

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE: BEAZER HOMES USA, INC.
ERISA LITIGATION

Civil Action No.

1:07-CV-00952-RWS

**DECLARATION OF SARAH H. KIMBERLY IN SUPPORT OF
(1) PLAINTIFFS' MOTION FOR AWARD OF ATTORNEYS' FEES,
REIMBURSEMENT OF LITIGATION EXPENSES, AND CASE
CONTRIBUTION AWARDS, AND (2) PLAINTIFFS' MOTION FOR
FINAL APPROVAL OF CLASS ACTION SETTLEMENT,
CERTIFICATION OF SETTLEMENT CLASS, AND
APPROVAL OF PLAN OF ALLOCATION**

I, Sarah H. Kimberly, declare pursuant to the penalties of perjury under 28 U.S.C. § 1746 as follows:

I. INTRODUCTION

1. I am an attorney with the law firm Keller Rohrback L.L.P. and am one of the attorneys personally involved in the litigation of this matter. I make this Declaration based on personal knowledge and am competent to testify to the matters set forth herein.

II. TIME AND EFFORT DEDICATED TO THIS CASE

2. There are many ways to measure the time and effort devoted to a large case such as this one. The simplest measure is the number of hours spent. I have

gathered and reviewed the time and expense reports of Keller Rohrback LLP, Barroway Topaz Kessler Meltzer & Check, LLP (“BTKMC”), and Liaison Counsel, Holzer Holzer & Fistel, LLC, all of which are summarized herein.

3. Keller Rohrback devoted more than 1,509 attorney and professional hours to the prosecution of this case. BTKMC devoted more than 699 attorney and professional hours to the prosecution of this case. Additionally, Holzer Holzer & Fistel contributed more than 188 approved hours of attorney and professional time, for a total of 2,397 hours. These figures do not include any time expended in preparing this application for fees and reimbursement of expenses.

4. Work was allocated in this case in order to maximize efficiency, with the goal of minimizing duplication of effort. We carefully assigned work within our own firms to minimize the fees in the case; thus, senior attorneys did not do the work that could be accomplished by more junior attorneys, and attorneys did not do work that could be completed by paralegals. Throughout the litigation, we litigated the action in the most efficient method possible. If Class Counsel had not been stringent in these efforts, the number of hours devoted to the case would have been much higher.

5. Since the inception of this case, in accordance with their normal business practices, Class Counsel have maintained detailed and contemporaneous records of the time spent by their lawyers, law clerks, paralegals, and certain other

personnel on this action. Our timekeepers have been and are required to keep daily time-records, both noting amounts of time spent on projects and providing descriptions of that work. These records then are computerized, checked, and maintained in databases. These systems allow us to be confident that the hours reported for this case are accurate.

6. The hourly rates charged by Counsel in this case are the rates that have been or could be charged as usual and customary hourly rates for their work performed for non-contingency fee clients and in other class action cases. Counsel's hourly rates have been paid by hourly clients and/or, separately, approved for payment by federal and state courts in other class and derivative litigations during the time this litigation has been pending.

7. If these hours had been billed on a "straight" hourly basis (i.e. no contingency and no risk of non-payment), the lodestar (hours times current billing rates) for this professional time would be approximately \$1,038,785. On a firm-by-firm basis, the lodestar calculations are as follows:

Firm	Hours	Lodestar
Keller Rohrback		
Attorneys	1,059.30	509,913.25
Professionals	450.35	94,638.25
Total	1,509.65	\$604,551.50
BTKMC		
Attorneys	586.40	310,888.00
Professionals	112.95	22,828.75
Total	699.35	\$333,716.75
Holzer Holzer & Fistel		
Attorneys	183.65	99,916.75
Professionals	4.50	600.00
Total	188.15	\$100,516.75
Total	2,397.15	\$1,038,785.00

8. The schedule attached as Exhibit A is a detailed summary indicating the time spent by Keller Rohrback attorneys and other professional support staff in this litigation and the lodestar calculation based on the firm's current billing rates from the inception of the case though November 2, 2010. For personnel who are no longer employed by the firm, the lodestar calculation is based upon the billing rates for such personnel in his or her final year of employment by Keller Rohrback.

9. The Declarations of Edward W. Ciolko and Michael I. Fistel, and the exhibits thereto, filed in Support of Plaintiff's Motion for Award of Attorneys' Fees, Expenses, and Case Contribution Awards attest to their hours and expenses in this litigation.

10. As reported by Class Counsel to Keller Rohrback, the lodestar figures above are based upon the given firm's current billing rates and contemporaneous

time records. These lodestar figures do not include charges for expense items. Expense items are billed separately and such charges are not duplicated in a firm's billing rates.

11. Significant additional attorney hours will be necessary after November 2, 2010, the date as of which the above numbers were compiled, to complete the remaining work on this case. In addition to incurring hours in connection with the final approval hearing, past experience suggests that Class Counsel will spend a substantial amount of additional time over the next year or more following final approval responding to inquiries from Class Members, interacting with the Settlement Administrator, and generally overseeing implementation of the Settlement.¹

III. THE RECORD FULLY SUPPORTS THE AWARD OF REQUESTED ATTORNEYS' FEES

12. We briefly review the record in support of several of the factors used in considering the reasonableness of the proposed fee application, some of which

¹ For example, in the Enron ERISA case, *In re Enron Corp. Sec., Derivative & "ERISA" Litig.*, No. 01-3913 (S.D. Tex.), in which Keller Rohrback was co-lead counsel, we are still responding to occasional inquiries from class members, advising the district court of our views on various implementation matters, and monitoring the docket, even though the court gave final approval to the settlement in 2007. In *In re The Goodyear Tire & Rubber Co. ERISA Litigation*, No. 03-2182 (N.D. Ohio), in which implementation of the plan of allocation was particularly complex in light of the length of the class period and changes to the retirement plans, Keller Rohrback incurred over \$700,000 in additional fees.

overlap with the factors supporting final approval of the Settlement discussed at length in Plaintiffs' Final Approval Memorandum.

A. Time and Labor Required

13. Class Counsel has dedicated substantial efforts to litigating this case since the first complaint was filed over three years ago. The litigation has been hard fought, entailing substantial and time-consuming preliminary discovery, motions practice, and extensive mediation and negotiations. Class Counsel devoted close to 2,400 attorney and professional hours to the successful prosecution of the case and advanced expenses in the amount of \$95,522.93 over the three-year course of the case.

14. For example, following extensive additional investigation and review of documents produced in informal discovery and available from public sources, Plaintiffs filed their Consolidated Amended Complaint ("Complaint") on June 27, 2008, which served as the operative complaint throughout the litigation. The Complaint was a detailed pleading that identified the Plan's fiduciaries, the scope of their respective duties, and how the Plan was operated and administered. It also detailed the alleged breaches of fiduciary duty and the underlying bases for the alleged imprudence of Beazer stock.

15. On October 10, 2008, Defendants moved to dismiss the Complaint. Defendants argued, *inter alia*, that Plaintiffs had failed to allege facts from which it

could be concluded that any of the Defendants had breached their fiduciary duties by causing the Plan to invest in Company stock and challenged the legal bases of the claims against them on numerous grounds. Class Counsel filed a thorough and extensive opposition to the motion, which was a substantial undertaking, requiring the work of multiple attorneys to analyze and refute the arguments proffered by Defendants.

16. After discussing the possibility of settlement, the parties met for a formal mediation session with an experienced mediator, Jonathan Marks, on September 30, 2009, in Atlanta, Georgia. In preparation for the mediation, Plaintiffs drafted an extensive and detailed mediation statement that was both provided to the mediator and exchanged with Defendants. The mediation statement analyzed Plaintiffs' settlement position and included details of Plaintiffs' legal and factual allegations, the procedural posture of the case, the Plan, other lawsuits and investigations, Plaintiffs' damages estimates, and the insurance available to satisfy a judgment or settlement. In response to further questions from the mediator, Plaintiffs submitted additional information related to their damages calculations that also included estimated losses based on different breach dates.

17. This first mediation session was unsuccessful, and the parties determined to wait until the Court ruled on Defendants' motion to dismiss before discussing settlement further. On April 2, 2010, the Court issued its order granting

in part and denying in part Defendants' motion to dismiss. The Court dismissed the prudence and monitoring claims (Counts I and II) and all claims against the Compensation Committee Defendants, and allowed Plaintiffs' remaining claims—the disclosure (Count III), communications (Count IV), and co-fiduciary (Count V) claims—to continue.

18. After the Court's ruling, the parties scheduled a second day of mediation with Mr. Marks for May 26, 2010, in Washington, D.C. In preparation for this second meeting, Class Counsel prepared a supplemental mediation statement that analyzed the effect, if any, of the Court's order granting in part and denying in part Defendants' motion to dismiss. The supplemental statement also further discussed Defendants' liability and the weaknesses of some of their defenses.

19. This second day of mediation was successful, and the Parties then engaged in extensive negotiations regarding the terms and conditions of the Settlement. On July 19, 2010, the parties filed the Stipulation with Plaintiffs' papers in support of their motion for preliminary approval of the Settlement.

20. All told, as the above summary demonstrates, Class Counsel were dedicated to this case and diligently pursued the Class's claims against Defendants throughout litigation and mediation, notwithstanding the substantial risks of non-

payment presented in this case. These efforts were the necessary groundwork for the Settlement obtained in this case.

B. The Novelty and Difficulty of the Questions Involved

21. In several important respects, this case presented the unique problems, including:

- **Complex and novel legal theories.** ERISA is a highly-specialized and complex area of the law, and the type of claims brought here—involving alleged breaches of duty by the Plan’s fiduciaries—are especially so. The law is developing, there are significant conflicts between the approaches adopted by different trial and appellate courts, and more law was developed in this area after this case was filed. The length of the parties’ briefs on the dismissal motion alone bears witness to the complexity and evolving nature of ERISA jurisprudence. Class Counsel believe the claims in this case are solidly grounded in ERISA law but are cognizant of the fact that the issues are complex.
- **Difficulty of establishing liability and losses.** A finding of liability would require careful presentation and analysis of lengthy and detailed Plan documents, complex corporate financial and accounting matters, and sophisticated judgments about the investment decisions and communications Defendants had made, or not made, as much as five years ago. Furthermore, with the dismissal of the prudence and monitoring claims, the difficulty of establishing liability and losses greatly increased. In addition, Plaintiffs faced the risk that the finder of fact would accept Defendants’ damage assessments, which could have resulted in a limited recovery even if liability were established.
- **Risk of an unforeseen change in the law.** ERISA jurisprudence presents an ever-changing legal landscape, and

there is a constant risk that the law will change before judgment. While many recent decisions have upheld claims similar to those asserted here, others have not, and there was no assurance a change in the law would not have affected, or negated, the claims in this lawsuit. The possibility that the law might materially and adversely change during the course of the litigation meant that Plaintiffs needed to structure their arguments and proofs to present multiple avenues to recovery. The necessity of avoiding an approach that placed all of Plaintiffs' "eggs in one basket" greatly magnified the complexity of Plaintiffs' task.

- **Vigorous defense.** Defendants were all represented by attorneys with many years of litigation and trial experience who had significant resources to present their defenses through dismissal motions, and the anticipated summary judgment, trial, post-trial motions and appeals.
- **Risk of appeal.** Even if Plaintiffs won at trial, it was virtually certain that trial would have been followed by post-trial motions as well as an appeal to the Eleventh Circuit and the possibility of petition for a writ of certiorari. Given the quickly-evolving legal and political landscape, appeal posed a significant risk.
- **Decision tree.** Applying a standard "decision tree" analysis to this case only underscores its magnitude and complexity. Defendants asserted numerous factual and legal defenses to this suit, some of which were successful at the pleadings stage of the litigation. If this case were to proceed through summary judgment and trial, Defendants would continue to assert arguments, any one of which, if successful, could result either in a judgment in Defendants' favor, or a very small recovery for the Class. The innumerable forks-in-the-road leading to liability and damage findings all had to be considered by Class Counsel and factored into their overall litigation strategy. The possibility of a loss at any of these forks in the road—from the motion to dismiss, through summary judgment, trial, and appeal—had to be factored into

Plaintiffs' analysis, and consequently bears on the Court's evaluation of the Settlement.

