

## Douglas P. Lobel – Representative Litigation

### 1987-Present

Mr. Lobel has been involved in a variety of complex and high profile cases, including:

#### **Federal Multi-district Litigation (MDL) Proceedings**

1. ***In re CenturyLink Sales Practices & Securities Litigation (D. Minn. 2017)***. Lead counsel defending CenturyLink in a multidistrict litigation proceeding involving 19 nationwide consumer class actions, 5 securities class actions and 6 derivative suits. The class actions alleged illegal and fraudulent sales and billing practices on behalf of over 17 million phone and internet customers, in violation of state Consumer Fraud Statutes, and sought more than \$12 billion in damages. Cases settled on very favorable monetary terms.
2. ***In re IntraMTA Switched Access Charges Litigation (N.D. Tex. 2014)***. Defending CenturyLink and its affiliates in 29 lawsuits filed by Sprint and Verizon alleging improper collection of hundreds of millions of dollars of “access charges” for wireless calls. The Judicial Panel on Multidistrict Litigation consolidated these and other related lawsuits in Dallas. (67 F. Supp. 3d 1378 (JPML 2014).) Mr. Lobel was appointed both Lead and Liaison Counsel for over 600 defendants, and successfully argued defendants’ motion to dismiss. The Court agreed that the FCC never exempted long-distance carriers from paying the charges at issue and dismissed the long-distance carriers’ claims. (2015 WL 7252948 (N.D. Tex. Nov. 17, 2015).) Based on the Court’s dismissal, the Court entered judgment on defendants’ counterclaims against Sprint and Verizon. Cases appealed to 5th Circuit Court of Appeals.
3. ***CenturyLink Communications, LLC, et al. v. Level 3 Communications, LLC, et al. (N.D. Tex. 2016)***. Sued Level 3 on behalf of 84 CenturyLink entities for failure to pay tariffed access charges owed for use of services to exchange certain wireless calls. This suit and 20 others against Level 3 have been joined in the MDL proceeding in Dallas, *In re: IntraMTA Switched Access Charges Litigation*. The Court has appointed Mr. Lobel Lead and Liaison Counsel.
4. ***In re Cardtronics ATM Fee Notice Litigation (S.D. Cal. 2010)***. Obtained summary judgment for Cardtronics in a multidistrict litigation proceeding involving multiple lawsuits alleging violation of Electronic Fund Transfer Act (EFTA). The Court’s opinion, for the first time, applied and granted judgment on the “bona fide error” defense, one of EFTA’s affirmative defenses to ATM operators. (874 F. Supp. 2d 916 (S.D. Cal. 2012).) Affirmed by Ninth Circuit Court of Appeals.
5. ***In re Qwest Communications Corp. Payphone Service Providers Compensation Litigation (JPML 2002); APCC Services, Inc. v. Qwest Communications Corp. (D.D.C. 2001)***. Lead counsel in proceeding before the Judicial Panel on Multidistrict Litigation consolidating over 35 individual lawsuits alleging claims by payphone service providers for compensation under FCC regulations. Obtained dismissal of lead case; remaining case transferred to D.C. District Court and parties eventually settled.

#### **Class Actions**

Doug has extensive experience representing clients in a wide variety of consumer and securities class actions, including many in California and New York courts. These lawsuits have included claims for breach of contract, theft of trade secrets, unfair business practices, fraud, and violations of state and federal laws.

1. ***In re CenturyLink Sales Practices & Securities Litigation (D. Minn. 2017)***. Lead counsel defending CenturyLink in a multidistrict litigation proceeding involving 19 nationwide consumer class actions, 5 securities class actions and 6 derivative suits. The class actions alleged illegal and fraudulent sales and billing practices

on behalf of over 17 million phone and internet customers, in violation of state Consumer Fraud Statutes, and sought more than \$12 billion in damages. Cases settled on very favorable monetary terms.

