



David J. Walton

Chair, Cyber Solutions & Data Strategies

Philadelphia

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Dave Walton is a skilled trial lawyer and litigator with a deep understanding of technology and its impact on litigation and he applies his knowledge of computer forensics to assist clients in their most high-stakes litigation. His work has been recognized in national circles. Professor Adam Grant focused on one of Dave's notable trials in his best-selling book, *Give and Take* and the *Huffington Post* has described Dave as a "phenomenally successful trial lawyer."

Dave is chair of Cozen O'Connor's Cyber Solutions & Data Strategies group. He has been hired as national e-discovery counsel by several major organizations and uses his trial experience to design and implements document retention policies, and customized protocols for preserving and collecting ESI. Dave also provides wide-range training to clients on proactive measures and best practices to effectively resolve e-discovery issues and significantly reduce costs.

As a member of the firm's Labor and Employment Department, Dave has more than 20 years of experience successfully litigating the full gamut of employment discrimination claims, including class actions and individual claims. He has won seven trial verdicts, numerous injunctions and secured substantial settlements for his clients against some of the largest and most recognized law firms in the country.

Dave has a wealth of experience in handling trade secret and non-compete litigation. He understands that time is particularly of the essence in these matters, and works tirelessly to learn the clients' business, and marshal the facts and evidence needed to reach a favorable result, as quickly as possible. Additionally, Dave has extensive experience successfully litigating ERISA claims relating to fiduciary duties and benefits. Dave represents C-level executives in matters involving their employment contracts and executive compensation and has worked with many private equity firms to negotiate executive employment agreements as part of new business ventures.

While his primary substantive focus is labor & employment law, Dave has also litigated numerous commercial cases concerning bet-the-company litigation relating to complicated technologies. As former co-chair of the firm's Privacy, Data & Cybersecurity practice, Dave has significant experience handling cybersecurity breaches and privacy litigation. He also regularly consults with clients in the development of cybersecurity policies and protocols. Dave's deep knowledge of technology is a key asset for his clients, especially as technology has had a greater impact on the workplace.

In addition to his litigation experience, Dave also has extensive experience negotiating collective bargaining agreements and handling labor arbitrations. He has helped clients successfully withdraw from multi-employer pension plans, he has defended numerous NLRB charges, and he has secured numerous mass-picketing injunctions in hostile labor environments.

Dave is a frequent speaker at national conferences on trade secret litigation, digital forensics, e-discovery and cyber law, and has published numerous articles on these topics. He is an active member of The Sedona Conference and a contributing member of the organization's drafting team on proportionality. Additionally, Dave is a member of the labor and employment law committees of the American and Pennsylvania Bar Associations.

Practice Areas

- Cyber Solutions & Data Strategies
- Electronic Discovery & Practice Advisory Services
- Privacy & Data Security
- Trade Secrets & Unfair Competition

Industry Sectors

- Insurance

Education

- University of Richmond School of Law, J.D., 1995
- Ithaca College, B.S., 1991

Bar Admissions

- New Jersey
- Pennsylvania
- Virginia

Court Admissions

- U.S. Court of Appeals for the Fourth Circuit
- U.S. District Court -- Eastern District of Pennsylvania
- U.S. District Court -- Eastern District of Virginia
- U.S. District Court -- Middle District of Pennsylvania
- U.S. District Court -- New Jersey
- U.S. District Court -- Western District of Virginia

Affiliations

- American Bar Association
- Montgomery Bar Association
- Pennsylvania Bar Association

Awards & Honors

- Pennsylvania Super Lawyer 2013-2015, 2019
- Pennsylvania Super Lawyer "Rising Star" 2005-2007

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Dave earned a B.S. in Communications from Ithaca College in 1991, where he played varsity baseball receiving numerous all-state and all-conference honors. Dave earned his law degree, with honors, from the University of Richmond School of Law in 1995, where he was awarded the Sheppard Scholarship. At Richmond, Dave served as an editor of the *University of Richmond Law Review*, and won the American Jurisprudence and Corpus Juris Secundum Book Awards for Civil Procedure.

Experience

Won a record \$7 million jury award based on a three-week jury trial, also proving extensive spoliation against the defendants, which secured a permissive-inference jury instruction at trial. It is believed that this \$7 million jury award is the largest ever for a claim under the Pennsylvania Uniform Trade Secrets Act.

Successfully defended a large real estate company against claims of tortious interference with contract, breach of a non-solicit agreement, breach of fiduciary duty, and unfair competition claims.

Successfully defended a large real estate company in a six-week jury trial involving claims based on hiring a manager from a competitor. The case also resulted in a seven-figure attorney fee award against the plaintiff.

Won a special injunction for a large client engaged in the manufacturing and distributing of computer networking components. Working closely with computer forensic experts, Dave's investigation proved that the employee's new employer used a program called *evidenceeliminator.com* to wipe information from a key computer. Faced with a petition for contempt for destruction of evidence, the defendants agreed to a favorable settlement was reached for our client.

Secured a TRO for an international sales company where an employee suddenly resigned, then joined a competitor while taking confidential information and trade secrets. After the court granted a temporary restraining order for our client, the parties reached a favorable settlement.

Successfully defended an individual accused of stealing confidential information and trade secrets from a former employer. Once Dave proved that the plaintiff's forensic expert wrongfully concluded the information was stolen, the claims were voluntarily dismissed with prejudice.

Successfully defended a large real estate company in claims based on an alleged violation of a non-solicitation agreement. After a multi-day preliminary injunction hearing, the Court rejected plaintiff's request for an injunction. The plaintiff then voluntarily withdrew all claims.

