



Ross E. Firsenebaum

PARTNER

NEW YORK

+1 212 295 6323

ROSS.FIRSENBAUM@WILMERHALE.COM

Ross Firsenebaum has a broad civil litigation and trial practice with an emphasis on bankruptcy, securities and other complex commercial litigation and arbitration. He has represented major investment banks, broker dealers, investment advisors and managers, and other entities and individuals in bankruptcy, district, and state court throughout the country, and has extensive experience in FINRA and other arbitrations.

Mr. Firsenebaum has played a leading role in some of the largest, most prominent bankruptcy-related litigation matters in recent years, including disputed plan confirmation and other highly contested matters, as well as adversary proceedings and other actions. These matters have arisen out of (among other leading bankruptcy related proceedings) the Diamond Sports, Lucky Bucks, Lyondell, Mallinckrodt, Orion, Refco, SPhinX, Sorrento, Suffolk, and Tribune Chapter 11 cases. Among other prominent cases, Mr. Firsenebaum successfully prosecuted, at trial and on appeal, claims for contempt arising out of an acquisition of substantially all of the assets of a leading data fusion company.

Mr. Firsenebaum maintains an active pro bono practice focused on wrongful convictions. In 2025, he secured an \$80 million verdict in a Section 1983 *Monell* action, the largest verdict in U.S. history for an individual seeking damages for a wrongful conviction. Earlier in 2025, he secured a \$28 million jury verdict for a different client. Mr. Firsenebaum's work also includes the representation of the ESPY's Arthur Ashe Award for Courage winner Dewey Bozella, which resulted in his release from prison after serving 26 years for a murder he did not commit, a \$7.5 million eve-of-trial settlement securing Mr. Bozella record-breaking compensation for his wrongful conviction, the exoneration of Jaythan Kendrick, who also served 26 years for a murder he did not commit. Mr. Firsenebaum has represented former US Attorney General Meese, the National Association of Criminal Defense Lawyers, and other organizations in other wrongful conviction cases before the US Supreme Court, the Second Circuit and the New York Court of Appeals.

Solutions

Bankruptcy and Creditors'
Rights Litigation
Securities Litigation

Commercial Litigation
Sports and Gaming

Litigation
Trials

Experience

BANKRUPTCY LITIGATION HIGHLIGHTS

- Currently representing more than a dozen leading investment managers and related funds in defending against fraudulent transfer claims brought by the Opioid Trust in the Mallinckrodt Chapter 11 bankruptcy case pending in the United States Bankruptcy Court for the District of Delaware. In 2024, the Bankruptcy Court granted the defendants' motion for summary judgment pursuant to section 546(e) of the Bankruptcy Code, and the District Court affirmed such dismissals in 2025.
- Currently representing funds in defending against fraudulent transfer claims in the IIG bankruptcy case pending in the United States Bankruptcy Court for the Southern District of New York. In 2024 and 2025, the Bankruptcy Court granted the motions to dismiss filed by the investment manager defendant represented by Mr. Firsenbaum.
- Currently representing a private equity firm and related funds in defending against fraudulent transfer and other claims in the Lucky Bucks Holdings bankruptcy case pending in the United States Bankruptcy Court for the District of Delaware.
- Represented various investment funds in litigation arising out of the Wirecard Inc. insolvency proceedings pending in Germany.
- Represented Diamond Sports Group and affiliated entities as special litigation counsel in multiple litigation and plan confirmation disputes in their Chapter 11 bankruptcy case in the US Bankruptcy Court for the Southern District of Texas.
- Obtained the dismissal of all claims—for market manipulation—by the Debtors' Equity Committee against two leading global financial institutions in litigation in the Sorrento bankruptcy case pending in the US Bankruptcy Court for the Southern District of Texas.
- Obtained the pleadings-stage dismissal of all claims—for aiding and abetting fraudulent transfer and aiding and abetting fraud—against a leading global financial institution in bankruptcy court. *Cecchi Gori Pictures et al v. Barclays Bank PLC*, Adv. Pro. No. 20-05053 (Bankr. N.D. Ca. July 23, 2021).
- Prevailed after a 6-day trial on behalf of a Fortune 500 company in bankruptcy litigation seeking to enforce an order authorizing the debtor's sale of intellectual property to the company for \$154 million pursuant to Section 363 of the United States Bankruptcy Code. The United States Bankruptcy Court for the Southern District of Florida ruled for the company on all issues, enforced the sale order, found the defendants in contempt of court, and awarded the company its attorney's fees incurred in enforcing the sale order. *TransUnion Risk and Alternative Data Solutions, Inc., v. The Best One, Inc.* (In re TLFO, LLC), No. 13-

20853, 2016 WL 9651125 (Bankr. S.D. Fla. Aug. 18, 2016). After filing a petition for attorney's fees, the company successfully argued in opposition to the defendants' summary judgment motion that, among other things, it was entitled to all of the fees it incurred as a result of the defendants' violation of the sale order and reimbursement of fees at prevailing New York legal market rates. *TransUnion Risk and Alternative Data Solutions, Inc. v. The Best One, Inc. (In re TLFO, LLC)*, No. 13-20853-BK-PGH, 2017 WL 3669546 (Bankr. S.D. Fla. May 18, 2017).

