

## **Exhibit 9**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND**

IN RE MUTUAL FUNDS	)	MDL-1586
INVESTMENT LITIGATION	)	
	)	Case No. 04-md-15863
This Document Relates to:	)	
Columbia sub-track	)	

**AFFIDAVIT OF ATTORNEY MARTIN D. CHITWOOD  
IN SUPPORT OF JOINT PETITION FOR  
ATTORNEYS' FEES AND REIMBURSEMENT OF EXPENSES  
FILED ON BEHALF OF CHITWOOD HARLEY HARNES LLP**

STATE OF GEORGIA	)	
	)	ss.:
COUNTY OF FULTON	)	

**MARTIN D. CHITWOOD**, being first duly sworn, deposes and says:

1. I am a member of the law firm of Chitwood Harley Harnes LLP. I submit this affidavit in support of my firm's application for an award of attorneys' fees in connection with services rendered in this case, as well as the reimbursement of expenses incurred by my firm in connection with this litigation.

2. My firm acted as plaintiffs' counsel in the derivative action. The tasks undertaken by my firm can be summarized as follows: multiple conferences with clients and class members regarding claims; consultation and advice to proposed lead plaintiff; investigating potential securities claims; developing strategy; reviewing various pleadings; reviewing, analyzing, and responding to discovery requests; participating in telephone and e-mail communications with co-counsel and engaging in factual and legal investigation and research.

3. The schedule attached hereto as Exhibit 1 is a detailed summary indicating the amount of time spent by the partners, attorneys and professional support staff of my firm who were involved in this litigation, and the lodestar calculation based on my firm's current billing rates.<sup>1</sup> For personnel who are no longer employed by my firm, the lodestar calculation is based upon the billing rates for such personnel in his or her final year of employment by my firm. The schedule was prepared from contemporaneous, daily time records regularly prepared and maintained by my firm, which are available at the request of the Court. Time expended in preparing this application for fees and reimbursement of expenses has not been included in this request.

4. The hourly rates for the partners, attorneys and professional support staff in my firm included in Exhibit 1 are the same as the regular current rates charged for their services in non-contingent matters and/or which have been accepted and approved in other securities or shareholder litigation.

5. The total number of hours expended on this litigation by my firm is 380.25 hours. The total lodestar for my firm is \$164,662.50, consisting of \$155,820 for attorneys' time and \$8,422.50 for professional support staff time.

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


7. As detailed in Exhibit 2, my firm has incurred a total of \$5,193.30 in unreimbursed expenses in connection with the prosecution of this litigation.

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<sup>1</sup> This application does not include time for anyone who spent fewer than 5 hours on this litigation.

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

9. With respect to the standing of counsel in this case, attached hereto as Exhibit 3 is a brief biography of my firm and attorneys in my firm who were principally involved in this litigation.

  
\_\_\_\_\_  
**MARTIN D. CHITWOOD**

Sworn to before me this  
3<sup>rd</sup> day of September, 2010

  
\_\_\_\_\_  
Notary Public

Notary Public, Clayton County, Georgia  
My Commission Expires March 30, 2012

**EXHIBIT 1**

*In re Mutual Funds Investment Litigation – Columbia Sub-Track, 1:04-MD-15863*

**CHITWOOD HARLEY HARNES LLP  
TIME REPORT — Inception through April 12, 2010**

Name	Total Hrs.	Hourly Rate	Total Lodestar
<b>PARTNERS:</b>			
Martin D. Chitwood	13.00	800.00	\$10,400.00
Lauren S. Antonino	5.25	575.00	\$3,018.75
David J. Worley	107.25	575.00	\$61,668.75
Edward H. Nicholson, Jr.	113.25	480.00	\$54,360.00
<b>ATTORNEYS:</b>			
Leslie G. Torans	80.50	275.00	\$22,137.50
Tamara M. Woodard	19.25	220.00	\$4,235.00
<b>PROFESSIONAL SUPPORT STAFF:</b>			
Lori A. Smith	25.00	240.00	\$6,000.00
Tammy F. Trendle	9.25	210.00	\$1,942.50
David A. Jarrard	7.50	120.00	\$900.00
<b>TOTAL LODESTAR</b>	<b>380.25</b>		<b>\$164,662.50</b>

**EXHIBIT 2**

*In re Mutual Funds Investment Litigation – Columbia Sub-Track, 1:04-MD-15863*

**CHITWOOD HARLEY HARNES LLP  
EXPENSE REPORT — Inception through April 12, 2010**

<b><u>Categories:</u></b>	<b><u>Amount</u></b>
Photocopies/Reproduction	679.91
Postage/Notice Costs	385.15
Telephone	31.50
Messengers/Express Services	95.78
Filing/Witness Fees	
Court Reporters/Transcript/Video	
Lexis/Westlaw/Legal Research	900.96
Experts/Consultants	
Meals, Hotels & Transportation	100.00
Secretarial Overtime/Word Processing	
Assessments	3,000.00
Facsimile Charges	
<b>TOTAL EXPENSES:</b>	<b><u>\$5,193.30</u></b>

**EXHIBIT 3**

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CHITWOOD

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HARLEY

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HARNES LLP

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# CHITWOOD HARLEY HARNES LLP

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## OUR FIRM

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Chitwood Harley Harnes LLP (“Chitwood Harley Harnes”) is one of the nation's leading class action law firms, and the firm is very proud of its many accomplishments. Securities class actions are the cornerstone of the firm’s practice. Chitwood Harley Harnes represents individuals, institutional investors (including public pension funds, private mutual funds and union funds), and other victims of securities fraud and corporate mismanagement.

