



## Levi M. Downing

Partner

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### About

Levi Downing's clients benefit not only from his well-honed advocacy skills and courtroom success as a litigator but also from his candid, concise counseling style that keeps them fully apprised about the law, their options, and the status of matters without burdening them with superfluous information or detail.

Levi focuses his practice on complex commercial litigation matters, including trademark, trade dress, copyright, false advertising, unfair competition, defamation, breach of contract, fraud, bankruptcy, and employment-related cases. He also has extensive experience in international arbitration, including disputes involving bilateral investment treaty protections and the enforcement of arbitration awards and foreign judgments in the United States.

Efficient, practical, and versatile, Levi also leverages his subject matter knowledge and effective advocacy to protect clients' interests in pre-suit investigations and legal proceedings brought by the Federal Trade Commission concerning alleged Federal Trade Commission Act violations.

Among his many engagements, Levi was part of a team that defended a major infant products company against a putative class action, securing the complete dismissal of all claims on summary judgment.

Additionally, he helped obtain a multimillion-dollar arbitration award for a major construction company on its claims against a sovereign.

### Experience

#### Intellectual Property Litigation

Part of a team that has represented several clients seeking declaratory judgments that they did not breach software licensing agreements, or otherwise infringe the copyrights of software companies.

Part of a team that prosecuted numerous trademark infringement claims for a leading fashion company in federal court and arbitration.

Assisted in the representation of a leading jewelry retailer in a trademark dispute and successfully obtained affirmance by the Sixth Circuit Court of Appeals of an order granting summary judgment in

favor of our client.

Successfully defended a leading beauty products company against trademark infringement claims concerning the client's trademark use outside of the United States.

## International Arbitration

Representing a major international construction company in an arbitration brought against the Republic of Argentina, before the International Centre for Settlement of Investment Disputes. Claims in the arbitration are made pursuant to the bilateral investment treaty between Germany and Argentina.

Member of the litigation team in an action against Nigeria involving the enforcement of an approximately \$275 million arbitration award and foreign judgment confirming the award. Obtained an unprecedented award of sanctions against Nigeria for failing to comply with post-judgment discovery regarding its assets in the United States.

Part of a team that successfully obtained temporary and preliminary enforcement in Delaware of a worldwide asset freeze issued by the High Court of Justice, Queen's Bench Division Commercial Court in London, in connection with a London arbitration.

## Employment Litigation

Member of the litigation team representing international video game publisher in multimillion-dollar dispute with a departing senior executive. Matter included extensive pre-litigation mediation, followed by dual-tracked litigations in state and federal court, appeals, and related insurance coverage litigation.

Successfully defended various clients against claims of employment discrimination on the basis of race, gender, and marital status in state and federal courts and before the New York State Division of Human Rights and Equal Employment Opportunity Commission.

Assisted in obtaining a favorable settlement of disability discrimination claims under the Americans with Disabilities Act for a major telecommunications company.

Advised a leading manufacturing and trading company on its potential liability under The Worker Adjustment and Retraining Notification Act in connection with the client's purchase of substantially all of the assets of a manufacturer in bankruptcy, which resulted in Kelley Drye being awarded the 2014 Retail Manufacturing/Distribution Deal of the Year by *M&A Advisor*.

## Commercial Litigation

Represented a national testing laboratory and its affiliate in an appeal to the U.S. Court of Appeals for the First Circuit, which vacated a seven figure judgment against the clients and dismissed a claim that they breached a licensing agreement.

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 and six "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. Obtained summary judgment and decertification of a class of California consumers on the grounds that the named plaintiff failed to prove individual or class-wide damages. The decision was affirmed by the Ninth

Circuit. See *Oula Zakaria v. Gerber Products Co.*, 2017 WL 9512589 (C.D. Cal. 2017); aff'd 755 Fed. App'x 623 (9th Cir. 2018). After the affirmance, a related action pending in the Northern District of Illinois was voluntarily dismissed with prejudice.

Representing several clients, including corporate executives, in pre-suit investigations by the FTC into alleged violations of the Federal Trade Commission Act.

Representing the CEO of a leading global business payments company against claims for alleged FTC Act violations in federal court and a Part 3 Administrative Proceeding.

## Honors

Selected to New York Metro *Super Lawyers* "Rising Stars," 2023.

Named to *Benchmark Litigation's* 2022 "40 and Under List."

## Related Services

Litigation  
Commercial Litigation  
Trademark and Copyright Litigation  
Bankruptcy and Restructuring  
Employment Litigation  
Employee Benefits and Executive Compensation  
Intellectual Property  
Antitrust  
International Arbitration  
Blockchain and Cryptocurrency  
Fashion and Retail  
PFAS and Emerging Contaminants

## Education

Columbia Law School, J.D., 2011  
• Harlan Fiske Stone Scholar  
University of South Florida, B.A., 2008  
• Finance

## Admissions

New York, 2012  
New Jersey, 2011

## Courts

U.S. Court of Appeals-Sixth Circuit  
U.S. Court of Appeals-Ninth Circuit  
U.S. District Court-Southern District of New York  
U.S. District Court-Eastern District of New York