

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

IN RE CARDIZEM CD ANTITRUST
LITIGATION

MASTER FILE NO. 99-MD-1278
MDL NO. 1278

This document relates to:

HON. NANCY G. EDMUNDS

Louisiana Wholesale, 99-CV-73259

Duane Reade, 99-CV-73870

**AFFIDAVIT OF DANIEL BERGER IN SUPPORT OF
JOINT PETITION FOR ATTORNEYS' FEES AND DISBURSEMENTS
FILED ON BEHALF OF BERGER & MONTAGUE, P.C.**

COMMONWEALTH OF PENNSYLVANIA)

) ss:

COUNTY OF PHILADELPHIA)

Daniel Berger, being first duly sworn, deposes and says:

1. I am a member and managing partner of the law firm of BERGER & MONTAGUE, P.C. ("Berger Firm"). I submit this affidavit in support of Sherman Act Class Plaintiffs' ("the Class Plaintiffs" or "Plaintiffs") application for an award of attorneys' fees and reimbursement of expenses in connection with the proposed settlement with defendants Aventis Pharmaceuticals, Inc. ("Aventis") (formerly known as Hoechst Marion Roussel) ("HMRI") and Andrx Pharmaceuticals, Inc. ("Andrx") (collectively "Defendants").

2. My firm acted as a member of the Executive Committee for the Class Plaintiffs. The tasks undertaken by my firm can be summarized as follows:

- a. The Berger Firm has been involved in all aspects of litigating Class Plaintiffs' claims in the In re Cardizem CD Antitrust Litigation. Initially,

the Berger Firm participated in the research, review, and filing of the Complaint on behalf of class representative Duane Reade and helped coordinate the existing cases in the Eastern District of Michigan by assisting in the preparation of the motion for consolidation. The Berger Firm also participated in the development of pre-trial procedures, including preparation and submission of various scheduling, case management, and protective orders.

b. The Berger Firm participated substantially in the discovery process. The Berger Firm drafted and edited document requests and interrogatories and monitored Defendants' and non-parties' compliance with those requests and interrogatories. Along with Co-Lead Counsel and other Class Counsel, the Berger Firm assisted in the review of approximately one million pages of documents produced during discovery in the case. This review process included participating in the preparation of a coding sheet that identified important issues in the case and enabled access to the documents in an electronic searchable database that the Berger Firm created and maintained. In addition, the Berger Firm participated in the review of the nearly one hundred transcripts from the FTC's action against Aventis and Andrx and the litigation between Aventis and Biovail. This review required careful analysis of the transcripts because, pursuant to this Court's Order No. 37, Class Counsel were required to identify each witness and transcript from the prior FTC and Biovail cases that Class Counsel intended to use for trial, to provide a specific statement of the general subject matter to be covered and to determine whether to depose those witnesses.

c. The Berger firm took primary responsibility for acquiring, reviewing and analyzing the sales information, computerized sales databases, and documents related to the entry of generic Cardizem CD into the market that were produced by Defendants and non-party manufacturers of brand and generic Cardizem CD. Due to the allegedly confidential nature of the sales information, the need for detailed customer and transaction level sales data to calculate damages, and Defendants' and non-parties' attempts to limit the production of this data, Plaintiffs' efforts to obtain this information were protracted. For example, acquiring usable electronic sales information from Andrx required more than two years of motion practice and negotiations. These efforts included numerous "meet and confers" involving counsel, filing and arguing a motion to compel, and hiring a computer consultant to determine the nature, scope, accessibility, and cost of obtaining Andrx's computerized sales data. Negotiations with non-party Teva Pharmaceuticals were similarly difficult and lengthy because Teva refused to produce sales information that identified its customers. However, with assistance from our damages experts, the Berger Firm crafted a workable compromise that allowed Teva to produce sales information without identifying its customers, while at the same time providing useful data. Reviewing the sales information itself required significant effort because in order to determine the net prices paid by Class members, the Berger Firm, working with experts and their in-house data analyst, had to analyze the price adjustments peculiar to the pharmaceutical industry and the sale of pharmaceutical products such as, e.g., chargebacks, rebates discounts, and other

price adjustments.

