



## 2016 Litigation Snapshot

*A Year-End Look at A Few of the Successes of the Litigation Practice Group*

December 2016

**VICTORY BEFORE THE AMERICAN ARBITRATION ASSOCIATION IN NEW YORK CITY, JULY 8, 2016.** Rein F. Krammer and David J. Stein capped off nearly two years of tireless effort on behalf of an optical development company with a week-long arbitration hearing in New York City. Masuda Funai's client alleged breach of a complex supply agreement with its purchaser of optical lenses after the purchaser improperly terminated the agreement "for cause" in an effort to avoid paying monies due under the agreement. The opposing party refused to make any significant settlement offer in advance of the hearing, confident in its legal position. In a lengthy final award, **the arbitrators awarded nearly \$4,000,000** to Masuda Funai's client, finding that the purchaser improperly withheld monies due under the contract and granting attorneys' fees and costs.

**FEDERAL DISTRICT COURT IN CHICAGO, ILLINOIS DISMISSES BREACH OF CONTRACT ACTION IN FAVOR OF SOUTH KOREAN FORUM, NOVEMBER 2, 2016.** In *DMC Machinery America Corp. v. FFG DMC Co., Ltd., et al*, No. 16-cv-269, 2016 U.S. Dist. LEXIS 152494 (N.D. Ill. Nov. 2, 2016), Masuda Funai's client, a Korean company and the former parent company of the Plaintiff, prevailed in obtaining dismissal of a potential multi-million dollar breach of contract action, which alleged the existence of an exclusive distributorship agreement for sale of machine tools in the United States marketplace. The Court agreed with the argument made by **Nancy E. Sasamoto, David J. Stein, and Jiwon J. Yhee** that the exclusive forum selection clause in the contract required any litigation between the parties to take place in South Korea.

**DUAL VICTORY IN RETALIATORY DISCHARGE ACTIONS, FEBRUARY 2, 2016.** Two former employees of Masuda Funai's client filed Complaints in Illinois State Court alleging that their terminations were predicated upon retaliation against them for engaging in Union organizing activity. **Alan M. Kaplan, Frank J. Del Barto, and David J. Stein** quickly filed Motions to Dismiss, arguing that the claims were preempted by federal law and must be brought only before the National Labor Relations Board ("NLRB"). After briefing on the Motions, the Plaintiffs abandoned their court claims and ultimately withdrew related NLRB charges, a complete victory for Masuda Funai's client.

**ED UNDERHILL APPOINTED ARBITRATOR IN COOK COUNTY, ILLINOIS, APRIL 2016.** Edward J. Underhill was appointed as an arbitrator by Judge Thomas Mulroy to conduct arbitrations of commercial litigation matters in the Circuit Court of Cook County, Illinois. Mr. Underhill's appointment recognizes his expertise in commercial litigation. To date, he has been appointed as an arbitrator in numerous cases.

**FAVORABLE RESOLUTION OF PATENT INFRINGEMENT CLAIMS IN FEDERAL DISTRICT COURT IN TEXAS, NOVEMBER, 2016.** Joseph A. Saltiel and Steven L. Katz represented a global manufacturer in a patent infringement lawsuit filed in the Eastern District of Texas by a non-practicing entity

seeking millions of dollars in damages. Masuda Funai filed an early motion to dismiss arguing that the patents were invalid. Shortly after argument on the motion, Masuda Funai's client reached a favorable resolution that resulted in the dismissal of the case against the client.

**MASUDA FUNAI CONTINUES WINNING TRACK RECORD IN EMPLOYMENT RELATED DISPUTES.** Alan M. Kaplan, Frank J. Del Barto, and Jiwon J. Yhee obtained the dismissal of several charges filed before the EEOC, NLRB, and other federal and state employment agencies across the country for multiple firm clients, continuing Masuda Funai's success in the defense of employment related disputes.



## About the Litigation Group

The Litigation Group at Masuda, Funai, Eifert & Mitchell, Ltd. provides a broad range of dispute resolution and litigation services, including trial and appellate representation in federal and state courts throughout the United States and before arbitration tribunals, mediation neutrals, and administrative agencies. We are devoted to providing premier services to domestic and foreign clients involved in both simple and complex commercial disputes. We understand that each client has different legal and business goals, and we strive to work closely with each client to develop a strategy that meets those objectives.

## About Masuda Funai

Masuda, Funai, Eifert & Mitchell, Ltd. is a full-service law firm representing international and domestic companies operating and investing in the United States. Our 40 attorneys located in Chicago, Schaumburg, and Los Angeles counsel clients in every aspect of business, including establishing, acquiring, and financing operations; ownership, development, and leasing of real estate; transfer of overseas employees to the U.S.; employment, labor, and benefits counseling and dispute resolution; intellectual property, copyright and trademark; business and patent litigation; creditors' rights and business risk management; and structuring the distribution and sale of products and services throughout the U.S.

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