



# Alex B. Silverman

SHAREHOLDER

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## Overview

Alex Silverman represents U.S. and international insurers, reinsurers, and other businesses in complex commercial litigation and arbitration, including insurance coverage disputes and reinsurance matters. He regularly litigates and counsels insurers and reinsurers in connection with multimillion- and multibillion-dollar third-party liability claims in state and federal courts and alternative dispute resolution forums across the country. Alex has particular experience with issues relating to commercial general liability insurance, including matters implicating both Coverage A and Coverage B. He also has extensive experience with matters implicating financial lines policies, including directors and officers liability, employment practices liability, fiduciary liability, and professional liability.

Alex regularly assists clients in protecting their rights as they navigate New York Insurance Law section 3420. He also frequently presents to insurance companies on the statute's many gray areas.

In addition, Alex regularly represents businesses in a range of complex commercial litigation, including cryptocurrency and blockchain-related disputes, breach of contract disputes, product liability actions involving medical devices and various pharmaceuticals, shareholder derivative actions, and intellectual property matters concerning trademarks, trade secrets, unfair competition, and false advertising.

## Experience

## **Insurance/Reinsurance Coverage and Litigation**

- Counsel primary and excess insurers and reinsurers regarding a host of complex coverage issues, including trigger, fortuity, additional insured status and related issues, number of occurrences, allocation, exhaustion, other insurance, priority of coverage, bad faith, claims-made and reported functions, subrogation, follow-the-fortunes and follow-the-settlements, underwriting and pricing, and a range of other issues implicating CGL, commercial auto, D&O, EPL, professional liability, and other lines of insurance and reinsurance. Representative practice areas include sexual/physical abuse; toxic tort exposures (lead paint, asbestos, diacetyl, over-the-counter medications, among other things); product liability exposures; construction defects; environmental and pollution liability; antitrust violations; securities violations; government investigations; media and entertainment liability; employment practices violations; numerous other forms of “bodily injury,” “property damage,” and “personal and advertising injury” exposures; and other claims and damages stemming from catastrophic events.
- Representing insurers and reinsurers in connection with coverage litigation, arbitration, mediation, counseling, and risk management with respect to thousands of underlying sexual/physical abuse, molestation, and assault claims filed under the New York Child Victims Act and other “reviver” statutes enacted across the country, including representing carriers in multibillion-dollar bankruptcy coverage actions.
- Counseling general liability insurers in connection with high-profile entertainment lawsuits implicating CGL “Coverage B,” including matters alleging libel, defamation, and invasion of privacy.
- Obtained appellate decision affirming dismissal of suit seeking a declaration of insurer’s duty to defend a \$50 million antitrust action, finding the action did not fall within the insuring agreement of a media liability policy and also would have been precluded by the policy’s antitrust exclusion.
- Obtained voluntary pre-answer discontinuance of ERISA action filed against insurer in federal court.
- Counseled life reinsurer in connection with implementing premium rate increases under YRT and other types of reinsurance treaties.

## **Commercial and Business Litigation**

- Defending cryptocurrency/blockchain corporation and individual owners in state court litigation involving alleged breach of contract and fraud.
- Defending medical device manufacturer product liability litigation in state court litigation.
- Represented investment bank in obtaining favorable settlement of federal court action involving payment of success fee.
- Represented New York City building owner in state court action alleging breach of contract, tortious interference, and specific performance.

- Defended pharmaceutical manufacturer in concurrent product liability actions in New York state court.
- Defended pharmaceutical manufacturer in four-week trial involving alleged misappropriation of trade secrets, tortious interference, and breach of contract.

## Areas of Focus

### Practices

- Appellate & Trial Support
- Banking, Commercial, and Consumer Finance
- Cybersecurity and Privacy
- Insurance
- Intellectual Property
- Life, Annuity, and Retirement Litigation
- Litigation and Trials
- Real Property Litigation
- Reinsurance

### Industries

- Property & Casualty Insurance
- Banking, Commercial, and Consumer Finance
- Insurance

## Insights

07.10.2022

Eighth Circuit Finds Contract Formation Challenges to Be Decided by the Court, Affirms Order Denying Motion to Compel Arbitration

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07.08.2022

Eighth Circuit Finds “Entire Contract” Challenge Must Be Decided by Arbitrator, Reverses Order Denying Motion to Compel Arbitration

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05.26.2022

Delaware Federal Court Confirms Arbitration Award, Holds Arbitrator Did Not Exceed Authority in Finding Unambiguous Contract Provision Was Unconscionable