d. In addition, the Berger Firm identified deponents, scheduled depositions, took or assisted in the depositions of important personnel from Andrx and Aventis, and handled other procedural aspects of depositions. Specifically, the Berger Firm took the deposition of Gerald Belle, Head of North American Operations for Aventis, and the 30(b)(6) deposition of Teva related to its sales information. The Berger Firm also assembled documents, identified issues, devised strategies and/or conferred with other counsel relating to the depositions of Dr. Roger D. Blair, Defendants' expert at the Class certification stage; Steve Duncan, an Aventis forecaster who charted generic penetration; David Gardner, Andrx's former Director of Regulatory Affairs; Bob Jones, Purepac's 30(b)(6) designee for, among other issues, sales data; and Capital Management Investment, a private institutional investor in Andrx.

e. As to the class certification proceedings, the Berger Firm took primary responsibility for preparing and filing Plaintiffs' Motion for Class Certification and supporting briefs and papers, including working with Plaintiffs' experts, preparing the opening, reply and supplemental briefs on class certification, class action and expert discovery, assisting in the oral presentation to the Court, and preparing and filing Plaintiffs' opposition to Defendants' petition under Fed R. Civ. P. 23(f). At the Evidentiary Hearing on Class Certification, Eric L. Cramer of the Berger Firm conducted the re-direct examination of Dr. Stephen Schondelmeyer, Plaintiffs' expert at the Class certification stage. For the Class

Certification Motion and Evidentiary Hearing, the Berger Firm: researched and analyzed, among other things, the pricing structure of brand and generic pharmaceutical markets, the academic literature on generic entry into the brand markets, the channels of distribution in the pharmaceutical industry, the U.S. Food and Drug Administration's rules and regulations regarding approval of brand and generic pharmaceuticals, and the various methodologies applied in horizontal market restraint cases to analyze and assess impact and damages on a class-wide basis. This firm also reviewed thousands of documents produced by Defendants relating to Defendants' generic penetration models, pricing structure and marketing, contracting, and sales strategies.

f. The Class Certification Motion spawned substantial separate briefing and informal discovery for which the Berger Firm took primary responsibility with regard to preparation and organization. The Berger Firm assisted in the preparation of Plaintiffs' Opposition to Defendants' Motion for an Evidentiary Hearing on Class Certification and the Motion to Strike the Declaration of Roger D. Blair ("Motion to Strike"), as well as arguing the motion to the Court. For the Motion to Strike, the Berger Firm prepared all the underlying memoranda and exhibits and analyzed and compared Dr. Blair's initial expert report with his Declaration that Defendants included as part of their reply to Plaintiffs' motion for class certification. The Berger Firm also organized and spearheaded the informal discovery of the 58 entities Dr. Roger D. Blair contended in his report did not purchase Cartia XT, Andrx's generic Cardizem CD product. This discovery

included researching the location of and contact information for, and multiple phone calls and letters to, these entities.

g. The Berger Firm also took primary responsibility for overseeing the work of the experts and consultants engaged to support class certification and to calculate damages to the Class, and to devise an allocation methodology. This included overseeing the preparation of expert reports in support of class certification, expert disclosures under Fed. R. Civ. P. 26(a)(2)(B), and the development of a proposed plan of allocation of settlement funds to Class members. This oversight included reviewing Dr. Schondelmeyer's Rule 26(a)(2) expert disclosure, rebuttal report, and preparing for and defending Dr. Schondelmeyer with respect to two depositions and his testimony at the Evidentiary Hearing on Class Certification. Consultation with the damages experts required reviewing the academic literature on the economics and industrial organization of the pharmaceutical market, understanding the components of, and the econometric and statistical analysis underpinning, the experts' damages model, and analyzing the detailed sales information produced by Defendants and third parties to ensure that the experts could properly and effectively use the sales data in their damages and allocation models.

