

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN, SOUTHERN DIVISION

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IN RE: CARDIZEM CD ANTITRUST  
LITIGATION

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MDL DOCKET NO. 1278

This document relates to:

INDIVIDUAL FILE NO.  
99-CV-73259  
99-CV-73870

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Honorable Nancy G. Edmunds

**AFFIDAVIT OF BARRY S. TAUS IN SUPPORT OF  
JOINT PETITION FOR ATTORNEYS' FEES AND DISBURSEMENTS  
FILED ON BEHALF OF GARWIN, BRONZAFT, GERSTEIN & FISHER, L.L.P.**

STATE OF NEW YORK     )  
  ) ss.:  
COUNTY OF NEW YORK )

I, Barry S. Taus, being first duly sworn, deposes and says:

1. I am a partner in the law firm of Garwin, Bronzaft, Gerstein & Fisher, L.L.P. I submit this affidavit in support of my firm's application for an award of attorneys' fees in connection with services rendered in this litigation, as well as for the reimbursement of expenses incurred by my firm in connection with the case.

2. My firm, along with others, represented plaintiff Louisiana Wholesale Drug Company ("Louisiana Wholesale"), both when our initial complaint was filed in November 1998 in the Southern District of Florida, and after the Louisiana Wholesale case was transferred to this Court and coordinated with the other actions under MDL No. 1278.

3. Before and after the cases were transferred to this Court, my firm has been integrally involved in every aspect of this complex litigation, from inception to present day. Prior to the MDL coordination, my firm took the lead in organizing plaintiffs' counsel, as well as briefing numerous motions filed in the Southern District of Florida including (1) several motions relating to discovery and scheduling; and (2) a motion to dismiss.

4. After the MDL transfer and coordination, my firm, together with Boies, Schiller & Flexner LLP were named Co-Lead Counsel for the Sherman Act Class Plaintiffs. Subsequently, Co-Lead Counsel organized and managed the litigation during weekly conference calls conducted with other plaintiffs' counsel, including members of counsel's internal Executive Committee and Discovery Committee. During these weekly calls, assignments were carefully coordinated to avoid a duplication of effort. See Co-Lead Counsel Affidavit for more detail regarding counsel's efforts to efficiently and effectively conduct discovery in this case.

5. The tasks undertaken by my firm in this litigation are detailed further in the affidavit of Co-Lead Counsel, submitted contemporaneously. For purposes of this affidavit, our contributions can be summarized as follows. My firm, *inter alia*: conducted initial and extensive research into the facts and circumstances that gave rise to this lawsuit (including but not limited to, the intersection of patent and antitrust law, the Hatch-Waxman legislation, and the doctrine of Noerr-Pennington); reviewed relevant S.E.C. filings by defendants, as well as voluminous pleadings in relevant patent litigations; prepared the initial complaint for class representative Louisiana Wholesale; organized and oversaw scheduling conferences with defendants and co-counsel; drafted or edited various document requests and interrogatories to Defendants; drafted or edited responses to defendants' various document requests and interrogatories; organized and participated in several document productions

(reviewing and summarizing thousands of pages of documents); and helped to create and maintain a large electronic database of relevant documents.

6. Additionally, my firm, together with Eric Cramer and others at Berger & Montague, formulated the arguments for, and drafted, plaintiffs' memoranda in support of our motion for class certification. This involved extensive research and analysis into, *inter alia*, the sales and pricing structure of the brand and generic pharmaceutical drug market, the typical behaviors of pharmaceutical drug consumers, and various causation and damages theories; the review of voluminous pages of documents and academic studies regarding generic penetration and the pharmaceutical industry; providing support for plaintiffs' experts, Dr. John Solow and Dr. Steven Schondelmeyer, for their reports in connection with plaintiffs' class certification motion; preparing the experts for their depositions; and preparing for the deposition of defendants' class certification expert, Dr. Roger Blair. My partner, Bruce Gerstein, took the deposition of Dr. Blair. The evidence and admissions addressed during this deposition formed an integral part of our class certification reply brief and rebuttal arguments.

