

KANNER & WHITELEY, L.L.C.

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FIRM BIOGRAPHY

Kanner & Whiteley, L.L.C. (“K&W”) is an AV-rated national trial firm founded in 1981 that excels in handling complex and novel matters. The firm has been especially successful in commercial fraud, environmental and toxic tort litigation, first party insurance, long term care insurance fraud, and in pioneering new legal theories in areas as diverse as environmental law, toxic torts, genetically engineered crops, the due process rights of farm borrowers, and the property rights of workers in their jobs. K&W has a diversified practice, successfully representing plaintiffs (and sometimes defendants) in the fields of mass torts, consumer protection, products defect, antitrust, environmental and toxic torts. Our clients include individuals, classes, businesses, public and private entities.

COMPLEX LITIGATION AND CLASS ACTIONS

K&W has served as court-appointed Plaintiffs’ Lead or Class Counsel in state and federal coordinated, multi-district, and complex litigation throughout the United States. With co-counsel, we have represented clients in hundreds of class and group actions, including some of the most important civil cases in the United States over the last thirty years.

K&W enjoys a national reputation for professional integrity and the successful prosecution of our clients’ claims. We possess sophisticated legal skills and the financial resources necessary for the handling of large, complex cases, and for litigating against some of the nation’s largest corporations. We take great pride in the leadership roles our firm plays in many of this country’s major cases, including those resulting in landmark decisions and precedent-setting rulings.

The firm is currently lead or co-lead in two federal Multi-District Litigation (MDL) matters, *In re Budeprion XL Sales and Marketing Litigation*, MDL No. 2107 (E.D. Pa.) (consumer fraud); *In re Cox Enterprises, Inc. Set-Top Cable Television Box Antitrust Litigation*, MDL No. 2048 (W.E. Okla.) (antitrust) and a number of state and federal class actions. E.g., *Shaffer v. Continental Casualty*, No. CV-06-2335 (C.D. CA) (national class action by elderly purchasers against long-term care insurer) and *Waxler v. Trinity Marine Products*, No 49-741 (25th JDC, Plaquemines Parish) (national class action by barge owners against manufacturers and suppliers).

TRIAL AND APPELLATE EXPERIENCE

K&W has an excellent trial and appellate reputation. We have substantial jury trial experience with a number of multi-million-dollar verdicts, including three successful class action trials. We have successfully litigated civil RICO, environmental, toxic tort, antitrust, fiduciary duty, commercial and other individual and class cases. The firm represents the State of New Jersey in

several of its largest Natural Resource Damage recovery actions, and has also been retained to successfully defend various class actions.

The firm has served as lead counsel in a number of recent cases, including *Shaffer v. Continental Casualty, et al*, No. CV06-2335 (C.D. Cal 1/26/07) (Klausner, J.)(Certification of class of Long Term Care policyholders), (Gutierrez, J.)(Denial of Motion for Summary Judgment (4/12/07), (Gutierrez, J.)(Final approval of multi-million dollar national class action settlement granted on 6/11/08); *Lemmings v. Second Chance Body Armor, et al.*, No. CJ-2004-64 (Mayes County District Court, OK) (2/19/05)(Goodpaster, J.)(certifying national class of purchasers and users of defective bullet proof vests), (9/05) (Order finally approving \$29 million national class settlement); *Milkman v. American Travellers Life Insurance Co.*, No. 3775, (Ct. Common Pleas, First Judicial District, June Term 2000) (4/01/02) (Multi-million dollar national class settlement on behalf of Long Term Care and Home Health Care policyholders; final approval granted 4/01/02); *Talalai v. Cooper Tire & Rubber Co.*, MID-L-8839-OOMT, Mass Tort 259, (Law Div. Middlesex Cty.) (Multi-million dollar national class settlement on behalf of Cooper Tire purchasers; final approval granted on 9/13/02); *Hanson v. Acceleration Life Ins. Co.*, Civ. No. 3:97-152 (D.N.D. 1999) (\$14.7 million settlement on behalf of Long Term Care policyholders); *Wallace v. American Agrisurance*, No. LR-C-99-669 (E.D.AR) (\$3.7 million settlement on behalf of rice growers holding CRC Plus policies); *Thomas v. Schwab*, No. 66,700 (10th Jud. Dist. Ct., Natchitoches, La) *aff'd*, 683 So.2d 734 (La. App. 3rd Cir. 1996) (Certification of national class action); *Dumont v. Charles Schwab & Co. Inc.*, Civ. Act. No. 99-2840 c/w 99-2841 (settlement of certified national class of Schwab customers July 21, 2000, 2000 WL 1023231); *Petrovic v. Amoco Oil Co.*, 200 F.3d 1140 (8th Cir. 1999)(settlement of certified pollution property class action affirmed on appeal); *Tompkins v. BASF*, No. 96-59 (Traill County, N.D.) (Multi-million dollar settlement on behalf of agricultural product purchasers); *Clark v. Household Finance Corp.*, No. 97-2-22420 (King County, WA, 12/29/97) (certification and settlement of statewide class for defrauded employees).

