



David A. Coulson

Partner

Miami

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With over 30 years of experience, Dave stands out for winning complex commercial matters, class actions, and product liability cases on motions and trying cases to successful outcomes, oftentimes against the odds in challenging venues in and beyond Florida. He is also praised by clients for his “business-oriented approach and ability to think outside of the box” to engineer settlements that align with clients’ business objectives.

Dave is a trial lawyer who represents businesses in a wide array of disputes, including consumer class actions (typically involving claims of false advertising, statutory violations, or product defect) as well as lawsuits involving claims of breach of contract, business torts, trade secrets, trademark, RICO, product liability, product warranty, professional liability, shareholder securities fraud, breach of fiduciary duties, and shareholder derivative actions.

Dave is sought after by clients for his “analytical ability and knowledge of class action litigation” and “excellent courtroom manner.” Described by clients as “extremely experienced and strategic,” he has consistently developed successful strategies and implemented them with discipline, winning scores of cases on motions to dismiss or for summary judgment and defeating numerous motions for class certification.

According to clients, “[h]e is very good on his feet and in cross-examination of witnesses.” When the situation calls for it, Dave operates as a “hard-riding litigator.” He has conducted over 30 trials, including over a dozen jury trials,

and is best known for his compelling opening statements, telling stories through direct examinations and incisive cross-examinations of fact and expert witnesses, several of which have been credited for being catalysts for trial victory.

Dave is a skilled negotiator. Clients emphasize that he is “pragmatic, practical and has a good business sense.” Throughout the years, Dave has engineered many creative business resolutions either before a lawsuit is filed or in early inflection points in litigation.▮

In May 2022, Dave became a founding partner of Winston & Strawn’s Miami office and leads its Florida litigation practice. He serves on the firm’s Complex Commercial Litigation Advisory Board. Before joining Winston, Dave was a shareholder for 23 years with a Miami-based international law firm, where he led its Miami Litigation Department from 2008 to 2017 and was a member of that firm’s national Litigation Executive Committee from 2017 to 2021.

▮ Quoted statements are per Chambers *USA* or *Legal 500 US* sources.

Key Matters

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

Class Action Defense

- Acted as one of the lead trial lawyers in a bet-the-company, three-week jury trial defending a Florida sugar cane harvester in a class action brought by sugar cane cutters who alleged they had been paid wages substantially less than what their employment contracts required. Achieved a complete defense verdict, later affirmed on appeal.
- Defended a pet food manufacturer facing 17 related class action lawsuits around the country claiming false advertising. Given that the suits took aim at the core of the client’s brand, led an aggressive defense to fend off class certifications and defeat cases on the merits, culminating in defeating four motions for class certification (which required strategic adjustments as plaintiffs evolved their theories, redefined classes and sub-classes, and switched experts), winning five motions to dismiss, excluding key expert opinions on *Daubert* motions, and prevailing on summary judgment in four other related cases.
- Defended an HVAC manufacturer as lead counsel in a series of consumer class action lawsuits claiming a product defect in evaporator coils and asserting breach of warranty and violation of consumer fraud statutes, including the Florida Deceptive and Unfair Trade Practice Act (FDUTPA). In the lead case in the Southern District of Florida, persuaded the trial court to deny class certification on the basis that individual issues predominate. This victory ultimately led to the dismissal of several related actions in other venues.
- Represented an HVAC manufacturer in the Northern District of Georgia against a class action seeking certification of classes for multiple states based on breach of warranty and consumer protection statute claims alleging that air conditioning condenser units had defective valves. Prevailed on a motion to dismiss with the Court dismissing nearly all claims which effectively ended the litigation.
- Defended an HVAC manufacturer in the Southern District of Florida against a class action alleging that it falsely certified that the air conditioning equipment complied with the applicable safety standards, and claiming breach of warranty, fraud and violation of FDUTPA. On the manufacturer’s motion to dismiss, the district court dismissed the amended complaint with prejudice.
- Defended an HVAC manufacturer against another class action in the Southern District of Florida claiming that thermal cutoff safety switches were defective and posed safety risks, which made the sales of the units allegedly unfair and deceptive and in breach of warranties. Defeated case on a motion to dismiss.

