

Alexander G. Malyshev

Partner

Co-Chair: Cannabis, Hemp & CBD Industry Group



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Alex is Co-Chair of the Firm's Latin America Cross-Border practice and a partner in its Litigation and Disputes Resolution department. Alex has extensive experience representing individuals, companies and charitable organizations in a variety of commercial and shareholder right disputes. He frequently represents foreign clients in cross-border litigation and arbitration matters. Alex also maintains an active advisory practice focused on restrictive covenants and regulated industries; writing regularly about issues related to the cannabis industry in publications such as ThomsonReuters and Westlaw. Alex's clients include investors from Latin America, Europe and Asia, institutional trustees, hedge funds, brokerage firms, and owners of closely held businesses.

Alex has represented clients at all stages of complex litigation, from discovery through trial and appeal, in New York and New Jersey State and Federal Courts, the Surrogate's Court of the State of New York, and before the Delaware Court of Chancery and the Delaware Supreme Court.

Many of Alex's clients are foreign companies with U.S. interests or operations. He brings vast experience working with foreign counsel, guiding them through U.S. litigation parameters so clients fully understand the procedural steps and implications. Alex also frequently assists foreign clients with applications for discovery in aid of foreign litigation pursuant to 28 U.S.C. §1782.

Alex serves companies in several industries facing challenges involving the array of risks in their digital transformation. He works with clients on matters relating to alternative and virtual assets concerning the uses and misuses of technology within their organizations and from third-party providers. Often, clients in the

financial services sector retain Alex for his breadth of experience dealing with matters relating to the Securities Exchange Commission (SEC) and other regulatory bodies. He is familiar with smart technologies, issues involving the modern workforce and employment disputes, digital economy and regulation.

Alex has been part of the trial team in precedent-setting cases with respect federal commodities laws, the application of New York's limited liability company law, the ability of sophisticated investors to pursue common law fraud and securities claims in connection with complex financial products, and the ability of shareholders to remove management in the face of allegations of fraud. Alex has also advised companies in connection with SEC and FINRA investigations, as well as shareholder derivative and class-action litigation.

Alex is also intimately involved in Carter Ledyard's membership in Meritas Law Firms Worldwide and Legalink, often advising law firms and clients from other jurisdictions about the nuances of New York law. These connections also allow Alex to leverage Carter Ledyard's extensive network to help clients with complex cross-border matters.

Experience

- First-chaired a two-day trial in the Delaware Court of Chancery in connection with the replacement of management of iFresh, Inc., a publicly traded Asian specialty food store chain. The hotly contested litigation included allegations that the shares used to remove management were secured by fraud, and the extensive post-trial decision successfully defendant on appeal before the Delaware Supreme Court (see *Dengrong Zhou v. Long Deng et al.*, 2022 WL 4367379 [Del Ch Ct, Sept. 20, 2022, C.A. No. 2021-0026-JRS] *aff'd* 2022 WL 16832660 [Del Sup Ct, 9, 2022, No. 152, 2022]). Successfully secured the dismissal of related defamation, and aiding and abetting breach of fiduciary duty, claims in New York brought by removed management.
- Recovered millions of dollars for lenders in cases in New York and New Jersey state and federal courts in connection with asset-backed loans. Regularly deal with merchant cash advance and high-interest rate lending cases implicating federal preemption issues.
- Represented bitcoin mining company in connection with workouts of debt obligations and
- Secured a \$2 million judgment for a Chinese investor in connection with a failed real-estate project in New
- Advising Canadian and American issuers in connection with the state of the law and appropriate disclosures to potential investors. Advising prospective distributor and processor of industrial hemp in connection with logistical issues, and the impact of the 2018 Farm Bill which de-scheduled it as a drug. Advising distributors of products containing CBD in connection with FDA regulations and compliance issues. Advising licensed operators in New York in connection with New York's Cannabis Law (Chapter 7-A of the Consolidated Laws of New York).
- Represented foreign investors that purchased Collateralized Debt Obligations in a series of matters in the Southern District of New York and the New York Commercial Division. Several of the cases resulted in precedent-setting decisions in the Appellate Division, First Department, and the Second Circuit, with respect to the viability of fraud claims that occurred in the run-up to the 2007-08 financial
- Represented an offshore hedge fund in litigation brought by investors based in Russia, securing a judgment dismissing all claims brought under the Commodity Exchange Act. The dismissal was affirmed by the Second Circuit in *Loginovskaya v. Batratchenko*, 764 F.3d 266 (2d Cir. 2014), the first decision of its kind to apply the presumption against extraterritoriality to claims brought under the Commodity Exchange Act.
- Represented a brokerage firm in a raiding dispute against a group of departing brokers and their new firm. The case involved a multi-year arbitration and related state court proceedings seeking to enforce the departing brokers' obligations under their various
- Routinely advise a major investment bank in connection with the enforcement of the restrictive covenants of its own employees, and the restrictive covenant obligations of potential hires.
- Represented a publicly traded company with respect to an SEC enforcement action, and related civil litigation, alleging financial mismanagement and inaccurate financial reporting.

