

DEBBIE L. BERMAN, Partner

Litigator Debbie Berman is co-chair of the firm's Complex Commercial Litigation, Trade Secrets and Restrictive Covenants and Media and First Amendment Practices. She assists clients with complex commercial matters such as broken deals or business relationships and has deep experience in trade secrets matters as well as defamation and First Amendment-related tort cases, among other areas. During her career, Ms. Berman has provided extensive counseling services to clients and been involved in hundreds of litigated matters where she typically serves as first-chair.

Ms. Berman's litigation experience extends to many areas of sophisticated, complex civil litigation. For example, she is lead international coordinating counsel for a series of interrelated matters against the client's former senior executives and its former major distributors for conspiring to compete against it while they were still affiliated with the client. These matters include litigation in federal district and appellate courts, bankruptcy court, EUIPO and in Switzerland.

In trade secrets and unfair competition matters, Ms. Berman is known for litigating the seminal case on the inevitable disclosure doctrine for trade secrets, *PepsiCo v. Redmond*, 54 F.3d 1262 (7th Cir. 1995), both on the trial and appellate level. She represents clients in preliminary injunctions and other proceedings concerning the enforcement of covenants not to compete and related trade secrets issues and in Latham Act and other unfair competition litigation. She counsels clients on trade secrets and unfair competition issues in non- and pre-litigation settings, including assisting clients in developing policies for protecting their trade secrets.

Ms. Berman also represents clients in a variety of government contracts litigation, including contract terminations, indemnification suits and complex tax accounting. She has represented defense contractors in other types of litigation against the US government as well as in litigation with other contractors, including issues related to teaming arrangements on major government contracts.

In the First Amendment and defamation areas, Ms. Berman has extensive experience in both state and federal courts. In particular, she has defended media and non-media clients in numerous defamation and defamation-related tort cases. In many of these cases, she has successfully obtained dismissals of these actions. Notably, she successfully defended Paramount Pictures in *Muzikowski v. Paramount Pictures, et al*, in which the plaintiff claimed the movie *Hardball* was based on his life and portrayed him in a defamatory manner. Ms. Berman initially defeated the plaintiff's attempt to enjoin the movie's release and then obtained summary judgment. A federal appeals court upheld the trial court's summary judgment ruling.

In addition to her practice leadership roles, she is also chair of the firm's Litigation Associate Assignment Committee, chair (emeritus) of the firm's Women's Forum Steering Committee, and a member of the Management, Finance and Associate Development and Evaluation Committees.



DEBBIE L. BERMAN Partner

CHICAGO

Office: 312 923-2764

Fax: 312 840-7764

Email: dberman@jenner.com

PRACTICE GROUPS

Complex Commercial Litigation

Intellectual Property

Litigation

Media and First Amendment

Patent Litigation and Counseling

Trade Secrets and Restrictive Covenants

Trademark, Advertising and Unfair

Competition Practice

EDUCATION

Harvard Law School, J.D., 1990; *cum laude*

Brandeis University, A.B. (Economics), 1987; *summa cum laude*; High Honors in Economics; Phi Beta Kappa

ADMISSIONS

Illinois

COURT ADMISSIONS

U.S. Supreme Court

U.S. Court of Appeals, Seventh Circuit

U.S. District Court, Northern District of Illinois

U.S. District Court, Northern District of Illinois (Trial Bar)

U.S. Court of Appeals, Tenth Circuit

U.S. District Court, Southern District of Illinois

U.S. Court of Federal Claims

U.S. Tax Court

A recipient of numerous recognitions for her work, Ms. Berman is AV Peer Review Rated, Martindale-Hubbell's highest peer recognition for ethical standards and legal ability. The JUF/Jewish Federation honored Ms. Berman with its coveted Davis, Gidwitz & Glasser Award, which recognizes "young leaders who represent an ideal of dedication and service to the Jewish community." *Illinois Super Lawyers* and members of the Leading Lawyers Network regularly name her among their ranks in the areas of business litigation, arts, entertainment and sports law, and civil rights/constitutional law. *Legal 500* has recommended her in the area of intellectual property – trade secrets.

