



David I. Zalman

Partner

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About

David Zalman's practice involves commercial and complex civil litigation, including class action defense, contract disputes, unfair competition, false advertising, real estate disputes, corporate fraud, bankruptcy litigation and employment-related matters. He represents businesses of all sizes across a broad spectrum of industries. David regularly tries cases and is always prepared to take a case to trial or arbitration – his proven track record of successful results speaks for itself. He is valued by clients and colleagues alike for his strategic approach to litigation and dispute resolution.

David carefully analyzes each case on its merits and the probability of a successful outcome, as well as the impact that a dispute may have on his client's brand and reputation in the marketplace. He is an advocate who is able to engage in difficult conversations with even the most hostile of adversaries. David is sensitive to the risks inherent in litigation, the expenses associated with fighting a claim, and the disruption to his client's business that can occur throughout the process. As a result, David strives to minimize the strain of litigation to his client's operations and devise solutions that best suit his client's overall business objectives.

David is a skilled litigator who adapts his knowledge of the law to his client's particular business interests. A consummate team player, David is an effective collaborator whose relationships are grounded in the strength of his experience and his unwavering commitment to managing risk for his clients.

Experience

Trials and Arbitrations

Successfully defended a leading health information technology company in a five-day arbitration involving claims arising from the implementation of a suite of clinical and revenue software solutions.

Successfully defended as co-trial counsel a leading financial institution in an eight-day bench trial in the Southern District of New York. In a complete defense verdict, the judge dismissed a breach of contract and fraud suit brought against the client over its alleged failure to disclose potential tax liabilities when the plaintiff purchased one of the client's lines of business.

Successfully represented as co-trial counsel a major international construction company in a five-day bench trial in the District of New Jersey arising out of the client's purchase of a New Jersey construction company. The court found that the sellers breached representations and warranties in the Share Purchase Agreement, and awarded the client millions of dollars in damages plus attorneys' fees.

Co-trial counsel for a major chemical company in a fraud, unfair competition and breach of contract case arising out of the sale of a company. Successfully obtained a multimillion-dollar jury verdict and successfully prosecuted a contempt application against the defendant.

Served as lead trial counsel and successfully defended a mental health facility in a lawsuit that alleged race discrimination, wrongful termination, racial harassment and retaliation. After a one-week jury trial in New York State Court, the claims were dismissed.

Lead counsel in 10-day bench trial in the New York Surrogate Court involving a probate dispute.

Commercial Litigation

Represented Polo Ralph Lauren Corp. in several litigations with the U.S. Polo Association and its master trademark licensee in the U.S., JRA Trademark Company Ltd., alleging violation of intellectual property rights and contempt of prior judgment arising from use of a polo player logo in connection with various goods and services. Obtained favorable settlement for client.

Represented major insurance companies in connection with disputes relating to surety bonds. Obtained favorable settlements after discovery.

Successfully represented a major banking institution in lender liability and fraud actions in state and federal courts.

Consumer Class Actions

Defending numerous clients in putative class actions alleging false advertising and claims under the TCPA. Among other matters, David was a member of the Kelley Drye team that won summary judgment in a multi-district TCPA class action in federal court, which addressed the substantive law regarding TCPA third-party liability claims.

Representing an infant nutrition company in a lawsuit filed by the FTC alleging that infant formula advertising claims violated Section 5 of the Federal Trade Commission Act, as well as several "piggy back" class actions alleging breach of warranty, intentional and negligent misrepresentation, unjust enrichment, and violation of various state consumer fraud and false advertising statutes.

Represented a major satellite communications provider in a case brought in the United States District Court for the Central District of Illinois on behalf of the Federal Trade Commission and several state attorneys general alleging violations of the Telemarketing Sales Rule, the TCPA and various state claims.

Defended a major electronics retailer in putative class action involving false advertising claims. Plaintiff alleged violations of statutes enacted by all 50 states, plus the District of Columbia and Puerto Rico, for breach of express and implied warranty and violation of various consumer protection laws.

Environmental Litigation

Representing the State of Ohio in a lawsuit against DuPont and its spin-off Chemours Co. over the company's decades-long discharge of a perfluorinated chemical (PFOA) from its Washington Works plant in Parkersburg, West Virginia.

Trade Secrets

Lead counsel for a financial services company, its president and one of its employees accused of misappropriating a competitor's trade secrets and interfering with a competitor's contractual, existing and prospective relationships. Successfully obtained a prediscovery dismissal of trade secret claims. Following extensive discovery, the court granted summary judgment in our clients' favor and dismissed the action in its entirety.

Successfully represented a major athletic shoe retailer in a theft of trade secrets action. Obtained summary judgment for the client.

Successfully represented former employees of a computer networking company in a nonsolicitation, trade secrets and breach of fiduciary duty lawsuit. Obtained a dismissal of the complaint with prejudice and with no payments to plaintiff.

Labor and Employment

Successfully represented a hospital in a race discrimination case, and obtained summary judgment dismissal.

Represented a major health care products company in an age discrimination lawsuit in federal court. The court granted the company's motion for summary judgment and dismissed the plaintiff's breach of contract claim.

Represented a manufacturer in an age discrimination case in federal court. The case was dismissed on summary judgment.

Represented a hospital in a wage and hour class action.

False Advertising

Represented a major technology company in a lawsuit brought by a state attorney general alleging fraudulent and deceptive trade practices with respect to advertising, warranties, rebates, technical support and customer service. The case settled favorably.

Bankruptcy Litigation

Represented Wilmington Savings Fund Society as indenture trustee in multibillion-dollar litigation related to Caesars Entertainment's chapter 11 bankruptcy case.

Represented a major oil company in bankruptcy court in a dispute impacting the manner in which crude oil is traded in the United States. The bankruptcy court granted summary judgment in the client's favor.

Represented a major reprographics company in an appeal of a multimillion-dollar bankruptcy court judgment. The case settled.

Real Estate and Foreclosure

Represented a real estate investment firm in a dispute related to a proposed work-out of a \$125 mortgage loan. The court denied the plaintiff's application to enjoin the work-out and dismissed all tort claims against the client.

Represented various lenders in mortgage foreclosure actions, including, among other representations, the completion of a \$12.5 mortgage foreclosure sale of a 35-unit mixed-use building.

Represented a real estate developer in a dispute concerning the sale of real property, and successfully obtained an award of specific performance against the seller and a second purchaser of the same property.

Honors

Listed in New York *Super Lawyers*, 2023.

Related Services

Advertising and Marketing
Commercial Litigation
Consumer Class Action Defense
Employment and Employee Benefits
Environmental
Environmental Litigation
Fashion and Retail
Financial Institutions
Employment Litigation
Litigation
PFAS and Emerging Contaminants
Technology
Telephone Consumer Protection Act (TCPA) Defense
Trademark and Copyright Litigation

Education

Brooklyn Law School, J.D., 2000
University of Colorado, B.A., 1993

Admissions

New York, 2001

Courts

U.S. Court of Appeals-Second Circuit
U.S. Court of Appeals-Third Circuit
U.S. District Court-Southern District of New York
U.S. District Court-Eastern District of New York
U.S. District Court-Northern District of Illinois