

Practice Areas

- Litigation
- Intellectual Property
- Entertainment, Media and Communications
- Labor and Employment

Education

- J.D., Fordham University School of Law, 1983
- A.B., Princeton University, cum laude, 1980

Bar Admissions

- New York (1984)
- U.S. Supreme Court (1994)
- U.S. Circuit Courts of Appeals for the Second (1990) and Third (1989) Circuits
- U.S. District Courts for the Southern and Eastern Districts of New York (1984)

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Jamie M. Brickell is a partner in Pryor Cashman's Litigation Group. During his 28-year career, Jamie has handled a variety of complex commercial cases. His experience includes matters relating to antitrust, securities fraud and RICO, intellectual property, corporate, partnership and joint venture litigations, as well as disputes concerning non-compete agreements and the protection of proprietary information and materials. Jamie has successfully handled numerous bench trials, jury trials and arbitrations. He has also conducted and concluded complex and multi-party mediations and settlement negotiations.

Jamie has represented plaintiffs in commercial litigations in a number of areas, including breach of written and oral contracts, earn out disputes, fraudulent inducement claims and claims concerning the rights of parties in partnerships and closely held corporations.

Of particular note, Jamie obtained three significant decisions involving public companies within the past eight years, one successfully defending a request for an injunction based on alleged theft of trade secrets, and the other two asserting claims that an acquiring company failed to act in good faith to the detriment of the seller, thereby depriving it of substantial earn out payments.

In November 2011, working with litigation partner Jonathan Shepard and associate Eric Dowell, Jamie successfully defended a request for a preliminary injunction brought by General Patent Corporation, Inc. ("GPC") against clients Wi-LAN, Inc. ("Wi-LAN"), a publicly traded Canadian corporation, and its wholly owned subsidiary Gladios IP Inc. ("Gladios"). Within two days after the completion of the preliminary injunction hearing, federal judge John F. Keenan vacated a TRO issued preventing former GPC general counsel Paul Lerner from working for Gladios (which TRO was instituted before Pryor Cashman was engaged) and denied the request for injunctive relief.

In December 2007, Jamie obtained a \$12.7 million arbitration award on behalf of the former shareholders of CryoGen, Inc. (CryoGen) against American Medical Systems Inc (AMS), including more than \$1 million in legal fees and costs. The AAA panel concluded that AMS failed to use “commercially reasonable” effort in its development and exploitation of CryoGen’s “Her Option” product. The panel also summarily dismissed AMS’ fraud counterclaims immediately after the conclusion of the two week arbitration conducted in Chicago in July 2007. Pryor Cashman's clients in the matter included JHK Investments, Kleiner Perkins and Invesco.

In 2003, Jamie represented the plaintiffs in a breach of contract and fraud dispute involving the sale of a medical program for the treatment of prostate cancer. After a five-week federal court trial, Jamie's clients received a \$58 million unanimous jury verdict. The matter settled after trial and the terms of the settlement are confidential, but the verdict was the fourth largest in New York State and the 30th largest in the United States for 2003.

Among his other significant plaintiffs' decisions are:

- On August 23, 2011, Jamie and litigation associate Rachel Pasternak obtained a \$422,000 judgment on behalf of clients David Kittay, Robert Brantman and Thomas Lumsden based on a decision by New York State Supreme Court Justice Oing enforcing an arbitration award that Jamie obtained for the clients against their former investment fund, Promethean Partners LLP, and rejecting Promethean's cross-motion to vacate. The award came after a two day arbitration before the Honorable Anthony Carpinello, formerly of the Appellate Division, Third Department, and included a finding that Promethean had improperly "reserved" amounts reducing claimants' respective capital accounts, while failing to properly compensate claimants for the final two months that they were employed by the fund. The award also rejected all counterclaims and affirmative defenses asserted by Promethean.
- *ChampionsWorld LLC v. United States Soccer Federation, Inc.*, 726 F. Supp. 2d 961 (N.D. Ill. 2010): Jamie, partner Bill Charron and associate Mona Simonian successfully represented former promoter of international professional men’s soccer matches in obtaining landmark sports and antitrust law decision denying motion for judgment on the pleadings brought by U.S. Soccer Federation and Major League Soccer, which contended that U.S. Soccer Federation, as national governing body for soccer in the U.S., was immune from federal antitrust and racketeering liability with respect to the performance of professional soccer matches pursuant to authority granted by Ted Stevens Olympic and Amateur Sports Act, 36 U.S.C. §§ 220501, *et seq.*; Court denied defendants’ motion for reconsideration and for leave to file an interlocutory appeal without requiring further submission on ChampionsWorld’s part. The matter is currently at the summary judgement phase.

