



## Zachary D. Rosenbaum

Partner  
Chair, Capital Markets Litigation Group

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Zach is Chair of Lowenstein Sandler's Capital Markets Litigation Group. He was spotlighted by *Chambers USA* in 2019 as one of just 11 leading trial lawyers in New York for his representation of institutional "buy-side" plaintiffs. Zach's clients include foreign and domestic asset managers, as well as hedge funds, private equity funds and other investors. His trial practice focuses predominantly on securities and structured finance litigation, M&A disputes, secured and unsecured financing litigation, real estate investment disputes, intellectual property litigation, and bankruptcy-related litigation. He also routinely conducts arbitration proceedings in domestic and cross-border disputes.

*Chambers USA* describes Zach as "a phenomenal lawyer who has a very strong following with hedge funds." He has also been recognized in *New York Super Lawyers* each year from 2011 to 2019, and he was listed by *Super Lawyers* as a Rising Star before that. Additionally, Zach was an original member of the New York County Bar Association Subcommittee on Capital Markets and Hedge Fund Litigation.

Zach has tried cases involving a wide array of capital markets transactions and he has been adverse to virtually all of the major Wall Street banks. In the wake of the global financial crisis, Zach represented a European institution that managed one of the world's largest portfolios of subprime, synthetic CDOs, which were the "long" side of *The Big Short*. He also works closely with the SEC and other government authorities in their investigations and prosecutions of misconduct victimizing institutional investors.

## EXPERIENCE

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- > Won a \$475 million arbitration award on behalf of a Chinese insurer following an eight-day plenary trial, in an international arbitration venued in Hong Kong relating to a \$5 billion cross-border M&A transaction.
- > Prosecuted claims on behalf of The Prudential Insurance Company of America against Morgan Stanley for fraudulent misrepresentation and civil RICO involving the creation and sale of over \$1 billion of RMBS.
- > Obtained a successful jury verdict in the Southern District of New York in defense of action concerning the provision of health care services to employees of the state of Tennessee.
- > Won preliminary injunction after two-day plenary trial, in connection with a \$40 million debt financing.
- > Won summary judgment, defeating trade secret infringement claims brought in the Southern District of Florida against broker-dealer regarding the creation of a public exchange for transacting repurchase "repo" agreements.
- > Won dismissal of a \$1.875 billion claim brought in New York by financial guarantor FGIC against client IKB Deutsche Industriebank involving a complex array of credit default swaps and underlying CDO assets.
- > Representing multiple RMBS trustees in trial and appellate courts, both state and federal, concerning several billion dollars in mortgage repurchase claims.
- > Defended claims of ratings fraud in connection with the launch of a \$2 billion structured investment vehicle (SIV).
- > Defeated an arbitration claim brought against institutional investors by an international investment bank stemming from three contemplated CDO transactions, totaling \$1.5 billion, clearing the way for a substantial damage claim prosecuted in the New York Supreme Court.
- > Representation of CDO noteholders regarding the collateral manager's and trustee's interpretation of the indenture's waterfall provision.
- > Defeated claims brought against an investment fund, which arose from a \$60 million loan transaction.
- > Successfully prosecuted a jury trial on behalf of a minority shareholder in a large privately held company.

## HONORS & AWARDS

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- > **Chambers USA: America's Leading Lawyers for Business (2019)**  
Recognized in the Spotlight Table for work in Litigation: Securities: Institutional Plaintiffs

> **New York Super Lawyers (2011-2018)**

Recognized for work in Securities Litigation and Business Litigation

## NEWS & INSIGHTS

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### Publications

> August 26, 2019

**"How the Global Financial Crisis Has Shaped New York Law,"** *ABA Business and Corporate Litigation Committee Newsletter*

Zachary D. Rosenbaum, Jennifer Fiorica Delgado, Meg Slachetka

> June 10, 2019

**"Home Depot Inc. v. Jackson: The Supreme Court Deals Class Action Plaintiffs a Major Victory,"** *Litigation Client Alert*

Rachel Maimin, Zachary D. Rosenbaum

### In the Media

> November 1, 2019

**Zachary D. Rosenbaum** is quoted and **Frank T. M. Catalina** is mentioned in a **Law360** article discussing Lowenstein's defeat of a renewed motion to dismiss brought by Apex Fund Services (US), Inc.'s Bermuda-based parent and other affiliated entities. On behalf of over 30 investors who were victims of a Ponzi scheme, Lowenstein filed suit against the Apex entities for common-law fraud, securities fraud, and RICO claims, among other claims. Defendants filed the motion on jurisdictional grounds, but the court denied their motion, keeping them in the case. (*subscription required to access article*)

