

CARTER  
LEDYARD &  
MILBURN LLP

YEAR IN  
REVIEW

2017



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**JAMES C. CARTER**  
*Founding Partner,  
Carter Ledyard & Milburn*

**Portrait by**  
John Singer Sargent, 1899

**Collection**  
Harvard Club of New York City

# To Our Clients & Friends

## FROM WALL STREET TO THE WORLD, OUR CLIENTS HAD A VERY GOOD YEAR IN 2017.

In this quickly changing and interconnected world, we advised our clients on all manner of business and personal transactions, including the buying and selling of companies and assets, defending their rights in and out of court, and protecting their wealth. From our founding on Wall Street in 1854, our work today spans the globe, and our partners are each leaders in their fields, from art law to intellectual property, from real estate to trust and estates, and from bankruptcy to blockchains.

We like what we do, and we enjoy celebrating our clients' successes.

*Carter Ledyard & Milburn LLP*

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# Keeping businesses growing

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Carter Ledyard's Corporate Department provides sophisticated counsel on complex and demanding transactions in the United States and around the world, from mergers and acquisitions and bond and bank financings to private equity and financial regulatory matters. We enjoy a reputation as one of the nation's leading midsize business law firms and as a particularly attractive resource for mid-market companies and international clients seeking knowledgeable and experienced New York corporate counsel. As business lawyers, we measure our success by the successes of our clients.

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## M&A AND GENERAL COMMERCIAL TRANSACTIONS

Carter Ledyard represented **CooperSurgical, Inc.**, the women's healthcare business unit of The Cooper Companies, Inc., in its acquisition of the assets and global rights and business of the PARAGARD® Intrauterine Device (IUD) product from Teva Pharmaceutical Industries Ltd. for a purchase price of approximately \$1.1 billion in cash.

We also assisted CooperSurgical and its affiliates with a variety of commercial matters, including supply and distribution agreements, agreements with design services providers, and agreements for the provision of genetic testing services.

We represented **CooperVision, Inc.** in its acquisition of Paragon Vision Sciences for a purchase price of approximately \$80 million in cash. Paragon Vision Sciences manufactures premium specialty contact lenses and lens materials, focusing on lenses used for orthokeratology (ortho-K). CooperVision, the vision care business unit of The Cooper Companies, is a leading manufacturer of soft contact lenses.

Carter Ledyard also represented **Topix Pharmaceuticals Inc.**, a leading provider of innovative therapeutic and cosmetic skin care products, in connection with supply and distribution agreements and other commercial matters.

We completed the incorporation of a global technology company that had previously been organized as an LLC, which involved negotiations with its major institutional shareholder.

Carter Ledyard assisted a client in negotiating a ground lease for a proposed billion dollar energy project utilizing cutting edge technology in the Western United States.

We also assisted a client in negotiating option agreements for land leases for innovative solar and natural gas projects on tribal lands in several states.

## OUR CLIENTS HAD A REALLY GOOD YEAR®

Our client CooperSurgical, Inc. focuses on women's health, and seeks to advance the well-being of women by offering health care solutions based on sound clinical results. It is a leading supplier of medical instruments, devices, and disposables that serve the healthcare needs of women throughout their lives, and a leading provider of products to fertility clinics and genetic testing services to women and couples seeking to expand their families. The company has an established customer base serving over 65% of women's health care providers.

CooperSurgical offers a broad product line addressing the special needs of women. Its products include surgical instruments, clinical office-based products, labor and delivery products, and critical care products, and are sold under many different brand names, including Wallach, RUMI, LEEP and Leisegang. Its products are used by hospitals, clinics, OB/GYNs and other healthcare professionals for procedures ranging from basic exams to complex surgeries. CooperSurgical's assisted reproductive business, using Origio and other brand names, focuses on delivering culture media and other innovative products to doctors and clinics for use in in-vitro fertilization (IVF) procedures. Its genomics business operates under the CooperGenomics umbrella and its laboratories use the names Reprogenetics, Genesis Genetics, and Recombine. That business provides pre-implantation genetic screening (PGS), pre-implantation genetic diagnosis (PGD), and other tests of embryos in IVF procedures and carrier screening for couples considering having children.

During 2017, CooperSurgical purchased the PARAGARD long-acting reversible contraceptive product, a "T" shaped copper-releasing intrauterine device made of soft, flexible plastic, which is completely hormone free.

CooperSurgical is headquartered in Trumbull, Connecticut, with manufacturing and distribution facilities in Trumbull and other locations in the U.S. and worldwide. CooperSurgical is a subsidiary of The Cooper Companies, Inc. (NYSE: COO).

[WWW.COOPERSURGICAL.COM](http://WWW.COOPERSURGICAL.COM)

# Seaco SRL

## OUR CLIENTS HAD A REALLY GOOD YEAR®

Seaco SRL and its integrated affiliate Cronos Ltd. form one of the largest container leasing groups in the world. Seaco and Cronos are subsidiaries of Bohai Capital Holding Co., Ltd., the shares of which are traded on the Shenzhen Stock Exchange (SHE:000415).

The ultimate corporate parent of the group is HNA Group Co. Ltd. HNA, headquartered in China, is a conglomerate with subsidiaries engaged in air transportation, logistics, shipping, hotel investments, financial services, tourism, and related businesses. HNA has more than 410,000 employees and is one of the largest non-government owned companies in China.

[WWW.SEACOGLOBAL.COM](http://WWW.SEACOGLOBAL.COM)



### FINANCING TRANSACTIONS

In 2017, we assisted **Seaco SRL**, one of the world's leading marine container leasing companies, with new note offerings by two of its Bermuda subsidiaries. Carter Ledyard attorneys assisted **Global SC Finance III Limited** with its successful completion of a private placement of \$200 million of fixed rate asset backed notes, and assisted **Global SC Finance IV Limited** with its offering of \$294 million of fixed rate asset backed notes to qualified institutional buyers pursuant to Rule 144A and outside the United States pursuant to Regulation S under the Securities Act.

Carter Ledyard assisted **Global SC Finance SRL**, a subsidiary of Seaco based in Barbados, with the refinancing of its existing series of asset backed notes, which involved an increase in the aggregate face amount outstanding to \$953 million.

We also represented **Red Hawk Casino** and its owner the **Shingle Springs Tribal Gaming Authority** in refinancing a \$150 million Credit Agreement and redeeming over \$140 million of its outstanding Senior Notes.

Carter Ledyard represented a major international investment bank in a \$179 million refinancing of the Fantasy Springs Resort Casino in Palm Springs, California.

Carter Ledyard represented a New York-based hedge fund in providing a \$175 million warehouse credit facility to a lender that was relending into the consumer loan market.

We assisted a financial institution in making a \$50 million loan to a consumer lending entity secured by its consumer loan portfolio.

Carter Ledyard also represented a merchant finance firm in refinancing its commercial loan debt and raising further capital for its business.

### PRIVATE EQUITY

Our attorneys regularly advise clients on the formation of, and debt investments and equity acquisitions by, middle and lower middle market private equity funds, mezzanine funds, and Small Business Investment Companies (SBICs). In order to assist our clients, friends, and contacts in creating deal flow, Carter Ledyard regularly conducts networking events for the private equity community where fund managers exchange information, contacts, and referral sources of prospective equity and debt investments, expertise, and career opportunities. Those networking events also feature discussion by governmental officials and industry experts regarding cutting edge legal and accounting topics affecting investment decisions.

### DISTRESSED DEBT AND SECONDARY LOAN MARKET TRANSACTIONS

Carter Ledyard has extensive experience with the purchase and sale of domestic and foreign distressed bank loans, financial claims, and privately held equity. We represented hedge funds, special purpose vehicles, and other financial institutions in hundreds of transactions involving distressed and par/near par bank loans, trade claims, and securities.

Through our membership in the Loan Syndications & Trading Association and its Trade Practices and Forms Committee, our attorneys continue to be actively involved in establishing market practice and developing standards.

# We help foreign companies thrive in the U.S. marketplace



## I S R A E L

Carter Ledyard's robust Israeli practice is based on decades of experience and intimate knowledge of the Israeli market. In 2017, Carter Ledyard's Israeli practice continued to grow. We assisted our Israel-based clients in a wide range of activities, transactions, and regulatory matters.

During 2017, Carter Ledyard counseled various publicly traded companies based in Israel on their U.S. related securities and corporate matters. Among those companies are **Eltel Ltd.**, **Eviation Aircraft Ltd.**, **Gilat Satellite Networks Ltd.**, **Magal Security Systems Ltd.**, **Magic Software Enterprises Ltd.**, **Matrix IT Ltd.**, and **Pointer Telocation Ltd.**

We assisted **RADA Electronic Industries Ltd.**, a leading defense electronics contractor, in its transactions with several Israeli institutional investors which purchased 4,604,500 ordinary shares in the company for aggregate consideration of approximately \$10 million.

