

**UNITED STATE DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

Case No. 21-CV-61275-RAR

WENSTON DESUE, *individually and
as legal guardian of N.D. and M.D. and
all others similarly situated,*

Plaintiff,

v.

20/20 EYE CARE NETWORK, INC., *et al.*,

Defendants,

AND ALL CONSOLIDATED ACTIONS

_____ /

I, Gayle M. Blatt, declare pursuant to 28 U.S.C. § 1746, as follows:

1. I am attorney licensed to practice law in the State of California and appear pro hac vice in this matter. I am a partner in the law firm of Casey Gerry Schenk Francavilla Blatt & Penfield, LLP and I am currently serving as one of the interim co-lead counsel for the putative class. I have personal knowledge of the matters stated herein and, if called upon, I could and would testify competently to those matters.

2. I submit this Declaration in support of Plaintiffs' Motion for Fee Award and Litigation Costs.¹

¹ Unless otherwise noted, all capitalized terms are defined in the Settlement Agreement, which is attached to my Declaration in Support of Plaintiffs' Motion for Preliminary Approval as its **Exhibit 1**.

3. I am the Chair of Casey Gerry's Complex Litigation Group, which focuses on class actions of various types including data privacy cases. I am a graduate of California Western School of Law in San Diego, California, and have been in practice for over 35 years. My extensive experience includes data breach litigation. My leadership experience includes appointments such as co-lead interim class counsel in *In re Warner Music Group Data Breach Litigation*, No. 20-cv-07473-PGG (S.D.N.Y.), co-lead counsel in *In re: Netgain Technology, LLC, Consumer Data Breach Lit.*, 21-cv-1210-SRN-LIB (D. Minn.), and in *In re US Fertility LLC Data Security Litigation*, No. 8:21-cv-00299 (D. Md.) and serve on the Plaintiffs' Executive Committee in *In re EyeMed Vision Care, LLC Data Security Breach Litigation*, No. 21-cv-00036-DRC (S.D. Ohio). I served as class counsel in *In re Citrix Data Breach Litigation*, No. 19-cv-61350-RKA (S.D. Fla.), on the five-member PEC overseeing the class action litigation related to the massive Yahoo! data breaches, No. 16-MD-02752 (N.D. Cal.), as lead counsel in *Pfeiffer v. Radnet, Inc.*, No. 2:20-cv-09553 (C.D. Cal.), on the law and briefing committee in the consolidated data breach class action, *Adkins v. Facebook, Inc.*, No. 18-05982-WHA (N.D. Cal.), as settlement class counsel in *Sung v. Schurman Fine Papers d/b/a Schurman Retail Group*, No. 17-cv-02760-LB (N.D. Cal.), as liaison counsel in *In re Sony Gaming Networks and Customer Data Security Breach Litigation*, No. 11-md-02258-AJB (S.D. Cal.), as class counsel in *James, et al. v. DAVACO, Inc., et al.*, Case No. 3:21-CV-02318-M (N.D. Tex.), and in *Nelson v. Bansley & Kiener, L.L.P.*, Case No. 2021CH06274 (Cir. Ct. Cook Co., Ill.). I have held leadership positions outside of the data breach context including Plaintiffs' Executive Committees in *In re: ZF- TRW Airbag Control Units Products Liability Lit.*, Case No. 19-ml-02905-JAK-FFM (C.D. Cal.); *In re: Intel Corp. CPU Marketing, Sales Practices and Products Liability Lit.*, Case No. 18-md-2828-SI (D. Or.), *In re: Apple Inc. Device Performance Lit.*, Case No. 18-md-02827-EJD (N.D. Cal.), as Interim

Liaison Counsel for *In re: Bank of America California Unemployment Benefits Litigation*, No. 21-md-02992-LAB (S.D. Cal.) and on the Plaintiffs' Steering Committee in *In re: Chrysler Pacifica Fire Recall Products Liability Litigation*, No.2:22-cv-03040 DML-EAS (E.D. Mich.). Additional information about me and my and my firm's experience can be found in our CV attached to this Declaration.

4. I am currently a member in good standing of the California bar and appear in this case *pro hac vice*.

5. The above-captioned matter is a class action brought by current and former customers of health plans serviced by 20/20 Eye Care Network, Inc. ("ECN") and iCare Acquisition, Inc. ("iCare") (collectively, "Defendants") who were notified by 20/20 Eye Care or 20/20 Hearing Care on or about May 28, 2021, via letter that their personally identifiable information was accessed by an unauthorized third party.

6. Defendants have identified approximately 4.2 million people affected by the Data Incident.

7. Following the dissemination of the notice of the data incident, six class actions were filed and/or came before this court. These lawsuits include the above-captioned matter, *Desue v. 20/20 Eye Care Network, Inc.* No. 21-cv-61275-RAR; *Bowen v. 20/20 Eye Care Network, Inc.*, No. 21-cv-61292; *Fraguada v. 20/20 Eye Care Network, Inc.*, No. 21-cv-61302; *Runkle v. 20/20 Eye Care Network, Inc.*, No. 21-cv-61357; *Hoffman-Mock v. 20/20 Eye Care Network, Inc.*, No. 21-cv- 61406-WPD; and upon removal, *Johnson v. 20/20 Eye Care Network, Inc.*, No. 21-cv-61755-RAR (Johnson). These matters were consolidated by Court order. [Order Consolidating Cases and Setting Status Conf., June 28, 2021, ECF No. 11; *see also* ECF Nos. 22, 35.]

8. On September 1, 2022, Plaintiffs filed their First Amended Consolidated

Class Action Complaint, alleging four causes of action: (1) negligence and negligence per se; (2) unjust enrichment; (3) breach of confidence; and (4) violation of the Florida Deceptive Trade Practices Act (FDTPA). [ECF No. 37.]

