

Partner, New York

National Head of Securities Litigation; Complex Litigation and Trials



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## Education

J.D., Boston University, 1980  
(*cum laude*; Editor, *Boston University Law Review*; Author, "Minimizing Minimization: *Scott v. United States*," *Boston University Law Review*)

B.A., Union College, 1977  
(*magna cum laude*)

## Bar Admissions

New York

U.S. Courts of Appeals for the Second, Third, Fourth, Fifth, Sixth, Seventh and Eleventh Circuits

U.S. Supreme Court

## Associations

Member, New York City Bar Committee on Securities Litigation (2007-Present)

Co-Chair, Practising Law Institute Securities Litigation Conference (1996-2004)

Jay Kasner, Skadden's securities litigation practice leader, represents a diverse group of U.S. and international public and private companies and their directors and officers in their most crucial litigation matters. He has been ranked repeatedly in the top tier for nationwide securities litigation in *Chambers USA*, is one of only three lawyers listed in *Chambers* as a "star individual" for New York securities litigation, and received its Business Trial Lawyer Award for Excellence in 2018. He was named a 2018 Distinguished Leader by the *New York Law Journal* — which also recognized Skadden as its Litigation Department of the Year — and a 2018 Litigation Trailblazer by the *National Law Journal*. Under Mr. Kasner's leadership, Skadden's 80-attorney securities litigation practice has been recognized nine consecutive times as one of the Fearsome Foursome — the four elite litigation practices — and named a "powerhouse" in securities and finance litigation by BTI Consulting.

Mr. Kasner has advised or is currently advising numerous public and private companies of various sizes around the world, including, among others:

- Abercrombie & Fitch
- Anadarko Petroleum
- BlackBerry Limited
- Computer Sciences Corporation (now known as DXC Technology)
- El Pollo Loco
- FedEx Corporation
- News Corporation (now known as 21st Century Fox)
- Nokia Corporation
- Pfizer Inc.
- Officers and directors of Republic Airways, Inc.
- Sprint Nextel Corporation

Over the course of his career, he also has advised financial services clients worldwide in class action and other litigation, including, among others:

- Ally Financial Inc.
- AXA Equitable
- Banca IMI S.p.A.
- Bank of America Merrill Lynch
- Barclays plc
- BNP Paribas
- Canadian Imperial Bank of Commerce
- Citigroup Inc.
- Deutsche Bank AG
- Fidelity Investments
- Goldman Sachs & Co.
- HSBC
- J.P. Morgan Chase & Co.
- Morgan Stanley
- The Royal Bank of Scotland plc
- Société Générale S.A.
- UBS

His victories before the U.S. Supreme Court and various appellate courts throughout the United States include representing, among others:

- Merrill Lynch in *Merrill Lynch v. Dabit*, in which he secured a unanimous U.S. Supreme Court decision in the first case in which the Court addressed the provisions of the Securities Litigation Uniform Standards Act of 1998;
- Merrill Lynch in *Lentell v. Merrill Lynch & Co. Inc.* — one of *Law360's* Securities Cases of the Decade — in which the Second Circuit adopted a standard for pleading loss causation that has been cited hundreds of times;

- Merrill Lynch & Co. Inc. in the first class action appeal arising from the auction rate securities market collapse, despite an SEC brief calling for the decision's reversal — a move that could have exposed a wide range of financial institutions to liability. The decision has been cited in more than 300 cases since its issue date;
- Bank of America and Merrill Lynch against two double-derivative actions, securing a decision at both the district and circuit court levels that set new standards for such claims;
- Vivint Solar, Inc., several of its officers and directors, and The Blackstone Group in securing a significant Second Circuit decision in a case of first impression that created a circuit split on the standard for determining the disclosure of interim financial data in a prospectus; and
- The underwriting syndicate of Petrobras' multibillion-dollar global bond offerings, successfully arguing issues related to the application of the U.S. Supreme Court's decision in *Morrison v. National Australia Bank* to class certification proceedings under Federal Rule 23. This was the first time a circuit court applied *Morrison* at the class certification stage. The case settled favorably while a writ of *certiorari* regarding class certification was pending before the U.S. Supreme Court.

