

2017

# Year In Review

**Lieff  
Cabraser  
Heimann &  
Bernstein**  
Attorneys at Law

# 2017 | Justice in Action

## **VOLKSWAGEN & FIAT/CHRYSLER EMISSIONS FRAUD**

In the landmark Volkswagen “Clean Diesel” emissions fraud case, settlements grew to include 3.0-liter engines and to exceed the \$15 billion mark in estimated value. The settlements are extremely popular with class members: more than \$7 billion has already been paid out with approximately a year still left before the claims deadline.

Separate litigation commenced in 2017 against Fiat Chrysler over similar diesel emissions violations, with Elizabeth Cabraser again serving in the role of sole Lead Counsel.

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## **GOOD ALLIES CONFERENCE**

In late 2016, San Francisco office managing partner Kelly Dermody conceived and coordinated the enormously successful SF Bay Area “How to be a Good Ally”

Strategic Engagement Conference attended by 1,300 legal professionals. Held in January 2017, the symposium united scores of California and national non-profit organizations with the legal community in an effort to support and assist a vast range of threatened communities including immigrants and the undocumented, victims of hate crimes, domestic violence, and sexual assault, and to preserve reproductive rights, worker justice, the rights and human dignity of all peoples, and a liveable environment for us all.

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## **PORTER RANCH NATURAL GAS LEAK**

Lieff Cabraser helps lead two class action cases on behalf of homeowners and businesses that suffered economic injuries in



the wake of the massive Porter Ranch gas leak from October 2015 through February 2016, the largest methane leak in U.S. history. In May 2017, plaintiffs defeated SoCalGas’s motions to dismiss the business cases, with the Court noting “companies must face the full cost of accidents they can create.” SoCalGas took a writ of that decision, and Lieff Cabraser argued in the Court of Appeals on behalf of the business class. The parties are awaiting the outcome of the writ.

HOW TO BE A  
**GOOD ALLY**

### **CHILD ONLINE PRIVACY PROTECTION CASES**

We represent parents and their children in federal class action litigation against online game and app producers including Disney and Viacom alleging the companies violate state and federal privacy protection laws by exporting, exploiting, and monetizing children's personal information from mobile games without the required parental consent. The actions are proceeding under various state laws as well as COPPA, the federal Children's Online Privacy Protection Act.

### **WELLS FARGO & CO. SHAREHOLDER DERIVATIVE LITIGATION**

Lieff Cabraser is co-lead counsel representing shareholders in a derivative action pending in California alleging that the Board and senior officers of Wells Fargo & Co. knew or consciously disregarded that, in an attempt to meet the company's sales quotas, the company's employees



illegally created millions of unauthorized deposit and credit card accounts for customers. In May and October 2017, the court largely denied defendants' motions to dismiss the amended complaint.

### **GOOGLE GENDER DISCRIMINATION**

Lieff Cabraser represents three female former Google professionals and a proposed class alleging that Google pays women less than men for equal or substantially similar work across its California locations, including its headquarters in Mountain View. Filed in September 2017, this gender

discrimination class action is in the discovery phase.

### **THERANOS INC. FRAUD**

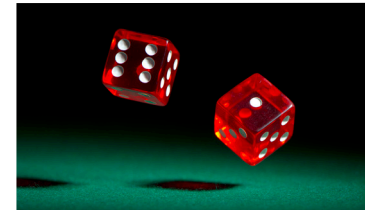
We represent Arizona and California consumers alleging fraud and battery against Walgreens and medical startup Theranos Inc. over the premature marketing of dangerously unreliable blood testing services that were still in-development and not ready-for-market. Hundreds of thousands of consumers submitted to these "testing" services and blood draws under false pretenses, making major health decisions in reliance on undependable and erratic tests.

### **CIPRO PRICE-FIXING**

Lieff Cabraser's Cipro team shared the American Antitrust Institute's 2017 award for Outstanding Private Practice Antitrust Achievement with co-counsel for work on the Cipro pharmaceutical price-fixing case, argument for which went all the way to the California Supreme Court. Settlements in the 17-year case ultimately reached \$399 million in a result the trial court described as no less than "extraordinary."

### **ABILIFY GAMBLING ADDICTIONS**

Lieff Cabraser represents individuals with crippling financial losses from compulsive gambling allegedly caused by Bristol-Myers Squibb, Otsuka



Pharmaceutical, and Otsuka America Pharmaceutical's blockbuster drug Abilify, the #1 most profitable drug in America and widely marketed despite FDA warnings about damaging compulsive behaviors including uncontrollable gambling. We serve on the Plaintiffs' Executive Committee and Science & Expert Sub-Committee for the multidistrict litigation.

