

## MITCHELL C. SHAPIRO

Mitchell C. Shapiro has been practicing law as an antitrust/trade regulation, payment systems/EFT and complex commercial litigation attorney at the highest levels, representing Fortune 500 corporations, national trade associations and other clients in significant cases and class actions at major law firms for many years. Mr. Shapiro also served as outside general counsel or in-house counsel and chief compliance officer for two different groups of FinTech (financial services) companies that provided businesses with payment processing services and alternative funding to businesses in the form of merchant cash advances and for an electronic medical records software company.

In addition to counseling clients on business strategies and initiatives, general corporate matters and in individual and class action litigations, Mr. Shapiro has represented clients before the Department of Justice, the Antitrust Division, the Federal Trade Commission, the Antitrust, Consumer Frauds and Health Bureaus of the Office of the New York State Attorney General (and the Antitrust and Trade Bureaus of numerous other states), the California Department of Business Oversight, the NAAG Payment Systems Working Group, the FCC, the SEC, the Consumer Financial Protection Bureau, the Federal Reserve and the New York State Division of Human Rights and has coordinated and participated in government relations with various state and federal regulatory and legislative bodies. Mr. Shapiro has been lead or co-counsel for the prevailing party in a number of significant cases, including *Allstate Insurance Co. v. Mugavero, et al.*, *The Trump-Equitable Fifth Avenue Company v. The City of New York, et al.*, *Goodstein-Milstein v. City of New York*, *Vaad L'Hafotzas Sichos, Inc. v. Kobot Publication Society, a division of Merkos L'Inyonei Chinuch, Inc.*, and in several monopolization and conspiracy cases in various state and federal courts, including *Concord EFS, Inc. v. Deluxe Data, Inc.*; *Diskin v. Daily Racing Form, Inc.*; *Concord EFS, Inc. v. Deluxe Data Systems, Inc.*; *Solla, et al. v. NYS Health Maintenance Organization Conference, Inc., et al.*; *Beyer Farms, Inc. v. Elmhurst Dairy, Inc.* and most notably *Wal-Mart Stores, Inc. et al. v. Visa USA, Inc. and MasterCard International Incorporated (a/k/a In Re VisaCheck/MasterMoney Antitrust Litigation)*.

Mr. Shapiro's work has taken him into the board rooms of dozens of major corporations and their competitors. The companies that Mr. Shapiro has represented over the years include Allstate Insurance Company, American Progressive Insurance Co., Arnold Chevrolet, Bio-Reference Labs, BP-Amoco, Business Payment Systems, CHCMF, Circuit City Stores, Concord Computing Corporation, Concord EFS, Congregation Ahavas Moishe, Cresthill Capital, Daily Racing Form, Dollar Rent A Car, Dora's Naturals, Department 56, EFS National Bank, Elmhurst Dairy, Factor Funding, Food Marketing Institute, Goodstein-Milstein Development, Interfaith Medical Center, International Mass Retail Association, Mantis Funding, Mastercard International, National Retail Federation, NewsAmerica Publishing, NewsCorp., Nissan Motors, North American Reinsurance, Sanus Health Plans of Greater NY/NYLCare, Process America, Reliable Abstract, Safeway, Second Source Funding, Sears Roebuck & Company, Solow Building Company, Star Systems, Snap Advances, Steuben Foods, Tribul Merchant Services, Thrifty Car Rentals, Trump Equitable Fifth Avenue Co., Twentieth Century Fox, U.S.A. Dawgs, Wal-Mart Stores, Watermatic and Vaad L'Hafotsas Sichos. Mr. Shapiro's work -- which has included all stages of litigation, from preliminary injunctions through trial and appeals, arbitrations and class actions -- has involved the practices of, among other businesses: auto dealers and manufacturers, art dealers, banks and bankcard associations, cable companies, charities, collectible manufacturers and distributors, countertop manufacturers, credit and debit card companies (issuers, processors and networks), dairy processors and distributors, film and television producers, heavy machinery manufacturers, grocers and supermarkets, health clubs, health maintenance organizations, independent laboratories, insurance companies and re-insurers, labor unions, lease financing companies, limited liability companies, limited partnerships, merchant cash advance companies, municipal contract bidders, newspapers, petroleum retailers, publicly traded companies, publishers, real estate developers, religious corporations, rental car companies, real estate developers and contractors, securities issuers, schools, trade associations, truck manufacturers, synagogues, water purification companies and wholesale footwear distributors. He has first chaired numerous trials and hundreds of depositions, and personally briefed and argued scores of motions and numerous appeals in state and federal courts throughout the country.

In *Wal-Mart et al. v. Visa and MasterCard (a/k/a In Re VisaCheck/MasterMoney Antitrust Litigation)*, Mr. Shapiro coordinated the pre-trial discovery, countless motions (including the briefing of the successful class certification motions) and massive class notice (to over 5 million merchants) on behalf of the lead plaintiffs in one of the largest civil actions in history, involving production of more than 5 million documents and approximately 400 depositions (over 500 days) concerning the bankcard associations' alleged attempt and conspiracy to monopolize the debit card market. Mr. Shapiro - who logged more hours over the decade-long course of the case than anyone else - was responsible for hiring, supervising and coordinating the countless vendors and co-counsel necessary to support this monumental effort. In addition to coordinating, negotiating and litigating over the pre-trial discovery, and handling key depositions, Mr. Shapiro was one of

the 4 members of the trial team that also simultaneously mediated and negotiated the largest antitrust settlement in history on the actual morning of trial -- with a common fund of over \$3 billion and unprecedented injunctive relief (valued at up to \$1 billion in 2003 alone and up to \$100 billion through 2010). That settlement, approved by the federal court in December 2003, has been described as historic and landmark for its impact on antitrust and class action jurisprudence, the payments systems, banking and retailing industries, and was called a "Home Run for the Retailers" by the *American Banker*." In a press release, his law firm heralded Mr. Shapiro's major part in the firm's role as lead counsel.

