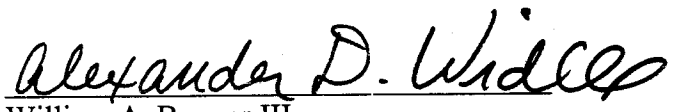
SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

SAM WYLY, CHERYL WYLY, DONALD R. MILLER, JR., THE ANDREW DAVID SPARROW WYLY TRUST, THE CHERYL R. WYLY MARITAL TRUST, THE CHRISTIANA PARKER WYLY TRUST, THE EMILY ANN WYLY TRUST, THE JENNIFER LYNN WYLY TRUST, THE KELLY WYLY ELLIOTT TRUST, THE LISA WYLY REVOCABLE TRUST, THE MARTHA CAROLINE WYLY TRUST, THE CHARLES JOSEPH WYLY III TRUST, THE LAURIE L. WYLY REVOCABLE TRUST, DORTMUND LIMITED, EAST CARROLL LIMITED, ELEGANCE LIMITED, GREENBRIAR LIMITED, MARMALADE, LTD., MILLER FAMILY PARTNERS, QUAYLE LIMITED, STARGATE, LTD. and TALLULAH, LTD.,	Index No. 07603883
Plaintiffs,	**CORRECTED SUMMONS**
– against –	Venue is proper in New York County pursuant to CPLR § 503(a)
MILBERG WEISS LLP, STULL, STULL & BRODY, SCHIFFRIN, BARROWAY, TOPAZ & KESSLER, LLP and COUGHLIN STOIA GELLER RUDMAN & ROBBINS LLP,	
Defendants.	

TO THE ABOVE-NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer on the plaintiff within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: November 26, 2007
New York, New York



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SUPREME COURT OF THE STATE OF NEW YORK
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Plaintiffs,	
– against –	
MILBERG WEISS LLP, STULL, STULL & BRODY, SCHIFFRIN, BARROWAY, TOPAZ & KESSLER, LLP and LERACH COUGHLIN STOIA GELLER RUDMAN & ROBBINS LLP,	
Defendants.	

CORRECTED COMPLAINT

Plaintiffs, Sam Wyly, Cheryl Wyly, Donald R. Miller, Jr., The Andrew David Sparrow Wyly Trust, The Cheryl R. Wyly Marital Trust, The Christiana Parker Wyly Trust, The Emily Ann Wyly Trust, The Jennifer Lynn Wyly Trust, The Kelly Wyly Elliott Trust, The Lisa Wyly Revocable Trust, The Martha Caroline Wyly Trust, The Charles Joseph Wyly III Trust, The Laurie L. Wyly Revocable Trust, Dortmund Limited, East Carroll Limited, Elegance Limited, Greenbriar Limited, Marmalade, Ltd., Miller Family Partners, Quayle Limited, Stargate, Ltd., and Tallulah, Ltd. ("Plaintiffs"), for their Complaint against Milberg Weiss LLP ("Milberg

Weiss"), Stull, Stull & Brody, Schiffrin, Barroway, Topaz & Kessler, LLP and Lerach Coughlin Stoia Geller Rudman & Robbins LLP (collectively, the "Law Firm Defendants"), allege, upon personal knowledge concerning their own actions and on information and belief as to all other matters, as follows:

I.

PRELIMINARY STATEMENT

1. This is an action by Plaintiffs against their former counsel and fiduciaries, the Law Firm Defendants. The Law Firm Defendants represented Plaintiffs and other class members in connection with two class actions, filed in 1998 and 2002 (the "1998 Action" and "2002 Action," respectively). The two federal securities class actions were consolidated for purposes of a global settlement in December 2003 (the "Settlement").

2. As is now well known, during the period of the 2002 class action, CA and its top executives had engaged in a multi-year conspiracy to overstate CA's earnings and revenue. The accounting fraud took many forms, including the so-called "35-day month practice," whereby CA prematurely recognized revenue. CA also recognized revenue on sham contracts and bogus wash transactions that had no economic value. The Government characterized this fraud, which resulted in the criminal convictions of eight former senior CA executives – including its Chief Executive Officer, Sanjay Kumar ("Kumar") – as one of the most far-reaching criminal conspiracies in the modern corporate era. In fact, the fraudulent accounting practices led to a restatement of earnings by CA in April 2006, of $2.2 billion, and damages to CA's public shareholders in the billions of dollars.

3. The Law Firm Defendants, who represented the consolidated class of which Plaintiffs were class members, orchestrated a global settlement of the class actions for approximately $110 million. The Settlement, however, yielded the victimized shareholders with

a recovery of not even a penny on the dollar, while defendants received over $40 million in attorneys' fees.

4. In settling these claims, the Law Firm Defendants stated on several occasions, including at the settlement approval hearing, that they were able to assess the strengths and weakness of both the 1998 Action and the 2002 Action, that the discovery they obtained in the 1998 Action enabled them to make such an assessment of the 2002 Action, and that both class actions "were being settled pursuant to a fully open and transparent process." These representations were false, and were designed to conceal the fact that the Law Firm Defendants had actually sacrificed the 2002 Action, which had not proceeded past the filing of a complaint, in order to settle the 1998 Action and receive over $40 million in attorneys' fees.

5. As lawyers for the class members, the Law Firm Defendants were duty bound to exert the degree of care, skill and diligence commonly possessed and exercised by members in the legal profession with respect to their representation of Plaintiffs. The Law Firm Defendants, however, abandoned their fiduciary duties owed to Plaintiffs and the other class members. Before any of the defendants in the 2002 Action answered the complaint, and prior to engaging in discovery, the Law Firm Defendants seized the opportunity to settle before year-end by sacrificing the new claims in the 2002 Action.

6. Led by Melvyn I. Weiss ("Weiss") of Milberg Weiss, the Law Firm Defendants persuaded the Court to approve the Settlement by stating that the discovery in the 1998 Action was sufficient to assess the strengths and weaknesses of the claims and defenses in the 2002 Action. However, the discovery in the 1998 Action bore no relation to the 2002 Action, which contained additional, different claims, legal theories and an extended class period. Had the Law

Firm Defendants actually assessed the merits of the claims and defenses in the 2002 Action, they would not have sacrificed that action in order to settle the 1998 Action.

7. In the aftermath of CA's criminal accounting scheme and cover-up, CA was forced to make a multi-billion dollar restatement of its financials, which did not fully account for the decades long fraud at the Company, but only restated revenues relating to three recent years. In addition, eight high-ranking CA executives, all of whom received broad releases, were convicted of federal crimes in connection with the fraud at the Company alleged in the 2002 Action, and crimes committed before and after the Settlement was being negotiated and approved. Among these executives was Sanjay Kumar, CA's former Chief Executive Officer and Chairman of its Board of Directors, and Steven Woghin, CA's General Counsel. CA itself was forced to enter into a deferred prosecution agreement (the "DPA") with the federal government in order to avoid indictment.

8. Against this background, when Plaintiffs herein and clients of the Law Firm Defendants as members of the settlement class sought the Law Firm Defendants' assistance to set aside the class action releases pursuant to Fed. R. Civ. P. 60(b), releases which acted to immunize those who bore legal responsibility for plaintiffs' losses from any financial responsibility whatsoever, defendants refused. The Law Firm defendants also refused to provide Plaintiffs with documents that would assist them in their pursuit of Rule 60(b) relief.

