

EXHIBIT 1

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

MARILYN KEEPSEAGLE, et al.,)	
)	
Plaintiffs,)	
)	
v.)	Civil Action No. 1:99CV03119
)	(EGS)
)	
TOM VILSACK, Secretary, United States)	
Department of Agriculture,)	Judge: Emmet G. Sullivan
)	Magistrate Judge: Alan Kay
)	
Defendant.)	
)	

**DECLARATION OF JOSEPH M. SELLERS IN SUPPORT OF PLAINTIFFS’ MOTION
FOR AN AWARD OF ATTORNEYS’ FEES AND EXPENSES**

I, Joseph M. Sellers, hereby declare as follows:

1. I am a partner in the Washington, D.C. office of Cohen, Milstein, Sellers & Toll, P.L.L.C. (“Cohen Milstein”), and lead counsel in the above-captioned case. The statements set forth in this Declaration are based on first-hand knowledge, about which I could and would testify competently in open Court if called upon to do so, and on records contemporaneously generated and kept by my Firm in the ordinary course of its law practice. This Declaration is submitted in support of Plaintiffs’ Motion for an Award of Attorneys’ Fees and Expenses.

2. In November 2001, following the Court’s certification of a class for declaratory and injunctive relief, Cohen Milstein joined Phillip Fraas, Sarah Vogel, and attorneys from Conlon, Frantz & Phelan, LLP in representing the plaintiffs in this matter. From that point forward, Cohen Milstein served as lead counsel with Conlon, Frantz & Phelan, LLP and Phillip Fraas. In 2007, Jenner & Block joined in representing plaintiffs.

3. This has been a vigorously contested, and unusually protracted lawsuit. Since the filing of the complaint in 1999, the parties have filed approximately 75 memoranda of law in this

Court and briefed disputed issues twice for the D.C. Circuit. Class counsel also engaged in extensive factual investigation and discovery of claims for a nationwide class estimated to include thousands dating from 1981. In investigating these claims, class counsel interviewed nearly 1000 Native American farmers and ranchers. Over the course of discovery, class counsel traveled to 13 states to conduct 8 expert depositions, more than 40 depositions of Plaintiffs' non-expert witnesses, and more than 50 depositions of the USDA's non-expert and Rule 30(b)(6) witnesses. Further, the parties exchanged and reviewed more than two million pages of hard copy and electronic documents, and produced ten reports from experts in the fields of social psychology, sociology, agricultural economics, statistics, and farm loan programming of the United States Department of Agriculture ("USDA").

4. I am the head of the Civil Rights & Employment practice group at Cohen Milstein, where I have worked since 1997. Prior to joining Cohen Milstein, I served as head of the Employment Discrimination Project of the Washington Lawyers' Committee for Civil Rights and Urban Affairs for over 15 years. I have served as class counsel in more than 30 civil rights and employment class actions, including *Beck v. Boeing Company* (W.D. Wash.) (class of more than 28,000 women employees alleging sex discrimination in pay and overtime decisions); *Conway, et al. v. Deutsch* (E.D. Va.) (class of all female undercover case officers at the CIA alleging sex discrimination in promotions and job assignments); *Dukes v. Wal-Mart Stores, Inc.* (N.D. Cal.) (class of more than 1.5 million women employees at Wal-Mart stores alleging sex discrimination in promotions and pay decisions); *Johnson, et al. v. Freeh* (D.D.C.) (class of African-American FBI special agents alleging racial discrimination in promotion and job assignments); *Neal v. Director, D.C Dept. of Corrections* (D.D.C.) (the first sexual harassment class action tried to a jury); and *Trotter, et al. v. Perdue Farms* (D.Del.) (company-wide

collective action brought under the Fair Labor Standards Act). I have been recognized as one of the top 10 plaintiffs' employment lawyers in the country, and in 2010 was named one of "The Decade's Most Influential Lawyers" by *The National Law Journal*. I have also been active in legislative and academic matters: I have testified more than 20 times before Committees of the United States Senate and House of Representatives on various civil rights and employment matters, and have taught at Washington College of Law at American University and Georgetown University Law Center. I also served as a Co-Chair of the Task Force of the D.C. Circuit on Gender, Race and Ethnic Bias upon appointment by judges of the D.C. Circuit and the U.S. District Court for the District of Columbia.

5. The Cohen Milstein attorneys who were principally involved in this litigation have extensive experience in litigating civil rights class action lawsuits. Such experience allowed Cohen Milstein attorneys to litigate this case efficiently and effectively. The background, relevant qualification and experience of counsel from my firm who were principally involved in this litigation are provided in the brief biographies attached hereto as Exhibit A.

6. I have been involved in this case as counsel for plaintiffs since 2001. As summarized above, I have substantial experience in litigating large-scale civil rights class action lawsuits. Since becoming involved in this case more than 9 years ago, I have overseen the coordination of work by the several firms and attorneys representing the class. In doing so, I have endeavored to represent the interests of the plaintiffs in the fullest and most efficient way possible. By using a centralized work assignment process and weekly class counsel coordination calls, we have been able to litigate this case efficiently and avoid duplication of efforts while leveraging the varying skills and expertise each firm and attorney brought to the representation team. Additionally, we pursued a tailored discovery plan that ensured time spent in reviewing

the tremendous document production and deposing over 50 USDA witnesses was targeted to the information needed to support certification and to prove liability and damages.

7. Class counsel allocated litigation responsibility in this case among different attorneys and firms according to their experience, expertise, and availability. Since entering appearances in 2001, attorneys from Cohen Milstein have been primarily responsible for delivering oral arguments, managing trial preparation strategy, serving as contact to opposing counsel, and conducting settlement negotiations. Other responsibilities, including drafting motions and memoranda of law, communicating with class representatives and other class members, and conducting discovery, have been divided among attorneys from all of the firms representing the class.

