

Howard Pomper and Associates Chicago, IL June, 1983 to July, 1984
Litigation Attorney. Plaintiff's litigation with complete case authority and trial responsibility. Responsible to prepare pleadings, conduct written and oral discovery, motion practice, settlement negotiations and trial presentation. First-chair trial experience with plaintiff and defense cases.

Federal Trade Commission Chicago, IL November, 1980 to June, 1982
Correspondence Officer/Legal Assistance. Review alleged statutory violations and make case recommendations. Respond to inquiries regarding FTC statutes. Responsible for a variety of economic and legal research projects. Extensive compliance investigation work. Conduct interviews and legal research.

Springer and Casey Chicago, IL June, 1980 to September, 1980
Summer Law Clerk. Assist attorneys preparing for court and arbitration hearings by abstracting transcripts, filing subpoenas, and conducting legal research. File court documents and update tax research.

Kirkland and Ellis Chicago, IL January, 1979 to August, 1979
Paralegal. Abstract depositions, categorize abstracts, and draft memos. Conduct research projects and supervise clerical staff. Worked in New York for two months – supervisory responsibility over 10 man team for microfilming and document production project. Travel to Wisconsin to defend against a tender offer.

Burroughs Corporation Chicago, IL June, 1978 to January, 1979
Financial Manager. Involved with all phases of branch operations; supervise clerical activity, review contracts, regulate inventory, and develop financial reports.

EDUCATION

DePaul University College of Law J.D. June, 1982 Chicago, Illinois
Full-time student graduating in the upper 35% of class. DePaul Legal Clinic - year long program emphasizing direct client contact and trial advocacy.

Northwestern University 1974 to 1978 Evanston, Illinois
Economics Major. Debate Society. Recipient of the Wyman-Hibbs Debate Scholarship for outstanding achievement. President of Sigma Chi Fraternity.

Catholic Central High School 1970 to 1974 Detroit, Michigan
National Merit semi-finalist. Honor roll student. Four years varsity debate. Senior year captain of team ranked top 10 in the United States.

REFERENCES AND WRITING SAMPLES

Mr. Kevin J. Baldwin, Offices of the Special Deputy Receiver representing the Illinois Director of Insurance 312-836-9529.

Mr. Deepak Singh, True Health Medical Services, S.C. 917-459-4818.

Mr. Frank B. Riordan, President, Dynamic Motion Control, Inc. 312-255-8757.

Ms. Mary-Margaret Cowhey, Land & Lakes Co., 847-825-5000.

Writing samples and additional references available upon request.

PROFESSIONAL ACHIEVEMENTS

BUSINESS LITIGATION

Land and Lakes Company v. Homewood Disposal Services, Circuit Court of Cook County, Case 2007 L 3167. Trial Judge Clare E. McWilliams. Land and Lakes Company brought suit alleging that Homewood Disposal Services secretly disposed of commercial waste under the guise of a Village of Dolton residential discount arrangement and thereby breached its contractual duty to pay gate rate for waste disposed of at Land and Lakes' Riverbend facility. Case is significant because Defendant never made a settlement offer. At the commencement of trial, Plaintiff demanded \$300,000 and Defendant again offered zero. Trial commenced March 12, 2012. Judgment entered for Land and Lakes Company on May 22, 2012 for \$1,618,684.14. Judgment was affirmed on appeal. Opposing Counsel: Anthony P. Steinike and Eric Van Vugt (Quarles & Brady LLP).

Land and Lakes Company v. Robert B. McManus, Inc., Robert B. McManus, Employers Insurance Agency, Inc., et al., Circuit Court of Cook County-Chancery Division, Case 91 CH 8202. Trial Judge Sheldon Gardner. Related Declaratory Judgment filed by General Insurance Company of America as insurer of Robert B. McManus, Inc. (case 94 CH 4610). The Declaratory Judgment action asserted no coverage for the alleged acts of insurance agency. Declaratory Judgment settled for \$67,500.00 in September 1998 after insurer's summary judgment motion was denied by the court. Judgment entered in favor of Land and Lakes Company against Defendant Robert B. McManus, individually, for \$4,142,058.00. Opposing Attorney: Matthew M. Murphy (Bates and Meckler) and Michael J. Meyer (Tribler & Orpett, P.C.) for Robert B. McManus, Inc. and Joseph J. Borders (Lord Bissel & Brook) for General Insurance Company of America.

Land and Lakes Company v. Veolia Water North America Operating Services, LLC and Metropolitan Biosolids Management, LLC. Claim asserted by Land and Lakes Company for revenue sharing payments due under Success Fee Agreement. Claimant asserted it was entitled to compensation based upon revenues paid to Veolia under its agreement with the Metropolitan Water Reclamation District of Greater Chicago. Claim settled in 2015 for lump sum payment and installment agreement with projected combined value of \$1.2 million. Opposing Attorney: Patrick J. Lamb (Valorem Law Group).

