

"These guys are game changers. They come up with solutions that would occur to no one else."

– Chambers USA

Businesses that have been sued by commercial rivals, erstwhile partners, class action plaintiffs' lawyers, or shareholders rarely ask how the Federal Rules of Civil Procedure work. We know how they work. But we also know that solving your business problem is what counts. That's why we get hired to take on the tough cases.

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RIVERO MESTRE



Introducing Rivero Mestre

Some firms promise wins. Others tout pedigree or tell you how big they are. We solve business problems. That's why we get hired to take on the tough cases.

Although we could give you a laundry list, here are two recent examples:

- When a Chevron lawyer, Rodrigo Pérez Pallares, came under criminal investigation in Ecuador because of a \$100 billion environmental claim against the company, he had to leave his country, effectively exiled. We were hired to get him home. The solution lay in gathering discovery through the cutting-edge use of little-known 28 U.S.C. § 1782 discovery in the United States. We successfully pursued 1782 actions in numerous federal district courts. As a result, we gathered millions of documents and hundreds of hours of outtakes from the movie *Crude* (a documentary about the litigation), which we did, in part, by getting a ruling from the Second Circuit ordering the filmmaker to immediately turn over the outtakes. The documents and the outtakes revealed compelling evidence of Mr. Pérez's innocence, which we turned into a motion to dismiss. We got Mr. Pérez home.
- When the top former directors and officers of Westernbank Puerto Rico—once the 46th largest commercial bank in the United States—came under FDIC investigation, they needed and expected their D&O insurer to pay their defense. Their prospects dimmed when the insurer declined coverage. After negotiations failed, we sued, arguing that the insurer could not hide behind the "Insured v. Insured" exclusion. Within the year, we obtained a federal district court order requiring the insurer to fund the D&Os' defense of the third-largest FDIC lawsuit in the Great Recession, and then obtained another order requiring the insurer to pay the fees and costs for the coverage litigation because their position had been frivolous all along.

RIVERO MESTRE

PRACTICE AREAS

Rivero Mestre focuses exclusively on litigation matters. Our multilingual attorneys and staff are ready to take on national and international litigation challenges in the following practice areas:

Complex Commercial Litigation

We are experienced trial lawyers who handle business cases from investigation to verdict and appeal in every conceivable type of commercial dispute. Experience has taught us to begin with the end in mind. We start from the certain knowledge that all litigation must be directed to winning. By preparing for the ultimate contest, we improve our clients' position at every stage of the case, often causing early and favorable settlements. Our approach produces excellent results for our clients in a timely and cost-effective way in general commercial cases and disputes in more specialized areas of the law.

International Litigation and Arbitration

From our Miami and New York offices, we focus on resolving high-value international business disputes. The firm routinely represents clients in federal and state courts in the United States in litigation arising out of international business operations. As a result, we are experienced with the legal doctrines and practical considerations that repeatedly arise in international business disputes.

We are battle-tested in cross-border arbitration around the world, from, for example, a Spanish-language arbitration under Ecuadorian law in Mexico City to an English-language arbitration in New York under Mexican law for a Dutch client. Our multilingual and multicultural lawyers are adept at crossing language, legal, and cultural borders and are uniquely equipped to assist in resolving international disputes through arbitration.

We have represented clients in arbitrations administered by the International Chamber of Commerce, the American Arbitration Association (including its International Centre for Dispute Resolution), JAMS, FINRA, NYSE, the Stockholm Chamber of Commerce, and the Caracas Chamber of Commerce, as well as in "ad hoc" arbitrations. Reflecting the excellent reputation the firm enjoys, from time to time our lawyers are nominated to serve as arbitrators by experienced litigators at other major firms.

Securities and Financial Services Litigation

Our securities and financial services litigation practice is focused on representing corporate defendants as well as individual officers and directors in class actions and large individual actions. We recently obtained the dismissal of a significant derivative claim and the favorable settlement of a \$168 million securities class action brought against a publicly traded bank holding company. We have also successfully defended broker-dealers in FINRA claims and have defended investigations and enforcement actions brought by the SEC. Given our white-collar criminal practice, we are able to develop integrated strategies for some of the most challenging and complex regulatory problems that businesses can face.

