

LITIGATION

**Business and General Litigation | Commercial Litigation | Employment Litigation
Government Investigations Response and Compliance
Patent and Intellectual Property Litigation | Life, Health, Disability and ERISA Litigation
Medical Liability and Health Care Litigation | Personal Injury Litigation
Probate, Trust and Fiduciary Litigation | Securities and Shareholder Litigation**

Litigation

Mirick O'Connell attorneys provide high-quality, cost-effective litigation and strategic counseling services for our clients. We use practical, results-oriented methods to resolve and, where appropriate, avoid disputes for our clients. We recognize that litigation is often disruptive and expensive. Our goal is to be a problem solver for our clients. We seek to achieve that goal quickly and effectively in order to achieve a positive outcome. Our clients include individuals, closely-held businesses and Fortune 500 companies in the banking, insurance, real estate, construction, health care and life sciences, biotechnology, manufacturing and financial services industries.

Unlike other litigators, Mirick O'Connell attorneys actually try cases. Our litigators conduct trials in the state and federal courts and we represent clients in arbitrations. However, we recognize that not every case should be tried. In those circumstances, the litigation process can achieve leverage that creates a favorable environment for negotiating successful results. Where appropriate, we work with our clients and our opponents in mediation and alternative dispute resolution. We counsel our clients on litigation avoidance and risk management. We work with our clients to evaluate each and every dispute that arises to determine the best way to solve our client's problem, be it defending the case through verdict or seeking a negotiated settlement.

Mirick O'Connell litigators have been recognized for their excellence by *Law & Politics* in its annual designation of Massachusetts "Super Lawyers" and "Rising Stars." Although headquartered in Massachusetts, our litigators handle cases for some of our clients regionally, in the state and federal courts in Massachusetts, Connecticut and Rhode Island. In other states, we routinely coordinate with local counsel who share our goals of efficiency, timeliness and good results. Where appropriate, we welcome the opportunity to engage performance-based compensation arrangements with our clients.

Business and General Litigation

Mirick O'Connell's Business and General Litigation Group understands business and knows how to get results. Our litigators have a proven track record of successfully resolving cases through negotiation, alternative dispute resolution and, when necessary, aggressive action in the courtroom. Our extensive trial experience gives us a decisive edge in representing our business clients through every stage of a dispute.

Whether representing closely-held companies, large publically-held corporations or any type of enterprise in between, we focus on our client's objectives. We provide value to our business clients by minimizing risk, offering practical options and balancing creative strategies with the economic realities of protracted litigation.

Our attorneys handle disputes of all magnitudes including "bet the company" litigation. We regularly handle cases involving corporate governance and management disputes, shareholder disputes, derivative actions and claims of breach of fiduciary duty. We litigate intellectual property matters including patent and trade secrets disputes. We litigate cases involving fraud, intentional interference with contractual relationships, virtually every type of breach-of-contract claim and cases involving unfair or deceptive trade practices.



Practice Area Contact:

David K. McCay
508.860.1460
dmccay@mirickoconnell.com

Attorneys

Amanda M. Baer
Edward C. Bassett, Jr
Timothy D. Braughler
Kristine M. Canepa
J. Christopher Collins
Thomas J. Conte
Patricia L. Davidson
James C. Donnelly, Jr.
David L. Fine
Fern L. Frolin
Robert B. Gibbons
Elizabeth L.B. Greene
Nancy E. Gunnard
Joseph M. Hamilton
James P. Hoban
Robert L. Kilroy
Alexandra N. Mansfield
David K. McCay
John O. Mirick
William J. Morrissey
Jessica E. Murphy
Kenneth C. Pickering
Grace C. Roessler
John A. Shea
Jonathan R. Sigel
Lauren E. Sparks
Richard C. Van Nostrand
Joan O. Vorster
Reid M. Wakefield

Paralegal

Lori M. Pandiscio Hauptert

**Excellence in our work.
Excellence in client service.
Excellence in value.**

Business and General Litigation (continued)

