

**ENDORSED FILED  
SAN MATEO COUNTY**

**SEP 23 2016**

Clerk of the Superior Court  
By KARLA ST. PIERRE  
DEPUTY CLERK

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9 Lead Counsel for Plaintiffs

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA

11 COUNTY OF SAN MATEO

12 In re CASTLIGHT HEALTH, INC.,  
SHAREHOLDER LITIGATION

) Lead Case No. CIV533203

) CLASS ACTION

14 This Document Relates To:

) DECLARATION OF FRANCIS A. BOTTINI,  
) JR. FILED ON BEHALF OF BOTTINI &  
) BOTTINI, INC. IN SUPPORT OF  
) APPLICATION FOR AWARD OF  
) ATTORNEYS' FEES AND EXPENSES

15 ALL ACTIONS.

Assigned for All Purposes to the  
Honorable Marie S. Weiner

Date: October 28, 2016  
Time: 9:00 a.m.  
Dept. 2  
Date Action Filed: 04/02/15

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DECLARATION OF FRANCIS A. BOTTINI, JR. FILED ON BEHALF OF BOTTINI & BOTTINI, INC., IN  
SUPPORT OF APPLICATION FOR AWARD OF ATTORNEYS' FEES AND EXPENSES

FILE BY FAX

1 I, Francis A. Bottini, Jr., declare as follows:

2 1. I am a member of the firm of Bottini & Bottini, Inc. ("Bottini & Bottini"). I am  
3 submitting this declaration in support of my firm's application for an award of attorneys' fees and  
4 expenses/charges ("expenses") in connection with services rendered in the above-entitled action.

5 2. This firm is counsel of record for plaintiff Robert Kromphold.

6 3. The information in this declaration regarding the firm's time and expenses is taken from  
7 time and expense printouts and supporting documentation prepared and/or maintained by the firm in the  
8 ordinary course of business. I am the partner who oversaw and/or conducted the day-to-day activities in  
9 the litigation and I reviewed these printouts (and backup documentation where necessary or  
10 appropriate) in connection with the preparation of this declaration. The purpose of this review was to  
11 confirm both the accuracy of the entries on the printouts as well as the necessity for, and reasonableness  
12 of, the time and expenses committed to the litigation.

13 4. The number of hours spent on this litigation by my firm is 443.30. A breakdown of the  
14 lodestar is provided in Exhibit A. The lodestar amount for attorney/paralegal time based on the firm's  
15 current rates is \$ 236,891.00. The hourly rates shown in Exhibit A are the usual and customary rates set  
16 by the firm for each individual.

17 5. My firm seeks an award of \$ 2,837.99 in expenses and charges in connection with the  
18 prosecution of the litigation. Those expenses and charges are summarized by category in Exhibit B.

19 6. The following is additional information regarding certain of these expenses:

20 (a) Filing, Witness and Other Fees: \$ 1,435.00. These expenses have been paid to  
21 the court for filing fees and to attorney service firms or individuals who advanced those fees for the firm  
22 and also handled service of process of the complaint or subpoenas. The filing fees include only the fees  
23 paid to the Court and do not include additional costs paid to the vendor for filing documents with the  
24 Court. The vendor who was paid for this service is set forth in Exhibit C.

25 (b) Transportation, Hotels & Meals: \$ 97.54. In connection with the prosecution of  
26 this case, the firm has paid for travel expenses to attend the mediation hearing. The date, destination  
27 and purpose of each trip is set forth in Exhibit D.

1 (c) Photocopies: \$ 850.05. In connection with this case, the firm made 5,667  
2 in-house black and white copies, charging \$0.15 per copy for a total of \$ 850.05. Each time an in-house  
3 copy machine is used, our billing system requires that a case or administrative billing code be entered  
4 and that is how the 5,667 copies were identified as related to this case.

5 (d) Online Legal and Financial Research: \$ 396.35. These included vendors such as  
6 Bloomberg and Westlaw. These databases were used to obtain access to SEC filings, factual databases,  
7 legal research and for cite-checking of briefs. This expense represents the expense incurred by Bottini  
8 & Bottini for use of these services in connection with this litigation. The charges for these vendors vary  
9 depending upon the type of services requested.

10 7. The expenses pertaining to this case are reflected in the books and records of this firm.  
11 These books and records are prepared from receipts, expense vouchers, check records and other  
12 documents and are an accurate record of the expenses.

13 8. The identification and background of my firm and its partners is attached hereto as  
14 Exhibit E.

15 I declare under penalty of perjury under the laws of the State of California, that the foregoing is  
16 true and correct. Executed this 30th day of August, 2016, at La Jolla, California.

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19 Francis A. Bottini, Jr.  
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# EXHIBIT A

## EXHIBIT A

## LODESTAR

## BOTTINI &amp; BOTTINI, INC.

Time Report from Inception through August 29, 2016

<i>NAME</i>		<i>HOURS</i>	<i>RATE</i>	<i>LODESTAR</i>
Francis A. Bottini, Jr.	(P)	150.60	780.00	117,468.00
Yury A. Kolesnikov	(A)	115.70	440.00	50,908.00
Justus Benjamin	(A)	125.50	390.00	48,945.00
Stephanie Ammirati <sup>1</sup>	(PL)	51.50	380.00	19,570.00
<b><i>TOTAL</i></b>		<b><i>443.30</i></b>		<b><i>236,891.00</i></b>

(P) Partner

(A) Associate

(PL) Paralegal

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<sup>1</sup> Stephanie Ammirati's qualifications meet, and exceed, those required of a certified paralegal under the Business and Professions Code: Ms. Ammirati holds a J.D. degree from Loyola Law School and a B.A. degree from Pepperdine University, where she graduated summa cum laude and was her class' Valedictorian.

