

News & Types: News

# Litigation Snapshot 2017

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Practices: Litigation

## HIGHLIGHTING A FEW OF OUR LITIGATION PRACTICE GROUP SUCCESSES

### **BANKRUPTCY:**

#### **EQUIPMENT SUPPLIER'S VICTORY AGAINST BANKRUPT DEBTOR, DECEMBER 2017.**

Rein F. Krammer obtained a \$1.827 million judgment against a California-based entity on behalf of an equipment supplier. In an attempt to avoid the enforceability of the judgment and repossession by the client of its secured collateral in substantially all of the Debtor's assets, the Debtor filed for bankruptcy protection in a federal bankruptcy court in California one day after the judgment was entered and as part of the proceeding claimed that the client's blanket security interest in the Debtor's assets was void. In a significant victory for the client, as a result of the filing of a Motion to Lift the Bankruptcy Stay and threatened objections to the Debtor's Plan Confirmation based upon feasibility, the absolute priority rule and other arguments, the Debtor in its Plan of Reorganization abandoned, among other arguments, its claim that the client's blanket security interests were invalid, and agreed to return one of the machine's to the client and to repay the client over time in excess of \$700,000 plus interest. The Debtor had also previously paid as part of the bankruptcy proceeding to the client in excess of \$150,000 in adequate protection payments as a result of the clients' Motion to Lift the Stay.

### **ARBITRATION/COMPLEX COMMERCIAL LITIGATION:**

#### **ARBITRATION CLAIMS AND RELATED LITIGATION DISMISSED IN THEIR ENTIRETY, DECEMBER 2017.**

Rein F. Krammer and David Stein achieved complete dismissal of claims filed in arbitration against a U.S. subsidiary of a Korean Tier 1 auto supplier by its Tier 2 contractor. The Tier 2 contractor brought claims alleging that Masuda Funai's client and its former CEO breached its supply contract and various warranties and representations, seeking damages in excess of \$10 million. The arbitration spawned two related federal court cases interpreting the scope of the arbitration clause in the supply agreement. After nearly two years of discovery and procedural wrangling, the Tier 2 contractor abandoned all of its claims against the client, a complete victory for the Tier 1 supplier.

### **PATENT INFRINGEMENT:**

#### **FAVORABLE RESOLUTION OF PATENT INFRINGEMENT LAWSUIT IN FEDERAL DISTRICT COURT, DECEMBER, 2017.**

Michael S. Golenson and Rein F. Krammer defended a German-based global manufacturer of precision measuring equipment in a patent infringement lawsuit filed by a direct competitor in the Northern District of Illinois. During the initial stages of discovery, and shortly after Masuda Funai submitted initial non-infringement and invalidity contentions, the firm was able to assist the client in reaching a favorable resolution of the

litigation that resulted in the client receiving a license to the asserted patents and a dismissal of the case with prejudice.

**COMPLEX COMMERCIAL LITIGATION:**

**FAVORABLE RESOLUTION OF SUBSTANTIAL COMMERCIAL CLAIMS IN FEDERAL DISTRICT COURT, NOVEMBER, 2017.**

Steven L. Katz, Gary Vist, Yulia Chembulatova and Jiwon Yhee represented a U.S. subsidiary of a Japanese global manufacturer of machine tools in a commercial dispute involving breach of warranty and other product quality claims filed in the Northern District of Illinois with respect to a former customer involved in Tier 1 automotive parts supply. The plaintiff initially sought in excess of \$50 million in damages. After extensive discovery including depositions across the country, Masuda Funai's client reached a favorable resolution that resulted in the dismissal of the case for a small fraction of plaintiff's demands.

**TRADE SECRETS/EMERGENCY RELIEF:**

**PRELIMINARY INJUNCTION ENTERED UNDER FEDERAL DEFEND TRADE SECRETS ACT TO PROTECT CLIENT'S CONFIDENTIAL MACHINERY SPECIFICATIONS, AUGUST 2017.**

Edward J. Underhill, David J. Stein and Yulia Chembulatova obtained a preliminary injunction against a former employee and after-market service provider for a U.S. subsidiary of a Japanese machine tool client after the filing of a Complaint to protect the client's confidential and proprietary machine specifications and other information from disclosure to the after-market service provider for use in servicing the client's customers. After entry of the injunction by the Court, the case quickly settled on very favorable terms for the client. Mazak Optonics Corp. v. Marlette, 2017 U.S. Dist. LEXIS 124629 (N.D. Ill. Aug. 8, 2017).

**PRO BONO/EMPLOYMENT LITIGATION/TRIAL WORK:**

**THE U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS AWARDS EXCELLENCE IN PRO BONO SERVICE, MAY, 2017.**

Judge Elaine E. Bucklo awarded Frank J. Del Barto and David J. Stein the Northern District of Illinois' Award for Excellence in Pro Bono Service to recognize their work on behalf of Loretta Morse in Morse v. Illinois Department of Corrections, Case No. 12 C 10263. In presenting the award, Judge Bucklo remarked that Frank and David provided outstanding representation to their client who filed an age discrimination case against her former employer, the Illinois Department of Corrections. After years of discovery, successfully opposing summary judgment, and conducting a three day trial, the case was finally settled on very favorable terms for Ms. Morse.

**EMPLOYMENT LITIGATION:**

**PLAINTIFF'S AGE DISCRIMINATION CLAIMS DISMISSED IN COMPLETE VICTORY FOR FINANCING COMPANY, APRIL, 2017.**

Nancy E. Sasamoto and David J. Stein successfully defended a U.S. subsidiary of a Japanese company, a sister company and their Japanese parent from age discrimination claims alleged by a terminated manager with an initial demand of over \$1M, obtaining a complete dismissal of all claims. Kotegawa v. MAC Funding, et. al., No. 16-cv-4150 (N.D. Ill. Apr. 19, 2017).

**TRIAL WORK:****CORPORATE SHAREHOLDER MAINTAINED EQUITY STAKE IN BUSINESS FOLLOWING VICTORY IN BENCH TRIAL, FEBRUARY, 2017.**

Gary Vist and David Stein achieved a verdict in favor their client, a Russian corporation, which owned a 50% equity stake in an American manufacturing entity. The other shareholder argued for dilution of the client's equity interest due to an alleged failure to timely fund progress payments of cash into the company, with the Court ruling that the corporate shareholder made all required payments and maintained its 50% equity interest. Bishop Technologies Ltd. v. DBCMF, LLC, et al., No. 14-cv-10329 (N.D. Ill. Feb. 28, 2017).