

# **EXHIBIT AA**

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13 *Interim Co-Lead Counsel for Direct Purchaser Plaintiffs*  
14

15 UNITED STATES DISTRICT COURT  
16 NORTHERN DISTRICT OF CALIFORNIA  
17 OAKLAND DIVISION

18 IN RE: LITHIUM ION BATTERIES  
ANTITRUST LITIGATION

Case No. 13-md-02420-YGR  
MDL No. 2420

19  
20 This Document Relates to:  
21 ALL DIRECT PURCHASER CLASS  
22 ACTIONS

**DECLARATION OF DANIEL D. OWEN  
IN SUPPORT OF DIRECT PURCHASER  
PLAINTIFFS MOTION FOR AN AWARD  
OF ATTORNEYS' FEES,  
REIMBURSEMENT OF EXPENSES, AND  
INCENTIVE AWARDS**

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1 I, Daniel D. Owen, declare and state as follows:

2 1. I am a Shareholder of the law firm of Polsinelli PC. I submit this declaration in  
3 support of Direct Purchaser Plaintiffs (“DPP”) application for an award of attorneys’ fees and  
4 reimbursement of expenses in connection with the services rendered in this litigation. I make this  
5 Declaration based on my own personal knowledge, and if called as a witness, I could and would  
6 competently testify to the matters stated herein.

7 2. My firm has served as counsel to Automation Engineering, LLC and as counsel for  
8 the Direct Purchaser Class (“Class”) throughout the course of this litigation. The background and  
9 experience of Polsinelli PC and its attorneys are summarized in the *curriculum vitae* attached  
10 hereto as **Exhibit 1**.

11 3. Polsinelli PC has prosecuted this litigation solely on a contingent-fee basis, and has  
12 been at risk that it would not receive any compensation for prosecuting claims against the  
13 Defendants. While Polsinelli PC devoted its time and resources to this matter, it has foregone  
14 other legal work for which it could have been compensated.

15 4. During the pendency of the litigation, Polsinelli PC performed the following work:

16 (a) Assisted with preparing pleadings, motions, and supporting briefs with legal  
17 authorities;

18 (b) Participated in meetings and conference calls with clients, co-plaintiffs’  
19 counsel, and opposing counsel;

20 (c) Participated in depositions of fact witnesses and the preparation of same;

21 (d) Prepared responses to written discovery requests propounded by opposing  
22 counsel;

23 (e) Reviewed and analyzed documents produced by our own clients and by  
24 defendants for use in deposition and at trial, as documentary proof of facts in support of the Direct  
25 Purchaser Plaintiffs’ claims;

26 (f) Participated in the selection, study, analysis, and creation of deposition  
27 exhibits;

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1 (g) Provided non-lawyers services from our in-house technology staff relating  
2 to the collection, indexing, coding, analysis, and pre-production of 36 million pages of electronic  
3 documents. These non-lawyer services have saved the consortium of plaintiffs' counsel hundreds  
4 of thousands of dollars compared to the price of outside vendors;

5 (h) Polsinelli's litigation support staff also placed all of the electronic  
6 documents produced by defendants and loaded them into an Eclipse document database, and later  
7 transferred them to a more advance Relativity database. This database provided the latest tools for  
8 indexing, coding, analyzing, and producing discovery documents. Polsinelli also provided  
9 Relativity user ID's and passwords for numerous attorneys, spread among a dozen plaintiff firms,  
10 which allowed them to access and code the defendant documents in the Relativity database from  
11 any internet terminal located anywhere in the world. A Relativity license was provided to each  
12 lawyer on a monthly basis who accessed the documents. In some months, when a lot of document  
13 review was conducted, over 90 Relativity licenses were provided to reviewing lawyers. Polsinelli  
14 also maintained the security for this database as well as 24/7 user support for the attorneys using  
15 the database;

16 (i) In addition to handling all of the defendants' discovery documents in its  
17 electronic database, Polsinelli also provided the same type of service regarding the plaintiffs'  
18 documents. Polsinelli loaded over 20 million individual plaintiff emails into its document  
19 database system and all of them were fully searchable. Polsinelli then coordinated and led the  
20 document-by-document review and privilege check of the plaintiffs' documents which was  
21 conducted by attorneys from participating plaintiffs' firms across the country. After search term  
22 negotiations with the defendants were complete, Polsinelli produced all non-privileged responsive  
23 plaintiffs' documents from its databases to the defendants;

24 (j) In addition to providing the non-lawyer services described above, all of  
25 which were submitted with its monthly billing numbers, Polsinelli lawyers spent significant time  
26 coordinating and supervising the work of non-lawyers and the various facets of the electronic  
27 discovery that was conducted in this case. Polsinelli lawyers with years of experience in advanced  
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1 electronic discovery techniques made decisions about data formats, information to be coded,  
2 reports to be run, the organization and format of saved searches, and many other technical and  
3 organizational details necessary for efficient document handling throughout the life of this case;

4 (k) Polsinelli attorneys also led the negotiation with all of the defendants that  
5 resulted in the Search Term Protocol that was ultimately adopted by the court. Pursuant to that  
6 protocol, Polsinelli lawyers conducted search term negotiations with individual defendants which  
7 created the original omnibus list of search terms, and then Polsinelli lawyers ran hundreds of  
8 individual searches against the Relativity database in order to test and validate search terms  
9 throughout the negotiation process with the defendants;

10 (l) Finally, Polsinelli lawyers coordinated a massive project to identify the  
11 paper documents in the possession of plaintiff Circuit City that were responsive to defendants'  
12 detailed discovery requests. Using a combination of existing indexes, hand review at the pallet  
13 level, and hand review at the box level, Polsinelli attorneys coordinated and supervised the  
14 lawyers who identified 525 boxes of potentially responsive material from three warehouses in the  
15 Richmond, Virginia area, and then coordinated the production of this material to the defendants.