7. On February 8, 2001, the Court conducted an evidentiary hearing on plaintiffs' motion for class certification. I worked closely with Dr. Schondelmeyer in preparing him for his testimony at the hearing. I also presented plaintiffs' opening and closing arguments.

8. My firm also was involved in formulating strategy for plaintiffs' motion for partial summary judgment (the *per se* motion), and, *inter alia*, reviewed drafts of the memoranda in support of that motion. I was also integrally involved in drafting plaintiffs' memoranda relating to defendants' appeal of this Court's order granting plaintiffs' motion for partial summary judgment.

9. My firm was also centrally involved in the deposition discovery process. Specifically, my firm worked closely with Odom & Des Roches in formulating the strategy for discovery regarding Andrx's causation defenses – *i.e.*, that even “but for” the defendants’ September 1997 Agreement, Andrx: (a) would not have come to market because of the threat posed by Aventis’ pending patent infringement lawsuit; and (b) even if Andrx was willing to come to market, Andrx could not have done so because it lacked sufficient financial, technical and human resources to manufacture its generic product in commercial quantities. In this regard, Bruce Gerstein prepared for the depositions of Andrx’s key executives: Lou Solomon, Andrx’s outside counsel and a primary negotiator of the Agreement; Scott Lodin, Andrx’s in-house counsel, who was intimately involved in both the Aventis/Andrx patent suit and the negotiation of the Agreement; and Chih-Ming Chen, Andrx’s President and Chief Science Officer, who was the inventor of Andrx’s generic product, as well as a signatory to the Agreement. Mr. Gerstein deposed Mr. Solomon on May 10, 2002. Our firm then briefed the privilege and waiver issues emanating from that deposition, and Mr. Gerstein argued the motions to compel (and for a protective order) relating to that deposition, which led to this Court issuing Order No. 38.

10. The preparation for these depositions was not only important for developing the evidentiary record, but in developing and refining the themes Class Counsel later presented and emphasized at the Mediation.

11. Likewise, I participated actively with Stuart Des Roches in developing the evidentiary record needed to rebut Andrx’s highly technical, manufacturing-related causation defenses (*i.e.*, the “we couldn’t make the product” defenses). I reviewed documents and deposition testimony regarding these issues and, based on knowledge I acquired in other pharmaceutical cases regarding the

regulatory and resource requirements for manufacturing generic products in commercial quantities, strategized with Mr. Des Roches regarding the themes and evidence to be used by Mr. Des Roches in deposing the Andrx witnesses knowledgeable on these subjects, including Randall Glover, Andrx's Former Director of Production; Dat Trieu, Andrx's Director of Validation and Former Director of Technical Services; and Larry Rosenthal, Andrx's Director of Marketing.

12. I also participated in the deposition of Joseph Riccardo, a securities analyst knowledgeable about Andrx's statements regarding its launch plans; and Richard Molden, a representative of Purepac, a generic manufacturer which, plaintiffs allege, was delayed in coming to market due to Defendants' Agreement.

13. Finally, my firm was integrally involved in the proceedings that led to the current motion before this Court for approval of the Settlement Agreement. We, *inter alia*, took the lead in preparing Class Counsel's mediation briefs; preparing and making the primary presentation, for all plaintiffs groups, at the mediation session (which was essentially a "mini-trial") regarding plaintiffs' causation theories, and plaintiffs' refutation of defendants' causation defenses; negotiating the agreement in principle during the 3 day mediation session to settle Direct Purchaser Class Action for \$110 million; negotiating the terms of the Memorandum of Understanding embodying the basic terms of the settlement (which took over 3 weeks); negotiating the terms of Settlement Agreement (which took an additional 5 weeks); arguing for preliminary approval of the settlement; addressing potential objections to the settlement; and drafting the memorandum in support of final approval of the settlement.

14. The total number of hours expended on this litigation by my firm is 6,049.90. The total lodestar for my firm is \$2,221,366.00 consisting of \$2,115,704.00 for attorneys' time and \$105,662.00 for paralegals' time.

15. The following schedule is a summary of the amount of time spent by each attorney and paralegal of my firm who was involved in this litigation, and the lodestar calculation based on my firm's current billing rates. The schedule reflects the time and expenses for all matters in this litigation. For attorneys and paralegals who are no longer employed by my firm, the lodestar calculation is based upon the billing rates for such attorneys and paralegals in his or her final year of employment by my firm. The schedule was prepared from 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.

