



Keara M. Gordon

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Keara Gordon is a trial lawyer who defends class actions and complex litigation across a variety of substantive areas, including consumer, securities, privacy, and insurance litigation in a myriad of industries, as well as financial and corporate litigation and counselling. She also has substantial appellate experience, including appeals to the Second, Third, Fourth, Fifth, Sixth, Seventh, Ninth, and Eleventh Circuits, and the appellate courts of New York, DC, Delaware, and Maryland.

The National Law Journal recently named Keara as a Crisis Leadership Trailblazer for her and her team's work in anticipating emerging trends and working with her clients to attempt to mitigate those threats.

Keara's current or recent engagements include:

- Won a complete defense verdict, as first chair trial counsel, after a 61-day trial where the plaintiffs initially sought US \$80 million, won counterclaims including defeating the plaintiffs' attempt to stop a redevelopment of the South Street Seaport, and the Court awarded our client US \$11.4 million in attorneys' fees, disbursements, and prejudgement interest (*Andejo v. South Street Seaport LP et al.* New York State Supreme);
- Won dismissals on motions to dismiss, including: *Rynasko v. NYU*, Case No. 1:20 cv-3250-GBD (S.D.N.Y. 2021); *Morales v. NYU*, Case No. 1:20cv-4418 (S.D.N.Y. 2021); *Zagoria v. NYU*, Case No. 1:20 cv-3601-GBD (S.D.N.Y. 2021); *Romankow v. NYU*, Case No. 1:20 cv-4616 (S.D.N.Y. 2021); *Castanares et al v. Deutsche Lufthansa AG*, 2:20-cv-04261-MWF-MRW (C.D. Cal. 2020); *Maree v. Deutsche Lufthansa AG*, 8:20-cv-00885-MWF-MRW (C.D. Cal. 2020); *Pena v. British Airways*, Case No. 1:18-cv-06278-LDH-RML (E.D.N.Y. 2020); *Gaddis v. Just Brands Inc. et al.*, Case No. 0:19-CV-62067 (S.D. Fla. 2019) (plaintiffs voluntarily dismissed case after filing of two motions to dismiss); *Campbell-Clark v. Blue Diamond Growers* (E.D.N.Y. 2019); *Kamal v. J. Crew*, (D. N.J. Sept. 10, 2019), (D. N.J. June 6, 2017), and (D. N.J. Oct. 20, 2016), *aff'd*, — F.3d —, 2019 WL 1087350 (3d Cir. Mar. 8, 2019); *Skillett v. Citizens Parking Shareholders GP, LLC*, (N.Y. Sup. 2019); *Parker v. J. Crew*, (Circuit Court Cook County, Ill. 2018); *Jacobson v. Peter Piper Inc.*, (D. Ariz. 2018); *Russell Spitzer v. Icon Parking Systems, LLC and Stankus v. Quik Park Management LLC et al*, (N.Y. Sup. 2017) (plaintiffs gave up after we filed our motions to dismiss); *Snyder v. Acorn et. al.*, 684 Fed. Appx. 710 (10th Cir. 2017); *Schutz v. Hudson News Distributors LLC*, 2015 WL 6087595 (N.Y. Sup. Oct. 16, 2015); *U.S. ex rel. Fox v. Dr. Reddy's Inc.*, 2014 WL 6750786 (S.D.N.Y. Dec. 1, 2014); *In re GLG Securities Litigation*, 2014 WL 464762, Fed. Sec. L. Rep. P 97,809 (S.D.N.Y. Feb. 3, 2014); *U.S.*

- Litigation, Arbitration and Investigations
- Corporate and Securities Litigation
- Class Actions
- Insurance and Reinsurance Disputes

- Insurance
- Financial Services

ex rel. Casady v. Am. Int'l Grp., 2013 WL 1702777 (S.D. Cal. Apr. 19, 2013) (dismissing First Amended Complaint); *U.S. ex. rel. Casady v. Am. Int'l Grp.*, 2014 WL 1286552 (S.D. Cal. Mar. 29, 2014) (dismissing Second Amended Complaint), *aff'd*, 639 Fed. Appx. 489 (9th Cir. 2016); *Footbridge Limited Trust v. Countrywide Financial Corp.*, 770 F. Supp. 2d 618 (S.D.N.Y. 2011); *SRM Global Fund L.P. v. Countrywide Financial Corp, et al.*, 2010 WL 2473595 (S.D.N.Y. June 17, 2010), *aff'd*, 448 Fed. Appx. 116 (2nd Cir. 2011); *Kinlay v. Henley* (N.Y. Sup. 2006); *Elliott Associates L.P. et al. v. Hayes*, 14 A.D.3d 435, 787 N.Y.S.2d 872 (N.Y. App. Div. 2005); *In re AEGON N.V. Securities Litig.*, 2004 WL 1415973 (S.D.N.Y. June 23, 2004); *GLB Forest v. Hight et. al.*, (S.D.N.Y. 2004) (plaintiffs voluntarily dismissed case after filing of motion to dismiss);

