

PARTNER

David A. Barrett

New York

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PROFILE

In a career spanning more than 40 years, David has handled cases in virtually every area of complex high-stakes litigation, consistently achieving outstanding results for clients. He is a leader in the firm's appellate practice and a trusted counselor and advisor, with expertise in matters ranging from commercial, securities, antitrust, and IP to class actions, arbitration, and mediation. He has argued and briefed dozens of appeals in the U.S. Supreme Court, federal Courts of Appeals and New York state courts.

In January 2016, *The American Lawyer* recognized David and BSF partner Stuart Singer as **Litigators of the Week** for achieving by far the largest recovery—over \$255 million—in any litigation on behalf of investors in the feeder funds to Bernard Madoff's Ponzi fraud. They won several precedent-setting rulings in the course of a seven-year effort.

More recently, following a multiweek bench trial in federal court, David with a BSF team won dismissal of unfair competition claims seeking \$250 million in damages (with potential for trebling) brought against Uber by Boston taxi medallion owners. David is lead counsel defending the judgment on appeal.

David won reversal in the Second Circuit of summary judgment dismissing a \$150 million action to compel Morgan Stanley to buy back a defaulted loan it had included in a commercial mortgage-backed securities pool. On remand, David settled the case just prior to trial with a substantial recovery for BSF's client.

David authored a Supreme Court amicus brief that supported the successful petitioner in a case which established the Sixth Amendment right of a criminal defendant to a hearing on



PRACTICES

Antitrust and Competition
Securities and Shareholder Disputes
Appellate
Constitutional Law
Media and First Amendment
Professional Malpractice
Commercial Disputes

EDUCATION

Columbia Law School, J.D.; Ordranax Prize (first in graduating class); James Kent Scholar; Columbia Law Review, Contributing Editor
Harvard University, A.B., *cum laude*, History and Literature; John Harvard Scholarship

ADMISSIONS

Bars

New York
U.S. Supreme Court
U.S. District Court: Southern District of New York
U.S. District Court: Eastern District of New York
U.S. District Court: Northern District of New York

AWARDS AND ASSOCIATIONS

Lawdragon 500 Leading Litigators in America (2022)

plausible claims that jury deliberations were infected with racial bias. An appendix to the court's opinion included extensive data submitted in the amicus brief. Litigation, the journal of the ABA litigation section, recently published a feature article that David co-authored analyzing lower court responses to the decision. David serves on the boards of the Fund for Modern Courts and Spence-Chapin Services to Families and Children and on Columbia Law School's Board of Visitors. He is vice-chair of U.S. Senator Charles Schumer's Judicial Screening Panel, and has been a court-appointed receiver for the SEC to administer securities fraud disgorgement funds.

EXPERIENCE

Additional representative matters include:

- Defended Man Group PLC in securities class action alleging that false statements in prospectus for the spin-off of MF Global led to \$1 billion stock price drop; facing a strict liability claim, engineered a \$34 million settlement after dismissal of the complaint was reversed on appeal
- Represented hedge funds and other financial firms in multiple contract and fraud actions arising from the 2008 financial crisis
- Won summary judgment for Goldman Sachs dismissing claims for fraud in underwriting municipal bonds
- Won summary judgment, upheld on appeal, for Fresh Del Monte against class-action antitrust monopolization claims seeking \$1 billion damages for alleged patent misuse
- Represented Mississippi Attorney General as special counsel prosecuting state-law antitrust claims against Microsoft that achieved highest per capita recovery of all such suits nationwide
- Successfully settled claims for a dozen hedge funds seeking hundreds of millions of dollars against JPMorgan Chase and Citicorp for assisting Enron's fraud in drawing down bank loans shortly before its bankruptcy
- Won \$80 million arbitration award in a coverage dispute involving an unusual financial guaranty insurance policy, including \$20 million in consequential damages which are nearly impossible to obtain in contract cases
- Won victories in jury trial and on appeal defending a leading international bank sued for fraud by foreign exchange trading customers
- Represented the FDIC in claims against officers, directors and auditors of failed banks that led to recoveries of over \$100 million
- Recovered millions of dollars on breach of fiduciary duty claims brought by a trust beneficiary against a major bank trustee

PUBLICATIONS & PRESENTATIONS

Lawdragon 500 Leading Plaintiff Financial Lawyers (2019-2023)

New York City Bar Association

Super Lawyers, New York Metro (2006-2007, 2010-2021)

GOVERNMENT SERVICE

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United States Department of Justice, Office of Legislative Affairs, Special Counsel - Legislation

CLERKSHIPS

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Justice Thurgood Marshall, U.S. Supreme Court

Chief Judge Wilfred Feinberg, U.S. Court of Appeals: Second Circuit

Co-author, **Opening the Door To Jury Room Secrets after Pena-Rodriguez**, Litigation (2019)

Declaratory Judgments for Libel, 74 Cal.L.Rev. 847 (1986),
reprinted in Reforming Libel Law (ed. J.Soloski & R. Bezanson
1992)

Constitutional Limitations on Discriminatory State Tax Laws, New
York University Second Annual Institute on State & Local Taxation
(1984)

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