



## Mark Hatch-Miller

### Partner

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## Overview

Mark Hatch-Miller, a former law clerk to two federal judges and a graduate of Yale Law School, is one of the country's top trial and appellate litigators.

Mark has extensive experience representing both plaintiffs and defendants – diverse clients ranging from individuals and small businesses to Fortune 500 companies. He's been involved in headline-grabbing matters, including [Dominion Voting Systems' defamation lawsuits](#) against Fox News Network and Newsmax TV. These cases have attracted widespread attention from outlets such as the [New York Times](#), [CNBC](#), [The Associated Press](#) and [LA Times](#).

Mark practices in a wide range of subject-matter areas, including contracts, patent infringement, trade secrets misappropriation, securities fraud, *qui tam*/False Claims Act, defamation, product liability, and antitrust, among other areas. He's also handled pro bono matters ranging from individual employment discrimination disputes to amicus briefs filed in high-profile Supreme Court cases. Mark has extensive experience appearing and arguing before the New York Supreme Court's Commercial Division and the Appellate Division, First Department.

***"Mark is an exceptional litigator, with terrific instincts and a matching intellect. He's been highly effective for us, and I would recommend him to anyone facing a high-stakes legal battle."***

Sam Humphreys, CEO, London Bay Capital

## Proven Results

Whether through trial verdicts or arbitration awards, via pre-trial motion wins, or through favorable settlements, Mark regularly secures results for his clients.

Mark won a [take-nothing](#) defense verdict for medical device manufacturer Globus Medical in a patent infringement dispute before a Texas federal court. Mark also obtained several key pre-verdict wins in the case, including on summary judgment motions and motions to limit expert testimony. After the Globus trial win, Mark co-wrote an article for [The Corporate Counselor](#) about his experience trying the case.

Mark obtained plaintiff-side summary judgment rulings against five different defendants for client YH Lex Estates, in New York state court actions seeking to collect on a nearly \$20 million debt. Mark initially won an early summary judgment ruling against one of the two guarantors of an unpaid real estate project-related loan. Mark later won a unanimous summary judgment ruling on appeal against the real estate firm defendant and the other guarantor. Watch Mark argue the appellate case [here](#) (start @23:19). Mark also won decisive

plaintiff-side summary judgment rulings against two related voidable transferee defendants. These high-profile real estate cases were included in *TheRealDeal*'s list of "[New York's biggest, baddest and juiciest real estate lawsuits of 2022](#)," and have also been covered in *New York Magazine*'s [Curbed](#) and *Crain's New York Business section*.

Mark won a no-liability summary judgment ruling for Speedwell Holdings (f/k/a Selling Source) in a complex dispute over a \$28.7 million commercial note. Mark also [successfully defended the summary judgment result on appeal](#) in New York's First Department.

Mark represented whistleblowers and helped the government secure a [\\$40.5 million settlement](#) in a medical false claims lawsuit in New York Federal Court against Apria Healthcare Group; the whistleblowers recovered \$4.34 million.

Mark secured a [\\$19 million settlement](#) (approximately \$12 million after fees and expenses) for a class of plaintiffs in a New York federal court [price-fixing case against Coach USA Inc. and City Sights LLC](#), providers of "hop-on, hop-off" double-decker bus tours of New York City.

***"Mark is a formidable advocate to have on your side. I have watched him face-off against many trial lawyers and Mark is always legally superior – his litigation skills are unrivaled and his ability to understand a case from big picture to the critical small details is unmatched. With Mark we know we are always in good hands."***

Jay Jani, Vice President and Chief Patent Counsel, Globus Medical Inc.

#### Honors and Community Involvement

Mark has been recognized by Super Lawyers (Thompson Reuters) as a "Rising Star" in the area of general litigation for the New York Metro Area every single year since 2014. Similarly, *Benchmark Litigation* has named Mark to its [40 & Under Hot List](#) of up-and-coming trial lawyers every year since 2019.

Mark is active in charitable and bar organizations, including the Federal Bar Council and its Inn of Court program. Mark serves on the board of directors and as treasurer of Recess, a Brooklyn-based arts non-profit dedicated to advancing racial justice.

## Education

- Wesleyan University, B.A.
- Yale Law School, J.D.

## Clerkship

The Honorable Mark R. Kravitz, United States District Court for the District of Connecticut

The Honorable Reena Raggi, United States Court of Appeals for the Second Circuit

## Notable Representations

### Past Wins

*Trial and Arbitration*

- ***Flexuspine Inc. v. Globus Medical Inc. (E.D. Tex.)*** Won a [take-nothing](#) defense verdict for medical device manufacturer Globus Medical, in a patent infringement dispute before a Texas federal court. Mark also obtained several key pre-verdict wins in the case, including on summary judgment motions and motions to limit expert testimony. After the Globus trial win, Mark co-wrote an article for [The Corporate Counselor](#) about his experience trying the case.
- ***Westlake Chemical v. James Construction et al. (334th District Court of Harris County, Texas)*** Won a more than \$4 million breach of contract trial verdict for Westlake Chemical against James Construction Group in Texas state court. The jury sided with Westlake on claims that safety issues justified removing the contractor, James, from a \$400 million construction project. The result was later modified by the Texas Supreme Court.
- ***Intrepid Investments v. Selling Source (New York Supreme Court, Commercial Division)*** Represented online advertising firm Selling Source in a New York arbitration regarding the equity earn-out provision in an acquisition contract and won an award rejecting 93% of the plaintiff's claims, and ordering the plaintiff to reimburse arbitrator fees previously paid by Selling Source.

