



Damian R. LaPlaca

Partner, *Chair, Fiduciary Practices Group and Business Litigation Practices Group*
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617-406-4645 direct
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Experience

With over twenty years of trial experience, Damian specializes in intellectual property and commercial litigation, including trade secret and patent and trademark infringement, trade dress, mergers and acquisitions and unfair competition. He advises clients on the legal implications of the use of social media and has written and spoken extensively on the subject. He also regularly advises clients on document management, e-discovery, and litigation holds.

Damian has been lead counsel in matters involving director and officer liability, fiduciary duties, and breach of contract. He has substantial experience in prosecuting and defending commercial misconduct actions and in employment matters including breach of non-competition agreements and related restrictive covenants.

Damian has successfully led teams of attorneys in obtaining and defeating temporary restraining orders and preliminary injunctions in emergency matters. He is accomplished in implementing strategies to achieve early resolution of disputes and his practice includes pre-litigation counseling, risk analysis and risk management.

Before joining Donovan Hatem, Damian was with LeBoeuf, Lamb, Greene & MacRae, now Dewey & LeBoeuf, handling intellectual property litigation, complex commercial litigation, and litigation involving regulated industries.

In addition to his client responsibilities, Damian has been active in the Boston community. He serves on the Board of Directors of the Kelly Packowski MS Foundation, and is a former Member of the Board of Directors of the Neighborhood Association of the Back Bay, and a former Member of the Board of Advisors of the Bentley College Institute of Paralegal Advisors.

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(Damian R. LaPlaca, continued)

Practice Areas

- Complex Commercial Litigation
- Intellectual Property and Technology
- Trade Secret and Patent Litigation
- Employment Disputes
- Non-Competition Litigation

Admitted to Practice

- Massachusetts
- Virginia
- United States District Court for the District of Massachusetts
- United States Court of Appeals for the First Circuit
- United States Court of Appeals for the Federal Circuit
- Pro Hac Vice: Rhode Island, Vermont, Maine, Ohio and Puerto Rico

Federal Court Clerkship

- Law Clerk, United States District Court for the District of Puerto Rico, 1986-1988

Memberships

- American Bar Association
 - Section on Litigation
 - Section on Pre-Trial Practice
- Federal Bar Association
- Massachusetts Bar Association
- Boston Bar Association

Languages

- Spanish

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(Damian R. LaPlaca, continued)

Representative Experience

Intellectual Property Litigation

- Won appeals court decision vacating a \$1.8 million jury verdict.
- Lead counsel in trademark infringement action over magazine/blog name.
- Won jury verdict for damages against design client's former business partner for theft of trade secrets and obtained permanent injunction against continued use of the intellectual property; obtained award of attorneys' fees.
- Obtained dismissal of patent infringement action by owner of a firearm patent.
- Obtained summary judgment declaring opposing party's patent to be invalid for failure to satisfy written description and best mode requirements.
- Favorably settled patent infringement, trade dress and cybersquatting claims for a fraction of the asserted claims.
- Defeated a preliminary injunction sought by software developer to enforce the termination provision in a software license agreement in a dispute over the development of source code; successfully obtained settlement on counterclaims for deceptive business practices and intentional interference with economic and contractual relations.
- Successfully resisted U.K. company's demand for discovery, including trade secrets, against national water purifier company in federal court action brought pursuant to federal statute providing for discovery in aid of a foreign litigation.
- Argued for and obtained dismissal of contract action on behalf of cable channel in action for breach of an uplink agreement on grounds of lack of personal jurisdiction.

Commercial Litigation

- Participated in a team that obtained a preliminary injunction in federal court in New York against the transfer of certain rights to use telecommunications assets, showing likelihood that the seller materially breached its representations and warranties in a \$10 million asset purchase agreement.
- Obtained a freeze order in trial court to secure financial accounts in breach of supply contract. Won a million dollar jury verdict in contract dispute over a supply contract.
- Led a team of defense counsel in both trial court and on appeal in obtaining dismissal of a multi-million condominium dispute against contractors.
- Obtained a settlement for the payment of damages on counterclaim for breach of broker/commission agreement.

