

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK: COMMERCIAL DIVISION

_____	X	
In re LUCKIN COFFEE INC. SECURITIES	:	
LITIGATION	:	Index No. 651939/2020
_____	:	
	:	<u>CLASS ACTION</u>
This Document Relates To:	:	
	:	Motion Sequence No. 012
THE CONSOLIDATED ACTION.	:	
_____	X	
		AFFIDAVIT OF EDWARD F. HABER
		FILED ON BEHALF OF SHAPIRO HABER
		& URMY LLP IN SUPPORT OF
		APPLICATION FOR AWARD OF
		ATTORNEYS' FEES AND EXPENSES

I, EDWARD F. HABER, an attorney duly admitted to practice before the courts of the Commonwealth of Massachusetts, affirm the following to be true under penalty of perjury:

1. I am a member of the Bar of the Commonwealth of Massachusetts and am a member of Shapiro Haber & Urmy LLP (the "Firm"), Co-Lead Counsel for Plaintiffs in the above-captioned action (the "Action"). I am submitting this affidavit in support of the application for an award of attorneys' fees and expenses in connection with services rendered in the Action.

2. The information in this affidavit regarding the Firm's time and expenses is taken from time and expense reports and supporting documentation prepared and/or maintained by the Firm in the ordinary course of business. I am the partner who oversaw and/or conducted the day-to-day activities in the Action and I reviewed these reports in connection with the preparation of this affidavit. The purpose of this review was to confirm both the accuracy of the entries on the printouts as well as the necessity for, and reasonableness of, the time and expenses committed to the Action. Based on this review, 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 Action.

3. The firm spent 326.90 hours in prosecuting the Action. The total lodestar for the attorney/paraprofessional time based on the Firm's current rates is \$247,254.00. A chart reflecting the hours and hourly rate of each lawyer and paralegal in the firm who worked on the Action is set forth in the attached Exhibit A. The hourly rates shown in Exhibit A are the Firm's current rates for each identified attorney or paralegal in contingent and non-contingent cases. These hourly rates are consistent with hourly rates submitted by the Firm to state and federal courts in other securities class action litigation. The 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 the Firm, the “current rate” used for the lodestar calculation is based upon the rate for that person in his or her final year of employment with the Firm.

4. The Firm seeks an award of \$20,682.33 in expenses and charges in connection with the prosecution of the Action. Those expenses and charges are summarized by category in the attached Exhibit B.

5. The expenses pertaining to this case are reflected in the books and records of this Firm. These books and records are prepared from receipts, expense vouchers, check records, and other documents and are an accurate record of the expenses.

6. The identification and background of my Firm and its partners is attached hereto as Exhibit C.

7. In accordance with CPLR 2217(b), I affirm that I have not previously requested the relief sought by this motion.

Executed this 13th day of December 2022, at Boston, Massachusetts.



EDWARD F. HABER

NOTARY ACKNOWLEDGMENT

COMMONWEATH OF MASSACHUSETT)
) ss:
COUNTY OF SUFFOLK )

This Affidavit was acknowledged before me this 13 day of December 2022, by Edward F. Haber, who, being first duly sworn on oath according to law, deposes and says that he has read the foregoing Affidavit subscribed by him, and that the matters stated herein are true to the best of his information, knowledge, and belief.

Michaela Herrmann

Notary of Public

My commission expires: 6/6/2025

MICHAELA K. HERRMANN
Notary Public
Commonwealth of Massachusetts
My Commission Expires
June 6, 2025

**PRINTING SPECIFICATIONS STATEMENT**

1. Pursuant to 22 N.Y.C.R.R. §202.70(g), Rule 17, the undersigned counsel certifies that the foregoing affidavit was prepared on a computer using Microsoft Word. A proportionally spaced typeface was used as follows:

Name of Typeface: Times New Roman  
Point Size: 14  
Line Spacing: Double

2. The total number of words in the affidavit, inclusive of point headings and footnotes and exclusive of the caption, signature block, and this Certification, is 582 words.

DATED: December 13, 2022

/s/ Edward F. Haber

Edward F. Haber  
SHAPIRO HABER & URMY LLP  
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Boston, MA 02108  
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# **EXHIBIT A**

**EXHIBIT A**

*In re Luckin Coffee Inc. Securities Litigation*  
Shapiro Haber & Urmy LLP  
Inception through December 9, 2022

<i>NAME</i>		<i>HOURS</i>	<i>RATE</i>	<i>LODESTAR</i>
Blauner, Michelle	(P)	8.50	820	6,970.00
Haber, Edward	(P)	157.30	925	145,502.50
McLoughlin, Ian	(P)	49.70	720	35,784.00
Stewart, Adam	(A)	75.80	575	43,585.00
Vallely, Patrick	(A)	20.00	575	11,500.00
Dill, Nicole	(A)	2.30	400	920.00
Paralegals		13.3	225	2,992.50
<b><i>TOTAL</i></b>		<b><i>326.90</i></b>		<b><i>\$247,254.00</i></b>

(P) Partner

(A) Associate

# **EXHIBIT B**



**EXHIBIT B**

*In re Luckin Coffee Inc. Securities Litigation*  
Shapiro Haber & Urmy LLP  
Inception through December 9, 2022

<b><i>CATEGORY</i></b>	<b><i>AMOUNT</i></b>
Filing Fees	\$ 75.00
Photocopies	25.50
Telephone	27.47
Transcripts	328.50
Online Legal and Financial Research	225.86
Litigation Fund Contributions	20,000.00
<b><i>TOTAL</i></b>	<b><i>\$20,682.33</i></b>

# **EXHIBIT C**

## Shapiro Haber & Urmy LLP

With over 30 years of experience litigating, trying, and winning multimillion dollar cases across the country, Shapiro Haber & Urmy LLP (“Shapiro Haber & Urmy”), a Boston-based boutique litigation firm, has long been a national leader in the field of complex, high-stakes litigation. Each of our attorneys has the educational background, expertise, and creativity to litigate against the largest, most prominent law firms in the country – and win. Unlike many other law firms in which only a few, if any, of the lawyers have actually tried a case to conclusion, our lawyers have successfully tried dozens of cases to verdict and have obtained outstanding results for our clients when efforts to reach a negotiated settlement have failed. As a result, we approach each case – large or small – with the expectation that it may be tried, and with the rigor and attention to detail that excellent trial preparation requires.

