MASLONLLP



MICHAEL C. MCCARTHY

Partner
Co-Chair of the Appellate Practice Group

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OVERVIEW

Mike McCarthy is a partner in Maslon's Litigation and Financial Services Groups. He represents clients in complex litigation and appeals.

Mike has extensive experience with corporate trust-related litigation and has defended multiparty actions, including putative class actions involving securities and consumer fraud, environmental claims, and antitrust and other alleged statutory violations. He also has experience with and expertise in commercial contract and business owner disputes, technology-related litigation, and medical-device liability.

From 2014 through 2022, Mike served in various roles in firm management, including as chair for six years.

SELECTED EXPERIENCE

Representative Appeals

- *In re Merrill Lynch Mortgage Investors Trust, Series 2006-RM4 & 2006-RM5*, Nos. A21-1350 & A21-1356 (Minn. Ct. App. 2022). Affirmance of trust instruction approving trustee's $77 million settlement of RMBS putback action.
- *In re HarborView Mortgage Loan Trust 2005-10*, No. A18-0043 (Minn. Ct. App. 2018). Challenge to court's in rem jurisdiction over residential mortgage-backed securitization trust.
- *Frederick v. Wallerich*, 907 N.W.2d 167 (Minn. 2018). Amicus brief on behalf of Minnesota State Bar Association in case addressing accrual of limitations period for legal malpractice.
- *Marks v. Commissioner of Revenue*, 875 N.W.2d 321 (Minn. 2016). Challenge to taxation of part-year resident.
- *EOG Resources, Inc. v. Soo Line R.R. Co.*, 867 N.W.2d 308 (N.D. 2015). Amicus brief on behalf of BNSF Railway Company in dispute involving interpretation of deeds and scope of property interests conveyed to railroad.

AREAS OF PRACTICE

Litigation
- Appeals
- Business Litigation
- Corporate Trust Litigation
- Tort & Product Liability

Financial Services
- Corporate Trust Representation

BAR ADMISSIONS

Minnesota

New York

U.S. District Court
- Minnesota
- Michigan, E.D.
- New York, S.D.
- North Dakota
- Texas, S.D.

U.S. Court of Appeals
- First Circuit
- Fifth Circuit
- Sixth Circuit
- Seventh Circuit
- Eighth Circuit
- Eleventh Circuit
- Federal Circuit

U.S. Supreme Court

EDUCATION

Cornell Law School
J.D., *magna cum laude*
Honors: Order of the Coif

St. John's University
B.A.

- *Medical Staff v. Avera Marshall,* 857 N.W.2d 695 (Minn. 2014). Amicus brief on behalf of Minnesota Hospital Association in dispute involving medical staff bylaws.
- *State of Minnesota v. 3M Co.*, 845 N.W.2d 808 (Minn. 2014). Challenge to disqualification of opposing counsel.
- *Triple Five of Minnesota, Inc. v. Simon*, 404 F.3d 1088 (8th Cir. 2005). Reversal of order transferring ownership of substantial interest in Mall of America as remedy for fiduciary duty breach in partnership dispute between owners.
- *Bruggeman v. Jerry's Enterprises, Inc.*, 591 N.W.2d 705 (Minn. 1999). Ruling that merger doctrine was inapplicable to option to repurchase land, reversing court of appeals.
- *Narum v. Faxx Foods, Inc.*, 590 N.W.2d 454 (N.D. 1999). Affirming dismissal of securities fraud claims as barred by statute of limitations.
- *Minnesota Mining and Manufacturing Co. v. Nishika Ltd.*, 565 N.W.2d 16 (Minn. 1997). Obtained ruling resulting in reversal of $30 million award under UCC warranty.

