

Trial List

Los Angeles Office
(213) 615-1728
nmarder@winston.com

Significant Trials of Neal R. Marder

Current Representations

Name of Case: *In Re: Bisphenol-A (BPA) Polycarbonate Plastic Products Liability Litigation*

Type of Case: Nationwide class action products liability suit

Jurisdiction: Western District of Missouri

Currently defending Abbott Laboratories in a nationwide class action pending before the Western District of Missouri as part of a multidistrict litigation coordinated proceeding. The action involves allegations that Abbott failed to disclose that the packaging for certain of its liquid infant formula products allegedly contained trace amounts of the chemical Bisphenol-A. Plaintiffs allege violations of state misrepresentation, warranty and consumer protection laws and seek damages, restitution and injunctive relief.

Name of Case: *Billings v. British Petroleum*

Type of Case: Toxic Tort Class Action

Jurisdiction: Los Angeles Superior Court

Defense of British Petroleum in a multi-plaintiff mass tort and class action suit brought by more than 400 individual plaintiffs in Los Angeles Superior Court. The suit involves allegations that a BP refinery released toxic chemicals into the soil, air, and water, causing property and personal injuries to the surrounding area and the people who live there. Succeeded in getting the class claims stricken from the complaint and limiting the remaining individual plaintiffs' theories for relief to their specifically alleged medical injuries. The remaining claims are currently pending.

Name of Case: *Roseville Capital Resources, LLC, et al. v. CapitalSource Finance, LLC, et al.*

Type of Case: Securities class action

Jurisdiction: Los Angeles Superior Court

Defending Morgan Keegan & Co. Inc., Shattuck Hammond Partners, and Ari Weinberger in a securities fraud action. The plaintiffs alleged that defendants knowingly and willingly engaged in a securities fraud scheme by assisting in the structuring of a transaction that included the recording of an alleged unlawful and unauthorized loan on the plaintiffs' property. The defendants deny all allegations.

Name of Case: *William Steiner v. MedQuist, Inc., et al.*

Type of Case: Shareholder class action; fraud under Rules 10b and 10b(5).

Jurisdiction: U.S. District Court of New Jersey

Defending MedQuist and certain of its officers in a shareholder class action alleging fraud under Rules 10b and 10b(5) in connection with alleged mis-statements by MedQuist in public financial disclosures.

Name of Case: *Rhonda Kanter v. MedQuist, Inc., et al.*

Type of Case: Derivative action; breach of fiduciary duty

Jurisdiction: U.S. District Court of New Jersey

Defended MedQuist in a derivative suit alleging breach of fiduciary duty against MedQuist's board members. The District Court held that the shareholder, whom did not make any demand on the board of directors prior to commencing the derivative action, failed to plead futility with requisite particularity. Defendants' motion to dismiss was granted in a published opinion at 388 F.Supp.2d 474. The reconsideration opinion is currently available only on Westlaw at 2005 WL 308833.

Name of Case: *South Broward Hospital District, et al. v. MedQuist Inc., et al.*

Type of Case: Nationwide class action; RICO; fraud; Unfair and Deceptive Trade Practices Acts (Cal. Bus. & Prof. Code § 17200; New Jersey Statutes § 56:8-2)

Jurisdiction: U.S. District Court, District of New Jersey

Defending MedQuist and certain officers as lead trial counsel in nationwide class action alleging RICO, fraud and deceptive trade practices over MedQuist's billing practices concerning its customers.

Name of Case: *Brigitte Hoffman, et al. v. MedQuist Inc., et al.*

Type of Case: Consolidated nationwide class action; breach of contract, breach of covenant of good faith and fair dealing, unjust enrichment

Jurisdiction: U.S. District Court, District of New Jersey

Defending MedQuist as lead trial counsel in consolidated nationwide class action alleging breach of contract, breach of implied covenant of good faith and fair dealing and unjust enrichment over alleged underpayment of medical transcriptionists employed by MedQuist. Won motion to transfer the case from the District Court of Georgia, Northern District, in a published opinion available at 2005 WL 30957143 and 2005 U.S. Dist. LEXIS 29995.

Name of Case: *Kaweah Delta Health Care District v. MedQuist Transcriptions, Ltd., et al.*

Type of Case: Breach of contract, fraud, breach of implied covenant of good faith and fair dealing

Jurisdiction: U.S. District Court, Northern District of California

Defending MedQuist in action alleging breach of contract, fraud and breach of implied covenant of good faith and fair dealing over MedQuist's billing practices. Obtained favorable settlement terms through mediation.