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

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

## LEGAL PROFESSIONALS

### PARTNERS

#### Edward F. Haber, Partner

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

#### Michelle H. Blauner, Partner

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

#### Ian J. McLoughlin, Partner

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

### ASSOCIATES

#### Patrick J. Vallely, Associate

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

### COUNSEL

#### Thomas V. Urmv, Jr., Counsel

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

#### Thomas G. Shapiro, Counsel

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

## JUDICIAL RECOGNITION

- “Given their representation of the lead plaintiffs to date... Shapiro Haber & Urmy LLP, with substantial experience with securities class action litigation, [is] adequate to serve as class counsel.” *In re AVEO Pharm., Inc. Sec. Litig.*, 2017 U.S. Dist. LEXIS 188560, at \*15 (D. Mass. Nov. 14, 2017).
- Shapiro Haber & Urmy litigated “with considerable skill and experience” and demonstrated “excellent lawyering.” *Kenney v. State St. Corp.*, (D. Mass. Nov. 9, 2014).
- Shapiro Haber & Urmy is “highly skilled” and has “significant class action experience.” *Arnett v. Bank of Am., N.A.*, 2014 U.S. Dist. LEXIS 130903, at \*38 (D. Or. Sep. 18, 2014).
- “Shapiro Haber & Urmy is an eleven-lawyer firm with a national reputation for litigating a variety of national class actions.” *Davis v. Footbridge Eng’g Servs., LLC*, 2011 U.S. Dist. LEXIS 93645, at \*8 (D. Mass. Aug. 22, 2011).
- “I think that [Shapiro Haber & Urmy] has done an excellent job on this and makes my job much, much easier.” *Olmeda v. AM Broadband, LLC*, (D. Mass. Oct. 14, 2009).
- “[Shapiro Haber & Urmy’s] skillful and zealous representation over a six-year period enabled the settling classes to obtain a favorable and certain cash recovery....The high quality of representation provided... is evident from the extensive record of this case....” *In re Merrill Lynch & Co., Inc. Research Reports Securities Litig.*, 246 F.R.D. 156 (S.D.N.Y. 2007).
- Shapiro Haber & Urmy “has broad-based experience in complex litigation, including experience in securities fraud class actions in this district and others.” *Swack v. Credit Suisse First Boston*, 230 F.R.D. 250, 267 (D. Mass. 2005).
- “I am satisfied that [Shapiro Haber & Urmy] will prosecute this action vigorously and will protect the interests of the absent class members.” *McLaughlin v. Liberty Mutual Ins. Co.*, 224 F.R.D. 304, 310 (D. Mass. 2004).
- Shapiro Haber & Urmy is “highly qualified both generally, and in the specific context of private class actions under the Federal securities laws.” *Coopersmith, et al. v. Lehman Brothers, Inc.*, 344 F. Supp. 2d 783, 784 (D. Mass. 2004).
- Shapiro Haber & Urmy is “highly qualified to act as lead counsel for the Class” and “has extensive experience in prosecuting class actions, including as lead counsel.” *US Trust Co. of NY v. Albert* (S.D.N.Y. 1995).
- Shapiro Haber & Urmy “comes with a wealth of experience and skill in prosecuting class actions.” *US West, Inc. v. Macallister* (D. Colo. 1992).

## QUALIFICATIONS AND EXPERIENCE

### CONSUMER LITIGATION

- In *Lee v. Conagra Brands, Inc.*, No. 1:17-cv-11042-RGS, Shapiro Haber & Urmy represents a class of consumers under the Massachusetts consumer protection act relating to Conagra's deceptive marketing of Wesson Oil as "100% Natural" when the oil in fact contained genetically modified organisms. After the district court dismissed the complaint, Shapiro Haber & Urmy successfully appealed and obtained an important decision from the Court of Appeals for the First Circuit, which reversed the dismissal. *Lee v. Conagra Brands, Inc.*, 958 F.3d 70 (1st Cir. 2020). The First Circuit held that claims relating to "natural" advertising are not preempted by federal law and also clarified the applicable pleading standard for injury and damages under the Massachusetts statute.
- In *Magliacane v. City of Gardner*, 1785-CV0-2005 (Mass. Super. Ct.), Shapiro Haber & Urmy represents Janice Magliacane, who brought a class action against the City of Gardner relating to the City's sales and delivery of corrosive water to its residents that has led to corrosion of copper heating coils in residents' hot water heaters. On appeal from the trial court's dismissal of the case, the Supreme Judicial Court ruled for the first time that a class action could be brought under the Massachusetts Torts Claim Act and that the statute does not require that each individual class member provide written notice of their claim. The SJC also held for the first time that fraudulent concealment tolls the presentment requirement under the MTCA. *Magliacane v. City of Gardner*, 483 Mass. 842 (2020).
- In *Starr v. VSL Pharmaceuticals, Inc.*, No. 8:19-cv-02713-TDC (D. Md.), Shapiro Haber & Urmy represents consumers in twelve states asserting violations of the federal RICO statute, various state consumer protection acts, and common law relating to the defendants' deceptive marketing of the medical probiotic food VSL#3. Plaintiffs claim that the defendants defrauded consumers into believing a new formulation of VSL#3 sold after May 2016 was the same as the original clinically tested formulation of VSL#3 sold prior to that time when it was not. Shapiro Haber & Urmy brings the claim on behalf of proposed nationwide and statewide classes of consumers who purchased VSL#3. Shapiro Haber & Urmy successfully defeated defendants' motion to dismiss on December 28, 2000. *Starr v. VSL Pharm., Inc.*, 2020 U.S. Dist. LEXIS 242774 (D. Md. 2020).
- In *Burkhart v. Genworth Financial, Inc.*, C.A. No. 2018-0691-JRS (Del. Ch.), Shapiro Haber & Urmy represents a putative class of more than one million long-term care ("LTC") insurance policyholders, who have brought suit against Genworth Life Insurance Company ("GLIC") for fraudulent conveying more than \$1 billion in assets to its affiliates when it terminated a capital support agreement without consideration. Plaintiffs allege that GLIC intended to defraud its LTC policyholders when it terminated the capital support agreement and that the GLIC was insolvent or undercapitalized at the time of the transaction because GLIC was left with insufficient assets to pay its expected liabilities under the policies. Shapiro Haber & Urmy successfully argued to the Delaware Chancery Court, that Plaintiffs, who had not yet made claims under their policies, had standing to sue for fraudulent conveyance. *Burkhart v. Genworth Fin., Inc.*, No. 2018-0691-JRS, 2020 Del. Ch. LEXIS 44, at \*1 (Ch. Jan. 31, 2020).