22. The complexity and uncertainty in the law, combined with the vigorous defense at every stage of the case, presented novel and difficult questions which were successfully navigated by Class Counsel.

C. The Skill Requisite to Perform the Legal Service Properly

23. This was a highly complex case that presented difficult factual, procedural and legal issues in its own right. Class Counsel demonstrated skill and acumen throughout the litigation as reflected in the substantial recovery they obtained for the Class. Importantly, the case required a high degree of ERISA class action expertise, which Keller Rohrback and BTKMC clearly possess. Moreover, Liaison Counsel, Holzer Holzer & Fistel, provided important assistance in the advancement of this action. Together, these firms provided the Class with the experience and expertise that successful prosecution of the case demanded.

24. The quality of opposing counsel is also an important factor in evaluating the quality of work done by Class counsel. Defendants were represented by Troutman Sanders LLP and Cravath Swaine & Moore LLP, prominent law firms with reputations for vigorous advocacy in the defense of complex civil actions such as this. The ability for Class Counsel to obtain a favorable settlement for the Class in the face of formidable legal opposition

confirms the quality of Class Counsel's representation. Class Counsel effectively utilized their expertise to represent the interests of the Class in obtaining the exceptional recovery.

D. The Preclusion of Other Employment by the Attorneys Due to Acceptance of the Case

25. This factor requires consideration of whether once the employment is undertaken the attorney is not free to use the time spent on the client's behalf for other purposes. As reflected by the sheer number of hours devoted by the attorneys and paralegals involved in litigating this case, a substantial amount of their time was devoted to this case at the preclusion of other work.

E. The Amount Involved and the Results Obtained

26. Before this lawsuit, Class members had received no compensation for Defendants' alleged fiduciary breaches. Through the efforts of Class Counsel, the Class can now benefit from the \$5.5 million Settlement, which represents an excellent recovery for the Class. This result was accomplished in a complex, difficult case, which was aggressively defended, and in the face of the very real risk that the Class would fail to recover anything at all.

27. In assessing the value of the benefit, it makes sense to consider the recovery the Class might have obtained if liability had been established at trial. As discussed in detail in the Final Approval Memo at 15-17, Plaintiffs calculated

losses based on the return the Plan would have obtained had the Plan fiduciaries divested the Plan's holding of Beazer stock at the beginning of the Class Period and invested the proceeds in one of three alternative Plan investment options.

28. If the alternative investments suggested by Plaintiffs were accepted and Plaintiffs were able to prove liability on the first day of the Class Period (July 28, 2005), the maximum amount that Plaintiffs could have recovered in this case (not discounting for risk) ranges from approximately \$31.6 million to \$36.8 million. However, Plaintiffs anticipate that Defendants would not only argue for a different measure of damages but would also argue that if there was a breach at all, the breach occurred much later than July 28, 2005. The use of a different method of calculating damages and/or a later breach date would result in a smaller recovery, given the continuous decline in the value of Beazer stock over the course of much of the Class Period. And, of course, if Plaintiffs did not prevail at trial, the Class would recover nothing. Thus the range of possible damages in this case is zero to approximately \$36.8, and the Settlement represents a recovery of between 15% and over 100% of Plaintiffs' estimated losses. Consequently, the \$5.5 million Settlement is an excellent result when compared to the amount of potential damages involved.

29. Moreover, even if the maximum potential recovery is used as the benchmark by which to judge the result achieved in this case, the Settlement

provides a larger percentage of recovery than often is recouped in class actions. *See, e.g.*, Richard M. Phillips & Gilbert C. Miller, *The Private Securities Litigation Reform Act of 1995: Rebalancing Litigation Risks and Rewards for Class Action Plaintiffs, Defendants and Lawyers*, 51 Bus. Law. 1009, 1029 & n.131 (1996) (noting that typical recoveries are within range of 7-11% of claimed losses); Janet Cooper Alexander, *Rethinking Damages in Securities Class Actions*, 48 Stan. L. Rev. 1487, 1500 & n.50 (1996) (explaining that settlements average twelve percent of claimed losses).

F. The Experience, Reputation and Ability of the Attorneys

30. This Settlement was achieved by Class Counsel, who have decades of experience in prosecuting and trying complex actions, including complex ERISA breach of fiduciary duty class actions such as this one. Keller Rohrback has been and continues to be a pioneer in this area of the law, and has served or is serving as Lead or Co-Lead Counsel in numerous leading ERISA breach of fiduciary class actions, including, among many others, *In re Enron Corp. Sec., Derivative & ERISA Litig.*, No. 01-3913 (S.D. Tex.); *In re WorldCom, Inc. ERISA Litig.*, No. 02-4816 (S.D.N.Y.); *In re HealthSouth ERISA Litig.*, No. 03-1700 (N.D. Ala.); *In re Global Crossing, Ltd. ERISA Litig.*, No. 02-7453 (S.D. Tex.); *In re Xerox Corp. ERISA Litig.*, No. 02-1138 (D. Conn.); and *In re Goodyear ERISA Litig.*, No. 03-02182 (N.D. Ohio).

31. Further, Keller Rohrback serves or has served as lead or co-lead counsel in several ERISA class actions involving the mortgage industry and credit markets, including cases against Merrill Lynch & Co., Inc.; Countrywide Financial Corp.; Washington Mutual, Inc.; Fremont General Corp.; Wachovia Corp.; IndyMac Bank, F.S.B.; and The Colonial BancGroup, Inc. Keller Rohrback's extensive experience litigating this particular type of ERISA claim involving this particular industry allowed it to effectively and efficiently pursue its clients' interests in this case.

32. Keller Rohrback attorneys have litigated these and other ERISA class actions from start to finish, and have obtained favorable rulings on motions to dismiss, class certification, and numerous other issues. Keller Rohrback has recovered close to \$1 billion for employees and retirees in ERISA class action cases. As testament to their skill, experience, and reputation in this area of law, Keller Rohrback attorneys frequently are asked to present at national ERISA seminars, including those organized by the American Bar Association, Glassers, and various insurance organizations.

33. Attached as Exhibit B is a copy of Keller Rohrback's resume, which gives additional details about the experience of its attorneys and the cases the firm has and is litigating.

34. This was by all accounts a difficult and demanding case that presented many risks as noted above. As the results achieved under these circumstances establish, Class Counsel demonstrated a high degree of ability, skill, and diligence throughout the litigation.

G. The “Undesirability” of the Case

35. The stakes in this case were enormous. By taking this case, Class Counsel took on significant risk of non-payment, the significant burden of advancing litigation expenses, and the significant “opportunity cost” of having to turn down other potentially lucrative cases. These risks strongly motivated Class Counsel to perform work of the highest quality and in appropriate quantity, in order to fulfill Class Counsel’s commitment to their clients and to decrease the chances of a disastrous loss. The complexity and uncertainty in the law, combined with intensity of the defense, reflects the fact that the case had some undesirable characteristics. This was not a typical “cookie-cutter” case, in part because it presented many unique demands, as the law governing ERISA company stock cases was uncertain.

H. The Nature and Length of the Professional Relationship with the Client

36. Class Counsel’s professional relationship with Plaintiffs began during the investigation phase of this case. Throughout the litigation, Class Counsel regularly communicated with Plaintiffs to seek input and update Plaintiffs on the

progress of the Action. As Interim Co-Lead Counsel, Class Counsel also represented the putative class of thousands. Indeed, notice was issued to over 6,200 current and former participants in the Plan. Because of the sheer number of putative Class members involved, management of interactions with the Class was more challenging than in a typical direct action suit. However, in order to manage its relationship with the class, Class Counsel created and maintained a website describing the status of the litigation, which was regularly updated with case-relevant information, filings, and Court rulings. Class Counsel also spoke frequently with members of the Class who phoned and wrote to discuss the litigation.

I. Whether there are any substantial objections by Class members or other parties to the settlement terms or the fees requested by counsel

37. Notice was issued to the Class by direct mail on August 30, 2010, per the Court's Preliminary Approval Order. In addition to describing the terms of the Settlement in detail, the Class Notice specifically stated that Class Counsel would apply for fees of up to 30% of the Settlement Fund. Class members were informed that they could object to such an application. To date, Class Counsel have received no objections.

**IV. THE LODESTAR CROSS-CHECK CONFIRMS THE
REASONABLENESS OF AN AWARD OF 27.5% OF THE COMMON
FUND**

38. As noted above, the total lodestar required by this case is approximately \$1,038,785. This figure was calculated using the customary rates of the attorneys who have worked on this case, and was based on contemporaneous, daily time records, regularly prepared and maintained by Class Counsel in the ordinary course of business.

39. The hourly rates charged by Class Counsel in this case are prevailing rates in each of their communities, have been approved in many judicial settlement hearings, and are consistent with rates approved in this Circuit and others in many recent class action cases.

40. The lodestar cross-check confirms the reasonableness of the requested 27.5% fee (\$1,512,500). Based on the current lodestar, the 27.5% fee sought by Class Counsel represents a multiplier of 1.46.

41. The reasonableness of the requested fee, under both the lodestar/multiplier and percentage of recovery analyses, is further bolstered by another metric: the lodestar as a percentage of the common fund. In effect, this metric combines the other two. If the lodestar is a small percentage of the common fund, a higher multiplier may be warranted. Conversely, if the lawyers' lodestar is a higher percentage of the recovery, a lower multiplier may be appropriate.

42. In this case the lodestar is approximately 19% of the recovery. This reflects the amount of work that was necessary to achieve the result and indicates that a percentage award of well over that amount is appropriate, otherwise the lawyers are not fairly compensated for their risk.

43. Whatever the rubric—lodestar multiplier, fees as percentage of recovery, or lodestar as percentage of recovery—the fee requested here is reasonable.

V. COUNSEL SHOULD BE REIMBURSED FOR THEIR REASONABLE EXPENSES

44. In addition, each firm advanced significant unreimbursed expenses of the litigation. The expenses incurred in this action are commercially reasonable and are reflected on the books and records of each firm. These books and records are prepared from expense vouchers, check records, and other source materials and represent an accurate recordation of the expenses incurred. The expenses include necessary travel, the mediator's fees, experts, and copying, as well as telephone, fax, and computer-aided research. Because these expenses were advanced with no guarantee of recovery, Class Counsel had a strong incentive to keep them to a reasonable level and did so.

45. On a firm-by-firm and category-by-category basis, the expenses are as follows:

Categories	Keller Rohrback LLP	Barroway Topaz Kessler Meltzer & Check LLP	Holzer Holzer & Fistel, LLC
Federal Express / Shipping / Postage	164.51	340.00	
Travel Expenses / Meals	11,537.78	2,849.91	
Lexis / Westlaw / Legal Research	19,003.85	911.07	41.50
Messenger			302.00
Telephone / Facsimile	133.72		
In-house Photocopies	3,631.25	1,417.25	
External Photocopies / Reproduction	120.63		
Filing / Court Fees	600.00	600.00	700.00
Experts / Consultants	22,442.92	663.98	
Mediation Services	26,186.44	3,649.44	
Press Release			200.00
Miscellaneous: Case Supplies	24.76		
Total Expenses by Firm:	\$83,845.86	\$10,431.65	\$1,245.42
	Total Expenses		\$95,522.93

VI. CASE CONTRIBUTION AWARDS ARE WARRANTED FOR THE NAMED PLAINTIFFS

46. Additionally, Class Representatives Patrick Denning and Lorene De Stefano significantly contributed to the litigation and consulted with Class Counsel throughout the litigation, including during settlement negotiations. Their initiative, time, and effort were essential to the successful prosecution of the case and resulted in a significant recovery for the class. Moreover, their willingness to step forward and endure the litigation process should be appropriately rewarded. Class

Counsel respectfully request that the Settlement Class Representatives each be recognized with an incentive award of \$5,000.