Name of Case: *MedQuist Inc, et al.. v. SSI Advisors, Inc. et al.*

Type of Case: Misappropriation of trade secrets, breach of confidentiality, unfair competition, breach of contract

Jurisdiction: New York Supreme Court

Representing MedQuist in an action alleging misappropriation of trade secrets, breach of confidentiality and unfair competition over the alleged disclosure and misuse of MedQuist's confidential information. Obtained injunctive relief and favorable settlement terms.

Name of Case: *Securities and Exchange Commission Investigation of MedQuist Inc.*

Type of Case: Investigation by the Securities and Exchange Commission into MedQuist's billing practices.

Representing MedQuist in an investigation by the Securities and Exchange Commission into MedQuist's billing practices.

Name of Case: Department of Justice Investigation of MedQuist Inc.

Type of Case: Investigation by the Department of Justice into MedQuist's provision of medical transcription services to federal and non-federal hospital customers.

Representing MedQuist in an investigation by the criminal and civil divisions of the Department of Justice into MedQuist's provision of medical transcription services to federal and non-federal hospital customers.

Name of cases: MedQuist Inc. v. A-Life Medical, Inc.

MedQuist Transcriptions, Ltd. v. A-Life Medical, Inc.

A-Life Medical, Inc. v. MedQuist Inc. and Mark Ivie

Type of case: Breach of contract, breach of fiduciary duty

Jurisdiction: San Diego County Superior Court

Representing MedQuist and its subsidiary in actions against a business partner arising from the breach of several business agreements and a promissory note; and defending MedQuist and one of its officers against claims of breach of fiduciary duty and tortious interference arising from the failed sale of A-Life to another company and the service of MedQuist's officer on A-Life's Board of Directors.

Name of Case: Steven Katz, et al. v. Midas International Corporation

Type of Case: Nationwide class action; breach of warranty

Jurisdiction: Circuit Court of Montgomery County, Maryland

Defending Midas in a nationwide class action for breach of warranty under the consumer protection statutes and UCCs of all 50 states. Defeated class certification and obtained dismissal of all class claims for relief as well as eight of nine individual claims; remaining claim for breach of warranty seeks only nominal damages on behalf of class representatives.

Name of Case: Bassie Ribiat v. Midas International Corporation

Type of Case: Class action; Business and Professions Code §§ 17200 and 17500; Consumer Legal Remedies Act

Jurisdiction: Los Angeles County Superior Court

Defending Midas International Corporation in consumer class action alleging deceptive business and advertising practices with respect to its oil services.

Name of Case: Larry Jarman v. United Autocare Center, LLC et al.

Type of Case: Wrongful termination

Jurisdiction: Orange County Superior Court

Defending Midas International Corporation in action alleging (1) violations of California Labor Code §1102.5(b)-(c); (2) wrongful termination in violation of public policy; (3) retaliation; (4) intentional interference with contractual relationship; (5) intentional interference with prospective economic advantage; (6) breach of implied contract of continued employment; (7) breach of implied covenant of good faith and fair dealing; (8) deceit; and (9) violation of California Penal Code §632.

Name of Case: *Steven Saucedo v. United Autocare Center, LLC et al.*

Type of Case: Consumer class action; Business and Professions Code §§17200 and 17500; Consumer Legal Remedies Act; breach of contract; breach of warranty

Jurisdiction: Los Angeles County Superior Court

Defending Midas, Inc. and Midas International Corporation in consumer class action alleging, inter alia, (1) violations of Sections 17200 and 17500 of the Business and Professions Code; (2) violation of the Consumer Legal Remedies Act, (3) breach of contract, and (4) breach of implied and express warranties in connection with the sale and advertisement of brake pads.

Name of Case: *In re Automotive Refinishing Paint Antitrust Litigation*

Type of Case: Coordinated class actions for vertical and horizontal price-fixing and antitrust violations; Cartwright Act and Unfair Competition (Business & Professions Code §17200)

Jurisdiction: Alameda County Superior Court

Defending PPG Industries in several class actions alleging price-fixing in violation of state antitrust laws involving the paint refinishing industry. The actions have been coordinated before the Alameda County Superior Court and allege claims for violation of the Cartwright Act and unfair competition under California Business & Professions Code §17200. Taking a lead role in class certification proceedings.

