

Partner, New York

Complex Litigation and Trials



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Education

J.D., Fordham University, 1982
(Member, *Fordham Law Review*)

B.A., Brandeis University, 1979
(*magna cum laude*; Honors in
Economics)

Bar Admissions

New York

Seth M. Schwartz has a wide-ranging trial and appellate litigation practice involving complex securities, commercial and corporate governance matters pending in federal and state courts throughout the country and before the SEC and FINRA. Mr. Schwartz has extensive experience representing mutual fund and hedge fund clients in connection with a wide variety of issues, including alleged excessive fees, fund management, contract disputes, securities valuation and trading practices, accounting issues, activist investors, sales practices and employment disputes. *The Legal 500 United States* has cited Mr. Schwartz “for his expertise litigating complex securities cases involving mutual fund and hedge fund clients.”

Mr. Schwartz has been representing Tremont Group Holdings, Inc. in ongoing litigation arising out of hedge fund investments with Bernard Madoff. Mr. Schwartz also is representing registered investment advisers of mutual funds in excessive fee litigation brought under the Investment Company Act of 1940 (ICA). He recently defended an investment adviser and its affiliates in a case of first impression, affirmed on appeal, holding that mutual fund investors have no private right of action under the ICA to challenge ECF securities lending fees authorized by SEC exemptive orders. In other prior matters, Mr. Schwartz successfully defended a number of closed-end investment companies and their investment adviser in multiple litigations arising out of the redemption of auction rate preferred securities issued by those funds. He also represented a major broker-dealer in a landmark case vacating the largest punitive damages award ever issued in an NASD arbitration and, in another case of first impression, Mr. Schwartz represented the investment adviser and principal underwriter for a family of mutual funds in a state enforcement action where dismissal was sought, *inter alia*, on the ground of preemption under the National Securities Market Improvements Act of 1996 (NSMIA).

In addition, Mr. Schwartz is defending or has defended a number of public companies and their senior executive officers in a variety of high-stakes securities class action and merger litigation, including actions against Citigroup Inc.; Putnam Investments; NTL, Inc.; BlackRock Financial Management, Inc.; Kmart Corporation; Cendant Corporation; Health Management Systems, Inc.; The Dun & Bradstreet Corporation; USX Corporation; Terex Corporation; Freuhauf Trailer Corporation; and Sapiens International Corporation, N.V.

Mr. Schwartz served as chair of the Committee on Professional Ethics of The New York City Bar Association from 2008 to 2011. He also served as a member of the committee from 1993 to 1996.