



Jay D. Marinstein

Partner

jmarinstein@foxrothschild.com



Pittsburgh, PA

Tel: 412.394.5526

Fax: 412.391.6984

The leader of the firm's Pittsburgh commercial litigation group, Jay represents midsize to large publicly and privately held companies and nonprofit organizations in complex, high stakes commercial litigation in state and federal courts across the country.

Jay provides strategic advice informed by decades of experience helping clients resolve their most intractable business disputes. He has forged long-term partnerships with manufacturers, retailers and service providers, working with them to achieve their long-term business and financial goals while defending their interests in bet-the-company cases involving:

- Trade secrets
- Restrictive covenants
- Uniform Commercial Code
- Breach of contract
- Fraud and breach of fiduciary duties

- Partnership and shareholder actions
- Piercing the corporate veil
- Tortious interference
- Executive compensation

As a seasoned litigator, Jay works with his clients to resolve disputes efficiently, while protecting their interests and advancing their objectives. When litigation is unavoidable, Jay is a tenacious, highly skilled trial attorney with a track record of courtroom success:

- Represented clients employed by a *Fortune* 100 company accused of breaching noncompete agreements and misappropriating trade secrets in one of the first cases litigated under the Pennsylvania Uniform Trade Secret Act. After an extensive injunction hearing, the court denied the injunction and awarded Jay's clients their attorney's fees. Later, his clients pursued a counterclaim and obtained a very significant monetary settlement.
- Successfully defended a lawsuit against a *Fortune* 500 company and prosecuted counterclaims arising out of a long-term supply agreement involving the pricing for chlorine and titanium tetrachloride. Based upon aggressively taking depositions, our client was able to prove that the pricing it was charged violated the implied duty of good faith and fair

dealing and the open price term under the Uniform Commercial Code. A significant settlement was achieved after jury selection.

- Successfully prosecuted multimillion-dollar breach of contract and piercing the corporate veil claims on behalf of a *Fortune* 500 company against a real estate developer.
- Successfully defended a *Fortune* 500 company against claims that its operation of a variety store violated restrictive covenants covering grocery stores, food stores, and supermarkets.
- Successfully prosecuted appeals filed in the Department of Public Welfare on behalf of a large nonprofit organization regarding rates and reimbursements.
- Successfully defended large nonprofit organizations against claims made by the Attorney General regarding the reasonableness of executive compensation.
- Obtained a defense verdict by discrediting an executive plaintiff and establishing that the executive was fired for cause.
- Obtained a defense verdict in a multimillion-dollar contract dispute by establishing the unenforceability of a liquidated damages provision.

The Chair of Fox Rothschild's Income Partner Evaluation Committee and a member of the firm's Strategic Growth Committee, Jay is the only attorney who has completed two five-year terms as an Office Managing Partner. In 2012, Jay completed his first term as managing partner of the Pittsburgh office, during which office revenues and income grew significantly, "even though it encompassed the economic downturn," said the *Pittsburgh Business Times*. He accomplished this growth by attracting top talent, growing client relationships and watching costs. In March 2022, Jay completed his second term as managing partner of the office. In his second term, Jay led the Pittsburgh office through the pandemic and achieved significant growth in revenues and profitability by increasing the number of attorneys from 24 to 42 through the addition of several lateral partners with multimillion-dollar practices.

Business and legal news media frequently interview Jay to obtain his insights into law firm administration, legal trends and changing market conditions.

Services

- Litigation
- Directors' & Officers' Liability & Corporate Governance
- Pharma & Biotech
- Retail Industry
- Trade Secrets & Restrictive Covenants

Beyond Fox Rothschild

Jay has presented continuing legal education seminars and authored articles on trade secret protection, enforcing restrictive covenants and on the pros and cons of alternative dispute resolution proceedings. He has been quoted in local and national newspapers and has appeared on radio and television newscasts regarding high profile commercial litigation matters.

