



Litigation Practice

2022 Year in Review

To Our Clients & Friends

2022 was an active year for Seward & Kissel's Litigation Practice, as we made substantial investments in our Government Enforcement and Internal Investigations Practice by adding four new partners to our ranks: *Jaimie L. Nawaday*, *Philip Moustakis*, *Michael Watling* and *Russell Johnston* and one new counsel, *Casey Jennings*. Each has substantial experience inside the government, followed by years of representing corporate and individual clients in an array of challenging matters.

Prior to joining the firm, *Jaimie* served as an Assistant U.S. Attorney for the Southern District of New York in both the criminal and civil divisions and later chaired the White Collar, Investigations, and Compliance Practice Group at Kelley, Drye, & Warren. She has successfully led complex civil and criminal fraud trials and advises individuals and companies in investigations and actions by the DOJ, SEC, CFTC, and state regulators. *Philip* served as Senior Counsel in the SEC's Division of Enforcement for more than a decade prior to joining the firm in 2019. Philip advises investment managers on regulatory compliance risks and challenges, including issues related to insider trading or the potential misuse of MNPI, onboarding alternative data and other research providers, ESG products, valuation, fees and expenses, conflicts of interest, and whistleblowers. He represents companies and individuals in SEC investigation or undergoing SEC examinations. He also advises clients on securities law issues related to cryptocurrencies, NFTs, and DeFi solutions.

Michael served as both a federal prosecutor in the U.S. Department of Justice (DOJ) Tax Division and as Senior Litigation Counsel in the Enforcement Department of the Financial Industry Regulatory Authority (FINRA) and later was partner at King & Spalding LLP. He advises broker-dealers, investment advisers, accounting firms, and other market participants in regulatory matters involving a wide range of accounting, tax, and securities issues. He also regularly conducts regulatory due diligence on wealth management-related mergers and acquisitions. *Russell* served as a Senior Counsel in FINRA's Department of Enforcement and later as a partner in King & Spalding's Special Matters and Investigations Practice. He's handled matters on both sides of the table related to securities fraud, insider trading, market manipulation, sales practices, financial crime compliance, trade reporting, and the use of digital assets. He regularly represents financial institutions and individuals on an array of regulatory matters and investigations involving the DOJ, SEC, CFTC, FINRA, and NYSE.

Casey served as Counsel in the Consumer Financial Protection Bureau's Office of Regulations for four years prior to joining the firm. Casey advises financial institutions, including banks, broker-dealers, investment managers, and "FinTech" firms, on regulatory issues related to consumer protection, data privacy and cybersecurity, anti-money laundering, payments, and myriad bank regulatory issues (including deposit regulations and the Volcker Rule).

Seward & Kissel's Litigation Practice continued to receive recognition during 2022. Chambers and Partners, in its 2022 USA Guide, ranked Seward & Kissel as Highly Regarded for Litigation: White-Collar Crime & Government Investigations, stating the firm is "recognized for its representation of individuals in criminal proceedings, with further experience defending clients such as municipalities and hedge funds," and "handles a broad range of white-collar disputes, including government and regulatory investigations, as well as criminal trials." Chambers and Partners also ranked the Litigation Practice as Highly Regarded for International Trade: Export Controls & Economic Sanctions, mentioning the firm is "experienced in advising on economic sanctions, export controls and anti-money laundering issues. The firm often works with clients from the shipping industry, as well as investment management companies." Likewise, The Legal 500, in its United States 2022 edition, has highly ranked the firm's Litigation Practice for its expertise in Corporate Investigations and White-Collar Criminal Defense; Securities Litigation: Defense; and Transport: Shipping – Litigation and Regulation; and recognized Bruce Paulsen as a "Hall of Fame" member for Shipping Litigation.

The firm is also proud of the recognition that partner Jack Yoskowitz received as a Litigation Star in the 2023 edition of Benchmark Litigation.

Seward & Kissel represented its clients in a wide variety of complex matters that kept the Litigation Practice busy all year; highlights of our representative matters and accomplishments in our Government Investigations, Commercial Litigation, Employment, Regulatory and Sanctions Practices are referenced below.

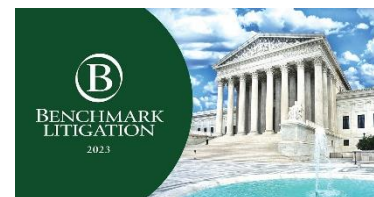
The Seward & Kissel Litigation Team



Recognition



Seward & Kissel LLP



Chambers & Partners

Chambers and Partners, in its 2022 USA Guide, again recognized Seward & Kissel as Highly Regarded in its Litigation: White-Collar Crime & Government Investigations (New York) and International Trade: Export Controls & Economic Sanctions (Nationwide) categories.

WHAT THE TEAM IS KNOWN FOR

Litigation team recognized for its representation of individuals and corporations in criminal proceedings, with notable experience defending clients such as hedge funds. Handles a broad range of white-collar matters, including government and regulatory investigations, as well as criminal trials and monitorships.

STRENGTHS

Clients report: "It is a great team that understands the client's issues and is able to handle matters with the government very quickly. I would strongly recommend Seward & Kissel." Another says: "Its lawyers work tirelessly and will do anything to get the deal done," says a source.

NOTABLE PRACTITIONERS

Michael Considine operates a broad criminal defense practice, which includes defending individuals against government proceedings and handling monitorships.

One client reports: "He is supportive, cooperative and makes a great part of our team." "He is even-keeled and has a great demeanor with clients."

The Legal 500 US

The Legal 500, in its United States 2022 edition, again included Seward & Kissel as a recommended firm in the Corporate Investigations and White-Collar Criminal Defense, Securities Litigation: Defense, and Transport: Shipping – Litigation and Regulation categories.