We assisted **Internet Gold-Golden Lines Ltd.**, the principal shareholder of **B Communications Ltd.** (a holding company with a controlling interest in Bezeq, a telecommunications service group in Israel), with an exchange of its debentures in Israel and with a resale registration statement on Form F-3.

Carter Ledyard assisted **Formula Systems (1985) Ltd.**, an information technology global solutions provider, with its shelf offering of debentures in Israel, pursuant to which the company offered, issued, and publicly sold debentures for trading on TASE, and issued additional debentures pursuant to a private placement to Israeli accredited investors.

We assisted **Sapiens International Corporation N.V.**, a developer of computer software solutions for the insurance industry, organized under the laws of Curaçao, with its shelf offering of debentures in Israel.

We assisted **Mer Telemanagement Solutions Ltd.**, a provider of solutions for online video advertising and telecommunications expense management, in its private placement to former shareholders of Vexigo Ltd. and to the company's executive officers.





## CHINA

**Our expanding China Cross-Border practice regularly counsels U.S. and Chinese clients on a wide variety of inbound and outbound legal matters involving China, including mergers and acquisitions, securities offerings, corporate finance, licensing, corporate governance and compliance.**

Carter Ledyard represented **Beijing Xinguang Film & TV Equipment Technologies Co., Ltd.**, a Chinese public company specializing in movie, television, and stage lighting equipment and technologies, in its purchase of 49% of the equity ownership of Clickspring Design, Inc., an award-winning experiential design firm based in New York City, specializing in broadcast design, consumer branded environments, and events and entertainment design.

We represented **TOUMI (Cayman) Limited**, one of the CreditEase group of companies, on legal and compliance matters in connection with its registration with the SEC as an investment adviser and its organization as a robo adviser. CreditEase Co., Ltd. is a top asset management firm in China and part of a leading FinTech group of companies in China.

We advised **ZERO2IPO Investment Fund** on its investment in a Chinese company with significant U.S. assets. ZERO2IPO is China's leading VC/PE investment firm.

Carter Ledyard also assisted **Tower Bridge International Group**, a leading Chinese education group, with its acquisition of Silicon Valley International Education Group, an education company based in Silicon Valley, California.



## NEW PARTNER

### PANG ZHANG-WHITAKER

Pang Zhang-Whitaker handles a variety of inbound and outbound matters involving China. She represents Fortune 500 companies, middle market enterprises, and private equity firms in cross-border and domestic transactions, including mergers and acquisitions, joint ventures, securities, and general commercial transactions. Ms. Zhang-Whitaker handles transactions ranging from small-cap venture capital financings to multi-billion dollar acquisitions, and also advises clients on legal issues as their outside general counsel. She assists U.S.-based clients in legal matters, including dispute resolution, related to their Chinese operations and supports Chinese companies in a wide variety of investment activities in the United States. She has advised the Chinese National People's Congress in connection with the revision of Chinese Contract Law and advised the Chinese Ministry of Commerce on current developments in M&A in western countries.



## TURKEY

Turkey's economy saw continued growth in 2017, with many of its leading businesses and investors turning to the United States as a focus for expansion and new investment. In the past year, our Turkish Practice Group has advised a number of Turkish companies and family offices on a wide range of corporate and financing matters.

Carter Ledyard represented the U.S. subsidiary of one of Turkey's largest companies in connection with a \$60 million Eurodollar bank financing.

We assisted an international brand owned by a Turkish holding company in establishing its North American headquarters.

Carter Ledyard assisted the U.S. subsidiary of one of Turkey's largest companies in expanding its intellectual property portfolio into 20 countries across the Middle East, Asia, and Africa, where the Turkish parent's products are widely distributed.

We also assisted the family office of a well-known Turkish family in an investment in a large downtown New York real estate project.

We provided legal services to one of the U.K.'s largest companies with respect to its U.S. business activities and its owner, a large Turkish-based holding company, which is a worldwide leader in its industry.



### NEW COUNSEL

#### JOHN J. DRISCOLL

John Driscoll is an experienced corporate and transactional lawyer who has represented Turkish companies in the U.S. for over ten years. As the Vice President of the Turkish American Chamber of Commerce since its inception, he serves to promote trade and economic relations between the U.S. and Turkey. Mr. Driscoll provides a full range of legal services to a diverse group of Turkish clients concerning their U.S. investments and businesses, and represents some of the largest companies in Turkey.



## UNITED KINGDOM

**Carter Ledyard's long-standing United Kingdom Cross-Border practice regularly handles mergers and acquisitions, public and private securities offerings, regulatory, litigation and employment matters, and general corporate assistance to U.K. companies establishing or expanding activities in the U.S.**

Carter Ledyard assisted **Hannover Life Reassurance Bermuda Ltd.** as a mezzanine lender in connection with the £180 million capitalization of a new insurance company in the United Kingdom.

We represented **Incisive RWG Inc.**, an affiliate of Incisive Media Limited, in the sale of its shares to Infopro Digital Holding (UK) Limited.

Carter Ledyard assisted **The Floow Limited**, a provider of telematics solutions that make cars safer, in connection with various non-compete issues involving the hiring of a U.S. employee bound by certain restrictive covenants with his former employer.

We represented **Rapids EPS Limited**, a provider of construction site edge protection systems, in a distribution agreement with Aluma Systems, Inc., a U.S. distributor.

We advised the U.K. shareholders of **Converse.AI, Inc.**, a Delaware company engaged in automated workflow solutions, in the sale of their company to Smartsheet Inc., a Washington company.

Carter Ledyard assisted **Emr.ai Inc.**, a company engaged in the automatic speech recognition business, in the establishment of its business in California involving a preferred stock shareholder agreement between its founders and also various employee benefit arrangements. We also assisted Emr.ai in agreements for the provision of voice recognition technology to various healthcare providers.

We represented **Tyman plc**, a U.K. public company, with the U.S. aspects of its £240 million credit facility with Lloyds Bank plc, as agent, and other participating bookrunners and syndicated lenders.

We defended a company from a claim that the sale, through Amazon in California, of allegedly toxic goods without a labeled warning, was in violation of California legislation Proposition 65.

We assisted a company in structuring an employment agreement with a new executive to avoid violating a non-compete covenant with the new executive's previous employer.



## CANADA

Carter Ledyard has represented Canadian corporations, financial institutions, and government entities in cross-border activities for more than 60 years. In 2017, we assisted in numerous public offerings, private placements, acquisitions, credit facilities, restructurings, and other transactions.

**PUBLIC OFFERING AND PRIVATE PLACEMENTS.** Among others, Carter Ledyard advised **Keyera Corp.** in its C\$429 million public offering of common shares and private placement offering to U.S. investors and its C\$400 million private placement of 10-year senior unsecured notes, **Crew Energy Inc.** in its C\$300 million private placement senior notes offering, **Whitecap Resources Inc.** in its cross-border bought deal financing for gross proceeds of C\$425 million million in a registered offering in Canada and a private placement to U.S. investors, and **Ag Growth International Inc.** in its C\$75 million public offering of debentures and private placement offering to U.S. investors.

We also assisted **PetroTal Ltd.**, **Friday Night Inc.**, **Razor Energy Corp.**, and **Crown Point Energy Inc.** with their cross-border financings.

**MERGERS AND ACQUISITIONS.** We assisted with the acquisition of all of the shares of our client **XORTX Pharma Corp.** by APAC Resources Inc. We also served as U.S. counsel to **PetroTal Ltd.** in the reverse takeover of Sterling Resources Ltd., to **Craft Oil Ltd.** in its acquisition by another of our clients, **Manitok Energy Inc.**, and to **Razor Energy Corp.** in its business combination with Vector Resources Inc.

**CREDIT FACILITIES.** We advised **Hemisphere Energy Corporation** in connection with a U.S. \$35 million new credit facility with Cibolo Energy Partners, LP and certain of its affiliates.



## AUSTRALIA

During 2017, Carter Ledyard counseled a number of publicly traded companies based in Australia on their U.S.-related securities and corporate matters.

We counseled **Prana Biotechnology Limited** with its at the market (ATM) facility, **Immuron Limited** in connection with its reporting obligations under the Securities Exchange Act of 1934 and a registration statement for its publicly traded warrants, and **Parnell Pharmaceuticals Holdings Ltd.** with its move to the OTC market.

