

2018

Year In Review

**Lieff
Cabrer
Heimann &
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Attorneys at Law

2018 | Fearless Advocacy

MICROSOFT CANADA

Lieff Cabraser is part of the leadership team in this long-running antitrust/consumer fraud case that alleges Microsoft abused its market power to inflate prices for its Windows operating system and business software. Trial had begun in early 2018 when the parties agreed to a settlement valued at more than C\$517 million.

STATE FARM RICO SETTLEMENT

This extraordinary case took some

20 years to go from a plaintiffs' billion dollar trial court verdict against State Farm in 1999 relating to non-OEM replacement parts to a federal RICO action alleging the company secretly funneled millions of dollars to fund the campaign of a judge running for a vacancy on the Illinois Supreme Court who, once elected to the Illinois Supreme Court, cast the decisive vote to overrule the billion dollar verdict. The RICO class action settled for \$250 million in September 2018 – after a jury had been empanelled

and as the first witness, Justice Lloyd Karmeier, was set to be called to the witness stand.

FITBIT HEART RATE MONITOR FAILURES

In this case, we exposed the “dark side” of forced arbitration. Fitbit argued that our client must arbitrate her claims individually, but then refused to do so, conceding that “no rational litigant” would arbitrate a relatively low-value claim. After Lieff Cabraser “diligent[ly] ... sound[ed] the alarm” on this misconduct, the judge sanctioned Fitbit for its behavior, concluding that it had “bolstered the perception that arbitration is where consumer lawsuits go to die” and “undermine[d] the public’s confidence in getting a fair shake when arbitration is compelled.” The decision garnered significant attention on this critical issue. As one legal commentator put it, Fitbit’s actions revealed the “ugly truth”



about forced consumer arbitration: “It’s only rational to impose costly arbitration on your customers if you’re pretty sure they’re not going to call your bluff and bring a proceeding.”

TAKATA AIRBAG EXPLOSIONS

Lieff Cabraser serves on the Plaintiffs’ Steering Committee in national litigation against Takata over concealed risk data relating to over 34 million vehicles with potentially explosive airbags. Following extensive litigation in the wake of 20 deaths and more than 130 injuries linked to the defective airbags, plaintiffs have achieved

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1972-2018

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aggregate settlements valued at over \$1 billion with Toyota, BMW, Subaru, Mazda, Nissan, and Honda. A further settlement with Ford is expected to become final in late 2018.

BRITISH AIRWAYS FUEL SURCHARGES

After 6 years of tenacious litigation wherein British Airways frequent flyers alleged they'd been subjected to improper and extortionate "fuel surcharges" on mile redemptions, on the verge of trial in October 2018 the U.S. District Court granted approval to a class settlement creating a \$42.5 million cash fund for the class members with a possible ultimate value of up to \$63 million if the flyers take miles in trade for the cash payments.

LOS ANGELES FALSE REFERENCE PRICING

In March 2018, we successfully secured a reversal of an unfavorable preemption ruling on behalf of the People of California in coordination with the LA City Attorney in civil false advertising consumer fraud actions against national retailers J.C. Penney,



Kohl's, Macy's, and Sears. The lawsuits allege the companies pervasively use "false reference pricing" schemes to mislead customers into believing they are receiving non-existent bargains. The lawsuits seek civil penalties and injunctive relief for these pervasive practices, which are illegal under California law.

GOLDMAN SACHS GENDER DISCRIMINATION

We are Co-Lead Counsel for plaintiffs in a gender discrimination class action lawsuit against Goldman Sachs alleging Goldman Sachs has engaged in systemic and pervasive discrimination against its female professional employees. In March of 2018, the

Court issued an order certifying the plaintiffs' damages class under F.R.C.P. 23(b)(3) for both disparate impact and disparate treatment discrimination, relying on statistical evidence of discrimination in pay, promotions, and performance evaluations, as well as anecdotal evidence of Goldman's hostile work environment.

ARIZONA THERANOS CONSUMER FRAUD

Lieff Cabraser successfully defeated defendants' motion to dismiss this consumer fraud and battery case against Walgreens and medical startup Theranos Inc. over the premature marketing of dangerously unreliable blood testing services that were still in-development and

not ready-for-market. Hundreds of thousands of consumers submitted to these "testing" services and blood draws under false pretenses, making major health decisions in reliance on erratic, undependable tests.

CHILD ONLINE PRIVACY VIOLATION

We successfully defeated the attempted imposition of mandatory arbitration of the claims of parents and their children in class litigation against online game and app producers including Disney, Viacom, Kaloo, and Tiny Toys. These ongoing actions allege the companies violate privacy protection laws by exporting, exploiting, and monetizing children's personal information from mobile games and apps without the



required parental consent.

