

SULLIVAN & CROMWELL LLP

Lawyers



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Robert Giuffra is a partner in Sullivan & Cromwell's Litigation Group. He joined the Firm in 1989 after serving as a law clerk to Chief Justice William Rehnquist of the U.S. Supreme Court and to Judge Ralph Winter of the U.S. Court of Appeals for the Second Circuit. He focuses on "bet-the-company," securities, white-collar criminal, product liability, commercial, insurance, banking and tax litigation. He is a member of Sullivan & Cromwell's Management Committee, with overall responsibility for the Firm's Litigation practice.

A fellow of the American College of Trial Lawyers, Mr. Giuffra is recognized as one of the leading litigators in the United States. *The American Lawyer* has selected him as "Litigator of the Year" (2014), Transatlantic Disputes/Regulatory Lawyer of the Year" (2017) and as "Litigator of the Week" six times since June 2011, most recently in January 2018. *The National Law Journal* has named him a "Winning Litigator" (2015), an "Energy and Environmental Trailblazer" (2017), and a "Litigation Trailblazer" (2015). He is a seven-time *Law360* MVP (2011, 2013, 2015, 2016, 2017, 2018, 2019). Euromoney has named him a "Top 100 Trial Lawyer" and "National Star" in *Benchmark: America's Leading Litigation Firms and Attorneys* and one of the top 30 litigators in the 2019 *Best of the Best USA Expert Guide*. In 2012, *The International Who's Who Legal* listed him as one of its ten "Most Highly Regarded" litigators globally. In 2011, *The Financial Times* profiled him as one of its ten leading U.S. legal innovators.

For over 20 years Mr. Giuffra has represented prominent corporations and individuals in their most challenging civil and criminal cases, including at jury and bench trials, and on appeal in federal and state courts around the United States, before arbitration panels, and in investigations involving the SEC, the Department of Justice, U.S. and non-U.S. bank regulators, the U.S. Congress, the Internal Revenue Service, and the New York State Attorney General. He regularly advises senior executives and boards of directors in internal governance matters.

Mr. Giuffra is currently National Coordinating Counsel for

PRACTICES & CAPABILITIES

Litigation

Appellate

Arbitration

Bankruptcy Litigation

Congressional Investigations

Criminal Defense &
Investigations

FCPA & Anti-Corruption

M&A Litigation

Intellectual Property &
Technology Litigation

Products Liability & Mass
Torts

Securities

Corporate Governance

Healthcare & Life Sciences

Tax Controversy

Consumer Financial
Services

Sports & Entertainment

Crisis Management

Financial Services

Bank Regulatory

Broker-Dealer

Commodities, Futures &
Derivatives

Commercial Real Estate

Insurance

EDUCATION

1987, Yale Law School, J.D.

1983, Princeton University,
A.B.

Volkswagen in its recent diesel-related matters and is lead counsel to Fiat Chrysler in its emissions issues. Mr. Giuffra has participated in litigations and government investigations arising out of the financial crisis, the bankruptcy of Enron, the restructuring of MBIA, the accounting fraud at HealthSouth Corporation, and specialist trading on the New York Stock Exchange. He has represented many of the world's leading financial institutions, including ABN AMRO, Bank of America, The Bank of New York, Barclays, BNP Paribas, CIBC, Citigroup, Goldman Sachs, HSBC, ING, JP Morgan, Merrill Lynch, Morgan Stanley, Natixis, RBC, RBS, Société Générale, UBS and Wachovia. His corporate clients have included Biovail, Boeing, Cablevision, Computer Associates, DISH Network, Enbridge, Exxon, Grupo Mexico, Kinross, Kohl's, McKesson, Oxford Health Plans, Philips Electronics, Porsche, Tenaris, Tudor Investment Corporation, UnitedHealth Group, and Vornado Realty Trust. He has also represented the two-time defender of the America's Cup sailing trophy, the New York Giants and Jets NFL teams, and a major university. His individual clients have included CEOs, lawyers and senior government officials.

