Revlon, Inc. v. MacAndrews & Forbes Holdings, Inc., No. 506 A.2d 173 (Del. 1986). We secured an agreement with defendants to take numerous steps to seek a superior offer for the company, including making key modifications to the merger agreement, creating an independent committee to evaluate potential offers, extending the tender offer period, and issuing a "Fort Howard" release affirmatively stating that the company would participate in good faith discussions with any party making a bona fide acquisition proposal.

In **In re Integrated Silicon Solution, Inc. Stockholder Litigation**, No. 115CV279142 (Super. Ct. Santa Clara, Cal.), we won an injunction requiring corrective disclosures concerning "don't-ask-don't-waive" standstill agreements and certain financial advisor conflicts of interests, and contributed to the integrity of a post-agreement bidding contest that led to an increase in consideration from $19.25 to $23 per share, a bump of almost 25 percent.

> **"I think you've done a superb job and I really appreciate the way this case was handled."**
>
> Justice Timothy S. Driscoll in *Grossman v. State Bancorp, Inc.*, Index No. 600469/2011 (N.Y. Sup. Ct. Nassau Cnty. Nov. 29, 2011)

Consumer Litigation

Levi & Korsinsky works hard to protect consumers by holding corporations accountable for defective products, false and misleading advertising, unfair or deceptive business practices, antitrust violations, and privacy right violations.

Our litigation and class action expertise combined with our in-depth understanding of federal and state laws enable us to fight for consumers who have been aggrieved by deceptive and unfair business practices and who purchased defective products, including automobiles, appliances, electronic goods, and other consumer products. The Firm also represents consumers in cases involving data breaches and privacy right violations. The Firm's attorneys have received a number of leadership appointments in consumer class action cases, including multidistrict litigation ("MDL"). Recently, Law.com identified the Firm as one of the top firms with MDL leadership appointments in the article titled, "There Are New Faces Leading MDLs. And They Aren't All Men" (July 6, 2020). Representative settled and ongoing cases include:

In **NV Security, Inc. v. Fluke Networks**, No. CV05-4217 GW (SSx) (C.D. Cal. 2005), we negotiated a settlement on behalf of purchasers of Test Set telephones in an action alleging that the Test Sets contained a defective 3-volt battery. We benefited the consumer class by obtaining the following relief: free repair of the 3-volt battery, reimbursement for certain prior repair, an advisory concerning the 3-volt battery on the outside of packages of new Test Sets, an agreement that defendants would cease to market and/or sell certain Test Sets, and a 42-month warranty on the 3-volt battery contained in certain devices sold in the future.

In re: Apple Inc. Device Performance Litig., No. 5:18-md-02827-EJD (N.D. Cal.): Plaintiffs' Executive Committee Counsel in proposed nationwide class action alleging that Apple purposefully throttled iPhone; Apple has agreed to pay up to $310 million in cash (proposed settlement pending).

In re: Intel Corp. CPU Marketing, Sales Practices and Products Liability Litig., No. 3:18-MD-02828 (D. Or.): Co-Lead Interim Class Counsel in proposed nationwide class action alleging that Intel manufactured and sold defective central processing units that allowed unauthorized access to consumer stored confidential information.

Consumer Litigation

In re: ZF-TRW Airbag Control Units Products Liability Litig., No. 2:19-ML-02905-JAK-FFM (C.D. Cal.): Plaintiffs' Steering Committee Counsel in proposed nationwide class action alleging that defendant auto manufacturers sold vehicles with defective airbags.

In re: EpiPen (Epinephrine Injection, USP) Marketing, Sales Practices and Antitrust Litig., No. 2:17-MD-02785 (D. Kan.): Plaintiffs' Executive Committee Counsel in action alleging that Mylan and Pfizer violated antitrust laws and committed other violations relating to the sale of EpiPens. Nationwide class and multistate classes certified.

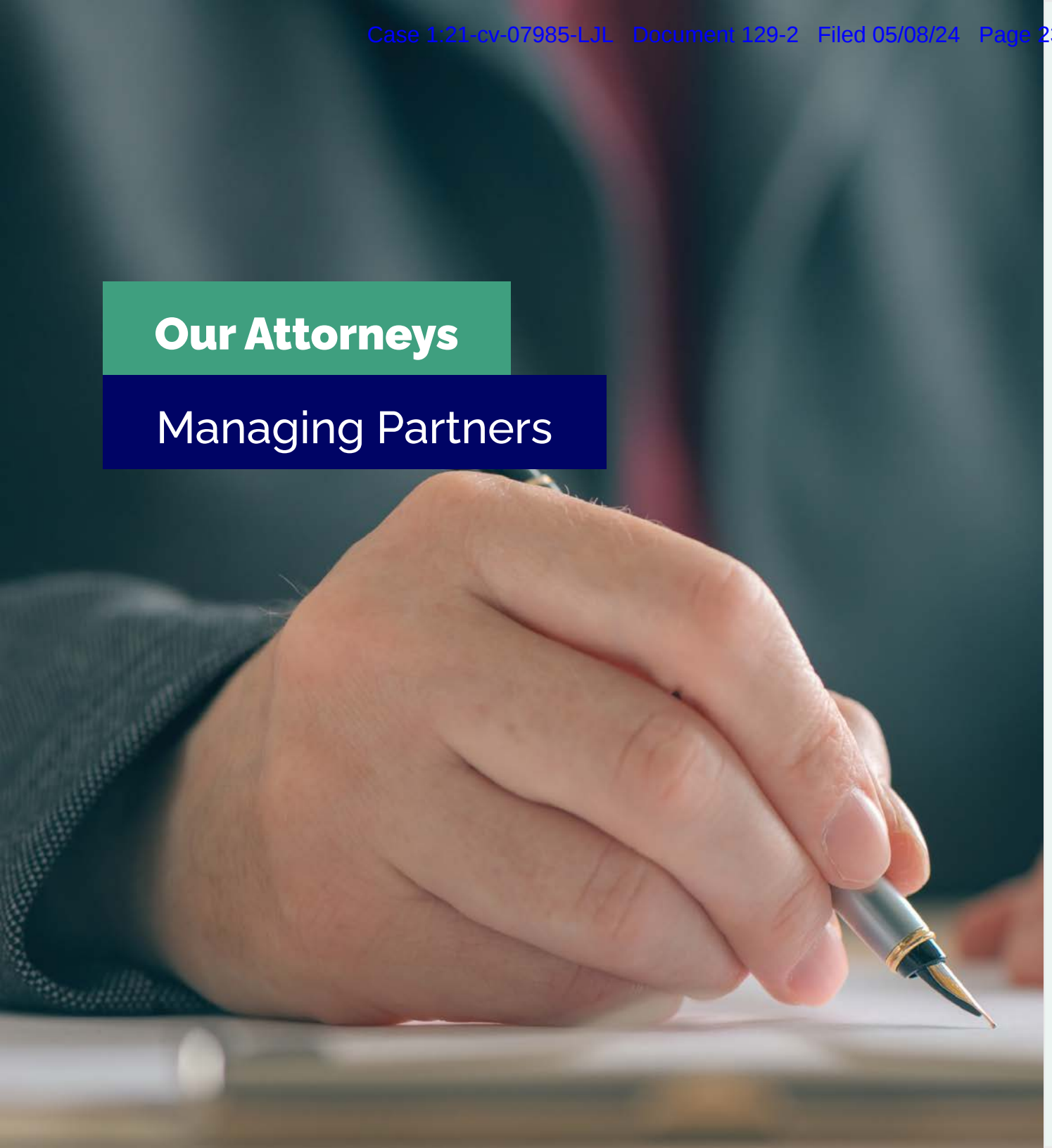
Sung, et al. v. Schurman Retail Group, No. 3:17-cv-02760-LB (N.D. Cal.): Co-Lead Class Counsel in nationwide class action alleging unauthorized disclosure of employee financial information; obtained final approval of nationwide class action settlement providing credit monitoring and identity theft restoration services through 2022 and cash payments of up to $400.

Scott, et al. v. JPMorgan Chase Bank, N.A., No. 1:17-cv-00249-APM (D.D.C.): Co-Lead Class Counsel in nationwide class action settlement of claims alleging improper fees deducted from payments awarded to jurors; 100% direct refund of improper fees collected.

In re: Citrix Data Breach Litig., No. 19-cv-61350-RKA-PMH (S.D. Fla.): Interim Class Counsel in action alleging company failed to implement reasonable security measures to protect employee financial information; common fund settlement of $2.25 million pending.

Bustos v. Vonage America, Inc., No. 2:06-cv-2308-HAA-ES (D.N.J.): Common fund settlement of $1.75 million on behalf of class members who purchased Vonage Fax Service in an action alleging that Vonage made false and misleading statements in the marketing, advertising, and sale of Vonage Fax Service by failing to inform consumers that the protocol defendant used for the Vonage Fax Service was unreliable and unsuitable for facsimile communications.

Masterson v. Canon U.S.A., No. BC340740 (Cal. Super. Ct. L.A. Cty.): Settlement providing refunds to Canon SD camera purchasers for certain broken LCD repair charges and important changes to the product warranty.



Our Attorneys

Managing Partners

Levi & Korsinsky

- **EDUARD KORSINSKY**
- **JOSEPH E. LEVI**

EDUARD KORSINSKY

Managing Partner



Eduard Korsinsky is the Managing Partner and Co-Founder of Levi & Korsinsky, LLP, a national securities firm that has recovered billions of dollars for investors since its formation in 2003. For more than 24 years Mr. Korsinsky has represented investors and institutional shareholders in complex securities matters. He has achieved significant recoveries for stockholders, including a $79 million recovery for investors of E-Trade Financial Corporation and a payment ladder indemnifying investors of Google, Inc. up to $8 billion in losses on a ground-breaking corporate governance case. His firm serves as lead counsel in some of the largest securities matters involving Tesla, US Steel, Kraft Heinz and others. He has been named a New York "Super Lawyer" by Thomson Reuters and is recognized as one of the country's leading practitioners in class action and derivative matters.

Mr. Korsinsky is also a co- founder of CORE Monitoring Systems LLC, a technology platform designed to assist institutional clients more effectively monitor their investment portfolios and maximize recoveries on securities litigation.

Cases he has litigated include:

- **E-Trade Financial Corp. Sec. Litig.**, No. 07-cv-8538 (S.D.N.Y. 2007), $79 million recovery
- **In re Activision, Inc. S'holder Derivative Litig.**, No. 06-cv-04771-MRP (JTLX)(C.D. Cal. 2006), recovered $24 million in excess compensation
- **Corinthian Colleges, Inc., S'holder Derivative Litig.**, No. SACV-06-0777-AHS (C.D. Cal. 2009), obtained repricing of executive stock options providing more than $2 million in benefits to the company
- **Pfeiffer v. Toll**, No. 4140-VCL (Del. Ch. 2010), $16.25 million in insider trading profits recovered
- **In re Net2Phone, Inc. S'holder Litig.**, No. 1467-N (Del. Ch. 2005), obtained increase in tender offer price from $1.70 per share to $2.05 per share
- **In re Pamrapo Bancorp S'holder Litig.**, No. C-89-09 (N.J. Ch. Hudson Cty. 2011) & No. HUD-L-3608-12 (N.J. Law Div. Hudson Cty. 2015), obtained supplemental disclosures following the filing of a motion for preliminary injunction, pursued case post-closing, secured key rulings on issues of first impression in New Jersey and defeated motion for summary judgment

EDUARD KORSINSKY

Managing Partner

Cases he has litigated include:

• **In re Google Inc. Class C S'holder Litig.**, No. 19786 (Del. Ch. 2012), obtained payment ladder indemnifying investors up to $8 billion in losses stemming from trading discounts expected to affect the new stock
• **Woodford v. M.D.C. Holdings, Inc.**, No. 1:2011cv00879 (D. Del. 2012), one of a few successful challenges to say on pay voting, recovered millions of dollars in reductions to compensation
• **Pfeiffer v. Alpert (Beazer Homes)**, No. 10-cv-1063-PD (D. Del. 2011), obtained substantial revisions to an unlawful executive compensation structure
• **In re NCS Healthcare, Inc. Sec. Litig.**, No. CA 19786, (Del. Ch. 2002), case settled for approximately $100 million
• **Paraschos v. YBM Magnex Int'l, Inc.**, No. 98-CV-6444 (E.D. Pa.), United States and Canadian cases settled for $85 million Canadian

PUBLICATIONS

• "Board Diversity: The Time for Change is Now, Will Shareholders Step Up?," National Council on Teacher Retirement. FYI Newsletter May 2021
• "The Dangers of Relying on Custodians to Collect Class Action Settlements.", The Texas Association of Public Employee Retirement Systems (TEXPERS) Investment Insights April-May Edition (2021)
• "The Dangers of Relying on Custodians to Collect Class Action Settlements.", Michigan Association of Public Employee Retirement Systems (MAPERS) Newsletter (2021)
• "The Dangers of Relying on Custodians to Collect Class Action Settlements.", Florida Public Pension Trustees Association (FPPTA) (2021)
•"NY Securities Rulings Don't Constitute Cyan Backlash", Law360 (March 8, 2021)
• "Best Practices for Monitoring Your Securities Portfolio in 2021.", Building Trades News Newsletter (2020-2021)
• "Best Practices for Monitoring Your Securities Portfolio in 2021.", The Texas Association of Public Employee Retirement Systems (TEXPERS) Monitor (2021)
• "Best Practices for Monitoring Your Securities Portfolio in 2021.", Michigan Association of Public Employee Retirement Systems (MAPERS) Newsletter (2021)
• "Best Practices for Monitoring Your Securities Portfolio in 2021.", Florida Public Pension Trustees Association (FPPTA) (2021)
• Delaware Court Dismisses Compensation Case Against Goldman Sachs, ABA Section of Securities Litigation News & Developments (Nov. 7, 2011)
• SDNY Questions SEC Settlement Practices in Citigroup Settlement, ABA Section of Securities Litigation News & Developments (Nov. 7, 2011)
• New York Court Dismisses Shareholder Suit Against Goldman Sachs, ABA Section of Securities Litigation News & Developments (Oct. 31, 2011)

EDUARD KORSINSKY

Managing Partner

EDUCATION

- New York University School of Law, LL.M. Master of Law(s) Taxation (1997)
- Brooklyn Law School, J.D. (1995)
- Brooklyn College, B.S., Accounting, summa cum laude (1992)

AWARDS













ADMISSIONS

- New York (1996)
- New Jersey (1996)
- United States District Court for the Southern District of New York (1998)
- United States District Court for the Eastern District of New York (1998)
- United States Court of Appeals for the Second Circuit (2006)
- United States Court of Appeals for the Third Circuit (2010)
- United States District Court for the Northern District of New York (2011)
- United States District Court of New Jersey (2012)
- United States Court of Appeals for the Sixth Circuit (2013)
- Arizona (2024)

JOSEPH E. LEVI

Managing Partner



Joseph E. Levi is a central figure in shaping and managing the Firm's securities litigation practice. Mr. Levi has been lead or co-lead in dozens of cases involving the enforcement of shareholder rights in the context of mergers & acquisitions and securities fraud. In addition to his involvement in class action litigation, he has represented numerous patent holders in enforcing their patent rights in areas including computer hardware, software, communications, and information processing, and has been instrumental in obtaining substantial awards and settlements.

Mr. Levi and the Firm achieved success on behalf of the former shareholders of Occam Networks in litigation challenging the Company's merger with Calix, Inc., obtaining a preliminary injunction against the merger due to material representations and omissions in the proxy solicitation. **Chen v. Howard-Anderson**, No. 5878-VCL (Del. Ch.). Vigorous litigation efforts continued to trial, resulting in a $35 million recovery for shareholders.

Mr. Levi and the Firm served as lead counsel in **Weigard v. Hicks**, No. 5732-VCS (Del. Ch.), which challenged the acquisition of Health Grades by affiliates of Vestar Capital Partners. Mr. Levi successfully demonstrated to the Court of Chancery that the defendants had likely breached their fiduciary duties to Health Grades' shareholders by failing to maximize shareholder value. This ruling was used to reach a favorable settlement where defendants agreed to a host of measures designed to increase the likelihood of superior bid. Vice Chancellor Strine "applaud[ed]" the litigation team for their preparation and the extraordinary high-quality of the briefing.

> **"[The court] appreciated very much the quality of the argument..., the obvious preparation that went into it, and the ability of counsel..."**
>
> Justice Timothy S. Driscoll in *Grossman v. State Bancorp, Inc.*, Index No. 600469/2011 (N.Y. Sup. Ct. Nassau Cnty. Nov. 29, 2011)

JOSEPH E. LEVI

Managing Partner

EDUCATION

- Polytechnic University, B.S., Electrical Engineering, summa cum laude (1984); M.S. Systems Engineering (1986)
- Brooklyn Law School, J.D., magna cum laude (1995)

AWARDS









ADMISSIONS

- New York (1996)
- New Jersey (1996)
- United States Patent and Trademark Office (1997)
- United States District Court for the Southern District of New York (1997)
- United States District Court for the Eastern District of New York (1997)



Our Attorneys

Partners

Levi & Korsinsky

- ADAM M. APTON
- DONALD J. ENRIGHT
- SHANNON L. HOPKINS
- GREGORY M. NESPOLE
- NICHOLAS I. PORRITT
- GREGORY M. POTREPKA
- MARK S. REICH
- DANIEL TEPPER
- ELIZABETH K. TRIPODI

ADAM M. APTON

Partner



Adam M. Apton focuses his practice on investor protection. He represents institutional investors and high net worth individuals in securities fraud, corporate governance, and shareholder rights litigation. Prior to joining the firm, Mr. Apton defended corporate clients against complex mass tort, commercial, and products liability lawsuits. Thomson Reuters has selected Mr. Apton to the Super Lawyers "Rising Stars" list every year since 2016, a distinction given to only the top 2.5% of lawyers. He has also been awarded membership to the prestigious Lawyers of Distinction for his excellence in the practice of law and named to the "Lawdragon 500 X" list out of thousands of candidates in recognition of his place at the forefront of the legal profession.

Mr. Apton's past representations and successes include:

• **In re Tesla, Inc. Securities Litigation**, No. 3:18-cv-04865-EMC (N.D. Cal.) (trial counsel in class action representing Tesla investors who were harmed by Elon Musk's "funding secured" tweet from August 7, 2018)

• **In re Navient Corp. Securities Litigation**, No. 17-8373 (RBK/AMD) (D.N.J.) (lead counsel in class action against leading provider of student loans for alleged false and misleading statements about compliance with consumer protection laws)
• **In re Prothena Corporation Plc Securities Litigation**, No. 1:18-cv-06425-ALC (S.D.N.Y.) ($15.75 million settlement fund against international drug company for false statements about development of lead biopharmaceutical product)
• **Martin v. Altisource Residential Corporation**, et al., No. 15-00024 (AET) (GWC) (D.V.I.) ($15. 5 million settlement fund against residential mortgage company for false statements about compliance with consumer regulations and corporate governance protocols)
• **Levin v. Resource Capital Corp., et al.**, No. 1:15-cv-07081-LLS (S.D.N.Y.) ($9.5 million settlement in class action over fraudulent statements about toxic mezzanine loan assets)

ADAM M. APTON

Partner

• **Rux v. Meyer (Sirius XM Holdings Inc.)**, No. 11577 (Del. Ch.) (recovery of $8.25 million against SiriusXM's Board of Directors for engaging in harmful related-party transactions with controlling stockholder, John. C. Malone and Liberty Media Corp.)

PUBLICATIONS

• "Pleading Section 11 Liability for Secondary Offerings" American Bar Association: Practice Points (Jan. 4, 2017)
• "Second Circuit Rules in Indiana Public Retirement System v. SAIC, Inc." American Bar Association: Practice Points (Apr. 4, 2016)
• "Second Circuit Applies Omnicare to Statements of Opinion in Sanofi" American Bar Association: Practice Points (Mar. 30, 2016)
• "Second Circuit Rules in Action AG v. China North" American Bar Association: Practice Points (Sept. 14, 2015)

EDUCATION

• New York Law School, J.D., cum laude (2009), where he served as Articles Editor of the New York Law School Law Review and interned for the New York State Supreme Court, Commercial Division
• University of Minnesota, B.A., Entrepreneurial Management & Psychology, With Distinction (2006)

AWARDS





ADMISSIONS

• New York (2010)
• United States District Court for the Southern District of New York (2010)
• United States District Court for the Eastern District of New York (2010)
• United States Court of Appeals for the Ninth Circuit (2015)
• United States Court of Appeals for the Second Circuit (2016)
• United States Court of Appeals for the Third Circuit (2016)
• California (2017)
• United States District Court for the Northern District of California (2017)
• United States District Court for the Central District of California (2017)
• United States District Court for the Southern District of California (2017)
• New Jersey (2020)
• United States District Court for the District of New Jersey (2020)

DONALD J. ENRIGHT

Partner



During his 28 years as a litigator and trial lawyer, Mr. Enright has handled matters in the fields of securities, commodities, consumer fraud and commercial litigation, with a particular emphasis on shareholder class action litigation. He has been named as one of the leading financial litigators in the nation by Lawdragon, as a Washington, DC "Super Lawyer" by Thomson Reuters, and as one of the city's "Top Lawyers" by Washingtonian magazine.

Mr. Enright has shown a track record of achieving victories in federal trials and appeals, including:

- **Nathenson v. Zonagen, Inc.**, 267 F. 3d 400, 413 (5th Cir. 2001)
- **SEC v. Butler**, 2005 U.S. Dist. LEXIS 7194 (W.D. Pa. April 18, 2005)
- **Belizan v. Hershon**, 434 F. 3d 579 (D.C. Cir. 2006)
- **Rensel v. Centra Tech Inc.**, 2 F. 4th 1359 (11th Cir. 2021)

Over the course of his career, Mr. Enright has recovered hundreds of millions of dollars for investors. Most recently, in **Karsan Value Fund v. Kostecki Brokerage Pty, Ltd. et al.**, Case No. C.A. No. 2021-0899-LWW (Delaware Chancery), Mr. Enright was lead counsel for the class, and recovered a $9.5 million common fund for the minority stockholders in connection with a controller buyout – a $1.90 per share (75%) increase on top of the original merger consideration of $2.55 per share. The Court of Chancery approved the settlement on April 4, 2024, and remarked that it was "strong" and a "great settlement."

Similarly, in **In re Schuff International, Inc. Stockholders Litigation**, Case No. 10323-VCZ, Mr. Enright served as Co-Lead Counsel for the plaintiff class in achieving an aggregate recovery of more than $22 million -- a gross increase from $31.50 to $67.45 in total consideration per share (a 114% increase) for tendering stockholders. This was one of the largest recoveries as a percentage of the underlying merger consideration in the history of Delaware M&A litigation.

DONALD J. ENRIGHT

Partner

As Co-Lead Counsel in **In re Bluegreen Corp. Shareholder Litigation**, Case No. 502011CA018111 (Cir. Ct. for Palm Beach Cnty., Fla.), Mr. Enright achieved a $36.5 million common fund settlement in the wake of a majority shareholder buyout, representing a 25% increase in total consideration to the minority stockholders.

Mr. Enright has played a leadership role in numerous other shareholder class actions from inception to conclusion, producing multi-million-dollar recoveries involving such companies as:

- Allied Irish Banks PLC
- Iridium World Communications, Ltd.
- En Pointe Technologies, Inc.
- PriceSmart, Inc.
- Polk Audio, Inc.
- Meade Instruments Corp.
- Xicor, Inc.
- Streamlogic Corp.
- Interbank Funding Corp.
- Riggs National Corp.
- UTStarcom, Inc.
- Manugistics Group, Inc.
- Yongye International, Inc.
- CNX Gas Corp.
- Sauer-Danfoss, Inc.
- The Parking REIT, Inc.
- Akcea Therapeutics, Inc.

Mr. Enright also has a successful track record of obtaining injunctive relief in connection with shareholder M&A litigation, having won injunctions in the cases of:

- **In re Portec Rail Products, Inc. S'holder Litig.**, G.D. 10-3547 (Ct. Com. Pleas Pa. 2010)
- **In re Craftmade International, Inc. S'holder Litig.**, C.A. No. 6950-VCL (Del. Ch. 2011)
- **Dias v. Purches**, C.A. No. 7199-VCG (Del. Ch. 2012)
- **In re Complete Genomics, Inc. S'holder Litig.**, C.A. No. 7888-VCL (Del. Ch. 2012)
- **In re Integrated Silicon Solution, Inc. Stockholder Litig.**, Lead Case No. 115CV279142 (Sup. Ct. Santa Clara, CA 2015)

DONALD J. ENRIGHT

Partner

Mr. Enright has also demonstrated considerable success in obtaining deal price increases for shareholders in M&A litigation. As Co-Lead Counsel in the matter of **In re Great Wolf Resorts, Inc. Shareholder Litigation**, C.A. No. 7328-VCN (Del. Ch. 2012), Mr. Enright was partially responsible for a $93 million (57%) increase in merger consideration and waiver of several "don't-ask-don't-waive" standstill agreements. Similarly, Mr. Enright served as Co-Lead Counsel in the case of **Berger v. Life Sciences Research, Inc.**, No. SOM-C-12006-09 (NJ Sup. Ct. 2009), which caused a significant increase in the transaction price from $7.50 to $8.50 per share, representing additional consideration for shareholders of approximately $11.5 million. Mr. Enright also served as Co-Lead Counsel in **Minerva Group, LP v. Keane**, Index No. 800621/2013 (NY Sup. Ct. of Erie Cnty.) and obtained an increased buyout price from $8.40 to $9.25 per share.

The courts have frequently recognized and praised the quality of Mr. Enright's work. In **In re Interbank Funding Corp. Securities Litigation**, (D.D.C. 02-1490), Judge Bates of the United States District Court for the District of Columbia observed that Mr. Enright had "...skillfully, efficiently, and zealously represented the class, and... worked relentlessly throughout the course of the case." In **Freeland v. Iridium World Communications, LTD**, (D.D.C. 99-1002), Judge Nanette Laughrey stated that Mr. Enright and his co-counsel had done "an outstanding job" in connection with the recovery of $43.1 million for the shareholder class. And, in the matter of **Osieczanek v. Thomas Properties Group**, C.A. No. 9029-VCG (Del. Ch. 2013), Vice Chancellor Sam Glasscock of the Delaware Court of Chancery observed that "it's always a pleasure to have counsel [like Mr. Enright] who are articulate and exuberant in presenting their position," and that Mr. Enright's prosecution of a merger case was "wholesome" and served as "a model of . . . plaintiffs' litigation in the merger arena."

DONALD J. ENRIGHT

Partner

PUBLICATIONS

• "SEC Enforcement Actions and Investigations in Private and Public Offerings," Securities: Public and Private Offerings, Second Edition, West Publishing 2007
• "Dura Pharmaceuticals: Loss Causation Redefined or Merely Clarified?" J.Tax'n & Reg. Fin. Inst. September/October 2007, Page 5

EDUCATION

• George Washington University School of Law, J.D. (1996), Member Editor of The George Washington University Journal of International Law and Economics
• Drew University, B.A. cum laude, Political Science and Economics (1993)

ADMISSIONS

• Maryland (1996)
• New Jersey (1996)
• District of Maryland (1997)
• District of New Jersey (1997)
• Washington, DC (1999)
• Fourth Circuit (1999)
• Fifth Circuit (1999)
• United States District Court for the District of Columbia (1999)
• United States Court of Appeals for the District of Columbia (2004)
• Second Circuit (2005)
• Third Circuit (2006)
• United States District Court for the District of Colorado (2017)

AWARDS









SHANNON L. HOPKINS

Partner



Shannon L. Hopkins manages the Firm's Connecticut office. She was selected in 2013 as a New York "Super Lawyer" by Thomson Reuters. For more than two decades Ms. Hopkins has been prosecuting a wide range of complex class action matters in securities fraud, mergers and acquisitions, and consumer fraud litigation on behalf of individuals and large institutional clients. Ms. Hopkins has played a lead role in numerous shareholder securities fraud and merger and acquisition matters and has been involved in recovering multimillion-dollar settlements on behalf of shareholders, including:

- **E-Trade Financial Corp. S'holder Litig.**, No. 07-cv-8538 (S.D.N.Y. 2007), $79 million recovery for the shareholder class
- **In re U.S. Steel Consolidated Cases**, No. 17-559-CB (W.D. Pa.), $40 million recovery for shareholder class
- **In re Nutanix, Inc. Securities Litigation**, No. 3:19-cv-01651-WHO (the "Stock Case"), $71 million for shareholder class
- **Rougier v. Applied Optoelectronics, Inc.**, No. 17-cv-2399 (S.D. Tex.), $15.5 million recovery for shareholder class
- **In Re Helios and Matheson Analytics, Inc. Sec. Litig.**, No. 18-cv-6965-JGK (S.D.N.Y.), $8.25 Million shareholder recovery
- **In re Restoration Robotics, Inc. Sec. Litig.**, No. 18-cv-03712-EJD (N.D. Cal.), $4.175 million shareholder recovery
- **In Stein v. U.S. Xpress Enterprises, Inc.**, et al., No. 1:19-cv-98-TRM-CHS (E.D. Tenn.), $4.3 million shareholder recovery
- **Kirkland, et al. v. WideOpenWest, Inc.**, et al., Index No. 653248/2018, $7.025 million recovery for shareholder class

SHANNON L. HOPKINS

Partner

> **"Plaintiffs' selected Class Counsel, the law firm of Levi & Korsinsky, LLP, has demonstrated the zeal and competence required to adequately represent the interests of the Class. The attorneys at Levi & Korsinsky have experience in securities and class actions issues and have been appointed lead counsel in a significant number of securities class actions across the country."**
>
> The Honorable Christina Bryan in *Rougier v. Applied Optoelectronics, Inc.*, No. 4:17-CV-02399 (S.D. Tex. Nov. 13, 2019)

In addition to her legal practice, Ms. Hopkins is a Certified Public Accountant (1998 Massachusetts). Prior to becoming an attorney, Ms. Hopkins was a senior auditor with PricewaterhouseCoopers LLP, where she led audit engagements for large publicly held companies in a variety of industries.

> **In appointing the Firm Lead Counsel, the Honorable Gary Allen Feess noted our "significant prior experience in securities litigation and complex class actions."**
>
> *Zaghian v. THQ, Inc.*, No. 2:12-cv-05227-GAF-JEM (C.D. Cal. Sept. 14, 2012)

SHANNON L. HOPKINS

Partner

PUBLICATIONS

• "Cybercrime Convention: A Positive Beginning to a Long Road Ahead," 2 J. High Tech. L. 101 (2003)

EDUCATION

• Suffolk University Law School, J.D., magna cum laude (2003), where she served on the Journal for High Technology and as Vice Magister of the Phi Delta Phi International Honors Fraternity
• Bryant University, B.S.B.A., Accounting and Finance, cum laude (1995), where she was elected to the Beta Gamma Sigma Honor Society

AWARDS



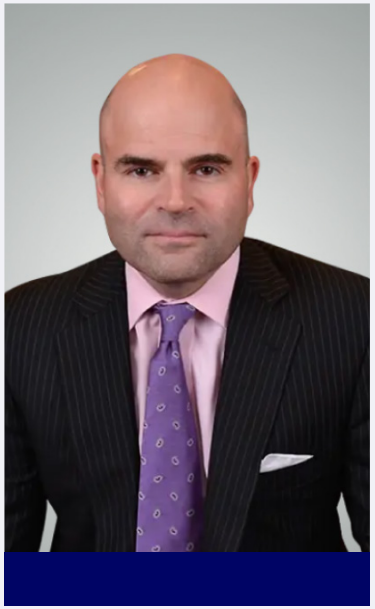


ADMISSIONS

• Massachusetts (2003)
• United States District Court for the District of Massachusetts (2004)
• New York (2004)
• United States District Court for the Southern District of New York (2004)
• United States District Court for the Eastern District of New York (2004)
• United States District Court for the District of Colorado (2004)
• United States Court of Appeals for the First Circuit (2008)
• United States Court of Appeals for the Third Circuit (2010)
• Connecticut (2013)
• United States Court of Appeals for the Ninth Circuit (2023)

GREGORY M. NESPOLE

Partner



Gregory Mark Nespole is a Partner of the Firm, having been previously a member of the management committee of one of the oldest firms in New York, as well as chair of that firm's investor protection practice. He specializes in complex class actions, derivative actions, and transactional litigation representing institutional investors such as public and labor pension funds, labor health and welfare benefit funds, and private institutions. Prior to practicing law, Mr. Nespole was a strategist on an arbitrage desk and an associate in a major international investment bank where he worked on structuring private placements and conducting transactional due diligence.

For over twenty years, Mr. Nespole has played a lead role in numerous shareholder securities fraud and merger and acquisition matters and has been involved in recovering multi-million-dollar settlements on behalf of shareholders, including:

• Served as co-chair of a Madoff Related Litigation Task Force that recovered over several hundred million dollars for wronged investors;
• Obtained a $90 million award on behalf of a publicly listed company against a global bank arising out of fraudulently marketed auction rated securities;
• Successfully obtained multi-million-dollar securities litigation recoveries and/or corporate governance reforms from Cablevision, JP Morgan, American Pharmaceutical Partners, Sepracor, and MBIA, among many others.

Mr. Nespole is a member of the Federal Bar Council and the FBC's Securities Litigation Committee. Mr. Nespole's peers have elected him a "Super Lawyer" in the class action field annually since 2009. He is active in his community as a youth sports coach.

GREGORY M. NESPOLE

Partner

EDUCATION

- Brooklyn Law School, J.D. (1993)
- Bates College, B.A. (1989)

AWARDS







ADMISSIONS

- New York (1994)
- United States District Court for the Southern District of New York (1994)
- United States District Court for the Eastern District of New York (1994)
- United States Court of Appeals for the Second Circuit (1994)
- United States Court of Appeals for the Fourth Circuit (1994)
- United States Court of Appeals for the Fifth Circuit (1994)
- United States District Court for the Northern District of New York (2018)
- United States Court of Appeals for the Eighth Circuit (2019)
- United States Court of Appeals for the Third Circuit (2020)

NICHOLAS I. PORRITT

Partner



Nicholas Porritt prosecutes securities class actions, shareholder class actions, derivative actions, and mergers and acquisitions litigation. He has extensive experience representing plaintiffs and defendants in a wide variety of complex commercial litigation, including civil fraud, breach of contract, and professional malpractice, as well as defending SEC investigations and enforcement actions. Mr. Porritt has helped recover hundreds of millions of dollars on behalf of shareholders. He was one of the Lead Counsel in In re Google Inc. Class C Shareholder Litigation, No. 7469-CS (Del. Ch.), which resulted in a payment of $522 million to shareholders and overall benefit of over $3 billion to Google's minority shareholders. He is one of the very few attorneys to have tried a securities class action to a jury, acting as lead trial counsel in In re Tesla, Inc. Securities Litigation, No. 3:18-cv-04865-EMC (N.D. Cal.), which went to trial in January 2023. He is currently acting in In re QuantumScape Securities Class Action Litigation, No. 3:21-cv-00058-WHO (N.D. Cal) representing QuantumScape Corp. investors who were harmed by misrepresentations by management regarding its battery technology as well as lead counsel in Ford v. TD Ameritrade Holding Corp., No. 14-cv-396 (D. Neb.), representing TD Ameritrade customers harmed by its improper routing of their orders. Both cases involve over $1 billion in estimated damages.

Mr. Porritt speaks frequently on current topics relating to securities laws and derivative actions, including presentations on behalf of the Council for Institutional Investors, Nasdaq, and the Practising Law Institute. and has served as an expert in the areas of securities and derivative litigation.

NICHOLAS I. PORRITT

Partner

CASES PORRITT HAS WORKED ON:

- **Set Capital LLC v. Credit Suisse Group AG,** 2023 WL 2535175 (S.D.N.Y. 2023)
- **Voulgaris, v. Array Biopharma Inc.,** 60 F.4th 1259 (10th Cir. 2023)
- **In re Tesla, Inc. Sec. Litig.,** 2022 WL 7374936 (N.D. Cal. 2022)
- **Klein v. TD Ameritrade Holding Corp.,** 342 F.R.D. 252 (D. Neb. 2022)
- **In re Aphria, Inc. Sec. Litig.,** 342 F.R.D. 199 (S.D.N.Y. 2022)
- **In re Tesla, Inc. Sec. Litig.,** 2022 WL 1497559 (N.D. Cal. 2022)
- **In re QuantumScape Sec. Class Action Litig.,** 580 F. Supp. 3d 714 (N.D. Cal. 2022)
- **Set Capital LLC v. Credit Suisse Group AG,** 996 F.3d 64 (2d Cir. 2021)
- **In re Tesla, Inc. Sec. Litig.,** 477 F. Supp. 3d 903 (N.D. Cal.2020)
- **Voulgaris, v. Array Biopharma Inc.,** No. 17CV02789KLMCONSOLID, 2020 WL 8367829 (D. Colo.2020)
- **In Re Aphria, Inc. Sec. Litig.,** No. 18 CIV. 11376 (GBD), 2020 WL 5819548 (S.D.N.Y. 2020)
- **In re Clovis Oncology, Inc. Deriv. Litig.,** 2019 WL 4850188 (Del. Ch. 2019)
- **Martin v. Altisource Residential Corp.,** 2019 WL 2762923 (D.V.I. 2019)
- **In re Navient Corp. Sec. Litig.,** 2019 WL 7288881 (D.N.J.2019)
- **In re Bridgestone Inv. Corp.,** 789 Fed. App'x 13 (9th Cir. 2019)
- **Klein v. TD Ameritrade Holding Corp.,** 327 F.R.D. 283 (D. Neb. 2018)
- **Beezley v. Fenix Parts, Inc.,** 2018 WL 3454490 (N.D. Ill. 2018)
- **In re Illumina, Inc. Sec. Litig.,** 2018 WL 500990 (S.D. Cal. 2018)
- **In re PTC Therapeutics Sec. Litig.,** 2017 WL 3705801 (D.N.J. 2017)
- **Zaghian v. Farrell,** 675 Fed. Appx. 718, (9th Cir. 2017)
- **In re PTC Therapeutics Sec. Litig.,** 2017 WL 3705801 (D.N.J. Aug. 28, 2017)
- **Martin v. Altisource Residential Corp.,** 2017 WL 1068208 (D.V.I. 2017)
- **Gormley magicJack VocalTec Ltd.,** 220 F. Supp. 3d 510 (S.D.N.Y. 2016)
- **Carlton v. Cannon,** 184 F. Supp. 3d 428 (S.D. Tex. 2016)
- **Zola v. TD Ameritrade, Inc.,** 172 F. Supp. 3d 1055 (D. Neb. 2016)
- **In re Energy Recovery Sec. Litig.,** 2016 WL 324150 (N.D. Cal. Jan. 27, 2016)
- **In re EZCorp Inc. Consulting Agreement Deriv. Litig.,** 2016 WL 301245 (Del. Ch. Jan. 25, 2016)
- **In re Violin Memory Sec. Litig.,** 2014 WL 5525946 (N.D. Cal. Oct. 31, 2014)
- **Garnitschnig v. Horovitz,** 48 F. Supp. 3d 820 (D. Md. 2014)
- **SEC v. Cuban,** 620 F.3d 551 (5th Cir. 2010)
- **Cozzarelli v. Inspire Pharmaceuticals, Inc.,** 549 F.3d 618 (4th Cir. 2008)
- **Teachers' Retirement System of Louisiana v. Hunter,** 477 F.3d 162 (4th Cir. 2007)

NICHOLAS I. PORRITT

Partner

PUBLICATIONS

• "Current Trends in Securities Litigation: How Companies and Counsel Should Respond," Inside the Minds. Recent Developments in Securities Law (Aspatore Press 2010)

EDUCATION

• University of Chicago Law School, J.D., With Honors (1996)
• University of Chicago Law School, LL.M. (1993)
• Victoria University of Wellington, LL.B. (Hons.), With First Class Honors, Senior Scholarship (1990)

AWARDS







ADMISSIONS

• New York (1997)
• District of Columbia (1998)
• United States District Court for the District of Columbia (1999)
• United States District Court for the Southern District of New York (2004)
• United States Court of Appeals for the Fourth Circuit (2004)
• United States Court of Appeals for the District of Columbia Circuit (2006)
• United States Supreme Court (2006)
• United States District Court for the District of Maryland (2007)
• United States District Court for the Eastern District of New York (2012)
• United States Court of Appeals for the Second Circuit (2014)
• United States Court of Appeals for the Ninth Circuit (2015)
• United States District Court for the District of Colorado (2015) • United States Court of Appeals for the Tenth Circuit (2016)
• United States Court of Appeals for the Eleventh Circuit (2017)
• United States Court of Appeals for the Eighth Circuit (2019)
• United States Court of Appeals for the Third Circuit (2019)

GREGORY POTREPKA

Partner



Gregory M. Potrepka is a partner of the Firm in its Connecticut office. Mr. Potrepka's practice specializes in vindicating investor rights, including the interests of shareholders of publicly traded companies. Specifically, Mr. Potrepka has considerable experience prosecuting complex class actions, securities fraud matters, and similar commercial litigation. Mr. Potrepka's role in the Firm's securities litigation practice has significantly contributed to many of the Firm's successes, including the following representative matters:

- **In re Nutanix, Inc. Sec. Litig.**, No. 3:19-01651-WHO (N.D. Cal.); **Norton v. Nutanix, Inc.,** 3:21-cv-04080-WHO (N.D. Cal.) ($71 million recovery)
- **In re U.S. Steel Consolidated Cases**, No. 17-579 (W.D. Pa.) ($40 million recovery)
- **Rougier v. Applied Optoelectronics, Inc.**, No. 4:17-cv-2399 (S.D. Tex.) ($15.5 million recovery)
- **In re Helios and Matheson Analytics, Inc. Securities Litigation**, No. 1:18-cv-06965 (S.D.N.Y.) ($8.25 million recovery)
- **In re Aqua Metals Securities Litigation**, No. 17-cv-07142-HSG (N.D. Cal.) ($7

EDUCATION

- University of Connecticut School of Law, J.D. (2015)
- University of Connecticut Department of Public Policy, M.P.A. (2015)
- University of Connecticut, B.A., Political Science (2010)

AWARDS

RATED BY Super Lawyers
Rising Stars
Gregory Potrepka
SuperLawyers.com

ADMISSIONS

- Connecticut (2015)
- Mashantucket Pequot Tribal Court (2015)
- United States District Court for the District of Connecticut (2016)
- United States District Court for the Southern District of New York (2018)
- United States District Court for the Eastern District of New York (2018)
- United States Court of Appeals for the Third Circuit (2020)
- New York (2023)
- United States District of Colorado (2023)

MARK S. REICH

Partner



Mark Samuel Reich is a Partner of the Firm. Mark's practice focuses on consumer class actions, including cases involving privacy and data breach issues, deceptive and unfair trade practices, advertising injury, product defect, and antitrust violations. Mark, who has experience and success outside the consumer arena, also supports the Firm's securities and derivative practices.

Mark is attentive to clients' interests and fosters their activism on behalf of class members. Clients he has worked with consistently and enthusiastically endorse Mark's work:

> **"Mark attentively guided me through each stage of the litigation, prepared me for my deposition, and ensured that I and other wronged consumers were compensated and that purchasers in the future could not be duped by the appliance manufacturer's misleading marketing tactics."**
>
> Katherine Danielkiewicz, Michigan (S.D. Tex. Nov. 13, 2019)

> **"After my experience working with Mark and his colleague, any hesitancy I may have had in the past about leading or participating in a class action has gone away. Mark expertly countered every roadblock that the corporate defendant tried using to dismiss our case and we ultimately reached a resolution that exceeded my expectations"**
>
> Barry Garfinkle, Pennsylvania

MARK S. REICH

Partner

Before joining Levi & Korsinsky, Mark practiced at the largest class action firm in the country for more than 15 years, including 8 years as a Partner. Prior to becoming a consumer and shareholder advocate, Mark practiced commercial litigation with an international law firm based in New York, where he defended litigations on behalf of a variety of corporate clients.

Mark has represented investors in securities litigation, devoted to protecting the rights of institutional and individual investors who were harmed by corporate misconduct. His case work involved **State Street Yield Plus Fund Litig.** ($6.25 million recovery); **In re Doral Fin. Corp. Sec. Litig.**, SDNY ($129 million recovery); **Lockheed Martin Corp. Sec. Litig.** ($19.5 million recovery); **Tile Shop Holdings, Inc.** ($9.5 million settlement); **Curran v. Freshpet Inc.** ($10.1 million settlement); **In re Jakks Pacific, Inc.** ($3,925,000 settlement); **Fidelity Ultra Short Bond Fund Litig.** ($7.5 million recovery); and **Cha v. Kinross Gold Corp.** ($33 million settlement).

> **Never having been involved in a class action, I was uninformed and apprehensive. Mark and his colleagues not only explained the complexities, but maintained extensive ongoing, communications, involved us fully in all phases of the process; provided appropriate professional counsel and guidance to each participant, and achieved results that satisfied the original goals of the litigation"**
>
> Fred Sharp, New York

> **It was a pleasure being represented by Mark. Above all he was patient throughout the tedious process of litigation. He is a good listener and a good communicator, which enhanced my participation and understanding of the process. He also provided excellent follow up throughout, making the process feel more like a team effort."**
>
> Louise Miljenovic, New Jersey

MARK S. REICH

Partner

At his prior firm, Mark achieved notable success challenging unfair mergers and acquisitions in courts throughout the country. Among the M&A litigation that Mark handled or participated in, his notable cases include: **In re Aramark Corp. S'holders Litig.**, where he attained a $222 million increase in consideration paid to shareholders of Aramark and a substantial reduction to management's voting power – from 37% to 3.5% – in connection with the approval of the going-private transaction; **In re Delphi Fin. Grp. S'holders Litig.**, resulting in a $49 million post-merger settlement for Class A Delphi shareholders; **In re TD Banknorth S'holders Litig.**, where Mark played a significant role in raising the inadequacy of the $3 million initial settlement, which the court rejected as wholly inadequate, and later resulted in a vastly increased $50 million recovery. Mark has also been part of ERISA litigation teams that led to meaningful results, including **In re Gen. Elec. Co. ERISA Litig.**, which resulting in structural changes to company's 401(k) plan valued at over $100 million, benefiting current and future plan participants.

> **"We contacted Mark about our concerns about our oven's failure to perform as advertised. He worked with us to formulate a strategy that ultimately led to a settlement that achieved our and others' goals and specific needs."**
>
> Candace Oliarny, Idaho

> **"My wife and I never having been involved with a law firm or Class Action had no idea what to expect. Within the first few phone meetings with Mark, we became assured as Mark explained in detail how the process worked, Mark is a great communicator. Mr. Reich is a true professional, his integrity through the years he worked with us was impeccable. Working with Mark was a truly positive experience, and have no reservations if we ever had to call on his services again."**
>
> Louise Miljenovic, New Jersey

MARK S. REICH

Partner

Before joining the Firm, Mark graduated with a Bachelor of Arts degree from Queens College in New York. He earned his Juris Doctor degree from Brooklyn Law School, where he served on the Moot Court Honor Society and The Journal of Law and Policy.

Mark regularly practices in federal and state courts throughout the country and is a member of the bar in New York. He has been recognized for his legal work by being named a New York Metro Super Lawyer by Super Lawyers Magazine every year since 2013. Mark is active in his local community and has been distinguished for his neighborhood support with a Certificate of Recognition by the Town of Hempstead.