8. The class counsel team includes several attorneys, including David Frantz of Conlon, Frantz, & Phelan, LLP, Anurag Varma of Patton Boggs (and formerly of Conlon, Frantz, & Phelan, LLP and Cohen Milstein), and Phillip Fraas of Stinson Morrison Hecker LLP, who litigated similar issues regarding discrimination in USDA farm loan programming in *Pigford v. Vilsack*, Civil Action No. 97-1978 (PLF) (D.D.C.), and returned to them in the related case *In re Black Farmers Discrimination Litigation*, Case No. 1:08-mc-0511-PLF (D.D.C) (“*Pigford II*”). Additionally, many attorneys on the class counsel team, including David Frantz and Sarah Vogel, have other experience in the fields of USDA farm loan programs and agricultural credit issues. Due to their experiences, class counsel entered this case with expertise in USDA farm loan programming and operations, which allowed us to conduct discovery more efficiently and effectively than would otherwise have been the case. Class counsel further benefitted from the experience and expertise of attorneys from Jenner & Block, including Paul

Smith and Michael Brody, who specialize in complex federal litigation and have extensive experience in class action litigation.

9. Cohen Milstein's compensation for the services rendered in this case and reimbursement of expenses have been and are wholly contingent on the outcome.

10. The records pertaining to the hours and expenses invested in this case by Cohen Milstein are voluminous and reflect confidential information and privileged work product. Therefore, rather than attach to this petition the detailed daily time and expense records, we summarize these records here. We are prepared to submit the full records to the Court for inspection *in camera* should the Court believe it necessary.

11. Throughout the time we worked on this matter, our timekeepers have been required to keep daily time-records, providing both amounts of time spent on discrete tasks and descriptions of that work. These records are entered into a computer database, checked, and maintained in computer-readable format.

12. Through November 30, 2010, Cohen Milstein recorded 22,359.31 hours of attorney, law clerk, and paralegal time spent on this matter, not including time for those professionals who billed fewer than 10 hours to this matter. These hours were actually expended, in the exercise of professional judgment, by the lawyers, paralegals and clerks involved in this matter.

13. Cohen Milstein charges for the services of its attorneys, paralegals, and law clerks on the basis of hourly rates which reflect, among other things, years of practice and experience. The lodestar calculation is made based upon current hourly rates for all current attorneys and staff, and, for those who are no longer employed by Cohen Milstein, upon the billing rates for such attorneys and paralegals in his or her final year of employment by the firm. The current (or

last) hourly rates for Cohen Milstein attorneys and staff who worked on this matter range from \$135 to \$190 for law clerks, from \$100 to \$230 for paralegals, and from \$295 to \$785 for attorneys. These hourly rates are consistent with the usual and customary hourly rates for the Firm's work performed for non-contingency fee clients. Our Firm's hourly rates have been paid by hourly clients and, separately, approved for payment by federal and state courts in other class action litigation.

14. Computed at their current or last hourly rates, Cohen Milstein attorneys, paralegals, and law clerks have incurred \$8,918,428.55 in lodestar fees. Exhibit B identifies individuals who recorded time to this matter, the hours they expended, and their current or last hourly rates.

15. In calculating the above lodestar fee, we excluded hours billed by 8 attorneys and 14 paralegals, who each spent fewer than 10 hours on this case: Marc Machiz (\$532.50), Lisa Mezzetti (\$510.00), Daniel Small (\$340), Jenny Yang (\$132.50), Ann Yahner (\$330.00), Matthew Handley (\$3,630.00), Hilary Ratway (\$177.50), Sahar Aziz (\$2,507.50), Barabar Pratt (\$1380.00), Imelda Rama (\$230.00), Pamela Macker (\$220.00), Shubba Chandra (\$210.00), Lauren DeStefano (\$1900.00), Elena Takacs (\$50.00), Donna Choi (\$875.00), Rena Sachdev (\$787.50), Emily Ouellette (\$41.25), Katrina Jurgill (\$577.50), Julia Rosenfield (\$562.50), Lisa Byun (\$270.00), Kimberly Humphrey (\$125.00), and Monica Dicocco (\$687.50). I believe, with those reductions, that the remaining time was reasonably and necessarily expended in the prosecution of this action.

16. Attorney Anurag Varma has worked for several different firms during the course of this litigation. During a period from 2003 through 2006, Cohen Milstein paid for certain hours that Mr. Varma worked on this case, and Mr. Varma's time and fees for those hours were

entered into Cohen Milstein's time records and are included in our above lodestar fee. In calculating our lodestar, we used Mr. Varma's last billing rate while he worked for Cohen Milstein. Mr. Varma also worked for and was a partner of Conlon of Conlon, Frantz, & Phelan, LLP and Patton Boggs at various times during the course of this litigation; his hours billed on behalf of those firms are reported in David Frantz' declaration regarding Conlon, Frantz, & Phelan, LLP's fees and expenses. The hours and fees reported here for Mr. Varma are not duplicative of those reported by Mr. Frantz.

17. Cohen Milstein'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 the firm's billing rates.

18. The expenses incurred in this action are reflected in Cohen Milstein's expense records. These records are prepared from expense vouchers, check records and other source materials and are an accurate record of the expenses incurred.

19. On behalf of the class, Cohen Milstein has incurred a total of \$1,131,818.08 in unreimbursed expenses in connection with the prosecution of this litigation. These expenses were reasonably and necessarily incurred under the circumstances of this litigation. Exhibit C provides a summary of the expenses incurred in furtherance of this case.

20. I have reviewed the declarations of other class counsel attesting to the fees and expenses incurred by their firms through November 30, 2010. The following table shows the hours, fees, and expenses reported for each firm; the sums reflect the total amounts for all class counsel:

<u>Firm</u>	<u>Hours</u>	<u>Fees</u>	<u>Expenses</u>
Cohen Milstein Sellers & Toll PLLC	22,359.31	\$8,918,428.55	\$1,131,818.08
Conlon, Frantz & Phelan LLP	7,156.95	\$2,159,148.00	\$192,953.82
Sarah Vogel Law Partners	1,696.10	\$593,635.00	\$25,612.98
Phillip Fraas and Stinson Morrison Hecker	623.10	332,742.50	\$2,892.68
Patton Boggs LLP	159.75	\$84,596.25	\$8,324.53
Jenner & Block LLP	9,093.00	\$4,158,332.50	\$275,455.59
Total	41,088.21	\$16,246,882.80	\$1,637,057.68