VII. CONCLUSION

47. To date, Plaintiffs' Counsel have received no compensation for either their time or expenses over the nearly three years that this case has been pending. Plaintiffs' Counsel's fees and expenses are totally contingent and dependent on a fee and expense award by this Court.

48. In undertaking to represent the Class, Class Counsel had to ensure that sufficient resources and funds existed at all times, not only to prosecute the litigation in a cost-effective manner, but also to compensate vendors and the experts that would soon be required had the case proceeded. The financial burden on contingent fee counsel is far greater than it is on firms that are paid on an ongoing basis throughout lengthy and complex litigation.

49. Class Counsel obtained the Settlement Fund of \$5.5 million for the Settlement Class despite significant litigation risks, a vigorous defense, and no guarantee that counsel would ever be compensated.

50. For the reasons discussed herein, the Settlement is a fair, adequate, and reasonable resolution of the claims against Defendants in this complex and hard-fought ERISA class action. The requested fees, expenses, and case

contribution award are well warranted. Thus, Plaintiffs and Class Counsel respectfully request that the Court grant their motions in their entirety.

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

Respectfully submitted this November 5, 2010.

By: s/ Sarah H. Kimberly
Sarah H. Kimberly
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Counsel for Plaintiffs

LOCAL RULE 7.1 (D) CERTIFICATION

Counsel for Plaintiffs hereby certifies that the test of this document has been prepared with Times New Roman 14 point, one of the fonts and point selections approved by the Court in Local Rule 5.1 (B).

By: s/ Sarah H. Kimberly
Sarah H. Kimberly

CERTIFICATE OF SERVICE

I hereby certify that on November 5, 2010, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notice of such filing to all known counsel of record.

By: s/ Sarah H. Kimberly
Sarah H. Kimberly
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Counsel for Plaintiffs

EXHIBIT A

BEAZER HOMES USA LITIGATION FEE REPORT**FIRM NAME: Keller Rohrback LLP & Phoenix Keller Rohrback LLP****REPORTING PERIOD: Inception - November 1, 2010**

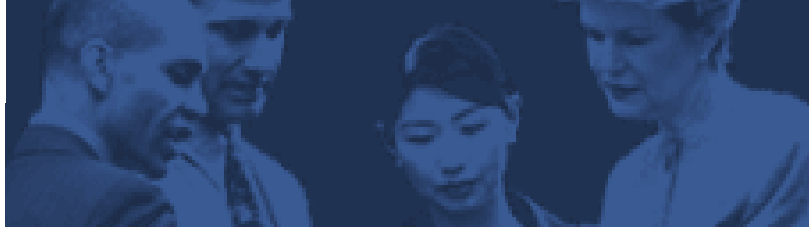
Timekeeper	Hours	Rate	Lodestar
Attorneys			
Eric Fierro	77.35	\$345	\$ 26,685.75
Benjamin Gould	88.40	\$345	\$ 30,498.00
Gary Gotto	28.30	\$695	\$ 19,668.50
Ron Kilgard	7.40	\$695	\$ 5,143.00
Sarah H. Kimberly	218.75	\$360	\$ 78,750.00
Cari Laufenberg	134.70	\$400	\$ 53,880.00
Beth Leland	1.10	\$625	\$ 687.50
Derek W. Loeser	162.70	\$645	\$ 104,941.50
David A. Maas	9.00	\$200	\$ 1,800.00
Gretchen Obrist	1.40	\$375	\$ 525.00
Erin Riley	224.90	\$500	\$ 112,450.00
Lynn Lincoln Sarko	90.90	\$740	\$ 67,266.00
Karin Swope	10.00	\$500	\$ 5,000.00
Amy Williams-Derry	4.40	\$595	\$ 2,618.00
Totals	1,059.30		\$ 509,913.25
			\$ -
Professionals			
			\$ -
Elise Bigley	0.70	\$165	\$ 115.50
Jason Dillman	16.60	\$210	\$ 3,486.00
Sara Duncan	5.50	\$210	\$ 1,155.00
Ben Ellis	0.80	\$195	\$ 156.00
Holly Gale	0.20	\$185	\$ 37.00
Mark Gangle	5.00	\$200	\$ 1,000.00
Mary Garner	5.00	\$200	\$ 1,000.00
Deborah Heller	0.20	\$220	\$ 44.00
Jennifer Hill	1.20	\$225	\$ 270.00
Cathy Hopkins	1.50	\$180	\$ 270.00
Nathan Moe	23.50	\$195	\$ 4,582.50
Alicia Novak	5.00	\$175	\$ 875.00
Milana Shenderovich	1.10	\$185	\$ 203.50
Jennifer Tuato'o	99.80	\$235	\$ 23,453.00
Graham VanLeuven	6.00	\$175	\$ 1,050.00
Hilary A. Vargas	1.50	\$138	\$ 207.00
Joanne Wedemeyer	276.75	\$205	\$ 56,733.75
Totals	450.35		\$ 94,638.25
TOTAL	1,509.65		\$ 604,551.50

BEAZER HOMES USA LITIGATION EXPENSE REPORT**FIRM NAME: Keller Rohrback LLP & Phoenix Keller Rohrback LLP****REPORTING PERIOD: Inception - November 1, 2010**

Description	Amount
Assessments	
Travel (Air fare, ground travel, meals, lodging)	\$ 11,537.78
Telephone/Facsimile	\$ 133.72
Postage/Express Delivery	\$ 164.51
Messenger	
Commercial Copies	\$ 120.63
Internal Copies	\$ 3,631.25
Experts/Consultants	\$ 22,442.92
Court Fees	\$ 600.00
Court Reporters/Transcripts	
Computer Research	\$ 19,003.85
ERISA Lextranet charges	
Professional Fees	
Process Services	
Mediation Services	\$ 26,186.44
Miscellaneous	
Case Supplies	\$ 24.76
Sub-Total	\$ 83,845.86

EXHIBIT B

KELLER·ROHRBACK
LAW OFFICES



ERISA LITIGATION GROUP



Keller Rohrback L.L.P. 1201 Third Avenue Suite 3200 Seattle, WA 98101 | 206.623.1900

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LEADERS IN ERISA CLASS ACTION LITIGATION

KELLER ROHRBACK is the nation's leading law firm handling ERISA retirement plan litigation on behalf of plaintiffs. Our ERISA Litigation Group has been instrumental in pioneering this cutting-edge field of law in the *IKON*, *Lucent*, and *Enron* ERISA cases, the first large-scale ERISA 401(k) breach of fiduciary duty lawsuits of their kind. We are widely reported as an ERISA "powerhouse."

On behalf of our clients, Keller Rohrback has played a major role in establishing that ERISA's strict fiduciary duties apply to companies' investment of employees' retirement savings in the stock of the employers. Our efforts have resulted in numerous published decisions upholding plaintiffs' ERISA claims, granting class certification, and approving several multi-million dollar settlements. In all, to date, Keller Rohrback has recovered over \$900 million for employees on behalf of their retirement savings plans.

Federal courts throughout the country have recognized Keller Rohrback's qualifications to vigorously pursue ERISA class action claims. Thus, Keller Rohrback has served in a leadership position in almost every major ERISA breach of fiduciary duty case involving 401(k) and ESOP plans, including ERISA litigation against the following corporations:

- *AIG*
- *Bear Stearns Cos. Inc.*
- *Beazer Homes USA*
- *BellSouth*
- *CIGNA*
- *CMS Energy*
- *Colonial BancGroup, Inc.*
- *Countrywide Financial*
- *Delphi*
- *Dynegy*
- *Enron*
- *Ford Motor Co.*
- *Fremont General Corp.*
- *Global Crossing*
- *Goodyear Tire & Rubber Co.*
- *HealthSouth*
- *Household Int'l*
- *IndyMac*
- *Krispy Kreme Doughnut*
- *Lucent Technologies*
- *Marsh & McLennan*
- *Merck*
- *Merrill Lynch*
- *Mirant*
- *Pfizer*
- *Polaroid*
- *Providian*
- *Regions Financial Corp.*
- *Southern Company*
- *State Street*
- *Syncor*
- *Visteon*
- *Wachovia Corp.*
- *Washington Mutual, Inc.*
- *Williams Companies*
- *WorldCom*
- *Xerox*

Founded in 1919, today Keller Rohrback has 53 attorneys and 88 staff members who provide expert legal services to our clients nationwide. We use cutting-edge technology and case management techniques in the preparation and trial of complex cases. Our excellent support staff includes in-house programming personnel and experienced paralegals who contribute significantly to our ability to effectively and efficiently litigate complex class action cases nationwide. The firm's ERISA Litigation Group regularly calls on firm attorneys in other practice areas for expertise in bankruptcy, contracts, employment law, executive compensation, corporate transactions, financial institutions, insurance coverage, mergers and acquisitions, professional malpractice, and securities transactions. The firm's in-house access to these resources distinguishes Keller Rohrback from other class action firms and also contributes to the firm's success.



ERISA 401(k) and ESOP Cases

Keller Rohrback is proud to have an unparalleled track record of assisting our clients allege highly technical claims, including the following: (1) failure to prudently and loyally manage the plan and plan assets; (2) failure to provide complete and accurate information regarding company stock to plan participants; and (3) failure to prudently monitor plan fiduciaries. We are honored that courts nationwide have repeatedly praised Keller Rohrback's leadership and successful results in this highly complex and rapidly developing area of law.

"[Keller Rohrback] has performed an important public service in this action and has done so efficiently and with integrity . . . [Keller Rohrback] has also worked creatively and diligently to obtain a settlement from WorldCom in the context of complex and difficult legal questions . . . [Keller Rohrback] should be appropriately rewarded as an incentive for the further protection of employees and their pension plans not only in this litigation but in all ERISA actions." *In re WorldCom, Inc. ERISA Litig.*, 59 Fed. R. Serv. 3d 1170, 33 Empl. Benefits Cas. (BNA) 2291 (S.D.N.Y. Oct. 18, 2004).

"The Court finds that [Keller Rohrback] is experienced and qualified counsel who is generally able to conduct the litigation as Lead Counsel on behalf of the putative class. Keller Rohrback has significant experience in ERISA litigation, serving as Co-Lead Counsel in the Enron ERISA litigation, the Lucent ERISA litigation, and the Providian ERISA litigation, and experience in complex class action litigation in other areas of the law. Mr. Sarko's presentation at the August 26, 2002 hearing before the Court evidences Keller Rohrback's ability to adequately represent the class." *In re Williams Cos. ERISA Litig.*, No. 02-153 (N.D. Okla. Oct. 18, 2002) (order appointing Lead Counsel).

"Keller Rohrback presents the most compelling case for appointment as interim lead class counsel based on . . . its extensive experience handling ERISA class actions." *In Re Wachovia Corp. ERISA Litig.*, No. 08-5320, 2008 WL 5480534 (S.D.N.Y. Dec. 24, 2008).



