

New York Law Journal

OCTOBER 2019

AV ATTORNEY OF THE YEAR FINALIST

ROBERT GIUFFRA

PARTNER, SULLIVAN & CROMWELL

LITIGATION MAY HAVE COOLED OFF since the financial crisis, but someone forgot to tell Robert Giuffra. Over the past year, the Sullivan & Cromwell partner has represented Goldman Sachs in class actions that accuse it of discriminating against women and lying to investors about conflicts of interest, represented a witness in Special Counsel Robert Mueller's investigation, worked for Boeing's directors in suits over its grounded 737 MAX aircraft, helped Fiat Chrysler Automobiles ink settlements worth about \$800 million over diesel vehicles, and went to bat for UBS in a case that tests the limits of the finance industry law known as FIRREA.

On top of all that, he's continued to represent Volkswagen in its global response to the so-called Dieselpgate scandal. While the company agreed early on to spend billions of dollars buying back affected vehicles, the Securities and Exchange Commission took until this year to sue over the scandal, and Giuffra has continued his regular travels to Germany to liaise with the automaker.

"It's been incredibly busy," he said. "I'm kind of at a point in my career where there's just a lot of very interesting and complicated and rewarding cases that come my way."

Giuffra, 59, is especially well-known for his work on securities cases—he helped write the Private Securities Litigation Reform Act in the 1990s. But today clients seek his help when faced with a wide variety of scandals and legal threats. White-collar crime, product liability and employment law are all in his wheelhouse.



GIUFFRA SAYS HE IS ALWAYS THINKING ABOUT THE SOCIAL IMPACT OF HIS WORK. WHETHER IT'S HELPING VOLKSWAGEN, WITH ITS HUNDREDS OF THOUSANDS OF EMPLOYEES, AVERT THE RISK OF BANKRUPTCY, OR HELPING SECURE LEGAL SERVICES FUNDING FOR LOW-INCOME NEW YORKERS, HE SEES A COMMON THREAD.

For instance, Giuffra has represented Fiat Chrysler Automobiles and its affiliates through years of disputes, arguing for dismissal twice and filing papers to oppose class certification. The Fiat cases, brought by consumers, resellers, and federal and state governments, were finally settled earlier this year after years of investigation, testing and litigation related to about 104,000 EcoDiesel-branded Jeep and Dodge vehicles.

The consumer settlement is worth as much as \$307 million. The automaker also agreed to pay \$311 million to federal authorities and \$19 million to

California and to undertake a recall and mitigation program worth up to \$185 million. Those figures are well below the \$4.6 billion in potential penalties that Fiat Chrysler originally mentioned to its investors.

Meanwhile, in another high-profile matter within the last two years, Giuffra has represented K.T. McFarland, the former deputy national security adviser in the Trump administration. In an interview, she said he has helped her navigate questioning and issues of executive privilege in meetings with Mueller's office and with Congressional staff. He brought intense focus to the job, she said.

"In one of the congressional committee interviews, he sits back and sort of folds his arms, puts his head on his chest, closes his eyes," she said. "I'm thinking to myself, 'he's not even paying attention!' and all of a sudden, he interrupted and he clarified the question I was being asked, which allowed me to clarify my answer."

To be sure, Giuffra says he couldn't handle all the work without the team behind him. From young associates to other partners and the legal graphic designers who are willing to make changes to his slide decks in the middle of the night, a lot of people make his work possible. Says Greg Palm, who recently retired as Goldman Sachs' general counsel, "He's only too willing or happy, if someone has a good idea, to use it."

THERE ARE SOME QUALITIES that are uniquely Giuffra, though. Several people note his energy, the fast clip at which he speaks that makes the most of whatever time has been allotted for oral argument. Palm said another thing that sets Giuffra apart is that he truly hates losing.

"I just picked up on it immediately," said Palm. "Most people don't like losing, I suppose you might tell me, but I can tell it's much more painful to him.

He just doesn't like it, and that's actually important."

Of course, not every case is a winner. Elizabeth Cabraser, whose firm Lief Cabraser Heimann & Bernstein has faced off against Giuffra and his colleagues in several matters, said the trust his clients place in him was key to achieving a settlement in the Volkswagen case that satisfied her clients, the court and the government.

"He has been ... a very effective counselor to his clients, she said. "That sometimes means telling the client something it doesn't want to hear."

Giuffra also pours his energy into work outside of the courtroom. Helaine Barnett, a former top official with the Legal Aid Society who now runs the New York State Permanent Commission on Access to Justice, said Giuffra has put his firm's resources at the commission's disposal. He has lined up business leaders, including a top official from J.P. Morgan Chase & Co., to make the case for funding civil legal services for the poor, and rallied consultants who found that every \$1 spent on such services spares the need for another \$10 spent on services like emergency housing.

"He is not one-dimensional, as some lawyers are," said Jonathan Lippman, the former chief judge of New York's Court of Appeal, now at Latham & Watkins, who appointed Giuffra to the commission. "You can't measure Bob by left, right, conservative, liberal—Bob crosses all the lines. ... He's very human, very approachable."

For his part, Giuffra says he is always thinking about the social impact of his work. Whether it's helping Volkswagen, with its hundreds of thousands of employees, avert the risk of bankruptcy, or helping secure legal services funding for low-income New Yorkers, he sees a common thread.

"Lawyers in private practice can do public service," he said.