

# Battle-Tested, Blue-Chip Litigators

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Financial Times Names Selendy & Gay a  
"Standout" for Diversity & Inclusion  
.....

Rethinking the Modern Law Firm  
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Caitlin Halligan is Building a  
Powerhouse Appellate Practice  
.....



Selendy  
& Gay

# Known as the best, by the best.

Our work speaks for itself, but we're proud when others talk, too. We've been recognized with some of the most prominent awards in the field for our innovative approaches to the law.



THE  
**AMERICAN LAWYER**

**LAWDRAGON**

**Chambers**  
AND PARTNERS

**FT**  
FINANCIAL  
TIMES

The  
**LEGAL  
500**

**LAW360**

CORPORATE *LiveWire*

**Super Lawyers®**

**B** BENCHMARK  
LITIGATION

THE UNITED STATES



DEPARTMENT  
*of* JUSTICE

**CITIZENS  
UNION**

**ABOVE  
THE  
LAW**



Martindale  
Hubbell

**CRAIN'S**  
NEW YORK BUSINESS

**B T I**  
CONSULTING GROUP



Best Lawyers  
**BEST  
LAW FIRMS**  
A WORLD REPORT  
**USNews**  
2019

**THE LGBT  
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**OAD** | OFFICE OF THE  
APPELLATE  
DEFENDER

THE NATIONAL  
**LAW JOURNAL**

**New York Law Journal**

The world didn't need another law firm when we started ours in 2018; it needed a better one. Part of that was easy. As a firm that is majority-owned by women, we knew it was essential to balance plaintiff- and defense-side work, to represent top companies as well as the public interest, and to develop an unbiased approach to hiring, training, and promotion of our exceptional attorneys.

The hard part was getting here. For years, we've heard the same statistics that you probably have – about how less than a fifth of law firm partners are women; about women and men that enter law firms at the same rates, but are disproportionately male by the time partnership decisions are made; about the classic "bait-and-switch" of pitching a diverse team, but delivering a homogenous one. Nevertheless, we persisted.

We fully believe that clients want to hire diverse teams, but don't want their choice to be perceived as a risk by a board or its shareholders. We offer a balanced alternative to your litigation options, with a dozen decorated, battle-tested, blue-chip partners.

Because it shouldn't be a risk to do better.

## Selendy & Gay by the Numbers



## Partner Profile — Philippe Selendy



Heralded as "The Man Who Took on Wall Street" by the *Financial Times*, Philippe has recovered more than \$35 billion for clients in the last decade alone. These successes include an unprecedented \$25 billion settlement for U.S. taxpayers stemming from residential mortgage-backed securities (RMBS) suits brought against the world's largest banks, a representation which earned Philippe *The American Lawyer's* "Litigator of the Year" award and first-ever Grand Prize in Litigation.

### AWARDS

- *Chambers USA*
- *American Lawyer*, four-time Litigator of the Week
- *Benchmark Litigation*
- *American Lawyer*, Litigator of the Year
- *The Legal 500 US*
- *National Law Journal* Trailblazer

# Appellate Practice Nets Big Wins

## Advocating for our clients throughout the litigation process

Awarded by *Chambers USA*, *The Legal 500 US*, and *Benchmark Litigation*, Selendy & Gay's attorneys have achieved sweeping successes in overturning erroneous decisions, obtaining reversals of criminal convictions, and upholding trial court wins, delivering significant recoveries—or shielding businesses from losses—amounting to billions of dollars. Taking on giants is nothing new to our partners. Whether defeating Wall Street banks after the Great Recession on behalf of the Federal Housing Finance Agency, or handling scores of cases in the US Supreme Court, our partners have continued to stack up a series of landmark appellate decisions over the past two years, including:

