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July 1, 2012 to Present

SOLE MEMBER, KARLINSKY LLC
New York, New York

Sole member of limited liability company engaged in the practice of law. Karlinsky LLC concentrates on trial and appellate advocacy in complex business, civil, commercial, securities, trusts and estates, financial services industry, constitutional, corporate and partnership, and personal litigation, and in alternative dispute resolution. Mr. Karlinsky is an experienced trial and appellate advocate, with over 150 trials, arbitrations, and argued appeals during his 36-year career.

February 2009 to June 30, 2012

SHAREHOLDER, BUTZEL LONG, P.C.
New York, New York

Shareholder in 150-lawyer firm with headquarters in Detroit, Michigan, and offices in New York and Washington, D.C. Founded in Michigan in 1854, Butzel Long is one of America's pre-eminent law firms.

March 2002 to January 2009

EQUITY PARTNER AND SENIOR COUNSEL KATTEN
MUCHIN ROSENMAN LLP
New York, New York

September 2000 to March 2002

EQUITY PARTNER
ROSENMAN & COLIN LLP
New York, New York

Equity Partner and Senior Counsel in Litigation Department of 650-lawyer firm with headquarters in Chicago, and major offices in New York City, Washington, D.C., and Los Angeles. (Rosenman & Colin LLP merged with Katten Muchin & Zavis to form Katten Muchin Rosenman LLP in March 2002.)

1982 to September 2000

FOUNDING PARTNER, 1982
MANAGING PARTNER, 1991 TO APRIL 2000
CAMHY KARLINSKY & STEIN LLP, New York City, New York

Camhy Karlinsky & Stein LLP was a mid-sized New York City firm with practice areas in civil and government litigation; corporate and securities law; real estate law and finance; and tax law. From its founding in 1982, Mr. Karlinsky led the firm

from its original three lawyers to a full complement of 60 lawyers, with gross revenues that exceeded \$28 million annualized in its last partial year.

1977 to 1982

ASSOCIATE, Litigation Department
SHEA & GOULD LLP
New York, City, New York

Until its dissolution in 1994, Shea & Gould LLP was one of the leading corporate litigation firms in America.

1975

EXTERN LAW CLERK (full time) to Honorable William H. Orrick, Jr., Judge of the United States District Court for the Northern District of California.

Awards and Recognitions

Honorary Fellowship conferred by THE HEBREW UNIVERSITY OF JERUSALEM, June 2009, for service to and support of the University.

Expert Witness Engagements

Engaged on behalf of certain former fund directors to prepare expert report and testify on issues relating to legal costs and representation and U.S. law issues in U.S. litigation against such directors by joint liquidators in matter pending in the Grand Court of the Cayman Islands, *In the Matter of the Companies Law and in the Matter of the SPhinX Group of Companies (in Official Liquidation)*, Cause No. 258 of 2006. Gave expert testimony in open court on December 4, 2009, and by videolink in April 2010. Court found testimony persuasive, rejecting views of the joint liquidators' expert, Professor Eric Green of Harvard Law School.

Engaged on behalf of the leading generic drug manufacturer in the world as an expert on New York contract law to prepare a written report and testify in arbitration proceedings pending in Israel.

Education

UNIVERSITY OF SAN FRANCISCO SCHOOL OF LAW (J.D., 1976). Managing Editor of the University of San Francisco School of Law Moot Court Board; Awarded Roscoe Pound Prize for Excellence in Oral Advocacy.

NEW YORK UNIVERSITY WASHINGTON SQUARE COLLEGE OF ARTS & SCIENCES (B.A., 1972, *cum laude*, with honors). Dean's List. Honors in English and American Literature.

Bar Admissions

California, New York, District of Columbia
United States District Courts for the Southern, Eastern, and Northern Districts of New York, Eastern District of Michigan, Northern and Central Districts of California
United States Courts of Appeals for the Second, Third, Fourth, Ninth, D.C., and Federal Circuits

United States Tax Court
Supreme Court of the United States

Memberships

American Bar Association (Section of Litigation); Federal Bar Council.

