

Marc Weingarten

Partner

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Co-chair of the Shareholder Activism Group and member of the M&A and Securities Group and the Investment Management Group. Focuses on shareholder activism, M&A, leveraged buyouts, corporate governance, securities law and investment partnerships.

Marc was selected twice as “Dealmaker of the Year” by *The American Lawyer* for his representation of Cerberus Capital Management in its acquisition of a controlling interest in GMAC from General Motors and most recently for his work on some of the fiercest shareholder activism campaigns and proxy contests in the market. He also represented Cerberus in the acquisition of control of Chrysler from Daimler; its acquisition, by tender offer, of a controlling interest in Aozora Bank in Japan; and in numerous other transactions.

He has represented private equity fund Castle Harlan in the organization of LBO funds and the negotiation of buyouts of restaurant chains, a media

company, an insurance company, publishing ventures and other transactions.

In addition to representing public and private companies in acquisitions and dispositions, Marc regularly counsels investors and companies on corporate governance and control issues. One of the leading lawyers representing activist investors, he has advised on many of the most significant activist campaigns, including:

- The Trian Group in its successful proxy contests with Procter & Gamble and H.J. Heinz Co.
- The Children's Investment Fund in its successful proxy contest with CSX Corp.
- JANA Partners and SAC Capital in their campaign involving Time Warner Inc.
- JANA Partners in all of its many successful campaigns
- Elliott Management in many of its successful campaigns
- Greenlight Capital in its campaign involving General Motors

Marc is a member of the American Bar Association, the New York State Bar Association and the New York City Bar Association, having served on its Committee on Mergers, Acquisitions and Corporate Control Contests for multiple terms, and on its Committee on Corporation Law.

He has been cited for his preeminence in both corporate law and investment fund practice in *Chambers USA*, *IFLR1000*, *The Legal 500 US*, *Lawdragon*, *Who's Who* and *New York Super Lawyers*.

Practices

SHAREHOLDER ACTIVISM

MERGERS AND ACQUISITIONS

HEDGE FUNDS

INVESTMENT MANAGEMENT

PRIVATE EQUITY

Bar Admissions

New York

Education

Georgetown University Law Center, J.D.

- Cases and Notes Editor, *Georgetown Law Journal*

University of Pennsylvania, The Wharton School, B.S.,
Finance

Representations

- Cerberus Capital Management in the acquisition of an 80-percent interest in Chrysler from DaimlerChrysler.
- Cerberus Capital Management in the acquisition of control of GMAC from General Motors.
- Cerberus Capital Management in its acquisition of Caritas Health Care, a transaction named by *Investment Dealers' Digest* as the 2010 "Deal of the Year" in the health care category.
- Organized and represented Castle Harlan LBO funds in negotiated buyouts of restaurant chains, media company, insurance company, publishing ventures and other transactions.
- JANA Partners and SAC Capital in activist campaign involving Time Warner Inc.
- The Children's Investment Fund Management in its campaign involving CSX Corp.
- Cerberus Capital Management in the acquisition by tender offer of a controlling interest in Aozora Bank in Japan.
- Pershing Square in its investments in McDonald's and Target Corp.
- Trian Group in proxy contest involving HJ Heinz Co.
- Mustang Capital Management in a successful activist campaign involving Furmanite Corporation.
- SRS Investment Management in a successful activist campaign involving Avis Budget Group Inc.
- Altimeter Capital Management LP in connection with its investment in United Continental Holdings Inc.
- Elliott Management in a successful activist campaign involving PulteGroup Inc.
- Prudential Securities, Inc. as underwriter in initial public offerings and high-yield debt financings of media companies.

