



ETHAN J. BARLIEB PARTNER

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FOCUS AREAS

Healthcare Impact & Consumer Protection
Banking & Financial Services
Antitrust
Data Privacy & Cyber Security

EDUCATION

Cornell University
B.S. 2003

University of Miami School of Law
J.D. 2007, *magna cum laude*, Order of the
Coif

ADMISSIONS

Pennsylvania

New Jersey
USDC, Eastern District of Pennsylvania
USDC, District of New Jersey

Ethan J. Barlieb, a partner of the Firm, concentrates his practice in the areas of antitrust, privacy and consumer protection litigation.

Representative matters include:

- *American depository receipt (ADR) FX cases:* Ethan served as one of the lead attorneys in three separate class cases that were litigated in the U.S. District Court for the Southern District of New York. The cases were filed on behalf of investors in ADRs against three of the world's largest depository banks – BNY Mellon, Citibank and JPMorgan. In each of these cases, the plaintiffs challenged the banks' practice of charging investors an undisclosed spread when it conducted foreign exchange transactions in connection with the ADRs. According to the plaintiffs, this conduct violated the terms of agreements that governed the ADRs. The cases survived motions to dismiss and proceeded through fact and expert discovery and were collectively settled for \$96 million.
- *In re Ranbaxy Generic Drug Application Antitrust Litigation:* Ethan was a member of the litigation team for this antitrust and RICO case against generic pharmaceutical manufacturer, Ranbaxy, Inc., for allegedly defrauding the U.S. Food and Drug Administration with respect to generic drug applications and thereby delaying generic competition for three drugs – Diovan, Valcyte and Nexium. Ethan represented certified classes of direct purchasers of these drugs, whose claims in the U.S. District Court for the District of Massachusetts were sustained over motions to dismiss and summary judgment, eventually

settling prior to trial for \$340 million.

- *In re Zetia (Ezetimibe) Antitrust Litigation*: This case, which settled on the eve of trial for a total of \$600 million, concerned an allegedly illegal settlement between Merck, the brand manufacturer of the cholesterol drug Zetia, and the generic manufacturer, Glenmark, that resulted in a substantial delay of generic competition and higher prices for drug purchasers. Ethan supported the Court-appointed lead counsel in the case on both fact and expert discovery and various pre-trial matters.
- *Ford Exhaust Fumes Consumer Litigation*: Ethan was the lead attorney in this class action against Ford Motor Company in the U.S. District Court for the Eastern District of Michigan related to a purported defect in Ford Explorers that allowed exhaust fumes to enter the passenger compartment while the vehicles were in use. The case was litigated through fact and expert discovery and culminated in a settlement that provided vehicle owners the opportunity to remedy the issue and the reimbursement of out-of-pocket expenses. Ethan successfully presented argument against Ford's motion to dismiss, and prior to resolution, he argued for the certification of multistate classes of vehicles owners.
- *In re: Target Corporation Customer Data Security Breach Litigation*: This data breach against Target affected 70 million customers nationwide. Ethan assisted the Court-appointed lead counsel and represented a class of banks and credit unions that were impacted by the breach. The case ultimately resulted in a settlement of approximately \$40 million for financial institutions.

In addition, Ethan has litigated a variety of antitrust cases concerning pharmaceuticals and other products, consumer cases concerning the economic losses caused by defective products, and cases concerning violations of federal securities law. Ethan is currently involved, among other things, in litigation against pharmaceutical manufacturers for the unfair pricing of pharmaceutical products, like insulin, and is a member of the Steering Committee for *In re: Passenger Vehicle Replacement Tires Antitrust Litigation* pending in the U.S. District Court for the Northern District of Ohio.

Prior to joining Kessler Topaz, Ethan was an associate at a regional law firm, where he worked on various commercial, securities and employment matters.

Clerkships

The Honorable Mitchell S. Goldberg
U.S. District Court for the Eastern District of Pennsylvania

Current Cases

- Amarin Pharma, Inc.

