

Complex Litigation

We represent companies facing a broad array of complex business disputes at trial and in dispute resolution. Our broad experience includes commercial disputes, product and toxic tort defense, corporate insurance coverage, employment defense, antitrust, consumer fraud, trade secret disputes, securities fraud, non-competition, and more. Our lawyers have represented Fortune 100 companies, many national and global enterprises, large government entities, and closely-held corporations. We try cases in state and federal courts and before juries and judges. With our clients, we set business goals for each matter and implement strategies to meet those goals. We combine our big firm experience with the nimbleness and efficiency of a boutique trial practice. Every partner and counsel active in our Litigation Practice has been admitted to the Trial Bar of the Northern District of Illinois, and is allowed to appear as lead counsel in every court proceeding including testimonial proceedings.

Representative Matters by Lawyers in the Firm

- Mass tort/personal injury actions in Circuit Court of Cook County. Successful coordination and defense of multimillion dollar personal injury claims brought by approximately two dozen plaintiffs against client and over 30 other defendants, in which plaintiffs claimed that client manufactured or distributed defective and dangerous food flavoring products that caused them serious lung disease. All claims resolved in client’s favor following strategic early motion practice.
- The Firm represented the City of Chicago in a multibillion dollar claim for injunctive relief filed by United Airlines and American Airlines to stop the O’Hare Modernization Program, a multi-year effort that is the largest civil construction program in the United States. After expedited motion practice and discovery, the litigation was successfully resolved, and the Program is proceeding to completion. American Airlines, et al. v. City of Chicago, Circuit Court of Cook County, Illinois, Chancery Division, No. 11-CH-02081.
- Defended leading international business and technology consulting firm in AAA arbitration concerning former subcontractor’s allegations that client violated Illinois Trade Secrets Act and Lanham Act when bidding on public contract. Case resolved through confidential mediation.
- Defeated federal class action lawsuit brought under the Fair Debt Collection Practices Act against client in connection with alleged improper credit card debt reporting practices. District judge held that cardholder plaintiff’s arbitration agreement barred all claims as a matter of law, and dismissed case under the Federal Arbitration Act. Fuller v. Frontline Asset Strategies, LLC et al., Case No. 17 CV 7901 (N.D. Ill.) (dismissed Apr. 11, 2018).

- Represented liability insurer subrogation plaintiff in multimillion dollar claim against a product liability tortfeasor, following the death of a college athlete. The case settled during a jury trial prior to verdict after favorable witness testimony.
- Represented an online education business in obtaining a successful dismissal of class-action, consumer fraud, and breach of contract claims, brought by former Institute students. The case involved allegations that the defendant deceptively marketed a continuing education program. After obtaining a dismissal in the trial court before a class was certified, the result was affirmed on appeal by the Illinois Appellate Court. *Deweese et al. v. Stratford Career Institute*, Illinois Appellate Court, No. 1-14-0074.
- Represented two private equity firms seeking insurance coverage of actions involving contested “holdback amount” payments to portfolio company sellers. The matters involved the issues of coverage for breach of contract claims as well as asserted “disgorgement.” Through effective mediations by the clients, the Firm attained coverage for underlying breach of contract settlements.
- Litigation over use of trademarks and trade names for a consumer food product, filed in the United States District Court for the Northern District of Illinois. The case was dismissed in the trial court under Rule 12 and affirmed on appeal by the Seventh Circuit. *Hunter v. Pinnacle Foods, et al.*, Seventh Circuit, No. 14-CV-6011.
- Defended securities and breach of contract claims against multiple client entities. Trial court’s dismissal of all claims affirmed on appeal in Seventh Circuit. *Wu v. Prudential Fin., Inc.*, 651 Fed. Appx. 549 (7th Cir. 2016).
- Breach of contract arbitration over work under a large government contract. The case, which involved complex issues of government contracting and the parties’ rights and obligations, was effectively resolved through an arbitration proceeding.
- Represented a national background check company when it was sued for allegedly obtaining a consumer report without a permissible purpose and failing to have reasonable procedures to ensure its consumer reports were accurate. After a successful motion to dismiss the permissible purpose claim and expedited discovery, summary judgment was entered in favor of the company. *Vernon Bonner v. General Information Services, Inc.*, Northern District of Indiana, No. 2:14-CV-318-RLM.
- Represented manufacturer in a personal injury case involving a serious vehicular accident. After successfully removing the case to federal court and proceeding to expedited discovery the case was successfully resolved before trial. *Manjarrez v. Georgia-Pacific, LLC, et al.*, Northern District of Illinois, No. 12-CV-01257.
- Defended a global pharmaceutical company against failure-to-warn product liability claims in a wrongful death action in Illinois. The matter was resolved using early case assessment. *Philipps v. The University of Chicago Hospitals et al.*, Circuit Court of Cook County, No. 2012-L-012693.
- Obtained a complete defense verdict on behalf of client hospital at a 2012 jury trial in a nursing

malpractice case involving surgery after an auto accident. After a two-week jury trial that included testimony from competing nursing care experts, the jury placed blame on and awarded damages against the drunk driver who caused the accident and awarded damages against him. The judge subsequently ruled that the jury verdict was “conflicted” and ordered a new trial to proceed against the hospital in 2013. The case settled during the third day of the second jury trial. *Mach v. Adochio et al.*, Circuit Court of Cook County, Illinois, No. 04-L-28.