h. The Berger Firm conducted legal research relating to horizontal market restraints, the overlap between patent law and antitrust law, including settlements of patent proceedings, and assisted in the preparation of motions and supporting briefs for partial summary judgment relating to the per se aspects of the HMRI

and Andrx Agreement, and the briefing relating to the 1292(b) petition to appeal. The Berger Firm also played a substantial role in researching and preparing Plaintiffs' briefs before the Sixth Circuit Court of Appeals relating to Defendants' appeal of the per se ruling

i. The Berger Firm participated and played a critical role in all settlement negotiations before, during, and after the mediation process. During the three-day mediation, the Berger Firm, in consultation with the damages experts, gave a detailed presentation about the calculation and components of Class damages. This presentation, as well as intensive participation in the mediation and settlement process, was instrumental in supporting and justifying Plaintiffs' settlement demand. The Berger Firm's participation also included analysis relating to the allocation of the proposed settlement vis-a-vis the Individual Sherman Act Plaintiffs, and assistance in preparing the Mediation Statement, Memorandum of Understanding, the Settlement Agreement, the Final Judgment, Class Notice, and motions and supporting papers in support of preliminary and final approval and giving notice to the Class. The Berger Firm helped retain and worked closely with Heffler, Radetich and Saitta, L.L.P., the certified public accounting firm hired by the Plaintiffs to prepare and distribute the Court-approved Class Notice and Notice of Settlement.

j. My firm also played a substantial role in communicating with absent members of the Class about the status of the litigation, discovery matters, and settlement.

3. The schedule attached hereto as Exhibit 1 is a summary indicating the amount of time spent by attorneys, paralegals, and other professionals of my firm (including our in-house data analyst) who were involved in this litigation, and the lodestar calculation based on my firm's current billing rates through October 21, 2002.¹ The schedule was prepared from detailed contemporaneous daily time records regularly prepared and maintained by my firm, which are available at the request of the Court. Time expended in preparing this application for fees and reimbursement of expenses has not been included in this request.

4. The hourly rates for the attorneys, paralegals, and other professionals in my firm included in Exhibit 1 are the same as the regular current rates charged for their services in non-contingent matters and/or which have been accepted and approved in other antitrust and other class action litigation.

5. The total number of hours expended on this litigation by my firm is 6424.3 hours. The total lodestar for my firm is \$1,880,745.50, consisting of \$ 1,647,894.00 for attorneys' time and \$ 232,851.50 for paralegals' and other professionals' time.

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

7. As detailed in Exhibit 2, my firm has incurred a total of \$ 203,228.91 in unreimbursed expenses in connection with the prosecution of this litigation.

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

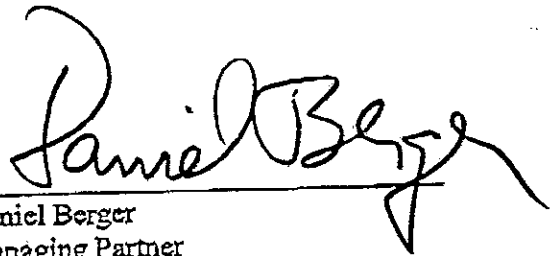
¹Time spent preparing this Affidavit and the Time and Expense Report has not been included in the Berger Firm's lodestar calculation.

source materials and are an accurate recordation of the expenses incurred.

9. With respect to the standing of counsel in this case, attached hereto as Exhibit 3 is a brief biography of my firm and the attorneys in my firm who were principally involved in this litigation. Additional information about my firm can be accessed on the web at:

www.bergermontague.com

10. I swear under penalties of perjury that the foregoing is true and correct to the best of my knowledge.



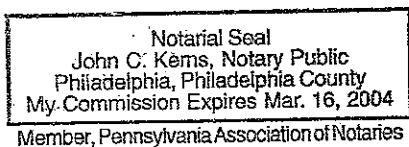
Daniel Berger
Managing Partner
Berger & Montague, P.C.
1622 Locust Street
Philadelphia, PA 19103

SWORN to before me

this 31st day of OCT, 2002



NOTARY PUBLIC





BERGER & MONTAGUE, P.C.

TIME AND LODESTAR REPORT

IN RE CARDIZEM CD ANTITRUST LITIGATION, MD-1278 (E.D. MICH.)

