

1 ZIMMERMAN REED LLP  
Caleb Marker (SBN 269721)  
2 caleb.marker@zimmreed.com  
Flinn T. Milligan (SBN 323042)  
3 flinn.miligan@zimmreed.com  
Jennifer M. Haidar (SBN 337558)  
4 jennifer.haidar@zimmreed.com  
2381 Rosecrans Avenue, Suite 328  
5 Manhattan Beach, CA 90245  
Telephone (877) 500-8780  
6 Facsimile (877) 500-8781

7 ZIMMERMAN REED LLP  
J. Gordon Rudd, Jr. (*pro hac vice* anticipated)  
8 gordon.rudd@zimmreed.com  
1100 IDS Center  
9 80 South 8th Street  
Minneapolis, MN 55402  
10 Telephone (612) 341-0400  
Facsimile (612) 341-0844

11 *Attorneys for Arsen Altounian*

12  
13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

14 **FOR THE COUNTY OF SAN FRANCISCO**

15 COORDINATION PROCEEDING SPECIAL  
16 TITLE [RULE 3.550]

17 **POSTMATES CLASSIFICATION CASES**

18 *Winns v. Postmates, Inc.*, No. CGC-17-562282  
(San Francisco Superior Court)

19 *Rimler v. Postmates, Inc.*, No. CGC-18-567868  
20 (San Francisco Superior Court.)

21 *Brown v. Postmates, Inc.*, No. BC712974  
(Los Angeles Superior Court)

22 *Santana v. Postmates, Inc.*, No. BC720151  
23 (Los Angeles Superior Court)

24 *Vincent v. Postmates, Inc.*, No. RG19018205  
(Alameda County Superior Court)

25 *Altounian v. Postmates, Inc.*, No. CGC-20-584366  
26 (San Francisco Superior Court)

JUDICIAL COUNCIL COORDINATION  
PROCEEDING NO. 5068

Case No. CJC-20-005068

*Assigned for all purposes to the  
Honorable Suzanne R. Bolanos*

**DECLARATION OF CALEB MARKER IN  
SUPPORT OF MOTION FOR ATTORNEYS'  
FEES AND COSTS**

Date: November 3, 2021  
Time: 2:00 PM  
Department: 304

1 I, Caleb Marker, declare and state as follows:

2 1. I am an attorney at law duly licensed to practice law in the state of California. I have been  
3 a member in good standing of the State Bar of Michigan since 2007, the District of Columbia Bar since  
4 2009, the State Bar of California since 2010, the State Bar of Texas since 2017, and the State Bar of  
5 Washington since 2020. I am a partner at the law firm of Zimmerman Reed LLP (“ZR”), and am one of  
6 the attorneys representing Arsen Altounian (“Altounian”), in this action. I submit this declaration in  
7 support of Motion for An Award of Attorneys’ Fees and Costs. I have personal knowledge of the  
8 statements contained herein and if called as a witness, I could and would testify competently thereto.

9 **A. Adequacy of Representation and Class Action Experience**

10 2. I graduated from Michigan State University in 2004 and Michigan State University’s  
11 College of Law in 2007. Prior to joining ZR as a partner in 2015, I practiced in an of counsel basis at  
12 the law firm of Ridout Lyon + Ottoson (“RLO”). Prior to joining RLO’s predecessor in 2010, I practiced  
13 consumer protection law at the Consumer Law Center in East Lansing, Michigan from 2007 to 2010.

14 3. I am active in a number of legal organizations, including the Los Angeles County Bar  
15 Association where I have served on the Litigation Executive Committee and Access to Justice  
16 Committee, the goal of which is to maximize the delivery of legal services to the poor and encourage  
17 attorneys to provide free legal services to those in need of such services. In addition to LACBA, I am  
18 also an active member of Duke Law School’s Center for Judicial Studies and have worked as the lead  
19 plaintiff-side contributor on a best practices guide for electronic notice of class action and mass tort  
20 settlements, which included contributions from members of the state and federal judiciaries and was  
21 published in the Center’s *Judicature* publication. I have been selected by Southern California Super  
22 Lawyers Magazine as a Rising Star from 2015 to the present. A more detailed version of my professional  
23 background is available online at: <https://www.zimmreed.com/people/caleb-marker/>.

24 4. My entire career as an attorney has focused on employment misclassification and unfair  
25 business practices and I have always maintained a *pro bono* practice. My practice has continuously  
26 focused on serving as class counsel in a variety of different types of class actions including, but not  
27 limited to, those involving wage and hour law violations, consumer fraud, deceptive trade practices, and  
28 mortgage and banking law violations.

1           5.       For more than a decade, I have been found to be qualified to serve as class counsel by  
2 other courts on several occasions. No court has ever determined that I was inadequate to serve as class  
3 counsel. During that time, Zimmerman Reed has represented countless workers in numerous cases  
4 challenging their misclassification and other related employment claims.

5           6.       In 2016, I tried the first merits arbitration against a gig-economy company in *Eisenberg*  
6 *v. Uber Technologies, Inc.* under the then-applicable *Borello* standard. I have continued to represent  
7 misclassified gig-economy workers against companies such as Uber, Lyft, DoorDash, Postmates, and  
8 Grubhub under ever-evolving legal tests governed by *Borello*, *Dynamex*, AB5, and now Proposition 22.

9           7.       On November 20, 2020, Judge Daniel Buckley appointed me as a class counsel and  
10 certified the contested class action in *Seltzer v. GHP Management, et al.* (LASC 18STCV07828) for  
11 litigation purposes. In his order, Judge Buckley noted “The Court further finds class counsel to be  
12 experienced, accomplished, competent, and therefore adequate. See Maya Decl. ¶¶ 11-13; Marker Decl.  
13 ¶¶ 1-13.” Order dated Nov. 20, 2020.

14           8.       In 2017, I was appointed to the plaintiff’s steering committee by U.S. District Judge  
15 James Browning in multidistrict litigation captioned *In Re: Santa Fe Natural Tobacco Company*  
16 *Marketing and Sales Practices Litigation* (MDL 2695) currently pending in the U.S. District Court for  
17 the District of New Mexico in Albuquerque, New Mexico. The Santa Fe MDL was the subject of an in-  
18 depth article published by Bloomberg Businessweek in an article entitled “Nature’s Cancer Sticks:  
19 American Spirits Long, Strange Trip to Court” available at [https://www.bloomberg.com/features/2016-](https://www.bloomberg.com/features/2016-natural-american-spirit-cigarettes/)  
20 [natural-american-spirit-cigarettes/](https://www.bloomberg.com/features/2016-natural-american-spirit-cigarettes/). Plaintiffs’ motion for class certification, which involved forty hours  
21 of live expert testimony and oral argument, has been pending in the Santa Fe MDL since December  
22 2020.

23           9.       I served as one of the principal attorneys in a consumer class action involving defective  
24 recreational vehicle refrigerators that had a propensity to develop leaks and cause fires. Before  
25 negotiating a settlement, ZR reviewed more than 166,000 documents, took and defended countless  
26 depositions, and retained specialized experts. In 2016, U.S. District Judge Staton granted final approval  
27 of a class action settlement in that case where \$36 million was distributed to more than 45,000 consumers  
28 who submitted claims. *See, e.g., Etter v. Norcold, Inc.*, No. SACV1300081JLSRNB, Doc. 539 (October

1 24, 2016) and *Etter v. Thetford Corp.*, No. SACV1300081JLSRNB, 2017 WL 1433312, at \*1 (C.D. Cal.  
2 Apr. 14, 2017).

3 10. I served as lead counsel in the case of *Longest v. Green Tree Servicing LLC* in the U.S.  
4 District Court for the Central District of California. After moving for class certification, Judge Snyder  
5 determined that plaintiff needed expert testimony to confirm that identifying individual class members  
6 was administratively feasible. *Longest v. Green Tree Servicing LLC*, 308 F.R.D. 310 (C.D. Cal. 2015).  
7 After securing expert testimony and renewing our motion for class certification, we were able to  
8 negotiate a \$46 million global settlement against Green Tree Servicing and Assurant with co-counsel in  
9 Miami. *See, e.g., Circeo-Loudon v. Green Tree Servicing, LLC*, No. 14-21384-CIV-MORENO, 2014  
10 WL 4219587, at \*1 (S.D. Fla. Aug. 25, 2014). Ultimately, we returned 12.5% of all premiums paid by  
11 mortgage borrowers (more than 175,000 were notified of the settlement), representing significant relief  
12 for homeowners and close to half the damages incurred by the Class.

13 11. I led a class action against the City of Los Angeles and Xerox that drew significant media  
14 attention, trying the case to verdict in 2014 before Judge Chalfant and obtaining a judgment that now  
15 requires the City to end its decades-long outsourcing of the City's parking violations bureau in a case  
16 that will help over a hundred thousand motorists in Los Angeles over the next few years. My co-counsel  
17 and I later defended the trial court's verdict on appeal, resulting in a unanimous opinion fully affirming  
18 the trial court's verdict and fee award and multiplier enhancement under the private attorney general  
19 doctrine. *Weiss v. City of Los Angeles*, 2 Cal. App. 5th 194 (Ct. App. 2016), review denied (Nov. 22,  
20 2016).

21 12. I served as class counsel and the primary plaintiff's attorney in *Michigan Finance*  
22 *Authority v. Kiebler et al.*, a class-action counterclaim alleging that the Michigan Finance Authority, a  
23 division of the Michigan Treasury, breached thousands of student loan contracts by terminating a zero  
24 percent payment incentive during the financial crisis of 2008. Originally filed as a declaratory relief  
25 action in state court, my co-counsel and I successfully represented a class of student loan borrowers  
26 against the State's motion for summary adjudication and defended the result on appeal to the Michigan  
27 Court of Appeals and Supreme Court. *See Michigan Fin. Auth. v. Kiebler*, 495 Mich. 874, 837 N.W.2d  
28 685 (2013). Ultimately, we secured the first class-action settlement in Michigan's new Court of Claims

1 (formed during the pendency of the litigation) and obtained final approval of an \$11.5 million settlement  
2 benefiting more than 60,000 borrowers.

3 13. In 2012, my partner, Gordon Rudd, was appointed to the executive committee for *In re*  
4 *FedEx Ground Package System, Inc.*, MDL 1700, 283 F.R.D. 427 (N.D.Ind. 2012). That case involved  
5 the representation of FedEx Ground drivers improperly classified as independent contractors in the  
6 multi-district litigation proceeding. Due to the executive committee's efforts, drivers were able to  
7 negotiate various class settlements exceeding \$400 million.

8 14. My first appointment as class counsel was by U.S. District Judge Virginia Phillips in the  
9 employment misclassification case captioned *Trauth v. Spearmint Rhino Companies Worldwide, Inc.*,  
10 No. EDCV091316VAPDTBX, 2011 WL 13134046, at \*9 (C.D. Cal. Apr. 4, 2011).

11 15. The Zimmerman Reed LLP law firm, with offices in Minneapolis, Minnesota, Los  
12 Angeles, California, and Scottsdale, Arizona, has extensive experience in the prosecution, trial, and  
13 settlement administration of a broad range of class actions and other types of complex litigation.  
14 Attached hereto as **Exhibit A** is the firm's leadership resume reflecting its role as lead or liaison counsel  
15 in MDLs, steering committee or sub-committee positions in MDLs, and lead counsel in class action  
16 lawsuits. I currently work out of the firm's California office.