16 5. Attached hereto as **Exhibit 2** is my firm's total hours and lodestar, computed at  
17 historical rates, for the period of June 1, 2013 through August 31, 2017. This period reflects the  
18 time spent after the appointment of Interim Co-Lead Counsel and Liaison Counsel for Direct  
19 Purchased Plaintiffs ("DPP") in this litigation. The total number of hours spent by Polsinelli PC  
20 during this period of time was 10,233.70, with a corresponding lodestar of \$4,929,045.00. My  
21 firm's lodestar figures are based on the firm's historical billing rates which do not include charges  
22 for expense items. Expense items are billed separately and such charges are not duplicated in my  
23 firm's billing rates. This summary was prepared from contemporaneous, daily time records  
24 regularly prepared and maintained by my firm. The lodestar amount reflected in Exhibit 2 is for  
25 work assigned by DPP Co-Lead Counsel, and was performed by professionals at my law firm for  
26 the benefit of the Class.

27 6. Polsinelli PC has reviewed the time and expense records that form the basis of this  
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1 declaration to correct any billing errors. In addition, my firm has removed all time entries and  
2 expenses related to the following:

3 a. time spent reading or reviewing pleadings, ECF notices or other papers  
4 unless a necessary part of performing a specific assignment from Co-Lead Counsel;

5 b. travel time unless the attorney or professional was actively engaged in  
6 preparation or work in connection with a particular assignment made by Co-Lead Counsel which  
7 necessitated travel;

8 c. billing for time connected with creating timekeeping records or for the time  
9 of attorneys or staff expended in preparation of audited time records and expenses in support of  
10 DPPs' application for an award of attorneys' fees and reimbursement of expenses.

11 7. The hourly rates for the attorneys and professional support staff in my firm  
12 included in **Exhibit 2** are the same as the regular rates charged for their services in non-contingent  
13 matters and/or which have been accepted in other complex or class action litigation subject to the  
14 hourly rate caps established by DPP Co-Lead Counsel, including:

15 a. the highest hourly rates for Attorneys at the highest Partner level is capped  
16 at \$850 per hour;

17 b. the highest hourly rates for Attorneys at the Of-counsel/Special counsel  
18 level for substantive work is capped at \$650 per hour, which excludes document review;

19 c. the highest hourly rates for Attorneys at the highest Associate level for  
20 substantive work is capped at \$450 per hour, which excludes document review;

21 d. the highest hourly rates for Attorneys at the Associate level engaged in  
22 English-language document review is capped at \$350 per hour; a cap of \$400 per hour is permitted  
23 where the reviewer has special skill set, such as foreign language translation, and Lead Counsel  
24 has approved that work performed; and

25 e. the highest hourly rates for Paralegals and investigators is capped at \$175  
26 per hour.

27 8. My firm has expended a total of \$702,154.05 in unreimbursed costs and expenses  
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1 in connection with the prosecution of this litigation. These costs and expenses are broken down in  
2 the chart attached hereto as **Exhibit 3**, and the costs identified as “Relativity Searchable Data  
3 Hosting Fee, Relativity User Access Fee, Data Extract Without Images, and TIFF  
4 Creation/Production Image” are explained in detail in the Declaration of Daniel D. Owen  
5 Regarding Document Hosting Expenses.

6 All of the costs listed on **Exhibit 3** were incurred on behalf of Direct Purchaser Plaintiffs  
7 by my firm on a contingent basis, and have not been reimbursed. The expenses incurred in this  
8 action are reflected on the books and records of my firm. These books and records are prepared  
9 from expense vouchers, check records and other source materials and represent an accurate  
10 recordation of the expenses incurred.

11 9. Polsinelli PC has also paid a total of \$125,000 in assessments for the joint  
12 prosecution of the litigation against the Defendants.

13 10. My firm has carefully reviewed the time and expenses that comprise its reported  
14 lodestar and out of pocket expenses and represents that such lodestar and expenses comply with all  
15 material applicable terms of the May 21, 2013 letter from Co-Lead Counsel regarding Protocols  
16 for Maintaining and Reporting Time and Expense as well as Modified Pretrial Order No. 1 with  
17 Exhibit A (Dkt. No. 202, May 24, 2013).

18 I declare under penalty of perjury under the laws of the United States of America that the  
19 foregoing is true and correct. Executed on this 7<sup>th</sup> day of February, 2018 at Kansas City, Missouri.

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21   
22 DANIEL D. OWEN

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# **Exhibit 1**





## Firm Curriculum Vitae

- 1 Firm Overview
- 2 Antitrust Practice
- 3 Attorney Biographies



# 1 Firm Overview



real challenges.  
real answers.<sup>SM</sup>



### firm facts

A full-service firm with more than **170 services/industries**

**800 attorneys nationwide**

**20 offices** spanning the country from Los Angeles to New York

**7 focus areas** business litigation, financial services, health care, intellectual property, labor & employment, mid-market corporate and real estate

### our clients say

#### direct and practical

*"There is a definite distinction in style that you can identify from firm to firm. Some firms are shrouded with exceptions, caveats and legal speak. I want direct statements, practical help, and I get that at Polsinelli."*

#### understanding clients' real world situations

*"Polsinelli is excellent at that. They do a great job at deeply understanding what we do and are trying to accomplish. When negotiating, they know what's important to us and the right trade-offs, and they apply their legal knowledge based on that."*

### polsinelli.com

Polsinelli is very proud of the results we obtain for our clients, but you should know that past results do not guarantee future results; that every case is different and must be judged on its own merits; and that the choice of a lawyer is an important decision and should not be based solely upon advertisements. Polsinelli PC, Polsinelli LLP in California.

You expect lawyers to be good legal technicians. Shouldn't you also expect legal advice grounded in strong business acumen? We understand your functional challenges and how your industry orientation shapes your strategic objectives. That is why we organize our experience logically around your business needs.

