

## Business & Commercial Litigation

---

The Goulston & Storrs' Commercial Litigation Group has extensive experience representing businesses and individuals in all phases of disputes, including civil trials and appeals. Because of the depth and diversity of the group's experience, we are capable of successfully resolving virtually any commercial matter, including complex, high-stakes matters, "bet the company" cases and class actions.

The depth and expertise of our Commercial Litigation Group is evident from the trial attorneys who practice here. Our advocates include esteemed Fellows of the American College of Trial Lawyers, adjunct professors and lecturers at prominent Boston area law schools, a former federal prosecutor, many attorneys who hold or have held leadership positions in local and national bar associations, and numerous others who have served as clerks for judges in state and federal courts.

Our advocates are also nationally recognized as top-rated practitioners by our peers, as demonstrated by the fact that numerous AmLaw 100 and AmLaw 200 firms, and general counsel at law firms of all sizes have hired us when confronted with thorny legal problems of their own. We also handle many cases referred to us by other firms who want the very best representation for their clients in litigation. With a strong record of success as both trial and appellate lawyers, we have the ability to plan and execute a winning strategy from the outset of a case.

In recent years, interviewees of Chambers USA have described our litigators as "a strong group with extensive trial skills" which is "dedicated to client service," and one which has a "deep bench in its Boston office."

Clients especially love that our trial advocates are also keenly aware of the business context in which litigation decisions must be made, making special efforts to understand the unique business and industry background of each client as it pertains to any litigation assignment. As a result of this approach, our trial lawyers are always thinking of arguments and resolutions that are consistent with the client's larger business goals beyond the case at hand.

### Our Service Difference

We place a cultural emphasis on individualized attention to every case, focusing on responsiveness, lean staffing, efficiency and results. Often we litigate successfully with fewer lawyers than our opponents while remaining more accessible to our clients, carefully choosing staff who are the right fit for each matter with the objective of providing a suitable stable team for the duration of a case.

Our commercial litigation advocates are also keenly aware of the business context in which litigation decisions must be made, and they make special efforts to understand the unique business and industry background of each client as it pertains to any litigation assignment.

Because of our deep experience, we also provide value to clients through early case assessments, which help to identify potential opportunities for quick and creative resolutions. We know that clients are not always looking to vanquish an opponent, especially if the opponent is one the client is likely to encounter again out of business necessity. So we look for creative win-win solutions whenever possible, conducting ourselves as formidable but reasonable adversaries with a reputation for professionalism.

We understand and appreciate that a client is entrusting the value of their business to us in important legal matters, and we take that seriously. That is a big reason why the very structure of our firm is client-focused, providing incentives to work collaboratively and share information in order to support our clients to the fullest while discouraging any attitudes or behaviors that interfere with the rendering of superior client service.

## Our Clients

The clients we regularly represent as trial advocates include private and public companies, lenders, investment companies, private equity groups, individuals, professionals, government entities, REITS, nonprofits, real estate owners and developers.

Our commercial litigation clients are also involved in many industry sectors, including manufacturing, automotive, education, health care, pharmaceuticals, financial services and investing, insurance, retail, restaurant services, recreation, hospitality, technology, and telecommunications.

## Our Experience

Attorneys in the Commercial Litigation Group regularly appear before state and federal courts and administrative tribunals throughout the United States. We also have extensive experience representing clients in arbitration, mediation and other types of dispute resolution, and frequently advise clients who are seeking to resolve business disputes before they result in litigation.

For those clients who decide to take a case to verdict, we have a team of advocates with plenty of actual trial experience. We know how to try cases and we love to do it when a client wants or needs to be vindicated in court.

Our Commercial Litigation group has particular experience representing clients in cases involving shareholder and partnership disputes, insurance disputes, officer and director liability, securities law, banking and commercial finance, products liability, royalty and licensing disputes, unfair business practices claims, and unfair competition.

For information about additional fields of experience, check out the following links to our practice pages pertinent to litigation involving [Data Privacy](#), [Employment](#), [Financial Institutions](#), [IP](#), [Probate & Fiduciary](#), [Professional Liability](#), and [Real Estate](#) matters.

## Representative Matters

### **Media Company Dispute With Former CEO and Founder**

Representation of a national media company in connection with a dispute implicating intellectual property, employment, partnership, and other concerns related to the departure of a former CEO and current limited partner and the launch of a competing business.

### **Defense of Federal and State Section 11 Securities Class Actions**

Representation of Sogou, Inc., a foreign public company, in multi-jurisdictional class action lawsuits alleging material misrepresentations and omissions in violation of Section 11 of the Securities Act of 1933 related to the company's initial public offering. Successfully obtained a stay of state court proceedings in California in favor of a pending action in the SDNY, and thereafter obtained complete dismissal of the SDNY action. *See Jiajia Luo v. Sogou, Inc.*, 465 F. Supp. 3d 393 (S.D.N.Y. 2020).

### **Contract and Fraud Claims Arising from a Private Equity M&A Transaction**

Representation of a private equity portfolio company in pursuing \$50 million contract and fraud claims arising from the concealment of tax liability during an M&A transaction. Obtained a rare sanction for witness intimidation in a civil matter against the principal defendant, and successfully achieved a favorable resolution for the client.

