

William D. Heinz

Of Counsel

wheinz@jenner.com

Office

Chicago

Phone

+1 312 923 2763

Areas of Focus

Education

Law Firm and Professional
Services Defense



Overview

William Heinz has broad experience in complex commercial litigation and is a Fellow of the prestigious American College of Trial Lawyers. He has represented corporations and individuals in civil and criminal trials, appellate court proceedings and arbitrations in a wide variety of matters ranging from ERISA and fiduciary responsibilities to antitrust, securities, and intellectual property. William also has substantial corporate counseling experience.

William has been recognized by *Legal 500* and the Leading Lawyers Network and was named one of the top 100 attorneys in the State of Illinois by *Illinois Super Lawyers*. He is AV Peer Review Rated, Martindale-Hubbell's highest peer recognition for ethical standards and legal ability.

William serves on the boards of Midland National Life Insurance Company and North American Company for Life and Health Insurance, insurance subsidiaries of the Sammons Financial Group. He previously served on the board of Partners Financial Group, a bank holding company, for approximately 10 years -- from the time of its founding through its subsequent acquisition. William currently serves as the US counsel for a European packaging manufacturer and counsel to the board of trustees of a Big Ten university. He has also served as counsel on Sarbanes Oxley issues to the Audit Committees of substantial publicly traded companies.

The past State Chair for Upstate Illinois for the American College of Trial Lawyers, William has served the Illinois State Bar Association, the Chicago Bar Association, and the Association of Professional Responsibility in a variety of committee leadership roles over the years. He is a member of the President's Council of the University of Illinois and serves on the Dean's Advisory Council at the University of Illinois College of Law, where he has been named a Distinguished Graduate.

Previously, William served the community as board member for the Legal Aid Bureau of Chicago and Metropolitan Family Services. He also has taught professional responsibility law as an adjunct professor at Northwestern University School of Law.

William was the initial internal general counsel for the firm of Jenner & Block and served in that capacity for more than 10 years while maintaining his private practice.

Areas of Focus

- Education
- Law Firm and Professional Services Defense

Representative Matters

Mr. Heinz has tried dozens of cases to judgment, and illustrative examples of his experience include:

Antitrust

- *Flipside v. Jam, et al.* Successful defense of an "essential facility" antitrust case in the District Court and on appeal in the Seventh Circuit.
- *Stanislaus Food Products v. American National Can Company and Silgan Corporation.* Defense of an American National Can against allegations under Section 7 of the Clayton Act.
- Representation of clients in a variety of criminal antitrust matters, including US grand jury investigations of foreign conduct allegedly impacting the US market.

Intellectual Property

- *Bally Shoe of Switzerland v. Bally Manufacturing Corporation.* Defense of Bally Manufacturing Corporation against allegations of trademark infringement filed by Bally Shoe of Switzerland.
- *International Game Technology v. Bally Manufacturing Corporation.* Representation of Bally in patent infringement litigation (software that determined the probability of certain payoffs from gaming machines).
- *Fruit of the Loom v. Gildan Activewear, Inc.* Representation of Gildan Activewear against trade secret claims filed by its competitor, Fruit of the Loom, Inc.
- *Poly Enviro Laboratory, Inc. v. Foster Chemicals, Inc.* Representation of Foster Chemicals against allegations of theft of trade secrets.
- *Ball v. American National Can.* Successful representation of American National Can in patent infringement suit in which jury returned a verdict of non-infringement (metallurgy issues surrounding manufacturing light weight aluminum beverage cans).
- *Pechiney Plastic Packaging Inc. v. Continental PET Technologies, Inc.* Successful representation of Pechiney in patent infringement action that settled after favorable Markman hearing (multi-layer oxygen barrier plastic food containers).

- *St. Charles Manufacturing Co. v. St. Charles Furniture Corp.* Representation of defendant in action involving trademark rights to the term "St. Charles."

