

People

Darryl R. Graham

Partner, Litigation
Commercial Disputes

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Darryl Graham is a federal and state litigation practitioner, and regularly arbitrates domestic and international disputes before the American Arbitration Association (AAA), International Centre for Dispute Resolution (ICDR), and International Chamber of Commerce (ICC). His nationwide trial and arbitration experience includes prosecuting and defending matters involving general commercial litigation, antitrust, product liability, real estate, hospitality, construction, and intellectual property claims. Darryl has tried cases to verdict in both state and federal court, as well as full merits hearings in arbitration, and has secured multi-million dollar verdicts awarded by jury and arbitral panels.

In addition to his practice, Darryl has also served as an adjunct professor at the University of Miami and Miami-Dade College. Prior to joining Akerman, he served as a clerk to the Honorable Edwin G. Torres, U.S. District Court, Southern District of Florida.

Notable Work

Boutique Manager of Bowery Hotel: Represented the manager of a new, luxury hotel in the Bowery neighborhood of Manhattan after the owner used the pandemic to remove the hotel manager and convert the property into a homeless shelter. Successfully prosecuted the hotel manager's wrongful termination claims in an expedited proceeding before the International Chamber of Commerce (ICC), which awarded the client over \$10 million in damages as well as injunctive relief barring the owner from continuing to use the hotel manager's trademarks.

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., which 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 Gap's *force majeure* defense, holding The Gap liable for holdover rent under the lease.

Areas of Experience

International Litigation and Arbitration
Commercial Disputes
Litigation
Real Estate Litigation
Hospitality Dispute Resolution
Financial Services
Appellate
Directors and Officers (D&O) Liability
Preference and Fraudulent Transfer Litigation

Education

J.D., University of Miami School of Law, 2008, *cum laude*
B.S.B.A., University of Florida, 2005, *cum laude*

Admissions

Bars

California
District of Columbia
Florida
Massachusetts
New York
Wyoming

Courts

U.S. Court of Appeals, Second Circuit
U.S. Court of Appeals, Eleventh Circuit
U.S. District Court, Central District of California
U.S. District Court, Eastern District of California
U.S. District Court, Northern District of California
U.S. District Court, Southern District of California
U.S. District Court, Middle District of Florida
U.S. District Court, Northern District of Florida
U.S. District Court, Southern District of Florida
U.S. District Court, Southern District of New York
U.S. District Court, Eastern District of New York
U.S. Bankruptcy Court, Southern District of New York
U.S. Bankruptcy Court, Eastern District of New York

Gap Inc. v. Ponte Gadea New York LLC, 524 F. Supp. 3d 224 (S.D.N.Y. 2021).

Dismissal of Proposed Class Action; Breach of Contract:

Represented the nation's leading provider of automated commissary management services and technologies to correctional facilities nationwide against alleged breach of contract and tort claims by a putative class composed of current and past inmates incarcerated in correctional facilities throughout Florida regarding their claims over the alleged purchase, use, and ownership of music (mp3s and music players). Secured dismissal of lawsuit at the pleading stage before discovery or certification of the class. *Rodriguez v. Keefe Commissary Network, LLC, et al.*, No. 19-14137, 2019 WL 11624312 (S.D. Fla. Oct. 31, 2019), r & r adopted, 2019 WL 11623933 (S.D. Fla. Oct. 31, 2019).

Favorable Jury Trial Verdict in Trade Secret Dispute: Represented a national window and door replacement part distributor against a former employee charged with civil theft and misappropriation of trade secrets and secured a \$1.5 million award against the former employee after a weeklong jury trial in the Eleventh Judicial Circuit, Miami-Dade County, Florida. Subsequently *per curiam* affirmed by the District Court of Appeal, Third District. *Ortiz v. Strybuc Replacement Hardware, LLC*, 247 So. 3d 492 (3d DCA 2018).

Ampal-American Israel Corp.: Represented the Trustee of the U.S. holding corporation debtor in breach of fiduciary duty and related causes of action against the debtor's officers, directors, and controlling shareholder. Case involved multi-million dollar claims in which there were related proceedings in Israel. Tried the case before a jury in the U.S. Bankruptcy Court, Southern District of New York.

John Pereira as Trustee of Michael Brown: Represented the Trustee in connection with the prosecution of a fraudulent conveyance action against the debtor and various non-debtor affiliates, including family members and related entities. The matter involves the unravelling of a fraudulent scheme designed to protect the debtor's assets from his creditors. The matter included related district court litigation by investors and shareholders against the debtor, his family members, and related entities and other insiders regarding a \$100 million transaction from the sale of the debtor's business to a major retailer.

Consumer Electronics: Represented a Fortune 1000 public company and its subsidiary in multiple matters emanating from whistleblower allegations of corporate fraud and corruption.

Technology: Represented a Brazilian technology company in a fraud and product liability action seeking in excess of \$100 million against a global computer company in the Northern District of California.

Tobacco: Represented a large cigar manufacturer in defending \$90 million antitrust and related tort and contract claims in the Central District of California.

Automotive: Represented a New York-based limousine company in anonymous whistleblower investigations.

Medical: Represented various doctors in disputes over the sale of their medical practices and claims relating to non-compete and restrictive covenants.

Related Content

Leisure Law Insider (Vol. 1) – Fall 2023
Fall 2023

Record Number of Akerman Lawyers Named to *The Best Lawyers in America* 2024 Guide
August 22, 2023

22 Akerman New York Lawyers Named to *The Best Lawyers in America* 2023 Guide
September 06, 2022

Medical Devices: Represented a global medical device company in defending claims for various manufacturing and design defects.

Real Estate: Represented an international hotel brand relating to a property on Miami Beach, Florida in a nuisance dispute brought by a neighboring residential building that threatened to prevent the hotel from opening.

Real Estate: Represented one of the largest U.S. retailers in a specific performance and injunction case that threatened the completion and opening of a new, multimillion-dollar retail property.

ERISA: Represented medical laboratories against a national insurance company for various payment related claims, including ERISA claims.

Construction: Represented a Brazilian hardwood flooring manufacturer in various product liability lawsuits alleging manufacturing defects in various states including Minnesota, Texas, Florida, and New York

Related Professional Experience

- University of Miami, Adjunct Professor, 2015-2018
 - Introduction to Business Law
- Miami-Dade College, Adjunct Professor, 2012-2014
 - Business Law I
 - Legal Research
- Law Clerk to the Honorable Edwin G. Torres, U.S. Magistrate Judge, U.S. District Court, Southern District of Florida, 2011-2013

Affiliations

- Chartered Institute of Arbitrators (CI Arb)
- New York City Bar Association (Hospitality Law Committee, International Law Committee), Member
 - Arbitration Committee, Past Member
- American Bar Association, International Law Section, Member
- International Bar Association, Member
- International Law Association, American Branch, Member

Honors and Distinctions

- *Best Lawyers*, 2021-2025, Listed in New York for Commercial Litigation

Published Work and Lectures

- New York City Bar, Co-Author, “The *Functus Officio* Problem in Modern Arbitration and a Proposed Solution,” April 2021