IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

REYNALDO REYES, on behalf of himself and all others similarly situated, Plaintiff, v. ZIONS FIRST NATIONAL BANK, NETDEPOSIT, LLC, MP TECHNOLOGIES d/b/a MODERN PAYMENTS, TELEDRAFT, INC., NATIONAL PENN BANK, WELLS FARGO BANK, N.A., and WACHOVIA BANK, N.A., Defendants.	CIVIL ACTION NO. 10-00345

DECLARATION OF STEPHEN A. SALTZBURG IN SUPPORT OF PLAINTIFF'S MOTION FOR ATTORNEYS' FEES

I. INTRODUCTION

1. I was asked by Howard Langer, Lead Counsel for the plaintiffs, to offer an independent opinion on the reasonableness of an attorneys' fee award of one-third of the common fund of $37.5 million.

2. My opinion is that such an award of attorneys' fees is fair and just and is within the range of reasonable attorneys' fees previously approved by this and other courts in class action litigation.

3. The opinion offered herein represents my own judgment as to the reasonableness of a one-third fee, and this Declaration represents judgments and opinions that are exclusively mine.

II. MATERIALS CONSIDERED

4. In arriving at my opinion, I reviewed the following:

(a) the opinion of the United States Court of Appeals for the Third Circuit in this matter, 802 F.3d 469 (3d Cir. 2015);

(b) this Court's opinion denying class certification, 2013 WL 5332107 (E.D. Pa. 2013);

(c) an earlier decision of this Court concerning defendants' motion to dismiss, 2012 WL 947139 (E.D. Pa. 2012);

(d) the decision of the United States Court of Appeals for the Sixth Circuit in *Johnson v. U.S. National Bank Association*, 508 Fed. App'x. 451 (6th Cir. 2012) (finding this Court's 2012 opinion concerning defendants' motion to dismiss "not persuasive");

(e) a draft of the Memorandum in Support of Plaintiff's Motion for Final Class Certification and For Final Approval of the Proposed Settlement;

(f) a draft of Plaintiff's brief on attorneys' fees;

(g) cases cited in the above referenced materials; and

(h) a declaration that I filed in *Faloney v. Wachovia Bank, N.A.*, Nos. 07-1455 & 08-755 (E.D. Pa.)

III. GENERAL CREDENTIALS

5. I am the Wallace and Beverley Woodbury University Professor of Law at the George Washington University Law School. I was named to this position in January 2004. From August 1990 until January 2004, I was the Howrey Professor of Trial Advocacy, Litigation and Professional Responsibility. Prior to that, I held the Class of 1962 Chair at the University of Virginia Law School in Charlottesville, Virginia, where I taught from 1972 until 1990. My resume is attached as Exhibit I hereto. It lists, *inter alia,* my publications during the last ten years.

6. Professional responsibility, particularly in the context of litigation, is a particular interest of mine. I endeavor to deal with professional responsibility issues in each class that I teach. During the 14 years that I held the Howrey Chair at the George Washington University Law School, I was expected to and did address professional responsibility issues generally and specifically in connection with trials, advocacy and litigation.

7. For approximately 21 years, I was the co-director of the University of Virginia Law School Trial Advocacy Institute (now retitled as the "National Trial Advocacy College at the University of Virginia School of Law"), a six- to eight-day course for lawyers and law students in trial advocacy. I am now the Director of that College as we move into our 36th year. For a number of years, we included instruction with a program on professional responsibility issues, with an emphasis on litigation. I was the sole teacher of this segment of the program for more than a decade.

8. I have counseled on a variety of professional responsibility issues and have been retained as an expert in several cases. During the last four years, to the best of my recollection, I have testified by deposition or in trial once. I was deposed this year in *In Re Global Computer Enterprises, Inc.*, No. 14-13290-RGM, 2016 WL 5360857, in the United States Bankruptcy Court for the Eastern District of Virginia.