Since its founding, Chitwood Harley Harnes has brought many high profile class actions, recovering billions of dollars on behalf of its clients and requiring corporate defendants to institute strict corporate governance reforms. Recently, the firm served as a lead counsel in both the *BankAmerica* securities litigation in the Eastern District of Missouri in which \$490 million was recovered for investors and in the *Oxford Health* securities litigation in the Southern District of New York which resulted in a \$300 million recovery for investors – when these cases were resolved in 2003 they were the second and fifth largest recoveries, respectively, since the enactment of the Private Securities Litigation Reform Act of 1995 (the “PSLRA”). In addition, Chitwood Harley Harnes has served as a lead counsel in the ten largest recoveries in securities class actions in the Northern District of Georgia (which includes Atlanta) since the enactment of the PSLRA.

Clients Chitwood Harley Harnes has represented in securities litigation include:

- The Teachers Retirement System of Georgia
- The Employees’ Retirement System of Georgia
- The Retirement Systems of Alabama
- The Kentucky Teachers Retirement System
- Clarion-CRA Securities
- The Teachers Retirement System of Ohio
- The Employees Retirement System of Ohio
- The Washington State Investment Board
- The Public Employees Retirement System of Mississippi
- The Phoenix Insurance Company, Ltd.
- Prisma Provident Funds, Ltd.
- Prisma Mutual Funds, Ltd.
- Harel Insurance Company
- Harel Pia Mutual Funds
- Government Employees & Judiciary Retirement Systems of Puerto Rico

Courts have recognized Chitwood Harley Harnes's high-caliber work and commitment to professionalism in the representation of its clients:

- *BankAmerica* (\$490 million recovery) - United States District Judge John F. Nangle, sitting by special designation for the Eastern District of Missouri, commented favorably on the firm's performance stating: "Class members were well served by experienced attorneys who, through considerable time and effort, obtained a significant recovery for their clients," and, "[a]s the Court has remarked throughout this litigation, class counsel ... have performed at exceptionally high levels, and all parties have been exceedingly well represented."
- *Oxford Health* (\$300 million recovery) - United States District Judge Charles L. Briant for the Southern District of New York stated that the attorneys "working on this case . . . [have] been in my view excellent" and "want[ed] to make note that all of you did a fine job and it is really a pleasure to work with you over half a decade."
- *1996 Medaphis* (\$72.5 million recovery; the largest recovery in the Northern District of Georgia) - In approving the recovery, United States District Judge Thomas W. Thrash commended the firm's attorneys "for their competent and professional manner" and found that "lead counsel's skill and diligence achieved an exceptional recovery for the benefit of the class."
- *In re Polypropylene Carpet Antitrust Litig.* (\$50 million recovery) - This case was also filed in the Northern District of Georgia and Chitwood Harley Harnes served as a lead counsel. United States District Judge Harold L. Murphy stated that the attorneys' "efforts in this case to date have demonstrated their great skill and ability" and that "the Court's own observations of Plaintiffs' counsel support a determination that Plaintiffs' counsel are highly reputable and responsible attorneys."
- *In re JDN Realty Corp. Sec. Litig.* (\$47 million recovery) - Chitwood Harley Harnes served as sole lead counsel. United States District Judge Richard W. Story commended Chitwood Harley Harnes by noting that "the quality of what has been submitted to the Court in this case has been excellent, and I appreciate the quality of the work and your hard work in resolving [the case]."
- *Stoudt v. E.F. Hutton & Company, Inc.* - This is another securities class action in which the firm served as a lead counsel. A Special Master for the New York federal court found counsel's representation of the plaintiff class to be "exemplary," and that counsel provided superior representation in a particularly complex case.
- *In re IXL Enterprises, Inc. Sec. Litig.* - This securities class action was filed in the Northern District of Georgia and the firm served as a lead counsel. United States District Judge Clarence Cooper noted that there were "many obstacles that the class members as well as their counsel had to overcome in order to settle this case" and he commended counsel for the plaintiff on "the outstanding job they did in negotiating this recovery."

These are only a few representative cases in which Chitwood Harley Harnes has achieved successful results on behalf of the firm's clients. Chitwood Harley Harnes maintains a strong work ethic, finding that efficient and thorough work achieves the best results. The firm emphasizes professionalism in its relations with other attorneys and the judiciary and is committed to zealous representation of its clients.

## PROFESSIONAL BIOGRAPHIES

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### MARTIN D. CHITWOOD

Martin Chitwood has served as a lead counsel in more than 40 class actions nationwide and has been instrumental in recovering billions of dollars for investors and other class members. In a lead article in February 2004, the Atlanta Journal/Constitution stated that Mr. Chitwood “is considered *the* plaintiffs’ lawyer in the state of Georgia.” He has also been recognized as a Georgia “Super Lawyer” by *Law and Politics* each year since the inception of the award.

Recently, Mr. Chitwood served as a lead counsel in both the *BankAmerica* securities litigation in the Eastern District of Missouri in which \$490 million was recovered for investors and in the *Oxford Health* securities litigation in the Southern District of New York which resulted in a \$300 million recovery for investors – when these cases were resolved in 2003 they were the second and fifth largest recoveries, respectively, since the enactment of the Private Securities Litigation Reform Act of 1995 (the “PSLRA”). Mr. Chitwood has also served as lead trial counsel in approximately 25 jury trials and has written and argued numerous appeals.

Mr. Chitwood has served by appointment as a Special Assistant Attorney General for the state of Georgia to represent Georgia state pension funds in securities class actions and has also served as lead counsel in securities class actions for pension funds of numerous other states. He is one of a select few attorneys who have served as lead counsel for mutual funds that have been appointed as lead plaintiffs in securities class action litigation. Also, Mr. Chitwood has been Vice President, Co-Chair of Securities, and a director of the National Association of Securities and Consumer Law Attorneys (NASCAT) and a director of the Committee to Support the Antitrust Laws (COSAL). He is recognized as a leader in the field of corporate governance reform.