Intellectual-Property Litigation

Our lawyers have extensive experience litigating and arbitrating on behalf of intellectual-property owners in complex, high-stakes disputes. We have prosecuted software pirates for Microsoft, sued trademark infringers for Carnival, and defended priceline.com's "Name your own price" slogan against a cyber squatter. We also have significant experience in cross-border intellectual-property litigation. As one example, we litigated to successful conclusion the claims of the owners of a Mexican children's theme park against a U.S.-based company that was infringing their copyrights and trademarks. We have the capacity to litigate virtually any intellectual-property matter from simple cases to complex disputes with large exposures.

Internal Investigations

If a company needs an internal investigation, it has a dangerous situation that requires highly skilled and experienced outside counsel. Such investigations pose a thicket of potential problems, like privilege waiver and independence challenges. We have conducted internal corporate investigations in the United States and in foreign countries involving varied types of claimed wrongdoing from securities fraud to accounting malpractice to Foreign Corrupt Practices allegations.

We have also represented companies and boards in derivative and other litigation related to internal investigations, and we have advised clients about their rights under D&O insurance policies.

White-Collar Criminal Defense

Rivero Mestre's team of white-collar practitioners has represented public officials, executives, managers, corporations, and professionals in the most sensitive of regulatory, state, and federal investigations and at all stages of white-collar criminal litigation in federal and state courts.

We have defended our clients against allegations of corporate misconduct and personal criminal liability in every imaginable sector of the economy including: securities, banking, financial services, accounting, government contracting and procurement, health care, environmental, taxes, insurance, bankruptcy, computer and intellectual property, and international trade and investment. We also have substantial experience with the complexities of the Foreign Corrupt Practices Act, money-laundering statutes, and forfeiture laws.

REPRESENTATIVE CLIENTS

Rivero Mestre's client list includes notable United States and multinational companies, governments and organizations:

American Express Company
Banco Industrial de Venezuela, C.A.
Boston Scientific Corporation
Capital One Financial Corporation
Carnival Corporation
Chevron Corporation
China Jialing Industry Co., Ltd.
City of Miami
Eastern National Bank
E. I. du Pont de Nemours and Company
Exxon Mobil Corporation
F. Hoffman La Roche, Ltd.
Health Net, Inc.
Home Financing Center, Inc.
Kenbourne International, Inc.
Microsoft Corporation
Neff Rental, Inc.
Phil Smith Chrysler Plymouth Jeep Eagle
Priceline.com, Inc.
Prudential Investment Management Services, LLC
Regions Bank
Rica Foods, Inc.
Santa Barbara Airlines, S.A.
Sears Hometown and Outlet Stores, Inc.
Spanish Broadcasting System, Inc.
SunTrust Bank
Tenet Healthcare Corporation
U-Haul International
UniPlex Telecom Technologies, Inc.
United Nations (Office for Project Services)
VASP Brazilian Airlines
Vitas Healthcare Corporation Limited

DIVERSITY

We are one of a small number of minority-owned law firms in the United States that practice complex commercial litigation, including international litigation and arbitration, at the highest levels. We are also a certified minority business enterprise and a member of the National Association of Minority and Women Owned Law Firms (NAMWOLF), the Minority Corporate Counsel Association (MCCA), and the Leadership Council on Legal Diversity (LCLD).

Our lawyers and support staff come from a variety of racial and ethnic backgrounds and work together effectively as a team. Our professional experience and varied backgrounds—not to mention our outstanding language capabilities in English, Spanish, French, and Portuguese—make us uniquely suited to handle domestic and international business disputes.