- Commercial dispute over liability for thousands of underlying tort claims recently arising out of the operation of a business that was acquired and later resold through a series of corporate mergers and transactions. Successful no liability judgment, affirmed on appeal.
- In a claim for hurricane damages. Obtained a declaratory judgment that a windstorm exclusion did not apply to the insured's business interruption losses and the court awarded full coverage for the losses.
- Trial counsel in insurance disputes filed in Michigan and Illinois over coverage of an Illinois jury's award of \$124 million in punitive damages involving use of a prescription pharmaceutical, obtaining judgment covering both punitive and compensatory damages.
- Trial counsel for trials in Philadelphia and Denver for a significant private equity fund involving issues of fiduciary duty to creditors and claims of alter ego and fraud. Both trials resulted in defense verdicts for clients.
- Represented a major foreign automobile manufacturer in a multiple death case resulting in complex multi-district litigation in the United States and achieved successful dismissal on jurisdictional grounds.
- Defense of medical device manufacturer in multidefendant personal injury lawsuit alleging serious surgical injury. Claims against client resolved following strategic development in discovery of a defense based on pre-existing medical conditions and alternative causes of injury. Case remains pending against other defendants. Venue was Circuit Court of Kane County, Illinois.
- The Firm represents the Société Nationale des Chemins de Fer Français, the French national railroad, in an action for damages arising out of purported activities during World War II. The District Court dismissed all claims under the Foreign Sovereign Immunities Act. The case is currently on appeal in the Seventh Circuit.
- Won dismissal of Illinois class-action lawsuit, brought by a former County correctional officer fired for unauthorized absences from the Jail, in which plaintiff sought equitable and declaratory relief allegedly amounting to more than \$70 million in backpay and other damages against the Cook County Sheriff's Office. Trial court dismissed all claims as a matter of law. Plaintiff's appeal pending before the Illinois Appellate Court. *Acevedo v. Dart et al.*, Case No. 2017 CH 7092 (dismissed May 2, 2018).
- Won dismissal of Illinois class-action lawsuit brought by six current Sheriff's correctional and police officers facing disciplinary charges, including charges of overtime fraud, violence to a disabled detainee, and fraternizing with a criminal suspect. Plaintiffs sought more than \$20 million in backpay,

consequential and punitive damages to the putative class, alleging civil fraud, negligent misrepresentation, and various alleged Illinois statutory violations. Trial court dismissed all of the plaintiffs' claims, on the ground that all six plaintiffs failed to exhaust their administrative remedies before filing the lawsuit. Plaintiffs' appeal pending before the Illinois Appellate Court. *Goral et al. v. Dart et al.*, Case No. 2017 CH 15546 (dismissed Jul. 26, 2018).

- Won Illinois Appellate Court decision in favor of Cook County Sheriff and against former officer who was fired for multiple unauthorized absences, and sought to invalidate his firing by arguing that he was disciplined by an improperly constituted administrative agency. Appellate Court affirmed agency's disciplinary decision, and held that the de facto officer doctrine overcame plaintiff's objection that the agency was improperly appointed. *Lopez v. Dart et al.*, 2018 IL App (1st) 17-1773-U.
- Defeated police sergeant union/correctional sergeant union's wide-ranging contractual and equitable claims against the Cook County Sheriff's Office. Trial court dismissed all of the union's claims with prejudice. *AFSCME Council 31 v. Dart et al.*, Case No. 17 CH 14982, Cir. Ct., Cook County, Ill. (dismissed May 21, 2018).
- Member of national coordinating defense team for breast implant litigation, and part of the trial team in the largest breast implant class action ever certified, in Louisiana. Particular responsibilities included developing expert medical/scientific defenses and Daubert/Frye motions. Focus was on demonstrating that novel theories of disease were not supported by good science. The class ultimately was decertified and the case was dismissed.
- Member of national coordinating defense team for tobacco litigation; second chair to counsel in 6 week trial before Jack Weinstein in suit brought by the Johns Manville Asbestos Trust against the entire tobacco industry. Coordinated all motions in limine; won spoliation motion; prepared offensive case. Jury hung 10-2 in defendants' favor and case ultimately was voluntarily dismissed. This was one of the early efforts by plaintiffs to use consumer fraud statutes to advance product liability claims and was directly involved in briefing against that effort.
- Successful forum non conveniens challenge to product liability and property damage claim filed in Cook County, Illinois against leading pesticide manufacturer, in which plaintiff farmer alleged that product defects in client's insecticide caused damage to his livestock. Successfully persuaded the court that plaintiff had filed suit in an inconvenient forum, and plaintiff was ordered to pursue his claims in McHenry County, Illinois. Claims against client resolved following ruling.
- Personal injury action in Rock Island County, Illinois. Client, a food flavoring manufacturer who operated an industrial plant, was sued by a railroad employee for an alleged injury arising out of delivery of cargo to the plant site. After developing defenses based on pre-existing medical conditions and trespass, the case was successfully resolved.
- Defense of medical device manufacturer in multidefendant personal injury lawsuit alleging serious surgical injury. Claims against client resolved following strategic development in discovery of a defense based on pre-existing medical conditions and alternative causes of injury. Case remains

pending against other defendants. Venue was Circuit Court of Kane County, Illinois.

