

Paul R. Bessette

Partner

Trial and Global Disputes

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Paul Bessette specializes in defending companies and individuals in securities and shareholder litigation, as well as in SEC investigations and enforcement actions. A partner and co-chair of our Securities and Shareholder Litigation practice, Paul has nearly three decades of experience representing clients in a wide array of complex commercial and business litigation matters.

Paul has led the defense of companies, officers and directors, underwriters and accountants in scores of shareholder class actions, derivative litigation, mergers and acquisitions and insolvency-related cases around the country. He regularly works with companies, individuals, audit committees and special committees leading internal investigations and litigating breaches of fiduciary duty.

Ranked by *Chambers* and *Best Lawyers in America*, Paul has also been recognized by *Super Lawyers* and *Lawdragon*. He is rated AV® Preeminent™ by Martindale-Hubbel.

Paul frequently speaks and writes on shareholder litigation, corporate disclosure, corporate governance and related topics. He has authored numerous securities-related articles for publications including *ABA Business Law Today*, *Insights*, *Financial Executive*, *Law360*, *Financial fraud Law Report*, *The D&O Diary*, *Bloomberg Law Reports*, *National Underwriter* and *The Securities Reporter*.

Matters

Neiman v. Bulmahn, et al.: The Fifth Circuit affirmed an August 2015 district court dismissal of a putative class action filed by ATP shareholders under the Securities Exchange Act of 1934. The shareholders accused ATP's former officers of committing securities fraud by misrepresenting various aspects of the company's business prior to bankruptcy, including its production from a particular oil-and-gas well, its liquidity, and the resignation of its CEO. The Fifth Circuit held that the shareholders failed to satisfy the heightened standard for pleading scienter.

In re SemCrude L.P.: Obtained a permanent injunction preventing investors in bankrupt oil-and-gas company from bringing derivative claims against former CEO in Oklahoma state court. A successful Third Circuit appeal won reversal of orders that had denied injunctive relief, with the court quoting the former CEO's brief in a published opinion on the distinction between derivative

and direct claims.

Miyahira v. Vitacost.com, Inc.: Obtained a full dismissal of plaintiff's claims under the Securities Act of 1933 for misleading statements in Vitacost's IPO prospectus. The Eleventh Circuit affirmed the dismissal, holding that the complaint did not state a claim for relief despite reliance on ten confidential witnesses and over 100 pages of allegations. This decision is significant given the nearly strict-liability nature of plaintiff's Securities Act claims.

Bell v. Ascendant Solutions, Inc.: Defeated class certification in a securities fraud class action involving alleged fraud in connection with an IPO. In a widely followed opinion, the Fifth Circuit upheld the denial of class certification based on argument that the company's stock did not trade in an efficient market during the class period.

In re Crossroads Systems, Inc. Securities Litigation: Obtained summary judgment in a securities fraud class action where the plaintiffs alleged that the company improperly accounted for inventory reserves and sought more than \$800 million in damages. The Fifth Circuit affirmed in *Greenberg v. Crossroads Sys., Inc.*, 364 F.3d 657 (5th Cir. 2004). This opinion is one of the key Fifth Circuit cases on what plaintiffs must show to demonstrate entitlement to the fraud-on-the-market presumption of reliance, a key element of a §10(b) securities-fraud claim.

In re Chaparral Resources, Inc. Shareholder Litigation: Represented Lukoil Overseas Holding Ltd. in a shareholder class action in Delaware Chancery Court challenging the fairness of the company's acquisition of Chaparral Resources, Inc., a Delaware corporation. Tried the case and obtained a settlement below plaintiffs' lowest pre-trial settlement demand.

In re FirstEnergy Corp. Securities Litigation: Represented this Fortune 100 company in multiple securities fraud class actions where plaintiffs claimed damages in the billions. Plaintiffs alleged, among other things, that defendants nearly caused a nuclear disaster and failed to disclose this fact. Reached a favorable settlement well within D&O policy limits

Credentials

EDUCATION

Law Degree, Baylor University
B.A./B.B.A., The University of Texas at Austin

ADMISSIONS

Supreme Court of the United States
U.S. Court of Appeals for the Second Circuit
U.S. Court of Appeals for the Third Circuit
U.S. Court of Appeals for the Fifth Circuit
U.S. Court of Appeals for the Ninth Circuit
U.S. Court of Appeals for the Eleventh Circuit
U.S. District Court for the Eastern District of New York
U.S. District Court for the Southern District of New York
U.S. District Court for the Eastern District of Texas
U.S. District Court for the Northern District of Texas
U.S. District Court for the Southern District of Texas
U.S. District Court for the Western District of Texas
U.S. District Court for the Central District of California
U.S. District Court for the Eastern District of California
U.S. District Court for the Northern District of California

U.S. District Court for the Southern District of California
California
New York
Texas

Recognition

"An expert in the area and knows it extraordinarily well" "Practicing in this area is an art, and he is very good at it"

CHAMBERS USA 2018, BAND 2

Paul "has a fast growing reputation for the quality of his representation in a wide range of securities matters."

CHAMBERS USA, 2016

"Market sources laud his ability to engage with company directors"

CHAMBERS USA, 2016

Paul "is a very strong boardroom guy with a good team around him."

CHAMBERS USA, 2016

"Strength in a full range of securities litigation matters."

U.S. NEWS & WORLD REPORT, 2015

Recognized for Securities Litigation

THE BEST LAWYERS IN AMERICA, 2011–2020

One of "100 Lawyers You Need to Know in Securities Litigation"

LAWDRAGON, 2008

One of "3000 Leading Lawyers in America"

LAWDRAGON.COM, 2006, 2010–2011

Recognized by Texas Super Lawyers, Super Lawyers magazine,
2007–2018

Recognized for Securities Litigation

SUPER LAWYERS, CORPORATE COUNSEL EDITION, 2009–2010

Insights

ARTICLE

February 1, 2019 • Source: *Pratt's Energy Law Report*

Texas Federal Judge Turns Up the Heat on Oil Companies Facing Climate Change-Related Securities Class Actions

CLIENT ALERT

August 21, 2018

Climate Change and Oil Reserve Estimates — New Securities Litigation Risks

NEWSLETTER

September 10, 2018

Energy Newsletter – September 2018

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Events

CONFERENCE

June 20, 2019

5th Annual West Coast Pharmaceutical & Medical Device University

SPEAKING ENGAGEMENT

May 21, 2019

Paul Bessette to Speak at Institute for Energy Law's 6th Mergers & Acquisitions in Energy Law Conference

May 8, 2019

Paul Bessette to Speak at D&O Insurance ExecuSummit

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News

IN THE NEWS

April 18, 2019 • Source: Law360

Paul Bessette, Israel Dahan, Michael Biles, Tyler Highful and Rebecca Matsumura score a victory for FXCM and its chief executive, Dror Niv, before the Second Circuit, which refused to revive an investor's suit against the foreign exchange trading company

August 20, 2018 • Source: Bloomberg Law

Paul Bessette advises Hanger Inc. on its dispute with investors alleging misleading statements made by the company about Medicare reimbursements and audits

RECOGNITION

King & Spalding Earns Top Rankings in Chambers USA 2019 Guide

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