

Peter Isajiw

Partner

Trial and Global Disputes

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Peter Isajiw focuses on complex commercial and securities litigation, as well as regulatory investigations. He represents corporations, financial institutions, directors, officers, and other individuals in high-stakes litigation involving business disputes, securities laws and regulations, transactional litigation, fraud, breach of contract, corporate governance and the fiduciary obligations of corporate directors. He also assists clients with regulatory enforcement matters and government investigations.

Peter has been recognized by *Legal 500 U.S.* as a Key Individual for securities and shareholder litigation, and has received the publication's Recognition of Excellence. Super Lawyers has listed him as a top rated business litigation attorney in its New York Metro edition each year since 2014. Both the *New York Law Journal* and *Super Lawyers* named him as a Rising Star in 2013.

Peter has also been honored with the *Burton Award for Distinguished Legal Writing* for his article, "Cybersecurity Risks Reviewed: Directors and Officers Must Be Proactive and Prepared," published in the *Bloomberg BNA Corporate Accountability Report*.

Matters

Mr. Isajiw's representations include:

Complex Commercial and Securities Litigation

Darwin Deason, Xerox's third-largest shareholder, in a successful action to stop Fuji from acquiring control of Xerox in a proposed \$6.1 billion Xerox-Fuji merger. Following a two-day evidentiary hearing in New York Supreme Court, the court preliminarily enjoined the transaction and, for the first time under New York law, the court also allowed Xerox shareholders to nominate new director candidates even though the company's notice deadline had passed.

Deutsche Bank Securities Inc., in connection with defeating a New York state court breach of contract action alleging the improper refusal to close on a \$150 million real estate loan due to lack of interest in the CMBS market.

A leading global alternative asset manager and lender, as administrative agent, in connection with successfully securing both a temporary restraining order (TRO) and a preliminary injunction preventing the borrowers and guarantors of debt obligations in excess of \$158 million from

interfering with the firm's exercise of lender rights to replace management and organize an orderly sale of borrower assets to repay the defaulted debts.

Global Brokerage, Inc., (formerly known as FXCM), its CEO, CFO and Board of Directors in a federal securities class action filed in SDNY alleging claims under Sections 10(b) and 20(a) of the Securities and Exchange Act of 1934. Following an evidentiary hearing, defeated class certification for FXCM notes holders by successfully challenging plaintiffs' assertions of market efficiency and the presumption of class wide reliance for these securities.

A leading global renewable energy company as plaintiff in a JAMS arbitration against a competitor for the violation of a wind rights agreement in connection with neighboring wind farm projects.

Multiple private equity investors in three parallel AAA arbitrations and one related Federal Court litigation concerning power plant projects.

Private equity firm as plaintiff in a breach of contract action against a competing private equity firm arising from a failed bid to purchase assets in the telecommunications industry.

Genuine Parts Company in Delaware Chancery Court in an action arising from the termination of an M&A agreement.

Equifax in the defense of more than 250 consumer class actions relating to the data breach announced in September, 2017

AT&T in connection with disputes with Yahoo! concerning data breach matter

Deutsche Bank Securities Inc. in 26 class actions consolidated in the Southern District of New York claiming violations of Antitrust laws and the Commodity Exchange Act for alleged manipulation of gold and gold derivative prices, and six class actions making similar allegations concerning silver and silver derivatives.

The Special Committee of Directors exploring strategic bankruptcy alternatives for **Digital Domain Media Group (DDMG)**, a digital effects provider responsible for visuals in movies including "Iron Man 3," the "Transformers" and "Titanic" and for creating virtual performers such as the "Hologram Tupac" at the 2012 Coachella festival.

The Outside Directors of DDMG in a Section 11 securities class action and multiple state court matters alleging negligent misrepresentation, aiding and abetting fraud, and civil conspiracy, arising from purported misstatements concerning DDMG's financial condition.

The CEO and Chairman of KIT digital Inc., a premium video management software provider, in a federal securities class action and several shareholder derivative suits stemming from financial restatements and disclosures of material weaknesses in the company's internal controls over financial reporting.

The Home Depot in multiple putative class action complaints alleging violations of the Consumer Protection Acts of various states as well as violations of the federal Telephone Consumer Protection Act.

Deutsche Bank Securities Inc. in multiple lawsuits against leading prime brokers alleging, among other claims, unlawful securities market manipulation, state RICO and federal antitrust law violations in connection with purportedly illegal "naked short selling" practices.

MBIA Insurance Corp. in connection with a New York State Court action for fraud and breach of contract related to financial guaranty insurance policies issued for multi-billion dollar residential mortgage-backed securitizations sponsored by Residential Funding Corp.

The United States Treasury Department Presidential Auto Task Force in connection with the Chrysler bankruptcy proceedings.

Omnicare, Inc., the nation's leading pharmaceutical care provider to the elderly, in the enforcement of a multi-million dollar contractual guarantee.

Charming Shoppes Inc., a leading multi-channel specialty women's apparel retailer, in an action seeking to enjoin several hedge funds from violating various Securities Exchange and Clayton Act provisions in connection with a proxy contest.

The former Director of Investor Relations of Abercrombie & Fitch in a federal securities law class action alleging, among other things, selective disclosure of same-store-sales results to favored analysts.

Bank of America in multiple Enron-related lawsuits.

