

**U.S. District Court
Western District of Washington (Seattle)
CIVIL DOCKET FOR CASE #: 2:08-cv-00387-MJP**

Koesterer vs. Washington Mutual, Inc

Date Filed: Mar. 24, 2008
Nature of suit: 850 Securities/Commodities
Assigned to: [Judge Marsha J. Pechman](#)
Case in other court: So District of NY, 1:07-09801
Cause: 15:78m(a) Securities Exchange Act
Jurisdiction: Federal Question
Jury demand: Plaintiff
Lead case: 2:08-md-01919-MJP
Member cases: [2:07-cv-01809-MJP](#) *Nelson v. Woods et al*
[2:07-cv-01826-MJP](#) *Sneva v. Killinger et al*
[2:07-cv-01827-MJP](#) *Harrison v. Killinger et al*
[2:07-cv-01874-MJP](#) *Bushansky v. Washington Mutual Inc et al*
[2:07-cv-01879-MJP](#) *Bussey v. Washington Mutual Inc et al*
[2:08-cv-00387-MJP](#) *Koesterer vs. Washington Mutual, Inc*
[2:08-cv-00388-MJP](#) *Abrams et al v. Washington Mutual Inc et al*
2:08-cv-00466-MJP
2:08-cv-00465-MJP
[2:07-cv-01906-MJP](#) *Alexander v. Washington Mutual Inc et al*
[2:07-cv-01938-MJP](#) *Mitchell v. Washington Mutual Inc et al*
[2:07-cv-01997-MJP](#) *Ware v. Washington Mutual Inc et al*
2:07-cv-02025-MJP
[2:07-cv-02055-MJP](#) *McDonald v. Washington Mutual Inc et al*
2:07-cv-02076-MJP
[2:08-cv-00005-MJP](#) *Slater et al v. Killinger et al*
[2:08-cv-00095-MJP](#) *Ryan, Jr v. Killinger et al*
[2:08-cv-00471-MJP](#) *Sloan v. Washington Mutual Inc et al*
[2:08-cv-00389-MJP](#) *Procida v. Killinger et al*
[2:08-cv-00566-MJP](#) *Henry v. Killinger et al*
[2:08-cv-00647-MJP](#) *Scheller v. Killinger et al*
[2:08-cv-00751-MJP](#) *Brockton Contributory Retirement System v. Washington Mutual Inc*

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Docket Proceedings[Reverse Proceedings](#)

Req #	Filed	#	Docket Text
<u>1</u>	Mar. 24, 2008	1	TRANSMITTAL OF DOCUMENTS from Southern District of New York per MDL Transfer Order Dated 2/21/08 re: MDL 1919 IN RE WASHINGTON MUTUAL, INC., SECURITIES, DERIVATIVE & "ERISA" LITIGATION. New York Civil Case No. 1:07-9801 Dennis Koesterer vs. WA Mutual Inc et al.- Certified copy of docket sheet: (Attachments: # 1 complaint# 2 Order scheduling an initial pretrial conference# 3 Notice of MDL Filing# 4 Stipulation and Proposed order# 5 calendar notice# 6 Calendar Notice# 7 Affidavit of Service# 8 Notice of motion of Burton Rosenfield for the consolidation of all related actions, et al# 9 Memorandum of law in support of Burton Rosenfield's motion# 10 Declaration of Nancy Koboolian in support of motion# 11 Certificate of service# 12 Notice of Motion# 13 Declaration of Keith M. Snow in support of motion by the NY City Police for consolidation, for appt as lead pltf and approval of lead cnsl# 14 Memorandum of law in support of motion# 15 Declaration of Peter St. Phillip, Jr# 16 The Massachusetts Pension Reserves Investment Management Board Motion for appointment as lead pltf et al# 17 Memorandum of law in support of motion# 18 Declaration of Jeffrey C. Block in support of motion# 19 Supplemental Declaration of Peter St Phillip Jr# 20 Certificate of service# 21 Notice of the WaMu Institutional Investor Group's Motion to consolidate actions et