- **U.S. Bank**, as trustee of an RMBS, in obtaining a unanimous decision from the New York Court of Appeals that RMBS plaintiffs may cure contractual notice requirements after filing suit, upholding the viability of CPLR 205(a), a nearly 400-year-old pleading rule.
- **Cerberus Capital Management**, a leading private equity firm, in a \$950 million breach of contract action against the Canadian Imperial Bank of Commerce (CIBC), one of Canada's largest banks. The dispute centers on two complex structured finance transactions backed by credit default swaps, CDOs, and RMBS. We argued a successful appeal in which the First Department agreed with Cerberus' interpretation of the agreements and held that CIBC's contrary interpretation was "unmoored" from the contracts. The case is now proceeding through discovery.
- **Manhattan District Attorney Cyrus R. Vance, Jr.**, in a matter before the US Supreme Court concerning whether the Constitution provides a president with immunity from criminal investigation for private, unofficial conduct.
- **E-Trade Financial Corp.**, an online retail brokerage firm, in obtaining an affirmance from the Second Circuit of a dismissal of two separate putative class actions related to purported improper steering of trades—one alleging federal securities fraud claims, and the other alleging breach of fiduciary duty under state law.
- Successfully arguing to the New York Court of Appeals in a **class action on behalf of hundreds of thousands of New York City public employees and retirees** that New York's consumer protection law covers misrepresentations regarding the scope of coverage in an insurer's marketing materials.
- Representing a **New York State agency** that protects vulnerable persons from abuse and neglect in an action before the New York Court of Appeals defending the constitutionality of legislation authorizing the agency to prosecute criminal offenses against those vulnerable persons.





## Partner Profile — Faith Gay



In a nationally recognized career spanning more than three decades, Faith Gay has been lead counsel in over 30 jury trials and has successfully navigated bet-the-company investigations for scores of Fortune 500 companies. Before founding Selendy & Gay, she was the co-chair of a national trial practice at one of the nation's top litigation firms and a highly respected federal prosecutor.

Faith divides her time between complex civil litigation, corporate governance, bankruptcy litigation, and white-collar investigations. In her commercial practice, she focuses on antitrust and securities litigation, complex contractual and financing disputes, and consumer class actions.

### AWARDS

- *Benchmark Litigation*: Top 250 Women in Litigation, Litigation Star, Practice Area Star
- Office of the Appellate Defender's Gould Award
- *Crain's* Notable Women in Law
- *Chambers USA*
- *Best Lawyers in America 2020*
- *LawDragon 500*, Leading Lawyers in America
- *Super Lawyers*
- BTI Client Service All-Star
- *American Lawyer*, Litigator of the Week
- *Law360*, Top Female Trial Lawyers

### Client List

- AIG
- Altaba (formerly Yahoo, Inc.)
- American Federation of Teachers
- Cerberus Capital Management
- Discover Financial Services
- E\*Trade Financial Corp.
- MBIA
- McKinsey & Company
- National Resource Defense Council (NRDC)
- Transamerica
- U.S. Bank

## The *Financial Times* Names Selendy & Gay a “Standout” for Diversity & Inclusion

Selendy & Gay has been honored as a leading firm in Diversity & Inclusion by the *Financial Times*. In its 10th annual “North America Innovative Lawyers” report, *FT* praised the firm’s wide-ranging diversity initiatives, including “blind recruitment, allowing associates to opt in to work on cases and comprehensive training to help it achieve its aim to be diverse and inclusive.”



Speaking to *FT*, founding partner Faith Gay explained that she and her co-founders decided to leave one of the world’s largest business litigation and arbitration firms to create a “different kind of firm...a civilization with our own values.” She added that while it is “possible” for big law firms to foster an environment in which women thrive, “cultural change in big law firms takes longer because cultures are ossified.”

*FT* reported that Selendy & Gay’s diversity has been well received both by clients, which want to be served by a range of people, and with juries, which are often drawn from more diverse pools. “We’re busier than we can deal with,” Gay shared, noting that, in less than two years, the firm has grown to 12 partners, 34 associates and a staff of more than 100.

In addition to this latest recognition by *FT*, Selendy & Gay has been named a leader in diversity and inclusion by *Chambers* and *The National Law Journal*.

