

Business Litigation and Transactions

- Defense of an international turbine manufacturer in consolidated state-court class actions with over seven thousand claimants, against the owner of a chemical plant, a utility company, and the turbine manufacturer, arising from a release of sulfur trioxide at the plant. Persuaded appellate court in 2012 to reverse the certification of two “physical injury” classes and in 2013 and on remand obtained dismissal in district court of part of the third and remaining “emotional injury” class on First Amendment grounds, a novelty in toxic tort actions.
- Defense of international compressor manufacturer in federal court action by owner of ethylene plant and insurer claiming \$8.45 million in business interruption losses and property damage arising from outage after \$50 million debottlenecking engineering and expansion project. Obtained dismissal of four claims on motion for partial summary judgment, argued interlocutory appeal in U.S. Court of Appeals for the Fifth Circuit, and prepared fifth claim for trial. Obtained sanctions award of \$108,000 against opposing parties for withholding evidence and then negotiated favorable settlement paying claimants less than the \$450,000 property damage claim and less than client’s cost of defense.
- Prosecution of commerce clause action as Louisiana counsel for national tobacco manufacturer and regional grocery distributor against Louisiana Secretary of the Department of Revenue to enjoin cancellation of tobacco wholesaler permits and declare statute unconstitutional, resolved after cross motions for summary judgment with the Secretary consenting to a preliminary and then a permanent injunction from enforcing the statute and with grocery distributor recovering its attorneys’ fees by agreement.
- Defense of NYSE-listed compressor manufacturer in refusal-to-deal antitrust action by distributor. Obtained judgment of involuntary dismissal of application for preliminary injunction after three-day trial at close of plaintiff’s case, based on cross-examination of plaintiff’s witnesses and experts, before any defense testimony. Then negotiated favorable settlement in which *plaintiff* paid defendant client \$10,000 without any counterclaim or Rule 11 motion being filed by the client.
- Prosecution of \$1.1 million interpleader adversary proceeding in U.S. Bankruptcy Court for NYSE-listed utility company. Competing claimants were a national contractor for nuclear power plant and its surety, a national insurance company. Obtained decision that requirements for rule and statutory interpleader were met, discharging

the utility as stakeholder, and obtained award of \$35,168.92 for attorneys' fees and expenses (100% of amount sought) from interpleaded funds. Net cost to utility company to solve \$1 million problem: approximately \$1,600.

- Defense of reinforcing steel subcontractor in \$8 million claim by general contractor arising out of construction defects in 50-story office building and prosecution of separate action against subcontractor's insurer, which had denied coverage and refused independent counsel. Obtained favorable settlement from client's insurer that insurer pay for defense of subcontractor by independent counsel chosen by client subcontractor. Discovery proved fault of general contractor and resulted in settling general contractor's claim before retention of experts for subcontractor. Ensuing second favorable settlement resulted in client paying zero on general contractor's claim and recovering \$120,000 on \$160,000 counterclaim against general contractor.
- Defense of start-up real estate brokerage firm and chief executive owner with limited financial resources in "bet-the-company" case against national real estate brokerage firm in injunction action based on noncompetition and name covenants in agreement for sale of business. Obtained judgment denying injunction after two-day trial. National brokerage firm then abandoned its claims without further proceedings.
- Defense of publicly held owner of communications towers in consolidated state court injunction actions by owners of television broadcasting companies for access to towers and prosecution of counterclaim by client for breaches of tower leases. Resolved favorably in subsequent bankruptcy case filed by broadcasters prior to filing of counterclaim in state court actions.