



Jonathan D. Cogan

Lawyer

NEW YORK

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Jonathan D. Cogan is an experienced trial lawyer who regularly serves as lead counsel in high-stakes complex civil litigation as well as in government enforcement defense matters against the U.S. Department of Justice (DOJ), U.S. Commodity Futures Trading Commission (CFTC) and U.S. Securities and Exchange Commission (SEC), among others.

Praised in *Chambers USA* as “a brilliant lawyer” and “keen strategist” who “distills complex issues into persuasive advocacy,” Mr. Cogan has particular experience representing hedge funds, proprietary trading firms, and their executives, including in disputes involving commodities, securities, futures, derivatives, digital assets and other financial products and services. In trading disputes, he is noted for his “expertise on ... matters relating to market manipulation and spoofing” and is often invited to speak on panels at industry events about enforcement action trends.

Mr. Cogan is also recognized by *The Legal 500 United States* for Dispute Resolution and International Litigation. He has substantial experience litigating joint venture, partnership and other business disputes.

Before joining Kobre & Kim, Mr. Cogan practiced at Simpson Thacher & Bartlett LLP, where he focused on financial services litigation in the securities and insurance industries.

Admissions

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

Education

- University of Pennsylvania Law School, JD, *cum laude*
(*Journal of Labor and Employment Law*, Editor; National Trial Team)
- University of Wisconsin, BA

Accolades

Chambers USA, Nationwide Derivatives: Enforcement, Band 1
The Legal 500 United States, Dispute Resolution: Corporate Investigations and White-Collar Criminal Defense
The Legal 500 United States, International Litigation

Select Engagements

Special Situations Disputes

- Representation of McKinsey and Company related to the highly publicized civil RICO claims brought against it by the founder of AlixPartners in the U.S District Court for the Southern District of New York.
- Representation of Jump Trading LLC in two class action suits related to the crash of the Terra LUNA and UST cryptocurrencies that allege violations of the Exchange Act, Securities Act and the Racketeer Influenced and Corrupt Organizations (RICO) Act, among others.
- Representation of DRW Securities, LLC in two related lawsuits in the U.S. District Court for the Northern District of Illinois involving allegations of market manipulation in connection with the CBOE Volatility Index, known as “Vix”.
- Representation of fund in UK and NY court actions relating to the recovery of over \$100 million of cryptocurrency stolen from certain protocols.
- Representation of the Federal Housing Finance Agency (FHFA), as conservator for Fannie Mae and Freddie Mac, in litigation concerning mortgage-backed securities in which Fannie Mae and Freddie Mac invested.
- Representation of a defendant in a dispute regarding the valuation of various illiquid securities traded in the over-the-counter market.
- Representation of institutional clients in connection with disputes against a large U.S. bank over four credit default swap transactions.
- Representation of a hedge fund investment manager and its principals in litigation over US \$280 million in losses stemming from the Ponzi scheme associated with Bernard Madoff.
- Representation of an investment banking group in connection with a dispute between two international financial institutions involving their respective collateralized debt obligations businesses.
- Defense of a hedge fund administrator in U.S. litigation initiated by a hedge fund investor who claimed the administrator was liable for losses as a result of an alleged Ponzi scheme perpetrated by the fund’s manager. In addition to defending the case in the U.S., the firm gained significant leverage for the client by countering the plaintiffs’ actions by initiating indemnification rights against the fund in Cayman Islands liquidation proceedings.
- Representation of a Cayman Islands exempted company, in an action brought by its liquidators, in connection with a US \$100 million dispute pending in the U.S. District Court for the Southern District of New York concerning catastrophe bonds.

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- Representation of an investment management company principal in a partnership dispute and a derivative action alleging breach of fiduciary duty.
- Representation of the former senior vice chairman of a major insurance company in connection with various derivative and class actions in Delaware and New York.
- Representation of two Russian banks in connection with multiple parallel proceedings in the U.S., the U.K., and Russia involving Russia-law tort claims for \$100 million + in damages against the banks' founder and former senior executives.

Government Enforcement Defense

- Trial counsel for Dr. Salomon Melgen, co-defendant alongside U.S. Senator Robert Menendez, in the highly publicized U.S. Department of Justice (DOJ) corruption case, resulting in a hung jury after a two-month trial, which was widely reported as a victory for the defense. Following the mistrial, the court granted our motion for judgment of acquittal on seven of the 18 counts charged, resulting in the DOJ's dropping the case entirely by dismissing all remaining charges with prejudice.
- Lead trial counsel to a former precious-metals trader. Representation included a high-profile criminal trial against the U.S. Department of Justice (DOJ) resulting in an acquittal on the top count and parallel investigations and proceedings by the U.S. Commodity Futures Trading Commission CFTC into alleged spoofing, fraud, market manipulation and a RICO conspiracy.
- Trial counsel for a John Pacilio, U.S.-based options trader in defending against criminal charges brought by the U.S. Department of Justice (DOJ) in the U.S. District Court for the Northern District of Illinois for substantive counts of wire fraud, commodities fraud and spoofing in the precious metals futures market traded on Commodity Exchange Inc. (COMEX). As a result of motion practice led by Kobre & Kim, the Court dismissed the DOJ's spoofing scheme theory against Mr. Pacilio, resulting in a first-of-its-kind challenge to the DOJ's spoofing scheme charge.
- Trial counsel in representing DRW Investments LLC in a highly publicized case brought by the U.S. Commodity Futures Trading Commission (CFTC) over alleged market manipulation of interest rate swap futures. After a bench trial in the U.S. District Court for the Southern District of New York, the Court returned a verdict in favor of the defense and against the CFTC on all causes of action.
- Trial counsel for 3Red Trading LLC in successfully defeating a motion for preliminary injunction filed by the CFTC after a lengthy evidentiary hearing in connection with a civil enforcement action regarding purported "spoofing" and market manipulation.

