



#### PRACTICE GROUP CHAIRS

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## BUSINESS AND COMMERCIAL

Goldberg Segalla represents local, regional, national and international businesses – including Fortune 500 companies and not-for-profit organizations – in all types of commercial transactions and disputes.

Our lawyers are highly experienced in complex business litigation and commercial transactions, enabling us to efficiently assess and counsel businesses in their day-to-day operations. In addition, our commercial trial attorneys have successfully litigated cases in state and federal courts throughout the United States as well as in administrative proceedings, arbitration and mediation. We have also represented businesses in negotiations and transactions across the country, as well as in numerous foreign jurisdictions.

This team has been recognized by Chambers and Partners for three consecutive years as one of the top in Upstate New York. The 2015, 2016, and 2017 editions of the prestigious *Chambers USA: America's Leading Lawyers for Business* rank Goldberg Segalla among some of the region's oldest and most well-established law firms. The directory notes that the firm is known for its "large commercial litigation team with experience across a breadth of contentious business matters" and that it is "well placed to represent clients from numerous industries, including financial services and insurance companies, retailers and media groups."

Our experience includes:

- Complex commercial and business litigation including contract disputes, business tort and unfair competition claims and intellectual property litigation

- Drafting and interpreting commercial agreements and resolving disputes regarding licensing, construction, distribution, franchising, mergers, acquisitions, sales, divestitures and joint-venture matters

- Debtor/creditor relations, including collection, insolvency and bankruptcy proceedings

- Commercial real estate holdings, including sales, purchases, leasing, financing, development, SEQRA, environmental compliance and liability, zoning and foreclosure actions

- Corporate governance, including advising boards of directors in connection with fiduciary obligations, and advising shareholders, partners, and owners in all aspects of shareholder, partner, and owner agreements and disputes

- Not-for-profit and charitable laws and regulations, including formation, tax exempt status and financing

- Advising professional service firms (including physicians, medical groups, law firms, accounting firms, architects and surveyors) in all aspects of their operations, professional licensing, operation agreements, and owner and contractual disputes and dissolution

- Corporate and estate tax planning, wealth planning, and succession planning involving wills, estates, trusts, and succession agreements

- Corporate transactions involving structure, formation, and financing business entities and expansion

- Representation of lenders and borrowers in numerous aspects of business entity capitalization, financing and loan workouts

## COMMERCIAL LITIGATION AND ARBITRATION

Commercial litigation presents clients with a variety of legal issues and business concerns, which is why we use our experience to resolve disputes timely and cost-efficiently. Our attorneys regularly represent corporations, financial institutions, partnerships, professionals, trustees, directors, officers and others involved in commercial disputes.

Our attorneys represent clients before various state and federal courts, as well as in administrative proceedings, arbitration or mediation. We also work closely with related practice groups to ensure that our clients receive appropriate representation in all areas of high-stakes business litigation.

Goldberg Segalla represents clients in an extensive range of commercial litigation, including:

- Class-action disputes
- Commercial defamation
- Contract disputes
- Corporate control and management disputes
- Employment and non-compete agreements
- Employment discrimination
- Fiduciary duty claims
- Franchising litigation
- Fraud and misrepresentation claims
- Insurance coverage
- Professional liability claims
- Shareholder derivative actions
- Theft or loss of business opportunities
- Trade secrets and restrictive covenants
- Uniform Commercial Code
- Unfair competition claims
- Warranty disputes

## **CORPORATE AND BUSINESS TRANSACTIONS**

When you choose Goldberg Segalla for your corporate or transactional needs, you're selecting a legal partner committed not only to your organization's current well-being and immediate future, but also to its long-term profitability and sustainability.

Our Corporate and Business Transactions Practice Group provides companies and organizations of all sizes with practical legal advice and transactional guidance to help them grow and excel. Leading this team is a former inside counsel who spent 20 years in that role for a multibillion-dollar global company. Many of our team members have decades of experience advising on a broad spectrum of business matters and disputes, both in-house and as outside counsel. And, as a firm that grew from a team of seven lawyers into one of the nation's 200 largest in only 15 years, we know what it takes for businesses to succeed and to grow strategically.

