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BlackRock's Move to Let Big Clients Vote their Proxies Offers Boost for Future of Capital Stewardship

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BlackRock's Move to Let Big Clients Vote their Proxies Offers Boost for Future of Capital Stewardship

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A decision by the world's largest asset manager that will allow big clients to vote in corporate elections offers a glimpse of a future in which public and Taft-Hartley pension funds could retain their vital role as capital stewards even as their direct ownership of public company stock declines.

Like other money managers, BlackRock currently casts proxy votes on behalf of investors in its funds—a practice has made it difficult for shareholders to successfully challenge policies at annual meetings, since money managers traditionally vote with corporate leadership, if at all. But starting next year, BlackRock said it will give some institutional clients in the U.S. and U.K. the option to vote for themselves or select from a menu of third-party voting policies.

BlackRock told affected clients about the change in an October 7 letter. News reports citing the letter quoted BlackRock as saying the new capability "responds to a growing interest in investment stewardship from our clients" and reflects technological advances. "These options are designed to enable you to have a greater say in proxy voting, if that is important to you," BlackRock told the clients.

"This is a very big deal on multiple fronts," Cohen Milstein Partner Laura H. Posner said. "Let's hope this type of mechanism is adopted as a standard by all asset managers."

BlackRock said the expanded options would apply to about 40% of the $4.8 trillion assets held in its equity index strategies and another $750 billion in pooled fund assets, or a total of 28% of BlackRock's $9.5 trillion in assets under management (AUM).

The change in policy comes at a time when retail and institutional investors are buying less company stock directly and more through equity funds, especially passive index vehicles that can give them a low-cost exposure to any market or sector.[1] The shift in underlying stock ownership from *asset owners* like pension funds to *asset managers* like BlackRock and from active to passive equity strategies has prompted concerns about capital stewardship because, with notable exceptions, money managers tend to side with management in proxy fights.[2]

1 A December 2020 report by PricewaterhouseCoopers projected global AUM, which stood at $85 trillion in 2016, to grow from $110 trillion in 2020 to more than $147 trillion by 2025; passive strategies, which accounted for 17% of global AUM in 2016, will make up a quarter of AUM by 2025. "Asset and Wealth Management Revolution: The Power to Shape the Future," PricewaterhouseCoopers, 2020, available at https://www.pwc.com/gx/en/industries/financial-services/assets/wealth-management-2-0-data-tool/pwc_awm_revolution_2020.pdf.

2 For example, a 2017 academic study found that the three dominant index fund players—BlackRock, Vanguard, and State Street—voted regularly with management. According to the same study, the "big three" collectively constituted the largest shareholders in 40% of all companies listed on U.S. stock exchanges and a mind-boggling 88% of S&P 500 corporations—a troubling concentration of ownership and power. https://chicagounbound.uchicago.edu/cgi/viewcontent.cgi?article=6196&context=uclrev. There have been exceptions, however. This year, for example, Vanguard, BlackRock, and State Street sided with the major proxy advisory firms and some large public pension funds to support at least two candidates for Exxon Mobil's board of directors proposed by an activist shareholder dissatisfied with the company's approach to ESG disclosures and risk management. In the end, three of the candidates were elected over management's nominees. Big money managers also joined with pension funds in 2020 to reject a proposal that would have imposed forced arbitration on any investors seeking to sue Intuit for alleged securities fraud.

"This is a very big deal on multiple fronts," said Laura H. Posner, a Cohen Milstein Partner who formerly served as Bureau Chief of the New Jersey Bureau of Securities. "Public and Taft-Hartley pension funds provide an important bulwark against corporate malfeasance because they are willing to selectively engage with the companies they own and challenge them through the proxy process, if necessary. Let's hope this type of mechanism is adopted as a standard by all asset managers."

The new policy appears to recognize that some large investors prefer to retain control of their proxy votes despite money managers' vocal support of incorporating environmental, social, and governance (ESG) considerations into their investment decisions which resonates with some—not all—investors.