2. **Schertzer v. Bank of America, N.A., et al (S.D. Cal. 2019).** Defending Cardtronics in a class action for violation of California consumer protection and Unfair Competition statutes. Plaintiff alleges that Cardtronics charged illegal fees to account holders to conduct balance inquiries at ATMs. In March 2020, the Court dismissed all claims against Cardtronics.
3. **McRay v. Cardtronics USA, Inc. (E.D. Ky. 2016).** Defended Cardtronics in a nationwide consumer class action alleging violations of the Electronic Fund Transfer Act (EFTA) for allegedly failing to provide proper disclosures and for misrepresenting fees owed on ATM transactions.
4. **Lansang v. Cardtronics USA, Inc., et al. (C.D. Cal. 2015).** Defended Cardtronics in a consumer class action alleging violations of Electronic Fund Transfer Act (EFTA), California's consumer protection statutes § 17200 (Unfair Competition) and § 17500 (False Advertising), unjust enrichment, fraud, deceit and misrepresentation.
5. **Donnie Williamson, et al. v. Lumber Liquidators, Inc. (E.D. Va. 2014).** Defended Lumber Liquidators in a nationwide consumer class action alleging violations of U.S. laws regulating formaldehyde standards and the federal Lacey Act. After successfully winning a motion to compel discovery and sanctions motion, case settled for nuisance value.
6. **In re Tribune Co. Fraudulent Conveyance Litigation (S.D.N.Y. 2011).** Defending E\*TRADE in multiple class actions alleging constructive fraudulent transfers resulting from the failed leverage buyout (LBO) of the Tribune Company.
7. **Lee v. XO Communications, LLC (C.D. Cal. 2011).** Defended XO in a class action alleging unfair business practices, intentional fraud and negligent misrepresentation. Court granted XO's motion to dismiss for lack of standing. (2011 WL 164080 (C.D. Cal. 2011).)
8. **Roling v. E\*TRADE Securities LLC (N.D. Cal. 2010).** Obtained summary judgment in nationwide consumer class action alleging improper assessment of account maintenance fees and asserting claims for breach of contract, violation of Cal. Civ. Code § 1671 and California's consumer protection statute § 17200. (860 F. Supp. 2d 1035 (N.D. Cal. 2012).) Court also dismissed New York General Business Law § 249 claim. (860 F. Supp. 2d 1029 (N.D. Cal. 2012).)
9. **Guadagno v. E\*TRADE Bank (C.D. Cal. 2008).** Defended E\*TRADE in nationwide class action alleging violations of federal and California consumer protection statutes relating to E\*TRADE's "bill-pay" service. Court granted E\*TRADE's motion to compel arbitration (including class action waiver) on some claims and dismissed other claims as preempted. (592 F. Supp. 2d. 1263 (C.D. Cal. 2008).)
10. **Nathanson v. Cardtronics, LP (C.D. Cal. 2008).** Defended Cardtronics in a consumer class action alleging violations of California Financial Code § 13080, California Consumers Legal Remedies Act § 1750 and California's consumer protection statute § 17200.
11. **Mangini v. E\*TRADE Securities LLC (Cal. Sup. Ct. 2008).** Defended E\*TRADE in a class action alleging breach of contract related to unlawful assessment of account maintenance fees. Plaintiff dismissed the case based on E\*TRADE's demurrer to the class-action complaint.
12. **Silvas v. E\*TRADE Mortgage Corp. (S.D. Cal. 2005).** Obtained dismissal of class-action lawsuit alleging violations of the Truth-in-Lending Act (TILA) and California's consumer protection statute § 17200. (421 F. Supp. 2d 1315 (S.D. Cal. 2006).) Affirmed by Ninth Circuit Court of Appeals. (514 F.3d 1001 (9th Cir. 2008).)
13. **Yeger v. E\*TRADE Securities LLC (N.Y. Sup. Ct. 2004).** Defended E\*TRADE Securities in putative nationwide class action alleging improper assessment of account maintenance fees. Class decertified by Appellate Division, First Department. (884 N.Y.S.2d 21 (N.Y.A.D. 1 Dept. 2009).)
14. **Polo v. E\*TRADE Access, et al. (M.D. Fl. 2003).** Represented E\*TRADE subsidiary that managed network of 15,000 ATMs in putative class action, alleging overcharges under the Electronic Fund Transfer Act (EFTA).