Mr. Giuffra has served in all three branches of the U.S. Government. In addition to his judicial clerkships, he served as Chief Counsel of the U.S. Senate Committee on Banking, Housing and Urban Affairs 1995-1996 and was a primary drafter of the Private Securities Litigation Reform Act of 1995, as well as in the White House. He has also been appointed by governors of both political parties to serve in New York State government, including on the New York State Commission on Public Integrity, New York State Ethics Commission and, while at Sullivan & Cromwell, as a Special Assistant District Attorney, County of New York.

Mr. Giuffra has been a leader of the Bar. In 2017, Chief Justice John Roberts appointed him to serve on the Standing Committee on Rules of Practice and Procedure of the U.S. Courts. He has served as President of The Federal Bar Council, on the New York State-Federal Judicial Council, the New York State Commercial Division Advisory Council, the Magistrate Judge Selection Panel for the SDNY, New York's Permanent Commission on Access to Justice, the New York Commission on Attorney Discipline, and the Board of Editors of New York Law Journal. He is also the Chairman of the Board of Advisors of the Yale Law School Center for the Study of Corporate Law, a member of the Executive Committee of the Yale Law School Association, Vice President of the Supreme Court Historical Society, the advisory board of the John L. Weinberg Center for Corporate Governance at the University of Delaware, the advisory board of the RAND Center for Catastrophic Risk Management and Compensation, Chairman of the American Swiss Foundation, a Director of the Alliance for Downtown New York and Downtown Lower Manhattan Association, and a Trustee of the Citizens Budget Commission .

He frequently speaks on securities class actions, government and internal investigations, and corporate governance, including at Yale Law School, Harvard Law School, Stanford Law School, Harvard Business School, the Wharton School and the University of Chicago Law School. He has testified before the U.S. Senate Judiciary Committee and participated in many hearings of the U.S. Senate Banking Committee.

BAR ADMISSIONS

New York

**District of Columbia
(inactive)**

CLERKSHIPS

**Chief Justice William H.
Rehnquist, United States
Supreme Court, 1988-1989**

**The Honorable Ralph K.
Winter, United States Court
of Appeals, Second Circuit,
1987-1988**

SELECTED REPRESENTATIONS

Selected Cases: Products Liability

- National Coordinating Counsel to Volkswagen in multidistrict litigation and regulatory investigations of alleged excess emissions for 600,000 diesel vehicles. Secured favorable and precedent-setting outcomes in class action litigation, opt-out litigation, litigation brought by state attorneys general, and litigation with the companies' primary regulators, including the EPA and the Department of Justice.
- Lead counsel to Fiat Chrysler in multidistrict litigation and investigations over alleged excess emissions from approximately 100,000 diesel vehicles. After two years of litigation, obtained final court approval for a comprehensive settlement with U.S. owners and lessees, the Environmental Protection Agency, the California Air Resources Board, the state attorneys general of all 50 states, and U.S. Customs and Border Protection.

Selected Cases: Securities Litigation

- Represents Volkswagen in a suit brought by the SEC alleging securities fraud in connection with the company's diesel emissions issues.
- Represented Porsche in securing the 2010 dismissal, affirmed on appeal, of federal securities claims seeking more than \$3 billion arising out of Porsche's takeover bid for Volkswagen. Recognized as *The Am Law Litigation Daily's* "Litigator of the Week," *The American Lawyer's* "Global Dispute of the Year: U.S. Litigation" and "Litigator in the Spotlight," for parallel claims brought in New York State Court, and as *Benchmark Litigation's* "Impact Case of the Year."
- Represents Goldman Sachs in putative class action alleging securities fraud in connection with mortgage-related activities and alleged conflicts of interest, including vacating multi-year class certification order on appeal.
- Represented UBS for over 15 years in multiple class action litigations alleging billions of dollars in losses stemming from Enron's 2001 collapse. Named *The Am Law Litigation Daily* "Litigator of the Week" and a *Law360* "Legal Lion." In 2018 and 2019, two final dismissals were upheld on appeal, ensuring the rejection of two novel theories that, if accepted, would have imposed unprecedented duties on financial services firms and created the risk of massive liability over the grant of employee stock options.
- Represents UBS in a residential mortgage-backed securities-related FIRREA suit recently brought by the

Department of Justice.

