BERGER SINGERMAN
FLORIDA'S BUSINESS LAW FIRM

JAMES D. GASSENHEIMER

Partner

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James Gassenheimer is a Partner on Berger Singerman's Dispute Resolution and Business Reorganization Teams. He has extensive jury and non-jury trial experience in State, Federal and Bankruptcy court, having tried over 100 cases to jury verdict or judgment. His practice includes real estate related litigation, business torts, complex commercial litigation, bankruptcy litigation, insurance litigation, and product liability litigation. James is Board Certified as a Civil Trial Lawyer by The Florida Bar and National Board of Trial Advocacy and has been recognized as a leading commercial trial lawyer and bankruptcy trial lawyer by *Chambers USA* and *The Best Lawyers* in America. He currently serves on the Executive Council of the Trial Lawyers Section of The Florida Bar and is Chair of its Civil Trial Law Certification Committee.

Education

J.D., *cum laude*, University of Miami School of Law

- Editor, Business Law Journal
- Order of the Coif

B.A., Brown University

Bar Admissions

Florida
U.S. Court of Appeals, Eleventh Circuit
U.S. District Courts, Northern, Southern and Middle Districts of Florida

Practice Teams

Dispute Resolution
Business Reorganization

Practice Areas

Bankruptcy Litigation
Complex Commercial Litigation
Director/Officer Litigation & Partnership Disputes
Fiduciary Litigation
Insurance
Real Estate Litigation
Trust & Probate Litigation

Representative Matters

- Lead Trial Counsel to Charles Lydecker, Alan Florez and Ben Barbieri in the successful defense at trial of claims brought by Brown & Brown Insurance Company (BRO), seeking in excess of $145 million in damages for claims of breach of fiduciary duty, breach of restrictive covenants in their employment contracts and transition agreements, and for tortious interference with business relationships
- Lead Trial Counsel in trust and fiduciary duty litigation seeking control of the third-generation New York real estate moguls' dispute control of the family fortune
- Lead Trial Counsel to Accent Technologies, Inc. and its directors in multi-million dollar claims for breach of fiduciary duty brought by The Florida Opportunity Fund.
- Lead Trial Counsel in precedent setting First Amendment litigation regarding constitutionality of mutual non-disparagement
- Successfully obtained an 8 figure settlement as Co-Lead Counsel to Chapter 7 Trustee Michael Bakst in Director and Officer breach of fiduciary duty claims for the estate of TM Health Care.
- Lead Trial Counsel and obtained a final summary judgement dismissing all claims for the Adler family and their technology company Kable-X USA LLC in claims for breach of contract and breach of fiduciary duty with an exposure of $11MM.
- Lead Trial Counsel to Ascendant Commercial Insurance Company in the defense of litigation brought under the RICO Act.
- Lead Trial Counsel to Liquid Hospitality obtaining a $4 million dollar award in an arbitration against ESJ JI Operations and ESJ Leasehold in a dispute over wrongful termination of Liquid Hospitality's management agreement for the JOIA Beach Club restaurant at Jungle Island.
- Lead Trial Counsel in claims brought by EB5 investors against Las Olas Ocean Resort and its principals obtaining a six figure settlement to resolve $17 million dollars' worth of claims.
- Lead Trial Counsel to David Grutman in real estate litigation matters.??????