Representative Matters:

- Successfully tried a jury case in the U.S. District Court for the District of Massachusetts for fraud and tortious interference with contractual/advantageous relationship against a company engaged in organizing amateur sports leagues, its shareholders and its attorney. We prevailed in an appeal to the U.S. Court of Appeals for the First Circuit. Our collection efforts resulted in full satisfaction of judgment
- Successfully defended a \$1 million claim for breach of contract against a manufacturer of computer hardware by serving a motion for summary judgment that relied almost exclusively on the plaintiff's own deposition testimony to demonstrate that the claim was barred by the plaintiff's prior conduct and to demonstrate the speciousness of the claim
- Negotiated the settlement of complex litigation among shareholders of two closely-held, international plastics companies involving various business torts, contract claims and equitable remedies; coordinated the transfer of stock, the implementation of a security agreement and indemnification for international financing obligations
- Prevailed in a trial in the U.S. District Court for the Eastern District of New York on behalf of a company that provides licensure and educational services to financial institutions against allegations, including breach of contract, breach of fiduciary and equitable claims, initiated by a sales and marketing company after termination of the relationship for poor performance

Commercial Litigation

Our Commercial Litigation Group applies practical, results-oriented methods to achieve cost-effective results in all types of contract disputes. We execute innovative approaches to problem solving in areas involving the purchase and sale of goods, warranty, commercial credit, product liability, fraud, enforcement of security interests, public construction contracts, consumer protection, collection and commercial leases.

In contrast to traditional litigation approaches, which are often criticized for their inefficiency, we exploit the tools available through litigation procedure to create cost-effective and timely resolutions of contract claims. To add efficiency to our approach, we rely on computerized databases, private investigative resources and, where appropriate, asset and accounting analysis. Our attorneys work toward developing leverage to create a favorable environment for negotiating successful results.

As an integral part of our work, we develop a case plan based on the particular needs of the situation at hand and the budgetary considerations of the client. Time spent on this initial case assessment is, in our experience, the key to success in these cases.

Employment Litigation

We have an extensive track record of success in the defense of wrongful termination claims, workplace torts and employment litigation, including claims of sex, age, race, sexual orientation and disability discrimination and retaliation. We appear regularly on behalf of employers in state and federal courts and before the Massachusetts Commission Against Discrimination, the Equal Employment Opportunity Commission, the Civil Service Commission, and the State Ethics Commission. We also have extensive experience in the litigation of wage and hour disputes and in the enforcement of non-disclosure, non-competition and non-solicitation agreements.

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Employment Litigation (continued)

- Successfully defended an office solutions company in the U.S. District Court against a race discrimination claim brought by a regional sales manager. The plaintiff had rejected a settlement offer of several hundred thousand dollars before proceeding to trial
- Obtained a high-seven-figure award for our minority shareholder client following a jury-waived trial for "freeze-out" in Worcester Superior Court. This was one of the few cases in which the Court ordered the repurchase of a minority shareholder's stock interest in the company at a percentage of the company value without any discount for marketability or minority interest
- Successfully defended an automobile dealership and leasing company in Middlesex Superior Court against age discrimination claim brought by a former sales manager
- Secured preliminary and permanent injunctions in the Business Litigation Session of the Suffolk Superior Court on behalf of a nano-particulate business against a former chief chemist for trade secret misappropriation
- Successfully defended a warehouse and bulk supplier in Bristol Superior Court in separate age discrimination and workers' compensation claims brought by a driver and a warehouse worker, respectively
- Successfully defended an accounting firm against a pregnancy discrimination claim brought by an accountant in Worcester Superior Court
- Obtained a summary judgment in favor of our accounting firm client in a disability discrimination claim in the U.S. District Court. On appeal, dismissal was affirmed by the U.S. Court of Appeals for the First Circuit
- Obtained a summary judgment in favor of our aerospace manufacturing client in a race discrimination claim in the U.S. District Court. The plaintiff's appeal was dismissed by the U.S. Court of Appeals for the First Circuit
- Obtained enforcement of a non-competition agreement on behalf of an educational software company, resulting in the removal of a former executive from a competitor's workforce and the recoupment of attorneys' fees
- Successfully defended multiple executives facing numerous counts of discrimination, wrongful termination, and whistleblower retaliation in federal court. The case was won with an initial motion to dismiss prior to discovery
- Successfully defended a municipality facing breach-of-contract claims in federal court following termination of an employee's contract for poor performance. The case was won prior to summary judgment based on admissions by the plaintiff at her deposition
- Successfully defended a major medical institution facing breach-of-contract claims, intentional interference with contractual relations and defamation in federal court. The case was won with an initial motion to dismiss prior to discovery
- Successfully defended a service provider and its executives against age discrimination claims. The case was won based on admissions obtained at the plaintiff's deposition

