



Gerald A. Novack

Partner

New York
+1.212.536.3918

gerald.novack@klgates.com

OVERVIEW

Gerald Novack has over 45 years of experience trying a variety of complex matters in the state and federal courts, before the American Arbitration Association and its International Centre for Dispute Resolution, and the American Stock Exchange. In addition, he has argued before numerous state and federal appellate courts. His cases have involved, among other things: the financial services sector; the securities and commodities laws; insurance coverage disputes; the oil and gas industry; complex industrial equipment warranty disputes; the mobile phone industry; professional liability claims against law firms; investment banking; indemnification of corporate officers and directors; breach of contract, business torts and breach of fiduciary duty claims; intellectual property disputes; representation of lawyers in law firm breakup disputes; the valuation of real estate and shares in closely-held corporations; unfair competition and trade secret disputes; defamation claims; aviation; shipping; banking; publishing; antitrust; estates and trusts; mortgage foreclosures and lender liability suits; international sales contracts; federal tax refund litigation; the False Claims Act; and the Foreign Sovereign Immunities Act.

Among other matters, Gerald is lead counsel in a widely reported oil refinery dispute between the firm's client and Petrobras, Brazil's national oil company. The dispute ended with Petrobras paying the firm's client a lump sum of \$820,500,000 to satisfy judgments and claims in our client's favor. Subsequently, Petrobras sued to invalidate the settlement on various grounds. In an April 2022 decision, the Texas Supreme Court rejected Petrobras' attack on the settlement and reaffirmed that it was valid and enforceable.

On the defense side, Gerald was lead counsel in obtaining the dismissal of a \$2 billion False Claims Act action brought against various banking institutions that allegedly obtained billions of dollars in low interest rate loans by making false certifications to the Federal Reserve Banks.

Gerald is listed in Best Lawyers in America, in the field of Commercial Litigation.

PROFESSIONAL BACKGROUND

Gerald's professional background includes:

- Partner with K&L Gates
- Special Assistant Attorney General, State of New York

- Law Clerk, Hon. James Gibson, New York Court of Appeals

ACHIEVEMENTS

- *Best Lawyers in America*, Commercial Litigation, 2012-2021

EDUCATION

- J.D., Brooklyn Law School, 1969 (*cum laude*; *Editor, Brooklyn Law Review*)
- B.A., Rutgers University, 1966

ADMISSIONS

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

OTHER PUBLICATIONS

- "Limiting the Buyer's Market Damages to Lost Profits: A Challenge to the Enforceability of Market Contracts," *Harvard Law Review*, 1979 (co-author)

- Commercial Damages: A Guide to Remedies in Business Litigation, New York: Matthew Bender, 1986 (chapter contributor)
- “*Gustafson v. Alloyd Co.*: Limiting Section 12(2) Liability to Public Offerings,” *The Review of Securities and Commodities Regulation*, November 8, 1995

NEWS & EVENTS

- 18 August 2022, More Than 350 K&L Gates Lawyers Named Among 2023 Best Lawyers in America, Ones to Watch
- 19 August 2021, Nearly 300 K&L Gates Lawyers Named Among 2022 Best Lawyers in America, Ones to Watch

MEDIA MENTIONS

- Mentioned, “Petrobras bribery claims barred by settlement,” *Global Arbitration Review*, 3 May 2022

AREAS OF FOCUS

- Commercial Disputes
- Appellate Litigation
- Insurance Recovery and Counseling
- International Arbitration
- Professional Liability

REPRESENTATIVE EXPERIENCE

- *Transcor Astra Group S.A. v. Petrobras America Inc.*, 2022 WL 1275238 (Texas Supreme Court) (April 29, 2022) (rejecting challenge to US\$820.5 million settlement agreement)
- Defended a commercial bank in a False Claims Act dispute before the US Court of Appeals for the Second Circuit.
- *Siga Technologies, Inc. v. Pharmathene, Inc.*, 67 A.3d 330 (Delaware Supreme Court) (2013) pharmaceutical industry contract dispute.
- *Petrobras America, Inc. v. Astra Oil Trading NV*, 2012 WL 1068311 (Tex. App. - Hous. (1 Dist.)) (confirmation of \$639 million arbitration Award).
- Represented an oil and gas company as plaintiff in litigation before the US District Court for the Southern District of Texas alleging failure by an integrated energy company to uphold a purchase agreement related to a joint venture between the companies' subsidiaries.