## Partner Profile — Jennifer Selendy



Jennifer is a seasoned trial and appellate lawyer who was recognized as a New York Metro “Super Lawyer” in 2019. She specializes in complex and high-stakes disputes for plaintiffs and defendants and is also frequently tapped for sensitive internal and governmental investigations in areas that include antitrust, financial misconduct, and sensitive employment-related matters.

Jennifer’s areas of expertise include antitrust, energy, financial services and products, private equity and investment disputes, RICO, bankruptcy, domestic and international arbitration, and cross-border disputes.

### AWARDS

- Leading Plaintiff Financial Lawyers, *Lawdragon*
- Litigation Star, *Benchmark Litigation*
- Elite Boutique Trailblazer, *National Law Journal*
- *Super Lawyers*



# Caitlin Halligan Speaks to Lawdragon About Building a Powerhouse Appellate Practice

When building out its appellate strength, Selendy & Gay could not have scored better than Caitlin Halligan. One of the nation's leading appellate attorneys, Halligan has argued six cases and served as counsel of record in more than 45 matters in the U.S. Supreme Court, and has handled scores of cases in the federal appellate courts, the New York Court of Appeals, and other state appellate courts. She served an eight-year stint in the New York Attorney General's office, including six years as New York's Solicitor General, and four years as General Counsel of the New York County District Attorney's Office. No stranger to trial-level work and pro bono matters, the mix of cases at Selendy & Gay is a natural fit for Halligan.



## ***What experiences after that were important in your development as a lawyer?***

**Caitlin Halligan:** The opportunity to clerk for two wonderful judges was equally formative. The first was Judge Patricia Wald, who was the first woman to serve on the U.S. Court of Appeals for the D.C. Circuit, and its first chief judge as well. A mother to five children, she was a tremendous mentor. Her ability to skillfully navigate a deep commitment to her family, alongside an incredibly accomplished

career, convinced me and my co-clerks that such a path might be open to us, too. I was also lucky to clerk for Justice Stephen Breyer. My year in his chambers – and the chance to see the Supreme Court at work – was enormously exciting and allowed me to learn about appellate writing and advocacy from the very best lawyers in the country.

I also had the privilege of serving as Solicitor General of New York at a relatively early point in my career. Representing the state and its agencies in a wide range of challenging matters, taking on affirmative litigation, and learning management skills – all of it was challenging and very fulfilling. And I think every government lawyer will tell you that there is a special pride that comes with representing the public, every time you sign a brief or stand up in court.

## ***How has your practice evolved over your career?***

**Caitlin Halligan:** Although much of my practice is focused on appellate work in the state and federal courts, through the years I have also worked extensively on cases at the trial level, from developing legal strategy to handling dispositive motions. The substance of my practice is quite varied, as it has been since my early days as a lawyer. As Solicitor General, I handled an incredibly diverse range of cases – constitutional questions, statutory interpretation, administrative law, and common law. As General Counsel to the Manhattan District Attorney, my practice primarily involved state criminal law. And in private practice, my work is again wide-ranging, from constitutional and statutory law to questions of commercial law and contract interpretation. This chapter of my career is especially engaging because I find myself constantly learning about new areas of law and the many different sectors in which our clients work.

## ***What made you decide to leave an established firm and join Selendy & Gay, which was just a year old at the time?***

**Caitlin Halligan:** Selendy & Gay stood out as an exceptional place – started by a small group of lawyers practicing at the top of the profession, who wanted to take on difficult but important cases, build a meaningful sense of community, mentor young attorneys, and make real time for pro bono and public interest work. All of that really aligned with my own values.

For me, practicing in a place that does excellent work, has a collegial atmosphere, and is centered around giving associates room to take on meaningful professional challenges is the ideal approach to lawyering.

# Diversity in Focus

The truth of our commitment is in our numbers:

## Female Partners



At Big Law firms, **19.0%** of equity partners are women.  
At Selendy & Gay, **50.0%** of our equity partners are women.

