



Menachem J. Kastner

Member

New York

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Menachem's practice involves all aspects of real estate litigation and is particularly centered in the area of commercial and residential leasing and ownership and valuation disputes. He has litigated through all of the courts, the interpretation of escalation clauses, assignment and sublet provisions, alteration provisions, use clauses, renewal or purchase options, termination rights, buy-out disputes, and other significant lease interpretation issues.

Menachem is a frequent contributor to legal publications, specifically the *New York Law Journal* and *New York State Bar Association Journal*. Many of his articles have been cited to and relied on by the New York courts. See *London Terrace Towers, Inc. v. Davis*, 6 Misc. 3d 600, 790 N.Y.S. 2d 813 (Civ. Ct. N.Y. Co. 2004); *13315 Owners Corp. v. Kennedy*, 4 Misc.3d 931, 782 N.Y.S. 2d 554 (Civ. Ct. N.Y. Co. 2004); *Concourse Village Inc. v. Bilotti*, 133 Misc. 2d 973, 509 N.Y.S. 2d 274 (Civ. Ct. Bronx Co. 1986).

Menachem has lectured widely on real estate issues, including landlord/tenant and co-op litigation, the law of co-ops/condominiums, equitable distribution, and matrimonial tax. Most recently, Menachem lectured on "Real Estate Transactions - Spotting Litigation Issues" at the PLI Annual Real Estate Institute in 2016 and 2017.

In addition, Menachem is an official court arbitrator for the Civil Court of the City of New York, presiding over trials and inquests, issuing final non-appealable judgments, mediating the settlement of claims, and drafting and ordering stipulations of settlement.

Menachem earned his Bachelor of Arts, *cum laude*, from Brooklyn College of the City University of New York in 1973 and his law degree, *summa cum laude*, from New York Law School in 1976, where he was the recipient of the Trustees' Award for Highest Scholastic Achievement. He was named a New York Super Lawyer (real estate) in 2006, 2010 and 2013-2016 by *Law & Politics*. He was also named one of "New York Area's Top Rated Lawyers of 2013" in Real Estate & Landlord/Tenant by Legal Leaders™. Menachem is admitted to practice in the state of New York.

Experience

US Bancorp Equipment Finance v. Abraham Rubashkin, et al., ___ A.D.3d ___, (2d Dept. September 19, 2012)

210 West 70 Owner LLC v. Cosmic Group LLC, ___ Misc.3d ___ (App. Term 1st Dep't 2012)

Murray Hill Mews Owners Corp. v. Rio Restaurant Associates, L.P., 26 Misc.3d 1224(A)(Civ Ct. N.Y. Co. 2010), reversed, 30 Misc.3d 129(A) (App. Term 1st Dep't), reversed, 92 A.D.3d 453 (1st Dep't 2012)

2 GCT Partners LLC v. Stadia Capital LLC, *New York Law Journal*, Decisions of Interest, December 2, 2009, p. 28, col. 1 (Sup. Ct. New York Co.)

Nestor v. Britt, 13 Misc. 3d 368, 834 N.Y.S. 2d 458 (Civ. Ct. N.Y. Co. 2007), affirmed, 19 Misc. 3d 142(A) (App. Term 1st Dept.)

East Best Food Corp. v. NY 46th LLC, 56 A.D.3d 302, 867 N.Y.S.2d 77 (1st Dep't 2008)

Practice Areas

- Commercial Litigation
- Litigation
- Real Estate
- Real Estate Litigation

Education

- New York Law School, J.D., *summa cum laude*, 1976
- Brooklyn College, B.A., *cum laude*, 1973

Bar Admissions

- New York

Court Admissions

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

Affiliations

- New York State Bar Association

Awards & Honors

- Recognized as a "Super Lawyer" in Real Estate by *Law & Politics* 2006, 2010, 2013-18
- Named one of "New York Area's Top Rated Lawyers of 2013" in Real Estate & Landlord/Tenant by Legal Leaders™

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Morris Heights Health Center, Inc. v. Dellapietra, 38 A.D.3d 261, 834 N.Y.S.2d 9 (1st Dep't 2007)

Blenheim LLC v. Il Posto LLC, 14 Misc. 3d 735, 827 N.Y.S. 2d 620 (Civ. Ct. N.Y. Co. 2006)