al# 22 Memorandum in support of motion# 23 Declaration of Geoffrey C. Jarvis in support of motion# 24 Notice of moton of Ontario Teachers' Pension Plan Board for appt of lead pltf, et al# 25 Memorandum of law in support of motion# 26 Declaration of Gerald H Silk in support of motion# 27 Certificate of service# 28 Notice of withdrawal of Motion of the WaMu Inst Investor Group to consolidate et al# 29 Appearance# 30 Statement concerning motions to appoint Lead Pltf, approve Plaintiff's cnsl and consolidate# 31 Appearance# 32 Notice of withdrawal of Burton Rosenfield's motion for lead pltf# 33 certificate of service# 34 Notice of withdrawal of motion for consolidation, et al# 35 Notice by Ontario Teachers Pension Plan Board# 36 Certificate of service# 37 Reply memorandum of law in further support of the motion of Ontario Teachers' Pension# 38 Certificate of service# 39 Transfer Order from MDL Panel to Western District of WA w/Schedule A)(MD,) (Entered: 03/26/2008)
<u>2</u>	Apr. 09, 2008	2	NOTICE BY MDL PANEL RE: MDL 1919 FAXED COPY RE: LIST OF CASES THAT HAVE BEEN DESIGNATED UNDER MDL 1919 RE: WASHINGTON MUTUAL, INC., SECURITIES, DERIVATIVE AND "ERISA" LITIGATION HERE IN THE WESTERN DISTRICT OF WASHINGTON AT SEATTLE BEFORE JUDGE MARSHA J. PECHMAN. (MD,) (Entered: 04/10/2008)
<u>3</u>	Apr. 10, 2008		TO ALL COUNSEL OF RECORD IN THE MDL 1919 CASE AND THE INDIVIDUAL CASES: It will be your responsibility to make sure that counsel of record is correct for all the parties listed in the MDL 1919

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			and the individual cases. If you are not signed up for Electronic Filing, please go to our website at : www.wawd.uscourts.gov to obtain more information. ELECTRONIC FILING BECAME MANDATORY BY THE COURT ORDER ON JUNE 1, 2004. The court will need this information current so that the court can contact you by phone or e-mail. (MD, Clerk mailed copy of this notice along w/registration form to current attorneys who are not signed up for electronic filing) (Entered: 04/10/2008)
4	Apr. 18, 2008	3	ORDER scheduling initial conference for 5/29/2008 at 9:00 AM before Hon. Marsha J. Pechman. Counsel are directed to submit Preliminary Reports by 5/20/2008 and any motions to consolidate or appoint lead counsel by 5/2/08. by Judge Marsha J. Pechman. (LG,) (Entered: 04/18/2008)
5	Apr. 23, 2008	4	REPORT by Plaintiffs Darlene Mitchell, Leon Rosenblatt, Gail Sloan. (Attachments: # 1 Certificate of Service)(Rosen, Sanuel) (Entered: 04/23/2008)
6	May 02, 2008	5	MOTION to Appoint Lead and Liaison Counsel in Scheller v. Killinger, et al. and to Consolidate Actions for Pre-Trial Purposes by Plaintiff Chana Scheller. (Attachments: # 1 Proposed Order Appointing Lead and Liaison Counsel in Scheller v. Killinger and Coordinating Proceedings, # 2 Certificate of Service) Noting Date 5/2/2008; (Drachler, Dan) (Entered: 05/02/2008)