Teaching

National Institute for Trial Advocacy Member and Faculty Member (1995-present) (Hofstra Law School and Temple Law School, NITA National Session, University of Colorado, Boulder, Colorado); University of San Francisco Law School Intensive Advocacy Program Faculty Member (1999-present).

Community

American Friends of The Hebrew University of Jerusalem (AFHU National President (April 2009-present); Member, Board of Directors (2006-present); Assistant Secretary (2008-2009); President, Greater New York Region Board (2006-2008); Member, Greater New York Regional Board (2005-present)).

Member and Associate Member, International Board of Governors of The Hebrew University of Jerusalem (2006-present); Member, Executive Committee, International Board of Governors of The Hebrew University of Jerusalem (2009-present).

Anti-Defamation League Member, National Executive Committee (2002-2010); National Commissioner (2000-2010); Chair, National Litigation Oversight Committee (2006-2009); Vice Chair for National Civil Rights Committee (2003-2005); Chair, Legacy Endowment Campaign (2003-2005); Chair, National Legal Affairs Committee (2000-2003); Chair, New York Regional Board (2001-2003); Associate Chair, New York Regional Board (1999-2001); Member, Executive Committee, Lawyers Division, New York Regional Board (1993-2010); Member, National Civil Rights Executive Committee (1999-2010); Member, Litigation Oversight Committee (2003-2010); Member, Investigative Research Oversight Committee (2009-2010).

Anti-Defamation League Foundation-Member, Board of Trustees (2003-2010), and Chair, Legacy Endowment Campaign (2003-2005).

Recent Cases. In the last several years, Mr. Karlinsky has tried and handled several significant matters on behalf of his clients and clients of his firms. A short description of some of these follows:

- Mr. Karlinsky and his team were retained recently in a potential litigation by an Israeli against a foreign (Eastern European) archive to obtain possession of an important historical document (the original diary of events of the Holocaust in Eastern Poland and the Ukraine) written by the father of the client during the last half of 1944 and the first half of 1945 before the end of the second World War) for the purpose of designating the diary to the permanent possession of Yad Vashem, the Israel Holocaust Memorial Museum.