Land and Lakes Company v. Richard J. Krohn and Krohn Development Corp., Circuit Court of Cook County, Case 96 L 4572. Judge Sheldon Gardner. Action for breach of contract and unjust enrichment. Case settled for payment of outstanding principal obligation of \$71,400 plus accrued interest of \$10,000. Opposing Counsel: Earl Farkus (Godzecki & DelGuidice).

Land and Lakes Company v. Ganna Construction, Inc; Liberty Mutual Insurance Company; and Illinois Department of Transportation, as Respondent in Discovery, Circuit Court of DuPage County, Case 01 L 1328. Judge John T. Elsner. Action for Breach of Contract, Mechanics Lien, and Accounting. Gravamen of the complaint was action upon claim notices issued under 770 ILCS 60/23 (lien against public funds) in the amount of \$648,739.18. Case settled in the sum of \$648,322.00. Opposing Counsel: Cornelius F. Riordan and Jamie L. Schwartz (Riordan, Dashiell & Donnelly, Ltd.) for Ganna and Michael McGivern (Asst. Attorney General) for IDOT.

Land and Lakes Company v. Readco, LLC, Circuit Court of Cook County, Case 07 M3 1266. Judge Sandra Tristano. Breach of contract action based upon failure to pay invoices for waste disposal services. Claim to recover principal sum of \$28,997.18. Judgment entered in the sum of \$31,649.28. Recoveries via non-wage garnishment and judgment installment agreement. Opposing counsel: William Mosconi (DeFrenza, Mosconi, Matyjewicz, P.C.).

Agora Syndicate v. Alki Ventures, Inc., Marl III Holding Company, Walton Risk Services, Inc., and Criterion Management Company, Circuit Court of Cook County, Case 2004 L 7734. Judge Ronald F. Bartkowicz. Numerous Judgments entered in favor of client on April 6, 2006. Judgment on Count One - \$419,834.00; Count Two - \$449,559.00; Count Three - \$319,373.00; Count Four - \$73,149.98. Opposing Counsel: Wesley Sunu (Tribler, Orpett & Meyer, P.C.) and Mary C. Veed (Arnstein & Lehr, LLP).

Illinois Green W.C. Trust Liquidation Asset Recovery Cases. Prosecute collection actions and reach agreements to release claims against Trust in a gross amount exceeding \$500,000.00. Judgments and settlements taken against various defendants to protect financial interests and legal rights of trust. Settlements included cash payments and release of "covered" claims against Trust. Suits filed in Cook and DuPage County.

Eclipse Gaming Systems, LLC v. Anthony Antonucci. Digital Dynamics Software, Inc., et al., v. Eclipse Gaming Systems, LLC, Greg Drew, David Lawrence, Elite Games, LLC, and Accelerated Marketing Solutions, LLC. Case 17-cv-00196. Judge: Honorable Virginia M. Kendall, District Court for the Northern District of Illinois. See cases in Intellectual Property Cases.

Agrawal v. True Health Medical Center, S.C., Circuit Court of DuPage County, Case 2014 L 26. Judge William I. Ferguson and Robert G. Kleeman. Defend corporation and physician against collection suit on various promissory notes in the gross sum of \$240,000.00 plus attorney fees. File counterclaims against ex-spouse based upon misstatements relating to the promissory notes and prosecute affirmative defenses of estoppel, unclean hands, material change of risk, equitable release, and violation of the equal credit opportunity act [see, Hawkins v Cmty. Bank of Raymore, US Supreme Court 2015]. Reach settlement agreement and releases on all promissory notes in exchange for payment of \$120,000.00. Opposing Counsel: Robert Dawidiuk (The Collins Firm).

Prairie Business Credit, Inc. v. Seagrove Development, et al., Circuit Court of DuPage County, Case 2009 L 377. Judge James Kufer. File complaint alleging causes of action for breach of contract, violation of the Prompt Payment Act, and violation of the Uniform Deceptive Trade Practices Act. Suit commenced to recover monies advanced under Factoring and Security Agreement in the principal sum of \$29,850.00. Case settled within three months of filing for \$36,027.31.

Great Lakes Restoration v. World Gym, Indiana, et al., Circuit Court of Cook County, Case 07 L 8799. Judge Brigid Mary McGrath. Suit for breach of contract, promissory estoppel, and equitable estoppel to recover principal sum of \$70,038.92 for flood remediation work. Bench trial before Judge Patrick Sherlock September 2013. Judgment entered October 24, 2013, in the sum of \$98,366.64. Judgment settled for \$60,000.00 following verified condition of insolvency identified during post judgment citation filed before Judge Alexander P. White. Opposing Counsel: Alan Levin (Alan S. Levin & Assoc.).

DMC v. Rightsize Facility Performance, LLC, Circuit Court of Cook County, Chancery Division, Case 2011 CH 30838. Trial Judge Margaret A. Brennan. Suit filed alleging breach of contract, fraud, credit and debit card fraud, and violation of U.C.C. 810 ILCS 5/2-714 and 715 (damages for accepted goods and incidental/consequential damages). Defendant alleged affirmative defenses including failure to mitigate damages, parol evidence rule, failure to provide opportunity to cure, and violation of U.C.C. notice provisions. Judgment following bench trial entered in favor of client, DMC, for \$14,376.20. Defense motion for attorney fees, filed at the

commencement of the trial, was deferred for ruling following presentation of proofs and subsequently denied in its entirety. Opposing Counsel: Kristen E. Prinz (The Prinz Law Firm, P.C.).