Mr. Chitwood has participated as a panelist in many professional seminars, and he authored “The Effects of the English Common Law on the Development of Commonwealth West African Legal Systems,” published by the University of Georgia Press in 1976. Mr. Chitwood is also the author of papers on various aspects of securities and antitrust litigation, including:”

- “The Securities Reform Act of 1995: Its Effects on Litigation and Capital Formation” - published in *Calendar Call*, Vol. II, Winter 1996, No. 4
- “Federal Preemption of State Securities Laws: Uniform Standards or Misguided ‘Reform’?” - published in *Calendar Call*, Vol. III, Spring 1998, No.1
- “Litigating the Class Action Lawsuit in Georgia” - published by the National Business Institute in 1998

Additionally, he authored multiple articles published by the Institute for Continuing Legal Education (“ICLE”) in Georgia and has presented these articles at ICLE seminars, including:

- “Securities Class Actions: The Plaintiffs’ Perspective” - 1997
- “Class Actions and Antitrust Enforcement” - 1998
- “The Private Securities Litigation Reform Act of 1995 - A Synopsis” - 1999
- 2000 and 2001 Updates to the “Private Securities Litigation Reform Act of 1995”
- “Investor Communications During Litigation: Ethical Problems, Procedural Issues and PSLRA Requirements in Communicating with Investors When Litigation Is Pending” - 2001

Mr. Chitwood attended the University of Georgia, where he received his A.B., M.A., and J.D. degrees, the last in 1976. He is admitted to practice before all Georgia state trial and appellate courts, the United States District Courts for the Northern, Middle, and Southern Districts of Georgia, and the Second and Eleventh Circuit Courts of Appeals. He is a member of the Atlanta and American Bar Associations, the State Bar of Georgia, the Federal Bar Association, the Association of Trial Lawyers of America, the Georgia Trial Lawyers Association, and the Lawyers’ Club of Atlanta, where he has served on the Rules, Practice, and Judiciary Committee. He is also a Life Fellow of the Lawyers Foundation of Georgia. Mr. Chitwood is a member of the Securities Litigation Committee of the Litigation Section of the ABA and the Antitrust and General Practice and Trial Section of the Georgia Bar.

During the Vietnam Conflict, Mr. Chitwood was assigned to the Fifth Special Forces Group (Abn) and served as the commanding officer of a Special Forces A-Team. He received a Top Secret security clearance with Special Access from the Department of Defense. In addition, Mr. Chitwood was awarded both the Vietnamese Cross of Gallantry with Silver Star and the Vietnamese Cross of Gallantry with Palm by the Government of South Vietnam, and the Air Medal, Bronze Star Medal, Combat Infantryman’s Badge, Vietnam Service Medal, Vietnam Campaign Medal, Parachute Badge, and Vietnam Jump Wings by the Department of the Army.

Mr. Chitwood co-produced and wrote the story for “Unconquered,” a CBS movie of the week that first aired in January 1989. “Unconquered” was chosen as a Best of Category for 1989 by TV Guide. Mr. Chitwood is a member of the Writers’ Guild of America.

### **JOHN F. HARNES**

Mr. Harnes is a graduate of Harvard University and Brooklyn Law School. He was admitted to the Bar in 1982. Since his admission, Mr. Harnes has specialized almost exclusively in securities and corporate litigation. From 1986 to 1991 Mr. Harnes was a litigation associate in the New York offices of Skadden Arps Slate Meagher & Flom. Mr. Harnes has participated in numerous trials involving corporate and securities matters, and he has argued on numerous occasions before appellate courts, including the Supreme Court of Delaware, the New York Court of Appeals, and the First and Second Circuits. Mr. Harnes is admitted to practice in the courts of New York, the First, Second and Seventh Circuit Courts of Appeals, Federal District Courts in New York and in other Districts around the country, including Arizona and Wisconsin. Mr. Harnes has also been admitted to practice *pro hac vice* in specific cases in federal and state courts

throughout the country, including Connecticut, Delaware, California, Colorado, Georgia, Hawaii, Indiana, Maryland, Massachusetts, New Jersey, Pennsylvania, Texas and Virginia.

### **GREGORY E. KELLER**

Mr. Keller graduated summa cum laude from Yale University in 1979, and cum laude from Harvard Law School in 1982. He clerked for the Honorable Morey L. Sear, United States District Judge for the Eastern District of Louisiana, from 1982 to 1983. Mr. Keller was admitted to the Bar of the State of Washington in 1983, and, until 1994, was a partner in the Seattle law firm of Hillis Clark Martin & Peterson, where he tried a number of complex jury trials to successful verdicts.

Mr. Keller began to concentrate almost exclusively on corporate and securities litigation after joining Silverman, Harnes, Harnes, Prussin & Keller in New York in 1995, and has continued to practice exclusively in derivative, corporate governance and securities litigation after forming Harnes Keller LLP with John F. Harnes in 1999. Mr. Keller is admitted to practice in the state courts of New York and Washington State, the United States Courts of Appeal for the Third and Ninth Circuits, and in the United States District Courts for the Southern and Eastern Districts of New York, the Western and Eastern Districts of Washington, and the District of Arizona. He has also been admitted to practice *pro hac vice* in specific cases in federal and state courts throughout the country, including Delaware, California, Colorado, Georgia, Kansas, Michigan, New Jersey, Pennsylvania, Nevada, Texas, and Virginia.