But even if asset managers become less reluctant to oppose management in proxy elections on ESG or other issues however, there is little evidence they will use the other tool at their disposal to influence governance of the companies whose stock they own: securities litigation. A 2019 *University of Chicago Law Review* article found that, over a 10-year sample period, the 10 largest US mutual fund families filed only 10 securities lawsuits over five instances of corporate misconduct.[3]

"The dismal litigation record that we uncover raises serious questions of whether mutual funds are acting as faithful governance intermediaries for their investors," wrote the study's authors. "If mutual funds could create value for investors by engaging in shareholder litigation yet are failing to do so, then they would seem to be failing in their fiduciary obligations to investors."

THE SAME TECHNOLOGICAL ADVANCES BLACKROCK USED TO LET CLIENTS VOTE THEIR OWN PROXIES COULD SOMEDAY BE MARSHALED TO ASSIGN LITIGATION RIGHTS TO THOSE SAME CLIENTS.

With most of money managers' income coming from fees from corporate clients, it is unlikely they will ever overcome their aversion to initiating shareholder litigation against those same companies.[4] But BlackRock's new policy on proxy voting may offer a blueprint for an eventual solution. The same technological advances that enable asset managers to determine their clients' underlying beneficial ownership of public companies could someday be marshaled to assign litigation rights to those same clients. The result would ensure that sophisticated institutional investors, like public and Taft-Hartley pension funds, continued to hold companies accountable through the private right of action. ■

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3 "A Mission Statement for Mutual Funds in Shareholder Litigation" by Sean J. Griffith, Professor at the Fordham University School of Law, and Dorothy S. Lund, Assistant Professor of Law at the University of Southern California, *The University of Chicago Law Review*, 87:1149 2020. https://chicagounbound.uchicago.edu/cgi/viewcontent.cgi?article=6196&context=uclrev

4 To cite just one example, Griffith and Lund said that in 2017 corporate pension plans accounted for about two-thirds of BlackRock's AUM and generate fees that totaled 83% of the company's revenue. The authors say this "corporate client conflict" give money managers "incentives to cater to the interests of their corporate clients [that] may lead them astray from acting as faithful stewards of their investors' capital, ..." Ibid, p.1212.

BIDEN ACCENTUATES DIVERSITY IN SELECTING NOMINEES TO FEDERAL BENCH

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CONSISTENT WITH HIS CAMPAIGN PROMISE, PRESIDENT BIDEN HAS NOMINATED HIGHLY QUALIFIED CANDIDATES WHO ARE ALSO MARKEDLY MORE DIVERSE IN TERMS OF BOTH PERSONAL AND PROFESSIONAL BACKGROUND THAN HIS PREDECESSORS.

A central campaign promise of then-candidate Joseph Biden was to appoint U.S. Supreme Court justices and federal judges who "look like America, are committed to the rule of law, understand the importance of individual civil rights and civil liberties in a democratic society, and respect foundational precedents like *Brown vs. Board of Education and Roe v. Wade*." When President Biden took office, there were 46 vacancies on the federal bench. In the weeks following his inauguration, an additional 28 federal judges created vacancies by announcing they were retiring or transitioning to "senior" status. Some of these judges have played a significant role in financial sector litigation, including Second Circuit judges Robert Katzmann and Denny Chin (who presided over the prosecution of Bernie Madoff). In the first nine months of his term, President Biden has worked quickly to advance judicial nominations in federal courts across the United States. As of October 1, 2021, President Biden had nominated 51 individuals for the federal bench and 14 of those nominees have been confirmed—the highest confirmation rate for that time period since the Nixon era, according to the Brookings Institution. President Biden appears to have focused his early nominations and confirmations on states with two Democratic Senators, presumably to ensure nominees would have unanimous support from their home state and streamline the confirmation process.

Consistent with his campaign promise, President Biden has nominated highly qualified candidates who are also markedly more diverse in terms of both personal and professional background than his predecessors, including:

- Hon. Ketanji Brown Jackson, who previously served as a judge on the U.S. District Court for the District of Columbia and before that as a federal public defender. Judge Jackson was confirmed to the U.S. Court of Appeals for the District of Columbia. Judge Jackson is also the first Black woman to

WHILE THE ADDITION OF JUDGES WITH CRIMINAL DEFENSE AND CIVIL RIGHTS EXPERIENCE IS VITAL, PRESIDENT BIDEN HAS MISSED AN OPPORTUNITY TO DATE TO NOMINATE JUDGES WHO WOULD ENHANCE THE JUDICIARY'S UNDERSTANDING OF ECONOMIC JUSTICE AND CORPORATE FRAUD.

be confirmed to the federal appellate bench in nearly 10 years.