- For the past two and one-half years, Mr. Karlinsky and his team represented a property and casualty insurance company in a suit against its former securities lending agent (a national bank) seeking \$25 million in damages and asserting claims of breach of contract and breach of fiduciary duty. The case, brought in the United States District Court for the Southern District of New York, settled three weeks before trial.
- Mr. Karlinsky was retained in 2009 to represent one of the world's most prominent international arbitration lawyers in a breach of contract matter adverse to his firm, an international firm that is one of the world's largest and leading firms.
- In the past five years, Mr. Karlinsky has served as lead counsel in two separate New York State Surrogate's Court litigations, both involving \$100 million trusts, with respect to claims of breach of fiduciary and related duties as well as claims of lack of competence.
- Mr. Karlinsky is currently representing the U.S. investment vehicle of one of Europe's wealthiest individuals in a series of business and commercial cases pending in New York County Supreme Court and alleging breach of fiduciary duty, fraud, breach of contract, and related claims.
- Over the last several years Mr. Karlinsky represented a leader in the school improvement industry in contract and employment litigation pending in the U.S. District Courts for the District of Columbia and the Middle District of Louisiana.
- Mr. Karlinsky successfully defended a major U.S. securities firm (acting as a futures commission merchant) in a proceeding before an NASD (now FINRA) arbitration panel in which claimant, a foreign national, sought damages of \$7 million based on fraud claims in connection with futures trading on the Chicago Mercantile Exchange. After 12 hearing days, the arbitration panel rendered an award for claimant, but assessed damages of less than 8% the amount sought. The case involved expert proof concerning standards in the futures industry, as well as some difficult regulatory issues.
- After seven years of hotly contested litigation in the New York state courts over certain New York trusts and the dismissal of most of plaintiffs' claims, Mr. Karlinsky successfully concluded by settlement an action in which his client, the trustee of the trusts, was charged with breach of fiduciary duty and alleged to have stolen some \$49 million from the trusts. The settlement entailed no payment or admission of liability on the part of his client, and culminated with the sale of the assets of the trust, amounting to over \$70 million.
- In two related cases for a successful fixed-income hedge fund portfolio manager, Mr. Karlinsky tried a case before a Connecticut state court on the plaintiff's side, seeking damages of over \$2 million for breach of contract on the part of the hedge fund. In the related federal action, Mr. Karlinsky prosecuted claims for valuation of his client's stock in the hedge fund manager, seeking damages of over \$5 million. That case involved difficult valuation issues, as well as major issues relating to trade secrets and confidential information.
- Mr. Karlinsky successfully defended and prosecuted an NASD (now FINRA) arbitration proceeding in Chicago, Illinois for an investment banker against his former firm (Rodman & Renshaw, Inc.) defending against purported liability arising under certain promissory notes and seeking to recover for the value of certain deals and production introduced to the firm on contract and unjust enrichment theories. This case ended with complete success and a \$685,000 NASD panel arbitration award to the investment banker.
- Mr. Karlinsky successfully defeated claims by a major NYSE firm in a New York Stock Exchange arbitration proceeding by that firm against a former registered representative seeking to impose liability on the representative in connection with the broker-dealer's settlement of customer claims. This case concluded with a panel award dismissing all claims against the representative.
- Mr. Karlinsky and his team developed the theory of, drafted the key pleadings and motions,

and prosecuted a New York Stock Exchange arbitration proceeding for an investment banker fired by the banker's firm (a major investment banking firm). The proceeding asserted claims for in excess of \$8 million for breach of fiduciary duty arising under the firm's partnership agreement and otherwise. Following successful opposition to a motion to dismiss, the case ended in mid-proceeding with a very favorable settlement proffered by the investment banking firm.

- Mr. Karlinsky and other lawyers in his firm defended the discovery and trial in New York County Supreme Court of a matter for New York City real estate operators involving the ownership of a New York City hotel, and claims of breach of fiduciary duty, conversion, and fraud.
- Mr. Karlinsky and his team successfully developed, led the discovery of, supervised, and tried a complex employment litigation in the United States District Court for the Southern District of New York arising under the Americans with Disabilities Act. Following a two-week trial, the jury awarded Mr. Karlinsky's client almost \$1 million in damages. Post-trial relief sought by defendants was denied, and an appeal was prosecuted to, and argued before, the United States Court of Appeals for the Second Circuit. Mr. Karlinsky's team filed an attorneys' fee application seeking over \$1 million in fees for this complex four-year long litigation. The case, including the fee application, settled prior to the issuance of an opinion by the Second Circuit.
- Mr. Karlinsky successfully defended a securities class action in the United States District Court for the Central District of California on behalf of the former chairman and chief executive officer of a Silicon Valley company. This matter was concluded with a favorable, early settlement funded by the D&O carrier after threshold litigation victories, including the granting of the first motion to dismiss.
- Mr. Karlinsky and his team conducted the defense of a diversity action in the United States District Court for the Eastern District of Pennsylvania on behalf of the National Rifle Association of America in a high-profile case that garnered national publicity and involved claims for false light publicity, intentional infliction of emotional distress, and assault and battery. The principal witnesses at the two-week jury trial included the former (Marion Hammer) and then-current (Charlton Heston) presidents of the NRA. After the jury returned a verdict in the amount of \$4.45 million against the NRA, Mr. Karlinsky led his trial team in post-trial motions for judgment as a matter of law and for a new trial. In September 1999, the trial judge granted the motion for a new trial and vacated the jury's verdict. The case settled on the eve of retrial for \$450,000, an amount equivalent to the cost of a retrial and post-trial proceedings, funded substantially by the NRA's insurance earner.
- Mr. Karlinsky conducted the successful defense of a case brought by a New York insurer against a foreign (Latin American) bank for fraud, breach of contract, interference with contract, and other claims. In this case, Mr. Karlinsky invoked a forum selection clause in one of a series of instruments in order to defeat claims made directly under other instruments in that series, and the district court dismissed the case for improper venue. On appeal to the United States Court of Appeals for the Second Circuit, the court affirmed, and a petition for rehearing *en banc* was subsequently denied. The Supreme Court of the United States denied *certiorari*.
- Mr. Karlinsky successfully defended a private securities action under SEC Rule 10b-5 in which plaintiffs alleged that Mr. Karlinsky's client, a public biotech company, and others were involved in the manipulation of its securities through a short-selling scheme. The district court dismissed the action on motion to dismiss. On a first appeal to the Second Circuit, that court affirmed the dismissal, and vacated and remanded for further findings to the district court on Mr. Karlinsky's client's cross-appeal for sanctions under the Private Securities Litigation Reform Act. After the district court again denied sanctions, the case returned twice more to the Second Circuit, that court ultimately issuing a groundbreaking and leading decision on the law of sanctions under the Private Securities Litigation Reform Act of 1995. The Supreme Court twice denied *certiorari* on petitions filed by plaintiffs. At the end of the

