

CASE STRENGTH ANALYSIS

Litman v. Goldberg

Index No. 524343/2025

NY Supreme Court, Kings County

Hon. Brian L. Gotlieb, J.S.C.

April 1, 2026

Count V: NY Civil Rights Law Sections 50-51 Misappropriation of Name

Comprehensive assessment of evidentiary strength, recent developments,
and strategic positioning as of the April 2, 2026 BOP filing deadline.

Prepared by the Litman Intelligence Research Team
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I. EXECUTIVE SUMMARY

This analysis assesses the current evidentiary strength of Count V (NY Civil Rights Law Sections 50-51) in **Litman v. Goldberg** as of April 1, 2026 — one day before the Bill of Particulars filing deadline. The case has **strengthened dramatically** since the last comprehensive review, driven by 283 iCloud Photos revealing the complete Litman-Goldberg text thread, three independent goodwill witnesses, email retaliation evidence, and an accounting fraud pattern.

OVERALL CASE STRENGTH: VERY STRONG

All six elements proven with documentary evidence | 10 of 10 affirmative defenses countered

II. KEY METRICS AT A GLANCE

905 Patents bearing Litman's name	16 POAs signed by Goldberg personally	\$32.7M Trust receipts from Litman clients	2,697 USPTO notifications to Goldberg
205 Post-switchover patents (all list Goldberg)	0 Consent documents produced	28 Admissions against interest cataloged	283 iCloud Photos reviewed (NEW)

III. ELEMENT-BY-ELEMENT STRENGTH ASSESSMENT

Each element of the Section 51 claim is assessed below with a strength indicator showing whether evidence has **STRENGTHENED**, **WEAKENED**, or **REMAINED UNCHANGED** since the prior review.

1. USE OF NAME

STRENGTHENED

Assessment: Proven — Admitted

Goldberg ADMITTED in his Answer (Paragraphs 32, 72) that Litman's name appeared on patent front pages and the NGM website after 6/15/2020. This element is no longer contested.

Key Evidence:

- 905 patents listing Litman as attorney (post-6/15/2020)
- NGM website listing Litman as 'PATENT ATTORNEY' through June 21, 2025
- 206 outgoing USPTO documents bearing Litman's name across 21 patents

What Changed: iCloud Photos (IMG_0523) provide photographic evidence of a KFU patent front page (US 12,116,333, Oct 15, 2024) preserved by Litman himself — visual proof beyond the dataset.

2. FOR TRADE PURPOSES

SIGNIFICANTLY STRENGTHENED

Assessment: Proven — Financial + Witness Evidence

The commercial purpose is established by **\$32.7M in trust receipts** from Litman-originated clients, \$18.53M post-SOL. Goldberg's own federal counsel admitted the 'revenue share' was a commercial purpose.

Key Evidence:

- \$32.7M trust receipts; \$18.53M post-6/15/2020; 95 Goldberg-directed transactions
- Goldberg: 'KFU is winding up with 631 patents this year' (Dec 23, 2024 text)
- Professional liability insurance listing Litman (Goldberg signed 7/6/2021)

What Changed: THREE NEW INDEPENDENT GOODWILL WITNESSES from iCloud Photos:

- **Thomas Bennington** (July 2025): 'a customer of Richard Litman's from way back... I thought the world of Mr. Litman' — returned to NGM website seeking Litman by name
- **Dakota AG / Lynn Odland** (Oct 2024): Calls it 'The Litman Law office' — not NGM
- **Omar Albannai** (Aug 2025): 'East or west Richard is the best' — international goodwill

3. WITHOUT CONSENT

SIGNIFICANTLY STRENGTHENED

Assessment: Proven — Zero Consent Documents + Active Non-Consent

Zero consent documents produced by Defendant. Neither Combination Agreement contains the word 'consent,' 'goodwill,' or 'Power of Attorney.' 276,899 emails searched: zero consent emails found.

Key Evidence:

- Three explicit non-consent emails from Litman
- Five blocked client notification attempts
- Arbitration position: agreement 'terminated' 6/15/2020 (destroys consent basis)

What Changed: TEXT MESSAGES DEMOLISH CONSENT DEFENSE:

- 'Senior Counsel' discussion (Jan 30, 2023) limited to website title ONLY — not POA authorization
- Litman planning own entity post-arbitration (Aug 18, 2023): 'I have a CLE on Thursday on what we need to do with notifying clients'
- Settlement disclaimers: 'without waiving or acquiescing in anything'
- Email access eliminated July 18, 2025 — one day after litigation threat

4. CAUSATION

STRENGTHENED

Assessment: Proven — 16 POA Signatures

16 of 21 Powers of Attorney personally signed by Joshua B. Goldberg (Reg. 44126). Each POA is the first link in a 7-stage prosecution chain that results in Litman's name appearing on patent front pages.