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05.24.2022

Virginia Supreme Court Declines to Enforce Arbitration Clause in a Trust, Agrees Trusts Aren't "Contracts" Under FAA and Virginia Law

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04.07.2022

Texas Supreme Court Finds Erotic Dancer and Club Had "Meeting of the Minds" to Enforce Arbitration Agreement

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04.05.2022

Ninth Circuit Agrees Non-Signatory Cannot Be Compelled to Arbitrate Under California Law

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03.10.2022

SDNY Rules Non-Signatories to Agreement May Compel Signatory to Arbitrate Issues of Arbitrability

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03.08.2022

Maine Supreme Court Holds Uber Cannot Enforce Arbitration Clause in Its User Terms and Conditions, Agrees User Was Not Provided Reasonable Notice

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02.17.2022

Eighth Circuit Rules Business Partners of Broker-Dealer Cannot Compel FINRA Arbitration, Agrees Partner Not a "Customer" Under FINRA Rules

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02.15.2022

Massachusetts Federal Court Rules English Law Governs Reinsurance Dispute but Denies Reinsurers' Motion for Summary Judgment

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01.21.2022

Tenth Circuit Finds Non-Signatory May Compel Arbitration Based on Equitable Estoppel

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01.19.2022

Texas Department of Insurance Adopts New Reinsurance Regulations for Reciprocal Insurers

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12.15.2021

SDNY Confirms \$500M Arbitration Award, Rejects Claim of Arbitrator Impartiality

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12.14.2021

Tenth Circuit Finds Equitable Estoppel Theories Allowed Non-Signatory to Rely on Arbitration Clause, Reverses Order Denying Motion to Compel Arbitration

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11.02.2021

Fifth Circuit Affirms Order Confirming International Arbitration Award, Ending Decades-Old Maritime Injury Litigation

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10.05.2021

Ninth Circuit Affirms Order Confirming Arbitration Award

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09.07.2021

Federal Court Declines to Vacate Arbitration Award Absent Public Policy Against Requiring Reinstatement of Terminated Employee

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08.20.2021

Delaware Court Finds Appraisal Proceeding Is Not a Claim “for a Wrongful Act” and Dismisses \$177M Coverage Action

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08.18.2021

Sixth Circuit Agrees Farmer Must Reimburse Crop Insurer for Overpayments Received Due to Farmer’s Poor Record-Keeping

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08.16.2021

Eleventh Circuit Rules FAA Does Not Create Subject Matter Jurisdiction

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07.29.2021

Second Circuit Finds International Arbitral Tribunal Formed Under a Bilateral Investment Treaty Constitutes a “Foreign Tribunal” Under 28 U.S.C. § 1782

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07.08.2021

Wisconsin Federal Court Vacates Order Compelling Arbitration and Reopens District Court Case, Finding “Extraordinary Circumstances” Justified Relief Under FRCP 60(b)

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07.06.2021

Texas Federal Court Compels Arbitration of Civil Rights Claims but Stays Proceedings to Avoid Future Statute of Limitations Issues

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06.17.2021

SDNY Declines to Adopt Collateral Attack Doctrine, Grants Motion to Compel Arbitration

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06.15.2021

Illinois District Court Denies Motion to Vacate Arbitration Award and Imposes Sanctions, Citing “Outright Hostility” to Such Challenges in the Seventh Circuit

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05.25.2021

Colorado Federal Court Finds “Kona” Class Actions Did Not Trigger “Personal and Advertising Injury” Insuring Agreement

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05.17.2021

Connecticut Supreme Court Finds State Law Statutory Limitation Period to Vacate Arbitration Award Confers Jurisdiction on State Courts and Not Preempted by FAA

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04.29.2021

California Federal Court Rejects Unconscionability Claims, Enforces Delegation Clauses in Arbitration Agreements

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04.28.2021

New York Federal Court Declines to Modify Arbitration Award to Include Attorneys’ Fees and Costs

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03.16.2021

Court Finds Pre-Hearing Nonparty Deposition Subpoenas Permitted by FAA, and Rule 45 Territorial Limit Not a Bar for Virtual Deposition

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02.26.2021

New York Court Finds Securities Settlements Not Covered by D&O Policies Due to Insured Capacity and Uninsurable Loss Issues

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02.22.2021

Tenth Circuit Agrees Arbitration Award Issued Absent an Arbitration Agreement Was a “Farce,” Orders Sanctions Against Pro Se Petitioner

