



David Flugman

Partner

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David Flugman is an experienced trial and appellate litigator who has appeared before federal and state trial-level courts across the United States, argued before federal and state appellate panels, and represented clients in the United States Supreme Court. He has been recognized as a “Rising Star” by the New York Metro Super Lawyers.

David’s wide-ranging practice spans complex litigation, [arbitration](#), and advisory matters, including corporate, M&A, and securities litigation; [complex commercial litigation](#); fraud, contract, [antitrust](#), and other business tort disputes; and privacy, ERISA, and insolvency litigation. He has especially extensive experience representing buyers and target companies in fiduciary duty and appraisal litigation arising out of mergers and acquisitions in Delaware Court of Chancery, as well as in federal and state courts across the country, including in Blackstone’s acquisition of Team Health Holdings Inc., Capgemini’s acquisition of iGate, Vista Equity Partners’ acquisition of TIBCO Software, Apax’s acquisitions of TriZetto, Bankrate, and Epicor Software, and Avista Capital Partners’ acquisitions of Knology Inc. and Telular Corporation. David’s clients comprise a broad spectrum of industries, including private equity, financial services, health care, communications, food and beverage, insurance, manufacturing, cosmetics, and internet services.

Representative Matters

- *Picard v. Herald Fund SPC*: Represented one of the largest “net loser” investment fund victims of the Madoff Ponzi scheme in multi-jurisdictional litigation, obtaining a precedent-setting settlement with the Madoff Trustee resulting in an admitted customer claim in excess of \$1.6 billion. See “Herald Fund SPC (In Official Liquidation) Announces Global Settlement With Madoff Trustee,” PR Newswire, 11/17/2014.
- *IDT, Inc. v. The Blackstone Group LP*: Represented the restructuring adviser to debtor Winstar Communications, successfully defeating a \$300 million fraud lawsuit brought by the acquirer of Winstar’s assets in a Section 363 bankruptcy sale. Led a team of counsel in successfully defending the dismissal order up through the U.S. Supreme Court. See “3rd Circ. Shuts Down IDT Suit Over \$42.5M Winstar Deal,” Law360, 1/28/2015.
- *Ramkissoon v. AOL Inc., Landwehr v. AOL Inc.*: Successfully defended AOL in two separate putative class action lawsuits seeking statutory damages over \$650 million brought under the Electronic Communications Privacy Act relating to what was referred to as the “Exxon Valdez” of data breaches.
- *Edmonson v. Lincoln National Life Insurance Co.*: Successfully defended Lincoln National in novel ERISA litigation challenging its method of paying death benefits using retained asset accounts and asserting tens of millions of dollars in damages.

David's public interest practice has focused on the advancement of LGBT rights and the protection of persons with mental disabilities. Over four years, David represented Garden State Equality in successfully defending a ban enacted by New Jersey in 2013 on the practice of so-called "sexual orientation change efforts" or "conversion therapies" on minors by state licensed professionals. See "3rd Circ. Upholds NJ Ban On Gay Conversion Therapy," Law360, 9/11/2014. He also represented a class of psychiatric inpatients and emergency room patients at a large metropolitan New York City hospital in constitutional litigation challenging inhumane conditions of care, obtaining (along with the Department of Justice) a groundbreaking consent judgment entered by the Eastern District of New York.

Affiliations & Community Involvement

David earned his J.D., *cum laude*, from Harvard Law School. In 2015, he was named one of the Best LGBT Lawyers Under the Age of 40 by the National LGBT Bar Association. He also serves as a member of the National Leadership Council for the National Center for Lesbian Rights, and sits on the Judiciary Committee of the New York LGBT Bar Association.

Education

Harvard Law School

(J.D., 2006)

Cum laude

Yale University

(B.A., History and Music, with Distinction, 2003)

Magna cum laude, Phi Beta Kappa

Prior Associations

Kirkland & Ellis LLP

Partner, 2012-2018

Associate, 2006-2012

Admissions

- State Bar of New York
- United States Supreme Court
- United States Courts of Appeals: Second Circuit, Third Circuit, Fifth Circuit, Sixth Circuit, Ninth Circuit, Tenth Circuit, District of Columbia Circuit
- United States District Courts: Southern District of New York, Eastern District of New York, District of Colorado