

Vincent L. DiTommaso
DITOMMASO ♦ LUBIN
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Admitted to the Illinois Bar, 1982; Admitted to United States District Courts, Northern District of Illinois, Eastern Division, Southern District of Illinois and Central District of Illinois, Peoria and Rock Island Divisions, United States Courts of Appeals for the Seventh Circuit.

EDUCATION

University of Illinois
Champaign-Urbana, Illinois
Bachelor of Arts, 1979
Areas of Concentration: Political Science, Philosophy

Illinois Institute of Technology, Chicago Kent College of Law
Juris Doctor with Honors, 1982

PROFESSIONAL AFFILIATIONS

The Chicago Bar Association (Class Action Committee), the Chicago Volunteer Legal Services Foundation; DuPage County Bar Association (Committee Chair of Alternative Dispute Resolution 2001-2002); Justinian Society of Lawyers (Past President, 2001 and Member of Executive Committee, 2001-2002); DePaul University College of Law Moot Court Judge (1982-1984).

Trial practice skills to students at the University of Chicago Law School Mandel Legal Aid Clinic

SPECIAL APPOINTMENTS

Member of the Board of Overseers, Illinois Institute of Technology, Chicago Kent College of Law.

In 1996, I was selected by the Chief Judge of DuPage County as one of the first group of attorneys to be trained, then certified, as a Court Appointed Mediator. In that role during the last eight years, I have successfully mediated many complex commercial cases. I have one of the highest settlement rates for mediated cases in DuPage County. The Chief Judge has invited me to conduct mediation training seminars for DuPage Judges.

In 1996, I was appointed to the DuPage Judicial Evaluation Committee for the selection and evaluation of Judges.

In 1998, I was appointed Special Assistant Attorney General as Counsel for Illinois State Treasurer Judy Baar Topinka.

In 2004, I was asked to teach trial practice skills to students at the University of Chicago Law School to prepare them to work at the Law School's Mandel Legal Aid Clinic.

AWARDS

Commendation from DuPage Legal Assistance Foundation due to First Cy Pres Award provided to the Foundation of over \$100,000 from certain class-actions.

Recipient of First "Law Firm of the Year" Award in 2008 from the DuPage County Legal Assistance Foundation.

PROFESSIONAL EXPERIENCE

I have tried numerous State and Federal cases to verdict and acted as lead counsel in many complex civil litigation cases.

Class-Actions and Commercial Cases:

I have a great deal of experience in defending and prosecuting class action litigation at the trial and appellate levels. I have spent the majority in my over two and half decades practicing law litigating consumer, antitrust and securities class actions. Courts in Illinois and throughout the country have appointed me lead or co-lead class counsel in over 1,000 contested or settlement class action cases. I have been retained by a number of large and mid-sized corporations to defend them in class actions.

Some of the class action cases I have played a substantial role in are:

In re: Baldwin-United Corporation Litigation (this case resulted in one of the largest securities class action settlements at the time).

In re: Storage Technology Corp. Securities Litigation.

In re: Beatrice Companies, Inc. Litigation; Energy Systems Equipment Securities Litigation; L.I. Rothschild v. Continental Illinois Corporation, et.al.

Isadore Spring v. Continental Corporation, et.al.

In re: Illinois Bell Switching Station Litigation (co-lead counsel).

Barbara Nale v. Larry Faul Oldsmobile - GMAC (co-lead counsel) (a consumer fraud

plaintiff class and defendant class action composed of more than 800,000 persons who received settlement benefits in the plaintiff class and 175 Chicagoland auto dealers in the defendant class).

Erickson v. Ameritech (multi-state class action regarding bogus voice mail charges resulting in a claims made settlement with a potential value of \$40,000,000 to the class who had the right to receive cash refunds on their bills).

Stamos v. Prime Cable of Chicago, Circuit Court Cook County, Chancery Division, Judge Schiller. 1999. Lead counsel in class-action against cable company for return of millions of dollars in excessive late fees. Case settled with a substantial reduction in late fees and refunds worth millions of dollars paid to the class.