EDUCATION

- Brooklyn Law School, J.D. (2000)
- Queens College, B.A., Psychology and Journalism (1997)

AWARDS







ADMISSIONS

- New York (2001)
- United States District Court for the Southern District of New York (2001)
- United States District Court for the Eastern District of New York (2001)
- United States District Court for the Northern District of New York (2005)
- United States District Court for the Eastern District of Michigan (2017)

DANIEL TEPPER

Partner



Daniel Tepper is a Partner of the Firm with extensive experience in shareholder derivative suits, class actions and complex commercial litigation. Before he joined Levi & Korsinsky, Mr. Tepper was a partner in one of the oldest law firms in New York. He is an active member of the CPLR Committee of the New York State Bar Association and was an early member of its Electronic Discovery Committee. Mr. Tepper has been selected as a New York "Super Lawyer" in 2016 – 2023.

Some of the notable matters where Mr. Tepper had a leading role include:

• **Siegmund v. Bian**, No. 16-62506 (S.D. Fla.), achieving an estimated recovery of $29.93 per share on behalf of a class of public shareholders of Linkwell Corp. who were forced to sell their stock at $0.88 per share.
• **In re Platinum-Beechwood Litigation**, No. 18-06658 (S.D.N.Y.), achieved dismissal on behalf of an individual investor in Platinum Partners-affiliated investment fund.
• **Lakatamia Shipping Co. Ltd. v. Nobu Su**, Index No. 654860/2016 (Sup. Ct., N.Y. Co. 2016), achieved dismissal on suit attempting to domesticate a $40 million UK judgment in New York State.
• **Zelouf Int'l Corp. v. Zelouf**, No. 45 Misc.3d 1205(A) (Sup.Ct. N.Y. Co., 2014), representing the plaintiff in an appraisal proceeding triggered by freeze-out merger of closely-held corporation. Achieved a $10 million verdict after eleven day trial, with the Court rejecting a discount for lack of marketability.
• **Sacher v. Beacon Assocs. Mgmt. Corp.**, No. 114 A.D.3d 655 (2d Dep't 2014), affirming denial of defendants' motion to dismiss shareholder derivative suit by Madoff feeder fund against fund's auditor for accounting malpractice.
• **In re Belzberg**, No. 95 A.D.3d 713 (1st Dep't 2012), compelling a non-signatory to arbitrate brokerage agreement dispute arising under doctrine of direct benefits estoppel.
• **Estate of DeLeo**, No. 353758/A (Surrog. Ct., Nassau Co. 2011), achieving a full plaintiff's verdict after a seven day trial which restored a multi-million dollar family business to its rightful owner.

DANIEL TEPPER

Partner

• **CMIA Partners Equity Ltd. v. O'Neill**, No. 2010 NY Slip Op 52068(U) (Sup. Ct. N.Y. Co., 2010). Representing the independent directors of a Cayman Islands investment fund, won a dismissal on the pleadings in the first New York State case examining shareholder derivative suits under Cayman Islands law.
• **Hecht v. Andover Assocs. Mgmt. Corp.**, No. 27 Misc 3d 1202(A) (Sup. Ct. Nassau Co., 2010), aff'd, 114 A.D.3d 638 (2d Dep't 2014). Participated in a $213 million global settlement in the first Madoff related lawsuit in the country to defeat a motion to dismiss.

EDUCATION

• New York University School of Law, J.D. (2000)
• The University of Texas at Austin, B.A. with Honors (1997), National Merit Scholar

AWARDS







ADMISSIONS

• Massachusetts (2001)
• New York (2002)
• United States District Court for the Eastern District of New York (2004)
• United States District Court for the Southern District of New York (2010)
• United States District Court for the Western District of New York (2019)

ELIZABETH K. TRIPODI

Partner



Elizabeth K. Tripodi focuses her practice on shareholder protection, representing investors in securities fraud litigation, corporate derivative litigation, and litigation involving mergers, acquisitions, tender offers, and change-in-control transactions. Ms. Tripodi has been named as a Washington, D.C. "Super Lawyer" in the securities field and was selected as a "Rising Star" by Thomson Reuters for several consecutive years.

Ms. Tripodi's current representations include:

• **In re Tesla, Inc. Securities Litigation**, No. 3:18-cv-04865-EMC (N.D. Cal.) (lead counsel in class action representing Tesla investors who were harmed by Elon Musk's "funding secured" tweet from August 7, 2018)

Ms. Tripodi has played a lead role in obtaining monetary recoveries for shareholders in M&A litigation:

• **In re Schuff International, Inc. Stockholders Litigation**, No. 10323-VCZ, achieving the largest recovery as a percentage of the underlying transaction consideration in Delaware Chancery Court merger class action history, obtaining an aggregate recovery of more than $22 million -- a gross increase from $31.50 to $67.45 in total consideration per share (a 114% increase) for tendering stockholders
• **In re Bluegreen Corp. S'holder Litig.**, No. 502011CA018111 (Circuit Ct. for Palm Beach Cty., FL), creation of a $36.5 million common fund settlement in the wake of a majority shareholder buyout, representing a 25% increase in total consideration to the minority stockholders
• **In re Cybex International S'holder Litig**, Index No. 653794/2012 (N.Y. Sup. Ct. 2014), recovery of $1.8 million common fund, which represented an 8% increase in stockholder consideration in connection with management-led cash-out merger
• **In re Great Wolf Resorts, Inc. S'holder Litig**, No. 7328-VCN (Del. Ch. 2012), where there was a $93 million (57%) increase in merger consideration

ELIZABETH K. TRIPODI

Partner

• **Minerva Group, LP v. Keane**, Index No. 800621/2013 (N.Y. Sup. Ct. 2013), settlement in which Defendants increased the price of an insider buyout from $8.40 to $9.25 per share

Ms. Tripodi has played a key role in obtaining injunctive relief while representing shareholders in connection with M&A litigation, including obtaining preliminary injunctions or other injunctive relief in the following actions:

• **In re Portec Rail Products, Inc. S'holder Litig**, No. G.D. 10-3547 (Ct. Com. Pleas Pa. 2010)
• **In re Craftmade International, Inc. S'holder Litig**, No. 6950-VCL (Del. Ch. 2011) • Dias v. Purches, et al., No. 7199-VCG (Del. Ch. 2012)
• **In re Complete Genomics, Inc. S'holder Litig**, No. 7888-VCL (Del. Ch. 2012)
• **In re Integrated Silicon Solution, Inc. Stockholder Litig.**, No. 115CV279142 (Sup. Ct. Santa Clara, CA 2015)

Prior to joining Levi & Korsinsky, Ms. Tripodi was a member of the litigation team that served as Lead Counsel in, and was responsible for, the successful prosecution of numerous class actions, including: **Rudolph v. UTStarcom** (stock option backdating litigation obtaining a $9.5 million settlement); **Grecian v. Meade Instruments** (stock option backdating litigation obtaining a $3.5 million settlement).

ELIZABETH K. TRIPODI

Partner

EDUCATION

• American University Washington College of Law, cum laude (2006), where she served as Co-Editor in Chief of the Business Law Journal (f/k/a Business Law Brief), was a member of the National Environmental Moot Court team, and interned for Environmental Enforcement Section at the Department of Justice
• Davidson College, B.A., Art History (2000)

ADMISSIONS

• Virginia (2006)
• United States District Court for the Eastern District of Virginia (2006)
• District of Columbia (2008)
• United States District Court for the District of Columbia (2010)
• United States Court of Appeals for the Seventh Circuit (2018)

AWARDS







Our Attorneys

Counsel

Levi & Korsinsky

- ANDREW E. LENCYK
- COURTNEY E. MACCARONE
- BRIAN STEWART

ANDREW E. LENCYK

Counsel



Andrew E. Lencyk is Counsel to the Firm. Prior to joining the Firm, Mr. Lencyk was a partner in an established boutique firm in New York specializing in securities litigation. He was graduated magna cum laude from Fordham College, New York, with a B.A. in Economics and History, where he was a member of the College's Honors Program, and was elected to Phi Beta Kappa. Mr. Lencyk received his J.D. from Fordham University School of Law, where he was a member of the Fordham Urban Law Journal. He was named to the 2013, 2014, 2015, 2016, 2017, 2018 and 2019 Super Lawyers®, New York Metro Edition.

Mr. Lencyk has co-authored the following articles for the Practicing Law Institute's Accountants' Liability Handbooks:

- *Liability in Forecast and Projection Engagements: Impact of Luce v. Edelstein*
- *An Accountant's Duty to Disclose Internal Control Weaknesses*
- *Whistle-blowing: An Accountants' Duty to Disclose A Client's Illegal Acts*
- *Pleading Motions under the Private Securities Litigation Reform Act of 1995*
- *Discovery Issues in Cases Involving Auditors (co-authored and appeared in the 2002 PLI Handbook on Accountants' Liability After Enron.)*

In addition, he co-authored the following article for the Association of the Bar of the City of New York, Corporate & Securities Law Updates:

• Safe Harbor Provisions for Forward-Looking Statements (co-authored and published by the Association of the Bar of the City of New York, Corporate & Securities Law Updates, Vol. II, May 12, 2000)

ANDREW E. LENCYK

Counsel

Cases in which Mr. Lencyk actively represented plaintiffs include:

• **Kirkland et al. v. WideOpenWest, Inc.**, No. 653248/2018 (Sup. Ct, NY County) (substantially denying defendants' motion to dismiss Section 11 and 12(a)(2) claims)
• **In re Community Psychiatric Centers Securities Litigation**, No. SA CV-91-533-AHS (Eex) (C.D. Cal.) and McGann v. Ernst & Young, SA CV-93-0814-AHS (Eex) (C.D. Cal.)(recovery of $54.5 million against company and its outside auditors)
• **In re Danskin Securities Litigation**, Master File No. 92 CIV. 8753 (JSM) (S.D.N.Y.);
• **In re JWP Securities Litigation**, Master File No. 92 Civ. 5815 (WCC) (S.D.N.Y.) (class recovery of approximately $36 million)
• **In re Porta Systems Securities Litigation**, Master File No. 93 Civ. 1453 (TCP) (E.D.N.Y.);
• **In re Leslie Fay Cos. Securities Litigation**, No. 92 Civ. 8036 (S.D.N.Y.)($35 million recovery)
• **Berke v. Presstek, Inc.**, No. 96-347-M (MDL Docket No. 1140) (D.N.H.) ($22 million recovery)
• **In re Micro Focus Securities Litigation**, No. C-01-01352-SBA-WDB (N.D. Cal.)
• **Dusek v. Mattel, Inc.**, et al., No. CV99-10864 MRP (C.D. Cal.) ($122 million global settlement)
• **In re Sonus Networks, Inc. Securities Litigation-II**, No. 06-CV-10040 (MLW) (D. Mass.)
• **In re AIG ERISA Litigation**, No. 04 Civ. 9387 (JES) (S.D.N.Y.) ($24.2 million recovery)
• **In re Mutual Funds Investment Litigation**, MDL No. 1586 (D. Md.)
• In re Alger, Columbia, Janus, MFS, One Group, Putnam, Allianz Dresdner, MDL No. 15863-JFM - Allianz Dresdner subtrack (D. Md.)
• **In re Alliance, Franklin/Templeton, Bank of America/Nations Funds and Pilgrim Baxter**, MDL No. 15862-AMD – Franklin/Templeton subtrack (D. Md.)
• **In re AIG ERISA Litigation II**, No. 08 Civ. 5722 (LTS) (S.D.N.Y.) ($40 million recovery); and
• **Flynn v. Sientra, Inc.**, No. CV-15-07548 SJO (RAOx) (C.D. Cal.) ($10.9 million recovery) (co-lead counsel) Court decisions in which Mr. Lencyk played an active role on behalf of plaintiffs include:
• **Pub. Empls' Ret. Sys. of Miss. v. TreeHouse Foods**, No. 2018 U.S. Dist. LEXIS 22717 (N.D. Ill. Feb. 12, 2018) (denying defendants' motion to dismiss in its entirety)

ANDREW E. LENCYK

Counsel

• **Flynn v. Sientra, Inc.**, No. 2016 U.S. Dist. LEXIS 83409 (C.D. Cal. June 9, 2016) (denying in substantial part defendants' motions to dismiss Section 10(b), Section 11 and 12(b)(2) claims), motion for reconsideration denied, slip op. (C.D. Cal. Aug 12, 2016)
• **In re Principal U.S. Property Account ERISA Litigation**, No. 274 F.R.D. 649 (S.D. Iowa 2011) (denying defendants' motion to dismiss)
• **In re AIG ERISA Litigation II**, No. 08 Civ. 5722(LTS), 2011 U.S. Dist. LEXIS 35717 (S.D.N.Y. May 31, 2011) (denying in substantial part defendants' motions to dismiss), renewed motion to dismiss denied, slip op. (S.D.N.Y. June 26, 2014)
• **In re Mutual Funds Investment Litigation**, No. 384 F. Supp. 2d 845 (D. Md. 2005) (denying in substantial part defendants' motions to dismiss), In re Alger, Columbia, Janus, MFS, One Group, Putnam, Allianz Dresdner, MDL No. 15863-JFM - Allianz Dresdner subtrack (D. Md. Nov. 3, 2005) (denying in substantial part defendants' motions to dismiss), and In re Alliance, Franklin/Templeton, Bank of America/Nations Funds and Pilgrim Baxter, MDL No. 15862-AMD – Franklin/Templeton subtrack (D. Md. June 27, 2008) (same)
• **In re AIG ERISA Litigation**, No. 04 Civ. 9387 (JES) (S.D.N.Y. Dec. 12, 2006) (denying defendants' motions to dismiss in their entirety)
• **Dusek v. Mattel, Inc.**, et al., No. CV99-10864 MRP (C.D. Cal. Dec. 17, 2001) (denying defendants' motions to dismiss Section 14(a) complaint in their entirety)
• **In re Micro Focus Sec. Litig.**, Case No. C-00-20055 SW (N.D. Cal. Dec. 20, 2000) (denying motion to dismiss Section 11 complaint);
• **Zuckerman v. FoxMeyer Health Corp.**, No. 4 F. Supp.2d 618 (N.D. Tex. 1998) (denying defendants' motion to dismiss in its entirety in one of the first cases decided in the Fifth Circuit under the Private Securities Litigation Reform Act of 1995)
• **In re U.S. Liquids Securities Litigation**, Master File No. H-99-2785 (S.D. Tex. Jan. 23, 2001) (denying motion to dismiss Section 11 claims)
• **Sands Point Partners, L.P., et al. v. Pediatrix Medical Group, Inc.**, et al., No. 99-6181-CIV-Zloch (S.D. Fla. June 6, 2000) (denying defendants' motion to dismiss in its entirety)
• **Berke v. Presstek, Inc.**, No. 96-347-M (MDL Docket No. 1140) (D.N.H. Mar. 30, 1999) (denying defendants' motion to dismiss)

ANDREW E. LENCYK

Counsel

• **Chalverus v. Pegasystems, Inc.**, No. 59 F. Supp. 2d 226 (D. Mass. 1999) (denying defendants' motion to dismiss);
• **Danis v. USN Communications, Inc.**, No. 73 F. Supp. 2d 923 (N.D. Ill. 1999) (denying defendants' motion to

EDUCATION

• Fordham University School of Law, J.D. (1992)
• Fordham College, B.A. magna cum laude, 1988)

AWARDS





ADMISSIONS

• Connecticut (1992)
• New York (1993)
• United States District Court for the Southern District of New York (2004)
• United States District Court for the Eastern District of New York (2004)
• United States Court of Appeals for the Second Circuit (2015)

COURTNEY E. MACCARONE

Counsel



Courtney E. Maccarone focuses her practice on prosecuting consumer class actions. Prior to joining Levi & Korsinsky, Ms. Maccarone was an associate at a boutique firm in New York specializing in class action litigation. While attending Brooklyn Law School, Ms. Maccarone served as the Executive Symposium Editor of the Brooklyn Journal of International Law and was a member of the Moot Court Honor Society. Her note, "Crossing Borders: A TRIPS-Like Treaty on Quarantines and Human Rights" was published in the Spring 2011 edition of the Brooklyn Journal of International Law.

Ms. Maccarone also gained experience in law school as an intern to the Honorable Martin Glenn of the Southern District of New York Bankruptcy Court and as a law clerk at a New York City-based class action firm. Ms. Maccarone has been recognized as a Super Lawyer "Rising Star" for the New York Metro area every year since 2014.

EDUCATION

- Brooklyn Law School, J.D., magna cum laude (2011)
- New York University, B.A., magna cum laude (2008)

AWARDS





ADMISSIONS

- New Jersey (2011)
- New York (2012)
- United States District Court for the District of New Jersey (2012)
- United States District Court for the Eastern District of New York (2012)
- United States District Court for the Southern District of New York (2012)

BRIAN STEWART

Counsel



Brian Stewart is an Associate with the Firm practicing in the Washington, D.C. office. Prior to joining the firm, Mr. Stewart was an associate at a small litigation firm in Washington D.C. and a regulatory analyst at the Financial Industry Regulatory Authority (FINRA). During law school, he interned for the Enforcement Divisions of the SEC and CFPB.

EDUCATION

- American University Washington College of Law, J.D. (2012)
- University of Washington, B.S., Economics and Mathematics (2008)

ADMISSIONS

- Maryland (2012)
- District of Columbia (2014)
- United States District Court for the District of Maryland (2017)
- United States District Court for the District of Colorado (2017)



Our Attorneys

Senior Associates

Levi & Korsinsky

- JORDAN A. CAFRITZ
- MORGAN EMBLETON
- DAVID C. JAYNES
- CORREY A. SUK

JORDAN A. CAFRITZ

Senior Associate



Jordan Cafritz is an Associate with the Firm's Washington, D.C. office. While attending law school at American University he was an active member of the American University Business Law Review and worked as a Rule 16 attorney in the Criminal Justice Defense Clinic. After graduating from law school, Mr. Cafritz clerked for the Honorable Paul W. Grimm in the U.S. District Court for the District of Maryland.

EDUCATION

- American University Washington College of Law, J.D. (2014)
- University of Wisconsin-Madison, B.A., Economics & History (2010)

ADMISSIONS

- Maryland (2014)
- District of Columbia (2018)

MORGAN EMBLETON

Senior Associate



Morgan M. Embleton is an associate in the Firm's Connecticut office. Since 2018, Ms. Embleton has focused her practice on federal securities class actions and protecting the interests of shareholders of publicly traded companies.

Prior to that, Ms. Embleton litigated matters arising under the False Claims Act, Jones Act, Longshore Harbor Workers' Compensation Act, Louisiana Whistleblower Act, and Louisiana Environmental Whistleblower Act, as well as pharmaceutical mass torts and products liability claims. Ms. Embleton has extensive experience prosecuting securities fraud matters, complex class actions, and multidistrict litigations.

Ms. Embleton received her J.D. and Environmental Law Certificate from Tulane University Law School in 2014. During her time in law school, Ms. Embleton was a student attorney in the Tulane Environmental Law Clinic, a member of the Journal of Technology and Intellectual Property, and the Assistant Director of Research and Development for the Durationator.

EDUCATION

- Tulane University Law School, J.D. and Environmental Law Certificate (2014)
- University of Colorado at Boulder, B.A., cum laude, Sociology (2010)

ADMISSIONS

- Louisiana (2014)
- United States District Court for the Eastern District of Louisiana (2015)
- United States District Court for the Middle District of Louisiana (2016)
- United States District Court for the Western District of Louisiana (2016)
- United States Court of Federal Claims (2016)
- United States Court of Appeals for the Fifth Circuit (2016)
- United States Court of Appeals for the Ninth Circuit (2017)
- United States District Court for the Eastern District of Michigan (2020)

DAVID C. JAYNES

Senior Associate



David C. Jaynes focuses his practice on investor protection and securities fraud litigation. In addition to his law degree, Mr. Jaynes has graduate degrees in business administration and finance. Prior to joining the firm, David worked in the Enforcement Division of the U.S. Securities and Exchange Commission in the Salt Lake Regional Office as part of the Student Honors Program. Mr. Jaynes began his career as a prosecutor and has significant trial experience.

While at Levi & Korsinsky, Mr. Jaynes has actively represented plaintiffs in the following securities class actions:

- **In re U. S. Steel Consolidated Cases**, No. 17-579 (W.D. Pa.)
- **Stein v. U.S. Xpress Enterprises, Inc.**, et al., No. 1:19-cv-98-TRM-CHS (E.D. Tenn.)
- **John P. Norton, On Behalf Of The Norton Family Living Trust** UAD 11/15/2002 v. Nutanix, Inc. et al, No. 3:21-cv-04080 (N.D. Cal.)

Mr. Jaynes has also had a role in litigating the following securities actions:

- **Ferraro Family Foundation, Inc. v. Corcept Therapeutics Incorporated**, No.5:19-cv-1372-LHK (N.D. Cal.)
- **The Daniels Family 2001 Revocable Trust v. Las Vegas Sands Corp.**, et al., No. 1:20-cv-08062-JMF (D. Nev.)
- **Dan Kohl v. Loma Negra Compania Industrial Argentina Sociedad Anonima**, et al., Index No. 653114/2018 (Sup. Ct., County of New York)

EDUCATION

- University of Utah, M.S., Finance (2020)
- University of Utah, M.B.A (2020)
- The George Washington University Law School, J.D. (2015)
- Brigham Young University, B.A., Middle East Studies and Arabic (2009)

ADMISSIONS

- Maryland (2015)
- Utah (2016)
- United States District Court for the District of Utah (2016)
- California (2021)
- United States District Court for the Northern District of California (2022)
- United States District Court for the Central District of California (2023)
- District of Colorado (2023)

CORREY A. SUK

Senior Associates



Correy A. Suk is an experienced litigator with a focus on shareholder derivative suits, class actions, and complex commercial litigation. Correy began her career with the Investor Protection Bureau of the Office of the New York State Attorney General and spent four years prosecuting shareholder derivative actions and securities fraud litigation at one of the oldest firms in the country. Prior to joining Levi & Korsinsky, Correy represented both individuals and corporations in complex business disputes at a New York litigation boutique. Correy's unflappable disposition and composure reflect a pragmatic approach to both litigation and negotiation. She thrives under pressure and serves as an aggressive advocate for her clients in the most high-stakes situations. Correy has been recognized as a Super Lawyers Rising Star every year since 2017.

PUBLICATIONS

• "Unsafe Sexting: The Dangerous New Trend and the Need for Comprehensive Legal Reform," 9 Ohio St. J. Crim. L. 405 (2011)

EDUCATION

• The Ohio State University Moritz College of Law, J.D. (2011)
• Georgetown University, B.S.B.A. (2008)

AWARDS

RATED BY SuperLawyers
Rising Stars
Correy A. Suk
SuperLawyers.com

RATED BY
Super Lawyers
Correy A. Suk
SELECTED IN 2023
THOMSON REUTERS

ADMISSIONS

• New Jersey (2011)
• New York (2012)
• United States District Court for the Southern District of New York (2015)
• United States District Court for the Eastern District of New York (2015)
• United States District Court for the District of New Jersey (2016)



Our Attorneys

Associates

Levi & Korsinsky

- RACHEL BERGER
- COLIN BROWN
- AMANDA FOLEY
- NOAH GEMMA
- DEVYN R. GLASS
- GARY ISHIMOTO
- SIDHARTH KAKKAR
- ALEXANDER KROT
- MELISSA MEYER
- CINAR ONEY
- COLE VON RICHTHOEFEN
- MAX WEISS

RACHEL BERGER

Associate



Rachel Berger is an Associate with the Firm's Connecticut office. Her practice focuses on prosecuting securities fraud class actions on behalf of aggrieved investors.

Prior to joining Levi & Korsinsky, Ms. Berger practiced securities litigation with another top New York class action firm, where she represented classes of aggrieved shareholders and cryptocurrency purchasers against prominent defendants, including multiple Fortune 500 companies.

While in law school, Ms. Berger interned with a leading ESG institute, focusing on the intersection of ESG and securities law. She was also a member of the Fordham Urban Law Journal, the Fordham Mediation and Tax Clinics, and the Immigration Advocacy Project. Ms. Berger received the Paul R. Brenner Scholarship Award, as well as the Archibald R. Murray Public Service Award, cum laude, in recognition of her significant pro bono work.

Ms. Berger practices remotely from her home in St. Louis, Missouri.

EDUCATION

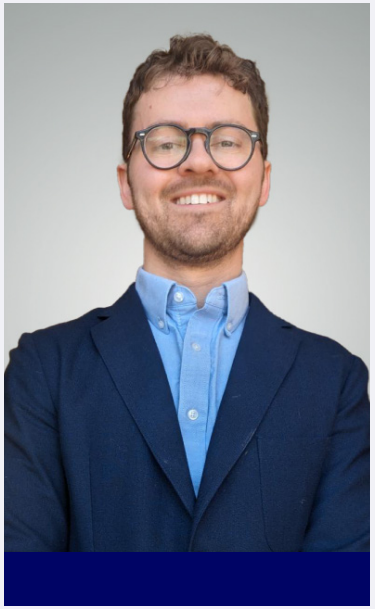
- Fordham University School of Law, J.D. (2019)
- Stern College for Women, Yeshiva University, B.A. Economics (2015)

ADMISSIONS

- New York (2020)
- United States District Court for the Southern District of New York (2020)
- District of Colorado (2023)
- United States District Court for the Eastern District of New York (2024).

COLIN BROWN

Associate



Colin Brown is an Associate working remotely for Levi and Korsinksy's Consumer Litigation and Mass Arbitration Team. During law school, Colin was a member of the North Dakota Law Review, and worked as a law clerk for the Judges in the NE Central Judicial District in Grand Forks, North Dakota. Following law school, Colin worked as an Associate attorney in Fargo, ND at the Nilles Law Firm in the areas of commercial and personal injury litigation for which he conducted research, drafted briefs and pleadings, and worked on discovery.

EDUCATION

- University of North Dakota School of Law, J.D. (2018), Law Review Member
- University of North Dakota, B.A. (2015)

ADMISSIONS

- Minnesota (2018)
- North Dakota (2019)

AMANDA FOLEY

Associate



Amanda Foley is an Associate in Levi & Korsinsky's Stamford office where she focuses her practice on federal securities litigation.
Prior to joining Levi & Korsinsky, Amanda gained substantial experience at a boutique Boston firm where she was trained in securities and business litigation.

Amanda received her Juris Doctorate degree from Suffolk University Law School with an International Law concentration with Distinction and was selected to join the International Legal Honor Society of Phi Delta Phi. While in law school, Amanda focused her legal education on securities law & regulation, international investment law & arbitration, and business law.

EDUCATION

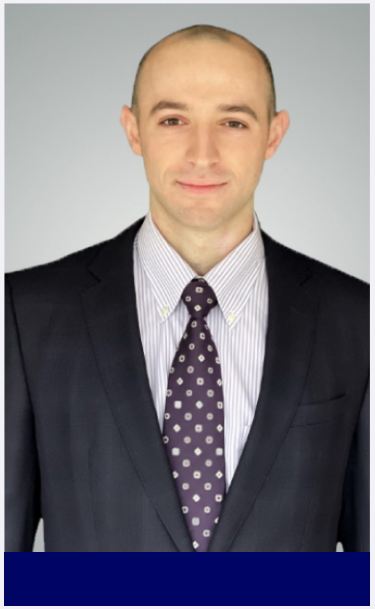
- Suffolk University Law School, J.D. (2021)
- Colorado State University, B.S. (2011)

ADMISSIONS

- Massachusetts (2021)
- United States District Court for the District of Massachusetts (2022)

NOAH GEMMA

Associate



Noah Gemma worked previously as a summer associate at a boutique commercial litigation firm. There, Mr. Gemma drafted briefs and other legal memoranda on behalf of national and closely held corporations in complex federal and state court litigation. In particular, Mr. Gemma helped the firm: (i) win multiple motions to dismiss on behalf of a national bank and a national bonding company in federal court cases involving alleged fraud and other alleged improprieties; (ii) settle an avoidable preference action on behalf of a national hauling company in a federal bankruptcy proceeding for a small fraction of the alleged damages; (iii) settle a negligence action on behalf of a court appointed fiduciary against officers of a defunct company and its insurance carrier on advantageous terms; and (iv) secure a favorable decision on behalf of a national bonding company before the state supreme court.

Mr. Gemma also served as a judicial intern for the Honorable Judge Bruce M. Selya in the United States Court of Appeals for the First Circuit and for the Honorable Judge Virginia M. Hernandez Covington in the United States District Court for the Middle District of Florida. Using his experience representing the interests of national and closely held corporations to analyze and assess potential cases of corporate impropriety, Mr. Gemma currently prosecutes corporate and director malfeasance through the preparation and filing of shareholder mergers and acquisitions actions and corporate governance litigation.

EDUCATION

- Georgetown University Law Center, J.D., Editor for The Georgetown Law Journal (2021)
- Providence College, B.A. (2018)

ADMISSIONS

- Rhode Island (2021)
- District of Columbia (2022)

DEVYN R. GLASS

Associate



Devyn R. Glass currently focuses her practice on representing investors in federal securities fraud litigation.

Prior to joining the firm, Ms. Glass gained substantial experience at a national boutique firm specializing in complex litigation across a variety of practice areas representing both plaintiffs and defendants. Since 2017, Ms. Glass has focused her practice on consumer and shareholder protection, litigating numerous class action lawsuits across the country that involved data privacy and data breach, deceptive and unfair trade practices, and securities fraud.

At her prior firms, Ms. Glass played a pivotal role in obtaining monetary recoveries and/or injunctive relief on behalf of shareholders and consumers. Notable cases include: Lowry v. RTI Surgical Holdings, Inc. et al., (D. Ill.) (obtaining $10.5 million on behalf of a shareholder class alleging violations of the federal securities laws); In re Google Plus Profile Litigation, (N.D. Cal.) (obtaining $7.5 million on behalf of a consumer class exposed to a years-long data breach); and Barrett v. Pioneer Natural Resources USA, Inc., (D. Colo.) (obtaining $500,000 on behalf of more than 8,000 current and former 401(k) plan participants alleging violations of the Employee Retirement Income Security Act).

EDUCATION

- Loyola University College of Law, New Orleans, J.D., cum laude (2016), where she received a Certificate of Concentration in Law, Technology and Entrepreneurship, served as a member of the Loyola Journal of Public Interest Law, and interned for the Louisiana Second Circuit Court of Appeals
- Louisiana Tech University, B.A., cum laude (2013), Political Science, minor in English

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- New York (2017)
- District of Columbia (2017)
- United States District Court District of Columbia (2018)
- United States District Court District of Colorado (2018)
- United States Court of Appeals for the Ninth Circuit (2022)

GARY ISHIMOTO

Associate



Gary Ishimoto is an Associate working remotely with Levi and Korsinsky's Consumer Litigation Team. During law school, he worked at the Small Business Law Clinic helping to draft incorporation papers, non-compete clauses, IP assignments, board consent, and stock purchase agreements for start-up businesses. He also interned for the Rossi Law Group.

EDUCATION

- Pepperdine School of Law, J.D. (2020)
- California State University, Northridge, B.S. (2013)

ADMISSIONS

- Massachusetts (2021)
- New Hampshire (2022)

SIDHARTH KAKKAR

Associate



Mr. Kakkar is an Associate with a focus on shareholder derivative suits, class actions, and complex commercial litigation.

EDUCATION

- New York Law School, J.D. (2022), member of the Center for Business & Financial Law
- Swarthmore College, B.A. (2017)

ADMISSIONS

- New York (2024)

ALEXANDER KROT

Associate



EDUCATION

- American University, Kogod School of Business, M.B.A. (2012)
- Georgetown University Law Center, LL.M., Securities and Financial Regulation, With Distinction (2011)
- American University Washington College of Law, J.D. (2010)
- The George Washington University, B.B.A., concentrations in Finance and International Business (2003)

ADMISSIONS

- Maryland (2011)
- District of Columbia (2014)
- United States District Court for the District of Colorado (2015)
- United States Court of Appeals for the Tenth Circuit (2016)
- United States District Court for the Eastern District of Wisconsin (2017)
- United States Court of Appeals for the Third Circuit (2018)
- United States Court of Appeals for the Ninth Circuit (2020)

MELISSA MEYER

Associate



Melissa Meyer is an Associate with the Firm's New York Office focusing on federal securities litigation. Ms. Meyer previously worked as a paralegal for the New York office while attending law school.

EDUCATION

- New York Law School, J.D., Dean's Scholar Award, member of the Dean's Leadership Council (2018)
- John Jay College of Criminal Justice, B.A. (2013), magna cum laude

ADMISSIONS

- New York (2019)
- United States District Court for the Southern District of New York (2020)

CINAR ONEY

Associate



Cinar Oney is an Associate in Levi & Korsinsky's New York office. His practice focuses on investigation and analysis of various forms of corporate misconduct, including excessive compensation, insider trading, unfair self-dealing, and corporate waste. He develops litigation strategies through which shareholders can pursue recoveries.

Prior to joining Levi & Korsinsky, Mr. Oney practiced with top firms in Turkey, where he represented shareholders, corporations, and governmental entities in commercial disputes and transactional matters.

PUBLICATIONS

• *FinTech Industrial Banks and Beyond: How Banking Innovations Affect the Federal Safety Net*, 23 FORDHAM J. CORP. & FIN. L. 541 (2018)

EDUCATION

• Fordham University School of Law, J.D. (2019)
• International University College of Turin, LL.M. (2014)
• Istanbul University Faculty of Law, Undergraduate Degree in Law (2011)

ADMISSIONS

• New York (2020)

COLE VON RICHTOFEN

Associate



Cole von Richthofen is an Associate in Levi & Korsinsky's Connecticut office. As a law student, he interned with the honorable Judge Thomas Farrish in the District of Connecticut's Hartford courthouse with an emphasis on settlements. He has also interned with the Office of the Attorney General for the State of Connecticut in the Employment Rights Division. While attending law school, Cole served as an Executive Editor of the Connecticut Public Interest Law Journal and as a member of the Connecticut Moot Court Board.

EDUCATION

- University of Connecticut School of Law, J.D. (2022)
- University of Connecticut, B.S., Business & Marketing (2015)

ADMISSIONS

- Connecticut (2022)

MAX WEISS

Associate



Max Weiss focuses his practice on investor protection and securities fraud litigation. He is proficient in litigation, legal research, motion practice, case evaluation and settlement negotiation. Prior to joining the firm, Max practiced in the general liability area and has extensive experience litigating high-exposure personal injury claims in New York State and federal trial and appellate courts. While in law school, Max gained experience helping pro se debtors prepare and file Chapter 7 and Chapter 13 petitions with the New York Legal Assistance Group (**NYLAG**) Bankruptcy Project and served as an intern to the Honorable Sean Lane of the Southern District of New York Bankruptcy Court.

EDUCATION

- St. John's School of Law, J.D. (2018), where he served as the Senior Executive Editor of the Journal of Civil Rights & Economic Development
- Colgate University, B.A., Political Science (2011)

ADMISSIONS

- New York (2019)
- United States District Court for the Southern District of New York (2019)
- United States District Court for the Eastern District of New York (2019)

Exhibit 3

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re AppHarvest Securities Litigation

Case No. 1:21-cv-07985-LJL

DECLARATION OF GREGORY M. POTREPKA ON BEHALF OF LEVI & KORSINSKY, LLP IN SUPPORT OF APPLICATION FOR AN AWARD OF ATTORNEYS' FEES AND EXPENSES

I, Gregory M. Potrepka, declare as follows, pursuant to 28 U.S.C. §1746:

1. I am a partner of the law firm of Levi & Korsinsky, LLP ("Levi & Korsinsky"), attorneys for Lead Plaintiff Alan Narzissenfeld ("Lead Plaintiff") and Lead Counsel in the above-captioned action ("Action"). I am admitted to practice in the states of Connecticut and New York, and before this Court and have personal knowledge of the various matters set forth herein based on my day-to-day participation in the prosecution and settlement of this Action.[1] My firm and I have been actively involved in prosecuting and resolving the Action, are familiar with its proceedings, and have personal knowledge of the matters set forth herein based upon our supervision and participation in all material aspects of the Action.

2. I am submitting this declaration in support of my firm's application for an award of attorneys' fees and expenses in connection with the services rendered in the Action from inception through March 6, 2024 (the "Time Period"), the date that the Court preliminarily approved the Settlement.

[1] All capitalized terms used herein that are not defined have the same meanings given to them in the Stipulation and Agreement of Settlement, dated and filed on February 20, 2024 (ECF No. 117-1, the "Stipulation" or "Stip").

3. In serving as Lead Counsel in this Action, among other things, Levi & Korsinsky reviewed and analyzed: (i) documents filed publicly by AppHarvest with the SEC; (ii) publicly available information concerning AppHarvest and/or the Individual Defendants, including press releases, news articles, conference call transcripts, and video recorded interviews; (iii) research reports issued by financial and industry analysts concerning AppHarvest; (iv) other publicly available information and data concerning the Company and its subsidiaries, including information concerning AppHarvest's operations; (v) docket entries from various court proceedings concerning AppHarvest and the Individual Defendants, including items filed in the Bankruptcy matter; (vi) interviews conducted with former employees; (vii) consultations with bankruptcy counsel; (viii) reports prepared by Lead Plaintiff's damages experts in connection with the mediation; (ix) consultation with a Controlled Environment Agricultural expert; and (x) the applicable law governing the claims and potential defenses in this Action.

4. My firm also consulted with financial and industry experts and drafted and filed two amended complaints, researched and drafted Lead Plaintiff's opposition to Defendants' Motion to Dismiss, and retained and collaborated with external bankruptcy counsel to prevent the release of the Individual Defendants from AppHarvest's bankruptcy and enable recovery for the Settlement Class.

5. The information in this declaration regarding my firm's time and expenses is taken from time and expense records prepared and maintained by the firm in the ordinary course of business. I believe that the time reflected in the firm's loadstar calculation and the expenses for which payment is sought are reasonable in amount and were necessary for the effective and efficient prosecution and resolution of the Action.

6. The schedule attached hereto as **Exhibit A** reflects detailed billing information indicating the amount of time spent by attorneys and professional support staff members at Levi & Korsinsky LLP who were involved in the prosecution of the Action, and the lodestar calculation based on my firm's current hourly rates. My firm's rates are set based on periodic analysis of rates charged by firms performing comparable work both on the plaintiff and defense side. For personnel who are no longer employed by my firm, the lodestar calculation is based upon the rates for such personnel in his or her final year of employment by my firm. The schedule was generated using daily time records regularly prepared and maintained by my firm. Time expended in preparing this application for fees and payment of expenses has not been included in this request.

7. I, along with my Partner Shannon L. Hopkins, oversaw and/or conducted the day-to-day activities in the litigation and I reviewed these reports (and backup documentation where necessary or appropriate) in connection with the preparation of this declaration. The purpose of this review was to confirm both the accuracy of the entries as well as the necessity for, and reasonableness of, the time and expenses committed to the litigation. As a result of this review, the firm reduced certain of its time devoted to the Action in the exercise of billing judgment. For example, the firm has not included time for all personnel who billed 10 hours or less to the Actions. In addition, the firm removed certain expenses from its expense calculation. Based on this review and the adjustments made, I believe that the time reflected in the Firm's lodestar calculation and the expenses for which payment is sought herein are reasonable and were necessary for the effective and efficient prosecution and resolution of the litigation.

8. After the reductions referred to above, the total number of hours spent on this Action reported by my firm during the Time Period is 2,439.93 hours. The total loadstar amount for reported attorney/professional staff time based on the firm's current rates is $1,609,971.25.

9. As summarized in **Exhibit B** (attached hereto), my firm has incurred a total of $166,987.77 in expenses in connection with the prosecution of the Action. The expenses are reflected on the books and records of my firm. These books and records are prepared from source materials and are an accurate record of the expenses incurred.

10. I declare under penalty of perjury that the foregoing is true and correct. Executed this 8th day of May 2024.

/s/ *Gregory M. Potrepka*
Gregory M. Potrepka

Exhibit 3-A

Levi & Korsinsky
1111 Summer St., Suite 403
Stamford, CT 06905
T: 203-992-4523
F: 212-363-7171
www.zlk.com

IN RE APPHARVEST SECURITIES LITIGATION
Case No. 1:21-cv-07985-LJL
Levi & Korsinsky, LLP Lodestar Report

REPORTING PERIOD: INCEPTION THROUGH MARCH 6, 2024

Employee	Date	Hours	Rate	Lodestar	Description
Amanda Foley	7/15/2022	0.5	$550.00	$275.00	Conference call with M. Keating and G. Potrepka about Reply Memo on the Motion for Leave to Amend the Complaint
Amanda Foley	7/15/2022	0.75	$550.00	$412.50	Review of Amended Complaint and Proposed Second Amended Complaint
Amanda Foley	7/15/2022	3.5	$550.00	$1,925.00	Review of Plaintiff's Motion for Leave to Amend and Defendants' Opposition
Amanda Foley	7/15/2022	4.25	$550.00	$2,337.50	Drafting on the Reply in Further Support of Plaintiff's Motion for Leave to File Second Amended Complaint
Amanda Foley	7/18/2022	3.5	$550.00	$1,925.00	Drafting on the Standard section of the Reply
Amanda Foley	7/18/2022	3.75	$550.00	$2,062.50	Research on standard section of the Reply Brief and distinguishing Defendants' cases
Amanda Foley	7/18/2022	2.25	$550.00	$1,237.50	Drafting argument section of the Reply Brief
Amanda Foley	7/19/2022	3.25	$550.00	$1,787.50	Research and Drafting on Reply draft on Undue Delay, Bad Faith, and Futile sections of the Argument
Amanda Foley	7/19/2022	4.75	$550.00	$2,612.50	Research and Drafting on Reply
Amanda Foley	7/19/2022	1.25	$550.00	$687.50	Drafting of Introduction, Conclusion, and footnotes of the Reply Brief
Amanda Foley	7/20/2022	6.75	$550.00	$3,712.50	Editing, proofing, and final edits to AppHarvest Reply brief
Amanda Foley	7/20/2022	4.5	$550.00	$2,475.00	Final drafting of AppHarvest reply brief
Amanda Foley	7/21/2022	1.5	$550.00	$825.00	Review of Reply Brief, final version
Amanda Foley	8/8/2022	2.5	$550.00	$1,375.00	Review and analysis of Second Amended Complaint and Motion for Leave
Amanda Foley	8/8/2022	0.75	$550.00	$412.50	Review of chronology of events
Amanda Foley	8/8/2022	3.75	$550.00	$2,062.50	Editing and analysis of the false statements charts
Amanda Foley	8/10/2022	1.5	$550.00	$825.00	Review of Second Amended Complaint
Amanda Foley	8/10/2022	4.5	$550.00	$2,475.00	Drafting of the Statements Alleged to have been False and Misleading Chart, Statements 1-5
Amanda Foley	8/10/2022	1.25	$550.00	$687.50	Drafting of the Statements Alleged to have been False and Misleading Chart, Statements 6-10

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Amanda Foley	8/10/2022	2.25	$550.00	$1,237.50	Drafting of the Statements Alleged to have been False and Misleading Chart, Statements 11-15
Amanda Foley	8/11/2022	2.75	$550.00	$1,512.50	Drafting of the Statements Alleged to have been False and Misleading Chart, Statements 15-22
Amanda Foley	8/11/2022	4.5	$550.00	$2,475.00	Redrafting and editing the Statements Alleged to have been False and Misleading Chart, Statements 1-22
Amanda Foley	8/11/2022	2.5	$550.00	$1,375.00	Review of Second Amended Complaint
Amanda Foley	8/12/2022	4.5	$550.00	$2,475.00	Review and analysis of the Second Amended Complaint scienter allegations
Amanda Foley	8/12/2022	5	$550.00	$2,750.00	Drafting of the Statements Alleged to be False and Misleading Chart
Amanda Foley	8/15/2022	6.5	$550.00	$3,575.00	Drafting of the scienter portions of the Statements Alleged to be False and Misleading Chart
Amanda Foley	8/16/2022	1.5	$550.00	$825.00	Drafting of the scienter portions of the Statements Alleged to be False and Misleading Chart
Amanda Foley	8/16/2022	5.75	$550.00	$3,162.50	Drafting of the Statements Alleged to be False and Misleading Chart
Amanda Foley	8/17/2022	4.25	$550.00	$2,337.50	Drafting of the Statements Alleged to be False and Misleading Chart
Amanda Foley	9/28/2022	4.75	$550.00	$2,612.50	Review of Defendants' Memorandum of Law in support of Defendants' Motion to Dismiss Plaintiff's Second Consolidated Amended Complaint
Amanda Foley	9/28/2022	4.75	$550.00	$2,612.50	Review and editing of the false and misleading statements chart
Amanda Foley	9/29/2022	3.5	$550.00	$1,925.00	Drafting the false and misleading statements chart
Amanda Foley	10/3/2022	1.25	$550.00	$687.50	False and Misleading Statements Chart
Amanda Foley	10/4/2022	4.75	$550.00	$2,612.50	Drafting of the Statements Alleged to be False and Misleading Chart
Amanda Foley	10/5/2022	10	$550.00	$5,500.00	Drafting Statements Alleged to be False and Misleading Chart
Amanda Foley	10/6/2022	0.5	$550.00	$275.00	Conference with G. Potrepka, S. Hopkins, and price movement expert regarding motion to dismiss arguments
Amanda Foley	10/6/2022	4.5	$550.00	$2,475.00	Drafting of Statements Alleged to be False and Misleading chart, finishing facts giving rise to scienter edits
Amanda Foley	10/6/2022	4.5	$550.00	$2,475.00	Drafting of Statements Alleged to be False and Misleading chart, reviewed and corrected risk factors

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Amanda Foley	10/7/2022	2.25	$550.00	$1,237.50	Research on group pleading, whether unattributed statements can be attributed to all defendants.
Amanda Foley	10/7/2022	5	$550.00	$2,750.00	Drafting false and misleading statements chart
Amanda Foley	10/7/2022	0.25	$550.00	$137.50	Conference call with G. Potrepka regarding Motion to Strike Exhibits
Amanda Foley	10/7/2022	1.5	$550.00	$825.00	Review of Motion to Strike research and materials
Amanda Foley	10/10/2022	2.5	$550.00	$1,375.00	Review of Defendants' Motion to Dismiss and Exhibits
Amanda Foley	10/10/2022	4.75	$550.00	$2,612.50	Review of example motions to strike, and research on 2d Circuit law for exhibits offered for their truth
Amanda Foley	10/10/2022	0.5	$550.00	$275.00	Drafting of Memorandum of Law in support of Plaintiff's Motion to Strike
Amanda Foley	10/11/2022	4	$550.00	$2,200.00	Research on Motion to Strike elements and standards in 2d circuit
Amanda Foley	10/11/2022	5.75	$550.00	$3,162.50	Drafting the Memorandum of law in Support of Plaintiff's Motion to Strike Certain Exhibits from Defendant AppHarvest's Motion to Dismiss
Amanda Foley	10/12/2022	5.5	$550.00	$3,025.00	Drafting on the Equity Research Report sections of the Memorandum of law in Support of Plaintiff's Motion to Strike Certain Exhibits from Defendant AppHarvest's Motion to Dismiss
Amanda Foley	10/12/2022	3.25	$550.00	$1,787.50	Research for the Memorandum of law in Support of Plaintiff's Motion to Strike Certain Exhibits from Defendant AppHarvest's Motion to Dismiss
Amanda Foley	10/12/2022	0.5	$550.00	$275.00	Conference with S. Hopkins and R. Berger to discuss division of memo
Amanda Foley	10/13/2022	5.5	$550.00	$3,025.00	Drafting on the Press release sections of the Memorandum of law in Support of Plaintiff's Motion to Strike Certain Exhibits from Defendant AppHarvest's Motion to Dismiss
Amanda Foley	10/13/2022	4.25	$550.00	$2,337.50	Drafting on the SEC filings sections of the Memorandum of law in Support of Plaintiff's Motion to Strike Certain Exhibits from Defendant AppHarvest's Motion to Dismiss
Amanda Foley	10/13/2022	0.25	$550.00	$137.50	Drafting on the Plaintiff's Motion to Strike Certain Exhibits from Defendant AppHarvest's Motion to Dismiss
Amanda Foley	10/13/2022	0.25	$550.00	$137.50	Drafting on the Proposed Order to Strike Certain Exhibits from Defendant AppHarvest's Motion to Dismiss
Amanda Foley	10/17/2022	1	$550.00	$550.00	Review of recent authority for loss causation analysis