#### *Pre-Trial*

- ***YH Lex Estates v. HFZ Capital Group (New York Supreme Court, Commercial Division)*** Won summary judgment for plaintiff YH Lex Estates against a guarantor defendant in a New York state court action seeking to collect a nearly \$20 million debt, and later won summary judgment for the same plaintiff on its separate \$12.6 million voidable transfer claims against two transferee defendants.
- ***Intrepid Investments, LLC v. Speedwell Holdings (New York Supreme Court, Commercial Division)*** Obtained a complete defense-side summary judgment win for online advertising firm Speedwell Holdings (formerly known as Selling Source), in a New York state court breach of contract dispute over an alleged \$28.7 million debt.
- ***In re Sensata Technologies (New York Supreme Court, Nassau County Branch)*** Won a complete defense-side summary judgment victory for auto parts manufacturer Sensata Technologies, in a New York state court product liability case.

#### *Appellate*

- ***Intrepid Investments, LLC v. Selling Source, LLC (New York Supreme Court, Appellate Division, First Department)*** Secured a [major appellate win](#) for client Speedwell Holdings (formerly known as Selling Source) in New York State Court. The order affirmed a prior no-liability summary judgment ruling by the New York Supreme Court's Commercial Division in a complex \$28.7 million commercial loan case, brought by plaintiff Intrepid Investments.
- ***YH Lex Estates v. HFZ Capital Group (New York Supreme Court, Appellate Division, First Department)*** In a New York state court action seeking to collect a nearly \$20 million debt for plaintiff YH Lex Estates, [won a unanimous summary judgment ruling](#) on appeal against a real estate firm defendant and its founder. You can watch Mark argue the appellate case [here](#) (start @23:19).

#### *Landmark Settlements*

- ***United States of America et al. ex rel. Martinez et al., v. Apria Healthcare Group, Inc., and Apria Healthcare LLC (S.D.N.Y.)*** Represented whistleblowers and helped the government secure a [\\$40.5 million settlement](#) in a medical false claims lawsuit in New York Federal Court against Apria Healthcare Group; the whistleblowers recovered \$4.34 million.
- ***In re: NYC Bus Tour Antitrust Litigation (S.D.N.Y.)*** Secured a [\\$19 million settlement](#) (approximately \$12 million after fees and expenses) for the class in a New York federal court [price-fixing case against Coach USA Inc. and City Sights LLC](#), providers of "hop-on, hop-off" double-decker bus tours of New York City.
- ***AIG Securities Fraud Litigation (S.D.N.Y.)***. Represented Pacific Life Funds and Oppenheimer Funds as opt-outs from the landmark New York federal court securities fraud class action against American

International Group, arising from AIG's misstatements and omissions to investors leading up to its 2008 bailout; the cases settled on confidential terms.

- ***In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation (E.D.N.Y.)*** [Represented Walmart in contract and antitrust lawsuits](#) in New York state and federal court against Visa USA; the cases settled on confidential terms.
- ***In re General Motors Ignition Switch Litigation (S.D.N.Y.)*** Represented plaintiffs in a federal multi-district litigation against General Motors over an ignition switch defect. Mark's work on a key personal injury bellwether case in New York federal court contributed to a favorable settlement on the eve of trial. This case received substantial press from outlets such as [The Wall Street Journal](#).

## Current Cases

- ***US Dominion Inc. et al. v. Fox News Network LLC (Superior Court of the State of Delaware)*** Serving as counsel to Dominion Voting Machines in its [defamation lawsuits against Fox News Network](#) and Newsmax TV. Dominion accuses Fox and Newsmax of making false claims that Dominion rigged the 2020 Presidential Election.
- ***Langer v. CME Group, Inc. (Circuit Court Of Cook County, Illinois County Department, Chancery Division)*** Serving as counsel for individual plaintiffs and a proposed class of members of the Chicago Mercantile Exchange and the Chicago Board of Trade. The case alleges that CME and CBOT breached their most fundamental obligations to members under the exchanges' respective corporate charters, including by opening an electronic trading floor without required member approval. Additional information about the case is available [here](#).
- **Litigation on Behalf of Globus Medical (Various).**
  - Counsel to Globus Medical defending broad claims alleging that Globus infringes numerous spinal device and medical instrument patents. The plaintiff brought the case in Texas federal court, but Mark won a rare ruling transferring the matter to Globus's home state of Pennsylvania.
  - Representing Globus Medical in a plaintiff-side patent infringement case against competitor Life Spine, related to Globus's innovative expandable spinal fusion implant technologies.
- ***BML Properties Ltd. v. China Construction America (New York Supreme Court, Commercial Division)*** Counsel to BML Properties on claims that China Construction America, one of the largest contractors in the world, and other defendants committed fraud in connection with BMLP's development of the "Baha Mar" resort complex in the Bahamas.
- ***Macquarie Energy Winter Storm Litigation (Various)***. Representing Macquarie Energy in multiple disputes arising from the February 2021 winter storm Uri in Texas.
- ***NASDAQ, Inc. v. Miami International Holdings (D.N.J.)*** Representing NASDAQ in a trade secrets misappropriation litigation against competitor MIAX, and defending NASDAQ against antitrust and other counterclaims.