Pioneering ERISA 401(k) and ESOP Cases

In re Enron Corp. ERISA Litigation, MDL No. 1446 (S.D. Tex.) Keller Rohrback served as Co-Lead Counsel in this class action filed in the Southern District of Texas on behalf of participants and beneficiaries of the Enron Corporation Savings Plan, a 401(k) plan and ESOP plan. On September 30, 2003, Judge Melinda Harmon denied defendants' numerous motions to dismiss in a landmark decision that addressed in detail defendants' obligations as ERISA fiduciaries, and upheld plaintiffs' core ERISA claims. Judge Harmon subsequently granted plaintiffs' motion for class certification and affirmed Keller Rohrback as Co-Lead Counsel. Plaintiffs have achieved settlements totaling more than \$264 million in cash for the Enron plan participants.

In re Lucent Technologies, Inc. ERISA Litigation, No. 01-03491 (D.N.J.). Keller Rohrback was appointed Co-Lead Counsel in this class action brought on behalf of participants and beneficiaries of the Lucent defined contribution plans that invested in Lucent stock. The complaint alleged that the defendants withheld and concealed material information from participants, thereby encouraging participants and beneficiaries to continue to make and to maintain substantial investments in company stock and the plans. The settlement provided for, among other relief, the payment of \$69 million in cash and stock to the plan. Judge Joel Pisano approved the settlement on December 12, 2003.

Whetman v. IKON Office Solutions, Inc., MDL No. 10-01318 (E.D. Pa.) The current wave of 401(k) company stock cases began with *Whetman v. IKON Office Solutions, Inc.* In a first-of-its-kind complaint, we alleged that company stock was an imprudent investment for the plan, that the fiduciaries of the plan failed to provide complete and accurate information concerning company stock to the participants, and that they failed to address their conflicts of interest. This case resulted in ground-breaking opinions in the ERISA 401(k) area of law on motions to dismiss, class certification, approval of securities settlements with a carve-out for ERISA claims, and approval of ERISA settlements.

In re WorldCom, Inc. ERISA Litigation, No. 02-04816 (S.D.N.Y.). Keller Rohrback served as Lead Counsel in this class action filed in the Southern District of New York on behalf of participants and beneficiaries of the WorldCom 401(k) Salary Savings Plan. On June 17, 2003, Judge Denise Cote denied in part defendants' motions to dismiss and on October 4, 2004, granted plaintiffs' motion for class certification. Settlements providing for injunctive relief and payments of over \$48 million to the plan were approved on October 26, 2004 and November 21, 2005.



Groundbreaking ERISA 401(k) and ESOP Settlements

Keller Rohrback's qualifications to lead ERISA 401(k) and ESOP class actions is nowhere more evident than in the highly favorable settlements it has achieved for the benefit of employees in several of its nationally prominent cases. In addition to the *Enron*, *WorldCom*, *IKON*, and *Lucent* settlements discussed above, these settlements include:

In re AIG ERISA Litigation, No. 04-09387 (S.D.N.Y.). On December 12, 2006, the late Judge John E. Sprizzo denied defendants' motion to dismiss. On October 8, 2008, Judge Kevin T. Duffy, for Judge Sprizzo, issued final approval of the \$25 million settlement negotiated by the parties.

Alvidres v. Countrywide Financial Corp., No. 07-05810 (C.D. Cal.). On November 16, 2009, Judge John F. Walter granted final approved of the \$55 million settlement.

In re BellSouth Corporation ERISA Litigation, No. 02-02440 (N.D. Ga.). On March 4, 2004, Judge J. Owen Forrester denied defendants' motion to dismiss. On December 5, 2006, Judge Forrester approved a settlement that provided structural relief for the plans valued at up to \$90 million, plus attorneys fees and costs.

In re CMS Energy ERISA Litigation, No. 02-72834 (E.D. Mich.). On March 31, 2004, Judge George Caram Steeh denied defendants' motions to dismiss. On December 27, 2004, Judge Steeh granted plaintiffs' motion for class certification and subsequently approved the \$28 million settlement negotiated by the parties.

Cokenour v. Household International, Inc., No. 02-07921 (N.D. Ill.). On March 31, 2004, Judge Samuel Der-Yeghiayan denied, in part, defendants' motions to dismiss. The case subsequently settled for \$46.5 million in cash to the plan. The court approved the settlement on November 22, 2004.

In re Dynegy, Inc. ERISA Litigation, No. 02-03076 (S.D. Tex.). On March 5, 2004, the court denied, in part, defendants' motions to dismiss. Subsequently, the parties reached a settlement that provided for the payment of \$30.75 million in cash to the plan. On December 10, 2004, Judge Sim Lake approved the settlement.

In re Global Crossing Ltd. ERISA Litigation, No. 02-07453 (S.D.N.Y.). The *Global Crossing ERISA Litigation* settlement provided for, among other relief, the payment of \$79 million to the plan. Judge Gerard Lynch approved the settlement on November 10, 2004.



In re The Goodyear Tire & Rubber Company ERISA Litigation, No. 03-02180 (N.D. Ohio). On July 6, 2006, Judge John R. Adams denied defendants' motions to dismiss. On October 22, 2008, the Court issued final approval of the \$8.375 million settlement.

In re HealthSouth Corp. ERISA Litigation, No. 03-01700 (N.D. Ala.). On June 28, 2006, Judge Karon Bowdre approved a settlement in the amount of \$28.875 million, with a possible additional \$1 million from any HealthSouth recovery in the derivative action.

Lilly, et al. v. Oneida Ltd. Employee Benefits Admin. Committee, et al., No. 07-00340 (N.D.N.Y.). On May 8, 2008, Judge Neal P. McCurn issued an order in which he denied defendants' motion to dismiss. On October 4, 2010, the Court granted approval of a \$1.85 million settlement and entered an Order and Final Judgment.

In re Marsh ERISA Litigation, No. 04-8157, (S.D.N.Y.). On December 14, 2006, the Honorable Shirley Wohl Kram issued an order in which she granted in part and denied in part the Defendants' Motions to Dismiss. The parties subsequently reached a settlement in the amount of \$35 million, which was approved by the Court on January 29, 2010.

In re Merrill Lynch & Co., Inc. Securities, Derivative & ERISA Litigation, No. 07-10268 (S.D.N.Y.). On August 21, 2009, Judge Jed S. Rakoff granted final approval of the \$75 million settlement in the ERISA action.

In re Mirant Corporation ERISA Litigation, No. 03-01027 (N.D. Ga.). On November 16, 2006, the Court approved the settlement, including a payment of \$9.7 million in cash to the plan for losses suffered by the certified settlement class.

In re Polaroid ERISA Litigation, No. 03-08335 (S.D.N.Y.). On March 31, 2005, Judge William H. Pauley III granted in part and denied in part defendants' motion to dismiss. On September 29, 2006, Judge Pauley granted plaintiffs' motion for class certification. The parties subsequently reached a settlement in the amount of \$15 million, which was approved by the Court on June 25, 2007.

In re Providian Financial Corp. ERISA Litigation, No. 01-05027 (N.D. Cal.). The *Providian ERISA Litigation* settlement provided for structural changes to the plan, as well as the payment of \$8.6 million in cash to the plan. The Court approved the settlement on June 30, 2003.

Smith v. Krispy Kreme Doughnut Corporation, No. 05-06187 (M.D.N.C.). The Krispy Kreme ERISA Litigation settlement provided for structural changes to the plan,



as well as the payment of \$4.75 million in cash. On January 10, 2007, Judge William L. Osteen approved the settlement.

Spivey v. Southern Co., et al., No. 04-01912 (N.D. Ga.). On August 14, 2007, the Court granted final approval of the settlement, including a payment of \$15 million in cash to the plan for losses suffered by the certified settlement class.

In re State Street Bank and Trust Co. ERISA Litigation, No. 07-08488 (S.D.N.Y.). On February 19, 2010, Judge Richard J. Holwell granted final approval of the \$89.75 million settlement in the ERISA action.

In re Syncor ERISA Litigation, No. 03-02446 (C.D. Cal.). On August 23, 2004, Judge Baird denied, in part, defendants' motions to dismiss. Judge Baird subsequently granted plaintiffs' motion for class certification on March 28, 2005. The case settled, but was dismissed on summary judgment before the settlement could be approved. On February 19, 2008, the Ninth Circuit Court of Appeals reversed the district court's decision and remanded the case for further proceedings consistent with the Court's order. On October 22, 2008, Judge R. Gary Klausner granted final approval of the settlement, including a payment of \$4 million in cash to the plan for losses suffered by the certified class.

In re Visteon Corporation ERISA Litigation, No. 05-71205 (E.D. Mich.). On March 9, 2007, Judge Avern Cohn approved a settlement in the amount of \$7.6 million.

In re Williams Companies ERISA Litigation, No. 02-00153 (N.D. Okla.). On November 16, 2005, the Court approved the settlement for \$55 million in cash, plus equitable relief in the form of a covenant that Williams will not take any action to amend the plan to (i) reduce the employer match thereunder below four percent prior to January 1, 2011, or (ii) require that the employer match be restricted in company stock prior to January 1, 2011.

In re Xerox Corporation ERISA Litigation, No. 02-01138 (D. Conn.). Since 2007, Judge Alvin Thompson has issued two opinions denying in significant part defendants' motions to dismiss. On April 14, 2009, Judge Thompson approved the \$51 million settlement negotiated by the parties.

Pending ERISA Cases

In addition to the cases listed above, Keller Rohrback has been appointed to a leadership position in numerous other ongoing ERISA 401(k) and ESOP class actions. Through these cases, Keller Rohrback has again and again demonstrated its expertise in ERISA law, and its ability to vigorously, creatively, and successfully pursue



employees' rights under ERISA. Keller Rohrback's leading role in the development of this law is unique and distinguishes the firm from any other in the country. Notable pending cases include:

In re American International Group, Inc. ERISA Litigation II, No. 08-05722 (S.D.N.Y.). On March 19, 2009, Keller Rohrback was appointed Interim Co-Lead Counsel to represent the proposed class of participants and beneficiaries of the AIG Incentive Savings Plan. On June 26, 2009, plaintiffs filed a consolidated amended complaint.

In re Bear Stearns Cos., Inc. ERISA Litigation, No. 08-02804 (S.D.N.Y.). On December 29, 2008, Keller Rohrback was appointed Interim Co-Lead Counsel to represent the proposed class of participants and beneficiaries of The Bear Stearns Cos. Inc. Employee Stock Ownership Plan. On April 20, 2009, Co-Lead Counsel filed an amended consolidated complaint.

In re Beazer Homes USA, Inc. ERISA Litigation, No. 07-00952 (N.D. Ga.). On October 11, 2007, Keller Rohrback was appointed Interim Co-Lead Counsel, and on June 27, 2008, plaintiffs filed a consolidated amended complaint.

Buus, et al. v. WaMu Pension Plan, et al., No. 07-00903 (W.D. Wash.). On December 18, 2007, Judge Marsha J. Pechman granted, in part, and denied, in part, defendants' motion to dismiss amended complaint. On July 24, 2008, Judge Pechman certified a class of participants in the pension plans sponsored by Washington Mutual, Inc. ("Washington Mutual") and three predecessor banks in the U.S. District Court for the Western District of Washington. This class action suit alleges that Washington Mutual and the predecessor banks failed to provide adequate notice to plan participants that pension plan amendments involving conversions to cash balance plan formulas reduced their rate of future benefit accrual.

In re Colonial BancGroup, Inc. ERISA Litigation, No. 09-00792 (M.D. Ala.). On November 24, 2009, Judge Myron H. Thompson consolidated the related ERISA actions and appointed Keller Rohrback Interim Co-Lead Counsel. On January 11, 2010, plaintiffs filed an amended consolidated complaint.

In re Ford Motor Company ERISA Litigation, No. 06-11718 (E.D. Mich.) On December 22, 2006, the Court appointed Keller Rohrback Interim Co-Lead Counsel. A consolidated complaint was filed on April 30, 2007. On December 22, 2008, Judge Stephen J. Murphy III issued an order in which he denied defendants' motion to dismiss.