Merrill Lynch, Lehman Brothers, UBS Securities, CS First Boston, Bank of America Securities, CIBC World Markets, Goldman Sachs and Salomon Smith Barney in a federal securities law class action against the underwriters of securities offerings in excess of \$3 billion issued by The Williams Companies.

Regulatory Enforcement and Government Investigations

A major broker-dealer with multiple FINRA investigations related to the Market Access Rule (SEA Rule 15c3-5).

A major broker-dealer with FINRA investigations related to the Customer Protection Rule (SEA Rule 15c3-3).

A major international financial institution with a FINRA investigation concerning alleged rule violations related to certain prime brokerage activities.

A major broker-dealer with a NYSE investigation related to NYSE Rule 122 (orders with more than one NYSE Floor Broker).

A major international financial institution in connection with a CFTC non-competitive trading investigations.

A major international financial institution in connection with a CFTC investigation concerning certain Credit Default Swaps.

A major international financial institution and **two individuals** in a joint investigation by the FBI and SEC concerning the alleged improper use of "stock loan finders" in securities lending transactions.

A large retail mortgage lender in an SEC investigation related to the subprime mortgage crisis.

Pro Bono

A federal death row inmate in successful post-conviction proceedings to vacate the death sentence due to multiple constitutional errors. Despite the client's mental illness, he was improperly

permitted to defend himself on a capital murder charge and sentenced to death based on the faulty testimony of a now-discredited psychiatric expert whose methodology has been rejected as unreliable, unscientific, and unethical “junk science” by the American Psychiatric Association, the Texas Court of Criminal Appeals, and numerous other organizations. Due to his mental condition, the client was unable to adequately defend his innocence. After over a decade of post-conviction litigation, in April 2021 the United States District Court in Waco, Texas vacated the capital conviction and death sentence. The decision represents one of the first applications of the Supreme Court’s landmark ruling in *U.S. v Davis*, which invalidated the residual clause of the Armed Career Criminal Act, a statute that imposed additional punishment on persons with multiple prior convictions based on an unconstitutionally vague and discriminatory definition of “violent felonies.” Peter’s work on this matter was featured in the 2009 *American Lawyer Pro Bono 100* project and nominated for the American Bar Association’s Death Penalty Representation Project’s Exceptional Service Award.

An unmarried woman who was fired because she chose to live with her boyfriend in violation North Carolina’s anti-cohabitation law. The law was declared unconstitutional because it violated the liberty rights established by the Supreme Court’s landmark decision, *Lawrence v. Texas*. As one of the first applications of *Lawrence*, Peter’s work was covered by *The New York Times*, BBC, CNN, *Colbert Report* and other international news outlets.

Working with **Kids in Need of Defense (“KIND”)**, secured Special Immigration Juvenile Status in the U.S. for **3 children** who entered the US immigration system without parents or guardians.

Assisted a **low-income immigrant victim of domestic violence** with minimal English-speaking abilities obtain legal status under the Violence Against Women Act.

Secured asylum for a **woman facing severe political persecution** in her home land of Moldova.

Credentials

EDUCATION

J.D., Temple University, Dean's List

B.A. Sociology, Villanova University, honors program

ADMISSIONS

Supreme Court of the United States

U.S. Court of Appeals for the Second Circuit

U.S. Court of Appeals for the Fifth Circuit

U.S. District Court for the Eastern District of New York

U.S. District Court for the Northern District of New York

U.S. District Court for the Southern District of New York

New Jersey

New York

CLERKSHIPS

Law Clerk, Honorable Yvette Kane, U.S. District Court for the Middle District of Pennsylvania

ASSOCIATIONS

Empire State Counsel, New York State Bar Association, 2013-2014

Recognition

Distinguished Legal Writing Award for “Cybersecurity Risks Reviewed” — Bloomberg BNA

Corporate Accountability Report

BURTON AWARDS, 2015

Key Individual: Securities and Shareholder Litigation

LEGAL 500 U.S.

Recognition of Excellence: Securities and Shareholder Litigation

LEGAL 500

"Terrific attention to detail and subject-matter knowledge."

LEGAL 500

Top Rated Business Litigation Attorney

SUPER LAWYERS, NEW YORK METRO EDITION, 2014–2019 AND BUSINESS EDITION

Rising Star

SUPER LAWYERS, NEW YORK METRO EDITION, 2013

Rising Star

NEW YORK LAW JOURNAL, 2013

Outstanding Service Award

THE LEGAL AIDE SOCIETY, 2011

Insights

CLIENT ALERT

March 12, 2020

Managing Securities Litigation Risks in a Time of Coronavirus Insecurities

NEWSLETTER

May 13, 2020

Financial Services Focus – May 2020

Financial Services Focus – November 2019

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Events

CONFERENCE

September 12, 2019

Financial Services Summit

SPEAKING ENGAGEMENT

September 2, 2021

Peter Isajiw to Speak at PLI Conference About Ethical Consideration in Internal Investigations

News

CASES & DEALS

March 18, 2021

Global Brokerage, Inc. Wins Opposition To Securities Class Action Certification

May 15, 2020

Next Wave Energy Partners and Energy Capital Partners close financing for Traveler Alkylate Facility

IN THE NEWS

March 23, 2021 • Source: Law360

Israel Dahan, Peter Isajiw, Chelsea Corey, Evan Ennis and Ryan Gabay advise Global Brokerage and former FXCM execs before a New York federal court, which declined to extend a class certification to noteholders of the company

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