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01.13.2021

New York Court Finds the Term “Exhaustion” in Excess Policy Was Ambiguous, Rules That Full Limits of Underlying Insurance Need Not Be Paid for Excess Policy to Attach

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01.12.2021

District Court Transfers Consideration of Motion to Quash Pursuant to Rule 45(f)

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12.02.2020

Arkansas District Court Compels Arbitration of Post-Termination Wage Dispute

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11.30.2020

California District Court Grants Motion to Compel, Referring Issue of Arbitrability to Hong Kong Arbitration Forum

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11.14.2020

Ninth Circuit Adopts General Rule Regarding Circumstances in Which Excess Insurers May Dispute Exhaustion of Underlying Insurance

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11.05.2020

Second Circuit Affirms Arbitration Award of Over \$2M in Fees to Prevailing Party

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10.15.2020

Ninth Circuit Affirms That Uber Driver Not Engaged in “Foreign or Interstate Commerce” for Purposes of Exemption to FAA

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10.13.2020

Washington Supreme Court Declines To Intervene in Ongoing Arbitration, Finding Judicial Authority Under FAA Limited To “Gateway” Disputes and Review of Final Awards

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09.24.2020

Georgia Supreme Court Finds Mandatory Arbitration Clause in Law Firm Engagement Agreement Is Neither Unconscionable nor Void as Against State Public Policy

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09.22.2020

Federal Court Confirms \$112 Million Foreign Arbitral Award Against Ukraine, Finding No Arbitrator Impartiality

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09.02.2020

Washington Federal Court Finds Attorney-Client Privilege Waived by Claims Handler's Inadvertent Disclosure of In-House Counsel's Coverage Opinion to Defense Counsel

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09.02.2020

SDNY Finds Insurer, As Subrogee, Lacked Authority to Enforce Arbitration Clause in Fuel Delivery Contract

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08.31.2020

Eleventh Circuit Affirms Order Compelling Arbitration of Cruise Liner Class Action

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08.20.2020

Eleventh Circuit Affirms Denial of Motion to Arbitrate Where Appellant Was Not a Party to Arbitration Agreement

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08.13.2020

Seventh Circuit Rejects Third-Party Administrator's Attempt to Avoid Multimillion-Dollar Arbitration Award

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08.11.2020

NJ Supreme Court Finds State Arbitration Law Applies to FAA-Exempt Workers

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08.05.2020

When Is an Arbitration a Foreign or International Tribunal?

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07.23.2020

Second Circuit Affirms Ruling That Chinese Arbitration Organization Is Not a “Foreign or International Tribunal” Under Section 1782

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07.21.2020

Court Denies Petition to Vacate, Finding Petitioner Waived Objection Based on Arbitrator Impartiality

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07.02.2020

Fourth Circuit Finds Arbitration Clauses Are Valid and Enforceable, Confirms Chinese Arbitral Award

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06.30.2020

Oklahoma Supreme Court Finds Arbitrator, Not Court, to Determine Fraudulent Inducement Attack on Contract Containing Arbitration Clause

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06.22.2020

Iowa Supreme Court Finds Fatality Allegedly Caused by Gross Negligence Was a Potential “Accident” Under CGL Policy

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06.11.2020

SDNY Grants Motion to Compel Arbitration, Directs Arbitrability Issue to Arbitrators

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06.09.2020

Fifth Circuit Affirms Order Denying Motion to Compel Against Non-Signatories to Arbitration Agreement

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05.21.2020

Pennsylvania Court Finds Respondent’s “Different Reading” of Arbitration Award Need Not Be Raised in a Timely Motion to Vacate, Modify, or Correct

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05.19.2020

Court Affirms Ruling That Insured Cannot Recover From Captive Reinsurer or Affiliated Insurance Brokerage

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04.29.2020

Court Affirms Ruling Putting End to Arbitration on Issue and Claim Preclusion Grounds

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04.27.2020

Court Confirms Award in Favor of Reinsurer, Including Over \$400,000 in Attorneys' Fees

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04.08.2020

Seventh Circuit Agrees Defendant Expressly Waived Right to Arbitrate by Withdrawing Arbitration Argument From Motion to Dismiss

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04.06.2020

Court Dismisses Professional Negligence Action Against Insurance Broker for Lack of Personal Jurisdiction

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03.06.2020

Ransomware Attack Replacement Costs Are Covered "Direct Physical Loss or Damage" Under Standard Business Owner's Policy, According to Maryland Federal Court

