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2006 Decisions

Opinions of the United  
States Court of Appeals  
for the Third Circuit

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2-8-2006

## Benak v. Alliance Cap Mgmt

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UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

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No. 05-1070

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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

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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\*

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

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

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\*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.

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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 52<sup>nd</sup> 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.