

Vincent L. DiTommaso

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BAR ADMISSIONS

- ◆ Illinois, 1982
- ◆ U.S. District Court for the Northern District of Illinois, Eastern Division, Southern District, and Central District, Peoria and Rock Island Divisions
- ◆ U.S. Court of Appeals for the Seventh Circuit, 1982

EDUCATION

- ◆ Juris Doctor, Chicago-Kent College of Law, 1982
- ◆ Bachelor of Arts, University of Illinois Champaign-Urbana, 1979

PROFESSIONAL AFFILIATIONS

- ◆ The Chicago Bar Association (Class Action Committee)
- ◆ DuPage County Bar Association (Committee Chair of Alternative Dispute Resolution 2001-2002)
- ◆ The Chicago Volunteer Legal Services Foundation
- ◆ Justinian Society of Lawyers (Past President, 2001 and Member of Executive Committee, 2001-2002)
- ◆ DePaul University College of Law Moot Court Judge (1982-1984).

HONORS, AWARDS, AND APPOINTMENTS

- ◆ Selected by the Chief Judge of DuPage County as one of the first groups of attorneys to be trained, then certified, as a Court Appointed Mediator. In that role, I have successfully mediated many complex commercial cases. I have one of the highest settlement rates for mediated cases in DuPage County. The Chief Judge has invited me to conduct mediation training seminars for DuPage Judges.
- ◆ Appointed to the DuPage Judicial Evaluation Committee for the selection and evaluation of Judges.
- ◆ Appointed Special Assistant Attorney General as Counsel for Illinois State Treasurer Judy Baar Topinka.
- ◆ Asked to teach trial practice skills to students at the University of Chicago Law School to prepare the students for their work at the Law School's Mandel Legal Aid Clinic.

- ◆ Commendation from DuPage Legal Assistance Foundation due to First Cy Pres Award provided to the Foundation of over \$100,000 from certain class-actions.
- ◆ Recipient of First “Law Firm of the Year” Award in 2008 from the DuPage County Legal Assistance Foundation.

PROFESSIONAL EXPERIENCE

Class-Actions and Commercial Litigation

I have a great deal of experience in defending and prosecuting class action litigation at the trial and appellate levels. I have spent the majority of my time in my legal career litigating consumer, antitrust and securities class actions. Courts in Illinois and throughout the country have appointed me lead or co-lead class counsel in over 1,000 contested or settlement class action cases. I have been retained by a number of large and mid-sized corporations to defend them in class actions.

Some of the class action cases I have played a substantial role in are:

In re: Baldwin-United Corporation Litigation (this case resulted in one of the largest securities class action settlements at the time).

In re: Storage Technology Corp. Securities Litigation.

In re: Beatrice Companies, Inc. Litigation; Energy Systems Equipment Securities Litigation; L.I. Rothschild v. Continental Illinois Corporation, et.al.

Isadore Spring v. Continental Corporation, et.al.

In re: Illinois Bell Switching Station Litigation (co-lead counsel).

Barbara Nale v. Larry Faul Oldsmobile - GMAC (co-lead counsel) (a consumer fraud plaintiff class and defendant class action composed of more than 800,000 persons who

received settlement benefits in the plaintiff class and 175 Chicagoland auto dealers in the defendant class).

Stamos v. Prime Cable of Chicago, Circuit Court Cook County, Chancery Division, Judge Schiller. Lead counsel in class-action against cable company for return of millions of dollars in excessive late fees. Case settled with a substantial reduction in late fees and refunds worth millions of dollars paid to the class. Opposing counsel: John George (Daley & George); Kevin M. Forde (Kevin M. Forde, Ltd.) Richard Patch (Coblentz Patch Duffy & Bass).

Marszalek v. Mutimedia, Circuit Court of Kane County, Judge Nottolini. Lead counsel in same type of class-action as ***Stamos*** against a different cable company. Case settled with a substantial reduction in late fees and refunds worth millions of dollars paid to the class after class certified in contested proceedings. Opposing counsel: Jack Crowe (Winston & Strawn); Richard Patch (Coblentz Patch Duffy & Bass).

Beckman v. Triax, Circuit Court of Kane County. Lead counsel in same type of class-action as ***Stamos*** against Triax. Case settled with a substantial reduction in late fees and refunds worth millions of dollars paid to the class. Opposing counsel: Jack Crowe (Winston & Strawn); Richard Patch (Coblentz Patch Duffy & Bass).