- Obtained the dismissal of all claims against the former shareholders of The Jones Group, Inc., totaling nearly \$1 billion, brought by bankruptcy and indenture trustees in 15 consolidated actions arising out of the 2014 acquisition of The Jones Group Inc. by Sycamore Partners Management, L.P. The United States District Court for the Southern District of New York dismissed the trustees' fraudulent transfer claims because they were barred by the safe-harbor in section 546(e) of the Bankruptcy Code for settled securities transactions. *In re Nine W. LBO Sec. Litig.*, 2020 WL 5049621 (S.D.N.Y. Aug. 27, 2020).
- Obtained the dismissal of all claims against five financial institutions sued in fraudulent transfer adversary proceedings brought by the Special Claims Committee of the Financial Oversight and Management Board for Puerto Rico in the Title III PROMESA insolvency proceedings.
- Obtained the dismissal of all claims against all 15 clients who were sued in a fraudulent transfer adversary proceeding brought by the Debtors in the bankruptcy case of Orion Healthcare, Inc. The plaintiff dismissed all claims (totaling over \$50 million) after the defendants established that they were conduits through which the proceeds at issue passed, rather than the beneficial holders who received such proceeds for their own accounts. *Orion HealthCorp, Inc., et al v. CHT Holdco LLC, et al*, Adv. Pro. No. 18-08048 (E.D.N.Y. 2019).
- Represented a major securities trading firm in the successful defense and appeal of multi-billion-dollar fraudulent transfer litigation arising out of the Tribune leveraged buy-out.
- Obtained the dismissal of all federal and state intentional fraudulent transfer and constructive fraudulent transfer claims against the former shareholders of Lyondell Chemical Company, totaling more than \$5.9 billion, brought by bankruptcy trustees in adversary proceedings arising out of the 2007 merger between Lyondell and Basell. The United States Bankruptcy Court for the Southern District of New York dismissed the trustees' state-law fraudulent transfer claims because they were barred by the safe-harbor in section 546(e) of the Bankruptcy Code for settled securities transactions. *Weisfeler v. Fund 1 (In re Lyondell Chem. Co.)*, Adv. Pro. No. 10-04917 (Bankr. S.D.N.Y. July 20, 2016). As a question of first impression, the United States District Court for the Southern District of New York adopted the shareholders' argument that the Restatement of Torts' standard should apply to an intentional fraudulent transfer claim: namely, that the debtor must know to a "substantial certainty" that a transfer will cause the debtor to become insolvent. *Weisfeler v. Hofmann (In re Lyondell Chem. Co.)*, No. 16-00518, 2016 WL 4030937 (S.D.N.Y. July 27, 2016). Applying that legal standard, the United States Bankruptcy Court concluded that the trustees did not prove that payments to Lyondell's shareholders in the merger were an intentional fraudulent transfer.
- Obtained the dismissal of three global financial institutions in an action brought by the Joint Official Liquidators of the SPhinX hedge funds asserting aiding and abetting claims under New York law. The United States District Court for the Southern District of New York dismissed certain of plaintiffs' claims for lack of standing (*Krys v. Sugrue*, 2010 US Dist. LEXIS 41386 (S.D.N.Y. Feb. 3, 2010) (Report and Recommendation adopted by the Court)), the remaining claims against one of

the three financial institutions for failing to allege adequately that the financial institution had actual knowledge of any wrongdoing (*Krys v. Sugrue*, 2011 US Dist. LEXIS 142291 (S.D.N.Y. Dec. 8, 2011) (Report and Recommendation adopted by the Court)), and the remaining claims against the other two financial institutions for failing to present evidence that plaintiffs suffered any damages proximately caused by such institutions' alleged conduct. The Second Circuit affirmed the dismissal of all remaining claims against the financial institutions. *Krys v. Klejna*, 14-3446-cv (2d Cir. July 29, 2016).

