



William R. Fried

Partner; Co-Chair, Litigation Department

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Bill Fried is a partner and co-chair of the Litigation Department, where he focuses on complex commercial litigation, with an emphasis on construction and real estate disputes, trust and estate litigation, and business divorces. Bill's clients, which include financial institutions, corporations, real estate owners, sponsors, developers, contractors and construction professionals, rely on his tenacity and resourcefulness to successfully resolve even the most contentious disputes.

He has significant experience counseling clients through the alternative dispute resolution process, either through negotiation, mediation or arbitration, and has substantial trial and appellate experience in state and federal courts.

Real Estate and Construction Litigation

Drawing on his extensive experience in construction, development, finance and investment, Bill frequently advises prominent members of the real estate industry, including owners, developers, financial institutions, sponsors, design professionals, construction professionals and condominium boards. Bill's clients benefit from Bill's aggressive representation of their interests in construction defect disputes, mechanics liens, breaches of contracts, professional malpractice, and a wide range of related matters.

Complex Commercial Litigation

Bill's commercial litigation experience is broad, and he is frequently called on to resolve high-profile disputes. Recently, Bill has advised sports memorabilia giant Lelands in the settlement of federal litigation involving NFL legend Jim Brown's 1964 championship ring, a real estate developer in the successful resolution of multi-state litigation stemming from the cancelled development of a \$2.5 billion W Hotel in Las Vegas, and a member of a prominent real estate family in a business divorce involving \$200 million in real estate assets.

Trust and Estate Litigation

High-net-worth clients and financial institutions also turn to Bill to resolve significant trust and estate disputes. He frequently advises clients on highly-charged will and trust contests, business and asset valuations, and Article 81 guardianship proceedings in New York State Supreme Court.

Bill is also a member of the Board of Directors and General Counsel of the West Harlem Community Organization, Inc.

Services

- Litigation
- Corporate Litigation

- Restructuring & Business Divorce
- Construction and Development
- Real Estate Litigation & Dispute Resolution
- Trusts & Estates
- Real Estate
- Condominium and Cooperative Law
- Real Estate Development
- Real Estate Hospitality
- Land Use & Zoning
- Restructuring & Finance Litigation
- Venture Capital
- COVID-19 Task Force and Resource Center
- Health Care

Education

- Hofstra University School of Law (J.D., 1987)
- State University of New York College at Oneonta (*cum laude*)

Accolades

- Thomson Reuters' New York *Super Lawyers*, 2020

Matters

Real Estate Lender - Foreclosure Proceedings

Represent a New York-based lender, who provides loans to revitalize and recapitalize commercial real estate properties, in foreclosure and deficiency proceedings.

Luxury Residential Developer - Dispute with Investor

Representing the management company of a real estate joint venture, created to develop luxury residential properties in Miami, against claims asserted by a joint venture investor.

Real Estate Investment Company - Litigation Arising from Failed Joint Venture

Representing a real estate investor and developer in litigation arising from a failed joint venture to acquire, own and operate a 50 percent tenant-in-common interest in fourteen valuable midtown Manhattan commercial properties. Dispute includes claims that our client's former partner breached a contribution agreement between the parties by selling the rights and interest in the acquisition to a third-party for its own benefit, misappropriating funds intended for joint venture purposes, and misappropriating a \$46 million payment that it was not entitled to under the terms of the agreement.

Real Estate LLC Shareholder - Breach of Fiduciary Duty Claims

Represented a significant stakeholder in 16 LLCs which own and manage a portfolio of Manhattan properties in pursuing breach of fiduciary duty and fraudulent inducement claims, as well as derivative claims for waste, conversion and unjust enrichment against the managing member.

Board of Managers - Construction Defect Litigation with Sponsor

Representing the Board of Managers of a two-building condominium in Brooklyn Heights in a dispute with the building's sponsor over a myriad of alleged construction defects and instances of non-compliance with the offering plan.