We have served as co-lead counsel in *Waxler v. Trinity Marine Products, Inc. et al*, No. 49-741, 25th Judicial District Court, Parish of Plaquemines, Louisiana (Eighteen million dollar class action settlement against barge manufacturer for defective interior coating of barges; final approval granted on 11/29/07); *In re Synthroid Marketing Litigation*, MDL 1182, 264 F.3d 712 (7th Cir. 2001) (\$89 million nationwide class action settlement granted final approval and affirmed on appeal); *Jorgenson, et al. v. Agway, Inc.*, Civ. No. A3-00-59 (D.N.D. 2002) (\$3.2 million settlement on behalf of sunflower growers); and *Bonilla v. Trebol Motors*, No. 92-1795 (D.P.R.) (\$129.5 million class action verdict affirmed in part and reversed in part on appeal; settled as to all parties).

Courts have consistently acknowledged the firm's expertise in complex and class action litigation:

Hanson v. Acceleration Life Ins. Co., Civ. No. A3:97-152 (D.N.D. Mar. 18, 1999) (certifying class of Long Term Care policyholders, rejecting filed rate doctrine and denying summary judgment): Order of December 11, 1999 (approving final settlement of \$14.7 million), pp.8-9: ("*This litigation was hard fought* throughout its two year pendency and required thousands of hours of counsel's time and hundreds of thousands of dollars advanced for expenses, with significant risk of no compensation. Both local counsel and national class counsel are commended for their willingness to take on this cause when there were virtually no precedents to assure them of

likely success. They are all highly skilled and well-experienced attorneys who appreciate the risky nature of this litigation, yet their desire to correct a perceived injustice suffered by a vulnerable group of people led them to take this risk. *Counsel's considerable skill, both in the substantive areas of this case as well as in discovery and class action procedure, together with their degrees of preparation were primary factors leading to the favorable settlement for the class. Of equal note is the fact that counsel unquestionably put the interests of the class far ahead of their own interest.*") (emphasis added).

Talalai v. Cooper Tire & Rubber Co., MID-L-8839-00MT, Mass Tort 249, (Law Div. Middlesex Cty.) (11/1/01 Opinion and Order Certifying National Class and Preliminarily Approving Settlement) ("The attorneys of Kanner & Whiteley, L.L.C. have substantial jury trial experience with a number of multi-million-dollar verdicts, including a number of successful class action trials. The firm is known for its willingness to try class actions to verdicts and has done so on at least three occasions, winning every time"); Opinion of September 13, 2002 (Approving Certification and Final Settlement of National Class), p.5: ("The Stipulation was the result of extensive and intensive arm's length negotiations among highly experienced counsel, with the benefit of extensive discovery and full knowledge of the risks inherent in this litigation.").

