



## Seth Ard Partner

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### Overview

Seth Ard, a partner in Susman Godfrey's New York office and a member of the firm's Executive Committee, has secured substantial litigation victories for both plaintiffs and defendants. For plaintiffs, Ard was co-lead counsel for a certified class of insurance policy owners, helping them achieve what the Court in the Southern District of New York described as "the best settlement pound for pound for the class that I've ever seen." For defendants, Ard has obtained take-nothing judgments for NASDAQ and Dorfman Pacific in contract and intellectual property actions seeking tens of millions of dollars. In 2019, Mr. Ard was named one of the country's [Leading Plaintiff Financial Lawyers](#) by *Lawdragon*.

Before joining the firm, Mr. Ard clerked for the Honorable Shira A. Scheindlin of the United States District Court for the Southern District of New York, and for the Honorable Rosemary S. Pooler of the United States Court of Appeals for the Second Circuit. Mr. Ard graduated magna cum laude from Harvard Law School and completed his undergraduate work first in his class with a perfect GPA from Michigan State University, with dual degrees in philosophy and French literature. For the past three years, Ard has been recognized as a "Rising Star" in New York by *Super Lawyers* magazine.

### Education

- Michigan State University, first in class, highest honors (B.A., Philosophy & French Literature, 1997)
- Northwestern University (M.A., A.B.D., Philosophy, 2003)
- Harvard Law School, magna cum laude (J.D. 2007)

### Clerkship

Law Clerk to the Honorable Shira A. Scheindlin, United States District Court for the Southern District of New York, 2008-2009

Law Clerk to the Honorable Rosemary S. Pooler, United States Court of Appeals for the Second Circuit, 2007-2008

## Honors and Distinctions

- Recognized on Lawdragon 500's 2019 list of the country's [Leading Plaintiff Financial Lawyers](#) (2019)
- 2013-2015 listings of Super Lawyers "Rising Stars" in New York (Law & Politics Magazine, Thomson Reuters)
- Teaching and Research Assistant for Professor Arthur Miller (Harvard Law School)
- Teaching Assistant for Professor Jon Hanson (Harvard Law School)
- Editorial Board, Harvard Civil Rights/Civil Liberties Law Review

## Professional Associations and Memberships

State of New York

## Notable Representations

*In re LIBOR-Based Financial Instruments Litigation (SDNY)*

**Ongoing.** Along with Bill Carmody, Marc Seltzer, and Arun Subramanian, Ard serves as co-lead counsel for the class of over-the-counter purchasers of LIBOR-based instruments, directly representing Yale University and the Mayor and City Council of Baltimore as named plaintiffs. We reached a \$120 million settlement with Barclays, and pursue claims against the rest of the 16 LIBOR panel banks.

*In re Municipal Derivatives Litigation (SDNY)*

**Ongoing.** Along with Bill Carmody and Marc Seltzer, Ard serves as co-lead counsel to a class of municipalities suing 10 large banks and broker for rigging municipal auctions. On behalf of the class and class counsel, Ard argued final approval and fee application motions approving cash settlements in excess of \$100 million, as well as several key discovery motions against defendants and the DOJ that paved the way for those settlements.

*Fleisher et al. v. Phoenix Life Insurance Company (SDNY)*

**September 2015.** Along with Steven Sklaver and Frances Lewis, Ard served as class counsel in a seminal action challenging 2 cost of insurance increases by Pheonix. After winning class certification and defeating two motions for class decertification and a motion for summary judgment, the case settled the day of the final Pretrial Conference in a settlement valued by the Court at over \$140 million. Judge Colleen McMahon praised Susman Godfrey's settlement of the case as "an excellent, excellent result for the class," which "may be the best settlement pound for pound for the class that I've ever seen."

*Globus Medical v. Bonutti Skeletal (EDPA)*

**March 2015.** Along with Jacob Buchdahl and Arun Subramanian, Ard represents defendant Bonutti Skeletal in patent litigation brought by Globus Medical. Ard successfully argued a partial motion to dismiss the patent complaint, defeating claims of indirect infringement, vicarious liability and punitive damages.

*Sentius v. Microsoft (NDCA)*

**February 2015.** Along with Max Tribble and Vineet Bhatia, Ard represented plaintiff Sentius in a patent infringement suit against Microsoft. A few weeks before trial, Ard successfully argued a Daubert motion that sought to exclude plaintiff's survey expert. The case settled on highly favorable terms within 24

hours of that motion being denied. Previously, Ard had successfully argued an early summary judgment motion and supplemental claim construction, both of which would have gutted plaintiff's claims.

*Jefferies v. NASDAQ Arbitration (New York)*

**January 2013. Jefferies & Co. v. NASDAQ.** – Along with Steve Susman and Steve Morrissey, Ard represented NASDAQ and its affiliate IDCG in an arbitration in New York. The plaintiff, Jefferies & Co., sought tens of millions of dollars in damages based on a claim that it was fraudulently induced to clear interest rate swaps through the IDCG clearinghouse. After a one week arbitration trial in the fall of 2012, at which Ard put on NASDAQ's expert and crossed Jefferies' expert, the Panel issued a decision in January 2013 denying all of Jefferies' claims and awarding no damages. The arbitrators were former Judge Layn Phillips, Judge Vaughn R. Walker, and Judge Abraham D. Sofaer.

*GMA v. Dorfman Pacific (SDNY)*

**November 2012.** Along with Bill Carmody and Jacob Buchdahl, Ard obtained a complete defense victory on summary judgment in a trademark infringement dispute before Judge Forrest in SDNY. We were hired after the close of discovery and after our client had suffered significant discovery sanctions that threatened to undermine its defense. We were able to overturn those sanctions, reopen discovery and obtain key admissions during a deposition of Plaintiff's CEO, and win on summary judgment (without argument and based on briefing done by Ard).

*Washington Mutual Bankruptcy (Bkrtcy. Del.)*

**February 2012.** Along with Parker Folse, Edgar Sargent, and Justin Nelson, Ard represented the Official Committee of Equity Holders in Washington Mutual, Inc. at two trials contesting \$7 billion reorganization plans that would have wiped out shareholders stemming from the largest bank failure in American financial history. Both plans were supported by the debtor and all major creditors. After the first trial, at which Ard put on the Equity Committee's expert and crossed the debtor's expert, the Judge denied the plan of reorganization. The debtors and creditors negotiated a new reorganization plan that again would have wiped out shareholders. After the second trial, at which Ard put on the Equity Committee's expert, crossed the debtor's expert, and conducted a full-day cross examination of hedge fund Appaloosa Management that held over \$1 billion in creditor claims and that was accused of insider trading, the Court again denied the plan of reorganization, finding that the Equity Committee stated a viable claim of insider trading against the hedge funds. The Equity Committee then negotiated with the debtor and certain key creditors a resolution that provided shareholders with 95 percent of the post-bankruptcy WaMu plus other assets in a package worth hundreds of millions of dollars – an outstanding result especially given that when we were appointed counsel, the debtor tried to disband the equity committee on the ground that equity was “hopelessly out of the money” without any chance of recovery.

*Lincoln Life v. LPC Holdings (Supreme Court Onandaga, New York)*

**2011.** Along with Steven Sklaver and Arun Subramanian, Ard represented an insurance trust in STOLI litigation against an insurance company seeking to rescind a life insurance policy with a face value of \$20 million. After Ard argued and won a hotly contested motion to compel in which the Court threatened to revoke the pro hoc license of opposing counsel, Lincoln settled the case on very favorable terms.