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Amanda Foley	10/17/2022	1.5	$550.00	$825.00	Research for example and then drafting of the Proposed Order to Strike Certain Exhibits from Defendant AppHarvest's Motion to Dismiss
Amanda Foley	10/17/2022	0.25	$550.00	$137.50	Drafting of the Notice of Motion Certain Exhibits from Defendant AppHarvest's Motion to Dismiss
Amanda Foley	10/17/2022	5.5	$550.00	$3,025.00	Review of materials for Loss Causation section of Opp Memo
Amanda Foley	10/18/2022	6.75	$550.00	$3,712.50	Drafting on the loss causation section of opposition memo
Amanda Foley	10/18/2022	1.25	$550.00	$687.50	Research and Drafting on loss causation section of opposition memo
Amanda Foley	10/18/2022	1.75	$550.00	$962.50	Drafting on facts section of opposition memo
Amanda Foley	10/18/2022	0.25	$550.00	$137.50	Legal Research for Opposition Memo
Amanda Foley	10/19/2022	0.5	$550.00	$275.00	Review and editing of Memorandum of Law in Support of Motion to Strike
Amanda Foley	10/19/2022	2.5	$550.00	$1,375.00	Drafting of the Morehead facility part of the Facts section of the memo
Amanda Foley	10/19/2022	0.5	$550.00	$275.00	Conference call with R. Berger and K. Goetten regarding AppHarvest Opposition
Amanda Foley	10/19/2022	2.25	$550.00	$1,237.50	Drafting of the Mastronardi agreement part of the Facts section of the memo
Amanda Foley	10/19/2022	3.25	$550.00	$1,787.50	Drafting of the Facts section of the memo
Amanda Foley	10/20/2022	0.25	$550.00	$137.50	Conference with R. Berger to discuss Motion to Strike suggestions
Amanda Foley	10/20/2022	6.5	$550.00	$3,575.00	Drafting of the opposition memo -the Facts section
Amanda Foley	10/20/2022	0.5	$550.00	$275.00	Review of Motion to Strike Memorandum
Amanda Foley	10/20/2022	2.5	$550.00	$1,375.00	Drafting of the opposition memo -the Facts section
Amanda Foley	10/21/2022	5.75	$550.00	$3,162.50	Drafting on the facts section of the memo: truth is disclosed, and further refining of facts.
Amanda Foley	10/21/2022	0.5	$550.00	$275.00	Conferences with Rachel Berger about Opposition motion and Motion to Strike
Amanda Foley	10/21/2022	3	$550.00	$1,650.00	Research and drafting on judicial notice of equity research reports
Amanda Foley	10/24/2022	1.25	$550.00	$687.50	Opposition to Motion to Dismiss: finalizing sections for G. Potrepka's review and organizing server documents
Amanda Foley	10/24/2022	1.5	$550.00	$825.00	Editing the facts section of Opposition to Motion to Dismiss
Amanda Foley	10/25/2022	4.5	$550.00	$2,475.00	Research and drafting on the Opinion statements part of the false and misleading statements section of the argument
Amanda Foley	10/26/2022	1.5	$550.00	$825.00	Review and drafting on Loss Causation section of Opposition memo after G. Potrepka's comments

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Amanda Foley	10/26/2022	4	$550.00	$2,200.00	Review and drafting of Motion to Strike memo addressing and incorporating G. Potrepka's comments
Amanda Foley	10/27/2022	3.5	$550.00	$1,925.00	Drafting and review of Memorandum of law in support of Motion to Strike
Amanda Foley	10/27/2022	5	$550.00	$2,750.00	Drafting, review of comments, and research on memorandum of law in support of Opposition to motion to dismiss
Amanda Foley	10/27/2022	1.5	$550.00	$825.00	Drafting on Puffery section of Opposition to motion to dismiss
Amanda Foley	10/31/2022	2.75	$550.00	$1,512.50	Drafting Puffery section of opposition
Amanda Foley	10/31/2022	2.5	$550.00	$1,375.00	Research for opposition concerning PSLRA safe harbor
Amanda Foley	10/31/2022	4.25	$550.00	$2,337.50	Drafting on false statements section of opposition memo
Amanda Foley	11/1/2022	2.25	$550.00	$1,237.50	Research subtopic(s) for false statements section of the opposition
Amanda Foley	11/1/2022	2.5	$550.00	$1,375.00	Research subtopic(s) for false statements section of the opposition
Amanda Foley	11/1/2022	3	$550.00	$1,650.00	Research subtopic(s)for false statements section of the opposition
Amanda Foley	11/1/2022	2.25	$550.00	$1,237.50	Distinguishing Defendants' cases in footnotes.
Amanda Foley	11/1/2022	1	$550.00	$550.00	Conference call with G. Potrepka concerning opposition memo
Amanda Foley	11/2/2022	4	$550.00	$2,200.00	Updated False Statements Chart for Opposition in AppHarvest
Amanda Foley	11/2/2022	2.75	$550.00	$1,512.50	Research concerning executive sales
Amanda Foley	11/2/2022	3.25	$550.00	$1,787.50	Review of recent authority
Amanda Foley	11/3/2022	5.5	$550.00	$3,025.00	Research and drafting on opposition distinguishing Defendants' cases
Amanda Foley	11/3/2022	2	$550.00	$1,100.00	Review of recent authority
Amanda Foley	11/3/2022	2.25	$550.00	$1,237.50	Drafting on opposition preliminary statement for opposition brief
Amanda Foley	11/4/2022	4.5	$550.00	$2,475.00	Drafting on opposition preliminary statement
Amanda Foley	11/7/2022	7.75	$550.00	$4,262.50	False Statements Chart, changes to scienter section
Amanda Foley	11/4/2022	3.5	$550.00	$1,925.00	Drafting on opposition brief concerning citations
Amanda Foley	11/4/2022	0.5	$550.00	$275.00	Conference call with G. Potrepka regarding opposition memo
Amanda Foley	11/4/2022	0.5	$550.00	$275.00	Conference call with K. Goetten regarding research assignment
Amanda Foley	11/7/2022	0.75	$550.00	$412.50	Conference calls with G. Potrepka about false statement chart

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Amanda Foley	11/8/2022	6.5	$550.00	$3,575.00	Corrections and changes to False Statements Chart
Amanda Foley	11/9/2022	0.75	$550.00	$412.50	Drafting of the Hopkins Declaration in Support of Plaintiff's Memorandum of Law in Opposition to Defendants' Motion to Dismiss the Second Amended Complaint
Amanda Foley	11/9/2022	0.25	$550.00	$137.50	Conference call with G. Potrepka about Strike Motion
Amanda Foley	11/10/2022	0.5	$550.00	$275.00	Drafting of the Hopkins Declaration in Support of Plaintiff's Memorandum of Law in Opposition to Defendants' Motion to Dismiss the Second Amended Complaint
Amanda Foley	11/10/2022	3.75	$550.00	$2,062.50	Review and research on cases used in Motion to strike memo
Amanda Foley	11/10/2022	1	$550.00	$550.00	Drafting on Opposition to Motion to Dismiss
Amanda Foley	11/14/2022	5.25	$550.00	$2,887.50	Review and editing of Opposition to MTD
Amanda Foley	11/14/2022	0.25	$550.00	$137.50	Conference call with G. Potrepka and S. Phillips to regarding Opposition
Amanda Foley	11/15/2022	3.75	$550.00	$2,062.50	Cite checking in Opposition motion, preparation for client review
Amanda Foley	11/15/2022	0.25	$550.00	$137.50	Conference call with G. Potrepka regarding opposition draft
Amanda Foley	11/16/2022	2	$550.00	$1,100.00	Research on missing case cites in opposition brief
Amanda Foley	11/18/2022	0.25	$550.00	$137.50	Call with G. Potrepka and S. Phillips regarding AppHarvest filing of the opposition
Amanda Foley	11/18/2022	1.25	$550.00	$687.50	Review of the edits to the False Statements Chart
Amanda Foley	11/18/2022	2.5	$550.00	$1,375.00	Research related to opposition Memo, preparing the file for the filing
Amanda Foley	1/13/2023	1.25	$550.00	$687.50	Review of the motion to strike and facts of case
Amanda Foley	1/16/2023	1.5	$550.00	$825.00	Review of Defendants' Reply to Opposition to Motion to Dismiss
Amanda Foley	1/16/2023	0.75	$550.00	$412.50	Review of Defendants' Opposition to Plaintiff's Motion to Strike
Amanda Foley	1/16/2023	5.5	$550.00	$3,025.00	Research for Plaintiff's Reply in further support of its Motion to Strike
Amanda Foley	1/18/2023	0.25	$550.00	$137.50	Conference call with G. Potrepka and R. Berger
Amanda Foley	1/18/2023	4.5	$550.00	$2,475.00	Research and drafting section of the reply brief
Amanda Foley	1/19/2023	9.5	$550.00	$5,225.00	Reply Brief Drafting and research
Amanda Foley	3/9/2023	1.25	$550.00	$687.50	Review and analysis of 8-K announcing Q4 and FY results
Amanda Foley	3/22/2023	2.25	$550.00	$1,237.50	Review and analysis of recent authority

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Amanda Foley	3/22/2023	0.75	$550.00	$412.50	Review and editing of letter motion to Judge Liman re: supplemental authority case *Wang v. Cloopen*
Amanda Foley	6/6/2023	1	$550.00	$550.00	Review and analysis of recent authority
Amanda Foley	7/26/2023	0.75	$550.00	$412.50	Review of recent authority
Amanda Foley	7/27/2023	0.5	$550.00	$275.00	Review of bankruptcy docket and materials
Amanda Foley	7/31/2023	1	$550.00	$550.00	Review of Judge Liman's ruling on the Motion to Dismiss; denied in part
Amanda Foley	8/1/2023	2.5	$550.00	$1,375.00	Review and analysis of Opinion on the motion to dismiss, granted and denied in part
Amanda Foley	8/1/2023	0.75	$550.00	$412.50	Conference call about potential motion and bankruptcy related issues
Amanda Foley	8/2/2023	1.5	$550.00	$825.00	Review of bankruptcy related documents and motion to oppose stay
Amanda Foley	8/4/2023	2	$550.00	$1,100.00	Legal Research for Letter Motion regarding automatic bankruptcy stay
Amanda Foley	8/7/2023	0.75	$550.00	$412.50	Review of 8-K announcing entry into a Material Definitive Agreement, aka Restructuring Support Agreement
Amanda Foley	8/10/2023	0.5	$550.00	$275.00	Conference call with Bankruptcy Counsel
Amanda Foley	8/14/2023	0.75	$550.00	$412.50	Review of docket for upcoming bankruptcy deadlines
Amanda Foley	8/14/2023	0.25	$550.00	$137.50	Review of Joint Stipulation to Extend time to Answer
Amanda Foley	8/14/2023	2	$550.00	$1,100.00	Review of bankruptcy law and litigation, law review articles
Amanda Foley	8/16/2023	0.5	$550.00	$275.00	Conference call with Bankruptcy team regarding ltr. to the court
Amanda Foley	8/16/2023	0.75	$550.00	$412.50	Review and analysis on draft letter re bankruptcy stay for the court
Amanda Foley	8/16/2023	1.5	$550.00	$825.00	Research on bankruptcy law regarding draft letter re bankruptcy stay for the court
Amanda Foley	8/18/2023	2	$550.00	$1,100.00	Legal research concerning bankruptcy estate property interests
Amanda Foley	8/21/2023	0.5	$550.00	$275.00	Review of Judge Liman's order lifting the Bankruptcy stay and taking request for discretionary stay under advisement
Amanda Foley	8/25/2023	1.5	$550.00	$825.00	Review of Bankruptcy Agenda for Hearing on August 25, 2023, At 9:00 A.M.
Amanda Foley	8/28/2023	0.25	$550.00	$137.50	Meeting with counsel for Debtors and Bankruptcy Counsel for Lead Securities Plaintiff
Amanda Foley	8/28/2023	0.25	$550.00	$137.50	Conference call with G. Potrepka regarding AppHarvest bankruptcy developments

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Amanda Foley	9/11/2023	0.25	$550.00	$137.50	Conference call with G.Potrepka and R. Berger to discuss third-party preservation subpoenas in AppHarvest
Amanda Foley	9/11/2023	2.5	$550.00	$1,375.00	Research on third-party preservation subpoenas and locating samples for third party subpoenas
Amanda Foley	9/11/2023	2.75	$550.00	$1,512.50	Review of documents on App-Harvest Bankruptcy docket for third-party subpoenas
Amanda Foley	9/11/2023	1	$550.00	$550.00	Drafting of request questions for third party subpoenas
Amanda Foley	9/12/2023	2	$550.00	$1,100.00	Drafting third party preservation subpoena requests for Equilibrium
Amanda Foley	9/12/2023	1.5	$550.00	$825.00	Drafting third party preservation subpoena requests for Mastronardi Berea LLC
Amanda Foley	9/12/2023	2.5	$550.00	$1,375.00	Drafting third party preservation subpoena requests for Mastronardi Produce Limited
Amanda Foley	9/12/2023	3	$550.00	$1,650.00	Research for third party preservation subpoena requests
Amanda Foley	9/12/2023	1	$550.00	$550.00	Review and drafting of Joint Letter Regarding Discovery Stay
Amanda Foley	9/13/2023	2	$550.00	$1,100.00	Review of Bankruptcy docket and filings
Amanda Foley	9/13/2023	0.25	$550.00	$137.50	Conference call with G. Potrepka to discuss preservation subpoenas
Amanda Foley	9/13/2023	4.5	$550.00	$2,475.00	Research and drafting on third-party preservation subpoena to Equilibrium
Amanda Foley	9/14/2023	7	$550.00	$3,850.00	Drafting on third party preservation subpoenas
Amanda Foley	9/14/2023	0.25	$550.00	$137.50	Attended bankruptcy confirmation hearing
Amanda Foley	9/14/2023	1	$550.00	$550.00	September 14, 2023 Court Order approving the Debtors'' Disclosure Statement And Confirming The Amended Joint Plan of Liquidation of AppHarvest Products, LLC and its Debtor Affiliates
Amanda Foley	9/15/2023	1.25	$550.00	$687.50	Drafting third-party subpoenas
Amanda Foley	9/15/2023	2	$550.00	$1,100.00	Research related to issuance of Document Preservation Subpoenas to Non-parties
Amanda Foley	9/18/2023	0.5	$550.00	$275.00	Conference calls with Shannon Hopkins about third-party preservations subpoenas
Amanda Foley	9/18/2023	2.5	$550.00	$1,375.00	Drafting on the third-party preservation subpoena to Equilibrium
Amanda Foley	9/18/2023	1	$550.00	$550.00	Drafting on the third party preservation subpoena to Equilibrium as a party to the mortgage
Amanda Foley	9/18/2023	1	$550.00	$550.00	Drafting on the third party preservation subpoena to Mastronardi Produce Limited
Amanda Foley	9/18/2023	2.5	$550.00	$1,375.00	Drafting on the third-party preservation subpoena to Mastronardi Berea, LLC

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Amanda Foley	9/18/2023	1.5	$550.00	$825.00	Research and drafting on the Notice of Third Party Subpoena for Defendants, searching for current addresses
Amanda Foley	9/19/2023	1.5	$550.00	$825.00	Research and drafting on the correct current addresses for Third Party Subpoenas
Amanda Foley	9/19/2023	2.25	$550.00	$1,237.50	Drafting on the third party preservation subpoena to Mastronardi Berea LLC
Amanda Foley	9/19/2023	2	$550.00	$1,100.00	Drafting on the third party preservation subpoena to Equilibrium
Amanda Foley	9/19/2023	2.25	$550.00	$1,237.50	Drafting on the third party preservation subpoena to Mastronardi Produce Limited
Amanda Foley	9/19/2023	1.75	$550.00	$962.50	Drafting and proofing on Notice of Third Party Preservation Subpoena
Amanda Foley	9/20/2023	2	$550.00	$1,100.00	Final drafts and approvals of subpoenas
Amanda Foley	10/9/2023	0.5	$550.00	$275.00	Research and review of mediation statement for help with cite checking
Amanda Foley	10/12/2023	1	$550.00	$550.00	Review of AppHarvest Mediation Statement
Amanda Foley	10/17/2023	2	$550.00	$1,100.00	Review of Defendants' Mediation Statement and supporting documents
Amanda Foley	10/19/2023	1	$550.00	$550.00	Conference with Mediator to discuss any questions or thoughts in advance of Mediation next week
Amanda Foley	10/25/2023	4.5	$550.00	$2,475.00	Remote attendance of the AppHarvest mediation
Amanda Foley	11/17/2023	1.5	$550.00	$825.00	Review and analysis of investigative journal piece against AppHarvest
Amanda Foley	12/6/2023	0.25	$550.00	$137.50	Review of Judge's order for a status conference on December 20
Amanda Foley	12/15/2023	0.75	$550.00	$412.50	Review of status letter to court and assignments regarding preliminary approval exhibits and drafting
Amanda Foley	1/2/2024	1	$550.00	$550.00	Review of Plan of Allocation ahead of meeting
Amanda Foley	1/2/2024	0.5	$550.00	$275.00	Meeting with Strategic Claims concerning plan of allocation
Amanda Foley	1/8/2024	2.5	$550.00	$1,375.00	Review and drafting of Exhibit A - Proposed Order for Preliminary Approval of Settlement
Amanda Foley	1/8/2024	2.75	$550.00	$1,512.50	Review and drafting of Exhibit A-1 Long Form Notice for Preliminary Approval of Settlement
Amanda Foley	1/9/2024	1	$550.00	$550.00	Questions on Exhibits for the preliminary approval and conference calls with G. Potrepka
Amanda Foley	1/10/2024	4	$550.00	$2,200.00	Research gathering examples of preliminary settlement approves and settlement agreement
Amanda Foley	1/10/2024	3	$550.00	$1,650.00	Drafting on settlement exhibits
Amanda Foley	1/11/2024	5	$550.00	$2,750.00	Drafting of Settlement Exhibits A-1 Long Form
Amanda Foley	1/11/2024	2.5	$550.00	$1,375.00	Drafting of Settlement Exhibits A-2 Claim Form

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Amanda Foley	1/12/2024	1	$550.00	$550.00	Drafting on the Settlement Exhibits, Exhibit A - proposed order
Amanda Foley	1/12/2024	0.75	$550.00	$412.50	Drafting on the Settlement Exhibits, Exhibit A-1 - Long Form
Amanda Foley	1/12/2024	2.25	$550.00	$1,237.50	Drafting on the Settlement Exhibits, Exhibit A- Claim form, post card, and notice
Amanda Foley	1/15/2024	4	$550.00	$2,200.00	Drafting on settlement agreement exhibits A- A-4
Amanda Foley	1/15/2024	2	$550.00	$1,100.00	Drafting on settlement agreement exhibit B
Amanda Foley	1/16/2024	2	$550.00	$1,100.00	Review of G. Potrepka's edits and comments to the Settlement Exhibits, A-1 Long Form
Amanda Foley	1/16/2024	4	$550.00	$2,200.00	Editing and updating Settlement Exhibits
Amanda Foley	1/16/2024	0.5	$550.00	$275.00	Preparing Settlement Exhibit A-1 Long Form to send to Claims Administrator for review
Amanda Foley	1/17/2024	2.5	$550.00	$1,375.00	Preparation of Settlement Exhibits for sending to claims administrator and Defendants for review
Amanda Foley	1/17/2024	2.75	$550.00	$1,512.50	Editing, proofing and conference calls with G. Potrepka regarding the settlement exhibits
Amanda Foley	1/17/2024	2	$550.00	$1,100.00	Research on Memorandum of Law in support of of Preliminary Approval
Amanda Foley	1/17/2024	2.75	$550.00	$1,512.50	Preparation of Outline for Memorandum of Law in support of Preliminary Approval
Amanda Foley	1/18/2024	4	$550.00	$2,200.00	Research on Preliminary Approval drafting
Amanda Foley	1/18/2024	5.5	$550.00	$3,025.00	Drafting Preliminary Approval Memorandum section on Class certification for Settlement Purposes
Amanda Foley	1/19/2024	2.5	$550.00	$1,375.00	Drafting on the Memorandum in support of Preliminary Approval of Settlement: Factual Background and Procedural History
Amanda Foley	1/19/2024	2.75	$550.00	$1,512.50	Drafting on the Memorandum in support of Preliminary Approval of Settlement: Argument sections 1. and 2.
Amanda Foley	1/19/2024	1.75	$550.00	$962.50	Drafting on the Memorandum in support of Preliminary Approval of Settlement finalizing class certification section and conference calls with G. Potrepka to go over the rest of the outline
Amanda Foley	1/22/2024	4	$550.00	$2,200.00	Drafting on the Memorandum of Law in support of preliminary approval, section on Rule 23(e)(2)(C)(i): Costs, Risks, and Delay of Trial and Appeal
Amanda Foley	1/22/2024	1	$550.00	$550.00	Drafting on the Memorandum of Law in support of preliminary approval, section on Rule 23(e)(2)(C)(iii): Terms of the Proposed Attorneys' Fees, Including Timing of Payment

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Amanda Foley	1/22/2024	1	$550.00	$550.00	Drafting on the Memorandum of Law in support of preliminary approval, preliminary statement section and proposed schedule of events
Amanda Foley	1/22/2024	1.25	$550.00	$687.50	Drafting on the Memorandum of Law in support of preliminary approval, rest of *Grinnell* factors
Amanda Foley	1/23/2024	0.75	$550.00	$412.50	Preparation of Declaration in support of Preliminary Approval Motion
Amanda Foley	1/23/2024	1	$550.00	$550.00	Preparation of Notice of Motion for Preliminary Approval
Amanda Foley	1/23/2024	4.5	$550.00	$2,475.00	Drafting on the Memo in support of Preliminary Approval Motion
Amanda Foley	1/25/2024	7.25	$550.00	$3,987.50	Review, correcting and editing on the Memorandum in support of Lead Plaintiff's Motion for Preliminary Approval of Settlement
Amanda Foley	1/26/2024	0.75	$550.00	$412.50	Conference call with G. Potrepka on Memo of law in support of preliminary approval, discussing exhibits and Cornerstone report
Amanda Foley	1/26/2024	4.25	$550.00	$2,337.50	Drafting on the on Memo of law in support of preliminary approval
Amanda Foley	1/29/2024	3.5	$550.00	$1,925.00	Preparation of AppHarvest settlement exhibits 2-7
Amanda Foley	1/29/2024	3.5	$550.00	$1,925.00	Research on the Memorandum of Law in support of Motion for preliminary approval
Amanda Foley	2/5/2024	3.75	$550.00	$2,062.50	Preparation of Stipulation to send back to Defense Counsel for additional comments
Amanda Foley	2/5/2024	0.25	$550.00	$137.50	Preparation of document with a list of damages and expenses information still needed for the Exhibits
Amanda Foley	2/6/2024	2	$550.00	$1,100.00	Review and proofing of AppHarvest Exhibits
Amanda Foley	2/7/2024	3	$550.00	$1,650.00	Review of memorandum of law in support of preliminary approval motion
Amanda Foley	2/8/2024	2	$550.00	$1,100.00	Conference calls with A. Westphalen about Appharvest Settlement docs prepping exhibits, and helping with cite checking on the Memorandum of Law for Preliminary Motion
Amanda Foley	2/9/2024	4.75	$550.00	$2,612.50	Preparation of Motion, Memorandum in support and declaration in support of preliminary motion for circulation to defense counsel
Amanda Foley	2/12/2024	2	$550.00	$1,100.00	Drafting on settlement exhibits, final additions being added; including memorandum of law in support of preliminary approval motion; and supplemental agreement
Amanda Foley	2/12/2024	0.25	$550.00	$137.50	Meeting with expert Ken regarding terms in the Plan of Allocation, for the preliminary approval motion

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Amanda Foley	2/12/2024	0.25	$550.00	$137.50	Conference call with G. Potrepka to discuss settlement exhibits
Amanda Foley	2/13/2024	1.25	$550.00	$687.50	Conference calls with G. Potrepka and Arden Westphalen regarding AppHarvest preliminary approval motion, filing of status update letter instead
Amanda Foley	2/13/2024	0.75	$550.00	$412.50	Review of AppHarvest settlement documents, final review of memorandum of law
Amanda Foley	2/16/2024	1.25	$550.00	$687.50	Preparation and formatting of settlement exhibits for preliminary approval motion
Amanda Foley	2/21/2024	0.5	$550.00	$275.00	Reviewed filing of Motion for Preliminary Approval of Settlement
Amanda Foley	2/21/2024	0.75	$550.00	$412.50	Reviewed Judge Liman's Order on Motion for Preliminary Approval of Settlement
Amanda Foley	2/21/2024	0.75	$550.00	$412.50	Conference call with G. Potrepka to discuss Judge Liman's Order and next steps
Amanda Foley	2/22/2024	1.5	$550.00	$825.00	Drafting of Letter to Court regarding revised Settlement Exhibits
Amanda Foley	2/22/2024	2.5	$550.00	$1,375.00	Preparation of revised settlement exhibits
Amanda Foley	2/23/2024	2.5	$550.00	$1,375.00	Preparation of exhibits and Mulholland declaration for filing on Monday
Amanda Foley	2/26/2024	2.75	$550.00	$1,512.50	Preparation of Letter and Revised Settlement Exhibits and filing with the Court
Amanda Foley Total		580.5		$319,275.00	
Amanda Herda	12/14/2021	0.2	$325.00	$65.00	Opened matter in Epona and POTG
Amanda Herda	12/14/2021	1	$325.00	$325.00	Begin pulling news articles (01.01.21 to present)
Amanda Herda	12/15/2021	5.5	$325.00	$1,787.50	Continue pulling News Articles
Amanda Herda	12/17/2021	0.3	$325.00	$97.50	Assist S. Phillips with download of Prospectuses from Capital IQ; website issues
Amanda Herda	1/5/2022	0.25	$325.00	$81.25	Research presentation video from BMO FtM Conference; forward link to S. Phillips
Amanda Herda	1/5/2022	0.2	$325.00	$65.00	Upload research/doc pull site list to Teams files
Amanda Herda	1/5/2022	0.1	$325.00	$32.50	Chat with S. Phillips regarding plan for video research and download for tomorrow
Amanda Herda	1/6/2022	5.8	$325.00	$1,885.00	Research online videos of Jonathan Webb, David Lee, and Loren Eggleton; draft chart with websites, descriptions and URLs
Amanda Herda	1/7/2022	0.5	$325.00	$162.50	Pull Stephens video, convert to .mp4; Forward updated video list and Stephens video; upload both to Epona; chat with S. Phillips re transcription
Amanda Herda	1/7/2022	2.5	$325.00	$812.50	Research 01.19.21 Virtual Press Conference
Amanda Herda	1/17/2022	2.25	$325.00	$731.25	Video search; set up "Internet Archive" access

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Amanda Herda	1/18/2022	4.3	$325.00	$1,397.50	Search Twitter feeds for videos/interviews; download twitter feeds as pdf; add links to Video spreadsheet
Amanda Herda	1/18/2022	2.5	$325.00	$812.50	Converting Twitter videos to MP4 to aid in transcription process
Amanda Herda	1/19/2022	2.9	$325.00	$942.50	Video conversions to mp4 (for transcription)
Amanda Herda	1/20/2022	2.2	$325.00	$715.00	Convert remaining spotify podcasts to MP3 format
Amanda Herda	1/24/2022	4	$325.00	$1,300.00	Review transcripts for accuracy
Amanda Herda	1/25/2022	1.2	$325.00	$390.00	Reviewing transcripts for accuracy; updating dates that were reformatted in excel
Amanda Herda	1/28/2022	0.75	$325.00	$243.75	Additional Articles pull for M. Keating; upload to Epona; email re same
Amanda Herda	1/28/2022	0.6	$325.00	$195.00	Upload MP4 files for transcription; convert video to MP4
Amanda Herda	1/31/2022	0.4	$325.00	$130.00	Complete additional video conversions and transcript requests; update G. Potrepka and M. Keating regarding same
Amanda Herda	1/31/2022	0.1	$325.00	$32.50	Download and save SeekingAlpha article
Amanda Herda	2/2/2022	0.15	$325.00	$48.75	Emails/chats re video transcriptions with G. Potrepka and S. Phillips
Amanda Herda	2/2/2022	5.5	$325.00	$1,787.50	Review transcriptions for accuracy
Amanda Herda	2/3/2022	0.8	$325.00	$260.00	Review transcriptions for accuracy
Amanda Herda	2/3/2022	1.6	$325.00	$520.00	Continue reviewing transcripts for accuracy
Amanda Herda	2/3/2022	1.75	$325.00	$568.75	Begin search for additional videos - 08/11/21 to present
Amanda Herda	2/4/2022	1.5	$325.00	$487.50	Continue search for related videos
Amanda Herda	2/4/2022	1.5	$325.00	$487.50	Pull News Articles 08/11/21-present
Amanda Herda	2/4/2022	0.2	$325.00	$65.00	Review comment in video spreadsheet and troubleshoot
Amanda Herda	2/8/2022	2.75	$325.00	$893.75	Continue reviewing transcripts
Amanda Herda	2/9/2022	2.4	$325.00	$780.00	Reviewing Transcripts for accuracy
Amanda Herda	2/9/2022	3.5	$325.00	$1,137.50	Continue reviewing transcripts for accuracy
Amanda Herda	2/11/2022	0.6	$325.00	$195.00	Review transcripts for accuracy
Amanda Herda	2/28/2022	0.15	$325.00	$48.75	APPH Team meeting regarding Amended Complaint cite/fact checking
Amanda Herda	2/28/2022	5.85	$325.00	$1,901.25	Assist with fact checking Amended Complaint
Amanda Herda	3/2/2022	0.1	$325.00	$32.50	Edits to document for G. Potrepka
Amanda Herda	5/10/2022	0.25	$325.00	$81.25	Pull Pro Hac Vice Documents for M. Keating Pro hac vice application
Amanda Herda	6/27/2022	0.1	$325.00	$32.50	Communications with S. Phillips regarding Amended Complaint cite-checking and proofing

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Amanda Herda	6/27/2022	5.65	$325.00	$1,836.25	Proof and cite check Amended Complaint (second half)
Amanda Herda	6/28/2022	6	$325.00	$1,950.00	Continue with Proofing and cite checking of Amended Complaint
Amanda Herda	6/29/2022	5.8	$325.00	$1,885.00	Continue with proofing and cite-checking Amended Complaint
Amanda Herda	6/29/2022	1.75	$325.00	$568.75	Proof, tag cites and populate Table of Authorities and Table of Contents for Memorandum of Law in Support of Motion for Leave to Amend
Amanda Herda	6/30/2022	0.75	$325.00	$243.75	Update Table of Contents pages; update/fix Table of Authorities formatting
Amanda Herda	7/15/2022	0.5	$325.00	$162.50	Complete online transcript order; called in payment to Southern District Reporters; forward information to G. Potrepka, S. Hopkins etc.
Amanda Herda	7/15/2022	0.1	$325.00	$32.50	Calendar Reply to Opposition due date 7/21
Amanda Herda	8/5/2022	0.2	$325.00	$65.00	Calendar Motion to Dismiss Second Amended Complaint dates
Amanda Herda	9/27/2022	2	$325.00	$650.00	Reorganize/relabel ECF documents for G. Potrepka
Amanda Herda	8/2/2023	0.1	$325.00	$32.50	Communications with G. Potrepka regarding cite-checking
Amanda Herda Total		89.1		$28,957.50	
Arden Westphalen	9/15/2023	0.5	$325.00	$162.50	Filing joint letter motion and proposed order regarding partial stay
Arden Westphalen	10/9/2023	3	$325.00	$975.00	Fact and cite checking mediation statement, two meetings with S. Phillips regarding the same.
Arden Westphalen	10/10/2023	1.5	$325.00	$487.50	Scanning mail, adding scanned court documents to docket SharePoint server, sending to G. Potrepka.
Arden Westphalen	10/12/2023	0.75	$325.00	$243.75	Edits to mediation statement and exhibits.
Arden Westphalen	12/14/2023	0.1	$325.00	$32.50	Updating client communications in SharePoint server.
Arden Westphalen	12/15/2023	0.5	$325.00	$162.50	Filing joint letter motion regarding agreement in principle to settlement.
Arden Westphalen	12/19/2023	1	$325.00	$325.00	Cite checking Stipulation of Settlement.
Arden Westphalen	1/23/2024	1	$325.00	$325.00	Editing cite dates, footnotes, and formatting for Memorandum of Law in support of Preliminary Approval, communications regarding same.
Arden Westphalen	1/26/2024	0.5	$325.00	$162.50	Adding bates numbering and formatting edits to preliminary settlement document, communications regarding same.
Arden Westphalen	1/29/2024	1	$325.00	$325.00	Bates stamping, organizing exhibits, adding exhibit tabs to preliminary settlement documents.

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Arden Westphalen	2/5/2024	1	$325.00	$325.00	Formatting edits to settlement stipulation and agreement of settlement, communications regarding same.
Arden Westphalen	2/9/2024	3.8	$325.00	$1,235.00	Fact and cite-checking Memorandum of Law in support of Motion For Preliminary Approval Of Class Action Settlement.
Arden Westphalen	2/8/2024	5.2	$325.00	$1,690.00	Fact and cite-checking motion and Memorandum of Law, correspondence regarding settlement papers filing.
Arden Westphalen	2/13/2024	4	$325.00	$1,300.00	Updating tables, looking through edits, formatting check for Memorandum of Law in support of Motion For Preliminary Approval Of Class Action Settlement Correspondence re same. Two meetings with S. Hopkins, G. Potrepka, A. Foley about status of filing. E-filing letter to court postponing deadline.
Arden Westphalen	2/16/2024	0.5	$325.00	$162.50	Edits to exhibits for stipulation of settlement filing.
Arden Westphalen	2/20/2024	1.5	$325.00	$487.50	Formatting, organizing documents for filing, filing stipulation of settlement, motion, and Memorandum of Law in support of Motion For Preliminary Approval Of Class Action Settlement
Arden Westphalen	2/22/2024	0.5	$325.00	$162.50	Organizing SharePoint server, downloading ECF stamped documents.
Arden Westphalen	2/23/2024	1	$325.00	$325.00	Settlement/bank papers.
Arden Westphalen	2/26/2024	1	$325.00	$325.00	Putting together/final edits to exhibits for letter to Court re: Order Of The Court Dated February 21, 2024 Concerning Preliminary Approval., filing letter.
Arden Westphalen	2/26/2024	0.5	$325.00	$162.50	Edits to settlement/bank papers.
Arden Westphalen	2/28/2024	0.5	$325.00	$162.50	Signatures for settlement bank papers, finalizing documents.
Arden Westphalen Total		29.35		$9,538.75	
Cole von Richthofen	5/20/2022	4	$500.00	$2,000.00	researched & drafted suggested language for Freedom Of Information Act requests to various government agencies
Cole von Richthofen	5/24/2022	1	$500.00	$500.00	Submitted government Freedom of Information Act requests
Cole von Richthofen	6/6/2022	1	$500.00	$500.00	Processed incoming government agency Freedom of Information Act request responses
Cole von Richthofen	6/7/2022	1	$500.00	$500.00	Processed incoming government agency Freedom of Information Act request responses
Cole von Richthofen	6/8/2022	2	$500.00	$1,000.00	Processed incoming government agency Freedom of Information Act request responses

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Cole von Richthofen	6/3/2022	2	$500.00	$1,000.00	Reviewed incoming Freedom of Information Act request responses
Cole von Richthofen	6/3/2022	1	$500.00	$500.00	Reviewed incoming Freedom of Information Act request
Cole von Richthofen	6/15/2022	0.5	$500.00	$250.00	Processed incoming Freedom of Information Act request
Cole von Richthofen	6/22/2022	1	$500.00	$500.00	research into SEC rules on Special Purpose Acquisition Companies
Cole von Richthofen	6/28/2022	3.25	$500.00	$1,625.00	Research: Second Circuit motion for leave to amend First Amended Complaint
Cole von Richthofen	6/29/2022	6	$500.00	$3,000.00	Cite checks, editing, quote checks, Shepards checks etc. for Motion for Leave to Amend
Cole von Richthofen	7/6/2022	0.5	$500.00	$250.00	Reviewed new Freedom of Information Act responses (all no records), updated tracker and notified team
Cole von Richthofen	8/18/2022	0.1	$500.00	$50.00	Processed invoice for Freedom of Information Act
Cole von Richthofen	8/19/2022	6	$500.00	$3,000.00	Research & drafting regarding Dr. Godec subpoena responses
Cole von Richthofen Total		29.35		$14,675.00	
Gregory Potrepka	12/14/2021	1.5	$900.00	$1,350.00	Review documents on docket (Lead Plaintiff order, scheduling orders, initial complaints)
Gregory Potrepka	12/14/2021	0.5	$900.00	$450.00	Emails to Investigator, S. Phillips + A. Foley regarding case investigation
Gregory Potrepka	12/14/2021	1	$900.00	$900.00	Legal research (emails to S. Hopkins and A. Apton regarding same)
Gregory Potrepka	12/15/2021	1	$900.00	$900.00	Review case documents to prepare for call with investigator
Gregory Potrepka	12/15/2021	0.5	$900.00	$450.00	Attend call with investigator
Gregory Potrepka	12/15/2021	0.5	$900.00	$450.00	Review and select analyst reports needed for investigation
Gregory Potrepka	12/20/2021	0.75	$900.00	$675.00	Research Judge Liman's scheduling orders
Gregory Potrepka	12/20/2021	0.5	$900.00	$450.00	Send email to defense counsel regarding scheduling stipulation
Gregory Potrepka	12/20/2021	4	$900.00	$3,600.00	Case investigation
Gregory Potrepka	12/23/2021	0.25	$900.00	$225.00	Call with defense counsel
Gregory Potrepka	12/23/2021	1	$900.00	$900.00	Prepare scheduling stipulation
Gregory Potrepka	12/23/2021	2	$900.00	$1,800.00	Review case investigation docs
Gregory Potrepka	12/22/2021	2.5	$900.00	$2,250.00	Continue reviewing case investigation documents going back to Q1 2021
Gregory Potrepka	12/21/2021	8.5	$900.00	$7,650.00	Case investigation
Gregory Potrepka	12/28/2021	0.5	$900.00	$450.00	Finalize and send defense counsel scheduling stipulation

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Gregory Potrepka	1/5/2022	1.5	$900.00	$1,350.00	Review videos that defendants made public statements in
Gregory Potrepka	1/5/2022	0.5	$900.00	$450.00	Review Investigator's update
Gregory Potrepka	1/5/2022	4	$900.00	$3,600.00	Review SEC documents and look for related documents in public sources and review those
Gregory Potrepka	1/3/2022	0.5	$900.00	$450.00	Final review of scheduling order for filing
Gregory Potrepka	1/4/2022	0.75	$900.00	$675.00	Call with client
Gregory Potrepka	1/4/2022	0.25	$900.00	$225.00	Email to/from investigator
Gregory Potrepka	1/4/2022	0.25	$900.00	$225.00	Call with M. Keating to discuss next steps
Gregory Potrepka	1/4/2022	6.5	$900.00	$5,850.00	Review APPH press releases, news, and other documents
Gregory Potrepka	1/6/2022	9.5	$900.00	$8,550.00	Continue reading investigation documents and begin drafting Amended Complaint
Gregory Potrepka	1/7/2022	11	$900.00	$9,900.00	Complaint drafting
Gregory Potrepka	1/10/2022	0.75	$900.00	$675.00	Meeting with Investigator
Gregory Potrepka	1/10/2022	9.25	$900.00	$8,325.00	Review and Revise M. Keating's background sections
Gregory Potrepka	1/11/2022	11	$900.00	$9,900.00	Review and Revise M. Keating's sections of the complaint
Gregory Potrepka	1/12/2022	9.5	$900.00	$8,550.00	Draft Confidential Witness section and knowledge section of background in the complaint
Gregory Potrepka	1/14/2022	8	$900.00	$7,200.00	Begin false statements section of complaint
Gregory Potrepka	1/13/2022	0.25	$900.00	$225.00	Email to expert regarding damages analysis
Gregory Potrepka	1/13/2022	0.75	$900.00	$675.00	Call with S. Hopkins and M. Keating discussing potential expert
Gregory Potrepka	1/13/2022	0.5	$900.00	$450.00	Multiple calls with M. Keating regarding complaint
Gregory Potrepka	1/13/2022	8	$900.00	$7,200.00	Continue drafting complaint
Gregory Potrepka	1/21/2022	7	$900.00	$6,300.00	Continue drafting false statements section of complaint
Gregory Potrepka	1/20/2022	10	$900.00	$9,000.00	- Continue drafting false statement section of complaint
Gregory Potrepka	2/1/2022	1.5	$900.00	$1,350.00	Finish preparing Confidential Witness question outlines for confirmatory calls
Gregory Potrepka	2/1/2022	1	$900.00	$900.00	Confidential Witness calls with M. Keating and Investigator
Gregory Potrepka	2/1/2022	0.5	$900.00	$450.00	Review and revise M. Keating's questions for Confidential Witnesses
Gregory Potrepka	2/1/2022	6	$900.00	$5,400.00	Continue preparing false statements section and Confidential Witness allegations for amended complaint
Gregory Potrepka	1/31/2022	0.5	$900.00	$450.00	Review 1/31 pre-earnings release and discussions with S. Hopkins and M. Keating

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Gregory Potrepka	1/31/2022	1.5	$900.00	$1,350.00	Review news and investigate price decline from pre-earnings release
Gregory Potrepka	1/31/2022	0.5	$900.00	$450.00	Call with Investigator and M. Keating
Gregory Potrepka	1/31/2022	3.5	$900.00	$3,150.00	Prepare question outlines for CWs
Gregory Potrepka	2/2/2022	0.5	$900.00	$450.00	Prepare for CW interview
Gregory Potrepka	2/2/2022	2	$900.00	$1,800.00	CW interview and follow up call with Investigator
Gregory Potrepka	2/2/2022	1	$900.00	$900.00	Emails to/from defense counsel
Gregory Potrepka	2/2/2022	0.5	$900.00	$450.00	Review and revise scheduling stipulation prepared by M. Keating and send to defense counsel
Gregory Potrepka	2/2/2022	8	$900.00	$7,200.00	Continue preparing false statement section for amended complaint
Gregory Potrepka	1/28/2022	10	$900.00	$9,000.00	Review investigation memo, review additional docs (including some post-Class Period documents) and continue filling in/preparing complaint
Gregory Potrepka	1/17/2022	9.5	$900.00	$8,550.00	Continue preparing false statements section of complaint
Gregory Potrepka	1/17/2022	0.5	$900.00	$450.00	Calls with M. Keating regarding complaint
Gregory Potrepka	1/19/2022	11	$900.00	$9,900.00	Continue false statement section of complaint
Gregory Potrepka	1/24/2022	0.5	$900.00	$450.00	Meeting with investigator
Gregory Potrepka	1/24/2022	6	$900.00	$5,400.00	Continue reviewing CW interviews and preparing false statements section of complaint
Gregory Potrepka	1/25/2022	8.5	$900.00	$7,650.00	Continue preparing false statements section of complaint
Gregory Potrepka	1/26/2022	0.75	$900.00	$675.00	Prepare CW allegations for investigator
Gregory Potrepka	1/26/2022	8.25	$900.00	$7,425.00	Add in CW allegations and review and revise complaint
Gregory Potrepka	2/4/2022	9.75	$900.00	$8,775.00	Continue reviewing and revising draft complaint
Gregory Potrepka	2/4/2022	1	$900.00	$900.00	Discussion with M. Keating re theory of falsity
Gregory Potrepka	2/3/2022	0.5	$900.00	$450.00	Email to M. Muller regarding client
Gregory Potrepka	2/3/2022	10	$900.00	$9,000.00	Continue drafting complaint
Gregory Potrepka	2/7/2022	0.5	$900.00	$450.00	- Finalize stipulation to modify scheduling deadlines for filing
Gregory Potrepka	2/7/2022	9.5	$900.00	$8,550.00	- Add material to complaint from follow-up CW call and continue preparing complaint
5/1/2024	2/10/2022	1	$900.00	$900.00	Prepare for CW call
Gregory Potrepka	2/10/2022	5.5	$900.00	$4,950.00	Continue revising complaint
Gregory Potrepka	2/14/2022	8	$900.00	$7,200.00	Continue reviewing and revising complaint, including alleged false statements
Gregory Potrepka	2/11/2022	1.5	$900.00	$1,350.00	Review comments with M. Keating
Gregory Potrepka	2/6/2022	6	$900.00	$5,400.00	Prepare CW outline for conversation and work on CW allegations in the complaint draft

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Gregory Potrepka	2/9/2022	3.5	$900.00	$3,150.00	Prepare CW question outline for follow up call tomorrow
Gregory Potrepka	2/9/2022	3.75	$900.00	$3,375.00	Continue reviewing and revising amended complaint
Gregory Potrepka	2/8/2022	9	$900.00	$8,100.00	Review and revise complaint including motive and background sections
Gregory Potrepka	2/22/2022	4	$900.00	$3,600.00	Prepare CW outlines for CWs
Gregory Potrepka	2/22/2022	2	$900.00	$1,800.00	CW calls with investigator and debrief with team
Gregory Potrepka	2/22/2022	2	$900.00	$1,800.00	Review and revise complaint to add new information and additional information regarding COO Butler
Gregory Potrepka	2/20/2022	0.25	$900.00	$225.00	Call with Investigator and CW
Gregory Potrepka	2/20/2022	0.5	$900.00	$450.00	Email to S. Hopkins and M. Keating re CW
Gregory Potrepka	2/20/2022	1	$900.00	$900.00	Prepare amended certification for client
Gregory Potrepka	2/20/2022	0.25	$900.00	$225.00	Email to team regarding client certification
Gregory Potrepka	2/21/2022	5.25	$900.00	$4,725.00	Review and revise complaint
Gregory Potrepka	2/18/2022	9	$900.00	$8,100.00	Review and revise complaint
Gregory Potrepka	2/17/2022	6.5	$900.00	$5,850.00	Further work regarding false statement section of complaint draft
Gregory Potrepka	2/17/2022	2	$900.00	$1,800.00	Begin going through S. Hopkins' scienter comments
Gregory Potrepka	2/17/2022	0.75	$900.00	$675.00	Call with investigator and debrief with S. Hopkins/M. Keating
Gregory Potrepka	2/24/2022	0.5	$900.00	$450.00	Calls with Investigator
Gregory Potrepka	2/24/2022	2.5	$900.00	$2,250.00	Listen to earnings call and review earnings call transcript and earnings release
Gregory Potrepka	2/24/2022	7.5	$900.00	$6,750.00	Continue reviewing and revising complaint.
Gregory Potrepka	2/28/2022	1.25	$900.00	$1,125.00	Emails to/from client, and drafting emails for M. Muller to send to client, and discussions with M. Muller
Gregory Potrepka	2/28/2022	1.5	$900.00	$1,350.00	Finalize allegations to send to CWs and send emails to CWs regarding allegations
Gregory Potrepka	2/28/2022	6.25	$900.00	$5,625.00	Continue revising complaint
Gregory Potrepka	2/28/2022	1	$900.00	$900.00	Email response to S. Hopkins regarding comments on complaint draft
Gregory Potrepka	2/26/2022	4.5	$900.00	$4,050.00	Review and revise complaint
Gregory Potrepka	2/27/2022	7.5	$900.00	$6,750.00	Review and revise complaint
Gregory Potrepka	2/25/2022	6.5	$900.00	$5,850.00	Finish intro and reasons why false, and review M. Keating's edits to complaint
Gregory Potrepka	2/23/2022	0.5	$900.00	$450.00	Emails to/from client
Gregory Potrepka	2/23/2022	0.5	$900.00	$450.00	Emails to/from Melissa regarding Schedule A and review same

