

U.S. District Court
District Of Arizona (Phoenix Division)
CIVIL DOCKET FOR CASE #: 2:98-cv-00020-JBM

Miller v. Parker, et al
Assigned to: Judge James B Moran
Demand: \$0
Lead case: [2:98-cv-00020-JBM](#)

Member cases:

[2:98-cv-00115-JBM](#)
[2:98-cv-00134-JBM](#)
[2:98-cv-00208-JBM](#)
[2:98-cv-00271-JBM](#)
[2:98-cv-00283-JBM](#)
[2:98-cv-00350-JBM](#)
[2:98-cv-00397-JBM](#)

Cause: 15:78m(a) Securities Exchange Act

Date Filed: 01/06/1998
Jury Demand: Plaintiff
Nature of Suit: 850
Securities/Commodities
Jurisdiction: Federal Question

Plaintiff

Charles Miller
*on behalf of himself and all others
similarly situated*

represented by **Andrew S Friedman**
Bonnett Fairbourn Friedman & Balint PC
2901 N Central Ave
Ste 1000
Phoenix, AZ 85012-3311
602-776-5903
Fax: 602-274-1199
Email: afriedman@bffb.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Robert Ira Harwood
Wechsler Harwood LLP
488 Madison Ave
8th Floor
New York, NY 10022
(212)935-7400
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

V.

Defendant

Samuel J Parker

represented by **Hal Michael Clyde**
Perkins Coie Brown & Bain PA

PO Box 400
Phoenix, AZ 85001-0400
602-351-8000
Fax: 602-648-7035
Email: MClyde@perkinscoie.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Stephen C Neal
Cooley Godward LLP
3000 El Camino Real
5 Palo Alto Sq
Palo Alto, CA 94306-2155
(650)843-5000
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Mark S Hansen

represented by **Hal Michael Clyde**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Stephen C Neal
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

C Donald Dorsey

represented by **Hal Michael Clyde**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Stephen C Neal
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Susan C Schnabel

represented by **Hal Michael Clyde**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Stephen C Neal
(See above for address)

*LEAD ATTORNEY
ATTORNEY TO BE NOTICED*

Defendant

Petsmart Inc

represented by **Hal Michael Clyde**
(See above for address)
*LEAD ATTORNEY
ATTORNEY TO BE NOTICED*

Stephen C Neal
(See above for address)
*LEAD ATTORNEY
ATTORNEY TO BE NOTICED*

Movant

Robert Huls

represented by **Francis Joseph Balint, Jr**
Bonnett Fairbourn Friedman & Balint PC
2901 N Central Ave
Ste 1000
Phoenix, AZ 85012-3311
602-274-1100
Fax: 602-274-1199
Email: fbalint@bffb.com
*LEAD ATTORNEY
ATTORNEY TO BE NOTICED*

Movant

**Amber Arbitrage
LDC**

represented by **Francis Joseph Balint, Jr**
(See above for address)
*LEAD ATTORNEY
ATTORNEY TO BE NOTICED*

| Date Filed | # | Docket Text |
|-------------------|----------|-------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 01/06/1998 | 1 | COMPLAINT FILED (MAP) (Entered: 01/08/1998) |
| 01/29/1998 | 2 | RETURN OF SERVICE EXECUTED personal svc upon dft Petsmart Inc on 1/26/98 by srving statutory agt (former emp) (Entered: 01/30/1998) |
| 02/17/1998 | 3 | WAIVER of Service upon Samuel J Parker, Mark S Hansen, C Donald Dorsey, Susan C Schnabel, Petsmart Inc ; waiver sent on 1/28/98 (MAP) (Entered: 02/19/1998) |
| 03/09/1998 | 4 | MOTION for appointment of lead Pltfs by Salsitz Group (Pltf) [4-1] , and for appointment of lean counsel pur to Sec 21D(a)(3)(B) of the SEC Act of 1934 by |

