

Exhibit A

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

Belin et al. v. Health Insurance Innovations, Inc. et al., No. 0:19-cv-61430 (S.D. Fla.)

DECLARATION OF WILLIAM R. SCHERER, JR.

I. My Background and Qualifications

1. My name is William R. Scherer, Jr.
2. I am over 18 years of age and legally competent to make this Declaration. This Declaration is based on my personal knowledge and my review of certain court filings in this case provided to me by class counsel.
3. I submit this Declaration in support of Plaintiffs' Motion for Award of Attorneys' Fees, Reimbursement of Expenses and Case Contribution Fee, and for other purposes allowed by law.
4. I am a Co-Founding Partner and the Managing Partner of Conrad & Scherer, LLP. I graduated from Franklin College of Indiana in 1969 and the Indiana University School of Law in 1973. Thereafter, I served as judicial law clerk for the Indiana Supreme Court and then for the Honorable Charles Fulton, Former Chief Judge of the United States District Court for the Southern District of Florida. I then co-founded Conrad & Scherer. My C.V. is attached as **Appendix 1**.
5. I have been practicing law in South Florida for over 45 years and, during this time, have participated in various complex and high stakes matters and tried more than 100 cases. For example, I served as lead counsel for the victims of the multi-billion-dollar Ponzi scheme orchestrated by Scott Rothstein, resulting in a \$225 million settlement recovery. I also represented the purchaser of a health insurance company in a suit against the seller. After the jury returned one of the largest individual verdicts in Broward County history and before the punitive damages

award was determined, the case was settled out of court. In addition, I represented former President George W. Bush during the 2000 election recount litigation. Currently, I am representing more than two dozen hospitals and healthcare providers against various persons and entities involved in the manufacture, marketing, and distribution of prescription opioid products.

6. I have served as an expert witness on attorneys' fees in the following actions:

A. *Scott Hirsh v. Nova Southeastern University*, Broward Co. Circuit Court

B. *Capital Asset Research v. Michael Swerdlow*, Palm Beach Co. Circuit Court

C. *Broward County v. East Coast Development Corp.*, Broward Co. Circuit Court

D. *Asian Café No. 1, Inc. v. Stoll Property Realty Corp.*, Palm Beach Co. Circuit Court

E. *Andgen Properties, LLC v. DND Mail Corporation*, Broward Co. Circuit Court

F. *Byron Rivera, vs. Carnival Corporations*, Miami-Dade Co. Circuit Court

7. As a result of my experience with complex and multi-party litigation, I am familiar with the recovery of attorneys' fees and costs and can opine on a reasonable award of fees to a plaintiff's attorney.

8. I have also litigated many issues involving attorney fees, and have been involved in fee disputed court decisions, most recently in *Segall Gordich v. Conrad and Scherer* and *Conrad and Scherer v. Ironshore*.

9. I have been asked by class counsel to opine on whether the attorneys' fees and class representative payments they have requested are reasonable in light of my experience and knowledge on fee awards. To formulate my opinion, I reviewed a number of documents provided to me by class counsel. I have attached a list of these documents in **Appendix 2**. As I explain, based on my experience litigating complex matters, the inherent risk taken by class counsel in this

case and the applicable Eleventh Circuit law, I believe the fees and payments requested here are reasonable.

II. Case Background

10. Plaintiffs filed this action on June 7, 2019. Plaintiffs allege that Defendants participated in a scheme to mislead hundreds of thousands of consumers nationwide into purchasing the Defendants' limited benefit indemnity and medical discount plans. These plans were sold through Simple Health Plans LLC ("Simple Health") and Donisi Jax, Inc. f/k/a Nationwide Health Advisors and d/b/a Atlantic Health ("Nationwide Health") and allegedly marketed to consumers as major medical insurance. Plaintiffs alleged violations of the Racketeer Influenced Corrupt Organizations Act ("RICO"), aiding and abetting fraud and fiduciary duty, and unjust enrichment. As relief, they sought damages resulting from their purchase of these plans and disgorgement of monies paid to the Defendants.

11. After bringing this action, Plaintiffs defended four challenges to their claims by the Defendants. To obtain meaningful discovery, Plaintiffs filed nine motions to compel stemming from 16 discovery requests and 15 non-party subpoenas. All told, Plaintiffs gathered and reviewed more than 98,000 documents and took or defended 16 depositions. The Court Docket alone has over 250 entries.