9. During the 1990's, I served as Special Master for the United States District Court for the District of Columbia in a case originally titled *Hartman v. Gelb*, No. 77-2019-CRR, 1991 WL 202367. This class action suit was filed in 1977 alleging discrimination against women by the now defunct United States Information Agency. Part of my role as Special Master was to make recommendations to the Court on the

award of attorneys' fees and expenses for the period 1977–2000. I also served as Special Master in another class action case in the United States District Court for the District of Columbia in the early 1990's, *Hammon v. Barry*, 752 F. Supp. 1087 (D.D.C. 1990). One of my duties as Special Master was to make recommendations to the Court regarding attorneys' fees and expenses for two classes of D.C. firefighters.

10. I have been involved as a consultant in class action cases of various types, including securities and antitrust cases, for many years and have served as lead counsel in several civil rights class actions.

11. In addition to my service as Special Master, my role in litigating class action cases, and my consulting, I have maintained a continuing interest in issues involving compensation for counsel in class action cases. As discussed below, I was appointed by the late Chief Judge Becker to serve as Co-Chair of a Third Circuit Task Force involving selection and compensation of class action counsel. I also am one of several George Washington University Law School professors who worked on planning for a complex litigation center to be housed at our School.

IV. THIRD CIRCUIT TASK FORCE

12. In 2000–2001, I served as Co-Chair of the Third Circuit Task Force on Selection of Class Counsel. The Report of the Task Force is reproduced at 74 Temple L. Rev. 689 (2001).[1] The Task Force focused its effort on "common fund" class actions. Even though our goal was to focus on the best practices for selecting lead counsel in class actions, the Task Force inevitably was required to analyze the amounts that attorneys

[1] Also available at: http://www.ca3.uscourts.gov/sites/ca3/files/final%20report%20of%20third%20circuit%20task%20force.pdf

ought to be able to claim as fees. Some of the lessons learned by the Task Force appear pertinent to the attorneys' fee application in this case.

13. The Task Force explicitly recognized, I believe correctly, that class counsel plays a unique role in many class action actions: "It is plaintiffs' counsel who work to obtain whatever recovery any member of the class who has not opted out of the litigation will receive. The fact that there will be no payment if there is no settlement or trial victory means that there is greater risk for plaintiffs' counsel in these class action cases than in cases in which an hourly rate or flat fee is guaranteed. The quid pro quo for the risk, and for the delay in receiving any compensation in the best of circumstances, is some kind of risk premium if the case is successful." *Id.* at 69192 (footnote omitted).

14. Although the Task Force recognized it could not opine on the appropriate amount of compensation in any particular case, the Task Force observed that the public, including many class members, may not fully understand the risks undertaken by counsel: "We make no claim to being able to identify the 'right' amount of compensation in particular cases. But the evidence before us is clear that the perception as to how lawyers in class action cases are compensated is often distorted. When there is a public reaction to an attorney fee award in a given case, the public is usually unaware of what the lawyers actually did, what risks they took, what investment they made, and how important their lawyering was to victory for the class." *Id*. at 692 (footnote omitted).[2]

[2] Another explanation for negative reaction to attorneys' fees in class action cases is the following: "Another reason for the primacy of compensation concerns, in certain circles, is plain old-fashioned hypocrisy. Corporate lobbyists and conservative commentators regularly purport to stand up for the right of absent class members to receive money damages by advocating rules that would severely limit the fees of class counsel. One could be forgiven, however, for suspecting that the real motivation of corporate advocates is not plaintiffs' rights, but rather (1) to diminish both the absolute number and efficacy of

15. The Task Force recognized that, although in many private Securities Act cases sophisticated and experienced institutional investors serve as lead plaintiffs and are capable of engaging in arms-length bargaining regarding attorneys' fees, this is not true in many other types of class actions because not all cases involve sophisticated plaintiffs. Consumer class actions, for example, often involve large numbers of relatively unsophisticated consumers. Class actions are often the only vehicle that consumers can use to obtain relief. The Third Circuit recognized this just last year in this case:

> Class actions are often the only practical check against the kind of widespread mass-marketing scheme alleged here. . . . This is particularly true when, as is often the case, the scheme targets unsophisticated consumers with little disposable income and without the means or wherewithal to seek assistance of legal counsel. . . .
>
> In such cases, the class action can create greater access to judicial relief. It is, in fact, possible to think of consumer class actions as providing an indispensable mechanism for aggregating claims when the individual stake is low and the similarity of the challenged conduct is high. Thus, class actions have the practical effect of allowing plaintiffs who have suffered relatively *de minimis* loss to nevertheless function as private attorneys general and thereby deter fraud in the marketplace.

Reyes v. Netdeposit, *LLC*, 802 F.3d 469, 491–92 (3d Cir. 2015) (internal alterations, citations, and quotations omitted).

16. As our Task Force concluded, it is useful for a court to consider how a case looked *ex ante* from an objective perspective and also how it appears *ex post* where the parties, counsel, and the court have the benefit of hindsight. The posture of a case *ex*

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class actions by making them less attractive investment opportunities to effective entrepreneurial lawyers; and (2) to diminish the wealth and influence of plaintiffs' class action lawyers, who not only comprise the most effective lobbying counterweight to corporate interests in contemporary politics, but who use their wealth to finance further class action litigation against U.S. companies." Myriam Gilles & Gary B. Friedman, *Exploding the Class Action Agency Costs Myth: The Social Utility of Entrepreneurial* Lawyers, 155 U. Pa. L. Rev. 103, 163 (2007) (footnotes omitted).

ante is especially relevant in determining an appropriate fee award in many common fund class action cases because that is when counsel must face the risks associated with the particular litigation. I examine the instant case from an *ex ante* viewpoint *infra* at paragraphs 20–28 and 30.

17. In many class action cases, including many if not most consumer class actions, there is little opportunity or incentive for negotiations *ex ante* on attorneys' fees. That is true of this case. The fact that there were great risks meant that *ex ante* neither counsel nor their clients could predict how much of a recovery, if any, there would be and how much work would be required to produce any recovery.

18. The Task Force also recognized that, in determining an appropriate fee award, the court should consider how the case appears *ex post*. If, at the conclusion of a case, the court finds that it was more successful than anyone could have foreseen at the outset, the court is justified in concluding that a fee that would have appeared reasonable at the outset remains reasonable or that a fee that was reasonable at the outset warrants an increase due to unforeseen burdens or successes that indicate counsel faced even greater odds than originally anticipated or arrived at a success that was not imagined *ex ante*. I examine the case from an *ex post* viewpoint *infra* at paragraphs 31–34.

19. Our Task Force emphasized that courts are imbued with broad discretion to determine appropriate fee awards at the conclusion of a case:

> In setting a fee at the end of a case, the Task Force emphasizes the point made by decisions cited throughout this Report: that judges have ample discretion to set fees that depart from any supposed "benchmark". Indeed, departure from any asserted "benchmark" is *required* by Rule 23 if such a fee would be unreasonably high, or low, under the circumstances. There is nothing in the percentage approach that requires a locked-in or "standard" percentage to apply automatically in every class action.

74 Temp. L. Rev. 689, 777 (emphasis added) (footnotes omitted).

20. I have been asked on four previous occasions since 2002 to review the reasonableness of fee requests in cases in which Howard Langer or firms with which he has been associated were counsel. Those cases were *In re Linerboard Antitrust Litigation* in 2002, *Faloney v. Wachovia Bank, N.A.* in 2008, *Laumann v. National Hockey League* in 2015, and *Garber v. Major League Baseball* earlier this year. In each of these cases the courts concurred with my opinion that the fees sought were reasonable.

