



# Mark A. Schwartz

Mark concentrates his practice on complex commercial litigation, with a particular focus on the insurance and financial services industries. He treats his clients' problems as his own and personally invests himself in every matter.

Using this approach, Mark has obtained favorable results for his clients for nearly 20 years. Much of Mark's work involves high-stakes litigation for clients within the insurance industry.

He has represented insurers in bet-the-company fraud cases, insurance coverage claims involving hundreds of millions of dollars, and reinsurance disputes testing novel allocation and notice issues. Mark also has experience representing clients in post-closing disputes arising from alleged fraud and breaches of representations and warranties in the course of mergers and acquisitions.

He has counseled companies and individuals on the enforceability of restrictive covenants, and has defended clients accused of breaching such covenants. In one notable case, Mark obtained dismissal of a corporate raiding claim and, in the process, convinced a court to strike the restrictive covenant used by his client's largest competitor as overly broad and unenforceable.

Mark maintains an active pro bono practice. He has successfully represented clients from the Lawyers for the Creative Arts and the National Immigrants Justice Center, including a recent victory, following trial, on behalf of a man seeking asylum and relief under the Convention against Torture. In 2017 Mark worked with the Illinois Torture Inquiry and Reconciliation Commission to submit a recommendation that the Illinois Circuit Court grant a new trial to a man incarcerated for a capital offense based on credible evidence that the prisoner's confession was coerced.

## Representative Matters

### Commercial Litigation

- Defending seller accused of fraud and breaches of representations and warranties in connection with \$55 million transaction; obtained dismissal of fraud claims and breach of contract claims.

## Partner

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## EDUCATION

University of Michigan Law School,  
J.D., *cum laude*, 1999

University of California at Los  
Angeles, B.A., *summa cum laude*,  
1995

## SERVICES

### Reinsurance Litigation & Arbitration

#### Litigation

- Product liability
- Commercial litigation
- Class actions, mass torts and MDLs
- Non-competition and trade secrets litigation
- Arbitration and mediation
- Insurance litigation
- Professional liability
- Financial services litigation

### Business Competition, Advice & Litigation

- Non-compete, non-solicitation, non-recruitment and non-disclosure agreements

- Defended credit insurer in lawsuits brought by various lenders in insurance coverage case involving 2,000 individual home equity loans and lines of credit.
- Prosecuted fraud claim brought by credit insurer seeking rescission and return of hundreds of millions of dollars in insurance proceeds paid under fraudulently induced credit insurance policies.
- Obtained summary judgment on behalf of defendants accused of fraud and breach of contract arising out of agreement for provision of third-party liability subrogation services in the health care industry.
- Represented mutual life insurance company general manager in claim brought by competing mutual life insurance company; obtained favorable ruling on partial motion to dismiss, which held that restrictive covenant was overly broad and unenforceable.
- Represented insurance affiliate in a declaratory judgment action concerning insurance coverage arising out of class action seeking more than one billion dollars for alleged violations of the Telephone Consumer Protection Act (TCPA).
- Represented insurance company in fraud action brought against competitor for intentional underreporting of workers compensation premium.
- Defended attorney and law firm in action involving allegations of legal malpractice and fiduciary breach.
- Defended corporation and employee in action brought by former employer alleging unfair trade practices and breach of restrictive covenant.

## **Reinsurance**

- Represented reinsurers in various confidential arbitrations. Issues included late notice, allocation, and bad faith.
- Represented London reinsurer of insolvent domestic carrier in actions in which policyholders sought direct access to reinsurance proceeds.
- Defended reinsurer in series of actions brought by cedents that had purchased reinsurance through brokers later found to have committed massive fraud.
- Represented assuming reinsurer of builders risk policy in confidential arbitration involving claims arising out of large fire of commercial shopping complex.

## **Bar Admissions**

Illinois

U.S. District Court for the Northern District of Illinois

U.S. District Court for the Eastern District of Wisconsin

## **Presentations**

- "Claims: Several Years into the Product, How Are Claims Developing and What Are the Key Issues?," 3rd Annual Reps & Warranties & Transactional Liability Insurance ExecuSummit, May 2018

## **SERVICES (CONTINUED)**

### **Business Growth & Operation**

- Corporate governance

### **Financial Institutions**

- Financial services litigation

### **Mergers & Acquisitions**



- “The Claims Process: Parties Involved and Pain Points,” 2nd Annual Reps & Warranties & Transactional Liability Insurance ExecuSummit, May 2017
- “Negotiation Workshop,” AIRROC, February 2014

#### **Publications**

- “Early neutral evaluation can diffuse reps and warranty disputes,” *Law360*, June 14, 2018
- “7th Circuit may clarify rep and warranty insurer duties,” *Law360*, May 16, 2017
- “Best practices for maintaining fairness and integrity in arbitration in the context of a lapse in arbitrator appointment,” *ARIAS-U.S. Quarterly*, Fourth Quarter 2015
- “In the interest of full disclosure,” *Corporate Counsel*, November 2010

#### **Honors | Awards**

- *Illinois Super Lawyers*<sup>®</sup>
- *Illinois Super Lawyers*<sup>®</sup>, Rising Star, 2011-2012