McElroy Deutsch

Automotive



The automotive lawyers at McElroy Deutsch represent industry clients nationwide including manufacturers, captive financial entities, suppliers and distributors. Our full-service automotive practice draws on our attorneys' extensive multidisciplinary experience in commercial, products liability, tax, employment, franchise, class actions, and other areas of law. This experience and depth enable us to provide counseling and litigation services on a wide range of issues affecting our clients in the fast-evolving automotive industry.

COUNSELING SERVICES

Our knowledge of the automotive industry, together with the support of our specialized practice areas, directly benefits clients seeking advice on:

Compliance with Federal and State Laws and Regulations

Commercial Disputes

- Franchise disputes and legal issues under the New Jersey Franchise Practices Act (FPA) and the Automobile Dealers' Day in Court Act
- Consumer fraud, warranties, advertising, lemon law issues, consumer leasing, and consumer financial issues
- Contract and misrepresentation issues
- Most other forms of commercial disputes
- Class Action Counseling Consumer Affairs
- Advertising issues and consumer regulations
- Complaints filed by state consumer agencies and consumers

- Counseling and defense of administrative actions brought by regulatory Agencies such as DMV and Attorney General

Financial Issues

- Counseling and representation of captive financial companies in consumer financial litigations
- Counseling and representative of captive financial loan transactions, workouts and related litigation
- All aspects of corporate and transactional issues
- Counseling and representation of captive financial companies in asset based lending real estate lending, construction loans, floor plan financing and leasing
- Workouts and Creditor/Debtor Rights; Section 363 Sales

Franchise Matters

As part of its commercial litigation practice, McElroy Deutsch handles a substantial amount of franchise litigation on behalf of franchisors nationally. Aside from general contract dispute arising out of the franchise relationship, our litigators have represented franchisors in termination actions, as well as in cases involving the enforcement of rights of first refusal, in both state and federal courts. In addition, our lawyers have handled actions for the recovery of licensing fees and to enjoin trademark infringements by former franchisees. We have also represented the interests of franchisors in bankruptcies filed by franchisees. We also seek efficient results by resolving franchise and other disputes before they are brought to trial through alternative dispute resolution.

- Protest litigation
- Disclosure and Fraud Issues
- Contract Disputes/Breach of the Implied Covenant of Good Faith and Fair Dealing
- Territorial Disputes and Encroachment
- Dealer/Franchisee Termination
- Tortious Interference Claims
- Trademark/Copyright Infringement
- Lanham Act
- Antitrust
- Labor and Employment Matters
- Environmental Issues
- Bankruptcy Issues
- Protest Matters
- Warranty Parts Reimbursement

Class Actions

Class-action litigation continues to be a major and growing threat to the everyday business practices of domestic and foreign companies. McElroy Deutsch has pooled its considerable litigation and class-action defense experience into a Class Action Practice Group. With more than thirty seasoned litigators experienced in handling class actions and complex litigation, this multi-disciplinary Group includes some of the most highly regarded practitioners in the areas of Labor & Employment, Product Liability, Credit Card and Mortgage Services, Insurance, Pharmaceuticals, Automotive, Consumer Fraud, and ERISA, among others.

The cornerstone of any class-action defense strategy is a demonstrated ability to defend the litigation aggressively from the outset. While the vast majority of class actions settle prior to class certification, settlement on favorable terms is possible only when plaintiffs' counsel believe they face a formidable adversary in the courtroom. McElroy Deutsch class-action lawyers have a proven record of success in winning dispositive motions, defeating class certification, and, where necessary, prevailing at trial.

McElroy Deutsch is mindful of its clients' desire to obtain a favorable outcome as cost effectively and as quickly as possible. The Firm's reputation as aggressive and resourceful litigators enhances its ability to pursue a variety of tactics to settle class actions early on without signaling a lack of resolve to defend the litigation with vigor. By involving its lawyers in the case at an early stage they may assist in evaluating the merits of the claims, potential removal, and class certification strategies and determine whether an early attempt at settlement is possible and in the client's best interest.