### services

- Antitrust
- Bankruptcy and Financial Restructuring
- Corporate and Transactional
- Employee Benefits and Executive Compensation
- Environmental and Natural Resources
- Financial Services
- Food and Drug
- Government Contracts
- Government Investigations and Compliance: Civil and Criminal
- Health Care
- Immigration
- Infrastructure and Public-Private Partnerships
- Intellectual Property
- International
- Labor and Employment
- Litigation and Dispute Resolution
- Privacy and Data Security
- Pro Bono
- Public Policy
- Real Estate
- Real Estate Finance
- Securities and Corporate Finance
- Tax
- Wealth Planning / Administration

### industries

- Chemical Manufacturing
- Construction
- Energy and Utilities
- Family Owned Businesses
- Financial Services
- Food and Agriculture
- Franchises and Distributors
- Health Care
- Insurance Business and Regulatory Law
- Life Sciences
- Nonprofit Organizations
- Professional Services
- Public Sector
- Real Estate
- Retail and Hospitality
- Startup Ventures
- Technology
- Telecommunications
- Transportation and Logistics
- Venture Capital and Emerging Growth Companies



real people.  
real insights. <sup>SM</sup>



**Business Litigation** Polsinelli's business litigation attorneys provide companies and professionals with business-driven legal advice that is founded on a thorough understanding of substantive legal issues, real courtroom experience and sound business judgment. Our attorneys strive to help clients make sound business decisions by providing legal advice infused with economic evaluation and risk management.

**Financial Services** The firm's national financial services practice encompasses all aspects of debt and equity financing, including loan origination and servicing, loan sales and securitizations, financial restructuring and work-outs, loan enforcement, and bankruptcy. Our fully integrated practice represents lenders, borrowers, issuers, investors, debtors, creditors, and master and special servicers in all matters of financing from all sides, with a history of providing practical, business-minded legal guidance.

**Health Care** Recognized as a leader in health care law, Polsinelli is ranked nationally by *Chambers USA*<sup>1</sup>. From the strength of its national platform, the firm is positioned to advise on the full range of hospital-physician lifecycle and business issues confronting health care providers across the United States. The national team serves clients in hospital and health systems, academic medical centers, health information and technology companies, and many other sub-sectors of the industry.

**Intellectual Property** Our attorneys are a multidisciplinary team organized to handle the most complex issues facing technology and high tech companies, bioscience and life sciences companies, animal science, medical device, pharmaceutical, chemical, software and business methods, data, privacy, health care IT, and any of a variety of other high tech industries. As one of the largest IP practices in the nation, our attorneys have deep experience, including patent and trademark prosecution and litigation, IP transactions, post-grant work and strategic guidance leading up to and during the litigation process.

**Labor & Employment** Our attorneys partner with management to navigate challenging labor and employment problems in increasingly regulated workplaces. We help business clients plan and implement practical human resources solutions such as workforce restructuring, union avoidance plans, restrictive covenant and intellectual property protection plans, and merger and acquisition related workforce integrations. When employment disputes escalate to high-stakes litigation, our lawyers bring to bear decades of trial and class action experience to win at trial or at the negotiating table. Whether representing established Fortune 50 enterprises, or privately-held entrepreneurial ventures, we work in concert with our clients to find employment solutions that advance their business objectives.

**Mid-Market Corporate** Companies doing business in the middle market ecosystem require sophisticated and comprehensive legal advice designed to minimize liability and maintain flexibility while focusing on opportunity and scale. High value advice is necessary to achieve those goals. Our attorneys provide tailored legal counsel grounded in an understanding of our clients' businesses as well as the industries and geographies in which they operate, including outside general counsel, corporate governance, securities and corporate finance, joint ventures and strategic alliances (mergers, acquisitions and divestitures, private equity, and venture capital) and other corporate services.

**Real Estate Development & Transactions** From acquisition and financing through development and leasing, our industry understanding enables Polsinelli attorneys to drive to deal closure. Our deep bench in transactions, financing structures, land use entitlements and environmental, as well as experience in securing economic incentives through tax credit and special obligation financing, provide the practical solutions our clients value.

<sup>1</sup> *Chambers USA: America's Leading Lawyers for Business*, May 2017

Polsinelli is very proud of the results we obtain for our clients, but you should know that past results do not guarantee future results; that every case is different and must be judged on its own merits; and that the choice of a lawyer is an important decision and should not be based solely upon advertisements. Polsinelli PC. Polsinelli LLP in California.



## 2 Antitrust Practice



real skills.  
real insights.<sup>SM</sup>

#### Practice Leaders

P. John Brady  
jbrady@polsinelli.com

Jennifer Gille Bacon  
jbacon@polsinelli.com

Matthew C. Hans  
mhans@polsinelli.com

Mitchell D. Raup  
mraup@polsinelli.com



## Antitrust

*"We're looking to do business with people that are good business people. We expect them to be savvy because they are at Polsinelli."*

— Polsinelli Client

### Overview

Polsinelli's Antitrust practice solves antitrust problems on matters ranging from mergers and acquisitions to intellectual property to complex litigation and consumer protection matters.

Our practice includes both experienced litigators and transactional lawyers. As a result, we have the experience to provide solutions across the spectrum of antitrust law. Because antitrust issues often are critical to our clients' businesses, we work closely with clients to develop a strategy that is consistent with their goals and objectives.

#### Mergers and Acquisitions

- We work with clients at all steps of their transactions to minimize antitrust exposure during contract formation, negotiation of terms, exchanges of sensitive information, pre-closing operations, and closing.
- We counsel clients about all aspects of their reporting obligations under the Hart-Scott-Rodino Act, and guide them through the merger review process.
- Our lawyers have defended multi-billion-dollar mergers of competitors. We have responded to numerous Second Requests and other discovery demands, prepared and presented facts and economic expert testimony to antitrust enforcers and courts, and (where necessary) negotiated consent decrees to allow the deal to close.

#### Antitrust Litigation and Government Investigations

- We understand antitrust litigation from all angles. Polsinelli has successfully represented plaintiffs and defendants in antitrust trials and appeals in class actions, Bet-The-Company lawsuits, multidistrict litigation, and government civil and criminal enforcement actions.
- We represent clients whose conduct is being investigated under the antitrust laws by the Federal Trade Commission, the United States Department of Justice, and State Attorneys General.

#### Antitrust Counseling, Audits and Compliance Training

- Our team counsels clients on structuring business operations to minimize antitrust risks.
- We conduct custom-designed, comprehensive antitrust audits of business operations to identify risks, prevent violations, and address problems before they surface in litigation.
- We train executives and management to recognize and avoid antitrust violations.

Protecting your Rights under the Antitrust Laws

- We aggressively represent plaintiffs who have been injured by antitrust violations. Our goal is to end the violation and recover compensation for injured clients.
- We represent parties bringing complaints to antitrust enforcement agencies and often persuade the agency to take corrective action to stop anti-competitive conduct.