litigation, after almost seven years, plaintiffs' counsel was ordered to, and did, repay the entirety of defendants' legal fees and expenses.

- Mr. Karlinsky successfully defended a “bet-your-company” breach of contract and fraud case on behalf of a publicly held broker-dealer in the Central District of California. Plaintiffs there alleged that the defendant broker-dealer had contracted to purchase a block of stock for some \$5 million. After vigorous motion practice and discovery, the district court dismissed the complaint on Mr. Karlinsky’s motion for summary judgment, holding that the signatory to the contract lacked appropriate authority. An appeal was prosecuted by plaintiffs to the United States Court of Appeals for the Ninth Circuit, which affirmed the summary judgment.
- Mr. Karlinsky advised the Anti-Defamation League following an unsuccessful appeal to the United States Court of Appeals for the Tenth Circuit of a judgment exceeding \$10 million arising from claims for violation of the federal Wiretap Law and common law defamation. While unsuccessful in obtaining review in the Supreme Court of the United States, counsel were ultimately successful in wholly defeating a consequent application for attorneys fees in amounts exceeding \$6 million. The Tenth Circuit later affirmed dismissal of the fee petition.

Publications. Mr. Karlinsky is author of two published articles, *Impairment of Contract in the Absence of Breach*, 210 N.Y.L.J. 4 (October 27, 1994), and *An Outline of the Law Regarding Attorney Escrow Accounts in New York State in Avoiding Legal Malpractice* (Practicing Law Institute 1998).

Pro Bono Legal Work for Anti-Defamation League. Mr. Karlinsky has a long and distinguished record of representing the Anti-Defamation League (and other civil and human rights organizations and advocacy groups) as *amici* in cases before the Supreme Court of the United States. In 1995, Mr. Karlinsky was lead counsel of record before the Supreme Court of the United States for the League, one of the leading civil and human rights organizations in America, as *amicus curiae* in *Miller v. Johnson*, a congressional redistricting case in which the Supreme Court broke new ground in equal protection doctrine as applied to redistricting decisions. In 1997, Mr. Karlinsky served as lead counsel of record before the Supreme Court for the Anti-Defamation League as *amicus curie* in *Board of Education of the Township of Piscataway v. Taxman*, a case involving the constitutional and statutory viability of affirmative action programs. In September 2000, on behalf of the League and a coalition of 12 other leading civil rights and public interest organizations, among them the National Urban League, the NOW Legal Defense and Education Fund, People for the American Way Foundation, the Human Rights Campaign, and the American Association of University Women, Mr. Karlinsky served as counsel of record in the filing of an *amicus* brief in the Supreme Court in the important federalism case, *Solid Waste Agency of Northern Cook County v. U.S. Army Corps. of Engineers*. In a *New York Times* editorial, the *Times* editors summarized the thrust of the arguments made there and termed it a “thoughtful brief.”

