



NEAL ■ GERBER ■ EISENBERG

SECURITIES & COMMODITIES
LITIGATION PRACTICE GROUP

Neal Gerber Eisenberg utilizes its in-depth industry insight and nationwide trial experience to aggressively defend financial services clients in all types of customer disputes, employment disputes and regulatory matters. We advise and defend many of the major national, regional and local broker/dealers and commodities firms, as well as affiliated individuals, across the country. Our in-depth knowledge of the regulatory environment in which these clients operate, coupled with our extensive litigation and arbitration experience, enables us to mount sophisticated, successful defenses in virtually every forum on a cost-effective basis.

Our services include:

Litigation and Arbitration

Mediation

Employment Disputes

Regulatory Defense

LITIGATION AND ARBITRATION

The firm vigorously represents broker/dealers and investment advisors in all aspects of securities and commodities litigation. Our representations have included class actions, mass actions and individual lawsuits in federal and state courts across the country, as well as in arbitration proceedings in all of the major forums, including those of the Financial Industry Regulatory Authority, the New York Stock Exchange, the American Arbitration Association, JAMS, the National Futures Association and in Commodities Futures Trading Commission Reparation Proceedings.

Some of the claims and issues with respect to which we have successfully represented clients include:

- Auction rate securities
- Collateralized debt obligations
- Hedge funds
- Suitability
- Excessive trading
- Unauthorized trading
- Breach of fiduciary duty
- Breach of contract
- Failure to supervise
- Market manipulation
- Online trading
- Blue sky violations
- Analyst recommendations
- Market timing issues
- Insider trading

MEDIATION

Mediation is increasingly being used as an alternative means to resolve disputes in the financial services industry, as well as elsewhere. When considering mediation, clients need attorneys who are experienced in the process and dynamics of this dispute-resolution method. We help clients determine which cases are likely to be best served through mediation and prepare and present their positions in a manner that is most appropriate for this style of advocacy and resolution.

EMPLOYMENT DISPUTES

Financial services firms need counsel who are attuned with the special employment issues facing their industry, in addition to those encountered by most other businesses. We handle the full range of employment disputes that arise within these firms, drawing on the skills and experience

of our labor and employment attorneys when necessary in order to present a cohesive, comprehensive defense of our clients' interests.

We have represented clients in employment disputes in federal and state courts and arbitrations around the country. Some of the claims and issues that we have addressed successfully include:

- Gender, race, age, religion and other forms of discrimination
- Sexual harassment
- Constructive discharge and wrongful termination
- Defamation
- Incentive compensation plans
- Restrictive covenants and non-compete agreements
- Intellectual property and theft of trade secrets

REGULATORY DEFENSE

We defend clients in investigations and enforcement actions brought by regulatory bodies across the country, including the Securities and Exchange Commission, the Financial Industry Regulatory Authority, the Department of Labor, the New York Stock Exchange, the American Stock Exchange, the National Futures Association, the Commodity Futures Trading Commission, the Chicago Board of Options Exchange, the Chicago Mercantile Exchange and the Chicago Board of Trade. We develop coordinated, effective strategies to counter the full spectrum of alleged regulatory violations, involving:

- Improper sales practices
- Insider trading
- Failure to supervise
- Corporate disclosure
- Trade allocations
- Registration issues
- Market timing issues
- Free riding and withholding
- Trade execution
- Floor trading practices
- Underwriting practices
- Market manipulation
- Advertising violations
- White-collar crimes

Our attorneys advise clients at every step in the regulatory and disciplinary process, including preliminary investigations, responding to subpoenas for testimony and documentation, and during formal proceedings and trial.



H. Nicholas Berberian

Partner/Securities & Commodities Litigation
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H. Nicholas Berberian has represented financial services firms and their employees for over 32 years before federal and state courts, regulatory agencies, arbitration panels and mediators with respect to a wide range of litigation and regulatory matters. These matters have included securities class actions, mass actions, lawsuits and arbitrations involving investors and employment practices at financial services firms as well as regulatory matters before the Securities and Exchange Commission, New York Stock Exchange, Financial Industry Regulatory Authority, National Association of Securities Dealers, Chicago Board of Options, Chicago Board of Trade, Chicago Mercantile Exchange, Department of Labor and other federal and state agencies.