21. As a result of my work on these cases, I have become familiar with the work of Langer Grogan & Diver, P.C., and the nature of its practice. As the courts in each of these cases recognized, the firm has a high degree of skill. In all of these cases they were opposed by the leading law firms in the country but nevertheless achieved outstanding results for the classes they represented. It is also clear that the firm takes on cases of unusually high risk. For example, in none of the cases in which I have offered an opinion was there a dispositive government case prior to filing that significantly ameliorated the risk. In *Faloney v. Wachovia Bank, N.A.*, where the government ultimately acted after class counsel filed the private class action, Langer Grogan & Diver substantially increased the value of the government's settlement. Counsel's willingness to accept a high degree of risk likely results in cases being brought that otherwise would not be. With the exception of *Linerboard*, the firm either acted alone (*Wachovia*), or with a very small group of co-counsel, thereby assuming very high risk compared to large multidistrict litigations involving many law firms. My prior experience leads me to express my opinions in this case with a very high degree of confidence.

V. THE RISKS ASSUMED BY PLAINTIFF'S COUNSEL VIEWED *EX ANTE*

22. As I explained, it is appropriate to consider the reasonableness of the percentage sought *ex ante*. In this case, Plaintiff's counsel was writing on a blank slate. No other litigation had developed facts indicating bank misconduct by the defendants. No government suit or litigation had established relevant misconduct by any bank. There was a huge question whether the case would be permitted to proceed as a class action. As events unfolded, the substantial risks became clear.

23. This case involved highly complex banking regulations and a very complex federal statute, RICO. To recover for the client, a class would have to be certified. However, there was no clear precedent supporting class certification. Under the Third Circuit's standard of *In re Hydrogen Peroxide Antitrust Litigation*, 552 F.3d 305 (3d Cir. 2008), it was unlikely that the class could be certified until after considerable discovery. Thus, the case would require significant investment before there would be any indication of whether the risks had been ameliorated.

24. I am not aware of any other firms that had the combined expertise possessed by Langer Grogan & Diver in banking payment systems, consumer fraud, RICO, and Rule 23 that would have allowed an appropriate assessment of the risk involved in the case. When a large class action is brought, there are often follow-on cases filed after the initial case is filed. Here, even though there was a very large class of injured victims, no follow-on cases were brought. This supports my conclusion about the *ex ante* risk in the case was very high such that other firms did not file cases.

25. The lack of any government action against the defendant banks raised the risks considerably. As both the Third Circuit and Second Circuit have properly

recognized, the lack of a government action is a prime indicator of risk. Here, there were multiple government actions against the telemarketing entities alleged to be frauds, government actions against other banks that had serviced certain of the same alleged frauds, and government action against Zions for lack of BSA/AML compliance with regard to its conduct with other entities. The fact that in this context the government had taken no action at all against Zions with regard to the conduct at issue greatly increased the risk to class counsel as they considered whether or not to take on the case, since it could easily be argued that the government had reviewed the conduct and not taken action.

26. These risks, all apparent *ex ante*, were borne out in the litigation. The court dismissed claims against three of the four defendant banks as the litigation began and only permitted claims against the Zions entities and Teledraft. *Reyes v. Zion First Nat. Bank, et al.*, No. 10-345, 2012 WL 947139 (E.D. Pa. Mar. 21, 2012). This is strong evidence that building a case and proving illegal bank misconduct was highly uncertain.

27. The Sixth Circuit rejected this Court's decision allowing plaintiff to proceed against Zions and found its reasoning "unpersuasive." *Johnson v. U.S. Nat. Bank Ass'n*, 508 F. App'x 451, 452 (6th Cir. 2012). The Sixth Circuit dismissed a class action in its entirety against two banks.

28. This Court initially denied class certification. *Reyes v. Zions First Nat. Bank*, No. 10-345, 2013 WL 5332107 (E.D. Pa. 2013). Had Plaintiff's counsel's appeal to the Third Circuit not been successful, there is no possibility that any plaintiff would have recovered in this matter.

29. For the above reasons, I am confident that no firm would have taken on this case for less than a one-third contingency.