In December 2001, on behalf of the League, Mr. Karlinsky filed an *amicus* brief in *Zelman v. Simmons-Harris*, a case argued in the Supreme Court in February 2002, concerning the constitutionality under the First Amendment Establishment Clause of the Cleveland, Ohio school voucher program. In October 2002, on behalf of the League and a coalition of 12 other leading civil rights organizations, Mr. Karlinsky filed an *amicus* brief in *Virginia v. Black*, a case arising under the First Amendment to the Constitution and involving the constitutionality of Virginia’s anti-cross burning statute. In sustaining the underlying constitutionality of the statute, Justice O’Connor’s controlling opinion adopted the standard urged by the League. In January 2003, again on behalf of ADL, Mr. Karlinsky filed an *amicus* brief in *Grutter v. Bollinger* and *Gratz v. Bollinger*, the cases that decided the constitutionality of the University of Michigan law school and university affirmative action programs. Mr. Karlinsky’s brief articulated a theory of individualized consideration of applicants that was used by Justice O’Connor extensively in her majority opinion in *Grutter*. In February 2004, on behalf of ADL, Mr. Karlinsky served as Counsel of Record and filed a brief *amicus curiae* in the Pledge of Allegiance case (*Elk Grove School Dist. v. Newdow*), a case that attracted much national attention, involving claims that the

enforced recitation of the Pledge of Allegiance with the words “under God” in California elementary school classrooms violated the Establishment Clause of the First Amendment. In September 2006, again on behalf of ADL, Mr. Karlinsky filed a brief *amicus curiae* in the so-called “race-conscious school assignment plans” cases (*Parents Involved in Community Schools v. Seattle School District No. 1, et al.*; *Chrystal Meredith, Custodial Parent and Next Friend of Joshua Ryan McDonald v. Jefferson County Bd. Of Educ., et al.*) These cases, argued in December 2006 and decided at the end of the Court’s 2007 term, were among the most prominent, and important, cases on the Court’s docket that year. ADL supported the respondent school boards in these cases, arguing that limited race-consciousness in the assignment of elementary and secondary school students among district schools was not offensive to the Equal Protection Clause of the Fourteenth Amendment.

From joining Butzel Long in February 2009, Mr. Karlinsky participated in three additional *amicus* projects on behalf of ADL. In each of these cases, in an effort to give more visibility to other appellate lawyers in his firm and because of his increased practice and management duties, Mr. Karlinsky allowed other lawyers to serve as the designated “counsel of record” and take the drafting lead. These cases, too, were high-visibility constitutional cases before the Court: 2009’s *Ricci v. City of New Haven*, a case involving a group of white firefighters’ challenge to the City of New Haven’s racial preference policy-the City had invalidated the results of an advancement test on which white firefighters scored consistently higher than minority applicants; 2010’s *McDonald v. City of Chicago*, in which the Court was asked to decide whether the Second Amendment right to bear arms which the Court held in *Heller v. District of Columbia* in 2008 was an individual and not a collective right is applicable to the states and their political subdivisions by way of the Privileges or Immunities Clause or the Due Process Clause of the Fourteenth Amendment; and finally the 2010 case of *Snyder v. Phelps*, in which the Court examined issues arising under the Free Speech and Free Exercise clauses of the First Amendment.