- Represented three subsidiaries of global financial institutions in actions brought by the Chapter 7 Trustee of Suffolk LLC alleging fraudulent transfer and unjust enrichment claims arising out of payments made pursuant to a tender offer to purchase privately held stock. The United States District Court for the Southern District of New York dismissed the claims on the grounds that Section 546(e) of the United States Bankruptcy Code barred certain of the Trustee's claims and the Trustee's remaining claims were otherwise deficient. *In re Refco Securities Litigation*, 2009 WL 7242548 (S.D.N.Y. Nov. 13, 2009); and 2010 WL 5129072 (S.D.N.Y. Jan. 12, 2010).
- Represented three global investment banks in an action brought by the Refco Litigation Trustee alleging various state law causes of action. The United States District Court for the Southern District of New York dismissed the claims with prejudice on the grounds that the Litigation Trustee was barred from asserting his claims by the doctrine of *in pari delicto*. *Kirschner v. Grant Thornton LLP, et al*, 2009 WL 996417 (S.D.N.Y. Apr. 14, 2009), *aff'd Kirschner v. KPMG LLP, et al*, 626 F.3d 673 (2d Cir. 2010).

SECURITIES LITIGATION AND ARBITRATION HIGHLIGHTS

- Successful defense of 11 leading global financial institutions in three related actions brought by monoline insurance companies concerning underwriter due diligence in connection with more than 20 Puerto Rico municipal bond offerings between 1998 and 2007. The trial court granted the defendants' motions to dismiss in two of the three actions: *Ambac Assurance Corp. v. Merrill Lynch, Pierce, Fenner & Smith Incorporated, et al*, Civ. No. SJ2020CV01505 (P.R. Comm. Ct. July 30, 2021) and *Financial Guaranty Insurance Co. v. Merrill Lynch, Pierce, Fenner & Smith Incorporated, et al*, Civ. No. SJ2020CV06383 (P.R. Comm. Ct. July 9, 2021). The Puerto Rico appeals court reversed the trial court's denial of the defendants' motions to dismiss, and granted the motions, in the third action. *National Public Finance, etc. UBS Financial Services Inc., et al* (KLCE-2021-00827). All dismissals were affirmed on further appeal.
- Represented leading broker-dealer in FINRA arbitrations arising out of Puerto Rico municipal bond market crash of 2013.
 - After first-chairing an 11-day final hearing in 2018 in which the Claimant sought more than \$65 million in damages, secured a final award in the client's favor, rejecting all claims brought by the claimant.
 - Argued and won First Circuit appeal upholding denial of petition to vacate arbitration award in which institutional claimant sought more than \$60 million in damages and panel ruled in the client's favor, rejecting all claims brought by the claimant.
- Secured a favorable final award for leading global financial services company in FINRA arbitration brought by former employee. After a 17-day final hearing (nearly all of which was conducted by Zoom), the Panel awarded the claimant only 5% of requested compensatory damages and no other relief.

- Reached favorable settlement for leading custodian bank in state court action asserting breach of fiduciary duty, breach of contract, Uniform Securities Act and other state-law claims arising out of securities lending practices during the 2008-2009 credit crisis.
- Obtained the dismissal of a complaint filed by a court-appointed receiver asserting common-law tort claims against a leading financial institution on improper venue grounds.
- Obtained the dismissal of a putative securities fraud class action asserting Rule 10b-5 claims against former senior executive officers and directors of a publicly-traded manufacturing company. *Gissin v. Endres*, 2010 WL 3468508 (S.D.N.Y. Aug. 31, 2010).
- Represented the underwriting syndicate in a securities class action challenging prospectus disclosures in the Refco 144A private placement and initial public offering of Refco stock. The United States District Court for the Southern District of New York dismissed certain claims on the grounds that the Securities Act of 1933 did not apply to Rule 144A private placements. *In re Refco, Inc. Securities Litigation*, 503 F. Supp. 2d 611 (S.D.N.Y. Apr. 30, 2007); and 2008 WL 3843343 (S.D.N.Y. Aug. 14, 2008).

OTHER BUSINESS DISPUTE HIGHLIGHTS

- Member of WilmerHale team that successfully defeated class certification in an antitrust class action against Meta, which sought \$158.4 billion in damages, on behalf of a putative nationwide class of all Facebook users from 2016-2020.
- Obtained the dismissal of all claims brought by two relators in a *qui tam* action against a leading broker dealer. After successfully removing the action to federal court and moving to dismiss, the relators voluntarily dismissed the complaint.
- Obtained the dismissal of all claims against an investment advisor alleging violations of Section 36(b) of the Investment Company Act for allegedly excessive fees charged to mutual funds. Plaintiffs voluntarily dismissed the case after discovery showed that the investment advisor's investment management fee was reasonable.
- Represented a leading molecular diagnostics company in an international arbitration brought by a competitor alleging breach of contract and tortious interference with a contract, in which the competitor sought both a permanent injunction as well as more than \$60 million in damages. Following a 10-day evidentiary hearing, a three-member panel of the International Centre for Dispute Resolution rejected the competitor's claims and awarded attorneys' fees and costs to the company.