> September 13, 2019

**Zachary D. Rosenbaum, Jennifer Fiorica Delgado, and Meg Slachetka** achieved a key victory as plaintiffs' pro bono counsel in *Doe v. Esper*, a legal challenge to the Pentagon's transgender service policy, as reported by **Law360**. The government's policy is to discharge or deny enlistment to anyone who will not serve in the gender to which they were assigned at birth, or who is undergoing hormone therapy or other gender-confirmation procedures. Lowenstein's team successfully overcame the government's claim that it is entitled to a high level of deference simply because its policies were based on military-decision-making. They argued that the Department of Defense (DOD) improperly refused to produce documents pertaining to the development of the policy, and the Hon. Colleen Kollar-Kotelly of the U.S. District Court for the District of Columbia agreed, finding that DOD was not automatically entitled to such deference and that more discovery was necessary to determine whether the plan was created through a reasonable and even-handed process. The judge further agreed that DOD could not invoke the deliberate process privilege, which protects documents revealing the process behind government decisions, because "[t]hose documents go to the heart of Defendants' intent and decision-making process ... — both key issues in establishing the legitimacy of the disputed transgender policy." **View Lowenstein's news announcement about this matter.**

> January 16, 2019

**Zachary D. Rosenbaum** is quoted in **FundFire** discussing a civil lawsuit he is prosecuting against Apex Fund Services for fraud and racketeering (RICO). Rosenbaum notes that investors in funds for which Apex serves as administrator should be aware of the company's egregious behavior. (*subscription required to access article*)

> September 6-7, 2018

The **New York Law Journal** and **Law360** report on the September 6, 2018, oral argument before the New York State Court of Appeals in which **Zachary D. Rosenbaum** argued on behalf of Deutsche Bank National Trust Co. in its appeal from a decision dismissing as time-barred its RMBS "putback" claims against Quicken Loans Inc. Rosenbaum argued to New York's highest court that a contractual provision defining when a cause of action for breach of representations and warranties accrues should be enforced in accordance with its plain language and does not violate New York public policy. (*subscription required to access articles*)

> June 12-14, 2018

**Bloomberg Law – Big Law Business, The Deal,** and the **ABF Journal** note **Ryan M. Wilson's** return to Lowenstein, now as partner in the **Capital Markets Litigation** and **White Collar Criminal Defense** practices, following his tenure as an Assistant U.S. Attorney on President Obama's Residential Mortgage-Backed Securities (RMBS) Task Force in the U.S. Attorney's Office for the Eastern District of New York. The **ABF Journal** quotes **Zachary D. Rosenbaum** on how Wilson's rejoining the firm augments Lowenstein's capabilities and highlights the firm's continued success at attracting prominent, accomplished former prosecutors and trial lawyers.

> June 11-12, 2018

The **New York Law Journal** (including **this abbreviated coverage**), **Law360**, and **ABL Advisor** highlight **Ryan M. Wilson's** return to Lowenstein, now as partner in the **Capital Markets Litigation** and **White Collar Criminal Defense** practices, following his tenure as an Assistant U.S. Attorney on President Obama's Residential Mortgage-Backed Securities (RMBS) Task Force in the U.S. Attorney's Office for the Eastern District of New York. **Law360** quotes Wilson on his government experience and mentions **Zachary D. Rosenbaum** (Chair, Capital Markets Litigation) as a draw in coming back to the firm. All three articles quote Wilson on his reasons for returning to Lowenstein, and they note that Wilson is the latest in a series of former prosecutors and trial lawyers to join or return to the firm. Each article mentions one or more of the following former government lawyers who have come to Lowenstein in the past few years: **Christopher Porrino** (Chair, **Litigation Department**), **Kathleen A. McGee**, **Elie Honig**, **Scott B. McBride**, and **Matthew Boxer**. (*subscription required to access the New York Law Journal and Law360*)

> May 10, 2016

**Zachary Rosenbaum** comments in **The Financial Times** regarding the distressed energy markets' impact on banks and investors.

> February 3, 2015

**Zachary Rosenbaum** comments in **Global Capital** on Standard & Poor's \$1.37 billion class action settlement with the Department of Justice over the agency's crisis-era RMBS ratings.

## SPEAKING ENGAGEMENTS

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- > Speaker, **ABA Business Law Section Annual Meeting 2019**, ABA Business, Washington, D.C., September 12-14, 2019

## EDUCATION

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- > New York Law School (J.D. 1994), magna cum laude; Editor, *New York Law School Law Review*, 1993-1994
- > University of Maryland (B.S. 1990)

## ADMISSIONS

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- > New York
- > New Jersey
- > U.S. Supreme Court
- > U.S. District Court for the District of Columbia