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(Damian R. LaPlaca continued)

- Lead member of a litigation team that obtained summary judgment dismissing insurance carriers in a multi-district mass torts litigation.
- Negotiated a favorable pre-litigation settlement on behalf of a telecommunications company over a proposed class-action suit alleging violation of consumer protection laws.
- Obtained summary judgment dismissing claims against of breach of a long term power purchase agreement for the sale of electric power.
- Lead counsel in action on behalf of cable company against digital television company for interference with cable equipment in the provision of bulk service. Obtained preliminary injunction and favorable settlement followed.
- Obtained dismissal of action for damages in breach of non-competition covenant in employment agreement and for interference with contractual relations.
- Obtained freeze orders in trial court in simultaneous multi-jurisdiction effort to secure investment accounts following discovery of fraud and embezzlement scam.
- Successfully demanded that bank assume defense and indemnity in action under UCC brought in the wake of a check forging scheme.
- Obtained favorable settlement in defense of action alleging breach of an agreement for the sale of mortgage servicing rights.
- Obtained dismissal of action seeking a judgment under the UCC for alleged assignments of contracts.
- Affirmance of jury verdict for damages on behalf of tenant seeking damages against landlord for breach of a non-competition agreement contained in a commercial lease.
- Prosecuted action for cable theft under section 633 of the Federal Communications Act of 1984.
- Successfully thwarted potential class action suit for damages sought against telecom under a consumer protection statute.
- Conducted an internal investigation of an employment discrimination claim at request of general counsel of a cable company and negotiated a favorable settlement; favorably resolved numerous other employment matters.
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Speaking Engagements

Panelist on social media at upcoming Arizona Bar Association Annual Convention in Tucson, June 16, 2011.

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Panelist at Massachusetts Bar Association Seminar on “The Impact of Social Networking on Employment Law” March 31, 2010; featured in *Massachusetts Law Journal*, May, 2010.

Panelist on social media legal risks at Donovan Hatem Half Day Business Law Symposium, June 16, 2010.

Panelist at ACEC Conference on “Legal Implications of Use of Social Networking Websites” December 2009; presentation linked to www.acec.org.

Panelist at a DRBF NE/ADR Conference on “Dispute Resolution Techniques” October 2008.

Panelist at Boston, MA seminar on “ADR Processes” October 2008.

Panelist at Broward County Seminar on “Managing Errors & Omissions” July 2008.

Speaker at the Vinci North American Risk Management Symposium in Philadelphia, PA on “Professional Liability” Issues May 2008.

Articles and Publications

Social Media Policies Must Address Emerging Privacy Issues, May 2011. Damian LaPlaca was quoted extensively in this Lexis-Nexis In-house Advisory Newsletter on social media and emerging privacy issues

Legal Implications to A/E Firms in the Use of Social Networking Websites: Minimizing the Legal Risks, ACEC Insights, March 2011.

Legal Implications of the Use of Social Media, University of Maryland Journal of Business & Technology Law, 5 MD. J. BUS. & TECH. L. PROXY 1 (2010).

Pursuing Legal Defenses at the Outset of Litigation Can Be the Difference Between Winning and Losing, The Design and Construction Management Professional Reporter, October 2007.

Instant Messaging Use Policies, The DH Benchmark, Fall 2007.

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Quoted

Quoted in a *Los Angeles Daily Journal* article dated October 25, 2011 on jury tainting..

Quoted in *Massachusetts Lawyers Weekly* edition dated October 31, 2011 on appeals court decision vacating jury verdict.

Quoted at length in the August 2010 *Professional Services Management Journal* and *A/E Rainmaker* on the legal issues surrounding the use of social media.

Quoted in the *Massachusetts Lawyer's Weekly* for obtaining a rare court decision piercing the corporate veil after winning a million dollar judgment in a jury trial over a contract dispute.

Education

- Catholic University, Columbus School of Law (J.D., 1986)
 - Staff Member, *Catholic University Law Review*, 1985-86
 - Member, Law Review
 - An Attorney's Guide to Appellate Practice Before the District of Columbia Court of Appeals, 35 *Catholic University Law Review*, 1241 (1986).
- Siena College (B.A., 1982, *cum laude*)