9. The Law Firm Defendants' refusal to assist their clients had a devastating impact on plaintiffs' ability to recover their losses. That is because the wrongdoers who opposed the Rule 60(b) motion did so in part based upon the argument that defendants herein knew all of the information concerning the breadth of the fraud at CA. Therefore, Law Firm Defendants' refusal to cooperate and provide their clients with documents and information is particularly egregious.

10. In short, the conduct of the Law Firm Defendants fell below that of the ordinary and reasonable skill and knowledge commonly possessed by other members of the legal profession.

II.

JURISDICTION AND VENUE

11. This Court has jurisdiction over the subject matter of this action pursuant to N.Y. Const. Art. 6, § 7.

12. Venue is appropriate in the County of New York pursuant to C.P.L.R. § 503(a) because it is the county where one or more of the defendants reside.

III.

THE PARTIES

A. Plaintiffs

13. Sam Wyly ("Wyly") is an individual who resides in Dallas, Texas. He is a well-known entrepreneur, investor, philanthropist and advocate for corporate reform. Wyly is a major investor in CA, having sold Sterling Software, Inc., a public company in which he was a founder and large stakeholder, to CA in 2000 in exchange for CA stock and stock options. Unbeknownst to Wyly, the CA securities he received had been vastly inflated by CA's fraudulent revenue-recognition practices. When that fraud came to light, Wyly's CA stock and options plummeted in value, costing him and the other Plaintiffs more than $200 million.

14. Cheryl Wyly is a natural person who is a citizen and resident of Texas.

15. Donald R. Miller, Jr. is a natural person who is a citizen and resident of Texas.

16. The Andrew David Sparrow Wyly Trust is a trust created under, and governed by, the laws of the State of Texas.

17. The Cheryl R. Wyly Marital Trust is a trust created under, and governed by, the laws of the State of Texas.

18. The Christiana Parker Wyly Trust is a trust created under, and governed by, the laws of the State of Texas.

19. The Emily Ann Wyly Trust is a trust created under, and governed by, the laws of the State of Texas.

20. The Jennifer Lynn Wyly Trust is a trust created under, and governed by, the laws of the State of Texas.

21. The Kelly Wyly Elliott Trust is a trust created under, and governed by, the laws of the State of Texas.

22. The Lisa Wyly Revocable Trust is a trust created under, and governed by, the laws of the State of Texas.

23. The Martha Caroline Wyly Trust is a trust created under, and governed by, the laws of the State of Texas.

24. The Charles Joseph Wyly III Trust is a trust created under, and governed by, the laws of the State of Texas.

25. The Laurie L. Wyly Revocable Trust is a trust created under, and governed by, the laws of the State of Texas.

26. Dortmund Limited is a corporation organized and operating under the laws of the Isle of Man.

27. East Carroll Limited is a corporation organized and operating under the laws of the Isle of Man.

28. Elegance Limited is a corporation organized and operating under the laws of the Isle of Man.

29. Greenbriar Limited is a corporation organized and operating under the laws of the Isle of Man.

30. Marmalade, Ltd. is a limited partnership organized and operating under the laws of the State of Texas.

31. Miller Family Partners is a partnership organized and operating under the laws of the State of Texas.

32. Quayle Limited is a corporation organized and operating under the laws of the Isle of Man.

33. Stargate, Ltd. is a limited partnership organized and operating under the laws of the State of Texas.

34. Tallulah, Ltd. is a limited partnership organized and operating under the laws of the State of Texas.

35. Plaintiffs were all members of the certified settlement class in the Action, and are purportedly bound by the Settlement.

B. Defendants

36. Milberg Weiss, formerly known as Milberg Weiss Bershad & Schulman LLP, Milberg Weiss Bershad Hynes & Lerach LLP, Milberg Weiss Bershad Specthrie & Lerach and Milberg Weiss Bershad & Specthrie, is a law firm that represents plaintiffs in class actions and shareholder derivative actions in federal and state courts throughout the United States. Milberg Weiss was co-lead counsel for the plaintiffs in both the 1998 Action and the 2002 Action. At all times relevant, Milberg Weiss was a New York law firm partnership with principal offices in New York, New York and, through mid-2004, San Diego, California.

37. Lerach Coughlin Stoia Geller Rudman & Robbins LLP ("Lerach Coughlin"), now known as Coughlin Stoia Geller Rudman & Robbins LLP, is a law firm that represents plaintiffs in class actions and shareholder derivative actions in federal and state courts throughout the United States. Until May 2004, some or all of the partners of Lerach Coughlin, including William S. Lerach, were partners of Milberg Weiss.

38. Stull, Stull & Brody is a law firm partnership that represents plaintiffs in class action litigation. Stull, Stull & Brody was co-lead counsel with Milberg Weiss in the 1998 Action.

39. Schiffrin, Barroway, Topaz & Kessler, LLP, formerly known as Schiffrin & Barroway, LLP, is a law firm that represents plaintiffs in class action litigation. Schiffrin & Barroway, LLP was co-lead counsel with Milberg Weiss in the 2002 Action.

IV.

OTHER RELEVANT INDIVIDUALS

40. Melvyn I. Weiss ("Weiss") co-founded Milberg Weiss in or before 1972. At all times relevant, Weiss was a partner at Milberg Weiss. During all times relevant, Weiss possessed substantial control over the management and conduct of Milberg Weiss' affairs. Upon information and belief, during the years 1983 through 2005, Weiss owned between 13.5% and 39.4% of Milberg Weiss, and his share of the law firm's profits totalled approximately $209.9 million.

41. Bruce Montague was a lead plaintiff in the 1998 Action. Montague, a practicing lawyer, is a "professional plaintiff," having purchased 400 shares of CA common stock in February 11, 1998, and selling 200 of those shares in June 1998 for a profit. Montague acted as plaintiff in at least nine federal securities class actions since 1998. In six of those lawsuits, one or more of the Law Firm Defendants were appointed as co-lead counsel. In light of these

lawsuits, it appears that Bruce Montague and the Law Firm Defendants have a lucrative professional relationship spanning at least a decade resulting in millions of dollars in fees for the Law Firm Defendants.

42. Mishal S. Tehrani was a lead plaintiff in the 1998 Action. Tehrani's ownership of CA securities is limited to the 260 shares of CA common stock she purchased between February and July 1998. Tehrani sold 160 of those shares in March and April 1998, at a profit, leaving her with 100 shares at the time she was appointed lead plaintiff. Tehrani is a serial plaintiff, having acted as plaintiff in at least three other securities law suits. One or more of the Law Firm Defendants acted as co-lead counsel in two of those lawsuits. In light of these lawsuits, it appears that Tehrani and the Law Firm Defendants have a lucrative professional relationship resulting in millions of dollars in fees for the Law Firm Defendants.

43. Walter F. Martin ("Martin") was a class representative in the 1998 Action. At the time of Settlement, Martin submitted an application for re-imbursement of costs and expenses that is patently unfair and unreasonable. Weiss, in turn, attached this request to his declaration in support of the Settlement and application for fees. In his declaration, Weiss asserts that the application of Martin is reasonable and should be approved by the Court. Weiss, however, failed to disclose that Martin's request for $23,400.00 is more than double of any other request and represents more than 40% of the total $53,910.00 requested by all lead plaintiffs and class representatives.