Marszalek v. Mutimedia, Circuit Court of Kane County, Judge Nottolini. Lead counsel in same type of class-action as ***Stamos*** against a different cable company. 1998. Case settled with a substantial reduction in late fees and refunds worth millions of dollars paid to the class after class certified in contested proceedings.

Beckman v. Triax, Circuit Court of Kane County. 2000. Lead counsel in same type of class-action as ***Stamos*** against Triax. Case settled with a substantial reduction in late fees and refunds worth millions of dollars paid to the class.

Chmils v. TCI, Circuit Court of Cook Count, Judge Jaffe. 1999. Lead counsel in same type of class action as ***Stamos*** against TCI. Statewide class action with over a million class members certified in contested proceedings. Directed verdict for defendants following 17 day trial. When appeal was pending, case settled as part of nationwide settlement where we were lead counsel. Late fees in Illinois and across the country reduced substantially as a result of settlement. Opposing counsel: Richard Werder (Jones Day Reavis & Pogue) and Paul E. Freehling (Seyfarth Shaw).

Cable Late Fee Class-Actions. 2001-2004. Same type of class-action as ***Stamos***. Participating as lead or co-counsel in over 20 such cases against various cable companies including TCI/AT&T, Cox, Time-Warner, Comcast, Charter/Marcus and Jones Cable. I was in charge of coordinating all the different cases across the country, and my partner took the lead role in the national settlement negotiations with TCI/AT&T and Charter/Marcus. Two TCI cases in Washington DC and Maryland where we assisted lead counsel Philip Friedman (who is our co-lead counsel in all the cable late fee cases) were tried to multi-million dollar verdicts in plaintiffs' favor with injunctive relief barring the illegal fees. The first Maryland case went up to the Court of Appeals (Maryland's highest court) where the judgment in the class's favor of over \$6,000,000 and injunctive relief reducing the \$5 late fee to 10 cents was affirmed. ***Burch v. United Cable Television of Baltimore Ltd.***, 732 A2d 887 (Md 1999). The judgment in the Washington DC case was also affirmed on appeal. ***District Cablevision Ltd. Partnership v. Bassin***, 2003 WL 21664513 (DC). Since the victories in Maryland and

Washington DC, loss in Illinois at the trial level, and appellate victories and losses in other states including victories in Louisiana, Texas and Minnesota (*TCI Cablevision of Dallas, Inc. v. Owens*, 8 SW3d 837 (Tex 2000) and a loss in Mississippi following class certification (*Hill v. Galaxy*, 184 FRD 82, and 176FSupp2d 636 (ND Miss 1999 and 2001), we entered in two separate national settlements involving over 10 million cable customers with AT&T and Charter/Marcus, which have resulted in permanent reduction of cable late fees throughout the country, and vouchers paid for overcharges resulting in millions of dollars in savings and voucher payments to the classes. We also reached state wide class-action settlements against Cox Cable in Nevada and Arizona, and a state-wide class-action settlement with TCI in California. We currently have a class-action pending against Time Warner in Indiana, following our victory in the Indiana Supreme Court on the voluntary payment issue. *Time-Warner v. Whiteman*, 802 NE2d 886 (Ind Sup Ct. 2004). In December 2003, following the ruling in *Dua v. Comcast Cable of Maryland, Inc.*, 805 A2d 1061 (Md 2002), and the trial court granting the class's motion for partial summary judgment and on the eve of trial, Comcast entered into a class-wide settlement of *Maisonette v. Comcast* an identical case to *Dua* with a larger number of class members. Comcast agreed to refund 97% of the class's money damages, including prejudgment interest, for a total payment of 13.589 million dollars to the class fund. Co-counsel included: Philip Friedman and Michael Hyman (Much Shelist Freed Denenberg Ament & Rubinstein). Opposing Counsel on the above cases included: Jones Day Reavis & Pogue, LeBoeuf, Lamb, Greene & MacRae, White & Case, Coblenz Patch Duffy & Bass, and Sullivan & Cromwell.

