



## **Rosenberg & Estis, P.C names Cohen new head of the firm's appellate litigation department**

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Ethan Cohen

Manhattan, NY Rosenberg & Estis, P.C. (R&E) has named member Ethan Cohen as the new head of the firm's appellate litigation department.

Cohen succeeds Jeffrey Turkel, who is now special counsel. R&E founding member Gary Rosenberg established the appellate litigation department, which, for decades, has prevailed in numerous landmark appeals that have impacted New York's real estate industry. Cohen, a former appellate court attorney at the State of New York Supreme Court, Appellate Division, Third Judicial Department, joined R&E's litigation department in 2014 and became a member of the firm in 2022.

In his new role, Cohen will oversee all of R&Es' appellate matters and advise companies on high-stakes appellate issues. His appointment is a reflection of the firm's ongoing excellence and leadership in appellate practice and positions the firm to continue providing clients with comprehensive legal representation across all aspects of real estate and beyond.

Since joining R&E, Cohen has played a substantial role in multiple high-profile appellate cases at New York's highest appellate court, including the pivotal Court of Appeals' decisions in *Casey v Whitehouse Estates, Inc.* (2023) ("Casey") and *Matter of Regina Metro. Co., LLC v New York State Division of House and Community Renewal* (2020) (Regina), which is considered one of the most significant court decisions to impact the New York real estate industry in decades.

In Regina, after the New York City real estate industry was stunted by the passage of the Housing Stability and Tenant Protection Act of 2019 ("HSTPA"), Cohen, along with member Deborah Riegel, secured a precedent-setting victory in which the Court of Appeals held that retroactive application of the HSTPA in pending and future rent overcharge cases was unconstitutional, saving property owners millions of dollars and preventing potentially catastrophic underwriting and liability costs. The Court of Appeals also held that tenants must establish all of the common-law elements of fraud before a court may employ DHCR's default rent formula against a landlord, an important ruling for owners in New York.

Most recently, in Casey, Cohen and Turkel appealed to the Court of Appeals from an order of the Appellate Division, First Department, in a decade-long litigation. The State's highest court agreed with R&E's arguments and unanimously held that the Appellate Division misapplied the historic Regina ruling. In Cohen's second Court of Appeals victory in as many cases, the Court critically confirmed that fraud will only allow the punitive default rent formula to be used where a tenant shows that a fraudulent scheme to deregulate an apartment tainted the reliability of the rent on the base date rent four years prior to the action.

"As the number of legal challenges facing the industry continues to increase, our market-leading Appellate Litigation Department enables Rosenberg & Estis to continue providing clients best-in-class representation by specialist attorneys with extensive experience and expertise," said Rosenberg. "We are confident Ethan will continue to expand and develop this Department which has been a vital resource to owners and developers for decades."

Cohen said, "I am honored to succeed Jeffrey Turkel as the new Head of the firm's Appellate Department. It is a privilege to lead a group with a nearly 50-year reputation of setting and upholding precedent in New York. Working closely with founder Gary M. Rosenberg, I will ensure that our Appellate Practice further elevates the services we provide to clients, supporting them at all points in the litigation process."

Cohen achieved his J.D. magna cum laude in 2012 from the University of Maryland School of Law. He earned his bachelor's degree in 2009 from Williams College, where he was also an accomplished college wrestler. He began his legal career as an Appellate Court attorney with the State of New York Supreme Court, Appellate Division, Third Judicial Department and was an

associate attorney for the Honorable Miriam Breier at her private practice before she took the bench.

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