### **ROBERT W. KILLORIN**

Mr. Killorin received his A.B. degree, *cum laude*, from Duke University in 1980. He received his J.D. from the University of Georgia in 1983 where he participated in the Prosecutorial Clinic and was a member of the ABA national moot court team and the national mock trial team. Mr. Killorin has served as a lead counsel in numerous trials, appeals, contested hearings, arbitrations, mediations and other matters. He is a member of the State Bar of Georgia, the American and Atlanta Bar Associations, and the Georgia Trial Lawyers Association. Mr. Killorin is admitted to practice in all state trial and appellate courts, the United States District Court for the Northern District of Georgia, the Eleventh Circuit Court of Appeals and the U.S. Supreme Court. Mr. Killorin has handled a broad range of civil litigation, including business and securities litigation, asbestos defense, federal admiralty claims, and international treaty law. His practice now focuses on class, derivative, multi-plaintiff, and other complex litigation.

Mr. Killorin has served on the Consumer Rights Committee of the State Bar of Georgia and was a speaker at the Georgia Trial Lawyers Association Evidence seminar on October 6, 2000. He is the author of "Preparing Clients to Testify," a chapter in *Civil Trial Practice – Winning Techniques of Successful Trial Attorneys*.

Mr. Killorin is also a member of the Eleventh Circuit Historical Society, the President's Club of the University of Georgia, the Military Order of the Carabao, the National Association of Underwater Instructors and the Explorers Club. He volunteered for ten years as a mock trial

instructor in the State Bar of Georgia High School Mock Trial program at the Lorenzo Binn Youth Development Center.

### **CRAIG G. HARLEY**

Mr. Harley has served as a lead counsel in numerous trials, appeals, arbitrations, mediations and other contested matters in state and federal courts in Georgia and elsewhere. He has had leadership roles in some of the most significant antitrust class actions filed in recent years, including those involving the bulk vitamins, polypropylene and nylon carpet, motorsports merchandise, carbon fiber, and food flavorings industries, and he presently serves as lead counsel in several major securities fraud class actions. He is proud to have assisted various courts and other entities with making *cy pres* distributions of unclaimed settlement benefits in several matters, including working with the Georgia Attorney General to distribute thousands of compact discs to Georgia's public library systems.

Mr. Harley has presented materials at numerous class action and antitrust seminars. For instance, he chaired the Georgia Trial Lawyers Association's Evidence seminar on October 6, 2000. On November 30, 2000, Mr. Harley made a presentation regarding "International Cartels and Private Litigation" for the State Bar of Georgia's Antitrust Section, and in November 2002, he spoke at its seminar on the relationship between criminal investigations and civil litigation. In May of 2005, Mr. Harley spoke about the new "Class Action Fairness Act" at a seminar sponsored by Georgia's Institute for Continuing Legal Education.

Mr. Harley grew up in Atlanta, Georgia, where he attended The Trinity and Westminster Schools. He received his B.A. degree from Duke University (1980) and his M.B.A. (1983) and J.D. (1986) degrees from Georgia State University. He is a member of the State Bar of Georgia, the Federal, American, and Atlanta Bar Associations; the Georgia Trial Lawyers Association, the Lawyers' Club of Atlanta, and the Lawyers Foundation of Georgia, of which he is also a Life Fellow. Mr. Harley is admitted to practice in all Georgia state trial and appellate courts, the United States District Court for the Northern District of Georgia, and the Eleventh Circuit Court of Appeals, and various other courts *pro hac vice*. His practice focuses on class, derivative, multi-plaintiff, and other complex litigation.

### **DARREN T. KAPLAN**

Mr. Kaplan received his B.A. degree in political science from Syracuse University in 1988 and his J.D. from Hofstra University School of Law in 1991. He is admitted to practice in New York, Connecticut and Georgia, in every federal district court in New York, the Northern District of Georgia, the U.S. Court of Federal Claims, the U.S. Court of International Trade, the Second, Third, Ninth, Eleventh and Federal Circuit Courts of Appeals, and the Supreme Court of the United States.

In addition to representing shareholders in derivative and class action litigation, Mr. Kaplan focuses on representing consumers in class actions in the personal and information technology fields. He was a lead counsel in *Ades v. Microsoft Corp.*, 2001 N.Y. Misc. LEXIS 780 (Sup. Ct., Kings County, Sept. 20, 2001), representing a nationwide class of purchasers of Microsoft



computer mice. He was a lead counsel in *Epson Ink Cartridge Cases* (Superior Ct. of California, Los Angeles County), representing a certified nationwide class of purchasers of Epson printer ink cartridges. He was also a lead counsel in *Checkmate Strategic Group v. Yahoo! Inc.* (U.S. District Court for the Central District of California) where he represented a certified nationwide class of advertisers who had been overcharged for “fraudulent clicks” on Yahoo search ads. The settlement in *Epson Ink Cartridge Cases*, valued in excess of \$900 million dollars, is thought to be one of the top 5 consumer class action settlements in history.

Mr. Kaplan has substantial trial experience and has argued appeals in the First and Second Departments of the New York Appellate Division and the Second Circuit Court of Appeals. He has been admitted to practice *pro hac vice* in the state and federal courts of Delaware, California, Maryland, Massachusetts and Kansas. Mr. Kaplan is a member of the American Trial Lawyers Association and the American Bar Association.

### **NIKOLE M. DAVENPORT**

Ms. Davenport has served as lead counsel in various complex cases. Her work includes new case investigation and analysis, as well as daily case management and strategy for prosecuting securities and antitrust class actions. In addition, Ms. Davenport is the director of client relations for the firm.

