

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT
HARTFORD DIVISION**

Beth Andrew-Berry, individually and as a representative of the GWA, LLC 401(k) Profit Sharing Plan and a class of similarly situated persons,

Plaintiff,

v.

George A. Weiss and GWA, LLC,

Defendants.

Case No.: 3:23-CV-00978-OAW

August 4, 2025

**DECLARATION OF MICHELLE C. YAU IN SUPPORT OF PLAINTIFF’S MOTION
FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT AND PLAINTIFF’S
MOTION FOR ATTORNEYS’ FEES, EXPENSE REIMBURSEMENTS, AND CLASS
REPRESENTATIVE SERVICE AWARD**

I, Michelle C. Yau, declare as follows:

1. I am a partner at Cohen Milstein Sellers & Toll PLLC (“Cohen Milstein” or “CMST”) and Chair of Cohen Milstein’s ERISA litigation practice group. My firm is Counsel for Plaintiff and the Settlement Class in this Action. I am admitted to practice in the United States District Court for the District of Connecticut (Bar #: ct31491). I am also a member in good standing of the State Bar of Massachusetts (Bar #: 657236) and the Bar for the District of Columbia (Bar #: 980449).

2. I, along with other attorneys from firm, have prosecuted this litigation on behalf of Plaintiff and the Class since its inception. I make this declaration based on personal knowledge and, if called at trial, could and would testify competently to the facts stated herein.

3. I graduated from Harvard Law School where I was awarded several public interest fellowships, including the Heyman Fellowship for academic excellence and a demonstrated commitment to public service. I graduated Phi Beta Kappa with a B.A. in Mathematics from the University of Virginia. After obtaining my degree in mathematics, and before entering law school, I worked at Goldman Sachs, one of the most prestigious investment banks on Wall Street. During my time as an investment banker at Goldman Sachs, I gained expertise in finance, accounting, financial modeling, and stock valuation techniques.

4. Prior to joining Cohen Milstein, I was an Honors Program Attorney at the Department of Labor where I enforced and administered a variety of labor statutes, including ERISA. For the past eighteen years, my practice has consisted entirely of ERISA class action litigation. I am a senior editor of the fiduciary chapter of *Employee Benefits Law*, which is a well-known ERISA treatise published by *Bloomberg BNA*. I am also a frequent speaker on ERISA issues at conferences and webinars sponsored by the American Bar Association and the Practicing Law Institute, as well as other organizations.

5. Cohen Milstein is a leader in class action litigation generally and has a premier ERISA class action practice that is nationally recognized. Based on its many successes, *The National Law Journal* named my firm “Plaintiff Law Firm of the Year” at the 2025 Elite Trial Lawyers Awards. In 2025, *The National Law Journal* also recognized me personally as one of the “Elite Women of the Plaintiffs Bar.” Cohen Milstein has also been named as one of the “Most Feared Plaintiffs Firms” by *Law360*, and *Forbes* has called Cohen Milstein a “class action powerhouse.” In 2024, Cohen Milstein was named by *The National Law Journal* as an “Elite Trial Lawyer” finalist in numerous practice areas including “Plaintiffs’ Law Firm of the Year” and “Class Action – Practice of the Year.” The 2022 Edition of *U.S. News – Best Lawyers* “Best Law

Firms” recognized Cohen Milstein as among the “Top Firms Nationally.” In 2021, *The American Lawyer* named Cohen Milstein as a finalist for the “National Boutique / Specialty Litigation Department of the Year Award.” The firm has also been named among the “Best Law Firms for Female Attorneys” in *Law360*’s 2023 “Glass Ceiling Report.”

6. Cohen Milstein’s ERISA Practice Group, which I lead, has been devoted exclusively to litigating complex ERISA class actions for over twenty-five years and has played a significant role in the development of employee benefits law. Based on these successes, our ERISA team was named by *Law360* as “Practice Group of the Year – Benefits” in 2019, 2021, and 2022.

7. I had the honor of being named *Law360*’s “MVP – Benefits,” which recognizes the top five ERISA/Benefits lawyers in the country in 2021 and 2024 and, as noted above, this year I was named as one of *The National Law Journal*’s “Elite Women of the Plaintiffs Bar (2025).” Also, from 2022 through 2025, the leading attorney-ranking service *Chambers USA* gave Cohen Milstein its highest ranking for ERISA litigation on behalf of plaintiffs nationwide (First Band). In conferring this honor, *Chambers USA* has noted that “Cohen Milstein Sellers & Toll is highly regarded for its representation of plaintiffs in ERISA class actions. The firm is regularly sought out to represent plan participants and beneficiaries in a range of ERISA claims including breach of fiduciary duty.”

8. My team has successfully secured hundreds of millions of dollars for ERISA classes in lawsuits alleging fiduciary breach and prohibited transaction violations. For example, as lead trial counsel in an ERISA class action, I obtained a \$32.5 million settlement in *Becker v. Wells Fargo & Co.*, No. 0:20-cv-02016 (D. Minn. Aug. 31, 2022), ECF No. 283, and a \$19 million settlement received final approval on July 18, 2024 in *Krohnengold v. New York Life*

Insurance Co., No. 1:21-cv-01778-JMF (S.D.N.Y. July 18, 2024), ECF No. 202. My firm also obtained the following results through ERISA class settlements:

- \$14.75 million settlement on behalf of CITGO retirees in *Urlaub v. CITGO Petroleum Corp.*, No. 1:21-cv-04133 (N.D. Ill. Jan. 27, 2025), ECF No. 175;
- \$15 million settlement for an ESOP class in *Smith v. GreatBanc Trust Co.*, No. 1:20-cv-02350 (N.D. Ill. Aug. 23, 2023), ECF No. 163;
- \$14.5 million settlement for an ESOP class in *Burnett v. Prudent Fiduciary Services LLC*, No. 1:22-cv-00270-RGA (D. Del. Jan. 14, 2024), ECF No. 163; and
- \$8.7 million settlement for an ESOP class in *Ahrendsen v. Prudent Fiduciary Services, LLC*, No. 2:21-cv-02157-HB (E.D. Pa. June 22, 2023), ECF No. 105.

9. Cohen Milstein also served as co-lead counsel in *In re Merrill Lynch, & Co. Securities, Derivative and ERISA Litigation*, No. 1:07-cv-10268 (S.D.N.Y. 2009), which involved a public ESOP and claims that Merrill Lynch fiduciaries imprudently purchased and held inflated Merrill stock. We achieved a \$75 million settlement for the class of ERISA plan participants.

10. Cohen Milstein also represented an ERISA certified class in *In re Beacon Associates Litigation*, No. 1:09-cv-0777 (S.D.N.Y. 2013). At the fairness hearing, Judge McMahon praised the settlement and “the hard work that all of you put into trying to get a global resolution of all of these cases The settlement process really was quite extraordinary.”

11. I am currently representing ESOP participants in a number of additional class actions or putative class actions asserting ERISA fiduciary breach and prohibited transaction claims similar to those here. *See, e.g., Zavala v. Kruse-Western, Inc.*, No. 1:19-cv-00239 (E.D. Cal. filed Feb. 19, 2019); *Harrison v. Envision Mgmt. Holding, Inc. Bd. Of Dirs.*, No. 1:21-cv-00304 (D. Colo. filed Jan. 29, 2021); *Lloyd v. Argent Tr. Co.*, No. 1:22-cv-04129 (S.D.N.Y. filed May 23,

2022); *Ramirez v. AMPAM Parks Mechanical, Inc.*, No. 5:24-cv-01038 (C.D. Cal. filed May 16, 2024).

12. We have achieved favorable pretrial rulings in several of these cases. *See Lloyd v. Argent Tr. Co.*, No. 1:22-cv-04129, 2022 WL 17542071 (S.D.N.Y. Dec. 6, 2022) (denying motion to compel arbitration and motion to dismiss for lack of standing); *Burnett v. Prudent Fiduciary Servs. LLC*, No. 1:22-cv-00270-RGA, 2023 WL 387586 (D. Del. Jan. 25, 2023), *report and recommendation adopted*, No. 1:22-cv-00270-RGA, 2023 WL 2401707 (D. Del. Mar. 8, 2023), *aff'd*, No. 23-1527, 2023 WL 6374192 (3d Cir. Aug. 15, 2023) (denying motion to compel arbitration); *Harrison v. Envision Mgmt. Holding, Inc. Bd. of Dirs.*, 593 F. Supp. 3d 1078 (D. Colo. 2022) (denying motion to compel arbitration); *Zavala v. Kruse-Western, Inc.*, 398 F. Supp. 3d 731 (E.D. Cal. 2019) (denying in part motions to dismiss); *Zavala v. Kruse-Western, Inc.*, 562 F. Supp. 3d 1059 (E.D. Cal. 2021) (denying motion for judgment on the pleadings and motion for summary judgment).

13. We have attained important and favorable opinions at the Courts of Appeals, and I personally have litigated two cases before the Supreme Court of the United States. *See, e.g., Smith v. Bd. of Dirs. of Triad Mfg., Inc.*, 13 F.4th 613 (7th Cir. 2021); *Harrison v. Envision Mgmt. Holding, Inc. Bd. of Dirs.*, 59 F.4th 1090 (10th Cir. 2023); *Thole v. U.S. Bank N.A.*, 140 S. Ct. 1615 (2020); *Advoc. Health Care Network v. Stapleton*, 581 U.S. 468 (2017).

14. In addition to the cases referenced above, Cohen Milstein's Employee Benefits Practice Group has served as class counsel in numerous other ERISA class actions, including the following:

- *Sweeney v. Nationwide Mut. Ins. Co.*, No. 2:20-cv-01569-SDM-CMV, 2024 WL 1340262 (S.D. Ohio Mar. 28, 2024);
- *Baird v. BlackRock Institutional Tr. Co.*, No. 4:17-cv-01892-HSG, 2021 WL 5113030 (N.D. Cal. Nov. 3, 2021);

- *Feinberg v. T. Rowe Price Grp., Inc.*, 610 F. Supp. 3d 758 (2022);
- *Fuller v. SunTrust Banks, Inc.*, No. 1:11-cv-784 (N.D. Ga. July 20, 2020), ECF No. 302;
- *Overall v. Ascension*, No. 2:13-cv-11396 (E.D. Mich. Nov. 20, 2015), ECF No. 115;
- *Chavies v. Catholic Health E.*, No. 2:13-cv-01645 (E.D. Pa. Apr. 29, 2016) (consolidated for settlement purposes with *Lann v. Trinity Health Corp.*, No. 8:14-cv-02237, ECF 111 (D. Md. May 31, 2017));
- *Lann v. Trinity Health Corp.*, No. 8:14-cv-02237 (D. Md. May 31, 2017), ECF No. 111;
- *Griffith v. Providence Health & Servs.*, No. 2:14-cv-01720 (W.D. Wash. Mar. 21, 2017), ECF Nos. 69, 70;
- *Holcomb v. Hosp. Sisters Health Sys.*, No. 3:16-cv-03282 (C.D. Ill. Feb. 25, 2019), ECF No. 67;
- *In re Wheaton Franciscan ERISA Litig.*, No. 1:16-cv-04232 (N.D. Ill. Jan. 16, 2018), ECF No. 107;
- *Carver v. Presence Health Network*, No. 1:15-cv-02905 (N.D. Ill. May 31, 2018), ECF No. 134;
- *Garbaccio v. St. Joseph's Hosp. Sys. & Med. Ctr. & Subsidiaries*, No. 2:16-cv-02740 (D.N.J. Mar. 6, 2018), ECF No. 116;
- *Smith v. OSF Healthcare Sys.*, 349 F. Supp. 3d 733 (S.D. Ill. 2018), *vacated and remanded*, 933 F.3d 859 (7th Cir. 2019);
- *Owens v. St. Anthony Med. Ctr., Inc.*, No. 1:14-cv-04068 (N.D. Ill. Aug. 14, 2019), ECF No. 308;
- *Dooley v. Saxton*, No. 1:12-cv-01207-MC, 2015 WL 13660568 (D. Or. Oct. 19, 2015);
- *Hodges v. Bon Secours Health Sys., Inc.*, No. 1:16-cv-01079 (D. Md. Dec. 21, 2017), ECF No. 117;
- *Banyai v. Mazur*, No. 1:00-cv-09806 (S.D.N.Y. Nov. 18, 2008), ECF No. 223;
- *Chesemore v. All. Holdings, Inc.*, No. 3:09-cv-00413-WMC, 2014 WL 4415919 (W.D. Wis. Sept. 5, 2014), *aff'd sub nom. by Chesemore v. Fenkell*, 829 F.3d 803 (7th Cir. 2016);
- *Hans v. Tharaldson*, No. 3:05-cv-00115, 2010 WL 1856267 (D.N.D. May 7, 2010);
- *In re Merck & Co., Inc. Sec., Derivative & "ERISA" Litig.*, No. 3:05-cv-01151, 2016 WL 11575090 (D.N.J. June 28, 2016);
- *Slipchenko v. Brunel Energy, Inc.*, No. 4:11-cv-01465, 2015 WL 338358 (S.D. Tex. Jan. 23, 2015);
- *Mehling v. New York Life Ins. Co.*, 248 F.R.D. 455 (E.D. Pa. 2008);
- *Simpson v. Fireman's Fund Ins. Co.*, No. 4:05-cv-00225 (N.D. Cal. Mar. 30, 2007), ECF No. 85;
- *Pfeifer v. Wawa, Inc.*, No. 2:16-cv-00497, 2018 WL 4203880 (E.D. Pa. Aug. 31, 2018);
- *Redington v. Goodyear Tire & Rubber Co.*, No. 5:07-cv-01999, 2008 WL 3981461 (N.D. Ohio Aug. 22, 2008).