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Gregory Potrepka	2/23/2022	0.5	$900.00	$450.00	Call with Investigator regarding response to CW and emails regarding same
Gregory Potrepka	2/23/2022	9.5	$900.00	$8,550.00	Review and Revise complaint
Gregory Potrepka	3/1/2022	1	$900.00	$900.00	Discussions with team regarding complaint
Gregory Potrepka	3/1/2022	9	$900.00	$8,100.00	Review and revise complaint
Gregory Potrepka	3/2/2022	0.5	$900.00	$450.00	Follow up emails to/from CWs
Gregory Potrepka	3/2/2022	1	$900.00	$900.00	Calls and correspondence with client
Gregory Potrepka	3/2/2022	10	$900.00	$9,000.00	Finalize and file FAC
Gregory Potrepka	3/11/2022	0.5	$900.00	$450.00	Prepare service waiver and send to defense counsel
Gregory Potrepka	3/15/2022	0.25	$900.00	$225.00	Call with investigator
Gregory Potrepka	3/15/2022	0.5	$900.00	$450.00	Review investigator memos
Gregory Potrepka	3/17/2022	0.5	$900.00	$450.00	Email to/from defense counsel
Gregory Potrepka	3/8/2022	1	$900.00	$900.00	review emails from investigator.
Gregory Potrepka	3/8/2022	1.5	$900.00	$1,350.00	Call with CW and follow up with Investigator
Gregory Potrepka	3/22/2022	0.5	$900.00	$450.00	Review draft Investigator email from follow-up call with CW and correspondence to/from Investigator regarding same
Gregory Potrepka	4/13/2022	1.5	$900.00	$1,350.00	Begin reviewing Judge Liman's prior Motion To Dismiss orders
Gregory Potrepka	4/14/2022	1.25	$900.00	$1,125.00	Reviewing Complaint and begin working on outline for opposition brief
Gregory Potrepka	4/21/2022	0.5	$900.00	$450.00	Call with defense counsel
Gregory Potrepka	4/21/2022	0.5	$900.00	$450.00	Emails to/from defense counsel
Gregory Potrepka	4/21/2022	1.5	$900.00	$1,350.00	Prepare outline for opposition brief
Gregory Potrepka	4/21/2022	4.5	$900.00	$4,050.00	Re-review complaint/read more of Judge Liman's decisions/begin researching some false statements
Gregory Potrepka	5/5/2022	2.5	$900.00	$2,250.00	Research and write up standard for allegations containing expert opinion
Gregory Potrepka	5/5/2022	0.5	$900.00	$450.00	Call with client
Gregory Potrepka	5/5/2022	3	$900.00	$2,700.00	Review Defendant exhibits
Gregory Potrepka	5/5/2022	1.75	$900.00	$1,575.00	Research Q1 2021 financial guidance
Gregory Potrepka	5/5/2022	1.5	$900.00	$1,350.00	Review APPH's most recent disclosures (they held a call on Tuesday)
Gregory Potrepka	5/6/2022	0.75	$900.00	$675.00	Introduction call with expert
Gregory Potrepka	5/6/2022	1	$900.00	$900.00	Review analyst documents
Gregory Potrepka	5/11/2022	1	$900.00	$900.00	Calls with S. Hopkins and/or Mike K. regarding case investigation
Gregory Potrepka	5/11/2022	1	$900.00	$900.00	Calls with Investigator
Gregory Potrepka	5/11/2022	3.5	$900.00	$3,150.00	Research GAP (Good Agricultural Practices) and "Global GAP" standards and other standards of care

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Gregory Potrepka	4/28/2022	6	$900.00	$5,400.00	Prepare misstatement spreadsheet to organize misstatements
Gregory Potrepka	4/29/2022	6.75	$900.00	$6,075.00	Begin preparing falsity section of APPH opposition brief
Gregory Potrepka	5/2/2022	0.5	$900.00	$450.00	Email to/from client
Gregory Potrepka	5/2/2022	8	$900.00	$7,200.00	Continue preparing falsity section
Gregory Potrepka	5/13/2022	1.5	$900.00	$1,350.00	Continue preparing CW outline
Gregory Potrepka	5/18/2022	0.25	$900.00	$225.00	Call with investigator
Gregory Potrepka	5/18/2022	0.5	$900.00	$450.00	Call with S. Hopkins and M. Keating regarding investigation
Gregory Potrepka	5/16/2022	0.5	$900.00	$450.00	Call with M. Keating to discuss tasks for the week
Gregory Potrepka	5/16/2022	0.5	$900.00	$450.00	Call with M. Keating and C. von Richthofen to discuss Freedom of Information Act project
Gregory Potrepka	5/19/2022	0.25	$900.00	$225.00	Call with investigator
Gregory Potrepka	5/19/2022	0.25	$900.00	$225.00	Emails to/from investigator
Gregory Potrepka	5/19/2022	1.5	$900.00	$1,350.00	Review and revise M. Keating's redlines to CW outline for confidential witness interview in connection with Second Amended Complaint, and call regarding same
Gregory Potrepka	5/10/2022	1	$900.00	$900.00	Review investigator memo
Gregory Potrepka	5/10/2022	0.5	$900.00	$450.00	Meeting with expert
Gregory Potrepka	5/10/2022	1	$900.00	$900.00	Meetings with M. Keating
Gregory Potrepka	5/10/2022	1.5	$900.00	$1,350.00	Review and revise M. Keating's list of topics for the expert
Gregory Potrepka	5/10/2022	0.5	$900.00	$450.00	Email to defense counsel re Cowen reports
Gregory Potrepka	5/10/2022	3.5	$900.00	$3,150.00	Reviewing Cowen reports and additional case investigation re Q1 2021
Gregory Potrepka	5/20/2022	0.5	$900.00	$450.00	Calls/emails with investigators
Gregory Potrepka	5/23/2022	1	$900.00	$900.00	review and revise C. von Richthofen's FOIA proposal
Gregory Potrepka	5/9/2022	0.25	$900.00	$225.00	Call with investigator
Gregory Potrepka	5/9/2022	0.25	$900.00	$225.00	Call with M. Keating regarding investigator findings
Gregory Potrepka	5/4/2022	0.5	$900.00	$450.00	Emails to/from client
Gregory Potrepka	5/4/2022	0.5	$900.00	$450.00	Call with expert agency
Gregory Potrepka	5/4/2022	2.5	$900.00	$2,250.00	Research former AppHarvest employees
Gregory Potrepka	5/4/2022	4	$900.00	$3,600.00	Add CW 4 allegations to complaint
Gregory Potrepka	5/4/2022	2	$900.00	$1,800.00	Review cases cited by Defendants and briefing related to same
Gregory Potrepka	5/3/2022	1.5	$900.00	$1,350.00	Review Motion To Dismiss
Gregory Potrepka	5/3/2022	1	$900.00	$900.00	Meeting with M. Keating and S. Hopkins regarding Motion To Dismiss

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Gregory Potrepka	5/3/2022	1	$900.00	$900.00	Discussions with S. Hopkins/A. Apton regarding repleading
Gregory Potrepka	5/3/2022	0.5	$900.00	$450.00	Email to expert
Gregory Potrepka	5/3/2022	0.5	$900.00	$450.00	Call with investigator
Gregory Potrepka	5/3/2022	1	$900.00	$900.00	Review pleading/briefing of similar cases
Gregory Potrepka	5/3/2022	3.5	$900.00	$3,150.00	Begin reviewing CW allegations and begin prepping SAC
Gregory Potrepka	5/31/2022	1.75	$900.00	$1,575.00	prepare for CW interview
Gregory Potrepka	5/31/2022	1	$900.00	$900.00	Attend CW interview
Gregory Potrepka	5/26/2022	0.5	$900.00	$450.00	Call/emails with investigator
Gregory Potrepka	4/22/2022	5.5	$900.00	$4,950.00	Begin preparing argument section
Gregory Potrepka	4/20/2022	0.5	$900.00	$450.00	Call with M. Keating and C. von Richthofen regarding research assignments
Gregory Potrepka	4/15/2022	3.5	$900.00	$3,150.00	Research for more decisions by Judge Liman decisions and other cases
Gregory Potrepka	6/9/2022	0.25	$900.00	$225.00	Email to/from investigator
Gregory Potrepka	6/14/2022	1	$900.00	$900.00	Review CW memo and finalize to send to investigator
Gregory Potrepka	6/17/2022	1	$900.00	$900.00	Call with CW
Gregory Potrepka	6/17/2022	4.5	$900.00	$4,050.00	Prepare outline for call with CW
Gregory Potrepka	6/16/2022	5	$900.00	$4,500.00	Re-review and finalize allegations for CWs, and send CW's allegations out for review and follow up
Gregory Potrepka	6/16/2022	1	$900.00	$900.00	Begin preparing CW outline
Gregory Potrepka	6/21/2022	7.5	$900.00	$6,750.00	Work on second amended complaint
Gregory Potrepka	6/20/2022	1	$900.00	$900.00	Review supplemental investigator memo
Gregory Potrepka	6/20/2022	6.75	$900.00	$6,075.00	Work on second amended complaint
Gregory Potrepka	6/22/2022	0.25	$900.00	$225.00	Emails with Investigator
Gregory Potrepka	6/22/2022	8.5	$900.00	$7,650.00	Prepare complaint
Gregory Potrepka	6/24/2022	2	$900.00	$1,800.00	Finalize CW allegations and send to CW for review
Gregory Potrepka	6/24/2022	2.5	$900.00	$2,250.00	Continue preparing complaint
Gregory Potrepka	6/29/2022	5	$900.00	$4,500.00	Work on motion for leave to file second amended complaint documents
Gregory Potrepka	6/29/2022	1	$900.00	$900.00	Calls/emails regarding CW allegations
Gregory Potrepka	6/29/2022	6	$900.00	$5,400.00	Work on complaint
Gregory Potrepka	6/28/2022	2	$900.00	$1,800.00	Calls with team
Gregory Potrepka	6/28/2022	2	$900.00	$1,800.00	Re-review Motion To Dismiss arguments
Gregory Potrepka	6/28/2022	9	$900.00	$8,100.00	Work on Motion for Leave to file second amended complaint memo
Gregory Potrepka	6/27/2022	1.25	$900.00	$1,125.00	Add in allegations re manipulation to intro/scienter and send draft to client

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Gregory Potrepka	6/27/2022	0.25	$900.00	$225.00	Email to defense counsel re motion for leave to amend
Gregory Potrepka	6/30/2022	10.5	$900.00	$9,450.00	Finalize all motion for leave to amend documents and Second Amended Complaint for filing
Gregory Potrepka	6/23/2022	3	$900.00	$2,700.00	Review and revise M. Keating's letter motion and provide comments back regarding same
Gregory Potrepka	6/23/2022	1	$900.00	$900.00	Correspondence to defense counsel regarding letter motion to amend complaint
Gregory Potrepka	6/23/2022	1.5	$900.00	$1,350.00	Work on amended complaint
Gregory Potrepka	7/15/2022	2	$900.00	$1,800.00	Review opposition to motion for leave to file second amended complaint and call with M. Keating and Amanda Foley regarding same
Gregory Potrepka	7/14/2022	0.5	$900.00	$450.00	Call with A. Foley regarding reply to Defendants' opposition to motion for leave to file second amended complaint
Gregory Potrepka	7/25/2022	2	$900.00	$1,800.00	Finalize second amended complaint for filing
Gregory Potrepka	7/25/2022	0.25	$900.00	$225.00	Email to client
Gregory Potrepka	7/20/2022	8.5	$900.00	$7,650.00	Review and revise reply to Defendants' opposition to motion for leave to file second amended complaint
Gregory Potrepka	7/21/2022	2	$900.00	$1,800.00	Final revisions to reply to Defendants' opposition to motion for leave to file second amended complaint documents for filing
Gregory Potrepka	7/26/2022	0.5	$900.00	$450.00	Call with investigator
Gregory Potrepka	7/26/2022	0.25	$900.00	$225.00	Email to CW
Gregory Potrepka	7/26/2022	0.5	$900.00	$450.00	Call with Outside Counsel for CWs
Gregory Potrepka	7/27/2022	0.25	$900.00	$225.00	Email to defense counsel regarding briefing schedule
Gregory Potrepka	8/4/2022	1	$900.00	$900.00	Review/ revise stipulation regarding briefing schedule for second amended complaint, emails to/from defense counsel re same
Gregory Potrepka	8/4/2022	0.5	$900.00	$450.00	Call with Outside Counsel regarding CWs
Gregory Potrepka	8/4/2022	1	$900.00	$900.00	Begin preparing draft retainer
Gregory Potrepka	8/5/2022	0.25	$900.00	$225.00	Call with Investigator regarding CW
Gregory Potrepka	8/8/2022	1	$900.00	$900.00	Multiple rounds of CW calls
Gregory Potrepka	8/8/2022	0.25	$900.00	$225.00	Email to CW
Gregory Potrepka	8/8/2022	0.5	$900.00	$450.00	Finalize and send draft retainer to Outside Counsel for CWs
Gregory Potrepka	8/8/2022	0.5	$900.00	$450.00	Prepare/send email to CW
Gregory Potrepka	8/8/2022	1	$900.00	$900.00	Prepare false statement chart assignment for A. Foley and call regarding same
Gregory Potrepka	8/9/2022	1	$900.00	$900.00	Prepare letter motion and email to defense counsel
Gregory Potrepka	8/11/2022	0.5	$900.00	$450.00	Finalize letter motion and complaint

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Gregory Potrepka	8/17/2022	0.75	$900.00	$675.00	Multiple cw Calls
Gregory Potrepka	8/17/2022	0.5	$900.00	$450.00	Multiple calls with Outside Counsel for CWs
Gregory Potrepka	8/17/2022	0.5	$900.00	$450.00	Emails regarding CW representation
Gregory Potrepka	8/16/2022	0.5	$900.00	$450.00	Email to/from Outside Counsel for CWs
Gregory Potrepka	8/23/2022	0.5	$900.00	$450.00	Calls/emails re CWs
Gregory Potrepka	8/26/2022	0.5	$900.00	$450.00	Review new Cowen reports
Gregory Potrepka	8/31/2022	0.5	$900.00	$450.00	Review derivative complaint
Gregory Potrepka	9/6/2022	0.75	$900.00	$675.00	review recent authority
Gregory Potrepka	9/16/2022	0.25	$900.00	$225.00	Review and revise M. Keating withdrawal motion
Gregory Potrepka	9/27/2022	0.5	$900.00	$450.00	Email to/from expert regarding Q1 2021 guidance
Gregory Potrepka	9/27/2022	5.25	$900.00	$4,725.00	Review Motion To Dismiss materials and research regarding arguments in Memorandum Of Law
Gregory Potrepka	9/20/2022	3.5	$900.00	$3,150.00	Begin reviewing false statements chart
Gregory Potrepka	9/21/2022	1.25	$900.00	$1,125.00	Continue revising false statements chart
Gregory Potrepka	9/22/2022	5	$900.00	$4,500.00	Continue revising false statements chart
Gregory Potrepka	10/4/2022	1.5	$900.00	$1,350.00	Review caselaw decided by Judge Liman
Gregory Potrepka	10/4/2022	1.5	$900.00	$1,350.00	research issues and draft regarding Regulation S-K, Item 303 and forward-looking statements
Gregory Potrepka	10/5/2022	6	$900.00	$5,400.00	continue researching and preparing falsity section of second amended complaint
Gregory Potrepka	9/30/2022	6.25	$900.00	$5,625.00	Continue researching/preparing opp
Gregory Potrepka	10/1/2022	2	$900.00	$1,800.00	Continue researching/preparing opposition
Gregory Potrepka	10/3/2022	6	$900.00	$5,400.00	Continue researching/preparing opposition
Gregory Potrepka	9/28/2022	0.25	$900.00	$225.00	Meeting with expert
Gregory Potrepka	9/28/2022	8.5	$900.00	$7,650.00	Research and begin updating sections from previous draft of Motion To Dismiss opposition
Gregory Potrepka	9/29/2022	10	$900.00	$9,000.00	Research/work on falsity section of opposition to motion to dismiss
Gregory Potrepka	10/24/2022	1	$900.00	$900.00	Multiple meetings with R. Berger/A. Foley regarding opposition to motion to dismiss and Motion to Strike
Gregory Potrepka	10/24/2022	3.5	$900.00	$3,150.00	Begin reviewing and revising opposition to motion to dismiss
Gregory Potrepka	10/25/2022	5.5	$900.00	$4,950.00	Review and revise Motion to strike Memorandum Of Law
Gregory Potrepka	10/25/2022	1	$900.00	$900.00	Go back to reviewing and revising Opposition brief
Gregory Potrepka	10/26/2022	10	$900.00	$9,000.00	Review and revise entire scienter section of opposition brief, read cases, research additional cases for opposition brief
Gregory Potrepka	10/27/2022	0.5	$900.00	$450.00	Meeting with A. Foley re next steps for Opposition to motion to dismiss and moton to srike

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Gregory Potrepka	10/27/2022	1	$900.00	$900.00	Meeting with R. Berger re scienter section of opposition brief
Gregory Potrepka	10/27/2022	4.5	$900.00	$4,050.00	Review and revise opinion section of opposition brief, and additional revisions to scienter and falsity sections of opposition brief
Gregory Potrepka	11/2/2022	0.25	$900.00	$225.00	Call with A. Foley regarding motion to strike and opposition to motion to dismiss
Gregory Potrepka	10/28/2022	4	$900.00	$3,600.00	Continue reviewing & revising scienter and fact sections of opposition brief
Gregory Potrepka	10/31/2022	5.5	$900.00	$4,950.00	Continue reviewing revising fact section of opposition brief
Gregory Potrepka	11/1/2022	1	$900.00	$900.00	Meeting with A. Foley regarding opposition brief and motion to strike
Gregory Potrepka	11/1/2022	8.5	$900.00	$7,650.00	Continue reviewing/revising opposition brief
Gregory Potrepka	11/14/2022	0.25	$900.00	$225.00	Meeting with A. Foley and S. Phillips regarding opposition brief and motion to strike
Gregory Potrepka	11/15/2022	0.5	$900.00	$450.00	Call with A. Foley
Gregory Potrepka	11/15/2022	0.25	$900.00	$225.00	Correspondence to/from investigator regarding investigation/CWs
Gregory Potrepka	11/15/2022	0.25	$900.00	$225.00	Send client draft of complaint
Gregory Potrepka	11/9/2022	0.25	$900.00	$225.00	Call with A. Foley regarding opposition brief and ancillary documents
Gregory Potrepka	11/9/2022	2	$900.00	$1,800.00	Review/Revise Motion to Document and false statement chart
Gregory Potrepka	11/13/2022	7	$900.00	$6,300.00	Review and revise opposition brief
Gregory Potrepka	11/4/2022	0.25	$900.00	$225.00	Call with A. Foley regarding false statements chart
Gregory Potrepka	11/4/2022	3	$900.00	$2,700.00	Review/revise false statement chart
Gregory Potrepka	11/7/2022	0.5	$900.00	$450.00	Multiple meetings with Amanda regarding false statements chart
Gregory Potrepka	11/7/2022	7.5	$900.00	$6,750.00	Review/revise opposition brief
Gregory Potrepka	11/8/2022	10	$900.00	$9,000.00	Review/revise opposition brief
Gregory Potrepka	11/22/2022	3.5	$900.00	$3,150.00	Finalize and file Motion to Dismiss opposition papers
Gregory Potrepka	11/18/2022	0.25	$900.00	$225.00	Call with Amanda & Sam regarding APPH opposition brief/ motion to strike filing
Gregory Potrepka	1/4/2023	0.5	$900.00	$450.00	APPH Shareholder call
Gregory Potrepka	1/9/2023	1	$900.00	$900.00	Calls with investigator re CW
Gregory Potrepka	1/9/2023	0.5	$900.00	$450.00	Review emails for calls with investigator and CW
Gregory Potrepka	1/10/2023	0.5	$900.00	$450.00	Call with investigator
Gregory Potrepka	1/10/2023	0.25	$900.00	$225.00	Call with CW
Gregory Potrepka	1/10/2023	0.25	$900.00	$225.00	Call with Outside Counsel for CWs
Gregory Potrepka	1/16/2023	0.5	$900.00	$450.00	Review Motion to Dismiss reply

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Gregory Potrepka	1/16/2023	0.5	$900.00	$450.00	Review Motion to Strike opposition
Gregory Potrepka	1/16/2023	0.5	$900.00	$450.00	Call with A. Foley regarding Motion to Strike reply
Gregory Potrepka	1/18/2023	0.5	$900.00	$450.00	Call with R. Berger/A. Foley regarding motion to strike reply
Gregory Potrepka	1/18/2023	0.5	$900.00	$450.00	Call with S. Hopkins regarding strategy
Gregory Potrepka	1/19/2023	1	$900.00	$900.00	Multiple calls with R. Berger/A. Foley regarding Motion to Strike reply
Gregory Potrepka	1/19/2023	3	$900.00	$2,700.00	Review/revise Motion to Strike reply
Gregory Potrepka	1/19/2023	0.5	$900.00	$450.00	Call with Outside Counsel re CW
Gregory Potrepka	1/19/2023	1	$900.00	$900.00	Review recent authority
Gregory Potrepka	1/20/2023	2	$900.00	$1,800.00	Review/revise Motion to Strike reply
Gregory Potrepka	3/6/2023	0.5	$900.00	$450.00	Review recent filings
Gregory Potrepka	3/17/2023	1	$900.00	$900.00	Review recent decision as supplemental authority
Gregory Potrepka	3/21/2023	2	$900.00	$1,800.00	begin working on supplemental authority
Gregory Potrepka	3/22/2023	3	$900.00	$2,700.00	prepare supplemental authority
Gregory Potrepka	5/25/2023	0.5	$900.00	$450.00	Email to/from shareholder inquiry
Gregory Potrepka	7/17/2023	0.5	$900.00	$450.00	Review news/8-K
Gregory Potrepka	7/25/2023	1	$900.00	$900.00	Review bankruptcy news/materials
Gregory Potrepka	7/25/2023	0.5	$900.00	$450.00	Call with client
Gregory Potrepka	7/25/2023	0.25	$900.00	$225.00	Call with J. Levi
Gregory Potrepka	7/26/2023	0.5	$900.00	$450.00	Calls with J. Levi and S. Hopkins re bankruptcy
Gregory Potrepka	7/26/2023	3	$900.00	$2,700.00	Review bankruptcy dockets and research regarding bankruptcy counsel
Gregory Potrepka	7/28/2023	0.5	$900.00	$450.00	Call with S. Hopkins and outside counsel re bankruptcy
Gregory Potrepka	7/28/2023	0.5	$900.00	$450.00	Call with S. Hopkins regarding APPH bankruptcy
Gregory Potrepka	7/28/2023	2.25	$900.00	$2,025.00	Research securities/bankruptcy cases
Gregory Potrepka	7/28/2023	0.5	$900.00	$450.00	Correspondence to/from bankruptcy counsel
Gregory Potrepka	7/31/2023	2	$900.00	$1,800.00	Review opinion on Motion to Dismiss
Gregory Potrepka	7/31/2023	0.5	$900.00	$450.00	Emails regarding client trades and damages
Gregory Potrepka	8/8/2023	0.5	$900.00	$450.00	Call with S. Hopkins and J. Levi regarding bankruptcy counsel
Gregory Potrepka	8/8/2023	0.25	$900.00	$225.00	Email to expert regarding damages
Gregory Potrepka	8/8/2023	1	$900.00	$900.00	Review bankruptcy counsel retainer and sign/send
Gregory Potrepka	8/8/2023	0.25	$900.00	$225.00	Email to defense counsel regarding mediation
Gregory Potrepka	8/9/2023	0.5	$900.00	$450.00	Emails/call bankruptcy counsel
Gregory Potrepka	8/9/2023	0.5	$900.00	$450.00	Emails regarding damages
Gregory Potrepka	8/10/2023	0.5	$900.00	$450.00	Call with bankruptcy attys
Gregory Potrepka	8/10/2023	0.25	$900.00	$225.00	Call with Rachel/Amanda regarding research
Gregory Potrepka	8/10/2023	0.25	$900.00	$225.00	Email to co-counsel regarding bankruptcy stay

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Gregory Potrepka	8/10/2023	0.5	$900.00	$450.00	Review/finalize/emails concerning bankruptcy counsel retainer
Gregory Potrepka	8/11/2023	0.25	$900.00	$225.00	Review recent authority and send to bankruptcy counsel
Gregory Potrepka	8/14/2023	0.25	$900.00	$225.00	call with defense counsel regarding stipulation to extend Defendants' time to answer
Gregory Potrepka	8/14/2023	1	$900.00	$900.00	review/revise stipulation to extend Defendants' time to answer
Gregory Potrepka	8/14/2023	0.5	$900.00	$450.00	correspondence w/mediator and defense counsel re scheduling
Gregory Potrepka	8/21/2023	1	$900.00	$900.00	Review Judge's order on stay, review bankruptcy filings, corr to bankruptcy counsel re same
Gregory Potrepka	8/15/2023	0.5	$900.00	$450.00	Emails w/team defense counsel re mediation scheduling
Gregory Potrepka	8/15/2023	1.25	$900.00	$1,125.00	Prepare letter regarding automatic stay
Gregory Potrepka	8/15/2023	0.25	$900.00	$225.00	email to bankruptcy counsel regarding bankruptcy stay
Gregory Potrepka	8/16/2023	0.5	$900.00	$450.00	Call with bankruptcy counsel
Gregory Potrepka	8/16/2023	3	$900.00	$2,700.00	Review/revise bankruptcy joint letter
Gregory Potrepka	8/17/2023	1	$900.00	$900.00	Review/revise letter and send to defense council
Gregory Potrepka	8/18/2023	3	$900.00	$2,700.00	Review/revise letter regarding bankruptcy stay and finalize things
Gregory Potrepka	8/1/2023	0.5	$900.00	$450.00	Team meeting
Gregory Potrepka	8/1/2023	0.5	$900.00	$450.00	Call with client
Gregory Potrepka	8/1/2023	0.5	$900.00	$450.00	Call with Outside Counsel for CWs
Gregory Potrepka	8/2/2023	0.75	$900.00	$675.00	Call with bankruptcy attorneys
Gregory Potrepka	8/2/2023	0.5	$900.00	$450.00	Scheduling emails with bankruptcy attys
Gregory Potrepka	8/2/2023	5.25	$900.00	$4,725.00	Prepare draft letter re bankruptcy stay and research re same
Gregory Potrepka	8/3/2023	0.25	$900.00	$225.00	Call with defense counsel
Gregory Potrepka	8/3/2023	0.75	$900.00	$675.00	Multiple calls with S. Hopkins
Gregory Potrepka	8/3/2023	2.5	$900.00	$2,250.00	Review bankruptcy cases
Gregory Potrepka	8/3/2023	2	$900.00	$1,800.00	Review/revise position letter
Gregory Potrepka	8/4/2023	0.75	$900.00	$675.00	Emails w/ bankruptcy counsel and review mail from Trustee
Gregory Potrepka	8/4/2023	2	$900.00	$1,800.00	Review case law added, revise draft letter and send to defense counsel
Gregory Potrepka	8/25/2023	1.5	$900.00	$1,350.00	Calls/correspondence with defense counsel/team regarding settlement
Gregory Potrepka	8/28/2023	0.5	$900.00	$450.00	Call with bankruptcy counsel
Gregory Potrepka	8/28/2023	0.5	$900.00	$450.00	Comms to/from bankruptcy counsel
Gregory Potrepka	8/29/2023	1.5	$900.00	$1,350.00	Meeting with bankruptcy counsel and multiple communications regarding third party release

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Gregory Potrepka	8/30/2023	0.5	$900.00	$450.00	Emails to/from bankruptcy counsel regarding orders
Gregory Potrepka	8/30/2023	0.5	$900.00	$450.00	Emails to/from defense counsel and Michelle Yoshida re mediation
Gregory Potrepka	8/31/2023	0.5	$900.00	$450.00	Email to/from mediator
Gregory Potrepka	8/31/2023	0.25	$900.00	$225.00	Email to defense counsel regarding mediation statements
Gregory Potrepka	8/31/2023	0.25	$900.00	$225.00	Emails to/from bankruptcy counsel regarding orders
Gregory Potrepka	9/2/2023	0.5	$900.00	$450.00	Correspondence to/from bankruptcy counsel
Gregory Potrepka	9/4/2023	0.5	$900.00	$450.00	Correspondence to/from bankruptcy counsel
Gregory Potrepka	9/11/2023	0.5	$900.00	$450.00	Meeting with team
Gregory Potrepka	9/11/2023	4.5	$900.00	$4,050.00	Prepare letter regarding stay
Gregory Potrepka	9/11/2023	0.25	$900.00	$225.00	Call with bankruptcy counsel
Gregory Potrepka	9/12/2023	0.25	$900.00	$225.00	Incorporate associates' edits to letter regarding stay
Gregory Potrepka	9/5/2023	0.25	$900.00	$225.00	Correspondence to defense counsel regarding mediation
Gregory Potrepka	9/5/2023	0.25	$900.00	$225.00	Call with client regarding mediation
Gregory Potrepka	9/5/2023	0.5	$900.00	$450.00	Review/revise Proofs of Claim and correspondence to bankruptcy counsel re same
Gregory Potrepka	9/5/2023	3	$900.00	$2,700.00	Work on mediation statement
Gregory Potrepka	9/6/2023	0.5	$900.00	$450.00	Call/correspondence with bankruptcy counsel re sale order & Proofs of claim
Gregory Potrepka	9/6/2023	0.5	$900.00	$450.00	Email to defense counsel regarding stay
Gregory Potrepka	9/6/2023	5	$900.00	$4,500.00	Work on mediation statement
Gregory Potrepka	9/7/2023	0.5	$900.00	$450.00	emails to/from defense counsel regarding stay
Gregory Potrepka	9/7/2023	9	$900.00	$8,100.00	Work on mediation statement
Gregory Potrepka	9/8/2023	0.5	$900.00	$450.00	Calls w/ team regarding mediation statement and stay
Gregory Potrepka	9/8/2023	0.25	$900.00	$225.00	Meet and confer with defense counsel regarding stay
Gregory Potrepka	9/8/2023	3.75	$900.00	$3,375.00	Work on mediation statement
Gregory Potrepka	9/13/2023	1	$900.00	$900.00	Review subpoena draft, call with Amanda regarding same
Gregory Potrepka	9/14/2023	0.5	$900.00	$450.00	Review confirmation plan/ order, and correspondence with bankruptcy counsel regarding same
Gregory Potrepka	9/14/2023	0.5	$900.00	$450.00	Revise joint letter regarding stay and correspondence to defendants regarding same
Gregory Potrepka	9/15/2023	0.5	$900.00	$450.00	finalize stay stipulation and correspondence regarding same
Gregory Potrepka	10/2/2023	0.5	$900.00	$450.00	Shareholder email

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Gregory Potrepka	10/2/2023	0.25	$900.00	$225.00	Email to mediator regarding mediation statements
Gregory Potrepka	10/5/2023	1	$900.00	$900.00	Revise mediation statement
Gregory Potrepka	10/6/2023	6.5	$900.00	$5,850.00	Work on mediation statement
Gregory Potrepka	10/6/2023	0.25	$900.00	$225.00	Call J. Levi regarding mediation
Gregory Potrepka	10/9/2023	1.5	$900.00	$1,350.00	Review/revise mediation statement
Gregory Potrepka	10/12/2023	2.75	$900.00	$2,475.00	Review/revise mediation statement
Gregory Potrepka	10/13/2023	3	$900.00	$2,700.00	Finalize and serve mediation statement
Gregory Potrepka	10/13/2023	1	$900.00	$900.00	Review Defendants'' mediation statement
Gregory Potrepka	10/13/2023	1.5	$900.00	$1,350.00	Research regarding CWs and review CW files for mediation
Gregory Potrepka	10/19/2023	0.5	$900.00	$450.00	Calls/communications throughout day with J. Levi regarding settlement
Gregory Potrepka	10/19/2023	0.5	$900.00	$450.00	Call with mediator
Gregory Potrepka	10/19/2023	0.5	$900.00	$450.00	Follow up correspondence with mediator
Gregory Potrepka	10/20/2023	1.25	$900.00	$1,125.00	Call with Client
Gregory Potrepka	10/21/2023	1	$900.00	$900.00	Multiple correspondence to/from client
Gregory Potrepka	10/23/2023	0.5	$900.00	$450.00	Call/communications with potential claims administrator
Gregory Potrepka	10/24/2023	1.5	$900.00	$1,350.00	Prepare term sheet for mediation
Gregory Potrepka	10/24/2023	0.5	$900.00	$450.00	Multiple calls with client
Gregory Potrepka	10/24/2023	0.5	$900.00	$450.00	Call with mediator
Gregory Potrepka	10/24/2023	1	$900.00	$900.00	Email to mediator regarding CW
Gregory Potrepka	10/24/2023	1.5	$900.00	$1,350.00	Review documents to prepare for mediation
Gregory Potrepka	10/25/2023	9	$900.00	$8,100.00	Travel to/from and attend mediation, calls/communications regarding same
Gregory Potrepka	10/30/2023	0.5	$900.00	$450.00	Review/revise term sheet and email to mediator regarding same
Gregory Potrepka	10/26/2023	0.75	$900.00	$675.00	Call with client
Gregory Potrepka	10/26/2023	0.75	$900.00	$675.00	Calls with mediator
Gregory Potrepka	10/26/2023	6	$900.00	$5,400.00	Prepare settlement spreadsheet and calls with D. Jaynes regarding same
Gregory Potrepka	10/26/2023	0.25	$900.00	$225.00	Call with J. Levi regarding mediation
Gregory Potrepka	11/1/2023	0.5	$900.00	$450.00	Calls/correspondence with mediator and discussions with S. Hopkins regarding same
Gregory Potrepka	11/1/2023	1	$900.00	$900.00	Research regarding comparable settlements
Gregory Potrepka	11/1/2023	0.25	$900.00	$225.00	Emails to claims administrators for bids
Gregory Potrepka	11/2/2023	1.5	$900.00	$1,350.00	Research regarding POA discounts for dismissed claims in settlement class
Gregory Potrepka	11/3/2023	0.75	$900.00	$675.00	Emails/communications with S. Hopkins + J. Levi + mediator regarding settlement
Gregory Potrepka	11/6/2023	0.25	$900.00	$225.00	Call with mediator

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Gregory Potrepka	11/8/2023	0.5	$900.00	$450.00	Email to/from defense counsel regarding meet and confer scheduling
Gregory Potrepka	11/17/2023	0.25	$900.00	$225.00	Call with mediator
Gregory Potrepka	11/17/2023	0.25	$900.00	$225.00	Review new investigative article regarding company
Gregory Potrepka	12/4/2023	0.5	$900.00	$450.00	Calls/correspondence with mediator, S. Hopkins, and J. Levi regarding defendants' counteroffer
Gregory Potrepka	12/5/2023	0.75	$900.00	$675.00	Calls with J. Levi regarding response to Defendants' offer
Gregory Potrepka	12/5/2023	0.25	$900.00	$225.00	Call with mediator regarding counteroffer
Gregory Potrepka	12/6/2023	0.25	$900.00	$225.00	Review order regarding status conferences and comms with team re same
Gregory Potrepka	12/6/2023	0.25	$900.00	$225.00	Email to mediator regarding status conference order
Gregory Potrepka	12/8/2023	0.5	$900.00	$450.00	Investigate local rules regarding case schedules
Gregory Potrepka	12/8/2023	0.5	$900.00	$450.00	research regarding previous case schedules in Judge Liman's cases
Gregory Potrepka	12/8/2023	0.5	$900.00	$450.00	prepare draft schedules
Gregory Potrepka	12/8/2023	0.25	$900.00	$225.00	discussions with Shannon regarding draft schedules
Gregory Potrepka	12/8/2023	0.25	$900.00	$225.00	correspondence regarding draft schedules
Gregory Potrepka	12/11/2023	0.25	$900.00	$225.00	call with defense counsel regarding case schedule
Gregory Potrepka	12/11/2023	0.75	$900.00	$675.00	call with mediator regarding defendants' offer and correspondence/communications with team regarding same
Gregory Potrepka	12/13/2023	0.5	$900.00	$450.00	Call/communications to/from client
Gregory Potrepka	12/13/2023	0.5	$900.00	$450.00	Review client trades/damages
Gregory Potrepka	12/14/2023	0.25	$900.00	$225.00	Call with client
Gregory Potrepka	12/14/2023	0.25	$900.00	$225.00	Correspondence to mediator & J. Levi regarding settlement
Gregory Potrepka	12/15/2023	0.5	$900.00	$450.00	Corr to/from team/client
Gregory Potrepka	12/15/2023	1	$900.00	$900.00	Prepare draft letter to court regarding settlement, correspondence to/from defense counsel regarding same
Gregory Potrepka	12/15/2023	0.25	$900.00	$225.00	Call with defense counsel regarding letter to court
Gregory Potrepka	12/18/2023	0.25	$900.00	$225.00	Correspondence to Plan of allocation expert
Gregory Potrepka	12/18/2023	0.25	$900.00	$225.00	Correspondence to claims administrator
Gregory Potrepka	12/18/2023	3	$900.00	$2,700.00	Prepare draft stipulation of settlement
Gregory Potrepka	12/19/2023	0.5	$900.00	$450.00	Review paralegal edits to draft stipulation of settlement and send to defense counsel

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Gregory Potrepka	12/21/2023	0.25	$900.00	$225.00	Attend call with expert regarding Plan of allocation
Gregory Potrepka	1/2/2024	0.25	$900.00	$225.00	Call with claims administrator
Gregory Potrepka	1/9/2024	0.5	$900.00	$450.00	Call with Amanda regarding settlement exhibits
Gregory Potrepka	1/15/2024	4.25	$900.00	$3,825.00	Review/revise long form notice
Gregory Potrepka	1/17/2024	1	$900.00	$900.00	Review/revise preliminary approval order
Gregory Potrepka	1/17/2024	0.75	$900.00	$675.00	Call with expert regarding plan of allocation
Gregory Potrepka	1/17/2024	0.5	$900.00	$450.00	Review/revise summary notice
Gregory Potrepka	1/17/2024	0.5	$900.00	$450.00	Review/revise postcard notice
Gregory Potrepka	1/17/2024	0.75	$900.00	$675.00	Review/revise claim form
Gregory Potrepka	1/17/2024	1	$900.00	$900.00	Review/revise supplemental agreement
Gregory Potrepka	1/17/2024	0.75	$900.00	$675.00	Review/revise final judgment and order
Gregory Potrepka	1/17/2024	0.25	$900.00	$225.00	Call with A. Foley regarding exhibit edits
Gregory Potrepka	1/17/2024	1	$900.00	$900.00	Further revisions to long form notice
Gregory Potrepka	1/17/2024	0.25	$900.00	$225.00	Email to defense counsel regarding settlement docs
Gregory Potrepka	1/17/2024	0.5	$900.00	$450.00	Correspondence to/from claims administrators regarding settlement documents
Gregory Potrepka	1/18/2024	0.25	$900.00	$225.00	Call with A. Foley regarding preliminary approval brief
Gregory Potrepka	1/19/2024	0.75	$900.00	$675.00	Call with A. Foley regarding preliminary approval brief
Gregory Potrepka	1/19/2024	1.75	$900.00	$1,575.00	Review/revise preliminary approval sections regarding class certification and notice
Gregory Potrepka	1/24/2024	7.25	$900.00	$6,525.00	Review/revise preliminary approval brief and research regarding same
Gregory Potrepka	1/25/2024	1	$900.00	$900.00	Research plan of allocation cases and add to preliminary approval motion
Gregory Potrepka	2/4/2024	0.25	$900.00	$225.00	review Defendants' edits to stipulation of settlement and correspondence with team regarding same
Gregory Potrepka	2/5/2024	0.75	$900.00	$675.00	Multiple Calls with A. Foley regarding defendants' stipulation of settlement edits, and counter-revisions
Gregory Potrepka	2/5/2024	1.5	$900.00	$1,350.00	Review/revise draft stipulation of settlement
Gregory Potrepka	2/5/2024	0.25	$900.00	$225.00	Correspondence to vendors regarding outstanding costs
Gregory Potrepka	2/6/2024	0.5	$900.00	$450.00	Call with expert
Gregory Potrepka	2/6/2024	0.25	$900.00	$225.00	Call with defense counsel regarding stipulation of settlement
Gregory Potrepka	2/6/2024	0.5	$900.00	$450.00	Call with claims administrator regarding exhibits
Gregory Potrepka	2/6/2024	0.5	$900.00	$450.00	Correspondence to/from expert and claims administrator regarding notice

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Gregory Potrepka	2/7/2024	0.5	$900.00	$450.00	call with expert regarding damages calculation
Gregory Potrepka	2/8/2024	0.5	$900.00	$450.00	communications to/from defense counsel regarding exhibits
Gregory Potrepka	2/9/2024	0.25	$900.00	$225.00	email to expert regarding supplemental agreement
Gregory Potrepka	2/9/2024	1.25	$900.00	$1,125.00	review revise preliminary approval motion and send to defense counsel
Gregory Potrepka	2/9/2024	0.5	$900.00	$450.00	correspondence with claims administrator & defense counsel regarding stipulation exhibits
Gregory Potrepka	2/12/2024	0.5	$900.00	$450.00	meeting with expert regarding Plan of allocation
Gregory Potrepka	2/12/2024	2.75	$900.00	$2,475.00	review/revise all exhibits and supplemental agreement and send to defense counsel
Gregory Potrepka	2/13/2024	2.75	$900.00	$2,475.00	Review/revise all preliminary approval motion documents and exhibits
Gregory Potrepka	2/13/2024	0.5	$900.00	$450.00	Prepare letter to court regarding status of preliminary approval motion
Gregory Potrepka	2/13/2024	0.25	$900.00	$225.00	Call with defense counsel regarding supplemental agreement
Gregory Potrepka	2/15/2024	0.25	$900.00	$225.00	Email to/from defense counsel regarding supplemental agreement
Gregory Potrepka	2/15/2024	0.5	$900.00	$450.00	Correspondence to/from third party brokerage regarding claims process
Gregory Potrepka	2/16/2024	1	$900.00	$900.00	Review defendants' edits to supplemental agreement, Revise preliminary approval filings, and multiple correspondences to defense counsel regardiing same
Gregory Potrepka	2/20/2024	0.75	$900.00	$675.00	Redate and finalize all filings
Gregory Potrepka	2/20/2024	0.5	$900.00	$450.00	Correspondence to/from defendants regarding stipulation execution
Gregory Potrepka	2/20/2024	0.75	$900.00	$675.00	File motion with A. Westphalen
Gregory Potrepka	2/20/2024	0.5	$900.00	$450.00	Correspondence to/from Esquire Bank & administrator regarding setting up escrow account
Gregory Potrepka	2/21/2024	0.75	$900.00	$675.00	Review court order regarding preliminary approval, multiple correspondence/communications with Team and Administrator regarding same
Gregory Potrepka	2/23/2024	0.5	$900.00	$450.00	Multiple correspondences with team regarding opening escrow account
Gregory Potrepka	2/23/2024	1	$900.00	$900.00	Review/revise declaration of claims administrator and multiple correspondences with Claims administrator and team regarding same
Gregory Potrepka	2/26/2024	0.75	$900.00	$675.00	Finalize letter to court regarding settlement approval, all exhibits, and file

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Gregory Potrepka	2/26/2024	0.5	$900.00	$450.00	Correspondence to/from claims administrator regarding declaration
Gregory Potrepka	2/26/2024	0.5	$900.00	$450.00	Multiple correspondences to/from claims administrator regarding letter and exhibits
Gregory Potrepka Total		944.5		$850,050.00	
Kaitlyn Goetten	10/3/2022	2	$325.00	$650.00	Started preliminary statute research on Lexis/Westlaw for opposition to motion to dismiss
Kaitlyn Goetten	10/3/2022	1	$325.00	$325.00	Started research on judge and previous decisions on the issue for opposition to motion to dismiss
Kaitlyn Goetten	10/3/2022	0.2	$325.00	$65.00	Met with G. Potrepka to discuss assignment for opposition to motion to dismiss
Kaitlyn Goetten	10/4/2022	3	$325.00	$975.00	Finished up westlaw and Lexis research for research memo for opposition to motion to dismiss
Kaitlyn Goetten	10/4/2022	1	$325.00	$325.00	Started organizing and writing research memo using legal research for opposition to motion to dismiss
Kaitlyn Goetten	10/6/2022	2	$325.00	$650.00	Conducted further research on the last memo issue for opposition to motion to dismiss
Kaitlyn Goetten	10/5/2022	2	$325.00	$650.00	Finished writing legal research memo for opposition to motion to dismiss
Kaitlyn Goetten	10/19/2022	0.3	$325.00	$97.50	Meeting with A. Foley and R. Berger discussing new assignment for opposition to motion to dismiss
Kaitlyn Goetten	10/19/2022	1	$325.00	$325.00	Read through Complaint and took notes on mentioned cases
Kaitlyn Goetten	10/19/2022	3	$325.00	$975.00	Began work researching the mentioned cases in the complaint for opposition brief
Kaitlyn Goetten	10/20/2022	1	$325.00	$325.00	Read through the complaint for opposition brief
Kaitlyn Goetten	10/20/2022	2	$325.00	$650.00	Conducted legal research into the cases in the Complaint using Lexis and Westlaw
Kaitlyn Goetten	10/24/2022	4	$325.00	$1,300.00	Continued to distinguish defendants' motion to dismiss cases for opposition brief
Kaitlyn Goetten	10/25/2022	4	$325.00	$1,300.00	Worked on differentiating cases using Lexis and Westlaw for opposition brief
Kaitlyn Goetten	10/26/2022	2	$325.00	$650.00	Finished differentiating cases for opposition brief
Kaitlyn Goetten	10/31/2022	1	$325.00	$325.00	Fixed citations over from Lexis to Westlaw format for opposition brief
Kaitlyn Goetten	11/3/2022	2	$325.00	$650.00	Started new research by reading though Complaint and other legal documents sent through email for opposition brief.
Kaitlyn Goetten	11/4/2022	0.7	$325.00	$227.50	Call with Amanda going over case research for opposition brief

