



## Nicholas J. Panarella

Partner

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### About

Nick Panarella's success as a complex commercial litigator is partly a product of his ability to quickly identify determinative issues and facts, synthesize them into succinct and persuasive narratives, and execute thoughtful and strategic approaches designed to advance his clients' business interests.

These talents also serve Nick well in his multifaceted role as Kelley Drye's Firm Counsel, where his collaborative efforts enhance the quality of advice the firm provides and protect its attorneys and clients in equal measure.

Bringing more than two decades of experience on behalf of a wide range of clients, Nick has litigated complex commercial matters involving securities, antitrust, bankruptcy, corporate trust, employment, fraud, contractual disputes, legal malpractice, internal investigations, and other business-related claims.

Always prepared and relentlessly determined, his advocacy skills have led to countless favorable resolutions in state and federal courts and other forums throughout the country.

Nick has managed and resolved major national litigation, with cases ranging in size, value, and complexity from several hundred thousand dollars to multi-billion-dollar claims that directly and profoundly impact his clients' bottom lines and market positions.

His end-to-end involvement in each matter, from initial case evaluation to resolution, is immersive and focused. He marshals the appropriate resources and personnel and implements case strategies that align with his clients' objectives, whether a quick, negotiated resolution or robust courtroom and appellate advocacy.

In his dual roles as a trial lawyer and Firm Counsel, Nick has demonstrated a keen appreciation of the dynamics, pressures, and priorities that impact the trajectories of businesses and the course of litigation. His counsel is proactive and responsive, designed to address pending issues and prevent future ones.

As chairman of Kelley Drye's Firm Counsel and Ethics and Professional Responsibility Committees, Nick has a thorough understanding of the ethical rules and obligations that govern the practice of law and frequently writes on a variety of professional responsibility topics.

# Experience

## Securities Litigation/Financial Services

*Woodard v. Raymond James Financial Inc., et al.* (S.D. New York)

Represented Raymond James and certain of its officers and directors in a class action securities fraud action seeking over \$2 billion for the decline in value of RJF's stock. Obtained a complete dismissal of the action for RJF, its officers and directors prior to the start of discovery.

*Syncora Guarantee, Inc. v. EMC Mortgage Corporation* (S.D. New York)

Represented EMC, a subsidiary of Bear Sterns, in federal securities litigation in which monoline insurers alleged fraud and breaches of warranties relating to the value of mortgage-backed securities, for which they had insured the interest and principal payments on part of a \$666 million mortgage bond backed by home loans.

*CFIP v. Citibank, N.A.* (S.D. New York).

Represented a former officer of Citibank, as corporate trustee, in a dispute between the investor and trustee over payments made in a credit default swap.

*City of Chandler et al. v. JPMorgan Chase Bank, N.A., et al.* (S.D. Ohio)

Served as part of the trial team for JPMorgan Chase Bank in multi-billion-dollar securities litigations pending in federal district court in Ohio alleging violations of federal securities laws, state blue sky securities statutes, RICO violations, fraud and breach of contract. Defended the bank against claims by noteholders of a bankrupt health care company that the bank breached its duties as the indenture trustee. Obtained favorable civil settlements for the bank prior to trial. Also represented the bank and its employees in investigations by the SEC and Department of Justice.

*In re MBIA Securities Litigation* (S.D. New York)

Represented an executive in a federal securities fraud action against MBIA and senior executives in which the plaintiffs alleged that the defendants made material misstatements about the company and the value of the company's stock. The case was favorably settled prior to trial without any liability imputed to the executive.

## Antitrust and Competition

*Alakayak v. Okaya and Co., et al.* (Alaska State Court)

Obtained a defense verdict for Okaya & Co., a major foreign trading company, and its subsidiaries in a four-month trial in Anchorage, Alaska, against antitrust claims valued at over \$1 billion. The lawsuit was brought by a class of fisherman alleging that prices of Bristol Bay salmon were artificially depressed over a six-year period as a result of a conspiracy between Alaska processing companies and Japanese importing companies.

