

Partner, Washington, D.C.

Mergers and Acquisitions; Corporate Governance



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Education

J.D., Georgetown University Law Center, 1993 (*magna cum laude*, Order of the Coif; Articles Editor, *Georgetown Law Journal*)

B.S.E., University of Pennsylvania, 1989

Bar Admissions

District of Columbia
New York

Experience

Law Clerk, Hon. Richard J. Cardamone,
U.S. Court of Appeals, Second Circuit

Marc S. Gerber concentrates his practice in the areas of mergers and acquisitions, corporate governance, and general corporate and securities matters. Mr. Gerber has represented purchasers and sellers in a wide variety of transactions, including private acquisitions and divestitures, negotiated and contested public acquisitions, and proxy fights.

Mr. Gerber represents numerous clients on a full range of corporate governance and related matters, including advising clients on compliance with the corporate governance provisions of the Dodd-Frank Act and the provisions of the Sarbanes-Oxley Act, the rules and regulations of the Securities and Exchange Commission (SEC) and the listing requirements of the New York Stock Exchange and NASDAQ Stock Market. In addition, he counsels clients on matters concerning their annual meetings and proxy statements, including responding to shareholder proposals and interacting with shareholders and proxy advisory firms. Mr. Gerber also advises companies, boards of directors and board committees on corporate governance topics such as shareholder rights plans, advance notice bylaws, proxy access, board independence and board self-evaluation. He has been selected for inclusion in *Chambers USA: America's Leading Lawyers for Business* and in *Best Lawyers in America*.

Some of Mr. Gerber's significant transactions include the representation of:

- Alexander & Baldwin, Inc. in connection with its:
 - separation into two public companies, Alexander & Baldwin, Inc., a real estate and agribusiness company, and Matson, Inc., an ocean transportation company;
 - acquisition of Grace Pacific Corporation; and
 - conversion to a real estate investment trust;
- Spectra Energy Corp in its acquisition of the Express-Platte pipeline system from Kinder Morgan Energy Partners, LP, the Ontario Teachers' Pension Plan and Borealis Infrastructure;
- Human Genome Sciences, Inc. in its initially unsolicited, but subsequently agreed upon acquisition by GlaxoSmithKline plc;
- The Bureau of National Affairs, Inc. in its acquisition by Bloomberg Inc.;
- Global Insight, Inc., a provider of economic and financial information, in its acquisition by IHS Inc.;
- ArcelorMittal, an integrated metals and mining company, in its acquisition of the Mid Vol Coal Group;
- Fortunoff in its acquisition by NRDC Equity Partners LLC (the parent company of Lord & Taylor);
- the Special Committee of the Board of Directors of Total System Services, Inc., a provider of outsourced payment services, in the spin-off of Total System Services from Synovus Financial Corp.;
- Rite Aid Corporation in its acquisition of the Brooks and Eckerd drugstore chains from The Jean Coutu Group (PJC) Inc.;

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- Banco Itaú S.A. in connection with restructuring its strategic marketing alliance with America Online Latin America, Inc.;
 - Sul América S.A. in connection with expanding its joint venture with ING Insurance International B.V.;
 - SunTrust Banks, Inc. in its proxy contest with Wachovia Corporation; and
 - Great Western Financial Corporation in its proxy contest with H.F. Ahmanson & Co.

Publications

“Stockholders Versus Stakeholders — Cutting the Gordian Knot,” *Skadden, Arps, Slate, Meagher & Flom LLP*, August 5, 2020

“SEC Adopts Proxy Rule Amendments Relating to Proxy Voting Advice Businesses,” *Skadden, Arps, Slate, Meagher & Flom LLP*, July 27, 2020

“Delaware Governor Issues Order Regarding Notice of Change to Virtual Stockholders’ Meeting for Public Companies Due to COVID-19,” *Skadden, Arps, Slate, Meagher & Flom LLP*, April 7, 2020

“Coronavirus/COVID-19 Update,” *Skadden, Arps, Slate, Meagher & Flom LLP*, March 4, March 18, 2020

“Directors’ Fiduciary Duties: Back to Delaware Law Basics,” *Skadden, Arps, Slate, Meagher & Flom LLP*, February 19, 2020

“US Corporate Governance: From the Frying Pan Into the Fire?” *Skadden’s 2020 Insights*, January 21, 2020

“Matters to Consider for the 2020 Annual Meeting and Reporting Season,” *Skadden, Arps, Slate, Meagher & Flom LLP*, December 2, 2019

“Preparing for the Shareholder Proposal Season,” *Skadden, Arps, Slate, Meagher & Flom LLP*, November 22, 2019

“SEC Proposes Amendments to the Proxy Rules Regarding Shareholder Proposals and Proxy Voting Advice,” *Skadden, Arps, Slate, Meagher & Flom LLP*, November 7, 2019

“SEC Staff Issues Additional Shareholder Proposal Guidance,” *Skadden, Arps, Slate, Meagher & Flom LLP*, October 18, 2019

“SEC Staff Announces Changes to Shareholder Proposal No-Action Request Process,” *Skadden, Arps, Slate, Meagher & Flom LLP*, September 11, 2019

“Putting to Rest the Debate Between Corporate Social Responsibility and Current Corporate Law,” *Skadden, Arps, Slate, Meagher & Flom LLP*, August 27, 2019

“SEC Provides Guidance on Investment Advisers’ Proxy Voting Responsibilities, Proxy Voting Advice Rules,” *Skadden, Arps, Slate, Meagher & Flom LLP*, August 26, 2019

“The Impact of SEC Staff Guidance on Shareholder Proposals Leaves a Murky Path Forward,” *Skadden, Arps, Slate, Meagher & Flom LLP*, June 18, 2019

“Social Responsibility and Enlightened Shareholder Primacy: Views from the Courtroom and Boardroom,” *Harvard Law School Forum on Corporate Governance and Financial Regulation*, February 21, 2019

“How Can Boards of Directors Make Sense of the Current ESG Landscape?” *Wolters Kluwer*, February 15, 2019

“US Corporate Governance: Turning Up the Heat,” *Harvard Law School Forum on Corporate Governance and Financial Regulation*, February 10, 2019

“The SEC’s New Shareholder Proposal Guidance,” *Harvard Law School Forum on Corporate Governance and Financial Regulation*, November 12, 2018

“SEC Guides On Tackling Shareholder Proposals,” *Corporate Secretary*, November 1, 2018

“Equal Pay Audits: Voluntary Disclosure, Activism and Litigation,” *Skadden, Arps, Slate, Meagher & Flom LLP*, October 22, 2018

“Making Sense of the Current ESG Landscape,” *Harvard Law School Forum on Corporate Governance and Financial Regulation*, October 18, 2018

“SEC Issues Interpretive Guidance on Cybersecurity Disclosures,” *Skadden, Arps, Slate, Meagher & Flom LLP*, February 23, 2018

“Impact of SEC Guidance on Shareholder Proposals in the 2018 Proxy Season,” *Harvard Law School Forum on Corporate Governance and Financial Regulation*, July 4, 2018

“The Board’s Three ‘C’s’ of Corporate Governance: Composition, Communication and Connection,” *Skadden’s 2018 Insights*, January 23, 2018