KESSLERTOPAZ MELTZERCHECK LLP

JOSHUA E. D'ANCONA

PARTNER

D 610.822.0269
F 610.667.7056

jdancona@ktmc.com

FOCUS AREAS

Securities Fraud

Direct & Opt-Out

Arbitration

EDUCATION

Wesleyan University
B.A. with honors

Temple University Beasley School of Law
J.D. *magna cum laude*, Received Hon. S.R. Beckett Memorial Scholarship and Law Faculty Scholarship.

ADMISSIONS

Pennsylvania

New Jersey

USDC, Eastern District of Pennsylvania

USDC, District of New Jersey

USCA, Second Circuit

USCA, Third Circuit

Joshua E. D'Ancona, a partner of the Firm, concentrates his practice in the area of securities litigation, representing plaintiffs in securities fraud class actions, direct actions and complex commercial litigation. Prior to joining the Firm, Josh served as a law clerk to the Honorable Cynthia M. Rufe of the United States District Court for the Eastern District of Pennsylvania.

Examples of cases Josh has litigated include: *Baker v. SeaWorld* (S.D. Cal.) (settled, $65,000,000); *In re Allergan, Inc. Proxy Violation Securities Litigation* (C.D. Cal) (settled, $250,000,000); *In re Green Mountain Coffee Roasters, Inc. Securities Litigation* (D. Vt.) (settled, $36,000,000); *In re Bank of America Securities Litigation* (S.D.N.Y.) (settled, $2.4 billion); *Transatlantic Holdings v. AIG* (American Arbitration Association) (settled, $75,000,000); *In re Satyam Securities Litigation (*S.D.N.Y.) (settled, $150,000,000); *Forsta-A.P. Fonden v. St. Jude Medical, Inc.* (D. Minn.) (settled, $39,250,000); *In re Target Corp. Customer Data Security Breach Litigation* (D. Minn.) (on behalf of issuer banks) (settled).

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

- Becton, Dickinson and Company ("BD")

CASE CAPTION	*Industriens Pensionsforsikring A/S v. Becton, Dickinson and Company, et al.*
COURT	United States District Court for the District of New Jersey
CASE NUMBER	2:20-cv-02155-SRC-CLW
JUDGE	Honorable Stanley R. Chesler and Honorable Cathy L. Waldor
PLAINTIFF	Industriens Pensionsforsikring A/S ("Industriens")
DEFENDANTS	Becton, Dickinson and Company, Vincent A. Forlenza, Thomas E. Polen, and Christopher R. Reidy
CLASS PERIOD	November 5, 2019 through February 5, 2020, inclusive

This securities fraud class action arises out of Becton's alleged misrepresentations concerning its ability to market one of its key products—the Alaris infusion pump system ("Alaris")—in 2020.

For years, Alaris has been an important revenue driver for Becton, accounting for hundreds of millions of dollars in annual sales, and the cornerstone product of its main Becton Medical segment. Beginning in November 2019, Defendants stopped shipping Alaris, explaining to investors that the pause related to mere software "upgrades," would quickly resolve, and would simply push Alaris sales into the final three quarters of Becton's fiscal 2020, allowing for strong Company-wide 2020 earnings growth. In reality, however, the problems with Alaris were much more severe than Defendants let on, as the product had been beset with undisclosed defects, safety and compliance issues, and regulatory failures for months, and in some cases, years, prior to late 2019. The Alaris shipping hold was in fact precipitated by actions of the Food and Drug Administration, and highly likely to persist indefinitely, hurting Becton revenues. When Defendants revealed the full sweep of these issues in February 2020, and the fact that Alaris would be

pulled from the market —causing earnings guidance for 2020 to be slashed— Becton's stock price dropped over $33.00 in a single day of trading.