Government Investigations Response and Compliance

The Government Investigations Response and Compliance Group represents clients in a range of matters including government investigations, regulatory and administrative proceedings, and criminal prosecutions. Our attorneys represent individuals and organizations that are the subject of investigations by the FBI, SEC, U.S. Department of Justice, U.S. Attorney's Office, state Office of the Attorney General and other federal, state and local enforcement agencies. We also advise organizations that discover employee malfeasance or theft, or whose employees are the subject of a criminal investigation.

Our attorneys have represented clients in actions involving allegations of health care fraud, unfair lending practices, embezzlement, fraudulent billing practices and bank fraud. The Government Investigations Response and Compliance Group has conducted internal corporate investigations at the direction of audit committees and in response to outside criminal investigations. Our attorneys also handle academic disciplinary matters where parallel criminal proceedings are involved.

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Government Investigations Response and Compliance (continued)

Representative Matters:

Response to Government Investigation

S.E.C./Massachusetts Securities Division

- Managed responses to multiple investigations by the S.E.C.'s Boston and New York Regional Offices involving allegations of insider trading and the issuance of company stock.
- Negotiated settlement on behalf of investment advisor following an investigation by the Massachusetts Securities Division.
- Represented client in S.E.C. investigation involving alleged unlawful pyramid scheme.
- Coordinated responses to parallel S.E.C. and grand jury investigations on behalf of investment advisors involving federal securities laws.
- Advised private investment company with regarding to S.E.C. investigation.

F.B.I./U.S. Attorney's Office

- Represented certified public accountant in embezzlement investigation conducted by the U.S. Attorney's Office and the Department of Justice.
- Represented local law enforcement agency in a civil rights investigation conducted by the F.B.I. and the U.S. Department of Justice.
- Achieved a refusal to prosecute decision by the U.S. Attorney's Office following an FBI investigation into allegations of computer crimes and theft of intellectual property.
- Represented a clinical medical facility in an FBI investigation concerning medical billing practices.
- Obtained non-prosecution decision by the U.S. Attorney's office following investigation involving real estate investment by foreign nationals.
- Achieved non-indictment for client involved in federal grand jury investigation concerning alleged bank fraud.
- Performed an internal investigation and represented a corporate client in an FBI health care fraud investigation.

Attorney General's Office/State and Local Law Enforcement

- Represented client in an investigation by Massachusetts Attorney General's Office involving educational lending practices.
- Represented state contractor in a Massachusetts Attorney General Grand Jury investigation concerning potential bid rigging and gifts/gratuities violations.
- Negotiated settlement with the Massachusetts Attorney General's Office following an investigation in alleged unfair marketing and billing practices.
- Represented corporate client in criminal investigation conducted by the Worcester P.D. resulting in decision not to prosecute.
- Responded to an investigation by the Massachusetts Attorney General's Office on behalf of a client concerning medical billing practices.
- Achieved non-prosecution decision on behalf of client investigated for criminal environmental violations involving alleged hazardous waste discharge.
- Represented client in a Massachusetts Attorney General Grand Jury investigation involving alleged violations of political contribution laws.

