

Litigation

To prevail in litigation, clients need exceptional representation both inside and outside the courtroom.

With more than 50 lawyers and other professionals, our seasoned Litigation practice group provides battle-tested service and representation for nearly any type of dispute.

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The Lawyers

Our litigation lawyers are, first and foremost, courtroom advocates. When circumstances demand, our first chairs, including former federal prosecutors and others with significant jury and court trial experiences, take cases to trial and win. At the same time, we focus on all aspects of pre-trial procedure and discovery. Our litigators also serve clients outside the courtroom, achieving successful results through arbitrations, mediations, and all forms of alternative dispute resolution.

We carefully consider each case's staffing based on the substantive issues and business considerations present in each case. Teams within our litigation group focus their practices in specific areas, enabling them to build deep knowledge of the industry and legal issues. Our litigation teams can also turn to more than 250 other lawyers and professionals at Michael Best for substantive support and insight.

Service Areas

Class Action, Collective Action & Multidistrict Litigation

Defending clients in these complex cases at the state and federal level, in legal areas such as employment, products liability, real estate, and consumer litigation.

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Commercial Litigation

Helping clients resolve a wide array of commercial disputes, including contract, unfair trade practices, antitrust, dealership and franchise, business torts, corporate governance, derivatives and securities, trade secrets and unfair competition, insolvency and restructuring, privacy and data security, land use, insurance, and financial services litigation.

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Construction Litigation & Dispute Resolution

Providing sophisticated counsel in disputes involving a variety of construction-related issues, such as design/specification defects, bid mistakes and protests, payment and performance bonds, environmental issues, construction defects, change orders and project overruns, liens, job site accidents and OSHA, theft by contractor, and insurance coverage.

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Creditors' Rights, Bankruptcy, Reorganization & Workouts

Representing creditors in all aspects of collection, insolvency, and bankruptcy proceedings, from bankruptcy plan negotiations and hearings to contract disputes and successor liability claims, as well as in purchasing assets out of receiverships and bankruptcy estates.

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Employment Litigation

Representing employers in single-plaintiff and class action litigation, administrative agency proceedings, and alternative dispute resolution involving employment-related issues such as discrimination or harassment, retaliation, wage and hour, workplace safety, family leave, disability accommodation, unfair competition and trade secrets, employee benefits, and executive compensation.

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Environmental Enforcement Defense & Litigation

Resolving disputes and defending enforcement actions under environmental regulatory programs, including agency enforcement actions alleging violations of air, water, solid or hazardous waste, wetland, or stormwater regulations; alleged violations of the Endangered Species Act; citizen suits and claims for injunctive relief brought under federal law; toxic tort class actions; contaminated site litigation; and state court actions.

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Government Investigations & White Collar Defense

Assisting clients with all facets of corporate criminal defense, government investigations, and internal investigations in areas as diverse as antitrust, securities fraud, RICO, FCPA, accounting irregularities, healthcare fraud, IP crimes, money laundering, and environmental crimes.

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Insurance Litigation

Serving as counsel to policyholders as well as insurance industry clients, in insurance coverage and duty-to-indemnify claims; broker, employee benefit, and contractual disputes.

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Intellectual Property Enforcement, Clearance & Defense

Representing clients in patent, trademark, copyright, brand rights, trade secret, Internet, and false advertising cases in federal courts and before agencies such as the United States Patent and Trademark Office and its appeal boards (the PTAB and TTAB).

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Land Use Litigation

Resolving disputes related to permitting and zoning, land use planning, easements, tax assessments, condemnation, leasing, entitlement, nonconforming uses, foreclosures, and other actions affecting the use of real property, as well as advising local governments on various land use issues.

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Privacy & Cybersecurity Litigation

Representing clients in regulatory actions, government investigations, arbitrations, and civil litigation involving a wide range of privacy and cybersecurity regulations; helping clients prepare for and conduct data breach and incident responses, investigations, and litigation.