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| | | Salsitz Group (Pltf) [4-2] (MAP) (Entered: 03/10/1998) |
| 03/09/1998 | 5 | MOTION to consolidate cases for all purposes (CIV-98-20-PHX-ROS, CIV-98-115-PHX-RCB, CIV-98-134-PHX-ROS, CIV-98-271-PHX-EHC, CIV-98-208-PHX-ROS, CIV-98-283-PHX-RGS, CIV-98-350-PHX-PGR) by Salsitz Group (Pltf) [5-1] (MAP) (Entered: 03/10/1998) |
| 03/09/1998 | 6 | DECLARATION of Robert I Harwood in support of Salsitz Group's motion for appointment of lead Pltfs by Salsitz Group (Pltf) [4-1], and motion for appointment of lean counsel pur to Sec 21D(a)(3)(B) of the SEC Act of 1934 by Salsitz Group (Pltf) [4-2] (MAP) (Entered: 03/10/1998) |
| 03/09/1998 | 7 | MOTION for appointment as lead Pltfs by Pltfs Charles Kowal and Gerald Landsberger [7-1] , and for approval of selection of lead counsel by Charles Kowal and Gerald Landsberger [7-2] (MAP) (Entered: 03/10/1998) |
| 03/09/1998 | 8 | AFFIDAVIT of Jules Brody in support of motion for appointment as lead Pltfs by Pltfs Charles Kowal and Gerald Landsberger [7-1], and in support of motion for approval of selection of lead counsel by Charles Kowal and Gerald Landsberger [7-2] (MAP) (Entered: 03/10/1998) |
| 03/09/1998 | 9 | ATTORNEY APPEARANCE for Robert Huls, Amber Arbitrage by Francis Balint Jr (MAP) (Entered: 03/11/1998) |
| 03/09/1998 | 9 | JOINDER by Movants Robert Huls, Amber Arbitrage to Salsitz Group's motion for appointment as lead pltfs and for appt of lead cnsl re [4-1], [4-2] (MAP) Modified on 03/11/1998 (Entered: 03/11/1998) |
| 03/19/1998 | 10 | The Court has ORDERED that the above captioned matter is reassigned to Judge James B. Moran for all further proceedings. Any scheduled hearing, conference, or trial in this action is vacated and will be reset by the Court. All further pleadings and papers filed in this action should bear the complete case number and judge's initials, as shown above., [10-1] (DDL) (Entered: 03/19/1998) |
| 03/26/1998 | 11 | RESPONSE (Memorandum of p/a) by Salsitz Group in opposition to motion for appointment as lead Pltfs by Pltfs Charles Kowal and Gerald Landsberger [7-1], motion for approval of selection of lead counsel by Charles Kowal and Gerald Landsberger [7-2] (MAP) (Entered: 03/27/1998) |
| 03/26/1998 | 12 | DECLARATION of Robert Harwood (Salsitz Group) in opposition to the motion for appointment as lead Pltfs by Pltfs Charles Kowal and Gerald Landsberger [7-1], re motion for approval of selection of lead counsel by Charles Kowal and Gerald Landsberger [7-2] (MAP) (Entered: 03/27/1998) |
| 03/26/1998 | 13 | DECLARATION of Robert Harwood (Salsitz Group) motion for appointment as lead Pltfs by Pltfs Charles Kowal and Gerald Landsberger [7-1], re motion for approval of selection of lead counsel by Charles Kowal and Gerald Landsberger [7-2] (MAP) (Entered: 03/27/1998) |
| 03/26/1998 | 14 | MEMORANDUM by Charles Kowal in connection w/applications for appointment of lead pltf re [7-1], re [4-1] (MAP) (Entered: 03/30/1998) |
| 04/03/1998 | 15 | REPLY MEMORANDUM by Salsitz Group in support of its motion for appointment of lead Pltfs by Salsitz Group (Pltf) [4-1], motion for appointment of |