# EXHIBIT B

EXHIBIT B  
EXPENSES/CHARGES

BOTTINI & BOTTINI, INC.  
Inception through August 29, 2016

<i>CATEGORY</i>		<i>TOTAL</i>
Filing, Witness and Other Fees		1,435.00
Transportation, Hotels & Meals		97.54
Telephone, Facsimile		58.07
Postage		.98
Photocopies		
In-House Black and White Copies: (5,667 copies at \$0.15 per page)		850.05
Online Legal and Financial Research		396.35
<b><i>TOTAL</i></b>		<b>2,837.99</b>

# EXHIBIT C



EXHIBIT C

Filing, Witness and Other Fees: \$1,435.00.

<i>DATE</i>	<i>VENDOR</i>	<i>PURPOSE</i>
4-29-15	One Legal	Filing of Kromphold Complaint

# EXHIBIT D

EXHIBIT D

Transportation, Hotels & Meals: \$97.54.

<i>NAME</i>	<i>DATE</i>	<i>DESTINATION</i>	<i>PURPOSE</i>
Francis A. Bottini, Jr.	3-21-16	Newport Beach, CA	Mediation Hearing

# EXHIBIT E

# BOTTINI & BOTTINI, INC.

## FIRM RESUME

Bottini & Bottini, Inc. specializes in representing shareholders, whistleblowers, and consumers in high-stakes cases across the United States. The firm is highly experienced in the complex areas of antitrust class action litigation, securities class actions, shareholder derivative litigation, *qui tam* litigation on behalf of whistleblowers under the False Claims Act, and class actions under the Employee Retirement Income Security Act of 1974 (“ERISA”).

The attorneys at Bottini & Bottini, Inc. have represented shareholders as lead counsel, co-lead counsel, or played a significant role in numerous high-profile cases in state and federal courts across the country. The firm’s representative matters and the biographies of the firm’s professionals are set forth below.

### Representative Matters

- *In re DRAM Antitrust Litigation*, MDL No. 1486 (N.D. Cal.). Mr. Bottini’s prior firm, Wolf Haldenstein Adler Freeman & Herz LLP, served as Co-Lead Counsel for the Class, and Mr. Bottini was one of two lead partners for his firm on the case. After five years of litigation, \$325,997,000 in settlements was obtained for the Class from nine defendants in one of the largest and most complex civil antitrust class actions in the country. Mr. Bottini was involved in all aspects of the case from the filing of the first complaint in 2002 to the final approval of the settlements which occurred in August 2007. Mr. Bottini was part of the trial team that was set to try the case against the two remaining defendants – Mosel Vitelic, Inc. and Nanya – when separate settlements with these last two defendants were reached on March 21, 2007, the day before oral argument was to be conducted on the motions *in limine* for trial. On August 15, 2007, the Honorable Phyllis J. Hamilton granted final approval to the settlements, stating:

I think I can conclude on the basis with my five years with you all, watching this litigation progress and seeing it wind to a conclusion, that the results are exceptional. The percentages, as you have outlined them, do put this [case] in one of the upper categories of results of this kind of [antitrust] class action. I am aware of the complexity . . . I thought that you all did an exceptionally good job of bringing to me only those matters that really required the Court’s attention. You did an exceptionally good job at organizing and managing the case, assisting me in management of the case. There was excellent coordination between all the various different plaintiffs’ counsel with your group and the other groups that are part of this litigation. . . . So my conclusion is the case was well litigated by both sides, well managed as well by both sides.

- *In re PFF Bancorp, Inc. ERISA Litigation*, Master File No. 08-cv-1093 (C.D. Cal.). Mr. Bottini was one of the attorneys for plaintiffs in this ERISA class action, which alleged that defendants breached their fiduciary duties by continuing to allow plan participants to invest in the company's stock. The case settled for \$3 million, plus the allowance of a \$400,000 bankruptcy claim, after the company declared bankruptcy.
- *In re General Growth Properties, Inc. ERISA Litig.*, Master File No. 08-6680 (N.D. Ill.). Mr. Bottini and Mr. Chang were members of Plaintiffs' Executive Committee in this ERISA class action litigation, which alleged that defendants breached their fiduciary duties by continuing to allow plan participants to invest in the company's stock. The case settled for \$5.75 million in 2010. By Order dated December 9, 2010, the Hon. James B. Zagel of the United States District Court for the Northern District of Illinois granted final approval of the settlement.
- *In re Terex Corp. ERISA Litig.*, Master File No. 3:10-cv-00006-RNC (D. Conn.). Bottini & Bottini was one of Plaintiffs' counsel in this class action lawsuit under ERISA, which alleged that defendants breached their fiduciary duties by continuing to allow plan participants to invest in the company's stock. The case settled for \$2.5 million. Final approval of the settlement was entered by the Hon. Robert M. Chatigny of the United States District Court for the District of Connecticut on November 4, 2015.
- *Intel x86 Microprocessor Cases*, JCCP Case No. 4443 (Cal. Super. Ct., County of Santa Clara). In this complex class action antitrust case, the California Judicial Council coordinated the cases in Santa Clara before the Honorable Jack Komar. By order dated May 15, 2007, Judge Komar issued an order denying defendants' demurrer to the complaint in its entirety. During the several years the case has been pending, Judge Komar retired and the case is currently pending before Judge Kirwan. Plaintiffs filed a motion for class certification on July 24, 2015. The case is ongoing.
- *Cook v. McCullough*, No. 11 C 9119 (N.D. Ill.). Bottini & Bottini, Inc. was lead counsel for the plaintiff in this shareholder derivative action on behalf of Career Education Corporation against its officers and directors. By order dated August 13, 2012, the court denied Defendants' motion to dismiss on demand futility grounds. See 2012 U.S. Dist. LEXIS 114621 (N.D. Ill. Aug. 13, 2012). Bottini & Bottini, Inc. settled the case on October 25, 2013 for a cash payment of \$20 million and significant corporate governance reforms at Career Education.
- *Robinson v. Audience*, No. 12-cv-232227 (Santa Clara, California Superior Court). Bottini & Bottini is one of the counsel for plaintiffs in this securities class action alleging claims for strict liability under the Securities Act of 1933, arising out of an allegedly false and misleading Registration Statement and Prospectus for Audience's IPO. By order dated September 3, 2013, Judge