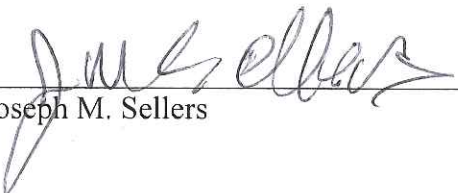
21. The fee award sought by class counsel is intended to compensate them not only for past hours and expenses, but also for the future time and costs class counsel expect to expend in implementing and monitoring the Settlement over its five year term. Pursuant to the Settlement, class counsel has agreed, among other things, to assist—without additional charge—geographically dispersed class members pursuing Track A claims; to implement an extensive notice plan intended to inform Native American farmers and ranchers of the Settlement and to educate them about the claims process; to monitor and consult regarding programmatic changes at the USDA; to work with the Claims Administrators and Neutrals to ensure that both claims tracks are properly implemented in accordance with the terms of the Settlement; and to answer questions and provide status updates to members of the large class. I anticipate that class counsel will expend significant time and incur substantial expenses in fulfilling our Settlement obligations. For example, to ensure that appropriate assistance is available to class members across the country seeking to submit Track A claims, class counsel intends to hire, train, supervise, and equip approximately 56 paralegals and attorneys over the next year. We anticipate that these paralegals and attorneys will generate approximately \$6.5 million in fees. Additionally, because the Settlement provides for the creation of unique new programs and entities, such as the Council for Native American Farming and Ranching, I foresee that class

counsel will have a substantial role in assuring that these new developments are carefully implemented to achieve the goals embodied by the Settlement. Counsel will be involved in helping to educate and recruit persons to serve on the new Council, and will consult with the Office of Tribal Relations regarding USDA regulations, handbooks, instructions, and administrative notices to ensure they are responsive to the unique features of Native American Culture. Since November, class counsel has already devoted substantial time to proposing programmatic changes and meeting with USDA officials to work through these proposals. Based on our projections regarding the work we plan to perform in order to implement the settlement, I anticipate that class counsel will devote an average of 20 hours a week for 50 weeks in 2011; at an average billing rate of \$500, this amounts to \$500,000 in class counsel fees. We also project that class counsel will incur approximately \$150,000 in additional fees through the remaining four years of the settlement term. These amounts are in addition to the \$6.5 million in fees we project our attorney and paralegals hired to assist class members with the claims process will generate. Finally, we have projected that costs for travel, equipping the 56 contract employees, and other expenses will total approximately \$1.5 million. In sum, I project that class counsel will incur an additional \$7.15 million in fees and \$1.5 million in costs, totaling \$8.65 million in prospective fees and expenses we will incur in fulfilling our settlement obligations.

22. Summing class counsel's \$16,246,882.80 in fees reported through November 30, 2010 (as calculated above in paragraph 20), with class counsel's projected additional \$7.15 million in fees for fulfilling our settlement obligations, yields estimated total fees of \$23,396,882.80. Summing class counsel's \$1,637,057.68 in expenses reported through November 30, 2010 (as calculated above in paragraph 20), with class counsel's projected additional \$1.5 million in expenses for fulfilling our settlement obligations, yields estimated total

expenses of \$3,137,057.68. Thus, class counsel's estimated total fees and expenses for past and future work on this matter comes to \$26,533,940.48.

I declare under penalty of perjury under the laws of the District of Columbia and the State of Washington that the foregoing is true and correct to the best of my knowledge and that this Declaration was prepared in the District of Columbia on January 14, 2011.



Joseph M. Sellers

EXHIBIT A

Brief biographies of the Cohen Milstein Partners and Associates who provided over 10 hours of legal services in *Keepseagle v. Vilsack*, Civil Action No. 1:99CV03119, are provided below:

Steven J. Toll

Steven J. Toll joined the Firm in 1979 and has been lead or principal counsel in some of the most highly publicized stock fraud cases over the past 28 years. He has been Managing Partner of the Firm since 1997 and is co-chair of the Securities Fraud/Investor Protection practice group. Mr. Toll was profiled in the February 1996 *Washington Business Journal* as one of five attorneys that stand out as the “cream of the crop” in the Washington D.C. legal community. *Lawdragon* named him as one of the 500 Leading Lawyers in America in 2006-07-08, as well as naming him one of the 100 Lawyers You Need to Know in Securities Litigation in 2008. In 2010, Mr. Toll was named to *Law360*'s "Most Admired Attorneys".

In July 2005, Mr. Toll was lead trial counsel in one of the few securities class actions to go to trial involving Globalstar, a satellite manufacturer. Mr. Toll successfully argued the motions before and during trial and ultimately achieved a settlement of \$20 million shortly before the case was scheduled to go to the jury. In approving the settlement, U.S. District Judge Kevin Castel remarked that Mr. Toll and his colleagues had “done a terrific job in presenting the case for the plaintiffs.”

Some of Mr. Toll's other notable cases include those against Lucent Technologies, which was settled in 2001 for approximately \$575 million, at the time, the second largest securities class action settlement ever achieved; *Converium*, where he negotiated a global settlement in the U.S. courts and the courts in Amsterdam of \$135 million; *Southmark Securities Litigation*, where he helped achieve a settlement of \$70 million from the company's auditors, Drexel Burnham and Michael Milken; *Norman v. Salomon Smith Barney*, where he negotiated a \$50 million settlement on behalf of customers of Salomon's Guided Portfolio Management Program, who alleged that Salomon invested their money in companies in order to boost Salomon's investment banking business.

Mr. Toll also served as co-lead counsel in one of the most publicized frauds of the 1990s -- Cascade International (S.D. Fla.) where the mastermind of the fraud, Victor Incendy, is still a fugitive from justice. The case settled on the eve of trial against Raymond James Inc. -- the only securities class action ever successfully litigated against a brokerage firm for its role as a research analyst.

He is currently leading the Firm's team serving as co-lead counsel in one of the most highly publicized fraud cases of this era, the securities fraud class action involving Parmalat, the Italian dairy manufacturer; the case is known as Europe's “Enron,” because of the similarities of the fraudulent schemes and the non-existence of billions of dollars of assets that had been recorded on Parmalat's financial statements. He is also co-lead counsel in a major securities fraud action against the Royal Bank of Scotland, who in early 2009 announced the largest loss in British corporate history of over \$30 billion.

He has written for and spoken at various conferences about securities law and corporate governance issues, including, *inter alia*, *The Plaintiffs' Perspective, Securities Regulation and the New Law*, National Legal Center for the Public Interest, No. 1, Sept. 1996; *The Sarbanes-Oxley Bill Provides No Assistance To Investors Seeking To Recovery From Corporate Fraud*, ABA Annual Meeting, August 2002; and *The Analyst Cases Involving Merrill Lynch, and Its Internet Analyst Henry Blodget, and Salomon Smith Barney and Its Telecommunications Analyst Jack Grubman*, Mass Torts Made Perfect (presented January 2003); *Coming to Terms with Loss Causation after Dura: A Response to Professors Portnoy, Ferrell, and Saha*, Journal of Corporation Law (publication pending).