- Won pre-emptive motion to deny class certification, which the Second Circuit affirmed, *Spagnola v. Chubb Corp.*, 264 F.R.D. 76 (S.D.N.Y. 2010), *aff'd*, 531 F. Appx. 93 (2d Cir. 2013);
- Won summary judgement motions, including: *Whitaker v. Appriss*, 2017 WL 3065174 (N.D. Ind. July 18, 2017) (putative class action alleging violations of federal privacy litigation, the Driver's Privacy Protection Act); *Residential Holdings III LLC v. Archstone-Smith Operating Trust*, 2011 WL 1364244, *3 (N.Y. App. Div. April 12, 2011) (litigation arising from a \$1.2 billion real estate transaction); *Virginia Academy of Clinical Psychologists v. Group Hospitalization and Medical Services, Inc. D/B/A Blue Cross/Blue Shield of the National Capital Area*, 878 A.2d 1226 (D.C. 2005) (test case by the VACP; affirming summary judgment dismissal of fraud claim);
- Won appeals, including: *Pena v. British Airways, Case No. 1:18-cv-06278-LDH-RML (E.D.N.Y. 2020) aff'd*, (2nd Cir. 2021); *Kamal v. J. Crew*, 2017 WL 2443062 (D. N.J. June 6, 2017) and 2016 WL 6133827 (D. N.J. Oct. 20, 2016), *aff'd*, — F.3d —, 2019 WL 1087350 (3d Cir. Mar. 8, 2019); *U.S. ex. rel. Casady v. Am. Int'l Grp.*, 2014 WL 1286552 (S.D. Cal. Mar. 29, 2014) (dismissing Second Amended Complaint), *aff'd*, 639 Fed. Appx. 489 (9th Cir. 2016); *SRM Global Fund L.P. v. Countrywide Financial Corp, et al.*, 2010 WL 2473595 (S.D.N.Y. June 17, 2010), *aff'd*, 448 Fed. Appx. 116 (2nd Cir. 2011); *Spagnola v. Chubb Corp.*, 264 F.R.D. 76 (S.D.N.Y. 2010), *aff'd*, 531 F. Appx. 93 (2d Cir. 2013); *Residential Holdings III LLC v. Archstone-Smith Operating Trust*, 2011 WL 1364244, *3 (N.Y. App. Div. April 12, 2011); *Andejo v. South Street Seaport LP et al.*, 2007 NY Slip Op 04231 [40 AD3d 407] (N.Y. App. Div. 2007);
- Secured favorable settlements, including: *Dover v. British Airways*, (E.D.N.Y. 2018); *Cody v. SoulCycle, Inc.* (C.D. Cal. 2017); *Plycos, LLC, et al. v. Tang et al.* (L.A. Superior Court) and *Chen v. Spokeo, Inc.* (AAA Arbitration) (2016); *In re Nu Horizons Shareholders Litig.*, (N.Y. Sup. 2011); *Held v. AAA Southern New England* (D. Ct. 2013); *CoKinetics v. DB Capital* (N.Y. Sup. 2006); *Fresco v. Automotive Directions Inc., et. al.*, (S.D. Fla. 2009);
- Represented companies, audit committees and officers and directors in connection with internal investigations in a variety of substantive areas including accounting irregularities, potential OFAC violations, potential theft by company officers, "tone at the top" issues, and in connection with disclosures to the Securities and Exchange Commission, the Department of Treasury, and the Department of Defense;
- In the wake of Covid-19, counseled and advised various clients and current representation of three global airlines and a major university defending against Covid-19 related putative class actions; and
- Pro bono, as amicus counsel for Child Justice, Inc., advocated that children who are exposed to domestic violence be included in protection orders, even in instances when the child is not physically present for the violent event. The Washington State Supreme Court modified the protection order. *Rodriguez v. Zavala*.

Keara has been with the firm more than 25 years, and has served on the firm-wide Executive Committee, as the Chair of the Partner Nominating Committee, co-chair of the Class Action Litigation Practice Group, and on the Steering Committee for DLA Piper's National Leadership Alliance for Women (LAW), among other leadership roles. Keara served on the board of directors of MAC Angels, a non-profit corporation that helps families coping with ALS, and coaches her daughter's mock trial team at the Ursuline School, which in their first year of competition won first place in the 2017 Thurgood Marshall Junior Mock Trial Program.

