

Wolf Popper LLP: Leading Innovation in Complex Litigation Across Multiple Sectors

**WOLF
POPPER**
ESTABLISHED IN 1945

Wolf Popper LLP concentrates its practice in complex litigation, principally in the areas of securities and consumer class actions. The Firm is innovative among its peer firms as it has conceived of, litigated, and succeeded in a variety of areas of law, implementing alternative fee arrangements with the overriding goal of holding companies liable for taking advantage of its clients.

A securities class action is one filed by investors who transacted a company's publicly traded securities within a specific period and suffered a financial loss as a result of the company's violations of securities law. For example, in *Martinek v. AmTrust Financial Services, Inc.*, Wolf Popper prosecuted a securities fraud class action against AmTrust and three directors who falsely assured

the investing public that, unlike the company's common shares, which would be purchased and delisted as part of a going-private merger, AmTrust's preferred stock would continue to be listed on the New York Stock Exchange. Less than two months after the deal closed, they delisted the preferred stock. Arguing this was a classic bait-and-switch, the Firm recovered a \$13 million settlement on behalf of investors. In approving the settlement, the Court stated that Wolf Popper "*conducted the litigation and achieved the settlement with skill, perseverance, and diligent advocacy.*"

Wolf Popper's Unique Approach to Securities Litigation

Wolf Popper's conservative business philosophy makes its approach to securities litigation unique. The vast majority of the time, when Wolf Popper evaluates a loss or claim, the Firm recommends that the client either remain a passive class member or not litigate, primarily because the clients' losses are too small, or we do not believe the case is strong enough to warrant litigation. Wolf Popper only recommends cases where there is a strong chance of success and a significant recovery for its clients and any other potential class members.

Institutional investors attempting to recover losses for securities fraud in international markets face multiple challenges that largely vary by jurisdiction. The primary challenge is that the legal

environment for securities claims in most foreign jurisdictions is not as developed as in the United States. The significant difference in liability schemes, the lack of contingent fees, and the threat of "*loser pays*" awards are among the chief challenges our clients face in attempting to recover losses suffered in international markets. Wolf Popper has met these challenges by developing relationships with international and foreign law firms and litigation funders throughout the world that have enabled us to respond promptly when our clients' international investments are adversely affected, providing clients with both information and recommendations on whether to commence and/or participate in foreign litigation.

Consumer Fraud Litigation: Capital One Case

In a current consumer fraud case that has garnered much media attention, Wolf Popper is representing a putative class of Capital One 360 Savings account holders in a multidistrict class action against Capital One, N.A., and Capital One Financial Corporation (together, "*Capital One*"). This case exemplifies the Firm's innovation in identifying and challenging companies' wrongdoing. In 2013, Capital One introduced the online "*360 Savings*" account, which it consistently advertised as its "*high interest*" savings account for the following six years. As of September 2019, as market interest rates were increasing, Capital One paid 1.00% APY on 360 Savings. However, instead of continuing to raise interest rates on 360 Savings, Capital One abruptly removed 360 Savings from its website and furtively substituted a new account called "*360 Performance Savings*," which had identical features but a higher interest



Emily Madoff
Managing Partner/ CEO

rate of 1.90% APY. Capital One left all existing customers in the inferior 360 Savings account and never informed them that 360 Performance Savings was a new, different product paying a higher interest rate. Capital One also removed references to the 360 Savings account from its website entirely, maintaining the false impression that Capital One only offered the same, single high-interest online savings account, and concealing that 360 Performance Savings had replaced 360 Savings as Capital One's "high yield" savings account going forward. Over time, the interest rates on the two accounts diverged substantially, leaving 360 Savings customers behind. As of December 2023, the interest rate paid on the 360 Performance Savings account was 4.35%, while the rate associated with the legacy 360 Savings account has been 0.30% since December 2020. Since Capital One did nothing to advise its legacy accountholders that they would have to switch to the new account to earn a competitive interest rate, 360 Savings accountholders across the country have lost out on interest payments Capital One should have paid them. This case is scheduled to go to trial in July 2025.

Healthcare and Environmental Law Innovations

Wolf Popper has been at the forefront of healthcare litigation on behalf of consumers in the area of surprise medical bills. A surprise medical bill occurs when an insured consumer receives an unexpected bill from an out-of-network provider or facility that they did not know was out-of-network until they were billed. Wolf Popper has prosecuted surprise medical bill consumer cases around the country, including against Envision Healthcare Corporation and related entities in Texas, Arizona, and California. These cases all resulted in settlements which provided class members with refunds or write-offs of amounts in excess of what insurance companies determined was the "allowable charge" for the services. Prior to

Wolf Popper's success in this line of cases, no surprise bill cases had been successfully prosecuted as a class action.

Wolf Popper LLP has a rich history dating back to 1945. Managing Partner Emily Madoff's philosophy is to make the policies developed by the Firm's founders new again. From early on, Wolf Popper played a pivotal role in advancing diversity and inclusion by supporting women lawyers long before it became commonplace. In fact, Wolf Popper had a woman partner in its securities litigation department at the same time as Ruth Bader Ginsburg was struggling to find employment as a lawyer. Today, Emily is the managing partner, and well over a third of the Firm's attorneys are women – a better record than most other law firms' present statistics.

Expansion into Environmental and Digital Assets Law

The Firm's founders were always looking for new areas of practice in the legal field. In fact, the Firm began its securities litigation practice in 1957, making it among the first firms to bring securities class actions. Continuing this trajectory, Emily constantly encourages the Firm's lawyers to develop new areas of practice, and Wolf Popper continually expands into new horizons.

A brand-new area of the Firm's practice is environmental law, and it has already achieved a measure of success. In Haier US Appliance Solutions, Inc., d/b/a GE Appliances Consumer Litigation, Wolf Popper represents United States Public Interest Research Group in this action in the District of Columbia against GE Appliances for failing to warn consumers that their gas stoves emit harmful levels of nitrogen dioxide when the stoves are used normally. Delivering a recent opinion from the bench, the Court found that USPIRG's complaint sufficiently alleges that GE Appliances violated D.C.'s Consumer Protection Procedures Act by not disclosing to consumers that

emissions from their gas stoves are harmful to human health. At present, the case is marching towards trial.

In a cutting-edge development, Wolf Popper recently launched its Digital Assets Litigation Practice, representing investors and consumers who suffered damages after purchasing digital assets or unregistered securities such as cryptocurrencies, non-fungible tokens (NFTs), and other evolving products such as coins and tokens. This growing area of the economy has seen inappropriate behavior, including rug pulls, pump and dumps, and classic Ponzi schemes. The Firm is filing individual cases and class actions in jurisdictions across the United States to protect the rights and interests of its clients.

As we move forward into the 21st century, Emily is committed to keeping the pace of Wolf Popper's innovation as rapid as the changes occurring in the world.

Emily Madoff: A Leader of Legal Innovation

Emily Madoff, Managing Partner of Wolf Popper LLP, has dedicated her career to driving socio-political change through the law, focusing on consumer fraud protection and advancing diversity and inclusion. She played a key role in addressing surprise medical bills and has successfully settled several cases for full recovery on behalf of the class. A commercial attorney mentored by Marty Popper, Emily has represented missions to the United Nations and notable social justice figures, including Freda Diamond and Ring Lardner Jr. She also represents renowned Georgian artist Zurab Tsereteli. Emily has published several legal articles and holds a B.A. from Connecticut College and a J.D. from Northeastern University School of Law. She is admitted to the bars of New York, Massachusetts, and the Southern District of New York.