



Anthony F. Fata

PARTNER

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BIOGRAPHY

Anthony F. Fata is a partner based in our Chicago office. For more than 20 years, Mr. Fata has represented clients in complex financial matters, including claims arising under the commodity, securities, antitrust, and whistleblower laws. Mr. Fata has regularly appeared before federal and state courts throughout the United States and in regulatory matters overseen by the Securities and Exchange Commission, Commodity Futures Trading Commission, Financial Industry Regulatory Authority, Chicago Mercantile Exchange, and other governmental and self-regulatory agencies. He has developed and litigated numerous proprietary cases and served in leadership positions.

Prior to joining KM, Mr. Fata practiced at McDermott, Will & Emery LLP, where he defended SEC enforcement matters, securities class actions, shareholder derivative suits, and consumer class actions. He then joined Cafferty Clobes Meriwether & Sprengel LLP to lead the firm's efforts in commodity manipulation matters.

In addition to his law practice, since 2016, Mr. Fata has been an adjunct professor at Seton Hall University School of Law. He teaches J.D., M.S.J., and LL.M candidates in a wide range of financial services courses, including Securities Regulation, Regulating Broker Dealers, Regulating Funds and Advisors, Corporate Finance, Corporate Governance, Financial Crimes Compliance, Regulating Depository Institutions, Financial Privacy, and Corporate Law.

Practice Areas

- [Antitrust](#)
- [Commodities](#)

- [Whistleblower](#)

Education

- Miami University (B.A., 1995)
- Ohio State University Moritz College of Law (J.D., with honors, Order of the Coif, 1999)

Admissions

- Illinois State Bar
- United States District Court for the Northern District of Illinois
- United States District Court for the Eastern District of Michigan
- United States District Court for the District of Colorado
- United States Courts of Appeals for the Sixth, Seventh, and Ninth Circuits

Awards & Recognition

Chambers & Partners, Litigation: Mainly Plaintiffs, Illinois, Band 2, 2023-2024

Memberships & Activities

Mr. Fata is active in the Chicago Bar Association, where he serves on the Board of Managers, co-chairs the Securities Law Committee, and serves on the Editorial Board of the CBA Record. Mr. Fata is also a recurring panelist for the Practising Law Institute Internal Investigations Seminar conducted in Chicago each year.



Kirby McInerney LLP

EXPERIENCE

Some of Mr. Fata's commodities experience includes:

- *In re Cattle and Beef Antitrust Litigation*, No. 22-md-03031 (D. Minn.). Mr. Fata and KM act as court-appointed executive committee member and class counsel on behalf of a putative class of cattle producers and cattle futures and options traders, alleging that the "Big 4" meatpacking firms conspired to suppress prices for fed cattle and manipulate live cattle futures and options prices. The case has already resulted in a \$83.5 million settlement with one of the defendants.
- *Dennis v. The Andersons, Inc. et al.*, No. 20-cv-04090 (N.D. of Ill.). Co-class counsel on behalf of a certified class of exchange-based investors alleging monopolization and manipulation of Chicago Board of Trade soft red winter wheat futures contracts in violation of federal antitrust and commodity exchange laws. The case has reached preliminary settlements totaling \$10 million.

- *In re Deutsche Bank Spoofing Litigation*, No. 20-cv-03638 (N.D. of Ill.). Co-lead counsel on behalf of a putative class of investors alleging manipulation through “spoofing” of U.S. Treasury futures traded on the Chicago Board of Trade and Eurodollar futures traded on the Chicago Mercantile Exchange. Mr. Fata has led all phases of this litigation.
- *In re Bank of Nova Scotia Spoofing Litigation*, No. 20-cv-11059 (D.N.J.). As a court-appointed executive committee member, Mr. Fata has served in a leadership capacity in this suit alleging that defendants manipulated precious metals futures traded on the New York Mercantile Exchange and the Commodity Exchange, Inc. The case resulted in a settlement of \$6.6 million.
- *Hershey v. Pacific Investment Management Company LLC*, No. 05-cv-4681 (N.D. Ill.). Mr. Fata served as local counsel and assisted lead counsel's litigation efforts en route to securing a \$118 million settlement from PIMCO, which was accused of manipulating CBOT treasury note futures.