15. Each of my colleagues at Cohen Milstein who are counsel of record in this case are seasoned class action litigators with experience handling high-profile ERISA cases such as this.

16. Daniel Sutter was named an “Elite Trial Lawyers Rising Star” by *The National Law Journal* in 2023 and an “Associate to Watch” by *Chambers USA* in the area of plaintiffs-side ERISA Litigation from 2022 through 2024. He has extensive experience litigating ERISA class action cases since graduating from George Washington University Law School in 2016 and joining our Practice Group. Before that, he worked for Cohen Milstein as both a law clerk and an analyst.

17. Jacob Schutz served on the trial team of the ERISA class case *Brotherston v. Putnam Investments, LLC*, No. 1:15-cv-13825-WGY (D. Mass.), and has also served as counsel of record in several ERISA class cases, including in *Krohnengold v. New York Life Insurance Co.*, No. 1:21-cv-01778-JMF (S.D.N.Y.), *Moreno v. Deutsche Bank Americas Holding Corp.*, No. 1:15-cv-09936-LGS (S.D.N.Y.), and *In re M&T Bank Corp. ERISA Litigation*, No. 1:16-cv-00375-FPG-JJM (W.D.N.Y.). Mr. Schutz earned his undergraduate degree from the University of Pennsylvania and his law degree from the University of Minnesota.

18. Caroline Bressman is also a seasoned class action litigator with significant experience handling complex ERISA cases such as this, including as counsel of record in *Harrison v. Envision Mgmt. Holding, Inc. Bd. Of Dirs.*, No. 1:21-cv-00304 (D. Colo.). Ms. Bressman graduated from the University of Minnesota Law School in 2018, where she was a staff member (Vol. 101) and the Symposium Articles Editor (Vol. 102) for the *Minnesota Law Review*.

19. Cohen Milstein has vigorously prosecuted this action on behalf of Plaintiff.

Attorneys’ Fees Background

20. Given the risks and expenses inherent in ERISA litigation, it is highly unlikely that any individual Class Member would bring this case and hire an attorney on an hourly basis.

21. Accordingly, Class Counsel from Cohen Milstein undertook this case on a contingent-fee basis and agreed with the Plaintiff to seek a fee of no more than one-third (33 1/3%)

of all monies recovered from the litigation. Had Plaintiff lost the case, Class Counsel would have received neither fees nor reimbursement of their expenses. To date, Class Counsel have received no payment for our work or reimbursement of our expenses.

22. At the time that we originally agreed to represent the Plaintiff in this litigation, Cohen Milstein was aware, based on our prior experience handling ERISA class action litigation, that it could be expensive, hard-fought, and lengthy. Also, I was aware that there was a significant likelihood that, after having invested a substantial amount of time and expense, Class Counsel might recover nothing or a fraction of the attorneys' fees we expended in this lawsuit. Until the Parties reached a settlement in principle, I understood that there was a significant likelihood that this case could be unsuccessful and that the Class could recover nothing.

23. Given all the financial risks, I was unsure about this case primarily due to the size of the Plan, which I recall having approximately \$100 million in assets when I reviewed it as a potential case. All the 401(k) cases I had litigated previously involved plans with several billion dollars in assets, and, thus, the Plan was less than 1/10 the size than all the 401(k) plans where I had previously represented a plan participant on a contingency fee basis. For this reason, I was aware of the heightened risk associated with taking this case on a contingency-fee basis. However, Ms. Andrew-Berry's unique and sophisticated knowledge of the Defendants and how the Plan was managed indicated that there was real and substantial harm to be redressed. Ultimately, one of the primary reasons I took this case, despite the heightened risk, was that I was extremely impressed by Ms. Andrew-Berry's knowledge and commitment to her former colleagues at GWA. I found her information to be credible and reliable throughout the investigation and litigation phases of this case. Further, it struck me that Ms. Andrew-Berry sincerely cared about the GWA retirement

plan and the effect the Plan's investment had on her former colleagues. This is perhaps not entirely surprising given that Ms. Andrew-Berry was the Head of Human Resources at GWA.

24. Despite the risk of recovering no fee and no reimbursement of out-of-pocket expenses in this case, Class Counsel has vigorously investigated and litigated this case. Prior to filing this action, Class Counsel conducted an in-depth investigation of the Plan, its investments, and potential claims. Class Counsel also engaged in dispositive briefing, completed substantial document discovery, and drafted Plaintiff's Motion for Preliminary Approval and Motion for Final Approval.

25. Class Counsel also worked with Defense Counsel to lift automatic stays as to both GWA in the Southern District of New York and George Weiss in the Southern District of Florida so that mediation and the Settlement could proceed. Additionally, Class Counsel retained experienced bankruptcy counsel at Lowenstein Sandler LLP and simultaneously litigated before this Court, the United States Bankruptcy Court for the Southern District of New York, and the United States Bankruptcy Court for the Southern District of Florida. I also appeared at a hearing in the Southern District of Florida to address any questions on the motion for stay relief.

26. Class Counsel seeks recovery for expenses such as: fees from court-filings, research, experts, bankruptcy counsel, and travel.

27. As of July 31, 2025, Class Counsel from Cohen Milstein had collectively devoted 1,623.5 hours of attorney and paralegal time—worth \$1,390,255 in lodestar when multiplied by our current hourly rates—and \$193,368.37 in out-of-pocket expenses to litigate this case, which were all documented in the firm's books and records. Moreover, it is anticipated that Class Counsel will expend additional time attending the final approval hearing, overseeing settlement administration following final approval, and communicating with class members.

28. Between the fairness hearing and the date of this filing, we will continue to incur additional fees. We will also continue to advance the costs of litigation for our client on behalf of the Settlement Class.

29. As of the date of this motion, there have been no objections to the Settlement or the proposed distributions, which were disclosed in the Notice of the Settlement (also referred to as the “Class Notice”). There have also been no objections to the requested attorneys’ fees, costs, and the service award.

30. The work summarized above required the efforts of numerous attorneys and professional staff (“timekeepers”) from Cohen Milstein. I supervised all work completed by Cohen Milstein attorneys and staff on this case, and my team reviewed the fee and expense records that support this Declaration in order to ensure their accuracy. The below table reflects the lodestar expended by each Cohen Milstein timekeeper from the beginning of the investigation until July 31, 2025, with some hours eliminated based on billing judgment. I believe that the time billed by these timekeepers are for the type of work that would normally be charged to a fee-paying client.

Name	Title	Years of Practice	Hours	Hourly Rate	Lodestar
Michelle C. Yau	Partner	21	318.0	\$1,155	\$367,290
Daniel Sutter	Partner	9	255.9	\$875	\$223,913
Kai Richter	Of Counsel	26	14.3	\$1,220	\$17,446
Jacob Schutz	Associate	12	560.5	\$930	\$521,265
Caroline Bressman	Associate	7	86.9	\$775	\$67,348
Ryan Wheeler	Associate	6	31.3	\$750	\$23,475
Elizabeth McDermott	Fellow	2	173.7	\$560	\$97,272
Liz Luebesmier	Senior Paralegal	n/a	17.9	\$395	\$7,071
Doron Hadar	Paralegal	n/a	165.0	\$395	\$65,175

Total	1,623.5	\$1,390,255
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31. To date, Cohen Milstein’s attorneys and staff have dedicated more than 1,623 hours to this matter, and Cohen Milstein has advanced over \$193,000 dollars in litigation costs, including expert fees, mediation fees, and travel costs.

32. The hourly rates for the timekeepers listed above are their standard rates and reflect the rates paid by my hourly-rate clients in 2025. Our firm’s hourly rates are largely based upon a combination of the individual’s title, cost to the firm, and the specific years of experience for each attorney, as well as market rates for practitioners in the field. Class Counsel’s billing rates range from \$930 to \$1,220 per hour for senior attorneys with more than 10 years of experience, \$560 to \$875 per hour for attorneys with 10 years or less experience, and \$395 per hour for paralegals. These hourly rates are the same as, or comparable to, rates submitted by Cohen Milstein in other ERISA class actions and rates that have recently been approved by courts reviewing motions for attorneys’ fees in connection with settlements or judgments won in favor of Cohen Milstein’s class clients. *See, e.g., Krohnengold v. New York Life Ins. Co. et al.*, No. 1:21-cv-01778-JMF (S.D.N.Y. July 18, 2024), ECF No. 201 (approving \$6.27 million fee based on CMST’s hourly rates); *Urlaub v. CITGO Petroleum Corp.*, No. 1:21-cv-04133 (N.D. Ill. Jan. 28, 2025), ECF No. 176 (finding CMST’s billing rates “reasonable, particularly given the complexity of the case and the skill and expertise of Class Counsel”); *Burnett v. Prudent Fiduciary Servs., LLC*, No. 1:22-cv-00270-RGA (D. Del. Jan. 14, 2025), ECF No. 162 (same); *see also Hensiek v. Bd. of Dirs. of Casino Queen Holding Co., Inc.*, No. 3:20-cv-00377-DWD (S.D. Ill. Feb. 25, 2025), ECF No. 554 (approving fee based on CMST’s hourly rates); *Smith v. GreatBanc Tr. Co.*, No. 1:20-cv-02350 (N.D. Ill. Aug. 23, 2023), ECF No. 163 (approving CMST’s hourly rates as reasonable); *Ahrendsen v. Prudent Fiduciary Servs., LLC*, 2023 WL

4139151, at *7-8 (E.D. Pa. June 22, 2023) (same); *Becker v. Wells Fargo & Co.*, No. 0:20-cv-02016 (D. Minn. Sept. 1, 2022), ECF No. 285 (same).