Chmils v. TCI, Circuit Court of Cook Count, Judge Jaffe. Lead counsel in same type of class action as ***Stamos*** against TCI. Statewide class action with over a million class members certified in contested proceedings. Directed verdict for defendants following 17 day trial. When appeal was pending, case settled as part of nationwide settlement where we were lead counsel. Late fees in Illinois and across the country reduced substantially as a result of settlement. Opposing counsel: Richard Werder (Jones Day Reavis & Pogue) and Paul E. Freehling (Seyfarth Shaw).

Out of State Cable Late Fee Class-Actions. Same type of class-action as ***Stamos***. Participating as lead or co-counsel in over 20 such cases against various cable companies including TCI/AT&T, Cox, Time-Warner, Comcast, Charter/Marcus and Jones Cable. I was in charge of coordinating all the different cases across the country, and my partner took the lead role in the national settlement negotiations with TCI/AT&T and Charter/Marcus. Two TCI cases in Washington DC and Maryland where we assisted lead counsel Philip Friedman (who is our co-lead counsel in all the cable late fee cases) were tried to multi-million dollar verdicts in plaintiffs' favor with injunctive relief barring the illegal fees. The first Maryland case went up to the Court of Appeals (Maryland's highest court) where the judgment in the class's favor of over \$6,000,000 and injunctive relief reducing the \$5 late fee to 10 cents was affirmed. ***Burch v. United Cable Television of Baltimore Ltd.***, 732 A2d 887 (Md 1999). The judgment in the Washington DC case was also affirmed on appeal. ***District Cablevision Ltd. Partnership v. Bassin***, 2003 WL 21664513 (DC). Since the victories in Maryland and Washington DC, loss in Illinois at the trial level, and appellate

victories and losses in other states including victories in Louisiana, Texas and Minnesota (*TCI Cablevision of Dallas, Inc. v. Owens*, 8 SW3d 837 and a loss in Mississippi following class certification (*Hill v. Galaxy*, 184 FRD 82, and 176FSupp2d 636 (ND Miss 1999 and 2001), we entered in two separate national settlements involving over 10 million cable customers with AT&T and Charter/Marcus, which have resulted in permanent reduction of cable late fees throughout the country, and vouchers paid for overcharges resulting in millions of dollars in savings and voucher payments to the classes. We also reached state wide class-action settlements against Cox Cable in Nevada and Arizona, and a state-wide class-action settlement with TCI in California. We currently have a class-action pending against Time Warner in Indiana, following our victory in the Indiana Supreme Court on the voluntary payment issue. *Time-Warner v. Whiteman*, 802 NE2d 886 (Ind Sup Ct. 2004). In December 2003, following the ruling in *Dua v. Comcast Cable of Maryland, Inc.*, 805 A2d 1061 (Md 2002), and the trial court granting the class's motion for partial summary judgment and on the eve of trial, Comcast entered into a class-wide settlement of *Maisonette v. Comcast* an identical case to *Dua* with a larger number of class members. Comcast agreed to refund 97% of the class's money damages, including prejudgment interest, for a total payment of 13.589 million dollars to the class fund. Co-counsel included: Philip Friedman and Michael Hyman (Much Shelist Freed Denenberg Ament & Rubinstein). Opposing Counsel on the above cases included: Jones Day Reavis & Pogue, LeBoeuf, Lamb, Greene & MacRae, White & Case, Coblenz Patch Duffy & Bass, and Sullivan & Cromwell.

Oakbrook Terrace Hotel Overcharge Class Actions, Circuit Court of DuPage County. Claims against all Oakbrook Terrace Hotels (Hilton, Marriott, La Quinta, Comfort, Wyndham and Starwood) for including non-tax ordinary vendor charges in the tax line item of customer bills. Class certified in *Comfort* and *Hilton* cases following a contested hearings, and appointed lead class counsel in that case; appellate court rejected Hilton's statutory occupancy tax defense in an interlocutory appeal to the 2nd District Appellate Court. 788 NE2d 789. *Comfort*, *Wyndham*, *Marriott*, *Starwood* and *La Quinta* cases settled on a class-wide basis with between 60% and 70% of damages paid into the settlement fund. Summary judgment was entered in the class's favor in the *Hilton* case and was affirmed on appeal with the class receiving all of its damages and *Hilton* being ordered to pay all of class counsel's fees as additional damages. Opposing counsel: Howard Foster (Johnson & Bell); Dennis Powers and Sonya Naar (DLA Piper); Mark Blocker (Sidley Austin, Brown & Wood); Ira Helfgot; Peter Ordower.