PORTER RANCH NATURAL GAS LEAK

Lieff Cabraser helps lead two class action cases on behalf of homeowners and businesses that suffered economic injuries in the wake of the massive Porter Ranch gas leak that lasted from October 2015 through February 2016, the largest methane leak in U.S. history. After the California Appeals Court ruled that the economic loss rule barred the claims of small businesses that suffered economic losses when a substantial number of local residents evacuated the area for six months, plaintiffs appealed to the California Supreme Court, which accepted the case in 2018. Briefing before the California Supreme Court is now complete, and oral argument will take place in 2019.

INTUIT & TURBO TAX FALSE TAX FRAUD

Our consumer fraud complaint alleges Intuit knew of the widespread use of TurboTax software for the filing of fraudulent returns, but failed to adopt basic



cybersecurity policies to prevent data access and misuse by hackers. Consequently, fraudulent tax returns were filed in the names of the plaintiffs and thousands of other individuals across America.

GOOGLE GENDER DISCRIMINATION

Lieff Cabraser is Co-Lead Counsel for plaintiffs in this gender discrimination class action against preeminent search and technology conglomerate Google, Inc. In March 2018, the Superior Court of California issued an order finding plaintiffs' classwide allegations sufficient to survive Google's attempts to have them stricken from the class action complaint. The lawsuit alleges Google has paid and continues to pay women less

than men doing substantially similar or equal work in certain covered positions at the tech giant's offices in California since September 14, 2013.

VALEANT SECURITIES LAWSUIT

Lieff Cabraser represents numerous BlackRock funds and accounts in individual ("opt-out") litigation against Valeant Pharmaceuticals International, Inc., as well as several of its former officers, in federal court in New Jersey and in Canada, where Valeant resides. The BlackRock plaintiffs assert federal securities and other claims arising from Valeant's alleged fraud in concealing from investors its scheme to generate revenues by charging massively inflated prices

for its drugs. The court overseeing the U.S. litigation recently denied defendants' motion to dismiss certain of the BlackRock plaintiffs' claims, and both the U.S. and Canadian cases are ongoing.

PLAINS ALL AMERICAN OIL SPILL

Lieff Cabraser serves as Class Counsel representing beachfront property owners, laid off oil workers, and impacted fishers in this class action arising out of the May 2015 oil spill in Santa Barbara County. The lawsuit alleges Plains All American Pipeline failed to follow basic installation safety protocols relating to its pipeline that burst, ignored clear signs of corrosion of the pipeline, and responded poorly when the inevitable rupture and spill occurred. In 2018, the Court



followed its previous certification of subclasses of fishers with additional subclasses of private property owners and oil workers. The case is completing fact discovery and a trial is expected in 2019.

CALIFORNIA WILDFIRES

California has been devastated by an ongoing series of wildfires that have claimed lives and destroyed homes and businesses throughout the state. Lief Cabraser serves on the Plaintiffs' Executive Committee in the lawsuit relating to the 2017 Wine Country fires and as Co-Lead Counsel in lawsuits over the 2017-2018 Southern California wildfires and mudslides that brought unprecedented devastation to individuals and communities in their wake.

ABBVIE HUMIRA DRUG KICKBACKS & FRAUD

In September 2018, the California Department of Insurance formally intervened in Lief Cabraser's case against pharmaceutical manufacturer AbbVie, Inc. alleging fraud and violations of the California Insurance



Frauds Prevention Act (IFPA). The lawsuit alleges that AbbVie provides kickbacks to healthcare providers throughout California relating to the sale of its top-selling immunosuppressive drug Humira, which generated global sales of \$16 billion in 2016 alone. The lawsuit focuses on Abbvie's practice of providing nurse assistants to physicians who prescribe Humira, which plaintiffs allege is a form of kickback in violation of the IFPA.

ANTHEM DATA BREACH

In August 2018, the Court issued an order granting final approval to a \$115 million settlement of the class action lawsuit against Anthem, Inc. over a data breach and hacking originally revealed in

2015. The intrusion into Anthem's system, which occurred after what plaintiffs claimed was Anthem's failure to implement and abide by standard security protocols, resulted in the exposure of identifiable personal information and health information belonging to nearly 80 million Anthem members.

WELLS FARGO DERIVATIVE SECURITIES ACTION

Lief Cabraser is Co-Lead Counsel representing shareholders in a derivative action pending in California alleging that the Board and senior officers of Wells Fargo & Co. knew or consciously disregarded that, in an attempt to meet the company's sales quotas, the company's employees illegally

created millions of unauthorized deposit and credit card accounts for customers. The Court largely denied two motions to dismiss, discovery is ongoing, and depositions and expert discovery will take place in early 2019.