Name of Case: *In re Laminates Antitrust Litigation*

Type of Case: Coordinated class actions for vertical and horizontal price-fixing and antitrust violations; Cartwright Act and Unfair Competition (Business & Professions Code §17200)

Jurisdiction: Alameda County Superior Court

Defending Premark and Wilsonart in several class actions alleging price-fixing in violation of state antitrust laws involving the laminates industry. The actions have been coordinated before the Alameda County Superior Court and allege claims for violation of the Cartwright Act and unfair competition under California Business & Professions Code §17200.

Name of Case: *Helling v. Wyeth*

Type of Case: Class action, price-fixing and antitrust litigation

Jurisdiction: Orange County Superior Court

Defending Wyeth in several class action lawsuits alleging antitrust violations under the Cartwright Act and for unfair competition under California Business & Professions Code §17200. The cases arise out of Wyeth's settlement of a patent infringement action in which Wyeth agreed to keep certain generic products off the market for a specified time period which plaintiffs allege was anti-competitive.

Trials, Arbitrations, and Significant Representations

Name of Case: *McDonald's Promotional Game Prize Litigation*

Type of Case: Coordinated class actions; unfair competition; Business & Professions Code §17200; Consumer Legal Remedies Act

Jurisdiction: U.S. District Court, Northern District of Illinois, State Court in Illinois and California

Represented McDonald's in consumer class actions in both state and federal court over theft of million dollar game prizes in *Monopoly* and *Who Wants To Be A Millionaire* promotional games. Reached nationwide class action settlement with plaintiffs resolving all class and representative claims. Won motion to dismiss California class action based on res judicata grounds. Litigated individual opt-out suits and handling appeal of dismissal of California class and representative claims.

Name of Case: *Consumer Cause, Inc. v. Thomson Multi-Media, Inc.*

Type of Case: Class action; Business and Professions Code §17200; Consumer Legal Remedies Act

Jurisdiction: San Diego County Superior Court

Defended Thomson in consumer class action alleging deceptive advertising concerning its speaker products. Settled matter for \$1,000.00.

Name of Case: *Bela-Lisa Friedman v. Quest International Fragrances*

Type of Case: Theft of trade secrets and breach of confidentiality

Jurisdiction: U.S. District Court, California

Defended Quest in a theft of trade secret, breach of confidentiality, fraud, and unfair competition action before the U.S. District Court in California. Dispute is over alleged improper use of novel marketing venture concepts by certain fragrance and cosmetic companies. Obtained summary judgment as to all claims at the district court level, which was reversed on appeal to the Ninth Circuit.

Name of Case: *DirecTV v. American Precision Electronics*

Type of Case: Satellite cable piracy under the Digital Millennium Copyright Act, Communications Act and Federal Wire Tap Laws

Jurisdiction: U.S. District Court, Northern District of Illinois and California

Defended American Precision Electronics and its two owners in parallel federal actions before the United States District Court, Northern District of Illinois and California. The suits involved allegations of piracy of DirecTV's satellite cable transmissions. DirecTV alleged that American Precision manufactured pirated signal theft devices to enable its customers to use DirecTV for free.

Name of Case: *Blue Mountain Arts v. Hallmark*

Type of Case: Trademark infringement

Jurisdiction: U.S. District Court, Colorado

Trademark and trade dress infringement action brought under the Lanham Act in U.S. District Court in Colorado. Obtained a preliminary injunction after a three-day evidentiary hearing. Case settled thereafter for \$37 million.

Name of Case: *99 Cents Only Stores v. Nothing Over \$1*

Type of Case: Trademark infringement

Jurisdiction: Los Angeles Superior Court

Represented the plaintiffs in a trademark and trade dress infringement action in Los Angeles Superior Court. Obtained a permanent injunction and damages at trial.

Name of Case: *99 Cents Only Stores v. Southern California Rapid Transit District*

Type of Case: Breach of contract

Jurisdiction: Los Angeles Superior Court

Represented the plaintiff in a breach of contract action in Los Angeles Superior Court. Prevailed after a several-week jury trial. Award was upheld on appeal.

Name of Case: *The Laser Center ("TLC") v. CPC of America*

Type of Case: Breach of contract

Jurisdiction: U.S. District Court, California

Defended TLC and others in a \$50 million dispute over the collapse of a joint venture to provide managed health care through non-invasive treatment of coronary disease. Prevailed in a 1999 binding arbitration before the American Arbitration Association in Boston, Massachusetts. The plaintiff recovered nothing.

Name of Case: *Walker v. County of Los Angeles*

Type of Case: Civil rights

Jurisdiction: Los Angeles Superior Court

Defended Los Angeles sheriff deputies and the County of Los Angeles in a civil rights action. Prevailed in a one-week trial, obtaining a verdict for the defense.