- Hon. Lydia Kay Griggsby, who previously served as the Chief Counsel for Privacy and Information Policy for the Senate Judiciary Committee. Judge Griggsby was confirmed to the U.S. District Court for the District of Maryland and is one of few Black women district judges.
- Dale Ho, a longtime voting rights lawyer who worked for the American Civil Liberties Union and previously for the NAACP Legal Defense and Educational Fund. Mr. Ho was nominated to the U.S. District Court for the Southern District of New York. If confirmed, he would be the only active Asian male judge in that court.
- Sarah Elisabeth Geraghty, who is a civil rights advocate now with the Southern Center for Human Rights and previously with the Office of the Appellate Defender. Ms. Geraghty was nominated to the U.S. District Court for the Northern District of Georgia. If confirmed, she will be the first former federal defender to become a district court judge in Georgia.

As U.S. District Judge Carlton Reeves of the Southern District of Mississippi advised during a March congressional hearing on judicial diversity, "[w]hen our courts are diverse, they better understand the complexity of the American experience embedded in every case that comes before them. When our courts are diverse, they reinforce public trust in our system of government. America contains multitudes, so must this court." President Biden's focus on extraordinary nominees who also "look like America" will strengthen the judiciary for years to come.

While the addition of judges with experience in and understanding of criminal defense and civil rights is vital, President Biden has missed an opportunity to date to nominate judges who would enhance the judiciary's understanding of economic justice and corporate fraud. With very few exceptions, President Biden's choices have not possessed backgrounds in securities, antitrust, consumer protection, or labor law. Ensuring competence in these complex areas of law that directly impact American investors, consumers, and workers is a worthy goal and should be a focus of President Biden's future judicial nominations. ■

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SEC CHAIR GENSLER'S AMBITIOUS AGENDA HAS WALL STREET 'TREMBLING'

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IN JUNE, THE SEC RELEASED ITS SPRING 2021 REGULATORY AGENDA, WHICH CONTAINED 49 POTENTIAL RULES.

In testimony to Congress and other public comments, Securities and Exchange Commission Chair Gary Gensler has outlined a broad, ambitious regulatory agenda that inspired breathless tabloid-like headlines in normally staid financial broadsheets.

"SEC Chief to Wall Street: The Everything Crackdown Is Coming," warned an October 8 *Bloomberg* article that included a list of "Gensler's Terrible 10: SEC Rules That Make Wall Street Tremble." An October 5 *Wall Street Journal* article bore the ominous title, "Gensler Aims to Save Investors Money by Squeezing Wall Street." From the *Financial Times*, "Wall Street Beware: The SEC's Gensler carries a big stick."

"Crackdown" or not, dozens of new rules are in the works. According to *Bloomberg*, Chair Gensler has assigned approximately 200 people divided into 50 teams to research and draft the proposed rules. Each team includes lawyers and economists to weigh the proposals' costs and benefits in compliance with federal requirements. In June, the SEC released its Spring 2021 Unified Agenda of Regulatory and Deregulatory Actions, which contained 49 potential rules: four at the pre-rule stage; 36 at the proposed rule stage; and nine at the final rule stage.

To those who accuse him of overreach, Chair Gensler says he is staying within the "narrow set of chalk lines" that defines the SEC's mandate "to promote investor protection and facilitate capital formation and that which is in the middle."[1]

Here is an abbreviated list of some of the most important and controversial new rules under consideration:

- Say-on-Pay Disclosures. On September 29, the Commission proposed enhancing rules

1 Chair Gensler made his comments in testimony September 14, 2021 before the United States Senate Committee on Banking, Housing, and Urban Affairs. He was responding to pointed questioning by U.S. Sen. John Kennedy (R-Louisiana). After praising Chair Gensler for his public service and for making "a lot of money on Wall Street," Sen. Kennedy said he was imposing his "personal opinions" on the agency by exploring new rules about issues such as requiring corporate disclosure of climate risk. "As to the people and companies that you regulate as Chairman of the SEC, do you consider yourself to be their daddy? ... Then why do you act like it?" Sen. Kennedy asked.

that require mutual funds and exchange-traded funds to disclose information about their proxy votes to include how they voted on executive compensation (known as "say-on-pay"). The rule was required under the Dodd-Frank Wall Street Reform and Consumer Protection Act.