Nick has been recognized as a leader in Chambers USA: America's Leading Lawyers for Business (recommended in "Litigation") since 2006. According to client feedback gathered by Chambers USA during the selection process, Nick is described as "detail-oriented, thorough and dogged in getting the best results" and "extremely knowledgeable in the securities area." Also, he is cited as "a securities expert described by peers as 'knowledgeable and practical, with sound judgment.'"

Nick has been selected by his peers for inclusion in The Best Lawyers in America.

Nick was appointed as the co-chair of the Securities Litigation Committee of the American Bar Association (ABA) in 2003 for a three-year term. From 1993 to 2003, he also served as co-chair of the ABA Subcommittee on Broker/Dealer Litigation and has been co editor of the Annual Survey of Broker-Dealer Litigation, which is published each year by the ABA and the Securities Industry Association. Nick is also a member of the firm's Executive Committee.

Nick was admitted to the Illinois bar in 1978 and is a member of the Trial Bar for the U.S. District Court for the Northern District of Illinois.



Christopher M. Burky

Partner

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Christopher M. Burky provides litigation and compliance services to a broad range of securities and futures industry participants. He represents securities and futures brokerage firms and individual registrants in private litigation before federal and state courts, in CFTC reparations, NFA and NASD arbitrations and in investigative, administrative and regulatory proceedings instituted by the SEC, NASD, NYSE, CFTC and NFA.

Prior to joining the firm, Chris served as law clerk with the CFTC's Division of Enforcement in the Chicago regional office.

In 1993, Chris graduated, *magna cum laude*, and with distinction, with a B.A. from Loyola University of Chicago.



Samuel S. Cohen

Partner

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Samuel S. Cohen has represented a broad array of clients in securities and commercial disputes in NASD arbitrations, state and federal court, regulatory procedures and mediation hearings. Sam provides legal counsel in individual disputes, multi-party litigation and class actions. He has counseled clients with respect to business practices, contracts and regulatory issues to avoid the need for litigation. Sam combines his training and experience as an attorney with his more than 20 years experience in corporate management and as an independent marketmaker on the CBOE to help his clients obtain favorable results with the least cost in terms of both money and disruption to their businesses.

Sam was admitted to the Illinois bar in 1998 and is a member of the U.S. District Court for the Northern District of Illinois and the Trial Bar of the U.S. District Court for the Northern District of Illinois.

In 1975, Sam graduated from Massachusetts Institute of Technology with an B.S. He earned his J.D. from Northwestern University School of Law in 1998.



Joseph R. Derbis

Partner

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Joseph R. Derbis has represented clients in a wide variety of litigation matters, with a primary emphasis on the defense of broker/dealers against disputes brought in various arbitration forums (FINRA and its predecessors) and in federal and state court, as well as mediation. Jay has also represented clients in complex commercial litigation matters, including securities fraud litigation and various state and federal class actions. In addition, Jay has extensive experience in the areas of white-collar criminal defense and the defense of state and federal regulatory enforcement investigations and actions, including by the SEC, the DOJ, the CFTC, the Illinois Attorney General and the Illinois Securities Department.

Prior to entering private practice Jay served as an Associate Independent Counsel in the Office of Independent Counsel David M. Barrett, assisting with the investigation and prosecution of corruption by high-level federal officials. In that capacity, Jay gained extensive experience presenting to a grand jury and assisting on a wide range of pretrial and appellate matters.

Jay was admitted to the Maryland bar in 1998, the District of Columbia bar in 2000 and the Illinois bar in 2006.

Jay earned his J.D., *cum laude*, from the Notre Dame Law School in 1998. He earned his B.A. from Washington College (Md.) in 1995.



Heather L. Freiburger

Associate

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Heather L. Freiburger is a member of Neal Gerber Eisenberg's Securities & Commodities Litigation Practice and White Collar Criminal, Regulatory & Internal Investigative Services Practice Groups. Heather represents broker/dealers and associated persons in customer and employment disputes before various forums, including arbitration through the Financial Industry Regulatory Authority, formerly known as the National Association of Securities Dealers and the New York Stock Exchange, as well as in regulatory inquiries and investigations.