Junk Fax Class Actions, Circuit Court of DuPage and Cook Counties. Pending or Settled. Represent Plaintiffs in a number of putative class actions involving alleged violations of the Telephone Consumer Protection Act.

Oakbrook Terrace Hotel Overcharge Class Actions, Circuit Court of DuPage County. 2000-2004. Claims against all Oakbrook Terrace Hotels (Hilton, Marriott, La Quinta, Comfort, Wyndham and Starwood) for including non-tax ordinary vendor charges in the tax line item of customer bills. Class certified in *Comfort* and *Hilton* cases following a contested hearings, and appointed lead class counsel in that case; appellate court rejected Hilton's statutory occupancy tax defense in an interlocutory appeal to the 2nd District Appellate Court. 788 NE2d 789. *Comfort*, *Wyndham*, *Marriott*, *Starwood* and *La Quinta* cases settled on a class-wide basis with between 60% and 70% of damages paid into the settlement fund. Summary judgment was entered in the class's favor in the *Hilton* case and was affirmed on appeal with the class receiving all of its damages and *Hilton* being ordered to pay all of class counsel's fees as additional damages. Opposing counsel: Howard Foster (Johnson & Bell); Dennis Powers and Sonya Naar (DLA Piper); Mark Blocker (Sidley Austin, Brown & Wood); Ira Helfgot; Peter Ordower.

Extended Warranty Class Actions. 1995-2001. Represented plaintiffs in approximately 25 class-actions in state and federal court in Illinois against car dealers, finance companies and car manufacturers regarding alleged misrepresentations in financing documents. All 25 cases

have settled following a favorable ruling we received from the 2nd District Appellate Court. See 683 NE2d 1194.

Leiner v. Century, Circuit Court of DuPage County. Lead counsel in certified national class-action against maker of child car seats regarding alleged consumer fraud in misrepresenting the safety of the car seats. Settled following certification of nationwide class in contested proceedings.

Erickson v. Ameritech, Circuit Court of Cook County. Judge Flynn. 2004. Consumer fraud claims for failure to disclose that voice mail includes phone charges in addition to the monthly fee. Case settled on class-wide basis with refunds available to all class members along with injunctive relief barring the deceptive practices. Appointed co-lead counsel after spear heading efforts with the Citizens Utility Board to have a class-wide settlement (providing unsatisfactory relief) rejected by the Court. Crain's Chicago Business listed the new settlement we helped achieve as the 3rd highest settlement/verdict in Illinois in 2004. Co-Counsel Robert Kelter (General Counsel Citizens Utility Board) Opposing Counsel: Leslie Smith (Kirkland & Ellis).

Johnson v. US Bank, Circuit Court of Dupage County. Judge Popejoy. 2004. Consumer fraud and Illinois statutory claims relating to repossessing cars without providing statutorily mandated disclosures. Case settled with 541 class members receiving the right to collect a \$400 refund, and to have their substantial deficiency balances with US Bank averaging approximately \$6,600 each written off.

Sampson v. Western Sierra, Federal Court for the Northern District of Illinois, Judge Zagel. Represented defendant. (2003-2004) Fair Credit Reporting Act class-action claims against national finance company. Case settled on individual basis on terms favorable to defendant following court granting Western Sierra's motion for summary judgment rendering judgment in Western Sierra's favor dismissing the class-action claims with prejudice. See: 2004 WL 406992. Opposing Counsel: Daniel Edelman and Adam Berger (Edelman Combs & Latturmer).

Ramsell v. Infinity Broadcasting, Circuit Court of DuPage County. Judge Webster. (2002-2004) Consumer Fraud and breach of contract claims relating to Infinity refusing to provide a refund to concert goers after it cancelled a Doobie Brothers's concert. Defense summary judgment motions denied. Class certified in contested proceedings. We were appointed lead class counsel. Case settled with full cash refunds to class members. Opposing Counsel: Peter John and Summer Heil (Williams Montgomery & John)

Dale v. Daimler Chrysler Corporation, Circuit Court of Boone County, Missouri. Judge Roper. Pending. Consumer Fraud and breach of warranty claims relating to defective window motors in Durangos for a five year period. Chrysler's motion for summary judgment denied. State-wide class certified. We were appointed lead class counsel.

