



Patrick D. Austermuehle
17W220 22nd Street, Suite 410
Oakbrook Terrace, Illinois 60181
(630) 430-0993
patrick@l-a.law

EDUCATION

Chicago-Kent College of Law, Chicago, IL
Juris Doctor with Honors, May 2009

Chicago-Kent Law Review

- *Notes and Comments Editor, 2008-2009*
- *Staff, 2007-2008*

Dean's List, 2006-2009

University of Wisconsin, Madison, WI
Bachelor of Science, Philosophy and History, May 2006

PROFESSIONAL AFFILIATIONS

Admitted to Illinois Bar, 2009
Admitted to United States District Court, Northern District Illinois, 2010
Member, Illinois State Bar Association

PROFESSIONAL EXPERIENCE

Class Action Litigation, Corporate Control Disputes, Probate and Employment Litigation

Boundas v. Abercrombie & Fitch, Federal Court for the Northern District of Illinois, Judge Feinerman. Pending. Representing plaintiffs that received a \$25 purchase reward card that did not contain an expiration date but which defendant claimed should have contained an expiration date and will no longer honor. Class certified and request for appeal of class certification denied by the 7th Circuit. 2011 WL 1676053.

Daniels v. Hollister Co., Superior Court of New Jersey. Pending. Same fact pattern as Abercrombie case above but against sister corporation of Abercrombie, Hollister. Superior Court certified a nationwide class. Defendant appealed class certification arguing that the class was not ascertainable. Plaintiff argued that New Jersey law does not require level of ascertainability argued by defendant and that class was sufficiently ascertainable. Appellate court agreed with plaintiff's arguments and rejected defendant's arguments. 113 A.3d 796 (N.J. App. 2015). Opposing Counsel: Brian J. Murray (Jones Day) and Richard A. Grossman (Grossman, Heavey & Halpin).

Booking Fee Class Actions, Federal Court for the Northern District of Illinois. We are prosecuting a number of class actions against various Chicago area towns for charging arrested persons with a booking fee and then not providing for hearing to contest the right to charge the

fee. We have obtained class certification and defeated motions to dismiss in some of these cases. Two of these cases settled on a class-wide basis. We are appealing the dismissal of one of these cases to the 7th Circuit.

Jane Doe v. Modeling School, Circuit Court of Cook County, Chancery Division. Represented plaintiff putative class representative/student who took a modeling and acting course. Plaintiff alleged violations of the Illinois vocational schools and consumer fraud acts involving alleged misrepresentations concealing that the course would not lead to work in the field. Case settled on a class wide basis with class members being able to claim a partial refund on their tuition.

Jane Doe, et al. v. Trade School, Circuit Court of DuPage County, Chancery Division. Class Certified in contested proceedings. We represented a class of students who took a medical sonography course for claimed violations of the Illinois vocational schools and consumer fraud acts involving alleged misrepresentations concealing that the course would not lead to work in the field. The Class prevailed in motions to appeal class certification to the Appellate Court and Illinois Supreme Court. Case settled on a class wide basis with class members receiving a substantial tuition refund.

Jane Doe et al v. Electronics Retailer, Circuit Court of Cook County, Chancery Division. Represented Plaintiffs who received a \$500 gas and grocery card that retailer allegedly would not honor. Class certified. Case settled on a class-wide basis with approximately 7,000 class members being able to claim up to \$1000 depending on the number of claimants who participate in the settlement.

Takova v. S37, Circuit Court of Cook County, Chancery Division, Judge Riley and Judge Mikva. Represented defendant landlords in putative class action claiming violations of Illinois security deposit statutes. Case settled on an individual non-class basis following motion to dismiss for mootness. Opposing Counsel: Aaron Krolik and Mark Silverman.

Klimo v. S37, Circuit Court of Cook County, Chancery Division, Judge Hall. Represented defendant landlords in putative class action claiming violations of Illinois and Mt. Prospect security deposit statutes. Case settled on an individual non-class basis following granting of S37's partial summary judgment motion. Opposing Counsel: Mark Silverman.

Junk Fax Class Actions, Circuit Courts of Cook, McHenry and DuPage Counties. Pending. Representing plaintiffs in a number of class actions involving alleged violations of the Telephone Consumer Protection Act. Cases include ***Dembo v. McAssey Corporation***, Circuit Court of Cook County, Chancery Division, Judge McGann. Case settled for \$1.4 million to the class. Each class member had a right to claim \$225.

