



# DEBORAH E. RIEGEL

MEMBER - Litigation

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## Practice Areas

- Litigation (Commercial)
- Litigation (Real Estate)
- Landlord Tenant Law
- Condominium/Cooperative Law

## Bar Admissions

- New York, 1994
- U.S. District Court Southern District of New York, 1995
- U.S. District Court Eastern District of New York, 1995
- U.S. District Court Northern District of New York, 2002
- U.S. Supreme Court, 2009

## Education

### Brooklyn Law School

- J.D. - 1993

### Queens College of the City University of New York

- B.A. - 1990

**Deborah E. Riegel** joined Rosenberg & Estis, P.C. in 1994 and is a Member with the firm's Litigation Department. During her tenure at the firm, Riegel has handled complex litigation before New York state and federal trial and appellate courts. Most notably, Riegel was lead counsel and successfully argued before the Court of Appeals in *Matter of Regina Metro. Co., LLC v. New York State Div. of Hous. & Community Renewal*, a case which is considered to be one of the most impactful decisions for the real estate industry in decades. The Court of Appeals adopted R&E's arguments and found the enactment of portions of the HSTPA of 2019 to be unconstitutional in their retroactive application, saving property owners millions of dollars in potential rent overcharges and avoiding catastrophic underwriting and financing consequences. That victory was most recently reinforced in another case for which Riegel was lead counsel and argued before the Appellate Division, First Department: *Burrows v 75-25 153rd Street, LLC*. The Appellate Division again wholly adopted R&E's arguments and definitively applied the Court of Appeals' holding in *Regina*.

Over the course of her career, Riegel has successfully litigated cases of critical, industry-wide importance on a wide variety of complicated issues on behalf of some of the City's most prominent owners and developers, including Vornado Realty Trust, The Durst Organization, General Growth Properties/Brookfield Properties and A&E Real Estate. Her practice more generally involves litigating matters related to commercial lease disputes, tort and contract actions, construction disputes, cooperative shareholder disputes, rent regulatory issues and residential and commercial landlord/tenant matters. She also provides counsel to cooperatives and condominiums on a wide range of matters. Riegel's client base ranges from small owners of residential property to major residential and commercial developers, and her practice has given her a broad spectrum of experience representing clients in every Court from the Civil Court of the City of New York to the New York State Court of Appeals, as well as the United States District Court, United States Bankruptcy Court, and the United States Court of Appeals. While her practice is primarily focused on litigation, Riegel works with clients on development issues and has successfully vacated a number of development sites in Manhattan. Riegel also works with clients, with the support of the firm's highly experienced Transactional Group, on purchase and sale agreements, leasing and construction management so as to provide a one-stop, integrated approach to managing clients' legal needs with an eye toward risk management and early dispute resolution.



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Riegel received her bachelor's degree from Queens College of the City University of New York and her J.D. from Brooklyn Law School. She is a member of the Bar of the State of New York and is admitted to practice before the United States District Courts for the Southern and Eastern Districts of New York and the United States Supreme Court. Riegel was previously a member of the Committee on Cooperative and Condominium Law and the Housing Court Committee of the New York City Bar and currently serves on its Judiciary Committee.

Riegel's approach to working with clients and resolving disputes was shaped by her work in private industry prior to attending law school, as well as her position as a legislative aide in the New York State Assembly. These experiences taught her the need to recognize the real-world value of a case to a client, and that negotiation and compromise are often the most valuable skills in litigation.

## **Notable Work**

- In *Burrows v 75-25 153rd Street, LLC* ("Burrows"), the Appellate Division, First Judicial Department unanimously reversed the lower court and dismissed the tenants' putative rent overcharge class action in its entirety, while making significant rulings for owners in New York that are fighting claims of fraud and defending rent concession or "net effective rent" claims. The landlord's predecessor openly registered both initial legal regulated rents and lower preferential rents with DHCR in 2007 in a building receiving 421-a tax benefits. In 2020, some 13 years after the initial DHCR registrations were filed, tenants of the building commenced a putative rent overcharge class action against the current landlord, following a pattern of class actions brought by tenants against landlords claiming fraud. Here, the tenants claimed that the landlord's predecessor engaged in fraud in registering the initial legal rents in 2007, because the law prohibited the use of preferential rents for initial tenants in 421-a buildings. Riegel moved to dismiss the claims, arguing that the tenants' belated challenges to the initial DHCR registrations were time-barred by the applicable four-year statute of limitations. Riegel further argued that the tenants could never establish the only "fraud exception" to the statute of limitations because fraud requires "reliance," and here, the tenants could not have reasonably relied on the alleged errors in the initial registrations as a matter of law, because any error was plain on the face of registrations in 2007, and tenants failed to bring a claim until 2020. The First Department agreed and dismissed the case.
- In *Regina Metro. Co., LLC v New York State Div. of Hous. and Community Renewal*, 35 NY3d 332 (2020) ("Regina"), affirming sub nom *Reich v. Belnord Partners LLC*, 168 AD3d 482 (1st Dept 2019), Riegel successfully moved to dismiss the plaintiffs' J-51 rent overcharge complaint, asserted outside of the applicable statute of limitations and more than six years after the seminal *Roberts* decision. Riegel successfully defended the decision, which was affirmed by the Appellate Division, First Department. After plaintiffs were granted leave to appeal to the Court of Appeals, the Legislature then enacted the HSTPA, which applied to all pending cases and would have altered the result of the action by expanding the statute of limitations. Riegel was successful in defending the dismissal of the action, persuading the Court of Appeals that the HSTPA did not