Name (Status)	Total Hours	Hourly Rate	Cumulative Lodestar
Bertram Bronzaft (P)	37.40	\$455	\$ 17,017.00
Bruce E. Gerstein (P)	577.80	\$550	\$ 317,790.00
Scott W. Fisher (P)	5.70	\$495	\$ 2,821.50
Barry S. Tatis (P)	2,365.50	\$440	\$ 1,040,820.00
Noah Silverman (P)	142.90	\$430	\$ 61,447.00
Brett H Cebulash (P)	106.60	\$410	\$ 43,706.00
Stephen Schwartz (P)	650.00	\$430	\$ 279,500.00
Joseph Opper (P)	27.00	\$400	\$ 10,800.00
Kevin S. Landau (A)	95.90	\$300	\$ 28,770.00
Adam M. Steinfeld (A)	107.80	\$275	\$ 29,645.00

Jan Bartelli (A)	992.80	\$250	\$ 248,200.00
Archana Tamoshunas (A)	21.80	\$225	\$ 4,905.00
Susan Carrier (PL)	159.10	\$170	\$ 27,047.00
Janet Sideman (PL)	58.50	\$150	\$ 8,775.00
Apolinar Uriarte(PL)	582.00	\$120	\$ 69,840.00
Jeffrey Lax **	78.10	\$225	\$ 17,572.50
Marina Mishnayeuskaya**	41.00	\$310	\$ 12,710.00
	6,049.90		\$ 2,221,366.00

P=Partner A=Associate PL=Paralegal \*\* = Former Associates

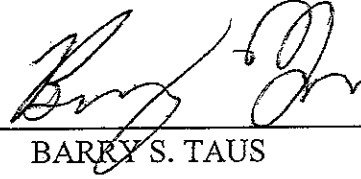
16. The hourly rates for the attorneys and paralegals in my firm are the same as the regular current rates charged for their services in non-contingent matters and/or which have been accepted and approved in other antitrust litigation.

17. 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.

12. My firm also has incurred a total of \$196,187.07 in unreimbursed expenses in connection with the prosecution of this litigation. These expenses are categorized and attached as Exhibit 1.

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

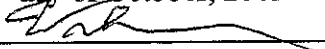
14. With respect to the standing of counsel in this case, attached hereto as Exhibit 2 is a brief biography of my firm and the attorneys in my firm who were principally involved in this litigation.



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BARRY S. TAUS

Sworn to before me this  
31<sup>st</sup> day of October, 2002



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Notary Public

**WILLIAM L. BREWER**  
Notary Public, State of New York  
No. 02BR5043310  
Qualified in New York County  
Commission Expires May 30, ~~2002~~ 2003



EXPENSE REPORT

FIRM: Garwin, Bronzaft, Gerstein & Fisher  
CASE: Cardizem

DESCRIPTION	AMOUNT
Litigation Fund	62,500.00
Copy Costs	8,844.45
Expert Consulting	15,733.30
Research ( Dow Jones, West Group, Disclosure)	42,948.50
Travel/Lodging	32,143.79
Meals	11,799.83
Messengers	4,977.65
Telephone/Fax	7,911.68
Court Fees	125.00
Outside Labor (DataBase)	9,202.87
TOTAL	196,187.07

CARDIZEM LITIGATION FUND

<i><b>OUTSTANDING BILLS</b></i>	
Copy Services	\$ 4,941.96
Expert Fees	107,149.67
Data Entry Costs (Summation)	35,487.81
Court Reports & Transcripts	21,073.93
Class Notice Publication	11,186.02
TOTAL OUTSTANDING BILLS	179,839.39
LITIGATION FUND BALANCE	16,228.52
UNPAID BILLS BALANCE	\$ 163,610.87



## ***RESUME OF***

### ***GARWIN, BRONZAFT, GERSTEIN & FISHER, L.L.P.***

Garwin, Bronzaft, Gerstein & Fisher, L.L.P., has continually and successfully championed the rights of investors and consumers for over fifty years. Garwin, Bronzaft is well known around the country for its skill in representing investors, consumers, small businesses and the public in class action suits involving such issues as:

- *The violation of investors' rights as a result of securities fraud or breaches of fiduciary duty;*
- *Antitrust violations, such as price-fixing and other anti-competitive practices;*
- *Unfair and deceptive trade practices;*
- *Deceptive insurance practices.*

#### **FIRM PARTNERS**

*BERTRAM BRONZAFT* graduated from Brooklyn College in 1955 with a B.S. in Economics (major in accounting). He graduated from Brooklyn Law School, with honors, in 1961, having been a member of Law Review. He was admitted to the New York State Bar in 1962 and began full-time practice in May 1965 associated with Sidney L. Garwin, Esq. He has been primarily engaged in the prosecution of stockholders' derivative and class action litigation ever since. Mr. Bronzaft has successfully prosecuted and resolved such litigation in Courts in Delaware, New York, Connecticut, Michigan, California, Indiana, Florida, Washington, Texas and Wisconsin. Mr. Bronzaft is admitted to practice before all of the Courts of the State of New York as well as the United States District Courts for the Southern and Eastern Districts of New York, the United States Courts of Appeal for the Second, Fifth, Seventh, Ninth and Eleventh Circuits.

Mr. Bronzaft is a member of the American Bar Association, the New York State Bar Association, the Federal Bar Council, and served on Chief Judge Jack Weinstein's *Discovery Oversight Committee* of the United States District Court, Eastern District of New York. He also was a member of Chief Judge Thomas C. Platt's *Civil Litigation Committee* of the same Court.

*BRUCE E. GERSTEIN* graduated from Bernard M. Baruch College of The City University of New York in 1972 with a Bachelor of Business Administration with a major in public accounting, and is a Certified Public Accountant licensed in the State of New York (inactive). He graduated from Brooklyn Law School with honors in 1977. For the six years prior to joining Garwin & Bronzaft in January 1978, Mr. Gerstein was an investigatory accountant specializing in the area of stockholder's derivative and class actions. Mr. Gerstein has been appointed lead counsel by numerous courts in connection with securities, antitrust, insurance and consumer class actions and has received approbations regarding the work he performed or oversaw. He has been awarded an AV rating by Martindale Hubbell.

Mr. Gerstein is admitted to practice in all of the Courts of the State of New York and the Court of Appeals for the Second, Fifth, Seventh, Ninth and Eleventh Circuits. He is a member of the Association of the Bar of the City of New York and the New York County Lawyers' Association (the "NYCLA"), the Federal Bar Council and the Federal Courts Committee of the NYCLA.

*SCOTT W. FISHER* graduated from Rensselaer Polytechnic Institute in 1971 with a Bachelor of Science degree in Aeronautical Engineering. He received a Master of Arts in Mathematics Education in 1974 from Brooklyn College. Following his graduation from Rensselaer Polytechnic Institute, Mr. Fisher was an educator employed by the New York City Board of Education in a wide variety of pedagogical areas including curriculum development in mathematics.

Mr. Fisher graduated from Brooklyn Law School in 1982. Following his graduation from law school, he joined the firm of Garwin, Bronzaft & Gerstein, where he has worked on many major consumer class actions, stockholder class and derivative litigations. Mr. Fisher has been appointed lead or co-lead counsel in various securities litigations. Most recently Mr. Fisher served as co-trial counsel in Delaware Chancery Court in the *M&F Worldwide Corp. Shareholder Litigation*, a case which resulted in a complete victory for M&F shareholders. He also had a prominent role in the trial proceedings and of the diet drug product liability litigation in New Jersey Supreme Court in 1999, which was resolved as part of a global resolution for in excess of \$4 billion.

Mr. Fisher is admitted to the Bars of the State of New York and of the United States District Courts for the Southern and Eastern Districts of New York, the District of Arizona, the Eastern District of Michigan, the Courts of Appeal for the Second, Third, Seventh and Eleventh Circuits and the Supreme Court of the United States. Mr. Fisher is also a member of The Association of The Bar of The City of New York, The New York County Lawyers' Association and The New York State Bar Association.

*BARRYS. TAUS* graduated Cum Laude from the State University of New York at Albany in 1986 with a Bachelor of Science degree in Accounting.

