

# Evan Michailidis



## Partner

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## Practice Focus

Litigation

## Education

Emory University School of Law, J.D.  
Columbia University, B.A., *cum laude*

## Admitted

New York

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

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

## Representative Experience

Evan is a litigation partner in Eisner, LLP's New York office, where he advises clients on high-value civil disputes, government investigations, and white-collar criminal matters.

Over more than 15 years of practice, Evan has amassed litigation experience ranging from varied commercial disputes to his regular defense of employment and product liability claims. He also has done extensive work representing corporate and individual clients in white-collar criminal matters and government investigations, including those under the Foreign Corrupt Practices Act.

On these and other matters, Evan frequently advises clients based outside the United States. For them, he is particularly experienced in navigating disputes with cross-border elements, and using judicial proceedings to advance clients toward their business goals. His clients operate in many different industries, including healthcare, hospitality, and financial services. Evan also has multiple clients in the entertainment industry, including foreign intellectual property holders and movie studios.

Evan practices widely across federal and state courts and has appeared before other judicial bodies in and out of the United States, including the U.K.'s High Court of Justice. Before joining Eisner, he was a litigation partner at an Am Law 100 law firm.

Selected representative matters include:

### *International Commercial Disputes*

- Obtained a freezing injunction from the High Court of Justice, Queen's Bench Division, over the accounts of various suspected fraudsters tied to a phishing scam that resulted in the theft of over \$6 million from major Brazilian oil refinery, Refinaria de Petroleo Riograndense S.A.
- Represented a Chilean investment fund in negotiating a settlement agreement the client found favorable in a highly contentious dispute involving a failed venture with a major airline.
- Represented a Bolivian pharmaceutical supplier in negotiating the release of millions of dollars of PPE that was wrongfully detained by a freight forwarder alleging that a "documentation issue" existed with the cargo by relying upon a misapprehension of 15 C.F.R. §758.5 and other U.S. Custom laws governing the exportation of goods through the U.S.; negotiated an expedited release of the goods without the need for judicial intervention, to the great satisfaction of the client.
- Represented a large Midwestern mineral supplier in an international commercial dispute against a Canadian pet products company involving the mining and shipment of bentonite minerals; the pet company sought to stay the proceeding client led in the U.S. in favor of a prior pending action it had led in Canada, and, in a case of first impression in the 10th Circuit, the court denied this motion, holding that it failed to establish "exceptional circumstances" that would merit abstention.
- Representing New York Bay Capital LLC, a boutique cross-border investment banking firm, in a contentious commercial dispute pending in the Southern District of New York regarding the development of a significant fiber-optic network in Mexico, successfully arguing that a FINRA arbitration should be stayed in favor of an SDNY action because the forum selection clause in the parties' contract

required all actions and proceedings to be brought in federal court, and such a broad provision supersedes an earlier agreement to arbitrate, including under FINRA Rule 12200.

- Obtained a dismissal for three Malaysian clients, who were sued in New York by plaintiffs seeking to enforce a multimillion-dollar foreign judgment.
- Represented a Danish company in two contentious litigations against its U.S.-based subsidiary. Obtained a favorable settlement for a value equivalent to less than 5% of the adversary's alleged claim.
- Represented a leading software company in a contentious business litigation in Mexico. Obtained a favorable settlement which allowed the client to restore a multimillion-dollar business partnership in the region.
- Successfully petitioned the District Court in Washington, D.C. to grant an application for discovery against a U.S.-based company pursuant to 28 U.S.C. §1782 (U.S. Discovery in Aid of Foreign Proceeding). The order will benefit significant litigations pending in East Africa.
- Representing a Danish sports apparel company in a voluntary prior disclosure to the Customs and Border Protection.

#### *Commercial Litigation*

- Representing a global leader in metal packaging in a business dispute relating to product design.
- Obtained a dismissal of all claims alleged against a firm's clients in a contentious and lengthy dispute in New York State Supreme Court, Nassau County relating to the ownership of numerous lucrative dental practices.
- Obtained a dismissal of two appeals against JPMorgan Chase Bank, N.A. in the Supreme Court of New York, Appellate Division – Second Judicial Department, concerning the borrower's standing to bring the appeals.
- Obtained on behalf of JPMorgan Chase Bank, N.A. from the Supreme Court of the State of New York, Appellate Division – Second Judicial Department, an affirmation of a lower court ruling that property transferred pursuant to a judgment imposing a constructive trust is transferred subject to the existing lien.

#### *Employment Litigation*

- Represented a leading home healthcare agency, in negotiating the settlement of two "bet-the-company" actions; plaintiffs in both actions alleged wage and hour violations and asserted class claims covering thousands of employees; opposing counsel sought to derail the class settlement of one action by unsuccessfully invoking the Colorado River abstention doctrine, but the team was able to quash these efforts and coordinate a global settlement at a value of less than 3% of the client's potential exposure, an outcome the client found favorable.
- Represented Park Avenue Dental Cosmetics before the New York State Division of Human Rights and successfully secured the dismissal of unlawful discriminatory practices charges related to race/color, pregnancy, sex, disability, and familial status in violation of NY Exec. Law art. 15.

- Represented a restaurant franchise in the dismissal of collective and class action claims under the Fair Labor Standards Act and New York Labor Law.
- Represented a restaurant franchise in a contentious wage and hour litigation regarding the 80/20 rule. Through an aggressive litigation strategy, obtained a favorable settlement for a value equivalent to less than 10% of the adversary's alleged claim.
- Obtained on behalf of a large grocery store chain a settlement the client found favorable in a consolidated FLSA and multistate Rule 26 class action lawsuit alleging the failure to properly pay overtime.

#### *Entertainment and Hospitality Litigation*

- Obtained a dismissal of claims against a premier exhibition production and distribution business headquartered in Singapore, in civil litigation pending in New York.
- Persuaded a magistrate judge in the Florida District Court to take the unusual step of denying a 28 U.S.C. § 1782 application seeking to obtain substantial discovery from a world famous beach club client that was to be used in a French proceeding. The plaintiff had intended to utilize U.S. discovery as a lever in his overall litigation strategy against the client, making this decision advantageous to the client.

#### *Criminal Proceedings*

- Represented an Eastern European executive subject to foreign extradition proceedings in connection to a U.S. Department of Justice indictment for alleged trafficking of controlled substances.
- Represented the Kingdom of Denmark in obtaining a dismissal from the U.S. District Court for the Southern District of New York for a complaint alleging various claims under the New York Penal Code.
- Successfully vacated the drug-related criminal convictions of a pro bono client that were the result of her trafficking, giving the client her best opportunity to avoid deportation and remain in the country with her children.

### Honors and Awards

Selected as a New York Rising Star by *Super Lawyers Magazine*, 2012-2019

### Publications and Speaking Engagements

Speaker, "Myths and Realities of the Cannabis Industry in Mexico: A Business & Investment Perspective," New York, November 19, 2019

Interviewed, "Cordery Head-to-Head: Evan Michailidis on Class Actions in the US," Cordery Legal Compliance, July 30, 2019