- Representation of plaintiff frac sand provider in wide-ranging contractual dispute with multiple business partners alleging contractual bad faith, breach of fiduciary duty, violations of the Wisconsin Limited Liability Company Law, and other claims relating to defendants' alleged mismanagement of a proposed sand mining project and bad-faith efforts to reduce client's equity in the project, which caused client millions of dollars in compensatory and lost profit damages. Successfully defeated majority of defendants' counterclaims on motions to dismiss. Successfully defeated defendants' summary judgment motions, allowing claims to proceed to a jury trial. Case subsequently resolved on the eve of trial.
- Successfully defended federal First Amendment and whistleblower retaliation allegations brought by correctional lieutenant against Cook County Sheriff, Undersheriff, and various Sheriff's internal affairs investigators, with dismissal of case pre-trial. *Zimny v. Hake et al.*, Case No. 2012 CV 5963 (N.D. Ill.) (dismissed in October 2017).
- Defeated correctional officer union's motion in Illinois state court for temporary restraining order (TRO) against the Cook County Sheriff's Office, in which union sought to stop all pending disciplinary matters involving correctional officer misconduct. The trial court denied the TRO, and the union later voluntarily dismissed its case. *Int'l Bhd. of Teamsters Local 700 v. Dart et al.*, Case No. 17 CH 14410, Cir. Ct., Cook County, Ill. (TRO denied Nov. 27, 2017).
- Defended in unfair competition class action suits in 3 states against the manufacturer of Tidy Bowl – California, Florida and Texas – claiming the product caused damage to toilets. All three suits were dismissed with prejudice on FIFRA preemption grounds related to the approved labels for the product.
- Defended simultaneous nationwide and state class actions and individual actions alleging defective building product. Developed successful procedural strategy and coordinated proceedings before the Multi-district Litigation Panel, resulting in defeat of nationwide class certification in federal court.
- Defended landmark aggregated actions by asbestos companies/Trusts and medical recoupment actions by state attorneys general involving novel and developing legal theories. Second chaired seven-week trial on behalf of tobacco company. Mistrial followed by plaintiffs' voluntary dismissal.
- Defended and resolved breach of contract and tortious interference claims by former employee after obtaining ruling precluding plaintiff's damages expert from trial.
- Represented manufacturer/importer in a royalties and merger contract dispute, successfully resolved through mediation conducted under auspices of the court.
- Trial counsel for global pharmaceutical company in federal trial of employment discrimination/off-brand marketing issues, resulting in defense verdict on all claims, Northern District of Illinois.
- Regional counsel/trial counsel in defense of multiple personal injury cases involving first-in-class

treatment for diabetes. Focus on developing scientific defenses to under Frye/Daubert criteria, depending on jurisdiction. Cases filed in state and federal courts throughout Illinois.

- Conducted multi-day Temporary Restraining Order hearing in cell phone dealer suit to prevent termination of dealer agreement. Case settled.
- National coordinating counsel for contraceptive litigation. Cases involved trials in federal and state courts with defense verdicts/favorable settlements and defeat of plaintiff's attempt to obtain an MDL.
- Successfully defended a university through appeal in an action filed by a student athlete who suffered a cardiac condition requiring an implantable defibrillator and was denied participation by the team physician in NCAA Division I basketball in a claim brought under the Rehabilitation Act.
- Represented municipality and police officers in high profile § 1983 civil rights and Americans With Disabilities Act case.
- Defense of life insurers in breach of contract and bad faith litigation resulting from alleged mismanagement of policies used as partial investment vehicles.
- Representation of debtor corporation in Chapter 11 filing and reorganization, including participation in contested confirmation hearing before the U.S. Bankruptcy Court for the Eastern District of Louisiana resulting in court approval of client's \$1.5 billion plan of reorganization.
- Toxic tort actions alleging that chemical emissions caused cancer, wrongful death and other serious personal injuries to children in the community. Highly favorable settlement and dismissal of claims after expert discovery.
- Represented pharmaceutical manufacturer in multi-national dispute over supply of contaminated pharmaceuticals. Litigation in U.S. and Great Britain; dispute resolution in U.S. and Japan. Trial counsel and appellate counsel representing a manufacturer of the anti-miscarriage drug, diethylstilbestrol. Resulted in coverage of defense costs and indemnities for over 1500 diethylstilbestrol personal injury cases, in a trial result affirmed by the California Supreme Court in the first decision by the Court regarding lost insurance policies.