



## Joseph A. Fischetti

Counsel

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With extensive experience in federal and state courts across the country, Joe Fischetti specializes in representing corporate clients in consumer fraud class actions, financial markets litigation, and high-stakes appeals. Joe understands that courts reach their best conclusions when they are not operating in a vacuum, and he therefore appreciates the importance of ensuring that judges and factfinders understand his clients' businesses and the markets in which they operate. Whether starting with a case from commencement or first appearing as appellate counsel, Joe excels at breaking down complex facts and law so that courts readily comprehend the important issues at stake for his clients.

Joe maintains an active pro bono practice for the Lowenstein Center for the Public Interest. His pro bono experience has included novel constitutional matters in the United States Supreme Court and other appellate courts, as well as representation in immigration court for refugees seeking asylum for political persecution.

Joe served as law clerk to the Honorable Katharine S. Hayden of the U.S. District Court for the District of New Jersey and the Honorable Stuart J. Rabner, Chief Justice of the Supreme Court of New Jersey. Prior to law school, Joe was a legislative assistant at a law firm in Washington, D.C., specializing in governmental affairs issues in the financial services industry.

## EXPERIENCE

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- Senior member of team that conducted an independent investigation into allegations of workplace misconduct including sexual harassment, domestic violence, and inappropriate behavior within the Dallas Mavericks' business operations. The seven-month investigation culminated in the release of **The Report of the Independent Investigation of Dallas Basketball Limited**, detailing harassment and workplace misconduct over 20 years, lack of compliance and internal controls within the organization, errors in judgment among Mavericks' leadership, and recommendations for changes to the Mavericks' organization.
- Successfully defended a claim in the United States District Court for the Southern District of Florida for misappropriation of trade secrets relating to ideas for the development of an electronic exchange for repurchase agreements, winning a complete victory on summary judgment with a finding that the client, a broker-dealer, never utilized or disclosed the alleged ideas at issue.
- Represented the State of New Jersey as special outside counsel in the State's lawsuit against Volkswagen, Audi, and Porsche for their role in a massive consumer fraud scandal known as "dieselgate." Successfully negotiated a settlement of all claims for a total of \$69 million for New Jersey.
- Represents institutional investors as plaintiffs in the civil prosecution of securities fraud cases.
- Defeated certification of a class of ratepayers suing a Massachusetts electric utility for damages caused by widespread and lengthy blackouts following a major winter storm. Successfully defended that result on appeal to the Massachusetts Supreme Judicial Court, which resulted in one of the key Supreme Judicial Court opinions addressing the standards for class certification in Massachusetts.
- Represented a major biotechnology company in the State Court of New Jersey in a 350-plaintiff case involving claims related to the use of human acellular dermal matrices in ventral hernia surgery and abdominal wall reconstruction.
- Provided pro bono representation to a Colombian refugee who sought asylum as a result of political persecution. After seven years of proceedings in Immigration Court and before USCIS, the client secured an adjustment of status and became a permanent resident of the United States.
- Represented a leading residential real estate developer in a \$200 million dispute in the District of Maryland involving the proposed purchase of 1,250 acres of land in Prince George's County.
- Represented a partner in a business dispute concerning a large apartment complex, successfully obtaining judgment in excess of \$50 million against defendant managing partner for civil racketeering offenses, fraud, breach of fiduciary duty, and breaches of the partnership agreement and partnership law.
- Represented Volunteer Lawyers for Justice (VLJ) in an appeal to the New Jersey Supreme Court arising from ethics issues related to VLJ's pro bono bankruptcy clinic for low-income, no-asset Chapter 7 bankruptcy debtors. Reversing a decision of the Advisory Committee on Professional Ethics, the Court held that volunteer lawyers staffing the clinic do not face a conflict of interest under the Rules of Professional Conduct pertaining to conflicts of interest – with appropriate safeguards, a volunteer lawyer can represent a low-income debtor in a no-asset Chapter 7 bankruptcy matter even if the lawyer's firm represents one or more of the debtor's creditors in unrelated matters.

