



NEAL  
GERBER  
EISENBERG

## SECURITIES & COMMODITIES LITIGATION

### **NEAL, GERBER & EISENBERG LLP**

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Neal Gerber Eisenberg utilizes its in-depth industry insight and nationwide trial experience to aggressively defend financial services clients in all types of customer disputes, employment disputes and regulatory matters. We advise and defend many of the major national, regional and local broker/dealers and commodities firms, as well as affiliated individuals, across the country. Our in-depth knowledge of the regulatory environment in which these clients operate, coupled with our extensive litigation and arbitration experience, enables us to mount sophisticated, successful defenses in virtually every forum on a cost-effective basis.

**Our services include:**

Litigation and Arbitration

Mediation

Employment Disputes

Regulatory Defense

## LITIGATION AND ARBITRATION

The firm vigorously represents broker-dealers and investment advisors in all aspects of securities and commodities litigation. Our representations have included class actions, mass actions and individual lawsuits in federal and state courts across the country, as well as in arbitration proceedings in all of the major forums, including those of the Financial Industry Regulatory Authority, the New York Stock Exchange, the American Arbitration Association, JAMS, the National Futures Association and in Commodities Futures Trading Commission Reparation Proceedings.

Some of the claims and issues with respect to which we have successfully represented clients include:

- Auction rate securities
- Collateralized debt obligations
- Hedge funds
- Suitability
- Excessive trading
- Unauthorized trading
- Breach of fiduciary duty
- Breach of contract
- Failure to supervise
- Market manipulation
- Online trading
- Blue sky violations
- Analyst recommendations
- Market timing issues
- Insider trading

## MEDIATION

Mediation is increasingly being used as an alternative means to resolve disputes in the financial services industry, as well as elsewhere. When considering mediation, clients need attorneys who are experienced in the process and dynamics of this dispute-resolution method. We help clients determine which cases are likely to be best served through mediation and prepare and present their positions in a manner that is most appropriate for this style of advocacy and resolution.

## EMPLOYMENT DISPUTES

Financial services firms need counsel who are attuned with the special employment issues facing their industry, in addition to those encountered by most other businesses. We handle the full range of employment disputes that arise within these firms, drawing on the skills and experience

of our labor and employment attorneys when necessary in order to present a cohesive, comprehensive defense of our clients' interests.

We have represented clients in employment disputes in federal and state courts and arbitrations around the country. Some of the claims and issues that we have addressed successfully include:

- Gender, race, age, religion and other forms of discrimination
- Sexual harassment
- Constructive discharge and wrongful termination
- Defamation
- Whistleblower
- Incentive compensation plans
- Restrictive covenants and non-compete agreements
- Intellectual property and theft of trade secrets

## REGULATORY DEFENSE

We defend clients in investigations and enforcement actions brought by regulatory bodies across the country, including the Securities and Exchange Commission, the Financial Industry Regulatory Authority, the Department of Labor, the New York Stock Exchange, the American Stock Exchange, the National Futures Association, the Commodity Futures Trading Commission, the Chicago Board of Options Exchange, the Chicago Mercantile Exchange and the Chicago Board of Trade. We develop coordinated, effective strategies to counter the full spectrum of alleged regulatory violations, involving:

- Improper sales practices
- Insider trading
- Failure to supervise
- Corporate disclosure
- Trade allocations
- Registration issues
- Market timing issues
- Free riding and withholding
- Trade execution
- Floor trading practices
- Underwriting practices
- Market manipulation
- Advertising violations
- White-collar crimes

Our attorneys advise clients at every step in the regulatory and disciplinary process, including preliminary investigations, responding to subpoenas for testimony and documentation, and during formal proceedings and trial.