33. In particular, courts have reviewed the reasonableness of Cohen Milstein’s billing rates for purposes of “cross-checking” lodestar against a proposed fee based on the percentage of the fund method, as well as determining a reasonable fee under the lodestar method. These courts have found that the hourly rates used to calculate Cohen Milstein’s lodestar were “reasonable, particularly given the complexity of the case and the skill and expertise of Class Counsel.” *Urlaub v. CITGO Petroleum Corp.*, No. 1:21-cv-04133 (N.D. Ill. Jan. 28, 2025), ECF No. 176; *see also Baird v. BlackRock Inst. Tr. Co., N.A.*, 2021 WL 5113030, at *7 (N.D. Cal. Nov. 3, 2021) (same).

34. In my professional opinion and based on my personal knowledge of the work that was performed and the requirements of this case and similar cases, the lodestar expended on this litigation by Cohen Milstein’s attorneys and paralegals was reasonable and necessary.¹

35. As illustrated by the table above, Cohen Milstein invested more than 1,623 hours of work and \$1,390,255 of lodestar in this action: a substantial investment of time that prevented me and others on my team from working on other matters.

Litigation Expenses

36. The \$193,368.37 in out-of-pocket expenses Cohen Milstein incurred or will incur in connection with this case included, *inter alia*, court-filing fees, postage, online legal research, vendor expenses for electronic discovery storage and review, mediation expenses, expert fees, bankruptcy counsel fees, and travel expenses in connection with court hearings. Class Counsel

¹ Details supporting the time records referenced in this Declaration are available upon the Court’s request.

also engaged Steve Pomerantz, Ph.D., a highly qualified financial expert consultant to assist in evaluating the evidence and estimating potential damages for the Class Members. The chart below breaks down these expenses by category:

Description of Expense	Amount
Court Fees	\$1,504.98
Document Hosting	\$138.86
Expert	\$4,900
Bankruptcy Counsel	\$156,452.51
Legal Research	\$9,965.18
Mediation	\$17,077.58
Shipping	\$97.79
Travel	\$3,231.47
Total	\$193,368.37

37. As noted above, because my firm agreed to handle this case on a contingent basis, we have not yet received reimbursement for any of these expenses nor for any of the time and effort expended on this case.

38. These expenses do not include expenses of settlement administration, which are broken out separately below.

Settlement Administration and Related Expenses

39. In my professional opinion and based on my experience prosecuting this litigation and similar ERISA class action litigation, these expenses were reasonable and necessarily incurred in connection with this case and are of the type routinely billed by attorneys to paying clients.²

40. After the date of this Declaration, additional work on behalf of the Settlement Class must be completed to fully resolve the litigation, including: the preparation of responses to objections (if any) to the Settlement; responding to questions from the Settlement Administrator and Class Members; preparing for and attending the Fairness Hearing; and, if final approval is granted, supervising the distribution of payments to Class Members. Class Counsel have made themselves available for an interview with the Independent Fiduciary and will also continue to communicate with the Settlement Administrator and Escrow Agent and take any other actions necessary to support the Settlement until the conclusion of the Settlement Period.

41. The Parties' Settlement Administrator, Analytics Consulting LLC ("Analytics") has and will continue to perform settlement administration services, such as: (1) Analytics reviewed the Class Member information provided by Defendants; (2) Analytics prepared and mailed the Class Notices; (3) Analytics searched for valid addresses for any Class Members whose Class Notices were returned as undeliverable; (4) Analytics established a telephone support line for Class Members; (5) Analytics created and maintained the Settlement website; and (6) Analytics managed the project and communicated with Counsel regarding the status of settlement administration. Class Counsel selected Analytics after a competitive bidding process involving two additional settlement administration companies. Analytics submitted the lowest bid for settlement

² Details supporting Class Counsels' expense reimbursement request are available upon the Court's request.

administration of the three potential settlement administrators contacted by Class Counsel. Analytics anticipates that the final costs of settlement administration will be \$13,497.57. In my experience, this is reasonable given the number of class members and the complexity of administering an ERISA settlement like this Settlement.

42. Newport Trust Company, LLC (“Newport Trust”) was selected as the Independent Fiduciary to review the Settlement. It has reviewed the Settlement in accordance with Department of Labor regulations and Section 3.2 of the Settlement Agreement, including (i) the scope of the release of claims, (ii) the Settlement recovery and the amount of any attorneys’ fee award or any other sums to be paid from such recovery, (iii) the Plan of Allocation, (iv) whether the Settlement terms are reasonable, and (v) whether the Settlement complied with all relevant requirements as set forth in Department of Labor regulation, Prohibited Transaction Exemption 2003-39 (“PTE 2003-39”). 68 Fed. Reg. 75632 (Dec. 31, 2003), *as amended*, 75 Fed. Reg. 33380 (June 15, 2010). PTE 2003-39 generally requires that a settlement be “reasonable in light of the plan’s likelihood of full recovery, the risks and costs of litigation, and the value of claims forgone.” *Id.* at 75636.

43. As part of its investigation, the team from Newport Trust spoke at length with Class Counsel and Defendants’ Counsel about the litigation, the proposed Settlement, and Counsel’s evaluation of the risks, including the costs of litigation versus the likelihood of full recovery.

44. The cost for Newport Trust’s services is \$12,500. In my experience, that is a reasonable expense for an independent fiduciary and in line with industry standards.

45. A true and correct copy of Newport Trust’s report, dated July 25, 2025, is attached hereto as Exhibit 1.

46. EagleBank, the Escrow Agent selected by Class Counsel, charges an annual fee of \$2,500.

47. The fees for the Plan's recordkeeper to organize and provide all data necessary to administer the Settlement will be approximately \$15,000 and are payable from the gross settlement fund under paragraph 1.4(e) of the Settlement Agreement.

48. Plaintiff, Beth Andrew-Berry, has been an excellent class representative and has spent a significant amount of time and effort pursuing this litigation on behalf of the class. Initially, Plaintiff brought her concerns about mismanagement of retirement savings directly to GWA and demanded changes to the administration of the Plan and restoration of losses to the Plan. I am also aware that Ms. Andrew-Berry asked GWA and George Weiss to implement structural changes to address the risk associated with investing solely in GWA-affiliated funds. She also made clear to her former employer that she was seeking to recover losses on behalf of the Plan. Ms. Andrew-Berry expended substantial time over the course of multiple months trying to secure Plan-wide relief outside of litigation, which was ultimately unsuccessful.

49. As discussed above, Ms. Andrew-Berry searched for and retained my firm to investigate and (if appropriate) file a class action lawsuit on behalf of the class on a contingency-fee basis. She assisted my firm in the investigation of the case, provided us critical evidence, documents, and key witnesses, reviewed the Complaint allegations, kept in regular communication with us about strategy for mediation of the case, produced documents to Defendants as part of Plaintiff's initial disclosures, and discussed and reviewed the Settlement Agreement with us. Ms. Andrew-Berry understood her responsibilities as a class representative and was prepared to serve the best interests of the Class through trial, if necessary.

50. My understanding is that Ms. Andrew-Berry has not yet retired, and, for this reason, I believe that she exposed herself to reputational harm by initiating this action against her former employer. In my experience working with current and former employees of financial institutions,

I have observed that many professionals are concerned with real reputational risk that would result from becoming involved in a class action lawsuit. Many individuals have decided not to participate in a class action due to concerns over reputational harm. In addition, Ms. Andrew-Berry bore significant financial exposure under ERISA's fee-shifting provision, as defendants in ERISA litigation have sought to recover their fees and expenses—which may total millions of dollars—if they obtain a judgment in their favor.

51. The requested class settlement service award of \$45,000 is warranted because of Ms. Andrew-Berry's exceptional contributions and the substantial risks to which she was exposed, all of which far exceed those typically seen in class actions. And, unlike in most other class actions, Plaintiff invested significant time and effort prior to seeking representation of my firm and then with the counsel of my firm as she tried to obtain relief outside of litigation. When her pre-litigation attempts to obtain Class-wide relief failed, she invested even more time in litigation. Ultimately, after substantial effort spanning a period of years, Ms. Andrew-Berry obtained meaningful relief for all Class Members. She did this while facing substantial risk and downsides by promoting the Class's interest above her own.

52. I am not aware of any conflicts of interest that would impair or impede our ability to represent the Settlement Class as we have done to date.

53. Attached hereto as Exhibit 2 is a true and correct copy of the current firm-wide resume for Cohen Milstein.

54. I declare, pursuant to 28 U.S.C. § 1746 and under penalty of perjury, that the foregoing is true and correct to the best of my knowledge, information, and belief.

Dated: August 4, 2025

Respectfully submitted,

By: /s/ Michelle C. Yau

Michelle C. Yau
**COHEN MILSTEIN SELLERS & TOLL
PLLC**
1100 New York Ave. NW • Eighth Floor
Washington, DC 20005
(202) 408-4600
myau@cohenmilstein.com

EXHIBIT 1



July 25, 2025

GWA, LLC
c/o Alison V. Douglass
Goodwin Procter LLP
100 Northern Avenue
Boston, MA 02210

Re: Statement of Independent Fiduciary – Settlement of *Andrew-Berry v. Weiss et al*, Docket No. 3:23-cv-00978 (D. Conn. Jul 24, 2023)

This statement is made by Newport Trust Company, LLC (“Newport Trust”) in its capacity as independent fiduciary for the GWA, LLC 401(k) Profit Sharing Plan (the “Plan”) in connection with the proposed settlement (the “Settlement”) of *Andrew-Berry v. Weiss et al*, Docket No. 3:23-cv-00978 (D. Conn. Jul 24, 2023) (the “Litigation”).

Newport Trust was engaged by GWA, LLC (the “Company”) on behalf of the Plan pursuant to U.S. Department of Labor Prohibited Transaction Class Exemption 2003-39, as amended, 75 Fed. Reg. 33,830 (June 15, 2010) (the “Class Exemption”), to serve as the independent fiduciary for the Plan for the limited purpose of determining whether to authorize the Plan’s participation in the Settlement as described below. Newport Trust has extensive experience in serving in the capacity of an independent fiduciary on behalf of employee benefit plans in connection with the settlement of litigation and is closely familiar with the fiduciary obligations imposed by the Employee Retirement Income Security Act of 1974, as amended (“ERISA”).

The Class Exemption permits a plan subject to ERISA, such as the Plan, to release a claim against a party in interest in exchange for consideration, provided certain requirements are met. Among these requirements is the authorization of the plan’s participation in the settlement by a fiduciary that “has no relationship to, or interest in, any of the parties involved in the litigation, other than the plan, that might affect the exercise of such person’s best judgment as a fiduciary.” The Class Exemption is designed to ensure that, subject to court approval, a party that is independent of the plan sponsor (here, a defendant in the Litigation) represents the plan’s interests in settling a claim. Absent the Class Exemption, an ERISA plan’s entry into such a settlement could be a prohibited transaction under Section 406 of ERISA, 29 U.S.C. §1106.

In accordance with the conditions of the Class Exemption, Newport Trust may authorize the Plan’s participation in the Settlement if the Settlement satisfies the applicable conditions of the Class Exemption including that: (i) the terms of the Settlement, including the scope of the release of claims; the amount of cash and the value of any non-cash assets and other consideration received by the Plan and the amount of the attorneys’ fees and other amounts paid from the recovery, are reasonable in light of the Plan’s likelihood of full recovery, the risks and costs of litigation, and the value of claims foregone; (ii) the terms and conditions of the transaction are no less favorable to the Plan than comparable arms-length terms and conditions that would have been agreed to by unrelated parties under similar circumstances; and (iii) the transaction is not part of an agreement, arrangement, or understanding designed to benefit a party in interest.

Newport Trust Company, LLC

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Andrew-Berry v. Weiss
July 25, 2025
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Consistent with the requirements of the Class Exemption: (i) Newport Trust has no relationship to, or interest in, any of the parties involved in the Litigation that might affect the exercise of its best judgment as an independent fiduciary; (ii) the terms of the Settlement are specifically described in a written settlement agreement; (iii) Newport Trust has acknowledged in writing that it is a fiduciary on behalf of the Plan with respect to the Settlement; and (iv) Newport Trust will maintain or cause to be maintained for a period of six years the records described in the Class Exemption.