- Defeated class certification and case settled favorably. (232 F.R.D. 399 (M.D. Fl. 2004).)
15. **Jones v. E\*TRADE Mortgage Corp. (S.D. Cal. 2002)**. Defended E\*TRADE Mortgage in class-action lawsuit alleging violations of the Truth-in-Lending Act (TILA) and California's consumer protection statute § 17200. Class certification denied and case settled favorably. (2006 WL 581257 (S.D. Cal. 2006).)
  16. **Sampanetti v. E\*TRADE Mortgage Corp. (N.D. Ill. 2002)**. Obtained dismissal of putative class action against E\*TRADE Mortgage for alleged violation of Truth-in-Lending Act (TILA). (2002 U.S. Dist. LEXIS 21443 (N.D. Ill. 2002).)

#### **Temporary Restraining Orders/Preliminary Injunctions:**

Doug has successfully brought and defended numerous TROs and PIs.

1. **Leidos, Inc. v. ITS Roads, LLC, et al. (E.D. Va. 2015)**. Filed emergency motion for temporary restraining order for government contract client Leidos to enjoin four former employees from using Leidos' trade secrets and proprietary information involving renewal of an important federal contract.
2. **Engineering Solutions & Products, LLC v. CACI Technologies, Inc. (E.D. Va. 2013)**. Successfully defeated ESP's motion for temporary restraining order seeking to enjoin CACI's termination of a subcontract under a major Army procurement. CACI moved to compel arbitration or in the alternative have the case dismissed.
3. **Edmond Scientific Corp. v. Science Applications International Corp. (SAIC) (Va. Cir. Ct. 2009)**. Defended temporary restraining order alleging that SAIC breached a non-compete agreement in connection with a bid for Department of Veterans Affairs' procurement.
4. **Science Applications International Corp. (SAIC) v. CACI-Athena, Inc. (E.D. Va. 2008)**. Obtained emergency temporary restraining order against SAIC's subcontractor CACI-Athena, requiring them to team with SAIC to bid on proposal for critical government intelligence services in Iraq and Afghanistan. (2008 WL 2009377 (E.D. Va. 2008).)
5. **E\*TRADE Financial Corp., et al. v. Banc of America Investment Services, et al. (S.D.N.Y. 2008)**. Obtained preliminary injunction against Banc of America and individual financial advisors for theft of E\*TRADE's trade secrets and unlawful solicitation of E\*TRADE's customers.
6. **WorldCom v. MCI (D. Miss. 1997)**. Represented WorldCom (before merger with MCI) in temporary restraining order proceeding involving network service termination.

#### **Post-Closing Commercial/Indemnity Disputes:**

Doug regularly litigates disputes between buyers and sellers following corporate transactions.

1. **Airbus Americas v. Metron Holdings, Inc. (2013)**. Represented private sellers in indemnification claims brought by Airbus in its purchase of an aerospace software company.
2. **Denault v. Science Applications International Corp. (SAIC) (Del. Ch. Ct. 2012)**. Lead trial counsel for SAIC in Delaware Chancery Court for a demand by a company VP for indemnification of legal fees in connection with his Government prosecution.
3. **Hansen, Richard, as Sellers' Agent, et al. v. Science Applications International Corp. (SAIC) (JAMS Arbitration 2010)**. Lead trial counsel for SAIC in a JAMS arbitration involving multiple indemnity claims arising out of SAIC's acquisition of a defense contractor in 2006.
4. **Crest Communications Corp. v. Alaska Communications Systems Group, Inc. (JAMS Arbitration 2008)**. Prosecuted breach of contract claims arising from a stock purchase agreement on behalf of the Selling Shareholders of Crest Communications, and defended against indemnity claims alleging breach of contract and fraud. Case settled before arbitration.
5. **Pershing v. Harrisdirect LLC, et al. (NASD 2006)**. Lead trial counsel for E\*TRADE Financial, in one of the