## LGBTQ Attorneys



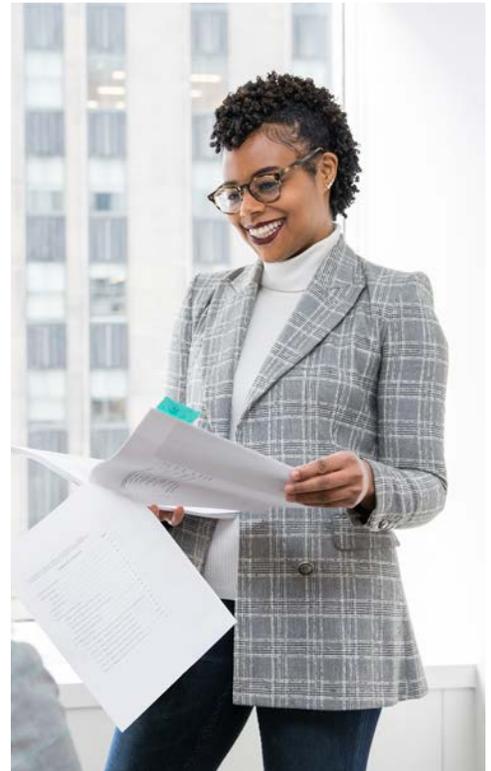
At Big Law firms, only **2.9%** of attorneys identify as LGBTQ.  
At Selendy & Gay, **21.0%** of our attorneys identify as LGBTQ.

## Racial Diversity



At Big Law firms, only **24.2%** of associates identify as people of color.  
At Selendy & Gay, **30.4%** of our associates identify as people of color.

\* These statistics have been collected from reports by The National Association for Law Placement (January 2019) and McKinsey & Company (October 2017).



## Partner Profile — Caitlin Halligan



One of the nation’s leading appellate attorneys, Caitlin J. Halligan has argued six cases and served as counsel of record in more than 45 matters in the U.S. Supreme Court, and has handled scores of cases in the federal appellate courts, the New York Court of Appeals, and other state appellate courts. She has been praised for her “impressive track record” by *Chambers USA*, and named a “Litigation Star” and one of the “Top 250 Women in Litigation” by *Benchmark Litigation*.

Caitlin served as solicitor general for the State of New York from 2001 to 2007, after serving as deputy solicitor general.

### AWARDS

- 500 Leading Lawyers in America, *Lawdragon*
- *Benchmark Litigation*: Top 250 Women in Litigation, Litigation Star, Practice Area Star
- *Chambers USA*
- *The Legal 500 US*
- *Best Lawyers*



## Euromoney Legal Media Group Awards Lena Konanova for “Case of the Year”

Partner Lena Konanova was among a prestigious group of attorneys honored at *Euromoney Legal Media Group’s* Rising Star Awards, a ceremony that recognizes lawyers who’ve become leaders in their practice areas.

Konanova received the “Case of the Year” award for her representation of U.S. Bank as trustee of a \$1 billion asset-back securities trust. In that case, Konanova obtained a 7-0 ruling in U.S. Bank’s favor that upheld a nearly 400-year-old pleading rule in New York State’s highest court.

This is the fourth time Konanova has been recognized over the past few months. She was also recognized in *The Legal 500*, in *Law360* as a “Rising Star in Consumer Protection,” and in *Lawdragon* as a “Leading Plaintiff Financial Lawyer.”



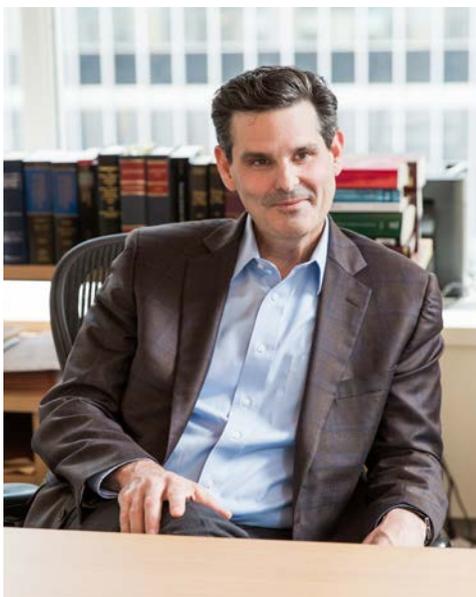
## Selendy & Gay Represents AFT and Public Servants Against the U.S. Department of Education and U.S. Secretary of Education Betsy DeVos

Selendy & Gay filed a suit against U.S. Secretary of Education Betsy DeVos and the U.S. Department of Education, for failing to administer the Public Service Loan Forgiveness program and the Temporary Expanded Public Service Loan Forgiveness program.

