# EXHIBIT 2

**UNITED STATES DISTRICT COURT**
**DISTRICT OF NEW JERSEY**

| | |
|---|---|
| ARTEM V. GELIS, *et al.* individually and on behalf of all others similarly situated,<br><br>Plaintiffs,<br><br>v.<br><br>BMW OF NORTH AMERICA, LLC.,<br><br>Defendants. | Civil Action No. 2:17-cv-7386-SDW-CLW<br><br>**DECLARATION OF GARY S. GRAIFMAN IN SUPPORT OF APPLICATION FOR ATTORNEYS' FEES AND EXPENSES** |

GARY S. GRAIFMAN, ESQ. declares as follows:

1. I am a member of the law firm of Kantrowitz, Goldhamer & Graifman, P.C. ("KGG"), counsel for Plaintiffs Shelton Oliver, Donnie Baker and Khader Mohiuddin, in the above matter, together with my co-counsel, Thomas P. Sobran, Esq. of Thomas P. Sobran, P.C. ("TPS") and Bruce H. Nagel of Nagel Rice, LLP ("NR"). As one of the three Co-Lead Counsel, I am fully familiar with the facts contained herein based upon my personal knowledge and the books and records kept in the ordinary course of KGG's business. I submit this declaration in support of Class Counsel's application for an award of attorneys' fees in above-captioned action (the "Action"), as well as for reimbursement of expenses incurred by my firm in connection with the Action.

2. KGG served as Co-Lead Counsel in this Action. As co-counsel for the Class, the attorneys of my firm were involved in performing the following tasks: pre-litigation investigation

of the facts herein; drafting and redrafting of the initial complaint, vetting of and communications with clients, prospective class members and class members; drafting and researching portions of the Consolidated Amended Complaint and the Second Consolidated Amended Complaint; Drafting and submitting the 23(g) Motion; researching and drafting portions of the memorandum of law in opposition to motion to dismiss; preparation of documents for service upon foreign entities through the Hague Convention; research into conducting the deposition at the U.S. Embassy in Germany of BMW, AG as per agreement of the parties; attending court conferences and argument on motions before the court; negotiating the agreement concerning parameters of the discovery from BMW, AG, in return for dismissal of BMW, AG; preparation and submission of *pro hac vice* application of co-counsel; drafting discovery requests for both BMW NA and BMW AG; receiving and reviewing discovery responses and documents produced by defendants; drafting and reviewing discovery demands for service on defendants' interrogatory demands; contacting and reviewing the matter with experts; settlement conferences and litigation strategy with co-counsel; settlement conferences with all parties; preparing for mediation sessions; research and review of file to prepare pre-mediation briefing; submission of pre-mediation materials; attend mediation sessions with Judge Stephen Orlofsky (ret.); preparation and negotiation of term sheet in connection with substantive settlement; preparing for mediation session with Magistrate Judge Cathy L. Waldor; legal research, review of file, review comparable settlements in ECF and Westlaw database; research, write and edit premediation submissions for Judge Waldor; attend mediation session with Judge Waldor; prepare, review and revise settlement agreement; review, revise and negotiate language for Settlement Agreement exhibits (drafts of class notice, settlement claim form, Preliminary Approval Order and proposed Final Approval Order); conferences with counsel for defendant

regarding settlement documents; preparation of Preliminary Approval Motion and joint certification of counsel in support thereof; coordinate and complete exhibits to Motion for Preliminary Approval; prepare, revise and finalize memorandum of law in support of Preliminary Approval Motion; finalize and submit Preliminary Approval Motion; attendance at hearing (virtually) on Preliminary Approval Motion; coordinating with court-appointed claims administrator on drafts and finalize the class communications and settlement class notices, settlement claim form and claims deficiency notices. Going forward, substantial work in this Action will continue and the attorneys of KGG will also be required to prepare, research, draft and file the Final Approval Motion papers; engage in the multitude of communications and/or email discussions with class members as to the status of settlement administration, addressing issues relating to class members' individual qualification for reimbursement or the extended warranty program, issues concerning the extended warranty, addressing deficiencies in class members' filed claims and assist in curing such deficiencies; engaging in the attorney review of denied claims with respect to administrative appeals of such denials; reviewing opt outs and objections, if any; preparing documents in opposition to any objections; preparing for the Final Approval hearing; attending the Final Approval hearing; engaging in post-approval coordination of payment of claims; issues with claims; additional emails and communications with class members post-Effective Date of the settlement.

3. The schedule attached hereto as **Exhibit 1** is a summary indicating the amount of time spent by each attorney and professional support staff employee of KGG who was involved in the Action based on the various tasks, and the lodestar calculation based on KGG's current billing rates. The schedule also includes in the category columns for "Class Claims Administration Issues and Communications with Class Members" (Column 11) and "Final

Approval Process" (Column 12) the additional time I reasonably anticipate to incur in this matter between now and eventual conclusion of this matter (e.g., which will continue even after the Effective Date of the settlement (but not including any appeals which may be filed, if any)). In my experience with numerous consumer class action settlements involving automobile defects, I anticipate that Class Counsel will incur another 260 hours and, as apportion of that, I will spend another approximately 86 hours on this matter. Other than that estimated 86 hours to be incurred herein, the lodestar schedule annexed hereto (Exhibit 1) was prepared from contemporaneous daily time records regularly prepared and maintained by my firm, which are available at the request of the Court. As noted, an amount of time anticipated to be spent on preparation, finalizing and filing of the Final Approval motion papers, preparing for argument of that motion; attending and presenting at the Final Approval hearing and preparing the oppositions to any objections is estimated based on my experience with prior automobile defect consumer class action settlements.

