Litigation

OVERVIEW

Eckert Seamans' Litigation Division serves clients across the U.S. and abroad. The firm's primary objective is to achieve the best possible result for the client on a cost effective basis through negotiation, mediation, arbitration, or trial. The firm routinely works with clients to formulate litigation budgets and is a pioneer of computerized document management, an invaluable tool for organizing the massive number of documents generated in complex litigation and helping to reduce the cost of litigation. Effective use of paralegal and support staff, computer services, and other technology also lowers litigation costs.

The firm's litigation strength stems from its experienced litigators' ability to handle a broad range of business, corporate and commercial litigation needs. Firm attorneys routinely provide litigation advice from the inception of a dispute through trial and appeals, or an earlier resolution. The firm represents clients in state and federal courts throughout the country at all levels, as well as before regulatory boards, grand jury proceedings, and in a variety of alternative dispute resolution proceedings, including arbitration, mediation, and mini-trials.

CORPORATE AND COMMERCIAL LITIGATION

The firm's Corporate and Commercial Litigation Group has broad experience in representing individual and corporate clients in complex, multifaceted corporate and commercial litigation, including breach of contract actions, class action and derivative shareholder litigation, merger disputes, breach of fiduciary duty actions against corporate officers and directors, business divorce actions, stockholder disputes, banking litigation, franchising disputes, construction litigation, real estate litigation, insurance coverage litigation, intellectual property disputes, and internal investigations.

SECURITIES LITIGATION

The strength of the Securities Litigation Group lies in the broad litigation experience of its members not only in the securities area, but also in corporate, tax, employee benefits, labor, and antitrust matters. Attorneys in the group have served as lead counsel in complex securities litigation, arising under both state and federal securities laws. Attorneys in the group represent financial institutions, Fortune 500 companies, pension funds and brokerage houses, underwriters, accountants, mutual funds, insurance companies, and publicly traded and privately held companies of all sizes and industries.

LITIGATION INVOLVING GOVERNMENTAL AGENCIES

Eckert Seamans' attorneys have represented an array of clients before various boards, agencies, and commissions in actions involving governmental agencies. The firm has represented health and educational institutions, industry associations, trade groups, and other clients in administrative law matters before federal and state agencies and in state and federal court. The firm has also represented a wide variety of clients in actions brought by governmental agencies in areas such as consumer protection matters and the licensing of health care and educational facilities.

The firm also has a long history of representing governmental agencies including municipalities, counties, townships, transportation authorities, and sewer authorities. Eckert Seamans has represented agencies in various matters including procurement, eminent domain, zoning, civil rights, environmental, construction, contract negotiations, employment, employee benefits, and bond issuances.

PRODUCT LIABILITY, TOXIC TORT, AND MASS TORT

The steady increase in product liability, toxic tort, and food borne illness claims over the past several decades represents significant potential financial exposure for the firm's manufacturing clients. Eckert Seamans has substantial experience defending product liability, toxic tort, and food borne illness suits, in addition to counseling clients on claim prevention and minimizing product hazard exposure. The attorneys work with our clients not only to defend claims, but also to build strategies, to protect companies and their brands from future lawsuits and to minimize the negative publicity that often follows. The firm has served as lead counsel in both national and regional defense of product liability cases and toxic tort cases and has served as national and regional coordinating counsel in cases tried in numerous locations across the United

States. Eckert Seamans is nationally recognized for coordinating the defense of multidistrict litigation, mass tort litigation and document management. In these matters, Eckert Seamans attorneys coordinate and prepare pleadings and discovery responses, conduct witness preparation sessions and prepare for trial in a consistent and cost-effective manner that provides the best and most efficient defense for companies facing multiple lawsuits allowing our clients to focus on their business, not legal issues.

Product liability and toxic and mass tort matters often have issues that require other legal disciplines. As a full service law firm, we can call on our colleagues in Government Affairs, Labor and Employment, and Intellectual Property as needed.