INTELLECTUAL PROPERTY CASES

Eclipse Gaming Systems, LLC v. Anthony Antonucci (complaint). Digital Dynamics Software, Inc., et al., v. Eclipse Gaming Systems, LLC, Greg Drew, David Lawrence, Elite Games, LLC, and Accelerated Marketing Solutions, LLC (countercomplaint). Federal Court – Northern District of Illinois, Case 17-cv-00196. Judge: Honorable Virginia M. Kendall. Eclipse Gaming Systems, LLC sued its former employee and current shareholder for alleged violations of the Computer Fraud and Abuse Act, 18 U.S.C. §1030 *et seq.*; violations of the Illinois Computer Crime Prevention Law, 720 ILCS 5/17-51; tortious interference with contractual relations; breach of fiduciary duty as an employee under Illinois and Georgia common law; breach of contract under Georgia common law; breach of fiduciary duty as a member of a limited liability company under Texas law; and conversion. The Plaintiff sought to recover Antonucci's prior wages, monetary damages, and to take away or disgorge his 17.18% ownership interest in Eclipse Gaming Systems, LLC. Bryan R. Bagdady, Esq., on behalf of Anthony Antonucci and Digital Dynamics Software, Inc., filed a ten-count counter-complaint. Count One was a derivative action brought for the benefit of the members of the Eclipse Gaming entity against the Eclipse Gaming directors based upon breach of fiduciary duty. Other counts alleged violations of the Antonucci Employment Agreement; sought imposition of a TRO and imposition of a preliminary and permanent injunction; sought damages for copyright infringement; and sought damages for violation of the Digital Millennium Copyright Act, 17 U.S.C. §1201. The Eclipse Parties paid money to the Digital Dynamics Parties as part of a settlement agreement. The sums of money paid by the Eclipse Parties is confidential. Opposing Attorneys: Phillip Barengolts, Ashly I. Boesche, and Kristine A. Bergman of Pattishall, McAuliffe, Newbury, Hilliard & Geraldson, LLP; Suyash Agrawal, Paul Berks, and Constances Grieves of Massey & Gail LLP.

Muelleman v. Suvon, et al., Circuit Court of Cook County Chancery Division, Case 94 CH 282. Judge Thomas A. Hett. Suit for Declaratory Judgment, Injunctive Relief and other relief. Action by Inventor of electronic device known as ground conditioning. Inventor's prior partners and attorney wrongfully used an assignment to assert exclusive ownership to invention and denied that Mr. Muelleman held any right, title, or interest in ground conditioning. Suit achieved recovery of ownership and avoided the assignment. Client was then able to monetize the invention for a substantial but confidential sum of money to a third-party electronics company. Opposing Counsel: Daniel Beederman (Schoenberg, Fisher & Newman, Ltd.).

Dynamic Motion Control, Inc. v. Baker Group, U.S. District Court, Northern District of Illinois, Case 05 C 4382. Judge Der-Yeghiayan. Complaint for breach of contract and copyright infringement to recover monies due in the amount of \$80,000. Full amount of claim recovered. Opposing Counsel: Robert C. Pottinger (Barrick, Switzer, Long, Balsley & Van Evera) for Baker Group, Inc. and David Hanson (Reinhart, Boerner, Van Deuren, S.C.) for SSI Technologies.

River West Brands, LLC, et al. v. Beautology Brands Company; Salon Selectives, LLC; 1177216 Ontario, Ltd., A Foreign Corporation; and CLT Logistics, Inc., Circuit Court of DuPage County, Case 2010 MR 279. Judge Bonnie M. Wheaton. Service upon CLT Logistics, in Canada, through Hague Convention. Actions for declaratory judgment, accounting and other relief. Dispute regarding ownership of Salon Selectives brand and inventory. Case settled under confidential terms. Opposing Counsel: Daniel Rubin (Howard & Howard).

ILLINOIS EARTH CARE W.C. TRUST ASSET RECOVERY CASES

These assessment and audited premium recovery cases arise out of the insolvency of the Illinois Earth Care Worker's Compensation Trust ("Trust"), a group self-insurance pool that was organized in 1992 under 820 ILCS 305/4a. Assessments were levied on the WC94, WC96, WC97, WC98, and WC99 policy periods. The assessments represented each members' proportional shares of a contractual assessment that was issued by the Liquidator on a *pro rata* basis to all employers of the Earth Care Trust in order to pay the workers' compensation claims of injured workers. Assessments were issued on the WC94 period in the sum of \$418,031.00; for the WC96 period in the amount of \$401,683.00; for the WC97 policy period in the amount of \$3,953,970.00; for WC98 policy period in the amount of \$957,921.00; and for the WC99 policy period in the amount of \$582,709.00. The WC94 policy period was filed as one suit against all members. The other policy periods included 66 claims which were prosecuted across 18 different lawsuits. The litigation achieved judgments and settlements of \$418,031.00 for the WC94 policy period and \$4,704,492 with \$557,464.00 recovered via post judgment actions on the other policy periods. Suits included:

- Director of Insurance as Liquidator of Illinois Earth Care W.C. Trust v. Advance Remodeling, Concepts, et al., Circuit Court of Cook County, 01 L 11203. Judges Lynn Egan and Mary Mulhern. Suit against 56 corporate defendants to recover assessments issued on WC94 policy period in the joint sum of \$418,031.00. Claims settled and/or judgments entered against various defendants in full amount sought.
- Director of Insurance as Liquidator of Illinois Earth Care W.C. Trust v. II In One Contractors, Inc., 99 L 8267, Circuit Court of Cook County, Law Division. Judge Sheldon Gardner. Claim for assessments in the sum of \$484,759.00. Case settled for \$343,021.00. Opposing Counsel: Matthew Murphy (Bates & Carey).
- Director of Insurance as Liquidator of Illinois Earth Care W.C. Trust v. Gilco Scaffolding Co., 98 M3 4485, consolidated into 99 L 8267, Circuit Court of Cook County. Judge Sheldon Gardner. Claim for assessments in the sum of \$328,838.00. Case settled for \$328,838.00. Opposing Counsel: Richard Perna (Fuchs & Roselli, Ltd.).
- Director of Insurance as Liquidator of Illinois Earth Care W.C. Trust v. Len Trovero, et al., 00 L 5013, Circuit Court of Cook County, Law Division. Judge Sheldon Gardner. Claim for assessments in the sum of \$202,737.00. Case settled for \$202,737.00. Opposing Counsel: Mitchell A. Orpett and Stephen S. Weiss (Tribler Orpett & Crone, P.C.).
- Director of Insurance as Liquidator of Illinois Earth Care W.C. Trust v. Harold O'Shea Builders, Inc., Circuit Court of Cook County, Case 00 L 6196, Judge Paddy H. McNamara and Case 01 L 11203 (WC94 Assessment). Judges Lynn Egan and Mary Mulhern. Claim for assessments in the sum of \$188,931.00. Settled for \$188,931.00 April 2003. Opposing Counsel: Catherine Miller (Freeborn & Peters).
- Director of Insurance as Liquidator of Illinois Earth Care W.C. Trust v. Prime Scaffold, Inc., 00L00376, Circuit Court of DuPage County, Law Division. Judge Patrick Leston. Claim for assessments in the sum of \$256,146.60. Case settled for \$170,391.00. Opposing Counsel: Mitchell A. Orpett and Stephen S. Weiss (Tribler Orpett & Crone, P.C.).

- Director of Insurance as Liquidator of Illinois Earth Care W.C. Trust v. Altounian Builders, Circuit Court of Cook County, Case 00 L 4656. Judge Allen Goldberg. Claim for collection of assessments due in the amount of \$135,019.00. Judgment entered in the amount of \$135,533.00. Opposing Attorney: Richard Ryan (Ryan, Smolens & Jones).
- Director of Insurance as Liquidator of Illinois Earth Care W.C. Trust v. Felsen Building Services, Inc., Circuit Court of Cook County, Case 00 L 6196 [Judge Paddy H. McNamara] and Case 01 L 11203 (WC94 Assessments) [Judge Lynn Egan]. Claim asserted for \$131,450.00. Judgment entered in the amount of \$131,450.00. Appeal filed and trial judgment affirmed on appeal July 2004. Opposing Counsel: James Fletcher (Fletcher & Sippel).
- Director of Insurance as Liquidator of Illinois Earth Care W.C. Trust v. M-N Contractors, Inc., Circuit Court of DuPage County, 00 L 457, Law Division. Judge John T. Elsner. Original complaint filed to recover assessments in the sum of \$160,628.00. Agreed Judgment Order entered in the sum of \$123,262.70. Subsequent suit filed against Monson Nicholas, Inc., Case 01 L 1394, based upon loaned employee arrangement entered into by M-N Contractors, Inc. and Monson Nicholas, Inc. Additional counts filed for breach of contract, piercing corporate veil, unjust enrichment, and partnership by estoppel. All matters ultimately settled for \$120,000.00. Opposing Counsel: Bruce Friedman (Laser, Pokorny, Schwarz, et al).
- Director of Insurance as Liquidator of Illinois Earth Care W.C. Trust v. Evans-Mason, Inc., 00L4655, Circuit Court of Cook County, Law Division. Judge Bartkowicz. Action for breach of contract - obligation to pay group self insurance assessments. Case settled for \$107,633.00. Opposing Counsel: James Harbert (Hinshaw Culbertson).