4. Prior to the Final Approval Hearing, scheduled for February 16, 2021, Class Counsel intend to supplement the record herein and submit the actual additional time expended up through that point prior to the Final Approval hearing.

5. The hourly rates for the attorneys and professional support staff at KGG included in **Exhibit 1** are the same rates which have been accepted in other consumer class action litigation the firm has successfully litigated.

6. The total number of hours expended on this Action by KGG to date (and anticipated to be incurred through the conclusion of this matter) is 534.10. The total lodestar for my firm for that period is $410,172.00, consisting of $396,094.00 for attorneys' time and $14,078.00 for professional support staff time.

7. KGG's lodestar figures are based upon the firm's billing rates, which rates do not include charges for expense items. Expense items are billed separately and such charges are not duplicated in my firm's billing rates.

8. As detailed in the schedule attached hereto as **Exhibit 2,** KGG has incurred a total of $8,217.45 in unreimbursed expenses to date in connection with the prosecution of this Action. It is expected that additional expenses, including experts fees, will be incurred in the future in the Action and such additional expenses, if any, will be submitted in Plaintiffs' supplemental submissions.

9. The expenses incurred in this Action are reflected on the books and records of my firm. These books and records are prepared from expense vouchers, check records and other source materials and are an accurate record of the expenses incurred.

10. With respect to the standing of my firm, attached hereto as **Exhibit 3** is a brief biography of my firm and attorneys in my firm who were principally involved in this Action.

I hereby declare under penalty of perjury that the foregoing facts are true and correct.

GARY S. GRAIFMAN

Dated: December 2, 2020

# EXHIBIT 1

***GELIS, ET AL. V. BMW OF NORTH AMERICA, LLC***
**Case No. 17-cv-07386**
**TIME & LODESTAR CHART (By Category)**
**FIRM NAME: KANTROWITZ GOLDHAMER & GRAIFMAN, P.C.**
**PERIOD: Inception to October 30, 2020**

| Name/Position | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | Hours | Hourly Rate | **Lodestar** |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **Graifman, Gary/ P** | | 36.6 | 70.1 | 3.6 | 10.4 | 31.1 | 2.8 | 2.0 | 87.9 | 36.4 | 9.2 | 86.0 | 376.10 | $895 | $336,609.50 |
| **Provost/ Michelle/ PL** | | 10.5 | 1.8 | 27.7 | 4.9 | | | | 0.1 | 2.3 | | | 47.30 | $225 | $10,642.50 |
| **Wallis, Kassidi/ PL** | | | | | | | | | 2.1 | | | | 2.1 | $225 | $472.50 |
| **Dowd, Margaret/ PL** | | | 1.5 | 1.0 | | | 0.4 | | 6.9 | | | | 9.8 | $225 | $2,205.00 |
| **Chakan, Lisa/ PL** | | | 0.9 | 0.7 | | | | | | | | | 1.6 | $225 | $360.00 |
| **Brody, Jay/ A** | | 29.5 | 27.0 | 1.7 | 34.9 | | | 1.2 | | | | | 94.30 | $625 | $58,937.50 |
| **Rothstein, Brandon/ A** | | | 0.7 | | | | | | | | | | 0.7 | $500 | $350.00 |
| **Baron, Danielle/ PL** | | | | | | | | | | | 0.4 | | 0.4 | $200 | $80.00 |

| | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **Cherie Cornfield/PL** | | | | 1.4 | | | | | | | | | 1.4 | $225 | $315.00 |
| **Haque, Sarah / OC** | | | | | | | | | | | 0.4 | | 0.4 | $500 | $200.00 |
| **Liz Moccia/ PL** | | | | | | | | | | | | | | | |
| **TOTAL** | | | | | | | | | | | | | **534.1** | | **$410,172.00** |

**CATEGORIES**

1. Pre-Litigation Investigation and Fact Analysis
2. Drafting Complaints (Original, First, Amended Second Amended)
3. Case Development and Case Administration
4. Post Filing Investigation and Communications with Class Members
5. Motion Practice, Drafting Memoranda and Legal Research
6. Court Hearings and Appearances
7. Communications with Consultants/Experts
8. Negotiations and Settlement Process
9. Settlement Documentation, Motions & Briefing (e.g., Prelim & Final Approval
10. Discovery
11. Class Claims Administration Issues and Communications with Class Members/Witnesses re Settlement
12. Final Approval Process, Final Approval Motion and Objection Replies, Communications with Class Members Through Conclusion
(NOTE: currently estimated).