TOTAL LODESTAR

Lodestar Amount	\$1,880,745.50
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SUMMARY OF FEES AND EXPENSES

DESCRIPTION	TOTAL AMOUNT
Attorneys' Lodestar	\$1,647,894.00
Paralegals' Lodestar	\$102,056.50
In-House Expert Lodestar	\$130,795.00
Total Lodestar	\$1,880,745.50

TOTAL TIME FOR BERGER & MONTAGUE, P.C.

CATEGORY	AMOUNT OF TIME
Pleadings and Briefs	2223.8
Discovery	1886.9
Mediation/Settlement	473.1
Experts	1327.3
Court Appearances	235.6
Case Management	277.6
TOTAL	6,424.3

ATTORNEY TIME

Eric L. Cramer

CATEGORY	AMOUNT OF TIME	RATE/hr	LODESTAR
Pleadings and Briefs	1019.6	\$310	\$316,076.00
Discovery	100.1	\$310	\$31,031.00
Mediation/Settlement	163.4	\$310	\$50,654.00
Experts	541	\$310	\$167,710.00
Court Appearances	75.5	\$310	\$23,405.00
Case Management	41.3	\$310	\$12,803.00
TOTAL	1940.9	\$310	\$601,679.00

Daniel Berger

CATEGORY	AMOUNT OF TIME	RATE/hr	LODESTAR
Pleadings and Briefs	314.7	\$510	\$160,497.00
Discovery	228.7	\$510	\$116,637.00
Mediation/Settlement	134	\$510	\$68,340.00
Experts	185.6	\$510	\$94,656.00
Court Appearances	111	\$510	\$56,610.00
Case Management	94.3	\$510	\$48,093.00
TOTAL	1068.3	\$510	\$544,833.00

Neill W. Clark

CATEGORY	AMOUNT OF TIME	RATE/hr	LODESTAR
Pleadings and Briefs	548	\$235	\$128,780.00
Discovery	683.1	\$235	\$160,528.50
Mediation/Settlement	37.8	\$235	\$8,883.00
Experts	237	\$235	\$55,695.00
Court Appearances	48.1	\$235	\$11,303.50
Case Management	29.3	\$235	\$6,885.50
TOTAL	1583.3	\$235	\$372,075.50

David F. Sorensen

CATEGORY	AMOUNT OF TIME	RATE/hr	LODESTAR
Pleadings and Briefs	70.9	\$375	\$26,587.50
Discovery	29.6	\$375	\$11,100.00
Mediation/Settlement	1.0	\$375	\$375.00
Experts	8.5	\$375	\$3,187.50
Court Appearances	1.0	\$375	\$375.00
Case Management	19	\$375	\$7,125.00
TOTAL	130	\$375	\$ 48,750.00

Peter Kohn

CATEGORY	AMOUNT OF TIME	RATE/hr	LODESTAR
Pleadings and Briefs	56.6	\$320	\$18,112.00
Discovery	0		
Mediation/Settlement	80.6	\$320	\$25,792.00
Experts	0		
Court Appearances	0		
Case Management	0		
TOTAL	137.2	\$320	\$43,904.00

ALL OTHER ATTORNEYS' TIME COMBINED
(WHERE INDIVIDUAL ATTORNEY BILLED FEWER THAN 100 HOURS)

CATEGORY	AMOUNT OF TIME	BLENDED¹ RATE/hr	LODESTAR
Pleadings and Briefs	105		
Discovery	2.2		
Mediation/Settlement	7.8		
Experts	0		
Court Appearances	0		
Case Management	7.6		
TOTAL	122.6	\$298.96	\$36,652.00

¹The blended rate was determined by dividing the total lodestar for this category by the total time for this category.

IN-HOUSE EXPERT ON QUANTITATIVE AND STATISTICAL ANALYSIS

Jim Cook, PhD

CATEGORY	AMOUNT OF TIME	RATE/hr	LODESTAR
Pleadings and Briefs	12.50	\$175	\$2,187.50
Discovery	432.6	\$175	\$75,705.00
Mediation/Settlement	48.5	\$175	\$8,487.50
Experts	229	\$175	\$40,075.00
Court Appearances	0	\$175	0
Case Management	24.8	\$175	\$4,340.00
TOTAL	747.40	\$175	\$130,795.00