Key Evidence:

- Most recent POA: January 17, 2025
- Dec 21, 2023 'bombshell': Goldberg signed POA AND assignment cover sheet same day
- Goldberg authenticated all POAs under oath as Federal Exhibit A in EDNY case

What Changed: NEW ADMISSIONS FROM TEXTS: 'I will continue managing the firm as I have been' (June 15, 2021). This plus 'KFU is winding up with 631 patents this year' proves deliberate, knowing causation — not passive or inadvertent.

5. KNOWLEDGE**UNCHANGED — ALREADY OVERWHELMING****Assessment:** Proven — 2,697 Notifications

2,697 USPTO notification emails were delivered to Goldberg's inbox via Customer Number CN-37833. Each notification confirmed Litman's name appeared on patent correspondence.

Key Evidence:

- PTOL-85B notices (18 from LaFave alone)
- Filing receipts, office actions, NOAs — all bearing Litman's name
- Website: Goldberg controlled what names appeared on nathlaw.com

What Changed: No material change. This element was already among the strongest in the case.

6. CONTROL / ABILITY TO STOP**SIGNIFICANTLY STRENGTHENED****Assessment:** Proven — January 2025 Switchover

Between **January 14 and January 21, 2025**, Goldberg replaced Litman's name with his own on patent front pages. 205 post-switchover patents ALL list Goldberg. He could have stopped the name use at any time.

Key Evidence:

- Patent 12,194,434 (Jan 14) = last Litman; Patent 12,201,650 (Jan 21) = first Goldberg
- Verified via USPTO Patent Grant XML
- 205 post-switchover patents documented in POST_20250114_NGM_PATENTS.csv

What Changed: EMAIL RETALIATION AS CONTROL EVIDENCE: Goldberg eliminated Litman's email accounts (litman@4patent.com) on July 18, 2025 — one day after litigation threat. Acknowledged but never restored. Proves absolute control over Litman's professional identity infrastructure. Also supports spoliation motion.

IV. GOLDBERG'S SELF-CONTRADICTIONS

Each contradiction below is documented with opposing statements from Goldberg's own filings. These form the backbone of the impeachment strategy at deposition and the judicial estoppel argument at summary judgment.

GOLDBERG SAID:	BUT ALSO SAID / DID:	SIGNIFICANCE:
'The Combination Agreements authorize name use' (RFA #7, Feb 17, 2026)	'Purely as a courtesy' (BOP Response, Eighth Defense, Feb 26, 2026)	<i>Made 9 DAYS apart. Cannot be both contractual right and gratuitous courtesy. Devastating at deposition.</i>
'Agreement terminated 6/15/2020' (Arbitration — position accepted by arbitrator)	'Agreement is consent basis for name use' (Discovery Response #1, 2026)	<i>JUDICIAL ESTOPPEL. Goldberg prevailed on termination, now relies on the same terminated agreement.</i>
'Unable to recall signing POAs' (RFA #3)	16 authenticated POA signatures submitted under oath (Federal Exhibit A, EDNY case)	<i>Goldberg himself authenticated these documents in federal proceedings.</i>
'Plaintiff requested continued association' (Third Affirmative Defense)	Zero consent emails in 276,899 searched. 3 explicit non-consent emails. 5 blocked notifications.	<i>The factual record is 276,899 to zero against this defense.</i>
'No damages' (Answer, general denial)	\$18.53M collected post-SOL. \$2.1M+ KSU receivables. '7 figures owed' — undisputed in texts.	<i>His own text messages and trust ledger prove massive financial benefit.</i>
Denies he 'caused' name use (Answer Para. 33)	'I will continue managing the firm as I have been' (Text message, June 15, 2021)	<i>NEW from iCloud texts. His own words prove deliberate, knowing causation.</i>
Claims consent/authorization (Tenth Affirmative Defense)	Email accounts eliminated July 18, 2025 — one day after litigation threat	<i>NEW from iCloud. You don't destroy access for someone who consented.</i>

