



Matthew R. Henderson

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Matthew Henderson concentrates his practice in the representation of attorneys in all aspects of professional liability and ethics including the defense of legal malpractice and breach of fiduciary duty actions, providing risk management and legal ethics advice, defending lawyer disciplinary proceedings, and litigating attorney fee disputes and sanctions motions.

Mr. Henderson's practice also includes representing employers in litigated matters, including the defense of discrimination and wage withholding claims. He regularly represents real estate professionals, accountants, and technology companies in negligence cases. He likewise has extensive experience in consumer class action cases, including actions brought under the Fair Debt Collection Practices Act.

Professional Background

Mr. Henderson regularly speaks and writes on attorney malpractice, legal ethics, attorney discipline, and risk management. He serves on the Chicago Bar Association Committee on Attorney Malpractice and also on the Professional Responsibility Committee. Mr. Henderson is also a member of the Illinois State Bar Association.

Mr. Henderson was an author of the American Bar Association's Amicus Curiae Brief filed in the United States Supreme Court case, *Williams-Yulee v. the Florida Bar*, 135 S.Ct. 1656 (2015). The brief, which argued the ABA Model Rule prohibiting judicial candidates from personally soliciting campaign contributions does not violate the First Amendment, was cited twice in the decision.

He appeared on the "Law & Murder" episode of *People Magazine Investigates* which was nationally televised on the Investigation Discovery ("ID") Channel, Season 4, Episode 7, December 16, 2019. This episode depicted investigation surrounding the murder of Judge Joan Lefkow's husband and mother in 2005, and featured Mr. Henderson's account of litigating against the murderer in federal court prior to the crime.

Mr. Henderson appeared on NBC Channel 5 news and was quoted in the *Chicago Tribune* and *Chicago Sun Times* regarding his representation of Trinity Services, Inc. in a lawsuit filed by the parents of a patient seeking the entry of an injunction requiring Trinity to administer electric shocks to prevent the patient from injuring himself and others.

Practices

Commercial Litigation
Consumer and Class Action
Defense
Lawyers for the Profession®
Litigators for the Profession®
Professional Liability

Education

J.D., *cum laude*, University of
Minnesota Law School, 1992
B.A., *cum laude*, University of
Notre Dame, 1989

Admissions

Illinois
U.S. Supreme Court
U.S. Court of Appeals for the
Seventh Circuit
U.S. District Court for the
Central and Northern Districts
of Illinois



He joined Hinshaw & Culbertson LLP in March 1998.

Professional Affiliations

- Chicago Bar Association
 - Committee on Attorney Malpractice, Member
 - Professional Responsibility Committee, Member
- Illinois State Bar Association
- Association of Professional Responsibility Lawyers

Honors & Awards

- Recognized by his peers as a Leading Lawyer in the areas of Commercial Litigation and Professional Malpractice Defense Law
- Holds the AV® Peer Review Rating from Martindale-Hubbell, its highest rating for ethics and legal ability

Representative Matters

- *United Cutwater LLC v. Auto Enterprise TIG Inc.*, 3:22-cv-00056-RLY-CSW (S.D. Ind.): District Court granted motion to dismiss in action for securities fraud and other claims against a California attorney who represented a corporation in a transaction for a plaintiff to invest \$8 million in the corporation's venture to build electric vehicle charging stations in the United States. The court concluded that the lawyer's opinion letter submitted in connection with the transaction and related statements were not misrepresentations and that the plaintiff could not establish scienter or reliance.
- Represented a national association of Indian physicians in a shareholder derivative action where plaintiffs alleged that the association and its president did not follow the proper steps in amending its bylaws and committed other wrongdoings. Obtained an order in the 18th Judicial Circuit of DuPage County, staying the action pending arbitration and dissolving plaintiffs' temporary restraining order. In subsequent JAMS arbitration proceedings, the arbitrator denied the plaintiffs' re-noticed temporary restraining order (TRO) on the basis that they had not established any of the four required elements.
- *Saric v. Dart*, 2024 U.S. Dist. LEXIS 27347 (N.D. Ill.): Obtained dismissal of claims against an attorney for aiding and abetting a wrongful eviction arising from a mortgage foreclosure action on the basis that the lawyer's communications with court in the underlying case were immune from liability under Illinois's attorney litigation privilege.
- Represented a law firm in American Arbitration Association (AAA) attorney fee arbitration arising from a business owner's federal court action for breach of fiduciary duty and other claims against his business partner where the law firm claimed that the client failed to pay \$170,000 in attorney's fees. The client counterclaimed for legal malpractice seeking \$290,000 in damages. Obtained summary judgment on legal malpractice counterclaim on the basis that the client could not establish proximate causation or damages.
- Obtained dismissal of an action filed against a Chicago bankruptcy law firm where plaintiffs claimed the lawyers' negligence caused them to be found guilty of fraud and concealment of assets which led to the denial of a discharge of \$1.7 million in debts. The Circuit Court of Cook County judge ruled that plaintiffs' claims were barred by collateral estoppel and unclean hands based on the Bankruptcy Court's finding of wrongdoing by the plaintiffs.
- Represented 20 attorney firm in legal malpractice action with damage exposure in excess of \$8 million premised upon an underlying divorce and obtained two key favorable rulings: (1) won partial summary judgment on plaintiff's claim that she was entitled to a share of the attorney's fees at her husband's personal injury law firm; and (2) won partial summary judgment on plaintiff's claim for punitive damages on a breach of fiduciary duty claim arising from business dealings with an existing client.
- *Grauer v. Clare Oaks*, 2019 IL App (1st) 180835. Represented skilled care facility in opposing attorney's fees and costs following an adverse judgment in action brought under the Nursing Home Care Act. The First District reversed attorney's fees awarded to plaintiffs under the Wrongful Death Act but affirmed the remainder of the fees and costs.