That means we handle each matter — whether closing an intricate transaction or providing day-to-day counseling — with an extraordinary appreciation for your constant corporate stressors; the demand to manage legal costs economically; and the very real impact of legal matters and choices on your organization, your daily operations, and your bottom line. We think about *your* business needs before

*our* billable hours. Eschewing these Big Law, bad business practices has been good business for us — and it can be good business for you, too. Our transactional attorneys are equipped to handle your every legal need, including:

### **Corporate Law and Contracts**

- Business entity selection, formation, and financing
- Preparation of governing documents (by-laws; meeting minutes; and shareholder, partnership, membership interest, buy-sell, and stock option agreements)
- Preparation of standardized business form documents, including purchase orders, terms and conditions, acknowledgement and order processing forms, indemnification terms, distribution agreements, and UCC security agreements
- Corporate record keeping and document retention
- Operational issue advice
- Management structure and growth, including strategic partnering
- Directorial and shareholder fiduciary duties
- Minority owner rights and remedies
- Shareholder disputes
- Advising on corporate duties and obligations pursuant to state business corporation statutes
- Software and merchandising license agreements
- Executive employment agreements and executive compensation
- Succession planning
- Corporate dissolution

### **Growth, Finance, and Asset Protection**

- Corporate and asset finance
- Mergers, acquisitions, divestures, and reorganizations, including assistance with letters of intent, due diligence, and stock and asset sales and purchases
- Franchise agreements
- Strategic alliance agreements
- Joint venture agreements
- Venture capital investments
- Private equity
- Not-for-profit, tax-exempt formations and filing
- Corporate contracts, such as non-disclosure agreements and non-compete agreements

### **Intellectual Property**

- Intellectual property management, protection, and optimization, including trademark and copyright registration and guidance on Trademark Trial and Appeal Board proceedings and the like
- IP litigation
- Trade secret identification and protection, including new developments under the Defend Trade Secrets Act
- Trade secret misappropriation litigation
- Patent, trademark, and copyright licenses

Guidance on “work-for-hire” doctrine and issues concerning employee inventions

### **Commercial Real Estate and Development**

Preparation of letters of intent

Due diligence process

Environmental concerns, including Phase I and Phase II environmental audits

Commercial loan agreements (term, demand, and revolving) and ancillary documentation including promissory notes; opinions of counsel; and inter-creditor, subordination, errors and omissions, and security and indemnity agreements

Land use and zoning issues, including New York Article 78 actions

IRS Code §1031 “like-kind” exchanges

Commercial leases (gross leases; single, double, and triple net leases; and modified gross leases)

Construction agreements focusing on AIA contracts, owner-architect, contractor and sub-contractor, and development agreements

### **Stronger as a Team**

The attorneys across all of Goldberg Segalla’s practice and industry groups are renowned in many areas of business and law, recognized as national and international thought leaders, and always working to stay at the forefront of emerging trends and issues in technology, law, and business practices. Because of our firm’s collaborative culture, our attorneys are always each other’s most valuable resources. By choosing Goldberg Segalla, you can put *all* those resources to work for your business.

We bring the exceptionally valuable risk-avoidance counsel that can come only from a team that also has extensive litigation, arbitration, and trial experience:

Goldberg Segalla’s Business and Commercial Practice Group has been recognized for three straight years among the top commercial litigation teams in the Upstate New York edition of the prestigious *Chambers USA*, which noted our firm acts for “a variety of prominent clients throughout the USA.”

Our internationally recognized Global Insurance Services team frequently helps corporate clients manage risk through practical and thorough insurance coverage analysis.

The firm’s experienced construction attorneys bring a comprehensive understanding of business issues, including the project financing phase, to help business clients develop innovative solutions to expedite revenue procurement and generate cash flow.

Members of our product liability team also prove invaluable to our corporate clients, as they routinely prepare owners’ manuals, warning labels, instructions, packaging, websites, and warranties to reduce the risk of claims that may be brought against a corporate client.

Goldberg Segalla’s cyber risk team offers data security advice and training, data privacy regulatory guidance, and policy and contract guidance to help prevent data breaches and minimize potential liability in the event of an incident.

Our employment and labor attorneys draft and negotiate employment, severance/separation, non-competition, non-solicitation, confidentiality, and other agreements and will often work hand-in-hand with the transactional team during the process of a corporate merger, acquisition, divestiture, or reorganization.

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**RETAIL AND HOSPITALITY**

We offer strong defense, comprehensive counsel, and long-term strategic guidance to all types of retail, hospitality, and commercial development businesses. With the knowledge and resources to handle complex litigation and arbitration and provide sound preventative counsel, we also offer our clients all the benefits of a relationship with a firm that values teamwork and professionalism. Partnering with Goldberg Segalla means peace of mind that lasts — through your present legal concerns and well into the future, when our attorneys will continue to keep you up to date about emerging issues and best practices to help you recognize and manage risk, and focus on growing your business.