12. After competing motions and extensive briefing on the issue, the Court granted class certification on February 1, 2021. The certified class comprises all individuals who purchased the Defendants' plans through Simple Health or Nationwide Health within the applicable statute(s) of limitation and paid fees or premiums that were not recovered. In addition, the class includes (1) a subclass for individuals who incurred uncovered medical expenses and (2)

a subclass for individuals who incurred a tax penalty under the Affordable Care Act's individual mandate provisions.

13. Thereafter, the parties engaged in months-long negotiations with nationally recognized class action mediator Hunter R. Hughes III. These negotiations focused on, among other things, the Defendants' financial viability and ability to fund any settlement. Defendants provided Plaintiffs with confidential financial information and assurances regarding their access to funds and inability to pay a meaningful settlement amount absent outside financing. Moreover, the Defendants' insurers have disputed coverage for this case and paid only \$100,000 in defense costs. As a result, class counsel hired forensic accountants to analyze the Defendants' financial information and insurance counsel to review the applicable policies and assess potential coverage.

14. Defendants' ability to settle this case was therefore dependent on outside financing, which they sought and ultimately obtained. This outside the box action demonstrates the resourcefulness of the Lawyers for Plaintiff in this matter.

15. This led to the parties' proposed settlement (the "Settlement"). Per the terms of the Settlement, Defendants must pay \$27.5 million to resolve this class action. In addition, Defendants will make certain changes to their business practices to ensure appropriate marketing and sales by their agents, distributors, and vendors. In exchange, the Defendants enjoy a class release for claims that were or could have been brought against them in this case. Class members who opt out are not included in the releases. Moreover, the Defendants will fund up to \$150,000 in initial notice and administration costs prior to final approval of the Settlement. The Settlement provides that class counsel may seek up to 33 1/3% of the class action settlement payment, plus reimbursement of litigation expenses.

16. The Settlement reflects an arms-length deal that takes into account the realities of the case. After reviewing relevant case filings, and with my decades of experience representing plaintiffs in complex litigation, I believe Plaintiffs faced considerable challenges in this case. I consider the collectability issue to be the most significant concern here given the Defendants' uncertain financial viability and the need for outside financing to even fund a settlement. A final judgment awarding hundreds of millions of dollars is useless if it forces a defendant into bankruptcy, which was the scenario facing Plaintiffs here.

17. The nature of Plaintiffs' claims also shows a long and uncertain road to recovery for the Plaintiffs. The class certification order is subject to a petition for permission to appeal to the Eleventh Circuit, thereby jeopardizing Plaintiffs' class claims. A multi-week trial on the various claims (including the RICO claims) would require specific showings of reliance and causation by the class. Moreover, given the non-parties involved in the Defendants' alleged scheme, the Defendants would benefit at trial from placing blame on others, *i.e.*, the "empty chair." This variable is significant in jury trials and gives the jury the discretion to substantially reduce the Plaintiffs' potential recovery. Finally, the Defendants were represented throughout the case by sophisticated, "big law" counsel and used their resources to oppose Plaintiffs' efforts at almost every turn. Therefore, I consider the Settlement a significant achievement under the circumstances.

18. Of note, Michael I. Goldberg, Esq., as court-appointed receiver in the FTC enforcement action, supports the Settlement. As Mr. Goldberg remained involved in the settlement discussions and is familiar with the scheme at issue in this case, his support for the Settlement also indicates to me that the Settlement is a favorable one.

19. Class counsel is now moving for an award of fees equal to one-third (33.33%) of the settlement fund, or \$9,165,750, and reimbursement of litigation expenses. Based on my experience with complex, contingency-fee litigation and my understanding of such fees in the class action context, it is my opinion that the fee request is reasonable.

20. Class counsel is also moving for the Court to reserve jurisdiction to order service awards to the class representatives of \$6,250 each, pending finality of *Johnson v. NPAS Solutions, LLC*, 975 F.3d 1244 (11th Cir. 2020), which prohibits incentive awards to class representatives. In the event the Court considers the request for service awards, it is my opinion that this request, too, is reasonable.