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- Representation of the founder and CEO of a major cryptocurrency exchange platform in response to a U.S. Securities and Exchange (SEC) investigation and litigation.

Joint Venture & Partnership Disputes

- Representation of Major League Baseball to enforce a New York arbitration award and court judgment against a Dominican broadcaster over unpaid licensing fees.
- Lead counsel to Russian businessmen in New York State Supreme Court in asserting claims for US \$1 billion against his former joint venture partners and business associates related to a dispute over shares in a Russian oil company.
- Representation of a Dutch natural resources company as lead U.S. counsel in a multijurisdictional dispute involving US \$1 billion relating to a Russian mining joint venture.
- Representation of an Asia-based company as co-lead trial counsel in seeking US \$100 million+ in damages in an International Chamber of Commerce (ICC) arbitration against a large U.S. company relating to a joint venture dispute involving the oil and gas industry.
- Representation of a major sports league in an arbitration administered by the American Arbitration Association against a Latin American broadcasting company for breaches of an agreement to broadcast games, including the failure to make owed payments. After a one-week evidentiary hearing, the tribunal returned an award granting the league the requested relief as well as attorney's fees.
- Representation of a hotel investor in a dispute against a joint venture partner in relation to a major Caribbean hotel.
- Representation of a venture capital firm principal in connection with parallel U.S. and non-U.S. civil litigations stemming from a real estate investment and development dispute in the hospitality industry.
- Representation of an institutional limited liability company (LLC) member in a joint venture dispute against a private equity firm/co-LLC member regarding a contest for control over a substantial business in the nightclub and gaming industry, involving litigations in New York and Nevada.
- Representation of a pharmaceutical company in a US \$1 billion+ dispute with Middle Eastern-based joint venture investors pending in the Delaware Court of Chancery.
- Representation of an international Fortune 50 technology company in a contract dispute against its software supplier involving breach of contract, unjust enrichment and ongoing royalty obligations in an action taking place in the U.S. District Court for the Southern District of New York.

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Professional & Community Involvement

- American Bar Association, Member
- Federal Courts Committee of the Association of the Bar of the City of New York, Member
- Federal Bar Council, Member
- Second Circuit Courts Committee of the Federal Bar Council, Member
- New York State Bar Association, Member
- New York City Bar Association, Member

Publications & Presentations

- Panelist, "Enforcement Developments" (American Bar Association Derivatives & Futures Law Committee Virtual Winter Meeting, February 2023)
- Panelist, "Enforcement Developments" (American Bar Association Derivatives & Futures Law Committee Virtual Winter Meeting, January 2022)
- Panelist, "Employment Issues Facing Executives Arising Out of Government Investigations" (New York City Bar, September 2021)
- Panelist, "Standing Your Ground: Litigation Strategies for Commodities and Derivatives Enforcement Defense" (Chicago Bar Association Futures & Derivatives Law Committee Program, June 2021)
- Co-author, "Taking on the CFTC: Wash Trading in Uncharted Waters" (*Traders Magazine*, April 2021)
- Co-author, "Criminal Wire Fraud Charges Are Coming to Securities and Cryptocurrency Markets Near You" (*Bloomberg Law*, February 2021)
- Panelist, "Enforcement Developments" (American Bar Association Derivatives & Futures Law Committee Virtual Winter Meeting, January 2021)
- Speaker, "Wealth Talk: Utilizing New York Courts for Cross-Border Joint Venture Disputes" (*Family Wealth Report*, December 2020)
- Co-author, "Self-Settled Spendthrifts, Illusions and Shams: When an Asset Protection Trust Affords No Protection" (*New York Law Journal*, January 2019)
- Panelist, "Public Corruption Trials in a Post-McDonnell World" (Federal Bar Council, New York, January 2019)
- Co-author, "Breaking the Rules: 3 Ways to 'Lead' a Direct Examination" (*Law360*, October 2018)
- Co-author, "Joint Ventures: Proceed with Caution" (*CFO.com*, October 2016)
- Co-author, "How To Use Nonleading Questions On Cross-Examination" (*Law 360*, September 2016)
- Co-author, "Getting Justice in International Joint Ventures" (*Gas International*, August 2015)
- Panelist, "Alternative Reinsurance — Alternative Restructuring Solutions" (INSOL Bermuda One Day Seminar, Hamilton, June 2015)
- Litigation Panelist, "Common Pitfalls in Joint Venture Agreements" (Americas Lodging Investment Summit Law Conference, Los Angeles, January 2015)
- Panelist, "Fraudulent Transfers and Unwinding Transactions" (International Association of Insurance Receivers' Technical Development Series, Las Vegas, June 2013)

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- Co-author, *White Collar Crime Debtor-Creditor Fraud*, 2009-2010 Ed. (Thomson West, 2009)
- Panelist, "Due Diligence of Investment Funds" (Hedge Fund General Counsel Summit, Connecticut, October 2009)
- Co-author, "Federal Attorney-Client Privilege and Work Product Doctrines" (Practising Law Institute, March 2004)

"Provide[s] sharp and sound advice."

— *The Legal 500 US*

"Jon is an excellent lawyer... He is a very effective advocate and clients love him."

— *Chambers USA*