



Roger Juan Maldonado

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Areas of Practice

Copyright Law | Arbitration | Mediation | Bankruptcy/Creditors Rights | Zoning, Planning and Land Use | International Law
Latin America | Appellate Practice | Litigation/Trial Practice | Entertainment | Intellectual Property | Art Practice

Roger Juan Maldonado is a partner at Smith Gambrell Russell LLP. For nearly 40 years, Mr. Maldonado has represented, counseled and advised businesspeople, in-house counsel, governmental entities and others in the resolution of complex matters that are important to them. In so doing, Mr. Maldonado gives his clients his best judgment - based on his experience in litigations, trials, appeals, arbitrations, mediations and negotiated settlements - on how to arrive at the best possible result.

Commercial Litigation

Mr. Maldonado represents institutions and individuals in complex civil litigations and appeals, including litigations involving commercial torts and professional liability, and claims and investigations regarding officers' and directors' liability. These matters have involved actual or potential claims of hundreds of millions of dollars.

Copyright and Intellectual Property Litigation

Mr. Maldonado represents artists, independent record labels, and publishers in copyright infringement disputes and in contractual disputes regarding royalty payments due to the artists. He also represents companies in litigations involving software implementations and license disputes, and art galleries and artists in litigations and investigations.

Real Estate Litigation

Mr. Maldonado represents entities and institutions (including private banks and developers) in matters involving disputes over real estate. These matters have been brought in federal and state courts, and have involved bankruptcy, foreclosure,

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and eviction proceedings, claims of breach of contract and fraud, appeals and requests for various types of equitable relief, including rescission, specific performance, and restraining orders.

Mr. Maldonado represents cooperative corporations in litigations with sponsors, shareholders, banks, and other entities. The litigations have involved millions of dollars in claims regarding construction defects, tax benefits, foreclosure proceedings, and competing creditors' liens. The litigations have entailed numerous motions, hearings and appeals, and have required coordination with regulatory agencies.

Employment Law

Mr. Maldonado represents employers in various employment and labor related actions before municipal, state and federal administrative agencies, private mediators and arbitrators, and federal and state courts. He also represents employers in pre-litigation investigations and settlements involving discrimination claims, employment contracts, and restrictive covenants.

Education Law

Mr. Maldonado serves as the lead attorney representing the class of students who require special education services in New York City. In this role, he negotiates and coordinates with the New York City Department of Education, the New York State Education Department, colleges and universities, outside consultants and his co-counsel on (a) the development and implementation of a data management and reporting system that can accurately and efficiently track the defendants' compliance with the judgment and orders requiring the timely provision of appropriate mandated special education services and (b) the training, recruitment and retention of the teachers and professionals needed to provide these mandated services.

Experience

- *Comptroller of the City of New York v. The City of New York, et al.*, Supreme Court, New York County, Index. No. 452143/2021: Mr. Maldonado, together with John McCarthy, Edward Heppt and Morgan Manley, represents the Comptroller of the City of New York in a proceeding brought pursuant to Article 78 of the New York Civil Practice Law and Rules seeking to enjoin the Mayor of New York and agencies of the City of New York from interfering with the Comptroller's oversight duties and responsibilities regarding the procurement of contracts for services and materials under the New York City Charter and the New York City Procurement Policy Board Rules. Shortly after the Comptroller filed this proceeding, the Mayor revoked an Emergency Executive Order that had purported to suspend the Comptroller's oversight over the procurement of contracts entered into for services and materials related to the City's response to the COVID-19 pandemic.

