



Litigation and Dispute Resolution

Winning in the courtroom – and even before trial begins.

From fast-moving injunction proceedings to fact-intensive commercial disputes, the Spencer Fane Litigation and Dispute Resolution team is poised to address the full range of litigation risks that our clients might encounter. Our attorneys are thoughtful and aggressive advocates who regularly obtain victories in state and federal courts, as well as at arbitration and mediation.

Overview

Litigation strategy and tactics aligned with clients' perspectives and goals

No matter the stakes, litigation can threaten the future of any individual or organization. When reputation, success, and even survival hang in the balance, our clients need somewhere to turn.

Our Litigation and Dispute Resolution team consists of experienced attorneys recognized both locally and nationally in their fields. With litigators licensed throughout the U.S., our team collaborates to advocate for clients across the country before mediators, arbitration panels, judges, and juries.

Not all litigation victories come in a courtroom

From the outset, our litigation team focuses on strategies to win or favorably resolve disputes as early as possible.

Minimizing risk, strategizing proactively. Our attorneys work with clients to define, assess, and minimize litigation risks and develop proactive strategies to navigate the shifting legal landscape that confronts each of our clients.

E-discovery. The law and rules governing e-discovery are evolving quickly, which means that staying on the cutting edge, as we do, is crucial for litigation success. We work with clients and their IT departments to optimize standard retention policies as well as preserve electronically stored information during the course of litigation. Most importantly, we know how to get what we need in discovery and how to litigate e-discovery issues when necessary.

Value. The Spencer Fane litigation team never loses sight of the business needs of our clients. We pride ourselves on staffing that allows clients to benefit both from the wisdom and judgment of our veteran litigators and the efficiency of our associates. The result of these efforts is an agile, experienced, and cost-effective representation for our clients.

Areas of Focus

Appellate Litigation

Win or lose at trial, appeals present unique opportunities – to reverse a bad result or preserve a hard-earned win.

Spencer Fane appellate lawyers make the most of these opportunities, representing our clients in handling any type of appeal, no matter what attorney or which firm handled the trial.

Members of our appellate team have argued and won cases in appellate courts across the country, including the U.S. Supreme Court.

We collaborate with attorneys in other cities, practices, and even other firms to refine appellate arguments – to best serve our clients. While we regularly handle cases from trial through appeal, if a trial has been handled by a different firm, our attorneys can step in, working with trial counsel cooperatively, respectfully, and efficiently through the appellate process.

Business and Commercial Disputes

We understand how disputes affect business objectives, operations, and customer relationships. Spencer Fane litigators know well that the stakes are different in every dispute, and we engage clients early to identify their legal and business objectives and craft strategies to achieve them.

From breach of contract claims to sales and transactional disagreements, we help clients resolve disputes involving a variety of commercial relationships in a wide range of industries.

We vigorously protect and advance clients' interests at each stage of the litigation process, and our reputation for success at trial helps drive settlement at the negotiating table.

Class Action Defense

Quickly and aggressively defending class actions and multiparty matters, avoiding protracted legal battles. The Spencer Fane Class Action Defense team has defended all types of class and multiparty actions, including multidistrict actions, in courts nationwide – with an enviable record of success.

We have particularly deep knowledge in the financial sector, and we also handle class actions in the areas of antitrust, cable privacy statutes, toxic and other mass torts, fraud, violations of anti-pyramid statutes, securities fraud, breach of fiduciary duty, environmental claims, and insurance redlining. In the employment context, we defend class actions involving racial and gender discrimination, collective actions brought under the Fair Labor Standards Act, and other mass actions involving multiple plaintiffs or multiple defendants.

Construction Litigation

Comprehensive knowledge of the construction industry, creative dispute resolution. The Spencer Fane Construction Litigation team counsels a full range of construction industry professionals – including owners, developers, architects, engineers, contractors, subcontractors, and material suppliers, as well as banks and financial entities with interests in real estate development and construction.

Our team has extensive experience addressing disputes involving:

- **Construction claims**, properly documenting, defending, and making claims for delay, disruption, and other issues.

- **Construction defects**, asserting and defending against allegations of construction defects, including structural failures, flatwork heaving, water leaks / stucco failure, roofing defects, and heating and cooling defects.
- **Mechanic's liens and payment bond claims**, ensuring that contractors and subcontractors are paid for their work. We also protect property owners from being compelled to pay twice when a contractor or subcontractor defaults.
- **Insurance coverage**
- **Breach of implied warranty claims**

Corporate Governance and Shareholder Disputes

Resolving disputes swiftly so they do not interrupt daily business operations or impede business success. Spencer Fane attorneys advise partnerships, limited liability companies, and corporations and their officers, directors, and owners, addressing tensions between partners and working to develop resolutions to the disputes that often arise between them.

