



# Michael J. Sheppard

## Partner

Litigation | Intellectual Property | Financing  
Corporate & Business Transactions  
Restructuring | Mergers & Acquisitions  
Bankruptcy & Creditor's Rights | Labor & Employment

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## BIOGRAPHY

Michael J. Sheppard has nearly two decades of experience serving as counsel to clients in a broad range of industries and practice areas, domestically and internationally. His practice areas include legal matters including complex litigation, corporate and business transactions, intellectual property, brand management, restructuring/business turnarounds, labor and employment, franchising, and technology, among other areas.

Prior to joining the firm, Mr. Sheppard was affiliated with a recognized New York City law firm where he co-chaired its commercial litigation practice group, serving as lead counsel in a wide range of cases involving banks, internationally recognized brands, large private equity funds, and other significant companies in cases from inception to appeal. Utilizing his significant litigation experience, Mr. Sheppard also represented numerous clients in complex corporate and transactional matters including brand acquisitions, asset and stock purchasing agreements (including § 363 bankruptcy sales), financing and secured transaction agreements, as well as licensing of intellectual property and distribution arrangements domestically and internationally.

With recent economic turbulence, Mr. Sheppard has also spent a significant part of his practice in working with clients to restructure and turn around their businesses to avoid closure or filing for bankruptcy. Throughout this process, Mr. Sheppard works closely with clients to understand their goals and various needs in order to assist the client in stabilizing their business, diagnosing and evaluating the issues distressing the business, and then developing a business plan that places the client on the path to future success.

Additionally, Mr. Sheppard assists clients with numerous intellectual property and brand management issues, with a particular focus on clients with lax enforcement policies concerning their intellectual property and distribution channels. Together with the client, Mr. Sheppard develops oversight mechanisms to monitor and effectively respond to actions by distributors, licensees, and franchisees.

Mr. Sheppard earned his Bachelor of Science and Bachelor of Arts from the Eastern Kentucky University, magna cum laude, and his Juris Doctor from Benjamin N. Cardozo School of Law.

## EDUCATION

- Benjamin N. Cardozo School of Law, Yeshiva University (J.D., 2004)
- Eastern Kentucky University (B.A./B.S. Police Administration/Philosophy, 2001)

## BAR ADMISSIONS

- New York
- New Jersey
- Southern District of New York
- Eastern District of New York
- North District of Florida
- Second, Fifth and Eleventh Circuit Courts of Appeal

## REPRESENTATIVE MATTERS

### Commercial & Intellectual Property Litigation

- Represented and favorably negotiated a resolution on behalf of significant Chinese companies in the tutoring industry against the United States Equal Opportunity Commission concerning the use of artificial intelligence in pre-employment screening and allegations of discrimination from such screening. Media reports, including Bloomberg, noted that the case was the first of its kind;
- Represented and favorably negotiated a resolution on behalf of world renown accessories brand against counterfeiter that was sourcing counterfeit products from China and selling on various e-commerce platforms such as Etsy.com;
- Stepped into defense of Fair Labor Standards Act collective action after (i) conditional certification, (ii) approximately 330 hotel employee plaintiffs joined the action against more than 20 corporate and individual defendants, and (iii) extensive damaging depositions of defendants' management. Develop strategy to transition case from defensive posture to an offensive one, causing case to be partially dismissed at the summary judgment stage and completely dismissed on the eve of trial, with the trial court rulings ultimately being upheld by the 5th Circuit after re-argument. Thereafter, defend approximately 18 progeny cases throughout the country stemming from such dismissal, causing each of the progeny cases to be dismissed, with one dismissal being upheld by the 11th Circuit or settled on favorable terms with significantly reduced or eliminated attorney fee awards;
- Acted as US counsel to an international designer, her

eponymous operating companies, and the trust set up to hold and manage designer's intellectual property in a series of three litigations in Japan after significant federal litigation stateside, including appeals to the 2nd Circuit, with the bulk of the litigations stemming from the misappropriation of (i) designer's right of publicity, and (ii) certain of the intellectual property by a Japanese trading company that had acquired limited rights in certain intellectual property;

