

RICHARD T. FRANCH, Retired Partner

Richard T. Franch is a retired partner from Jenner & Block's Chicago office and was a member of the firm's Litigation Department.

Mr. Franch has dedicated his career principally to civil litigation of all types on behalf of plaintiffs and defendants at the trial and appellate court levels throughout the United States, and he has represented clients in major arbitrations, both nationally and internationally. His legal experience includes the following substantive areas: antitrust, arbitration proceedings, bankruptcy, complex commercial litigation, discrimination and employment issues, insurance and reinsurance, securities, telecommunications litigation and federal tax litigation.

Mr. Franch represented General Dynamics Corporation as counsel for litigation purposes in major matters, including its \$2.2 billion offer to acquire Newport News Shipbuilding, which the U.S. government blocked on antitrust grounds, and its recent acquisition from the Spanish government of Empresa Nacional Santa Bárbara, a defense manufacturer (e.g., the Leopard 2E battle tank).

Mr. Franch represented Gulfstream Aerospace Corporation in a class action alleging violations of the Age Discrimination in Employment Act. *Ponder, et al. v. Gulfstream Aerospace Corp., et al.*, Case No. CIV-02-739-C (W.D. Okla.). This case was settled in May 2005.

Mr. Franch has been involved in several insurance and reinsurance disputes. He was lead counsel for SCOR S.A. in protracted litigation in federal court in Chicago between SCOR, its ceding insurers, other reinsurers, retrocessionaires and brokers that alleged RICO and fraud claims in connection with an environmental impairment liability (EIL) insurance program. He was also lead counsel for SCOR in significant state court litigation brought by EIL insureds in Chicago and Akron. Eventually, all of these cases were settled. He has represented AXA Reassurance and The Peoples Insurance Company of China in disputes with their ceding insurers. Mr. Franch has significant experience in efforts to confirm and vacate arbitration awards, including in the context of reinsurance.

Mr. Franch has spent substantial time on damages issues, both defending and challenging damages studies that involved significant claims for lost profits, out-of-pocket losses, reliance damages, prejudgment interest and so on.

Mr. Franch received his B.A. *cum laude* from the University of Notre Dame in 1964, and his J.D. from the University of Chicago Law School in 1967. He joined Jenner & Block in June 1967. He was an officer in the United States Army Transportation Corps in 1968 and 1969, attaining the rank of Captain. He rejoined Jenner & Block in February 1970. Mr. Franch is an emeritus fellow of the American College of Trial Lawyers and was a member of the American Law Institute from 1991 to 2006. Mr. Franch was Vice Chair of the International Committee of the American College of Trial Lawyers, which, in April 2003, promulgated a Report on Military Commissions for the Trial of Terrorists that



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EDUCATION

University of Chicago Law School, J.D., 1967

University of Notre Dame, B.A., 1964; *cum laude*

ADMISSIONS

Illinois, 1967

COURT ADMISSIONS

U.S. Supreme Court, 1980

U.S. Court of Appeals, Second Circuit, 1984

U.S. Court of Appeals, Third Circuit, 1981

U.S. Court of Appeals, Sixth Circuit, 1991

U.S. Court of Appeals, Seventh Circuit, 1971

U.S. Court of Appeals, Eighth Circuit, 1981

U.S. Tax Court, 1994

U.S. Court of Appeals, Ninth Circuit, 1997

U.S. District Court, Northern District of Illinois, 1967

U.S. District Court, Eastern District of Wisconsin, 1989

Illinois Supreme Court, 1967

was authored by him and other Jenner & Block attorneys. In 2005, Mr. Franch authored a supplement to this report. He is admitted to the bars of the Supreme Court of Illinois, the Supreme Court of the United States, the United States Courts of Appeals for the Second, Third, Fourth, Sixth, Seventh, Eighth and Ninth Circuits, the United States District Courts for the Northern District of Illinois and the Eastern District of Wisconsin, and the United States Tax Court.

