



Jay P. Lefkowitz, P.C.

Retired Partner / Litigation

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Practices

- Litigation
- Trials
- Appeals
- Antitrust & Competition
- Product Liability
- Government, Regulatory & Internal Investigations
- M&A Litigation

Admissions & Qualifications

- 1988, New York
- 1996, District of Columbia

Courts

- Supreme Court of the United States
- United States Court of Appeals for the First Circuit
- United States Court of

Jay Lefkowitz is a litigation retired partner at Kirkland. He was also an adjunct professor at Columbia Law School, where he taught a seminar on Supreme Court advocacy. Jay served as lead trial and appellate counsel in a wide variety of substantive areas, including shareholder disputes, antitrust, product liability, litigation against the FDA and False Claims Act matters. He also conducted numerous internal investigations for public companies and audit committees.

In its 2013 release of “The 100 Most Influential Lawyers in America,” *The National Law Journal* describes Jay as “a leading voice on school choice issues” and “a no-nonsense appellate and antitrust lawyer for an array of blue-chip clients.” *The Legal 500 U.S.* noted that Jay “provides a depth of understanding and influence in some of the highest courts of our country,” and in *Chambers USA, America’s Leading Lawyers for Business*, clients say, “Jay is brilliant; there is no other way to put it.” Jay was also named a *Law360* “MVP of the Year” in 2011 for his Appellate practice, and in 2012, 2013, 2014, 2015 and 2016 for his Life Sciences work. Jay was one of only three of the 189 MVPs named to the list six years in a row. *The American Lawyer* named him its “Lawyer of the Week” in December 2012 for his role in winning an antitrust lawsuit in the pharmaceutical industry.

Jay took on groundbreaking work for high-profile clients,

Appeals for the
Second Circuit

- United States Court of Appeals for the Third Circuit
- United States Court of Appeals for the Fourth Circuit
- United States Court of Appeals for the Fifth Circuit
- United States Court of Appeals for the Sixth Circuit
- United States Court of Appeals for the Seventh Circuit
- United States Court of Appeals for the Eighth Circuit
- United States Court of Appeals for the Ninth Circuit
- United States Court of Appeals for the Tenth Circuit
- United States Court of Appeals for the Eleventh Circuit
- United States Court of Appeals for the District of Columbia Circuit
- United States Court of Appeals for the

representing more than a dozen major pharmaceutical, medical device and health care companies in important and frequently precedent-setting matters. Jay won two landmark 5-4 decisions at the United States Supreme Court in favor of the pharmaceutical industry overturning the decision of three Circuit Courts of Appeal. In *Pliva v. Mensing* in 2011, on behalf of Teva and Actavis, Jay convinced the Court to reject the views of the FDA and the Solicitor General and establish that generic drug companies may no longer be sued for “failure to warn claims,” finding that federal law preempts state law under the Constitution’s supremacy clause. His victory in *Mutual v. Bartlett* in 2013, overturned a \$21 million verdict on behalf of Sun Pharmaceuticals, and extended the *Mensing* ruling to cover design defect claims.

Jay also represented clients in high-profile bet-the-company securities litigation, including in numerous pending Section 10(b)(5) class actions, e.g., *Fernandez v. Knight Capital Group.*, *Fage v. Bioscrip*, and *Teva*. Kirkland is one of only three “powerhouses” for Securities and Finance Litigation in a survey of corporate counsel conducted by *BTI Consulting* and published in 2014, Practice Group of the Year for Securities by *Law360* for 2014, 2015 and 2017, and a Tier 1 ranking for Shareholder Litigation and Securities by *The Legal 500* for 2012–2015 and *Best Lawyers®*, 2007–2024. The *BTI Consulting Group*’s “Litigation Outlook” also named Kirkland as one of the firms that formed the Fearsome Foursome — the four “most feared” litigation firms — in 2011 and 2013–2017.

Jay served on Advisory Boards for many organizations, including Columbia Barnard Hillel, Manhattan Institute, The Tikvah Fund, and Commentary Magazine. His public service career included serving as a senior White House advisor to two presidents, and as United States Special Envoy on Human Rights in North Korea.

Federal Circuit

- United States Tax Court
- United States District Court for the District of Columbia
- United States District Court for the District of Colorado
- United States District Court for the Eastern District of New York
- United States District Court for the Eastern District of Michigan
- United States District Court for the Eastern District of Wisconsin
- United States District Court for the Northern District of Illinois
- United States District Court for the Northern District of New York
- United States District Court for the Southern District of New York

Education

- Columbia Law School, J.D., 1987
Harlan Fiske Stone Scholar (1985–1986)
- Columbia College,

Representative Matters

Securities Litigation

Chester County Retirement System v. Collins, et al.

- Represented two senior executives of Blount International, Inc. in a putative shareholder class action arising from the 'take-private' acquisition of Blount by American Securities and P2 Capital Partners. The plaintiff alleged breaches of fiduciary duties and disclosure violations in connection with Blount's sale price. In 2016, the court granted the defendants' motion to dismiss with prejudice.

St. Denis J. Villere & Company LLC, et al. v. Epiq Systems, Inc., et al.

- Represented Epiq Systems, Inc. in a shareholder lawsuit arising from Epiq's sale to OMERS Private Equity and funds managed by Harvest Partners, LP. St. Denis J. Villere & Company, LLC, Epiq's largest activist shareholder, alleged breach of fiduciary duty following its rejected attempt to nominate candidates of its choice to stand for election to the board of directors of Epiq. In 2016, the parties reached a favorable settlement, paving the way for the \$1 billion transaction.

Park Employees' and Retirement Board Employees' Annuity and Benefit Fund of Chicago, et al. v. Richard Smith, et al.

- Represented BioScrip and certain current and former directors and officers in a derivative action alleging that certain defendants breached their fiduciary duties with respect to BioScrip's public disclosures, oversight of company operations, secondary stock offerings and stock sales. In 2016, the court dismissed the lawsuit in a seminal ruling in which the court held

A.B., History, 1984
James A. Beard
Political Science Prize,
1984

— for the first time — that a change in a company board shortly after the filing of a derivative complaint required that demand excusal be evaluated as to the composition of the board after the turn over in directors. In 2017, Kirkland prevailed again when the court dismissed the plaintiffs' amended complaint.

Lesh, MD, et al v. eV3 Inc.

- Represented the former shareholders of Appriva Medical, Inc. in a securities case convincing a jury in the Superior Court of the State of Delaware to award approximately \$250 million in damages as a result of eV3 Inc.'s breach of the parties' 2002 merger agreement. Initially filed in 2005, Kirkland took the lead of this litigation in 2009.

Juan Fernandez, et al. v. Knight Capital Group, Inc.

- Representing Knight Capital Group and its officers in a putative securities fraud class action in the United States District Court for the District of New Jersey arising out of a software glitch that caused Knight Capital to erroneously purchase \$7 billion worth of stock and ultimately record a \$460 million loss. The SEC censured Knight and imposed a \$12 million fine. Thereafter, the plaintiff in the securities litigation moved to compel the production of discovery. Kirkland opposed that motion and, after briefing and argument, the Court denied the motion. On March 2, 2015, the court gave preliminary approval of a settlement, which was affirmed at a settlement hearing on July 1, 2015. Overall, the case settled on very favorable terms with the company's insurance carriers funding the settlement in full.

Faig v. BioScrip

- Represents BioScrip, Inc. in connection with the company's 19 percent stock drop case following the company's announcement of a government investigation initiated by Department of Justice

and the New York Attorney General's Medicaid Control Fraud Unit. In 2015, the court granted in part defendants' motion to dismiss. A settlement as to the remaining claims was preliminarily approved in 2016.