H.R. Neumann Associates v. The New Eagle, Inc., 6 Misc. 3d 1027(A) (Civ. Ct. N.Y. Co. 2005)

Hudson Waterfront Associates, IV, L.P. v. MTP 59 St. LLC., 8 Misc 3d 136(A), 803 N.Y.S. 2d 18 (App. Term 1st. Dept. 2005)

150 Broadway N.Y. Associates L.P. v. Bodner, 14 A.D. 3d 1, 784 N.Y.S.2d 63 (1st Dept. 2004)

20 Henry Street Associates v. Various Tenants, New York Law Journal, September 1, 2004, p. 19, col. 1, 32 HCR 547A, (Civ. Ct. Kings Co.)

The New Eagle, Inc. v. H.R. Neumann Associates, 4 Misc. 3d 1005(A) (Sup. Ct. Kings Co. 2003)

Excell Graphics Technologies, Inc. v. CFG/AGSCB 75 Ninth Avenue LLC, 1 A.D. 3d 65, 767 N.Y.S. 2d 99 (1st Dept. 2003)

M&A Oasis, Inc. v. MTM Associates, L.P., 307 A.D.2d 872 (1st Dept. 2003)

Alphonse Hotel Corporation v. 76 Corp., 273 A.D. 2d 124, 710 N.Y.S. 2d 890 (1st Dept. 2000)

Bernstein v. 1995 Associates, 211 A.D.2d 560 (1st Dept. 1995)

Colgate-Palmolive Corporation v. Bell, Kalnick, Sassawer, Jackson, Klee, Green & Rudd., 203 A.D.2d 122, 610 N.Y.S.2d 44 (1st Dept. 1994), appeal dismissed, 83 N.Y.2d 996, 616 N.Y.S.2d 476 (1994)

Plaza Operating Partners Ltd. v. Maison Mendesolle Ltd., 144 Misc. 2d 696, 545 N.Y.S.2d 233 (Civ. Ct. N.Y. Co. 1989), affirmed, Appellate Term 1st Dept. 1990

Mid-Island Shopping Plaza Co. v. Nathan's Famous of Hicksville, 147 A.D. 2d 536, 537 N.Y.S. 2d 836 (2d Dept. 1989)

Vance v. Century Apartments Associates, 61 N.Y.2d 716 (1984)

Missan v. Schoenfeld, 95 A.D. 2d 198 (1983), appeal dismissed, 60 N.Y. 2d 860 (1983)

Thuna v. DiSanza, 102 Misc.2d 342, 425 N.Y.S.2d 729 (Sup. Ct. N.Y. Co. 1980), affirmed, 78 A.D.2d 517, 432 N.Y.S.2d 976 (1st Dept. 1980)

Leslie Fay, Inc. v. Rich, 478 F.Supp. 1109 (S.D.N.Y. 1979)

County of Suffolk v. Long Island Lighting Company, et al, 728 F.2d 52 (2d Cir. 1984)

Turski v. Chiesa, 58 A.D.2d 828, 396 N.Y.S.2d 667 (2d Dept. 1977)

33-39 E. 65th St., LLC v. McEntyre, 2013 N.Y. Slip Op. 50558(6), N.Y.L.J., April 18, 2013. (Civ. Ct. N.Y. Co.)

Secured an appellate victory on behalf of one of the largest landlords in the New York area, which sued a shell company that abandoned space it had leased in one of the client's buildings, also naming as a defendant the tenant's parent company on theories of alter ego and piercing the corporate veil. We appealed the trial court's decision which granted the defendants' motion for summary judgment and dismissed the complaint. We argued on appeal that the shell and the parent were jointly and severally liable to our client for all obligations under the lease through its expiration date, which totaled more than

\$1 million, as well as attorneys' fees. In a unanimous reversal, the appellate court agreed that the parent was the alter ego of the shell, reinstated the complaint, and remanded the case for trial on only one issue.

Obtained pre-answer dismissal of a complaint filed in New York alleging claims of forgery and fraud in connection with a dispute between citizens of China and Norway over the ownership of real property in China. In granting the motion to dismiss, the court accepted our arguments that the claims against our clients (individual co-defendants) were time-barred and precluded by a 2015 judgment of a Chinese court pursuant to the doctrines of comity and res judicata, and in the alternative should be dismissed on forum non-conveniens grounds.