

## Services

### Securities, Shareholder Disputes and Corporate Governance

#### Practice Contacts

Rajeev K. Adlakha  
Victor A. Walton, Jr.

#### Attorneys

Phillip W. Bechter  
Alycia N. Broz  
Elizabeth Turrell Farrar  
Monica A. Fitzgerald  
Michael J. Garvin  
Adam S. Hamburg  
Kimberly Weber Herlihy  
David F. Hine  
Rodney A. Holaday  
William D. Kloss Jr.  
John J. Kulewicz  
Roger E. Lautzenhiser, Jr.  
Jacob D. Mahle  
Jeffrey A. Miller  
Joseph R. Miller  
William G. Porter  
Jeffery E. Smith  
Robert N. Webner  
Aaron M. Williams  
Gregory J. Zelasko

Vorys provides pragmatic counsel and creative solutions that advance our clients' businesses goals while mitigating litigation and enforcement risks.

#### Who We Represent

We advise a wide range of clients on securities litigation and enforcement actions, from some of the nation's largest public corporations to middle-market, family-owned businesses.

Our securities litigation clients also include:

- 150 financial institutions, including 50 national, regional and local banks
- Boards of directors and committees
- Corporate officers and executives
- Family offices
- Issuers, auditors and broker-dealers
- Private and angel investors
- Shareholders
- Venture capital firms

#### Our 360-Degree Approach

We work seamlessly across practices to leverage our team's collective experience and knowledge of the full spectrum of securities litigation, investigations and corporate governance matters. We approach each client matter with an eye toward mitigating risks, minimizing costs and advancing business objectives.

Vorys has a rich history in influencing and drafting corporate and securities laws in Ohio and Delaware, where many of our corporate clients were organized. We are particularly proficient in navigating the nuances of related statutes in those states. We also advise clients on the increasingly complex and constantly changing governance rules imposed by the U.S. Securities and Exchange Commission (SEC), New York Stock Exchange, NASDAQ and proxy advisory firms to help clients

remain in compliance.

When representing clients in mergers, acquisitions and other corporate transactions, we proactively engage Vorys' deep bench of trial lawyers on the front end of deals to integrate terms and conditions that safeguard against subsequent litigation.

Our securities litigation and corporate governance team includes members of the American College of Trial Lawyers and attorneys with in-house legal department experience at financial institutions, as well as public and private companies.

## What We Do

Our securities litigation and corporate governance lawyers have particularly extensive experience in securities class actions, derivative litigation, corporate takeovers and investigations.

We also regularly defend clients in matters involving:

- Contract disputes
- Crisis management
- Director and officer liability protections, insurance coverage and charter indemnification provisions
- Federal and state securities laws, such as the "blue sky" laws of Ohio, as well as statutory and common law claims
- Fiduciary duty compliance and litigation
- Governance compliance training programs
- Governance documents, such as charters, bylaws, governance guidelines, board committee charters, insider trading policies, whistleblower policies, and codes of conduct and ethics
- Improving corporate governance ratings from proxy advisory firms
- Internal investigations
- Sarbanes-Oxley Act, Dodd-Frank Act and Regulation FD compliance
- Securities exchange governance compliance matters involving director independence standards and board and committee requirements
- Shareholder activism and takeover efforts, such as proxy contests, shareholder proposals, tender offers and informal demands

## National Recognition

Vorys has consistently earned national and regional recognition in prominent legal industry rankings across an array of corporate and litigation practices. We are proud to have been ranked nationally for "Corporate Law" in the *U.S. News – Best Lawyers® "Best Law Firms"* report annually since 2010 and earned recognition in Ohio for "Corporate Law," "Corporate Governance Law," "Corporate Compliance Law," "Litigation – Securities," "Mass Tort Litigation / Class Actions – Defendants," and "Mergers & Acquisitions Law," among other practices.

With long-standing recognition as a “**Leading Law Firm**” in Ohio for “Corporate/M&A” and “Litigation: General Commercial” in the prestigious **Chambers USA** guide, Vorys’ experience in securities, corporate governance, M&A, class actions and False Claims Act litigation was most recently lauded in the 2022 edition.

## Areas of Focus

### Securities Class Actions

Vorys regularly serves as national litigation counsel and national coordinating counsel in class actions across the country, including defending public and private companies, directors and corporate officers against claims of securities fraud and breach of fiduciary duty.

When class action claims arise, we guide clients in overcoming procedural hurdles and help them make informed decisions about whether to litigate or settle cases. Because the class action mechanism allows for thousands of individual claims to be pursued jointly, these cases present particularly high-stakes challenges for defendants. Such cases involve unique standards and procedures that govern certification of classes, notice, settlement and trial. Our lawyers are adept at creatively developing and persuasively presenting arguments against class certification with evidence to support those claims.