## HONORS & AWARDS

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- > **New Jersey Rising Stars (2019)**  
Recognized for work in Class Action/Mass Torts
- > **ABA/BNA: Award of Excellence (2010)**  
Recognized for Labor and Employment Law

## NEWS & INSIGHTS

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### Publications

- > June 15, 2021  
**"Supreme Court Tees Up Ninth Circuit Review of Web Scraping in the hiQ Labs/LinkedIn Case,"** *Investment Management Client Alert*  
Joseph A. Fischetti, Peter D. Greene, Benjamin Kozinn
- > June 4, 2021  
**"With Implications for Web Scraping by Hedge Funds: Supreme Court Adopts Narrow Definition of "Authorized Access" in Computer Fraud and Abuse Act Case,"** *Investment Management Client Alert*  
Joseph A. Fischetti, Peter D. Greene, Benjamin Kozinn
- > Spring 2021  
**"Article III Challenges to No-Injury Class Actions: Will the Defense Bar Win Itself a One-Way Trip Back to State Court?,"** *American Bar Association, Class Actions & Derivative Suits Committee*  
Joseph A. Fischetti, Craig Dashiell
- > March 18, 2021  
**"Supreme Court To Weigh Threshold for Article III 'Injury' in Class Claims for Statutory Damages,"** *Capital Markets Litigation*  
Joseph A. Fischetti
- > February 11, 2021  
**"After Biden Inauguration, Prominent Judges with Heavy Footprints in Financial Services Litigation Go Senior,"** *Capital Markets Litigation*  
Joseph A. Fischetti
- > November 23, 2020  
**"Arbitration Where You're Not Expecting It,"** *American Bar Association, Class Actions & Derivative Suits Committee*  
Joseph A. Fischetti
- > August 20, 2020  
**"New Jersey Supreme Court Clarifies Procedures for Implementing Employee Arbitration Agreements,"** *Class Action Litigation and Employment Counseling Client Alert*  
Joseph A. Fischetti, Julie Levinson Werner
- > April 19, 2018  
**"New Jersey Supreme Court Significantly Limits TCCWNA Claims,"** *Class Action Litigation Client Alert*  
Joseph A. Fischetti
- > January 27, 2017  
**"New Jersey Assembly Passes Anti-Forum Selection Clause,"** *Class Action Litigation Client Alert*  
Joseph A. Fischetti
- > May 17, 2016  
**"What Must "No-Injury" Suits Allege to Satisfy Article III Standing to Sue in Federal Court?,"** *Class Action Client Alert*  
Gavin J. Rooney, Reynold Lambert, Joseph A. Fischetti
- > January 8, 2016  
**"State Courts May Become Sole No-Injury Class Action Forum,"** *Law360*  
Gavin J. Rooney, Amy C. Schwind, Joseph A. Fischetti
- > April 2015  
**"The Third Circuit's Ascertainable Scrutiny of Cy Pres Awards in Class Action Settlements,"** *New Jersey Lawyer Magazine*  
Joseph A. Fischetti
- > March 10, 2015  
**"NJ Pushes Back Against Pro-Arbitration Federal Policy,"** *Law360*  
Gavin J. Rooney, Joseph A. Fischetti