- **Clawbacks.** On October 14, the SEC reopened comment on another Dodd-Frank Act rule about clawbacks of erroneously awarded incentive-based compensation. Under the new rule, executives would have to "give back compensation paid in the three years leading up to the restatement that was based on … misstated financials – regardless of whether the misstatement was due to fraud, errors, or any other factor," according to a statement by Chair Gensler. Previously, the lookback period was one year and clawbacks were limited to misconduct.

- **Gamification.** The SEC has asked for public comment on "digital engagement practices" used by broker-dealers and investment advisors—think Robinhood—to spur retail investor trading. Chair Gensler has said the use of these techniques, known as "gamification," to get clients to trade stocks more frequently raises potential conflicts between advisory firms and investors. A proposed rule.

- **Blank-Check Companies.** The SEC's Division of Corporation Finance is weighing whether to recommend that the Commission require increased disclosures about special purpose acquisition companies, or SPACs. Called blank-check companies because they raise capital via IPOs without specifying which businesses they will buy, SPACs have come under criticism for a conflict-laden structure whereby founders and initial investors profit handsomely even if the combined business—and its shareholders—don't.

- **Modernizing Market Structure.** The Commission is exploring whether to modernize rules relating to equity market structure, including "payment for order flow, best execution (amendments to Rule 605), market concentration, and certain other practices." All these practices have been criticized as creating conflicts that could potentially hurt investors even though they may lower trading costs.

- **Climate Risk Disclosures.** SEC staff is looking at the possibility of recommending "rule amendments to enhance registrant disclosures regarding issuers' climate-related risks and opportunities." Chair Gensler initially said he expected staff to write a proposed rule by the end of the year but later indicated that it would likely take longer. The rule seeks to "make companies' climate-related disclosures more consistent, comparable and useful to investors' decision-making," *The Wall Street Journal* has said.

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- **10b5 Executive Stock Trading Plans.** Chair Gensler has asked staff to recommend changes to address abuses of these plans, which insulate public company executives from accusations of inside trading by setting up purchases and sales of company stock on a regular schedule. Changes may require a waiting period between the time the plan is established and when trading occurs, limiting the number of plans executives can have, taking away their ability to cancel trades whenever they'd like, and requiring companies to disclose more about the plans.

- **Human Capital Disclosures.** A year after former Chair Jay Clayton's SEC adopted rules in this area, Chair Gensler has asked staff to consider requiring public companies to disclose more data about their workforces, potentially including information on workforce diversity, employee turnover, and the company's use of part-time and contract workers.

- **Cryptocurrency.** Chair Gensler told the House Committee on Financial Services October 5 that banning cryptocurrency would be "up to Congress," but said both crypto exchanges and decentralized platforms should be registered and with the SEC. He also said that stablecoins pose a systemic risk to the economy and that most cryptocurrencies fall under the definition of a security.

- **Cybersecurity Risk Governance.** Chair Gensler has asked staff to develop proposals for both public companies and investment funds to enhance required disclosures about the risk of cyberattacks, their "cyber hygiene," and the rules about reporting incidents after they have occurred. ■

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INVESTORS' LAWSUIT AGAINST WELLS FARGO SURVIVES MOTION TO DISMISS LARGELY INTACT

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PREFACING A FALSE AND MISLEADING STATEMENT WITH "OPINION WORDS," THE COURT HELD, DOES NOT "OPERATE AS A MAGIC SHIELD AGAINST LIABILITY."

On September 30, 2021, the Hon. Gregory H. Woods of the U.S. District Court for the Southern District of New York denied in most respects defendants' motion to dismiss *In re Wells Fargo & Company Securities Litigation*. Judge Woods held that plaintiffs—led by, among others, the Public Employees' Retirement System of Mississippi and the State of Rhode Island, Office of the General Treasurer, both represented by Cohen Milstein—had plausibly alleged that the vast majority of defendants' challenged statements were false and misleading or omitted material facts, and that the case could proceed against defendants, which include Wells Fargo and its former CEO, CFO, General Counsel, and Board Chair.