17 16. Neither Altounian nor our firm has any conflicts of interest with any Class Members.

18 17. I respectfully believe that the foregoing facts establish that Zimmerman Reed LLP and I  
19 have the requisite experience and qualifications to have contributed meaningfully to this case on behalf  
20 of our client and class members and are entitled to a fee award in this case.

21 **B. Zimmerman Reed's Contributions to the Instant Litigation**

22 18. Arsen Altounian ("Altounian") and Altounian's counsel, Zimmerman Reed LLP  
23 ("Zimmerman Reed") (collectively, "Proposed Intervenors") opposed preliminary approval of a  
24 proposed class action settlement of this matter first presented on October 8, 2019 in *Rimler v. Postmates,*  
25 *Inc.*, No. CGC-18-567868 (S.F. Super. Ct. July 5, 2018) ("*Postmates I*"). After years of revisions, the  
26 parties abandoned the *Postmates I and II* settlements and filed the operative *Postmates III* Settlement in  
27 this coordinated proceeding. Proposed Intervenors raised numerous objections to the original settlement.  
28

1 The proposed *Postmates III* Settlement now before this Court is vastly improved in significant part due  
2 to the continued concerns raised by Altounian and Zimmerman Reed.

3 19. Proposed Intervenors support final approval of the *Postmates III* Settlement and  
4 respectfully suggest that their early opposition to and identification of issues of the proposed *Postmates*  
5 *I* Settlement laid the groundwork for this improved *Postmates III* Settlement. Prompted by objections  
6 first made by Proposed Intervenors, Plaintiffs and Class Counsel have revised and submitted two prior  
7 proposed settlements (the *Postmates I – II* Settlements) before seeking approval of the *Postmates III*  
8 Settlement now before this Court.

9 20. In general, the *Postmates III* Settlement increased the total value of the settlement from  
10 \$11.5 million to \$32 million (a \$20.5 million increase), provides for attorneys’ fees of \$10.67 million,  
11 service awards of \$5,000 for each named plaintiff, and an allocation of \$4 million for violations of the  
12 Private Attorney General Act (“PAGA”) (vastly increased from the original allocation of \$250,000 in  
13 the *Postmates I* Settlement).

14 21. To date, Zimmerman Reed has incurred a total of \$1,084,595.50 in attorneys’ fees  
15 advancing couriers’ rights in litigation and arbitration against Postmates over the past two years. This  
16 lodestar arguably provided much of the catalyst for the *Postmates III* Settlement by incentivizing  
17 Defendant to seek a cost-effective, class release to free it of the heavy burden of defending thousands of  
18 arbitrations filed by Zimmerman Reed and other firms. This effort is illustrated through periodic  
19 appearances to monitor the *Rimler* case and Class Counsel’s efforts to seek recognition for the *Postmates*  
20 *III* Settlement that resulted from Zimmerman Reed’s efforts in *Rimler*.

21 22. Attached hereto as **Exhibit B** is a chart summarizing our firm’s hours and rates for each  
22 attorney that worked in this matter.

23 **C. Procedural History**

24 23. The current *Postmates III* Settlement has a lengthy history that began in 2018. Plaintiffs  
25 originally sued Defendant on July 5, 2018, alleging only PAGA violations claiming that Postmates  
26 misclassified them as independent contractors. *See Rimler v. Postmates*, No. CGC-18-567868 (S.F.  
27 Super. Ct. July 5, 2018). Postmates unsuccessfully moved to compel arbitration and then sought  
28 appellate review of that order. Pending the appeal, the court granted Defendant’s motion to stay

1 proceedings. While the case was stayed, the parties engaged in mediation and ultimately settled the  
2 dispute, resulting in the first settlement (the “*Postmates I* Settlement”). Class Counsel described the  
3 *Postmates I* Settlement for \$11.5 million as “fair, reasonable, adequate, in the best interests of the  
4 Plaintiffs and the Settlement Class, and confers substantial benefits upon the Settlement Class.” Liss-  
5 Riordan Decl. 6:8-9, Oct. 8, 2019. Prompted by objections from Zimmerman Reed, the revisions began  
6 and eventually led Class Counsel to seek approval of their renegotiated settlement.

7 **1. The *Postmates I* Settlement—October 8, 2019**

8 Shannon Liss-Riordan (“Class Counsel”) moved for preliminary approval of the *Postmates I*  
9 Settlement on October 8, 2019 in the San Francisco Superior Court. The *Postmates I* Settlement  
10 allocated \$11.5 million to the Settlement Fund, \$250,000 for settlement of PAGA claims, \$3.83 million  
11 for attorneys’ fees, and service awards of \$5,000 per named plaintiff. After reviewing the proposed  
12 *Postmates I* Settlement, Proposed Intervenors objected and moved to intervene in order to protect the  
13 rights of putative class members.

14 **2. Proposed Intervenors Opposition to Preliminary Approval of the *Postmates I***  
15 **Settlement**

16 Proposed Intervenors opposed preliminary approval on October 15, 2019, and raised the  
17 following concerns:

- 18 • *Postmates I* did not apply *Dynamex* and California Assembly Bill 5 in analyzing the value  
19 of claims in the settlement;
- 20 • Class Counsel did not conduct a *Kullar* analysis regarding the release of approximately sixty  
21 claims but analyzing only one of any significant value;
- 22 • The settlement released Fair Labor Standards Act (“FLSA”) claims on an opt-out basis in  
23 violation of the opt-in procedures set forth in 29 U.S.C. § 216(b), resulting in the release of  
24 federal employment rights;
- 25 • The proposed class notice was confusing because it failed to mention the FLSA or any federal  
26 claim and led members to believe that if they did not file a claim, they would not be able to  
27 participate in the settlement; and
- 28 • The settlement offered minimal PAGA relief.

1 On November 22, 2019, Zimmerman Reed appeared at the hearing on the Motion for Preliminary  
2 Approval and Motion to Intervene.

3 **3. The Court Denied Preliminary Approval of the *Postmates I* Settlement Citing the**  
4 **Deficiencies Raised by Proposed Intervenors**

5 On November 22, 2019, the court issued the first tentative ruling denying preliminary approval  
6 and required the parties to submit supplemental briefing. The court’s tentative ruling closely followed  
7 the objections made by Proposed Intervenors:

- 8 • Class Counsel was ordered to justify Class Counsel’s ability to release FLSA claims for class  
9 members on an opt-out basis;
- 10 • Plaintiffs were ordered to submit declarations in order to prove that they are representative  
11 of the class;
- 12 • Class Counsel was ordered to outline the maximum value of all the class claims and PAGA  
13 claims or the bases for Class Counsel’s valuation;
- 14 • Class Counsel was ordered to explain whether the PAGA discount was reasonable and was  
15 ordered to submit more information regarding the valuation of civil penalties;
- 16 • Class Counsel was ordered to disclose in detail the “substantial data” received prior to  
17 mediation and the *Albert* discovery;
- 18 • Class Counsel was ordered to explain why the dispute resolution fund did not compensate  
19 for payments under the \$450,000 set aside for claims administration;
- 20 • Class Counsel was ordered to comply with notice requirements under Cal. Lab. Code §  
21 2699(1)(2).;
- 22 • Class Counsel was ordered to address other notice issues such as the unclear  
23 exclusion/objection deadline, the exclusion of all payments from IRS reporting requirements,  
24 and why attorneys could not opt out on behalf of their clients, among other concerns;
- 25 • Class Counsel was ordered to address why the distribution formula failed to estimate the  
26 specific damages for each class member, doubled the points under the settlement agreement  
27 for class members who opted out of arbitration, and did not give estimations of the number  
28 of class members expected to receive payments; and



- Class Counsel was ordered to address the broad release of claims and the justification for the increase service awards.

A comparison of both Proposed Intervenors' objection and the court's tentative ruling shows that the court adopted many of the exact arguments first raised by Proposed Intervenors only four months earlier. Aside from the specific requests for declarations from named plaintiffs, all of the objections in the tentative ruling mirrored Proposed Intervenors' objection. The court's concerns over Class Counsel's analysis of claims, the PAGA discount of 0.09% % of the potential PAGA value, the proposal to double the mileage credit of class members who opt-out of arbitration, the issues with class notice, and the release of FLSA claims for class members who do not submit a claim form are the same as the critiques Zimmerman Reed presented. This tentative ruling served as the template for all future tentative rulings regarding settlement approval. On January 15 and April 28, 2020, Plaintiffs and Class Counsel submitted supplemental briefing in support of the *Postmates I* Settlement. During this period, Class Counsel and Defendant amended *Postmates I* to increase the total settlement fund to \$11.9 million, increasing the PAGA allocation to \$500,000, and amending the FLSA release to require an opt-in procedure.

The court issued a tentative ruling on April 29, 2020, continuing the hearing and echoing its earlier concerns that were first raised by Proposed Intervenors.

The court issued a further Order on May 5, 2020, and on June 17, 2020, the court issued an Order denying Plaintiff's motion for preliminary approval of the *Postmates I* Settlement.

#### **4. The *Postmates II* Settlement—December 14, 2020**

Class Counsel moved again for preliminary approval (the "*Postmates II* Settlement") on December 14, 2020. In between the *Postmates I and II* Settlements, the JCCP ordered the *Rimler* case coordinated with other actions (JCCP No. 5068) against Postmates and ordered the Presiding Judge to assign a coordination judge on July 23, 2020.

The *Postmates II* Settlement addressed many, if not all, of the concerns raised by Proposed Intervenors. This included adding \$20.5 million to the settlement for a total of \$32 million and a PAGA allocation of \$4 million. Class Counsel lauded this settlement saying that, "we were able to negotiate a revised settlement that nearly tripled the previous settlement." Liss-Riordan Decl. 3:10-11(Dec. 14, 2020).

1 Despite incorporating many substantive changes, the court still required that the parties make  
2 minor edits on July 23, 2021.

3 **5. The *Postmates III* Settlement—August 12, 2021**

4 The settlement was revised again (the “*Postmates III* Settlement”) and submitted on August 12,  
5 2021. The *Postmates III* Settlement before this Court is largely similar to the *Postmates II* Settlement  
6 but also includes changes to the notice procedures as outlined in the July 23, 2021 Order. The current  
7 settlement is a remarkable improvement and has long since addressed the concerns we previously raised.

8 **D. Relevant Exhibits**

9 24. Attached hereto as **Exhibit A** is a true and correct copy of Zimmerman Reed LLP’s  
10 leadership resume reflecting its experience as lead or liaison counsel in MDLs, with membership in  
11 steering committees and subcommittees in MDLs, and as lead counsel in class action lawsuits.

12 25. Attached hereto as **Exhibit B** is a chart summarizing our firm’s hours and rates for each  
13 attorney that worked in this matter.

14 26. Attached hereto as **Exhibit C** is the Declaration of Arsen Altounian.

15  
16 I declare under penalty of perjury that the foregoing is true and correct. Executed this 8<sup>th</sup> day of  
17 October, 2021 at Los Angeles, California.

