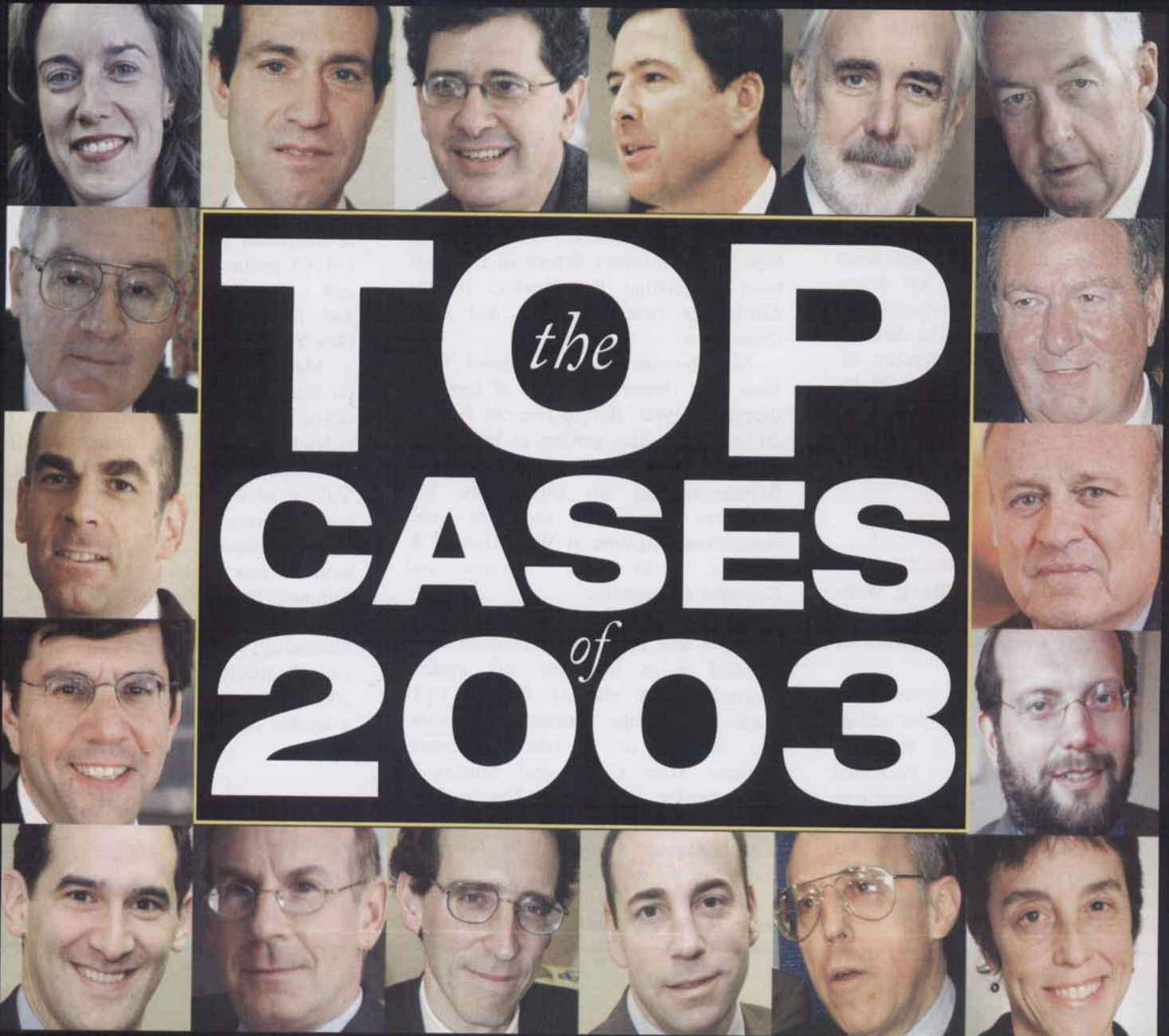


# New York Law Journal

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CLE Calendar



# TOP *the* CASES *of* 2003

A review of the major legal battles and dramas playing out in New York courts.