V. AFFIRMATIVE DEFENSES — ALL COUNTERED

#	DEFENSE	STATUS	WHY IT FAILS
1st	Failure to state a claim	DEFEATED	Count V survived 12/05/2025 motion to dismiss. Judge Maslow found claim stated.
2nd	Statute of limitations	DEFEATED	Continuing wrong doctrine: POAs filed through 1/17/2025, website through 6/21/2025. Each new publication restarts SOL.
3rd	Consent / authorization	DESTROYED	Zero consent docs. 'Senior Counsel' discussion = website title only. Combination Agreements silent on name. Email retaliation proves non-consent.
4th	Failure to mitigate	DEFEATED	Litman sent 3 non-consent emails, attempted 5 client notifications (blocked). Mitigation is Goldberg's burden.
5th	Laches	DEFEATED	Litman filed within 5 years. No prejudice to Goldberg — he benefited from the delay.
6th	Unclean hands	DEFEATED	Litman's alleged conduct (collecting fees) doesn't relate to name misappropriation.
7th	Waiver / estoppel	DEFEATED	No knowing, voluntary relinquishment. Settlement talks = inadmissible under CPLR 4547.
8th	De minimis / incidental	DESTROYED	'Purely as a courtesy' claim vs. 905 patents, \$32.7M revenue. Self-defeating.
9th	Federal preemption	DEFEATED	Section 51 protects privacy/personality interest, not IP. Fully briefed in Point V.
10th	Consent (duplicate)	DESTROYED	Goldberg's own Nunc Pro Tunc Assignment states 'Assignor owns his name.' His own document contradicts this defense.

VI. RECENT EVIDENCE DEVELOPMENTS

The following evidence was discovered or obtained since the last comprehensive review. Items marked with a green arrow represent significant case improvements.

▲ STRENGTHENED iCloud Photos — 283 Images Reviewed (March 30, 2026)

Complete review of Richard Litman's iPhone photo library revealed text messages, emails, WhatsApp conversations, patent front pages, and court filings spanning May 2020 through August 2025. This is the single largest new evidence source since the 905-patent dataset.

▲ STRENGTHENED Complete Text Message Thread (May 2020 — July 2025)

The full Litman-Goldberg text exchange was obtained, documenting: Goldberg's admission of unilateral firm control, the scope limitation of any arguable consent to 'Senior Counsel' website title only, Litman's intent to separate post-arbitration, continuous financial disputes, and email access elimination one day after litigation threat.

▲ STRENGTHENED 16 New Goldberg Admissions Against Interest

Sixteen text message and email admissions extracted and cataloged. Highlights: 'I will continue managing the firm as I have been' (June 15, 2021), 'KFU is winding up with 631 patents this year' (Dec 23, 2024), 'Really good day with KSU and Thamer' (May 4, 2025).

▲ STRENGTHENED Three Independent Goodwill Witnesses

Thomas Bennington (former client drawn back by name), Dakota AG/Lynn Odland (calls it 'The Litman Law office'), Omar Albannai (international goodwill: 'East or west Richard is the best'). These independently prove the Litman name had commercial value Goldberg exploited.

▲ STRENGTHENED Email Retaliation / Spoliation Evidence (July 18, 2025)

Litman's email accounts (litman@4patent.com and NathLaw account) eliminated one day after litigation threat. Goldberg acknowledged but never restored. Supports spoliation motion and adverse inference instruction. Those accounts contained 5 years of name-use evidence.

▲ STRENGTHENED Accounting Fraud Pattern (June 2025)

Trust account deposits under incorrect client numbers, client renumbering scheme bypassing standard allocation, \$35,120 missing KFU allocations, Goldberg's own admission that reports 'didn't include payments actually made.' Supports punitive damages.

▲ STRENGTHENED Court Reporter Transcript Obtained (March 27, 2026)

Judge Maslow's 12/05/2025 oral decision now on record. Key: Gould (Goldberg's counsel) conceded Count V survives; court cited Turane v. MGN, LLC for personal participation liability; pierce-the-veil finding on personal liability.