Ms. Davenport takes an active role in protecting the interests of institutional investor clients. She is a member of the National Association of Public Pension Attorneys, the Counsel of Institutional Investors, and is corporate affiliate of the National Association of State Treasurers. Ms. Davenport also attends a number of conferences each year that address issues relating to public and private pension funds and regularly lectures to pension board members and trustees.

Over the past five years, Ms. Davenport co-authored three chapters in *Litigating the Class Action Lawsuit in Georgia* and has served as a presenter at class action continuing legal education seminars. In January 2002, Ms. Davenport served as a panelist at the American Bar Association’s International Cartel Symposium in New York, New York. Ms. Davenport recently led the firm's litigation team against *CryoLife, Inc.*, which resulted in a \$23.25 million recovery for class members.

Ms. Davenport received her B.A. and J.D. degrees from Temple University in 1990 and 1994, respectively. She received an Outstanding Oral Advocacy Award while at Temple University School of Law. Ms. Davenport has been admitted to the state bars of Georgia, Pennsylvania and New Jersey, the U.S. District Courts for the Northern District of Georgia, the Eastern District of Pennsylvania, and the District of New Jersey, as well as the Eleventh Circuit Court of Appeals.

### **JAMES M. WILSON, JR.**

James “Josh” Wilson received his B.A. from Georgia State University in 1988, his J.D. from the University of Georgia in 1991, and his LL.M. in Tax Law from New York University in 1992. While obtaining his law degree, Mr. Wilson was an editor for the Georgia Journal of International and Comparative Law, and studied and worked abroad in Brussels, Belgium and Munich, Germany.

Formerly, Mr. Wilson was associated with Reed Smith, LLP in New York City, where he focused on complex business litigation and securities arbitration before the New York Stock Exchange and the National Association of Securities Dealers. Prior to that, Mr. Wilson worked at a small boutique that concentrated on environmental and maritime litigation and compliance matters. Mr. Wilson has participated in numerous jury and bench trials in federal and state court. His practice at Chitwood Harley Harnes focuses on securities class actions and other complex litigation in federal and state courts.

Mr. Wilson is admitted to practice law in the States of Georgia and New York, before the United States District Courts for the Middle and Northern Districts of Georgia, and before the Southern and Eastern Districts of New York. Mr. Wilson also is a member of the Atlanta Bar Association, the New York State Bar Association, and the New York County Lawyers Association.

Mr. Wilson is a contributing writer and editor for Lexis-Nexis/Matthew Bender.

### **KRISSI T. GORE**

Ms. Gore is a native of Atlanta where she attended the Lovett School before she was graduated from Phillips Academy in Andover, Massachusetts. Ms. Gore received her B.A. degree, *cum laude* with a double major, from Wellesley College in 1994. During her college career, she participated in a one-year academic program at Dartmouth College and was a member of the Wellesley and Dartmouth cross country teams. She attended the Ukrainian Institute at Harvard University in 1990 and the Kiev-Mohyla Academia in Ukraine in 1993.

Ms. Gore earned her J.D. degree in May 1999, from the University of Georgia. She is admitted to practice before all Georgia state trial and appellate courts and the U.S. District Court for the Northern District of Georgia and the Eleventh Circuit Court of Appeals. Her practice is devoted to corporate securities and consumer class actions.

### **MERYL W. ROPER**

Mrs. Roper received her B.S. degree, *cum laude*, with a double major in accounting and finance from the University of Florida in 1996. Mrs. Roper received her J.D. degree from Boston University School of Law in 1999, where she received the Edward F. Hennessey award for academic achievement. While attending law school, Mrs. Roper completed an internship program with the United States Securities and Exchange Commission. She completed her final semester of law school at Oxford University in Oxford, England, where she studied international and comparative law. After law school, Mrs. Roper worked as an attorney for the United States

Court of Appeals for the Eleventh Circuit. Mrs. Roper's practice is devoted to corporate securities and other complex class litigation.

### **JOAN T. HARNES**

Mrs. Harnes is a graduate of Bryn Mawr College and Fordham Law School, where she was a member of the Law Review. She was admitted to the bar in 1955. After graduation, Mrs. Harnes was in private practice, where she was engaged in a large number of trials. Mrs. Harnes was one of the first women to be appointed an Assistant United States Attorney, and served in the Criminal Division in the Eastern District of New York. In 1970, Mrs. Harnes helped form the firm Silverman & Harnes, and thereafter, has specialized in the litigation of cases involving securities violations and matters of corporate governance. She has lectured at the Yale School of Organization and Management on such matters. Mrs. Harnes has actively participated in many trials and has also written numerous briefs and argued appeals in cases involving securities and corporate governance issues. Mrs. Harnes has been admitted to practice in the state courts of New York, the United States Supreme Court, the Second Circuit Court of Appeals, and in the United States District Court for the Southern and Eastern Districts of New York. She has also been admitted and argued *pro hac vice* before many courts, including the Supreme Court of Delaware.

### **CAROL SHAHMOON**

Ms. Carol Shahmoon graduated summa cum laude and Phi Beta Kappa from Columbia University in 1992 where she received a Bachelor of Arts degree in Economics. She also received her J.D. in 1992 from Columbia Law School through an accelerated joint degree program with the College. At law school, she was both a James Kent Scholar and a Harlan Fiske Stone Scholar. In addition, Ms. Shahmoon served as a Notes & Comments Editor of the Columbia Law Review.

Ms. Shahmoon began her career at the law firm of Cleary, Gottlieb, Steen & Hamilton in New York, where she practiced in the area of corporate taxation. She analyzed the tax consequences of complex, cross-border corporate transactions and negotiated and drafted the relevant documentation. After Cleary, Ms. Shahmoon practiced in the legal department of Morgan Stanley & Co. At Morgan Stanley, she focused on the legal and compliance issues arising in the sales and trading division.

