

## Brett D. Jaffe

Partner

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Brett Jaffe is co-chair of Alston & Bird's Litigation & Trial Practice Group. Brett focuses his practice on the litigation of complex corporate and commercial disputes; securities, shareholder, and derivative litigation; corporate control and M&A litigation; and real estate litigation. Brett represents corporate and individual clients in many industry sectors (including financial services, media, real estate, airlines, manufacturing, and health care) at the trial and appellate levels in federal and state courts throughout the U.S., as well as in arbitration and other ADR forums. He has particular experience in representing hedge funds, private equity funds (and their portfolio companies), venture capital funds, investment advisory firms, and broker-dealers.

Brett also has extensive experience representing both corporations and individuals in white collar criminal and enforcement proceedings (including investigations undertaken by the DOJ, SEC, CFTC, FINRA, and various other regulators) and internal investigations on behalf of corporations, boards of directors, and audit/special committees.

Earlier in his career, Brett served as a vice president at a multistrategy hedge fund, where he was responsible for negotiating and structuring financing transactions and participated in the management of the fund's investment portfolio.

### *Representative Experience*

- Defended a former mortgage bond trader at a major investment bank in highly publicized securities fraud cases brought by the DOJ and SEC. Secured complete acquittal on all criminal charges following a seven-week jury trial in the District of Connecticut. Prevailed in a parallel civil securities fraud case brought by the SEC in the Southern District of New York by persuading the SEC, following extensive discovery, to voluntarily dismiss all claims against our client with prejudice.
- Defended a major U.S. investment bank in transaction-related litigation in the Commercial Division of the New York State Supreme Court alleging tortious interference with contract and unjust enrichment. Our motion to dismiss was granted in its entirety.
- Defended a publicly traded biopharmaceutical company and its board of directors in M&A/proxy litigation brought in Nevada state court. Following expedited discovery and a multiday preliminary injunction hearing, the court denied the shareholder plaintiff's motion for preliminary injunction, permitting our client to close the transaction.
- Defended a digital media company in civil litigation brought in the Southern District of New York alleging defamation and violation of the federal RICO statute. Following briefing on the motion to dismiss, the plaintiff agreed to a nuisance-value settlement.
- Defended a major U.S. broker-dealer and its affiliates in multidistrict litigation resulting from a failed leveraged buyout. All claims against our client were dismissed, and the dismissal was affirmed on appeal.

- Representing one of the nation's largest financial services firms in multiple litigations stemming from the bank's debt and equity investment in an upstate New York senior-housing development.
- Represented a group of investment funds in litigation brought in the Southern District of New York against an Asian sovereign wealth fund, asserting violations of the federal securities laws in connection with a debt offering. Argued and won in the Second Circuit in a case of first impression applying the Foreign Sovereign Immunities Act to securities fraud claims.
- Defended a leading U.S. broker-dealer in a federal class action arising out of an offering of approximately \$700 million of RMBS mortgage pass-through certificates. The matter settled on terms favorable to the client.
- Represented a major U.S. broker-dealer in a series of FINRA arbitration proceedings arising out of the sale of auction rate securities and the subsequent collapse of the auction rate securities market. These arbitrations resulted in three outright victories for the client, resulting in denial of claims seeking aggregate damages exceeding \$250 million.
- Represented a major U.S. airline in litigation brought in the Eastern District of Virginia against one of the world's largest hospitality companies, seeking expedited injunctive relief stemming from the breach of a joint marketing agreement between the parties.
- Defended a Philadelphia-based investment advisory firm in litigation in the Eastern District of New York alleging breach of fiduciary duty and violations of ERISA.
- Represented a major Houston-based oil and gas production and marketing company in litigation in the Southern District of New York alleging breach of contract, fraud, and conversion in a series of complex oil and gas financing transactions. Obtained complete dismissal of the litigation in the district court and argued the appeal in the Second Circuit, affirming the dismissal.
- Represented a major Texas-based hedge fund in complex civil litigation brought in the Commercial Division of the New York State Supreme Court relating to the client's participation in a lending syndicate under a credit facility and the borrower's (a major television station owner) alleged violation of various financial covenants in the operative credit agreement.
- Represented a major U.S. airline in litigation in the Southern District of New York and the Western District of North Carolina related to contract disputes arising out of the airline's lease of several Boeing 737 commercial aircraft.
- Represented a major media company and a number of its senior officers and directors in all civil litigation, including various shareholder class actions and derivative cases, arising out of the media company's sale of a biopharma company's stock.
- Represented the president of a Dallas-based natural gas trading firm in a joint investigation by the CFTC and Manhattan District Attorney's Office alleging impropriety in natural gas futures trading.
- Represented a senior corporate executive in a Department of Justice investigation of alleged price-fixing in the market for TFT-LCD display panels.
- Represented a major broker-dealer in parallel SEC and USAO investigations relating to the alleged misuse of material nonpublic information in the client's retail and institutional equities businesses.

## ***Publications & Presentations***

### ***Publications***

- "Litigation: Lessons Learned from the Dell Saga in Going-Private Transactions," *InsideCounsel*, January 9, 2014.

- “Litigation: Delaware Court Decision Lowers Bar for Insurgent Director Slates,” *InsideCounsel*, December 26, 2013.
- “Litigation: Forcing the Foreign Debtor to Keep Its Promises,” *InsideCounsel*, December 12, 2013.
- “Litigation: The Erosion of the Fraud-on-the-Market Presumption of Reliance in Securities Class Action,” *InsideCounsel*, December 5, 2013.
- “Litigation: *Tribune Corp.* Highlights LBO Risks for Tendering Shareholders,” *InsideCounsel*, October 28, 2013.

### ***Professional & Community Engagement***

- Private Equity Litigation Subcommittee, American Bar Association, Section of Litigation, co-chair
- Securities Industry and Financial Markets Association (SIFMA)
- UJA White Collar and Securities Enforcement Group, Executive Committee

### ***Education***

- New York University (J.D., 1997)
- University of Michigan (B.A., 1994)

### ***Admitted to Practice***

- New York

### ***Related Services***

Litigation | Class Action & Multidistrict Litigation | Financial Services Litigation | White Collar, Government & Internal Investigations | Securities Litigation | Commercial | Special Purpose Acquisition Companies (SPACs)