Industriens filed a third amended complaint in October 2021 on behalf of a putative class of investors alleging that Becton and then-executives Forlenza, Polen and Reidy, violated Section 10(b) of the Securities Exchange Act by making false and misleading statements about Alaris and Company guidance. As alleged, Defendants downplayed and outright misrepresented the severe safety and regulatory problems Becton knew troubled the Alaris product line, and assured investors that Becton was on track to meet its earnings guidance for 2020, anchored by Alaris revenues, through a series of false or misleading statements. Meanwhile, Forlenza and Polen enriched themselves by together selling over $58 million worth of their personally-held shares of Becton stock between November 2019 and February 2020. The February 2020 revelation of the truth about the Alaris issues led directly to the sharp decline in Becton's stock price noted above, causing significant losses and injury to investors.

On August 11, 2022, U.S. District Court Judge Stanley R. Chesler issued an opinion denying the defendants' motion to dismiss in part. The opinion held that Industriens adequately alleged Polen and Becton issued false and misleading statements regarding: (i) the impetus for Becton to halt shipping of Alaris, (ii) the nature and severity of the regulatory risks facing Alaris, (iii) the impact a freeze on Alaris sales would have on the feasibility of meeting the company-wide sales guidance for the 2020 fiscal year.
On December 22, 2022, Plaintiff moved for leave to amend the Complaint. On June 15, 2023, the Court granted Plaintiff's motion and Plaintiff filed an amended Complaint on June 22, 2023.
On January 17, 2023, Plaintiff moved for class certification. On August 3, 2023, Judge Chesler granted Plaintiff's motion, certifying a class of "All persons and entities who, from November 5, 2019 to February 5, 2020, inclusive . . . purchased or otherwise acquired Becton, Dickinson and Company ("BD") common stock or call options, or sold BD put options, and were damaged thereby . . ." and appointing Kessler Topaz Meltzer & Check as Class Counsel.
Read Third Amended Class Action Complaint Here
Read Fourth Amended Class Action Complaint Here

- Cabot Oil & Gas Corporation

CASE CAPTION	*Delaware County Employees Retirement System, et al. v. Cabot Oil & Gas Corporation, et al.*
COURT	United States District Court for the Southern District of Texas
CASE NUMBER	21-cv-02045

JUDGE	Honorable Lee H. Rosenthal
PLAINTIFFS	Delaware County Employees Retirement System; Iron Workers District Council (Philadelphia & Vicinity) Retirement and Pension Plan
DEFENDANTS	Cabot Oil & Gas Corporation ("Cabot" or the "Company"), Dan O. Dinges, and Scott C. Schroeder
CLASS PERIOD	February 22, 2016 through June 12, 2020, inclusive

This securities fraud class action case arises out of Defendants' representations and omissions regarding Cabot's legal compliance, polluting activities and risk. During the Class Period, Cabot touted its compliance with applicable environmental laws and being a good steward of the environment. Unbeknownst to investors, Cabot's environmental infractions were so extreme that after a lengthy grand jury investigation Pennsylvania charged Cabot with fifteen crimes, including nine felonies.

Plaintiffs filed a 102-page complaint in April 2021 on behalf of a putative class of investors alleging that Cabot and its CEO Dan O. Dinges, CFO Scott C. Schroeder, and Senior Vice President Phil L. Stalnaker, violated Sections 10(b) and 20(a) of the Securities Exchange Act by making false and misleading statements and concealing material facts about the Company's ongoing violations of environmental laws and polluting of Pennsylvania's waters. As alleged, following revelations about Cabot's legal compliance and subsequent criminal charges, Cabot's stock price fell precipitously, causing significant losses and damages to the Company's investors. Plaintiffs filed an amended complaint on February 11, 2022.

