



## STUART L. BERMAN

### PARTNER

D 610.822.2239

M 610.256.9977

F 610.667.7056

[sberman@ktmc.com](mailto:sberman@ktmc.com)

#### FOCUS AREAS

Securities Fraud Litigation  
 Global Securities Litigation  
 Direct and Opt-Out Actions  
 Fiduciary Litigation  
 Antitrust & Unfair Business Practices  
 Arbitration  
 Portfolio Monitoring and Claims Administration  
 Portfolio Monitoring  
 Corporate Governance Litigation

#### EDUCATION

Brandeis University  
 B.A. with honors  
 The George Washington University Law School  
 J.D.

#### ADMISSIONS

Pennsylvania  
 New Jersey

Stuart L. Berman has opened doors for victims of securities fraud to pursue recoveries around the world. As head of Kessler Topaz Meltzer & Check's global litigation practice, Stu actively counsels institutional investors on filing lawsuits in jurisdictions outside the United States and has helped recover billions of dollars for investors worldwide.

The Firm's global litigation focus first began around 2009 through Stu's role in representing European investors in the precedent-setting \$350 million settlement with Royal Dutch Shell in the Netherlands—the first class settlement approved under Dutch law. Since then, Stu has helped organize and lead shareholder actions against companies in the Netherlands (Fortis), Germany (VW and Porsche), France (Vivendi), Japan (Olympus, Toshiba and Mitsubishi), Australia (BHP Billiton), Portugal (BES) and the United Kingdom (Royal Bank of Scotland).

A well-known authority on global litigation and portfolio monitoring, Stu actively engages with institutional clients regarding how they may best protect their investments made in the United States and abroad. Through Kessler Topaz's proprietary Securities Tracker program, which Stu helped create and launch, the firm's institutional clients are able to quickly review and analyze potential claims anywhere in the world. The Firm's clients trust Stu to accurately assess their fiduciary responsibilities and guide them on how best to pursue and recover assets lost to fraud. His experience and judgment are indispensable in determining when

USDC, District of New Jersey  
 USDC, Eastern District of Pennsylvania  
 USDC, Eastern District of Wisconsin  
 USCA, Second Circuit  
 USCA, Ninth Circuit  
 USCA, Tenth Circuit

there is the right combination of facts, law and source of recovery to warrant a commitment to active litigation.

In actions brought in the United States, Stu has been instrumental in representing numerous institutional investors through the lead plaintiff, discovery and class certification process in high-profile class actions. He also has represented institutional clients as named plaintiffs in direct (opt-out) actions against companies such as Petrobras, Merck and Vivendi.

Stu is a frequent speaker and panelist at investor meetings and conferences around the world on topics such as shareholder actions, corporate governance, shareholder rights, and the importance of monitoring portfolios and analyzing shareholder claims on a global basis.

### Settled

- Bank of America: BoA/Merrill merger fraud allegations settle

Obtained a \$2.4 billion settlement in litigation against Bank of America (BoA) relating to its merger with Merrill Lynch & Co. (Merrill). Our clients, Dutch National pension fund PGGM and Swedish National pension fund AP4, alleged that BoA gave shareholders false and misleading information about Merrill's financial condition and obligations prior to a key vote on the merger.

The settlement, which included an undertaking to improve corporate governance policies, was the 6<sup>th</sup>-largest ever in a securities class action and the largest so far to come out of the subprime meltdown and credit crisis.

- Citigroup: Exposure to toxic mortgage assets leads to \$730 million recovery  
 Represented the Miami Beach Employees' Retirement Plan, the City of Tallahassee Pension Plan, the Philadelphia Public Employees Retirement System and the Southeastern Pennsylvania Transportation Authority Pension Fund in pursuing claims against Citigroup for concealing its exposure to subprime mortgage debt—exposure that, once revealed, led to massive investment losses during the 2008 financial crisis. Investors' claims resulted in a historic settlement of \$730 million, the second largest recovery ever under Section 11 of the Securities Act.
- Kessler Topaz is co-counsel in an investment treaty arbitration on behalf of nearly 1000 claimants against the Republic of Cyprus before the International Centre for the Settlement of Investment Disputes ("ICSID").

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Disputes (“ICSID”).

Claimants, nationals of Greece and Luxembourg, were all depositors or bondholders of either Cyprus Popular Bank (also known as Marfin Popular Bank or Laiki Bank) or the Bank of Cyprus, and suffered substantial losses when their bonds/deposits were confiscated as part of Cyprus’ response (known as “Plan B”) to the Cypriot financial crisis. Claimants allege that Cyprus violated its obligations under two bilateral investment treaties (the Cyprus-Greece BIT and the Belgo-Luxembourg Economic Union – Cyprus BIT). In response to the claims filed by the Claimants, Cyprus contested ICSID’s jurisdiction to hear the dispute. On February 7, 2020, in a 2-1 majority opinion, the ICSID Tribunal determined that it has proper jurisdiction over the dispute. The decision is significant in that it involves claims by a number of claimants that is well in excess of most other mass ICSID arbitrations (including being larger than two out of the three cases pursued by bondholders against Argentina following Argentina’s debt crisis in the 2000s). The dispute will now proceed to the merits stage.

- Olympus Corporation: Japanese accounting case settles for 11 billion yen

Obtained an 11 billion yen (\$92 million) settlement in an action filed in Japan over an accounting scandal—one of the largest securities-fraud recoveries ever in that country, if not the largest. In 2011, former Olympus CEO and whistleblower Michael Woodford revealed that Olympus had hidden more than \$1 billion in losses through a series of sham transactions, many of which involved “paying” exorbitant fees for financial advice. Olympus was forced to restate five years of earnings, and three of its executives pled guilty to the fraud. We represented defrauded shareholders in proceedings in Tokyo alleging that Olympus and its officers had violated their duties under Japanese Company Law. Following a two-day mediation, we reached a settlement agreement for 11 billion yen.

- Royal Dutch Shell: Landmark settlement opens doors to class recovery in the Netherlands

On behalf of investors in European-based shares of Royal Dutch Shell, recovered more than \$350 million in a class settlement of claims related to the company’s announced re-categorizations and/or restatement of certain oil and gas reserves.

The settlement was the first of its kind under Dutch law and arguably began the trend of bringing securities class actions in numerous jurisdictions around the globe.

- Theodoros Adamakopoulos and Others v. Republic of Cyprus, International Centre for the ICSID Case No. ARB/15/49

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### 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
- February 12, 2020 - Groundbreaking ICSID Arbitration Decision
- 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

### Speaking Engagements

Stu is a frequent speaker at investor conferences and meetings in the United States and around the world, such as The European Pension Symposium in Florence, The European Investment Roundtable in Barcelona, The Public Funds Symposium in Washington, D.C., The International Foundation of Employee Benefit Plans in Orlando, The Pennsylvania Public Employees Retirement (PAPERS) Summit in Harrisburg, and The New England Pension Summit in Newport. In addition, Stu regularly speaks at the Firm’s annual conferences for institutional investor clients at the Rights & Responsibilities for Institutional Investors in Amsterdam and Evolving Fiduciary Obligations of Pensions Plans in Washington, D.C.

### Awards/Rankings

Benchmark Litigation Stars, 2020

Lawdragon 500 Leading Plaintiff Financial Lawyer, 2019

### **Memberships**

American Bar Association

### **Community Involvement**

Stu proudly supports and raises awareness and funds for the National Kidney Foundation.