



Marcos Reilly

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Marcos Reilly has practiced in the field of commercial litigation since 1986, primarily at the trial level in Illinois Circuit Courts, the U.S. District Court and the U.S. Bankruptcy Court, and on appeal in the U.S. Courts of Appeals and the Illinois Appellate Court. He litigates in administrative forums such as hospital medical staff proceedings, intellectual property, employment, including non-compete agreements and trade secrets, shareholder, corporate disputes, healthcare, construction, a wide range of contract disputes, fraud, unfair competition and other business torts. A considerable portion of his litigation practice focuses on injunctive relief proceedings and other equitable remedies.

Additionally, Marcos advises clients in non-litigation matters, including reviewing and drafting contracts in connection with intellectual property, corporate governance, antitrust, employment and other matters.

Marcos joined Hinshaw in 1989.

Professional Affiliations

- Leading Lawyers Network

Honors & Awards

- Rated by Martindale-Hubbell for ethics and legal ability
- Recognized on the Super Lawyers list by *Illinois Super Lawyers* magazine, 2015 – 2016
- Selected by his peers as a Leading Lawyer in the area of Commercial Litigation, Leading Lawyers Network

Representative Matters

Marcos's clients include medical and other professionals, banks, hospitals, manufacturers and a wide range of midsize and small businesses, particularly professional corporations and partnerships in fields such as medicine, dentistry, accounting, architecture and engineering.

Cases representative of his professional experience include:

Practices

Bankruptcy, Restructuring & Workouts
Commercial Litigation
Intellectual Property
Antitrust & Trade Regulation
Labor & Employment

Education

J.D., University of Michigan Law School, 1986

B.A., Northwestern University, 1983

Admissions

Illinois

Federal Trial Bar

U.S. Court of Appeals for the Federal Circuit

U.S. Court of Appeals for the Seventh Circuit

U.S. District Court for the Central and Northern Districts of Illinois

U.S. District Court for the Eastern District of Wisconsin



- Defended a \$10M action against a closely held corporation providing communication services for the deaf resulting from a failed acquisition, obtained summary judgment.
- Defended an antitrust case against an electronic imaging service, obtained summary judgment which was upheld on appeal, then tried malicious prosecution case to verdict and collected substantial damages from former plaintiff.
- Prosecuted trademark infringement suit for prominent Chicago-area food manufacturer and wholesaler, negotiated favorable settlement, successfully prosecuted two contempt-of-court motions after defendants violated stipulated injunction order.
- Defended declaratory judgment action by officers of hospital medical staff contending that medical staff bylaws constituted a contract under Illinois law and that therefore the hospital had no authority to set minimum professional liability insurance requirements without the medical staff's agreement. Obtained reversal on appeal of trial court judgment in favor of plaintiffs; Illinois Supreme Court declined further review.
- Defended class action by shareholders of a bank holding company protesting a "squeeze-out merger" conducted to qualify for Subchapter S treatment and disputing the value placed on the stock for the forced sale. Favorable settlement after disqualifying first proposed class representative and filing summary judgment motion.
- Defended bank against claim by commercial loan customer that charging fees for services of in-house counsel in connection with foreclosure and workout was fraudulent because counsel was paid a salary rather than an hourly rate, and this practice constituted the "unauthorized practice of law." Obtained dismissal based on the "market value" rule for legal charges and persuaded the court that there is no private right of action for "unauthorized practice of law," nor is it the unauthorized practice of law for a corporation to employ a licensed attorney. Defeated class certification by obtaining this ruling on the merits of the "representative claim. Affirmed on appeal.
- Defended action by manufacturer of plastics production machinery against a former sales manager for misappropriation of trade secrets, breach of fiduciary duty and breach of noncompete agreement; Obtained dismissal of noncompete claim and summary judgment on trade secrets claim, defeated multiple attempts at injunction, and obtained reversal on appeal of a large proportion of a damages award for breach of fiduciary duty.
- Defended bank sued by customer wrongly identified as a bank robber based on police misinterpretation of bank employee's statements, charged and held without bond for protracted period, but ultimately exonerated. Obtained dismissal of the claim against the bank.
- Defended consumer action against a moving company in which the attorney-plaintiff augmented her Carmack Amendment claim with intentional infliction of emotional distress and other state law theories, then escalated into a RICO claim making global fraud accusations against the mover and its estimating and claims-settlement practices. Obtained jury verdict of "not guilty" on the RICO claims, with a nominal award for breach of contract. Settled remaining claims on favorable terms thereafter.
- Defended \$200 million UCC breach of warranties claim by purchaser of DC motors for inclusion in treadmills designed for home use after series of fires and Consumer Product Safety Commission recall. The primary issue was whether the component manufacturer, by providing engineering support to the customer, had effectively designed the customer's product. Settled on favorable terms with former plaintiff's bankruptcy trustee after summary judgment filing.
- Defended fraudulent conveyance action brought by bankruptcy trustee over the purchase of a mansion from the debtor, reached favorable settlement after trustee's motion to strike affirmative defenses (includes laches and statute of limitations) was denied and summary judgment was denied.
- Successfully defended suit by "computer consultant against an Illinois hospital filed in the plaintiff's home state (Florida) on jurisdictional grounds, defeating the argument that Internet contact makes physical location irrelevant for constitutional and jurisdictional purposes.
- Defended antitrust and racketeering suit by a competing medical services corporation against a hospital, and obtained summary judgment and a sanctions order against plaintiff.
- Represented architects/engineers in 'sick building' claim by building owner and large group of employee/occupants. Jury found against owner, successfully defended result on appeal. Favorable settlement with employees followed.
- Obtained mandatory preliminary injunction on behalf of life insurance company to prevent creator of custom database from cutting off access in retaliation for insurer's refusal to pay additional charges.
- Prosecuted claim for wrongful dishonor of letter of credit issued to back an indemnification agreement entered into as part of a bank acquisition. The issuing bank had reversed its payment and withdrawn the funds from the plaintiff'