- JANA Partners in activist campaign involving Kerr-McGee.
- CIT Venture Capital in LBOs of plastic specialty manufacturer, ticket printer, home improvement supplier, foundry and other transactions.
- Sport Brands International in the acquisition of the worldwide operations of Fila Sport Group.
- Issuer in initial public offering of Brazilian cable television operator.
- Cerberus Capital Management in the acquisition of Guilford Mills, Inc.; subsidiaries of Newell/Rubbermaid; investment in Air Canada; acquisition of division of Pitney-Bowes; proposed acquisition of Clayton Homes.
- PCA Corp. in acquisition of ASI Corp. and in sale to LBO fund.
- American List Company in sale to Snyder Communications.
- CIT Group in its acquisition of Newcourt in Canada.
- Circa Pharmaceuticals in sale to Watson Pharmaceuticals.
- Monro Muffler in acquisitions, corporate matters.
- Investor group in successful proxy contest for Alliant Tech Systems, and represented Alliant in public and private financings and in acquisition from Hercules, Inc.
- Caribiner International, Inc. in initial and secondary public offerings, acquisitions and other transactions.
- Morton's Restaurant Group in IPO and secondary offerings, proxy contests, acquisitions and dispositions, high yield refinancing.
- Bidder in hostile contests (proxy contests, consent solicitations, and tender offers) involving Burlington Industries, Fruehauf, Telex, Centel, Morse Shoe, Rexham, William Carter Company, Dataproducts, Canal Randolph, Datapoint, MAI, Ponderosa.
- Activist investors in numerous campaigns involving board representation (including proxy contests), withhold votes, sale proposals.

- Buyer in acquisition of DiGiorgio Corporation.
- Soros Group in various transactions.
- Acquirer of the Pilgrim Group Mutual Funds.
- Limited partnerships in formation of LBO funds, venture capital funds, hedge funds, etc.

Publications

- *The Activist Investing Annual Review 2022*, March 2022
- *Fall 2020 Shareholder Activism Insight*, Activist Insight in association with Schulte, November 2020
- Contributor, *2020 Shareholder Activism Insight*, Activist Insight in association with Schulte
- "Tender Offers," *Insider Trading Law and Compliance Answer Book*, Practising Law Institute, 2011-2020
- Contributor, *The Activist Investing Annual Review 2019*, Activist Insight in association with Schulte
- Contributor, *Shareholder Activism Insight*, Schulte in association with Activist Insight and Okapi Partners, 2018
- Contributor, *The Activist Investing Annual Review 2018*, Activist Insight in association with Schulte
- "Shareholder Activism Knows No Bounds: A Discussion With Schulte's Global Shareholder Activism Group," *The Hedge Fund Journal*, December 2017 (interview)
- "Hedge Fund Activists: The Debate On Unlocking Value," *Forbes*, March 21, 2017 (interview)
- Contributor, *The Activist Investing Annual Review 2017*, Activist Insight in association with Schulte
- "2016 Shareholder Activism Insight Report," *Harvard Law School Forum on Corporate Governance and Financial Regulation*, Dec. 1, 2016, co-author
- Contributor, *Shareholder Activism Insight*, Schulte in association with Activist Insight and FTI Consulting, 2016
- Contributor, *The Activist Investing Annual Review 2016*, Activist Insight in association with Schulte

- “Activist Investors: How Companies Should Best Engage,” *Forbes*, Jan. 14, 2016 (interview)
- Contributor, *The Activist Investing Annual Review 2015*, Activist Insight in association with Schulte
- Contributor, *Shareholder Activism Insight*, Schulte in association with Mergermarket, 2014
- *Schulte UK Shareholder Activism Briefings*, August 2014 (contributor)
- “Corporate Governance Guide 2014 – USA,” *The International Comparative Legal Guide to: Corporate Governance 2014*, Global Legal Group, co-author
- “Shareholder Activism: 2013 and Beyond,” *The Harvard Law School Forum on Corporate Governance and Financial Regulation*, Feb. 13, 2014, co-author
- Contributor, *The Activist Investing Annual Review 2014*, Activist Insight in association with Schulte
- “Foreword: Shareholders in the Boardroom,” *Harvard Business Law Review*, Vol. 3, Issue 1 – *Shareholder Activism*, 2013
- “DEALTALK – Behind Every Successful Activist, There Is a Lawyer,” *Reuters*, Aug. 5, 2013 (featured)
- “10 Questions with Marc Weingarten,” *The Activist Report*, July 2013 (interview)
- “Corporate Governance Guide 2013 – USA,” *The International Comparative Legal Guide to: Corporate Governance 2013*, Global Legal Group, co-author
- “2012 Shareholder Activism Insight Report,” *The Harvard Law School Forum on Corporate Governance and Financial Regulation*, Nov. 26, 2012, co-author
- Contributor, *Shareholder Activism Insight*, Schulte in association with Mergermarket, 2012
- “Corporate Governance Guide 2012 – USA,” *The International Comparative Legal Guide to: Corporate Governance 2012*, Global

