



C Evan Stewart

Partner

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Practice Areas

Litigation and Arbitration, White Collar Defense, Class Action Defense, Commercial Litigation, Securities Litigation, Arbitration and Mediation, Appellate Practice

Education

Cornell University Law School (J.D. 1977); Cornell University (B.A., *cum laude*, 1974); Westminster School, (*cum laude*, 1970)

Bar Admissions

New York State; U.S. District Courts for the Southern and Eastern Districts of New York; U.S. Court of Federal Claims; U.S. Court of International Trade; U.S. Court of Appeals for the Second, Third, Fifth, Sixth, Seventh, Ninth, and Tenth Circuits; District of Columbia Circuit; U.S. Supreme Court

Mr. Stewart's practice principally focuses on the financial services industry, handling litigation matters for domestic and international clients before federal and state trial and appellate courts, in arbitration forums, as well as before the Judicial Panel on Multidistrict Litigation and the U.S. Supreme Court. He advises clients on a range of complex commercial matters, including antitrust, bankruptcy, class action defense, ethics, intellectual property, internal investigations, securities litigation, and tax controversies.

Mr. Stewart was featured by the *New York Law Journal* in the "Top Trials of 2005" for his successful representation of Theodore Sihpol, the first person in U.S. history to be criminally charged for "late trading" mutual funds. More recently, Mr. Stewart successfully represented Gary Prince against the U.S. Securities and Exchange Commission. In May of 2013, after a three week bench trial in federal court, the judge dismissed all six charges of securities fraud against Mr. Prince.

With substantial experience in the financial services industry, Mr. Stewart served twelve years as Executive Vice President and General Counsel for The Nikko Securities Co. International Inc., as well as a director of Nikko Financial Services Inc. Additionally, Mr. Stewart served as First Vice President, Associate General Counsel, and Head of Litigation at E.F. Hutton & Company Inc. Since 2003, Mr. Stewart has been tasked by Goldman, Sachs & Co. to be responsible for, among other things, overseeing and litigating all of the disputes arising out of the company's Private Wealth Management Division.

Mr. Stewart has been recognized by *Legal 500* since 2015, *Super Lawyers* since 2009 for securities litigation, and has also been hailed as a "Local Litigation Star" by *Benchmark Litigation* since 2009. In 2016, Mr. Stewart received the *Stanford D. Levy Award* from the New York State Bar Association's Ethics Committee for having "significantly contributed to an understanding of professional ethics by the publication of an article, commentary or a series of articles or commentaries on the subject". In 2008, he received the Modaq Content Award for writing the most popular article in the United States. Since 1980, Mr. Stewart has been AV(R) Peer Review Rated by Martindale-Hubbell.

Mr. Stewart is a visiting professor at Cornell University and an adjunct law professor at Fordham Law School. He is a contributing columnist for the *New York Law Journal*, *New York Business Law Journal*, and the *Federal Bar Council Quarterly*, and has published approximately 300 articles on a variety of legal subjects; he is also frequently featured in the national media and regularly speaks across the country on securities, professional responsibility, and complex litigation issues.

Representative Matters

In 2013, Mr. Stewart dealt the U.S. Securities and Exchange Commission (SEC) a resounding loss with his successful representation of Gary Prince, a former corporate executive who was charged with six independent fraud claims under the federal securities laws. Mr. Stewart led the defense of Mr. Prince throughout a seven-year process of in-depth investigations, which culminated in a three-week bench trial in federal district court. At trial, Mr. Stewart argued that, contrary to the SEC's claims, Mr. Prince acted in good faith, and on the basis of repeated legal advice. On May 2, 2013, the Hon. Gladys Kessler found in Mr. Prince's favor, rejecting each of the SEC's fraud claims. In doing so, Judge Kessler found that there was no conspiracy, no investor harm, and no material misrepresentations. She also found that a national law firm had been actively engaged in all the issues that the SEC charged as fraudulent and had consistently opined that Mr. Prince and his employer were in full compliance with the federal securities laws (see 2013 WL 1831841 (D.D.C. May 2, 2013)).

Mr. Stewart successfully represented Theodore Sihpol, who was criminally prosecuted by the New York Attorney General for allegedly "late trading" mutual funds. After a seven-week trial in 2005, Mr. Sihpol was acquitted by the jury on 29 felony counts. He also represented Mr. Sihpol in the parallel SEC enforcement proceeding, as well as in civil proceedings before the Judicial Panel on Multidistrict Litigation and the Delaware Chancery Court.

Mr. Stewart successfully represented the Deputy Secretary General of the United Nations with respect to the investigation into the Iraq Oil for Food Program.

Mr. Stewart successfully represented Goldman, Sachs & Co. with respect to multi-million dollar claims by a foreign currency trader, defeating actions brought in a Singapore court, the Southern District of New York, the Second Circuit Court of Appeals, and before the Commodity Futures Trading Commission.

Mr. Stewart successfully represented Goldman, Sachs & Co. in a FINRA arbitration seeking \$15 million relating to investments which were allegedly unsuitable for the claimants. After a two-week hearing, all claims were rejected and Goldman was awarded \$500,000 in attorneys' fees.

