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Practice Areas

Antitrust

Appellate

Contract/Commercial
Litigation

Distribution, Franchise &
Dealership

Estate, Trust & Fiduciary
Litigation

Indian Nations

Insurance & Reinsurance

Non-Competition & Trade
Secrets

Real Estate & Construction
Litigation

Securities & Corporate
Governance Litigation

Admissions

Illinois

Wisconsin

Education

Juris Doctor, Northwestern
University School of Law,
with honors

Bachelor of Arts, University
of Notre Dame, *summa cum
laude*, Valedictorian

Mike Apfeld, is Of Counsel and a member of the firm's Litigation Practice Group in Milwaukee, devotes the majority of his practice to civil appeals and complex motion practice. He has appeared repeatedly before the Wisconsin Supreme Court, all four districts of the Wisconsin Court of Appeals, the United States Court of Appeals for the Seventh Circuit, and the state and federal trial courts of Wisconsin. He also has appeared in the United States Courts of Appeals for the Tenth and Federal Circuits, the Illinois Appellate Court, the Circuit Court of Cook County, as well as various United States District Courts and administrative agencies.

Mike's experience before these tribunals has covered a wide range of subjects, including commercial law, securities, banking, class actions, insurance coverage, dealership and trade regulation, corporate and partnership control and succession, taxation, environmental law, business torts, estates and trusts, constitutional law, construction disputes, and intellectual property.

Mike also is a long-standing co-chairman of the firm's ethics & conflict committee and in that capacity advises members of the firm, corporate legal departments, and other law firms on questions of legal ethics.

Mike is one of the co-authors of Apfeld, et al., *Contract Law in Wisconsin* (Wis. Bar 2d ed. 2002), and has written and spoken on a number of topics, including appellate practice, legal ethics, contract law issues, hostile takeovers, and products liability. From time to time, Mike has served as an adjunct professor at Marquette University Law School.

Representative Experience

Oneida Seven Generations Corporation, et al. v. City of Green Bay, 362 Wis. 2d 290, 865 N.W.2d 162 (2015) (successful challenge to city's revocation of energy project's conditional use permit on grounds of purported "misrepresentations" in initial application)

Runzheimer International, Ltd. v. David Friedlen, et al., 362 Wis. 2d 100, 862 N.W.2d 879 (2015) (holding that promise of continued, at-will employment supported imposition of covenant not to compete on existing employee)

Data Key Partners v. Permira Advisers LLC, et al., 356 Wis. 2d 665, 849 N.W.2d 693 (2014) (successful defense of class and derivative actions against target company, its directors, and acquirer for alleged breaches of fiduciary duty)

Anthony Gagliano & Co., Inc. v. Openfirst, LLC, et al., 355 Wis. 2d 258, 850 N.W. 2d 845 (2014) (successful application of traditional distinction between assignee and subtenant as defense to successor liability claim)

Representative Experience

Vainisi v. Commission of Internal Revenue, 599 F. 3d 567 (7th Cir. 2010) (successfully challenging Commissioner's application of C-corp rules to Q subs)

Advanced Software Design Corp v. Federal Reserve Bank of St. Louis, 583 F.3d 1371 (Fed. Cir. 2009) (upholding jurisdictional challenge to patent infringement claims based on sale of check fraud detection software to U.S. Treasury)

Michigan v. U.S. Environmental Protection Agency, 581 F.3d 524 (7th Cir. 2009) (upholding designation of tribal land for Class I air protection status)

Shovers v. Shovers, 321 Wis. 2d 476, 774 N.W.2d 476 (2009) (table) and 292 Wis. 2d 531, 718 N.W. 2d 130 (Ct. App. 2006) (defeating challenges to inter vivos transfer of corporate ownership)

Forest County Potawatomi Community v. Town of Lincoln, 314 Wis. 2d 363, 761 N.W.2d 31 (2008) (overturning taxing authority's use of sale of entire corporation to extrapolate value of individual assets)

Heikkinen v. United Services Auto Ass'n, 305 Wis. 2d 68, 739 N.W.2d 489 (2007) and 296 Wis. 2d 438, 724 N.W.2d 243 (Ct. App. 2006) (amicus briefs; probing relative roles of judges and jury in determining scope of vicarious liability)

James Cape & Sons Co. v. PCC Construction Co., 453 F.3d 396 (7th Cir. 2006) (affirming dismissal of antitrust and RICO claims)

Koopman v. Forest County Potawatomi Benefit Plan, 2006 WL 1785769 (E.D. Wis. June 26, 2006) (obtaining dismissal of ERISA claim on basis of tribal exhaustion rule)

Kohn v. Darlington Community Schools, 283 Wis. 2d 1, 698 N.W.2d 794 (2005) (upholding constitutionality of statute of repose for improvements to real estate)

Digicorp, Inc. v. Ameritech Corp., 262 Wis. 2d 32, 662 N.W.2d 652 (2003) (successfully urging adoption of so-called "fraud exception" to the economic loss doctrine)

Beer Capitol Distributing, Inc. v. Guinness Bass Import Co., 290 F.3d 877 (7th Cir. 2002) (affirming dismissal of terminated beer distributor's claims for quasi-contractual relief)

Edison Liquor Corp. v. United Distillers & Vintners, Inc., 2002 WI App. 34 (unpublished) (affirming dismissal of terminated liquor distributor's action under the Wisconsin Fair Dealership Law)

Guzman v. St. Francis Hosp., 234 Wis. 2d 170, 609 N.W.2d 166 (2000), 240 Wis. 2d 559, 623 N.W.2d 776 (Ct. App. 2001) (upholding constitutionality of legislative "cap" on noneconomic damages in medical malpractice action after remand by deadlocked Supreme Court)