Because of the power of that promise, our firm has established long-term relationships with numerous high-profile clients in the commercial development, shopping center, and retail industries. We represent several Fortune 100 companies, some of the world's largest private and publicly traded owners and developers of shopping centers, national and international retailers, hotels and resorts, restaurants, convenience store chains, office and industrial parks, managers of commercial properties, and major North American fitness center brands.

**Protecting Your Business**

As leaders in their fields, some commanding scores of properties and hundreds or thousands of employees, our clients are too often the targets of frivolous and opportunistic litigation and exaggerated claims. Spanning diverse industries, our clients also face many different types of litigation and other legal concerns that require knowledge of state, federal, and international laws and regulations; fluency with scientific or technical vocabulary; and a command of emerging trends at the intersections of trade, law, and technology.

We protect retailers and hospitality providers in disputes involving:

Premises liability and other tort claims (including liability for violent crimes)

Dram shop and liquor liability claims

Construction site worker injury and New York "Scaffold Law" claims

Product liability, product recalls, and related issues

Workers' compensation

Asbestos and toxic tort claims

Construction defects

Business and contractual matters

Allegations of discrimination, retaliation, improper termination, and other employment claims

Landlord-tenant issues and evictions

Intellectual property

False advertising claims

**Managing Risk**

The representation we offer begins with developing a thorough understanding of our clients' unique business models, needs, and concerns, and we strive to provide innovative solutions to help our clients

avoid disputes and manage risk. We assist in creating and implementing policies and procedures that minimize exposure and improve the safety of customers and employees. We offer preventive counsel on matters including:

- All types of risk management
- Indemnification and insurance
- Advertising and social media
- Zoning and land-use permitting
- Cyber risks and emerging technologies
- Occupational Safety and Health Act (OSHA) issues
- Customs and international trade
- Landlord-tenant relations
- Employment and labor (including drafting and reviewing personnel manuals and managing reductions in force)
- Intellectual property (including copyright and trademark registration)
- Consumer Product Safety Commission compliance

### **Meeting Your Business Goals**

We offer our clients a business-focused partnership — not just a legal partnership. Along with legal defense and preventive counsel, we provide transactional services and representation to help our clients meet their short-term and long-term goals and plan for sustainable growth and prosperity.

- Acquisitions and mergers
- Drafting and reviewing contracts
- Lease and construction contract preparation and drafting
- Partnership or corporation formation and dissolution
- Marketing, including social media use
- Licensing and intellectual property matters

### **Representative Matters**

- Summary judgment in favor of an international pizza brand facing allegations of wrongful termination, retaliation, and discrimination under the New York State and New York City Human Rights Laws
- Dismissal of several claims under the Americans with Disabilities Act from serial plaintiffs against national retail establishments
- Defending a premier outdoors retailer against a six-figure claim from a plaintiff who suffered severe burn injuries from a defective fuel gel product made by a bankrupt manufacturer, settling for a nominal sum
- Defending supermarket chains in premises liability claims obtaining defense awards, nominal settlements, successful third-party tenders, and favorable mediation outcomes and binding arbitration award
- Obtaining a defense verdict in favor of a retail store owner at arbitration in a trip-and-fall case and, upon plaintiff's appeal de novo, effectively cross-examining the plaintiff's expert medical witness, resulting in a nominal and cost-effective settlement

Obtaining dismissal of a series of three individual race discrimination cases filed against a nightclub

Obtaining a “no cause” determination with respect to claims of age, race, and national origin discrimination brought by a former employee against a country club

Defending a national retail sporting goods chain in a multimillion-dollar product liability trial involving an all-terrain vehicle/utility task vehicle rollover

Representing a developer that had entered into a contract with a town for the exchange of properties in anticipation of a development project; achieving reversal of the denial of a petition under Article 78 to annul a town board resolution rescinding the town’s contract with the developer

Serving as lead defense counsel in Western New York for a management company facing over 100 lawsuits involving ADA accessibility claims against shopping plazas, malls, and sporting arenas; coordinating with defense counsel across the country in to develop best practices that will help prevent these suits from continuing to burden retail businesses.

Representing an iconic hotel brand in a franchise dispute stemming from the termination of a franchise agreement after a franchisee failed to make required payments

### **Leaders in Retail Law**

Our accomplished litigators and experienced counselors are thought-leaders known as much for their courtroom achievements as for the passion and keen curiosity they bring to their clients’ industries and specialties.