- Shapiro Haber & Urmy, is liaison counsel and a member of the executive committee in *In re Evenflo Co., Inc. Marketing, Sales Practices and Product Liability Litigation.*, MDL No. 1:20-md-02938-DJC (D.Mass.). Shapiro Haber & Urmy represents consumers and proposed classes in various states who sued the maker of the popular Evenflo Big Kid booster carseat for allegedly selling the car seat with misleading advertising and safety claims, placing children weighing less than 40 pounds in grave danger during a car crash.
- In *Levine v. Volvo Cars of North America, LLC*, No. 2:18-cv-03760-CCC-JBC (D.N.J.), Shapiro Haber & Urmy represent Frederick Scott Levine and Douglas W. Murphy in bringing claims against Volvo for consumer deception and breach of warranty relating to Volvo's deceptive marketing of its XC90 vehicles as being compatible with Android Auto. Shapiro Haber & Urmy represent a proposed nationwide class of purchasers and lessees of 2016 and certain 2017 XC90s that were deceptively marketed.
- In *Munsell v. Colgate Palmolive Co.*, No. 1:19-cv-12512-NMG (D. Mass.), Shapiro Haber & Urmy asserts claims on behalf of Massachusetts and Rhode Island consumers under the Massachusetts and Rhode Island consumer protection acts relating to Colgate and Tom's of Maine's deceptive marketing of Tom's of Maine toothpaste and deodorant products as "natural" when those products in fact contain artificial, synthetic or chemically processed ingredients. Shapiro Haber & Urmy defeated the defendants' motion to dismiss and continues to litigate the case on behalf of the proposed classes. *Munsell v. Colgate-Palmolive Co.*, 2020 U.S. Dist. LEXIS 88745 (D. Mass. May 20, 2020).
- In *Ridenti v. Google LLC*, No. 1:20-cv-10517-NMG (D. Mass.), Shapiro Haber & Urmy represents two Massachusetts children in bringing claims against Google for the unfair and unlawful collection of children's personal information through the YouTube platform. The cutting-edge claims align with increasing interest in children's privacy on the internet, as reflected by state and federal regulations, including the Children's Online Privacy Protection Act. The *Ridenti* case could serve as an important case defining the scope of consumer protection law to provide a remedy for unfair practices by online service providers concerning their interaction with young children.
- Shapiro Haber & Urmy serves as liaison counsel in *Duncan et al. v. Nissan North America, Inc.*, 1:16-CV-12120-DJC (D. Mass.) in which they represent consumers in Oregon, Colorado, Texas, Massachusetts, North Carolina, New York, Florida, Maryland and New Jersey in connection with their purchase or lease of certain Nissan model vehicles manufactured, sold and warranted by Nissan that allegedly have a defective Timing Chain System. The case was recently settled, and the court has granted preliminary approval to the settlement, which provides consumers with various forms of relief, including an extension of the warranty coverage on their vehicles.
- In *Carriuolo v. General Motors, LLC*, Case No. 14-cv-61429 (S.D. Fl.) Shapiro Haber & Urmy represented a class of Florida purchasers and lessees of Cadillac CTS vehicles. The case concerned General Motors' misrepresentations that certain Cadillac CTS vehicles had obtained federal safety ratings that they had not in fact obtained. Shapiro Haber & Urmy successfully moved for certification of a class of Florida purchasers of the vehicles, which was affirmed on an interlocutory appeal by the United States Court of Appeals for the Eleventh Circuit. *Carriuolo v. GM Co.*, 823 F.3d 977 (11th Cir. 2016). That landmark

decision construed Florida law and Rule 23 to reject common defense arguments against class certification, paving the way for future consumer actions under Florida's consumer protection law. After the Court of Appeals affirmed the class certification order, Shapiro Haber & Urmy procured a class settlement that provided \$1,000 cash to each class member, plus a \$1,000 voucher towards the future purchase of a vehicle.