Financial Institution - Estate Litigation

Representing a major financial institution as co-executor of a \$500 million estate in ongoing judicial accounting litigation in which Herrick has secured the dismissal of a majority of over four dozen objections raised to the petitioners' efforts to settle an exceptionally complex estate plan.

Trustees - Estate Litigation

Representing the Trustees of a substantial estate in will contest litigation arising from the adoption of adult children by certain beneficiaries and involving separate actions filed in New York Surrogate's and Texas state court.

Private School - Defense of General Contractor's Breach of Contract Claims

Defending a private school and affiliated religious institution in litigation with a general contractor who formerly oversaw a significant renovation at the school's Upper East Side facility during which a fire occurred, resulting in millions of dollars in damages. In addition to defending the client from breach of contract counterclaims in ongoing litigation alleging that the fire was caused by the contractor's negligence, Herrick successfully argued that a separate breach of contract action filed by the contractor was duplicative and harassing, securing an order from the bench dismissing the contractor's complaint in its entirety.

Investment Bank - Alleged Breach of Exclusive Agency Agreement

Representing a New York-based investment bank in litigation with a German oil and gas company alleged to have breached an exclusive agency agreement in connection with a \$325 million capital raise.

Specialty Food Retailer - Business Divorce Litigation

Secured a temporary restraining order on behalf of the co-owner of a specialty food retail business preventing partners in the venture from withdrawing company funds or transferring company assets prior to the resolution of ongoing litigation seeking dissolution of the business.

Property Management Firm - Successful Defense of Fraudulent Transfer Claims

Represented a high profile property management firm and one of its executives in litigation related to claims that the clients had fraudulently transferred ownership of a business in order to avoid liability for a multi million dollar default judgment obtained against the business after it had been sold. The case was settled in the wake of favorable rulings that included the dismissal of claims against the executive and the determination that funds transferred by our clients for the purpose of eliminating an intercompany loan prior to the sale of the business did not constitute a fraudulent conveyance and were therefore not subject to disgorgement.

Appellate Win Reverses \$9 Million Judgment against Buyers of Upper West Side Landmarked Property

Secured an important First Department win, reversing what was essentially a \$9 million judgment against real estate developers in litigation against the seller of a landmarked property located on Manhattan's Upper West Side. At issue was whether or not a \$10 million "approval payment" beyond the \$32 million contract purchase price payment was contingent upon the seller actually obtaining certain building approvals rather than merely applying for them. Herrick achieved a series of victories in the trial court, including pressuring the seller into withdrawing a default notice claiming our client had breached the terms of the contract, and securing the withdrawal of the seller's initial counsel due to a conflict of interest, prior to the issuance of a potentially devastating decision that dismissed our client's principal claims. We appealed to the Appellate Division, First Department, which unanimously reversed the ruling, finding that "*the motion to dismiss should have been denied,*" and that a reading of the contractual language determining that the seller was merely required to seek approvals rather than actually obtain them, "*would render meaningless or absurd contractual terms regarding reduction of payment in the face of a failure to obtain the approvals.*"

Lelands - Jim Brown's NFL Championship Ring

Represented Lelands in litigation filed in New York federal court by former National Football League player Jim Brown regarding the recovery of a 1964 NFL championship ring alleged to have been stolen.

Non-Profit Organization - Litigation against Former Board Members

Achieved an important victory on behalf of a non-profit pro-bono client asserting claims against several former board members who had used their positions of trust to loot the organization for their own personal gain by misappropriating funds from the client's operating accounts, gaining control of the organization's Harlem apartment buildings, misappropriating rental income from those properties, and ultimately selling one of the buildings for their own benefit. Herrick successfully argued a motion for a preliminary injunction, obtaining an order from the court enjoining the defendants from holding themselves out as officers of the non-profit, and requiring them to return the organization's apartment buildings to our client's control.