- Lead Trial Counsel to the former owners of the SLS South Beach Hotel in the defense of claims for breach of representations and warranties brought by the purchaser.
- Lead Trial Counsel and obtained a full defense judgment for Royal Caribbean Cruises, Ltd. in an arbitration regarding certain leasehold interests.
- Lead Trial Counsel and obtained a trial judgment for Black Knight InfoServ, LLC in a commercial insurance coverage action and secured a $19.1MM judgment of indemnity and a $4.8MM judgment for fees and costs.
- Lead Trial Counsel to Trustee in the successful trial of a Probate Adversary seeking the removal of the Trustee and seeking damages for Breach of Trust.
- Lead Trial Counsel to real estate developer and hotel owner HFZ Capital Group in obtaining a defense verdict in its dispute with its franchisee seeking a $6 million breakup fee.
- Co-Lead Trial Counsel to Foundation Risk Partners Corp and its affiliates in non-compete and trade secret litigation with Brown & Brown, Inc.
- Lead Trial Counsel to a South Florida based real estate development company in an arbitration seeking specific performance of a $33 million-dollar acquisition in North Florida.
- Lead Trial counsel to a North Florida gasoline distributor in a multimillion-dollar franchise dispute with its supplier.
- Lead Trial Counsel to Chairman of the Board of Facet Technologies, Inc. in defense of alleged claims for breach of fiduciary duty and breach of a non-circumvent agreement.
- Lead Trial Counsel to Royal Caribbean Cruises Ltd. in an international arbitration with its business partner in a real estate investment dispute.
- Lead Trial Counsel to the co-personal representative of the estate of the late innovative and renowned architect, Norman Giller, in a real estate dispute between the estate and one of its beneficiaries.
- Lead Trial Counsel to Chapter 7 Trustee Christine Herendeen in a multimillion-dollar fraudulent transfer and aiding and abetting breach of fiduciary duty litigation against Synovus Bank and Regions Bank.
- Co-Lead Trial Counsel to Soneet Kapila as Chapter 7 Trustee in the Universal Health Care bankruptcy in a multimillion-dollar breach of fiduciary duty litigation against the Warburg Pincus private equity fund.
- Lead Trial Counsel to Jeff Soffer and Turnberry Associates' affiliates in the defense of a multimillion-dollar securities, business tort and fraudulent transfer litigation in the Turnberry MGM Grand Towers bankruptcy matter pending in Las Vegas Nevada.
- Lead Counsel to Jeff Soffer, Florida Fontainebleau Hotel LLC and the LIV night club in litigation arising out of the bankruptcy of SFX Nightlife Entertainment, LLC.
- Lead Trial Counsel in the defense of a first-party insurance coverage matter involving $90 million in fidelity bonds.
- Lead Trial Counsel to Jeff Soffer in Director and Officer liability litigation in regard to the Fontainebleau Resort Las Vegas hotel project.
- Lead Trial Counsel for a Fortune 500 company in litigation relating to an international tax transfer pricing dispute.
- Obtained a defense verdict as Lead Trial Counsel for a NASDAQ listed Fortune 500 company in the jury trial of a case involving the breach of a finder's fee agreement.
- Lead Counsel to the Committee of Unsecured Creditors in a 2,900+ employee WARN Act class action involving claims exceeding $36 million.
- Lead Counsel to the plan proponent in the reorganization of the largest hotel in Pittsburgh, saddled with $80 million in claims, and which included the successful six-day trial of a contested matter against the hotel's secured lender, the Blackrock hedge fund.
- Lead Trial Counsel to a publicly-traded company in the defense of claimed breach of employment and stock option contracts, brought by the former CEO, CFO and President General Counsel to the Court Appointed Receiver in a $200 million real estate related receivership, handling complex foreclosure litigation, bankruptcy matters, prosecuting and defending claims for fraud, lender liability, lien priority issues and first

and third party insurance claims involving over 20 separate and affiliated developers.

- Lead Trial Counsel to an institutional research boutique and brokerage firm that resulted in a mediated $8 million settlement of a claim for breach of a purchase and sale agreement with a publicly traded European based technology and database services company.
- Lead Trial Counsel representing a general contractor in a $675 million construction lien priority litigation filed as an adversary in bankruptcy court.
- Lead Trial Counsel to a Developer in breach of contract litigation with a home builder involving claims totaling $150 million.
- Lead Trial Counsel to a high net worth individual in a series of complex litigation matters that emanated from a thirty-year old family dispute and claims in excess of $420 million. The cases included the successful defense at the trial of claims for breach of fiduciary duty, lender liability and fraud.
- Successfully turned a contentious international arbitration dispute between the firm's client, a European Distributor of Environmental Products, into a business resolution that extended the client's relationship with its U.S. manufacturer.
- Legal Counsel to Gary Brecks of 10X health and “The Ultimate Human” podcast.