EXPERIENCE

SELECTED RECENT EXPERIENCE

CLASS ACTION/MASS ACTION LITIGATION

- Won dismissal for NYU as lead counsel in the defense of four putative nationwide class actions filed in the SDNY seeking the refund of tuition and fees after Covid-19 forced the University to pivot to remote learning. We are also representing NYU in a fifth filed in New York State Supreme that we removed to the SDNY, in which our motion to dismiss is pending, and a sixth filed in the SDNY, which we will move to dismiss. These cases assert claims for breach of contract, unjust enrichment, money had and received, conversion, and violations of New York's consumer protection laws, GBL 349.
- Won dismissal for J. Crew Group, Inc. as lead counsel of a putative class action under federal privacy legislation, the Fair and

Accurate Credit Transactions Act ("FACTA"). The plaintiff alleged J. Crew violated FACTA by printing the first six digits and last four digits of his card number and sought statutory damages of \$100 to \$1,000 per violation. The plaintiff claimed that J. Crew's actions put him at risk for identity theft, although he admitted that he had not been the subject of identity theft or suffered any actual damages. The Court granted our motion to dismiss for lack of subject matter jurisdiction pursuant to *Spokeo, Inc. v. Robins*, holding that the plaintiff had not suffered a "concrete" injury. This was the first district court decision within the Third Circuit to address standing under FACTA post-*Spokeo* and the first to make it to the Third Circuit for review, which affirmed the District Court's holding that the plaintiff lacked standing. The plaintiffs have filed a second amended complaint, which we have again moved to dismiss. In the interim, another plaintiff filed a virtually identical case in Illinois state court, which we moved to dismiss, and the court granted our motion to dismiss without prejudice. The plaintiff refiled an amended complaint, which we will again move to dismiss. In New Jersey, the plaintiffs filed a third amended complaint, which we moved to dismiss, and the Court again dismissed. That case is again before the Third Circuit.

- Won dismissal of a putative class action against British Airways as lead counsel arising from a criminal attack on their computer systems. The named plaintiff initially asserted four claims for (1) New York's consumer protection law, GBL 349, (2) negligence, (3) implied contract, and (4) violations of the NY data breach statute. We filed a pre-motion letter demonstrating the plaintiff lacked standing, that his claims were pre-empted by the Airline Deregulation Act, and that he failed to state a claim. At the pre-motion conference on our motion to dismiss, the Court found that the plaintiff lacked standing, his claims were pre-empted, and questioned his ability to state a claim under the NY data breach statute. The plaintiff subsequently filed an amended complaint, which we again moved to dismiss. The Court granted our motion to dismiss in its entirety and the Second Circuit affirmed.
- Won summary judgment for a technology company as lead counsel in a putative class action alleging violations of federal privacy legislation, the Driver's Privacy Protection Act ("DPPA"). The plaintiffs alleged that the defendant's sale of accident reports contained DPPA-regulated data and constituted a privacy violation. The DPPA provides for statutory damages of \$2,500 per violation, so damages could have reached into the billions had the plaintiffs been able to prove that the DPPA applied and that there was a violation. Initially, we bifurcated discovery so that the Court resolved the named plaintiffs' claims before any class discovery. After limited discovery, the Court agreed that the named plaintiffs' driver's licenses were not protected by the DPPA and dismissed the case in its entirety.
- Defense of an insurance company, several of its subsidiaries and two of its executive officers as lead counsel in the US District Court for the Southern District of New York. The plaintiff asserted putative class-wide claims for alleged breaches of contract, violations of New York's consumer protection law, GBL 349, violations of New York's insurance law, and unjust enrichment. Judge Baer granted our motion to dismiss, without providing the plaintiff leave to amend. The plaintiff appealed to the Second Circuit, which affirmed in large part, remanding only a sliver of the contract claim. Judge Baer granted our motion to deny class certification and granted our motion to dismiss the individual defendants and certain subsidiaries. The plaintiffs brought a Rule 23(f) appeal to the Second Circuit, which the Second Circuit remanded in light of the Supreme Court's *Walmart* decision. After supplemental briefing, Judge Baer once again denied class certification, which, once again, the plaintiffs once again appealed under Rule 23(f). The day after oral argument, the Second Circuit affirmed. The matter has now been resolved.
- Won dismissal of a putative class action filed in New York State Supreme Court against a global retailer as lead counsel. The plaintiff asserted claims for alleged violations of New York's consumer protection law, GBL 349, and unjust enrichment. The Court granted our motion to dismiss the complaint in its entirety.
- Won dismissal for a global financial services and insurance company in a putative class action pending in the District of Colorado against more than 100 defendants. The over 300 page second amended complaint asserted 23 causes of action, including federal antitrust and RICO claims and various state law claims. The Court granted the defendants' motion to dismiss.
- Won dismissal for a global financial services company in a putative class action filed in the Southern District of New York. The named plaintiffs purported to assert a variety of claims including alleged RICO violations, constitutional challenges, Fair Debt Collection Practices Acts claims, unjust enrichment and fraud. Our motion to dismiss was granted.
- Won dismissal for a California almond grower cooperative in the defense of a putative class action in the Eastern District of New York. The plaintiff purported to state five claims regarding an alleged improper labeling of crackers: violations of New York's consumer protection law, GBL 349 and 350, negligent misrepresentation, breach of warranty and implied warranty of merchantability, fraud, and unjust enrichment. We filed a pre-motion letter, after which the plaintiffs sought leave to amend. We filed a motion to dismiss the amended complaint, which the Court granted.
- Secured dismissal of putative class actions as lead counsel against parking providers alleging violations of New York's consumer protection act, GBL 349, and unjust enrichment. After filing our motions to dismiss, the plaintiff settled the cases for a nominal amount.
- Obtained dismissal for CBD retailers in defense of a putative nationwide class action filed in the Southern District of Florida that

asserted violations of New York and Florida consumer protection statutes, breach of express warranty, unjust enrichment, and fraud related to allegations of improper labeling of CBD levels.