▼ WEAKENED**KNPC Patents — Reframed (Not Litman on Line 74)**

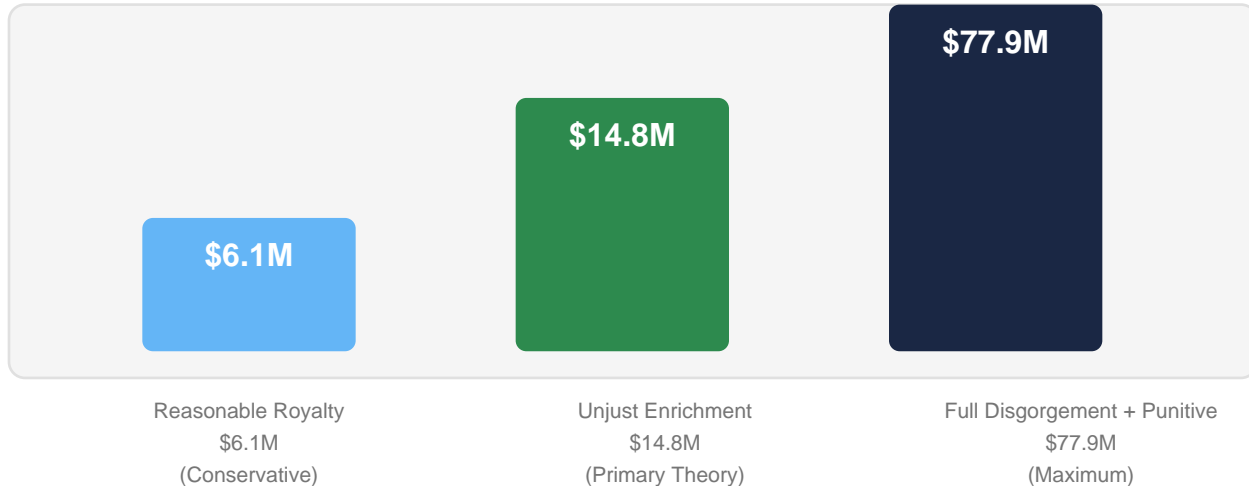
Forensic audit found Goldberg (not Litman) on KNPC patent Line 74. All 3 KNPC patents repositioned as transition evidence showing gradual name replacement rather than direct Litman name-use evidence. Impact: minor — these were 3 of 905 patents.

● UNCHANGED**Goldberg Deposition Still Pending**

Due by June 2, 2026. February 24 was a failed appearance. The 16 new text message admissions create devastating impeachment material for when the deposition occurs.

VII. DAMAGES ASSESSMENT

Three independent damages methodologies have been developed, ranging from \$6.1M to \$77.9M. The primary theory is unjust enrichment / disgorgement.



Key Financial Evidence:

- \$32.7M** — Total trust receipts from Litman-originated clients
- \$18.53M** — Post-6/15/2020 collections (within SOL period)
- \$24.5M** — Post-SOL trust receipts
- \$16.2M** — Accounting gap (\$32.7M trust vs. \$16.5M workup)
- \$2.1M+** — KSU receivables still outstanding
- \$1.2M** — Funds still sitting in trust account
- 95** — Goldberg-directed trust transactions

PUNITIVE DAMAGES SUPPORTED: The accounting fraud pattern (June 2025 texts), email retaliation (July 2025), \$16.2M accounting gap, and client renumbering scheme establish the willfulness, wantonness, and recklessness required for punitive damages. Goldberg's own admission that reports "didn't include payments actually made" is direct evidence of intentional concealment.

VIII. CRITICAL TIMELINE

DATE	EVENT	SIGNIFICANCE
6/15/2020	● SOL Cutoff	Litman disabled; agreement terminated per Goldberg's arbitration position
4/30/2021	● Non-Consent Email	'Does not include the right to use my name' — Litman to firm
6/15/2021	● Control Admission	'I will continue managing the firm as I have been' — Goldberg text
7/6/2021	● Insurance Fraud	Goldberg signs liability insurance listing Litman as 'Of Counsel'
1/30/2023	● Consent Limit	'I am fine with you being considered Senior Counsel' — website only
6/14/2023	● Arbitration Award	'Litman's status ceased' / 'treated as if he had died'
6/19/2023	● Post-Arb POA	Goldberg directs new POA filing — 5 DAYS after arbitration
12/21/2023	● Bombshell Day	Goldberg signs POA AND assignment cover sheet same day
1/17/2025	● Last POA	Most recent Power of Attorney signed by Goldberg
1/14-21/2025	● SWITCHOVER	Litman replaced by Goldberg on Line 74 — proves ability to stop
6/21/2025	● Last Website	Litman still listed as 'PATENT ATTORNEY' on nathlaw.com
7/18/2025	● Email Retaliation	Litman's email accounts eliminated one day after litigation threat
7/21/2025	● Complaint Filed	Litman v. Goldberg action commenced
12/5/2025	● MTD Decision	Count V survives; Counts I-IV dismissed
1/20/2026	● Answer Filed	Goldberg ADMITS name on patents (Para. 32) and website (Para. 72)
2/26/2026	● 'Courtesy' Admission	BOP response: name use was 'purely as a courtesy'
3/30/2026	● iCloud Review	283 photos reviewed — 16 new admissions, 3 goodwill witnesses

