

LITIGATION

One of the region's largest, most experienced groups of commercial trial lawyers, our Litigation Department has achieved success in hundreds of trials in state and federal courts. Throughout New Jersey, New York, Delaware and Maryland, we are recognized as the region's "bet the company" litigation team. We frequently arbitrate and mediate as alternatives to litigation. We also counsel our clients on how to avoid litigation. First and foremost, our clients see us as problem solvers.

Business Disputes

- Trials and appeals in federal and state courts
- Shareholder, partner and member disputes; corporate deadlock; contract disputes; trade secrets; unfair competition; tortious interference; restrictive covenants; antitrust; trademark, employment/labor issues; copyright and patent infringements; securities fraud
- Temporary restraining orders, preliminary and permanent injunctions, declaratory judgments and specific performance
- Products liability

Construction and Real Estate Litigation

- Public and private owners, developers, sureties, general contractors, suppliers, subcontractors, real estate brokers and design professionals
- Business leases, commercial real estate foreclosures, actions in lieu of prerogative writs and tax appeals
- Purchase and sale agreements, easements and covenants
- Lien law and bid protests

Employment Litigation & Counseling

- Defend employers and insurance companies in employment lawsuits
- Represent plaintiffs involved in discrimination, harassment, wrongful discharge, Americans with Disabilities Act and related cases

Environmental and Other Insurance Coverage Litigation

- Recovery of environmental remediation costs
- Defense of claims by governmental agencies and private parties

Fidelity, Surety and Insurance

- Defend performance and payment bond and policy claims
- Pursue indemnity, subrogation and salvage actions
- Trials and appeals in state and federal courts; arbitrations and mediations
- Workouts on public and private projects

LITIGATION (Continued)

Foreclosure and Lender Liability

- Prosecute contested and non-contested commercial foreclosure actions through sheriff's sale and acquisition of mortgaged properties
- Represent lenders, borrowers and guarantors in commercial foreclosure actions and lender liability claims

Insolvency/Bankruptcy Litigation

- Validity, priority, avoidance, subordination and recharacterization of liens
- Preference and fraudulent conveyance claims
- Breaches of fiduciary duty by directors and officers of distressed companies
- Constructive trust and alter ego issues
- Claims objections

Intellectual Property & Computer Law

- Trademark and copyright registrations
- Trademark selection and clearance
- Protection, transfer and licensing of intellectual property
- Litigation of trademarks, copyrights and patent infringement disputes

Mediation & Arbitration

- AAA, NASD, NYSE, ICC and private tribunals
- Serve as mediators and arbitrators
- Court-appointed and private mediation/arbitration

Personal Injury, Products Liability, Medical Malpractice and Professional Malpractice Litigation

- Represent parties in general liability, automobile negligence and complex tort litigation
- Defend hospitals in professional, nursing and general liability matters
- Defend self-insured businesses in all liability matters
- Defend health care professionals and other professionals against claims of professional negligence
- Defend health care professionals before state boards
- Extensive trial experience in products liability

LITIGATION (Continued)

Special Education

- Students and parents in administrative hearings, trials and appeals
- Discrimination, harassment, retaliation and reasonable accommodations under federal and state constitutions, Americans with Disabilities Act, Section 504 of the Rehabilitation Act and New Jersey Law Against Discrimination and discipline

Tax Litigation

- Federal and state income, property, gift and estate, withholding, unemployment and sales tax cases
- Defense of criminal tax investigations and cases

Trusts & Estates

- Fiduciary counseling and trust/estate litigation
- Will contests, probate, accountings and breaches of fiduciary obligations
- Guardianship proceedings

White Collar & Investigations

- Grand jury investigation for business-related crimes such as fraud, bribery, mail and wire fraud
- Corporate theft, bribery and embezzlement
- Board or executive official misconduct
- Internal ethics investigations and executive conflict determinations
- Environmental prosecutions and investigations
- Securities fraud
- RICO offenses

LITIGATION (Continued)

REPRESENTATIVE MATTERS

Cole Schotz successfully advocated before the New Jersey Supreme Court in an eminent domain case in which our client's property was condemned by the township for the purpose of building low-income housing. Although the client's property was not taken until 2002, the township sought to value the property in 1997 to determine the amount of compensation to be paid to our clients, claiming that the early valuation date was required by New Jersey's eminent domain statute. Before Cole Schotz entered into the case, the trial court issued a ruling in favor of the township and set the valuation date in 1997. The township's position, if maintained, would have deprived our clients of significant market appreciation. Cole Schotz was successful in appealing the trial court's decision to the Appellate Division, which reversed the trial court and held that the clients' property could not be valued before May 2002, despite the earlier interest and activity surrounding the property.

The township and an intervening party joining with the township petitioned the Appellate Division decision to the New Jersey Supreme Court, arguing that the designation of our clients' property in December 1997 as a site for low-income housing required valuation of the property at that time. Litigation partner Wendy Klein argued the case before the Supreme Court, lambasting the township's position as contrary to New Jersey statute and a denial of the clients' constitutional right to just compensation. The New Jersey Supreme Court completely rejected the township's argument and, in a unanimous decision, affirmed the Appellate Division ruling requiring the property to be valued in 2002.