## MARITIME LAW

In 2017, Carter Ledyard's Maritime Practice Group continued its work for **New York Cruise Lines, Inc. (NYCL)** on a variety of matters relating to New York City's tourism and waterfront dining and entertainment industries, including assisting with its acquisition of the sightseeing and transportation ferry business of **New York Water Taxi** and **Circle Line Downtown**, a significant expansion of its business in New York harbor. NYCL's other businesses include the iconic **Circle Line Sightseeing Cruises**, which recently celebrated its 70th anniversary; **North River Lobster Company**, a casual floating lobster shack; **Hudson's at Pier 81**, a fine dining restaurant, lounge, and rooftop housed on a 3-story yacht; **The Beast** thrill-ride speedboat; and **World Yacht Special Event Cruises**, which offers innovative charters and special events. We also assisted Circle Line with the construction and financing of three new state-of-the-art tour boats, two of which, the Circle Line Bronx and the Circle Line Staten Island, are now operating, with the third, the Circle Line Liberty, to arrive by the spring of 2018.



# Advising on the rules of the financial road

**Our Financial Institutions Regulatory and Enforcement Group advises and represents broker-dealers, investment advisers, hedge funds, clearing agencies, and financial institutions engaged in providing a wide variety of services and products. Our practice regularly involves interaction with the Securities and Exchange Commission, the Commodity Futures Trading Commission, the Financial Industry Regulatory Authority, the National Futures Association, and other self-regulatory organizations, exchanges, and state securities regulators. In 2017, we were very busy counseling clients on existing regulations and the recent implementation of a number of previously adopted rules and requirements.**

## INVESTMENT ADVISERS

Carter Ledyard helped clients establish, institute, and administer effective state, federal, and regulatory compliance programs. We counseled investment adviser clients on many complex current issues in 2017, including:

- Automated portfolio management advice, or “Robo Advisers.” With the continued advancement of financial technology, robo advisers made steady inroads into the financial services market in 2017. We advised clients on formation, registration requirements, and the additional disclosures that go along with providing individuals the convenience, ease of use, affordability, and transparency of this new technology.
- The impact of the Dodd-Frank Act and its sequels, including the Department of Labor’s fiduciary rule, which was partially rolled out in 2017.
- Planning for changes in Form ADV that went into effect in 2017 and which will affect advisers in their filing of 2018 annual updating amendments.

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## BROKER-DEALERS

Carter Ledyard continued to counsel clients on “finders” issues, including FINRA’s rule book for “capital acquisition brokers” (CABs), the February 2014 “M&A Brokers” no-action letter, the SEC’s position on what finder activity is considered broker-dealer activity, and recent court cases that conflict with the SEC’s position. The firm remained a leader in the push to develop a more appropriate regulatory framework for “finders,” working with the SEC, FINRA, trade associations, representatives in Congress, and other interested groups.

Throughout the year, the Group advised clients on the impact of the European Union’s Markets in Financial Instruments Directive II (MiFID II) legislation on U.S. broker-dealers providing research to EU money managers, including recent SEC no-action letters relating to MiFID II. The Group also provided guidance on the new MiFID II for Legal Entity Identifier numbers and transaction reporting requirements for transactions in financial instruments.

A special part of the Group’s practice continued to involve advising foreign broker-dealers on accessing the U.S. market, including chaperoning arrangements under Securities Exchange Act Rule 15a-6 and advising U.S. broker-dealers on serving as chaperones and accessing foreign markets.

We also advised firms on the new Treasury Department customer due diligence requirements that will require firms, as part of their anti-money laundering efforts, to identify beneficial owners of legal entity customers. The requirements are scheduled to go into effect in May 2018.

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## HEDGE FUNDS

Carter Ledyard continued advising hedge fund clients on the use of the limited CAB broker-dealer registration for the marketing of fund shares, and on complex issues regarding fund structure.

We regularly assisted clients in the formation of U.S. and offshore hedge funds and helped domestic and offshore private investment funds and their investment managers develop strategies to comply with or exempt themselves from major regulations under the Dodd-Frank Act, the Securities Act of 1934, the Investment Company Act of 1940, and the Investment Advisers Act of 1940. This assistance included advice regarding solicitation, the qualification of investors, the Private Fund Adviser exemption, state securities laws and commodities regulations, and exemptions from the relevant regulations.

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## EXCHANGE TRADED PRODUCTS

We continued our work for **World Gold Trust Services, LLC – the Sponsor of GLD®**. GLD® was the first exchange traded fund to track a commodity. We also represented **The Bank of New York Mellon** in its capacity as trustee for a number of exchange traded products that issue and redeem shares in exchange for deposits and deliveries of various precious metals.

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## ASSET BACKED SECURITIES AND SWAP DEALERS

The rollout of new financial regulations in response to the financial crisis of 2008 continued during 2017, and Carter Ledyard advised and represented clients on new responsibilities and opportunities:

- Credit risk retention rules became newly effective for broad classes of asset-backed securities. Carter Ledyard helped clients to structure, value, and disclose their retained interests.
- Variation margin rules became effective and Carter Ledyard advised clients on compliance strategies and the cross-border application of the rules, as well as the potential application of related rules requiring the registration of certain derivatives trading platforms.

# Protecting the rights of debtors and creditors

**Carter Ledyard's Insolvency and Creditors' Rights Practice Group represents secured and unsecured creditors, debtors, and asset acquirers in bankruptcy cases and non-bankruptcy workouts. In addition to advising lenders, lessors, and other creditors in the enforcement of their rights, we represent indenture trustees, creditors' committees, and institutional and individual creditors' committee members.**

Carter Ledyard represented **The Bank of New York Mellon** as indenture trustee for debt issued in connection with Chapter 11 cases filed in New York, Delaware, and Maryland. In the Novation Companies, Inc. bankruptcy cases, working in conjunction with noteholders, our efforts resulted in the negotiation and implementation of a settlement with the debtors pursuant to which noteholders received default interest due under the applicable indentures and new notes in a principal amount equal to the then-existing notes.

We continued to represent The Bank of New York Mellon as indenture trustee in a number of international and cross-border insolvency cases, including in connection with C\$125 million in Second Lien Notes issued by Golfsmith International Holdings, Inc. and Golf Town Canada Inc., whose affiliates filed insolvency proceedings in Canada and the United States, and \$730 million in notes issued by Virgolina de Oliveira Finance, S.A. and its affiliates, which filed insolvency proceedings in Brazil.

Carter Ledyard also continued its representation of diverse parties in bankruptcy cases and other creditors' rights matters. For example, we represented several creditors, including a materials supplier with administrative claims and a local power cooperative, in the massive Westinghouse bankruptcy cases. We also advised a California-based lender with respect to real estate foreclosure issues on Long Island, and a Canadian private equity fund with respect to a loan workout on behalf of one of its portfolio companies.

Throughout the year, we also provided New York law and bankruptcy-related advice for other creditors, including an insurer in connection with a lending transaction involving the sale of assets into a special purpose, bankruptcy-remote vehicle, and a property owner in connection with the bankruptcy case of specialty retailer BCBG. Carter Ledyard also successfully prosecuted a claim by a private lender against a high-end clothing retailer.



# We have taxes covered

**Our Tax Department has experience advising in a multitude of tax areas, including domestic and crossborder corporate, partnership and pass-through entity, real estate, REIT, and like-kind exchange transactions. 2017 was a very busy year for our clients.**

- We advised, structured, and negotiated tax terms for domestic and cross-border (including Canadian, Chinese, French, German, Israeli, Russian Federation and United Kingdom) mergers and acquisitions, reorganizations, capital market, fund, and other transactions, including a \$1.1 billion cross-border acquisition, and advised on inbound investments in diverse industries such as construction, infrastructure, pharmaceuticals, technology, telecommunications, and real estate.
- We created a structure for a tax-exempt client that minimized its unrelated business tax exposure on a \$150 million sale of leveraged real property.
- We re-drafted a client's partnership agreement to provide special allocation provisions that track certain (but not all) of the partnership's investments to certain investors.
- We advised clients on potential "anti-inversion" implications of their outbound transactions and created favorable transaction structures to address these implications.
- We navigated a client through Internal Revenue Code section 216 requirements in connection with its purchase of ground floor commercial space from a cooperative housing corporation.
- We provided investment and structuring advice to prominent non-U.S. charities.
- We advised peripatetic individual clients on a variety of issues, including tax residency, creditability of foreign taxes, benefits available under tax treaties, and taxation of personal injury settlements.
- We represented clients in IRS and other governmental audits and counseled them on how to avoid compliance problems, and advised charitable and other tax-exempt clients on how to structure transactions in order to minimize their unrelated business income, excise, and other tax exposures.
- We are advising clients on the implications of the Tax Cuts and Jobs Act, which was enacted at the end of 2017, and look forward to advising clients on optimizing their tax results in the coming year.