Mr. Taus joined the firm of Garwin, Bronzaft, Gerstein & Fisher in 1988, where he has worked on numerous antitrust and stockholder class action and derivative litigations. He graduated from Brooklyn Law School in 1989.

Mr. Taus is admitted to the Bars of the State of New York and the United States District Court for the Southern District of New York. He is also a member of the Association of the Bar of the City of New York and the New York State Bar Association.

Mr. Taus is acting as Lead Counsel or Co-Lead Counsel in a number of major, complex antitrust litigations, including *In re Cardizem CD Antitrust Litigation* (E.D. Mich.); *In re Terazosin Hydrochloride Antitrust Litigation* (S.D. Fla.); *In re Ciprofloxacin Hydrochloride Antitrust Litigation* (E.D. N.Y.); and *In re K-Dur Antitrust Litigation* (D.N.J.) (Motion for Appointment as Co-Lead Counsel pending). Mr. Taus is also taking an active role in *Louisiana Wholesale Drug Co., Inc. v Bristol-Myers Squibb* (S.D.N.Y.) in which his firm is Co-Lead Counsel.

Mr. Taus had also taken a central, active role in many of the stockholder class actions and derivative actions in which his firm has been Lead Counsel (as detailed above), including *Rebenstock v. Fruehauf (Fruehauf Trailer)*, *In Re Par Pharmaceutical Securities Litigation*, and *In Re F&M Distributors, Inc. Securities Litigation*.

*NOAH H. SILVERMAN* graduated from Grinnell College in 1986 with a Bachelor of Arts degree in Political Science.

Mr. Silverman graduated from Northwestern University School of Law in 1990 and has been with the firm since May 1991.

Mr. Silverman is admitted to the Bar of the State of New York and the United States District Court for the Southern and Eastern Districts of New York. He is a member of the Association of the Bar of the City of New York.

*BRETT H CEBULASH* graduated from the University of Virginia in 1984 with a Bachelor of Arts degree in Psychology.

Mr. Cebulash graduated cum laude from Brooklyn Law School in 1993 and has been with the firm since October 1993.

Mr. Cebulash is admitted to the Bar of the State of New York and the State of New Jersey and the United States District Court for the Southern and Eastern Districts of New York. He is a member of the Association of the Bar of the City of New York and the American Bar Association.

*STEPHEN H. SCHWARTZ* graduated from Charter Oak College with a Bachelors in Business in 1988 and received his law degree from the University of Pennsylvania in 1991. At the University of Pennsylvania, Mr. Schwartz was awarded a Winston Fellowship in Law & Economics, and did his fellowship work in the field of creditors' rights. Prior to joining the firm in July 1998, he was employed by Milberg Weiss Bershad Hynes & Lerach LLP and Skadden Arps Slate Meagher & Flom, where he specialized in antitrust law and litigation. Mr. Schwartz is a member of the New York Bar and is admitted to practice before the United States District Courts for the Southern and Eastern Districts of New York.

Mr. Schwartz is acting as Co-Lead Counsel or a member of the Executive Committee in a number of class action antitrust litigations, including *In re Stock Exchange Options Trading Antitrust Litigation* (S.D.N.Y.), *In re Relafen Antitrust Litigation* (D. Mass.), and *In re Neurontin Antitrust Litigation* (D.N.J.). He has also served as Lead Counsel or taken a central role in several of the firm's securities class and derivative actions, including *Dollens v. Zions (In re Westell Technologies Derivative Litigation)* (N.D. Ill.), and *In re Buffets Securities Litigation* (D. Minn.)

*JOSEPH OPPER* graduated from Tufts University in 1970 with a Bachelor of Arts in Political Science. He graduated from Hofstra University School of Law in 1975. From 1985 to 1996 Mr. Opper was a member of the Antitrust Bureau of the New York State Department of Law and served as the Acting Bureau Chief from 1994-96. Immediately, prior to joining the firm in 2000, he was employed by Milberg Weiss Bershad Hynes & Lerach LLP, where he specialized in Antitrust and

Human Rights litigation. From 1975-85 Mr. Opper practiced law at the Legal Aid Society in Brooklyn, New York.

