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Stouffer  
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## James J. Sipchen

SHAREHOLDER

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For the past 29 years, Jim Sipchen has served as trial and appellate counsel to clients engaged in complex commercial litigation. He has extensive trial and appellate experience in a wide range of business litigation and professional liability matters in numerous state and federal courts as well as in arbitrations and before regulatory agencies.

Jim has successfully defended at trial and on appeal numerous companies and individuals in a variety of professional liability matters, including claims for malpractice. Jim's clients include large and small for-profit and non-profit companies, corporate officers and directors, attorneys, accountants, architects, engineers, builders, developers, contractors, insurance companies, public adjusters, mortgage brokers, insurance brokers, and insurance agents.

A large portion of Jim's trial and appellate practice is also devoted to defending numerous businesses, their owners, and individuals in broad range of commercial disputes involving breach of contract, fraud, business torts, civil rights violations, retaliatory discharge, whistle-blower claims, wage disputes, challenges to non-compete agreements, trade secrets, civil RICO disputes, unfair competition, intellectual property, trade secrets, antitrust, wrongful discharge, and shareholder and partnership disputes.

In his work for non-profits, Jim has successfully defended institutions accused of child abuse and neglect, including alleged sexual abuse. Jim frequently represents numerous child welfare agencies located across the State of Illinois in cases alleging that an agency employee abused or neglected a resident of a group home or other facility providing live-in care to adolescents. Jim also defends foster care agencies accused of placement of a child into an environment that has either resulted in abuse to the child or an allegation that the placed child inflicted abuse on another family member. Jim has also represented schools, park districts, and private businesses that provide recreational programs for children in cases of alleged inappropriate behavior involving a teacher, coach, or instructor.

Jim also defends Fortune 500 companies, small businesses, and professionals in high-stakes consumer class-action lawsuits brought under a number of federal statutes, including the Fair Debt Collection Practices Act, Fair Credit Reporting Act, Fair and Accurate Credit Transactions Act, Telephone Consumer Protection Act, Biometric Information Privacy Act, Illinois Consumer Fraud and Deceptive Business Practices Act, ERISA, and Truth in Lending Act. Jim's experience in this area extends to representing clients in large-scale multidistrict litigation throughout the United States.

Clients also frequently seek Jim's counsel and advice when they become the target of investigations conducted by regulatory and/or governmental agencies. Jim frequently represents attorneys before the Attorney Registration and Disciplinary Commission. He has also represented a number of insurance brokerages and agencies in connection with investigations launched by the Illinois Attorney General's Office and Illinois Department of Professional Regulation regarding bid rigging and broker compensation practices. Early in his career, Jim represented the Commissioner of the Board of Tax Appeals in ghost payrolling probe conducted by the U.S. Attorney's Office and Department of Justice.

Jim has been a Shareholder since 2011 and currently sits on the firm's Executive Committee.

## **Education**

- The John Marshall Law School, J.D. 1994
- Indiana University, Bloomington, B.A. 1990
- Loyola University, Rome, Italy, Spring Semester 1989

## **Bar Admissions**

- Illinois
- United States Court of Appeals for the 7th Circuit
- United States District Court for the Northern District of Illinois
- United States District Court for the Central District of Illinois
- United States District Court for the Eastern District of Wisconsin
- United States District Court for the Southern District of Indiana
- United States District Court for the Eastern District of Michigan
- United States District Court for the Western District of Michigan.

## **Professional Experience**

### **Representative Trials:**

- Represented attorneys and their law firm who were alleged to have been negligent in handling a commercial real estate closing for a below-grade commercial unit located in a high rise residential condominium building in Chicago's Gold Coast neighborhood because the attorney did not check the zoning of the unit prior to purchase. Plaintiff sought damages in excess of \$600,000. After two-week jury trial, entry of judgment for the defendants on a finding of "not guilty."
- Represented an attorney and its former client, a credit union, at trial in an action alleging that defendants violated a bankruptcy court discharge injunction by filing four collection lawsuits against the plaintiff after the plaintiff had filed for bankruptcy and received a discharge of her debt. Plaintiff sought actual damages, punitive damages and attorneys fees in excess of \$200,000. After a three-day trial, entry of judgment for the defendants on a finding of "not guilty."
- Represented third-party defendant, architect at trial in action for professional negligence/breach of contract alleging defective design of a strip mall in which third-party plaintiff sought damages in excess of \$2 million. After four-week trial, entry of directed verdict in client's favor. Decision was affirmed on appeal.