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| | | lead counsel pur to Sec 21D(a)(3)(B) of the SEC Act of 1934 by Salsitz Group (Pltf) [4-2] (MAP) (Entered: 04/06/1998) |
| 04/24/1998 | 16 | STIPULATION to consolidate cases for all purposes. Consolidating: CIV 98-115-PHX-RCB, CIV 98-134-PHX-ROS, CIV 98-271-PHX-EHC, CIV 98-208-PHX-ROS, CIV 98-283-PHX-RGS, CIV 98-350-PHX-PGR, CIV 98-397-PHX-EHC into the lowest case number of CIV 98-20-PHX-ROS (KMG) (Entered: 04/27/1998) |
| 05/18/1998 | 17 | ORDER by Judge James B. Moran granting motion to consolidate cases for all purposes by Salsitz Group [5], consolidating case CIV-98-20-PHX-ROS with member cases CIV-98-115-PHX-RCB, CIV-98-134-PHX-ROS, CIV-98-271-PHX-EHC, CIV-98-208-PHX-ROS, CIV-98-283-PHX-RGS, CIV-98-350-PHX-PGR FO all member cases to be reassigned to James B Moran (cc: all counsel) (MAP) (Entered: 05/18/1998) |
| 05/18/1998 | 18 | ORDER by Judge James B. Moran granting motion for appointment of lead Pltfs by Salsitz Group (Pltf) and deny the motion the Kowal Group. This Court hereby appoints Salsitz Group as Lead Pltf and approve its choice Wechsler Harwood as Lead Counsel and Bonnett Fairbourn Friedman as Liaison Counsel (cc: all cnsl) (MAP) Modified on 05/22/1998 (Entered: 05/18/1998) |
| 06/02/1998 | 19 | ORDER by Judge James B. Moran re clarification of Court's May 8th Order of Consolidation (cc: all counsel) re: order [19-1] (MAP) (Entered: 06/02/1998) |
| 07/21/1998 | 20 | CONSOLIDATED AMENDED CLAS ACTION COMPLAINT by Pltfs (all) jury demand [1-1] (MAP) (Entered: 07/23/1998) |
| 07/28/1998 | 21 | MINUTE ORDER ; status hearing set for 11:00 8/13/98 in 2:98-cv-00020, in 2:98-cv-00115, in 2:98-cv-00134, in 2:98-cv-00208, in 2:98-cv-00271, in 2:98-cv-00283, in 2:98-cv-00350, in 2:98-cv-00397 before Judge Moran in CtRm #5, 6th Floor, 230 N 1st Avenue, Phoenix, Arizona (cc: all counsel JM JS PH) [21-2] (PHR) Modified on 07/31/1998 (Entered: 07/28/1998) |
| 08/10/1998 | 22 | NOTICE by pla Charles Miller of Service (MAP) (Entered: 08/11/1998) |
| 08/13/1998 | 23 | STIPULATION re hearing date and briefing schedule for motions to dismiss (MAP) (Entered: 08/13/1998) |
| 08/13/1998 | 23 | ORDER by Judge James B. Moran granting stipulation that Dfts shl hv thru 9/25/98 to file a motion to dismiss the 1st Amended Complaint; Plas have thru 10/26/98 to oppose Dfts' motions to dismiss; Dfts shall hv thru 11/16/98 to reply to Pla's opposition papers (cc: all counsel) (MAP) Modified on 08/13/1998 (Entered: 08/13/1998) |
| 08/13/1998 | 24 | MINUTE ENTRY Judge Inits: JBM Crt Rptr: None A status hearing was held. Defense counsel to file their motion to dismiss complaint by 9/25/98, response is due 10/26/98. Parties to file a stipuation re: class certification within 2 weeks. Any documents filed with the Court, copies to be sent to Judge Moran in Chicago. [cc: all counsel/Judge Moran] [24-2] (TCA) (Entered: 08/13/1998) |
| 09/25/1998 | 25 | MOTION to exceed the page limit (motion to dismiss) by dft Petsmart Inc [25-1] (lodged documents at Clk's desk) (MAP) (Entered: 09/28/1998) |
| 10/26/1998 | 26 | MOTION to exceed the page limit (Memo in opposition to Dfts' motion to dismiss) |

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| | | by plas (all) [26-1] (lodged document at Clk's desk) (MAP) (Entered: 10/28/1998) |
| 10/26/1998 | 27 | INDEX OF UNREPORTED Authorities in opposition to request for judicial notice by plas (all) (MAP) (Entered: 10/28/1998) |
| 11/02/1998 | 28 | NOTICE by pla of change of address for attys Charles Zimmerman and James Watts (MAP) (Entered: 11/04/1998) |
| 11/02/1998 | 29 | NOTICE by pla Charles Miller of Service of Notice of Change of Address upon all counsel (MAP) (Entered: 11/04/1998) |
| 11/05/1998 | 30 | MINUTE ORDER granting motion to exceed the page limit (Memo in opposition to Dfts' motion to dismiss) by plas (all) [26-1] (lodged document at Clk's desk), granting motion to exceed the page limit (motion to dismiss) by dft Petsmart Inc [25-1] (lodged documents at Clk's desk) FURTHER ORDER that a status conference is set for 5:00 p.m. on 12/16/98 before Judge Moran in US District Court, 230 N 1st Ave, Courtroom #2, 7th Floor, Phoenix, AZ. (cc: all counsel) [30-2] (PHR) (Entered: 11/05/1998) |
| 11/05/1998 | 35 | NOTICE OF MOTION AND MOTION to dismiss complaint by dfts (all) [35-1] (MAP) (Entered: 11/24/1998) |
| 11/05/1998 | 36 | REQUEST for Judicial Notice of documents in support of Dfts' motion to dismiss by dfts (all) (MAP) (Entered: 11/24/1998) |
| 11/05/1998 | 37 | INDEX OF UNREPORTED Authorities in support of Dfts' motion to dismiss by Dfts (all) (Re: [35-1]) (MAP) (Entered: 11/24/1998) |
| 11/05/1998 | 40 | MEMORANDUM of Points and Authorities in opposition to Dfts' request for Judicial Notice by pla Charles Miller (MAP) (Entered: 12/22/1998) |
| 11/05/1998 | 41 | RESPONSE by pla Charles Miller in opposition to motion to dismiss complaint by dfts (all) [35-1] (MAP) (Entered: 12/22/1998) |
| 11/17/1998 | 31 | MOTION to exceed the page limit (reply memo in support of motion to dismiss consolidated amended complaint by dfts (all) [31-1] (lodged at Clk's desk) (MAP) (Entered: 11/20/1998) |
| 11/17/1998 | 32 | MOTION for oral argument on Dfts' motion to dismiss by dfts (all) [32-1] (MAP) (Entered: 11/20/1998) |
| 11/17/1998 | 33 | MEMORANDUM of Points and Authorities in support of Dfts' req for Judicial Notice re [27-1] (MAP) (Entered: 11/20/1998) |
| 11/24/1998 | 34 | ORDER by Judge James B. Moran granting motion to exceed the page limit (reply memo in support of motion to dismiss consolidated amended complaint by dfts (all) [31-1] (lodged at Clk's desk) (cc: all counsel) (MAP) (Entered: 11/24/1998) |
| 11/24/1998 | 38 | REPLY by dfts (all) in support of motion to dismiss complaint by dfts (all) [35-1] (MAP) (Entered: 11/24/1998) |
| 12/16/1998 | 39 | MINUTE ENTRY Judge Inits: JBM Appearances: Francis J Balint for Dft, Robert I Harwood for Dft and Hal Clyde for Pla appearing telephonically. A status hearing is held. The Court has received all material from parties. No oral argument. Further hearing to be set. [cc: Chambers/JS/ph [39-2] (PHR) (Entered: 12/17/1998) |