Buettgen, et al. v. Harless, et al.

- Represented SuperMedia Inc. (f.k.a. Idearc Inc.) in a class action lawsuit in the United States District Court for the Northern District of Texas, alleging that the defendant misrepresented its bad debt expense with fraudulent intent and thereby caused investors to suffer hundreds of millions of dollars in losses. In June 2013, on the eve of trial and after failed attempts at mediation, the parties reached a settlement.

CMF Cayman, Ltd., et al. v. Heckler and Koch Beteiligungs GmbH

- Represented a German company against a suit brought by several hedge funds and Merrill Lynch International claiming that the company breached the terms of a "Payment-in-Kind" loan. The plaintiffs also sued the directors of the company on an alter ego liability theory and bringing additional claims for intentional and constructive fraudulent conveyances. The court granted defendants' motion to dismiss in 2010. Plaintiffs appealed to the New York Supreme Court but the parties reached a settlement and the appeal was voluntarily dismissed in June 2011.

In re Loral Space & Communications Consolidated Litigation

- Represented three individual directors of Loral Space & Communications, Inc., including its CEO, in a derivative suit and a shareholder class action case arising from a \$300 million financing transaction between Loral and its controlling shareholder. The lawsuits, filed in Delaware Chancery Court, alleged that the Loral directors had breached their fiduciary duties by giving the controlling shareholder a preferential deal.

After a one-week trial in March 2008, the court did not find that the directors had breached their fiduciary duties and refused to impose liability.

Randy Kopp, et al. v. Klein, et al.; Bruce Fulmer, et al. v. Klein, et al.

- Represented Idearc (now, Supermedia, Inc.) and its former ERISA plan fiduciaries defending against an ERISA class action alleging that it was imprudent for Company ERISA plans to hold Idearc stock. In March 2012, the Northern District of Texas granted Idearc's motion to dismiss all claims. Affirmed by the Fifth Circuit in July 2013.

Straily v. UBS Financial Services Inc.

- Represented UBS in a successful defense of an action brought in the United States District Court for the District of Colorado, in which the court granted summary judgment in favor of UBS in a putative class action seeking more than \$650 million in damages on behalf of the class. The suit alleged that UBS had breached fiduciary duties and the implied covenant of good faith and fair dealing when it implemented a new program under which uninvested cash, which had previously been automatically swept from customers' brokerage accounts to UBS money market funds, was swept instead into FDIC-insured deposit accounts at a UBS affiliate, UBS Bank USA.

Tenet Healthcare SEC Investigation

- Represented Tenet Healthcare Corporation and certain current and former officers and directors in a formal SEC investigation concerning whether Tenet's public disclosures of Medicare outlier and stop-loss payments under managed care contracts were misleading or otherwise inadequate, as well as whether certain former and current Tenet officers and directors engaged

in insider trading. The matter was settled for a small financial penalty with no imposition of a monitor.

NASD Procedural Rule 9800 Et Seq. Litigation

- Represented a broker-dealer that had been the subject of the first-ever application of NASD Procedural Rule 9800 et seq., which permits the NASD to seek “temporary cease and desist orders” under certain conditions. Because the scope of the NASD’s authority to impose affirmative obligations was a matter of “first impression,” the National Adjudatory Council (NAC) agreed to review the Hearing Panel’s decision. The NAC agreed the NASD had overstepped its authority to fashion relief under Rule 9840 when it ordered affirmative action (in this case the unwinding of a transaction and the collection of money from a non-member) that went well beyond the cessation of “ongoing violative conduct.”

NASDAQ-Listed Company SEC Investigation

- Conducted an internal investigation of a NASDAQ-listed broker-dealer that was the subject of an SEC fraud investigation. Kirkland interviewed numerous witnesses here and throughout Europe and made numerous findings and recommendations regarding the company’s sales practices, accounting practices, public disclosures, financial controls, records retention practices and personnel decisions. Kirkland worked with and appeared before the SEC, the DOJ, the NASD and the NASDAQ Listing Qualifications Panel.

Hedge Fund SEC Investigation

- Represented a New York-based hedge fund and its principal in connection with a SEC investigation of the fund’s short trading related to its investments in PIPEs (Private Investments in Public Equity). The fund had been one of the largest investors in

PIPEs, with several hundred transactions. After a two-year investigation involving testimony and expert analysis, in June 2008, the SEC agreed to close its investigation without bringing any charges against any of the parties involved.

Electronic Trading Group v. UBS Warburg

- Defended UBS in a putative class action alleging that the firm's prime brokerage unit violated antitrust laws by fixing prices for the interest charged on short sales, particularly naked short sales. The successful defense was upheld on appeal.

In re Bernard L. Madoff

- Represented several foreign entities in relation to the liquidation of Bernard L. Madoff Investment Securities LLC. These representations included filing claims on each client's behalf, objecting to claim determinations and responding to document subpoenas.

Brokerage Practices California Litigation

- Represents a major investment bank in several cases nationwide challenging the client's prime brokerage practices and interest charges on naked short sales under California law.

Picard v. Herald Fund SPC

- Represented Herald Fund SPC in an adversary proceeding brought by the Trustee overseeing the liquidation of Bernard L. Madoff Investment Securities LLC, pending in the United States Bankruptcy Court for the Southern District of New York. The lawsuit seeks avoidance of more than \$550 million in alleged preferences and fraudulent conveyances. After the Fund filed a motion to dismiss all claims, the Trustee voluntarily dismissed nearly half of his claims against the Fund.

Commercial Litigation

McCall, et al. v. Scott, et al.

- Represented parents, as intervenor-defendants, whose children benefit from the Florida Tax Credit Scholarship Program, arguing that, unlike state-funded vouchers, the plaintiffs lacked standing to challenge a tax-credit voucher program as unconstitutional. In 2015, Kirkland persuaded the court to dismiss the lawsuit; affirmed on appeal in 2016.

Comcast MO Group Inc. v. Qwest Communications International Inc.

- Represented Qwest Communications Inc. (now part of CenturyLink, Inc.) in litigation stemming from a tax sharing agreement that predecessors of Comcast and Qwest had entered into in connection with the 1998 separation of U S WEST, Inc. into two separate companies, MediaOne and New US WEST. Obtained summary judgment in 2014, dismissing the \$120 million claim; affirmed on appeal in 2015.

Unilever-TRESemmé

- Representing Conopco, Inc. d/b/a Unilever in a putative class action complaint, pending in the Eastern District of California, regarding Unilever's labeling of its TRESemmé Naturals line of shampoos and conditioners. Plaintiffs there have claimed damages in excess of five million dollars. Jay succeeded in persuading the court to dismiss claims based on the consumer protection statutes of 21 states in which no named plaintiff resided. In 2016, the parties reached a preliminary settlement. Awaiting final court approval.

Unilever-Suave

- Representing Conopco, Inc. d/b/a Unilever in a putative class action complaint, pending in the Eastern District of New York, regarding Unilever's labeling of its Suave Naturals line of shampoos, conditioners, and body washes. Plaintiffs there have claimed damages in excess of five millions dollars. As of February 2015, our motion to dismiss is fully briefed and we are awaiting a decision from the Eastern District of New York.

Unilever-Suave

- Representing Conopco, Inc. d/b/a Unilever in a putative class action complaint, pending in the Western District of Missouri, regarding Unilever's labeling of its Suave Naturals line of body washes. Jay succeeded in removing the case from state court to federal court by arguing that the potential damages exceeded eight million dollars, thereby satisfying CAFAs jurisdictional minimum of five million dollars. Motion to dismiss is pending.

