



DANIEL A. SHMIKLER

Partner

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Mr. Shmikler has experience in a broad range of complex commercial litigation, including antitrust, securities, fraud, defamation, fiduciary duty, intellectual property, RICO, real estate transactions, products liability, restrictive covenants, class actions, and contract disputes. He also regularly counsels employers and employees on drafting and evaluating restrictive covenants.

Mr. Shmikler has represented clients nationwide, at both the trial and appellate level, in federal and state courts, as well as in arbitrations before the American Arbitration Association.

REPRESENTATIVE CASES

Commercial Litigation

- › Represented the directors and majority shareholder of a Medicaid HMO in a breach of contract and shareholder derivative action brought by the company's founder. The plaintiff sought in excess of \$180 million for failure to provide additional financing, and for alleged breaches of fiduciary duty when defendants decided to cease the operations of the HMO business. Mr. Shmikler assisted in obtaining dismissal of all claims on the pleadings, which dismissal was affirmed by the Massachusetts Appellate Court.
- › Represented a shareholder of a closely-held company in his action for enforcement of a "shotgun buy-sell" provision of the shareholder agreement. Mr. Shmikler assisted in obtaining summary judgment in his favor, culminating in a \$4.5 million judgment.
- › Represented a construction company claiming unpaid utility fees, including appellate argument, and successfully obtained reversal of summary judgment from the Appellate Court of Illinois.
- › Represented a class of former shareholders of a Chicago-area savings and loan in litigation against its purchaser and others in connection with the acquisition. Unique claims arose out of their failure to preserve claims for the benefit of former S&L shareholders against the federal government for abrogation of supervisory goodwill, and ultimately resulted in a recovery for the class in excess of \$10 million.

Bankruptcy and Insolvency Litigation

- › Represented the administrative creditors of one of the nation's largest steel companies in fiduciary duty claims, arising out of what is believed to be the largest administrative insolvency in American history. The action involved the seldom-litigated fiduciary duties of officers and directors of a debtor-in-possession. Mr. Shmikler was able to help persuade the court and defendants' insurers of the viability of the claims, which resulted in an \$85 million settlement on behalf of the administrative creditors, which paid their administrative claims in full.
- › Represented the unsecured creditors committee of a prominent promotional company in actions relating to its ill-fated purchase of a "dot com." These claims resulted in the recovery of tens of millions of dollars in favorable settlements.
- › Representing an officer of a major media corporation in adversary litigation brought by its creditors in connection with the buyout of the company.
- › Representing a prominent national real estate developer in claims relating to developer's rights for a multi-million-dollar parcel.

Intellectual Property

- › Represented manufacturer in an action against a competitor that had improperly obtained confidential customer information and other trade secrets from former employees. Successfully obtained a preliminary injunction, and a favorable settlement negotiated on the eve of trial.
- › Represented manufacturer in trade dress action against competitor that was improperly passing off its products as the manufacturer's. Successfully obtained an injunction and negotiated favorable settlement.
- › Represented manufacturer of HVAC equipment against claim that its product infringed a competitor's trade dress. Obtained judgment as a matter of law without having to put on defense case.
- › Represented regional home healthcare provider against claims that its use of "VNA" as part of its trade name infringed state-registered trademark and constituted unfair competition. Obtained summary judgment dismissing all adverse claims and ordering cancellation of plaintiff's trademark registration.

Securities Litigation

- › Representing purchasers of Enron debt securities against Enron officers and underwriter investment banks in an action seeking well in excess of \$100 million in damages.
- › Represented a hedge fund in an arbitration involving claims of securities law violations and

breach of a registration rights agreement.

Education

- › Northwestern University School of Law (J.D. 1996)
 - cum laude
 - Note and Comment Editor, *Northwestern University Law Review*
- › University of Chicago (B.A. in Political Science 1991)

Admissions

- › Illinois (1996)
- › Trial Bar, U.S. District Court for the Northern District of Illinois
- › U.S. District Court for the Eastern District of Michigan
- › U.S. District Court for the Western District of Michigan
- › U.S. Supreme Court

Memberships and Professional Affiliations

- › American Bar Association
- › Illinois State Bar Association
- › Chicago Bar Association
- › Decalogue Society
- › Congregation Shaarei Tzedek Mishkan Yair (President)