



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 August 2020 decision, the Texas Court of Appeals 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

- 19 August 2021, Nearly 300 K&L Gates Lawyers Named Among 2022 Best Lawyers in America, Ones to Watch (*Rankings & Recognitions*)

AREAS OF FOCUS

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

REPRESENTATIVE EXPERIENCE

- *Petrobras Am., Inc. v. Astra Oil Trading NV*, 2020 WL 4873226 (Tex. App. – Hous. (14th Dist.)) (Aug. 20, 2020) (rejecting challenge to US\$820.5 million settlement agreement).
- *Bishop v. Wells Fargo & Company*, 823 F.3d 35 (2d Cir. 2016) (False Claims Act).
- *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).
- *Transcor Astra Group S.A. v. Petroleo Brasileiro S.A. - Petrobras*, 2011 WL 386781 (5th Cir. February 3, 2011) (Foreign Sovereign Immunities Act; oil refinery purchase).
- *Talisman Capital Talon Fund, Ltd. v. Gunnerman*, 2010 WL 2851734 (9th Circuit July 21, 2010) (intellectual property dispute).
- *EcoEnergy Solutions, Inc. v. Gunnerman*, 2009 WL 2524976 (Nevada Supreme Court) (July 31, 2009) (intellectual property ownership dispute).
- *Underhill Inv. Corp. v. Fixed Income Disc. Advisory Co.*, 2009 WL 808317 (3d Cir. Mar. 30, 2009) (financial services industry finder's fee claim).

- *Congregation Yetev Lev D'Satmar, Inc. v. Kahana*, 9 N.Y.3d 282 (2007) (First Amendment; non-justiciability of corporate election of religious corporation); *Congregation Yetev Lev D'Satmar of Kiryas Joel, Inc. v. Congregation Yetev Lev D'Satmar, Inc.*, 9 N.Y.3d 297 (2007) (First Amendment; non-justiciability of real estate dispute involving 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).
- *Metropolitan Steel Industries, Inc. v. Perini Corporation*, 23 A.D.3d 205, 803 N.Y.S.2d 549 (1st Dep't 2005) (claims against professional engineering firm).
- *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).
- *Honzawa v. Honzawa*, 268 A.D.2d 327, 701 N.Y.S.2d 411 (1st Dep't 2000) (malicious prosecution action against law firm).
- *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).
- *Pacific Dunlop Holdings Incorporated v. Allen & Company, Incorporated*, 993 F.2d 578 (7th Cir. 1993) (securities fraud action).
- *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).
- *Marine Engineers Benevolent Ass'n v. Burnley*, 936 F.2d 284 (6th Cir. 1991) (proceedings for revocation of shipowner's coastwise trading privileges).
- *In re Corya*, 175 A.D.2d 162, 572 N.Y.S.2d 51 (2d Dep't 1991) (Surrogate's Court surcharge proceedings against executors for alleged fraud).
- *Caribbean Trading & Fidelity Corp. v. Nigerian Nat'l Petroleum Corp.*, 948 F.2d 111 (2d Cir. 1991) (enforcement of Nigerian arbitration award under UN Convention on Recognition and Enforcement of Foreign Arbitral Awards).
- *Thornhill v. Donnkenny, Inc.*, 823 F.2d 782 (4th Cir. 1987) (breach of fiduciary duty and RICO claims against apparel industry executive).
- *Global International Airways Corp. v. The Port Authority of New York and New Jersey*, 727 F.2d 246 (2d Cir. 1984) (charter airlines' challenge to enforceability of Port Authority of NY and NJ aircraft noise rules).
- *New York State Urban Development Corp v. Marcus Garvey Brownstone Houses, Inc.*, 98 A.D.2d 767, 469 N.Y.S.2d 789 (2d Dep't 1983) (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).