



# Michael L. Yaeger

SHAREHOLDER

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## Overview

Michael Yaeger's practice focuses on government investigations, white collar defense, cybersecurity, and related compliance. His combination of government and private sector experience has given him deep experience managing risks that cross the boundaries between criminal, regulatory, and civil litigation, including appeals.

Michael's experience includes matters involving alleged violations of the Foreign Corrupt Practices Act, securities fraud, cybercrime, accounting fraud, tax fraud, investment adviser fraud, money laundering, health care fraud, the Federal Food, Drug, and Cosmetic Act, and the False Claims Act. Michael also advises clients on cybersecurity compliance (including data incident response, policy drafting, and commercial advice), OFAC compliance, FCPA compliance, and general subpoena and law enforcement compliance, and has assisted blockchain-based businesses in obtaining bit licenses from the New York DFS. His clients have mostly been institutions and individuals in heavily regulated sectors such as financial services and health care, but have ranged from banks, well-established private investment funds, broker-dealers, and academic medical centers, to fintech and blockchain related startups and entrepreneurs. A number of his matters have involved representing clients simultaneously in investigations by the Department of Justice or a state attorney general, the SEC, CFTC, or another civil regulator, and a private class action.

Michael also has considerable federal appellate experience, especially on white-collar, cybersecurity, and constitutional issues, and is available not only to argue cases but also to write amicus briefs.

Before joining the firm, Michael was an assistant U.S. attorney for the Eastern District of New York, where he investigated and prosecuted cases in the Business and Securities Fraud Section of the Criminal Division. He also served as his office's co-coordinator for Computer Hacking and Intellectual Property crimes.

Michael clerked for the Honorable Samuel A. Alito Jr. of the U.S. Court of Appeals for the Third Circuit (now a U.S. Supreme Court Justice), and the Honorable Milton Pollack of the U.S. District Court for the Southern District of New York. He received his J.D. from Yale Law School and his B.A. from Yale University.

## Experience

### White Collar Crime

- Obtained unanimous U.S. Supreme Court ruling overturning client's conviction for honest-services fraud for actions taken when he was a private citizen serving as a campaign manager, not a public official. The Supreme Court rejected the theory that all private citizens with mere influence or de facto control over government decisions owe a fiduciary duty to the public. It held that such a rule was too vague and could encourage arbitrary and discriminatory enforcement. *Percoco v. United States*, 143 S. Ct. 1130 (2023).
- Representing individuals in investigations by various U.S. attorney's offices (S.D.N.Y., E.D.N.Y., D.N.J., and D. Mass.), including fraud, FCPA, cyber, and AML investigations.
- Representing financial services companies and individuals in multiple SEC investigations, including blockchain-related investigations.
- Representing individuals in investigations by New York attorney general, including "dark pools" securities trading and public corruption.
- Representing health care companies and entities in regulatory investigations.
- Representing investment advisers in SEC exams.
- Representing companies in DFS investigations, including academic medical centers.
- Advising on sentencing issues as outside consultant.
- Shadow counsel work on appeal for counsel of record (including sentencing consulting on appeal).

### Cybersecurity and Privacy

- Leading legal team's response to dozens of data breaches at different companies and institutions (e.g., investment advisers, broker-dealers, private schools, and academic medical centers).
- Drafting and reviewing written information security plans, incident response plans, and other cyber policies (e.g., "bring your own device" policies) for investment advisers, broker-dealers, banks, payments companies, and academic medical centers.
- Representing investment advisers in SEC cyber exams.

- M&A due diligence of payments companies and cyber surveillance companies.
- Assisting blockchain company with application for BitLicense from New York State Department of Financial Services.
- Representing insurance companies in OFAC analysis related to ransomware.
- Drafting regulatory comment letters for financial services companies in response to proposed state regulations.

## Civil Litigation

- Representation of individual executive in class action and related USAO and SEC investigations.
- Representation of digital wholesaler in contract dispute with manufacturer.
- Representation of individual in MDL and related USAO investigation.
- Representation of individual against multinational corporation's motion to compel discovery from third-party SDNY litigation, resulting in denial of opponent's motion and award of attorneys' fees and expert fees for defense of motion.
- Representation of exercise tech startup in dispute regarding privacy and data usage issues with rival.
- Representation of education company in real estate dispute in NYS Commercial Division.
- Representations of construction company in nonsolicitation dispute with competitor, and of health food manufacturer in federal class action.

