



Barry G Sher

Partner, Litigation Department

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Barry Sher is the Global Chair of Paul Hastings' Litigation Department. He is recognized by *Chambers USA: America's Leading Lawyers for Business* for both Securities Litigation and Commercial Litigation; *Euromoney's Benchmark: America's Leading Litigation Firms and Attorneys*; and *Lawdragon 500 Leading Lawyers in America*. He has earned the highest possible Martindale-Hubbell Peer Review Rating, was named by the *American Lawyer* as its Litigator of the Week, and is a recipient of the Burton Award for Legal Achievement, awarded each year for excellence in legal writing. Mr. Sher is admitted to the bar in New York. He is admitted to practice before the United States Courts of Appeals for the Second, Third, and Sixth Circuits, and the United States District Courts for the Southern and Eastern Districts of New York and the Western District of Michigan. He graduated from the University of Chicago Law School, with honors, where he was a member of the *Law Review*, and from the University of Pennsylvania's Wharton School undergraduate program, with honors.

Recent Representations

- Underwriters for U.S. Steel, NRG Energy, SeaWorld Entertainment— in securities cases brought in various state and federal courts, Mr. Sher leads the defense of consortiums of investment banks that acted as underwriters for initial and secondary stock offerings. These consortiums include Goldman Sachs, J.P. Morgan, Morgan Stanley, Deutsche Bank, Bank of America, Barclays, Citigroup, RBC, and others.
- Barclays— Mr. Sher and his team represent Barclays and its affiliates in a Sherman Act case currently pending in the Southern District of New York relating to U.S. dollar-denominated supranational, sovereign, and agency bonds ("SSA Bonds"). Barclays is one of eleven major bank groups named as defendants in this action.
- Cushman & Wakefield— Mr. Sher led the successful defense of multi-billion dollar class actions alleging RICO violations, fraud, breach of contract, and breach of fiduciary duty in connection with a series of secured loan

New York

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Practice Areas

Antitrust and Competition
Litigation
Securities Litigation

Admissions

New York Bar

Education

The University of Chicago
Law School, J.D. 1989
The Wharton School
University of Pennsylvania,
B.A. 1986

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transactions. He also argued subsequent appeals of these cases in the Ninth and Tenth Circuits, both of which affirmed.

- FIM Advisers– Mr. Sher and his team obtained dismissal of a purported class action brought in the Southern District of New York on behalf of investors in two funds managed by Kingate Management Ltd. The Kingate Funds were feeder funds to Bernard L. Madoff Investment Services. This team also successfully obtained dismissal of clawback claims brought by Irving Picard, trustee for the Madoff bankruptcy, against FIM and its principals.
- Korean Airlines – Mr. Sher led the defense of our client in the *In re Air Cargo Shipping Services Antitrust Litigation*, a multi-district litigation in the Eastern District of New York relating to alleged price-fixing in the global air cargo business.
- Large Korean Conglomerate – Mr. Sher led the defense of our client against assertions of civil and criminal misappropriation of trade secrets related to manufacturing technologies.
- UBS – Mr. Sher defended UBS in *HSN v. UBS*, in which the plaintiff claimed that UBS had committed fraud in connection with a synthetic CDO transaction. Mr. Sher argued the case in the New York Appellate Division, First Department, and in a widely cited opinion the court dismissed the claim and agreed that contractual provisions negotiated by sophisticated parties must be upheld and enforced. Mr. Sher's successful argument in this matter resulted in his being named Litigator of the Week by the American Lawyer. The plaintiffs in both of these cases have appealed to the Second Circuit.
- Invensys plc – Mr. Sher won summary judgment in favor of Invensys in a long-running litigation in the Southern District of New York. The dispute arose out of the sale of Invensys' packaging business to Owens-Illinois, Inc. for approximately \$3.6 billion. The Court granted Invensys' summary judgment motion, denied Owens-Illinois' motion for reconsideration, and dismissed the case in its entirety. On appeal to the Second Circuit, which Mr. Sher argued, the Court affirmed the dismissal and ended the case. Mr. Sher has represented Invensys in a number of other actions, including successfully handling an arbitration relating to tax disputes stemming from the sale of another business.
- Appaloosa Management – Mr. Sher has defended Appaloosa, a hedge fund manager, in a number of matters over the years. These include defeating claims of inequitable conduct and other allegations in adversary proceedings in the Delphi Automotive, Washington Mutual and General Motors bankruptcies.
- Brown & Brown, Inc. – Mr. Sher defended one of the country's top ten insurance brokers in *In re Insurance Brokerage Antitrust Litigation*, which consolidated numerous class actions alleging violations of the federal antitrust laws, RICO, and other federal and state statutes in connection with "contingent

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commissions" and other insurance broker compensation issues. Mr. Sher was appointed by the Court to the Defendants' Steering Committee and argued the motions to dismiss in the case, which resulted in dismissal of all claims against Brown & Brown.