VI. THE RISKS ASSUMED BY PLAINTIFF'S COUNSEL VIEWED *EX POST*

30. Viewed *ex post*, the requested fee is reasonable. As discussed above, counsel faced numerous challenges in the course of litigation, including that the majority of defendants had been dismissed and class was denied, yet plaintiff ultimately obtained a settlement that ranks among the most successful consumer class action recoveries.

31. Plaintiff's counsel faced great difficulties in persuading the Third Circuit that this is an appropriate case for class certification. The Third Circuit had never vacated a denial of class certification on Rule 23(f) review. *Johnston v. HBO Film Management, Inc.*, 265 F.3d 178 (3d Cir. 2001), and *In re LifeUSA Holding, Inc.*, 242 F.3d 136 (3d Cir. 2001), had held class certifications inappropriate in cases involving oral communications. Moreover, multiple mass market telemarketing frauds had never been the subject of a published opinion certifying a class.

32. As discussed above, as the litigation progressed, class counsel learned of the many occasions in which regulators chose not to act despite being aware of Zions's conduct. NACHA, the primary regulator of the ACH system, took no significant disciplinary action against Zions despite being aware of most of the important facts adduced in the instant case by plaintiff's counsel.

33. Although the Comptroller of the Currency fined Zions for having taken on "high risk customers in 2006 and 2007 without sufficient regard to BSA/AML compliance implications," the customers upon whom the Comptroller focused were different from those at issue in this case. Press Release, *OCC Assesses Civil Money*

Penalty Against Zions (Feb. 11, 2011) (available at http://www.occ.treas.gov/news-issuances/news-releases/2011/nr-occ-2011-16.html).

VII. THE SETTLEMENT AND RESULTS OBTAINED

34. According to calculations by plaintiff's litigation expert, the settlement represents between 58% and 127% of total damages. I understand that this may represent as much as thirty-seven times the revenue derived by defendants as a result of the alleged violations. By any measure, it represents the very high end of damages recovered in class actions.

35. The lowest estimate of the percentage of recovery would itself be among the highest recoveries ever. Although studies of percentage recoveries are sparse, a study of class actions brought under the securities laws between 1996 and 2015 undertaken by NERA concluded that "the median ratio of settlement to investor losses was 18.9% for cases with investor losses of less than $20 million, while it was 0.6% for cases with investor losses over $10 billion." Svetlana Starykh and Stefan Boettrich, *Recent Trends in Securities Class Action Litigation: 2015 Full-Year Review Record Number of Cases Being Filed Faster than Ever with the Shortest Alleged Class Periods*, NERA, January 25, 2016 at 34. An interim working paper that has studied recoveries in a series of consumer cases against banks relating to overdraft fees that were consolidated in a single district found that the cases had settled for between 6.6% and 69% of total damages. Actually, of the thirteen settlements studied, only three obtained over 50% of estimated damages and the 69% recovery was something of an outlier. *See* Brian T. Fitzpatrick and Robert C. Gilbert, *An Empirical Look at Compensation in Consumer Class Actions*, Vanderbilt University Law School, Public Law & Legal Theory Working Paper Number

15-3, Law & Economics Working Paper Number 15-6, March 6, 2015. Of course, in these bank overdraft fee cases, the banks were returning fees they had collected for themselves. In the present case, the defendant bank is returning funds it did not obtain for itself, but for the underlying fraudulent schemes. Thus, compared to the cases in the two studies, the result in the present case far exceeds what has generally been recovered in past class actions.

36. Assuming the high end valuation of the settlement, it provides greater than single damages to the class. Even assuming a mid-point between the low and high valuations of the settlement, it provides a recovery of over ninety percent of single damages. Such a recovery is extremely rare and, I believe, unprecedented in a case in which there was no government action. In my declaration submitted in *Faloney v. Wachovia Bank, N.A.*, I discussed the only two cases of which I was aware that arguably had resulted in almost complete compensation to a class. Those cases were *In re Busperone Antitrust Litigation*, and *In re Cardizem CD Antitrust Litigation*, No. 99-md-1278 (E.D. Mich.). As I pointed out, these cases involved companion government actions and, as in this case, the recoveries were 100% recoveries when calculated in certain ways but not others. The point is that the present recovery, even valued at its most modest valuation, can only be compared to the very highest recoveries obtained in prior class action litigation.