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revive time-barred claims and, critically, that retroactive application of the HSTPA to conduct that occurred prior to its enactment was unconstitutional - a landmark decision for the New York real estate industry.

- In *DOLP 1133 Properties II LLC v. Amazon Corp. LLC*, 2020 NY Slip Op 30274(U) (Sup Ct, New York County 2020), The Durst Organization sought damages against Amazon for breaching the exclusivity provision of a letter of intent concerning a major office lease. Riegel successfully obtained an order granting partial summary judgment in favor of Durst on the issue of Amazon's liability for breaching the LOI, which induced Amazon to resolve Durst's claim for damages.
- In *Mahmood v Mason Mgt. Services Corp. d/b/a Stellar Management et al.*, 2019 NY Slip Op 32175(U) (Sup Ct, New York County 2019), a putative class action lawsuit that was commenced by approximately 60 tenants against Stellar Management regarding more than a dozen buildings, Riegel successfully obtained dismissal of the action against both Stellar's principal, Larry Gluck, and Stellar Management because the plaintiffs failed to sue direct owners of the buildings, and instead only sued a management company.
- In *Vornado 40 East 66th St Member v. Krizia Spa*, 135 AD3d 649 (1st Dept 2016), Riegel was successful on appeal to the Appellate Division, First Department, after Supreme Court erroneously denied Vornado's right to recover its attorneys' fees.
- In *KMART Corporation v VNO Bruckner Plaza LLC*, Riegel defeated KMART's claim in arbitration that Vornado was required to replace a Vermaport Shopping Cart conveyor, which KMART alleged was the equivalent of "escalator systems," under its lease. A shopping cart conveyor, which moved carts from floor-to-floor in a supermarket next to an escalator, was not an "escalator system," and instead was a conveyor, a distinct apparatus. As a result of the binding arbitration decision, KMART's \$3,000,000 claim was denied in its entirety, with the arbitrator holding that Vornado "is not obligated to save and hold [KMART Corporation] harmless or to reimburse it for all costs incurred in replacing the down Vermaport."
- In *68-74 Thompson Realty, LLC v Heard*, 54 Misc3d 144(A) (App Term, 1st Dept 2017), Riegel successfully defeated a subtenant's claim at the Appellate Term, First Department attempting to gain tenancy rights based on the illusory tenancy doctrine, establishing that a subtenant does not step into the shoes of the former tenant, even in the context of an illusory tenancy, but obtains only those rights to which the subtenant would have been entitled upon vacancy -- in this case, a deregulated lease.
- In *Sag Harbor Pooh, LLC v Plaza Surf and Sport, Inc.*, 60 Misc3d 137(A) (App Term, 2d Dept 2018), Riegel prevailed at the Appellate Term, Second Department in a commercial holdover proceeding regarding a restrictive use provision, which ultimately led to a judgment of possession against the commercial tenant and an award of attorneys' fees for R&E's client for both the underlying proceeding and the appeal.
- In *City's 5th Avenue 54th Street LLC v. 685 Fifth Avenue Owner LLC et al*, Index No. 650728/17, the plaintiff commenced on an action against Riegel's client related to the purchase of a commercial condominium unit at 685 Fifth Avenue and filed a notice of pendency against the property. Riegel immediately sought and obtained partial

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summary judgment on both the seller's and purchaser's causes of action for specific performance of the contract, forcing the purchaser to cancel the notice of pendency and withdraw its cause of action for specific performance. With the notice of pendency cancelled, R&E's client closed on the sale of the commercial unit to a third party.

