



## CHARLES PALELLA

### PARTNER

New York, NY

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Charles Palella has more than 40 years of experience concentrating his practice in the areas of appellate litigation, commercial litigation and tort litigation.

Cases that he has handled have had a significant impact on the development of New York law in the areas of insurance coverage, civil procedure and tort liability. He has experience advising engineering and architectural firms, manufacturers, real estate developers on a wide range of issues.

Recent matters which he has handled include: obtaining a favorable ruling on behalf of an owner of a historic restaurant franchise from the United States Court of Appeals for the Second Circuit which dismissed all service mark infringement and related claims against the client and granted the client's counterclaim for cancellation of the opponent's service mark registration; successfully defending one of the country's leading hospitals in breach of contract claims; overseeing the defense of over 8,000 individual claims brought against a major structural engineering firm stemming from its work on the cleanup of the World Trade Center site after Sept. 11, 2001, and navigating the complex insurance coverage issues raised by those claims; successfully defending a large plastics manufacturer in a toxic tort claim; and representing a leading university in an estate litigation involving a bequest to its endowment.

Charles also has significant experience with alternative methods of dispute resolution and has resolved a number of matters through the use of organizations such as the American Arbitration Association (AAA) and JAMS. Further, he serves as assistant general counsel to Armstrong Teasdale.

### BACKGROUND

Prior to joining the firm, Charles was a partner at a mid-Atlantic law firm, where he served as deputy general counsel.

### EDUCATION

- Catholic University of America, Columbus School of Law (J.D., 1978)
- Antioch University (B.A., 1975)

### PROFESSIONAL ACTIVITIES

- New York County Lawyers Association

### SERVICES AND INDUSTRIES

Alternative Dispute Resolution

Appellate

Complex Commercial Litigation

E-Discovery

Financial Services and Banking Litigation

Noncompete and Trade Secrets

Real Estate

Real Estate, Development, Construction

Insurance Coverage Litigation

### ADMISSIONS

New York

U.S. Court of Appeals, Second Circuit

U.S. District Court, Southern District of New York

U.S. District Court, Eastern District of New York

## CHARITABLE AND CIVIC INVOLVEMENT

- Evergreen Review literary magazine and website (Member of the Board of Directors)

## ACCOLADES

- Litigation Counsel of America (Fellow, 2011)
- *New York Metro Super Lawyers*®, Business Litigation (2007, 2009-present)
- AV® Peer Review Rated, *Martindale-Hubbell*

## EXPERIENCE

### Summary Judgment for Commercial Real Estate Lender

Secured a victory in the New York Supreme Court, Appellate Division, First Department, on behalf of a commercial real estate lender. A borrower and guarantors sought to void multiple loan, mortgage, note and guarantee agreements by claiming that the agreements were unconscionable and induced by fraud. The trial court granted summary judgment dismissing the claims and granting the client's counterclaims for foreclosure. The Appellate Division affirmed, following which the trial court issued a final judgment of foreclosure and sale.

### Dismissal of Antitrust, Unfair Competition, Trade Secrets Claims Against Video Streaming Company

Secured dismissal in U.S. District Court for the Southern District of New York of claims against a wireless video streaming technology company. The client faced antitrust, unfair competition and counterclaims over trade secrets from a Chinese competitor.

### Defeated Motion to Cancel Notice of Pendency in \$1.5 Million Dispute

Defeated a motion by property owner to cancel client's notice of pendency on real property, on grounds that property owner was "alter ego" of parties who defaulted on the loans totaling \$1,545,000.

### Beat Force Majeure Claims and Secured \$3 Million in Damages in Pandemic-Driven Dispute

Represented WideOpenWest, a cable TV, internet and phone provider, before a panel of arbitrators on dueling breach of contract claims after WideOpenWest terminated its agreement with ad partner Viamedia in the midst of the COVID-19 pandemic. In the arbitration, Viamedia contended that the pandemic, as a *force majeure* event, excused its failure to pay WideOpenWest. The panel found Viamedia liable for breach of contract and awarded WideOpenWest nearly \$3 million in damages, plus attorneys' fees and costs.

### Obtained Dismissal of Claims Against Individual Employees of Major Accounting Firm

Successfully defended individuals in a dispute involving competing national accounting firms stemming from unconsummated merger discussions.

### Obtained Dismissal for Major Banking Institution in Breach of Contract Dispute

Represented major banking institution as defendant and then as appellant, obtaining dismissal in a breach of contract dispute stemming from a disputed indemnity provision

of an asset purchase agreement between the parties.

**Successful Outcome for Private Jet Company in Noncompete Matter**

Obtained a decision on behalf of private jet company denying plaintiff's application for a temporary restraining order and preliminary injunction in a case involving an employee's noncompete restrictive covenant.

**Obtained Dismissal in Fraud, Fiduciary Duty Case Against National Real Estate Developer**

Obtained a dismissal on behalf of a nationally recognized real estate developer and related entities of an action alleging claims of aiding and abetting breach of fiduciary duty and aiding and abetting fraud, which sought to hold defendants liable based upon a Texas jury verdict and judgment of over \$50 million against a nonparty entity.

**Settlement in \$60 Million Dispute for Holding Company**

Represented the directing holder of a commercial mortgage-backed security in a \$60 million dispute arising under the terms of Participation and Pooling Agreements. Obtained dismissal of complaint and subsequent settlement of action.

**Won Case for Coalition of Property Owners on Appeal**

Obtained a major ruling from the New York Supreme Court Appellate Division, First Department on behalf of a coalition of cooperative apartment buildings formed to challenge the illegal use of a historic church building as a commercial catering hall.