account after learning the underlying indemnity was for attorneys' fees and sanctions imposed in bankruptcy litigation. Defeated purported defenses of "fraud" and "violation of public policy" and obtained summary judgment.

- Defended substantial Carmack Amendment and state law claim at trial and on appeal. Influential decision regarding the preemptive effect of the Carmack Amendment on state law remedies. Settled on favorable terms after dismissal of some state law claims in the District Court and disposition of others by the Court of Appeals.
- Defended patent damages action by manufacturer of loading dock equipment and 25 of its sales representatives in District Court and Court of Appeals for the Federal Circuit, substituting for other counsel after liability finding. Succeeded in reducing award substantially on appeal by disallowing lost profits on "associated devices" not embodying the patented technology. Seminal case on the limits of damages obtainable for patent infringement under the Pandoit test.
- Prosecuted counterclaim for injunctive relief based on breach of contract assigning "know-how" and other unpatentable intellectual property relating to the production of furfural (organic chemical) from cereal by-products.
- Defended fidelity bond claim based on alleged "unidentifiable employee theft" of 271 tons of paper from paper converting facility, based solely on inventory comparison evidence. Obtained verdict of zero damages in first trial despite entry of summary judgment on liability. Both rulings were reversed on appeal. Obtained reduced verdict in second trial, then settled on favorable terms.
- Represented stone installation contractor in complex, multiparty litigation arising from curtain wall leakage in high-profile high-rise construction project. Obtained dismissal of direct claims by condominium association, prosecuted counterclaim for balance of contract price and extra charges, prosecuted third party claim against sub-subcontractor. Settled on favorable terms, with payment to client, after substantial discovery and motion practice.

Presentations

- Panelist, "Joint Employment, Wage and Hour, and Other Legislative News," Hinshaw's 26th Annual Labor & Employment Seminar, Hoffman Estates, Illinois, October 27, 2022
- "Restrictive Covenant Workshop," Hinshaw's Annual Labor & Employment Seminar, Hoffman Estates, Illinois, October 2012.
- "Primer on Restrictive Covenants," Hinshaw's Annual Labor & Employment Seminar in Hoffman Estates, October 2011.