



## William S. Gyves

Partner

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### About

Bill Gyves knows the value of a good story and he knows how to tell one. It is a skill that was essential in his pre-law school career as a journalist. His ability to craft a compelling narrative out of a complex set of facts and circumstances has resulted in over three decades of sustained success as a commercial litigator.

Focusing his national practice on the litigation of complex business disputes, Bill has successfully represented clients operating in a diverse spectrum of industries, including financial services, retail, commercial real estate, payroll processing, higher education, mining, healthcare, accounting, legal, consulting, and hospitality.

He routinely litigates a wide array of claims pertaining to complex contract disputes, consumer class actions, fraud, business torts, unfair competition, and bankruptcy matters.

### Experience

*Baskin v. P.C. Richard & Son, LLC*, 2020 WL 989191 (N.J. App. Div. March 2, 2020)

Affirming pre-discovery dismissal of putative class action brought pursuant to the federal Fair and Accurate Credit Transactions Act (“FACTA”) for failure to establish that a class action is a superior method of adjudicating FACTA claims compared with individual actions prosecuted in small claims court.

*Wells Fargo Bank, N.A. v. Nasr*, 2019 WL 2074566 (S.D.N.Y. May 10, 2019)

Granting pre-discovery judgment on the pleadings as to defendant’s liability for breaching a guaranty relating to \$59 million commercial real estate loan.

*Okereke v. Ross University School of Medicine*, 2018 WL 3117861 (N.J. App. Div. June 26, 2018), certif. denied, 236 N.J. 461 (2019)

Affirming denial of a motion to vacate dismissal order entered four years earlier, court found that the alleged legal malpractice of plaintiff’s counsel provided no basis to reopen the case.

*UMB Bank, N.A., v. Airplanes Limited*, 2017 U.S. Dist. LEXIS 81300 (S.D.N.Y. May 26, 2017)

Representing trustee for investors in a failed airplane securitization vehicle, obtained pre-discovery judgment on the pleadings in a dispute arising out of what the court found to be a wrongful \$185 million reserve for an “imagined” liability.

*iHeartCommunications, Inc. v. Benefit Street Partners LLC*, 2017 WL 1032510 (W.D. Tex. March 16, 2017)

Finding no removal jurisdiction under the Edge Act, federal court remands to state court a dispute arising out of plaintiff's financing of more than \$6 billion in debt.

*Matijakovich v. P.C. Richard & Son*, 2016 WL 3457011 (D.N.J. June 21, 2016)

Pre-discovery dismissal of a putative class action brought under New Jersey's Truth-in-Consumer Contract, Warranty and Notice Act.

*In re KSL Media, Inc.*, 2016 WL 74385 (C.D. Cal. Jan. 6, 2016)

Representing a chapter 7 trustee pursuing legal malpractice and related claims against the debtors' counsel, persuaded the district court to deny the defendants' motion to withdraw the reference to the bankruptcy court.

*UnitedHealthcare Services, Inc. v. Asprinio*, 2015 N.Y. Misc. LEXIS 3165 (N.Y. Supreme Court Aug. 31, 2015)

Denying 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.

*Prosceno v. DeVry University*, No. 843 EDA 2014 (Pa. Superior Court 2015)

Affirming an order granting summary judgment dismissing a student's educational malpractice claims, in which the trial court declined to "second guess" the university's academic policies and procedures and noted the judiciary's reluctance to intervene in purely academic matters.

*Sidney Frank Importing Co., Inc. v. Beam Inc.*, 998 F. Supp. 2d 193 (S.D.N.Y. 2014)

Federal complaint asserting claims for unfair competition, tortious interference and breach of contract sustained in a \$100 million commercial dispute involving the international market for Irish whiskey.

*Ross University School of Medicine v. Amini*, 3:13-CV-06121 (D.N.J. 2014)

Secured a permanent injunction, order of contempt and sanctions against a disgruntled former student of a medical school who violated the federal Anti-cybersquatting Act and breached a non-disparagement 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 were led to believe were legitimate websites controlled by the medical school.

*Greene v. Branson*, 10 BA-CV-05687 (Missouri Circuit Court 2014)

Secured the dismissal with prejudice of an educational malpractice claim brought by a former student dismissed from an international veterinary medical school. Claims for fraud and age discrimination were dismissed previously.

*Nielsen Co. (US), LLC v. Hudson River Group, Inc.*, 2014 N.Y. App. Div. LEXIS 3168 (N.Y. 2d Dept. May 7, 2014)

A New York appellate court reversed a summary judgment against our client, holding that the parties' course of conduct over a six-year period raised issues of fact as to the plaintiff's implied waiver of its contractual audit rights.

*Metz v. Davis Polk & Wardwell LLP*, Index No. 651993/13 (N.Y. Supreme Court 2014)

Pre-discovery dismissal on forum non conveniens grounds of a legal recruiter's complaint seeking a \$1.4 million commission for allegedly placing a team of attorneys in the Hong Kong office of an

international law firm.