- *Friars Club litigation*: Obtained summary judgment and an affirmative injunction for The Friars Club in a Lanham Act and Anti-Dilution lawsuit against 9900 Santa Monica, Inc. and Darren Schaeffer in the U.S. District Court for the Central District of California. In a September 4, 2007 decision, the Court found actual confusion on the part of the consuming public and blurring between the two organizations, and that The Friars Club had acquired “secondary meaning.” The Court also relied on the fact that Defendants admitted that the name “Friars” is a “luxury brand,” that “everybody knows the Friars in the Country,” and that the “Friars” name is “a legacy” and “historic” in concluding that the defendants “intended to capitalize on the ‘Friars’ name by emulating it in every aspect.” As the Court ruled: “In short, Defendants are using a mark (used by [The Friars Club] for over a hundred years) to identify a social club that is for all intents and purposes modeled after Plaintiff’s historic club.” Such “free riding on the investment of [The Friars Club] must now come to an end.” To read the decision in its entirety, please click [here](#).
- *TMS Entertainment, LTD (TMS)*: After a bench trial in the Southern District of N.Y., U.S. District Judge George Daniels in an April 9, 2007 decision found in favor of Pryor Cashman’s Japanese client, TMS Entertainment, LTD, a producer of animated television programs in Japan, and awarded TMS \$1.5 million in damages, interest, fees, and costs on an unjust enrichment theory against BKN Entertainment, Inc., a U.S. company that produced and marketed children’s animated programming. Although Judge Daniels originally dismissed all of TMS’s various claims premised on contract theories, the Court did not dismiss its catch-all unjust enrichment claim, and Pryor Cashman was able to demonstrate at trial that, in spite of the elaborate legal stratagems employed by the defendants, BKN was enriched at TMS’s expense in a manner that was inherently unfair.
- *3D Media v. FloorGraphics*: A two-week breach of contract arbitration on behalf of the claimant in an advertising industry dispute led to an arbitration award in excess of \$2.8 million in 2005, which award was fully confirmed after motions before Judge Sprizzo of the U.S. District Court for the Southern District of New York
- *Maymin v. Fuji*:. In this breach of oral contract litigation against Fuji Bank in 2001-02 requiring numerous depositions in the U.S. and Asia, Jamie and co-counsel, after successfully defending extensive motions for summary judgment, were able to extract a multi-million dollar settlement on behalf of plaintiffs

Jamie has also represented defendants in a number of litigations. In 2010, Jamie successfully moved to dismiss corporate litigation filed in the U.S. District Court for the Southern District of New York against Oxygen S.p.A. and its Italian board of directors.

In 2009, in *Stern v. Penny et al.*, Jamie defended and promptly settled, on favorable terms, a dispute surrounding the ownership and right to reproduce seven original transparencies from the “Last Sitting” photo session of Marilyn Monroe taken six weeks before her death in 1962.

In 2008, Jamie successfully defended then settled a copyright litigation brought against Japanese clients NAS/ADK and Konami, and U.S. clients Upper Deck and 4Kids Entertainment, brought by comic book artist Graig Weich and his company Beyond Comics arising out of the distribution of the Yu-Gi-Oh! trading cards and videos. The litigation was settled within a few months on terms favorable to our clients.

Jamie also recently obtained an arbitration award on behalf of a major pharmaceutical client denying all claims made by a major bank in a dispute arising out of the bank's claim for a \$750,000 fee, plus warrants and costs. In the arbitration, the bank claimed that it had earned a fee as a result of the pharmaceutical company's successful completion of a private placement, in which a third party acted as placement agent. The arbitrator rejected the bank's contractual claim in its entirety.