- *PSI Resources, LLC v. Lyster*, 2019 IL App (1st) 180025-U. First District affirmed summary judgment in legal malpractice action for lawyer's alleged failure to timely file a claim against a financial institution to recover \$500,000 that was misdeposited by corporate controller. The appellate court found that plaintiff could not satisfy the actual damage requirement because the funds were ultimately accounted for albeit in different corporate accounts.
- *Casablanca Lofts, LLC v. Canmann & Chaiken*, 2018 IL App (1st) 172048-U. First District affirmed summary judgment in favor of attorney who drafted condominium declaration for South Loop development project. The appellate court found that the majority of claims brought by real estate developer were barred by the six-year statute of repose measured from the date that the declaration was signed and recorded even though the lawyer continued to represent the developer in the sale of individual units for several years thereafter.
- Obtained dismissal of two companion cases in the Northern District of Illinois alleging violations of plaintiffs' civil rights, due process, equal protection, and intentional infliction of emotional distress against attorneys and law firm who represented school district in an investigation of academic dishonesty arising from alleged cheating on geography bee competition.
- *Johnson v. Stojan Law Office, P.C.*, 2018 IL App (3d) 170003. Third District affirmed entry of summary judgment in favor of attorney in legal malpractice action brought by the son of his deceased client. The court ruled that the lawyer owed the plaintiff no duty as an incidental beneficiary or co-trustee and found that the trial court properly denied plaintiff's request to amend to add a claim for financial exploitation of an elderly person on the basis that it was outside the two-year statute of limitations for actions against attorneys.
- Successfully represented high-profile personal injury law firm in legal malpractice action in Circuit Court of Cook County brought by adult children of deceased client seeking to recover \$7 million in annuities as part of the structured settlement of an underlying medical malpractice case. Obtained dismissal of action on the initial motion on the basis that it was not filed within the statute of limitations for alleged estate planning malpractice.
- *St. Alexius Med. Ctr. v. Roofers' Unions Welfare Trust Fund*, 2017 U.S. Dist. LEXIS 132823 (N.D. Ill.). Successfully represented health care provider in opposing attorney fee petition under fee-shifting provision of ERISA. Defendant trust fund was awarded \$0 in attorney's fees even though summary judgment was previously entered in its favor.
- *King Koil Licensing Co. v. Harris*, 2017 IL App (1st) 161019, 2017 Ill. App. LEXIS 458 (Ill. App. Ct. 1st Dist. July 11, 2017). First District upheld a "not guilty" jury verdict against a lawyer and law firm following two week jury trial where plaintiff asked for \$6.5 million in damages. The appellate court found that there was sufficient evidence to support the jury's finding that the attorney was not negligent in his drafting of a mattress licensing agreement and that lawyer's offer to perform free legal services to rectify the claimed mistake constituted a Rule 408 settlement communication.
- The First District Appellate Court affirmed dismissal of a shareholder derivative claim for legal malpractice against the attorney for a condominium association based upon expiration of the statute of limitations. The court ruled that the action accrued when the association levied a special assessment and plaintiff wrote a letter to the board suggesting that the lawyer had committed malpractice.
- Obtained summary judgment in real estate developer's claim for legal malpractice against attorney who drafted condominium declaration in the Circuit Court of Cook County. The trial judge ruled that the claim was barred by the six-year statute of repose measured from the date that the declaration was signed and recorded notwithstanding the fact that the lawyer continued to represent the developer in the sale of individual units for several years.
- Circuit Court of Rock Island County entered summary judgment in favor of estate planning attorney who allegedly failed to prevent a trust beneficiary's sister from converting trust assets on the basis that he did not owe a duty of care to the beneficiary.
- *Bianchi v. McQueen*, 2016 IL App (2d) 150646. Second District Appellate Court affirmed in part and reversed in part dismissal of McHenry County State's Attorney's claims against special prosecutor finding that claims were stated for malicious prosecution and intentional infliction of emotional distress.
- The Seventh Circuit Court of Appeals affirmed dismissal of legal malpractice action against class action counsel on the basis that plaintiff's employment classification claims remained viable at the time that client discharged his attorneys and because the fraud claim was not pled with sufficient particularity and was contradicted by exhibits attached to the complaint.
- In a nonprecedential disposition, the Seventh Circuit Court of Appeals affirmed dismissal of legal malpractice and civil RICO claims against a lawyer for supposedly conspiring with the City of Chicago, other law firms and attorneys, and a