9. Defendants filed a motion to dismiss the amended complaint, which the Court granted in part on March 15, 2022. [ECF No. 51.] Plaintiffs filed a Second Amended Consolidated Class Action Complaint on March 29, 2022. [ECF. No. 52.] Plaintiffs asserted negligence counts against ECN and negligence against iCare, negligent supervision by ECN of its employees entrusted with access to the PII and PHI of Plaintiffs and Class Members, and a count under FDTPA.

10. On April 25, 2022, following a joint motion by the parties to extend the briefing dates for pleading challenges, Defendants filed a Motion to Strike Punitive Damages and Special Relationship Allegations [ECF No. 59], and on April 26, 2022, Defendants again moved to dismiss the complaint. [ECF No. 60.]

11. In response, Plaintiffs filed an Unopposed Motion for Leave to File Third Amended Consolidated Class Action Complaint to refine factual allegations, amend legal claims, and address concerns Defendants raised in its motions. [ECF No. 62.] On May 9, 2022, the Court granted the unopposed motion to file a new amended complaint.

12. Thereafter, the parties filed a Joint Motion to Stay Proceedings so they could engage in settlement efforts. [ECF. No. 65.] The Parties engaged a mediator, the Honorable John W. Thornton, Jr. (Ret.), to assist the parties in attempting to resolve the case. [ECF No. 67] These discussions were prompted by the parties' desire to avoid the expense, uncertainties, and burden of protracted litigation, and to put to rest any and all claims or causes of action that have been, or could have been, asserted against Defendants.

13. Mediation took place remotely on July 25, 2022, with the appropriate persons in attendance or otherwise available to the parties. At all times, the parties' negotiations were adversarial, non-collusive, and conducted at arm's length. The parties set forth and discussed their respective positions on the merits of the putative class claims and the potential for a settlement that would involve class-wide relief. The parties prepared vigorously in advance of mediation and were prepared to exchange offers and counteroffers and negotiate the points of each. The parties continued to negotiate after the mediation until a settlement was reached.

14. The Settlement before the Court is fair, reasonable, and in the best interest of the Class. As is stated in the Settlement Agreement, Defendants will pay \$3,000,000 into a common fund which will pay settlement benefits that include: (i) Reimbursement for ordinary Out of Pocket losses reasonably traceable to the data incident in an amount up to \$2500 upon documentation; (ii) At the Class Members' election, either 36 months of Identity Monitoring Services with IDX, or an alternative cash payment of \$50.00; (iii) Reimbursement for Time Spent addressing issues relating to the security incident for up to 10 hours at \$25.00 per hour, and attorneys' fees and expenses as approved by the court. SA ¶¶ IV.2.a.1-4. The Class Member cash benefits to be paid from the common fund are subject to proration upward or downward depending on the number of valid claims submitted by Class Members. *Id.* at ¶¶ IV.2.a.5-6. Outside of the common fund, Defendants will also pay claims by Class Members for actual identity theft expenses up to \$5,000 per claim to a total of \$600,000, and Defendants are wholly responsible for the costs of notice and administration of this Settlement.

15. Throughout the settlement process, proposed Class Counsel carefully weighed: (1) the benefits to the Class Representatives and the Class under the terms of this Settlement, which provides significant relief to the Class; (2) the attendant risks and uncertainty

of litigation, an assessment I felt confident I could make based on my class action and trial experience, as well as the difficulties and delays inherent in such litigation, including the challenges to certification of a class, both at the trial court level and at the appellate level if we were successful in obtaining an order certifying the class; (3) the desirability of consummating the present Settlement to ensure that the Class receives a fair and reasonable Settlement; and (4) providing the proposed Class Representatives and Class Members prompt relief. The matter of attorneys' fees, costs, and expenses were only negotiated after the parties reached agreement on all other material Settlement terms.

16. The lawyers and other professional staff involved in this matter maintain and record their respective time and the specific services they perform contemporaneously in a computerized system. Based upon the records in this system, the total lodestar amounts to \$1,142,844.50. Additional time will be spent to prepare the motion for final approval and respond to any objections, to prepare for and attend the fairness hearing and obtain final approval, to defend any appeals taken from the final judgment approving settlement, and ensure that the distribution of settlement proceeds to class members is done in a timely manner in accordance with the terms of the settlement.

17. The law firms involved in this litigation advanced litigation costs without guarantee of repayment. These costs included filing fees, mediation fees, and other typical litigation costs. The total expenses incurred on behalf of Plaintiffs in this matter up through March 15, 2023 is \$10,754.15.

18. The hourly rates of the professionals in my firm, including my own, reflect experience and accomplishments in the area of class litigation. The rate of \$995.00 per hour which I charge for my time is commensurate with hourly rates charged by my contemporaries

around the country, including those rates charged by lawyers with my level of experience who practice in the area of class litigation across the nation. Prior to submitting the motion for attorneys’ fees, costs and expenses, I compared and confirmed the hourly rate of the professionals in my firm with lawyers at other law firms whose practice is focused on class litigation.

19. My firm’s hours as of March 15, 2023 total 380.10 hours which amounts to \$325,853.50 in lodestar.

20. I assert that the attorneys’ fees sought in the motion for attorneys’ fee is reasonable and seeks fair and reasonable compensation for undertaking this case on a contingency basis, and for obtaining the relief for the proposed Class Representatives and the Class. Throughout this action, we have been challenged by highly experienced and skilled counsel who deployed very substantial resources on Defendant’s behalf.

21. The chart below reflects the amount of time spent by me and members of my firm in the prosecution of this case:

NAME	HOURLY RATE	HOURS BILLED	LODESTAR
Gayle M. Blatt	\$995.00	193.90	\$192,930.50
P. Camille Guerra	\$815.00	59.00	\$48,085.00
Catherine McBain	\$505.00	2.90	\$1,464.50
Michael Morphew	\$505.00	30.70	\$15,503.50
Jeremy Robinson	\$950.00	52.00	\$49,400.00
Deval Zaveri	\$750.00	14.80	\$11,100.00
Michelle Davis	\$275.00	26.80	\$7,370.00
TOTAL		380.10	\$325,853.50

22. A breakdown of my firm’s costs and expenses, again which I assert are reasonable, are pulled from a computerized database maintained by individuals in the accounting office of my firm and which were checked for accuracy, are reflected below.

