Prominent Cases & Precedent-Setting Decisions

When selected as sole lead counsel, Robbins Geller has the skill, experience and drive to litigate even the most complex and demanding cases, as reflected in such cases as Enron, Household International and UnitedHealth.

The Firm’s securities team includes more than 20 former federal and state prosecutors, trial attorneys, and a top-tier appellate group whose collective work has established numerous legal precedents beneficial to investors globally.

Prominent Cases

- **In re Enron Corp. Sec. Litig.**, No. H-01-3624 (S.D. Tex.). Robbins Geller attorneys and lead plaintiff The Regents of the University of California aggressively pursued numerous defendants, including many of Wall Street’s biggest banks, and successfully obtained settlements in excess of $7.2 billion for the benefit of investors. This is the largest securities class action recovery in history.

- **Jaffe v. Household Int'l, Inc.**, No. 02-C-05893 (N.D. Ill.). As sole lead counsel, Robbins Geller obtained a record-breaking settlement of $1.575 billion after 14 years of litigation, including a six-week jury trial in 2009 that resulted in a securities fraud verdict in favor of the class. In 2015, the Seventh Circuit Court of Appeals upheld the jury’s verdict that defendants made false or misleading statements of material fact about the company’s business practices and financial results, but remanded the case for a new trial on the issue of whether the individual defendants “made” certain false statements, whether those false statements caused plaintiffs’ losses, and the amount of damages. The parties reached an agreement to settle the case just hours before the retrial was scheduled to begin on June 6, 2016. The $1.575 billion settlement, approved in October 2016, is the largest ever following a securities fraud class action trial, the largest securities fraud
settlement in the Seventh Circuit and the seventh-largest settlement ever in a post-PSLRA securities fraud case. According to published reports, the case was just the seventh securities fraud case tried to a verdict since the passage of the PSLRA.

- **In re UnitedHealth Grp. Inc. PSLRA Litig.**, No. 06-CV-1691 (D. Minn.). In the UnitedHealth case, Robbins Geller represented the California Public Employees’ Retirement System (“CalPERS”) and obtained an $895 million recovery on behalf of the UnitedHealth shareholders. Former CEO William A. McGuire paid $30 million and returned stock options representing more than three million shares to the shareholders, bringing the total recovery for the class to over $925 million. This is the largest stock option backdating recovery in history, and is more than four times larger than the next largest options backdating recovery. Additionally, Robbins Geller obtained unprecedented corporate governance reforms, including election of a shareholder-nominated member to the company’s board of directors, and a mandatory holding period for shares acquired by executives.

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- **Alaska Elec. Pension Fund v. CitiGroup, Inc. (In re WorldCom Sec. Litig.)**, No. 03 Civ. 8269 (S. D.N.Y.). Robbins Geller attorneys represented more than 50 private and public institutions that opted out of the class action case and sued WorldCom’s bankers, officers and directors, and auditors in courts around the country for losses related to WorldCom bond offerings from 1998 to 2001. The Firm’s attorneys recovered more than $650 million for their clients, substantially more than they would have recovered as part of the class.

- **Luther v. Countrywide Fin. Corp.**, No. 12-cv-05125 (C.D. Cal.). Robbins Geller attorneys secured a $500 million settlement for institutional and individual investors in what is the largest RMBS purchaser class action settlement in history, and one of the largest class action securities settlements of all time. The unprecedented settlement resolves claims against Countrywide and Wall Street banks that issued the securities. The action was the first securities class action case filed against originators and Wall Street banks as a result of the credit crisis. As co-lead counsel Robbins Geller forged through six years of hard-fought litigation, oftentimes litigating issues of first impression, in order to secure the landmark settlement for its clients and the class.

- **In re Wachovia Preferred Sec. & Bond/Notes Litig.**, No. 09-cv-06351 (S.D.N.Y.). On behalf of investors in bonds and preferred securities issued between 2006 and 2008, Robbins Geller and co-counsel obtained a significant settlement with Wachovia successor Wells Fargo & Company and Wachovia auditor KPMG LLP. The total settlement – $627 million – is one of the largest credit-crisis settlements involving Securities Act claims and one of the 20 largest securities class action recoveries in history. The settlement is also one of the biggest securities class action recoveries arising from the credit crisis.
• **In re Cardinal Health, Inc. Sec. Litig.**, No. C2-04-575 (S.D. Ohio). As sole lead counsel representing Cardinal Health shareholders, Robbins Geller obtained a recovery of $600 million for investors. At the time, the $600 million settlement was the tenth-largest settlement in the history of securities fraud litigation and is the largest recovery in a securities fraud action in the Sixth Circuit.

