

Anthony C. Porcelli

SHAREHOLDER

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As a former General Counsel of an investment management company and an experienced complex commercial, health care and bankruptcy litigator, Tony Porcelli helps clients across a wide range of industries solve unique and complex disputes. Tony advises and works closely with in-house counsel, corporate officers and board members to achieve desired business and litigation objectives in a cost-effective and efficient manner.

During his tenure in-house, Tony gained invaluable experience organizing and running a legal department; overseeing many strategic initiatives, acquisitions and divestitures; hiring, managing and directing outside counsel; implementing improved corporate governance and oversight procedures; and working with human resources on myriad employment issues. Tony uses these experiences to better serve his clients.

With over 30 years of legal experience, Tony is a proven team leader – whether managing a trial team of more than 30 attorneys and support staff, a smaller team or a legal department, he develops and implements trial, discovery, settlement and business strategies to maximize clients' objectives. He has tried and litigated cases on behalf of domestic and international clients in numerous courts across the country, and he has represented various entities, from small family-owned businesses to publicly traded *Fortune* 500 corporations, in a variety of disputes ranging from \$700 million down to less than \$1 million.

Tony has successfully represented plaintiffs and defendants in various actions, including:

- Health care disputes
- Corporate negligence
- Breaches of fiduciary duty and/or contract
- Securities fraud
- Pharmaceutical price fixing
- Class actions
- Business divorce
- Fraud and other torts
- Complex business and property foreclosure
- Trade secret actions

Capabilities

- Bankruptcy & Distressed Litigation
- Commercial Litigation
- Finance
- Health Care Litigation
- Litigation
- Financial Services Litigation

- Tax and embezzlement claims

In addition, Tony has served as lead litigation counsel to both debtors and creditors in Chapter 11 litigation, including in valuation and plan confirmation proceedings. He has significant experience with ADR, including mediation and arbitration. Moreover, Tony counsels clients during deal negotiations on litigation risk and potential litigation issues to assist clients in avoiding disputes that may arise down the road.

Education

- Northwestern University (J.D., *cum laude*, 1994)
 - Northwestern Journal of Criminal Law and Criminology, Executive Editor
- University of Notre Dame (B.B.A., *magna cum laude*, 1991)

Bar Admissions

- Illinois, 1994
- New York, 2010

Court Admissions

- U.S. District Court, Northern District of Illinois
- U.S. District Court, Northern District of Illinois, Trial Bar
- U.S. Court of Appeals, First (2004) and Third (2019) Circuits
- U.S. District Court, Western District of Michigan
- U.S. District Court, Eastern District of Wisconsin

Memberships

- Arbitrator, Cook County Mandatory Arbitration Program
- Volunteer, Settlement Assistance Program, Northern District of Illinois
- American Bar Association
- American Health Lawyers Association
- Illinois State Bar Association
- New York State Bar Association
- Youth Athletic Coach, 2005-2022
- Orchard Brook Homeowners Association
 - Vice President, Board of Directors, 2009-2022
 - Member, Board of Directors, 2005-2022

Recognition

- Selected for inclusion in *Best Lawyers in America*® for Commercial Litigation, 2022-2026
- AV® Preeminent™ Peer Review Rated, Martindale-Hubbell
- Selected for inclusion in *Illinois Super Lawyers* "Rising Stars" in General Litigation, 2008-2009
- Selected as a 2018-20 Leading Lawyer by *Law Bulletin Media* in the following categories:
 - Commercial Litigation
 - Creditor's Rights/Commercial Collections Law