7	May 05, 2008	6	PRAECIPE to attach document Exhibits A and B re (19 in 2:08-md-01919-MJP, 41 in 2:07-cv-01827-MJP, 5 in 2:08-cv-00465-MJP, 41 in 2:08-cv-00095-MJP, 27 in 2:07-cv-02055-MJP, 5 in 2:08-cv-00387-MJP, 22 in 2:07-cv-02076-MJP, 6 in 2:08-cv-00388-MJP, 38 in 2:07-cv-01874-MJP, 23 in 2:07-cv-01906-MJP, 44 in 2:07-cv-01879-MJP, 24 in 2:07-cv-02025-MJP, 44 in 2:07-cv-01826-MJP, 21 in 2:07-cv-01997-MJP, 26 in 2:07-cv-01938-MJP, 54 in 2:08-cv-00389-MJP, 10 in 2:08-cv-00466-MJP, 57 in 2:07-cv-01809-MJP, 8 in 2:08-cv-00647-MJP, 24 in 2:08-cv-00005-MJP, 13 in 2:08-cv-00566-MJP, 15 in 2:08-cv-00471-MJP) MOTION to Appoint Lead and Liaison Counsel in Scheller v. Killinger, et al. and to Consolidate Actions for Pre-Trial Purposes by Plaintiff Chana Scheller. (Attachments: # 1 Exhibit A and B)(Drachler, Dan) (Entered: 05/05/2008)
8	May 07, 2008	7	ORDER CONSOLIDATING SECURITIES ACTIONS AND APPOINTING ONTARIO TEACHERS' PENSION PLAN BOARD LEAD PLAINTIFF. Member Civil Case Number C08-388MJP and C08-465MJP are consolidated with Lead Civil Case Number C08-387MJP. Every pleading in this consolidated action shall bear the following caption: IN RE WASHINGTON MUTUAL, INC. SECURITIES LITIGATION AND FILED IN BOTH CASES - 08-md-1919MJP and in Lead Case No. C08-387MJP. The Ontario Teachers' Pension Plan Board ("Ontario Teachers") is hereby appointed lead plaintiff. Bernstein Litowitz Berger & Grossman LLP is appointed lead counsel and Byrnes & Keller LLP is appointed liaison counsel. by Judge Marsha J. Pechman. (MD,) (Entered: 05/07/2008)
9	May 08, 2008	8	MINUTE ORDER: the initial conference on this litigation is rescheduled for June 9, 2008 at 3:00PM. The Court also extends the deadline for

Req #	Filed	#	Docket Text
			submission of preliminary reports to May 27, 2008 by Judge Marsha J. Pechman. (LG,) (Entered: 05/08/2008)
10	May 09, 2008	9	SURREPLY to (56 in 2:08-cv-00389-MJP) Reply to Response to Motion to Consolidate Related Actions, to Appoint Lead Derivatice Plaintiff, and Designate Lead Counsel by Plaintiffs Tom Sneva, Tom Sneva (Townsend, Roger) (Entered: 05/09/2008)
11	May 09, 2008	10	DECLARATION of David H. Leventhal filed by Plaintiff Tom Sneva re (29 in 2:08-cv-00389-MJP) MOTION to Consolidate Cases , to Appoint Lead Derivative Plaintiff, and Designate Lead Counsel (Attachments: # 1 Exhibit A, # 2 Exhibit B)(Townsend, Roger) (Entered: 05/09/2008)
12	May 09, 2008	11	DECLARATION of Clinton A. Krislov filed by Plaintiff Tom Sneva re (29 in 2:08-cv-00389-MJP) MOTION to Consolidate Cases , to Appoint Lead Derivative Plaintiff, and Designate Lead Counsel (Attachments: # 1 Exhibit C)(Townsend, Roger) (Entered: 05/09/2008)
13	May 13, 2008	12	REPLY, filed by Plaintiff Chana Scheller, TO RESPONSE to (19 in 2:08-md-01919-MJP, 41 in 2:07-cv-01827-MJP, 5 in 2:08-cv-00465-MJP, 41 in 2:08-cv-00095-MJP, 27 in 2:07-cv-02055-MJP, 5 in 2:08-cv-00387-MJP, 22 in 2:07-cv-02076-MJP, 6 in 2:08-cv-00388-MJP, 38 in 2:07-cv-01874-MJP, 23 in 2:07-cv-01906-MJP, 44 in 2:07-cv-01879-MJP, 24 in 2:07-cv-02025-MJP, 44 in 2:07-cv-01826-MJP, 21 in 2:07-cv-01997-MJP, 26 in 2:07-cv-01938-MJP, 54 in 2:08-cv-00389-MJP, 10 in 2:08-cv-00466-MJP, 57 in 2:07-cv-01809-MJP, 8 in 2:08-cv-00647-MJP, 24 in 2:08-cv-00005-MJP, 13 in 2:08-cv-00566-MJP, 15 in 2:08-cv-00471-MJP) MOTION to Appoint Lead and Liaison Counsel in Scheller v. Killinger, et al. and to Consolidate Actions for Pre-Trial Purposes (Attachments: # 1 Proposed Order to Appoint Lead and Liaison Counsel and to Coordinate Actions (Revised))(Drachler, Dan) (Entered: 05/13/2008)