PARALEGAL TIME

Micala Goldberg

CATEGORY	AMOUNT OF TIME	RATE/hr	LODESTAR
Pleadings and Briefs	78	\$145	\$11,310.00
Discovery	189.8	\$145	\$27,521.00
Mediation/Settlement	0	\$145	0
Experts	126.2	\$145	\$18,299.00
Court Appearances	0	\$145	0
Case Management	24.8	\$145	\$3,596.00
TOTAL	418.8	\$145	\$60,726.00

Pat Fowler

CATEGORY	AMOUNT OF TIME	RATE/hr	LODESTAR
Pleadings and Briefs	5.7	\$150	\$855.00
Discovery	167.7	\$150	\$25,155.00
Mediation/Settlement	0		0
Experts	0		0
Court Appearances	0		0
Case Management	10.7	\$150	\$1,605.00
TOTAL	184.1	\$150	\$27,615.00

ALL OTHER PARALEGALS' TIME COMBINED
(WHERE INDIVIDUAL PARALEGAL BILLED FEWER THAN 100 HOURS)

CATEGORY	AMOUNT OF TIME	BLENDED RATE²/hr	LODESTAR
Pleadings and Briefs	12.8		
Discovery	53.1		
Mediation/Settlement	0		
Experts	0		
Court Appearances	0		
Case Management	25.8		
TOTAL	91.7	\$149.57	\$13,715.50

²The blended rate was determined by dividing the paralegals' total lodestar for this category by their total hours for this category.



BERGER & MONTAGUE, P.C.

EXPENSE REPORT

IN RE CARDIZEM CD ANTITRUST LITIGATION, MD-1278 (E.D. MICH.)

EXPENSE DESCRIPTION	AMOUNT OF EXPENSE
Telephone	\$7,262.20
Travel	\$36,018.25
Reproduction Costs	\$42,976.50
Transcripts	\$4,250.06
Postage	\$26.73
Overtime for Copy Service Employees	\$1,076.00
Offsite Commercial Copying, Imaging and Printing	\$12,698.18
Filing Fees	\$208.00
Computer Research	\$39,712.42
Non-Party Witness Fees	\$120.00
Delivery and Freight	\$6,519.66
IMS Health Sales Data	\$4,200
Expert Consultant Fees	\$10,149.46
Advanced Costs to Cardizem Litigation Fund	\$37,083.24
Pre-filing Outside Research Fees	\$874.96
Velobind	\$53.25
TOTAL EXPENSES	\$ 203,228.91

BERGER & MONTAGUE, P.C.

BERGER & MONTAGUE, P.C.

THE FIRM:

Berger & Montague has been engaged in the practice of complex and class action litigation from its Center City Philadelphia office for over 30 years. The firm has been recognized by courts throughout the country for its ability and experience in handling major complex litigation, particularly in the fields of securities, antitrust, mass torts, and civil and human rights. In numerous precedent-setting cases, the Berger firm has played a principal or lead role. The firm has achieved the highest possible rating by its peers and opponents as reported in Martindale-Hubbell. Currently, the firm consists of more than 50 lawyers, 14 paralegals, and an experienced support staff.

Berger & Montague was founded in 1970 by David Berger to concentrate on the representation of plaintiffs in a series of antitrust class actions. David Berger pioneered the use of class actions in antitrust litigation and was instrumental in extending the use of the class action procedure to other litigation areas, including securities, employment discrimination, civil and human rights, and mass torts. The firm's complement of nationally recognized lawyers has represented both plaintiffs and defendants in these and other areas, and has recovered billions of dollars for its clients. In complex litigation, particularly in areas of class action litigation, Berger & Montague has established new law and forged the path for recovery for victims of fraud and other wrongdoing.

The firm has been involved in a series of notable cases, some of them among the most important in the last 30 years of civil litigation. For example, the firm was one of the principal counsel for plaintiffs in the Drexel Burnham Lambert/Michael Milken securities and bankruptcy litigation. Claimants in these cases recovered approximately \$2 billion in the aftermath of the collapse of the junk bond market and the bankruptcy of Drexel in the late 1980's. The firm was also among the principal counsel engaged in the trial of the Exxon Valdez Oil Spill in Anchorage, Alaska, a trial resulting in a record punitive damages award of \$5 billion against Exxon. Berger & Montague was lead counsel in the School Asbestos Litigation, in which a national class of secondary and elementary schools recovered in excess of \$300 million to defray the costs of asbestos abatement. The case was the first mass tort property damage class action certified on a national basis.

