



David H. Levitt

Partner
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An experienced trial lawyer, David Levitt represents clients in a number of distinct areas. Drawing on more than 40 years of experience, he handles matters involving intellectual property, insurance, commercial litigation, products liability, and trucking.

In addition to his extensive trial and litigation experience, David helps clients navigate data and privacy regulations such as the E.U.'s General Data Protection Regulation (GDPR) and the California Consumer Privacy Act (CCPA). This includes negotiating data privacy agreements and addenda, drafting and updating privacy policies, and consulting on compliance.

David has counseled clients on virtually all aspects of intellectual property law. This includes trademark, copyright, patent, and computer law both in the litigation and licensing context.

David's diverse and extensive experience in insurance coverage ranges from "simple" personal lines coverage disputes to complex coverage litigation involving environmental and bankrupt health care providers.

David's product liability background includes chemical and machine-related claims in both the industrial and consumer contexts. He uses this experience to explain scientific issues to lay juries and judges—a significant advantage for intellectual property and product liability work.

A portion of David's practice is dedicated to cases impacting the logistics industry, including representing several trucking companies facing claims involving serious accidents. As one of the founders of the Trucking Industry Defense Association (TIDA), he has a unique perspective and understanding of the litigation needs of this industry and its organizations.

Since joining Hinshaw in the late 1970s, David has been an integral part of the firm and its leadership, including serving as the leader of Hinshaw's intellectual property practice.

David has completed intensive training in mediation from the faculty of Pepperdine University School of Law's top-ranked Straus Institute for Dispute Resolution. He is also a certified mediator in the Cook County Court-Annexed Major Case Civil Mediation Program.

Practices

Intellectual Property
Copyright
Patent
Technology
Trade Secrets
Trademark
Commercial Litigation
Insurance Agents & Brokers
Liability
Privacy, Security & Artificial
Intelligence

Industries

Cannabis
Health Care
Insurance & Reinsurance
Insurance Coverage
Transportation

Education

LL.M., *with honors*, Intellectual
Property, University of Illinois
Chicago School of Law, 2000
J.D., Loyola University Chicago
School of Law, 1979
B.A., *with distinction*, University
of Illinois at Urbana-
Champaign, 1976

Admissions

Illinois
U.S. District Court for the
Northern District of Illinois



Professional Affiliations

- Illinois Association of Defense Trial Counsel (IDC)
 - President, 2014 – 2015
 - Officer and Board Member, 2003 – 2014
 - *IDC Quarterly*, Editor-in-Chief, 2002 – 2003
- Defense Research Institute (DRI)
 - Center for Law and Public Policy, Member
 - Third-Party Funding Working Group, Chair, 2018 – Present
 - Intellectual Property Committee, Steering Committee
 - Commercial Litigation Committee
 - Intellectual Property Specialized Litigation Group (SLG), Chair, 2009 – 2011; Vice-Chair, 2007 – 2009
- American Bar Association
 - Intellectual Property Committee
 - Product Liability Committee
 - Insurance Coverage Committee
 - Section of Litigation
 - Tort Trial & Insurance Practice Section

Honors & Awards

- Selected by his peers for inclusion in *The Best Lawyers in America*® for Insurance Law, 2020 – 2024; Litigation – Insurance, 2018 – 2024
- The Decalogue Society of Lawyers, Award of Excellence, 2023
- IDC Award of Excellence, Distinguished Member Award, 2017
- Recognized by his peers as a "Leading Lawyer" in the categories of Insurance / Insurance Coverage / Reinsurance Law, and Personal Injury Defense Law: Products Liability
- Holds the AV® Peer Review Rating from Martindale-Hubbell, its highest rating for ethics and legal ability
- Recognized on the Super Lawyers list by *Illinois Super Lawyers* magazine, 2007
- Selected for inclusion in the Corporate Counsel Edition of *Super Lawyers* magazine, August 2008

Representative Matters

Intellectual Property

Transactional

- Led and performed IP due diligence in acquiring a music label, including review of songwriter agreements, and negotiated a new distribution deal with Sony.
- Negotiate software and hardware IT agreements often for healthcare institutions, including with the most widely used EHR software vendors (Epic, Cerner, Allscripts).
- Draft hosting agreements related to EHR and EMR.
- Negotiated numerous agreements related to the creation of a fiber optic cable network, including IRUs (indefeasible rights of use).