ERISA And Fiduciary Litigation

- *Donovan v. Fitzsimmons, et al.* Defense of the management and union trustees of the Teamsters Central States Pension Fund. The United States Department of Labor alleged under ERISA that the trustees had engaged in imprudent transactions. In companion private litigation, a Rule 23 class action settlement was reached terminating the action filed by the Secretary of Labor.
- *In Re: Estate of Elijah Muhammad.* Defense of one of Japan's largest banks, the Dai-Ichi Kangyo, against allegations that it improperly handled funds in an account of the late Elijah Muhammad of the Muslim religious order, the Nation of Islam.
- *Leigh v. Engle.* Defense of a group who invested company pension funds in an acquisition target they were pursuing.
- *Sutton Holding Corp. v DeSoto.* Defense of DeSoto, Inc. against allegations that its ESOP had been misused by previous management during an effort to fend off a takeover attempt.
- *Jennifer Florin v. Wesray.* Defense of several of the principals in Wesray Capital Corporation against allegations that they sold their stock in the Simmons Company to an ESOP at a price that exceeded fair market value, and thus it was a prohibited transaction under ERISA.
- *Calobrace v. American National Can.* Defense of officers and directors of the American National Can Company in litigation with the Secretary of Labor and a class of pension beneficiaries. Both plaintiffs alleged defendants were imprudent in selecting an annuity provider for the beneficiaries of a terminated pension plan.

Securities Litigation

- Defense of Sara Lee officers and directors in Rule 10(b)(5) and derivative litigation.
- Defense of officers and directors of Bally Manufacturing Corporation in both Rule 10(b)(5) litigation and Delaware derivative litigation.
- Defense of officers and directors of Indiana Financial Investors in shareholder derivative litigation.

Qui Tam Actions

- Successful defense of a University Medical Center in qui tam litigation and against related whistleblower retaliation claims filed under the False Claims Act, The Illinois Whistleblower Reward and Protection Act, and common law defamation. The US District Court dismissed the retaliation claims, and all claims were settled pending plaintiff's appeal.

Appellate Work

- *Kelly v. Astor Investors.* Defense in Illinois Supreme Court of a condominium developer and established the proposition that the Illinois implied warranty of habitability does not apply to condominium conversions.

- *Charmglow v. Tyco Laboratories*. Mr. Heinz successfully argued an appeal on behalf of Tyco Laboratories concerning contract interpretation questions arising from the sale of a former manufacturing subsidiary.
- *In Re: Bally Manufacturing Securities Litigation*. Argued in the United States Court of Appeals for the Seventh Circuit, the main issue was the actionability of "forward looking" statements by management.
- *Boland v. Engle, et al.* Argued in the Seventh Circuit in a case that substantially limited the demand futility exception in shareholder derivative litigation.
- *Ames v. American National Can.* An ERISA case in the 7th Circuit involving the duty to exhaust administrative remedies; allegations of breach of fiduciary duty in connection with severance and pension benefits; and the scope of the ERISA disclosure obligation under 29 U.S.C. §1132.
- *People v. Triplett* (Criminal appeal)

Arbitration And Other Alternative Dispute Resolution

- On behalf of Tyco Laboratories, Mr. Heinz arbitrated a dispute arising from the acquisition of a substantial manufacturing facility. The adverse party was the former CEO and a very substantial shareholder of the company acquired.
- On behalf of Bally Manufacturing Corporation, Mr. Heinz has arbitrated a distributorship termination.
- For a public high school, which suffered a large fire loss, Mr. Heinz served as a non-neutral arbitrator. The school's insurance carrier initially insisted the loss was no more than \$2,400,000. He persuaded the insurance company's dispute resolver to accept a figure in excess of \$2,900,000 and carved out for judicial resolution a damage issue the insurance company absolutely refused to consider during the course of alternative dispute resolution. Ultimately, the Illinois State Court sided with the school district and ordered the insurance company to additionally compensate the school for Life, Health & Safety requirements not originally present in the fire damaged building but now required by state law in the reconstructed school.

Grand Jury and Internal Investigations

- During 2012 and 2013, retained to conduct internal investigation of alleged misconduct within client corporation involving issuance of financial instruments.
- From December 2005 until August 2008, Mr. Heinz represented a publicly traded corporate client during an extensive grand jury investigation involving allegations of bribery and kickbacks by some of the corporate sales agents and employees. After conducting an extensive internal investigation and counseling a special Committee of the Board regarding employee, agent, and senior management changes, Mr. Heinz was able to negotiate a resolution with the United States Government through a Deferred Prosecution Agreement. As a result of the investigation, numerous former agents, a former Regional Manager, and some customers were convicted.

Class Action

- Successful defense in 2014 of a putative class action by enforcing in court a contractual arbitration clause and class action waiver, and then defeating the claim on the merits in the subsequent arbitration.