Mr. Shapiro played a major role in numerous other significant cases. For example, in *Beyer Farms, Inc. v. Elmhurst Dairy, Inc.* (a case featured in *BNA's Antitrust Reporter*), Mr. Shapiro successfully convinced both the district court and the Second Circuit to consider his client's arrangements with distributors to be part of a dual distribution scheme and to extend prevailing law to apply the more lenient rule of reason standard and dismiss all claims against his client. In *Solla et al v. Aetna, et al*, the Second Circuit Court of Appeals affirmed the district court's opinion that the HMOs had not engaged in the alleged violation of the antitrust laws by excluding chiropractors from their managed care networks. In that case, Mr. Shapiro served as co-lead counsel coordinating the discovery efforts and successful summary judgment strategy of eleven defendant HMOs and their various law firms. In *Goodstein-Milstein v. City of New York*, a case long-cited for the black letter legal principle that a plaintiff can not seek speculative damages, Mr. Shapiro briefed and argued the appeal that convinced the New York appellate court to overturn the lower court's ruling and reinstate the case despite the fact that the City of New York argued that the client's former law firm's neglect in allowing the case to lie dormant for years (and then be dismissed) resulted in the unavailability of a key witness and prejudice to the defendant. In *Arnold Chevrolet et al. v. Newsday, Inc. et al*, a case settled at the close of discovery in early 2008, Mr. Shapiro served as co-counsel for the plaintiffs in bringing a variety of common law fraud and antitrust claims against Newsday and a preferred group of automobile dealers arising out of, *inter alia*, Newsday's alleged fraudulent overstatement of its circulation figures (and corresponding advertising rates), Newsday's alleged attempt to monopolize the market for advertising new automobiles on Long Island. In the oft-cited case of *Allstate v. Mugavero*, New York's highest court ruled in a case of first impression that a standard homeowners insurance policy does not cover intentional or criminal acts by a homeowner or resident, rejecting the widespread tactic of artfully pleading alternative causes of action grounded in negligence in an attempt to invoke coverage. The *Trump-Equitable* case established that the City's method of real property tax assessment for "mixed-use" buildings like the Trump Tower was improper. In *Vaad L'Hafotzas Sichos v. Kehot Publication Society*, Mr. Shapiro oversaw the litigation and first chaired the federal trademark trial that preserved his client's invaluable right to continue publishing the edited works of the Lubavitcher Rebbe.

Mr. Shapiro was first associated with the New York firm of Stroock & Stroock & Lavan (from 1988-1992, where he worked closely with two future federal district court judges), and the New York office of Chicago's McDermott Will & Emery (from 1992-1994, where he began the affiliations that led to Mr. Shapiro founding Constantine & Partners in 1994). During Mr. Shapiro's decade at C&P, the firm gained great acclaim, successfully litigating major cases against some of the largest corporations (and law firms) in America, including America On-Line, Time Warner, Visa and MasterCard; the firm was named as one of the top plaintiffs' litigation firms in the country by the *National Law Journal* in July 2003. He left C&P in the wake of the historic *Wal-Mart* settlement to pursue new opportunities and challenges, including serving on the advisory boards of two start-up companies and continued to counsel clients on antitrust and litigation matters and to represent them in complex commercial litigations, including the *Newsday* case and numerous matters involving partnerships and limited liability companies in both traditional and high-tech fields, including representing a group of independent sales organizations in successfully litigating multi-million disputes against two of the major credit card processors. In late 2011, Mr. Shapiro returned to the full time practice of law and expanded his firm to handle the increasing demand of clients and in 2012 merged with an established local criminal and civil litigation firm and grew that New York City firm to a staff of over 20, servicing more than 60 clients in over 200 different matters, including 90 litigations. In June 2015, Mr. Shapiro became a partner at Carter Ledyard & Milburn, the 150-year old Wall Street law firm where FDR had worked immediately after law school. In April 2017, Mr. Shapiro left CLM to become the full time General Counsel, Chief Legal Officer and Chief Compliance Officer for longstanding clients, a group of related financial services companies providing merchant cash advances to businesses throughout the United States. He has maintained the New York firm of MCS Shapiro Law Group PC (formerly known as The Law Offices of Mitchell C. Shapiro) continuously since 2004.

Mr. Shapiro graduated from Cornell University (with honors) in 1986 and from University of Pennsylvania School of Law in 1989. He has served as an author or contributing editor of a number of publications and articles and has lectured at numerous conferences and seminars on various topics, including antitrust, class actions, complex commercial litigation, payment systems and data security breaches. Mr. Shapiro can be reached by email at [mcsesq@gmail.com](mailto:mcsesq@gmail.com) or [mcs@mcshapirolaw.com](mailto:mcs@mcshapirolaw.com), or by phone at 917.446.3628.