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| 01/29/1999 | 42 | NOTICE OF ERRATA by Dfts (all) re Dfts' reply memo in support of motion to dismiss [38-1] (MAP) (Entered: 02/02/1999) |
| 06/03/1999 | 43 | ORDER by Judge James B. Moran that the Consolidated Amended Complaint is dismissed in its entirety. We dismiss w/out prejudice and w/leave to amend w/in 60 days. The Court, however, caution Plas against refileing unless they can cure the significant deficiencies discussed above. This would require Plas to commit to a theory of who knew what when, who did what when, and why. While this may foreclose certain litigating strategies, it is necessary to meet the pleading burdens imposed by Congress to deter fishing expeditions by disappointed investors possbl dsm ddl set for 8/3/99 (cc: all counsel) (MAP) (Entered: 06/03/1999) |
| 08/10/1999 | 44 | MOTION for entry of final judgment by dfts (all) [44-1] (MAP) (Entered: 08/12/1999) |
| 08/13/1999 | 45 | RESPONSE by plas (all) to motion for entry of final judgment by dfts (all) [44-1] (MAP) (Entered: 08/16/1999) |
| 09/03/1999 | 46 | MEMORANDUM AND ORDER by Judge James B. Moran granting motion for entry of final judgment by dfts (all) [44-1] terminating case (cc: all counsel) (MAP) Modified on 09/13/1999 (Entered: 09/03/1999) |
| 09/03/1999 | 47 | FINAL JUDGMENT: by Judge James B. Moran that under Federal Rule of Civil Procedure 41(b), dismissing this action w/prejudice and enter final judgment against Plas and in favor of Dfts (cc: all counsel) re: judgment [16-1] (MAP) Modified on 09/13/1999 (Entered: 09/03/1999) |
| 09/29/1999 | 48 | NOTICE OF APPEAL by pla Charles Miller from District Court judgment [47-1], and memorandum and order [46-2] (cc: 9CCA/All Counsel/JBM) (REW) (Entered: 10/25/1999) |
| 09/29/1999 | | Received \$105.00 appeal fee (REW) (Entered: 10/25/1999) |
| 10/07/1999 | 49 | Notice of Transcript Designation; no transcripts to be ordered (not proper form) (REW) (Entered: 10/25/1999) |
| 10/25/1999 | | REMARK; CADS forwarded to Ninth Circuit this date (REW) (Entered: 10/25/1999) |
| 10/26/1999 | 50 | Transcript Designation and Ordering Form; no transcripts being ordered (REW) (Entered: 11/08/1999) |
| 10/26/1999 | | Certificate of Record Transmitted to 9CCA [48-1] (REW) (Entered: 11/08/1999) |
| 11/26/1999 | | Notification by 9CCA of Appellate Docket Number 99-17308 (REW) (Entered: 11/26/1999) |
| 02/07/2000 | 51 | CERTIFIED COPY of 9CCA Mandate; appellant's notice of withdrawal is construed to be an unopposed motion to dismiss this appeal; so construed, appeal dismissed, re: 99-17308 (cc: all counsel/JBM) (REW) (Entered: 02/07/2000) |
| 06/13/2000 | 52 | NOTICE by pla Charles Miller of change of address for atty firm Steven Cauley PA (MAP) (Entered: 06/14/2000) |

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