## Key Matters

### Antitrust Litigation – for Defendants

- In two separate matters, represented major athletic conferences in antitrust class actions filed against a national collegiate sports association and other major athletic conferences, alleging that the association's rules limiting compensation for student athletes were in violation of the Sherman Act.
- Represented two athletic conferences in a class action filed alleging antitrust and intellectual property claims against TV broadcasters and certain Division I college athletic conferences.
- Defense of an antitrust claim against a national association of high school sports and a national association of collegiate sports by a baseball bat manufacturer, alleging that rules governing Bat-Ball Coefficient of Restitution restrained trade in the non-wood bat market. The United States Court of Appeals for the Fifth Circuit unanimously affirmed dismissal of the antitrust claims, reaffirming our client's role in setting rules for high school competition.
- Defended antitrust claims alleging that a software company with revenues of \$55.8 billion per year excluded another technology company from the US market for x86 computer microprocessors.
- Successfully defended claims by a group of franchisees in a tire and automotive products franchise system for tens of millions of dollars arising out of claims that the defendants engaged in conspiracy to breach contract, fraud, violation of various antitrust laws, including the Robinson-Patman Act and other claims.
- Defended class action by nurses alleging that association of hospitals and individual hospitals conspired to fix nurses' salary in violation of federal and state antitrust laws.
- Represented a manufacturer and distributor of commercial garage doors in a Robinson-Patman Act claim in which the plaintiff, a dealer for our client, alleged that our client gave unlawful preferential prices to a competing dealer. The Court granted our motion for summary judgment, holding that plaintiff had not established either unlawful price discrimination or injury to competition.

### Antitrust Litigation – for Plaintiffs

- Represent Colorado, Kansas, Missouri, and Wisconsin retail purchasers of natural gas against natural gas sellers in price-fixing suit alleging price manipulation. Obtained a 7-2 decision in the United States Supreme Court holding that the Natural Gas Act does not preempt the plaintiffs' state-law antitrust claims.
- Represented a class of direct purchasers of thin film transistor liquid crystal display panels that sued numerous Japanese, Korean and Taiwanese based manufacturers for price-fixing. Settlements of almost \$500 million were obtained, as was a jury verdict against Toshiba.
- Represented a class of direct purchasers of potash in a price-fixing case against an international cartel. Obtained a unanimous en banc opinion from the 7th Circuit on the non-applicability of the Foreign Trade Anti-Trust Improvements Act (FTAIA) and a \$90 million dollar settlement for the Class.
- Successfully represented plaintiff telecommunications company against nation's largest cable operator. The suit included antitrust claims under Section 1 and 2 of the Sherman Act and a claim for tortious interference claim and was tried in the United States District Court for seven weeks. Obtained a verdict on each of the two antitrust counts of \$10.8 million trebled to \$32.4 million and a verdict on the tortious interference claim of \$10.8 million plus \$25 million punitive damages (total \$35.8 million). Affirmed by the Eighth Circuit Court of Appeals; certiorari denied by the United States Supreme Court and judgment collected.
- Represent direct purchasers of lithium ion batteries against manufacturers who participated in an international price-fixing conspiracy.
- Represent indirect purchasers of coffee pods against a major manufacturer of coffee brewing equipment, in a suit alleging violations of antitrust and unfair competition laws of numerous states.
- Represent direct purchasers of capacitors, in a suit alleging that the defendants participated

in an international price-fixing conspiracy.

- Represent direct purchasers of CRT products, including television screens and computer monitors, against manufacturers who engaged in an international price-fixing conspiracy.
- Lead trial counsel for the State of Missouri claims under Section 1 and 2 of the Sherman Act against several of the major producers and distributors of natural gas in Western Missouri and Eastern Kansas. The case was tried for 10 days before settlement of claims. Total settlement for all plaintiffs in excess of \$200 million.
- Successfully negotiated on behalf of the State of Missouri and others for an aggregate settlement of more than \$400 million in claims involving antitrust price-fixing.
- After eight years of complex litigation, helped recover significant awards and settlements for prominent distributors engaged in associated multilevel marketing businesses that were seeking to recover tens of millions of dollars in commercial litigation cases filed in state and federal courts in Missouri and Florida. Their claims included a variety of tort, contract, and antitrust claims.





## 3 Attorney Biographies



real people.  
real perspective.<sup>SM</sup>



## P. John Brady

Shareholder  
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Kansas City  
816.374.0515

### Areas of Focus

- Antitrust
- Class Action Litigation
- Commercial Litigation
- Health Care Industry
- Health Care Litigation
- Health Care Services
- Litigation and Dispute Resolution

### Education

- J.D., Creighton University, 1980, *cum laude*
- B.S., University of Nebraska-Lincoln, 1976

### Bar Jurisdictions

- Missouri, 1980
- Kansas, 1987

*"My goal is the timely and efficient analysis, evaluation and resolution of a client's claim or litigation exposure by settlement or jury verdict."*

### Overview

In his more than three decades of trial practice, Jack Brady has represented plaintiffs and defendants in almost every type of case.

His successful business litigation trial experience includes cases involving class action, breach of warranty, breach of contract, breach of fiduciary duty, director and officer liability, fraud, tortious interference, antitrust, accounting malpractice, lender liability, and adversary bankruptcy proceedings.

Jack's successful tort litigation trial experience includes cases involving product defects of farm implements, auto crashworthiness, medical devices, and construction machinery, and also cases involving auto/truck collisions, medical malpractice, hotel security, and premises liability.

Jack's experience on either side of the courtroom provides a diverse perspective and valuable insight into his opponents' trial strategy, which allows for successful and efficient resolutions.