- Kleinberg denied defendants' demurrer, denied defendants' motion to stay, and granted plaintiffs' motion to compel. Plaintiffs moved for class certification, which motion was granted by Order dated Jan. 16, 2015. Recently, the case settled for \$6,050,000. By Order dated December 11, 2015, the Court granted preliminary approval to the settlement.
- *Wiley v. Envivio, et al.*, No. CIV517185 (San Mateo, California Superior Court). Bottini & Bottini is one of the counsel for plaintiffs in this securities class action which asserts claims under the 1933 Act relating to Envivio's IPO. In March 2014, Judge Marie Seth Weiner overruled defendants' demurrer, and subsequently granted plaintiffs' motion for class certification. Bottini & Bottini, Inc. assisted in procuring a settlement involving an \$8.5 million cash payment which was approved by Judge Weiner on June 22, 2015.
  - *Kaplan v. Fidelity National Home Warranty Co.*, No. 37-2008-00087962-CU-BT-CTL (Cal. Super. Ct., County of San Diego). Bottini & Bottini, Inc. is Lead Counsel for the class in this consumer class action challenging defendant's conduct with respect to home warranty plans sold to consumers. By Order dated November 1, 2010, the Court certified the case as a class action. Bottini & Bottini is presently preparing the case for trial.
  - *Guzman v. Bridgepoint Education, Inc.*, Case No. 11-cv-0069-BAS (S.D. Cal.). Bottini & Bottini, Inc. is Lead Counsel for the plaintiffs in this consumer class action brought on behalf of former students of Ashford University, a school owned and operated by Bridgepoint Education. By Order dated May 30, 2012, the Court denied in substantial part defendants' motion to dismiss. *See* 2012 WL 1944822.
  - *Snellink v. Gulf Resources, Inc.*, No. 11-cv-03722-ODW (C.D. Cal.). Bottini & Bottini, Inc. is co-lead counsel for the plaintiffs in this securities-fraud class action brought under the federal securities laws. By order dated May 15, 2012, the court denied Defendants' motion to dismiss. *See* 2012 U.S. Dist. LEXIS 67839 (C.D. Cal. May 15, 2012). Bottini & Bottini, Inc. procured a settlement involving a \$2.125 million cash payment which was approved by the Honorable Otis D. Wright II on January 18, 2014.
  - *In re Brocade Communications Systems, Inc. Derivative Litigation*, No. 1:05cv41683 (Cal. Super. Ct., County of Santa Clara). Mr. Bottini was Co-Lead Counsel in one of the highest-profile cases in the country challenging the award of backdated stock options by executive officers of Brocade. The case was filed in May 2005 and, on August 8, 2008, Mr. Bottini was retained as co-counsel to Brocade by the Special Litigation Committee of the Board of Directors of Brocade to help litigate the company's claims against ten former officers and directors of the company. An amended complaint was filed in federal court in San Francisco, and the case, *In re Brocade Communications Systems, Inc.*, No. 05-cv-2233 (N.D. Cal.), proceeded before the Honorable Charles R. Bryer in the United States District Court for the Northern District