In the area of securities litigation, the firm has represented institutional investors - such as the City of Philadelphia and the Teachers' Retirement System of Louisiana - as well as numerous individual

investors. The firm was co-lead counsel in the Melridge Securities Litigation in the Federal District Court in Oregon, in which an \$88.2 million jury verdict was obtained. Berger and Montague has served as lead counsel in numerous other major class action cases, including those against Waste Management (settlement for investors of \$220 million cash) and Rite Aid (settlements to date in excess of \$190 million in cash and common stock), to name only two of the most recent and notable successes.

In addition to its distinction in securities litigation, the firm has served as lead or co-lead counsel on many of the most significant civil antitrust cases over the last 30 years, including *In re Corrugated Container Antitrust Litigation* (recovery in excess of \$366 million), the *Infant Formula* case (recovery of \$125 million), and the *Retail Drug price fixing* case (settlement of more than \$700 million). More recently, the firm, through its membership on the litigation Executive Committee, helped to achieve a \$1.25 billion settlement with the largest Swiss banks on behalf of victims of Nazi aggression whose deposits were not returned after the Second World War. The firm has also played an instrumental role in bringing about a \$4.37 billion settlement with German industry and government for the use of slave and forced labor during the Holocaust.

SHAREHOLDERS:

Daniel Berger

Daniel Berger graduated with honors from Princeton University (Class of 1969) and Columbia Law School (1974) where he was a Harlan Fiske Stone academic scholar. He is presently a senior member and shareholder of the firm, for which he serves as Managing Shareholder. Over the last 15 years, he has been involved in a number of complicated commercial cases including class action securities, antitrust, mass tort and bankruptcy cases. In the civil rights area, he has been counsel in informed consent cases involving biomedical research and human experimentation by federal and state governmental entities.

Daniel Berger also has a background in the study of economics having done graduate level work in applied micro-economics and macro-economic theory, the business cycle and economic history. He has published law review articles in the *Yale Law Journal*, the Duke University's *Journal of Law and Contemporary Problems* and the New York Law School *Law Review* and worked with the American Law Institute / American Bar Association program on continuing legal education. He has been affiliated with the Kennedy School of Government through the Shorenstein center of Media and Public Policy at Harvard University.

Mr. Berger has been active in city government in Philadelphia and was a member of the Mayor's Cultural Advisory Council, advising the Mayor of Philadelphia on arts policy and the Philadelphia Cultural Fund, which is responsible for all city grants to arts organizations. Mr. Berger was also a member of the Pennsylvania Humanities Council, one of the State organizations through which the NEA makes grants.

Mr. Berger is also an author and journalist and has published in the *Nation* magazine and reviewed books for the *Philadelphia Inquirer*.

David F. Sorensen

Mr. Sorensen graduated from Duke University (B.A. *magna cum laude* 1983) and from Yale University (J.D. 1989). He was Law Clerk to the Hon. Norma L. Shapiro, U.S. District Court, Eastern District of Pennsylvania, 1990-1991. He was admitted to the Pennsylvania bar in 1989, and

is admitted to practice in various federal courts, including the Eastern District of Pennsylvania, and the United States Courts of Appeals for the Ninth, Tenth, and Eleventh Circuits.

Mr. Sorensen practices in the areas of complex mass tort and antitrust class action litigation. He played a major role in the firm's representation of the State of Connecticut in *State of Connecticut v Philip Morris, Inc., et al.*, in which Connecticut recovered approximately \$3.6 billion (excluding interest) from certain manufacturers of tobacco products; and in the firm's nuclear weapons facilities cases. He is currently involved in several class cases in which he represents direct purchasers of brand name drugs, who allege that pharmaceutical manufacturers have conspired to keep less expensive generic drugs off of the market, in violation of federal antitrust laws. In one such case, Mr. Sorensen was significantly responsible for winning class certification. See *In re Terazosin Hydrochloride Antitrust Litigation*, ___ F.R.D. ___, 2001 WL 1160789 (S.D. Fla. 2001).