### Distinctions

- Selected for inclusion in *The Best Lawyers in America*<sup>®</sup> in the following fields:
  - Commercial Litigation, 2007-2018
  - Litigation - Antitrust, 2007-2018
  - Medical Malpractice Law - Defendants, 2007-2018
  - Personal Injury Litigation - Defendants, 2007-2018
- Named "Lawyer of the Year" by *Best Lawyers*<sup>®</sup> for Medical Malpractice Law - Defendants in Kansas City (Missouri), 2017
- Honored by *The Kansas City Business Journal* as the 2015 "Best of the Bar" in the fields of:
  - Commercial and Business Litigation
  - Health Care and Personal Injury Litigation
  - Accounting Litigation
- Selected for inclusion in *Missouri & Kansas Super Lawyers* for Business Litigation, 2005-2014

### Key Matters

- Represented a class of direct purchasers of thin film transistor liquid crystal display panels that sued numerous Japanese, Korean and Taiwanese based manufacturers for price-fixing. Settlements of almost \$500 million were obtained and a jury verdict against Toshiba was also obtained.
- Represented with two other firms a class of direct purchasers of potash in a price-fixing case against an international cartel. Obtained a unanimous en banc opinion from the 7th Circuit on the non-applicability of the Foreign Trade Anti-Trust Improvements Act (FTAIA) and a \$90 million dollar settlement for the Class.
- Co-lead counsel and lead trial counsel for several consumer class action cases against General Motors. Case successfully settled in for confidential amount.
- Successfully represented at trial ANUHCO, Inc., et. al. in a breach of contract lender liability case against Westinghouse Business Credit. After a six-week jury trial, verdict was returned for plaintiffs in the amount of \$70 million. Judgment was affirmed on appeal and paid in the amount of \$81 million including interest. This case represents the largest verdict ever affirmed in the State of Missouri.
- Successfully represented at trial Block Financial Corporation, a subsidiary of H&R Block, in a breach of contract case against America Online (AOL) in a transaction involving the sale of CompuServe, Inc. to AOL. Case tried for three weeks with verdict for Block Financial Corporation and against AOL in the amount of \$21 million.
- Successfully represented the trustee of the bankruptcy estate of Mountain Energy Corporation in numerous adversary proceedings resulting in a reduction of total claims and set-offs valued at \$59.3 million to the creditors of the estate.
- Successfully arbitrated MEZ, Inc.'s claim against SPX, a large British conglomerate, in an eight-day arbitration. The breach of "earn out" provision contained in a purchase and sale of assets agreement claim resulted in an award of the full amount of the contingent "earn out" — \$6.5 million, plus prejudgment interest in the amount of \$495,000 and an award of attorneys' fees and expenses.
- Successfully represented a 9-year-old boy with permanent brain injury in a product defect case against Ford Motor Company. Case settled after three weeks of trial, prior to closing argument, for confidential amount.
- Successfully represented a 19-year-old woman in a negligent hotel security case, which settled after one week of trial for \$2.725 million.
- Successfully represented a 25-year-old woman in a Federal Torts Claim Act case against the U.S. Government and another defendant for medical malpractice. Case settled before trial for in excess of \$2 million.
- Successfully tried a medical malpractice failure to diagnose cancer case in Omaha, Neb. After one-week trial, verdict of \$500,000 was obtained.
- Numerous successful trial verdicts for physicians and hospitals sued for medical malpractice and corporate negligence.



real people.  
real perspective.<sup>SM</sup>



#### Areas of Focus

- Antitrust
- Commercial Litigation
- Litigation and Dispute Resolution

#### Education

- J.D., University of Kansas, 1990
- B.S., University of Kansas, 1987

#### Bar Jurisdictions

- Kansas, 1990
- Missouri, 1991

### Daniel D. Owen

Shareholder  
dowen@polsinelli.com  
Kansas City  
816.395.0671

#### Overview

Over more than 20 years, Daniel Owen has developed extensive jury trial experience in state and federal courts. He's tried a wide variety of civil and criminal matters in Kansas, Missouri, and California.

Much of Daniel's' jury trial work has involved technical subjects, such as:

- Computer software
- Bridges
- Cranes
- Building design
- Automotive engines
- Agricultural machinery

He is a former computer programmer, who has extensive experience preparing and trying computer-related cases, and has represented both software companies and their customers. Daniel also has extensive class action experience, particularly in antitrust cases.

#### Distinctions

- Received Martindale-Hubbell highest "AV" rating
- Continuing Legal Education presentations on antitrust, class actions, litigation support software, and trial techniques
- Law school lecturer on class actions



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real perspective.<sup>SM</sup>



## Amy D. Fitts

Shareholder  
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Kansas City  
816.218.1255

### Areas of Focus

- Antitrust
- Appellate
- Class Action Litigation
- Commercial Litigation
- Financial and Securities Litigation
- Health Care Litigation
- Litigation and Dispute Resolution

### Education

- J.D., *cum laude*, University of Missouri-Columbia School of Law, 2007, *Order of the Coif*; *Order of Barristers*; *Missouri Law Review*
- B.S./B.A., *magna cum laude*, University of Central Missouri, 2004

### Bar Jurisdictions

- Illinois, 2007
- Missouri, 2009

### Court Admissions

- U.S. District Court, Western District of Missouri, 2009
- U.S. Court of Appeals, Eighth Circuit, 2009
- U.S. District Court, Northern District of Illinois, 2012
- U.S. District Court, District of Kansas, 2011

*"I find it to be incredibly rewarding to work with clients to simplify otherwise complex litigation in a way that helps them further their business objectives."*

### Overview

Amy Fitts guides clients through all stages of litigation from complex electronic discovery issues through summary judgment, trial, and appeal. She frequently represents financial institutions, health care companies, and other businesses in the state and federal courts. Although her practice focuses largely on commercial class actions and multidistrict litigation, Amy has significant experience representing corporate clients in a wide-range of business-related disputes.

Prior to joining Polsinelli, Amy spent two years clerking for the Honorable John R. Gibson of the U.S. Court of Appeals for the Eighth Circuit. In addition, while attending law school, she served as a member of the *Missouri Law Review* and was elected to the Order of the Coif and the Order of Barristers.

