



Matthew L. Elkin

Member

New York, Cherry Hill

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Matthew is a seasoned litigator with first-chair trial and arbitration experience. He focuses his practice on complex commercial litigation, including securities, financial services, accountants' liability, health care, real estate, and contracts and business torts. Matt handles both individual and class action litigation.

Matt also defends clients in white collar government and enforcement investigations by the U.S. Securities and Exchange Commission (SEC), U.S. Department of Justice (DOJ), and Financial Industry Regulatory Authority (FINRA). His clients include public companies, officers and directors, investment banks, broker-dealers, investment advisers, and securities industry professionals.

Matt previously practiced at an Am Law 200 firm representing accounting firms and professionals in all aspects of their practice. He advised clients on malpractice litigation, government investigations, AICPA and state ethics proceedings, and risk management. Before practicing law, he provided accounting litigation support and regulatory/compliance services as a senior associate at a Big Four accounting firm.

Matt is a *cum laude* graduate of the Benjamin N. Cardozo School of Law, where he was elected to the Order of the Coif and awarded the Jacob Burns Medal.

Experience

Commercial and Securities Litigation

- Prevailed on behalf of a private medical practice and its majority shareholders in a "business divorce" arbitration against one of their founding shareholders after uncovering that he was working to create a competing practice. After successfully compelling arbitration in NJ Superior Court, contentious motion practice and discovery, and a seven-day hearing, a three-arbitrator AAA panel found that the practice proved its claims for breach of fiduciary duty and breach of contract, and rejected the founder's minority shareholder oppression claim. The panel awarded the practice significant equitable relief, including enforcing a two-year restrictive covenant and ordering that the practice buy out the founder for only one-third of the fair value of his 25 percent interest under their shareholders' agreement's punitive, for "cause" termination provision.
- Represented an OTC public company and its CEO in a seven-day securities fraud trial against the SEC (D. Conn.). Obtained a mixed jury verdict resulting in a more favorable outcome than the SEC's pretrial settlement offers.
- Secured a complete victory for five individual investors on counts of securities fraud under Section 10(b) of the Securities and Exchange Act and Rule 10b-5 thereunder, the New Jersey Uniform Securities Act (N.J.S.A. 49:3-52), and common law fraud following a four-day bench trial in U.S. District Court for the District of Delaware. The court found that the defendant fraudulently induced them to invest in what he claimed was a revolutionary pharmaceutical packaging company, and then misappropriated their funds to support his lavish lifestyle and pay back earlier undisclosed investors in classic Ponzi scheme style. The court awarded the investors the entirety of their investment losses, prejudgment interest, and punitive damages. This result was affirmed by the U.S. Court of

Practice Areas

- Securities Litigation & SEC Enforcement
- Financial Services
- White Collar Defense & Investigations
- Class Actions
- Commercial Litigation

Education

- Benjamin N. Cardozo School of Law, Yeshiva University, J.D., *cum laude*, 2010
- University of Michigan, B.A., 2007

Bar Admissions

- New York
- New Jersey

Court Admissions

- U.S. District Court -- Southern District of New York
- U.S. District Court -- Eastern District of New York
- U.S. Court of Appeals for the Second Circuit
- U.S. Court of Appeals for the Third Circuit
- U.S. District Court -- New Jersey

Awards & Honors

- New York Super Lawyers "Rising Star" 2020. This award is conferred by Super Lawyers. A description of the selection methodology can be found [here](#). No aspect of this advertisement has been approved by the Supreme Court of New Jersey.

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Appeals for the Third Circuit.

- Represented three investment funds in a securities fraud action against a major Kazakhstani Bank and a sovereign wealth fund. (S.D.N.Y.)
- Represented the former executive director of the Port Authority of New York & New Jersey in class actions arising out of the “Bridgeway” events in New Jersey. (D.N.J.)
- Represented a life insurance company in a policyholder class action alleging breach of policy terms. (N.D.Ga.)
- Represented an accounting firm in an arbitration against allegations of professional malpractice and overbilling relating to an outsourced CFO engagement. The case settled favorably early in the arbitration process. (AAA)
- Secured a favorable settlement on behalf of the lender of a mortgage loan in a multimillion-dollar suit alleging master servicer and special servicer breaches. (Sup. Ct. NY, Comm. Div.)
- Represented a community group as intervenor/respondent in opposition to an Article 78 proceeding that sought to stop New York City’s Gowanus Neighborhood Plan rezoning (Sup. Ct. NY). The case settled favorably and the rezoning was approved.
- Represented the petitioner in an Article 78 proceeding against the Empire State Development Corporation (Sup. Ct. NY). The respondent reversed its adverse action as part of a settlement and enacted new policies and procedures as a result of the litigation.
- Represented a former shareholder of a purveyor of fine meat in an earnout dispute with a public company that acquired his business.
- Obtained dismissals in parallel securities and bankruptcy liquidation trust litigations for an accounting firm arising out of alleged accounting fraud perpetrated by officers of a Chinese company that was publicly traded on NASDAQ. (D. Nev.)
- Obtained dismissal for an accounting firm in a securities fraud action. (E.D.N.Y.)
- Represented a regional accounting firm against allegations of audit and tax malpractice involving complex issues of revenue recognition in the software industry and post-closing working capital adjustment. The case settled after three days of arbitration hearing. (AAA and MA Sup. Ct.)
- Represented a property owner against allegations of breach of contract and breach of fiduciary duty by his former business partner. The case settled after two days of bench trial in N.Y. State Supreme Court, Commercial Division. (Sup. Ct. Nassau)

SEC, DOJ, and FINRA Investigations

- Represented a managing director at a major Wall Street financial institution in an SEC market manipulation investigation involving the bank’s role as underwriter for a \$1 billion convertible note offering. Filed a Wells submission on the client’s behalf and convinced the SEC to close the investigation without filing any enforcement action against the client.
- Represented a micro-cap stock research analyst in an SEC investigation into “scalping” and “touting” trading activity and failing to file Forms 3 and 4 stock ownership forms. Filed a Wells submission on the client’s behalf and convinced the SEC staff to drop all scienter-based fraud charges and demand for lifetime officer and director and penny stock bars. Negotiated a favorable settlement for the client for negligence-based violations.

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- Represented two managing directors at an international investment bank in an FCPA investigation by the SEC and DOJ into “sons and daughters” referral hiring practices in Asia.
- Represented the former CFO of a China subsidiary of a Fortune 100 publicly traded company in an FCPA investigation by the SEC and DOJ into the company’s China business practices.
- Represented the managing director at a major Wall Street financial institution in an SEC investigation into 12b-1 fees and mutual fund share class practices.
- Conducted an independent internal investigation on behalf of a Special Committee to the board of directors for a NASDAQ publicly traded medical device company. Investigated and reported to the Special Committee in connection with the company’s restatement of financial results, internal controls weaknesses, and whistleblower allegations of false press releases and earnings calls. The company self-reported the investigation findings to the SEC enforcement division, and the matter was closed without enforcement action.

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