- Martha Stewart Living Omnimedia, Inc. – Mr. Sher led the defense of MSO and a number of its directors and officers in the civil cases stemming from Ms. Stewart's sale of ImClone Systems stock. In the first of these cases, a shareholder derivative case pending in Delaware Chancery Court, the Court granted the defendants' motion to dismiss, which was filed and argued by Mr. Sher. The Delaware Supreme Court affirmed this dismissal in an appeal Mr. Sher argued on behalf of the company. Mr. Sher also secured the dismissal of insider trading and other claims against the individual defendants named in a securities class action.

Speaking Engagements and Publications

Mr. Sher has written, co-written and spoken on a number of topics, including the following:

- "Subprime Mortgage Litigation Trends: Standing and Causation Defenses," Client Alert (February 2018)
- "The Revival of a Four Year—Old Trade Secrets Prosecution May Shed Light on Whether the U.S. Government Can Effect Service on Foreign Corporations Without a U.S. Presence," Client Alert (January 2016)
- "Hedge Fund Report: Summary of Key Developments - Fall 2015," Client Alert (December 2015)
- "What Are the Top Five U.S. Litigation Trends for Korean Companies to Follow in 2016?" Client Alert (November 2015)
- "Hedge Fund Report - Summary of Key Developments - Spring 2015," Client Alert (June 2015)
- "Hedge Fund Report—Summary of Key Developments—Fall 2014," Client Alert (December 2014)
- "Hedge Fund Report - Summary of Key Developments - Spring 2014," Client Alert (May 2014)
- "Searching for an Efficient Market with Cross-Listed Securities: Denial of Class Certification in Deutsche Bank Illustrates Increased Scrutiny of the Fraud on the Market Doctrine," Client Alert (November 2013)
- "Hedge Fund Report: Summary of Key Developments - Fall 2015," Client Alert (October 2013)
- "Hedge Fund Report - Summary of Key Developments - Spring 2013," Client Alert (April 2013)
- "Searching for an Efficient Market With Cross-Listed Securities: Denial of Class

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- Certification in Deutsche Bank Illustrates Increased Scrutiny of the Fraud on the Market Doctrine," Client Alert (October 2013)
- "Hedge Fund Report - Summary of Key Developments - Fall 2012," Client Alert (December 2012)
 - "Delaware Court of Chancery Reaffirms Default Fiduciary Duties in the Limited Liability Company Context Absent Contractual Modifications," Client Alert (February 2012)
 - "Second Circuit Provides Guidance on the Nature of Disclosures That Will Avoid Liability for Market Manipulation," Client Alert (December 2011)
 - "China Matters: China Reverse Mergers Under Increasing Scrutiny from U.S. Regulators and Plaintiffs Lawyers," Client Alert (May 2011)
 - "The U.S. Government's Recent Efforts to Ban Pharmaceutical Executives from the Industry Without Due Process," Client Alert (April 2011)
 - "Hedge Fund Report Summary of Key Developments - Spring 2011," Client Alert (April 2011)
 - "Supreme Court Rejects Bright Line Test of "Statistical Significance" for Materiality in Securities Claims," Client Alert (March 2011)
 - "SEC Adopts First of ABS Disclosure Regulations," Client Alert (January 2011)
 - "Comments on the Whistleblower Program of the Dodd-Frank Act," Client Alert (December 2010)
 - "Hedge Fund Report Summary of Key Developments Fall 2010," Client Alert (October 2010)
 - "District Court Holds That Rule 10b-5 Insider Trading Provisions Apply to Credit Default Swap (CDS) Contracts," Client Alert (July 2010)
 - "The Supreme Court Limits the Scope of the Federal Criminal Honest Services Fraud Statute to Conduct Involving Bribes or Kickbacks," Client Alert (June 2010)
 - "Supreme Court Affirms Dismissal of F-Cubed Class Action and Holds That There is No Extraterritorial Application of Section 10(b)," Client Alert (June 2010)
 - "Second Circuit Takes Position on 'Confidential Witnesses' in Securities Class Actions, Approves Depositions for Purposes of Motion to Dismiss," Client Alert (May 2010)
 - "Second Circuit Affirms Bright Line Attribution Test for Secondary Actor Liability in Private Securities Fraud Actions," Client Alert (May 2010)
 - "SEC Scrutinizing Hedge Fund Side Pockets," Client Alert (May 2010)
 - "Second Circuit Endorses SEC's Expansive View of Insider Trading," Client Alert (July 2009)
 - "Ashcroft v. Iqbal: the Supreme Court Reinforces Twombly's Bite in Altering Federal Pleading Standards," Client Alert (June 2009)