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- *Healthy Lifestyle Brands v. Environmental Working Group*, 20-cv-01098-ER (S.D.N.Y). Mr. Maldonado currently represents a not-for-profit corporation in an action in federal court in a dispute involving the client's termination of a valuable license agreement. The court denied the adversary's request for a temporary restraining order because the adversary could not show irreparable harm and because the adversary was not likely to succeed on the merits. The adversary then withdrew its motion for preliminary injunctive relief. The parties currently are engaged in discovery.
- *Barnett v. Berkowitz*, N.Y.S. Sup. Ct., N.Y. Co. (Comm. Div. 2018). Mr. Maldonado represents one of the co-founders of Insomnia Cookies, LLC in a dispute with the co-founder regarding payments due to Mr. Maldonado's client pursuant to his retained interest in the company pursuant to a contract between the parties. After motion practice, the Court sustained the client's claims for breach of contract and breach of the covenant of good faith. The parties currently are engaged in discovery.
- *Distribuidora de Discos Karen C. por A., et al v. Universal Music Group, Inc., et al.*, 13-cv-7706 (JPO)(S.D.N.Y.). Mr. Maldonado represents an independent record label and music publisher in multi-party, multi-national litigations involving competing claims of copyright infringement between Mr. Maldonado's client and a multi-national record label and an internationally famous artist. After extensive motion practice, the Court scheduled the S.D.N.Y. action for trial. Prior to trial, the parties entered into an agreement settling of the actions between them in New York, Florida, Spain and the Dominican Republic.
- *Nuevo El Barrio Rehabilitación de Vivienda y Economía, Inc. v. Los Tres Unidos Associates, L.P.*, et al, N.Y.S. Sup. Ct., N. Y. Co (Comm. Div. 2017). Mr. Maldonado represented the holder of a right of first refusal ("ROFR") regarding a large, affordable housing development in an action seeking specific performance of the ROFR. Rather than seeking a temporary restraining order to enjoin the adversary from proceeding with a threatened sale of the development to a third party, the client filed a lis pendens with respect to the property. The action settled via the client's exercise of its ROFR.
- *Brilliant 437 GMBH v. Durafiber Technologies (DFT) Holdings, II, LLC*, N.Y.S. Sup. Ct, N.Y. Co. (Comm. Div., 2017). Mr. Maldonado represented a German-based company in a litigation against its guarantor, in which the client asserted that the guarantor was disposing of all of its assets across the globe in an effort to render the guaranty worthless. The Court granted the client's Order To Show Cause requiring the guarantor to deposit in escrow the proceeds of the sales of its assets. The matter settled shortly thereafter via the client's acquisition from the guarantor of an asset that was of great value to the client's business.
- *Jose P. v. Mills*, 96 Civ. 1834 (ERK/SMG), EDNY. Mr. Maldonado serves as the lead attorney representing the class of students who require special education services in New York City. In this role, he negotiates and coordinates with the New York City Department of Education, the New York State Education Department, Colleges and Universities, outside consultants and his co-counsel on (a) the development and implementation of a data

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management and reporting system that can accurately and efficiently track the defendants' compliance with the judgment and orders requiring the timely provision of appropriate mandated special education services and (b) the training, recruitment and retention of the teachers and professionals needed to provide these mandated services.

- *SemiTech Litigation, LLC v. James H. Ting, et al*, Sup. Ct., NY. Co. (Comm. Div. 2002). Mr. Maldonado represented an inside director in this multi-party, multi-national action (and in a related action in the Bahamas and in an investigation in Hong Kong) involving claims of hundreds of millions of dollars. The Semi-Tech litigation settled favorably for the defendants and Mr. Maldonado's client prevailed in the related action and was exonerated in the investigation.
- *The Government Development Bank for Puerto Rico*. For over a decade, Mr. Maldonado represented the Government Development Bank for Puerto Rico (the "GDB") in high profile litigations and in complex, high stakes internal investigations. At the time, the GDB was the preeminent governmental financial institution in Puerto Rico. Notwithstanding two changes in administrations during this period of time (which resulted in two complete change-overs in all key GDB officials), Mr. Maldonado was called on by the GDB to provide continued services on matters of importance to the GDB. Indeed, after the first change in administration, the new GDB officials frequently involved Mr. Maldonado as a consultant on matters where the GDB was represented by other outside counsel. Among many other matters, Mr. Maldonado successfully represented the GDB in *Lombard v. Booz-Allen & Hamilton, Inc.*, 280 F.3d 209 (2d Civ. 2002) and in *In re Arochen Corp.*, 198 B.R. 425 (D. Conn. 1996).

Admissions

New York

New York State Courts

U.S. District Court Southern District of New York

U.S. District Court Eastern District of New York

U.S. District Court Second Circuit Court of Appeals

U.S. District Court First Circuit Court of Appeals

Memberships

New York City Bar Association, Past President

Commercial Division Advisory Council

Distribution Committee of the New York Community Trust

Board of Directors of the New York Bar Foundation

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New York State Judicial Screening Committee

Advisory Group of the New York State and Federal Judicial Council

NYSBA/NYBF Joint Pro Bono Task Force

Vice President of the Board of Directors of United Neighborhood Houses of New York, Inc.

Referee, New York State Commission on Judicial Conduct