Praised for its 'first-class service', Seward & Kissel LLP represents an array of publicly-held and private shipping companies, along with shipping banks, owners and investors. The New York-based practice consistently acts in disputes arising from financings, shipping securities and governance issues, as well as vessel operations. The firm's litigators are also able to leverage the expertise of the firm's robust US corporate practice. **Bruce G Paulsen** co-chairs the firm's litigation group alongside government investigations specialist **Michael G Considine**. 'At the very top of his field', Paulsen routinely handles complex maritime disputes, while counsel **Brian Maloney**, 'excellent at cutting through to the detail', litigates commercial disputes and manages regulatory investigations. Key associate **Laura Miller**'s practice covers maritime litigation and regulatory inquiries.

TESTIMONIALS

'Seward & Kissel are market leaders in the US, and their reputation is well deserved.'

'A first-class service, with strength and depth from the bench.'

'S&K is able to staff its teams with competent lawyers from diverse legal backgrounds (such as admiralty and maritime law and bankruptcy law) to grapple with complex problems in the transport and shipping sector.'

"Bruce Paulsen is at the very top of his field – anything in this area I refer to him."

'Bruce Paulsen and counsel Brian Maloney are very capable, high-calibre, international admiralty attorneys, who are easy to work with, always available and deliver sound advice.'

Hall of Fame

Bruce Paulsen – Seward & Kissel LLP

Rising Stars

Brian Maloney – Seward & Kissel LLP

Benchmark Litigation

Jack Yoskowitz was ranked as a Litigation Star in the 2023 edition of Benchmark Litigation.

Litigation Team Highlights - 2022

Government Enforcement & Internal Investigations Practice

Represented multinational company in parallel civil and criminal fraud investigation by DOJ.

Represented shipping company in DOJ/OFAC investigation for alleged violations of U.S. Iranian sanctions.

Represented senior employee in pharmaceutical antitrust investigation conducted by DOJ and 48 State Attorneys General.

Represented manufacturing facility in environmental criminal investigation following execution of search warrant.

Represented senior employee in insider trading action brought by DOJ.

Retained as independent federal monitor for municipal entity in settlement with DOJ/EPA administrative agreement.

Won complete victory for broker-dealer following 3-day hearing in FINRA arbitration defending suitability and vicarious liability claims.

Represented numerous investment managers before the SEC in Rule 105 short selling investigations.

Represented cryptocurrency hedge fund in enforcement action brought by the CFTC.

Represented alternative research provider in SEC insider trading/market manipulation investigation arising from the GME/memo stock affair.

Represented of hedge fund in connection with SEC matter involving potential conflicts of interest related to soft dollar expenditures.

Represented alternative asset manager in connection with investigation by the Department of Labor (DOL) focused on fiduciary issues and potential conflicts in connection with the management of plan assets.

Conducted independent investigation for client centered on potential insider trading and/or misuse of material, nonpublic information in connection with a company's secondary offering of securities.

Employment Practice

Advised over 100 investment managers (including hedge funds and private equity firms) in employment matters;

Represented clients in the shipping, technology and crypto industries, as well as not-for-profit organizations;

Acted as employment specialists for approximately 20 mergers and acquisition transactions;

Represented several portfolio companies following acquisitions;

Managed employment-related administrative claims, litigation and arbitration;

Drafted employment agreements, compensation structures and deferral arrangements;

Advised on individual terminations and reductions-in-force;

Assisted clients with managing disability-related accommodation requests;

Advised clients in connection with investigations into employee complaints of discrimination and harassment;

Drafted employee handbooks and conducted supervisor and employee training on discrimination and harassment, including sexual harassment; and

Apprised clients of COVID-19 and other employment-related legislation and legal developments.

Litigation Team Highlights - 2022

Sanctions Practice

Advised over 65 clients in sanctions-related matters.
Provided time-sensitive, mission critical advice to our clients on new and emerging sanctions regulations.
Coordinated with international partners on interplay of US sanctions regimes with other jurisdictions.
Advised on the scope of OFAC sanctions regulations and sanctions risks for US and non-US persons.
Obtained numerous OFAC specific licenses in expedited matters; filed initial and annual blocked property reports.
Acted as lead litigation and sanctions counsel in complex multijurisdictional dispute for global asset management firm.
Provided advice to clients and thought leadership to industry during the rapid roll-out of Russia sanctions.
Represent U.S. and non-U.S. investment advisers, vessel owners and charterers, ship finance lenders and borrowers, and cryptocurrency firms, among other companies.
Reviewed and updated sanctions-related disclosures for publicly-traded and private companies.

Litigation Practice

Obtained groundbreaking Second Circuit decision confirming recognition and enforcement of \$12M+ arbitral award against foreign sovereign.
Successfully resolved adversary proceeding for investment fund clients in action involving over \$1 billion in damages and avoidance claims asserted by restructuring subcommittee.
Obtained summary judgment for financial institution in cross-border shipping dispute involving Singapore law.
Won dismissal of breach of fiduciary duty claims asserted against financial institution acting as indenture trustee.
Obtained settlement for former owners of marketing communications and media agency in action for breach of employment contract, indemnification and defamation and related arbitration.
Represented international bank in class action SIBOR lawsuit in the SDNY.

Regulatory Practice

Structured novel payment settlement solutions for a major broker-dealer.
Counseled numerous financial institutions on data breach response plans.
Formulated cybersecurity compliance policies and procedures.
Advised FinTech clients in developing new consumer financial products and services.
Conducted due diligence on dozens of alternative data and other research providers for asset managers.
Provided securities law and regulatory risk advice in connection with approximately 30 crypto assets.
Advised major auction house's first-ever sale of non-fungible tokens (NFTs).

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