### **MOLLY A. HAVIG**

Molly Havig received her J.D. degree from Florida State University College of Law in 1999. While in law school, Ms. Havig clerked for the 20th Judicial Circuit of Florida and was presented with an award for exceptional pro bono service for her work with Guardian Ad Litem and the Children's Advocacy Clinic. Ms. Havig also studied international trade and constitutional comparative law with Duke University in Hong Kong.

In 2005, Ms. Havig received an LL.M. in International and Comparative Law from Georgetown

University Law Center, where she won awards for academic achievement in customs and import/export law. While pursuing her LL.M., Ms. Havig lived in Rome, Italy and studied international business and European Union law.

Ms. Havig's practice is devoted to corporate securities litigation.

### **ZE'VA KUSHNER BANKS**

Ms. Banks graduated from Emory University School of Law in May 2003. While at Emory, she was a member of the Moot Court Society and received the Order of Advocates Award. Ms. Banks also was on the Dean's List and received the honor of being a Top 10% Oralist, LWRAP Appellate Oral Arguments.

Ms. Banks obtained her Bachelor of Arts in Political Science with honors from Stanford University in June 1998. Prior to majoring in Political Science, she was focused on biology and co-authored an article published in the Proceedings of the National Academy of Sciences. Ms. Banks' practice is devoted to corporate securities litigation.

### **CYNTHIA P. AUDAIN**

Ms. Audain, a native of Houston, Texas, graduated from Thurgood Marshall School of Law in 2004. While at Thurgood Marshall, Ms. Audain clerked for the 133rd Civil District Court in Houston, Texas. Ms. Audain received a Bachelor of Arts in Chemistry from Agnes Scott College in 1998. Prior to attending law school, Ms. Audain served as a Research Fellow for the Centers for Disease Control in Atlanta, Georgia where she assisted in a variety of Environmental Health projects. During her time at the CDC, Ms. Audain co-authored several publications of her research in Clinical Chemistry.

Ms. Audain is a member of the Texas Bar (2004) and Georgia Bar (2006). Ms. Audain's practice is devoted to securities and consumer class actions.

### **MARY KATHRYN "KATIE" KING**

Mary Kathryn "Katie" King graduated from Emory University School of Law in May 2005. While at Emory, Ms. King worked as a student attorney for the Turner Environmental Law Clinic and held leadership positions in several public interest organizations. Ms. King received a Bachelor of Arts degree from Duke University in December 1998. After graduating from Duke, Ms. King served as a Peace Corps Volunteer in Gabon, Central Africa, where she developed HIV/AIDS education programs in local schools and taught maternal and child health in remote villages. Before attending law school, Ms. King studied horticulture and landscape design in the graduate program at North Carolina State University. Ms. King is fluent in French.

Ms. King's practice is devoted to corporate securities and consumer class actions.

## **FABIANA ESPOSITO-PARKER**

Fabiana Esposito-Parker received a Bachelor of Arts in Afro-American Studies, cum laude, from Harvard University in 2002. Ms. Esposito-Parker graduated from the George Washington University Law School in 2005. During law school, she worked with a number of non profit and public interest organizations including the Association of Legal Aid Attorneys in New York, NY, the Lawyers' Committee for Civil Rights Under Law in Washington, D.C., and New York Lawyers for the Public Interest. Ms. Esposito-Parker is a member of the Georgia Association of Black Women Attorneys and serves as Vice President of Recent Graduates for the Harvard Club of Georgia. Ms. Esposito-Parker is proficient in French, Haitian Creole and Spanish.

Ms. Esposito-Parker's practice is devoted to complex securities and consumer class actions.

## **ACCOUNTING PROFESSIONALS**

### **MAHESH V. PATEL**

Mahesh Patel is a member of Chitwood Harley Harnes's forensic accounting team. Mr. Patel graduated from Gujarat University in India in 1982 with a Bachelor of Commerce degree and then spent the next three years participating in a Chartered Accountants Apprenticeship in India. During this time Mr. Patel audited banks, financial institutions and corporations. Upon completion of the program, Mr. Patel pursued a career as a stock broker on the international markets. Since relocating to the United States, Mr. Patel has focused on investments and the stock market.

### **JOYCE S. WELCH**

Ms. Welch is the firm's Controller and monitors the settlement fund administration process from inception through distribution to the class members. A native of Texas, Ms. Welch received a B.B.A. in Marketing and Accounting from the University of Texas, Austin. Before joining Chitwood Harley Harnes, Ms. Welch worked as a business consultant, providing accounting, management and financial services to businesses. In addition, Ms. Welch has numerous years of experience in law firm administration, business ownership and management and uses her accounting and financial experience to assist other members of the firm's accounting team.

## LEADERSHIP POSITIONS

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Chitwood Harley Harnes has had leadership positions in numerous corporate securities, antitrust, and consumer class action matters. The following list includes some of the recent cases in which the firm has been appointed a Lead Counsel:

### PENDING SECURITIES ACTIONS

*In re Arthrocare Corporation Sec. Litig.*, United States District Court for the Western District of Texas (Austin), Civil Action No. 08-cv-00574-SS. The firm serves as Lead Counsel.

*In re Beazer Homes USA, Inc., Sec. Litig.*, United States District Court for the Northern District of Georgia, Civil Action No. 1:07-CV-725-CC. The firm serves as a Lead Counsel.

*In re Maxim Integrated Products, Inc., Sec. Litig.*, United States District Court for the Northern District of California, Civil Action No. C-08-00832-PVT. The firm serves as a Lead Counsel to the Public Employees Retirement System of Mississippi, the Cobb County Government Employees' Pension Plan, and the DeKalb County Pension Fund.