## NEW PARTNER

### MARC KUSHNER

Marc Kushner is Chair of the firm's Tax Department. He focuses on partnership and corporate transactional tax matters, has a strong REIT and real estate transactional tax practice and advises a number of tax-exempt clients. Mr. Kushner has successfully represented clients in IRS audits, as well as in audits and inquiries by state and local taxing agencies and authorities.

# Protecting the rights of employers and employees

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**Carter Ledyard helps clients enforce and protect their employment-related rights and comply with labor, employment, and benefits laws.**

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**NON-COMPETES AND PROTECTION OF TRADE SECRETS.** Protecting human capital, trade secrets, and client relationships is increasingly important for all businesses. Carter Ledyard helped its clients to proactively examine their non-compete and confidentiality agreements, as well as other post-employment restrictive covenants, and to tailor these protections to the clients' unique circumstances. We helped clients in a variety of fields — including employers in the financial services, medical device, fashion, nutritional supplement, and recruiting industries — enforce restrictive covenants precluding improper competition or solicitation and the misuse of confidential information and trade secrets. Clients also routinely consulted with us before hiring employees from competitors to minimize the risks of litigation, and we helped clients navigate disputes arising from the hiring of competitors' employees.

**BENEFITS.** We advised companies on benefits matters and ERISA requirements, including the design and drafting of pension, retirement, and employee welfare plans, as well as executive deferred compensation and equity-based incentive arrangements.

**INDEPENDENT CONTRACTORS OR EMPLOYEES?** Carter Ledyard worked with clients to ensure that they properly classified workers as independent contractors or employees. While companies and workers may think they have an independent contractor relationship, their agreement is not determinative, and we assisted clients in structuring their employment and contractor relationships to achieve the intended outcome. We also defended clients in governmental, administrative, and judicial proceedings against claims that workers who were treated as independent contractors were really employees.

**PERSONNEL ADVICE AND EMPLOYMENT CONTRACTS.** Our attorneys counseled employers on drafting and enforcing employee manuals and personnel policies, including in connection with recent changes in local, state, and federal laws. We advised clients on employee terminations, overtime and other wage and hour matters, background checks, benefits, disability issues, unemployment insurance claims, performance evaluations, and disciplinary issues. We negotiated and prepared executive, independent contractor, and employment contracts, separation agreements, and severance packages.

**EMPLOYMENT LITIGATION AND ARBITRATION.** Carter Ledyard defended clients in state and federal courts and arbitrations in a wide variety of employment disputes, including cases involving compensation disputes, and claims of discrimination, hostile work environment, and wrongful termination. Our attorneys successfully mediated and resolved employment claims early in the process, saving our clients the time, uncertainty, and expense of litigation.

# Securing information and minimizing cyber risk

**Cybersecurity is a global issue that affects companies across all industries. Carter Ledyard's Cybersecurity Practice Group counsels clients on cybersecurity issues, including development of policies and procedures, regulatory compliance, risk management, third-party vendor management, data protection, breach prevention, and incident response planning. The Group has advised clients of various sizes, from small firms and start-ups with limited resources to middle market firms and large public companies.**

Carter Ledyard helped numerous clients develop cybersecurity programs and manage cybersecurity challenges, including:

- Conducted a cybersecurity assessment and developed cybersecurity policies and procedures, an incident response plan, and vendor due diligence protocol for a FinTech company that is developing a technology-enabled commercial lending platform for the middle market. Advised an industrial conglomerate in connection with a data breach resulting in the theft of a domain name and website, which involved a forensic investigation and litigation and related strategies to recover the domain name.
- Analyzed conflicting U.S. and foreign regulations regarding data and employee privacy for a global financial firm engaged in private banking, asset management, and investment banking.
- Assisted a not-for-profit organization in developing a standard certification of cybersecurity best practices to be included in its contracts with third parties.
- Responded to a regulatory inquiry on behalf of a broker-dealer in connection with a cyber attack, and reviewed and revised the client's cybersecurity policies, procedures, and incident response plan.

The Group also provided guidance on:

- The New York Department of Financial Services groundbreaking regulations, titled Cybersecurity Requirements for Financial Services Companies, which went into effect on March 1, 2017, and which were the first such state regulations in the U.S.
- Cybersecurity insurance.
- Various state and federal regulatory data breach disclosure and reporting requirements.
- The HIPAA Security Rule and Breach Notification Rule.

As thought leaders in the field, in October 2017 we hosted a roundtable event at the firm's Wall Street office featuring a panel of leading cybersecurity professionals focused on cybersecurity concerns and strategies in the financial services industry.

# Zealous advocacy

Carter Ledyard's Litigation Department represented clients in employment disputes, securities and capital markets litigation, media and First Amendment cases, commercial and fiduciary litigation, trusts and estates disputes, and bankruptcy and corporate reorganization matters.

## BUSINESS DIVORCES AND DISPUTES

In addition to assisting businesses in protecting their rights, Carter Ledyard successfully handled numerous disputes between business partners in closely held companies, guiding them through contentious "business divorces."

Carter Ledyard represented an individual co-owner of an industrial supply company in a dispute with the other owner involving litigation relating to the operation of the business. After successfully fending off attempts to enjoin its client from acting on behalf of the company, Carter Ledyard successfully negotiated a buy-out that allowed the owners to separate amicably.

We secured a unanimous decision in the Appellate Division, First Department affirming a summary judgment decision allowing our clients to exercise their rights under the New York Limited Liability Company Law to adopt an Operating Agreement, amend the company's Articles of Organization, and take various other actions by majority vote in the interests of the company, over the objections of a minority member.

Carter Ledyard represented a Canadian company in a dispute with a Japanese company concerning their U.S.-based joint venture. After commencing arbitration based on the co-owner's business activities in the U.S. outside of (and in competition with) the joint venture, we negotiated a resolution allowing for the dissolution of the joint venture, and permitting the parties to conduct their businesses separately going forward.

We successfully defended a major department store in an action brought by a subcontractor asserting claims for alleged non-payment of money. Following the filing of a motion to dismiss the complaint, the plaintiff agreed to voluntarily dismiss the entire action with prejudice.

Carter Ledyard helped an information technology and services company successfully resolve disputes with another telecommunications company relating to the sale of the client's operating subsidiaries. This representation involved commencing an arbitration to enforce the terms of the purchase agreement and ultimately negotiating a favorable settlement.



## FIDUCIARY LITIGATION

Carter Ledyard's Fiduciary Litigation Group had another busy year, representing individuals, financial institutions, and charitable organizations in a number of litigations and disputes. Working with the firm's Trusts and Estates Department, the Group represented clients in proceedings in Surrogate's Court, as well as other state and federal courts in New York, and in mediations and confidential settlement negotiations.

We represented corporate and individual trustees and executors in contentious proceedings in Surrogate's Court involving accountings and related claims of fiduciary misconduct, imprudent investment and improper administration of estate assets, and negligence. Our firm also successfully represented a foreign estate administrator in obtaining dismissal of proceedings brought in Surrogate's Court relating to the actions of the administrator and authority over the estate's foreign assets.

We continued to represent individual trustees and executors in connection with transactions relating to the settlement of complex Madoff-related litigation involving family members and beneficiaries of an estate and trusts.

Carter Ledyard represented executors in an insurance claim for missing items of property belonging to the estate, and an artist's estate in a dispute over ownership of an iconic work of art. We represented clients in connection with applications for guardianship of developmentally disabled persons pursuant to Article 17-A of the Surrogate's Court Procedure Act. Our attorneys also represented a public charity as beneficiary of a large charitable gift in a dispute over interpretation of the terms of the bequest.

We represented executors in allocating administration expenses between estates of deceased spouses and in turnover proceedings to bring assets into an estate, and represented trustees in transferring the situs of trusts between states. We also represented beneficiaries seeking to compel payment of bequests and in disclaiming estate assets.

In addition, we represented parties in multiple will contest, probate, and trust administration proceedings.



## NEW PARTNER

### CHARLES G. BERRY

Charles Berry has more than 35 years of experience in commercial litigation in the federal and state courts. On behalf of U.S. and foreign banks and businesses, he has achieved many trial, appellate and arbitration victories, landmark court rulings, and major settlements. The commercial cases for which he has served as lead counsel have involved contracts, breach of fiduciary duty, commercial torts, real estate, corporate control, inter-creditor agreements, recovery of assets, ownership of art, and international enforcement of judgments.

Mr. Berry also has extensive experience representing individuals, families, fiduciaries, and charities in trusts and estates disputes, counseling, and planning. He has been involved in prominent will contests, disputed accountings, and other proceedings in the Surrogate's Courts in New York and other jurisdictions throughout the country.



