

**Martin S. Krezalek | Partner**

Business Litigation

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Martin concentrates his practice on business litigation and dispute resolution. He provides pragmatic business advice and advocacy in complex contractual matters, matters involving complex financial instruments and structured products, fraud, fiduciary breaches, business torts, and closely held ownership/partnership disputes, including business divorce. In particular, Martin often handles disputes concerning complex business interests enmeshed in matrimonial and quasi-matrimonial proceedings. Martin also regularly defends businesses facing website accessibility lawsuits alleging violations of the Americans with Disabilities Act, and often writes on the subject. Martin represents clients within the financial services/markets, medical device and solutions, and creative and advertising industries, among others.

During law school, Martin was the executive case comments editor for the *New York Law School Law Review*. Martin's pro bono work involves representing noncitizens facing deportation and working with the Brady Campaign to Prevent Gun Violence in high-profile litigation.

## Select Engagements

### Website Accessibility Litigation

- Go-to litigator for businesses facing website accessibility lawsuits alleging violations of the Americans with Disabilities Act. Thought leader on website accessibility, including numerous publications and webinars.

### Complex Contractual Disputes/Torts

- Counsel for Chiquita Brands International, Inc., in alien tort litigation involving more than 7,500 plaintiffs centralized in the S.D. Fla. for multidistrict litigation (“MDL”) proceedings involving wrongful death claims under Colombian common law. Conducted scores of depositions in Florida and Colombia, including several depositions of former paramilitary commanders in Colombia, which were critical to summary judgment victory for Chiquita in first round of bellwether cases.
- Obtained a significant multimillion-dollar resolution for a global medical technology business in an International Institute for Conflict Prevention and Resolution matter.
- Obtained a significant multimillion-dollar resolution for former Chief Executive Officer and founder of a leading foreign exchange spot market operator in wrongful termination dispute against the company and its parent, the largest stock exchange in Europe.
- Obtained complete dismissal of claims against debt and equity investment company and its directors in lawsuit by the purchaser of company providing logistical support to dental practices. Purchaser alleged that the company, which lent over \$100 million to purchaser, improperly interfered with earnout payments by enforcing its rights as a senior secured lender.
- Prevailed in a bench trial involving a partner frozen out of joint ventures to operate adult care facilities.
- Representation of a major accounting company accused of aiding and abetting alleged breaches of contracts and fiduciary duty and conspiring with several defecting partners of rival accounting company.
- Obtained complete dismissal of claims against three significant hedge funds in litigation challenging the funds’ secured lender rights to the proceeds of assets sold pursuant to a bankruptcy proceeding.
- Defense of a founder and principal of a major luxury auto group in an action alleging tortious interference with a rival’s contract to purchase a luxury auto franchise in New York.
- Arbitration trial on behalf of a prominent trusts and estates attorney (considered “dean” of the New York trusts and estates bar) against former law firm over the firm’s improper reclassification of attorney as unpaid partner on the eve of the firm’s collection of an \$11 million fee on representation for which attorney was principal originator.
- Representation of the co-founder of a significant annual electronic music festival in New York against his two co-founders for improperly ousting him from a 50-50 partnership in the festival.
- Representation of a major automotive electronics manufacturer in a licensing agreement dispute with the company hired to develop an iPhone application to stream radio through car audio systems.
- Representation of a private holding company that purchased several steel mills in a purchase price adjustment dispute with the seller over the seller’s misrepresentations regarding the steel mills’ debt and working capital.
- Representation of a private holding company in a dispute over whether the company and its owners have a duty to indemnify the operator of a mining and smelting operation for a judgment entered against the operator granting \$320 million in punitive damages for personal injuries sustained from the

operation of the smelter.

- Representation of a major beverage company in a successful appeal resulting in the affirmation of a summary judgment ruling upholding transfer restrictions in the company's owners' agreement and invalidating a sale of part of the company to an investment firm.

