

People

## Kathleen M. Prystowsky

Partner, Litigation  
Commercial Disputes

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vCard

Kathleen Prystowsky is a partner in the Litigation Practice Group with a focus on real estate and hospitality. Her practice includes representing clients within both the real estate and hospitality sectors, including hotel owners, hotel operators, family offices, private equity firms, lenders, and developers. Kathleen's approach focuses on the client's business needs, developing strategies to position the client to achieve its goals and focus on the continued growth of its business.

In her hospitality litigation practice, Kathleen regularly counsels clients on the business and financial risks associated with the termination of hotel management agreements and franchise agreements, as well as advising clients of their rights and obligations under their agreements. Kathleen has successfully tried cases for both hotel managers and hotel owners in courts throughout the United States, as well as in arbitration before the American Arbitration Association (AAA), JAMS, International Chamber of Commerce (ICC), and International Center for Dispute Resolution (ICDR).

Kathleen also represents clients in a variety of real estate disputes throughout the United States, including joint venture disputes, shareholder derivative actions, commercial landlord/tenant matters, and construction disputes.

### Notable Work

#### Hospitality Litigation

**Boutique Manager of Bowery Hotel:** When the owner of a new, luxury hotel in the Bowery neighborhood of Manhattan used the pandemic to remove the hotel manager and convert the property into a homeless shelter, Kathleen successfully prosecuted the hotel manager's claims in an expedited proceeding before the International Chamber of Commerce, which awarded the hotel manager all the damages it sought, as well as attorneys' fees.

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### Areas of Experience

Real Estate Litigation  
Commercial Disputes  
Litigation  
Hospitality  
Commercial Lease Dispute Resolution and Litigation

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### Education

J.D., Benjamin N. Cardozo School of Law, 2012, *cum laude*  
B.A., Wellesley College, 2007, *magna cum laude*

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### Admissions

#### Bars

New York

#### Courts

U.S. District Court, Eastern District of New York  
U.S. District Court, Southern District of New York

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### Related Content

Leisure Law Insider (Vol. 5) - Winter 2025  
Winter 2025

"Getting Junked?": A New Update for Hoteliers  
January 22, 2025

Akerman Sponsors 12th Annual Hotel & Lodging  
Legal Summit  
September 26, 2024

**Eden Roc Hotel:** Represented the owner of the Eden Roc Hotel on Miami Beach in its decision to terminate Renaissance's long-term management agreement, which confirmed New York law that a hotel management agreement is a personal services contract that cannot be enforced by the hotel manager by injunction, but only through seeking monetary damages for wrongful termination.

**Asset Purchase of Boutique Hotel Company:** Represented a family-owned and operated nationwide, boutique hotel company in its acquisition by a global hotel conglomerate for nearly half a billion dollars. Kathleen was responsible for advising the client of the litigation risks associated with the transaction, as well as developing the acquisition structure that was implemented to avoid triggering certain default and termination provisions in the client's hotel management agreements, which would have devalued the purchase price of the acquisition.

### **Real Estate Litigation**

**Summary Judgment Against The Gap, Inc.:** Represented the owner of a 35,000 square foot corner retail unit on Lexington Avenue in enforcing its lease against The Gap, Inc., who made a corporate-wide decision to stop paying all rent in the face of the COVID-19 pandemic. In a first of its kind decision, the district court of the Southern District of New York rejected the tenant's *force majeure* defense, holding Gap liable for holdover rent under the lease.

**Real Estate Investment Fraud:** Successfully defended a large real estate owner and investor in Class A office and retail properties throughout the country in an expedited international arbitration brought by a group of "family and friends" investors claiming fraudulent inducement and seeking rescission of their investment. Not only was the case dismissed after an expedited, virtual arbitration hearing, but the client was awarded its attorneys' fees for defending the action.

## **Related Professional Experience**

- Judicial Clerk to the Honorable Colleen McMahon, U.S. District Court for the Southern District of New York, 2011

## **Honors and Distinctions**

- *Benchmark Litigation*, 2024, Named to the "40 & Under" List
- *The Best Lawyers in America* 2021-2022, Listed in New York for Commercial Litigation as "One to Watch"

## **Published Work and Lectures**

- New Jersey State Bar Association (NJSBA) CLE Program, Speaker, "The Comprehensive Guide to Hospitality Law," February 2, 2024
- Georgetown Law, 11th Annual Hotel & Lodging Legal Summit, Speaker, "Mixed Use Developments with Hotels Bring a Mix of Legal Challenges," October 26, 2023
- *Law360*, Co-Author, "Terminating Hotel Management Contracts Amid COVID-19," March 30, 2021