## LITIGATION AND DISPUTES

### MERCHANT CASH ADVANCE

Carter Ledyard successfully defended numerous merchant cash advance (MCA) clients in a host of litigations in which the merchants sought to preemptively invalidate the merchant agreements. Carter Ledyard successfully demonstrated to the courts that our clients' MCA agreements are valid and not subject to state usury laws.

Carter Ledyard also successfully helped its MCA clients to defeat attempts by merchants to vacate judgments and to establish that their confessions of judgments were valid and binding.

### FIGHTING TO PROTECT OUR CLIENTS' RIGHTS

Our attorneys sought sanctions and relief for an individual client in connection with a violation of non-disparagement provisions in a court order settling a trademark infringement action. Carter Ledyard represented a public charity in litigation and subsequent appeals in which the charity opposed confirmation of an arbitration award on the basis that the award diverted charitable contributions and violated donor intent. Carter Ledyard also represented that charity in bankruptcy proceedings involving numerous issues specific to nonprofit debtors in bankruptcy.

### WHITE-COLLAR AND INTERNAL INVESTIGATIONS

Carter Ledyard's White Collar Practice Group had a busy year, successfully representing a wide variety of clients confronting charges, investigations, or government regulators.

Our attorneys successfully persuaded a New York State Supreme Court justice to impose a non-jail sentence for bribery, even though the client had a previous federal conviction for bribery, by convincing the Court that the two charges were sufficiently different to preclude an invocation of New York's mandatory prison sentence requirement for second felony convictions.



FOLEY SQUARE  
NEW YORK CITY

Carter Ledyard was also successful in persuading the United States Attorney's office that its client, a physician under investigation, should not be charged in connection with a widespread healthcare fraud case filed against many other doctors. Such successful pre-charge advocacy is far preferable to dealing with a case, even successfully, after charges are filed.

Carter Ledyard represented several not-for-profit entities under investigation by various City and State agencies. In 2017, after several meetings with New York City's Department of Investigation, explaining the financial records and expenditures of one of NYC's oldest not-for-profit agencies, that investigation was closed.

On the regulatory front, Carter Ledyard represented a former United States Attorney and state Lieutenant Governor in an ongoing SEC matter in federal court. This included multiple depositions across the United States and the litigation of discovery motions in various federal jurisdictions.

Finally, Carter Ledyard continued its established practice of representing law enforcement officers. For example, we were successful in having our client, a federal law enforcement special agent, restored to full duty following an investigation that lasted more than two years and resulted in no charges by the United States Attorney and agency inspector general. The special agent received full salary and benefits while on modified assignment during the pendency of the investigation.



## NEW COUNSEL

### MELISSA J. ERWIN

Melissa Erwin is a litigator whose practice focuses primarily on white-collar criminal defense, internal corporate investigations, and commercial litigation. She represents clients in both federal and state courts and before various government agencies, including the Securities and Exchange Commission, the United States Department of Justice, and the N.Y. State Attorney General's Office. Ms. Erwin is also a member of the firm's Cybersecurity Practice Group, working with a cross-functional group of attorneys to advise clients on developing, strengthening, testing, and enforcing their information protection policies and procedures.

# Navigating environmental issues

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**Carter Ledyard's Environmental and Land Use Group had a busy and productive year, assisting our governmental, non-profit, energy, and real estate developer clients in achieving their goals.**

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**STATE AND LOCAL AGENCIES.** We assisted **Battery Park City Authority** on a variety of issues, including the acquisition of community facilities and ground lease issues. We continued to advise the **Metropolitan Transportation Authority** on subway and train station improvements, the **New York City Housing Development Corporation** on the development of affordable housing, **Hudson River Park Trust** on the transfer of air rights, and **The Lower Manhattan Development Corporation** on its ongoing revitalization efforts for the downtown Manhattan community. We advised

**Roosevelt Island Operating Corporation** in connection with future development on Roosevelt Island, construction of a new ferry landing, and renovation of the Roosevelt Island Tram. Our work included advising public agencies on issues unique to them, such as the Freedom of Information Law and the Public Authorities Accountability Act.

**BUSINESS IMPROVEMENT DISTRICTS.** We worked with various business improvement districts, such as **Hudson Yards/Hells Kitchen Business Improvement District** and **Hudson Square Connection** to assist them in improving parks and other public spaces in their districts, which provided public benefits to improve the quality of life for all New Yorkers.

**REAL ESTATE DEVELOPMENT.** Carter Ledyard represented and advised developers in all aspects of site development, including zoning code analysis, land use, public financing, and creation of special tax lots. For example, we assisted a REIT with its successful sale of a Manhattan SRO hotel for conversion into residential micro-units. Our advocacy with New York City agencies enabled a client to obtain zoning approval for a 400-unit affordable housing development. We successfully represented a New York family office in getting the Department of Finance to establish a “fee-above-the-plane” tax lot so our client could sell the underlying property, while retaining ownership of valuable development rights.





**NON-PROFIT SECTOR.** We successfully represented the **East River Fifties Alliance** (ERFA) in its application to amend the New York City Zoning Resolution to prevent the development of ultra-tall towers on Sutton Place, the only residential neighborhood where such towers were permitted as of right under outdated 1961 zoning. The New York City Planning Commission and City Council ultimately agreed that these towers were out of scale with the existing residential context, and approved the proposals put forth by ERFA and its co-applicants (the Manhattan Borough President, local City Council members, and a State Senator) to limit the height of new buildings, while still accommodating future housing growth in the neighborhood. We successfully represented **Holy Trinity Church** in a transaction that led to the issuance of a special permit under the NYC Zoning Resolution, enabling the Church to substantially renovate its historic property.

**ENERGY PROJECTS.** We continued to represent **Algonquin Gas Transmission, LLC** with environmental permitting and negotiation of agreements to access municipal and private property for the construction of a replacement natural gas pipeline in the towns of Yorktown and Somers, helping to meet natural gas demand in the Northeast, and the **Long Island Power Authority** and **New York Power Authority** on environmental review of energy projects and real estate matters related to utility rights-of-way. We also assisted **Danskammer Holdings LLC** with its acquisition of an ownership interest in a natural gas power plant located in Newburgh, New York.



## NEW COUNSEL

### KAREN E. MEARA

Karen Meara is a member of the Environmental and Land Use Practice Group and the Litigation Department. A veteran of New York City government, Karen brings a keen understanding of the regulatory environment to her representation of property owners, public benefit corporations, energy companies, municipalities, and others. Ms. Meara's practice focuses on environmental review and compliance, project permitting, land use approvals, brownfield remediation and risk mitigation, and disputes among property owners, developers, and government entities.

Her litigation experience includes Article 78 challenges to zoning board determinations, environmental findings, rulemakings and other agency determinations, and contribution claims under the New York State Navigation Law, as well as general commercial disputes and white-collar criminal defense.

# Helping a developing New York

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Carter Ledyard had a busy year in its long standing practice of representing clients in all phases of acquiring real property and easements by eminent domain in many important projects in New York City and the metropolitan area.

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**HUDSON YARDS.** Carter Ledyard continued to provide ongoing advice in its role as special condemnation counsel to **The City of New York** and the **Hudson Yards Development Corporation**. Our firm has been involved in many aspects of the high profile development of the Hudson Yards area even before the City Council approved the project in 2005. Last year, Carter Ledyard's Condemnation Group represented the City in a valuation trial in Manhattan to determine just compensation for three properties that were obtained by eminent domain for the creation of the Hudson Park & Boulevard.

**FIRE ISLAND.** Acting as special condemnation counsel to the **County of Suffolk**, Carter Ledyard continued to provide advice in connection with the Fire Island Inlet to Moriches Inlet Project, a beach stabilization project undertaken by the County of Suffolk, the State of New York, and the Army Corps of Engineers to create, restore, and maintain sand dunes damaged by Superstorm Sandy along the 12.5 mile coastline of Fire Island. Carter Ledyard successfully defeated an application by a group of oceanfront property owners in federal district court to preliminarily enjoin the County from acquiring easements on their properties that are necessary for the Project, and also defended the County against claims alleging denial of Equal Protection and Due Process and failure to comply with New York State eminent domain laws. We also represented the County in connection with several phases of acquisitions involving over one hundred easement and fee takings, and assisted the County in negotiating a creative means for allowing the relocation of certain houses in Ocean Bay Park in lieu of demolition.

**WILLETS POINT.** Our Condemnation Group continued its representation of firm client **The City of New York** opposing efforts by property owners and tenants who had sought to recover attorneys' fees and other costs in excess of \$1 million purportedly incurred defending against the City's proposed acquisition of property in connection with the Willets Point Project. We secured orders requiring proof of expenditures by those owners and, when proof was not submitted, providing for dismissal of claims not proved.