In re Fremont General Corporation Litigation, No. 07-02693 (C.D. Cal.). On August 17, 2007, Judge Florence-Marie Cooper appointed Keller Rohrback sole Interim Lead Counsel, and on May 29, 2008, Judge Cooper denied defendants' motion to dismiss.



Ingram v. Health Management Associates, Inc., et al., No. 07-00529 (M.D. Fla.). The Court consolidated the related ERISA actions and on June 10, 2009, Keller Rohrback was appointed as a member of the Interim Lead Counsel Committee. On July 27, 2009, plaintiffs filed their consolidated complaint.

In re IndyMac ERISA Litigation, No. 08-04579 (C.D. Cal.). On October 7, 2008, Judge Dean D. Pregerson consolidated the various pending ERISA cases and appointed Keller Rohrback as Interim Co-Lead Counsel in the ERISA matter. A consolidated complaint was filed on January 5, 2009.

In re Merck & Co., Inc. "ERISA" Litigation, MDL No. 1658 (D.N.J.). On July 11, 2006, Judge Stanley R. Chesler granted in part and denied in part defendants' motions to dismiss. On February 9, 2009, Judge Chesler granted in part and denied in part plaintiffs' motion for class certification. Judge Chesler certified a class consisting of:

[E]very person, other than Defendants, who was a participant in, or beneficiary of, the Merck & Co., Inc. Employee Savings & Security Plan, the Merck & Co., Inc. Employee Stock Purchase & Savings Plan, the Merck Puerto Rico Employee Savings & Security Plan and the Merck-Medco Managed Care, LLC 401(k) Savings Plan (collectively, the "Plans") at any time between October 1, 1998 and September 30, 2004; and whose Plan accounts invested in the Merck Common Stock Fund and/or Merck common stock; and who sustained a loss to his or her Plan account as a result of the investment in the Merck Common Stock Fund and/or Merck common stock; and who has not executed a settlement agreement releasing these claims.

In re Pfizer ERISA Litigation, MDL No. 1688 (S.D.N.Y.). On October 21, 2005, the Court appointed Keller Rohrback as sole Interim Lead Counsel. A consolidated class action complaint was filed on June 5, 2006. On March 20, 2009, the Honorable Laura T. Swain issued an order in which she denied in large part defendants' motion to dismiss.

In re Regions Morgan Keegan ERISA Litigation, No. 08-2192 (W.D. Tenn.). On October 8, 2008, Judge Samuel H. Mays appointed Keller Rohrback as Interim Co-Lead Counsel to represent the proposed class of participants and beneficiaries of the Regions Financial Corp. 401(k) Plan, the AmSouth Bancorp Thrift Plan, and the Legacy Regions Plan. Co-Lead Counsel filed a consolidated amended complaint on February 24, 2009, opposed defendants' motions to dismiss on June 11, 2009, and moved for leave to file a supplemental complaint on July 29, 2009. Defendants' motions to dismiss and plaintiffs' motion for leave to file a supplemental complaint are currently pending.



In re Wachovia Corp. ERISA Litigation, No. 09-00262 (W.D.N.C.). On December 24, 2008, Keller Rohrback was appointed Interim Lead Counsel, and on September 18, 2009, plaintiffs filed their consolidated complaint.

In re Washington Mutual, Inc. ERISA Litigation, No. 07-01874 (W.D. Wash.). Judge Marsha J. Pechman consolidated the various pending ERISA cases and appointed Keller Rohrback Interim Co-Lead Counsel on May 20, 2008. On October 5, 2009, Judge Pechman issued an order granting in part and denying in part defendants' motions to dismiss the consolidated second amended complaint.

Representative Securities Fraud Cases

In addition to its work in the ERISA arena, Keller Rohrback also has served as Lead or Co-Lead Counsel in a number of securities fraud class action cases where it has represented purchasers of securities.

In re 2TheMart.com, Inc. Securities Litigation, No. 99-01127 (S.D. Cal.). Keller Rohrback was appointed Co-Lead Counsel in this securities fraud class action and achieved a settlement of \$2.7 million.

In re Anicom, Inc. Securities Litigation, No. 00-04391 (N.D. Ill.). Keller Rohrback was one of three counsel representing the State of Wisconsin Investment Board in this securities fraud class action. Counsel achieved settlements on behalf of the class and other parties in excess of \$39 million.

In re Apple, Inc. Derivative Litigation, No. 06-04128 (N.D. Cal.). Keller Rohrback served on the Plaintiffs' Management Committee in the federal derivative shareholder action against nominal defendant Apple Computer, Inc. and current and former officers and members of Apple's Board of Directors. Plaintiffs alleged, among other things, breach of fiduciary duty, unjust enrichment, and gross mismanagement arising from the practice of backdating stock options granted between 1993 and 2001, which practice diverted millions of dollars of corporate assets to Apple executives. Counsel achieved a settlement that awarded \$14 million to Apple—one of the largest cash recoveries in a stock backdating case—and requires Apple to adopt a series of unique and industry-leading corporate enhancements.

In re Foundry Networks, Inc. Derivative Litigation, No. 06-05598 (N.D. Cal.). Keller Rohrback was appointed Co-Lead Counsel in this federal derivative shareholder action against nominal defendant Foundry Networks, Inc., and current and former officers and members of Foundry's Board of Directors. Plaintiffs allege, among other things, breach of fiduciary duty, unjust enrichment, and gross mismanagement arising from the



practice of backdating stock options granted between 2000 and 2003, diverting millions of dollars of corporate assets to Foundry executives. On February 20, 2009, the Court entered an order approving settlement.

Getty, et al. v. Harmon, et al., No. 98-00178 (W.D. Wash.). This securities class action was brought on behalf of all people who purchased unregistered securities from defendants. The suit was settled in favor of the plaintiffs in the amount of \$7 million.

In re IKON Office Solutions, Inc. Securities Litigation, MDL No. 10-01318 (E.D. Pa.). Keller Rohrback served as Co-Lead Counsel representing the City of Philadelphia and eight other lead plaintiffs in this certified class action alleging securities fraud. Class Counsel achieved the highest securities fraud settlement in the history of the Court by settling with defendant IKON Office Solutions, Inc. for \$111 million. At that time, the settlement was listed as one of the “largest settlements in class-action securities-fraud lawsuits since Congress reformed securities litigation in 1995” by *USA Today*.

Lasky v. Brown, et al., No. 99-1035 (M.D. La.). Keller Rohrback served as Co-Lead Counsel in this securities fraud class action, and secured a \$20.5 million settlement.

In re Scientific-Atlanta, Inc. Securities Litigation, No. 01-01950 (N.D. Ga.). Keller Rohrback serves as Co-Lead Counsel in this case, in which plaintiffs allege that defendants engaged in a course of fraudulent conduct by misrepresenting and omitting material information pertaining to Scientific-Atlanta’s financial results and by engaging in extensive channel stuffing in order to enable the company to meet its stated earnings expectations.

In re WorldPort Comm., Inc., No. 99-01817 (N.D. Ga.). Keller Rohrback played an active role in the prosecution of this securities fraud class action and secured settlements totaling \$5,100,000.

Other Representative Cases

In re Carpet Antitrust Litigation, No. 95-00193 (N.D. Ga.). This antitrust class action alleged a nationwide price-fixing conspiracy among the manufacturers and sellers of polypropylene carpet and was brought on behalf of purchasers of such carpet. Plaintiffs negotiated a successful settlement.



In re Commercial Tissue Products Antitrust Litigation, MDL No. 97-01189 (N.D. Fla.). This antitrust case involved allegations of a nationwide price-fixing conspiracy among the major manufacturers of facial tissue, toilet paper, paper towels, and related paper products used in “away from home” settings, such as office buildings, hotels, restaurants, and schools. Parties entered into a settlement agreement valued at \$56.2 million in cash and coupons.

Cox, et al. v. Microsoft Corp., et al., MDL No. 00-01332 (D. Md.). Keller Rohrback served on the Executive Committee of Plaintiffs’ Counsel in this class action challenging Microsoft’s monopolistic practices. A class of direct purchasers of operating system software achieved a settlement of \$10.5 million in the United States District Court for the District of Maryland.

In re Diet Drugs (Phentermine/Fenfluramine/Dexfenfluramine) Products Liability Litigation, MDL No. 10-01203 (E.D. Pa.). These cases involved numerous plaintiffs in Washington and other states who were seeking medical monitoring and/or personal injury compensation in relation to their ingestion of the prescription diet drugs Pondimin and Phentermine (i.e. Fen-Phen) or Redux. Keller Rohrback served as class counsel for a certified medical monitoring class of Washington patients who ingested these diet drugs. In addition, the federal court judge in Philadelphia who supervised the national settlement and litigation appointed Lynn Lincoln Sarko, Keller Rohrback’s managing partner, to serve as a member of the MDL 1203 Plaintiffs’ State Liaison Counsel Committee. Keller Rohrback has represented numerous plaintiffs in pursuing individual personal injury claims through the American Home Products’ Nationwide Class Action Diet Drug Settlement or through individual lawsuits brought in state or federal courts.

Erickson v. Bartell Drug Co., No. 00-01213 (W.D. Wash.). This landmark case, won on summary judgment, established that a private employer excluding prescription contraception services from an otherwise extensive health insurance plan unlawfully discriminates under Title VII of the Civil Rights Act of 1964, as amended by the Pregnancy Discrimination Act.

In re the Exxon Valdez, No. 89-00095 (D. Alaska). Keller Rohrback represented fishermen, Alaska natives, municipalities, and other injured plaintiffs in this mass tort lawsuit arising out of the March 24, 1989, oil spill in Prince William Sound, Alaska. After a three-month jury trial, plaintiffs obtained a judgment of \$5 billion in punitive damages—at the time the largest punitive damages verdict in U.S. history. Keller Rohrback played a leadership role during discovery and at trial, and was chosen to serve as administrator of both the Alyeska and Exxon Qualified Settlement Funds. The amount of punitive damages was subsequently reduced by the United States Supreme Court to \$507.5 million, upon which interest was added. Keller Rohrback is currently distributing the punitive damages and interest via the Exxon Qualified Settlement Fund.



Ferko, et al. v. NASCAR, No. 02-00050 (E.D. Tex.). Keller Rohrback was counsel for plaintiff in a lawsuit that charged NASCAR with breach of contract, unlawful monopolization, and of conspiring with International Speedway Corporation ("ISC") to restrain trade in violation of the antitrust laws. Keller Rohrback represented the shareholders of Speedway Motorsports, Inc. ("SMI"), a publicly traded company that owns six motorsports facilities, including Texas Motor Speedway ("TMS"). In May 2004, the parties reached a settlement agreement, pursuant to which, among other things, ISC sold North Carolina Speedway to SMI for \$100.4 million and NASCAR sanctioned the Nextel Cup Series race previously hosted by Rockingham at TMS in the 2005 season. The settlement was approved by the United States District Court for the Eastern District of Texas.

Lawrence, et al. v. Phillip Morris, Co., et al., No. 94-01494 (E.D.N.Y.). This shareholder derivative class action alleged misrepresentations regarding various inventory and trade loading practices used to distort the timing of sales. The plaintiff class in this and a related case received in excess of \$100 million in settlement.

In re Linerboard Antitrust Litigation, MDL No. 1261 (E.D. Pa). The class actions in this litigation were resolved with the recovery of more than \$202 million for the benefit of a class of businesses that purchased corrugated boxes and sheets. The combined settlements are the largest ever obtained in a price-fixing class action in the Eastern District of Pennsylvania and among the largest obtained in such a case nationally.

