Thomas J. Costakis

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Tom Costakis' practice is devoted to a wide range of commercial litigation matters, including class action and multi-party litigation. Mr. Costakis has served as the lead counsel in cases tried to juries involving issues of negligence, breach of contract, promissory estoppel, trespass, quasi contract, fraud, constructive fraud and punitive damages. He has also tried bench trials involving issues of breach of contract, covenants not to compete, conversion, first amendment rights and the establishment clause. On several occasions, Mr. Costakis has presented oral argument to the Seventh Circuit Court of Appeals, as well as the Indiana Supreme Court. He has arbitrated several matters and has participated in countless mediations involving issues such as toxic exposure, premises liability, products liability, breach of contract, shareholder disputes, issues under ERISA, qui tam actions under the False Claims Act, environmental insurance coverage, antitrust, and various other commercial disputes. Mr. Costakis also serves as outside general counsel to several Indianapolis based companies.

Mr. Costakis currently serves on the firm's InfoTech Committee. During his tenure at Krieg DeVault, Mr. Costakis has also served on the firm’s Executive Committee, Associates Committee (Chair), Diversity Committee, Recruiting Committee, Marketing Committee and a variety of ad hoc committees.

Education

- J.D., *cum laude*, Indiana University Robert H. McKinney School of Law, Indianapolis, Indiana, 1985
  - Indiana Law Review, Associate Editor; Moot Court
- B.S., Purdue University, West Lafayette, Indiana, 1982
  - Krannert School of Management

Bar & Court Admissions

- Indiana, 1985
- U.S. District Court for the Northern District of Indiana, 1985
- U.S. District Court for the Southern District of Indiana, 1985
- U.S. Court of Appeals Seventh Circuit, 1988
- U.S. Supreme Court, 1996

Practices

- Appellate

- Class Action and Multi-Party Litigation
- Intellectual Property and Technology
- Litigation and Dispute Resolution
- Environmental
- Health Care Litigation
- Construction Litigation
- Internal and Government Investigations
- Hospitals and Health Systems
- Business Services
- Public Utilities
- Life Sciences
- Aerospace

Industries

- Construction
- Education and School Law
- Health Care

Representative Experience

- Lead defense counsel in a five week toxic tort jury trial. Plaintiffs alleged physical, psychological and neuropsychological damages; property damages; and punitive damages. The trial was the culmination of more than a decade of related litigation involving countless witnesses and numerous experts in a variety of disciplines. Defense verdict rendered.
- Lead defense counsel in a two week jury trial. Plaintiff sought damages allegedly caused by defective construction and inspection of natural gas piping. Trial concluded by directed verdict, with a determination of no liability and an award of no damages.
- Defense counsel in connection with federal and state fraud issues including the False Claims Act, Stark Law and *qui tam* litigation.
- Indiana counsel for national manufacturer of consumer products. Representation has included successful defense of individual product liability cases in state and federal courts; successful defense of class actions; and successful defense of retail cases involving coupon redemption issues.
- Indiana counsel for a natural gas utility. Representation has included successful defense of a variety of claims involving fires and explosions at structures with natural gas service.
- Outside general counsel to design engineering firm providing a wide range of engineering services in Indiana and which employs professional engineers, planners, surveyors, environmental specialists, construction inspectors, land acquisition specialists, and technicians.
- Outside general counsel to industry leader and largest supplier of interim medical laboratories.

- Indiana counsel for national manufacturer of products used in health care industry. Representation has included successful resolution of individual product liability cases in federal court.
- Lead counsel in numerous litigation matters involving closely held businesses. Mr. Costakis' experience has included the successful representation of each of the different players: the corporation; the majority shareholder(s); and the minority shareholder(s).
- Indiana counsel for several insurance carriers in connection with environmental cost recovery actions.
- Counsel to municipal corporation on first amendment issues related to use of common areas of public building. Representation has included defense of claims of view point discrimination. Following years of litigation in federal district court, the Seventh Circuit Court of Appeals and the United States Supreme Court, successfully defended the client's right to close the forum.
- Lead litigation counsel in several matters involving claims for benefits against a self-funded group health plan governed exclusively by the Employee Retirement Income Security Act of 1974 (“ERISA”).
- Lead litigation counsel in countless matters involving issues of breach of contract. Successful resolutions have been achieved through judgment or verdict, motion practice, mediation and/or arbitration.
- Lead litigation defense counsel in patent infringement cases in a number of jurisdictions, including the Eastern District of Texas.
- On several occasions has served as lead counsel to corporate clients involved in litigation against the State of Indiana.
- Successful defense of claims for return of commercial premiums brought by several associations against a medical stop loss carrier. Theories included recission, mutual mistake and lack of meeting of minds.
- Appellate counsel to a not-for-profit corporation whose mission is to provide advocacy, leadership, representation and services in the common interests of its more than eight thousand members. Primary role is to appear and file appellate briefs on behalf of amicus curiae association, in cases in which individual members are parties, and the issues on appeal affect the membership more broadly.