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Kaitlyn Goetten	11/4/2022	3	$325.00	$975.00	Conducted legal research based on email assignment for opposition brief
Kaitlyn Goetten	11/7/2022	3	$325.00	$975.00	Researched cases using Lexis and Westlaw for opposition brief
Kaitlyn Goetten	11/8/2022	3	$325.00	$975.00	Continued to legal research using Lexis and West law to find cases for footnotes
Kaitlyn Goetten	11/8/2022	1	$325.00	$325.00	Began to draft memo using legal research
Kaitlyn Goetten Total		42.2		$13,715.00	
Michael Keating	12/14/2021	0.4	$500.00	$200.00	Review of complaint
Michael Keating	12/15/2021	0.3	$500.00	$150.00	Call with investigator
Michael Keating	12/16/2021	1.5	$500.00	$750.00	Reading SEC filings/public docs
Michael Keating	12/23/2021	5	$500.00	$2,500.00	reading of analyst reports/public articles/earnings calls
Michael Keating	1/4/2022	5.5	$500.00	$2,750.00	Drafting of Amended Complaint
Michael Keating	1/5/2022	6.6	$500.00	$3,300.00	Drafting of Amended Complaint/research
Michael Keating	1/6/2022	7.5	$500.00	$3,750.00	Drafting of amended complaint
Michael Keating	1/10/2022	1.3	$500.00	$650.00	Review of SEC filings/public articles for # of employees
Michael Keating	1/10/2022	0.1	$500.00	$50.00	Review of videos for false statements
Michael Keating	1/10/2022	1	$500.00	$500.00	Meeting with investigator on direction of investigation
Michael Keating	1/10/2022	4.8	$500.00	$2,400.00	Research on alleging motive for fraud
Michael Keating	1/11/2022	1.3	$500.00	$650.00	Review of Credit Facility agreements/Amended complaint
Michael Keating	1/12/2022	5	$500.00	$2,500.00	Research on Grade 1 tomato pricing/demand
Michael Keating	1/12/2022	3.2	$500.00	$1,600.00	Review of SEC filings to update amended complaint
Michael Keating	1/13/2022	2.1	$500.00	$1,050.00	Research/drafting for Amended complaint
Michael Keating	1/14/2022	4.5	$500.00	$2,250.00	Research for amended Complaint
Michael Keating	1/17/2022	6.5	$500.00	$3,250.00	Drafting of Scienter section of amended complaint
Michael Keating	1/17/2022	1.5	$500.00	$750.00	Legal research on scienter regarding defendants answering pointed questions on topic
Michael Keating	1/18/2022	3.9	$500.00	$1,950.00	Legal research on how to plead scienter for answering questions
Michael Keating	1/18/2022	1.5	$500.00	$750.00	Drafting of scienter section
Michael Keating	1/18/2022	1.4	$500.00	$700.00	Research on Trading Halt on 2/1/2021
Michael Keating	1/19/2022	2.9	$500.00	$1,450.00	Legal research regarding scienter for amended complaint
Michael Keating	1/19/2022	2.6	$500.00	$1,300.00	Factual research/drafting of Amended complaint
Michael Keating	1/24/2022	4.8	$500.00	$2,400.00	Drafting of the amended complaint
Michael Keating	1/24/2022	4	$500.00	$2,000.00	Review of public statements by Defendants/Appharvest

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Michael Keating	1/25/2022	3.5	$500.00	$1,750.00	Review of Defendants social media posts for potential false statements
Michael Keating	1/25/2022	3.8	$500.00	$1,900.00	Drafting of the Amended complaint
Michael Keating	1/25/2022	3.4	$500.00	$1,700.00	Fact research regarding defendants at the facility and Public benefit corporation/ benefit corporation status as motive
Michael Keating	1/27/2022	3.8	$500.00	$1,900.00	Review of articles with statements by Individual Defendants
Michael Keating	1/27/2022	3.6	$500.00	$1,800.00	Drafting of Amended Complaint
Michael Keating	1/27/2022	1.7	$500.00	$850.00	Made a collage of Defendant Webb inside the Morehead Facility
Michael Keating	1/30/2022	2	$500.00	$1,000.00	Review of transcripts of public appearances for table in scienter section
Michael Keating	1/31/2022	2.4	$500.00	$1,200.00	Investigating APPH press release/goodwill reduction on Root AI transaction
Michael Keating	1/31/2022	2.3	$500.00	$1,150.00	Review of public articles for statements for scienter chart
Michael Keating	1/31/2022	3.1	$500.00	$1,550.00	Drafting of Ubben trades/employee bonuses/overtime portions of scienter
Michael Keating	2/2/2022	1.4	$500.00	$700.00	Call with CW, G. Potrepka and Investigator
Michael Keating	2/2/2022	1.2	$500.00	$600.00	Drafting of stipulation to modify deadlines
Michael Keating	2/2/2022	2.6	$500.00	$1,300.00	Drafting of Amended Complaint
Michael Keating	2/3/2022	2.7	$500.00	$1,350.00	Research on Root AI statements
Michael Keating	2/3/2022	3.3	$500.00	$1,650.00	Research on post 8/11 statements for scienter
Michael Keating	2/3/2022	1	$500.00	$500.00	Drafting of Amended Complaint
Michael Keating	2/4/2022	7.9	$500.00	$3,950.00	Review of all public statements: re RootAI and drafting of Excel
Michael Keating	2/7/2022	6.7	$500.00	$3,350.00	Drafting/research on amended complaint
Michael Keating	2/7/2022	1.2	$500.00	$600.00	Propose edits to CW Memo
Michael Keating	2/7/2022	0.8	$500.00	$400.00	Review of CW follow-up call Outline
Michael Keating	2/8/2022	4.4	$500.00	$2,200.00	Drafting of timeline and Glossary
Michael Keating	2/8/2022	4.8	$500.00	$2,400.00	Editing of Factual background of complaint
Michael Keating	2/9/2022	3.3	$500.00	$1,650.00	Editing Amended Complaint
Michael Keating	2/9/2022	3.2	$500.00	$1,600.00	Researching public statements regarding buying into the Defendants false statements
Michael Keating	2/10/2022	1.3	$500.00	$650.00	Editing of amended Complaint
Michael Keating	2/10/2022	1	$500.00	$500.00	Review of CW2 outline
Michael Keating	2/11/2022	3.5	$500.00	$1,750.00	Editing of Amended Complaint
Michael Keating	2/14/2022	3.3	$500.00	$1,650.00	Drafting Amended Complaint
Michael Keating	2/17/2022	2.5	$500.00	$1,250.00	Drafting of Amended Complaint
Michael Keating	2/18/2022	4	$500.00	$2,000.00	Drafting/Research for Amended Complaint
Michael Keating	2/22/2022	6.5	$500.00	$3,250.00	Research/drafting of Amended complaint

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Michael Keating	2/22/2022	0.8	$500.00	$400.00	Call with CW
Michael Keating	2/23/2022	7.2	$500.00	$3,600.00	Drafting/research for amended complaint
Michael Keating	2/23/2022	0.3	$500.00	$150.00	Pulling out CW allegations to send to CW
Michael Keating	2/25/2022	8.8	$500.00	$4,400.00	Drafting/Editing of Amended Complaint
Michael Keating	2/26/2022	2.2	$500.00	$1,100.00	Drafting of the amended complaint
Michael Keating	2/27/2022	1.7	$500.00	$850.00	Drafting of Amended complaint
Michael Keating	2/28/2022	4.8	$500.00	$2,400.00	Research re: SPACs in general/forecasting
Michael Keating	2/28/2022	4.5	$500.00	$2,250.00	Drafting/Editing of Amended Complaint
Michael Keating	3/1/2022	9.5	$500.00	$4,750.00	Drafting/editing/research for Amended Complaint
Michael Keating	3/2/2022	10.2	$500.00	$5,100.00	Drafting/Editing final version of Amended Complaint
Michael Keating	3/4/2022	0.4	$500.00	$200.00	Calls with investigator on CW
Michael Keating	3/8/2022	1.3	$500.00	$650.00	Call with CW
Michael Keating	3/15/2022	0.4	$500.00	$200.00	Review of CW Memos
Michael Keating	3/21/2022	0.5	$500.00	$250.00	Review of Judge Liman's Motion to Dismiss decision in *Intercept* securities case
Michael Keating	4/22/2022	1	$500.00	$500.00	Re-reading the complaint to prep for Drafting Opposition to Motion to Dismiss
Michael Keating	4/25/2022	1.3	$500.00	$650.00	Re-reading Amended Complaint
Michael Keating	4/26/2022	4.2	$500.00	$2,100.00	Drafting of factual background section
Michael Keating	5/3/2022	1.8	$500.00	$900.00	Review of MTD and strategy meeting
Michael Keating	5/3/2022	0.4	$500.00	$200.00	Call with investigator
Michael Keating	5/3/2022	1	$500.00	$500.00	Reviewing exhibits/misleading characterizations in MTD
Michael Keating	5/4/2022	0.4	$500.00	$200.00	Call with expert service
Michael Keating	5/5/2022	0.8	$500.00	$400.00	Review of exhibits not in the complaint
Michael Keating	5/9/2022	3	$500.00	$1,500.00	Review of Defendants Exhibits/Analyst reports
Michael Keating	5/10/2022	1.5	$500.00	$750.00	Review MTD draft questions for expert
Michael Keating	5/10/2022	0.5	$500.00	$250.00	Call with expert
Michael Keating	5/10/2022	3.3	$500.00	$1,650.00	Review of exhibits/Discussion
Michael Keating	5/10/2022	1.5	$500.00	$750.00	Review of analyst reports
Michael Keating	5/11/2022	0.8	$500.00	$400.00	Call with Investigator
Michael Keating	5/11/2022	1.5	$500.00	$750.00	Review of USDA GAP principles and tomato audit guidelines
Michael Keating	5/12/2022	2.1	$500.00	$1,050.00	Review of potentially applicable FDA/OSHA regulations
Michael Keating	5/16/2022	1.7	$500.00	$850.00	Drafting of CW outline
Michael Keating	5/16/2022	1.6	$500.00	$800.00	Drafting of Second Amended Complaint/CW sections
Michael Keating	5/16/2022	0.2	$500.00	$100.00	Call with G. Potrepka regarding witnesses/Second Amended Complaint

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Michael Keating	5/17/2022	0.4	$500.00	$200.00	Call With Bloomberg
Michael Keating	5/17/2022	0.3	$500.00	$150.00	Review of 10q
Michael Keating	5/18/2022	0.3	$500.00	$150.00	Investigation Catch Up
Michael Keating	5/19/2022	0.2	$500.00	$100.00	Review of outline for Second Amended Complaint
Michael Keating	5/23/2022	0.9	$500.00	$450.00	Review of Freedom of Information Act requests draft
Michael Keating	5/24/2022	0.4	$500.00	$200.00	Finalizing Freedom of Information Act requests
Michael Keating	5/27/2022	0.8	$500.00	$400.00	Adding CW allegations
Michael Keating	5/27/2022	1	$500.00	$500.00	CW interview
Michael Keating	5/31/2022	2.2	$500.00	$1,100.00	Drafting of outline for CW
Michael Keating	5/31/2022	0.8	$500.00	$400.00	Call with CW
Michael Keating	6/13/2022	1.5	$500.00	$750.00	Review of investigator memos
Michael Keating	6/21/2022	1	$500.00	$500.00	Review of supplemental CW memo
Michael Keating	6/22/2022	5.2	$500.00	$2,600.00	Drafting of APPH Complaint
Michael Keating	6/23/2022	4.6	$500.00	$2,300.00	Drafting of Letter for leave to amend
Michael Keating	6/24/2022	2.6	$500.00	$1,300.00	Drafting of Second Amended Complaint
Michael Keating	6/27/2022	2.1	$500.00	$1,050.00	Final Review of Complaint
Michael Keating	6/28/2022	3.8	$500.00	$1,900.00	Final edits to the complaint
Michael Keating	6/28/2022	0.7	$500.00	$350.00	Call regarding motion to amend
Michael Keating	6/28/2022	2	$500.00	$1,000.00	Drafting of motion to amend
Michael Keating	6/29/2022	2.3	$500.00	$1,150.00	Drafting of Amended Complaint
Michael Keating	6/29/2022	4.5	$500.00	$2,250.00	Drafting of Motion to amend and ancillary documents
Michael Keating	6/30/2022	4.2	$500.00	$2,100.00	Finalizing motions and complaint
Michael Keating	7/5/2022	0.2	$500.00	$100.00	Reading Defendants Response to leave to amend
Michael Keating	7/15/2022	1.2	$500.00	$600.00	Review of APPH motion in opposition to leave to amed and call on strategy
Michael Keating	7/20/2022	3.8	$500.00	$1,900.00	Research/drafting of reply in support of motion for leave to amend
Michael Keating	7/25/2022	0.2	$500.00	$100.00	Review of Second Amended Complaint
Michael Keating	8/8/2022	4	$500.00	$2,000.00	Checking Second Amended Complaint for errors to fix in Errata sheet
Michael Keating	8/9/2022	0.2	$500.00	$100.00	Editing Errata sheet
Michael Keating Total		308		$154,000.00	
Rachel Berger	9/29/2022	8	$500.00	$4,000.00	Review of complaint and Motion to Dismiss
Rachel Berger	9/30/2022	6	$500.00	$3,000.00	Opposition to Motion to Dismiss: Legal research and drafting; discussion regarding status and strategy
Rachel Berger	10/7/2022	2	$500.00	$1,000.00	reviewing opposition brief draft; drafting opposition brief; legal research

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Rachel Berger	10/3/2022	2	$500.00	$1,000.00	legal research in connection with opposition brief and motion to strike
Rachel Berger	10/12/2022	6.8	$500.00	$3,400.00	opposition to motion to dismiss
Rachel Berger	10/13/2022	8	$500.00	$4,000.00	opposition to motion to dismiss; related legal research
Rachel Berger	10/14/2022	6.2	$500.00	$3,100.00	Opposition to motion to dismiss
Rachel Berger	10/16/2022	1	$500.00	$500.00	legal research in connection with opposition brief + motion to strike
Rachel Berger	10/19/2022	8	$500.00	$4,000.00	Research and drafting in connection with Opposition to motion to dismiss brief and motion to strike
Rachel Berger	10/20/2022	8	$500.00	$4,000.00	Research and drafting in connection with opposition to mtd and motion to strike
Rachel Berger	10/21/2022	7	$500.00	$3,500.00	Research and drafting in connection with opposition to motion to dismiss and motion to strike
Rachel Berger	10/24/2022	5	$500.00	$2,500.00	opposition brief; motion to strike
Rachel Berger	10/25/2022	1	$500.00	$500.00	motion to strike
Rachel Berger	10/31/2022	2.5	$500.00	$1,250.00	Opposition brief
Rachel Berger	12/14/2022	0.25	$500.00	$125.00	update on investigator progress
Rachel Berger	1/16/2023	1	$500.00	$500.00	review of Defendants' reply brief and opposition to motion to strike
Rachel Berger	1/17/2023	1	$500.00	$500.00	legal research regarding motion in further support of motion to strike
Rachel Berger	1/19/2023	4.5	$500.00	$2,250.00	legal research regarding motion in further support of motion to strike; team meeting
Rachel Berger	1/18/2023	4.5	$500.00	$2,250.00	legal research regarding motion in further support of motion to strike; internal strategy discussion
Rachel Berger	1/20/2023	3.5	$500.00	$1,750.00	finalizing and filing reply in further support of motion to strike; legal research
Rachel Berger	3/17/2023	1	$500.00	$500.00	review of new opinion as possible supplemental authority
Rachel Berger	3/22/2023	1	$500.00	$500.00	Preparing notice of supplemental authority
Rachel Berger	3/28/2023	0.5	$500.00	$250.00	Review of new filing in response to notice of supp. authority
Rachel Berger	7/11/2023	0.4	$500.00	$200.00	fact research: review of filings; internal strategy discussion
Rachel Berger	7/17/2023	0.33	$500.00	$165.00	fact research regarding company and bankruptcy developments
Rachel Berger	7/25/2023	1	$500.00	$500.00	fact research AppHarvest company; review of bankruptcy filing
Rachel Berger	7/26/2023	1.5	$500.00	$750.00	bankruptcy docket review

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Rachel Berger	8/2/2023	3.5	$500.00	$1,750.00	review of new filings: notice of suggestion of bankruptcy and Court order on the same; strategy discussion; legal research on impact of bankruptcy on litigation proceedings
Rachel Berger	8/4/2023	2.25	$500.00	$1,125.00	legal research on impact of bankruptcy on litigation proceedings
Rachel Berger	8/3/2023	1.5	$500.00	$750.00	legal research on impact of bankruptcy on litigation; litigation strategy discussion
Rachel Berger	8/1/2023	2	$500.00	$1,000.00	review of Motion to dismiss opinion and motion to stay; internal discussion regarding status and strategy
Rachel Berger	7/31/2023	3.25	$500.00	$1,625.00	review of Motion to dismiss opinion, internal discussion, related legal research
Rachel Berger	8/10/2023	2	$500.00	$1,000.00	internal call regarding strategy; call with bankruptcy counsel; brief legal research
Rachel Berger	8/11/2023	1	$500.00	$500.00	legal research to follow up on call with bankruptcy counsel
Rachel Berger	8/9/2023	0.75	$500.00	$375.00	Reviewed new damages analysis
Rachel Berger	8/18/2023	2	$500.00	$1,000.00	legal research and preparing joint letter to court
Rachel Berger	8/25/2023	0.1	$500.00	$50.00	scheduling call
Rachel Berger	8/24/2023	0.1	$500.00	$50.00	Scheduling, confirmed deadline for bankruptcy opt outs
Rachel Berger	8/23/2023	0.2	$500.00	$100.00	checked and reviewed updates to bankruptcy docket
Rachel Berger	8/16/2023	2	$500.00	$1,000.00	call with bankruptcy counsel; draft joint letter to court
Rachel Berger	9/4/2023	0.5	$500.00	$250.00	bankruptcy docket updates review; communication with bankruptcy counsel and opponent parties
Rachel Berger	8/30/2023	1.2	$500.00	$600.00	email communication with bankruptcy counsel and various opponent parties; legal research; composing preservation language for bankruptcy sale order
Rachel Berger	8/29/2023	1	$500.00	$500.00	meeting with bankruptcy counsel and defendants counsel regarding opt out and preservation language for bankruptcy release.
Rachel Berger	8/28/2023	1	$500.00	$500.00	call with bankruptcy counsel and defense counsel regarding opt out strategy including prep and follow up
Rachel Berger	9/8/2023	1	$500.00	$500.00	strategy discussion and meet and confer with defense counsel regarding stay (incl prep and follow up)
Rachel Berger	9/7/2023	0.25	$500.00	$125.00	scheduling meet and confer with defense counsel

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Rachel Berger	9/6/2023	0.75	$500.00	$375.00	negotiating language for sale order; legal research regarding the same
Rachel Berger	9/5/2023	1.2	$500.00	$600.00	negotiation with parties regarding language for confirmation and sale orders; discussion with bankruptcy counsel
Rachel Berger	9/18/2023	1.25	$500.00	$625.00	discovery requests
Rachel Berger	9/15/2023	2	$500.00	$1,000.00	3rd party Requests for Production
Rachel Berger	9/14/2023	1.5	$500.00	$750.00	Requests for Production; update on bankruptcy proceedings
Rachel Berger	9/13/2023	0.5	$500.00	$250.00	3rd Party Request for Production target list
Rachel Berger	9/11/2023	1.25	$500.00	$625.00	internal meeting regarding 3rd party subpoenas; joint letter and proposed order regarding stay
Rachel Berger	9/21/2023	0.75	$500.00	$375.00	Internal strategy discussion; review of new 8-k
Rachel Berger	9/20/2023	1.25	$500.00	$625.00	Requests for production
Rachel Berger	10/6/2023	0.5	$500.00	$250.00	review of mediation statement
Rachel Berger	10/15/2023	1.25	$500.00	$625.00	review of defendants' mediation statement
Rachel Berger	10/12/2023	1.5	$500.00	$750.00	Work on mediation statement
Rachel Berger	10/9/2023	1.5	$500.00	$750.00	Work on mediation statement
Rachel Berger	10/25/2023	6	$500.00	$3,000.00	Virtual attendance at mediation
Rachel Berger	11/14/2023	0.5	$500.00	$250.00	Reviewed defendants' draft stipulation regarding deadline to answer
Rachel Berger	12/8/2023	0.25	$500.00	$125.00	logistics discussion with opposing counsel
Rachel Berger	12/6/2023	0.2	$500.00	$100.00	Reviewed scheduling order
Rachel Berger	12/5/2023	0.1	$500.00	$50.00	brief internal update on settlement negotiation
Rachel Berger	12/4/2023	0.2	$500.00	$100.00	brief internal update on settlement negotiation
Rachel Berger	12/15/2023	0.25	$500.00	$125.00	joint letter regarding settlement stay
Rachel Berger	12/14/2023	0.5	$500.00	$250.00	settlement discussion
Rachel Berger	12/11/2023	0.2	$500.00	$100.00	internal discussion regarding settlement
Rachel Berger	2/22/2024	0.1	$500.00	$50.00	Reviewed Judge Liman order in similar case
Rachel Berger Total		141.08		$70,540.00	
Samantha Phillips	12/14/2021	1.25	$325.00	$406.25	draft Notices of Appearance for Shannon and Greg; discussed how to conduct research re SEC filings
Samantha Phillips	12/15/2021	2.5	$325.00	$812.50	calendar deadlines; efile S. Hopkins and G. Potrepka notices of appearance; begin pulling SEC filings and press releases
Samantha Phillips	12/17/2021	1	$325.00	$325.00	continue pulling SEC filings, etc., and email to Greg
Samantha Phillips	1/3/2022	0.5	$325.00	$162.50	finalize and efile scheduling stipulation
Samantha Phillips	1/5/2022	2	$325.00	$650.00	emails to banks/googling to obtain transcripts from conferences; download BMO transcript from Temi.com and review transcript for accuracy

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Samantha Phillips	1/10/2022	1.5	$325.00	$487.50	Continue reviewing transcriptions from conferences and edit as necessary
Samantha Phillips	1/7/2022	5.5	$325.00	$1,787.50	review transcriptions from conferences and edit as necessary
Samantha Phillips	1/14/2022	3	$325.00	$975.00	transcribe videos using temi.com; review transcriptions for accuracy
Samantha Phillips	1/13/2022	2.5	$325.00	$812.50	transcribe videos using temi.com; review transcriptions for accuracy
Samantha Phillips	1/25/2022	2	$325.00	$650.00	transcribe videos using temi.com; review transcriptions for accuracy
Samantha Phillips	1/24/2022	3.75	$325.00	$1,218.75	transcribe videos using temi.com; review transcriptions for accuracy
Samantha Phillips	1/21/2022	8	$325.00	$2,600.00	transcribe videos using temi.com; review transcriptions for accuracy
Samantha Phillips	1/20/2022	6.25	$325.00	$2,031.25	transcribe videos using temi.com; review transcriptions for accuracy
Samantha Phillips	1/19/2022	7	$325.00	$2,275.00	transcribe videos using temi.com; review transcriptions for accuracy
Samantha Phillips	1/18/2022	6.75	$325.00	$2,193.75	transcribe videos using temi.com; review transcriptions for accuracy
Samantha Phillips	1/17/2022	6.75	$325.00	$2,193.75	download one month audfree to convert Spotify podcasts to MP3
Samantha Phillips	2/2/2022	0.5	$325.00	$162.50	format amended complaint
Samantha Phillips	2/4/2022	6	$325.00	$1,950.00	transcribe videos using temi.com; review transcriptions for accuracy
Samantha Phillips	2/3/2022	3.5	$325.00	$1,137.50	discuss transcription project; transcribe videos using temi.com; review transcriptions for accuracy
Samantha Phillips	2/14/2022	3	$325.00	$975.00	review transcriptions for accuracy
Samantha Phillips	2/10/2022	3.5	$325.00	$1,137.50	review transcriptions for accuracy
Samantha Phillips	2/9/2022	5.25	$325.00	$1,706.25	update calendar deadlines; review transcriptions for accuracy
Samantha Phillips	2/8/2022	3.75	$325.00	$1,218.75	review transcriptions for accuracy
Samantha Phillips	2/7/2022	5.75	$325.00	$1,868.75	transcribe videos using temi.com; review transcriptions for accuracy; efile scheduling Stipulation in SDNY
Samantha Phillips	2/16/2022	2.5	$325.00	$812.50	Review transcriptions for accuracy
Samantha Phillips	2/15/2022	3	$325.00	$975.00	Review transcriptions for accuracy
Samantha Phillips	2/22/2022	0.5	$325.00	$162.50	pull websites cited in FN of current draft complaint
Samantha Phillips	2/18/2022	2.5	$325.00	$812.50	Review transcriptions for accuracy
Samantha Phillips	2/24/2022	2	$325.00	$650.00	listen to, transcribe, and review transcription for Q4 earnings call ; review AC draft for formatting

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Samantha Phillips	3/2/2022	4	$325.00	$1,300.00	final edits/formatting to amended complaint; communications regarding client declaration; efile in SDNY
Samantha Phillips	3/1/2022	3.5	$325.00	$1,137.50	continue fact checking Amended complaint
Samantha Phillips	2/28/2022	7	$325.00	$2,275.00	fact check Amended complaint and several discussions regarding same
Samantha Phillips	3/3/2022	0.5	$325.00	$162.50	draft and efile Request to Issue Summons as to D. Lee
Samantha Phillips	3/22/2022	0.25	$325.00	$81.25	draft client document preservation letter and send to G. Potrepka for review
Samantha Phillips	3/21/2022	0.25	$325.00	$81.25	efile waiver of service
Samantha Phillips	4/1/2022	0.5	$325.00	$162.50	emails regarding obtaining client retainer
Samantha Phillips	5/12/2022	0.5	$325.00	$162.50	prepare and Fedex M. Keating's request for Cerificate of good standing to be used with PHV motion
Samantha Phillips	5/26/2022	0.25	$325.00	$81.25	follow up to Gagnier re Cowen reports
Samantha Phillips	5/24/2022	0.25	$325.00	$81.25	finalize and efile M. Keating Keating PHV motion; $200
Samantha Phillips	5/23/2022	1	$325.00	$325.00	draft PHV motion for M. Keating; Call to Cowen regarding purchasing reports.
Samantha Phillips	5/18/2022	0.25	$325.00	$81.25	research regarding Cowen analyst reports
Samantha Phillips	6/30/2022	4.5	$325.00	$1,462.50	edits to complaint and ancillary documents; finalize and efile second amended complaint
Samantha Phillips	6/29/2022	7	$325.00	$2,275.00	continue proofreading and cite checking SAC
Samantha Phillips	6/28/2022	7	$325.00	$2,275.00	continue proofreading and cite checking SAC
Samantha Phillips	6/27/2022	5.5	$325.00	$1,787.50	update Table of contents in second amended complaint, begin cite checking and proofreading
Samantha Phillips	7/21/2022	4	$325.00	$1,300.00	cite check brief and efile in SDNY
Samantha Phillips	7/25/2022	0.25	$325.00	$81.25	finalize and efile second amended complaint
Samantha Phillips	8/9/2022	1.25	$325.00	$406.25	call to SDNY help desk regarding filing corrected amended complaint; draft/format letter for G. Potrepka
Samantha Phillips	9/19/2022	0.1	$325.00	$32.50	finalize and efile M. Keating withdrawal
Samantha Phillips	9/16/2022	0.5	$325.00	$162.50	draft withdrawal for M. Keating
Samantha Phillips	11/10/2022	3	$325.00	$975.00	begin cite/fact checking MTD Opposition
Samantha Phillips	11/11/2022	5.75	$325.00	$1,868.75	continue cite/fact checking MTD Opposition
Samantha Phillips	11/14/2022	3	$325.00	$975.00	cite/fact check Motion to Strike and Chart
Samantha Phillips	11/15/2022	4	$325.00	$1,300.00	continue cite/fact checking and finalizing MTD Opposition and Motion to Strike materials; formatting regarding same
Samantha Phillips	11/16/2022	4.5	$325.00	$1,462.50	continue cite/fact checking and finalizing MTD Opposition and Motion to Strike materials
Samantha Phillips	11/17/2022	5	$325.00	$1,625.00	finish cite checking Chart for MTD Opp

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Samantha Phillips	11/18/2022	0.25	$325.00	$81.25	call to discuss finalization of MTD opposition and efiling next week
Samantha Phillips	11/22/2022	1	$325.00	$325.00	finalize and efile MTD Opposition and Motion to Strike
Samantha Phillips	1/20/2023	1.75	$325.00	$568.75	cite check Reply to Motion to Strike; finalize and efile
Samantha Phillips	3/22/2023	0.75	$325.00	$243.75	cite check letter regarding supplemental authority; finalize and efile
Samantha Phillips	8/4/2023	1	$325.00	$325.00	cite/fact check letter regarding automatic stay
Samantha Phillips	8/4/2023	0.25	$325.00	$81.25	update calendar to reflect deadline in Court's August 2 order
Samantha Phillips	8/15/2023	0.25	$325.00	$81.25	finalize and efile letter regarding automatic stay
Samantha Phillips	9/20/2023	0.5	$325.00	$162.50	send subpoenas to Alexander Poole process server for service; calls regarding same
Samantha Phillips	10/2/2023	0.25	$325.00	$81.25	email to process server re status of service
Samantha Phillips	10/3/2023	0.25	$325.00	$81.25	save affidavits of service to Sharepoint server
Samantha Phillips	10/9/2023	3	$325.00	$975.00	cite check mediation statement
Samantha Phillips	10/18/2023	0.5	$325.00	$162.50	communications regarding APPH litigation expenses
Samantha Phillips	10/13/2023	1	$325.00	$325.00	finalize mediation statement (update tables, review PDF)
Samantha Phillips	10/12/2023	0.75	$325.00	$243.75	format mediation statement and communications re same; run redline with Arden
Samantha Phillips	10/26/2023	0.25	$325.00	$81.25	communications with S. Hopkins, G. Potrepka, and Iankel re expenses
Samantha Phillips	11/2/2023	0.25	$325.00	$81.25	Courtlink search for preliminary approval
Samantha Phillips Total		187.6		$60,970.00	
Shannon Hopkins	12/15/2021	0.5	$1,000.00	$500.00	conference call with investigator
Shannon Hopkins	12/21/2021	1	$1,000.00	$1,000.00	discuss case with G. Potrepka
Shannon Hopkins	12/29/2021	0.5	$1,000.00	$500.00	Reeview defendants' proposed schedule and discuss with G. Potrepka
Shannon Hopkins	1/4/2022	2	$1,000.00	$2,000.00	Review initial complaint, conference with client, discuss amended complaint with G. Potrepka
Shannon Hopkins	1/6/2022	0.5	$1,000.00	$500.00	discuss scienter with G. Potrepka and schedule for Amended complaint
Shannon Hopkins	1/13/2022	0.5	$1,000.00	$500.00	call with M. Keating and G. Potrepka regarding strategy and Amended complaint, email client
Shannon Hopkins	1/14/2022	0.5	$1,000.00	$500.00	conference with M. Keating and G. Potrepka regarding amended complaint
Shannon Hopkins	1/24/2022	0.5	$1,000.00	$500.00	discuss status of Amended complaint with G. Potrepka and plan for draft
Shannon Hopkins	1/25/2022	0.5	$1,000.00	$500.00	discuss Amended complaint and confidential witnesses with G. Potrepka

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Shannon Hopkins	1/26/2022	1	$1,000.00	$1,000.00	review Facebook posts of former employee, emails to investigator regarding same, review Amended Complaint allegations
Shannon Hopkins	1/27/2022	1	$1,000.00	$1,000.00	review and edit CW allegations
Shannon Hopkins	1/31/2022	1	$1,000.00	$1,000.00	discuss new possible corrective disclosure with G. Potrepka and M. Keating, Amended complaint strategy and timing to file
Shannon Hopkins	2/2/2022	0.75	$1,000.00	$750.00	discuss Amended complaint extension with G. Potrepka and defendants, emails regarding same, discuss CW interview with G. Potrepka
Shannon Hopkins	2/7/2022	0.5	$1,000.00	$500.00	emails regrading stipulation, emails with investigator
Shannon Hopkins	2/9/2022	2	$1,000.00	$2,000.00	stipulation for extension., review Amended complaint
Shannon Hopkins	2/10/2022	4	$1,000.00	$4,000.00	review Amended complaint
Shannon Hopkins	2/11/2022	3	$1,000.00	$3,000.00	review and edit scienter section, review damages analysis and discuss, emails with expert regarding same
Shannon Hopkins	2/14/2022	2.5	$1,000.00	$2,500.00	review scienter section of Amended complaint and edit
Shannon Hopkins	2/22/2022	1.25	$1,000.00	$1,250.00	Review investigator memo, provide follow up questions, debrief on CW interview
Shannon Hopkins	2/24/2022	0.5	$1,000.00	$500.00	discuss CWs and Amended complaint schedule with G. Potrepka
Shannon Hopkins	2/28/2022	5.75	$1,000.00	$5,750.00	review and edit Amended Complaint, discuss strategy with G. Potrepka
Shannon Hopkins	3/1/2022	1	$1,000.00	$1,000.00	discuss intro to amended complaint and open issues with G. Potrepka
Shannon Hopkins	3/2/2022	2	$1,000.00	$2,000.00	review and edit intro and timeline in amended complaint, discuss 10-K filed today with G. Potrepka and M. Keating, call with client
Shannon Hopkins	4/6/2022	0.25	$1,000.00	$250.00	discuss motion to dismiss briefing with G. Potrepka and M. Keating
Shannon Hopkins	5/6/2022	0.75	$1,000.00	$750.00	conference with potential expert, discuss with G. Potrepka
Shannon Hopkins	5/5/2022	1	$1,000.00	$1,000.00	review motion to dismiss and discuss with G. Potrepka
Shannon Hopkins	5/4/2022	0.5	$1,000.00	$500.00	review expert resume and discuss
Shannon Hopkins	5/11/2022	2.75	$1,000.00	$2,750.00	review motion to dismiss, call w/expert, discuss with G. Potrepka and M. Keating
Shannon Hopkins	5/2/2022	0.25	$1,000.00	$250.00	discuss insider trading case
Shannon Hopkins	5/9/2022	1	$1,000.00	$1,000.00	review engagement letter for expert, discuss CWs with G. Potrepka
Shannon Hopkins	6/13/2022	0.25	$1,000.00	$250.00	discuss status of AC with G. Potrepka
Shannon Hopkins	6/27/2022	0.25	$1,000.00	$250.00	discuss filing with G. Potrepka

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Shannon Hopkins	6/28/2022	6	$1,000.00	$6,000.00	review and edit amended complaint, meetings with G. Potrepka and M. Keating regarding motion for leave, review emails from defendants
Shannon Hopkins	6/29/2022	3	$1,000.00	$3,000.00	edit motion for leave, emails/chats with G. Potrepka regarding same, calls and emails with G. Potrepka re: AC, review revised allegations
Shannon Hopkins	6/30/2022	1	$1,000.00	$1,000.00	review and edit AC
Shannon Hopkins	7/1/2022	0.5	$1,000.00	$500.00	review court order and discuss with G. Potrepka and M. Keating
Shannon Hopkins	7/5/2022	0.25	$1,000.00	$250.00	review and discuss defendants' letter with G. Potrepka
Shannon Hopkins	5/10/2022	1.25	$1,000.00	$1,250.00	emails with expert service regarding expert, discuss questions for expert and whether to use him with G. Potrepka
Shannon Hopkins	7/20/2022	0.25	$1,000.00	$250.00	discuss reply with G. Potrepka
Shannon Hopkins	8/8/2022	0.5	$1,000.00	$500.00	review and discuss agreement to retain CW counsel
Shannon Hopkins	9/27/2022	0.75	$1,000.00	$750.00	discuss Motion to dismiss and plan for opposition with G. Potrepka, emails with expert regarding same
Shannon Hopkins	9/29/2022	0.5	$1,000.00	$500.00	discuss opposition with R. Berger
Shannon Hopkins	9/28/2022	0.75	$1,000.00	$750.00	discuss issue for expert with G. Potrepka and call with expert regarding same
Shannon Hopkins	10/12/2022	0.5	$1,000.00	$500.00	meeting with R. Berger and A. Foley regarding Opposition
Shannon Hopkins	10/20/2022	0.75	$1,000.00	$750.00	meeting with A. Foley regarding question, skim R. Berger's scienter section
Shannon Hopkins	11/8/2022	1.5	$1,000.00	$1,500.00	review motion to dismiss
Shannon Hopkins	1/22/2023	2	$1,000.00	$2,000.00	review reply and opposition to motion to strike
Shannon Hopkins	3/17/2023	1	$1,000.00	$1,000.00	review possible supplemental authority, discuss with G. Potrepka
Shannon Hopkins	7/11/2023	0.5	$1,000.00	$500.00	emails regarding news about contract violations
Shannon Hopkins	7/17/2023	0.5	$1,000.00	$500.00	emails from G. Potrepka regarding article about CEO termination
Shannon Hopkins	8/1/2023	1	$1,000.00	$1,000.00	call with G. Potrepka, R. Berger, and A. Foley to discuss strategy, emails regarding same, emails with damages expert
Shannon Hopkins	8/2/2023	2	$1,000.00	$2,000.00	review emails from bankruptcy counsel, review court order emails regarding same, conference with bankruptcy counsel
Shannon Hopkins	8/10/2023	0.5	$1,000.00	$500.00	attorney call with bankruptcy counsel
Shannon Hopkins	8/15/2023	1	$1,000.00	$1,000.00	review court order, review and edit letter in response, discuss with G. Potrepka
Shannon Hopkins	8/4/2023	0.5	$1,000.00	$500.00	emails with bankruptcy counsel

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Shannon Hopkins	8/9/2023	1	$1,000.00	$1,000.00	bankruptcy emails and discussions
Shannon Hopkins	8/31/2023	0.75	$1,000.00	$750.00	review emails from bankruptcy counsel, including regarding discovery preservation
Shannon Hopkins	9/4/2023	0.75	$1,000.00	$750.00	Emails regarding bankruptcy and preservation of evidence
Shannon Hopkins	9/5/2023	0.25	$1,000.00	$250.00	emails from bankruptcy counsel
Shannon Hopkins	9/8/2023	0.75	$1,000.00	$750.00	review bankruptcy filings, call with G. Potrepka and R. Berger re mediation statement
Shannon Hopkins	9/18/2023	2.75	$1,000.00	$2,750.00	emails with defendants regarding mediation, court order regarding stay, meeting with Amanda regarding subpoenas, review same
Shannon Hopkins	9/20/2023	0.75	$1,000.00	$750.00	skim review final subpoenas, emails regarding service
Shannon Hopkins	10/20/2023	1	$1,000.00	$1,000.00	discuss client call and mediation with G. Potrepka
Shannon Hopkins	10/19/2023	0.75	$1,000.00	$750.00	call with mediator, follow up emails regarding same
Shannon Hopkins	10/25/2023	7.5	$1,000.00	$7,500.00	commute to and from and attend mediation
Shannon Hopkins	10/26/2023	1	$1,000.00	$1,000.00	discuss with G. Potrepka, review spreadsheet calculation, client call, email professor
Shannon Hopkins	11/1/2023	0.5	$1,000.00	$500.00	send emails for bids to claims administrators, discuss with G. Potrepka
Shannon Hopkins	11/13/2023	0.25	$1,000.00	$250.00	discuss schedule/stipulation and settlement status with G. Potrepka
Shannon Hopkins	11/17/2023	0.75	$1,000.00	$750.00	call with J. Levi regarding status, call with mediator regarding counter
Shannon Hopkins	12/13/2023	0.75	$1,000.00	$750.00	discuss settlement with G. Potrepka, emails regarding client's losses
Shannon Hopkins	12/15/2023	0.25	$1,000.00	$250.00	discuss stay of case
Shannon Hopkins	1/26/2024	0.5	$1,000.00	$500.00	review recent settlement opinion regarding $10 claims and emails regarding same
Shannon Hopkins	2/12/2024	1.5	$1,000.00	$1,500.00	meeting with expert regarding Plan of Allocation, discuss with Greg, emails regarding same and settlement papers
Shannon Hopkins	2/9/2024	0.25	$1,000.00	$250.00	emails regarding expenses for settlement notice and settlement papers
Shannon Hopkins Total		88.25		$88,250.00	
Grand Total		2,439.93		$1,609,971.25	

Exhibit 3-B

In re AppHarvest Securities Litigation
Case No. 1:21-cv-07985-LJL

Expense Sheet

Expense Category	Expense Amount
Total Filing Fees	$301.35
Total Expert Fees	$20,053.25
Total Process Server Fees	$682.20
Total Outside Counsel	$90,400.00
Total Mediation Fees	$11,250.00
Total Postage Fees	$51.22
Total Computer Research Fees	$3,760.25
Total Investigator Fees	$40,489.50
Total	$166,987.77

Exhibit 4

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re AppHarvest Securities Litigation	Case No. 1:21-cv-07985-LJL **CLASS ACTION**

DECLARATION OF JOSEPHINE BRAVATA CONCERNING: (A) MAILING OF THE POSTCARD NOTICE; (B) PUBLICATION OF THE SUMMARY NOTICE; AND (C) REPORT ON REQUESTS FOR EXCLUSION AND OBJECTIONS

I, Josephine Bravata, declare as follows:

1. I am the Director of Quality Assurance of Strategic Claims Services ("SCS"), a nationally recognized class action administration firm. I have over twenty years of experience specializing in the administration of class action cases. SCS was established in April 1999 and has administered over five hundred fifty (550) class action cases since its inception. I have personal knowledge of the facts set forth herein, and if called on to do so, I could and would testify competently thereto.

MAILING OF THE POSTCARD NOTICE

2. Pursuant to the Court's Order Grating Preliminary Approval of Class Action Settlement, Approving Form and Manner of Notice, and Setting Date for Hearing on Final Approval of Settlement, dated March 6, 2024 (Dkt. No. 120, the "Preliminary Approval Order"), SCS was approved as the Claims Administrator in connection with the Settlement of the above-captioned action.[1] I submit this declaration in order to provide the Court and the Parties information regarding the notifications to potential Settlement Class Members, as well as updates concerning other aspects of the Settlement administration process.

[1] All capitalized terms used herein that are not otherwise defined have the meanings ascribed to them in the Stipulation and Agreement of Settlement, dated February 20, 2024 (Dkt. No. 117-1, the "Stipulation").

3. SCS sent the Depository Trust Company ("DTC") a Notice of Pendency of Class Action, Proposed Class Action Settlement, Final Approval Hearing, and Motion for Attorneys' Fees and Expenses ("Notice") and Proof of Claim and Release ("Claim Form") (collectively, the "Notice and Claim Form") for the DTC to publish on its Legal Notice System ("LENS") on March 12, 2024. LENS provides DTC participants the ability to search and download legal notices as well as receive e-mail alerts based on particular notices or particular CUSIPs once a legal notice is posted. A true and correct copy of the Notice and Claim Form is attached as **Exhibit A**.

4. As in most class actions of this nature, the large majority of potential Settlement Class Members are expected to be beneficial purchasers whose securities are held in "street name" — *i.e.*, the securities are purchased by brokerage firms, banks, institutions and other third-party nominees in the name of the nominee, on behalf of the beneficial purchasers. The names and addresses of these beneficial purchasers are known only to the nominees. SCS maintains a proprietary master list consisting of 1,101 banks and brokerage companies ("Nominee Account Holders"), as well as 1,305 mutual funds, insurance companies, pension funds, and money managers ("Institutional Groups"). On March 12, 2024, SCS caused a letter to be mailed or e-mailed to the 2,406 nominees contained in the SCS master mailing list. The letter notified them of the Settlement and requested that they, within 7 calendar days from the date of the letter, either send the Postcard Notice or email the link to the location of the Notice and Claim Form on the settlement website to their clients who may be beneficial purchasers/owners within 7 calendar days after receipt of Postcard Notice copies or after receipt of the link or provide SCS with a list of the names, last known addresses, and email addresses (if available) of such beneficial purchasers/owners so that SCS could promptly either mail the Postcard Notice or email the link to

the location of the Notice and Claim Form on the settlement website. A copy of the letter sent to these nominees is attached as **Exhibit B.**

5. To provide actual notice to those persons or entities who purchased or otherwise acquired publicly traded AppHarvest Inc. ("AppHarvest") securities during the period from February 1, 2021 and August 10, 2021, inclusive (the "Settlement Class Period"), pursuant to the Preliminary Approval Order, SCS printed and mailed the Postcard Notice to potential members of the Settlement Class. **Exhibit C** is a copy of the Postcard Notice.

6. SCS mailed, by first class mail, postage prepaid, the Postcard Notice to 211 persons or organizations identified in the transfer records that were provided to SCS by Lead Counsel. These records reflect the persons or entities that purchased AppHarvest securities for their own accounts, or for the account(s) of their clients, during the Settlement Class. The transfer records mailing was completed on March 14, 2024. Following this mailing, SCS received 12,625 additional names and addresses of potential Settlement Class Members from individuals or nominees requesting that a Postcard Notice be mailed by SCS, SCS received a request from three nominees for 19,400 Postcard Notices so that the nominee could forward them to their clients, and SCS received notification from three nominees that they mailed the Postcard Notices to 200 of their clients. To date, 32,436 Postcard Notices have been mailed to potential Settlement Class Members.[2]

7. Additionally, SCS received 55 email addresses from Lead Counsel and a nominee to send the direct link to the Notice and Claim Form, and SCS was notified by a nominee that they

[2] SCS received 37 requests from potential Settlement Class Members for the Notice and Claim Form to be mailed to them. SCS immediately mailed the Notice and Claim Forms to the potential Settlement Class Members.

emailed 69,644 of their clients to notify them of this settlement and provide a direct link to the Notice and Claim Form on the settlement website.

8. In total, 102,135 potential Settlement Class Members were notified either by mailed Postcard Notice or emailed a direct link to the Notice and Claim Form.

9. Out of the 32,436 Postcard Notices mailed, 910 were returned as undeliverable. Of these, the United States Postal Service provided forwarding addresses for 121, and SCS immediately mailed another Postcard Notice to the updated addresses. The remaining 789 Postcard Notices returned as undeliverable were "skip-traced" to obtain updated addresses and 432 were re-mailed to updated addresses.

PUBLICATION OF THE SUMMARY NOTICE

10. Pursuant to the Preliminary Approval Order, the Summary Notice of Pendency of Class Action, Proposed Class Action Settlement, Final Approval Hearing, and Motion for Attorneys' Fees and Expenses ("Summary Notice") was published in *Investor's Business Daily* and transmitted over *PR Newswire* on April 1, 2024, as shown in the confirmations of publication attached hereto as **Exhibit D.**

TOLL-FREE PHONE LINE

11. SCS maintains a toll-free telephone number (1-866-274-4004) for Settlement Class Members to call and obtain information about the Settlement as well as request the Notice and Claim Form to be mailed to them. SCS has promptly responded to each telephone inquiry and will continue to address Settlement Class Member inquiries through the administration process.

SETTLEMENT WEBSITE

12. On March 12, 2024, SCS established a webpage on its website at www.strategicclaims.net/apph/. The website is accessible 24 hours a day, 7 days a week. The website contains information related to the current status; important case dates, including the Settlement Hearing date consistent with the Court's order dated April 4, 2024; the online claim filing link; and important documents such as the Notice and Claim Form, Postcard Notice, the Court's two Orders adjourning the Settlement Hearing (ECF Nos. 122 and 124), the Preliminary Approval Order, and the Stipulation.