• **AOL Time Warner Cases I & II**, JCCP Nos. 4322 & 4325 (Cal. Super. Ct., Los Angeles Cty.). Robbins Geller represented The Regents of the University of California and numerous domestic and international pension funds in state and federal court opt-out litigation stemming from Time Warner’s disastrous 2001 merger with Internet high flier America Online. After almost four years of litigation involving extensive discovery, the Firm secured combined settlements for its opt-out clients totaling over $629 million just weeks before The Regents’ case pending in California state court was scheduled to go to trial. The Regents’ gross recovery of $246 million is the largest individual securities opt-out recovery in history.

• **In re HealthSouth Corp. Sec. Litig.**, No. CV-03-BE-1500-S (N.D. Ala.). As court-appointed co-lead counsel, Robbins Geller attorneys obtained a combined recovery of $671 million from HealthSouth, its auditor Ernst & Young, and its investment banker, UBS, for the benefit of stockholder plaintiffs. The settlement against HealthSouth represents one of the larger settlements in securities class action history and is considered among the top 15 settlements achieved after passage of the PSLRA. Likewise, the settlement against Ernst & Young is one of the largest securities class action settlements entered into by an accounting firm since the passage of the PSLRA.

• **In re Dynegy Inc. Sec. Litig.**, No. H-02-1571 (S.D. Tex.). As sole lead counsel representing The Regents of the University of California and the class of Dynegy investors, Robbins Geller attorneys obtained a combined settlement of $474 million from Dynegy, Citigroup, Inc. and Arthur Andersen LLP for their involvement in a clandestine financing scheme known as Project Alpha.

• **Jones v. Pfizer Inc.**, No. 1:10-cv-03864 (S.D.N.Y.). Lead plaintiff Stichting Philips Pensioenfonds obtained a $400 million settlement on behalf of class members who purchased Pfizer Inc. common stock during the January 19, 2006 to January 23, 2009 class period. The settlement against Pfizer resolves accusations that it misled investors about an alleged off-label drug marketing scheme. As sole lead counsel, Robbins Geller attorneys helped achieve this exceptional result after five years of hard-fought litigation against the toughest and the brightest members of the securities defense bar by litigating this case all the way to trial.

• **Fort Worth Emps.’ Ret. Fund v. J.P. Morgan Chase & Co.**, No. 1:09-cv-03701 (S.D.N.Y.). Robbins Geller attorneys served as lead counsel for a class of investors and obtained court approval of a $388 million recovery in nine 2007 residential mortgage-backed securities offerings issued by J.P. Morgan. The settlement represents, on a percentage basis, the largest recovery ever achieved in an MBS purchaser class action. The result was achieved after more than five years of hard-fought litigation and an extensive investigation.

• **NECA-IBEW Health & Welfare Fund v. Goldman Sachs & Co.**, No. 1:08-cv-10783 (S.D.N.Y.). As sole lead counsel, Robbins Geller obtained a $272 million settlement on behalf of Goldman Sachs’
shareholders. The settlement concludes one of the last remaining mortgage-backed securities purchaser class actions arising out of the global financial crisis. The remarkable result was achieved following seven years of extensive litigation. After the claims were dismissed in 2010, Robbins Geller secured a landmark victory from the Second Circuit Court of Appeals that clarified the scope of permissible class actions asserting claims under the Securities Act of 1933 on behalf of MBS investors. Specifically, the Second Circuit’s decision rejected the concept of “tranche” standing and concluded that a lead plaintiff in an MBS class action has class standing to pursue claims on behalf of purchasers of other securities that were issued from the same registration statement and backed by pools of mortgages originated by the same lenders who had originated mortgages backing the lead plaintiff’s securities.

