

Barry M. Kaplan

RETIRED MEMBER

Litigation
Seattle



FOCUS AREAS

Commercial Litigation
Consumer Litigation
Corporate Governance
Litigation
Litigation
Securities Litigation

HIGHLIGHTS

Leading Litigator

Barry has been described as “the dean of securities litigation in Seattle.” He was previously the head of the firm’s Northwest Litigation Group.

Thought Leadership

Barry is a frequent writer and speaker on securities litigation and corporate law and governance; he is a professor at the University of Washington School of Law and has co-authored two books, one of which is the leading treatise on Washington corporate law, published by Prentice Hall.

Notable Representations

Barry has counseled major companies such as Alaska Airlines, Boeing, Costco, Fisher Communications, and Starbucks in shareholder class actions and/or derivative lawsuits.

Recognitions

Best Lawyers in America named Barry the 2012 Securities Litigator of the Year for Seattle—and again in 2016.

EXPERIENCE

Barry Kaplan was a partner in the Seattle office of Wilson Sonsini Goodrich & Rosati, where he was previously the head of the Wilson Sonsini Northwest Litigation Group. Barry has broad experience in securities and corporate governance litigation, class action defense, and SEC and internal corporate investigations. He was described in the 2017 edition of *Chambers USA: America’s Leading Lawyers for Business* as “the dean of securities litigation in Seattle.”

Best Lawyers in America named Barry the 2012 Securities Litigator of the Year for Seattle—the first time that this honor had been awarded to a Seattle securities litigator. He was again honored with this award in 2016.

Barry is a frequent writer and speaker on securities litigation and corporate law and governance topics, and he is an Affiliate Professor of Law at the University of Washington School of Law, where he has taught courses in securities regulation and shareholder litigation.

Barry has co-authored two books: *Directors’ and Officers’ Liability*, 3rd Ed. (with Greg Watts) published by the Practising Law Institute (PLI) and *Washington Corporate Law and Practice*, the leading treatise on Washington corporate law, originally published by Prentice Hall.

CREDENTIALS

Education

- J.D., University of Michigan Law School, 1976
Cum Laude
- B.A., Colgate University, 1973

Associations and Memberships

- Member, AIG Director and Officer Litigation Panel
- Member, Monitor Liability Securities Claims Panel
- Member, Chubb Preferred Securities Panel (formerly Ace)
- Member, Marsh Securities Claim Panel
- Member, North Carolina Biosciences Organization (NCBIO)
- Member, Washington State Bar Association

Honors

- Named the 2012 and 2016 Seattle Litigation – Securities "Lawyer of the Year" by *Best Lawyers*
- Selected for inclusion in *Best Lawyers in America* ever since its 2006 edition, including recognition in several editions in the areas of Commercial Litigation & Securities Law, M&A Litigation, Regulatory Enforcement Litigation, (including SEC Enforcement), and Securities Litigation
- Named in *Chambers USA: America's Leading Lawyers for Business*:
- "Barry Kaplan is an 'excellent' and 'very knowledgeable' securities and corporate governance litigator, maintain interviewees. According to one source: 'If you have a securities case in Washington, he's the person you go to.'"
- "Barry Kaplan of Wilson Sonsini Goodrich & Rosati is described as 'the dean of securities litigation in Seattle.' He specializes in securities and corporate governance litigation, class action defense and SEC investigations."
- "Barry Kaplan of Wilson Sonsini Goodrich & Rosati is one of the region's finest securities litigators. Clients praise him as 'a masterful attorney with incredibly good people skills and a phenomenal track record.'"
- "Adored by clients, Barry Kaplan of Wilson Sonsini Goodrich & Rosati has a laid-back style that gets results. 'We wholeheartedly recommend his extensive knowledge and fantastic experience,' say sources."
- "Barry Kaplan of Wilson Sonsini Goodrich & Rosati is singled out by one peer as 'the go-to securities litigator in the Northwest.' He is a top choice as counsel for blue-chip public companies on complex securities cases and related shareholder litigation."
- Selected to *Washington CEO Magazine's* list of Top Washington Lawyers
- Repeatedly named in *Washington Super Lawyers* and recognized multiple years among the Top 100 Lawyers in Washington
- AVVO Rated 10/10 "Superb"
- Listed in *Who's Who in America*, *Who's Who in American Law*, and *Who's Who in the World*
- AV Preeminent Peer Review Rating, Martindale-Hubbell

Admissions

- State Bar of New York
- State Bar of Washington
- U.S. District Court for the Eastern District of Washington
- U.S. District Court for the Western District of Washington
- U.S. Court of Appeals for the Third Circuit
- U.S. Court of Appeals for the Fourth Circuit
- U.S. Court of Appeals for the Ninth Circuit
- U.S. Tax Court
- U.S. Supreme Court