## Areas of Focus

### Practices

- Internal Investigations
- White Collar Crime & Government Investigations
- Appellate & Trial Support
- Banking, Commercial, and Consumer Finance
- Blockchain and Digital Currency
- Criminal Tax
- Cybersecurity and Privacy
- Digital and E-Commerce Engagement and Innovation
- Education
- False Claims Act, Qui Tam, and Whistleblower Defense

### Industries

- Banking, Commercial, and Consumer Finance
- Health Care
- Securities & Investment Companies
- Technology

- Financial Services Regulatory
- Global Anti-Corruption
- Health Care
- Intellectual Property
- International Insurance Regulatory
- International Privacy Compliance
- Litigation and Trials
- Pharmaceuticals and Medical Devices
- Private Equity and Venture Capital
- SEC Enforcement
- Securities Litigation and Enforcement
- Technology

## Insights

02.16.2023

SEC and CFTC Fines for Texting Augur Billions More from DOJ

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10.20.2022

Financial Services Cyber Fraud: The Latest Risks and Best Responses

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09.27.2022

DOJ Issues New Guidance on the Investigation and Prosecution of Corporations and Corporate Officers

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01.11.2022

Admissions of Wrongdoing Back in Vogue: SEC Enforcement Pendulum Swings

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01.11.2022

AI Insurance Company Faces Class Action for Use of Biometric Data

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10.29.2021

DOJ's New Enforcement Team May Intensify Push to Recover Cyberattack Payments

*Connecticut Employment Law Letter*

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10.14.2021

New DOJ Enforcement Team Suggests DOJ May Take Additional Efforts to Recover Cyberattack Ransoms

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10.14.2021

Sentencing Commission Data Tool Is Deeply Flawed

*Law360*

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10.13.2021

New York City Creates Right to Sue Over Use of Biometric Data

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10.12.2021

New Cybersecurity Enforcement Through DOJ's Civil Cyber-Fraud Initiative and the False Claims Act

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10.04.2021

Making Good on Its Promise: SEC Pursues Cyber Enforcement Actions Against Financial Services Companies

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07.15.2021

DFS Continues Focus on Cybersecurity: Issues Ransomware Guidance and Signals Increased Enforcement Actions

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06.15.2021

Biden Administration Issues Practical Guidance for Ransomware Attacks

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04.01.2021

Defense Lawyers Can 'Rewrite' the Sentencing Guidelines, One Case at a Time

*The Champion, National Association of Defense Counsel*

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01.29.2021

Challenging Sentencing Guidelines With Comparable Cases

*Law360*

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08.25.2020

The California Consumer Privacy Act: Are You Ready?

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03.31.2020

Federal and State Officials Launch Joint Efforts to Investigate and Prosecute Fraud Related to the Coronavirus

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03.30.2020

Compliance Tips for Distance Learning at Independent and Public Schools

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11.15.2019

When Google Meets HIPAA: Some Privacy and Regulatory Issues as Silicon Valley Enters the Health Care Space

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09.10.2019

Applying the CCPA to Health Care: The HIPAA Exemption, Exercise Apps, and Marketing Data

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08.29.2019

Are Banks and Other Lenders Subject to the CCPA?

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07.11.2019

On Cybersecurity, Grab the Low-Hanging Fruit

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07.11.2019

Supreme Court Casts a Wide Net with Rule 10b-5

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07.03.2019

What to Do If the SEC Comes Knocking on Your Door

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04.26.2019

CF on Cyber: GDPR Regulator Takes Narrow View of "Contract" Basis for Processing Data

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03.15.2019

Cybersecurity Obligations and Best Practices for Independent Schools

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12.06.2018

CF on Cyber: The GDPR's New Territorial Scope Guidelines

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04.19.2018

Cybersecurity And The Board's Responsibilities – 'What's Reasonable Has Changed'

*Forbes*

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07.27.2017

FinCEN Issues Assessment Against Virtual Currency Exchange – the First Enforcement Action Against a Foreign-Located Money Services Business

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04.05.2017

Proactive Steps to Prevent Legal Pitfalls in Bug Bounty Programs

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02.17.2017

NYDFS Finalizes 'First-in-the-Nation' Cybersecurity Regulation for New York-Regulated Financial Services Companies

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01.30.2017

Cyber-SARS: Anti-Money Laundering and Cybersecurity Rules

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01.18.2017

Federal Banking Agencies Extend Comment Period on Proposed Cybersecurity Regulations