III. Reasonableness of the Requested Fee Award

21. The “customary fee” in class action lawsuits is the “ordinary and customary market rates [charged to] fee-paying clients . . . in the relevant community.” *Ressler v. Jacobson*, 149 F.R.D. 651, 654 (M.D. Fla. 1992) (citing *Blum v. Stenson*, 465 U.S. 886, 895 (1984)); *see also Norman v. Hous. Auth. of Montgomery*, 836 F.2d 1292, 1299 (11th Cir. 1988); *Behrens v. Wometco Enters., Inc.*, 118 F.R.D. 534, 547 (S.D. Fla. 1988), *aff’d*, 899 F.2d 21 (11th Cir. 1990). In a class action such as this one, the customary fee is a contingency fee based on a percentage of the total recovery (“common fund”), because virtually no individual possesses a sufficiently large stake in the litigation to justify paying his attorneys on an hourly basis. *See Ressler*, 149 F.R.D. at 654; *see also Norman*, 836 F.2d at 1299.

22. Indeed, the Eleventh Circuit requires application of the percentage method in these circumstances. *See Camden I Condo. Ass’n, Inc. v. Dunkle*, 946 F.2d 768, 774 (11th Cir. 1991) (“Henceforth in this circuit, attorneys’ fees awarded from a common fund shall be based upon a

reasonable percentage of the fund . . .”). Accordingly, I will assess the reasonableness of the fee request here using the percentage method and my experience.

23. Under the percentage method, courts must 1) calculate the value of the benefits created by class counsel and then 2) select a percentage of that value to award to class counsel. When calculating the value of the benefits, such calculation should include any cash compensation to class members, cash the defendant must pay to third parties, non-cash benefits that can be reliably valued, attorneys’ fees and expenses, and administrative costs paid by the defendant. *See, e.g., In re Heartland Payment Sys., Inc. Customer Data Sec. Breach Litig.*, 851 F.Supp.2d 1040, 1080 (S.D. Tex. 2012) (including these items in the denominator of the percentage method). Although “[t]he factors which will impact upon the appropriate percentage . . . in any particular case will undoubtedly vary,” the Eleventh Circuit has identified sixteen factors that may be “appropriate[]” or “pertinent” to consider. *Camden I*, 946 F.2d at 775. These factors include “[1] the time required to reach a settlement, [2] whether there are any substantial objections . . ., [3] any non-monetary benefits conferred upon the class . . ., and [4] the economics involved in prosecuting a class action,” *id.*, as well as the twelve factors from *Johnson v. Georgia Highway Express, Inc.*, 488 F.2d 714, 717-19 (5th Cir. 1974): “[5] the time and labor required; [6] the novelty and difficulty of the questions involved; [7] the skill requisite to perform the legal service properly; [8] the preclusion of other employment by the attorney due to acceptance of the case; [9] the customary fee; [10] whether the fee is fixed or contingent; [11] time limitations imposed by the client or the circumstances; [12] the amount involved and the results obtained; [13] the experience, reputation, and ability of the attorneys; [14] the ‘undesirability’ of the case; [15] the nature and length of the professional relationship with the client; [and] [16] awards in similar

cases.” *Camden I*, 946 F.2d at 772 n.3. In this Declaration, I will follow the Eleventh Circuit’s approach.

24. The first step under the percentage method is to calculate the value of the benefits created by class counsel. The benefits here are the \$27.5 million cash settlement fund, the costs to notify the class and administer the settlement up to \$150,000, and the corrective measures agreed to by the Defendants. Thus, the benefits to the class are over \$27.5 million. The second step of the percentage method is to identify the percentage. Class counsel is seeking fees of 33.33% of the common fund, or \$9,165,750.

25. First, I consider the factors discussing fee awards in other cases: “[9] the customary fee” and “[16] awards in similar cases.” A “one-third recovery . . . is a customary fee” for class actions. *Diakos v. HSS Sys., LLC*, No. 14-61784, 2016 WL 3702698, at *6 (S.D. Fla. Feb. 4, 2016); *see also, e.g., Swift v. BancorpSouth Bank*, No. 1:10-CV-00090-GRJ, 2016 WL 11529613, at *19 (N.D. Fla. July 15, 2016) (35%); *Owens v. Met. Life Ins. Co.*, No. 2:14-cv-00074 (N.D. Ga. Nov. 19, 2019) (33.33%); *Cabot E. Broward 2 LLC v. Cabot*, No. 16-61218-CIV, 2018 WL 5905415, at *11 (S.D. Fla. Nov. 9, 2018) (33.33%); *Dear v. Q Club Hotel, LLC*, No. 15-60474-CIV, 2018 WL 1830793, at *5 (S.D. Fla. Mar. 14, 2018) (33.3%); *Fernandez v. Merrill Lynch, Pierce, Fenner & Smith, Inc.*, 2017 WL 7798110, at *4 (S.D. Fla. Dec. 18, 2017) (35%); *In re Clarus Corp. Sec. Litig.*, No. 1:00-cv-02841 (N.D. Ga. Jan. 6, 2005), D.E. 148 (33.33%); *In re Profit Recovery Group Int’l, Inc. Sec. Litig.*, No. 1:00-CV-1416-CC (N.D. Ga. May 26, 2005), D.E. 203 (33.33%); *In re Theragenics Corp., Sec. Litig.*, No. 1:99-CV-0141-TWT (N.D. Ga. Sept. 29, 2004), D.E. 143 (33.33%); *In re Harbinger Corp. Sec. Litig.*, No. 1:99-CV-2353-MHS (N.D. Ga. Oct. 18, 2001), D.E. 38 (33.33%); *In re The Maxim Group, Inc. Sec. Litig.*, No. 1:99-CV-1280-CAP (N.D. Ga. July 20, 2004), D.E. 143 (33.33%); *In re Medirisk, Inc. Sec. Litig.*, No. 1:98-