- Representative of same CBD retailers in defense of a putative class action filed in Illinois federal court asserting claims under the Illinois consumer protection statute. We successfully resolved those claims, which have now been dismissed.
- Successfully defended against a TRO and preliminary injunction sought against parking provider companies as lead counsel. The plaintiffs in the lawsuit are the former CEO of the Company, who is suing the Company, the Board of Directors, and several private equity funds. The initial complaint contained numerous causes of action, including derivative claims for alleged breach of fiduciary duty against the Board and other parties, and direct claims against the Company for alleged breach of the former CEO's employment contract, violation of New York labor law, and rescission of a loan made to him. In response to our first motion to dismiss, the plaintiffs amended. In response to our second motion to dismiss, the plaintiffs withdrew all of their direct claims against the Company. The Court recently granted the remainder of the motion to dismiss.
- Obtained favorable resolution for a global airline as lead counsel in the defense of a putative class action complaint in state court in California on behalf of all California residents who called its customer service line while in California. The complaint asserted one cause of action for violation of California's Invasion of Privacy Act, and in particular California penal code section 632.7, unlawful recording or monitoring of calls. We convinced the plaintiff's counsel to dismiss the complaint without the necessity of an motion to dismiss.
- Obtained favorable settlement for the same global airline as lead counsel in the defense of a putative nationwide class action in the Eastern District of New York. The complaint was brought purportedly on behalf of a nationwide class of members of the airline's frequent flyer program and alleged that the Company breached its contract when it levied a fuel surcharge on reward tickets.
- Obtained voluntary dismissal for a dating service in the defense of a putative class action complaint in the Southern District of New York alleging fraud, breach of contract, violations of the covenant of good faith and fair dealing, consumer protection claims, and unjust enrichment.
- Obtained favorable settlement for a fitness company in a putative class action filed in the Central District of California. The plaintiff asserted claims for alleged violations of federal and state gift card laws including the Credit Card Accountability Act and the Electronic Funds Transfer Act and certain California protection statutes. The Court granted in part and denied in part our motion to dismiss and after discovery, we obtained a favorable settlement, which the Court approved.
- Obtained favorable settlements for the same fitness company in putative class actions filed in the Central District of California and the Southern District of New York. The plaintiff asserts claims for alleged violations of California's Health Studio Services Contract law, New York's Health Club Services Law and consumer protection laws. After laying out the weaknesses in the plaintiffs' claims, we obtained a favorable settlement.
- Won dismissal of 11 out of 12 claims asserted against a transportation service in a putative class action first filed in the Southern District of New York and then in New York state court. The plaintiffs attempt to allege claims for fraud, the New York consumer protection act, GBL 349 and 350, negligent misrepresentation, breach of contract, and breach of the implied covenant of good faith and fair dealing.
- Won dismissal of FACTA claims against a restaurant chain as lead counsel. The Court stayed consideration of our motion to dismiss pending the Ninth Circuit's decision in *Noble, et al v. Nevada Checker Cab Corporation*, which found that the plaintiff lacked standing pursuant to Spokeo. Following the Ninth's Circuit decision, the Magistrate Judge issued a report and recommendation recommending that our motion to dismiss be granted, which the Court adopted and dismissed the case.
- Current representation of a global computer company as lead counsel in the defense of a putative class action in the EDNY. The complaint alleges violations of New York's consumer protection act, GBL 349 and 350, and a consumer fraud claim under N.J.S.A. §§ 56:8-1, et seq.
- Current representation of the same global computer company in a multidistrict litigation consisting of multiple statewide and nationwide class actions alleging that the company promotes and makes available apps that constitute illegal gambling. Claims alleged in the various class actions include, civil RICO, unfair business practices, unjust enrichment, and state loss recovery statutes.
- Current representation of the same global computer company in a putative class action in the WDNY alleging that users pay a "price premium" to "Buy" movies, TV shows, music, and other media believing that "Purchased" content will "be available for viewing and/or listening indefinitely" when allegedly the content may be removed. The plaintiffs attempt to assert claims for violations of New York's consumer protection act, GBL 349 and 350, and unjust enrichment.
- Current representation of a global manufacturer in a putative nationwide class action in the EDNY alleging that a computer router was falsely advertised. The plaintiff attempts to assert claims under all 50 states' consumer protection statutes, breach of contract, breach of the implied warranty of merchantability, negligent misrepresentation, unjust enrichment, and fraud.

