

The Hon. Marsha J. Pechman

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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

KENNETH MCGUIRE and DAVID  
WILCZYNSKI, on Behalf of Themselves  
and All Others Similarly Situated,

Plaintiffs,

vs.

DENDREON CORPORATION,  
MITCHELL GOLD, and DAVID URDAL,

Defendants.

Case No. C07-800 MJP

**CLASS ACTION**

**DECLARATION OF MARC M.  
SELTZER IN SUPPORT OF MOTION  
FOR FINAL APPROVAL OF  
PROPOSED SETTLEMENT AND  
PLAN OF ALLOCATION**

1 I, Marc M. Seltzer, hereby declare and state as follows:

2 1. I am a partner at Susman Godfrey L.L.P., Lead Counsel for plaintiffs  
3 Kenneth McGuire and David Wilczynski and Class Counsel in the above-captioned action.

4 I am a member in good standing of the bar of the State of California. I have been admitted  
5 *pro hac vice* by the Court to appear as an attorney for plaintiffs in this action. I have  
6 personal knowledge of the matters set forth in this declaration, and if called as a witness,  
7 could and would testify competently thereto.

8 2. I have extensive experience in prosecuting and defending securities litigation.  
9 My biography and the biographies of the attorneys from Susman Godfrey L.L.P.  
10 representing plaintiffs—Drew D. Hansen, Ryan C. Kirkpatrick, Daniel J. Shih, and Jordon  
11 Connors—are attached hereto as Exhibits 1, 2, 3, 4, and 5, respectively.

12 3. During the course of the litigation, defendants produced to plaintiffs more  
13 than 550,000 pages of documents, and the total document production by parties and non-  
14 parties amounts to approximately 570,000 pages. The parties deposed nineteen different  
15 witnesses, including fourteen witnesses associated with defendants. Defendants responded  
16 to twenty-five interrogatories and served six expert reports. In total, the parties exchanged  
17 twelve expert reports and took six expert depositions.

18 4. Plaintiffs' damages expert, Bjorn I. Steinholt of Financial Markets Analysis,  
19 LLC, estimated the amount of artificial inflation in the market price of Dendreon's common  
20 stock attributable to the undisclosed FDA inspectional issues regarding Dendreon's  
21 manufacturing facility for Provenge by applying widely used econometric methodologies to  
22 the opinions of plaintiffs' regulatory experts, who concluded that those inspectional issues  
23 would have resulted in regulatory approval delays for Provenge of at least six months,  
24 independent of any efficacy issues that might also have affected FDA approval of Provenge.  
25 Based on this estimated period of delay, plaintiffs' damages expert estimated the artificial  
26 inflation in the market price of Dendreon common stock during the Class Period due to non-  
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1 disclosure of the inspectional issues was \$1.55 per share. Based on plaintiffs' expert's  
2 analysis of the trading volume of Dendreon common stock, and using techniques employed  
3 for estimating the number of shares that may be deemed subject to such artificial inflation,  
4 plaintiffs' expert concluded that the Class sustained aggregate damages of \$115.1 million,  
5 including aggregate damages to the Subclass of approximately \$313,000. These opinions  
6 were vigorously disputed and challenged by defendants.

7  
8 5. In contrast to plaintiffs' damages expert, defendants' damages expert  
9 concluded that damages were non-existent, even if it were assumed that plaintiffs would be  
10 able to prove the violations of the federal securities laws alleged in plaintiffs' complaint.  
11 According to defendants' expert, if any damages could be shown to exist, the maximum  
12 amount of damages sustained by the Class did not exceed \$8.8 million.

13 6. Among the many contested issues that caused the parties to have different  
14 views of the settlement value of this case were: (1) whether any defendant engaged in  
15 conduct violative of the federal securities laws; (2) the amount, if any, by which the market  
16 price of Dendreon common stock was allegedly artificially inflated during the Class Period;  
17 (3) the effect of extraneous market forces influencing the market price of Dendreon common  
18 stock at various times during the Class Period; (4) the extent, if any, to which the various  
19 matters that plaintiffs alleged were materially false or misleading affected the market price  
20 of Dendreon common stock during the Class Period; (5) the extent, if any, to which the  
21 various allegedly adverse material facts that plaintiffs alleged were omitted influenced the  
22 market price of Dendreon common stock during the Class Period; (6) whether the  
23 defendants made false or misleading statements of material fact, including whether  
24 defendants were subjectively aware of their falsehood; and (7) even if liability could be  
25 proven, the amount, if any, of any damages proximately caused by such statements. In  
26 particular, defendants' loss causation arguments, based on the singular facts of this case,  
27 presented unique and significant risks of litigation due to the allegedly confounding effects  
28

1 on Dendreon's stock price of two independent reasons (inspectional issues and efficacy  
2 concerns) for the FDA's rejection of Dendreon's application for approval of Provenge. All  
3 of these vigorously disputed issues present a significant risk that plaintiffs would obtain no  
4 recovery at trial.

