



LAW360

## 2014 Rising Star

# Joshua Z. Rabinovitz

A former federal trial lawyer, Kirkland & Ellis LLP's Josh Rabinovitz routinely tackles accounting malpractice suits and stock-drop cases for clients like Medtronic Inc., Hospira Inc. and PricewaterhouseCoopers LLP, making him one of *Law360's* top 10 securities attorneys under the age of 40.

At only 38 years old, the *Law360* Rising Star has successfully litigated an extraordinary range of cases for both the government and private practice. Rabinovitz joined Kirkland & Ellis in 2005 after four years in the Federal Programs Branch of the U.S. Department of Justice's Civil Division, a move he said was prompted by a desire to be somewhere "less comfortable" where he could learn new and different things.

Since becoming partner in 2006, Rabinovitz has honed in on his securities and accounting practices, taking on a slew of stock-drop cases for large companies like Medtronic, Hospira and Idaho-based silver mining company Hecla Mining Co., which faced a putative class action and three derivative suits after a 2011 fatal mining accident shut down operations and caused the company's price to tank.

"The challenges in that case and in a lot of these cases with a stock drop is that the stock is dropping for a reason, often a negative event," Rabinovitz said. "You're not starting from a level point."

But just because there is an accident doesn't mean that securities fraud occurred, he pointed out. After several years of hard work, Rabinovitz and his team members were able to win dismissal of all four suits, a victory he attributes to his ability to focus on the merits despite the considerable attention and press coverage that came with the suit.

Rabinovitz faced a similar uphill battle defending Hospira, a manufacturer of pharmaceuticals and medical devices, from a slew of suits alleging failure to disclose quality control issues at one of the firm's manufacturing plants. He and the rest of the Kirkland & Ellis team obtained a complete dismissal of one derivative case, two Employee Retirement Income Security Act cases, and a partial dismissal of a securities fraud class action, with the remaining claims covered by insurance. A motion to dismiss a final derivative case remains pending.

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The Chicago native also swooped in to rescue Medtronic from a securities class action after the previous firm failed on a motion to dismiss. The company and its senior executives faced claims that they had been promoting a bone growth product for off-label uses. After nearly two years of aggressive discovery, Rabinovitz was able to settle the case on favorable terms before it went to trial.

“Clients like to [bring us in after a motion to dismiss] because it sends a signal that Kirkland is really ready to prepare cases for trial,” Rabinovitz said. “It sends a signal to shareholders that we are ready to face off in court.”

In between securities suits, Rabinovitz has also become a key player in the accounting malpractice world, successfully defending high-profile clients like PricewaterhouseCoopers against allegations of professional negligence and breach of fiduciary duty. In fewer than 10 years in the practice, Rabinovitz says he has already had the chance to represent all of the big four auditing firms.

“[Audit malpractice] is a very technical area and that’s a challenge to a lawyer not trained as an accountant,” he said. “But it presents an opportunity, because over the course of my career I’ve been able to

build up knowledge about [the field] and get up to speed in an area most lawyers don’t know about.”

When he’s not defending clients, Rabinovitz teaches constitutional law at his alma mater, the University of Chicago Law School, a hobby he says allows him to maintain the expertise he gathered while working at the DOJ.

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