- Represented plaintiff, purchaser of real estate, at trial in action for breach of contract concerning the remaining balance due on installment agreement to purchase property. After a four-day trial, judgment entered for plaintiff.
- Represented plaintiff, general contractor, at trial of breach of contract action against subcontractor for defective workmanship on home. After a two-day trial, judgment entered for the plaintiff.
- Defense of sports agent in lawsuit for fraud and civil RICO violations brought by former professional baseball player in federal court. After a two-week trial, verdict returned for the defendant.

## **Representative Summary Judgments:**

- Obtained summary judgment in favor of attorney accused of committing legal malpractice in the prosecution of his underlying retaliatory discharge/whistle blower suit filed against his former employer. Plaintiff alleged that attorney was negligent in failing to take adequate discovery and failing to appear at court hearings which caused him to lose his case worth millions of dollars. Decision affirmed on appeal.
- Obtained summary judgment in favor of attorney and law firm accused of exposing officers and directors of a dissolved corporation to personal liability for hundreds of thousands of dollars in corporate debt incurred during the period of the corporation's dissolution.
- Obtained summary judgment in favor of divorce attorney accused of failing to timely enter two Qualified Domestic Relations Orders ("QDRO") that were necessary to transfer various 401k retirement accounts allegedly worth hundreds of thousands of dollars to the plaintiff that she received in a marital settlement agreement.
- Obtained summary judgment in favor of a lawyer who was alleged to have been vicariously liable for conduct of an attorney who shared office space with the attorney and allegedly botched a workers' compensation case.
- Obtained summary judgment in defense of child welfare agency and the president of its Board of Directors on retaliatory discharge claims brought by the organization's former Executive Director and CEO. Plaintiff had sought damages and attorneys' fees under the Illinois Whistle blower Act and Illinois common law of retaliatory discharge in excess of \$1 million.
- Obtained summary judgment in favor of large retail seller of party supplies on a Title VII claim brought by a former employee alleging gender discrimination based upon "gender stereotyping" alleging retaliation and hostile work environment.
- Obtained summary judgment on behalf of limited liability companies and their members and managers in multi-million dollar fraud and civil conspiracy case brought by investors in the LLC claiming loss of their investment in a construction project of a high-rise condominium building in Chicago.
- Obtained summary judgment for a law firm sued in a class action for violating the Fair Debt Collection Practices Act by attempting to collect interest on credit card debt that was in excess of the statutory maximum under the Illinois Interest Act.
- Obtained summary judgment on breach of fiduciary duty claims brought against an insurance producer/list bill administrator who handled submission of group disability insurance premium payments for a large brokerage house in Chicago. Decision affirmed on appeal.
- Obtained summary judgment in defense of insurance producer in case alleging failure to procure proper limits of employee dishonesty coverage and seeking hundreds of thousands of dollars as damages.

## **Representative Dismissals:**

- Obtained dismissal of legal malpractice case brought against Illinois attorney seeking \$14 million damages concerning attorney's representation of clients in a medical malpractice suit. Grounds for dismissal included application of the attorney judgment rule which is seldom discussed by the Illinois courts. Decision was affirmed on appeal.