Name of Case: *August v. County of Los Angeles*

Type of Case: Racial discrimination

Jurisdiction: Los Angeles

Handled the appeal of a jury award in favor of the plaintiff. Obtained a reversal and a new trial on the issue of damages only, and then a dismissal on retrial.

Name of Case: *Howard Siegel v. The Prudential Insurance Company of America*

Type of Case: Defamation

Jurisdiction: NASD arbitration

Defended Prudential in a defamation suit brought by a former managing director. Moved the case into arbitration before the National Association of Securities Dealers. Obtained a dismissal of the action in its entirety in 1999, with the plaintiff recovering nothing.

Name of Case: *Coltrans v. Allied Systems, et al.*

Type of Case: Antitrust

Jurisdiction: U.S. District Court, Tennessee

Represented the defendant in a lawsuit brought in U.S. District Court in Tennessee alleging claims for predatory pricing, monopolization, and attempt to monopolize an auto transporter business in violation of the Sherman Act. Successfully prevailed on a motion to dismiss.

Name of Case: *Stinson v. BI Technologies Corporation*

Type of Case: Harassment

Obtained an injunction for BI Technologies against a former employee who was harassing co-workers.

Name of Case: *Loreen Cerletti v. Dabney Resnick*

Type of Case: Sexual harassment

Jurisdiction: NASD arbitration

Represented a former employee of a brokerage firm in a sexual harassment claim. Prevailed in a National Association of Securities Dealers arbitration.

Name of Case: *Tom LaPorte v. Dean Witter Reynolds, Inc.*

Type of Case: Wrongful discharge

Jurisdiction: NYSE arbitration

Represented a former broker of Dean Witter in a constructive discharge action. Matter was successfully arbitrated before the New York Stock Exchange.

Name of Case: *Lovelock v. Lamps Plus*

Type of Case: Age discrimination

Jurisdiction: Los Angeles Superior Court

Defended an age discrimination action in Los Angeles Superior Court. Prevailed on a motion for summary judgment.

Name of Case: *Allstate Insurance Company v. Gardenview HOA*

Type of Case: Insurance

Represented Allstate in an action to recover excess insurance benefits paid to Gardenview HOA in connection with the Northridge earthquake. Recovered over \$650,000 for Allstate.

Name of Case: *Romero Corporation v. Old Republic, et al.*

Type of Case: Insurance bad faith

Jurisdiction: Los Angeles

Represented seven insurance and reinsurance companies in the defense of a breach of contract and bad faith action in San Bernardino Superior Court. Prevailed on a motion for summary judgment, which was upheld on appeal.

Name of Case: *Ossory Trading, S.A. v. Bank Julius Baer Securities, et al.*

Type of Case: Conversion

Jurisdiction: New York Supreme Court

Represented the plaintiff in a suit in Supreme Court of New York against a securities brokerage firm and a bank for conversion of bearer bonds. Prevailed on a summary judgment motion.

Name of Case: *Talega-Arvida v. JMB Partners*

Type of Case: Real Estate litigation

Jurisdiction: Los Angeles

Defended JMB Partners in a multimillion dollar real estate dispute over a land development project. Obtained dismissal of the specific performance action and expungement of lis pendens.

Additional Significant Cases

Name of Case: *Midas International Corporation v. Poursalimi & Sons*

Type of Case: Franchise litigation; trademark infringement

Jurisdiction: U.S. District Court, California

Represented Midas in a trademark infringement action under the Lanham Act brought against terminated franchises before the U.S. District Court in California. Obtained a temporary restraining order and a preliminary injunction; successfully opposed an application for a temporary restraining order and an order to show cause re preliminary injunction; compelled the action into arbitration before the American Arbitration Association; and enjoined the prosecution of a parallel state action.

Name of Case: *Post v. Travelex Insurance Services*

Type of Case: Misappropriation of trade secrets

Jurisdiction: Los Angeles Superior Court

Defended Travelex Insurance Company in a dispute in Los Angeles Superior Court over the collapse of a dot com joint venture alleging claims for unfair competition and misappropriation of trade secrets.

Name of Case: *Yosemite Waters v. Sparkletts*

Type of Case: Theft of trade secrets

Represented Yosemite Waters in a dispute over a former employee's misappropriation of customer lists and theft of trade secrets.

Name of Case: *Partner Provider Health v. CPC of America*

Type of Case: Fraud

Jurisdiction: U.S. District Court, Delaware

Represented PPH in a breach of contract and fraud action arising out of the collapse of a joint venture to operate a cardiac managed care facility.