Client Resources

Arbitration Provisions and Alternative Dispute Resolution in a Changing Legal Landscape - PowerPoint

Jay presented on selecting arbitration and the best practices regarding the types of provisions to address the number of arbitrators, scope of discovery, and permissible motions.

[View the PowerPoint that accompanied the presentation.](#)

Bar Admissions

- Pennsylvania

Education

- Cornell Law School (J.D., 1988)
- University of Rochester (B.A., 1985)

Memberships

- American Bar Association
- Pennsylvania Bar Association
- Allegheny County Bar Association

Publications

October 12, 2007

Strengthening your clients' non-compete agreements: important checkpoints

Lawyers Journal

January 2007

A Case Study on Attacking Noncompete Agreements

Mid-Atlantic Executive Legal Advisor

Winter 2006

Taking the Offensive: A Case Study on Attacking Noncompete Agreements

Mid-Atlantic Executive Legal Advisor

Events

December 4, 2018

Overview of Pennsylvania's Adoption of the Uniform Arbitration Act, Effective Arbitration Provisions and Other Important Considerations

Rivers Club

November 4, 2009

Strategies for Coming Out on Top of the Economy

The Rivers Club

News

March 20, 2023

Fox Rothschild IP Chair Tapped As 1st Chief Growth Strategist

March 17, 2023

Fox Rothschild Names Dianna El Hioum Chief Growth Strategist

May 19, 2022

Roskovski's Motion Flatly Denied in Thursday Hearing

February 10, 2022

Fox Rothschild Adds 5 Litigation Partners In Pittsburgh

February 9, 2022

Fox Rothschild Expands Pittsburgh Office with Group of Five Commercial Litigation Partners

February 8, 2022

Five Partners Join Fox Rothschild in Pittsburgh

June 10, 2021

'an Empire of Lies': Former Butler Health COO and Her Ex-Detective Husband Sentenced for Embezzlement Scheme

June 24, 2020

How Remote Work and Pandemic Concerns are Changing Pittsburgh Law Firm Offices

June 3, 2020

Here's What Green Means at Pittsburgh Law Firms as Region Transitions From Yellow Phase

January 22, 2020

Finding the Right Size: Firms Grapple With How Big to Grow

March 26, 2019

Fox Adds High-Profile Toxic Tort/Product Liability Litigation Duo in Pittsburgh

March 25, 2019

Fox Rothschild Hires Two Partners in Pittsburgh

September 17, 2018

Litigation Pro John Hansberry Joins Fox Rothschild in Pittsburgh

September 13, 2018

Fox Rothschild Hires Litigation Partner

December 18, 2017

Fox Rothschild's Pittsburgh Office Expands With Immigration Attorney

June 5, 2017

Fox Rothschild Lands Affordable Housing Team in Pittsburgh

June 1, 2017

Fox Rothschild's Pittsburgh Office Welcomes Prominent Real Estate Partner Michael Syme

June 1, 2017

Real Estate Lawyers Join Fox Rothschild from Cohen & Grigsby

May 22, 2017

People on the Move

April 18, 2017

People on The Move

March 21, 2017

Fox Rothschild Announces New Office Leadership in Six Locations

March 16, 2017

Marinsein Succeeding Stang at Helm of Fox Rothschild's Pittsburgh Office

June 22, 2011

Pittsburgh Business Times Honors Fox Rothschild Among the Healthiest Employers in Western Pennsylvania

May 3, 2011

Fox Rothschild Sponsors Pittsburgh Business Times Diamond Awards Honoring Top CEOs

April 24, 2009

Experts say West Penn suit against UPMC, Highmark could be costly and prolonged

January 16, 2009

Making their move: Slumping economy may heighten national trend of lawyers leaving for new opportunities

January 16, 2009

Litigation, bankruptcy likely to be hot practices in 2009

November 9, 2007

Fox Rothschild celebrates 100th anniversary with 100 charitable acts

October 29, 2007

Fox Rothschild's Business Litigation Practice Capitalizes on Growth, Talent and Value