EXPENSES		SUBTOTALS	TOTALS PER CATEGORY
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Mediation Fees	JAMS	\$3,726.88	\$3,726.88
Legal Research	PACER	\$96.60	
Legal Research	Westlaw	\$1,140.31	
Legal Research	Dunn & Bradstreet research report	\$279.98	\$1,516.89
Telephone	Premiere Global Services	\$78.77	\$78.77
Postage		\$0.53	\$0.53
TOTAL		TOTAL	\$5,323.07

23. As stated above, a number of tasks will be required of proposed Class Counsel to conclude the litigation. In my experience leading class actions of this type and magnitude, I reasonably estimate that the future number of hours required to bring this Settlement to finality could be in the hundreds, and the actual number would depend on whether there are objections, the number of objections and whether there are any appeals to be addressed.

24. Although the present case was resolved before trial, Class Counsel invested significant time and resources investigating and litigating this action. Specifically, among other work, we: (1) consulted with the Class Representatives throughout the course of this case and reviewed the facts and documentation that they had provided concerning identity theft and other forms of fraud; (2) investigated their claims thoroughly; (3) researched claims that could be and eventually were pursued in the Complaint; (4) drafted the Complaint, and subsequent amendments; (5) reviewed documents and data created by and/or produced by Defendants; (6) reviewed, responded to, and briefed a motion to dismiss and analyzed and drafted response to a second motion to dismiss; (7) attended mediation, and participated in extensive negotiations following mediation which resulted in(a comprehensive class action settlement; (8) participated in extensive drafting and editing of settlement documents (9) participated in drafting and filing of Plaintiffs’ motion for preliminary approval of the settlement and supporting memorandum and exhibits; and

(9) drafted and filed this motion for attorneys' fees, costs and expenses. In addition, as stated above, we will do whatever is necessary to serve the class through conclusion of this matter.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 17, 2023 at Boynton Beach, Florida.

By: Gayle M. Blatt
GAYLE M. BLATT

CaseyGerry

CASEY GERRY SCHENK FRANCAVILLA BLATT & PENFIELD LLP

FIRM RESUME

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FIRM OVERVIEW

Founded in 1947, San Diego based firm of Casey Gerry Schenk Francavilla Blatt & Penfield, LLP “CaseyGerry” is one of the oldest plaintiffs’ law firms in California and is nationally recognized. Our firm focuses on complex civil litigation, with an emphasis on consumer protection, class actions, product defect, pharmaceutical and serious personal injury matters. Our attorneys have held numerous leadership roles in coordinated cases at both the state and federal level. We have prosecuted a variety of consumer fraud, unfair business practices, TCPA, product defect, and other complex mass torts and class action matters. We have litigated cases against companies such as Volkswagen, Exxon, Amazon, Sony, Toyota, General Motors, AT&T, Mitsubishi, Apple, Inc., Wells Fargo, Bank of America, American Express, Honda, Discover Financial Services, and Yahoo, among others.

CaseyGerry represented then Lt. Gov. Gray Davis in his private attorney general action against the tobacco industry. We were successful in obtaining a settlement of over \$25 billion for the citizens of California, and also took part in successfully resolving other similar tobacco cases in other states. Our firm also was part of the trial team and played a leadership role in the Exxon Valdez litigation, which resulted in a \$5 billion verdict. And recently, the firm obtained a first of its kind appellate victory against Amazon involving strict liability of online marketplaces.

The firm has extensive experience in class action, mass tort and other complex litigation. Managing partner, David Casey was appointed to serve on the Plaintiffs’ Steering Committees for *In re: Volkswagen “Clean Diesel” Marketing, Sales Practices, and Products Liability Lit.*, Case No. 15-md-02672-CRB (N.D. Cal.), which included the related “Audi CO₂” and “Porsche Gasoline” cases. Working with partner Gayle Blatt, they represented over 500,000 owners and lessees of Volkswagen diesel vehicles in the third largest car recall in history, over 100,000 owners and lessees of Audi vehicles and approximately 500,000 Porsche owners and lessees. Mr. Casey was also appointed in *In re: Chrysler-Dodge-Jeep EcoDiesel Marketing, Sales Practices, and Product Liability Lit*, Case No. 17-md-02777-EMC (N.D. Cal.) and worked with Ms. Blatt, successfully representing approximately 100,000 owners and lessees of EcoDiesel Jeep Grand Cherokees and Ram 1500 trucks.

Firm members have also recently served on court-appointed leadership committees, including cases against Yahoo!, Wells Fargo, Apple, Intel and the NFL.

The firm's experienced lawyers have earned numerous local, regional and national accolades and awards bestowed for professional success. Our lawyers have been president of, or currently hold, leadership positions and longtime affiliations with

the California State Bar Association, American Association for Justice (AAJ, formerly known as American Trial Lawyers Association “ATLA”), Consumer Attorneys of California (CAOC), Consumer Attorneys of San Diego (CASD), San Diego County Bar Association, Lawyers Club of San Diego, California Women Lawyers, North County Bar Association, Korean American Bar Association San Diego, South Asian Bar Association of San Diego, Filipino American Lawyers of San Diego, and Tom Homann LGBT Law Association. Our partners have been elected to such prestigious organizations as the American Board of Trial Advocates, the International Academy of Trial Lawyers, and the International Society of Barristers. Four partners have served as president of the Consumer Attorneys of San Diego. Five of the firm’s partners are members of the American Board of Trial Advocates (ABOTA), and partner Frederick Schenk is past president of the executive board of the San Diego chapter of ABOTA.

CASEYGERRY ATTORNEYS

David S. Casey, Jr.

David S. Casey, Jr. is the senior partner of CaseyGerry, the firm that his father founded in 1947. He began his career as a prosecutor and has handled over 70 jury trials during the course of his over forty-year legal career. He is a past president of the Association of Trial Lawyers of America (now the American Association for Justice), Consumer Attorneys of California, Western Trial Lawyers Association, and San Diego Trial Lawyers Association (now Consumer Attorneys of San Diego).