5 7. Class Counsel developed the Plan of Allocation in consultation with  
6 plaintiffs' damages expert. The Plan is modeled in particular on the expert reports of Mr.  
7 Steinholt exchanged during discovery, and as such recognizes claims based on constant  
8 amounts of artificial inflation in Dendreon's stock price during the Class Period as reflected  
9 in Mr. Steinholt's reports. In his reports, Mr. Steinholt estimated the number of Eligible Net  
10 Shares Purchased during the Subclass period to be 1,470,410 and the number of Eligible Net  
11 Shares Purchased during the Class Period to be approximately 74,188,101.  
12

13 8. It is the view of Class Counsel that the settlement and Plan of Allocation are  
14 fair, reasonable, and adequate and should be approved.

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

17 Executed this 26th day of November, 2010, at Los Angeles, California.

18  
19 /s/ Marc M. Seltzer

20 Marc M. Seltzer

# **EXHIBIT 1**

## SUSMAN GODFREY LLP



Partner

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MARC M. SELTZER, born in Los Angeles, California; admitted to the California bar, 1972.

### EDUCATION

- University of California at Berkeley (B.A., 1969)
- UCLA School of Law (J.D., 1972)

### PUBLICATIONS

- Co-author, California Federal Civil Rules (LexisNexis 2010);
- Co-author, California State Antitrust and Unfair Competition Law (Matthew Bender & Co., 2009), published by the Antitrust and Unfair Competition Law Section, State Bar of California;
- "Choosing Between Class and Derivative Actions," published in Second Annual Institute, Class and Derivative Litigation in the 1990's - The New Frontier (Prentice Hall Law & Bus. 1991); and the same topic for subsequent Annual Institutes;
- "Measures of Damages in Private Actions for Violations of the Federal Securities Laws: The Basic Rules and Selected Problems," published in Securities Litigation 1990 (PLI 1990);
- "Shareholders' Derivative Suits in Contests for Corporate Control," published in Securities Litigation 1986: Prosecution and Defense Strategies (PLI 1986)

### PROFESSIONAL AFFILIATIONS

- United States Courts of Appeals for the Fifth, Ninth, Tenth, and Eleventh Circuits
- United States District Courts for the Central, Southern, Eastern, and Northern Districts of California
- United States District Court for the Eastern District of Texas
- Past Vice-Chair of the Executive Committee, Antitrust and Unfair Competition Law Section, State Bar of California
- Past President and current member of the Board of Directors of the Ninth Judicial Circuit Historical Society.
- Past President and current member of the Board of Directors of the Legal Aid Foundation of Los Angeles.
- Member of the Board of Directors of the National Equal Justice Library, the Board of Directors, American Friends of Hebrew University, Western Region, and the Board of Trustees of the Lawyers Committee for Civil Rights Under Law
- American Bar Association (and its Business Law, Antitrust Law, Torts and Insurance Law, and Litigation Sections)
- American Law Institute
- American Association for Justice
- Consumer Attorneys of California
- Selden Society

### HONORS & DISTINCTIONS

- Recipient, 2004 American ORT Jurisprudence Award
- Named a "Super Lawyer" by Southern California Law & Politics magazine (2004-2010)
- Named one of Law Dragon's 500 Leading Plaintiffs Lawyers (2007)
- Named one of Law Dragon's 100 Lawyers You Need To Know in Securities Litigation (2008)

Marc Seltzer has practiced law for more than thirty-five years, litigating complex business law cases in state and federal courts throughout the United States. He was a principal in the law firm of Corinblit & Seltzer, a Professional Corporation, before joining Susman Godfrey. Marc Seltzer's relationship with the lawyers of Susman Godfrey began in the late 1970's, when Steve Susman and Marc Seltzer worked together on the *Corrugated Container* antitrust case. In the ensuing years, Mr. Seltzer and the lawyers of Susman Godfrey worked together on a number of other cases. In February 1998, Marc Seltzer became a partner of the firm, and opened the firm's Los Angeles office. Since then, the firm's Los Angeles office has become one of the leading litigation boutiques in California.

