



Marc B. Kramer

Partner

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Marc brings a broad range of experience to his complex commercial litigation practice. His areas of focus include securities' class action opt-out litigation, investor appraisal rights, and bondholders' rights. With over 30 years of experience, Marc has recovered hundreds of millions of dollars for professional investors who have suffered losses arising out of securities fraud.

Marc has represented a diverse array of institutional investors, including hedge funds, mutual funds, and investment advisors. Representative clients include: Appaloosa Management, Jet Capital Investors, Franklin Templeton Investments, Franklin Mutual Advisers, Balyasny Asset Management, Highfields Capital Management, Pennant Capital Management, Nokota Capital Management, Chatham Asset Management, Discovery Capital Management, Owl Creek Asset Management, Fred Alger & Co., Inc. and Special Situations Funds, among many others.

Marc also contributes to Lowenstein Sandler's **Appraisal Rights Litigation blog**, a forum devoted to educating investors about the use of appraisal rights to increase their returns in M&A deals.

EXPERIENCE

Representative Opt-Out Matters

- > Represented several investor groups, including Cohen & Steers and Archer Capital Management, in the U.S. District Court for the Southern District of New York against VEREIT, Inc. (f/k/a American Realty Capital Properties Inc.), and several of its former senior executives in connection with accounting fraud.
- > Representing multiple investors, including Janus Capital Group, SunAmerica Asset Management, Brahman Capital, MSD Partners, Grantham, Mayo, Van Otterloo & Co., Discovery Capital Management, and Incline Global Management, in the United States District Court for the District of New Jersey against Valeant Pharmaceuticals and several of its former executives in connection with the Company's undisclosed relationship with a related entity and artificially inflated financials.
- > Representing Cohen & Steers in the Supreme Court of the State of New York against Brixmor Property Group and others arising out of alleged accounting fraud.
- > Represented Pennant Capital Management in a securities fraud action against Ocwen Financial Corp., a major mortgage servicer. Pennant's claims were sustained at both the motion to dismiss and summary judgment stages. The matter was favorably settled immediately prior to trial for a cash amount nearly equal to the entirety of the cash portion of the total class action settlement.
- > Represented Discovery Capital Management in a direct securities fraud action against Petrobras and others related to its alleged bid-rigging and kickback scheme. Discovery's claims were sustained after a motion to dismiss. The matter was confidentially settled before trial.
- > Represented Highfields Capital Management and another investor in direct actions against Barrick Gold Corporation related to fraud allegations involving its major South American mining project, Pascua Lama. Highfields' claims and the other investors' claims were sustained on a motion to dismiss, and the matter was confidentially settled.
- > Represented Appaloosa Management, Franklin Mutual Advisers, and W.R. Huff Asset Management Co. in prosecuting hundreds of millions of dollars of claims arising out of the Adelpia securities scandal.
- > Represented Franklin Mutual Advisers in direct claims for securities fraud against Tyco International and certain of its former officers.
- > Represented Cadian Capital in direct claims for alleged securities fraud against MF Global and former New Jersey governor Jon Corzine.
- > Represented Special Situations Funds in a separately filed companion case to the Suprema class action for damages for securities purchased by SSF in Suprema Specialties.
- > Represented entities related to Fred Alger Management and Valinor Capital Management in direct actions against LendingClub Corporation related to allegations regarding fraud by its former CEO and other executives. The matter was confidentially settled.

Representative Appraisal Rights Matters

- > Represented Special Situations Funds in a Delaware appraisal action involving Leucadia's acquisition of MK Resources.
- > Represented a hedge fund investor in Digital River Inc., who pursued statutory appraisal rights in Delaware arising out of Digital River's merger acquisition by an investor group led

by Siris Capital Group LLC.

- > Represented the largest outside investor group in CKx Inc. (n/k/a CORE Media Group); the group pursued their statutory right to appraisal of their \$50+ million stake in the company following the acquisition of CKx by an affiliate of Apollo Global Management in 2011. CKx was the owner and manager of such iconic brands as *American Idol*, *Elvis Presley Enterprises*, and *Muhammad Ali*.
- > Represented a hedge fund investor in Aeroflex Holding Corp., which pursued their statutory right to appraisal in Delaware following the company's acquisition by British defense contractor Cobham plc for \$1.5 billion. The case was favorably resolved by a confidential settlement prior to trial.

NEWS & INSIGHTS

Publications

- > October 31, 2019
"Digital Asset Litigation Update—What Investors Need to Know," *Securities Litigation Client Alert*
Marc B. Kramer, Richard A. Bodnar, Jarett Sena
- > April 30, 2018
"Lowenstein Sandler Securities Litigation Group Generates Significant Returns for Fund Clients in 2017," *Securities Litigation Client Alert*
Lawrence M. Rolnick, Michael J. Hampson, Steven M. Hecht, Marc B. Kramer, Thomas E. Redburn Jr., Sheila A. Sadighi
- > April 26, 2018
"Cryptocurrency Class Actions – Relevance to Institutional Investors," *Securities Litigation Client Alert*
Lawrence M. Rolnick, Marc B. Kramer, Sheila A. Sadighi, Richard A. Bodnar

In the Media

- > September 11; November 4, 2019
Lawrence M. Rolnick comments in *The Am Law Litigation Daily* on the benefits for funds that opted out of the shareholder class action in the American Realty Capital Properties (ARCP; n/k/a VEREIT) litigation, which Lowenstein Sandler's **Securities Litigation** Group team helped bring to a successful end. Lowenstein's role in this matter is also highlighted in the **Global Legal Chronicle**. The team included **Lawrence M. Rolnick, Marc B. Kramer, Thomas E. Redburn, Jr., Sheila A. Sadighi, Michael J. Hampson, Richard A. Bodnar, Brandon Fierro,** and **Nicole Castiglione**. [View Lowenstein's news announcement about this representation.](#)
- > January 7, 2019
Lowenstein Sandler is noted as lead counsel to Vesey Street Capital Partners, LLC (VSCP) in their recapitalization of Elite Body Sculpture as published in **The PE Hub Network, Cision PR Newswire,** and **The Business Journals** (Lowenstein deal team: **Marc B. Kramer, Brooke A. Gillar, Steven E. Siesser, Lowell A. Citron, Michael Walutes, Lesley P. Adamo, Eileen Overbaugh, Elisia M. Klinka, Nicholas Gonski, Darren Goodman, Megan Monson, Eric Jesse, Alanna Sandoval, Jeffrey M. Shapiro, Jack Sidorov, Mark P. Kesslen, Paul M. Krueger, Michael A. Buxbaum, Norman W. Spindel, Mary J. Hildebrand, Bryan Sterba, Manali Joglekar,** and **Stuart S. Yusem.**)
- > October 29-November 1, 2018
Reuters and **The D&O Diary** note Lowenstein Sandler as counsel to opt-out plaintiff investment funds that secured a \$42.5 million settlement with VEREIT to resolve the funds' securities fraud actions against American Realty Capital Properties Inc. (Lowenstein team: **Lawrence M. Rolnick, Marc B. Kramer, Thomas E. Redburn, Jr., Michael J. Hampson,** and **Sheila A. Sadighi.**) [View Lowenstein's news announcement about this transaction.](#)

EDUCATION

- > Dickinson School of Law (J.D. 1987), *Dickinson Law Review*
- > Rutgers, The State University of New Jersey (B.A. 1984)

ADMISSIONS

- > New York
- > New Jersey