

Contact

David Fioccola

Partner

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A seasoned litigator and trial lawyer, David Fioccola specializes in the defense of complex commercial disputes and consumer class actions. With more than 25 years of experience, David has tried cases in federal and state courts and before arbitral tribunals throughout the U.S. He regularly defends Fortune 500 companies in bet-the-company litigation as well as financial institutions against claims involving federal and state law violations, including antitrust laws, trust claims, and breach of contract.

David has extensive experience handling large-scale internal investigations and represents clients before U.S. federal and state agencies, including the Department of Justice, the Consumer Financial Protection Bureau, the Office of the Comptroller of the Currency, the Federal Trade Commission, and the Securities and Exchange Commission, and state agencies, such as the New York Department of Financial Services and state attorneys general. Moreover, he has significant experience counseling clients in various U.S. federal laws and statutes.

Prior to joining Proskauer, David was the co-chair of the Class Actions and Mass Torts Practice Group as well as the Trial Practice Group at Morrison & Foerster.

Matters

Representative Matters

- Lead counsel for Sandoz Inc. in the largest pending antitrust matter in the country, *In re: Generic Pharmaceuticals Pricing Antitrust Litigation*, which includes actions brought by nearly all State Attorneys General alleging that pharmaceutical manufacturers engaged in various forms of unfair competition that hurt consumers, as well as private individual and class claims in a pending MDL.
- Lead counsel for Northrop Grumman in dealing with federal and state regulators as well as local municipalities across a variety of matters alleging unfair competition and other public harms such as nuisance, harm to the environment and tortious interference with quality-of-life issues.
- Represents Fortune 100 companies and financial institutions in regulatory investigations and enforcement actions by the Consumer Financial Protection Bureau, the Office of the Comptroller of the Currency, and the New York Department of Financial Services.
- Represents New York State inmates in a purported class action challenging the use of solitary confinement on constitutional grounds.
- Represents a major financial institution in federal antitrust class and individual actions alleging that the payment card practices of the defendant card networks, and financial institutions constitute an unreasonable restraint of trade and illegal monopolization in what is likely the largest private antitrust suit ever brought.
- Represents wire manufacturer, Copperweld Bimetalics in antitrust and false-advertising suit against three major copper wire competitors.
- Represents telecommunications provider in multi-million-dollar vendor contract dispute.
- Represented Sprint and SoftBank at trial against multiple State Attorneys' General seeking to block the T-Mobile-Sprint merger as anti-competitive. After a two-week trial, the Court dismissed the States' claims in their entirety and the merger closed in April 2020.

- Represented digital programmatic healthcare advertising firm against lawsuit brought by the Federal Trade Commission to block an acquisition as anticompetitive under the federal antitrust laws.
- Represented short-term lender and celebrity spokesperson in regulatory inquiry by the New York Department of Financial Services.
- Represented electric vehicle maker in putative class action alleging consumer protection claims resulting from lease agreements.
- Represented ride-share company in putative nationwide consumer class action challenging violations of various consumer protection laws related to ride-share fee disclosures.
- Secured multi-million-dollar arbitration award for generic drug maker in suit against manufacturer.
- Represented hedge fund co-founder in contact dispute with former partner.
- Successfully resolved putative class action against home warranty company alleging violations of RICO and various state consumer protection laws.
- Represented and successfully resolved for multi-level marketing company several nationwide putative class actions alleging violations of various state consumer protection laws.
- Represented retail company in a putative class action that alleged that its disclosures in connection with its credit card accounts violated the Truth in Lending Act. Won motion to dismiss.
- Secured a multi-million-dollar award for a major South American mining company in two-week ICC arbitration with an international contract miner in a dispute involving allegations of breaches of the master services agreement, and engineering, procurement, and construction agreements.
- Successfully resolved putative Israeli class action for global shipping and logistics company asserting violations of terms of service.
- Represented online gaming firm in multi-million-dollar contract dispute with main customer.
- Represented online gaming firm in crisis management related to customer pricing changes.

- Successfully resolved contract dispute between international companies investing in mining operations in South America.
- Won dismissal for two major financial institutions in federal RICO purported class and individual actions alleging that online merchants and payment-card issuers conspired to exchange payment-card data to enroll consumers in discount membership programs.
- Won dismissal for a major financial institution in a class action challenging the imposition of late and over-limit fees as a violation of the Sherman Act and the National Bank Act.
- Prevailed in securing dismissal for major financial institution in RICO and FDCPA class action challenging credit card debt collection processes.
- Obtained dismissal in contract-based claims against OTG concerning the operation of concessions at JetBlue's Terminal 5 at JFK Airport.
- Represented top financial institution in multiple putative nationwide class actions alleging violations of the consumer protection act.
- Represented top financial institution in multiple putative class action alleging various violations of credit card terms of service.

Practices

Litigation, Trials, Antitrust, International Arbitration, Privacy & Cybersecurity, Mass Torts & Product Liability, Securities Litigation

Industries

Financial Services, Private Capital, Asset Management

Market Solutions

Regulatory & Compliance

Education

New York University, J.D.
Seton Hall University, B.A.

Admissions & Qualifications

New York

New Jersey

Awards & Recognition

Benchmark Litigation Litigation Star 2026

The Legal 500 United States: General Commercial Disputes: 2025

The Legal 500 United States: Healthcare: Life Sciences 2024

The Legal 500 United States: Media, Technology and Telecoms: Advertising and Marketing 2022, 2024

The Legal 500 United States, Dispute Resolution: Product Liability, Mass Tort and Class Action - Defense: Consumer Product 2021-2022

The Legal 500 United States, Dispute Resolution: Product Liability, Mass Tort and Class Action - Defense: Toxic Tort 2022

The Legal 500 United States, Dispute Resolution: Product Liability, Mass Tort and Class Action - Defense: Pharmaceuticals and Medical Devices 2021-2022

The Legal 500 Unites States, Dispute Resolution: Financial Services Litigation 2020, 2022