- of California. After litigation of the case for over five years, over \$24 million was recovered for Brocade through the litigation.
- *Diaz v. First American Home Buyers Protection Corp.*, Case No. 13cv1585 BAS (JLB) (S.D. Cal.). Bottini & Bottini is Co-Lead Counsel for the plaintiffs in this consumer class action case challenging the marketing and sale of home warranty plans by Defendant First American. After the case was dismissed by the district court, Plaintiffs appealed and obtained reversal by the Ninth Circuit Court of Appeals. *See Diaz v. First American Home Buyers Protection Corp.*, 732 F.3d 948 (9th Cir. 2013) (holding that an unaccepted offer of judgment pursuant to F.R.C.P. 68 for full amount of plaintiff's damages does not moot a plaintiff's case; 9th Circuit refused to follow other circuits which had held to the contrary). The case has been remanded to the district court and Plaintiffs are continuing to litigate the case.
  - *In re General Growth Properties, Inc. ERISA Litigation*, No. 08 C 6791 (N.D. Ill.). Mr. Bottini and Mr. Chang were members of Plaintiffs' Executive Committee in this class action under ERISA seeking recovery of losses to General Growth Properties, Inc.'s employee retirement savings plans. Notwithstanding General Growth's filing for bankruptcy court protection, the Honorable James B. Zagel approved a settlement of \$5.75 million on December 9, 2010.
  - *Great Pacific Securities v. Barclays, et al.*, No. SACV 14-01210 (C.D. Cal.). Bottini & Bottini is Co-Lead Counsel for plaintiff in this class action lawsuit, which is brought under California law and which seeks to recover losses suffered by Barclays' customers whose trades were submitted for execution on Barclays' LX dark pool exchange. The case was transferred to the Southern District of New York in 2014, but in 2015 was transferred back to the Central District of California, where it is pending.
  - *Schuh v. HCA Holdings, Inc.*, No. 3:11-cv-01033 (M.D. Tenn.). Bottini & Bottini is one of the counsel for the plaintiffs in this securities class action lawsuit seeking damages under the Securities Act of 1933 relating to HCA's IPO. By order dated May 28, 2013, the Court denied defendants' motion to dismiss. *See Schuh v. HCA Holdings, Inc.*, 947 F.Supp.2d 882 (M.D. Tenn. 2013). By order dated September 22, 2014, the Court granted Plaintiffs' motion for class certification. *See Fed. Sec. L. Rep. (CCH) ¶98,187; 2014 WL 4716231 (M.D. Tenn.)*. In November 2014, the case settled for \$215 million.
  - *Karlin v. Alcatel*, No. SA CV 00-0214-DOC (C.D. Cal.). Mr. Bottini represented investors who received a tender offer for their shares from Alcatel S.A., a French telecommunications company. Mr. Bottini was the lead partner at his firm, Wolf Haldenstein Adler Freeman & Herz LLP, which served as Co-Lead Counsel for the Class. The case settled for \$10.5 million on the eve of trial. *See 2001 WL 1301216 (C.D. Cal. Aug. 13, 2001)* (denying defendants' motion for summary judgment).



- *In re Novastar Home Mortgage, Inc. Mortgage Lending Practices Litigation*, No. CV05-1677, MDL Docket No. 1677 (S.D. Ga.). Mr. Bottini was one of the lead attorneys in this class action litigation under the Real Estate Settlement Procedures Act of 1974 (“RESPA”). After three years of litigation, Chief Judge William T. Moore entered a Final Judgment on September 18, 2007 approving a nationwide class action settlement of Plaintiffs’ RESPA claims in which approximately \$20 million in cash payments were made available to class members.
- *Reyes v. Zynga, Inc.*, Case No. CGC-12-522876 (San Francisco Superior Court). Bottini & Bottini was co-lead counsel in this class action alleging violations of the Securities Act of 1933 on behalf of a class of investors who bought Zynga stock in the company’s Secondary Offering, which closed on April 3, 2012. Bottini & Bottini successfully had the case remanded to state court after being removed to federal court by defendants (see 2013 WL 5529754). In addition, by Order dated August 26, 2013, the Court denied defendants’ demurrer on subject matter grounds and held that plaintiffs could bring their ’33 Act federal claims in state court and that SLUSA did not eliminate concurrent jurisdiction in state and federal court for ’33 Act claims. By order dated September 29, 2014, the Court denied defendants’ demurrer as to the sufficiency of the complaint’s allegations and denied defendants’ motion to stay the action.
- *Ferguson v. Corinthian Colleges, Inc.*, No. 11-cv-0127-DOC (AJWx) (C.D. Cal.). By order dated April 15, 2011, the Honorable David O. Carter appointed Mr. Bottini’s prior firm, Chapin Fitzgerald & Bottini LLP, as Lead Counsel for the plaintiffs in this consumer class action challenging the enrollment practices at one of the country’s largest for-profit online colleges. Bottini & Bottini Inc. is now lead counsel in the case. In later 2011 and early 2012, Judge Carter denied defendants’ motion to compel arbitration as to plaintiffs’ statutory claims for injunctive relief and then, after defendants appealed that portion of the order to the Ninth Circuit, denied defendants’ motion to stay the case pending interlocutory appeal. See 2012 U.S. Dist. LEXIS 1358 (C.D. Cal. Jan. 5, 2012). The case was subsequently ordered to arbitration after the Ninth Circuit held that the arbitration agreement was enforceable.
- *In re SunPower Corp. Shareholder Derivative Litigation*, Master File No. C-09-05731 (N.D. Cal.). Bottini & Bottini is Co-Lead Counsel in this shareholder derivative litigation pending in San Francisco, which involves alleged accounting fraud and the restatement of the financial statements of SunPower Corporation. In October 2013, the case was settled in exchange for Sunpower’s agreement to enact significant corporate governance reforms. By order dated August 22, 2014, the Court granted final approval to the settlement.
- *In re Pacific Capital Bancorp Derivative Litigation*, No. CIVRS1340306 (Cal. Super. Ct., County of Santa Barbara). Mr. Bottini and his prior firm, Chapin

Fitzgerald Sullivan & Bottini LLP, were Lead Counsel in this shareholder derivative action which alleged breaches of fiduciary duties by certain officers and directors of Pacific Capital Bancorp. By Order dated October 8, 2010, the Court denied defendants' demurrer and held that Lead Plaintiff had adequately alleged demand futility under California law. After two years of litigation, in which over a million pages of documents were produced and reviewed and certain legal issues were litigated in the court of appeal, a substantial settlement was reached in which significant corporate governance changes were made to the Company, including changes to provide greater Board independence and accountability, strict internal financial controls, significant and substantial revisions to PCBC's credit policies (including the establishment of a new Credit Administration Group, the restriction of lending authority to specified senior loan officers, and enhanced new appraisal guidelines), new requirements obligating any individual desiring to serve on PCBC's board to own a minimum amount of stock in the Company, annual review of the Company's Code of Ethics, a new corporate governance training program for PCBC directors, new procedures to handle internal and external complaints from whistleblowers, annual review of all committee charters, and a vigorous insider trading policy. By Order dated January 19, 2012, the Court granted final approval of the settlement and entered a final judgment.