44. Moreover, the application asserts that Martin spent more than 100 hours working on the case and seeks re-imbursement for his time at a rate of $200 an hour. In support of the application, Martin provides a "time detail," which, among other things, records 36 hours for "various" dates spanning a five year period in which the detail simply states that he had to

monitor CA press releases as a result of "harassing" questions from defense counsel. In addition, Martin's time detail records two hours at "various" times for reading the newspaper and sending news clippings to the Law Firm Defendants.

45. Because of the ongoing relationship between these individuals and the Law Firm Defendants, these plaintiffs were not typical members of the class of either the 1998 Action or the 2002 Action. The Law Firm Defendants knew this fact, but, nonetheless, asserted in sworn statements, pleadings and other filings, that these plaintiffs were typical class members without any conflicts that may render them inappropriate lead class plaintiffs and/or class representatives.

V.

FACTS AND CIRCUMSTANCES GIVING RISE TO THE CLAIMS ALLEGED

A. The Action

1. The 1998 Action

46. On July 22, 1998, one day after CA announced that it expected a slowdown in its growth rate over the upcoming quarters, CA's common stock plummeted approximately 31%. On July 23, 1998, Andrew L. Barroway, the Managing Partner of Law Firm Defendant Schiffrin, Barroway, Topaz & Kessler, LLP, commenced a class action lawsuit against CA and certain of its executives in the United States District Court for the Eastern District of New York (the "Eastern District"). Barroway's lawsuit was quickly followed by other class action lawsuits filed in the Eastern District against CA and its executives. In all, eleven class action complaints were filed in the Eastern District against CA and certain of its current and former executives, officers and directors alleging violations of federal securities laws.

47. On October 9, 1998, the Court ordered that the 1998 Action complaints be consolidated under the caption *In Re Computer Associates Class Action Securities Litigation*,

Master File 98-CV-4839 (TCP) *(i.e.*, the 1998 Action). The Court also designated certain individuals to act as lead plaintiffs in the 1998 Action, including serial plaintiffs, Mishal S. Tehrani and Bruce Montague. In addition, upon the application of Andrew L. Barroway, the Court appointed the law firms of Milberg Weiss and Stull, Stull and Brody as co-lead counsel in the 1998 Action.

48. On or about January 15, 1999, a Consolidated Amended Complaint was filed in the 1998 Action. The Consolidated Amended Complaint alleged that CA and the individual defendants named therein made materially false and misleading statements and omissions concerning CA's financial performance and condition during the period January 20, 1998 through July 22, 1998 ("the 1998 Class Period"), through a series of undisclosed sales and accounting "revenue-inflating" activities. The Consolidated Amended Complaint further alleged that class members were induced to purchase CA stock at inflated prices during the 1998 Class Period.

49. On or about March 30, 2001, the Court certified the class in the 1998 Action and upon the application of the Law Firm Defendants, certified Andrew Breimann, Bruce Montague and Walter Martin as class representatives.

2. <u>The 2002 Action</u>

50. Prompted by the announcement that the Federal government was investigating CA for its accounting practices during the period February through May 2002, another wave of class actions were brought against CA and its executives. In all, thirteen individual class action complaints were filed against CA and certain of its current and former officers and directors, again alleging violations of the federal securities laws.

51. On July 25, 2002, the Court ordered that the 2002 Action complaints be consolidated under the caption *In Re Computer Associates 2002 Class Action Securities*

Litigation, Master File 02-CV-1226 (TCP) *(i.e.*, the 2002 Action). The Court also designated certain individuals to act as lead plaintiffs in the 2002 Action, and appointed the law firms of Milberg Weiss and Schiffrin, Barroway, Topaz & Kessler, LLP as co-lead counsel.

52. On or about October 22, 2002, a Consolidated Amended Complaint was filed in the 2002 Action against CA, Charles B. Wang ("Wang"), Kumar, Ira H. Zar ("Zar") and Russell M. Artzt ("Artzt"). The Consolidated Amended Complaint (the "2002 Complaint") alleged violations of securities laws in connection with CA's accounting practices during the period May 28, 1999 through February 25, 2002 (the "2002 Class Period"). The 2002 Complaint alleged that CA and its officers and directors made materially false and misleading statements concerning CA's financial performance and condition during the 2002 Class Period through, among other things, CA's improper practices for accounting for software licensing revenue. The 2002 Complaint also alleged that Plaintiffs were induced to purchase CA stock at inflated prices as a result of the false statements and omissions. In addition, the 2002 Complaint asserted claims against Ernst & Young LLP ("E&Y"), CA's former outside auditing firm.

B. <u>The Differences Between The 1998 Action And The 2002 Action.</u>

53. Several key distinctions existed between the 1998 Action and the 2002 Action. First, each class action encompassed an entirely different class period. The 1998 Class Period spanned six months in 1998, while the 2002 Class Period spanned over 2½ years from 1999 through 2002.

54. Second, the 1998 Action and the 2002 Action, each allege different fraudulent representations and conduct.

55. Third, the accounting rules that governed CA's ability to recognize revenue from software license agreements during the first half of the 1998 Class Period were not applicable to

the more stringent revenue recognition rules in effect during the entirety of the 2002 Class Period.

1. The 1998 Action

56. In the 1998 Action, plaintiffs alleged that defendants Wang, Kumar and Artzt participated in a scheme to artificially inflate the price of CA stock so that they could receive a grant of over $1 billion in CA common stock pursuant to a 1995 Key Employee Stock Ownership Plan (the "1995 KESOP"). Pursuant to this scheme, defendants Wang, Kumar and Artzt would receive that stock grant so long as the price of CA's common stock exceeded $53.33 for 60 days during any 12-month period by the end of CA's fiscal year 2000, March 31, 2000.

57. The 1998 Action alleged that CA artificially inflated its reported revenues and concealed the deterioration of its business in order to restore the declining value of CA stock and protect defendants' interests under the 1995 KESOP.

58. The 1998 Action also alleged that CA and the individual defendants artificially inflated CA's revenues in two ways: by engaging in improper revenue recognition techniques, and by making numerous false and misleading statements during the 1998 Class Period. With respect to CA's improper revenue recognition practices, plaintiffs alleged that defendants violated the Statement of Position ("SOP") 91-1 promulgated by the American Institute of Certified Public Accountants. SOP 91-1 provides specific rules on recognizing revenue from the licensing of computer software. The 1998 Complaint alleged that, as a direct result of defendants' material misrepresentations and omissions, and improper revenue recognition practices, the price of CA stock rose above the level required to trigger the stock grants under the 1995 KESOP, which in turn allowed Wang, Kumar and Artzt to receive $1.15 billion in CA stock.

2. **The 2002 Action**

59. The fraudulent representations and actions forming the basis of the 2002 Action were different than those forming the basis of the 1998 Action.

60. The 2002 Action alleged that, throughout the 2002 Class Period, CA made misleading and fraudulent representations through various public outlets. These representations were different than those alleged in the 1998 Action. During the 2002 Class Period, CA claimed, among other things, that it was poised to expand further and that the Company was following the trends in the market. CA also stated that two acquisitions it had completed during the 2002 Class Period would be quickly integrated, complimenting CA's existing products and strengthen CA's new professional services division. The 2002 Action alleged that CA knew that it was facing serious problems with its consulting business and sales organization that would prevent it from turning the two acquisitions to CA's advantage or to further grow CA's earnings and revenues.