On August 10, 2022, the Court sustained Plaintiffs' claims based on allegations that Cabot made false and misleading statements about its efforts to resolve and remediate environmental violations noticed by the Pennsylvania Department of Environmental Protection on Cabot's wells, and affirmatively misled investors about the status of Cabot's compliance with

environmental laws and local regulatory authorities. The case is now in fact discovery. On September 27, 2023, the Court granted Plaintiffs' motion for class certification, certifying a Class of all persons or entities who purchased or otherwise acquired Cabot common stock between February 22, 2016 and June 12, 2020. In that same order, the Court appointed Plaintiffs as class representatives and Kessler Topaz as co-lead Class counsel.
Read Consolidated Complaint Here
Read Amended Complaint Here

- Celgene Corp, Inc.

CASE CAPTION	*In re Celgene Corporation Securities Litigation*
COURT	United States District Court for the District of New Jersey
CASE NUMBER	2:18-cv-04772-JMV-JBC
JUDGE	Honorable Judge Michael E. Farbiarz
PLAINTIFF	AMF Pensionsförsäkring AB ("AMF")
DEFENDANTS	Celgene Corporation ("Celgene"), Scott A. Smith, Terrie Curran, and Philippe Martin
CLASS PERIOD	April 27, 2017 through April 27, 2018, inclusive

This securities fraud case involves Celgene's misrepresentations and omissions about two billion dollar drugs, Otezla and Ozanimod, that Celgene touted as products that would make up for the anticipated revenue drop following the patent expiration of Celgene's most profitable drug, Revlimid. Celgene launched Otezla, a drug treating psoriasis and psoriatic arthritis, in 2014. Celgene primed the market that Otezla sales were poised to sky-rocket, representing that Otezla net product sales would reach $1.5 billion to $2 billion by 2017. Throughout 2015 and 2016, Defendants represented that Celgene was on-track to meet the 2017 sales projection. As early as mid-2016, however, Defendants received explicit internal warnings that the 2017 projection was unattainable, but continued to reaffirm the 2017 target to investors. By October 2017, however, Celgene announced that the Company had slashed the 2017 guidance by more than $250 million and lowered the 2020 Inflammatory & Immunology ("I&I") guidance by over $1 billion. Celgene's stock price plummeted on the news.
Ozanimod, a drug treating multiple sclerosis, is another product in Celgene's I&I pipeline, and was initially developed by a different company, Receptos. In July 2015, Celgene purchased Receptos for $7.2 billion and projected annual Ozanimod sales of up to $6 billion despite the fact that Ozanimod was not yet approved by the U.S. Food and Drug Administration ("FDA"). Celgene told investors that it would file a New Drug Application ("NDA") for Ozanimod with the FDA in 2017. Unbeknownst to investors, however, Celgene discovered a metabolite named CC112273 (the "Metabolite") through Phase I testing that Celgene started in October 2016, which triggered the need for extensive testing that was required before the FDA would approve the drug. Despite the need for this additional Metabolite testing that would extend beyond 2017, Defendants continued to represent that Celgene was on track to submit the NDA before the end of 2017 and concealed all