Our Corporate Governance and Shareholder Disputes team advises on:

- **Shareholder rights and remedies**, including enforcing voting rights, ensuring access to corporate books and records, protecting rights to receive dividends or distributions, and preserving the ability to participate in corporate governance.
- **Minority shareholder protection**, including addressing issues such as unfair treatment, exclusion from decision-making processes, and shareholder oppression.
- **Shareholder agreement disputes**, providing guidance on interpretation and enforcement of shareholder agreements and helping to resolve disputes arising from unclear or conflicting provisions.
- **Corporate governance disputes**, including conflicts between shareholders and directors or officers, breach of fiduciary duty claims, and disputes over the management and control of the company.
- **Share valuation disputes**, including those arising from mergers, acquisitions, and other transactions.

Financial Services Litigation

Handling lending disputes, consumer complaints, bankruptcy matters, regulatory enforcement actions, and more.

With a deep understanding of statutes and regulations governing financial services, the Spencer Fane Financial Services Litigation team addresses a full range of financial services disputes.

Advising parties on all sides – traditional and nontraditional financial institutions and lenders, servicing entities, debt buyers, and collection agents – we resolve:

- **Consumer claims relating to ECOA and UCC** brought against state-chartered and national banks.
- **Claims against servicing agents**, including individual lawsuits, class actions, or other multiparty actions.
- **FDCPA, FCRA, TCPA, RESPA, and TILA claims**, and claims brought under state consumer protection statutes.
- **Bond deals in jeopardy**

Insurance Litigation

Decades of experience defending lawsuits and advising on coverage matters throughout the U.S.

Spencer Fane Insurance trial lawyers have represented insurers and reinsurers in complex coverage evaluations and insurance litigation across the U.S., defending high-exposure extra-contractual insurance claims, defeating class certification, developing new legal precedent on appeal, and obtaining defense verdicts for insurers in both state and

federal courts.

We have defeated bad-faith setup claims, defended rescission of policies based on misrepresentation, vacated corrupt appraisal awards, and recovered for insurers on counterclaims against insureds who breach their own obligations under the policy.

Noncompete and Trade Secrets Litigation

Protecting crucial information from disclosure. There are many reasons for a business to protect trade secrets and to seek and enforce noncompetition, nondisclosure, and confidentiality agreements: protecting proprietary information, preserving and protecting client relationships, and retaining employees.

Moreover, the stakes are high. The viability of a business rests on protecting its competitive position.

The Spencer Fane NonCompete and Trade Secrets Litigation team has deep experience navigating high-stakes matters – both bringing and defending against claims, alone or in combination with breach of contract, fraud, and other claims. Our team prosecutes and defends lawsuits involving:

- **Restrictive covenants**
- **Misappropriation and theft of trade secrets and confidential information**, including injunctive relief and claims for damages.
- **Breach of fiduciary duty**
- **Usurpation of corporate opportunity**

Product Liability and Toxic Torts

Protecting the value of products and processes while preserving a company's public image and financial vitality.

Spencer Fane attorneys defend businesses against product liability and toxic tort claims – both individual and multiparty and multidistrict actions – including in some of the most plaintiff-friendly venues in the country.

For some cases, we create strategies that eliminate or limit liability before trial – through early motion practice, before class certification, or through early, beneficial settlement. For others, we go head-to-head with leading plaintiffs' counsel in jurisdictions across the country, and we have an extensive track record of winning such cases at trial.

Our team handles all aspects of pretrial, trial, and appellate work. We also have substantial experience with national coordinating counsel, regional counsel, lead trial counsel, and local counsel roles.

Real Estate Litigation

Understanding the business of real estate, resolving disputes in every segment of the industry. The Spencer Fane Real Estate Litigation team works with financial institutions, governmental entities, landlords, tenants, developers, sellers, and buyers to resolve disputes through litigation or applicable alternatives.

Our deep bench of experienced problem-solvers analyzes each case and formulates a strategy tailored to achieve clients' desired results through the most appropriate type of dispute resolution. Our attorneys handle cases involving:

- **Real estate sale contracts**
- **Lease, lender, and investor disputes**
- **Commercial and multifamily residential leases**

- Land use and zoning
- Special districts
- Mechanic's liens
- Boundary and easement disputes
- Broker agreements
- Foreclosure claims
- Ownership rights
- Title claims
- Property tax appeals
- Eminent domain

Trust, Estate, and Fiduciary Litigation

Spirited advocacy, with sensitivity to the personal and emotional side of litigation. Estate and trust administration often involves complex legal issues, which can be further complicated by family dynamics. The Spencer Fane Trust, Estate, and Fiduciary Litigation team has extensive experience addressing such situations, including:

- **Addressing complex disputes** involving wills, trusts, estates, bequests, paternity suits, guardianship, conservatorship, breach of fiduciary duty, and disputes involving shareholders.
- **Providing counsel when rightful beneficiaries and heirs come into question** or the validity of a will or trust agreement is being challenged.
- **Pursuing outcomes that preserve relationships, when possible**, by resolving disputes privately through discussion, negotiation, and mediation.
- **Devising and executing on litigation strategies** when desired settlements cannot be reached.
- **Advocating for clients and their desired outcomes** while being aware of the personal, emotional, and psychological factors that are often involved.