

Lawyers



David B. Tulchin

Of Counsel

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For more than 40 years, David Tulchin has handled complex, high-stakes commercial litigation matters in state and federal courts across the United States and before national and international arbitration panels.

He is well known for his courtroom successes and has tried more than 30 business cases to verdict. Mr. Tulchin has also argued dozens of appeals, both in state and federal courts. He is a Fellow of the American College of Trial Lawyers, and has been named “Litigator of the Week” by *The Am Law Litigation Daily* twice in the last few years.

His practice encompasses all areas and intersections of the law, with a particular emphasis on complex antitrust, contract, patent, trademark and securities matters.

For more than 10 years, Mr. Tulchin was Microsoft’s lead national counsel in defense of dozens of private antitrust actions brought both by consumers and competitors. During this period, Mr. Tulchin won dismissals with prejudice for Microsoft in 20 of the major component actions, prevailed in seven appeals to U.S. Courts of Appeal and argued and won appeals for the company before the Supreme Courts of five states. He also tried an important antitrust case for Microsoft in an action brought by Novell in which Novell sought about \$4 billion in damages, but got nothing. This is one of many major trial victories Mr. Tulchin has obtained for clients over the years.

Mr. Tulchin’s last three trials (described below) resulted in total victories for his clients, as did almost all of the many other cases he has tried over the years.

Mr. Tulchin consistently is recognized for his success as a commercial litigator by numerous industry publications, including *The Legal 500*, *Benchmark Litigation* and *The Best Lawyers in America*.

SELECTED REPRESENTATIONS

- In 2018, Mr. Tulchin obtained a trial victory for Carole Shorestein Hays and her husband, Dr. Jeffrey Hays, in Delaware Chancery Court. The complaining party, Robert E. Nederlander, claimed that Mrs. Hays had made a binding oral promise to lease The Curran

Litigation

Antitrust

Supreme Court and Appellate

Healthcare & Life Sciences

EDUCATION

1973, Harvard Law School, J.D.

1970, University of Rochester, B.A.

BAR ADMISSIONS

New York

CLERKSHIPS

The Honorable Frederick V.P. Bryan, United States District Court, Southern District of New York, 1973-1975

Theatre in San Francisco to a Delaware LLC called Shorenstein Hays-Nederlander Theatres LLC (“SHN”) (an entity which owns and operates two other theatres in San Francisco) in perpetuity, and that Mrs. and Dr. Hays had breached various duties to SHN (which is owned 50% by the Nederlander family and 50% by the Hays family). The Chancery Court rejected the Nederlander claims, and held that there was no promise made by Mrs. Hays and that even if a promise had been made, the statute of frauds would bar the Nederlander claim. Later in 2018, in a second action, the Nederlander side sought to enjoin the presentation of two shows at The Curran Theatre – *Dear Evan Hansen* and *Harry Potter and the Cursed Child* – but the Chancery Court ruled in favor of Mr. Tulchin’s clients again, ruling that the presentation of those shows at The Curran did not violate the non-competition provision in the SHN LLC Agreement.

- In 2017, Mr. Tulchin successfully obtained a trial victory for Micro Systems Engineering, Inc. (MSEI) against Universal Instruments Corp. in a case alleging copyright, trade secret and contractual claims. Following a six-day jury trial, the court granted MSEI’s motion for judgment as a matter of law. Mr. Tulchin obtained an affirmance of that ruling from the Second Circuit in May 2019.
- In 2016, Mr. Tulchin obtained an important victory for Novo Nordisk in an arbitration against a key rival. The result, in a contract case with heavy intellectual property components, is worth more than \$100 million to Novo Nordisk over the following three years.

RANKINGS & RECOGNITION

- Winner, 2018 James Duane Award (Award given by the United States District Court for the Southern District of New York for service to that Court)
- Fellow, American College of Trial Lawyers
- *The Am Law Litigation Daily*: Named a “Litigator of the Week” (July 2012, March 2011 and May 2019) and Runner-Up (December 2018)
- *Euromoney’s Benchmark: America’s Leading Litigation Firms and Attorneys* – recognized as a Star in Antitrust Litigation (2008-2016) and a Local Litigation Star in New York (2010-2016)
- *The Best Lawyers in America* – most recently recognized as a leading lawyer in Commercial Litigation and Litigation-Antitrust (2005-2022)
- *The Legal 500 United States* – recognized as a leading lawyer in Antitrust Litigation (2007, 2009); recognized for General Commercial Disputes (2018)
- *New York Super Lawyers* (2006-2021)