



NEW YORK CITY LAW DEPARTMENT
OFFICE OF THE CORPORATION COUNSEL

Michael A. Cardozo, Corporation Counsel

Press Release

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For Immediate Release

**NEW YORK CITY LAW DEPARTMENT WINS \$207 MILLION REDUCTION
IN LAWYER'S FEES FOR CENDANT STOCKHOLDERS,
INCLUDING CITY PENSION FUNDS,
FOLLOWING LARGEST CLASS-ACTION SETTLEMENT EVER**

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New York, February 13, 2003 -- A United States District Court Judge has approved an award of attorneys fees of \$55 million plus interest in the securities class-action against Cendant Corporation which was settled for \$3.2 billion, the largest settlement ever in a class action securities case. "The integrity and persistence of the New York City Pension Funds were responsible for the dramatic reduction in lawyers fees from the original award of \$262 million to this award of \$55 million," said Assistant Corporation Counsel Leslie A. Conason, who oversees securities litigation for the Funds.

The underlying suit followed Cendant's announcement in 1998 that it would have to restate its revenues for 1997 by \$100 to \$115 million due to major accounting irregularities. The market value of Cendant, which owns brand names like Avis and Howard Johnson, as a consequence plunged \$14.4 billion.

The New York City Pension Funds, the New York State Common Retirement Fund and the California Public Employees' Retirement System or Calpers, joined to become lead plaintiffs in the federal class action. They retained two law firms -- Bernstein Litowitz Berger & Grossmann of New York and Barrack, Rodos & Bacine of Philadelphia -- and negotiated a fee well below the customary for such cases. The District Court ignored the parties' retainer agreement and held an auction to determine the legal fees. Based on the auction, the Court when the case settled awarded the two law firms a \$262 million fee.

Of the three public pension funds sharing the duties of lead plaintiff, only New York City battled against what it viewed as the District Court's improper award of a fee in derogation of the terms of the agreement negotiated by the lead plaintiffs and signed by Bernstein Litowitz and Barrack Rodos. Persuaded by arguments presented by lawyers from the City's Corporation Counsel's Office, a federal appeals court overturned the \$262 million fee award as improper and sent the issue back to the District Court with instructions to "decline to consider any further fee requests that are not submitted with the prior approval of the funds," a principal condition in the original retainer agreement.

In its opinion, the Third Circuit Court of Appeals labeled the \$262 million fee "staggering." The Appeals Court also adopted the City's contention that under the Private Securities Litigation Reform Act (or PSLRA) passed in 1995, it was improper for the District Court to substitute its idea of holding an auction to set fees instead of deferring to the right of lead plaintiff under the PSLRA to "select and retain" counsel.

Corporation Counsel Michael A. Cardozo called the Third Circuit's decision in Cendant "a landmark in interpreting the role of institutional investors under the PSLRA and in measuring the reasonableness of legal fees in securities class actions."

Armed with the standards set out in the Circuit Court's decision, the Law Department and representatives from the City Comptroller's Office, the State and Calpers began a 12-month-long negotiation, which resulted in an application by Lead Counsel for fees of \$55 million. On February 5th, Federal District Court Judge William H. Walls approved the revised fee.

“This is probably the most dramatic example of the positive effect that a committed institutional investor can have on class action suits and attorneys’ fees. It is precisely the type of benefit Congress had in mind when it enacted the PSLRA,” Conason said.

The City’s legal team included Conason, a lawyer in the Affirmative Litigation Division; Elizabeth S. Natrella, a Senior Counsel in the Appeals Division who argued and won the case in United States Court of Appeals for the Third Circuit; and Leonard Koerner, the Appeals Division Chief, who advised on the appellate case. Lorna Goodman, a former chief of Affirmative Litigation who is now the head lawyer for Nassau County, also assisted Conason with the initial legal case.

The New York City Law Department is one of the oldest, largest and most dynamic law offices in the world, ranking among the top three largest law offices in New York City and the top three largest public law offices in the country. Tracing its roots back to the 1600’s, the Department’s 650-plus lawyers handle more than 100,000 cases and transactions each year in 17 separate legal divisions. The Corporation Counsel heads the Law Department and acts as legal counsel for the Mayor, elected officials, the City and all its agencies. The Department’s attorneys represent the City on a vast array of civil litigation, legislative and legal issues and in the criminal prosecution of juveniles. Its web site can be accessed through the City government home page at www.nyc.gov or via direct link at www.nyc.gov/html/law/home.html.

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