CV-1922-CAP (N.D. Ga. Mar. 22, 2004), D.E. 181 (33.33%). *See also Howes v. Atkins*, 668 F. Supp. 1021, 1026-27 (E.D. Ky. 1987) (40%); *In re Terazosin Hydrochloride Antitrust Litig.*, 1:99-MD-01317-PAS, 2005 WL 8181045, *4-5 (S.D. Fla. April 19, 2005) (33 1/3 %); *Gutter v. E.I. Dupont De Nemours & Co.*, 1:95-cv-02152 (S.D. Fla. May 30, 2003), D.E. 626 (33 1/3 % of settlement of \$77.5 million); *Waters v. Int'l Precious Metals Corp.*, 190 F.3d 1291, 1295-98 (11th Cir. 1999) (33 1/3 % of settlement of \$40 million); *Morgan v. Public Storage*, 301 F. Supp. 3d 1237, 1252 (S.D. Fla. 2016) (awarding 33%); *Grier v. Chase Manhattan Auto. Fin. Co.*, No. 99-180, 2000 WL 175126, at *7-8 (E.D. Pa. Feb. 16, 2000) (33.33% of the net settlement fund); *Ratner v. Bennett*, No. 92-4701, 1996 WL 243645, *8-9 (E.D. Pa. May 8, 1996) (35%); *In re Crazy Eddie Sec. Litig.*, 824 F. Supp. 320 (E.D.N.Y. 1993) (33.8% of settlement fund); *Zinman v. Avemco Corp.*, No. 75-1254, 1978 WL 5686, *2 (E.D. Pa. Jan. 18, 1978) (50%); *Aamco Automatic Transmissions, Inc. v. Tayloe*, 82 F.R.D. 405, 418-20 (E.D. Pa. 1979) (43.87%); *In re Ampicillin Antitrust Litig.*, 526 F. Supp. 494, 499-500 (D.D.C. 1981) (45%). Moreover, and based on my experience representing plaintiffs, a one-third contingency fee is a customary arrangement at the outset of a case.

26. Next, I consider the factors that go to the results obtained by class counsel in light of the risks class counsel faced: “[4] the economics involved in prosecuting a class action,” “[6] the novelty and difficulty of the questions involved,” “[10] whether the fee is fixed or contingent,” “[12] the amount involved and the results obtained,” and “[14] the ‘undesirability’ of the case.” As discussed above, I consider the Settlement and the resulting recovery to be remarkable under the circumstances.

27. Class counsel represents Plaintiffs on a pure contingency fee arrangement, with all expenses borne by counsel. These firms have devoted thousands of attorney and paralegal hours

and incurred nearly \$200,000 in out-of-pocket expenses, all with no guarantee of repayment or recovery.

28. The legal and practical challenges facing class counsel also weigh in favor of their requested fee award. First, Plaintiffs' claims survived multiple motions to dismiss. Second, class certification in this case was a difficult feat, as the class claims depend on a showing of reliance and causation. In this case, however, class counsel succeeded in showing with specificity the uniform actions by Defendants that made class certification appropriate. While class counsel was ultimately successful, they took a serious gamble by bringing this case where certification issues were pervasive at the outset. Looking forward, class counsel also faced difficulties in proving that Defendants—and not Simple Health, Nationwide Health, or other nonparties—should be held responsible for the class's damages. The "empty chair" defense here created more uncertainty as to recovery because, even if class counsel proved Plaintiffs' claims, a jury could find that Defendants should not be liable for all or some of the damages. Finally, class counsel faced real collectability issues. Insurance did not cover the class claims, and the Defendants' financial situation crystallized the threat of bankruptcy by the Defendants and nonrecovery on the class claims. And, at each step of the way, class counsel dealt with, and would surely continue to deal with, sophisticated defense counsel. Accordingly, the recovery here is notable when compared to the risks that class counsel faced.