**Position Key: P=Partner, SA=Senior Associate, A=Associate, PL=Paralegal**

# EXHIBIT 2

**Exhibit 2**
**EXPENSE REPORT FOR**
***GELIS, ET AL. V. BMW OF NORTH AMERICA, LLC***
**Case No. 17-cv-07386-SLW-CLW**
**EXPENSE CHART (By Category)**
**FIRM NAME: KANTROWITZ GOLDHAMER & GRAIFMAN, P.C.**
**PERIOD: Inception to October 31, 2020**

| **Category** | **Amount** |
|---|---|
| Computer Research and Electronic Document Retrieval (Westlaw, Lexis, Auto News, identity search databases) | $1,393.81 |
| Travel, Hotel, Meals and Related Expenses | $ 49.00 |
| Photocopying (including commercial or internal copying) | $ 0.75 |
| Facsimile and Long Distance Telephone | $ 7.00 |
| Postage and Overnight Delivery (Fed Ex, UPS) | $ 104.29 |
| Court Filing Fees/Service of Process Fees | $ 400.00 |
| Mediation Fees | $3,084.00 |
| Experts/Consultants | $3,000.00 |
| Process Service | $ 178.60 |
| **TOTAL** | **$8,217.45** |

# EXHIBIT 3

KANTROWITZ,
GOLDHAMER &
GRAIFMAN, P.C.

747 Chestnut Ridge Road, Chestnut Ridge, New York 10977
Tel: 845.356.2570; Fax: 845.356.4335
-and-
210 Summit Avenue, Montvale, New Jersey 07645
Tel: 201.391.7000; Fax: 201.307.1086
website: www.kgglaw.com

# THE FIRM

**KANTROWITZ, GOLDHAMER & GRAIFMAN, P.C.** is a full-service law firm (the "Firm") with offices located at 747 Chestnut Ridge Road, Chestnut Ridge, New York and in Montvale, New Jersey, at 210 Summit Avenue, Montvale, New Jersey.

The Firm is managed by its four (4) partners, PAUL B. GOLDHAMER, BARRY S. KANTROWITZ, GARY S. GRAIFMAN and RANDY J. PERLMUTTER

Among the various areas of law practiced by the Firm, the Firm specializes in class action litigation, which is managed by Gary S. Graifman of the Firm (see below).

The Firm has a total of thirteen (13) attorneys, including the four partners. There are six (6) associates and eleven (11) support personnel (paralegals, secretaries and bookkeeping), as well as three (3) of counsel attorneys at the firm's offices. The biographical information of Gary S. Graifman, partner in charge of this matter, is set forth below.

**Gary S. Graifman, Esq.** is a partner in the firm of **KANTROWITZ, GOLDHAMER & GRAIFMAN, P.C.** Prior to joining the firm, he was a partner in the firm of ATLAS & GRAIFMAN in New York City, New York. Mr. Graifman specializes in the area of consumer and securities class action litigation. He is admitted to practice before the courts of the State of New York, the State of New Jersey, the United States Federal Courts for the Southern District of New York, the Eastern District of New York, the Northern District of New York, the District of New Jersey, the United States Court of Appeals for the Second Circuit, the Third Circuit and the

Eighth Circuit. He is also a member of the Class Action Committee of the New Jersey State Bar Association. Mr. Graifman has litigated numerous cases involving complex business litigation, consumer class actions and securities class actions. He has litigated a number of cases resulting in reported decisions, including cases of first impression. Mr. Graifman is rated "AV-Preeminent" by Martindale Hubbell and has been nominated by *Super Lawyers Magazine* as a New Jersey Super Lawyer for 2010-2013, 2016-2018. He has been a panelist and speaker on class action issues before various bar organizations including those sponsored by the Class Action Committee of the New Jersey State Bar Association and by the National Employment Lawyers Association, New York Chapter.

In a settlement of a nationwide consumer fraud class action on behalf of 11,000 businesses who had been defrauded by the telephone company, Norvergence, Inc., and various equipment leasing companies, the New Jersey Superior Court approved a partial settlement with CIT Technology Financing, U.S. Bancorp, De Lage Laden Leasing and two other leasing companies on June 30, 2006. The firm, Kantrowitz Goldhamer & Graifman, was Co-Lead Counsel.

The presiding Judge, Judge Robert Coogan stated that: "The class counsel at bar ...are well qualified, they are experienced in class action litigation. Counsel have vigorously pursued this litigation in this court, and although it's a rounded number, it has been two years, almost. [W]hat was shown here and what leads me to acknowledge this is the dimension, the worthiness, the scope of the advocacy, and the overall professional presentation, both in terms of the pleadings and here in the courtroom. There's also one other thing that I think as a jurist we judges fail to take note of, but now is the appropriate time to do it, it's the concept of collegiality. Collegiality amongst yourselves, collegiality of yourselves to the Court. And when I say

collegiality amongst yourselves I mean that without there being one ounce of sacrifice of the responsibility that each of you have as a litigator to advocate. There has been full advocacy here, but it's been done with a recognition of that other asset, which is collegiality. The record will confirm counsel have done it this morning, that this pursuit has been vigorous. There has been extensive document discovery conducted here, depositions were conducted. And all of that to a point prior, prior to the time of beginning the time to, process of trying to resolve the case. ... I'm satisfied that counsel who have accepted the responsibility of appearing on behalf of the named plaintiffs have fairly and adequately represented the interest of the class. Adequately I use only because that's the standard. The reality here is that it was superior work."