Mr. Casey is a proven leader nationwide. During his tenure as president of ATLA (now AAJ), which at the time was an organization of approximately 60,000 lawyers nationwide, he was one of a small group of people who proposed the Victims Compensation Fund for victims of the unprecedented terrorist attacks of September 11, 2001. Thereafter, AAJ formed Trial Lawyers Care (TLC) to coordinate what would become one of the largest pro bono programs in history. TLC helped 1,739 eligible claimants from 35 states and 11 countries, and the recovery to these claimants exceeded \$2 billion dollars.

Mr. Casey is also a leader in the state of California. He undertook a lead role in California on behalf of then Lieutenant Governor Gray Davis in his private attorney general action against the Tobacco Industry, instigated when the state of California declined to participate in the litigation with other states' Attorneys General. This litigation involved multiple billion-dollar companies, who had been involved in litigation over the effects of tobacco use for decades. Mr. Casey was involved in extensive negotiations in Washington, DC, and proposed legislation. After Gov Davis' election as Governor of California, a global settlement resulted in the resolution of all claims.

During the course of his career, Mr. Casey has represented American POWs in litigation for having been treated as slave laborers during World War II and his firm was co-counsel in the Exxon Valdez Oil Spill litigation. He also represented Honda dealers in one of the most massive fraud schemes on Honda dealers in the history of the United States.

Mr. Casey was appointed to serve on the Plaintiffs' Steering Committee for *In re: Volkswagen "Clean Diesel" Marketing, Sales Practices, and Products Liability Lit.* Following his appointment in *Volkswagen*, he was appointed in *In re: Chrysler-Dodge-Jeep Ecodiesel Marketing, Sales Practices, and Product Liability Lit.* He was also appointed in *In re: Wells Fargo Collateral Protection Insurance Lit.*, in which he helped negotiate a favorable settlement, and to the

PSC for *In re: National Football League Players' Concussion Injury Lit.*, representing the interests of thousands of former NFL players.

Having opted out of the class action, he represented the family of Junior Seau against the NFL in the national head injury litigation, as well as represented the family of Tony Gwynn for the wrongful death resulting from his use of smokeless tobacco.

Mr. Casey has served as the Lawyer Representative for the United States District Court, Southern District of California and as a current board member for the Ninth Judicial Circuit Historical Society. He is honored to have been inducted into the San Diego Consumer Attorneys Hall of Fame. He is also a member of such prestigious, invitation-only, organizations, such as the International Academy of Trial Lawyers, International Society of Barristers and American Board of Trial Advocates.

David S. Casey, Jr., has received over 100 accolades including his recognition as one of the Top Plaintiff's Lawyers in the State of California by the Daily Journal in 2015, 2016, 2018, 2019, 2020 and 2021.

Gayle M. Blatt

Heading the firm's complex litigation practice group, Ms. Blatt concentrates her practice on consumer class actions, data security cases, and pharmaceutical and medical device cases. She joined CaseyGerry more than 30 years ago and has become well known for representing injured clients and consumers in a wide range of high profile, multi-million-dollar cases.

Ms. Blatt serves by appointment on the Plaintiffs' Executive Committees in *In re: ZF- TRW Airbag Control Units Products Liability Lit.*, Case No. 19-ml-02905-JAK-FFM (C.D. Cal.); and served on the Plaintiffs' Steering Committee in *In re: Intel Corp. CPU Marketing, Sales Practices and Products Liability Lit.*, Case No. 18-md-2828-SI (D. Or.), *In re: Apple Inc. Device Performance Lit.*, Case No. 18-md-02827-EJD (N.D. Cal.), and *In re Chrysler Pacifica Fire Recall Products Liability Litigation*, Case No. 22-md-03040(E.D. Mich.). She served as Co-Liaison Counsel in *In re: Incretin Mimetics Product Liability Lit.*, Case No. 13-md-02452-AJB-MDD (S.D. Cal.), and in *In re: Hydroxycut Marketing and Sales Practices Lit.*, Case No. 09-md-02097 (S.D. Cal.). She worked closely with partner David S. Casey, Jr. on the *In re: Volkswagen "Clean Diesel" Marketing, Sales Practices, and Products Liability Lit.*, the "Audi CO₂" and "Porsche Gasoline" cases, Case No. 15-md-02672-CRB (N.D. Cal.) representing hundreds of thousands of vehicle owners whose claims included misrepresentation of the attributes of their vehicles and on the *In re: Chrysler-Dodge-Jeep Ecodiesel Marketing, Sales Practices, and Product Liability Litigation*, Case No. 17-md-

02777-EMC (N.D. Cal.) resulting in relief obtained for approximately 100,000 owner and lessees of EcoDiesel Jeep Grand Cherokee and Ram 1500 trucks.

Ms. Blatt serves as interim co-lead counsel in *In re: Netgain Technology, LLC, Consumer Data Breach Lit.*, 21-cv-1210-SRN-LIB (D. Minn.), as interim co-lead counsel in *DeSue v. 20/20 Eye Care Network, Inc. et al.*, Case No. 21-cv-61275-RAR (S.D. Fla.), interim lead counsel in *Pfeiffer et al v. RadNet, Inc.*, Case No. 20-cv-09553-RGK-SK (C.D. Cal.), lead counsel in *In re: Waste Management Data Breach Lit.*, Case No. 21-cv-06199-DLC (S.D. N.Y.), interim co-lead counsel in *In re: Warner Music Group Data Breach Lit.*, Case No. 20-cv-07473-PGG (S.D.N.Y.), and interim class counsel in *In re: US Fertility LLC Data Security Lit.*, Case No. 8:21-cv-00299 (D. Md.). Ms. Blatt also serves on CaseyGerry's behalf, as Interim Liaison Counsel, for *In re: Bank of America California Unemployment Benefits Litigation*, Case No. 21-md-02992-LAB (S.D. Cal.). Additionally, she has served as class counsel in *In re: Citrix Data Breach Lit.*, Case No. 19-cv-61350-RKA (S.D. Fla.), and serves on the Plaintiffs' Executive Committee in *In re: EyeMed Vision Care, LLC Data Security Breach Lit.*, Case No. 21-cv-00036-DRC (S.D. Ohio). Ms. Blatt was also appointed to the five-member PEC overseeing the class action litigation related to the massive Yahoo data breaches, Case No. 16-MD-02752 (N.D. Cal.). She served on the law and briefing committee in the consolidated class action *Adkins v. Facebook, Inc.*, Case No. 18-05982-WHA (N.D. Cal.). She previously served as settlement class counsel in *Sung et al v. Schurman Fine Papers d/b/a Schurman Retail Group*, Case No. 17-cv-02760-LB (N.D. Cal.), and liaison counsel in *In re: Sony Gaming Networks and Customer Data Security Breach Lit.*, Case No. 11-md-02258-AJB (S.D. Cal.).