Cook County judge on the basis that the allegations were legally frivolous and for lack of diversity jurisdiction.

- *Martinez v. City of Chicago*, 823 F.3d 1050 (7th Cir. 2016). Seventh Circuit reversed its own precedent and ruled that an attorney had standing to appeal a District's Court order sanctioning her even though the sanction award had been paid by her employer.
- *Bianchi v. McQueen*, 818 F.3d 309 (7th Cir. 2016). U.S. Court of Appeals affirmed dismissal of McHenry County State's Attorney's §1983 claims against a special prosecutor on basis of absolute immunity and because alleged misconduct did not violate due process.
- Obtained "not guilty" jury verdict in legal malpractice action at the conclusion of two-week trial in the Circuit Court of Cook County. A mattress licensor alleged that lawyer and 25 attorney law firm were negligent in drafting 10 year license agreement which excluded royalties and marketing payments on licensee's private label sales and sought \$6.5 million in damages.
- Circuit Court of Cook County dismissed claims of corporations owned and controlled by the husband in a divorce action against the wife's attorney for allegedly violating the Illinois Trade Secrets Act by disclosing confidential and proprietary information in the dissolution of marriage action pending in a different county.
- *Nelson v. Cascino Vaughan Law Offices, Ltd.*, 2015 IL App (1st) 141710. First District affirmed dismissal of legal malpractice action against attorneys for failing to conduct sufficient discovery in underlying asbestos wrongful death action on the basis that the claim was not filed within the applicable statute of limitations and statute of repose.
- *In re Charles Taylor*, 793 F.3d 814 (7th Cir. 2015). Seventh Circuit affirmed reversal of \$165,000 sanction award entered by U.S. Bankruptcy Court against two Washington state attorneys for allegedly violating the automatic stay and discharge injunction by seeking clarification of their client's standing from a probate court in Washington.
- *In re Charles Taylor*, 526 B.R. 719 (N.D.Ill. 2014). District Court reversed \$165,000 sanction award entered by U.S. Bankruptcy Court against two Washington state attorneys for allegedly violating the automatic stay and discharge injunction by seeking clarification of their client's standing from a probate court in Washington.
- *Harris v. Vitale*, 2014 IL App (1st) 123514. First District affirmed dismissal of legal malpractice action arising from attorney's notarization of a signature on an annuity form that his client allegedly used to convert money from his disabled mother.
- Obtained summary judgment in legal malpractice action in the Circuit Court of DuPage County in legal malpractice action. Conservative youth foundation sued attorney to recover \$2 million failed charitable bequest but failed to come forward with evidence that the settler lacked capacity to eliminate gift to organization prior to her death.
- *Bianchi v. McQueen*, 917 F.Supp.2d 822 (N.D.Ill. 2013). Obtained dismissal of § 1983 action by McHenry County State's Attorney against special prosecutor alleging false arrest and violations of due process in the course of prosecution for alleged political corruption.
- *Hernandez v. Pritikin*, 2012 IL 113054, 981 N.E.2d 981 (Ill. 2012). Illinois Supreme reversed summary judgment in favor of Worker's Compensation attorneys in re-filed legal malpractice action on the basis of *res judicata* and the prohibition against claim-splitting because trial court's previous rulings on motions to dismiss were not adjudications on the merits.
- *Hernandez v. Bernstein*, 2011 IL App (1st) 102646, 956 N.E.2d 558. First District affirmed summary judgment in favor of Worker's Compensation attorneys in re-filed legal malpractice action on the basis of *res judicata* and the prohibition against claim-splitting.
- *Bernstein v. Department of Human Services*, 392 Ill.App.3d 875, 910 N.E.2d 733 (1st Dist. 2009)
- *Griffith v. Wilmette Harbor Ass'n, Inc.*, 378 Ill.App.3d 173, 881 N.E.2d 512 (1st Dist. 2007)
- *Graco v. Trauner, Cohen & Thomas L.L.P.*, 412 F.3d 360 (2nd Cir. 2005)
- *Blair v. Supportkids, Inc.*, 222 F.Supp.2d 1038 (N.D.Ill. 2002)
- *Pettit v. Retrieval Masters Creditors Bureau, Inc.*, 211 F.3d 1057 (7th Cir. 2000)
- *Sanders v. Jackson*, 209 F.3d 998 (7th Cir. 2000)
- *Patterson v. North Shore Agency, Inc.*, 126 F.Supp.2d 1138 (N.D.Ill. 2000)
- *DiRosa v. North Shore Agency, Inc.*, 56 F.Supp.2d 1039 (N.D.Ill. 1999)
- *Wells v. McDonough*, 188 F.R.D. 277 (N.D.Ill. 1999)