61. The 2002 Action also alleged that, in order to conceal these problems, defendants engaged in sophisticated and protracted accounting and financial reporting fraud. Instead of reporting revenue as required by GAAP, defendants manipulated CA's financial statements to accelerate or defer the reporting of revenue in order to support the misleading representations that the Company could sustain revenue growth. Such manipulations included: (i) inflating revenues from software sales by characterizing "maintenance fees" as software license revenue; (ii) inflating revenue by counting certain transactions twice; (iii) using pro forma/pro rata reporting of revenue in order to recognize past sales; (iv) improperly reporting the revenue from free software in order to create illusory demand for CA products; (v) engaging in other improper revenue reporting, including holding open the end of fiscal quarters in order to report additional revenue within those quarters; and (vi) releasing false and misleading financial and other public documents and statements during the 2002 Class Period.

62. The 2002 Action alleged that as a direct result of defendants' material misrepresentations and omissions, and improper revenue recognition practices, defendants inflated the price of CA common stock. The 2002 Action further alleged that the defendants did so in order to protect and enhance their executive positions and compensation, increase the value of their personal holdings of CA common stock, and enable CA insiders to engage in profitable sales of their personally-held CA common stock. It was also alleged that at no time did defendants believe their bullish statements about CA and, throughout the 2002 Class Period, engaged in insider trading of approximately 8,804,068 shares, resulting in proceeds totaling $266,212,362.00.

63. Moreover, the 2002 Action alleged that CA's revenue recognition practices violated accounting rule SOP 97-2, which was more stringent than its predecessor, SOP 91-1.

64. Accordingly, the overall fraudulent schemes that were alleged in the 1998 Action and the 2002 Action were based upon different actions and misrepresentations. Moreover, the revenue recognition techniques that were alleged in the 1998 Action were entirely different from those alleged in the 2002 Action, for which no formal discovery was commenced.

65. Despite all of these differences, at the time of the Settlement, the Law Firm Defendants asserted that both class actions were similar enough to be disposed of by the Settlement prior to the commencement of any discovery in the 2002 Action. By doing so, the Law Firm Defendants violated their duty to independently assess the merits of each class action. The Law Firm Defendants merely paid lip service to their obligations to represent the class members in the 2002 Action in order to settle the Action and collect their legal fees sooner rather than later.

3. The Motion To Stay The 2002 Action

66. In or about April 2003, before any defendant had filed an answer or any discovery had been conducted, CA and individual defendants Wang, Kumar, Artzt and Zar moved to stay the 2002 Action. Defendants therein argued that the outcome in the 1998 Action could be dispositive of some or all of the issues in the 2002 Action because, in their view, the allegations in both class actions were interrelated.

67. According to Weiss' Declaration in Support of Settlement, the Law Firm Defendants opposed the motion to stay the 2002 Action. In its opposition to the motion to stay (the "Stay Opposition"), Law Firm Defendants argued that the 2002 Action was separate and distinct from the 1998 Action.

68. The Stay Opposition was served on opposing counsel, but was not filed with the Court in accordance with the local rules of Judge Thomas C. Platt, the Judge who was assigned to the 1998 Action and the 2002 Action. Thus, there is no public record of the Law Firm Defendants' arguments that the issues presented in the 1998 Action and the 2002 Action were not related. As alleged below, and as part of the Law Firm Defendants' repeated refusal to cooperate with Plaintiffs in support of their motions, pursuant to Fed. R. Civ. P. 60(b), for relief from the Settlement, the Law Firm Defendants have refused to provide Plaintiffs with a copy of their Stay Opposition.

C. The Settlement

69. After defendants filed the 2002 Action, CA informed defendants herein that it would only consider a settlement that would globally dispense of the 1998 Action, 2002 Action and other related litigation. It is now known that certain members of the Board of Directors of CA (including Alphonse D'Amato and Lewis Ranieri) prevailed upon the management team to allow them to "settle" the case. Their thesis was that the company should put its civil house in

order before the government investigation "matured" and additional revelations were made to the public. Specifically, the directors said that they knew Mel Weiss and that he would be reasonable – so long as the company understood his objectives and self-interest.

70. Therefore, in the summer of 2003, Weiss met and spoke to Alphonse D'Amato. After that meeting, D'Amato reported to CA's Board of Directors that, as predicted, "Mel" would be "reasonable" and that CA should work with the Law Firm Defendants and settle the pending litigation. In fact, the Law Firm Defendants capitulated to CA's request that the pending matters be resolved globally, in exchange for CA's commitment to support the Law Firm Defendants' request for attorneys' fees of 25%.

71. In July 2003, shortly before the trial date set in the 1998 Action and before the Court ruled on the motion to stay the 2002 Action, attorneys for the plaintiff classes and CA agreed to settle both the 1998 Action and 2002 Action. None of CA's executives involved in the fraud contributed a penny to the Settlement. Instead, CA bore the entire financial responsibility for the Settlement.

72. In connection with the Settlement, CA paid 5.7 million shares of its common stock, then valued at approximately $140 million, in exchange for an agreement to release all individual defendants, which included Wang, Kumar, Artzt, Zar, all CA directors, CA's professionals and CA employees from any personal liability.

73. Consistent with the parties' prior arrangement, Law Firm Defendants asked for and received attorneys' fees – paid in CA stock – of approximately $40 million.

D. The Law Firm Defendants "Sell" The Settlement.

74. The extent of the discovery completed in a class action is a critical factor in a court's evaluation of the fairness of a class action settlement. Accordingly, the parties inserted into their settlement agreement (the "Settlement Agreement") descriptions of the discovery undertaken in the 1998 Action and the 2002 Action. For example, the Settlement Agreement provides that, "[p]rior to entering into the Settlement, Plaintiffs' counsel had conducted a thorough investigation relating to the events and transactions underlying Plaintiffs' claims and defenses thereto. Plaintiffs' decisions to enter into this settlement were made with knowledge of the facts and circumstances underlying Plaintiffs' claims and the strengths and weaknesses of those claims." With respect to the 1998 Action, the Settlement Agreement states that "the parties engaged in discovery over a period of approximately 2½ years."

75. Of course, the Law Firm Defendants in the 2002 Action had to demonstrate that they were able to properly assess the strengths and weaknesses of the claims asserted in the 2002 Action. The 2002 Action had a class period roughly five times that of the 1998 Action, but had not proceeded past the filing of the complaint in that action, with no discovery having been commenced. Nonetheless, the Law Firm Defendants informed the Court that the discovery materials produced in the 1998 Action were sufficient to allow the parties to adequately assess the strengths and weaknesses of the claims in the 2002 Action. Thus, the Settlement Agreement states that "Plaintiffs' Co-Lead Counsel conducted a comprehensive investigation relating to the claims and underlying events and transactions alleged in [both] Securities Class Actions." The Settlement Agreement further provided that the Law Firm Defendants had "analyzed the evidence adduced during pretrial discovery" taken over the 2½ year period in the 1998 Action, as well as "additional discovery provided by the CA Defendants in the 2002 Class Action."

76. On or about August 26, 2003, the parties submitted the Settlement Agreement to the Court for its preliminary approval. By Order dated August 29, 2003, the Court preliminarily approved the settlement and scheduled a settlement and fairness hearing for December 5, 2003 (the "Fairness Hearing").