- Obtained dismissal of legal malpractice case brought by the estate of attorney's former client for alleged mishandling of property investments for the deceased seeking in excess of a million dollars in damages. Decision affirmed on appeal.
- Obtained dismissal of legal malpractice case brought against an attorney by a former client (also a lawyer) who the attorney had represented in divorce proceedings. The former client argued that the attorney had severely prejudiced him by withdrawing from representation at a late stage in the proceedings forcing him to settle his divorce proceedings under unfavorable terms, and that during the representation, attorney had failed to protect client from his ex-wife removal of marital property items from their home.
- Obtained dismissal of aiding and abetting claim brought against attorney who represented a purchaser of a restaurant brought by the seller. Case addressed an issue not decided in Illinois as to whether an attorney who is a non-transferee of assets can be liable under an aiding and abetting theory under the Illinois Uniform fraudulent Transfer Act.
- Obtained dismissal of a third-party claim brought against accounting firm in a legal malpractice case filed against attorney for failure to timely file estate tax returns causing hundreds of thousands of dollars in penalties to be assessed by the IRS. Decision was affirmed on appeal.
- Obtained dismissal of defamation lawsuit brought against major retail store chain by a former employee alleging that the store had made defamatory remarks to the former employee's current employer. Applying the innocent construction rule, the court rejected plaintiff's allegations that the store's alleged statements necessarily implied that the plaintiff had stolen funds during his former employment and ruled that the store's alleged statements were not actionable as a matter of law.
- Obtained dismissal of § 1983 claim and claim for malicious prosecution brought against large retail store chain by person with a reversed conviction for shoplifting items from the store.
- Obtained dismissal on behalf of company in ERISA suit brought by a former employee claiming wrongful denial of disability benefits under her insurance based plan and breach of fiduciary duty for failure to provide certain plan documents.
- Obtained dismissal and later summary judgment on remaining cross-claims brought by an excess insurer against large Chicago-based insurance brokerage firm that sought contribution, indemnity and recovery for negligent misrepresentation in the placement of an excess policy for the City of Chicago that exposed the excess insurer to a claim in excess of \$50 million for catastrophic injuries sustained in a trucking accident on Lake Shore Drive.
- Obtained dismissal of counterclaim brought by companies omitted as additional insureds on a commercial general liability policy ("CGL") against named insured's insurance producer for failure to include them on the policy.
- Obtained dismissal of lawsuit brought by an employee leasing company against an insurance producer alleging that it negligently referred it to a company that improperly serviced its health insurance and workers' compensation plans.
- Obtained dismissal on behalf of an insurance company in a class action lawsuit brought on behalf of Spanish-speaking Illinois customer-insureds alleging that the sale of automobile policies containing an exclusion for unlicensed drivers violated the Illinois Consumer Fraud Act and that the carrier engaged in a civil conspiracy with a Chicago-area insurance broker to fraudulently sell such policies.
- Obtained judgment on the pleadings in a class action lawsuit in favor of a law firm that was alleged to have violated the Fair Debt Collection Practices Act by filing a collection lawsuit without sufficient documentation to prove the nature and extent of plaintiff's indebtedness.
- Successfully defended collection agency in class action lawsuit alleging violations of the Fair Debt Collection Practices Act and ERISA. In a case of first impression, obtained a dismissal of ERISA claim on the basis that the statute did not apply to a collection agency. Case settled very favorably on the FDCPA claim on an individual basis.
- Obtained dismissal of consumer class action claims against a mortgage broker alleging violations of the Truth in Lending Act and Illinois Consumer Fraud Act. Specifically, plaintiffs charged that the defendants had failed to include amounts charged for title insurance that were not "bona fide" as a finance charge under TILA and Regulation Z. The case was one of the decisions to address the proper formula for determining whether an overcharge for insurance was within TILA's tolerance for accuracy provision.

- Obtained dismissal of lawsuit brought by members of a workers compensation pool against its former insurance pool administrator alleging fraud and mismanagement of pool funds. Decision affirmed on appeal and resulted in other pool members' abandonment of 5 other similar lawsuits brought by pool members across the State of Illinois seeking millions of dollars in damages.
- Obtained dismissal of lawsuit brought in Illinois against a large insurance carrier seeking millions of dollars in insurance coverage and defense costs for hundreds of products and premises liability lawsuits arising from asbestos exposure and/or groundwater, surface water, soil and air contamination existing at environmental sites located throughout the United States.

### **Representative Other Engagements:**

- Defended two third-party defendants (a law firm and a title insurer) involved in a number of residential loans which are the subject of a massive multidistrict litigation ("MDL") lawsuit pending in the United States District Court for the Northern District of Illinois alleging violations of the Truth in Lending Act and other federal and state consumer lending laws. Clients were joined as a third-party defendant to a large class action lawsuit brought by borrowers and investors against a national lender alleging a number of predatory lending practices in violation of TILA as well as other federal and state consumer protection statutes.
- Served as counsel for a pharmaceutical company in consumer fraud and unfair practices lawsuit filed by Illinois Attorney General over Average Wholesale Pricing of prescription drugs.
- Represented and advised a large national bank on numerous complex issues associated with establishing a presence in Illinois including but not limited to, state and federal banking laws involving fee restrictions on automated teller machines, overdraft charges, interest rates and imposition of check cashing fees on non-customers.