- *In re Herald, Primeo, and Thema Funds Securities Litigation*, No. 09 Civ. 0289 (RMB) (S.D.N.Y.). Bottini & Bottini, Inc. is Lead Counsel for the Thema Fund plaintiffs in this securities-fraud class action case under the PSLRA. The action is brought on behalf of all persons who invested in three Madoff "feeder funds" controlled by Bank Medici – the Herald, Primeo, and Thema funds. After a partial \$62.5 million settlement was obtained from one of numerous defendants, the Court dismissed the case on forum non conveniens grounds and denied preliminarily approval of the settlement. Plaintiffs appealed to the Second Circuit, which affirmed the dismissal.
- *In re Level 3 Communications, Inc. Securities Litigation*, No. 09-cv-00200-PAB-CBS (D. Colo.). Mr. Bottini and his prior firm, Johnson Bottini LLP, were Co-Lead Counsel in this securities-fraud class action asserting claims under Section 10(b) of the Securities Exchange Act of 1934.
- *In re UCBH Holdings, Inc. Deriv. Litig.*, No. CGC-09-492237 (San Francisco Superior Court). Mr. Bottini and his prior firm, Johnson Bottini LLP, were Lead Counsel in this shareholder derivative action. After the company declared bankruptcy, the Trustee asserted the claims contained in the lawsuit and eventually recovered \$4 million from the defendants.
- *In re Arena Resources, Inc. Shareholder Litigation*, No. CV10-01069 (Nev. Dist. Ct., County of Washoe). Mr. Bottini and his firm (Johnson Bottini LLP) served as one of the counsel for Plaintiffs in this shareholder class action challenging the acquisition of Arena Resources by SandRidge Energy, Inc. As

a result of the prosecution of the action, SandRidge raised the cash portion of the merger consideration by \$2.00 per share, reduced the duration of the matching rights period, amended the terms of the non-solicitation clause in favor of Arena, reduced the amount of termination fees payable by a party from \$50 million to \$39 million, made additional material financial disclosures to Arena's shareholders and extended the date of the shareholder meeting to vote on the merger.

- *Bamboo Partners LLC v. The Robert Mondavi Corp.*, No. 26-27170 (Cal. Super. Ct., County of Napa). Mr. Bottini represented the plaintiff common shareholders of the Mondavi Corporation in connection with the acquisition of the company by Constellation Brands, Inc. Mondavi had a dual-class stock structure pursuant to which the common shareholders owned Class A shares and the Mondavi family members owned Class B shares. Plaintiffs alleged that the insider Class B Mondavi family members improperly received more consideration for their shares than the common Class A public shareholders. The case was settled when defendants agreed to pay an additional \$10.8 million to the Class A shareholder plaintiffs.
- *In re Dole Shareholder Litigation*, No. B281969 (Cal. Super. Ct., County of Los Angeles). In this mergers & acquisitions, going-private class action case, Mr. Bottini was one of two lead partners from his firm at the time (Wolf Haldenstein Adler Freeman & Herz LLP), which served as Co-Lead Counsel for the plaintiffs and was involved in all aspects of the litigation. A \$172 million settlement was obtained for the Class when the tender offer price was increased by \$4 per share.
- *In re Mentor Corp. Shareholder Litigation*, No. 1304537 (Superior Court for the State of California, County of Santa Barbara). Mr. Bottini's prior firm, Johnson Bottini, LLP was appointed Co-Lead Counsel (along with Robbins Geller Rudman & Dowd LLP) in this shareholder class action case which challenged the fairness of the tender offer submitted by Johnson & Johnson for all the public shares of Mentor Corporation.
- *In re Sepracor, Inc. Shareholders Litigation*, C.A. No. 4871-VCS (Del. Ch.). Mr. Bottini and his prior firm, Johnson Bottini, LLP, served as Co-Lead Counsel in this shareholder class action challenging a \$2.6 billion tender offer for all the outstanding shares of Sepracor, Inc. by Dainippon Sumitomo Pharma Co., Ltd. of Japan. After moving for a preliminary injunction and obtaining expedited discovery, the case was settled by defendants agreeing to disclose substantial additional disclosures to Sepracor's shareholders regarding the financial analyses performed by Sepracor's investment bankers. The additional disclosures were filed via an Amendment No. 2 to the Schedule 14D-9 filed on October 2, 2009.
- *In re Heritage Bond Litigation*, No. 02-MDL-1475-DT (C.D. Cal.). In this class action bondholder litigation, which was ordered consolidated in Los

Angeles by the Panel on Multidistrict Litigation, Mr. Bottini represented the outside director defendants. After obtaining dismissal of most of the claims against the outside directors, Mr. Bottini obtained dismissal of the remaining claims against the outside directors for a combined payment of \$102,500. The other defendants not represented by Mr. Bottini paid \$27 million to settle the case. *See* 2005 U.S. Dist. LEXIS 13627 (C.D. Cal. June 10, 2005).