- Frequently represent owners and business partners in governance and ownership disputes. Served as one of the attorneys who secured a precedent setting appellate decision in New York that allowed the majority of the members in interest to adopt an operating agreement for a limited liability company over the objections of a dissenting minority owner (see *Shapiro Ettenson*, 146 A.D.3d 650 (1st Dep't, 2017)).

Publications

- [Cannabis and Trump 2.0: 2025 and Beyond](#), *Westlaw Today*, January 9, 2025.
- [Cannabis in 2024: A Year in Review](#), *Westlaw Today*, November 14, 2024.
- [Protecting Your Brand in the U.S. – Strategic Trademark Registration for Latin American Beverage and Consumer Product Companies](#), *Client Advisory*, November 13, 2024.
- [Update on the DEA's Efforts to Reschedule Cannabis: What You Need to Know](#), *Westlaw Today*, September 12, 2024.
- [Federal Court in Texas Strikes Down FTC Rule Barring Non-Competes](#), *Client Advisory*, August 20, 2024.
- [Federal Court in Florida Enjoins FTC From Enforcing New Non-Compete Rule Against Only the Plaintiff in the Litigation](#), *Client Advisory*, August 16, 2024.
- [Federal Court in Pennsylvania Denies Injunction Preventing FTC From Enforcing New Non-Compete Rule](#), *Client Advisory*, July 24, 2024.
- [Federal court dismisses challenge to cannabis prohibition: analyzing Canna Provisions case](#), *Westlaw Today*, July 10, 2024.
- [DEA's historic move to reschedule cannabis is no panacea](#), *Thomson Reuters*, May 14, 2024.
- [Part I: Regulation of Virtual Assets and Virtual Asset Service Providers](#), *Client Advisory*, March 19, 2024.
- [What would passage of the SAFER Banking Act mean in 2024?](#), *Westlaw Today*, March 13, 2024.
- [With 2023 in rearview mirror, what should the cannabis industry expect in 2024?](#), *Thomson Reuters*, January 9, 2024.
- [New York Governor Vetoes Legislation Barring Non-Competes](#), *Client Advisory*, December 27, 2023.
- [Looking Ahead to New York Cannabis in 2024: Is 'Fiore' Truly in the Rearview Mirror?](#), *New York Law Journal*, December 18, 2023.
- [Making Sense of New York's Revised Proposed Recreational Cannabis Regulations](#), *New York Law Journal*, June 13, 2023.
- [Emerging trends in cannabis litigation: 2023 update](#), *Thomson Reuters*, May 9, 2023.
- [Weeding out gray market cannabis operators presents special challenges for states](#), *Thomson Reuters*, May 8, 2023.
- [New York's Social Equity Program Under Fire Again – This Time From Its Own Medical Marijuana Licensees](#), *New York Law Journal*, March 30, 2023.
- [New York City Brings the Hammer Down on Landlords Supporting the Gray Cannabis Market](#), *New York Law Journal*, February 8, 2023.
- [Cannabis industry looks ahead to 2023 after facing challenges in 2022](#), *Thomson Reuters*, January 19, 2023.
- [The Federal Trade Commission Proposes Rule Banning Non-Compete Agreements](#), *Client Advisory*, January 9, 2023.
- [New York's Rollout of Its Adult-Use Cannabis Program Hits Another Snag](#), *New York Law Journal*, December 5, 2022.
- [Opening Pandora's box: what rescheduling cannabis would mean for the industry](#), *Thomson Reuters*, November 11, 2022.
- [Constitutional considerations for a federally illegal cannabis industry](#), *Thomson Reuters*, September 14, 2022.
- [The Biden Administration's Executive Order on EU-U.S. Data Transfer Framework: What's Next?](#), *Client Advisory*, October 26, 2022.
- [State of Play: New York's Recreational Cannabis Market in 2022](#), *New York Law Journal*, October 3, 2022.
- [New developments in enforcing non-solicit of employees provisions in New York](#), *Westlaw Today*, May 17, 2022.
- [New York's Attempts To Jump Start The Adult-Use Cannabis Industry Through Social Equity](#), *IsraelDesks*, April 14, 2022.
- [One year later: adult use legalization in the Northeast](#), *Thomson Reuters*, May 3, 2022.
- [Five cannabis trends to watch in 2022](#), *Thomson Reuters*, January 13, 2022.
- [Reading the tea leaves: What might federal legalization of marijuana look like?](#), *Thomson Reuters*, November 15, 2021.