## **Securities Litigation and Structured Finance Litigation**

- Representation of an independent audit committee of a premier digital business solutions company listed on NASDAQ in an independent investigation under Section 10A of the Securities Exchange Act of 1934 ("Exchange Act").
- Representation of an international pharmaceutical company in connection with the defense against a hostile tender offer. Secured a temporary restraining order based on the bidder's violations of disclosure requirements under Section 14 of the Exchange Act.
- Representation of an American global banking institution in connection with litigation pertaining to downgrades by ratings agencies impacting various swap agreements.
- Representation of an international banking institution in a \$700 million civil action against the sponsor of a failed collateralized debt obligation.
- Successful representation of a senior note holder in a dispute between different classes of note holders over two conflicting "waterfall" provisions in a collateralized debt obligation ("CDO") indenture.
- Representation of a large monoline insurer in a dispute against an international financial institution over which the party had the right to control the sale of credit-impaired reference obligations underlying a credit default swap.

## **Other**

- Obtained complete dismissal of fraud and fiduciary breach claims against high-net-worth Wall Street banker by his long-term unmarried partner, who alleged breach of an agreement to equally share the client's assets, including proceeds from his multimillion-dollar annual income and real estate and investment assets he accumulated during the relationship.
- Representation of historic New York City nightclub and live music venue in commercial lease termination dispute following New York Governor's mandatory closure of live music venues due to COVID-19. Obtained very favorable settlement ensuring significant rent abatement until live music allowed again at full capacity.
- Representation of a commercial landlord in a dispute with the City of New York over the proper rent calculation methodology to be used in a long-term commercial lease for space at the South Street Seaport.
- Representation of a major financial banking institution with respect to a non-party subpoena issued in connection with a major Ponzi scheme-related litigation.
- Representation of a company in an investigation by the U.S. Securities and

Exchange Commission regarding alleged accounting irregularities in a contract to provide information technology services to a foreign government.

- Representation of several clients in document reviews performed in connection with government investigations under the Foreign Corrupt Practices Act of 1977.

## **Pro Bono**

- Representation of Boston and Chicago police officers killed or injured by guns purchased on Armslist.com, a prominent online marketplace that facilitates the sales of firearms between private sellers without background checks, which often results in illegal gun trafficking.
- *Amicus curiae* before Fifth Circuit Court of Appeals supporting the U.S. Department of State in a significant case involving whether there is a First and/or Second Amendment right to manufacture or produce untraceable firearms through the use of a 3D printing machine.
- Regular representation of noncitizens facing deportation before the Board of Immigration Appeals ("BIA"), including securing release of detained noncitizen facing removal for two convictions for crimes involving moral turpitude, and representing noncitizen facing deportation for violations of the Controlled Substances Act before U.S. Court of Appeals for the Fifth Circuit and on Petition for Writ of Certiorari to the U.S. Supreme Court.
- Representation of children in immigration court and related state court proceeding through Kids in Need of Defense, the leading national organization advocating for the rights of unaccompanied migrant and refugee children in the United States.

## **Admissions**

- Supreme Court of the United States
- New York
- U.S. District Court - Eastern District of New York
- U.S. District Court - Southern District of New York
- United States Court of Appeals for the Fifth Circuit

## **Education**

- Fairleigh Dickinson University, BA
- New York Law School, JD

## **Recognitions**

- 2015–2019, New York Metro "Rising Star" in Business Litigation, listed in *Super Lawyers*

## **Professional Activities**

Martin is a member of the Catholic Legal Immigration Network's ("CLINIC") BIA Pro Bono Project, through which vulnerable immigrants who are facing deportation receive free legal representation in their appellate cases before the Board of Immigration Appeals ("BIA"). He regularly represents noncitizens before the BIA and, in 2010, secured the release of a detained noncitizen facing removal for two convictions for crimes allegedly involving moral turpitude. He has also represented several noncitizens facing deportation for violations of the federal Controlled Substances Act. In one such representation, Martin presented several constitutional issues to the Fifth Circuit Court of Appeals and ultimately to the U.S. Supreme Court on Petition for Writ of Certiorari.

## Languages

- Polish