*Ohio Public Employees Retirement System, et al. v. Federal Home Loan Mortgage Corporation a/k/a Freddie Mac*, United States District Court for the Northern District of Ohio, Civil Action No. 4:08-CV-00160. The firm serves as Special Counsel to the Attorney General for the State of Ohio.

*In re Piedmont Office Realty Trust, Inc. Sec. Litig.*, United States District Court for the Northern District of Georgia, Civil Action No. 1:07-CV-02660-CAP. The firm serves as a Lead Counsel.

*In re Scientific-Atlanta, Inc. Sec. Litig.*, United States District Court for the Northern District of Georgia, Civil Action No. 1:01-CV-1950-RWS. The firm serves as a Lead Counsel.

*In re TyCom Ltd. Sec. Litig. (Rosemarie Stumpf v. Neil R. Garvey, et al., Docket No. 03-cv-1352)*, United States District Court, District Of New Hampshire, MDL No. 02-1335-B. The firm serves as a Lead Counsel.

*In re Wells Real Estate Investment Trust, Inc. Sec. Litig.*, United States District Court for the Northern District of Georgia, Civil Action No. 1:07-CV-862-CAP. The firm serves as a Lead Counsel.

## REPRESENTATIVE RESOLVED SECURITIES ACTIONS

*In re AFC Enterprises, Inc. Sec. Litig.*, United States District Court for the Northern District of Georgia, Civil Action No. 1:03-CV-0817-TWT. [\$19.2 million recovery]

*Arnold v. Shearson Lehman Hutton Co., Inc.*, United States District Court for the Southern District of New York, Civil Action No. 87 Civ. 4524 (WK) (KAR). [\$20 million recovery]

*Carpenters Health & Welfare Fund v. The Coca-Cola Co., et al.*, United States District Court for the Northern District of Georgia, Civil Action No. 1:00-CV-2838-WBH. [\$137.5 million recovery]

*In re BankAmerica Corp. Sec. Litig.*, United States District Court for the Eastern District of Missouri, MDL No. 1264. [\$490 million recovery]

*In re BellSouth Corp. Sec. Litig.*, United States District Court for the Northern District of Georgia, Civil Action No. 1:02-CV-2142-WSD. [\$35 million recovery]

*Carley Capital Group, et al. v. Deloitte & Touche LLP*, United States District Court for the Northern District of Georgia, Civil Action No. 1:97-CV-3183-TWT. [\$24 million recovery]

*In re ChoicePoint, Inc. Sec. Litig.*, United States District Court for the Northern District of Georgia, Civil Action No. 1:05-CV-686-JTC. [\$10 million recovery]

*In re CryoLife Inc. Sec. Litig.*, United States District Court of the Northern District of Georgia, Civil Action No. 1:02-CV-1868-BBM. [\$23.5 million recovery]

*Demint v. NationsBank of Florida, N.A.*, United States District Court for the Middle District of Florida, Civil Action No. 94-995-CIV-T-23E. [\$30 million recovery]

*In re Friedman's Inc. Sec. Litig.*, United States District Court for the Northern District of Georgia, Civil Action No. 1:03-CV-3475-WSD. [\$14.9 million recovery]

*Hanson v. NationsBanc Securities, Inc.*, Sixth Judicial Circuit of Florida, for Pinellas County, Civil Action No. 95-1202-CI-8. [\$30 million recovery]

*In re 1996 Medaphis Corp. Sec. Litig.*, United States District Court for the Northern District of Georgia, Civil Action No. 1:96-CV-2088-TWT. [\$72.5 million cash and securities recovery]

*In re Oxford Health Plans, Inc. Sec. Litig.*, United States District Court for the Southern District of New York, MDL No. 1222 (CLB). [\$300 million recovery]

*In re Premiere Technologies, Inc. Sec. Litig.*, United States District Court for the Northern District of Georgia, Civil Action No. 1:98-CV-1804-JOF). [\$20.75 million recovery]

*In re Providian Financial Corp. Sec. Litig.*, United States District Court for the Northern District of California, Master File No. C-01-3952-CRB. [\$65 million recovery]

*In re Retirement Care Associates, Inc. Sec. Litig.*, United States District Court for the Northern District of Georgia, Civil Action No. 1:97-CV-2458-CC. [\$10 million recovery]

*In re Theragenics Corp. Sec. Litig.*, United States District Court for the Northern District of Georgia, Civil Action No. 1:99-CV-0141-TWT. [\$10 million recovery]

## PENDING ANTITRUST & CONSUMER ACTIONS

*Arcand, et al. v. Brother International Corporation*, United States District Court for the District of New Jersey, Civil Action No. 07-04987 (FLW). The firm serves as a Lead Counsel in this consumer class action alleging that Brother-brand laser printers shutdown and falsely indicate "empty" with significant amounts of useable toner remaining in the cartridge.

*Baggett, et al. v. Hewlett-Packard Company*, United States District Court for the Central District of California, Civil Action No. CV-07-667 AG. The firm serves as a Lead Counsel in this consumer class action alleging that Hewlett-Packard-brand laser printers shutdown and falsely indicate "empty" with significant amounts of useable toner remaining in the cartridge.

*Columbus Drywall & Insulation, Inc., et al. v. MASCO Corporation, et al.*, United States District Court for the Northern District of Georgia, Civil Action No. 1:04-CV-3066-JEC. The firm serves as a Lead Counsel in this antitrust class action.

*Cooper, et al. v. Samsung Electronics America, Inc.*, United States District Court for the District of New Jersey, Civil Action No. 07-03853 (JLL) (CCC). The firm serves as a Lead Counsel in this consumer class action alleging that certain Samsung-brand "1080p" televisions cannot accept a 1080p video signal.