### **Breaches of Contract and Fiduciary Duty Involving Losses in Excess of \$280M**

Representation of Triaxx, a CDO issuer, in litigation against RMBS trustees for breaches of contract and fiduciary duty involving losses in excess of \$280 million.

### **Unfinished Business and Fraudulent Conveyance Claims**

Successfully defended Dechert LLP against "unfinished business" (*Jewel v. Boxer*) and fraudulent conveyance claims in the SDNY, Second Circuit and New York Court of Appeals. Based on this advocacy, the New York Court of Appeals issued a landmark decision repudiating the "unfinished business" doctrine, which avoided hundreds of millions of dollars of potential liability for this client and other law firms. *See In re Thelen LLP*, 24 N.Y.3d 16 (N.Y. 2014).

### **Breach of Contract Action Involving a \$30M Participation Interest in a Loan Facility**

Representation of Sumitomo Mitsui Banking Corporation, a major Japanese bank, in a breach of contract action involving a \$30 million participation interest in a loan facility.

### **Arbitration with an Aggrieved Former Partner Claiming Wrongful Discharge**

Obtained a complete dismissal of claims on behalf of an Am 100 firm during arbitration with an aggrieved former partner claiming wrongful discharge and seeking millions of dollars in unpaid compensation.

**Claims Arising from a Private Equity M&A Transaction**

Representation of a private equity portfolio company in pursuing claims for breaches of representations and warranties against defendants who concealed tens of millions of dollars in employment tax liability during an M&A transaction.

**Defense of Am Law 100 Firm in Malpractice Action Alleging Transactional Negligence**

Defense of a top 10 Am Law firm against claims alleging legal malpractice in connection with a complex corporate finance transaction and the drafting of underlying loan documents.

**Representation of Former CEO Asserting ERISA and Contract Claims**

Representation of former CEO of Flagstar Bank in pursuing claims for approximately \$16 million in unpaid compensation in violation of ERISA and operative agreements. Successfully defeated defendant's motion to dismiss. See *Campanelli v. Flagstar Bancorp, Inc.*, 2020 WL 5350245 (S.D.N.Y. Sept. 4, 2020).

**Dispute With Controlling Fund Sponsors Regarding Investment Restructuring and Sale of Assets**

Successfully represented holders of \$120M in preferred and common equity in a dispute with controlling fund sponsors regarding investment restructuring and sale of assets.

**Represent Commercial Property Owners in Lawsuits Alleging Bodily Injury and Property Damage**

Represented commercial property owners in lawsuits alleging bodily injury and property damage claims arising out of alleged exposure to mold.

**Represented the Massachusetts Bay Transportation Authority in a Lawsuit Brought by an Unsuccessful Bidder**

Represented the Massachusetts Bay Transportation Authority in a lawsuit brought by an unsuccessful bidder challenging the award of a \$155M contract for paratransit services known as THE RIDE. *Kiessling Transit Inc. v. Massachusetts Bay Transportation Authority, et. al.*

**Represented the Massachusetts Transportation Authority in a Series of Lawsuits Brought in the Massachusetts Trial and Appellate Courts**

Represented the Massachusetts Transportation Authority in a series of lawsuits brought in the Massachusetts trial and appellate courts challenging the award of a \$100M contract for the manufacture and installation of system-wide automatic fare collection equipment. *Cubic Transportation Systems, Inc. v. Massachusetts Bay Transportation Authority, et al.*; *Thales e-Transaction, CGA v. Massachusetts Bay Transportation Authority.*

## Publications

September 25, 2023

**SEC collects Wall Street's private messages as WhatsApp probe escalates**

Reuters

February 16, 2023

**How New Cases Are Expanding Parameters of Litigation Privilege**

Bloomberg

October 18, 2022

**But What About But-For Causation? Challenging Legal Malpractice Claims for Lack of Proximate Cause**

New York Law Journal

October 10, 2022

**Litigators Balance Competing Needs in Dispute Resolution**

Crain's New York Business

July 12, 2022

**Adapting To SEC's Heightened Scrutiny Of Private Funds**

Law360

February 16, 2022

**5 Steps For Private Funds As SEC Ramps Up Oversight**

Law360

January 4, 2022

**Private Funds Should Prepare For More SEC Oversight In 2022**

Law360

July 28, 2021

**New York State Publishes HERO Act Model and Industry Plans for Returning to Work**

June 15, 2020

**Goulston & Storrs Wins Complete Dismissal of Section 11 Class Action Claims Against Sogou and Sohu**

March 23, 2020

**Ten Things You Need to Know About Force Majeure Now**

June 25, 2019

**Preventing Conflicts of Interest in Complex Commercial Litigation**

Bloomberg Law

November 2, 2017

**Does NY Labor Law §193 Have "Anything to Do with the Failure to Pay Wages?"**

New York Law Journal

April 5, 2017

**Forum Selection: An Important Tool for Non-Competes**

New York Law Journal

February 2014

**Post-Employment Restrictions: 35 Years of Uncertainty**

New York Law Journal