IX. STRATEGIC OUTLOOK & NEXT STEPS

Immediate Deadline: April 2, 2026 — Bill of Particulars

The comprehensive BOP package is ready to file with 10 exhibits (A through J), 905 specific patents, 16 POA signatures, and \$14.8M in documented damages. Filing the comprehensive version locks in the evidentiary framework and prevents a 'moving target' defense.

Upcoming Deadlines

DATE	EVENT	STATUS
April 2, 2026	Bill of Particulars due	<i>URGENT — TOMORROW</i>
June 2, 2026	Depositions complete	<i>Goldberg depo still pending (failed 02/24 appearance)</i>
September 22, 2026	Compliance conference	<i>Judge Gotlieb, CCP Room 282, 9:30am</i>
February 5, 2027	Note of Issue	<i>Case must be trial-ready</i>

Five Biggest Strategic Advantages

- 1. Judicial Estoppel Is Locked and Loaded.** Goldberg argued the agreement terminated 6/15/2020 in arbitration and won on that point. He cannot now claim the same agreement authorizes post-6/15/2020 name use. Fully briefed in MSJ Point I.
- 2. The 'Courtesy' Admission Is Fatal.** Made just 9 days after claiming contractual authorization. This single contradiction guts both the consent defense and the de minimis defense simultaneously. It also proves knowledge and intent.
- 3. The Switchover Is Dispositive on Control.** If Goldberg could replace Litman's name with his own in one week (January 14-21, 2025), he could have done it at any time during the prior 4.5 years. He chose not to because the Litman name was making money.
- 4. The Text Messages Provide Intent Evidence.** 16 admissions against interest from Goldberg's own words. 'I will continue managing the firm as I have been.' This is not inadvertent use — it is deliberate commercial exploitation of a professional identity.
- 5. The Evidence Inventory Is Overwhelming.** 905 patents, 16 POAs, \$32.7M in trust receipts, 2,697 notifications, 283 photos, 276,899 emails, 28 cataloged admissions, 3 independent goodwill witnesses, and zero consent documents. The defense has nothing approaching this evidentiary depth.

Areas Requiring Attention

- **Goldberg Deposition Not Yet Taken.** Due by June 2, 2026. The February 24 failed appearance remains unresolved. The deposition is essential for impeachment using the 16 text message admissions and the 7 contradictions documented above.

- **KNPC Evidence Reframed.** Three KNPC patents were found to list Goldberg (not Litman) on Line 74. These have been repositioned as transition evidence. Minor impact: 3 of 905 patents.
- **Post-1/14/2025 Patent Dataset Closed.** No new Litman-name patents can be found after the switchover. The 905-patent count is final. This is a neutral fact, not a weakness.
- **Litman Non-Consent Declaration Not Yet Drafted.** Counsel/client action item. The text messages and emails provide strong non-consent evidence, but a formal declaration from Litman would strengthen the record.

X. CONCLUSION

This case is exceptionally strong and has only gotten stronger.

Every element of the Section 51 claim is proven with documentary evidence. All ten affirmative defenses are countered. Goldberg has contradicted himself at least seven times across different proceedings. His own text messages prove deliberate, knowing commercial exploitation of a disabled colleague's professional name over a five-year period.

The evidence is not just strong — it is **dispositive**. Goldberg admitted the name use. He signed the documents that caused it. He collected millions from the clients it attracted. And when a lawsuit became inevitable, he proved he could have stopped it at any time by replacing Litman's name with his own in a single week.

The only material weakness identified (KNPC reframing) affects 3 of 905 patents — a 0.3% impact.

The case is ready for the April 2 BOP filing and positioned for summary judgment.

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