Plaintiffs allege that, following a widespread consumer banking scandal from 2016 to 2018, Wells Fargo misrepresented to investors that it had improved its governance and oversight structures in compliance with three regulatory consent orders (the "2018 Consent Orders") issued by the Federal Reserve Board, the Office of the Comptroller of the Currency, and the Consumer Financial Protection Bureau to ensure that there would be no recurrence of consumer abuses and shareholder trust that had plagued the bank. Wells Fargo shareholders incurred significant losses after the U.S. House of Representatives Financial Services Committee issued a report on March 4, 2020 revealing that, in reality, Wells Fargo had "clearly demonstrated an unwillingness and inability to stop harming its customers" and that its remediation plans fell "woefully short" of regulators' expectations.

Judge Woods ruled that defendants misled investors by claiming that they had shared all relevant information with investors, that the bank was in agreement with the regulators, and that the bank was in the advanced stages of complying with the 2018 Consent Orders. In light of the fact that Wells Fargo had not even submitted an acceptable plan to regulators at the time of certain of the

IMPORTANTLY FOR FUTURE CASES, THE COURT ALSO REJECTED DEFENDANTS' NOVEL ARGUMENT THAT THE BANKING SUPERVISION PRIVILEGE BARRED THEM FROM SPEAKING HONESTLY WITH THEIR SHAREHOLDERS ABOUT THEIR INTERACTIONS WITH REGULATORS.

challenged statements, for example, the Court held that, "[p]lainly, there was no basis for [a defendant's] statements that the bank was 'largely there' and that the Bank and the Regulators had reached a 'meeting of the minds.'" Prefacing a false and misleading statement with "opinion words," the Court further held, does not "operate as a magic shield against liability." The Court also found that plaintiffs adequately pled scienter—or the requisite mental state—finding that defendants were well aware of Wells Fargo's lack of progress in complying with the 2018 Consent Orders because they were in direct communication with the regulators and were directly responsible for Wells Fargo's compliance programs. Importantly for future cases, the Court also rejected defendants' novel argument that the banking supervision privilege barred them from speaking honestly with their shareholders about their interactions with regulators, making clear that public financial institutions cannot speak in half-truths to investors about those interactions. ■

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FIDUCIARY FOCUS

THE FINANCIAL IMPACT OF COVID-19 ON PUBLIC PENSION PLANS

According to Johns Hopkins University School of Medicine, the COVID-19 pandemic has now resulted in more than 700,000 deaths in the United States. Aside from the unprecedented number of deaths, the pandemic has also shocked our economy. In the spring of 2020, the stock market dropped dramatically and the unemployment rate climbed to almost 15 percent, the highest level since the Great Depression, as businesses shut down. The twin public health and economic crisis logically raised red flags about the strength of the pillars of our retirement security system, including the Social Security trust funds and defined benefit pension plans.

As an example, last month, the annual Social Security Trustees Report revealed the funds would be unable to pay full benefits in 2034, compared to last year's estimate of 2035. The estimate reflects the push and pull of the pandemic. On the one hand, the short recession following the first wave of COVID-19 reduced revenue from payroll taxes and contributions to the funds. On the other, the virus's disproportionate impact on older people resulted in many premature deaths in that age group, cutting future benefit payouts.

Has COVID-19 similarly affected public pension plans? To answer this question, it's important to examine how the pandemic impacted three areas—investment returns, state budgets, and demographics.

First, public pension plans rely on investment returns for most of their revenue. A recent National Conference on Public Employee Retirement Systems (NCPERS) study found that public pension plans receive 71 percent of their revenue from investment earnings. Even though the stock market tumbled by 34 percent in March 2020, the market subsequently bottomed out late that month before rallying 68 percent for the rest of the year, breaking all records. Not surprisingly, pension plans experienced historical gains. On average, plans saw investment returns of more than 25 percent for fiscal year 2021, the highest annual return in more than 30 years.

