



S. Preston Ricardo

Partner

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Practice Areas

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

Preston Ricardo is co-chair of the firm's Litigation Department, chair of the Non-Compete and Trade Secrets practice, and a member of the firm's Executive Committee.

For over 25 years, Preston 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, insurance broking, accounting, hospitality, and brand licensing and operations.

Preston devotes a significant part of his practice to matters involving post-closing M&A-related litigation; shareholder, partnership, and joint venture disputes; business torts; complex fraud; unfair competition claims; and general commercial disputes. As Chair of the firm's Non-Compete & Trade Secrets practice, Preston also has extensive experience counseling and representing employers and employees in an array of industries concerning post-employment restrictive covenants and trade secrets, and regularly assists his clients with these matters, including through actions seeking or defending against emergency injunctive relief and expedited discovery.

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.).
- Represented regional truck and trailer parts supplier against former branch managers and start-up competitor that conducted three raids of client's key employees in three different branches; obtained settlement after defeating defendants' motion to dismiss filed over two years after bringing suit (Bus. Div., Fulton Cnty., Georgia).
- 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 mediated settlement for global sports apparel company after defeating licensee's motion for summary judgment on liability for alleged breach of license agreement concerning launch of new product line. (American Arbitration Assoc., N.Y.).
- 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).
- On the morning of trial, obtained multi-million dollar settlement on behalf of the debtor in fraudulent conveyance action against bank (Bankr. S.D.N.Y.).

Recognitions

Outside of work, Preston is an avid bike racer and endurance cyclist. He has also been a competitive long course triathlete, qualifying 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), and New York City Affairs (2009-2012)
- Member, New York State Bar Association, Commercial and Federal Litigation Section

Publications

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

Awards

- Listed among *Super Lawyers* 2021-2023

Speaker/Author

- Moderator, Trade Secrets Overview: Elements and Liability, New York City Bar Association (2023)
- Speaker, Protecting Competitive Interests in a World Without Non-Competes, HNBA Corporate Counsel Conference (2023)
- Moderator, Navigating the Law of Trade Secrets, Litigating Trade Secret Cases: Views from the Bench, New York City Bar Association (2022)
- 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 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 of the Supreme Court of Texas (1997-1998)
- Legal Intern, the Honorable Ricardo M. Urbina, United States District Court for the District of Columbia (1995)
- Legal Intern, the Honorable John D. Rainey, United States District Court for the Southern District of Texas (1995)

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