- Represented UBS in its settlement resolving the New York Attorney General's potential claims regarding its sale of residential mortgage-backed securities in the lead-up to the financial crisis.
- Represented UBS in its settlement with a consortium of state attorneys general led by the New York Attorney General to resolve an investigation into UBS's alleged manipulation of certain benchmark interest rates, principally the London Interbank Offered Rate (LIBOR).
- Represented UBS in obtaining a dismissal with prejudice of all claims brought by Ace Decade, which had sought damages of more than \$500 million in connection with an investment in shares of a Chinese company.
- Secured the dismissal on appeal of CDO-related fraud claims brought against UBS by Aozora Bank as time-barred. The claims were the last of several private CDO/RMBS-related lawsuits that S&C handled for UBS, resulting in five outright dismissals and two highly favorable settlements.
- Successfully obtained the dismissal with prejudice, upheld on appeal, of a putative securities fraud class action in the Eastern District of Wisconsin brought by stockholders against Kohl's Corporation, its Chief Executive Officer, and former Chief Financial Officer, concerning Kohl's restatement of its financials and alleged insider stock sales.
- Represented Cablevision in obtaining the dismissal of a putative securities class action claiming that Cablevision's dispute over retransmission fees with News Corp. caused a stock drop of nearly 50 percent.
- Counsel to the Audit Committee of Tenaris, a leading global manufacturer of steel pipe, in an internal investigation of Foreign Corrupt Practices Act issues. Then, represented Tenaris in resolving Department of Justice and SEC investigations, including in obtaining the first-ever deferred prosecution agreement in an SEC investigation.
- Counsel to Lewis Ranieri, a pioneer in mortgage finance and former Vice Chairman of Salomon Brothers, in obtaining dismissal, affirmed on appeal, of putative securities class actions arising out of the failure of Franklin Bank.
- Counsel to the Audit Committee of the Board of Directors of Computer Associates in an internal investigation of accounting fraud and obstruction of justice by senior executives. Then, represented Computer Associates in resolving Department of Justice and SEC investigations, including negotiating a deferred prosecution agreement.
- Represented Oxford Health Plans in government investigations and related securities class action and

derivative litigation arising out of the 1997 collapse of Oxford's stock price.

- Counsel to leading banking associations in obtaining favorable rulings from the U.S. Supreme Court barring "scheme" liability under Section 10(b) of the Securities Exchange Act (*Stoneridge*) and limiting the power of the states to regulate the operating subsidiaries of national banks (*Watters*).

Selected Cases: Trial and Arbitration Experience

- Defended Enbridge in achieving a unanimous jury verdict after a five-week trial in state court, in Dallas Texas. The jury rejected entirely Energy Transfer Partners' claim, seeking more than \$1 billion in damages, that Enbridge had tortiously interfered with a pipeline project.
- Represented DISH and EchoStar, in obtaining the dismissal, after a multi-week trial, of tortious interference claims seeking billions of dollars in damages in an adversary proceeding commenced in connection with LightSquared's Chapter 11 cases.
- Represented a major South American manufacturer in bringing claims seeking more than \$85 million in ICC arbitrations against its former sales agent in a Persian Gulf country and the agent's shareholders, obtaining – after two separate hearings, over six days – a settlement of cash and shares in two joint-venture companies equal in value to a substantial percentage of the manufacturer's claims.
- Lead counsel to UBS in the first NASD arbitration against UBS brought by customers over trades in Enron securities. Following a two-week hearing, the Panel granted a directed verdict in favor of UBS.
- Represented Steven Roth, Chairman and CEO of Vornado Realty Trust, at trial and on appeal, in obtaining the dismissal of federal securities claims.
- Represented Oxford Health Plus in the successful arbitration of a claim seeking rescission of a multimillion-dollar reinsurance contract. Panel ordered insurer to indemnify more than \$50 million of Oxford's costs.
- Following lengthy trial, obtained judgment for Philips Electronics in Lanham Act action brought by Gillette over advertising for electric razors.

