

# HOLWELL SHUSTER & GOLDBERG LLP



## DANIEL P. GOLDBERG PARTNER & GENERAL COUNSEL

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**D**aniel Goldberg brings more than 25 years of experience and a deep knowledge of the hedge fund, banking, and retail industries to a trial practice focused on disputes relating to commercial contracts, financial instruments, business torts, partnership disputes, bankruptcy, and commercial leases.

Highly regarded by Chambers USA for his “courtroom prowess,” Dan’s engagements, including the representation of Royal Bank of Canada in connection with the Enron bankruptcy and securities class action litigation arising from it, have taken him to trial and appellate courts throughout the country, including in New York, Delaware, California, Pennsylvania, Connecticut, Massachusetts, Florida, Ohio, Indiana, Colorado, New Jersey, Nevada, Washington, and Illinois; he also has handled arguments and arbitrations in foreign jurisdictions. His work has resulted in numerous published opinions on commercial law issues, both at the federal and state court levels. Dan regularly is engaged to parachute into cases for purposes of trial or other critical phases, and to take on matters presenting particularly novel and difficult issues. Embodying Holwell Shuster & Goldberg’s commitment to courtroom prowess, on the very first day of the firm’s founding, Dan argued a summary judgment motion in an insurance broker malpractice case, and two months later was lead counsel in a trial in the Delaware Court of Chancery on behalf of a hedge fund in a breach of fiduciary duty case. Dan also regularly consults on law firm governance issues as well as fee arrangements. Most recently, Dan testified as an expert for the agent bank in the Puerto Rico bankruptcy on the appropriate reserve to be held back from the Plan distribution for litigation costs to defend claims asserted by members of the lender group.

Dan has been recognized as a leading litigator by Chambers and Benchmark Litigation, and a Litigation Trailblazer by The National Law Journal. He has also been named to the Best Lawyers in America list. For over a decade, Dan has been honored by New York Super Lawyers as being among the top 5% of business litigators in New York, and also has been elected as a lifetime Fellow of the American Bar Foundation. Before founding Holwell Shuster & Goldberg, Dan was a litigation partner at White & Case, and then at Kasowitz, Benson, Torres & Friedman.

He is a Past Secretary to the Committee on Second Circuit Courts for the Federal Bar Council. An avid sailor, Dan currently sits on the Advisory Board of Hudson River Community Sailing, a charitable organization that helps underserved New York City youth become leaders and achieve academic success through sailing education.

## NOTABLE CASES

- Melody Business Finance, a hedge fund, in litigation against former hedge fund billionaire Philip Falcone, securing an award of \$69.8 million—approximately 99% of the amount sought following a trial on damages.
- The Province of Alberta-owned investment fund AIMCo, and Wells Fargo Bank, N.A., as securities intermediary, in a series of cases against various life insurers arising out of improper Cost of Insurance rate increases on certain groups of universal life insurance policies.