Ms. Blatt has received three Outstanding Trial Lawyer awards from the Consumer Attorneys of San Diego. She was recognized as one of the Top Plaintiff's Lawyers in California for 2021 and Top Women Lawyers 2021 by the Daily Journal. She has been named one of San Diego's Top 25 Female Attorneys 2007, 2009 and from 2013 to 2022 and the Top 10 San Diego Lawyers for 2019 to 2022 by *San Diego Super Lawyers*. Ms. Blatt was named one of San Diego's Best Attorneys of 2019 to 2021 by San Diego Daily Metro, one of San Diego's most influential women 2018 to 2020 and one of the top 50 Influential Professionals by the San Diego Daily Transcript. Blatt was named one of the Top 500 Influential Business Leaders, San Diego Business Journal 2019. She was named one of the Lawdragon 500 Leading Plaintiff Consumer Lawyers 2019 to 2022 and is listed annually in Best Lawyers.

For ten years, Ms. Blatt served on the Board of Directors of the Consumer Attorneys of San Diego and served as President of the organization in 2007. As President, she was honored as Trial Lawyer Association Chapter President of the Year by Consumer Attorneys of California. She received a President's Award from Consumer Attorneys of San Diego. Ms. Blatt currently serves on the Board of Trustees for her alma mater, California Western School of Law. She also serves on

the board of the Tom Homann Law Association Foundation and is a past president of the San Diego County Bar Foundation.

Frederick Schenk

Frederick Schenk is a tenacious litigator and CaseyGerry partner for decades and concentrates his practice on products liability, serious personal injury, and asbestos law. In fact, Frederick, who has been with CaseyGerry for more than 30 years, achieved the largest verdict ever in San Diego against an asbestos manufacturer – Owens Corning Fiberglass – obtaining a \$2.4 million verdict in punitive damages as well as economic losses.

In addition, he is a specialist in auto collision litigation and co-author of the LexisNexis California Automobile Litigation Handbook. Over the years, Schenk has received numerous awards and honors for his work – including recognition as an Outstanding Trial Lawyer from the Consumer Attorneys of San Diego, and twice recognized by Best Lawyers as San Diego’s Trial Lawyer of the Year in the area of mass torts and class actions. He has remained active in both community and professional groups and finds tremendous gratification in his work as an attorney, especially when he provided services to the families of the victims of 9/11 via Trial Lawyers Care, the largest pro bono program in the history of American jurisprudence.

Mr. Schenk received numerous awards, including the San Diego County Bar Association’s Community Service Award and Consumer Attorneys of San Diego’s Outstanding Trial Lawyer Award. He serves on the Board of Governors for the American Association for Justice. He is current president for the San Diego Chapter of American Board of Trial Advocates.

Schenk served as president of the San Diego County Fair board and was re-appointed by California Governor Jerry Brown to serve another four-year term on the board which oversees all activities at the Del Mar Fairgrounds.

Jeremy K. Robinson

Jeremy Robinson is the Chair of Casey Gerry’s Motion and Appellate Practice and is widely acknowledged as one of the premier legal writers and analysts in the state. As a result, he has been named the Consumer Advocate of the Year for 2020 by the Consumer Attorneys of San Diego.

Most recently, Robinson secured a precedent-setting decision against online retail titan Amazon. See, *Bolger v. Amazon.com* (2020) 53 Cal.App.5th 431. The decision marked the first time a state appellate court anywhere in the country has ruled against Amazon on this issue, and currently is the only published appellate decision in the nation holding Amazon strictly liable. The result was significant

enough to be featured in stories by Bloomberg, The Washington Post, The New York Times, USA Today, CNBC, and many other national and international news and tech outlets.

In this same vein, Robinson also helped co-author, with National Advocacy Group, Public Justice amicus briefs in two other key appeals involving Amazon, *Oberdorf v. Amazon.com Inc.*, 930 F.3d 136, *rehearing en banc granted and opinion vacated*, 936 F.3d 182 (3rd Cir. 2019) and *McMillan v. Amazon.com, Inc.*, (Fifth Cir. No. 20-20108). And Robinson worked tirelessly behind the scenes on AB 3262, a bill aimed at holding online marketplaces to the same standard as traditional retailers.

Mr. Robinson is admitted to practice in all state and federal courts in California and the Third, Fifth, and Ninth Circuit Courts of Appeals. In addition to the *Bolger* decision, he also secured a precedent-setting ruling in *M.F. v. Pacific Pearly Hotel Management, LLC* (2017) 16 Cal.App.5th 693, a case in which Robinson successfully urged the expansion of FEHA provisions to a rape committed by an intruder on the premises. Robinson has also worked extensively in the class action arena, playing key roles in nationwide Multi-District Litigation cases like *In re: Yahoo! Inc. Customer Data Security Breach Lit.*, 16-MD-02752-LHK (N.D. Cal.) and *In re: Wells Fargo Collateral Protection Insurance Lit.*, 8:17-ML-2797-AG-KES (C.D. Cal.)