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01.03.2017

NYDFS Revises Its Proposed Cybersecurity Regulation for Financial Services Companies

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11.01.2016

FinCEN Issues Suspicious Activity Report Guidance Concerning Cybersecurity

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10.24.2016

Federal Banking Agencies Propose New Cybersecurity Regulations

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09.15.2016

NYDFS Proposes Detailed and Sweeping Cybersecurity Regulation for Financial Services Companies

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05.01.2016

The Bangladesh Bank Hack and Compliance Programmes

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03.09.2016

CFPB Targets Online Payment Platform in First Enforcement Action on Cybersecurity

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10.23.2015

Securities, Futures Regulators Increase Scrutiny, Expectations on Cybersecurity

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09.21.2015

Cybersecurity Update: Takeaways from OCIE's Examination Initiative and the NFA's Rulemaking Proposal,

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05.04.2015

New SEC Cybersecurity Guidance: What It Means for Fund Managers

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05.01.2015

Q&A: Legal Defences

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05.01.2015

Information Security: Obligations and Expectations

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05.01.2015

Proactively Addressing Hedge Fund Cybersecurity Risks

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03.18.2015

Internal Investigations and Data Security in a Bring-Your-Own-Device Company

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02.04.2015

SEC Cybersecurity Update: OCIE Risk Alert Provides Insights for Private Fund Managers on SEC Cybersecurity Examinations

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12.18.2014

2nd Circuit Limits Government Searches of Electronic Records

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08.01.2014

Insider Trading Developments Newsletter, Summer 2014

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07.20.2014

The Right of the People to Be Secure in Their Digital Papers

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01.01.2006

Prison Time, Fines, and Federal White-Collar Criminals: The Anatomy of a Racial Disparity

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## News

05.16.2023

Supreme Court Unanimously Overturns Conviction of Carlton Fields Client

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01.13.2023

Human Trafficking Orgs. Tell High Court to Eye Nurses' Case

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12.06.2022

Theranos Ex-President Sunny Balwani to Be Sentenced Wednesday

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07.07.2022

A Massive Leak of Chinese Government Data on Hundreds of Millions Tests a New Privacy Law

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06.30.2022

Justices To Mull Limits Of Fraud In NY 'Buffalo Billion' Cases

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03.25.2022

White Collar Crime Attorney Michael Yaeger Discusses U.S. Sentencing Guidelines with Wall Street Journal

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01.05.2022

How Many Years Could Elizabeth Holmes Face in Prison? Decades, in Theory

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10.29.2021

Carlton Fields Attorneys Discuss DOJ's New Enforcement Team

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10.14.2021

Carlton Fields' Michael Yaeger Authors Law360 Article on Sentencing Commission Data Tool

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07.21.2021

New Jersey Cases To Watch In 2021: A Midyear Report

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04.19.2021

Justices To Decide If Defendants Can Invite Barred Evidence

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01.29.2021

Carlton Fields' Michael Yaeger Authors Law360 Article About Capitalizing on Data to Challenge Sentencing Guidelines

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12.10.2020

How FinCEN Became a Honeypot for Sensitive Personal Data

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11.21.2020

Michael Yaeger Quoted in Cointelegraph on Department of Justice's Cryptocurrency Enforcement Framework

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01.01.2019

A Litigator's-Eye View of Cybersecurity

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11.30.2018

Carlton Fields Adds Cybersecurity-Focused Shareholder In NY

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11.26.2018

Carlton Fields Expands Cybersecurity and White Collar Practices with Addition of Former Federal Prosecutor Michael L. Yaeger

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## Recognition

- *The Best Lawyers in America*, Criminal Defense: White-Collar (2023–2024)
- *The Legal 500 US*

## Professional & Community Involvement

- New York Counsel of Defense Lawyers
- New York City Bar Association
  - Health Law Committee
- Eastern District Association (U.S. Attorney's Office alumni organization)
- Federalist Society
  - New York City Lawyers Chapter, Steering Committee

## Speaking Engagements

- "Federal Sentencing Guidelines/DOJ Guidance," 2023 ACLI Compliance & Legal Sections Annual Meeting, Las Vegas, NV (July 18, 2023)
- "Cybersecurity Fraud Threats: Attacks Against Insurers, Contract Owners, and Retirement Account Holders," 2022 ALIC Regional Insurance Counsel Roundtable (October 25, 2022)
- "[Short Circuit 240 | Live at Columbia Law](#)," Institute for Justice (October 7, 2022)
- Speech to New York City Bar's Criminal Advocacy Committee (October 20, 2021)
- Keynote Speech to Federal Bar Association, Tampa Bay Chapter, 30th Annual National Seminar on Federal Sentencing (September 3, 2021)
- "The Future of Sentencing: A Look at the Federal Sentencing Guidelines," American Constitution Society, Florida Chapter (June 28, 2021)
- Speech to American Bar Association's Commercial Section on Statistics in Sentencing (Spring 2021)