PRO BONO HIGHLIGHTS

- Pro bono representation of Darryl Boyd, one of the “Buffalo Five,” resulting in an \$80 million jury verdict in the United States District Court for the Western District of New York – the largest jury verdict to an individual on a wrongful conviction claim in U.S. history. Mr. Boyd served 27 years in prison and 18 years on parole for a 1976 murder in Buffalo that he did not commit. Ross’ team brought a section 1983 action seeking compensation from Erie County for Mr. Boyd’s wrongful conviction. The team proved that Erie County had unconstitutional Brady disclosure and summation policies, customs, and practices, which caused the violations of Mr. Boyd’s constitutional right to a fair trial during his 1977 criminal trial.
- Pro bono representation of John Walker, one of the “Buffalo Five,” resulting in a

\$28 million jury verdict in the United States District Court for the Western District of New York. Mr. Walker served 22 years in prison and 17 years on parole for a 1976 murder in Buffalo that he did not commit. Ross' team brought a section 1983 action seeking compensation from Erie County for Mr. Walker's wrongful conviction. The team proved that Erie County had unconstitutional Brady disclosure and summation policies, customs, and practices, which caused the violations of Mr. Walker's constitutional right to a fair trial during his 1977 criminal trial.

- Pro Bono representation of Dewey R. Bozella resulted in \$7.5 million eve-of-trial settlement in section 1983 action seeking compensation from Dutchess County for his wrongful conviction and 26-year incarceration. Developed a record showing that Dutchess County had an unconstitutional disclosure policy spanning more than three decades that caused the violation of Mr. Bozella's constitutional rights under *Brady v. Maryland* and its progeny. *New York Times*, Jan. 13, 2015, at A-24; Feb. 13, 2015 at A-23.
- Pro Bono representation of Dewey R. Bozella resulted in Mr. Bozella's release after serving 26 years in New York state prison for a 1977 murder in Poughkeepsie, New York, a crime for which he was wrongfully convicted. Led a team of attorneys during a two-year investigation that uncovered four pieces of favorable evidence, all more than 30 years old, that was never disclosed by the prosecution. On October 14, 2009, state Supreme Court Justice James T. Rooney ruled that Mr. Bozella was wrongfully convicted due to the Dutchess County District Attorney's violation of Mr. Bozella's constitutional rights. *People v. Bozella*, 2009 WL 3364575 (N.Y. Co. Ct. Oct. 14, 2009); NYLJ, Oct. 22, 2009, at 1. On October 28, 2009, Mr. Bozella was released from state custody. *New York Times*, Oct. 29, 2009, at A-21.
- Pro bono representation of Jaythan Kendrick resulted in Mr. Kendrick's release after serving 25 years in New York state prison for a 1995 murder in Queens, New York, a crime for which he was wrongfully convicted. Persuaded the Queens County Conviction Integrity Unit to file a joint motion to vacate Mr. Kendrick's conviction based on newly discovered evidence establishing his innocence. When releasing Mr. Kendrick, the Queens County Supreme Court referred to the work of Mr. Firsenabaum and his team as "a textbook example of how a terrible wrong can be made right."
- Served as amicus counsel to the National Association of Criminal Defense Lawyers, New York Association of Criminal Defense Lawyers, Innocence Project, and Innocence Network in support of Appellant in wrongful conviction appeal pending in the United States Court of Appeals for the Second Circuit. The Second Circuit adopted the analysis of amici, ruling for Appellant and vacating the District Court's dismissal of the complaint. *Bellamy v. City of New York*, No. 17-0859 (2d Cir. Jan. 29, 2019).
- Representing the Israel Flying Disc Association in civil rights arbitration brought against the European Flying Disc Federation and European Ultimate Federation, arising out of the respondents' decision to bar the IFDA from participating in an ultimate frisbee tournament.

Recognition

- Received the 2019 Rising Star Award from the *New York Law Journal* and was recognized as a lawyer who has “wielded influence in his practice areas in New York and beyond.”
- Recipient of the New York State Association of Criminal Defense Lawyers' 2010 Gideon Champion of Justice Award for the pro bono representation of Dewey Bozella, which resulted in Mr. Bozella's release after serving 26 years in prison for a murder for which he was wrongfully convicted
- Named a 2012–2020 New York *Super Lawyers* "Rising Star" in *Metro Edition* magazine

Credentials

EDUCATION

JD, Boston College Law School,
2005

cum laude

BA, Law, Amherst College,
2002

magna cum laude

*Recipient, John Woodruff
Simpson Fellowship 2002-2004*

ADMISSIONS

New York
Massachusetts

CLERKSHIPS

The Hon. Susan Beck,
Massachusetts Appeals Court,
2005 - 2006