- Obtained a dismissal with prejudice for a Japanese camera manufacturer in a nationwide consumer class action in the Middle District of Florida, which asserted product defect and false advertising claims.
- Defended two different hotel chains in separate class action lawsuits concerning automatic gratuities in the Southern District of Florida, obtaining dismissal of nearly all claims, which paved the way for individual settlements.
- Defended a healthcare company in a consumer breach of privacy class action in the Southern District of Florida and prevailed when plaintiffs dismissed their claims in the face of the motion to dismiss. The court went on to dismiss the case with prejudice.
- Served as Florida defense counsel on behalf of a major corporation against a series of class actions alleging consumer fraud in connection with a promotional game, including violations of FDUTPA. The cases settled.
- Represented a software company as Florida counsel, defending against several consumer class actions alleging antitrust law violations.
- Defended a financial institution in the Southern District of Florida against a putative nationwide class action alleging RICO and other statutory violations stemming from lending practices, obtaining dismissal with prejudice after two rounds of motion to dismiss briefing.

Business-to-Business Litigation

- Served as lead trial lawyer for a China-based printed circuit board maker (“PCB”) and its Hong Kong affiliate in a case brought against it by its Florida-based former American distributor in the Southern District of Florida. Achieved dismissal of RICO, FDUTPA, and multiple business tort claims to narrow the case to a breach of distribution agreement claim. The distributor plaintiff sought over US\$120M in damages with a focus on the alleged breach of an exclusive customer provision. Prevailed on summary judgment against the liquidated damages claim, with the court finding the provision unenforceable under Florida law, and on a motion to exclude lost profits evidence. The combined effect of these wins was to eliminate approximately US\$120M of damages. Served as lead trial counsel in the trial involving a half-dozen contract breach theories, with the jury awarding less than 1% of the damages sought in the lawsuit. All rulings were upheld on appeal.
- Acted as lead trial lawyer defending a Finland-based manufacturer of propulsion systems used in the marine industry along with its U.S.-based affiliate and parent company in a lawsuit brought against them by a cruise line operator in the Complex Business Division of Miami-Dade County Circuit Court. Achieved dismissal with prejudice of the Swiss-based parent company for lack of personal jurisdiction and dismissal of multiple tort claims and FDUTPA claims, winnowing the case down to claims of fraudulent and negligent misrepresentations and omissions. Case involved an electrical component that faulted out on five of the systems on four vessels within a two-and-a-half-year period, resulting in delayed and cancelled cruises. The cruise line claimed approximately US\$70M in damages. After a four-week jury trial, the jury found the defendants not liable for the first two failures, but liable for the last three failures and awarded compensatory and punitive damages. The case is on appeal.
- After a former critical supplier claimed that a supply agreement had in effect been wrongfully terminated and commenced a AAA arbitration requesting significant damages, acted as lead trial counsel defending the manufacturer in a one-week arbitration evidentiary hearing. Was able to reach a resolution shortly after the hearing concluded.
- Acted as lead trial counsel defending a Canadian technology company against breach of contract, tortious interference, and antitrust claims brought by a competitor. The court dismissed the tortious interference claim on a Rule 50 motion following an adverse jury verdict, which eliminated nearly all damages. Negotiated a global settlement of an antitrust lawsuit brought by the same plaintiff.
- Acted as lead trial counsel for a Canadian technology company in an international arbitration against a major competitor and won an award on the merits based on tortious interference with contract and violation of FDUTPA. The client was also awarded fees and costs, which were confirmed by a federal court after a challenge.
- Served as lead defense counsel for a Chicago-based apartment operator in a multimillion-dollar mass action lawsuit in Florida state court and engineered an early settlement.

