

LEGAL & LITIGATION DEPARTMENTS OF THE YEAR



GIBBONS P.C.

GIBBONS CLASS ACTION TEAM PRIORITIZES DEFENDING SUCCESSFUL BRANDS AND BUSINESSES

The class action team at Gibbons of Newark handled trial- and appellate-level work, in both state and federal jurisdictions, in 2016. The group handled several cases in a developing area of law under the New Jersey Truth-in-Consumer Contract, Warranty and Notice Act. In one such case, Gibbons successfully defended a form contract created by an industry organizations representing independent auto dealerships; in another, the team obtained dismissal of a putative class suit challenging rental car contract language. And in

a Consumer Fraud Act class suit lodged against a client in the nutritional supplement industry, the group prevailed at the trial and appellate levels in Superior Court.

*** The responses were provided by Michael McDonald, leader, consumer class action defense team, and partner, business & commercial litigation department. ***

What were some of the department's most satisfying successes of 2016, and why?

Our firm's class action defense results over the past year were extremely satisfying for different reasons. In *Luppino*, it was truly gratifying to successfully defend a top-tier German automaker. Complete victory was particularly satisfying since we stood firm with the client's employees and expert witnesses in defending a product and luxury brand, knowing that, after a long battle, the court was swayed by the client's meritorious position and not by the relentless tide of arguments based on speculation rather than facts or science. Our team endeavors to always deliver the highest quality representation.

It has been equally gratifying to protect other companies from scurrilous class action lawsuits. For example, Nordic Naturals Inc., a leading supplier of Omega-3 dietary supplements, was sued repeatedly by a prolific litigant, but the district court and U.S. Court of Appeals for the Third Circuit rejected such meritless claims and appeals. Defending the brand was equally important for this industry leader. Similarly, representing the New Jersey Coalition of Automotive Retailers in several class actions was extremely important because any loss would have had a devastating effect on hundreds of small, family-owned automobile dealerships throughout New Jersey.

Is it a penchant for efficiency, or a willingness to go the distance as effective trial advocates, that gives the litigation department its reputation?

Both. Certainly, clients prefer to get out of class actions quickly, rather than be entangled for years in expensive discovery, with the inherent risk of class certification. Our reputation is definitely based in part on efficiency—staffing cases leanly—and a track record of early wins. It is also based on our demonstrated ability to “go the distance” for clients, through motion practice as needed, class certification, trial, or appeal. We have the depth and talent to handle the most complex cases. We strive to become the client's trusted advisor in these difficult matters and seek to help them solve the problems that the lawsuits create in achieving their primary goal: A successful business. In this way, we truly become effective advocates for our clients.

A potential client in crisis calls and asks why your team should be retained—what is your answer?

The Gibbons consumer class action defense team can be your trusted advisor, providing advice and counsel on all types of crisis response, including responding to governmental agencies, assisting with potential changes in business practices due to an evolving legal climate, and preparing for complex litigation. All team members have clerked for judges in the state and federal courts in New Jersey and elsewhere, and our collective insight into the judges who may be assigned to your matter will be extremely useful in guiding you through the litigation. To the extent the crisis involves multiple disciplines within the company, Gibbons has the experience to advise, inform, and guide you through almost any crisis your business may face.

The Gibbons consumer class action defense team has represented clients in numerous industries, including automotive, building materials, consumer electronics, dietary and nutritional supplements, foods, cosmetics, pharmaceuticals, medical devices, electronic commerce, and more. We understand consumer class actions and the workings of various industries, and pride ourselves on the ability to learn your business quickly.

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From left to right: Jeffrey A. Palumbo, Kate E. Janukowicz, Kaitlyn E. Stone, Michael R. McDonald, Caroline E. Oks, Jennifer Marino Thibodaux, Damian V. Santomauro.

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It's a challenging litigation market, with flat or declining demand, rate pressures, and other factors. From a business perspective, what does it take for a litigation department to succeed in this environment?

In addition to the obvious—excellence in written work, high-level talent, competitive rates, proven track record—the surest way to succeed is to understand and attend to your client's needs. At Gibbons, we are entirely committed to client service. Our team is available 24/7. Responsiveness is of the utmost importance because we understand the demands placed on our clients, particularly when managing difficult litigations.

Litigators are extraordinarily busy people. What does the firm do to ensure that they remain engaged with pro bono work, their communities, and their families?

Gibbons conducts pro bono orientation for all new attorneys to encourage pro bono work—which, significantly, counts toward associates' billable hour requirements. We also encourage partnering with clients on pro bono projects, which enhances our own and clients' programs, supports innovative projects, cultivates client relationships, and

strengthens morale and professional development. Similarly, through our dedicated community outreach program, "Gibbons Cares," employees firmwide are empowered to lead projects and champion causes and organizations; together as a firm, we donate time and resources to these efforts. The fundraising and activities launched under Gibbons Cares foster teamwork and collegiality. As with pro bono work, we find that partnering with clients on community outreach enhances relationships and multiplies the effect of whatever we undertake together.

To promote a family-friendly atmosphere, the firm provides benefits, policies, and technologies that support work/life balance, notably including part-time and flextime schedules that do not affect an attorney's chances for promotion. Gibbons offers emergency backup childcare, state-of-the-art remote access technology, and smartphones, for flexibility that does not impede efficient client communication and service.

What is the firm doing to ensure that future generations of litigators are ready to take the helm?

Gibbons devotes substantial time and resources to the training and development of all firm lawyers through the firm's "Gibbons Academy," designed to provide associates with increased director-level contact, broaden their substantive knowledge, and impart valuable skills. Meanwhile, the "Gibbons Leadership Academy" equips our next generation of leaders with leading-edge techniques and practical and strategic instruction to raise their professional profiles, develop new business, provide stellar client service, advance their careers, effectively oversee complex matters, and, eventually, hone the management and executive skills needed to successfully guide the firm into the future.

The Gibbons consumer class action defense team annually presents a CLE-level program that provides firm attorneys and clients with updates on the current trends in class action litigation. As a team, associates are always fully engaged in every matter from the very beginning, coming to learn all key information about the case and the client. Under the guidance of more senior attorneys, they ultimately contribute to decision-making and learn to litigate on their own. ■

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