- In *Crane v. Sexy Hair Concepts, LLC*, No. 17-10300-FDS (D. Mass.), Shapiro Haber & Urmy represents a nationwide class of consumers who purchased Sexy Hair shampoos and conditioners that were deceptively marketed as being free of sulfates and salts. Shapiro Haber & Urmy defeated an attempt at dismissal of the plaintiffs' claims, resulting in a decision that affirmed important principles of consumer protection law under the Massachusetts consumer protection statute. *Crane v. Sexy Hair Concepts, LLC*, 2017 U.S. Dist. LEXIS 220112 (D. Mass. Oct. 10, 2017). After Shapiro Haber & Urmy obtained that favorable decision, the case settled for \$2.33 million.
- In *Aspinall v. Philip Morris Cos.*, Civ. Action. No. 98-6002-H (Mass. Super. Ct.), Shapiro Haber & Urmy represented plaintiffs in a class action against Philip Morris. The suit was brought under the Massachusetts Consumer Protection Act, M.G.L. c. 93A, and sought to recover damages from defendants on behalf of all persons who purchased Marlboro Light cigarettes in the Commonwealth of Massachusetts. The case alleged that by using words such as "Light" and "Lowered Tar and Nicotine" on the packaging of Marlboro Lights, defendants falsely represented to purchasers that the cigarettes contained and delivered lower levels of tar and nicotine to human smokers than did regular cigarettes. In October of 2001, the Superior Court certified the case as a class action. Shapiro Haber & Urmy successfully argued against defendants' appeal from the class certification decision, which was affirmed by the Supreme Judicial Court in August of 2004, *Aspinall v. Philip Morris Companies, Inc.*, 442 Mass. 381 (2004). The firm also successfully prevailed, before both the Superior Court and the Supreme Judicial Court, against Philip Morris' argument that a consumer's claims under c. 93A were preempted by federal law and the actions of the Federal Trade Commission. *Aspinall v. Philip Morris Companies, Inc.*, 453 Mass. 431 (2009). On February 19, 2016, after a five-week trial, the Court found that Philip Morris violated c. 93A, and awarded statutory damages plus prejudgment interest, totaling \$15 million.
- In *Perlow v. ABC Financial Services, Inc.*, 1684-CV-03611-BLS2 (Mass. Super. Ct.), Shapiro Haber & Urmy represented Matthew Perlow, who brought a class action against ABC Financial and Seas & Associates LLC alleging that certain debt collection letters sent to him and others did not contain the information required by Massachusetts debt collection law. Following over two years of litigation, Shapiro Haber & Urmy obtained a settlement of \$1.8 million for the benefit of the class. The settlement resulted in monetary recovery for tens of thousands of consumers as well as sizable cy pres awards to the National Consumer Law Center and Massachusetts IOLTA.
- Shapiro Haber & Urmy represented putative classes of plaintiffs in litigation throughout the United States, charging Bank of America with breach of contract and breach of the covenant of good faith and fair dealing in connection with the purchase of hazard and flood insurance in excess of the coverage amounts required by the



mortgage agreements. In two of those cases, *Kolbe v. Bank of America*, 695 F.3d 111 (1st Cir. 2012), *en banc review granted*, and *Lass v. Bank of America*, 695 F.3d 129 (1st Cir. 2012), the Court of Appeals for the First Circuit reversed the district court's orders dismissing the claims. Shapiro Haber & Urmy successfully settled the case for \$30 million.

- Shapiro Haber & Urmy represented a class of consumers in litigation in federal and state court in Florida against Homeward Residential, Inc. for breach of the covenant of good faith and fair dealing, and unfair business practices associated with its force-placed hazard insurance practices. Shapiro Haber & Urmy defeated Homeward's efforts to dismiss the case. *Martorella v. Deutsche Bank Nat'l Trust Co.*, 2013 WL 1137514 (S.D. Fla. Mar. 18, 2013). The parties settled the case for a refund of 12.5% of the force-placed insurance premiums, which was approved by the state court and is being administered.
- Shapiro Haber & Urmy represented Massachusetts consumers who sued U-Haul for attempted price fixing in violation of M.G.L. c. 93A. In reversing the dismissal of the case, the United States Court of Appeals for the First Circuit, recognized for the first time that attempted price fixing, which harms consumers, can violate Massachusetts consumer protection laws. *Liu v. Amerco*, 677 F.3d 489 (1st Cir. 2012).
- Shapiro Haber and Urmy represented a class of Massachusetts consumers who sued Southwestern Bell (doing business as Cellular One) for breach of contract and violations of M.G.L. c. 93A by overcharging consumers. After the district court decertified the class, Shapiro Haber & Urmy successfully appealed the ruling to the United States Court of Appeals for the First Circuit, which reversed. *Smilow v. Sw. Bell Mobile Sys.*, 323 F.3d 32, 34 (1st Cir. 2003). The case, thereafter, was successfully settled. Shapiro Haber & Urmy also represented consumers and business owners by prosecuting consumer class action suits against:
  - Seven Massachusetts automobile insurance companies for nonpayment of interest on arbitration awards;
  - Shell Vacation homes in connection with the sale of timeshares;
  - Starbucks for misrepresentation and overcharges in the sale of coffee;
  - Earth Friendly products for misrepresenting its products as "100% Natural" or "All Natural";
  - Building Products of Canada for selling defective roofing shingles;
  - Various health maintenance organizations for failure to pay claims of non-participating medical service providers for medical services in a timely fashion;
  - Zions First National Bank for charging and collecting excessive overdraft fees;
  - Re\$ubmitIt, LLC for unauthorized fees charged for insufficient funds checks;

- U-Haul for attempted price-fixing in violation of the Massachusetts consumer protection statute;
- Wozo, LLC for deceptive internet marketing;
- American Medical Security, Inc. for unfair insurance practices;
- NVIDIA for the sale of defective products in violation of state consumer protection statutes;
- Lenovo for the sale of defective products in violation of state consumer protection statutes;
- TJX Companies, Inc. and Princeton Review related to the theft of personal and financial information of customers;
- E.I. DuPont De Nemours & Company for the potential of serious health hazards resulting from the manufacturing, sales and advertising of “Teflon”; and
- Gillette for engaging in deceptive marketing practices with respect to its M3P razor and blades.