Selected Cases: Criminal Matters

- Represented David Duncan, former lead Arthur Andersen engagement partner for Enron. Following reversal of Arthur Andersen's conviction, the federal court granted a motion to vacate Mr. Duncan's guilty plea.
- Counsel to lawyer Armand D'Amato, brother of then-U.S.

Senator Alfonse D'Amato, in obtaining the dismissal by the U.S. Court of Appeals for the Second Circuit of all federal criminal charges against him.

- Represented E. Robert Wallach, counsel to former U.S. Attorney General Edwin Meese (Wedtech investigation), in connection with the reversal by the U.S. Court of Appeals for the Second Circuit of his federal criminal conviction and, after a jury failed to reach a verdict at his retrial, the subsequent dismissal of all charges against him.
- Defended Albert Pirro, husband of then-Westchester County, New York District Attorney Jeanine Pirro, in a federal criminal tax trial. Obtained pre-trial dismissal, affirmed on appeal, of a portion of the indictment.

Selected Cases: Banking Litigation

- Represented The New York State Bankers Association in persuading the U.S. District Court for the Southern District New York to strike down New York City's Responsible Banking Act, which sought to impose a municipal bank regulatory regime, as preempted by Federal and New York State Banking laws.
- Counsel to The Clearing House Association in litigation over the disclosure of confidential bank data concerning Federal Reserve Discount Window lending during the financial crisis.
- Lead counsel to global financial institutions in separate fraudulent conveyance and Article 78 actions in New York State court against MBIA Inc. and its subsidiaries challenging their 2009 multi-billion dollar restructuring. In June 2011, *The Am Law Litigation Daily* featured Mr. Giuffra as its "Litigator of the Week" for winning the appeal in the New York State Court of Appeals sustaining the fraudulent conveyance action.
- Represented The Bank of New York in litigation, which settled for a fraction of claimed damages, seeking over \$350 million for the alleged breach of a multi-million dollar merger agreement with Northeast Bancorp.

Selected Cases: Commercial Litigation

- Represented the New York Jets and New York Giants in securing a favorable outcome for their breach of contract and tortious interference claims against the New Jersey Sports & Exposition Authority (NJSEA) and mall developer.
- Represented Oxford Health Plans in obtaining the dismissal of putative multi-state class actions by Oxford customers over claims payments practices.

Selected Cases: Delaware Litigation

- Represented members of Cablevision's compensation committee in securing a favorable result of a derivative action

in the Chancery Court of Delaware concerning Cablevision's executive compensation practices. The decision was the first to rule that the business judgment rule applies to an independent committee's decision concerning executive compensation for a controlling stockholder.

- Represented Computer Associates in successfully arguing to the Delaware Supreme Court that a proposed shareholder bylaw requiring the mandatory reimbursement of proxy solicitation expenses of short slate candidates was invalid. In ruling in the first case ever certified by the SEC to the Delaware Supreme Court, the Court set forth important guidance on the permissible scope of shareholder bylaw proposals.

Selected Cases: Employment and ERISA Litigation

- Represents Goldman Sachs in class action accusing the bank of discriminating against more than 3,400 women in pay and promotions.
- Represented Goldman Sachs in successfully arguing to the U.S. Court of Appeals for the Second Circuit that the bank's arbitration clause for managing directors should be enforced in a closely watched putative Title VII class action.
- Represented UBS and several current and former officers and employees in obtaining the dismissal, affirmed on appeal, of a putative ERISA "stock drop" class action involving subprime losses and cross-border tax issues.
- Counsel for Oxford Health Plans in obtaining the dismissal of an action by the State of Connecticut alleging ERISA violations by Oxford and seven other managed care organizations and medical providers challenging various Oxford business practices.