*Date v. Sony Electronics, Inc., et al.*, United States District Court for the Eastern District of Michigan, Southern Division, Civil Action No. 07-CV-15474-PDC-RSW. The firm serves as a Lead Counsel in this consumer class action alleging that certain Sony-brand "1080p" televisions cannot accept a 1080p video signal.

*Handler, et al. v. Sony Electronics, Inc.*, United States District Court for the Central District of California, Civil Action No. CV 07-05212-RGK (JCx). The firm serves as a Lead Counsel in this consumer class action alleging that certain Sony-brand "1080p" televisions cannot accept a 1080p video signal.

*Johnson, et al. v. Mitsubishi Digital Electronics America, Inc., et al.*, United States District Court for the Central District of California, Civil Action No. SACV07-0931 CJC. The firm serves as a Lead Counsel in this consumer class action alleging that certain Mitsubishi-brand "1080p" televisions cannot accept a 1080p video signal.

*McFadden, et al. v. Brother International Corporation, et al.*, United States District Court for the District of New Jersey, Civil Action No. 07-1905 (FLW). The firm serves as a Lead Counsel in this consumer class action alleging that Brother-brand inkjet printers shutdown and falsely indicate "empty" with significant amounts of useable toner remaining in the cartridge.



*In re Microsoft Xbox 360 Console Scratched Disc Litig.*, United States District Court for the Western District of Washington, Master Cause No. 07-cv-1121-JCC. The firm serves as a Lead Counsel in this consumer class action.

*Richardson, et al. v. Brother International Corporation*, United States District Court for the Central District of California, Civil Action No. CV-07-00979 DSF. The firm serves as a Lead Counsel in this consumer class action alleging that Brother-brand laser printers shutdown and falsely indicate "empty" with significant amounts of useable toner remaining in the cartridge.

*Shein, et al. v. Canon U.S.A., Inc.*, United States District Court for the Central District of California, Civil Action No. 08-CV-07323 CAS (Ex). The firm serves as a Lead Counsel in this consumer class action alleging that Canon-brand inkjet printers shutdown and falsely indicate "empty" with significant amounts of useable toner remaining in the cartridge.

*Young v. Hewlett-Packard Company*, United States District Court for the Central District of California, Civil Action No. CV-09-00315 AG (RNBx). The firm serves as a Lead Counsel in this consumer class action alleging that Hewlett-Packard-brand laser printers shutdown and falsely indicate "empty" with significant amounts of useable toner remaining in the cartridge.

*Taylor, et al. v. JVC Americas Corporation*, United States District Court for the District of New Jersey, Civil Action No. 07-4059 (FSH). The firm serves as a Lead Counsel in this consumer class action alleging that certain JVC-brand "1080p" televisions cannot accept a 1080p video signal.

## **SUCCESSFULLY RESOLVED ANTITRUST & CONSUMER ACTIONS**

*Bradford and Ling, et. al. v. Bed Bath & Beyond Inc.*, United States District Court for the Northern District of Georgia, Civil No. 1:98-CV-2556-RWS. The firm served as a Lead Counsel in this collective action based upon wage and hour abuses. Chitwood Harley Harnes successfully opposed Defendant Bed Bath & Beyond's Motion to Decertify the Putative class following discovery. This was the first published order by a court wherein Plaintiffs survived a Motion to Decertify a national class in a FLSA overtime case.

*Checkmate Strategic Group, Inc. v. Yahoo! Inc.*, United States District Court for the Central District of California, Civil Action No. CV-05-458879 CAS. The firm served as a Lead Counsel in this consumer class action based on overcharges for "fraudulent clicks" on Yahoo ads.

*In re The Coca Cola Company Apple Juice Consumer Litig.*, Superior Court of Fulton County, State of Georgia, Civil Action No. E-47054. The firm served as a Lead Counsel in this consumer class action based upon the sale of adulterated juice products.

*In re Epson Ink Cartridge Cases*, Superior Court of the State of California for the County of Los Angeles, Judicial Council Coordination Proceeding No. 4347. The firm served as a Lead Counsel in this consumer class action based on the sale of inkjet printer cartridges that indicated "empty" while still containing significant ink.

*Khorrani, et al. v. Lexmark International Inc.*, United States District Court for the Central District of California, Civil Action No. CV-07-1671 DDP. The firm served as a Lead Counsel in this consumer class action alleging that Lexmark-brand laser printers shutdown and falsely indicate "empty" with significant amounts of useable toner remaining in the cartridge.

*In re Minute Maid Frozen Orange Juice Litig.*, Superior Court of Fulton County, State of Georgia, Master File No. E-58922. The firm served as Lead Counsel in this consumer class action based upon misrepresentations in sale of frozen juice products.

*In re Motorsports Merchandise Antitrust Litig.*, United States District Court for the Northern District of Georgia, Civil Action No. 1:97-CV-2314-TWT. The firm served as a Lead Counsel in this antitrust class action.

*In re Nylon Carpet Antitrust Litig.*, United States District Court for the Northern District of Georgia, Civil Action No. 4:98-CV-0267-HLM. The firm served as a Lead Counsel in this antitrust class action.

*In re Polypropylene Carpet Antitrust Litig.*, United States District Court for the Northern District of Georgia, MDL No. 1075. The firm served as a Lead Counsel in this antitrust class action.

*Ray, et al. v. Microsoft Corporation*, United States District Court for the Western District of Washington, Civil Action No. 06-1720 MJP. The firm serves as a Lead Counsel in this consumer class action.

*In re Vitamins Antitrust Litig.*, United States District Court for the District of Columbia, Civil Action No. 99-0197. The firm served on the Steering Committee in this antitrust class action.