



Mark S Cohen
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Practice Areas

Litigation and Arbitration, Class Action Defense, Commercial Litigation, Securities Litigation, Directors and Officers Litigation, Aviation Litigation, Real Estate Litigation, Professional Liability, Products Liability, Mass Torts and Consumer Class Actions, White Collar Defense and Regulation, FCPA/Anti-Corruption, Internal Investigations, Regulatory Enforcement, Criminal Defense, Antitrust and Competition Litigation, Employment Law - U.S., Employment Law, U.S. Employment Investigations, Family Office Practice, Corporate, Antitrust and Competition, Antitrust and Competition Regulatory and Enforcement

Education

University of Michigan Law School (J.D., *magna cum laude*, 1987); Cornell University (B.A., Phi Beta Kappa, 1984)

Firm co-founder Mark S. Cohen is the managing partner of C&G's New York office, and head of the firm's Litigation & Arbitration and White Collar Defense & Regulation groups. Mark's litigation practice includes complex commercial disputes, real estate and construction litigation, securities litigation, employment litigation, and antitrust litigation. He also represents companies, corporate boards, board committees, and individual clients in white collar criminal cases, federal and state regulatory proceedings, and corporate internal investigations.

Mark is a fellow of the American College of Trial Lawyers. He maintains an active trial practice of both civil and criminal cases and has tried approximately 25 cases to verdict. He led C&G teams to two of the most significant victories in highly contested cases of the past five years. In one case, C&G achieved a complete victory against the SEC following a two week jury trial in the representation of a former hedge fund analyst in an insider trading case. Mark was subsequently selected as a Litigator of the Week by *AmLaw Litigation Daily*. Mark also led a C&G team to a landmark victory in a high-profile FCPA case on behalf of a former investment analyst with one of the world's largest publicly traded hedge funds, which resulted in C&G's nomination for *Global Investigation Review's* Most Important Court Case of the Year award in 2018.

Since 2011, he has served as the court-appointed monitor for the largest fire department in the country. The monitorship involves implementing the U.S. District Court for the Eastern District of New York's remedial order following a lawsuit alleging racial discrimination.

Prior to co-founding Cohen & Gresser, Mark served as an Assistant United States Attorney for the Eastern District of New York and formerly practiced with Fried, Frank, Harris, Shriver & Jacobson. He is a *magna cum laude* graduate of the University of Michigan Law School, where he was a Note Editor of the Law Review.

Mark has been ranked by the *Chambers USA* guide as a Leading Individual in the white collar crime and government investigations category each year since 2013 and has been recognized in its securities litigation category since 2016. *Chambers USA* also nominated Mark for its White Collar Crime & Government Investigations individual award in 2016. Clients refer to Mark as "a skilled litigator" who is "smart, practical, persuasive, and diplomatic." He is recognized in *The Legal 500's U.S.* guide in the categories of corporate investigations and general commercial disputes, and is ranked as a Leading Lawyer in the securities litigation defense and white collar criminal defense categories. *The Legal 500* commentary describes him as "an outstanding trial lawyer and strategist who has excellent judgment," and "highly intelligent and strategic, great on his feet, has outstanding judgment and instincts, a calming and reassuring presence as a counselor, and is appropriately aggressive and tough when and as needed." The guide has further described Mark as a "formidable" trial lawyer within the securities litigation space. Both *Chambers* and *The Legal 500* commentary refer to Mark as an excellent trial attorney noting that "he stands out for his combination of skill, thoughtfulness and tenacity during investigations with seasoned trial expertise during litigation." Mark is regularly recognized by *The Best Lawyers in America* for white collar criminal defense, and is a former member of *Law360's* editorial advisory board for its white collar coverage. He has also been named a Local

Bar Admissions

New York State; U.S. District Courts for the Southern and Eastern Districts of New York; U.S. Court of Appeals for the Second Circuit

Litigation Star in each edition of *Benchmark Litigation* since 2012. *Super Lawyers* has recognized Mark on its annual New York Metro Super Lawyers list for business litigation each year since 2008, has named him one of the top 100 lawyers in the New York metropolitan area each year since 2014, and named him one of the top 10 lawyers in the New York Metropolitan area in 2023. Mark has also been recognized by *Lawdragon* as one of the 500

Leading Litigators in America.

For many years, he has been a visiting lecturer at the Sorbonne in Paris, teaching a course to French law students on U.S. white collar criminal law.

Litigation

Appointed Court Monitor by the United States District Court for the Eastern District of New York in *United States of America and The Vulcan Society v. The City of New York*. Duties and responsibilities include oversight of the recruiting, testing, hiring, training, and promotions of minority firefighters in the Fire Department of New York.

Representation of a major U.S. broker-dealer in connection with a series of FINRA arbitration proceedings arising out of the sale of auction rate securities and the subsequent collapse of the auction rate securities market. The first two completed arbitrations, which in aggregate sought damages in excess of \$90 million, have resulted in outright victories for the client.

Successfully represented renewable energy company in obtaining declaratory judgment in contract dispute with shareholders and former executive that was affirmed on appeal.