ADL has also called on Mr. Karlinsky in other legal capacities from time to time, principally in connection with the roles he has played on the National Civil Rights Committee of the League (where he is past National Vice Chair) and in his position as past National Chair of the National Legal Affairs Committee of the League, but also when the League was confronted with significant legal matters. Examples of the latter are the litigation brought against the League for violation of the federal Wiretap Law in Denver, Colorado, a case that was ultimately resolved after petition to the Supreme Court of the United States, and legal skirmishes that have developed over the last decade with various domestic extremist groups, including conduit funding sources for declared Islamist terrorist groups. In the latter matters, Mr. Karlinsky has developed legal theories for the League, selected and supervised outside counsel, and participated in litigation as counsel. In 1999, Mr. Karlinsky served as chair of an *ad hoc* committee concerned with the development of protocols for ADL legal staff undertaking to serve as trial counsel with outside *pro bono* counsel in cases that involve ADL core issues, such as First Amendment separation of church-state matters, and combating hate, prejudice, and extremist activities.

Published Judicial Opinions. Mr. Karlinsky has more than 140 published judicial opinions in cases in which he has served as counsel during his career (as reported by Westlaw and LEXIS searches).

Teaching of Trial Advocacy. Mr. Karlinsky has been actively involved in the teaching of trial practice and advocacy skills since 1992, first as head of advocacy training in his own firm and then later, following an intensive course of study privately and with the National Institute for Trial Advocacy, as an instructor at the National Institute for Trial Advocacy (“NITA”), the pre-eminent trial advocacy training institute in the United States. In connection with those duties, he teaches trial advocacy in two to three separate programs a year, typically for NITA at Hofstra University Law School on Long Island and for NITA at Temple Law School in Philadelphia, and for the USF Intensive Advocacy Program at the University of San Francisco School of Law in San Francisco. In Summer 2000, Mr. Karlinsky was chosen to serve as a faculty member at the National Session of NITA, in Boulder, Colorado. The National Session is the most prestigious of NITA engagements. Commencing in

Summer 2009, Mr. Karlinsky designed a trial advocacy program for his firm, Butzel Long. In that connection, Mr. Karlinsky determined to step away from his traditional teaching role in order to design and administer the program, and taught nine other partners of the firm the NITA method of teaching trial advocacy.

Pro Bono Legal Activities. In addition to his work on behalf of ADL, Mr. Karlinsky has performed substantial *pro bono publico* legal activities during his career. These range from his representation of the Sierra Club in Clean Water Act enforcement matters in the 1980s, to his representation of prisoners in civil rights matters, to the acceptance of *pro bono* cases assigned by the district courts in New York City, to *pro bono* representation of the City of New York as a litigant in civil rights matters. Mr. Karlinsky headed his own firm's *pro bono* practice, and was responsible for supervising the *pro bono* activities of the firm's lawyers.

Community Service. In community service, Mr. Karlinsky is a recognized leader of the Jewish legal community in New York City and nationally and as a lay leader of the Anti-Defamation League gained national exposure in the areas of civil rights, investigation of extremist activities in our nation, church-state separation, anti-Semitism, hate and hate crimes, and defeating terrorist activities. Since 2009, Mr. Karlinsky has served as National President of the American Friends of The Hebrew University of Jerusalem (AFHU), and is a member of the International Board of Governors of The Hebrew University. The Hebrew University is one of the leading institutions of higher education and research in the world. In 2009, the University conferred an Honorary Fellowship on Mr. Karlinsky in recognition of his service to his community, his profession, and to the University.

Management and Leadership. Mr. Karlinsky served as founding partner of his own firm from its formation in 1982, and then as managing partner from 1991 until he stepped down in April 2000. As such, he was responsible for all aspects of its practice, business, and development. He also led the litigation department of his firm, turning those duties over to other lawyers as the firm grew, and was responsible for the firm's strategic planning and development. At Katten, Mr. Karlinsky declined to play any role in management. At Butzel Long, once again assumed leading management roles. Between June 2009 and November 2010, Mr. Karlinsky served as practice group leader for litigation in the New York office of Butzel, and between August 2009 and November 2010 acted as the *de facto* managing partner of the office, creating a 3-lawyer executive committee to fill that function.

October 4, 2012