Plaintiffs filed a Consolidated Class Action Complaint alleging that, having pursued and lost patent infringement litigation against would-be generic competitors as well as exhausting every regulatory means to prevent and delay the launch of generic competitors, Amarin adopted an unlawful strategy to artificially extend its monopoly for its sole product Vascepa. By locking up every viable supplier of the key ingredient needed to manufacture generic Vascepa, Amarin boxed generic manufacturers out of the market. This scheme left Amarin free to continue charging supracompetitive prices and obtain the most profit it could out of Vascepa, at the expense of the Plaintiffs and other purchasers of the drug.

Amarin filed a motion to dismiss the consolidated complaint in the fall of 2021. On February 23, 2023, the Court dismissed, without prejudice, certain of the unjust enrichment and consumer protection claims, but otherwise sustained the claims. Defendants filed their answer to the consolidated complaint on March 31, 2023. Discovery commenced thereafter and proceeded in coordination with that served by direct purchaser plaintiffs and generic manufacturers that have filed their own suits against Amarin for anticompetitive conduct.

On August 30, 2024, Plaintiffs filed a motion seeking leave to amend to add KD Pharma and related entities as defendants, which the Court granted on April 30, 2025. Plaintiffs thereafter filed a Second Amended Consolidated Class Action Complaint. Discovery in connection with all of the coordinated cases remains ongoing.

- Netflix, Inc. & Hulu, LLC

Kessler Topaz represents two New Jersey municipalities, the Borough of Longport and the Township of New Jersey, in a putative class action against Netflix and Hulu seeking to recover unpaid franchise fees under the Cable Television Act. Under that Act, cable television companies are required to pay New Jersey municipalities a mandatory franchise fee equal to 2% of their subscriptions in the municipality's jurisdiction. As more and more people "cut the cord" and move from traditional cable television subscriptions to streaming services offered by companies like Netflix and Hulu, New Jersey municipalities have been deprived of the franchise fees that they have collected from traditional cable television companies and relied upon for decades.

Plaintiffs filed their Class Action Complaint on August 13, 2021, asking the Court to order that Netflix and Hulu abide by the Cable Television Act and pay what they owe to New Jersey municipalities. On May 20, 2022, after briefing on defendants' motions to dismiss, the District Court held that the Cable Television Act did not confer a

private right of action and that only the New Jersey Board of Public Utilities (the "BPU") had the right to assert such claims. Plaintiffs have appealed the District Court's decision to the Third Circuit. The appeal is fully briefed and awaiting a decision.

News

- January 10, 2022 - Michigan Federal Court Approves Settlement for Vehicle Owners in Ford Motor Co. Exhaust Fumes Consumer Litigation

Publications

Ethan J. Barlieb, *HOPE VI Revitalization Grants: Weighing the Problems and Benefits and Considering Solutions in the Context of Liberty City, Miami*, 15 U. Miami Bus. L. Rev. 201 (Spring 2007).

Joseph D. Mancano & Ethan J. Barlieb, *The FCPA: Can Your Company Survive the Wave?*, The Legal Intelligencer, (July 21, 2011).

Gaetan J. Alfano & Ethan J. Barlieb, *Pennsylvania Causes of Action*, The Legal Intelligencer, 2nd Edition.

Ethan J. Barlieb, *A Win for Card Issuing Banks Victimized by Data Breaches*, Kessler Topaz Meltzer & Check, LLP, Spring 2015 Newsletter.

Awards/Rankings

- Pennsylvania Rising Star by Super Lawyers (2013, 2014, 2015 and 2016)

Memberships

- Philadelphia Bar Association
- Historical Society for the Eastern District of Pennsylvania

Community Involvement

- Cornell Alumni Admissions Ambassador
- University of Miami School of Law, Young Alumni Committee
- Louis D. Brandeis Society