- *U.S. ex rel. Gilliam v. General Dynamics Corp.*, Civil Action No. 2:01cv3023-12 (U.S.D.C. S.C.), *aff'd*, 2004 U.S. App. LEXIS 14261 (4th Cir. July 12, 2004). Mr. Franch was lead counsel in this False Claims Act ("qui tam") lawsuit which alleged that General Dynamics fraudulently procured the contract for the third Seawolf submarine (the "Jimmy Carter"). The relator claimed damages of \$4 billion on behalf of the United States, subject to trebling under the False Claims Act. On October 15, 2002, after extensive discovery, briefing and argument, the Court granted General Dynamics' motion for summary judgment, dismissing the case with prejudice. Mr. Franch argued relator's appeal from this judgment. On July 12, 2004, the Fourth Circuit affirmed.
- *SPX Corp. v. Franklin Electric Co.*, AAA Case No. 52 Y 198 00469 01. Mr. Franch represented SPX Corporation in a recent commercial arbitration. After the arbitration hearing, the arbitrator issued an award in favor of SPX in the amount of approximately \$11 million, and ruled in favor of it on respondent's claims for fraud and breach of a patent litigation settlement agreement.
- *Newell Rubbermaid, Inc. v. Petersen*, 325 Ill. App. 3d 661, 758 N.E.2d 903 (2001). Mr. Franch was lead counsel for American Tool Companies, Inc. ("ATC"), an international manufacturer of hand tools (e.g., Vise-Grip® locking pliers), and its subsidiary, Petersen Manufacturing Co., Inc., which were defendants in a complex lawsuit involving a corporate control contest that was filed by Newell Rubbermaid, Inc. ("Newell") in August 1997. Newell owned approximately 49% of ATC's stock. After substantial discovery and motion practice in the trial court, Mr. Franch argued an interlocutory appeal on behalf of all of the defendants which involved issues that were critical to Newell's claims. In October 2001, that appeal was decided in defendants' favor. Shortly thereafter, the case settled with Newell's acquisition of the shares of the majority owner of ATC for consideration in excess of \$200 million.
- *Vestar Development II, LLC v. General Dynamics Corp.*, 249 F.3d 958 (9th Cir. 2001). Mr. Franch represented General Dynamics in an action in which Vestar asserted that General Dynamics breached a letter of intent to convey real estate by allegedly failing to negotiate in good faith. Vestar claimed \$48 million in lost profit damages. The district court dismissed Vestar's claim on the ground that the damages it sought were too speculative as a matter of law. The Ninth Circuit affirmed in a unanimous opinion.
- *Thomson-CSF v. General Dynamics Corp.*, ICC Case No. 10465/BWD (June 21, 2000). Mr. Franch represented General Dynamics in this ICC arbitration that took place in Geneva, Switzerland in March 2000. It involved a contract dispute in which Thomson claimed damages of approximately \$100 million. General Dynamics prevailed and was awarded all of its costs and attorneys' fees. A related ICC arbitration took place in New York in December 2000. In April 2001, the panel rejected General Dynamics' \$15 million claim, and it rejected Thomson's \$110 million counterclaim. Because General Dynamics prevailed on a major issue, it was awarded a substantial portion of its attorneys' fees; Thomson was awarded nothing. *General Dynamics Corp. v. Thomson-CSF (now known as Thales)*, ICC Case No. 9307/BWD.
- *General Dynamics Corp. v. Commissioner*, 74 T.C.M. (CCH) 632 (1997), United States Tax Court. Mr. Franch was lead trial counsel for General Dynamics in a case in which the Commissioner of Internal Revenue challenged General

Dynamics' use of the completed contract method of accounting with respect to a multiyear contract to manufacture 480 F-16 jet fighter planes. The Commissioner asserted hundreds of millions of dollars in tax deficiencies. After a trial in the United States Tax Court, the court ruled in General Dynamics' favor.

