



Partner

smiller@eisnerlaw.com
T 646.876.2600

Practice Focus

Litigation

Education

Boston University School of Law, J.D.,
Cum Laude

Cornell University, B.A.

Admitted

New York

New Jersey

Supreme Court of the United States

United States Court of Appeals for
the Second Circuit

U.S. District Court for the District of
New Jersey

U.S. District Court for the Eastern
District of New York

U.S. District Court for the Southern
District of New York

U.S. Bankruptcy Court for the
Southern District of New York

U.S. Bankruptcy Court for the
Eastern District of New York

Representative Experience

Simon is the Managing Partner of the Firm's New York Office. Simon concentrates his broad-based federal and state commercial and business litigation trial and appellate practice on representing owners of closely held businesses in a wide variety of industries in ownership-related disputes.

Often referred to as a "business divorce" lawyer, he routinely represents clients in partnership/corporate dissolution proceedings, business valuation proceedings, shareholder appraisal proceedings, minority shareholder oppression or breach of fiduciary duty actions, joint venture disputes, bankruptcy court proceedings, and surrogate court proceedings relating to family-owned businesses.

Simon has significant experience in the representation of professional service providers such as law firms, accounting firms, investment advisory firms, and hedge funds in connection with formation, dissolution, and withdrawal of members from counseling, negotiating, and, as necessary, litigation standpoint. He also has experience representing investment banks and broker dealers in employment and trade secret disputes as well as a variety of clients in New York City government administrative proceedings.

Simon is a Part 36-certified Receiver who has been appointed by both New York State Courts as well as Bankruptcy Courts in mortgage foreclosure actions, general commercial and matrimonial actions.

As a resolution-oriented litigator, Simon complements his trial-based litigation practice with his work as a mediator. He is a member of the panel of mediators for both the New York State Supreme Court Commercial Division for New York County and the Southern District of New York.

Simon's litigation victories include a jury verdict in favor of a former partner in a hedge fund and financial advisory firm on his claim for breach of a reorganization agreement with his former firm, resulting in a \$9 million settlement. In other select engagements, he has represented:

- A prominent New York law firm, in a dispute with a former partner in which the former partner sought a partnership accounting, notwithstanding the fact that the law firm was organized as a corporation. After the trial, the court entered judgment in favor of the firm, whose judgment was affirmed on appeal. See *Weiner v. Hoffinger Friedland Dobrish & Stern, P.C. et al.*, 749 N.Y.S.2d 255 (2nd Dep't 2002).
- A founding shareholder of a highly successful New Jersey ambulatory surgery center, in a breach of fiduciary duty lawsuit in connection with the wrongful termination and redemption of his interest, resulting in a substantial decision in the client's favor.
- The departing partners from a law firm, in an appeal of adverse judgment finding that they had breached their fiduciary duties to the law firm. See *Gibbs, et al. v. Whitman Breed Abbott, et al.*, 710 N.Y.S.2d 578 (1st Dep't 2000).
- A national internet service and content provider as well as the officers and directors of the company, in a suit brought by a founding shareholder and officer for breach

of fiduciary duty and violations of securities law that resulted in a dismissal of all claims against the company and its officers and directors.

- Various national securities brokerage firms, before both courts and arbitral panels in disputes over whether the departing brokers may solicit firm employees.
- A group of minority shareholders, in an appraisal proceeding seeking the fair value of their interest in a corporation owning a major parcel of New York commercial real estate.
- A major New York-area cable television franchisee, in connection with its application to renew its New York City franchise.

Honors and Awards

Named to the *New York Law Journal's* inaugural list of New York Trailblazers, 2019
Selected for inclusion in *New York Metro Super Lawyers*, 2019 – 2020

Publications and Speaking Engagements

Author, "Test for Applying Fiduciary Exception to Privilege." *New York Law Journal*, November 6, 2015

Author, "Report on Use of Receivers in Business Dissolution Proceedings, Committee on the Commercial Division." *New York State Bar Association*, Fall 2011

Co-author; "Take a Critical Look at Partner Agreement." *New York Law Journal*, January 31, 2000

Co-author, "What Baggage Can Withdrawing Law Partners Carry Out the Revolving Door?", *Rhode Island Bar Journal*, Vol. 49, No. 4, January 2001

Articles Editor, *American Journal of Law and Medicine*, 1992 – 1993

Professional Affiliations and Civic Involvement

New York State Bar Association

Member of the New York State Bar Association's Commercial & Federal Litigation Section, Committee on the Commercial Division and Committee on Dispute Resolution

Board member of the Bowery Residents' Committee, a homeless services organization

Former Vice President of the New York City Department of Education, Community Education Council, District 2