



William M. Mattes

Partner
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Bill is an experienced litigator who focuses his practice on complex commercial litigation, including high-stakes business disputes and bet-the-company matters. He handles litigation in the financial services industry for clients including banks, factoring companies, mortgage lenders, and other secured lenders. He has decades of experience with construction litigation, and has favorably settled several multi-million dollar construction-related disputes. He regularly draws upon his knowledge of construction law to counsel companies on their plans, and to assist in all phases of litigation, government investigations, and business counseling that can arise from OSHA investigations.

He regularly counsels clients on general business and growth issues including expansion into new markets. This includes franchisor & franchisee matters, distribution and logistics issues, site selection, insurance issues, regulatory issues, and licensing requirements. He was personally involved with litigation, arbitration, and contract interpretation for three of the largest public works projects in Ohio, and he has represented several Ohio universities in matters including commercial disputes, construction disputes, and supplier and vendor contract issues. Bill also counsels boards, shareholders, and senior management of for-profit and not-for-profit entities on risk management and litigation issues.

Understanding that every client has unique needs and tolerances, Bill works closely with clients to build a litigation strategy that fits their objectives, whether negotiating alternative dispute resolutions or preparing for trial. His litigation experience is wide-ranging, including serving on litigation teams as special counsel to the Ohio attorney general, as well as handling appeals before the Ohio Supreme Court. He also has secured victories for clients in an array of high-stakes litigation, including one in which he obtained a multi-million dollar verdict on behalf of a client in a complicated series of financial transactions and prevailed on appeal. He also secured a \$2 million verdict for his client in a complex trade secrets case that also involved elements of tortious interference and civil conspiracy. Recently he secured a verdict in excess of \$1 million for a national bank in a disputed commercial loan, in which the bank prevailed and was awarded their attorneys' fees.

He has been a speaker at professional seminars offered by Lorman Educational Services, the Columbus Bar Association, Cincinnati Bar Association, Sterling Educational Services and HalfMoon, LLC.

Services

- Litigation
- Occupational Safety & Health Administration
- Workplace Safety
- Employment
- Franchise & Distribution
- Construction Industry

Education

- Ohio Northern University, Claude W. Pettit College of Law (J.D., 1988)
 - Law Review
 - Moot Court
 - Constitutional Law Book Award
- Southern Connecticut State University (B.S., 1985)
 - Political Science

Bar Admissions

- Ohio

Court Admissions

- U.S. Court of Appeals for the Sixth Circuit
- U.S. District Court for the Southern District of Ohio
- U.S. District Court for the Northern District of Ohio
- U.S. Bankruptcy Court for the Southern District of Ohio

Affiliations/Memberships

- Columbus Bar Association,
 - Admissions Committee
 - Construction Law Committee
 - Federal Courts Committee
- No longer Ohio State Bar Association Member
- Volunteer Lawyers for the Poor
- Knights of Columbus, Our Lady of Peace, Council #14282, no longer advocate
- Columbus Landmarks Foundation
 - Past secretary
 - Past board member

- Past president
- Northwest Swim Club, Past Board of Directors
- Ohio Young Democrats
- Former counsel
- Former Executive Board member

Distinctions

- Ohio *Super Lawyers*® (2014 - Present)
 - For Business Litigation (2021)
- Forty Under Forty by *Business First* (1998)
- Former assistant attorney general, Court of Claims Defense Section (1988 - 1992)

Experience

Successful representation of educator in disciplinary proceeding

The State Board of Education sought to permanently revoke the teaching licenses of our client, a long-time educator in the state of Ohio. The Board alleged that our client improperly disciplined a student with disabilities and disclosed the student's confidential health information. Eleven witnesses testified at a week-long trial in Columbus, Ohio. Ultimately, Hearing Officer appointed by the Board concluded that a preponderance of evidence did not appear in the hearing record to support the Board's charges against the principal. As a result, the Hearing Officer recommended that the case be closed without discipline upon the State of Ohio educational licenses held by our client. The State Board of Education rejected the Hearing Officer's recommendation and suspended the educator's licenses for five years. We appealed the Board's decision to the Hamilton County, Ohio Court of Common Pleas. Like the Hearing Officer, the Common Pleas Court judge determined that no discipline was warranted and he vacated the Board's suspension. The Board appealed the trial court's decision to the First District Court of Appeals. But the First District dismissed the appeal.

See *Ohio State Bd. of Educ. v. Blum*, 1st Dist. Hamilton No. C-150427, 2016-Ohio-2918

Customized construction contracts for restaurant chain expansion

We represented a chain of restaurants in Ohio that currently has a half-dozen locations throughout the state. The client is looking to expand, and we worked with them to develop a customized construction contract for their new facilities.

American Energy Corp. v. Charles Datkuliak, et al.

Won declaratory judgment allowing our client to mine in excess of \$4 million of coal over the objection of the gas well owner/operator. Successfully argued the case on appeal to the 7th Appellate District, and the Ohio Supreme Court refused to accept jurisdiction.

The case set multiple precedents for gas/oil well interference with coal rights. Despite the efforts of multiple oil/gas associations to have this decision reversed on appeal and in the Ohio Supreme Court, our client won at each stage of the procedure.

Capital Plus, Inc. v. Parker Enterprises, et al.