77. In anticipation of the Fairness Hearing, the Law Firm Defendants submitted sworn statements and legal memoranda concerning their ability to assess the strengths and weaknesses of their claims. The Law Firm Defendants continued to assert that the discovery taken in the 1998 Action allowed them to assess the strengths and weaknesses of the 2002 Action. For example, Milberg Weiss advised the Court that the "[s]ettlement was achieved after a lengthy mediation and settlement negotiations that began after the parties had fully briefed defendants' summary judgment motion, and agreed on all aspects of a Joint Pretrial Order, in the 1998 Securities Action. The Settlement occurred only after more than four years of hard-fought litigation in the 1998 Securities Action that revealed the merits of Plaintiffs' case and defendants' defenses, and after arms-length bargaining by experienced and knowledgeable counsel."

78. On the other hand, the Law Firm Defendants were forced to admit that "the 2002 Securities Action was still in the earliest stages. Defendants (apart from E&Y) had not yet moved to dismiss, discovery had been stayed by operation of the [Plaintiffs' Securities Litigation Reform Act of 1995], and no documents had been produced or depositions taken. In the event that the 2002 [Action complaint] survived a motion to dismiss, the parties would have proceeded to full class and merits discovery." Notwithstanding this lack of discovery in the 2002 Action, the Law Firm Defendants nevertheless informed the Court that they possessed knowledge of the

facts and circumstances underlying the strengths and weaknesses of the claims in the 2002 Action.

79. Counsel explained how they were able to obtain such an understanding:

> Although no formal discovery was conducted in the 2002 Securities Action, plaintiffs' counsel in the 2002 Securities Action was given access to the well-developed discovery record from the 1998 Securities Action, including the ten volumes of evidentiary material presented to the Court on defendants' motion for summary judgment in that case. . . . [M]any of the significant accounting allegations overlap between the two cases. Plaintiffs in the 2002 Securities Action also conducted a substantial informal investigation relating to the events and transactions underlying that cases' claims. Thus, plaintiffs' counsel's decision to enter into this settlement was made with knowledge of the facts and circumstances underlying plaintiffs' claims and the strengths and weaknesses of those claims.

E. Defendants Agree to "Sell" The Settlement At The Fairness Hearing On December 5, 2003.

80. At the Fairness Hearing on December 5, 2003, Weiss spoke on behalf of the settling class members. Weiss asserted that "informal" discovery had occurred with respect to the 2002 Action, albeit *after* the parties had already agreed to the Settlement. This informal discovery consisted of a review of the 1998 Action discovery materials. Weiss stated:

> We reviewed over a half a million pages of documents produced by the defendants. We met and defeated both motions to dismiss. We successfully prosecuted the motions for class certification. We took over 40 depositions of defendants and non-parties. We had numerous hearings before Magistrate Orenstein regarding discovery disputes. We engaged in extensive expert discovery. We retained our own accounting experts for corporate governance. The defendants made a motion for summary judgment which was opposed. We prepared opposition briefs and counter-statements of disputed facts, and we put together exhibits. In total, 10 volumes of deposition testimony and other exhibits were submitted to the Court. The joint pretrial order was drafted and negotiated, setting forth the summary of all the claims and defenses.

81. Weiss further assured the court that the 1998 Action and 2002 Action were being settled pursuant to a fully open and transparent process: "[A]nd its not as if we're settling these cases in the blind. They are only settled after much work, hard advocacy from both sides, and a well-founded ability to appraise the chances of success and the value of the case."

82. Weiss' representations concerning the 2002 Action are remarkable given that there had been *no* activity in 2002 Action. Defendants therein did not submit any responsive pleadings, there had been no motion practice (other than a motion to stay the action), and there had been no discovery. Thus, the "much work," "hard advocacy" and "well-founded ability to appraise the chances of success" that Weiss was urging upon the Court, could not, in reality, have applied to the 2002 Action.

83. Notwithstanding the lack of discovery in the 2002 Action (or any other activity), the Law Firm Defendants saw fit to request an award of fees representing 25 percent of the Gross Settlement Fund, which fund had a current value at the time of the Fairness Hearing of over $130 million.

84. The Law Firm Defendants were awarded 1,443,673 of the settlement shares as attorneys' fees, having a market value at the time of distribution of approximately $40 million. This figure represents an amount *three times* the amount of the total "lodestar" calculation for all of the law firms seeking fees. Indeed, based on the Law Firm Defendants' representations as to the hours they expended in litigating the Action, their recovery of more than $40 million in attorneys' fees translates into legal services rendered at more than $1,000.00 per hour. Of course, neither CA nor any of defendants' attorneys opposed this extraordinary request.

F. Having Failed to Pursue Their Own Allegation in the 2002 Class Action, the Law Firm Defendants Left Those Class Members With No Recovery for the Damages They Suffered.

85. As is now well known, the Government Investigations uncovered a massive accounting fraud perpetrated by CA and its top executives from at least fiscal years 1998 through 2001. Further, the Government discovered wide-spread efforts to cover-up the fraud. The Government characterized the revenue recognition scheme as one of the most far-reaching criminal conspiracies in the modern corporate era.

86. On April 26, 2004, after years of denying that it would need to do so, CA announced that it would restate its financial statements for fiscal years 2000 and 2001 to the tune of $2.2 billion. In that announcement, CA admitted that it had prematurely recognized revenue by, among other practices, "holding the financial period open after the end of fiscal quarters," and "backdating of contracts." Indeed, had the Law Firm Defendants conducted discovery in the 2002 Action or otherwise acted to fairly represent the interests of the absent class members, the Law Firm Defendants would have obtained the information they needed to assess the strengths of the claims in the 2002 Action, and would not have jettisoned the 2002 Action to obtain a settlement which yielded the victims of the conspiracy – the public shareholders – with a recovery of only pennies on the dollar.

87. Thereafter, eight former CA executives pled guilty in connection with the accounting fraud and/or their involvement in the conspiracy to cover it up. CA, too, was the subject of criminal charges. In order to avoid criminal prosecution, CA agreed on September 22, 2004, to enter into the DPA with the United States Attorney's Office. Pursuant to the DPA, CA admitted the allegations of accounting fraud and its cover-up as set forth in the criminal Information filed by the Government.

88. Thus, CA admitted, among other things, that "[p]rior to and during fiscal year 2000 . . . multiple former CA officers, executives and employees engaged in a systematic, company-wide practice of falsely and fraudulently recording and reporting within fiscal quarters revenue associated with certain license agreements even though those license agreements had not in fact been finalized and signed during that quarter." CA also admitted that CA executives engaged in a conspiracy to cover-up their fraudulent revenue recognition practices.

89. CA's restatement in April 2004, was followed by other restatements which arose out of other previously unknown disclosures of misconduct. For example, following the restatement in April 2004, CA and its newly retained outside auditors continued to review its revenue recognition practices. As part of that review, CA announced in May 2005, that it had identified "additional transactions that it had entered into in fiscal years 1998 through 2001 that appear to have been accounted for improperly." Thus, as CA disclosed: "In a few instances, these transactions involved contemporaneous purchases and sales (or investments and licenses) of software products and services with the same or related third parties. These transactions appear not to have been negotiated on an arm's-length basis and to have no valued commercial purposes. In several other cases, the terms of certain license agreements were altered by side agreements that would have prevented the full recognition of related revenue until some future point. Based on its review, the Company has determined that former members of senior management and others, who are no longer employed by the Company, were involved in negotiating and approving these transactions."

