

David Becker, Esq.

16

May 1, 2009

Michael Macchiaroli, Associate  
Director, Div. of Trading and  
Markets

Irving H. Picard, Esq., Madoff  
Securities Trustee

Josephine Wang, Esq., General  
Counsel, SIPC

**Helen Davis Chaitman**  
**Becker & Poliakoff LLP**  
**45 Broadway**  
**New York, NY 10006**  
**(212) 599-3322**  
**Cell: (908) 303-4568**  
**[hchaitman@becker-poliakoff.com](mailto:hchaitman@becker-poliakoff.com)**

Helen Davis Chaitman is a nationally recognized litigator with a diverse trial practice in the areas of lender liability, bankruptcy, bank fraud, RICO, professional malpractice, trusts and estates, and white collar defense. In 1995, Ms. Chaitman was named one of the nation's top ten litigators by the *National Law Journal* for a jury verdict she obtained in an accountants' malpractice case. Ms. Chaitman is the author of *The Law of Lender Liability* (Warren, Gorham & Lamont 1990) which is periodically updated and, since 1987, has authored the monthly newsletter, *The Lender Liability Law Report*. Since early 2009, Ms. Chaitman has been an outspoken advocate for investors in Bernard L. Madoff Investment Securities LLC. She has lobbied in Congress, on a *pro bono* basis, for statutory changes to assure Madoff investors of the protections of the Securities Investor Protection Act.

Ms. Chaitman practices regularly in New York and New Jersey and has been admitted to practice *pro haec vice* in numerous jurisdictions throughout the United States.

**Bar Admissions:**

- New York
- U.S. District Court, Southern District of NY
- U.S. District Court, Eastern District of NY
- New Jersey
- U.S. Court of Federal Claims
- U.S. District Court, District of NJ
- U.S. Court of Appeals, 2nd Circuit
- U.S. Court of Appeals, 3rd Circuit
- U.S. Court of Appeals, 8<sup>th</sup> Circuit
- U.S. Supreme Court

**Education:**

- Rutgers Univ., JD, 1976
- Bryn Mawr College, AB, *cum laude*, 1963

***Representation Details Regarding Areas of Experience:***

### **Madoff-related activities**

A Madoff victim herself, Ms. Chaitman represents approximately 500 Madoff investors. On December 9, 2009, Ms. Chaitman testified concerning the plight of Madoff investors before the House Financial Services Committee's Subcommittee on Capital Markets, Insurance, and Government-Sponsored Enterprises. She is litigating against Irving H. Picard, Trustee, on several different issues and has filed over 250 claims against the Securities and Exchange Commission related to her clients' Madoff losses.

### **Bank Litigation**

Ms. Chaitman has handled all kinds of debtor/creditor litigation. She has prosecuted and defended RICO claims; she has defended banks in various lender liability actions; she has represented borrowers and guarantors in litigation against financial institutions.

### **Lender Liability**

Ms. Chaitman is not only the author of the leading treatise on lender liability, she coined the term "lender liability." She has been involved in some of the seminal decisions defining the obligations of financial institutions, particularly in the area of good faith and fair dealing. She has written the monthly newsletter "The Lender Liability Law Report" since 1987 and has spoken at professional conferences on lender liability since the 1980s.

### **Bankruptcy and Restructuring**

Ms. Chaitman has represented several corporate debtors in chapter 11 cases that were successfully reorganized. She has represented creditors in defending preference and fraudulent conveyance claims. She has had extensive experience representing lenders and corporate borrowers in debt restructurings and workouts.

### **Professional Malpractice Litigation**

Ms. Chaitman has litigated malpractice cases against both accountants and lawyers. Indeed, the *National Law Journal* named her one of the nation's top ten litigators in 1995 based upon a jury verdict she won in New York Supreme Court against an accounting firm on behalf of a client whose accountant embezzled funds. She also litigated a legal malpractice case against Rogers & Wells.

### **RICO Litigation**

Ms. Chaitman has extensive experience litigating RICO cases on behalf of creditors. She won a RICO judgment in the Eastern District of New York in a bench trial before the Honorable Jack Weinstein, which was affirmed on appeal by the Second Circuit. She successfully defended Credit Lyonnais (Suisse) S.A. in a RICO action in the Southern District of New York.

### **Trusts & Estates Litigation**

Ms. Chaitman has done substantial litigation involving trusts and estates both in New York and New Jersey. In one instance, she was asked to try a case in New Jersey one week before the trial was scheduled to begin. The case was a suit by an executor to recover hundreds of thousands of dollars in cash gifts given to the defendant in the last two years of the decedent's life. During the course of the trial, the judge urged Ms.

Chaitman to settle because he was convinced that the jury was against Ms. Chaitman's client. The executor refused the generous settlement proposal offered by Ms. Chaitman's client and she had no alternative but to proceed with the trial. The result: The verdict was in favor of Ms. Chaitman's client. The jury found that the *inter vivos* gifts were not the result of undue influence. The jury verdict was affirmed on appeal.