Milkman v. American Travellers Life Insurance Co., No. 3775, (Ct. Cm. Pleas, First Judicial District, June Term 2000) (Preliminary Approval of National Class: 11/26/01) ("As demonstrated by the credentials set forth in the Motion, the Plaintiff's attorneys are more than capable of representing the interests of the Class and there do not appear to be any conflicts of interest between the Plaintiff and the Class."). (Final Approval of National Class: 4/1/02), p. 47 ("Again, the quality of the legal representation provided by Class Counsel is exceptional. The extensive experience of each of the firms and individual attorneys serving the Class is set forth in Kanner Affidavit Paragraphs 54 through 68. Moreover, the Court can attest to Class Counsel's professionalism and skill, as demonstrated by the extensive memoranda of law and the first-class oral arguments delivered on behalf of the Class.").

Bonilla, et al. v. Trebol Motors Corporation, et al., No. 92-1795 (JP) (D.P.R.) (\$129,000,000 jury verdict in civil RICO class action against Volvo and local distributor) (describing the firm's abilities on March 27, 1997, as follows: "*We have no trouble concluding that the experience and resources of Allan Kanner & Associates was a major reason that the plaintiffs' class was able to so successfully present its case to the jury and achieve such an estimable result. Mr. Kanner, who served as lead counsel at trial, has perhaps as much experience litigating complex class action suits as any attorney in the United States. He has authored, chaired, consulted on, contributed to, and*

given articles, symposiums, classes, books, practice guides, etc. More importantly, his resume is replete with instances in which he served as counsel in complex class action suits. His experience was essential to the success realized by the plaintiffs in this action.”) (emphasis added).

Glass, Molders, Pottery Plastics, and Allied Workers International Union, et al. v. Wickes Companies, Inc., No. L-06023-88 (Sup.Ct., Camden Cty., February 24, 1992) (certifying national class of workers who lost jobs as a result of tortious conduct occurring in the context of hostile corporate raid) (describing the firm’s abilities to represent the class as follows: “Plaintiffs’ attorneys have extensive professional experience representing plaintiffs in class actions. Additionally, the attorneys representing the plaintiffs are equipped with the staff and resources to adequately handle a technical and complex class action. *In short, I am satisfied that plaintiffs’ attorneys are committed to the class and competent to advocate its interest.*”); (emphasis added) Order Approving Counsel Fees of December 16, 1993 (“This Court finds that the Kanner firm, [and co-counsel] have all *provided outstanding service to the class* and faithfully executed their fiduciary duties in connection with this litigation.”) (emphasis added).

Local 7-515, Oil Chemical and Atomic Workers International Union (OCAWIU), et al v. American Home Products, et al., Civ. No. 92-1238 (JP) (D.P.R.) (Order of April 13, 1992, certifying national class of workers who lost jobs as a result of fraudulent job transfers to Puerto Rico under civil RICO theory), *Oil Chemical and Atomic Workers International Union v. American Home Products, et al.*, Civil No. 91-1093 consol. with Civil No. 92-1238 (Order of September 17, 1992, approving \$24 million settlement); p.38 of transcript: “Indeed, the Court affirmatively finds that Mr. Kanner and [co-counsel] have in all matters handled this case and conducted themselves, in relation to their co-counsel, with *the highest degree of professionalism, integrity and ability*. There is no doubt in the Court’s mind, based on his intimate familiarity with the record, that *but for the outstanding efforts of Mr. Kanner and [co-counsel] there would not have been such a significant and landmark result in this case*, and I have been telling you all this long before this moment.” (emphasis added).

The Board of Commissioners of the New Orleans Exhibition Hall Authority v. Missouri Pacific Railroad Company, et al., No. 92-4155 (Judgment of February 15, 1996) “It must be said that both firms and all attorneys involved in this protracted litigation exemplified *the highest standard of trial experience and skill* which was brought to bear on *this novel and difficult matter* in a specialized area of the law.” (emphasis added).

As a result, Allan Kanner is regularly asked to lecture and write on presenting the plaintiff's case for trial. The firm is especially well known for its ability to communicate novel theories effectively. *See, Business Week* (June 18, 1990); *American Bar Association Journal* articles in July 1989 and July 1990 issues.