### CONSUMER LITIGATION APPEALS

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

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

## SECURITIES AND DERIVATIVE LITIGATION

- In *Fisher v. United States*, No. 13-608C (Ct. Fed. Cl.), and *Reid v. United States*, No. 14-152C (Ct. Fed. Cl.), Shapiro Haber & Urmy represents shareholders of Fannie Mae and Freddie Mac in bringing derivative claims against the United States arising from the government's takings of assets from both companies during the financial crisis. Shapiro Haber & Urmy successfully defended against a motion to dismiss filed by the government challenging the shareholders' claims based on jurisdictional and standing arguments. The resulting decision addressed important, previously unresolved questions concerning shareholders' standing to bring claims against the United States notwithstanding the government's role as conservator for the companies. *Fisher v. United States*, 2020 U.S. Claims LEXIS 962 (Ct. Cl. May 8, 2020); *Reid v. United States*, 2020 U.S. Claims LEXIS 963 (Ct. Cl. May 8, 2020).
- In *In re Fitbit, Inc. Stockholder Derivative Litigation*, No. 2017-0402-JRS (Del. Ch. Ct.), Shapiro Haber & Urmy represents shareholders in a derivative lawsuit on behalf of Fitbit, Inc. arising from stock transactions in which Fitbit's officers and directors entered while in possession of material nonpublic information about the company. Shapiro Haber & Urmy defeated a motion to dismiss filed by the defendants, resulting in an important decision in the Delaware Court of Chancery affirming the adequacy of the shareholders' substantive allegations and allegations of demand futility, which built upon important information obtained through a books and records request. *In re Fitbit, Inc. S'holder Deriv. Litig.*, 2018 Del. Ch. LEXIS 571 (Ch. Ct. Dec. 14, 2018). Shapiro Haber & Urmy was then able to leverage that favorable decision to obtain a settlement on behalf of Fitbit.
- Shapiro Haber & Urmy is liaison counsel in an action brought on behalf of the Federal Home Loan Bank of Boston (the "Bank") in the Massachusetts Superior Court, arising from the sale to the Bank by numerous financial institutions of over \$5.9 billion in Private Label Mortgage-Backed Securities, by means of offering documents which Plaintiffs allege were materially false and misleading. *Fed. Home Loan Bank of Boston v. Ally Fin., et. al.*, 1184CV01533-BLS1 (Mass. Super. Ct.). The Bank has sought rescission and damages under M.G.L. c. 110A, M.G.L. c. 93, and applicable common law. The Bank has resolved its claims against many of the financial institution defendants, but the claims against certain Credit Suisse entities remain pending and are expected to go to trial in 2021.
- In *Kimson Chemical, Inc. v. Luckin Coffee, Inc.*, Index No. 651939/2020 (Part 49) (N.Y. Supreme Court), Shapiro Haber & Urmy is counsel in a putative class action brought by Kimson Chemical, Inc., under the Securities Act of 1933 against Luckin Coffee Inc., certain officers and directors of Luckin, and underwriters relating to allegedly negligently prepared and materially false and misleading Registration Statements and Prospectuses in connection with Luckin Coffee's IPO in 2019 and Secondary Offering in 2020.

- In *Raudonis v. RealtyShares, Inc.*, 1:20-cv-10107-PBS (D. Mass.), Shapiro Haber & Urmy is lead counsel in a class action against RealtyShares, Inc., RS Lending, Inc., Navjot Athwal, Edward Forst and IIRR Management Services, LLC, on behalf of all persons who (1) purchased debt securities offered or sold by RealtyShares or RS Lending relating to loans to Franchise Growth, LLC and/or associated entities for property acquisition and construction (the “Franchise Growth Class”); or (2) who purchased debt securities offered or sold by RealtyShares or RS Lending relating to loans to Ingersoll Financial, LLC for property acquisition and repair of properties across the United States, known as the Nationwide SFR Packages. The action brings claims under federal and state securities laws and the common law relating to alleged misrepresentations made in connection with the debt securities at issue.
- Shapiro Haber & Urmy served as liaison counsel in *Godinez v. Alere, Inc. et al.*, 1:16-cv-10766-PBS (D. Mass.) that was brought on behalf of investors in Alere common stock relating to alleged misstatements concerning the company’s INRatio product line. The case resulted in a \$20 million settlement for the benefit of the class.
- Shapiro Haber & Urmy served as liaison counsel in *In re Aveo Pharmaceuticals, Inc. Sec. Litig.*, 1:13-cv-11157-DJC (D. Mass.) that was brought on behalf of investors in Aveo common stock relating to alleged misstatements concerning the company’s lead drug candidate, tivozanib, and regulatory communications with the United States Food and Drug Administration. The lawsuit resulted in a settlement that produced a \$15 million cash payment and warrants to purchase 2 million shares of Aveo common stock at a certain strike price for the benefit of the class.
- In *In re Amicas, Inc. Shareholder Litig.*, 10-cv-0174-BLS2 (Mass. Super. Ct.), Shapiro Haber & Urmy served as liaison counsel in a shareholder action that sought to enjoin the acquisition of Amicas, Inc. by Thoma Bravo, LLC. Among other things, Plaintiffs alleged that the defendants had concealed from shareholders a superior offer to acquire Amicas from Merge Healthcare, inc. The Court enjoined the shareholder vote on Thoma Bravo’s acquisition of Amicas, and Amicas was subsequently acquired by Merge Healthcare at a share price that resulted in a \$26 million increase in shareholder value. The Court ruled that Plaintiffs and their attorneys had substantially assisted in obtaining the \$26 million in additional value for the company’s shareholders.
- Shapiro Haber & Urmy was the court-appointed co-chairman of the Plaintiffs’ Executive Committee in *In re Merrill Lynch Analyst Reports Sec. Litig.*, 02-MDL-1484 (S.D.N.Y.). The firm was also court-appointed lead counsel in two of the Merrill Lynch securities analyst cases: *InfoSpace Analyst Reports Sec. Litig.*, and *Internet Capital Group Analyst Reports Sec. Litig.* The Court approved a settlement in the amount of \$125 million.