In making the determinations described above and deciding whether to accept or reject the Settlement on behalf of the Plan, Newport Trust is required to act in accordance with the fiduciary responsibility standards of ERISA. Consistent with the Class Exemption, Newport Trust can authorize the Settlement on behalf of the Plan if, after a review of the Settlement, Newport Trust concludes that the chances of obtaining any further relief for the Plan from the settling defendants are not justified by the expense and risk involved in pursuing such relief. In determining whether the Settlement is reasonable in light of the Plan's likelihood of full recovery, the risks and costs of litigation, and the value of claims foregone, Newport Trust is obligated to weigh these factors pursuant to a prudent decision-making process, given the facts and circumstances of the Litigation.

Newport Trust primarily considered the merits of the parties' claims and their respective arguments; the amount of cash consideration paid and other consideration provided for in connection with the Settlement; and the terms of the Settlement, including but not limited to the scope of the release, the plan of allocation, and the amount of legal fees requested by Plaintiff's counsel.

In fulfilling its responsibilities and in evaluating the reasonableness of the Settlement, Newport Trust has taken the following actions:

1. Reviewed court documents and other information and documents in the Litigation that it deemed relevant;
2. Interviewed counsel for the parties;
3. Evaluated the strengths and weaknesses of the legal and factual arguments on which the Litigation was based;
4. Reviewed and analyzed the terms of the Settlement, including but not limited to the Settlement consideration and the scope of the Settlement release;
5. Reviewed the plan of allocation proposed by the parties; and
6. Reviewed Plaintiff's draft request for attorneys' fees and expenses¹.

Based on its evaluation of the relevant documents and information associated with the class action and the Settlement, and taking into account the fiduciary obligations imposed by ERISA, Newport Trust has concluded, consistent with the requirements of the Class Exemption, that: (i) the Settlement terms, including the scope of the release of claims, the \$7,900,000 Settlement amount and any non-monetary relief provided for in the Settlement, and the amount of any attorneys' fee award or any other sums to be paid from the recovery, are reasonable in light of the Plan's likelihood of full recovery, the risks and costs of litigation, and the value of claims foregone; (ii) the terms and conditions of the transaction are no less favorable to the Plan than comparable arms-length terms and conditions that would have been agreed

¹ It is Newport Trust's understanding that there will be no material differences between the draft request for attorneys' fees and what Plaintiff's Counsel will file with the Court.

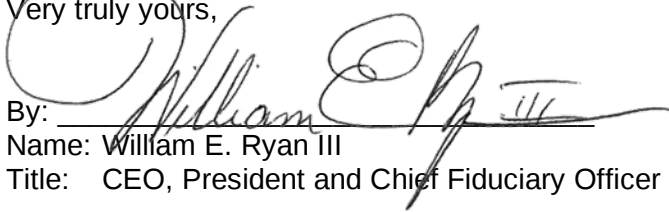
Andrew-Berry v. Weiss
July 25, 2025
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to by unrelated parties under similar circumstances; and (iii) the transaction is not part of an agreement, arrangement, or understanding designed to benefit a party in interest.

As a result, Newport Trust has determined that the Plan should not object to the Settlement or any portion thereof, including but not limited to the requested attorneys' fees and costs, and as such authorizes the Plan's participation in the Settlement.

Very truly yours,

A handwritten signature in black ink, appearing to read "William E. Ryan III", written over a horizontal line.

By:

Name: William E. Ryan III

Title: CEO, President and Chief Fiduciary Officer

Newport Trust Company, LLC

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EXHIBIT 2

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| About the Firm

We are trailblazers in plaintiff-side and class action litigation, often handling groundbreaking cases, resulting in landmark decisions.

We fight corporate abuse by pursuing litigation on behalf of individuals, investors, whistleblowers, small businesses, and other institutions in lawsuits that often novel legal issues.

With more than 100 attorneys in 10 practice areas in eight offices across the country, including Boston, Chicago, Minneapolis, New York, Palm Beach Gardens, Philadelphia, Raleigh, and Washington, we are recognized as one of the largest and most diversified plaintiffs' firms in the country.

We regularly litigate complex matters across a wide range of practice areas:

- Antitrust
- Civil Rights & Employment
- Complex Tort Litigation
- Consumer Protection
- Employee Benefits / ERISA
- Ethics and Fiduciary Counseling
- Human Rights
- Public Client
- Securities Litigation & Investor Protection
- Whistleblower/False Claims Act

In 2025, *The National Law Journal* named Cohen Milstein "Plaintiff Law Firm of the Year" and our Employment practice "Practice of the Year – Discrimination." Also, *Law360* named our Antitrust and Employment practices "Practice of the Year" for work accomplished in 2024.

Chambers USA and *Legal 500* consistently rank Cohen Milstein as a "Top Tier" and "Leading" firm in Antitrust, Securities Litigation, Product Liability, Mass Torts, ERISA, and Employment Law. Likewise, the firm is consistently named in *Law360*'s "Glass Ceiling Report" as one of the "Best Law Firms for Female Attorneys," including 2024.

Our attorneys are also heralded as among the best in their practices by industry surveys and organizations, such as American Antitrust Institute, *The American Lawyer*, *Benchmark Litigation*, *Chambers USA*, *Global Competition Review*, *Law360*, *Lawdragon*, *Legal 500*, and *The National Law Journal*.



| ERISA & Employee Benefits

Our nationally acclaimed ERISA & Employee Benefits attorneys represent the interests of employees, retirees, and plan participants or beneficiaries in their pursuit of economic justice.

Through often cutting-edge class actions, we address the mismanagement of employee retirement benefit plans governed by the Employee Retirement Income Security Act (ERISA), including:

- 401(k) plans
- Employee Stock Ownership Plans (ESOPs)
- Traditional pension plans
- Health plans

Recognition for Our Work

We have been recognized by the legal industry as one of the top ERISA plaintiffs' firms in the country:

- Chambers USA – Top Ranked Firm – ERISA Litigation (2022 – 2025)
- Law360 – Practice Group of the Year – Benefits (2019, 2021, 2022)
- Bloomberg BNA “Employee Benefits Law, the Nation’s Main ERISA Treatise,” Senior Editor, Michelle Yau
- Law360’s Benefits Editorial Advisory Board – Michelle Yau (2022, 2023); Dan Sutter (2024, 2025)

Industry Commentary:

"Cohen Milstein Sellers & Toll does first-class work and is very strong in this practice area."

"I view them as one of the best ERISA trial practices in the country, they are a joy to work with."

Chambers USA

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Individual Accolades

- [The National Law Journal](#) – Elite Women of the Plaintiffs Bar – Michelle Yau (2025)
- [Law360](#) – Benefits MVP – Michelle Yau (2021, 2024)
- [Chambers USA](#) – "Top Ranked Individual, ERISA Litigation – Band 1" – Michelle Yau (2022 – 2025)
- [Chamber USA](#) – "Top Ranked Individual, ERISA Litigation – Band 1" – Kai Richter (2023, 2025)
- [Chambers USA](#) – "Associate to Watch, ERISA Litigation: – Dan Sutter (2022–2025)
- [The AmLaw Litigation Daily](#) – Litigator of the Week Runners-Up (Sept. 2021; Feb. 2023)
- [The National Law Journal](#) – Elite Trial Lawyers Rising Star – Dan Sutter (2023)

Making an Impact

We have led some of the most significant ERISA-related litigation in recent U.S. history, including up to the U.S. Supreme Court. Precedent-setting decisions include:

- [Defeating Motion to Compel Arbitration](#): Enforceability of arbitration clauses is a crucial issue for workers, which can entirely shift the dynamics of a case and their pursuit of economic justice. We have achieved precedent-setting decisions before the Third, Seventh, and Tenth Circuits – all addressing lower court rulings denying Defendants' motions to compel arbitration under ERISA. On October 10, 2023, the United States Supreme Court declined to review our 10th Circuit win in *Harrison v. Envision Management Holding, Inc. Boards of Directors, et al.* (D. Col.).
- [In re Beacon Association Litigation](#): Acted as ERISA Counsel for a certified class which settled their claims for \$219 million, representing 70% of the Class members' out-of-pocket losses. The judge praised the settlement, describing the outcome as "extraordinary" and the praising the "hard work" done by plaintiffs' counsel, including Cohen Milstein.

We also have the unique capability to represent employees who purchased overvalued employer stock through employer-sponsored 401(k) retirement plans, given our extensive experience with securities fraud and investor protection litigation. While employees may pursue claims under securities fraud laws, ERISA provides additional rights and remedies to recover losses in 401(k) retirement plans.



| Employee Benefits / ERISA – Representative Matters

We have recovered hundreds-of-millions of dollars in damages for injured plaintiffs in some of the nation’s most complex ERISA class actions.

401(K) Retirement Plans

- **Wells Fargo 401(k) Litigation (D. Minn.):** Cohen Milstein achieved a \$32.5 million settlement prior to class certification and expert discovery. On August 31, 2022, the Court granted final approval of the settlement, resulting in a recovery of 40% of estimated damages for the plaintiffs. The lawsuit alleged that Wells Fargo and its affiliates violated numerous provisions of ERISA by breaching their fiduciary duties and engaging in self-dealing transactions prohibited under ERISA.

- **BlackRock 401(k) Litigation (N.D. Cal.):** Cohen Milstein successfully settled this certified class action, in which plaintiffs alleged that the BlackRock 401(k) plan administrators engaged in corporate self-dealing—restricting plan options to BlackRock’s own proprietary funds, and in many cases failing to provide the lowest cost versions of those funds. On November 3, 2021, the Court granted final approval of a \$9.65 million settlement.

- **T. Rowe Price 401(k) Litigation (D. Md.):** Cohen Milstein successfully settled this certified class action, in which plaintiffs alleged that T. Rowe Price violated federal law and reaped millions of dollars in illicit fees by offering only T. Rowe Price’s own in-house investment funds in the 401(k) Plan, failing to offer the lowest cost versions of those funds, and failing to even consider any funds from other companies that offered lower fees and better performance. On July 6, 2022, the Court granted final approval of the \$7 million settlement.

- **New York Life 401(k) Plan Litigation (S.D.N.Y.):** Cohen Milstein represents employees and agents of New York Life Insurance in a class action against New York Life for allegedly

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mismanaging the 401(k) and engaging in corporate self-dealing and the prohibited transfer of employees' retirement assets by, among other things, impermissibly investing participants investments into the Fixed Dollar Account by default and improperly favoring and including New York Life's own in-house investment funds in its Plans, such as the MainStay Income Builder Fund, MainStay Epoch U.S. All Cap Fund and MainStay Epoch U.S. Small Cap Fund, thereby earning New York Life and its affiliates windfall profit. On July 18, 2024, the Court granted final approval of a \$19 million settlement – approximately 25% of the alleged losses.

-
- **GWA, LLC 401(k) Profit Sharing Plan Litigation (D. Conn.):** Cohen Milstein represents participants in the GWA, LLC 401(k) Profit Sharing Plan, who allege that GWA, LLC and George A. Weiss breached their fiduciary duties and misused employee retirement plan assets to further their own pecuniary interest, in violation of ERISA. Specifically, Plaintiffs allege that 100% of the Plan's investments (all of which are 401(k) assets) were and continue to be invested in "The Weiss Funds," which includes the company's flagship hedge fund named the "Weiss Multi-Strategy Partners Ltd." and the company's mutual fund named the "Weiss Alternative Multi-Strategy Fund," which generally "replicates" the hedge fund's strategy. On September 27, 2024, Plaintiffs filed an unopposed motion for preliminary approval of a \$7.9 million settlement.

