

THE PLAINTIFFS' HOT LIST

The Hot List was based on our survey of the litigation scene over the past 12 months. We asked our readers to nominate plaintiffs' firms with at least one significant win within the period, plus an impressive record of victories over the preceding five years. That meant prevailing in a bench or jury trial worth lots of money or testing a legal theory with the potential to shape future litigation. We looked for firms that devoted at least 50% of their resources to plaintiffs' work.

Bernstein Liebhard & Lifshitz, LLP *Selected for the Hot List 5 Years in a Row*

2007

1 of 13 firms selected

The plaintiffs' bar isn't dead yet

Long known for blazing trails in securities and shareholder class actions, New York-based Bernstein Liebhard & Lifshitz has been active lately in litigation over the value of companies being taken private. It has been appointed lead or co-lead plaintiffs' counsel in emerging securities class actions against Fannie Mae, Beazer Homes and others. Partner Stanley D. Bernstein was recently appointed by the Court as chair of the plaintiffs' executive committee in *In re Initial Public Offering Securities Litigation*. The 51-attorney firm has offices in New York and Pennsylvania.

2006

1 of 11 firms selected

A different sort of trial for plaintiffs

In its 13-year history, the 42-lawyer New York firm Bernstein Liebhard & Lifshitz has built a reputation for tenacity on behalf of clients in consumer and securities fraud and corporate governance matters.

2005

1 of 12 firms selected

These are the firms to watch

Long recognized for its representation of private money managers and investors in securities class actions, Bernstein Liebhard & Lifshitz has been a pioneer in representing such institutional investors as public and union pension funds. The 32-lawyer New York firm is lead counsel representing two Pennsylvania public pension funds suing Royal Dutch/Shell for overstating its petroleum reserves by 5.8 billion barrels—equal to one-third of its proven reserves. The disclosure caused a precipitous drop in the corporation's value. The firm wins notice this year for its role in some historic settlements.

2004

1 of 20 firms selected

Results come before reputation

Devoted exclusively to plaintiff class action litigation, the 29-lawyer Bernstein Liebhard & Lifshitz has recovered hundreds of millions of dollars for its clients in awards and settlements since its establishment in 1993. While the firm's primary focus is securities and shareholder class actions, it is also active in consumer protection and antitrust litigation. It was recently appointed as sole lead counsel in *Royal Dutch/Shell Transport Securities Litigation*, representing the Pennsylvania State Employees' Retirement System and the Pennsylvania Public School Employees' Retirement System.

2003

1 of 25 firms selected

Twenty-five go-to teams

Founded in 1993, New York's Bernstein Liebhard & Lifshitz does "99% securities," founder Stanley D. Bernstein said. It has 25 lawyers, two formerly with the Securities and Exchange Commission.

2007

■ *In re Cigna Corp. Securities Litigation*, Master File No. 2:02 CV 8088 (E.D. Pa.). Co-lead counsel Mel E. Lifshitz, Francis P. Karam, Timothy J. MacFall, Stephanie Beige, Brian S. Cohen and Michael S. Bigin. Karam melded documentary evidence with video from the deposition of Cigna's chief executive to devastating effect in this class action over whether the insurer was candid about a botched computer system upgrade.

■ *In re Cablevision Sys. Corp. Shareholders Litigation*, No. 05-009752 (Nassau Co, N.Y., Sup. Ct.). Co-lead counsel U. Seth Ottensoser and Gregory M. Egleston. Company founder and controlling shareholder Dolan Family Group offered \$21 per share to take the company private, but the plaintiffs considered that inadequate. The firm blocked the deal and was instrumental in negotiating and structuring a deal whereby the Dolans withdrew their offer and paid a dividend worth \$2.5 billion.

■ *In re Lumenis Securities Litigation*, Master File No. 2:02-CV-1989 (S.D.N.Y.). Co-lead counsel Mel E. Lifshitz, Jeffrey M. Haber and Gregory M. Egleston. The case alleged that the company resorted to fraudulent accounting practices to pad its earnings statements. With a motion to dismiss pending, the company agreed to pay \$20.1 million to settle the action. The underlying matter also inspired a U.S. Securities and Exchange Commission investigation.

2006

■ *In re Initial Public Offering Securities Litig., No. 21 MC 92* (S.D.N.Y.). Stanley D. Bernstein, vice chairman of the plaintiffs' executive committee, helped negotiate a \$425 million settlement with JP Morgan—this on top of the \$1 billion in settlements already reached over the alleged manipulation of companies' values between 1998 and 2000.