- [After a Rocky Start, New York Will Soon Have a Cannabis Regulator: Can It Stick a Landing on Rules?](#), *New York Law Journal*, September 29, 2021.
- [A New Administration Brings Continued Scrutiny to No-Poach Agreements](#), *Client Advisory*, July 23, 2021.
- [Hemp and CBD Regulation: Beyond Delta-8 THC](#), *New York Law Journal*, June 29, 2021.
- [Cannabis Legalization in New York: Is Fifth Time Finally the Charm?](#), *Client Advisory*, April 6, 2021.
- [The Defend Trade Secrets Act: 2020 in Review](#), *Client Advisory*, April 2, 2021.
- [The 2021 Meritas Cannabis Guide for New York](#), *Meritas*, March 10, 2021.
- [What New Jersey's Vote to Legalize Recreational Cannabis Means](#), *Client Advisory*, November 9, 2020.
- [New York Moves Forward With Regulating CBD Sales, While Federal Law Remains In Limbo](#), *Client Advisory*, October 29, 2020.
- [With its Decision in Seila Law the Supreme Court Brings PHH Corp. v. Consumer Financial Protection Bureau Full Circle](#), *Client Advisory*, July 15, 2020.
- [Paycheck Protection Program Amended to Provide Additional Flexibility Under the Program](#), *Client Advisory*, June 8, 2020.
- [Emerging Trends and Future Litigation in the Wake of COVID-19](#), *Client Advisory*, May 27, 2020.
- [Paycheck Protection Program Loans: Certification, Forgiveness and Return of Funds](#), *Client Advisory*, May 18, 2020.
- [Cannabis, COVID-19 and Force Majeure](#), *Client Advisory*, April 30, 2020.
- [The Defend Trade Secrets Act – 2019 In Review](#), *Client Advisory*, April 29, 2020.
- [Congress Replenishes Two Important Small Business Assistance Programs, While State and City Level Programs Remain Oversubscribed](#), *Client Advisory*, April 24, 2020.
- [Federal, State and Local Resources Available to Small Businesses and Non-Profits Dealing With the COVID-19 Outbreak](#), *Client Advisory*, April 10, 2020.
- [The Impact of COVID-19 On State-Legal Cannabis Companies](#), *Client Advisory*, March 26, 2020.
- [New Jersey Adopts COVID-19 Executive Orders as Part of Regional Responses](#), *Client Advisory*, March 21, 2020.
- [Physical Location Shut Down for Non-Essential Businesses in Connecticut](#), *Client Advisory*, March 21, 2020.
- [New Wave of Warning Letters Indicates That The FDA Is Looking Beyond Ingestibles And Outrageous Health Claims When It Comes To Selling CBD Products](#), *Client Advisory*, March 5, 2020.
- [Carter Ledyard Advises on Industrial Hemp: U.S. Department of Agriculture Publishes Interim Final Rule to Implement 2018 Farm Bill Program](#), *Client Advisory*, November 19, 2019.
- [Getting Comfortable With Cannabis – Will Your Money Go Up In Smoke?](#), *Client Advisory*, June 13, 2019.
- [New Jersey's Coming Expansion of Its Medical Cannabis Regime Presents Opportunities to Sophisticated Operators](#), *Client Advisory*, March 24, 2019.
- [Protecting Cannabis and Hemp-Related Intellectual Property](#), *Client Advisory*, May 9, 2019.
- [The Danger of Using Illegitimate Means to Protect a Legitimate Interest: When Restrictive Covenants and Antitrust Laws Collide](#), *Client Advisory*, May 2, 2019.
- [Things to Consider If You Decide to Invest in the Hemp and CBD Industries](#), *Client Advisory*, April 18, 2019.
- [Despite the Trend Towards Legalization, Challenges Remain for Investors Considering Investment in State-Legal Cannabis Industries](#), *Client Advisory*, March 26, 2019.
- [The Defend Trade Secrets Act - How to Win at the Pleading Stage](#), *Client Advisory*, March 26, 2019.
- [The Defend Trade Secrets Act – 2018 Update](#), *Client Advisory*, March 26, 2019.
- [The Supreme Court Continues Trend of Favoring Arbitration](#), *Client Advisory*, January 16, 2019.
- [New York's Highest Court Weighs in on the Availability of Defendant's Cost Savings as a Measure of Damages in Trade Secret Cases](#), *Client Advisory*, May 11, 2018.
- [Enforceability of "Non-Solicit of Employees" and "No-Hire" Provisions Under New York Law](#), *Client Advisory*, April 4, 2018.