Marc Seltzer's involvement in nationally prominent litigation began in the mid-1970's, when he was tapped by Jack Corinblit to work on the massive *Equity Funding* securities litigation. That case consisted of more than 100 consolidated class and private action cases, and was settled in 1976 for over \$60 million, then the largest recovery ever achieved in a securities fraud class action. See *In re Equity Funding Corp. of America Securities Litigation*, 438 F. Supp. 1303 (C.D. Cal. 1977). Later, in the 1980's, Mr. Seltzer was appointed by the Los Angeles federal court to serve as sole lead counsel to represent the plaintiff class in the *ZZZZ Best* securities fraud case. The *ZZZZ Best* fraud was described by the United States Attorney for the Central District of California as "the most massive and elaborate securities fraud perpetrated on the West Coast in over a decade," harking back to the *Equity Funding* case. The case was settled for more than \$40 million and resulted in several important published decisions sustaining plaintiffs' claims. See *In re ZZZZ Best Securities Litigation*, 864 F. Supp. 960 (C.D. Cal. 1994). Marc Seltzer was, together with Steve Susman, a member of the Susman Godfrey trial team representing approximately 90 financial institutions in a negligent misrepresentation case against one of the "Big Four" accounting firms. That case settled just prior to the commencement of trial. Marc Seltzer also teamed with Steve Susman in prosecuting the *In re Vitamin Antitrust Litigation*, which was settled pursuant to agreements that made more than \$1.05 billion available to the class.

Mr. Seltzer has also been appointed to serve as lead counsel for the plaintiffs in numerous securities, antitrust and other class action cases. He also represented defendants in antitrust, securities and other complex commercial litigation. Among the cases Mr. Seltzer has litigated are:

*In Re Universal Service Fund Telephone Billing Practices Litigation*, an antitrust and breach of contract class action involving more than fifty consolidated cases in which Marc Seltzer, together with Barry Barnett and David Orozco, served as co-lead trial counsel for plaintiffs. The case was settled as to one defendant for benefits to the class totaling \$25 million, and tried to a verdict as to the remaining defendants. The jury found in favor of defendants on the antitrust claim and returned a \$16 million verdict in favor of plaintiffs on the breach of contract claim which is currently on appeal in the Tenth Circuit. The trial court issued numerous published decisions in this matter. See, e.g., *In Re Universal Service Fund Telephone Billing Practices Litigation*, 300 F. Supp.2d 1107(D. Kan. 2003).

*Masimo v. Tyco Healthcare L.P.*, an antitrust case in which Marc Seltzer, together with Steve Susman, Vineet Bhatia and Stephen Morrissey, served as co-trial counsel for the plaintiff. The case was tried to a verdict resulting in an award in favor of our client. A new trial was granted as to damages. On retrial, the Court awarded approximately \$45 million in damages (after trebling). The Ninth Circuit affirmed the liability verdict and damages award.

*White v. NCAA*, an antitrust class action brought in Los Angeles federal court challenging limitations on financial assistance provided by colleges and universities to student athletes. Marc Seltzer, together with Stephen Morrissey and Steven Sklaver, served as co-lead counsel for the plaintiff class. The case was settled for benefits for the class totaling approximately \$220 million.

*In re Structured Settlement Litigation*, consolidated class actions brought in the Los Angeles Superior Court in which Marc Seltzer served as one of the lead counsel for the plaintiffs. The plaintiffs were parties to structured settlements who were victimized by the alleged fraudulent conversion of U.S. Treasury bonds backing their settlements. After three years of hotly contested litigation, the case was settled for approximately \$135 million.

*Livid Holdings, Ltd. v. Salomon Smith Barney, Inc.*, a securities fraud case brought on behalf of an investor in a start up company. Marc Seltzer was retained to represent the plaintiff on appeal following the dismissal of the action by the trial court, and was successful in overturning the dismissal of the case. See *Livid Holdings Ltd. v. Salomon Smith Barney, Inc.*, 416 F.3d 940 (9th Cir. 2005). The case was subsequently settled.

*In Motorcar Parts & Accessories Securities Litigation*, fourteen consolidated securities fraud class actions in which Marc Seltzer was appointed by the Los Angeles federal court to serve as lead counsel for the class. The case was settled for \$7.5 million in cash. See *Z-Seven Fund, Inc. v. Motorcar Parts & Accessories*, 231 F.3d 1215 (9th Cir. 2000).