**UTILITY RIGHT-OF-WAY.** Working with our client **Algonquin Gas Transmission, LLC**, we obtained easements and successfully settled all outstanding condemnation cases with landowners without needing to proceed to any valuation trial for projects that involved acquiring new easements and temporary workspace for the construction of replacement natural gas pipelines in Rockland and Westchester Counties.

Superstorm Sandy  
Before Restoration



## OUR CLIENTS HAD A REALLY GOOD YEAR®

Firm client County of Suffolk, together with the State of New York and the Army Corps of Engineers, helped to create and restore sand dunes along a 12.5 mile stretch of Fire Island's coastline to repair damage caused by Superstorm Sandy. Suffolk County also worked to find creative solutions to lessen the impact on affected homeowners, including finding a way to relocate some homes in order to avoid demolition, and using partial acquisitions to remove and relocate decks, pools, and septic systems.

[WWW.SUFFOLKCOUNTYNY.GOV](http://WWW.SUFFOLKCOUNTYNY.GOV)

After Restoration



Suffolk County  
NY State



# Protecting clients' property rights

In 2017, Carter Ledyard represented private landowners, government agencies, and not-for-profit organizations in the leasing, development, acquisition, ownership, and management of commercial real estate.

We continued to provide advice to a long-time tax-exempt property owner in connection with development of important office and residential properties in Midtown Manhattan and the Upper West Side of Manhattan.

Carter Ledyard continued to provide advice to **Empire State Development** in connection with its Columbia University Manhattanville Development Project and in connection with the possible redevelopment of the Penn Station area.

A real estate investment trust client contracted to purchase a ground floor commercial unit in a cooperative building in SoHo. The unit was subject to zoning restrictions that prohibited both residential and retail uses on the ground floor. While the cooperative was able to obtain zoning approvals for our client's intended use, vesting issues and potential disqualification of the building's "cooperative housing corporation" status under the Internal Revenue Code, which could have resulted in the loss of income tax benefits to the cooperative's shareholders upon expiration of those approvals, complicated the deal. A multi-disciplinary team of Carter Ledyard real estate, land use, and tax lawyers helped the client successfully navigate these potential pitfalls.

Carter Ledyard continued its practice of representing landlords and tenants in commercial leasing transactions. For example, we continued to represent the landlord of an historic office building located in the heart of Times Square in office and retail leasing in the building, and represented **Vital Strategies**, as a tenant, in its lease of new and expanded office space in Lower Manhattan.

Our firm continued its representation of **Roosevelt Island Operating Corporation**, including the negotiation of new ground leases and the amendment of existing ground leases on Roosevelt Island.

We continued to represent our individual clients buy and sell high-end residential properties, ranging from brownstones in Brooklyn Heights, to luxury apartments in Manhattan and properties in the surrounding suburbs.



## NEW PARTNER

### PAUL J. PROULX

Paul Proulx focuses on land use, zoning, and development matters, as well as general real estate transactions. Mr. Proulx represents clients before New York City agencies, such as the Board of Standards and Appeals, City Planning Commission, Economic Development Corporation, Department of Housing Preservation and Development, Landmarks Preservation Commission, Office of the Mayor, and New York City Council.

OUR CLIENTS HAD  
A REALLY GOOD YEAR®

Since 1984, the firm has represented The Paul and Klara Porzelt Foundation in its mission to fund the restoration of monuments, buildings, and natural settings related to the colonial and American Renaissance periods of architecture in the United States. Over a thirty-three year period, the Foundation donated more than \$750,000 to over fifty projects, mostly located in New York City parks. These projects include the restorations of the Grand Central Stones in Van Cortlandt Park in the Bronx, the Admiral Farragut Monument in Madison

Square Park in Manhattan, and the Sailors and Soldiers Monument in Major Mark Park in Queens. Although the Foundation was closed, and its remaining funds distributed this year, the Foundation's work lives on through a long-term maintenance agreement with the Municipal Art Society of New York, a frequent collaborator with the Foundation, to maintain some of the most important monuments restored over the past thirty-three years.

CLOCKWISE FROM UPPER LEFT CORNER: ADMIRAL FARRAGUT MONUMENT (MANHATTAN); SOLDIERS AND SAILORS MONUMENT (QUEENS); HENRY WARD BEECHER MONUMENT (BROOKLYN); AND CLARENCE T. BARRETT MEMORIAL (STATEN ISLAND)



## OUR CLIENTS HAD A REALLY GOOD YEAR®

BRB Internacional S.A. is an international company founded by Claudio Biern Boyd in 1972 and dedicated to high-quality content production, distribution, and licensing. In animation, its works have traveled around the globe, with such characters as *David the Gnome*, *Dogtanian*, and *Willy Fog* having become classics.

Currently, BRB is producing successful, brand-producing series — including *Invizimals*, *Mica*, and *Bernard* — that incorporate the latest in design and technology. Meanwhile, it has managed to situate itself at the forefront of the audiovisual sector in New Technologies and Digital Media: BRB has become one of the leading aggregator partners for cartoons on a world level on YouTube and has launched its own multi-platform webpage and different apps for Smartphones and SmartTVs.

[WWW.BRB.ES](http://WWW.BRB.ES)



# Protecting imagination and invention

Owners and independent innovators across a diverse array of industries turned to us for effective and creative advice and assistance relating to patents, copyrights, trademarks and trade dress, trade secrets, and domain names.

**LITIGATION.** We represented **BRB Internacional S.A.** and **Apolo Films SL** in an action against The Weinstein Company for breach of an exclusive copyright license directed to our clients' famous "David the Gnome" animated series. For this matter, our attorneys worked in close cooperation with ECIJA Law & Technology, a leading firm for media & entertainment law in Southern Europe and Chile and a fellow member of the Meritas legal network which referred the matter.

We represented **Kaneka Corporation** in ongoing litigation in the federal district and appellate courts to enforce patents protecting a method to manufacture CoQ10, a naturally fermented and non-synthetic nutritional supplement. We represented **Hair Flair Limited** in litigation over its patent for beauty products and the associated CURLFORMERS trademark, and stopped online infringement

of that mark. We continued to advise **Harris FRC Corp.** on ongoing Hatch-Waxman patent litigation and parallel PTO inter partes review proceedings, and European patent litigation, regarding VIMPAT<sup>®</sup>, a widely prescribed therapy for epilepsy. We successfully coordinated an arrest in connection with trademark infringement of a mark owned by the **American National Standards Institute (ANSI)** in India.

**TRADEMARKS OBTAINED AND DEFENDED.** We provided counsel to **Orbis Holdings Limited** and **Fashion Rocks LLC** concerning its U.S. portfolio. We represented dozens of companies in obtaining and maintaining registrations for U.S., Madrid Protocol, and foreign trademarks and design registrations, including **MaxAscent LLC**, **Watershed Bridges LLC**, and **ANSI**. We also defended **Munro Investment Group Pty Ltd.** in opposition proceedings.

**PATENTS AWARDED.** We represented pioneering individuals, companies, and institutions in obtaining patent protection for their proprietary technology in the U.S. and other countries. One example is **Solar-Tectic LLC**, which was granted a patent for its breakthrough method for making a low cost, eco-friendly concrete ceiling system without steel reinforcing, and other patents directed to next generation solar cell and semiconductor devices and methods of manufacture. Carter Ledyard assisted **Digital Compression Technology, LLC** in obtaining a patent for a method for improving performance of high-speed digital transmission systems. We represented **Safas Corporation**, which was awarded a patent for a sprayable coating composition for use in construction, and **Actronix, Inc.** in obtaining a patent directed to a device for testing terminal connections in electrical circuits.

**COPYRIGHTS PROTECTED.** We advised several companies on how to protect their copyright rights, including obtaining copyright registration for **ST Bungalow LLC**.

# Helping clients protect the people and causes they value

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**Carter Ledyard's Trusts and Estates Department counseled individuals, families, and fiduciary clients on many aspects of tax planning and trust and estate administration throughout 2017.**

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**ESTATE PLANNING.** We worked with our clients and their advisers to coordinate their varied interests in businesses, investments, and real estate. To that end, we drafted wills and complex trust and prenuptial agreements, taking into account marital deduction planning and estate, gift, and generation-skipping transfer (GST) taxes. In light of a wave of state legislation concerning digital assets, we structured our clients' estate plans to give fiduciaries the ability to access, manage, or distribute digital assets upon death or incapacity.

We employ a flexible approach to tax planning, which enables us to adjust to changes in market conditions and take advantage of opportunities as they emerge. For instance, in 2017, we continued to leverage historically low interest rates to help clients transfer wealth efficiently through vehicles such as grantor retained annuity trusts, charitable trusts, and intra-family loans.