### Distinctions

- Co-Chair of the ABA's Commercial and Business Litigation E-Discovery subcommittee
- Law clerk to the Honorable John R. Gibson, Senior Circuit Judge, United States Court of Appeals for the Eighth Circuit, 2008-2010
- Graduate of KCMBA Bar Leadership Academy

### Key Matters

- Successfully obtained summary judgment in favor of a large credit union in a consumer class action and won an affirmance of the judgment by the U.S. Court of Appeals for the Eighth Circuit. The case involved claims for violation of Missouri's Commercial Code and the Missouri Merchandising Practices Act allegedly arising out of a sub-prime lending program.
- Lead defense counsel in consumer class action alleging claims against a healthcare company arising out of the alleged improper dissemination of private health information. The matter was settled quickly and efficiently to our client's benefit.
- Represented major athletic conferences in multi-district consolidated antitrust class actions filed against a national collegiate sports association and other major athletic conferences, alleging that the association's rules limiting compensation for student athletes were in violation of the Sherman Act.
- As lead counsel, successfully defended commercial real estate developer from injunction sought by neighboring tenant alleging violations of restrictive covenants and reciprocal easement agreements that threatened to halt a large-scale development project. After a

multi-day evidentiary hearing, the court rejected plaintiffs' efforts to cease re-development of the commercial property and the matter was resolved favorably to the client.

- Represented a commercial real estate data company in a highly publicized lawsuit brought by a publicly traded company in the Western District of Missouri. This representation included defending the client against claims of copyright infringement, violation of the Computer Fraud and Abuse Act, and unfair competition and asserting counterclaims for violations of US antitrust laws. This case has been reported on by The Wall Street Journal and numerous legal and industry publications.
- Successfully obtained verdict in client's favor following multi-day trial in federal court in a dispute arising from the sale of an insurance business.
- Obtained summary judgment on behalf of healthcare company in case involving claims for, among other things, conspiracy, breach of contract, and negligent supervision and credentialing.
- Successfully defended health care company against tort claims in federal class action and state mass action cases arising out of allegedly unnecessary medical procedures. Cases were resolved favorably to client.
- Successfully resolved several federal cases on behalf of credit furnishers alleging claims for violation of the Fair Credit Reporting Act and Fair Debt Collection Practices Act.
- Represented credit life insurance carrier in consumer class action against claims for breach of contract and breach of fiduciary duty.
- Represented direct purchaser plaintiff in multi-district class action alleging antitrust claims on behalf of a class of businesses that directly purchased LCD components from foreign manufacturers. The case resulted in several hundred million dollars in settlements and a \$270 million jury trial verdict against Toshiba.
- Represented direct purchaser plaintiff in multi-district class action alleging antitrust claims against fertilizer manufacturers, which resulted in a \$90 million dollar settlement for the class.
- Brought and resolved numerous breach of contract cases on behalf of an education marketing company.
- Successfully defended client against temporary restraining order in case relating to dissolution of multiple businesses.



real people.  
real perspective.<sup>SM</sup>



## Melissa S. Ho

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Phoenix  
602.650.2028

### Areas of Focus

- Antitrust
- Compliance (Fraud and Abuse, Stark)
- Financial and Securities Litigation
- Financial Technology (FinTech) and Regulation
- Government Investigations
- Health Care Litigation
- Internal Investigations
- International
- Litigation and Dispute Resolution

### Education

- J.D., University of Arizona James E. Rogers College of Law, 2004
- B.S., Arizona State University, 2001, Biology; with honors
- B.A., Arizona State University, 2001, Chinese; Phi Delta Phi

### Bar Jurisdictions

- Arizona, 2004
- Admitted to practice before the United States Patent and Trademark Office

### Court Admissions

- U.S. District Court, District of Arizona, 2006
- U.S. Court of Appeals, Ninth Circuit, 2009

*"I do more than interpret the law. I am here to counsel you on your current legal needs, as well as protect you in the future."*

### Overview

Born in Hong Kong, Melissa is a trial attorney with a detailed understanding of government regulations, intellectual property, and international business. A former prosecutor, she is sympathetic to the disruption and chaos a government inquiry and criminal investigation can cause.

In defending criminal matters, Melissa successfully defends matters at both state and federal levels. She also makes appearances before state licensing boards, the Arizona Clemency Board, and the Arizona Corporation Commission. Skilled at internal investigations and high-profile matters, Melissa works effectively with the media to form rapid responses to sensitive matters and media inquiries.

Melissa works as a liaison between the business and litigation professionals both in the United States and in Asia to formulate comprehensive plans in response to contract disputes and government inquiries. Combining her government regulatory knowledge, intellectual property background, litigation skills, and knowledge of Asia, Melissa provides sound business advice for clients with interests nationally and internationally.

Melissa's representative experience includes:

- Advising companies (both privately held and publicly traded) on litigation matters (commercial and intellectual property)
- Defense of government inquiries (civil and criminal)
- Preparation of witnesses for depositions, arbitrations, and testimonials under oath
- Coordination of rapid response and crisis communications for high profile clients
- Review of cross-border contractual agreements
- False Claim Act representation, compliance and training
- Advising clients with matters before the U.S. Department of Treasury Office of Foreign Assets Control

### Distinctions

- Volunteer Lawyers Program "For Love of Justice" Pro Bono Award, Children's Law Center Clinic Attorney of the Year  
Selected for inclusion in "Under 40 Hot List" by *Benchmark Litigation*, 2016-2017

- Recommended by Benchmark Litigation in Arizona for Antitrust, Securities, and Healthcare
- Named "Future Star - Arizona" by *Benchmark Litigation*, 2017-2018
- Named "Top Litigator Under 40 - Arizona" by *Benchmark Litigation*, 2017-2018
- Selected by the *Phoenix Business Journal* as an "Outstanding Woman in Business," 2016
- Listed on *Arizona Business Magazine's* "Most Influential Women in Arizona Business," 2015
- Ranked in *Chambers USA: America's Leading Lawyers for Business*, Up and Coming, Litigation: White Collar Crime (Arizona), 2015-2017
- Included in *Phoenix Business Journal's* "40 Under 40" list, 2013
- AJC's Judge Learned Hand Emerging Leadership Award, 2014
- National Asian Pacific American Bar Association's "Best Lawyers Under 40," 2012
- *North Valley Magazine's* "Top Lawyers - Criminal Defense," 2012
- Selected for inclusion in *Southwest Super Lawyers* "Rising Stars, Criminal Defense: White Collar," 2012-2017
- American Bar Association, Young Lawyers Division Scholar, 2008-2009
- *Asian Sun News* Asian Chamber of Commerce: contributing writer, volunteer, and panelist
- Certificates in Asian Pacific American Studies and East Asian Studies
- USPTO Patent Agent #56,103
- Included in Lawyers of Color "Inaugural Hot List," 2013