ILLINOIS ENVIRONMENTAL W.C. TRUST ASSET RECOVERY CASES

Asset Recovery Project divided into several different cases. \$2,904,872.00 recovered by settlement after suit and \$1,244,389.00 obtained in judgments. Main cases were Director v. Finger Refuse, Case 00 L 651 (42 defendants); Director v. As-Ra Technologies, Inc., Case 02 L 318 (18 defendants); Director v. A&A Midwest Rebuilders, Case 02 L 378 (54 defendants). Asset recovery efforts were sufficiently successful to allow the Trust to issue surplus refunds to its members. Suits include:

- Director of Insurance, J. Anthony Clark, as Liquidator of Illinois Environmental Services W.C. Trust v. Holian Insulation, Inc., Circuit Court of DuPage County, Case 00 L 651. Judge Hollis Webster. Complaint to recover assessments due in the sum of \$665,089. Settled for \$517,435.00. Opposing Counsel: Michael Meyer and Mitchell Orpett (Tribler, Orpett & Crone, P.C.).
- Director of Insurance, J. Anthony Clark, as Liquidator of Illinois Environmental Services W.C. Trust v. Holian Asbestos Removal & Encapsulation Corp., Circuit Court of DuPage County, Case 00 L 651. Judge Hollis Webster. Complaint to recover assessments due in the sum of \$557,259.00. Settled for \$468,443.00. Opposing Counsel: Michael Meyer and Mitchell Orpett (Tribler, Orpett & Crone, P.C.).

- Director of Insurance, J. Anthony Clark, as Liquidator of Illinois Environmental Services W.C. Trust v. Mundelein Disposal, Inc./Jensen Disposal, Inc., Circuit Court of DuPage County, Case 00 L 651 and 02 L318. Judge Hollis Webster and Patrick Leston. Complaints to recover assessments due in the sum of \$348,440.00. Cases settled for \$348,440.00. Opposing Counsel: James Gately.
- Director of Insurance, J. Anthony Clark, as Liquidator of Illinois Environmental Services W.C. Trust v. M&O Environmental Company, Inc., Circuit Court of DuPage County, Case 00 L 651. Judge Hollis Webster. Complaint to recover assessments and audited premium in the sum of \$389,182.00. Defendant filed counterclaim and affirmative defenses. Counterclaim alleged that premium payments are to be allocated on a per member basis. Counterclaim was dismissed on Director's motion. Case settled for \$227,112.00 which included cash and return of covered liability claims. Opposing Counsel: John M. Kelly (Connelly Robert McGivney).
- Director of Insurance, J. Anthony Clark, as Liquidator of Illinois Environmental Services W.C. Trust v. AJR Insulations, Inc., Circuit Court of DuPage County, Case 02 L 378. Judge Stephen Culliton. Claim for assessments in the sum of \$289,514.00. Case settled for \$206,408.00. Opposing Counsel: Michael Meyer (Tribler Orpett & Crone, P.C.).
- Director of Insurance, J. Anthony Clark, as Liquidator of Illinois Environmental Services W.C. Trust v. AJR Asbestos Control, Inc., Circuit Court of DuPage County, Case 02 L 378. Judge Stephen Culliton. Claim for assessments in the sum of \$95,962.00. Case settled for \$63,598.00. Opposing Counsel: Michael Meyer (Tribler Orpett & Crone, P.C.).
- Director of Insurance, J. Anthony Clark, as Liquidator of Illinois Environmental Services W.C. Trust v. Workforce Solutions dba Working Solutions, Circuit Court of DuPage County, Case 02 L 378. Judge Stephen Culliton. Complaint filed alleging assessments due in the sum of \$287,063.00. Installment settlement agreement reached in the sum of \$210,264.00. Defendant paid \$80,264.00 and then breached. Judgment subsequently entered against defendant in the sum of \$130,000.00. Opposing Counsel: Kenneth Ashman (Ashman Law Offices).
- Director of Insurance, J. Anthony Clark, as Liquidator of Illinois Environmental Services W.C. Trust v. Air Safety, Inc., Circuit Court of DuPage County, Case 00 L 651. Judge Hollis Webster. Suit for assessments in the alleged sum of \$115,303.00. Judgment entered in the sum of \$115,303.00. Opposing Counsel: Michael Meyer (Tribler Orpett & Crone, P.C.).
- Director of Insurance, J. Anthony Clark, as Liquidator of Illinois Environmental Services W.C. Trust v. Bills Sanitation, Circuit Court of DuPage County, Case 02 L 318. Judge Patrick Leston. Claim for assessments in the sum of \$89,494.00. Settled for \$75,000.00. Opposing Counsel: Ralph Stenger, Esq.

ILLINOIS ELECTRICAL EMPLOYERS W.C. ASSOCIATION LIQUIDATION ASSET RECOVERY CASES

Project to recover assessments/legal liabilities owed to the Trust in the sum of \$1,638,179.00. Commence various legal actions and obtain \$1,503,473.00 in judgments and settlements on

behalf of Director of Insurance as Statutory Liquidator. Prosecute post-judgment actions to recover \$656,028.00. Suits commenced in the Circuit Court of Cook County. Case 99 M3 1491 [Judge James T. Ryan] and Case 99 M3 3630 transferred to Law Division [Judge Paddy H. McNamara]. Suits include:

- Director of Insurance v. Working World, Inc. claim for \$219,509.00 [case 9 M3 3630] settled for \$200,000.00. Opposing Counsel: Thomas Jenkins (Lord Bissell & Brook);
- Director of Insurance v. Communications Professionals. Liquidation Estate's claim for \$108,689.88 [case 99 M3 1491] plus assessments on other policy periods. Settled for \$138,950.00. Opposing Counsel: Anthony A. Cavallo (Zukowski, Rogers, Flood & McArdle);
- Director of Insurance v. Bo-Berg Communications. Liquidation Estate's claim for \$160,545.00. Judgment entered on 12-11-01 in the sum of \$160,545.00. Judgment recovered via post judgment garnishments, citation, and secured installment agreement. Opposing Counsel: Patrick Hart;
- Director of Insurance v. Tires N Tracks. Liquidation Estate's claim for unpaid assessments in the sum of \$44,992.00. Judgment 10-24-03 for \$48,157.05. Judgment recovered via citation, petition to register judgment, and non-wage garnishment actions. Opposing Counsel: James Dash (Much, Shelist & Freed);
- Director of Insurance v. Hipp Temporary Staffing, Inc. Liquidation Estate's claim for assessments of \$147,866.00. Judgment entered in the sum of \$140,380.10. Opposing Counsel: Thomas U. Hipp, Esq.;
- Director of Insurance v. Doyle Signs. Liquidation Estate's claim for breach of contract \$584,811.00. Judgment entered for \$681,403.95. Opposing Counsel: Matthew Murphy (Bates & Carey).

STATEWIDE INSURANCE COMPANY LIQUIDATION

Assigned to recover premium payments owed in the approximate sum of \$135,000.00. Suits filed in DuPage and Cook County. Judgments and settlements obtained in the sum of \$136,094.00.

EMPLOYMENT/NON-COMPETE

Woodfield Group v. DeLisle, 693 N.E.2d 464 (1998). While I did not prosecute the appeal, this First District Appellate Court decision involved an analysis of the enforceability of a restrictive covenant drafted by Bryan Bagdady for Woodfield Group. The trial court found that the covenant was not enforceable on the basis that the covenant was not ancillary to any valid agreement. The appellate court reversed finding the restrictive covenant enforceable and ancillary to the at-will employment relationship as stated in the preamble of the restrictive covenant agreement. Case found that prior employment is sufficient consideration when set forth as part of the consideration of the post commencement employment agreement.

Michael Wilson adv. Eyclation, LLC, Circuit Court of Will County, Chancery Division, Case 12 CH 5387. Judge Bobbi N. Petrungaro. Action for Declaratory Judgment, Breach of Illinois Trade Secrets Act, and Injunctive Relief (735 ILCS 5/11-101, 102, and 108). Plaintiff sought to

enjoin Mr. Wilson from selling prescription safety eyewear. After TRO was entered by the court against Client, Mr. Bagdady was retained to defend against the preliminary and permanent injunction actions. Pleadings were amended to add affirmative defenses of Plaintiff's breach of contract, unclean hands, waiver/estoppel, and claim that contract was unenforceable. Case involved analysis of legitimate business interest standards under Supreme Court decision in *Reliable Fire*, analysis of the nature of confidential information and trade secrets, analysis of the nature of near permanent customers, and legally permissible restrictions. Defense Motion to Dissolve the TRO filed on May 16, 2013, and the case settled immediately thereafter on June 18, 2013. Opposing Counsel: D. Cass Wennlund (Wennlund and Associates).

Dr. Timothy Harris adv. Dr. David Luaces, Circuit Court of Lake County, Chancery Division, Case 2015 CH 1546. Judge Mitchell L. Hoffman. Petitions for TRO, Preliminary Injunction and Permanent Injunction filed against client, Dr. Timothy Harris, concerning interpretation and enforcement of non-compete provision contained in business sales agreement. Petition for Temporary Restraining Order withdrawn following responsive brief filed on behalf of Dr. Harris. Petition for Preliminary Injunction withdrawn after Dr. Harris filed his Motion to Strike and Dismiss. Favorable settlement reached and case dismissed with prejudice. Opposing Counsel: Scott Richmond (Ariano, Hardy, et al.).

CONVERSION/SECURITIES LITIGATION/UCC LITIGATION

David R. Weiler, et al., v. Lamar Jensen, et al., U.S. District Court, Northern District of Illinois, Case 03 SC 2116. Judge Bucklo. Complaint for securities fraud arising out of sale of corporate bonds issued by Pacific Nakon International (face value of \$3.6 million). Claims filed for fraud in the inducement; breach of stock purchase agreement, declaratory judgment and injunctive relief, and breach of implied contract. Judgments entered for clients in the sum of \$7,445,219.00.

Bill Marek the Competitive Edge, Inc. v. Mickelson Group, Inc., Circuit Court of DuPage County, Case 00 L 446. Judge Stephen J. Culliton and Patrick J. Leston. Claim to recover commissions due in the principal sum of \$65,000. Claims filed for Conversion and Imposition of Constructive Trust. Summary judgment entered in the sum of \$75,299.00. Plaintiff prevailed at judgment, on appeal, and in post-judgment recovery actions. Judgment Debtor's petition to appeal to the Supreme Court was denied. Post judgment actions included citation, non-wage garnishment, and petition to impose judgment upon corporate principal following transfer of corporate assets. Full judgment recovered. Opposing Counsel: James J. Flood.