MATTERS

Select Cases

Public companies represented as lead counsel in one or more shareholder class actions and/or derivative lawsuits:

- Alaska Airlines
- Alcide Corporation
- Ambassadors Group, Inc.
- Atossa Genetics, Inc.
- Avenue A
- Blucora

- The Boeing Company
- Cell Therapeutics, Inc.
- Chelsea Therapeutics International Ltd.
- Coinstar, Inc.
- Costco Wholesale Corporation
- Dendreon Corporation
- Digital Systems International Inc.
- Egghead Software
- Fennec Pharmaceuticals Inc.
- Fisher Communications
- FLIR Systems, Inc.
- Globus Medical, Inc.
- Immunex Corporation
- Impinj, Inc.
- Inspire Pharmaceuticals, Inc.
- Intermec, Inc.
- Isilon Systems, Inc.
- IsoRay, Inc.
- Itron, Inc.
- Jones Soda Co.
- Mentor Graphics
- Micron Technology, Inc.
- Nighthawk Radiology
- Novan, Inc.
- OfficeMax
- Omega Environmental
- Ply Gem (Officers)
- PowerSecure International, Inc.
- Pozen, Inc.
- Primus Knowledge Solutions
- Safeco Corporation
- Seattle Genetics
- Silver Wheaton Corp.
- Starbucks Corporation
- Sterling Financial Corporation
- Washington Mutual, Inc. (former CEO)
- West Sound Bank
- Western Wireless
- Zumiez Inc.

Public companies represented as lead counsel in one or more consumer class actions:

- Jackson National Life Insurance Company
- Prudential Savings Bank
- US West
- US West NewVector

INSIGHTS

Select Publications

- Co-author, "Take Notice: The Anticipated Effects of the *Orexigen* Decision on PSLRA Litigation," Practising Law Institute, April 2019
- Co-author, "The Changing Dynamics of Merger Litigation—Early Impacts on Filings, Settlements, Trials, and Insurance," Marsh, Insights—Research & Briefings, September 2017
- Co-author, Directors' & Officers' Liability: Current Law, Recent Developments, Emerging Issues, Third Edition, Practising Law Institute, 2016
- Contributing author, "New Trends in Securities and Shareholder Class Actions," *Inside the Minds: Recent Trends in Class Action Lawsuits*, Aspatore Books, 2015
- Member of editorial board and contributing author, *Shareholder Litigation in Washington State*, WSBA Continuing Legal Education, 2014
- "Overview of Securities Class Actions," WSGR White Paper, 2007
- Co-author, "Recent Trends in Private Securities Litigation - Sarbanes-Oxley Act of 2002: The Counter-Reform Act," *Glasser LegalWorks*, 2003
- Contributing author, *The Public Company Handbook, A Practical Guide*, Bowne Publishing, 2002 and 2003

- Co-author, *Washington Corporate Law: Corporations and LLCs*, Lexis Publishing/Matthew Bender & Co., 2002
- "Securities Litigation Developments in the Ninth Circuit and Pacific Northwest: The Year 2000 in Review," Northwest Securities Institute, Washington State Bar Association, January 2001
- "Recent Developments in Lead Counsel and Class Certification," Practising Law Institute, 1999
- "Shareholder Class Actions – A Primer for Business Lawyers," Northwest Securities Institute, 1993
- Co-author with Stewart M. Landefeld and Stephen M. Graham, *Washington Corporation Law and Practice*, Prentice Hall, 1991
- Co-author with Stewart M. Landefeld, "Officer Has Dual Role in Buyout," *National Law Journal*, March 11, 1991