**PLUS:** • Rebounding From a Big Courtroom Loss  
• Debating the Wisdom of the Feeney Amendment

## IPO Litigation

After the dot-com bubble burst in 2001, more than 800 securities fraud suits were filed by investors against companies that allegedly made misrepresentations in their initial public stock offerings to artificially inflate prices, and the 55 investment banks that handled the IPOs. Among the alleged improper practices was "laddering," in which investment banks purportedly sold shares in hot technology companies at the offering price to clients who agreed to buy additional shares at a specified, higher price after the IPO, thus driving up prices.

The cases were consolidated and assigned to U.S. District Judge Shira Scheindlin in the Southern District.

In June a \$1 billion partial settlement was announced on behalf of 309 defendants, mostly technology companies. A month later, Judge Scheindlin directed the plaintiff investors and defendant investment banks to choose 10 to 20 focus cases by the end of the year to be briefed and argued as a precursor to a possible settlement of the remainder of the cases.

## THE LAWYERS

The plaintiffs' liaison counsel are led by Melvyn I. Weiss of Milberg Weiss Bershad Hynes & Lerach and Stanley D. Bernstein of Bernstein Liebhard & Lifshitz.

Mr. Weiss, 68, has been involved in some of the major securities class actions in the last decade, including Rite Aid Corp. Securities Litigation, and Prudential Life Insurance Policyholder Litigations. Mr. Weiss, whose firm has a particular expertise in federal court litigations, has been a negotiator and lead counsel for claimants in the Swiss Bank litigation involving Holocaust confiscations.



Stanley Bernstein

Lately Mr. Weiss, a 1959 graduate of New York University School of Law, has been negotiating the breakup of his 220-lawyer firm into East and West Coast firms.

Mr. Bernstein also graduated from New York University School of Law, although in 1980. His 10-year-old firm of 20 lawyers is also serving as lead counsel in *In re Xerox Securities Litigation*. Before starting his own firm, Mr. Bernstein practiced securities and commercial litigation at Weil, Gotshal & Manges, Gelberg & Abrams and Kreindler & Kreindler.

Mr. Bernstein also successfully defended a \$58 million settlement in 2003 reached in an investors' suit against Deutsche Bank alleging that its CEO made false public statements disavowing interest in a takeover target, Bankers Trust Corp., and causing a steep decline in Bankers Trust's share price. Southern District Judge John Koeltl denied a motion to intervene and vacate the settlement.

The liaison counsel for the investment banks is **Gandolfo V. DiBlasi** of

**Sullivan and Cromwell**. Mr. DiBlasi, 50, graduated from Yale Law School in 1978. He has spent his entire legal career at Sullivan, where his practice focuses on securities, banking and commodities matters. Mr. DiBlasi also was on the opposite side of the table from Mr. Weiss in March, when Oxford Health Plans Inc., one of the New York area's biggest health insurers and Mr. DiBlasi's client, agreed to pay \$225 million to settle a 1997 securities fraud suit brought by Milberg Weiss and others on behalf of investors. Oxford's stock fell 63 percent in 1997 following an announcement that the company would have a third quarter loss because of billing delays and errors.

**Jack C. Auspitz** is serving as liaison counsel for the issuers. Mr. Auspitz, 61, of **Morrison & Foerster** in New York, is a 1968 graduate of Harvard Law School and a former chair of the commercial and federal litigation section of the New York State Bar Association.

Messrs. Auspitz and Bernstein were on the same team last year in winning a ruling on behalf of Westchester Day School. Southern District Judge William C. Conner in White Plains ruled that the Village of Mamoroneck's zoning board had improperly denied the Jewish school's request for a permit to construct a new building on its 27.5 acre campus. Judge Conner's decision, the first in the circuit affirming the constitutionality of the Religious Land Use and Institutionalized Persons Act of 2000, said the denial of the permit was a burden on the school's exercise of religion.

-By Cerisse Anderson

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