Prairie Business Credit, Inc. v. JCPenney Corporation and Casa Creations, Inc. Demand letter issued July 16, 2014, based upon an Assignment to Factor of Accounts. Legal issues involved U.C.C. sections 2-309(2) (termination provisions), 9-402 (liability of secured party), 9-406(d) (restrictions on transfer, assignment, or enforcement of security interest). Opposing Counsel: Rodolfo Rodriguez (JCPenney Legal Department). Settlement reached in the sum of \$45,000 on August 29, 2014.

APPELLATE CASES

Land and Lakes Company v. Homewood Disposal Services, Inc., First District Court of Appeals, Case 1-12-1804. Appeal by Homewood from judgment in favor of Land and Lakes for \$1,618,684.14 entered following trial before Judge Claire McWilliams. Issues on appeal included proper application of 10-year statute of limitations for written contract with alleged missing term; application of the discovery rule; parol evidence; proper calculation of contract damages.

Judgment affirmed on appeal without oral argument. Opposing counsel: E. King Poor (Quarles & Brady, LLP).

Director of Insurance for the State of Illinois as Liquidator of the Illinois Electrical W.C. Trust v. Doyle Signs, Inc. First Judicial District, Case 03-3436. Trial Judge Hon. Paddy McNamara. Judgment entered on motion for summary judgment on October 24, 2003, in the sum \$681,403.95. Issues on appeal include impermissible counterclaims against statutory liquidator; merger clauses and contract integration; contract reformation defense of mutual mistake; and parol evidence. Judgment affirmed on appeal. Opposing Counsel: Matthew Murphy (Bates & Carey).

Illinois Earth Care v. Len Trovero dba Len Trovero Construction. Director of Insurance filed suit to collect assessments from Trovero in the sum of \$202,737.00 in the Circuit Court of Cook County, Case 00 L 5013. Judge Sheldon Gardner. Trovero filed a declaratory judgment in the Circuit Court of Cook County, Case 02 CH 18852, Judge Julia M. Nowicki. On June 9, 2005, the trial court granted the Director's motion to dismiss the chancery case and denied Trovero's motion for summary judgment. Trovero Appealed to the First Judicial District, Case 05-2255. Issues raised on appeal included nature of ambiguous agreements; parol evidence; provisional consideration of extrinsic evidence, and merger clauses. Judgment affirmed and Trovero paid \$202,737.00. Opposing Counsel: Stephen S. Weiss, Glenn Fischer and Mitchell Orpett (Tribler & Orpett).

Illinois Earth Care v. Felsen Building Service Company. Suit brought in Circuit Court of Cook County, Case 00 L 6196, Judge Paddy H. McNamara. The Circuit Court entered judgment in favor of Plaintiff and against Felsen in the sum of \$131,450.00 after striking two affirmative defenses pleaded by Felsen; denying Felsen's motion for summary judgment; and granting Plaintiff's motion for summary judgment. Appeal to First Judicial District, Case 03-0530. Issue raised on appeal was whether two affirmative defenses stricken by the Circuit Court (illegality and fraud in the inducement) were legally sufficient. Appellate Court addressed standards for summary judgment, time limitations for statutory assessments, nature of executory contracts, impermissible set-offs and counterclaims, and derivative liabilities. Judgment affirmed on appeal in July 2004 and judgment paid in full. Opposing Counsel: James Fletcher (Fletcher & Sippel, LLC).

Illinois Environmental Employers Workers Compensation Trust v. Workforce Solutions incorrectly named as Working Solutions, Inc. Installment settlement agreement reached in Circuit Court of DuPage County case 02 L 378 for \$210,264.00. Workforce Solutions subsequently breached the installment agreement and the Director, as Liquidator, reduced the agreement to a judgment in the sum of \$130,000.00. Workforce appealed to the Second Judicial District, Case 02-05-0832. Issues on appeal - trial court's retention of jurisdiction to enforce settlement agreement, as provided in the written settlement documentation, following dismissal with prejudice. Judgment affirmed. Opposing Counsel: Kenneth Ashman (Ashman Law Offices).

Bill Marek v. Mickelson Group. Second District Court of Appeals, Case 02-03-0259. Appeal from Judgment entered in the Circuit Court of DuPage County. Issues presented regarding nature of conversion, imposition of sanctions under Supreme Court Rule 219, sufficiency of affidavits on summary judgment, and nature of necessary parties. Appellate Court determined that money is a proper subject for an action sounding in conversion. Trial Court Judgment affirmed and request for further appeal to Supreme Court denied. Opposing Attorney: James J. Flood, Ronald A. Bredemann, and David P. Schippers.