In another settlement of a nationwide class action against the vehicle manufacturer, DaimlerChrysler, alleging defective brake assemblies for Jeep Grand Cherokees, Mr. Graifman served as co-lead counsel for the class. In approving the settlement, the Court (Hon. Jonathan N. Harris, New Jersey Super. Ct., Bergen Co.) stated: "[P]laintiffs' counsel engaged in careful and extensive research, investigation, and analysis of the facts and circumstances surrounding the conduct of defendants' business practices. I conclude that class counsel have a sufficient basis upon which to assess the strengths and weaknesses of the claims and the terms of the settlement."

Furthermore, in a matter settled in 2008 in the U.S. District Court for the Northern District of California, in which Mr. Graifman and the Firm were co-lead counsel (entitled *In re Rambus Inc. Securities Litigation*, 06-cv-4346 (N.D. Ca.)), and which involved an $18 million settlement approved by the Court in a securities fraud matter involving backdated options, U.S. District Court Judge, Hon. Jeremy Fogel, stated in approving the settlement that "[i]t appears that the class will receive more money than is typical in these types of cases, certainly in backdating cases. This is a substantial settlement. So, I am satisfied in terms of an independent review and

adequacy of the settlement that it is fair and adequate." (From Transcript of Final Approval Hearing, dated May 14, 2008).

The following represent examples of class action, complex business litigation and reported cases of note **Mr. Graifman** and the firm have taken an active role in:

1. **In re Volkswagen Timing Chain Products Liability Class Action,** 16-cv-2765 (JLL) (D.N.J.). **Mr. Graifman** and the Firm served as Co-Lead Counsel in this product liability class action which was settled on a nationwide basis on behalf of the owners and lessees of approximately 477,000 class vehicles. Final approval was granted to the Settlement on December 14, 2018. The Settlement provided one hundred percent reimbursement for timing chain repairs to class members and was valued at approximately $50 million (inclusive of warranty extension repairs).

2. **Gelis, et al. v. Bayerische Motoren Werke Aktiengesellschaft, et al**., 2:17-cv-07386-SDW-CLW (D.N.J.). **Mr. Graifman** and the Firm serve as Co-Lead Counsel on this case which involves defective timing chains on various BMW model vehicles.

3. **Coffeng, et al. v. Volkswagen Group of America, et al**., 3:17-cvb—01825-JD (N.D. Cal.). **Mr. Graifman** and the Firm serve as Co-Lead Counsel on this consumer class action. Final Approval was granted to the settlement on May 14, 2020. The case involves defective water pumps and involves a nationwide class of owners and lessees of approximately 873,779 class vehicles and was valued at approximately $32 million.

4. **Chiarelli, et al. v. Nissan, N.A. and Duncan, et al. v. Nissan N.A.,** 14-CV-4327(NGG) (E.D.N.Y.) and 1:16-CV-12120-DJC (D.Mass.), these two companion cases involve multi-state claims of concerning defective timing chains on various Nissan model vehicles and involve claims in the states of Massachusetts, New York, Texas, Florida, North Carolina, Maryland, Colorado and Oregon. Settlement in the case has been reached and Final Approval is scheduled for August 25, 2020 before Judge Denise Casper in the U.S. District Court for the District of Massachusetts.

5. **In re Home Depot Consumer Data Security Breach Litig**., 1:14-MD-02583-TWT (N.D.Ga.). **Mr. Graifman** and the Firm served on the five member Plaintiffs' Steering Committee in this massive data breach consumer class action affecting approximately 50 million consumers which was settled on a nationwide basis in 2016. The settlement was valued at approximately $27 million.

6. **Provost, et al v. Aptos, Inc. et al.**,1:17-cv-02120-ELR (N.D.Ga). **Mr. Graifman** and the Firm are Co-Lead Counsel in this data breach litigation pending in the Northern District of Georgia.

7. **In re Premera Blue Cross Customer Data Security Breach Litig**. 3:15-md-2633 (D.

Ore). **Mr. Graifman** and the Firm were one of the counsel in the *Premera Blue Cross Customer Data Breach* Matter, having done substantial and essential work in the case, which was given Final Approval in early March 2020. The firm's client was the sole named plaintiff and representative for the putative California state subclass. The California subclass has asserted a claim under the California Confidential Medical Information Act, Cal. Civ. Code §§ 56, *et seq.* which was sustained by Court on a motion to dismiss. Mr. Graifman was responsible for defending (with one of the Steering Committee members) the California Class Representative for her deposition recently. The Firm is currently participating in document review in the matter.

