



CAPABILITIES

Business Tort Litigation

Business tort claims are business disputes that are not contract-based. They can arise in any commercial context and across all industries. Examples of classic business torts all involve wrongdoing in the business relationship: one party unfairly interferes with another's business, a company engages in business practices that are unethical, oppressive or unscrupulous, a competitor spreads false rumors in the marketplace, or confidential information or trade secrets are misappropriated.

Olshan's business tort litigation attorneys have significant experience in formulating, prosecuting, and defending these claims, including fraud-related claims, such as fraudulent conveyance and fraudulent inducement to contract, slander, misappropriation of trade secrets, trade libel, defamation, breach of fiduciary duty, unfair competition, tortious interference with prospective business relations, conversion and prima facie tort.

On behalf of a broker dealer client, for example, we recently tried a case to jury verdict in the New York County Commercial Part, asserting our clients' claims that the defendants wrongful interfered with a proposed sale of the firm. The jury awarded over \$8.25 million, including punitive damages, which is rare for a business tort case.

Additionally, there are similar claims that exist by statute in various states, including unfair trade practices and false advertising.

OUR STRATEGIC APPROACH

Business tort claims may be pled either by the plaintiff or by the defendant as a counterclaim. Because many jurisdictions allow attorneys' fees and punitive damages to be paid to the prevailing party, certain business torts, such as fraud, can raise litigation stakes considerably and provide additional leverage to the party asserting the claim.

Despite their value and relevance, business tort claims are not always apparent. Determining their viability sometimes requires investigation, careful assessment of the facts, and knowledge of the underlying business. Our Business Tort Litigation Group has a successful track record of developing sound case strategies and achieving favorable results for our clients in a timely and efficient manner.

PRACTICE CONTACTS

Lori Marks-Esterman

Brian A. Katz

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Shareholder Activist Litigation

White Collar Defense &
Investigations

Certain jurisdictions, like New York, are hostile to parties who pursue both contract and business tort and fraud-based claims, so careful consideration must be given to the theory of the case. We take these factors into account in pleading and preparing our clients' cases.

Have a contract-based dispute? Learn more about our contract litigation experience in many high-stakes matters.

EXPERIENCE

- Represented inter-dealer derivatives broker and one of its principals in a six-week jury trial in the Commercial Division of State Supreme Court in Manhattan, after which the jury awarded our corporate client, and two of its principals, \$8.25 million, including punitive damages, against two former business associates whose actions doomed a potential \$25 million buyout of the firm by Knight Capital Group Inc.
- Prosecuting claims of fraud and breach of fiduciary duty on behalf of real estate developers against the developer's partners.
- Defended executive against claims of RICO violations, fraud, unfair competition, tortious interference, and Federal Computer Fraud and Abuse Act violations in separate actions. Successfully dismissed all such claims.
- Successfully dismissed claims against executive for slander in connection with comments made to a news reporter.
- Prosecuting fraud claims on behalf of a creditor who invested with a bio-medical developer.
- Defending a hedge fund and its managing partner in 20-plus-count complaint including fraud. All counts dismissed to date except for one count of gross negligence.
- Defended British software manufacturer and its U.S. subsidiary in New Jersey against claims of fraud and tortious interference arising from termination of U.S. reseller.
- Prosecuted unfair trade practices act under Delaware and New Mexico law to obtain injunction and multimillion-dollar verdict for small business against large manufacturer.

NEWS & INSIGHTS

NEWS

[08.14.2023 | Article](#)

Kenneth Silverman and Brian Katz Publish Article in Securities Regulation Law Journal on SEC Rulemaking and Significant Litigation for Q1 2023

[06.01.2023 | Accolade | *Nine Firm Lawyers Recognized for Their Leadership*](#)

Olshan Named a Leading Law Firm in Shareholder Activism, Litigation, and Real Estate in Chambers 2023 USA Guide

[07.08.2014 | Firm News](#)

Olshan Client Liquid Holdings Prevails in New York's Commercial Division

[11.20.2013 | Firm News](#)

New York Court Rules in Favor of Olshan Client Accipiter Capital

PUBLICATIONS

10.13.2022 | [Article](#) | *New York Law Journal*

Equitable Review in the Delaware Court of Chancery: Revisiting 'Schnell,' 'Blasius' and the Court's Role as Equitable Gatekeeper To Protect the Stockholder Franchise