



## Gavin J. Rooney

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Chair, Business and Class Action Litigation

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Gavin specializes in class action and complex commercial litigation, representing corporate and institutional clients. Consistently recognized as a leading commercial litigator, Gavin has been described by clients as "excellent" and "very thorough, detail-oriented, and extremely intelligent" (*Chambers USA*).

Gavin's interest in military history has served him well in successfully defending corporate clients in securities, shareholder derivative, class action, consumer fraud, mass tort, and RICO claims. Approaching every matter from a strategic angle, he surveys the state of play, assembles facts, determines tactics, and deploys a clear-sighted grand strategy to achieve his clients' business goals. Gavin effectively manages massive claims and supervises large teams of lawyers while remaining the central point of contact for his clients.

Gavin has handled numerous jury and nonjury cases across the United States. He has argued before the appellate courts of California, Florida, Massachusetts, New Jersey, and New York, and before several federal circuit courts of appeal. He also handles other types of commercial litigation, from shareholder disputes to real estate and environmental matters.

## EXPERIENCE

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- > Represented the State of New Jersey as special outside counsel in the State's lawsuit against Volkswagen, Audi, and Porsche for their role in a massive consumer fraud scandal known as "dieselgate." Successfully negotiated a settlement of all claims for a total of \$69 million for New Jersey.
- > Defeated certification of a class of ratepayers suing a Massachusetts electric utility for damages caused by widespread and lengthy blackouts following a major winter storm. Successfully defended that result on appeal to the Massachusetts Supreme Judicial Court, which resulted in one of the key Supreme Judicial Court opinions addressing the standards for class certification in Massachusetts.
- > Led the defense of Bristol-Myers Squibb against several hundred toxic tort lawsuits designated as a "mass tort" by the New Jersey Supreme Court, with parallel cases pending in the District of New Jersey.
- > Won a decision from the Third Circuit affirming dismissal of RICO, Consumer Fraud Act, and other claims brought by a putative class of third-party payers against Merck, in which the plaintiffs' alleged injury arose from the defendant's supposed marketing of oncology drugs for "off label" indications. This victory was profiled in *Law360*, "How They Won It," July 10, 2012, and is considered to be one of "**The Best Prescription Drug/Medical Device Decisions of 2012**" by some industry experts.
- > Successfully prosecuted a securities fraud claim before the Financial Industry Regulatory Authority on behalf of a large pharmaceutical company against a major investment bank, seeking to recover massive losses incurred from short-term cash management investments when the 2007 financial crisis struck the markets. Secured a nine-figure settlement for the client.
- > Defeated a motion to certify a class of real estate developers suing Verizon, claiming that Verizon had improperly charged them for expenses involved in relocating the utility's infrastructure in order to accommodate their developments.
- > Won summary judgment on behalf of a short-biased investment fund, dismissing RICO conspiracy claims brought by a pharmaceutical company alleging that the short seller conspired with other hedge funds, a sell-side stock analyst, and others to supposedly spread false information and manipulate the plaintiff's stock price. The case was widely followed by the press ("The Inside Story of a Wall Street Battle Royal," *Forbes*, July 26, 2006, and "SEC Looks at Hedge Funds' Trades," *The Wall Street Journal*, Feb. 13, 2009).
- > Defended Schering-Plough against securities fraud claims that it misled investors about its manufacturing problems and the risks those problems supposedly posed to FDA approval of a new blockbuster antihistamine drug.
- > Defended numerous product manufacturers against putative class action claims under the New Jersey Consumer Fraud Act, including the manufacturers/sellers of the allergy drug Claritin and Coppertone sunscreen.
- > On behalf of Jersey Central Power & Light Company, won the first-ever decertification of a class action pending in New Jersey state court, as well as a decision dismissing a classwide damages model that established New Jersey law on the admissibility of such models.

## HONORS & AWARDS

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- > **Chambers USA: America's Leading Lawyers for Business: (2013-2019)**  
Recognized for work in General Commercial Litigation
- > **The Best Lawyers in America (2015-2019)**  
Recognized in the Commercial Litigation section.
- > **New Jersey Super Lawyers (2009-2014, 2017-2018)**  
Recognized for work in Business Litigation, Class Action/Mass Torts, and Securities Litigation

## NEWS & INSIGHTS

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### Publications

- > June 26, 2017  
**"Lowenstein Sandler Advocates to Reduce Abusive Consumer Class Actions Harming New Jersey Businesses,"** *Class Action Litigation Client Alert*  
Gavin J. Rooney, Naomi D. Barrowclough
- > July 29, 2016  
**"Terms of Misuse: Class Plaintiffs Exploit Obscure New Jersey Law, Creating E-Commerce Havoc,"** *Westlaw Journal*  
Matt Savare, Gavin J. Rooney
- > June 17, 2016  
**"New Jersey's Truth-in-Consumer Contract law provokes new class-action suits,"** *Westlaw Journal*  
Gavin J. Rooney, Matt Savare
- > June 6, 2016  
**"Your Company's Online 'Terms of Use' May Be the Target of a Class Action,"** *InsideCounsel Magazine*  
Gavin J. Rooney
- > January 8, 2016  
**"State Courts May Become Sole No-Injury Class Action Forum,"** *Law360*  
Gavin J. Rooney, Amy C. Schwind, Joseph A. Fischetti
- > March 10, 2015  
**"NJ Pushes Back Against Pro-Arbitration Federal Policy,"** *Law360*  
Gavin J. Rooney, Joseph A. Fischetti
- > October 24, 2014  
**"Putting the 'But For' Back into Concurrent Causation,"** *Bloomberg BNA, Pharmaceutical Law & Industry Report*  
Gavin J. Rooney, Frank T. M. Catalina

