



S. Preston Ricardo

Partner

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Practice Areas

Complex Business Fraud Litigation | Labor & Employment |
Litigation/Alternative Dispute Resolution | Non-Compete &
Trade Secrets

For over 25 years, Preston Ricardo has helped his corporate and individual clients navigate complex business disputes by tackling each engagement with a combination of fierce advocacy and pragmatic counsel that he carefully tailors to best achieve his clients' goals. Preston has obtained successful outcomes – at trial, through motion practice, and by hard-fought negotiations – in matters that have spanned a wide array of industries, including private equity, financial services, manufacturing, technology, hospitality, and brand licensing and operations.

Preston devotes a significant part of his practice to matters involving contract and post-closing acquisition disputes; shareholder, partnership, and joint venture disputes; business torts; complex fraud; and unfair competition. As Chair of the firm's Non-Compete & Trade Secrets practice, Preston also has extensive experience counseling and representing employers and employees in industries of all types concerning post-employment restrictive covenants and trade secrets, and regularly assists his clients with these matters.

Preston embraces a long-term approach to his client relationships and to seeking practical solutions in a cost-effective manner. Based on this commitment and his breadth of commercial experience, Preston's clients turn to him time and again for counsel in controversies of all sizes across an extremely diverse set of matters, as shown by his representative engagements

Representative Engagements

- Lead counsel for the National Restaurant Association in a Constitutional and State law challenge to New York City Board of Health's adoption of a first-of-its-kind law requiring chain restaurants to post sodium warning labels on menus.
- After a two-week bench trial, obtained multi-million dollar judgment for breach of contract on behalf of an industrial motor manufacturer, and defense verdict on counterclaims for fraud asserted by general contractor, in connection with multi-billion dollar public works project (D. Nev.).
- After two-week jury trial, obtained defense verdict on behalf of U.S. subsidiary of Turkish manufacturer in a lawsuit alleging multi-million dollar theft of trade secrets and unfair competition claims (S.D.N.Y.).
- Represented magazine publisher in \$100 million breach of contract dispute with Rosie O'Donnell over the demise of Rosie magazine, which ended with two-week bench trial (Sup. Ct., New York Cnty.).
- Obtained arbitration award (\$1 million - full amount of damages sought) for private company against insurance carrier that had denied duty to defend and coverage for legal fees under D&O policy (American Arbitration Assoc., N.Y.).
- Represented Chapter 11 Trustee in multiple litigations arising out of Ponzi scheme involving misappropriation of more than \$140 million from real-estate related entities, which resulted in settlement recoveries from banks, hard money lenders, insurance companies, law firms, and individuals exceeding \$100 million (Bankr. S.D.N.Y.).
- Obtained dismissal at pleadings stage of lawsuit against principals of private equity firm who plaintiffs had sued for breach of contract and fraud arising from portfolio company's franchise agreements, *Dontos et al. v. Vendomation NZ Ltd. et al.*, 2012 WL 3702044 (Aug. 27, 2012 N.D. TX), aff'd in part, (5th Cir.).
- Obtained favorable settlement for Panasonic after successfully excluding plaintiff's economics expert and obtaining summary judgment against plaintiff's \$5 million lost profits claim (Tex. Dist. Ct.).
- Obtained dismissal of action by competitor of leading German provider of mail system solutions, seeking turnover of computer source code used by our client in European markets (Bankr. D. Del.).
- Obtained TRO's and preliminary injunctions prohibiting clients' former officers from soliciting their customers and employees, and accepting business from customers that defendants had serviced previously, pursuant to restrictive covenants (various jurisdictions).
- Defeated applications for preliminary injunctions against former employees and their new employers pursuant to non-competition and non-solicitation agreements (various jurisdictions).
- Obtained dismissal at pleadings stage of action against a global insurance broker in which former customer alleged breach of contract, fraud and fiduciary duty claims (Ct. of Common Pleas, Philadelphia Cnty., PA).
- Obtained multi-million dollar settlement on behalf of the debtor in fraudulent conveyance action against the bank, on the morning of the trial (Bankr. S.D.N.Y.).
- Regularly represents and advises companies and individuals in the insurance, financial, manufacturing, restaurant, fashion, and other industries about matters relating to separation of employment, including amicable negotiations and contested contractual and tort disputes.

Recognitions

Outside of work, Preston is an avid bike racer and endurance cyclist. He has also been a competitive long course triathlete. He has been ranked by Ironman™ in the top 1% in the world in his age group at the half-Ironman distance; qualified for the United States Olympic Distance AG National Championships; and qualified to represent the United States (Team USA) at the ITU Long Course Triathlon World Championship. In 2019, he completed America's longest single-stage bike race, LOTOJA (202 miles across three states).

Professional Activities

- Member, New York City Bar, Trade Secrets Committee (2020-present) Committees on State Courts (2013-2015), New York City Affairs (2009-2012)
- Member, New York State Bar Association, Commercial, and Federal Litigation Section

Publications

- "The Deductibility of Policyholder Dividends: UNUM Corp. v. United States," 50 *The Tax Lawyer* 265 (1996)
- "Mindful Use by Employers of Non-Compete Agreements," *Client Alert*, November 14, 2014

Awards

- Listed among *Super Lawyers* 2021-2022

Speaker/Author

- Speaker, Preventing Trade Secret Theft: How to Stop Departing Employees from Misappropriating Corporate Assets, Legalweek New York (2022)
- Moderator, Navigating the Law of Trade Secrets, Panel on Trade Secret Cases: Views from the Bench, New York City Bar Association (2021)
- Preston Ricardo Quoted in Politico New York Pushing Ahead with National Restaurant Association's Legal Challenge Against Sodium Rule
- Preston Ricardo Quoted in Politico New York Representing National Restaurant Association in Lawsuit that Politico States Could Redefine New York City's Public Health Mission
- Preston Ricardo Quoted in Bloomberg: "Representing National Restaurant Association in Lawsuit Against New York City Board of Health Over New Salt-Warning Labeling Rule"

Education & Honors

- Georgetown University Law Center, J. D., *cum laude*, Staff Editor, *The Tax Lawyer*; Legal Research and Writing Fellow
- University of Texas at Austin B. A., with honors, Texas Achievement Award, College Scholar

- University of Seville, Seville, Spain

Prior Work Experience

- O'Sullivan, LLP (Since merged with O'Melveny & Myers)
- Akin, Gump, Strauss, Hauer & Feld
- Jones Day
- Law Clerk, The Honorable Deborah G. Hankinson and the Honorable John Cornyn of the Supreme Court of Texas (1997-1998)

Bar Admissions

- State of New York
- U.S. District Court, Southern and Eastern Districts of New York
- U.S. District Court, Northern District of Texas
- U.S. Court of Appeals for the Fifth Circuit