information about the Metabolite. In December 2017, without obtaining the required Metabolite study results, Celgene submitted the Ozanimod NDA to the FDA. Two months later, the FDA rejected the NDA by issuing a rare "refuse to file," indicating that the FDA "identifie[d] clear and obvious deficiencies" in the NDA. When the relevant truth was revealed concerning Ozanimod, Celgene's stock price fell precipitously, damaging investors.
On February 27, 2019, AMF filed a 207-page Second Amended Consolidated Class Action Complaint against Celgene and its executives under Section 10(b) of the Securities Exchange Act. On December 19, 2019, U.S. District Judge John Michael Vasquez issued a 49-page opinion sustaining AMF's claims as to (1) Celgene's and Curran's misstatements regarding Otezla being on track to meet Celgene's 2017 sales projections, and (2) Celgene's, Martin's, and Smith's misstatements about the state of Ozanimod's testing and prospects for regulatory approval.
On November 29, 2020, Judge Vasquez certified a class of "All persons and entities who purchased the common stock of Celgene Corp. between April 27, 2017 through and April 27, 2018, and were damaged thereby" and appointed Kessler Topaz Meltzer & Check as Class Counsel.
On July 9, 2021, Plaintiff moved to amend the Second Amended Complaint and file the Third Amended Complaint, which alleged a new statement regarding Otezla, and added new allegations based on evidence obtained in discovery regarding Ozanimod. On February 24, 2022, Magistrate Judge James B. Clark granted the motion to amend, which Defendants appealed. Fact and expert discovery is completed. On September 8, 2023, Judge Vazquez issued an order denying in large part Defendants' motion for summary judgment, sending the case to trial. Specifically, following oral argument, Judge Vazquez found that genuine disputes of material fact exist with regard to the Otezla statements, denying Defendants' motion in its entirety with respect to these statements. The Court also found genuine disputes of material fact with regard to Defendant Philippe Martin's October 28, 2017 statement related to the Ozanimod NDA, and denied Defendants' motion with respect claims based on this statement. On October 27, 2023, Defendants moved for summary judgment on one remaining issue - Defendant Celgene Corporation's scienter for corporate statements related to Ozanimod. Plaintiff opposed this motion on November 17, 2023. Briefing on this limited motion is set to conclude in December.

Read Second Amended Consolidated Class Action Complaint Here
Read Opinion Granting and Denying in Part Motion to Dismiss Here
Read Opinion Granting Class Certification Here
Click Here to Read the Class Notice

- CytoDyn, Inc.

CASE CAPTION	*Courter, et al. v. CytoDyn, Inc., et al.*
COURT	United States District Court for the Western District of Washington
CASE NUMBER	C21-5190 BHS
JUDGE	Honorable Benjamin H. Settle
PLAINTIFFS	Court-appointed Lead Plaintiff Brian Joe Courter and Courter and Sons LLC, and Additional Plaintiffs Diane M. Hooper, Thomas McGee and Candra E.

	Evans
DEFENDANTS	CytoDyn, Inc. Nader Z. Pourhassan, Michael Mulholland, and Scott A. Kelly
CLASS PERIOD	March 27, 2020 and May 17, 2021, inclusive

This securities fraud class action arises out of Defendants' public conduct and misrepresentations concerning CytoDyn's only prospective drug, leronlimab, during 2020-2021. Defendants' fraudulent misconduct came in several forms: materially false and misleading statements concerning CytoDyn's application to the United States Food and Drug Administration ("FDA") for the use of leronlimab to treat HIV; material misstatements concerning purported data and information showing leronlimab's safety and efficacy as a treatment for COVID-19; and Defendants' scheme to directly and indirectly promote leronlimab's promise as a COVID-19 treatment and thus pump up CytoDyn's common stock price, after which Defendants "dumped," or rapidly sold, millions of dollars' worth of their personally-held shares at inflated prices.

Adverse facts known to Defendants, but concealed from investors throughout the Class Period, showed that CytoDyn's data regarding leronlimab was nowhere near sufficient to support an application for regulatory approval of the drug for HIV indications, nor to support claims that leronlimab was efficacious in treating any type of COVID-19 patient. Indeed, at the end of the Class Period and afterwards, Defendants received communications from the FDA and/or the U.S. Securities and Exchange Commission ("SEC") indicating that Defendants' public representations touting leronlimab and its potential FDA approval and COVID-19 application were not supported by data and accepted analyses. The truth regarding Defendants' misrepresentations came onto the market in a set of disclosures in 2020 and 2021 that led to sharp declines in CytoDyn's stock price, causing significant losses and damages to the Company's investors. On July 30, 2021, CytoDyn disclosed that it was being investigated by both the SEC and the United States Department of Justice.