37. Earlier this year, a settlement was reached in *In re: Volkswagen "Clean Diesel" Marketing, Sales Practices, and Products Liability Litigation*, No. 15-md-02672 (N.D. Cal.), that appears to provide full recovery. That case, however, was settled in conjunction with multiple government actions, and occurred after an admission of

wrongdoing by the defendant.

38. Taking into account the extraordinary recovery in this case, the fee of one-third of the common fund as requested is more than reasonable.

39. Viewing this case *ex post*, one has to consider not only the greater results obtained, but how they were obtained, which underscores the propriety of the one-third fee requested. In the course of the case, the class had been denied certification; three of four bank defendants had been dismissed; and the only avenue for review was Rule 23(f) review in a Circuit that had, at the time the review was sought, never vacated a denial of class certification under Rule 23(f) review. Nevertheless, class counsel obtained a ruling by the Circuit which will have major ramifications far into the future with regard to consumer redress for telemarketing fraud and misconduct by legitimate businesses, including banks. The importance of that decision is reflected by the exceptional results obtained in the case subsequent to the Third Circuit's ruling.

VIII. CONCLUSION: REASONABLENESS OF THE FEE

40. I believe that an award of one-third of the settlement fund is a reasonable fee award and does not unfairly diminish the recovery to individual class members. My opinion is based upon a number of considerations set forth in the paragraphs that follow.

41. First, as explained above, the risks that plaintiff's counsel faced were unusually high. This is the first successful class action case in which a reported decision regarding class certification was obtained against multiple mass telemarketing frauds. Given the substantial risks associated with the case, there is every reason to believe that, at the outset of the case (the *ex ante* position), had a sophisticated representative of the plaintiff class engaged in arms-length bargaining with plaintiff's counsel about fees to be

paid in the event of a favorable verdict or settlement, a one-third fee would have been both a reasonable and a likely agreed upon rate.

42. With the benefit of hindsight (the *ex post* position), a one-third fee is quite reasonable given the duration of the case, the difficulty of the investigation, and the notable success of the litigation. Moreover, this case is an extraordinarily important case in terms of deterrence of bank misconduct. In the *Wachovia* case, cited in paragraph 4(h), *supra*, Langer, Grogan & Diver had considerable success against what this Court observed to be "a national scourge of telemarketing fraud." Surely, the Court anticipated that the result reached in that case would have a salutary effect on American banks. Yet Zions' conduct, which was substantially similar to that in *Wachovia,* was defended by the major banking organizations in amicus curiae briefing in the Third Circuit. This time, as a result of the landmark decision by the Third Circuit and in light of the fact that Zions is paying many times more than it earned from its involvement, it is more likely that banks will cease to support telemarketing fraud.

43. The settlement amount of $37.5 million represents $8.5 million *more* than the most direct measure of damages—the amounts Zions debited from victims' accounts. The settlement amount also represents compensation for insufficient funds charges incurred by class members as well as compensation for amounts debited by a second payment processor, the bankrupt Teledraft. Zions has no right of reversion to any of the funds regardless of how many class members seek recovery from the common fund. The fact that the fund will be more than Zions debited from victims' accounts should prove to be a deterrent to Zions's practices in the future and a warning to other banks. Moreover, the analysis of the Third Circuit will be available to future plaintiffs and their counsel and

holds promise that class actions, which have been notoriously unsuccessful in addressing mass telemarketing fraud, will have sharper teeth.

44. Plaintiff's counsel demonstrated exceptional skill and commitment to the plaintiff's cause. Plaintiff's counsel used their expertise in payment systems and banking regulation as well as their vast experience in dealing with consumer class actions to achieve success that plaintiffs' counsel in other cases had not previously achieved. As discussed above, I have had occasion, including in *Wachovia*, to review the efforts of Langer, Grogan & Diver and I have seen first-hand not only the thoroughness and courage they bring to class litigation but also the devotion and respect they have for class members. They are outstanding lawyers, highly professional, and willing to take enormous risks to benefit consumers and erase fraud in public marketplaces.