- Defended a Minnesota-based airport services vendor before Miami federal and state courts against alleged breaches of joint venture agreements and tortious interference surrounding the award of a significant contract at Miami International Airport. Actions settled following mediation.
- Handled a variety of commercial cases that involved emergency injunction hearings or other evidentiary hearings.
- Acted as lead defense counsel for a specialty telecommunications company in a significant lawsuit brought by a competitor in federal district court in Miami. Prevailed on a motion to dismiss based on an innovative standing argument.
- Defended an adhesives manufacturer against multimillion-dollar breach of warranty claims brought in the Eastern District of Missouri and Miami-Dade County Circuit Court. Engineered creative settlements to resolve the cases.
- Second chaired a complex two-week bench trial in Franklin Parish, Louisiana for a chemical company against its insurers and won approximately US\$120M to cover bodily injury and property damage claims. Conducted cross-examination of insurance carriers' fire expert, which was cited by the Judge for establishing a key factual predicate that enabled the policyholder client to prevail. Have also successfully tried reinsurance arbitrations to favorable awards and have litigated numerous other insurance coverage actions.
- Served as trial counsel in a US\$20M bet-the-company arbitration proceeding for a publicly held specialty equipment manufacturer against a major customer who claimed that breaches of warranty justified termination of a long-term supply contract. Assisted in effectuating a business transaction to resolve the dispute.
- Represented a former CEO in an arbitration proceeding involving the valuation and redeeming of restricted stock upon the executive's resignation from the company. Obtained award for the executive that placed a value on the stock of approximately US\$2M, about four times higher than what the issuer contended.
- Represented an appliance manufacturer in a five-week jury trial in the Southern District of Florida against its Colombian, Puerto Rican, and Venezuelan distributor. The litigation involved multimillion-dollar claims of wrongful termination, breach of contract, antitrust violations, tortious interference, fraud, and RICO. The jury's verdict limited the distributor to a fraction of its claimed damages.
- Represented a large telecommunications manufacturing company in a US\$50M breach of contract and tortious interference lawsuit in the Northern District of Illinois against its former Brazilian distributor and joint venture partner. Following extensive discovery in North and South America and the filing of summary judgment motions, the case settled as part of a complex asset purchase transaction.
- Defended a major franchisor in a Texas state court. On the franchisor's counterclaim, it secured a TRO against the owner of two franchises that forced the franchisee to surrender both restaurants. The franchisee then settled on the franchisor's terms. Also represented the same franchisor in several actions in Florida.
- Represented an automobile manufacturer in dealership termination. Defeated TRO motion by proving that the dealership, including the principal owner, committed fraud against numerous customers. The case also established precedent to prevent a dealer from transferring dealership rights to a related party to circumvent the termination.

Securities and Fiduciary Litigation

- Defended a public company and its private equity investor in a bet-the-company securities fraud case brought by a multi-billionaire European investor stemming from a private placement and involving alleged misrepresentations related to restatements of past financial statements. After the Orange County Circuit Court granted the plaintiff's summary judgment motion, prevailed on appeal with the opinion setting an important precedent clarifying that reliance must be proven under the Florida Securities Investor Protection Act. Upon remand, the case settled before trial.
- Represented directors of a large Florida-based privately held company in a class action case seeking over US\$20M brought by participants in an employee stock ownership plan (ESOP) alleging ERISA claims and breach of fiduciary duty. After discovery closed, the court in the Southern District of Florida dismissed 12 of 13 claims and the case then settled during mediation.