Alberto v. Colgate

- Represented Colgate in a putative nationwide class action in the Federal District Court for the Eastern District of New York. Plaintiffs alleged consumer claims based on Colgate's iconic Speed Stick line of deodorant and antiperspirant products, seeking damages for a nationwide class and an injunction. In 2015, while Kirkland's motion to dismiss — which asserted a novel preemption argument — was pending, plaintiffs voluntarily dismissed the complaint.

Avantor Performance Materials v. IBM Corp.

- Represented IBM when disgruntled customer, Avantor, alleged that IBM fraudulently induced it into an enterprise resource planning/inventory management contract and then breached that contract by providing a flawed product. After convincing the court to stay discovery subject to resolution of IBM's dismissal

challenge, the parties agreed to dismiss the case with prejudice in June 2013.

Chicago Teachers Union v. K12, Inc. and Chicago Virtual Charter School, et al.

- Represented K12, Inc. and Chicago Virtual Charter School (CVCS) in a suit brought against CVCS by the Chicago Teachers Union. The union alleged that the virtual nature of CVCS' educational model violated the Illinois Charter Schools Law's requirement that charter schools be "non-home based." The court ruled in favor of K12 and CVCS and granted summary judgment.

Boca Raton Community Hospital, Inc. v. Tenet Healthcare Corp.

- Represented Tenet Healthcare in a case brought by Boca Raton Community Hospital on behalf of a purported nationwide class of hospitals. The plaintiff brought claims in federal court in Miami under the federal RICO statute and California's unfair competition law alleging that Tenet hospitals, through their charging practices, received "too many" outlier payments from Medicare, and thereby "stole" outlier payments from the plaintiff and other hospitals. Prevailed at class certification stage, won summary judgment, and then upheld the decision at the 11th Circuit.

General Motors C/K Pickup Truck Litigation

- Represented General Motors in more than one dozen product liability lawsuits nationwide; represented General Motors in several evidentiary proceedings in which plaintiffs sought exceptions to GM's attorney-client and/or work product privileges under the crime-fraud doctrine; successfully brought mandamus petitions in a variety of federal courts to reverse district court decisions; and led a successful effort to have a

plaintiff's attorney sanctioned with a personal contempt citation for \$190,000 for violation of a court order.

Washington Square Park Litigation

- Trial counsel for General Motors in a highly publicized case in state court arising out of one of the worst automobile accidents in New York City history. The 24 plaintiffs included six decedents and others with significant brain injuries, burns and loss of limbs. Defect allegation related to the lack of a brake-transmission shift interlock in all GM 1980s vehicles. Plaintiffs sought compensatory and punitive damages. Favorable settlement reached after six weeks of trial.

Serrano v. Cablevision Systems Corp. and CSC Holdings, Inc.

- Represented Cablevision in a case before the United States District Court for the Eastern District of New York in which the plaintiffs filed a putative consumer class action asserting seven causes of action: (1)-(3) violations of the Computer Fraud and Abuse Act; (4) violation of the New York Deceptive Sales Practices Act; (5) violation of the New Jersey Deceptive Sales Practices Act; (6) fraud; and (7) unjust enrichment. In February 2012, the district court adopted all of Cablevision's arguments and granted summary judgment. Plaintiffs appealed to the Second Circuit but withdrew their appeal prior to argument.

XL Specialty Insurance v. Loral Space & Communications

- Represented Loral in a suit brought by its insurance company seeking declaratory judgment that there was no insurance coverage for a \$19 million fee award granted to plaintiffs' counsel in underlying litigation. The parties brought cross motions for summary judgment. After hearing oral argument, the court ruled that under the plain language of the insurance policy there was clear coverage for the \$19 million fee award and

granted Loral's summary judgment motion.

White Collar Litigation & Internal Investigations

Phone Recovery Services, LLC v. Verizon Washington, D.C., et al.

- Represented Verizon Communications, Inc. in False Claims Act litigation asserting that Verizon and every other major telecommunications provider collected an insufficient amount of 911 surcharges from their business clients resulting in more than \$200 million in alleged damages. Won dismissal of claims in 2015. Affirmed on appeal in 2018.

Madoff-Related Investigations

- Represented two non-profit institutions in New York State in connection with regulatory inquiries related to losses due to Madoff-related investments. Conducted internal investigations and coordinated revision of internal corporate controls and bylaws. Made presentations to regulators.

Fortune 50 Company Investigation

- Represented Fortune 50 Company in connection with SEC investigation into allegations of earnings smoothing. Interviewed dozens of employees and executives and made presentations to regulators.

Fortune 100 Corporation Investigation

- Represented Fortune 100 Corporation in connection with DOJ and SEC investigations into allegations of fraudulent accounting practices. Developed protocol for internal investigations. Conducted hundreds of interviews of employees and executives and made presentations to regulators.

United States of America v. Jeffrey Stein, et al.

- Defended an investment manager in what has been described as the largest criminal tax fraud prosecution in United States history. The client was charged with 17 co-defendants in a wide ranging conspiracy to evade taxes and defraud the IRS through allegedly abusive tax shelters in the Southern District of New York. The indictment charges that the defendants — most of whom were employees of KPMG — developed sham tax shelter transactions and marketed them to hundreds of wealthy individuals, evading roughly \$11 billion in taxes.

United States Supreme Court and Other Appeals

Wagner v. Teva Pharmaceuticals USA, Inc., et al.

- Represented Teva Pharmaceuticals USA, Inc. and its affiliates, Barr Pharmaceuticals, LLC and Barr Laboratories, Inc., in the appeal of a favorable judgment in a product liability case alleging “failure-to-warn” claims regarding generic hormone therapy drugs. In 2016, the appellate court affirmed the underlying judgment, finding that the Federal Food, Drug, and Cosmetic Act preempted the plaintiff’s Wisconsin state-law claims.

Drager v. PLIVA, Inc.

- Represented PLIVA, Inc., a subsidiary of Teva Pharmaceuticals, in an appeal involving federal preemption issues arising from a product liability case relating to PLIVA’s generic drug metoclopramide. Won the appeal in 2014 when the Fourth Circuit affirmed the entry of judgment for PLIVA.

Romo, et al. v. Teva Pharm. USA Inc.

- Represented Teva Pharmaceuticals in a widely followed appeal concerning removal under the Class Action Fairness Act (CAFA)

in a product liability case involving the drug propoxyphene. To avoid removal under CAFA, the plaintiffs filed dozens of cases, each with fewer than the 100 plaintiffs required for removal under CAFA. The plaintiffs thereafter filed a petition seeking coordination of all actions before a single state court judge. On the basis of the plaintiffs' coordination petition, Teva removed the cases to federal court under CAFA and plaintiffs appealed. In a 2014 en banc decision, the Ninth Circuit affirmed the removal, stating "we hold plaintiffs responsible for what they have said and done," and "the real substance" of the plaintiffs' coordination petition triggered removal.

Teva Pharmaceuticals USA Inc., et al. v. Sandoz Inc., et al.

- Represented Teva Pharmaceuticals USA Inc. in an appeal to the United States Supreme Court concerning the Federal Circuit's July 2013 decision that invalidated several patents covering its brand-name multiple sclerosis therapy, Copaxone. The district court ruled in 2012 that the generics makers infringed all nine Teva patents. On appeal, the Federal Circuit overturned part of the district court's ruling, stating that five of the patents in question had ambiguous language and were, therefore, not invalid. Teva filed an application with the United States Supreme Court to recall and stay the Federal Circuit's mandate pending the filing and disposition of a petition for writ of certiorari, but Chief Justice John Roberts denied the application on November 13, 2013. Teva's cert petition seeking United States Supreme Court review of the Federal Circuit's ruling was granted on March 31, 2014. Oral argument took place on October 15, 2014, and on January 20, 2015, the United States Supreme Court vacated the 2013 decision and remanded the case back to the Federal Circuit. In another win for Teva, the high court rejected Mylan and Sandoz's bid to expedite remand on January 27, 2015.