Heather earned her J.D. from The University of Michigan Law School, cum laude, in 2007. While in law school, she served as an executive editor of the Michigan Journal of Race & Law and participated in the criminal appellate clinic. In 2003, she graduated, with high distinction, from The University of Michigan, where she received a B.A. in psychology and sociology with specializations in law and inequality.

Heather was admitted to the Illinois bar in 2007.



Michael Z. Gurland

Partner

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Michael Z. Gurland is co-chair of Neal Gerber Eisenberg's White Collar Criminal, Regulatory & Internal Investigative Services Practice Group and a member of its Securities & Commodities Litigation and Insurance Policyholder practice groups. He most recently served as an Assistant U.S. Attorney for the Northern District of Illinois. He is available to conduct corporate investigations as well as handle regulatory and litigation matters utilizing his decade of intensive courtroom experience and investigative skills.

As an Assistant U.S. Attorney, Michael handled dozens of Grand Jury investigations, trials and appeals involving a broad range of criminal conduct including securities fraud, tax fraud, mortgage fraud, identity fraud, fraud in the sale of medical devices, bank embezzlement, money laundering, thefts from corporations, and drug trafficking offenses. He was also in charge of several major Title III wire tap investigations, including an investigation of municipal workers engaged in a heroin distribution and money laundering ring.

Prior to joining the U.S. Attorney's Office in 2002, Michael was part of an elite unit at the New York County (Manhattan) District Attorney's Office focusing on the prosecution of complex white collar criminal cases. As an Assistant District Attorney in New York, he handled several investigations of clearing firms, broker-dealers and investment advisors. Cases brought during his tenure included a felony insider trading case involving a compliance officer at a major investment bank, the investigation of one of the largest clearing firms in the U.S. resulting in a \$48 million settlement and the prosecution and trial of brokers and market-makers for securities frauds involving illegal market manipulations, net capital violations, fraud in connection with IPOs and unauthorized trading.

Before his government service, Michael was a partner at the law firm of Anderson Kill & Olick, P.C. engaged in a general commercial litigation practice and concentrating on the litigation, trial and settlement of complex insurance coverage disputes for several Fortune 500 companies.



Patrick G. King

Partner

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Patrick G. King provides counsel relating to compliance and litigation, primarily in the areas of futures, derivatives and securities. Pat has represented clients in litigation, including state and federal jury and non-jury trials, arbitrations before various exchanges and other self-regulatory organizations, as well as enforcement proceedings.

Pat has counseled clients regarding compliance with federal and state securities and commodities regulations, including public and private securities offerings.

Earlier in his legal career, Pat served as associate counsel at Quantum Financial Services, Inc., a commodity brokerage firm.

Pat has served as a featured panelist for the Futures Industry Association's Annual Law and Compliance Division Workshop, as well as the Chicago Bar Association's Futures and Derivatives Committee. He is a member of the Chicago Bar Association's Futures and Derivatives Committee, and regularly serves as a non-member panelist of the Floor Governors Committee for The Board of Trade of the City of Chicago.

Pat is a current candidate for an LL.M. degree in financial services at IIT/Chicago-Kent College of Law.



Michael P. Manly

Partner

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Michael P. Manly primarily represents broker/dealers in customer disputes brought in federal and state courts, as well as various arbitration forums. Michael also has extensive experience in other complex commercial litigation, including corporate control disputes and antitrust matters.

Michael received his J.D., with high distinction, from the University of Nebraska College of Law in 1996, and was elected to the Order of the Coif and the Order of the Barristers. While in law school, he was an executive editor of the *Nebraska Law Review* and a member of the National Moot Court Team. He graduated with a B.A., with distinction, from the University of Nebraska-Lincoln in 1993.

Michael was admitted to the Illinois bar and the U.S. District Court for the Northern District of Illinois in 1996. He is also a member of the Courts of Appeals for the Seventh Circuit (1998) and the Federal Circuit (1999).



Leah B. Moon

Associate

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Leah Moon practices with the firm's Securities Litigation Practice Group.

Leah received her J.D., cum laude, from Chicago-Kent College of Law in 2010 and her B.A., cum laude, from the University of Pennsylvania in 2005. While in law school, Leah was a Notes and Comments Editor for the *Chicago-Kent Law Review*, a member of the *Seventh Circuit Review*, and served as Treasurer of the Asian Pacific American Law Students Association. Leah was a semifinalist in the 2008 Charles Evans Hughes Moot Court Competition.

