ArentFox Schiff LLP
Attorneys

Neil Lloyd

PARTNER

Neil concentrates his practice in strategic litigation consulting – legal ethics, error preservation, appeals.



Industries

Consumer Products

Practices

Insurance & Reinsurance
Complex Litigation
— Appellate
— Class Actions
— Commercial
— Professional Liability
Product Liability & Mass Torts

Education

University of Chicago Law School, JD, with honors; The University of Chicago Law Review, Editorial Board, 1994

Pomona College, BA, 1988

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Clients hire Neil to help them reduce their litigation investments in complex cases by quickly identifying the critical nuance that will matter most to trial and appellate judges. Neil brings the same insight, dedication, and passion to each project, whether it is a major representation or a quick-hit consultation.

Licensed in Illinois and California, Neil is certified as a specialist in appellate law by the State Bar of California, one of fewer than 325 such specialists in the state. He concentrates his practice in litigation strategic consulting. He works with businesses, individuals, and law firms to develop and execute targeted, cost-effective strategies that solve their thorniest legal problems. Clients repeatedly call on Neil to sharpen and polish their briefs and oral presentations, to tackle issues of first impression, and to rescue them from bad results by judges and juries.

While clients often hire Neil at the outset of a case, at other times they bring him in during a crisis or ask him to partner with existing counsel. In each situation, clients return, knowing that Neil consistently adds value. As each case shifts and develops, he helps ensure that his client's litigation investment aligns with its litigation risk.

In his rescue litigation practice, Neil has persuaded trial judges to change their minds mid-case. He has also convinced both trial and appellate judges to set aside or pare back substantial jury verdicts. Neil recognizes that rescue situations involve more than uphill battles with high financial stakes: they are often anxiety producing for outside counsel, inside counsel, and business decision-makers. Not only does Neil quickly develop a rescue strategy, he also works collaboratively to build relationships with all stakeholders. His approach saves clients money by lowering tensions, fostering cooperation, and leveraging the clients' previous investment in trial counsel.

Over the past 27 years, Neil has written and edited thousands of trial court and appellate briefs. He has served as in-court trial counsel for legal issues and appellate preservation in three, complex, multi-week jury trials involving emerging product liability issues and one complex multi-week bench trial involving environmental compliance. He has argued appeals in state and federal courts across the country, including in the Seventh, Ninth, and Tenth Circuits, the California Court of Appeal, the Illinois Appellate Court, and the Illinois Supreme Court. He has successfully tried cases involving personal injury claims, ambiguous contracts, punitive damages, and the interplay between statutory and contractual obligations. Neil also frequently advises attorneys concerning their compliance with

legal ethics rules.

Client Work

- In May 2021, Neil persuaded a unanimous Illinois Supreme Court to abolish the “test the waters” doctrine, which for at least 30 years some Illinois courts had invoked to limit a party’s absolute right to a single substitution of judge, ensuring uniformity throughout the state.
- Between January 2016 and May 2019, Neil served as in-court legal issues and appellate preservation counsel in five-week, three-month, and six-week product liability jury trials, assisting lead trial counsel concerning evidentiary issues, jury instructions, and evidentiary sufficiency motions, including the first trial in the country to raise the BAP1 genetic mutation as the causative agent for mesothelioma.
- In 2016, Neil served as in-court legal issues and appellate preservation counsel in a three-week bench trial raising issues of first impression under the Clean Air Act.
- Neil wrote the briefs and developed a successful oral argument strategy for a major product liability action involving the food and beverage industry. He persuaded the Illinois Appellate Court to set aside a $32 million jury verdict, to grant a new trial, and to reject the plaintiff’s theory that the defendant had a duty to warn the entire world about potential health risks associated with a class of flavoring products.
- Neil’s successful litigation strategy against a 15-year effort to expand tort liability for asbestos personal injury actions in Illinois under a civil conspiracy theory ensured that solvent defendants were not unfairly shouldered with damages caused by bankrupt entities.
- In an issue of first impression, Neil wrote the briefs and developed a successful litigation strategy for a major insurer concerning the scope of retroactivity of a prior New Mexico Supreme Court decision involving underinsured motorist coverage.
- Neil wrote the briefs and developed a successful litigation strategy for a major insurer facing a potential eight-figure exposure in hundreds of actions pending simultaneously in federal and state trial and appellate courts and administrative tribunals in Louisiana, where medical providers claimed that they had been underpaid for treating injured workers.
- Neil wrote the critical jury instructions, post-trial motions, and appellate briefs that led to the eventual exoneration of a former public company general counsel on criminal charges under the so-called “honest services” mail fraud statute.
- Neil led the multi-year defense of a law firm facing claims of legal malpractice, breach of fiduciary duty, and fraud arising from an underlying multi-year lawsuit against other professional services providers.

Professional Activities

- Adjunct Professor, University of Chicago Law School (legal ethics and professional responsibility)
- Adjunct Professor, Northwestern University School of Law (legal ethics)
- Instructor, National Institute for Trial Advocacy (deposition and trial skills)

Pro Bono

- Working with the ACLU of Illinois, Neil represented a transgender student seeking equal access to athletic facilities.
- Working with the ABA’s Death Penalty Representation Project and the Equal Justice Initiative of Alabama, Neil for more than a decade represented an Alabama capital defendant pressing claims of ineffective assistance of trial counsel through the state and federal courts.
- Working with the Office of the Illinois Appellate Defender, Neil has represented indigent criminal defendants in their direct appeals, including developing a protocol and training program for efficiently screening criminal appeals for outside counsel.
- Neil, under appointment from the federal trial and appellate courts in Chicago, has represented incarcerated persons challenging the conditions of their confinement.

Publications, Presentations & Recognitions

Presentations

— “Ethics: Understanding Attorney Obligations in High-Risk Cases,” (panelist) Cutting-Edge issues in Asbestos Litigation Conference (Mar. 9, 2018)

Recognitions

— Illinois Leading Lawyer, Law Bulletin’s *Illinois Leading Lawyers Network* (2014-2021)

Bar Admissions

California
Illinois

Court Admissions

Supreme Court of the United States
US Court of Appeals, 2nd Circuit
US Court of Appeals, 3rd Circuit
US Court of Appeals, 5th Circuit
US Court of Appeals, 6th Circuit
US Court of Appeals, 7th Circuit
US Court of Appeals, 8th Circuit
US Court of Appeals, 9th Circuit
US Court of Appeals, 10th Circuit
US Court of Appeals, 11th Circuit
US Court of Appeals, Federal Circuit
US District Court, District of Colorado
US District Court, Northern District of Illinois (Trial Bar)
US District Court, Eastern District of Michigan