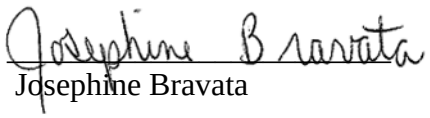
REPORT ON EXCLUSIONS AND OBJECTIONS

13. The Postcard Notice, Notice, Summary Notice, and the settlement website informed potential Settlement Class Members that written requests for exclusion are to be postmarked if mailed or emailed to SCS no later than May 22, 2024. SCS has been monitoring all mail delivered for this case. As of the date of this declaration, SCS has received three requests for exclusion. Out of the three exclusion requests, two are valid exclusions and one is an invalid exclusion request since the claimant failed to provide the required transaction information. SCS notified this individual of the inadequacy of the exclusion request and has not received a response. Attached as **Exhibit E** to this declaration is a copy of the two valid exclusion requests.

14. According to the Postcard Notice, Notice, and Summary Notice, Settlement Class Members seeking to object to the Settlement, or any of its terms, the proposed Plan of Allocation, or the Fee and Expense Application must be submitted to Lead Counsel, Individual Defendants' Counsel, and the Clerk of the Court, no later than May 22, 2024. As of the date of this declaration, SCS has not received any objections, and SCS has not been notified that any objection was submitted.

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

Signed this 8th day of May 2024, in Media, Pennsylvania.



Josephine Bravata

EXHIBIT A

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re AppHarvest Securities Litigation	Case No. 1:21-cv-07985-LJL **CLASS ACTION**

NOTICE OF PENDENCY OF CLASS ACTION, PROPOSED CLASS ACTION SETTLEMENT, FINAL APPROVAL HEARING, AND MOTION FOR ATTORNEYS' FEES AND EXPENSES

IF YOU PURCHASED OR OTHERWISE ACQUIRED PUBLICLY TRADED APPHARVEST INC. ("APPHARVEST" OR THE "COMPANY"), SECURITIES DURING THE PERIOD FROM FEBRUARY 1, 2021 AND AUGUST 10, 2021, INCLUSIVE, (THE "SETTLEMENT CLASS PERIOD") AND WERE DAMAGED THEREBY (THE "SETTLEMENT CLASS"), YOU MAY BE ENTITLED TO A PAYMENT FROM A CLASS ACTION SETTLEMENT.

A federal court authorized this notice. This is not a solicitation from a lawyer.

- The purpose of this Notice is to inform you of the pendency of this securities class action (the "Action"), the proposed settlement of the Action (the "Settlement"), and a hearing to be held by the Court to consider: (i) whether the Settlement should be approved; (ii) whether the proposed plan for allocating the proceeds of the Settlement (the "Plan of Allocation") should be approved; and (iii) Lead Counsel's application for attorneys' fees and expenses. This Notice describes important rights you may have and what steps you must take if you wish to participate in the Settlement, wish to object, or wish to be excluded from the Settlement Class.[1]

- If approved by the Court, the proposed Settlement will create a $4,850,000.00 settlement fund, plus earned interest, for the benefit of eligible Settlement Class Members, less any attorneys' fees and expenses awarded by the Court, Notice and Administration Expenses, and Taxes.

- The Settlement resolves claims by the Court-appointed Lead Plaintiff, Alan Narzissenfeld, ("Lead Plaintiff"), that have been asserted on behalf of the Settlement Class against Jonathan Webb, ("Webb"), Loren Eggleton ("Eggleton"), and David Lee ("Lee," collectively with Webb and Eggleton, the "Individual Defendants," and together with AppHarvest, the "Defendants"). It releases the Released Defendant Parties (defined below) from liability.

If you are a Settlement Class Member, your legal rights will be affected by this Settlement whether you act or do not act. Please read this Notice carefully.

[1] All capitalized terms not otherwise defined in this notice shall have the meaning provided in the Stipulation and Agreement of Settlement, dated February 20, 2024 (the "Stipulation").

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
SUBMIT A CLAIM FORM BY MAY 22, 2024	The only way to get payment. You must submit a claim form, either online at www.strategicclaims.net/apph/ no later than 11:59 p.m. EST on May 22, 2024 or postmarked no later than May 22, 2024. *See* Question 8 below for details.
EXCLUDE YOURSELF FROM THE SETTLEMENT CLASS BY SUBMITTING AN OPT OUT FORM BY MAY 22, 2024	Get no payment. This is the only option that, assuming your claim is timely brought, might allow you to ever bring or be part of any other lawsuit against the Individual Defendants or the other Released Defendant Parties concerning the Released Claims. *See* Question 11 below for details.
OBJECT BY MAY 22, 2024	Write to the Court about why you do not like the Settlement, the Plan of Allocation, or the Fee and Expense Application. If you object, you will still be a member of the Settlement Class and you can still submit a claim form. *See* Questions 15-16 below for details.
ATTEND A HEARING ON JUNE 12, 2024 AND FILE A NOTICE OF INTENTION TO APPEAR BY MAY 22, 2024	Ask to speak in Court at the Settlement Hearing about the Settlement. *See* Question 19 below for details.
DO NOTHING	Get no payment AND give up your rights to bring your own individual action.

- These rights and options—**and the deadlines to exercise them**—are explained in this Notice.
- The Court in charge of this case still has to decide whether to approve the Settlement. Payments will be made to all Settlement Class Members who timely submit valid Claim Forms, if the Court approves the Settlement and after any appeals are resolved. Please be patient.

SUMMARY OF THE NOTICE

Statement of the Settlement Class's Recovery

1. Subject to Court approval, Lead Plaintiff, on behalf of the Settlement Class, has agreed to settle the Action in exchange for a payment of $4,850,000.00 (the "Settlement Amount"), which will be deposited into an Escrow Account and may earn interest (the "Settlement Fund"). The Net Settlement Fund (as defined below) will be distributed to Settlement Class Members according to the Court-approved plan of allocation (the "Plan of Allocation" or "Plan"). The proposed Plan of Allocation is set forth on pages 12-17 below.

Estimate of Average Amount of Recovery Per Share

2. Based on Lead Plaintiff's consulting damages expert's estimate of potentially damaged AppHarvest securities under the Plan of Allocation described below, Lead Plaintiff estimates this represents an average recovery of $0.14 per share of AppHarvest common stock and $0.07 per warrant, respectively, (before deduction of any Court-approved fees and expenses, such as attorneys' fees and expenses, Taxes, and Notice and Administration Expenses), based on the estimated number of allegedly damaged shares of AppHarvest securities held through an alleged corrective disclosure that was statistically significant. If the Court approves the Fee and Expense Application (discussed below), including deduction of estimated attorneys' fees and expenses, Plaintiffs estimate the average recovery would be approximately $0.10 per allegedly damaged share and $0.05 per damaged warrant. **Please note, however, that these average recovery amounts are only estimates and Settlement Class Members may recover more or less than these estimated amounts.** An individual Settlement Class Member's actual recovery will depend on for example: (i) the total number of claims submitted; (ii) the amount of the Net Settlement Fund; (iii) when the Settlement Class Member purchased or acquired AppHarvest securities during the Settlement Class Period; and (iv) whether and when the Settlement Class Member sold or disposed of AppHarvest securities. *See* the Plan of Allocation beginning on page 12 for information on the calculation of your Recognized Claim.

Statement of Potential Outcome of Case if the Action Continued to be Litigated

3. The Parties disagree about both liability and damages and do not agree on the damages that would be recoverable if Lead Plaintiff were to prevail on each claim asserted against the Individual Defendants. The issues

on which the Parties disagree include, for example: (i) whether the Individual Defendants made any statements or omitted any facts that were materially false or misleading, or otherwise actionable under the federal securities laws; (ii) whether any such allegedly materially false or misleading statements or omissions were made with the required level of intent or recklessness; (iii) the amounts by which the prices of AppHarvest securities were allegedly artificially inflated during the Settlement Class Period; (iv) the extent to which factors such as general market, economic and industry conditions, influenced the trading prices of AppHarvest securities during the Settlement Class Period; and (v) whether or not the Individual Defendants' allegedly false and misleading statements proximately caused the losses suffered by the Settlement Class.

4. The Individual Defendants have denied and continue to deny any and all allegations of wrongdoing or fault asserted in the Action, deny that they have committed any act or omission giving rise to any liability or violation of law, and deny that Lead Plaintiff and the Settlement Class have suffered any loss attributable to the Individual Defendants' actions or omissions. While Lead Plaintiff believes the claims are meritorious, Lead Plaintiff recognizes that there are significant obstacles in the way to recovery.

Statement of Attorneys' Fees and Expenses Sought

5. Lead Counsel will apply to the Court for an award of attorneys' fees from the Settlement Fund in an amount not to exceed one-quarter (25%) of the Settlement Fund, which includes any accrued interest. Lead Counsel will also apply for payment of litigation expenses incurred in prosecuting the Action in an amount not to exceed $250,000.00 plus accrued interest. If the Court approves Lead Counsel's Fee and Expense Application, including deduction of estimated attorneys' fees and expenses, the average amount of fees and expenses, assuming claims are filed for all shares eligible to participate in the Settlement, will be, per Plaintiffs' estimate, approximately $0.04 per allegedly damaged share of AppHarvest common stock and $0.02 per allegedly damaged AppHarvest warrant. A copy of the Fee and Expense Application will be posted on **www.strategicclaims.net/apph/** after it has been filed with the Court.

Reasons for the Settlement

6. For Lead Plaintiff, the principal reason for the Settlement is the guaranteed cash benefit to the Settlement Class. This benefit must be compared to the uncertainty of being able to prove the allegations in the Complaint; the expense and length of continued proceedings necessary to prosecute the Action through discovery, class certification, summary judgment, trial and appeals. Lead Plaintiff has also taken into account the uncertain outcome and the risk of any litigation, especially in complex actions such as the Action, as well as the difficulties and delays inherent in such litigation. Lead Plaintiff and Lead Counsel are also cognizant of the fact that AppHarvest filed for Chapter 11 bankruptcy, of the remaining insurance available to the Individual Defendants, and of the risks of enforcing a judgment against the Individual Defendants after trial. For the Individual Defendants, who deny all allegations of wrongdoing or liability whatsoever and deny that Settlement Class Members were damaged, the principal reasons for entering into the Settlement are to end the burden, expense, uncertainty, and risk of further litigation.

Identification of Attorneys' Representatives

7. Lead Plaintiff and the Settlement Class are represented by Lead Counsel, Levi & Korsinsky, LLP, Gregory M. Potrepka, 1111 Summer Street, Suite 403, Stamford, CT 06905, www.zlk.com, 203-992-4523.

8. Further information regarding the Action, the Settlement, and this Notice may be obtained by contacting the Claims Administrator, Strategic Claims Services, at the address below, or Lead Counsel, or visiting the Settlement website at **www.strategicclaims.net/apph/**.

In re AppHarvest Securities Litigation
c/o Strategic Claims Services
600 N. Jackson Street, Suite 205
Media, PA 19063
Toll-free: (866) 274-4004
Fax: (610) 565-7985
Email: info@strategicclaims.net

Please Do Not Call the Court with Questions About the Settlement.

[END OF PSLRA COVER PAGE]

BASIC INFORMATION

1. Why was I directed to this Notice?

9. You or someone in your family, or an investment account for which you serve as a custodian, may have purchased or otherwise acquired securities of AppHarvest, Inc., during the Settlement Class Period of February 1, 2021 and August 10, 2021, inclusive, and may be a Settlement Class Member. This Notice explains the Action, the Settlement, Settlement Class Members' legal rights, what benefits are available, who is eligible for them, and how to get those benefits. Your receipt of this Notice does not mean that you are a Member of the Settlement Class or that you will be entitled to receive a payment. **If you wish to be eligible for a payment, you are required to submit the Claim Form that is available on the Settlement website at www.strategicclaims.net/apph/**. ***See*** **Question 8 below.**

10. The Court directed that this Notice be made publicly available on this website to inform Settlement Class Members of the terms of the proposed Settlement and about all of their options, before the Court decides whether to approve the Settlement at the upcoming hearing to consider the fairness, reasonableness, and adequacy of the Settlement, the proposed Plan of Allocation, and Lead Counsel's Fee and Expense Application (the "Settlement Hearing").

11. The Court in charge of the Action is the United States District Court for the Southern District of New York, and the case is known as *In re AppHarvest Inc., Securities Litigation*, Case No. 1:21-cv-7985-LJL. The Action is assigned to the Honorable Lewis J. Liman, United States District Judge.

2. What is this case about and what has happened so far?

12. AppHarvest is a former controlled environment agriculture company run by Defendant Webb as Chief Executive Officer, Defendant Eggleton as Chief Financial Officer, and Defendant Lee as President. Throughout the Settlement Class Period, AppHarvest's only operating farm was located in Morehead, Kentucky. Plaintiff alleges that throughout the Settlement Class Period, the Individual Defendants publicly disseminated false and misleading statements concerning labor and productivity issues AppHarvest experienced at the Morehead farm which, unbeknownst to investors, negatively affected the Company's operating results and prospects. Lead Plaintiff alleges that the truth was revealed on August 11, 2021, when AppHarvest and the Individual Defendants reported, among other items, the Company's financial results for the fiscal quarter ended June 30, 2021. Lead Plaintiff alleges that this news caused the prices of publicly traded AppHarvest securities to significantly depreciate, and thereby, caused economic harm to the Settlement Class.

13. On September 24, 2021, a purported securities class action was filed in the United States District Court for the Southern District of New York captioned *Ragan v. AppHarvest, Inc., et al.*, Case No. 1:21-cv-07985 (S.D.N.Y) (the "*Ragan* Action") on behalf of all investors who purchased or otherwise acquired AppHarvest securities between May 17, 2021 and August 10, 2021, inclusive. On November 22, 2021, a similar securities class action captioned *Plymouth County Retirement Association v. AppHarvest, Inc., et al*., Case No. 1:21-cv-09676 (S.D.N.Y.) (the "*Plymouth County* Action") was also filed in this Court seeking the same relief against the same defendants on behalf all investors who purchased or otherwise acquired AppHarvest securities between October 9, 2020 and August 10, 2021, inclusive.

14. On December 13, 2021, the Court issued an Opinion and Order: (i) consolidating the *Ragan* and *Plymouth County* Actions (ii) amended the case caption of the consolidated *Ragan* and *Plymouth County* Actions to *In re AppHarvest Securities Litigation* and ordered that every subsequent filings be made under Master File No. 21-cv-7985-LJL; (iii) appointing Alan Narzissenfeld as Lead Plaintiff; and (iv) appointing Levi & Korsinsky, LLP as Lead Counsel.

15. On March 2, 2022, Lead Plaintiff filed his First Consolidated Amended Class Action Complaint, alleging violations of Sections 10(b) and 20(a) of the Securities Exchange Act of 1934 ("Exchange Act"), and United States Securities and Exchange Commission ("SEC") Rule 10b-5 promulgated thereunder, against Defendants, on behalf of himself and all other persons or entities other than Defendants who purchased or otherwise acquired securities of AppHarvest between February 1, 2021 and August 10, 2021, inclusive, and were damaged thereby. Defendants moved to dismiss the First Consolidated Amended Class Action Complaint on May 2, 2021.

16. On July 22, 2022, the Court granted Lead Plaintiff permission to amend the First Consolidated Amended Class Action Complaint.

17. On August 12, 2022, Lead Plaintiff filed the operative Second Consolidated Amended Class Action Complaint (the "Operative Complaint"), which alleges violations of Sections 10(b) and 20(a) of the Exchange Act and SEC Rule 10b-5 promulgated thereunder, against Defendants, on behalf of himself and all other persons or entities other than Defendants who purchased or otherwise acquired securities of AppHarvest between February 1, 2021 and August 10, 2021, inclusive, and were damaged thereby.

18. On September 23, 2022, Defendants moved to dismiss the Operative Complaint.

19. On July 23, 2023, AppHarvest filed a voluntary Chapter 11 petition in the United States Bankruptcy Court for the Southern District of Texas, which is jointly administered with bankruptcy proceedings filed by entities affiliated with AppHarvest and captioned *In re AppHarvest Products, LLC*, Case No. 23-90745(DRJ).

20. On July 31, 2023, the Court issued an Opinion and Order granting in part, and denying in part Defendants' motion to dismiss the Operative Complaint. The Opinion and Order dismissed Lead Plaintiff's claims against Webb and Eggleton.

21. On August 1, 2023, Defendants filed a Notice of Suggestion of Bankruptcy and Automatic Stay of Proceedings.

22. On October 25, 2023, Lead Plaintiff's counsel and counsel for the Individual Defendants engaged in a full-day mediation session before Michelle Yoshida, Esq., of Phillips ADR, a well-respected and highly experienced mediator. In advance of the mediation session, Lead Plaintiff and the Individual Defendants exchanged detailed mediation statements along with supporting exhibits. Lead Plaintiff and the Individual Defendants ended the October 25, 2023 mediation without reaching a resolution of the Action. In the weeks following the mediation, Lead Plaintiff and the Individual Defendants continued to negotiate a possible settlement. On December 14, 2023, the Parties agreed to Ms. Yoshida's personal mediator's double-blind proposal to resolve the claims in the Action.

23. Lead Counsel represents that they conducted a thorough investigation relating to the claims, defenses, and underlying events and transactions that are the subject of the Action. This process included reviewing and analyzing: (i) AppHarvest's public filings with the SEC; (ii) publicly available information, including press releases, news articles, interview transcripts, and other public statements issued by or concerning Defendants; (iii) reports of securities and financial analysts concerning AppHarvest and the industry in which it operates; (iv) interviews with individuals who are former employees of AppHarvest; (v) retention of loss causation and damages experts and specialized bankruptcy counsel; (vi) review of pertinent court filings, including filings in AppHarvest's bankruptcy proceedings; and (vii) the applicable law governing the claims and potential defenses.

3. Why is this a class action?

24. In a class action, one or more persons or entities (in this case, Lead Plaintiff), sue on behalf of people and entities who or which have similar claims. Together, these people and entities are a "class," and each is a "class member." Bringing a case, such as this one, as a class action allows the adjudication of many similar claims of persons and entities who or which might be too small to bring economically as separate actions. One court resolves the issues for all class members at the same time, except for those who exclude themselves, or "opt-out," from the Settlement Class.

4. What are the reasons for the Settlement?

25. The Court did not finally decide in favor of Lead Plaintiff or the Individual Defendants. Instead, both sides agreed to a settlement that will end the Action. Lead Plaintiff and Lead Counsel believe that the claims asserted in the Action have merit, however, Lead Plaintiff and Lead Counsel recognize the expense and length of continued proceedings necessary to pursue the claims through trial and appeals, as well as the difficulties in establishing liability and damages. In light of the Settlement and the guaranteed cash recovery to the Settlement Class, Lead Plaintiff and Lead Counsel believe that the proposed Settlement is fair, reasonable, and adequate, and in the best interests of the Settlement Class.

26. The Individual Defendants have denied and continue to deny any allegations of wrongdoing contained in the Operative Complaint and further deny that they did anything wrong, that Lead Plaintiff or the Settlement Class suffered damages or that the price of AppHarvest securities were artificially inflated by reasons of alleged misrepresentations, nondisclosures, or otherwise. The Settlement should not be seen as an admission or concession on the part of the Individual Defendants. The Individual Defendants have taken into account the burden, expense, uncertainty, distraction, and risks inherent in any litigation and have concluded that it is desirable to settle upon the terms and conditions set forth in the Stipulation.

5. How do I know if I am part of the Settlement Class?

27. Everyone who fits the following description is a Settlement Class Member and subject to the Settlement unless they are an excluded person (*see* Question 6 below) or take steps to exclude themselves from the Settlement Class (*see* Question 11 below): **all persons and entities that purchased or otherwise acquired securities of AppHarvest, Inc., during the period from February 1, 2021 and August 10, 2021, inclusive, and were injured thereby.**

28. Receipt of a Postcard Notice does not mean that you are a Settlement Class Member. The Parties do not have access to your transactions in AppHarvest securities. Please check your records to see if you are a member of the Settlement Class.

6. Are there exceptions to the definition of the Settlement Class and to being included?

29. Yes. There are some individuals and entities who or which are excluded from the Settlement Class by definition. Excluded from the Settlement Class are: (1) the Individual Defendants; (2) the Individual Defendants' immediate family members; (3) any firm, trust, corporation, or other entity in which a defendant has or had a controlling interest; and (4) the legal representatives, affiliates, heirs, successors in interest, or assigns of any such excluded person or entity.

30. Also excluded from the Settlement Class will be any Person who or which timely and validly seeks exclusion from the Settlement Class in accordance with the procedures described in Question 11 below or whose request is otherwise allowed by the Court.

THE SETTLEMENT BENEFITS

7. What does the Settlement provide?

31. In exchange for the Settlement and the release of the Released Claims against the Released Defendant Parties, the Individual Defendants have agreed to create a $4,850,000 cash fund, which may accrue interest, to be distributed, after deduction of Court-awarded attorneys' fees and litigation expenses, Notice and Administration Expenses, Taxes, and any other fees or expenses approved by the Court (the "Net Settlement Fund"), among all Settlement Class Members who submit valid Claim Forms and are found to be eligible to receive a distribution from the Net Settlement Fund ("Authorized Claimants").

8. How can I receive a payment?

32. To qualify for a payment, you must submit a timely and valid Claim Form. A Claim Form can be obtained from the website dedicated to the Settlement: **www.strategicclaims.net/apph/**. You can request that a Claim Form be mailed to you by calling the Claims Administrator toll-free at **(866) 274-4004** or e-mailing **info@strategicclaims.net**. Please read the instructions contained in the Claim Form carefully, fill out the Claim Form, include all the documents the form requests, sign it, and mail or submit it electronically to the Claims Administrator so that it is **postmarked or received no later than May 22, 2024, or you can submit the claim form online at www.strategicclaims.net/apph/ no later than 11:59 p.m. EST on May 22, 2024.**

9. When will I receive my payment?

33. The Court will hold a Settlement Hearing on **June 12, 2024** to decide, among other things, whether to finally approve the Settlement. Even if the Court approves the Settlement, there may be appeals

which can take time to resolve, perhaps more than a year. It also takes a long time for all of the Claim Forms to be accurately reviewed and processed. Please be patient.

10. What am I giving up to receive a payment or stay in the Settlement Class?

34. If you are a member of the Settlement Class, unless you exclude yourself, you will remain in the Settlement Class, and that means that, upon the "Effective Date" of the Settlement, you will release all "Released Claims" against the "Released Defendant Parties." Unless you exclude yourself, you are staying in the Settlement Class, and that means that you cannot sue, continue to sue, or be part of any other lawsuit against the Individual Defendants about the Released Claims. It also means that all of the Court's Orders will apply to you and legally bind you and you will release your claims against the Individual Defendants.

(a) **"Released Claims"** means any and all claims and causes of action of every nature and description, including both known claims and Unknown Claims (defined below), debts, disputes, demands, rights, actions or causes of action, liabilities, damages, losses, obligations, sums of money due, judgments, suits, amounts, matters, issues and charges of any kind whatsoever (including, but not limited to, any claims for interest, attorneys' fees, expert or consulting fees, and any other costs, expenses, amounts, or liabilities whatsoever), whether fixed or contingent, asserted or unasserted, discoverable or undiscoverable, accrued or unaccrued, liquidated or unliquidated, at law or in equity, matured or unmatured, foreseen or unforeseen, whether individual or class in nature, whether arising under federal or state statutory or common law or any other law, rule, or regulation, whether foreign or domestic, including those that are concealed or hidden, regardless of legal or equitable theory, that (i) arise out of, are based upon, are related to, or are in consequence of any of the facts, allegations, transactions, matters, events, filings, disclosures, non-disclosures, occurrences, representations, statements, acts or omissions or failures to act that were or could have been involved, set forth, referred to, or alleged by Lead Plaintiff and any other Settlement Class Member in the Action, whether arising under federal, state, local, common or foreign law, or any other law, rule, or regulation, whether individual or class in nature, (ii) that concern, arise out of, are based upon, or relate to the purchase, acquisition, holding, sale, or disposal of AppHarvest securities during the Settlement Class Period, or that otherwise would have been barred by res judicata had the Action been fully litigated to a final judgment; or (iii) Defendants' and/or their attorneys' defense or settlement of the Action and/or claims alleged therein, or both. Released Claims do not include: (i) claims relating to the enforcement of the Settlement; (ii) any claims asserted in the Bankruptcy, including, but not limited to, claims brought by Lead Plaintiff and/or Settlement Class Members; and (iii) any claims of Persons who submit a request for exclusion that is accepted by the Court.

(b) **"Released Defendant Parties"** The Released Defendant Parties shall include (i) the Individual Defendants and each and all of their present or former affiliates, predecessors, heirs, executors, administrators, successors and assigns, attorneys, accountants, insurers, financial advisors, commercial bank lenders, investment bankers, representatives, general and limited partners and partnerships, agents, spouses, associates, and assigns of each or any of them or any trust of which an Individual Defendant is the settlor or which is for the benefit of the Individual Defendant and any entity in which an Individual Defendant has a controlling interest, and (ii) each and all of the present and former parents, subsidiaries, divisions, affiliates, successors of AppHarvest and each and all of the present or former employees, officers, directors, attorneys, accountants, insurers, financial advisors, commercial bank lenders, investment bankers, representatives, general and limited partners and partnerships, agents, spouses, associates, and assigns of each or any of them.

(c) "**Unknown Claims**" means any and all Released Claims that Lead Plaintiff or any other Settlement Class Member do not know or suspect to exist in his, her, or its favor at the time of the release of the Released Defendant Parties, and any and all Released Defendants' Claims that any Individual Defendant does not know or suspect to exist in his or its favor at the time of the release of the Released Plaintiff Parties, which if known by him, her, or it might have affected his, her, or its decision(s) with respect to the Settlement, including the decision to object to the terms of the Settlement or to exclude himself, herself, or itself from the Settlement Class. With respect to any and all Released Claims and Released Defendants' Claims, the Parties stipulate and agree that, upon the Effective Date, Lead Plaintiff and the Individual Defendants shall expressly, and each other Settlement Class Member shall be deemed to have, and by operation of the Judgment shall be deemed to have, to the fullest extent permitted by law, expressly waived and relinquished any and all

provisions, rights and benefits conferred by any law of any state or territory of the United States or foreign law, or principle of common law, which is similar, comparable, or equivalent to Cal. Civ. Code § 1542, which provides:

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

Lead Plaintiff, other Settlement Class Members, or the Individual Defendants may hereafter discover facts, legal theories, or authorities in addition to or different from those which any of them now knows or believes to be true with respect to the subject matter of the Released Claims and the Released Defendants' Claims, but Lead Plaintiff and the Individual Defendants shall expressly, fully, finally, and forever settle and release, and each Settlement Class Member shall be deemed to have settled and released, and upon the Effective Date and by operation of the Judgment shall have settled and released, fully, finally, and forever, any and all Released Claims and Released Defendants' Claims as applicable, without regard to the subsequent discovery or existence of such different or additional facts, legal theories, or authorities. Lead Plaintiff and the Individual Defendants acknowledge, and other Settlement Class Members by operation of law shall be deemed to have acknowledged, that the inclusion of "Unknown Claims" in the definition of Released Claims and Released Defendants' Claims was separately bargained for and was a material element of the Settlement

35. The "Effective Date" will occur when an Order entered by the Court approving the Settlement becomes Final and is not subject to appeal. If you remain a member of the Settlement Class, all of the Court's orders, whether favorable or unfavorable, will apply to you and legally bind you. Upon the Effective Date, the Individual Defendants will also provide a release of any claims against Lead Plaintiff and the Settlement Class arising out of or related to the institution, prosecution, or settlement of the claims in the Action.

EXCLUDING YOURSELF FROM THE SETTLEMENT CLASS

36. If you do not want to be eligible to receive a payment from the Settlement but you want to keep any right you may have to sue or continue to sue the Released Defendant Parties on your own concerning the Released Claims, then you must take steps to remove yourself from the Settlement Class. This is called excluding yourself or "opting out." Please note: if you bring your own claims, Defendants will have the right to seek their dismissal, including because the suit is not filed within the applicable time periods required for filing suit. Also, the Individual Defendants may terminate the Settlement if Persons who purchased in excess of a certain amount of shares of AppHarvest securities seek exclusion from the Settlement Class.

11. How do I exclude myself from the Settlement Class?

37. To exclude yourself from the Settlement Class, you must transmit by United States Postal Service or e-mail a signed letter stating that you "request to be excluded from the Settlement Class in *In re AppHarvest Inc., Securities Litigation*, Case No. 1:21-cv-7985-LJL (S.D.N.Y)." **You cannot exclude yourself by telephone**. Each request for exclusion must also: (i) state the name, mailing address, telephone number, and e-mail address of the person or entity requesting exclusion; (ii) state the number of publicly traded AppHarvest common shares or warrants purchased, acquired, and/or sold during the Settlement Class Period, as well as the dates and prices of each such purchase, acquisition, and sale; and (iii) be signed by the person or entity requesting exclusion or an authorized representative. A request for exclusion must be **post-marked if by mail, or e-mailed, no later than May 22, 2024,** to:

EXCLUSIONS – In re AppHarvest Securities Litigation
c/o Strategic Claims Services
600 N. Jackson Street, Suite 205
Media, PA 19063
email: info@strategicclaims.net

Your exclusion request must comply with these requirements in order to be valid, unless it is otherwise accepted by the Court.

38. If you ask to be excluded, do not submit a Claim Form because you cannot receive any payment from the Net Settlement Fund. Also, you cannot object to the Settlement because you will not be a Settlement Class Member. However, if you submit a valid exclusion request, you will not be legally bound by anything that happens in the Action, and you may be able to sue (or continue to sue) the Individual Defendants and the other Released Defendant Parties in the future, assuming your claims are timely and otherwise valid. If you have a pending lawsuit against any of the Released Defendant Parties, **please speak to your lawyer in the case immediately.**

12. If I do not exclude myself, can I sue the Individual Defendants and the other Released Defendant Parties for the same thing later?

39. No. Unless you properly exclude yourself, you will give up any rights to sue the Individual Defendants and the other Released Defendant Parties for any and all Released Claims.

13. If I exclude myself, can I get money from the proposed Settlement?

40. No. If you exclude yourself, you may not send in a Claim Form to ask for any money.

THE LAWYERS REPRESENTING YOU

14. Do I have a lawyer in this case?

41. The Court appointed the law firm of Levi & Korsinsky, LLP to represent all Settlement Class Members. These lawyers are called "Lead Counsel." You will not be separately charged for these lawyers. The Court will determine the amount of Lead Counsel's fees and expenses, which will be paid from the Settlement Fund. If you want to be represented by your own lawyer, you may hire one at your own expense.

15. How will the lawyers be paid?

42. Lead Counsel has not received any payment for their services in pursuing the claims against Defendants on behalf of the Settlement Class, nor have they been paid for their litigation expenses. They have not been paid attorneys' fees or reimbursed for their expenses in advance of this Settlement. Lead Counsel will ask the Court to award Plaintiffs' Counsel attorneys' fees of no more than one-quarter (25%) of the Settlement Fund, which will include any accrued interest. No other attorneys will share in the fee awarded by the Court. Lead Counsel will also seek payment of litigation expenses incurred in the prosecution of the Action of no more than $250,000.00, plus accrued interest.

OBJECTING TO THE SETTLEMENT, THE PLAN OF ALLOCATION, OR THE FEE AND EXPENSE APPLICATION

16. How do I tell the Court that I do not like something about the proposed Settlement?

43. If you are a Settlement Class Member, you can object to the Settlement or any of its terms, the proposed Plan of Allocation, or the Fee and Expense Application. You can ask the Court not to approve the Settlement, however you cannot ask the Court to order a different settlement; the Court can only approve or deny this Settlement. If the Court denies approval of the Settlement, no payments will be made to Settlement Class Members, the Parties will return to the position they were in before the Settlement was agreed to, and the Action will continue.

44. Any objection to the proposed Settlement, Lead Counsel's request for fees and Litigation Expenses. If you file a timely written objection, you may, but are not required to, appear at the Final Approval Hearing, either in person or through your own attorney. If you appear through your own attorney, you are responsible for hiring and paying that attorney. All written objections and supporting papers must (a) clearly identify the case name and number "*In re AppHarvest Inc., Securities Litigation*, Case No. 1:21-cv-7985-LJL (S.D.N.Y)," and (b) be submitted to the Court either by mailing or hand-delivering them to the Ruby J. Krajick,

Clerk of Court, United States District Court for the Southern District of New York, Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, New York, NY 10007.

45. Any objection must state: (i) the full name, mailing address, telephone number, and e-mail address of the person or entity objecting; (ii) contain a statement of the objection and all grounds supporting it, including any legal and evidentiary support (including witnesses) the Settlement Class Member wishes to bring to the Court's attention; and (iii) documentation identifying the number of publicly traded AppHarvest common shares or warrants the person or entity purchased, acquired, and/or sold during the Settlement Class Period, as well as the dates and prices of each such purchase, acquisition, and sale. Unless otherwise ordered by the Court, any Settlement Class Member who does not object in the manner described in this Notice will be deemed to have waived any objection and will be forever foreclosed from making any objection to the proposed Settlement, the Plan of Allocation, or Lead Counsel's Fee and Expense Application.

46. If you wish to appear in person at the Final Approval Hearing, you must submit to the Court with your objection a Notice of Intention to Appear. If you intend to appear at the Final Approval Hearing through counsel, your objection must also state the identity of all attorneys who will appear at the Final Approval Hearing and your counsel must submit a Notice of Intention to Appear with the objection.

47. Copies of any written objection, Notice of Intention to Appear and all supporting papers and briefs must also be mailed by, or delivered by e-mail, such that it is ***received*** by, each of the following no later than **May 22, 2024:**

Lead Counsel

LEVI & KORSINSKY, LLP
Gregory M. Potrepka
1111 Summer Street, Suite 403
Stamford, CT 06905
gpotrepka@zlk.com

Individual Defendants' Counsel

COOLEY LLP
Peter M. Adams
10265 Science Center Drive
San Diego, CA 92121-1117
padams@cooley.com

17. What is the difference between objecting and seeking exclusion?

48. Objecting is telling the Court that you do not like something about the proposed Settlement, Plan of Allocation, or Lead Counsel's Fee and Expense Application. You can still recover money from the Settlement. You can object *only* if you stay in the Settlement Class. Excluding yourself is telling the Court that you do not want to be part of the Settlement Class. If you exclude yourself from the Settlement Class, you have no basis to object because the Settlement and the Action no longer affects you.

THE SETTLEMENT HEARING

18. When and where will the Court decide whether to approve the proposed Settlement?

49. The Court will hold the Settlement Hearing on **June 12, 2024 at 3:00 p.m.**, either telephonically and/or in Courtroom 15C of the United States District Court for the Southern District of New York, Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, New York, NY 10007. At this hearing, the Court will consider, whether: (i) the Settlement is fair, reasonable and adequate, and should be finally approved; (ii) the Plan of Allocation is fair and reasonable, and should be approved; and (iii) Lead Counsel's Fee and Expense Application is reasonable and should be approved. The Court will take into consideration any written objections filed in accordance with the instructions in Question 15 above. We do not know how long it will take the Court to make these decisions.

50. You should be aware that the Court may change the date and time of the Settlement Hearing, or hold the hearing telephonically, without another notice being sent to Settlement Class Members. If you want to attend the hearing, you should check with Lead Counsel beforehand to be sure that the date or time has not changed, periodically check the settlement website at **www.strategicclaims.net/apph/**, or periodically check the Court's website at https://www.nysd.uscourts.gov/ to see if the Settlement Hearing stays as calendared or is changed. Subscribers to PACER, a fee-based service, can also view the Court's docket for the Action for

updates about the Settlement Hearing through the Court's on-line Case Management/Electronic Case Files System at https://www.pacer.gov.

19. Do I have to come to the Settlement Hearing?

51. No. Lead Counsel will answer any questions the Court may have. But, you are welcome to attend at your own expense. If you submit a valid and timely objection, the Court will consider it and you do not have to come to Court to discuss it. You may have your own lawyer attend (at your own expense), but it is not required. If you do hire your own lawyer, he or she must file and serve a Notice of Appearance in the manner described in the answer to Question 19 below **no later than May 22, 2024.**

20. May I speak at the Settlement Hearing?

52. You may ask the Court for permission to speak at the Settlement Hearing. To do so, you must include with your objection (*see* Question 15), **no later than May 22, 2024,** a statement that you, or your attorney, intend to appear in "*In re AppHarvest Inc., Securities Litigation*, Case No. 1:21-cv-7985-LJL (S.D.N.Y)." Persons who intend to present evidence at the Settlement Hearing must also include in their objections the identities of any witnesses they may wish to call to testify and any exhibits they intend to introduce into evidence at the hearing. You may not speak at the Settlement Hearing if you exclude yourself or if you have not provided written notice in accordance with the procedures described in this Question 19 and Question 15 above.

IF YOU DO NOTHING

21. What happens if I do nothing at all?

53. If you do nothing and you are a member of the Settlement Class, you will receive no money from this Settlement and you will be precluded from starting a lawsuit, continuing with a lawsuit, or being part of any other lawsuit against the Individual Defendants and the other Released Defendant Parties concerning the Released Claims. To share in the Net Settlement Fund, you must submit a Claim Form (*see* Question 8 above). To start, continue or be part of any other lawsuit against the Individual Defendants and the other Released Defendants' Parties concerning the Released Claims in this case, to the extent it is otherwise permissible to do so, you must exclude yourself from the Settlement Class (*see* Question 11 above).

GETTING MORE INFORMATION

22. Are there more details about the Settlement?

54. This Notice summarizes the proposed Settlement. More details are in the Stipulation. Lead Counsel's motions in support of final approval of the Settlement, the request for attorneys' fees and litigation expenses, and approval of the proposed Plan of Allocation will be filed with the Court no later than May 8, 2024 and be available from Lead Counsel, the Claims Administrator, or the Court, pursuant to the instructions below.

55. Subscribers to PACER can view the papers filed publicly in the Action through the Court's on-line Case Management/Electronic Case Files System at https://www.pacer.gov. You can also get a copy of the Stipulation and other case documents by calling the Claims Administrator toll-free at (866) 274-4004, e-mailing info@strategicclaims.net, visiting the Claims Administrator's website at **www.strategicclaims.net/apph/**, or by writing to In re AppHarvest Securities Litigation, c/o Strategic Claims Services, 600 N. Jackson Street, Suite 205, Media, PA 19063. **Please do not call the Court with questions about the Settlement.**

SPECIAL NOTICE TO SECURITIES BROKERS AND NOMINEES

56. If you purchased or otherwise acquired AppHarvest securities during the Settlement Class Period for the beneficial interest of a person or entity other than yourself, the Court has directed that **WITHIN SEVEN (7) DAYS OF YOUR RECEIPT OF A NOTICE**, **YOU MUST EITHER**: (a) provide to the Claims Administrator the name and last known address and e-mail address of each such person or entity; or (b) request

additional copies of the Postcard Notice from the Claims Administrator, which will be provided to you free of charge, and **WITHIN SEVEN (7) DAYS** of receipt, mail the Postcard Notice directly to all such persons or entities, or (c) request the link of the Notice and Claim Form from the Claims Administrator, and **WITHIN SEVEN (7) DAYS** of receipt, e-mail the link directly to all such persons or entities. If they are available, you must also provide the Claims Administer with the e-mails of the beneficial owners. If you choose to follow procedure (b) or (c), the Court has also directed that, upon making that mailing or e-mailing, **YOU MUST SEND A STATEMENT** to the Claims Administrator confirming that the mailing or e-mailing was made as directed **WITHIN SEVEN (7) CALENDAR DAYS** of receipt of the Postcard Notices, or the link of the Notice and Claim Form, from the Claims Administrator, and keep a record of the names and mailing addresses or e-mail addresses used. Upon full and timely compliance with these directions, nominees may seek reimbursement of their reasonable expenses actually incurred, not to exceed (a) $0.03 per name, mailing address and e-mail address (to the extent available) provided to Claims Administrator; (b) $0.03 per e-mail for e-mailing notice; or (c) $0.03 per postcard, plus postage at the pre-sort rate used by the Claims Administrator, for mailing the Postcard Notice, by providing the Claims Administrator with proper documentation supporting the expenses for which reimbursement is sought. All communications concerning the foregoing should be addressed to the Claims Administrator: In re AppHarvest Securities Litigation, c/o Strategic Claims Services, 600 N. Jackson Street, Suite 205, Media, PA 19063.

PLAN OF ALLOCATION OF NET SETTLEMENT FUND

A. Introduction to the Plan of Allocation

The objective of the Plan of Allocation is to equitably distribute the Net Settlement Fund among Authorized Claimants based on their respective alleged economic losses as a result of the alleged fraud, as opposed to losses caused by market or industry-wide factors, or Company-specific factors unrelated to the alleged fraud. The Claims Administrator shall determine each Authorized Claimant's share of the Net Settlement Fund based upon the recognized loss formula ("Recognized Loss") described below.

A Recognized Loss will be calculated for each publicly traded share of AppHarvest common stock ("Common Stock") and each publicly traded AppHarvest warrant ("Warrants") purchased or otherwise acquired during the Settlement Class Period.[2,3] The calculation of Recognized Loss will depend upon several factors, including when AppHarvest Securities were purchased or otherwise acquired during the Settlement Class Period and in what amounts, and whether such securities were sold and, if sold, when and for what amounts. The Recognized Loss is not intended to estimate the amount a Settlement Class Member might have been able to recover after a trial, nor to estimate the amount that will be paid to Authorized Claimants pursuant to the Settlement. The Recognized Loss is the basis upon which the Net Settlement Fund will be proportionately allocated to the Authorized Claimants. The Claims Administrator will use its best efforts to administer and distribute the Net Settlement Fund equitably and to the extent it is economically feasible. The Court will be asked to approve the Claims Administrator's determinations before the Net Settlement Fund is distributed to Authorized Claimants.

The Plan of Allocation was created with the assistance of damages and financial consultants and is based on the assumption that the prices of AppHarvest Securities were artificially inflated throughout the Settlement Class Period. The estimated alleged artificial inflation in the price of AppHarvest Common Stock and Warrants during the Settlement Class Period are $3.34 per share and $1.68 per warrant, respectively. The computation of the estimated alleged artificial inflation in the price of AppHarvest Securities during the Settlement Class Period is based on the fraudulent courses of conduct alleged by Lead Plaintiff and the price changes in the

[2] Herein, AppHarvest Common Stock and Warrants are referred to collectively as "AppHarvest Securities."
[3] Throughout the Settlement Class Period, AppHarvest Common Stock was listed on the NASDAQ Capital Market exchange under the symbol APPH and AppHarvest Warrants were listed on the NASDAQ Capital Market exchange under the symbol APPHW.

stock, net of market and industry-wide factors, in reaction to the public announcements issued prior to the market open on August 11, 2021 that allegedly corrected the fraud alleged by Lead Plaintiff. The Plan of Allocation takes into account that the relevant news on August 11, 2021 was issued prior to the market open and thus these disclosures removed artificial inflation from the price of AppHarvest Securities on August 11, 2021 (the "Corrective Disclosure Date").

The U.S. federal securities laws allow investors to recover losses caused by disclosures which corrected the Defendants' alleged fraudulent statements. Thus, in order to have recoverable damages, the corrective disclosure of the alleged fraud must be the cause of the decline in the price or value of AppHarvest Common Stock or Warrants. Accordingly, if an AppHarvest Security was sold before August 11, 2021 (the Corrective Disclosure Date), the Recognized Loss for such Common Stock or Warrant is $0.00, and any loss suffered is not compensable under the federal securities laws. In addition, the Court's Opinion and Order dated July 31, 2023, dismissed all alleged misstatements in the Operative Complaint prior to May 25, 2021, any Recognized Loss calculated for AppHarvest Securities purchased in the Settlement Class Period prior to May 25, 2021 will be reduced by 90%.

The "90-day lookback" provision of the Private Securities Litigation Reform Act of 1995 ("PSLRA") is incorporated into the calculation of the Recognized Loss for AppHarvest Securities. The limitations on the calculation of the Recognized Loss imposed by the PSLRA are applied such that losses on AppHarvest Securities purchased during the Settlement Class Period and held as of the end of the 90-day period subsequent to the Settlement Class Period (the "90-Day Lookback Period") cannot exceed the difference between the purchase price paid for such security and its average price during the 90-Day Lookback Period. The Recognized Loss on AppHarvest Securities purchased during the Settlement Class Period and sold during the 90-Day Lookback Period cannot exceed the difference between the purchase price paid for such security and its rolling average price during the portion of the 90-Day Lookback Period elapsed as of the date of sale.

In the calculations below, all purchase and sale prices shall exclude any fees, taxes and commissions. If a Recognized Loss amount is calculated to be a negative number, that Recognized Loss shall be set to zero.

A Recognized Loss will be calculated as set forth below for each share of AppHarvest Common Stock and each AppHarvest Warrant purchased or otherwise acquired during the Settlement Class Period that is listed in the Claim Form and for which adequate documentation is provided.

Please note that the approval of the Settlement is separate from, and not conditioned on, the Court's approval of the Plan of Allocation. You do not need to make any of these calculations yourself. The Claims Administrator will make all of these calculations for you.

B. Calculating Recognized Loss for AppHarvest Common Stock

For each share of AppHarvest Common Stock purchased or otherwise acquired during the Settlement Class Period, i.e., February 1, 2021 through August 10, 2021, inclusive, the Recognized Loss per share shall be calculated as follows (the Recognized Loss per share for purchases made prior to May 25, 2021 will also be multiplied by 10%):

I. For each share of AppHarvest Common Stock purchased during the Settlement Class Period that was subsequently sold prior to August 11, 2021, the Recognized Loss per share is $0.00.

II. For each share of AppHarvest Common Stock purchased during the Settlement Class Period that was subsequently sold during the period August 11, 2021 through November 8, 2021, inclusive, (i.e., sold during the 90-Day Lookback Period), the Recognized Loss per share is the lesser of:
   a. $3.34; or
   b. the purchase price minus the sale price; or
   c. the purchase price minus the "90-Day Lookback Value" on the date of sale provided in Table 1 below.

III. For each share of AppHarvest Common Stock purchased during the Settlement Class Period that was still held as of the close of trading on November 8, 2021, the Recognized Loss per share is the lesser of:
   a. $3.34; or
   b. the purchase price minus the average closing price for AppHarvest Common Stock during the 90-Day Lookback Period, which is $6.73.

Table 1
90-Day Lookback Value by Sale/Disposition Date for AppHarvest Common Stock

Sale / Disposition Date	90-Day Lookback Value	Sale / Disposition Date	90-Day Lookback Value	Sale / Disposition Date	90-Day Lookback Value
8/11/2021	$8.51	9/10/2021	$7.81	10/11/2021	$7.25
8/12/2021	$8.36	9/13/2021	$7.79	10/12/2021	$7.21
8/13/2021	$8.11	9/14/2021	$7.77	10/13/2021	$7.18
8/16/2021	$7.85	9/15/2021	$7.76	10/14/2021	$7.15
8/17/2021	$7.71	9/16/2021	$7.75	10/15/2021	$7.12
8/18/2021	$7.66	9/17/2021	$7.74	10/18/2021	$7.09
8/19/2021	$7.53	9/20/2021	$7.73	10/19/2021	$7.06
8/20/2021	$7.48	9/21/2021	$7.70	10/20/2021	$7.02
8/23/2021	$7.52	9/22/2021	$7.68	10/21/2021	$6.99
8/24/2021	$7.55	9/23/2021	$7.66	10/22/2021	$6.96
8/25/2021	$7.57	9/24/2021	$7.63	10/25/2021	$6.93
8/26/2021	$7.62	9/27/2021	$7.60	10/26/2021	$6.90
8/27/2021	$7.66	9/28/2021	$7.57	10/27/2021	$6.87
8/30/2021	$7.72	9/29/2021	$7.54	10/28/2021	$6.85
8/31/2021	$7.77	9/30/2021	$7.51	10/29/2021	$6.83
9/1/2021	$7.81	10/1/2021	$7.48	11/1/2021	$6.82
9/2/2021	$7.84	10/4/2021	$7.44	11/2/2021	$6.80
9/3/2021	$7.84	10/5/2021	$7.41	11/3/2021	$6.79
9/7/2021	$7.84	10/6/2021	$7.37	11/4/2021	$6.77
9/8/2021	$7.84	10/7/2021	$7.34	11/5/2021	$6.75
9/9/2021	$7.83	10/8/2021	$7.30	11/8/2021	$6.73

The Recognized Loss is equal to the Recognized Loss per share multiplied by the number of shares.