45. Application of all of the factors long utilized by the Third Circuit in determining appropriate fee awards in common fund cases supports the one-third fee request. *See Gunter v. Ridgewood Energy Corp.*, 223 F.3d 190, 195 n.1 (3d Cir. 2000). The considerable skill, experience and tenacity of plaintiff's counsel resulted in the creation of a settlement fund that amounts to more than was wrongly debited from the victims' accounts. It is doubtful that anyone could have foreseen the magnitude of the success when the case was initiated.

46. The one-third fee request represents the percentage awarded by two district courts in the Third Circuit in the two RICO class actions cited by the Third Circuit in its decision in this case. *See Cullen v. Whitman Med. Corp.,* 197 F.R.D. 136, 150 (E.D. Pa. 2000), and *In re Ins. Brokerage Antitrust Litig.*, 297 F.R.D. 136, 155 (D.N.J. 2013). The results obtained here far exceed the results obtained in those cases.

47. For the reasons stated above, I believe that an award of one-third of the common fund as attorneys' fees is fair and reasonable in this case.

Pursuant to 28 U.S.C. 1746, I declare the above to be true under penalty of perjury.

Date: October 10, 2016

Stephen A. Saltzburg

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PRESENT TEACHING POSITIONS

Wallace and Beverley Woodbury University Professor of Law, George Washington University
Director, National Trial Advocacy College at the University of Virginia

FORMER TEACHING POSITIONS

Howrey Professor of Trial Advocacy, Litigation and Professional Responsibility, George Washington University Law School, 1990-2004
University of Virginia School of Law, 1972-1990, Class of 1962 Chairholder, 1987-1990

SUBJECTS TAUGHT

Civil Procedure, Constitutional Law, Criminal Law, Criminal Procedure, Evidence, Trial Advocacy

EDUCATION

A.B., Dickinson College, 1967; J.D., University of Pennsylvania, 1970

CLERKSHIPS

Honorable Stanley A. Weigel, (ND/CAL), 1970 - 71
Honorable Thurgood Marshall, 1971 - 72

GOVERNMENT SERVICE

Executive

Director, Tax Refund Fraud Task Force, U.S. Treasury Department, 1994 - 1995
U.S. Department of Defense Code Committee, 1989 - 1992
Ex Officio Member, U.S. Sentencing Commission, 1989 - 1990
Deputy Assistant Attorney General, Criminal Division, 1988 - 1989
Associate Counsel, Office of Independent Counsel, 1987 - 1988
Member, Military Justice Act of 1983 Commission, 1984-1985

Judiciary

Mediator, United States Court of Appeals for the District of Columbia Appellate Mediation Program, 1992 - Present

ABA Criminal Justice Section Liaison to Federal Rules of Evidence Committee, 2012 -

Special Master, Yaz and Yasmin MDL, U.S. District Court for the Southern District of Illinois, 2011 -

ABA Liaison to Federal Rules of Evidence Restyling Committee, 2010-2012

Special Master, Seroquel MDL, U.S. District Court for the Middle District of Florida, 2009-2011

Special Master, The Diversified Group, Inc. v. Paul Daugerdas, U.S. District Court for the Southern District of New York (attorney-client and work product issues), 2003

Co-Chair, Third Circuit Task Force on Selection of Class Counsel, 2001-2002

Special Master, Hartman v. Powell, U.S. District Court for the District of Columbia (class action employment case), 1991 - 2000

Special Master, Hammon v. Barry, U.S. District Court for the District of Columbia (class action employment case), 1990 - 1994

Mediator, Cobell v. Babbitt, U.S. District Court for the District of Columbia, 1999

Chair, U.S. District Court for the District of Columbia Civil Justice Reform Act Advisory Group, 1994 – 1999