Matters

- Lead litigation counsel for Akorn, Inc., and related entities, in several lawsuits consolidated in *In Re: Generic Pharmaceuticals Pricing Antitrust Litigation*, Civil Action No. 16-MD-2724, pending in the U.S. District Court for the Eastern District of Pennsylvania.
- First chaired Arizona election fraud TRO during the COVID Pandemic.
- Lead defense counsel for publicly-traded, multi-billion dollar digital solutions, hardware and software company in a complex misappropriation of trade secrets, fraud, and conversion case.
- First chaired 6-day arbitration hearing for our hospital client in an \$85 million health care dispute pertaining to a management services agreement. Responsible for all aspects of the trial, including setting trial strategy, working with key experts, defeating a motion for preliminary injunction, and handling multiple sets of settlement negotiations. Worked closely with and advised the client's CEO, general counsel, and board of directors on litigation and settlement strategies.
- Lead litigation counsel to pharmacy benefit program provider seeking to recover nearly \$15 million in damages from the administrator of its discount cash card program. Responsible for all aspects of preparing the matter for trial, including setting trial strategy and negotiating a favorable settlement on the eve of trial. Worked closely with the client's CEO and general counsel to achieve the client's goals.
- Consulted with and advised multiple health care clients on actual and potential disputes pertaining to terminating distribution agreements, billing issues, and patient steering.
- Lead litigation counsel for defendant in bet-the-company litigation brought by plaintiff seeking \$700 million in damages premised on alleged corporate negligence. Developed litigation strategy and managed a team of 30 attorneys and support staff to implement same. Identified and analyzed various settlement alternatives and worked closely with global general counsel to achieve a favorable resolution.
- Defended large, international pharmaceutical manufacturer in multiple class actions and putative class actions pending in state and federal courts across the country. Worked closely with and advised company's general counsel on litigation and settlement strategies and managed a team of 25 domestic attorneys, foreign counsel, and support staff.
- Represented Medicare contractor in responding to government subpoenas stemming from qui tam action filed by former employee. Advised general counsel regarding issues raised by qui tam action. Negotiated with government regarding scope of subpoenas and possible government intervention. Government declined to intervene.
- First chaired 5-day arbitration hearing in a \$10 million insurance dispute. Set and implemented trial strategy; led settlement negotiations; and worked closely with the client's general counsel on all trial, settlement, and strategic issues.
- Primary outside litigation counsel to large real estate developer. Responsible for advising client on potential litigation issues during contract negotiations and handling all litigation for the client.
- Lead litigation counsel for defendant accused of aiding and abetting purported violations of the Texas Securities Act, statutory fraud, and aiding and abetting breach of fiduciary duty. Following a three-week trial, this case was successfully resolved as a result of court-ordered mediation.
- Lead counsel responsible for investigating embezzlement by a client's former

employee. As a result of our investigation and working closely with the FBI, the former employee was quickly arrested, pled guilty to the embezzlement, and was sentenced to significant jail time and probation.

- Lead litigation counsel for lender seeking to recover more than \$14 million from guarantor and affiliated borrowers on defaulted loans. Successfully obtained turnover of nearly all assets of and litigation claims held by borrowers.
- Successfully represented developer in its lawsuit against a major, national discount retailer arising out of construction deficiencies for work performed by the retailer pursuant to contract.
- Lead litigation counsel for plaintiff in several lawsuits for foreclosure and breaches of guarantees brought against a guarantor and several of his corporate entities to recover more than \$20 million in defaulted loans.
- Successfully represented regulated, regional gas company in dispute over early termination of long-term technology outsourcing arrangement.
- Litigated, prepared for trial, and resolved \$150 million fraud and breach of contract/fiduciary duty case for publicly-traded regional energy company. Developed litigation strategy; managed a team of 20 attorneys and support staff to implement same; and responsible for assessing and presenting complex financial damages issues, including portfolio and bonus calculation manipulation.
- Lead litigation counsel to two debtors in contested Chapter 11 restructuring cases involving complex financial and valuation issues. Managed cross-disciplinary teams of attorneys. In one matter, tried contested plan confirmation hearing centering on valuation of debtor and secured confirmation ruling at conclusion of hearing and in the other secured confirmation of plan of reorganization.
- Defended publicly traded real estate investment trust (REIT) in putative class action alleging violations of federal security laws, derivative and direct breaches of fiduciary duties, and breach of contract.
- Defended technology company in \$80 million tortious interference matter. Worked closely with company's executive officers on case strategy, presentation, and settlement. Developed and implemented strategy for indemnification from co-defendant. Client settled and received full and complete releases from and paid no money to plaintiff and was indemnified for nearly all litigation costs by co-defendant.