14	May 16, 2008	13	ORDER to Consolidate with Member Case Number C08-751MJP. File all documents in C08-387MJP and MDL 1919 by Judge Marsha J. Pechman. (MD,) (Entered: 05/19/2008)
15	May 20, 2008	14	APPLICATION OF ATTORNEY Maya S. Saxena FOR LEAVE TO APPEAR PRO HAC VICE for Plaintiff Brockton Contributory Retirement System (Fee Paid) Receipt No. 09810000000001446851. (Attachments: # 1 ECF Registration)(Grant, Jeffrey) (Entered: 05/20/2008)
16	May 20, 2008	15	APPLICATION OF ATTORNEY Christopher S. Jones FOR LEAVE TO APPEAR PRO HAC VICE for Plaintiff Brockton Contributory Retirement System (Fee Paid) Receipt No. 09810000000001446952. (Attachments: # 1 ECF Registration)(Grant, Jeffrey) (Entered: 05/20/2008)
17	May 20, 2008	16	APPLICATION OF ATTORNEY Joseph E. White III FOR LEAVE TO APPEAR PRO HAC VICE for Plaintiff Brockton Contributory Retirement System (Fee Paid) Receipt No. 09810000000001446970. (Attachments: # 1 ECF Registration)(Grant, Jeffrey) (Entered: 05/20/2008)
18	May 21, 2008	17	ORDER re (14 in 2:08-cv-00387-MJP) Application for Leave to Appear Pro Hac Vice. The Court ADMITS Maya Susan Saxena for Brockton Contributory Retirement System, by Bruce Rifkin. (No document

Req #	Filed	#	Docket Text
			associated with this docket entry, text only.)(MD,) (Entered: 05/21/2008)
19	May 21, 2008	18	ORDER re (15 in 2:08-cv-00387-MJP) Application for Leave to Appear Pro Hac Vice. The Court ADMITS Christopher Steven Jones for Brockton Contributory Retirement System, by Bruce Rifkin. (No document associated with this docket entry, text only.)(MD,) (Entered: 05/21/2008)
20	May 21, 2008	19	ORDER re (16 in 2:08-cv-00387-MJP) Application for Leave to Appear Pro Hac Vice. The Court ADMITS Joseph Edward White for Brockton Contributory Retirement System, by Bruce Rifkin. (No document associated with this docket entry, text only.)(MD,) (Entered: 05/21/2008)
21	May 27, 2008	20	JOINT STATUS REPORT signed by all parties;. (Attachments: # 1 Appendix, # 2 Appendix)(Caplow, Steven) (Entered: 05/27/2008)
22	May 30, 2008	21	NOTICE of Appearance by attorney Steven P Caplow on behalf of Defendants Washington Mutual Inc, Washington Mutual Inc. (Caplow, Steven) (Entered: 05/30/2008)
23	May 30, 2008	22	APPLICATION OF ATTORNEY Robert J. Pfister FOR LEAVE TO APPEAR PRO HAC VICE for Defendant Washington Mutual Inc (Fee Paid) Receipt No. 0981000000001455918. (Attachments: # 1 Atty Registration form for Robert J. Pfister)(Caplow, Steven) (Entered: 05/30/2008)
24	Jun. 02, 2008		Attorney Stephen M. Rummage for Washington Mutual Inc added per 21 Notice of Appearance. (KN,) (Entered: 06/02/2008)
25	Jun. 02, 2008	23	ORDER re 22 Application for Leave to Appear Pro Hac Vice. The Court ADMITS Robert Jerrod Pfister for Washington Mutual Inc, by Bruce Rifkin. (No document associated with this docket entry, text only.)(MD,) (Entered: 06/02/2008)