Some of Mr. Fata’s consumer experience includes:

- *Apple Device Performance Litigation*, No. 18-md-02827 (N.D. Cal.). Mr. Fata was appointed as an executive committee member and co-chair of the damages and settlement committee. The case alleges that Apple throttled iPhones to obscure battery issues. The settlement in the case -- in excess of \$310 million -- was approved by the district court and is awaiting review by the Ninth Circuit.
- *Apple iPhone Warranty Litigation*, No. 10-cv-01610 (N.D. Cal.). Mr. Fata developed and filed the first complaint in this proprietary case alleging that Apple breached its warranty to iPhone customers by denying claims based on a pretext of water damage purportedly shown by “liquid contact indicators.” After similar complaints were filed, Mr. Fata worked cooperatively with other plaintiffs' firms and led efforts to secure a \$53 million global settlement for the class.
- *Apple Gift Card Litigation*, No. 20-cv-04812 (N.D. Cal.). Serving as co-lead counsel to a class of consumers who were victims of gift card scams and from whom Apple allegedly withholds funds. Mr. Fata developed and filed the first complaint in this proprietary case. Drawing on his financial crimes expertise, Mr. Fata developed the factual theories underpinning the case, helped to organize counsel, and led and is currently co-leading efforts on behalf of the class. This matter has resulted in a settlement of \$35 million for the class.
- *May v. Google et al.*, 24-cv-01314 (N.D. Cal.). Counsel in a consumer class action alleging that for nearly a decade Google has knowingly kept stolen money from victims of gift card scams who purchased Google Play gift cards.
- *Midway Moving Sales Practices Litigation*, No. 2003-CH-16091 (Cir. Ct. Cook Cty). Mr. Fata developed and filed this proprietary case alleging that a moving company used bait-and-switch estimating practices. He successfully obtained an order certifying the class, and defended it on appeal, *Ramirez v. Midway Moving and Storage, Inc.*, 378 Ill. App. 3d 51, 880 N.E. 2d 653 (Ill. App. 1st Dist. 2007). Following extensive litigation efforts, on the eve of trial, the matter was successfully resolved via a class-wide settlement that returned 100% of claimed damages to customers.
- *eWork Inc. Sales Practices Litigation*, No. 06-cv-00686 (D. Colo.). Mr. Fata developed and filed this proprietary case alleging that an internet job-consultant matchmaker utilized deceptive practices to lure independent consultants to pay for referral services for jobs that did not actually exist. After defeating defendants’ motion to dismiss, *Ramirez v. eWork, Inc.*, No. 06-CV-00686, 2007 WL 2746634 (D. Colo. Sept. 18, 2007), and through additional hard-fought litigation, Mr. Fata successfully led settlement efforts that forced the company to turn

100% of its cash and liquid assets over to the aggrieved customers. The company ceased operations shortly thereafter.

Some of Mr. Fata's other experience includes:

- *Dufoe v. DraftKings Inc.*, No. 23 Civ. 10524 (D. Mass.). In one of the first cases of this nature addressing digital currencies, we acted as counsel to a class of investors that purchased non-fungible tokens (NFTs) from DraftKings Inc., which operates as a daily fantasy sports contest and sports betting company. The case alleges that DraftKings sold unregistered securities and ensured that money stayed on DraftKings' private and exclusively controlled marketplace, propping up the market for an overall valuation of DraftKings' NFTs and significantly harming investors. The matter resulted in a settlement of \$10 million.

Mr. Fata is also advising clients in confidential ongoing whistleblower matters:

Securities

- *pump and dump manipulation*
- *evidence tampering during investigation*
- *asset management fees*

Commodities

- *market manipulation*

Mr. Fata regularly authors articles concerning corporate governance, financial markets, and class actions, including:

Protecting (or Cracking) the Nest Egg: Why Titles and Contracts Matter When Selecting a Financial Professional, CBA Record (February 2021) (co-authored with Delaney Slater);

Whistleblowers Among Us: The New Regulatory and Self-Policing Paradigm, CBA Record (May 2018) (co-authored with David Kovel);

The Blockchain Bandwagon-Cryptocurrency on the Move: Marketplace Overview and Regulatory Developments, CBA Record (January 2018) (co-authored with Brian O'Connell);

Corporate Cons in the 21st Century: Dealing with the Global Employee Fraud Epidemic, PLI Internal Investigations Handbook (March 2017) (co-authored with Corey M. Martens);

Mitigating, Detecting, and Dealing with Employee Fraud - The Problem of the Inside Job, CBA Record (January 2017) (co-authored with Corey M. Martens);

The Investigation is Internal, But Is This Document Privileged? An Overview of Privilege Issues in Internal Investigations, PLI Internal Investigations Handbook (April 2016);

The Securities Exchange Commission's Whistleblower Program, PLI Internal Investigations Handbook (March 2015);

The Commodity Futures Trading Commission's Whistleblower Program, PLI Internal Investigations Handbook (March 2014);

Untangling the Seamless Web: Seven Critical Assumptions When Planning Investigations, PLI Internal Investigations Handbook (2013); and

Doomsday Delayed: How the Court's Party Neutral Clarification of Class Certification Standards in Walmart v. Dukes Actually Helps Plaintiffs, 62 DePaul Law Review 675 (March 2013).

