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FOCUS AREAS

Direct & Opt-Out

Securities Fraud

Whistleblower

EDUCATION

Villanova University
B.S. 2003, *cum laude*

Temple University Beasley School of Law
J.D. 2006, *cum laude*, Staff Member—Temple Law Review

ADMISSIONS

Pennsylvania

New Jersey

USDC, Eastern District of Pennsylvania

USDC, Eastern District of Arkansas

USDC, Western District of Arkansas

USCA, First Circuit

USCA, Second Circuit

USCA, Eighth Circuit

USCA, Tenth Circuit

Richard A. Russo, Jr., a partner of the Firm, concentrates his practice in the area of securities litigation, and principally represents the interests of plaintiffs in class actions and complex commercial litigation.

Rick specializes in prosecuting complex securities fraud actions arising under the Securities Exchange Act of 1934 and the Securities Act of 1933, and has significant experience in all stages of pre-trial litigation, including drafting pleadings, litigating motions to dismiss and motions for summary judgment, conducting extensive document and deposition discovery, and appeals.

Rick has represented both institutional and individual investors in a number of notable securities class actions. These matters include In re Bank of America Securities Litigation, where shareholders' $2.43 billion recovery represents one of the largest recoveries ever achieved in a securities class action and the largest recovery arising out of the 2008 subprime crisis; In re Citigroup Inc. Bond Litigation, where the class's $730 million recovery was the second largest recovery ever for claims brought under Section 11 of the Securities Act of 1933; and In re Lehman Brothers, where shareholders recovered $616 million from Lehman's officers, directors, underwriters and auditors following the company's bankruptcy filing.

Rick is currently representing shareholders in high-profile securities fraud actions against General Electric, Precision Castparts Corp., Kraft Heinz Corp. and Luckin Coffee Co. Rick has also assisted in prosecuting whistleblower actions and patent

USDC, District of New Jersey

infringement matters.

In 2016, Rick was selected as an inaugural member of Benchmark Litigation's Under 40 Hot List, an award meant to honor the achievements of the nation's most accomplished attorneys under the age of 40. Rick was again selected as a member of the 40 & Under Hot List in 2018, 2019, and 2020. Rick has also been selected by his peers as a Pennsylvania Super Lawyers Rising Star on five occasions.

Current Cases

- Apache Corp.

CASE CAPTION	*In re Apache Corp. Securities Litigation*
COURT	United States District Court for the Southern District of Texas
CASE NUMBER	4:21-CV-00575
JUDGE	Honorable George C. Hanks, Jr.
PLAINTIFFS	Court-appointed Lead Plaintiffs Plymouth County Retirement Association and the Trustees of the Teamsters Union No. 142 Pension Fund
DEFENDANTS	Apache Corporation,

	John F. Christmann IV, Timothy J. Sullivan, & Stephen J. Riney
CLASS PERIOD	September 7, 2016 to March 13, 2020, inclusive

This securities fraud class action arises from Apache's materially false and misleading statements regarding its purportedly groundbreaking oil and gas discovery in West Texas, which it dubbed "Alpine High." Starting in September 2016, Defendants claimed the play held copious amounts of valuable oil and gas on par with world-class plays like the Marcellus Shale in Pennsylvania and the Eagle Ford in Texas, which Apache could economically exploit, and thus drive company revenues for years to come.

Investors accepted the claims, and Apache's common stock price skyrocketed. However, Lead Plaintiffs' extensive investigation has revealed that Defendants' claims were baseless. Internal studies at Apache prior to September 2016 established that Alpine High was characterized by low-value gas, not valuable oil or gas resources. Confirming this, Apache's own production data from the wells it drilled at Alpine High showed that the area held hardly any oil and gas that could be economically exploited, let alone the vast amounts Defendants repeatedly touted to investors. Scrambling to contain the failure, Defendants fired multiple dissenters from inside the company and shielded Alpine High production data from ordinary disclosure and review—but they could sustain the sham only so long. The truth concerning Alpine High was gradually revealed to the public through a series of disclosures on October 9, 2017, February 22, 2018, April 23, 2019, October 25, 2019, and March 16, 2020, which collectively showed that the play was an unprofitable bust. Apache's stock prices fell sharply on each partial corrective disclosure, causing massive losses to defrauded shareholders.