*In re IDB Communications Group, Inc. Securities Litigation*, in which Marc Seltzer served as one of four co-lead counsel appointed by the Los Angeles federal court to represent the plaintiff class in more than twenty consolidated securities fraud class action cases. The case was settled for \$75 million.

*In re Taxable Municipal Bond Securities Litigation*, in which four lawyers, including Marc Seltzer, served on Plaintiffs' Executive Committee, and together with plaintiffs' lead counsel, supervised and managed every aspect of the litigation. This case was a consolidated multi-district proceeding brought on behalf of defrauded purchasers of taxable municipal bonds. The case resulted in numerous reported decisions on important recurring issues arising under the federal securities laws. See, e.g., *In re Taxable Municipal Bond Litigation*, [1993 Transfer Binder] Fed. Sec. L. Rep. (CCH) 97,742 (E.D. La. 1993). After several years of intense litigation, the case was settled for approximately \$110 million.

*Cowles v. Gannett Outdoor Co., Inc., of Southern California*, coordinated class actions brought in Los Angeles federal court for an alleged conspiracy to suppress competition for leases for billboards sites in Southern California in violation of § 1 of the Sherman Act. Marc Seltzer served as co-lead counsel for the class. The case was settled for \$6.5 million in cash.

*Slaven v. B. P. America, Inc.*, a class action brought in Los Angeles federal court on behalf of fishermen and business owners for economic losses suffered as a result of the spill of more than 200,000 gallons of crude oil from a tanker off the coast of Huntington Beach, California that befouled coastal waters and nearby beaches. The case was brought under the Trans-Alaska Pipeline Authorization Act, admiralty law and the law of California, and resulted in several published decisions in the district court and the Ninth Circuit. See, e.g., *Slaven v. B. P. American, Inc.*, 973 F.2d 1468 (9th Cir. 1992). Marc Seltzer served as co-lead counsel for the class. The case was ultimately settled for \$4 million in cash, plus court-approved attorneys' fees and costs.

*In re Carnation Company Securities Litigation*, consolidated class actions for violation of the federal securities laws brought in Los Angeles federal court. The plaintiffs alleged that false denials were made relating to the potential takeover of Carnation Company by Nestle, S.A., before the merger of the two firms was announced. Marc Seltzer served as co-lead counsel for the class. The case was settled for \$13 million in cash.

*In re International Technology Securities Litigation*, consolidated securities class actions filed in Los Angeles federal court. The plaintiffs alleged that the Company's financial statements were materially misleading for failing to earlier write off or set up appropriate accounting reserves relating to the Company's off-site waste disposal operations. Marc Seltzer served as co-lead counsel for plaintiffs. The case was settled for \$12 million in cash and newly-issued securities.

*Guenther v. Cooper Life Sciences, Inc.*, a combined stockholders class and derivative action brought in San Francisco federal court for alleged false and misleading statements regarding the Company's products and prospects. Marc Seltzer served as co-lead counsel for plaintiffs. The case was settled for \$9.85 million in cash and non-cash economic benefits valued to be worth at least \$8.3 million.

*Heckmann v. Ahmanson*, consolidated class and derivative actions arising out of the alleged "greenmailing" of the Walt Disney Co. by Saul Steinberg and a group of his companies. Marc Seltzer was one of the lead counsel for the class of investors. The case was settled after three weeks of trial for approximately \$60 million. See *Heckmann v. Ahmanson*, [1989 Transfer Binder] Fed. Sec. L. Rep. ¶ 94, 447 (Cal. Sup. Ct. April 12, 1989) (order denying summary judgment).

*Financial Federation, Inc. v. Ashkenazy*, in which Marc Seltzer and his co-trial counsel successfully defended an anti-takeover case brought in Los Angeles federal court under the federal securities laws and the RICO statute by a financial institution against persons who allegedly sought to take control of the institution. See *Financial Federation, Inc. v. Ashkenazy*, [1984 Transfer Binder] Fed. Sec. L. Rep. (CCH) 91,489 (C.D. Cal. 1983).

*Green v. Occidental Petroleum Corp.*, in which Marc Seltzer, together with co-counsel, represented plaintiffs in consolidated securities fraud class action cases that established important precedent in the Ninth Circuit regarding the certification of plaintiff classes and the computation of damages in securities fraud cases. See *Green v. Occidental Petroleum Corp.*, 541 F.2d 1335 (9th Cir. 1976). The case was settled for \$12 million.