18 

19 \_\_\_\_\_  
Caleb Marker

# **EXHIBIT A**

ZIMMERMAN | REED  
— FIRM RESUME

MINNEAPOLIS

Zimmerman Reed LLP  
1100 IDS Center  
80 South 8th Street  
Minneapolis, MN 55402  
t: 612.341.0400  
zimmreed.com

LOS ANGELES

Zimmerman Reed LLP  
2381 Rosecrans Avenue  
Suite 328  
Manhattan Beach, CA 90245  
t: 877.500.8780  
zimmreed.com

SCOTTSDALE

Zimmerman Reed LLP  
14646 North Kierland Blvd  
Suite 145  
Scottsdale, AZ 85254  
t: 480.348.6400  
zimmreed.com

## FIRM PRACTICE AND ACHIEVEMENTS

Zimmerman Reed is a nationally recognized leader in complex and class action litigation and has been appointed as lead counsel in some of the largest and most complex cases in federal and state courts across the country. The firm was founded in 1983 and has successfully represented thousands of consumers and injured individuals nationwide in significant and demanding cases. The firm's practice includes a wide range of legal issues and complex cases involving consumer fraud, ERISA, shareholder actions, environmental torts, pharmaceutical drugs, dangerous or defective products, human rights violations, and privacy litigation. Since 2010, Zimmerman Reed has earned a "Best Law Firm" ranking released by U.S. News & World Report.

The following are just a few of the firm's notable achievements:

Co-Lead Counsel in the *Baycol Products Liability Litig.* (D. Minn.), seeking recovery for serious injuries from the use of Bayer's statin, Baycol. Achieved \$1.15 billion settlement.

Lead Counsel Committee member in the *Stryker Rejuvenate & ABG II Hip Implant Products Liability Litig.* (D. Minn.), seeking compensation for recalled Stryker hip replacements. Achieved in excess of \$1.4 billion settlement.

Co-Lead Counsel in the *Guidant Corp. Implantable Defibrillators Products Liability Litig.* (D. Minn.), arising out of malfunctions in cardiac defibrillators implanted in patients. Achieved \$230 million settlement.

Class and Derivative Counsel in the *Regions Morgan Keegan Securities, Derivative and ERISA Litig., Landers v. Morgan Asset Mgmt.* (W.D. Tenn.), alleging violations of federal securities laws and breach of fiduciary duty due to the collapse of Regions Morgan Keegan open-end funds. Achieved \$125 million settlement.

Class Counsel in *Soo Line R.R. Co. Derailment of Jan. 18, 2002 in Minot, N.D.* (Hennepin Cty. Dist. Ct.), representing hundreds of individuals injured by the release of anhydrous ammonia. Obtained a \$1.2 million jury verdict. Achieved a \$7 million class settlement and assisted congressional leaders in drafting and passing amendments to the Federal Railroad Safety Act, clarifying the scope of railroad preemption law.

Lead Counsel for the State of Mississippi in *Mississippi ex rel. Hood v. AU Optronics*, 571 U.S. 161 (2014), resulting in a unanimous U.S. Supreme Court decision reversing a Fifth Circuit decision, resolving a circuit split, and establishing binding law across the country that a State's enforcement action is not removable to federal court as a mass action.

Co-Lead Counsel in *Medtronic Implantable Defibrillators Products Liability Litig.* (D. Minn.), seeking recovery for more than 2,682 patients with recalled Medtronic heart defibrillators. Achieved a \$95.6 million settlement.

Class Counsel in *City of Farmington Hills Employees Retirement System v. Wells Fargo Bank, N.A.* (D. Minn.), to recover losses caused by the bank's mismanagement of its securities lending program. Achieved a \$62.5 million settlement, two days before trial.

Lead Counsel in *Dryer v. National Football League* (D. Minn.), arising out of the unauthorized use of retired NFL players' identities to generate revenue. Achieved a \$50 million settlement and created a ground-breaking program which allowed retired players the opportunity to benefit from the League's use of their images and allowed the League an opportunity to build its marketing using film clips of these former players.

Lead Counsel in *Target Corporation Customer Data Security Breach Litig.* (D. Minn.), to recover financial institutions' losses from the company's massive 2013 data breach. Achieved a \$39 million settlement.

Class Counsel in *The Shane Group Inc. v. Blue Cross Blue Shield of Michigan* (E.D. Mich.), against insurance carrier for violations of antitrust laws from contractually requiring hospitals to charge higher prices to competitors. Achieved a \$30 million settlement (pending final approval).

Lead Counsel in *Zicam Remedy Marketing, Sales Practices & Products Liability Litig.* (D. Ariz.), seeking to recover for customers' loss of the sense of smell from using Zicam Cold Remedy Nasal Gel. Achieved \$27 million settlement.

Counsel for third-party payor in *In re Metoprolol Succinate End-Payor Antitrust Litig.* (D. Del.), alleging that the manufacturing and marketing of the heart drug, Toprol-XL, violated antitrust and deceptive trade practices laws. Achieved \$20 million settlement.

Class Counsel in *Weincke v. Metropolitan Airports Commission* (Hennepin Cty. Dist. Ct.), regarding excessive noise levels from the Minneapolis-St. Paul International Airport. Achieved settlement to provide noise mitigation to more than 9,500 homeowners.

#### **ACKNOWLEDGMENT OF THE FIRM'S WORK**

Federal and state judges as well as legal scholars have consistently recognized the quality and impact of the firm's work on numerous occasions. Below are just a few examples.

"To summarize: class counsel recovered over ten times what is recovered in the typical case of this kind despite risks and complexities much more formidable than the typical case." Brian Fitzpatrick, Law Professor at Vanderbilt University and former clerk to Justice Scalia, expert in *In re Region Morgan Keegan Securities, Derivative and ERISA Litig., Landers v. Morgan Asset Mgmt.* (W.D. Tenn.)

"Fortunately for the absent class members, experienced counsel ... negotiated a settlement that is truly one-of-a-kind, and a remarkable victory for the class as a whole." Judge Paul Magnuson, *Dryer v. National Football League* (D. Minn.)

"I think no one can question your leadership in this matter. Again, thank you, and I say again it was the best decision I have ever made." Judge Michael Davis (former Chief Judge), *In re Baycol Products Liability Litig.* (D. Minn.)

"[S]uperior work the court observed from the firm throughout this litigation." Judge Donovan Frank, *In re Guidant Corp. Implantable Defibrillators Products Liability Litig.* (D. Minn.)

“The parties were represented by highly skilled and experienced counsel, who were extremely knowledgeable and clearly had spent a considerable amount of time developing the law and facts in this complex litigation.” Judge Layn Phillips (ret.), mediator in *In re Region Morgan Keegan Securities, Derivative and ERISA Litig., Landers v. Morgan Asset Mgmt.* (W.D. Tenn.)

It is “clear of the dedication, devotion, professionalism, and in the court’s view efficiency of these firms, so there is no question in the court’s mind of the quality of the representation.” Judge Deborah Batts, *In Re American Express Financial Advisors Securities Litig.* (S.D.N.Y.)

“Here, there is no doubt that the class has had competent counsel .... It’s been a pleasure ... to have counsel of this quality on both sides. I wish you would together go out and teach seminars about class action litigation. It would make my life a lot easier.” Judge Isabel Gomez, *Edwards v. Long Beach Mortgage Co.* (Hennepin Cty. Dist. Ct.)

“The reputation and experience of [Zimmerman Reed and co-counsel] to conduct class litigation of this nature is outstanding, and the record reflects that both law firms have successfully prosecuted numerous class actions in Minnesota courts and throughout the United States. The quality of representation in this case has been excellent, and the two firms are eminently qualified to serve as class counsel.” Judge Lloyd Zimmerman, *Holdhal v. BioErgonomics* (Hennepin Cty. Dist. Ct.)

## **REPRESENTATIVE LEADERSHIP POSITIONS**

**Zimmerman Reed has been appointed Lead or Liaison Counsel in the following MDLs:**

*CenturyLink Residential Customer Billing Disputes Litig.*, MDL 2795

*National Hockey League Players’ Concussion Injury Litig.*, MDL 2551

*Target Corporation Customer Data Security Breach Litig.*, MDL No. 2522

*Stryker Rejuvenate and ABG II Hip Implant Products Liability Litig.*, MDL 2441

*National Arbitration Forum Trade Practices Litig.*, MDL 2122

*Zicam Cold Remedy Marketing, Sales Practices, and Products Liability Litig.*, MDL 2096

*Northstar Education Finance, Inc. Contract Litig.*, MDL 1990

*Zurn Pex Plumbing Products Liability Litig.*, MDL 1958

*Levaquin Products Liability Litig.*, MDL 1943

*Medtronic, Inc. Sprint Fidelis Leads Products Liability Litig.*, MDL 1905

*Medtronic Implantable Defibrillators Products Liability Litig.*, MDL 1726

*Viagra Products Liability Litig.*, MDL 1724

*Guidant Corp. Implantable Defibrillators Products Liability Litig.*, MDL 1708

*Pacquiao-Mayweather Boxing Match Pay-Per-View Litig.*, MDL 2639

*Medco Health Solutions, Inc., Pharmacy Benefits Management Litig.*, MDL 1508

*Baycol Products Liability Litig.*, MDL 1431

*St. Jude Medical, Inc. Silzone Heart Valves Products Liability Litig.*, MDL 1396

*Mortgage Escrow Deposit Litig.*, MDL 899

**Zimmerman Reed has been appointed to the Plaintiffs' Executive Committee, Steering Committee, or Sub-Committees in the following MDLs:**

*Apple Inc. Device Performance Litig.*, MDL 2827  
*Dicamba Herbicides Litig.*, MDL 2820  
*Equifax, Inc. Customer Data Security Breach Litig.*, MDL 2800  
*Fieldturf Artificial Turf Marketing Practices Litig.*, MDL 2779  
*Stryker Orthopaedics LFIT V40 Femoral Head Products Liability Litig.*, MDL 2768  
*Abilify Products Liability Litig.*, MDL 2734  
*Vizio, Inc. Consumer Privacy Litig.*, MDL 2693  
*Viagra and Cialis Products Liability Litig.*, MDL 2691  
*The Home Depot, Inc., Customer Data Security Breach Litig.*, MDL 2583  
*LifeTime Fitness, Inc., Telephone Consumer Protection Act (TCPA) Litig.*, MDL 2564  
*National Collegiate Athletic Association Student-Athlete Concussion Litig.*, MDL 2492  
*H&R Block IRS Form 8863 Litig.*, MDL 2474  
*Biomet M2A Magnum Hip Implant Products Liability Litig.*, MDL 2391  
*National Football League Players' Concussion Injury Litig.*, MDL 2323  
*Building Materials Corp. of America Asphalt Roofing Shingle Products Litig.*, MDL 2283  
*Zimmer NexGen Knee Implant Products Liability Litig.*, MDL 2272  
*Uponor, Inc., F1807 Plumbing Fittings Products Liability Litig.*, MDL 2247  
*DePuy Orthopaedics, Inc., ASR Hip Implant Products Liability Litig.*, MDL 2197  
*Apple iPhone "MMS" Sales Practices Litig.*, MDL 2116  
*Digitek Products Liability Litig.*, MDL 1968  
*Fedex Ground Package System, Inc., Employment Practices Litig.*, MDL 1700  
*Bextra and Celebrex Marketing Sales Practices and Product Liability Litig.*, MDL 1699  
*Celebrex and Bextra Products Liability Litig.*, MDL 1694  
*Vioxx Products Liability Litig.*, MDL 1657  
*Neurontin "Off-Label" Marketing Litig.*, MDL 1629  
*Zyprexa Products Liability Litig.*, MDL 1596  
*Welding Rods Products Liability Litig.*, MDL 1535  
*Meridia Products Liability Litig.*, MDL 1481  
*Serzone Products Liability Litig.*, MDL 1477  
*Sulzer Inter-Op Orthopedic Hip Implant Litig.*, MDL 1401  
*Propulsid Products Liability Litig.*, MDL 1355  
*Rezulin Products Liability Litig.*, MDL 1348  
*Diet Drugs Products Liability Litig.*, MDL 1203  
*Telectronics Pacing Systems, Inc. Accufix Atrial "J" Lead Products Liability Litig.*, MDL 1057  
*Orthopedic Bone Screw Products Liability Litig.*, MDL 1014  
*Silicone Gel Breast Implant Products Liability Litig.*, MDL 926