Name of Case: *Welch v. The Prudential Insurance Company of America*

Type of Case: Wrongful termination and whistleblower suit

Jurisdiction: U.S. District Court, New Jersey

Defended Prudential in a wrongful termination and whistleblower suit brought by a former branch manager. Moved the case into arbitration before the National Association of Securities Dealers.

Name of Case: *In Re Asbestos Litigation*

Type of Case: Asbestos litigation

Jurisdiction: San Francisco Superior Court

Defended Maytag Corporation in several personal injury and wrongful death cases alleging negligence and strict products liability.

Name of Case: *In re Prudential Life Insurance Sales Practice Litigation*

Type of Case: Churning; fraud

Jurisdiction: Los Angeles Superior Court

Coordinated and managed the Prudential life insurance sales practice litigation in Southern California. Defended Prudential in numerous life insurance cases consolidated for trial in 1999 in Los Angeles Superior Court, including an action seeking disgorgement of \$16 billion in profits brought by 125 policyholders opting out of a nationwide class action settlement. Favorable settlement of the action received national publicity.

Name of Case: *ADO Finance v. McDonnell Douglas Corporation*

Type of Case: Fraud; government contracts

Jurisdiction: U.S. District Court, California

Defended McDonnell Douglas in a \$100 million international fraud suit over the lease of aircraft to a Swiss finance company. Was responsible for handling litigation in Switzerland and Germany. Plaintiff recovered nothing.

Name of Case: *Drexel, Burnham, Lambert v. Michael and Lowell Milken; Columbia Savings v. Milken, etc.*

Type of Case: Securities litigation
Jurisdiction: U.S. District Court, New York and California
Defense of lawsuits in California and New York state and federal courts alleging securities violations, breach of fiduciary duty, etc. Cases resolved through a global settlement.

Name of Case: *Christian Androux, et al. v. Geldermann, Inc., et al.*

Type of Case: RICO
Jurisdiction: U.S. District Court, Illinois
Represented over 30 foreign individuals and entities in the prosecution of a lawsuit in U.S. District Court for the Northern District of Illinois alleging claims for RICO, securities and commodities fraud, etc. Plaintiffs recouped all of their losses through a settlement on the eve of trial.

Name of Case: *Century 21 v. Prudential Real Estate*

Type of Case: Franchise litigation; unfair competition
Jurisdiction: U.S. District Court, California
Defended Prudential in an unfair competition and RICO suit for allegedly inducing competing franchises to switch flags. Case settled after obtaining disqualification of the plaintiff's counsel.

Name of Case: *Shell Oil Company v. 3M*

Type of Case: CERCLA; toxic tort; government contracts
Jurisdiction: U.S. District Court, California
Defended 3M in several toxic tort cases arising out of soil and groundwater contamination of the Del Amo Superfund site. As result of negotiations with the EPA and the U.S. government, 3M was absolved of any responsibility for the multimillion dollar remediation of site, with the United States indemnifying 3M under the terms of a government contract.

Name of Case: *Miller v. Heady Aircraft*

Type of Case: Products liability
Defended Heady Aircraft in a products liability action arising out of the crash of a Cessna airplane.

Name of Case: *Lois Rosen v. David Rosen, et al.*

Type of Case: Breach of fiduciary duty
Jurisdiction: Los Angeles
Represented the plaintiff in lawsuits alleging mismanagement of real estate partnerships.

Practice Areas

- Antitrust*
- Appellate and Critical Motions*
- Banking*
- Corporate Governance*
- Corporate Internal Investigations*
- Corporate Lending*
- e-Discovery and Electronic Information*
- Employee Benefits and Executive Compensation*
- Energy*
- Environmental*
- Financial Services*
- Government Contracts*
- Governmental Relations and Regulatory Affairs*
- Health Care*
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- Labor and Employment Relations*
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Winston & Strawn LLP is an international law firm with more than 1,000 attorneys among 12 offices in Charlotte, Chicago, Geneva, Hong Kong, London, Los Angeles, Moscow, New York, Newark, Paris, San Francisco, and Washington, D.C. The exceptional depth and geographic reach of our resources enable Winston & Strawn to manage virtually every type of business-related legal issue. We serve the needs of enterprises of all types and sizes, in both the private and the public sector. We understand that clients are looking for value beyond just legal expertise. With this in mind, we work hard to understand the level of involvement our clients want from us. We take time to learn about our clients' organizations and their business objectives. And, we place significant emphasis on technology and teamwork in an effort to respond quickly and effectively to our clients' needs.

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