## H. Nicholas Berberian

Partner/Securities & Commodities Litigation  
Practice Group Chair

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H. Nicholas Berberian has represented financial services firms and their employees for more than 40 years before federal and state courts, regulatory agencies, arbitration panels and mediators with respect to a wide range of litigation and regulatory matters. These matters have included securities class actions, mass actions, lawsuits and arbitrations involving investors and employment practices at financial services firms as well as regulatory matters before the Securities and Exchange Commission, New York Stock Exchange, Financial Industry Regulatory Authority, National Association of Securities Dealers, Chicago Board of Options, Chicago Board of Trade, Chicago Mercantile Exchange, Department of Labor and other federal and state agencies.

Nick has been recognized as a leader in *Chambers USA: America's Leading Lawyers for Business* (recommended in "Litigation") since 2006. According to client feedback gathered by *Chambers USA* during the selection process, Nick is described as "detail-oriented, thorough and dogged in getting the best results" and "extremely knowledgeable in the securities area." Also, he is cited as "a securities expert described by peers as 'knowledgeable and practical, with sound judgment.'"

Nick has been selected by his peers for inclusion in *The Best Lawyers in America* and *Illinois Super Lawyers* since 2007.

Nick was appointed as the co-chair of the Securities Litigation Committee of the American Bar Association (ABA) in 2003 for a three year term. From 1993 to 2003, he also served as co-chair of the ABA Subcommittee on Broker/Dealer Litigation and has been co-editor of the *Annual Survey of Broker-Dealer Litigation*, which is published each year by the ABA and the Securities Industry Association. Nick also previously served as a member of the firm's Executive Committee.

Nick was admitted to the Illinois bar in 1978 and is a member of the Trial Bar for the U.S. District Court for the Northern District of Illinois.



## Karl R. Barnickol

Partner

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Consistently labeled a “rising” and “future star” by nationwide legal directories, Karl R. Barnickol has cultivated an extensive litigation practice that mainly concerns the defense of complex mass tort and class action cases. In particular, Karl handles fraud and negligence claims against content providers and software developers, securities and corporate governance litigation, and civil and criminal antitrust investigations and actions. However, his practice is not limited to that scope, as his experience intersects with many other areas of business-related litigation.

Karl has a dependable track record of success for clients in state and federal courts nationwide, both at the trial and appellate levels. His representative clients include Career Education Corporation and WoltersKluwer. Not only does Karl represent companies at the corporate level, but individual officers and directors frequently engage him when faced with complex civil litigation, such as shareholder suits. Additionally, companies and their executives turn to Karl for help when they are targets of regulatory and criminal investigations alleging fraud that involves securities, price fixing and health care claims, among others.

From 2008 to 2010, *Illinois Super Lawyers* listed Karl as a Rising Star, and since 2016 he has been listed as a Super Lawyer. He is also ranked in *Benchmark Litigation* as a Future Star and has been listed in *The Best Lawyers in America* since 2012.



## David A. DeMuro

Senior Counsel

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David A. DeMuro is a member of Neal Gerber Eisenberg's Securities & Commodities Litigation group. Seasoned in the financial services industry, and among the most highly respected professionals in the legal and compliance area of the securities industry, Dave has extensive experience managing and guiding clients through high-stakes securities matters.

Prior to joining Neal Gerber Eisenberg, Dave served as Deputy General Counsel for Regulatory and Government affairs at American International Group. Dave also worked as Senior Counsel for O'Melveny & Myers and spent nearly 25 years working with Lehman Brothers, serving as Managing Director and Head of Global Compliance and Regulation during the last 10 years of his tenure.

Prior to working with Lehman Brothers, Dave spent 10 years with the Securities and Exchange Commission in its Enforcement Division in Chicago and Los Angeles and in its Office of General Counsel in Washington, D.C. Dave also spent 11 years as a member of the Executive Committee of the Securities Industry and Financial Markets Association's (SIFMA) Compliance & Legal Society, including serving as its president from 2003 to 2004. From 2005 to 2010, he was also a member of the Board of Trustees of the SIFMA/Wharton Securities Industry Institute.