Walczak v Onyx Acceptance Corporation, Circuit Court of Lake County, Chancery Division, Judge Hoffman. Class Certified. Class certification order affirmed by the Appellate Court. 365 IllApp3d 664. Represented class with co-counsel in claims involving alleged violations of Illinois automobile repossession laws. Case settled with each of the over 7,600 class members able to claim up to \$2000, forgiveness of automobile debt totaling \$11.5 million and credit repair for each class member worth \$1500 per class member. Opposing Counsel: Joshua Threadcraft and Rik Tozzi (Burr & Forman)

Ademoye v Austin Highland Development, Circuit Court of Dupage County. 2016-2018. Judge Popejoy. Represented Plaintiff class for claimed violations of Illinois Security deposit statute involving a substantial number of unit owners. Case settled with Defendant making available hundreds of thousands of dollars in refunds of security deposit monies withheld. Opposing counsel Rathje Woodward LLC.

Berg v. CI Investment Co., United States District Court for the Northern District of Illinois, Eastern Division. Judge Kocoras. 2016. Represented Defendant the largest mutual fund company in Canada. Claims that Defendant engaged in trade secret and copyright infringement of complex trading software seeking over \$2,000,000 in damages. After expedited discovery, partial summary judgment entered in our client's favor as to all infringement claims based on implied license and case dismissed. Opposing Counsel: Michael Childress (Childress, Loucks & Plunkett)

Glaser and Sapyta v. Collins, Hamilton and the College of DuPage, United States District Court for the Northern District of Illinois, Eastern Division. Judge Alonso. 2015-2017. Claims for wrongful termination, violation first amendment rights and 1983 as to former Treasurer and Controller of the College of DuPage. Case settled; financial terms confidential. Also, after contested hearings defeated College's attempt to deny Saypta unemployment and prevailed on the appeal of that ruling. Co-Counsel: Shelly Kulwin (Kulwin Masciopinto & Kulwin, LLP). Opposing Counsel: Sidley & Austin; Schiff Hardin & Waite; and Schuyler, Roche & Crisham.

DiMucci v. DiMucci, Circuit Court of Cook County, Chancery Division, Judges Forman, Flynn and Billik. Arbitration before Judge Casciato. Judge Casciato ordered refund of tens of millions of dollars to jointly owed entities. This was a family partnership and corporate control dispute involving hundreds of millions of dollars in real-estate development assets. Represented 50% owner allegedly frozen out of companies. Involved questions of alleged breach of fiduciary duty and issues involving Florida and Illinois corporate law and issues. Conducted accounting trial before Judge Billik and then arbitration before Judge Casciato. Filed a supervisory order before the Presiding Judge of the Chancery Division regarding the alleged improper additional appearance of Mr. Cherry as co-counsel for defendants. The Court entered a lengthy opinion requiring Mr. Cherry to withdraw his appearance and get permission to refile his appearance. Co-Counsel: Brian Garelli (Garelli & Associates). Opposing Counsel: George Collins and Adrian Vuckovich (Collins & Bargione), Myron Cherry (Myron Cherry & Associates).

Estate of Hudson, Circuit Court of DuPage County, Probate Division. Judge Popejoy. Complex estate case. Representing guardian of minor child. Dispute over personal and business assets against estate administrator and surviving spouse. Case involved local and overseas proceedings with claims seeking to recover millions of dollars in funds and business assets allegedly owned by the Estate. Case settled with business returned to the Estate and defendant agreeing pay a substantial portion of our client's fees. Opposing Counsel: Douglas Tibble (Brooks Adams & Tarilis) and Richard Cowen (Stahl Cowen)

BleuChip International Inc. v. Aulds, Circuit Court of DuPage County, Chancery Division, Judge Popejoy. 2009. Represented corporation and its CEO as plaintiffs in a claim against the

corporation's President. Case settled on confidential terms shortly after suit was filed. Opposing Counsel: Bruce Menkes (Mandel, Menkes LLC)

Anderson et al v. Moy-Gregg, Circuit Court of DuPage County, Chancery Division, Judge Popejoy and Judge Sheen. 2010-2011. Represented corporation and alleged majority owners in a corporate control dispute regarding the intent and meaning of stock gift. Opposing Counsel: Louis Bernstein.

Aranas v. Suburban Neurologists S.C., Circuit Court of Cook County, Chancery Division, Judges Allen and Mullen. 2014-2018. Represented Plaintiff Neurologist in a breach of shareholder purchase agreement and non-compete agreement dispute. We obtained summary judgment in favor of our client in the breach of shareholder purchase agreement claims and defeated the Defendant's claim that our client violated the non-compete agreement. We had previously prevailed in injunction proceedings where Defendant had tried to close down our client's new medical practice and then prevailed in the Appellate Court. We then went to trial and obtained a substantial monetary damages verdict for our client at a bench trial regarding the Defendant's breach of the shareholder purchase agreement. Opposing counsel: Norman Lerum.