While in law school, Leah served as a judicial extern for the Honorable Rebecca Pallmeyer of the U.S. District Court, Northern District of Illinois.



Rawn H. Reinhard

Partner

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Rawn H. Reinhard focuses his practice on securities arbitration and class actions, as well as general commercial and corporate litigation. He has represented brokerage firms and commercial clients in matters arising out of the departure of employees and involving claims for misappropriation of trade secrets, breach of the duty of loyalty and enforcement of covenants not to compete. He has also represented clients in class action and derivative litigation.

Rawn earned his J.D., with high honors, from Duke University School of Law in 1988 and was a member of the Order of the Coif. In 1985, he graduated, *magna cum laude*, from David Lipscomb College with a B.A.

Rawn was admitted to the Illinois bar in 1989. Rawn served for a year as a law clerk for the Honorable Gerald Bard Tjoflat, U.S. Court of Appeals for the Eleventh Circuit.



Kyle D. Rettberg

Partner

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Kyle has represented clients in a wide variety of complex commercial litigation matters in both state and federal courts, with an emphasis on broker/dealer, securities fraud, shareholder derivative, business tort and contract litigation.

Kyle received his J.D., with honors, from The University of Chicago Law School in 1998 and his A.B., *summa cum laude*, from Wabash College in 1995.

Kyle is admitted to practice in Illinois and before the U.S. Court of Appeals for the 2nd and 7th Circuits, the U.S. District Court for the Northern District of Illinois and the U.S. District Court for the Central District of Illinois. He is a member of the Trial Bar of the U.S. District Court for the Northern District of Illinois.



Jerry M. Santangelo

Partner

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Jerry M. Santangelo represents individuals and corporations in investment and employment disputes including securities and commodities lawsuits, regulatory matters, restrictive covenants and trade secrets cases, “raiding” disputes in the financial services industry, complex commercial disputes including class action lawsuits and defending employment-related claims, including, by way of example, claims by former employees for discretionary bonuses, restituted stock and options awards, claims of discrimination and harassment.

Jerry has litigated and tried a wide range of cases in arbitration and federal and state courts throughout the country. He has represented securities brokerage firms and brokers in hundreds of different matters. Jerry has personally tried over 90 securities arbitrations, including many customer disputes and employment-related matters, which went to judgment, and has received four arbitration awards of attorneys’ fees against claimants who brought customer disputes against broker/dealers.

Jerry earned his J.D. in 1984 from DePaul University, where he was lead articles editor for the *DePaul Law Review*. In 1981, he graduated from Miami University with a B.S.

Jerry was admitted to the Illinois bar in 1984. He is admitted to practice before the U.S. District Court for the Northern District of Illinois and the U.S. Courts of Appeals for the Fourth, Seventh, District of Columbia and Federal Circuits. He is an active member of the Legal and Compliance Division of the Securities Industry Association.



Phillip L. Stern

Partner

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Phillip L. Stern concentrates his practice in securities and commodities regulatory defense and litigation, arbitrations and mediations and also handles corporate internal investigations and lawsuits involving liability of officers, directors, accountants and law firms.

Prior to joining private practice, Phillip served 10 years with the Securities and Exchange Commission (SEC) in Chicago, the last five as Assistant Regional Administrator for Enforcement, and also served as a Special Assistant U.S. Attorney. He regularly represents clients throughout the country in connection with investigations undertaken by SEC, the Commodity Futures Trading Commission, the Chicago Board Options Exchange, the New York Stock Exchange and FINRA. Phillip also represents these clients in related criminal investigations and civil litigation. Phillip has extensive trial experience in both state and federal courts and before regulatory agencies. He also serves as a mediator for trading-and commercial-related disputes. He has been a court-appointed receiver in several SEC proceedings including overseeing the liquidation of three public mutual funds and a trust company.

Phillip has represented JP Morgan, Morgan Stanley, Deutsche Bank, Susquehanna International and UBS. He has also been retained by numerous investment banks and brokerages to represent the company's individual financial advisors. Additionally, Phillip has also represented senior financial officers in Fortune 500 companies as well as board members.

Phillip earned his J.D., *cum laude*, in 1975 and B.S.C. degree in 1971 from DePaul University. He was admitted to the Illinois bar in 1975.