- Current representation of British Airways in the defense of a putative nationwide class actions filed in the SDNY as lead counsel alleging a breach of contract regarding an alleged failure to provide refunds in the wake of the COVID-19 global pandemic.
- Current representation of a global airline in the defense of two putative class actions filed in California regarding an alleged failure to provide refunds in the wake of the COVID-19 global pandemic.
- Current representation of a global airline as lead counsel in the defense of a putative class action filed in the Northern District of Illinois regarding an alleged failure to provide refunds in the wake of the COVID-19 global pandemic.
- Current representation of a global consumer products manufacturer defending a putative nationwide class action in the EDNY against allegations that Selsun Blue Naturals Shampoo is allegedly not natural. The complaint alleges claims under New York's consumer protection act, GBL 349 and 350, for alleged violations of the Magnuson-Moss Warranty Act ("MMWA"), for breach of express warranty; and unjust enrichment. In response to our argument at a pre-motion conference, the Court advised the plaintiff that it could file an amended complaint. The motion to dismiss the amended complaint is pending.
- Current representation of a global consumer products company as lead counsel against claims in the SDNY alleging that its deer whistles promise to help prevent accidents, but supposedly do not. On behalf a putative nationwide and New York class, the plaintiff alleges claims under New York's consumer protection act, GBL 349 and 350, breach of express warranty, fraud and for alleged violations of the Magnuson-Moss Warranty Act.
- Secured a favorable settlement for a membership organization as lead counsel in a class action filed in the District Court for Connecticut. The named plaintiff asserted alleged breaches of contract, unfair trade practices acts and unjust enrichment claims. The parties reached a settlement on terms favorable to our client.
- Representation of an information management and technology company as lead counsel in defense of a putative class action filed in the United States District Court for the Southern District of Florida. The plaintiffs asserted that the company, and others in its industry, violated federal privacy legislation, the Driver's Privacy Protection Act. The plaintiffs sought damages in excess of one billion dollars. After the filing of dispositive motions and limited class discovery, the court referred the parties to mediation. During mediation, the parties reached a nationwide class settlement, the focus of which is injunctive relief intended to safeguard the privacy interests of consumers by enhancing the protection afforded to the relevant data. The settlement provides for the payment of no money to the class. After preliminary approval, several objectors attempted an appeal to the Eleventh Circuit, and the appellate court rejected the appeal. On January 16, 2009, the district court granted final approval of the settlement. Various objectors filed notices of their intention to appeal the final judgment to the Eleventh Circuit, which were resolved.
- Representation of the corporate owner of a building that was damaged in the attacks of September 11, 2001 in defense of claims allegedly arising from the clean up from the attacks. This case was resolved on favourable terms to our client.

SECURITIES, CORPORATE GOVERNANCE AND FALSE CLAIMS ACT LITIGATION

- Won dismissal for a global financial services and insurance company in a case alleging purported violations of the False Claims Act in the District Court for the Southern District of California against our client and certain investment banks. The amended complaint alleged that the defendants engaged in fraudulent business practices in connection with the over-the-counter market for collateralized debt obligations, and purportedly submitted false claims to the United States in connection with financial assistance that the Federal Reserve Bank of NY provided the company following the global financial crisis in the Fall of 2008. The amended complaint also alleged that the company conspired with the investment banking defendants to defraud the federal government of billions of dollars. We (and the other defendants) filed motions to dismiss, which the Court granted. The Relators filed a second amended complaint, which we again moved to dismiss. The Court granted our (and the other defendants') motions to dismiss the Second Amended Complaint, with prejudice. The Ninth Circuit affirmed the dismissal.
- Won a trial verdict as lead counsel for a publicly traded REIT and affiliated companies in New York State Supreme Court. The plaintiffs claimed damages in excess of \$80 million. The trial court granted our motion to dismiss the fraud claim and dismissed the parent entities, which decision the Appellate Division, First Department affirmed, and the First Department dismissed the breach of fiduciary duty claim. We successfully struck the plaintiffs' motion for punitive damages and request for a jury trial. After a 61 day bench trial, the Court ruled from the bench after closing arguments, and dismissed all of the plaintiffs' claims against our client. The Court entered judgments against the plaintiffs in favor of our client on our counterclaims, ordered ejection of a plaintiffs who was trying to disrupt redevelopment and ordered the plaintiffs to pay our clients \$11.4 million in attorneys' fees, disbursements, and pre-judgment interest.
- Representation of the former CFO of a global financial services and mortgage lending company in dozens of class and non-class action cases filed by the SEC, common stockholders, and institutional investors in Countrywide stock and mortgage backed securities against the former directors and officers of Countrywide entities, relating to Countrywide's demise following the economic crisis of 2007-2008. These litigations were filed in federal and state courts across the country. In one of these matters, *SRM Global*

Fund L.P. v. Countrywide Financial Corp, et al., the Second Circuit affirmed the district court's dismissal of claims against Countrywide and certain former officers. In another, *Footbridge Limited Trust v. Countrywide Financial Corp.*, the Southern District of New York dismissed the action based upon the statute of repose of the 1933 Act, rejecting the plaintiffs' argument that prior class actions tolled existing limitations periods.