Dave was a member of the NASD Board of Governors from 2001 through 2005. From 1999 through 2002, Dave was on the NASD's National Adjudicatory Council, serving as its Chairman from 2001 to 2002. He was on the NASD, now FINRA, Membership Committee from 1998 through 2008. He also served on FINRA's Licensing and Registration Council. From 2004 through 2008, he was a member of the FINRA Compliance Advisory Group. From 1996 through 1998, he served on the Business Conduct Committee of the Chicago Board Options Exchange. From 1993 through 1997, he was a member of the Securities Industry/Regulatory Council on Continuing Education, serving as its Chairman in 1997. From 1998 through 2008, he was on the Council's Regulatory Element content committee.

Dave is routinely lauded throughout the industry, including being named compliance person of the year by the *Compliance Reporter* in 2005. In 2014, Dave received the SIFMA Compliance & Legal Society's Alfred J. Rauschman Award "in recognition of his contribution to the compliance and legal community and a career dedicated to the financial services industry."



## Gregory G. Forfa

Associate

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Gregory G. Forfa is an associate in Neal Gerber Eisenberg's Securities & Commodities Litigation group.

Gregory represents broker-dealers and associated persons in customer and employment disputes in various forums, including before the Financial Industry Regulatory Authority. He also represents clients in commercial litigation matters, regulatory inquiries and investigations.

In law school, Gregory was a member of the Moot Court Honor Society where he competed and coached teams in the ABA National Appellate Advocacy Competition and National Moot Court Competition. Gregory was also a member of the board of the Chicago-Kent Lambdas, an organization that promotes awareness of and advocates for LGBT issues in the law.

Greg earned his J.D., *cum laude*, from Chicago-Kent College of Law in 2013 and his B.A. from University of Massachusetts in 2007.





## Jonathan S. Quinn

Partner

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When the need arises, Jonathan S. Quinn stands ready to wage an aggressive battle in the courtroom and win. As his representative experience indicates, he's a terrific trial lawyer with proven results before judges and juries across the country in all sorts of high-stakes business litigation.

But more often than not, you won't find him in the courtroom. Instead, Jonathan spends most of his day-to-day practice forging meaningful, long-term partnerships with his clients, showing them how litigation can be used as a tool for progress. More than just a hired gun, Jonathan offers legal advice that is tailored to each client's individual circumstances, ambitions and needs.

"I really cherish working with clients to show them how litigation fits into their overall business picture," Quinn said. "When it comes to litigation, there are so many risks, rewards and possible outcomes that it can be very overwhelming. I help my clients understand their options and guide them in decision making to advance their big-picture business objectives."

When not serving clients, Jonathan can be found educating the lawyers of tomorrow. He is an adjunct professor of trial advocacy at Northwestern Pritzker School of Law and is also a faculty member of the National Institute for Trial Advocacy.

Jonathan has been ranked in *Chambers USA: America's Leading Lawyers for Business*. Clients comment that he "does not waver and is not intimidated by the opposition." Jonathan has been selected by his peers for inclusion in *Illinois Super Lawyers* since 2005.

From 1985 to 1988, Jonathan was an assistant district attorney in the New York County (Manhattan) District Attorney's Office.



## Kyle D. Rettberg

Partner

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Kyle D. Rettberg works closely with his clients to understand how they define success in each matter he handles, and focuses on achieving that success in a strategic, efficient manner. He has industry-diverse experience in managing complex commercial litigation. Kyle has defended numerous securities fraud and consumer fraud class actions, as well as shareholder derivative, business tort, and contract cases for clients in the financial services, telecommunications, technology, media, and assisted living sectors.

Kyle's practice concentrates on defending financial services firms. He has represented such firms in both class actions and individual suits in federal and state trial courts throughout the country in connection with securities fraud, market manipulation, RICO, consumer fraud, and common law fraud claims.

In addition, Kyle routinely defends broker-dealers in arbitrations before the Financial Industry Regulatory Authority (FINRA). He has defended major brokerage firms in FINRA arbitrations relating to investment products, including equities, auction rate securities, hedge funds, and alternative investments. Kyle also represents such firms in connection with responding to regulatory investigations or inquiries.