*Philp v. Ross University School of Medicine*, 14-CV-556 (D.N.J. 2014)

The federal court dismissed, with prejudice and prior to discovery, a civil rights complaint brought against a medical school, administrators and faculty by an expelled student who challenged the school's grievance committee procedures.

*Motichka v. MP 1291 Trust*, Index No. 160158/2013, (N.Y. Supreme Court 2014)

Defeated an emergent application to enjoin the operations of a legendary Manhattan gourmet food shop, using the testimony of an acoustics expert, architect and videographer to demonstrate that a neighboring tenant's allegations that the business was generating excessive noise and odors were unfounded.

*In re Appeal of Ethan Schwartz* (N.Y.S. Commissioner of Education 2014)

Successfully challenging a request under New York's Freedom of Information Law on the grounds that disclosure of the proprietary information sought regarding two for-profit international medical schools would cause substantial injury to the schools' competitive position in the marketplace.

*Burkes v. New York State Dental Association*, 2013 WL 3784143 (S.D.N.Y. July 18, 2013)

The court sustained a professional organization's internal disciplinary process applied in the suspension of a dentist as a result of his guilty plea on a prescription drug charge, and dismissed claims for breach of fiduciary duty, selective enforcement, negligence, denial of due process and tortious interference.

*Iatorola v. Efrosman*, 2008 WL 3412267 (N.J. App. Div. Aug. 14, 2008)

The appellate court affirmed the dismissal of shareholder's claims arising out of a foreign currency trading scam, finding that the bank owed no duty to the shareholders of a corporate account holder.

*Endico v. Fonte*, 485 F. Supp. 2d 411 (S.D.N.Y. 2007)

Ruling in client's favor, court held that member interests in a limited liability company do not constitute securities; plaintiff's application for injunctive relief denied and federal securities claims dismissed.

*Myles v. North Fork Bancorporation, Inc.* Index No. 603667/06 (N.Y. Supreme Court)

Successful defense of a bank and senior executives against a \$50 million finder's fee claim relating to the formation of bank's asset-based and structured finance business.

*Pepe v. Trust Company of New Jersey*, MON-L-089-05 (N.J. Superior Court)

Dismissal on federal preemption grounds of a putative class action brought under New Jersey's Consumer Fraud Act.

*Serio v. Black, Davis & Shue Agency, Inc.*, 2005 WL 3642217 (S.D.N.Y. Dec. 30, 2005)

In a case brought on behalf of the New York State Superintendent of Insurance and arising out of a failed workers' compensation insurance program, the federal court froze the defendant's assets based on a showing that millions of dollars in improperly withheld premiums had been transferred offshore and then disbursed to the defendant's principals back in the United States.

*Serio v. Black, Davis & Shue Agency, Inc.*, 2005 WL 2560390 (S.D.N.Y. Oct. 11, 2005)

A federal court granted a motion to stay counterclaims in order to facilitate the rehabilitation of an insolvent insurer by the New York State Superintendent of Insurance.

*Bridgeport Capital Services, Inc. v. Ruby Tuesday, Inc.*, 790 N.Y.S.2d 809 (N.Y. App. Term. Dec. 8,

2004)

Persuaded the appellate court to reverse the trial court and dismiss the complaint. The appellate court awarded sanctions in light of the plaintiff's knowing pursuit of frivolous claims.

*Acciai Speciali Terni USA, Inc. v. Momene*, 202 F. Supp. 2d 203 (S.D.N.Y. 2002)

The court granted a partial summary judgment and rejected the plaintiff's attempt to pierce our client's corporate veil.

*SS&J Morris, Inc. v. I. Appel Corp.*, 2000 WL 1028680 (S.D.N.Y. July 26, 2000)

The court imposed sanctions against the defendant and defense counsel, finding their conduct at the defendant's deposition "and their many speeches, were motivated by their desire to delay the litigation and to harass the plaintiffs" and "prevent plaintiffs' counsel from getting answers to many legitimate questions."

## Honors

Bill is routinely selected for inclusion in New York *Super Lawyers* lists, issued by Thomson Reuters. A description of the selection methodology can be found [here](#).

*No aspect of these advertisements have been approved by the Supreme Court of New Jersey.*

## Affiliations

Federal Bar Council

Association of the Federal Bar of New Jersey

New York State Bar Association, Commercial and Federal Litigation Section and Commercial Division Committee

Make-A-Wish Foundation of New Jersey, Member, board of directors, 2008–2014

## Related Services

Bankruptcy and Restructuring

Commercial Litigation

Consumer Class Action Defense

Litigation

Telephone Consumer Protection Act (TCPA) Defense

## Education

St. John's University School of Law, J.D., 1991

- cum laude

Fordham University, B.A., 1982

## Admissions

New York

New Jersey