Representative published opinions in which Mr. Costakis is counsel of record include:

- *Myers v. Crouse-Hinds Division of Cooper Industries, et al.,* 53 N.E. 3d 1160, 2016 WL 825111 (Ind. March 2, 2016)
- *City of Carmel, through its Redevelopment Commission v. Crider & Crider, Inc. and Hagerman Construction Corporation*, 988 N.E.2d 808 (Ind. Ct. App. 2013)
- *Indiana Patient's Compensation Fund v. Herbst*, 902 N.E.2d 220 (Ind.2009)
- *The Restaurant Hospitality Association of Indiana, et al. v. American United Life Insurance Company, et al*., 898 N.E.2d 419 (Ind. Ct. App. 2008)
- *Chi Yun Ho v. Frye*, 880 N.E.2d 1192 (Ind. 2008)
- *State v. R.J. Reynolds Tobacco Co*., 879 N.E.2d 1212 (Ind. Ct. App. 2008)
- *Indiana Patient's Compensation Fund v. Winkle*, 863 N.E.2d 1 (Ind. Ct. App. 2007)
- *Indiana Patient's Compensation Fund v. Butcher*, 863 N.E.2d 11 (Ind. Ct. App. 2007)
- *Parkview Hospital, Inc. v. White's Residential Services, Inc*., 2008 WL 89878 (N.D. Ind. 2008)

- *Ryan v. R.J. Reynolds Tobacco Co*., 2007 WL 270119 (N.D. Ind. 2007)
- *Rogers v. R.J. Reynolds Tobacco Co*., 745 N.E.2d 793 (Ind. 2001)
- *Downs v. Montezuma*, 694 N.E.2d 1198 (Ind. Ct. App. 1998)
- *Grossbaum v. IMCBA*, 870 F.Supp. 1450 (S.D. IN 1994)
- *Grossbaum v. IMCBA*, 63 F.3d 581 (7th Cir. 1995)
- *Grossbaum v. IMCBA*, 905 F.Supp. 1187 (S.D. IN 1995)
- *Grossbaum v. IMCBA*, 100 F.3d 1287 (7th Cir. 1996)

Professional Associations

- Member, Indianapolis Bar Association
- Member, Indiana State Bar Association
- Member, Seventh Circuit Bar Association
- Indiana Leadership Forum

Civic Involvement

- Former Board Member, Former Chair of Board Nominating Committee, Volunteer, Juvenile Diabetes Research Foundation
- Member, Grace Fishers Church
- Former Member, Patient Advocacy Council, Indiana Health Information Technology, Inc. ("IHIT")

Awards & Recognitions

- Indiana Super Lawyers, 2004, 2006-2020
- Chambers USA: Leader in the Field of General Commercial Litigation
- America's Top 100 Bet-the-Company Litigators for Indiana, 2019
- Benchmark Litigation, Indiana Litigation Star

Seminars & Presentations

- "Preparing Your Client for Witness Deposition," Indianapolis Bar Association Continuing Legal Education Seminar
- Faculty member, National Institute for Trial Advocacy ("NITA"), Indiana Witness Examination Program
- Faculty member, General Discovery Issues for Judicial Officers, Indiana Judicial Center
- The Indiana Responsible Property Law, Community Bankers Association of Indiana
- Environmental Liability for Corporate Fiduciaries, Probate and Estate Section of the Indiana State Bar Association
- EPA Lender Liability Rule, National Conference for in-house counsel
- Public Displays, Indiana Municipal Lawyers Association
- "Environmental Considerations and Recent EPA and DOJ Lender Liability Policy," Continuing Legal Education Seminar

Publications

- Co-Author, "Is the Heyday of Whistleblowers Coming to a Close?", October 7, 2024
- Contributing author, practice commentaries published by NITA
- Co-Author, "Dismissal of Non-Intervened Qui Tam Lawsuits", Krieg DeVault Health Care Newsletter (February 2018)