- Several banks in the Enron bankruptcy and the Enron class action securities cases, including Royal Bank of Canada, State Bank of India, and Bayerische Landesbank.
- HSBC and other securitization trustees pursuing numerous “putback” claims arising out of the 2008 financial crisis and collapse of the residential mortgage-backed securities industry.
- U.S. Bank and Wilmington Trust as trustees asserting RMBS putback claims in the Lehman Brothers bankruptcy. Dan and the HSG team secured a \$2.4 billion verdict after a lengthy trial in the Bankruptcy Court for the Southern District of New York
- Several securitization trustees pursuing numerous “putback” claims arising out of the 2008 financial crisis and residential mortgage-backed securities industry, including a multi-week trial in the Lehman bankruptcy on behalf of several bank trustees.
- Litigation trust stemming from the ChemRx bankruptcy. ChemRx once was the nation’s third largest pharmacy, and the trust is pursuing claims against former officers, directors, auditors, and the company’s founders for breach of fiduciary duty, fraudulent conveyances, and related claims.
- A national real estate developer in disputes concerning the development and sale of a commercial building in Los Angeles, including disputes over a right of first offer, and disputes with the lender group.
- Camulos Capital, a U.S. hedge fund, in a variety of disputes, including those with a German subsidiary of Lehman Brothers over a \$100 million repo agreement, a German gun manufacturer over a €100 million PIK loan, and a departing partner with respect to contract and breach of fiduciary duty claims.
- Caspian Capital, a U.S. hedge fund, in Delaware Chancery Court and the Delaware Supreme Court in a dispute involving the debt restructuring of the Marsico family of companies (mutual fund managers).
- A partner against a private equity fund arising out of the Restoration Hardware turnaround and IPO.
- MEGA Bloks, Inc., a Canadian toy manufacturer, in a series of litigations arising out of its acquisition of Rose Art Industries, Inc., the manufacturer of Magnetix toys. The representation included the federal trial of claims against the sellers for fraud, breach of contract, and earnout calculations. Dan also handled MEGA Bloks’ product liability defense over Magnetix, the key product acquired in the Rose Art deal, and defended MEGA Brands in a nationwide class action seeking a refund for all consumers who ever purchased Magnetix.
- Aeromexico, Mexico’s largest airline, in a dispute alleging breach of an aircraft lease.
- Republic of Croatia and several state-owned banks in a suit by Serbian-controlled entities challenging the restructuring of Yugoslavia’s national debt arising out of the country’s breakup.
- State of New Hampshire Department of Insurance in a case challenging the efficacy of its decisions concerning the restructuring of the Home Insurance Company.
- Various companies in the Eurofins group, a publicly traded French conglomerate whose subsidiaries are engaged in, among other things, the biotechnology industry. Dan has represented Eurofins entities in disputes arising out of certain acquisitions and investments in the U.S., as well as in connection with certain products liability related suits.
- Duane Reade, the largest retail drug store chain in the New York metropolitan area, in a wide range of cases, including class actions, disputes with pharmaceutical suppliers, commercial landlords, various vendors, and employment matters.
- Leonia Bank (national bank of Finland) in a breach of loan agreement case against Pentti Kouri, one of the founders of Nokia.
- Wilson, Elser, Moskowitz, Edelman & Dicker LLP in a dispute with several partners who departed after a change to the firms’ partnership agreement, which the departing partners claimed had the effect of dissolving the firm.
- Ottawa Senators Hockey Club in a dispute with its investment bankers over a claimed “success fee” for procuring financing.
- Neil Smith, former General Manager of the New York Rangers and New York Islanders, in his dispute with the New York Islanders arising out of his summary dismissal. The matter involved an arbitration and mediation before the Commissioner of the National Hockey League.

- Several matters in various bankruptcy courts around the country covering a myriad of issues, including the rejection of leases, supply agreements, lender liability, cramdown, Rule 2004 discovery, valuation, plan confirmation, and related matters. Bankruptcies in which Dan has either argued or tried substantive matters include: *In re Enron* (S.D.N.Y.); *In re Lehman Brothers Holdings Inc.* (S.D.N.Y.); *In re Northwest Airlines* (S.D.N.Y.); *In re Summerlin LP* (D. Nev.); *In re Blue Mountain* (W.D. Penn.); *In re Lazarus* (S.D.N.Y.); *In re Brothers Gourmet Coffee* (D. Del.); *In re Int'l Wireless Communications Holdings* (D. Del.); *In re Minpeco USA* (S.D.N.Y.); *In re CDC Corporation* (N.D. Ga.).

## WRITINGS

- “Commercial Arbitration: Expedious Resolution, or Wormhole of Unpredictability?,” *New York Law Journal* (March 23, 2015)
- “Civil Litigation in The U.S. – A Primer For The Non-U.S. Litigant”– Praxisschrift “Innovation und internationale Rechtspraxis – Rechtsprobleme entstehen nicht im Hörsaal” zum 50. Geburtstag von Prof. Dr. Wolfgang Zankl (facultas.wuv Universitätsverlag, 2009)

## CLERKSHIPS

- Hon. Sondra Miller, New York Supreme Court, Appellate Division, Second Department

## EDUCATION

- Pace University School of Law (J.D., *magna cum laude*, 1995; Editor, *Pace Law Review*)
- Trinity College (B.A., 1989)

## BAR AND COURT ADMISSIONS

- New York
- U.S. Court of Appeals, Second Circuit
- U.S. Court of Appeals, Third Circuit
- U.S. District Court, District of Colorado
- 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