Products Liability Defense

Providing risk management advice, litigation defense, and alternative dispute resolution in these and other product categories: automotive, food and beverage, dietary supplements, medical devices, pharmaceuticals, insurance, cosmetics, garments, heavy equipment, and personal watercraft.

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Tax Controversy & Litigation

Helping clients resolve controversies related to federal and state taxes (primarily corporate net income taxes, sales and use taxes, property taxes, and excise taxes), including proceedings before the IRS, state departments of revenue, state tax commissions, and the courts.

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Representative Matters

Michael Best's litigation clients range from nationally known corporations to smaller businesses, nonprofits, and other organizations nationwide. Regardless of size, we share their commitment to protect

and pursue their rights. Our litigators have experience with a wide variety of litigation types and claims, including:

- Agribusiness, food, and beverage
- Antitrust and trade regulation
- Business torts, fraud, defamation, false advertising, and unfair competition
- Class action, multidistrict, qui tam, and other complex litigation
- Construction
- Consumer fraud
- Contract and Uniform Commercial Code
- Corporate litigation involving proxy statements, mergers and acquisitions, derivative actions, securities, and RICO claims
- Dealership
- Electronic Funds Transfer Act
- Employment and agency claims, covenants not to compete, wrongful discharge, discrimination, and civil rights
- Environmental, including insurance, toxic torts, natural resource damages claims, and state and federal regulatory issues
- ERISA, including health and welfare benefit denials, pension, benefit calculation, and breach of fiduciary duty
- Fair and Accurate Credit and Transactions Act (FACTA)
- Financial and commercial disputes involving sales, secured transactions, negotiable instruments, letters of credit, collections, replevins, lender liability, and fraud
- Health and medical care
- Insurance coverage, including bad faith claims
- Intellectual property, including patents, trademarks, copyright, and trade secrets
- Products and tort liability
- Real estate litigation involving zoning, land use, nuisance, transactional, and financing issues
- Telephone Consumer Protection Act (TCPA)

- Unauthorized practice of law
- White-collar crime and government investigations

We also counsel clients on in-house and outside training, tailored to the client's particular needs. Such training can be helpful during pending litigation and as a preventive measure during periods of relative calm.

Experience

- Represent a global developer and manufacturer of chemicals and materials in personal injury litigation surrounding white lead carbonate pigments that were used in residential paints prior to a ban in the 1970s. Plaintiffs in Wisconsin sued the historic manufacturers of such pigments, and in 2005 the Wisconsin Supreme Court adopted an unprecedented “risk contribution” theory of liability that allows the suits even if plaintiffs cannot identify the manufacturers of the specific pigments they were exposed to. More than 170 cases were filed in federal court in the Eastern District of Wisconsin and state court in Milwaukee County against our client and others—the only cases of their kind in the country.
- Represent a major manufacturer of iron castings in a precedent-setting “hybrid” collective/class action involving claims under the FLSA and state law. The plaintiffs are foundry workers who contend they should be compensated for time spent donning and doffing work gear, showering, and walking because it is a necessary part of their workday. We won summary judgment before the district court, which found that the activities were not required to be performed on-site at the foundries and thus were not compensable. The Seventh Circuit reversed on appeal. The U.S. Supreme Court denied a petition for certiorari, and the case went back to the district court, which certified both classes. We sought an immediate appeal from the Seventh Circuit, and the parties are currently briefing certification issues on appeal. This is a unique case, as the outcome hinges on the safety of the work environment.
- Serve as lead counsel to a global manufacturer of colors, flavors, and fragrances in toxic tort liability litigation related to the chemicals diacetyl and 2,3 pentanedione. In recent years, more than 100 lawsuits alleging respiratory injury have been brought against flavoring companies and others involved in the production of food and beverage products that use these chemicals. We represent our client in two pending cases involving three claimants in two jurisdictions (Illinois and Iowa). These cases are groundbreaking because flavoring chemicals have never previously been the target of products liability/personal injury claims.