Eric L. Cramer

Eric L. Cramer is a *summa cum laude* graduate of Princeton University (A.B. 1989), where he was elected to Phi Beta Kappa, and a *cum laude* graduate of Harvard Law School (J.D. 1993). He is admitted to practice in Pennsylvania and New York, and various federal courts, including the Eastern District of Pennsylvania, and the United States Courts of Appeals for the Third, Sixth, and Ninth Circuits.

Since joining the Berger Firm in 1995, he has concentrated his practice in complex litigation, representing, among others, victims of mass torts and those injured by violations of antitrust and consumer protection laws. Mr. Cramer is currently involved in several class cases in which he represents direct purchasers of brand name drugs, charging pharmaceutical manufacturers with conspiring to keep less expensive competitor drugs off of the market in violation of federal antitrust laws, and thereby forcing all purchasers to pay higher prices for prescription medications. In one such case, Mr. Cramer was significantly responsible for winning class certification. See *In re Cardizem Antitrust Litigation*, 200 F.R.D. 297 (E.D. Mich. 2001)

Mr. Cramer has also represented several victims of human radiation experimentation carried out by the federal government in conjunction with state and private actors as part of the U.S. atomic weapons program during the Cold War. He has been involved in settling two such cases on behalf of prisoner experimentation subjects for over \$4.7 million combined, and was principally

responsible for a reversal by the Ninth Circuit Court of Appeals of a summary judgment dismissal of one of those cases on statute of limitations grounds. *See Bibeau, et al. v. Pacific Northwest Research Foundation, et al* , 188 F.3d 1105 (9th Cir. 1999).

Mr. Cramer is also active in community affairs, specifically those involving public education. He is a founder and Vice-President of the Board of Trustees of the Independence Charter School, for which he also acted as litigation counsel. After a successful appeal to the Pennsylvania Charter School Appeal Board, which granted the school a charter, Mr. Cramer secured an affirmance by the Commonwealth Court. *See School District of Philadelphia v. Independence Charter School*, 2001 Pa. Commw. LEXIS 279 (May 3, 2001). As a result, the Center City Philadelphia charter school opened its doors to nearly three-hundred elementary age school children in the Fall of 2001. Mr. Cramer also serves on the Board of the Center for Literacy, the largest adult literacy organization in the Delaware Valley. In addition, he has served as a volunteer mentor to students at the Stetson Middle School in North Philadelphia.

ASSOCIATES:

Peter Russell Kohn

Peter Kohn is a 1989 graduate of the University of Pennsylvania (B.A., English) and a 1992 *cum laude* graduate of Temple University Law School, where he was senior staff for the *Temple Law Review* and recipient of awards for trial advocacy. Prior to joining the firm in July of 2000, Mr. Kohn defended products liability, toxic and mass tort cases on behalf of insureds and self-insureds at LaBrum & Doak (1992-1994) and prosecuted toxic tort, civil rights, class, and MDL actions at Monheit, Monheit, Silverman & Fodera (1994-2000), where he specialized in lead-based paint-related litigation. He is a member of the bars of the Supreme Court of Pennsylvania (1992-present), the United States District Court for the Eastern District of Pennsylvania (1995-present), and the United States Court of Appeals for the Third Circuit (2000-present), as well as of the Association of Trial Lawyers of America, Trial Lawyers for Public Justice, and the Pennsylvania Trial Lawyers Association. Mr. Kohn is an member of the legal advisory board for Quackwatch, an affiliate of the National Council for Reliable Health Information.

Neill W. Clark

Neill W. Clark graduated *cum laude* from Appalachian State University in 1994 (B.A.) and from Temple University School of Law in 1998 (J.D.), where he earned seven “distinguished class performance” awards, an oral advocacy award and a “best paper” award. After graduating from law school, he clerked for Judge Stephen E. Levin, who handled pre-trial proceedings in all class actions filed in the Court of Common Pleas, Philadelphia County. Mr. Clark is admitted to practice in Pennsylvania. Mr. Clark joined Berger & Montague in 1999 and practices consumer fraud and antitrust class action litigation.