Awards & Honors

- *Chambers & Partners USA, America's Leading Business Lawyers*,
  - Bankruptcy Litigation, 2020-2023
  - General Commercial Litigation, 2011-2023
- *The Best Lawyers in America®*, 2013-2024
- *Lawdragon 500*, named among the nation's 500 Leading Lawyers in Bankruptcy and Restructuring, 2023
- *Florida Super Lawyer,* 2006, 2008-2009, 2011-2020
- *The South Florida Legal Guide*
  - Top Lawyers in South Florida, 2011-2014, 2016-2019
- Faculty for the 2019, and 2021 Florida Bar Advanced Trial Advocacy Program
- *Florida Trend*
  - Legal Elite, 2011-2012, 2015
- Winner of M&A Advisors 7th Annual Turnaround Awards for outstanding achievement as Chapter 11 Reorganization of the Year between $10M - $250M, 2013
- *Daily Business Review*, Finalist, Top Dealmaker Award for Pittsburgh Grand Hotel Deal, 2012
- Recipient of the Pro Bono Service Award in recognition of continuing support and outstanding contribution to "Put Something Back," a joint pro bono project of the Florida Eleventh Judicial Circuit and the Miami-Dade County Bar Association in the area of Family Law, May 2002 for devoting over 150 hours to the preparation and trial of a hotly contested grandparent visitation case.
- Board Certified as a Civil Trial Lawyer by The Florida Bar Board of Legal Specialization
- Board Certified in Civil Trial Advocacy by the National Board of Trial Advocacy
- Board Certified in Civil Pretrial Practice Advocacy by the National Board of Civil Pretrial Practice Advocacy
- Member, The American Inns of Court, Spellman-Hoeveler Chapter. The American Inns of Court is a group of judges, lawyers and law professors with 20,000 active members throughout the United States whose mission is to foster excellence in professionalism, ethics, civility and legal skills in order to perfect the quality and efficiency of justice in the United States.
- *Martindale-Hubbell*, AV® Preeminent™ rated
- Senior Fellow, Litigation Counsel of America, an invitation-only trial lawyer honorary society

Community Activities / Associations

- Chair of the 2023 Teachers Law Symposium sponsored by the Trial Lawyers' section of The Florida Bar (2021-2023)
- Faculty for the National Institute for Trial Advocacy, Building Trial Skills: Florida Program (2023)
- Faculty for The Florida Bar Advanced Trial Advocacy Program (2019-2023)
- The Florida Bar Civil Trial Law Certification Committee (2017-2023)
  - Chair (2021-2022)
  - Vice Chair (2020-2021)
- Member, Executive Council of the Trial Lawyers Section of The Florida Bar, 2017 to present
  - Legislative Chair, (2023-2024)
  - Chair of the Teacher's Law Symposium (2021-2023)
- Miami-Dade Trial Lawyers Association
- Member, FIU College of Law Dean's Advisory Council, 2015-2018
- Member, Patricia and Phillip Frost Museum of Science Board of Trustees, 2014-2016
- The Bankruptcy Bar Association of the Southern District of Florida
- The Federal Bar Association
- The Dade County Bar Association

In the News

Berger Singerman Attorneys Listed in the 2023 Edition of Lawdragon's 500 Leading U.S. Bankruptcy and Restructuring Lawyers
June 20, 2023

Berger Singerman Recognized by Chambers USA for Twentieth Consecutive Year
June 1, 2023

Berger Singerman Represents Charles Lydecker, Alan Florez and Ben Barbieri as founding partners of Foundation Risk Partners in Stunning Court Victory over Brown & Brown Insurance
December 6, 2022

The Daytona Beach News Journal Quotes James Gassenheimer in, "Daytona's Foundation Risk scores victory in court fight with crosstown rival Brown & Brown"
November 21, 2022

Forty-Three Berger Singerman Attorneys Recognized in the 2023 Edition of Best Lawyers In America
August 18, 2022

Berger Singerman Recognized by Chambers USA for Nineteenth Consecutive Year
June 1, 2022

Thrity-nine Berger Singerman Attorneys Recognized in the 2022 Edition of Best Lawyers In America
August 19, 2021

The Real Deal quotes James Gassenheimer in "HFZ Capital off the hook for $6M in failed Shore Club South Beach deal"
June 11, 2021

Berger Singerman's Bankruptcy Litigation Practice Recognized As 2021 "Litigation Departments of the Year" By Daily Business Review
March 29, 2021

Thirty-Five Berger Singerman Attorneys Recognized in the 2021 Edition of Best Lawyers In America
August 19, 2020

Twenty-Seven Berger Singerman Attorneys Recognized in 2020 Edition of Florida Super Lawyers
June 8, 2020

Daytona Beach News-Journal Features Berger Singerman in "Legal War Escalates Between Daytona's Brown & Brown, Crosstown Upstart Foundation Risk"
December 1, 2019

Twenty-one Berger Singerman Attorneys Listed in South Florida Legal Guide as Top Attorneys
October 31, 2019

Thirty Berger Singerman Attorneys Recognized in the 2020 Edition of Best Lawyers In America
August 14, 2019

Twenty-Eight Berger Singerman Attorneys Recognized in 2019 Edition of Florida Super Lawyers
May 29, 2019