- [The Defend Trade Secrets Act – 2016 In Review](#), *Client Advisory*, January 19, 2017.
- [Trade Secrets, Employees and Whistleblowers: Important Provisions in the New Defend Trade Secrets Act](#), *Client Advisory*, August 25, 2016.
- [Private Company Litigation: Hunting for Unicorns?](#), *Client Advisory*, June 9, 2016.
- [Highlights of the Defend Trade Secrets Act of 2016](#), *Client Advisory*, May 13, 2016.
- [New York Courts Reinforce the Broad Remedial Purpose of the New York Savings Statute](#), *Client Advisory*, November 17, 2015.
- [Great Lawyers May Know the Judge, But the Federal Rules Still Control](#), *Client Advisory*, October 22, 2015.

Practices

Litigation and Disputes
Trade Secrets and Restrictive Covenants
Financial Services Regulation and Enforcement
Fiduciary Litigation
Employment Law
Latin America Cross-Border
Israeli Cross-Border
Middle East, North Africa and Turkey (MENAT)

Admissions

Bar Admissions

New Jersey
New York

Court Admissions

U.S. Court of Appeals, Second Circuit
U.S. Court of Appeals, Third Circuit
U.S. District Court for the Eastern District of New York
U.S. District Court for the Southern District of New York
U.S. District Court, District of New Jersey

Affiliations

Member, New York City Bar Association
Member, Structured Finance Committee (2016-2017)
Member, International Bar Association
Meritas Law Firms Worldwide
Member Contact
Membership Committee (2022-2023)
Young Lawyers Advisory Board, Chair (2020-2021), Chair Elect (2019)
Cannabis Steering Committee, Co-Chair (2020-2023)
Legalink, Member Contact
Member, Editorial Advisory Board, Law360 Cannabis (2020-2021)

Education

New York Law School (JD, 2009)
Montclair State University (BA, 2006)

Awards/Honors

The Best Lawyers in America® – “Ones to Watch” – Commercial Litigation, 2021-2022
Super Lawyers® – “Rising Star,” 2015-2023
Global Top 200 Cannabis Lawyers, 2021/2022

