



Claude M. Millman

Partner



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Biography

Claude M. Millman is a partner at the New York City office of Kostelanetz LLP. For over two decades, he has represented government contractors doing business with New York City and State government agencies and authorities, advised government officials and former government officials on ethics issues, litigated matters against the City, State, and federal government, and handled complex commercial litigation and investigations, including high-profile disputes and controversies.

After graduating from Stanford University and Columbia Law School and clerking for a United States District Judge in Manhattan, Claude was appointed as an Assistant U.S. Attorney for the Southern District, where he oversaw the Environmental Protection Unit and led that office's civil racketeering (RICO) litigation against waterfront unions and businesses. While there, Claude received the John Marshall Award, the Department of Justice's highest recognition of excellence in legal performance, for litigation against the New York City Housing Authority (NYCHA) that exposed and remedied racial discrimination in tenant selection and assignment.

Claude was then appointed to several positions in New York City government: he served as a Deputy Commissioner of what is now the Business Integrity Commission (BIC); as Director of the Mayor's Office of Contract Services (MOCS); and as Executive Director, then Commissioner, of the Charter Revision Commission.

Claude entered private practice in 2000. In 2011, he left his partnership at Proskauer Rose, LLP, to start a government procurement and contracts practice and lead civil litigation at Kostelanetz LLP.

Claude has been recognized in the "Law Power 100"—a list, according to City & State, of "New York's 100 most influential lawyers . . . based on their achievements, track record and sway in political and policy matters." He has been listed in "New York Super Lawyers" for Business Litigation every year since 2008, and in "Best Lawyers" for Commercial Litigation every year since 2013. He has received Martindale-Hubbell's highest Peer Review Rating for his work in Litigation, Government Contracts, and Commercial Law. In 2011, he was elected to the Fellowship of Litigation Counsel of America (LCA) and is now an LCA Senior Fellow.

He has represented public companies (including eight of the Fortune 100), major not-for-profits, large privately held businesses, and various government officials (including Deputy Commissioners). His clients have included Aetna Life Insurance Company; ABM Industries, Inc.; Carrier Corporation; CGI Technologies & Solutions, Inc.; Clear Channel Outdoor, Inc.; GE Transportation; Great-West Financial; Home Depot, Inc.; IBM; Jack Resnick & Sons, Inc.; Kidde Technologies, Inc.; MSG Varsity Network, LLC; Navigant Consulting, Inc.; NeuStar, Inc.; Otis Elevator Company; Siemens Electrical, LLC; Siemens Medical Solutions USA, Inc.; Software AG USA, Inc.; STV Group, P.C.; TASER International Corporation (now Axon Enterprise, Inc.); TEKsystems, Inc.; Uber Technologies, Inc.; United Technologies, Inc. (UTI); Verizon; World Fuel Services Corporation; and Xerox State & Local Solutions, Inc.

Claude's government procurement and contracting work covers the entire procurement and contract administration life cycle, and ranges from advice about disclosures, responses to procurement solicitations, and contract negotiations, to bid protests, non-responsibility appeals, audits, investigations, and disputes, both before administrative bodies and courts, for both large and small clients in every business sector, including for-profit enterprises and not-for-profit organizations. While many clients seek his advice on routine procurement questions, he has represented clients in some of the City and State's highest-profile contracting controversies, including the matters involving Snapple, CityTime, Seedco, and Ross Lanham. Claude is one of the few government contracts lawyers in private practice with significant experience in New York City and State procurement.

Claude has been a civil litigator for over three decades, and now leads the firm's commercial dispute resolution practice. He has litigated in New York State courts in the City's five boroughs, Westchester County, and Albany, and handled appeals in the First, Second, and Third Departments. He has appeared in federal court in Manhattan, Brooklyn, and White Plains, and has handled appeals in the Second, Sixth, and federal Circuits. He has appeared in various other courts around the country, tried cases in judicial and arbitral forums, and argued appeals in state and federal court.