***Some of the reported decisions in Ms. Chaitman's cases include:***

- *Norwood-JEB, L.L.C. v. North River Mews Associates, L.L.C.*, 2009 WL 1010963 (N.J. Super. A.D.)
- *McAninch v. Kansas Bankers Surety Co.*, 478 F. 3d 882, 2007 WL 655454 (8th Cir. 2007)
- *Hunts Point Terminal Produce Cooperative Association v. New York City Economic Development Corporation*, 36 A.D. 3d 234, 824 N.Y.S. 2d 59, 2006 N.Y. Slip Op. 08073 (2006).
- *Levchuk v. Jovich*, 2005 WL 2364826 (N.J. App. Div.)
- *Bank Brussels Lambert v. Credit Lyonnais (Suisse) S.A.*, 220 F. Supp. 2d 283 (SDNY 2002) *Sinclair v. United States*, 49 Fed. Cl. 274 (2001); *Bank Brussels Lambert v. Credit Lyonnais (Suisse) S.A.*, 2000 U.S. Dist. LEXIS 1438 (S.D.N.Y.)
- *Logan & Kanawha Coal Company, Inc. v. Banque Francaise du Commerce*, 1996 WL 551718 (SDNY)
- *Sterling National Bank v. Longa*, 2000 U.S. Dist. LEXIS 13306 (S.D.N.Y.)
- *Stochastic Decisions, Inc. v. DiDomenico*, 995 F. 2d 1158 (1993)
- *Bank of China v. Chan*, 937 F. 2d 780 (2d Cir. 1991)
- *Baxt v. Liloia*, 155 N.J. 190, 714 A. 2d 271 (N.J. 1998)
- *Bevill, Bresler & Schulman Asset Mgmt. Corp. v. Spencer S&L Assn.*, 878 F. 2d 742 (3d Cir. 1989)
- *International Minerals & Mining Corp. v. Citicorp North America, Inc.*, 736 F. Supp 587 (D.N.J. 1990)
- *In re Wedgewood Realty Group, Ltd.*, 878 F. 2d 693 (3d Cir. 1989)
- *Stochastic Decisions, Inc. v. DiDomenico*, 236 N.J. Super. 388, 565 A. 2d 1133 (N.J. App. Div. 1989)
- *John Doe v. United States*, 520 F. Supp. 1200 (S.D.N.Y. 1981).

Ms. Chaitman is a member of the Character & Fitness Committee of the New York State Appellate Division - First Department. She served as the chair of the Commercial Financial Services Committee of the Business Law Section of the American Bar Association from 1994 to 1997. She is a member of the American Law Institute and serves as an adviser on the Restatement (Third) of Restitution.

Ms. Chaitman has written numerous articles published in various journals on banking law and other subjects, including:

- "The Ten Commandments for Avoiding Lender Liability" *The Secured Lender* November/December 1986
- "The Equitable Subordination of Bank Claims" *The Business Lawyer*, August 1984
- "Enjoining Payment on a Letter of Credit in Bankruptcy: A Tempest in a Twist Cap" *The Business Lawyer*, November 1982
- "David, Inc. v. Goliath National Bank" Litigation Vol. 13 No. 4 Summer 1987
- "The Ten Commandments for Avoiding Lender Liability" *Commercial Law Annual* 1991
- "Do Unto Others..." *Business Law Today*, November/December 1993
- "Supreme Court Chills Prejudgment Remedies" *The Banking Law Journal*, July/August 1999

**Additional Published/Edited Works:**

Contributing author of "Commercial Damages," Matthew Bender, 1985.

Editor of "Emerging Theories of Lender Liability," Volumes I, II, III and IV, published by the American Bar Association, 1985-1987.

**Speaking Engagements:**

Ms. Chaitman has lectured frequently for the Practising Law Institute, the American Bar Association, the Banking Law Institute, the Uniform Commercial Code Institute, and various State bar associations on lender liability and commercial litigation.

**American Bar Association Activities:**

- Founder and Chairman of the Lender Liability Subcommittee of the Commercial Financial Services Committee, ABA Section of Business Law, 1986-90.
- Chairman of the Commercial Financial Services Committee, ABA Section of Business Law, 1994-97.
- Member of the Editorial Board, *The Business Lawyer*, Vol. 51, 1995-96.

**Honors:**

- Member of the Character & Fitness Committee of the Appellate Division, First Department, of the New York Supreme Court.
- Life Member of the National Registry of Who's Who.
- Member of the American Law Institute and member of the Members Consultative Group for the Restatement of the Law Third: Restitution and Unjust Enrichment.
- Former articles editor of the Rutgers Law Review in 1975-76.
- Selected as a "Super Lawyer" in 2007 in Business Litigation in the Metro New York area.
- Selected as a New York "Super Lawyer" in the 2008 Corporate Counsel edition.
- Selected as a "Super Lawyer" in 2008 in Business Litigation, Bankruptcy & Creditor/Debtor Rights, Intellectual Property Litigation in the Metro New York area.
- Participant in the Justice and Society Seminar of the Aspen Institute, July 2009.

**Personal Interests:**

Ms. Chaitman is a member of the Conservation Committee of the New Jersey Audubon Society and an active supporter of the Society's conservation efforts.

Committee on Oversight and Government Reform  
Witness Disclosure Requirement – “Truth in Testimony”  
Required by House Rule XI, Clause 2(g)(5)

Name: Helen Davis Chaitman

---

1. Please list any federal grants or contracts (including subgrants or subcontracts) you have received since October 1, 2008. Include the source and amount of each grant or contract.

None.

---

2. Please list any entity you are testifying on behalf of and briefly describe your relationship with these entities.

I represent approximately 500 investors in Bernard L. Madoff Investment Securities, LLC.

I personally invested in Bernard L. Madoff Investment Securities LLC

---

3. Please list any federal grants or contracts (including subgrants or subcontracts) received since October 1, 2008, by the entity(ies) you listed above. Include the source and amount of each grant or contract.

N/A

---

*I certify that the above information is true and correct.*

Signature:



Date: March 7, 2011

---