Extended Warranty Class Actions. Represented plaintiffs in approximately 25 class-actions in state and federal court in Illinois against car dealers, finance companies and car manufacturers regarding alleged misrepresentations in financing documents. All 25 cases have settled following a favorable ruling we received from the 2nd District Appellate Court. See 683 NE2d 1194.

Leiner v. Century, Circuit Court of Dupage County. Lead counsel in certified national class-action against maker of child car seats regarding alleged consumer fraud in misrepresenting

the safety of the car seats. Settled following certification of nationwide class in contested proceedings.

Erickson v. Ameritech, Circuit Court of Cook County. Judge Flynn. Consumer fraud claims for failure to disclose that voice mail includes phone charges in addition to the monthly fee. Case settled on class-wide basis with refunds available to all class members along with injunctive relief barring the deceptive practices. Appointed co-lead counsel after spear heading efforts with the Citizens Utility Board to have a class-wide settlement (providing unsatisfactory relief) rejected by the Court. Crain's Chicago Business listed the new settlement we helped achieve as the 3rd highest settlement/verdict in Illinois in 2004. Co-Counsel Robert Kelter (General Counsel Citizens Utility Board)

Johnson v. US Bank, Circuit Court of Dupage County. Judge Popejoy. Consumer fraud and Illinois statutory claims relating to repossessing cars without providing statutorily mandated disclosures. Case settled with 541 class members receiving the right to collect a \$400 refund, and to have their substantial deficiency balances with US Bank averaging approximately \$6,600 each written off.

Sampson v. Western Sierra, Federal Court for the Northern District of Illinois, Judge Zagel. Represented defendant. Fair Credit Reporting Act class-action claims against national finance company. Case settled on individual basis on terms favorable to defendant following court granting Western Sierra's motion for summary judgment rendering judgment in Western Sierra's favor dismissing the class-action claims with prejudice. See: 2004 WL 406992.

Ramsell v. Infinity Broadcasting, Circuit Court of Dupage County. Judge Webster. Consumer Fraud and breach of contract claims relating to Infinity refusing to provide a refund to concert goers after it cancelled a Doobie Brothers's concert. Defense summary judgment motions denied. Class certified in contested proceedings. We were appointed lead class counsel. Case settled with full cash refunds to class members.

Dale v. Daimler Chrysler Corporation, Circuit Court of Boone County, Missouri. Judge Roper. Pending. Consumer Fraud and breach of warranty claims relating to defective window motors in Durangos for a five year period. Chrysler's motion for summary judgment denied. State-wide class certified.

Hyde v. Aspen Marketing Services, Inc., Federal District Court of Maryland. Judge Bennett. Settled. Represented defendant. one of the largest marketing companies in

the country. Plaintiff sought \$100,000,000 in damages in a Fair Credit Reporting Act putative class action.

Crandall v. Mobile Management Co., Inc. et al, Circuit Court Lake County Illinois. Judge Tonigan. Case settled. Represented defendant one of the largest mobile home companies in the Mid-West regarding alleged illegal late fees.

Walsh v. Suisse Bancorp. Inc., Circuit Court of DuPage County. Judge Elsner. Represented plaintiff class in consumer fraud action concerning improper liening of workers' compensation claims by loan and finance company. Case settled for removal of liens and reductions in the amounts due on the loans. Cy pres monies for uncollected class claims paid to Mandel Legal Aid Clinic.

Krey v. Aspen Marketing Services, Inc., Grace v. Aspen Marketing Services, Inc., Connolly v. Aspen Marketing Services, Inc., Federal District Court Northern District of Illinois. Settled. Judges Kennelly, Coar and Filip. Cases settled. Defended Aspen, a national marketing firm, in Fair Credit Reporting Act Class Actions.

S37 Management, Inc. v. Advance Refrigeration, Inc., Circuit Court of Cook County, Chancery Division, Judge Hall. Pending. Class Certified and appeal of class certification denied by Illinois Appellate Court. 961 NE2d 6, appeal denied, 963 NE2d 250. Representing plaintiff in class action claims against company for including alleged non-tax charges in the tax line item of customer bills.

Morales et al v. Verve Global, Circuit Court of DuPage County, Chancery Division, Judge Popejoy. 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.

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.

Jass v Barbizon, Circuit Court of Cook County, Chancery Division, Judge Novak. 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.

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.

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. Pending. Class Certified. Class certification order affirmed by the Appellate Court. 365 IllApp3d 664. Represent 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.

Solare et al v. Grants, Circuit Court of Cook County, Chancery Division. Judge Valderrama. Represented Plaintiffs who received a \$500 gas and grocery card that Grants 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.