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Government Investigations Response and Compliance (continued)

Representative Matters:

H.H.S. Office of Inspector General / MassHealth

- Performed an internal investigation and represented a corporate client in an FBI health care fraud investigation
- Responded to health care fraud investigation conducted by the Office of Inspector General of the U.S. Department of Health and Human Services.
- Negotiated a comprehensive Corporate Integrity Agreement on behalf of a medical services provider with the Department of Health and Human Services, Office of Inspector General.
- Advised medical billing company involved in MassHealth billing audit concerning the provision of optical services.
- Represented medical provider in a MassHealth investigation into improper fraud
- Advised organizations in matters involving criminal investigation and prosecution of company employees

Other Investigative Agencies

- Performed an internal investigation and represented a corporate client in an FBI health care fraud investigation
- Advised corporation under investigation by the Office of Foreign Asset Control.
- Represented manufacturer in antidumping investigation conducted by the U.S. International Trade Commission.
- Represented client in an audit and investigation conducted by the Massachusetts Division of Banks.
- Advised client subject to investigation by the National Railroad Passenger Corporation Inspector General's Office.
- Represented multistate manufacturer subject to investigation by U.S. Immigration and Customs Enforcement.
- Represented client in response to search warrant video surveillance requests.

Internal Investigations

Employee Fraud/Embezzlement

- Responded to health care fraud investigation conducted by the Office of Inspector General of the U.S. Department of Health and Human Services.
- Conducted internal corporate investigation in response to a health care fraud inquiry by the Office of Inspector General of the U.S. Department of Health and Human Services.
- Carried out internal investigation relating to allegations of multimillion dollar theft from a manufacturing facility.
- Performed investigation into allegations of employee embezzlement and violations of Federal Firearms Dealers Regulations. Made referral to law enforcement for federal prosecution.
- Conducted internal investigation and oversaw analysis of accounting records involving allegations of bank fraud. Coordinated and relayed findings to the FBI for criminal prosecution.
- Assisted financial institution with internal investigation involving employee embezzlement. Made referral to US Attorney's Office.
- Performed internal investigation for the audit committee of a public company involving allegations of corporate fraud.
- Reviewed patent documentation and made referral to US Attorney's Office regarding theft of intellectual property.

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Government Investigations Response and Compliance (continued)

Representative Matters:

Corporate/Non-Profit and Public Entities

- Performed an internal investigation and represented a corporate client in an FBI health care fraud investigation
- Performed internal investigation of police department's timekeeping practices.
- Conducted internal investigation of academic medical facility involving alleged unlawful billing practices.
- Performed internal corporate fact finding in response to Massachusetts State Police investigation.
- Conducted internal investigation of healthcare provider compliance issues and made self-disclosure to Massachusetts Medicaid Fraud Division.

False Claims Act/Qui Tam Actions

- Responded to health care fraud investigation conducted by the Office of Inspector General of the U.S. Department of Health and Human Services.
- Responded to Civil Investigative Demand in response to whistleblower claims, represented client in parallel federal criminal and civil investigations, and represented client in federal civil litigation involving the U.S. Attorney's Office and the Department of Justice.
- Received a full dismissal by both the U.S. Department of Justice and relator in a whistleblower case involving allegations of healthcare fraud and violation of the Anti-Kickback Statute and Stark Act.

Patent and Intellectual Property Litigation

Litigation is one of the options available to businesses as part of their offensive and defensive strategies to protect their valuable intellectual property rights. At Mirick O'Connell, our interdisciplinary practice blends the skills and experience of both business lawyers and litigators to achieve our clients' objectives with regard to protection, exploitation and dispute resolution. Our litigators focus on enforcing and defending our clients' intellectual property rights in court, and before arbitration panels and administrative agencies. Our intellectual property litigation experience includes cases involving patents, trademark/trade dress, copyright, trade secrets and related commercial disputes in the areas of anti-trust and unfair competition. Our litigation clients include individual entrepreneurs, small businesses, established and emerging companies, and private and public companies.