Obtained judgment in excess of \$2 million, plus punitive damages in excess of \$2.1 million, costs and attorneys' fees in a complicated commercial transaction. The verdict was upheld upon appeal to the 1st District Court of Appeals.

Coal Supplier Claims

Argued, defended and prosecuted *force majeure* and breach of contract cases on behalf of coal suppliers.

Commercial Foreclosures

I am regularly involved in commercial foreclosures throughout Ohio on behalf of numerous commercial interests.

Commercial Landlord / Tenant Representation

Litigated claims on commercial leases throughout Ohio on behalf of landlords and tenants at multiple commercial sites.

Commercial Receivership

I have overseen multiple commercial receivership filings on behalf of clients with liens/mortgages on commercial, income-producing property.

Demarco Inc. v. Johns Manville Corp., et al.

Roofing products case -- defense verdict upheld on appeal in the Franklin County (Ohio) Court of Appeals. Allegations included breach of warranties, indemnification and tortious interference with contracts.

Executive Severance Packages

Oversaw the negotiation and preparation of severance packages for local executives, resulting in substantial payments to the clients.

Franchise Disputes

Represented franchisors and franchisees in multiple business/franchise-related disputes, and acted as counsel on franchise litigation, arbitration and mediation.

Franchisee Dispute

Worked with a national franchisor in modeling/acting industry in a dispute with local franchisee. Enforced contract and mandatory arbitration clause to get case removed from Ohio and into arbitration where the franchisors were located.

Indemnity Claim

Worked with a hospitality company to defend against discrimination claims. Worked on indemnity claim for franchisor. Case was ultimately settled to client's satisfaction.

Levin M&A Consulting v. TCA Fulfillment Services, Inc.

This case was tried before Judge Nugent in the U.S. District Court, Northern District of Ohio. We successfully defended a claim of approximately \$750,000 in commissions from the sale of a business in New York. After a four-day jury trial, the jury was out less than two hours before returning a complete defense verdict.

Lien Claims

I have successfully litigated and mediated multiple lien claims in numerous construction-related cases throughout Ohio.

Mal-Sarkar v. Advance, et al; Tumbleson v. Hubbell; Mock v. CG&E, et al

Counsel for Hubble in several personal injury cases alleging injuries from electrical products. All cases resolved favorably for Hubble.

Mining Damage Claims

Defended local coal clients on multiple damage claims related to mining.

Non-Compete Cases

Successfully prosecuted multiple non-compete cases on behalf of various clients throughout Central Ohio.

Non-Payment of Royalties

Counseled national franchisor in automotive industry in dispute against area franchisee for non-payment of royalties and advertising fees. Also worked to protect franchisor's IP rights, rights of first refusal, and counseled on potential buyouts. Helped develop strategy for negotiations and business litigation to protect rights of franchisor.

OSHA Matters - Construction Projects

Successfully negotiated multiple claims by OSHA on construction-related accidents.

Representation Before State Boards

On a regular basis I represent professionals before various State Boards on licensing matters, violations of ORC and OAC related to each professional and/or state license.

Representation of Business Owners on Build-Outs

Represented business owners in disputes on build-outs on behalf of multiple restaurants, businesses and shopping complexes, including franchise-related clients.

Representation of Home Builders

Represented multiple home builders in claims throughout Ohio on multiple legal issues, lawsuits, mediations, arbitrations, liens and supplier disputes.

Represented ViaQuest in litigation involving trade secrets and tortious interference

In late October of 2013, we represented ViaQuest, Inc. and its subsidiary SupportCare, Inc. in two-week jury trial involving allegations of misappropriation of trade secrets, civil conspiracy, tortious interference with contractual relations and breach of the duty of good faith and loyalty. Two former employees of our clients conspired to bring one of our then current employees to their new place of employment, a local competitor of our clients. They sought to open new operations in Cuyahoga County, a county in which the defendants had not previously performed any business. Given their

relationship the former employees knew the current employee was capable of bringing her full case load, her entire staff and all of her associated contracts, totaling yearly gross revenues in excess of \$500,000.

Facing a primary defense of the fact that the services were “medical services” and the patients had the “freedom to choose their provider” we constructed a case based on several “smoking gun” documents showing the civil conspiracy BEFORE our employee left the employment of our client. During a two-week jury trial we received judgments on all claims, receiving a total verdict of over \$2 million.

In addition, we sought punitive damages and attorneys’ fees from the defendants. Prior to a hearing to assess those damages, we negotiated a settlement with the defendants for an additional \$225,000, bringing the total verdict to \$2,250,000, which is believed to be the largest commercial jury verdict award in Franklin County in 2013. In addition, the Agreed Final Judgment Entry, granted our clients a Permanent Injunction prohibiting our competitor from taking similar actions in the future. Finally the Defendants agreed to waive all rights to appeal and agreed to pay the final judgment in full.

State Agency Representation

As a former Ohio Assistant Attorney General, represented ODOT, DAS and numerous state agencies in the defense and prosecution of construction claims.

Publications

March 18, 2020

Origins of the Force Majeure Clause and Impossibility of Contractual Performance Defense

July 22, 2019

Use It Or Lose It: Supreme Court of Ohio Delivers Victory to Construction Contractors by Declaring All Claims Subject to Statute of Repose