Rich Products Corp. v. Kemutec, Inc., 241 F.3d 915 (7th Cir. 2001) (successfully applying the economic loss doctrine to bar various commercial torts arising out of major product recall)

Wisconsin Patients Compensation Fund v. Physicians Insurance Company of Wisconsin, Appeal No. 00-505 (Wis. Ct. App. 2001) (establishing liability of primary insurer to statutory excess carrier for bad faith refusal to settle malpractice claim)

Long v. Ardestani, 241 Wis. 2d 498, 624 N.W.2d 405 (2001) (defining right of divorced parent to travel with children to country of birth)

Murphy, et al. v. MCC, Inc., et al., Appeal No. 98-1322 (Wis. Ct. App. 1999) (obtaining favorable interpretation of appraisal provision in stockholders agreement)

Representative Experience

Brown v. Dibbell, 227 Wis. 2d 28, 595 N.W.2d 358 (1999) (amicus curiae) (establishing availability of contributory negligence as a defense in an “informed consent” medical malpractice claim)

Kamke v. DCI Marketing, Inc., Appeal No. 98-2253 (Wis. Ct. App. 1999) (obtaining favorable interpretation of at-will employment agreement)

Gillen v. City of Neenah, 219 Wis. 2d 806, 580 N.W.2d 628 (1998) (opposing attempt to remove private recycling facility constructed on land impressed with “public trust”)

Steven Staudt, et al. v. Froedtert Memorial Lutheran Hospital, et al., 217 Wis. 2d 773, 580 N.W.2d 361 (Ct. App. 1998) (defeating malpractice claim for health care provider’s “off-label” use of approved medical devices)

David Hull, et al. v. Medical Associates of Menomonee Falls, Ltd., et al., Appeal No. 97-1246 (Wis. Ct. App. 1998) (obtaining retrial of medical malpractice award for failure to properly account for comparative negligence and value of “lost chance”)

Wisconsin Patients Compensation Fund v. St. Mary’s Hospital of Milwaukee, 209 Wis. 2d 17, 561 N.W.2d 797 (Ct. App. 1997) (obtaining restitution of sums paid in settlement on behalf of noncompliant health care provider)

School Dist. of Waukesha v. School Dist. Boundary Appeal Bd., 201 Wis. 2d 109, 548 N.W.2d 122, 109 Ed. Law Rep. 967 (Wis. App., Mar. 27, 1996) (obtaining reinstatement of school district detachment)

Midway Motor Lodge of Elk Grove v. Innkeepers’ Telemanagement & Equipment Corp., 54 F.3d 406 (7th Cir. 1995) (upholding rejection of creditor’s claim for breach of executory telecommunications contract against challenge to process leading to rejection)

Milwaukee Constructors II v. Milwaukee Metropolitan Sewerage Dist., 177 Wis. 2d 523, 502 N.W.2d 881 (Ct. App. 1993) (obtaining reversal of dismissal as sanction for client’s inadvertent disposal of documents)

Major Mat Co. v. Monsanto Co., 969 F.2d 579 (7th Cir. 1992) (defeating claim for breach of alleged requirements contract and distributorship rights)

United States Fire Ins. Co. v. Good Humor Corp., 173 Wis. 2d 804, 496 N.W.2d 730 (Ct. App. 1993) (imposing liability on insurance carrier for failing to defend commercial product contamination claim)

Kerrigan v. American Orthodontics Corp., 960 F.2d 43 (7th Cir. 1992) (defeating claim by alleged beneficial owner of stock for alleged conversion arising from redemption demand of record holder)

Anderson v. Onsager, 155 Wis. 2d 504 (Wis. Sup. Ct. 1990) (obtaining specific performance of a contract for sale of property and exploring standards governing equitable relief and defense of “impossibility”)

Candell v. Central Wisconsin Bankshares, 156 Wis. 2d 823, 458 N.W.3d 390 (Ct. App. 1990) (unpublished) (defeating claim for breach of stock purchase agreement)

Ziegler Company, Inc. v. Rexnord, Inc., 147 Wis. 2d 308, 433 N.W.2d 8 (1988) (“Ziegler II”) (establishing what constitutes “good cause” under the Wisconsin Fair Dealership Law for system wide changes) and 139 Wis. 2d 593, 407 N.W.2d 873 (1987) (“Ziegler I”) (establishing test for “community of interest”)

A&M Records v. A.L.W., Ltd., 855 F.2d 368 (7th Cir. 1988) (upholding recovery for copyright infringement)

Matter of Jane Bradley Uihlein Trust, 142 Wis. 2d 277, 417 N.W.2d 908 (Ct. App. 1987) (applying doctrine of “equitable adjustment” in trust administration)

Representative Experience

Union State Bank v. Galecki, 142 Wis. 2d 118, 417 N.W.2d 60 (Ct. App. 1987) (defeating challenge to branch banking application)

Garrett v. City of New Berlin, 122 Wis. 2d 223, 362 N.W.2d 137 (1985) (establishing bystander's right to recover for negligent infliction of emotional distress)

Court Admissions

United States Court of Appeals, Federal Circuit
United States Court of Appeals, Seventh Circuit
United States Court of Appeals, Tenth Circuit
United States District Court, Eastern District of Wisconsin
United States District Court, Western District of Wisconsin
United States Supreme Court

Honors

Recognized as a *Wisconsin Super Lawyer* (2005 - 2020)

Listed in *Best Lawyers* (Appellate Practice, 2011 - 2016; Real Estate Law 2014 - 2016; Lawyer of the Year, Appellate Practice, 2013)

Recognized by *Benchmark Litigation* as a Local Litigation Star (Antitrust, Appellate, General Commercial, Insurance, Intellectual Property and Securities, 2015 - present)

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