In re Fosamax (Alendronate Sodium) Products Liability Litigation

No. 11

- Represented Teva Pharmaceuticals North America in an appeal involving federal preemption claims arising from a product liability case relating to Teva's generic drug alendronate sodium (Fosamax). Won the appeal in 2014 when the Third Circuit affirmed the dismissal of all claims against Teva.

In re Darvocet, Darvon & Propoxyphene Products Liability Litigation

- Represented Teva Pharmaceuticals North America in an appeal involving federal preemption issues arising from a product liability case relating to the generic pain-reliever medication propoxyphene. Won the appeal in 2014 when the Sixth Circuit affirmed the dismissal of all product liability claims brought against Teva and nearly two dozen other generic companies.

Upsher-Smith Laboratories, Inc. v. Louisiana Wholesale Drug Company, Inc., et al.

- Represented Upsher-Smith Laboratories in a petition for certiorari to the United States Supreme Court regarding antitrust challenges to Upsher-Smith's patent settlement regarding the drug K-Dur. This case highlighted the circuit split regarding whether patent litigation settlements — so-called “reverse payment” cases — violate antitrust laws, and argued that the Third Circuit applied an incorrect legal standard in holding that such settlements were presumptively unlawful. The Supreme Court granted certiorari in June 2013, vacated the Third Circuit decision, and remanded the case to be adjudicated in light of the Supreme Court's ruling in the companion case, *FTC v. Actavis*.

Mutual Pharmaceutical Company, Inc. v. Karen L. Bartlett

- Represented Mutual Pharmaceutical Company in a successful

appeal before the United States Supreme Court in a preemption case. The Court's decision overturned a \$21 million products-liability verdict, and held that conflict preemption cannot be avoided by asserting that the defendant should not have sold its product. The Court's decision not only extends Kirkland's prior win for the generic industry in *PLIVA, Inc. v. Mensing*, but shields manufacturers of *all* products from what potentially was the single greatest threat to conflict preemption that the Supreme Court has ever considered.

Sincoskie v. West-Ward Pharmaceuticals, Inc. et al.; Yamane v. Wyeth, Inc.; Wiley v. Wyeth, Inc.

- Represented Baxter Healthcare in three products liability victories in state courts in New Jersey, Hawaii and Alabama. In each case, Baxter argued that because federal law requires generic drug labeling and design to be “the same as” the labeling and design of the corresponding brand-name drug, any and all state-law tort claims that seek to hold generic drug manufacturers liable for failing to unilaterally alter their product warnings or design are preempted under the United States Supreme Court ruling in *Pliva v. Mensing*.

United States, ex rel. (Constance A. Conrad) v. Actavis Mid-Atlantic

- Represented Teva and 21 other pharmaceutical companies in a False Claims Act case in the United States District Court for the District of Massachusetts. The relator plaintiff alleged that the defendants violated the Act by causing Medicaid to reimburse the companies for unapproved drugs, vitamins and dietary supplements that were not Medicaid eligible and sought more than \$2 billion in total damages. The court granted the defendants' joint motion to dismiss, adopting the argument that the court lacked subject matter jurisdiction over the action.

PLIVA, Inc. et al. v. Mensing et al.

- Represented Teva Pharmaceuticals USA, Inc. and PLIVA, Inc. in successful appeal to the United States Supreme Court in a case that overturned decisions of the Fifth and Eighth Circuit Courts of Appeal and established that generic drug companies may no longer be sued for “failure to warn claims.”

Andrea Guarino v. Wyeth LLC

- Represented Teva before the United States Court of Appeals for the Eleventh Circuit in a case that alleged that Teva could be held liable under Florida law for negligently failing to communicate its labeling changes directly to health care professionals. The Court rejected the plaintiffs’ argument on both federal and state law grounds.

Pliva v. Mensing-related Matters

- Represented Teva and several other pharmaceutical companies in appeals pending throughout the nation in product liability cases. All these appeals raise preemption issues that are related to the Supreme Court’s decision in *PLIVA v. Mensing*. Jay has handled appeals in the Third, Fourth and Sixth Circuits, as well as the Pennsylvania and California Supreme courts.

Millard Anderson v. Abbott Laboratories

- Represented Abbott Laboratories in the United States Court of Appeals for the Fifth Circuit in a case involving a Texas statute that provides drug manufacturers with a rebuttable presumption that FDA-approved drug warnings are adequate in products liability actions.

Constitutional & Religious Liberty Litigation

State of Wisconsin School Voucher Program Litigation

- Represented the State of Wisconsin at the Wisconsin Supreme Court and later the United States Supreme Court in its successful litigation to become the first state in the country to implement a school voucher program.

Concerned Citizens of Carderock v. Hubbard

- Defended the Adat Shalom Reconstructionist Congregation in a lawsuit brought by residential owners in the town of Carderock, Maryland challenging the constitutionality of a zoning ordinance, arguing that it amounted to an impermissible endorsement of religion within areas zoned for single-family residential use. The United States District Court for the District of Maryland granted the defendant's motion to dismiss.

Pharmaceutical Litigation

FTC v. AbbVie Inc., et al.

- Represented Teva Pharmaceuticals in an antitrust lawsuit alleging that Teva's patent settlement with Abbott regarding the drug AndroGel® delayed the introduction of a competing product. Won a motion to dismiss in 2015. Teva also prevailed soon thereafter when the court denied plaintiff's bid both for reconsideration of the dismissal and for partial final judgment. This was the first so-called 'reverse payment' case brought by the FTC following the Actavis ruling and will set an important precedent for the industry going forward.

In re ACTOS End-Payor Antitrust Litigation

- Represented Teva Pharmaceuticals in an antitrust class action alleging a patent settlement between Teva, other generic drug manufacturers and Takeda regarding the drug ACTOS® delayed

the introduction of competing products. Won motion to dismiss the complaint with prejudice in 2015. The plaintiffs voluntarily withdrew their appeal of the ruling in 2016.

Becker v. Cephalon, Inc., et al.

- Represented Teva Pharmaceuticals in product liability litigation arising from the alleged failure to warn of side effects associated with Teva's drug Treanda®. In 2015, Kirkland won dismissal of all claims. The ruling created helpful precedent for future failure-to-warn suits brought against Teva and other pharmaceutical companies.

In re Lamictal Direct Purchaser Antitrust Litigation

- Represents Teva in the United States District Court for the District of New Jersey in a Sherman Act case arising out of a patent litigation settlement between Teva and GlaxoSmithKline (GSK). The plaintiffs alleged that, through the litigation settlement, Teva and GSK conspired to delay the marketing of Teva's generic version (Lamotrigine) of GSK's branded epilepsy drug Lamictal®. The Court granted a motion to dismiss all claims. The case was remanded back to district court after the Third Circuit overturned the dismissal. Teva's appeal to the United States Supreme Court is pending.

In re Budeprion Litigation

- Represented Teva in a multi-district nationwide consumer fraud class action brought in the Eastern District of Pennsylvania (Schiller, J.) by more than 2.1 million putative class members seeking more than \$12 billion in damages. While our motion for summary judgment and opposition to class certification was pending, the plaintiffs agreed at mediation to settle on a class wide basis; under the settlement, Teva paid no cash compensation to any class members and reimbursed the

plaintiffs' counsel for \$2.25 million of its \$8 million in fees and expenses (an amount matched by Teva's co-defendant). Final settlement was approved over objections that it was too favorable to the defendant.