**Representative cases in which Zimmerman Reed has served as Class or Lead Counsel:**

*Adams v. DPC Enterprises, LP* (Jefferson Cty. Cir. Ct., Mo.)  
*Adedipe v. U.S. Bank, N.A.* (D. Minn.)  
*AI Plus, Inc. and IOC Distrib., Inc. v. Petters Group Worldwide* (D. Minn.)  
*Arby's Restaurant Group, Inc., Data Security Litig.* (N.D. Ga.)  
*Castano Tobacco Litig.* (E.D. La.)  
*City of Farmington Hills Emps. Ret. Sys. v. Wells Fargo Bank, N.A.* (D. Minn.)



*City of Tallahassee Pension Plan v. Insight Enterprises, Inc.* (Maricopa Cty. Super. Ct., Ariz.)  
*Cooksey v. Hawkins Chemical Co.* (Henn. Cty. Dist. Ct., Minn.)  
*Coyle v. Flowers Food and Holsum Bakery* (D. Ariz.)  
*Cuff v. Brenntag North America, Inc.* (N.D. Ga.)  
*Daud v. Gold'n Plump Poultry, Inc.* (D. Minn.)  
*DeKeyser v. ThyssenKrupp Waupaca, Inc.* (E.D. Wis.)  
*Dockers Roundtrip Airfare Promotion Sales Practices Litig.* (C.D. Cal.)  
*Doe v. Cin-Lan, Inc.* (E.D. Mich.)  
*DeGrise v. Ensign Group, Inc.* (Sonoma Cty. Super. Ct., Cal.)  
*Dryer v. National Football League* (D. Minn.)  
*Ebert v. General Mills, Inc.* (D. Minn.)  
*First Choice Fed. Credit Union v. The Wendy's Co.* (W.D. Pa.)  
*Frank v. Gold'n Plump Poultry, Inc.* (D. Minn.)  
*Garner v. Butterball, LLC* (E.D. Ark.)  
*GLS Companies v. Minnesota Timberwolves Basketball LP* (Henn. Cty. Dist. Ct., Minn.)  
*Haritos v. American Express Financial Advisors* (D. Ariz.)  
*Helmert v. Butterball, LLC* (E.D. Ark.)  
*Kurvers v. National Computer Systems, Inc.* (Henn. Cty. Dist. Ct., Minn.)  
*Martin v. BioLab, Inc.* (N.D. Ga.)  
*McGruder v. DPC Enterprises, LP* (Maricopa Cty. Super. Ct., Ariz.)  
*Mehl v. Canadian Pacific Railway* (D.N.D.)  
*Milner v. Farmers Insurance Exchange* (D. Minn.)  
*Patlan, et al. v. BMW of North America, LLC* (D.N.J.)  
*Ponce v. Pima County* (Maricopa Cty. Super. Ct., Ariz.)  
*Regions Morgan Keegan [Landers v. Morgan Asset Mgmt.]* (W.D. Tenn.)  
*Russo v. NCS Pearson, Inc.* (D. Minn.)  
*Sanders v. Norfolk Southern Corporation* (D.S.C.)  
*Scott v. American Tobacco Co.* (Civ. Dist. Ct. Parish of New Orleans, La.)  
*Soo Line R.R. Co. Derailment of Jan. 18, 2002 in Minot, N.D.* (Henn. Cty. Dist. Ct., Minn.)  
*Soular v. Northern Tier Energy, LP* (D. Minn.)  
*State of Mississippi v. AU Optronics Corp.* (Rankin Cty. Ch. Ct., Miss.)  
*State of New Mexico v. Visa, Inc.* (Santa Fe Cty., N.M.)  
*Trauth v. Spearmint Rhino Companies Worldwide, Inc.* (C.D. Cal.)  
*Weincke v. Metropolitan Airports Commission* (Henn. Cty. Dist. Ct., Minn.)  
*Zicam Product Liability Cases* (Maricopa Cty. Super. Ct., Ariz.)

## **ZIMMERMAN REED PARTNERS**

**Carolyn G. Anderson** is a Managing Partner at Zimmerman Reed. She is co-chair of the Public Client & Attorney General practice and leads the firm's Securities & Financial Fraud practice group. Carolyn has successfully represented small investors, institutional clients, and states in individual and nationwide securities fraud, ERISA, and antitrust actions. She has served in a leadership role in obtaining significant recoveries in both individual actions and multi-state actions.

Carolyn currently represents two states in their investigation of and litigation related to the opioid crisis. Those cases involve pharmaceutical manufacturers, drug distributors, and pharmacies related to their roles in the ongoing opioid epidemic.

She is a member of the Lead Counsel Committee in nationwide litigation involving CenturyLink customers alleging they were overcharged and billed for services they didn't request or authorize. She also served as Lead Counsel in a case representing the State of New Mexico, where the State alleged antitrust and unfair practices against Visa and MasterCard. Carolyn also served as Lead Counsel in an action, asserting consumer fraud and antitrust violations, collaborating with a coalition of four Attorneys General, against manufacturers of LCD displays. The case was filed in state court but removed to federal court under the Class Action Fairness Act (CAFA). After opposing this removal at the district court and the Fifth Circuit, the State petitioned the U.S. Supreme Court. The Supreme Court ruled unanimously in favor of Mississippi, reversing the Fifth Circuit's decision and clarifying the standard for removal of state actions under CAFA. *Mississippi ex rel. Hood v. AU Optronics*, 571 U.S. 161 (2014).

Carolyn also represented the Office of Attorney General for the State of Mississippi, defending that Office in an action brought by Google, challenging the State's authority to issue a Civil Investigative Demand (CID). Google attempted to enjoin the Attorney General's CID authority and the district court granted that motion. In April, 2016, the State prevailed and the district court's decision was reversed by the Fifth Circuit.

Carolyn was also appointed Co-Lead Counsel on behalf of investors alleging losses due to Wells Fargo's securities lending program. The case settled for \$62 million, two days before trial was set to commence. She serves as Interim Co-Lead Counsel in an ERISA matter pending in the District of Minnesota against fiduciaries of U.S. Bancorp Pension Plan for violations of ERISA. Carolyn also served as Class Counsel on behalf of investors who had purchased bond funds from Morgan Keegan in a lawsuit that arose from the collapse of three mutual funds. The case also involved the auditor as a defendant. In 2016, the legal team achieved a \$125 million settlement with the assistance of mediator Layn Phillips, a former U.S. Attorney and former United States District Judge.

In prior representation, Carolyn represented large groups of investors with significant losses involving Merrill Lynch, AIG, Boston Scientific, and Lehman Brothers. Carolyn also led a legal team in a case brought by investors against American Express Financial Advisors, challenging that company's practices and breaches of fiduciary duty with its investing customers. The case, brought under the Investment Advisor Act, resulted in a \$100 million settlement. Carolyn also successfully represented Midwest farmers/shareholders who challenged an ethanol plant's merger with Archer Daniels Midland; she was appointed Class Counsel in that matter. The case was resolved weeks prior to trial. Carolyn was also appointed Lead Counsel in a securities fraud lawsuit involving Boston Scientific, representing a public pension fund and a certified class.

In addition to serving in positions of leadership in investor protection litigation, Carolyn currently represents *pro bono* one hundred not-for-profit organizations related to their losses from the \$3.6 billion Petters Ponzi scheme, centered in Minnesota. She was appointed by the federal judge to serve as Assistant Liquidating Trustee under the supervision of the Court and the Liquidating Trustee for assets being distributed to some of those investors. In *U.S. v. Petters*, No.

08-cv-05348 (D. Minn.), the Firm worked with the Department of Justice and the court-appointed receiver, to successfully recover and distribute millions of dollars to victims pursuant to a settlement with one of the Petters financiers.

Carolyn maintains strong ties with the National Association of Attorneys General, individual state Attorneys General, state pension fund officers, and other institutional investors. She is a lecturer at colleges and law schools, and has served as a legal education faculty member on the topics of complex litigation, legal ethics, the 2008 financial crisis, and securities law.

Carolyn currently serves as a board member with Bloomberg Law on its Litigation Innovation Board. She also serves as a board member and Chairperson for Children's Shelter of Cebu, an interdenominational organization for abandoned and neglected children.

Carolyn graduated cum laude from Trinity College, where she received a Bachelor of Arts degree in Psychology. She received her law degree cum laude from Hamline University School of Law where she was a Dean's Scholar, received the Cali Award for Excellence in Constitutional Law, and served on Hamline Law Review, where her case note article was selected for publication. Carolyn also studied law at Hebrew University in Jerusalem, Israel in course-work focusing on Law, Religion, & Ethics. Following law school, Carolyn served as a judicial extern to the Honorable Paul A. Magnuson, then Chief Judge for the U.S. District Court for the District of Minnesota. Carolyn has been honored as Rising Star of Law, has been recognized as a Super Lawyer since 2014 by her peers in Minnesota, and named to The Best Lawyers in America in the fields of Class Actions and Mass Tort Litigation since 2019.

Carolyn is admitted to practice before, and is a member in good standing of, the U.S. Supreme Court, the Court of Appeals for the Eighth Circuit, Fifth Circuit, and First Circuit, the United States District Court for the District of Minnesota, and the Bar of the State of Minnesota. In addition to these courts, Carolyn works on cases with local counsel nationwide. She is a member of Public Justice, the Federal Bar Association, the American Association for Justice, the Minnesota Bar Association, and the Hennepin County Bar Association.

**David M. Cialkowski** is a partner with Zimmerman Reed and dedicates a substantial portion of his practice to the area of complex and mass tort litigation, with a primary focus on antitrust and consumer protection litigation.

Dave Cialkowski has two decades of experience in complex and class litigation. His leadership and litigation skills have been recognized by state and federal courts and have led to his appointment as class counsel and to several MDL leadership positions.

