



DAVID KESSLER PARTNER EMERITUS

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FOCUS AREAS

Securities Fraud

EDUCATION

The American University
B.S.B.A. 1988

Emory University School of Law
J.D. 1994, with distinction

ADMISSIONS

Pennsylvania

New Jersey

New York

United States Supreme Court

Supreme Court of Pennsylvania

Supreme Court of New Jersey

Supreme Court of New York

USDC, District of New Jersey

USDC, Southern District of New York

USDC, Eastern District of Pennsylvania

USDC, Eastern District of Wisconsin

USCA, Second Circuit

By any standard, David Kessler is a worldwide leader in securities litigation. His reputation and track record earn instant credibility with judges and bring opponents to the bargaining table in complex, high-stakes class actions. David has been recognized for excellence by publications including *Benchmark Plaintiff* and *Law Dragon*.

David has led several of the largest class actions ever brought under the federal securities laws and the Private Securities Litigation Reform Act of 1995. Since the financial crisis began in 2008, he has helped recover well over \$5 billion for clients and class members who invested in financial companies such as Wachovia, Bank of America, Citigroup and Lehman Brothers. Prior to 2008, David guided some of the largest cases both in size—including allegations of a massive scandal regarding the unfair allocation of IPO shares by more than 300 public companies—and in notoriety—including the Tyco fraud and mismanagement litigation that resolved for over \$3 billion.

David brings his background as a certified public accountant to bear in actions involving complex loss causation issues and damages arising from losses in public offerings, open market purchases, and mergers and acquisitions. As head of the firm's settlement department, David also has extensive experience in mediation, settlements, claims administration and distributions.

A sought-after lecturer on securities litigation issues, David has been invited to speak by plaintiffs' firms, defense firms, mediators and insurance carriers on a variety of topics related to securities

USCA, Third Circuit
USCA, Sixth Circuit

class actions. He recently assisted in authoring a chapter on mediations in a publication soon to be released by a federal mediator.

Settled

- Pfizer, Inc.

Case Caption: *In re Pfizer Sec. Litig.*

Case Number: 1:04-cv-09866-LTS-HBP

Court: Southern District of New York

Judge: Honorable Laura Taylor Swain

Plaintiffs: Teachers' Retirement System of Louisiana, Christine Fleckles, Julie Perusse, and Alden Chace

Defendants: Pfizer, Inc., Henry A. McKinnell, Karen L. Katen, Joseph M. Feczko, and Gail Cawkwell

Overview: This securities fraud class action in Manhattan federal court arose out of Pfizer's concealment of clinical results for two arthritic pain drugs, Celebrex and Bextra. Despite being aware of significant cardiovascular adverse events in clinical trials, Pfizer misrepresented the safety profile of the drugs until the U.S. Food & Drug Administration discontinued a key trial, forced the withdrawal of Bextra from the market, and issued an enhanced warning label for Celebrex. Following a summary judgment order dismissing the case several weeks before trial was set to begin, we successfully appealed the dismissal at the U.S. Court of Appeals for the Second Circuit and the case was remanded for trial.

After twelve years of litigation, the case resolved in 2016 with Pfizer agreeing to pay the shareholder class \$486 million, the largest-ever securities fraud settlement against a pharmaceutical company in the Southern District of New York.

- Tyco International, Ltd.

Case Caption: *In re Tyco Int'l, Ltd. Sec. Litig.*

Case Number: 1:02-md-01335-PB

Court: District of New Hampshire

Judge: Honorable Paul Barbadoro

Plaintiffs: Plumbers and Pipefitters National Pension Fund, United Association General Officers Pension Plan, United Association Office Employees Pension Fund and United Association Local Union Officers & Employees Pension Fund, Teachers' Retirement System of Louisiana, and Louisiana State Employees' Retirement System

Defendants: Tyco International, Ltd., Michael A. Ashcroft, Mark A. Belnick and PricewaterhouseCoopers LLP

Overview: This landmark \$3.2 billion settlement included the largest securities class action recovery from a single corporate defendant in history (\$2.975 billion), and the second largest auditor settlement (\$225 million) in securities class action history at the time.

The action asserted federal securities claims on behalf of all

purchasers of Tyco International, Ltd. (Tyco) securities over a two-and-a-half-year period during which Tyco allegedly overstated its income through a multitude of accounting manipulations, and was subject to looting and self-dealing by its officers and directors.

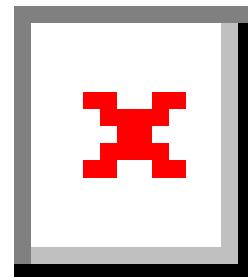
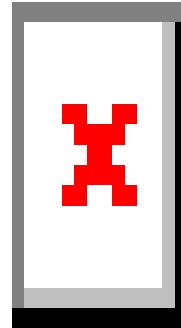
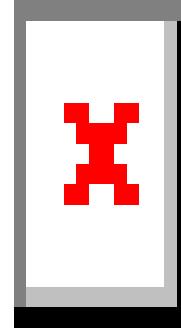
Developing critical areas of law, the litigation overcame defendants' arguments that the class should recover nothing because Tyco had been defrauded by its own management.

News

- October 1, 2020 - Kessler Topaz Meltzer & Check, LLP Once Again Included in the Benchmark Litigation Guide to America's Leading Litigation Firms and Attorneys for 2021
- September 24, 2019 - Kessler Topaz Meltzer & Check, LLP Once Again Included in the Benchmark Litigation Guide to America's Leading Litigation Firms and Attorneys for 2020
- May 8, 2017 - Kessler Topaz Again Named Class Action Litigation Department of the Year by The Legal Intelligencer
- January 3, 2017 - Kessler Topaz Again Named One of America's Leading Litigation Firms by Benchmark Litigation
- November 24, 2015 - Kessler Topaz Again Named One of America's Leading Litigation Firms by Benchmark Litigation

Awards/Rankings

- Benchmark National Litigation Star, 2019 -2025
- Legal 500's Leading Lawyers, 2019-2024
- Lawdragon 500 Leading Global Plaintiff Lawyers, 2024
- Lawdragon 500 Leading Plaintiff Financial Lawyer, 2012, 2014, and 2019-2025
- Benchmark Plaintiffs' Definitive Guide to America's Leading Plaintiff Firms & Attorneys (2012)
- The American Lawyer's Litigator of the Week – December 8, 2011



Community Involvement

- Emory Law School Board of Advisors
- Kessler Family Diversity Scholarship – Emory Law School
- Congregation Or Ami Board of Trustees
- Abrahamson Cancer Center Board of Trustees
- Topaz-Kessler Cancer Center Equipment Fund
- The William Penn Charter EITC Financial Aid Program