Mr. Kasner also has represented numerous Europe-based, U.S.-listed companies and their individual officers and directors in securities litigation. These include Autoliv Inc., the former CEO of Porsche Automobil Holding SE, RSA Insurance Group plc, SCOR SE, Seadrill Ltd. and Stena AB, among others.

Additionally, he advises Latin American companies in the defense of a wide range of litigation and regulatory issues, including securities and complex commercial claims, for clients such as BRF S.A., Cimento Tupi S.A., Gerdaul S.A., Quiñenco S.A. and Tech Pack S.A. In addition to representing the Petrobras underwriter syndicate, which included Banco Bradesco BBI S.A., Itaú BBA USA Securities, Inc. and Banco do Brazil S.A., he recently has advised:

- Avianca Holdings S.A. in securing the withdrawal of a New York state action brought by its second-largest shareholder in an attempt to block, among other things, a contemplated strategic partnership between Avianca, Colombia's largest airline, and United Airlines;
- Banco Itaú International in obtaining the dismissal of Florida RICO litigation in the Southern District of Florida brought by the Meridian Trust Company involving the Brazilian oil exploration company OGX Petróleo e Gás Participações S.A., among others;
- Embraer S.A. in securing the dismissal with prejudice of a federal securities fraud class action that resulted in the clarification of company disclosure standards in connection with an ongoing investigation; and
- Netshoes (Cayman) Limited in securing the dismissal, and subsequent settlement, of a state securities class action alleging that the company violated the Securities Act of 1933 by making false and misleading disclosures in connection with its IPO.

Mr. Kasner is the recipient of the Judge Joseph M. Proskauer Award from the UJA-Federation of New York, given to distinguished individuals who have shown a deep commitment to philanthropy and whose conduct and service exemplifies the highest ideals of the law (2017); the Judge Simon G. Rifkind Award presented by the Jewish Theological Seminary in recognition of his demonstrated commitment to the letter of the law and for distinguished public service (2014); and the 40th Anniversary George A. Katz Torch of Learning Award from the American Friends of The Hebrew University Lawyers' Division, Greater New York Region (2010).

### Recent Publications (2018 - present)

"Delaware Supreme Court Upholds Validity of Provisions Designating Federal Courts as Exclusive Forum of 1933 Act Claims," *Skadden, Arps, Slate, Meagher & Flom LLP*, March 18, 2020

"Coronavirus/COVID-19 Update," *Skadden, Arps, Slate, Meagher & Flom LLP*, March 4, 2020 and March 18, 2020

"Coronavirus/COVID-19: Implications for Commercial and Financial Contracts," *Skadden, Arps, Slate, Meagher & Flom LLP*, February 26, 2020

"Securities Class Action Filings Continue Record Pace," *Skadden's 2020 Insights*, January 21, 2020

"In 2020, Securities Class Action Filings Likely to Continue Record Pace," *The AmLaw Litigation Daily*, January 9, 2020

"In *Malouf*, Tenth Circuit Applies Supreme Court's *Lorenzo* Decision," *Skadden, Arps, Slate, Meagher & Flom LLP*, August 15, 2019

"Supreme Court Declines to Further Define *Morrison*'s Domestic Transaction Requirement,"

*Skadden, Arps, Slate, Meagher & Flom LLP*, June 24, 2019

"District Court Applies *Lorenzo* in Securities Class Action Alleging Fraudulent Scheme," *Skadden, Arps, Slate, Meagher & Flom LLP*, April 18, 2019

"Supreme Court Rules That Misstatement From Someone Who Is Not Its 'Maker' Can Still Be Basis of Fraudulent Scheme Claim," *Skadden, Arps, Slate, Meagher & Flom LLP*, March 27, 2019

"Securities Class Action Filings Show No Signs of Abating," *Skadden's 2019 Insights*, January 17, 2019

"Supreme Court Rules That Pending Class Actions Do Not Toll Limitations Period for Subsequent Class Actions," *Skadden, Arps, Slate, Meagher & Flom LLP*, June 11, 2018