- Represented and favorably negotiated a resolution to lawsuit on behalf of a purchaser (international wholesale company) of assets, valued in excess of \$5,000,000.00, from a G-SIB bank through an Article 9 proceeding. Vendors from the company that surrendered the assets to the bank in satisfaction of debts due and owing the bank sued purchaser and asserted allegations including fraud and fraudulent conveyance (among others) in the resale of the assets by the G-SIB bank;
- Represented secured creditor in obtaining a favorable settlement when enforcing security interest against debtor and manufacturer of goods claiming rights therein, and revealing through discovery (i) that the manufacturer and the debtor had defrauded US immigration and customs officials; (ii) debtor fraudulently altered documents to obtain financing; and (iii) orders and other assets, including millions of dollars of inventory, were fraudulently conveyed to a shadow company established by the principals and a corporate insider in order to avoid collection actions and secured creditor's security interest; and
- Obtained preliminary injunction on behalf of US-based lighting manufacturer against its Chinese factory, thereby preventing such Chinese factory from utilizing client's misappropriated trade secrets and other confidential information to develop a competing business within the US and from soliciting client's employees, customers, and consultants, which caused the Chinese factory to eventually cease all operations stateside.

### **Corporate Transactions**

- Lead American corporate counsel for a Southeast Asian retail development company with over 10,000 employees that focuses on developing significant American brands in the apparel, accessory, and specialty beauty industries via joint ventures and complex distribution/licensing arrangements throughout Australia, Southeast Asia, Japan, and China;
- Representation of a publicly-traded Chinese automotive company as independent counsel for due diligence and opinion letter to be submitted by client to a top five bank in Asia to secure approval for financing concerning the acquisition of substantially all assets from a bankrupt airbag manufacturer in a Section 363 bankruptcy sale for assets valued in excess of approximately \$1.6 billion;
- Representation of a Chinese company specializing in ammonia-based desulfurization and/or decarbonization for coal-powered energy generation plants via BOT (build, operate, and transfer) arrangements with United States energy companies, with an average contract value in excess of \$300 million;
- Represent transaction consultants and parties in strategic acquisitions and dispositions of brands and ongoing businesses in excess of \$100mm through non-traditional transactions;
- Represent manufacturer of packaging machinery in pharmaceutical and cosmetics industries in national and international transactions with an average transaction value in

excess of \$5 million;

- Advise Chinese construction equipment company with 20 manufacturing facilities across the world employing over 11,000 people and dealers spanning 130 countries on six continents concerning potential sales transactions subject to US export control;
- Represent numerous apparel and retail brands in sales of trademark portfolios to publicly-traded Asian companies;
- Represent an automotive parts company, a rare earth mineral company, and a carbon importer in IRS Code §355 spin off transactions;
- Represent start-ups in the technology industry to transform current corporate and business structure to attract and permit private equity and venture capital investments anticipated to be in excess of \$100mm;
- Prepare private placement memorandum documentation and compliance materials, including blue sky materials, for private equity fund focused in the hospitality industry with over \$1 Billion in current assets under management;
- Work with startup and newly established franchisors to develop and implement franchise programs, including the preparation of all necessary documentation, including FDD's and franchise agreements;
- Represent numerous companies and financial institutions in Uniform Commercial Code Article 9 sales and acquisitions; and
- Represent of numerous companies in the apparel and retail industries in their acquisitions and divestitures of companies, certain lines of business, and/ or other strategic assets.

### **Restructuring, Insolvency, & Turnarounds**

- Review collapsed holding company, numerous failed subsidiaries, and affiliated companies; determine ownership of viable assets; defend numerous litigations, settling certain problem litigations at de minimis amounts to permit for restructuring activities, and develop restructuring plan
- Stave off creditor suits, domestically and internationally, to allow company operations, newly developed line(s) of business, and inventory to stabilize, thereby allowing the company to regain foothold in marketplace prior to commencing a Chapter 11 proceeding in which a principal-funded plan of reorganization was confirmed (Awarded Global M&A Network's Turnaround Atlas Award for Consumer Products Restructuring of the Year)
- Review all company operations and lines of business, including (i) manufacturing and importation of activated carbon; (ii) manufacturing and importation of auto parts; and (iii) rare earth mineral importation and sales; devise reorganization plan utilizing IRC § 355 to spin-off each line of business into a new company
- Work with Chinese-based solar panel company to reorganize its US operations and transition from a supplier of solar panels into a full-service solar power-generated smart home company