



Andrew Scott Dulberg

PARTNER

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Drew Dulberg has a diverse litigation practice with an emphasis on high-stakes, complex commercial disputes and securities and financial services litigation. Mr. Dulberg routinely defends corporations, officers, directors, and founders facing class action lawsuits, derivative litigation, contract disputes, patent litigation, and allegations of fraud. He has represented technology companies, banks, non-profits, and issuers of securities charged with violations of state and federal law and breaches of fiduciary duties.

Mr. Dulberg has extensive experience handling all phases of civil litigation, and has served as a leader on winning trial teams. He has first-chair trial experience, has successfully argued motions in state and federal courts, taken and defended depositions of fact and expert witnesses, coordinated electronic discovery, prepared witnesses to testify, and presented and cross-examined fact and expert witnesses at trial. He has secured positive outcomes for clients in arbitrations and mediations, and has advised companies responding to investigations by the SEC, FINRA, state securities regulators and state attorneys general.

In 2014, Mr. Dulberg served as a Special Assistant District Attorney in Middlesex County, Massachusetts, where he tried more than a dozen criminal cases to judges and juries. In his pro bono practice, Mr. Dulberg has worked to exonerate multiple convicted felons, including one death row inmate, based on their actual innocence.

Prior Experience

Prior to joining WilmerHale, Mr. Dulberg completed a clerkship with the Honorable Patti B. Saris of the United States District Court for the District of Massachusetts.

Professional Activities

Mr. Dulberg is a member of the American Bar Association and the Boston Bar Association. He

currently serves as co-chair of the Hiring Committee for the Boston office. Mr. Dulberg has served as co-chair of the firm's summer associate program, a panelist at MCLE's Annual Federal Civil Court Practice Conference, and a writing coach to students participating in the Harvard Law School Problem Solving Workshop.

Solutions

Commercial Litigation
Securities Enforcement

Class Actions
Securities Litigation

Litigation
Trials

Experience

TRIALS / ARBITRATIONS

- First-chaired arbitration for technology company accused of breach of contract and fraud, and prevailed on every claim, obtaining award of attorneys' fees
- Won total victory for defendant in case alleging fraud and negligent trading following two-week federal bench trial via Zoom
- Secured judgment on all counts for Harvard University in case challenging its use of race in the undergraduate admissions process following three-week federal bench trial
- Second-chaired arbitration for financial technology company in high-stakes dispute with venture capital firm and prevailed on every claim, obtaining award of attorneys' fees and costs; obtained confirmation of arbitral award plus statutory interest following successful oral argument in Massachusetts Superior Court
- Successfully represented major pharmaceutical companies in Hatch-Waxman (ANDA) patent litigation, including judgment of non-invalidity following three-day bench trial
- Represented the Commonwealth of Massachusetts as Special Assistant District Attorney for Middlesex County, and served as lead trial counsel in 14 criminal cases

COMPLEX COMMERCIAL / REGULATORY LITIGATION

- Successful representation of art museum facing multiple lawsuits and investigation relating to plan to sell \$50M of artwork in order to avoid collapse
- Achieved voluntary dismissal of multi-million dollar fraudulent inducement lawsuit on behalf of video game developer shortly before trial
- Obtained dismissal of class action lawsuit asserting novel claims for breach of fiduciary duty against donor-advised fund sponsor, affirmed by Ninth Circuit
- Defended company facing multiple putative class action lawsuits asserting state law privacy and tort claims related to major cyberattack

SECURITIES LITIGATION

- Achieved dismissal of shareholder class action lawsuits in federal courts across the country alleging that public companies and their executives issued false and misleading statements and/or engaged in fraudulent schemes resulting in significant stock drops
- Secured appellate victory for biotechnology company when First Circuit affirmed dismissal of shareholder class action lawsuit
- Obtained dismissal of putative class action lawsuits challenging multi-billion dollar mergers and acquisitions in courts across the country, including Delaware Chancery Court
- Achieved voluntary dismissal of shareholder derivative litigation in Massachusetts Business Litigation Session following filing of motion to dismiss based on forum selection bylaws
- Obtained dismissal of derivative litigation in District of Massachusetts relating to bank's foreign exchange trading business and exposure to mortgage-backed securities

STRATEGIC ADVICE

- Helped coordinate investigation into claims that public company C-level executive engaged in inappropriate behavior
- Advised public company in response to shareholder demand alleging violation of SEC Rule 21F-17 relating to employee severance and confidentiality agreements
- Routinely advises companies in connection with pre-litigation demand letters, successfully avoiding litigation

Recognition

- Recognized in the 2023 Edition of *Chambers USA Guide* in the area of general commercial litigation.
- Named to *Boston Magazine's* Top Lawyers list in 2021–2023 in the area of commercial litigation.
- Selected as a "Massachusetts *Super Lawyer* Rising Star" in business litigation in the 2018 and 2019 issues of *Boston Magazine*.

Credentials

EDUCATION

JD, New York University
School of Law, 2009

magna cum laude

Order of the Coif

BA, English and History,
University of Pennsylvania,
2006

summa cum laude

ADMISSIONS

Massachusetts

CLERKSHIPS

The Hon. Patti B. Saris, US
District Court for the District
of Massachusetts, 2009 - 2010