Pension Plans

- **Griffith v. Providence Health & Services, et al. (W.D. Wash.):** Cohen Milstein represented more than 73,000 employees at Providence Health Services, who alleged that the non-profit healthcare conglomerate and its subsidiaries improperly claimed that the Providence Health & Services Cash Balance Retirement Plan qualified as a "Church Plan" under ERISA. Plaintiffs further claimed that if it was a "Church Plan," then it did not comply with the many protections afforded to pension beneficiaries under ERISA. On March 21, 2017, the court granted final approval of a landmark \$351 million settlement.
-
- **Dignity Health Church Plan Litigation (N.D. Cal.):** Cohen Milstein represented a certified class of defined benefit participants, which alleges that Dignity Health is improperly claiming that its pension plans are exempt from ERISA's protections because they are "church plans," and as a result has underfunded its plans by over \$1.2 billion. In 2016, the Supreme Court agreed to hear arguments on consolidated church plan cases, and in June 2017, it reversed previous rulings and ordered plaintiffs, in this case, to file

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an amended complaint. On July 15, 2022, the Court granted final approval to the \$100 million settlement.

-
- Hodges, et al. v. Bon Secours Health System, Inc., et al. (D. Md.):** On December 21, 2017, the court issued an order and final judgment granting final approval of a \$98.3 million settlement. Plaintiffs alleged that Bon Secours Health Plan improperly defined seven defined benefit pension plans as “Church Plans,” which are exempt from ERISA, and for breaching their fiduciary responsibilities in managing the plans under ERISA. Plaintiffs further alleged that application of the Church Plan exemption to the Bon Secours Plans violated the Establishment Clause of the United States Constitution. This settlement is unique not only for covering the total amount the plans that were underfunded but also for the fact that it was reached while three similar Church Plan/ERISA exemption cases, also led by Cohen Milstein, were consolidated before and ultimately granted review by the Supreme Court of the United States.
 - CITGO Pension Plan Litigation (N.D. Ill.):** Cohen Milstein represents a certified class of participants and beneficiaries of the CITGO Petroleum Corporation Salaried and Hourly Employees Pension Plans, who allege CITGO violated ERISA by applying outdated mortality tables to the CITGO Plans to determine the value of joint and survivor annuities, resulting in married retirees receiving less than the actuarial equivalent of the benefit that ERISA protects. On January 27, 2025, the Court granted final approval of a \$14.75 million settlement, reflecting a significant recovery for impacted retirees – 87% of losses for retirees who retired within 6 years of the lawsuit and 20% of losses for retirees who retired from 1995 to 2015.
 - AT&T Pension Benefit Plan Litigation (N.D. Cal.):** Cohen Milstein represents a putative class of participants and beneficiaries in the AT&T Pension Benefit Plan, who allege that AT&T improperly calculated the pension benefits of certain retirees who retired early and/or took a joint and survivor annuity. As a result of the improper calculation, plaintiffs received a lower pension benefit than they were entitled to under ERISA. Class certification is pending court approval.
 - Intel Minimum Pension Plan Litigation (N.D. Cal.):** Cohen Milstein represents a putative class of pension plan participants and beneficiaries, who allege that the Intel Minimum Pension Plan utilized outdated mortality tables to determine the value of
-

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joint and survivor annuities, resulting in married retirees receiving less than the actuarial equivalent of the benefit that ERISA protects.

-
- **IBM Personal Pension Plan Litigation (S.D.N.Y.):** Cohen Milstein represents participants and beneficiaries of the IBM Personal Pension Plan, who allege that the IBM Personal Pension Plan uses outdated mortality tables to determine the value of joint and survivor annuities, resulting in married retirees receiving less than the actuarial equivalent of the benefit that ERISA protects in violation of ERISA.
-
- **Luxottica Group Pension Plan Litigation (E.D.N.Y.):** Cohen Milstein represents Luxottica pension plan participants in a putative class action, alleging that the plan used outdated mortality tables to determine the value of participants' joint and survivor annuities, resulting in married retirees receiving less than the actuarial equivalent of the benefit that ERISA protects.
-
- **Southern Company Pension Plan Litigation (N.D. Ga.):** Cohen Milstein represents participants and beneficiaries of the Southern Company Pension Plan, alleging that the Southern Company Pension Plan uses outdated mortality tables to determine the value of joint and survivor annuities and the amount it charges retirees for pre-retirement survivor annuities, resulting in married retirees receiving less than the actuarial equivalent of the benefit that ERISA protects.

Employee Stock Ownership Plans (ESOPS)

- **Triad Manufacturing Inc. ESOP Litigation (N.D. Ill.):** Cohen Milstein represented participants and beneficiaries in the Triad Manufacturing ESOP who alleged that the ESOP's trustees breached their fiduciary duties in connection with the sale of Triad Manufacturing to the ESOP. In September 2021, the Seventh Circuit, in a precedent-setting decision, cited an exception to the Federal Arbitration Act that permits a court to overrule an arbitration agreement if it blocks a party from being able to bring claims under federal law. On August 23, 2023, the court granted final approval of a \$14.8 million settlement and granted class certification.
-
- **World Travel ESOP Litigation (E.D. Pa.):** Cohen Milstein represented a certified class of employee stock option plan participants and beneficiaries who allege that the founders of World Travel and the ESOP trustees created the ESOP and then sold 100% of the employees World Travel stock to the ESOP at an above-market price, saddling it with over \$200 million in debt. On June 22, 2023, the Court granted plaintiffs

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unopposed motion for class certification and final approval of a \$8.7 million settlement.

-
- **Casino Queen ESOP Litigation (S.D. Ill.):** Cohen Milstein represents ESOP participants who allege that the Board of Directors of CQ Holding Company, Inc. and related defendants violated ERISA when they created an ESOP to buy their Casino Queen stock for \$170 million, a significantly inflated price. In late 2021, the Seventh Circuit directed Defendants to voluntarily dismiss their appeal on the arbitration issue on the heels of our precedent-setting victory before the Seventh Circuit in *Smith v. GreatBanc Trust Company*, which cited an exception to the Federal Arbitration Act that permits a court to overrule an arbitration agreement if it blocks a party from being able to bring claims under federal law. On November 14, 2024, the court granted preliminary approval to a \$7.1 million settlement.
-
- **Envision Management Holding, Inc. ESOP Litigation (D. Col.):** Cohen Milstein represents Envision Management Holding ESOP participants, who allege the ESOP purchased Envision Management Holding stock at an inflated price, causing a multi-million-dollar loss to the ESOP. On February 9, 2023, A three-judge panel for the Tenth Circuit, in a 41-page published opinion, sided with Plaintiffs' argument, which was backed up by a U.S. Department of Labor amicus brief, that an arbitration provision tucked in Envision workers' ESOP plan impermissibly blocked remedies under ERISA, triggering an exemption in the Federal Arbitration Act, which permits a court to overrule an arbitration agreement if it blocks a party from being able to bring claims under federal law. On October 10, 2023, the U.S. Supreme Court denied Defendants' petition to review the Tenth Circuit's decision, thereby affirming the lower court's March 24, 2022 ruling, which denied Defendants' motion to compel arbitration. On January 24, 2025, the court granted Plaintiffs' motion for class certification.
-
- **Western Milling ESOP Litigation (E.D. Cal.):** Cohen Milstein represents participants and beneficiaries of the Western Milling Employee Stock Ownership Plan, who allege that the ESOP's trustees breached their fiduciary duties by engaging in risky investments in violation of ERISA, including purchasing 100% of Kruse-Western, Inc. company stock, which was valued at approximately 90% of the purchase price for several years after the ESOP Transaction.

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-
- **WBBQ ESOP Litigation (S.D.N.Y.):** Cohen Milstein represents participants and beneficiaries of the W BBQ Holdings, Inc. Employee Stock Ownership Plan, who allege that the trustee of the WBBQ ESOP, Argent Trust Company and the company's owner, and controlling managers and shareholders breached their fiduciary duties, causing the ESOP to engage in transactions that are prohibited under ERISA and in connection with the sale of the company to the ESOP for an inflated purchase price that far exceeded its fair market value.

Other Retirement Plans

- **In re Beacon Association Litigation (S.D.N.Y.):** Cohen Milstein represented the trustees and participants of ERISA-covered employee benefit plans whose assets were invested by Beacon Associates LLC I and Beacon Associates LLC II (the "Feeder Funds") in and lost money by investment the investment schemes of Bernard L. Madoff, Bernard L. Madoff Investment Securities, LLC. On March 15, 2013, the court granted final approval of a \$219 million settlement to reimburse defrauded investors.
-
- **Johnson & Johnson Health Plan (D. N.J.):** Cohen Milstein represents employees and participants in J&J's Health Plan, who accuse the pharmaceutical giant of mismanaging its own health plans' prescription drug program, costing employees millions of dollars in the form of higher payments for prescription drugs, higher out-of-pocket costs and co-pays, and, ultimately, lower wages in violation of ERISA.
-
- **Nationwide Savings Plan Litigation (S.D. Ohio):** Cohen Milstein represents participants in the Nationwide Savings Plan in a certified class action, alleging that Nationwide improperly set its own compensation, earned impermissible profits at the expense of its employees, and exposed its employees' retirement savings to undue risk. On March 28, 2024, the Court granted class certification.
-
- **MassMutual Thrift Plan Litigation (D. Mass.):** Cohen Milstein represents participants and beneficiaries of the MassMutual Thrift Plan in a class action against Massachusetts Mutual Life Insurance and other fiduciaries responsible for managing the MassMutual Thrift Plan, a defined contribution retirement plan. Plaintiffs allege that MassMutual and other fiduciaries engaged in self-dealing in violation of ERISA, cost its employees tens of millions of dollars in retirement savings.

Michelle C. Yau

Partner

WASHINGTON, DC

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PRACTICE AREAS

ERISA & Employee Benefits

ADMISSIONS

District of Columbia | Massachusetts

EDUCATION

Harvard Law School, J.D., 2003 | University of Virginia, B.A., Phi Beta Kappa, 1997

Overview

Michelle Yau, chair of Cohen Milstein's Employee Benefits/ERISA practice, has spearheaded some of the most significant ERISA class actions in the nation. She combines ardent dedication to protecting her clients' retirement assets with rare insight into complex financial transactions and actuarial issues, informed by her Wall Street and government experience. Since 2022, *Chambers USA* has named Michelle a top ranked individual in ERISA litigation and in 2021, she was named a *Law360* Benefits MVP.

Michelle is passionate about righting economic injustice and protecting pension plan participants. She has a unique background having served as an Honors Program Attorney at the Department of Labor where she enforced and administered a variety of labor statutes and working as a financial analyst at Goldman Sachs in the Financial Institutions Group of the Investment Banking Division. This experience has allowed Michelle to play an instrumental role in important financial litigation, including high-profile ERISA lawsuits emerging from the Madoff Ponzi scheme.

Michelle is a senior editor of the ERISA treatise published by *Bloomberg BNA*, *Employee Benefits Law*, and a member of the Benefits Editorial Advisory Board for *Law360*.

During law school, Michelle was awarded several public interest fellowships, including the Heyman Fellowship for academic excellence and a demonstrated commitment to federal public service. As an undergraduate, she was selected as an Echols Scholar and awarded the Student Council Scholarship for leadership, academic achievement, and community service.

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Current Cases

GWA, LLC 401(k) Profit Sharing Plan Litigation

Andrew-Berry, et al. v. Weiss (D. Conn.): Cohen Milstein represents participants in the GWA, LLC 401(k) Profit Sharing Plan who allege that GWA, LLC and George A. Weiss breached their fiduciary duties and misused employee retirement plan assets to further their own pecuniary interest, in violation of ERISA. Specifically, plaintiffs allege that 100% of the Plan's investments (all of which are 401(k) assets) were and continue to be invested in "The Weiss Funds," which includes the company's flagship hedge fund named the "Weiss Multi-Strategy Partners Ltd." and the company's mutual fund named the "Weiss Alternative Multi-Strategy Fund," which generally "replicates" the hedge fund's strategy. On May 30, 2025, the court granted preliminary approval of a \$7.9 million settlement.