- "The California Consumer Privacy Act: Are You Ready?," Carlton Fields (August 25, 2020)
- "The California Consumer Privacy Act: Getting Up to Speed With the Looming Enforcement Deadline," Carlton Fields (May 21, 2020)
- "Back to School: Distance Learning, Contracts, and Other Pandemic Challenges," (April 22, 2020)
- "Investigations and Attorney-Client Privilege," Carlton Fields (February 7, 2020)
- "An Update Regarding Data Breach Litigation & Regulations for Financial Services Companies," Carlton Fields Client Presentation, Tampa, FL (November 2019)
- SRZ Investing in Digital Assets and Blockchain Technology Webinar (August 2017)
- "Cybersecurity and What Is Happening Now That Puts You and Your Firm at Risk," Deutsche Bank (July 2017)
- SRZ Employment & Employee Benefits Luncheon for Investment Managers (May 2017)
- SRZ Insider's Guide to Government Investigations: Winning Strategies for Investment Funds (April 2017)
- "Regulatory Focus: AML, Cybersecurity, and FCPA," SRZ 26th Annual Private Investment Funds Seminar (January 2017)
- "Interactive Panel Discussion From the Leading Global Cyber Experts on Methods Used to Perpetuate Cyber Crime and the Best and Most Current Methods of Defense for Your Fund Business," Deutsche Bank Alternative Fund Services Forum (October 2016)
- "The Bangladesh Bank Hack and Insider Threat Legal Issues," SIFMA Insider Threat Roundtable (June 2016)
- "Treatises and Complex Litigation," annual guest lecture at legal research class at Yale Law School (2008–2016)
- "Surveillance and Privacy," Fordham Law School (2016)
- "Data Protection and Collection: Cybersecurity, Insurance, and Data Scraping," SRZ 25th Annual Private Investment Funds Seminar (January 2016)
- "Cybersecurity and Data Protection," Financial Markets Association Legal and Legislative Issues Conference (October 2015)
- KPMG General Counsel Peer Exchange (October 2015)
- "Convergence of Information and Physical Security," 11th AMC Conference on Securely Connecting Communities for Improved Health, North Carolina Healthcare Information & Communications Alliance (June 2015)
- "Cyber Readiness for Financial Institutions: Are You Prepared for Your Eventual Cyber Breach," Willis of New York Webinar (April 2015)
- "Information Security and IT Business Architecture — Managing a Rapidly Evolving Area," Bank of America Merrill Lynch COO/CFO Hedge Fund Symposium (March 2015)
- "Information Security: Obligations and Expectations," SRZ 24th Annual Private Investment Funds Seminar (January 2015)

- Bank of America Merrill Lynch Hedge Fund Technology, Cybersecurity and Due Diligence Teach-In (September 2014)
- SRZ Cybersecurity: Obligations and Expectations for Investment Fund Managers Breakfast (May 2014)

## Credentials

### Education

- Yale Law School (J.D.)
- Yale University (B.A.)

### Bar Admissions

- New York

### Court Admissions

- U.S. Court of Appeals, Second Circuit
- U.S. Court of Appeals, Third Circuit
- U.S. Court of Appeals, Ninth Circuit
- U.S. District Court, Eastern District of New York
- U.S. District Court, Southern District of New York
- U.S. Supreme Court

### Clerkships

- Hon. Samuel A. Alito Jr., U.S. Court of Appeals, Third Circuit
- Hon. Milton Pollack, U.S. District Court, Southern District of New York

## Background

- Special Counsel, Litigation, Schulte Roth & Zabel LLP, New York, NY (2014–2018)
- Assistant U.S. Attorney, U.S. Attorney's Office for the Eastern District of New York (2008–2014)
- Associate, Cahill Gordon & Reindel (2005–2008)
- Law Clerk to the Honorable Samuel A. Alito Jr., U.S. Court of Appeals for the Third Circuit (2004–2005)
- Law Clerk to the Honorable Milton Pollack, U.S. District Court for the Southern District of New York (2003–2004)