



## Terry Dee

Partner

Chicago

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**Terry is a nationally recognized trial lawyer in product liability, mass torts and healthcare litigation, earning Am Law Daily’s Litigator of the Week on April 28, 2023. Clients rely on Terry to provide pre-market exposure mitigation strategies and his deep experience with preemption and expert admissibility challenges. Terry has also successfully litigated disputes in healthcare antitrust, earn-outs, post-closing, breach of contract, and other civil matters in a variety of commercial sectors.**

Terry is a partner in the Chicago office and focuses his practice on product liability and product-related class actions, antitrust, and other complex commercial litigation. He has tried cases in federal and state courts throughout the country, including Illinois, Ohio, Washington, District of Columbia, Maryland, Arizona and Missouri, and has handled numerous commercial arbitrations. Terry has served as lead counsel in joint defense groups in federal multidistrict litigation and multiparty litigation, crafting the national strategy and coordinating the joint defense of those cases. Terry also counsels clients developing products in the health, medical device and pharmaceutical industry, to assess and manage potential risk areas.

# Key Matters

*Some of the experience represented below may have been handled at a previous firm.*

- Served as lead trial counsel for a client and joint defense group of **cell phone manufacturers and service carriers** in more than 80 individual and coordinated actions pending in the Superior Court of the District of Columbia claiming that cell phones caused plaintiffs' brain cancer. Tried a month-long Frye hearing on admissibility of plaintiffs' general causation experts, and successfully argued the interlocutory appeal before the District of Columbia Court of Appeals *en banc*, changing the expert admissibility standard in D.C. from Frye to Federal Rule of Evidence 702. On remand, tried a three-week Rule 702/*Daubert* hearing resulting in an order excluding all of plaintiffs' general causation experts.
- Served as lead trial counsel for client and joint defense group in case filed in the U.S. District Court for the Western District of Louisiana claiming cell phones cause brain cancer. Successfully argued preemption motion to dismiss.
- Served as lead trial counsel for client in litigation with electronic data management software vendor; negotiated favorable settlement.
- Served as lead trial counsel for major law firm client and joint defense group in a *qui tam* action alleging violations of the False Claims Act and Illinois False Claims Act brought in the U.S. District for the Central District of Illinois. Successfully argued motion to dismiss.
- Served as lead trial counsel for a client and joint defense group in a multidistrict litigation (MDL) in the U.S. District Court for the Central District of California in which plaintiffs filed more than 25 consumer-fraud class actions throughout the country alleging that Bluetooth headsets cause hearing loss; successfully settled the action on a class-wide basis and argued the appeal of the settlement before the U.S. Court of Appeals for the Ninth Circuit
- Served as lead trial counsel in a MDL in the U.S. District Court for the Northern District of Illinois in which plaintiffs filed several purported consumer-fraud class actions throughout the country alleging wireless phones do not comply with Federal Communications Commission 911 call processing regulations; also selected as liaison counsel for national defense of more than 15 **wireless industry companies**; successfully argued summary judgment motion leading to the dismissal of all cases.
- Served as lead trial counsel for a client and a joint defense group in MDL in the U.S. District Court for the District of Maryland in which plaintiffs filed several purported consumer-fraud and breach-of-warranty class actions claiming that defendants failed to disclose that cell phones caused adverse health effects; successfully argued for dismissal of the cases based on federal preemption and, in related litigation, successfully argued for the dismissal of a purported class action in the U.S. District Court for the Eastern District of Pennsylvania based on federal preemption, which was upheld by the U.S. Court of Appeals for the Third Circuit.
- Served as lead trial counsel for the **largest privately-owned coal company** in the United States in a multijurisdiction dispute over a competitor's breach of non-disclosure agreement and misappropriation of trade secrets.
- Served as lead trial counsel in a several-week arbitration representing a buyer in post-closing disputes related to breaches of warranties and covenants in the sale of a consumer goods packaging business; a three-arbitrator panel issued an award granting full relief to the client.
- Obtained a complete defense verdict and successfully had a claim expunged from a **major investment bank's** record as a result of a multiday New York Stock Exchange (NYSE) arbitration involving the investment bank and one of its top brokers involving claims of unsuitable investment recommendations, misrepresentations, and failure to supervise.
- Negotiated a post-hearing settlement while serving as lead trial counsel in a preliminary injunction hearing in the U.S. District Court for the Southern District of Ohio in a non-competition, misappropriation of trade secrets case involving the outsourcing industry

- Represented an **industry trade group** in making First Amendment and preemption challenges to the City of San Francisco and City of Berkeley ordinances requiring certain point-of-sale disclosures
- Obtained a complete defense verdict and successfully defended the verdict on appeal for **General Motors** against claims that a defective car roof caused the death of former NFL player Derrick Thomas in a rollover accident
- Served as lead trial counsel for **Group Purchasing Organization** in a health care antitrust suit in U.S. District Court, Southern District of Illinois. Successfully argued motion to dismiss.
- Served as lead trial counsel for **hospital system** in health care antitrust suit in U.S. District Court, Southern District of Illinois. Successfully argued motion for summary judgment before the District Court and the oral argument before the U.S. Court of Appeals for the Seventh Circuit, which affirmed the summary judgment ruling.