INTELLECTUAL PROPERTY AND TECHNOLOGY LITIGATION

Eckert Seamans is nationally recognized for its technical expertise and success in the litigation of intellectual property and technology claims on behalf of both plaintiffs and defendants. The protection and enforcement of intellectual property rights is an area of growing importance for corporations, nonprofit institutions and individuals. With an exceptionally solid core of technical experience, the members of this group are uniquely qualified to respond to the needs of our clients in this ever-evolving and increasingly complicated area of litigation. In the area of intellectual property litigation, Eckert Seamans draws from the combined expertise and talents of both its Litigation and Intellectual Property Groups. The firm's capabilities are enhanced in this area because many of the firm's lawyers have engineering, computer and other scientific backgrounds and education which enable them to understand intimately the technology that is the subject of the dispute. The firm has represented a wide spectrum of clients in intellectual property litigation matters involving patents, copyrights, trademarks, trade secrets and unfair competition claims, as well as in related matters involving antitrust, licensing, franchising and publicity issues. Eckert Seamans has been asked to undertake the representation of a variety of clients in technology litigation matters. The firm has handled technology litigation in federal and state courts around the county and is experienced in proceedings for preliminary injunctions and other emergency relief. In addition to its extensive trial experience in intellectual property matters, the firm has served as lead counsel in several landmark cases argued before the Supreme Court of the United States, including the Markman case.

CONSTRUCTION LAW

The firm represents developers, public and private owners, design professionals, contractors, subcontractors, suppliers and bonding companies in the public and private sectors in all aspects of construction law. Firm attorneys have substantial trial and arbitration experience and have handled a wide variety of construction claims, both nationally and internationally, including claims for delay, acceleration, loss of productivity, extra work, defective specifications, differing site conditions, default, termination and bid protests. Eckert Seamans attorneys also assist clients with the legal aspects of all phases of construction, including: bidding and procurement; contract drafting and negotiation; contract administration; and regulatory compliance.

BANKRUPTCY AND RESTRUCTURING

The firm has extensive nationwide experience handling bankruptcy proceedings, security interests, foreclosures, collections and the enforcement of judgments, as well as other litigation matters in creditor/debtor relationships. Our Bankruptcy attorneys have represented debtors, creditors' committees, equity holder committees, trustees, and creditors in a variety of settings. The firm frequently represents parties with special rights in bankruptcy cases, such as prospective purchasers, reclaiming sellers, possessory lien holders, insurance companies and parties to executory contracts with debtors, such as franchisors and licensees. Our Bankruptcy and Restructuring attorneys also handle litigation related to bankruptcy proceedings, such as thousands of preference and fraudulent conveyance actions, contested sale/valuation matters, relief from automatic stay proceedings, and lender liability cases. Eckert Seamans is also involved in a number of precedent setting matters, including several before the Supreme Court of the United States and various United States Circuit Courts of Appeals around the country. Chambers USA's America's Leading Lawyers for Business recognizes Eckert Seamans as a top law firm in the field of bankruptcy/restructuring.

WHITE COLLAR DEFENSE AND INTERNAL INVESTIGATIONS

The firm's White Collar Defense and Internal Investigations Group represents clients throughout the U.S. and abroad in investigations by federal and state grand juries and administrative agencies, in trials and

related civil litigation matters. The firm's White Collar Group advises clients on internal corporate audits and investigations relating to their business practices. Firm attorneys also have substantial experience in the informal resolution of investigations without formal criminal action through presentations to and negotiations with prosecutors and investigators demonstrating that criminal charges are unwarranted.

ENVIRONMENTAL & ENERGY LAW

The Environmental and Energy Groups of Eckert Seamans serve clients in a broad array of industries, ranging from traditional manufacturing companies to every segment of the natural resources industry. The firm's environmental lawyers counsel clients with regard to matters of compliance, enforcement, permitting, and strategic planning related to the numerous major regulatory programs, including the Clean Air Act, the Clean Water Act, the Resource Conservation and Recovery Act (RCRA), the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), and other federal regulations, as well as their state and local counterparts throughout the United States.

The firm's environmental lawyers also work closely with our corporate business attorneys to assist in due diligence and the evaluation of environmental risk in a variety of business transactions, including environmental issues related to public offerings and public disclosures, the negotiation of terms and conditions in asset and stock purchase agreements, and also provide the assistance needed to resolve environmental issues and facilitate the successful closing of transactions.

The firm's Energy Group represents clients on international, federal and state regulatory and litigation matters, as well as transactional, intellectual property, tax and strategic business issues. Eckert Seamans represents clients in energy and telecommunications matters in civil litigation, administrative litigation before state public service commissions and in proceedings before the Federal Energy Regulatory Commission and the Federal Communications Commission. Eckert Seamans' Energy Group has broad and deep experience in virtually all aspects of both conventional and emerging energy development through its long-term counsel of coal, electric, and nuclear energy providers, oil and natural gas producers and distribution companies, electric and water utilities, and retail electric generation companies, as well as its representation of providers of solar, wind, clean fuels, and other clean energy technologies.

