

Livia M. Kiser (Liv)

Partner

Trial and Global Disputes

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Liv Kiser, a member of the federal trial bar, defends companies in high-stakes civil disputes arising from dangerous or toxic products or substances, consumer fraud, false advertising, breach of warranty, privacy violations, unfair competition and other torts. A seasoned and vigorous advocate both in and outside of the courtroom, Liv's innovative approaches to complex legal questions have resulted in the development of new law favorable to her clients and entire industries.

Liv proactively works with companies in the supply chain of highly-regulated, consumer-facing industries -- from automotive to food, financial services, healthcare, personal care products, real estate, telecommunications, utilities, and others -- to identify and manage their legal risks, developing creative and cost-effective strategies for furthering their business interests, protecting brands and preserving consumer goodwill. Liv regularly resolves cases at the earliest stages of litigation through creative strategies that (for example) operate to moot a class action or render the case uncertifiable. Liv has persuaded opposing counsel to dismiss cases without compensation by persuasively explaining applicable law. Liv has successfully defeated class certification in cases that prior counsel believed to be unwinnable.

Liv has defended some of the world's largest multi-national companies in high-stakes commercial, viral and multidistrict litigation, managing crisis situations in which simultaneous inquiries by state and federal regulators, international and local law enforcement and Congress are taking place. Liv has appeared in state and federal courts across the nation, and understands how courts are likely to apply the consumer protection laws in any given dispute. Her clients consider her predictive skills as to how matters are likely to unfold and resolve as "uncanny." Protecting company reputations and preserving trust is a central focus of Liv's practice.

Liv routinely and successfully defends companies facing claims asserted under the laws of California (including Cal. Bus. & Prof. Code 17200 (UCL), 17500, CLRA, CCPA, Prop 65) and other states (including the Illinois Biometric Privacy Act (BIPA)). She has defeated numerous claims under the Telephone Consumer Protection Act (TCPA), the Americans with Disabilities' Act (ADA) and other state and federal laws. She has substantial experience successfully defeating cases where plaintiffs seek recovery for alleged "price premiums" and/or "overpayments."

Liv also has a very active pro bono practice, obtaining asylum for persecuted individuals and

ensuring children with disabilities obtain necessary services. She also represents incarcerated defendants in Constitutional cases. Liv serves on the firm's Diversity Committee, and on committees within the Chicago office.

Matters

Lead counsel in a proposed class action alleging arsenic in spices caused harm to consumers who purchased the products. Case resolved for *de minimis* amount after recall implemented.

Lead counsel in a series of Safe Drinking Water and Toxic Enforcement Act of 1986 (California's "Proposition 65") relating to a variety of allegedly carcinogenic and toxic substances in food and other consumer products. Cases resolved on very favorable terms through informal negotiations.

Lead counsel in a proposed class action alleging the engine compartments of certain model vehicles emit noxious and toxic substances into the vehicles' passenger cabins, allegedly rendering the vehicles undrivable and causing vehicle occupants to require medical treatment.

Lead counsel in a proposed class action brought under the Telephone Consumer Protection Act (TCPA) seeking more than \$600 million in damages as a result of defendant allegedly having sent facsimiles to recipients that purportedly lacked legally-sufficient opt-out notices. Successfully defeated class certification on predominance grounds.

Lead counsel in a proposed class action alleging vehicle transmissions are defective; persuaded Court to dismiss the Magnuson Moss Warranty Act claim for failing to name at least 100 named plaintiffs; Court rejected the notion it had jurisdiction over the MMWA claim based on diversity.

Lead counsel in a proposed class action alleging violations of state and federal warranty laws brought on behalf of a Wisconsin resident. Liv successfully obtained dismissal of the case on grounds that Illinois lacked sufficient contacts to confer general personal jurisdiction over American Honda.

Lead counsel in a proposed class action alleging violations to the Telephone Consumer Protection Act (TCPA) that was successfully resolved on very favorable terms prior to the filing of a responsive pleading.

Co-lead counsel in a proposed class action against Toyota Motor Sales U.S.A. alleging excessive oil consumption in certain Toyota vehicles; successfully argued Plaintiff lacked standing; case was dismissed, with costs awarded to Toyota.