- *In Re: Midway Airlines, Inc.*, 180 B.R. 851 (1995), Bankruptcy Court for the Northern District of Illinois. Mr. Franch was lead counsel for Northwest Airlines in an action brought against it in bankruptcy court by the trustee of Midway Airlines. Midway's trustee sought damages in excess of \$100 million, alleging breach of contract, fraud and other torts. After a four-month trial, the bankruptcy court, in a 157-page opinion, ruled in Northwest's favor.
- *In Re: Ivan F. Boesky Securities Litigation, FMC Corporation v. Boesky*, 36 F.3d 255 (2d Cir. 1994). Mr. Franch was one of the principal attorneys who represented FMC Corporation in litigation arising out of the Boesky insider trading scandal. He has been involved in several other cases involving corporate and securities issues, including corporate control contests.
- *Lachmar v. Trunkline LNG Co.*, 753 F.2d 8 (2d Cir. 1985); *United States v. Panhandle Eastern Corp.*, 868 F.2d 1363 (3d Cir. 1989). Mr. Franch represented the Lachmar partnership, which pursued an arbitration claim for approximately \$860 million dollars in damages for breach of a long-term contract for the transportation of liquefied natural gas from Algeria to the United States. In part, the contract was subject to Algerian law (which is based on the Sharia). After the arbitration hearing was concluded, Lachmar settled its claim for a substantial amount. Mr. Franch argued the two appeals cited above which related to this arbitration, both of which were decided favorably to Lachmar.
- *Craft v. Board of Trustees of the University of Illinois*, 793 F.2d 140 (7th Cir.), cert. denied, 479 U.S. 829 (1986). Mr. Franch has represented plaintiffs and defendants in several discrimination cases. For example, he was lead counsel for the University of Illinois Medical School in an action brought against it and members of its staff by two African-American students who were not awarded their medical degrees. The jury found for the defendants and the Seventh Circuit affirmed.
- *General Dynamics Corp. v. AT&T and MCI v. AT&T*. Mr. Franch was co-lead attorney for General Dynamics in antitrust litigation that was brought by General Dynamics and its former telecommunication subsidiaries against the Bell System. This litigation was settled. He was a member of MCI's team in its antitrust litigation against the Bell System. He has also represented MCI in other telecommunications matters.
- *R.S.E., Inc. v. Pennsy Supply, Inc.*, 523 F. Supp. 954 (M.D. Pa. 1981). Mr. Franch was lead defense counsel in a case alleging a price-fixing conspiracy in the road construction business in Harrisburg, Pennsylvania. Plaintiff sought approximately \$8 million in damages (before trebling). After a 10-month trial, the jury was hung and the trial court granted judgment to the defendants. Plaintiff appealed to the Third Circuit. Mr. Franch briefed and argued the appeal for all of the defendants, shortly after which the case settled for a nominal amount.

Awards

- *Illinois Super Lawyer*
Business Litigation – 2005-2016
- Leading Lawyers Network
Commercial Litigation - 2004-2019
- United States District Court, Northern District of Illinois
Award for Excellence in Pro Bono Service - 2015

Service To The Bar

- American College of Trial Lawyers
Former Vice Chair, International Committee
Emeritus Fellow
- American Law Institute

Publications

- "Illinois," *Getting the Deal Through - Dispute Resolution*, 2007
- *Reinsurance Reports*, Spring 2006
- "Illinois," *Getting the Deal Through - Dispute Resolution*, 2006
- "ADR Costs and Benefits," *Winning Legal Strategies for Alternative Dispute Resolution*, 2005
- "Be On Top of the Facts," *The Alternative Dispute Resolution Leadership Conference*, ReedLogic, 2005
- *Reinsurance Reports/Arbitration News*, Spring 2003
- Jenner & Block Authors American College of Trial Lawyers' Report On Military Commissions For The Trial Of Terrorists, April 2, 2003
- *Reinsurance Reports*, Summer 2002

Speaking Engagements

- Chicago Bar Association Conference of World City Bar Leaders, Chicago, IL, September 13, 2006 to September 16, 2006