

JAMES B. FISHMAN

BAR ADMISSIONS

New York State: 1980

U.S. District Court: Southern District of New York, 1980
Eastern District of New York, 1987

U.S. Court of Appeals: Second Circuit, 1993
Fifth Circuit, 2000

U.S. Supreme Court: 1994

PROFESSIONAL EXPERIENCE

FISHMAN & NEIL, LLP

New York, New York
2001-present

FISHMAN NEIL & ARMENTROUT, LLP

New York, New York
1999 to 2001

FISHMAN & NEIL

New York, New York
1995 to 1999

LAW OFFICES OF JAMES B. FISHMAN

New York, New York
1989 to 1995

General civil practice with specialization in litigation on behalf of consumers and tenants.
Martindale-Hubbell Law Directory® AV rating

Consumer representation includes consumer credit, credit reporting, consumer privacy issues, illegal debt collection practices, deceptive business practices and false advertising cases.

Tenant representation includes all aspects of residential and commercial landlord-tenant matters including defense of eviction proceedings; affirmative suits, tenant privacy issues, rent overcharge claims, tenant associations, rent strikes, lease reviews and DHCR proceedings.

Significant Decisions

- Won the first decision holding landlords are not permitted to access or obtain credit reports on their rent stabilized tenants. *Ali v. Vikar Management Ltd.*, 994 F. Supp. 492 (S.D.N.Y. 1998);

- Established the right to pursue injunctive and damage claims as a “private attorney general” against a landlord engaging in deceptive business practices. Landlord had improperly altered official forms to demand personal information from its tenants. *Martinez v. Classic Realty et al.*, N.Y.L.J. 5/21/03 (Sup. Ct. N.Y. Co.);
- Drafted successful *amicus curiae* brief on behalf of the National Association of Consumer Advocates in *Romea et al. v. Heiberger & Assocs.* 163 F. 3d. 111 (2nd Cir. 1998) upholding the applicability of the Fair Debt Collection Practices Act to residential rent claims by landlords;
- Won the first New Car Lemon Law decision establishing that manufacturer's have the burden of disproving substantial impairment. *Walker v. General Motors*, 159 Misc. 2d 651, 606 N.Y.S. 2d 125 (Civ. Ct. N.Y. Co., 1993)("Walker I") and the first New Car Lemon Law decision establishing the consumer's right to collect attorney's fees for successfully overturning an arbitration award. *Walker v. General Motors*, 160 Misc. 2d 903, 611 N.Y.S 2d 741 (Civ. Ct. N.Y. Co., 1994)("Walker II").
- Other Lemon Law decisions: *Mercedes-Benz v. Yoon*, N.Y.L.J. 4/26/94, p. 21, col. 5 (Sup. Ct., N.Y. Co.); *Clark v. Chrysler Motors Corp.*, No. 27638/89 (Sup. Ct. N.Y. Co., 1990); *Baker v. Ford Motor Co.*, No. 29565/91 (Sup. Ct. N.Y. Co., 1991); *Ryan v. Champion Cadillac Oldsmobile, Inc.*, No. 14485/90 (Sup. Ct. West. Co., 1990).
- Other significant decisions:

Cousins v. Duane Street Assocs. et al.,
7 Fed. Appx. 85, 2001 WL 327084, 2001 U.S. App. LEXIS 5645 (2nd Cir. 2001);

Hardy v. Baron Auto Mall Inc.,
727 N.Y.S.2d 316 (App. Div. 2nd Dept. 2001);

Matter of S.S. International News v. NYC Dept. of Consumer Affairs,
N.Y.L.J., 11/24/97, p. 28, col. (Sup. Ct. N.Y. Co.);

Akivis v. Drucker,
230 A.D.2d 812, 646 N.Y.S.2d 831 (2nd Dept., 1996);

Mazza and Porr v. Hendrick Hudson Central School District,
942 F. Supp. 187 (SDNY 1996);

Casella v. Equifax Credit Information Services,
56 F. 3rd 469 (2nd Cir. 1995), cert. denied, 116 S. Ct. 1452 (1996);

