

Commercial Litigation

Our Commercial Litigation team is comprised of courtroom-tested trial lawyers with deep experience in the defense and prosecution of claims arising out of our clients' business relationships. We have been lead counsel in lawsuits and arbitrations throughout the country and in many international arbitrations.

About

As commercial litigators, your business disputes are our business. Our job is to resolve those business disputes on terms favorable to you, either through direct negotiation, alternative dispute resolution mechanisms or litigation.

While the nature of our clients' businesses and the kinds of commercial disputes they encounter have changed over time, our fundamental approach to representing clients in commercial matters has remained constant. Litigation for litigation's sake has never had a place in our playbook. It never will. For us, at the heart of every commercial dispute is a business—our client. With each case comes a mix of business interests and strategic objectives unique to that client. We litigate to advance our client's business interests, executing upon a litigation strategy developed specifically to achieve its objectives. We do so efficiently, aggressively and effectively. We fight hard, but we fight smart.

We are confident in and proud of our commercial litigation capabilities. But don't take our word for it—our peers have also commended us for the depth and breadth of our litigation bench. We've been recognized as "Distinguished" and "Standout" for Complex Commercial Litigation and named one of the "Most Feared Law Firms" in BTI Consulting Group's "Litigation Outlook" reports. General counsel and legal decision makers consider Kelley Drye one of the firms that they would least like to see as opposing litigation counsel—welcome news to our clients. Furthermore, several of our attorneys are also recognized in *Legal 500*, *Chambers*, and *Benchmark Litigation* as leading commercial litigators.

Kelley Drye's commercial litigators are more than accomplished advocates; they're pioneers in business litigation. Since its creation more than two decades ago, our litigators have served in leadership roles overseeing the evolution of the Commercial Division of New York State Supreme Court—the preeminent specialized business court in the country, and have participated in the development of specialized business courts based on the New York Model in nearly two dozen states. Our business litigators are also recognized thought leaders in their practice areas. We've made significant contributions to the two leading treatises on commercial litigation in the federal and New York State courts—*Business and Commercial Litigation in Federal Courts, third edition*, which features substantive chapters prepared by eight Kelley Drye attorneys, and *Commercial Litigation in New York State Courts, fourth edition*, which includes fifteen chapters authored by our commercial litigators. One of our partners has served as editor in chief of both treatises since their inception.

Experience

- Obtained a complete dismissal of an over \$50 million lawsuit asserting claims for breach of contract, breach of fiduciary duty, fraudulent inducement, negligent misrepresentation, and gross negligence against a real estate investment company and its managing principals arising from the parties' joint investment in a real estate development project in Miami, Florida.

- Kelley Drye was trial counsel for an international fashion retailer in a multimillion-dollar breach of contract claim brought by a former licensee that alleged that the licensee's rights to use certain trademarks was prematurely terminated. The case settled during trial.
- Represented the world's leading retailer of athletic footwear in a \$15 million dispute with a vendor regarding claims of fraud. New York State Commercial Division's court granted Kelley Drye's motion in its entirety and dismissed the case.
- Represented a healthcare provider in an application for preliminary injunction and sustaining a large medical group's billing practices against allegations that they amounted to unlawful, coercive and unprofessional conduct designed to defraud the plaintiff healthcare insurer.
- Representing a financial institution in a lawsuit brought by the unsecured creditors' committee in bankruptcy court in the Southern District of New York for the return of \$1.4 billion in payments made by the estate of General Motors to the bank and other secured creditors of GM.
- Represented the largest privately held spirits company in the world as a defendant in a complex commercial/IP dispute involving a multiyear, multimillion-dollar exclusive marketing agreement with a major sports franchise. After extensive discovery and prevailing on numerous discovery motions, successfully negotiated a settlement.
- Kelley Drye successfully represented a real estate management company as the seller of a midtown Manhattan office building prosecuting claims for breach of Purchase and Sale Agreement, winning a motion for summary judgment allowing the seller to retain a \$38.5 million deposit on the sale, plus interest. Judgment was affirmed by a five-member panel of judges in the New York State Court of Appeals.
- Represented a branded apparel, footwear and brand management company in a dispute involving the alleged breach of a distribution agreement for handbags and other goods. We obtained dismissal of the suit after the court agreed that there was no subject matter jurisdiction for the claims to be heard in federal court.
- Represented a national testing laboratory at the New York Court of Appeals, which answered two certified questions from the Second Circuit Court of Appeals concerning whether a duty of care was owed and whether a fraud claim was stated in favor of the laboratory.
- Represented a university's medical school and secured a permanent injunction and order of contempt against a disgruntled former student of the medical school, who violated the federal Anticybersquatting Act and breached a nondisparagement agreement through his registration and use of numerous bogus websites designed to confuse prospective students by driving them to inaccurate information contained on what they assumed were legitimate websites controlled by the medical school.
- Represented an energy company in a series of lawsuits brought by independent dealers in state and federal courts concerning disputes over their Dealer Supply Agreements.
- Represented an entertainment technology company, in a tortious interference with contract and breach of contract action arising out of a venture to install an Imax™ theater at a museum. The case successfully settled after discovery and a summary judgment motion.
- Successfully prosecuted fraudulent transfer and alter ego claims against a number of related

foreign corporations and the Republic of Argentina, ultimately obtaining a \$130 million settlement for the client.

- Defended a financial services company, its president and one of its employees accused of stealing a competitor's trade secrets and interfering with the competitor's present and prospective business relationships. We successfully obtained pre-discovery dismissal of the trade secret claims and the claims against our client's president, and—following extensive discovery—the court granted our clients' summary judgment motion and dismissed the remaining claims in their entirety.
- Represented a printing and imaging technology company in a theft of trade secrets case involving software stolen by a competitor. We obtained a temporary restraining order and preliminary injunction, prosecuted claims under the Digital Millennium Copyright Act, the Computer Fraud and Abuse Act and for misappropriation of trade secrets, and ultimately obtained a confidential, favorable settlement for our client.

Related Services

Fashion and Retail

Environmental Litigation

Life Insurance, Annuity and Health Insurance

Litigation

Contacts

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