90. As a direct result of the Law Firm Defendants' negligence, breaches of loyalty, lack of honesty and fraudulent behavior, not one individual who participated in the conspiracy and/or cover-up—and none of the professionals, officers and/or directors who were either

complicit or "asleep at the switch"—have paid for any of the damages done to the only truly innocent parties: the public shareholders. This is because the Law Firm Defendants, along with the conspirators, CA, its officers and directors, orchestrated the Settlement of the Action pursuant to which CA bore 100% of the financial responsibility. In addition, the Law Firm Defendants agreed to provide those parties that either directly participated in or benefited from the fraud, or were otherwise responsible for its occurrence, releases so broad in their terms that no one could hold them responsible for any misconduct.

G. The Law Firm Defendants Fail To Support An Application To Vacate The Settlement.

91. On October 18, 2004, Plaintiffs requested that the Law Firm Defendants seek relief from the Settlement and accompanying releases pursuant to Fed. R. Civ. P. 60(b). (A true and correct copy of the written request, dated October 18, 2004, is attached hereto as Exhibit A.) The Law Firm Defendants, however, refused to: (i) take any action to disturb the Settlement; (ii) incur time on a file for which they had already been paid; or (iii) put their fees in jeopardy. Accordingly, Plaintiffs were forced to vacate the Settlement pursuant to Rule 60(b) without assistance.

92. Defendants' refusal to assist their clients is astonishing, especially because they had already admitted that 60(b) relief may be warranted. In this regard, on October 8, 2004, Barry Weprin of Milberg Weiss appeared at a hearing before the Court regarding the distribution of settlement shares. While still representing Plaintiffs and other class members in finalizing the distribution of settlement shares, Weprin informed the Court that:

> [I]t seems to us that individuals, both named defendants, individual defendants and others, may have perjured themselves in depositions and withheld documents which weren't discovered, weren't provided [to] the Government until after our settlement was signed and finalized, that either intentionally or at least

necessarily had the effect of making it more difficult to prosecute our case and therefore recovering less.

93. Notwithstanding this admission, the Law Firm Defendants failed to join or support Plaintiffs in their efforts to seek relief from the Settlement. Incredibly, on November 24, 2004, the Law Firm Defendants informed Plaintiffs that they would support Rule 60(b) relief as to the Company—who was not their client—but would not seek similar relief under the same circumstances for the class certified in the Action. (A true and correct copy of defendants' written response, dated November 24, 2004, is attached hereto as Exhibit B.)

94. On December 7, 2004, Plaintiffs served a motion for relief under Rule 60(b) of the Federal Rules of Civil Procedure to vacate the class action settlement entered on December 10 and December 29, 2003. Two days later, on December 9, 2004, co-plaintiffs in a pending derivative action served their Rule 60(b) Motion to vacate the derivative settlement entered on December 11, 2003, which together were part of the Settlement.

95. On December 13, 2004, in a gross breach of their duty of loyalty to their clients, the Law Firm Defendants again explained that they would support Rule 60(b) relief for CA, *but not for the class*, because they had determined that *they* preferred to allow the distribution of the settlement proceeds to occur – an event that would enrich them by over $40 million. They did so despite the fact that in 2003, David Nachman, one of the attorneys for class action defendants, informed CA's Board of Directors that CA faced exposure at trial in the amount of $2-5 billion. In short, the Law Firm Defendants explained that it was not worth their while to seek further recovery for as yet unpaid billions of dollars in shareholder losses, because it would be too hard.

H. The Court Denies Plaintiffs' Motion To Vacate The Releases, And Gave Weight To The Fact That Milberg Weiss Refused To Join In The Rule 60(b) Motion.

96. On August 1, 2007, without allowing any deposition discovery, oral argument or even final briefing, the Court summarily denied the pending Rule 60(b) motions without

warning. The Court stated that there had been no "cooperation" in the pending matters and too much time had elapsed. The next day the Court issued its Memorandum and Order, dated August 2, 2007, denying the Rule 60(b) motion and related discovery requests.

97. The Court issued a second Order on September 12, 2007, resolving a motion for reconsideration filed by CA's SLC. In the Court's Order, the Court took pains to explain its denial of the motions for relief under Rule 60(b). In support of its Order, the Court noted that Milberg Weiss refused to participate in the 60(b) Motions, stating:

> Furthermore and in light of the alleged revelations pertaining to Computer Associates in the approximately ten months after the settlement, *i.e.*, the discovery of the existence of the 23 boxes, attorneys for the class action plaintiffs, Milberg Weiss, declined the Wyly Movants attorneys requests that they join forces and file a Rule 60(b) motion to reopen the settlement.

98. Previously, in support of the Plaintiffs' Rule 60(b) motion, Plaintiffs sought expedited discovery by letter to the Court, dated December 16, 2004. On December 22, 2004, CA objected to the discovery requests, beginning a process by which CA would delay the adjudication of the Rule 60(b) motions for more than two years.

99. While the parties litigated the issue of discovery in the Rule 60(b) motions, Plaintiffs sought discovery from the Law Firm Defendants. When informal requests failed, on April 1, 2005, Plaintiffs filed a turn-over action against the Law Firm Defendants in New York State Court to gain access to documents relating to the Action from the Law Firm Defendants. Surprisingly, the Law Firm Defendants asserted, and continue to assert, that Plaintiffs, who admittedly are members of the class of shareholders, are not entitled to access to the Law Firm Defendants' files.

100. Thus, as discussed below, at the same time the Government was investigating Milberg Weiss for putting its interests and the interests of its stable of professional plaintiffs

ahead of class members, Milberg Weiss and the other Law Firm Defendants were asserting that they owed *no duties to Plaintiffs* who were members of the certified class in the Settlement.

101. By Order dated February 8, 2007, in the state court proceedings, the Law Firm Defendants were ordered to provide Plaintiffs with access to all of their files, including their work product. Law Firm Defendants have appealed this Order and obtained a stay pending their appeal of the Order, further delaying Plaintiffs' access to these documents.

I. The Government Investigates Illegal And Improper Kickbacks To Plaintiffs.

102. According to media reports, in 1999, the Office of the United States Attorney for the Central District of California began an investigation of allegations that attorneys at Milberg Weiss engaged in a scheme in which they would provide "kickbacks" to professional plaintiffs for filing lawsuits, acting as lead plaintiffs and appointing Milberg Weiss to the lucrative position of lead counsel in these lawsuits.

103. The Government allegations include allegations that Milberg Weiss lawyers and lead plaintiffs who worked with Milberg Weiss breached their fiduciary duties to the classes of injured shareholders through misrepresentations to the Court in sworn statements and in Court filings, and by effectively placing the interests of themselves and Milberg Weiss ahead of the class of injured shareholders.

104. In January 2002, the Government subpoenaed known former lead plaintiffs who had worked with Milberg Weiss. By July 2002, the time in which the Court approved the selection of Milberg Weiss as co-lead counsel in the 2002 Action, Milberg Weiss knew that it was then currently under investigation. Nonetheless, according to media reports and Government allegations, Milberg Weiss continued to engage in the "kickback" scheme.

105. In mid-2005, the Government issued target letters to Weiss, Lerach, Bershad, Schulman and the law firm, Milberg Weiss, itself. On December 29, 2005, prosecutors wrote

Milberg Weiss' outside legal team informing them that the firm would be indicted unless it pleaded guilty.

J. The Government Indicts The Milberg Weiss Law Firm And Certain Attorneys.

106. In May 2006, a federal grand jury in Los Angeles indicted Milberg Weiss. Media outlets reported that the nation's leading class-action securities law firm, as well as two prominent partners, David J. Bershad and Steven G. Schulman, had been indicted and accused of making more than $11 million in secret payments to three individuals who served as plaintiffs in more than 150 lawsuits.