C. Calculation of Recognized Loss for AppHarvest Warrants

For each AppHarvest Warrant purchased or otherwise acquired during the Settlement Class Period, i.e., February 1, 2021 through August 10, 2021, inclusive, the Recognized Loss per warrant shall be calculated as follows (the Recognized Loss per warrant for purchases made prior to May 25, 2021 will also be multiplied by 10%):

I. For each AppHarvest Warrant purchased during the Settlement Class Period that was subsequently sold prior to August 11, 2021, the Recognized Loss per warrant is $0.00.

II. For each AppHarvest Warrant purchased during the Settlement Class Period that was subsequently sold during the period August 11, 2021 through November 8, 2021, inclusive, (i.e., sold during the 90-Day Lookback Period), the Recognized Loss per warrant is the lesser of:
   a. $1.68; or
   b. the purchase price minus the sale price; or
   c. the purchase price minus the "90-Day Lookback Value" on the date of sale provided in Table 2 below.

III. For each AppHarvest Warrant purchased during the Settlement Class Period that was still held as of the close of trading on November 8, 2021, the Recognized Loss per warrant is the lesser of:
   a. $1.68; or
   b. the purchase price minus the average closing price for AppHarvest Warrant during the 90-Day Lookback Period, which is $1.47.

Table 2
90-Day Lookback Value by Sale/Disposition Date for AppHarvest Warrants

Sale / Disposition Date	90-Day Lookback Value	Sale / Disposition Date	90-Day Lookback Value	Sale / Disposition Date	90-Day Lookback Value
8/11/2021	$2.15	9/10/2021	$1.86	10/11/2021	$1.65
8/12/2021	$2.02	9/13/2021	$1.86	10/12/2021	$1.64
8/13/2021	$1.90	9/14/2021	$1.85	10/13/2021	$1.63
8/16/2021	$1.82	9/15/2021	$1.84	10/14/2021	$1.62
8/17/2021	$1.77	9/16/2021	$1.84	10/15/2021	$1.61
8/18/2021	$1.78	9/17/2021	$1.84	10/18/2021	$1.60
8/19/2021	$1.75	9/20/2021	$1.83	10/19/2021	$1.58
8/20/2021	$1.74	9/21/2021	$1.82	10/20/2021	$1.57
8/23/2021	$1.76	9/22/2021	$1.82	10/21/2021	$1.56
8/24/2021	$1.76	9/23/2021	$1.81	10/22/2021	$1.55
8/25/2021	$1.76	9/24/2021	$1.80	10/25/2021	$1.54
8/26/2021	$1.78	9/27/2021	$1.79	10/26/2021	$1.53
8/27/2021	$1.78	9/28/2021	$1.78	10/27/2021	$1.52
8/30/2021	$1.81	9/29/2021	$1.77	10/28/2021	$1.51
8/31/2021	$1.83	9/30/2021	$1.75	10/29/2021	$1.51
9/1/2021	$1.84	10/1/2021	$1.74	11/1/2021	$1.50
9/2/2021	$1.85	10/4/2021	$1.73	11/2/2021	$1.50
9/3/2021	$1.86	10/5/2021	$1.71	11/3/2021	$1.49
9/7/2021	$1.86	10/6/2021	$1.70	11/4/2021	$1.48
9/8/2021	$1.86	10/7/2021	$1.68	11/5/2021	$1.48
9/9/2021	$1.86	10/8/2021	$1.67	11/8/2021	$1.47

The Recognized Loss is equal to the Recognized Loss per warrant multiplied by the number of warrants.

D. General Provisions Applicable to the Plan of Allocation

The payment you receive will reflect your proportionate share of the Net Settlement Fund. Such payment will depend on the number of eligible securities that participate in the Settlement, and when those securities were purchased and sold. The number of Claimants who send in Claims varies widely from case to case.

A purchase or sale of AppHarvest Securities shall be deemed to have occurred on the "contract" or "trade" date as opposed to the "settlement" or "payment" date.

Acquisition by Gift, Inheritance or Operation of Law: If a Settlement Class Member acquired AppHarvest Securities during the Settlement Class Period by way of gift, inheritance or operation of law, such a claim will be computed by using the date and price of the original purchase and not the date and price of transfer. To the extent that AppHarvest Common Stock or Warrants were originally purchased prior to commencement of the Settlement Class Period, the Recognized Loss for that acquisition shall be deemed to be zero ($0.00).

If a Settlement Class Member made more than one purchase/acquisition or sale of any AppHarvest Security during the Settlement Class Period, all purchases/acquisitions and sales shall be matched on a First In, First Out ("FIFO") basis. With respect to AppHarvest Common Stock and Warrants, Settlement Class Period sales will be matched first against any holdings as of January 31, 2021 (the last day before the Settlement Class Period begins), and then against purchases/acquisitions in chronological order, beginning with the earliest purchase/acquisition made during the Settlement Class Period.

The date of covering a "short sale" of AppHarvest Common Stock is deemed to be the date of purchase of AppHarvest shares. The date of a "short sale" of AppHarvest Common Stock is deemed to be the date of sale of AppHarvest shares. In accordance with the Plan of Allocation, however, the Recognized Loss on "short sales" is zero. In the event that a claimant has a short position in AppHarvest Common Stock, the earliest subsequent Settlement Class Period purchases shall be matched against such short position and not be entitled to a recovery until that short position is fully covered.

The Claims Administrator will determine if the Claimant had a "Market Gain" or a "Market Loss" with respect to his, her, or its overall transactions in AppHarvest Common Stock[4] and Warrants during the Settlement Class Period. For purposes of making this calculation, the Claims Administrator will determine the difference between: (i) the Claimant's Total Purchase Amount[5] and (ii) the sum of the Claimant's Total Sales Proceeds[6] and the Claimant's Holding Value.[7] If the Claimant's Total Purchase Amount minus the sum of the Claimant's Total Sales Proceeds and the Holding Value is a positive number, that number will be the Claimant's Market Loss; if the number is a negative number or zero, that number will be the Claimant's Market Gain.

If a Claimant had a Market Gain with respect to his, her, or its overall transactions in AppHarvest Securities during the Settlement Class Period, the value of the Claimant's Recognized Loss will be set to zero, and the

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[4] Including transactions in common stock due to the assignment or exercise of options.

[5] The "Total Purchase Amount" is the total amount the Claimant paid (excluding any fees, commissions, and taxes) for all shares of AppHarvest Common Stock or AppHarvest Warrants purchased/acquired during the Settlement Class Period.

[6] The "Total Sales Proceeds" will be the total amount received (not deducting any fees, commissions, and taxes) for sales of AppHarvest Common Stock or AppHarvest Warrants that are made by the Claimant during the Settlement Class Period. Sales of AppHarvest Common Stock or AppHarvest Warrants that match under FIFO to positions held prior to the Settlement Class Period will be excluded from the calculation.

[7] The Claims Administrator will ascribe a "Holding Value" of $8.51 to each share of AppHarvest Common Stock and $2.15 to each AppHarvest Warrant purchased/acquired during the Settlement Class Period that was still held as of the close of trading on August 10, 2021. For common stock sold short during the Settlement Class Period and still held as of the close of trading on August 10, 2021, the Claims Administrator will ascribe a holding value for that common stock as described above, but such holding value will be multiplied by -1 (i.e., equivalent to a closing purchase of such short position).

Claimant will in any event be bound by the Settlement. If a Claimant suffered an overall Market Loss with respect to his, her, or its overall transactions in AppHarvest Securities during the Settlement Class Period, but that Market Loss was less than the Claimant's Recognized Loss as calculated above, then the Claimant's Recognized Loss will be limited to the amount of the Market Loss.

With respect to AppHarvest Common Stock purchased through the exercise of a call or put option,[8] the purchase date of the stock shall be the exercise date of the option and the purchase price shall be the closing price of AppHarvest Common Stock on the exercise date. Any Recognized Loss arising from purchases of AppHarvest Common Stock acquired during the Settlement Class Period through the exercise of an option on AppHarvest Common Stock shall be computed as provided for other purchases of AppHarvest Common Stock in the Plan of Allocation.

Payment according to the Plan of Allocation will be deemed conclusive against all Authorized Claimants. A Recognized Loss will be calculated as defined herein and cannot be less than zero. The Claims Administrator shall allocate to each Authorized Claimant a pro rata share of the Net Settlement Fund based on his, her or its total Recognized Losses as compared to the total Recognized Losses of all Authorized Claimants. No distribution will be made to Authorized Claimants who would otherwise receive a distribution of less than $10.00.

Settlement Class Members who do not submit an acceptable Claim Form will not share in the Settlement proceeds. The Stipulation and Judgment dismissing this Action will nevertheless bind Settlement Class Members who do not submit a request for exclusion or submit an acceptable Claim Form.

Defendants, their respective counsel, and all other Defendant Releasees will have no responsibility for, interest in, or liability whatsoever for the investment of the Settlement Fund, the distribution of the Net Settlement Fund (except insofar as Defendants' insurance carrier retains the right to a potential refund of the Settlement Amount and accrued interest thereon pursuant to the terms of ¶15 of the Stipulation), the Plan of Allocation, the determination, administration or calculation of Claims, the payment of any Claim, the payment or withholding of Taxes or Tax Expenses, or any losses incurred in connection therewith. Lead Plaintiff, the Escrow Agent, Plaintiff's Counsel or any Claims Administrator likewise will have no liability for their reasonable efforts to execute, administer and distribute the Settlement.

No Authorized Claimant will have any claim against Lead Plaintiff, Lead Counsel or the Claims Administrator, or any other agent designated by Lead Counsel based on the distributions made substantially in accordance with the Stipulation, the Plan of Allocation or further orders of the Court. In addition, in the interest of achieving substantial justice, Lead Counsel will have the right, but not the obligation, to waive what they deem to be formal or technical defects in any Claim Forms filed.

Dated: March 6, 2024

BY ORDER OF THE UNITED STATES
DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF NEW YORK

[8] Including (i) purchases of AppHarvest Common Stock as the result of the exercise of a call option on AppHarvest Common Stock; and (ii) purchases of AppHarvest Common Stock by the seller of a put option on AppHarvest Common Stock as a result of the buyer of such put option exercising that put option.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re AppHarvest Securities Litigation	Case No. 1:21-cv-07985-LJL **CLASS ACTION**

PROOF OF CLAIM AND RELEASE

I. GENERAL INSTRUCTIONS

1. To recover as a member of the Settlement Class based on your claims in the action entitled *In re AppHarvest Inc., Securities Litigation,* Case No. 1:21-cv-7985-LJL. (S.D.N.Y.) (the "Action"), you must complete and, on page 6 below, sign this Proof of Claim and Release form ("Claim Form"). If you fail to submit a timely and properly addressed (as explained in paragraph 3 below) Claim Form, your claim may be rejected and you may not receive any recovery from the Net Settlement Fund created in connection with the proposed Settlement.

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

3. **THIS CLAIM FORM MUST BE SUBMITTED ONLINE AT WWW.STRATEGICCLAIMS.NET/APPH/ NO LATER THAN MAY 22, 2024, OR, IF MAILED, BE POSTMARKED NO LATER THAN MAY 22, 2024, ADDRESSED AS FOLLOWS**:

In re AppHarvest Inc. Securities Litigation
c/o Strategic Claims Services
600 N. Jackson St., Suite 205
Media, PA 19063
Toll-free: (866) 274-4004
Fax: (610) 565-7985
info@strategicclaims.net

4. If you are a member of the Settlement Class and you do not timely request exclusion in response to the Notice dated May 22, 2024 you are bound by the terms of any judgment entered in the Action, including the releases provided therein, WHETHER OR NOT YOU SUBMIT A CLAIM FORM OR RECEIVE A PAYMENT.

II. CLAIMANT IDENTIFICATION

1. If you purchased or otherwise acquired publicly traded AppHarvest Inc. ("AppHarvest") securities, during the period between February 1, 2021 and August 10, 2021, (the "Settlement Class Period") and held the securities in your name, you are the beneficial owner as well as the record owner. If, however, you purchased or otherwise acquired AppHarvest securities during the Settlement Class Period through a third party, such as a brokerage firm, you are the beneficial owner and the third party is the record owner.

2. Use **Part A** of this form entitled "Claimant Information" to identify each beneficial owner of AppHarvest securities that form the basis of this claim, as well as the owner of record if different. **THIS CLAIM MUST BE FILED BY THE ACTUAL BENEFICIAL OWNERS OR THE LEGAL REPRESENTATIVE OF SUCH OWNERS**.

3. All joint owners must sign this claim. Executors, administrators, guardians, conservators, and trustees must complete and sign this claim on behalf of persons represented by them and their authority must accompany this claim and their titles or capacities must be stated. The Social Security (or taxpayer identification) number and telephone number of the beneficial owner may be used in verifying the claim.

Failure to provide the foregoing information could delay verification of your claim or result in rejection of the claim.

III. IDENTIFICATION OF TRANSACTIONS

1. Use **Parts B and C** of this form entitled "Schedule of Transactions in AppHarvest Securities" to supply all required details of your transaction(s) in AppHarvest securities. If you need more space or additional schedules, attach separate sheets giving all of the required information in substantially the same form. Sign and print or type your name on each additional sheet.

2. On the schedule, provide all of the requested information with respect to your holdings, purchases, acquisitions, and sales of AppHarvest securities, whether the transactions resulted in a profit or a loss. Failure to report all such transactions may result in the rejection of your claim.

3. The date of covering a "short sale" of AppHarvest Common Stock is deemed to be the date of purchase of AppHarvest shares. The date of a "short sale" of AppHarvest Common Stock is deemed to be the date of sale of AppHarvest shares.

4. Copies of broker confirmations or other documentation of your transactions must be submitted with your claim. Failure to provide this documentation could delay verification of your claim or result in rejection of your claim. **THE PARTIES DO NOT HAVE INFORMATION ABOUT YOUR TRANSACTIONS IN APPHARVEST SECURITIES.**

5. NOTICE REGARDING INSTITUTIONAL FILERS: Representatives with authority to file on behalf of (a) accounts of multiple Settlement Class Members and/or (b) institutional accounts with large numbers of transactions ("Representative Filers") must submit information regarding their transactions in an electronic spreadsheet format. If you are a Representative Filer, you must contact the Claims Administrator at efile@strategicclaims.net or visit their website at www.strategicclaims.net/institutional-filers/ to obtain the required file layout. Claims which are not submitted in electronic spreadsheet format and in accordance with the Claims Administrator's instructions may be subject to rejection. All Representative Filers MUST also submit a manually signed Claim Form, as well as proof of authority to file (see Item 3 of the Claimant Identification), along with the electronic spreadsheet format. No claims submitted in electronic spreadsheet format will be considered to have been properly submitted unless the Claims Administrator issues to the Claimant a written acknowledgment of receipt and acceptance of electronically submitted data.

6. NOTICE REGARDING ONLINE FILING: Claimants who are not Representative Filers may submit their claims online using the electronic version of the Claim Form hosted at www.strategicclaims.net/apph/. If you are not acting as a Representative Filer, you do not need to contact the Claims Administrator prior to filing; you will receive an automated e-mail confirming receipt once your Claim Form has been submitted. If you are unsure if you should submit your claim as a Representative Filer, please contact the Claims Administrator at info@strategicclaims.net or (866) 274-4004. If you are not a Representative Filer, but your claim contains a large number of transactions, the Claims Administrator may request that you also submit an electronic spreadsheet showing your transactions to accompany your Claim Form.

PART A – CLAIMANT INFORMATION

The Claims Administrator will use this information for all communications regarding this Claim Form. If this information changes, you MUST notify the Claims Administrator in writing at the address above. Complete names of all persons and entities must be provided.

Beneficial Owner's Name

Co-Beneficial Owner's Name

Name

Entity Name (if claimant is not an individual)

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

Address1 (street name and number)

Address2 (apartment, unit, or box number)

City	State	ZIP/Postal Code

Foreign Country (only if not USA)	Foreign County (only if not USA)

Last Four (4) Digits of Social Security Number	OR	Last Seven (7) Digits of Taxpayer Identification Number
_____		_____

Telephone Number (home)	Telephone Number (work)

Email Address

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

Claimant Account Type (check appropriate box):

- ☐ Individual (includes joint owner accounts)
- ☐ Corporation
- ☐ IRA/401K
- ☐ Pension Plan
- ☐ Estate
- ☐ Other _____ (please specify)
- ☐ Trust

PART B: SCHEDULE OF TRANSACTIONS IN APPHARVEST COMMON STOCK

Complete this Part B if, and only if, you purchased/acquired AppHarvest common stock during the period between February 1, 2021 and August 10, 2021, inclusive. Please include proper documentation with your Claim Form as described in detail in Section III – Identification of Transactions, above. Do not include information in this section regarding securities other than AppHarvest common stock.

IF YOU NEED ADDITIONAL SPACE TO LIST YOUR TRANSACTIONS YOU MUST PHOTOCOPY THIS PAGE AND CHECK THIS BOX ☐

1. BEGINNING HOLDINGS – State the total number of shares of common stock held as of the close of trading on January 31, 2021. If none, write "0" or "Zero." (Must be documented.)

_____

2. PURCHASES/ACQUISITIONS DURING THE SETTLEMENT CLASS PERIOD –Separately list each and every purchase/acquisition of common stock from after the opening of trading on February 1, 2021 and through the close of trading on August 10, 2021. (Must be documented.)

Date of Purchase (List Chronologically) (MM/DD/YY)	Number of Shares Purchased	Purchase Price Per Share	Total Purchase Price (excluding taxes, commissions and fees)
		$	$
		$	$
		$	$
		$	$

3. PURCHASES/ACQUISITIONS DURING 90-DAY LOOKBACK PERIOD – State the total number of shares of common stock purchased/acquired between August 11, 2021 and November 8, 2021, inclusive. If none, write "zero" or "0."[1] (Must be documented.)

_____

4. SALES DURING THE SETTLEMENT CLASS PERIOD AND DURING THE 90-DAY LOOKBACK PERIOD – Separately list each and every sale/disposition of common stock from after the opening of trading on February 1, 2021 through and including the close of trading on November 8, 2021. (Must be documented.)

Date of Sale (List Chronologically) (MM/DD/YY)	Number of Shares Sold	Sale Price Per Share	Total Sale Price (excluding taxes, commissions and fees)
		$	$
		$	$
		$	$
		$	$

5. ENDING HOLDINGS – State the total number of shares of common stock held as of the close of trading on November 8, 2021. If none, write "0" or "Zero." (Must be documented.)

_____

[1] **Please Note**: Information requested with respect to your purchases/acquisitions of AppHarvest common stock from after the opening of trading on August 11, 2021, through and including the close of trading on November 8, 2021, is needed in order to balance your claim; purchases/acquisitions during this period, however, are not eligible under the Settlement and will not be used for purposes of calculating your Recognized Loss pursuant to the Plan of Allocation.

PART C: SCHEDULE OF TRANSACTIONS IN APPHARVEST WARRANTS

Complete this Part C if, and only if, you purchased/acquired AppHarvest warrants during the period between February 1, 2021 and August 10, 2021, inclusive. Please include proper documentation with your Claim Form as described in detail in Section III – Identification of Transactions, above. Do not include information in this section regarding securities other than AppHarvest warrants.

IF YOU NEED ADDITIONAL SPACE TO LIST YOUR TRANSACTIONS YOU MUST PHOTOCOPY THIS PAGE AND CHECK THIS BOX ☐

1. BEGINNING HOLDINGS – State the total number of warrants held as of the close of trading on January 31, 2021. If none, write "0" or "Zero." (Must be documented.) _____

2. PURCHASES/ACQUISITIONS DURING THE SETTLEMENT CLASS PERIOD –Separately list each and every purchase/acquisition of warrants from after the opening of trading on February 1, 2021 and through the close of trading on August 10, 2021. (Must be documented.)

Date of Purchase (List Chronologically) (MM/DD/YY)	Number of Warrants Purchased	Purchase Price Per Warrant	Total Purchase Price (excluding taxes, commissions and fees)
		$	$
		$	$
		$	$
		$	$

3. PURCHASES/ACQUISITIONS DURING 90-DAY LOOKBACK PERIOD – State the total number of warrants purchased/acquired between August 11, 2021 and November 8, 2021, inclusive. If none, write "zero" or "0."[2] (Must be documented.) _____

4. SALES DURING THE SETTLEMENT CLASS PERIOD AND DURING THE 90-DAY LOOKBACK PERIOD – Separately list each and every sale/disposition of warrants from after the opening of trading on February 1, 2021 through and including the close of trading on November 8, 2021. (Must be documented.)

Date of Sale (List Chronologically) (MM/DD/YY)	Number of Warrants Sold	Sale Price Per Warrant	Total Sale Price (excluding taxes, commissions and fees)
		$	$
		$	$
		$	$
		$	$

5. ENDING HOLDINGS – State the total number of warrants held as of the close of trading on November 8, 2021. If none, write "0" or "Zero." (Must be documented.) _____

[2] **Please Note**: Information requested with respect to your purchases/acquisitions of AppHarvest warrants from after the opening of trading on August 11, 2021, through and including the close of trading on November 8, 2021, is needed in order to balance your claim; purchases/acquisitions during this period, however, are not eligible under the Settlement and will not be used for purposes of calculating your Recognized Loss pursuant to the Plan of Allocation.

IV. SUBMISSION TO JURISDICTION OF COURT AND ACKNOWLEDGMENTS

By signing and submitting this Claim Form, the claimant(s) or the person(s) acting on behalf of the claimant(s) certify(ies) that: I (We) submit this Claim Form under the terms of the Stipulation described in the accompanying Notice. I (We) also submit to the jurisdiction of the United States District Court for the Southern District of New York (the "Court") with respect to my (our) claim as a Settlement Class Member(s) and for purposes of enforcing the releases set forth herein. I (We) further acknowledge that I (we) will be bound by the terms of any judgment entered in connection with the Settlement in the Action, including the releases set forth therein. I (We) agree to furnish additional information to the Claims Administrator to support this claim, such as additional documentation for transactions in eligible AppHarvest securities, if required to do so. I (We) have not submitted any other claim covering the same transactions in AppHarvest securities during the Settlement Class Period and know of no other person having done so on my (our) behalf.

V. RELEASES, WARRANTIES, AND CERTIFICATION

1. I (We) hereby warrant and represent that I am (we are) a Settlement Class Member as defined in the Notice, that I am (we are) not excluded from the Settlement Class, that I am (we are) not one of the "Released Defendant Parties" as defined in the accompanying Notice.

2. As a Settlement Class Member, I (we) hereby acknowledge full and complete satisfaction of, and do hereby fully, finally, and forever settle, release, and discharge with prejudice the Released Claims as to each and all of the Released Defendant Parties (as these terms are defined in the accompanying Notice). This release shall be of no force or effect unless and until the Court approves the Settlement and it becomes effective on the Effective Date.

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

4. I (We) hereby warrant and represent that I (we) have included information about all of my (our) purchases, acquisitions and sales of AppHarvest securities that occurred during the Settlement Class Period and the number of shares of securities held by me (us), to the extent requested.

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

I (We) declare under penalty of perjury under the laws of the United States of America that all of the foregoing information supplied on this Claim Form by the undersigned is true and correct.

Executed this _____ day of _____, in _____, _____
(Month / Year) (City) (State/Country)

_____ _____
Signature of Claimant Signature of Joint Claimant, if any

_____ _____
Print Name of Claimant Print Name of Joint Claimant, if any

_____
(Capacity of person(s) signing, *e.g.*, Beneficial Purchaser, Executor or Administrator)

In re AppHarvest Securities Litigation
c/o Strategic Claims Services
600 N. Jackson Street, Suite 205
Media, PA 19063

IMPORTANT LEGAL NOTICE – PLEASE FORWARD

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

REMINDER CHECKLIST:

1. Please sign this Claim Form.
2. DO NOT HIGHLIGHT THE CLAIM FORM OR YOUR SUPPORTING DOCUMENTATION.
3. Attach only copies of supporting documentation as these documents will not be returned to you.
4. Keep a copy of your Claim Form for your records.
5. The Claims Administrator will acknowledge receipt of your Claim Form by mail, within 60 days. **Your claim is not deemed submitted until you receive an acknowledgment e-mail (or postcard if e-mail is not available).** If you do not receive an acknowledgment postcard within 60 days, please call the Claims Administrator toll free at (866) 274-4004.
6. If you move after submitting this Claim Form, please notify the Claims Administrator of the change in your address, otherwise you may not receive additional notices or payment.

EXHIBIT B

REQUEST FOR NAMES, EMAILS AND ADDRESSES OF CLASS MEMBERS

STRATEGIC CLAIMS SERVICES, INC.
600 N. JACKSON STREET, SUITE 205
MEDIA, PA 19063
PHONE: (610) 565-9202 EMAIL: info@strategicclaims.net FAX: (610) 565-7985

March 12, 2024

This letter is being sent to all entities whose names have been made available to us, or which we believe may know of potential Settlement Class Members.

We request that you assist us in identifying any individuals/entities who fit the following description:

ALL PERSONS OR ENTITIES WHO PURCHASED OR OTHERWISE ACQUIRED PUBLICLY TRADED APPHARVEST INC. ("APPHARVEST" OR THE "COMPANY"), COMMON STOCK AND/OR WARRANTS DURING THE PERIOD FROM FEBRUARY 1, 2021 AND AUGUST 10, 2021, INCLUSIVE.

Excluded from the Settlement Class are: (1) the Individual Defendants; (2) the Individual Defendants' immediate family members; (3) any firm, trust, corporation, or other entity in which a defendant has or had a controlling interest; and (4) the legal representatives, affiliates, heirs, successors in interest, or assigns of any such excluded person or entity.

The information below may assist you in finding the above requested information.

In re AppHarvest Securities Litigation Case No. 1:21-cv-07985-LJL Claim Filing Deadline: May 22, 2024 Objection Deadline: May 22, 2024 Exclusion Deadline: May 22, 2024 Settlement Hearing: June 12, 2024	Cusip Number for Common Stock: 03783T103 Ticker Symbol for Common Stock: NASDAQ Capital Market Exchange: APPH Cusip Number for Warrants: 03783T111 Ticker Symbol for Warrants: NASDAQ Capital Market Exchange: APPHW

PER COURT ORDER, PLEASE RESPOND WITHIN 7 CALENDAR DAYS FROM THE DATE OF THIS NOTICE.

Please comply in one of the following ways:

1. If you have no beneficial purchasers/owners, please so advise us in writing; or
2. **Supply us with names, last known addresses, and email addresses (if available)** of your beneficial purchasers/owners and we will do the emailing of the link to the Notice of Pendency of Class Action, Proposed Class Action Settlement, Final Approval Hearing, and Motion for Attorneys' Fees and Expenses ("Notice") and Proof of Claim and Release("Claim Form") or mailing of the Postcard Notice. Please provide us this information electronically. If you are not able to do this, labels will be accepted, but it is important that a hardcopy list also be submitted of your clients; or
3. Advise us of how many beneficial purchasers/owners you have, and we will supply you with ample postcards to do the mailing. After the receipt of the Postcard Notice, you have seven (7) calendar days to mail them; or
4. Request a link to the Notice and Claim Form in electronic format and email the links to each of your beneficial purchasers/owners within seven (7) calendar day after receipt thereof.

You can bill us for any reasonable expenses actually incurred and **not to exceed**:

- **$0.03 per emailed link to the Notice and Claim Form,**
- **$0.03 per name, address and email address** if you are providing us the records, OR
- **$0.03 per name and address, including materials, plus postage at the pre-sort rate used by the Claims Administrator** if you are requesting the Postcard Notice and performing the mailing.

All invoices must be received within 30 days of this letter.

You are on record as having been notified of the legal matter. A copy of the Notice and Claim Form and all the important documents are available on our website at www.strategicclaims.net/apph/. You can also request a copy via email at info@strategicclaims.net.

Thank you for your prompt response.

Sincerely,

Claims Administrator
In re AppHarvest Securities Litigation

Court-Ordered Legal Notice

Forwarding Service Requested

Important Notice about a Securities Class Action Settlement

You may be entitled to a payment. This Notice may affect your legal rights.

Please read it carefully.

In re AppHarvest Securities Litigation
c/o Strategic Claims Services
600 N. Jackson Street, Suite 205
Media, PA 19063

Case No. 1:21-cv-07985-LJL

Case Pending in the United States District Court for the Southern District of New York

EXHIBIT C

You have been identified as possibly a Settlement Class Member in a securities fraud class action against AppHarvest, Inc. ("AppHarvest") and its officers. You may be eligible to receive a payment from a $4,850,000 million class action settlement fund in *In re AppHarvest Inc., Securities Litigation,* Case No. 1:21-cv-7985-LJL (S.D.N.Y.). The case involves alleged material misrepresentations and omissions made to investors of AppHarvest securities in violation of the federal securities laws concerning AppHarvest's business, operations, and prospects. Additional information is contained in the detailed Notice of Pendency of Class Action, Proposed Class Action Settlement, Final Approval Hearing, and Motion for Attorneys' Fees and Expenses (the "Notice"). To participate in the settlement you must submit a Proof of Claim and Release form (the "Claim Form) no later than May 22, 2024 to the Claims Administrator. The Claim Form and the Notice are available by visiting www.strategicclaims.net/apph/ or calling or writing the Claims Administrator noted below.

Settlement Class Definition: You are a Settlement Class Member if you purchased or otherwise acquired AppHarvest securities between February 1, 2021 and August 10, 2021(the "Settlement Class Period") and suffered damages as described in the Notice.

Settlement Amount: $4,850,000. Plaintiffs estimate this represents, approximately $0.14 per allegedly damaged share of AppHarvest common stock and $0.07 per allegedly damaged AppHarvest warrant, respectively, before attorneys' fees and expenses, based on the estimated number of allegedly damaged AppHarvest securities held through an alleged corrective disclosure that was statistically significant.

Reasons for Settlement: The Parties wish to avoid the costs and risks of continued litigation.

Disagreement on Amount of Damages: The Parties disagree about both liability and damages and do not agree on the damages that would be recoverable if Lead Plaintiff were to prevail on each claim asserted against the Individual Defendants. For example, the parties disagree on: (i) whether the Individual Defendants made any statements or omitted any facts that were materially false or misleading; (ii) whether any such allegedly materially false or misleading statements or omissions were made with the required level of intent or recklessness; (iii) the amounts by which the prices of AppHarvest securities were allegedly artificially inflated during the Settlement Class Period; (iv) the extent to which factors such as general market, economic and industry conditions, influenced the trading prices of AppHarvest securities during the Settlement Class Period; and (v) whether or not the allegedly false and misleading statements proximately caused the losses suffered by the Settlement Class.

Attorneys' Fees and Expenses: Lead Counsel will apply to the Court for an award of attorneys' fees from the Settlement Fund in an amount not to exceed one-quarter (25%) of the Settlement Fund, which includes any accrued interest. Lead Counsel will also apply for payment of litigation expenses incurred in prosecuting the Action in an amount not to exceed $250,000.00, plus accrued interest. If the Court approves Lead Counsel's Fee and Expense Application, including deduction of estimated attorneys' fees and expenses, the average amount of fees and expenses, assuming claims are filed for all shares eligible to participate in the Settlement, will be, per Plaintiffs' estimate, approximately $0.04 per allegedly damaged share of AppHarvest common stock and $0.02 per allegedly damaged AppHarvest warrant. A copy of the Fee and Expense Application will be posted on www.strategicclaims.net/apph/ after it has been filed with the Court.

Your Options: You can file a claim, object to the Settlement (with or without appearing at the Settlement Hearing and with or without hiring your own attorney), exclude yourself from the Settlement Class, or do nothing. If you object to the Settlement, you will still be a member of the Settlement Class and you can still submit a claim form. NOTE THAT CLAIMS CALCULATING TO AN AWARD AMOUNT LESS THAN $10 WILL **NOT** BE PAID. Unless you exclude yourself from the Settlement Class, you will be bound by the Settlement and you will release any claims you may have against the Released Parties. More information, including how to object or exclude yourself, is contained in the Notice and the Claim Form.

Deadlines: Claims must be filed by: May 22, 2024; Settlement objections must be received by May 22, 2024; requests for exclusion from the Settlement Class must be received by May 22, 2024, and the Court's Settlement Hearing on final approval of the Settlement is scheduled for June 12, 2024.

Lead Plaintiff's Counsel's Representative: The Claims Administrator, Strategic Claims Services, is available to answer questions concerning the settlement or any matter contained in the Notice. You may contact the Claims Administrator by calling (866) 274-4004, emailing info@strategicclaims.net, or writing to: In re AppHarvest Securities Litigation, c/o Strategic Claims Services, 600 N. Jackson Street, Suite 205, Media, PA 19063.

EXHIBIT D

AFFIDAVIT

STATE OF NEW JERSEY)
) ss:
CITY OF MONMOUTH JUNCTION, in the COUNTY OF MIDDLESEX)

I, Keith Oechsner, being duly sworn, depose and say that I am the advertising clerk of the Publisher of INVESTORS BUSINESS DAILY, a weekly national newspaper of general circulation throughout the United States, and that the notice attached to this Affidavit has been regularly published in INVESTORS BUSINESS DAILY for National distribution for

1 insertion(s) on the following date(s):

APR-01 2024;

ADVERTISER: AppHarvest Securities Litigation;

and that the foregoing statements are true and correct to the best of my knowledge.

Keith Oechsner

Sworn to before me this
01 day of April 2024

Notary Public

IAN C. MARTIN
NOTARY PUBLIC
ID #
50086494
COMMISSION
EXPIRES
07/18/2028
STATE OF NEW JERSEY

Case 1:21-cv-07985-LJL Document 129-4 Filed 05/08/24 Page

SUMMARY NOTICE OF PENDENCY OF CLASS ACTION, PROPOSED CLASS ACTION SETTLEMENT, FINAL APPROVAL HEARING, AND MOTION FOR ATTORNEYS' FEES AND EXPENSES

To: All persons and entities that purchased or otherwise acquired securities of AppHarvest, Inc., during the period from February 1, 2021 and August 10, 2021, inclusive, and were injured thereby (the "Settlement Class").

YOU ARE HEREBY NOTIFIED, pursuant to Federal Rule of Civil Procedure 23 and an Order of the United States District Court for the District of Southern District of New York, that the Court-appointed Lead Plaintiff, Alan Narzissenfeld, ("Lead Plaintiff" or "Plaintiff") on behalf of himself and all members of the Settlement Class, and Jonathan Webb, ("Webb"), Loren Eggleton ("Eggleton"), and David Lee ("Lee" and collectively with Webb and Eggleton, the "Individual Defendants"), have reached a proposed settlement of the claims in the above-captioned class action (the "Action") in the amount of $4,850,000.00 (the "Settlement"). Plaintiff estimates this represents an average recovery of $0.14 per share of AppHarvest common stock and $0.07 per warrant, respectively, before attorneys' fees and expenses, based on the estimated number of allegedly damaged shares of AppHarvest securities held through an alleged corrective disclosure that was statistically significant.

In exchange for the Settlement and the release of the Released Claims against the Released Defendant Parties, the Individual Defendants have agreed to create a $4,850,000 cash fund, which may accrue interest, to be distributed, after deduction of Court-awarded attorneys' fees and litigation expenses, Notice and Administration Expenses, Taxes, and any other fees or expenses approved by the Court (the "Net Settlement Fund"), among all Settlement Class Members who submit valid Claim Forms and are found to be eligible to receive a distribution from the Net Settlement Fund ("Authorized Claimants").

A hearing will be held before the Honorable Lewis J. Liman, on June 12, 2024 at 3:00 p.m., in Courtroom 15C of the United States District Court for the Southern District of New York, Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, New York, NY 10007 (the "Settlement Hearing") to, among other things, consider: (i) whether the Settlement should be approved; (ii) whether the proposed plan for allocating the proceeds of the Settlement (the "Plan of Allocation") to Settlement Class Members should be approved; and (iii) Lead Counsel's application for attorneys' fees and expenses. This Notice describes important rights you may have and what steps you must take if you wish to participate in the Settlement, wish to object, or wish to be excluded from the Settlement Class. The Court may change the date of the Settlement Hearing, or hold it telephonically or via videoconference, without providing another notice. You do NOT need to attend the Settlement Hearing to receive a distribution from the Net Settlement Fund.

IF YOU ARE A MEMBER OF THE SETTLEMENT CLASS, YOUR RIGHTS WILL BE AFFECTED BY THE PROPOSED SETTLEMENT AND YOU MAY BE ENTITLED TO A MONETARY PAYMENT. A full Notice and Claim Form can be obtained by visiting the website of the Claims Administrator, www.strategicclaims.net/apph/, or by contacting the Claims Administrator at:

In re AppHarvest Securities Litigation
c/o Strategic Claims Services
600 N. Jackson Street., Suite 205
Media, PA 19063
Toll-free: (866) 274-4004
Fax: (610) 565-7985
Email: info@strategicclaims.net

Inquiries, other than requests for the Notice and Claim Form or for information about the status of a claim, may also be made to Lead Counsel:

LEVI & KORSINSKY, LLP
Gregory M. Potrepka
1111 Summer Street, Suite 403
Stamford, CT 06905
203-992-4523
gpotrepka@zlk.com

If you are a Settlement Class Member, to be eligible to share in the distribution of the Net Settlement Fund, you must submit a Claim Form ***postmarked or submitted online no later than May 22, 2024 to the Claims Administrator at the address above.*** If you are a Settlement Class Member and do not timely submit a valid Claim Form, you will not be eligible to share in the distribution of the Net Settlement Fund, but you will nevertheless be bound by all judgments or orders entered by the Court relating to the Settlement, whether favorable or unfavorable.

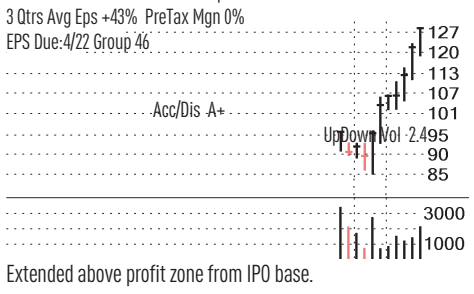
If you are a Settlement Class Member and wish to exclude yourself from the Settlement Class, you must submit a written request for exclusion in accordance with the instructions set forth in the Notice such that it is ***post-marked if by mail, or e-mailed, no later than May 22, 2024 to the Claims Administrator.*** If you properly exclude yourself from the Settlement Class, you will not be bound by any judgments or orders entered by the Court relating to the Settlement, whether favorable or unfavorable, and you will not be eligible to share in the distribution of the Net Settlement Fund.

Any objections to the proposed Settlement, Lead Counsel's Fee and Expense Application, and/or the proposed Plan of Allocation must be filed with the Court, either by mail or in person, and be mailed to counsel for the Parties in accordance with the instructions in the Notice, such that they are ***received no later than May 22, 2024***. Settlement Class Members who exclude themselves from the Settlement will not be able to object to the Settlement.

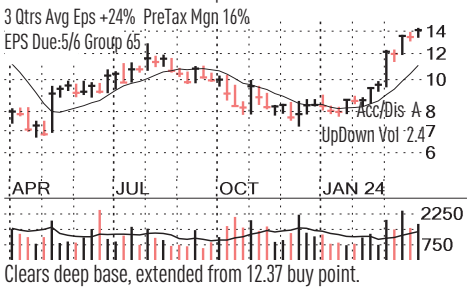
PLEASE DO NOT CONTACT THE COURT, DEFENDANTS, OR DEFENDANTS' COUNSEL REGARDING THIS NOTICE.

DATED: MARCH 6, 2024

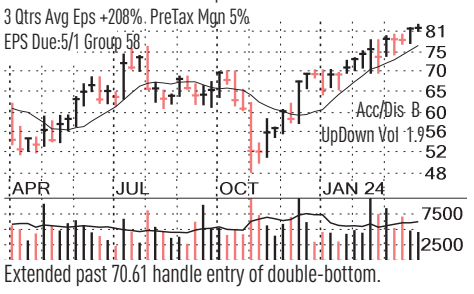
BY ORDER OF THE COURT
UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF NEW YORK

Kaspi.kz ADR (KSPI) YTD 0% **$128.64**
51.1 M Shares 99 Comp. Rating 99 EPS 94 RS 0% ROE
Kazakhstan based co provides payments, marketplace and fintech solutions for both consumers and merchants.
Ann. EPS Growth +40% PE 13 Avg. Daily Vol 378,400 Debt 8%
Last Qtr EPS +35%↓ Next Qtr Eps Est +26%↓ Last Qtr Sales +48%
3 Qtrs Avg Eps +43% PreTax Mgn 0%
EPS Due:4/22 Group 46


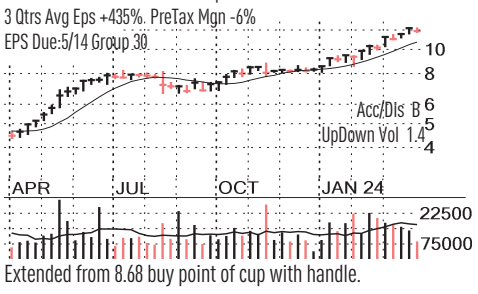
Extended above profit zone from IPO base.

Aris Water Solutions Cl A (ARIS) YTD +69% **$14.15**
29.6 M Shares 99 Comp. Rating 95 EPS 95 RS 17% ROE
Provides infrastructure and solutions to directly help customers reduce their water and carbon footprints.
Ann. EPS Growth +115% PE 16 Avg. Daily Vol 283,000 Debt 130%
Last Qtr EPS +73%↑ Next Qtr Eps Est +35%↑ Last Qtr Sales +26%
3 Qtrs Avg Eps +24% PreTax Mgn 16%
EPS Due:5/6 Group 65


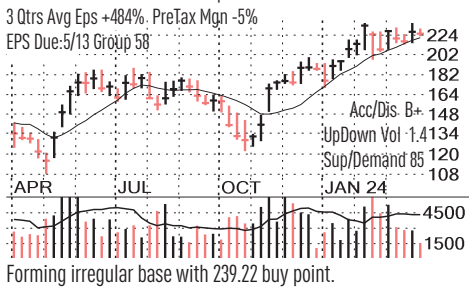
Clears deep base, extended from 12.37 buy point.

Procore Technologies Inc (PCOR) YTD +19% **$82.17**
72.5 M Shares 94 Comp. Rating 81 EPS 84 RS 4% ROE
Provides cloud-based software for modernizing and digitizing construction management.
n.a. PE 283 Avg. Daily Vol 1,271,500 Debt 4%
Last Qtr EPS +313%↑ Next Qtr Eps Est +1500%↑ Last Qtr Sales +29%
3 Qtrs Avg Eps +208% PreTax Mgn 5%
EPS Due:5/1 Group 58


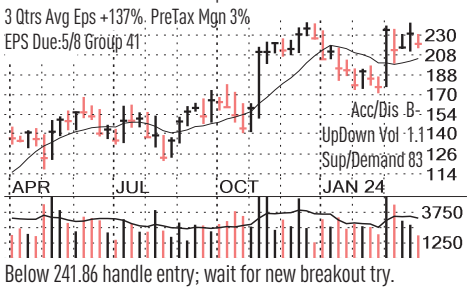
Extended past 70.61 handle entry of double-bottom.

Nu Holdings Ltd Cl A Ads (NU) YTD +43% **$11.93**
2558 M Shares 98 Comp. Rating 81 EPS 96 RS -8% ROE
Brazil-based Co operating as a holding Co that provides a digital banking platform and services.
n.a. PE 56 Avg. Daily Vol 35,264,300 Debt 0%
Last Qtr EPS +216%↓ Next Qtr Eps Est +172%↓ Last Qtr Sales +66%
3 Qtrs Avg Eps +435% PreTax Mgn -6%
EPS Due:5/14 Group 30


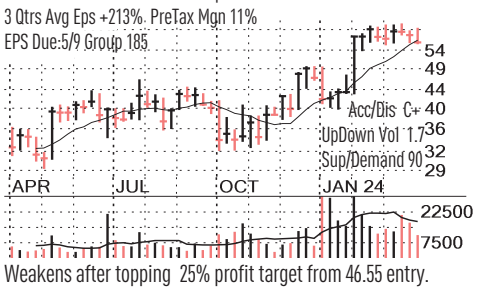
Extended from 8.68 buy point of cup with handle.

monday.com Ltd (MNDY) YTD +20% **$225.87**
25.2 M Shares 93 Comp. Rating 79 EPS 90 RS -5% ROE
Israel-based Co offers cloud-based platform tools to build software applications and work management tools.
n.a. PE 123 Avg. Daily Vol 883,800 Debt 0%
Last Qtr EPS +48%↓ Next Qtr Eps Est +157%↓ Last Qtr Sales +35%
3 Qtrs Avg Eps +484% PreTax Mgn -5%
EPS Due:5/13 Group 58


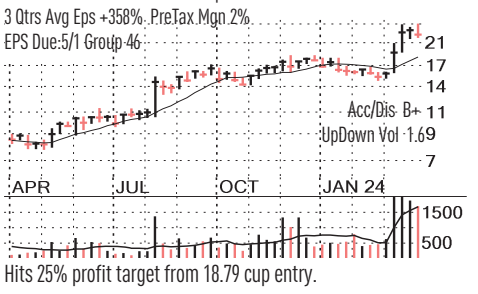
Forming irregular base with 239.22 buy point.

Duolingo Inc Cl A (DUOL) YTD -3% **$220.58**
29.3 M Shares 91 Comp. Rating 81 EPS 88 RS 3% ROE
Designs and develops digital a language-learning education platform, suggests lessons in multiple languages.
n.a. PE 630 Avg. Daily Vol 690,200 Debt 0%
Last Qtr EPS +174%↑ Next Qtr Eps Est %↓ Last Qtr Sales +45%
3 Qtrs Avg Eps +137% PreTax Mgn 3%
EPS Due:5/8 Group 41


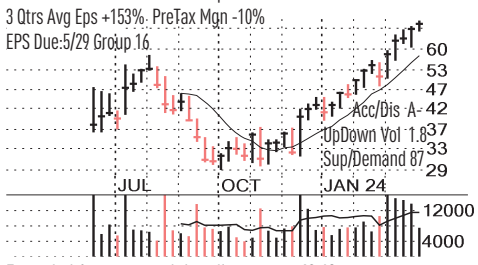
Below 241.86 handle entry; wait for new breakout try.

NEXTracker (NXT) YTD +20% **$56.27**
23.6 M Shares 80 Comp. Rating 97 EPS 91 RS 0% ROE
Provides intelligent, integrated solar tracker and software solutions used in solar projects globally.
Ann. EPS Growth +38% PE 23 Avg. Daily Vol 3,771,700
Last Qtr EPS +231%↑ Next Qtr Eps Est +121%↓ Last Qtr Sales +38%
3 Qtrs Avg Eps +213% PreTax Mgn 11%
EPS Due:5/9 Group 185


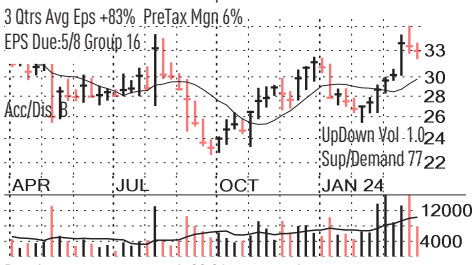
Weakens after topping 25% profit target from 46.55 entry.