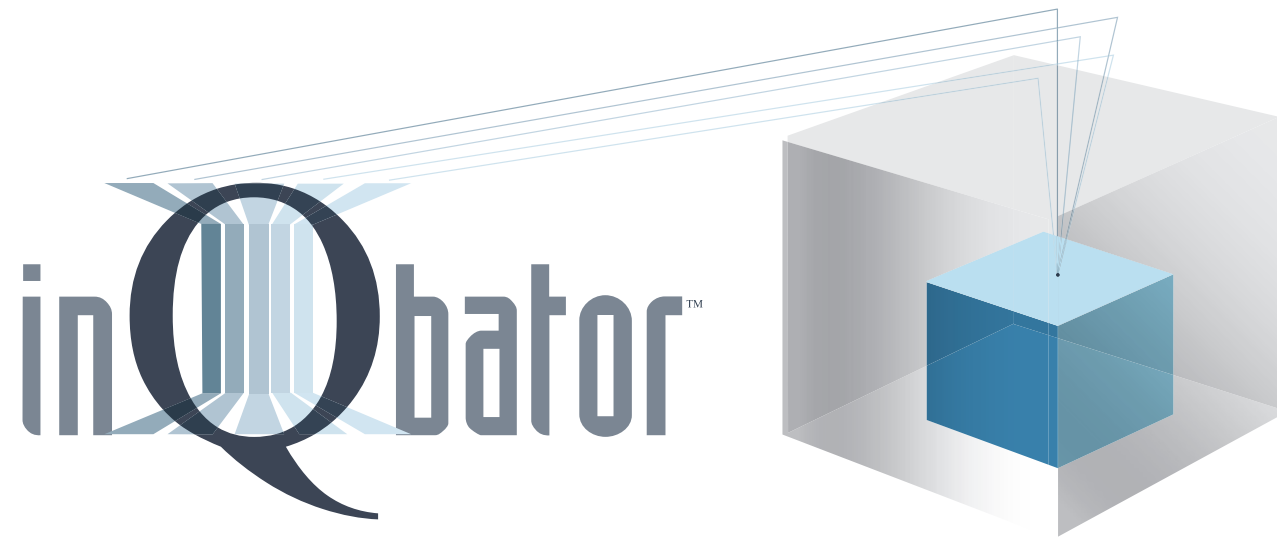
TECHNOLOGY

Rivero Mestre is committed to leading the way in law-firm technology as demonstrated by our cutting-edge inQbator. We continually invest to ensure that our lawyers and staff have the tools they need to provide our clients with the best, most efficient legal services. Our steadfast commitment to technology is critical for today's fast-paced business environment.

REPRESENTATIVE AWARDS & ACCOLADES

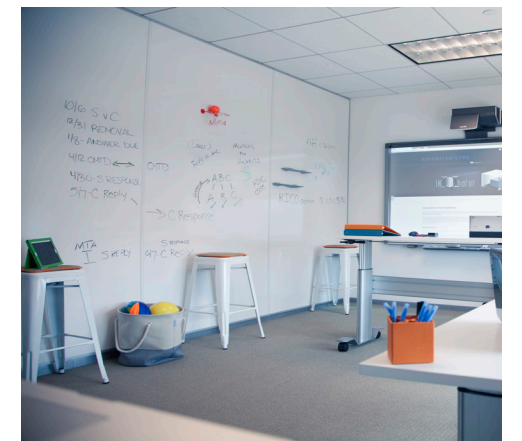
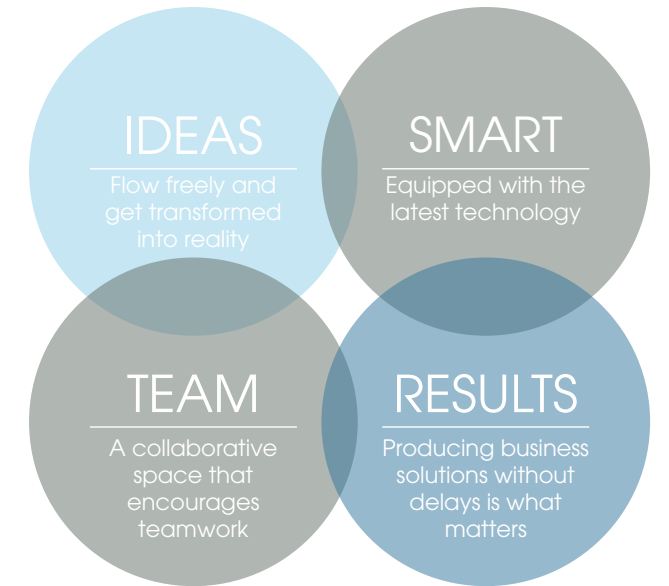
- The American Lawyer's Global Legal Award for our work on the Chevron v. Donziger case in the category of Global Dispute of the Year: U.S. Fraud Litigation
- A firm ranking in Chambers USA in General Litigation (Florida)
- Chevron Law Function's Law Firm Diversity Recognition Award
- A Tier 1 firm ranking in White-Collar Governmental Investigations and White-Collar Litigation by U.S. News Media Group and Best Lawyers®