He has drafted appellate briefs in cases before the Second, Seventh, and Ninth Circuit Court of Appeals, and in state appellate courts in Illinois, Michigan and Indiana.

In addition to his litigation work, Kyle has counseled clients in connection with responding to data breaches and related regulatory inquiries.

Kyle is committed to serving pro bono clients. Sidley Austin LLP awarded Kyle the Thomas H. Morsch Award for Pro Bono Achievement in recognition of his successful representation of a Mauritanian refugee seeking political asylum in the United States. His other pro bono experience includes trying a breach of contract matter in Illinois state court and representing a criminal client in a post-conviction appeal before the Seventh Circuit Court of Appeals.

Kyle received his J.D., with honors, from The University of Chicago Law School in 1998 and his A.B., *summa cum laude*, from Wabash College in 1995.



## Jerry M. Santangelo

Partner

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Jerry M. Santangelo represents individuals and corporations in investment and employment disputes including securities and commodities lawsuits, regulatory matters, restrictive covenants and trade secrets cases, “raiding” disputes in the financial services industry, complex commercial disputes including class action lawsuits and defending employment-related claims, including, by way of example, claims by former employees for discretionary bonuses, restituted stock and options awards, claims of discrimination and harassment.

Jerry has litigated and tried a wide range of cases in arbitration and federal and state courts throughout the country. He has represented securities brokerage firms and brokers in hundreds of different matters. Jerry has personally tried over 125 securities arbitrations, including many customer disputes and employment-related matters, that went to judgment, and has received four arbitration awards of attorneys’ fees against claimants who brought customer disputes against broker/dealers.

Jerry earned his J.D. in 1984 from DePaul University, where he was lead articles editor for the *DePaul Law Review*. In 1981, he graduated from Miami University with a B.S.

Jerry was admitted to the Illinois bar in 1984. He is admitted to practice before the U.S. District Court for the Northern District of Illinois and the U.S. Courts of Appeals for the Fourth, Seventh, District of Columbia and Federal Circuits. He is an active member of the Legal and Compliance Division of the Securities Industry Association.



## Phillip L. Stern

Senior Counsel

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Phillip L. Stern concentrates his practice in securities and commodities regulatory defense and litigation, arbitrations and mediations and also handles corporate internal investigations and lawsuits involving liability of officers, directors, accountants and law firms.

Prior to joining private practice, Phillip served 10 years with the Securities and Exchange Commission (SEC) in Chicago, the last five as Assistant Regional Administrator for Enforcement, and also served as a Special Assistant U.S. Attorney. He regularly represents clients throughout the country in connection with investigations undertaken by SEC, the Commodity Futures Trading Commission, the Chicago Board Options Exchange, the New York Stock Exchange and FINRA. Phillip also represents these clients in related criminal investigations and civil litigation. Phillip has extensive trial experience in both state and federal courts and before regulatory agencies. He also serves as a mediator for trading-and commercial-related disputes. He has been a court-appointed receiver in several SEC proceedings including overseeing the liquidation of three public mutual funds and a trust company.

Phillip has represented JPMorgan Chase, Morgan Stanley, Deutsche Bank, Susquehanna International and UBS. He has also been retained by numerous investment banks and brokerages to represent the company's individual financial advisors. Additionally, Phillip has also represented senior financial officers in Fortune 500 companies as well as board members.

Phillip earned his J.D., *cum laude*, in 1975 and B.S.C. degree in 1971 from DePaul University. He was admitted to the Illinois bar in 1975.



## Tina L. Winer

Partner

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Tina L. Winer has represented clients in matters arising from investment and employment disputes for more than twenty years. Tina's practice focuses primarily on representing financial services firms and their employees in arbitration and mediation, as well as regulatory investigations and litigation in federal and state court. Tina's employment-related matters include arbitration and mediation of claims alleging discrimination, harassment, wrongful termination, constructive discharge, defamation and compensation-related claims. Tina has also engaged in general commercial litigation involving business torts, contract disputes, products liability defense and civil rights litigation.