■ *Westchester Day School v. Village of Mamaroneck, No. 02 CIV 6291* (WCC) (S.D.N.Y. 2006). Lead counsel Stanley D. Bernstein. Local zoning officials first signaled yes but then said no after the neighbors complained about an Orthodox Jewish school's expansion plans in October 2001. A federal judge, invoking the Religious Land Use and Institutionalized Persons Act, sided with the school following a seven-day trial.

■ *In re Royal Dutch/Shell Transport Securities Litigation, No. 04-374* (D.N.J.). Lead counsel Stanley D. Bernstein, Jeffrey M. Haber and William A.K. Titelman. In protracted litigation over Shell's 5.8 billion-barrel overstatement of its oil and gas reserves, Bernstein won a key interpretation of the Supreme Court's *Dura Pharmaceuticals v. Broudo* ruling that will allow investors to press claims even if they continue to hold their stock.

2005

■ *In re Initial Public Offering Securities Litigation*, No. 21 MC 92 (S.D.N.Y.). Co-lead counsel Stanley D. Bernstein is vice chairman of the plaintiffs' executive committee. This case represents 300 coordinated actions alleging the market value of companies brought public between 1998 and 2000 was manipulated by corporate officers and directors and their investment bank underwriters. On Feb. 15, U.S. District Judge Shira A. Scheindlin gave preliminary approval to a settlement worth at least \$1 billion. Bernstein Liebhard takes credit for suggesting the agreement require the issuers to cooperate with the plaintiffs in the continuing litigation against the investment banks.

■ *In re Deutsche Telekom A.G. Securities Litigation*, No. 00-CV-9475 (NRB) (S.D.N.Y.). Co-lead counsel Stanley D. Bernstein and Robert J. Berg. U.S. District Judge Naomi Reice Buchwald approved a \$120 million cash settlement on June 9 in this action arising from one of history's largest global securities offerings. The German telecommunications giant Deutsche Telekom A.G. was accused of failing to disclose that it was in advanced acquisition talks with VoiceStream Wireless Corp. at the time of its offering, and of overstating its real estate assets by at least \$1.8 billion.

■ *In re Royal Dutch/Shell Transport Securities Litigation*, No. 04-374 (D.N.J.). Lead counsel Stanley D. Bernstein, Jeffrey M. Haber, Mark T. Millkey. A key ruling by U.S. Chief District Judge John W. Bissell on Aug. 9 extended the court's jurisdiction over claims of shareholders who purchased their shares outside the United States. Since Royal Dutch/Shell estimates that 92% of its securities trade is overseas, the decision makes this potentially the largest securities case brought on behalf of foreign investors to date. It also provides an avenue for relief for investors outside the United States with no claim in their own jurisdictions, the firm notes.

2004

■ *Footstar Inc. Securities Litigation* (S.D.N.Y. 2003), Lead counsel Frank Karam. A securities class action alleging massive accounting fraud by a footwear retail chain, the firm negotiated a partial settlement of \$14.3 million. Litigation against other defendants is ongoing.

■ *SeeBeyond Technology Corp. Securities Litigation* (C.D. Calif. 2004), Lead attorney Frank Karam. The defendants were accused of accounting fraud. The plaintiffs brokered a settlement for \$13.1 million.

■ *Cyberguard Corp. Securities Litigation* (S.D. Fla. 2004), co-lead counsel Mel Lifshitz and Jeffrey Haber. A firewall software developer was accused of accounting fraud. The court approved a \$10 million settlement.

2003

■ *In re Initial Public Offering Securities Litigation* (S.D.N.Y. 2003), co-lead counsel—Stanley Bernstein. Teaming with New York's Milberg Weiss Bershad Hynes & Lerach, in June 2003 the firms brokered a \$1 billion settlement on behalf of investors in more than 300 publicly traded technology companies accused of inflating their stock value during the 1990s bull market.

■ *Buxbaum v. Deutsche Bank* (S.D.N.Y. 2002), co-lead counsel—Stanley Bernstein and Robert Berg. The plaintiffs hammered out a \$58 million settlement of a securities class action against Deutsche Bank in June 2002. The bank was accused of issuing misleading statements about a possible merger.

■ *Tuchman v. Volvo Cars of North America Inc.* (Bergen Co., N.J., Super. Ct. 1999), lead attorney—Stanley Bernstein. In 1999, plaintiffs negotiated a settlement valued at \$30 million in a class action filed on behalf of more than 35,000 Volvo owners who bought cars with defective tires.



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