



Complex & Business Litigation

Overview

AP&S has a well-earned reputation for representing individuals and businesses in commercial litigation. We have litigated high-stakes, high-profile cases in federal and state courts. We are successful on behalf of our commercial clients because we work hard to understand each client's objectives and the unique nature of its business. Although we endeavor to resolve disputes outside the courtroom, we have the experience and skill set to take high-stakes commercial matters to trial and win. Our [business litigators](#) are widely recognized for their skills and the broad nature of their practices including contract disputes, business disputes, UCC claims, fraud, unfair and deceptive trade practice claims, antitrust claims, corporate governance disputes, shareholder derivative actions, bank and financial services litigation, and employment, antitrust, securities and intellectual property matters.

Areas of Concentration

- Contract disputes
- UCC claims
- Fraud
- Unfair and deceptive trade practice claims
- Corporate governance disputes
- Bank and financial services litigation
- [Employment matters](#)
- Antitrust
- Securities
- [Intellectual property](#)

Experience

- APS is representing a national bank in a putative class action brought by mortgage holders who allege that the bank is obligated to pay interest on funds deposited in their escrow accounts. The Rhode Island Federal District Court dismissed plaintiff's claims on the grounds that the Rhode Island statute requiring interest on escrow is preempted by federal law. The case is currently on appeal to the United States Court of Appeals for the First Circuit.

- AP&S obtained an injunction against a Korean manufacturer and two former employees of a construction equipment manufacturing company from misappropriating trade secrets and unlawfully establishing a competing business, and negotiated a resolution of the associated damage claims.
- AP&S represents the Governor, the General Treasurer and the Employees' Retirement System of Rhode Island in multiple cases and a class action that challenge the constitutionality of pension changes made by the Rhode Island legislature in 2009, 2010 and 2011 as a result of significant pension overhaul. The litigation affects virtually all past and present state employees, as well as municipal employees subject to the pension system.
- AP&S is defending a health insurance company in a federal antitrust action brought by an out-of-state health care system alleging that the insurer monopolizes the health care insurance market in the state of Rhode Island and that its refusal to negotiate in good faith regarding reimbursement rates for a Rhode Island hospital caused the health system antitrust damages.
- AP&S represented business defendants in two suits on the Connecticut Superior Court Complex Litigation Docket that arose out of a business transaction which involved the auction of plaintiff's predecessor and culminated in its purchase by an investor group. The resulting private company filed suit against the defendants alleging, among other things, breach of contract, intentional interference with contractual relations, misappropriation of trade secrets, unfair trade practices and computer crimes.
- In \$60 million litigation, AP&S attorneys defended charitable corporations that had been sued, in three separate lawsuits, for alleged undue influence and fraud in connection with charitable donations that had been made to the charitable corporations via will, trusts and lifetime gifts. AP&S attorneys obtained summary judgment on behalf of the firm's clients in the trial court in all three cases and successfully defended those judgments on appeal before the Rhode Island Supreme Court.
- AP&S represented a food distribution company that conducted a nationwide product recall due to salmonella contamination of its products through tainted pepper. AP&S obtained a \$33 million judgment against one spice company defendant and successfully pursued all other responsible parties.
- AP&S defended an international metals recycling company in a class action litigation brought by certain of its suppliers alleging violations of the civil Racketeer Influenced and Corrupt Organizations Act (RICO), fraud, unjust enrichment and breach of contract.
- AP&S obtained a jury defense verdict on behalf of a toy manufacturing company in a case in which the plaintiff alleged that it was owed over \$20 million in licensing royalties.
- AP&S successfully moved to dismiss claims brought against a commercial bank by a law firm that was defrauded by its payroll company, which maintained accounts at the bank.
- AP&S defended a major defense contractor in South Carolina federal court in a dispute with a finance company regarding U.C.C. factoring liens.
- AP&S obtained summary judgment in favor of a mortgage lender accused of violating the appraiser independence provisions of the Dodd Frank Act.
- AP&S successfully defended a manufacturing company at trial in a case where the plaintiff alleged that it was owed royalties based on an inventor's agreement.
- AP&S represented a commercial client at trial in the Complex Commercial Litigation Docket in the Delaware Superior Court in an action for breach of contract, declaratory judgment and breach of indemnity obligations arising out of a sale of corporate assets in which the plaintiff sought approximately \$18 million in damages.
- AP&S obtained an injunction against a Korean manufacturer and two former employees of a construction equipment manufacturing company from misappropriating trade secrets and unlawfully establishing a competing business, and negotiated a resolution of the associated damage claims.
- In the wake of the United States Supreme Court's decision in *Murphy v. NCAA*, 138 S. Ct. 1461 (U.S. 2018), AP&S advised the Rhode Island Lottery as it became the first New England state to implement sports wagering and one of the first in the country to implement online sports wagering. AP&S successfully defended the Rhode Island Lottery in subsequent litigation challenging the constitutionality of both forms of wagering and is defending that judgment on appeal before the Rhode Island Supreme Court.

- AP&S regularly advises a regional sports association that serves as the governing body for youth and adult clubs on its legal obligations and players' rights.
- Co-counsel for the National Football League in successful defense (dismissal) of putative class action litigation alleging violations of the Video Privacy Protection Act.

Seminars/Publications

Seminars

- Nicole J. Benjamin, Representing Your Client in Federal Court, NBI, forthcoming November 2015.
- Joseph Avanzato, Representing Small Business Clients: Dissolving a Business, NBI, March 2013.
- Joseph Avanzato, Seminar on "E-Commerce in Rhode Island – Legal & Business Issues."
- Joseph Avanzato, Seminar on "Law of the Internet in Rhode Island."

Publications

- Kyle M. Zambarano, *Long v. Dell* and its Decoding of Rhode Island Consumer Protection Law, JD Supra, September 2014.
- Geoffrey W. Millsom, Rhode Island Usury: Interest By Any Other Name Is Still Interest, JD Supra, June 2014.
- Nicole J. Benjamin, Rhode Island Chapter of Survey of State Class Action Law, American Bar Association, 2010–2014.
- Kyle M. Zambarano, Co-author, Rhode Island Update of the 2012 and 2013 Review of Consumer Protection Law Developments.
- Leslie D. Parker, "Putting Poverty in Museums: Strategies to Create the For-Profit Social Business," 29 Boston College Third World Law Journal 357 (2009).
- Patricia K. Rocha and Nicole J. Benjamin, Rhode Island chapter of A Practitioner's Guide to Class Actions, American Bar Association, 2010.
- Bart Totten, ABA Journal on Antitrust Law.
- Bart Totten, Rhode Island Chapter of ABA's Consumer Protection Law Developments.

Awards

- Rated Tier 1 Metropolitan "Best Law Firm" by Best Lawyers®.