

Steven S. Rand, PARTNER

Steven S. Rand handles commercial litigation for banks and financial institutions, fortune five hundred companies and entrepreneurial small business clients in such diverse fields as complex real estate matters (including commercial foreclosures, work-outs and title disputes), banking law (including credit losses resulting from fraud or operating errors) and trusts and estates litigation.

Steve's innovative approach to litigation strategy, his concise and persuasive writing style and his meticulous case preparation has resulted in numerous highly successful outcomes for the firm's clients. Whether after trial, written motion for dispositive relief, appeals, arbitration, mediation or settlements on favorable terms, Steve always proceeds with an eye toward achieving the best and most cost efficient result for the firm's clients. An AV rated attorney, Steve has been selected regularly as a New York Super Lawyer in Business Litigation.



ILLUSTRATIVE MATTERS INCLUDE:

- Represented major U.S. bank in action in United States District Court for the Southern District of New York against prominent Atlantic City Casino to recover several million dollars embezzled by a former bank branch manager and utilized by the embezzler to establish a very substantial gambling credit line at the Atlantic City Casino. Asserted claims for recovery by the bank on the novel theory that the Casino violated the New Jersey Gaming Statute by failing to verify the embezzler's source of funds. After overcoming the Casino's motion to dismiss the complaint, negotiated a substantial recovery for the bank.
- Successful defense of a \$160,000,000. lender liability action by a Florida real estate developer against a major national commercial lender, alleging breach of a commitment to fund a loan. The United States Court of Appeals for the Second Circuit affirmed the decision of the United States District Court, Southern District of New York, awarding summary judgment, dismissing the plaintiff's complaint. The decision advanced an important legal precedent protecting creditors who incorporate protective language in a term sheet, effectively disclaiming a commitment to lend, as an effective bar to lender liability lawsuits.
- Lead counsel for ZEK in connection with highly successful efforts to recover multi-million dollar obligations due to the former Bank of Credit and Commerce, S.A. in the tri-state area, both on behalf of the Superintendent of Banks of the State of New York and the Trustee appointed by the Department of Justice.
- Represented major national bank in action in Supreme Court, New York County against the principal of a luxury office furniture company on the theory that he submitted false corporate financial statements to secure a multi-million dollar business loan and then converted the loan proceeds for his personal use. After traditional discovery methods revealed no evidence of fraud, made decision to engage a forensic accounting firm to analyze the data stored in the corporate borrower's computer servers, which revealed deleted



OUR TEAM

electronic records of financial work-sheets. This newly discovered data enabled the forensic accountants to reconstruct the corporate financial statements, revealing that the financial statements produced by the borrower's principal were grossly exaggerated and fraudulent. The forensic evidence formed the basis for a motion for summary judgment, evidencing willful fraud by the borrower's principal, culminating in a substantial settlement for the bank.

- Obtained a multi-million dollar judgment after trial in Supreme Court New York County, on behalf of a Brazilian bank, dismissing an action challenging the bank's right to set-off against a large certificate of deposit. Despite expert testimony to the contrary, persuaded the trial court that discrepancies in certain loan documents were the result of a scrivener's error and that the bank had properly exercised its right of set-off.
- Represented major U.S. bank in proceeding in Surrogate's Court, Suffolk County to enforce a claim against a large estate, as the decedent had pledged the proceeds of her trust account as the sole collateral for a multi-million dollar loan by the bank to an entity controlled by her husband for the purpose of constructing a movie studio in Long Island, New York. Counsel for the Estate argued that the decedent was not competent to execute the loan guaranty as well as a written waiver of the bank's apparent conflict of interest arising from its dual capacity as co-trustee of the trust and lender. Upon an evidentiary showing demonstrating the customer's competence to make an informed decision to execute the loan documents, the Surrogate granted summary judgment in favor of the bank.

Steven S. Rand has been a partner at ZEK and its predecessor firm since 1985.