largest industry arbitrations in FINRA (formerly NASD history) in breach of contract action over clearing agreement brought as a result of E\*TRADE's acquisition of online broker *Harrisdirect*. Case settled after arbitration hearings.

6. ***E\*TRADE Financial Corp. v. Deutsche Bank AG (S.D.N.Y. 2005)***. Lead trial counsel in a three-week accounting fraud and breach of contract trial. Awarded over \$24 million (including attorneys' fees) for breach of stock purchase agreement in connection with E\*TRADE's acquisition of a Deutsche Bank subsidiary. Motion for Judgment on the Pleadings denied and fraud claims allowed to proceed. (420 F. Supp. 2d 273 (S.D.N.Y. 2006).) Motion for Summary Judgment denied. (2008 WL 2428225 (S.D.N.Y. 2008).) Judgment for E\*TRADE. (631 F. Supp. 2d 313 (S.D.N.Y. 2009).) Affirmed by Second Circuit Court of Appeals. (2010 WL 1196814 (2d Cir. 2010).)
7. ***Teleglobe Communications Corp. v. VarTec Telecom (AAA Arbitration 2004)***. Lead trial counsel for Teleglobe in post-closing dispute and two-week arbitration over \$500 million in alleged indemnity claims arising from sale of Excel Communications.
8. ***Karsh, et al. v. E\*TRADE Access, Inc., et al. (Cal. Sup. Ct. 2004)***. Represented E\*TRADE Access, the buyer of a portfolio of thousands of ATMs, in a lawsuit demanding a post-closing price adjustment under provisions in the purchase agreement related to third-party revenue streams. Settled favorably before trial.
9. ***America Online, Inc. v. E\*TRADE Group, Inc. (Va. Cir. Ct. 2001)***. Obtained dismissal of \$125 million contract claim by AOL over online advertising contract.
10. ***Opsahl v. E\*TRADE Bank (E.D. Va. 2000)***. Successfully defended E\*TRADE Bank in dispute with former executive over stock options.

#### **Corporate Investigations & Governance / Criminal Proceedings:**

Doug has represented clients in investigations by the Department of Justice, State AGs and Inspector Generals, and conducted numerous internal investigations.

1. ***State Attorneys General Investigations***. Defended CenturyLink in 10 State Attorneys General investigations over CenturyLink's nationwide sales and billing practices.
2. ***State of Minnesota v. CenturyTel Broadband Services LLC, et al. (Minn. Tenth Judicial District 2017)***. Defended CenturyLink in consumer fraud lawsuit filed by the Minnesota Attorney General on behalf of all CenturyLink Minnesota based internet and video services customers. The lawsuit alleged that CenturyLink's sales and billing practices violated Minnesota's Deceptive Trade Practices Act. Alleged damages and civil penalties exceeded \$17 billion.
3. ***Data Breach Investigation by U.S. Postal Service Office of Inspector General (U.S. Attorney's Office, E.D. Va. 2015)***. Represented unnamed public Company in responding to multiple Grand Jury subpoenas in connection with a criminal investigation into infiltration of suspected malware and possible data breach. Investigation was jointly conducted by the U.S. Postal Inspector, Secret Service and U.S. Attorney's Office.
4. ***Health & Human Services Office of Inspector General (HHS OIG, D.C. 2014)***. Represented unnamed public Company in responding to requests in connection with an investigation by the HHS Office of Inspector General for allegations of fraud related to certain subcontracts.
5. ***New York City "CityTime" Investigation (U.S. Attorney's Office, S.D.N.Y. 2011)***. Represented SAIC in public corruption investigation conducted by the U.S. Attorney for the Southern District of New York involving allegations of kickbacks in connection with a New York City software development contract. Mayor Bloomberg described the case as "the largest fraud in the history of the City of New York." Resolved with Deferred Prosecution Agreement.
6. ***United States ex rel. Ferner v. Science Applications International Corp. (SAIC) (M.D. Fla. 2010)***. Defended SAIC in a *Qui Tam* lawsuit alleging violations of federal procurement regulations. The lawsuit was