### Key Matters

- Resolution of multi-million dollar land sale fraud. Allegations of misconduct over a ten year period. Case resolved with minimal collateral consequences to co-defendants and stipulated restitution.
- Work on behalf of clients who failed to maintain HIPAA protected patient information correctly. Records were found by local law enforcement, required coordination of law enforcement as well as Department of Homeland Security and Attorney General to resolve case. No current civil or criminal sanctions pending.
- Defense of a multimillion-dollar securities and accounting fraud case involving a parallel Securities and Exchange Commission investigation.
- Antitrust litigation representing direct purchasers against manufacturers of electronics components.
- Lead attorney for the completion of an internal investigation of a national recycling company involving criminal investigations led by local and federal authorities. Successful negotiation of a non-prosecution agreement for the company and reduced penalties for individual employees. Counseled client on regulatory compliance, lobbying needs, and human resources issues.
- Represented an individual in a high profile case who received a 90-year sentence. Obtained two unanimous recommendations from the Arizona Clemency Board.
- Coordination of deposition and evidence gathering in the United States in behalf of Chinese law firm for litigation in China. Matter involved complex tax and accounting fraud allegations.
- Advice to Chinese manufacturing company in failed joint venture necessitating review of U.S. litigation and bankruptcy claims.
- In a cease and desist matter in front of the Arizona Corporation Commission, a full response and hearing was undertaken in response to multiple allegations of securities fraud. The matter involved complex restitution matters and rescission offers. A modified consent order was obtained preventing further harm to the business, resolving the complaint.
- In a high profile self-defense case involving a murder allegation. Persuaded the County Attorney's office to dismiss original charges and to reconsider grand jury presentation. No indictment was returned against the client.
- Representation of a government agency in the face of high profile civil and criminal proceedings. Matter dealt exclusively with allegations of financial misconduct and conflicts of interest. Matter was successfully defended and clients were cleared of wrongdoing. Due to the sensitive nature of the inquiry, matter required the coordination of media inquiries and a large-scale internal investigation.



- Successful pretrial resolution of federal prescription rebate fraud claims, preserving the license through probation as opposed to full suspension. Matter was further complicated by the need to interface with professional licensing board.
- Successfully obtained post-conviction relief for a client with immigration concerns. Original plea agreement and sentence would have resulted in deportation and permanent removal from the United States for a medical professional. Successfully withdrew from plea and obtained a new resolution without impact to the client's immigration status.
- Successful resolution of a high profile matter involving computer crimes. Worked with a forensic expert to determine that prosecution would not be able to prove knowing possession of prohibited items. Case resolved by plea with no jail component.
- Federal inquiry into a tribal agency for housing and false claims probe. Internal investigation of a tribal agency completed to the satisfaction of the Office of Inspector General. No criminal charges filed.
- Representation of a medical practice in examinations under oath and interviews with FBI and IRS agents. No criminal charges filed.
- Representation of child care providers with government contracts. Successful resolution of criminal prosecution and civil settlement with Department of Economic Security.
- Representation of telecommunications/telemarketing provider in multi-state Consumer Fraud Actions. Successful resolution of civil settlements with no criminal prosecution.
- Resolution of multi-year federal tax fraud and structuring case. Resolved with no adverse collateral immigration consequences and minimal fines.
- Representation of national medical device corporation accused of consumer fraud violations. Resolved with no charges filed.
- Representation of individual with Specially Designated Nationals and Blocked Persons List, in proceeding before OFAC.
- Successful appeal of hospital employees convicted of failure to report in high profile matter.
- Representation of a hazardous waste transportation company in RCRA and EPA investigation. No charges filed.
- Representation of physicians and physician group in federal inquiry into fraudulent billing practices.

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Polsinelli is very proud of the results we obtain for our clients, but you should know that past results do not guarantee future results; that every case is different and must be judged on its own merits; and that the choice of a lawyer is an important decision and should not be based solely upon advertisements.

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# **Exhibit 2**

**EXHIBIT 2*****In re Lithium Ion Batteries Antitrust Litigation, Case No. 13-MD-2420 YGR***

Firm's name

Reported Hours and Lodestar on a Historical Basis

June 1, 2013 through August 31, 2017

<b>NAME</b>	<b>STATUS</b>	<b>YEAR</b>	<b>TOTAL HOURS</b>	<b>HISTORICAL HOURLY RATE</b>	<b>LODESTAR</b>
<b>ATTORNEYS</b>					
Allen, Herbert F.	P	2015	107.60	\$350.00	\$37,660.00
Axel, Jennifer	P	2014	18.20	\$350.00	\$6,370.00
Brady, Jack	P	2013	1.70	\$700.00	\$1,190.00
Brady, Jack	P	2014	3.40	\$850.00	\$2,890.00
Brady, Jack	P	2015	29.50	\$850.00	\$25,075.00
Brady, Jack	P	2016	20.60	\$850.00	\$17,510.00
Brady, Jack	P	2017	28.60	\$850.00	\$24,310.00
Breer Kevin	P	2014	3.40	\$350.00	\$1,190.00
Fitts, Amy	P	2013	9.50	\$450.00	\$4,275.00
Fitts, Amy	P	2014	89.30	\$450.00	\$40,185.00
Fitts, Amy	P	2014	17.60	\$700.00	\$12,320.00
Fitts, Amy	P	2015	35.40	\$350.00	\$12,390.00
Fitts, Amy	P	2015	778.60	\$700.00	\$545,020.00
Fitts, Amy	P	2016	5.80	\$350.00	\$2,030.00
Fitts, Amy	P	2013	171.90	\$700.00	\$120,330.00
Fitts, Amy	P	2017	3.30	\$700.00	\$2,310.00
Ho, Melissa	P	2015	964.50	\$350.00	\$337,575.00
Ho, Melissa	P	2015	27.00	\$400.00	\$10,800.00
Ho, Melissa	P	2015	6.30	\$700.00	\$4,410.00
Ho, Melissa	P	2016	621.20	\$350.00	\$217,420.00
Ho, Melissa	P	2016	6.40	\$700.00	\$4,480.00
Knoop, Matthew S.	P	2014	43.40	\$350.00	\$15,190.00
Kunz, Nathan	P	2014	18.40	\$350.00	\$6,440.00
Owen, Daniel D.	P	2013	113.00	\$700.00	\$79,100.00
Owen, Daniel D.	P	2014	78.80	\$700.00	\$55,160.00
Owen, Daniel D.	P	2014	610.80	\$850.00	\$519,180.00
Owen, Daniel D.	P	2015	1,470.40	\$850.00	\$1,249,840.00