Mr. Stewart successfully represented Goldman, Sachs & Co. in a FINRA arbitration for more than two years of hearings; multimillion dollar claims arose out of a limited partnership investment, which was allegedly unsuitable for the claimant. The panel rejected these claims.

Mr. Stewart successfully represented Goldman, Sachs & Co. in an international arbitration relating to a complex derivatives strategy employed by the claimant in a non-discretionary account; damage claims of \$90 million were rejected in their entirety after a two-week hearing.

Mr. Stewart successfully represented Goldman, Sachs & Co. in a putative class action in federal court in Indiana relating to a limited partnership investment. The case was dismissed on motion.

Mr. Stewart successfully represented Michael Fishoff with respect to a complex options dispute with his former employer, at which he was the Chief Financial Officer. Mr. Fishoff prevailed both before the district court (see 676 F. Supp. 2d 209 (S.D.N.Y. 2009)) and the Second Circuit Court of Appeals (see 634 F.3d 647 (2d Cir. 2011)).

Mr. Stewart successfully represented a senior corporate executive in a lengthy dispute regarding corporate options. After cross-motions for summary judgment before the Chancellor in the Delaware Chancery Court, the Chancellor ruled in favor of his client and rejected the corporation's positions in their entirety.

Mr. Stewart successfully represented Goldman, Sachs & Co. in a federal bankruptcy proceeding in the Northern District of Illinois. After a two-week bench trial, Goldman prevailed against the Bankruptcy Trustee, who had attempted to vitiate Goldman's ownership interest in margin loans exceeding \$4 million. Goldman thereafter received an additional \$2 million in attorneys' fees for litigating the dispute.

Mr. Stewart successfully represented Goldman, Sachs & Co. in federal court in New Jersey on alleged "Madoff" related claims (see 2010 WL 5186180 (D.N.J. 2010)).

Mr. Stewart successfully represented Goldman, Sachs & Co. in federal court in New York (S.D.N.Y.) with respect to auction rate securities claims.

Mr. Stewart successfully represented ABN Amro with respect to an alleged international money laundering scheme. His client prevailed both at the trial court level and in the Appellate Division, First Department (see 853 N.Y.S. 2d 878 (1st Dep't 2008)).

Mr. Stewart successfully represented Nikko Securities in defeating class action litigation (see 133 F.R.D. 96 (S.D.N.Y. 1990)).

Mr. Stewart successfully represented NEEI in a Lanham Act prosecution; his client prevailed after a week-long jury trial (see 631 F. Sup. 146 (S.D.N.Y. 1986)).

Mr. Stewart successfully represented (pro bono) an inmate against the Superintendent of the Ossining Correctional Facility. After a jury trial, the client was awarded compensatory and punitive damages. Thereafter, Judge Leonard Sand awarded attorneys' fees (see *New York Law Journal* (July 14, 1986)).

Mr. Stewart successfully represented Penn Central Corp. in multi-billion dollar antitrust litigation (see 42 B.R. 657 (E.D. Pa. 1984); 771 F.2d 762 (3d Cir. 1985); 1982-83 Antitrust Trade Cases (CCH) 65,054 & 65,608 (N.D. Ohio 1983)).

Mr. Stewart successfully represented (pro bono) a family whose apartment was ruined by water damage resulting from landlord's negligence. Summary judgment decision made new law with respect to the warrant of habitability (see 431 N.Y.S.2d 755 (Sup. Ct. 1980)).

Activities and Affiliations

Member, Council on Foreign Relations

Member, Economic Club of New York

Visiting Professor, Cornell University

Adjunct Professor, Fordham Law School

Adjunct Professor, Brooklyn Law School (2001 - 2008)

Member, Pace Law School Investor Rights Project Advisory Board

Arbitrator, Financial Industry Regulatory Authority

Mediator, U.S. District Court, Eastern District of New York

Advisory Panel, U.S. District Court, Eastern District of New York

Chair, Practising Law Institute Programs

Columnist, New York Law Journal

Dyson Society of Fellows, Pace University (2007)

Advisory Board, BNA's Class Action Litigation Report

Advisory Board, New York Business Law Journal

Contributing Editor, The Encyclopedia of Venture Capital

Board of Editors, Federal Bar Council Quarterly

Member, New York State Bar Association, (Committee on Professional Responsibility)

Board of Directors, Humanities New York

Former Special Assistant District Attorney, New York City

Former Chair, Federal Regulation Committee, Securities Industry Association

Former Member, Securities Regulation, Professional Responsibility, Corporate Law Department, Asian Affairs, Uniform Laws & Young Lawyers Committees, Association of the Bar of the City of New York

Former Trustee, Federal Bar Council, Westminster School, America Historical Association, Young Women's Christian Association of the U.S.A., YMCA Camping Services

Board of Directors and Secretary, Cape Arundel Golf Club

Board of Directors and Secretary, Arundel Beach Club

Cornell University (Board of Trustees; Chair, University Council; Advisory Councils, Cornell Law School, Johnson Museum of Art, University Library, and College of Arts & Sciences)