*Wool v. Tandem Computers, Inc.*, a securities fraud class action in which Marc Seltzer played a leading role. One of the notable achievements in this case was a victory for the plaintiffs in the Ninth Circuit which established important precedent concerning the measure of damages recoverable in federal securities fraud class action cases, the standard for "controlling person" liability under the federal securities laws and the requirements for pleading fraud with the particularity specified under Rule 9(b), Fed. R. Civ. P. See *Wool v. Tandem Computers, Inc.*, 818 F.2d 1433 (9th Cir. 1987). Following the issuance of the Ninth Circuit's opinion, the case was settled for \$16.5 million.

*Plaine v. McCabe*, a securities class action, in which Marc Seltzer argued before the Ninth Circuit, obtaining a substantial victory for plaintiffs, establishing significant precedent in the Ninth Circuit regarding the standards for liability for violations of tender offer disclosure rules under the federal securities laws. See *Plaine v. McCabe*, 797 F.2d 713 (9th Cir. 1986).

*Biben v. Card*, consolidated securities fraud class actions where Marc Seltzer served as co-lead counsel for plaintiffs. The plaintiffs achieved substantial pretrial victories, including establishing the validity of their claims under the federal securities laws against the director, accountant and attorney defendants in that case. See *Biben v. Card*, [1984-1985 Transfer Binder] Fed. Sec. L. Rep. (CCH) 92,010 (W.D. Mo. 1985), *on denial of motion for reconsideration*, [1984-1985 Transfer Binder] Fed. Sec. L. Rep. (CCH) 92,083 (W.D. Mo. 1985). The case settled for approximately \$12 million.

*Sanwa Bank California v. Facciani*, where Marc Seltzer was co-lead counsel for a plaintiff class in which settlements totaling approximately \$26 million in cash were obtained on behalf of defrauded investors who were victimized by an alleged Ponzi scheme.

*In re California Indirect-Purchaser Infant Formula Antitrust Class Action Litigation*, comprised of several consolidated consumer class actions brought for the alleged price-fixing of infant formula products. Marc Seltzer was appointed by the court to serve as one of two co-lead counsel for plaintiffs and the class. The case was settled for approximately \$20 million.

*Small v. Sunset Park*, where Marc Seltzer was lead counsel for a class of investors involving an alleged Ponzi scheme in which settlements totaling more than \$16.8 million were obtained, including \$12 million paid in settlement by a then "Big Five" accounting firm.

*Schneider v. Traweek*, federal and state court securities class actions in which Marc Seltzer was lead counsel for the plaintiffs. Significant victories were obtained on plaintiffs' behalf in defeating motions to dismiss and in obtaining class certification. See *Schneider v. Traweek* [1990 Transfer Binder] Fed. Sec. L. Rep. (CCH) 95,419 and 95,505 (C.D. Cal. 1990). The case was settled for approximately \$14 million.

*Johnson v. Boston*, where Marc Seltzer was co-lead counsel for a nationwide class of investors victimized by an alleged Ponzi scheme. Approximately \$20 million in settlements were obtained for the defrauded investors.

*Lilienthal v. Levi Strauss & Co.*, and individual minority shareholder's action for alleged breach of fiduciary duty by the majority owners, which resulted in a judgment after trial for the plaintiff providing for a recovery in excess of \$3 million. Marc Seltzer was co-trial counsel with Jack Corinblit.

In 1972 and 1973, Marc Seltzer was a Deputy Attorney General for the State of California. In 1985, Mr. Seltzer was elected to the membership of the American Law Institute.

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\*\*Nothing on this web page is intended to represent that Susman Godfrey currently represents any particular clients mentioned because matters and client relationships naturally terminate from time to time.

# **EXHIBIT 2**

## SUSMAN GODFREY LLP



Partner

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[dhansen@susmangodfrey.com](mailto:dhansen@susmangodfrey.com)\*

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DREW D. HANSEN is a partner at Susman Godfrey who has tried cases for both plaintiffs and defendants in state and federal courts across the country. Recent trials include:

