

Erik S. Groothuis

Litigation and Advisory Practice:

Mr. Groothuis has spent 20 years litigating complex commercial disputes. Although he focuses on the financial services and real estate industries (primarily representing hedge funds and real estate developers in those matters), he has represented clients in accounting and legal malpractice, business divorce, breach of contract, corporate governance, defamation, insurance, investor and securities fraud, and business torts litigation as well as related appeals. Mr. Groothuis primarily litigates in the Commercial Divisions of New York's state courts and the United States District Courts for the Eastern and Southern Districts of New York, but has represented clients in courts throughout the United States, as well as in FINRA and AAA arbitrations.

He regularly negotiates employment and severance agreements, as well as other commercial contracts such as licensing, purchase and sales, and services agreements.

Representative litigation engagements include:

- Representing various hedge funds in disputes with counterparties involving disputed trades and valuations;
- Appearing as trial counsel for the producers of a Broadway musical in a tort and breach of contract action involving anonymous emails that allegedly destroyed the production, obtaining a plaintiff's verdict after a 3-week jury trial (*see Rebecca Broadway LP v. Hotton*, 173 A.D.3d 71 (1st Dep't 2016));
- Representing a German bank in claims based on the purchase of residential mortgage-backed securities;
- Representing real estate developers in claims brought by condominium purchasers and tenants;
- Representing hedge fund managers in enforcement actions brought by the SEC and FINRA;
- Winning an award against an investment bank in a FINRA arbitration involving auction rate securities;
- Representing a French financial services company in a dispute about the purchase of a Mexican insurance company;
- Representing a marketing and networking firm in a breach of contract action against a biotech company engaged in research against fungal disease (*Foundation Ventures, LLC v. F2G, Ltd.*, 2010 WL 3187294 (S.D.N.Y. Aug. 11, 2010));
- Representing a corporation in the retail jewelry industry involved in a dispute with an Italian luxury jewelry manufacturer;
- Winning an \$8 million arbitral award (including \$500,000 in punitive damages) on behalf of an investor-plaintiff asserting churning, breach of fiduciary duty, and fraud claims against a broker-dealer and certain affiliated individuals;
- Winning summary judgment for a foreign affiliate of an international accounting firm in a malpractice action brought by liquidators of a Cayman Islands-domiciled hedge fund;
- Winning dismissal on the pleadings for a foreign affiliate of an international accounting firm in a federal securities action brought by hedge fund investors (*Fraternity Fund Ltd. v. Beacon Hill Asset Mgmt. LLC*, 376 F. Supp. 2d 443 (S.D.N.Y. 2005));
- Representing the Italian affiliate of an international accounting firm in: (1) a securities class action; (2) a suit by administrator of a bankrupt Italian dairy conglomerate; and (3) suits by trustees of its U.S. subsidiaries. Obtained dismissal at pleadings stage in two related actions (*In re Parmalat Sec. Litig.*, 501 F. Supp. 2d 560 (S.D.N.Y. 2007).)

Alternative Dispute Resolution Practice:

In late 2018, Mr. Groothuis launched Same-Day Justice, an innovative arbitration program designed to help parties resolve relatively small commercial disputes in just one day. Details can be found at www.same-dayjustice.com. Mr. Groothuis is certified as a Small Claims Court arbitrator in New York County and is a mediator trained by the International Institute for Conflict Prevention and Resolution.

Recent Publications:

Choice of Law and Forum Selection Clauses: Do They Really Matter?, by Erik S. Groothuis for Inside, A Publication of the Corporate Counsel Section of the New York State Bar Association (Spring/Summer 2019, Vol. 37. No. 1)

Education and Prior Experience:

Mr. Groothuis received his A.B. in Economics from Columbia College in 1994 (*Phi Beta Kappa* and *magna cum laude*) and his J.D. from Harvard Law School in 1997 (*cum laude*).

From 1997 to 1999, Mr. Groothuis clerked for the Honorable Whitman Knapp of the United States District Court for the Southern District of New York. Before joining the Firm in 2008, Mr. Groothuis was associated with the law firms of Cleary Gottlieb LLP (from 1999 to 2001) and Heller Ehrman LLP (from 2002 to 2008).

In January 2014, Mr. Groothuis was elected Vice President of the New York American Inn of Court. The mission of the Inn is to foster excellence in professionalism, ethics, civility, and legal skills. The Inn's membership of approximately 150 attorneys consists of judges, government and public interest lawyers, and private practitioners of all ages.

Mr. Groothuis served as the President of Temple Judea in Manhasset, New York from 2016 to 2018.



CONTACT

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EDUCATION

Harvard Law School

J.D., 1997, cum laude

Columbia College

A.B., 1994, magna cum laude, Phi Beta Kappa

BAR ADMISSIONS

New York

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

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

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