Select Speaking Engagements

- Panelist, "Changing D&O Exposures: State of Securities Litigation and Impact of Recent Supreme Court Decisions," Chubb D&O Panel Counsel Meeting, Lafayette Hill, Pennsylvania, June 2019
- Speaker, "PSLRA Motion to Dismiss," PLI's Securities Litigation 2019: From Investigation to Trial, New York, New York, April 2019
- Panelist, "From Nuisance to Menace: The Rising Tide of Securities Class Action Litigation," Chubb D&O Panel Counsel Meeting, Lafayette Hill, Pennsylvania, June 2018
- Panelist, "Convergence of Cyber Breach and D&O Liability," Chubb D&O Panel Counsel Meeting, Lafayette Hill, Pennsylvania, June 2018
- Speaker, "Evolving Risks for Directors & Officers Liability in 2018," Marsh USA, Seattle, Washington, March 2018
- Speaker, "Hot Legal Topics for Public Companies in 2018," Woodruff Sawyer & Company, Seattle, Washington, January 2018
- Panelist, "Responding to Shareholder Litigation," Chubb Preferred Securities Panel Counsel Meeting, Lafayette Hill, Pennsylvania, June 2017
- "M&A Litigation," 2016 Mergers and Acquisitions, The Seminar Group, Seattle, Washington, November 2016
- Panelist, "Supreme Court and Federal Circuit Courts Securities Update," 36th Annual Northwest Securities Institute, Seattle, Washington, April 2016
- Panelist, "U.S. Supreme Court Decisions re Securities Litigation and Effects," 35th Annual Northwest Securities Institute, Portland, Oregon, April 2015
- Panelist, "Emerging Risks: How Cyber Liability and Data Privacy Claims are Impacting the Boardroom and the future of D&O Litigation," 2014 ACE Professional Risk Preferred Securities Panel Counsel Meeting, Lafayette Hill, Pennsylvania, October 2014
- Panelist, D&O Roundtable: Claims Trends and Uncertainties, AIG 27th Annual Financial Lines Producer Conference, Stowe, Vermont, September 2014
- Panelist, "Halliburton and the D&O Market," AIG 2014 Panel Conference, Stowe, Vermont, May 2014
- Moderator, "Mergers & Acquisitions Litigation," 34th Annual Northwest Securities Institute, Seattle, Washington, May 2014
- "Spring Training for Investor Relations Executives: Avoiding Unforced Errors in Corporate Disclosure," National Investor Relations Institute (NIRI), Seattle Chapter, Seattle, Washington, April 2014
- "Update on Shareholder Litigation," 3rd Annual Business Law Symposium, Gonzaga University Law School, Spokane, Washington, November 2013
- "Directors & Officers Liability Coverage Current Trends," AIG University, Seattle and Portland, May 2013
- "Trends in D&O Litigation and Insurance," Washington Education Forum, Seattle, Washington, March 2013
- "Representing Biotech Companies in Securities Litigation," 2nd Annual Business Law Symposium, Gonzaga University, Spokane, Washington, October 2012
- "Unique Disclosure Risks Facing Biotech Companies," North Carolina Biosciences Organization (NCBIO), Raleigh, North Carolina, August 2012
- "The Unique Disclosure Risks Facing Biotechnology Companies," Northwest Association of Bioscience Financial Officers (NABFO), Seattle, Washington, May 2012
- "Liability Exposure for In-House Counsel, Understanding and Managing the Risk," Corporate Counsel Institute 2011, Seattle, Washington, November 2011
- Panelist, "The Dodd-Frank Wall Street Reform and Consumer Protection Act Symposium," Gonzaga University, Spokane, Washington, November 2011
- "Director Legal Briefing," Seattle Northwest Chapter NACD, Seattle, Washington, May 2011
- "Increased Governmental Investigations and Enforcement Activity: What You Need to Know About the Increased D&O Liability," Marsh 2011 Directors & Officers Liability Insurance Briefing, April 2011

