

## Alan A. Heller

Principal

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Alan's practice concentrates on commercial litigation and litigation prevention, with over 25 years of experience. For 20 of those years he was a Partner at Heller, Horowitz & Feit, P.C. Primarily, Alan acts as general counsel to small and mid-sized privately-owned businesses. He has trial and appellate practice in both federal and state courts as well as commercial arbitrations before the American Arbitration association and private panels.

### Education

J.D., Benjamin N. Cardozo School of Law, Yeshiva University, 1988

- *Cardozo Arts and Entertainment Law Journal*, Articles Editor

B.A., Queens College, City University of New York, Accounting, 1985

### Honors & Recognition

New York Metro Super Lawyers List, 2019-present

Martindale-Hubbell AV Preeminent rating

### Professional Activities

Licensed Real Estate Broker, New York State

### Services

Litigation  
Alternative Dispute Resolution  
Construction  
Real Estate  
Real Estate, Land Use & Environmental  
Trusts & Estates Litigation  
Trusts, Estates & Charitable Organizations

### Admissions

New York, 1989  
U.S. District Court, Eastern District of New York, 1991  
U.S. District Court, Southern District of New York, 1991  
U.S. Court of Appeals for the 1st Circuit, 2008  
U.S. Court of Appeals for the 2nd Circuit, 1999  
U.S. Court of Appeals for the 3rd Circuit, 2001  
U.S. Court of Federal Claims, 2003

## Community Activities

Congregation Beth Sholom of Lawrence

- Chairman of the Board
- Former Executive Vice President

The Community Association for Jewish At-Risk Cemeteries

## Experience

Obtained summary judgment in the amount of \$1,850,000 against a major banking institution  
Obtained summary judgment in the amount of \$1,850,000 against a major banking institution for breach of contract after the bank failed to prevent the theft of client funds by the client's accountant/bookkeeper defeating among other things, bank's alleged defenses under the Uniform Commercial Code and Statute of Limitations.

Obtained an Award after a three day arbitration before the American Arbitration Association  
Obtained an Award after a three day arbitration before the American Arbitration Association directing that clients owned a 91% interest in a family limited partnership despite the fact that company tax returns showed a 0% ownership interest for the clients over the preceding ten years. Successfully confirmed the Award in Supreme Court, Nassau County, prevailed on the Appeal of the lower court judgment confirming the Award after oral argument in the Appellate Division, Second Department and successfully procured from both the Appellate Division, First Department and the New York Court of Appeals a denial of leave to appeal the affirmance of lower court judgment.

Obtained an Order vacating an arbitration award

Obtained an Order vacating an arbitration award on, among other things, the grounds that one of the arbitrators did not fully disclose a financial relationship with one of the parties in the arbitration and, accordingly, the client did not provide his informed consent to arbitrate the dispute when he executed the arbitration agreement.

Successfully defended a \$38,000,000 claim filed by a national insurance carrier/bonding company against a client

Successfully defended a \$38,000,000 claim filed by a national insurance carrier/bonding company against a client based on the client's personal guaranty of his company's debt.

Obtained summary judgment in New York State Court for a full real estate brokerage commission owed to a commercial real estate broker

Obtained summary judgment in New York State Court for a full real estate brokerage commission owed to a commercial real estate broker after the landlord entered into a lease with a tenant introduced by the real estate broker client to the landlord during the term of the broker/client's exclusive representation, but after the exclusive term expired, successfully

arguing that the extension clause in the exclusive brokerage agreement entitled the broker to its full commission.

**Obtained a jury verdict in New York State Court after a three day trial awarding a full real estate brokerage commission to a commercial real estate broker**

Obtained a jury verdict in New York State Court after a three day trial awarding a full real estate brokerage commission to a commercial real estate broker notwithstanding the argument that, among other things, the tenant procured by the broker never paid rent and was shut down soon after possession was tendered for health code violations.

**Successfully represented two limited partners claiming breach of fiduciary duty against their general partner**

Successfully represented two limited partners claiming breach of fiduciary duty against their general partner, a national real estate developer, resulting in a favorable settlement for the clients.

**Successfully appealed and procured a reversal in the Appellate Division**

Successfully appealed and procured a reversal in the Appellate Division, First Department of an Order vacating an arbitration award resulting in the confirmation of the award and the entry of a judgment in the client's favor in the amount of \$17,381,547.36.

**Defeated a motion to vacate a default judgment entered on behalf of a client**

Defeated a motion to vacate a default judgment entered on behalf of a client in the amount of \$856,000, procured an affirmance on Appeal after oral argument to the Appellate Division, First Department and successfully collected the full amount of the judgment with interest to through the date of collection after leave to appeal to the New York Court of Appeals was denied.

**Defeated a motion for a preliminary injunction brought by a laundry service provider attempting to enforce an automatic renewal clause**

Defeated a motion for a preliminary injunction brought by a laundry service provider attempting to enforce an automatic renewal clause in an agreement between the laundry service provider and the owner of a residential multi-family building successfully arguing that the automatic renewal clause could not be invoked because the agreement was a license rather than a lease and the failure to provide a timely notice of the automatic renewal in accordance with General Obligation Law 5-903 negated the renewal.

**Regularly counsel and troubleshoot for closely held and family-owned entities**

Regularly counsel and troubleshoot for closely held and family-owned entities (i.e., litigation prevention) in connection with their day-to-day contractual issues and business law needs by, among other things, identifying contractual trouble spots and pitfalls and drafting the necessary language to protect the company and its owners and avoid litigation.

Regularly counsel and troubleshoot for commercial real estate brokers and salesmen involved in the rental and sale of commercial real estate

Regularly counsel and troubleshoot for commercial real estate brokers and salesmen involved in the rental and sale of commercial real estate including, but not limited, the negotiation of exclusive agreements, landlord/owner brokerage agreements and landlord/leasing agent/ outside broker co-brokerage agreements

## **News**

Five Attorneys Recognized on 2023 New York Metro Super Lawyers Lists  
*Foster Garvey Newsroom* , 9.22.23

New York Attorneys Recognized in the 2021 New York Metro Super Lawyers List  
*Foster Garvey Newsroom*, 9.30.21

New York Attorneys Recognized by Super Lawyers in New York Metro  
*Foster Garvey Newsroom*, 10.28.20

32 Attorneys Named Super Lawyers and Eight Named Rising Stars  
*Foster Garvey Newsroom*, 6.10.19