Litigation and Pre-Litigation



Copyright

- Represented music label in copyright infringement, trademark infringement, and breach of contract claim brought by hip hop artist arising out of label's acquisition of all rights to the music "free and clear" in bankruptcy proceedings—obtained summary judgment from the Southern District of Florida, and affirmance by the Eleventh Circuit.
- Represented photographer of a famous photograph of polar bears on an ice floe in copyright infringement claims against the Canadian government and others; successfully obtained fair value for the use of the photo and acknowledgment of ownership of IP rights.
- Represented several different clients in claims by the Business Software Alliance ("BSA") and Software & Information Industry Association ("SIIA") for the use of unauthorized software. Developed responses to their standard positions and insisted upon more case-specific resolutions.
- Represented parties in claims by stock images organizations, including Getty Images.
- Obtained summary judgment in Minnesota federal court for website owner by a competitor who claimed that client's website infringed on plaintiff's website. The court found that the websites were not substantially similar, and there was no evidence of copying.
- Represented bar association in a claim brought by a member asserting copyright infringement by continued use of seminar materials authored by the member. The case was resolved with zero payment.
- Obtained voluntary dismissal of printing company of claims asserting that the printer had infringed on plaintiff's copyright by printing materials submitted by a customer.
- Successfully achieved DMCA takedown of images of client's product from competitor's website, selling re-manufactured versions of client's products, but using client's images as samples of competitor's product.

Trademark

- Represented clothing line of famous hip hop artist against trademark claims that the name of the clothing line infringed on the name of a video jukebox service being installed in shopping malls. Defeated motion for preliminary injunction and later resolved case for about 3% of the plaintiff's initial demand, including transfer of all of the plaintiff's trademark and domain name rights to our client.
- Represented product seller against former employees and their new company in claims of trade dress and copyright infringement when the new company's products and packaging were confusingly similar to our client's. Obtained settlement for 100% of infringer's profits on the products at issue, plus 100% of our client's attorney's fees.

Trade Secret

- Represented former employee and new employer in trade secret case brought by a medical device seller. Prevailed on all issues following a bench trial and obtained an award of 100% of attorney's fees.

Right of Publicity

- Represented out-of-state physician practice in right of publicity claim by Chicago-area celebrity; settled case before a lawsuit for less than the cost of defense.
- Represented insurer in a review of right of publicity claims arising out of popular video game in which the faces of original models for the characters were still visible; the models claimed they had signed only limited releases—developed analysis of various defenses available in such claims.

Commercial Litigation

- Represented employer in a suit against a former employee under the Illinois Commercial Bribery statute and for breach of fiduciary duty.

Defamation



- Obtained dismissal and appellate affirmance of defamation and breach of contract claim arising from the parties' mutual participation in a trade association.
- Obtained dismissal in favor of a newspaper due to the plaintiff's failure to comply with Florida's pre-suit notice statute.

Insurance/Risk Management

- Summary Judgment granted for our insurer, finding no duty to defend under an NTL (Non-Trucking Liability) policy. The underlying case resulted in an \$8.4 million verdict.
- Summary judgment for insurance producer in \$2 million claim asserting failure to procure the correct amount of property insurance and failure to procure business interruption insurance.
- Lead coverage counsel for a property manager in the 69 West Washington fire case; successfully obtained complete defense and indemnity from an additional insurer.
- Lead coverage counsel for the building owner in the Hancock Building scaffolding case; successfully obtained complete defense and indemnity from additional insurers.