In re Endoscopy Center of Southern Nevada

- Represented Teva in a case in Southern Nevada (D. Nev. 2011) (Mahan, J.), in which more than 3,000 individual consumers brought separate actions in Nevada state court against Kirkland clients asserting product liability, breach of warranty and infliction of emotional distress claims. Plaintiffs moved in state court to have the individual cases consolidated for a single trial, and Kirkland removed the claims to federal court as a "mass action" under the Class Action Fairness Act. After Kirkland successfully defeated the subsequent motion to remand the cases to state court, the plaintiffs voluntarily dismissed all of the cases (for zero dollars).

Biovail Corp. v. FDA and Biovail Corp. v. FDA

- Represented business partners Teva Pharmaceuticals USA, Inc. and Impax Laboratories, Inc. in two cases challenging FDA's approval of Impax's generic version of Wellbutrin XL antidepressant. In those cases, brand manufacturer Biovail alleged first that the FDA could not approve Impax's generic version of Wellbutrin XL because Impax's approved product labeling would have been misleading, and second, that FDA approval of Impax's ANDA was in any event blocked by a 30-month regulatory stay of approval based on Biovail's filing of a patent infringement lawsuit against another strength of the product. In the first case, Jay intervened on behalf of Teva and Impax and persuaded the United States District Court for the District of Columbia to reject Biovail's challenges in both TRO and preliminary injunction proceedings. In the latter case, Jay argued for Teva and Impax in emergency TRO proceedings,

successfully obtaining an oral ruling from the United States District Court for the District of Maryland holding that FDA's approval was not blocked by the 30-month stay.

Regions Bank et al. v. GlaxoSmithKline

- Represented Teva, as national counsel, in product liability litigation in the United States District Court for the Eastern District of Arkansas relating to Teva's generic version (Budeprion) of the antidepressant drug, Wellbutrin®. This particular matter involved allegations that ingestion of Teva's Budeprion product during pregnancy resulted in heart defects and other injuries to a minor child. While Teva's motion to dismiss was pending, the plaintiff voluntarily dismissed the case.

Mylan Pharmaceuticals Inc. v. Sebelius et al.

- Represented Teva and Cephalon in a case which involved the 180-day marketing exclusivity provided under the Hatch-Waxman Act. Kirkland successfully convinced the FDA to depart from its "shared exclusivity" policy and award the sole exclusivity. When Mylan — with support from the Federal Trade Commission — sued to overturn the FDA's decision, Kirkland convinced the United States District Court for the District of Columbia to uphold the FDA's decision.

Ranbaxy Labs & Teva Pharmaceuticals USA, Inc. v. Leavitt, et al.

- Represented Teva Pharmaceuticals USA, Inc. in a dispute with the FDA and argued that the FDA acted arbitrarily and capriciously when it denied IVAX Pharmaceuticals (since acquired by Teva) 180 days of marketing exclusivity for its generic version of Merck's blockbuster drug Zocor® following Merck's request to remove the patents claiming Zocor from the FDA's Orange Book list of patents. The D.C. Circuit held that the agency's conduct violated the plain language of the Hatch-

Waxman Act and was fundamentally inconsistent with the Act's incentive scheme.

Mutual Pharmaceutical Co. v. Ivax Pharmaceuticals, Inc.

- Represented Ivax Pharmaceuticals in federal district court in California in a case where the plaintiff sought a preliminary injunction under the Lanham Act to preclude marketing forms of a “DESI” drug, Quinine, that had not received formal FDA approval. We successfully fended off the preliminary injunction because we demonstrated that the plaintiff had not shown likelihood of consumer confusion.

Apotex, Inc. v. Food and Drug Administration, et al.

- Represented Teva Pharmaceuticals USA, Inc. in its fight against the FDA over the exclusive rights to sell a generic form of Bristol-Myers Squibb Co.'s Pravachol cholesterol drug. The FDA had ruled that a stipulated dismissal of a lawsuit between Bristol-Myers Squibb and Apotex had triggered Teva's six months of exclusivity. Following argument, the United States District Court for the District of Columbia reversed the FDA, instead ruling that a stipulated dismissal is not a “decision of a court” or a “holding” as required by the Act and granted judgment and injunctive relief to Teva. FDA appealed that decision to the D.C. Circuit, which vacated the district court's decision and remanded the matter to FDA for reconsideration in light of the district court's analysis. On remand, FDA fully adopted the district court's position and awarded Teva exclusivity. When another applicant challenged FDA's post-remand award of exclusivity, Jay successfully defended the agency's decision in both the district court and D.C. Circuit.

Modafinil Antitrust Litigation

- Represented Barr and Teva against claims under the Sherman

Act alleging that several generic manufacturers conspired to keep a generic version (modafinil) of the narcolepsy drug Provigil® off the market. The case is pending in the United States District Court for the Eastern District of Pennsylvania. Won partial summary judgment in 2014. Favorable settlements were reached in the remaining actions in 2016.

State of Illinois v. Abbott Laboratories

- Leading the defense for Teva and other pharmaceutical manufacturers in an Illinois False Claims and Consumer Protection case in the Circuit Court of Cook County, Illinois that began in 2005. The plaintiffs allege that the defendants' dissemination of "false and deceptive" average wholesale prices for their drugs caused the state to over-pay pharmacies that dispense these drugs to Medicaid beneficiaries. The case, tried in 2013, is awaiting a verdict.

Fenwick et al. v. Ranbaxy Pharmaceuticals, Inc., et al.

- Represents Ranbaxy Pharmaceuticals Inc. and certain of its affiliates in connection with allegations of consumer fraud and other similar claims arising out of Ranbaxy's recall of generic atorvastatin tablets. In 2013, defeated plaintiffs' preliminary injunction to extend the recall to the consumer level and successfully limited discovery to class certification-related issues. Class certification was defeated in 2018. Settlement achieved in 2019.

Patent Settlements Antitrust Cases

- Represents as lead counsel in seven national antitrust cases challenging patent settlements following the Supreme Court's *Actavis* decision involving well known drugs such as Lipitor (Ranbaxy), Provigil (Teva), Cipro (Teva), Solydyn (Ranbaxy), Nexium (Teva), and Niaspan (Teva).

In re Cipro Cases I & II

- Represents Barr Pharmaceuticals in a California class action alleging that Barr and Bayer Corporation colluded to delay the entry of a lower-priced generic version of the antibiotic Cipro®. Kirkland previously defeated federal antitrust challenges to the Bayer-Barr agreement in a parallel action. In the California action, Kirkland won summary judgment on all claims and argued a winning appeal before the California Court of Appeal in this 10-year-long litigation. Plaintiffs then appealed to the California Supreme Court, which agreed to consider the matter in February 2012. The case was stayed pending the outcome of *FTC v. Actavis*, an unrelated case with similar legal issues. Following the ruling in *Actavis*, the plaintiffs asked the California Supreme Court to put their appeal on hold in light of a possible settlement agreement. The case is now expected to go to trial in the fall of 2016.

Fera Pharmaceuticals v. Akorn

- Represents Akorn, Inc., which was sued by drug manufacturer Fera in the United States District Court for the Southern District of New York, in a case involving allegations of breach of a commercial supply contract, fraud and trade secret theft. The case is in discovery. In 2013, the court dismissed Fera's unfair competition claim, and in 2014, dismissed Fera's claim for injunctive relief. The case is ongoing with respect to the remaining claims.

Wells v. Medicis Pharmaceuticals

- Represented Medicis in a case in which the plaintiff asserts that she was injured when injected with Medicis' Restylane Class III device. Won motion to dismiss, on grounds of federal preemption and insufficient pleading, before the United States District Court for the District of South Carolina in 2014.