Dave was a member of the legal team representing the *Mississippi Attorney General's Office in Mississippi ex rel. Hood v. AU Optronics*, 571 U.S. 161 (2014), an antitrust case against manufacturers of LCD displays, which presented the issue of whether an attorney general's parens patriae case is a "mass action" under the meaning of the Class Action Fairness Act. The Supreme Court ruled unanimously in Mississippi's favor.

On behalf of the firm, Dave served on the Steering Committee for the Commercial and Institutional Indirect Purchaser Plaintiffs in *In re Pork Antitrust Litigation*, No. 18-cv-1776 (D.

Minn.), on the Executive Committee for plaintiffs in *In re Crop Inputs Antitrust Litigation*, No. 21-md-02993 (E.D. Mo.), and as discovery team leader coordinating complex discovery in *In re Generic Pharmaceuticals Pricing Antitrust Litigation*, 16-md-2724 (E.D. Pa.), *In re Domestic Airline Travel Antitrust Litigation*, 15-mc-1404 (D.D.C), and *In re Hard Disk Drive Suspension Assemblies Antitrust Litigation*, 19-md-291 (N.D. Cal.).

Dave was also appointed to leadership positions in consumer protection class actions including as class counsel on behalf of consumers in the consolidated action *Hudock et al. v. LG Electronics U.S.A. Inc.*, 0:16-cv-01220 (D. Minn.), on behalf of the firm as Executive Committee member in *In re Generali COVID-19 Travel Insurance Litigation*, No. 20-md-2968 (S.D.N.Y), as a member of the Plaintiffs' Steering Committee in *In re Apple iPhone 3G and 3GS "MMS" Marketing and Sales Practices Litigation*, MDL 2116, and co-lead counsel in *In re Dockers Roundtrip Airfare Promotion Sales Practices Litigation*.

His extensive class action experience advanced the claims in *In re Fedex Ground Package Systems, Inc.*, MDL 1700, a multi-district consolidated proceeding involving 40 different state class actions challenging FedEx Grounds' independent contractor model. He also served as a lead counsel team member in *Target Corporation Customer Data Security Breach Litigation* (D. Minn.), to recover financial institutions' losses from the company's massive 2013 data breach.

In addition to his consumer protection and antitrust work, Dave is experienced in complex mass torts. He was a member of the lead counsel trial team in *Levaquin Products Liability Litig.*, MDL 1943, and represented plaintiffs in *In re St. Jude Silzone Heart Valves Product Liability Litigation*, MDL 1396. Dave also represented a class of people injured following a train derailment and chemical release in *In re Soo Line Railroad Company Derailment of January 18, 2002 in Minot, N.D.* His work and leadership led to a clarification in federal law which limited the application of railroad preemption.

In addition to being recognized by the courts, Dave is recognized by his peers as one of Minnesota's top 100 lawyers in 2020 and 2021, as a Super Lawyer in Minnesota from 2015-2021, and as a Rising Star in Minnesota from 2006-2008 and 2010-2013.

Dave is licensed to practice and a member in good standing, for the Bars of the State of Minnesota and the State of Illinois. He is also admitted to practice before, and is a member in good standing of, the U.S. Supreme Court, the Court of Appeals for the Eighth Circuit, and the United States District Courts for the District of Minnesota, Northern District of Illinois, and District of North Dakota.

**Brian C. Gudmundson** is a partner and has led and litigated numerous MDL and consolidated actions in recent years. He currently serves as court-appointed lead counsel in the Sonic data breach litigation on behalf of financial institutions, *In Re: Sonic Corp. Customer Data Security Breach*, 17-md-02807 (N.D. Ohio), and in the consolidated consumer action *Patlan, et al. v. BMW of North America, LLC*, 18-cv-09546 (D.N.J.), which alleges damages arising from risk of fire caused by defective BMW vehicles. Recently, Brian successfully led all plaintiff counsel on behalf of consumers in the settled MDL action *In Re: CenturyLink Sales Practices and Securities Litig.*, MDL 2795 (D. Minn.). Previously, Brian served as co-lead counsel in the consolidated Arby's data breach action on behalf of financial institutions, *In re: Arby's Restaurant Group, Inc., Data Security*

*Litig.*, 17-cv-00514, (N.D. Ga.), and in the arbitration action *GLS Companies, et al. v. Minnesota Timberwolves Basketball LP*, which challenged implementation of the Timberwolves' paperless ticketing system and restrictions on transfer of game tickets.

In addition to serving as lead counsel, Brian has been appointed to and served on a number of steering committees, including in data breach actions on behalf of financial institutions such as *First Choice Fed. Credit Union v. The Wendy's Co.*, 16-cv-00506 (W.D. Pa.); the Home Depot data breach, MDL 2583 (N.D. Ga.); and Equifax data breach, MDL 2800 (N.D. Ga.), among others. Brian is a member of the lead counsel team that achieved a \$39 million settlement on behalf of banks and other financial institutions in recovering losses due to the 2013 Target data breach, MDL 2522. Brian has also served on executive committees in consumer actions, such as *FieldTurf Artificial Turf Marketing Practices Litigation*, MDL 2779 (representing schools, universities, municipalities, and private companies around the country that purchased allegedly defective artificial turf prone to rapid degradation); *Vikram Bhatia, D.D.S. v. 3M Company*, 16-cv-01304-DWF-TNL (settled action on behalf of dentists and dental practices for allegedly defective dental crown products); *Vizio, Inc. Consumer Privacy Litigation*, MDL 2693 (settled action asserting unlawful collection and sale of private consumer data);

Brian has also extensively litigated sports law cases, and represents hundreds of retired NFL players in claims arising from concussive head injuries on the field, MDL 2323 (E.D. Pa.). Brian also represented retired NHL players alleging the National Hockey League minimized concussion risks from its players for decades, MDL 2551 (D. Minn) and was a member of the lead counsel team that achieved a \$50 million settlement on behalf of retired National Football League players in a class action for the unauthorized use of former players' identities to generate revenue *In re: Dryer v. National Football League*, 09-cv-02182 (D. Minn.).

Brian also specializes in claims under the RICO Act and represented multiple non-profit and faith-based investors pro bono in RICO claims arising from the \$3.5 billion Petters Ponzi scheme.

Brian currently serves on the Steering Committee and Faculty of the Class Action Roundtable.

Brian received his BA from the University of Minnesota and his JD, *cum laude*, from the University of Minnesota Law School. Brian is admitted to the state courts of Minnesota, the U.S. District Courts for the District of Minnesota, the Northern District of Illinois, and the District of Colorado, and in the 4th Circuit Court of Appeals, 6th Circuit Court of Appeals, 8th Circuit Court of Appeals, and 10th Circuit Court of Appeals. His professional associations include membership in the Federal Bar Association, Minnesota State Bar Association, Hennepin County Bar Association, American Bar Association, and the American Association for Justice. Brian has been recognized as a Rising Star of Law 2010-2016 and a Super Lawyer in 2017 through 2020.

**June P. Hoidal** is a partner at Zimmerman Reed and co-chair of the Public Client & Attorney General practice group. She represents individuals and businesses who experience losses as a result of securities, consumer protection, and antitrust violations. June currently represents the State of Vermont and the State of Indiana in their investigation of and litigation related to the manufacturing, distribution, advertisement, dispensing, and marketing of opioid pain killers. She was a member of the legal team representing the State of Mississippi in a consumer fraud and antitrust action against manufacturers of LCD screens. Her work included assisting with briefing

before the U.S. Supreme Court, which unanimously ruled in favor of Mississippi by finding the State's *parens patriae* action was not removable to federal court. *Mississippi ex rel. Hood v. AU Optronics*, 571 U.S. 161 (2014). June also represented investors alleging losses due to Wells Fargo's securities lending program, a case that settled two days before trial was set to commence for \$62 million. She represented the State of New Mexico in a matter against Visa and MasterCard, alleging antitrust and unfair practices and investors of Medtronic in a shareholder derivative case. June currently represents participants of the U.S. Bancorp Pension Plan alleging violations of ERISA.

Prior to joining the firm, June served as a judicial law clerk to the Honorable Arthur J. Boylan on the United States District Court for the District of Minnesota. She gained substantial experience following law school at two law firms in Washington, D.C. and Minneapolis, practicing in diverse subject areas, including contract disputes, franchise, products liability, insurance, and employment law.

June currently serves as a board member and as the lead co-chair of the Associates Campaign for The Fund for Legal Aid. She also serves as a member of the Advisory Board for the Minnesota Urban Debate League and the Publications Committee for the Bench & Bar of Minnesota. Previously, she served as a Commissioner for the City of Saint Anthony Parks Commission, and a member of the Diversity Committee and the Women in the Legal Profession Committee of the Minnesota State Bar Association. In addition, June volunteered as an assistant debate coach for the Minnesota Urban Debate League and worked pro bono for Legal Assistance of Dakota County, Volunteer Lawyers Network, and The Advocates for Human Rights.

June graduated cum laude from the University of Minnesota Law School in 2003, where she was the Lead Managing Editor for the Minnesota Law Review and a member of the Dean's List. She is admitted to the state courts of Minnesota and the U.S. District Courts for the District of Minnesota. June has been recognized as a Rising Star of Law in 2007, 2015-2018 and a Super Lawyer since 2019.

**Jason P. Johnston** is a partner at the firm's Minneapolis office, focusing primarily on complex cases involving individuals injured by defective drugs and faulty medical devices, advocating for clients both locally and nationally. Jason's personal engagement, resolute view of the law, and solid practice style make him a strong voice for his clients and an integral part of our firm.

Jason represents clients injured from defective orthopedic hip devices manufactured by DePuy, Biomet, Stryker, Smith & Nephew and other manufacturers of hip replacement systems. In the Stryker Rejuvenate and ABG II Multidistrict Litigation (MDL), Jason represents patients who experienced serious health complications as a result of a modular hip that was recalled from the market. Jason also serves as a member of the Plaintiff Steering Committee in the Stryker LFIT V40 MDL. During the Biomet M2a hip litigation, Jason was a member of the Plaintiffs' Science Committee where he reviewed technical documents and participated in depositions involving the design and development of the hip implant systems. In the Zimmer NexGen knee litigation, Jason serves as a member of the Plaintiffs' Steering Committee and has played an active role in the science and discovery phases of the litigation, as well as preparing cases for trial.

Jason's medical device litigation experience extends beyond orthopedic devices, including, representing clients injured by defibrillators and leads manufactured by St. Jude, Medtronic, and Guidant. In the Medtronic Sprint Fidelis litigation, Jason served as a member of the Claims Review Committee following a mass settlement involving Sprint Fidelis leads. He has also represented plaintiffs injured by various pharmaceutical drugs, including, Abilify, Invokana, Viagra, Avandia, Aredia/Zometa, testosterone replacement therapy drugs, and other medications.

Jason has participated in pro bono service during his career, including accepting cases in the District of Minnesota's Federal Pro Se Project which provides *pro se* plaintiffs with volunteer counsel to improve access to justice in the Federal Courts. Jason is also an active member of the American Association for Justice and the Minnesota Association for Justice. In 2016, the Minnesota Association for Justice recognized Jason as the "Member of the Year" for his contributions to the organization.