- Orchestrated the defense for a specialty pharmaceutical company and its officers and directors in a litigation campaign brought by a putative class (initially), a multitude of individual investors/plan participants and a civil enforcement action by the Securities and Exchange Commission. The cases stemmed from a privately held dermatology pharmaceutical company based in Florida that was acquired by a publicly traded pharmaceutical firm. The company had an Employee Stock Benefit Plan (ESBP) that provided an annual several-weeks-long window during which ESBP participants could sell their stock to the company at the latest appraised price. Preliminary merger talks started during this window. Within two months of this window closing, the company announced it was being acquired for four times the value of the ESBP appraised price. A class action lawsuit soon followed in the Southern District of Florida, claiming securities fraud and breach of fiduciary duties under ERISA and demanding over US\$200M in damages. Conducted the argument at the extensive class certification hearing and prevailed with the district court denying class certification as to all claims.
- Then served as co-lead trial counsel for two jury trials relating to Rule 10(b)(5) claims, with the first culminating in a plaintiff's verdict of nearly US\$2M and the second resulting in a complete defense verdict against a US\$2.3M claim.
- Prevailed on a summary judgment motion against a US\$45M claim by the largest shareholder (a former executive) among all plaintiffs.
- Prevailed on summary judgment against an ERISA representative action in the Northern District of Georgia requesting over US\$140M in damages.
- Defeated the claims of five other plaintiffs on summary judgment in two of the actions based upon releases in their severance agreements. Following the complete defense verdict and other results noted above, the company was able to reasonably settle a handful of remaining private actions and, a few months before trial, settled the SEC civil enforcement action during mediation.
- Defended a public company as lead trial counsel in a shareholder class action securities fraud case in the Southern District of Florida. After discovery and mediation, the case settled. Also involved in a wide-ranging investigation of related shareholder derivative claims.
- Defended a major securities brokerage firm against a class action brought by investors in a hedge fund in the Middle District of Florida. The case settled shortly before trial.
- Represented a public company and several officers in a shareholder class action claim alleging securities fraud in the Southern District of Florida and prevailed on a motion to dismiss.
- Represented a major bank in a securities fraud suit in the Northern District of Illinois that settled before trial.
- Defended a publicly traded healthcare company in a shareholder securities lawsuit in the Southern District of Florida and prevailed on a motion to dismiss. Then settled the related derivative lawsuit after it had been dismissed twice.
- Defended as lead counsel a major public corporation in a nationwide class action in Miami-Dade County Circuit Court involving an alleged fee overcharge in a direct stock purchase plan.
- Defended a large health care company in a US\$10M lawsuit in Miami-Dade County Circuit Court related to an asset purchase deal; defeated fraudulent omission claim by convincing the trial court that there was no duty to disclose.
- Served as lead trial counsel defending a major investment bank in a securities fraud action in the Western District of Louisiana brought by a regional bank. The case settled after the bank's key witness was forced to admit in deposition that her affidavit about alleged misrepresentations was false. Defended a related RICO action in Louisiana that settled before trial.
- Defended a Broward County-based appliance manufacturer against a shareholder securities fraud class action as lead trial counsel. The case settled after half of the claims were dismissed by the district court in the Southern District of Florida.
- Represented a large financial institution in a series of high-exposure cases against alleged breaches of fiduciary duties and fraud in multiple state court venues throughout Florida and also served as lead counsel in a related

putative class action in the Middle District of Florida in Jacksonville. Helped engineer a global settlement of all claims.

Product Liability (Bodily Injury)

- Won a defense verdict on behalf of an automobile manufacturer in a four-week jury trial in the Northern District of Illinois alleging design defects when two men died, and one suffered severe brain damage and paralysis, after a rollover accident. The plaintiffs sought damages of over US\$23M. *The National Law Journal* named this case as one of the top 15 defense verdicts of 1999.
- Acted as co-lead trial counsel for a specialty tractor (mule) manufacturer in a catastrophic injury design defect products liability action brought in Miami-Dade County Circuit Court by a longshoreman who suffered blindness, brain damage, and other injuries. After a strong opening statement and cross-examinations of plaintiff's witnesses, the case settled favorably four days into the jury trial.
- Won a defense verdict as first chair in a jury trial before the Northern District of Illinois on behalf of an automobile manufacturer against a claim that the airbag system in a car was defective and caused severe injuries to the plaintiff in a high-speed accident. This was an important victory for the automotive industry as it was one of the first cases of its kind to be tried.
- Won a defense verdict as co-lead trial counsel in a five-week jury trial for an automobile manufacturer in Wisconsin state court. The plaintiff, an insurance executive, lost control of his car, resulting in a rollover accident that rendered him a quadriplegic. The plaintiff, who sought more than US\$11M in compensatory damages and argued for punitive damages, claimed that his injuries occurred due to a defectively designed roof structure that collapsed during the rollover and a seatbelt system that allegedly inadequately restrained him during the accident.
- Won a defense verdict as first chair in a jury trial in Cook County Circuit Court on behalf of an automobile manufacturer against allegations that its vehicle steering system was defective and caused a high-speed crash, seriously injuring the driver and her two children.
- First chaired an arbitration hearing and prevailed against a defective airbag system claim for a line of vehicles.
- Second chaired a jury trial in St. Clair County Circuit Court on behalf of a truck manufacturer. The plaintiff claimed that the air brake system on a medium duty truck failed to perform and caused a high-speed accident between his truck and another one, resulting in the death of one driver and serious injuries for the other. The case settled reasonably during trial.
- Defended a medical device manufacturer in product liability actions in state and federal courts in Illinois.
- Defended a tire manufacturer in a wrongful death action in Escambia County Circuit Court and successfully settled the claim.
- Defended, as co-lead trial counsel, a pharmaceutical company against a high-exposure claim in the Southern District of Florida that a defective IUD caused severe injury to a young mother. The case settled before trial.