29. Personally, I would not have taken this case on a contingency fee basis because of these risks.

30. The next factor is "[3] any non-monetary benefits conferred upon the class." The Settlement requires changes in Defendants' business practices and compliance with others already put in place. Defendants must, for example, record and maintain sales calls, engage vendors for

“secret shopper” investigations, require certain disclosures that their limited benefit indemnity and ancillary products are not major medical insurance, and develop a disciplinary process for agents who mislead consumers. This nonmonetary relief is designed to prevent future wrongful conduct of the type alleged here.

31. The following factors relate to the time it took to litigate and resolve these lawsuits: “[1] the time required to reach a settlement” and “[5] the time and labor required.” Class counsel has actively litigated this case for over two years. During this time, they have spent thousands of hours in attorney and paralegal time. They have incurred nearly \$200,000 in expenses. These resources have gone to extensive discovery, including 12 requests for production, four interrogatories, 15 third-party subpoenas, nine motions to compel, 16 depositions, and review of over 98,000 documents. Class counsel also deployed these resources for the extensive briefing at the pleading stage and class certification stage. Class counsel also devoted substantial time and resources to settlement discussions and evaluating Defendants’ financial status and lack of insurance coverage. This is a complex case that required such time and expenditure. These factors therefore support class counsel’s requested fee award.

32. Finally, I consider the remaining *Camden I* factors. One of these factors is inapplicable at this time— “[2] whether there are any substantial objections”—because the deadline for objections has not yet passed, but the other factors go to the skills of class counsel and their relationship with the Plaintiffs: “[7] the skill requisite to perform the legal service properly,” “[8] the preclusion of other employment by the attorney due to acceptance of the case,” “[11] time limitations imposed by the client or the circumstances,” “[13] the experience, reputation, and ability of the attorneys,” and “[15] the nature and length of the professional relationship with the client.” Although I was not privy to the attorney-client relationships here, I am aware that counsel

at Levine Kellogg Lehman Schneider + Grossman LLP and The Doss Firm, LLC have significant experience in the class action and complex litigation areas and are well-respected litigators. As noted above, this case presented difficult legal and practical obstacles, and the Settlement was hard fought. Class counsel's devotion of thousands of hours to this case and nearly \$200,000 in out-of-pocket expenses (without any guarantee of success) surely precluded them from taking on other cases. Both are boutique firms with less than 20 attorneys combined, so the risk and impact of this case was significant to them.

33. For all these reasons, I believe the fee award requested here is reasonable. An attorneys' fee award of 33.33% here is consistent "with fee awards in highly complex, multi-year cases." *Columbus Drywall & Insulation, Inc. v. Masco Corp.*, No. 1:04-cv-3066-JEC, 2012 WL 12540344, at *1 (N.D. Ga. Oct. 26, 2012) (awarding 33.33% of common fund).

IV. Reasonableness of the Requested Service Awards

34. Class counsel also has asked the Court to reserve jurisdiction over the payment of a \$6,250 service award to each of the nine Plaintiffs, for a total of \$56,250, in the event the Eleventh Circuit recedes from its panel decision in *Johnson v. NPAS Solutions, LLC*, 975 F.3d 1244 (11th Cir. 2020). To the extent the Court considers this request, it is my opinion that the service awards requested here would be reasonable. Such awards are commonplace in class action settlements, and the amounts here are not excessive in light of the class representatives' participation in this case. The Plaintiffs here actively participated in the formulation of the complaint and in

responding to discovery, with eight of the nine Plaintiffs having been deposed. Moreover, each of the Plaintiffs attended the first mediation session and participated in subsequent settlement discussions. A \$6,250 service award to each Plaintiff would therefore be appropriate.

35. My compensation in this matter has been \$950 per hour.

Pursuant to 28 U.S.C. §1746, I declare under penalty of perjury that the forgoing is true and correct.

Fort Lauderdale, Florida

November 10, 2021

A handwritten signature in blue ink, appearing to read "William R. Scherer, Jr.", followed by a horizontal line extending to the right.

William R. Scherer, Jr.