Since 2014, Jason has been selected as a Minnesota Rising Star of Law by Super Lawyers a distinction award given to only 2.5% of attorneys in the state. In addition, Jason has also been selected as a member of The National Trial Lawyers Top 100 Trial Lawyers and Top 40 Under 40. A graduate of the University of St. Thomas School of Law, he was recognized by the Minnesota Justice Foundation for his pro bono service while attending law school. Prior to law school, Jason attended Winona State University, earning his Bachelor of Science degree, magna cum laude, in Marketing.

Jason has been recognized as a Rising Star of Law by Super Lawyers since 2014. He is admitted to the state courts of Minnesota and U.S. District Court for the District of Minnesota.

**Caleb LH Marker** is a partner at Zimmerman Reed, working at the firm's Los Angeles office. Caleb dedicates a significant portion of his practice to consumer protection and employment cases, including consumers, misclassified employees, mortgage borrowers, student loan borrowers, and senior citizens.

Caleb is a creative litigator who has been a leader in the consumer protection area and has been actively involved as class counsel in cases that have provided meaningful recoveries, through trial or settlement. He has first-chair trial experience in court and arbitration, having tried several cases to verdict and award. In 2016, he tried the first merits arbitration in the United States that alleged that a "gig economy" worker was an employee as opposed to an independent contractor and has continued to try and advance such cases in arbitration and courtrooms. He has briefed and argued appeals in California, Michigan, and the Ninth Circuit.

Caleb currently represents tobacco consumers as a member of the plaintiffs' steering committee for in the *Santa Fe Natural Tobacco Company Marketing and Sales Practices Litigation* (MDL 2695) currently pending in the U.S. District Court for the District of New Mexico. The Santa Fe MDL was recently the subject of an in-depth article published by Bloomberg Businessweek in an article entitled "Nature's Cancer Sticks: American Spirits Long, Strange Trip to Court."

Caleb leads the firm's involvement in representing a sexual assault survivor of Larry Nassar, the former Michigan State University team physician and U.S. Women's Gymnastics Team coach.

Nassar has been sentenced to up to 175 years in prison and dozens of high-ranking university and gymnastics officials have been ousted or face criminal investigations for their role in these heinous crimes. Among other issues, Caleb is defending Michigan P.A. 183 which provided a brief window for child sexual assault survivors to bring suit regardless of whether the statute of limitations had previously lapsed.

In recent years, Caleb's successes include leading a class action against the City of Los Angeles and Xerox that drew widespread media attention, winning a trial that now requires the City to end its decades-long outsourcing of the City's parking violations bureau in a case that will help over a hundred thousand motorists in Los Angeles in the next few years. Caleb later defended the trial court's verdict on appeal, resulting in a unanimous opinion fully affirming the trial court's verdict and award under the private attorney general doctrine. *Weiss v. City of Los Angeles*, 2 Cal. App. 5th 194 (August 8, 2016). Caleb has been a driving force in a number of class actions that have resulted in eight-figure settlements, including actions that involving misclassified employees, homeowners victimized by force-place insurance practices, patients at understaffed nursing homes, consumers of dangerous gas absorption refrigerators, and student loan borrowers who were overcharged for interest.

Caleb serves on the Los Angeles County Bar's Litigation Executive Committee and Access to Justice Committee, the latter of which aims to maximize the delivery of legal services to the poor and encourage attorneys to provide free legal services to those in need. Several of his successes have been recognized as a "Top Settlement & Verdict" by the Los Angeles Daily Journal and Michigan Lawyers Weekly. He has been interviewed by numerous media outlets, including NBC, Fox Business, NPR, *The Wall Street Journal*, AP, the *Los Angeles Times*, *LA Weekly*, and Law360. He has also been recognized as a Rising Star of Law in Southern California by Super Lawyers from 2015-2021, after a peer-nomination and review process awarded to less than 2.5% of attorneys under 40.

A native of Michigan, Caleb graduated from Michigan State University's James Madison College and College of Law. He is a member of the Los Angeles County Bar Association (LACBA), Duke Law's Bolch Judicial Institute and Electronic Discovery Reference Model (EDRM), the Federal Bar Association (FBA), the American Association for Justice (AAJ), Consumer Attorneys Association of Los Angeles (CAALA), and Consumer Attorneys of California (CAOC).

**Hart L. Robinovitch** is a partner with Zimmerman Reed, leading the firm's Scottsdale, Arizona office. Hart focuses his practice in the areas of consumer and shareholder actions, and sports law.

For the past decade, Hart has represented clients in a series of class action lawsuits contesting mortgage lenders' excessive billing and deposits practices for mortgage escrow accounts. Hart is now involved in numerous federal court lawsuits around the country alleging that mortgage banks and lenders have violated federal and state laws. These cases allege payment of kickbacks and/or illegal and unearned referral fees by the banks and lenders to mortgage brokers who refer mortgage clients who are then charged inflated interest rates on the mortgages. In addition, he represents consumers in other actions contesting the imposition of overcharges and improper fees or other contractual violations in various mortgage transactions. He has worked with co-counsel in state and federal courts across the country.



Hart currently represents corn farmers and DDGS exporters in the *Syngenta Viptera Litigation* who have experienced the effects of China's ban of U.S. corn and corn-derived products, suffering lower prices, decreased sales and other losses as the prices of U.S. corn has decreased. He is a member of the lead counsel team representing retired NHL players alleging the National Hockey League minimized the chronic cumulative effects of concussion risks from its players for decades. Hart also represents clients in a class action lawsuit on behalf of RV owners alleging that Norcold knew of a potentially dangerous RV refrigerator fire risk, but hid that information from the public.

Hart has been involved in numerous state and federal court lawsuits around the country challenging the misclassification of entertainers as independent contractors opposed to employees in the nightclub industry. He also represented consumers in other actions alleging deceptive and unlawful business conduct towards customers including, but not limited to, false advertising practices, "bait and switch" tactics, altering contractual terms without valid consideration, and retailers' requests and/or requirements that their customers provide personal identification information when they complete a transaction using their credit card, in violation of state and/or federal statutes. In addition, Hart represented residents of various skilled nursing facilities alleging pervasive and intentional failure to provide sufficient direct nursing care staffing resulting in harm to the residents.

A native of Canada, Hart earned his degree from the University of Toronto Law School in 1992 where he served as an Associate Editor on the University of Toronto Faculty of Law Review. He received his Bachelor of Science degree in 1989 from the University of Wisconsin-Madison.

Hart is admitted to practice before, and is a member in good standing of, the Bars of the States of Arizona and Minnesota and the United States District Court for the Districts of Arizona, Minnesota, and the Eastern District of Michigan. Hart is also licensed to practice law before the United States Courts of Appeals for the Sixth, Eighth, Ninth, and Eleventh Circuits, and the United States Supreme Court. Hart's memberships include the National Association of Consumer Advocates and Canadian American Bar Association.

**J. Gordon Rudd, Jr.** is a Managing Partner at Zimmerman Reed and represents representing clients in the areas of consumer protection, employment law, and mass torts. Gordon has been appointed class counsel in cases in state and federal courts across the country.

Gordon was recently part of the team that achieved a \$50 million settlement in the complicated court fight over publicity rights for retired NFL players. In a separate lawsuit, he represents hundreds of retired NFL players suffering from concussive head injuries that occurred while playing in the league. Gordon also represented thousands of individuals injured by the largest release of anhydrous ammonia in U.S. history. Two of those individuals were awarded \$1.2 million by a jury. Eventually, these trials led to a settlement on behalf of other residents of Minot, North Dakota injured by the derailment.

In mass tort litigation, Gordon leads several cases, including representing clients who developed gambling addictions after taking top-selling prescription drug Abilify; representing nursing home residents sickened by a Hepatitis C outbreak (the second-largest outbreak of the disease in

U.S. History); representing men who suffered cardiovascular injuries following their use of testosterone therapy supplements; and representing clients who experienced severe bleeding problems while taking Xarelto.

Gordon has also served on a number of multi-district litigation cases. He was a member of the lead counsel team representing banks and other financial institutions seeking recovery of losses from the 2013 Target data breach. He also holds leadership positions on several Plaintiffs' Steering Committees including *In re H&R Block IRS Form 8863 Litigation*, MDL 2474, *In re Life Time Fitness, Inc., Telephone Consumer Protection Act (TCPA) Litigation*, MDL 2564, *In re FedEx Ground Package System, Inc.*, MDL 1700, and *In re Building Materials Corp. of America Asphalt Roofing Shingle Products Liability Litigation*, MDL 2283.

Gordon graduated from Connecticut College, where he received a Bachelor of Arts degree in English Literature & Government. He received his law degree from the University of Cincinnati College of Law. Gordon is licensed to practice before, and is a member in good standing of, the Bar of the State of Minnesota and the United States District Court for the District of Minnesota. Gordon is admitted to the United States Court of Appeals for the Eighth Circuit. He has been admitted to appear pro hac vice in cases pending in the states of California, Oregon, Arizona, New Mexico, Texas, North Dakota, Ohio, Florida, Georgia, Tennessee, and Michigan. Gordon has been selected as a Super Lawyer by his peers in Minnesota since 2006 and recognized in The Best Lawyers in America in the fields of Class Actions and Mass Tort Litigation since 2018.

**Behdad C. Sadeghi** is a partner at Zimmerman Reed and a member of the firm's Attorney General practice. His practice focuses his practice on complex litigation involving consumer protection, securities and financial fraud, and antitrust law in state and federal courts.

Behdad currently is part of the Attorney General Practice, working with the team representing two states in the opioid litigation, conducting research, discovery, and motion practice. Behdad worked on the team representing investors who sustained losses as a result of alleged federal securities law violations by Morgan Keegan and its affiliates that achieved a \$125 million settlement. He also represented a class of financial institutions who suffered losses resulting from a major data breach in a class action against the Target Corporation that resulted in a \$39 million dollar settlement. In consumer litigation, he successfully achieved a multi-million dollar wrongful death settlement against a major automobile manufacturer, and a settlement on behalf of a group of elderly victims of one of the largest hepatitis C outbreaks in the nation's history. He also represents a putative class of consumers alleging violations of the Telephone Consumer Protection Act by Papa Murphy's and SuperAmerica.

Behdad graduated *magna cum laude* from William Mitchell College of Law, where he was a member of the William Mitchell Journal of Law and Practice and the Niagara International Moot Court Team; he also participated in the school's Civil Advocacy Clinic. His academic honors include a CALI Excellence for the Future Award, four Dean's List honors, and a Burton Award Nomination for Excellence in Legal Writing. Behdad has been recognized as a Rising Star of Law since 2019. Behdad is licensed to practice law in Minnesota.

ZIMMERMAN REED ATTORNEYS

**Arielle Canepa** is an associate at Zimmerman Reed, working in the firm's Los Angeles office. Her practice is focused on consumer protection and employment law cases, including high-interest consumer lending, independent contractor misclassification, and pay equity. She has specialized knowledge and experience in the technology sector — and earned a High Tech Law Certificate — and brings that expertise to her representation of consumers and employees.

Prior to joining the firm, Arielle worked as a project attorney for a data software company where she negotiated customer-facing nondisclosure agreements and reviewed subscription-based software license agreements. She also collaborated with team members to assure vendors' and partners' compliance with the California Consumer Privacy Act.