Brody W. Weichbrodt

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Brody W. Weichbrodt primarily represents broker/dealers and associated persons in customer and employment disputes brought in state and federal courts, as well as various arbitration forums, including through the Financial Industry Regulatory Authority, formerly known as the National Association of Securities Dealers and the New York Stock Exchange.

After graduating law school, Brody served in the U.S. Army JAG Corps. In 2004, Brody deployed to Iraq in support of Operation Iraqi Freedom and provided legal advice to commanders before and during combat operations.

In the U.S. Army, Brody also served as trial counsel for the 17th Field Artillery Brigade and III Corps Artillery Headquarters Battery representing the U.S. government in the investigation and prosecution of criminal matters in courts martial and administrative separations. In this role, he assisted Army investigators in investigating potential criminal activity, researched and drafted court martial charges and was solely responsible for preparing and trying criminal cases arising in these Army units.

Brody received his J.D., *magna cum laude*, from the University of Illinois College of Law in 2001. He received a B.A. from Illinois State University in 1997.

Brody was admitted to the Illinois bar in 2001.



Terry D. Weissman

Partner

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Terry D. Weissman has represented clients in federal and state courts throughout the country on a wide variety of commercial litigation disputes, focusing his practice on the defense of securities brokerage firms involved in various customer disputes, securities fraud claims and business tort litigation. These matters have included federal and state jury and non-jury trials, class actions, and arbitrations before various exchanges and self-regulatory organizations. Terry has also had substantial experience litigating numerous insurance coverage and professional malpractice cases and has co-authored an article on the law of legal malpractice in Illinois.

Terry earned his J.D., with distinction, from Hofstra University School of Law in 1981. While in law school, he was the Student Project Editor of the Hofstra Law Review. In 1978, he graduated from Cornell University with a B.A. Terry was admitted to the New York bar in 1982 and the Illinois bar in 1993. He has been admitted to appear before the U.S. District Courts for the Northern District of Illinois, the Central District of Illinois, the Southern District of New York, the Eastern District of New York and the U.S. Courts of Appeals for the Second, Third and Seventh Circuits. Terry is also admitted to the Trial Bar of the U.S. District Court for the Northern District of Illinois.



Tina L. Winer

Partner

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Tina L. Winer represents clients in civil litigation matters in federal and state courts, as well as in arbitration and mediation. Tina's practice concentrates in securities litigation involving customer disputes and employment-related matters. She has also engaged in general commercial litigation involving contract disputes and business torts, products liability defense and civil rights litigation.

Before joining the firm, Tina served as a law clerk for the U.S. Department of Justice.

Tina earned her J.D. from the University of Illinois College of Law in 1994. In 1991, she graduated from the University of Illinois with a B.A.

Tina was admitted to the Illinois bar in 1994 and the Federal Trial bar in 1999.



Tiffany C. Woodie

Partner

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Tiffany C. Woodie represents individuals and corporations in investment and employment disputes, including securities fraud, restrictive covenants and trade secret cases, “raiding” disputes in the financial services industry and employment-related claims such as discrimination, retaliation, wrongful termination and harassment.

Tiffany is the co-chair of the Firm’s Diversity Committee and serves on the Board of Directors for the Chicago Committee on Minorities in Large Law Firms.

Tiffany frequently writes on emerging legal topics in the areas in which she practices. She wrote a chapter on contribution among joint tortfeasors for the Illinois State Bar Association’s 1999–2000 Illinois Civil Practice Handbook. She also contributed to the 2000 Securities Litigation Outline sponsored by the American Bar Association and the Securities Industry Association.

Tiffany is a member of the Cook County Bar Association and the National Bar Association. She is also currently a member of the Columbia University Alumni Representative Committee and assists with Columbia’s recruiting efforts in Chicago. She is admitted to practice in state and federal courts in Illinois.

Tiffany earned her J.D. from the University of Chicago in 2000. In 1997, she graduated on the dean’s list with a B.A. from Columbia University.



Michael M. Zmora

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Michael has represented broker/dealers and associated person in customer and employment disputes before the Financial Industry Regulatory Authority as well as before state and federal courts across the country. He also has represented clients in SEC regulatory investigations and litigation.