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- "Federal Reserve Proposes New Regulations in Response to Subprime Issues," Client Alert (December 2007)
- "Bush Mortgage Relief Plan – Questionable Relief, Questionable Protection from Litigation," Client Alert (December 2007)
- "Mortgage Reform Bill Gains Momentum," New York Law Journal (December 2007)
- "International Developments in Insider Trading Enforcement," Andrews Securities Litigation and Regulation Reporter (August 2007)
- "Bell Atlantic Corp. v. Twombly – The Supreme Court Tightens Pleading Standards for Antitrust Conspiracy and Beyond," Client Alert (May 2007)
- "Delaware Court Denies Motions to Dismiss in Two Shareholder Derivative Actions Challenging Timing of Stock Option Grants," Client Alert (February 2007)
- "Waiting for 'Twombly': The Supreme Court Will (Hopefully) Offer Guidance on Pleading §1 Antitrust Conspiracy," New York Law Journal (December 2006)
- "Stock Option Issues Lead to SEC Investigation, Restatements and Litigation," Client Alert (June 2006)
- "Cold Comfort for Andersen, Caution for the Rest of Us," Client Alert (June 2005)
- "Backdating Stock Options – the Issue and the Exposure," BNA Securities Regulation & Law (February 2006)
- "Director Independence and the Demand Requirement," New York Law Journal (December 2005)

Education

- University of Chicago Law School, J.D., 1989 (with honors, member of the Law Review)
- Wharton School University of Pennsylvania, B.S., 1986 (with honors)

News

May 01, 2019

Paul Hastings Practices and Lawyers Score Top Rankings in Chambers USA 2019

May 11, 2018

Paul Hastings Practices and Lawyers Score Top Rankings in Chambers USA 2018

June 05, 2017

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Paul Hastings Practices and Lawyers Score Top Rankings in Chambers USA
2017

January 03, 2017

KCC Corporation Adopts Global Standard Compliance Program

October 21, 2016

Paul Hastings' Litigators Score High Rankings in 2017 Benchmark Litigation

July 06, 2016

Paul Hastings' IP Growth Continues with Leading Tech and Life Sciences
Partner Additions in Japan and U.S.

June 08, 2016

Paul Hastings Practices and Lawyers Score Top Rankings in Chambers USA
2016

May 20, 2015

Paul Hastings Practices and Lawyers Score Top Rankings in Chambers USA
2015

March 30, 2015

Nationally Recognized Technology Patent Trial Team Join Paul Hastings in Palo
Alto and Washington, D.C.

February 23, 2015

Paul Hastings Continues White Collar Expansion with Addition of High-Profile
Washington, D.C. Partner Group

May 27, 2014

Paul Hastings Practices and Lawyers Score Top Rankings in Chambers USA
2014

June 05, 2013

Paul Hastings Extensive Practice Strength Highlighted in The Legal 500 United
States 2013

May 27, 2013

Paul Hastings Employment Practice Honored with Chambers "Award for
Excellence" and Firms Leading Practices and Lawyers Ranked in Chambers
USA 2013

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December 24, 2012

Paul Hastings Assists Taejon Christian International School Recover Stolen Funds

June 07, 2012

Paul Hastings Excels in Chambers USA 2012 Guide

May 25, 2012

Paul Hastings Secures Victory on Behalf of Invensys plc

March 27, 2012

Paul Hastings Achieves Unanimous Victory for UBS, Dismissal of Fraud Claims in Synthetic CDO Securities Litigation