Lelands - Roberto Clemente Baseball Card Collection

Represented Lelands in pursuing monetary damages in a breach of contract action concerning a collector's sale of a \$500,000 Roberto Clemente baseball card collection.

East Village Hotel Developer - Access Dispute with Adjacent Property Owner Favorably Resolved

Represented the developer of a 280-room hotel in Manhattan's East Village as plaintiff in litigation with the owner of an adjacent property who had initially refused to grant critical access required to construct safety equipment and demolish a masonry structure that projected onto our client's property. Threatened with carrying costs of over \$500,000 for every month that the project was delayed as well as the prospect that the delay would interfere with the successful negotiations and cooperation achieved with the remaining adjacent landowners, our client sought a court order granting a license to access the defendant's property. This dispute was resolved quickly under an amicable settlement which granted our client access to the adjacent property allowing construction to proceed.

Developer - Dispute over Down Payment Favorably Resolved

Represented a real estate developer in litigation with the seller of a Midtown Manhattan property over the return of the client's multimillion dollar down payment on the property after the seller materially breached a contract of sale between the parties by failing to cure violations at the property as required, refusing to allow our client access to the property in violation of the agreement, and improperly noticing a "time of the essence" closing. The dispute was resolved favorably under a settlement that recovered significant damages for the client.

Developers - Summary Judgment Dismissing Breach of Joint Venture Claims

Obtained summary judgment on behalf of real estate developers dismissing all claims filed by a plaintiff alleging our clients had breached an oral joint venture that entitled the plaintiff to share in the profits of a sale of a Brooklyn property. The Kings County Supreme Court also denied plaintiff's cross motion for leave to amend and to compel disclosure.

Tribeca Residential Building Shareholders - Access License

Secured an order in New York County Supreme Court granting shareholders in a Tribeca residential building access to a neighboring property whose owner had refused good faith negotiations for access, which would let our clients complete renovations in compliance with Department of Buildings regulations.

Owner of Southampton Private Residence - AAA Arbitration with General Contractor

Represented the owner of a newly constructed private residence in Southampton, NY in an arbitrated dispute involving a general contractor's claim for \$1.5 million in damages for alleged non-payment of labor and materials. Prior to a scheduled hearing on potential spoliation of evidence by the petitioner, an amicable settlement was reached for a small fraction of the original claim under an agreement which indemnified our client against any claims asserted by subcontractors.

Dispute with Former Property Manager - Allegations of Fraud and Self-Dealing

Represented the property owner of four valuable Manhattan buildings in an action filed in New York state court against our client's former property manager with damage claims in excess of \$5 million. The dispute, which involved allegations of fraudulent and bad-faith conduct that included self-dealing, comingling of funds, and the misrepresentation of material information, was resolved favorably for the client following Herrick's successful opposition to motions to dismiss, strike allegations in the complaint, and for summary judgment.

Brazilian Investment Firm - Construction Dispute with Former Architect and Design Firm

Represented the US-based subsidiary of a Brazilian investment firm as defendant, counter-claimant and third-party plaintiff in litigation with the architect and design firm that formerly oversaw renovations at a midtown Manhattan office building owned by the client. The dispute was ultimately settled favorably, dismissing all claims against the client without payment or other obligation while recovering a significant sum on the client's behalf.

Upper East Side Co-op Owner - Construction Litigation Dispute

Represented a co-op owner in the favorable resolution of New York federal court litigation for breach of contract, fraud and professional malpractice against a contractor and architect involved in a multimillion dollar renovation of an Upper East Side apartment. This dispute was voluntarily dismissed under a settlement agreement which recovered a significant sum on the client's behalf.

Real Estate Investment Firm - Motion to Quash Granted

Herrick successfully quashed a subpoena served on a prominent real estate investment firm by certain defendants in a Southern District of New York bankruptcy proceeding on a fishing expedition seeking information for use in a separate, pending lawsuit unrelated to the bankruptcy. Complying with an extremely tight briefing schedule, Herrick successfully argued the motion to quash - quickly thwarting the defendants' gamesmanship.