Land Use and Environmental Litigation

Our attorneys have extensive experience handling all types of real estate and environmental conflicts. We understand that land is unique and that real estate disputes create challenging legal, financial and emotional issues. Our litigators have the ability, resources and trial experience necessary to resolve these challenging issues in a creative and cost-effective manner.

We have successfully resolved cases on behalf of developers, contractors, buyers, sellers, landlords and commercial tenants. We regularly handle zoning and subdivision disputes and appeals before local boards and in court. We also represent clients in matters involving environmental contamination and remediation. We have litigated numerous disputes arising out of the purchase and sale of real estate, including claims for breach of contract, misrepresentation and unpaid commissions. We have also litigated a variety of matters involving title, adverse possession, boundary disputes, title insurance, tax abatement and eminent domain matters.

If a conflict concerns real estate, chances are good that a member of our litigation team has had experience handling similar matters. In all land use disputes, we provide practical, creative and cost-effective solutions informed by the perspective that sophisticated trial experience provides.

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Land Use and Environmental Litigation (Continued)

Representative Matters:

- Represented a seller of real estate in obtaining an Appeals Court decision awarding our client damages for a buyer's failure to complete the purchase of commercial property
- Successfully defended beneficiaries of a trust who were sued by a family member who sought ownership of trust real estate. Legal issues raised at trial included judicial estoppel, laches, the statute of frauds, the statute of wills, the canons of ethics, adverse possession and constructive trust
- Defended a restaurant owner in the Superior Court and in the Appeals Court by proving that the restaurant would not infringe on the plaintiff's legal and private rights and that therefore the plaintiff had no standing to challenge the zoning relief afforded the restaurant
- Negotiated a resolution to a long-term dispute by forcing the sale of real estate through a petition to partition, by filing suit against an escrow agent and by cooperating with the commissioner's plan to auction the estate
- Successfully argued that an unrecorded stock purchase agreement purporting to convey an interest in land to a shareholder was not a legitimate conveyance of real property, enabling our banking client's foreclosure to proceed
- Represented a land owner in Land Court and the Appeals Court in an adverse possession case in which our client obtained title to upland and tidal flats
- Defended a municipal zoning board of appeals in the Superior Court by proving that the board correctly determined that the plaintiff's construction violated the intensity regulations and constituted a prohibited alteration and reconstruction of a non-conforming use or structure
- Derailed an abutter's challenge to a special permit granted to continuing care retirement facility
- Resolved a state Fire Marshall's appeal enabling an energy company to proceed with the repair of an underground storage tank after a local fire chief had initially denied a permit to repair the tank
- Successfully represented a municipality before the Supreme Judicial Court regarding a claim of a regulatory taking by a governmental authority
- Represented a municipality before the Appeals Court, which upheld a zoning board's decision to deny modifications to a comprehensive permit under Chapter 40B for an affordable housing development

Life, Health, Disability and ERISA Litigation

The firm's Life, Health, Disability and ERISA Litigation Group has a 20-year history of providing our clients with consistently successful results on their behalf whether it be through negotiation, mediation, summary judgment, arbitration, trial or appeal. We exclusively represent insurers and self-insurers.

We represent our clients in connection with both individual and group claims, under state and federal law, including ERISA. Our representation encompasses a full array of issues arising in this area of litigation including the defense of life, health and disability benefit claims, rescission and reformation cases, interpleaders, breach of fiduciary duty allegations, and bad faith claims. While based in Massachusetts, our representation is regional in nature encompassing Connecticut, New Hampshire and Rhode Island. We have also been specially admitted in other jurisdictions. We have successfully represented dozens of insurers and self-insurers in literally hundreds of cases through the full range of trial and appellate courts, including the Massachusetts Supreme Judicial Court and the First Circuit Court of Appeals. Our attorneys have resolved numerous cases through negotiation and mediation. However, when necessary, we have obtained numerous rulings and verdicts in favor of our clients through motions for summary judgment, arbitration rulings and trial. We have also represented our clients in precedent-setting decisions before appellate courts, including the First Circuit Court of Appeals. While represented by our group, no client has had a bad faith claim successfully prosecuted against it, and our group has over a 90% success rate in summary judgment motions, trials and appeals.