originally filed under the whistleblower provisions of the False Claims Act (FCA).

7. ***U.S. Department of Justice Investigation (U.S. Attorney's Office, M.D. Fla. 2010)***. Conducted internal investigation into unnamed public Company's relationship with a non-traditional testing organization, supported by the Company under a GSA-issued BPA. After the Company made a voluntary disclosure to GSA about its relationship with the company, the DOJ began investigating the relationship.
8. ***FDIC v. Schuchmann (D. N.M. 1999)***. Trial counsel for former thrift owner sued by the FDIC for breach of fiduciary duty and negligence in connection with failure of New Mexico thrift. Obtained defense verdict on all claims. Attorneys' fees awarded under Equal Access to Justice Act. (235 F.3d 1217 (10th Cir. 2000); 224 F. Supp 2d 1332 (D.N.M. 2002).)
9. ***United States v. Besicorp Group, Inc. (S.D.N.Y. 1997)***. Defended public company in campaign finance fraud investigation and prosecution related to New York Congressional campaign.
10. ***United States v. Schuchmann (N.D. Tex. 1992)***. Trial counsel in criminal jury trial against former thrift owner accused of bank fraud. District Court granted Judgment of Acquittal; affirmed by Fifth Circuit Court of Appeals (84 F.3d 752 (5th Cir. 1996).)
11. ***United States v. Emmott (E.D. Tex. 1989)***. Lead prosecutor in jury trial relating to bank fraud scheme to fund a gold mine in Liberia. Obtained conviction on all 44 counts and 12-year sentence. Conviction affirmed by Fifth Circuit Court of Appeals. (907 F.2d 148 (5th Cir. 1990).)
12. ***United States v. York (W.D. Tex. 1987)***. Tried and handled appeal of criminal bank fraud case resulting in conviction and 35-year sentence. (888 F.2d 1050 (W.D. Tex. 1989).)

#### **Consumer and Wholesale Billing Disputes**

1. ***TW Telecom Holdings, Inc. f/k/a Time Warner Telecom Holding, Inc. v. XO Communications Services, Inc. (D. Colo. 2010)***. Defended XO in litigation brought by a competitive local exchange carrier seeking back payments for switched access charges pursuant to 30 separate federal and state tariffs governing interstate and intrastate access charges.
2. ***U.S. LEC Communications, et al. v. Qwest Communications Company, LLC (D.N.J. 2010)***. Defended Qwest in a billing dispute case asserted by a conglomerate of local phone companies. Plaintiffs sought payment of undercharges for switched access services over several years and alleged violation of state tariffs, breach of contract and unjust enrichment.
3. ***McLeodUSA Telecommunications v. Qwest Communications, et al. (N.D. Iowa 2006)***. Defended Qwest in compensation claims under federal and state tariffs.
4. ***Davel Communications, et al. v. Qwest Corporation (W.D. Wash. 2003)***. Obtained dismissal of lawsuit brought by 36 plaintiffs seeking damages related to Qwest's provision of payphone access lines. Ninth Circuit remanded case to District Court where it was stayed pending FCC rulings, and parties settled shortly thereafter. (451 F.3d 1037 (9th Cir. 2006).)
5. ***Advantel, et. al. v. AT&T Communications and Sprint Corp. (E.D. Va. 2000)***. Lead counsel for consortium of 16 CLECs in suit against AT&T and Sprint for unpaid access charges. (105 F. Supp. 2d 476 (E.D. Va. 2000); 105 F. Supp. 2d 507 (E.D. Va. 2000); 118 F. Supp. 2d 680 (E.D. Va. 2000); and 125 F. Supp. 2d 800 (E.D. Va. 2001).)
6. ***U.S. West Communications v. Public Service Commission of Utah, et al. (D. Utah 1999)***. Obtained summary judgment on behalf of defendant Western Wireless Corporation against incumbent local carrier in claim for reciprocal compensation. (75 F. Supp. 2d 1284 (D. Utah 1999).)
7. ***IPCO Safety Corp. v. WorldCom, Inc. (D.N.J. 1996)***. Obtained referral of all claims against WorldCom to FCC under doctrine of primary jurisdiction. (944 F. Supp. 352 (D.N.J. 1996).)