June 10, 2011

Paul Hastings Excels in Chambers USA 2011 Guide

April 01, 2011

Paul Hastings Secures Dismissal on Behalf of FIM Advisers in Securities Class Action Case Involving Madoff Feeder Funds

February 17, 2011

Paul Hastings Secures Dismissal with Prejudice of MRU Holdings Auction Rate Securities Case

July 12, 2010

Paul Hastings Secures Victory on Behalf of Invensys

June 14, 2010

Paul Hastings Garners Top Rankings in Chambers USA 2010 Guide

October 07, 2004

Paul Hastings Strengthens International Litigation Department With Addition of Barry Sher

Insights

May 30, 2019

Post-Cyan Update: Connecticut Trial Court Finds PSLRA Discovery Stay Applies to Securities Act Claims Filed in State Court

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January 27, 2016

The Revival of a Four Year—Old Trade Secrets Prosecution May Shed Light on Whether the U.S. Government Can Effect Service on Foreign Corporations Without a U.S. Presence

December 21, 2015

Hedge Fund Report: Summary of Key Developments - Fall 2015

November 23, 2015

What Are the Top Five U.S. Litigation Trends for Korean Companies to Follow in 2016?

June 01, 2015

Hedge Fund Report - Summary of Key Developments - Spring 2015

December 23, 2014

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May 16, 2014

Hedge Fund Report - Summary of Key Developments - Spring 2014

November 06, 2013

Searching for an Efficient Market with Cross-Listed Securities: Denial of Class Certification in Deutsche Bank Illustrates Increased Scrutiny of the Fraud on the Market Doctrine

October 09, 2013

Hedge Fund Report: Summary of Key Developments - Fall 2015

April 25, 2013

Hedge Fund Report - Summary of Key Developments - Spring 2013

December 05, 2012

Hedge Fund Report - Summary of Key Developments - Fall 2012

February 09, 2012

Delaware Court of Chancery Reaffirms Default Fiduciary Duties in the Limited Liability Company Context Absent Contractual Modifications

December 20, 2011

Second Circuit Provides Guidance on the Nature of Disclosures That Will Avoid

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Liability for Market Manipulation

May 04, 2011

China Matters: China Reverse Mergers Under Increasing Scrutiny from U.S.
Regulators and Plaintiffs Lawyers

April 29, 2011

The U.S. Government's Recent Efforts to Ban Pharmaceutical Executives from
the Industry Without Due Process

April 25, 2011

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January 31, 2011

SEC Adopts First of ABS Disclosure Regulations

December 20, 2010

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October 29, 2010

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District Court Holds That Rule 10b-5 Insider Trading Provisions Apply to Credit
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June 25, 2010

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Fraud Statute to Conduct Involving Bribes or Kickbacks

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is No Extraterritorial Application of Section 10(b)

May 10, 2010

Second Circuit Takes Position on Confidential Witnesses in Securities Class
Actions, Approves Depositions for Purposes of Motion to Dismiss

May 06, 2010

SEC Scrutinizing Hedge Fund Side Pockets

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July 30, 2009

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June 16, 2009

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Federal Pleading Standards

February 25, 2008

Subprime Mortgage Litigation Trends: Standing and Causation Defenses

December 21, 2007

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December 14, 2007

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May 24, 2007

Bell Atlantic Corp. v. Twombly – The Supreme Court Tightens Pleading
Standards for Antitrust Conspiracy and Beyond

February 14, 2007

Delaware Court Denies Motions to Dismiss in Two Shareholder Derivative
Actions Challenging Timing of Stock Option Grants

December 04, 2006

Waiting for 'Twombly': The Supreme Court Will (Hopefully) Offer Guidance on
Pleading §1 Antitrust Conspiracy. New York Law Journal. December 4, 2006

June 19, 2006

Stock Option Issues Lead to SEC Investigation, Restatements and Litigation

June 06, 2005

Cold Comfort for Andersen, Caution for the Rest of Us

Rankings & Awards

April 26, 2019

Recognized by Chambers USA 2019

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May 15, 2018

Recognized by Chambers USA 2018

June 05, 2017

Recognized by Chambers USA 2017

October 21, 2016

Benchmark Litigation 2017

June 08, 2016

Recognized by Chambers USA 2016

December 09, 2015

Benchmark Litigation 2016

March 29, 2012

The Am Law Litigation Daily, Litigator of the Week