- "Securities Litigation in the Aftermath of the Crisis: What Happened in 2010 and What Lies Ahead?" New York University Stern School of Business, February 2011
- "Liability Issues for Directors and Officers," University of Washington Business School, Seattle, Washington, February 2011
- "Key Securities Litigation Developments in 2010," Northwest Securities Institute, Portland, Oregon, February 2011
- "Director Legal Briefing," Seattle Northwest Chapter NACD, Seattle, Washington, May 2010
- Panelist, "Who's on First? – Inside a Disclosure Crisis," Northwest Securities Institute, Seattle, Washington, March 2010
- "Director Legal Briefing," Portland Northwest Chapter NACD, Portland, Oregon, May 2009
- "Director Legal Briefing," Seattle Northwest Chapter NACD, Seattle, Washington, May 2009
- "Soft' Market Communications: Risks, Rewards and Best Practices," Northwest Securities Institute, Portland, Oregon, February 2009
- "Ethics Tips for In-House Counsel and Business Lawyers: A Road Map for Steering Clear of Ethical Traps for the Busy Lawyer," Washington State Bar Association, Seattle, Washington, October 2008, and Spokane, Washington, November 2008
- "Climate Change Litigation: Risks and Responses," 2008 Algae Biomass Summit, Seattle, Washington, October 2008
- "2008 Director Legal Update," Seattle Northwest Chapter NACD, Seattle, Washington, May 2008
- "2007 Director Legal Briefing Update," Seattle Northwest Chapter NACD, Seattle, Washington, May 2007
- "The Pendulum Swings: Securities Class Action Suits, and Directors and Officers Liability Insurance," Segal Graduate School of Business, Simon Fraser University, and the Institute of Corporate Directors, Vancouver, British Columbia, Canada, February 2007
- "The Changing Landscape: Private Securities and Derivative Litigation in the Wake of Criminal and Regulatory Enforcement Actions," Northwest Securities Institute, Portland, Oregon, February 2007
- "The SEC's New Focus on Lawyers," WSBA Corporate Law Department Section, Seattle, Washington, November 2006
- "The Playing Field Begins to Level: Perspectives of a Defensive Player," General Counsel Forum, Seattle, Washington, May 2006
- "Director Legal Briefing: What Directors Need to Know in 2007," Seattle Northwest Chapter NACD, Seattle, Washington, May 2006
- "After the Storm: Securities and Corporate Litigation in the Post-Sarbanes World," Northwest Securities Institute, Seattle, Washington, February 2006
- "Internal Investigations and Ethics Issues in a Post-Sarbanes-Oxley World," Bowne/PLI's New Developments in Securities Law, Seattle, Washington, December 2005
- Co-presenter with Larry Sonsini, "Board Service: Is It Worth the Risk?" Seattle, Washington, October 2005
- "A Tour of Recent Securities and Corporate Governance Litigation Developments: Selected Points of Interest to Corporate Counsel," Corporate Counsel Institute, Seattle, Washington, October 2005
- "Derivative Litigation Developments," Glasser LegalWorks, San Francisco, California, July 2005
- "Regulatory, Statutory and Case Law Developments of Significance to Directors," National Association of Corporate Directors (NACD), Seattle, Washington, May 2005
- "A Perfect Storm: Practicing Law at the Convergence of Private Securities Litigation, Derivative Litigation, SEC Enforcement, and Criminal Proceedings," Northwest Securities Institute, Portland, Oregon, February 2005
- "Federal Practice in an Era of Corporate Scandals," Federal Bar Association of the Western District of Washington, Seattle, Washington, December 2004
- "The New Era of Corporate Governance Litigation: Claims against Directors and Internal Investigations," American Corporate Counsel Association (ACCA), Phoenix, Arizona, September 2004
- "Internal Investigations: Corporate Investigations for Effective Governance," The Seminar Group, Seattle, Washington, July 2004
- "What Directors Need to Know about Emerging Best Practices – Minutes and Records," National Association of Corporate Directors (NACD), Seattle, Washington, May 2004
- "Handling a Disclosure Crisis," Northwest Securities Institute, Seattle, Washington, February 2004
- "Sarbanes-Oxley Section 307 Reporting Up," ACCA General Counsel Forum, Seattle, Washington, February 2004
- "Change Is Opportunity: Ethical, Professional, and Practical Challenges Facing In-House Counsel and Corporate Lawyers," Corporate Counsel Institute, Seattle, Washington, October 2003
- "Selected Litigation Issues Relevant to Venture Capital Financing," Venture Financing Seminar, Seattle, Washington, June 2003
- "The Impact of Sarbanes-Oxley and Recent SEC Initiatives on Private Securities Litigation," Fifth Annual SEC Disclosure Accounting and Enforcement Conference, Glasser LegalWorks, San Francisco, California, May 2003

- "D&O Insurance and Shareholder Litigation," CPCU Society, Seattle, Washington, March 2003
- "Sarbanes-Oxley," Western District of Washington Annual District Meeting for Judges and Lawyers, Seattle, Washington, March 2003
- "Sarbanes-Oxley," University of Washington Business School, Seattle, Washington, February 2003
- "Civil Liabilities under Sarbanes-Oxley," ACCA, Seattle, Washington, December 2002
- "Criminal and Civil Liabilities under Sarbanes-Oxley," KPMG/Perkins Coie Briefings, Seattle, Washington, and Portland, Oregon, 2002
- "The Changing Relationship between Attorney and Corporate Client under Section 307 of Sarbanes-Oxley," Corporate Governance and Responsibility Seminar, The Seminar Group, Seattle, Washington, 2002
- "Corporate Governance Measures to Prevent Securities Fraud," PLI, San Francisco, California, 2000
- "Recent Developments in Lead Counsel and Class Certification," PLI, San Francisco, California, 1999
- "Developments in Securities Class Action Litigation: A U.S. Perspective," Annual Fasken Martineau DuMoulin Seminar for Directors and Officers, Vancouver, British Columbia, 1997
- "Judicial Developments in Securities Law," Northwest Securities Institute, Portland, Oregon, 1995
- "Insider Trading," American Society of Corporate Secretaries, Seattle, Washington, 1994
- "Insider Trading Issues," Financial Executives Institute, Seattle, Washington, 1994
- "Shareholder Class Action," Northwest Securities Institute, Vancouver, British Columbia, 1993
- "Securities Arbitration – A Defendant's Perspective," Northwest Securities Institute, Seattle, Washington, 1988