

## ATTORNEYS IN THIS PRACTICE

Neil S. Binder  
Shari A. Brandt  
Jon Connolly  
David W.T. Daniels  
Paul J. Devlin  
Brian S. Fraser  
Arthur S. Greenspan  
Wendy A. Harris  
Audrey Laning Ingram  
Jeffrey A. Lehtman  
Morgan G. Macdonald  
Grant Mogan  
Matthew M. Riccardi  
Lee S. Richards, III  
Margery M. Shanoff  
Daniel L. Stein  
James Q. Walker  
Grace C. Wen  
Daniel C. Zinman

## RELATED PRACTICES

Capital Markets  
Litigation  
Civil Litigation  
Creditors' Rights and  
Bankruptcy Litigation  
Securities and  
Shareholder Suits

## Business and Commercial Disputes

RK&O's litigation practice was recognized as "highly regarded" by *Chambers USA: America's Leading Lawyers for Business 2009*, which noted that our clients regard our litigators as "extremely tough and client-focused" and "excellent at turning difficult situations into satisfying outcomes." Our attorneys' trial experience informs our judgment at every stage of litigation, from evaluating the prospective strengths and weaknesses of a case, to formulating strategy for discovery, engaging in settlement discussions and, ultimately, preparing for and conducting trial. RK&O works closely with the client throughout the litigation process to ensure that strategic and tactical choices remain consistent with the client's business objectives.

As business and commercial litigators, our advice and advocacy are informed by the diversity of disputes we have litigated. These include claims for breach of contract, breach of non-compete agreements, breach of fiduciary duty, fraud, theft of intellectual property, antitrust violations, insurance litigation and intellectual property infringement.

### EXPERIENCE

- The Boeing Company as defendant in all of Boeing's 9/11-related wrongful death and property damage litigation. We act as lead counsel for Boeing on damages analysis and the defense of the six largest property claims, which together exceed \$15 billion. We obtained a grant of our summary judgment motion capping Larry Silverstein's claims for more than \$12 billion against Boeing and other defendants at \$2.8 billion. A further motion is pending to offset the \$2.8 billion claim against \$4.1 billion of insurance recoveries that Silverstein obtained.
- Financial Guaranty Insurance Company ("FGIC"), a monoline bond insurer whose credit rating was downgraded as a result of the mortgage crisis, as national litigation counsel. We currently represent FGIC in 14 class action and other litigations in New York, Alabama, California, Louisiana and Arizona. The litigations raise extremely complex issues, implicating the subprime mortgage crisis, structured finance, municipal finance and the system of dual credit ratings for municipalities and corporations.
- Counsel for Oracle Partners and its affiliate, Oracle Real Estate Holdings, in breach of contract and fraud litigation pending in the United States District Court for the Southern District of New York. The dispute arises out of an investment made by plaintiff which relates to real estate holdings in Florida. We successfully obtained both a temporary restraining order and preliminary injunction against the defendants which resulted in the Court ordering that all voting control of the entity that holds the real estate at issue is transferred to plaintiff during the pendency of the litigation.
- Represented a manufacturer and wholesaler in a federal jury trial involving a contract and copyright dispute arising from a licensing agreement.
- Represented a large chemical manufacturing company in litigation alleging breach of the terms of a stock purchase agreement and non-compete agreement entered into in connection with the sale of a subsidiary.

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## BUSINESS AND COMMERCIAL DISPUTES (Cont.)

- Represented major financial corporation in obtaining voluntary dismissal of federal court action brought by hospital in connection with hospital's lease of equipment from manufacturer and manufacturer's assignment of contract receivables to client.
- Represented a manufacturer in a multimillion-dollar state court action brought by a factory seeking to evade an arbitration clause entered into by an assignor under the Uniform Commercial Code.
- Represented a major media and advertising corporation in obtaining resolution of state court action brought by foreign bank after corporation declined to register the transfer of shares of restricted stock to bank.
- The acquirer of a manufacturing company in a litigation brought by the founder and former CEO of that company who was terminated, allegedly "for cause", shortly before his options vested.
- An international manufacturer of software in defending allegations by former employees of violations of labor laws in the United States and the United Kingdom, and prosecuting copyright infringement claims against the same former employees.
- A mutual fund manager accused of improprieties in the valuation of his investments.
- A former CFO of a software company in connection with enforcing change-of-control provisions in his employment contract after his company merged merger with another software company.

## PUBLICATIONS

"Derivatives risk remains poorly understood" by Craig Newman and David Daniels published in *Financial Times*

"Still in Flux: Legal and Regulatory Developments Affecting the Analysis of Information Flow in the U.S. Secondary Loan Market" by Julia Lu and Jennifer Grady published in the *LSTA 2012 Loan Market Chronicle*

"Tribune suits put public liability on trial" by Craig Newman published in the *Financial Times*

"*MSHDA v. Lehman*: Trying to Keep the Safe Harbor Safe for Swap Counterparties" by Neil Binder

"Recent New York Case Demonstrates Limits of Big Boy Provisions" by Brian Fraser and Tamala Newbold published by *VCExperts*

"Denial of Consents to Secondary Loan Assignments on the Rise" by Paul B. Haskel and Neil Binder

"Big Boy Update: Recent New York Case Demonstrates Limits of Big Boy Provisions Where Affirmative Acts of Concealment Are Alleged" by Brian Fraser

"Are You Sure Your Settlement Negotiations Are Confidential?" by Brian Fraser published in the *New York Law Journal*

"New York Court Enforces 'Big Boy' Disclaimers in Credit Default Swap Transaction but Permits Novel Credit Rating Claim to Proceed" by Brian Fraser

Brian Fraser authors chapter in recently published book, *Inside the Minds: New Developments in Evidentiary Law in New York*

"Court Tests a Borrower's Ability to Block Loan Transfers to Competitors" by Jon Kibbe, Brian Fraser and Eric Rosen

"The Dustbin of History? Second Circuit Makes Clear that Champerty Won't Impede the Rights of Secondary Purchasers" by Brian Fraser

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## BUSINESS AND COMMERCIAL DISPUTES (Cont.)