In cases where classes are certified, we assess the potential for a cost-effective settlement to advance our clients’ goals in the litigation. When clients resolve to fight claims, we advise on the appropriate forum to remove state court class actions to federal court by employing the Class Action Fairness Act (CAFA) and other mechanisms.

Our securities class action experience includes:

- Defending an issuer in consolidated fraud-on-the-market class actions and parallel derivative claims involving alleged duty to disclose forward-looking information
- Representing auditors in multiple fraud-on-the-market class actions arising out of financial statement restatements
- Representing broker-dealers in arbitrations of customer claims and defending the officers of a broker-dealer in a sales practices class action

### Derivative Litigation

Boards of directors and executive officers who face securities fraud class actions are often targets of subsequent derivative claims brought by corporate shareholders. We have decades of experience defending corporations and their officers and directors against minority shareholders’ claims – such as shareholder derivatives actions – as well as demands for inspection of financial or operating records and shareholder lists.

Our derivative litigation experience includes:

- Representing a public company's board of directors in derivative litigation arising from a going-private transaction
- Obtained dismissal of derivative claims based upon a special litigation committee report
- Successfully represented a Fortune 500 company in class action and shareholder derivative suits arising from a significant stock price drop.
- Leading trial team in defense of corporate officer in derivative litigation involving breach of fiduciary duty claim

## Internal Investigations

Vorys has successfully handled dozens of internal investigations throughout the U.S. and abroad involving allegations of securities fraud and other claims, including:

- Abuse or neglect of patients by staff at health care facilities
- Breaches of fiduciary duty
- Compliance with internal codes of conduct, policies and processes
- Conflicts of interest in awarding contracts
- Destruction of proprietary materials and potential evidence
- Insider trading
- Violations of federal and state securities laws
- Whistleblower and retaliation claims

Clients turn to us to conduct pre-litigation investigations of actual or potential wrongdoing by employees as neutral investigators and to mount a company's defense to anticipated claims. Our team includes Vorys' **strategic communications** professionals, who assist clients with media relations issues, such as crisis communications, investigative reports and reporter inquiries.

## M&A and Takeover Litigation

Recognized by *Chambers USA* as a “**Leading Law Firm**” in Ohio for corporate/M&A, Vorys leads all phases of mergers and acquisitions (M&A), including subsequent hostile-takeover, “broken deal” and earn-out litigation.

Our M&A team includes attorneys with diverse experience in handling litigation, corporate governance and compliance, and regulatory aspects of transactions. Our attorneys' broad knowledge positions us to anticipate the unique issues and challenges that may arise in each deal.

Litigation often plays a significant role in determining the outcome of corporate control disputes. For decades, Vorys has been a key player in litigation involving contests for control in Ohio. In “bet the company” takeover lawsuits, we have litigated an array of issues in state and federal courts, including compliance with antitrust and securities laws, constitutional issues, employee stock ownership plan (ESOP) issues and various takeover defenses. Corporate control litigation typically requires quick, decisive action, and our attorneys have the knowledge and experience that enable them to help clients make those

decisions.

Our work in this area includes:

- Representing numerous targets and bidders in hostile tender offers for some of the nation's largest companies
- Representing and regularly advising public companies on takeover defenses, such as restructurings, "poison pills," "golden parachutes" and other defensive strategies
- Representing shareholders of closely held corporations in disputes over corporate control and buy-sell agreements
- Representing a public company and its officers in securing the dismissal of post-merger claims under Section 10(b) and 20(a) of the Securities Exchange Act of 1934
- Representing a Fortune Global 2000 company in earn-out litigation relating to its acquisition of a domestic business unit
- Representing corporate management and directors, or their opponents, in proxy contests
- Representing corporate officers, directors and board committees in change in control transactions, corporate disclosure disputes and lawsuits alleging breach of fiduciary duties

## Government Investigations

Government enforcement actions are complex, highly sensitive and time-consuming ordeals for any company. Coordination between regulatory authorities has increasingly blurred the line between criminal, civil and administrative offenses, resulting in heightened risk for companies conducting business in the U.S. and internationally.

We handle civil litigation, investigations and inquiries brought by the U.S. Securities and Exchange Commission (SEC), U.S. Department of Justice (DOJ), Federal Trade Commission (FTC), Internal Revenue Service (IRS), Federal Reserve System, Commodity Futures Trading Commission (CFTC), Consumer Financial Protection Bureau (CFPB) and Financial Industry Regulatory Authority (FINRA), as well as banking and insurance regulators and state attorneys general.

Our deep experience with these government enforcement agencies enables us to provide sound advice on the best course of action if wrongdoing is identified, including potential disclosure to authorities. We also assist clients with creating and implementing compliance programs designed to prevent such incidents from occurring.