Rankings and Recognitions

- Recipient, 2019 Judge Simon H. Rifkind Award (Jewish Theological Seminary)
- Recipient, 2016 Simeon E. Baldwin Award for Achievement in Law and Business (Yale Law School Center for the Study of Corporate Law)
- *The American Lawyer* – "Transatlantic Disputes/Regulatory Lawyer of the Year" (2017); "Litigator of the Year" (2014) Honoree; Global Legal Awards (2013) and "Global Dispute of the Year: US Litigation" (2016)
- *The National Law Journal* – "Energy & Environmental Trailblazer" (2017), "Winning Litigator" and "Litigation Trailblazer" (2015)
- *New York Law Journal* – Finalist, Lawyer of the Year (2019)
- *Financial Times US Innovative Lawyers* – one of 10 leading U.S. legal innovators (2011)

- *Chambers USA: America's Leading Lawyers for Business* – leading litigator in Securities (2004-2019), General Commercial (2007-2019), and White-Collar Crime & Government Investigations (2004-2006)
- *Benchmark Litigation* – National Litigation Star and Local Litigation Star (2008-2020); Top 100 Trial Lawyers (2016-2020); National Practice Area Star in Antitrust, General Commercial and Securities (2019-2020); Top 10 Practitioners in Securities (2017); and “Hall of Fame” Award (2016)
- *Law360 MVP* – Securities Litigation (2011, 2013, 2018), Banking (2015) and Product Liability (2016, 2017, 2019)
- *The Best Lawyers in America* and *The Best Lawyers in New York* – Litigation - Banking & Finance “Lawyer of the Year” for New York City (2018), Banking & Finance Law “Lawyer of the Year” for New York City (2016, 2017), and Commercial Litigation (General) and White-Collar Criminal Defense (2005-2019), Bet-the-Company Litigation and Banking & Finance Litigation (2011-2019), Securities Litigation (2012-2019), and Banking & Finance Law (2014-2019)
- Winner, 2019 Client Choice Awards
- *The Legal 500 United States* – “Hall of Fame” (2017); one of ten “Leading Lawyers” nationwide in International Litigation (2018-2019), Securities Litigation: Defense (2018-2019) and Securities: Shareholder Litigation (2010-2015); Recommended Lawyer for Appellate (2016, 2017), Securities Litigation (2016, 2017), General Commercial Disputes (2015-2017), Financial Services: Litigation (2014, 2016, 2017), Securities: Shareholder Litigation (2007-2009), SEC Investigation and Enforcement (2007) and Corporate Governance and SEC Investigations (2006-2007, 2010)
- *New York Super Lawyers* – recognized in Securities Litigation (2006-2017, 2019), and selected as one of “The Top 100 New York Super Lawyers” (2006)
- *Lawdragon* – one of “100 Lawyers You Need to Know in Securities Litigation” (2008), “500 Leading Lawyers in America” (2007-2019), “500 Leading Litigators in America” (2006), and a *Lawdragon 500* “Legend” (2016)
- *International Tax Review's Tax Disputes/Controversy Leaders Guide* – leading lawyer in tax disputes and controversy (2011, 2012)
- Practical Law Company, PLC *Which Lawyer* – Dispute Resolution USA: Securities Litigation (2012), Dispute Resolution: NY (2012)
- Recipient, 2008 Burton Award for Legal Achievement
- *Crain's New York Business* – one of “five top white-collar defense attorneys working in New York City today” (September 23, 2002)
- *Roll Call* – “key member of the Congressional Ethics Bar”

(January 15, 2001)

- *Los Angeles Times* – one of six leading “Capital Counselors” who represent “some of the nation’s best known clients” (July 30, 1998)
- *The National Law Journal* – one of 40 lawyers under 40 who are “Rising Stars in the Law” (November 20, 1995)