Hendrick Hudson Central School District v. Falinski, et al,
215 A.D. 2d 438, 626 N.Y.S. 2d 255 (2nd Dept., 1995), *lv. to app. denied*, 86 N.Y. 2d 834, 634 N.Y.S. 2d 437 (1995);

NYSHESC v. Melendez,

120 A.D.2d 801, 501 N.Y.S.2d 538 (3rd Dept., 1986).

- Significant landlord-tenant decisions:

Park City, LLC v. Sullivan, N.Y.L.J. 4/14/04 (Civ. Ct. Qns. Co.);

Bldg. Mgmt. v. Schwartz, N.Y.L.J. 3/3/04, p. 18, col. 3 (Civ. Ct. N.Y. Co.);

Green Properties v. Armstrong, N.Y.L.J. 12/3/03, p. 22, col. 3 (Civ. Ct. N.Y. Co.);

Edelstein & Sons, LLC v. Levin, N.Y. L.J. 10/15/03, p. 18, col. 1(Civ. Ct. N.Y. Co.)

Henriques v. Boitano, N.Y.L.J. 10/27/99, p. 27, col. 3 (Civ. Ct. N.Y. Co.) *aff'd* N.Y.L.J. 8/29/00, p. 22, col. 2 (App. Term 1st Dept.)(“Henriques I”);

Henriques v. Boitano, N.Y.L.J. 7/17/02, p. 18, col. 6 (Civ. Ct. N.Y. Co.) (“Henriques II”);

Henriques v. Boitano, N.Y.L.J. 11/5/03, p. 19, col 2 (Civ. Ct. N.Y.Co.) (“Henriques III”);

Paganuzzi v. Primrose Management Co, 181 Misc. 2d 34, 691 N.Y.S. 2d 294 (Sup. Ct. N.Y. Co. 1999) *aff'd*, 268 A.D. 2d 213, 701 N.Y.S. 2d 350 (1st Dept., 2000);

W. 16th Realty v. Ali, 176 Misc.2d 978, 676 N.Y.S.2d 401 (Civ. Ct. N.Y. Co. 1998);

Honig v. Nixon, N.Y.L.J. 11/20/97, p. 29, col. 3) (Civ. Ct. N.Y. Co.);

Classic Properties v. Martinez, 168 Misc. 2d 514, 646 N.Y.S.2d 755 (App. Term 1st Dept., 1996), *lv. to app. denied.* (“Martinez I”);

Classic Properties v. Martinez, N.Y.L.J. 5/13/95, p. 26, col. 4, 23 HCR 307C (Civ. Ct. N.Y. Co.), *app. dismissed*, N.Y.L.J., 6/17/96, p. 29, col. 5, 23 HCR 307C (App. Term 1st Dept.) (“Martinez II”);

Classic Properties v. Martinez, 173 Misc. 2d.556, 662 N.Y.S. 2d 980, (App. Term 1st Dept., 1997) *lv. to app. denied* (“Martinez III”);

Black v. Davis, N.Y.L.J. 4/26 /95 p. 32, col. 2, 23 HCR 227A (Sup. Ct. Kings Co.);

El-Kam Realty v. Scheck, N.Y.L.J., 2/16/94, p. 22, col. 6, 22 HCR 103A (Civ. Ct. N.Y. Co.);

S.C.B.72nd St. Partners v. Otis, N.Y.L.J. 4/7/93. p. 24, col. 3, 21 HCR 144A (App.Term, 1st Dept.);

W. 81st Assoc. v. Medrano, 19 HCR 766 (Civ. Ct. N.Y. Co., 1992);

85thEstates v. Kalsched, N.Y.L.J. 5/18/92, p. 27, col. 4, 20 HCR 289A (App. Term 1st Dept.);

Vigilance v. Bascombe, N.Y.L.J., July 27, 1988, p. 21, col. 5 (Civil Court, Kings County), *aff'd*, N.Y.L.J., 5/25/89, p. 30, col. 1, (App. Term, 2nd and 11th Jud Dists.);

Matter of Gadsby v. Manley, etc., 69 N.Y.2d 912, 516 N.Y.S.2d 198 (1987).

