



## Michael S. Vogel

### Partner

A founding partner of the Firm, Michael Vogel is an experienced litigator and trial lawyer who has conducted trials and argued appeals involving numerous substantive areas of law. He has litigated matters in a broad range of subject areas, including commodities and derivatives, securities, commercial transactions, negotiable instruments, telecommunications, toxic torts, contracts, accountants' malpractice and professional obligations, employment, insurance, civil rights, criminal law and sentencing, defamation, and the internet. Mr. Vogel has extensive experience dealing with experts in numerous technical and scientific disciplines, including genetics and dysmorphology, industrial hygiene, entomology, derivatives pricing, and accounting.

In addition, Mr. Vogel has served as a professor at the University of Illinois College of Law, where he taught subjects including Advocacy, Civil Procedure, Commercial Disputes, Commercial Law, Evidence, and Remedies. He also previously taught at Brooklyn Law School.

He has been an invited lecturer on many subjects, including civil litigation and contract law in the United States, electronic discovery and related privacy issues, electronic surveillance and national security, and statistical methods. He has also acted as an expert in proceedings in the United Kingdom concerning the commercial law of the United States.

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#### Academic Background

B.A., Yale College, 1988  
*magna cum laude*  
*Honors in History*

J.D., Columbia University School of Law, 1991  
*Harlan Fiske Stone Scholar*  
Head Articles Editor, Columbia Human Rights Law Review

#### Bar and Court Admissions

New York  
New Jersey  
Connecticut  
United States Supreme Court  
Second Circuit  
Third Circuit  
Southern District of New York  
Eastern District of New York  
District of New Jersey

#### Representative Matters

##### Accounting

- Representation of Big Five accounting firm partner in connection with allegations of violation of SEC independence requirements
- Representation of failed businesses in investigation and prosecution of accounting malpractice claim against Big Five accounting firms

##### Banking - see Negotiable Instruments and Banking Disputes, below

##### Business and Commercial Disputes

- Representation of U.S. manufacturer in connection with alleged breach of contract relating to public bid for constructing steam-turbine power plant in Mexico
- Representation of venture capital firm in dispute arising out of failure of European investor to pay multi-million-dollar acquisition break-up fee
- Representation of European-based polymer manufacturer in dispute with Chinese supplier over product quality and payment
- Representation of French aluminum manufacturer in dispute arising out of manufacture of aluminum tubes for use in high-end softball bats
- Representation of British manufacturer of medical equipment in dispute arising out of failure to accept delivery of specifically-manufactured goods requiring unique storage conditions
- Representation of Middle East-based automobile franchisee in connection with dispute with European-based manufacturer
- Representation of jewelry designer relating to consignee's failure to honor

consignment agreement

- Representation of Italian company in securing attachment of New York cooperative apartment to secure satisfaction of judgment in pending U.K. action for commercial fraud
- Representation of aviation company in connection with claim of breach of contract for sale of aircraft
- Representation of U.S. subsidiary of Korean trading company in dispute with Korean bank lenders

#### **Class Actions**

- Defense of claims brought by class of students against manufacturer of electrical transformers in dispute arising out of sudden discharge on campus of large quantities of materials containing PCBs
- Representation of multi-state class of pharmacies against HMO for breach of contract and fraudulent reimbursement practices
- Defense of major hotel chain against allegations of false advertising concerning fees and charges
- Defense of claims against airline arising out of cancelled cruise-related accommodations

#### **Commodities**

- Representation of oil trading company in dispute with investment adviser arising out of unauthorized consummation of multi-million barrel off-market swaps
- Representation of oil trading company in multiple disputes with trading partners arising out of various off-market forward contracts linked to NYMEX performance
- Representation of metals trading company in dispute with foreign government arising out of allegations of corrupt trading practices

#### **Construction**

- Foreclosure of construction lien on behalf of steel fabricator and installer
- Discharge of construction lien on behalf of fire safety system installer
- Payment disputes among contractors, subcontractors, and customers
- Representation of U.S. manufacturer in connection with alleged breach of contract relating to public bid for construct steam-turbine power plant in Mexico