In re Monosodium Glutamate Antitrust Litigation, MDL No. 00-01328 (D. Minn.). Keller Rohrback represented the plaintiff class in this case in the United States District Court for the District of Minnesota. About \$124 million was recovered for the benefit of a class of businesses which purchased food flavor enhancers from suppliers in the U.S., Japan, Korea, and Taiwan. Businesses that participated in the recovery received nearly 200% of the amounts they were overcharged.

Rosted, et al. v. First USA Bank, No. 97-01482 (W.D. Wash.). This class action was filed on behalf of owners of credit cards issued by First USA Bank who signed up for "introductory rate" credit cards that were subject to false and deceptive "repricing." A settlement in this class action resulted in an automatic depricing benefit of over \$50 million, plus over \$36 million in benefits from other settlement-related offers.

Salloway v. Malt-O-Meal Co., No. 27-98-008931 (Minn. Dist. Ct. 4th Cir.). This nationwide product liability class action was brought on behalf of all people who consumed Defendant's salmonella-contaminated cereal. Plaintiffs negotiated a successful settlement.



In re Vitamin Antitrust Litigation, MDL No. 1285 (D. D.C.). Keller Rohrback played an extensive role in trial preparation in this case, one of the largest and most successful antitrust cases in history. Chief Judge Thomas Hogan of the United States District Court for the District of Columbia certified two classes of businesses who directly purchased bulk vitamins and were overcharged as a result of a ten year global price-fixing and market allocation conspiracy. Through settlement and verdict, recoveries were achieved, including four major settlements between certain vitamin defendants and class plaintiffs. One landmark partial settlement totaled \$1.1 billion.



Lynn Lincoln Sarko

Lynn Lincoln Sarko has been the managing partner of Keller Rohrback since 1991, where he leads the firm's nationally recognized Complex Litigation Group. An accomplished trial lawyer, he regularly serves as lead counsel in multi-party and class action lawsuits involving ERISA, employee benefits, antitrust, and securities fraud claims. Mr. Sarko first came to Seattle for a federal clerkship and returned after serving as an Assistant U.S. Attorney for the District of Columbia. He has been appointed lead or co-lead counsel in some of the most important ERISA company stock cases, including *Enron*, *WorldCom*, and *Global Crossing*. Additionally, Mr. Sarko serves or has served as lead or co-lead counsel in numerous other ERISA 401(k) plan, ESOP, and cash balance cases, such as *American International Group, Inc.*, *Countrywide Financial Corp.*, *Dell Inc.*, *Delphi Corp.*, *Ford Motor Co.*, *Fremont General Corp.*, *Goodyear Tire & Rubber Co.*, *ING*, *JPMorgan Chase & Co.*, *Marsh & McLennan Cos., Inc.*, *Merck & Co., Inc.*, *Merrill Lynch & Co., Inc.*, *Pfizer, Inc.*, *Southern Co.*, *State Street Bank & Trust Co.*, *Wal-Mart Stores, Inc.*, *Xerox Corp.*, *BellSouth*, *Dynegy, Inc.*, *HealthSouth*, *Household International*, *Lucent Technologies, Inc.*, *Mirant Corp.*, *Polaroid*, *Williams Cos., Inc.*, and *Visteon*.



Mr. Sarko's ERISA practice focuses on prosecuting matters raising sophisticated ESOP and 401(k) plan issues, including ERISA preemption, fiduciary breaches, imprudent investment of plan assets, blackout period and mapping violations, plan asset diversification, prohibited transactions, directed trustee duties, and ERISA § 404 (c) defenses. He regularly appears in federal courts across the country, maintaining an active national ERISA litigation practice.

In addition to his ERISA work, Mr. Sarko has prosecuted a variety of class action lawsuits involving high profile matters including the Exxon Valdez oil spill, Microsoft civil antitrust case, and Fen-Phen/Redux diet drug litigation, as well as notable civil rights cases such as *Erickson v. Bartell Drug Co.*, establishing a woman's right to prescription contraceptive health coverage. Additionally, Mr. Sarko has litigated numerous complex cases involving financial and accounting fraud, which have included some of the nation's largest accounting and investment firms.

Mr. Sarko received his undergraduate, business, and law degrees from the University of Wisconsin, where he served as the editor-in-chief of the law review and was selected by the faculty as the outstanding graduate of his law school class. Mr. Sarko is a featured speaker at many continuing education seminars and conferences nationwide.

All other bios listed alphabetically



Laurie Ashton

Laurie Ashton is a member of Keller Rohrback P.L.C., based in Phoenix, Arizona. Her practice emphasizes bankruptcy, commercial, ERISA, and environmental litigation. Ms. Ashton has been very active in the Arizona State Bar, having served on the Ethics Committee for six years, and frequently lectures on bankruptcy issues and other matters. Additionally, Ms. Ashton has taught semester courses in Advanced Chapter 11 Bankruptcy and Lawyering Theory and Practice at the ASU College of Law, and for several years running, has been a guest lecturer on Chapter 11 at Harvard Law School. She is the co-author of *Arizona Legal Forms: Limited Liability Companies and Partnerships*, 1996-2002. Following law school Ms. Ashton served as law clerk for the Honorable Charles G. Case, U.S. Bankruptcy Court, for the District of Arizona for two years. Ms. Ashton graduated from Arizona State University College of Law, where she has twice returned as an Adjunct Professor to teach semester courses in Lawyering Theory and Practice and Advanced Chapter 11. Ms. Ashton is admitted to practice in Arizona and Colorado.



James A. Bloom

James Bloom is based in Keller Rohrback's Phoenix office. He practices in the firm's nationally recognized complex litigation group, focusing on ERISA litigation, and has worked on many landmark ERISA cases including *In re State Street Bank & Trust Co. ERISA Litigation* and *Johnson v. Couturier*. James graduated *cum laude* from Washington University School of Law in St. Louis, where he was an executive editor of the Washington University Law Review. He earned a B.A. in History and Philosophy from Tulane University. James also worked in the Civil Justice Clinic at Washington University, helping under-served individuals obtain needed legal services.





Gretchen Freeman Cappio

As a member of Keller Rohrback's Complex Litigation Group, Gretchen Cappio enjoys a diverse practice in the areas of consumer protection, ERISA, mutual funds, and employment litigation. She represents plaintiffs in several cutting-edge complex cases, including *In re Mattel, Inc.*, 588 F. Supp. 2d 1111 (C.D. Cal. 2008) (allowing the majority of consumers' claims related to lead-contaminated and hazardous magnetic toys to proceed), and *Braden v. Wal-Mart Stores, Inc.*, 588 F.3d 585 (8th Cir. 2009) (upholding plaintiff's claims alleging that excessive fees associated with the Plan's ten mutual funds resulted in losses of tens of millions of dollars in retirement savings, and that these funds—all retail off-the-shelf funds rather than lower-fee institutional class funds, most of which charged 12b-1 fees, and all of which paid revenue sharing to the Plan's trustee—were selected as a result of a flawed process). Ms. Cappio serves on the Plaintiffs' Steering Committee in *In re: Bisphenol-A (BPA) Polycarbonate Plastic Products Liability Litigation*, MDL No. 1967 (W.D. Mo.), consumer litigation in which plaintiffs assert claims for breach of the implied warranty of merchantability, fraudulent and negligent omissions of material fact, and unjust enrichment against certain plastic bottle manufacturers. Ms. Cappio also represented plaintiffs in *Erickson v. Bartell Drug Co.*, 141 F. Supp. 2d 1266 (W.D. Wash. 2001), in which the Honorable Robert S. Lasnik ruled that an employer violated Title VII of the Civil Rights Act when its coverage failed to cover prescription contraceptives on an equal basis as to other prescription drugs.



Ms. Cappio graduated from the University of Washington School of Law where she served as the Executive Comments Editor of *The Pacific Rim Law & Policy Journal*. She earned her B.A. degree *magna cum laude* from Dartmouth College, where she graduated Phi Beta Kappa and with honors. Ms. Cappio has been named a "Rising Star" three times by *Washington Law and Politics* in its annual review of the state's legal professionals.



T. David Copley

David Copley enjoys the art of advocacy. His career has encompassed product liability defense work, civil rights litigation, real property disputes, employment law litigation and counseling, mass torts, antitrust, breach of fiduciary duty and ERISA, consumer protection, the preparation and trial of several class action cases, and numerous appeals including, most recently, *In re Syncor ERISA Litigation*. Mr. Copley graduated from Northwestern University School of Law, where he served as an editor of the *Law Review*. He earned his B.A. at the University of Iowa, with Distinction and Honors in Political Science and English. In 1985, Mr. Copley was honored as Trial Lawyer of the Year for his work on behalf of injured fishermen and other class members in *In re the Exxon Valdez* oil spill litigation. He is admitted to practice in the states of Washington and Arizona, in the United States District Courts of Western Washington, Eastern Washington, Arizona, the Northern District of California, the United States Court of Appeals for the Ninth Circuit, and the United States Supreme Court.



Juli E. Farris

Juli Farris focuses on securities fraud, breach of fiduciary duty, and antitrust litigation in state and federal courts. She has made significant contributions in cases such as *In re Catfish Antitrust, et al. v. Magnolia Processing, et al.*; *In re IKON Office Solutions, Inc. Securities Litigation*; *In re Anicom, Inc. Securities Litigation*; *Lasky v. Brown, et al. (United Companies securities litigation)*; and *In re Worldcom, Inc. ERISA Litigation*, and most recently, stock option backdating cases against companies such as Apple Computer Inc., Zoran Corporation, and others. Prior to joining Keller Rohrback in 1991, Ms. Farris clerked for Judge E. Grady Jolly of the Fifth Circuit of the United States Court of Appeals and practiced law at the Washington, D.C. office of Sidley & Austin (now Sidley, Austin, Brown & Wood). She earned her B.A. in English and J.D. from Stanford University, where she was a Note Editor of the *Stanford Law Review*. Ms. Farris is admitted to practice in the state and federal courts in Washington, California, and the District of Columbia.





Raymond J. Farrow

Ray Farrow's practice focuses on complex litigation with an emphasis on antitrust and consumer protection. Mr. Farrow has played a leading role litigating antitrust claims of anticompetitive conduct involving Microsoft, Thermus Aquaticus DNA Polymerase ("Taq"), NASCAR, Vitamins, Intel microprocessors, carbon black, and nurse compensation in various cities across the country. Mr. Farrow has also litigated claims for improperly withheld overtime in the package delivery and banking industries and state security claims arising from an alleged Ponzi scheme. Mr. Farrow graduated with high honors from the University of Washington School of Law, where he was articles editor of the *Washington Law Review*. Prior to law school, he was a member of the Economics faculty at Seattle University, the University of Washington, and Queen's University in Ontario, Canada. Mr. Farrow holds graduate degrees in economics from the University of Essex (U.K.) and Princeton University and has served for a number of years on the Executive Committee of the Consumer Protection, Antitrust & Unfair Business Practices Section of the Washington State Bar Association. Mr. Farrow is licensed to practice in Washington State.



Eric J. Fierro

Eric Fierro is based in Keller Rohrback's Phoenix office and practices in the firm's nationally recognized complex litigation group. He has broad experience in electronic discovery and litigation support matters. While attending law school in the evening, Mr. Fierro worked full-time for the U.S. Attorney's Office for the District of Massachusetts. There he provided technical support for all criminal and civil units. In particular, Mr. Fierro supported the electronic discovery and trial consulting needs for the healthcare fraud, securities fraud, and other white collar crime units. He also worked as a part-time summer law clerk for the computer crime and intellectual property unit at the U.S. Attorney's office. Before joining Keller Rohrback, Mr. Fierro was a managing consultant with Huron Consulting Group, providing consultative services for complex electronic discovery and document review matters.