*Gregory's Jewelers v. Mikimoto (America) Co., Ltd., et al.* (E.D. Arkansas)

Successfully defended Mikimoto, a major foreign jewelry company, at trial in federal district court in Jonesboro, Arkansas, against claims under the Arkansas Franchise Practice Act seeking several million dollars in damages.

## Bankruptcy and Restructuring

*Official Committee of Unsecured Creditors of Motors Liquidation Company f/k/a General Motors Corporation v. JPMorgan Chase Bank, N.A.* (S.D. Bankruptcy Court, New York)

Represented JPMorgan Chase Bank 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.

*In re Circuit City Stores, Inc.* (E.D. Virginia Bankruptcy Court)

Represented the bankruptcy trustee of a former national electronics retail chain in over 100 lawsuits against creditors that received preferential payments prior to bankruptcy. We have successfully resolved many of these lawsuits and recovered over \$60 million for the bankrupt estate.

*In re Circuit City Stores, Inc.* (E.D. Virginia Bankruptcy Court)

Represented the bankruptcy trustee of Circuit City Stores in multiple multi-million-dollar lawsuits brought by unsecured creditors of the CCS estate involving claims of personal injury, wrongful termination, defamation and age discrimination.

*In re Verasun Energy Corporation* (Delaware Bankruptcy Court)

Represented the bankruptcy trustee of the former largest ethanol manufacturer in the United States which went bankrupt in 2008 in suits against over 100 creditors for wrongful receipt of preferential payments. We have successfully resolved many of these lawsuits and recovered over \$75 million in cash and claims for the bankrupt estate.

*In re Mervyn's LLC, et al.* (Delaware Bankruptcy Court)

Represented a creditor that was subpoenaed in the multi-billion-dollar lawsuit arising out of the bankruptcy of a major retail chain. Successfully challenged the subpoena and avoided depositions of the client's senior executives.

## Other Significant Commercial Litigations

*Kavanagh v. Archdiocese of New York* (S.D. New York)

Represented the Archdiocese of New York in defamation claims asserted by a former priest who was defrocked over sexual abuse allegations. Obtained a complete dismissal of the action prior to start of discovery. The decision was affirmed by the Second Circuit Court of Appeals.

*Ferguson v. Octagon Credit Investors, LLC* (New York State Supreme Court)

Represented a private equity firm in a \$1.5 million dispute with its former CEO over the repurchase price for CEO's stock under a complex stock repurchase agreement. The case favorably settled prior to trial.

*Dow Chemical Co. v. Reinhard and Kreinberg* (E.D. Michigan)

Obtained dismissal of third-party claims against JPMorgan Chase and its executives in a lawsuit involving the firing of two officers by Dow Chemical over an unauthorized leveraged buyout attempt.

*Ohstrom v. Dover Corporation et al.* (Delaware Chancery Court)

Successfully defended a major manufacturing company against allegations by a stockholder that he was owed \$70 million as a result of stock splits and dividends. The action settled without any liability to Dover.

*ADT Security Services, Inc.*

Obtained a dismissal of claims against ADT Security Services, Inc. in several multi-million-dollar actions brought in New York federal and state courts by subscribers alleging breach of duties under alarm services contracts.

## Honors

*The Best Lawyers in America*® (Woodward/White, Inc.), Commercial Litigation, 2023.

## Affiliations

Lawyers' Committee of Inner City Scholarship Fund

Ethics Roundtable, member

Georgetown University Alumni Admissions Committee

## Related Services

Commercial Litigation

Litigation

e-Discovery

Financial Institutions

Blockchain and Cryptocurrency

## Education

New York University School of Law, J.D., 1994

Georgetown University, B.A., 1991

- cum laude

## Admissions

New York, 1995

## Courts

U.S. Court of Appeals–Second Circuit

U.S. District Court–Northern District of New York

U.S. District Court–Eastern District of New York

U.S. District Court–Southern District of New York