



## Louis A. Craco, Jr.

### Partner

A partner of the firm since 2000, Mr. Craco has a diversified business litigation practice that has involved a broad variety of commercial contracts and frauds, intellectual property, entertainment, real property, financial services, securities, corporate malfeasance, insurance disputes, professional malpractice, consumer fraud, RICO, products liability, civil rights, construction, ERISA and employment disputes.

Mr. Craco has tried cases before federal and state courts and various arbitral tribunals, and has argued and briefed appeals in the United States Courts of Appeals for the Second and District of Columbia Circuits and the Appellate Division of the New York State Supreme Court. He has also briefed appeals to the United States Supreme Court, the United States Court of Appeals for the Federal Circuit, the New York Court of Appeals and the Supreme Court of Georgia. Mr. Craco's clients have included a former attorney general of the United States, a Golden Globe Award winning film producer, a prominent emerging markets trading firm, a major New York law firm, a leading aircraft manufacturer and the American Institute of Certified Public Accountants.

### Representative Matters

#### Accounting and Audit Issues

As counsel for *amicus curiae* the American Institute of Certified Public Accountants, briefed and argued various cases involving matters of importance to accounting profession, including:

- Securities Investor Protection Corp. v. BDO Seidman. Briefed in support of successful effort to persuade New York Court of Appeals to reject contention that elements of reasonable reliance and negligent misrepresentation, as previously defined by New York law, should not apply to SIPC liquidation proceedings.
- KPMG LLP v. Securities Exchange Commission. Briefed and argued in support of successful effort to persuade D.C. Circuit Court of Appeals to reject SEC's assertion that a particular royalty arrangement violated AICPA's rule against contingency fees, and that an audit

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#### • Academic Background

B.A., Wesleyan University, 1983  
J.D., Fordham University School of Law, 1988

#### • Bar and Court Admissions

New York  
Second Circuit  
Federal Circuit  
District of Columbia Circuit  
Southern District of New York  
Eastern District of New York  
Northern District of New York  
District of Connecticut

#### • Professional / Community

Mr. Craco is active in the Association of the Bar of the City of New York and served for three years as Chair of its Committee on Federal Legislation. In that capacity, he organized and moderated a panel discussion on the Independent Counsel statute

featuring panelists Archibald Cox, Elliot Richardson, Lawrence Walsh, Robert Fiske, Samuel Dash and Alexia Morrison, which received widespread press-coverage. Mr. Craco also co-authored the Association's report on alternatives to the impeachment of President Clinton, and appeared on BBC Radio and Bloomberg Radio discussing various legislative and constitutional topics. He is also the author or co-author of numerous briefs to the United States Supreme Court by the Association as amicus curiae, previously served on the Association's Arbitration and Civil Rights Committees and currently serves on its Committee on State Courts of Superior Jurisdiction and its Working Group on In-house/Outside Counsel. He is also a member of the Federal Bar Council, and serves on its Second Circuit Courts Committee.

- partner could be held individually negligent for failure to identify impairment of independence notwithstanding having received all-clear report from internal department charged with policing auditor independence.

- BDO Seidman, LLP v. Mindis Acquisition Corp. Briefed in support of successful efforts to persuade Georgia Supreme Court to apply measure of damages outlined in Restatement (Second) of Torts section 552B to claims for negligent misrepresentation arising from audit failure.

## **Business and Commercial Disputes**

- Represented FreshDirect in fraud and contract actions against manufacturer of electronic display sign and its principals in New York Supreme Court; obtained favorable settlement after mediation.
- Brought federal and state action to enforce terms of stock purchase agreements for sale of two residential nursing facilities.
- Obtained summary judgment for defendants, developers of North Carolina golf resort, in action seeking finder's fee for having procured \$8 million in venture capital.
- Represented major U.S. clothing manufacturer in arbitration with insurance company over denial of benefits for theft of piece goods from, or by, sewing sub-contractors in Guatemala. Negotiated favorable settlement after commencement of trial.
- Defended U.S. subsidiary of leading European tractor manufacturer in federal action alleging wrongful termination of exclusive distributorship; obtained favorable multiparty settlement after mediation.
- Represented former United States Attorney General in action for fraud in connection with private placement of equity in energy co-generation venture.
- Brought and settled federal antitrust and state unfair competition claims, on behalf of electrical retrofitting company, against major utility and others for monopolization and restraint of trade in southern New England market for state-subsidized retrofitting services.
- Brought, and successfully settled, ERISA claims against large industrial company for negligent failure to prosecute pension-mandated life insurance benefit.
- Counseled corporate landowner as to potential claims against insurance broker for failure to place appropriate liability coverage.
- Represented leading ticket brokerage in federal action to enforce multi-million judgment for fraud in connection with sale of World Cup tickets.

## **Corporate Governance and Malfeasance**

- Defended former CEO of Peruvian bank against claims by liquidator of its Cayman Islands holding company for fraud and self-dealing in connection with bank's collapse. Negotiated favorable settlement.
- Represented major shareholder and manager of online financial news service in litigations with other shareholders over corporate control.
- Represented producer/screenwriter of acclaimed feature film, and

- another investor, in suit against co-producer/director for fraud and an accounting arising from alleged looting of company holding commercial rights to film.
- Defended principals of international recycling concern in action by previous employer for misappropriation of proprietary information and corporate opportunities.
- Successfully represented former manager of international packaged goods conglomerate in action for violation of whistleblower protection statute, wrongful termination and defamation.
- Obtained stay, and ultimately reversal, in Appellate Division of trial court order requiring new elections of officers and appointment of receiver in fight for control of not-for-profit corporation and remand for further proceedings before a different judge.

