

COMMERCIAL LITIGATION

The Shulman Rogers Commercial Litigation practice includes a highly experienced team of litigators who represent clients across a wide variety of industry areas. A key focus of this practice is general commercial litigation cases for corporations, limited liability companies, partnerships, joint ventures, and other entities and individuals involving defense and prosecution of such claims as breach of contract, fraud, breach of fiduciary duty, negligence, and tortious interference with contract, as well as violations of state and federal laws concerning trade secrets, unfair competition, RICO, labor and employment and intellectual property rights.

The commercial litigation department also boasts a premier practice group for representing homebuilders and land developers in all kinds of alternative dispute resolution, litigation and trials. We have extensive experience successfully handling real property and construction-related disputes for a large roster of national and regional homebuilders and developers, including defense of both consumer and commercial disputes and enforcement of land and construction deal points through the courts.

Our Homebuilder Practice Group is also conversant in lien claims (defense and prosecution), as well as claims and defenses important to the Firm's many contractor and owner clients. In addition, we regularly provide litigation services and support to the Firm's many real estate and corporate clients when controversies arise, and are frequently engaged by both regional and national corporations and other institutions seeking authoritative and experienced litigation counsel – both to handle their litigation and trials, but also to assist with merit-based restructuring of deals and in contract drafting consultation for maximum litigation avoidance and containment terms within those important deal documents.

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COMMERCIAL LITIGATION (Continued)

The Firm's commercial litigators also regularly handle a broad array of other matters, including banking disputes, corporate control actions, officer and director liability issues, federal and state securities claims, and antitrust actions. We regularly appear in state and federal courts throughout the Washington, D.C. metropolitan area and across the United States.

The Firm's attorneys represent domestic and international clients in various alternative dispute resolution proceedings, including arbitration before the American Arbitration Association, the International Chamber of Commerce, and the International Centre for Settlement of Investment Disputes.

In addition, several of the Firm's litigators have significant expertise conducting internal investigations of corporate clients facing possible criminal or regulatory action. Recent engagements include investigations relating to governmental allegations of bribery, ineffective corporate governance, and securities fraud.

At Shulman Rogers, we pride ourselves not only on our skilled representation before judges and juries, but also on our tireless efforts to help clients avoid litigation altogether or to resolve contested matters at the earliest possible juncture. Resolving disputes efficiently requires a deep understanding of our clients' businesses and commercial objectives, as well as experience structuring transactions outside of the litigation context. Bringing together this understanding and wealth of experience, combined with our unyielding devotion to expeditiously "shrinking and killing" client problems, we have an unparalleled track record for merits-based dispute resolution before litigation arises, or at the very earliest stages of litigation, with creative deal restructurings.

Our depth of experience in both commercial litigation and transactional work also allows us to pre-empt or curtail many disputes with effective upfront contract drafting. Because "winning" the peace in commercial disputes often requires creative

Sean P. Sherman
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and complex resolution documents, preparing these documents has always been and remains a primary focus of our practice and one of our fundamental strengths.

In the current economic environment, the Firm is acutely aware of the financial repercussions that litigation can create for its clients. That is why we are not “generic” litigators who follow a “one-size-fits-all” or “cookie cutter” approach to dispute avoidance and resolution. Instead, we recognize that every client and every case is unique and requires a creative approach aimed at an efficient resolution calibrated to the client’s particular goals and objectives. We are each pragmatic problem solvers, looking for ways to advance our client’s interests without facing crushing legal bills. Using the strength of our carefully-crafted legal position as leverage, we engage our adversaries in merits-based settlement discussions early and often, pursue mediation, and look relentlessly for “outside-the-box” approaches for narrowing or eliminating the dispute by consent.

Through our cutting edge approach to dispute avoidance and resolution, our clients are best able to manage their litigation risk and achieve their business objectives. In the process, they come to see us as valued counselors, not just another lawyer.

The following is a representative list of recent commercial litigation and arbitration matters, large and small, that we have handled for our clients:

- Obtained new precedent “vendee’s lien” authority in Virginia needed to facilitate owner/seller acceding to our client’s settlement goals.
- Obtained summary judgment in house explosion and personal injury case in Maryland, making new law in regard to proximate causation defense; affirmed on appeal.
- Obtained summary judgment in \$10,000,000 condominium construction defect case, making new precedent in defending tort negligence in purely economic loss context.
- Obtained partial summary judgment needed to advance merits-based settlement negotiations in \$100,000,000 disputed class action fraud case.
- Obtained summary judgment in multi-count consumer defense case, expanding “indispensable party” definition in tenants-by-the-entirety context and regarding “accrual of cause of action” definition in setting bar dates for applicable statute of limitations.
- Obtained summary judgment for national and regional builders in several land dispute cases in Maryland invoking and enforcing rule against perpetuities.

COMMERCIAL LITIGATION (Continued)

- Represent 50% owner of limited liability company owning \$50,000,000 Washington, D.C. office building in dispute concerning sale of property.
- Represented borrower against specialized lender, broker and related entities in multi-million-dollar, multi-jurisdictional dispute. Won favorable settlement.
- Represented minority partner in litigation and pre-litigation disputes concerning various real estate partnerships owning shopping mall, residential apartment complexes and raw land in the Washington metropolitan area. Won multi-million dollar summary judgment order and defeated multiple dismissal motions.
- Serve as outside litigation and dispute resolution counsel for leading U.S. homebuilder, handling all disputes arising out of development and acquisition real estate transactions in the Washington metropolitan area.
- Represent minority partner in litigation arising from partnership's acquisition of \$106,000,000 office building and contiguous property located in Washington metropolitan area. Won seven figure jury award.
- Represent national and regional homebuilders in successful defense and merits-based resolution of condominium common element defect claim cases, both using in-kind remediation accords and/or 3-way resolutions including more culpable third party contractors, suppliers and designers -- their insurance carriers funding of same inclusive.
- Represented leading hotel franchisor in federal circuit court appeals, international arbitration, and preliminary injunction proceeding in connection with breach of franchise agreements.
- Conduct internal investigations for leading real estate and hotel companies concerning alleged misconduct by employees.
- Represent leading U.S. homebuilder in litigation concerning \$120,000,000 real estate acquisition in the Washington metropolitan area.
- Represented major financial institution in dispute concerning handling of insurance loss funds. Won favorable settlement.
- Represent leading trade association in dispute against large financial institution over nearly \$90 million loan to acquire corporate headquarters building.

NEWS

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