Yolanda Hudson v. Teva

- Represented Teva in a case before the United States District Court for the Southern District of Florida in which the plaintiff alleges that she was injured as a result of both manufacturing and design defects in a Paragard® Intrauterine device. A favorable settlement was reached in 2015, and the case was subsequently dismissed.

Thought Leadership

Publications

“The Jewish Vote in 2024: Trump did better. But not much better,”
Commentary, January 2025

“A Man in Full,” *Commentary*, March 2020

“If I Forget Thee,” *Commentary*, October 2018

“Brett Kavanaugh Is a Mensch,” *National Review*, August 29, 2018

“A North Korea Strategy for the Next U.S. President,” *Wall Street Journal*, September 29, 2016

“Shifting Daylight — Review of ‘Doomed to Succeed: The U.S.-Israel Relationship from Truman to Obama,’” *Jewish Review of Books*, Winter 2016

“A Symposium — The Jewish Future,” *Commentary*, November 2015

“The Dangers of Inaction in North Korea,” *The Wall Street Journal*, October 14, 2015

"The Rise of Social Orthodoxy: A Personal Account," *Commentary*, April 2014

"Director Independence: Interplay Between Delaware Law and Exchange Rules," *The Harvard Law School Forum on Corporate Governance and Financial Regulation*, October 7, 2013

"U.S. Response to North Korea is Dangerously Naive," *The Washington Post*, April 13, 2013

"Drones Are No Substitute for Detention," *Financial Times*, March 4, 2013

"Symposium - What Is the Future of Conservatism in the Wake of the 2012 Election?" *Commentary*, January 2013

"Escaping from the North Korean Stalemate," *Commentary*, December 2012

"Fate of Financial Crisis Litigation Hangs on Knotty Legal Question," *New York Law Journal*, July 19, 2012

"A Question Of Belonging," *The Wall Street Journal*, March 22, 2012

"Court Paints with Broad Brush, Upends U.S. Stem Cell Policy," *The Hill*, September 15, 2010

"Obama Embraces the 'Pre-emption' Doctrine," *The Wall Street Journal*, September 14, 2010

"Bookshelf: Judaism: A Way of Being, by David Gelernter, The Genesis of a People," *The Wall Street Journal*, March 29, 2010

"Obama vs. the Regulators," *The Washington Post*, August 6, 2009

"AIDS and the President - An Inside Account," *Commentary*,
January 2009

"Let's Confront North Korea on Human Rights," *The Wall Street Journal*, December 23, 2008

"Why North Koreans Need Us," *The New York Sun*, May 5, 2008

"Truth in Advertising," *The Wall Street Journal*, January 25, 2008

"Stem Cells and the President - An Inside Account," *Commentary*,
January 2008

"Science Obviates Politics," *The New York Sun*, January 11, 2007

"For A Few Dollars More," *The Wall Street Journal*, January 10,
2007

"Homes Away from Home," *The Wall Street Journal*, March 17,
2005

"The Election and the Jewish Vote," *Commentary*, February 2005

"It's Time to Lengthen Strides in Tort Reform," *Investor's Business Daily*, August 31, 2004

"Houses of Worship - Singled Out," *The Wall Street Journal*, July
30, 2004

"A Spectrum of Abuse at FCC?," *The Washington Times*, July 25,
2004

"Telecommons Turf Tango," *The Washington Times*, June 24, 2004

"Government Actions to Combat Anti-Semitism in the OSCE
Region," Testimony before the Commission on Security and

Cooperation in Europe (the Helsinki Commission), June 16, 2004

"Workshop on Promoting Tolerance: Media, i.a., Internet, NGOs and Religious Leaders," Testimony at the OSCE Conference on Anti-Semitism, April 28, 2004

"Three Strikes for the FCC - Government Regulation Stifles the Telecom Industry," *National Review*, March 18, 2004

"Strike Up the Broadband," *The Weekly Standard*, January 26, 2004

"Bookshelf - Ugly and Venomous," *The Wall Street Journal*, January 22, 2004

"The 9/11 Deadline," *The Wall Street Journal*, December 16, 2003

"Malarkey And Stem Cells," *The Washington Post*, November 8, 2003

"The Facts on Stem Cells," *The Washington Post*, October 30, 2003

"Does the Jewish Vote Count?," *Commentary*, March 2001

"A Critique of the FCC's Decision to Retain Limits on National Television Station Ownership," *Telecommunications & Electronic Media News*, Fall 2000

"Bookshelf: The Supreme Court and Its Most Famous Justice, Law Without Values," by Albert W. Alschuler, *The Wall Street Journal*, December 14, 2000

"It's The Law, Stupid, How many lawyers does it take to win an election?," *The Weekly Standard*, November 20, 2000

"Books in Review: Jew vs. Jew: The Struggle for the Soul of American Jewry," by Samuel G. Freedman, *Commentary*, October 2000

"Clinton, Not the Courts, Is Condemning Elian," *The Wall Street Journal*, June 2, 2000

"Bookshelf: The Warren Court and American Politics, by Lucas A. Powe, Jr., If the Legislature Won't Do It, We Will," *The Wall Street Journal*, March 20, 2000

"A Modest Tort Proposal," *The Weekly Standard*, August 16, 1999

"Bookshelf: The Lord Will Gather Me In, by David Klinghoffer, Torah and Truth," *The Wall Street Journal*, December 15, 1998

"Supreme Court on School Choice: 50 Years of Precedents," *The Wall Street Journal*, November 23, 1998

"Treason of a Clerk, On the Vast, Right-Wing Conspiracy at the Supreme Court," *The Weekly Standard*, April 27, 1998

"The NPR Log Book, No: All Opinions Are Not Entitled To Equal Air Time," *ABA Journal*, June 1996

"Decade of Greed?," *The Public Interest*, No. 124, Summer 1996

"Books in Review: Ultimate Answers, Think A Second Time, by Dennis Prager," *Commentary*, Vol. 101, No. 5, May 1996

"Overcoming Posner," *The Public Interest*, No. 120, Summer 1995

"The Paradox of a Great Ethnic Success," *The Wall Street Journal*, May 10, 1995

"Managed Competition Is Unhealthy – for Baseball," *The*

Washington Times, August 2, 1994

"Books in Review: Romancing the State, The Fatal Embrace, Jews and The State," by Benjamin Ginsberg, *Commentary*, January 1994

"Books in Review: The Baseball Business, Play Ball: The Life and Troubled Times of Major League Baseball," by John Feinstein, *Commentary*, Vol. 96, No. 3, September 1993

"GOP Jujitsu Strategy," *The Washington Post*, June 23, 1993

"Where Dad Belongs," *The Wall Street Journal*, June 18, 1993

"Our Students, Still at Risk," *The New York Times*, May 3, 1993

"The Next Rebellion: Parents vs. The Liberals," *The Washington Times*, April 23, 1993

"Jewish Voters & the Democrats," *Commentary*, April 1993

"The Missing Linkage," *The Jerusalem Report*, March 14, 1991

"Law Review Errs With Affirmative-Action Plan," *Manhattan Lawyer*, May 23, 1989

"Affirmative Action Can Hurt Those It Is Intended to Help," *The Times Union*, February 7, 1989

"Shultz Had Legal Right to Bar Arafat," *The Jewish Week, Inc.*, December 9, 1988

Press Mentions

"Court Rejects Threat to School Vouchers as Program Expands," *Daily Business Review*, August 23, 2016

"2015 Life Sciences MVP: Jay Lefkowitz," *Law360*, November 23, 2015

"2014 Practice Group of the Year: Product Liability," *Law360*, January 21, 2015

"Kirkland & Ellis; The 2014 Appellate Hot List," *The National Law Journal*, November 17, 2014