With a deep understanding of how to maximize tax savings, we helped clients identify assets for these strategies. Additionally, we advised clients who gifted fractional interests in artwork while taking advantage of valuation discounts.

Carter Ledyard also provided advice to clients with international tax planning needs while remaining sensitive to family dynamics. In doing so, we advised clients domiciled abroad on the benefits of transferring intangible assets (stock and LLC interests) to future generations free of gift taxes. We structured estate plans for clients and their non-citizen spouses while remaining diligent of IRS foreign reporting requirements.

**ESTATE/TRUST ADMINISTRATION.** Our attorneys advised individuals and corporate fiduciaries in the administration of complex estates and trusts, often involving closely held businesses, artwork, and assets across multiple jurisdictions. Our clients benefited from our comprehensive approach to trust administration and received integrated income tax advice for beneficiaries living in different states. We continued to work with advisers, real estate brokers, and art appraisers to prepare federal and state estate and income tax returns. We guided estates undergoing IRS audits. We also represented a trustee in the merger of the trust fund of a local council of a national youth development organization into a master trust created to maximize the benefits for many local councils.

**IRS REGULATIONS AND REVENUE PROCEDURES.** Our clients were presented with unique opportunities following IRS regulation activity this year. As the Treasury Department withdrew the proposed rules that would have restricted valuation discounts for estate, gift, and GST tax planning, clients can still gift fractional interests of assets and leverage valuation discounts. The Treasury Department also issued procedures that make it easier for the lifetime estate exemption of the first spouse to die to be transferred to the survivor, and we helped surviving spouses take advantage of these opportunities.



**SURROGATE'S COURT PROCEEDINGS.** Our clients sought our counsel for several Surrogate's Court proceedings. We helped several clients successfully disclaim interests in estate assets for tax and non-tax purposes. We helped the estate of a non-U.S. decedent navigate several genealogical evidentiary challenges to recover assets for foreign distributees. We also represented clients in Article 17-A guardianship applications for developmentally disabled persons.

The emergence of new trust laws in various states has changed the nature of trust administration for our corporate fiduciary clients. We worked with these large financial institutions and identified new opportunities for trusts with unique family and investment issues and beneficiaries located throughout the world. To implement these opportunities, we helped these fiduciaries change trust situs to jurisdictions with friendly tax environments, easier trust administration procedures, and non-judicial methods for modifying or decanting trusts. These proceedings often involved appointing directed trustees in Delaware or removing trustees for state income tax purposes.

**STATE LEGISLATIVE ACTIVITY.** Thanks to 2014 legislation, New York's estate tax exemption amount (currently \$5.25 million) will equal the old federal amount by January 1, 2019. In 2018, the discrepancy between the New York and the new federal estate tax exemption amounts (\$5.25 million and \$11.2 million respectively) may present challenges for clients above the New York exemption amount but below the federal exemption amount. Following an overhaul of its estate tax laws in 2016, New Jersey's estate tax was entirely repealed on January 1, 2018. New Jersey estates are still required to file inheritance tax returns for transfers to non-lineal descendants (non-spouse, non-child, etc.). Many states, including Florida, have no estate or gift tax, and we advised clients of the careful planning and monitoring needed if they choose to relocate their domicile to a more tax-friendly jurisdiction.

**TAX CUTS AND JOBS ACT OF 2017.** At the end of the year, Congress made major changes to our federal tax laws. The Tax Cuts and Jobs Act of 2017 increased the estate, gift, and GST exemption amounts from \$5.5 million to \$11.2 million for individuals (\$22.4 million for married couples). Unlike previous proposals, this new legislation does not include a capital gains tax on assets held until death and valued over \$10 million. Many of the new changes for individual taxpayers are set to expire on December 31, 2025.



# Enabling clients to carry out their good work

Carter Ledyard represents a wide variety of tax-exempt clients, including public charities, private operating and grant-making foundations, business leagues, social welfare organizations, religious organizations, and cemeteries, at all stages of the corporate life cycle with virtually all aspects of their operations.

**FORMATION AND TERMINATION.** We helped form a number of new charities with a wide range of social goals, including a public charity promoting collaborative patient service among doctors in different medical fields, an operating foundation funded by an artist's testamentary gift, and a grant-making foundation dedicated to promoting a writer who altered the landscape of literary criticism. We also assisted clients with winding-up their affairs, including terminating a charitable trust which made historic preservation grants.

**CORPORATE GOVERNANCE.** We guided a charity making international grants and other payments through the IRS requirements on record keeping and board oversight, as well as anti-money laundering, corruption, and terrorist financing laws. We advised a membership business league concerning a contested election, and, for a prominent religious organization whose founders were departing, we negotiated an agreement to preserve the legacy of the founders, establish a new, sustainable governance structure, and ensure the smooth transfer of intellectual property.

**STRATEGIC AND STRUCTURAL CHANGES.** Clients asked us to evaluate and execute strategic and structural changes to enhance their ability to meet their goals. We assisted the **Fort Schuyler Alumni Association** in obtaining an agreement with the Maritime College at Fort Schuyler, a division of the State University of New York, to re-establish cooperative relations after decades of rancor, overcoming significant bureaucratic and legal obstacles. On behalf of a tax-exempt advocacy organization facing budget pressure, we negotiated an agreement which assigned its intellectual property to a for-profit corporation in return for equity, and the two entities agreed to share certain expenses and provide services to each other. We also worked with a private school in New York City to structure its relationship with new for-profit subsidiaries that hold intellectual property rights to training programs and curricula in Asia, and assisted a charity promoting nutrition in restructuring its subsidiary. For a global non-profit promoting sustainable practices in the textile industry, we provided advice on how to structure a proposed partnership with another organization so that the non-profit maintained its independence.



## NEW COUNSEL

### AHSAKI E. BENION

Ahsaki Benion is a member of the Tax-Exempt Organizations Group. She focuses on representing public charities, private foundations, trade and professional associations, religious organizations, educational organizations, arts organizations, and other nonprofits. Ms. Benion advises clients on a broad range of regulatory, tax, governance, and general corporate matters, including obtaining and maintaining exempt status, charitable solicitation, corporate governance, fiscal sponsorships, grant-making, unrelated business income tax, excess benefit transactions, reorganizations, contracts, and audits.



## Green-Wood Cemetery

### OUR CLIENTS HAD A REALLY GOOD YEAR®

Green-Wood Cemetery was formed by the New York State Legislature in 1838, is a National Historic Landmark, and boasts one of the largest outdoor collections of 19th and 20th century statuary and mausoleums among its 478 acres of hills, valleys, glacial ponds, and paths. Green-Wood was the site of a key battle of the Revolutionary War — the Battle of Brooklyn, fought in 1776 — and its “permanent residents” include scores of famous people, such as Leonard Bernstein, Boss Tweed, Charles Ebbets, Jean-Michel Basquiat, Louis Comfort Tiffany, and Horace Greeley. Green-Wood offers a wide variety of historic and educational tours and programs to the public. In 2017, we worked with its Board of Directors and management to modernize their governance structure by amending their bylaws and charter. Green-Wood obtained a special act of the Legislature to allow it to file an amended charter under the New York Not-for-Profit Corporation Law.

[WWW.GREEN-WOOD.COM](http://WWW.GREEN-WOOD.COM)

CAPTURING LIGHT SERIES  
BY SOO SUNNY PARK  
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# Authentic representation

**Carter Ledyard is adept at navigating the complexities of art-related transactions and disputes. In 2017, our attorneys provided a wide range of legal services to artists, collectors, estates, and foundations.**

**OWNERSHIP DISPUTES.** We represented a private foundation in Surrogate's Court litigation to recover artwork and archives that were retained in violation of the terms of gift and loan agreements and successfully recovered a substantial portion of the artwork and archives.

**SALES, CONSIGNMENTS, AND ARTIST-GALLERY RELATIONSHIPS.** In *Sculpture Park LLC v. Cynthia-Reeves Projects*, Carter Ledyard represented an artist's studio in JAMS arbitration against a gallery to recover proceeds from the sale of a sculpture and obtained a substantial settlement. For collectors and dealers, we negotiated complex and multi-party consignment and sale agreements.

**MUSEUM ADMINISTRATION.** Our attorneys represented a long-time art museum director in obtaining a significant retirement package. We also secured a severance package and other protections for another outgoing museum director.

**INTELLECTUAL PROPERTY.** Carter Ledyard represented a foundation created by a major American artist in securing the turnover of infringing artwork that copied portions of the artist's paintings. In addition, we licensed and registered copyrights and trademarks for artists and artist-established foundations.

