



Nicholas K. Lagemann

Partner

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NICHOLAS K. LAGEMANN has represented clients in commercial litigation and disputes cases in federal and state courts throughout the United States. He focuses his practice on commercial disputes, including breach of contract, fraud, breach of fiduciary duty and other business torts. Mr. Lagemann has extensive experience in distressed asset litigation, including bankruptcy litigation proceedings and in connection with real estate litigation. He has represented businesses in all stages of litigation, from the formation of initial pleadings through discovery, dispositive motion practice, trial and subsequent appellate proceedings. Mr. Lagemann also has substantial experience with emergency litigation matters, including actions seeking injunctive relief, attachment, and other forms of expedited relief.

Strong leadership in advising clients has earned Mr. Lagemann acknowledgement from a number of industry publications. This includes being named by *New York Super Lawyers* magazine to its “Rising Stars” list from 2011 to 2013.

In addition to his work on matters that have proceeded to litigation, Mr. Lagemann has represented and advised clients concerning their rights and obligations under various agreements and regarding potential business transactions. He has advised foreign-based clients concerning their rights and obligations in litigation, or potential litigation, in the United States. Mr. Lagemann has also represented clients in employment disputes and various regulatory and white collar investigative matters.

In 2003, he served as a law clerk to the Honorable Gabriel W. Gorenstein of the United States District Court for the Southern District of New York.

REPRESENTATIVE MATTERS:

- Lead litigation counsel on behalf of an Official Committee of Unsecured Creditors in an adversary proceeding commenced in the United States Bankruptcy Court for the District of Delaware seeking to subordinate over \$150 million in secured loans, as well as seeking substantial monetary damages from the Debtors’ primary equity holder and from certain directors of the Debtors.
- Litigation counsel on behalf of the Debtors in a highly contested bankruptcy proceeding in the United States Bankruptcy Court for the Southern District of New York, including representation of the Debtors in connection with an investigation conducted by a

- bankruptcy examiner and in a series of contested matters brought by junior creditors.
- Representation of a financial institution in connection with the acquisition of a major residential condominium development in Manhattan. He successfully defeated two emergency attempts by the prior owners of the development to prevent foreclosure upon the ownership of the building, as well as numerous attempts by the prior owners to obtain discovery of the client relating to the operation of the condominium after foreclosure.
 - Representation of a client in expedited adversary proceedings commenced in the United States Bankruptcy Court for the District of Delaware regarding the enforceability and priority of certain secured loans advanced to the Debtors
 - Representation of the owner/operator of a men's professional tennis tournament in an action filed against the organization that sanctions men's professional tennis tournaments, alleging that the sanctioning body and certain favored tournaments had conspired to violate the antitrust laws through the implementation of planned changes in the sanctioning of men's professional tennis tournaments. Obtained a favorable settlement that enabled the client to continue to operate within the highest level sanctioned.
 - Representation of a financial institution in connection with allegations by former employees concerning allegations of employment discrimination, breach of contract, and various other claims relating to their employment.

PRO BONO:

Mr. Lagemann has devoted a significant amount of time to pro bono efforts, including participating in a project in which he, and other attorneys represented prisoners on death row in Alabama.

He was a primary member of a team of lawyers who helped obtain a significant victory in 2012 on behalf of a client who was convicted of capital murder and sentenced to death in 2001. On November 2, 2012, the Circuit Court of Mobile County, Alabama vacated the client's capital murder conviction and granted him a new trial, finding numerous constitutional violations in connection with the original trial. On October 29, 2013, Mr. Lagemann argued before the Alabama Court of Criminal Appeals in opposition to the State's appeal of the Circuit Court's order. On May 2, 2014, the Alabama Court of Criminal Appeals affirmed the Circuit Court's order, holding that the client was entitled to a new trial due to multiple constitutional errors in connection with the original trial. *See State v. Ziegler*, No. CR-12-0372, --- So. 3d ---, 2014 WL 1744098 (Ala. Crim. App. 2, 2014). On April 16, 2015, after agreeing to a plea bargain, the client regained his freedom after 15 years of incarceration, including 13 years on Alabama's death row.

[1] Includes matters handled prior to joining McElroy, Deutsch, Mulvaney & Carpenter.

Education

- Benjamin Cardozo School of Law Yeshiva University (J.D. 2002)
- Bates College (B.A. 1995)

Admissions

- State of New Jersey
- State of New York
- U.S. Court of Appeals, 2nd Circuit
- U.S. District Court, District of New Jersey
- U.S. District Court, EDNY
- U.S. District Court, SDNY

Judicial Clerkships

- Hon. Gabriel W. Gorenstein