On December 17, 2021, Plaintiffs filed a Consolidated Class Action Complaint on behalf of a putative class of investors, alleging that Apache, John Christmann IV, Timothy Sullivan, and Stephen Riney violated Section 10(b) of the Exchange Act by making materially false and misleading statements regarding the Alpine High play; and that Christmann IV, Sullivan, and Riney, as controlling persons of Apache, violated Section 20(a) of the Exchange Act. On September 15, 2022, Magistrate Judge Edison issued a Memorandum and Recommendation denying Defendants' motion

to dismiss. On November 29, 2022, the Court overruled Defendants' objections to the Recommendation. The case is now in fact discovery, and the parties are engaged in briefing on Plaintiffs' motion for class certification.

Read Consolidated Class Action Complaint Here

- General Electric Company

CASE CAPTION	*Sjunde AP-Fonden, et al., v. General Electric Company, et al.*
COURT	United States District Court for the Southern District of New York
CASE NUMBER	1:17-cv-08457-JMF
JUDGE	Honorable Jesse M. Furman
PLAINTIFFS	Sjunde AP-Fonden and The Cleveland Bakers and Teamsters Pension Fund
DEFENDANTS	General Electric Company and Jeffrey S. Bornstein
CLASS PERIOD	March 2, 2015 through January 23, 2018, inclusive

This securities fraud class action case arises out of alleged misrepresentations made by General Electric ("GE") and its former Chief Financial Officer, Jeffrey S. Bornstein (together, "Defendants"), regarding the use of factoring to conceal cash flow problems that existed within GE Power between March 2, 2015, and January 24, 2018 (the "Class Period").

GE Power is the largest business in GE's Industrials operating segment. The segment constructs and sells power plants, generators, and turbines, and also services such assets through long term service agreements ("LTSAs"). In the years leading up to the Class Period, as global demand for traditional power waned, so too did GE's sales of gas turbines and its customer's utilization of existing GE-serviced equipment. These declines drove down GE Power's earnings under its LTSAs associated with that equipment. This was because GE could only collect cash from customers when certain utilization levels were achieved or upon some occurrence within the LTSA, such as significant service work.

Plaintiffs allege that in an attempt to make up for these lost

earnings, GE modified existing LTSAs to increase its profit margin and then utilized an accounting technique known as a "cumulative catch-up adjustment" to book immediate profits based on that higher margin. In most instances, GE recorded those cumulative catch-up earnings on its income statement long before it could actually invoice customers and collect cash under those agreements. This contributed to a growing gap between GE's recorded non-cash revenues (or "Contract Assets") and its industrial cash flows from operating activities ("Industrial CFOA").

In order to conceal this increasing disparity, Plaintiffs allege that GE increased its reliance on long-term receivables factoring (i.e., selling future receivables to GE Capital, GE's financing arm, or third parties for immediate cash). Through long-term factoring, GE pulled forward future cash flows, which it then reported as cash from operating activities ("CFOA"). GE relied on long-term factoring to generate CFOA needed to reach publicly disclosed cash flow targets. Thus, in stark contrast to the true state of affairs within GE Power—and in violation of Item 303 of Regulation S-K—GE's Class Period financial statements did not disclose material facts regarding GE's factoring practices, the true extent of the cash flow problems that GE was attempting to conceal through receivables factoring, or the risks associated with GE's reliance on factoring. Eventually, however, GE could no longer rely on this unsustainable practice to conceal its weak Industrial cash flows. As the truth was gradually revealed to investors—in the form of, among other things, disclosures of poor Industrial cash flows and massive reductions in Industrial CFOA guidance—GE's stock price plummeted, causing substantial harm to Plaintiffs and the Class.
In January 2021, the Court sustained Plaintiffs' claims based on allegations that GE failed to disclose material facts relating its practice of and reliance on factoring, in violation of Item 303, and affirmatively misled investors about the purpose of GE's factoring practices. In April 2022, following the completion of fact discovery, the Court granted Plaintiffs' motion for class certification, certifying a Class of investors who purchased or otherwise acquired GE common stock between February 29, 2016 and January 23, 2018. In that same order, the Court granted Plaintiffs' motion for leave to amend their complaint to pursue claims based on an additional false statement made by Defendant Bornstein. The Court had previously dismissed these claims but, upon reviewing Plaintiffs' motion—based on evidence obtained through discovery—permitted the claim to proceed.
On September 28, 2023, the Court entered an order denying Defendants' motion for summary judgment, sending Plaintiffs' claims to trial. In March 2023, the Court denied Defendants' motion for reconsideration of its summary judgment decision. Trial is set to begin in November 2024.