- Won dismissal for a global pharmaceutical company as lead counsel in a False Claims Act case filed in the District Court for the Southern District of New York by a sponsor of Medicare Part D prescription drug plans. The Relator alleged that the company provided improper incentive rebates to pharmacies to induce them to purchase its generic prescription medication as opposed to comparable and less expensive generic medication from other manufacturers, allegedly in violation of the False Claims Act, the Federal anti-kickback statute, and related state laws. The Court granted our motion to dismiss.
- Won dismissal for a Canadian-based company and its Chief Financial Officer in putative securities class actions in the United States District Court for the Southern District of New York. The plaintiffs asserted claims under Sections 10(b) and 20(a) of the Securities Exchange Act of 1934. The Court granted our motion to dismiss.
- Won dismissal for a multinational insurance and financial services company and certain of its senior officers in putative securities class actions filed in the District Court for the Southern District of New York. The plaintiffs asserted claims under Section 10(b) of the Securities Exchange Act of 1934 and controlling person claims. The Court granted our motion to dismiss, without providing the plaintiffs leave to amend. They did not appeal.
- Won dismissal for an investor in a hedge fund as lead counsel that was sued by the hedge fund for fraud, aiding and abetting fraud and breach of fiduciary duty in state court in New York. The plaintiffs claimed damages in excess of US\$200 million. The Court granted our motion to dismiss in its entirety, and the plaintiffs noticed an appeal, which the Appellate Division, First Department dismissed.
- Secured favorable settlement for a technology company in defense of claims for breach of fiduciary duty in connection with an unsuccessful M&A process. We were able to resolve the matter on terms favorable to our client.
- Won a motion to dismiss for a national parking company as lead counsel in the defense of a shareholder derivative action in New York state Supreme Court. We recently successfully defended against the plaintiffs' motion for a temporary restraining order and preliminary injunction. After we filed a motion to dismiss, the plaintiffs filed an Amended Complaint, which we also moved to dismiss.
- Current representation of real estate investment company as lead counsel in the defense of claims for piercing the corporate veil, fraudulent conveyance, and for an accounting in New York state court. We filed a motion to dismiss, which is pending.
- Current representation of a former Chief Financial Officer of a surgical implant company in the defense of a putative class action asserting claims under Sections 10(b) and 20(a) of the Securities Exchange Act of 1934 filed in the Northern District of Illinois.
- Defense of a global company in an action in the District Court for the Southern District of New York. The plaintiff, the former head of a business unit, alleged claims of breach of fiduciary duty and breach of contract, and claimed damages in excess of US\$250 million.
- Defense of a private equity fund against claims of fraudulent conveyance and intentional interference with prospective economic advantage in New York state court. The plaintiff claimed damages exceeding US\$70 million. The Court granted, in part, our summary judgment motion, and we appealed a portion of the opinion denying our motion. The matter subsequently settled.
- Obtained favorable settlement for a venture capital firm and an investment banking firm as lead counsel in defense of a claim by a portfolio company alleging breach of a stockholders agreement. We filed a motion to dismiss, after which the case settled, with the plaintiff paying our client a substantial amount to buy back its stock.
- Obtained favorable settlement for the officers and directors of an information management and technology company as lead counsel in defense of claims of breach of fiduciary duty and conspiracy to breach fiduciary duty in state court in Florida. The plaintiffs claimed damages in excess of \$57 million. We filed a motion to strike the complaint for sham, and the case was ultimately settled without the payment of any money by our clients.
- Won dismissal for a computer company and its officers and directors of claims for breach of fiduciary duty, fraud, tortious interference with contract, and breach of contract pending in state court in New York. The plaintiffs, holders of preferred stock in the company, filed these claims in state court in New York after the firm obtained a dismissal of federal securities claims filed in the United States District Court for the Southern District of New York by these same plaintiffs, which dismissal was affirmed on appeal. We won dismissal of the state court claims, which was affirmed on appeal.
- Defense of a multinational insurance holding company in two securities class actions, one filed in the United States District Court for the Southern District of Ohio and the other filed in state court in Ohio. After we filed several potentially dispositive motions, the actions were settled on terms favorable to our client.
- Defense of the same multinational insurance holding company in a securities class action filed in the United States District Court for the Eastern District of Pennsylvania by employees of a former affiliate of our client. At an expedited hearing, the court denied the

plaintiffs' motion for a preliminary injunction, indicated that it was tentatively disposed to grant our client's motion to dismiss for lack of personal jurisdiction, and indicated that, if it reached the merits, it was tentatively disposed to rule in our client's favor. Thereafter, the action was settled for a nominal payment.