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Life, Health, Disability and ERISA Litigation (continued)

Every case we accept is overseen by a partner who utilizes associates and paralegals to provide responsive and cost-efficient representation according to the parameters set by the client. Each of the attorneys in the group stays current in all aspects of the law pertinent to our practice. Each year our attorneys attend the Defense Research Institute's Life, Health, Disability and ERISA seminar as well as the annual conference of the Tort Insurance Practice Section's Life, Health and Disability, and Employee Benefits Law Committees. Our attorneys hold leadership positions in both the American Bar Association and the Defense Research Institute and regularly write and speak on life, health, disability and ERISA topics for the ABA, DRI, Massachusetts Continuing Legal Education, the Massachusetts Bar Association, the American Conference Institute and the New England Claims Association. In addition, we keep our clients up-to-date in all changes of the law by providing in-house training and a newsletter covering all developments in the First Circuit. We also provide email updates for new cases within the circuit, as well.

The Firm is rated AV by Martindale-Hubbell, is listed in Best's Directory of Recommended Insurance Attorneys, and is a member of The Select List of Law Firms for the Defense of Life, Health and Disability Insurance.

Representative Matters:

- Obtained a ruling in federal district court requiring that the ERISA plan participant show the denial of benefits was improperly influenced by a conflict of interest before discovery was permitted
- Obtained a jury verdict in 2008 in Massachusetts state court for an insurer against an insured claiming that total disability was a result of an accident, rather than a sickness
- Obtained an arbitration award in 2008 voiding a life insurance policy for a change in an insured's health between the date of the application and the date of the issuance of the policy
- Represented an insurer in obtaining a precedent-setting ruling in federal district court regarding the production of surveillance materials in discovery
- Obtained a preliminary injunction, on the grounds of ERISA preemption, prohibiting the Massachusetts Commission Against Discrimination from investigating whether a disability plan's exclusion for psychiatric disorders violates state anti-discrimination laws
- Obtained a ruling on behalf of an insurer in federal district court that an administrative record could not be opened to admit evidence generated after a final decision on an ERISA claim
- Represented an insurer in federal district court in establishing grounds for a rescission of coverage in a benefit plan governed by ERISA
- Obtained a summary judgment decision that attention deficit disorder was a mental illness as defined by the ERISA plan
- Obtained a jury verdict in federal district court for an insurer against a physician claiming total disability
- Represented an insurer before the U.S. Court of Appeals for the First Circuit in establishing that summary judgment is the appropriate means to resolve an ERISA case regardless of the standard of review and that enlargement of the administrative record is not permitted after the administrative appeal is decided
- Represented an insurer before the U.S. Court of Appeals for the First Circuit in establishing that an individual disability policy was encompassed within an ERISA plan
- Represented a disability insurer before the U.S. Court of Appeals for the First Circuit in establishing a standard of review in an ERISA benefit claim determination

Medical Liability and Health Care Litigation

Mirick O'Connell attorneys represent our health care clients in litigation matters. We represent hospitals, physician practice groups, health care insurers, physicians, nurses and other medical providers in cases involving professional liability, employment disputes, and breach of contract. We have resolved these cases through trial and arbitration, with numerous verdicts and awards in our clients' favor. Outside of the courtroom, we represent physicians and other medical professionals before their respective boards of professional licensure. We provide risk management services for our health care clients, including advice on preparation of forms used for patient care, and on policies and procedures. We are often called upon to assess liability for pending claims and potential for early resolution.

