



## David H. McGill

Lawyer

### NEW YORK

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David McGill is a versatile litigator and investigator whose practice resides at the intersection of finance and technology. Mr. McGill frequently acts as lead counsel for companies and individuals involved in complex disputes, often with significant regulatory implications. His practice also includes conducting confidential internal investigations in response to whistleblower claims and defending clients in government enforcement matters. *The Legal 500* reports that Mr. McGill has earned a reputation among clients for dispensing “invaluable and practical, business-oriented advice,” and his approach to cross-border matters has been praised as “insightful, uber responsive and fearless.”

Known as an aggressive advocate, Mr. McGill is often retained by hedge funds and proprietary trading firms in disputes involving allegations of spoofing and market manipulation, as well as other matters involving complex financial products such as derivatives, SSA bonds and digital currencies. Leading legal and business publications also regularly quote Mr. McGill as a thought leader on matters involving algorithmic trading and digital currency regulation.

Mr. McGill’s practice also extends to intellectual property disputes, in which he regularly represents technology and media companies in matters involving allegations of trade secret misappropriation, licensing disputes, unfair competition and IP infringement.

Before joining Kobre & Kim, Mr. McGill practiced at Mayer Brown LLP, representing clients in complex civil litigation, intellectual property disputes and financial products arbitrations.

### Admissions

- New York
- U.S. Supreme Court
- U.S. Court of Appeals for the Second Circuit
- U.S. Court of Appeals for the Seventh Circuit
- U.S. District Court for the Eastern District of New York
- U.S. District Court for the Southern District of New York
- U.S. District Court for the Northern District of Illinois
- U.S. District Court for the Northern District of Illinois, Trial Bar

### Education

- University of Virginia Law School, JD
- Colby College, BA

### Accolades

*New York Metro Super Lawyers*  
*The Irish Legal 100*

# KOBRE & KIM

*Who's Who Legal, Asset Recovery*  
*The Legal 500 United States, General Commercial Disputes*  
*The Legal 500 United States, International Litigation*

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## **Select Engagements**

### **Financial Products & Services Litigation**

- Defense of a proprietary trading firm in arbitration involving allegations of illegal “spoofing” activity in relation to U.S. Treasury futures on the Chicago Board of Trade exchange, resulting in award in client’s favor inclusive of attorneys’ fees.
- Defense of algorithmic trader in arbitration involving allegations of manipulation of digital currency markets, resulting in dismissal of all claims without any payment by the client.
- Defense of a proprietary trading firm in civil action alleging disruptive trading and market manipulation in U.S. Treasury futures markets, resulting in dismissal of claims following motion to dismiss.
- Representation of major financial firm in international arbitration over disputed commodity swaps transaction under an International Swap Dealers Association agreement, resulting in award in client’s favor.

### **Class & Derivative Actions**

- Representation of a European company specializing in hedge fund administration in putative class action filed by investors in so-called feeder funds that held securities with Bernard L. Madoff Investment Securities LLC.
- Representation of an individual defendant in an antitrust class action concerning alleged collusive activities to fix the prices of supranational, sub-sovereign and agency bonds sold to and purchased from investors in the secondary market.

### **Government Enforcement Defense**

- Lead counsel in defending John Pacilio against charges of wire fraud, commodities fraud, and spoofing arising from trading activity in commodities futures markets.
- Lead counsel in representing technology firm in responding to U.S. Department of Justice (DOJ) investigation related to alleged computer fraud and abuse.
- Representation of individual digital currency trader in responding to U.S. Commodity Futures Trading Commission (CFTC) investigation relating to alleged manipulation of discrete digital currency markets.

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- Representation of Michael Coscia, a high-speed commodities trader, in post-conviction initiatives (including expected appeal to the U.S. Court of Appeals for the Seventh Circuit) following his conviction at trial arising from allegations of commodities fraud and spoofing in futures markets. Mr. Coscia is the first individual ever charged under the federal criminal anti-spoofing statute.
- Representation of trader at proprietary trading firm in investigation conducted by U.S. Attorney's Office for the District of Connecticut and the U.S. Securities and Exchange Commission (SEC) into common stock trades made in prominent software company.
- Representation of an audit committee of the board of directors at an international consulting firm in connection with internal investigation into revenue recognition practices under investigation by the SEC.
- Representation of Pankesh Patel in the highly publicized, eight-week-long "Foreign Corruption Practices Act (FCPA) sting" trial in Washington DC, resulting in judgment of acquittal in favor of Mr. Patel on an alleged substantive violation of the FCPA and money laundering charge and subsequent dismissal of all remaining charges with prejudice.
- Representation of the board of directors of an international natural resources company in conducting an internal investigation over alleged FCPA violations and the World Bank sanctions regime.

## **Joint Venture & Partnership Disputes**

- Representation of Bahamian resort development in dispute with Chinese contractor over failure to complete construction of luxury resort in accordance with contractual guarantees.
- Advice to a Russian high-net-worth individual regarding potential claims arising from aircraft purchase agreements and related transactions and transfers.
- Representation of a private equity firm and a limited liability company (LLC) that acquired a popular collectibles company in seeking to recover US \$12 million in damages incurred as a result of breach of contract, fraud, and other wrongdoing by the selling company and its officers, directors, and affiliated companies.
- Defense of an investment firm and its founder in an action brought by the court-appointed trustee for the liquidation of Bernard L. Madoff Investment Securities LLC arising from third-party investment in the LLC.

## **Intellectual Property & Technology Litigation**

- Lead counsel for Fortune 50 company in dispute pertaining to technology licensing.

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- Lead counsel for a media technology company in a dispute with competitor involving allegations of misappropriation of IP and computer fraud.
- Representation of multinational technology company and video-sharing company in landmark copyright infringement case brought by a global media conglomerate, culminating in the successful dismissal of all claims on summary judgment based on the safe harbor provisions of the Digital Millennium Copyright Act. Among other things, Mr. McGill played a critical role in preparing and defending his clients' founders and top executives in conjunction with depositions taken during the course of the litigation.
- Representation of UK media company in prosecuting claims for breach of contract and misappropriation of trade secrets against a multinational media conglomerate, resulting in finding of liability in client's favor on summary judgment.
- Represent online media company in responding to cease-and-desist letter from competitor alleging unfair competition, deceptive advertising and copyright infringement.

## Professional & Community Involvement

- Digital Currency & Ledger Defense Coalition, Participating lawyer
- Society of the Friendly Sons of St. Patrick, Member
- GenR (International Rescue Committee), Member
- ABA Business and Corporate Litigation, including subcommittees on Partnership and Alternative Entities and Alternative Dispute Resolutions

## Publications & Presentations

- Co-author, "LedgerX and CBOE: The CFTC's Trojan Horse in an SEC Turf War" (*Coindesk*, August 2017)
- Co-author, "Law firm Calls Bancor ICO Interesting, Cautions Investors Participating in ICOs" (*Crowdfund Insider*, June 2017)
- Co-author, "Initial Coin Offerings: Where the SEC Might Stand" (*Coindesk*, June 2017)
- Author, "'Accidental' Partnership: From Potential Pipeline to Joint Venture Litigation" (*Pipeline & Gas Journal*, December 2015)

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- *The Legal 500*