In addition to matters identified above, Ms. Berman has litigated many other matters in other areas of complex civil litigation. While not exhaustive, representative matters include the following:

- Defending a client in a significant breach-of-contract action claim.
- Representing clients in breach of contract matters; business tort actions; complex multi-party, multi-state class actions; bankruptcy-related litigation, such as fraudulent conveyance and preference actions; and shareholder derivative cases.
- Representing media companies in First Amendment matters, such as in quashing subpoenas to obtain outtake footage or testimony from reporters about their news-gathering activities.
- Representing a Fortune 500 company in a race discrimination suit brought under Title VII. Ms. Berman successfully obtained summary judgment, affirmed by the Seventh Circuit Court of Appeals.
- Representing clients in government contracts litigation, including serving as trial counsel for General Dynamics Corp. in a matter involving complex tax accounting issues related to a multi-year procurement contract with the United States Air Force. As a result of the favorable verdict, the client saved a substantial amount in potential taxes and interest.
- Representing defense contractors in litigation against the United States government, including contract terminations and indemnification suits.
- Representing defense contractors in litigation with other defense contractors, including issues related to teaming arrangements on major government contracts.

Awards

- *Chambers USA*
Media & Entertainment - 2006, 2007
- *Crain's Chicago Business*
"40 Under 40" - 2005
- Decalogue Society of Lawyers
Righteousness Award - 2015
- Great Midwest Region BBYO
BBG Alumna of the Year Award - 2012
- *Illinois Super Lawyers*
First Amendment/Media - 2005
Business Litigation, 2006-2019
First Amendment/Media/Advertising - 2008
- Jewish United Fund / Jewish Federation of Metropolitan Chicago
Davis, Gidwitz & Glasser Award - 2005

- *Law Bulletin Publishing Company*
"40 Under 40 Illinois Attorneys to Watch" - 2002
- *Lawdragon Magazine*
500 "New Stars, New Worlds" - 2006
- Leading Lawyers Network
Top 100 Leading Women Lawyers in Illinois - 2010-2011
Top 100 Leading Women Business Lawyers in Illinois - 2010-2011
Advertising & Media Law, 2004-2019
Arts, Entertainment & Sports Law, 2004-2019
Civil Rights/Constitutional Law, 2004-2019
- *Legal 500*
Litigation: Trade Secrets - 2010, 2011, 2013
Intellectual Property - 2007
Trade Secrets - 2007, 2017
Intellectual Property - Trade Secrets (Litigation and Non-Contentious Matters), 2018
- Shalva
Rodef Shalom Award - 2009

Community

- Anti-Defamation League
Regional Board Member, 2010-Present
- BBYO, Inc.
Inaugural Chair and Member, Chicago Area Friends & Alumni Network, 2008-Present
- Brandeis University Alumni Admissions Council
Member, 1990-Present
Former Chair, Chicago Area
- Brandeis University National Alumni Association
Vice President, 2001-2004
Club President, Chicago Area, 1998-2001
- Crohn's and Colitis Foundation (Illinois Chapter)
Major Gifts Committee, 2005-2007
Co-Chair, Public Relations Subcommittee, 2006-2007
- Economic Club of Chicago
Member
- EZRA Multi-Service Center
Committee Chair, 2001-2003
Committee Member, 1996-2006
- Harvard Law Society of Illinois
Board Member, 2016- present
- Homewood-Flossmoor High School District #233
Board of Education Member, 2014-present

