

Robert A. Fumerton

Skadden

Partner, New York

Complex Litigation and Trials



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Education

J.D., Columbia Law School

B.A., Yale University

Bar Admissions

New York

Robert A. Fumerton is an experienced trial lawyer who represents a broad spectrum of U.S. and international clients in high-stakes complex litigations and arbitrations around the world. He has represented companies and individuals across a wide variety of industries and disputes, including high-profile commercial, securities, sports and gaming litigation.

Mr. Fumerton's work has spanned across an extensive number of representations, earning him a place on Lex Machina's list of the top 10 most active securities litigators in the U.S. over the course of 2021-23. He has been repeatedly named to *Chambers USA*, in which clients have noted that he is "a great litigator" who is "really sophisticated and smart" and "incredibly effective at cross-examination." Clients in *Chambers* also have commented that he "understands not only how the case is being presented but how it is being perceived." Mr. Fumerton also has been repeatedly honored as Litigator of the Week by *The American Lawyer* and as one of Lawdragon's 500 Leading Global Litigators and 500 Leading Lawyers in America. In addition, he has been recognized as a Rising Star by both the *New York Law Journal* and *Law360*, one of five securities litigators in the country under 40 to receive the *Law360* recognition at the time. Mr. Fumerton, who at the age of 32 became the third-youngest partner in Skadden's history, is a member of the firm's Compensation Committee and was previously the hiring partner for the firm's New York office.

Mr. Fumerton's representations include:

- UBS in the first-ever residential mortgage-backed securities action brought by a trustee to go to trial. In the unprecedented trial in the U.S. District Court for the Southern District of New York — in which the trustee was seeking more than \$2 billion in damages — Mr. Fumerton delivered the closing argument and conducted the majority of the examinations, including the cross-examination of the plaintiff's central expert, which received extensive media attention
- the underwriters of two multibillion-dollar global note offerings for Petrobras, the largest government-owned oil company in Brazil, in an action alleging securities violations based on highly publicized corruption and bribery allegations surrounding the Brazilian government
- Yahoo! in Southern District of New York and U.S. Court of Appeals for the Second Circuit proceedings against Microsoft. Yahoo! sought to vacate an emergency arbitration award granted to Microsoft concerning a strategic alliance between the two companies under which Yahoo! would migrate its search advertising services to Microsoft's "Bing Ads" platform in various markets worldwide
- FanDuel in securing the complete dismissal of a putative consumer class action in the U.S. District Court for the Northern District of Illinois
- a National Football League club in an arbitration brought by its former head coach
- Goldman Sachs and Morgan Stanley in a securities class action arising out of the secondary public offerings of ViacomCBS (now Paramount Global)
- UBS and Société Générale in landmark litigation filed by the Federal Housing Finance Authority, as conservator of Fannie Mae and Freddie Mac, arising out of the purchase of nearly \$200 billion of residential mortgage-backed securities
- several Asia-based issuers, including Didi Global Inc., Nio, Inc., Baidu, iQIYI, Sea Ltd, Weibo, Pinduoduo, JA Solar, Jianpu Technology, Tal Education, Pintec, Yunji, FinVolution Group, Jumei International Holding Ltd., AirMediaGroup, Inc. and iDreamSky, in class action suits alleging that the companies made false or misleading statements to shareholders

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- securing a dismissal from the bench on behalf of First NBC Bank Holding Company in a securities class action complaint in which investors alleged that First NBC had engaged in fraud stemming from its massive restatement of financials. The restatement was attributable to First NBC's need to correct accounting for its investment in tax credit entities, a significant part of its portfolio that arose from the rebuilding of New Orleans following Hurricane Katrina
- winning complete dismissal of RICO, conspiracy and fraud claims for Christie's, Inc. in a highly publicized litigation brought by billionaire William Koch over the authenticity of wine that purportedly once belonged to Thomas Jefferson. The litigation was chronicled in *The New York Times* bestseller *The Billionaire's Vinegar*
- obtaining a series of victories for toymaker JAKKS Pacific, Inc. against World Wrestling Entertainment, Inc. (WWE). This included the complete dismissal of all of WWE's claims in a hotly contested federal and state court litigation in which WWE accused JAKKS of a massive and complex RICO and bid-rigging conspiracy in procuring a video game license that has generated more than \$1.4 billion in net sales, as well as several lucrative toy licenses
- winning a complete victory on behalf of SanDisk in arbitration against Samsung Electronics that involved a full evidentiary trial before the American Arbitration Association. The dispute, which garnered significant media attention, was related to the delivery of critical electronic components and patent licenses
- counseling on the prepackaged Chapter 11 reorganization plan for Central European Distribution Corporation, a producer and distributor of alcoholic beverages, which was named as the Chapter 11 Reorganization of the Year (Over \$1 Billion) at The M&A Advisor's Turnaround Awards

Other representative matters include:

- Research in Motion Limited (Canada) (RIM, now known as Blackberry Limited) and certain of its officers in obtaining the complete dismissal of several purported class action lawsuits in the Southern District of New York alleging that RIM made materially false and misleading statements regarding its PlayBook tablet
- Deloitte & Touche LLP in a fraud and malpractice case brought by Symbol Technologies, Inc. in the wake of massive criminal fraud involving Symbol

- SanDisk in a two-week trial before Judge William H. Pauley in the Southern District of New York in a breach of contract action concerning SanDisk's U3 series of USB drives
- Cendant Corporation in several litigations stemming from unprecedented accounting fraud at CUC International, one of Cendant's predecessor entities
- French reinsurer SCOR S.A. in its \$2.46 billion hostile bid to acquire Converium Holding

Mr. Fumerton has published several articles in prominent legal publications, including "Market Overreaction and Loss Causation" in *The Business Lawyer*, Vol. 62, which advocated for a novel application of the Private Securities Litigation Reform Act's "bounce-back" provision — an approach that has been cited by several publicly traded corporations in major securities litigations.

Selected Publications

"Inside the Courts," *Skadden, Arps, Slate, Meagher & Flom LLP*, Recurring publication

"Litigation Risk for 'Risk Free' Sports Betting Promotions," *Reuters Legal News*, May 22, 2023

"Securities Act and Exchange Act Liability Provisions," *LexisNexis Practical Guidance*, 2022

"Supreme Court Grants Review of Scope of PSLRA Stay," *Skadden, Arps, Slate, Meagher & Flom LLP*, July 2, 2021

"Delaware Supreme Court Upholds Validity of Provisions Designating Federal Courts as Exclusive Forum of 1933 Act Claims," *Skadden, Arps, Slate, Meagher & Flom LLP*, March 18, 2020

"NY's High Court Further Clarifies RMBS Legal Landscape," *Law360*, January 8, 2019

"Securities Class Actions in The United States," *Corporate Disputes Magazine*, January - March 2016

"NY High Court Brings Finality to RMBS Repurchase Claim," *Law360*, June 16, 2015