Other Specialty Practice Areas

Employee Benefits/Executive Compensation

Designing and implementing compensation programs, including programs in connection with succession planning and business sales

Proper design and administration of 401(k) plans, union pension plans, welfare and cafeteria plans, and fringe-benefit arrangements

Permissible methods for investing retirement plan assets in alternative investments, such as private businesses and real estate projects

Environmental

Coordinating Environmental Assessments and providing guidance concerning the appropriate scope of such assessments

Addressing environmental issues related to body shop operations, underground storage tanks and in-ground lifts

Estate, Succession and Asset Protection Planning

Estate planning and asset-protection planning

Effective means to preserve wealth and transfer of property in a tax-efficient manner

Labor and Employment

Day-to-day labor relations and employment law issues, including wage and hour compliance, hiring and firing, and compliance with federal and state anti- discrimination laws

Investigating and defense of claims of wrongful termination, harassment, and discrimination

Enforcing business interests of dealerships when threatened by violations of noncompetition, non-solicitation, confidentiality and other employment agreements

Providing onsite training for managers and supervisors in appropriate interview techniques, employee reviews and disciplinary procedures

Preparing and reviewing employee manuals, handbooks, employment applications, termination letters and other employment-related documents

Developing and implementing proactive labor relations strategies, to assist dealerships in negotiating favorable Collective Bargaining Agreements, and resolving grievances and arbitrations

Real Estate, Land Use and Zoning

Preparing and negotiating real estate, purchasing, selling and leasing agreements

Obtaining approvals and modifications from municipal, county and state agencies for new and existing sites, buildings and signage

Construction contracts and construction dispute resolutions, including litigation

Trademark, Service Mark, Intellectual Property Issues

Selecting, clearing and registering trademarks, trade names and service marks, including dealership names and slogans

Brand selection, protection and enforcement

URL and Domain name disputes and litigation

Start Ups and Small Business Issues

- Representing next generation vehicle and truck manufacturers
- Establishing national dealer network and related documentation
- All Intellectual Property related issues including but not limited to registration of Trademarks, Service Marks and branding
- Investment Capital, Private Placement Investments and document drafting
- Dealer agreements and related documentation
- Contracts, Supplier Agreements, Distribution Agreements, and Agency Relationships
- Strategic Partner agreements

LITIGATION AND ARBITRATION

In addition to providing counsel and advice for our automotive clients, we also have extensive experience representing our clients in litigation in federal and state courts, before administrative agencies, and in arbitration and mediations. Our experience includes:

- Breach of warranty and lemon law litigation in New Jersey, New York, and Pennsylvania
- Disputes involving franchised businesses generally
- Defense of litigation brought by state for dealer violations of regulations
- Finance-related litigation, including
    - Finance company actions against out of trust dealers for seizure of vehicles and for money damages
    - Litigation arising from indirect lending programs, lease assignees' failure to pay for vehicles and insolvency of insurer and marketer of vehicle service contract
    - Litigation arising from lease assignee's failure to pay for vehicles
    - Bankruptcy relief from stat and credit representation
    - Replevin actions
    - Consumer claims, including class actions alleging violations of State and Federal consumer protection laws:
        - Federal Truth-in-Lending Act
        - Federal and state Fair Credit Reporting Act
        - New Jersey and New York automotive practices regulations
        - Unconscionability of class action wavier in dealer-consumer arbitration agreement
        - Statutes such as the New Jersey Consumer Fraud Act, Truth-in-Consumer Contract, Warranty and Notice Act
        - Defense of litigation brought against manufacturers in product liability actions
        - Contract and misrepresentation actions

View a list of our automotive lawyers

Related Practices

Banking & Financial Services
Bankruptcy, Restructuring, Creditors' Rights
Class Actions
Environmental
Franchise
Insurance Coverage
Intellectual Property
Labor & Employment
Litigation
Municipal and Land Use
Private Client Services / Trusts and Estates
Real Estate