CLASS ACTION LITIGATION

The Class Action Litigation Group at Eckert Seamans is a premier litigation practice comprised of experienced litigators who have hands-on experience implementing and determining national strategy and media relations, coordinating discovery in class action and multidistrict litigation (MDL) proceedings, locating and developing expert witnesses to provide consistent well-grounded opinions and testimony, successfully pursuing Daubert hearings and dispositive motions, and bringing cases to trial in numerous jurisdictions. Our class action attorneys are involved in a wide range of litigation arising under both federal and state laws, including product liability and mass tort defense and related insurance coverage litigation, the defense of corporations and their directors, officers and outside advisors in class action and derivative lawsuits under state and federal fraud and securities laws and in the labor and employment context. We use trained paralegal and support staff, as well as the latest litigation support technologies to minimize litigation costs while maximizing productivity and effective use of our substantial litigation resources.

LITIGATION MANAGEMENT ONLINE

Corporations increasingly are confronted with nationwide litigation involving hundreds or thousands of plaintiffs represented by a number of aggressive, well-organized and often well-funded law firms. These plaintiffs' firms have succeeded in large part because they communicate and share resources with other plaintiffs' firms around the country, and because they effectively exploit any inconsistencies or apparent contradictions in a defendant's pleadings, motions and responses to discovery. In order to achieve a successful and cost-effective defense, corporate defendants must have the ability to present the same consistent and well-organized case in every jurisdiction in which they face these types of cases. Litigation Management Online (LMO), the digital case management system established by Eckert Seamans in 1998, is the electronic support system for a national network of lawyers and other professionals led by Eckert Seamans in its defense of mass tort, product liability and other large-scale litigation. LMO is built on the most current computer technology. LMO is managed by partners in our litigation division and is maintained by experienced legal assistants and information systems personnel to effectively process, manage and store the large volume of pleadings, discovery and documents associated with mass tort litigation and other large, document-intensive cases. Our case management programs enable communication and

resource sharing between local counsel, trial counsel, coordinating counsel, and our clients. The firm currently maintains electronic case files for over 100,000 matters, all of which are easily accessible both by our attorneys and our clients. In addition, we have processed literally millions of pages of documents for production in response to discovery requests directed toward a client's electronic files. We are able to provide a high-quality and consistent defense of cases anywhere in the country by making information available to everyone who needs it, when they need it.

PROFESSIONAL LIABILITY

Eckert Seamans' Professional Liability Group regularly defends claims against professionals, including claims of professional malpractice, breach of fiduciary duty, negligence, securities violations and accounting wrongdoings, among many other issues. The Group's attorneys represent physicians, hospitals, health care systems, nurses, dentists, podiatrists and other health care professionals, accountants, lawyers, clergy, insurance brokers and agents, architects, engineers, and other service professionals. Eckert Seamans' attorneys provide counseling and are involved in litigation concerning insurance issues, medical malpractice defense, lawyer liability, pharmacy liability, physicians' rights, and regulatory and licensure issues.

APPELLATE

Appellate practice, like many other areas of the law, is a specialty. It requires more than a fleeting familiarity with a set of rules different from those involved in the trials of civil or criminal cases. The presentation of a case on appeal, from the filing of the notice of appeal, through motions, briefing and argument, necessitates skills, knowledge and experience not honed in the trial courts. What may be effective advocacy before a trial judge or jury may be counter-productive when presenting a case on appeal. At Eckert Seamans, the attorneys in our Appellate Group are schooled in these differences to better serve clients in the appellate courts. Our attorneys have argued in the United States Supreme Court, virtually all of the federal circuit courts of appeals, as well as the Court of International Trade, the Army Court of Criminal Appeals and the Court of Appeals for the Armed Services, all of the Pennsylvania appellate courts, and the appellate courts of many other states. They have experience not only in briefing and arguing cases on appeal, but also in drafting of discretionary review petitions and motions which are oftentimes dispositive of cases on appeal. They bring a vast array of practical experience as to the proper manner in which to properly position virtually any case for success on appeal. Eckert Seamans attorneys also have experience in preparing and filing *amicus curiae*— or "friend of the court"– briefs in cases of interest to persons or groups that are not parties to the actual dispute before the court.