



## Aron J. Frakes

SHAREHOLDER

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### Services

Litigation

Class Action/Wage & Hour  
Litigation

Energy Litigation

Construction

Life Sciences

**Aron represents clients in a wide variety of disputes, including product liability defense, class action defense, fraud and conspiracy cases, consumer fraud actions, large contract disputes, construction litigation, professional malpractice defense (engineering) and toxic tort mass actions.**

Aron is an experienced and skilled litigator whose practice focuses on complex civil litigation. He has represented clients in virtually all facets of litigation and alternative dispute resolution, including before state and federal trial courts throughout the U.S., various appellate courts, and arbitration tribunals. He also routinely assists clients with mediating or negotiating resolution of their disputes either before or after litigation is filed.

Aron has substantial experience in defending product manufacturers against design defect, manufacturing defect, failure to warn, breach of warranty, consumer fraud, and other product liability claims. Aron has defended product manufacturers against product liability claims in lawsuits filed around the country, ranging from complex medical devices to building products to everyday consumer goods. For example, he has long represented a publicly-traded medical device manufacturer as lead national counsel in its product liability litigation.

Aron's practice also focuses on defending companies against putative class action lawsuits, including class actions filed against product manufacturers. He works with his clients to develop creative strategies in complex class action matters to seek to defeat class certification, to achieve dismissals and summary judgment prior to class certification even having to be addressed, to defend the case on the merits, or to negotiate favorable resolutions.

In addition, Aron also has broad civil litigation experience in cases involving many other subject matters and industries, including prosecuting large fraud and civil conspiracy claims on behalf of businesses and individuals, post-closing indemnity disputes following the sales of businesses, cases seeking to invalidate non-competition provisions in contracts, and asbestos exposure cases.

Aron also devotes a significant portion of his time to pro bono representation. For instance, he has achieved successful results for English Language Learner students who were discriminated against based on their national origin, a young mother

wrongfully accused of child neglect, a woman with HIV and AIDS whose civil rights were violated, and a high school student with a learning disability. Aron's pro bono work for English Language Learner students was featured on the front page of the *Minnesota Lawyer*, and Aron and his colleagues were specially recognized by the Family Defense Center for their work on behalf of the young mother. Aron and other team members are recognized for their efforts on the case as 2019 *Minnesota Lawyer* Attorneys of the Year.

Aron is a shareholder in Fredrikson's Litigation Group. Prior to joining the firm, he was a partner with McDermott Will & Emery, an AmLaw 50 law firm, in Chicago.

## Experience

### Product Liability

- For many years, Aron has represented a publicly-traded medical device manufacturer as lead national counsel in its product liability litigation, which typically involves allegations of serious personal injuries and potentially wrongful death. Aron has represented this client in connection with product liability matters in California, Florida, Hawaii, Illinois, Louisiana, Missouri, Ohio, Pennsylvania, Texas, Washington, and the United Kingdom.
- Aron represented a leading siding manufacturer in over a dozen putative nationwide class action lawsuits filed around the country. The cases were filed by 14 named plaintiffs from Minnesota, California, Nevada, Georgia, Florida, Illinois, Virginia, Wisconsin, Colorado, and Ohio. Among others, the plaintiffs asserted claims for product defect, breach of warranty, consumer fraud, and false advertising. The Judicial Panel on Multidistrict Litigation centralized the cases for pre-trial proceedings. On January 2, 2018, the Court issued a 156-page published opinion granting all 10 of our client's summary judgment motions and dismissing every claim of every plaintiff with prejudice. The Court simultaneously issued a 63-page opinion fully granting our client's motion to exclude the opinions of plaintiffs' expert and denying the plaintiffs' motion for class certification in its entirety.
- Representing multiple private equity portfolio companies as national counsel in a variety of personal injury and property damage disputes alleging product defects. This representation has included disputes in California, New Jersey, New York, South Carolina, and Australia.
- Represented a large roofing shingle manufacturer against a series of putative nationwide class action lawsuits filed around the country alleging that the shingles were defective. The Judicial Panel on Multidistrict Litigation centralized the cases for pre-trial proceedings. Obtained summary judgment in favor of the manufacturer on the claims of numerous plaintiffs from a variety of states.

### Class Actions

- As discussed above, successfully represented leading building product manufacturers against multiple putative nationwide class action lawsuits.
- Summary judgment granted in West Virginia federal court in a putative class action alleging that a company violated West Virginia consumer protection laws through debt collection activities. The Court therefore terminated the plaintiff's motion for class certification as moot.
- Obtained dismissal with prejudice on behalf of a leading engineering firm in a putative class action filed in Illinois by a group of business and individual property owners complaining about the cost of electricity and alleging millions of dollars in damages. Plaintiffs agreed to waive any appellate rights.
- Represented an online travel company against consumer fraud claims filed in Illinois state court alleging that a website display was deceptive. Plaintiffs sought certification of a nationwide class of nearly 1.7 million consumers and sought hundreds of millions of dollars in damages. The trial court granted defendant's motion for summary judgment and contemporaneously denied plaintiffs' motion for class certification. The Illinois Appellate Court unanimously affirmed the trial court's rulings in their entirety.
- Obtained summary judgment pre-certification in a putative class action filed in federal court in Indiana by a municipality against online travel companies alleging violations of state tax laws.