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Medical Liability and Health Care Litigation (continued)

Representative Matters:

- Successfully defended a primary care physician on a claim alleging failure to diagnose stroke in a 45-year-old man left with serious and permanent impairments
- Successfully defended a primary care physician on a wrongful death claim alleging failure to diagnose pneumonia
- Successfully defended a transplant surgeon on a wrongful death claim alleging improper performance of kidney transplant surgery that led to sepsis and the subsequent death of a 55-year-old woman
- Successfully defended primary care physicians in a case alleging failure to timely diagnose prostate cancer by not offering PSA test after age 50
- Successfully defended obstetricians in two separate cases alleging failure to diagnose and properly manage deliveries complicated by shoulder dystopia
- Successfully defended an orthopedic surgeon in a case alleging failure to properly treat a fractured femur and tibia in 14-year-old boy
- Obtained dismissal of all claims against a psychologist by the Board of Registration in Psychology after filing pre-trial motions with the administrative law judge
- Negotiated consent agreements for numerous medical professionals with their licensing boards, which allowed them to remain in practice without a suspension of licensure
- Successfully represented a major medical institution in grievance arbitration involving an endoscopy technician who claimed a collective bargaining agreement violation after being removed from his department due to his inability to safely perform advanced procedures
- Successfully represented a major medical institution in negotiations with a surgeon threatening a lawsuit after receiving a contractual notice of intent not to renew his contract
- Coordinated the investigation of allegations of workers' compensation fraud and threats to witnesses by a housekeeping employee of a major medical institution, culminating in an employment termination decision that the union has not challenged
- Successfully represented a major medical institution in a breach of contract, defamation, and tortious interference action brought in federal court in Massachusetts. The case was won with a motion to dismiss prior to discovery

Personal Injury Litigation

We handle all types of personal injury and product liability cases, including complex trial matters involving wrongful death and permanent disability. We regularly receive referrals from attorneys and other professionals in Massachusetts and other states because of our reputation for handling claims in a professional and efficient manner.

Our attorneys represent clients in personal injury cases on a contingent-fee basis. Once a case is accepted, the client and the referring attorney have the firm's commitment that Mirick O'Connell will expend the necessary time and financial resources and will employ in-house staff and specially retained outside experts to resolve the claim. For each case, we assemble a team of professionals best suited to pursue maximum recovery for the client.

Because of our reputation in the community, we have developed strong relationships with many other professionals, including actuaries, doctors, accountants, economists, bankers, vocational experts, accident reconstruction experts and engineers. These professionals provide pre-trial opinions and testify at trial. Their expert reports and testimony have led to many favorable settlements.

We understand that a plaintiff in a personal injury case has already suffered a severe injury or personal loss. Personal attention to our client and to the details of the case can help relieve the stress inherent in the legal process. Because of the size of some settlements, we work closely with the firm's Trusts and Estates Group, as well as with tax experts, actuaries and nationally known consultants in the preparation of structured settlements.

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Probate, Trust and Fiduciary Litigation

Within the next two decades, unprecedented wealth will pass between generations in the form of lifetime gifts and transfers through wills and trusts. Inevitably, conflicts concerning this transfer of wealth will arise—often causing painful and expensive disputes. Our attorneys have the requisite experience to counsel the parties involved with these transfers, and they have the tenacity necessary to resolve any disputes that may arise.

The Probate, Trust and Fiduciary Litigation Group represents executors, administrators, trustees, guardians, conservators, beneficiaries and other family members. The integration of our experienced Trusts and Estates Group with our skillful litigation and trial attorneys enables us to provide sound legal advice and creative dispute-resolution strategies. While our attorneys strive to seek practical, prompt resolutions, they also have extensive experience trying cases when necessary. Above all, we recognize that it is our responsibility not only to guide our clients through sophisticated financial and legal matters, but also to understand the often-complex emotional and psychological challenges of probate litigation.