Mr. Opper is a member of the New York Bar and is admitted to practice before the United States District Courts for the Southern and Eastern Districts of New York; United States Court of Appeals for the Second Circuit and United States Supreme Court.

#### ASSOCIATES

*KEVINS LANDAU* graduated from Lehigh University in 1993 with a Bachelor of Arts degree in Government, with high honors.

Mr. Landau graduated from Brooklyn Law School in 1996, where he served on the Brooklyn Law Review. Mr. Landau has been employed by Garwin, Bronzaft, Gerstein & Fisher, L.L.P. since September 1996.

Mr. Landau is admitted to the Bar of the State of New York and is a member of the New York State Bar Association.

*ADAM STEINFELD* graduated from Brandeis University in 1994 with a Bachelor of Arts degree in Political Science.

Mr. Steinfeld graduated from Brooklyn Law School in 1997, where he served on the Brooklyn Law Review. Mr. Steinfeld has been employed by Garwin, Bronzaft, Gerstein & Fisher, L.L.P. since August, 1997.

Mr. Steinfeld is admitted to the Bars of the States of New York and Massachusetts.

*JAN BARTELLI* graduated from Syracuse University in 1993 with a Bachelor of Arts degree in English. She graduated from Brooklyn Law School in 1997, where she was a member of the Brooklyn Law Review and Moot Court. Prior to entering law school, Ms. Bartelli worked as a

newspaper reporter for publications in New York City, New Jersey, and Connecticut. She has been employed by Garwin, Bronzaft, Gerstein & Fisher, L.L.P. since January 1998.

Ms. Bartelli is admitted to the bars of the states of New York and New Jersey.

*ARCHANA TAMOSHUNAS* graduated from Williams College in 1995 with a Bachelor of Arts degree in Political Science and Studio Art.

Ms. Tamoshunas graduated from New York University School of Law in 1999, where she was a member of the Moot Court Board. After graduating from law school, Ms. Tamoshunas was employed by the City of New York, representing the City in Family Court. Ms. Tamoshunas has been employed by Garwin, Bronzaft, Gerstein & Fisher, L.L.P. since October 2002.

Ms. Tamoshunas is admitted to the Bar of the State of New York and is a member of the American Bar Association, The New York State Bar Association and the New York County Lawyers' Association.

Garwin, Bronzaft, Gerstein & Fisher, L.L.P. has been general or trial counsel in class action and stockholder derivative lawsuits which have resulted in millions of dollars in benefits to class members and corporations in past years.

Set forth below are a few examples of cases which Garwin, Bronzaft, Gerstein & Fisher have prosecuted as lead or co-lead counsel over the years:

(a) *Sanders v. Wang, etc.*, Del. Ch., CA No. 16640, Steele, V.C. (November 8, 1999); (Co-Lead Counsel) The Court of Chancery concluded that a Compensation Committee of the Board "exceeded their authority" under a stock option plan in awarding shares to inside directors/officers in granting judgment on the pleading for plaintiffs on behalf of nominal defendant Computer Associates - judgment for in excess of \$500 million in value of common stock for Company.

(b) *In re Cendant Corporation Derivative Action Litigation*, 189 F.R.D. 117 (D.N.J. 1999) (Co-Lead Counsel) Court found, *inter alia*, demand excused where board implicated in failing to oversee alleged management financial fraud and Certificate of incorporation liability exclusion for breach of fiduciary duty did not insulate directors – recovery of \$54,000,000 for Cendant, and its shareholders.

(c) *In re Cardizem CD Antitrust Litigation* 200 F.R.D. 326 (E.D. Mich. 2001) (Co-Lead Counsel) Certifying class of direct purchasers of diltiazem; 105 F.2d Supp. 618 (E. D. Mich. District Court 2000) found Noerr-Pennington doctrine inapplicable and finding antitrust claim stated under both *per se* rule and rule of reason; 105 F. 2d Supp. 682 (E.D. Mich. 2000), granting partial summary judgment for violation of antitrust law. Case recently settled for \$110 million.

