



Jay W. Freiberg
Partner

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Education

- The George Washington University Law School
- Binghamton University, State University of New York

Bar Admissions

- New York

Court Admissions

- US Tax Court
- US Court of Appeals, Second Circuit
- US District Court, Southern District of New York
- US District Court, Eastern District of New York
- US District Court, Eastern District of Pennsylvania

Jay is laser-focused on efficiently obtaining wins for his clients, who hire him for his seasoned judgment in dispute resolution both in and out of the courtroom. A trusted counselor, he has deep expertise representing all types of stakeholders in all manner of sophisticated and complex trust and estate disputes. As part of this practice, he counsels private clients in potentially contentious business and personal matters regarding, among other areas, closely-held businesses, real estate, tax and insurance. Jay's practice also includes guardianship actions and other contested elder law matters. A carefully aggressive advocate, Jay's clients look to him for their thorniest matters.

Jay is well-known in his field, and often speaks and writes on fiduciary litigation topics. Jay is a Fellow in the peer-elected American College of Trust and Estate Counsel (ACTEC). Through his network, Jay provides seamless counsel to his multi-jurisdictional clientele.

Jay is *pro bono* trust and estate litigation counsel to the New York Public Library. He is also the chairperson of the Litigation Committee of *Trusts & Estates* magazine. He was previously an adjunct professor at Fordham University School of Law, where he taught legal writing for over 10 years.

Prior to forming Elman Freiberg, Jay was the chairperson of Katten Muchin Rosenman's New York fiduciary litigation practice. He also previously served as a law clerk for the Honorable Diane Weiss Sigmund, judge for the US Bankruptcy Court in the Eastern District of Pennsylvania.

Jay resides in Manhattan with his wife and two children. When not with his family or in the office, he can be found training for his next race. Jay is a veteran of numerous road races and triathlons and, on happy occasion, makes the podium.

Selected Experience

- Representation of a beneficiary of significant trusts in a complex, multi-jurisdiction contested accounting and fiduciary removal action and related estate proceeding.

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Selected Experience continued

- Defense of a national trust company, as trustee, in US Tax Court and US District Court regarding penalties and judgments levied against businesses previously owned by the trust settlor.
- Representation of beneficiaries of an offshore trust in multi-party proceedings seeking termination of the trust.
- Representation of a trustee tasked with the workout of numerous defaulted real estate loans.
- Defense of several closely held Delaware entities in litigation against a UK hedge fund and a UK court-appointed receiver regarding allegedly fraudulent loans made to the Delaware entities.
- Representation of a private real estate lender in a multi-jurisdiction promissory note litigation.
- Representation of a fiduciary and beneficiary of a substantial trust involved in an intra-family dispute regarding numerous closely held businesses and family limited partnerships.
- Representation of a fiduciary in the settlement of numerous disputes arising from an estate and trusts with significant real estate and art holdings located in several foreign jurisdictions.
- Defense of a registered broker in FINRA and state inquiries and a civil action alleging, among other things, breach of fiduciary duty, negligence, fraud and churning.

Thought Leadership

- Recognized by *Super Lawyers* for Estate & Trust Litigation
- Recognized by *New York Law Journal* and *New York Magazine* as a Top-Rated Trusts and Estates Lawyer
- Chairperson, Litigation Committee, *Trusts & Estates* magazine

Memberships

- Fellow, The American College of Trust and Estate Counsel
- New York City Bar, Member of Trusts, Estates & Surrogate's Courts Committee
- American Bar Association, Real Property, Trusts and Estates Law Section, Probate & Fiduciary Litigation Committee

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Memberships continued

- New York State Bar Association, Commercial and Federal Litigation Section, Trusts and Estates Law Section, Litigation Committee
- Yale Club Insurance Group

Speaking Engagements & Presentations

- Presenter | *A Primer on the Trustee Intake Process (And Beyond) From a Litigator's Point of View* | *Trusts & Estates Virtual Forum* (November 2021)
- Presenter | *Avoiding Litigation in Directed Trusts* | South Dakota Trust Association Fall Forum (October 2021)
- Author | *Wealth Advisors as Life Insurance Trustee—a Good Idea?* | *NYSBA Trusts and Estates Law Section Journal* (2021 | Vol. 54 | No. 2)
- Author | *When an In Terrorem Hits the Interstate* | *Trusts & Estates Magazine* (May 2021)
- Author | *Litigating an Undue Influence Case* | *Trusts & Estates Magazine* (December 2020)
- Presenter | *Litigation Avoidance Techniques For CPA's Serving As Trustees* | New York State Society of CPA's (December 2020)
- Presenter | *Trust Assets in Divorce Proceedings: Within Reach or a Bridge too Far?* | American Bar Association Family Law Section | 2020 Fall CLE Conference (October 2020)
- Presenter | *The Fuzzy Line Between Influence and Undue Influence* | Cambridge Forum on Private Wealth Litigation (September 2020)
- Presenter | *Litigating Trust and Estate Disputes in Florida v. New York* | Palm Beach County Bar Association CLE (March 2020)
- Presenter | *Joint Representations: Efficient, but at What Cost?* | Cambridge Forum on Private Wealth Litigation (April 2019)
- Presenter | *Litigation Avoidance for Trustees* | Estate Planning Council of New York City (January 2019)
- Author | *What Do I Say When A Client Asks Me To Serve As A Trustee* | New York State Bar Association One on One (Fall / Winter 2018)
- Presenter | *Best Practices During Fiduciary Litigation* | Cooperstown, New York (September 2018)

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Speaking Engagements & Presentations continued

- Panelist | Drafting Dos and Don'ts – Small Errors and a World of Problems | American Bar Association Real Property Trust and Estates (RPTE) Section's Spring CLE Symposia | Lake Buena Vista, Florida (May 2018)
- Participant | Cambridge Forum on Private Wealth Litigation (April 2018)
- Presenter | How Trustees Avoid the Courtroom (April 2018)
- Presenter | What You Should Know About Fiduciary Risk But Were Afraid to Ask (December 2017)
- Presenter | What to Know to Manage Trustee Risk | Detroit, Michigan (September 2017)
- Presenter | Mitigating Fiduciary Risk | New York, New York (June 2017)
- Presenter | Criminal Trust Busting: Wyly and Its Implications | Legal Week Trust & Estates Litigation Forum 2017 | Tournettes, France (March 2017)
- Presenter | Mitigating Fiduciary Risk | New York, New York (September 2016)
- Presenter | Managing Trustee Risk: Insights from a Fiduciary Litigator | Philadelphia, Pennsylvania (April 2016)