- Shapiro Haber & Urmy was at the forefront of shareholder litigation addressing the nationwide epidemic of improperly backdated stock options. The firm was lead counsel or part of the leadership team in derivative actions in both state and federal courts concerning the improper backdating (or other manipulation) of stock options granted to officers, directors, and executives of the following corporations: Affiliated Computer Services, Inc.; Cablevision Systems Corp.; Linear Technology Corp.; Maxim Integrated Products; Staples, Inc.; and UnitedHealth Group, Inc. The United Health derivative action settled for over \$700 million in cash and re-priced or surrendered options – the largest derivative action options settlement on record. Other notable settlements included Maxim (approximately \$38 million in cash and re-priced and surrendered options); Affiliated Computer Services (approximately \$40 million in cash and re-priced and surrendered options); Cablevision (approximately \$34 million in cash and other consideration); Staples (approximately \$8.2 million in cash and re-priced options); Linear (\$4.5 million in cash and re-priced options as well as corporate governance changes).
- Shapiro Haber & Urmy was one of the court-appointed lead counsel in the consolidated derivative action brought on behalf of the HealthSouth Corporation against its former CEO, Richard Scrushy, its other former officers and directors, and others. This action coordinated derivative actions brought on behalf of HealthSouth in the Delaware Chancery Court, the Federal District Court in Alabama, and the state court in Birmingham, Alabama. The legal team, on which Shapiro Haber & Urmy served as one of the lead counsel, obtained the following recoveries for HealthSouth: (i) summary judgment in the Delaware Chancery Court for over \$17 million, *In re HealthSouth Corp. S'holders Litig.*, 845 A.2d 1096 (Del. Ch. 2003), *aff'd*, 847 A.2d 1121 (Del. 2004); (ii) summary judgment in the Circuit Court of Jefferson County, Alabama for over \$47 million, see *Tucker v. Scrushy*, 2006 WL 37028 (Ala. Cir. Ct. Jan. 3, 2006), *aff'd*, 2006 WL 2458818 (Ala. Aug. 25, 2006); (iii) a settlement of the derivative claims against some of the officers and directors of HealthSouth for \$100 million; (iv) a \$133 million settlement of the derivative claims against HealthSouth's former investment advisor, uBS; and (v) a \$2.8 billion dollar judgment against Mr. Scrushy after a bench trial in the Circuit Court of Jefferson County, Alabama.
- Shapiro Haber & Urmy was lead counsel in two analyst conflict of interest cases against Credit Suisse First Boston on behalf of the shareholders of Winstar Communications, Inc. and Razorfish, Inc., both of which produced multimillion-dollar recoveries. *Ahearn v. Credit Suisse First Boston (Winstar)* (D. Mass.); *Swack v. Credit Suisse First Boston (Razorfish)* (D. Mass.).
- Shapiro Haber & Urmy was on the executive committee prosecuting a securities class action alleging fraud against the former officers and auditors of now bankrupt Winstar Communications, Inc. The lawsuit also alleged that Lucent Technologies participated in the fraud. The case against the former officers settled for \$18.125 million and the case against Lucent settled for \$12 million. The case against the auditors settled shortly before trial in June 2013 for \$10 million. *In re Winstar Commc'ns Inc. Sec. Litig.* (S.D.N.Y.).

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

- Shapiro Haber & Urmy represented a Massachusetts bank in litigation against Merrill Lynch involving the sale of auction rate securities. *Cooperative Bank v. Merrill Lynch Pierce Fenner & Smith, Inc.* (S.D.N.Y. remanded to D. Mass.).
- Shapiro Haber & Urmy was one of plaintiffs' counsel in shareholder derivative litigation against Cendant Corporation, which arose from one of the largest financial frauds in American history. The case was settled for \$54 million. *In Re Cendant Corp. Deriv. Action Litig.* (D.N.J.).
- Shapiro Haber & Urmy represented the Trustee of UNIFI Communications, Inc., in a breach of fiduciary duty lawsuit against its former directors, alleging that they grossly mismanaged UNIFI in the period leading up to its bankruptcy, causing UNIFI's insolvency to deepen. Shapiro Haber & Urmy recovered \$3.95 million for UNIFI and its creditors. *Ferrari v. Ranalli* (D. Mass.).
- Shapiro Haber & Urmy represented shareholders of EcoScience Corp. in a breach of fiduciary duty lawsuit against its former directors, arising out of the merger between EcoScience and Agro Power Development, Inc. The case, brought in the Delaware Chancery Court, charged that the merger was accomplished by means of a false proxy statement and resulted in the payment of an unfair price to EcoScience shareholders. Shapiro Haber & Urmy recovered \$2 million for EcoScience's shareholders. *Smalley v. DeGiglio* (Del. Ch.).
- Shapiro Haber & Urmy represented shareholders in a class action alleging securities violations in connection with a secondary offering of Digital Equipment Corp. securities. After dismissal by the District Court, partner Thomas Shapiro successfully argued the appeal to the First Circuit in *Shaw v. Digital Equipment Corp.*, 83 F.3d 1194 (1st Cir. 1996). The case was thereafter settled for \$5.2 million.
- Shapiro Haber & Urmy has recovered substantial settlements for defrauded shareholders by prosecuting securities class action suits on behalf of shareholders of, *inter alia*: Bank of New England Corp. (\$6.5 million); Bank of New England Corp. bondholders (\$8.4 million); Biopure Corp. (\$10 million); Centennial Tech., Inc. (stock and cash with a value of approximately \$20 million); Inso Corp. (\$12 million); Kendall Square Research Corp. (cash, stock, and warrants, with a total value of approximately \$17 million); Kurzweil Applied Intelligence, Inc. (\$9.625 million); Lotus Dev. Corp. (\$7.5 million); MicroCom, Inc. (\$6 million); Molten Metal Tech., Inc. (\$11.85 million); Monarch Capital Corp. (\$5 million); Open Environment Corp. (\$6 million); Pegasystems, Inc. (\$5.25 million); Pictoretel Corp. (\$12 million); Presstek, Inc. (\$20 million); Minoco Oil and Gas Drilling Limited Partnerships (\$15 million).

