“Small but Mighty” Litigation Boutique Scores Eight Appellate Victories in 2012
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The commercial litigation boutique of Novack and Macey LLP scored eight appellate victories in 2012, living up to its “small but mighty” moniker and reputation. The Chicago-based firm is highly regarded for its work in trials, arbitrations and mediations in local and national arenas, but its state and federal appellate practice is equally well known and successful.

In 2012, the 30-attorney firm achieved eight appellate victories, including multi-million dollar judgments and a landmark decision concerning ERISA (the Employee Retirement Income Security Act). Highlights of these victories follow:

**Novack and Macey Wins Judgment Worth $7 Million**

Novack and Macey LLP won an Illinois Appellate Court victory, preserving a judgment worth about $7 million for our client, the former chief executive officer of a construction company. The appeal concerned the interpretation of a share purchase agreement between our client and five of his siblings, who were the other shareholders in the family business.

**Eric N. Macey** argued before the Appellate Court, First District. **Courtney D. Tedrowe** and **John B. Haarlow**, Jr. also worked on the briefing.

**Novack and Macey Helps Win Landmark Decision in Fifth Circuit**

Novack and Macey helped win a landmark decision concerning ERISA in the United States Court of Appeals for the Fifth Circuit in New Orleans. The panel’s unanimous decision favored Novack and Macey’s client, a health care provider, by concluding that ERISA did not preempt the provider’s state law claims against a national insurance company for negligent misrepresentation, statutory misrepresentation and promissory estoppel. The decision was later upheld en banc.

The Novack and Macey attorneys who led the briefing before the panel for the health care provider were **Stephen Novack**, **Steve Siegel**, and **Christopher S. Moore**.

**Novack and Macey Reduces $1.75 Million Punitive Damages Award**

Novack and Macey won substantially reduced levels of punitive damages for our client before the Illinois Supreme Court. Our client was held vicariously liable in a privacy tort case, including $1.75 million in punitive damages, almost 30 times the $65,000 compensatory damages award.

The Illinois Supreme Court found that our client’s actions were not part of an intentional, premeditated scheme to harm plaintiff, who suffered only minimal harm. Consequently, the Supreme Court reduced the punitive damages award to equal the compensatory damages award.

**Eric N. Macey** argued before the Supreme Court. **Julie Johnston-Ahlen** also was instrumental in the result.
Novack and Macey Defeats Partnership Wrongful Termination/Dissolution Claim

After his termination, one of a prominent law firm's founding partners sued the firm for wrongful termination, seeking millions of dollars in damages and dissolution of the firm.

After Novack and Macey won a lengthy trial, the terminated partner appealed. In a unanimous decision issued on February 14, 2012, the Illinois Appellate Court affirmed in all respects.

Partners Stephen Novack and Monte L. Mann handled the trial and appeal. Associate Alexander L. Berg also worked on the appeal.

Novack and Macey Victory Removes Obstacle to Shopping Center Construction

Novack and Macey developed the winning arguments for our client, a shopping center developer, whose construction plans were stalled by the owner of an unlawful billboard on the property in question.

The dispute began when the outdoor advertising company that had a long-term lease on the client’s commercial property refused to remove its billboard from the property. Our attorneys filed suit in the Circuit Court to terminate the lease. The billboard company aggressively, but unsuccessfully, defended its position. On our motion, the trial court entered summary judgment, holding our client had the right to terminate the billboard lease and ordering the billboard to be removed.

The billboard company appealed. Novack and Macey attorneys briefed and argued our client’s case. The Illinois Appellate Court, Second District, affirmed the trial court’s judgment, adopting our argument that the client had a right to terminate the lease because the billboard was unlawful.

Steve Siegel and Adam Waskowski represented the developer in both the trial and appellate courts. Mr. Siegel argued before the appellate court.

Novack and Macey Secures Dismissal of Class Action

Novack and Macey secured an Illinois Appellate Court victory, preserving the Circuit Court’s dismissal of a class-action claim against a nationally prominent insurance company in which the plaintiffs professed to seek an astronomical amount of damages. The claim concerned the company's alleged breach of fiduciary duty during a reorganization in which the company's predecessor converted from a mutual company, which is owned by its policyholders, to a stock company, which is owned by shareholders.

Stephen Novack and Donald Tarkington represented the insurance company in both the trial and appellate courts. Andrew Shelby joined them on the appellate court briefing.

Novack and Macey Defeats Suit by Man Who “Mooned” his Superiors

Novack and Macey won this case, in which an employee was fired “for cause” after he pulled down his pants and “mooned” two of his supervisors. The employee sued, claiming that he should not forfeit $2 million he would have earned had he not been fired. The trial court granted the firm's motion for summary judgment against the former employee and the Illinois Appellate Court, First District, affirmed.

P. Andrew Fleming and Christopher S. Moore led the briefing in the trial court where they filed for, and obtained, summary judgment. They also led the appellate briefing.

Novack and Macey Defeats a Putative Class Action at its Onset

Novack and Macey prevailed for its client in the Illinois Appellate Court, defeating a putative class action at
the outset of the suit before the expense of class certification and merits proceedings could even begin.

Shortly after the suit was filed, Novack and Macey partners Stephen Novack and Steve Siegel moved to dismiss the lawsuit. After extensive briefing and argument, the trial court granted the motion and entered an order of dismissal. The plaintiffs appealed.

In a unanimous opinion issued on March 2, 2012, the Illinois Appellate Court affirmed the dismissal of the suit with prejudice. Mr. Novack led the briefing and Mr. Siegel argued the appeal.

For more information about these victories, contact Novack and Macey LLP at (312) 419-6900 or info@novackmacey.com.