- *Application of Las Brisas Energy Center, LLC* (Tex. State Office of Admin. Hearings 2009). Represented the Texas Clean Air Cities Coalition, a coalition of over 30 Texas cities, in opposing the permit for the Las Brisas Energy Center (LBEC), a proposed petroleum coke-fired power plant, on the grounds that it would not comply with the applicable air quality standards or protect human health and the environment. After a two-week trial, the judges issued a 120-page proposal for decision that recommended denial or remand of the permit. The judges particularly criticized the air modeling LBEC submitted to support the plant, calling it "unreliable" and "simply inadequate." You can read media coverage of Hansen's cross-examination of LBEC's air modeler [here](#).
- *Alfonso C. Peña v. GBS Financial Corp., et al.* (NASD 2007): Represented the family of Alfonso C. Peña, a Los Angeles-based entertainer and entrepreneur, in a lawsuit against his former investment advisors. After a two-week arbitration, the panel awarded Peña damages for the excessive management fees on his investment account.
- *Jacobs v. National Drug Intelligence Center* (S.D. Tex. 2007): Represented former Laredo National Bank president Gary G. Jacobs in a Privacy Act lawsuit against the NDIC. After a bench trial, the NDIC settled Jacobs's attorney fee claim for an amount believed to be one of the largest ever for attorney fees in a Privacy Act case of this nature. The NDIC also settled Jacobs's damages claim, reserving its right to appeal. In October 2008, Hansen argued and won the NDIC's appeal to the Fifth Circuit. You can read the Fifth Circuit's decision affirming the judgment against the NDIC [here](#).
- *BASF Corporation v. Lyondell Chemical Co.* (N.J. Super. Ct. 2007): Represented Lyondell Chemical Company (now LyondellBasell Industries) in a two-month breach of contract trial where the jury found in favor of BASF. The judgment is now on appeal.

Hansen has also won major victories for clients in pretrial proceedings. After the collapse of Enron, the company's court-appointed management hired Susman Godfrey to recover from the financial institutions who aided and abetted the Enron insiders in hiding the company's true financial condition. Hansen was in charge of prosecuting the estate's claims against the Canadian International Bank of Commerce (CIBC), one of Canada's largest banks. After Hansen questioned the first few CIBC witnesses at deposition, CIBC witnesses started pleading the Fifth Amendment. CIBC eventually paid \$250 million to settle the estate's claims, which was collected for the benefit of the estate's creditors, including the approximately 20,000 former Enron employees who lost money in their pension funds when the company collapsed.

Hansen has also:

- Represented a class of Bristol Bay salmon fishermen in a four-month antitrust trial in Anchorage, Alaska against seafood processors and importers. The settlements before and after a jury verdict in the defendants' favor totaled over \$40 million.
- Defended a multi-million dollar misappropriation of trade secrets case on behalf of REI, Inc. Hansen won dismissal of the plaintiff's motion to add a claim under Washington's version of the RICO statute, and the case settled near the

end of discovery.

- Represented plaintiffs in nineteen separate state-law antitrust class actions against Visa and MasterCard alleging illegal tying arrangements involving debit cards.
- Represented Brent Redstone in a shareholder oppression action in which he sought to dissolve the \$8 billion family company controlled by his father, Sumner Redstone.

Hansen encourages you to contact his current and former clients and his opposing counsel for recommendations.

## REFERENCES

Mark Carlton LyondellBasell Industries (281) 363-2347
Larry Krantz (opposing counsel, Enron v. Citigroup, et al.) (212) 661-0009
Dr. Devon G. Peña (206) 543-1507

Hansen's busy trial practice does not stop him from finding time to be active in the Bar and the wider community. He is a part-time lecturer at the University of Washington Law School, where he co-teaches an advanced seminar entitled "Social Movements, the Political Process, and the Development of Law: A Civil Rights Case Study". He is a founding member of the Puget Sound Chapter of the American Constitution Society, and he represented the Washington State Democratic Party in a *pro bono* lawsuit against Ralph Nader because of what it alleged was Nader's illegal effort to qualify for the 2004 Presidential ballot in Washington state. In 2005, Governor Christine Gregoire appointed Hansen to the Washington Community Economic Revitalization Board (CERB), which has distributed over \$19 million to local governments to help attract and retain businesses in Washington state since Hansen joined the board. (In 2008, Governor Gregoire reappointed Hansen to another term on CERB). Hansen is also deeply committed to educational issues: He is currently on the board of the Olympic College Foundation, and he has been on the steering committee for nearly every Bainbridge Island School District levy since 2004.