Other noteworthy defense litigations successfully handled by Jamie include:

- *Lisa Marie v. Altshuler et al.*: A decision to grant the firm's motion to dismiss a state court action against a California attorney and business manager based on lack of personal jurisdiction was affirmed by the New York Supreme Court, Appellate Division, First Department, in 2006
- *Robocom UK v. Robocom*: A three-day arbitration in London led to a May 2006 verdict in favor of Robocom, with all of claimant's claims dismissed, an award of a portion of Robocom's counterclaims, plus costs
- *FDIC v. Boyarsky*: Jamie represented one of the defendants in a federal court litigation by the FDIC against the former directors of the First New York Bank for Business; while the terms are confidential, the client settled during trial for a modest fraction of the amounts sought. The case against the remaining defendants ended in a mistrial and had to be re-tried in its entirety
- *Pioneer/Carolco*: Jamie served as lead bankruptcy counsel for Pioneer Electronics in various disputes arising out of the Carolco Pictures bankruptcy in the Central District of California; Pioneer settled for a very small percentage of the claims asserted
- *DeClemente v. Columbia Pictures*: Jamie represented Sony/Columbia in a two-week federal court trial in defense of trademark and right of publicity claims arising out of the *Karate Kid* films; the trial ended with a directed verdict for the firm's clients
- *NFL Antitrust Litigation*: Jamie led the discovery team on behalf of NFL Properties, working together with representatives of the NFL and the NFL Management Counsel, in the logo/licensing antitrust litigation brought by the NFL Players Association in the early 1990's

Jamie has also counseled a number of clients in the music, television, motion picture, agent representation, sports and sports management industries on questions relating to intellectual property rights and contracts.

Jamie has spent his entire professional career at Pryor Cashman, as a summer associate in 1982, as a litigation associate from 1983 through 1990, and as a litigation partner from January 1991 to the present. He currently is the assigning partner for the Litigation Group.

Jamie is AV Peer Review rated, Martindale-Hubbell's highest peer recognition for ethical standards and legal ability.

Professional Affiliations

- New York State Bar Association

Distinctions

- Named as "Super Lawyer" in Business Litigation by *Super Lawyers – Corporate Counsel Edition* magazine (2010 and 2011)
- Named as a "Super Lawyer" in the area of Business Litigation by *New York Super Lawyers – Metro Edition* magazine (2008, 2009, 2010 & 2011 editions)

Other Activities

- Jamie and his family have participated in a number of community service efforts, including a trip to New Orleans/Baton Rouge to bring supplies to FEMA trailer camps, post-Hurricane Katrina community outreach programs, and an upcoming community service trip to Cuba.

News

- 30 Pryor Cashman Attorneys Selected as NYC Super Lawyers
- Twenty Pryor Cashman Partners Selected as NYC Super Lawyers
- Pryor Cashman Wins Landmark Sports Law and Antitrust Ruling in Case Against United States Soccer Federation, Inc. and Major League Soccer, LLC
- Partners Zakarin and Brickell Named in Super Lawyers Corporate Counsel Edition as Top Business Litigation Attorneys
- Fourteen Pryor Cashman Partners Selected as 2009 New York Super Lawyers
- Pryor Cashman Clients Reach Settlement in Legal Fight Over Marilyn Monroe's Last Nude Photos
- Pryor Cashman Represents Photographers in Legal Battle Over Marilyn Monroe Photos Left in Garbage
- Eleven Pryor Cashman Partners Selected as 2008 New York Super Lawyers
- Pryor Cashman Defeats Motion to Dismiss by Penthouse Media Group Against Bob Guccione
- Pryor Cashman Wins \$12.7 Million Arbitration Award for Former CryoGen Shareholders Against American Medical Systems, Inc.
- Pryor Cashman Obtains Summary Judgment for The Friars Club Against the Friars of Beverly Hills
- Pryor Cashman Wins \$1.5 Million Intellectual Property Case on "Unjust Enrichment" Theory After Week-Long Trial