

Jon Bergman has diverse experience representing clients in securities litigation matters, including issuers, officers and directors, broker-dealers, financial advisors, and registered representatives. Mr. Bergman's practice includes the defense of publicly traded corporations and their officers and directors in class action lawsuits alleging fraud brought under Section 11 of the Securities Act of 1933 and Section 10(b) of the Securities Exchange Act of 1934 and the related SEC Rule 10b 5. Examples of matters involving securities class action and derivative claims, corporate governance actions and administrative investigations include:

- *Make a Difference Foundation, Inc. v. Oilsands Quest Inc.*, Case No. 10-cv-408 (D. Colo.); The officers and directors of this publicly-traded corporation were sued in this derivative action of breaching their fiduciary duties in connection with a proposed sale transaction of assets. After filing compelling motions to dismiss in response to the complaint and amendments thereto, the matter resolved on terms that were favorable to the offices and directors. The settlement was approved by the U.S. District Court Judge.
- Successful defense of a publicly-traded company faced with an SEC inquiry concerning an accounting restatement and other financial disclosures. The matter concluded after the SEC issued a no-action letter.
- *Fischer v. Ultimate Electronics, Inc.*, (D. Colo.): This public company and its officers and directors were successfully defended from Section 11 and 10b-5 claims brought by plaintiffs alleging that purchasers of an \$80 million secondary stock offering were misled due to inadequate disclosures in the prospectus. The defendants vigorously denied those allegations. Through motion practice, plaintiff's claims and scope of discovery were significantly pruned back, which facilitated the resolution of the case.
- *The Sorokin, LLC v. Fischer Imaging Corp.*, (D. Colo.): Plaintiffs initiated this putative class action lawsuit shortly after the company announced a multiyear restatement of its financials. Based on that restatement and the allegations of 18 confidential witnesses, plaintiffs filed a 90-page complaint. All claims against the company were dismissed based on the legal argument that the core allegations had not been sufficiently pled.

- Obtained a substantial arbitration award on behalf of the brokerage division of a major U.S. bank in connection with the recovery of a margin account loan secured by shares of a publicly-traded corporation. The award rendered by the arbitration panel vindicated the bank's actions and rejected assertions by the opposition that the bank adversely impacted the share price by selling margined shares into the market.
- Successfully represented a registered representative in the defense of claims by a retiree that investments were unsuitable. The arbitration panel rejected all claims brought by the claimant.
- Representation of a former officer of a publicly traded company with respect to breach of fiduciary duty, fraud and other claims.
- Successful representation of a minority shareholder seeking access to books and records of a company pursuant to Delaware Chancery Code Section 220.

Mr. Bergman has defended and advised companies, officers and directors in a variety of other contexts, including claims involving alleged fraud, breach of fiduciary duties and other business torts.

He also has substantial experience representing clients involved with securities claims in alternative dispute resolution forums, including FINRA arbitrations.

Mr. Bergman has served as a panel member for CLE seminars involving various securities litigation topics. He is a member of the American Bar Association and the Denver Bar Association.