Mr. Toll is an honors graduate of the Wharton School of the University of Pennsylvania (B.S., Accounting, *cum laude*, 1972). He graduated from Georgetown University Law Center (J.D., 1975) where he was Special Project Editor of the Tax Lawyer.

Mr. Toll is admitted to practice in Virginia and the District of Columbia.

Joseph M. Sellers

Joseph Sellers, a Partner at the Firm and head of the Civil Rights & Employment practice group, joined Cohen Milstein in 1997.

Mr. Sellers has represented victims of discrimination and other illegal employment practices individually and through class actions. He has tried several civil rights class actions to judgment before juries and has argued more than 25 appeals in the federal and state appellate courts, including the United States Supreme Court. He has served as class counsel, and typically lead counsel, in more than 30 civil rights and employment class actions.

Those cases have included: *Beck. v. Boeing Company* (W.D. Wash.), which included a class of more than 28,000 women employees at Boeing facilities in Washington state alleging sex discrimination in pay and overtime decisions; *Conway, et al. v. Deutsch* (E.D. Va.), for a class of all female undercover case officers at the CIA alleging sex discrimination in promotions and job assignments; *Dukes v. Wal-Mart Stores, Inc.* (N.D. Cal.), where the Court has certified the largest class in such a case: more than 1.5 million women employees at Wal-Mart stores, alleging sex discrimination in promotions and pay decisions; *Johnson, et al. v. Freeh* (D.D.C.), for a class of African-American FBI special agents alleging racial discrimination in promotion and job assignments; *Keepseagle v. Veneman* (D.D.C.), for a class of Native American farmers and ranchers denied equal credit opportunities by USDA; *Neal v. Director, D.C Dept. of Corrections* (D.D.C.), the first sexual harassment class action tried to a jury, for a class of women correctional employees and women and men subject to retaliation at the D.C. Department of Corrections; and *Trotter, et al. v. Perdue Farms* (D.Del.), for a company-wide collective action brought under the Fair Labor Standards Act for violations of federal wage and hour law.

Throughout his career, Mr. Sellers has also been active in legislative matters. He has testified more than 20 times before Committees of the United States Senate and House of Representatives on various civil rights and employment matters. He worked on the passage of the Civil Rights

Act of 1991, the Americans with Disabilities Act of 1990, and the Lily Ledbetter Fair Pay Restoration Act of 2009.

Mr. Sellers has trained lawyers at the U.S. Equal Employment Opportunity Commission and the U.S. Department of Justice on the trial of civil rights cases and has lectured extensively throughout the country on various civil rights and employment topics. He was an Adjunct Professor at the Washington College of Law at American University, where he taught Employment Discrimination law, and at the Georgetown University Law Center, where he taught a course on Professional Responsibility.

He served on the Clinton/Gore Transition Team in 1992 and 1993. He headed the teams reviewing the operations of the EEOC, the Office of the Assistant Attorney General for Civil Rights, and various sections of the Civil Rights Division of the Department of Justice. He also served as a Co-Chair of the Task Force of the D.C. Circuit on Gender, Race and Ethnic Bias and was appointed by panels of the D.C. Circuit Court of Appeals and the U.S. District Court for the District of Columbia.

At the request of the Ford Foundation and the American Bar Association, Mr. Sellers delivered a series of lectures and designed and delivered a mock trial on civil rights law to Chinese judges, lawyers and other government officials in China.

Mr. Sellers has been recognized as one of the top lawyers in Washington and as one of the top 10 plaintiffs' employment lawyers in the country. In 2010, he was recognized as one of "The Decade's Most Influential Lawyers" by *The National Law Journal*. He is a professionally-trained mediator and has served as the President of the Washington Council of Lawyers.

Prior to joining Cohen Milstein, Mr. Sellers served as head of the Employment Discrimination Project of the Washington Lawyers' Committee for Civil Rights and Urban Affairs for over 15 years.

Mr. Sellers received a J.D. from Case Western Reserve School of Law (1979), where he served as Research Editor of the *Case Western Reserve Law Review*, and a B.A. in American History and Literature from Brown University (1975).

Mr. Sellers is admitted to practice in the District of Columbia.

Richard A. Koffman

Richard Koffman, a Partner at the Firm, joined Cohen Milstein in 2003 and is a member of the Antitrust practice group. He is also Chair of the Firm's Ethics Committee.

Mr. Koffman is currently serving as co-lead counsel for plaintiffs in, among other cases, *In re Urethane Antitrust Litigation* (D. Kan.), in which plaintiffs allege price-fixing of chemicals used in the manufacture of polyurethanes; *In re Endosurgical Products Antitrust Litigation* (C.D. Cal.), in which plaintiffs allege that defendants unlawfully monopolized the market for medical devices used in keyhole surgery; and *Coalition for Elders' Independence, Inc., et al. v. Biovail*

Corp., et al. (Cal. Super. Ct.), in which plaintiffs allege unlawful allocation of the market for branded and generic Nifedipine, a drug used to treat hypertension. Mr. Koffman also served as co-lead counsel for plaintiffs in *In re Rubber Chemicals Antitrust Litigation* (N.D. Cal.), which settled for a total of approximately \$320 million; and *In re Polyester Staple Antitrust Litigation* (W.D.N.C.), which settled for a total of \$46 million.

Mr. Koffman came to Cohen Milstein after four years with the Antitrust and Civil Rights Divisions of the United States Department of Justice. In the Antitrust Division, Mr. Koffman served as a Senior Trial Attorney with the Computers and Finance Section (now Networks and Technology), which is responsible for antitrust enforcement and competition policy in the areas of information technology, Internet-related businesses, financial services, and the securities industry. In the Civil Rights Division, he served as a Senior Trial Attorney with the Housing and Civil Enforcement Section, where he worked to enforce the Fair Housing Act, the Equal Credit Opportunity Act, the Religious Land Use and Institutionalized Persons Act, and Title II of the Civil Rights Act of 1964.