Hansen maintains an active writing and lecturing career as a sideline to his law practice. He is the author of a book, *The Dream: Martin Luther King and the Speech That Inspired A Nation* (Ecco/HarperCollins, 2003), which U.S. Representative John Lewis called "a great contribution to the history of the movement." Pulitzer Prize-winner David Garrow called Hansen's work "the best book in more than a decade on the movement's best-known leader," and the Denver Post called Hansen's book "essential reading for anyone trying to understand one of the great speeches in American history." Hansen has given speeches and guest lectures across the country, ranging from a lesson on Dr. King to kindergarten classes in Houston to a nationally televised reading at the Los Angeles Public Library. He has appeared on ABC's World News Tonight, CBS's Early Show, CSPAN's Book TV, CNNfn, and on NPR and dozens of radio stations in the United States and around the world. Hansen's Op-Eds have appeared in USA TODAY, the Seattle Post-Intelligencer, and the Houston Chronicle, and his essay on Martin Luther King, Jr.'s theological education will appear in the forthcoming *Cambridge Companion to Martin Luther King, Jr.* (Cambridge University Press, 2011).

Hansen began practicing at Susman Godfrey after serving as a law clerk to the Honorable Pierre N. Leval, United States Court of Appeals for the Second Circuit. He graduated from Yale Law School and from Harvard University, *summa cum laude*. Before law school, Hansen studied theology at Oxford University, where he was a Rhodes Scholar. He lives on Bainbridge Island, Washington.

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# **EXHIBIT 3**

## SUSMAN GODFREY LLP



Associate

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RYAN C. KIRKPATRICK - born Eugene, Oregon; admitted to bar, 2005, California.

Mr. Kirkpatrick joined Susman Godfrey LLP as an associate in 2006. His practice focuses on complex commercial litigation, including antitrust, intellectual property, and securities. He represents plaintiffs and defendants in a range of industries in both federal and state courts. Recent matters include:

- Represented mainframe computer manufacturer Platform Solutions, Inc. (PSI) in prosecuting antitrust claims against IBM, and in defending PSI against claims of patent infringement, copyright infringement, and trade secret misappropriation brought by IBM. Mr. Kirkpatrick was also involved in coordinating PSI's prosecution of competition claims against IBM before the European Commission's Directorate General of Competition. The case, which was litigated in federal court in New York, settled on confidential terms in June 2008. As part of the settlement, PSI was acquired by IBM. The settlement was reported in [The Wall Street Journal](#), as well as numerous technology publications
- Argued and obtained dismissal with prejudice of fraud, unfair competition, false advertising, California Consumer Legal Remedies Act, and punitive damage claims on behalf of a major technology company in California state court. In its opinion, the Court stated that Mr. Kirkpatrick's briefing was "great," "clear," "logical," and "so well written."
- Represented a major wireless service provider in prosecuting patent infringement claims against another wireless service provider in the Eastern District of Texas. The case settled in September 2008 prior to *Markman* proceedings
- One of two lead lawyers representing a class of investors in a securities fraud and insider trading lawsuit against Dendreon Corporation, a Seattle-based biotechnology company, and certain of its officers in the Western District of Washington. On December 6, 2008, plaintiffs defeated defendants' motion to dismiss.
- Part of Susman Godfrey trial team that represented Masimo Corporation (NASDAQ: MASI) in the damages retrial of *Masimo Corp. v. Tyco Healthcare Group L.P.*, No. CV-02-4770-MRP (C.D. Cal.), an antitrust case involving challenges to exclusionary contracting practices in the United States market for pulse oximetry products. The retrial resulted in a \$43.5 million damage award (after trebling) to Masimo. The court also awarded over \$8 million in attorneys' fees and costs. The case is now on appeal to the United States Court of Appeals for the Ninth Circuit.

### EDUCATION

- Yale University (B.A., Political Science, 2001)
- University of California, Los Angeles (J.D., Order of the Coif, 2005)

### HONORS & DISTINCTIONS

- Law Clerk to the Honorable Ruggero J. Aldisert, United States Court of Appeals for the Third Circuit (2005-2006)
- Executive Editor-in-Chief, Pacific Basin Law Journal (2004-2005)

### PUBLICATIONS

- "Rat Race: Insider Advice on Landing Judicial Clerkships," 110 *Penn. St. L. Rev.* 835 (2006) (co-authored with the Honorable Ruggero J. Aldisert and James R. Stevens, III)

**PROFESSIONAL AFFILIATIONS**

- State Bar of California
- United States District Court for the Central District of California
- United States Court of Appeals for the Seventh Circuit
- United States District Court for the Eastern District of Texas
- American Bar Association

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**EXHIBIT 4**

## SUSMAN GODFREY LLP



Associate

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DANIEL JEFFREY SHIH, born in Seattle, Washington; admitted to Washington bar, 2006.

