

Jul 2022 | [Firm News](#)

## **Yankwitt LLP Prevails in Bench Trial Before the New York Supreme Court, Commercial Division in Manhattan**

Yankwitt LLP prevailed at a bench trial in a complex real estate case before the Hon. Barry Ostrager in the New York Supreme Court, Commercial Division in Manhattan. The case arose from a dispute over a \$750,000 escrow established as part of our client's purchase of an Upper East Side townhouse. When our client discovered the sellers had breached certain representations in the purchase agreement for the property, it asserted a claim against the escrow funds. The sellers responded by filing a lawsuit asserting contract and declaratory judgment claims to resolve the escrow dispute, as well as a separate claim against Yankwitt LLP's client for transfer taxes and penalties assessed after the sale transaction.

Following a three-day virtual bench trial and the submission of post-trial memoranda, Judge Ostrager issued a decision in our client's favor as to liability on all counts. In particular, the court held that the documentary evidence, Yankwitt LLP's cross-examination of the plaintiffs' witnesses, and the expert testimony we submitted proved persuasively that 1) the sellers had a liability arising out of the intercompany transfers, 2) the sellers were required to disclose all of their liabilities pursuant to the terms of the share purchase agreement, and 3) because they failed to do so, they breached the agreement and buyer's claim to the escrow funds was proper. The judge further found that Yankwitt LLP had disproved the transfer tax claim in its entirety. Following an extensive damages analysis, Judge Ostrager awarded the buyer \$400,000 in damages for the sellers' breach.