- Jewish Agency for Israel (JAFI)
Chair, Budget and Finance Operational Units and Support Subcommittee, 2019-present
Member, Board of Governors, 2013-2015
Committee Member, 2012-2013; 2015-present
- Jewish Community Centers of Chicago
Member, Board of Directors, 1998-2003
- Jewish United Fund / Jewish Federation of Metropolitan Chicago
 - Board of Directors, Member, 2003-present Former Executive Committee Member Former Vice Chair
 - Community Foundation for Jewish Education Chair, 2014-2017
 - Israel and Overseas Commission Chair, 2011-2014 Member, 2011-present Kyiv Kehillah Committee Chair, 2008-2010
 - Lawyers' Division Various Positions, 1990-present Secretary, 2006-2007
 - Leadership Development Advisory Committee Member, 2007-present
 - Leadership Development Committee Chair, 2005-2007 Committee Member, 1995-2003
 - Trades, Industries and Professions Chair, 2006-2008
- Leadership Greater Chicago
Member of the Board, 2007-2016
Fellow, 2006-2007
- Temple Anshe Sholom
Vice President, Board of Trustees, 2001-2007
- United Jewish Communities National Young Leadership Cabinet
Member, and various portfolio holder, 1997-2003
- Wexner Heritage Foundation, Graduate

Service To The Bar

- American Bar Association
- American Bar Foundation
Fellow
- Chicago Regional Representative, Women in Communications Law
- American Bar Association - Communications Law Forum
- American Bar Association - Section of Intellectual Property
- American Bar Association - Section of Litigation
- American Bar Association - Section of Media Law
- American Intellectual Property Law Association
- Chicago Bar Association
- Illinois State Bar Association - Civil Practice Division

- Illinois State Bar Association - Intellectual Property Division
- Intellectual Property Law Association of Chicago

Publications

- Co-Author, "Employers Take Note: State AGs Urge FTC to Step Up Scrutiny of Employee Restrictions," New York University's *Compliance and Enforcement* blog, August 9, 2019
- Co-Author, Client Alert: Employers Take Note: State AGs Urge FTC to Step Up Scrutiny of Employee Restrictions, August 1, 2019
- Co-Author, "3 Years of the Defend Trade Secrets Act: The Open Questions," *Law360*, June 7, 2019
- Co-Author, Client Alert: Government and Private Challenges to Worker Restrictions Continue, June 6, 2019
- Illinois Federal Judge Strikes Down Director-Level Restrictive Covenant As Facially Unreasonable, April 23, 2018
- Co-Author, Client Alert: Illinois Attorney General Targets Customer Service Worker Non-Competition Provisions, November 7, 2017
- Co-Author, "Where Illinois Trade Secrets Act Meets Other Areas of Law," *Law360*, July 28, 2017
- Co-Author, *Understanding and Litigating Trade Secrets*, Jenner & Block Practice Series, June 15, 2017
- Co-Author, "Employment Agreements: Employers Need to Pay Attention to Growing Government Activism," *IP Watchdog*, January 22, 2017
- Trade Secret Update: Key Developments and Issues to Watch in Trade Secret Law, Fall 2016
- Client Alert: Not So Fast: Illinois AG Sues Jimmy John's Over Enforceability of its Non-Compete Agreements, June 13, 2016
- Client Alert: The New Federal Trade Secrets Law: Additional Protections, Additional Complexity, May 13, 2016
- "3 Ways to Avoid Public Fights with Departing Executives," *Corporate Counsel*, March 2015
- Co-Author, "The Rapid Evolution of Illinois's Anti-SLAPP Statute," *Communication Lawyer*, March 2014
- Co-Author, "Don't Crash Your Expert! How Judicial Admissions Can Limit or Preclude Expert Witness Testimony," *CBA Record*, January 2014
- Co-Author, *Understanding and Litigating Trade Secrets: An Outline for Analyzing the Statutory and Common Law of Trade Secrets in Illinois*, Jenner & Block, January 21, 2014
- Client Alert: Illinois Employers With "At-Will" Employees Beware: Your Restrictive Covenant May Be Invalidated For Insufficient Consideration, July 22, 2013
- "Court Significantly Reduces Punitive Damages In Defamation Per Se Case Rejecting Evidence Of Defendant's Malicious Intent," *Media Law Resource Center MediaLawLetter*, May 2010
- "'Tweet' About Moldy Apartment Held Non-actionable in Illinois Defamation Case," *Media Law Resource Center MediaLawLetter*, February 2010
- "Illinois Appellate Court Affirms Fair Report Privilege for Newspaper In Holiday Misidentification Mishap," *Media Law Resource Center MediaLawLetter*, February 2010