### In the Media

- > September 10, 2018  
The **New Jersey Business & Industry Association** quotes **David Leit** and mentions **Gavin J. Rooney** and **Craig Dashiell** in an article discussing the uncertain future of the Deferred Action for Childhood Arrivals (DACA) program, despite the U.S. District Court for the Southern District of Texas denying the plaintiff states' request for a preliminary injunction to halt the program. Leit, who, along with Rooney and Dashiell, led the Lowenstein team that authored and filed an amicus brief supporting the State of New Jersey's opposition to the injunction, notes that the amicus brief's principal argument, that suddenly halting DACA would cause significant economic harm to New Jersey businesses and organizations, was accepted by the Court as a basis to deny the injunction.
- > July 26-27, 2018  
**ROI, NJBIZ, the New Jersey Business & Industry Association, and NorthJersey.com** highlight Lowenstein Sandler's leading role in authoring and filing an amicus brief in *State of Texas, et al. v. United States of America, et al.*, on behalf of New Jersey businesses, associations, and nonprofit institutions, supporting the State of New Jersey's opposition to Texas's motion to preliminarily enjoin the Deferred Action for Childhood Arrivals (DACA) program in a case pending in the U.S. District Court for the Southern District of Texas. The brief highlights the significant harms to the New Jersey economy and New Jersey businesses that would result if DACA were enjoined and thousands of New Jerseyans suddenly became unable to contribute to the state's economy by working, attending school, and paying taxes. **David Leit, Gavin J. Rooney, and Craig Dashiell** were the lead attorneys on the brief. **Read Lowenstein's announcement about the brief; [click here for a copy of the document.](#)**
- > July 27, 2018  
**Law360** notes **Gavin J. Rooney** and **Joseph A. Fischetti** in an article highlighting a victory for our clients in two related class actions in which the New Jersey Appellate Division affirmed the lower court's dismissal of the actions. Plaintiffs alleged violations of the New Jersey Truth-in-Consumer Contract, Warranty and Notice Act, but Lowenstein Sandler won a threshold motion to dismiss (affirmed on appeal) for failure to show harm. The case is *Gregory R. Duke, et al. v. All American Ford, et al.* (*subscription required to access article*)
- > May 30, 2018  
The **New Jersey Law Journal** and **Law360** note **Gavin J. Rooney** and **Naomi D. Barrowclough** as counsel to Bil-Jim Construction Co. Inc. executives for whom our lawyers secured dismissal from a putative class action brought under the New Jersey Prevailing Wage Act.
- > July 6, 2016

In **Law360**, **Gavin Rooney** comments on the importance of clear notification when it comes to arbitration clauses and their enforceability.

- > July 2, 2016  
**Gavin Rooney** comments in **The Economist** about the effect of TCCWNA lawsuits on online businesses offering goods or services.
- > June 3, 2016  
**Gavin Rooney** comments in **Forbes** on New Jersey TCCWNA class action suits involving website terms and conditions.
- > March 10, 2016  
**Gavin Rooney** comments in the **New Jersey Law Journal** regarding how NJ courts view arbitration clauses.
- > September 14, 2015  
**Gavin Rooney** comments in **Law360** about enforcement of TCCWNA limitations which he successfully argued to avoid a class action suit.
- > August 13, 2015  
**Gavin Rooney** is quoted in **Law360** regarding implications of the New Jersey Supreme Court's decision to increase the requirements for consumer arbitration agreements.
- > August 6, 2015  
**Gavin Rooney** comments in **Forbes** about the implications of defeating class certification in the federal worker misclassification lawsuit filed against Uber.

## SPEAKING ENGAGEMENTS

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- > Panelist, **Annual Fall Legal Reform Conference**, New Jersey Civil Justice Institute, Florham Park, NJ, October 9, 2018
- > Speaker, **A Review of the New Jersey Supreme Court's Recent TCCWNA Decisions**, New Jersey Civil Justice Institute, October 11, 2017
- > Speaker, **No-Injury Class Actions: The Efforts to Reform and the Tools to Defend**, Lowenstein Sandler and U.S. Chamber Institute for Legal Reform Seminar, June 15, 2017
- > Speaker, **An Update on TCCWNA Action**, New Jersey Civil Justice Institute, April 28, 2017
- > Speaker, **Defending No-Injury Class Actions Post-Spokeo: Standing for Statutory Violations, State Court Litigation, and CAFA Removal**, Strafford Class Action Webinar, April 27, 2017

## EDUCATION

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- > Columbia University School of Law (J.D. 1992), Harlan Fiske Stone Scholar
- > State University of New York at Binghamton (B.A. 1989), with honors, Phi Beta Kappa

## ADMISSIONS

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- > New Jersey
- > New York