Tina has been selected by her peers for inclusion in *The Best Lawyers in America* since 2015, and has been a contributor to the ABA Annual Broker-Dealer Survey of Securities and Commodities Litigation since 1994. She also served as a member of the Leadership Advisory Committee for the National Women's Law Center from 2014-2016.

Before joining the firm, Tina served as a law clerk for the U.S. Department of Justice and an intern at the U.S. Attorney's Office in Washington D.C.

Tina earned her J.D. from the University of Illinois College of Law in 1994. In 1991, she graduated with a B.A. from the University of Illinois at Urbana-Champaign.

Tina was admitted to the Illinois bar in 1994 and the Federal Trial bar in 1999.

## FIRM OVERVIEW

Neal Gerber Eisenberg is a Chicago-based law firm whose attorneys share a culture of teamwork and devotion to personalized client service to advance our clients' business interests. Our attorneys provide legal business solutions to public and private entities of all types—including Fortune 100 companies, financial institutions, nonprofits and high net worth individuals—in connection with domestic and global business transactions and litigation. Our full service firm is large enough to handle nearly any legal matter throughout the world, yet small enough that clients personally know the attorneys accountable to their matters.

Our greatest asset is our people. Lawyers and staff at every level aspire to cultivate long-lasting relationships among one another and with each client. This mindset helps to advance our shared mission to be the best providers of legal services. To every matter, we bring a client-focused approach. First, we listen to our clients and learn about their challenges. We then deploy our collective legal aptitude, experience and industry knowledge to provide sound and cost-effective legal counsel.

We have assembled a “best of the best” roster of attorneys, and we are proud to be recognized nationally and internationally for our knowledge in a variety of practice areas. For 2017, *Chambers USA* ranked 11 of our practice groups and 21 individual attorneys.

The firm's culture of teamwork, focus on client needs and practical solutions, and willingness to adapt quickly to meet marketplace demands are key factors behind our success. In addition to making a positive difference for our clients, our lawyers strive to do the same for their communities. The firm encourages its lawyers to dedicate substantial personal time and effort to pro bono work and community service.

## DIVERSITY INITIATIVES

Neal Gerber Eisenberg is strongly committed to diversity and we encourage our attorneys and staff to recognize the value of diversity in achieving a better work environment and a stronger firm. We recognize that diversity is a vital component of our culture, identity, strategic planning and overall well-being. It fosters equal opportunity, creates an open, positive and satisfying work environment, and promotes the highest standards and ideals of our legal system. By embracing diversity, we reflect that which is great about our community and society at large, we promote creativity, opportunity and professional development at every level, and we best serve our clients' interests.

### We Foster Diversity

We believe the best way to attract, develop, retain and promote diverse talent is to create an environment that respects, supports and rewards individuals on the basis of individual achievement and contribution.

Neal Gerber Eisenberg formalized its diversity efforts in 2002 with the formation of a Diversity Committee, which is composed of attorneys (including partners and associates) from a broad range of practice groups and director-level administrators. The Diversity Committee is accountable directly to the firm's Managing Partner and Executive Committee.

Since its inception, our Diversity Committee has worked to expand and enhance the firm's diversity initiatives and to build upon the philosophy of inclusion long existing in the firm work environment. The Diversity Committee also launched two significant subgroups within the firm. Called the Women's Network and the Minority Initiative, these two groups are designed to support and enhance opportunities to women and minorities, respectively, and to provide forums for them to network and develop, personally and professionally, both inside and outside of the firm.

### We Look To the Future

We strive to keep our diversity efforts focused on the future—on what we can be and accomplish. We will continue to respect, support, and reward individuals on the basis of personal achievement and contribution, and to encourage attorneys and staff to recognize the value of diversity in achieving a better work environment and a stronger firm.



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