Business & Commercial Litigation

An executive defects to your biggest competitor. Your business partner steals from the partnership. A major buyer reneges on a contract. These are the times when you need a heavyweight team of litigators in your corner. Cosgrave is that team.

Our skilled litigators first evaluate each case, working closely with our client to determine the most economical and effective path to resolution. Three factors key to our success are collaboration, industry knowledge, and cost control. We're often able to resolve disputes before trial—partly because we also excel at trial and on appeal.

In addition to the courtroom and the mediation table, our lawyers represent businesses in regulatory matters before state agencies. Our clients are local, regional, and national, from diverse industries such as construction, financial services, hospitality, insurance, manufacturing, real estate, and transportation, to name a few.

Expertise and Experience

Contract Disputes

Uniform Commercial Code (UCC) Disputes

- Sale of Goods
- Warranties
- Negotiable Instruments

Construction Disputes

- Bid Disputes
- Performance Disputes
- Lien Foreclosures
- Construction Contractor Board Disputes

Commercial Collections

INDUSTRIES

Beverage

Construction

Estate Planning

Financial Services

Healthcare

Hospitality

Manufacturing

Professional Services

Railroad

Real Estate

Trucking and Motor Carrier

Wood Products

ATTORNEYS

Paul A. C. Berg

Amber A. Beyer

Timothy J. Fransen

Chester D. Hill

Daniel C. Peterson

Shane P. Swilley

Katlynn M. Backus

Jordan F. Clark

Katie R. Conzonire

- Actions on Accounts
- Obtaining/ Enforcing Judgments

Nathan M. Ford

James A. Markin IV

Matthew R. McMillen

Creditors' Rights/ Bankruptcy

- Banks
- Hard Money Lenders
- Collection Disputes
- Bankruptcy
  - Relief from Stay
  - Objection to Plan
  - Preference Disputes
  - Advice and Counsel

Debtor Representation

- Loan Workouts
- Lease Workouts

Loan Disputes

- Loan Workouts
- Lease Workouts

Shareholder/ LLC Member / Partnership Disputes

- Breach of Fiduciary Duty Claims
- Business Divorces
- Declaratory Actions Regarding Ownership Interests
- Shareholder Rights

Corporate Governance

Director / Officer Liability

Business Torts

Unfair Competition

Trademark Infringement

Theft of Trade Secrets

Employment

Non-Competition

Wrongful Discharge

Theft of Trade Secrets

Securities Litigation

Prosecution and Defense

Suitability Actions

Misrepresentation / Fraud

Real Estate / Property Disputes

Prosecution and Defense

Easements

Water Rights

Real Estate Sale Disputes

Condemnation / Eminent Domain

Title Company Disputes

Trespass / Nuisance

Timber Trespass / Theft of Shrubbery

Commercial Tenancy

Lease Disputes

Tenant Improvements

Evictions

Emergency Remedies

Temporary Restraining Orders

Preliminary Injunctions

Evictions

Representative Experience

Sarah Nordbye v. BRCP/GM Ellington, et al.

A Partner was retained by BRCP/GM Ellington, a joint venture of Broadreach Capital Partners, LLC and Guardian Management, LLC, to defend an action filed by Sarah Nordbye, representing a putative class of plaintiffs. The case involved complex statutory and administrative law issues, with little decisional law from the courts to assist in the analysis.

The action arose out of the joint venture's $18 million purchase in 2006 of a large multi-unit apartment complex in Portland, Oregon. The plaintiff contended that BRCP/GM Ellington was bound by a 1991 covenant between the prior owner and the Oregon Housing and Community Services Department, which provided that all of the rentable units were subject to rent limitations under Internal Revenue Code section 42. BCRP/GM Ellington argued that the covenant had been rescinded in 2005.

David Morrison handled all discovery. We filed a motion for summary judgment and the plaintiff filed a cross-motion for summary judgment. One of the co-chairs of Cosgrave's appellate practice group, Thom Brown, argued the motions. On January 29, 2009, the court denied the plaintiff's cross-motion and, in a detailed eight-page opinion, granted summary judgment in favor of BRCP/GM Ellington, clearing title of all burdensome regulatory requirements that had threatened transferability.

Daimler Trucks of North America, LLC v. Ramin Younessi

A Partner was asked by Daimler Trucks of North America, LLC (fka Freightliner LLC) to file suit in federal court against

a former executive responsible for test engineering. The defendant, Ramin Younessi, had resigned to work in Illinois for a major competitor, Navistar International. The claims raised were for breach of the duty of loyalty, conversion, and breach of contract. Younessi answered the complaint with six countersuits including alleged violations of ERISA, the Oregon wage and hour laws, and Section 1981, which bars discrimination on the basis of race.

The substantive issues addressed in pleading and discovery motions included the role of ethnicity and national origin under Section 1981, and the rights of foreign parent corporations, namely Daimler AG, under an international treaty of friendship and commerce. Our trial and appellate team, which included Paul Berg, also had to address electronic discovery issues raised in other jurisdictions, as well as Daimler Trucks' claim that Younessi intentionally destroyed key electronic evidence. Following nearly a year of litigation, we resolved the suit before trial, to our client's satisfaction.

Partnership Dissolution

Led by Frank Lagesen and Jason Pistacchio, Cosgrave successfully prosecuted a partnership dissolution claim related to the partnership's sole asset, a large commercial property complex in Portland, Oregon. The partners went into business together to acquire, construct, and manage the property. After they worked together to construct and lease it, the defendant secretly transferred title to himself and his wife, then later sold the property for a substantial profit, without the knowledge or consent of his partner.

Upon learning of the sale, Cosgrave filed suit and conducted discovery. As we presented our client's case during a multi-day arbitration, the defendant asked to delay further proceedings and resume settlement discussions. A settlement of nearly $900,000 was reached, all of which has now been paid to our client.

Synectic Ventures I, LLC et. al. v. Craig Berkman, et. al.

Frank Lagesen led the Cosgrave team that represented a large Northwest accounting firm in this securities lawsuit. The action was brought by more than 40 investors against Craig Berkman, the former manager/founder of three venture capital funds. Arthur Andersen, a now defunct international CPA firm, was also among the defendants.

The suit contended that Berkman defrauded investors of more than $40 million and that other defendants, including Cosgrave's client, participated or failed to report to investors Berkman's alleged pilfering of funds. The claims against our client were denied in all respects and were resolved by mutual agreement before trial.

The case then proceeded to trial against the remaining defendants. After a six-week trial, a jury returned a verdict collectively in excess of $20 million against Berkman, his entities, and Andersen.

Resources and Articles

When a Corporation Is At Home

Affiliations

- ALFA International Business Litigation Practice Group

- American Academy of Appellate Lawyers
- American Bar Association Litigation Section
- American Board of Trial Advocates
- American College of Trial Lawyers
- Defense Research Institute
- Federal Bar Association
- Federation of Defense & Corporate Counsel
- Gus J. Solomon American Inn of Court
- Litigation Counsel of America
- Oregon Association of Defense Counsel
- Oregon State Bar Appellate Section
- Owen M. Panner American Inn of Court
- U.S. District Court of Oregon Historical Society