- Defense of a global financial services company in defense of a fraud claim filed against it in the US District Court for the Eastern District of Virginia arising from the company's investment banking activities. The plaintiff claimed that, when it purchased a publicly traded company, it had relied on misrepresentations made by the investment bankers who brokered the deal. We convinced the plaintiffs voluntarily to dismiss our client after minimal discovery.
- Defense of a major public utility and its directors in a class action commenced in state court in Maryland by a shareholder of the utility. The plaintiff alleged that the directors had breached their fiduciary duties by agreeing that the utility would pay a premium to acquire another major public utility. After the completion of expedited discovery, the plaintiff abandoned her motion for a preliminary injunction blocking the shareholders meeting. We subsequently won our clients' motions to dismiss the complaint and an amended complaint and the trial court's rulings were affirmed on appeal.
- Defense of a publicly traded company in two related actions brought in state court in Maryland following its acquisition. The plaintiffs sought an appraisal of the fair value of their stock and brought an action for breach of fiduciary duty against the acquiror and the acquired company's board of directors. At the appraisal trial, the appraisal panel ruled that the fair value of the stock was not more than the amount paid in the transaction being challenged by the plaintiffs. After that decision, the breach of fiduciary duty portion of the action was settled on terms favorable to our clients.
- Defense of a corporation and its directors and officers in litigation brought by shareholders as a result of a squeezeout merger between the corporation and a creditor. The plaintiffs brought an appraisal proceeding and asserted a breach of fiduciary duty claim in the Chancery Court in Delaware. We tried the appraisal proceeding to former Chancellor Allen, who rejected the shareholders' claim for US\$15 million and valued their stock at zero. That decision was affirmed on appeal by the Supreme Court of Delaware. Chancellor Allen subsequently granted our motion to dismiss the breach of fiduciary duty claim.
- Representation of an investment banking firm in an NASD (now FINRA) arbitration brought by a former customer alleging claims of unauthorized trading, securities fraud, unsuitability and excessive commissions. The investment banking firm had been engaged to protect and enhance the performance of a portfolio of securities managed elsewhere, through a program of options trading. The mediator concluded that the customer's claim had no merit, and our client settled the matter very favorably.

INTERNAL INVESTIGATIONS

- Representation of the Audit Committee of a network infrastructure services company in connection with an internal investigation into potential accounting irregularities and in connection with an investigation by the Securities and Exchange Commission. The SEC subsequently informed the company that it would not take action against the company.
- Representation of the same Audit Committee in connection with internal investigations into potential wrongdoing at the company and its UK subsidiary.
- Representation of a global company regarding an internal review of potential violations of the regulations promulgated by the Office of Foreign Assets Control of the Department of Treasury.
- Representation of two private equity firms into potential wrongdoing at a portfolio company, which included an internal investigation into acts by the former CEO of the portfolio company.
- Representation of an aerospace manufacturer in connection with an internal investigation into suspected irregularities at an acquired subsidiary, a resulting disclosure to the Department of Defense of the same and counseling regarding available potential actions against the officers and shareholders of the acquired subsidiary.
- Representation of a publicly traded global insurance and financial services company in formulating its protocols for internal investigations.

OTHER

- Representation of a seller of real estate assets as lead counsel in defense of claims arising from a purchaser's purported termination of the final two tranches of US\$1.2 billion transaction, which claims were brought in state court in New York. The trial court denied our motion for summary judgment, and we appealed. The Appellate Division, First Department, reversed the trial court's decision, held that our client was entitled to the full amount of the escrow, plus interest and legal fees.
- Representation of a publicly traded company in connection with formulating an e-discovery protocol and initiative.
- Representation of a managed care company and its parent corporation in defense of a test case filed in the Superior Court for the District of Columbia by a group of psychologists, one patient, and one subscriber. On summary judgment, we convinced the court to

dismiss the plaintiffs' claims for fraud and tortious interference with contract and to strike the plaintiffs' request for punitive damages. The remaining discrete contract claims were resolved. The plaintiffs appealed the court's ruling on summary judgment and its denial of a motion to permit the plaintiffs to amend the complaint to assert consumer protection claims, and the D.C. Court of Appeals affirmed that decision.

CREDENTIALS

Admissions

- District of Columbia
- New York

Education

- J.D., Georgetown University Law Center 1993
magna cum laude
Order of the Coif
- B.A., Iona College 1990
summa cum laude

Courts

- Supreme Court of the United States
- United States District Court for the Southern District of New York
- United States District Court for the Eastern District of New York
- United States Court of Appeals for the Second Circuit
- United States Court of Appeals for the Third Circuit
- United States Court of Appeals for the Fourth Circuit
- United States Court of Appeals for the Fifth Circuit
- United States Court of Appeals for the Sixth Circuit
- United States Court of Appeals for the Seventh Circuit
- United States Court of Appeals for the Ninth Circuit

INSIGHTS

Publications

Insights from the US: will knowledge, recklessness or negligence in Australian securities class actions actually change anything?

16 August 2021

Last week the Federal Government introduced permanent reforms to the continuous disclosure regime and misleading and deceptive conduct provisions in the *Corporations Act 2001* and *ASIC Act 2001* which provide that companies and their officers will not be exposed to civil liability unless they had a requisite mental element, being *knowledge, recklessness or negligence*. This change is in line with the recommendations of the Parliamentary Joint Committee for Corporations and Financial Services and also extends the temporary measures originally introduced at the height of the COVID-19 pandemic.

This change brings Australia's continuous disclosure regime closer to that of its counterparts in the United States and the United Kingdom, and there is much we can learn from our international colleagues.