“The Department of Education should be the champion of our nation’s educational system,” said partner Lena Konanova who is leading the case, along with Maria Ginzburg, Caitlin Halligan, and Faith Gay. “But they have completely failed to protect this federal entitlement.”

In October 2018, Selendy & Gay also filed a proposed class action lawsuit on behalf of members of the American Federation of Teachers against loan servicer Navient, alleging that the company misled public service borrowers, preventing them from accessing loan forgiveness in order to boost its own profits.

## Partner Profile — David Elsberg



**D**avid Elsberg is a seasoned trial lawyer with decades of experience trying cases in courts and arbitration forums across the nation. *Law360* named David both a Trial Pro and also a Securities MVP, noting his “artful and measured cross-examination style and his tireless attention to detail” and reporting that clients describe him as “aggressive, passionate, and a first-rate thinker” whose “ability to read people and think numerous questions ahead is uncanny.” David has also been recognized as a “Litigation Star” by *Benchmark Litigation*, a New York Metro “Super Lawyer” and named among the “500 Leading Plaintiffs’ Financial Lawyers” and the “500 Leading Lawyers in America” by *Lawdragon*.

### AWARDS

- *Super Lawyers*
- *Benchmark Litigation’s* Litigation Star
- Elite Boutique Trailblazer, *National Law Journal*
- *Lawdragon’s* 500 Leading Lawyers in America
- Plaintiffs’ Lawyers Trailblazer, *National Law Journal*

## Partner Profile — Maria Ginzburg



**M**aria has represented clients in connection with mortgage-backed securities, CLOs, CDOs, swaps and other structured products, fraudulent conveyance, insider trading, accounting and tax practices, short selling, PIPEs trading, market timing, Ponzi schemes, class actions, conflicts of interest, accounting and underwriting practices, suitability disputes, consumer fraud, whistleblower actions, corporate governance, bankruptcy litigation, and employment matters. She has handled civil cases in state and federal courts and in arbitration, as well as internal investigations and related regulatory proceedings before the SEC, FINRA, and New York attorney general. Maria has recovered approximately \$3 billion for her clients in RMBS-related actions.

### AWARDS

- *LawDragon's* Leading Plaintiff Financial Lawyers
- *Super Lawyers*

*“The firm, which is ‘among the top in terms of trial experience’, has quickly built a strong client base among monoline insurers, private equity firms, hedge funds, corporates and trustees.”*

—THE LEGAL 500



*“In bringing our seminal public interest action against the Department of Education and Secretary Betsy DeVos, we needed legal counsel as committed to ensuring justice for our members as we are. We chose to partner with Selendy & Gay because their litigators are second to none, with the proven brilliance and tenacity to wage this battle on behalf of public service borrowers.”*

—Randi Weingarten, President of the American Federation of Teachers



# Rethinking the Modern Law Firm

*(Excerpted from Leaders Magazine)*

Amidst growing calls from clients, market consultants and alternative legal service providers for a systematic overhaul of the traditional law firm model, a group of America's most prominent trial attorneys banded together to re-architect law firm structure, operations and culture.

The result: Selendy & Gay.



Founding partners Faith Gay and Jennifer Selendy spoke with Leaders Magazine about the role of litigation in society, why diversity is essential for successful firms, and how they are filling a void in the legal market.