NATIONAL PRESCRIPTION OPIOIDS LITIGATION

Lief Cabraser represents numerous cities, counties, and Native American tribes and health organizations in lawsuits seeking justice from the manufacturers and distributors of prescription opioid drugs for the unprecedented destructive opioid epidemic raging across the U.S. We also serve on the Plaintiffs' Executive Committee and the Tribal Committee in the coordinated federal multidistrict opiate litigation.



ATTORNEY LEADERSHIP NATIONWIDE

New Appointments for 2018

KATHRYN LUBIN BENSON
Bar Association of San Francisco
Judiciary Committee

KENNETH S. BYRD
Tennessee Trial Lawyers
Association, Executive at Large
Appointee

MARK P. CHALOS
American Association for
Justice, Class Action Litigation
Group, Secretary; Tennessee
Trial Lawyers Association,
Secretary

LIN Y. CHAN
Committee to Support the
Antitrust Laws, Secretary;
American Antitrust Institute
Advisory Board

NICHOLAS DIAMAND
Board of the Civil Justice
Research Initiative

ERIC B. FASTIFF
ABTL Northern California Board
Member; BASF Litigation Section
Executive Committee Member

STEVEN E. FINEMAN
American Constitution Society,
Board of Directors; Anti-
Defamation League NY Region,
Board Vice-Chair and Member
of Global Advisory Board

WENDY FLEISHMAN
American Association for
Justice, Board of Governors

MELISSA GARDNER
District Governor for California
Women Lawyers

RACHEL J. GEMAN
National Employment Lawyers
Association-NY, Amicus
Committee Chair; Lexis
Practice Advisor for Labor &
Employment, Expert Advisory
Panel

KELLY M. DERMODY
Equal Justice Society, Board of
Directors

DEAN M. HARVEY
American Antitrust Institute
Advisory Board

LEXI J. HAZAM
American Association for Justice,
Section on Qui Tam Litigation,
Vice-Chair; Law360 Product
Liability Editorial Advisory Board

LAURA B. HEIMAN
American Association for Justice,
Leadership Academy; American
Constitution Society Nashville
Chapter, Board Member &
Supreme Court Preview Chair

LYDIA LEE
National Association of Public
Pension Attorneys, Emeritus
Board, Mentoring Committee,
and Defined Contribution Affinity
Group

BRUCE W. LEPLA
National Association of Public
Pension Attorneys, Securities
Litigation Committee

SARAH R. LONDON
Consumer Attorneys of
California, Board of Governors;
CAOC Women's Caucus,
Legislative Chair

ANNIKA K. MARTIN
Sedona's Working Group I,
Steering Committee

MICHAEL MIARMI
Law360 Securities Law Editorial
Advisory Board

PHONG-CHAU G. NGUYEN
Barrister's Club, Board; Law360
Environmental Law Editorial
Advisory Board

JONATHAN D. SELBIN
Equal Justice Works, Board of
Directors

ANNE B. SHAVER
ABA Equal Employment
Opportunity Committee, Co-
Chair

FABRICE N. VINCENT
ABA Class Actions Committee,
Co-Chair

TISEME ZEGEYE
The Lawyering Project, Advisory
Board; American Constitution
Society Bay Area Chapter,
Outreach Chair

“BEST LAWYERS IN AMERICA”

12 Tier 1 Rankings including Antitrust,
Employment Law, Mass Tort/Class Actions,
Personal Injury, Product Liability, and
Securities; 2 Lawyers of the Year 2019,
20 Lawyers included in National
Professional Excellence Listing

“2018 LITIGATION TRAILBLAZERS” & “2018 PLAINTIFFS’ LAW TRAILBLAZERS”

-The National Law Journal

PUBLIC JUSTICE “CHAMPION OF JUSTICE”

In July 2018, Elizabeth Cabraser received Public Justice's highest honor for being “a force of nature who has been vision and energy behind some of the biggest, most successful and most significant litigation in the nation.”

LAWDRAGON 500 “LEADING PLAINTIFF EMPLOYMENT LAWYERS”

5 Lief Cabraser Attorneys named to inaugural
plaintiff employment lawyers listing

“CALIFORNIA LAWYERS OF THE YEAR 2018”

-California Daily Journal

“TITAN OF THE PLAINTIFFS BAR”

In May 2018 *Law360* honored founding partner Elizabeth Cabraser with its Titan of the Plaintiffs Bar excellence and leadership award, last given in 2014.

“SUPER LAWYERS”

26 Lief Cabraser Attorneys Recognized
Nationally by *Super Lawyers*

Lieff Cabraser Heimann & Bernstein

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