- **Schuh v. HCA Holdings, Inc.**, No. 3:11-cv-01033 (M.D. Tenn.). As sole lead counsel, Robbins Geller obtained a groundbreaking $215 million settlement for former HCA Holdings, Inc. shareholders – the largest securities class action recovery ever in Tennessee. Reached shortly before trial was scheduled to commence, the settlement resolves claims that the Registration Statement and Prospectus HCA filed in connection with the company’s massive $4.3 billion 2011 IPO contained material misstatements and omissions. The recovery achieved approximately 70% of classwide damages, which as a percentage significantly exceeds the median class action recovery of 2%-3% of damages.

**Precedent-Setting Decisions**

**Investor and Shareholder Rights**

- **Stoyas v. Toshiba Corp.**, 896 F.3d 933 (9th Cir. 2018), *cert. denied*, 588 U.S. ___ (2019). In July 2018, the Ninth Circuit ruled in plaintiffs' favor in the Toshiba Corporation securities class action. Following appellate briefing and oral argument by Robbins Geller attorneys, a three-judge Ninth Circuit panel reversed the district court’s prior dismissal in a unanimous, 36-page opinion, holding that Toshiba ADRs are a “security” and the Securities Exchange Act of 1934 could apply to those ADRs that were purchased in a domestic transaction. *Id.* at 939, 949. The court adopted the Second and Third Circuits’ “irrevocable liability” test for determining whether the transactions were domestic and held that plaintiffs must be allowed to amend their complaint to allege that the purchase of Toshiba ADRs on the over-the-counter market was a domestic purchase and that the alleged fraud was in connection with the purchase.

- **Cyan, Inc. v. Beaver County Employees Retirement Fund**, No. 15-1439 (U.S.). In March 2018, the Supreme Court ruled in favor of investors represented by Robbins Geller, holding that state courts continue to have jurisdiction over class actions asserting violations of the Securities Act of 1933. The Court’s ruling secures investors’ ability to bring 1933 Act actions when companies fail to make full and fair disclosure of relevant information in offering documents. The Court confirmed that the Securities Litigation Uniform
Standards Act of 1998 was designed to preclude securities class actions asserting violations of state law – not to preclude securities actions asserting federal law violations brought in state courts.

**Mineworkers’ Pension Scheme v. First Solar Inc.**, 881 F.3d 750 (9th Cir. 2018), *cert. denied*, 588 U.S. ___ (2019). In January 2018, the Ninth Circuit upheld the district court’s denial of defendants’ motion for summary judgment, agreeing with plaintiffs that the test for loss causation in the Ninth Circuit is a general “proximate cause test,” and rejecting the more stringent revelation of the fraudulent practices standard advocated by the defendants. The opinion is a significant victory for investors, as it forecloses defendants’ ability to immunize themselves from liability simply by refusing to publicly acknowledge their fraudulent conduct.

**In re Quality Systems, Inc. Sec. Litig.**, No. 15-55173 (9th Cir.). In July 2017, Robbins Geller’s Appellate Practice Group scored a significant win in the Ninth Circuit in the *Quality Systems* securities class action. On appeal, a three-judge Ninth Circuit panel unanimously reversed the district court’s prior dismissal of the action against Quality Systems and remanded the case to the district court for further proceedings. The decision addressed an issue of first impression concerning “mixed” future and present-tense misstatements. The appellate panel explained that “non-forward-looking portions of mixed statements are not eligible for the safe harbor provisions of the PSLRA . . . . Defendants made a number of mixed statements that included projections of growth in revenue and earnings based on the state of QSI’s sales pipeline.” The panel then held both the non-forward-looking and forward-looking statements false and misleading and made with scienter, deeming them actionable. Later, although defendants sought rehearing by the Ninth Circuit sitting *en banc*, the circuit court denied their petition.

**Local 703, I.B. of T. Grocery and Food Employees Welfare Fund v. Regions Financial Corp.**, No. CV-10-J-2847-S (N.D. Ala.). In the *Regions Financial Corp.* securities class action, Robbins Geller represented Local 703, I.B. of T. Grocery and Food Employees Welfare Fund and obtained a $90 million settlement in September 2015 on behalf of purchasers of Regions Financial Corporation common stock during the class period. In August 2014, the Eleventh Circuit Court of Appeals affirmed the district court’s decision to certify a class action based upon alleged misrepresentations about Regions Financial Corp.’s financial health before and during the recent economic recession, and in November 2014, the U.S. District Court for the Northern District of Alabama denied defendants’ third attempt to avoid plaintiffs’ motion for class certification.

