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Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

## Rising Star: Bernstein Litowitz's Abe Alexander

By Dean Seal

Law360 (June 2, 2021, 3:37 PM EDT) -- Recently minted Bernstein Litowitz Berger & Grossmann LLP partner Abe Alexander has been involved in some of the biggest-ever securities class action settlements against pharmaceutical companies, and negotiated a landmark deal in 2020 over one of the largest data breaches in history, landing him a spot as one of seven securities attorneys under age 40 honored by Law360 as Rising Stars.

### **BIGGEST CASE OF HIS CAREER:**

The first major securities litigation Alexander was assigned to after joining Bernstein Litowitz in 2011 was an investor class action accusing Merck & Co. and subsidiary Schering-Plough of concealing test results for their anti-cholesterol drug Vytorin.

The case was settled in a combined \$688 million deal that, at the time of its **2013 approval**, was the second-largest securities class action settlement ever in the Third Circuit and ranked among the top 25 securities class action settlements of all time, according to Bernstein Litowitz.

Alexander said he hadn't necessarily planned to be on the case, but called it "fortuitous" given that it ignited his passion for drug and device-related securities litigations. And that was ultimately fortuitous for Merck investors, who had Alexander going to bat for them yet again in a multidistrict case that **ended with a \$1.06 billion settlement** in 2016.

Consolidated in New Jersey in 2005, the suit was part of the fallout from Merck's 2004 recall of its osteoarthritis medication Vioxx, and was initially dismissed before getting revived in the Third Circuit, **sustained in** the U.S. Supreme Court and settled.

Alexander attributes his firm's success in the case to a tireless work ethic and exhaustive approach to discovery, which had the investors' counsel taking depositions all over the world.

"You have to understand the case better than your adversary, and when you're suing a corporate defendant — especially in these drug and device cases, where they're responsible for developing and marketing the drug, they know the science better than you do, they know the history better than you do — you have to very quickly become the expert," Alexander said. "The only way that's going to happen is by really diving in."

### **WHAT MOTIVATES HIM:**

Alexander has continued to take on securities cases focused on the pharmaceutical and biotechnology industries, including a suit claiming that Clovis Oncology Inc. inflated its stock price by misleading investors about the efficacy of a cancer drug, and more recently a litigation against emergency room operator Adeptus Health.

The former **settled in 2017** for \$142 million while the latter was settled **with a \$44 million deal** last year. But achieving high-dollar recoveries for investors is just part of the satisfaction of closing major settlements in drug and device cases, Alexander said — many of those cases also "represent an amazing opportunity to help people on many levels and effectuate broad change."

"I've litigated cases where not only do we get an excellent recovery for injured investors, but the corporate defendant starts doing things differently after the litigation, and that's a great feeling," he said. "You feel like you really helped make people safer, and I also find those cases incredibly intellectually stimulating — I'm always learning so much, and I get to learn it from the best teachers in the world, these world-class experts that we've retained."

### **MOST NOTABLE CASE HE'S WORKED ON RECENTLY:**

Alexander was recently a key member of the Bernstein Litowitz team that secured a **\$149 million settlement** ending securities claims against Equifax related to the credit reporting agency's massive 2017 data breach, which exposed the personal data of more than 148 million people.

A federal judge granted final approval in June 2020 to the deal, the largest-ever class action settlement in Georgia federal court, which resolved allegations that



**Abe Alexander**  
Bernstein Litowitz

**Age:** 38  
**Home base:** New York  
**Position:** Partner  
**Law school:** University of Colorado Law School  
**First job after law school:** Law clerk for

Equifax had been misleading about its cybersecurity safeguards and compliance with data security laws, as revealed by the data breach.

Chief Justice Michael  
Bender of the Colorado  
Supreme Court

According to Alexander, there hadn't been a track record for success in securities litigation focused on data breaches, but the Equifax case presented a unique fact pattern and the Bernstein Litowitz team was able to focus on systemic issues at Equifax that led to the breach rather than the breach itself.

"This was another case where you have to get your hands all over the very technical facts," Alexander said. "It took poring over all of the regulatory regimes, all the industry standards for cybersecurity, and working with experts very early, as the case is ramping up, to build a complaint that was going to withstand a motion to dismiss."

### **WHY HE'S A SECURITIES ATTORNEY:**

Since his first year of law school, Alexander knew he wanted to be a plaintiff-side attorney, and credits that decision to a documentary he saw about prominent attorney **William Shernoff's** work securing life insurance benefits for survivors of family members who died in Hitler's death camps.

"Bill was one of the first guys to bring these claims, and he was enormously successful and was able to really push institutional change," Alexander said. "I was really blown away by what he'd achieved."

After writing Shernoff a letter, Alexander was given the opportunity to go work under him, and knew from then on that he wanted to "do work that was about social justice." Then, in his second year of law school, a business law class with Professor Mark Lowenstein "brought out this interest I never knew I had in corporate and securities law," Alexander said.

"I was very lucky to have amazing role models early in my legal career that got me interested in this stuff," he said.

In his role at Bernstein Litowitz, Alexander is able to marry those interests he developed in law school by engaging in "technical and complex" securities work that can still serve a public good by deterring corporate misconduct and encouraging transparency, he said.

"Knowing that you did something that helped mitigate the risk of future harm is so wonderful," Alexander said. "It really is what drew me to plaintiff-side work: the social justice dimension of what we do. I couldn't imagine doing anything else."

— As told to Dean Seal

*Law360's Rising Stars are attorneys under 40 whose legal accomplishments belie their age. A team of Law360 editors selected the 2021 Rising Stars winners after reviewing more than 1,400 submissions. Attorneys had to be under 40 as of April 30, 2021, to be eligible for this year's award. This interview has been edited and condensed.*