

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 represents a broad spectrum of U.S. and international clients in a wide variety of complex corporate, commercial and securities litigations in federal and state courts, and U.S. and international arbitration proceedings.

On behalf of UBS, Mr. Fumerton was a lead trial lawyer 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, where 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.

In another case of first impression, Mr. Fumerton represented 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 the highly-publicized corruption and bribery allegations surrounding the Brazilian government.

Mr. Fumerton was lead counsel for Yahoo! in the Southern District of New York and Second Circuit proceedings against Microsoft seeking to vacate an emergency arbitration award granted to Microsoft concerning a strategic alliance between the parties under which Yahoo would migrate its search advertising services to Microsoft's "Bing Ads" platform in various markets worldwide.

On behalf of First NBC Bank Holding Company, Mr. Fumerton secured a dismissal from the bench of 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 arising from the rebuilding of New Orleans post-Katrina.

Mr. Fumerton represented UBS and Société Générale in the 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.

Mr. Fumerton has represented several Asia-based issuers, including Didi Global Inc., Nio, Inc., Baidu, Sea Ltd., iQIYI, 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.

In a highly publicized litigation brought by billionaire William Koch over the authenticity of wine that purportedly once belonged to Thomas Jefferson, Mr. Fumerton won a complete dismissal of RICO, conspiracy and fraud claims for Christie's, Inc. The subject of the litigation was chronicled in *The New York Times* best-seller, "The Billionaire's Vinegar."

Mr. Fumerton obtained a series of victories for toymaker JAKKS Pacific, Inc. against World Wrestling Entertainment, Inc., including 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.

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After a full evidentiary trial before the American Arbitration Association, Mr. Fumerton won a complete victory on behalf of SanDisk in arbitration against Samsung Electronics. The dispute, which has garnered significant media attention, related to the delivery of critical electronic components and patent licenses.

Mr. Fumerton played a role in 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 Turnaround Awards.

Other representative matters include:

- successfully representing Research in Motion Limited (Canada) (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;
- defending Deloitte & Touche LLP in a fraud and malpractice case brought by Symbol Technologies, Inc. in the wake of a massive criminal fraud at Symbol;
- representing SanDisk in a two-week trial before Judge William H. Pauley in the U.S. District Court for the Southern District of New York in a breach of contract action concerning SanDisk's U3 series of USB drives;
- defending Cendant Corporation in several litigations stemming from the unprecedented accounting fraud at CUC International, one of Cendant's predecessor entities; and
- representing French reinsurer SCOR S.A. in its \$2.46 billion hostile bid for Convergium Holding.

Mr. Fumerton has published several articles in prominent legal publications, including "Market Overreaction and Loss Causation," *The Business Lawyer*, Vol. 62 (Nov. 2006), which advocated a novel application of the PSLRA's "bounce-back" provision — an approach that has been cited by several publicly traded corporations in major securities litigations.

Mr. Fumerton, who at the age of 32 became the third-youngest partner in Skadden's history, was previously the hiring partner for the firm's New York office and is a member of the firm's Diversity Committee. He has been named repeatedly to *Chambers USA*, in which clients note that he is "a great litigator" who has "great litigation instincts." He also has repeatedly been named Litigator of the Week by *The American Lawyer*, is recognized in *Lawdragon 500*, and was previously named a Rising Star by the *New York Law*

Journal and a Rising Star by *Law360*, one of five securities litigators in the country under 40 to receive that recognition at the time.

Publications

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

"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

Co-Author, "Guest Post: ACE Securities – Will There Be A New Wave Of RMBS Repurchase Litigation?" *The D&O Diary*, May 1, 2015

Co-Author, "Federal Courts as Public Watchdogs: Have Judges Exceeded Their Authority by Refusing to Approve Government Settlements With Financial Institutions?" *Securities Regulation & Law Report*, November 2010

Co-Author, "Class Certification as an Evolving Battleground: The Second Circuit's Decision in *Flag Telecom* Has Given Defendants a New Weapon," *Journal of Securities Law, Regulation & Compliance*, June 25, 2010

Co-Author, "A Proposal to Prevent Blackmail at the Pleading Stage," *New York Law Journal*, October 5, 2009

"Market Overreaction and Loss Causation," *The Business Lawyer*, Vol. 62, November 2006