Outside of his case work, Robinson is a prolific and in-demand writer and speaker on emerging legal issues. This includes regular articles for the *Daily Journal* and *Daily Transcript*, many CLE-approved presentations and webinars, and a book chapter. He is also a charter member and Barrister in the San Diego Appellate Inns of Court and is a member of the Consumer Attorneys of San Diego, Consumer Attorneys of California, San Diego County Bar Association, and Lawyers' Club. He was named Consumer Advocate of the year 2021 by the Consumer Attorneys of San Diego, a San Diego Super Lawyer, Best Lawyers 2020 and 2021 and Leaders in Law 2020 by the San Diego Business Journal.

Robert J. Francavilla

Mr. Francavilla is a widely respected trial lawyer and was recently honored as Consumer Attorneys of San Diego's Trial Lawyer of the Year for 2017. He has made an important difference in the lives of many, as well as earned many accolades and high-profile verdicts and settlements over the years. Specializing in serious personal injury, premises liability and highway design cases, he has successfully handled the gamut of complex cases, including tragic losses involving wrongful death, paraplegia, quadriplegia, severe burns, loss of limbs and major orthopedic injuries.

Mr. Francavilla has received honors including LA Daily Journal's Top 25 Plaintiff's Lawyers 2015 and 2020, Trial Lawyer of the Year 2016 by the Consumer Attorneys of San Diego and a six-time awardee of the Consumer Attorneys of San Diego's Outstanding Trial Lawyers Award. He has been named Best Lawyers "Lawyer of the Year" 2022, he is a San Diego Super Lawyer 2007 to 2021, Lawdragon 500 Leading Plaintiff Lawyers, among other awards.

Thomas D. Penfield

During his almost 30-year tenure with the firm, Mr. Penfield has handled numerous multi-million-dollar cases, concentrating his practice on personal injury, products liability and class actions, including serving as co-counsel in a jury trial representing H&H Cerritos against U.S. Mineral Products, Inc., obtaining a \$14.1 million verdict. He has also been involved in numerous class action lawsuits, including a case against the City of San Diego – an effort that helped residents reclaim millions in damages that was mischarged for sewer services – which was settled for \$40 million.

With a distinguished legal background, he was a supervising trial lawyer with the Defenders Program of San Diego and then a clinical Professor at the University of San Diego School of Law before joining CaseyGerry in 1988. Mr. Penfield continues to teach as an adjunct professor at the University of San Diego School of Law, and regularly lectures both nationally and internationally on trial techniques and persuasion.

Mr. Penfield served as President of the North County Bar Association. He is one of only nine attorneys in California to earn the recognition of Diplomate in the National College of Advocacy for American Association for Justice. He is also a member of the American Board of Trial Advocates and a Master in the American Inns of Court.

Thomas D. Luneau

With a legal career spanning three decades, Mr. Luneau has had his share of formidable opponents in the courtroom over the years. He started his career as a state-licensed private investigator, joining CaseyGerry in 1982 as an investigator.

Now a talented litigator who has prosecuted many complex cases, he focuses his practice primarily on premises and products liability and serious personal injury cases, earning numerous multi-million verdicts and settlements — including cases involving defective industrial drilling machinery, motorcycle lane splitting injuries, concussion injuries, wrongful death and more. Other high profile matters he has handled include cases involving abuse by a CHP officer who

intentionally broke the ankle of a handcuffed suspect (4th amendment violation excessive force), and the wrongful death of an inmate at Donovan State Prison (8th amendment violation cruel and unusual punishment).

In addition, he has successfully represented numerous military and law enforcement personnel and their family members from entities including the San Diego Police Department, the San Diego County Sheriff's Department, Riverside County Sheriff's Department, California Highway Patrol, and the United States Border Patrol.

Luneau is a member of the American Board of Trial Advocates. He has received numerous awards, including the Consumer Attorneys of San Diego's Outstanding Trial Lawyer Award.

Jason C. Evans

Jason C. Evans is an attorney specializing in complex litigation and personal injury. Throughout his career, he has handled hearings, pleadings, depositions, trial, mediations, and memoranda for a number of multi-million dollar civil and class actions.

He previously worked for the San Diego Volunteer Lawyer program, drafting requests for restraining orders for victims of domestic and elder abuse, and was a legal assistant for Spach, Capaldi and Waggaman, LLP, in Newport Beach.

He was selected as one of the San Diego Business Journal's Next Top Business Leaders under 40 for 2020, Top 40 Under 40, 2020 by the Daily Transcript, Super Lawyers Rising Star 2015-2021, San Diego Super Lawyers 2018, 2015 SD Metro 40 Under 40 Awards, and 2017 CASD Outstanding Trial Lawyer Award.

P. Camille Guerra

P. Camille Guerra is a key member of the complex litigation team, working with partner Gayle M. Blatt to concentrate on data security cases like Yahoo Inc., consumer fraud litigation such as Volkswagen Diesel, Fiat/Chrysler Diesel, and Wells Fargo; as well as other high profile consumer class actions, including a national case involving anti-competitive behavior by the major tuna companies in the U.S.

With a Master of Advanced Studies in health policy and the law, Camille is keenly focused on addressing complex healthcare issues related to the law. Her research on counterfeit Avastin was the subject of an article she co-authored in the prestigious Nature Reviews Clinical Oncology. Her most recent publication is "USA Criminal and Civil Prosecutions Associated with Illicit On-line Pharmacies: Legal Analysis and Global Implications," which appeared in Med Access.

Guerra attended Eotvos Lorand University in Budapest, Hungary, and University of Prishtina in the former Yugoslav Republic of Kosova. Camille has been a member of the Alumni Association Board of Directors at Thomas Jefferson School of Law and an alumni mentor to the Middle Eastern, Armenian, and Muslim student associations. Camille is a past member of the Consumer Attorneys of San Diego Educational Committee and a member of Lawyers Club, San Diego County Bar Association, South Asian Bar Association, and a prior member of San Diego State University President's Latino Advisory Council. She is fluent in Spanish and has studied Arabic, French, Italian, Russian, and Farsi.