Dr. FM, LLC v. Hoscon Ltd. et al, American Arbitration Association and Circuit Court of Cook County, Chancery Division and Law Division. Judges Mikva and White. 2013-2016. Our client the Plaintiff, an emergency room physician formed a partnership with two other physicians to open an urgent care center. Our client's partners wrongfully removed him from the partnership and denying him the fruits of quarter-million-dollar investment to start the business. Our client's investment included \$80,000 in cash but also \$180,000 in estimated "sweat equity" for providing start-up services. We sought to unwind the transaction and return of his entire investment. We prevailed at an arbitration hearing and obtained a judgment for 100% of our client's claimed damages. The Defendants then tried to contend that the arbitrator's award was improper in state proceedings after retaining new lawyers. We prevailed on those claims as well. We then initiated a judgment enforcement action and collected all of our client's damages plus 9% post-judgment interest. Opposing Counsel: Anish Parikh; John M. O'Driscoll (Tressler LLP).

Mercado v. Levy et al, American Arbitration Association. Arbitrator James S. Montana Jr. Represented Defendants, a school and their owners in a lawsuit alleging defamation arising from a partnership and employment suit. We obtained substantial video-taped evidence from multiple witnesses supporting that our clients did not defame the Plaintiff and that all of their statements were supported by various eye witnesses. Case settled.

Williams v. Marder et al, United States District Court, Northern District of Illinois, Eastern Division. Judge Guzman. 2011. Represented Defendant in a lawsuit claiming defamation, tortious interference with inheritance expectancy and employment and malicious prosecution. Defendant was sued as a result of his alleged efforts to try to protect his father who suffered from dementia and Alzheimer's from alleged abuse and neglect by a nurse who had sought to obtain a \$3 million bequest from the father. Summary judgment entered in Defendant's favor on all counts. ***Frrokajs v. Charlie Trotters***, United States District Court Northern District of Illinois, Eastern Division, Judge Shadur. 2012-2013. Represented wine purchased who paid over \$46,000 for an allegedly counterfeit magnum size bottle of Domaine Romanee-Conti Burgundy wine.

The case settled the same year we filed it on confidential terms after the Court denied the motion to dismiss for lack of federal jurisdiction. Opposing Counsel: Kaplan Papadakis & Gournis.

Twyman v S & M Autobrokers, Inc., United States District Court Northern District of Illinois, Eastern Division, Judge Kendall. 2016-2018. Represented Plaintiff who claimed that Defendant sold him a used luxury Infinity that sports utility vehicle that was a rebuilt wreck. Case settled on confidential terms. Opposing counsel Brodsky was sanctioned by the Court \$50,000 payable to the Clerk of Court and ordered to undergo anger management classes for making defamatory attacks on our expert and Plaintiff's counsel. Opposing Counsel: Joel Brodsky; Ryan Brown (Gordon Rees Scully Mansukhani LLP); James J. Roche & Associates.

Cohen v Ofer Mizrahi Diamonds Inc. et al, Circuit Court of Cook County, Chancery Division, Judge Synder. 2018. Represented Defendants some of the largest diamond wholesalers in the world who were falsely accused of a \$1.5 million fraud by another wholesaler. After we filed a motion for sanctions demonstrating that the claims were baseless and a \$16,000,000 defamation suit against Plaintiff in federal court the case settled less than a year after suit was filed. Defendant was a required to provide a full retraction and apology. Opposing Counsel: Mark Hammervold.

Ofer Mizrahi Diamonds Inc. and Ofer Mizrahi Ltd. v. David Cohen, United States District Court, Northern District of Illinois, Eastern Division. Judge Kendall. 2018. Represented Plaintiffs. Our clients some of the largest diamond wholesalers in the world sued another diamond wholesaler for \$16,000,000 allegedly bringing a false lawsuit against them falsely accusing them of fraud and then publishing the allegedly false lawsuit on the internet and issuing a press release. The case was settled for undisclosed financial terms as well as with Defendant providing a full written retraction and apology for making the false claims. Opposing Counsel: Mark Hammervold.

Motorola v. Aderhold, Circuit Court of Cook County, Chancery Division, Judge Arnold. 2009-2010. Represented defendant former Motorola vice-president in covenant not to compete and trade secret case. Case settled on confidential terms, before any discovery, after court granted motion to dismiss and ordered re-pleading of trade secret claims. Opposing Counsel Arthur Howe (Schopf & Weiss)