107. According to media reports citing to court documents, lawyers at Milberg Weiss, including Bershad, would use legal fees sent to other law firms as kickbacks to recruit and retain plaintiffs, enabling the firm to be the first to file many class action lawsuits.

108. By being first, Milberg Weiss could be named lead counsel, which would entitle it to direct the litigation and earn a larger percentage of fees in the ultimate settlement. The Government alleges that the scheme lasted from the 1970s through 2005. According to Government papers, Milberg Weiss partners provided cash to pay the kickbacks since it is illegal for a plaintiff to receive any portion of the legal fees, which could be viewed as an incentive to settle rather than act in the best interest of the class. The firm would later award those partners bonus payments equal to the amounts they had paid in kickbacks.

K. The Government Indicts Weiss.

109. On September 20, 2007, a federal grand jury handed down an indictment of Weiss. Among other charges in the indictment, the grand jury found probable cause that Weiss made misrepresentations in sworn statements, pleadings and other Court filings in support of applications for appointment of lead plaintiff and lead counsel in class actions. In addition, the indictment alleges that Weiss conspired with certain persons who acted as lead plaintiffs in

numerous class actions, and that Weiss stood silent when these plaintiffs executed sworn statements and made statements at depositions and in pleadings and other Court papers, with knowledge that those statements were not true.

110. As discussed above, in the context of persuading the Court to approve the Settlement, Weiss submitted a sworn statement asserting, among other things, that (i) the Law Firm Defendants had adequately evaluated the merits of the Settlement in light of the claims in the Action; and (ii) that the fee application of the Law Firm Defendants was fair and reasonable.

111. No discovery was taken in the 2002 Action. In addition, subsequent events demonstrated that by April 2004, the Law Firm Defendants knew that they had failed to prosecute claims in what has since been described as the largest fraud and cover-up in recent history. Accordingly, that sworn statement is demonstrably false. Importantly, if the Law Firm Defendants had not preferred their own economic interests above those of the class, they would not have bartered away claims worth billions of dollars in exchange for pennies to the victims – but tens of millions in undeserved profits for themselves.

VI.

CLAIMS FOR RELIEF

COUNT I
(BREACH OF FIDUCIARY DUTY)

112. Plaintiffs repeat, reiterate and incorporate by reference the allegations set forth in Paragraphs 1 through 111 as if fully set forth herein.

113. As attorneys for the settling class members in the Action, the Law Firm Defendants owed fiduciary duties to Plaintiffs and the other settling class members, including the fiduciary duties of due care, loyalty and honesty.

114. The Law Firm Defendants breached their duties of due care, loyalty and honesty in fact, and engaged in fraudulent behavior.

115. The Law Firm Defendants breached their fiduciary duties owed to Plaintiffs by jettisoning the claims in the 2002 Action in favor of a self-interested global settlement that yielded pennies for the victimized public shareholders, but over $40 million in attorneys' fees for defendants.

116. The Law Firm Defendants also committed a fraud on the members of the 2002 class, and the Court, by falsely representing that they had assessed the strengths and weaknesses of the claims and defenses in the 2002 Action, and that the Settlement was fair to the class members in that 2002 Action.

117. The Law Firm Defendants also breached their fiduciary duties described above by, among other things:

a. failing to disclose pre-existing relationships with certain named or lead plaintiffs, or class representatives that rendered those plaintiffs a-typical class members who were unfit to serve as lead plaintiffs;

b. failing to disclose that lead plaintiffs or class representatives would not fulfill their fiduciary duties to the class, but would instead seek to maximize the recovery of legal fees and be encouraged to settle when settlement may not have been in the best interests of the class;

c. encouraging and orchestrating the appointment of lead plaintiffs and class representatives who were beholden to the Law Firm Defendants in order to secure appointment as lead co-counsel and the ability to receive larger fees; and

d. entering into the settlement of the 2002 Action in order to secure significant fees instead of evaluating whether such settlement was in the best interests of the class of injured shareholders.

118. As a result of the Law Firm Defendants' breach of fiduciary duties, self-interested and reckless conduct, and fraud, Plaintiffs incurred substantial damages in an amount to be determined at trial.

COUNT II
(LEGAL MALPRACTICE)

119. Plaintiffs repeat, reiterate and incorporate by reference the allegations set forth in Paragraphs 1 through 118 as if fully set forth herein.

120. At all times herein mentioned, the Law Firm Defendants portrayed themselves to the public as attorneys who are experienced in the interpretation, administration and prosecution of securities class actions.

121. At all times herein mentioned, the Law Firm Defendants acted as co-lead counsel in the Action.

122. At all times herein mentioned, Plaintiffs were members of the Settlement class in the Action.

123. The 2002 Class Period spanned the duration of approximately two years and nine months, while the 1998 Class Period covered only seven months. Despite this fact, the Law Firm Defendants, when faced with an impending trial date in the 1998 Action, proceeded to orchestrate the Settlement of both class actions without first apprising themselves of the strengths and weaknesses of the claims and defenses in the 2002 Action.

124. Had Law Firm Defendants exercised the degree of care, skill and diligence commonly possessed by a member in the legal profession, they would not have sacrificed the 2002 Action in order to settle the 1998 Action.

125. On or about December 10, 2003, based upon false and misleading representations made in support of the Settlement by Weiss on behalf of the Law Firm Defendants, the Court issued an Order approving the Settlement.

126. By virtue of the foregoing, the Law Firm Defendants' failed to exercise reasonable care, skill, prudence and judgment in the performance of their legal services to Plaintiffs.

127. As a result of Defendants' self-interested and reckless conduct, Plaintiffs incurred substantial damages in an amount to be determined at trial.

COUNT III
(UNJUST ENRICHMENT)

128. Plaintiffs repeat, reiterate and incorporate by reference the allegations set forth in Paragraphs 1 through 127 as if fully set forth herein.

129. The Law Firm Defendants were enriched by the approximately $40 million they received in attorneys' fees as a result of the Settlement.

130. The Law Firm Defendants' enrichment came at the expense of Plaintiffs, who lost their ability to prosecute the valuable claims alleged in the 2002 Action as a result of the Settlement, and the releases provided to CA and its directors and officers in connection therewith.

131. As a direct result of the conduct alleged herein, to wit, the Law Firm Defendants' legal malpractice and failure to put the interests of Plaintiffs and the other settling class members ahead of their own pecuniary interest, it is against equity and good conscience to permit the Law Firm Defendants to retain the fees they received in the Action.

COUNT IV
(FRAUD)

132. Plaintiffs repeat, reiterate and incorporate by reference the allegations set forth in Paragraphs 1 through 131 as if fully set forth herein.

133. Law Firm Defendants' fraudulently induced Plaintiffs to enter into the Class Action Settlement by, among things, falsely representing to the class members and the Court that

they were able to assess the strengths and weaknesses of the claims and defenses in the 2002 Action, that the 2002 Action was being settled pursuant to a fully open and transparent process, and that the 2002 Action was being settled "only after much work, hard advocacy from both sides, and a well-founded ability to appraise the chances of success and the value of the case."