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Firm's name

Reported Hours and Lodestar on a Historical Basis

June 1, 2013 through August 31, 2017

<b>NAME</b>	<b>STATUS</b>	<b>YEAR</b>	<b>TOTAL HOURS</b>	<b>HISTORICAL HOURLY RATE</b>	<b>LODESTAR</b>
Owen, Daniel D.	P	2016	396.50	\$850.00	\$337,025.00
Owen, Daniel D.	P	2017	31.80	\$850.00	\$27,030.00
Stohs, Kelly D.	P	2014	56.90	\$350.00	\$19,915.00
Zorogastua, Gabe	P	2013	0.50	\$350.00	\$175.00
Zorogastua, Gabe	P	2013	11.70	\$450.00	\$5,265.00
Zorogastua, Gabe	P	2014	15.30	\$350.00	\$5,355.00
Zorogastua, Gabe	P	2014	3.50	\$450.00	\$1,575.00
Zorogastua, Gabe	P	2014	0.40	\$700.00	\$280.00
Zorogastua, Gabe	P	2015	45.60	\$350.00	\$15,960.00
Zorogastua, Gabe	P	2015	50.40	\$700.00	\$35,280.00
Miller, Cary	O	2013	24.80	\$650.00	\$16,120.00
Miller, Cary	O	2014	1.00	\$350.00	\$350.00
Miller, Cary	O	2014	12.60	\$650.00	\$8,190.00
Miller, Cary	O	2015	569.50	\$350.00	\$199,325.00
Miller, Cary	O	2015	122.40	\$650.00	\$79,560.00
Miller, Cary	O	2016	474.80	\$350.00	\$166,180.00
Miller, Cary	O	2016	10.00	\$650.00	\$6,500.00
Bartko, Alexander	A	2014	32.50	\$350.00	\$11,375.00
Cohen, Lauren W.	A	2014	36.70	\$350.00	\$12,845.00
Martinez, Mishelle	A	2013	8.30	\$250.00	\$2,075.00
Shah, Sohil	A	2015	131.30	\$350.00	\$45,955.00
Shah, Sohil	A	2016	6.40	\$350.00	\$2,240.00
St. Onge, Britton	A	2014	15.00	\$350.00	\$5,250.00
Walter, Colleen	A	2015	121.90	\$350.00	\$42,665.00
Walter, Colleen	A	2016	26.90	\$350.00	\$9,415.00
Ward, Robert E.	A	2014	5.10	\$350.00	\$1,785.00
Wolfe, Brisa I.	A	2015	46.80	\$450.00	\$21,060.00
Zeeck, Phillip	A	2014	3.40	\$450.00	\$1,530.00

**EXHIBIT 2*****In re Lithium Ion Batteries Antitrust Litigation, Case No. 13-MD-2420 YGR***

Firm's name

Reported Hours and Lodestar on a Historical Basis

June 1, 2013 through August 31, 2017

<b>NAME</b>	<b>STATUS</b>	<b>YEAR</b>	<b>TOTAL HOURS</b>	<b>HISTORICAL HOURLY RATE</b>	<b>LODESTAR</b>
Zeeck, Phillip	A	2015	5.30	\$450.00	\$2,385.00
Konicek, Sangmee L.	A	2013	23.20	\$400.00	\$9,280.00
Konicek, Sangmee L.	A	2014	0.20	\$350.00	\$70.00
Konicek, Sangmee L.	A	2014	20.80	\$400.00	\$8,320.00
Konicek, Sangmee L.	A	2015	1.30	\$350.00	\$455.00
Konicek, Sangmee L.	A	2015	9.00	\$400.00	\$3,600.00
<b>NON-ATTORNEYS</b>					
Couzins, David M.	LS	2013	0.80	\$175.00	\$140.00
Couzins, David M.	LS	2014	355.00	\$175.00	\$62,125.00
Couzins, David M.	LS	2015	1,685.80	\$175.00	\$295,015.00
Couzins, David M.	LS	2015	2.50	\$350.00	\$875.00
Couzins, David M.	LS	2015	0.50	\$400.00	\$200.00
Couzins, David M.	LS	2016	592.60	\$175.00	\$103,705.00
Couzins, David M.	LS	2017	45.40	\$175.00	\$7,945.00
<b>TOTAL:</b>			<b>10,233.70</b>		<b>\$4,929,045.00</b>

# **Exhibit 3**

*In re Lithium Ion Batteries Antitrust Litigation, Case No. 13-MD-2420 YGR***EXHIBIT 3**

Polsinelli PC

Expenses Incurred

June 1, 2013 through August 31, 2017

<b>CATEGORY</b>	<b>AMOUNT INCURRED</b>
Court Fees (filing, etc.)	\$915.00
Computer Research (Lexis, Westlaw, PACER, etc.)	\$1,368.50
Document Production	
Relativity Searchable Data Hosting Fee	\$510,565.83
Relativity User Access Fee	\$130,625.00
Experts / Consultants	\$0.00
Messenger Delivery	\$333.15
Photocopies - In House	\$0.00
Photocopies - Outside	\$0.00
Postage	\$0.00
Service of Process	\$0.00
Overnight Delivery (Federal Express, etc.)	\$382.29
Telephone / Facsimile	\$27.84
Transcripts (Hearings, Depositions, etc.)	\$1,727.35
Travel (Airfare, Ground Travel)	\$32,184.82
Travel (Meals and Lodging)	\$22,074.27
Hard Drive	\$1,950.00
<b>TOTAL</b>	<b>\$702,154.05</b>