



Kyle J. Kolb

Counsel

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Kyle Kolb is counsel in Herrick's Litigation Department and a member of the Restructuring & Finance Litigation Department.

Kyle has significant experience in complex commercial, corporate finance, and securities litigation matters in both federal and state courts. Kyle's practice frequently involves breach of fiduciary duty litigations, shareholder actions, disputes among LLC members, investor disputes, governmental and internal investigations, commercial contract disputes, and other areas of business litigation. His clients include public and private held companies, debtors, creditor committees, and hedge funds. Kyle is also skilled in managing large matters involving complex eDiscovery issues.

Kyle has also done substantial pro bono work, including representing a client seeking asylum and successfully representing a coalition of minority voters through trial in a suit under Section 2 of the Voting Rights Act.

Prior to joining Herrick, Kyle was with Olshan Frome Wolosky LLP and Gibson, Dunn & Crutcher LLP. While in law school, Kyle served as a judicial intern for the Honorable James C. Francis IV in the U.S. District Court for the Southern District of New York.

Services

- Litigation
- Restructuring & Finance Litigation
- Corporate Litigation
- Securities Litigation and Enforcement
- White Collar Defense & Investigations

Education

- Columbia Law School (J.D., 2011)
 - Harlan Fiske Stone Scholar
- New York University (B.A., *magna cum laude*, 2008)

Accolades

- Thomson Reuters' New York *Super Lawyers Rising Stars*, Business Litigation (2018, 2019 and 2020)

Representative Matters

[Sears Holdings Corporation, et al. v. Lampert, et al. \(Bankr. S.D.N.Y.\)](#)

Serving as Co-Counsel to the Official Committee of Unsecured Creditors, on behalf of Debtors' estates, in lawsuit asserting fraudulent transfer, breach of fiduciary duty, and related claims in connection with prepetition transactions totaling billions of dollars.

SunEdison, Inc.

Counsel to Reorganized SunEdison, Inc. concerning indemnity claims asserted by the syndication agent and lead arranger for a pre-petition second lien loan facility.

Sears - Special Counsel to Creditors Committee

Acting as special counsel to the creditors committee in investigating and pursuing claims of wrongful conduct in connection with debtors' auction of MTN notes.

AEA Middle Market Debt Funding LLC, et al. v. Marblegate Asset Management LLC, et al

Representing the administrative agent against claims for breach of credit and security agreements, conversion, conspiracy to commit conversion, and aiding and abetting breaches of fiduciary duty. In January 2019, Herrick successfully appealed, on an emergency basis, the entry of a temporary restraining order preventing the \$120 million out-of-court restructuring transaction from proceeding. The TRO was vacated, and the restructuring was consummated. The litigation remains ongoing.

Experience

- Represented a lender in successfully reversing a trial court decision, requiring enforcement of loan agreements and related guarantees and dismissing counterclaims for alleged fraud by lender and other parties
- Represented hedge fund in prosecuting fiduciary duty litigation in Delaware Chancery Court, resulting in successful settlement and court-ordered award of all attorney's fees
- Represented hedge fund in dual-track litigation in Maryland state court and New York federal court in connection with proxy contest involving an investment company, leading to resolution of proxy contest and all claims
- Represented a competing bidder in successfully defeating a stalking horse bid in connection with a sale of the assets under section 363 of the Bankruptcy Code in the chapter 11 cases filed by a specialty retail chain
- Represented petitioners in a foreign proceeding to successfully obtain documents and testimony from U.S.-based entities pursuant to 28 U.S.C. section 1782 for use in the foreign proceeding
- Represented registered investment advisor, activist shareholders, and former executives in resolving multiple SEC investigations
- Represented board of major healthcare company in connection with shareholder demand investigation

Publications

November 18, 2020

Herrick's Restructuring & Finance Litigation: 2019-2020 In Review

September 29, 2020

Choose Your Weapon: Practical Considerations for 28 U.S.C. 1782 Discovery Applications

July 2019

Director Nominations and Overbroad Questionnaires

Harvard Law School Forum on Corporate Governance and Financial Regulation