26	Jun. 10, 2008	24	MINUTE ORDER: issues decided at June 9th initial conference by Judge Marsha J. Pechman. (LG,) (Entered: 06/10/2008)
27	Jun. 18, 2008		MINUTE ENTRY: at the request of counsel, the deadline for the parties' proposed consolidated scheduling order is extended to 6/26/2008. (LG,) (Entered: 06/18/2008)
28	Jul. 14, 2008	25	MINUTE ENTRY for proceedings held before Judge Marsha J. Pechman- Dep Clerk: Eileen Scollard; Law Clerk: Lucinda Gryzenia; Pla Counsel: Brad Keller; Def Counsel: Steve Rummage; CR: Susan Zielie; Scheduling Conference held on 7/14/08. Counsel directed to meet and confer re management of case and unified positions by 8/4/08. Scheduling order to be issued. (ES) (Entered: 07/17/2008)
29	Jul. 25, 2008	26	SCHEDULING ORDER - COUNSEL PLEASE SEE ORDER SETTING TRIAL DATE AND RELATED DEADLINES FOR COMPLETE SCHEDULING INFORMATION. LEAD CASE NO. C08-387MJP; C07-1826MJP; C08-566MJP AND CO7-1874MJP. Amended Pleadings due by 6/18/2010 Discovery completed by 4/2/2009 Dispositive motions due by 10/18/2010 Joinder of Parties due by 4/28/2010 Pretrial Order due by 4/2/2011 Trial briefs to be submitted by 4/18/2011 Proposed voir dire/jury instructions due by 4/18/2011 Final Pretrial Conference set for 4/12/2011. CASES READY FOR TRIAL- Jury Trial is set for 5/2/2011 at 09:00 AM before Judge Marsha J.

Req #	Filed	#	Docket Text
			Pechman.by Judge Marsha J. Pechman. (MD) (Entered: 07/25/2008)
30	Sep. 03, 2008	27	STIPULATED PROTECTIVE ORDER filed in 8md1919 and Lead Case No. C08-387MJP; C07-1826MJP; C08-566MJP and C07-1874MJP by Judge Marsha J. Pechman. (MD) (Entered: 09/03/2008)
31	Sep. 16, 2008	28	RESPONSE, by Plaintiff All Plaintiffs, to (61 in 2:08-md-01919-MJP) MOTION to Dismiss the Demand Futile Derivative Action for Failure to Make Demand. (Breskin, David) (Entered: 09/16/2008)
32	Sep. 30, 2008	29	NOTICE of Filing Bankruptcy by Defendant Washington Mutual Inc. (Attachments: # 1 Exhibit)(Caplow, Steven) (Entered: 09/30/2008)
33	Oct. 01, 2008	30	Joint Stipulated MOTION AND PROPOSED ORDER AMENDING SCHEDULING ORDER IN SECURITIES AND ERISA CASES by Defendant Washington Mutual Inc. Noting Date 10/1/2008 (Caplow, Steven) (Entered: 10/01/2008)
34	Oct. 01, 2008	31	STIPULATED ORDER AMENDING SCHEDULING ORDER IN SECURITIES AND ERISA CASES [WM-8] re:(70) Stipulated Motion in case 2:07-cv-01874-MJP; (154) Stipulated Motion in case 2:08-md-01919-MJP; granting (30) Stipulated Motion in case 2:08-cv-00387-MJP by Judge Marsha J. Pechman.(MD) (Entered: 10/02/2008)
35	Oct. 08, 2008	32	NOTICE OF WITHDRAWAL AND SUBSTITUTION OF COUNSEL on behalf of Defendants Kerry K Killinger, Kerry K Killinger, Kerry K Killinger, Kerry K Killinger, Kerry K Killinger, Kerry K Killinger, Kerry K Killinger, Kerry K Killinger, Kerry K Killinger, Kerry K Killinger, Kerry K Killinger, Kerry K Killinger, Kerry K Killinger, Kerry K Killinger, Kerry K Killinger, Kerry K Killinger, Kerry K Killinger, Kerry K Killinger, Kerry K Killinger, Kerry K Killinger. Barry M Kaplan is substituted as counsel for Defendants. Attorney Stephen M. Rummage; Steven P Caplow and Robert Jerrod Pfister terminated. (Kaplan, Barry) (Entered: 10/08/2008)
