



## ETHAN J. BARLIEB

### PARTNER

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#### FOCUS AREAS

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 ERISA, consumer protection and antitrust litigation. Ethan received his law degree, *magna cum laude*, from the University of Miami School of Law in 2007 and his undergraduate degree from Cornell University in 2003.

Prior to joining Kessler Topaz, Ethan was an associate with Pietragallo Gordon Alfano Bosick & Raspanti, LLP, where he worked on various commercial, securities and employment matters. Before that, Ethan served as a law clerk for the Honorable Mitchell S. Goldberg in the 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.

- 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, 2<sup>nd</sup> 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**

- American Association for Justice

### **Community Involvement**

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