Cases Tried

- *Burroughs v. Sign of Beefeater*, No. 75 C 385 (Trademark infringement)
- *Evans v. Tiffany & Co.*, 73 C 2555, 416 F. Supp 224 (N.D. Ill. 1976) (Breach of Letter of Intent to lease real estate)
- *St. Charles Manufacturing Co. v. St. Charles Furniture Corp.*, No. 79 C 1214, 482 F. Supp. 397 (N.D. Ill. 1979) (Trademark)
- *Smith v. Fairman*, No. 80-2076, 528 F. Supp 186 (C.D. Ill. 1981) (Civil Rights)
- *Bally's Great America v. Bailey's Great American Resort* (Trademark)
- *James Brothers v. Milton L. Durchslag d/b/a Durchslag Realty Co. & Frank Juett*, No. 81 L 17417 (Breach of real estate lease)
- *Sammons Communications v. City of Dwight, Illinois* (Cable TV franchise termination)
- *Daniel Donovan v. Elizabeth Foran* (contempt)
- *Poly Enviro Laboratory, Inc. v. Foster Chemicals, Inc.*, No. 83 C 9055; 223 USPQ 1124 (1984) (Trade secret)
- *Consolidated Distributors, Inc. v. Almaden Vineyards, Inc. and Continental Distribution Company, Inc.* (Termination of distributorship)
- *Chemical Fabrics Corp. v. William J. Lewis* (Unfair competition)
- *Leigh v. Engle*, No. 78 C 3799, 669 F. Supp. 1390 (N.D. Ill. 1987) (Breach of fiduciary duty; ERISA)
- *In Re: Estate of Elijah Muhammad*, Nos. 86-2876, 86-2877, 86-3147, 86-3216, 86-3349, 86-3350; 165 Ill. App. 3d 890 (1987) (Breach of fiduciary duty; alleged mishandling of trust account)
- *First American Bank v. First of America Bank* (Trademark infringement)
- *Century America Corp. v. Estate of Zelma Hansen*, No. 89 P 802 (Enforce option on closely held shares)
- *O.G. Service v. MCM Partners* (Unfair competition)
- *City of Ottawa, et al. v. Sammons Communications, Inc., et al.*, No. 87 C 1325; 795 F. Supp. 261 (N.D. Ill. 1992) (Regulatory dispute re cable TV)
- *Brennan v. Wisconsin Central Ry. & Calloway*, No. 89 L-922 (Lake County) (Train accident)
- *Fohrman v. Goldberg, Weisman, et al.*, Nos. 90 CH 12388 and 90 CH 5259 (law firm dissolution)
- *Ball v. American National Can*, No. IP91-434-C (S.D. Ind.), tried August and September 1993 (Patent infringement)
- *Tadros v. Khalil, and the Shops at Chatham, General Partnership* (Breach of partnership agreement)

Appellate Cases

- *James Hyman v. Rickman*, No. 75 C 2632 (Civil Rights)
- *People v. Peter*, No. 63011, 43 Ill. App. 3d 1068 (1st Dist. 1976) (Sentencing)
- *Amelco Electric Company, Inc. v. Arcole Midwest Corporation, et al.*, No. 62773, 40 Ill. App. 3d 118; 351 N.E.2d 349 (1st Dist. 1976) (Subcontractor lien)
- *Smith v. Fairman*, Nos. 81-2859 and 82-1052; 690 F.2d 122 (7th Cir. 1982) (Civil Rights)
- *Jones v. Fairman*, No. 82-1071; 697 F.2d 801 (1983) (Civil Rights)

- *Kelley v. Astor Investors, Inc.*, No. 60159, 123 Ill. App. 3d 593; 462 N.E.2d 996 (2d Dist. 1984); No. 60159, 106 Ill. 2d 505; 478 N.E.2d 1346 (Supreme Court of Illinois) (Warranties re condominium conversions)
- *People v. Triplett*, No. 60106, 108 Ill. 2d 463; 485 N.E.2d 9 (Sup. Ct. of Ill. 1985) (Criminal appeal)
- *Meriwether v. Faulkner*, No. 86-1144; 821 F.2d 408 (1987) (Civil Rights)
- *Flipside v. Tempo*, Nos. 87-1531, 87-1547, 87-1496; 843 F.2d 1024 (7th Cir. 1988) (Antitrust)
- *Leigh v. Engle*, Nos. 87-2548, 87-2609, 87-2622, 858 F.2d 361 (7th Cir. 1988) (ERISA)
- *Tyco Laboratories and Allied Tube and Conduit v. Charmglow*, No. 5-91-0226 (Ill. App. Ct. 5th District) (Acquisition contract)
- *Arazie v. Mullane*, 2 F.3d 1456 (7th Cir. 1993) (Securities; 10(b)(5))
- *Hosselton v. First American Bank*, No. 92-0289, 240 Ill. App. 3d 903 (1993) (fiduciary breach re estate of incompetent)
- *Boland v. Engle, et al.*, 113 F.3d 706 (7th Cir. 1997) (Shareholder derivative case)
- *Ames, et al. v. American National Can, et al.*, 170 F.3d 751 (7th Cir. 1999) (ERISA, mass action)
- *Native American Bar Association, et al. v. Board of Trustees, et al.* (appellate defense of successful trial court judgment dismissing civil rights allegations arising from university symbol)