ATTORNEYS

ALLAN KANNER (B.A., University of Pennsylvania; J.D., Harvard Law School) is the founder and senior member at Kanner & Whiteley. Mr. Kanner has a wealth of experience litigating complex class action lawsuits, and practices in the areas of environment, toxic tort, commercial litigation, and consumer fraud. Kanner has been recognized by *Chambers USA* (2009 & 2010), "Allan Kanner of Kanner & Whiteley enjoys a 'sterling reputation' for plaintiff-side representation in toxic tort trials." Kanner has also been named as a Louisiana Super Lawyer since 2007. He also has an excellent reputation as a trial lawyer. In 1996, he was recognized for winning one of the year's largest verdicts, a \$129,500,000 judgment in a civil RICO class action. As a result, Allan Kanner is regularly asked to lecture and write on presenting the plaintiff's case for trial. The firm is especially well known for its ability to communicate novel theories effectively, and has been featured in *Business Week*, *American Bar Association Journal*, *New York Times*, *Washington Post* and *Wall Street Journal* articles. His scholarly accomplishments are also noteworthy. Mr. Kanner also serves the legal profession as an Adjunct Professor at Tulane Law School (1990-2008), a Visiting Lecturer in Law at University of California, Berkeley (Spring 2004), at Yale Law School (Fall 2002), Visiting Senior Lecturer at Duke University (Fall 2000) (Spring 2004), and Visiting Professor at the University of Texas Law School (Spring 2001). Mr. Kanner is a frequent lecturer and speaker on a variety of topics, and is the author of ENVIRONMENTAL AND TOXIC TORT TRIALS (Lexis-Nexis) (2d. ed.), as well as over sixty articles in the diverse fields of torts, trial practice, civil discovery, civil RICO, environmental law, toxic torts, class actions, and business and consumer fraud. During 1998 and 1999, Mr. Kanner was one of the principal authors of the LOUISIANA JUDGES' COMPLEX LITIGATION BENCH BOOK, and he has also been an instructor at the Louisiana Judicial College. After graduating from Harvard Law School, he clerked for the late Judge Robert S. Vance of the U.S. Court of Appeals, Fifth Circuit. He is a member of the bars of California, District of Columbia, Louisiana, New Jersey, Oklahoma, New York, Pennsylvania, and Puerto Rico (Federal), and has successfully handled novel and complex matters throughout the United States.

Mr. Kanner is the past President of the Louisiana Association of Justice ("LAJ") (2008-2009) and is on the American Association of Justice Board of Governors. In the wake of Hurricanes Katrina and Rita, he founded and headed the LAJ insurance section to encourage cooperation and information sharing between attorneys representing insureds against their carriers. He has authored numerous articles related to insurance and was recently invited to lecture before the Iowa Trial Lawyers Association and Texas Trial Lawyers Association on insurance coverage following natural disasters affecting those states. He has also testified on insurance issues before the U.S. Senate and Louisiana Legislature.

CONLEE S. WHITELEY (B.A., Louisiana State University; J.D., Paul M. Hebert Law Center at Louisiana State University) is the managing member at Kanner & Whiteley. Ms. Whiteley joined the firm in 1994 and practices primarily in the areas of consumer fraud, insurance litigation, commercial litigation, agricultural litigation, RICO, and general class action litigation in New Orleans and throughout the country. Ms. Whiteley is licensed to practice law before Louisiana State

Courts, the United States District Courts for the Eastern and Western Districts of Louisiana, the United States District Court for the District of North Dakota, the United States Court of Appeals for the First, Fifth and Ninth Circuits. She has also been admitted to practice *Pro Hac Vice* in the United States District Court for the District of Puerto Rico, United States District Court for the Central District of California, United States District Court for the Northern District of Iowa as well as in state courts in California, Florida, Illinois, North Dakota, Pennsylvania, Texas and Washington. Ms. Whiteley has been appointed as class counsel in a number of national class actions in which Kanner & Whiteley served as lead counsel and has been involved in all aspects of litigation of these matters. Ms. Whiteley received an “AV” rating in 2003 by Martindale Hubbell Law Directory, its highest rating.

