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Ariel N. Lavinbuk

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V-CARD

Education :

J.D., Yale Law School

Book Reviews Editor, *Yale Law Journal*

Potter Stewart Prize (moot court winner)

Edgar M. Cullen Prize

Judge John R. Brown Award

U.S. Foreign Language & Area Studies Scholarship (Arabic)

A.M., Stanford University

A.B., *with honors and distinction*, Stanford University

Phi Beta Kappa

Firestone Medal

President's Award

Bar Admissions :

District of Columbia

New York

ABOUT

Ariel N. Lavinbuk is a trial and appellate litigator. He has a broad commercial practice, with substantial experience in matters involving corporate governance, bankruptcy and fraudulent-transfer law, and intellectual property licensing and litigation.

Ariel has argued or briefed cases in federal and state trial courts nationwide, in bankruptcy courts, and in nearly every federal court of appeals. His Supreme Court experience includes merits-stage briefing in a dozen cases and petition-stage briefing in many more. Ariel also has extensive expertise litigating international disputes in U.S. courts, frequently works with and coordinates foreign counsel prosecuting actions abroad, and has provided expert testimony on U.S. law in foreign judicial proceedings.

In addition to his litigation portfolio, Ariel regularly represents and advises clients in negotiations involving trade secrets, patents, trademarks, and confidential and proprietary information. As lead counsel, he has successfully negotiated deals concerning the ownership and funding of technology start-ups and he regularly advises website and application developers on Terms of Use, data privacy, and other compliance-related issues.

Ariel also counsels clients on matters related to government ethics, holds a Top Secret/SCI security clearance, and has represented foreign and U.S. elected officials, their staff, and lobbyists in civil and criminal actions and congressional investigations.

Ariel began his career at McKinsey & Co., where he advised technology and media companies on a wide variety of strategic and organizational issues. He also spent time on the management staff of Teach For America, where he placed nearly 2,000 teachers in over twenty school districts nationwide and disbursed millions of dollars in financial aid.

Ariel clerked for Judge Stephen F. Williams on the United States Court of Appeals for the D.C. Circuit. He is widely published, with works appearing in the Harvard Law Review, the Yale Law Journal, and Slate, among other publications. He is also a fellow and founding board member of the [Truman National Security Project](#), and is a frequent panelist at Georgetown Law School's Supreme Court Institute. In 2018 and 2019, Benchmark Litigation named Ariel to its 40 and Under

Hot List.

Professional Activities, Publications, and Honors

Principal and Founding Board Member, Truman National Security Project

Moot Court Panelist, Georgetown Supreme Court Institute

Moot Court Panelist, National Chamber Litigation Center

The Outsourcing of American Law, *Slate* (Aug. 15, 2006)

Rationalism and Revisionism in International Law, 119 *Harv. L. Rev.* 1404 (2006)

Hamdan: A Conspiracy Theory, *Slate* (Mar. 27, 2006)

Rethinking Early Judicial Involvement in Foreign Affairs, 114 *Yale L.J.* 855 (2005)

REPRESENTATIVE MATTERS

Defending partners of McKinsey & Co., Inc., in litigation pending in federal courts across the country. In August 2019, a federal civil RICO suit concerning the company's bankruptcy disclosures over a seventeen-year period was dismissed with prejudice. *Jay Alix v. McKinsey & Co., Inc., et al.*, 404 F. Supp. 3d 827 (S.D.N.Y. 2019). Related claims are set for trial in a federal bankruptcy court in early 2020. *In re Westmoreland Coal Company, et al.*, No. 18-35672 (Bankr. S.D. Tex.).

Defending Sony Interactive Entertainment in an unjust enrichment lawsuit concerning the manufacture and sale of the PlayStation Vita gaming console in Russia. The case was dismissed after successful motions practice. *Pilkin v. Sony Interactive Entm't, LLC*, No. CV 17-2501 (RDM), 2019 WL 224145 (D.D.C. Jan. 16, 2019).

Representing Black Diamond, as administrative agent, in commercial litigation challenging Murray Energy Corp.'s \$2 billion debt-for-debt exchange as violative of the operative credit agreement. *Black Diamond Commercial Finance, LLC v. Murray Energy Corp., et al.*, Adv. Pro. No. 19-02143 (Bankr. S.D. Ohio).