Criminal Cases

- *U.S. v. Eddie Watkins*, 75 CR 79
- *U.S. v. Reyes Vargas*, 75 CR 827
- *People v. Jessie Triplett*, subsequently reported as 99 Ill. App. 3d 1077 (1st Dist. 1981)
- *U.S. v. Feldman*, No. 82-1611; 711 F.2d 758 (1983)
- *People v. Jessie Triplett*, subsequently reported as 108 Ill. 2d 463 (1985)
- *People v. Goodwill*, No. 87 CR 9468

Attorney Disciplinary

- *In Re: David P. Duff*, No. 86 CH 224
- *In Re: Oscar O. D'Angelo*, No. 66514, 126 Ill. 2d 45 (1988)
- *In Re: John Kujawski*, No. 89 SH 59
- *In Re: Berle Schwartz*, No. 90 CH 482
- *In Re: James J. Gomric, Sr.*, No. 94 SH 347
- *In Re: James J. Gomric, Sr.*, No. 96 SH 216

Arbitrations, Administrative Hearings, and Alternative Dispute Resolution

- *Krengel v. Tyco Laboratories*
- *Bally Manufacturing v. Atlantic Maritime Services*

- *In Re Lachmar Partnership*
- *Dardick & Zuckerman v. Aetna*
- *Carlinville High School v. Country Mutual Insurance*
- *Illinois Sports Facility Authority v. Missouri Pacific Railroad*
- *Bally Park Place Casino Licensing Hearing*
- *Stanislaus Food Products v. American National Can Company and Silgan Corporation*
- *American National Can - Employee Pension ADR*
- *A Large Chicago Law Firm v. The Trustee of Its Employee Benefit Plans*
- *A European Purchaser - Recoupment Claim*
- *Successful Mediation of Substantial Attorneys Fee Award Contested by Two Law Firms*

Credentials

Admissions

- Illinois, 1973

Education

- University of Illinois College of Law, JD, Order of the Coif, 1973
- Millikin University, BS, Economics and Finance, 1969

Court Admissions

- US Supreme Court, 1979
- US Court of Appeals, Third Circuit, 1982
- US Court of Appeals, Fifth Circuit
- US Court of Appeals, Seventh Circuit
- US Court of Appeals, Federal Circuit
- US District Court, Northern District of Illinois, 1974
- US District Court, Central District of Illinois, 2000
- US District Court, Southern District of Illinois

Clerkships

- Hon. Walter P. Gewin, US Court of Appeals, Fifth Circuit, 1973-1974

Service / Recognition

Awards

- American College of Trial Lawyers, Fellow
- *The Best Lawyers in America*, Employee Benefits (ERISA) Law, 2024, 2026; Ethics and Professional Responsibility Law, 2024, 2026
- *Illinois Super Lawyers*, Business Litigation, 2005-2024, Top 100 Attorneys in the State of Illinois, 2008
- Leading Lawyers Network, Commercial Litigation, 2004-2019, Professional Malpractice Defense Law: Including, Legal/Technical/Financial, 2004-2019, Publicly Held Corporations, 2014-2019
- *Legal 500*, Litigation: Trade Secrets - 2010
- University of Illinois College of Law, Named Distinguished Graduate
- *Who's Who in America*

Community

- Legal Aid Bureau of Chicago - Board of Directors, Chair, 1999-2001
- Metropolitan Family Services - Board of Directors
- National Institute for Trial Advocacy, Faculty Member - 1981
- Northwestern University School of Law, Adjunct Professor
- University of Illinois College of Law, Member, President's Council, Member, Board of Visitors, 1990-1993

Service to the Bar

- American Bar Association
- American College of Trial Lawyers, Fellow, State Chair for Upstate Illinois, 2009-2011
- Association of Professional Responsibility Attorneys
- Chicago Bar Association - Judicial Evaluation Committee, Member, 1990-1993
- Illinois State Bar Association, Chair, Standing Committee on Liaison with Attorney Registration and Disciplinary Commission, 1991-1992; Vice-Chair, Committee on Professionalism, 1991; Member, Task Force on Multi-Disciplinary Practice, 1999-2000; Member, Section Council on Civil Practice and Procedure, 1993-1995
- Legal Club of Chicago, Board of Directors, 1997-1999