

MICHAEL A. PENSABENE

MEMBER - Litigation

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Martindale-Hubbell CLIENT CHAMPION PLATINUM / 2026

Practice Areas

- Commercial Litigation
- Landlord Tenant Law
- Real Estate Litigation
- Real Estate Development
- Rent Regulation and Administrative Law
- Condominium/Cooperative Litigation
- Construction Law and Litigation
- Leasing
- Arbitration
- Federal Practice

Bar Admissions

- Connecticut, 2000
- New York, 2001
- U.S. Court of Appeals, Second Circuit, 2022
- U.S. District Court Southern District of New York, 2002
- U.S. District Court Eastern District of New York, 2002

Education

Brooklyn Law School

- J.D. - 2000

State University of New York at Stony Brook

- B.A. - 1992

Michael A. Pensabene joined Rosenberg & Estis, P.C. in 2000 and is a Member with the firm's Litigation Department. Prior to joining the firm, Pensabene spent seven years working for one of the largest real estate companies in New York City, while attending law school at night. That background has allowed Pensabene to be active in all aspects of the firm's practice, including commercial litigation, landlord and tenant litigation, rent regulation, real estate development and construction, assemblages, co-op/condo law, partnership disputes, title issues, foreclosures, workouts, and bankruptcy. Pensabene is qualified, pursuant to Part 36 of the Rules of the Chief Judge, to act as Counsel to Receiver and Counsel to Guardian.

Pensabene's experience affords him the judgment to evaluate competing property interests and the business relationship between the parties, to know how and when to assert clients' rights to achieve their objectives. Pensabene's achievements representing clients such as the Hyatt Corporation, Trinity Real Estate, Forest City Ratner Companies and the Durst Organization are founded on these principles and were honed in a wide variety of forums, including City, State and Federal courts. Pensabene successfully tried one of the first cases concerning novel landlord and tenant issues resulting from the September 11, 2001 terrorist attack and set precedent concerning service of process. Pensabene's expertise in connection with construction activities has ensured the timely completion of developments and the protection of neighboring property rights, including negotiating easements, work agreements, clearing development sites, and obtaining injunctive relief from the Supreme Court. He has also represented boards, shareholders, unit owners, sponsors and managing agents in a wide variety of disputes concerning complex co-op/condo issues.

Notable Work

- 301 East 60th Street LLC v. Competitive Eating Solutions LLC, 2023 N.Y. Slip Op. 02842 (1st Dept. 2023)
- E-Z Eating 41 Corp., et al., v. H.E. Newport, LLC, et al., 2019 N.Y. Slip Op. 02458 (1st Dept. 2019)
- Brookford, LLC v. Penraat, 47 Misc.3d 723 (Sup. Ct. New York County 2014)
- Arthur Management v. Zuck, NYLJ 2/25/08, p.21, col. 3 (Civ. Ct., Kings Co.)
- E-Z Eating 41 Corp. v. H.E. Newport, LLC, 23 Misc.3d 1125(A) (Sup Ct NY Co. 2009)

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- KSLM Columbus Apartments, Inc. v. Bonnemere, N.Y.L.J., 1/5/05, 19:1 (Civ. Ct., N.Y. Co.)
- The Rector, Church-Wardens and Vestrymen of Trinity Church in the City of New York v. Chung King House of Metal, NYLJ, July 7, 2009, at 27, col. 3 (Civ. Ct., N.Y. Co.)

Classes & Seminars

- Airbnb CLE: Mock Seinfeld Trial, Speaker, October 2019
- In June 2016, Warren A. Estis and Michael A. Pensabene presented seminars for the continuing legal education program at the New York State Judicial Institute, which provides statewide education and training for the judges and justices of the New York State Unified Court System.
- CLE: AirBnb Under Siege- The Evolving Legal Landscape For Short-Term Rentals in New York City, City Bar Center for Continuing Legal Education, April 20, 2017
- CLE: Self-Help and Relocation Agreements, New York State Bar Association Real Property Law Section, Landlord and Tenant Proceedings Committee, November 2, 2016

Published Works

- “Defending a Co-op Against Derivative Claims: A Look Back to ‘Auerbach,’ New York Law Journal, August 2024
- “Are Inclusionary Air Rights Unique? Specific Performance Revisited,” New York Law Journal, October 2023
- “‘Best Efforts’ Clauses in Commercial Leases,” New York Law Journal, February 2023
- “Managing legal considerations during a commercial holdover,” Real Estate Weekly, November 2019
- “Airbnb: Reconciling Conflicting Public Policies,” New York Law Journal, June 2019
- “‘Step In the Right Direction’ - Why NYC’s Latest Curb On Airbnb Is Welcome New For Landlords,” Bisnow, July 2018
- “How the City Nails Landlords for Their Tenants’ Illegal Airbnb Rentals,” Commercial Observer, August 2017
- “Exposing the Airbnb Black Market,” Commercial Observer, November 2015
- “Real Estate Agency Law: The Perils Of Dual Agency,” Law360, September 2015

Honors & Awards

- Moot Court Honor Society
- New York Super Lawyers, 2023 - Present

Professional Associations

- New York State Bar Association
- New York County Lawyers Association

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