Representative Cases in District Courts

- *In re Municipal Stormwater Pond Coordinated Litigation*, No. 18-3495 (D. Minn.). Successful defense of 11 actions brought by municipalities involving claims of fraud, product liability, nuisance, and trespass related to presence of polycyclic aromatic hydrocarbons in stormwater ponds.
- *In re HarborView Mortgage Loan Trust 2005-10*, No. 27-TR-CV-17-32 (Hennepin Cty. Dist Ct.). Obtained approval after bench trial of trustee's $94 million settlement of RMBS putback action.
- *In re MASTR Adjustable Rate Mortgages Trust 2006-OA2, 2007-1 & 2007-3*, No. 62-TR-CV-18-35 (Ramsey Cty. Dist. Ct.). Obtained approval after bench trial of trustees' $850 million settlement of RMBS putback action.
- *In re MASTR Asset Backed Securities Trusts 2006-HE3 & 2007-WMC1*, No. 62-TR-CV-14-59 (Ramsey Cty. Dist. Ct.). Obtained trust instruction for corporate trustee after trial on investors' objections to requested instruction.
- *U.S. Hotel & Resort Mgmt. v. Onity, Inc.*, No. 13-1499 (D. Minn. 2014). Dismissal of putative class action alleging design defect in hotel door locks due to lack of injury and therefore no Article III standing.
- *Hennepin Cty. v. Fannie Mae*, 933 F. Supp. 2d 1173 (D. Minn. 2013), *aff'd*, 742 F.3d 818 (8th Cir. 2014). Dismissal of putative class action alleging failure to pay state deed tax in connection with acquisition and sale of mortgages.
- *State of Minnesota v. 3M Co.*, No. 27-CV-10-28862 (Hennepin Cty. Dist. Ct.). Defense of claims for natural resource damages (2011 to 2016).
- *Braswell v. Polaris Indus., Inc.*, No. 09-2919 (D. Col. 2009). Defense of putative nationwide class action alleging warranty and consumer fraud claims related to snowmobile engines.
- *Williams v. Geithner*, No. 09-1959 (D. Minn. 2009). Dismissal of putative class action alleging due process violations related to implementation of mortgage modification program.
- *Paulson et al. v. 3M Company*, No. C2-04-6309 (Washington Cty. Dist. Ct.). Defeated motion seeking class certification of a 67,000 member putative class claiming chemical exposure via drinking water contamination (2007) and obtained a defense verdict on the merits after a seven-week jury trial (2009).
- *In re Canadian Import Antitrust Litig.*, 385 F. Supp. 2d 930 (D. Minn. 2005), *aff'd*, 470 F.3d 785 (8th Cir. 2006). Dismissal of putative class action alleging antitrust liability in connection with restrictions on importation of prescription pharmaceuticals purchased from Canadian pharmacies.

Pro Bono

- *Ex parte Armstrong* (Tex. Crim. App. 2017). Member of team of Maslon lawyers serving as pro bono counsel for Douglas Tyrone Armstrong, a Texas death row inmate convicted of capital murder in 2006. The team successfully secured the vacation of Armstrong's death sentence by the Texas Court of Criminal Appeals.

LEADERSHIP & COMMUNITY

- Maslon LLP: Board of Directors Vice-Chair 2022; Governance Committee Member 2014-2022, Chair 2016-2022; General Counsel 2014-2026

- Hennepin County Law Library: Board of Trustees 2008-2024, Vice Chair 2017-2024
- American Bar Association: Litigation Section
- Minnesota State Bar Association: Publications Committee 2004-2013, Chair 2007-2010; Rules of Professional Regulation Committee 2004-2024, Chair 2014-2017
- Fourth Judicial District Ethics Committee: Investigator 2008-2014

SELECTED HONORS

- **Recognized as a Litigation Star by Benchmark Litigation**, 2018-2025
- **Recognized on Minnesota Super Lawyers® list**, 2003-2005, 2018-2026 *(Minnesota Super Lawyers® is a designation given to only 5% of Minnesota attorneys each year, based on a selection process that includes the recommendation of peers in the legal profession.)*
- **Selected for inclusion in *The Best Lawyers in America*®**, 2014, 2017-2027
- **The POWER 30:** Business Litigation, *Minnesota Lawyer*, 2022 (*POWER 30 is a regular feature that examines the power brokers who lead and influence various parts of the Minnesota legal community.)*
- **Light of Justice Award**, Texas Defender Service, 2018
- **Selected for inclusion in the *Minnesota 500***, 2018-2019
- **North Star Lawyer**, Minnesota State Bar Association, 2014, 2017 *(North Star Lawyer is a designation that recognizes members who provide 50 hours or more of pro bono legal services in a calendar year.)*
- **AV Preeminent**, Martindale-Hubbell®

SELECTED PRESENTATIONS

- "Professional Ethics & the Multi-Jurisdictional Client," 2018
- "Trends in Data Privacy Litigation," Data Breach Preparedness and Response, Minnesota CLE, 2015
- Adjunct Professor, William Mitchell College of Law, "Recent Supreme Court Decisions," 2006-2008; "Remedies," 1998-2000; "Legal Writing," 1997-1998
- CLE presentations on appeals, class actions, electronic discovery, and developments in the law related to arbitration