Second, public pension plans rely on annual contributions from state budgets. According to the same NCPERS study, public pension plans obtain 22 percent of their revenue from employer contributions carved from state budgets. In this instance, where tax revenues drop, state budgets may fall short on the annual required contribution. Last spring, many states saw their tax revenue decline sharply due to lockdown orders and businesses closures. Specifically, tax revenue for state budgets from April through June 2020 fell by 25 percent

compared to the same quarter of 2019. Yet, the doom and gloom about state budgets did not play out. In the end, states collectively received almost the same revenue in 2020 compared to 2019. Two studies by the Pew Charitable Trusts and the Federal Reserve Bank of St. Louis concluded that state revenues for 2020 turned out better than anticipated. More importantly, a Pew study found a significant increase in contributions to pension plans from employers and employees. In fact, "Pew found that for the first time this century, states are expected to have collectively met the minimum pension contribution standard."

TO ASSESS THE IMPACT OF COVID-19 ON PUBLIC PENSION PLANS, WE NEED TO LOOK AT HOW THE PANDEMIC AFFECTED THREE AREAS: INVESTMENT RETURNS, STATE BUDGETS, AND DEMOGRAPHICS.

Finally, pension plans use demographic assumptions to determine fiscal impact. In this instance, actuaries ask whether pandemic-related deaths and early retirement of public employees have a financial impact on pension plans. According to the American Academy of Actuaries (AAA), the demographic impacts of both COVID-19 deaths and early retirement remain uncertain. As AAA states, "Even with recent progress developing treatment and vaccines, the long-term impact on mortality is unknown." With regard to increased retirement, AAA writes that "[i]t isn't yet clear how strong these trends are, how long they may last, and whether they will have a positive or negative effect on public pension plans."

In short, COVID-19's impact on investment returns and state budgets did not result in the severe harm on pension plans some observers predicted. To the contrary, pension plans experienced a once-in-a-generation historic returns and increased contributions, part of a continued trend over the last decade. The last factor of demographic assumption appears to have had very little effect on pension finances in the short-term; however, the long-term impact remains uncertain. ■

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COHENMILSTEIN IN THE NEWS

- "Centene Settles Two Pharmacy Benefit Probes for $71 Million," *Bloomberg Law* – October 1, 2021
- "Wells Fargo Must Face Shareholder Fraud Claims over Its Recovery from Scandals," *Reuters* – September 30, 2021
- "Cohen Milstein Wants to Lead Tower Research Spoofing Suit," *Law360* – September 17, 2021
- "Board Diversity Is Critical to Protect Shareholders, Bottom Line," *Bloomberg Law* – September 15, 2021
- "Performance Sports Execs Settle Securities Fraud Suit," *Law360* – September 14, 2021
- "Federal Judge Grants Final Approval of $575M Settlement Against Sutter Health," *Fierce Healthcare* – August 30, 2021
- "City of Chicago Sues Food Delivery Services Grubhub and DoorDash for Alleged Deceptive Practices During Pandemic," *Chicago Tribune* – August 27, 2021
- "IBM Settles Pa. Labor Dept.'s Suit Over $110M IT Upgrade," *Law360* – August 25, 2021
- "Valeant to Pay $23M to End 'Secret' Pharmacy RICO Claims," *Law360* – August 6, 2021
- "Pilgrim's to Pay $76M to Settle Chicken Price-Fixing Claims," *Law360* – August 6, 2021
- "Investors Say They Have 'Smoking Gun' in Auction-Fixing Suit," *Law360* – August 5, 2021
- "2022 Grammy Awards Will Have 'Inclusion Rider' Guaranteeing Staff Diversity," *Variety* – August 4, 2021
- "Retirees Charge Citgo's Use of Outdated Data Shortchanged Benefits," *Pensions & Investments* – August 4, 2021
- "L Brands to Pay $90 Million to End Shareholder #MeToo Suits," *Bloomberg Law* – July 30, 2021
- "It's Time to Rescind the Get Out of Jail Free Card Afforded Executives by 10b5-1 Plans," *New York Law Journal* – July 23, 2021
- "States Announce $26 Billion Settlement to Resolve Opioid Lawsuits," *The Wall Street Journal* – July 21, 2021
- "Maryland Health System Settles False Claims Allegations for $9.5M," *Becker's Hospital Review* – July 20, 2021
- "All's Quiet on the Reg BI Front," *Investment News* – July 15, 2021
- "BlackRock Cleared for $9.7 Million 401(k) Fund Class Settlement," *Bloomberg Law* – July 13, 2021