PERSONAL INJURY CASES

Nanette Wendel, as Executor v. Charles G. Allen, Circuit Court of Lake County, Case 04 L 591. Judge Margaret Mullen. Claim for wrongful death following motor vehicle accident. Defendant filed bankruptcy and claim was thereafter asserted against uninsured/underinsured provision of Decedent's insurance coverage. Matter proceeded to arbitration under Claim 40211131005. Judgment entered in the sum of \$280,000.00. Settlement with Indiana Insurance for payment of \$230,000.00 plus annuities funded with \$50,000.00.

POST JUDGMENT LITIGATION

Director of Insurance for the State of Illinois in his Capacity as Liquidator of Illinois Environmental Services W.C. Trust v. As-Ra Technologies, Inc., Circuit Court of Lake County, Case No. 2004 L 669. The Liquidator prevailed upon a petition for turn-over of funds held by the Clerk of the Court in an action by As-Ra Technologies, Inc. v. Joseph J. Henderson and Son, Inc. The Director achieved satisfaction of its judgment in the sum of \$25,653.96. Opposing Counsel: Dalton Grief and Maxine Grief (Lucas & Apostolopoulos).

Illinois Electrical v. Communications Professionals, Inc., Circuit Court of Cook County, Cases 99 M3 1491 and 99 M3 3630. Judge Paddy McNamara and James T. Ryan. Defendant violated terms of installment settlement agreement. Settlement reduced to judgment and judgment recovered in the sum of \$105,000.00 via non-wage garnishment proceeding and turn over order. Opposing Counsel: Anthony A Cavallo (Zukowski, Rogers, Flood & McArdle) and James P. Kelly (Chmiel & Matuszewich).

Illinois Electrical v. Bo-Berg Communications, Circuit Court of Cook County, Case 99 M3 3630 transferred to Law Division. Citation recovery of \$58,874.51 due and owing under settlement agreement previously reduced to judgment.

Illinois Electrical Employers Workers Compensation Trust v. Tires N Tracks, Inc., Circuit Court of Cook County. Judgment entered for \$48,157.05 on October 24, 2003. Judgment Debtor made payments of \$24,500.00. Petition for Turnover filed in Circuit Court of DuPage County in Tires N Tracks, Inc. v. Village of Lisle, Case 03 L 591. Trust judgment spread of record (735 ILCS 5/12-106) and Trust recovered the sum of \$20,371.85 before Judge Dorothy French. Trust also filed a non-wage garnishment against Back of the Yard Neighborhood Council Risk Management Association, case 99 M3 3630 transferred to Law Division, and recovered \$19,467.59 before Judge Alexander P. White. Opposing Counsel: James Dash (Much Shelist).

BUSINESS ESTATE CONTRACTS

Contracts related to the creation and structuring of corporations, LLC's, and partnerships; Shareholder agreements; Buy-Sell Agreements; Restructuring analysis and contracts; Employment Contracts and Employee Handbooks; Non-Compete Contracts; Confidentiality Contracts; Company Policies and Procedures. Bank Loan Forbearance Agreements.

Chicagoland Finishing Materials. Husband and Wife shareholder dispute subsequent to dissolution of marriage. Issue cease and desist letter to stop hostile shareholder's competitive actions against corporation and prevent further client contact by hostile shareholder. Prepare necessary documents to protect client's financial interests in corporation and file appropriate

U.C.C. documents. Negotiate and prepare contracts for return of shares and equitable distribution of corporate debt.

Woodfield Group, Inc. Prepare security instruments and file U.C.C. documents to protect officers' financial interests in corporate entity. Assist with orderly wind-down of corporate estate.

BANKRUPTCY ESTATES

In Re Yakiminsky. Motion to Avoid Jr. Lien of JPMorgan Bank of \$100,000.00. Settled for \$12,000 installment agreement. Opposing Counsel: Brad S. Grayson (Strauss & Malk, LLP).

Boncimino v. Erst, Action to recover value of jewelry held by Debtor and which Debtor asserted was stolen from him. Following deposition of Debtor, parties agreed to an installment settlement in the full claimed sum of \$160,000.00. Opposing Counsel: Michael Davis (Springer, Brown, Covey, Gaertner & Davis).

In Re Frimark. Case 14-11566. Negotiate resolution of trustee's claim to Debtor's LLC interests and prepare corresponding transfer agreement. Opposing Counsel: Richard M. Fogel, trustee.

XMH Corp. v. Smart Resources, Inc., et al., BK 09-2046. Defend against cause of action to Avoid Preferential Transfer under 11 U.S.C. 547. Negotiate settlement to pay 30 cents on the dollar. Opposing Counsel: Taras R. Prozcko (General Counsel XMH Corp.1).

Morawski. Case 11-49587. Successfully defend against trustee's objection to Debtor's claimed exemption for restitution payable to Debtor under a Crime Victim's Reparation Law (735 ILCS 5/12-1001(h)(1)). Judge Carol A. Doyle Memorandum Opinion filed November 11, 2013. Opposing Counsel: Joseph R. Voiland, trustee.

In Re GTAT chapter 11 Estate. Represent creditor, Dynamic Motion Control, Inc. File motion to compel assumption or rejection of contract. File subsequent claim for contract rejection damages. Collaborate with local counsel in New Hampshire to protect client's interests.