**ESTATE AND LEGACY PLANNING.** For artists and collectors, we advised on the disposition of large collections, established trusts for family members, created foundations, and advised on publication of print and online catalogues raisonné.

**INSURANCE.** For collectors and consignors, we negotiated insurance coverage and pursued claims for lost or damaged artwork, addressing emerging issues in art insurance coverage as a result of the changes to the industry after Superstorm Sandy.

# Carter Ledyard gives back

## BRONX WILLS PROJECT

For more than 20 years, Carter Ledyard has worked with **Legal Services NYC-Bronx** to help elderly, low-income Bronx residents with testamentary planning and will preparation, living wills, health care proxies, and powers of attorney. Our Bronx Wills Project has received special recognition from the New York State Bar Association. Preston C. Demouchet, Alison Powers Herman, Brielle E. Kilmartin, Stephen F. Lappert, Patricia Matzye, Elaine Nguyen, Justin L. Peters, Anthony R. Prinzivalli, Edward J. Pudup, Dylan L. Ruffi, and Josephine J. Yoon traveled every month to Legal Services NYC's Bronx office to advise clients.

## HER JUSTICE

Carter Ledyard continued its work with **Her Justice**, a nonprofit organization providing free legal services to women and their families in domestic violence matters. Attorneys Michael H. Bauscher, Christine A. Fazio, Alexander G. Malyshev, Justin L. Peters, Edward J. Pudup, Leonardo Trivigno, Judith Wallace, Karen Meara, Madelyn K. White, and Josephine J. Yoon, and non-legal staff members Bill Borenstein and Marina Cerda, helped with Non-Immigrant U-Visa Petitions.

## IMMIGRATION EQUALITY

Carter Ledyard worked with **Immigration Equality**, a nonprofit organization providing free legal services to LGBTQ and HIV-positive undocumented immigrants. Attorneys Michael H. Bauscher, Guy Ben-Ami, Aaron R. Cahn, Brielle E. Kilmartin, Alexander G. Malyshev, Edgar Mendoza, Justin L. Peters, Anthony R. Prinzivalli, Rocco M. Sainato and Madelyn K. White, and non-legal staff members Bill Borenstein and Marina Cerda, assisted clients who face persecution in their home countries.

## CONSUMER BANKRUPTCY PROJECT

Through the **Consumer Bankruptcy Project** of the City Bar Justice Center, Aaron R. Cahn, James Gadsden and Theodore Y. McDonough advised unrepresented debtors in existing bankruptcy cases where the presiding judge believed that counsel was needed.

# We're proud of our staff's good works

**MICHAEL H. BAUSCHER** is a member of the Bedford Central School District Budget Advisory Committee and a volunteer coach for Bedford Youth Soccer and Mount Kisco Little League. **G. MICHAEL BELLINGER** serves as the Commissioner of the Essex County Environmental Commission in New Jersey and is also the pro bono General Counsel of the Brookdale Park Conservancy in Montclair, New Jersey. **CHARLES G. BERRY** serves pro bono as a court-appointed referee in attorney disciplinary cases and is the president of the River Club of New York. **AARON R. CAHN** serves on the Board of Concert Artists Guild. **ATHENA CARLO-MERCADO** volunteers at Waves of Hope disaster relief organization (through St. Mary of the Isle Church in Long Beach, New York), which assisted victims of Hurricane Harvey. **CLIFFORD P. CASE** serves on the Board of Directors of the NAACP Legal Defense and Educational Fund, Inc. **ROSEMARIE DEPTULA** is a Lector and Eucharistic Minister at Queen of Angels Roman Catholic Church. **DENISE A. DIXON** is the Camp Director and Treasurer of the Donald Van Blake Tennis & Education Foundation in Plainfield, New Jersey. **JOHN J. DRISCOLL** is Vice President and a member of the Board of Directors of the Turkish American Chamber of Commerce and Industry. **MATTHEW D. DUNN** serves on the Board of the New York chapter of the Irish International Business Network, and coaches youth hockey and baseball in Westfield, New Jersey. **CHRISTINE A. FAZIO** serves on the Board of the New York City chapter of the New York League of Conservation Voters, is a Board member for Waywest Tenants Corp., and is an adjunct professor at Fordham Law School. **STEPHEN M. FIELDS**, at the behest of Cancer Care Inc., wrote an article about group therapy for cancer caregivers to be published as part of a book sponsored by Memorial Sloan Kettering. **JAMES GADSDEN** is a member of the Vestry and in the choir at St. James Episcopal Church and a volunteer mediator at the U.S. District Court, Southern District of New York. **DAVID GAYLE** volunteers at Meals on Wheels. **STEVEN J. GLUSBAND** serves as the President of the Roxbury Run Village Association. **JOHN M. GRIEM, JR.** serves on the Board of Directors of the Conrad Foundation and

provides pro bono advice regarding judicial processes to the Presbytery of New York City, a Presbytery of the Presbyterian Church (USA). **KELLEY HARRISON** volunteers at the Humane Society of New York. **JAY A. HENAO** volunteers at the Liberty Humane Society of Jersey City. **MARY JOAN HOENE** provides pro bono legal services to the Friends of Newport Preservation. **MACCULLOCH M. IRVING** serves on the Board of the Blanton-Peale Institute and is the Chancellor of the Vestry of Trinity Church. **DAVID I. KARABELL** serves on the Advisory Board for the College of Liberal Arts at Temple University; is a director, vice president, and counsel for Friends of the Upper East Side Historic Districts; and is a volunteer tour guide for the Central Park Conservancy. **STEPHEN L. KASS** serves as a director of the National Center for Law and Economic Justice, and is an emeritus director of Human Rights Watch, co-chair of the Task Force on Climate Resiliency of the American College of Environmental Lawyers, chair of the Task Force on Climate Adaptation of the NYC Bar Association, co-chair of the Refugee Resettlement Task Force of Congregation Emanu-El of Westchester, and an adjunct professor at Brooklyn Law School and NYU's Center for Global Affairs. **ALAN S. LEWIS** serves on the Board of Directors and is the Treasurer of the New York State Association of Criminal Defense Lawyers. **JEANINE MCPARTLIN** is a member of the choir at St. Luke's Episcopal Church and a volunteer with the church's youth group. **STEVEN PAUL MCSLOY** teaches pro bono for the California Tribal College, is an adjunct professor at Columbia Law School, and advises the Native American Law Students Association at Columbia Law School. **DANIEL J. MCSWIGGAN** serves on the Board of Big Brothers Big Sisters of New York City. **KAREN E. MEARA** serves as Secretary of the Board of Directors and provided pro bono environmental advice to the Northeast Organic Farming Association of New York and assists pro bono the Natural Resources Defense Council. **EMILY MOOG** serves as Secretary of the Board of the 50 Fort Place Cooperative, Inc. **DAWNO'CONNELL** serves as the Chairperson for Citizens 4 Canines in Ozone Park. **ANN BATCHELOR PACE** served as a member of the Fundraising Committee for Jupiter Medical Center in Jupiter, Florida. **PAUL J. PROULX** is a founding Board Member of the Financial District Neighborhood Association. **CHRISTOPHER RIZZO** is Board Chairman of the Friends of Van Cortlandt Park Inc., counsel to the North Riverdale Merchants Association, and a member of the directors council of New Yorkers for Parks. **MICHAEL SHAPIRO** is a Board member of the NYSACDL Foundation and chair of the NYSACDL White Collar Committee. **RONALD D. SPENCER** serves as Chairman of the Fund for Park Avenue. **TANISHA VONWOLFOLK** serves as Worthy Matron (President) of Daughters of Zion Order of Eastern Star, is a Trustee at New Life Deliverance Church, and is the National Secretary of the Bloodwashed Fellowship of Churches International. **THEODORE R. WAGNER** serves as the Vice President and is on the Board of St. Paul's Community Development Corp. of Paterson, New Jersey. **JULIE WEISMAN** serves on the Board of the Water Resources Action Project and was an adjunct professor at the University of Maryland Francis King Carey School of Law. **JUNE CHOTOO** coordinated the firm's contributions to Bottomless Closet. **JUNE CHOTOO** and **PATRICIA THEOBALDS** coordinated the firm's contributions to New York Cares Coat Drive. **YUNUS CAGLAR, EDGAR MENDOZA**, and **ANTHONY R. PRINZIVALLI** coordinated the firm's contributions to the Toys for Tots program. **GUY BEN-AMI, JEFFREY S. BOXER, MATTHEW D. DUNN, ALEXANDER G. MALYSHEV, JACOB H. NEMON, ELAINE NGUYEN, EDWARD J. PUDUP, DYLAN L. RUFFI, MADELYN K. WHITE**, and **JOSEPHINE J. YOON** mentored the mock trial team from William Cullen Bryant High School.



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