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02.05.2020

District Court Enforces Mandatory Arbitration Clause, Despite State Law Prohibiting Such Provisions in Insurance Contracts

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02.03.2020

Ninth Circuit Agrees Defendant Waived Right to Arbitrate, Affirms Order Denying Motion to Compel

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01.15.2020

Federal Court Dismisses Policyholder's Third-Party Action Against Reinsurers

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01.13.2020

Third Circuit Affirms Order Declining to Consolidate Reinsurance Dispute, but Vacates Order Denying Motion to Unseal

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12.04.2019

District Court Confirms \$220 Million Award, Finds No Manifest Disregard of Law

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12.02.2019

New York Appellate Division Declines to Enjoin Baltimore Orioles' Arbitration Against Washington Nationals

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11.13.2019

Southern District of New York Holds That Arbitrator's Refusal to Postpone Hearing and Consider Witnesses Not "Misconduct" Requiring Vacatur

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11.11.2019

SDNY Compels Arbitration Based on Severability Doctrine, Finds Fee-Shifting Clause Not Unconscionable

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10.31.2019

Court Finds Animals Incapable of Vandalism or Malicious Mischief for Insurance Purposes (and all other purposes, too)

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10.24.2019

Court Finds Medical Bill Reimbursement Claim Subject to "Biblically-Based Mediation and Arbitration"

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10.22.2019

New York Court Compels Arbitration of Commercial Marijuana Dispute

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10.03.2019

District Court Dismisses Petition to Confirm Interim Arbitration Award for Lack of Subject-Matter Jurisdiction

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10.01.2019

District Court Compels Arbitration Citing Insurance Policy's "Service-of-Suit" Provision

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09.12.2019

UK High Court Declines to Sanction Transfer of Annuity Portfolio

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09.10.2019

Court Stays Yacht-Wreck Coverage Action Pending Concurrent Proceeding to Vacate Arbitration Award in Favor of Insurers

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08.21.2019

Court Denies Reinsurer's Motion to Compel, Finding No Basis to Decide Issues Concerning Costs for Which Cedent Has Not Requested Payment

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08.19.2019

Court Confirms Arbitration Award, Finding It Was Based in Part on "Plain Error," but Did Not Amount to Manifest Disregard of the Law

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08.01.2019

SDNY Dismisses Captive Reinsurer's Counterclaims, Finding Reinsurance Agreement Never Rescinded and Cedent's Duty to Cede Premiums Never Arose

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07.30.2019

Ninth Circuit Binds Plaintiff to Arbitration Clause It Never Received, Finding Clause Was "Readily Available" and Incorporated by Reference Into Purchase Order

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07.11.2019

Changes to the Patent Landscape for the Insurance and Financial Industries

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07.10.2019

Failure to Specifically Challenge "Delegation" Clause in Arbitration Agreement Means Motion to Compel Arbitration "Must Be Granted"

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07.08.2019

District Court Grants Motion to Compel Arbitration, Finding Arbitration Provision Not Severable From Allegedly Void Contract

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06.18.2019

Second Circuit Adopts Standard for Determining Subject-Matter Jurisdiction Over Motions to Confirm Arbitration Awards Under FAA Section 9

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06.17.2019

West Virginia Supreme Court Reverses, Finds “Delegation Clause” in Employment Arbitration Agreement Neither Ambiguous nor Unconscionable

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06.14.2019

EDNY “Teas” It Up On Additional Insured, Finds Insurer May Withdraw Defense and Recoup Defense Costs

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05.29.2019

California Court Denies Defendants’ Motions for Summary Judgment, Finding Evidentiary Support for Odyssey Re’s Fraudulent Transfer Claims

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05.10.2019

Tenth Circuit Finds No Jurisdiction to Hear Appeal of District Court Stay Order While Motion to Compel Arbitration Is Pending in Parallel Federal Court Proceeding

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05.07.2019

Second Circuit Vacates SDNY Order Enforcing Arbitration Award Against Reinsurer

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04.17.2019

District Court Denies Summary Judgment to Trustee of Trust Account Maintained for Beneficiary of “Fronted” Reinsurance Program

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04.15.2019

SDNY Vacates Amended Arbitration Award, Confirms Original \$39 Million Award, Finding Panel Exceeded Authority and Manifestly Disregarded Law

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03.27.2019

District Court Declines to Decide Procedural Arbitrability Issue, Separately Seals Docket, Finding “Reasonably Significant Privacy Interest” in Reinsurance Treaties

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03.26.2019

Ninth Circuit Dismisses Interlocutory Appeal, Finds Order Compelling Arbitration Not a “Final Decision” Under FAA

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03.12.2019

Second Circuit Holds “Offering for Sale” Is “Advertising Injury” Under CGL Policy, But Allegation No

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10.12.2018

Eleventh Circuit Finds Exclusion Bars Trademark Infringement and Dependent False Designation and ...