**Omnicare, Inc. v. Laborers District Council Construction Industry Pension Fund**, No. 13-435 (U.S.). In March 2015, the Supreme Court ruled in favor of investors represented by Robbins Geller that investors asserting a claim under §11 of the Securities Act of 1933 with respect to a misleading statement of opinion do not, as defendant Omnicare had contended, have to prove that the statement was subjectively disbelieved when made. Rather, the Court held that a statement of opinion may be actionable either because it was not believed, or because it lacked a reasonable basis in fact. This decision is significant in that it
resolved a conflict among the federal circuit courts and expressly overruled the Second Circuit’s widely followed, more stringent pleading standard for §11 claims involving statements of opinion. The Supreme Court remanded the case back to the district court for determination under the newly articulated standard. In August of 2016, upon remand, the district court applied the Supreme Court’s new test and denied defendants’ motion to dismiss in full.

- **NECA-IBEW Health & Welfare Fund v. Goldman Sachs & Co.**, 693 F.3d 145 (2d Cir. 2012). In a securities fraud action involving mortgage-backed securities, the Second Circuit rejected the concept of “tranche” standing and found that a lead plaintiff has class standing to pursue claims on behalf of purchasers of securities that were backed by pools of mortgages originated by the same lenders who had originated mortgages backing the lead plaintiff’s securities. The court also rejected the notion that the lead plaintiff lacked standing to represent investors in different tranches.

- **In re VeriFone Holdings, Inc. Sec. Litig.**, 704 F.3d 694 (9th Cir. 2012). The panel reversed in part and affirmed in part the dismissal of investors’ securities fraud class action alleging violations of §§10(b), 20(a), and 20A of the Securities Exchange Act of 1934 and SEC Rule 10b-5 in connection with a restatement of financial results of the company in which the investors had purchased stock.

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- **Fox v. JAMDAT Mobile, Inc.**, 185 Cal. App. 4th 1068 (2010). Concluding that Delaware’s shareholder ratification doctrine did not bar the claims, the California Court of Appeal reversed dismissal of a shareholder class action alleging breach of fiduciary duty in a corporate merger.

- **In re Constar Int’l Inc. Sec. Litig.**, 585 F.3d 774 (3d Cir. 2009). The Third Circuit flatly rejected defense contentions that where relief is sought under §11 of the Securities Act of 1933, which imposes liability when securities are issued pursuant to an incomplete or misleading registration statement, class certification should depend upon findings concerning market efficiency and loss causation.

- **Matrixx Initiatives, Inc. v. Siracusano**, 563 U.S. 27 (2011), aff’d 585 F.3d 1167 (9th Cir. 2009). In a securities fraud action involving the defendants’ failure to disclose a possible link between the company’s popular cold remedy and a life-altering side effect observed in some users, the U.S. Supreme Court unanimously affirmed the Ninth Circuit’s (a) rejection of a bright-line “statistical significance” materiality standard, and (b) holding that plaintiffs had successfully pleaded a strong inference of the defendants’ scienter.

- **Alaska Elec. Pension Fund v. Flowserve Corp.**, 572 F.3d 221 (5th Cir. 2009). Aided by former U.S. Supreme Court Justice O’Connor’s presence on the panel, the Fifth Circuit reversed a district court order denying class certification and also reversed an order granting summary judgment to defendants. The court held that the district court applied an incorrect fact-for-fact standard of loss causation, and that genuine issues of fact on loss causation precluded summary judgment.
In re WorldCom Sec. Litig., 496 F.3d 245 (2d Cir. 2007). The Second Circuit held that the filing of a class action complaint tolls the limitations period for all members of the class, including those who choose to opt out of the class action and file their own individual actions without waiting to see whether the district court certifies a class – reversing the decision below and effectively overruling multiple district court rulings that American Pipe tolling did not apply under these circumstances.

In re F5 Networks, Inc., Derivative Litig., 207 P.3d 433 (Wash. 2009). In a derivative action alleging unlawful stock option backdating, the Supreme Court of Washington ruled that shareholders need not make a pre-suit demand on the board of directors where this step would be futile, agreeing with plaintiffs that favorable Delaware case law should be followed as persuasive authority.

