



Jan L. Hatcher

Of Counsel
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Jan's practice involves business and commercial litigation, including corporate representation in bankruptcy adversary proceedings.

Services

- Litigation
- Antitrust & Trade Regulation
- False Claims Act

Education

- University of Cincinnati College of Law (J.D., 1986)
 - University of Cincinnati Law Review, student articles editor
- Bowling Green State University (M.S., 1976)
 - Rehabilitation Counseling
 - Awarded stipend
- Bowling Green State University (B.A., *cum laude*, 1974)
 - English Honorary Society

Bar Admissions

- Ohio

Court Admissions

- U.S. Supreme Court
- U.S. District Court for the Southern District of Ohio

Affiliations/Memberships

- Cincinnati Bar Association

- Ohio State Bar Association

Experience

Unfair Competition Litigation

We represented our client and a number of individual employees in a lawsuit filed by a competitor. The competitor asserted claims for conspiracy, misappropriation of trade secrets, breach of non-compete agreements, tortious interference with contractual and business relations, breach of fiduciary duty, unfair competition, unjust enrichment, and violations of the Computer Fraud and Abuse Act. We tried the case for seven days in federal court before the parties settled the matter.

American Automobile Industry Supplier v. German Automobile Industry Supplier

I served as lead litigation counsel, successfully assisted our client, a European manufacturer and supplier of tooling for the automobile industry, in avoiding suit in the United States. This particular German manufacturer has always tried to keep its operations and management within Germany. It has also sought to avoid the hassle and expense of legal proceedings in foreign venues. In 2007, however, this manufacturer was sued in the United States District Court for the Northern District of Ohio. Some of its tooling was being used there by an American automobile industry supplier. The American company alleged that the tooling was defective, claiming damages in excess of \$5 million. With the benefit of the briefing which I authored, the German manufacturer obtained a victory in February 2008 on its initial motion to dismiss. The Court found that the German manufacturer's practices and forms prevent jurisdiction in Ohio. It found "no indication that [the German manufacturer] sought to exploit Ohio markets." The plaintiff failed to establish that [the German manufacturer] purposely availed itself of the benefits and protections of Ohio's laws." The Uniform Commercial Code (UCC) and the United Nations Convention on Contracts for the International Sale of Goods (CISG) provided additional support for the Court's decision. The Court thus dismissed all claims for lack of personal jurisdiction.

Liquidating Trustee of Chapter 11 Debtor v. Former Officers and Directors of Chapter 11 Debtor

The liquidating trustee representing unsecured creditors of a Chapter 11 debtor sued former officers and directors for various transactions related to the corporation's retirement benefits plans. The plaintiff alleged that under applicable law the obligations of the defendants switched from being owed to the corporation to the corporation's creditors once the corporation entered a "zone of insolvency," and that the defendants had violated fiduciary duties owed to the unsecured creditors. He also alleged that the defendants' actions created a "deepening insolvency" for the corporation, thereby giving rise to a claim for that tort.

The court rejected decisions applying these rules and held that the zone of insolvency, fiduciary duty to creditors', and deepening insolvency theories espoused by plaintiff did not state cognizable claims under Ohio law.

Further proceedings are scheduled following the court's dismissal of the above claims.

Official Committee of Unsecured Creditors of Genesis Worldwide, Inc., et al. v. Three Cities Research, Inc., et al.

I played a lead role in successfully assisted our clients, two private equity funds and their investment advisors, in resisting a \$62 million claim made against them. The case centered around the sale of the stock of Precision Industrial Corporation, a company which manufactured and serviced steel coil processing machinery. After the sale, and amid an industry downturn, the buyer defaulted on its loans and filed for bankruptcy. The buyer then claimed that it had substantially overpaid for the stock of Precision and that our clients had unfairly benefited as part of an alleged leveraged buyout. Filing an adversary proceeding in Bankruptcy Court, the Plaintiffs sought to recover most or all of the original sale price. They blamed the selling stockholders and their advisors for subsequent industry problems and technical issues which surfaced after the stock purchase. When settlement negotiations proved unsuccessful, I argued and prevailed in discovery motions in Court. I then lead the effort to obtain detailed accounting, engineering, and business data which ultimately vindicated our clients in demonstrating that the deal had been fair and reasonable. I worked with expert witnesses, including forensic accountants and business valuation experts, to gather and analyze the pertinent data. I personally took numerous key depositions of the critical fact and expert witnesses. When we presented our case in Court on summary judgment, we convinced Plaintiffs to dismiss their fraud claim, and admit that as to remaining claims, it was "impossible to say Plaintiffs were likely to succeed at trial." The Bankruptcy Court then approved a nuisance value settlement in an amount less than the remaining cost of defense, less than one-half of one percent of the amount claimed in the Complaint.

Publications

March 7, 2017

District of Colorado Affirms Government's Broad Discretion to Settle Qui Tam Case Over Relators' Objections