



Max Kaplan

Member

Philadelphia, New York

mkaplan@cozen.com | (215) 665-4682

Practice Areas

- Commercial Litigation
- Class Actions
- Privacy Litigation – Emerging Trends
- Technology, Privacy & Data Security

Education

- New York University School of Law, J.D., 2013
- Columbia University, B.A., *magna cum laude*, 2010

Bar Admissions

- Pennsylvania
- New York

Court Admissions

- U.S. District Court -- Southern District of New York
- U.S. District Court -- Eastern District of New York
- U.S. District Court -- Eastern District of Pennsylvania

Awards & Honors

- Best Lawyers in America "Ones to Watch" 2021, 2022, and 2025

With a diverse background aiding clients across industries and countries, Max focuses on class action and other complex commercial cases that require more than a cookie-cutter approach to litigation. Max partners with clients to understand the client's business and strategic goals so that success in litigation takes into account both the client's bottom line and future growth. Experienced in all stages of litigation, Max is well equipped to guide clients from pre-litigation strategy through post-trial and appellate practice, always working to place the client in the best possible position. In doing so, Max helps clients simplify their complex facts so that the court, jury, or arbitrator can see that their position is just, fair, and right.

Max is a proven thought leader and practitioner in the developing areas of privacy, biometrics, and data-related class actions. Most recently, Max represented three trade associations as *amici curiae* before the Illinois Supreme Court, arguing against an interpretation of the Illinois Biometric Privacy Act (BIPA) that would expose businesses to devastating liability. Max has also represented clients in class action litigation arising from the alleged exposure of personally identifiable information (PII) and the alleged unlawful collection of private information.

Max is an experienced appellate attorney, who represents numerous defendants, including retailers, in complex BIPA class actions. Max represented appellate *amici* in the *Cothron v. White Castle* case when it was pending before the Seventh Circuit Court of Appeals and the Illinois Supreme Court. He is co-leading a team developing cutting-edge BIPA defenses for technology providers facing increasingly volatile BIPA case law. Max has also handled multiple data breach class actions — including for major transportation industry and health care clients — and has deep knowledge of the data breach litigation and settlement landscape. Max has particular experience defending claims brought under federal privacy statutes, such as the Telephone Consumer Protection Act (TCPA), and a host of state consumer protection laws, including California's Unfair Competition Law (UCL) and Consumer Privacy Act (CCPA).

In 2018, Max was selected to serve as an assistant district attorney through Cozen O'Connor's secondment program with the Philadelphia District Attorney's Office. As an assistant district attorney, Max prosecuted hundreds of misdemeanor trials and felony preliminary hearings in the Philadelphia Municipal Court. Max regularly handled firearm, aggravated assault, drug trafficking, DUI, robbery, identity fraud, multi-stage burglary, and other felony and misdemeanor theft offenses.

Prior to joining Cozen O'Connor, Max was an associate with a global law firm in New York. There, he gained thorough experience working in state and federal court, as well as before arbitrators and mediators. Max also has worked extensively with international clients, helping them navigate the intricacy of the U.S. judicial system.

Active in pro bono work, Max has successfully litigated claims against the Department of Justice and city of New York for violations of prisoners' civil rights and has aided a number of inmates seeking clemency for crimes for which they are serving disproportionate sentences. Max has also provided pro bono services to clients seeking relief in immigration and family court.

Max earned his J.D. from the New York University School of Law where he served as an executive

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P: (215) 665-4682 | F: (215) 701-2282

P: (212) 509-9400 | F: (212) 509-9492

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articles editor for the *Annual Survey of American Law*. He earned his B.A. in philosophy *magna cum laude* from Columbia University.

Experience

Represented a transportation and logistics client in multiple class and individual actions arising from an alleged data exposure.

Represented restaurant and retail industry trade associations as amici before the U.S. Court of Appeals for the Eleventh Circuit and the Illinois Supreme Court on issues of class certification, damages, and due process in data breach and biometric privacy class actions.

Settled multiple class and individual actions on behalf of an online marketplace alleging false advertising and trademark claims under the federal Lanham Act.

Resolved multiple actions brought under the Americans with Disabilities Act (ADA) regarding alleged website accessibility issues.

Counseled multiple clients in revising their consumer-facing terms and conditions to address privacy and arbitration concerns.

Won summary judgment on behalf of a high-wealth individual in a breach of oral contract dispute with a former business partner over alleged misallocation of the proceeds from a multinational reverse merger.

Achieved a favorable settlement on the eve of trial for a reverse-mortgage issuer in a breach of contract dispute with the client's former mortgage servicer.

Obtained a favorable settlement for a solar plant developer in an expedited proceeding before the Delaware Court of Chancery regarding the purchase and funding of plant development rights.

Obtained pre-discovery dismissal on behalf of a multinational financial institution in a breach of oral contract dispute centering on an allegation by the institution's former counsel that the client promised to provide counsel with all debt collection litigation work.

Represented a group of franchisees in the logistics industry through a month-long jury trial and subsequent appeal seeking lost profits on a third-party beneficiary breach of contract claim.

Represented a multinational financial institution in a series of consumer arbitrations regarding its termination of customers from a credit card rewards program.

Represented the former Chair of a major UK retailer in class action securities litigation involving § 10(b) and Rule 10b-5 claims arising from the retailer's allegedly fraudulent accounting practices.

Obtained a favorable settlement for the Chair and CEO of an international media company following an allegation of short-swing insider trading under Section 16(b) of the Securities Exchange Act of 1934.

Represented a digital marketing firm in a series of shareholder class and derivative actions concerning claims of securities fraud, breach of contract, and breach of fiduciary duties following allegations regarding, and an SEC investigation into, a possible stock-manipulation scheme.

Represented a foreign bank in an adverse proceeding brought by the trustee of a debtor in U.S. bankruptcy court to obtain turnover of assets exchanged through Islamic-compliant interbank lending, addressing issues of extraterritoriality, comity, and safe harbors under the bankruptcy code.

Advised a condominium developer regarding the potential for discrimination litigation under the federal

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Fair Housing Act in light of a proposed modification to the municipal building code.

Represented a real estate investment fund in mediation over a multi-million dollar claim to attorneys' fees allegedly owed in a derivative action.

Advised a foreign e-commerce retailer on the viability of bringing a claim for defamation in the United States against a social media platform

Represented a foreclosing bank regarding the alleged eviction of commercial tenants resulting from the prior landlord's neglect of the property.

Represented a CERCLA Superfund participant in connection with a remediation investigation.

Settled civil rights litigation on behalf of a federal inmate for confinement to solitary housing for nearly a year without due process.

Settled excessive force civil rights litigation against the City of New York on behalf of a former inmate assaulted at Rikers Island.

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