

Philip S. Rosen, PARTNER

Philip Rosen is a skilled, efficient problem solver with more than three decades of experience in financial services litigation; asset recovery and workout; commercial litigation; banking litigation; due diligence review for loan acquisitions; and bankruptcy litigation. Phil practices in New Jersey and New York, is a member of the firm's management committee, the chair of the firm's creditors' rights group, the hiring partner, the assignment partner, and the diversity, equity and inclusion officer. Through his sharp and creative strategies, Phil has developed a reputation as an accomplished litigator having appeared in high-stakes litigation in state and federal courts throughout New Jersey and New York. Phil's experience, intellect and street smarts has benefitted clients in numerous reported decisions and matters.



PRACTICE AREAS

Financial Services Litigation – Phil is seasoned in foreclosure law having foreclosed millions of dollars of commercial and residential mortgages and regularly prosecutes commercial foreclosures for commercial mortgage lenders, CMBS servicers and private equity firms, and has extensive experience in receivership matters. Phil has defended claims of lender liability, and challenges to the enforceability of pooling and servicing agreements, to a lender's status as a holder-in-due course, and claims of bad faith. Phil has developed long-lasting ties with his clients who rely upon his counseling in defending escalated residential foreclosures and claims involving lien priority disputes, mortgage fraud, predatory lending, statutory violations including RESPA, TILA, HOEPA, FDCPA and FCRA, state consumer fraud statutes and unfair business practices.

Asset Recovery and Workout – Phil is adroit in enforcing and restructuring troubled portfolio and CMBS loans including resolving disputes between lenders, borrowers, and guarantors. Phil is skilled in using litigation as a tool to leverage and facilitate favorable loan recoveries and workouts in an efficient and price advantaged manner concerning guarantees, complex loan agreements providing for default interest, yield maintenance, and pre-payment consideration.

Commercial Litigation – Phil's practice includes litigating and advising clients with respect to general business and commercial issues including fraud and fraudulent transfers, breach of contract, breach of fiduciary duty, theft of business, finance, and commercial disputes.

Banking Litigation – Phil is experienced in representing financial institutions in actions based on Articles 3 and 4 of the Uniform Commercial Code concerning wire transfers, checks and letters of credit payments and bank customer contracts.



OUR TEAM

Due Diligence Review – Phil regularly assists investors in their acquisition of performing and defaulted loan portfolios including due diligence of the loan instruments, title and litigation analysis and negotiating and preparing the respective loan purchase agreements.

Bankruptcy Litigation – Phil has extensive experience in bankruptcy related litigation including stay relief motions, preference and fraudulent transfer claims, dischargeability objections and adversary proceedings.

CLE SEMINARS

Phil is a frequent presenter and writer and some of his recent webinars and articles include:

Available online at <https://www.nacle.com/CLE/Courses/Navigating-New-Jersey-Residential-Foreclosures-A-Plaintiff-s-Guide-to-the-Process-1430>; <https://www.nacle.com/CLE/Courses/So-Your-Commercial-Borrower-Is-In-Default-Protecting-your-Security-Interest-1087>.

RECENT ARTICLES

- [New Jersey Commercial Foreclosure Law Update: New Requirements Impacting Municipalities and Creditors Foreclosing on Commercial Properties in New Jersey.](#)
- [New York Court of Appeals Issues Decision Clarifying RPAPL Notice and Compliance Requirements for Residential Foreclosures.](#)
- [COVID-19 Emergency Protect Our Small Businesses Act of 2021.](#)
- [New York Court of Appeals Issues Landmark Decision Concerning Statute of Limitations in Mortgage Foreclosures.](#)
- [COVID-19 Emergency Eviction and Foreclosure Prevention Act of 2020.](#)
- [CARES ACT: Impact on banks, their customers and the broader financial markets.](#)

REPRESENTATIVE MATTERS

- [Tibbs v. electroCore Inc.](#), 2024 U.S. App. LEXIS 30719 (3rd Cir. Dec 5, 2024), United States Third Circuit affirmed district court's dismissal of securities class action complaint.
- [HSBC Mortg. Corp. USA v. Tehrani](#), 229 A.D. 3d 772, 216 N.Y.S. 3d 627 (2d Dept. 2024) New York Appellate Division, Second Department affirmed trial court's granting of summary judgment striking defendant's answer alleging lack of standing, failure to comply with RPAPL requirements and notice provisions under subject mortgage.
- [Kuehl v. electroCore Inc.](#), 2023 N.J. Super. Unpub. LEXIS 742 (App. Div. May 15, 2023), New Jersey Appellate Division affirmed trial court's granting of defendants' motion to dismiss securities class action based upon federal forum selection provision included in Initial Public Offering.



OUR TEAM

- SC Bromley 1, LLC v. Sherman, 2022 N.Y. App. Div. LEXIS 314, 2022 NY Slip Op 00326 (2d Dept 2022), New York Appellate Division, Second Department affirmed trial court's denial of defendant's motion to dismiss alleging nullity based upon death of mortgagor and obligor prior to case commencement, predatory lending and violations of state and consumer statutes.
- Republic Group v. Bank of America and Merrill Lynch, 2021 U.S. Dist. LEXIS 18796 (D.N.J. Feb 1, 2021), New Jersey District Court dismissed complaint alleging claims for discrimination and retaliation under federal and state law.
- Martins v. Nationstar Mortgage, LLC, 2017 U.S. Dist. LEXIS 52712 (D.N.J. Apr. 6, 2017), New Jersey District Court dismissed complaint alleging wrongful foreclosure, fraud, conspiracy and related tort-based claims.
- Lau v. Bank of America, N.A., 2017 U.S. App. LEXIS 5291 (3rd Cir. March 27, 2017), United States Third Circuit affirmed district court's dismissal of complaint alleging lender liability, predatory lending and violations of state consumer fraud statutes.

COMMUNITY INVOLVEMENT

Phil is active in many charitable and religious organizations and devotes his leisure time to those endeavors.