8. **Seifi, et al. V. Mercedes-Benz USA, LLC**, 3:12-cv-5495-TEH (N.D. Ca.). **Mr. Graifman** and the Firm served as co-lead counsel in this litigated consumer class action seeking reimbursement for repairs to various Mercedes model vehicles due to a balance shaft defect. The action settled on a nationwide basis in 2015, valued at approximately $25 million.

9. **In re Rambus Securities Inc. Litigation**., 06-c-v4346-JF (U.S. District Ct., N.D. Cal.) **Mr. Graifman** and the Firm served as Co-Lead Counsel for the class in this securities class action involving allegations of backdating of options. The matter was settled for $18.33 million and approved on May 14, 2008.

10. **In re Nissan Radiator/Transmission Cooler Litigation**, Case No. 10-cv-0-7493 (VB) (U.S. District Ct., S.D.N.Y.). **Mr. Graifman** and the Firm served as co-lead counsel in this litigated consumer class action seeking reimbursement for repairs to Nissan Pathfinder, Xterra or Frontier vehicles caused by cross-contamination of radiator fluid with transmission fluid seeping into the transmission. The matter was settled with Defendants agreeing to extend the warranty to 100,000 miles or 10 years and pay for the repairs during that extended mileage and time period, subject to certain deductibles that applied. The nationwide class action settlement, which involved approximately 300,000 vehicles was approved by the Court in May 2013. The settlement was valued at approximately $17 million.

11. **Sheris v. Nissan North America, Inc.**, 07-cv-2516 (WHW) (U.S. District Ct., D. New Jersey). **Mr. Graifman** and the Firm served as Co-Lead Counsel for the class in this consumer class action against Nissan for alleged brake defect in the 2005 G35x model vehicle. Court certified a New Jersey settlement class which involved reimbursement of the cost of brake and rotor replacement up to $340 per brake replacement.

12. **Jermyn v. Best Buy Stores, L.P.**, 1:08-cv-00214 (CM) (U.S. District Ct., S.D.N.Y.). **Mr. Graifman** and the Firm served as Co-Lead Counsel in this litigated consumer class action certified as a New York consumer class by Hon. Colleen McMahon. The class consisted of Best Buy purchasers who were denied price match guarantees by Best Buy. The matter settled shortly before trial.

13. **Lubitz, et al. v. DaimlerChrysler Corp**., BER-L-4883-04 (New Jersey Superior Court, Bergen Co.) **Mr. Graifman** and the Firm served as Co-Lead Counsel for the class in this

consumer class action against DaimlerChrysler Corp. The Court certified a nationwide settlement class and approved a settlement valued at $14.5 million to owners of Jeep Grand Cherokees, model years 1999 through 2004.

14. **In re Trend Micro Class Action Litigation,** Case No. CV 11-02488 (RMW) (U.S. District Ct., N.D. Calif.). **Mr. Graifman** and the Firm served as Co-Lead Counsel for the class in this consumer class action concerning the failure to provide the remaining time left on current trial subscriptions when the subscriber on the trial subscription converted to a paid subscription. The case was settled in 2013 and Final Approval of the settlement was entered November 15, 2013 by the Court granting subscribers cash refunds or credit towards their future subscriptions and changing the policy of the Company going forward.

15. **In re Symantec Class Action Litig**., 1-05-cv-053711 (Superior Ct., Santa Clara Co.) (Komar, J.). **Mr. Graifman** and the Firm served as Co-Lead counsel in this consumer class action involving the cut-off of subscription time when the subscriber to Norton's anti-virus software renewed or upgraded earlier than the end of the then-current subscription. After the class was certified upon a litigated motion, the matter was settled for a cash payment or a voucher for further use with the anti-virus subscription (at the consumer's option), with the settlement valued in excess of $5 million.

16. **Regina Davis et al. v. Beazer Homes, U.S.A., et al.,** 1:08-cv-00247 (U.S. District Ct., M.D.N.C.). **Mr. Graifman** and the Firm served a Co-Lead Counsel for this class action settled in connection with claims that defendants' seller-funded downpayment assistance program violated REPSA and North Carolina's Unfair & Deceptive Trade Practices Act, resulting in a settlement providing for refunds for the downpayments made by certain defrauded home purchasers.

17. **In re Merck Shareholder Derivative Action,** ATL-L-3406-07 (N.J. Sup. Ct., Atlantic Co.) (Higbee, J.). **Mr. Graifman** and the Firm served as Co-Counsel in this Demand Refused Shareholder Derivative Action regarding the sale, marketing and eventual recall of Vioxx by Merck & Co. The matter was settled for substantial corporate operational and governance improvements. The Settlement was approved in April 2010 by Hon. Carol E. Higbee, P.J. Cv.

18. **In re: Painewebber Limited Partnership Litigation**, 94 Civ. 8547 (SHS) (S.D.N.Y.) In this securities fraud class action, the Court approved a settlement involving a fund of approximately $200 million dollars. This suit was first initiated by KANTROWITZ, GOLDHAMER & GRAIFMAN, P.C. and two other firms in Texas. The case later expanded to cover a multitude of other claims and was settled in a consolidated New York action.