- *Pettit v. Retrieval Masters Creditors Bureau, Inc.*, 42 F.Supp.2d 797 (N.D.Ill. 1999)
- *Pikes v. Riddle*, 38 F.Supp.2d 639 (N.D.Ill. 1999)
- *Long v. Gray*, 306 Ill.App.3d 445, 714 N.E.2d 1041 (1st Dist. 1999)

Presentations

Mr. Henderson's speeches and presentations include:

- Moderator, "The Recent Explosion in Disqualification Motions," Hinshaw's 23rd Annual Legal Malpractice & Risk Management Conference (LMRM), Chicago, Illinois, March 6, 2024
- Co-Presenter, "Legal Malpractice - Top Ten Traps," Chicago, Illinois, February 27, 2024
- Co-Presenter, "Lessons from Ethics Counsel," Family Business General Counsel Seminar, Chicago, Illinois, June 22, 2023
- Panelist, "Lawyer's Professional Liability Claim Trends Conversation," CLE, Berkley Select LLC, Chicago, Illinois, March 23, 2023
- Moderator, "The Ethical and Practical Implications of Arbitrating Legal Malpractice Claims," Hinshaw's 22nd Annual Legal Malpractice & Risk Management Conference (LMRM), Chicago, Illinois, March 8, 2023
- Co-Presenter, "What Not To Do: Ethics Lessons Learned From Fictional Lawyers," Nebraska State Bar Association CLE, Webinar, June 21, 2022
- Moderator, "A New Paradigm: Transactional Malpractice – High Exposure Claims Brought by Large Corporations," Hinshaw's 21st Annual Legal Malpractice & Risk Management Conference (LMRM), Chicago, Illinois, March 2, 2022
- Panelist, "Recession Liabilities" Solicitors' Liability and Risk Webinar hosted by Reynolds Porter Chamberlain LLP, Virtual Event, March 18, 2021
- Panelist, "Predicting, Preventing, and Defending Legal Malpractice Claims Arising Out of an Economic Downturn," LMRM Conference, Virtual Event, March 2, 2021
- Co-Presenter, "Restructuring Your Law Practice for the New Normal," CLE Webinar, June 2020
- "Optimal Pretrial and Trial Strategies to Resolve Causation," LMRM Conference, Chicago, Illinois, March 4, 2020
- "Informal Opinions: Quick Questions, Enduring Troubles," LMRM Conference, Chicago, Illinois, March 2019
- "Attacking Conflicts: A Practical Guide to the Defense of Conflict of Interest Cases," LMRM Conference, Chicago, Illinois, March 2018
- "Indemnity & Contribution: The Law Giveth and the Law Taketh Away," LMRM Conference, Chicago, Illinois, March 2017
- "Legal Malpractice 'Top Ten' Traps," University of Chicago Law School, Chicago, Illinois, January 2016
- "The Exposure of Class Action Counsel," LMRM Conference, Chicago, Illinois, February 2015
- "Arbitration – The Why, When and How" before the Hartford and Liberty International Underwriters, New York City, July 2014
- "Transactional Malpractice – Establishing Causation," LMRM Conference, Chicago, Illinois, March 2014
- "Estate Planning – Standing to Sue," Hartford Insurance, New York, New York, June 2013
- "Corporate Counsel—Where are the Duties Owed and to Whom?" Liberty Insurance, New York, New York, June 2013
- "Recent Cases and Strategies Involving Expert Witnesses in Legal Malpractice Cases," CNA, Chicago, Illinois, October 2012
- "Lesser Known Affirmative Defenses," LMRM Conference, Chicago, Illinois, February 2012
- "Conflicts of Interest, Waivers, and Civil Liability Implications," State Bar of Wisconsin, December 2007
- "Statute of Limitations—Disparate Rules on Tolling," LMRM Conference, March 2006
- "Lawyers' Statutory Liability in Collection Matters and Exposures Under ERISA," LMRM Conference, February 2005
- "The Jurisdiction Jungle and New Development in Insurance Coverage Law," LMRM Conference, March 2004