In 2009, Michael received his J.D., *cum laude*, from Northwestern University School of Law where he served as a Senior Articles Editor of the *Law Review* and was selected for publication. During that time, Michael also worked as an intern for the Office of the United States Attorney for the Northern District of Illinois and the Consumer Protection Division of the Office of the Illinois Attorney General. In addition, Michael served as a judicial extern to the Honorable Judge Joan H. Lefkow of the U.S. District Court for the Northern District of Illinois.

He received his B.A., with honors, from the University of Chicago in 2004.

Prior to joining the firm, Michael served as a foreign law clerk to the Honorable Justice Hanan Melcer of the Supreme Court of Israel. He is also fluent in Hebrew.

Michael was admitted to the Illinois bar in 2009 and is a member of the U.S. District Court for the Northern District of Illinois.



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FIRM OVERVIEW

Neal, Gerber & Eisenberg LLP is a Chicago law firm whose lawyers share a culture of teamwork and devotion to personalized client service to advance clients' business interests throughout the U.S. and beyond. Our lawyers provide legal business solutions to public and private entities of all types in connection with domestic and global business transactions and litigation. Our client base reflects a number of Fortune 100 companies, financial institutions, nonprofits and high net worth individuals.

The firm has one office in Chicago. Operating from a single office ensures that clients are never lost in the shuffle of a thousand-plus attorneys and multiple global offices. With nearly 175 attorneys, the firm is large enough to handle nearly any legal matter anywhere in the world, yet small enough so clients personally know the attorneys accountable to their matters.

Our greatest asset is our people. Attorneys and staff at every level aspire to cultivate long-lasting relationships among one another and with each client. This mindset helps to advance our shared mission to be the best providers of legal services. To every matter, we bring a client-focused approach. First, we listen to our clients and learn about their challenges. We then deploy our collective legal aptitude, experience and industry knowledge to provide sound and cost-effective legal counsel.

Shunning the "merger mania" strategy of those law firms that adhere to a "bigger is better no matter what" philosophy, the firm, instead, has chosen a calculated path of growth based on adding the "best of the best" attorneys. The firm is recognized throughout Chicago, nationally and internationally for its knowledge in many practice areas. In 2011, *Chambers USA* ranked 11 of our practice groups and 29 individual attorneys.

The firm's culture of teamwork, focus on client needs and practical solutions, and willingness to adapt quickly to meet marketplace demands are key factors behind our success. In addition to making a positive difference for our clients, our attorneys strive to do the same for their communities. The firm encourages its attorneys to dedicate substantial personal time and effort to pro bono work and community service.

DIVERSITY INITIATIVES

Neal Gerber Eisenberg is strongly committed to diversity and we encourage our attorneys and staff to recognize the value of diversity in achieving a better work environment and a stronger firm. We recognize that diversity is a vital component of our culture, identity, strategic planning and overall well-being. It fosters equal opportunity, creates an open, positive and satisfying work environment, and promotes the highest standards and ideals of our legal system. By embracing diversity, we reflect that which is great about our community and society at large, we promote creativity, opportunity and professional development at every level, and we best serve our clients' interests.

We Foster Diversity

We believe the best way to attract, develop, retain and promote diverse talent is to create an environment that respects, supports and rewards individuals on the basis of individual achievement and contribution.

Neal Gerber Eisenberg formalized its diversity efforts in 2002 with the formation of a Diversity Committee, which is composed of attorneys (including partners and associates) from a broad range of practice groups and director-level administrators. The Diversity Committee is accountable directly to the firm's Managing Partner and Executive Committee.

Since its inception, our Diversity Committee has worked to expand and enhance the firm's diversity initiatives and to build upon the philosophy of inclusion long existing in the firm work environment. The Diversity Committee also launched two significant subgroups within the firm. Called the Women's Network and the Minority Initiative, these two groups are designed to support and enhance opportunities to women and minorities, respectively, and to provide forums for them to network and develop, personally and professionally, both inside and outside of the firm.

We Look To the Future

We strive to keep our diversity efforts focused on the future—on what we can be and accomplish. We will continue to respect, support, and reward individuals on the basis of personal achievement and contribution, and to encourage attorneys and staff to recognize the value of diversity in achieving a better work environment and a stronger firm.

“Dynamic and built
around highly qualified
lawyers who provide
sophisticated, solutions-
oriented advice.”

- Chambers USA 2011

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