- *In re Dell, Inc. Derivative Litigation*, No. 06-cv-0839 (W.D. Tex.). By order dated March 1, 2007, the Honorable Sam Sparks appointed Mr. Bottini's prior firm, Johnson Bottini, LLP, Co-Lead Counsel in this shareholder derivative action. After approximately two years of litigation, the case settled while on appeal.
- *In re Sunterra Corp. Shareholder Litigation*, No. A525433 (Nev. Dist. Ct., County of Clark). Mr. Bottini was Co-Lead Counsel in this shareholder action which challenged the fairness and disclosures made in SEC filings pertaining to a buyout offer for the company and certain actions by present and former officers and directors of Sunterra. The case was settled in 2007 when Sunterra agreed to file a supplemental filing with the United States Securities and Exchange Commission providing additional material information pertaining to the tender offer.
- *Deane v. Tombros (In re NPS Pharmaceuticals Securities Litigation)*, No. 60913838 (Utah Dist. Ct., Salt Lake City). Mr. Bottini and his firm, Johnson Bottini LLP, were Lead Counsel in this shareholder derivative action filed against current and former officers and directors of NPS Pharmaceuticals, Inc. This matter was settled on terms that require the implementation of significant corporate therapeutic changes.
- *In re American Express ERISA Litigation*, No. 08 Civ. 10834 (JGK) (S.D.N.Y.). In this class action brought under ERISA, Mr. Bottini is one of the lawyers representing the plaintiffs, who seek damages to the plan and plan participants due to breaches of fiduciary duties by the defendants.
- *In re Heelys Inc. Derivative Litigation*, No. 07-cv-1682 (N.D. Tex.). Mr. Bottini's prior firm, Johnson Bottini, LLP, was Co-Lead Counsel in this shareholder derivative action filed against current and former officers and directors of Heelys Inc. After more than a year of litigation and multiple mediations, this matter was settled in 2010 on terms that required the implementation of significant corporate therapeutic changes.

### **Biographies of Attorneys**

Francis A. Bottini, Jr.

Mr. Bottini practices in the areas of securities class actions, mergers & acquisitions, antitrust, consumer class actions, shareholder derivative litigation, and ERISA class action litigation. Prior to forming Bottini & Bottini, Inc., Mr. Bottini was a partner at several firms, including Chapin Fitzgerald & Bottini LLP, Johnson Bottini, LLP, and Wolf Haldenstein Adler Freeman & Herz LLP. Mr. Bottini has successfully achieved several multi-million dollar recoveries in securities, consumer, and antitrust class action cases throughout the country. Mr. Bottini served as an Adjunct Professor of Business Law at the University of San Diego from 1995 to 1997.

Mr. Bottini is a 1991 graduate of St. Louis University (B.A. *magna cum laude*), and the University of San Diego School of Law (J.D. *cum laude* 1994), where he was the Lead Articles Editor of the San Diego Law Review and received the American Jurisprudence Award in Property. Mr. Bottini is admitted to practice before the United States Supreme Court, all California state and federal courts, the United States Court of Appeals for the Second, Seventh, and Ninth Circuits, the United States District Court for Colorado, and the United States District Court for the Northern District of Illinois. He is AV-rated by Martindale-Hubbell.

Mr. Bottini practices in the areas of securities litigation (including securities-fraud litigation under the PSLRA and Sarbanes-Oxley Act, mergers & acquisitions, and proxy litigation), antitrust, ERISA, consumer, and employment class action litigation. The following are some examples of Mr. Bottini's reported cases:

- *Diaz v. First American Home Buyers Protection Corp.*, 732 F.3d 948 (9th Cir. 2013) (holding that an unaccepted offer of judgment pursuant to F.R.C.P. 68 for full amount of plaintiff's damages does not moot a plaintiff's case; 9th Circuit refused to follow other circuits which had held to the contrary).
- *Reyes v. Zynga, Inc.*, No. 12-05065 JSW, 2013 WL 5529754 (N.D. Cal. Jan. 23, 2013) (granting plaintiff's motion to remand claims brought under the Securities Act of 1933 to state court).
- *Cook v. McCullough*, No. 11 C 9119, 2012, U.S. Dist. LEXIS 114621, 2012 WL 3488442 (N.D. Ill. August 13, 2012) (denying motion to dismiss in shareholder derivative action brought on behalf of Career Education Corporation against its officers and directors for breach of fiduciary duty);
- *Snellink v. Gulf Resources, Inc.*, No. 11-cv-03722-ODW, 2012 U.S. Dist. LEXIS 67839 (C.D. Cal. May 15, 2012) (denying motion to dismiss in securities-fraud class action complaint);
- *Smith v. Apollo Group, Inc.*, No. CV-11-0722-PHX-PGR, 2012 U.S. Dist. LEXIS 3672 (D. Ariz. Jan. 11, 2012) (denying defendants' motion to stay shareholder derivative case pending completion of an internal investigation