Plaintiffs successfully moved to modify the automatic discovery stay under the Private Securities Litigation Reform Act of 1995, and received documents from Defendants starting in early 2022, before any motion to dismiss was adjudicated. On June 24, 2022, Plaintiffs filed a 228-page amended complaint, under seal, on behalf of a putative class of investors against CytoDyn and its executives, including CEO Nader Pourhassan, CFO Michael Mulholland, and CMO Scott A. Kelly. Plaintiffs claim Defendants violated Section 10(b) of the Securities Exchange Act by making false and misleading statements and concealing material facts about CytoDyn's data and regulatory actions and prospects concerning the investigational drug leronlimab, and engaging in a fraudulent promotional scheme regarding the same. Plaintiffs also claim Defendants Pourhassan, Mulholland and Kelly are liable as control persons of CytoDyn under Section 20(a) of the Exchange Act, and that they violated Section 20A of the Exchange Act by selling personally held shares of CytoDyn common stock while aware of material nonpublic information concerning leronlimab. In August, Defendants moved to dismiss the amended complaint. The parties are currently engaged in briefing on that motion.

Read Amended Class Action Complaint Here
Read Second Amended Class Action Complaint Here
View the Press Releases Chart

- Natera, Inc.

CASE CAPTION	*John Harvey Schneider, et al. v. Natera, Inc., et al.*
COURT	United States District Court for the Western District of Texas
CASE NUMBER	1:22-cv-00398-LY
JUDGE	Honorable Lee Yeakel
PLAINTIFFS	British Airways Pension Trustees Limited ("BAPTL") and Key West Police & Fire Pension Fund ("Key West P&F")
DEFENDANTS	Natera, Inc., Steve Chapman, Michael Brophy, Matthew Rabinowitz, Paul R. Billings, Roy Baynes, Monica Bertagnolli, Roelof F. Botha, Rowan Chapman, Todd Cozzens, James I. Healy, Gail Marcus, Herm Rosenman, Jonathan Sheena, Morgan Stanley & Co. LLC, Goldman Sachs & Co. LLC, Cowen and Company, LLC, SVB Leerink LLC, Robert W. Baird & Co. Inc., BTIG, LLC, and Craig-Hallum Capital Group LLC
CLASS PERIOD	February 26, 2020 to March 14, 2022, inclusive

This securities fraud class action arises out of Natera's representations and omissions about the purported "superiority" of its kidney transplant rejection test, Prospera, compared to a competitor's product, AlloSure, and the revenues and demand associated with the Company's flagship non-invasive prenatal screening test, Panorama. During the Class Period, Defendants touted Prospera's superiority over AlloSure based on what they represented as a head-to-head comparison of underlying study data. However, internal Natera emails revealed that Natera recognized that the comparisons were unsupported and misleading. Further, Defendants consistently highlighted the impressive revenue performance and seemingly organic demand for Panorama. However, the market was unaware that Natera employed several deceptive billing and sales practices that inflated these metrics. Meanwhile, Defendants, CEO Steve Chapman, CFO Matthew Brophy, and co-founder and Executive Chairman of the Board, Matthew Rabinowitz, sold more than $137 million worth of Natera common stock during the Class Period. Natera also cashed in, conducting two secondary public offerings, selling investors over $800 million of Natera common stock during the Class Period.
The truth regarding Prospera's false claims of superiority and the Company's deceptive billing and sales practices was disclosed to the public through disclosures on March 9, 2022, and March 14, 2022. Natera's stock price fell significantly in response to each corrective disclosure, causing massive losses for investors.