Professional Liability

- Served as co-lead trial counsel and won a seven-day arbitration trial hearing defending a large accounting firm in a US\$100M auditing malpractice case brought by a bankruptcy trustee. Also represented the firm in a related proceeding in the Southern District of Florida, obtaining a dismissal of all creditor claims.
- Won summary judgment, affirmed on appeal, as lead trial counsel defending a large executive search firm sued by a former major hospital client in the Southern District of Florida. In what one article called a "bellwether case" for the search firm industry, the hospital attempted to hold the search firm responsible for financial losses exceeding US\$60M, allegedly caused by a CEO who had been presented by the search firm and hired because of alleged misrepresentations about his background.
- Assisted in the defense of an accounting firm in a six-week jury trial in Cook County Circuit Court. The plaintiffs sued their former auditor for approximately US\$35M in alleged losses. The jury rejected nearly all the plaintiffs' claims and found the accounting firm liable for only about US\$700,000 in damages. Also participated in the

defense of an accounting firm in an auditing negligence case in Miami-Dade County Circuit Court and have represented accounting firms in other alleged negligence cases and partnership disputes.

Trademark & Trade Secrets

- Acted as lead counsel representing a China-based printed circuit board (“PCB”) maker suing its former Florida-based distributor over the PCB maker’s trademarked name. While representing the PCB maker in a breach of contract action, discovered that the distributor had hijacked the PCB maker’s name, which had been trademarked in the Republic of China and Hong Kong (but not the United States) by making a fraudulent trademark application to the U.S. Patent & Trademark Office. Rather than counterclaiming in the ongoing commercial litigation that was on a so-called “rocket docket,” the client filed a separate trademark lawsuit in the Southern District of Florida and defeated the motion to dismiss argument that the action was a compulsory counterclaim, with the court finding it was permissive. After the distributor counterclaimed for trademark infringement and tortious interference and international discovery was completed, the PCB maker prevailed on summary judgment with the court finding that it was the valid owner of the mark and entering judgment against all counterclaims.
- Served as lead counsel for an LED lighting manufacturer that sued a group of former employees in Brevard County Circuit Court for stealing trade secrets and breaching restrictive covenants after they left one by one over time to start a competing company. After extensive expedited discovery and before trial, the case resolved through an innovative settlement.
- Represented a major brewing company in a lawsuit brought by a Miami craft brewer in the Southern District of Florida, seeking a declaration that it was not infringing a trademark and alleging tortious interference in connection with a professional sports sponsorship. After the pleadings were closed and in the early stages of discovery, engineered a global settlement during mediation.
- On behalf of a manufacturer in South Florida, sued a former executive for stealing trade secrets and breaching a non-compete agreement, attained an injunction, and then negotiated a settlement.

Pro Bono

First chaired a jury trial in Cook County Circuit Court on behalf of an African American victim of a racially motivated attack. This civil lawsuit claimed assault, battery, and violation of the Illinois Ethnic Intimidation Act and was brought against the two defendants after they were acquitted in a criminal court bench trial. The jury found for the client and awarded damages.

Recognitions

- *Lawdragon*; “500 Leading Litigators in America”; Complex Commercial Litigation, Consumer Class Actions, Product Liability, and Mass Torts; 2024
 - *Chambers USA*, Litigation, General Commercial – Florida, 2012–2023
 - *The Best Lawyers in America*®; Commercial Litigation, 2010–2022, 2024; Litigation Securities, 2024; Mass Tort Litigation / Class Actions - Defendants, 2024; Product Liability Litigation - Defendants, 2024
 - *Benchmark Litigation U.S.*; “Florida Litigation Star,” 2020–2024; “National Litigation Star,” 2019
 - *Top Rated Lawyer, Super Lawyers - Florida* 2006–2024
 - *The Legal 500 U.S.*
 - Product Liability, Mass Tort, and Class Action: Consumer Products, 2016 and 2020–2023
 - Dispute Resolution - Securities Litigation: Defense, 2017–2019
 - Litigation - Securities: Shareholder Litigation, 2007, 2013–2016
 - Client testimonial: “*David Coulson... is praised [by clients] for doing an exceptional job,*” 2007 guide as to Securities Shareholder Litigation
 - *South Florida Legal Guide*, “Top Lawyer,” 2011–2016, 2020–2021
 - *Daily Business Review*, “Most Effective Lawyer Award”: International Litigation, 2019; Class Action Litigation, 2016; and Business/Securities Litigation, 2007 and 2013
 - Recognized, *National Law Journal*, “Top Defense Wins of 1999”
 - Rated AV Preeminent® 5.0 out of 5.0
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Activities