Real Estate Developer - Fraud Litigation

Representation of developer in defending fraud claims by investor in New York State Supreme Court. All claims dismissed on pre-answer motion. Dismissal was unanimously affirmed by the appellate court, with costs.

New York Attorney - Successful Defense of Malpractice Claims

Successful defense of a prominent New York City attorney against malpractice claims related to the plaintiff's participation in a written agreement to provide for the funding of loans in the New York City taxicab industry. This dispute had progressed to a jury trial when the parties entered into a settlement in which the plaintiff voluntarily dismissed the action and agreed to pay all trial costs.

Developer of Brooklyn Property - Petition for Access License Granted

Successfully represented the developer of a multi-unit Bedford-Stuyvesant property in seeking an order in Kings County Supreme Court granting temporary access to an adjacent property in order to secure and repair a foundation wall and to lift a stop-work order issued by the Department of Buildings. Following oral arguments, the court denied defendant's motion to dismiss and granted a license allowing our client to continue the development of its own property.

Hotel Developer - Construction Litigation

Represented New York City Hotel developer in construction litigation against general contractor.

Judgment Debtor - Fraudulent Conveyance Litigation

Representation of judgment debtor defending multiple actions under Debtor and Creditor Law in New York State Supreme Court.

Real Estate Litigation - Breach of Debt Obligations and Fraudulent Conveyance

Representation of real estate developers in litigation with a former investor alleged to have induced our clients into arranging and guaranteeing a loan based on false financial statements. After defaulting on the loan, the investor is alleged to have fraudulently transferred assets in an attempt to avoid liability. This litigation was ultimately settled on favorable terms to our client and voluntarily dismissed.

Trucking Company - Contract Termination/TRO

Representation of Trucking Company in contract termination litigation in U.S. District Court with contract partner/wholesaler attempting to terminate for breach of contract. After hearing, obtained a preliminary injunction preventing termination.

Construction Management Company - Wrongful Termination

Representation of a construction management company in a dispute with NYU Hospitals Center regarding the termination of a multi-million dollar renovation contract. After a trial in Federal Bankruptcy Court, the court held in favor of our client on all counts, entitling them to payment of its outstanding requisitions and dismissal of all claims against them.

Distressed Debt Investor - Mezzanine Loan Foreclosure

Represented a distressed debt investor in foreclosing and conducting UCC secured party sale of portfolio of mezzanine loans securing repo line of credit obligations. One of the mezzanine loan borrowers sought to enjoin the sale; we defeated the TRO application and conducted the sale successfully over the borrower's objection.

Joint Venture Partner - \$40 Million Construction Agreement Dispute

Represented a joint venture in connection with disputes arising out of DEP construction agreements worth in excess of \$40 million.

Law Firm Partner - Profits Dispute

Representation of a partner in a law firm against the firm in an arbitration concerning unpaid profits. A 15-day trial resulted in an award to our client of nearly \$500,000.

Jury Dismisses Subcontractor's Discrimination and Breach of Contract Claims

Representation of a real estate developer and general contractor in an action by a minority subcontractor pursuing multi-million dollar discrimination and breach of contract claims. All claims were dismissed after a two week jury trial in the United States District Court for the Southern District of New York.

Mezzanine Lender - Term Sheet Breach

Representation of a mezzanine lender in an action in New York State Supreme Court against a borrower for breach of a term sheet. The court granted our motion for summary judgment and awarded damages.

General Contractor - Lien Foreclosure

Representation of a general contractor in a lien foreclosure action against the Metropolitan Transit Authority and the owner of 2 Broadway, New York, the MTA's headquarters. After a trial on the merits, the New York State Supreme Court awarded our client damages in excess of \$1 million.