Appendix 1

CONRAD & SCHERER

Conrad & Scherer stands as a preeminent litigation law firm with a national and international reach. Our team of attorneys operates from offices in Fort Lauderdale, FL, New York, NY, Brevard, NC, and Quito, Ecuador, providing clients a range of services that includes complex commercial litigation, bank fraud, Ponzi scheme litigation, construction litigation, government relations, land use and land use litigation, probate and more.

William R. Scherer co-founded the firm in 1974 with his late partner Rex Conrad. Over the past almost four decades, Mr. Scherer has grown Conrad & Scherer into one of Florida's leading law firms and has expanded the firm's presence with offices in New York, New York, Brevard, North Carolina, and Quito, Ecuador.

AV® Preeminent™ Peer Rated by Martindale-Hubbell® since 1987, Mr. Scherer is a seasoned trial attorney. He has litigated over 100 trials in both jury and non-jury cases before state, appellate, and federal courts. Mr. Scherer's cases and legal accomplishments have received coverage by major television networks such as CNN, CNBC, MSNBC and FNN and national and local newspapers such as The New York Times, Los Angeles Times, The Wall Street Journal, South Florida Business Journal, the Daily Business Review, the Sun-Sentinel and the Miami Herald.

Mr. Scherer was lead counsel for victims of the infamous multi-billion dollar Ponzi scheme orchestrated by Scott Rothstein. Notably, Mr. Scherer led his complex litigation team and achieved an historic settlement returning to investors what is said to be the highest percentages of recovery for victims of a Ponzi scheme. News outlets described the settlement as a "huge victory" and a "landmark" lawsuit.

In 2005, Mr. Scherer served as plaintiff's counsel in a high-profile commercial lawsuit involving the sale of a health insurance company and obtained, by jury verdict, one of the largest damage awards in Broward County history.

During the historical 2000 Presidential Election Litigation in Florida, Mr. Scherer led a team of attorneys representing President George W. Bush and personally represented the President in the Broward County recount.

In addition to his litigation practice, Mr. Scherer has also served as counsel to various government entities. From 1988 to 2005, Mr. Scherer served as General Counsel to the North Broward Hospital District, one of the largest public health care providers

in the nation, with four hospitals and nine specialized treatment centers. As General Counsel for the Hospital District, he supervised teams of legal experts in healthcare and malpractice law, and was responsible for all trials and legal actions taken by or against the Hospital District.

Mr. Scherer began his legal career as a law clerk to the Indiana Supreme Court and the Honorable Charles Fulton, Former Chief of the United States District Court for the South District of Florida.

COMMUNITY INVOLVEMENT/AFFILIATIONS

- American Board of Trial Advocates, Member/“Advocate,” 1989 to present
- Broward Workshop, Board Member, 2002 to 2012
- Broward County Ethics Commission, 2009 to 2010
- City of Fort Lauderdale Downtown Development Authority, Board Member, 1989 to 1996 and 2003 to 2010
- Franklin College Board of Trustees, 2000 to 2008
- Judicial Nominating Commission for the Seventeenth Circuit, Gubernatorial Appointee (Governor Martinez, Governor Bush and Governor Scott), 1987 to 1999, 2001 to 2003, 2003 to 2007 (Chair in 2006), 2011 to 2012
- Judicial Nominating Commission for the Fourth District Court of Appeal, Gubernatorial Appointee (Governor Bush), 1999 to 2003
- Florida Department of Business and Professional Regulation, Interim General Counsel, Gubernatorial Appointee (Governor Bush), 2000
- Florida Lawyers for Bush, Statewide Co-Chair, 1998 to 2000
- Florida Lawyers for Bush, Broward and Palm Beach County Chair, 1998 to 2000
- Federal Bar, Grievance Panel for the Southern District of Florida, 1995 to 1997
- Florida Patient Compensation Fund, Board of Directors, 1992
- Federal Bar Association, Broward County Chapter, Past President, 1982 to 1983

SIGNIFICANT MATTERS/CASES

- Lori Parrish, Broward County Property Appraiser v. Board of County Commissioners, Broward County, Florida, Case No.: 13-023090. Successfully obtained a writ of mandamus on behalf of Broward County Property Appraiser Lori Parrish after the Broward County Board of Commissioners failed to comply with its statutorily mandated duty to fully fund the first quarter payment of the Property Appraiser’s Fiscal Year 2014 Budget as approved by the Department of Revenue.