Laura R. Gerber

Laura R. Gerber joined Keller Rohrback in 2005 and practices in the firm's nationally recognized complex litigation group where she handles a variety of cases in federal courts across the United States. Laura's practice focuses on class actions and derivative cases, and ranges from ERISA breach of fiduciary duty cases to mutual fund excessive fee cases to consumer class actions concerning the safety of children's products. Laura graduated from the University of Washington School of Law in 2003. While in law school, she concurrently received an M.P.A. degree from the Daniel J. Evans School of Public Affairs at the University of Washington and was a member of the Moot Court Honor Board.



Gary Gotto

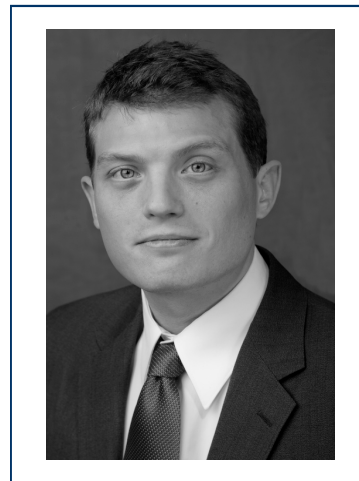
Gary Gotto is a member of Keller Rohrback P.L.C., based in Phoenix, Arizona. Since joining the firm's Complex Litigation Group in 2002, Mr. Gotto has held leadership positions in many matters of national prominence involving claims of financial misconduct and fiduciary imprudence, including class action litigation involving Enron, Xerox Corp., Merrill Lynch, Delphi, CMS Energy Corp., Dynegy, Global Crossing, WorldCom, IKON Office Solutions, State Street Bank & Trust, and Principal Financial Group. The aggregate recoveries for our clients in these matters exceeds \$650 million. He has currently involved in several matters involving claims of negligence or fraud involving mortgage-backed securities and other financial products. In his nearly thirty year career, Mr. Gotto has had extensive experience in securities and financial matters, both from a compliance and litigation perspective. Mr. Gotto also has substantial experience with complex Chapter 11 bankruptcy matters, which has proven invaluable in cases in which defendants are also debtors in bankruptcy. He chaired the Arizona State Bar Subcommittee on Revising the Limited Partnership Act and co-authored *Arizona Legal Forms: Limited Liability Companies and Partnerships*. Mr. Gotto speaks and teaches regularly on a number of topics, including an annual real estate bankruptcy case study presented at Harvard Law School. He earned his J.D. from Arizona State University *summa cum laude*, where he was a member of the Order of the Coif and the Special Projects Editor of the *Arizona State Law Journal*. Mr. Gotto received his B.A. from the University of Pennsylvania *cum laude*. He has been admitted to practice in the state of Arizona since 1982.





Benjamin Gould

Benjamin Gould practices in Keller Rohrback's nationally recognized complex litigation group, where he has helped to litigate ERISA fiduciary breach, cash balance pension plan, and excessive fee cases, as well as consumer protection cases. He is a graduate of Yale Law School, where he was an editor of the *Yale Law Journal*. Prior to joining Keller Rohrback, he worked as a Legal Fellow of the ACLU Drug Law Reform Project, litigating cases related to drug policy and civil rights. He has also served as a clerk to the Hon. Diana E. Murphy of the United States Court of Appeals for the Eighth Circuit and the Hon. Betty B. Fletcher of the United States Court of Appeals for the Ninth Circuit. Additionally, Mr. Gould received a 2010 Burton Award for Legal Achievement for the article, "The Continuing Applicability of Rule 23(b)(1) to ERISA Actions for Breach of Fiduciary Duty," which was published in *Pension & Benefits Daily* on August 31, 2009.





Gary D. Greenwald

Before joining Keller Rohrback's Phoenix office in 2006, Gary Greenwald practiced in Columbus, Ohio, where he was the senior litigation partner for the firms of Schottenstein, Zox, & Dunn and Shayne & Greenwald. He has a broad range of experience as a commercial litigator, having tried more than 200 cases in the federal and state courts across the U.S. Mr. Greenwald's trial experience includes securities litigation, ERISA breach of fiduciary duty claims, trademark litigation, trade secrecy claims, professional malpractice, and a wide range of contract and real estate disputes. He spent five years as an Adjunct Professor of Trial Law Practice at the Ohio State University College of Law and has been a frequent speaker on the subject of Employee Stock Ownership Plans. Mr. Greenwald received his B.A. from Miami University and his J.D. from Ohio State University College of Law.



Amy N. L. Hanson

Amy N. L. Hanson's practice is focused on class action and other complex litigation, including products liability, breach of fiduciary duty, consumer protection, antitrust, and employment protection cases. Ms. Hanson has successfully represented plaintiff classes and individuals on a variety of issues in both state and federal courts, including *In re CMS Energy ERISA Litigation* and *Shaffer v. McFadden*. Ms. Hanson earned her J.D. from the University of Wisconsin, where she began litigating her first class action antitrust case as a 2L with Keller Rohrback through the law school's Consumer Litigation Clinic. She earned her B.A. degree *summa cum laude* in Economics and Political Science from the University of Minnesota. She is licensed to practice in Washington and Wisconsin and in the United States District Court of Western Washington, Eastern Washington, Eastern Michigan, and the Court of Appeals for the Ninth Circuit.





Ron Kilgard

Mr. Kilgard is a Phoenix native and a founding member of Keller Rohrback, P.L.C., based in Phoenix, Arizona. In over thirty years of practice, he has litigated a broad array of commercial matters for both plaintiffs and defendants, in both state and federal courts. In the last decade he has been extensively involved in litigating cases on behalf of pension plan participants, involving claims of financial and fiduciary misconduct. In particular, he has been actively involved in several national class actions involving the plans of Enron, WorldCom, Global Crossings, Xerox, Merrill Lynch, Marsh McLennan, and many others. Mr. Kilgard is currently involved in a similar class action involving the 401(k) plan of now defunct Fremont General Corporation, and he is lead ERISA counsel in a high profile case in Minnesota involving the extent to which “church plans” are exempt from the requirements of ERISA. He has served on the Arizona State Bar’s Civil Practice and Procedure Committee and is a founding member of the Arizona State Bar’s Class Action Committee. He is also a frequent speaker at seminars, for both lawyers and judges, on litigation and pension plan issues. Mr. Kilgard received bachelor’s and master’s degrees from Harvard before returning home to Arizona for law school. Mr. Kilgard graduated from the A.S.U. College of Law as the Editor-In-Chief of the law review and was selected by faculty as the outstanding graduate of his class. Upon earning his law degree, Mr. Kilgard clerked for the Hon. Mary Schroeder on the Ninth Circuit Court of Appeals before entering private practice. He has been admitted in Arizona since 1979.



Sarah H. Kimberly

Sarah Kimberly’s practice focuses on complex ERISA breach of fiduciary duty litigation. She has successfully litigated numerous class actions, including *Alvidres v. Countrywide Financial Corp.* Ms. Kimberly is also actively involved in *In re IndyMac ERISA Litigation*, *In re Fremont General Corp. Litigation*, and *In re Marsh ERISA Litigation*. Ms. Kimberly graduated from The George Washington University Law School, where she worked as a legal fellow in a community legal clinic and as a law clerk in the National Security Section of the United States Attorney’s Office for the District of Columbia. Prior to law school, Ms. Kimberly worked as an editor at a major publishing company in Boston. She earned her B.A. in Art History from Dartmouth College, and is admitted to practice in Washington State and the Western District of Washington. Ms. Kimberly is also a member of the Washington State, King County, and American Bar Associations, as well as Washington Women Lawyers.





David J. Ko

David Ko practices in Keller Rohrback's nationally recognized complex litigation group, where he represents plaintiffs primarily in the areas of consumer protection and ERISA class action litigation. Prior to joining the firm, David completed a two year clerkship for the Honorable Ricardo S. Martinez, United States District Judge in the Western District of Washington. After earning his J.D. at Seattle University School of Law, David obtained an LL.M. in Taxation at the University of Washington, where he represented low-income individuals against the IRS in the Federal Tax Clinic. During law school, he served as a Rule 9 intern for a local public defender's office, and also interned at a civil litigation firm. David received the top grade in his class in Constitutional Law and Legal Writing II, and was selected to the National Order of the Baristers for excellence in oral advocacy.



Cari Campen Laufenberg

Cari Campen Laufenberg's practice focuses on complex litigation with an emphasis on ERISA litigation. She has made significant contributions in cases such as *In re Marsh ERISA Litigation*, *In re Williams Cos. ERISA Litigation*, *In re HealthSouth Corp. ERISA Litigation*, and *In re Goodyear Tire & Rubber Co. ERISA Litigation*. Ms. Laufenberg earned a J.D. and Masters of Public Administration from the University of Washington. During law school, she served as a judicial extern for U.S. District Court Judge Barbara Jacobs Rothstein. Ms. Laufenberg received her B.A. from the University of California, San Diego in Art History and Criticism. She is admitted to the bar of the State of Washington and the U.S. District Courts for the Western and Eastern Districts of Washington. She is a member of the King County Bar Association, Federal Bar Association, American Bar Association, American Association for Justice, and Washington Women Lawyers. Ms. Laufenberg was recognized in 2008 and 2009 as a "Rising Star" by *Washington Law and Politics* in its annual review of the State's legal professionals.





Elizabeth A. Leland

Beth Leland's practice focuses on ERISA and securities fraud litigation. She is actively involved in, among other cases, the Ford ERISA Litigation, Merrill Lynch ERISA Litigation, Pfizer ERISA Litigation, and the Scientific-Atlanta Securities Litigation. Ms. Leland has made significant contributions in ERISA and securities cases such as *In re Apple, Inc. Derivative Litigation*, *In re Anicom, Inc. Securities Litigation*, *In re Dynegy, Inc. ERISA Litigation*, *In re IKON Office Solutions, Inc. Securities Litigation*, *In re Visteon Corporation ERISA Litigation* and the *In re Xerox Corporation ERISA Litigation*. She is an active member of the King County, Washington State, and American Bar Associations, including the American Bar Association's Section of Labor & Employment Law. She earned her B.A. in Business Administration with concentrations in Finance and Business Economics from the University of Washington and graduated *cum laude* from the University of Puget Sound School of Law. Ms. Leland is admitted to practice in Washington State and Federal Courts, as well as the Ninth and other Circuits across the country.



Tana Lin

Tana Lin's practice includes representing employees in ERISA breach of fiduciary duty class actions, mutual fund shareholders in suits alleging breaches of fiduciary duty by investment advisors in violation of the Investment Company Act, and nurses in cases alleging that hospitals depressed their wages in violation of the Sherman Act. Ms. Lin began her career as a trial attorney with the Public Defender Service for the District of Columbia. She then joined and became a senior trial attorney with the Employment Litigation Section of the Civil Rights Division of the United States Department of Justice and, subsequently, the Equal Employment Opportunity Commission. She has prosecuted employment discrimination cases against governmental entities and private corporations such as Wal-Mart. Ms. Lin also developed and implemented impact projects to address systemic problems affecting the poor as the litigation coordinator for the Michigan Poverty Law Program. She received her A.B. with Distinction from Cornell University and her J.D. from New York University School of Law, where she was a Root-Tilden-Snow Scholar.





Derek W. Loeser

Derek Loeser is a partner in the firm's Complex Litigation Group. His practice focuses on ERISA class action and investment mismanagement cases and he serves as one of the lead counsel in many of the firm's nationally prominent breach of fiduciary duty class actions. He has obtained numerous favorable published decisions and substantial recoveries on behalf of employees, retirees, and retirement plans. In addition to his work on cases that have been resolved, including Enron, WorldCom, Countrywide, and Polaroid, Mr. Loeser currently serves as Lead or Co-Lead Counsel in several large-scale ERISA breach of fiduciary duty cases, including cases against *AIG*, *Wachovia*, *Washington Mutual*, *Wal-Mart*, *Ford*, and *State Street*. The cases involve allegations of imprudent investment in company stock in 401(k) and ESOP plans, as well as other types of investment mismanagement, excessive fees, and conflicts of interest.