- by a Special Committee of the Board of Directors and also denying a stay of the case until resolution of a related securities-fraud class action case);
- *Ferguson v. Corinthian Colleges, Inc.*, No. SACV 11-0127 DOC (AJWx), 2012 U.S. Dist. LEXIS 1358 (C.D. Cal. Jan. 5, 2012) (denying defendants' motion to stay case pending interlocutory appeal of order denying motion to compel arbitration as to plaintiffs' claims for injunctive relief under California Business & Professions Code §17200 *et seq.*); 2011 U.S. Dist. LEXIS 119261 (C.D. Cal. Oct. 6, 2011) (denying in part a motion to compel arbitration);
  - *Rosendahl v. Bridgepoint Education, Inc.*, No. 11cv0061 WQH (WVG), 2011 U.S. Dist. LEXIS 119735 (S.D. Cal. Oct. 17, 2011) (denying in part motion to dismiss consumer class action complaint alleging fraud and misrepresentation by for-profit college);
  - *In re Coventry Healthcare, Inc. Securities Litigation*, No. 09-CV-2661-AW, 2011 U.S. Dist. LEXIS 34891 (D. Md. Mar. 31, 2011), *reh'g denied*, *Boyd v. Coventry Healthcare, Inc.*, 2011 U.S. Dist. LEXIS 135000 (D. Md. Nov. 18, 2011) (denying motion to dismiss in ERISA class action case);
  - *Harrison v. XTO Energy, Inc.*, 705 F. Supp. 2d 572 (N.D. Tex. 2010) (denying defendants' motion to dismiss or stay action under Colorado River abstention doctrine);
  - *In re Extreme Networks, Inc. Shareholder Derivative Litigation*, No. C-07-02268-RMW, 2009 U.S. Dist. LEXIS 111445 (N.D. Cal. Nov. 17, 2009), reconsideration denied by, 2010 U.S. Dist. LEXIS 32685 (N.D. Cal. Apr. 2, 2010) (denying motion to dismiss and upholding shareholder derivative complaint, finding that plaintiff had adequately alleged demand futility under Federal Rule of Civil Procedure 23.1);
  - *In re Brocade Communications Systems, Inc. Derivative Litigation*, 615 F. Supp. 2d 1018 (N.D. Cal. 2009) (denying in part and granting in part motion to dismiss in shareholder derivative action, after Mr. Bottini was retained by the Company's Special Litigation Committee and an amended complaint was filed on behalf of the Company);
  - *In re Dynamic Random Access Memory Antitrust Litigation*, No. M 02-1486, 2006 U.S. Dist. LEXIS 39841 (N.D. Cal. June 5, 2006) (granting motion for class certification in direct purchaser antitrust class action involving DRAM computer memory);
  - *Karlin v. Alcatel*, No. SA CV 00-0214-DOC, 2001 WL 1301216 (C.D. Cal. Aug. 13, 2001) (denying defendants' motion for summary judgment);
  - *In re Imperial Credit Industries, Inc. Securities Litigation*, No. CV 98-8842 SVW, 2000 WL 1049320 (C.D. Cal. Feb. 22, 2000) (denying defendants'

motion to dismiss in a securities-fraud action under Section 10(b) of the Securities Exchange Act of 1934); and

- *In re USA Talks.com Securities Litigation*, No. 99-CV-0162-L(JA), 2000 WL 1887516 (S.D. Cal. Sept. 14, 2000) (denying defendants' motion to dismiss in 10b-5 case).

On April 18-20, 2005, Mr. Bottini gave a presentation on Securities Class Action Litigation at the 2nd Annual CFO Forum in Seoul, South Korea.

### Albert Y. Chang

Mr. Chang specializes in representing whistleblowers in *qui tam* cases and shareholders in class actions and derivative litigation. He has substantial experience in handling appeals.

Before joining Bottini & Bottini, Inc., Mr. Chang had over ten years of experience in federal litigation. He served as a judicial law clerk to United States District Judge Suzanne B. Conlon for the Northern District of Illinois and to United States District Judge Roger T. Benitez for the Southern District of California.

In addition to his judicial clerkships, Mr. Chang litigated complex cases on behalf of both plaintiffs and defendants. He prosecuted securities and ERISA class actions on behalf of shareholders. He also defended executives, energy companies, insurers, and trade associations for six years at the New York office of Dewey & LeBoeuf LLP, where he focused on litigating high-stakes cases and conducting corporate internal investigations.

A member of the New York and California bars, Mr. Chang is admitted to practice in numerous federal trial and appellate courts. He is a graduate of Beloit College (B.A. 1997) and Indiana University School of Law-Bloomington (J.D. 2001). He is fluent in Cantonese and Mandarin.

### Nina M. Bottini

Nina M. Bottini is a 2001 graduate of Heinrich-Heine-University School of Law, Dusseldorf, Germany, and received an LL.M. degree (Masters in Comparative Law) from California Western School of Law in 2006. Ms. Bottini specializes in securities class action litigation, ERISA class action litigation, antitrust, securities, and shareholder derivative actions.

Her representative cases include *In re DRAM Antitrust Litigation*, MDL No. 1486 (N.D. Cal.), and *In re Brocade Communications Systems, Inc. Derivative Litigation*, No. 1:05cv41683 (Cal. Super. Ct., County of Santa Clara).

Yury A. Kolesnikov

Mr. Kolesnikov practices complex shareholder class action and derivative litigation. He has had extensive exposure to federal practice and procedure.

Prior to joining Bottini & Bottini, Inc., Mr. Kolesnikov completed three federal clerkships. From 2009 until 2010, he served as a judicial law clerk to the Honorable Irma E. Gonzalez, Chief Judge of the United States District Court for the Southern District of California. Mr. Kolesnikov next served as a judicial law clerk to the Honorable David R. Thompson of the United States Court of Appeals for the Ninth Circuit from 2010 until 2011. Afterward, Mr. Kolesnikov again clerked for the Honorable Irma E. Gonzalez, followed by a clerkship with the Honorable Roger T. Benitez of the United States District Court for the Southern District of California. In addition, from August 2008 until November 2008, Mr. Kolesnikov served as a judicial extern to the Honorable Consuelo M. Callahan of the United States Court of Appeals for the Ninth Circuit.

Mr. Kolesnikov is a 2009 graduate of the University of the Pacific, McGeorge School of Law, where he graduated number one in his class, was awarded the Order of the Coif, and was a member of the Roger J. Traynor Honor Society. He was the Chief Articles Editor of the McGeorge Law Review and a participant in two international moot court competitions. From August 2008 until April 2009, Mr. Kolesnikov served as a research assistant to the Associate Justice Anthony M. Kennedy for a course Justice Kennedy annually teaches in Salzburg, Austria titled "Fundamental Rights in Europe & United States."