134. Plaintiffs relied on the Law Firm Defendants' statements in determining to participate in the Settlement.

135. Plaintiffs were damaged by defendants' fraud in an amount to be determined at trial.

136. WHEREFORE, Plaintiffs respectfully ask this court for an order and judgment as follows:

a. awarding Plaintiffs actual damages, including compensatory and consequential damages, in an amount to be determined at trial, together with pre-judgment and post-judgment interest at the maximum rate allowable by law;

b. ordering the Law Firm Defendants to forfeit disgorge and otherwise account for all fees and other compensation they received while acting as faithless fiduciaries;

c. ordering the Law Firm Defendants to turn over to Plaintiffs all documents relating to the Settlement;

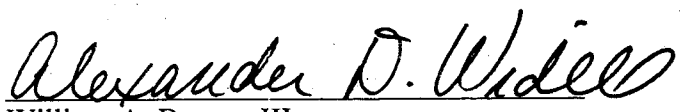
d. awarding Plaintiffs punitive damages;

e. awarding Plaintiffs the costs and disbursements of this action, including reasonable allowance for Plaintiffs' attorneys' and experts' fees; and

f. granting such other and further relief as this Court deems just and proper.

Respectfully submitted,

BICKEL & BREWER

By: 

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Dated: November 26, 2007
New York, New York

A

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October 18, 2004

BY HAND

Barry A. Weprin, Esq.
Milberg Weiss Bershad & Schulman, LLP
One Pennsylvania Plaza
49th floor
New York, New York 10119

Re: *In re Computer Associates Class Action Securities Litigation,* 98 CV 4839 (TCP) and Consolidated Actions

Dear Barry:

As we have discussed with you, the past few weeks have seen a number of startling disclosures relating to Computer Associates International, Inc. ("CA"), which indicate that the settlement in the above-referenced litigation was likely procured by fraud upon shareholders, their counsel and the Court. We base this conclusion, *inter alia*, upon the following factors.

First, on September 22, 2004, Steven Woghin, CA's former General Counsel, pled guilty to conspiracy to commit securities fraud and obstruction of justice.[1] In doing so, Mr. Woghin admitted that he coached employees on how to answer questions without disclosing the existence of the "35-day month practice", the purpose and effect of which was to cause employees to conceal the existence of the practice and to falsely deny any knowledge of the practice. During the proceedings, Mr. Woghin stated:

> Your Honor, from 1992 through April of this year I worked in the legal department at Computer Associates in Islandia, New York, serving as its general counsel since 1995.
>
> Beginning in the late 1990s, I became involved in a conspiracy to violate the Federal Securities Laws by allowing the legal department that I supervised to routinely participate in the negotiation and drafting of software license

[1] *See generally U.S. v. Steven Woghin*, 04 CR 837 (ILG) (E.D.N.Y.), Transcript of Plea, 9/22/04 12:10 p.m.

agreements on behalf of the company during the week following the calendar end of the fiscal quarters.

I believed that the purpose of this post-quarter end activity, including a backdated agreement that I personally worked on in January of 2000[,] was to generate revenue for CA which could be improperly recognized in the prior fiscal quarter. And I further understood that falsely reporting revenue in Computer Associates' books and records and securities filings violated the Federal Securities Laws.

In 2002, the government began an investigation of Computer Associates' accounting practices. Among other things the investigation focused on whether CA improperly recognized revenue in certain quarters based on contracts that were not signed until after the close of the prior quarter.

Despite my personal involvement with a backdated contract and my growing suspicions that there was a widespread problem, I failed to bring these matters to the attention of the outside law firm assisting the company and participated in impeding the government's investigation.

For example, I met with various CA employees and instructed them regarding the manner in which they were to answer questions when they were interviewed by the government or the company's outside law firm. ***These instructions were intended to cause the CA employees to withhold potentially harmful information. I also permitted the company'[s] outside law firm to present justifications and explanations to the government that I knew or suspected to be false.***

Your Honor, I am ashamed to be standing here today and that I played any role to [sic] allowing CA to recognize revenue improperly and in ***keeping the truth from the government.***[2]

Second, on September 24, 2004, *The Wall Street Journal* reported that, a year earlier, in September 2003, Robert J. Giuffra Jr., of Sullivan & Cromwell, CA's outside lawyers, came into possession of 23 boxes of crucial documents showing that CA employees, including Mr. Woghin himself, had engaged in securities fraud and had also made false statements to CA's outside

[2] *Id.* at 28:6-29-18 (emphasis added).

lawyers, government investigators and the public in an effort to cover up their criminal conduct and avoid civil liability.[3]

Finally, on October 4, 2004, you told me that neither you nor your firm knew of the existence of the documents until their existence was disclosed by *The Wall Street Journal.* Because the existence of these documents was concealed from you and your firm at the time the settlement was being negotiated, and thereafter presented to Judge Platt for approval, the settlement was procured by fraud. In addition, the documents comprise newly discovered evidence that should have been available to your firm, class members and the Court in deciding whether the settlement was fair, reasonable and adequate.

In sum, it is clear that critical evidence was deliberately, improperly, and fraudulently concealed from federal investigators, CA board members and CA shareholders as part of a scheme among certain CA executives, employers and others to obtain court approval of a settlement they hoped would release them from liability for their misconduct. We believe the settlement should be set aside, at least as to those individuals and others who were released as part of the settlement but who participated in this wrongdoing and attempted cover-up.

Accordingly, we believe that a motion should be filed with Judge Platt pursuant to Fed.R.Civ.P. 60(b) to relieve plaintiffs from the final judgment approving the settlement. We hereby request that you advise us as to what position you intend to take regarding such a motion.

We believe that such a motion would greatly benefit all CA shareholders, and even CA. Of course, we would welcome your support and cooperation.

We look forward to your response.

Very truly yours,

P. Kent Correll

P. Kent Correll

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[3] Charles Forelle, *In CA Probe: Recovered E-Mails, Surprise Cache of Documents,* WALL STREET JOURNAL, September 24, 2004, page A1.

bcc: Sam Wyly (via facsimile: 214-871-5201)

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B

MILBERG WEISS

Barry A. Weprin
Direct Dial: 212-946-9312
bweprin@milbergweiss.com

November 24, 2004

VIA FACSIMILE

P. Kent Correll, Esq.
Bickel & Brewer
767 Fifth Avenue
50th Floor
New York, NY 10153

Re: *In re Computer Associates Class Action Securities Litigation,*
98 CV 4839 (TCP)

Dear Kent:

In response to your recent oral request, I have conferred with my co-counsel and we are advising you that we do not intend to move pursuant to Rule 60(b) to reopen the judgment in the above captioned case. We therefore do not think a meeting with you and our your clients is necessary.

We do intend to support the motion to reopen the derivative case and to work with the Fund Administrator of the $225 million Restitution Fund arising out of the Deferred Prosecution Agreement entered into by the United States Attorney's Office and Computer Associates.

Sincerely,

Barry A. Weprin

cc: Richard Schiffrin, Esq.
Jules Brody, Esq.

MILBERG WEISS

New York
Boca Raton
Wilmington
Seattle
Washington, D.C.
Los Angeles

FACSIMILE

To:

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Number of pages being transmitted including the cover page: 2

From:	Barry A. Weprin	Date:	November 24, 2004
Fax No.	212-868-1229	Telephone No.	212-946-9312
Matter No.:	020184		
Subject:			

Message/Document(s) faxed:

ORIGINAL DOCUMENTS: Will follow by ☐ mail ☐ courier – OR - ☒ Will not follow unless requested.

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