Western Milling ESOP Litigation

Zavala v. Kruse-Western Inc. et al. (E.D. Cal.): We represent participants and beneficiaries of the Western Milling Employee Stock Ownership Plan, who allege that the ESOP's trustees breached their fiduciary duties by engaging in risky investments in violation of ERISA, including purchasing 100% of Kruse-Western, Inc. company stock, which was valued at approximately 90% of the purchase price for several years after the ESOP Transaction.

Envision Management Holding, Inc. ESOP Litigation

Harrison v. Envision Management Holding, Inc. Board of Directors, et al. (D. Col.): Cohen Milstein represents Envision Management Holding ESOP participants, who allege the ESOP purchased Envision Management Holding stock at an inflated price, causing a multi-million-dollar loss to the ESOP. On February 9, 2023, A three-judge panel for the Tenth Circuit, in a 41-page published opinion, sided with Plaintiffs' argument, which was backed up by a U.S. Department of Labor amicus brief, that an arbitration provision tucked in Envision workers' ESOP plan impermissibly blocked remedies under ERISA, triggering an exemption in the Federal Arbitration Act, which permits a court to overrule an arbitration agreement if it blocks a party from being able to bring claims under federal law. On October 10, 2023, the U.S. Supreme Court denied Defendants' petition to review the Tenth Circuit's decision, thereby affirming the lower court's March 24, 2022 ruling, which denied Defendants' motion to compel arbitration.

AT&T Pension Benefit Plan Litigation

Scott, et al. v. AT&T Inc. (N.D. Cal.): Cohen Milstein represents participants and beneficiaries in the AT&T Pension Benefit Plan who allege that AT&T failed comply with ERISA's actuarial equivalence requirements when providing married participants joint and survivor annuities.

Nationwide Savings Plan Litigation

Sweeney, et al. v. Nationwide Mutual Insurance Company, et al. (D. Mass.): We represent participants and beneficiaries of the MassMutual Thrift Plan in a class action against Massachusetts Mutual Life Insurance and other fiduciaries responsible for managing the MassMutual Thrift Plan, a defined contribution retirement plan. Plaintiffs allege that MassMutual and other fiduciaries engaged in self-dealing in violation of ERISA, cost its employees tens of millions of dollars in retirement savings.

Luxottica Group Pension Plan Litigation

Duke v. Luxottica U.S. Holdings Corp., et al. (E.D.N.Y.): Cohen Milstein represents Luxottica pension plan participants in a lawsuit, alleging that the plan used outdated mortality tables to determine the value of participants' joint and survivor annuities, resulting in married retirees receiving less than the actuarial equivalent of the benefit that ERISA protects.

IBM Personal Pension Plan Litigation

Knight v. International Business Machines Corporation, et al. (S.D.N.Y.): Cohen Milstein represents participants and beneficiaries of the IBM Personal Pension Plan, who allege that the IBM Personal Pension Plan uses outdated mortality tables to determine the value of joint and survivor annuities, resulting in married retirees receiving less than the actuarial equivalent of the benefit that ERISA protects in violation of ERISA.

WBBQ ESOP Litigation

Lloyd, et al. v. Argent Trust Company, et al. (S.D.N.Y.): Cohen Milstein represents participants and beneficiaries of the W BBQ Holdings, Inc. Employee Stock Ownership Plan, who allege that the trustee of the WBBQ ESOP, Argent Trust Company and the company's owner, and controlling managers and shareholders breached their fiduciary duties, causing the ESOP to engage in transactions that are prohibited under ERISA and in connection with the sale of the company to the ESOP for an inflated purchase price that far exceeded its fair market value.

Southern Company Pension Plan Litigation

Drummond, et al. v. Southern Company, Inc., et al. (N.D. Ga.): Cohen Milstein represents participants and beneficiaries of the Southern Company Pension Plan, alleging that the Southern Company Pension Plan uses outdated mortality tables to determine the value of joint and survivor annuities and the amount it charges retirees for pre-retirement survivor annuities, resulting in married retirees receiving less than the actuarial equivalent of the benefit that ERISA protects.

Intel Minimum Pension Plan Litigation

Berkeley v. Intel Corporation et al (N.D. Cal.): Cohen Milstein represents a putative class of pension plan participants and beneficiaries, who allege that the Intel Minimum Pension Plan utilized outdated mortality tables to determine the value of joint and survivor annuities, resulting in married retirees receiving less than the actuarial equivalent of the benefit that ERISA protects.

AMPAM Parks Mechanical ESOP Litigation

Ramirez, et al. v. AMPAM Parks Mechanical, Inc., et al. (S.D. Cal.): Cohen Milstein represents employee participants and beneficiaries of the AMPAM Parks Mechanical, Inc. Employee Stock Ownership Plan in a certified class action lawsuit alleging that AMPAM Parks Mechanical and the founders of AMPAM, Buddy Parks, John D. Parks, James Parks, and Jason Parks breached their fiduciary duties in the management of the ESOP in violation of ERISA.

Lite Star ESOP Litigation

Chea v. Lite Star ESOP Committee, et al. (E.D. Cal.): Cohen Milstein is representing participants in the Lite Star employee stock option plan in a putative ERISA class action. Plaintiff alleges that Prudent Fiduciary Services and Miguel Paredes, on behalf of the Lite Star ESOP, improperly negotiated and purchased 100% of B-K Lighting stock from Douglas W. Hagen, the chairman of B-K Lighting, for over \$25 million, an overly inflated price, in violation of ERISA. Plaintiff also claims that the company's board of directors and members of the ESOP Committee breached their fiduciary duties to the ESOP and that Prudent Fiduciary Services and Miguel Paredes have permitted the Hagen Family defendants to continue to operate B-K Lighting as their personal piggy bank.

Johnson & Johnson Prescription Drug Litigation

Lewandowski v. Johnson and Johnson (D.N.J.): Cohen Milstein represents participants in Johnson & Johnson's Group Health Benefits Plan in a putative ERISA class action, accusing the pharmaceutical giant of mismanaging its own health plans' prescription drug program, costing employees millions of dollars in the form of higher payments for prescription drugs, higher out-of-pocket costs and co-pays, and, ultimately, lower wages in violation of ERISA.

Wells Fargo Health Plan Litigation

Navarro, et al. v. Wells Fargo & Co. (D. Minn.): Cohen Milstein is representing members of the Wells Fargo & Company Health Plan in a putative class action against Wells Fargo and senior executives for mismanaging Wells Fargo's prescription-drug benefits program. Plaintiffs allege that such breaches of fiduciary duties and prohibited transactions have cost their ERISA plan and their employees millions

of dollars in the form of higher payments for prescription drugs, higher premiums, higher out-of-pocket costs, and lower wages or limited wage growth.

BDO USA ESOP Litigation

Taylor v. BDO USA (D. Mass.): Cohen Milstein represents participants and beneficiaries of the BDO USA Employee Stock Ownership Plan in a putative ERISA class action. Plaintiff alleges that BDO USA's board of directors ensured that control of BDO was kept in the hands of management rather than the ESOP, used inflated revenues to value BDO, and engaged in a self-dealing transaction involving the ESOP purchasing 42% of the company's common stock for approximately \$1,300,000,000 – a purchase price that exceeded fair market value.

ACCT Holdings, Inc. ESOP Litigation

Tripp v. ACCT Holdings, Inc. (E.D. Pa.): Cohen Milstein represents employee participants in and beneficiaries of the ACCT Holdings, Inc. ESOP in an ERISA class action against the ESOP trustee, ACCT's board of directors, and the former owners of company for allegedly breaching their fiduciary duties and participating in prohibited transactions, including selling ACCT common stock to the ESOP at the over inflated price of \$320 million without doing adequate due diligence.

JPMorgan Chase Prescription Drug Litigation

Stern v. JPMorgan Chase & Co. (S.D.N.Y.): Cohen Milstein represents participants in the JPMorgan Chase Health Care Insurance Program for Active Employees and its component Medical Plan in a proposed class action. Plaintiffs allege that JPMorgan systematically mismanaged its prescription-drug benefits program by agreeing to pay its pharmacy benefit manager, CVS Caremark, grossly inflated prescription drug prices, costing the health plan and its participants millions of dollars through higher payments for prescription drugs, higher premiums, higher out-of-pocket costs, higher deductibles, higher coinsurance, higher copays, and suppressed wages.

Past Cases

Beacon/Madoff ERISA Litigation

In re Beacon Association Litigation (S.D.N.Y.): Cohen Milstein represented the trustees and participants of ERISA-covered employee benefit plans whose assets were invested by Beacon Associates LLC I and Beacon Associates LLC II (the "Feeder Funds") in and lost money by investment the investment schemes of Bernard L. Madoff, Bernard L. Madoff Investment Securities, LLC. On March 15, 2013, the court granted final approval of a \$219 million settlement to reimburse defrauded investors.

Dignity Health Church Plan Litigation

Rollins, et al. v. Dignity Health, et al. (N.D. Cal.): Cohen Milstein represented a certified class of defined benefit participants, who alleged that Dignity Health was improperly claiming that its pension plans were exempt from ERISA because they were “church plans.” As a result, it underfunded its plans by over \$1.2 billion. In 2016, the Supreme Court agreed to hear arguments on consolidated church plan cases, and in June 2017, it reversed previous rulings and ordered plaintiffs, in this case, to file an amended complaint. On July 15, 2022, the Court granted final approval of a \$100 million settlement.

T. Rowe Price 401(k) Litigation

Feinberg v. T. Rowe Price Group Inc. et al. (D. Md.): Cohen Milstein represented participants in the T. Rowe Price 401(k) plan, who alleged that plan fiduciaries violated ERISA, causing plan participants to pay millions of dollars in illicit fees. Plaintiffs alleged that T. Rowe Price only offered its own in-house investment funds in the 401(k), failed to offer the lowest cost versions of those funds, and failed to consider funds from other companies that offered lower fees or better performance. On July 6, 2022 the Court granted final approval of a \$7 million settlement.

Wells Fargo 401(k) Litigation

Becker v. Wells Fargo & Co., et al. (D. Minn.): Cohen Milstein achieved a \$32.5 million settlement prior to class certification and expert discovery. On August 31, 2022, the Court granted final approval of the settlement, resulting in a recovery of 40% of estimated damages for the plaintiffs. The lawsuit alleged that Wells Fargo and its affiliates violated numerous provisions of ERISA by breaching their fiduciary duties and engaging in self-dealing transactions prohibited under ERISA.

Triad Manufacturing, Inc. ESOP Litigation

Smith v. GreatBanc Trust Company, et al. (N.D. Ill.): Cohen Milstein represented participants and beneficiaries in the Triad Manufacturing ESOP who alleged that the ESOP's trustees breached their fiduciary duties in connection with the sale of Triad Manufacturing to the ESOP. In September 2021, the Seventh Circuit, in a precedent-setting decision, cited an exception to the Federal Arbitration Act that permits a court to overrule an arbitration agreement if it blocks a party from being able to bring claims under federal law. On August 23, 2023, the Court granted final approval of a \$14.8 million settlement and granted class certification.

Casino Queen ESOP Litigation

Hensiek v. Board of Directors of CQ Holding Company, Inc., et al. (S.D. Ill.): Cohen Milstein represents ESOP participants who allege that the Board of Directors of CQ Holding Company, Inc. and related defendants violated ERISA when they created an ESOP to buy their Casino Queen stock for \$170 million, a significantly inflated price. In late 2021, the Seventh Circuit directed Defendants to voluntarily dismiss their appeal on the arbitration issue on the heels of our precedent-setting victory before the Seventh

Circuit in *Smith v. GreatBanc Trust Company*, which cited an exception to the Federal Arbitration Act that permits a court to overrule an arbitration agreement if it blocks a party from being able to bring claims under federal law. On February 25, 2025, the court granted preliminary approval of a \$7.1 million settlement.