## **Entertainment/Media**

- Represented internationally prominent film producer in New York State action against film director, production and distribution companies and television network in contract dispute with respect to Grammy Award winning television documentary.
- Defended television actress/pop singer in action by website designer to collect unpaid commissions, and prosecuted third-party claims against her former managers and attorneys; obtained favorable settlement.
- Defended producers and screenwriter of feature film in action by its director to enjoin film's premiere at the Sundance Film Festival; negotiated favorable resolution.
- Represented producers of award-winning documentary in action to enforce license to original works from the archive of the pioneering underground artist and filmmaker Jack Smith.
- Brought claims on behalf of well-known media personality against pharmaceutical company for breach of endorsement contract and unauthorized use of name, voice and likeness in multi-media advertising campaign.
- Successfully represented minors, members of celebrated Swedish vocal group, in New York Surrogate Court proceedings to approve record deal with major label.
- Successfully defended acclaimed Off-Off Broadway theater company and producer/director against copyright and misappropriation claims by playwright and composer.
- Represented witness in private investigation of alleged internet defamation of prominent business/political figure.
- Represented the producers and director of award winning independent feature film in AAA arbitration against the author of a play, the rights to which the producers had purchased, and on which the screenplay was loosely based. Negotiated settlement of the matter through an intricate division of screen credits, rights to derivative works, novelizations, etc.

## **Financial Services**

- Represented leading emerging markets debt trading firm, in action against purchasers of Russian government securities, for their failure to remit accrued interest, pursuant to Rules of the Emerging Market

- Traders Association, after curing of Russian default. Obtained highly favorable settlement after successfully briefing opposition to motion to dismiss.
- Represented plaintiff in class action alleging that seller of variable annuity contracts breached fiduciary duties to long term investors by failing to prevent market timing by short term traders, obtained remand of case to state court, in widely-noted federal ruling concerning preemptive scope of Securities Litigation Uniform Standards Act.
- Tried and settled cases on behalf aggrieved investors against brokers and advisors in federal court and before NASD arbitration panels.
- Repeatedly represented terminated financial service professionals in various arbitrations or NASD investigations.
- Obtained dismissal of New York state action against financial advisor for professional negligence, breach of contract and fraud.
- Represented residential mortgagors in federal class action for racketeering and fraud against major regional bank, its law firm and related persons, arising from 11-year scheme to fund kickbacks through inflation of closing costs.

### **Intellectual Property**

- Defended a New York retail concern from Lanham Act and related claims brought by a major manufacturer of luxury items. Negotiated a favorable settlement.
- Successfully defended computer manufacturer in federal district court and on appeal in Federal Circuit, from patent infringement claims concerning telephone call cost monitoring technology.
- Successfully defended computer maker in a federal action by a research scientist, who claimed a proprietary interest in data mining programs.

### **Professional Malpractice**

- Defended major New York City law firm from claims alleging failure to assert timely fraudulent conveyance claims against relatives of judgment-proof debtor.
- Negotiated highly favorable settlement with major New York City law firm, on behalf of New Jersey bank, arising from firm's failure to preserve claims in action to quiet title to real property.
- Obtained disqualification of major law firm as plaintiff's counsel in audit failure case, based on firm's prior representation of auditor's liability insurer.

### **Products Liability**

- Represented disabled plastics company worker in New York products liability action arising from fall from a rail hopper car; case presented questions of first impression as to preemptive impact, on state design defect and failure to warn claims, of federal railroad safety legislation and regulatory pronouncements.
- Repeatedly and successfully defended leading aircraft manufacturer in federal court in actions by injured airline mechanics alleging design or manufacturing defects on various models of jet airliners.
- Defended leading parcel delivery service in consolidated federal actions by delivery truck operators alleging injuries resulting from use

of handheld delivery tracking devices.

- Defended thermostat manufacturer in federal action arising from fire in optics plant; negotiated multi-party settlement highly favorable to client.
- Representing European manufacturer of stone grinding wheel in action by injured worker.

## **Real Estate**

- Defended property owner in action seeking specific performance of sale of commercial real estate in Manhattan, in case presenting intricate issues of New York City zoning and land use regulations.
- Obtained summary judgment in favor of landlord in negligence action arising from fire in residential apartment building
- Obtained reversal, in Appellate Division, of summary judgment in action against building contractor based on supposed collateral estoppel by findings of municipal licensing board that contractor's work had not violated town licensing standards.
- Defended partner in joint venture over abortive deal for development of shopping center.
- Represented sub-contractor in action to enforce materialman's lien against prime contractor in connection with renovation of midtown Barneys store.
- Represented homeowners in various actions arising from environmental contamination of residential properties.
- Represented regional bank in action to quiet title to commercial real property given as collateral on defaulted loan.

## Publications

“Southern District Clarifies SLUSA Pre-emption”, *New York Law Journal*, July 5, 2006.

*Class Action Against Enron’s Accountants and Advisors* (with Christopher Allegaert and Daniel J. Tinkelman) *CPA Journal*, March 2004

*What is the Meaning of the Second Amendment?* *Experience*, Summer 1997

“Alternatives to Impeachment: What May Congress Do?”, 54 *Record of the Association of the Bar of the City of New York*, 13-32 (1998) (Committee Report, Chair and Primary Author (with Paul B. Sweeney))

“The Brady Act and the Tenth Amendment”, 52 *Record of the Association of the Bar of the City of New York*, 185-193 (1997) (Committee Report, Chair and Principal Author)

“Federal Gun Control and the Second Amendment”, 48 *Record of the Association of the Bar of the City of New York*, 993-1002 (1993) (Committee Report, Principal Author)

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