ECKERT SEAMANS

Commercial Litigation

OVERVIEW

Eckert Seamans' Commercial Litigation Group provides a full range of counseling, litigation, and dispute resolution services. We have multijurisdictional capabilities and experience to guide our clients skillfully, cost-effectively, and successfully through disputes nationwide while, at the same time, understanding the unique aspects of federal and state court systems, including specialized state business courts. Eckert Seamans' commercial litigation attorneys advise clients concerning business disputes across a broad spectrum of local, regional, and national industry sectors. Our litigators have wide-ranging experience in various business-to-business and consumer-to-business disputes. Our team has established an excellent reputation for efficiently providing high quality, timely, and efficient services to clients at a competitive cost in a variety of sophisticated and high-stakes commercial litigation matters in areas such as:

- Administrative and regulatory litigation across numerous industries
- Antitrust and competition claims
- Alternate dispute resolution
- Appellate advocacy
- Bankruptcy and restructuring
- Breach of contract
- Business torts
- Civil rights litigation on behalf of governmental entities
- Class action defense
- Commercial disputes
- Directors and officers liability
- E-Discovery
- False claims act/consumer protection investigations and litigation
- Federal and state trade secret litigation
- Injunction actions and lawsuits requiring immediate relief
- Insurance coverage litigation
- Intellectual property disputes (trademarks, copyrights, and patents)
- Lender liability
- Multidistrict and multistate litigation
- Municipal litigation
- Noncompetition and non-solicitation disputes
- Partnership disputes
- Professional liability defense
- Professional licensure matters on behalf of individuals and businesses
- Real estate easement and condemnation issues
- Real estate broker and agent contractual disputes
- Securities
- Shareholder disputes
- State attorneys general investigations and civil investigative demands
- Telephone Consumer Protection Act (TCPA)
- Utilities and telecommunications disputes

Our diverse client base ranges from international Fortune 100 companies, publicly and privately held

businesses, banks, manufacturers, professional services firms, insurers, construction companies, healthcare providers, colleges and universities, hotels and hospitality management companies, and governmental entities. The successful resolution of business disputes requires a solid understanding of our clients' businesses and substantial industry knowledge. Our lawyers have developed particularly in-depth capabilities in the transportation, telecommunications, utilities, hospitality, financial services, energy, manufacturing, gaming, higher education, and healthcare sectors.

The Commercial Litigation Group includes numerous fellows of the American College of Trial Lawyers, as well as former state and federal prosecutors. We have deep connections to the business, regulatory, legal, and judicial communities where we live and work across the northeastern and mid-Atlantic United States and beyond. The team handles litigation at all stages, from pre-suit counseling and investigations through trials and appeals. We also manage every matter with intensity, thoroughness, and creativity, allowing us to approach our clients' legal issues within the broader framework of their strategic, business, and financial goals. Our considerable experience collaborating with corporate executives and in-house counsel, acting not only as their trial lawyers, but also as their business partners, enables our litigators to develop tailored legal strategies that advance our clients' objectives in the courtroom, boardroom, and beyond.

We know that the definition of a successful outcome varies from situation to situation and client to client. We seek to resolve every matter consistent with our client's business and legal objectives. Where a negotiated settlement is desirable, we work for the most efficient and effective resolution possible. Given our deep experience and excellent record at trial, we are well-positioned to resolve matters and prevent litigation on the front end. Moreover, we bring similar experience to arbitrations, mediations, and other alternative dispute resolution proceedings.

Our success has earned the firm and our commercial litigation team recognition in a range of industry directories and publications. Nevertheless, our practice's most significant validation comes from clients who retain our litigators time and time again, trusting that Eckert Seamans will deliver direct and practical answers to real challenges.

REPRESENTATIVE MATTERS

- Successfully defended nationwide automobile rental company in federal consumer class actions.
- Litigated trade secret claims on behalf of national and international clients in the construction, manufacturing, and energy industries.
- Defended a major manufacturer against antitrust claims.
- Represented a national equipment manufacturer against breach of contract claims related to alleged non-performance of equipment.
- Long-term representation of a large international insurer against a variety of direct action claims related to the W.R. Grace bankruptcy. Successfully litigated complex disputes concerning the scope of channeling injunctions before the U.S. Bankruptcy Court for Delaware and the U.S. Court of Appeals for the 3rd Circuit, as well as the scope of an insurer's duty to third parties before the Montana Supreme Court.
- Defended a hospital against claims of corporate fraud and administrative negligence related to allegedly unnecessary medical procedures. Successfully resolved two separate class actions in state and federal court by significantly limiting the scope of class participants and defeating plaintiffs' claims of corporate fraud on summary judgment.
- Successfully defended an international insurer that provided property risk engineering services to a large sugar refinery against dozens of cases involving direct action claims of negligent inspection. The cases arose from a catastrophic explosion resulting in property damage of $345 million to the insured's facility. Both the Georgia Supreme Court and the U.S. Court of Appeals for the 11th Circuit upheld summary judgment in our client's favor issuing landmark decisions on an insurer's duty under Section 324(A) of the Restatement (Second) of Torts.
- Prevailed at trial on behalf of the City of Wilmington, Delaware in a suit seeking to compel New Castle County, Delaware to perform a countywide reassessment of real property for the first time in thirty-five years.
- Represent a variety of corporate clients in statutory proceedings before state courts, including actions for judicial dissolution, books and records demands, actions to compel annual meetings of

shareholders, as well as actions for indemnification and advancement.

- Successfully defeated class certification in a case proposing both nationwide and state classes and asserting claims under the Fair Debt Collection Practices Act, the Pennsylvania Fair Credit Extension Uniformity Act, and breach of contract.
- Defended ceramic surfacing client against federal court claims for breach of contract and tortious interference with contractual relations. Following a thorough investigation of the underlying facts, the plaintiff dismissed voluntarily after our client filed its motion to dismiss.
- Successfully defended on appeal an antitrust suit filed by two cable television installation contractors against a national cable television provider and another installer. The U.S. Court of Appeals for the Third Circuit affirmed the earlier determination of the District Court granting defendants' Motions to Dismiss and concluded that the record contained no evidence of any antitrust injury sustained by the plaintiffs nor any evidence that the defendants had engaged in any anti-competitive behavior.
- Prevailed in representation of executive officers and shareholders of a substantial, privately owned company in injunctive proceedings to enforce employment and stock redemption agreements triggered by death of former CEO and majority shareholder. All executive officers/shareholders had an employment agreement that allowed the company to redeem their stock at book value, in the event of termination of employment, including by death. The matter was successfully resolved for our clients before trial, and the company continued to operate without disruption.
- As part of its broad representation of the Diocese of Scranton, successfully defended a class action lawsuit filed in the Philadelphia Court of Common Pleas. The Complaint set forth claims of Public Nuisance, Civil Conspiracy, and Mandamus against the Pennsylvania Catholic Conference and all eight catholic dioceses within the Commonwealth. Case dismissed with prejudice because the plaintiff lacked standing to bring these claims.
- Coordinating counsel for manufacturing client regarding state attorneys' general investigations and false claims act litigation relating to alleged fraud in the sale of highway products.