Member, Advisory Committee on Federal Rules of Criminal Procedure, 1990 - 1995

Liaison Member from Advisory Committee on Federal Rules of Criminal Procedure to Advisory Committee on Federal Rules of Evidence, 1993- 1995

Reporter, U.S. District Court for the District of Columbia Civil Justice Reform Act Advisory Group, 1991- 1993

Reporter, Advisory Committee on Federal Rules of Criminal Procedure, 1984 - 89

Co-Chairman and Reporter of the Virginia Supreme Court's Advisory Committee on Rules of Evidence, 1984 - 1985

MEDIATION AND ARBITRATION

Mediator--Antitrust, Civil Rights, Contracts (Commercial and Government), Defamation, Disability, Employment, Environmental, Family Law, Fraud, Intergovernmental, Securities

Arbitrator--United States Cases; International Chamber of Commerce

PUBLIC SERVICE

Chair, ABA Criminal Justice Section Committee on Trial Advocacy, 1990-1996

Chair, ABA Criminal Justice Section, 2007-2008

Member, ABA Criminal Justice Standards Committee, 1996-1999

Member, ABA House of Delegates 2001-Present

Chair, ABA Justice Kennedy Commission, 2003-2004

Co-Chair, ABA Commission on Effective Criminal Sanctions 2005-2008

Vice-Chair, ABA Litigation Section Committee on Trial Evidence, 1991-1995

Member, ABA Litigation Section Council, 2001-2004

Co-Chair, ABA Litigation Section Task Force on Civil Trial Standards, 1997-1998

Chair, ABA Litigation Section Task Force on the Independent Counsel Statute, 1997- 1999

Member, ABA Special Committee on the Prosecution Function, 1991-1993

Member, ABA Task Force on the Treatment of Enemy Combatants, 2002-2009

Member, ABA Task Force on Gatekeeper Regulation and the Profession, 2002-2010

Member, ABA Task Force on Terrorism and the Law, 2001-2002
ABA Task Force on Domestic Surveillance in the Fight Against Terrorism, 2006-2009
Reporter, American College of Trial Lawyers Task Force on Litigation Issues, 1986-1988
Member, NIJ Less than Lethal Liability Panel, 1993 - 2004
Reporter, National Committee to Prevent Wrongful Executions, 2000-2002

HONORS

Honorary Faculty Member, Judge Advocate General School, Charlottesville, Virginia
Recipient, William J. Brennan, Jr. Award, National Trial Advocacy College at the University of Virginia
Member, Fellow of the American Bar Foundation, 1993 - Present
2000 ALI-ABA Francis Rawle Award for Outstanding Contributions to Post-Grad Legal Education
2011 Burton Award Distinguished Award Recipient: Reform in Law
2014 ABA Grassroots Advocacy Award
2015 ABA Presidential Citation

BAR MEMBERSHIPS

California, 1971; District of Columbia, 1972; Virginia, 1977

PUBLICATIONS

List Supplied Upon Request

PUBLICATIONS OF STEPHEN A. SALTZBURG

BOOKS

American Criminal Procedure: Cases and Commentary (Author: First Edition 1980, Second Edition 1984, Third Edition 1988), (Co-Author: Fourth Edition 1992, Fifth Edition 1996, Sixth Edition 2000, Seventh Edition 2004, Eighth Edition 2007, Ninth Edition 2010, Tenth Edition 2014)

Basic Criminal Procedure (Co-Author: First Edition 1994, Second Edition 1997, Third Edition 2003, Fourth Edition 2005, Fifth Edition 2009, Sixth Edition, 2012)

California and Federal Evidence Trial Book (Co-Author1999)

Criminal Law: Cases and Materials (Co-Author: First Edition 1994, Second Edition 2000, Third Edition 2008)

Emerging Problems Under the Federal Rules of Evidence (Reporter: First Edition 1983, Second Edition 1991), (Contributing Editor: Third Edition 1998)

Evidence in America (4 Volumes) (Co-Author 1987)

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