



Timothy M. O'Shea

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Services

Commercial Law

E-Discovery Strategy & Advocacy

Intellectual Property Litigation

Intellectual Property Litigation

Data Protection & Cybersecurity

Trade Secrets

Anti-Counterfeiting

Tim is a skilled litigator who represents clients in all aspects of complex business litigation and intellectual property litigation in state and federal courts across the country.

Tim represents clients in litigation involving trade secret and non-compete disputes, patent infringement and licensing disputes, contract disputes, business torts and technology-related claims. Tim provides practical legal advice that is aimed at helping clients accomplish their business goals. Tim has helped clients resolve many matters through negotiation, but he has also successfully taken cases through trial.

Tim is also the Chair of the firm's E-Discovery Strategy & Advocacy Group and has deep substantive knowledge in the constantly changing field of e-discovery. Tim is an experienced advisor regarding the preservation of evidence and helps clients formulate defensible and effective discovery plans that are proportional to the needs of the case. Tim has also advised clients on cross-border discovery issues and data privacy issues in litigation, including compliance with the Global Data Protection Regulation ("GDPR") and other foreign data protection laws.

Tim has lectured and written extensively on e-discovery issues. Tim was an author of an e-discovery article published in the 2014 William Mitchell Law Review, Volume 40, Issue 2 (Article 5), entitled "Using Legal Holds for Electronic Discovery" and he also co-authored a chapter entitled "Privilege and Clawbacks: Considerations Regarding the Protection of Privileged ESI" for the 2017 Minnesota E-Discovery Deskbook. Tim is also a member of leading industry groups, including the Sedona Conference, the Electronic Discovery Institute and the Association of Certified E-Discovery Specialists.

Prior to joining Fredrikson & Byron, Tim was a law clerk for Judge Richard H. Kyle and Chief Magistrate Judge Arthur J. Boylan of the United States District Court for the District of Minnesota. Tim has also served as an adjunct instructor at the University of Minnesota Law School, teaching Law in Practice to first year law students.

Experience

Commercial Litigation

- Represented H.B. Fuller in winning a \$12.8 million arbitration award against Accenture in a dispute regarding a global ERP implementation. View *Star Tribune* article.
- Obtained a \$59.4 million settlement for the City of New Brighton in a dispute with the Army. *New Brighton vs. United States of America*: 84-CV-1110 (D. Minn. January 2015). View *Star Tribune* article.
- Represented court-appointed receiver in recovery of \$12 million for victims of Ponzi scheme operated by Minnesota Print Services, Inc.
- Obtained a favorable settlement for the purchaser of heavy construction equipment that was defective.

Intellectual Property Litigation

- Represented a public company in defeating a \$62.3 million theft of trade secret and breach of contract claim. After two years of litigation, Tim helped the client defeat each of the plaintiff's claims on summary judgment. The Eighth Circuit Court of Appeals affirmed the victory in 2018. In addition, Tim helped the client recover nearly a million dollars in attorneys' fees and costs for successfully defeating the plaintiff's lawsuit.
- Represented a leading medical device company in a lawsuit against a competitor who began pilfering the client's technical and sales personnel to gain its confidential information and introduce a competing device. Tim and the litigation team helped the client initiate an action for trade secret misappropriation and breach of certain employees' employment agreements, among other claims. After a year of litigation, we obtained a temporary restraining order, a preliminary injunction, and ultimately achieved a very favorable settlement for the client.
- Advised and represented clients in patent infringement cases and licensing disputes that have resulted in positive outcomes for the clients.
- Represented a public company in an inventorship dispute that resulted in a favorable settlement for the client.
- Obtained a substantial settlement for a family-owned business in trade-secret litigation against a publicly-held company.

E-Discovery Strategy & Advocacy

- Counseled clients on cross-border data transfers, data collection and processing
- Helped clients address data privacy issues in litigation and develop strategy to avoid the inadvertent production of personally identifiable information
- Assisted clients in the development of tailored preservation, collection and review strategies that reduced the burden and cost of e-discovery.

- Advised and helped clients on addressing complex questions regarding the preservation of potentially relevant information.
- Assisted clients in negotiating an effective ESI protocol that helped reduce the expense of e-discovery and minimized or eliminated the expensive motion practice on “discovery about discovery.”
- Represented clients at court appearances and have taken/defended depositions that address e-discovery matters.

