

# John L. Cleary

## Partner



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## Overview

Mr. Cleary is a partner in Dentons' New York office and a member of the Corporate practice and the Venture Technology and Emerging Growth Companies practice group. Mr. Cleary is engaged in a diverse corporate practice representing both public and private companies encompassing mergers and acquisitions, venture capital and securities transactions, as well as joint ventures, strategic alliances and general corporate representation. He is also active in advising privately-held venture capital funds with respect to their organizational structure, the issuance of securities and investments in portfolio companies, having structured numerous funds with varying capital structures.

Mr. Cleary works actively with emerging growth and other technology companies with respect to accessing capital from venture capital firms, investment banks and other sources of capital, as well as working closely with members of Dentons' Intellectual Property and Technology practice group with respect to the development, protection, commercialization and enforcement of intellectual property rights.

Mr. Cleary is also actively engaged in the surgeon community representing surgeons and others in establishing, negotiating and enforcing development, royalty and similar arrangements with medical device manufacturers, co-developers, hospitals and research institutions.

Mr. Cleary is a certified public accountant and has a master's degree in taxation from New York University School of Law.

## Experience

Representative transactions handled by John include:

- **ElectroCore, LLC:** Represented this medical device, company focused on non-invasive electrical stimulation technologies initially targeting primary headache (migraine and cluster headache), bronchoconstriction (asthma and chronic obstructive pulmonary disease (COPD)) and epilepsy, in a US\$35 million Series A preferred unit financing led by Merck's Global Health Innovation Fund, a US\$250 million evergreen fund that invests in breakthrough health care innovations that are adjacent to Merck & Co's core pharmaceutical and vaccines business.
- **LumenR, LLC:** Represented the developer of the LumenR™ Tissue Retractor System for use during

endoscopic resection of lesions in the colon, esophagus or stomach, in its sale to Boston Scientific.

- **SpineCore, Inc.:** Represented this medical device company in the spine arthroplasty market in connection with its formation, angel financing, Series A preferred stock financing with Warburg Pincus and The Vertical Group, and its ultimate sale to Stryker Corporation, a leader in the worldwide orthopedic market and one of the world's largest medical device companies, for US\$380 million.
- **Circulite, Inc.:** Represented this cardiovascular device company, which is developing minimally invasive devices for long-term partial circulatory support (PCS), in connection with intellectual property matters and its US\$33 million Series C preferred stock and US\$40 million Series D preferred stock financing with MacAndrews & Forbes, Forbion Capital, Oxford Biosciences, Foundation Medical Partners and other investors.
- **Medical device company:** Represented a developer of medical devices used in orthopaedic procedures, including spinal fusion and arthroplasty devices, in connection with a successful patent infringement and breach of contract litigation against one of the world's leading medical device manufacturers involving products representing annual sales in the multiple hundreds of millions of dollars.
- **Venture capital funds:** Represented numerous funds, including NEA, Pequot Ventures, Canaan Partners, Rho Ventures, DFJ Gotham, NewSpring Capital, Edison Venture Fund and Updata Partners, in connection with their venture capital investments into information technology, new media and medical device portfolio companies.
- **Bausch & Lomb:** Represented in connection with a US\$300 million global commercialization, manufacturing and development agreement in the eye-care space.
- **Venture-backed medical device company:** Represented this company in the musculoskeletal space in connection with a manufacturing, supply and distribution agreement with a leading global medical device manufacturer.
- **Orthocon, Inc.:** Represented this specialty pharmaceutical and medical device company, which is focused on the development of new and innovative products for the orthopedic and spine surgery markets, in connection with its US\$10 million Series A preferred stock and US\$25 million Series B preferred stock financings with Canaan Partners, Proquest Investments and BB Biotech.
- **Forest Labs:** Represented in connection with its US\$240 million asset sale, supply and distribution agreements with Merck relating to its Saphris product.
- **Draper Fisher Jurvetson Gotham Ventures and Hudson Venture Partners:** Represented in connection with their US\$3.8 million Series A preferred stock investment in Pivot Solutions, Inc., a leading provider of technology solutions and the developer of IMTrader, a revolutionary securities trading platform that combines instant messaging and multi-network electronic trading.
- **Incurrent Solutions, Inc.:** Represented the client, a leading developer and operator of advanced online products for financial institutions in the global payment card industry, in connection with its sale to Online Resources Corporation, a leading outsourcer of Internet banking and payment services, for US\$15 million in cash and stock.
- **Atlantic Venture Partners:** Represented in the formation of a US\$50 million early-stage venture capital fund, which joined with Draper Fisher Jurvetson to form Draper Fisher Jurvetson Gotham Venture Fund, a US\$100 million fund investing in early-to-late-stage information technology companies on the East Coast.
- **Early-stage companies:** Represented numerous companies regarding formation issues, structuring equity compensation arrangements and angel, venture capital and bridge financings ranging from US\$2 million to US\$30 million.

## Recognition

## Honors and Awards

- Listed, *Chambers USA: America's Leading Lawyers for Business*, Corporate/Mergers and Acquisitions, New Jersey, 2009–2012

## Insights

Mr. Cleary is a frequent speaker and writer on venture capital and other corporate finance topics. Recent speaking engagements and articles include:

- "Running the Numbers: Determining the Impact of Select Deal Terms," co-authored with Osage Ventures
- "Medvestors Medical Device Conference: Boning Up on the Orthopedic & Spine Market," a presentation on deal terms and trends in the medical device sector
- "Working With Corporate Venture Capitalists - Why, When and Why Not," a panel discussion at the New Jersey Technology Council Capital Conference
- "Capital Corner - Recent Trends and Twists in Venture Financings," moderator of a panel of leading venture capitalists kicking off the Capital Corner at the Newark Technology Group's 4th Anniversary meeting
- "Managing Your Board," co-authored with SAS Investors
- "Technology Spin-Outs - The Road to Commercialization," co-authored with Canaan Partners
- "The Road to Commercialization - Guiding through the Business and Legal Issues," a workshop with Canaan Partners and Deloitte & Touche to Bell Labs and more than 75 scientists and engineers discussing venture capital, finance and intellectual property issues surrounding spinouts and the commercialization of raw technology
- "Software Licensing and Revenue Recognition," a presentation to the Semiconductor Equipment and Materials International (SEMI) Annual Software Symposium
- "A Public Company Primer," a presentation to public company clients and friends on recent updates to the federal securities laws affecting public companies

## Activities and Affiliations

### Memberships

- New York State Bar Association
- American Bar Association
- Spine Arthroplasty Society (SAS)
- New Jersey Technology Council

## Areas of focus

### Practices

- Corporate
- Venture Technology and Emerging Growth Companies

- Securities and Corporate Finance

## Industry sectors

- Family Office and High Net Worth

## Education

- New York University, School of Law, 1995, LL.M., Taxation
- Columbus School of Law, The Catholic University of America, 1991, JD, Note and Comment Editor, *Catholic University Law Review*
- Stillman School of Business, Seton Hall University, 1987, BS and BA, *magna cum laude*

## Admissions and qualifications

- New Jersey
- New York