Prior to joining the Department of Justice, Mr. Koffman spent seven years in private practice, first with Fine, Kaplan and Black in Philadelphia (working primarily on antitrust class actions and other complex commercial litigation) and then with Bernabei & Katz in Washington, D.C. (handling employment discrimination cases). While at Fine Kaplan, Mr. Koffman was actively involved in litigating several successful antitrust class actions on behalf of plaintiffs and classes, including *In re Nasdaq Market-Makers Antitrust Litigation* (S.D.N.Y.) (settled for more than \$1 billion); *In re Polypropylene Carpet Antitrust Litigation* (N.D. Ga.); *In re Commercial Explosives Antitrust Litigation* (D. Utah); and *In re Drill Bits Antitrust Litigation* (S.D. Tex.). He was also co-counsel, along with John G. Roberts, Jr., who was then a Partner at Hogan & Hartson and is now Chief Justice of the United States Supreme Court, for Respondents in *First Options of Chicago, Inc. v. Kaplan*, 514 U.S. 938 (1995). In that case, argued by Mr. Roberts with Mr. Koffman assisting on the briefs, Mr. Koffman's clients won a unanimous ruling by the United States Supreme Court.

Immediately after law school, Mr. Koffman served as a judicial clerk for Judge James B. McMillan of the Western District of North Carolina, and for Judge Anthony J. Scirica of the United States Court of Appeals for the Third Circuit.

Mr. Koffman is a graduate of Yale Law School (J.D., 1990), where he was a Senior Editor of the *Yale Law Journal*, and Wesleyan University, from which he received a B.A., with honors, in English (1986).

Mr. Koffman is admitted to practice in the District of Columbia, the United States Supreme Court, and the United States Courts of Appeals for the Eighth and Tenth Circuits.

Christine E. Webber

Christine Webber, a Partner at the Firm and a member of the Civil Rights & Employment practice group, joined Cohen Milstein in 1997. She is the Partner in charge of the law clerk and summer associate program.

Ms. Webber represents plaintiffs in class action employment discrimination and Fair Labor Standards Act cases. Ms. Webber's current docket includes *Dukes v. Wal-Mart Stores, Inc.* (N.D. Cal.), a certified class action for over 1.6 million current and former female employees of Wal-Mart with complaints of discrimination in pay and promotion; *O'Connor v. BASF*, (N.J.), a certified class action alleging age discrimination by BASF in a series of RIF's; and *In re Tyson Foods FLSA MDL*, (M.D. Ga.), a collective action involving FLSA claims at over 40 Tyson chicken processing plants.

She represented plaintiffs in *Beck v. The Boeing Co.* (W.D. Wash.), a class action alleging sex discrimination in compensation and promotions which settled in 2004 for \$72.5 million. She was also lead counsel in *Hnot v. Willis* (S.D.N.Y.), representing a class of women at the vice-president level and above whose challenge to sex discrimination in compensation resulted in a settlement averaging \$50,000 per class member in 2008. She was counsel in *Trotter v. Perdue* (D. Del.), representing plaintiffs who were wrongly denied payment of overtime wages, and obtaining a \$10 million settlement.

In 2004 and 2007, Ms. Webber was named one of the Top Lawyers in Washington, D.C. by Washingtonian Magazine and was named one of the 2007 Washington, D.C. Superlawyers in the Civil Rights category.

Prior to joining Cohen Milstein, Ms. Webber received a Women's Law and Public Policy fellowship and worked for four years at the Washington Lawyers' Committee for Civil Rights and Urban Affairs in their Equal Employment Opportunity Project. She worked on a variety of employment discrimination cases, and focused in particular on the sexual harassment class action *Neal v. Director, D.C. Department of Corrections, et al.* Ms. Webber participated in the trial of this ground-breaking sexual harassment class action in 1995. Ms. Webber also tried the race discrimination case *Cooper v. Paychex* (E.D. Va.), and successfully defended the plaintiffs' verdict before the Fourth Circuit.

Ms. Webber is a member of the National Employment Lawyers' Association (NELA) and co-chair of their Class Action Committee. She is also co-chair of the Class Action Sub-committee of the D.C. Bar Labor and Employment Law Section. She speaks regularly at CLE programs on employment discrimination and class actions, including presentations for NELA.

She graduated from Harvard University with a B.A. in Government (*magna cum laude*, 1988) and the University of Michigan Law School (J.D., *magna cum laude*, 1991, Order of the Coif). Following law school, Ms. Webber clerked for the Honorable Hubert L. Will, United States District Judge for the Northern District of Illinois.

Ms. Webber is admitted to practice in Illinois and the District of Columbia.

Victoria S. Nugent

Victoria Nugent, a Partner at the Firm, joined Cohen Milstein in 2000 and is a member of the Consumer Protection & Unsafe Products practice group.

Ms. Nugent has focused on consumer protection and public health litigation throughout her career. Past cases include *In re StarLink Product Liability Litigation*, in which she represented farmers suing Aventis CropScience after an unapproved variety of genetically modified corn was detected in the U.S. corn supply and drove down prices for all U.S. corn exports. More than \$100 million was recovered for the class in a landmark settlement. She also represented car owners seeking to enforce product warranties for an extended life coolant in *In re General Motors Dex-Cool Products Liability Litigation*. The Dex-Cool litigation ended with a settlement under which General Motors reimbursed its customers for repairs. Ms. Nugent has argued cases before the high courts of Georgia, Nebraska and the District of Columbia, as well as the federal D.C. Circuit Court of Appeals.

Ms. Nugent is currently working on cases against Sallie Mae, alleging excessive interest and late fee charges on student loans, and Vonage, alleging deceptive business practices in advertising and administering promotional offers.

Before joining Cohen Milstein, Ms. Nugent worked for seven years at Public Citizen, a national consumer advocacy organization. During that time, she worked on many legislative and regulatory campaigns addressing issues that ranged from automobile safety to international trade policy. In 1998, Ms. Nugent received a two-year fellowship sponsored by the National Association for Public Interest Law (NAPIL). As a NAPIL Fellow, she worked at Trial Lawyers for Public Justice (TLPJ), where she helped develop and prosecute impact litigation in the areas of arbitration, banking, credit and insurance.

Ms. Nugent received her undergraduate degree in History from Wesleyan University in 1991 and graduated from Georgetown University Law Center in 1998.