Arielle is a graduate of the Santa Clara University School of Law. While in law school, she interned with the in-house counsel of a global data cloud storage company where she focused on employment law. She also participated in the Pro Bono Business Law Clinic, counseling start-up founders and small business owners in contract, IP, licensing, franchise, and employment issues. Arielle is licensed to practice before and is a member in good standing of the Bar of the State of California.

**Jennifer Haidar** is an associate at Zimmerman Reed working in the firm's Los Angeles office. Her practice is focused on consumer protection and employment law, including gig economy employment misclassification, consumer privacy, breach of contract, and financial fraud cases.

Prior to joining the firm, Jennifer was a Post-Bar Legal Fellow for the Business and Tax Section of the California Department of Justice where she worked on financial and insurance fraud cases.

As a law student, Jennifer externed with the Office of Foreign Litigation for the U.S. Department of Justice, Civil Division, working at the American Embassy in London, England. She also externed with the Office of Justice for Victims of Overseas Terrorism for the U.S. Department of Justice, National Security Division in Washington, D.C.

Jennifer is a graduate of the University of Notre Dame Law School. While in law school, she was published in the Notre Dame Journal of Legislation and received the Dean's Award in English Legal System. Jennifer earned her B.A. from the University of California, Los Angeles (UCLA) in Global Studies and graduated cum laude with Highest Departmental Honors.

Jennifer speaks conversational Spanish and is a volunteer for the Los Angeles County Bar Association.

She is licensed to practice before and is a member in good standing of the California State Bar.

**Richard Hansen** graduated cum laude from the University of Wisconsin Law School, where he served as the Managing Editor of the Wisconsin Law Review and was admitted to the Order of the Coif. He is admitted to the state courts of Minnesota and Wisconsin, and the U.S. District Court for the District of Minnesota.

Following law school, Richard work as a law clerk in the Minnesota Court of Appeals where he drafted bench memoranda and assisted with preparing judicial opinions. After his clerkship, he was an associate at a Minnesota firm that practices in a broad spectrum of areas, including antitrust, energy, and financial services law. In that position, Richard was responsible for preparing and drafting briefs for dispositive and non-dispositive motions, arguing motions in state court proceedings, and acted as lead associate in multiple cases which involved overseeing document collection and review.

Richard is an associate at Zimmerman Reed and a member of the firm's Public Client practice. His practice focuses on complex cases involving consumer fraud and environmental issues.

**Andre S. LaBerge** brings over twenty years of professional experience – as an attorney and as a business executive – in his advocacy for the rights of investors and consumers, providing counsel to several of the firm's practice areas. He has represented participants in Wells Fargo's securities lending program, investors with losses in Morgan Keegan open end bond funds, and the Office of Attorney General in the LCD antitrust litigation.

Andre has practiced law in Chicago and Minneapolis, and has represented clients at all court levels and in various regulatory forums. He has also served as Vice President, Chief Compliance Officer, General Counsel, and FINRA Registered Principal and Designated Supervisor in the financial services industry with companies that supervised and supported large numbers of securities brokers, financial planners, and insurance agents.

Andre is a graduate of DePaul University College of Law, where he was a Senior Editor for the Journal of Health and Hospital Law, and worked as a Mansfield Foundation Fellowship intern at Southern Minnesota Regional Legal Services. He is a member of the Minnesota State Bar Association and the Hennepin County Bar Association.

**Michael J. Laird** is an Associate at Zimmerman Reed and focuses his practice in the areas of sports law, data breach litigation, and consumer protection.

Michael currently represents hundreds of retired NFL players in the National Football League Concussion litigation. Former players sued the NFL alleging it downplayed the risk of progressive degenerative brain injuries caused by playing in the NFL. Michael has successfully obtained tens of millions of dollars on behalf of former players suffering degenerative brain injuries as part of the NFL Concussion Settlement. Michael also successfully represented former NHL players who alleged the National Hockey League was negligent in dealing with concussions and head injuries causing players to suffer serious brain injuries, including chronic traumatic encephalopathy (CTE).

In his data breach practice, Michael represents financial institutions and individuals affected by cyber-attacks that exposed their sensitive business and personal data. These cases seek to hold companies accountable for harm caused by their data breaches and allegedly inadequate data security. Michael has previously litigated against major companies responsible for some of the largest nationwide data breaches, including Equifax, Marriott, and Wendy's. He is currently litigating data breach cases against Sonic, Netgain, and ParkMobile.

In his consumer protection practice, Michael brings his broad experience to represent individuals and businesses who experienced consumer-related injuries. Currently, Michael represents pet owners whose pets suffered harm and, in some cases, died allegedly due to Elanco's flea and tick collar, Seresto. Michael also represents consumers and electrical contractors who claim Siemens manufactured defective arc fault circuit interrupters.

Michael graduated magna cum laude from the University of Minnesota Law School. During law school, he served as a member of the Journal of Law, Science & Technology and argued on the American Bar Association Moot Court team. He externed for the Honorable Jeffrey J. Keyes of the United States District Court for the District of Minnesota.

Michael is licensed to practice law in Minnesota.

**Alyssa J. Leary** focuses her practice on environmental and consumer protection law. In environmental protection, Alyssa represents corn farmers and exporters in the Syngenta litigation who suffered economic harm from the release of Syngenta's unapproved, genetically modified corn strain. She also represents farmers whose crops have been damaged by off-target drift from dicamba herbicides in litigation against Monsanto. In consumer protection, Alyssa is part of the team representing consumers alleging Pacquiao and his promoters kept his shoulder injury secret prior to the highly publicized Pacquiao-Mayweather Pay-Per-View fight.

Alyssa graduated magna cum laude and Order of the Coif from Tulane University Law School and holds a Certificate in Environmental Law. While at Tulane, she worked as an editor for the Tulane Law Review, and studied economic and environmental issues in Brazil.

In addition to her law degree, Alyssa holds a Master of Science in Resource Conservation and a Certificate in Natural Resource Conflict Resolution from the University of Montana. She obtained a Bachelor of Science degree in Biology/Natural Science from the University of Puget Sound.

Prior to joining Zimmerman Reed, Alyssa worked as a renewable energy and construction law attorney and interned at the U.S. Attorney's Office for the Eastern District of Louisiana, the U.S. Marshals Service Office of General Counsel in Washington D.C., and also for the Cottonwood Environmental Law Center in Bozeman, Montana. She serves on the ReGenerateMN Steering Committee for the Minnesota Center for Environmental Advocacy. Alyssa was recognized as a Rising Star of Law by Super Lawyers in 2021. She is licensed to practice law in Minnesota.

**Ian F. McFarland** is an associate at Zimmerman Reed and a member of the firm's Public Client & Attorney General practice. His practice focuses on complex cases involving antitrust, consumer fraud, and securities violations.

Following law school, Ian served as a law clerk to the Honorable Regina M. Chu, Minnesota District Court, Fourth Judicial District. He then moved to a litigation firm where he worked on a variety of complex litigation matters, including National Hockey League Players' Concussion Injury Litigation, Dental Supplies Antitrust Litigation, Aggrenox Antitrust Litigation, and the Target Customer Data Security Breach Litigation.

Ian graduated magna cum laude from the University of Wisconsin Law School, where he served as a Note and Comment Editor of the Wisconsin Law Review and was admitted to the Order of the Coif. While attending law school, he worked as a judicial intern to the Honorable Margaret J. Vergeront, Wisconsin Court of Appeals, District IV.

**Kimberly McNulty** is an associate at Zimmerman Reed and is a member of the Public Client practice group. She is part of the Opioid Litigation team, representing individual state Attorneys General in litigation against entities responsible for deceptive marketing, sale, and distribution of opioids. Kimberly is also part of the ZR team representing the State of Minnesota against e-cigarette manufacturer, JUUL, for its deceptive marketing practices and targeting of Minnesota's youth.

Prior to joining the firm, Kimberly was an associate attorney for another Minneapolis law firm representing businesses and individuals in all stages of complex commercial litigation. Prior to that, she worked as a Judicial Law Clerk to the Honorable Matthew E. Johnson. Kimberly is a graduate of the University of South Dakota School of Law with high honors. While in law school, she was the Lead Articles Editor for the South Dakota Law Review, member of the Trial Team, and intern with the United States Attorney's Office (District of South Dakota). Kimberly earned her B.A. from Creighton University in English.

Kimberly was recognized as a Rising Star of Law by Super Lawyers in 2021. She is licensed to practice before and is a member in good standing of the Bar of the State of Minnesota.

**Flinn T. Milligan** is an associate at Zimmerman Reed, working in the firm's Los Angeles office. He dedicates his practice to protecting consumers and workers in complex litigation, including cases involving consumer fraud and misclassified employees. Flinn has demonstrated his commitment to ensuring access to justice, especially for the most vulnerable members of our communities.

Prior to joining the firm, he worked at a non-profit, as a UC President's Public Interest Fellow. He assisted victims of PACE (property assessed clean energy) financing scams, ensuring that his clients stayed in their homes. He also worked on matters at the intersection of poverty and elder law, including debt collection, real estate, elder abuse, and access to estate funds. During law school, Flinn served as a law clerk for the Legal Aid Foundation of Los Angeles, working in the domestic violence clinic and the eviction defense center.

Flinn is a graduate of the UCLA School of Law. He also earned his B.A. from the University of Exeter (South West England, UK), during which he studied abroad at Iowa State University. Flinn is licensed to practice before and is a member in good standing of the Bar of the State of California.

**Christopher P. Ridout** is of counsel working in the firm's Los Angeles office practicing in the areas of complex litigation, including consumer protection, labor and employment, unfair business practices, false advertising, toxic tort, commercial and residential hazardous substance exposure.

Chris was appointed to serve on the Plaintiffs' Executive Committee in the iPhone Device Performance Litigation alleging that Apple released a software update that deliberately

diminished the battery life of older devices forcing customers to spend hundreds of dollars on replacement batteries and new phones. He was appointed as co-interim lead counsel representing a class of consumers in a mislabeling lawsuit alleging that Celestial Seasonings tea products falsely claim to be "all natural" when they contain pesticide residue from the agricultural process. In consumer litigation, Chris represents classes of consumers and employees in connection with data breaches that have compromised personal, financial, medical, and employment information. He represents a class of GM diesel truck owners alleging that the DMAX diesel engine design is defective causing a reduction in fuel efficiency by 25-30 percent. He served as class counsel reaching a \$52 million settlement on behalf of customers alleging the billing practices of the Los Angeles Department of Water contained excessive fees and inflated rates, and that the charges to customers exceeded the costs of provided water and power services. Chris obtained a \$36 million settlement representing RV owners in a class action lawsuit alleging that Norcold knew of a potentially dangerous RV refrigerator fire risk, but hid that information from the public. He also advocates on behalf of musicians and entertainers in Internet-related copyright and royalty disputes.

Over the last decade, Chris has been involved in the resolution of a series of class action lawsuits including a settlement of more than \$24 million on behalf of misclassified employees, an \$11.5 million settlement for Michigan students loan borrowers over an interest rate dispute, a \$9 million settlement claiming Naked Juice violated state and federal laws regarding the marketing and sale of its product, and a multi-million dollar award for residents of various nursing home facilities alleging widespread and intentional failure to provide sufficient care to the residents due to understaffing.

