

Mr. Horwitch is a litigator and trial lawyer who has significant experience representing corporations, partnerships and individuals in a wide range of disputes before trial and appellate courts, administrative agencies, and arbitration panels throughout the country.

His extensive litigation experience covers areas such as shareholder and partnership disputes, director and officer liability, securities law violations, trust and estate disputes, real estate and land use disputes, professional malpractice, franchising, banking, executive compensation, insurance coverage, civil RICO, interference with economic relationships, breach of fiduciary duty, trade secret misappropriation, employee non-compete and confidentiality agreements, and employment discrimination.

Mr. Horwitch also has extensive experience in the areas of defamation and the First Amendment. He has represented a number of corporations, organizations and individuals in prosecuting or defending defamation claims and other claims involving First Amendment issues.

In addition, Mr. Horwitch has in-depth experience with respect to emergency litigation proceedings, and he frequently represents employers, partnerships and executives in seeking or opposing temporary restraining orders and preliminary injunctions involving trade secrets, non-competition agreements, and non-disclosure agreements.

Mr. Horwitch has also worked on labor and employment relations matters for many clients. His experience includes preparing position statements to administrative agencies, attending fact-finding and mediation conferences, litigating employment cases, negotiating and drafting settlement agreements, assisting employers in hiring techniques, preparing employment and separation agreements for employers and executives, and assisting in the development and implementation of employment policies.

Mr. Horwitch understands that clients demand that their attorneys achieve economical solutions to problems. He therefore approaches every case with the goal of achieving results quickly and efficiently – whether through trial or settlement – and to do so in a cost-effective manner.

Mr. Horwitch was recently named as an Illinois Super Lawyer in the area of business litigation. Only the top 5% of lawyers in Illinois are selected as Super Lawyers, using a multi-step evaluation process involving a statewide survey of lawyers, independent panel research and in-depth evaluation of background and experience by practice area.

Mr. Horwitch's litigation experience and achievements include:

- Trial counsel who obtained a jury verdict in excess of \$13 million in compensatory and punitive damages on behalf of the former President and CEO of a North American subsidiary of a Germany-based conglomerate in a lawsuit involving breach of an executive employment agreement and defamation. The \$13 million awarded by the jury was one of the largest jury verdicts of the year in Illinois, and it is believed to be the largest award in this type of case in U.S. history. The trial court's judgment recently was affirmed by the Illinois Appellate Court and the Illinois Supreme Court denied the defendants' petition for leave to appeal.



Mark H. Horwitch
(312) 762-9465
mhorwitch@tdrlawfirm.com

- Trial counsel in the successful representation of the managing partner of an investment partnership sued by six of the partnership's minority partners for breach of fiduciary duty. After a five-day American Arbitration Association hearing, the three-member panel awarded the minority partners just 7.5% of the compensatory damages sought, which was approximately equal to the amount to which Mr. Horwitch's client stipulated was owed and which was barely enough to cover the fees paid by the minority partners to the AAA. The panel also denied in full the minority partners' request for punitive damages and attorney fees.
- Trial counsel for three Illinois-based companies in the largest case of its kind ever brought under the Illinois Motor Vehicle Franchise Act. Following eighteen days of fact and expert testimony before the Illinois Motor Vehicle Review Board, the Board granted all of the relief requested by Mr. Horwitch's clients and awarded them all of their attorney fees and costs. The Motor Vehicle Review Board's decision was affirmed by the Illinois Supreme Court.
- Trial counsel in the defense of a securities brokerage firm and its officers and employees before an NASD (now FINRA) arbitration panel in an action alleging defamation, trade secret misappropriation, aiding and abetting and breaches of fiduciary duty. Following a five-day hearing, the panel dismissed with prejudice all claims against the brokerage firm and its officers.
- Trial counsel in the successful representation of the Chicago-area's largest non-profit organization in a trial in the Circuit Court of Cook County involving the non-profit's role as a state contractor.
- Trial counsel for the owner of a 58,000 square foot freezer/cooler facility pursuing breach of contract claims against a developer of industrial real estate. Case settled before jury selection after the trial judge granted a motion to bar the developer's liability expert from testifying at trial.
- Trial counsel for a developer of electronic trading software in its prosecution of trade secrets and tortious interference claims against a rival firm. Confidential settlement reached on the eve of trial.
- Successfully defended the Chicago Park District at both the trial and appellate levels against lawsuits challenging the renovation of Soldier Field and the closing of the Meigs Field Airport.
- Obtained a preliminary injunction and subsequently summary judgment in federal court against a suburban municipality in a case involving the municipality's attempt to block large vehicle access to a proposed industrial park owned by Mr. Horwitch's developer client. The U.S. Court of Appeals for the Seventh Circuit affirmed the trial court's award of summary judgment.
- Defended the former chief financial officer of a consumer goods company in a multi-million dollar lawsuit brought by the company's lender alleging that Mr. Horwitch's client intentionally inflated the value of the collateral upon which the lender made loan advances to the company. Mr. Horwitch negotiated a nuisance value settlement after persuading the lender that the allegations against his client were without merit. Mr. Horwitch subsequently secured reimbursement of all of his client's costs of defense and settlement from the company's D&O insurer after the insurer initially denied coverage.

