



Jason A. D'Angelo

*Partner*

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Jason D'Angelo is a seasoned commercial and securities litigator who advises financial institutions, publicly traded companies, asset managers and investment advisors, major league sports teams, diamond manufacturers, pharmaceutical companies, software companies and other domestic and international entities.

Jason's experience spans a wide range of matters before state and federal courts, and governmental and regulatory bodies, including significant, multi-jurisdiction class actions, insurance disputes, and regulatory inquiries and investigations, many of which have involved claims under the Securities Act of 1933, the Exchange Act of 1934, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Racketeer Influenced and Corrupt Organizations Act ("RICO"), and state consumer protection laws.

Prior to joining Herrick, Jason was with Clifford Chance and served as the senior law clerk to the Honorable David N. Edelstein, United States District Court Judge, for the Southern District of New York.

### International Litigation

Jason also advises companies involved in complex international litigation. He currently represents a global diamond manufacturer and distributor in a series of lawsuits in the United States, the United Kingdom and Belgium relating to the disappearance of over \$135 million in diamonds and sales proceeds. These lawsuits followed years of intense investigation across the globe to trace the stolen diamonds and the flow of sales proceeds. To date, Jason has obtained substantial settlements from the company's insurance carriers in the United States and the United Kingdom, and from a major international financial institution. After the Italian conglomerate Parmalat collapsed, Jason also secured summary judgment dismissal of all class action claims brought by the company's shareholders against a prominent financial institution.

### Every Client Matters

Clients trust Jason to carry out sensitive investigations and look to him for advice in navigating a variety of complex issues beyond litigation. His clients benefit from his responsiveness, perseverance and dedication to solving their legal concerns. Indeed clients often remark that he gives them the impression that they're his only client.

Jason lives with his wife and their three children in Ridgewood, New Jersey, and is a trustee of the Ridgewood Baseball & Softball Association.

### Services

- Litigation
- Corporate Litigation
- Securities Litigation and Enforcement

- White Collar Defense & Investigations
- Restructuring & Finance Litigation

### Education

- Fordham University School of Law (J.D., 1997)
  - Fordham Law Review
- Lehigh University (B.A., 1994)

### Publications

#### November 18, 2020

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

#### June 2016

SEC Fines Morgan Stanley \$1 Million for Failing to Secure Client Data

#### June 2016

FINRA Adopts New Rule 2272 Regarding Securities Offers and Sales on Military Installations

#### June 17, 2015

Exclusive Forum Clauses Offer Few Issues, Lots of Upside in Protecting Deals: Experts  
Bloomberg BNA

#### October 2007

Analysis of the Fee-Shifting Provision of Section 11(e) of the Securities Act of 1933 and its  
Recent Application in the In re Enron Corp. Securities, Derivative & "ERISA" Litigation  
LexisNexis Expert Commentaries

#### July 2007

Export Control Cases on the Rise  
The National Law Journal

#### February 2006

SEC on Corporate Penalties: 2 Steps Forward, 1 Step Backward  
New York Law Journal

### Matters

#### Lender – Denial of Intervention Motion Filed By Borrower's Co-Manager Upheld on Appeal

The Appellate Division, First Department, unanimously affirmed the denial of a motion filed by a borrower's co-manager seeking leave to intervene in a lender's debt enforcement action under a demand note in order to assert direct and derivative claims and defenses on the borrower's behalf. The motion was filed after the proposed intervenor's husband and co-manager, shipping magnate Spiros Milonas, settled the action on behalf of the borrower by confessing judgment for the principal amount of a substantial loan.

*Phoenix Capital Finance Ltd. v. Axia Realty LLC*, 2019 WL 3069368 (Sup. Ct. N.Y. Co. 2019), affirmed 2020 NY Slip Op. 3610, 2020 WL 3454610 (1st Dep't 2020).

#### 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.

### Insurance Brokerage and Consulting Companies - Breach of Non-Solicitation and Non-Compete

Represented company in connection with several actions involving the breach of non-solicitation and non-compete agreements.

### Investment Holding Company - Breach of Covenant not to Sue

Acting as special counsel to RCAP Holdings, Inc., an investment holding company, seeking damages for the breach of a covenant not to sue contained in a prior settlement agreement.

### Auction House and Modern Pawn Brokers - Ownership Dispute

Representing Auction House and Modern Pawn Brokers in actions brought in New York Supreme Court against and by defendant who pawned a multimillion dollar sapphire that had been stolen decades before. All claims against our clients were dismissed while defendant's attempt to dismiss our client's claims against him have been denied.

### Foreign Bank - Alien Tort Statute Litigation

Represented a foreign bank in connection with an action brought in the U.S. District Court for the District of Columbia by foreign plaintiffs against the bank and other defendants alleging claims under the Alien Tort Statute ("ATS") for, among other things, crimes against humanity and aiding and abetting such crimes allegedly perpetrated in disputed areas in Israel. Achieved voluntary dismissal of all claims against our client.

### Former CEO of International Microelectronics Company - Securities Class Action

Representing the former CEO of an international, public microelectronics company headquartered in Taiwan in connection with a class action, brought against the company and certain of its current and former senior officials, seeking remedies under Sections 10(b) and 20(a) of the Securities Exchange Act of 1934 and Rule 10b-5 promulgated thereunder.

### Lender - Recovery of Demand Promissory Notes

Representing lender in several actions to recover under various demand promissory notes.