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09.28.2018

Ninth Circuit Holds Putative Class Action ERISA Claims Fall Outside Scope of Individual Arbitration

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09.06.2018

Promissory Note Issued In Satisfaction of Unpaid Insurance Premiums Is Valid And Enforceable, Even If Allegedly Derived From Unapproved Reinsurance Agreement

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06.11.2018

Implications of U.S. Withdrawal from Iran Nuclear Deal on (Re)insurance Industry

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05.01.2018

Fourth Circuit Finds Employer Cannot Compel Arbitration of Former Employee’s Discrimination Claims

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04.10.2018

U.K. Court Of Appeal Finds Experienced “Insurance Or Reinsurance” Lawyers Are Eligible For Appointment To Arbitration Panel Under Arbitration Clause In Reinsurance Treaty

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04.09.2018

New York’s Highest Court Rejects ‘Unavailability of Insurance Exception’ Under ‘Pro Rata Time on the Risk Allocation’

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03.21.2018

Seventh Circuit Reverses Order Compelling Arbitration of Dispute Between Two Non-Signatories to Arbitration Agreement

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03.01.2018

U.K. Court Finds Arbitration Respondent Did Not Waive Objection to Jurisdiction of Arbitration Tribunal

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02.27.2018

Court Enforces Arbitration Award, Finds Reinsurer Must Pay Settlement Between Retrocessionaire and Policyholder

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02.06.2018

S.D.N.Y. Dismisses Insurer's Claims Against Reinsurance Broker Under Economic Loss Doctrine, Finds No Special Relationship

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12.29.2017

Major Disruption in the Use of Technology and Trademarks in the Insurance Industry

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12.27.2017

Magistrate Judge Recommends Denying Application for \$305M Reinsurance Judgment

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12.06.2017

Wisconsin Adopts New Credit for Reinsurance Rule Based on Certified Reinsurers

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12.04.2017

Court Finds Confidentiality Provision in Arbitration Agreement Unconscionable, Compels Consumer Arbitration

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10.27.2017

SDNY Rules SEC Investigation Is A "Claim" Within Pending and Prior Acts Exclusion

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10.26.2017

U.K. Court Approves Multi-Billion Pound Plan to Transfer Annuity Liabilities Under Reinsurance and Business Transfer Agreements

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10.24.2017

Fifth Circuit Finds Order Not "Final" for Purposes of Appellate Jurisdiction

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09.14.2017

Fourth Circuit Reverses Ruling That Reinsurance Agreement Is an “Insurance Contract” Under Virginia Law

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09.12.2017

Sixth Circuit Affirms Vacatur of Arbitration Award Based on Prior Termination of Sales Contract

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09.01.2017

Third Circuit Clarifies Abstention Doctrine in Insurance Coverage Declaratory Action

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## News

03.02.2022

Six Carlton Fields Attorneys Elected to Shareholder

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05.01.2020

Carlton Fields Recognized as 2020 Top Firm for Insurance for Third Consecutive Year

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12.06.2019

Carlton Fields Attorneys Recognized as National Law Review Go-To Thought Leaders

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08.17.2017

Carlton Fields Adds Property & Casualty Insurance Attorney Alex B. Silverman in New York

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## Recognition

- *The Best Lawyers in America: Ones to Watch*, Commercial Litigation, Insurance Law (2023–2024)
- Top Author, Insurance, *JD Supra* Readers' Choice Awards (2020)
- Go-To Thought Leadership Award, Insurance/Reinsurance, *National Law Review* (2019)

## Speaking Engagements



- "Insurance Coverage Issues," Perrin Sexual Abuse Litigation and Coverage Conference (March 18, 2021)

## Credentials

### Education

- New York Law School (J.D., magna cum laude and with highest honors, 2012)
  - Editor, *New York Law School Law Review*
  - New York Law School Moot Court Association
- University of Rhode Island (B.A., cum laude, 2008)

### Court Admissions

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

### Bar Admissions

- New York

## Background

- Associate, Rivkin Radler LLP, Uniondale, New York, NY (2015–2017)
- Associate, Stern & Montana LLP, New York, NY (2012–2015)