Dan is a trial attorney who has represented both plaintiffs and defendants in state and federal courts across the country.

### SELECTED REPRESENTATIONS

- Represented an investor class in a securities fraud and insider trading lawsuit in the Western District of Washington against Dendreon Corporation, a Seattle-based biotechnology company, and two of its officers. After plaintiffs won class certification and responded to defendants' motion for summary judgment, defendants agreed to settle the case for \$16.5 million.
- Tried case on behalf of statewide class alleging violations of California's Unfair Competition Law by multiple companies. Presented and cross-examined expert witnesses, and argued and defeated multiple motions for summary adjudication, in Los Angeles County Superior Court.
- Represented client The Quantum World Corporation in patent infringement suit against computer makers IBM and Lenovo and chipmakers Atmel, National Semiconductor, and Winbond in the Eastern District of Texas. The case settled for confidential amounts, with the last defendant settling after jury selection.
- Represented client Parallel Networks, LLC, in multiple patent infringement suits against numerous large-scale website operators, including Priceline.com, Orbitz, Netflix, and John Wiley & Sons. Presented successful claim construction arguments at Markman hearing in the Eastern District of Texas.
- Defended subsidiaries of Arctic Slope Regional Corporation against broker's claim for commissions on a billion dollar government contract brought in the District of Maryland. Client prevailed on all claims on summary judgment.
- Represented nationwide class claiming Google overcharged for web ads in the Northern District of California. After plaintiffs substantially defeated multiple motions for summary judgment, Google agreed to settle the case for \$20 million.
- Represented seafood wholesaler Galaxy Foods, Inc., in breach of warranty claims over unmerchantable fish against a major salmon processor. Case settled on mutually satisfactory terms.
- Investigated secondary liability claims arising from a multibillion dollar Ponzi scheme in Minnesota.

### EDUCATION

- Stanford Law School (J.D., 2006)
  - Order of the Coif
  - Pro Bono Distinction
- Stanford University (A.M., Economics, 1995)
  - Forman Fellow
- Princeton University (B.S.E., Computer Science, *summa cum laude*, 1994)
  - Junior Prize in Computer Science
  - Senior Prize in Computer Science
  - Sigma Xi
  - Phi Beta Kappa

#### **CLERKSHIP**

- Law Clerk to The Honorable A. Raymond Randolph, U.S. Court of Appeals for the D.C. Circuit, 2006-2007

#### **PROFESSIONAL AFFILIATIONS**

- Washington State Bar
- Federal Bar Association for the Western District of Washington
- U.S. Court of Appeals for the D.C. Circuit
- U.S. Court of Appeals for the Ninth Circuit
- U.S. District Court for the Western District of Washington
- U.S. District Court for the Eastern District of Texas
- Q-Law (board member)
- Asian & Pacific Islander Women & Family Safety Center (board member)

#### **PRIOR WORK EXPERIENCE**

- Associate, Bain Capital
- Associate Consultant, The Boston Consulting Group

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# **EXHIBIT 5**

## SUSMAN GODFREY LLP



Associate

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JORDAN CONNORS, born in Covington, Washington; admitted to bar 2009, Washington

### EDUCATION

- Columbia Law School (J.D., 2008)
- Stanford University (B.A., Public Policy, 2003)

### HONORS AND DISTINCTIONS

- Law Clerk to The Honorable Vaughn R. Walker, Chief Judge of the U.S. District Court for the Northern District of California (2008-2009)
- Whitney North Seymour Medal for Columbia Law student who shows greatest promise of becoming a distinguished trial advocate (2007)
- Senior Editor, *Columbia Law Review* (2007-2008)
- Harlan Fiske Stone Moot Court Finalist (2008)
- Harlan Fiske Stone Scholar (2005-2006, 2006-2007, 2007-2008)
- Ann C. Seminar Award in Public Policy (2003)

### PROFESSIONAL AFFILIATIONS

- Washington State Bar
- Federal Bar Association for the Western District of Washington
- U.S. District Court for the Eastern District of Texas

### PUBLICATIONS

- "Treating Like Subdecisions Alike: The Scope of Stare Decisis as Applied to Judicial Methodology," 108 *Colum. L. Rev.* 681 (2008)
- "Of All the Arms, of All the Men, of All the Teams That Play," *Seattle Times*, July 24, 2009

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