(d) *In re Terazosin Hydrochloride Antitrust Litigation* 164 F. Supp. 2d 1340; (Co-Lead Counsel) finding *per se* violation of Sherman Act where prospective manufacturer of drug terazosin hydrochloride agreed to delay competing with brand name manufacturer in return for millions of dollars in payment from brand name manufacturer; 203 F.R.D. 551 (S.D. Fla. 2001) and certifying class of direct purchasers of terazosin hydrochloride.

(e) *In re Buspirone Antitrust Litigation*, 185 F. Supp. 2d 34. (S.D.N.Y. 2002) (Co-Lead Counsel) granted summary judgment against Bristol Myers with respect to certain patent infringement claims; *see also*, 208 F.R.D. 516 (S.D. N.Y. 2002) discussing issues of waiver of attorney client privilege with respect to matters placed at issue in the litigation.

(f) *In re Nuveen Fund Litigation*, 1996 WL 347012, 1996 WL 328001, 1996 WL 328003, 1996 WL 328006, 1994 WL 505293, 1994 WL 505294 (N.D. Ill. 1996) (Lead Counsel) (a case addressing novel issues arising under the Investment Company Act and Minnesota Corporate

law); *see also* 555 N.W. 2d 301 (MN App. 1996). – recovery of \$24 million in cash for shareholders of Nuveen Funds.

(g) *Zapata v. Maldonado*, 430 A.2d 779 (Del. Supr. 1981) (Lead Counsel) -- unquestionably one of the most important decisions in stockholder derivative litigation. The Delaware Supreme Court's decision halted a tidal wave of decisions that threatened to eliminate the derivative action as an effective barrier to corporate waste and mismanagement.

(h) *Michelson v. Duncan*, 407 A.2d 211 (Del. Sup. 1979) (Lead Counsel) --a reversal in part of a dismissal of a derivative action predicated upon a shareholder ratification. The Delaware Supreme Court defined and reinstated plaintiff's waste cause of action.

(i) *Stein v. Orloff*, Del. Ch., CA No. 7276, 11 Del. J. Corp. L. 312, 1985 WL 11561 Hurtnetly, V.C. (May 30, 1985) (Lead Counsel) - finding demand excused where plaintiffs stated a claim for waste of corporate assets by alleging properly “the consideration received by corporation was so inadequate that no person of ordinary sound business judgment would deem it worth what corporation paid.”

(j) *Galef v. Alexander*, 615 F.2d 51 (2d Cir. 1980) (Lead Counsel) --almost as important a decision as *Maldonado*, wherein Second Circuit reversed and remanded a business judgment dismissal of a derivative action. The Second Circuit's decision strongly intimated that business judgment could not be used to dismiss a well pleaded proxy claim, regardless of state law.

(k) *Lewis v. Anderson*, 615 F.2d 778 (9th Cir. 1979)(Lead Counsel). An unfortunately decided ruling from plaintiffs' vantage point, but important in that it was one of the first cases to attempt to follow the business judgment guidelines set down by the Supreme Court in *Burks v. Lasker*. In a subsequent decision by the Ninth Circuit in the case, at 692 F.2d 1267 (1982), the Court

affirmed a District Court's fee award to deponent's office for procuring an important corporate benefit despite "losing" the case.

(l) *Halpern v. Armstrong*, 491 F. Supp. 365 (S.D.N.Y. 1980) (Lead Counsel)--an important Section 14(a) decision by Judge Milton Pollack wherein he found material proxy violations and thereby voided a number of transactions undertaken by Revlon, Inc., the corporation in question.

(m) *Jacobs v. Adams*, 601 F.2d 176 (5th Cir. 1979) (Lead Counsel)--an important and total reversal of a district court's holding (1) that a New York executor may not prosecute a derivative action in Florida; and (2) that Florida law requires a plaintiff in a derivative action to make a demand on a corporation's shareholders before instituting suit.

(n) *In re USACafes, L.P. Litigation*, 600 A.2d. 43 (Del. Ch. 1991), (a case recognizing for the first time under Delaware law, a fiduciary duty owed by directors of a Delaware corporate general partnership to its Delaware limited partners).

