

# Stroock Counsel Supports New York Supreme Court Ruling

On Friday, April 9, New York Supreme Court Justice Susan Kushner delivered a resounding win for the state's residential real estate brokerage industry in declaring the Department of State's guidance banning the collection of brokerage commission from tenants "an error of law" and "an abuse of discretion." The case involved the Department of State's guidance memo that incorrectly interpreted the Housing Stability and Tenant Protection Act of 2019 (the "Act"), and which stated the Act prohibited tenants from having to pay broker fees when the broker was also retained by the landlord. Representing the Real Estate Board of New York (REBNY), the New York State Association of Realtors, Corcoran, Douglas Elliman, Sotheby's International Realty, Brown Harris Stevens, Bond, Bohemia Realty and many of New York State's other prominent real estate brokerage firms, Stroock's Litigation team convinced the court that the Act's failure to mention brokers' commissions or landlord agents made it clear that the Act was not intended to apply to them.

Justice Kushner's decision bans the DOS from applying any rule that would prevent brokers from receiving compensation that they lawfully earned in bringing about a meeting of the minds. It also permanently prevents the DOS from taking disciplinary action against brokers for collecting such fees.

REBNY president James Whelan applauded the decision stating that it "ensures that thousands of hardworking, honest real estate agents across New York State can earn commissions without fear of unwarranted discipline by the Department of State based on its erroneous interpretation of the Housing Stability and Tenant Protection Act."

Led by Claude Szyfer, Stroock's litigation team included

attorneys Daniel Bertaccini, Kerry Cooperman, Nate Benfield and TaLona Holbert; paralegals Nicole Fiore, Christine Stygar, and Ellen Brier; and docketing team members Victor Rivera and Steve Wattenberg.