### **Regulatory Litigation**

Many of Cooley's clients work in highly-regulated industries; Doug has both brought and defended claims seeking payments under various federal regulations.

1. ***Thomas v. Liberty Media Corp., et al. (C.D. Cal 2015)***. Represented Liberty Media in a lawsuit alleging retaliation for whistleblowing and for refusing to participate in illegal activity, retaliation for complaining of discrimination in violation of California's Fair Employment Housing Act and 42 U.S.C. § 1981, and wrongful termination. Plaintiff voluntarily dismissed Liberty Media after motion to dismiss filed.
2. ***Murray v. E\*TRADE Financial Corp., et al. (N.D. Ill. 2005)***. Defended E\*TRADE against an alleged violation of the Fair Credit Reporting Act (FCRA). Settled favorably.
3. ***Qwest Corporation v. AT&T Corp. (D. Colo. 2003)***. Prosecuted Qwest's claims against AT&T for over \$100 million dollars in unpaid access charges. Case settled favorably on morning of jury selection following Order granting partial summary judgment for Qwest. (371 F. Supp. 2d 1250 (D. Col. 2005).)
4. ***Commonwealth of Massachusetts, et al. v. E\*TRADE Access, et al. (D. Mass. 2003)***. Represented ATM network owner in dispute over whether the Americans with Disabilities Act (ADA) requires retrofitting of ATM fleet to provide voice accessibility. (2005 WL 2511059 (D. Mass. 2005).)

### **Marketing and Network Fraud**

1. ***Frels v. Qwest Corporation, et al. (D. Minn. 2010)***. Defended Qwest in a class-action lawsuit alleging "cramming" against Qwest and several payment aggregators. Plaintiff asserted claims under various state consumer protection laws on behalf of a putative class of more than five million Qwest landline subscribers in the U.S. Court granted Qwest's motion to dismiss in its entirety. (2010 WL 8901569 (D. Minn. Oct. 20, 2010).)
2. ***Monti v. Billing Concepts, Inc., et al. (N.D. Cal. 2009)***. Defended both Qwest Communications and Billing Concepts in a putative class-action lawsuit alleging unfair and deceptive telephone billing practices and violations of California Public Utilities Code § 2890. Case settled favorably after defendants filed motion to dismiss based on FCC and state regulations.
3. ***Gipson v. Qwest Communications (D. Ala. 2002)***. Obtained dismissal of nationwide class action alleging "slamming" of long-distance telephone customers.
4. ***Guyana Telephone & Telegraph v. Melbourne (S.D. Fla. 2000)***. Brought RICO action on behalf of Guyana state-owned telephone company seeking to recover fraudulently withheld settlement payments.
5. ***In re NOS Communications Billing Practices Litigation (D. Nev. 1997)***. Represented long-distance reseller in multidistrict litigation proceeding consolidating eight class action lawsuits alleging fraudulent billing scheme under tariff.