## SECURITIES LITIGATION TRIALS

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

- Mr. Urmy obtained a favorable jury verdict on behalf of the PRIT Fund in a case tried in the United States District Court for the Southern District of California.
- Messrs. Shapiro and Haber were chief trial counsel in a securities class action entitled *Fulco v. Continental Cablevision*, C.A. No. 89-1342-Y, in a three-week jury trial before Judge Young in the United States District Court in Boston. The case was brought on behalf of the limited partners in four partnerships that owned and operated cable television systems. The jury returned a verdict for the plaintiffs for approximately \$4.5 million.
- Mr. Shapiro was chief trial counsel in a securities fraud class action against Polaroid Corporation in federal court in Boston, which resulted in a jury verdict with an estimated value of \$30 million. A panel of the Court of Appeals for the First Circuit found error in the jury instructions and remanded the case for a new trial. Polaroid then petitioned for and received *en banc* reconsideration. Sitting *en banc*, the First Circuit reversed the judgment. *Backman v. Polaroid Corp.*, 910 F.2d 10 (1st Cir. 1990).
- Mr. Shapiro represented a business owner in a suit against a public company in Massachusetts that acquired his business in exchange for \$11 million in company stock. The suit alleged that the stock price was artificially inflated as a result of false financial statements. Mr. Shapiro conducted the bench trial in 2009 against lawyers from three of the largest firms in Boston.
- Mr. Shapiro represented a customer in an NASD arbitration trial against Oppenheimer & Co. and the broker and recovered out-of-pocket losses, unrealized investment gains per a model portfolio theory, interest on the damages, and an award of attorneys' fees.
- Mr. Haber and Ms. Blauner represented one partner in a suit against another partner for breach of fiduciary duty. The case was tried to a jury in the federal court in Boston, which returned a verdict in favor of our client in the full amount of the damages sought. The verdict was affirmed on appeal. *Wartski v. Bedford*, 926 F.2d 11 (1st Cir. 1991).
- Mr. Shapiro was co-trial counsel for a defendant in a jury-waived trial on an indictment for fraud in the sale of securities, filing false financial statements, and conspiracy. Mr. Shapiro was also on the brief in the appeal from that conviction. *United States v. Lieberman*, 608 F.2d 889 (1st Cir. 1979).



## SECURITIES LITIGATION APPEALS

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

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

## ANTITRUST LITIGATION

- Shapiro Haber & Urmy played a leading role as a member of the Plaintiffs' Steering Committee in *In re Plasma Derivative Protein Therapies Antitrust Litig.*, C.A. No. 09-cv-07666 (N.D. Ill.), successfully defeating three lengthy and substantial motions to dismiss in that case. This was a complex, nationwide putative class action against manufacturers of plasma protein derivative therapies, which are proteins used to treat seriously ill patients across the United States. The action, filed on behalf of all direct purchasers of plasma-derivative protein therapies, alleged that plasma manufacturers agreed to restrict supply and therefore increase prices. In deciding to appoint the firm to its leadership position, the Court highlighted Shapiro Haber & Urmy's extensive experience litigating complex class actions. The case recently settled for \$128 million.
- Shapiro Haber & Urmy represented several of the nation's largest bedding manufacturers and licensors as plaintiffs in *In re Polyurethane Foam Antitrust Litig.*, C.A. No. 10-md-02196 (N.D. Ohio). Plaintiffs alleged that Defendants and their co-conspirators contracted, combined, or conspired to fix, raise, maintain, and/or stabilize prices and allocate customers for polyurethane foam in the United States.

- Shapiro Haber & Urmy was part of the Executive Committee in *In Re: Nexium (Esomeprazole) Antitrust Litig.*, C.A. No. 12-md-02409 (D. Mass.), representing a putative class of consumers and third-party payors who purchased or paid for Nexium products. Plaintiffs allege that Defendants conspired and entered into anticompetitive agreements designed to shield Defendant AstraZeneca and its brand name drug, Nexium, from competition with generic, lower-priced versions of the drug.
- Shapiro Haber & Urmy assisted in the representation of a certified class of dairy farmers in the Northeastern United States who allege that the defendants unlawfully monopolized and fixed the prices that they paid dairy farmers for their milk and unlawfully allocated markets. The defendants included Dairy Farmers of America, Inc., Dairy Marketing Services, LLC, and Dean Foods Company. The Court approved a settlement between Plaintiffs and Defendant Dean Foods Company that provided for \$30 million in settlement funds. The case is *Allen v. Dairy Farmers of America, Inc., et al.*, C.A. No. 09-cv-230 (D. Vt.).
- In *In re: Automotive Parts Antitrust Litig.*, Master File No. 12-md-02311 (E.D. Mich.), Shapiro Haber & Urmy represented a putative class of indirect purchasers of various auto parts. The action alleges that Defendants fixed and maintained the prices at which such parts were sold.
- In *In re Optical Disk Drive Products Antitrust Litig.*, C.A. No. 10-md-2143 (N.D. Cal.), Shapiro Haber & Urmy represented purchasers of optical disc drives, as well as products containing optical disc drives, including DVD players, computers, and other electronic devices. The action alleges that Defendants and their co-conspirators fixed and maintained an artificial price at which optical disc drives, as well as products containing optical disc drives, were sold in the United States.
- Shapiro Haber & Urmy was appointed Vice Chair of the Executive Committee representing the class of direct purchasers in *In re Marine Products Antitrust Litig.*, C.A. No. 10-cv-2319 (C.D. Cal.) (continuing as *Ace Marine Rigging & Supply, Inc. v. Virginia Harbor Services, Inc., et al.*, C.A. No. 11-cv-00436 (C.D. Cal.) and *Board of Commissions of the Port of New Orleans v. Virginia Harbor Services, Inc., et al.*, C.A. No. 11-cv-004367 (C.D. Cal.)). The firm represented a class of direct purchasers of several products used in the marine industry to protect vessels, docks, and piers. The class action alleged that manufacturers of these marine products collaborated to rig bids and divide the market in order to avoid competition and maximize profits.