Secured a TRO for client against four former employees, all of whom joined the same competitor and, in doing so, retained and/or took massive amounts of confidential information and trades secrets.

Secured the voluntary dismissal against a large corporate client who was sued for tortious interference, unfair competition, and employee piracy. After the court denied injunctive relief, the plaintiff voluntarily withdrew its claims.

Secured a TRO for a publicly-traded insurance company against three former top executives who resigned the same day and tried to claim that their restrictive covenants were not valid. Based on clear proof that these individuals took and/or retained massive amounts of confidential information and trade secrets, the court entered a TRO. The case then resolved based on the entry of a stipulated injunction that contained significant post-employment restrictions against the former executives.

Won preliminary injunctive relief on behalf of a Pennsylvania-based client in the wellness industry that faced efforts by MGM Resorts International and Life Time Fitness, Inc. to develop a competing business in Las Vegas. This result was secured in federal court in Nevada and led to a favorable settlement.

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Trade Secrets/Restrictive Covenants

- Successfully defended a large real estate company in a six-week jury trial involving claims based on hiring a manager from a competitor. The case also resulted in a seven-figure attorney fee award against the plaintiff.

Secured a TRO for an international sales company where an employee suddenly resigned, then joined a competitor while taking confidential information and trade secrets. After the court granted a temporary restraining order for our client, the parties reached a favorable settlement.

Successfully defended an individual accused of stealing confidential information and trade secrets from a former employer. Once Dave proved that the plaintiff's forensic expert wrongfully concluded the information was stolen, the claims were voluntarily dismissed with prejudice.

Secured a TRO for client against four former employees, all of whom joined the same competitor and, in doing so, retained and/or took massive amounts of confidential information and trades secrets.

Secured a TRO for a publicly-traded insurance company against three former top executives who resigned the same day and tried to claim that their restrictive covenants were not valid. Based on clear proof that these individuals took and/or retained massive amounts of confidential information and trade secrets, the court entered a TRO. The case then resolved based on the entry of a stipulated injunction that contained significant post-employment restrictions against the former executives.

Worked closely with the Federal Bureau of Investigations and the Department of Justice to secure a 33-month federal prison sentence for a former employee of our client after he hacked into the client's CRM system and used the database while working for a competitor. We then sued the competitor and secured a seven-figure settlement.

Secured a very favorable settlement just before the commencement of a preliminary injunction hearing, after receiving the matter, taking depositions and preparing the hearing in the span of only three days.

Successfully employed numerous pre-litigation maneuvers in a matter in which a client of our client was contemplating early termination of a lucrative services agreement. As a result of these efforts, that entity decided against terminating its agreement with our client.

Executive Agreements & Litigation

- Represented C-suite level executives in connection with their separation of employment.

E-discovery

- Served as national e-discovery counsel to a major insurance firm.

Commercial Litigation

- Won a special injunction for a large client engaged in the manufacturing and distributing of computer networking components. Working closely with computer forensic experts, Dave's investigation proved that the employee's new employer used a program called evidenceliminator.com to wipe information from a key computer. Faced with a petition for contempt for destruction of evidence, the defendants agreed to a settlement favorable to our client.

Labor Relations

- Negotiated a comprehensive collective bargaining agreement on behalf a client with employees

represented by the International Association of Machinists.

Employment Litigation

- Successfully defended an international company against claims of tortious interference with contract, breach of a non-solicit agreement, breach of fiduciary duty, and unfair competition claims.
- Successfully defended a large real estate company in claims based on an alleged violation of a non-solicitation agreement. After a multi-day preliminary injunction hearing, the Court rejected plaintiff's request for an injunction. The plaintiff then voluntarily withdrew all claims.
- Secured a favorable settlement on behalf of a large client facing millions of dollars in alleged damages in a suit brought for personal injury and under the NJLAD. At the outset of the case, the plaintiff refused to discuss settlement unless the client's initial offer was at least seven figures. We used social media research and computer forensics to show that the plaintiff's claim of injury was greatly exaggerated and that he otherwise was lacking in credibility, and that he had spoliated evidence. Based on this investigation and facing spoliation sanctions, the plaintiff settled for a sum far less than he originally sought.
- Secured a favorable settlement, including the plaintiff's agreement to resign from employment with our client, in a highly contentious matter centering on claims brought under the Family and Medical Leave Act and the New Jersey Law Against Discrimination by an employee who was also actively trying to draw a retaliation claim.
- Successfully negotiated resolution to an investigation by the Pennsylvania State Department of Revenue and the Internal Revenue Service centering on alleged misclassification of employees by our client, a large distributor of organic foods.
- Used technology-assisted review to mine a 2 million-page data dump, produced two weeks before depositions began in a high-stakes trade secrets case. Using this approach, we located critical evidence and proceeded with the depositions as scheduled. We opened the first deposition by presenting a key email that had been buried in the massive production, and then secured numerous crucial admissions throughout the deposition. At the conclusion of that deposition, the other side offered our client a seven-figure settlement, which the client accepted.
- Won summary judgment for a large, Fortune 500 client in an ERISA claim involving anti-cutback rules. This win saved the client more than \$50 million in potential liabilities.

Won summary judgment, and defeated plaintiffs' Rule 56(d) motion, in a case in which two former employees whose employment was terminated as part of a reduction in force brought multiple claims against our client under 42 U.S.C. § 1981. In granting our motion, the court rejected the plaintiffs' claims that they had been coerced into signing severance agreements which released their claims and, instead, found that the plaintiffs knowingly and voluntarily waived their claims when they executed the severance agreements.

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