### **Breach of Contract Disputes**

1. ***Greene Holcomb & Fischer LLC v. Cardtronics USA, Inc. (D. Minn. 2014)***. Defended Cardtronics in a breach of contract case resulting from its purchase of a portfolio of ATMs from ATM Network.
2. ***Desmond, et al. v. Science Applications International Corp. (SAIC) (Va. Cir. Ct. 2013)***. Represented Leidos (previously SAIC) in a lawsuit filed by a subcontractor alleging bad faith refusal to allow novation of a subcontract.
3. ***Space Exploration Technologies Corp. (SpaceX) v. D.T. Gruelle Co. Group (S.D.N.Y. 2012)***. Prosecuted lawsuit on behalf of SpaceX alleging breach of contract, civil extortion, violation of California unfair competition law, breach of fiduciary duty, and unjust enrichment.
4. ***Welikson v. E\*TRADE Securities LLC, et al. (N.Y. Sup. Ct. 2012)***. Defended E\*TRADE in lawsuit alleging improper liquidation of Sirius shares to cover inactivity fees. Court granted E\*TRADE's motion to compel arbitration. (2012 WL 3687487 (N.Y. Supp. Aug. 2, 2012).)

5. **CenturyLink, Inc. v. DISH Network LLC (S.D.N.Y. 2011).** Prosecuted CenturyLink's breach of contract lawsuit against DISH for failure to pay Monthly Incentive Fees as required by contract. Court granted summary judgment on liability for CenturyLink and ordered DISH to pay past incentives, pre-judgment interest and legal fees. (2012 WL 3100782 (S.D.N.Y. July 31, 2012).) Second Circuit Court of Appeals affirmed the liability finding but remanded on damages issues. Case settled on eve of trial after limited discovery.
6. **XOS Technologies v. Convizion, et al. (N.Y. Sup. Ct. 2010) and Convizion, et al. v. XOS Technologies (Fla. Cir. Ct. 2010).** Represented XOS in a fraud and breach of contract case arising out of XOS's acquisition of Collegiate Images. After the New York Court denied Convizion's motion to dismiss and the Florida action was stayed, case settled favorably.
7. **Avanti Launch Services Ltd. v. Space Exploration Technologies Corp. (SpaceX) (AAA Arbitration 2009).** Lead trial counsel for SpaceX, a private company that manufactures and launches rockets, satellites and other payloads into orbit, in an arbitration brought by Avanti, a start-up U.K. satellite services company, alleging breach of contract and seeking consequential damages. Two multi-day arbitration hearings held before an International Arbitration Tribunal.
8. **Blackboard Inc. v. Zimmers, et al. (D.D.C. 2009).** Represented public educational software company in breach claims over patent ownership. Case settled after several months of litigation and briefing on a variety of issues.
9. **Qwest Communications Corp. v. Global NAPs, Inc. (E.D. Va. 2006).** Prosecuted declaratory judgment and breach of contract action over network charges. Court dismissed \$72 million counterclaim, and case settled favorably shortly after.
10. **Qwest Communications v. Blackstone Calling Card, Inc. (E.D. Va. 2002).** Prosecuted Qwest's claims against prepaid calling card company.
11. **E\*TRADE Bank v. Prism Mortgage Corp. (E.D. Va. 2002).** Represented E\*TRADE Bank in contract dispute over purchase of loan portfolio.
12. **LifeWise Master Funding v. E\*TRADE Bank (D. Utah 2000).** Lead trial counsel for E\*TRADE Bank in \$200 million lender liability suit and three-week jury trial alleging bad faith refusal to fund. Obtained dismissal of case and six-figure award of costs. Dismissal affirmed by Tenth Circuit Court of Appeals. (374 F.3d 917 (10th Cir. 2004).)
13. **National Discount Brokers Arbitrations.** Obtained dismissal of all customer claims:  
*Manoff v. National Discount Brokers* (NASD Arbitration 2000); *Vina v. SureTrade & Sherwood Securities, et al.* (NASD Arbitration 2000); *Bova v. National Discount Brokers* (NASD Arbitration 1999); *Briscoe v. Sherwood Securities, et al.* (NASD Arbitration 1998); *Goldberg v. National Discount Brokers* (NASD Arbitration 1998); *Valtchev v. National Discount Brokers* (NASD Arbitration 1996).