The following results are indicative of recent litigation which have been successfully resolved by Garwin, Bronzaft, Gerstein & Fisher, L.L.P. or its predecessor firms, Garwin, Bronzaft & Gerstein, Garwin & Bronzaft and Sidney L. Garwin acting as either sole lead or co-lead counsel:

<u>Title of Action</u>	<u>Approximate Amount of Benefits</u>
<i>Sanders v. Wang, et al and Computer Associates International</i>	Return of 4.5 million shares of Computer Associates common stock to Computer Associates valued at over \$225 million
<i>In re Cendant Derivative Litigation</i>	\$54 Million
Robert Cicarell, et al. v. Provident Mutual Life Insurance Company	\$30 Million in life insurance policy benefits and \$15 million in cash
<i>T.R.V. Holding Co v. John Nuveen &amp; Co Inc</i>	\$24 million plus accrued interest

<i>In Re F&amp;M Distributors, Inc. Securities Litigation</i>	\$20.25 million plus accrued interest
<i>In re Jiffy Lube Securities Litigation</i>	\$9,500,000 plus accrued interest
<i>Tabankin v. Kemper Short Term Global Income Fund</i>	\$7.5 million cash and other consideration valued in excess of \$12.5 million
<i>Beaumont, et al. and Levine, et al. v. American Can</i>	\$10,500,000 plus interest
<i>Rebenstock v. Fruehauf (Fruehauf Trailer Corp.) and Rebenstock v. DeLoitte &amp; Touche</i>	\$10,600,000 in cash and securities
<i>In Re RAC Mortgage Investment Corporation Securities Litigation</i>	\$12,000,000 plus interest
<i>In Re Par Pharmaceutical Securities Litigation</i>	\$20,000,000 in cash and securities
<i>In Re Interco Incorporated Shareholders Litigation</i>	\$18,500,000 plus interest
<i>In Re Revlon Group, Inc. Shareholders Litigation (Del. Chancery Court)</i>	\$60,000,000
<i>Goldberg v. Americana Hotels and Realty Corp., et al. (D. of Mass.)</i>	\$9,460,000 plus interest
<i>In Re: American Dental Laser, Inc. Securities Litigation</i>	\$8,000,000 cash
<i>In re Buffets, Inc. Securities Litigation</i>	\$7,000,000 cash plus interest
<i>In re GCA Corporation Securities Litigation (D. of Mass)</i>	\$5,500,000 cash plus 1.15 million warrants
<i>In re American Southwest Mortgage Securities Litigation</i>	\$5.2 million cash
<i>In re Shared Medical Securities Litigation (E.D. Pa.)</i>	\$5,000,000 cash plus interest
<i>Wechsler v. Abramowitz, Del. Ch. Civil Action No. 6681 and 6862</i>	Increased Going Private Price from \$14.50 per share to \$22.875 per share

Currently Garwin, Bronzaft, Gerstein & Fisher, L.L.P. is either lead counsel, co-lead counsel or chairman of the Executive Committee in a number of complex class actions. Those cases include, *Gutter v. E.I. Dupont DeNemours Company et.al.*, 95-2152-CIV, pending in the United States District Court in the Southern Division for the Southern District of Florida; *Chase v. Northwest Airlines Corp. et al.*, 96-74711, pending in the United Stated District Court for the Eastern District of Michigan; *Butler v. Provident Mutual Life Insurance Company et al*, January Term 1999 No. 780, pending in Pennsylvania Court Of Common Pleas - County of Philadelphia; *In re Cardizem CD Antitrust Litigation*, pending in the United States District Court for the Eastern District of Michigan Southern Division; *In re Terazosin Hydrochloride Antitrust Litigation*, pending in the United States District Court for the Southern District of Florida; *In re K-Dur Antitrust Litigation*, pending in the United States District Court for the District of New Jersey; and *Louisiana Wholesale Drug Company, Inc., v. Bristol-Myers Squibb Co.*, pending in the United States District Court for the District of Columbia; *In Re Ciproflaxin Hydrochloride Antitrust Litigation*, pending in the United States District Court for the Eastern District of New York; *Louisiana Wholesale Drug Company, Inc. v. Smithkline Beecham Corporation d/b/a Glaxosmithkline, and Smithkline Beecham Plc*, pending in the United States District Court For the Eastern District of Pennsylvania.