### In the Media

- > April 15, 2021  
**Joseph A. Fischetti** appears on "**Common Questions**," the podcast of the American Bar Association's **Class Action & Derivative Suits Committee**, discussing the U.S. Supreme Court case, *Transunion LLC v. Ramirez*, and the likely impact of the Court's forthcoming opinion on class action practice. Fischetti discusses how the Court's decision on issues of Article III standing and typicality could have "profound repercussions on how you choose a class representative."
- > June 5, 2020  
**Law360** and **Law.com** reported on the representation by **Matthew Boxer, Joseph A. Fischetti,** and **Rebecca J. Ryan** of the **New York Shipping Association Inc.** as amicus curiae in the precedent-setting dismissal of a summary judgment motion brought by the Waterfront Commission of New York Harbor against New Jersey Governor Phil Murphy in the Third Circuit. (*subscription required to access Law.com*) **View Lowenstein's news announcement about this outcome.**
- > July 27, 2018  
**Law360** notes **Gavin J. Rooney** and **Joseph A. Fischetti** in an article highlighting a victory for our clients in two related class actions in which the New Jersey Appellate Division affirmed the lower court's dismissal of the actions. Plaintiffs alleged violations of the New Jersey Truth-in-Consumer Contract, Warranty and Notice Act, but Lowenstein Sandler won a threshold motion to dismiss (affirmed on appeal) for failure to show harm. The case is *Gregory R. Duke, et al. v. All American Ford, et al.* (*subscription required to access article*)
- > May 19, 2016  
**Joseph Fischetti** is quoted in **Law360** regarding his comments on a panel at the New Jersey State Bar Association Annual Meeting and Convention on the subject of recent developments and trends in New Jersey class action practice.
- > February 8, 2016  
**Michael Himmel, Michael T.G. Long, Jamie Gottlieb Furia,** and **Joseph Fischetti** are mentioned in **Law360** regarding their successful representation of NJ's Division of Investments on behalf of shareholders of Cliffs Natural Resources against Cliffs and certain of its officers. An \$84 million settlement was recently announced.

## SPEAKING ENGAGEMENTS

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- > Panelist, **A Class Action Update: Federal and New Jersey Developments for 2020-2021**, New Jersey State Bar Association, Webinar, May 19, 2021
- > Panelist, **Little v. Kia Motors--The Essential Case Study on Damages in Class Actions**, NJICLE Winter Conference, Webinar, November 23, 2020
- > **Class Action Litigation in 2020: What You Need to Know**, NJSBA, New Brunswick, NJ, February 10, 2020
- > Panelist, **Class Action Litigation in 2020: What You Need to Know**, New Jersey State Bar Association/New Jersey Institute for Continuing Legal Education, New Brunswick, NJ, February 10, 2020
- > Panelist, **Class Actions: Perspectives on Key Issues**, New Jersey State Bar Association: 2019 Annual Meeting and Convention, Atlantic City, NJ, May 17, 2019
- > Panelist, **Consumer Protection Litigation in a Nutshell**, New Jersey State Bar Association/New Jersey Institute for Continuing Legal Education, New Brunswick, NJ, June 12, 2018
- > Panelist, **Class Actions At The Crossroads**, New Jersey State Bar Association Annual Meeting and Convention, May 16, 2018
- > Panelist, **Does How We Regulate Business Matter? The TCCWNA Tidal Wave: Causes, Consequences & Responses**, New Jersey Civil Justice Institute, October 11, 2016
- > Speaker, **Contract Drafting to Avoid or Mitigate Class Action Exposure**, Lowenstein Sandler's Spring Alumni CLE Day, June 7, 2016
- > Panelist, **The Evolving Nature of Class Actions in New Jersey**, New Jersey State Bar Association Annual Meeting and Convention, May 19, 2016

## EDUCATION

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- > Seton Hall University School of Law (J.D. 2010), magna cum laude; *Seton Hall Law Review*, Executive Editor
- > George Washington University (B.A. 2005), cum laude, History and Political Science

## ADMISSIONS

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- > New York
- > New Jersey
- > U.S. Court of Appeals for the Third Circuit
- > U.S. Court of Appeals for the Fourth Circuit
- > U.S. Court of Appeals for the Ninth Circuit
- > U.S. Court of Appeals for the Tenth Circuit
- > U.S. Court of Appeals for the Eleventh Circuit
- > U.S. District Court for the District of New Jersey
- > U.S. District Court for the Eastern District of New York
- > U.S. District Court for the Southern District of New York