- "Legal Ethics: Identifying and Preventing Conflicts of Interest" Illinois Association of Defense Trial Counsel, November 2002, 2003, 2004

Publications

- "What Law Firms Should Know Amid Rise In DQ Motions," *Law360*, April 23, 2024
- Chapter Author, "Breach of Fiduciary Duty," *Attorneys' Legal Liability*, IICLE, 2022 Edition
- Chapter Author, "Breach of Fiduciary Duty," *Attorneys' Legal Liability*, IICLE, 2018 Edition
- Chapter Author, "Breach of Fiduciary Duty," *Attorneys' Legal Liability*, IICLE, 2014 Edition
- Chapter Author, "Breach of Fiduciary Duty," *Attorneys' Legal Liability*, IICLE, August 2012
- Chapter Author, "Breach of Fiduciary Duty," *Attorneys' Legal Liability*, IICLE, November 2007, Supplement 2010
- Chapter Author, "Breach of Fiduciary Duty," *Attorneys' Legal Liability*, IICLE, November 2002, Supplement 2005
- "Recovering Costs in Illinois Civil Actions," (lead article) *Illinois Bar Journal*, September 2000
- "Resolving Contract Ambiguity: Parole Evidence Versus the Rules of Contract Construction," *Illinois Bar Journal*, April 1999
- "Making the Most of Rule 216 Requests to Admit," *Illinois Bar Journal*, August 1995
- "Arbitration and the New 'Public Policy' Doctrine," *Minnesota Trial Lawyer*, Fall 1993

Media Mentions

- "Conference Report: Major Malpractice Claims Rise as Firms Are Overworked," *Bloomberg Law: Legal Ethics*, March 7, 2022 (*subscription required*)
- "After \$4.1M award, nursing home owes fees separately," *Chicago Daily Law Bulletin*, July 16, 2019
- "Off-the-Cuff Legal Advice Can Put Attorneys in Hot Water," *Bloomberg Law: Big Law Business*, March 7, 2019
- "Estate lawyer had no duty to client's son," *Chicago Daily Law Bulletin*, January 23, 2018 (*subscription required*)
- "Legal-malpractice appeal loses: plaintiff fails to review contract," *Chicago Daily Law Bulletin*, July 14, 2017 (*subscription required*)
- "No New Trial In Malpractice Suit Over Contract Mistake," *Law360*, July 12, 2017 (*subscription required*)
- Media Coverage of the 16th Annual Legal Malpractice and Risk Management Conference, March 28, 2017
- U.S. Supreme Court Upholds Ethical Rule on Judicial Elections: Hinshaw Lawyers Write Amicus Brief for the ABA in Support of the Rule, May 6, 2015
- Twelve Hinshaw Lawyers Contribute to IICLE's *Attorneys' Legal Liability, 2014 Edition*, October 13, 2014
- Matthew Henderson Author's IICLE Chapter on "Breach of Fiduciary Duty," August 8, 2012
- Featured in the national and local news coverage of the murder of the family of The Honorable Joan H. Lefkow, including, "World News Tonight" with Peter Jennings; ABC 7 News, Chicago; CBS 2 News, Chicago; the New York Times and the Chicago Sun Times, March 9-10, 2005