- In *Asher v 101 West 78th, LLC* 2017 NY Slip Op. 32455(U) (Sup Ct, New York County 2017), Riegel successfully moved for summary judgment dismissing eleven causes of action brought by a tenant in a development site, alleging that she was wrongfully evicted, intimidated, threatened, and harassed as a result of her temporary relocation for repairs and system modifications in her apartment.
- In *New York Bone and Joint Specialists, PLLC v Milro Associates*, Index No. 651201/2015, Riegel obtained dismissal of a commercial tenant's claim that the landlord had overcharged it for CPI increases pursuant to the parties' lease based on the tenant's course of conduct and voluntary payments over the course of the lease.
- In *200 Corbin Owners Corp., v Yury Gokhberg*, Index Nos. 088326/17 and 087119/18, in multiple proceedings against a chronically delinquent cooperative shareholder, including one proceeding prosecuted through a successful trial to judgment, Riegel obtained three separate judgments for attorneys' fees in favor of the cooperative board, ultimately resulting in a UCC Article 9 non-judicial foreclosure against the shareholder.
- In *184 Joralemon LLC v. Brooklyn Law School*, 929 NYS2d 201 (Sup. Ct. Kings Co. 2011), Riegel obtain an immediate dismissal of an action to enforce a contract of sale which Brooklyn Law School declined to execute after extensive negotiations and the plaintiff's unilateral delivery of a deposit thereunder.
- In *184 Joralemon LLC v. Brklyn Hts Condos, LLC, et al.*, Riegel successfully enforced a liquidated damages provision of a contract of sale which permitted Brooklyn Law School's contract assignee to retain a \$1,262,000 contract deposit due to a purchaser's failure to close. Riegel also successfully moved for the dismissal of nine third-party claims asserted by the defendant against BLS and four other individual third-party defendants, including claims for breach of contract, breach of the covenant of good faith and fair dealing, tortious interference with contract and prospective business opportunity, prima facie tort, misrepresentation and conversion.
- In *S&P Associates of New York LLC v. Vera Salnikova and Ronald Stone*, Riegel successfully obtained a judgment of possession for a 2,777 square foot, five-bedroom, four-bathroom apartment with panoramic views of Central Park and the Time Warner Center.
- *David Gordon, Jacqueline Swiskey v. Brian Palumbo, et al.*, 377 Fed. Appx. 39, 2010 WL 1909550 (C.A.2 (N.Y.)) (2010).
- *Louise E. Dembeck v. 220 Central Park South, LLC*, 33 A.D.3d 491, 823 N.Y.S.2d 45 (2006).
- *TSI West 14, Inc. v. Samson Associates, LLC*, 8 A.D.3d 51, 777 N.Y.S.2d 29 (2004).
- *VNO 100 West 33rd Street LLC v. Square One of Manhattan, Inc.*, 22 Misc.3d 560 (Civ. Ct. N.Y. Co. 2008).
- *Yenom Corp. v. 155 Wooster Street, Inc.*, 23 A.D.3d 259, 805 N.Y.S.2d 304 (2005).



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- *Flushing Expo, Inc. v. New World Mall*, Queens County Clerk Index No. 28443/11.

## **Classes & Seminars**

- Brooklyn Law School, Adjunct Professor, Residential Landlord-Tenant Law, 2015-Present
- CLE presentation to Housing Court Judges and Court Attorneys - Evidentiary Issues, November 2024
- CLE presentation to Housing Court Judges and Court Attorneys - Good Cause Eviction, December 2024
- Jewish National Fund (JNF) Rent Stabilization Legislation Panel, Speaker, July 2019
- RSA Seminar/Webinar: Managing Rent Regulated Property Non-Payment Proceeding after the HSPTA of 2019, Speaker, March 2020
- Jewish National Fund Luncheon Honoring Supreme Court Justice Jules Spodek, Speaker, January 2020
- Hot Topics in Cooperatives and Condominiums (Instructor), New York City Bar Association, 2010

## **Published Works**

- "Guaranty Law Invalidated," New York Real Estate Law Reporter August 2023
- "NY Rent Recovery Case Adds Structure To Overcharge Claims," Law360, April 2020
- "Landlords Should Not Waive Small Businesses' Rent," Law360, April 2020
- "The HSTPA and Commercial Tenants," RSA Reporter, December 2019

## **Professional Associations**

- Brooklyn Law School Board of Trustees, 2022 to Present
- Brooklyn Law School Alumni Association, President, 2022-2024
- Jewish National Fund, Tri-State President, 2021-2023
- Jewish National Fund, New York Board President, 2018-2021
- New York City Bar Association, Member, Committee on the Judiciary
- New York City Bar Association, Committee on Cooperative and Condominium, 2010 - 2013
- New York City Bar Association, Member, Housing Court Committee, 2013-2015