Representing creditors asserting fraudulent conveyance claims arising out of the \$8 billion leveraged buyout of the Tribune Company in litigation currently pending before the Second Circuit and Supreme Court.

Represented the conflicts committee of TerraForm Global, Inc., in connection with its acquisition by Brookfield Asset Management, Inc., and in matters arising out of the bankruptcy of SunEdison, Inc.

Represented the board of directors of Las Vegas Sands Corp. in state and federal shareholder-derivative suits alleging violations of the Foreign Corrupt Practices Act in Macau, China. After extensive motion to dismiss briefing, the lead state and federal derivative cases were dismissed in full. *See Kohanim v. Adelson, et al.* (No. A-11-636656-B, Nev.); *Moradi, et al. v. Adelson, et al.* (No. 2:11-CV-490, D. Nev.).

Represented general obligations bondholders of the Commonwealth of Puerto Rico in litigation and other matters related to the island's restructuring.

Represented first-lien bank lenders (as conflicts counsel) and their agent, Credit Suisse (as lead litigation counsel), in various litigation matters related to and arising in the bankruptcy of Caesars Entertainment Operating Company, Inc.

Represented bondholder group as appellate counsel in a dispute regarding the allocation of more than \$7 billion in corporate assets as between debtors in over twenty jurisdictions worldwide arising out of the bankruptcy of Nortel Networks Inc.

Represented hedge funds attempting to secure relief for Argentina's default on debt issued in the 1990s. In April 2016, Argentina agreed to pay our clients approximately \$4 billion to settle the claims at issue. *See, e.g., NML Capital, Ltd., et al. v. Republic of Argentina*, 727 F.3d 230 (2d Cir. 2013), cert. denied, 134 S. Ct. 2819 (2014).

Represented Psychiatric Solutions Inc., a subsidiary of Universal Health Services, in a securities class action. On the eve of trial, the case settled on terms favorable to our client.

Represented individual creditors, their trustees, ad hoc groups, and creditors' committees in disputes arising out of myriad other major restructurings and bankruptcies worldwide, including those of Oi SA (Brazil); OAS S.A. (Brazil); Energy Future Holdings Co.; Education Management Corp; Arch Coal; Petrobras (Brazil); Patriot Coal Co.; DTek Finance (Ukraine); Fannie Mae and Freddie Mac; Tousey, Inc.; and Residential Capital, LLC.

Represented Costco Wholesale Corp. as a party and as *amicus curiae* in a trio of Supreme Court cases addressing whether the Copyright Act's and Patent Act's first-sale doctrines apply to products

made abroad by U.S. copyright or patent holders. In June 2013 and May 2017, both times over the objection of the Solicitor General, the Court accepted Costco's argument that the doctrines do apply, and that copyrighted and patented goods originally made abroad lawfully can be imported and sold in the United States. See *Impression Prod., Inc. v. Lexmark Int'l, Inc.*, 137 S. Ct. 1523 (2017); *Kirtsaeng v. John Wiley & Sons, Inc.*, 133 S. Ct. 1351 (2013); *Costco Wholesale Corp. v. Omega*, 131 S. Ct. 565 (2010).

Represented defendant Northrop Grumman in suits alleging copyright infringement and breach of software license. The matters settled after defendants secured a mistrial in one action. See *Pegasus Imaging Corp. v. Northrop Grumman Corp., et al.* (No. 8:07-CV-01937, M.D. Fla.) and *Pegasus Imaging Corp. v. Northrop Grumman Systems Corp.*, (No. 8:2010-CV-01617, D. Mass.).

Represented Freedom House, an international democracy-promotion organization, in connection with the criminal prosecution of seven employees, in Egypt, for distributing foreign aid and assistance to Egyptian political and civil society groups.

Represented two senior White House officials in leak investigations. Both officials were cleared of any wrongdoing without their involvement becoming public.

Represented a sitting Member of Congress, during a high-profile Senate campaign, in connection with an investigation by the U.S. House of Representatives Office of Congressional Ethics (OCE). The investigation was ultimately dropped without becoming public.

Represented two lobbyists for a major financial-services firm in connection with a criminal investigation of lobbying disclosure irregularities. The investigation was ultimately dropped without charges and without becoming public.