- Co-author, *Understanding and Litigating Trade Secrets Under Illinois Law: An Outline For Analyzing The Statutory And Common Law Of Trade Secrets In Illinois*, Jenner & Block Practice Series 2009, October 2009
- "Indecent Proposal: The FCC and Four-Letter Words," *Lawdragon.com*, November 25, 2008
- "When is Plagiarism a Viable Theory?," *ABA Intellectual Property Litigation*, Vol. XIII, No. 3, Fall 2001
- "Social Desirability of Safety-related Research Joint ventures: Effect of Tort Liability on the Social Welfare Calculation," Vol. 4, No. 1, *Loyola Consumer Law Reporter*, 1991

Speaking Engagements

- "Trade Secrets Forum 2018," *Managing Intellectual Property*, September 27, 2018
- Speaker, Society of Professional Journalists, Chicago Journalist Association, International Press Club of Chicago, and Loyola University First Amendment Forum, Chicago, IL, October 20, 2011
- General Assembly of the Jewish Federations of North America, Washington, DC, November 08, 2009 to November 10, 2009
- Jewish Agency for Israel's (JAFI) Global Leaders Forum, Jerusalem, Israel, October 25, 2009 to October 27, 2009
- Panelist, "Vigorously Litigating the Employment Trade Secrets Case," American Conference Institute's National Conference on Employment Trade Secrets, Chicago, IL, May 27, 2009 to May 28, 2009
- Speaker, "Our First Amendment Freedoms: Opportunities & Challenges in the Digital Age," The Anti-Defamation League And Chicago Tribune News In Education, Chicago, IL, September 19, 2008
- Speaker, "Our First Amendment Freedoms: Opportunities & Challenges in the Digital Age," The Anti-Defamation League And Chicago Tribune News In Education Seminar, Chicago, IL, August 19, 2008
- Panelist, Chicago Headline Club, Chicago Journalists' Association, and International Press Club of Chicago First Amendment Forum, Chicago, IL, November 01, 2007
- Panelist, "The First Amendment: What are Reasonable Restrictions in Time of War?" Chicago Headline Club, Chicago Journalists' Association, and International Press Club of Chicago, Chicago, IL, October 19, 2006
- Panelist, "Legal Defense: Going to the Mat - Debating the Need, Pros and Cons of a Federal Shield Law," Society of Professional Journalists, Chicago, IL, August 26, 2006
- Speaker, "Intellectual Property Issues for Engineers," HalfMoon LLC Seminar, Wheaton, IL, September 16, 2005
- Introductory Speaker, Jewish United Fund Lawyers Division Dinner, Chicago, IL, June 09, 2005
- Speaker, Panelist, "Doing Business and Doing Battle in the Digital Age: Rewards and Risks of e-Advances in Transactions and Litigation," TechLaw Group, May 20, 2005
- Panelist, The University of Chicago Law School Family Life and Law Firms Workshop, Chicago, IL, May 10, 2005
- Panelist, "Freedom of Speech: But Watch Your Mouth," Robert Morris College First Amendment Panel Discussion, Chicago, IL, April 12, 2005
- Panelist, "The First Amendment: What are Reasonable Restrictions in Time of War?" Chicago Press Veterans Association, The Chicago Headline Club, Illinois Library Association, Columbia College Chicago, October 21, 2004