On October 7, 2022, Plaintiffs filed an 89-page amended complaint on behalf of a putative class of investors alleging that Natera, Chapman, Brophy, Rabinowitz, and former Chief Medical Officer and Senior Vice President of Medical Affairs, Paul R. Billings, violated Sections 10(b) and 20(a) of the Securities Exchange Act. Plaintiffs also allege that Defendants Chapman, Brophy, and Rabinowitz violated Section 20A of the Exchange Act by selling personally held shares of Natera common stock, while aware of material nonpublic information concerning Prospera and Panorama. In addition, Plaintiffs claim that Defendants Chapman, Brophy, Rabinowitz, several Natera directors, and the underwriters associated with Natera's July 2021 secondary public offering violated Sections 11, 12(a)(2), and 15 of the Securities Act.
On December 16, 2022, Defendants filed motions to the complaint, which Plaintiffs opposed on February 17, 2023. On September 11, 2023, the Court entered an Order granting in part and denying in part Defendants' motions to dismiss the complaint. In the Order, the Court sustained all claims arising under Sections 10(b), 20(a), and 20(A) of the Exchange Act based on the complaint's Panorama allegations. The Court also sustained Plaintiffs' Securities Act claims based on the Panorama fraud that arose from Defendants' disclosure violations under two SEC regulations (Item 105 and Item 303), both of which required the provision of certain material facts in the Company's offering materials. The case is now in fact discovery.
Read Amended Consolidated Class Action Complaint Here

- Verizon Communications, Inc.

CASE CAPTION	*General Retirement System of the City of Detroit v. Verizon Communications, Inc., et. al.*
COURT	United States District Court for the District of New Jersey
CASE NUMBER	3:23-cv-05218-RK-RLS
JUDGE	Honorable Robert Kirsch
PLAINTIFFS	Stichting Pensioenfonds Metaal en Techniek; Stichting PME Pensioenfonds; Stichting Mn Services Aandelenfonds Noord-Amerika; AkademikerPension; E. Öhman J:or Fonder AB; Storebrand Asset Management AS
DEFENDANTS	Verizon Communications,

	Inc.; Hans Vestberg; Matthew Ellis; Kyle Malady; James Gowan; Anthony Skiadas
CLASS PERIOD	October 30, 2018 to July 26, 2023, inclusive

This securities fraud class action arises out of representations and omissions made by Verizon Communications, Inc. ("Verizon" or "the Company") and its senior executives concerning material risks facing the Company due to its ownership of toxic lead-sheathed cables.

Verizon is one of the largest telecommunications providers in the world. For decades, largely outside the public view, Verizon has owned a massive, decaying web of cables sheathed with lead, a toxic contaminant that is closely regulated as it presents significant health and environmental protection risks. As Lead Plaintiffs allege, Verizon has abandoned many of these lead-sheathed cables in place while transitioning its service lines to fiberoptics. Verizon has known of the risks associated with its decaying lead network for years, and throughout the Class Period, faced mounting evidence that its lead-sheathed cables were harming its employees and the public, and that the true extent of its sprawling lead-sheathed cable network and related potential financial liabilities would be revealed. Despite this reality, Defendants misled investors about the enormous risks associated with Verizon's lead-sheathed cabling network.

Investors learned the true extent of Verizon's lead-sheathed cable problem through a series of investigative reports published by the Wall Street Journal ("WSJ") in July 2023. The WSJ revealed to investors, among other things: (i) that the Company owned likely thousands of miles of abandoned lead-sheathed cables spanning the Northeast United States; (ii) that environmental testing revealed that lead was leaching into the environment at these sites; (iii) that state and federal regulators and the Department of Justice have initiated investigations; and (iv) that former lineworkers who were exposed to lead cables were now suffering from lead toxicity. In response to the WSJ's reporting, Verizon's stock fell dramatically, wiping out billions in market capitalization.

On January 22, 2024, Lead Plaintiffs filed the operative 169-page complaint on behalf of a putative class of investors alleging that Defendants violated Sections 10(b) and 20(a) of the Securities Exchange Act of 1934. Defendants must respond to the complaint by March 17, 2024.

Settled

- Pfizer, Inc.

  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.