36	Oct. 08, 2008	33	MINUTE ORDER: The Court hereby schedules a status conference in this matter to be held on November 12, 2008 at 1:30 PM. The representative for Plaintiffs and for Defendants are instructed to submit a list of issues to be addressed at the conference by Monday, November 10, 2008. by Judge Marsha J. Pechman. (LG,) (Entered: 10/08/2008)
37	Oct. 20, 2008		NOTICE of Docket Text Modification re (35 in 2:08-cv-00387-MJP) Notice of Appearance. This Notice of Appearance by Attorneys Jeff Smyth; Christopher C. Mason; Shaunta M. Knibb for deft Mike Amato filed in cases 8MD1919; C08-387 and C07-1874 only and not in the other cases. (MD) (Entered: 10/23/2008)
38	Oct. 21, 2008	34	AMENDED COMPLAINT with Appendices against defendant(s) Ronald J. Cathcart, John F. Woods, Melissa J. Ballenger, Anne V. Farrell, Stephen E. Frank, Thomas C. Leppert, Charles M. Lillis, Phillip D. Matthews, Regina T Montoya, Michael K. Murphy, Margaret Osmer-McQuade, Mary E. Pugh, William G. Reed, Orin C. Smith, James H. Stever, Willis B. Wood, Jr., Deloitte & Touche LLP, Goldman Sachs & Co., Morgan Stanley & Co Incorporated, Deutsche Bank Securities Inc., Lehman Brothers Inc., UBS Securities LLC, Banc of America Securities LLC, JP Morgan Securities Inc, Barclays Capital Inc, Keefe, Bruyette & Woods, Inc., Cabrera Capital Markets, LLC, The Williams Capital

Req #	Filed	#	Docket Text
			Group, L.P., Citigroup Global Markets, Inc., Greenwich Capital Markets, Inc., BNY Capital Markets, Inc., Samuel A. Ramirez & Company, Inc., Kerry K Killinger, David C Schneider, Thomas W Casey, Stephen J Rotella, Washington Mutual Inc, Credit Suisse (USA) LLC; with JURY DEMAND, filed by Ontario Teachers Pension Plan.(Johnson, C) Modified on 10/21/2008 (HBR). (Entered: 10/21/2008)
39	Oct. 21, 2008	35	NOTICE of Appearance (Smyth, Jeffrey) (Entered: 10/21/2008)
40	Oct. 21, 2008		NOTICE of Docket Text Modification re 34 Amended Complaint: Added defendant Credit Suisse (USA) LLC, per filer, to correct system limitation re adding parties. (HBR) (Entered: 10/21/2008)
41	Oct. 30, 2008	36	Stipulated MOTION AND PROPOSED ORDER amending scheduling order in securities case by Defendants David C Schneider, John F Woods, Thomas W Casey, Stephen Rotella, Ronald J Cathcart, Melissa J Ballenger. Noting Date 10/30/2008 (Caplow, Steven) Modified text on 10/31/2008 (MD). (Entered: 10/30/2008)
42	Nov. 03, 2008	37	STIPULATED ORDER AMENDING SCHEDULING ORDER IN SECURITIES CASE RE: (170) Stipulated Motion in case 2:08-md-01919-MJP; (36) Stipulated Motion in case 2:08-cv-00387-MJP. Motions to dismiss the Securities case filed by all defendants (Other than Washington Mutual, Inc.) formerly due on 11/17/08, shall now be due on 12/8/08; Oppositions to motions due 2/23/09 and Replies due 3/30/09, by Judge Marsha J. Pechman.(MD) (Entered: 11/04/2008)
43	Nov. 10, 2008	38	STATUS REPORT NOVEMBER 12, 2008, COURT CONFERENCE. (Caplow, Steven) (Entered: 11/10/2008)
44	Nov. 12, 2008	39	MINUTE ORDER memorializing rulings made at November 12, 2008 status conference. by Judge Marsha J. Pechman. (LG,) (Entered: 11/12/2008)