New York Life Insurance Company 401(k) Litigation

Krohnengold v. New York Life Insurance Company (S.D.N.Y.): Cohen Milstein represented employees and agents of New York Life Insurance in this certified class action against New York Life for allegedly mismanaging its 401(k) and engaging in corporate self-dealing and the prohibited transfer of employees' retirement assets. Plaintiffs claim that New York Life impermissibly invested participants investments into a Fixed Dollar Account by default and improperly favored and included its own in-house investment funds in its plans, thereby earning New York Life and its affiliates windfall profits. On July 18, 2024, the Court granted final approval of a \$19 million settlement – approximately 25% of the alleged losses.

CITGO Pension Plan Litigation

Urlaub, et al. v. Citgo Petroleum Corporation, et al. (N.D. Ill.): Cohen Milstein represents a certified class of participants and beneficiaries of the CITGO Petroleum Corporation Salaried and Hourly Employees Pension Plans, who allege CITGO violated ERISA by applying outdated mortality tables to the CITGO Plans to determine the value of joint and survivor annuities, resulting in married retirees receiving less than the actuarial equivalent of the benefit that ERISA protects. On January 27, 2025, the Court granted final approval of a \$14.75 million settlement, reflecting a significant recovery for impacted retirees – 87% of losses for retirees who retired within 6 years of the lawsuit and 20% of losses for retirees who retired from 1995 to 2015.

World Travel ESOP Litigation

Ahrendsen et al. v. Prudent Fiduciary Services, et al. (E.D. Pa.): Cohen Milstein represented a certified class of employee stock option plan participants and beneficiaries who allege that the founders of World Travel and the ESOP trustees created the ESOP and then sold 100% of the employees World Travel stock to the ESOP at an above-market price, saddling it with over \$200 million in debt. On June 22, 2023, the Court granted plaintiffs unopposed motion for class certification and final approval of a \$8.7 million settlement.

BlackRock 401(k) Retirement Plan Litigation

Baird v. BlackRock Institutional Trust Company, N.A. et al. (N.D. Cal.): Cohen Milstein successfully settled this certified class action, in which plaintiffs alleged that the BlackRock 401(k) plan administrators engaged in corporate self-dealing—restricting plan options to BlackRock's own proprietary funds, and

in many cases failing to provide the lowest cost versions of those funds. On November 3, 2021, the Court granted final approval of a \$9.65 million settlement.

Bon Secours Church Plan Litigation

Hodges, et al. v. Bon Secours Health System, Inc., et al. (D. Md.): On December 21, 2017, the court issued an order and final judgment granting final approval of a \$98.3 million settlement. Plaintiffs alleged that Bon Secours Health Plan improperly defined seven defined benefit pension plans as “Church Plans,” which are exempt from ERISA, and for breaching their fiduciary responsibilities in managing the plans under ERISA. Plaintiffs further alleged that application of the Church Plan exemption to the Bon Secours Plans violated the Establishment Clause of the United States Constitution. This settlement is unique not only for covering the total amount the plans that were underfunded but also for the fact that it was reached while three similar Church Plan/ERISA exemption cases, also led by Cohen Milstein, were consolidated before and ultimately granted review by the Supreme Court of the United States.

Providence Health Services Church Plan Litigation

Griffith v. Providence Health & Services, et al. (W.D. Wash.): Cohen Milstein represented more than 73,000 employees at Providence Health Services, who alleged that the non-profit healthcare conglomerate and its subsidiaries improperly claimed that the Providence Health & Services Cash Balance Retirement Plan qualified as a “Church Plan” under ERISA. Plaintiffs further claimed that if it was a “Church Plan,” then it did not comply with the many protections afforded to pension beneficiaries under ERISA. On March 21, 2017, the court granted final approval of a landmark \$351 million settlement.

Daniel R. Sutter

Partner

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PRACTICE AREAS

ERISA & Employee Benefits

ADMISSIONS

District of Columbia | Maryland

EDUCATION

The George Washington University Law School, J.D., 2016 | The George Washington University, B.A., 2010

Overview

Daniel R. Sutter is a partner in Cohen Milstein's Employee Benefits/ERISA practice. He represents the interests of employees, retirees, plan participants and beneficiaries in ERISA cases across the country.

Prior to becoming an associate at Cohen Milstein, Dan served as a Legal Fellow in the firm's Employee Benefits practice, where he investigated, developed, and drafted complaints against major financial institutions for ERISA violations. Before that, Dan worked at Cohen Milstein as a law clerk (2013–2016) and as an analyst (2010–2016), where he researched and aided in the development of potential cases for a number of practices.

In law school, Dan was a member of the *Federal Circuit Bar Journal*, and he also worked as a law clerk at the Consumer Financial Protection Bureau, Legal Division, in the summer of 2015. He also studied at the London School of Economics.

Current Cases

GWA, LLC 401(k) Profit Sharing Plan Litigation

Andrew–Berry, et al. v. Weiss (D. Conn.): Cohen Milstein represents participants in the GWA, LLC 401(k) Profit Sharing Plan who allege that GWA, LLC and George A. Weiss breached their fiduciary duties and misused employee retirement plan assets to further their own pecuniary interest, in violation of ERISA.

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Specifically, plaintiffs allege that 100% of the Plan's investments (all of which are 401(k) assets) were and continue to be invested in "The Weiss Funds," which includes the company's flagship hedge fund named the "Weiss Multi-Strategy Partners Ltd." and the company's mutual fund named the "Weiss Alternative Multi-Strategy Fund," which generally "replicates" the hedge fund's strategy. On May 30, 2025, the court granted preliminary approval of a \$7.9 million settlement.

AT&T Pension Benefit Plan Litigation

Scott, et al. v. AT&T Inc. (N.D. Cal.): Cohen Milstein represents participants and beneficiaries in the AT&T Pension Benefit Plan who allege that AT&T failed comply with ERISA's actuarial equivalence requirements when providing married participants joint and survivor annuities.

Nationwide Savings Plan Litigation

Sweeney, et al. v. Nationwide Mutual Insurance Company, et al. (D. Mass.): We represent participants and beneficiaries of the MassMutual Thrift Plan in a class action against Massachusetts Mutual Life Insurance and other fiduciaries responsible for managing the MassMutual Thrift Plan, a defined contribution retirement plan. Plaintiffs allege that MassMutual and other fiduciaries engaged in self-dealing in violation of ERISA, cost its employees tens of millions of dollars in retirement savings.

Luxottica Group Pension Plan Litigation

Duke v. Luxottica U.S. Holdings Corp., et al. (E.D.N.Y.): Cohen Milstein represents Luxottica pension plan participants in a lawsuit, alleging that the plan used outdated mortality tables to determine the value of participants' joint and survivor annuities, resulting in married retirees receiving less than the actuarial equivalent of the benefit that ERISA protects.

IBM Personal Pension Plan Litigation

Knight v. International Business Machines Corporation, et al. (S.D.N.Y.): Cohen Milstein represents participants and beneficiaries of the IBM Personal Pension Plan, who allege that the IBM Personal Pension Plan uses outdated mortality tables to determine the value of joint and survivor annuities, resulting in married retirees receiving less than the actuarial equivalent of the benefit that ERISA protects in violation of ERISA.

WBBQ ESOP Litigation

Lloyd, et al. v. Argent Trust Company, et al. (S.D.N.Y.): Cohen Milstein represents participants and beneficiaries of the W BBQ Holdings, Inc. Employee Stock Ownership Plan, who allege that the trustee of the WBBQ ESOP, Argent Trust Company and the company's owner, and controlling managers and shareholders breached their fiduciary duties, causing the ESOP to engage in transactions that are

prohibited under ERISA and in connection with the sale of the company to the ESOP for an inflated purchase price that far exceeded its fair market value.

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Lewandowski v. Johnson and Johnson (D.N.J.): Cohen Milstein represents participants in Johnson & Johnson's Group Health Benefits Plan in a putative ERISA class action, accusing the pharmaceutical giant of mismanaging its own health plans' prescription drug program, costing employees millions of dollars in the form of higher payments for prescription drugs, higher out-of-pocket costs and co-pays, and, ultimately, lower wages in violation of ERISA.

BDO USA ESOP Litigation

Taylor v. BDO USA (D. Mass.): Cohen Milstein represents participants and beneficiaries of the BDO USA Employee Stock Ownership Plan in a putative ERISA class action. Plaintiff alleges that BDO USA's board of directors ensured that control of BDO was kept in the hands of management rather than the ESOP, used inflated revenues to value BDO, and engaged in a self-dealing transaction involving the ESOP purchasing 42% of the company's common stock for approximately \$1,300,000,000 – a purchase price that exceeded fair market value.

ACCT Holdings, Inc. ESOP Litigation

Tripp v. ACCT Holdings, Inc. (E.D. Pa.): Cohen Milstein represents employee participants in and beneficiaries of the ACCT Holdings, Inc. ESOP in an ERISA class action against the ESOP trustee, ACCT's board of directors, and the former owners of company for allegedly breaching their fiduciary duties and participating in prohibited transactions, including selling ACCT common stock to the ESOP at the over inflated price of \$320 million without doing adequate due diligence.

Past Cases

Wells Fargo 401(k) Litigation

Becker v. Wells Fargo & Co., et al. (D. Minn.): Cohen Milstein achieved a \$32.5 million settlement prior to class certification and expert discovery. On August 31, 2022, the Court granted final approval of the settlement, resulting in a recovery of 40% of estimated damages for the plaintiffs. The lawsuit alleged that Wells Fargo and its affiliates violated numerous provisions of ERISA by breaching their fiduciary duties and engaging in self-dealing transactions prohibited under ERISA.

Triad Manufacturing, Inc. ESOP Litigation

Smith v. GreatBanc Trust Company, et al. (N.D. Ill.): Cohen Milstein represented participants and beneficiaries in the Triad Manufacturing ESOP who alleged that the ESOP's trustees breached their fiduciary duties in connection with the sale of Triad Manufacturing to the ESOP. In September 2021, the Seventh Circuit, in a precedent-setting decision, cited an exception to the Federal Arbitration Act that permits a court to overrule an arbitration agreement if it blocks a party from being able to bring claims under federal law. On August 23, 2023, the Court granted final approval of a \$14.8 million settlement and granted class certification.

Casino Queen ESOP Litigation

Hensiek v. Board of Directors of CQ Holding Company, Inc., et al. (S.D. Ill.): Cohen Milstein represents ESOP participants who allege that the Board of Directors of CQ Holding Company, Inc. and related defendants violated ERISA when they created an ESOP to buy their Casino Queen stock for \$170 million, a significantly inflated price. In late 2021, the Seventh Circuit directed Defendants to voluntarily dismiss their appeal on the arbitration issue on the heels of our precedent-setting victory before the Seventh Circuit in Smith v. GreatBanc Trust Company, which cited an exception to the Federal Arbitration Act that permits a court to overrule an arbitration agreement if it blocks a party from being able to bring claims under federal law. On February 25, 2025, the court granted preliminary approval of a \$7.1 million settlement.

New York Life Insurance Company 401(k) Litigation

Krohnengold v. New York Life Insurance Company (S.D.N.Y.): Cohen Milstein represented employees and agents of New York Life Insurance in this certified class action against New York Life for allegedly mismanaging its 401(k) and engaging in corporate self-dealing and the prohibited transfer of employees' retirement assets. Plaintiffs claim that New York Life impermissibly invested participants investments into a Fixed Dollar Account by default and improperly favored and included its own in-house investment funds in its plans, thereby earning New York Life and its affiliates windfall profits. On July 18, 2024, the Court granted final approval of a \$19 million settlement – approximately 25% of the alleged losses.