Credentials

Education

- University of Illinois Chicago School of Law, J.D., *cum laude*
- Loyola University of Chicago, B.B.A.

Admissions

- Minnesota
- Washington
- Illinois (inactive)
- U.S. District Court for the District of Minnesota
- U.S. District Court for the District of Colorado
- U.S. District Court for the Western District of Washington
- U.S. Court of Appeals for the Eighth Circuit
- U.S. Court of Appeals for the Federal Circuit

Clerkships

- Judicial Law Clerk, Honorable Richard H. Kyle, U.S. District Court for the District of Minnesota, 2007-2008
- Judicial Law Clerk, Honorable Arthur J. Boylan, Chief Magistrate, U.S. District Court for the District of Minnesota, 2006-2007
- Judicial Extern, Honorable Ronald A. Guzman, U.S. District Court for the Northern District of Illinois, 2005

Recognition

- Attorney of the Year, *Minnesota Lawyer*, 2015
- Rising Star - Intellectual Property Litigation, *Minnesota Super Lawyers*, 2015-2017
- North Star Lawyer, Minnesota State Bar Association, 2013-2015

- Certified E-Discovery Specialist, Association of Certified E-Discovery Specialists (this specialty is not accredited or recognized by the bars of Minnesota, Illinois and Washington)
- Graduate, Intensive Trial Skills Program, National Institute for Trial Advocacy, 2012
- Contributing Attorney on Team Awarded Transaction of the Year, Turnaround Management Association – Upper Midwest Chapter, 2011
- University of Illinois Chicago Law Review

Civic & Professional

Professional Activities

- Federal Bar Association (Minnesota Chapter), Chair of IP Practice Group, 2012-2013
- Federal Bar Association (Minnesota Chapter), Communications Committee
- Minnesota Bar Association
- University of Minnesota Law School – Law in Practice, Adjunct Instructor

Legal Updates

Legal Update | 02.23.2017

The Changes to Rule 34 and the New Ways Document Requests and Objections Will Be Handled

Legal Update | 01.27.2017

Preservation Obligations for Text Messages and Instant Messages

Legal Update | 01.27.2017

Proposed Amendments to Federal Rule of Evidence 902 Will Impact Collection of Electronically Stored Information

Legal Update | 01.25.2017

Do Not Waive Privilege After Declining to Assert the Advice of Counsel Defense

Legal Update | 12.19.2016

How Courts Have Dealt With the New Federal Rules on E-Discovery

Legal Update | 10.17.2016

Court Denies Motion to Compel ESI Generated by Foreign Subsidiaries

Legal Update | 03.01.2016

Magistrate Judge Hildy Bowbeer Offers Further Guidance on When a Court Should Order a Patentee to Reduce the Number of Asserted Claims

Legal Update | 12.18.2015

New Federal Rules Will Impact E-Discovery

Legal Update | 09.28.2015

Magistrate Judge Rau Offers Primer on “Prevailing Party” Status Under the Patent Act’s Attorney Fees Provision

Legal Update | 08.31.2015

Court Denies Discovery of Instant Messages, Text Messages and Voicemails

Legal Update | 05.21.2014

New Standard for Awarding Attorneys’ Fees in a Patent Case Could Deter Frivolous Lawsuits

Publications & Presentations

Publications

Co-Author, “Privilege and Clawbacks: Considerations Regarding the Protection of Privileged ESI,” Minnesota E-Discovery Deskbook, December 2017

Co-Author, “Using Legal Holds For Electronic Discovery,” *William Mitchell Law Review*, Volume 40, Issue 2 (Article 5), 2014

Presentations

Presenter, Your Trade Secret Toolkit: Tools to Help Manager Trade Secrets, March 5, 2015

Presenter, “Practical Perspectives: Trade Secret Theft from Prevention to Enforcement,” February 27, 2014

Presenter, “You Love it, You Hate it. Now you Have to Live With it,” William Mitchell College of Law e-Discovery Conference, October 4, 2013

Presenter, “Data Protection: How Employers Can Ensure a New Hire Isn’t Bringing Data from a Previous Employer,” Association of Corporate Counsel – Minnesota Chapter, October 1, 2013

Moderator, “Patently Relevant: Recent Developments in Patent Litigation,” Minnesota Chapter of the Federal Bar Association, May 14, 2013