- Represented a developer of sulfur reduction technology for the oil industry in an intellectual property dispute before the US Court of Appeals for the Ninth Circuit.
- Represented a developer of sulfur reduction technology for the oil industry in an intellectual property ownership dispute before the Nevada Supreme Court.
- *Underhill Inv. Corp. v. Fixed Income Disc. Advisory Co.*, 2009 WL 808317 (3d Cir. Mar. 30, 2009) (financial services industry finder's fee claim).
- Represented a Hasidic synagogue as plaintiff in disputes concerning the First Amendment and the non-justiciability of corporate election of a religious corporation.
- *American Continental Properties, Inc. v Lynn*, 32 A.D.3d 700, 822 N.Y.S.2d 1(1st Dep't 2006) (defend architectural malpractice claims).
- Represented an architectural services company as a respondent to claims.
- *Wieder v. Skala*, 272 A.D.2d 58, 707 N.Y.S.2d 829 (1st Dep't 2000) (wrongful termination suit against law firm by former associate).
- Defended a law firm in a malicious prosecution action.
- *Waldman v. Village of Kiryas Joel*, 207 F.3d 105 (2d Cir. 2000) (action seeking dissolution of municipality on ground its existence violates First Amendment because of allegedly excessive involvement of local religious leaders in village government).
- *DiRienzo v. Philip Services Corp.*, 232 F.3d 49 (2d Cir. 2000) (securities fraud class action).
- *Dan's Supreme Supermarkets, Inc. v. Redmont Realty Co.*, 261 A.D.2d 353, 690 N.Y.S.2d 272 (2d Dep't 1999) (long-term commercial lease dispute).
- *Alas Int'l, Ltd. v. Ramiz*, 263 A.D.2d 364, 692 N.Y.S.2d 378 (1st Dep't 1999) (dispute over ownership of airline).
- *McMahan & Co. v. Dunn Newfund I, Ltd.*, 230 A.D.2d 1, 656 N.Y.S.2d 620 (1st Dep't 1997) (commodity pool operator claim against broker-dealer).
- *Deane v. Skadden, Arps, Slate, Meagher & Flom*, 227 A.D.2d 247, 642 N.Y.S.2d 280 (1st Dep't 1996) (legal malpractice action).
- *Friedman v. Beway Realty Corp.*, 87 N.Y.2d 161, 638 N.Y.S.2d 399 (1995) (valuation of corporate shares in dissenters' rights proceeding).
- *STV Group, Inc. v. American Continental Properties, Inc.*, 216 A.D.2d 376, 628 N.Y.S.2d 525 (2d Dep't 1995) (claim for sanctions against law firm).
- *Chapnick v. Cohen*, 203 A.D.2d 362, 609 N.Y.S.2d 681 (1st Dep't 1994) (dispute with architect).
- *Donovan v. Secretary of Health & Human Servs.*, 28 Fed. Cl. 459 (U.S. Court of Federal Claims 1993) (National Childhood Vaccine Injury Act proceeding).

- Represented an individual as a party in a securities fraud action before the U.S. Court of Appeals for the Seventh Circuit.
- *Chapple v. Levinsky*, 961 F.2d 372 (2d Cir. 1992) (fraudulent conveyance action).
- *Heffernan v. Pacific Dunlop GNB Corp.*, 965 F.2d 369 (7th Cir. 1992) (indemnification of corporate officers and directors for securities law claims).
- Represented a construction materials company as defendant-appellee in proceedings for the revocation of a shipowner's coastwise trading privileges before the U.S. Court of Appeals for the Sixth Circuit.
- Represented executor in Surrogate's Court surcharge proceedings for alleged fraud.
- Represented a trading company as petitioner-appellee in enforcement of a Nigerian arbitration award under the UN Convention on Recognition and Enforcement of Foreign Arbitral Awards before the U.S. Court of Appeals for the Second Circuit.
- Represented a sportswear holding company in breach of fiduciary duty and RICO claims against an apparel industry executive before the U.S. Court of Appeals for the Fourth Circuit.
- Represented a charter airline in a challenge to the enforceability of the Port Authority of New York and New Jersey's aircraft noise rules.
- Represented an economic development public-benefit corporation as plaintiff in litigation regarding the mortgage foreclosure of state-subsidized housing projects.
- *Holtzman v. Power*, 27 N.Y.2d 628, 313 N.Y.S.2d 760 (1970) (challenge to constitutionality of ballot placement mechanism for N.Y. primary elections).