Transactional

- Called upon to consult with and negotiate for a major Chicago commercial property manager on terms of management contracts with building owners (including some famous, well-recognized Chicago buildings); issues often included the scope of indemnity and insurance provisions in such contracts.

Transportation and Trucking

- Obtained summary judgment—which consequently defeated class action certification—in a former owner-operator's lawsuits alleging violations of the federal Truth-in-Leasing Act and its related regulations. The Seventh Circuit affirmed the summary judgment.
- Defense of numerous and severe trucking accidents matters in various venues.

Presentations

- "CLE: Defining Hate Speech: When Does Speech Cross the Line?," Decalogue Society of Lawyers, Chicago, Illinois, May 9, 2024
- "Third-Party Litigation Funding," National Association of Mutual Insurance Companies (NAMIC) General Counsel Connect, Chicago, Illinois, August 29, 2023
- Co-Chair and Speaker, "Defining Antisemitism and Why It Matters: An In-Depth Exploration," DePaul College of Law, Virtual Symposium, April 26, 2022
- "GDPR and Uniform Foreign Country Money Judgments Recognition Act," State Bar of Wisconsin's IP Protections Conference, Virtual Event, January 12, 2021
- Co-Presenter, "Electronic Medical Records – Emerging Policy and Litigation Issues," Illinois Defense Counsel (IDC), Webinar, July 17, 2020
- Co-Presenter, "Website Law: What Every Organization Needs to Know About Ownership, Public Accessibility, Liability and More," webinar, June 5, 2018
- "Marijuana and IP," DRI's "The Future Is Now: Practical Litigation Strategies for the Modern Age" seminar, May 12, 2017
- "Unauthorized Software? What to Do When the BSA Calls," Bloomberg BNA, webinar, October 17, 2016
- "Websites and Copyright Infringement - Lurking Dangers," Bloomberg BNA, webinar, August 4, 2016



Publications

David's writing and speaking background is extensive and mirrors the diversity of his practice. His publications include:

- "Making Litigation Funding Agreements Discoverable Is Good Public Policy," *Bloomberg Law*, June 17, 2021
- "GDPR and the Uniform Foreign Country Money Judgments Recognition Act," DRI's *In-House Defense Quarterly*, Summer 2020
- Co-Author, "State's fault scheme evolution shows collision of law, politics," *Chicago Daily Law Bulletin*, May 6, 2020
- Co-Author, "Justice requires a change to fault apportionment in Illinois," *Chicago Daily Law Bulletin*, April 29, 2020
- "How US companies without EU assets should approach business contracts," *International Association of Privacy Professionals (IAPP)*, April 28, 2020
- Co-Author, "Third-Party Litigation Funding: Civil Justice and the Need for Transparency," DRI Center for Law and Public Policy, 2018
- "Defense of Truth-in-Leasing Claims for Trucking Companies," *In Transit*, The Newsletter of the DRI Trucking Committee, August 10, 2018
- "Lawsuit investing: Time for a few rules?" *Chicago Daily Law Bulletin*, July 18, 2018
- "SCOTUS OKs Disparaging Trademarks," *In-House Defense Quarterly*, Fall 2017
- "Right of Publicity and Commercial Speech," *For the Defense*, August 2017
- "State of Flux: Websites and Copyright Law," *In-House Defense Quarterly*, Summer 2017
- "Unauthorized Software? What To Do When the BSA Calls," *The Illinois Association of Defense Trial Counsel Quarterly*, Volume 27, Number 2, 2017
- "EMR and E-Discovery Is Coming: Are You Ready?," *Healthcare Informatics*, April 28, 2017

Personal

Outside of the office, David is an advocate for issues of interest to the Jewish community. He speaks and writes on a number of impactful topics, including those regarding Israel and the international community, as well as hate speech.

Community/Civic Activities

- DePaul Law School's Center for Jewish Law and Judaic Studies, Advisory Board, Co-Chair
- B'nai Tikvah, President of Congregation, 2009 – 2011