Anne Bottini Beste

Ms. Beste is of counsel to Bottini & Bottini, Inc. She practices complex civil litigation. She is a 1992 graduate of Northwestern University School of Law. She received her undergraduate degree in 1989 from Boston College, where she was Phi Beta Kappa and graduated *magna cum laude* with a B.A. in Economics. From 1996 to 2001, Ms. Beste practiced complex civil litigation at Swidler Berlin Shereff Freidman, LLP in Washington, D.C. Her practice included employment litigation, environmental litigation, and trade secret litigation. Ms. Beste is admitted to practice in Washington, D.C., Missouri, and Illinois.

Stephanie M. Ammirati

Ms. Ammirati is a paralegal specializing in complex civil litigation, consumer class actions, and shareholder derivative litigation. Before joining the firm in 2010, Ms. Ammirati developed a legal career as an attorney in both private practice and government service. She is a member of the Washington State Bar Association as well as the Idaho State Bar, and has an extensive range of experience in civil litigation.

Between 2006 and 2010 Ms. Ammirati served as a Deputy Attorney General at the Office of the Attorney General for the State of Idaho. Before her appointment as a



Deputy Attorney General, Ms. Ammirati had nine years of experience in civil litigation while in private practice in Seattle. Additionally, she devoted time to volunteer work in the community by serving as a Court-Appointed Special Advocate (CASA) for many years. She also assisted domestic violence victims by providing pro bono legal services at the New Beginnings Family Law Clinic, and was a Board of Trustees Member of the FRIENDS of CASA.

Ms. Ammirati received her Juris Doctor from Loyola Law School where she graduated on the Dean's List and was the recipient of the Wiley W. Manuel Award for Pro Bono Legal Services. While in law school, she developed her legal skills through Loyola's externship programs, performing clinical work at the Civil Appellate Division of the Los Angeles City Attorney's Office, the Maynard Toll Pro Se Counseling Center, and the Alliance for Children's Rights. Ms. Ammirati received her Bachelor of Arts degree from Pepperdine University where she graduated *summa cum laude* and was awarded Valedictorian of her class.

DECLARATION OF SERVICE BY MAIL

I, the undersigned, declare:

1. That declarant is and was, at all times herein mentioned, a citizen of the United States and a resident of the County of San Diego, over the age of 18 years, and not a party to or interested party in the within action; that declarant's business address is 655 West Broadway, Suite 1900, San Diego, California 92101.

2. That on September 23, 2016, declarant served the DECLARATION OF FRANCIS A. BOTTINI, JR. FILED ON BEHALF OF BOTTINI & BOTTINI, INC. IN SUPPORT OF APPLICATION FOR AWARD OF ATTORNEYS' FEES AND EXPENSES by depositing a true copy thereof in a United States mailbox at San Diego, California in a sealed envelope with postage thereon fully prepaid and addressed to the parties listed below:

**COUNSEL FOR PLAINTIFFS**

Attorney	Email Address	Party Name
Shawn A. Williams Robbins Geller Rudman & Dowd LLP Post Montgomery Center One Montgomery Street Suite 1800 San Francisco, CA 94104 Telephone: 415/288-4545 415/288-4534 (fax)	shawnw@rgrdlaw.com	Firerock Global Opportunity Fund LP
James I. Jaconette Robbins Geller Rudman & Dowd LLP 655 West Broadway Suite 1900 San Diego, CA 92101 Telephone: 619/231-1058 619/231-7423 (fax)	jamesj@rgrdlaw.com	Firerock Global Opportunity Fund LP

<p>Guillaume Buell Jonathan Gardner Labaton Sucharow LLP 140 Broadway New York, NY 10005 Telephone: 212/907-0700 212/818-0477 (fax)</p>	<p>gbuell@labaton.com jgardner@labaton.com</p>	<p>Oklahoma Firefighters Pension and Retirement System</p>
<p>Jack G. Fruchter Abraham, Fruchter &amp; Twersky, LLP One Pennsylvania Plaza, Suite 2805 New York, NY 10119 Telephone: 212/279-5050 212/279-3655 (fax)</p>	<p>jfruchter@aftlaw.com</p>	<p>Additional counsel for Firerock Global Opportunity</p>
<p>Lionel Z. Glancy Robert V. Prongay Casey E. Sadler Glancy Prongay &amp; Murray LLP 1925 Century Park East Suite 2100 Los Angeles, CA 90067 Telephone: 310/ 201-9150 310/ 432-1495 (fax)</p>	<p>lglancy@glancylaw.com rprongay@glancylaw.com csadler@glancylaw.com</p>	<p>Additional Counsel for Robert Spencer Wright</p>
<p>Francis A. Bottini, Jr. Albert Y. Chang Yury A. Kolesnikov Bottini &amp; Bottini, Inc. 7817 Ivanhoe Avenue Suite 102 La Jolla, CA 92037 Telephone: 858/ 914-2001 858/ 914-2003 (fax)</p>	<p>fbottini@bottinilaw.com achang@bottinilaw.com ykolesnikov@bottinilaw.com</p>	<p>Additional Counsel for Robert Kromphold</p>

#### **COUNSEL FOR DEFENDANTS**

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3. That there is a regular communication by mail between the place of mailing and the places so addressed.

I declare under penalty of perjury that the foregoing is true and correct. Executed on September 23, 2016, at San Diego, California.

  
\_\_\_\_\_  
JACLYN STARK