"New York's Highest Court Relieves Debt Trading Market From Uncertainty Regarding The Application Of Champerty" by Brian Fraser

"Who's a Big Boy II: Superior Knowledge and the Duty to Disclose" by Brian Fraser

"New Decision on the Application of Attorney-Client Privilege to Communications With In-House Counsel" by James Walker, Daniel Zinman and Hellen Park

"Employers Need To Revisit E-Mail Policies In Light Of Court Decision Rejecting Attorney-Client And Work Product Privileges" by James Walker and Daniel Zinman

"Who's a Big Boy? Non-Reliance Provisions and Claims of Insider Trading in Securities and Non-Securities Markets" by Brian Fraser

## PRESENTATIONS

James Walker presents "LinkedIn, Facebook and Twitter, Oh My! Ethics & Privacy in Social Media" hosted by the LSTA

James Walker participates in PLI "Ethics for Corporate Counsel: Multijurisdictional Practice and Other Current Issues" seminar

James Walker participates in "Preserving Privileges: Ethical Issues Confronting Insurers, Policyholders, & Counsel" panel sponsored by the New York City Bar Association

James Walker participates in "How to Effectively Maneuver Through the Forest of Social Media," hosted by the Association of Black Women Attorneys

James Walker co-presented "High Tech/High Impact Ethics" at the National Employment Lawyers Association New York City Conference on Representing Employees

James Walker speaks at the PLI "Information Technology Law Institute 2011: Navigating the New Risks in Mobile Technology, Social Media, Electronic Records and Privacy" seminar

James Walker speaks at the Women in eDiscovery "Ethics, E-Discovery & Social Networking" seminar

Jon Kibbe participates as a Panelist in the Claims Trading seminar hosted by the LSTA

Neil Binder and Michael Friedman present "Analysis of Claims against BP arising from Gulf of Mexico Disaster" hosted by the Susquehanna Financial Group

James Walker participates as a Panelist at the Third Corporate Counsel Institute

Brian Fraser and Shari Brandt present "What Litigators Need to Know About Dual Representation and Potential Conflicts of Interest During Internal Investigations - Understanding the Impact of *United States v. Nicholas*"

Brian Fraser participates as a Panelist in a Compliance Roundtable hosted by the LSTA

James Walker participates as a Panelist in the "Ethics in the Investigation and Prosecution of Civil Lawsuits" seminar

James Walker speaks at the PLI "Ethics for Corporate Lawyers 2008" seminar

James Walker and Daniel Zinman present "The Erosion of the Attorney-Client Privilege over Electronic Communications: A Discussion of Recent Developments in the Law and Practical Guidance for In-House Counsel to Consider in Preserving the Privilege"

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BUSINESS AND COMMERCIAL DISPUTES (Cont.)

Brian Fraser participates as a Panelist in "Distressed Loan Trading and Collateral Loan Obligations: How to Buy, Sell and Finance Individual Loans and Portfolios"

NEWS & ANNOUNCEMENTS

Craig Newman quoted in *Arizona Republic* article "ASU history professor at center of plagiarism debate"

Craig Newman quoted in *The Wrap* article "For Rupert Murdoch, Parliament Report Could Spur U.S. Legal Woes"

Shari Brandt quoted in *Investor's Business Daily* article "Best Buy Botched CEO Exit News But Shined in Probe"

Richards Kibbe & Orbe LLP names Matthew Riccardi a partner and Grace Wen counsel

Craig Newman quoted in *Management Today* article "Off on a Rant"

Neil Binder recognized among *AVENUE* magazine's Legal Elite for second consecutive year

James Walker quoted in *Law360* article "FDIC Sets Its Sights On Failed Banks' Law Firms"

Brian Fraser quoted in *Law360* article "Superdome Owner Tries To Revive \$13M Insurance Suit"

Richards Kibbe & Orbe LLP names Jeffrey Lehtman a partner and Catherine Turgeon and Ryan Jackson counsel

Brian Fraser and Tamala Newbold author *Law360* Guest Column

James Walker quoted in *Financier Worldwide*

Ruling in 9/11 Property Damage Litigation May End Larry Silverstein's Pursuit of Billions in Damages

New York Court of Appeals hears oral argument regarding an *amicus curiae* brief filed by RK&O Partners Brian Fraser and Lucinda McConathy on behalf of the LSTA

New York Court of Appeals grants application to file an *amicus curiae* brief submitted by RK&O Partner Brian Fraser on behalf of the LSTA

RK&O Partners, Brian Fraser and Lucinda McConathy, submit an *amicus curiae* brief on behalf of the LSTA to the New York Court of Appeals

Federal Court Limits Aviation Defendants' Potential Liability in 9/11 World Trade Center Litigation