Legal Group, co-author

- “Second Circuit Issues Opinion in *CSX v. TCI*,” *Schulte Alert*, July 26, 2011, co-author
- “Corporate Governance Guide 2011 – USA,” *The International Comparative Legal Guide to: Corporate Governance 2011*, Global Legal Group, co-author
- Contributor, *Shareholder Activism Insight*, Schulte in association with Mergermarket, 2010
- “‘Poison Puts’ and the Shareholder Franchise: *The Lessons of San Antonio Fire v. Amylin*,” *Schulte Activist Investing Developments*, Summer 2009, co-author
- “Corporate Governance Guide 2009 – USA,” *The International Comparative Legal Guide to: Corporate Governance 2009*, Global Legal Group, co-author
- “Second Generation Advance Notification Bylaws,” *Schulte Activist Investing Developments*, Winter 2009, co-author
- Contributor, *Shareholder Activism Insight*, Schulte in association with Mergermarket, 2008
- “The Permissible Scope of Bylaws: *CA, Inc. v. AFSCME Employees Pension Plan*,” *Schulte Activist Investing Developments*, Fall 2008, co-author
- “Short Slates, Majority Slates and Full Slates: Strategic and Voting Considerations,” *Schulte Activist Investing Developments*, Spring 2008
- “Reimbursement of Proxy Contest Expenses for Incumbents and Insurgents,” *Schulte Activist Investing Developments*, Fall 2006, co-author
- “Second Circuit Rules in Favor of Shareholder Seeking to Use Corporate Proxy Statement to Nominate Slate Of Directors,” *Schulte Alert*, Sept. 15, 2006, co-author
- “Be Careful What You Wish For - Considerations When Obtaining Board Representation,” *Schulte Activist Investing Developments*,

Spring 2006, co-author

- "Demands to Inspect Corporate Books and Records," *Schulte Activist Investing Developments*, Fall 2005
- "Vote Buying Raises Questions Under Anti-Fraud Rules," *Schulte Activist Investing Developments*, Fall 2005
- "Advance Notification Bylaws," *Schulte Activist Investing Developments*, Spring 2005, co-author
- "Issues in the Internal Organization of a Fund Management Company," *Investment Management Developments*, Winter/Spring 2003

Speaking Engagements

- “Best of 2022,” *Beyond the Boardroom* Podcast, December 2022
- Schulte 11th Annual Shareholder Activism Conference, November 2020
- “Effecting Change: The Activists’ Perspective,” Schulte 10th Annual Shareholder Activism Conference, New York, October 2019
- Moderator, “Large-Cap Activism,” Schulte 9th Annual Shareholder Activism Conference, New York, October 2018
- Moderator, “Large- and Mega-Cap Activism,” Schulte 8th Annual Shareholder Activism Conference, New York, October 2017
- Harvard Law School Corporate Governance Roundtable, March 2017
- “Activist Investors: A Comparison of Styles, Objectives and Outcomes,” Skytop Strategies Shareholder Activism 2 – Unlocking Shareholder Value, January 2017
- Moderator, “Large-Cap Activism,” Schulte 7th Annual Shareholder Activism Conference, November 2016
- Co-Chair and Panelist, “The Evolution of Activism & Where It’s Headed,” Skytop Strategies Shareholder Activism: The Emergence of the New Generation Investor Seminar, February 2016
- Moderator, “Large-Cap Activism,” Schulte 6th Annual Shareholder Activism Conference, October 2015
- “What Do They Really Want: Activist Objectives,” PLI Preparing for Shareholder Activism: What You Need to Be Doing Now, September 2015
- Harvard Law School Roundtable on Shareholder Engagement, June 2015
- “Stockholder Activism Today,” IBA 14th Annual International Mergers and Acquisitions Conference, June 2015