#### **Corporate and Partnership Disputes**

- Representation of founder of successful telecommunications company in dispute with former business partners alleging oral agreement to share ownership of company
- Representation of private investor in derivative action against new media company in connection with improper and coercive securities offering, failure to provide shareholders with required information, and failure to hold board meetings
- Representation of one of two partners in dispute over allocation of responsibility for third-party judgment
- Representation of certain members of limited liability company in dispute concerning members' respective ownership interests in company
- Representation of community organization in dispute with former president concerning ownership of various parcels of real property

#### **Employment**

- Defense of educational institution in connection with claims of employment discrimination
- Representation of major area employer in connection with establishment of employment policies and practices
- Representation of employee in connection with breach of contract claims against subsidiary of failed energy trading corporation
- Prosecution of wrongful termination claim against international foods corporation
- Representation of employee of major telecommunications company in connection with company's disavowal of employment agreement and failure to comply with Employee Retirement Income Security Act ("ERISA")
- Representations of whistle-blower employees

#### **Environmental and Toxic Torts**

- Defense of claims brought by state university and class of students against manufacturer of electrical transformers in dispute arising out of sudden discharge on campus of large quantities of materials containing PCB
- Defense of claims for birth defects arising out of maternal exposure to pesticide
- Defense of claims alleging injuries to adults and children from exposure to pesticides
- Prosecution of claims arising out of large-scale oil spill

#### **Family and Estate Disputes**

- Representation of former spouse in connection with division of antique wine collection
- Representation of departing partners in family investment trust in connection with breaches of fiduciary duty by managing partners
- Representation of decedent's daughter and executor in will dispute with decedent's widow
- Representation of estate beneficiary in negotiations with father's estate

#### **First Amendment**

- Representation of a leading global provider of integrated product and service offerings for the pharmaceutical and consumer package goods industries in obtaining the identity of and pursuing claims against individuals who anonymously committed and/or admitted torts and breaches of contract on a Yahoo! financial bulletin board

#### **Landlord-Tenant**

- Representation of landlord in defense of claim for rent-overcharge penalties levied in connection with overcharges by prior owner
- Representation of tenant in series of disputes with landlord

#### **Negotiable Instruments and Banking Disputes**

- Representation of major foreign museum in dispute arising out of theft of museum's check drawn on New York bank and negotiated through Swiss bank
- Defense of large brokerage firm in connection with civil conversion action arising out of forgery and negotiation of company check by brokerage's client
- Representation of pharmacy business in dispute arising out of theft and negotiation of business's checks
- Representation of textile business in dispute arising out of unauthorized electronic transactions

#### **Securities and Shareholder Litigation**

- Representation of private investor in derivative action against new media company in connection with improper and coercive securities offering, failure to provide shareholders with required information, and failure to hold board meetings
- Representation of private investor defrauded by promoters of offshore investment scheme.
- Defense of disciplinary proceedings before Division of Enforcement, New York Stock Exchange
- Defense of investor's claim alleging unauthorized sale of securities

#### **Telecommunications**

- Representation of telecommunications company in dispute with technology service provider involving claims of breach of contract, misappropriation of trade secrets, and related business torts
- Representation of major calling card company in trademark infringement claim against leading competitor
- Representation of telecommunications company in dispute with railroad concerning use of railroad's right-of-way for development of telecommunications company's network
- Representation of telecommunications company in disputes with business customers

#### **Trademark and Intellectual Property**

- Representation of major calling card company in trademark infringement claim against leading competitor
- Representation of manufacturer of cell phone batteries in license dispute concerning patented battery technology
- Representation of Canadian owner of food preservation technology in dispute with licensor of technology
- Representation of pharmacy trade association in connection with trademark and related claims against former agent seeking to establish competing association
- Representation of product developer in claims against former employer for contractual share of proceeds of sale of company owning developed product.
- Representation of bookmark maker in trademark infringement claim
- Representation of prominent fiction author in dispute concerning copyright ownership

#### **Publications**

*Unmasking "John Doe" Defendants: The Case Against Excessive Hand-Wringing over Legal Standards*, 83 Or. L. Rev. 795 (2004)

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