

# DEAN J. DIPILATO

## EDUCATION

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1995 – 1998 COLUMBIA UNIVERSITY SCHOOL OF LAW New York, NY

*Juris Doctorate*

- Harlan Fiske Stone Scholar 1996, 1998; *Columbia Journal of Law and Social Problems*.
- Best essay, first year Torts exam.

1991 – 1995 UNIVERSITY OF PENNSYLVANIA Philadelphia, PA

*Bachelor of Arts, Double Major, History; American Civilization*

- Graduated *magna cum laude*, Dean's List 1993, 1995; Pennsylvania Rugby Club, Delta Tau Delta Fraternity.

## PROFESSIONAL EXPERIENCE

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November 2017 – Present MACKENZIE HUGHES, LLP Syracuse, NY

*Partner*

- Lead counsel in a variety of commercial matters and intellectual property matters, including: represent general contractor in multi-million dollar construction and design defect case; represent software developer in matter involving breach of contract for failure to provide software development services; represent general contractor in arbitration concerning withheld retainage for construction defects and failures; represent individual in dispute concerning financial matters of closely held corporation; represent national food service provider in matter concerning construction and design defects of installation of facility floor; represent private corporation in dispute over asset purchase agreement.

2010 – October 2017 GILBERTI, STINZIANO, HEINTZ & SMITH P.C. Syracuse, NY

*Senior Counsel*

- Lead or co-lead counsel in a variety of commercial matters and intellectual property matters, including: represent technology company in lawsuit concerning development of software for gaming app; successfully obtained injunction on behalf of defendant companies that participated in a failed workers compensation insurance trust in which N.Y. state alleges more than \$60 million in damages; obtained summary judgment defeating allegations of inadequate legal representation, and establishing propriety of unpaid legal fees, resulting in a nearly \$500,000 settlement on behalf of law firm; lead attorney for defendant general construction contractor in construction design and defect matter in which plaintiffs allege \$20 million in damages; lead attorney on numerous matters for one of central New York's largest trucking companies.

2009 – 2010 PINSKY & SKANDALIS Syracuse, NY

*Associate*

- Litigated a variety of commercial matters, including drafting of injunction papers, motions to dismiss, summary judgment motions, and appeals. Handled oral arguments on all assigned cases, including oral argument on a multi-million dollar appeal before the Appellate Division, Fourth Department.

2007 – 2009 XCEL SOFTWARE, INC. Cambridge, MA

*General Counsel*

- Litigated “bet the company” litigation in trademark, copyright, corporate theft matter. Implemented new business contracts focused on protecting the company's intellectual property.

4/07 - 10/07 JUDGE STEVEN D. MERRYDAY, U.S. DISTRICT COURT, Tampa, FL

*Temporary Law Clerk*

- Drafted opinions re: civil commercial litigation, intellectual property matters, and white collar crime (civil and criminal) cases as temporary term clerk.

2005 – 2006      FRESINIUS MEDICAL CARE, NORTH AMERICA      Lexington, MA  
*Assistant General Counsel*

- Review and management of company’s technology portfolio; Managed internal controls and discovery for the world’s leading provider of dialysis products and services in response to federal subpoenas investigating the company’s use of, and billing practices for, Epogen, a drug used in the dialysis process. Managed disputes with the state of Florida and the Commonwealth of Puerto Rico regarding reimbursement of funds for dialysis services. Developed internal policies to manage risk and ensure compliance with the FDA and FTC regarding product pricing and marketing, including issues regarding “off-label” use of pharmaceuticals under the federal False Claims Act. Helped develop policies to ensure compliance with “anti-kickback” laws.
- Managed lawsuits, mediations, and arbitrations for high dollar medical malpractice claims, including wrongful death matters. Also managed complex commercial and intellectual property litigation. Took lead role in coordinating same with outside counsel in both state and federal courts.

2001 – 2005      TESTA, HURWITZ & THIBEAULT, LLP      Boston, MA  
 2000 – 2001      SKADDEN, ARPS, SLATE, MEAGHER & FLOM, LLP      Boston, MA  
 1997 – 2000      CLIFFORD CHANCE ROGERS & WELLS, LLP      New York, NY

*Associate*

Obtained experience in healthcare, securities, intellectual property, and general commercial litigation, including:

- Defended client facing upwards of \$60 million in liability in laser eye surgery patent trial. Drafted summary judgment briefs, and assisted with all aspects of trial preparation, two-week jury trial, and appeal, resulting in affirmance of judgment notwithstanding the verdict by the Federal Circuit.
- Defended publicly traded client in patent dispute relating to autism drug in federal court in California. Assisted in summary judgment briefing, pre-trial arbitration, and all aspects of trial preparation, resulting in favorable settlement on eve of trial.
- Managed litigation team in breach of contract/trademark dispute in fast-tracked litigation in federal court in the E.D.Va.. Coordinated all aspects of discovery, and trial preparation, including document requests and subpoenas, interrogatories, multiple motions to compel, motion for summary judgment, motions *in limine*, and all other pre-trial briefing, obtaining favorable settlement on eve of trial.
- Drafted motion to dismiss as part of six-firm liaison counsel for over 300 public companies in the federal securities IPO “laddering” litigation.
- Drafted successful motion to dismiss in claim brought under the Securities Act of 1933, alleging misrepresentation and omissions in secondary offering prospectus for high technology company.
- Counsel to multiple former executives of mutual fund companies in SEC investigations relating to allegations of “market timing” in mutual funds.
- Represented venture capital limited liability company in disputes involving the fund’s investments in various portfolio companies, including dispute involving fraudulent conveyance, requiring the filing of injunction papers, and expedited discovery.
- Represented public company in commercial contract dispute involving flow element systems installed in numerous nuclear power plants.

- Participated in all aspects of preparation for expedited trial in breach of employment contract/unfair trade practices action, resulting in obtaining temporary and permanent restraining orders. Successfully defended client in NASD arbitration, arguing *res judicata* issues on a motion to dismiss before NASD panel.

Summer 1996 HUTCHINS, WHEELER & DITTMAR, LLP  
*Summer Associate*

Boston, MA

#### PUBLICATIONS AND SPEAKING ENGAGEMENTS

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Lectures at: the annual meeting of the Judiciary for the Fifth Judicial District, State of New York (September 2015); the Annual Meeting of the County Attorneys Association for the State of New York (May 2016); a national webinar on for the Federal Bar Association (August 2016); and the American Bar Association's Annual Meeting for Alternative Dispute Resolution; (April 2017). I have also been selected to lecture for ACCESS MCLE, a national provider of CLE programs, and am in the process of finalizing an extensive presentation on litigation tactics. My course will be available nationwide, both on their on-line service, as well as audio CDs.

#### **Teaching Experience:**

- Spring 2018: Adjunct Professor; The Syracuse University College of Law; The Law and Practice of Electronic Discovery.
- Taught the LSAT and MCAT for Princeton Review.

#### **Co-authored articles entitled:**

- "Loss Causation In Securities Litigation: A Defense Strategy Whose Time Has Come." *The Review of Securities & Commodities Regulation*, September 2002.
- "The Dangers of 'Internet IR': Reducing the Risks of Web Site Statements." *Venture Update*, Summer 2001.
- "Recent Developments in Securities Laws" distributed and presented at New York State Bar Association legal education seminar, April 2000.

#### PROFESSIONAL ASSOCIATIONS

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- Admitted in New York, Massachusetts, United States District Court for the Northern District of New York; United States District Court for the District of Massachusetts, United States Court of Appeals for the First Circuit.