Represented a major Texas-based hedge fund in connection with a complex civil litigation brought in the Commercial Division of the New York State Supreme Court relating to the client's participation in a \$400 million lending syndicate under a credit facility and the borrower's (a major television station owner) alleged violation of various financial covenants in the operative credit agreement.

Represented a major New York-based hedge fund in connection with certain issues arising in the Drier LLP bankruptcy, in which our client is a major creditor. On an expedited schedule, we filed briefs and presented arguments in both the United States District and Bankruptcy Courts for the Southern District of New York; our client's interest in preventing the inequitable distribution of estate assets was protected.

Represent a family-owned business seeking more than \$285 million in damages in a FINRA arbitration against six former Lehman Brothers representatives in connection with purchase of complex securities in violation of various federal security laws, FINRA rules, and common law.

Represented a major United States airline in connection with litigation in the Southern District of New York and Western District of North Carolina related to contract disputes arising out of the airline's lease of several Boeing 737 commercial aircrafts.

Represented a leading geothermal power company seeking a declaratory judgment sustaining the validity of agreements related to a \$100 million financing of the company by institutional investors; obtained summary judgment in favor of our client.

Representation of a major Fort Worth, Texas hedge fund in connection with litigation adverse to Carl Icahn and Icahn-affiliated entities related to the debt and equity securities of Federal Mogul Corp.

Represented three major private equity firms in an interpleader action brought by an escrow agent in connection with a multimillion dollar sale of an international packaging company; obtained a favorable settlement for our clients resulting in the release of most of the remaining funds.

Representation of Special Litigation Committee of the Board of Directors of a Fortune 500 software manufacturer on derivative claims brought in the name of the client corporation.

Representation of major real estate developer in multiple litigations arising from dispute over dissolution of partnership between founding members.

Representation of major financial institution in litigations and arbitrations in connection with various trading issues, including dispute over stock lending transactions.

Regularly provide pre-litigation counseling to sophisticated financial professionals on issues related to non-competition agreements, compensation, and other employment matters.

Representation of a Fortune 500 financial services company in connection with review of accounting and tax claims.

Representation of foreign hotel chain in litigation over New York development project.

Representation of major airline in multiple litigations regarding aircraft leasing and returns and airport construction.

Successfully represented renewable energy company in obtaining declaratory judgment in contract dispute with shareholders and former executive that was affirmed on appeal.

White Collar Defense

Representation of former Wynnefield Capital hedge fund analyst Peter Black in *SEC v. Obus*, an insider trading case brought by the SEC in the Southern District of New York, in which the jury returned a unanimous defense verdict after a two-week trial.

Represented a senior corporate executive in connection with a Department of Justice investigation of alleged price-fixing in the market for TFT-LCD display panels.

Represented a former senior trader in connection with a Department of Justice investigation of alleged bid-rigging in the market for municipal bonds and related derivative securities.

Represented the President of a Dallas-based natural gas trading firm in connection with a joint investigation by the CFTC and Manhattan District Attorney's Office alleging impropriety in natural gas futures trading.

Representation of a manufacturer of natural hand sanitizer and surface disinfectant products in connection with an investigation by the Maryland Attorney General's Office related to sales practices and advertising claims.

Representation of senior executive of Fortune 500 distribution company in connection with civil and criminal investigations into accounting issues, including revenue recognition issues.

Representation of senior executive of Fortune 500 reinsurance company in connection with various civil and criminal investigations.

Representation of various broker-dealers in criminal and civil investigations focusing on trading, net capital, and compliance issues.

Represented senior executives of Fortune 500 company in connection with market timing investigations.

Representation of executives of Fortune 100 pharmaceutical company in connection with internal investigation into accounting issues relating to revenue recognition and inventory management.

Representation of senior member of the coaching staff of NCAA Division I University, in connection with NCAA investigation and proceeding.

Representation of board member and other executives of major equipment rental company in connection with various civil and criminal investigations.

Representation of senior executive of major airline in connection with criminal antitrust investigation relating to airline fuel and cargo prices.

Representation of executives of major financial institution in connection with investigation relating to Regulation SHO and short selling.

Trials and Appeals

Mr. Cohen maintains an active trial practice of both civil and criminal cases and has tried approximately 25 cases to verdict. He has appeared numerous times before the United States Court of Appeals for the Second Circuit.

Activities and Affiliations

Fellow, American College of Trial Lawyers (Federal Rules of Evidence Committee, Chair, 2020-2022), (New York Downstate Committee, Chair, 2022-present)

Member, Federal Bar Council

Visiting Lecturer, Sorbonne University (Paris)

Member, Securities Industry and Financial Markets Association (Compliance and Legal Division)

Former Member, Law360 Editorial Advisory Board (for White Collar Coverage)

Member, American Bar Association (Section on Litigation)

Former Co-Chair, Securities Subcommittee of the Committee on Commercial and Business Litigation, American Bar Association

Member, New York City Bar Association

Board of Trustees, Supreme Court Historical Society

Board of Directors, New York Council of Defense Lawyers, 2008-2011

Member, UJA-Federation of New York (Lawyers Division, Criminal Law Group)