Read Fifth Amended Consolidated Class Action Complaint Here
Read Opinion and Order Granting and Denying in Part Motion

to Dismiss Here
Read Order Granting Motion for Class Certification and for Leave to Amend Here
Click Here to Read the Class Notice
Read Opinion and Order Here (9/28/23)
Read Memorandum Opinion & Order Here (3/21/24)

- Rivian Automotive Inc.

CASE CAPTION	*Charles Larry Crews, Jr., et al. v. Rivian Automotive Inc., et al.*
COURT	United States District Court for the Central District of California Western Division
CASE NUMBER	2:22-cv-0524
JUDGE	Honorable Josephine L. Staton
PLAINTIFFS	Sjunde AP-Fonden, James Stephen Muhl
DEFENDANTS	Rivian Automotive, Inc. (“Rivian” or the “Company”), Robert J. Scaringe, Claire McDonough, Jeffrey R. Baker, Karen Boone, Sanford Schwartz,

Rose Marcario, Peter Krawiec, Jay Flatley, Pamela Thomas-Graham, Morgan Stanley & Co. LLC, Goldman Sachs & Co., LLC, J.P. Morgan Securities LLC, Barclays Capital Inc., Deutsche Bank Securities Inc., Allen & Company LLC, BofA Securities, Inc., Mizuho Securities USA LLC, Wells Fargo Securities, LLC, Nomura Securities International, Inc., Piper Sandler & Co., RBC Capital Markets, LLC, Robert W. Baird & Co. Inc., Wedbush Securities Inc., Academy Securities, Inc., Blaylock Van, LLC, Cabrera

	Capital Markets LLC, C.L. King & Associates, Inc., Loop Capital Markets LLC, Samuel A. Ramirez & Co., Inc., Siebert Williams Shank & Co., LLC, and Tigress Financial Partners LLC.
CLASS PERIOD	November 10, 2021 through March 10, 2022, inclusive

This securities fraud class action case arises out of Defendants' representations and omissions made in connection with Rivian's highly-anticipated initial public offering ("IPO") on November 10, 2021. Specifically, the Company's IPO offering documents failed to disclose material facts and risks to investors arising from the true cost of manufacturing the Company's electric vehicles, the R1T and R1S, and the planned price increase that was necessary to ensure the Company's long-term profitability. During the Class Period, Plaintiffs allege that certain defendants continued to mislead the market concerning the need for and timing of a price increase for the R1 vehicles. The truth concerning the state of affairs within the Company was gradually revealed to the public, first on March 1, 2022 through a significant price increase—and subsequent retraction on March 3, 2022—for existing and future preorders. And then on March 10, 2022, the full extent Rivian's long-term financial prospects was disclosed in connection with its Fiscal Year 2022 guidance. As alleged, following these revelations, Rivian's stock price fell precipitously, causing significant losses and damages to the Company's investors.