Mr. Loeser is a member of the American Bar Association's Section of Labor & Employment Law and the Employee Benefits Committee as a Plaintiff attorney, and is a frequent speaker at national ERISA conferences. Before joining Keller Rohrback in 2002, he clerked for the Hon. Michael R. Hogan, United States District Court, District of Oregon, and was a trial attorney in the Employment Litigation Section of the Civil Rights Division of the United States Department of Justice in Washington, D.C. Mr. Loeser obtained his B.A. from Middlebury College, where he graduated *summa cum laude*, with highest departmental honors, and as a member of Phi Beta Kappa. He graduated with honors from the University of Washington School of Law. Mr. Loeser was named in 2007, 2008, and 2009 as a "Super Lawyer" among civil litigators and recognized in 2005 and 2006 as a "Rising Star" by *Washington Law and Politics* magazine in its annual review of the State's legal profession. Mr. Loeser was named a recipient of the 2010 Burton Award for Legal Achievement for the article, "*The Continuing Applicability of Rule 23(b)(1) to ERISA Actions for Breach of Fiduciary Duty*," which was published in *Pension & Benefits Daily* on August 31, 2009. Mr. Loeser also co-authored the article "*The Case Against the Presumption of Prudence*," which was published in *BNA Pension & Benefits Daily*, Sept. 10, 2010 (174 PBD, 9/10/10).

He is admitted to practice in Washington State, United States District Courts for the Western and Eastern Districts of Washington, the Eastern District of Michigan, Northern District of Illinois, United States Courts of Appeals for the Second, Sixth, Eighth, Ninth and Eleventh Circuits, and on a pro hac vice basis in federal district courts throughout the country.



Gretchen S. Obrist

Gretchen Obrist joined Keller Rohrback's complex litigation group in 2007. She has a broad federal court practice. Ms. Obrist has litigated ERISA fiduciary breach, cash balance pension plan, and excessive fee cases, as well as antitrust, RICO, consumer protection, and torts claims. While Ms. Obrist primarily represents plaintiffs, she has also represented defendants and third parties in complex cases. She has made significant contributions in *In Re Bear Stearns Cos. Inc. ERISA Litigation*, *Braden v. Wal-Mart Stores, Inc.*, and the Washington Mutual and J.P. Morgan pension plan litigations. Prior to joining Keller Rohrback, Ms. Obrist worked for two years as a law clerk to the Hon. John C. Coughenour, U.S. District Judge for the Western District of Washington. Ms. Obrist earned her J.D. from the University of Nebraska, where she was Editor-in-Chief of the *Nebraska Law Review*. During law school, Ms. Obrist worked at a public defender's office and the Nebraska Domestic Violence Sexual Assault Coalition. She also has worked on legal issues generated by welfare reform. Ms. Obrist was named a "Rising Star" by *Washington Law and Politics* in 2010. She is admitted to practice in Washington State.





David S. Preminger

David Preminger is a partner in the firm's Complex Litigation Group. His practice focuses on ERISA class action cases as well as individual benefit claims. He has been the lead counsel or co-counsel on numerous ERISA class action, breach of fiduciary duty cases with multi-million dollar settlements. While perhaps divulging too much, Mr. Preminger has been litigating ERISA cases on behalf of employees and retirees since the Act's passage in 1974. He also has extensive experience litigating anti-trust, real estate and general commercial and corporate matters. Mr. Preminger speaks frequently on issues concerning employee benefits litigation and is the co-chair of the Fiduciary Responsibility Subcommittee of the Labor and Employment Section of the American Bar Association and was previously the co-chair of the Subcommittee on ERISA Preemption and the Subcommittee on ERISA Reporting and Disclosure. Mr. Preminger has also served on the Employee Benefits Committee of the Association of the Bar of the City of New York and on that Association Committee on Legal Problems of the Elderly of which he was the chair of the Subcommittee on Pension and Welfare Benefit Plans. Mr. Preminger is also a senior editor of *Employee Benefits Law* (BNA), a widely used treatise on the subject, and has written law review articles on topics concerning ERISA as well. Mr. Preminger is also a charter member of the American College of Employee Benefits Counsel. Criteria for membership include at least 20 years of employee benefit experience including significant writing, lecturing and public service and recognition of the member by his or her peers for expertise in the field and intellectual excellence.



Prior to joining Keller Rohrbach, Mr. Preminger was a partner at Rosen Preminger & Bloom LLP where his practice concentrated on ERISA litigation. Mr. Preminger was previously a Supervisory Trial Attorney for the Equal Employment Opportunity Commission, a Senior Attorney with Legal Services for the Elderly Poor and a Reginald Heber Smith Fellow with Brooklyn Legal Services.

Education and Admissions

Mr. Preminger received his B.A. degree in mathematics from Rutgers University in New Brunswick, NJ, and his law degree at New York University School of Law where he was a member of the *Journal of International Law & Politics*. He is admitted to the bar of the State of New York State and to the United States Supreme Court, the United States Courts of Appeal for the Second, Seventh, Ninth and District of Columbia Circuits, and the United States District Courts for the Southern, Eastern, Western and Northern Districts of New York.



Erin M. Riley

Erin Riley's practice focuses on ERISA breach of fiduciary duty litigation. She has successfully litigated numerous class actions, including *In re Merrill Lynch & Co., Inc. ERISA Litigation*. Ms. Riley is also actively involved in *In re Washington Mutual, Inc., et al. ERISA Litigation*, *In re IndyMac ERISA Litigation*, and *In re Wachovia Corp. ERISA Litigation*. She graduated *cum laude* from the University of Wisconsin School of Law and was a managing editor of the *Wisconsin Law Review*. She received her B.A. in French and History from Gonzaga University, where she graduated *cum laude*. Ms. Riley is licensed to practice in both Washington and Wisconsin and is a member of the American Bar Association's Section of Labor & Employment Law and the Employee Benefits Committee as a plaintiff attorney. Ms.



Riley was recognized in 2009 as a "Rising Star" by *Washington Law and Politics* in its annual review of the State's legal professionals and co-authored the article "*The Case Against the Presumption of Prudence*," which was published in *BNA Pension & Benefits Daily*, Sept. 10, 2010 (174 PBD, 9/10/10).



Karin B. Swope

Karin Swope practices in the firm's nationally recognized complex litigation group. Karin's practice focuses on ERISA and consumer class actions. Prior to joining the firm, Karin litigated commercial cases, primarily in the areas of intellectual property, and business disputes. She also has significant experience in responding to government enforcement activities, including white collar criminal prosecutions, federal civil enforcement actions, and government investigations, and has counseled clients on internal corporate investigations.



Karin is an Associate Editor of the *American Bar Association Tort, Trial, and Insurance Practice Law Journal*. She is also an adjunct professor at Seattle University School of Law where she teaches in the Art Law Clinic. She is a frequent speaker for Washington State Bar Association CLE programs.

Karin clerked for the Hon. John C. Coughenour, United States District Court, District of Western Washington from 1993 to 1995, and for the Hon. Robert E. Cowen, United States Court of Appeals for the Third Circuit from 1995 to 1996. She graduated Phi Beta Kappa with a B.A. in English and Political Science from Amherst College in 1987 and earned her J.D. from Columbia University School of Law in 1993, where she was Executive Articles Editor for the *Columbia Human Rights Law Review*, and a Harlan Fiske Stone Scholar and Paul Bernstein Award recipient. She has been recognized as a "Rising Star" by *Washington Law and Politics Magazine*.



Havila Unrein

Havila Unrein practices in Keller Rohrback's nationally recognized complex litigation group. Havila received a concurrent J.D./LL.M. (Tax), with honors, from the University of Washington School of Law in 2008. During law school, Havila provided tax and business advice to low-income entrepreneurs and high-tech start-ups as a student in the Entrepreneurial Law Clinic. She also served as an extern to the Hon. Stephanie Joannides of the Anchorage Superior Court. Prior to law school, Havila worked and studied abroad in Russia, Azerbaijan, and the Czech Republic. She received her B.A. in Russian Area Studies from Dartmouth College, where she graduated *magna cum laude*.



Margaret E. Wetherald

Margie Wetherald is a partner of Keller Rohrback and serves on the firm's executive committee. Throughout her practice, Ms. Wetherald has handled complex litigation in multiple state and federal jurisdictions with a concentration on commercial insurance coverage and bad faith, ERISA breach of fiduciary duty, and class action litigation. Ms. Wetherald has also handled mass tort litigation involving transmission of AIDS to hemophiliacs through blood. She graduated from Cornell Law School. Ms. Wetherald taught at the Columbus School of Law at Catholic University in Washington, D.C. from 1983 to 1985. She chaired the Northwest Environmental Claims association at various times over a ten-year period and has been a frequent author and speaker on insurance coverage issues. She is admitted to practice in the United States Supreme Court, the United States Court of Appeals for the Ninth Circuit, the United States District Courts for Eastern and Western Washington and in the State Courts in Washington and Oregon.





Amy Williams-Derry

Since joining Keller Rohrback's Complex Litigation Group in 2005, Amy Williams-Derry has spearheaded numerous class action lawsuits for the firm, specializing in ERISA litigation on behalf of retirement plan beneficiaries and consumer protection cases. She has litigated at both the trial and appellate levels, and has successfully represented clients in mediation and arbitration before the National Labor Relations Board, the National Association of Securities Dealers, and the New York Stock Exchange. Prior to joining Keller Rohrback, Ms. Williams-Derry litigated in both the private and non-profit sectors, with a diverse background in corporate and environmental matters. Ms. Williams-Derry earned her A.B with honors from Brown University and her J.D. from the University of Virginia, where she served as Editor-in-Chief of



the *Virginia Environmental Law Journal*. She is admitted to practice in the Western and Eastern Districts of Washington, the Eastern District of Michigan, and before the Second and Ninth Circuit Courts of Appeal. *Washington Law & Politics* magazine has named Ms. Williams-Derry a "Rising Star" among civil litigators every year from 2003 through 2009.



Additional Keller Rohrbach attorneys working with the ERISA Litigation Group:

Corporate

Stephen R. Boatwright*
Alicia M. Corbett*
Glen P. Garrison
Scott C. Henderson
Amy E. Hughes
Robert S. Over
Thomas A. Sterken
Benson D. Wong

Banking

Stephen R. Boatwright*
Alicia Corbett*
Glen P. Garrison
Thomas A. Sterken

Bankruptcy
John T. Mellen
Amy Phillips

Securities

Stephen R. Boatwright*
Alicia M. Corbett*
Rob J. Crichton
Juli E. Farris
Glen P. Garrison
Elizabeth A. Leland
Robert S. Over
William C. Smart
Michael D. Woerner

Contracts

Rob J. Crichton
Mark A. Griffin
Benjamin J. Lantz
John T. Mellen
Amy Phillips
David J. Russell
Mark D. Samson*
William C. Smart
Laurence R. Weatherly

Employment Law

Ian S. Birk
Rob J. Crichton
Benjamin J. Lantz
William C. Smart
Laurence R. Weatherly
Benson D. Wong

Insurance Coverage

Jason P. Chukas
Chloethiel W. DeWeese
Maureen M. Falecki
Irene M. Hecht
David J. Russell
Margaret E. Wetherald

Professional Malpractice

John Mellen
Laurence R. Weatherly

*Admitted to practice in the State of Arizona only.