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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

Precedential or Non-Precedential: Precedential

Docket No. 05-1070

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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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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.