THE LEGAL AID SOCIETY, Civil Division,

Senior Staff Attorney

Park Place Trial Office, New York, New York

1986-1989

Staff Attorney

Harlem Neighborhood Office, New York, New York

1984-1986

NEW YORK STATE ATTORNEY GENERAL'S OFFICE

Bureau of Consumer Frauds and Protection

Assistant Attorney General

1982-1984

Deputy Assistant Attorney General

1980-1982

Law Apprentice

1979-1980

PRESENTATIONS, PUBLICATIONS, ACTIVITIES AND ACHIEVEMENTS

- Moderator, “Common Fact Patterns for Litigation with Credit Reporting Agencies” and Presenter, “Depositions: 30(b)(6) Witnesses and the CDV Operators” National Association of Consumer Advocates 4th Annual Conference on Fair Credit Reporting Act: Litigating Accuracy Issues with Credit Reporting Agencies, May 2004, Chicago;
- Presenter, “Consumer and Privacy Issues in Housing Law” Legal Services for New York City Training Program, May, 2004;
- Panel Member, “Addressing the Identity Theft Problem” New York Federal Reserve Bank, February 2004;
- Presenter, “Identity Theft Litigation” National Association of Consumer Advocates and National Consumer Law Center Joint Conference, October 2003, Oakland, CA;
- Presenter, “Credit Scoring and Credit Reporting Issues” Legal Services of New Jersey Training Program May 8, 2003;
- Presenter, “Hot Topics in Consumer Law,” *Debt Collection Practices and Fair Credit Reporting Act*, Legal Services for New York City Training Program, April, 2003 New York, N.Y.;
- Recipient, “2002 Consumer Hero of the Year Award” National Association of Consumer Advocates, Washington, D.C.

- Presenter, “ABC’s of Credit Reporting Litigation” National Association of Consumer Advocates and National Consumer Law Center Joint Conference, October 2002, Atlanta, GA.
- Panelist, “Consumer Law,” Board of Judges of the Civil Court of the City of New York, October 7, 2002, Ellenville, New York.
- Moderator, “Fair Credit Reporting Act Roundtable,” National Association of Consumer Advocates and National Consumer Law Center Joint Conference, October 30, 2001, Baltimore, MD.
- Presenter, "Expanding a Consumer Law Practice," National Association of Consumer Advocates and National Consumer Law Center Joint Conference, October 29, 2000, Boulder, CO.
- Panelist, Identity Theft Workshop, Federal Trade Commission, October 23, 2000, Washington, D.C.
- Featured Speaker, "Developing and Maintaining a Credit Reporting Abuse Litigation Practice," Virginia Trial Lawyers Association, October 14, 2000, Williamsburg, VA.
- Featured Speaker, "Litigating Cases Under the Fair Credit Reporting Act," State Bar of Michigan, Consumer Law Section, September 21, 2000, Detroit, MI.
- Presenter, "Theft of Identity" and "Confidentiality Agreements", National Association of Consumer Advocates and National Consumer Law Center Joint Conference, 1999, Washington, D.C.
- Presenter, "Theft of Identity", National Association of Consumer Advocates and National Consumer Law Center Joint Conference, 1998, San Diego.
- Presenter, "Fair Credit Reporting Act Litigation", National Association of Consumer Advocates and National Consumer Law Center Joint Conference, 1998, Chicago.
- Presenter, "Auto Fraud Litigation", National Association of Consumer Advocates and National Consumer Law Center Joint Conference, 1997, New Orleans.
- Presenter, "Developing a Consumer Law Practice", National Association of Consumer Advocates and National Consumer Law Center Joint Conference, 1996, Washington, D.C.
- Presenter, "Applying Consumer Protection Laws in Landlord-Tenant Disputes" New York State Bar Association Continuing Legal Education Committee, October, 1994.
- Wrote, "Banks Escape Negligence Claim in Theft of Identity Case," Consumer Financial Services Law Report, February 1999.
- Wrote "New York Skills and Practice", Consumer Law chapter, West Publishing Co., 1998.
- Contributor, "Consumer Law Pleadings", Volume Two, National Consumer Law Center, Boston MA.
- Lemon Law pleadings from *Walker v. General Motors*, published by Bender's

Forms, CPLR Art. 75, 1994 edition.