- Allergan Inc.
  Allergan stockholders alleged that in February 2014, Valeant tipped Pershing Square founder Bill Ackman about its plan to launch a hostile bid for Allergan. Armed with this nonpublic information, Pershing then bought 29 million shares of stock from unsuspecting investors, who were unaware of the takeover bid that Valeant was preparing in concert with the hedge fund. When Valeant publicized its bid in April 2014, Allergan stock shot up by $20 per share, earning Pershing $1 billion in profits in a single day.
  Valeant's bid spawned a bidding war for Allergan. The company was eventually sold to Actavis PLC for approximately $66 billion.
  Stockholders filed suit in 2014 in federal court in the Central District of California, where Judge David O. Carter presided over the case. Judge Carter appointed the Iowa Public Employees Retirement System ("Iowa") and the State Teachers Retirement System of Ohio ("Ohio") as lead plaintiffs, and appointed Kessler Topaz Meltzer & Check, LLP and Bernstein Litowitz Berger & Grossmann, LLP as lead counsel.
  The court denied motions to dismiss the litigation in 2015 and 2016, and in 2017 certified a class of Allergan investors who sold common stock during the period when Pershing was buying.
  Earlier in December, the Court held a four-day hearing on dueling motions for summary judgment, with investors arguing that the Court should enter a liability judgment against Defendants, and Defendants arguing that the Court should throw out the case. A ruling was expected on those motions within coming days.
  The settlement reached resolves both the certified stockholder class action, which was set for trial on February 26, 2018, and the action brought on behalf of investors who traded in Allergan derivative instruments. Defendants are paying $250 million to resolve the certified common stock class action, and an additional $40 million to resolve the derivative case.
  Lee Rudy, a partner at Kessler Topaz and co-lead counsel for the common stock class, commented: "This settlement not only forces Valeant and Pershing to pay back hundreds of millions of dollars, it strikes a blow for the little guy who often believes, with good reason, that the stock market is rigged by more sophisticated players. Although we were fully prepared to present our case to a jury at trial, a pre-trial settlement guarantees significant relief to our class of investors who played by the rules."

- Seaworld Entertainment Inc.
  After over five years of hard-fought litigation, on February 19, 2020, Judge Michael M. Anello of the U.S. District Court for the Southern District of California granted preliminary approval of a class action settlement brought on behalf of SeaWorld Entertainment, Inc. shareholders. Since December 2014, Kessler Topaz has served as co-lead counsel in the litigation.
  The case alleges that SeaWorld and its former executives issued materially false and misleading statements during the Class Period about the impact on SeaWorld's business of *Blackfish*, a highly publicized documentary film released in 2013, in violation of Section 10(b) of the Exchange Act of 1934. Defendants repeatedly told the market that the film and its related negative publicity were not affecting SeaWorld's attendance or business at all. When the underlying truth of *Blackfish's* impact on the business finally came to light in August 2014, SeaWorld's stock price lost approximately 33% of its value in one

day, causing substantial losses to class members.
In April 2019, after the close of fact and expert discovery, Defendants moved for summary judgment on all claims—their last and best opportunity to avoid a jury trial on the Class's claims through a dispositive motion. After highly contested briefing and oral argument, in November 2019 the Court held in a 98-page opinion that Plaintiffs had successfully shown that the claims should go to a jury.
With summary judgment denied and the parties preparing for a February 2020 trial, the parties reached a $65 million cash settlement for SeaWorld's investors.

News

- September 13, 2023 - New Jersey Federal Court Hands Kessler Topaz Significant Summary Judgment Win, Sends Celgene Investors' Claims to Trial
- March 31, 2020 - On the Eve of Trial, Investors Reach $65 Million Settlement in Securities Fraud Class Action Against SeaWorld Entertainment and the Blackstone Group
- May 8, 2017 - Kessler Topaz Again Named Class Action Litigation Department of the Year by The Legal Intelligencer

Awards/Rankings

- Pennsylvania "Super Lawyers" Rising Star in the area of Securities Litigation in 2013, 2014 and 2015

Community Involvement

Josh serves with A Better Chance in Delaware County, PA. He also serves on the board of his local youth baseball and softball league.