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#### **MERCEDES-BENZ AIR CONDITIONING MOLD LAWSUITS**

Lieff Cabraser represents consumers in California and Georgia in class action lawsuits filed in 2017 charging that more than 17 Mercedes-Benz models from a wide range of production years from 1999 to the present have a serious design defect that causes the air conditioning system to accumulate mold and mildew, spewing extremely unpleasant odors throughout the luxury vehicles any time the air system is in use. Among other relief,



the suits seek effective long-term repairs, as well as monetary damages for affected Mercedes-Benz owners and lessees.

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#### **BOFI HOLDING, INC. SECURITIES CLASS LITIGATION**

Lieff Cabraser is lead counsel for a proposed class of investors in Bofi Holding, Inc. which charges that Bofi's senior executives issued materially false and misleading statements from September 2013 to February 2016 about Bofi's lending standards and internal compliance infrastructure. The case followed from an employment retaliation lawsuit brought in

2015 by a whistleblower who worked in Bofi's auditing department, and relied on the testimony of numerous other former employees. In May 2017, the court denied in significant part defendants' second motion to dismiss the complaint, and the case is proceeding to discovery against the company's senior officers and directors.

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#### **TAKATA AIRBAGS**

Infamous for causing the largest recall in U.S. auto safety history, the defective Takata airbags contain a propellant that can cause them to explode upon impact in an accident, shooting out metal

casing debris towards drivers and passengers. The defective airbags have been linked to more than 100 injuries and 17 deaths worldwide. On November 1, 2017, the court granted final approval to an aggregate settlement with Toyota, BMW, Subaru, and Mazda valued at \$741 million.

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#### **MICROSOFT GENDER DISCRIMINATION**

Lieff Cabraser represents three current and former female technical professionals and a proposed class in a national gender discrimination lawsuit alleging that Microsoft has engaged in systemic and pervasive discrimination against over 8,600 female engineering and I/T operations employees with respect to pay,



promotions, and other terms and conditions of employment. Plaintiffs' motion for class certification was filed in October 2017, and will be fully submitted to the Court in February 2018.

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#### **BENICAR MEDICATION INJURIES**

We serve on the Plaintiffs Steering Committee representing patients prescribed the blood pressure medication Benicar in multidistrict injury litigation against the drug's manufacturer and marketers alleging the drug had insufficient testing and bore inadequate patient warnings, leading to severe and sometimes life-threatening gastrointestinal injuries in users. In August of 2017, plaintiffs reached a settlement on behalf of affected patients valued at \$300 million.

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#### **CALIFORNIA FALSE REFERENCE PRICING CASES**

With the office of the LA City Attorney, we represent the



People of California in consumer fraud and false advertising civil enforcement actions against national retailers J.C. Penney, Kohl's, Macy's, and Sears alleging the companies have pervasively used "false reference pricing" schemes to mislead customers into believing they are receiving bargains. Such misleading but effective practices are illegal under California law. The lawsuits seek civil penalties and injunctive relief.

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#### **TELEPHONE CONSUMER PROTECTION ACT CASES**

We continue our precedent-setting work in stopping the harassment of consumers across

the U.S. from obnoxious and unconsented texts and calls from major companies. We have recovered over \$300 million on behalf of consumers nationwide, and new settlements include \$15 million with Wells Fargo Dealer Services and \$10 million with Dun & Bradstreet Credibility Corp. Additional cases are ongoing.

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#### **GENERIC DRUG PRICING ANTITRUST**

We developed the first case alleging price-fixing of generic levothyroxine, one of the most widely-prescribed medications in the U.S. In 2017, more than 70 generic drug price

fixing cases were consolidated in Pennsylvania alleging that 20 pharmaceutical companies orchestrated price-fixing schemes related to generic brands of eight different high-profile drugs. Our firm was appointed to the Plaintiffs' Steering Committee in the case in May 2017.

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#### **ANTHEM INC. PATIENT DATA BREACH**

We represent individuals in a class action lawsuit against Anthem for its alleged failure to safeguard and secure the confidential medical records and other detailed and personally identifiable information of over 37 million of its members. The complaint charged that Anthem was on notice about the weaknesses in its computer security defenses for at least a year before the breach occurred. In August of 2017, the court granted preliminary approval to a \$115 million settlement of the case.