Ms. Nugent is admitted to practice in the District of Columbia and Maryland.

Charles Tompkins

Charles Tompkins, a former Partner of Cohen Milstein, joined the Firm in 1999 and was a member of the Antitrust and Civil Rights & Employment practice groups, with an emphasis on obtaining redress on behalf of employees who have not been paid all of the wages they are owed.

While at Cohen Milstein, Mr. Tompkins represented Registered Nurses employed by hospitals in Albany, Chicago, Detroit, Memphis, and San Antonio in lawsuits alleging that their employers unlawfully fixed their wages in violation of federal antitrust laws. Mr. Tompkins also served as a member of the co-lead counsel team in *In Re Air Cargo Antitrust Litigation* (E.D.N.Y.), a multi-billion dollar antitrust action alleging that the world's major cargo airlines colluded in setting the amounts of various surcharges they imposed on their customers, and *In Re Air Transportation Antitrust Litigation* (N.D. Cal.), a federal antitrust action challenging a conspiracy among airlines to fix the amount of the fuel surcharge imposed on flights to and from Heathrow airport in London. Mr. Tompkins was a member of the trial team that, following a two-week jury trial, obtained a \$56.4 million judgment on behalf of Maine wild blueberry growers who alleged their suppliers fixed the prices of wild blueberries. Mr. Tompkins also was a member of the team that

litigated the federal antitrust action *Paper Systems, Inc. v. Mitsubishi Corp. et al.* (E.D.Wisc.), which settled for \$20 million on the eve of trial.

In the employment field, Mr. Tompkins has represented a wide variety of employees, and twice obtained summary judgment on behalf of nationwide classes of Auto Damage Adjusters whose employer, GEICO, refused to pay them overtime. See *Robinson-Smith v. GEICO* (D.D.C.); *Lindsay v. GEICO* (D.D.C.). GEICO began paying overtime shortly after the adjusters' victory, and the United States Department of Labor has since cited *Robinson-Smith* in an official opinion letter. Mr. Tompkins also was part of the legal team that obtained a \$10 million settlement on behalf of chicken-processing workers who were not paid for the time they spent putting on and taking off their required safety equipment, *Trotter v. Perdue Farms, Inc., et al.* (D. Del.). Perdue Farms changed its practices as part of a global settlement and now pays its employees for this time. Mr. Tompkins was also a member of the team litigating *Dukes v. Wal-Mart Stores, Inc.* (N.D.Cal.), the largest certified Title VII class action in history, in which female employees of Wal-Mart seek redress for unfair gender discrimination, and *Hnot v. Willis, et al.* (S.D.N.Y.), in which a certified class of over one hundred female insurance brokerage executives allege sexual discrimination in compensation and promotions. Mr. Tompkins also served, on a *pro bono* basis, as a consultant for the Immigrant and Refugee Rights Project at the Washington Lawyers Committee for Civil Rights And Urban Affairs, providing guidance and oversight in litigations brought on behalf of immigrant workers subject to wage and hour violations.

Mr. Tompkins has significant appellate appearance. He second-chaired the argument of *Free v. Abbott Laboratories* before the United States Supreme Court; briefed and successfully argued *Lindsay v. GEICO* before the United States Court of Appeals for the District Of Columbia Circuit; and briefed and argued *Manchester v. Primerica Financial Services, et al.*, which was successfully settled prior to the issuance of a decision, before the United States Court of Appeals for the Eleventh Circuit.

Mr. Tompkins is the author of "Damages Issues in Fair Labor Standards Act Collective Action Litigation," and the co-author, with Michael Hausfeld and Kalpana Kotagal, of "Innovation, Economics and the Law: The Health Care Industry's Exposure to Antitrust Liability," published by the ABA Antitrust Law Section in 2007. He has been asked on several occasions to lecture on employment law matters by both the American Bar Association and the National Employment Law Association.

Prior to joining Cohen Milstein, Mr. Tompkins was an associate with the Washington, D.C. office of Akin, Gump, Strauss, Hauer & Feld, L.L.P. He graduated *magna cum laude* from Colgate University and received his J.D. from the University of Virginia School of Law. He is licensed to practice in New York and the District of Columbia.

Llezzie L. Green-Coleman

Llezzie Green, a former Associate at Cohen Milstein, joined the Firm in 2004 and was a member of the Civil Rights & Employment practice group prior to leaving the firm in 2010.

Ms. Green was involved in *Chase v. AIMCO*, alleging that the U.S.'s largest apartment management company violates the Fair Labor Standards Act by failing to pay its maintenance employees for time spent responding to emergency tenant service requests; and *Amos v. GEICO*, alleging *GEICO* discriminates against African-Americans through its use of occupation and level of education in setting automobile insurance rates.

Ms. Green is a member of the American Bar Association, the National Employment Lawyers Association and the Washington Council of Lawyers. She is co-chair of the ABA's Committee on Equal Opportunity in the Legal Profession.

Before joining Cohen Milstein, Ms. Green worked for Wilmer Cutler & Pickering, where she focused on complex litigation and securities investigations and worked on various civil rights and international human rights *pro bono* projects. Ms. Green then clerked for the Honorable Alexander Williams, Jr. on the United States District Court for the District of Maryland.

Ms. Green graduated from Dartmouth College with a B.A. in Government (*cum laude*, 1997) and Columbia Law School (J.D., 2002), where she was a Harlan Fiske Stone Scholar. At Columbia, Ms. Green was active in the Black Law Students Association, participated in the Human Rights Clinic, and served as an Articles Editor for the Columbia Human Rights Law Review. She authored a Note, *Gender Hate Propaganda and Sexual Violence in the Rwandan Genocide: An Argument for Intersectionality in International Law*, 33 Colum. Hum. Rts. L. Rev. 733 (2002). While in law school, Ms. Green interned at the Center for Constitutional Rights and the NAACP Legal Defense and Educational Fund.

Ms. Green is admitted to practice in New York and the District of Columbia.

Suzette M. Malveaux

Suzette Malveaux, a former Associate at Cohen Milstein, joined the firm in 1998 and was a member of the firm's civil rights and employment discrimination practice group and consumer products group for 8 years.