## ***What was the vision for creating Selendy & Gay and how do you define the Selendy & Gay difference?***

**Jennifer Selendy:** There comes a point in your career when you feel like there's really no reason to do this if you're not going to do it right, and do it the way you want, and in a way that reflects your values. We came to feel that law firms were compromising in a number of ways around the idea of quality and excellence because they were trying to be global, and they were choosing scale over quality to be all things to all people.

## ***You mentioned the firm's commitment to diversity and inclusion. How critical is building a diverse workforce to the success of the firm?***

**Jennifer Selendy:** Faith and I have been doing law school recruiting for decades and have been attracting diverse lawyers at the recruiting stage which is one thing that people would say law firms are able to do well. However, where law firms have failed pretty profoundly is being able to retain and promote diverse talent. The majority of our firm's equity is held by women. We also have about 23 percent of our lawyers that identify as lawyers of color, and over 20 percent as LGBTQ. We believe that the investment we make in individual lawyers is going to help us retain the lawyers that we want.

## ***Will you discuss Selendy & Gay's commitment to pro bono work?***

**Faith Gay:** It's central to the firm, and we believe that you can do good and do well at the same time. We are a serious commercial firm on both the plaintiff and defense side and that increases our ability to do public interest work, not only because we have the resources to do it, but because we're taken seriously as litigators who are deeply commercial. The judges know us, our adversaries know us, all of us together have been in the business for hundreds of years, and I think that helps us to be taken more seriously when we go into court in either a pure pro bono case or a public interest case.

# Selendy & Gay Represents Cryptocurrency Investors in Groundbreaking Bitcoin Suits

## The wave of class actions will set new precedent in fintech litigation

Selendy & Gay PLLC and Roche Cyrulnik Freedman LLP filed 11 class actions in the Southern District of New York against four of the world's largest crypto-asset exchanges and seven major digital token issuers who allegedly offered and sold billions of dollars of unregistered digital tokens and other financial instruments to investors in violation of federal and state securities laws.

The lawsuits name as defendants crypto-asset exchanges Binance, Bibox, BitMEX and KuCoin, as well as seven issuers of digital tokens: Block.one (EOS), Tron (TRX), Bancor (BNT), Civic (CVC), Kybercoin (KNC), Quantstamp (QSP), and Status (SNT), in addition to numerous company executives.

The exchanges profited handsomely from listing these digital tokens on their platforms. In addition to receiving fees for each transaction performed on its exchange, Binance, for example, allegedly received large cash payments from issuers seeking to list tokens. These fees often exceeded \$1 million per listing.

"The crypto-asset market has exploded in the last few years with ICOs that make great promises but deny investors critical information on the securities sold. Not unlike the mortgage crisis that led to the Great Recession, the alleged pattern of misconduct by exchanges and issuers yielded billions in profits for wrongdoers through a basic betrayal of public trust. The lawsuits we filed seek to restore integrity and transparency to these new financial markets," said Philippe Selendy, a lead partner on the cases.

The suits also target allegedly manipulative conduct by crypto-asset exchange BitMEX.

"Crypto-asset investors should not have to worry that the exchange on which they choose to trade will be secretly trading against them and manipulating prices to force investors to liquidate their portfolios. But that is precisely what BitMEX allegedly did," said Jordan Goldstein, a lead partner on the cases.

Selendy & Gay and Roche Cyrulnik currently represent a separate class of cryptocurrency investors in another suit before the Southern District of New York alleging cryptocurrency exchange Bitfinex engaged in a market-manipulation scheme that cost investors hundreds of billions of dollars.

The putative class action alleges that the controllers of the cryptocurrency exchange Bitfinex falsely represented that their purportedly "stable" cryptocurrency Tether was backed by U.S. Dollars in order to control the price of Bitcoin and other cryptocurrencies in an elaborate market-manipulation scheme that cost investors hundreds of billions of dollars.

The lawsuit comes amid New York Attorney General Letitia James' claims that Bitfinex and Tether lied about the nature of Tether. James' office contends Bitfinex moved more than \$1 billion of "wrongfully co-mingled client and corporate deposits," which included some from New York to Panama.





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