"Pro Bono Firm of 2014: Kirkland & Ellis," *Law360*, October 10, 2014

"2014 Life Sciences MVP: Jay Lefkowitz," *Law360*, December 3, 2014

"2 Firms Steal GC Hearts In Health, Pharma," *Law360*, March 26, 2014

"New York City Strikes Deal with Hassidic Williamsburg Businesses," *The Jerusalem Post*, January 27, 2014

"Hasidic Merchants Won't Have to Pay Fines for Dress-Code Signs," *ABA Journal*, January 22, 2014

"Williamsburg Stores Agree To Revise Modesty Signs," *The Jewish Week*, January 22, 2014

"City Settles with Hasidic Businesses Over Dress Codes," *The New York Daily News*, January 21, 2014

"Hasidic Stores Win Fight with City Human Rights Commission," *The New York Post*, January 21, 2014

"No Fines for Stores Displaying a Dress Code," *The New York Times*, January 21, 2014

"NYC Settles With Hasidic Stores Over Modesty Dress Codes," *Gothamist*, January 21, 2014

"2013 Practice Group of the Year: Product Liability," *Law360*, January 15, 2014

"2013 Life Sciences MVP: Jay Lefkowitz," *Law360*, December 16, 2013

"The 4 Firms In-House Counsel Fear the Most," *Law360*, September 9, 2013

"Eleventh Circuit Upholds Dismissal of Generic Reglan Suit," *The Am Law Litigation Daily*, June 26, 2013

"Lefkowitz Scores for Generics in Supreme Court Preemption Ruling," *The Am Law Litigation Daily*, June 24, 2013

"In 5-4 Ruling, Justices Say Generic Makers Are Not Liable for Design of Drugs," *The New York Times*, June 24, 2013

"High Court Further Limits Generic-Drug Suits," *The Wall Street Journal*, June 24, 2013

"High Court Overturns Landmark Generic-Drug Liability Ruling," *Law360*, June 24, 2013

"Frum Dress Codes V. Human Rights?," *The Jewish Week*, April 17, 2013

"The 100 Most Influential Lawyers in America: Jay Lefkowitz," *The National Law Journal*, March 25, 2013

"Court Weighs Drug Liability," *The Wall Street Journal*, March 20, 2013

"Justices Explore Fine Line on Generic Drug Injuries," *The New York Times*, March 20, 2013

"Supreme Court Weighs Future Of Generic-Drug Defect Suits," *Law360*, March 19, 2013

"Top Court to Hear Arguments Over Generic Drugmaker Liability," *Reuters*, March 18, 2013

"K&E's Lefkowitz Strikes Again for Defendants in Medicaid Fraud Case," *The Am Law Litigation Daily*, February 28, 2013

"Q&A with Kirkland's Jay Lefkowitz," *Law360*, February 27, 2013

"Eye Med Distributor's \$100M Suit Barred By Deal, Akorn Says," *Law360*, January 28, 2013

"Appellate Group Of The Year: Kirkland & Ellis," *Law360*, January 10, 2013

"Litigator of the Week: Jay Lefkowitz of Kirkland & Ellis," *The Am Law Litigation Daily*, December 14, 2012

"Life Sciences MVP: Kirkland & Ellis' Jay Lefkowitz," *Law360*, December 3, 2012

"Six Kirkland Partners Named to Law360's 'MVPs of the Year' List," *Law360*, November 30, 2012

"Generic Drugs Proving Resistant to Damage Suits," *The New York Times*, March 20, 2012

"Charter School Dispute had a Strategic Angle," *Florida Business Review*, January 13, 2012

"Pro Bono Hotlist," *The National Law Journal*, January 2, 2012

"Focus: The Litigation Top 50 - Wars of the World," *The Lawyer*, December 5, 2011

"Appellate MVP: Kirkland & Ellis' Jay Lefkowitz," *Law360*, November 18, 2011

"Law360 Names 2011 MVPs," *Law360*, November 10, 2011

"Palestinian Move Hits Obama Vote Base," *Financial Times*, September 21, 2011

"Supreme Court Delivers Big Win to Generic-Drug Makers," *Inside Counsel*, September 1, 2011

"In Trio of Big Business Cases, Justices Sharply Divide," *The National Law Journal*, June 24, 2011

"Court: Generic Drug Makers not Liable for Warnings," *The Associated Press*, June 23, 2011

"Supreme Court Sides with Generics, Rules State Law Failure-To-Warn Claims Preempted by Federal Law," *The Am Law Litigation Daily*, June 23, 2011

"For Generics' Lawyers, Landmark Ruling was Years in the Making," *Thomson Reuters News & Insight*, June 23, 2011

"Generic-Drug Makers Shielded From Lawsuits, Top Court Says," *Bloomberg News*, June 23, 2011

"Lefkowitz Drops Bid to Run 9/11 Fund," *Metropolis*, April 14, 2011

"Star Litigator Jay Lefkowitz Goes Pro Bono in California School Reform Case," *Lawyers and Settlements.com*, February 22, 2011

"First-of-its-Kind Lawsuit Seeks to Improve Los Angeles School,"

The National Law Journal, February 7, 2011

"How Policy Can Often Trump Politics in the White House,"
Columbia Law School, September 23, 2010

"Corp. Counsel Name Product Liability Standout Firms," *Law360*,
September 7, 2010

"The 4 Firms In-House Counsel Fear The Most," *Law360*,
September 3, 2010

"Litigation Department of the Year: Finalist: Not Afraid to Litigate -
or Negotiate," *The American Lawyer*, January 1, 2010

"4 Firms Lead Pack In Legal Skills," *Law360*, November 16, 2009

"Kirkland Wins Appeal for Tenet in RICO Case," *The Am Law
Daily*, September 9, 2009

"Inside the Ring: Korea Rights Report," *The Washington Times*,
January 29, 2009

"Kosher in the White House," *AISH.com*, December 28, 2008

"Daddy Track; Paid Paternity Leave is Now Standard at Am Law
100 Firms," *The American Lawyer*, July 2008

"Supreme Court Pharma Fight," *CNBC Video*, February 27, 2008

"Subprime Crisis Stirring up New Wave of Litigation, Says
Kirkland's Lefkowitz," *Global Forensics*, February 2008

"Foggy Bottom Apostate," *The Wall Street Journal*, January 25,
2008

"K&E Wins AmLaw's Litigation Dep't of the Year," *Wall Street*

Journal Law Blog, January 2, 2008

"Litigation Department of the Year: Winner: Top Guns," *The American Lawyer*, January 2008

"Bush Envoy Argues for Accountability," *Yale Daily News*, October 10, 2007

"Shuttle Diplomat," *Columbia College Today*, September 1, 2006

"European Closing Bell," *CNBC Europe*, March 22, 2004

"A Hard-Nosed Litigator Becomes Bush's Policy Point Man," *The Washington Post*, April 30, 2002

"Blackboard Jungle," *The American Lawyer*, May 1, 2000

"Republican, Connected and Rising," *The National Law Journal*, March 11, 1996

Seminars

Aspen Ideas Festival - Panelist, "North Korea: The Threat Assessment, Seismic Shifts," June 2018

Concordia 2016 Summit - Speaker and Panelist, "Strategic Stability: Deterring Provocations and Escalation in North Korea," September 2016

Harvard, Princeton, and Stanford Conference - "American Conservatism in a Generous and Caring Country" - Moderator and Panelist, "American Conservatism and Faith Based America: A Productive or Troublesome Relationship," April 2016

Catalent Pharma Solutions Event – Speaker, "Recent Legal Issues in the Pharmaceutical Industry," December 2015

2015 Jewish Review of Books Symposium – Speaker and Panel Moderator, “The United States and Israel: The Future of a Relationship,” October 2015