19. **In re NICE Systems, Ltd. Securities Litigation**, Master File No. 2:01cv737 (JAG)(U.S. District Ct., D. New Jersey). **Mr. Graifman** and the Firm served as Liaison Counsel for the class in this securities fraud class action litigation which settled for $10 million dollars and was approved by the Court on April 7, 2003.

20. **Martinez v. District 1199J NEW JERSEY BENEFIT FUND**, et al., Docket No. 97 cv 3381 (WJM) (U.S. District Court, D. New Jersey). **Mr. Graifman** and the Firm served as Lead Counsel in certified class action against Union Benefit Fund in which claims alleging violation of ERISA were upheld. The case was fully litigated to final judgment for the plaintiff class and thereafter, upon execution on the judgment was satisfied with full payment being made to reimburse class members 100% of their losses (Union Members received full reimbursement for all medical bills paid out-of-pocket during the class period).

21. **Lowrance, et al. v. Equinox International Corp.**, 2:99-cv-0969 (D.Nev.). Mr. Graifman and the Firm participated in trying a nationwide consumer class action case in the District of Nevada against multi-level marketing company, Equinox, International Corp. through the entire trial. The matter settled on or about the last day of trial before Judge Johnnie B. Rawlinson, just prior to her elevation to the U.S. Court of Appeals for the Ninth Circuit. The matter was tried with other plaintiffs' counsel, who Mr. Graifman second-seated, and a multi-state Attorney General Task Force and resulted in the liquidation of Equinox and a settlement fund in excess of $30 million to repay Equinox distributors.

22. **In re Pharmaprint, Inc. Securities Litigation**, Master File No. 00cv61 (JAP) (U.S. District Ct., D. New Jersey). The Firm was Co-Lead Counsel for the plaintiff class in this securities fraud class action which settled for $ 2.3 million dollars in connection with claims against defendants.

23. **Birenbaum v. John Hancock Mutual Life Ins. Co.**, L-1957-96 (N.J. Superior Court, Essex Co.). **Mr. Graifman** and the Firm served as Co-Counsel for the class in this securities fraud class action certified and settled as a nationwide class action in New Jersey State Court.

24. **Maizes & Maizes, et al. v. Apple Computer, Inc**., et al. L-13780-95 (N.J. Superior Court, Essex Co.). **Mr. Graifman** and the Firm served as Liaison Counsel in consumer fraud class action pending in New Jersey State Court alleging misrepresentation in the sale of computer monitors by various computer monitor distributors. The action was related to In re: Computer Monitor, Proceeding No. 3158, pending in California Superior, San Francisco County. Joint efforts of negotiation resulted in a settlement which was approved by the California Court. The settlement was valued in excess of $15 million dollars.

25. **Goldberg v. IDM Environmental**, L-11783-96 (N.J. Superior Court, Middlesex Co. 1966) Securities fraud class action in New Jersey state court. Settlement included payment of $1.125 million to nationwide class of shareholders.

26. **Amplidyne, Inc. Securities Litigation**, 99-4468 (D. New Jersey). Securities fraud class action litigation settled, alleging violations of Section 10(b) and Section 20 of the Exchange Act of 1934.

27. **In re: Anadigics Securities Litigation**, 98 Civ. 917 (MLC) (D.N.J.) Securities fraud class action litigation alleging violations of Section 10(b) and Section 20 of the Exchange Act of 1934. The action was settled for approximate $11.75 million dollars.

28. **In re: Interactive Network, Inc. Securities Litigation** (Civ. Action No. 95-0026 (DLJ) (N.D. Cal.). Securities fraud class action litigation alleging violations of Section 10(b) and Section 20 of the Exchange Act of 1934. Nationwide class certified in connection with settlement in the sum of $1.9 million dollars.

29. **In re: Delgratia Mining Corp. Securities Litigation**, MDL Dock. No. 1201 (D. Nev.). Securities fraud class action litigation alleging violations of Section 10(b) and Section 20 of the Exchange Act of 1934. Nationwide class action settled for stock of defendant and distribution of a cash payment.

30. **Dakota Industries, Inc. v. Ever Best Ltd.**, 38 F.3d 910, 31 U.S.P.Q.2d 1355 (8th Cir. (S.D.), July 8, 1994) (No. 93-2723, 93-2765). In this trademark infringement matter, **Mr. Graifman** and the Firm served as lead trial counsel for the defendant, a nationwide jeans distributor. After a three week trial in Sioux Falls, South Dakota, the jury returned a verdict for defendant.

31. **Nu-Life Const. Corp. v. Board of Educ. of City of New York**, 809 F.Supp. 171, 80 Ed. Law Rep. 568 (E.D.N.Y., Nov. 14, 1992) (No. Civ-86-0807) (ADS)). In this major RICO action based on wire fraud, mail fraud and violations of the Hobbs Act, **Mr. Graifman** and the Firm served as sole trial counsel for plaintiffs who alleged that they were subjected to extortion demands by various school construction authority supervisors and inspectors. After a six week jury trial before Judge Spatt, one plaintiff procured a partial settlement and the other received a verdict on their RICO claims against the respective school inspectorial staff members.