- “Tools of the Activist Investor,” New York City Bar Association
Activist Investing: Techniques, Issues & Legal Considerations, May 2015
- Moderator, “Current Developments in Shareholder Activism,”
Schulte 5th Annual Shareholder Activism Conference, October 2014
- “Shareholder Campaigns in the UK,” Schulte Shareholder Activism
in the UK Conference, October 2014
- “Stockholder Activism Today,” IBA 13th Annual International
Mergers and Acquisitions Conference, June 2014
- Moderator, “Interview of an Activist Director,” NYCBA Counseling
the Board of Directors in the Age of Activist Shareholders, May 2014
- “Representing Activists,” 13D Monitor and IMN 5th Annual Active-
Passive Investor Summit, April 2014
- Moderator, “Current Activist Perspectives” and “Institutional Proxy
Voting,” Schulte 4th Annual Shareholder Activism
Conference, October 2013
- Harvard Law School Mergers & Acquisitions Roundtable, May 2013
- “Corporate Governance & Shareholder Activism – Trends to Watch
in 2013,” ICR 15th Annual XChange, January 2013
- “Current Issues in Shareholder Activism,” Schulte 3rd Annual
Shareholder Activism Conference, October 2012
- “Activism and Access: A View from All Sides,” Tulane University Law
School Twenty-Fourth Annual Corporate Law Institute, March 2012
- Moderator, “Balance of Power Between the Board and
Shareholders,” Schulte Shareholder Activism Conference,
September 2011
- “Hot Topics in Corporate Governance: Tackling Board Composition,
Proxy Fights, Executive Compensation, Valuing
Acquisitions/Buyouts and More...,” ACI National Summit on the
Future of Fiduciary Responsibility, June 2011
- Harvard Law School Mergers & Acquisitions Roundtable, May 2011

- Mergermarket Shareholder Activism and M&A Webcast, April 2011
- “Activist vs. Corporate,” The 2nd Annual Active-Passive Investor Summit, February 2011
- Moderator, Schulte Shareholder Activism Conference, November 2010
- “How Developments in Corporate Governance are Affecting How Directors are Elected,” The Activist-Passive Investor Summit, February 2010
- “The Activist’s Playbook for a More Volatile Economy,” IMN 3rd Annual Hedge Fund Activism and Shareholder Value Summit, September 2009
- “Counseling the Board of Directors During the New Age of Activist Shareholders,” NYCBA Seminar, February 2009
- “Implications of the CSX-TCI Litigation Proxy Contest,” Bloomberg Activist Investing Seminar, New York, December 2009
- “Case Study of a Proxy Battle: *CSX vs. TCI and 3G Capital*,” IMN Hedge Fund Activism and Shareholder Value Summit, September 2008
- “Activist Investing Strategies,” Schulte 17th Annual Private Investment Funds Seminar, January 2008
- “Hedge Fund Activism,” West LegalWorks, December 2006 and December 2007
- “Insights into Activist Investing,” NYSSA Alternative Analysts Forum, November 2007
- “Shareholder Activism and the Role of Hedge Funds,” PLI Mergers & Acquisitions: What You Need to Know Now, October 2007 and October 2008
- “Activist Investing,” Schulte Hedge Fund Compliance Seminar, October 2006
- “Reaching the Peak of Higher Returns,” Schulte and The Deal Third Annual Private Capital Symposium, May 2006

- “Activist Investing,” Schulte 15th Annual Private Investment Funds Seminar, January 2006
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Memberships

- Member, Long-Range Issues Affecting Business Law Practice, American Bar Association
- New York State Bar Association
- Member, Committee on Corporation Law, 1984-1987, 1990-1994; Member, Committee on Mergers, Acquisitions and Corporate Control Contests, 1994-2002; 2006-2010, New York City Bar Association
- The Opportunity Network

Distinctions

- Served as counsel to publicly-traded retailer Charming Shoppes Inc. on its merger with Ascena Retail Group Inc., a transaction named the 2012 “North America Corporate Deal of the Year” by Global M&A Network and the 2012 “Corporate/Strategic Acquisition Deal of the Year” by *The M&A Advisor*
- Represented Morton’s Restaurant Group Inc. in its acquisition by affiliates of Tilman J. Fertitta, a transaction named the 2012 “Americas Industry Real Estate Hospitality Deal of the Year” by Global M&A Network
- Represented Cerberus Capital Management in its acquisition of Caritas Health Care, a transaction named by Global M&A Network as the “North America Private Equity Deal of the Year” and by *Investment Dealers’ Digest* magazine as the 2010 “Deal of the Year” in the health care category
- *The American Lawyer* – “Dealmaker of the Year” for work on some of the fiercest shareholder activism campaigns and proxy contests in the market, 2014, and for role as lead counsel in Cerberus Capital Management’s acquisition of majority stake in GMAC, 2007
- *Chambers USA* – Band 1
- *The Legal 500 US*
- *IFLR1000*
- *The Best Lawyers in America*
- *Lawdragon 500* – Leading Dealmakers in America, 2007
- *New York Super Lawyers*