



Scott R. Kipnis

Partner

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Chair of our Retail Industry Practice Group, Scott is a seasoned closer who develops strategic legal solutions for his client's biggest challenges.

Unlike many attorneys in the retail space, however, he works with international, national and regional brands at all stages of their businesses. He doesn't walk away when the lease is signed. He stays on, assisting with permitting, construction-related disputes, variance applications, signage, business, food and health licenses, corporate structure formation, annual filings, land/use development, municipal and regulatory issues and more.

For more than three decades, he has helped Fortune 500 retailers, as well as smaller national and regional chains, commercial real estate developers, insurance defense third-party administrators and emerging companies navigate complex leasing and development deals across the country. He also has represented sellers, purchasers and developers in all phases of real estate transactions and negotiations, providing key insights into zoning, land use, title, insurance coverage and financing issues.

Scott was among the first attorneys to develop the practice of buying leases from bankrupt companies on behalf of clients. He has appeared in various federal district courts and bankruptcy courts, most recently representing clients to acquire Party City, David Bridal and Tuesday Morning leases through Section 363 bankruptcy sales. He also has participated in several complex and high-profile bankruptcy matters.

Scott's negotiation and dispute resolution experience extends to contract, licensing, construction, business and employment issues. He also has overseen premises defense insurance litigation as well as general bankruptcy matters for debtors-in-possession.

Scott serves on Fox's Income Partner Evaluation Committee and its Technology Committee, helping guide the firm's IT policies.

Services

- Real Estate
- Retail Industry
- Litigation
- Real Estate Litigation
- Financial Restructuring & Bankruptcy

- Italy

Before Fox Rothschild

Prior to joining Fox Rothschild, Scott was a partner in the real estate practice of a regional Northeast law firm.

Beyond Fox Rothschild

Scott is a former president of a condominium association in the Catskills, and is an avid skier and golfer. He is a long-time member of the International Council of Shopping Centers and serves on the editorial board for its *Shopping Center Law & Strategy* publication.

Bar Admissions

- New Jersey
- New York
- Pennsylvania

Court Admissions

- U.S. Supreme Court
- U.S. Court of Appeals, Second Circuit
- U.S. Court of Appeals, Third Circuit
- U.S. District Court, Eastern District of New York
- U.S. District Court, Northern District of New York
- U.S. District Court, Southern District of New York
- U.S. District Court, Western District of New York
- U.S. District Court, District of New Jersey
- U.S. District Court, Eastern District of Pennsylvania

Education

- Hofstra University School of Law (J.D., *with distinction*, 1992)
 - Law Review
- University of Maryland (B.S., 1989)

Memberships

- International Council of Shopping Centers
- Association of the Bar of the City of New York
- New York State Bar Association

Board of Directors

- *Shopping Center Law & Strategy*, Editorial Board Member

Firm Committees

- Income Partner Evaluation Committee
- Technology Committee.

Representative Matters

Leasing, Retail Business and Bankruptcy*

- Outside real estate leasing counsel to Dollar Tree and Family Dollar, as well as other smaller, regional retailers across the country.

- Appeared in various federal district courts and bankruptcy courts across the country on behalf of national retailers, regional companies and local clients. Most recently represented clients in acquiring Party City, David Bridal and Tuesday Morning leases through Section 363 bankruptcy sales.
- Acquired assets of McCrory's, a variety retail chain, assisted in the operation of the company, and served as outside general counsel, principally on leasing matters.
- Assisted a high-profile theme restaurant's emergence from Chapter 11 bankruptcy as lead counsel. Prevented the case from being dismissed after repeat filings in the notable reported decision, *In re 1633 Broadway Mars Restaurant Corp.*, 388 B.R. 490 (Bankr. S.D.N.Y. 2008).
- Directed the Chapter 11 filing and thereafter appointed Chapter 11 debtor-in possession special counsel for McCrory's, a 100-year-old variety retail chain. Directed the McCrory's bankruptcy, disposing of over 100 leases and multiple parcels of owned real property, which allowed the debtor to successfully wind up operations and make a meaningful disbursement to creditors. Settled the creditor's committee suit against the insiders. Successfully prosecuted a claim against the director and officer's liability policy.
- Filed and confirmed Chapter 11 plan of technology startup incubator company.
- Confirmed Chapter 11 plan for the owner of an improved real property.
- Bankruptcy counsel for several big-box retailers in connection with a landlord or other entity filings.

General Real Estate and Real Estate Litigation*

- Secured multiple business and sign variances for Dollar Tree and Family Dollar Stores, allowing locations to use larger and sometimes additional wall and pylon/monument signs in certain restricted areas. The signage variances were important to the client because an internal analysis of existing stores showed locations with larger or additional signs often generated more sales revenue.
- Prevailed on summary judgment and obtained opinion by the Fifth Circuit Court of Appeals affirming the dismissal for a retailer in a commercial lease dispute. *Shreveport Plaza, LLC v. Dollar Tree Stores, Inc.*, 196 Fed.Appx. 320 (2006)
- Successfully represented a national retailer in a regulatory enforcement matter before a state agency involving alleged violations related to liquor sales, assisted in upgrading the client's compliance training and cleared the way for the company to dramatically expand liquor sales at its locations throughout the state.
- Secured a conditional use permit for a major retailer after several Design Review Board hearings and two Planning Board hearings and successfully defended the Planning Board determination before the City Council.
- Sold a mixed office/retail building in lower Manhattan to a major public development company.
- Resolved multiple easement/land title disputes.
- On behalf of a retailer, prosecuted case against bank and landlord for failing to rebuild store in California.
- Obtained signed variances for land use across the country.
- Established lead New York precedent of good faith and fair dealing in landlord and tenant relations.

Other*

- Helped forge new securities law in convincing the court to uphold the dismissal of a securities fraud class action in the Seventh Circuit Court of Appeal. *Law v. Medco Research, Inc.*, 113 F.3d 781 (1997)

* Results may vary depending on your particular facts and legal circumstances.

Honors & Awards

- **Selected to the "AV Preeminent" list of rated lawyers**
This award is conferred by Martindale-Hubbell. A description of the selection methodology is [available here](#). No aspect of this advertisement has been approved by the Supreme Court of New Jersey.
- **Selected to the "Super Lawyers" list for Real Estate in New York (2018-2020)**
This award is conferred by Thomson Reuters. A description of the selection methodology is [available here](#). No aspect of this advertisement has been approved by the Supreme Court of New Jersey.