Chris attended Harvard University where he received his Bachelor of Arts Degree in 1986. While focusing on his major of American History, he was a member of the Harvard Varsity Football Team and played in the historic 100th Harvard-Yale match-up commonly referred to as "The Game." In his senior year, Chris was awarded the "William Payne LeCroix Memorial Award" given to that team member exhibiting the most loyalty and dedication to the Harvard Varsity Football Team.

After graduating from the University of the Pacific McGeorge School of Law in 1989, he was admitted to the California Bar that same year. He has also been admitted to practice before the United States District Court for the Southern, Central, and Northern Districts of California; the United States District Court for the District of Colorado; the United States District Court for the District of Minnesota; the United States District Court for the Northern District of Ohio; and the United States Court of Appeals for the Ninth Circuit.

**Rachel K. Tack** is an associate at Zimmerman Reed and a member of the firm's Consumer Protection practice and the Securities and Financial Fraud practice. She is currently representing financial institutions and consumers in data privacy actions.

Following law school, Rachel worked at a general practice firm where she concentrated on complex civil litigation and corporate disputes. Her litigation experience includes working directly with clients and developing skills in all areas of legal advocacy including drafting pleadings, conducting discovery, motion practice, oral arguments, and representing clients in

mediations and arbitration. Representing clients in this diverse practice honed her litigation expertise in state, tribal, and federal courts.

Rachel graduated from University of North Dakota Law School, where she served as a member of the North Dakota Law Review and the American Inns of the Court. While attending law school, Rachel served as a Chambers Legal External Clerk in the U.S. Bankruptcy Court where she gained hands-on experience in the courtroom, conducted extensive legal research, and assisted in preparing judicial opinions.

Rachel is admitted to the state courts of Minnesota and North Dakota and the U.S. District Courts for the District of Minnesota.

**Charles R. Toomajian, III** is an associate at Zimmerman Reed concentrating his practice in the consumer protection area and representing individuals injured by defective drugs or faulty medical devices. In the consumer protection context, Chuck represents public entities seeking recovery and finding solutions for the rampant harm caused nation-wide by the opioid crisis. He has also successfully represented individuals with claims under the TCPA. In the medical arena, he represents patients who took Abilify and experienced financial devastation as a result of compulsive gambling associated with the top-selling drug and patients who experienced severe injuries after taking the diabetes drug, Invokana. He also supports the firm's efforts in helping patients and families affected by the Stryker LFIT V40, involving recalled femoral heads that have been associated with hip replacement failure. Prior to joining Zimmerman Reed, Chuck worked at a multi-state trial and litigation firm advocating for injured clients.

A magna cum laude graduate from the University of Minnesota Law School, Chuck was a symposium editor for *Law and Inequality: A Journal of Theory and Practice*. He was a three-year consecutive Dean's List recipient and received the First Amendment law Book Award, a prestigious award for having the highest score in the class. He externed for the Honorable Mark Wernick of the Hennepin County District Court where he prepared and drafted memoranda and conducted legal research. He holds a Bachelor of Arts in English from Williams College.

Chuck was recognized as a Rising Star of Law by Super Lawyers in 2021. Chuck is licensed to practice before, and is a member in good standing of, the Bar of the State of Minnesota, the Bar of the State of California, and is admitted to the U.S. District Court for the Central District of California.



# **EXHIBIT B**

Timekeeper	Title	Hours	Value	Blended Rate
J. Gordon Rudd, Jr.	Partner	107.45	\$87,502.75	\$ 814.36
Hart L. Robinovitch	Partner	24.50	\$19,532.00	\$ 797.22
Caleb L. Marker	Partner	349.90	\$232,335.00	\$ 664.00
Arielle M. Canepa	Associate	95.20	\$46,425.00	\$ 487.66
Flinn T. Milligan	Associate	205.40	\$88,127.00	\$ 429.05
Hannah B. Fernandez	Associate	18.30	\$7,777.50	\$ 425.00
Jennifer K. Sustacek	Attorney	59.80	\$32,265.00	\$539.55
Jeff Y. Lin	Attorney	571.40	\$282,843.00	\$ 495.00
Irene E. Schwieger	Attorney	411.80	\$164,720.00	\$ 400.00
Robert L. Costa	Attorney	15.00	\$5,250.00	\$ 350.00
Josephine Lu	Paralegal	222.00	\$61,880.00	\$ 278.74
Joshua Dominguez	Paralegal	25.25	\$6,691.25	\$ 265.00
Barbara J. Doten	Paralegal	59.55	\$13,524.75	\$ 227.12
Erin D. Pesic	Paralegal	135.00	\$28,568.75	\$ 211.62
Sabine A. King	Paralegal	22.90	\$7,153.50	\$ 312.38
		2,323.45	\$1,084,595.50	

# **EXHIBIT C**

1 ZIMMERMAN REED LLP  
Caleb Marker (SBN 269721)  
caleb.marker@zimmreed.com  
2 Flinn T. Milligan (SBN 323042)  
flinn.miligan@zimmreed.com  
3 Jennifer M. Haidar (SBN 337558)  
Jennifer.haidar@zimmreed.com  
4 2381 Rosecrans Avenue, Suite 328  
Manhattan Beach, CA 90245  
5 Telephone (877) 500-8780  
Facsimile (877) 500-8781  
6

7 J. Gordon Rudd, Jr. (*pro hac vice* anticipated)  
gordon.rudd@zimmreed.com  
ZIMMERMAN REED LLP  
8 1100 IDS Center  
80 South 8th Street  
9 Minneapolis, MN 55402  
Telephone (612) 341-0400  
10 Facsimile (612) 341-0844

11 *Attorneys for Arsen Altounian*

12  
13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
14 **FOR THE COUNTY OF SAN FRANCISCO**

15 COORDINATION PROCEEDING SPECIAL  
16 TITLE [RULE 3.550]

17 POSTMATES CLASSIFICATION CASES  
18 Included Actions:

19 Winns v. Postmates, Inc., No. CGC-17-562282  
(San Francisco Superior Court)

20 Rimler v. Postmates, Inc., No. CGC-18-  
21 567868 (San Francisco Superior Court.)

22 Brown v. Postmates, Inc., No. BC712974  
23 (Los Angeles Superior Court)

24 Santana v. Postmates, Inc., No. BC720151  
(Los Angeles Superior Court)

25 Vincent v. Postmates, Inc., No. RG19018205  
26 (Alameda County Superior Court)

27 Altounian v. Postmates, Inc., No. CGC-20-  
28 584366 (San Francisco Superior Court)

Case No. CJC-20-005068

*Assigned for all purposes to the  
Honorable Suzanne R. Bolanos*

**DECLARATION OF PLAINTIFF ARSEN  
ALTOUNIAN IN SUPPORT OF MOTION FOR  
ATTORNEYS' FEES AND COSTS**

Date: November 3, 2021  
Time: 2:00 PM  
Department: 304

Date Action Filed: July 5, 2018  
Trial Date: TBD

1 I, Arsen Altounian, declare as follows:

2 1. I am an individual over the age of 18 and am the named Plaintiff and putative class  
3 representative in the above-captioned matter. I have personal knowledge of the matters set forth in this  
4 declaration and, if called as a witness, I could and would testify competently thereto.

5 2. I worked as a courier for Postmates, Inc. (“Defendant” or “Postmates”) from 2017 to  
6 2020. I have worked approximately 216 days for Postmates and drove a total of 3,337 miles. Though I  
7 earned \$8,581.17 as a courier, I incurred approximately \$4,214.33 in unreimbursed business expenses.  
8 During my employment, I was falsely characterized as a contractor and deprived many of the protections  
9 and benefits of employment under state and local laws. Postmates failed to pay me the required  
10 minimum wage and unlawfully required me to pay for fuel, automobile maintenance, cell phone and  
11 data charges, and other business expenses. Further, Postmates did not pay appropriate overtime  
12 premiums for hours worked in excess of eight hours per day or forty hours per week.

13 3. It was very difficult for couriers to receive adequate compensation while working more  
14 than eight hours a day compared to the amount of business expenses incurred every day. I did not  
15 understand my paystubs, I did not receive any reimbursements, and I was not paid for the full and fair  
16 amount of labor I provided to Postmates and its customers.

17 4. I first contacted Zimmerman Reed, LLP (“Zimmerman Reed”) on or around  
18 October 16, 2019 after discovering their efforts to bring suit against Postmates during an internet search.  
19 I retained Zimmerman Reed in this case to represent me as a Class Member pursuant to a written  
20 Attorney Retainer agreement dated January 25, 2020. I agreed to act as a Plaintiff on behalf of the State  
21 of California and the aggrieved employees working for Postmates and filed the appropriate notice with  
22 both Postmates and the State of California’s Labor Commissioner.

23 5. I understand that I am acting as a Private Attorney General on behalf of aggrieved  
24 employees and the State of California and seeking appointment as a class representative. I believe that  
25 I am adequate to represent all aggrieved employees in the PAGA claims and the putative class. I believe  
26 that my interests are the same as the other couriers subject to improper classification. I am aware that  
27 all couriers received the same form of pay statement that can be reviewed on the application for  
28 Postmates. I know that we all worked pursuant to the same guidelines and policies published and

1 distributed by Postmates. I also believe that my attorneys are adequate to represent the class and the  
2 aggrieved employees.

3 6. I have been actively involved in this case and have worked closely with my attorneys to  
4 successfully outline the injustices made upon Postmates couriers. Specifically, I have assisted with  
5 documents such as the October 18, 2019 Motion to Intervene, the November 8, 2019 Opposition to  
6 Motion for Preliminary Approval, the November 15, 2019 Reply In Support Of Motion to Intervene,  
7 and the April, 27, 2020 Notice of Supplemental Authority, among others.

8 7. I believe the Settlement amount of \$32 million is fair, reasonable, and adequate in view  
9 of the complex and varied issues involved with the case.

10 8. I accepted the potential risk of being liable for the opposing parties' costs if we were  
11 unsuccessful in this lawsuit. I have accepted the stigma of representing the aggrieved employees in this  
12 PAGA labor dispute which has affected my future employability with Postmates and other employers  
13 in the industry.

14 9. Furthermore, it is my opinion that the settlement is fair, reasonable, and adequate. As a  
15 representative plaintiff, I am seeking an incentive award of \$5,000. I am also entering into a general  
16 release with Postmates and understand that I am giving up my rights to sue Postmates as part of the  
17 PAGA settlement.

18 10. I support Class Counsel's and my attorneys' request for fees as I believe the fee request  
19 is fair and reasonable in comparison to the \$32 million Settlement amount. I previously agreed in writing  
20 to attorneys' fees of one-third of any recovery as outlined in the above-mentioned retainer agreement.

21 I declare under penalty of perjury that the foregoing is true and correct. Executed this  
22 October 8, 2021 in Pomona, California.

23 

24 \_\_\_\_\_  
Arsen Altounian

**This document was signed by:**

Arsen Altounian



**Vinesign**

Date

10/8/2021 11:00 PM UTC

Phone

6265877491

IP Address

172.58.20.130

Confirmation

7DDB73DAF1F6B5BA1D5FA0A6A51A3131  
12EF5A2BF4A42A5C6EC85F6712E06791



**VINESIGN.COM**