Berger Singerman Recognized by Chambers USA for Sixteenth Consecutive Year
April 24, 2019

Berger Singerman Recognized by Chambers USA for Sixteenth Consecutive Year
April 24, 2019

South Florida Legal Guide Names 21 Berger Singerman Attorneys as Top Lawyers
March 7, 2019

Daytona Beach News-Journal quotes James Gassenheimer in, "Brown"
January 21, 2019

Thirty Berger Singerman Attorneys Recognized in the 2019 Edition of Best Lawyers In America
August 14, 2018

Thirty-One Berger Singerman Attorneys Recognized in 2018 Edition of Florida Super Lawyers
June 17, 2018

Berger Singerman Recognized by Chambers USA for 15th Consecutive Year
May 2, 2018

Berger Singerman Recognized by Chambers USA for 15th Consecutive Year
May 2, 2018

South Florida Legal Guide Names 23 Berger Singerman Attorneys as Top Lawyers
January 9, 2018

Law360 quotes James Gassenheimer in, "Israeli Court Nixes Arbitration Clause In Real Estate Row"
January 2, 2018

Thirty Berger Singerman Attorneys Recognized in the 2018 Edition of Best Lawyers In America
August 14, 2017

Law360 quotes James Gassenheimer in, "M&A Bankers Amp Up Disclosures Amid Chancery Crackdown"
July 2, 2017

Thirty-Two Berger Singerman Attorneys Recognized in the 2017 Super Lawyers Florida Edition
June 8, 2017

Berger Singerman Receives High Marks by Chambers USA for Fourteenth Consecutive Year
May 29, 2017

Daily Business Review: Regions Bank Must Cough Up Attorney-Client Communications in Check-Kiting Case
May 9, 2017

Daily Business Review profiles James Gassenheimer on "Triathlete-Lawyer Looks Back on His Path to Law"
April 13, 2017

Twenty-Eight Berger Singerman Attorneys Recognized in the 2017 Edition of Best Lawyers In America
August 14, 2016

Tampa Bay Business Journal interviews James Gassenheimer on "Synovus to pay $9M to settle claims involving Clearwater firms"
August 8, 2016

Thirty-Six Berger Singerman Attorneys Recognized in the 2016 Super Lawyers Florida Edition
June 13, 2016

Berger Singerman's Dispute Resolution Team Receives High Marks by Chambers USA
June 7, 2016

Berger Singerman Receives High Marks by Chambers USA for Thirteenth Consecutive Year
June 1, 2016

AllBusiness.com Quotes James Gassenheimer on "Law and Order: Don't Let Your Business Succumb to Litigation"
February 14, 2016

Publications

the Edge: A Publication of the Trial Lawyers Section of The Florida Bar "Trial By Zoom: The New Trial By Fire"
August 16, 2021

Law360, "Florida Private Trials An Attractive Option During COVID-19"
March 23, 2020

South Florida Legal Guide, "Courts Continue to Tighten the Reins on Expert Witness Testimony"
March 7, 2019

Daily Business Review, "GARA Still a Powerful Tool in Aircraft Litigation Cases"
August 20, 2017

Miami Herald, "Is there a new wave of Ponzi schemes coming? There's a possibility"
March 18, 2017

There Oughta Be a Law: Steering Clear of Ponzi Schemes
December 29, 2016

Events & Speaking Engagements

James Gassenheimer, Speaker, " 2023 Teachers' Law Symposium", The Florida Bar Trial Law Section
January 20, 2023

James Gassenheimer, Speaker, "Deposition 360: Preparation, Strategy, and Execution of Taking An Effective Deposition"
February 26, 2019

James Gassenheimer, Speaker, "E-Discovery: How to Avoid Being TAR-ed and Feathered for the Foreign Entrepreneur," American Bankruptcy Institute
January 17, 2018

James Gassenheimer, Speaker, "CLE: Deposition Boot Camp," Business Law Section of The Florida Bar
May 18, 2017

James D. Gassenheimer, Speaker, "The Exposure of Banks and Financial Advisors to Claims for Aiding and Abetting Breach of Fiduciary Duty After RBC Capital Markets, LLC v. Jervis," Commercial Litigation Seminar
October 18, 2016

James Gassenheimer, Speaker, "Evidence for Bankruptcy Lawyers Taught by Real Trial Lawyers," The Bankruptcy Bar Association
March 10, 2016

Prior Affiliations

- Fowler White Burnett
- Mase & Gassenheimer