Representative Matters:

- Persuaded the Appeals Court to reverse a judgment and find that the defendant trustees, stockholders, officers and directors breached their fiduciary duties and engaged in self-dealing by committing trust assets to unauthorized business ventures
- Negotiated the resolution of a long-term dispute among siblings by forcing the sale of real estate through a petition to partition
- Successfully defended beneficiaries who were sued by the decedent's sister in an action to determine title to real estate
- After commencement of trial, favorably settled a case in which the will was executed by an individual suffering from Alzheimer's disease who was vulnerable to undue influence
- Successfully opened a guardian's three accounts by showing fraud and manifest error against the guardian in which the guardian mismanaged the ward's estate
- Prevented a co-executor's attempt to gain sole control of an estate after the co-executor forged our client's name, misappropriated estate assets and violated an injunction
- Successfully petitioned the Supreme Judicial Court to reform trusts so that the reformation would be recognized for federal transfer tax purposes

Securities and Shareholder Litigation

Mirick O'Connell attorneys represent clients in shareholder disputes and securities arbitrations as well as in SEC and other regulatory investigations.

Our attorneys represent clients both prosecuting and defending minority shareholder claims, claims of breach of fiduciary duty, derivative litigation and other corporate governance disputes in public and private companies.

Our securities litigators also have experience representing investors and brokerage firms in FINRA arbitrations involving allegations of securities fraud and account mismanagement. We have represented clients in SEC, FBI and other regulatory investigations involving alleged securities fraud.

Our attorneys have also conducted internal investigations on behalf of boards of directors and committees of independent directors.

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Securities and Shareholder Litigation (continued)

Representative Matters:

- Represented a major stockholder in a public company in a shareholder derivative suit involving claims of breach of fiduciary duty and self-dealing by top-level management
- Represented individuals and broker-dealers in FINRA arbitrations involving claims of churning, unsuitability and other types of account mismanagement
- Defended the principal of a privately-held investment management company against claims of account mismanagement
- Represented a majority shareholder in a post-sale dispute involving allegations of bank fraud
- Represented an investor in a claim against a 401(k) plan administrator involving allegations of market timing and violations of mutual fund trading practices
- Represented a majority shareholder in defense of a freeze-out claim following the termination of a minority shareholder executive
- Represented a client in a government investigation involving alleged accounting irregularities and successfully settled the matter following the preparation of a Wells submission
- Represented investors in bringing a derivative action for breach of fiduciary duty and operation of a limited partnership in violation of the partnership agreement
- Represented a client in SEC, FBI and grand jury investigations involving alleged violations of federal securities laws
- Represented a minority shareholder in prosecution of freeze-out, wrongful termination and self-dealing claims

Alternative Dispute Resolution

Mirick O'Connell has been a leader in the legal community for more than 90 years and has pioneered new practice areas to meet the diverse needs of our clients. In the 1990s, Mirick O'Connell recognized the growing demand for alternative dispute resolution services and responded by forming a team of attorneys with extensive professional experience and statewide recognition. The attorneys in our Alternative Dispute Resolution Group offer arbitration and mediation services to assist parties in the resolution of their disputes.

Arbitration. Our attorneys serve litigants or those involved in disputes as independent and impartial arbitrators in a wide variety of contexts, including personal injury, business, commercial, employment, real estate, products liability, malpractice and probate disputes. We have a combined total of 85 years of trial experience in all state and federal courts. We recognize the importance of a timely outcome and issue awards promptly following a fair hearing.

Mediation. In addition, our attorneys provide mediation in a similarly broad range of matters. We blend practical trial experience with a background in corporate problem solving, and have developed a philosophy based on fairness, impartiality, integrity, effective communication and creative problem solving. Mediation services are also offered for divorce and family issues. Our attorneys carefully assess every dispute for its unique characteristics and fashion the most effective methodology to facilitate an appropriate resolution.

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