Lormand v. US Unwired, Inc., 565 F.3d 228 (5th Cir. 2009). In a rare win for investors in the Fifth Circuit, the court reversed an order of dismissal, holding that safe harbor warnings were not meaningful when the facts alleged established a strong inference that defendants knew their forecasts were false. The court also held that plaintiffs sufficiently alleged loss causation.

Insurance

Smith v. Am. Family Mut. Ins. Co., 289 S.W.3d 675 (Mo. Ct. App. 2009). Capping nearly a decade of hotly contested litigation, the Missouri Court of Appeals reversed the trial court’s judgment notwithstanding the verdict for auto insurer American Family and reinstated a unanimous jury verdict for the plaintiff class.

Troyk v. Farmers Grp., Inc., 171 Cal. App. 4th 1305 (2009). The California Court of Appeal held that Farmers Insurance’s practice of levying a “service charge” on one-month auto insurance policies, without specifying the charge in the policy, violated California’s Insurance Code.

Lebrilla v. Farmers Grp., Inc., 119 Cal. App. 4th 1070 (2004). Reversing the trial court, the California Court of Appeal ordered class certification of a suit against Farmers, one of the largest automobile insurers in California, and ruled that Farmers’ standard automobile policy requires it to provide parts that are as good as those made by vehicle’s manufacturer. The case involved Farmers’ practice of using inferior imitation parts when repairing insureds’ vehicles.

In re Monumental Life Ins. Co., 365 F.3d 408, 416 (5th Cir. 2004). The Fifth Circuit Court of Appeals reversed a district court’s denial of class certification in a case filed by African-Americans seeking to remedy racially discriminatory insurance practices. The Fifth Circuit held that a monetary relief claim is viable in a Rule 23(b)(2) class if it flows directly from liability to the class as a whole and is capable of classwide “computation by means of objective standards and not dependent in any significant way on the intangible,
subjective differences of each class member’s circumstances.”

Consumer Protection

- **Dent, et al. v. National Football League**, No. 15-15143 (9th Cir.). In September 2018, the United States Court of Appeals for the Ninth Circuit issued an important decision reversing the district court’s previous dismissal of the Dent v. National Football League litigation, concluding that the complaint brought by NFL Hall of Famer Richard Dent and others should not be dismissed on labor-law preemption grounds. The case was remanded to the district court for further proceedings.

- **Kwikset Corp. v. Superior Court**, 51 Cal. 4th 310 (2011). In a leading decision interpreting the scope of Proposition 64’s new standing requirements under California’s Unfair Competition Law (UCL), the California Supreme Court held that consumers alleging that a manufacturer has misrepresented its product have “lost money or property” within the meaning of the initiative, and thus have standing to sue under the UCL, if they “can truthfully allege that they were deceived by a product’s label into spending money to purchase the product, and would not have purchased it otherwise.” *Id.* at 317. *Kwikset* involved allegations, proven at trial, that defendants violated California’s “Made in the U.S.A.” statute by representing on their labels that their products were “Made in U.S.A.” or “All-American Made” when, in fact, the products were substantially made with foreign parts and labor.

- **Safeco Ins. Co. of Am. v. Superior Court**, 173 Cal. App. 4th 814 (2009). In a class action against auto insurer Safeco, the California Court of Appeal agreed that the plaintiff should have access to discovery to identify a new class representative after her standing to sue was challenged.

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- **Koponen v. Pac. Gas & Elec. Co.**, 165 Cal. App. 4th 345 (2008). The Firm’s attorneys obtained a published decision reversing the trial court’s dismissal of the action, and holding that the plaintiff’s claims for damages arising from the utility’s unauthorized use of rights-of-way or easements obtained from the plaintiff and other landowners were not barred by a statute limiting the authority of California courts to review or correct decisions of the California Public Utilities Commission.

- **Sanford v. MemberWorks, Inc.**, 483 F.3d 956 (9th Cir. 2007). In a telemarketing-fraud case, where the plaintiff consumer insisted she had never entered the contractual arrangement that defendants said bound her to arbitrate individual claims to the exclusion of pursuing class claims, the Ninth Circuit reversed an order compelling arbitration – allowing the plaintiff to litigate on behalf of a class.