Prior to joining Cohen Milstein, Ms. Malveaux worked as a staff attorney at the Washington Lawyers' Committee for Civil Rights and Urban Affairs. At the Lawyers' Committee, Ms. Malveaux litigated a variety of cases in the areas of fair housing, fair lending and public accommodations. Ms. Malveaux represented plaintiffs in such class actions as *Pugh et al. v. Avis Rent-a-Car* and *Stackhaus et al. v. NationsBank*. Ms. Malveaux also clerked for the Honorable Robert L. Carter, United States District Court (S.D.N.Y.).

Ms. Malveaux graduated from Harvard University (A.B. magna cum laude 1988) and New York University School of Law (J.D. 1994) as a Root-Tilden-Snow Scholar. While at NYU, Ms. Malveaux served as an Editor on the Law Review and was awarded the Judge Rose L. Herbert Rubin Law Review Prize for her writing in international, commercial and public law. She also received the Vanderbilt Medal and fellowships from the Center for International Studies and the American Association of University Women.

Ms. Malveaux is a member of the bars of Maryland, the District of Columbia, the United States Court of Appeals for the Third Circuit and the United States Supreme Court. She is also a member of the National Bar Association and the National Employment Lawyers Association.

Peter Romer-Friedman

Peter Romer-Friedman joined Cohen Milstein in 2009 as an Associate and is a member of the Civil Rights and Employment Practice Group.

Prior to joining the firm, Mr. Romer-Friedman served as labor counsel for the U.S. Senate Committee on Health, Education, Labor and Pensions and its Chairman, Senator Edward M. Kennedy. Mr. Romer-Friedman assisted Chairman Kennedy and other Senators in drafting legislation, speeches, and regulatory comments, and holding hearings on a range of labor, employment, and civil rights issues.

Prior to his work in the Senate, Mr. Romer-Friedman served as a law clerk to the Honorable Stephen Reinhardt of the U.S. Court of Appeals for the Ninth Circuit in Los Angeles.

Mr. Romer-Friedman graduated from the University of Michigan at Ann Arbor with a B.A. in Honors Economics and Social Science (cum laude and Phi Beta Kappa, 2001) and Columbia Law School (J.D., 2006), where he was a James Kent Scholar and a Harlan Fiske Stone Scholar. While at Columbia, Mr. Romer-Friedman served as managing editor of the Columbia Journal of Law & Social Problems, authored a Note, *Eliot Spitzer Meets Mother Jones: How State Attorneys General Can Enforce State Wage and Hour Laws*, 39 Colum. J.L. & Soc. Probs. 495 (2006), and was as an extern to the Honorable Shira Scheindlin, U.S. District Court for the Southern District of New York. In addition, he was the recipient of the Emil Schlesinger Labor Prize and the ABA-BNA Award for Excellence in the Study of Labor and Employment Law.

While at Michigan, he received the national Harry S. Truman Scholarship for Public Service and co-founded the Worker Rights Consortium, a non-profit organization that monitors labor rights in apparel factories worldwide.

Prior to law school, Mr. Romer-Friedman was a Legislative Representative for the United Steelworkers of America, and worked for several other labor organizations, including the AFL-CIO, UNITE!, and SEIU.

Mr. Romer-Friedman is admitted to practice in New York and the District of Columbia.

Abby Shafroth

Abby Shafroth joined Cohen Milstein as an Associate in 2010 and is a member of the Civil Rights & Employment practice group.

Prior to joining the firm, Ms. Shafroth was a fellow and associate counsel for the Lawyers' Committee for Civil Rights Under Law in the Fair Housing and Employment Discrimination Projects, where she litigated complex civil rights cases challenging exclusionary zoning and

employment discrimination. She also served as a law clerk for the Honorable Richard A. Paez of the United States Court of Appeals for the Ninth Circuit.

Ms. Shafroth graduated from Harvard College with an A.B. in Psychology (*cum laude*, 2004) and Harvard Law School (*cum laude*, 2008). During law school, Ms. Shafroth served as Articles Editor for the *Harvard Law Review* and as Editor for the *Civil Rights - Civil Liberties Law Review*. She also assisted in the employment civil rights group at the WilmerHale Legal Services Center and worked with Ghana Legal Services in studying local health care delivery in rural Ghana. In addition, Ms. Shafroth spent summers working with the Lawyers' Committee for Civil Rights Under Law, Covington & Burling, and the Civil Rights Bureau of the New York State Office of the Attorney General.

Ms. Shafroth is admitted to the New York State Bar and she is practicing under the supervision of Joseph M. Sellers, a member of the D.C. Bar.

Daniel Tenny

Daniel Tenny, a former Associate at Cohen Milstein, joined the Firm in September 2007 and was a member of the Civil Rights & Employment practice group prior to leaving the firm in 2009.

Mr. Tenny was involved in *Keepseagle v. Johanns*, in which Native American farmers and ranchers allege discrimination in the United States Department of Agriculture's provision of agricultural loans, and *Amos v. GEICO*, in which African-American consumers allege that GEICO discriminates against them by considering level of education and occupation when it sets automobile insurance rates.

Prior to joining the Firm, Mr. Tenny served as a law clerk for the Honorable David H. Souter of the Supreme Court of the United States. Before his clerkship with Justice Souter, he was a law clerk for the Honorable David S. Tatel of the United States Court of Appeals for the District of Columbia Circuit.

Mr. Tenny graduated from Harvard University (A.B. in Mathematics, *cum laude*, 1999) and the University of Michigan Law School (J.D., *summa cum laude*, 2005). While at Michigan, he served as Executive Note Editor of the Michigan Law Review and published his own Note, *There Is Always a Need: The "Necessity Doctrine" and Class Certification Against Government Agencies*, 103 Mich. L. Rev. 1018 (2005). Mr. Tenny spent his summers during law school in the Housing Unit at South Brooklyn Legal Services and in the Office of General Counsel at the Equal Employment Opportunity Commission.

Mr. Tenny is admitted to practice in New York and the District of Columbia.

EXHIBIT B

Lodestar Summary: The chart below identifies Cohen Milstein Sellers & Toll attorneys, paralegals, and law clerks who recorded more than 10 hours of time to *Keepseagle v. Vilsack*, the hours they expended, their current hourly billing rate, and their total fees through November 30, 2010. For those no longer employed by Cohen Milstein, the chart reflects billing rates during their final year of employment by the firm.