Adam B. Levine

Adam B. Levine is a key member of the serious personal injury team, focusing on product defect, premises, auto and aviation cases. He has worked on a variety of serious cases including: a federal product defect case involving a military parachute that deployed inside an airplane, killing a decorated Navy Seal; a federal case against the Border Patrol after one its agents crashed a truck into a client riding a motorcycle; a product defect and negligence case where his client suffered a serious arm injury while riding as a passenger in a UTV; a case against the City of San Diego that settled for \$1 million after his client tripped over uneven concrete in a crosswalk and suffered permanent injuries; and high-profile litigation against Big Tobacco involving smokeless tobacco or "dip."

He is on the board of directors for the Consumer Attorneys of San Diego, is co-chair of the personal injury section of the North County Bar Association, is on the board of directors for the NLD section of the Consumer Attorneys of California and writes for the product defect column in the Trial Bar News.

Levine was named a San Diego Super Lawyers Rising Star in 2017- 2020. He was also awarded the North County Bar Association's Rising Star award in 2018 and was named in the top 40 Under 40 by The Daily Transcript and San Diego Metro Magazine. He was named in the Best Lawyers: Ones to Watch and has received 14 American Jurisprudence Awards, CWSL, Kennedy Scholar, Academic Excellence Award, Trustees' Award, CWSL, Academic Excellence Award, CWSL and Trustees' Award, CWSL.

David S. Casey III

David Casey III is an attorney specializing in personal injury. He has worked extensively for both the complex litigation and personal injury teams at Casey Gerry. Recently, he participated in the TAP program as one of the first participants, during which time he tried multiple criminal cases as a volunteer deputy district attorney with the South Bay office of the San Diego County District Attorney.

Casey III attended the University of San Diego and focused his time at school on trial advocacy and complex litigation. He received a CALI award for his paper analyzing American and European attitudes toward online privacy and the “right to be forgotten.” David externed for the Honorable Anthony Battaglia at the United States District Court for the Southern District of California. He also interned and graduated from Gerry Spence’s acclaimed Trial Lawyers College in 2018.

Casey III has been accepted to the Wallace inn as an Associate Member and was names in Best Lawyers: Ones to Watch 2021 and 2022.

Eric Ganci

Eric Ganci is a graduate of Thomas Jefferson School of Law. He is an associate attorney and member of the personal injury team. Before joining CaseyGerry, Eric ran his own firm focused on representing people arrested for driving under the influence. During that time, he tried 72 cases to verdict: 70 jury trials and 2 bench trials. In that work, after completing required coursework and passing a certification exam, Eric earned the designation as a Lawyer-Scientist by the American Chemical Society, Chemistry and the Law Division.

Ganci is a member of Consumer Attorneys of San Diego, Lawyers Club of San Diego (Board Member 2012-2016, Photography Co-Chair 2011-2013, and Champagne & Chocolates Affair Co-Chair 2012), San Diego County Bar Association (New Lawyers Division Board of Directors, Community Service Chair 2012, New Lawyers Division Board of Directors, Newsletter Chair 2011), and former President and Vice President of Thomas Jefferson SOL Alumni Association (2009-2014).

He was awarded Thomas Jefferson SOL Adjunct Professor of the Year, Thomas Jefferson SOL A. Thomas Golden Honorary Alumnus of the Year, San Diego’s Top 40 Under 40 (2011) and Outstanding Service by a New Lawyer by San Diego County Bar Association (2011). He is a former graduate of the Trial Lawyers College, and has been teaching at the College since 2016, and assisting with civil and criminal trials across the country.

Katie McBain

Katie McBain is a graduate of California Western School of Law. She is a member of the complex litigation team. Prior to joining CaseyGerry, Katie successfully litigated bench trials, counseled retirement and pension systems regarding compliance with local, state and federal laws, with particular focus on the County Employees Retirement Law of 1937, and consulted business owners regarding labor and employment issues. She is a member of Lawyers Club of San Diego, Contributor to the Conference of California Bar Associations, and a member and volunteer of Think Dignity, a non-profit focused on empowering our community to advance basic dignity for those living on the street. Katie is proficient in Spanish.

Michael J. Morpew

Michael Morpew specializes in class and representative actions and has extensive experience with wage and hour complex litigation. Prior to joining CaseyGerry, Michael represented individuals as well as local, regional, and national entities in individual, class action, and Private Attorneys General Act (“PAGA”) employment claims. Michael has track record of successfully informally resolving pre-litigation and legal cases.

Michael graduated Cum Laude from the University of San Diego School of Law and earned his undergraduate degree from the University of Washington in Seattle. He also completed the Straus Institute for Dispute Resolution’s STAR: A Systematic Approach to Mediation Strategies program. While in law school, he worked for two and half years as a judicial intern for the Honorable Judith F. Hayes (Ret.). Michael also interned for the Center for Public Interest Law and reported on the California Public Utilities Commission and Board of Accountancy activities and compliance with their legal requirements.

Samantha Kaplan

Samantha Kaplan is an associate attorney at CaseyGerry where she works with the personal injury team. She received her Juris Doctor from Georgetown University and a Bachelor of Arts degree in International Development and Africana Studies from Tulane University. Prior to joining CaseyGerry, Samantha worked as a law clerk with the U.S. State Department Office of the Assistant Legal Advisor where she wrote legal briefs as part of the U.S. submissions to the Iran-U.S. Claims Tribunal, conducted legal research, wrote memoranda on Investor State Dispute Settlements and Bilateral Investment issues, and more.

Michael Benke

Michael is part of the CaseyGerry complex litigation team. He received his JD degree from Berkeley Law School (Boalt Hall) with a concurrent degree from Berkeley’s Goldman School of Public Policy, where he focused on quantitative methods. During law school, he externed for Judge M. Margaret McKeown of the Ninth Circuit Court of Appeals.