AWARDS & ACCOLADES

- Cohen Milstein Named a "National Boutique / Specialty Litigation Department of the Year" Finalist by *The American Lawyer* – October 1, 2021
- Eight Cohen Milstein Attorneys Recognized Among the 2021 *Lawdragon 500* "Leading Plaintiff Employment and Civil Rights Lawyers" – September 22, 2021
- Four Cohen Milstein Partners Recognized as 2021 "MVPs" by *Law360* – August 30, 2021
- Sixteen Cohen Milstein Attorneys Recognized by *The Best Lawyers in America* – August 19, 2021
- Cohen Milstein's Stephan LeClainche Named 2022 "Lawyer of the Year - Product Liability Litigation" in West Palm Beach, FL by *The Best Lawyers in America* – August 19, 2021
- Cohen Milstein's Christine E. Webber Named 2022 "Lawyer of the Year - Employment Law" in Washington, D.C. by *The Best Lawyers in America* – August 19, 2021
- Twenty-Four Cohen Milstein Attorneys Recognized Among the 2021 *Lawdragon 500* "Leading Plaintiff Financial Lawyers" – August 18, 2021
- Cohen Milstein's Sharon K. Robertson Named to *Benchmark Litigation*'s 2021 "40 & Under Hot List" – July 22, 2021
- Cohen Milstein's Emmy L. Levens Named to *Bloomberg Law*'s Inaugural "They've Got Next: The 40 Under 40" – July 14, 2021

UPCOMING EVENTS

- **November 9-12** | State Association of County Retirement Systems (SACRS) Fall Conference, Lowes Hollywood Hotel, Hollywood, CA – Richard E. Lorant and Julie Goldsmith Reiser
- **November 21-23** | County Commissioners Association of Pennsylvania (CCAP) Fall Conference, The Hotel Hershey, Hershey, PA – David M. Maser

ATTORNEY PROFILE

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> "A turning point in my practice was when I represented the board of directors in an unusual breach of fiduciary duty case against the chief executive officer of MassMutual, who the board of directors had terminated for cause ... Working on my first M&A case, in which JPMorgan acquired Bear Stearns during the financial crisis, ... solidified for me that I wanted to represent shareholders in corporate governance litigation."

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I grew up in ... Baltimore, Maryland after spending two years in Green Bay, Wisconsin as a first and second grader. I was a serious ballet dancer in middle and high school, so although Baltimore was home base, I spent at least three days a week studying in Washington, D.C. at the Washington School of Ballet. I also performed with and spent weeks at a time during the summer months studying with various ballet companies, including the San Francisco Ballet, Houston Ballet, the New York City Ballet, and Boston Ballet. I was an independent kid, so I loved spending time in different cities and making friends from all over the country.

I knew I wanted to be a lawyer ... in my junior year of college. I was a psychology major at Boston University (BU), and in my junior year I enrolled in BU's London study aboard program, where one month was spent in classes followed by six weeks interning in your area of interest. No "organizational" psychology internship option existed so I decided on law. I worked for a solicitor's firm that represented defendants in criminal cases, and I served as a liaison for that firm with the barristers, who defended those clients in court. My internship included meeting with experts and clients, and attending trials throughout the London metropolitan area. I was given a lot of responsibility and totally immersed in the litigation process.

A turning point in my practice was when ... I represented the board of directors in an unusual breach of fiduciary duty case against the chief executive officer of MassMutual, who the board of directors had terminated for cause. I was only a fifth year associate at a large defense firm, but the partners on the case entrusted me to oversee all of the associates, along with the daily management and preparations for a three-week long trial, which I second chaired. I then worked on my first M&A case, in which JPMorgan acquired Bear Stearns during the financial crisis, and that solidified for me that I wanted to represent shareholders in corporate governance litigation.

I'm currently watching ... the British TV series "Gogglebox" which is a show within a show in that each episode you are watching the same group of Brits, who are watching the highly rated shows on British television. The comedy comes from their candid reactions to the shows. And, since British television is known to be a little irreverent, Gogglebox's casts' reactions are laugh out loud funny. ■

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