<u>Employee Name</u>	<u>Title</u>	<u>Hourly Rate</u>	<u>Hours</u>	<u>Lodestar Fees</u>
Steven Toll	Partner	\$785.00	114.25	\$89,686.25
Joseph Sellers	Partner	\$715.00	3,996.94	\$2,857,812.10
Richard Koffman	Partner	\$615.00	63.00	\$38,745.00
Christine Webber	Partner	\$590.00	1,555.35	\$917,656.50
Victoria Nugent	Partner	\$530.00	315.75	\$167,347.50
Charles Tompkins	Partner	\$440.00	523.00	\$230,120.00
Llezzlie Green-Coleman	Associate	\$440.00	3,023.70	\$1,330,428.00
Peter Romer-Friedman	Associate	\$350.00	925.61	\$323,963.50
Anurag Varma	Associate	\$345.00	2,158.16	\$744,565.20
Daniel Tenny	Associate	\$315.00	1,980.00	\$623,700.00
Suzette Malveaux	Associate	\$310.00	562.25	\$174,297.50
Abby Shafroth	Associate	\$295.00	53.50	\$15,782.50
Carina Ndiaye	Staff Attorney	\$240.00	876.55	\$210,372.00
Abigail Fu	Paralegal	\$220.00	27.00	\$5,940.00
Amber Bullard	Paralegal	\$220.00	13.50	\$2,970.00
Ariel Wentworth	Paralegal	\$220.00	13.50	\$2,970.00
Chynna Wendell	Paralegal	\$220.00	2,193.50	\$482,570.00
David Greenberg	Paralegal	\$220.00	301.50	\$66,330.00
Kari Fiore	Paralegal	\$220.00	11.75	\$2,585.00
Tyler Gaffney	Paralegal	\$220.00	25.25	\$5,555.00
Valerie Esch	Paralegal	\$220.00	41.00	\$9,020.00
Dana Frusco	Paralegal	\$200.00	47.50	\$9,500.00
Tracy Phillips	Paralegal	\$200.00	77.25	\$15,450.00

Zerai Araya	Paralegal	\$200.00	11.25	\$2,250.00
Jessica Lyn	Associate	\$195.00	136.50	\$26,617.50
Besret Gebrewold	Law Clerk	\$190.00	22.50	\$4,275.00
Adrian Esguerra	Law Clerk	\$185.00	39.50	\$7,307.50
Daniel Taylor	Law Clerk	\$185.00	24.00	\$4,440.00
Harini Raghupathi	Law Clerk	\$185.00	61.50	\$11,377.50
Joseph Rocco	Paralegal	\$180.00	73.75	\$13,275.00
Oliver Abbott	Paralegal	\$180.00	48.50	\$8,730.00
Usha Neelakantan	Paralegal	\$180.00	1,129.50	\$203,310.00
Karen Schmidt	Paralegal	\$175.00	113.50	\$19,862.50
Katherine Kimple	Law Clerk	\$175.00	83.75	\$14,656.25
Maria Antos-Fallon	Paralegal	\$175.00	330.00	\$57,750.00
Sarah Ghani	Law Clerk	\$175.00	17.00	\$2,975.00
Christopher Scherman	Paralegal	\$170.00	59.25	\$10,072.50
Thomas Carr	Paralegal	\$170.00	64.75	\$11,007.50
Toni Kirby	Paralegal	\$170.00	247.00	\$41,990.00
Maria Liu	Paralegal	\$165.00	532.25	\$87,821.25
Adam Nyham	Law Clerk	\$160.00	14.75	\$2,360.00
Adrienne Rosen	Law Clerk	\$160.00	25.00	\$4,000.00
Kimberly Brenner	Paralegal	\$155.00	14.00	\$2,170.00
Ashley Kushner	Law Clerk	\$145.00	22.50	\$3,262.50
Jante Santos	Law Clerk	\$145.00	32.50	\$4,712.50
Adler Bernard	Law Clerk	\$135.00	31.00	\$4,185.00
Edye Olalia	Law Clerk	\$135.00	16.00	\$2,160.00
Joel Najar	Law Clerk	\$135.00	56.25	\$7,593.75
Louis Smith	Law Clerk	\$135.00	24.50	\$3,307.50
Robyn Rimmer	Law Clerk	\$135.00	14.00	\$1,890.00
Victor Montas	Paralegal	\$135.00	154.75	\$20,891.25

Yaser Al-Keliddar	Paralegal	\$135.00	16.25	\$2,193.75
Janee Davis	Paralegal	\$125.00	10.75	\$1,343.75
Karie Annaccone	Paralegal	\$100.00	32.75	\$3,275.00
Total			22,359.31	\$8,918,428.55

EXHIBIT C

The following chart provides a summary of expenses incurred by Cohen Milstein through November 30, 2010, in furtherance of Plaintiffs' claims in *Keepseagle v. Vilsack*, Civil Action No. 1:99CV03119:

<u>Expense Type</u>	<u>Expense Amount</u>
In-house Duplicating	\$29,272.80
Outside Duplicating	\$62,480.20
Duplication Audio/Video Tape	\$6,979.11
Long Distance Tele. (Internal)	\$10,222.73
Long Distance (Third Party)	\$3,005.28
Postage	\$3,604.25
Local Courier	\$2,786.13
Air Courier	\$5,765.40
Process Server Fee	\$380.85
Other Court Fees	\$175.00
Court Reporter Fees	\$33,007.54
Transcripts	\$23,301.09
Lexis	\$24,396.35
Other Computer Services	\$33,041.95
Travel - Transportation	\$52,766.72
Travel - Hotel	\$15,652.95
Travel - Taxis, Tips	\$2,588.70
Travel - Meals	\$5,385.55
Travel - Long Dist. Phone	\$191.54
Travel - Miscellaneous	\$123.31
Travel - Parking Charges	\$611.00
Local Transportation	\$2,689.31
Expert Witness/Consultant	\$584,307.23
Trial Testimony Expense	\$36,018.75
Professional Services	\$147,204.58
Media Services	\$747.35
Witness Transportation	\$23,954.37
Witness Hotel	\$4,973.49
Witness Meals	\$386.58
Books/Magazines	\$122.62
Government Reports	\$675.50
Other Publications	\$301.34
Conferences/Seminars	\$3,130.41
Secretarial Overtime	\$976.80
Overtime Transportation	\$1,597.14
Overtime Meals	\$1,454.81
Supplies	\$823.17
Business Meals	\$6,716.18
Total	\$1,131,818.08