32. **Nu-Life Const. Corp. v. Board of Educ. of City of New York, Div. of School Bldgs. of Bd. of Educ. of City of New York**, 795 F.Supp. 602, RICO Bus. Disp. Guide 8035 (E.D.N.Y., June 16, 1992) (No. CV-86-0807 (ADS)). See above description.

33. **Nu-Life Const. Corp. v. Board of Educ. of City of New York**, 789 F.Supp. 103, 75 Ed. Law Rep. 1009, RICO Bus. Disp. Guide 7885 (E.D.N.Y., Dec. 2, 1991) (No. CV-86-0807 (ADS)). See above description.

34. **Dakota Industries, Inc. v. Ever Best Ltd.**, 944 F.2d 438, 20 U.S.P.Q.2d 1158 (8th Cir. (S.D.), Sept. 12, 1991) (No. 91-1036).

35. **Elliot Gould v. Ladenberg Thalman**, 1990 WL 209641, Fed. Sec. L. Rep. P. 95, 667 (S.D.N.Y., Dec. 17, 1990) (No. 90 Civ. 4140 (MBM)). Securities fraud claims litigated on behalf of Elliot Gould against former financial advisors. Case settled before trial.

36. **Sablosky v. Edward S. Gordon Co., Inc.**, 73 N.Y.2d 133, 535 N.E.2d 643, 538

N.Y.S.2d 513, 4 IER Cases 1315 (N.Y., Feb. 21, 1989) (No. 32). Reported case decided by New York Court of Appeals which concerned the scope of contractual obligations and enforcement thereof.

37. **Stephano v. News Group Publications, Inc.**, 64 N.Y.2d 174, 474 N.E.2d 580, 485 N.Y.S.2d 220, 11 Media L. Rep. 1303 (N.Y., Dec. 20, 1984). **Mr. Graifman** litigated this case defining the parameters of right of privacy and right of publicity in the State of New York.

38. **Brooke Shields v. Garry Gross**, 58 N.Y.2d 338, 448 N.E.2d 108, 461 N.Y.S.2d 254, 9 Media L. Rep. 1466 (N.Y., Mar. 29, 1983). **Mr. Graifman** represented fashion photographer, Gary Gross, sued by Brooke Shields relating to scope of the right of privacy and right of publicity in New York. This case of first impression was decided by the New York Court of Appeals, which affirmed the original trial court judgment in favor of photographer.

The following represent examples of recent class action cases in which Mr. Graifman and the Firm served as lead counsel or co-lead counsel and which resulted in decisions officially reported or on Westlaw, that have refined the law in this specialized area. These include **:**

- *In re Volkswagen Timing Chain Prod. Liab. Litig.*, 16-cv-2765 JLL), 2017 WL 1902160 (D.N.J. May 8, 2017);
- *Duncan v. Nissan N. Am., Inc.*, CV 16-12120, 2018 WL 1542052 (D.Mass. Mar. 29, 2018);
- *Seifi, et al. v. Mercedes-Benz USA*, 2014 WL 8370026 (N.D.Ca. Dec. 17, 2014);
- *Seifi, et al. v. Mercedes-Benz USA,* 2013 WL 2285339 (N.D.Ca. May 23, 2013);
- *Seifi, et al. v. Mercedes-Benz USA,* 2013 WL 5568499 (N.D.Ca. Oct. 9, 2015);
- *In re Nissan Radiator Transmission Cooler Litigation,* 2013 WL 4080946 (S.D.N.Y. May 30, 2013) (referred to as "*Nissan Radiator Transmission Cooler Litig.*");
- *In re Nissan Radiator Transmission Cooler Litig.,* 2012 WL 1877306 (S.D.N.Y. May 15, 2012);
- *In re Nissan Radiator Transmission Cooler Litig.,* 2011 WL 7095432 (S.D.N.Y. Dec. 16, 2011);
- *Marshall v. Hyundai Motor America*, 51 F.Supp.3d 451 (S.D.N.Y. Sept. 30, 2014);
- *Haag v. Hyundai Motor America*, 969 F.Supp.2d 313 (W.D.N.Y. Sept. 10, 2013);
- *Wiseberg v. Toyota Motor Corp.*, 2012 WL 1108542 (D.N.J. March 30, 2012);
- *Sheris v. Nissan North America, Inc.*, 2008 WL 2354908 (D.N.J. June 3, 2008).

**Articles, Presentations and Publications**:

Panel Presenter on behalf of the New Jersey Bar Association's Class Action Committee at the N.J. State Bar Association Annual Meeting in Atlantic City, NJ in 2016 on the topic "*Trends in Class Action Litigation.*"

Seminar Presenter at the National Employment Lawyers Association (NELA) Annual Meeting on the subject of class action litigation.

Article*: Supreme Court Decision in Conception v. AT&T: Another Blow to Consumers, U.S. Politics Today, May 12, 2011; Link:* http://uspolitics.einnews.com/247pr/212419.

