

Todd Gale

Senior Counsel

Chicago

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Areas Of Practice

Litigation
Financial Services Litigation
Business & Commercial
Appellate
Government Reorganization and
Restructuring
Class Action Defense
Product Liability
Intellectual Property & Intellectual
Property Litigation

Industries

Financial Industry Group
Financial Services Litigation

Bar Admissions

Illinois
California
District of Columbia
Michigan

Court Admissions

U.S. Supreme Court
U.S. Court of Appeals, 7th Circuit
U.S. Court of Appeals, 9th Circuit
U.S. District Court, Northern
District of Illinois
U.S. District Court, Central District
of Illinois
U.S. District Court, Central District
of California
U.S. District Court, Northern
District of California
U.S. District Court, District of
Colorado
U.S. District Court, Eastern District

Mr. Gale's practice focuses on litigation matters, with an emphasis on complex commercial disputes, financial services litigation and class action defense. He has tried cases before state and federal courts and arbitrators, on matters related to contracts, dealer termination, real estate, intellectual property, unfair competition, antitrust, mass torts, securities fraud, and bankruptcy. His experience includes all aspects, from extraordinary preliminary relief through discovery, trial and appeal.

Mr. Gale originally joined the firm in February 2006, but left to serve as Division Counsel, Commercial Litigation at Abbott Laboratories from March 2011 to November 2012. Before joining Dykema, Mr. Gale practiced his entire career in an AmLaw 100 firm in Chicago, Los Angeles and Washington, D.C.

Experience

Commercial

- Lead trial counsel in litigation filed in bankruptcy of major airline to bar enforcement of cross-default provision in lease at hub airport. Over \$600 million in debt at issue. Cross-default ruled unenforceable.
- Lead counsel in a series of lawsuits filed in bankruptcy of major airline seeking clarification that repayment of certain bond obligations cannot be "rent" pursuant to the Bankruptcy Code. Over \$500 million in debt at issue. Summary judgment awarded to client in three of four cases, and to opponents in fourth case. Judgments upheld on appeal.
- Trial counsel for satellite television provider in breach of contract action against supplier of foreign language programming. After two week arbitration before three retired federal judges, client won and was awarded several million dollars.
- Defended substantial trade libel suit brought by former employee and his affiliated companies. Lead counsel; won complete summary judgment for client.
- Trial counsel for defendant in action related to failure of plaintiff nursing home operator. Judgment for client on fraud count; on breach of fiduciary duty, jury awarded less than 1% of damages sought.

Consumer Financial Services

- Lead counsel for investigation of residential foreclosure business practices of Top Ten mortgage servicer. Managed large team of attorneys to gather salient facts, identify legal standards, and develop

of Michigan

U.S. District Court, Western District of Michigan

U.S. District Court, Northern District of Indiana

U.S. District Court, Eastern District of Wisconsin

Education

University of Notre Dame School of Law, J.D., Law Review

Michigan State University, B.A.

recommendations regarding remediation and best practices in all United States jurisdictions.

- Lead counsel defending putative class action challenging appraisal practices under TILA, RESPA, and New York and California state law. Case dismissed. *Cedeno v. Indymac Bancorp, Inc., et al.*, 2008 WL 3992304 (S.D.N.Y)
- Trial counsel in defense of multiple class actions alleging credit discrimination in violation of Equal Credit Opportunity Act and Fair Housing Act.

Products

- Represented cigarette manufacturer in smoking and health litigation, focused primarily on cases brought by third parties paying for the health care of groups that include smokers. Concentration on scientific issues, particularly pharmacology and smoker behavior. Participated in jury trials brought by state attorney general (settled before verdict) and by a class of union health and welfare funds (defense verdict).
- Represented several automotive manufacturers in personal injury matters alleging defects in design and/or manufacturing.

Intellectual Property

- Trial counsel for credit card servicing arm of large bank in copyright infringement litigation related to software to manage collection actions. Won summary judgment on all counts, together with fees, costs, and \$35,000 in monetary sanctions against opposing counsel. Argued appeal to United States Court of Appeals, Seventh Circuit; trial court judgment upheld in full.
- Trial counsel for defendant engineering consulting company and its principals in suit against engine manufacturer regarding ownership of technology for fuel injectors used in diesel engines. Allegations included trade secret misappropriation, breach of joint development agreement, and conversion. Plaintiff prevailed at initial trial; jury awarded less than 5% of damages originally sought. Jury verdict reversed on appeal to Federal Circuit. On retrial, client prevailed on majority of causes of action, including all claims seeking damages.
- Represented supplier of business-to-business marketing information in suit against company that expropriated client's master list. One of three trial counsel; won preliminary injunction for client on copyright infringement grounds after two day hearing. Converted preliminary relief to permanent injunction in client's favor.

Antitrust

- Trial counsel for defendant retailer/maintainer of storage disks for mainframe computers in *Kodak* aftermarket monopolization action (Sherman Act, section 2). At trial, Plaintiff sought \$78 million after trebling. Following a three month trial, jury deliberated for two days and returned a defense verdict.
- Assumed defense of antitrust tying and monopolization case. Prepared plan for transition from existing counsel, took key fact and expert depositions, and conceived summary judgment argument to attack damage claim. After expert discovery, case settled on terms favorable

Todd Gale (Cont.)

to client.

Securities Fraud

- Represented plaintiff corporations in securities fraud and breach of fiduciary duties suit against major defense contractor and its directors. One of two trial counsel. Clients awarded \$30 million after twelve day jury trial.
- Represented asphalt refiner and certain officers and directors in securities fraud class action, and SEC and FBI investigation, related to alleged financial irregularities. Class action settled with minimal contribution by client company and no company and no contribution by individual clients; SEC consent decree included no monetary penalty to clients.

Pro Bono

- Counsel to several individuals seeking asylum in United States and/or naturalization as United States citizen. Argued and won naturalization case of first impression to U.S. Court of Appeals, 7th Circuit.

Seminars & Speeches

The State of Arbitration 2018, Dykema's 2018 Financial Industry Group Annual Meeting
November 10, 2018

Intangible Economic Damages: Leveraging Methods of Proof, Valuation Techniques and Use of Experts, Co-Presenter, Strafford Webinar
March 4, 2015

Ethics: The CFPB and the Attorney-Client Privilege: Practical Implications and Ethical Concerns, CLE SuperCourse, The Network of Trial Law Firms, New York, New York
September 2014

Publications

"Unfair and Deceptive Acts Practices Statutes" (Co-Author)
Chapter 24 Consumer Financial Services Answer Book 2016, Practising Law Institute

"Unfair and Deceptive Acts and Practices Statutes" (Co-Author)
Chapter 11, Consumer Financial Services Answer Book 2015, Practising Law Institute

News

Dykema Launches *NextGen Financial Services Report* Blog
February 27, 2017

Todd Gale to Co-Present Strafford CLE Webinar on Intangible Economic Damages
February 27, 2015

Todd Gale Presents at The Network of Trial Law Firms' Litigation Management CLE SuperCourse
October 22, 2014

Community/Civic Activities

- James B. Moran Center for Youth Advocacy, Evanston, Illinois, Advisory Council

Awards & Recognition

Recognized in *Illinois Super Lawyers*® for Business Litigation, 2018-Present

Recipient of an AV® Preeminent™ Rating by *Martindale-Hubbell*

Todd Gale (Cont.)

Named an Illinois Super Lawyer for General Litigation by *Law & Politics*, 2007-2012