### Former Employee - Antitrust and RICO Violations Claims Against Media Company

Representing a former employee of a privately held financial, software, data and media company in an action alleging antitrust and RICO violations stemming from a purported bid-rigging scheme.

### Madoff Investors - Recovery of Damages

Representing investors in Bernard L. Madoff Investment Securities, LLC, seeking to recover damages resulting from the largest Ponzi scheme in U.S. history.

### Private Equity Firm - 1934 Act Violations

Representing a private equity firm, its affiliate and certain executives in an action alleging violations of the 1934 Act and Delaware securities law, and claims for common law fraud, negligent misrepresentation, breach of fiduciary duty, breach of contract, and retaliation.

### International Diamond Manufacturer - Racketeering and Money Laundering Claims against European Banks

Representing an international manufacturer and distributor of diamonds in connection with global investigations and multijurisdictional cases to recoup the loss of stolen diamond sales proceeds. Herrick was involved in multiple lawsuits worldwide against a range of domestic and foreign insurers and banks, helping to recover in excess of \$100 million. We are currently representing the client in a federal lawsuit alleging racketeering activity against two additional European banks related to the theft of \$135 million of sales proceeds belonging to the company. The case is proceeding in the Southern District of New York after we prevailed on appeal to the Second Circuit vacating a dismissal on *forum non conveniens* grounds.

### Pharmaceutical Company – Consumer Fraud Class Action Dismissed with Prejudice

Achieved a significant victory in New Jersey federal court on behalf of a pharmaceutical company, securing the dismissal of our client from a putative class action alleging violations of consumer fraud laws in the marketing of product. Finding that the plaintiffs had failed to remedy basic pleading deficiencies in their original complaint, dismissed for lack of jurisdiction and failure to state a claim, the court dismissed the amended complaint with prejudice since “further amendment would be futile.”

### Major League Sports Team - Dismissal of False Advertising Class Action

Successful defense of a major league professional sports team, obtaining pre-motion dismissal of all claims in a high-profile putative class action alleging deceptive trade practices and false advertising in connection with a very large sale of memorabilia.

### Reserve Primary Fund Investor - Recovery of \$150 Million Investment

Represented an investor in seeking the recovery of a \$150 million investment in the Reserve Primary Fund, a \$62 billion mutual fund that was the first to “break the buck,” or fall below the \$1 NAV requirement for mutual funds, due to its large holding in Lehman Brothers, which filed for Chapter 11 bankruptcy protection during the height of the 2008 financial crisis. Our client ultimately recovered approximately 98% of its investment.

### Real Estate Developers - Summary Judgment in Litigation over Recourse Provision in Mezzanine Loan Guaranty

Defense of the guarantors of a multimillion dollar mezzanine loan secured for the development of several Florida condominium projects in an action filed by the lender in New York federal court. Seeking the full outstanding balance of the loan with interest, an amount totaling nearly \$190 million, the lender claimed that certain transfers out of an escrow account holding condominium purchasers’ deposits triggered a full recourse provision in the guaranty. Herrick successfully argued that the full recourse provision of the guaranty was never triggered, obtaining a ruling granting our motion for summary judgment and dismissing all claims against our clients.

### Global Investment Advisor - Summary Judgment and Attorneys’ Fees Award in Enron Securities Class Action

Successful defense of a global investment advisor targeted in a high-profile ERISA and securities class action filed in the wake of Enron’s collapse. The lawsuit sought to hold the client responsible for the Texas-based energy company’s massive fraud based on the argument that one of its executives had sat on Enron’s board. In defense of the client, Jason uncovered and was central to the creative use of a rarely-used provision of Section 11(e) of the Securities Act of 1933 which resulted in summary judgment dismissing all claims along with an award of attorneys’ fees, based on the grounds that the case was pursued after it became clear it was without merit. The ruling ordered the penalty assessed to be paid not by the plaintiff, but by the plaintiff’s counsel, a first-of-its-kind decision that garnered extensive media coverage, including The New York Times article "*In Unusual Ruling, Law Firm Is Told to Pay Opponent’s Legal Fees in Enron Case.*" (Prior firm experience)

### Multinational Financial Institution - Summary Judgment Dismissal in Securities Fraud Class Action

Successful defense of global bank in connection with a class action brought in the U.S. District Court for the Southern District of New York alleging violations under the 1934 Act and Rule 10b-5. Plaintiffs alleged that the bank knowingly engaged in a scheme with an Italian dairy conglomerate involving the securitization of worthless receivables in order to disguise that the transactions were really a loan meant to prop up the failing Italian company, which was not disclosed to investors. The Court determined that Plaintiffs’ claims against the bank failed because Plaintiffs could not establish that they relied upon the bank’s allegedly deceptive

conduct, except in an indirect chain, the type of which the Supreme Court found too remote for liability. *(Prior firm experience)*

### Investment Advisor - Jury Vindicates on All Counts in Pension Fund Suit Seeking \$3 Billion in Damages

Successful defense of one of the nation's largest investment advisers against claims for negligence, fraud and breach of fiduciary duty filed by the Florida state employees' pension plan in the wake of Enron's collapse. The plaintiff sought over \$3 billion in damages, based on the adviser's purchases of Enron and other stock of purported inferior quality on behalf of the pension fund. After securing partial summary judgment, reducing the potential exposure from \$3 billion to \$1.2 billion, a complete victory was delivered following a seven-week jury trial in a Florida state court. Ultimately, the client was not only vindicated on all counts, but was also awarded \$1.2 million in unpaid advisory fees. *(Prior firm experience)*