CITGO Pension Plan Litigation

Urlaub, et al. v. Citgo Petroleum Corporation, et al. (N.D. Ill.): Cohen Milstein represents a certified class of participants and beneficiaries of the CITGO Petroleum Corporation Salaried and Hourly Employees Pension Plans, who allege CITGO violated ERISA by applying outdated mortality tables to the CITGO Plans to determine the value of joint and survivor annuities, resulting in married retirees receiving less than the actuarial equivalent of the benefit that ERISA protects. On January 27, 2025, the Court granted final approval of a \$14.75 million settlement, reflecting a significant recovery for impacted retirees – 87% of losses for retirees who retired within 6 years of the lawsuit and 20% of losses for retirees who retired from 1995 to 2015.

BlackRock 401(k) Retirement Plan Litigation

Baird v. BlackRock Institutional Trust Company, N.A. et al. (N.D. Cal.): Cohen Milstein successfully settled this certified class action, in which plaintiffs alleged that the BlackRock 401(k) plan administrators engaged in corporate self-dealing—restricting plan options to BlackRock’s own proprietary funds, and in many cases failing to provide the lowest cost versions of those funds. On November 3, 2021, the Court granted final approval of a \$9.65 million settlement.

Jacob Schutz

Associate

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PRACTICE AREAS

ERISA & Employee Benefits

ADMISSIONS

Minnesota

EDUCATION

University of Minnesota Law School, J.D., magna cum laude, 2013 | University of Pennsylvania, B.A., summa cum laude, 2010

Overview

Jacob Schutz is an associate in Cohen Milstein's Employee Benefits/ERISA practice. He represents the interests of employees, retirees, plan participants and beneficiaries in ERISA class-action lawsuits across the country.

Prior to joining Cohen Milstein, Jacob was an associate for several years at a highly regarded national plaintiffs' law firm, where he represented clients in employee benefits/ERISA class actions.

In law school, Jacob was a notes and articles editor for the *ABA Journal of Labor & Employment Law* and a member of the Order of the Coif. He also published the note: *Association Discrimination under the Americans with Disabilities Act: The Case of Dependent Healthcare Costs*, 27 ABA J. Lab. & Emp. L. 485

Current Cases

GWA, LLC 401(k) Profit Sharing Plan Litigation

Andrew-Berry, et al. v. Weiss (D. Conn.): Cohen Milstein represents participants in the GWA, LLC 401(k) Profit Sharing Plan who allege that GWA, LLC and George A. Weiss breached their fiduciary duties and misused employee retirement plan assets to further their own pecuniary interest, in violation of ERISA. Specifically, plaintiffs allege that 100% of the Plan's investments (all of which are 401(k) assets) were and continue to be invested in "The Weiss Funds," which includes the company's flagship hedge fund

named the “Weiss Multi-Strategy Partners Ltd.” and the company’s mutual fund named the “Weiss Alternative Multi-Strategy Fund,” which generally “replicates” the hedge fund’s strategy. On May 30, 2025, the court granted preliminary approval of a \$7.9 million settlement.

Western Milling ESOP Litigation

Zavala v. Kruse-Western Inc. et al. (E.D. Cal.): We represent participants and beneficiaries of the Western Milling Employee Stock Ownership Plan, who allege that the ESOP’s trustees breached their fiduciary duties by engaging in risky investments in violation of ERISA, including purchasing 100% of Kruse-Western, Inc. company stock, which was valued at approximately 90% of the purchase price for several years after the ESOP Transaction.

Nationwide Savings Plan Litigation

Sweeney, et al. v. Nationwide Mutual Insurance Company, et al. (D. Mass.): We represent participants and beneficiaries of the MassMutual Thrift Plan in a class action against Massachusetts Mutual Life Insurance and other fiduciaries responsible for managing the MassMutual Thrift Plan, a defined contribution retirement plan. Plaintiffs allege that MassMutual and other fiduciaries engaged in self-dealing in violation of ERISA, cost its employees tens of millions of dollars in retirement savings.

IBM Personal Pension Plan Litigation

Knight v. International Business Machines Corporation, et al. (S.D.N.Y.): Cohen Milstein represents participants and beneficiaries of the IBM Personal Pension Plan, who allege that the IBM Personal Pension Plan uses outdated mortality tables to determine the value of joint and survivor annuities, resulting in married retirees receiving less than the actuarial equivalent of the benefit that ERISA protects in violation of ERISA.

AMPAM Parks Mechanical ESOP Litigation

Ramirez, et al. v. AMPAM Parks Mechanical, Inc., et al. (S.D. Cal.): Cohen Milstein represents employee participants and beneficiaries of the AMPAM Parks Mechanical, Inc. Employee Stock Ownership Plan in a certified class action lawsuit alleging that AMPAM Parks Mechanical and the founders of AMPAM, Buddy Parks, John D. Parks, James Parks, and Jason Parks breached their fiduciary duties in the management of the ESOP in violation of ERISA.

ACCT Holdings, Inc. ESOP Litigation

Tripp v. ACCT Holdings, Inc. (E.D. Pa.): Cohen Milstein represents employee participants in and beneficiaries of the ACCT Holdings, Inc. ESOP in an ERISA class action against the ESOP trustee, ACCT’s board of directors, and the former owners of company for allegedly breaching their fiduciary duties

and participating in prohibited transactions, including selling ACCT common stock to the ESOP at the over inflated price of \$320 million without doing adequate due diligence.

Past Cases

New York Life Insurance Company 401(k) Litigation

Krohnengold v. New York Life Insurance Company (S.D.N.Y.): Cohen Milstein represented employees and agents of New York Life Insurance in this certified class action against New York Life for allegedly mismanaging its 401(k) and engaging in corporate self-dealing and the prohibited transfer of employees' retirement assets. Plaintiffs claim that New York Life impermissibly invested participants investments into a Fixed Dollar Account by default and improperly favored and included its own in-house investment funds in its plans, thereby earning New York Life and its affiliates windfall profits. On July 18, 2024, the Court granted final approval of a \$19 million settlement – approximately 25% of the alleged losses.

Caroline E. Bressman

Associate

WASHINGTON, DC

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PRACTICE AREAS

ERISA & Employee Benefits

ADMISSIONS

District of Columbia | Minnesota

EDUCATION

University of Minnesota Law School, J.D., cum laude, 2018 | St. Olaf College, B.A., magna cum laude, 2015

Overview

Caroline E. Bressman represents the interests of employees, retirees, plan participants, and beneficiaries in ERISA class action lawsuits across the country.

Prior to joining Cohen Milstein, she was an associate at a highly regarded national plaintiffs' law firm, where she represented clients in employee benefits/ERISA and employment law class actions.

In addition to managing a full docket, Caroline is an adjunct faculty member at the University of Minnesota Law School, where she teaches a Law in Practice course. She also speaks frequently on ERISA, wage theft and employment law topics in continuing legal education programs.

During law school, Caroline was a staff member (Vol. 101) and the Symposium Articles Editor (Vol. 102) for the *Minnesota Law Review*.

Current Cases

GWA, LLC 401(k) Profit Sharing Plan Litigation

Andrew-Berry, et al. v. Weiss (D. Conn.): Cohen Milstein represents participants in the GWA, LLC 401(k) Profit Sharing Plan who allege that GWA, LLC and George A. Weiss breached their fiduciary duties and misused employee retirement plan assets to further their own pecuniary interest, in violation of ERISA. Specifically, plaintiffs allege that 100% of the Plan's investments (all of which are 401(k) assets) were and continue to be invested in "The Weiss Funds," which includes the company's flagship hedge fund cohenmilstein.com

named the “Weiss Multi-Strategy Partners Ltd.” and the company’s mutual fund named the “Weiss Alternative Multi-Strategy Fund,” which generally “replicates” the hedge fund’s strategy. On May 30, 2025, the court granted preliminary approval of a \$7.9 million settlement.

AT&T Pension Benefit Plan Litigation

Scott, et al. v. AT&T Inc. (N.D. Cal.): Cohen Milstein represents participants and beneficiaries in the AT&T Pension Benefit Plan who allege that AT&T failed comply with ERISA’s actuarial equivalence requirements when providing married participants joint and survivor annuities.

Envision Management Holding, Inc. ESOP Litigation

Harrison v. Envision Management Holding, Inc. Board of Directors, et al. (D. Col.): Cohen Milstein represents Envision Management Holding ESOP participants, who allege the ESOP purchased Envision Management Holding stock at an inflated price, causing a multi-million-dollar loss to the ESOP. On February 9, 2023, A three-judge panel for the Tenth Circuit, in a 41-page published opinion, sided with Plaintiffs’ argument, which was backed up by a U.S. Department of Labor amicus brief, that an arbitration provision tucked in Envision workers’ ESOP plan impermissibly blocked remedies under ERISA, triggering an exemption in the Federal Arbitration Act, which permits a court to overrule an arbitration agreement if it blocks a party from being able to bring claims under federal law. On October 10, 2023, the U.S. Supreme Court denied Defendants’ petition to review the Tenth Circuit’s decision, thereby affirming the lower court’s March 24, 2022 ruling, which denied Defendants’ motion to compel arbitration.

Intel Minimum Pension Plan Litigation

Berkeley v. Intel Corporation et al (N.D. Cal.): Cohen Milstein represents a putative class of pension plan participants and beneficiaries, who allege that the Intel Minimum Pension Plan utilized outdated mortality tables to determine the value of joint and survivor annuities, resulting in married retirees receiving less than the actuarial equivalent of the benefit that ERISA protects.

Lite Star ESOP Litigation

Chea v. Lite Star ESOP Committee, et al. (E.D. Cal.): Cohen Milstein is representing participants in the Lite Star employee stock option plan in a putative ERISA class action. Plaintiff alleges that Prudent Fiduciary Services and Miguel Paredes, on behalf of the Lite Star ESOP, improperly negotiated and purchased 100% of B-K Lighting stock from Douglas W. Hagen, the chairman of B-K Lighting, for over \$25 million, an overly inflated price, in violation of ERISA. Plaintiff also claims that the company’s board of directors and members of the ESOP Committee breached their fiduciary duties to the ESOP and that Prudent Fiduciary Services and Miguel Parades have permitted the Hagen Family defendants to continue to operate B-K Lighting as their personal piggy bank.

BDO USA ESOP Litigation

Taylor v. BDO USA (D. Mass.): Cohen Milstein represents participants and beneficiaries of the BDO USA Employee Stock Ownership Plan in a putative ERISA class action. Plaintiff alleges that BDO USA's board of directors ensured that control of BDO was kept in the hands of management rather than the ESOP, used inflated revenues to value BDO, and engaged in a self-dealing transaction involving the ESOP purchasing 42% of the company's common stock for approximately \$1,300,000,000 – a purchase price that exceeded fair market value.

Past Cases

Triad Manufacturing, Inc. ESOP Litigation

Smith v. GreatBanc Trust Company, et al. (N.D. Ill.): Cohen Milstein represented participants and beneficiaries in the Triad Manufacturing ESOP who alleged that the ESOP's trustees breached their fiduciary duties in connection with the sale of Triad Manufacturing to the ESOP. In September 2021, the Seventh Circuit, in a precedent-setting decision, cited an exception to the Federal Arbitration Act that permits a court to overrule an arbitration agreement if it blocks a party from being able to bring claims under federal law. On August 23, 2023, the Court granted final approval of a \$14.8 million settlement and granted class certification.

World Travel ESOP Litigation

Ahrendsen et al. v. Prudent Fiduciary Services, et al. (E.D. Pa.): Cohen Milstein represented a certified class of employee stock option plan participants and beneficiaries who allege that the founders of World Travel and the ESOP trustees created the ESOP and then sold 100% of the employees World Travel stock to the ESOP at an above-market price, saddling it with over \$200 million in debt. On June 22, 2023, the Court granted plaintiffs unopposed motion for class certification and final approval of a \$8.7 million settlement.