



Brian Rosner

SHAREHOLDER

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Overview

Brian Rosner has substantial experience representing clients at trial and on appeal. He has tried dozens of complex civil and criminal matters, in state and federal court, in jury trials ranging in length from one day to 10 weeks. He has also briefed or argued multiple appeals, including over 50 appeals to the U.S. Supreme Court, the Second Circuit Court of Appeals, and the New York Court of Appeals. These appeals have involved seminal constitutional issues of, among other things, extraterritorial jurisdiction, search and seizure, double jeopardy, admissible hearsay, and causation (civil and criminal).

Brian represents senior executives in complex business and employment disputes including SEC and DOJ securities fraud investigations, and securities fraud lawsuits brought by class action plaintiffs. At the request of the U.S. Commodity Futures Trading Commission, the Honorable Gerard E. Lynch and the Honorable George B. Daniels have appointed Brian to act as the receiver to locate, recover, and distribute assets of defrauded victims in actions that charged 39 individuals and entities with engaging in fraud in the solicitation and sale of foreign currency futures contracts. The U.S. Attorney's Office for the Southern District of New York commenced parallel criminal proceedings against certain individual defendants, whose restitution to victim payments are also being distributed by Brian.

Among his recent appellate advocacy, Brian argued two novel and unresolved issues of New York law (the meaning of a New York governing law provision and an estates question) certified by the Second Circuit to the New York Court of Appeals. *See Ministers & Missionaries Benefit Bd. v. Snow*, 45 N.E.3d 917 (N.Y. 2015).

Brian has been named a New York *Super Lawyer*. As a member of the City Bar, he has served several terms on the Judiciary Committee.

Government Experience

Brian began his career in the office of Robert M. Morgenthau, district attorney of New York County. Between 1975 and 1988, Brian served as a senior trial attorney

in the Frauds Bureau, where he investigated and tried numerous cases, including organized crime, complicated fraud, and murder cases. Between 1978 and 1980, Brian also served as a supervising attorney in the Appeals Bureau, where he drafted and argued more than 100 criminal appeals. On behalf of the governor and the New York State District Attorneys Association, Brian authored criminal law statutes enacted by the New York State Legislature.

Selected Securities, White Collar and Banking Experience

- Defended New York branch of an Indian bank in \$350 million RICO claim involving complex factual and procedural RICO, statute of limitations and Foreign Sovereign Immunities Act issues; one of the few decisions in which a foreign sovereign doing business in the United States has prevailed on FSIA immunity grounds over a “commercial activity exception” argument involving wire transfers.
- Represent a witness in SIGTARP and DOJ investigation of securities fraud in relation to the Public-Private Investment Program involving residential mortgage-backed securities.
- Represent a senior trader and a financial officer in the CFTC and trustee investigation of the MF Global Holdings Inc. bankruptcy.
- Represented the president of Kmart in the SEC and DOJ investigation, national class action lawsuit alleging securities fraud, and bankruptcy proceeding arising from the Kmart bankruptcy.
- Represented a Sunbeam executive officer in the SEC and DOJ investigations and national class action lawsuit alleging securities fraud arising from the Sunbeam bankruptcy.
- Represented a New York City councilman charged with falsifying records submitted to the New York City Campaign Finance Board.
- Represented a foreign sovereign bank in a garnishment proceeding seeking the restraint and delivery to New York of extraterritorial client assets.

Brian is a member of the firm’s securities, and white collar crime and government investigations, practice groups.

All Insights

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| 10.03.2018 | The Sound of Silence: Criminal Immunity for Foreign Sovereigns Under the FSIA, and Civil RICO Liability for Foreign Sovereigns in the Second Circuit |
| 10.03.2018 | New York Law Journal: Criminal Immunity Under FSIA, and Civil RICO Liability for Foreign Sovereigns |
| 03.20.2014 | Daimler Mostly Resolves New York's 'Separate Entity' Dispute |
| 05.14.2013 | Q&A With Carlton Fields' Brian Rosner |

08.01.1990 Swindle: How a Man named John Grambling Jr, Cheated Banks out of Millions

Professional & Community Involvement

- New York City Bar Association
 - New Rochelle Fund for Educational Excellence
 - Board Member
- Federal Bar Council
- Lawyers Council, Citizens Crime Commission of New York City

Credentials

EDUCATION

- Columbia University (J.D., 1975)
 - Harlan Fiske Stone Scholar
 - Editor in Chief, *Columbia Journal of Law and Social Problems*
- Columbia College and London School of Economics (B.A., *magna cum laude*, 1972)

BAR ADMISSIONS

- New York

COURT ADMISSIONS

- United States Supreme Court
- U.S. Court of Appeals, Second Circuit
- U.S. Court of Appeals, Sixth Circuit
- New York State Court of Appeals
- U.S. District Court, Eastern District of New York
- U.S. District Court, Northern District of New York
- U.S. District Court, Southern District of New York
- U.S. District Court, Western District of New York

Background

- Rosner & Napierala, New York

Areas of Focus

PRACTICES

- Appellate & Trial Support
- Cybersecurity and Privacy
- Distressed Health Care
- Financial Services Regulatory
- FINRA Litigation, Enforcement and Investigations
- Litigation and Trials
- Securities and Derivative Litigation

INDUSTRIES

- Banking, Commercial, and Consumer Finance
- Securities & Investment Companies
- Technology & Telecommunications

- White Collar Crime & Government Investigations