- Mr. Scherer led his team of attorneys and para-professionals in the representation of a diverse group of plaintiffs seeking recovery of over \$225 million in investor losses resulting from a multi-billion dollar structured settlement Ponzi scheme. This nationally publicized case focused on Toronto Dominion Bank's (TD Bank) role in facilitating this criminal enterprise asserting novel claims that the Bank willfully aided and abetted the Ponzi fraud. After months of litigation, the matter was resolved through settlement resulting in the highest percentage recovery for victims entangled in a Ponzi scheme.
- In conjunction with the Rothstein Ponzi scheme civil litigation, Mr. Scherer served as Chairman of the Creditors' Committee in Rothstein's law firm's bankruptcy proceeding from December 2009 through December 2012.
- In 2005, Mr. Scherer co-represented a doctor and health care entrepreneur who had purchased HIP of Florida—now Vista Health Plans of Florida—from HIP of New York. Scherer filed a suit on behalf of his client against HIP of New York alleging that HIP hid financial information from his client who had purchased the company for \$40 million. Following a 14 week trial, and despite HIP of New York's countersuit for breach of contract, a jury awarded one of the largest individual verdicts in Broward Circuit Court history. That award included an award of compensatory damages for fraud and the cancellation of a multi-million dollar note to the defendant. Jurors had found liability for punitive and compensatory damages, but before they could determine an award on punitive damages, the case was settled out of court.
- Mr. Scherer led his team of attorneys representing President George W. Bush during the historical 2000 vote recount and personally represented the President in the high stakes Broward County recount. Conrad & Scherer's responsibilities as counsel to President Bush included advising the President on his legal strategy in Broward County and also acting as a key contributor in Bush's distinguished statewide Florida legal team. In fact, President Bush has praised Conrad & Scherer's attorneys for their important legal contributions to his success in Florida. The firm's contribution has also been implicitly recognized in the United States Supreme Court decision of *Bush v. Gore*, 531 U.S. 98 (2000), where the high court freed Florida Secretary of State Katherine Harris's certification of George W. Bush as the winner of Florida's electoral votes in the 2000 presidential election.
- Mr. Scherer led his team of attorneys in defending a client against a third-party government agency's interference with Broward County's public bid process, which put at risk an existing five year janitorial services contract for the Fort-Lauderdale/Hollywood International Airport totaling approximately \$69 million. The firm successfully asserted constitutional due process violations challenging the third-party agency's involvement in the process and deviation from the County Code

and Charter. The firm prepared to file a bid protest and to seek judicial relief for the constitutional violations if a successful political resolution was not reached.

- Mr. Scherer led his team of attorneys defending one of the largest mega-yacht marina and shipyards in the US from being over-regulated by a local fire marshal and was able to resolve the matter favorably through the political process and without litigation. The fire marshal had attempted to regulate the shipyard's spray painting of mega-yachts/large vessels within temporary enclosures – an industry-wide practice already regulated under OSHA. Resolution required multi-government lobbying of the Florida CFO in his capacity as the State Fire Marshal, Broward County Commission, the Broward Board of Rules and Appeals (“BORA”), the City of Fort Lauderdale, and the local Fire Prevention Bureau. If the fire marshal was successful, the impacts to the Tri-County's multi-billion dollar marine industry would have been devastating. In addition to the government relations aspect of this matter, the firm prepared to seek judicial relief for the constitutional violations if a successful political resolution was not reached.
- Successfully enforced a \$41 million judgment against a prominent real estate developer by attacking an offshore Nevis trust. Pursued multiple court actions in domestic and international jurisdictions, including the Cayman Islands. This was one of the first instances in the U.S. where a U.S. creditor was able to successfully attack a Nevis trust. The case resulted in a settlement of over \$44 million for the client.
- Represented a municipality and prevailed at trial in a \$100 million dollar lawsuit brought by a large developer against the municipality for breach of an alleged contract to develop 11 acres of Florida oceanfront property.