“Form follows function.” Louis Sullivan



Every law office we know of has the same assembly line for the production of ideas: partner lectures young lawyers who jot on legal pads. Assignments like “Google this” or “find me a case that says . . .” are dutifully reduced to ink on paper, to be performed some time later.

This is no way to run an army. The nugget of the idea dissipates, other assignments get in the way, time passes—the quality idea gets lost. This traditional means of managing the production of a business solution is precisely the opposite of the dictate that form should follow function. The quality idea behind our inQbator is that there is no delay in translating an idea to digital reality. We promote the free flow of ideas by assembling all of the necessary tools to explore ideas in one place.



“ Between the idea and the reality,
between the motion and the act,
falls the shadow. ” T.S. Eliot

We work hard to turn ideas into actions without getting lost in the shadows. Our attorneys are encouraged to make real contributions to both the legal profession and the general community. Here are some examples of how we give back to our community.

GIVING BACK

Stand Your Ground Town Hall Meeting

The well-publicized Trayvon Martin case involved the Florida “Stand Your Ground” statute, which has sparked national discussions about race, bias, gun control, and self-defense. Rivero Mestre sponsored and co-hosted a town hall meeting where a panel of lawyers and law professors discussed the complex interplay between race and the statute’s application.

Haitian Lawyers Association Humanitarian Award

The Haitian Lawyers Association honored Rivero Mestre with its Humanitarian Award for dedicated service to South Florida’s Haitian community. Haiti’s *Consul Général*, Mr. Ralph Latortue, presented the award.

United for Haiti Community Legal Service Fair

Rivero Mestre, along with the American Bar Association’s Council for Racial and Ethnic Justice, organized and co-sponsored a community outreach event featuring more than 20 legal and public service organizations.

Lawyers for Children America Child Advocacy Award

Lawyers for Children America recognized a Rivero Mestre lawyer for her outstanding legal advocacy and exceptional service for abused and neglected children and youth. Our lawyers have continued to accept attorney *ad litem* appointments in dependency cases through Lawyers for Children America.

United for Haiti Fundraising Reception

Rivero Mestre organized and co-sponsored a reception that raised more than \$30,000 to assist in the critical work performed by Doctors Without Borders in the aftermath of the earthquake in Haiti.

Pro Bono Representation of Whistle-Blowers

Rivero Mestre undertook the pro bono representation of a former City of Miami Director of Capital Improvements regarding the City’s violation of whistle-blower laws.

Cuban American Bar Association Pro Bono Project

Rivero Mestre attorneys have supported the CABA Pro Bono Project for years by taking pro bono cases. For example, the firm successfully defended a lawyer who was sued as a result of his own participation in the CABA Pro Bono Project.

Human Rights Petition

A Rivero Mestre attorney co-drafted a Petition For Immediate Relief Against Human Rights Violations Committed by the Republic of Cuba filed with the Inter-American Commission on Human Rights of the Organization of American States.

Hispanic National Bar Foundation

Each summer Rivero Mestre hosts an HNBF law fellow.

Leadership Council on Legal Diversity

Each summer Rivero Mestre hosts an LCLD 1L Scholar.

