



# John D. Donovan

Partner

## BOSTON

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## Practice

John Donovan, a partner in the litigation department since 1990, focuses his practice on business litigation, including corporate and securities matters, class actions, disputes in connection with mergers and acquisitions, and other complex business transactions. One of the nation's premiere litigators, he is an accomplished courtroom advocate and experienced strategist for handling the most difficult, "bet the company" matters. *Chambers USA* calls him "exceptional," a "brilliant litigator," and "one of the best trial lawyers in Massachusetts," ranks him among less than a half dozen securities litigators in the country labeled "Star Individuals," and places him in the first band of nationally ranked securities lawyers. His clients include mutual funds complexes, private equity funds, investment banks, and public companies, including their officers and directors. John's advocacy skills have been demonstrated in a full spectrum of courtroom situations nationwide: injunction proceedings in M&A litigation, dismissal and summary judgment arguments in complex securities, antitrust and commercial cases, bench and jury trials in both commercial cases and even (the rarest of trials) securities class actions. John has also argued dozens of appeals across the nation, in Massachusetts, New York, the Delaware Supreme Court, and the First, Second, Fifth, Seventh, Eighth and Eleventh Circuits. Recently, in what the *New York Times* labeled a "sweeping legal victory," he secured a jury verdict for Goldman Sachs after a five-week trial that dismissed all claims by the founders of Dragon Systems about Goldman's role as financial adviser in the sale of that company. And two years ago, he obtained a 9-0 victory in the United States Supreme Court, establishing the mutual fund industry's standard for challenges to advisory fees.

## Experience

- **Goldman Sachs.** Lead counsel representing Goldman Sachs in multiple matters, recently including a widely publicized five-week jury trial about Goldman's role as financial adviser in connection with the \$600 million sale to Lernout & Hauspie before that firm's fraud was revealed, culminating in a complete defense verdict.

## Education

- JD, *summa cum laude*, Boston College Law School, 1981; Order of the Coif; Alumni Prize (class rank); Alpha Sigma Nu (National Jesuit Honor Society); Editor-In-Chief, *Boston College Law Review*
- AB, *cum laude*, Harvard College, 1975

## Bar Admissions

- Massachusetts, 1981
- New York

## Court Admissions

- U.S. Court of Appeals for the First Circuit
- U.S. Court of Appeals for the Second Circuit
- U.S. Court of Appeals for the Third Circuit
- U.S. Court of Appeals for the Fifth Circuit
- U.S. Court of Appeals for the Seventh Circuit

- **Harris Associates.** Lead counsel representing Harris Associates, the manager of the Oakmark funds, before the U.S. Supreme Court in the appeal of the Seventh Circuit's decision in the same matter. In a 9-0 decision, the Court set the standard by which "excessive fee" claims under Section 36(b) of the Investment Company Act are measured, endorsed the primacy of independent fund directors in setting fees, and rebuffed attempts by plaintiffs' lawyers to encourage increased judicial scrutiny of fees.
  - **Special Committee of Affiliated Computer Services, Inc.** Lead counsel representing the Special Committee of Affiliated Computer Services, Inc. ("ACS") in multiple state litigations filed in connection with ACS's \$6.4 billion merger with Xerox that paid differential consideration to ACS's founder.
  - **Genzyme.** Lead counsel representing Genzyme in a securities fraud and derivative litigation arising out of manufacturing plant shutdowns and related revenue losses. Previously secured dismissal of securities class action litigation, affirmed by the Second Circuit, setting the standard for disclosure about preliminary merger negotiations.
  - **State Street.** Lead counsel representing State Street Bank & Trust Co. in multiple actions arising out of investment losses in mutual funds and unregistered common trust funds due to exposure to mortgage-backed securities.
  - **Mutual Fund Market Timing.** In consolidated Multi-District Litigation arising out of the mutual fund market timing scandals, the defense group turned to John to successfully argue on behalf of the dismissal of over 1,000 derivative cases, eliminating the prospect of liability for every mutual fund director and trustee.
  - **Outside Directors of Sycamore Networks.** Lead counsel representing the outside directors of Sycamore Networks, Inc., securing one of the rare dismissals in both Delaware and Massachusetts of derivative litigation involving the alleged "back-dating" of stock options.
  - **Transaction Litigation.** Lead counsel for companies, special committees and bidders in litigation arising out of M&A transactions including Millipore, Affiliated Computer, IMS Health, inVentive Health Systems, Genzyme, Airvana, Bain Capital, THLee Partners, TPG Capital, and many others.
- U.S. Court of Appeals for the Eighth Circuit
  - U.S. Court of Appeals for the Eleventh Circuit
  - Supreme Court of the United States

## Awards

- *Who's Who Legal* (2016)
- *Legal 500 - M&A* (2015-2017)
- *Best Lawyers' Boston Litigation - Securities Lawyer of the Year* (2012)
- *The Best Lawyers in America* (1995-2018)
- Litigation Star, *Benchmark Litigation* (2013-2015)
- *Financial Times "U.S. Innovative Lawyer"* (2010)

- *Chambers USA: America's Leading Lawyers for Business* (2005-2017)
- "Most Influential People" *MutualFundWire* (2010)
- *Massachusetts Super Lawyers* (2004-2016)
- *The International Who's Who of Commercial Litigation Lawyers* (2008-2012)
- *Lawdragon 500: Leading Litigators in America* (2006, 2013)
- *Lawdragon 3000: Leading Lawyers in America* (2007-2010)

## Publications

- Quoted, "SEC Disgorgement Could Face Tough Crowd At High Court," *Law360* (April 18, 2017)
- Quoted, "Gorsuch Could Take Strict View Of Securities Law Time Limit," *Law360* (April 14, 2017)
- Quoted, "State Farm Wins Rare Dismissal in Excessive-Fee Case," *Ignites* (June 24, 2016)
- Quoted, "Obama Administration Gambles On Supreme Court Review Of Insider-Trading Case," *Forbes* (July 30, 2015)
- Quoted, "High Court Ruling Adds Protections for Investors in 401(k) Plans," *The Wall Street Journal* (May 18, 2015)
- Quoted, "Supreme Court Hits Pension Plans Over High-Cost Mutual Funds," *Forbes* (May 18, 2015)
- John Donovan, William Jewett, Justin Florence and Elizabeth Monnin-Browder, "Supreme Court Leaves 'Duty To Monitor' Definition To Others," *Law360* (May 18, 2015)
- Quoted, "Supreme Court: No 'Armageddon' for shareholder class action suits," *Fortune* (June 24, 2014)
- Quoted, "Court Raises Bar for Securities Class Action Cases," *Associated Press* (June 23, 2014)
- Quoted, "U.S. top court adds limit to securities class actions," *Reuters* (June 23, 2014)
- Quoted, "Supreme Court Leaves Fraud On Market Intact, Makes Life A Bit Harder For Securities Plaintiffs," *Forbes* (June 24, 2014)
- John Donovan & David Nasse, "In Halliburton, SCOTUS Largely Preserves Status Quo," *Law360* (June 23, 2014)

## Presentations

- Panelist, "Considerations for Directors in Light of Northstar Financial," Mutual Fund Directors Forum webinar (July 30, 2015)