Paymentus Holdings Cl A (PAY) YTD +27% **$22.75**
17.2 M Shares 97 Comp. Rating 96 EPS 96 RS 4% ROE
Provides a cloud-based platform for bill payment technology by an omni channel.
Ann. EPS Growth +30% PE 71 Avg. Daily Vol 341,800 Debt 0%
Last Qtr EPS +175%↓ Next Qtr Eps Est +125%↓ Last Qtr Sales +25%
3 Qtrs Avg Eps +358% PreTax Mgn 2%
EPS Due:5/1 Group 46


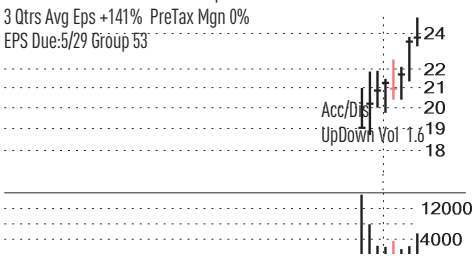
Hits 25% profit target from 18.79 cup entry.

CAVA Group (CAVA) YTD +63% **$70.05**
79.5 M Shares 95 Comp. Rating 81 EPS 96 RS 0% ROE
Operates 263 restaurants across 22 states and Washington, D.C. with plans to open 44 more in 2023.
n.a. PE 584 Avg. Daily Vol 2,376,600 Debt 0%
Last Qtr EPS +112%↓ Next Qtr Eps Est %↓ Last Qtr Sales +36%
3 Qtrs Avg Eps +153% PreTax Mgn -10%
EPS Due:5/29 Group 16


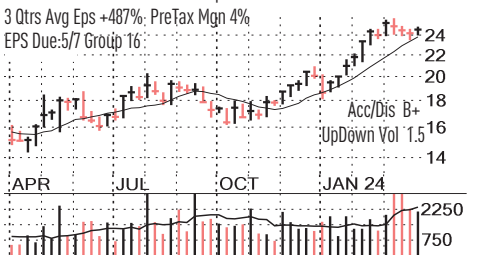
Extended from cup with handle entry at 48.69.

Dutch Bros Inc Cl A (BROS) YTD +4% **$33.00**
47.6 M Shares 96 Comp. Rating 95 EPS 71 RS 20% ROE
Operates 831 drive-through coffee shops in 16 states in the United states.
Ann. EPS Growth +8% PE 110 Avg. Daily Vol 2,112,300 Debt 127%
Last Qtr EPS +33%↓ Next Qtr Eps Est %↓ Last Qtr Sales +26%
3 Qtrs Avg Eps +83% PreTax Mgn 6%
EPS Due:5/8 Group 16


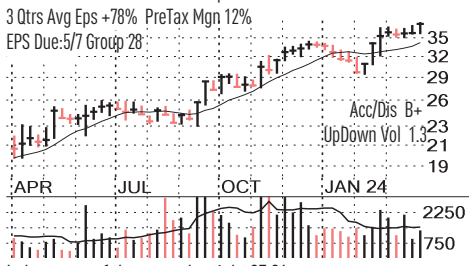
Breaks out past cup with 32.31 entry; in buy range.

BBB Foods (TBBB) YTD 0% **$23.78**
38.3 M Shares 82 Comp. Rating 81 EPS 91 RS 0% ROE
Mexico based company which operates a hard discount retail store chain in the country.
n.a. PE 206 Avg. Daily Vol 1,198,000
Last Qtr EPS +141%↓ Next Qtr Eps Est %↓ Last Qtr Sales +59%
3 Qtrs Avg Eps +141% PreTax Mgn 0%
EPS Due:5/29 Group 53


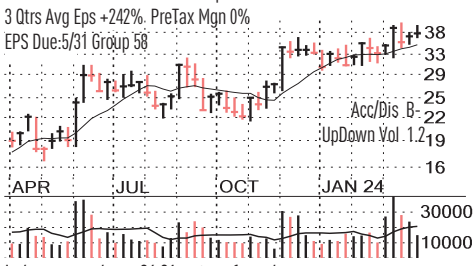
In buy zone from 23.38 entry of 10-week line.

First Watch RestaurantGp (FWRG) YTD +22% **$24.62**
56.9 M Shares 97 Comp. Rating 81 EPS 91 RS 5% ROE
Operates over 524 restaurants in 29 states serving breakfast, brunch, and lunch using fresh ingredients.
Ann. EPS Growth +251% PE 60 Avg. Daily Vol 476,700 Debt 21%
Last Qtr EPS +500%↓ Next Qtr Eps Est -33%↓ Last Qtr Sales +32%
3 Qtrs Avg Eps +487% PreTax Mgn 4%
EPS Due:5/7 Group 16


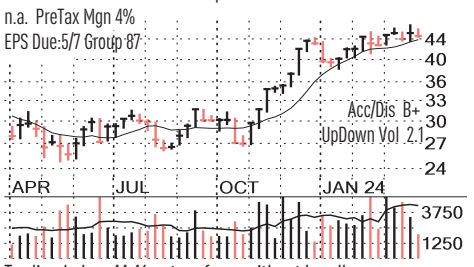
Hits 20% profit-taking zone from 20.95 entry.

Skyward Specialty Ins (SKWD) YTD +10% **$37.41**
33.9 M Shares 98 Comp. Rating 81 EPS 90 RS 14% ROE
Offers commercial property and casualty products and solutions predominantly in the U.S.
Ann. EPS Growth +60% PE 18 Avg. Daily Vol 320,600 Debt 31%
Last Qtr EPS +103%↓ Next Qtr Eps Est +58%↓ Last Qtr Sales +31%
3 Qtrs Avg Eps +78% PreTax Mgn 12%
EPS Due:5/7 Group 28


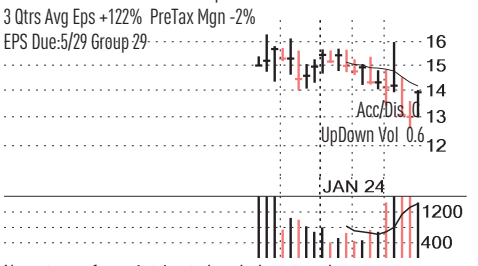
In buy zone of three-weeks-tight 37.26 entry.

Samsara Inc Cl A (IOT) YTD +13% **$37.79**
177.6 M Shares 91 Comp. Rating 81 EPS 92 RS -7% ROE
Provides an end-to-end solution that allows businesses that depend on physical operations to harness IoT data
n.a. PE 540 Avg. Daily Vol 4,227,300 Debt 0%
Last Qtr EPS +300% Next Qtr Eps Est %↓ Last Qtr Sales +48%
3 Qtrs Avg Eps +242% PreTax Mgn 0%
EPS Due:5/31 Group 58


In buy zone above 36.91 entry of cup base.

T P G Inc Cl A (TPG) YTD +4% **$44.70**
69.5 M Shares 74 Comp. Rating 38 EPS 89 RS 1% ROE
Provides alternative asset management with capital, growth, impact, real estate and market sloution platform.
n.a. PE 745 Avg. Daily Vol 902,400 Debt 0%
Last Qtr EPS +500%↑ Next Qtr Eps Est +292%↑ Last Qtr Sales +124%
n.a. PreTax Mgn 4%
EPS Due:5/7 Group 87


Trading below 44.46 entry of cup without handle.

Hamilton Insurance Cl B (HG) YTD -7% **$13.93**
44.8 M Shares 68 Comp. Rating 81 EPS 24 RS -6% ROE
Bermuda-based insurance company offers diverse insurance and reinsurance services to clients worldwide.
n.a. PE 6 Avg. Daily Vol 283,600 Debt 9%
Last Qtr EPS +313%↑ Next Qtr Eps Est +77%↓ Last Qtr Sales +28%
3 Qtrs Avg Eps +122% PreTax Mgn -2%
EPS Due:5/29 Group 29


No entry so far as it tries to break downtrend.

IBD scans for new issues that have been trading less than three years. They must have a record of strong recent earnings and sales growth as well as sponsorship among top-rated mutual funds.

IPO ANALYSIS

Monday.com Nears New Entry

BY SCOTT LEHTONEN
INVESTOR'S BUSINESS DAILY

Artificial intelligence leader Monday.com **(MNDY)** is rapidly approaching a new buy point after finding support at a critical level in recent weeks.

With offices across the world, Monday.com has already established a global footprint. Through its workflow automation and productivity platform, the enterprise software firm works with clients across a range of fields, including marketing, sales, human resources and product development.

Through its open platform, Monday AI, the company works to enable clients to build any kind of artificial intelligence app. Still in beta and with more apps to come, its uses range from sentiment analysis to customer experience chatbots and content generation.

In its fourth-quarter earnings report on Feb. 12, the AI stock reported a profit of 65 cents a share on an adjusted basis, up 48% from a year earlier. Revenue rose 35% to $202.6 million.

Monday.com stock boasts a strong 96 out of a perfect 99 IBD Composite Rating.

On Feb. 12, the AI stock dived as much as 16.5% after the company's earnings report. Shares stemmed their slide at the 50-day moving average, which is a key support level to watch.

Over the next few weeks, the stock rebounded from that sell-off, nearly setting a new high on March 21.

Now, Monday.com is approaching a 239 buy point in a cup-with-handle base and is about 5% away from that entry. A decisive move above that entry in heavy volume would be a sign of big institutional demand.

The latest buy trigger represents another entry for the AI stock.

Meanwhile, the relative strength line is holding steady around its old highs, reinforcing its role as a market leader. The RS line is an important technical indicator to watch.

REITs

March 28, 2024

R S	Acc Dis	52-Wk High	Stock	Symbol	Closing Price	Chg	Vol% Chg	% Yld
29	B-	27.6	4Corners	FCPT	24.47	0.21	-9	5.6
64	C+	17.7	AcadiaRlty	AKR	17.01	0.31	33	4.2
94	A+	13.9	AcresComRealty	ACR	14.06	0.40	-33	0.0
41	D	6.9	AGMortgage	MITT	6.12	0.11	63	11.8
31	B	10.6	AgncInvest	AGNC	9.90	0.11	-16	14.5
22	B-	69.3	AgreeRealty	ADC	57.12	0.44	-25	5.2
62	B-	235.8	Alexanders	ALX	217.14	1.23	-13	8.3
59	B-	135.4	AlexndriaEq	ARE	128.91	1.23	-28	3.9
22	E	17.7	AlpineIncProp	PINE	15.28	0.10	20	7.2
55	D+	23.9	AmerAssets	AAT	21.91	0.27	-48	6.1
33	B-	219.1	AmerTower	AMT	197.59	0.21	-11	3.3
53	B	38.0	AmHm4	AMH	36.78	0.53	-53	2.8
16	B-	33.9	AmrcldRealty	COLD	24.92	0.15	-11	3.5
75		14.8	AmrHlthcrReit	AHR	14.75	0.39	12	6.8
80	B	11.6	AngelOakMrtg	AOMR	10.74	-0.23	196	11.9
37	C+	21.1	AnnalyCap	NLY	19.69	0.25	-10	13.2
52	C+	8.9	ApartmntInv	AIV	8.19	0.07	6	20.0
41	C+	12.7	ApolloComm	ARI	11.14	0.18	-12	12.6
44	D+	17.9	ApplHosp	APLE	16.38	-0.14	-2	5.9
24	C+	17.7	ArborRlty	ABR	13.25	-0.14	-47	12.9
13	E	11.2	AresRlEst	ACRE	7.45	0.08	-16	13.4
20	D+	13.1	ArmadaHfflr	AHH	10.40	0.18	20	7.9
20	C+	27.1	ArmourRes	ARR	19.77	0.16	-20	14.6
7	C	5.1	AshfordHsp	AHT	1.37	0.05	-47	0.0
43	A-	198.7	AvalonBay	AVB	185.56	1.87	-12	3.7
26	C	23.8	BlackstnMtg	BXMT	19.91	0.13	-28	12.5
72	B+	20.1	BluerockHomes	BHM	16.97	0.33	18	0.0
50	D-	74.0	BostonPrpty	BXP	65.31	2.16	22	6.0
9	D+	4.4	BraemerHotl	BHR	2.00	-0.01	30	10.0
10	C+	13.1	BridgeInv	BRDG	6.85	0.05	24	4.1
41	D+	8.0	BrightSpireCap	BRSP	6.89	0.08	-4	11.6
50	B+	24.5	BrixmorProp	BRX	23.45	0.18	-20	4.6
27	D	5.7	BrndywineRty	BDN	4.80	0.15	19	12.5
27	B-	17.6	BroadstoneNet	BNL	15.67	0.23	15	7.3
19	E	20.7	BRT Apts	BRT	16.80	0.35	36	6.0
27	A	114.0	CamdenPrpty	CPT	98.40	1.24	-2	4.2
74	B-	24.6	CareTrust	CTRE	24.37	0.18	-46	4.8
27	C	26.2	CBLAssoc	CBL	22.91	0.24	-10	7.0
28	B-	67.0	Centerspace	CSR	57.14	0.86	-6	5.3
31	B-	11.3	ChathamLdg	CLDT	10.11	-0.02	-1	2.8
15	C	5.9	CherryHilMrt	CHMI	3.54	0.08	28	16.9
51	D+	17.6	ChicAtlRlEst	REFI	15.77	0.08	76	11.9
18	B-	6.5	Chimera	CIM	4.61	0.07	-41	9.5
23	B	7.1	CityOfficeReit	CIO	5.21	0.18	69	7.7
15	D-	15.3	ClarosMrtgTr	CMTG	9.76	0.33	24	11.5
19	D	6.9	ClipperRealty	CLPR	4.83	0.32	191	7.9
20	B	37.4	CommHlthTr	CHCT	26.55	0.54	-34	6.8
30	B-	26.8	CoptDefnsProp	CDP	24.17	0.12	-23	4.9
52	B-	25.2	CousinsProps	CUZ	24.04	0.47	-42	5.3
74	A-	10.1	Cresud	CRESY	8.93	0.37	-1	0.0
24	D	136.3	CrownCastle	CCI	105.83	0.24	-26	5.9
43	B+	5.8	CrtvMediaCmnty	CMCT	4.26	0.06	108	8.0
37	C+	48.9	CubeSmart	CUBE	45.22	-0.18	7	4.5
83	B-	154.2	DigitalRlty	DLR	144.04	0.30	-10	3.4
67	A-	10.0	DmndrockHsp	DRH	9.61	-0.01	-46	1.2
8	D	3.2	DouglasElliman	DOUG	1.58	0.00	42	0.0
47	B+	16.1	DouglasEmmt	DEI	13.87	0.20	-17	5.5
37	D-	13.6	DynexCap	DX	12.45	0.05	-9	12.5
18	D+	15.2	EastGovProp	DEA	11.51	0.12	2	9.2
43	D	188.8	Eastgroup	EGP	179.77	1.67	-47	2.8
47	B-	7.6	ElingRdnMtg	EARN	6.91	0.04	-18	13.9
21	C+	18.2	ElmeCommun	ELME	13.92	0.13	-21	5.2
84	C+	10.3	EmpireState	ESRT	10.13	0.16	11	1.4
26	E	49.1	EPRPrpty	EPR	42.45	0.27	-22	8.1
25	B-	74.0	EqLifestyle	ELS	64.40	0.07	123	3.0
57	E	914.9	Equinix	EQIX	825.33	10.02	26	2.1
26	C+	21.5	Equity Cmwlth	EQC	18.88	0.07	-23	0.0
40	B-	69.5	EquityRes	EQR	63.11	0.54	-4	4.3
52	D+	252.8	EssexPrpty	ESS	244.81	3.40	-18	4.0
60	B+	26.6	EssPrpRealTr	EPRT	26.66	0.13	24	4.3
29	C	165.8	Extra Space	EXR	147.00	0.25	3	4.4
26	C	13.3	FarmInd Ptnrs	FPI	11.10	0.14	42	2.2
43	B	107.6	FedRealtyInvTr	FRT	102.12	0.58	2	4.3
37	B-	55.2	FirstIndust	FR	52.54	0.47	42	2.8
35	B+	14.7	FrankBspRealty	FBRT	13.36	0.20	7	10.6
81	B	2.7	FrankInSt	FSP	2.27	0.01	-36	1.8
25	B-	4.9	GenrtnIncProp	GIPR	3.83	0.10	-34	12.0
19	C	36.1	GettyRlty	GTY	27.35	0.52	20	6.6
57	C-	14.1	Gladstone	GOOD	13.84	0.27	87	8.7
19	C-	17.5	GladstoneLd	LAND	13.34	0.27	17	4.1
12	C	13.1	GlobalNetLs	GNL	7.77	0.14	-10	18.1
22	D+	5.4	GlobalSlfStr	SELF	4.45	0.07	-39	6.5
21	E	11.6	GlobMedReit	GMRE	8.75	0.15	23	9.6
25	C	52.5	Gmg/LesPptys	GLPI	46.07	0.30	-34	6.6
19	D+	6.4	GranitePtMort	GPMT	4.77	-0.10	93	15.7
16	E	12.7	Gyrodyne	GYRO	8.30	0.00	-100	..
62	B-	29.9	HannonArm	HASI	28.40	0.41	67	5.8
23	B-	22.4	Healthpeak	DOC	18.75	0.44	-37	6.4
72	B	26.3	Highwood	HIW	26.18	0.25	-37	7.6
15	D-	20.3	HlthcareRealty	HR	14.15	0.21	4	8.8
77	B-	21.3	HostHtls	HST	20.68	0.07	-9	3.9
26	C	9.9	HudsonPac	HPP	6.45	0.06	-33	5.4
41	A	18.8	IndepnRealtyTr	IRT	16.13	0.12	-39	4.0
83	B-	4.9	IndLogisProp	ILPT	4.29	-0.03	0	0.9
84	A-	105.8	InnovatvInd	IIPR	103.54	-0.81	10	7.0
17	B	3.8	Innsuites	IHT	1.32	0.00	-62	1.5
53	B-	27.3	InventrustProp	IVT	25.71	0.33	1	3.5
27	B	12.4	InvescoMrtg	IVR	9.68	0.14	53	16.5
55	B-	36.5	InvitatnHome	INVH	35.61	0.71	8	3.1
45	B+	18.2	JpgSmth	JBGS	16.05	-0.21	42	4.4
50	C	43.4	Kilroy Rlty	KRC	36.43	0.31	-20	5.9
29	D+	22.8	KimcoRlty	KIM	19.61	0.25	39	4.9
29	D+	24.3	KiteRealty	KRG	21.68	0.24	-35	4.5
48	B-	12.0	Ladder Cap A	LADR	11.13	0.16	-16	8.3
12	B-	7.3	LeadRealEstate	LRE	4.05	0.21	-99	..
25	D	26.5	LegacyHousing	LEGH	21.52	0.67	71	..
23	C+	10.8	LexngtonRlty	LXP	9.02	0.13	-26	5.8
29	D	35.7	LTC Ppty	LTC	32.51	0.03	103	7.0
76	A-	2.6	LumentFinanc	LFT	2.49	-0.03	29	11.2
91	B+	17.7	Macerich	MAC	17.23	0.14	-33	3.9
55	A-	7.1	MedalDivrReit	MDRR	5.77	-0.02	-59	0.7
13	B+	10.7	Medical Props	MPW	4.70	-0.02	16	12.8
52	B-	11.9	MFAFincl	MFA	11.41	0.16	-2	12.3
40	C+	5.3	MhBCap	LOAN	5.06	0.05	-15	9.1
24	B-	158.5	MidAmAp	MAA	131.58	0.78	-20	4.5
11	D-	20.1	MobileInfra	BEEP	3.65	0.00	-85	..
89	A-	17.6	Modiv C	MDV	16.79	-0.41	-16	6.8
75	B-	38.0	MuranoGlbInv	MRNO	12.67	-2.33	-85	..
75	B	62.3	NatlHlthInv	NHI	62.83	1.01	6	5.7
43	B+	45.0	NatlRetailPty	NNN	42.74	0.14	-30	5.3
44	B-	43.3	NatlStrgAff	NSA	39.16	0.24	-25	5.7
51	B-	18.9	Netstreit	NTST	18.37	0.28	37	4.5
18	B	49.9	NexPointRes	NXRT	32.19	0.74	26	5.7
20	B	17.8	NextpointRlEst	NREF	14.36	-0.10	49	13.9
14	E	14.8	NYC Reit	NYC	6.35	0.10	-84	6.3
14	C-	10.6	NYMrtg	NYMT	7.20	0.07	-19	11.1
3	E	12.7	OfficePropsIn	OPI	2.04	-0.05	-33	2.0
43	C	34.8	OmegaHlthcare	OHI	31.67	0.62	-13	8.5
52	B-	23.4	OneLiberty	OLP	22.59	0.14	54	8.0
27	C+	11.3	Orchid Island	ORC	8.93	0.09	14	16.1
8	E	7.1	OrionOffcReit	ONL	3.51	0.08	9	11.4
84	B+	17.0	Outfrnt Media	OUT	16.79	0.04	-29	7.1
28	B	5.9	Paramount G	PGRE	4.69	0.09	-25	3.0
88	A	18.1	Park HotlsRes	PK	17.49	-0.16	19	4.0
21	B	47.0	PeakstneRealty	PKST	16.13	-0.11	-9	5.6
47	B-	16.6	Pebblebrook	PEB	15.41	-0.17	-22	0.3
57	C+	15.9	Pennymac	PMT	14.68	0.16	-14	10.9
45	A-	37.9	PhillipsEdison	PECO	35.87	0.27	12	3.3
41	B+	8.1	PiedmntOffce	PDM	7.03	0.23	-24	7.1
31	C	25.6	PlymthIndReit	PLYM	22.50	0.39	41	4.3
31	B	15.7	PostalRltyA	PSTL	14.32	0.08	46	6.7
25	D	54.4	Potlatchdeltic	PCH	47.02	0.06	-22	3.8
12	B-	3.9	PowerReit	PW	0.76	-0.02	105	..
88	B+	1.5	PresidioPropA	SQFT	1.22	0.06	-32	7.4
47	D	137.5	Prologis	PLD	130.22	1.36	16	2.9
30	C+	316.5	PublicStor	PSA	290.06	1.96	13	4.1
47	C-	35.3	Rayonier	RYN	33.24	-0.17	-1	3.4
19	E	12.0	ReadyCapital	RC	9.13	0.20	-7	13.1
24	C-	64.2	RealtyIncome	O	54.10	0.33	-16	5.7
22	C+	8.3	Redwood	RWT	6.37	0.10	51	10.0
25	B-	68.5	RegencyCntr	REG	60.56	0.39	13	4.4
28	B	4.5	RegionalHlth	RHE	2.45	-0.05	-45	..
25	D+	15.2	RetailOpp	ROIC	12.82	0.12	-26	4.7
23	D	60.1	Rexford Indus	REXR	50.30	0.42	51	3.3
76	C	11.3	RithmCapital	RITM	11.16	-0.16	-25	9.0
62	B-	12.4	RLJLodging	RLJ	11.82	0.08	-7	3.4
3	C-	23.0	RoyaltyMgmt	RMCO	1.16	-0.03	-92	..
80	B+	122.9	RymanHspPrp	RHP	115.61	-0.49	-19	3.6
67	B-	14.8	SabraHlthcr	SBRA	14.77	0.19	-30	8.1
83	A+	4.6	SachemCap	SACH	4.46	0.00	-7	9.9
21	B+	30.3	Safehold	SAFE	20.60	0.42	8	3.4
33	D+	41.0	SaulCenters	BFS	38.49	0.37	8	6.1
22	C	267.4	SBAComm	SBAC	216.70	-1.38	-31	1.8
67	D+	9.9	SeritageGrw A	SRG	9.65	0.26	90	0.0
14	D	10.2	ServcPropTrust	SVC	6.78	0.06	-16	11.8
72	B	14.1	SevnHilsRealty	SEVN	12.92	-0.07	-57	10.8
87	B-	157.8	Simon Property	SPG	156.49	2.16	13	5.0
66	A	14.7	Site Centers	SITC	14.65	0.17	-13	3.5
95	B+	55.6	SLGreenRlty	SLG	55.13	1.39	27	5.4
18	B	2.5	SothrlyHotls	SOHO	1.45	-0.01	-67	0.0
50	B+	39.6	Stag Industrl	STAG	38.44	0.35	-22	3.9
18	B+	20.8	StarHldngsWi	STHO	12.92	0.20	-20	..
44	B-	22.3	Starwd	STWD	20.33	0.00	-7	9.4
66	C+	8.0	StrwbryFldReit	STRW	7.95	0.01	0	5.8
31	C+	7.3	SummitHotl	INN	6.51	0.04	-21	3.7
29	B	144.0	SunCommty	SUI	128.58	2.28	-5	2.9
62	B	11.6	SunstoneHotl	SHO	11.14	0.01	19	2.3
86	B	30.0	TangerFact	SKT	29.53	-0.02	7	3.5
57	B	65.6	Terreno Realty	TRNO	66.40	1.07	110	2.7
26	C+	14.7	TwoHarbors	TWO	13.24	0.08	28	13.6
25	B+	44.0	UDR INC	UDR	37.41	0.40	-2	4.5
54	B+	16.9	UMHPrptys	UMH	16.24	0.40	8	5.0
85	B-	6.7	Uniti Grp	UNIT	5.90	0.03	-9	10.2
16	D	49.6	UnivrslHR	UHT	36.71	0.05	-20	7.9
50	B	18.8	Urban Edge	UE	17.27	0.23	2	3.9
23	D	51.0	Ventas	VTR	43.54	-0.09	3	4.1
26	D+	19.0	VerisResidntl	VRE	15.21	0.29	-45	1.4
25	C+	34.0	Vici Props	VICI	29.79	0.04	13	5.6
90	B-	32.2	VornadoRlty	VNO	28.77	1.29	105	2.3
68	B-	94.6	Welltower	WELL	93.44	0.64	23	2.6
62	B+	36.0	Weyerhaus	WY	35.91	-0.02	-7	2.2
2	D-	14.2	WheelerReit	WHLR	0.16	0.00	-31	..
79	B-	13.1	Whitestone	WSR	12.55	0.32	13	3.9
19	D+	76.6	WPCarey	WPC	56.44	0.47	-20	6.1
74	B	15.8	XeniaHotel	XHR	15.01	-0.08	-11	2.8

UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF NEW YORK

In re AppHarvest Securities Litigation

Case No. 1:21-cv-07985-LJL
CLASS ACTION

SUMMARY NOTICE OF PENDENCY OF CLASS ACTION, PROPOSED CLASS ACTION SETTLEMENT, FINAL APPROVAL HEARING, AND MOTION FOR ATTORNEYS' FEES AND EXPENSES

To: All persons and entities that purchased or otherwise acquired securities of AppHarvest, Inc., during the period from February 1, 2021 and August 10, 2021, inclusive, and were injured thereby (the "Settlement Class").

YOU

Gmail

Josephine Bravata <jbravata@strategicclaims.net>

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1 message

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Levi & Korsinsky, LLP Announces Proposed Class Action Settlement on Behalf of Purchasers of AppHarvest, Inc. Securities

NEWS PROVIDED BY
Levi & Korsinsky, LLP →
01 Apr, 2024, 09:00 ET

NEW YORK, April 1, 2024 /PRNewswire/ -- Levi & Korsinsky, LLP announces that the United States District Court for the Southern District of New York has approved the following announcement of a proposed class action settlement that would benefit purchasers of AppHarvest, Inc. securities (NASDAQ: **APPH**) and (NASDAQ: **APPHW**).

SUMMARY NOTICE OF PENDENCY OF CLASS ACTION, PROPOSED CLASS ACTION SETTLEMENT, FINAL APPROVAL HEARING, AND MOTION FOR ATTORNEYS' FEES AND EXPENSES

To: All persons and entities that purchased or otherwise acquired securities of AppHarvest, Inc., during the period from February 1, 2021 and August 10, 2021, inclusive, and were injured thereby (the "Settlement Class").

YOU ARE HEREBY NOTIFIED, pursuant to Federal Rule of Civil Procedure 23 and an Order of the United States District Court for the District of Southern District of New York, that the Court-appointed Lead Plaintiff, Alan Narzissenfeld, ("Lead Plaintiff" or "Plaintiff") on behalf of himself and all members of the Settlement Class, and Jonathan Webb, ("Webb"), Loren Eggleton ("Eggleton"), and David Lee ("Lee" and collectively with Webb and Eggleton, the "Individual Defendants"), have reached a proposed settlement of the claims in the above-captioned class action (the "Action") in the amount of $4,850,000.00 (the "Settlement"). Plaintiff estimates this

represents an average recovery of $0.14 per share of AppHarvest common stock and $0.07 per warrant, respectively, before attorneys' fees and expenses, based on the estimated number of allegedly damaged shares of AppHarvest securities held through an alleged corrective disclosure that was statistically significant.

In exchange for the Settlement and the release of the Released Claims against the Released Defendant Parties, the Individual Defendants have agreed to create a $4,850,000 cash fund, which may accrue interest, to be distributed, after deduction of Court-awarded attorneys' fees and litigation expenses, Notice and Administration Expenses, Taxes, and any other fees or expenses approved by the Court (the "Net Settlement Fund"), among all Settlement Class Members who submit valid Claim Forms and are found to be eligible to receive a distribution from the Net Settlement Fund ("Authorized Claimants").

A hearing will be held before the Honorable Lewis J. Liman, on June 12, 2024 at 3:00 p.m., in Courtroom 15C of the United States District Court for the Southern District of New York, Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, New York, NY 10007 (the "Settlement Hearing") to, among other things, consider: (i) whether the Settlement should be approved; (ii) whether the proposed plan for allocating the proceeds of the Settlement (the "Plan of Allocation") to Settlement Class Members should be approved; and (iii) Lead Counsel's application for attorneys' fees and expenses. This Notice describes important rights you may have and what steps you must take if you wish to participate in the Settlement, wish to object, or wish to be excluded from the Settlement Class. The Court may change the date of the Settlement Hearing, or hold it telephonically or via videoconference, without providing another notice. You do NOT need to attend the Settlement Hearing to receive a distribution from the Net Settlement Fund.

IF YOU ARE A MEMBER OF THE SETTLEMENT CLASS, YOUR RIGHTS WILL BE AFFECTED BY THE PROPOSED SETTLEMENT AND YOU MAY BE ENTITLED TO A MONETARY PAYMENT. A full Notice and Claim Form can be obtained by visiting the website of the Claims Administrator, **www.strategicclaims.net/apph/**, or by contacting the Claims Administrator at:

In re AppHarvest Securities Litigation
c/o Strategic Claims Services
600 N. Jackson Street., Suite 205

Media, PA 19063

Toll-free: (866) 274-4004

Fax: (610) 565-7985

Email: **info@strategicclaims.net**

Inquiries, other than requests for the Notice and Claim Form or for information about the status of a claim, may also be made to Lead Counsel:

LEVI & KORSINSKY, LLP

Gregory M. Potrepka

1111 Summer Street, Suite 403

Stamford, CT 06905

203-992-4523

gpotrepka@zlk.com

If you are a Settlement Class Member, to be eligible to share in the distribution of the Net Settlement Fund, you must submit a Claim Form ***postmarked or submitted online no later than May 22, 2024 to the Claims Administrator at the address above.*** If you are a Settlement Class Member and do not timely submit a valid Claim Form, you will not be eligible to share in the distribution of the Net Settlement Fund, but you will nevertheless be bound by all judgments or orders entered by the Court relating to the Settlement, whether favorable or unfavorable.

If you are a Settlement Class Member and wish to exclude yourself from the Settlement Class, you must submit a written request for exclusion in accordance with the instructions set forth in the Notice such that it is ***post-marked if by mail, or e-mailed, no later than May 22, 2024 to the Claims Administrator.*** If you properly exclude yourself from the Settlement Class, you will not be bound by any judgments or orders entered by the Court relating to the Settlement, whether favorable or unfavorable, and you will not be eligible to share in the distribution of the Net Settlement Fund.

Any objections to the proposed Settlement, Lead Counsel's Fee and Expense Application, and/or the proposed Plan of Allocation must be filed with the Court, either by mail or in person, and be mailed to counsel for the Parties in accordance with the instructions in the Notice, such

that they are ***received no later than May 22, 2024***. Settlement Class Members who exclude themselves from the Settlement will not be able to object to the Settlement.

PLEASE DO NOT CONTACT THE COURT, DEFENDANTS, OR DEFENDANTS' COUNSEL REGARDING THIS NOTICE.

DATED: MARCH 6, 2024

BY ORDER OF THE COURT
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SOURCE Levi & Korsinsky, LLP

EXHIBIT E

SUPPORT CENTER
Support Ticket System

04/24/2024 03:34:52 PM

Ticket #676808

Status	Completed	**Name**	Andrea Deeds
Priority	Normal	**Email**	
Department	Claims Administrators	**Phone**	
Create Date	04/22/2024 02:56:09 PM	**Source**	Email
Assigned To	George Allen	**Help Topic**	Claims
SLA Plan		**Last Response**	04/24/2024 03:34:24 PM
Due Date		**Last Message**	04/23/2024 02:08:29 PM

Ticket Details

Case: AppHarvest

Fwd: AppHarvest Inc. Securities Litigation Exclusion to Settlement

04/22/2024 02:56:09 PM Fwd: AppHarvest Inc. Securities Litigation Exclusion to Settlement — Andrea Deeds

Please see attached PDF and / or JPG for letter requesting exclusion from settlement. This is back up to the original that is in the mail.

Regards,

Andrea Kirkpatrick Deeds

Adobe Scan Apr 22, 2024 (1)_1.jpg (256.6 kb)
appharvest letter April 22.pdf (289.7 kb)

SUPPORT CENTER
Support Ticket System

04/24/2024 03:34:52 PM

04/23/2024 12:28:57 PM Leo Lysakowski

Good afternoon,

Your claim has been received. We are processing claims at this time. If we need anything additional from you, we will contact you at a later date. Typically, these cases can take up to six months to a year if not more from the claims filing deadline before distribution is made.

If you have any further questions, feel free to contact us.

Thank you.

--
Claims Administrator
Strategic Claims Services, Inc.
600 N. Jackson St. - Suite 205
Media PA 19063
Phone: 610-565-9202
Fax: 610-565-7985
Toll Free: 1-866-274-4004

IMPORTANT: The information contained in this message is confidential and is intended only for the named addressee(s). If the reader of this message is not an intended recipient (or the individual responsible for the delivery of this message to an intended recipient), please be advised that any re-use, dissemination, distribution or copying of this message is prohibited. If you have received this message in error, please reply to the sender that you have received the message in error and then delete it. Thank you.

04/23/2024 12:34:32 PM Leo Lysakowski

Good afternoon,

Please see instructions below on how to properly exclude yourself. We have not received any correspondence in the mail as of today.

EXCLUDING YOURSELF FROM THE SETTLEMENT CLASS
36. If you do not want to be eligible to receive a payment from the Settlement but you want to keep any right you may have to sue or continue to sue the Released Defendant Parties on your own concerning

the
Released Claims, then you must take steps to remove yourself from the Settlement Class. This is called excluding yourself or "opting out." Please note: if you bring your own claims, Defendants will have the right
to seek their dismissal, including because the suit is not filed within the applicable time periods required for
filing suit. Also, the Individual Defendants may terminate the Settlement if Persons who purchased in excess
of a certain amount of shares of AppHarvest securities seek exclusion from the Settlement Class.
11. How do I exclude myself from the Settlement Class?
37. To exclude yourself from the Settlement Class, you must transmit by United States Postal
Service or e-mail a signed letter stating that you "request to be excluded from the Settlement Class in In re
AppHarvest Inc., Securities Litigation, Case No. 1:21-cv-7985-LJL (S.D.N.Y)." You cannot exclude yourself by telephone. Each request for exclusion must also: (i) state the name, mailing address, telephone number,
and e-mail address of the person or entity requesting exclusion; (ii) state the number of publicly traded AppHarvest common shares or warrants purchased, acquired, and/or sold during the Settlement Class Period,
as well as the dates and prices of each such purchase, acquisition, and sale; and (iii) be signed by the person or
entity requesting exclusion or an authorized representative. A request for exclusion must be post-marked if
by mail, or e-mailed, no later than May 22, 2024, to:
EXCLUSIONS – In re AppHarvest Securities Litigation
c/o Strategic Claims Services
600 N. Jackson Street, Suite 205
Media, PA 19063
email: info@strategicclaims.net
Page 9 of 17
Your exclusion request must comply with these requirements in order to be valid, unless it is otherwise accepted by the Court.
38. If you ask to be excluded, do not submit a Claim Form because you cannot receive any payment from the Net Settlement Fund. Also, you cannot object to the Settlement because you will not be a Settlement
Class Member. However, if you submit a valid exclusion request, you will not be legally bound by anything that happens in the Action, and you may be able to sue (or continue to sue) the Individual Defendants and the
other Released Defendant Parties in the future, assuming your claims are timely and otherwise valid. If

SUPPORT CENTER
Support Ticket System

04/24/2024 03:34:52 PM

you
have a pending lawsuit against any of the Released Defendant Parties, please speak to your lawyer in the case immediately.

04/23/2024 02:08:08 PM Andrea Deeds

Unbelievable since the letter requesting exclusion was attached to the original email. Attaching again.

On Tue, Apr 23, 2024 at 12:29 PM Claims Administrator reply@strategicclaims.net> wrote:

Adobe Scan Apr 22, 2024 (1)_1.jpg (256.6 kb)

04/23/2024 02:08:29 PM Andrea Deeds

Unbelievable since the letter requesting exclusion was attached to the original email. Attaching again.

---------- Forwarded message ---------
From: **Claims Administrator** reply@strategicclaims.net>
Date: Tue, Apr 23, 2024 at 12:34 PM
Subject: Re: Fwd: AppHarvest Inc. Securities Litigation Exclusion to Settlement [#676808]
To: Andrea Deeds

Adobe Scan Apr 22, 2024 (1)_1.jpg (256.6 kb)

SUPPORT CENTER
Support Ticket System

04/24/2024 03:34:52 PM

04/24/2024 03:34:24 PM George Allen

Good afternoon,

We have received your information.

Thank you.

--
Claims Administrator
Strategic Claims Services, Inc.
600 N. Jackson St. - Suite 205
Media PA 19063
Phone: 610-565-9202
Fax: 610-565-7985
Toll Free: 1-866-274-4004

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Adobe Scan Apr 22, 2024 (1).jpg

April 22, 2024

In re Appharvest Securities Litigation
c/o Strategic Claims Services
600 N. Jackson Street, Suite 205
Media PA 19063

In re: AppHarvest Inc., Securities Litigation, Case No. 1:21-cv-7985-L J L (S.D.N.Y.)

To whom it concerns:

This is my request to be excluded from the Settlement Class *In re AppHarvest Inc., Securities Litigation*, Case No. 1:21-cv-7985-LJL (S.D.N.Y.).

Name: Andrea M Deeds
Mailing Address:
Telephone:
Email:

Shares Purchased / Acquired / Sold during Settlement Class Period

YOUR RETIREMENT ACCOUNT EQUITY COST BASIS

July 01, 2021 - Septemi

EQUITIES Description	Symbol	Acquired	Quantity	Unit Cost Basis	Total Cost Basis	Estimated Market Price	Estimated Market Value	Unrealized Gain/(Loss) A
APPHARVEST INC	APPH	02/01/21	25.0000	28.6300	715.75	6.5200	163.00	(552.75)
		02/05/21	25.0000	30.8100	770.25	6.5200	163.00	(607.25)
		02/10/21	10.0000	36.7500	367.50	6.5200	65.20	(302.30)
		02/16/21	10.0000	32.4600	324.60	6.5200	65.20	(259.40)
		02/19/21	5.0000	36.0700	180.35	6.5200	32.60	(147.75)
		02/24/21	10.0000	34.1500	341.50	6.5200	65.20	(276.30)
		02/26/21	15.0000	33.0000	495.00	6.5200	97.80	(397.20)
		03/03/21	10.0000	29.7800	297.80	6.5200	65.20	(232.60)
		03/08/21	20.0000	16.9270	338.54	6.5200	130.40	(208.14)
		03/11/21	10.0000	22.7120	227.12	6.5200	65.20	(161.92)
		03/12/21	10.0000	23.0700	230.70	6.5200	65.20	(165.50)
		03/22/21	10.0000	21.0830	210.83	6.5200	65.20	(145.63)
		03/24/21	10.0000	20.2280	202.28	6.5200	65.20	(137.08)
		03/25/21	10.0000	17.8900	178.90	6.5200	65.20	(113.70)
		04/19/21	10.0000	13.9190	139.19	6.5200	65.20	(73.99)
		05/10/21	35.0000	12.5751	440.13	6.5200	228.20	(211.93)
		06/29/21	10.0000	15.5290	155.29	6.5200	65.20	(90.09)

YOUR CMA EQUITY COST BASIS

May 29, 2021 - June 30, 2021

EQUITIES Description	Symbol	Acquired	Quantity	Unit Cost Basis	Total Cost Basis	Estimated Market Price	Estimated Market Value	Unrealized Gain/(Loss)	Estimated Annual Income
APPHARVEST INC	APPH	04/12/21	10.0000	17.1950	171.95	16.0000	160.00	(11.95)	
TOTAL					171.95		160.00	(11.95)	

Regards,

Andrea M Deeds

April 22, 2024

In re Appharvest Securities Litigation
c/o Strategic Claims Services
600 N. Jackson Street, Suite 205
Media PA 19063

In re: AppHarvest Inc., Securities Litigation, Case No. 1:21-cv-7985-L J L (S.D.N.Y.)

To whom it concerns:

This is my request to be excluded from the Settlement Class *In re AppHarvest Inc., Securities Litigation*, Case No. 1:21-cv-7985-LJL (S.D.N.Y.).

Name: Andrea M Deeds
Mailing Address:
Telephone:
Email:

Shares Purchased / Acquired / Sold during Settlement Class Period

YOUR RETIREMENT ACCOUNT EQUITY COST BASIS

July 01, 2021 - Septemi

EQUITIES Description	Symbol	Acquired	Quantity	Unit Cost Basis	Total Cost Basis	Estimated Market Price	Estimated Market Value	Unrealized Gain/(Loss) A
APPHARVEST INC	APPH	02/01/21	25.0000	28.6300	715.75	6.5200	163.00	(552.75)
		02/05/21	25.0000	30.8100	770.25	6.5200	163.00	(607.25)
		02/10/21	10.0000	36.7500	367.50	6.5200	65.20	(302.30)
		02/16/21	10.0000	32.4600	324.60	6.5200	65.20	(259.40)
		02/19/21	5.0000	36.0700	180.35	6.5200	32.60	(147.75)
		02/24/21	10.0000	34.1500	341.50	6.5200	65.20	(276.30)
		02/26/21	15.0000	33.0000	495.00	6.5200	97.80	(397.20)
		03/03/21	10.0000	29.7800	297.80	6.5200	65.20	(232.60)
		03/08/21	20.0000	16.9270	338.54	6.5200	130.40	(208.14)
		03/11/21	10.0000	22.7120	227.12	6.5200	65.20	(161.92)
		03/12/21	10.0000	23.0700	230.70	6.5200	65.20	(165.50)
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		03/24/21	10.0000	20.2280	202.28	6.5200	65.20	(137.08)
		03/25/21	10.0000	17.8900	178.90	6.5200	65.20	(113.70)
		04/19/21	10.0000	13.9190	139.19	6.5200	65.20	(73.99)
		05/10/21	35.0000	12.5751	440.13	6.5200	228.20	(211.93)
		06/29/21	10.0000	15.5290	155.29	6.5200	65.20	(90.09)

YOUR CMA EQUITY COST BASIS

May 29, 2021 - June 30, 2021

EQUITIES Description	Symbol	Acquired	Quantity	Unit Cost Basis	Total Cost Basis	Estimated Market Price	Estimated Market Value	Unrealized Gain/(Loss)	Estimated Annual Income
APPHARVEST INC	APPH	04/12/21	10.0000	17.1950	171.95	16.0000	160.00	(11.95)	
TOTAL					171.95		160.00	(11.95)	

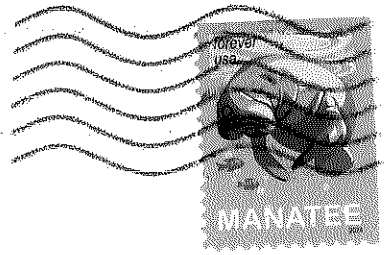
Regards

Andrea M Deeds

Case 1:21-cv-07985-LJL Document 129-4 Filed 05/08/24 Page 50 of 53

Ms. Andrea Kirkpatrick

22 APR 2024 PM 8 L



In re Cognizant Securities Litigation
c/o Strategic Claims Services
600 N. Jackson Street, Suite 205
Media PA 19063

APR 25 2024

19063-255455

SUPPORT CENTER
Support Ticket System

04/30/2024 08:38:36 AM

Ticket #812320

Status	New	**Name**	Stacey Weiler
Priority	Normal	**Email**	
Department	Claims Administrators	**Phone**	
Create Date	04/30/2024 06:16:06 AM	**Source**	Email
Assigned To	George Allen	**Help Topic**	Claims
SLA Plan	Default SLA	**Last Response**	04/30/2024 08:38:27 AM
Due Date	05/01/2024 06:16:06 AM	**Last Message**	04/30/2024 06:16:07 AM

Ticket Details

Case:	AppHarvest

Exclusion from app harvest settlement case

04/30/2024 06:16:07 AM Exclusion from app harvest settlement case — Stacey Weiler

Sent from my iPhone

IMG_9274.jpg (1.9 mb)

04/30/2024 08:38:27 AM — George Allen

Good morning,

Thank you for contacting us regarding the AppHarvest litigation.

Please note that in order to properly exclude yourself, the exclusion letter must include all information specified on p. 8 of the attached Notice/Claim Form in the section on how to exclude yourself from the case, see also below:

"Each request for exclusion must also: (i) state the name, mailing address, telephone number, and e-mail address of the person or entity requesting exclusion; (ii) state the number of publicly traded AppHarvest common shares or warrants purchased, acquired, and/or sold during the Settlement Class Period, **as well as the dates and prices of each such purchase, acquisition, and sale;** and (iii) be signed by the person or entity requesting exclusion or an authorized representative. A request for exclusion must be post-marked if by mail, or e-mailed, no later than May 22, 2024, to:

SUPPORT CENTER
Support Ticket System

04/30/2024 08:38:36 AM

EXCLUSIONS – In re AppHarvest Securities Litigation
c/o Strategic Claims Services
600 N. Jackson Street, Suite 205
Media, PA 19063
email: info@strategicclaims.net"

If you have any further questions, please feel free to contact our office.

Thank you.

--
Claims Administrator
Strategic Claims Services, Inc.
600 N. Jackson St. - Suite 205
Media PA 19063
Phone: 610-565-9202
Fax: 610-565-7985
Toll Free: 1-866-274-4004

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AppHarvest Notice and Claim Form.pdf (377 kb)

4/30/24

Re: AppHarvest Inc., Securities Litigation, Case No. 1:21-cv-7985-LJL (S.D.N.Y)

I am requesting to be excluded from the Settlement Class in the above referenced case.

Stacey Weiler + Patrick Treacy (Joint owners)

[redacted]

700 shares purchased on 1/4/21 (nothing sold)

[redacted]

info@strategicclaims.net