Ms. Whiteley has had a substantial role in Kanner & Whiteley’s Hurricane Katrina, Rita and Ike first party insurance litigation, representing the City of Gretna, Louisiana, the Academy of Sacred Heart, the Cameron Parish School Board, the Alexander Milne Home for Women, Joseph Canizaro, the City of Pasadena, Barbers Hill Independent School District and other private businesses in the greater Houston and Galveston area.

CYNTHIA ST. AMANT (B.S. Louisiana Tech University; J.D., Paul M. Hebert Law Center at Louisiana State University) member, joined Kanner & Whiteley in 1998. Ms. St. Amant practices primarily in the areas of consumer fraud, insurance litigation, environmental law and general class action litigation. Before joining Kanner & Whiteley, she worked at the Louisiana Supreme Court, clerking for Justices Lemmon and Bleich and serving as a staff attorney in the Court’s Civil Staff Division. Ms. St. Amant is a member of both the Louisiana and Texas bars and is admitted to practice before Louisiana State Courts, Texas State Courts, the United States District Courts for the Eastern, Middle and Western Districts of Louisiana, the United States District Courts for the Eastern and Western Districts of Arkansas, the United States District Court for the Northern District of Florida, the United States District Court for the Western District of Michigan, and the United States Court of Appeals for the Fifth Circuit. Ms. St. Amant has had a substantial role in Kanner & Whiteley’s Hurricanes Katrina, Rita and Gustav litigation, including the Cameron Parish School Board, the Plaquemines Parish School Board and Omega Protein Corporation.

MICHAEL “RYAN” CASEY (B.A., The College of William and Mary; J.D., University of Oregon School of Law, Pro Bono Certificate and Certificate of Environmental Law) joined Kanner & Whiteley as an associate in 2006. Mr. Casey practices in the fields of insurance litigation, complex litigation and class actions, including consumer fraud, commercial litigation and environmental law. While at Kanner & Whiteley, he has served on the Eastern District of Louisiana’s (Section F) Plaintiffs’ Liaison Committee for Katrina-related insurance litigation, and has been an active member of the Louisiana Association for Justice’s Section on Insurance Litigation. He is admitted to practice before the United States District Courts for the Eastern and Western District of Louisiana and Eastern District of Virginia, as well as before Louisiana and Virginia State Courts. He has also been admitted to practice *Pro Hac Vice* in the United States District Court for the District of Puerto Rico. Mr. Casey has also had a substantial role in the firm’s Hurricanes Katrina, Rita and Ike first party insurance litigation, representing the City of Gretna, the Cameron Parish School Board, Walle Building Condominium Association, the City of Pasadena, Barbers Hill Independent School District and other private businesses in the greater Houston and Galveston area.

REBECCA J. DAVIS (B.A., Western Kentucky University; J.D., Tulane University Law School) is an associate attorney who joined the firm in 2008. Ms. Davis practices environmental law. Prior to joining the firm, she was an attorney with the Texas Commission on Environmental Quality where she focused on air, water, and waste regulatory and compliance issues. Additionally, she also implemented federal legislation, drafted air regulations, and worked on Clean Air Act state implementation plans for the State of Texas. Ms. Davis later practiced in the private sector in the areas of personal injury, toxic tort, and casualty litigation. Ms. Davis is admitted to the Eastern District Court of Louisiana. She is also admitted Pro Hac Vice in the Superior Court of New Jersey.

DAVID A. POTE joined Kanner & Whiteley in 2010 and practices environmental law, natural resource damages and class actions. Prior to joining the firm, he practiced general civil litigation in both Alabama and Florida, including the areas of toxic torts, complex tort litigation, insurance coverage law and medical malpractice. Mr. Pote is admitted to practice before the United States District Court for the Northern, Middle and Southern Districts of Alabama, as well as all Louisiana state courts, Florida state courts, and Alabama state courts. He graduated with a Bachelor of Science degree from Birmingham-Southern College in 1994, and earned his Juris Doctorate degree from Tulane Law School in 2000, where he was the Senior Appellate Justice on the Moot Court Board.