Preparing for global class actions arising from COVID-19

28 May 2020

The risk to companies of global and cross-border class action and collective redress proceedings is rising.

- Co-author, "No concrete harm, no standing": Supreme Court issues major Article III standing opinion in "*TransUnion v. Ramirez*" (June 29, 2021)
- Co-author, "Preparing for global class actions in the wake of a pandemic" (May 28, 2020)
- Co-author, "New York's SHIELD Act: How Much Will Your Inadvertence Cost You?" *New York Law Journal* (May 11, 2020) (with Jim Halpert, Colleen Carey Gulliver and Caroline Fish)
- Co-author, "Preparing for litigation in the wake of the pandemic" (April 7, 2020)
- Co-author, "Supreme Court requires explicit consent to arbitrate claims on classwide basis" (April 25, 2019) (with Amanda Fitzsimmons)
- Co-author, "Improving class action notice and settlement procedures – new amendments to Rule 23" (Nov 16, 2018) (with Anthony Gill)
- Co-author, "Major developments in class action litigation: 2017 in review and what to watch in 2018" (March 8, 2017) (with Anthony Gill, Isabelle Ord, and David Priebe)
- Co-author, "*Robins v. Spokeo, Inc.*: Ninth Circuit rules that plaintiff has standing to pursue FCRA claims," *DLA Piper Class Action Alert* (August 21, 2017) (with Anthony Gill and Isabelle Ord)
- Co-author, "US Supreme Court: class action plaintiffs cannot voluntarily dismiss claims in effort to appeal denial of class certification," *DLA Piper Class Action Alert* (June 15, 2017) (with Stan Panikowski, Courtney Gilligan Saleski, and Ethan H. Townsend)
- Co-author, "Credit Crisis Litigation: 2011 Rewind and 2012 Preview," *PwC 2011 Securities Litigation Study* (April 2012) (with Nick Morgan and Anthony Gill)
- Co-author, "Supreme Court Addresses Standards for Class Certification, Liability in Two Recent Decisions," *DLA Piper Class Action Alert* (June 21, 2011) (with Jeffrey Rotenberg and Courtney Stewart)

Events

Previous

White Collar Crime, Investigations and Compliance Symposium

5 October 2021

Webinar

Preparing for global class actions arising from COVID-19

16 June 2020 | 9:00 - 10:30 a.m. ET (Session one) | 8:00 - 9:30 p.m. ET (Session two)

Webinar

Class action landscape in a post-COVID world

19 May 2020 | 12:30 - 1:30 ET
Webinar

- "Significant Developments in Class Actions," Co-Presenter (Webinar, 2021)
- "Class Actions and Allegations of Corporate Misconduct," Co-Presenter, White Collar Crime, Investigations & Compliance Symposium (Webinar, 2021)
- "Global Disputes Forecast Series: European Class Actions: What Lies Ahead?," Co-Presenter (Webinar, 2021)
- "Managing Risks Associated with Data Privacy Breaches," Co-Presenter, PLI's IP Rights Enforcement 2020 (Webinar, 2021)
- "The Pandemic and its Impact on Directors and Officers: Implications for Financial Institutions," Panelist (Webinar, 2020)
- "Preparing for global class actions arising from COVID-19," Co-Presenter, Organized by DLA Piper (Webinar, 2020)
- "Class Action Landscape in a Post-Covid World," Co-Presenter, Organized by Angeion Group (Zoominar, 2020)
- "Managing Risks Associated with Data Privacy Breaches," Co-Presenter, PLI's IP Rights Enforcement 2020 (New York, 2020)
- "Global Class Actions," Co-Presenter (France, 2019)
- "Global Class Actions Roundtable," Panelist (London, 2019)
- "Significant Trends and Developments in Class Action Litigation," Co-Presenter (New York, 2019)
- "Class Actions: Are They Coming to France? Lessons Learned From Around the Globe," Co-Presenter (Paris, 2018)
- "Are UK Product Liability Class Actions On the Horizon?" Panelist (London, 2018)
- "Annual SEC & DOJ Enforcement 2016 Update," Panelist (New York, 2016)
- "Annual Securities Litigation & Enforcement 2014 Update," Panelist (New York, 2014)
- "What is Leadership?," Panelist, Women in the Profession Committee of the New York City Bar Association (New York, 2012)
- "Significant Developments in Class Action Litigation," Presenter (New York, 2012)
- "In House Counsel and Privilege Issues," Co-Presenter (Baltimore, 2012)
- "Work/Life Success for Lawyers," ALI-CLE, Co-Presenter (Philadelphia, 2012)
- "SEC and DOJ Hot Topics," 2102 Breakfast Briefing, Panelist (New York, 2011)
- "Overview of Relevant Accounting Frameworks and Sources of Information," Pocket MBA: Finance for Lawyers, PLI, Panelist (New York, 2011)
- "Effective Negotiations," New York State Bar Association Committee of Women in Law, Panelist (New York, 2011)
- "Class Actions: Defense/Coverage Issues and Effective Litigation Management Strategies," Co-Presenter (Hartford, Ct. 2010)