He has handled a wide variety of arbitrations, lawsuits, and appeals in state and federal jurisdictions, many of which have involved international, cross-border, or criminal-civil parallel proceedings, and his litigation experience is extremely broad. He has litigated matters involving administrative law, antitrust law, bankruptcy, contract, consumer protection, conversion, education law, employment law, environmental law, fiduciary duties, fraud, government ethics, government procurement, guardianship, patent law, personal injury, restrictive covenants, RICO, tax law, tortious interference with contract, trade secrets, and trusts and estates. In recent years, Claude:

- Successfully protected Aetna Life Insurance Company's trade secrets in Freedom of Information Law (FOIL) litigation concerning a government contract with the Metropolitan Transportation Authority (MTA).
- Secured the dismissal of a putative class action brought against Public Health Solutions (PHS) and Montefiore/New Rochelle Hospital.
- Filed a motion in federal court to obtain the dismissal of a putative securities class action against a foreign company's corporate officer.
- Secured a stay in favor of arbitration of a federal action against an accounting firm.
- Obtained the quick dismissal of a New York State action, prior to discovery, on multiple grounds including *forum non conveniens* and lack of personal jurisdiction.
- Successfully resolved a "business divorce" arbitration through mediation.
- Overturned prevailing wage schedules set by the City Comptroller, with victories at the trial and appellate levels.
- Challenged decisions of the City and State education departments in connection with the Specialized High Schools admissions controversy.

Claude's practice includes the representation of companies and executives in labor and employment matters. He regularly advises companies about restrictive covenants (e.g., non-compete, non-solicitation, and non-disclosure agreements) and employee discrimination claims. He has drafted and opposed "cease and desist" letters and resolved tortious interference claims. He has also conducted internal investigations of various employee complaints, including sexual harassment and discrimination allegations, in accordance with the Supreme Court's employment law standards in *Burlington Industries, Inc. v. Ellerth* and *Faragher v. City of Boca Raton*. He has litigated a wide array of employment matters, including wage and hour disputes.

For over two decades, Claude has advised clients regulated by the New York City Business Integrity Commission (BIC). Prior to his stint as City Chief Procurement Officer, he was Deputy Commissioner for Litigation and Rate Regulation for the New York City Trade Waste Commission (TWC), and as Commissioner on the New York City Charter Revision Commission, he helped devise the reorganization that merged the TWC into what is now BIC. Claude has since

represented clients in the markets, as well as the trade waste industry. In his representation of City Carting, Inc., for example, he used the "dormant commerce clause" to secure a temporary restraining order and preliminary injunction from the federal court in Manhattan to block BIC's attempt to put the company out of business and obtain a settlement.

Claude has handled environmental and land use matters, drawing on his experience with Superfund (CERCLA) and environmental impact statement (EIS) litigation during his tenure as Chief of the Environmental Protection Unit of the U.S. Attorney's Office in Manhattan, his work on the City's Uniform Land Use Review Procedure (ULURP) with the Charter Revision Commission, and his defense of the New York Jets' stadium development plans as a litigator in private practice. Recently, he defeated multiple "Article 78" petitions challenging zoning decisions of the New York City Board of Standards & Appeals (BSA). He defended zoning variances granted to the historic Spanish & Portuguese synagogue at both the trial court level and appellate levels, and defeated a second round of "Article 78" petitions filed in the trial court when those zoning variances were amended.

Claude's writing and public speaking experience is extensive. He has been published in the *New York Law Journal*, *City Law*, *the CPA Journal*, and *City & State's New York Nonprofit Media*. He has spoken at conferences held by the New York City Bar Association, New York Law School, and City & State. Claude taught civil discovery as an Adjunct Associate Professor at Brooklyn Law School and has also been an Instructor at the National Institute for Trial Advocacy (NITA).