Our experience includes investigations involving:

- Accounting practices
- Corporate fraud
- Consumer financial services
- Data breach and privacy

- Environmental violations and regulatory compliance
- FCA and *qui tam* litigation
- Financial institutions regulatory issues
- Foreign Corrupt Practices Act (FCPA)
- Government procurement
- Grand jury subpoenas
- Health care fraud and abuse
- Insurance
- Anti-Money Laundering (AML) law and Bank Secrecy Act (BSA)
- Public corruption
- Securities fraud and insider trading
- Theft of trade secrets and intellectual property

## KEY SERVICE AREAS

We advise clients at every stage of the enforcement process, including trials and appeals, and have substantial experience representing clients in **grand jury investigations, criminal and *qui tam* actions, financial and securities fraud investigations, and public corruption matters.**

We represent companies, national associations and individuals faced with investigations relating to some of the most significant **antitrust cases** in recent years. Our influence and experience in antitrust law is evidenced by the prominent leadership positions our lawyers have held in the Antitrust Law sections of the American Bar Association and the Ohio State Bar Association.

In recent years, federal agencies have aggressively escalated investigations and prosecutions of government contractors and health care entities under the **FCA**, which allows cases to be brought by whistleblowers alleging that companies have submitted false claims for payment to a U.S. officer. Many states also have enacted statutes that parallel the FCA. Notably, Vorys is one of the few firms in the country that has tried – and won – **defense jury verdicts for government contractors in FCA cases.**

## News

News, 1.27.2015

Miller Quoted in *Compliance Week* Story Titled “Focus on Equity Pay Plans This Proxy Season”

News, 11.1.2012

Vorys Receives 63 Tier One Rankings on 2013 *U.S. News - Best Lawyers* "Best Law Firms" List

News, 12.16.2011

75 Vorys Attorneys Recognized as 2012 Ohio Super Lawyers and Rising Stars

News, 11.1.2011

Vorys Ranked a "Best Law Firm" in 26 National and 47 Metropolitan Categories in *U.S. News - Best Lawyers* List

News, 9.6.2011

More than 100 Vorys Attorneys named on 2012 The Best Lawyers in America® List

## Publications

Authored article, 1.12.2021

Evolving Disclosures in 2021

Client alert, 5.20.2020

Monitoring and Oversight in the COVID-19 Era

Client alert, 11.21.2018

*Securities Alert*: ISS Issues 2019 Proxy Voting Guidelines Updates

Client alert, 5.20.2016

*Securities Alert*: SEC Updates Guidance on Non-GAAP Financial Measures

Client alert, 8.10.2015

*Securities Alert*: SEC Adopts Final Pay Ratio Disclosure Requirements

Client alert, 7.6.2015

*Securities Alert*: SEC Proposes Executive Compensation Clawback Rules

Client alert, 5.5.2015

*Securities Alert*: SEC Proposes 'Pay Versus Performance' Disclosure Rules

Client alert, 2.12.2015

*Securities Alert*: SEC Proposes Disclosure Rules on Hedging Policies

Client alert, 1.13.2015

*Securities Alert*: 2015 Proxy Season Action Items

Client alert, 11.11.2014

*Securities Alert*: ISS and Glass Lewis Issue 2015 Corporate Governance Policy Updates

Client alert, 9.20.2013

*Securities Alert*: New SEC Proposed Rules on 'Pay Ratio' Disclosure

Client alert, 6.26.2012

*Securities Alert*: New SEC Rule and Disclosure Requirements Adopted Governing Compensation Committees

Client alert, 1.26.2012

*Securities Alert:* NYSE Eliminates Uninstructed Broker Voting on Certain Corporate Governance Issues

## Speaking Engagements

Event, 12.13.2022

Webinar: Understanding the SEC's New Pay Versus Performance Rules

9.21.2017

ILTA Ohio Litigation Support Statewide Meeting

*Become the Envy of Everyone with Systemized eDiscovery Project Management*

5.7.2017

Mortgage Bankers Association Legal Issues & Regulatory Compliance Conference

1.30.2015

Preparing for the 2015 Proxy and Annual Report Season -- Cincinnati

*Presented by Vorys, Sater, Seymour and Pease LLP and Ernst & Young*

8.21.2014

Responding to Government Investigations

1.24.2014

Preparing for the 2014 Proxy and Annual Report Season

1.31.2013

Preparing for the 2013 Proxy and Annual Report Season--Cincinnati

*Presented by Vorys, Sater, Seymour and Pease LLP and Ernst & Young*

1.25.2013

Preparing for the 2013 Proxy and Annual Report Season--Columbus

*Presented by Vorys, Sater, Seymour and Pease LLP and Ernst & Young*

11.18.2011

Corporate Governance: To Disclose or Not Disclose

*Presented by the Akron Bar Association*