Quoted in *The New York Times, Sunday Edition,* in the "The Haggler" Column entitles *"How Did This Become A Commitment"* by David Segal (regarding McNair v. Synapse News Group Co., Class Action Litigation). Link: http://www.nytimes.com/2011/10/16/your-money/automatic-magazine-renewal-and -automated-voices.html.

*CCA Treated Wood-- An Emerging Toxic Tort?* By Gary S. Graifman (American Conference Institute 2003) Handout Materials for "Toxic Tort Litigation, Successful Claims and Litigation Strategy" Seminars Conducted March 2003 by American Conference Institute;

*Dealing With Infants In The Modeling Industry-- A Primer for Adults*, by Gary S. Graifman, "Journal of Art And The Law Journal," Vol. 8, No. 1, 1983 (Jointly Published by Columbia University School of Law and Volunteer Lawyers for the Arts) (Discussing the holding of the *Brooke Shields v. Garry Gross* case in which Mr. Graifman served as co-counsel for defendant).

**Professional Accolades**:

- Rated "AV Preeminent" by Martindale-Hubbell;
- 10.0 rating (out of 10.0) with Avvo.com;
- Selected as a "Super Lawyer" by *Super Lawyers Magazine* for the years 2010-2014 and 2016-2018.

**Reginald H. Rutishauser, Esq.**, is a senior associate in the firm of **KANTROWITZ, GOLDHAMER & GRAIFMAN, P.C.** Mr. Rutishauser is primarily involved in complex commercial litigation at the firm and has litigated the prosecution of various class actions. He has been a practicing attorney since 1990. He is admitted to practice before the Courts of New York State, New Jersey, and the United States District Courts for the Eastern District of New York, the Southern District of New York, and the District of New Jersey, as well as the United States Court of Appeals for the Second Circuit. Mr. Rutishauser was admitted as a Certified

Public Accountant in the State of New Jersey. He has a Master's of Science Degree in Taxation from Pace University, and a Bachelors of Arts degree from Colgate University. Mr. Rutishauser is involved in the Firm's consumer and securities class action and shareholder derivative action practice.

**William T. Schiffman, Esq.**, is a senior associate in the firm of **KANTROWITZ, GOLDHAMER & GRAIFMAN, P.C.** Mr. Schiffman received his J.D. degree from Brooklyn Law School in 1974 and is admitted to practice in New York (1975), Texas (1976), and New Jersey (1981). Mr. Schiffman was Law Clerk to the Honorable Woodrow Seals, United States District Judge, Southern District of Texas from 1974-1977. In that position Mr. Schiffman was responsible for preparing decisions and orders on motions as well as observing trials and assisting Judge Seals in preparing finds of fact and conclusions of law.

From 1977-1979, Mr. Schiffman was associated with the law firm of Urban & Coolidge in Houston Texas. Mr. Schiffman's principal practice area was commercial litigation. From 1979 to 1985, Mr. Schiffman was an attorney for AT&T, first in the Long Lines Department in Atlanta, Georgia, and then in company headquarters in New Jersey. Mr. Schiffman's responsibilities were principally in the area of general litigation and the AT&T antitrust litigation prior to divestiture. From 1985 to 1993, Mr. Schiffman was with the law firm of Jacobi & Meyers, first as the managing attorney of several offices, then as New Jersey resident partner in charge of the northern New Jersey offices. The practice was principally in the area of litigation. From 1993 to date, Mr. Schiffman has been associated with Kantrowitz & Goldhamer, P.C., in New York, and its affiliate, Kantrowitz & Goldhamer in New Jersey. Mr. Schiffman's responsibilities are principally in the area of litigation including securities and employment class action, as well as complex contested matrimonial and general commercial litigation.

**Jay I Brody, Esq.** is a commercial litigator with an emphasis in class action litigation, including consumer fraud, automotive defect, and securities and shareholder actions, as well as

commercial litigation. Prior to joining the firm, Mr. Brody served as a law clerk for Justice Miriam Naor, President of the Supreme Court of Israel and the Superior Courts of the State of Connecticut. While in law school, Mr. Brody served as a Student Assistant District Attorney in the Office of the New York County District Attorney, and interned at the New York State Department of Financial Services and United States Department of Justice.

Mr. Brody received his B.S. in accounting from Yeshiva University, and his J.D. from The Benjamin N. Cardozo School of Law in 2013, where he served on the Public Law, Policy and Ethics Journal. He is admitted to practice before the State Courts of New York and New Jersey, and the United States Federal Court in the Southern District of New York, Eastern District of New York, and District of New Jersey.

**Sarah Haque, Esq.** is currently of counsel to Kantrowitz, Goldhamer & Graifman, P.C. with an emphasis in class action litigation. Ms. Haque received a Bachelor's of Commerce from McGill University in Montreal, Quebec, with a minor in Economics. Following her undergraduate experience, she attended State University of New York Buffalo Law School, and graduated in 2014. While in law school, Ms. Haque was an editor for the Buffalo Human Rights Law Review. She was also President of the Labor and Employment Relations Society and Treasurer of the Latin American Law Students Association. Ms. Haque has worked on various class actions with the firm, including the *In re Anthem Data Breach* litigation and the *In re Premera Data Breach* litigation.