- Chairperson, Jackson Health Foundation Board of Directors
 - Board Member, GableStage Theater at the Biltmore
 - Past member of Miami-Dade County Bar’s Civil Litigation Committee
 - Past member of the Southern District of Florida’s Bench and Bar Conference Committee
 - Former Director of the Hoeveler-Spellman Inns of Court
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Credentials

EDUCATION

Dave received his B.A., *magna cum laude*, from the University of Miami in 1985. He received his J.D., *cum laude*, from Harvard Law School in 1988.

ADMISSIONS

- Florida
- Illinois

CLERKSHIPS

- USDC - Southern District of FL for the Honorable Stanley Marcus

Related Insights & News

Publications and Speaking Engagements

In addition to the following speaking engagements, Dave has served as an instructor many times for the National Institute for Trial Advocacy's (NITA) Florida Regional Program.

- Speaker, UM Law School sponsored, "Legends of the Courtroom," "Handling High Profile Cases" (October 2023)
- Speaker, FIU Law School-sponsored "View from the Bench and Bar," "Litigating Complex Claims: Trial and Appellate Considerations" (May 2023)
- Media Mention, "2016 Most Effective Lawyers: Class Action," *Daily Business Review* (December 2016)
- Speaker, "Psychology of Jury Selection," Miami-Dade County Bar Association (February 2016)
- Speaker, "Mock Trials: Approaches for Case Evaluation and Optimizing Trial Performance," Hoffman Professional Center (November 2015)
- Speaker, "Class Action Landscape and Case Developments," Legal and Regulatory Conference for the Personal Care Products Council (May 2015)
- Media Mention, "Ex-Stiefel Exec. Can't Toll Stock Claims, 11th Circ. Rules," *Law360* (January 2015)
- Media Mention, "Most Effective Lawyers of 2014," *Daily Business Review* (December 2014)
- Media Mention, "How They Won It: Greenberg Wins Stiefel Securities Verdict," *Law360* (December 2013)

SPONSORSHIP

Winston Sponsors Celebration of *The Legal 500* GC Powerlist – Miami 2024

FEBRUARY 1, 2024

RECOGNITIONS

Winston & Strawn Recognized in 2024 *Benchmark Litigation*

OCTOBER 6, 2023

RECOGNITIONS

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

SEPTEMBER 8, 2023

RECOGNITIONS

Winston Attorneys Recognized in *The Best Lawyers in America*® 2024

AUGUST 17, 2023

RECOGNITIONS

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

JUNE 7, 2023

RECOGNITIONS

Winston & Strawn Recognized in *Chambers USA* 2023

JUNE 6, 2023

RECOGNITIONS

Winston & Strawn Recognized in *2023 Benchmark Litigation*

OCTOBER 14, 2022

RECOGNITIONS

Winston & Strawn Attorneys Recognized in *The Best Lawyers in America*® 2023

AUGUST 18, 2022

RECOGNITIONS

Winston & Strawn Recognized in *Chambers USA* 2022

JUNE 3, 2022

IN THE MEDIA

Winston & Strawn Opens Office in Miami—“an Epicenter of Business Activity”

MAY 20, 2022

PRESS RELEASE

Winston & Strawn Launches Miami Office With Partners From Five Prominent Law Firms

MAY 19, 2022

Capabilities

Commercial Litigation & Disputes

Class Actions & Group Litigation

Securities, M&A & Corporate Governance Litigation

Product Liability & Mass Torts

Trade Secrets, Non Competes & Restrictive Covenants

Financial Services Litigation

Financial Services

Food & Beverage

Technology, Media & Telecommunications

Medical Devices

Life Sciences

Professional Services