## ERISA LITIGATION

- Shapiro Haber & Urmy was lead counsel prosecuting an ERISA class action, pending in the United States District Court for the District of Massachusetts, on behalf of the participants in State Street Corporation's Salary Savings Plan against State Street Corp. and the administrators of the Plan. Plaintiff alleges that State Street breached its fiduciary duties to the Plan participants by continuing to offer State Street stock as an investment option under the Plan, when the stock was overvalued and no longer a prudent investment alternative, and that defendants made material misrepresentations about the company's foreign exchange trading revenue in communications with Plan participants who had invested in State Street stock. The case settled for \$10 million. *Kenney v. State Street Corp.* (D. Mass.).
- Shapiro Haber & Urmy also was as liaison counsel prosecuting an ERISA class action in the United State District Court for the District of Massachusetts on behalf of a plan administrator of a 401(k) Plan, against Massachusetts Mutual Life Insurance Company arising out of MassMutual's receipt of revenue sharing payments from the mutual funds on its platform as kickbacks and/or a "pay to play" scheme in connection with the placing, retaining and adding the mutual funds on the menu of available funds in its 401(a) and 401(k) programs. The case settled for \$10 million. *Golden Star, Inc. v. Mass Mutual Life Insurance Co.*, C.A. No. 11-cv-30235 (D. Mass.).
- Shapiro Haber & Urmy represented former employees of Stone & Webster, Inc. to recover damages suffered by the company's retirement plans for breach of fiduciary duty under ERISA by certain former officers and directors of Stone & Webster who were fiduciaries of the plans when they continued to offer Stone & Webster stock as an investment option in the period before Stone & Webster filed for bankruptcy. The action settled for \$8 million. *Stein v. Smith* (D. Mass.)
- Shapiro Haber & Urmy LLP's litigated a class action under ERISA relating to Aetna's Life Insurance Company's improper denial of health insurance benefits in refusing to cover medical expenses incurred from the non-hospital use of a continuous passive motion machine prescribed by the plaintiff's and class members' health care professionals to treat knee injuries. In settlement, Shapiro Haber & Urmy obtained 56% of the amount of each claim for benefits for members of the settlement class. *Jaggard v. Aetna Life Ins. Co.* (D. Mass.).
- Shapiro Haber & Urmy LLP litigated a class action under ERISA against Digital Equipment Corporation and John Hancock Life Insurance Company arising out of Digital's decision to refund surplus life insurance premiums to current company employees but not to former company employees. Shapiro Haber & Urmy represented a class of former Digital Equipment employees who were participants in the life insurance plan, and who maintained that Digital Equipment had discriminated against its former employees who had paid excessive premiums under the life insurance plan. Shapiro Haber & Urmy LLP successfully settled and obtained a multimillion-dollar settlement for the class. *Michniewich v. Digital Equipment Corp.* (D. Mass.).

## WHISTLEBLOWER ACTIONS

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

## WAGE AND HOUR LITIGATION

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

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

## ATTORNEY BIOGRAPHIES

### Partners:

#### Edward F. Haber

Mr. Haber graduated from Cornell University in 1966 and from Harvard Law School (*cum laude*) in 1969. Upon graduation from Harvard Law School, he taught at the Boston College Law School during the 1969-1970 academic year. Mr. Haber has an AV rating from Martindale-Hubbell for decades and has been named a Massachusetts Super Lawyer every year from 2006 through 2020. He has also been named to the national list of Super Lawyers in the Corporate Counsel Edition for securities litigation and was recognized as a Top Rated Litigator by *The American Lawyer* in 2016. Mr. Haber is a member of the Bars of the Commonwealth of Massachusetts, the Supreme Court of the United States, the United States Courts of Appeals for the First and Seventh Circuits, and the United States District Court for the District of Massachusetts.

#### Michelle H. Blauner

Ms. Blauner is a 1983 graduate of Cornell University (with highest distinction) and a 1986 graduate of Harvard Law School (*cum laude*), where she was managing editor of the *Harvard Civil Rights-Civil Liberties Law Review*. Ms. Blauner is one of the leading class action litigators in Massachusetts and has been named a Massachusetts Super Lawyer in the field of Class Actions/Mass Tort in every year from 2006 through 2020. She has also been recognized as one of the top 50 Woman Massachusetts Super Lawyers. Upon graduation, she became an associate at the Boston law firm of Foley, Hoag & Elliot. In 1988 she joined the firm as an associate, and she became a partner in 1993. Ms. Blauner is a member of the Bars of the Commonwealth of Massachusetts, the United States District Courts for the Districts of Massachusetts and Colorado, and the United States Court of Appeals for the First Circuit and the Seven Circuit.

#### Ian J. McLoughlin

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

**Associates:****Patrick J. Vallely**

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

**Counsel:****Thomas G. Shapiro**

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

**Thomas V. Urmey, Jr.**

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