## Recent Experience

Nabbed Two Big Wins for Motorola in Billion-Dollar Suits Over Cell Phone Safety

## Recognitions

- *Lawdragon's* "500 Leading Litigators in America"; Product Liability, Class Action, and Antitrust; 2023–2024
- AM Law Litigation Daily, "Litigator of the Week" in April 28, 2023
- *The Legal 500 US*, "Key Lawyer" in the area Dispute Resolution: Product Liability, Mass Tort And Class Action - Defense: Consumer Products (Including Tobacco), 2023
- *Chambers USA*, Dispute Resolution: Product Liability, 2021
- Chicago Bar Foundation, Distinguished Service Award, 2017–2019
- Chicago Lawyers' Committee For Civil Rights Under Law, "Pro Bono Attorney of the Year," 2017
- *Illinois Super Lawyers*, 2012, 2014–2016

## Activities

- Lawyers' Committee For Civil Rights Under Law, Board of Directors
- American Law Institute, Member
- Chicago Bar Foundation, President of the Board of Directors 2017–2018; Director 2011–2019

## Credentials

### EDUCATION

Terry received his J.D. from Washington University School of Law in 1992, where he was an Associate Editor of the *Washington University Law Quarterly*, a Member of the Order of the Coif, and winner of the Wiley Rutledge Moot Court Competition. Terry received his B.A. from Wesleyan University in 1987.

### ADMISSIONS

- Missouri
- Illinois

## CLERKSHIPS

- USDC - Western District of MO for the Honorable Howard F. Sachs

## Related Insights & News

- “You Are What you Eat – Or So You Think: The Legal Impact of Humane, Green, and Climate-Friendly Product Advertising,” Illinois State Bar Association and Chicago Bar Association, March 10, 2023
- “AI—Products Liability,” *Bringing Medical Devices to Market* (ABA Health Law Section), Aug. 26, 2021
- “How EPA, FDA, and Federal Regulation Drives Mass Tort Litigation,” Winston & Strawn Product & Mass Torts Summit, June 7, 2022
- “Keys to a Successful Joint Defense Group,” *Today’s General Counsel*, Spring 2019
- “Navigating Uncertainty in a COVID/Post-COVID World Part 1,” Association of Corporate Counsel, Chicago, Webinar Series, Aug. 6, 2020
- “New Technologies and AI: Predicting Risks and Liabilities Associated with 3D Printing, Digital Diagnostic Healthcare Apps and Surgical Robotics,” ACI’s 24th Annual Conference on Drug and Medical Device Litigation, Dec. 2019
- “State of the Union on Preemption,” ACI’s 23rd Annual Conference on Drug & Medical Device Litigation, Nov. 29, 2018
- “AI & the Practice of Medicine,” This Week in Health Law Podcast, Nov. 16, 2018
- “Know your Gatekeeper: How to Ensure Admission of Scientific Opinion Evidence in Your Jurisdiction,” American Bar Association Section of Litigation Annual Conference, May 3, 2018
- “Strategies for Opposing Trials with Multiple Plaintiffs,” ACI’s 22nd Annual Conference on Drug & Medical Device Litigation, Dec. 2017

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## SEMINAR/CLE

Winston’s Product & Mass Torts Summit Series 2024

MAY 9, 2024

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## BLOG

Sixth Circuit Confirms Experts Cannot Infer Causation from Association Based on Single Study to Exclusion of Contrary Studies Without Explanation

MARCH 4, 2024

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## RECOGNITIONS

Winston & Strawn Partners Recognized in 2024 *Lawdragon* 500 Leading Litigators in America

SEPTEMBER 8, 2023

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## **SEMINAR/CLE**

Winston & Strawn's Product & Mass Torts Summit 2023

JUNE 14, 2023

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## **RECOGNITIONS**

Winston & Strawn Recognized in *The Legal 500 U.S.* 2023

JUNE 7, 2023

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## **SPONSORSHIP**

Winston & Strawn Hosts the First ACTL Corporate Litigation Counsel Trial Advocacy Program

MAY 11-12, 2023

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## **RECOGNITIONS**

Terry Dee Featured as Litigator of the Week

APRIL 28, 2023

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## **CLIENT SUCCESS**

Winston Guts Plaintiffs' Product-Liability Cases against Motorola Mobility Claiming RF Emissions Can Cause Cancer with Two Industry-Favorable Decisions Eviscerating Plaintiffs' Cases

APRIL 25, 2023

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## **BLOG**

*Zantac* MDL Decision Reinforces Principle that Lack of General Acceptance of an Expert's Conclusions Raises a Red Flag

FEBRUARY 14, 2023

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## **RECOGNITIONS**

Winston & Strawn Partners Recognized in 2023 *Lawdragon* 500 Leading Litigators in America

OCTOBER 5, 2022

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## **WEBINAR**

Product & Mass Torts Summit 2022

JUNE 7, 2022

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## **IN THE MEDIA**

Terry Dee and Chris Murphy Join Winston in Chicago

DECEMBER 9, 2021

# Capabilities

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