In a proposed class action brought by Oregon and Washington residents against Ford Motor Co., Inc. in California, successfully argued that the State of California lacked sufficient contacts to assert general personal jurisdiction over Ford. Plaintiffs declined to appeal the district court's dismissal of Ford.

Lead counsel in an MDL consolidating nine consumer class actions filed throughout the U.S. alleging 2015 Honda CR-Vs vibrate excessively. Resolved favorably through a Rule 23(b)(2) settlement where the remedy is to provide "enhanced" notice of pre-existing, effective countermeasures to the relatively few consumers who complained.

Lead counsel in a proposed class action alleging an internet advertising service provider breached its service agreements by invoicing allegedly misleading charges; successfully resolved after preliminary motion practice and targeted discovery of plaintiff.

Lead counsel in a proposed class action against U.S. automotive distributor and foreign parent alleging the pedal bracket assembly in certain vehicles was defective; Plaintiffs sought to certify classes and subclasses in more than ten states. Resolved on favorable terms after a favorable ruling on a motion to dismiss and targeted discovery of plaintiffs.

Lead counsel in a proposed class action alleging Defendants sent unwanted facsimile advertisements to Plaintiff and members of the proposed classes. Defeated class certification by successfully proving Plaintiff and all of its counsel (more than 10 lawyers and 3 law firms) were inadequate.

Credentials

EDUCATION

B.A., University of Illinois, Phi Beta Kappa
J.D., Northwestern University, cum laude, Order of the Coif

ADMISSIONS

Supreme Court of the United States
U.S. Court of Appeals for the Seventh Circuit
U.S. Court of Appeals for the Eighth Circuit
U.S. Court of Appeals for the Ninth Circuit
U.S. District Court for the Northern District of Illinois
U.S. District Court for the Southern District of Illinois
U.S. District Court for the Northern District of Indiana
U.S. District Court for the Southern District of Indiana
U.S. District Court for the Eastern District of Wisconsin
U.S. District Court for the Central District of California
U.S. District Court for the Northern District of California
U.S. District Court for the Southern District of California
U.S. District Court for the District of Colorado
California
Illinois

ASSOCIATIONS

Member, American Bar Association, Sections of Litigation, Class Actions and Derivative Suits, Antitrust (Consumer Protection and Information Privacy and Security), and Products Liability (Food and Supplements)
Member, Illinois Bar Association
Member, California Bar Association

LANGUAGES

French

Recognition

Named to Chicago Lawyer's 2021 Top 50 Women in Law

CHICAGO LAWYER

Named to Crain's Chicago Business's 2020 Notable Women in Law

CRAIN'S CHICAGO BUSINESS

Recommended - Legal 500: Transport: Rail and Road

LITIGATION

Named to The Best Lawyers in America for Consumer Law

BEST LAWYERS IN AMERICA

Recognized as a "Leading Lawyer"

LEADING LAWYERS NETWORK

Named among the "Top Lawyers in Illinois" in Advertising & Media Law and Class Action Mass Tort Defense Law

ILLINOIS SUPER LAWYER

Insights

ARTICLE

October 28, 2020 • Source: Thomson Reuters Westlaw

California federal court grants summary judgment to auto manufacturer after striking plaintiffs' damages expert due to faulty 'conjoint analysis'

CLIENT ALERT

April 9, 2021

Supreme Court Accepts Narrow Definition of Autodialer, Limiting Reach of TCPA

FEATURE

January 15, 2021

General Counsel Internal Investigations Decision Tree for the Food and Beverage Industry

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Events

WEBINAR

February 9, 2022

Key Food and Beverage Issues: What to Expect in 2022

September 22, 2021

Key Food and Beverage Issues – Social and Environmental Responsibility in Manufacture, Supply and Advertising

January 28, 2020

Key Food and Beverage Issues: What to Expect in 2020

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News

IN THE NEWS

January 20, 2022 • Source: Law360

Livia Kiser, Michael Shortnacy and Andrew Chinsky counsel Honda on its class settlement related to glitchy touch-screen consoles in certain Acuras

December 8, 2021 • Source: Law360 and Bloomberg Law

Livia Kiser, Michael Shortnacy and Andrew Chinsky counsel Honda on its class settlement related to infotainment systems

RECOGNITION

July 1, 2021

Chicago Lawyer Magazine Names Livia Kiser to its Top 50 Women in Law List

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