#### **Securities & Shareholder Litigation:**

Doug has experience defending clients in shareholder class actions, including those arising out of mergers and acquisitions.

1. **Charter Township of Clinton Police & Fire Ret. Sys. v. LPL Financial Holdings Inc., et al. (S.D. Cal. 2016).** Represented LPL's Chief Financial Officer in a securities fraud class action alleging certain misstatements and omissions concerning LPL's share repurchases and financial performance. Court granted multiple motions to dismiss.
2. **Bunyan v. Ordan, et al. (E.D. Va. 2012).** Defended a Board of Directors of Sunrise Senior Living in a shareholder class action where plaintiff alleged breach of fiduciary duty and federal securities law claims for selling the Company at an unfair price without material information available for shareholders to make an informed vote.

3. ***Meehan v. DynCorp International, Inc., et al.* (E.D. Va. 2010)**. Defended DynCorp International in a shareholder class action seeking to enjoin the “going private” merger between DynCorp and a private equity firm. Plaintiff alleged that DynCorp and its Board violated federal securities laws and breached their fiduciary duty by failing to maximize shareholder value. Plaintiff’s motion for expedited discovery was denied and plaintiff eventually dismissed the lawsuit.
4. ***Shriners Hospital for Children v. Qwest Communications International, et al.* (D. Col. 2004)** and ***Teachers’ Retirement System v. Qwest Communications International, et al.* (D. Col. 2004)**. Represented former Qwest Communications executive in private securities fraud actions. Majority of the claims were dismissed and the case settled favorably. (2005 WL 2350569 (D. Colo. 2005)) and (2005 WL 2359311 (D. Colo. 2005).)
5. ***SEC v. Arnold, et al.* (D. Col. 2003)**. Represented former Qwest Communications executive in securities fraud suit brought by the SEC. The parties entered into a settlement agreement which was approved by the SEC.
6. ***State Universities Retirement Systems of Illinois v. Qwest Communications International, et al.* (Ill. Cir. Ct. 2003)**. Represented former Qwest Communications executive in private securities fraud action. Qwest executive dismissed from case.
7. ***Collegeware Asset Management v. E\*TRADE Group, Inc., et al.* (S.D.N.Y. 2002)**. Defended E\*TRADE as underwriter of IPOs in consolidated class actions alleging fraud in connection with pricing allocation of IPO shares.

#### **Bankruptcy Related Proceedings**

1. ***In re Health Diagnostic Laboratory, Inc. (HDL)* (E.D. Va. Bankr. 2015)**. Representing the Liquidating Trustee of the HDL Liquidating Trust in the Chapter 11 bankruptcy and restructuring proceeding.
2. ***Zucker, et al. v. Wesbanco Bank, Inc., et al.* (N.D. W. Va. Bankr. 2015)**. Represented the former president and CEO of Fairmont General Hospital in an adversary proceeding in bankruptcy court alleging breach of fiduciary duty.
3. ***Trustee v. Wells Fargo Bank, N.A.* (E.D. Va. Bankr. 2011)**. Defended Wells Fargo in a fraudulent conveyance action brought by Bankruptcy Trustee to recover loan payments made in connection with illegal loan scheme. Case settled with Court approval.
4. ***Northern Trust Bank, FSB v. Wells Fargo Bank, N.A.* (E.D. Va. 2011)**. Obtained summary judgment for Wells Fargo in lawsuit alleging fraud and conspiracy in connection with an illegal loan scheme by a borrower. (2012 WL 591394, 464 B.R. 269 (E.D. Va. Feb. 7, 2012).)