

The National Law Journal Names Max Berger a Litigation Trailblazer

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The *National Law Journal* (“NLJ”) has named BLB&G senior founding partner Max Berger a “Litigation Trailblazer,” recognizing him among the top practitioners in the nation “who are making great strides in the fight for justice.”

In its profile of Mr. Berger, *NLJ* highlights his impressive career and several of his groundbreaking achievements, including his most recent success in bringing a derivative lawsuit against [21st Century Fox](#) related to sexual harassment claims against its stars. According to Mr. Berger, “Management was looking the other way, and it cost shareholders money.” The settlement terms of the litigation created the first ever board-level corporate watchdog - an independent council to supervise the conduct of employees at Fox News - and recouped \$90 million for the company. Mr. Berger asserts that “the principal purpose of the lawsuit was not just to get a monetary recovery, but to change behavior.”

The profile also discusses how, earlier in his career, he represented African American and Latino employees of Texaco in a landmark race discrimination lawsuit, resulting in the creation of an “equality task force and an independent counsel” that “changed the corporate culture at Texaco”—a model that was later emulated at other large companies.

In addition, it covers the *Cendant* securities litigation, the then-largest securities recovery in history (over \$3 billion recovered for investors), which helped forge a greater role for pension funds in pursuing securities litigation. “It was around 1998. For the first time after the Securities Reform Act was passed, we put together the three biggest pension funds as plaintiffs and hired Lazard as an expert about the company’s ability to pay. There was pretty much an admitted fraud.” According to Mr. Berger, this case “provided the impetus for public funds to become more comfortable in pursuing class actions.”

As he turns 72 this year, Mr. Berger —one of the last of his generation still actively practicing— is proud of his accomplishments, having negotiated more than \$31 billion in recoveries for investors and having built “arguably the top securities litigation firm in the nation.”

Mr. Berger acknowledges that “there have clearly been many changes and resistance by the business community to shut down securities class-action litigation” over the years, but he is confident that securities class actions and fraud litigation will continue to play a critical role in monitoring and preserving the integrity of the markets. “[O]ur cases will be around for decades to come. Greed is a growth industry. Fraud is a growth industry. Investors cannot rely on the government alone to protect them.”

Related Professional

- Max W. Berger