United States Committee on Foreign Relations – Testified before US Congress, “Assessing the North Korea Threat and U.S. Policy: Strategic Patience or Effective Deterrence?” October 2015

Washington Legal Foundation Media Briefing – Speaker and Panel Moderator, “FEDERAL PREEMPTION: New Developments and Notable Trends for Drugs and Medical Devices,” September 2015

Columbia University’s Political Science Student’s Association and Columbia Political Union Event – Speaker and Panelist, “Columbia University Alumni Panel,” focusing on political service, December 2014

ACI Legal and Regulatory Summit on Generic Drugs – Speaker, “Operating in the Post-Bartlett Landscape in Light of New Decisions and FDA Rulemaking,” July 2014

Ramaz Upper School Event, “We The People, Understanding the Relationship Between United States Law & Religion” – Featured Speaker, “Religion in the Public Square: Walking a Very Fine Line,” January 2014

The Tikvah Fellowship’s “In the Arena” – Speaker, “A conversation with Jay Lefkowitz,” December 2013

George Mason University School of Law’s Eighth Annual Judicial Symposium on Civil Justice Issues – Panelist, “Brand Name Drug Liability,” November 2013

The American Lawyer’s New Partner Forum – Panelist, “New Partners as Career Planners - Setting Targets,” November 2013

Baxter Pharmaceuticals CLE Program – Speaker, "*FTC v Actavis*: Litigation Implications and Impact on Patent Settlements" and "*Wyeth* and Beyond: Developments in Product Liability Law and Preemption," July 2013

ACI Legal and Regulatory Summit on Generic Drugs – Panelist, "How Generic Companies are Weighing the Newfound Risk of Exposure for Increased Suits Product Liability Based on Evolving Theories of Law," July 2013

Bristol-Myers Squibb CLE Double Header Program: Recent Developments in Patent Settlements & Antitrust Issues, and Product Liability Law & Preemption – Speaker, "*FTC v Actavis*: Litigation Implications and Impact on Patent Settlements" and "*Wyeth* and Beyond: Developments in Product Liability Law and Preemption," July 2013

Columbia Law's Center for Constitutional Governance Conference – Domestic Policy Panelist, "The Next Four Years: Major Issues in Constitutional Governance," April 2013

American Conference Institute – Speaker, "Asserting a Successful Preemption Defense and Managing Parallel Plaintiff Claims in a Post-*Mensing* World," December 2012

AJC's Learned Hand Award Dinner – Moot Court Advocate Headliner, "Civil Liberties in a Post-911 World," November 2012

PhRMA Law Section Event – Speaker, "Review of the 2011-2012 Supreme Court Term and Preview of the 2012-2013 Term," October 2012

2012 GSK Law Firm Summit – Speaker, "Preemption and the Post-*Mensing* World," September 2012

Hudson Institute – Speaker and Moderator, "Escape from North

Korea," September 2012

DRI's Drug and Medical Device Seminar – Speaker, "Preemption: Where Has the Pendulum Swung After *Mensing*?" May 2012

General Pharmaceutical Association's Annual Meeting – Featured Speaker, "Drug Liability Litigation Post *Mensing*: Generic Drug Labels—The Same Only More Defensible," February 2012

Hertog Political Studies Program – Speaker, "Stem Cell Research and Federal Funding," July 2010

Alexander Hamilton Society Dinner – Speaker, "Perspectives on North Korea," July 2010

New York Young Republicans Club – Guest Speaker, April 2010

Republican Jewish Coalition Seminar – Speaker, "Post Election Analysis & the Future of the GOP," January 2009

Young Israel of Century City Scholar in Residence, Weekend of October 24-26, 2008

American Enterprise Institute Conference: The North Korean Problem: Toward a Diplomatic Solution in 2008? – Keynote Speaker, "North Korean Human Rights & US National Security," January 2008

Columbia Law School Dean's Visiting Speaker Luncheon Series – Speaker, "Perspectives on the Law," February 2007

United States' Mission to the United Nations, Economic and Social Council Presentation – Speaker, "Shining a Light: Human Rights Abuses in North Korea," December 2006

Asia Society Symposium – Keynote Speaker, "Can Human Rights

Concerns Be Addressed in a Comprehensive Northeast Asia Security Regime," May 2006

Columbia University's Kraft Lecture Series – Panelist, "Is Religion Political?" March 2006

American Bar Association's Annual National Conference – Presenter, "Preserving Exclusivity: Navigating What's at Stake Under the Hatch-Waxman Act," January 2006

American Bar Association's Aviation and Space Law Committee Conference – Panelist, "Aviation Security and Privacy and Discrimination," October 2005

Manhattan Institute's Center for Legal Policy Conference – Opening Remarks, "9/11 Victim Compensation Fund: Successes, Failures, and Lessons for Tort Reform," January 2005

UJA Young Leadership Conference – Keynote Speaker, "Perspectives on U.S. Policy in the Middle East", June 2004

Manhattan Institute's Center for a Digital Economy Conference: Avoiding a Tragedy of the Telecommons – Panelist, "How are Regulatory Incentives Affecting Competition and Investment?" May 2004

U.S. Chamber of Commerce's Alternatives to Litigation Conference – Panelist, "Administrative Compensation Systems," April 2004

Recognition

Jay was named one of the "500 Leading Litigators in America" by *Lawdragon* in 2024 and 2025.

Jay has been recognized by *The Legal 500 U.S.* for his work in General Commercial Disputes, 2025; Healthcare - Life Sciences, 2022–2025; Appellate Litigation, 2022–2025; Product Liability, Mass Tort and Class Action: Consumer Products (including Tobacco), 2023; Product Liability, Mass Tort And Class Action - Defense: Toxic Tort, 2022–2025; and Product Liability and Mass Tort Defense: Pharmaceuticals and Medical Devices, 2022.

Jay has been ranked in *Chambers USA, America's Leading Lawyers for Business* for General Commercial Litigation every year since 2008.

Jay was recognized by *The Best Lawyers in America* for Product Liability Litigation – Defendants in 2019–2025.

From 2019–2025, Jay has been recognized by *Benchmark Litigation* as a Local Litigation Star and National Practice Area Star for Antitrust; Appellate; General Commercial; Product Liability; Securities. *Benchmark Litigation* recognized Jay as one of the “Top 100 Trial Lawyers in America” for 2015 and 2016. The list features attorneys known for their trial acumen and is developed after three years of research with peers and clients.

Jay was named one of “The 100 Most Influential Lawyers in America” in 2013 by *The National Law Journal* and is honored for his pro bono work for the education reform movement under California’s “parent trigger” law.

For five years in a row, Jay has been named “Life Sciences MVP” by *Law360* in December 2012, November 2013, December 2014, November 2015 and November 2016.

Jay has been recognized in *New York Super Lawyers* every year since 2011.

Jay was named “Litigator of the Week,” *The Am Law Litigation*

Daily, December 2012.

In 2011, Jay was named "Appellate MVP," *Law360*, November 2011.

Communal Activities & Distinctions

In 2019, Jay was honored with the Judge Joseph M. Proskauer Award from the UJA-Federation of New York.

In 2010, Jay was honored with the Gershom Mendes Seixas Award from Columbia/Barnard Hillel.

In 2004, Jay received the Public Service Award from the Orthodox Union, and also represented the U.S. at the International Conference on Anti-Semitism in Berlin, Germany.

In 1990, Jay served as a member of the U.S. delegation to the United Nations Human Rights Commission in Geneva, Switzerland.

Columbia Barnard Hillel, Board Member

Commentary Magazine, Board Member

Manhattan Institute, Board Member

The Tikvah Fund, Board Member