### **Representative Reported Decisions:**

- Brummel v. Grossman, 2018 IL App (1st) 170516.
- Kadlec v. Sumner, 2013 IL App (1st) 122802.
- Reddick v. Suits, 2011 IL App. (2d) 100480.
- Illinois Non-Profit Risk Management Ass'n. v. Human Service Center of Southern Metro-East, 378 Ill.App.3d 713 (4th Dist. 2008).
- Illinois Bell Telephone Co. v. Illinois Commerce Commission, 327 Ill.App.3d 768 (3rd Dist. 2002).
- Plata v. Eureka Locker, Inc., 856 F.3d 496 (7th Cir. 2017).
- Hess v. Kanoski & Assoc., 784 F.3d 1154 (7th Cir. 2015).
- American National Bank v. RTA, 125 F.3d 420 (7th Cir. 1997).
- Life After Hate, Inc. v. Free Radicals Project, Inc., 2019 U.S. Dist. LEXIS 107655 (N.D. Ill.).
- Endurance Am. Specialty Ins. Co. v. Victory Park Capital Advisors, LLC, 2019 U.S. Dist. LEXIS 81778 (N.D. Ill.).
- Jennings v. Trunkett & Trunkett, P.C., 2018 U.S. Dist. LEXIS 174508 (N.D. Ill.).
- Dillon v. Village of Flossmoor, 2018 U.S. Dist. LEXIS 159807 (N.D. Ill.).
- Limbach v. Weil Pump Company, Inc., 2017 U.S. Dist. LEXIS 57526 (E.D. Wis.).
- Simpson v. Meijer, Inc., 2013 U.S. Dist. LEXIS 103312 (N.D. Ill.).
- Morton Grove Pharmaceuticals, Inc. v. National Pediculosis Ass'n., Inc., 485 F.Supp.2d 944 (N.D. Ill. 2007).
- McDaniel v. Qwest Communications Corp., 2006 WL 1476110 (N.D. Ill.).
- Fisher v. Asset Acceptance, LLC, 2005 WL 1799275 (N.D. Ill.).
- Mikula v. Great Lakes Financial Services, Inc., 2005 WL 1656556 (N.D. Ill.).
- Vickey v. Asset Acceptance, LLC, 2004 WL 719278 (N.D. Ill.).

- Quinn v. Ameriquest Mortgage Co., 2004 WL 716408 (N.D. Ill.).
- Alport v. Sprint Corp., 2003 WL 22872134 (N.D. Ill.).

## Representative Publications/Presentations:

- [“Another Chink in the Armor: The Illinois Supreme Court’s Sienna Court Decision Narrows the Applicability of Breach of Implied Warranty of Habitability Claims,”](#) IDC Quarterly, Vol. 29, No. 2, James J. Sipchen, Donald Patrick Eckler, and Alexander J. Beehler.
- “Unusual Names, Powerful Doctrines: Use of Rooker-Feldman and Res Judicata in Defending Federal Lawsuits Brought Against Attorneys Arising From Litigation in State Court.” Professional Liability Defense Quarterly, Fall 2018.
- “I Owe Duties to Whom?” Attorneys’ Liability to Third Parties Under Illinois Law. DuPage County Bar Association, Summer 2016.
- “Burning Down the House: Defending Under An Eroding Limits Policy.” Professional Liability Defense Quarterly, Winter 2013.
- “The Continuing Viability of Illinois’ Legitimate Business Interest Test: A Deeper Look into Reliable Fire Equipment v. Arredondo.” Feature Article, IDC Quarterly, May 2012.
- “Thinking of Filing a Defamation Lawsuit? The Citizens Participation Act May Make You Think Twice.” CBA Record, May 2011.
- “What Every Business Must Know About Non-Compete Agreements After Reliable Fire Equipment Co. v. Arredondo.” Chicagoland Chamber of Commerce, February 2012.
- “Auditors’ Liability.” Illinois CPA Society’s 25th Annual Business & Technology Solutions Show, August 2005, Rosemont, Illinois.
- “Representation of Officers and Directors in Internal Corporate Investigations.” Professional Liability Roundtable, Illinois Academy of Defense Counsel, October 2006, Chicago, Illinois.
- “Taking of Depositions in Commercial Cases.” Pretzel & Stouffer, Chartered, August 2009, Chicago, Illinois.
- “Illinois Attorney-Client Privilege; Joint Defense Agreements and Control Group.” Pretzel & Stouffer, Chartered, June 2010, Chicago, Illinois.

## Memberships:

- Federal Trial Bar
- Professional Liability Underwriters Society
- Professional Liability Defense Federation
- Illinois Association of Defense Counsel

## Related News

- [Jim Sipchen Speaks at PLDF Annual Meeting](#)
- [Jim Sipchen, Pat Eckler and Alex Beehler Pen Article Regarding Breach of Implied Warranty of Habitability Claims](#)
- [Jim Sipchen and Pat Eckler Publish Article on Rooker-Doctrine and Defense of Lawyers](#)
- [Jim Sipchen will be speaking at PLDF Annual Meeting](#)
- [Summary Judgment Awarded to Workers’ Compensation Attorney in Legal Malpractice Case](#)

## Related Results

- [Victory for Trustee In Litigation Over Asset Distribution from Multi-Million Dollar Trust](#)
- [Dismissal Obtained for Owners and Investors in Power Plant Construction Suit](#)

- [Firm Obtains Three Consecutive Victories For Employer In A Series Of Contentious Employment Matters](#)
- [Appellate Victory for Landowners in Eminent Domain Lawsuit](#)
- [Total Victory Obtained on Behalf of Attorney and Law Firm](#)