Chrysler's appeal of class certification rejected by Missouri appeals court. 2006 WL 1792414. Opposing Counsel: John W. Rogers (Bryan Cave)

Hyde v. Aspen Marketing Services, Inc., Federal District Court of Maryland. Judge Bennett. Settled. Fair Credit Reporting Act putative class action. Opposing Counsel: Scott Borison (Legg Law Firm)

Crandall v. Mobile Management Co., Inc. et al, Circuit Court Lake County Illinois. Judge Tonigan. Represented defendant one of the largest mobile home companies in the Mid-West regarding alleged illegal late fees. Opposing Counsel: Daniel Edelman (Edelman, Combs and Lattuner)

Walsh v. Swiss Bank, Circuit Court of DuPage County. Judge Elsner. Pending. Representing plaintiff class in consumer fraud action concerning improper liening of workers' compensation claims by loan and finance company. Case settled for removal of liens and reductions in the amounts due on the loans and cy pres payment to Mandel Legal Aid Clinic for uncollected settlement monies.

Telecommunications Network Design v. Paradise Distributing, Circuit Court of Cook County, Chancery Division. Pennsylvania Court of Common Pleas. Pending. Representing plaintiff class in TCPA/junk fax case, where \$4,000,000 judgment has been entered for plaintiffs in Illinois case, pending final fairness hearing. Also prosecuting related declaratory judgment action in Pennsylvania against insurance company to collect judgment under policy.

Krey v. Aspen Marketing Services, Inc., Grace v. Aspen Marketing Services, Inc., Connolly v. Aspen Marketing Services, Inc., Federal District Court Northern District of Illinois. Judges Kennelly, Coar and Filip. Defended Aspen, a large national marketing company in Fair Credit Reporting Act Class Actions. Opposing Counsel: Edelman, Combs and Lattuner.

I have represented clients in Illinois, and throughout the country in many areas of commercial law, including consumer fraud, construction and mechanic's lien, trademark, copyright, anti-trust and unfair competition, covenants not to compete, securities fraud, commercial fraud and breach of fiduciary duty, partnership and corporate take over disputes, and commercial lending law. I have handled a number of appeals in commercial or class action matters, including **Terrill v. Hilton**, 788 NE2d 789 (2nd Dist 2003); **Berhauser v. Glen Ellyn Dodge**, 683 NE2d 1194 (2nd Dist 1997); **Wendt v. Hellmuth, Obata & Kassabaum, Inc.**, 1998 WL 34080936 (2nd Dist 1998); **Sundance Homes, Inc. v. County of DuPage**, 746 NE2d 254 (2nd Dist 2001).

I regularly litigate employee covenant (non-compete) cases for long time corporate clients in numerous states. I also represent large family businesses in multi-million dollar

corporate freeze-out and partnership disputes.

Because of my long experience as a court appointed mediator, co-plaintiffs= counsel from leading class-action law firms from different parts of the country selected me to play the lead role for the plaintiffs in settling a number of national and state-wide cable late fee class actions against many of the nation=s largest cable providers. ***In re: Owens v. TCI Cablevision of Dallas*** (District Court of Jefferson County Texas, 172 Judicial District) (benefiting a class of approximately 400,000 cable customers in the southwest United States); ***In re: Rowe v. CoxCom*** (Superior Court of Arizona) (benefiting approximately 750,000 persons in the Phoenix area); ***In re: Littell v. Tele-Communications, Inc.*** (In the Morgan Superior Court No. 1, Indiana) (settlement valued at more than \$45 million in script for free services such as HBO and pay per view movies and substantial reduction in late fee charges going forward benefiting a class of more than 5 million persons throughout the United States); ***In re: Unfried v. Charter Communications, Inc.*** (Circuit Court of the Third Judicial Circuit, Illinois) (benefiting a class of more than 5 million persons throughout the United States with potential estimated recovery to the class in excess of \$50 million in script for free premium cable services and a substantial reduction in late fee charges going forward).