Many of our attorneys hold retail- and development-related board positions with prominent national and regional industry associations, including:

National Retail and Restaurant Defense Association

Claims and Litigation Management Alliance: Retail, Restaurant, and Hospitality Community

Defense Research Institute

Associated Builders and Contractors

Associated General Contractors

USLAW NETWORK, INC., Retail and Hospitality Law Practice Group

Our attorneys also regularly write and speak on the legal issues our clients face, publishing in outlets like *Shopping Centers Today*, *USLAW Magazine*, and DRI’s *In-House Defense Quarterly*, and presenting before conferences of industry leaders. Our team authored several state chapters in the USLAW Network’s *Retail Compendium of Law*. We also provide clients with timely alerts about important developments in statutes, regulations, and case law.

### **BANKRUPTCY AND CREDITORS’ RIGHTS**

The attorneys at Goldberg Segalla represent a variety of creditors, including lenders, manufacturers, builders, retailers and judgment creditors. We have broad litigation experience as well as a comprehensive working knowledge of state debtor-creditor laws and federal bankruptcy law. As a result, we can cost-effectively pursue the collection of commercial debts at every stage, from initial contract negotiations to demand letters, workout negotiations, mechanic’s liens, litigation, and judgment enforcement via replevin, attachment, property execution, garnishment and foreclosure.

Our experience includes:

Protecting and defending creditors' rights in all aspects of Chapter 7, 11, 12 and 13 bankruptcy proceedings

Negotiating and drafting initial credit facilities designed to minimize credit risks and maximize recovery prospects in the event of default

Drafting payment demands crafted to exploit all available leverage and encourage payment without litigation

Counseling clients to secure their interests through security agreements, UCC filings, pledges, mortgages and other forms of collateralization

Positioning clients for cost-effective and convenient resolution of payment disputes through contractual provisions governing jurisdiction, venue and attorneys' fees

Evaluating the viability of collections claims against debtors before beginning collections efforts and investing resources

Prosecuting collection litigation in local, state, federal and bankruptcy courts throughout the United States

Defending preference claims

Representing insurers in seeking stay relief to terminate surety and fidelity obligations

Utilizing alternative dispute resolution through arbitration and mediation

Identifying and reversing fraudulent conveyances of assets by debtors attempting to defraud creditors

Selecting and implementing appropriate and cost-effective post-judgment asset investigation techniques, including debtor examinations, information subpoenas, third-party subpoenas and examinations and real estate and lien searches

Negotiating and collateralizing workouts, repayment and forbearance agreements

#### **INTERNATIONAL COMMERCIAL TRANSACTIONS AND LITIGATION**

Our experienced attorneys recognize that successful businesses operating beyond the United States often encounter unique legal and business concerns, including customs regulations, trade agreements, complex laws from multiple jurisdictions and cultural differences.

We offer sophisticated, cost-efficient representation and advice on a wide array of cross-border transactions, as well as international and multinational commercial litigation. At Goldberg Segalla, we pride ourselves on helping our clients achieve their global objectives while managing litigation costs, expenses and risk.

To meet the needs of our clients worldwide, our attorneys often work closely with European, Canadian, Mexican and other foreign firms. Our long-standing relationships help us customize solutions for our international clients. In addition, our attorneys are proficient in Albanian, Arabic, Croatian, French, German, Greek, Hebrew, Hindi, Italian, Korean, Malayalam, Mandarin, Marathi, Norwegian, Portuguese, Punjabi, Russian, Spanish, Swedish, Tagalog, Tamil, Thai, and Urdu, allowing us to provide country-specific services. We are also active in (and recognized leaders within) international law professional organizations and bar associations.

Our experience includes:

General corporate counseling and strategic planning



- Regulatory compliance for agencies such as the CPSC, OSHA and NHTSA
- International distribution agreements
- International mergers and acquisitions
- Licensing of intellectual property
- Employment, trade, import/export and immigration issues
- Establishing foreign subsidiary corporations
- International financing
- Real estate purchasing and leasing
- International litigation, arbitration and mediation

## **ANTITRUST AND COMPETITION**

At Goldberg Segalla, we represent corporations and business ventures in all civil legal issues arising from alleged anticompetitive practices. We work closely with clients to identify potentially anticompetitive practices, and to help them avoid litigation when pursuing mergers and acquisitions or devising sales and distribution policies. Our experienced attorneys recognize the complexity posed by antitrust litigation (such as the difficulties in distinguishing between aggressive competition and monopolization), and we acknowledge the tremendous burdens placed on clients by antitrust and unfair competition claims. As a result, our antitrust and competition team works hard to achieve timely, cost-efficient results for all our clients.