## NATIONWIDE ATTORNEY LEADERSHIP

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*New Appointments for 2017*

### **Kenneth S. Byrd**

TENNESSEE TRIAL LAWYERS ASSOCIATION, BOARD OF DIRECTORS

### **Mark P. Chalos**

TENNESSEE TRIAL LAWYERS ASSOCIATION, TREASURER

### **Lin Y. Chan**

ASIAN AMERICAN BAR ASSOCIATION OF THE GREATER BAY AREA, BOARD OF DIRECTORS; ABA SECTION OF CIVIL RIGHTS & SOCIAL JUSTICE FAIR & IMPARTIAL COURTS COMMITTEE, CO-CHAIR

### **Kelly M. Dermody**

ABA SECTION OF LITIGATION ATTORNEY-CLIENT PRIVILEGE TASK FORCE

### **Nicholas Diamand**

AMERICAN ASSOCIATION FOR JUSTICE CONSUMER PRIVACY GROUP, CHAIR; CENTER FOR DEMOCRACY & TECHNOLOGY, ADVISORY COUNCIL

### **Eric B. Fastiff**

COMMITTEE TO SUPPORT THE ANTITRUST LAWS, PRESIDENT

### **Steven E. Fineman**

AMERICAN CONSTITUTION SOCIETY, BOARD OF DIRECTORS; ANTI-DEFAMATION LEAGUE NY REGION, BOARD VICE-CHAIR

### **Wendy R. Fleishman**

ABA TORTS & INSURANCE PRACTICES SECTION PHARMACEUTICAL, MEDICAL DEVICE & BIOSCIENCE GENERAL COMMITTEE, VICE-CHAIR

### **Rachel J. Geman**

NATIONAL EMPLOYMENT LAWYERS ASSOCIATION-NY, AMICUS COMMITTEE CHAIR; LEXIS PRACTICE ADVISOR FOR LABOR & EMPLOYMENT, EXPERT ADVISORY PANEL

### **Dean M. Harvey**

ABA ANTITRUST SECTION COMPETITION TORTS COMMITTEE, CO-CHAIR

### **Laura B. Heiman**

TENNESSEE TRIAL LAWYERS ASSOCIATION WOMEN'S CAUCUS, FOUNDER

### **Andrew R. Kaufman**

NASHVILLE BAR FOUNDATION, LEADERSHIP FORUM

### **Jason L. Lichtman**

LAW360, PRIVACY/CONSUMER EDITORIAL ADVISORY BOARD

### **Sarah R. London**

CONSUMER ATTORNEYS OF CALIFORNIA, LEADERSHIP ACADEMY

### **Annika K. Martin**

AMERICAN ASSOCIATION FOR JUSTICE, CLASS ACTION GROUP CO-CHAIR; SEDONA'S WORKING GROUP I, STEERING COMMITTEE

### **Michael Miarmi**

LAW360, SECURITIES LAW EDITORIAL ADVISORY BOARD

### **Anne B. Shaver**

ABA EQUAL EMPLOYMENT OPPORTUNITY COMMITTEE, CO-CHAIR

### **Jonathan D. Selbin**

EQUAL JUSTICE WORKS, BOARD OF DIRECTORS

### **Michael W. Sobol**

CONSUMER ATTORNEYS OF CALIFORNIA POLITICAL ACTION COMMITTEE, BOARD MEMBER

### **Fabrice N. Vincent**

ABA CLASS ACTIONS COMMITTEE, CO-CHAIR

### **Tiseme G. Zegeye**

ABA LABOR & EMPLOYMENT LAW SECTION MEMBER SERVICES COMMITTEE; AMERICAN CONSTITUTION SOCIETY BAY AREA CHAPTER, BOARD OF DIRECTORS; EQUAL RIGHTS ADVOCATES, LITIGATION COMMITTEE

## “BEST LAW FIRMS IN AMERICA”

Tier 1 rankings in Antitrust, Employment Law, Mass Tort/Class Actions, Personal Injury, Product Liability, and Securities from *U.S. News & World Report*

## NATIONAL LAW JOURNAL “LIFETIME ACHIEVEMENT AWARD”

In November 2017, Elizabeth Cabraser received the *National Law Journal's* Lifetime Achievement Award for “living her commitment to the law inside and outside of her office.”

## “SUPER LAWYERS”

25 Lieff Cabraser Attorneys Recognized by *Super Lawyers*

## LAWDRAGON 500 “LEADING LAWYERS”

## “CALIFORNIA POWERHOUSE”

Recognized by *Law360* as a 2017 California Litigation Powerhouse: “When large groups of plaintiffs are up against giants of industry... they look to Lieff Cabraser.”

## “CONSUMER ATTORNEY OF THE YEAR” FINALISTS

## “THE BEST LAWYERS IN AMERICA”

17 Lieff Cabraser Lawyers Selected for National Recognition by *Best Lawyers*

## “LITIGATION STARS”

8 Lieff Cabraser Lawyers Named Local Litigation Stars by *Benchmark Litigation*

## DAILY JOURNAL “TOP PLAINTIFF LAWYERS”

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