- Obtained dismissal with prejudice of defamation claims brought against Chicago's leading organization for women business owners by the organization's former president.
- Obtained summary judgment on behalf of the owner and operator of multiple special event facilities in the Chicagoland area after an insurer sought a declaratory judgment that it did not owe a duty to defend the firm's client from claims in an underlying lawsuit. The decision will provide at least \$1 million in insurance coverage to assist the client in defending the underlying lawsuit's claims.
- Defended one of the country's largest broad-line retailers against claims brought by one of its former suppliers. The supplier walked away from its suit and recovered nothing after the court dismissed the supplier's fraud and breach of contract claims.
- Defended a publicly traded manufacturer of tools and diagnostic equipment against defamation and fraud claims brought by its former distributors. The case settled after Mr. Horwitch obtained dismissal with prejudice of the distributors' fraud claims.
- Obtained summary judgment on claims for securities fraud and common law fraud for the directors and officers of a software development firm.
- Obtained dismissal with prejudice of a defamation suit brought against an Illinois elected official.
- Represented a publicly traded financial services firm in its prosecution of claims of trade secret misappropriation and breaches of fiduciary duty against former executives of the firm. The case ultimately settled on terms favorable to Mr. Horwitch's client.
- Represented one of the world's largest financial institutions in litigation brought by the former employees and shareholders of Enron Corp.
- Defended an employer in one of the largest class action hostile work environment cases ever brought in the United States Court of the Northern District of Illinois.
- Represented dozens of employers in proceedings before the U.S. Equal Employment Opportunity Commission and similar state and local agencies.
- Represented numerous partners, LLC members, and shareholders of closely held corporations in partnership and intra-corporate disputes.
- Represented a Fortune 500 company in a professional malpractice suit related to environmental contamination at a manufacturing plant acquired in a merger transaction.
- Represented one of the country's largest college preparatory boarding schools in an action seeking to protect the school's rights and interests as a beneficiary of a large trust.
- Defended a corporation and its former controlling officer against federal and

state securities fraud claims brought by the purchaser of \$115 million of credit-linked notes.

- Represented a former partner of a Chicago-based law firm in a dispute with his former partners regarding the wind-up and dissolution of their law firm.
- Currently represents a Chicago-area corporation and its president in a defamation and retaliatory discharge action brought by one of the company's former high-level employees.

Mr. Horwitch joined Tabet DiVito & Rothstein LLC in June 2005. Previously, he practiced in the litigation department of a large national law firm. Mr. Horwitch is a *magna cum laude* graduate of the University of Illinois College of Law. While in law school, Mr. Horwitch served as a judicial extern to the Honorable James Zagel of the United States District Court for the Northern District of Illinois. Also during law school, Mr. Horwitch taught an undergraduate course at the University of Illinois on the principles of effective public speaking. Mr. Horwitch received his undergraduate degree from the University of Illinois, where he graduated *cum laude* and was elected to Phi Beta Kappa.

Mr. Horwitch is licensed to practice in Illinois and is admitted to the Trial Bar of the United States District Court for the Northern District of Illinois. In addition, Mr. Horwitch is admitted to practice before the Seventh Circuit Court of Appeals and the United States District Court for the Eastern District of Wisconsin. He is a member of the Illinois State Bar Association and the American Bar Association and its Section of Litigation.