AWARDS/RECOGNITIONS

- AV® Preeminent™ Peer Rated by Martindale-Hubbell®, since 1987
- Recognized as a Best Lawyer in Commercial Litigation for The Best Lawyers in America®, 2018 to 2020
- Listed in Super Lawyers® “Super Lawyer”, 2006 to 2018, 2020
- Listed in Florida Trend's Legal Elite, “Florida Legal Elite”, 2004, 2010, 2014 and 2020
- Listed in South Florida Legal Guide, “Top Lawyers”, 2006 to 2020
- Listed as one of the “FACES of Fort Lauderdale” in Complex Commercial Litigation by Gold Coast Magazine, April 2019
- Recognized as an “Ultimate CEO” by the South Florida Business Journal, 2013
- Listed in VerdictSearch's, “Top 100 Verdicts of 2005”, 2005
- Recognized as “Most Effective Lawyer” by the Daily Business Review, 2005 and 2012

- Profiled as a “Power Broker” by the Sun-Sentinel Newspaper, 2002
- Listed as one of “The 50 Most Powerful People in Broward County” by Gold Coast Magazine, May/June 2002
- Profiled as a “Political Power Broker” by Gold Coast Magazine, April 2002

PUBLICATIONS/TEACHING & SPEAKING ENGAGEMENTS

- C5’s 3rd Forum “Fraud, Asset Tracing and Recovery,” Miami Beach, Florida, Speaker, “Miami Vice—Unraveling the \$1.2 Billion Rothstein Ponzi Scheme,” October 2012
- American Board of Trial Advocates and the Fort Lauderdale Chapter of ABOTA “Masters In Opening Statements and Closing Arguments”, Fort Lauderdale, Florida, Speaker, May 2011
- BankAtlantic Attorney Seminar, Fort Lauderdale, Florida, Speaker, “Unraveling a Ponzi Scheme,” October 2010
- Boys and Girls Club of Broward County Men’s Luncheon, Fort Lauderdale, Florida, Featured Speaker, “The Ponzi in its Aftermath,” April 2010
- William R. Scherer Jr., Directors and Officers Face Liability – Check Your D&O Insurance Now, Smart Business – Broward/Palm Beach, April 2005 at 14.
- William R. Scherer Jr., Vital Reforms – Why Everyone Needs to Pay Attention to Proposed Medicaid Reforms, Smart Business – Broward/Palm Beach, March 2005, at 24.
- William R. Scherer, Jr., Medicaid Reform – A Call to Action, South Florida Hospital News, March 2005.
- William R. Scherer Jr., Editorial, Recommended Reforms Must Pass in Session, South Fla. Sun Sentinel, June 16, 2003, at 21A.
- William R. Scherer Jr., Sovereign Immunity in Indiana- Requiem 6 Ind. L. Rev. 92 (1972).

Steven Osber is a senior partner at Conrad & Scherer’s Fort Lauderdale office with a practice concentrating primarily on commercial and business litigation. Mr. Osber’s case representation ranges from routine litigation matters and third party insurance litigation to highly complex litigation including partnership/shareholder disputes, commercial eviction matters, real estate litigation and construction litigation.

In addition to his extensive experience in commercial litigation and construction related litigation, Mr. Osber has handled a number of significant cases representing

businesses in a variety of cases involved sophisticated legal issues through trial and obtained successful results for his clients. Mr. Osber is also valued as a contributing litigator in the firm's labor and employment cases. He also serves as outside general counsel advising various businesses on day to day legal matters.

Mr. Osber's expansive litigation experience includes more than 100 state and federal jury and non-jury trials, as well as extensive binding arbitration experience. He is also proficient in appellate cases, having prepared appellate briefs on a variety of matters, argued before various appellate tribunals, and has obtained favorable opinions in the appellate courts throughout the State of Florida. He is rated AV Preeminent by Martindale-Hubbell, which indicates a demonstration of the highest professional and ethical standards and is the highest rating a lawyer can receive. He has also been recognized as a top lawyer in the South Florida Legal Guide in 2011, and from 2014 to present day.

AWARDS/RECOGNITIONS

- AV® Preeminent™ Peer Rated by Martindale-Hubbell®
- South Florida Legal Guide – Recognized as a “Top Lawyer,” 2011, 2014 – 2020

Appendix 2

Documents Reviewed:

1. Docket for *Belin v. Health Insur. Innovations, Inc.*, No. 0:19-cv-61430 (S.D. Fla.)
2. Plaintiff's Third Amended Class Action Complaint alleging claims for RICO, Fraud, Breach of Fiduciary Duty and Aiding and Abetting Breach of Fiduciary Duty [D.E. 176]
3. Order on Motion for Class Certification [D.E. 208]
4. Plaintiffs' Motion for Preliminary Approval of Settlement Agreement, Confirmation of Class, Approval of Class Notices and Scheduling of a Fairness Hearing, and Incorporated Memorandum of Law [D.E. 264] (including all exhibits)
5. Order Preliminarily Approving Settlement and Providing for Notice [D.E. 265]
6. Plaintiffs' Motion for Attorneys' Fees and Costs