### Professional Liability/Asbestos

- For many years, Aron has represented a leading international engineering firm as lead national counsel defending the company against lawsuits filed around the country alleging personal injuries due to asbestos exposure. Over the course of the years that this portfolio of cases has been pending, our client has achieved numerous favorable judgments in multiple courts.

### Fraud & Contract

- Following a multi-week arbitration before a panel of three arbitrators, obtained an award of over \$15.5 million in favor of the purchaser of an ocean freight-forwarding business against the seller. The arbitration award was confirmed by the Court of Chancery of Delaware.
- Successfully prosecuted the claims of a victim of a complex conspiracy to defraud and violations of fiduciary duties, including a 3-week trial against some of the wrongdoers; also secured a judgment in Illinois state court totaling nearly \$14 million against another of the wrongdoers.
- After compelling arbitration (affirmed by the U.S. Court of Appeals for the Eleventh Circuit), obtained an arbitration award in favor of a leading candy manufacturer upholding the enforceability of a worldwide, 10-year non-competition provision in an asset purchase agreement.

## Construction

- Acted as lead and national coordinating counsel for a construction surety on a wide array of construction-related cases throughout the nation after a large, international construction company entered bankruptcy.
- Represented a prominent wind energy developer in a dispute against a construction contractor relating to the construction of a large wind farm.
- Secured dismissal of a complaint against a construction surety seeking to recover attorneys' fees that had not been paid by a defunct construction contractor.

## Environmental/Mass Tort

- Achieved dismissal of all claims filed against a Fortune 100 company in an environmental contamination case alleging violation of the Minnesota Environmental Response and Liability Act, trespass, nuisance, negligence, and willful and wanton conduct. The Minnesota Court of Appeals dismissed the plaintiffs' appeal.
- Mediated a very favorable resolution with more than 80 named plaintiffs in an environmental contamination case, after taking the depositions of all of the named plaintiffs.

## Other

- Affirmed by the Seventh Circuit Court of Appeals on the issue of whether a debtor may discharge claims resulting from the debtor's voluntary post-petition participation in a proceeding before the American Arbitration Association.
- Obtained dismissal of a multi-million dollar claim against an online travel company under the federal Computer Fraud and Abuse Act.
- Granted dismissal of all non-contract claims filed against a computerized reservations service because they were preempted by the Airline Deregulation Act (ADA) and otherwise failed as a matter of law.
- Acted as local counsel on behalf a telecommunications company defending against claims under the Minnesota False Claims Act. The Minnesota Supreme Court and Minnesota Court of Appeals affirmed the dismissal of all of the plaintiff's claims for substantial damages.

## Pro Bono & Community Service

- Negotiated favorable resolution of claims asserted on behalf of English Language Learners who were discriminated against by their school district on the basis of national origin and disability. The settlement agreement required the school district to make significant, district-wide improvements to its English Language Learner program.
- Through appeal to the Illinois Appellate Court, obtained reversal of a trial court's and the Department of Children and Family Services' finding of child neglect

against a mother whose young daughter was injured in a freak accident involving a colored pencil.

- Through a trial before an administrative law judge, obtained a judgment against a tattoo parlor that refused to give a tattoo to a woman with HIV and AIDS in violation of her civil rights.
- Helped a high school student with a learning disability defeat disciplinary proceedings by the Chicago Public Schools when his coat was found in the locker of another student who possessed a shotgun.
- Supervised a successful appeal to the U.S. Court of Appeals for the Seventh Circuit, overturning the district court's dismissal of a Section 1983 lawsuit alleging the deprivation of necessary medical care and the use of excessive force.

## Credentials

### Education

- University of Illinois College of Law, J.D., 2002, *magna cum laude*
- Iowa State University, B.S., Construction Engineering, 1999, *with distinction*

### Admissions

- Minnesota, 2015
- Illinois, 2002
- U.S. Court of Appeals for the Eighth Circuit, 2015
- U.S. Court of Appeals for the Seventh Circuit, 2013
- U.S. District Court for the District of Minnesota, 2015
- U.S. District Court for the Central District of Illinois, 2010
- U.S. District Court for the Northern District of Illinois, 2002

## Recognition

- Lawyer of the Year, *Minnesota Lawyer*, 2019
- North Star Lawyer, Minnesota State Bar Association, 2017-2018
- Rising Star, *Illinois Super Lawyers*, 2009-2014
- Special Recognition—Pro Bono, Family Defense Center, 2011

## Civic & Professional

### Professional Activities

- *University of Illinois Law Review*, Administrative Editor, 2001-2002; Writing Competition Coordinator, 2001-2002

## Publications & Presentations

Quoted in "Litigating the Pandemic," *Twin Cities Business*, August 19, 2020

Co-Author, "*Strategies for Attacking Unreliable Statistical Extrapolation Opinions*", Defense Research Institute's Construction Law Seminar, April 2019

Featured in "Pro Bono Case Leads to Changes in St. Paul Schools," *Minnesota Lawyer*, December 18, 2018

Co-Author, "The Rise of Smaller Class Actions," August 2014

"Surety Bad Faith: Tort Recovery for Breach of a Construction Performance Bond," *Illinois Law Review* 497, 2002