- Wrote "Purchase of New and Used `Lemons'," Caveat Venditor, Julius Blumberg, Inc., New York, New York, 1994.
- Wrote "New York Needs A Private Right Of Action For Debt Collection Abuses", New York Law Journal, p. 1, June 23, 1983.
- Guest Lecturer in Consumer Law, Touro Law School, 1983, New York Law School 1993.
- Trained volunteer attorneys in Landlord/Tenant Law; "Monday Night Law", Training Program, The Association of the Bar of the City of New York, 1992-1993.
- Trained volunteer attorneys in Consumer law, Association of the Bar of the City of New York, 1992.
- Trained attorneys in Consumer Law, The Legal Aid Society, Civil Division, 1996.
- Quoted in: "**Blacklisting of Patients, Tenants Draws Ire: Is Use of Web Court Data an Unfair Black mark or a Good Way to Reduce Risk?**" National Law Journal, April 19, 2004; "**A Blacklist For Renters**" New York Times, April 8, 2004; "**Consumer Can Get Damages For Failure To Verify Debt**" Lawyers Weekly, March 1, 2004; "**Blacklisted**" City Limits Magazine, March, 2004; "**Suit Disputes the Accuracy of Tenant Screening Reports**", New York Times, February 27, 2004; "**When the Credit Check is Only the Start**", New York Times, October 12, 2003 "**Credit Laws Ignite A New Battle**", Hartford Courant, May 12, 2003, "**Lawsuits Over Credit Report Errors Booming**", Lawyers Weekly, September 9, 2002; "**Coping; Name Scam: Whose Identity Is It, Anyway?**", New York Times, July 30, 2000; "**A Sleuth for Landlords With Eviction in Mind**", New York Times, March 26, 2000; "**Your Landlord's Dick--Building Owners Hire Spies to Win Evictions**", Village Voice, August 3, 1999; "**Ten Things Your Home Remodeler Won't Tell You**", Smart Money (June 1996); "**FTC: Beware `Credit Repair'**", Newsday (April 1996); "**You've Got to Fix This Lemon!**", New York Magazine January 31, 1994; "**Credit Bureaus Under Siege**", Newsday (January 26, 1992); "**What You Don't Know About Credit Bureaus Can Hurt You**", (syndicated series, December 1991); "**Get Out of Debt Now**" by Fred Graver (Little, Brown, 1982); "**A Woman's Guide to Credit**", by Elizabeth J. Block (Grosset & Dunlap, 1982).
Acknowledged in "**Return to Sender-Getting a Refund or Replacement for Your Lemon Car**" by Nancy Barron (National Consumer Law Center, 2000); "**Credit Scores & Credit Reports-How the System Really Works, What You Can Do**" by Evan Hendricks (Privacy Times, 2004)
- Appointed as "Lemon Law" Arbitrator, American Arbitration Association, 1987.
- Arbitrator, Small Claims Court, Civil Court of the City of New York, 1985-1989.
- Judged Moot Court Competitions at New York University, Cardozo Law School and New York Law School; 1982, 1983, 1999.
- Appeared on CNBC, CBS News, CBS *Early Show* (Theft of Identity segment) CBN News (Theft of Identity segment), *Inside Edition* (Theft of Identity segment) *BankRate.com* (Theft of Identity issues) and Manhattan Public Access cable television and WABC, WNBC, WOR, WBAI, WBSL, and WNYC radio consumer programs as well as public service radio announcements.

- "Who's Who in American Law", 1987 edition.
- New York City Civil Court Independent Screening Panel, New York County Democratic Party, 1986.

PROFESSIONAL MEMBERSHIPS

- Original Member, National Association of Consumer Advocates
- National Lawyers Guild

EDUCATION

NEW YORK LAW SCHOOL, New York, New York
J.D. 1979

BARD COLLEGE, Annandale-on-Hudson, New York
B.A. 1976