We advise clients regarding a full range of antitrust and competition issues, including:

- Class actions
- Compliance with the Sherman Act
- Distribution and pricing issues
- Hart-Scott-Rodino Act
- Intellectual property concerns
- Mergers and acquisitions
- Monopolization
- Price-fixing claims
- Regulatory concerns
- Robinson-Patman issues
- Shareholder derivative actions

## **SPORTS AND ENTERTAINMENT**

The global sports and entertainment industries employ millions of workers, delight billions of spectators, and generate trillions of dollars each year. The combination of sports and entertainment is a global cultural juggernaut like no other, and the industries create tremendous opportunities for individuals and for companies — just think of the disruption of streaming services, and the rise of millionaire YouTubers and Instagrammers, both phenomena of the last decade. But along with these opportunities, there are also legal risks and challenges unique to the industry.

The Sports and Entertainment Practice Group at Goldberg Segalla comprises attorneys experienced in representing national-league sports franchises, professional athletes, singer-songwriters, musicians' guilds, movie studios, and others in the industry. Backed by a record of successfully resolving complex

and high-value disputes involving licensing, contracts, intellectual property, and civil litigation, they represent some of the sports and entertainment world's most recognizable names, defending them in court and counseling them on day-to-day business management.

Under the leadership of the team's founder and chair Joseph M. Hanna, a nationally recognized authority on the National Football League concussion litigation and member of the *Law360* Sports Editorial Advisory Board, our attorneys have built reputations not only as superior litigators, but as keen and far-sighted commentators on business and legal trends in sports and entertainment, publishing widely and keeping our clients up to date through the award-winning *Sports and Entertainment Law Insider* blog.

### **Intellectual Property Rights**

Whether you want to protect a groundbreaking invention, an artistic logo, or future hit song, our attorneys work tirelessly to defend your intellectual property and creative output. Our group is equipped to defend *all* of your rights in this vast and ever-expanding area of law, through services including:

- Intellectual property litigation

- Management, protection, and optimization of intellectual property, including copyright and trademark registrations

- Trade secret identification, protection, and misappropriation litigation

- Trademark Trial and Appeal Board proceedings

- Patent, trademark, and copyright licenses

- Guidance on the doctrine of "works made for hire," including employee inventions

### **Contractual Issues**

In the world of sports and entertainment, most issues and disputes that arise deal in some way with the complicated legal realm of contracts. Fortunately, our team is well versed in a multitude of contractual issues, including but not limited to:

- Performance, endorsement, and royalty agreements

- Licensing agreements

- Contract litigation and arbitration

We also advise our clients in complex negotiations, leveraging the full weight of our experience, transactional finesse, and understanding of the sports and entertainment industries to protect our clients' rights, ensure their talents and services are properly valued, and position them to achieve their long-term financial and career goals.

### **Protecting Publicity and Privacy Rights**

Privacy is both a fundamental human expectation as well as a potentially valuable asset in the world of sports and entertainment. Because of the ubiquity of the internet and "smart" technology, we increasingly barter our privacy for social reasons; and this has shifted cultural expectations in ways that impact celebrities — athletes, entertainers, public figures — the most.

Our team is fully capable of defending your privacy as well as preventing businesses and individuals from using your name or likeness for financial gain without your consent. We can do this by catching language in contracts and agreements that might jeopardize your right to privacy and to your own name

and likeness, as well as by aggressively pursuing litigation against those who violate your privacy. As neither rights of privacy nor publicity are the subject of federal law, our team is primed to interpret pertinent state laws to defend our clients in any jurisdiction.

#### **About the Sports and Entertainment Law Team**

Passion for sports and entertainment drives our success in serving our clients. We build long-term relationships with our clients, built on a comprehensive, adaptive, and forward-thinking understanding of their business needs and objectives. Deeply committed to our clients and to the industry as a whole, our attorneys are members of groups including:

Sports Lawyers Association

International Institute for Conflict Prevention and Resolution, Panels of Distinguished Neutrals,  
Entertainment Law and Sports Law groups

Defense Research Institute (DRI) Commercial Litigation Committee Sports and Entertainment Law  
Specialized Litigation Group

#### **Contact**

If you have questions for or about Goldberg Segalla's Sports and Entertainment Practice Group, please contact Joseph M. Hanna (716.566.5447 or [jhanna@goldbergsegalla.com](mailto:jhanna@goldbergsegalla.com)).

For news on the latest legal developments impacting the business of sports and entertainment, please visit our *Sports and Entertainment Law Insider* blog.