On July 22, 2022, Plaintiffs filed a Consolidated Class Action Complaint on behalf of a putative class of investors alleging that Rivian, and its CEO Robert J. Scaringe ("Scaringe"), CFO Claire McDonough ("McDonough"), and CAO Jeffrey R. Baker ("Baker")

violated Sections 10(b) and 20(a) of the Securities Exchange Act. Plaintiffs also allege violations of Section 11, Section 12(a)(2), and Section 15 of the Securities Act against Rivian, Scaringe, McDonough, Baker, Rivian Director Karen Boone, Rivian Director Sanford Schwartz, Rivian Director Rose Marcario, Rivian Director Peter Krawiec, Rivian Director Jay Flatley, Rivian Director Pamela Thomas-Graham, and the Rivian IPO Underwriters. In August 2022, Defendants filed motions to dismiss, which the Court granted with leave to amend in February 2023. On March 16, 2023, Defendants filed motions to dismiss the amended complaint. In July 2023, the Court denied Defendants' motions to dismiss the amended complaint in its entirety. The case is now in fact discovery and the parties are engaged in briefing on Plaintiffs' motion for class certification.

Read Consolidated Class Action Complaint Here
Read Amended Consolidated Class Action Complaint Here

Settled

- Luckin Coffee Inc.
  This securities fraud class action arises out of Defendants' misrepresentations and omissions concerning the financial status of the Chinese coffee company Luckin Coffee, Inc. During the class period, Luckin promoted a sales model wherein it would operate at a loss for several years for the purpose of gaining market share by opening thousands of app-based quick -serve coffee kiosks throughout China. Between 2017 and 2018, Luckin claimed its number of stores increased from just nine to 2,073 stores. It also claimed that its total net revenues grew from $35,302 to $118.7 million in that same period.
  On May 17, 2019 Luckin, through an initial public offering (IPO) offered 33 million ADSs to investors at a price of $17.00 per ADS, and reaped over $650 million in gross proceeds. On January 10, 2020 Luckin conducted an SPO of 13.8 million ADSs pried at $42.00 each, netting another $643 million for the company. Unbeknownst to investors, however, Luckin's reported sales, profits, and other key operating metrics were vastly inflated by fraudulent receipt numbering schemes, fake related party transactions, and fraudulent inflation of reported costs, among other methods of obfuscating the truth.
  Following a market analyst's report wherein the sustainability of Luckin's business model and the accuracy of its reported earnings were challenged, after conducting an internal investigation, Luckin ultimately admitted to the fraud.
  Plaintiffs filed a 256 page complaint alleging violations of Section 10(b) of the Securities Exchange Act against the Exchange Act Defendants, violations of Section 20(a) of the Exchange Act against the Executive Defendants, violations against Section 11 of the Securities Act against all Defendants, violations of Section 15 of the Securities Act against the

Executive Defendants and the Director Defendants, and violations of Section 12(a)(2) of the Securities Act against the Underwriter Defendants. As alleged, following a series of admissions from Luckin and Defendant Lu admitting the existence and scope of the fraud, Luckin's share price dropped from $26.20 to $1.38 per share, before ultimately being delisted.

Luckin is currently undergoing liquidation proceedings in the Cayman Islands, where it is incorporated. Luckin also filed for Chapter 15 bankruptcy in the Southern District of New York. The Underwriter Defendants and Thomas Meier, an outside director filed motions to dismiss the Complaint which are pending. None of the Executive Defendants or any other Director Defendants have appeared in this Action and all are residents of the PRC. They were served pursuant to the Hague Convention.

On October 26, 2021, Lead Plaintiffs reached a $175 million settlement with Luckin to resolve all claims against all Defendants.

News

- August 19, 2021 - Claims Against Kraft Heinz and 3G Capital Arising From Unprecedented $15.4 Billion Writedown Proceed to Discovery
- 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
- April 1, 2015 - Brazilian Oil Giant Petrobras Engulfed in Massive Corruption Scandal, Investors Bring Suit

Awards/Rankings

- Benchmark Future Stars, 2020 & 2021
- Benchmark Litigation Under 40 Hot List, 2020
- Benchmark Litigation Under 40 Hot List, 2016
- Pennsylvania Super Lawyers Rising Star, 2012-2016