Education

- Stanford University, B.A. (1985), *With Honors and Distinction*, Phi Beta Kappa
- Stanford University, M.A. (1985), Modern European History
- Columbia Law School, J.D. (1988), Harlan Fiske Stone Scholar
 - Articles Editor, Journal of Law & Social Problems

Bar Admissions

- New York State, 1989
- S.D.N.Y., 1989
- E.D.N.Y., 2012
- Second Cir. Court of Appeals, 1990
- Federal Cir. Court of Appeals, 2003

Representative Matters

- Andrx – Defended a subsidiary of Watson Pharmaceuticals in a Hatch-Waxman patent infringement suit filed by AstraZeneca
- Continuum Health Partners – Secured a preliminary injunction against Oxford/United’s efforts to remove 1,200 physicians from their networks; represented the client in a related arbitration
- ADT – Defeated a putative consumer fraud class action in a \$40 million action concerning the shift from analog to digital alarm transmitters
- Arizona Iced Tea – Counsel for the companies and its 50 percent owner in three lawsuits against the passive owner
- BouguesTel (third largest French cell phone carrier) – Brought \$80 million action against U.S. telecom equipment manufacturer regarding network outage, which settled on the eve of trial
- W.R. Huff – Handled international bankruptcy litigation against an Argentine cable network
- MSG Varsity – Advise high school sports channel in dealing with the N.Y.C. Department of Education
- Princeton Review – Secured reversal of N.Y.C. Department of Education decision halting placements at client for supplemental education services
- Northrop Grumman – Negotiated contract with N.Y.C. for \$500 million wireless network and advised client on land use and contract issues during installation of 400 cellular antennae
- Verizon – Disputes with N.Y.C. and N.Y.S.
- Movers’ Association – Challenged N.Y.C. Comptroller’s prevailing wage schedule
- Harvard Maintenance – Sued N.Y.S. Insurance Fund to overturn a contract award
- Car rental concessions – Joint representation of the major rental companies in a North Carolina airport concession dispute
- TRC – Defended subsidiary when N.Y.C. Department of Transportation issued contract default notice pertaining to bridge collapse and defended subsidiary in three related lawsuits
- Numerous government officials, former government officials, and contractors – Representation in investigations and governmental ethics proceedings
- N.Y. Jets – Won all court decision in a litigation brought to block the Jets West Side Stadium project, which included five sets of lawsuits litigated within nine months
- Manufacturing company – Environmental enforcement action threatened by the U.S. Department of Justice
- St. Vincent’s Hospital – Defense of a challenge to a Landmarks Preservation Commission decision concerning a plan to build a new hospital
- Spanish and Portuguese Synagogue – Defense of a challenge to a zoning variance
- Fortune 200 Company – Public corruption investigation by the N.Y.C. Department of Investigations and the U.S. Attorney, S.D.N.Y.
- Medical School – Inspector General inquiries

- Hedge Fund – Tax investigation by the U.S. Attorney, E.D. Pa.
- Bear Stearns – Internal investigation

Background

- Partner, Proskauer Rose, LLP, 2003-2011
- Counsel, Solomon, Zauderer, Ellenhorn, Frischer & Sharp, 2000-2003
- Commissioner, N.Y.C. Charter Revision Commission, 2001
- New York City Chief Procurement Officer & Director, N.Y.C. Mayor’s Office of Contracts Services, 1998-2000
- Executive Director, New York City Charter Revision Commission, 1999
- Deputy Commissioner, Litigation & Rate Regulation, New York City Trade Waste Commission (now Business Integrity Commission), 1996-1998
- Chief, Environmental Protection Unit, United States Attorney’s Office, S.D.N.Y., 1994-1996
- Assistant United States Attorney, S.D.N.Y., 1989-1994
- Law Clerk, Honorable William C. Conner, United States District Court, S.D.N.Y., 1988-1989

Awards and Recognition

- Listed in City & State’s “Law Power 100” for 2020
- Listed in “Best Lawyers of America” every year since 2013 for Commercial Litigation
- Recognized by “New York Super Lawyers” every year since 2008 for Business Litigation
- Martindale-Hubbell Peer Review Rating – 5 out of 5 – “AV” Rating, “Preeminent” in Litigation, Government Contracts, and Commercial Law.
- Elected to Fellowship by the Litigation Counsel of America, 2011; currently a Senior Fellow
- United States Attorney General’s John Marshall Award for Outstanding Achievement, 1992