Following law school Michael served as an attorney in the chambers of California Supreme Court Justice Joyce L. Kennard, and subsequently, received trial and appellate experience with the economic crimes and appellate divisions of the San Diego County District Attorney. Michael has served in the Fourth District Court of Appeal, Division One, as a research assistant to Associate Justice Joan Irion, and has argued cases before the California Court of Appeal, Division Two (San Bernardino).

Michael is also a medical doctor. Following his legal education and experience, he attended and received his MD degree at Saint George's University, where testing and academics earned him the highest merit scholarship at entry. Most recently, in his clinical years he rotated through Eisenhower Hospital and Desert Regional Medical Center in Palm Springs, Arrowhead Regional Medical Center in San Bernardino, and the Santa Clara County hospital system. He completed sub-internships in medicine, hospital-based family medicine, and psychiatry. While in medical school, Michael worked as a law clerk for CaseyGerry.

Michael is licensed to practice law in California and the state of New York, including the federal Southern District of New York. He is fluent in Spanish.

Noah Moss

Noah Moss is a civil trial lawyer at CaseyGerry where he works with the personal injury team. He joined the firm after working with a prestigious Personal Injury law firm in Bakersfield, CA as a trial attorney. Prior to that, Noah worked for a big New York firm where he represented pharmaceutical companies in Patent litigation. During his time representing large corporations, Noah realized that he wanted to join a law practice that worked for the individual not against them. This led to his transition to personal injury law.

Noah received his Juris Doctorate from Loyola University, Chicago School of Law, with a certificate in Advocacy and International Law. In addition, he received a Master of Laws degree in IP & Information Technology Law from Fordham Law School, New York. For his undergraduate studies, he attended University of California San Diego, graduating with a Bachelor of Science in Biology and Molecular Biology.

SELECT LEADERSHIP POSITIONS

- *In re: Volkswagen “Clean Diesel” Marketing, Sales Practices, and Products Liability Lit.*,
MDL No. 2672
- *In re: Chrysler-Dodge-Jeep Ecodiesel Marketing, Sales Practices, and Products Liability Lit.*,
MDL No. 2777
- *In re: ZF-TRW Airbag Control Units Products Liability Lit.*,
Case No. 19-ml-02905 JAK (C.D. Cal.)
- *In re: Chrysler Pacifica Fire Recall Products Liability Lit.*, MDL No. 3040
- *In re: Waste Management Data Breach Lit.*,
Case No. 21-cv-06199-DLC (S.D. N.Y.)
- *In re: Netgain Technology, LLC, Consumer Data Breach Lit.*,
Case No. 21-cv-1210-SRN-LIB (D. Minn.)
- *DeSue v. 20/20 Eye Care Network, Inc. et al.*,
Case No. 21-cv-61275-RAR (S.D. Fla.)
- *In re: Bank of America California Unemployment Benefits Lit.*,
Case No. 3:21-md-02992-LAB-MSB (S.D. Cal.)
- *In re the Exxon Valdez*,
Case No. CV-89-00095-HRH,
Exxon Shipping Co v. Baker, 554 U.S. 471 (2008)
- *Vinsant v. US Fertility, LLC*,
Case No. 8:21-cv-00225 (S.D. Md.)
- *In re: Warner Music Group Data Breach*,
Case No. 1:20-cv-07473-PGG (S.D. N.Y.)
- *In re: RadNet, Inc. Data Breach*,
Case No. 2:20-cv-09553 (C.D. Cal.)
- *In re: Citrix Data Breach Lit.*,
Case No. No:19-cv-61350 (S.D. Fla.)

- *In re: EyeMed Vision Care, LLC Data Security Breach Lit.*,
Case No. 1:21-cv-00036-DRC (S.D. Oh.)
- *In re: Intel Corp. CPU Marketing, Sales Practices*,
MDL No. 2828
- *In re: Apple Inc. Device Performance Lit.*,
MDL No. 2827
- *In re: Wells Fargo Collateral Protection Insurance Lit.*,
MDL No. 2797
- *In re: YAHOO! Inc. Customer Data Security Breach Lit.*,
MDL No. 2752
- *In re: National Football League Players' Concussion Injury Lit.*,
MDL No. 2323
- *In re: World War II Era Japanese Forced Labor*,
MDL No. 1347
- *In re: Apple and AT&T iPad Unlimited Data Plan Lit.*,
Case No. 10-cv-02553(N.D. Cal.)
- *In re: Hydroxycut Marketing and Sales Practice Lit.*,
MDL No. 2087
- *In re: Sony Gaming Networks & Customer Data Security Breach Lit.*,
MDL No. 2258
- *In re: Incretin Mimetics Products Liability Lit.*,
MDL No. 2452
- *Ellis v. R.J. Reynolds Tobacco Co.*,
San Diego Super. Ct., Case No. 706458
- *Scott v. American Tobacco*,
No. 01-2498 (La. 9/25/01), 795 So.2d 1176, and No. 02-2449 (La.
11/15/02), 830 So.2d 294, and No. 2004-2095 (La. App. 4th Cir. 2/7/07)
- *In re: American Honda Motor Co., Inc. Dealerships Relations Lit.*,
MDL No. 1069

- *Rose v. Bank of America*,
Case No. 11-cv-02390
- *Steinfeld v. Discover Financial Services, et al.*,
Case No. 12-cv-01118
- *Villa, et al. v. City of Chula Vista*,
San Diego Super. Ct., Case No. 37-2011-00093296
- *Gehrich, et al. v. Chase Bank USA, N.A., et al.*,
Case No. 12-cv-05510
- *Blue Shield of California Affordable Care Act Cases*,
JCCP 4800
- *Galvez v. Waste Management*,
JCCP 4534
- *Shames v. City of San Diego, et al.*,
San Diego Super. Ct., Case No. GIC 831539
- *Cardiff v. General Motors Corporation*, coordinated with *Valve Automation and Controls, Inc., et al v. General Motors Corp., et al.*,
San Diego Super. Ct., Case No. EC 016530