REPRESENTATIVE CASES

CHEVRON

In one of the largest, most complex litigations in the world, we worked as part of a Chevron joint-defense team in representing our client, the chief in-house counsel for TexPet, a subsidiary of Chevron Corporation. Rodrigo Pérez Pallares came under criminal investigation in Ecuador because of a \$100 billion environmental claim against the company.

We commenced a series of U.S. discovery proceedings under 28 U.S.C. § 1782 to collect evidence for Mr. Pérez's criminal defense in Ecuador. Most importantly, we sought and obtained the outtakes of a film about the Ecuador litigation—*Crude*, directed by documentarian Joseph Berlinger, best known for *Paradise Lost: The Child Murders at Robin Hood Hills*. We persuaded Judge Lewis Kaplan of the Southern District of New York to order the production of more than 600 hours of outtakes, by far the largest volume of video outtakes ever ordered produced in the history of the United States.

On appeal, we argued to a Second Circuit panel that included Judge Pierre N. Leval, author of the seminal case on videotaped outtakes, *Gonzales v. Nat'l Broad. Co.*, 194 F.3d 29 (2d Cir. 1998). We prevailed on appeal by persuading the Second Circuit to affirm the trial court's order, leading to the production of the outtakes.

Once we obtained the outtakes in the Berlinger proceeding, we sought discovery from lead plaintiffs' lawyer, Steven Donziger. In this hard-fought 1782 action, we obtained hundreds of thousands of documents from plaintiffs' lead counsel, an exceptional result, and used those documents to participate in Donziger's deposition, which lasted a total of 16 days. Based on the discovery we obtained in the 1782 proceedings—which was pivotal in establishing Mr. Pérez's defense—we prepared briefs and evidentiary submissions in Spanish for the Ecuadorian court.

The Ecuadorian criminal court ultimately held a preliminary hearing on whether the criminal case would proceed to trial. There, the U.S. discovery materials we had gathered were presented. Within the week, the trial court dismissed the criminal charges. The dismissal was subsequently affirmed on appeal.

STIPES V. CHARTIS, UNITED STATES DISTRICT COURT, DISTRICT OF PUERTO RICO

We represent several former directors and officers (the "D&Os") of Westernbank Puerto Rico—once the second largest bank in Puerto Rico and the 46th largest bank in the United States. In 2010, the FDIC seized the bank and put it into receivership. According to information obtained from the FDIC, its suit against the Westernbank D&Os is the third largest by loss amount that it has brought during the recent financial crisis.

In December 2010, the FDIC notified the D&Os that it was investigating them in relation to the bank's failure, and in December 2011, the FDIC sued them, alleging gross negligence in eight lending relationships and claiming \$176 million from the D&Os.

What's more, to mount the defense in *Stipes v. Chartis* we were forced to litigate against the insurer when it declined D&O insurance coverage, citing an "Insured v. Insured" exclusion in the policy. We obtained the first favorable "Insured v. Insured" coverage ruling in relation to the FDIC's claims in this banking crisis.

HILDENBRAND V. W HOLDING CO., INC., UNITED STATES DISTRICT COURT, DISTRICT OF PUERTO RICO

We represented four former directors and officers of Westernbank Puerto Rico in a securities class-action lawsuit, *Hildenbrand v. W Holding Co., Inc.*, in the U.S. District Court for Puerto Rico. Filed on behalf of purchasers of the publicly-traded securities of W Holding, the suit alleged that W Holding violated Sections 10(b) and 20(a) of the Securities and Exchange Act of 1934 and SEC Rule 10b-5. We opposed class certification, moved for sanctions against the lead plaintiff and his counsel—the largest class-action firm in the U.S.—and ultimately moved for summary judgment, all of which caused the plaintiff to settle for pennies on the dollar. We whittled a claim of \$135 million to a settlement of \$8.75 million, which the available D&O insurance amply covered.

