

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 05-1070

PATRICIA BENAK, on behalf of Alliance
Premier Growth Fund

v.

ALLIANCE CAPITAL MANAGEMENT L.P.; JOHN D. CARIFA; ALFRED
HARRISON; MARK D. GERSTEN; RUTH BLOCK; DAVID H. DIEVLER; JOHN H.
DOBKIN; WILLIAM H. FOUL, JR.; JAMES M. HESTER; CLIFFORD L. MICHEL;
DONALD J. ROBINSON

On Appeal from the United States District Court
for the District of New Jersey
(D.C. No. 01-cv-05734)
Honorable Jose L. Linares, District Judge*

Submitted Under Third Circuit LAR 34.1(a)
November 18, 2005

Before: BARRY and AMBRO, Circuit Judges, and POLLAK, ** District Judge

*By order entered May 10, 2002, the U.S. District Court for the District of New Jersey consolidated the proceedings at Nos. 01-cv-05734, 01-cv-06127, 02-cv-00672, 02-00994, and 02-cv-1385 for all purposes. The caption when the appeal was initially docketed included the captions for all the individual actions. By order dated May 25, 2005, the District Court noted that all plaintiffs' complaints had been dismissed in action No. 01-cv-05734. As such, this opinion shall be captioned in No. 01-cv-05734 only.

**The Honorable Louis H. Pollak, District Judge, United States District Court for the Eastern District of Pennsylvania, sitting by designation.

James Bonner, Esq.
Shalov, Stone & Bonner
485 Seventh Avenue
Suite 1000
New York, NY 10018

Counsel for Appellants Patrick J. Goggins, Laura H. Goggins,
and Fred B. Voigt

Mark A. Kirsch, Esq.
James F. Moyle, Esq.
Jason A. D'Angelo, Esq.
Clifford Chance US
31 West 52nd Street
New York, NY 10019

-AND-

Herbert J. Stern, Esq.
Stern & Kilcullen
75 Livingston Avenue
Roseland, NJ 07068

Counsel for Appellees Alliance Cap. Mgmt., John D. Carifa,
Alfred Harrison, and Mark D. Gersten

G. Stewart Webb, Jr., Esq.
Venable
2 Hopkins Plaze
1800 Mercantile Bank & Trust Bldg.
Baltimore, MD 21201

-AND-

John L. Hardiman, Esq.
Sullivan & Cromwell
125 Broad Street
New York, NY 10004

Counsel for Appellees Alliance Premier Growth Fund, Ruth Block,
David H. Dievler, John H. Dobkin, William H. Foulk, Jr., James
M. Hester, Clifford L. Michel, and Donald J. Robinson

ORDER AMENDING PUBLISHED OPINION

BARRY, Circuit Judge

IT IS NOW ORDERED that the published Opinion in the above case filed January 13, 2006, be amended as follows:

On page 2, directly under the name Mark A. Kirsch, Esq., in the caption, add

James F. Moyle, Esq.
Jason A. D'Angelo, Esq.

By the Court,

/s/ Maryanne Trump Barry

Dated: February 7, 2006
SLC/cc: Mark A. Kirsch, Esq.
Herbert J. Stern, Esq.
John L. Hardiman, Esq.
G. Stewart Webb, Jr., Esq.
James P. Bonner, Esq.
James F. Moyle, Esq.
Jason A. D'Angelo, Esq.