AMERICAN SOMAX VENTURES, ET AL. V. MOBIL LAND AND DEVELOPMENT CORP. ET AL., FLORIDA FOURTH DISTRICT COURT OF APPEAL

When Rivero Mestre began its representation of ExxonMobil affiliates River Bridge Corporation and River Bridge Realty Corporation, the plaintiff had already obtained a final judgment of \$1,248,817 and, what's worse, a \$3,553,376.09 prevailing-party attorneys' fee judgment. As is often the case, we were brought in to clean up the mess—and did just that—by appealing the fee award. Because of our game-changing theories, Florida's Fourth District Court of Appeal reversed the fee award and remanded for a new evidentiary hearing to reconsider the amount of the fee award. After the reversal, the case was favorably settled.

CEDEÑO V. INTECH GROUP, INC., UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF NEW YORK

We defended Juan Felipe Lara and Alhambra Investments Limited ("AIL") against a lawsuit brought by Eligio Cedeño. Cedeño, represented by former United States Solicitor General Paul Clement, among others, alleged that Venezuelan government officials, businesses, and business people, including Mr. Lara and AIL, violated the RICO statute in connection with the Venezuelan government's approval of a currency-exchange application and Cedeño's sale of two Venezuelan banks.

On our motion, U.S. District Judge Jed Rakoff of the Southern District of New York dismissed the case, finding that RICO does not apply where the alleged enterprise and the impact of the alleged predicate activity are entirely foreign.

Because Judge Rakoff's ruling potentially limits the extraterritorial reach of criminal and civil RICO actions brought by the government, the U.S. Department of Justice intervened against our position on appeal. Nonetheless, the Second Circuit agreed with us, ruled in favor of Mr. Lara, AIL, and other defendants, and affirmed the district court's dismissal of the lawsuit with prejudice.

UNITED NATIONS

We conducted an internal investigation for the United Nations' Office for Project Services of allegations of procurement and recruitment fraud in a nation in the Western Hemisphere in that country's local language (not English, but we leave out the details because of the highly sensitive and confidential nature of the representation).

CONTROLADORA AMAZING TOYS, S.A. DE C.V. ("CAT") V. MILLS CORP., UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF FLORIDA

Our client, CAT, was the owner and builder of a very successful theme park in Mexico City known as La Ciudad de los Niños, which featured an innovative edu-tainment theme for school-aged children. When Mills Corporation imitated the theme park, lock, stock, and barrel (relying on an expired North American license held by one of the original creators of the park), we brought suit against Mills for infringing CAT's copyrights and trademarks. We obtained a favorable early settlement of the lawsuit.

BYEBYENOW

We were hired by the board of directors of byebyenow.com to investigate potential self-dealing of certain directors and officers in connection with their sale of the company's securities. The sales of securities were allegedly in plain derogation of the directors' and officers' duties of loyalty and fair dealing to the company. We were subsequently hired by the court-appointed trustee for the company's liquidating trust to sue the directors and officers for breach of fiduciary duty and breach of contract. We prosecuted the lawsuit to a favorable settlement.

MICROSOFT CORPORATION V. CEDEL, UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF FLORIDA

We represented Microsoft in a bench trial on the issue of domestication of a Venezuelan judgment against it. Based on expert testimony on Venezuelan law we were able to establish that the judgment in question was not final. The Court ruled for us and refused to domesticate the judgment in the United States.

RICA FOODS, INC. V. STONEFIELD JOSEPHSON, INC., UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA

We were initially hired to serve as counsel to Rica's special-investigation subcommittee to conduct an internal investigation. Ultimately, our special investigation report formed the basis for Rica's successful settlement with the SEC and for litigation against Rica's outside auditors. We represented Rica—once traded on the NYSE—in an action against Stonefield Josephson, Inc., its former outside auditor, for a negligent re-audit of financial statements that RICA had filed with the SEC and the NYSE. Our lawsuit alleged that Stonefield's negligence had, in part, caused the SEC and the NYSE to investigate and accuse Rica of securities violations. We prosecuted the lawsuit to a favorable settlement.



MIA 2525 Ponce de Leon Blvd,
Suite 1000 | Miami, FL 33134
T 305 4452500
F 305 4452505

NYC 565 Fifth Ave, 7th Floor
New York, NY 10017
T 212 8809451
F 212 5049522

