

# BILL CHITTENDEN

## Guiding Versatile Firm to Great Heights

by Mike Bailey

At **Chittenden, Murday & Novotny LLC**, (CMN), there are no typical days, and there are no comfort zones.

That's the way founding partner William Chittenden likes it.

While many firms specialize in narrow areas of law, CMN handles trial and litigation across a broad spectrum, including securities fraud, life, health and disability insurance disputes, ERISA litigation, employment litigation, business torts, general commercial litigation, class action defense, and regulatory proceedings in courtrooms across the nation.

That variety creates the energy that drives the firm.

"On any given day, we could be taking a deposition, developing strategies on a case, working on an appellate brief, working with regulators for a client, or any or all of the above and in any number of different substantive fields of law," Chittenden says. "We handle litigation from beginning to end, trial through appeal."

The diversity of cases is a big selling point of the firm, which takes pride in providing opportunities for its lawyers to develop expertise in many different areas of law rather than being pigeonholed. Chittenden uses his 30 years of experience in litigation, trials, and appeals in state and federal courts across the United States to guide the firm's 18 attorneys, whose clients cherish their versatility.

"We take the view that we are litigators and trial lawyers first and foremost," Chittenden says. "While we have developed certain areas of expertise due to the nature of our client's businesses, we view our true expertise to be litigation itself."

The versatility of his firm's attorneys means they can handle a broad range of litigation matters. In turn, the firm learns more about clients' businesses, which enables the firm to litigate more efficiently.

Chittenden, along with colleagues Don Murday and Dave Novotny, started the firm as a litigation boutique in 2003. He came from a large firm where he found he was spending too much of his time on firm management issues where internal decisions could require ad hoc committees and weeks of discussion.

The business model established at CMN allows him to focus more on practicing law by resolving internal business issues more quickly.



Management decisions that used to take weeks or months are now resolved with his partners in an e-mail or phone call.

Focusing on clients is what drives the firm and Chittenden in particular.

"Bill is probably one of the most thorough and analytical thinkers in the practice of law," says the firm's co-founder Don Murday, who has known Chittenden for 26 years. "He takes cases, thoroughly analyzes them, looks at all the strengths and weaknesses and advises clients appropriately. At the same time, he has the management and business skills to run a law firm."

The firm's clients range from the ranks of the Fortune 500 to smaller companies in an array of industries but primarily in financial services, insurance, managed healthcare, and manufacturing.

The firm typically handles a client's case from start to finish—from trial through the appeal process.

"My thought has always been that handling cases both at the trial level and on appeal refines your litigation skills," Chittenden says. "You are a better trial lawyer knowing what happens on the back end. You are a better appellate lawyer knowing what happened in the trial court. We try to instill that in our lawyers here and want our clients to think that way."

"Knowledge of clients' businesses is also a big advantage for us," he adds. "We are fortunate to have maintained very long-lasting relationships with many of our clients and, as a result, have learned the ins and outs of how they run their businesses, the products or services they market, and the general culture of the company. That makes us much more efficient in handling their litigation."

Chittenden's 15-year relationship with Humana, Inc. is an example of how effective his firm is in dealing with complex matters. Chittenden has represented Humana in Illinois since the 1990s, handling litigation and regulatory

matters and offering general business advice. Many of the firm's clients operate in regulated industries so being able to counsel as well as fight for them in the courts is important.

"He is committed to his clients. He is thorough. He's all you want to have in a lawyer, particularly counsel who is litigating for you," says the company's counsel in Kentucky, John J. Andris. "He is one of the best lawyers I've ever dealt with in my career at Humana."

Andris adds that Chittenden "manages to do it in a cost-effective manner in the use of his time and his associates."

Jill Handley has known Chittenden since 1995, since she began working for the Transamerica Life Insurance Company. Handley, associate general counsel for Transamerica, says Chittenden is "responsive, reasonably priced and he knows how to build a strategy that is consistent with a client's objectives."

Even more vital, he's a good trial lawyer.

Handley recalls a case Chittenden tried for the company as "a matter I didn't think was possible to win. And yet, he went in there as if he had no hesitation and no thought we would lose and in fact, after he cross-examined their first witness, the plaintiff made an attractive settlement offer."

The plaintiff's case began to unravel when, as Handley says, "he made motions just before trial that forced the plaintiff to cut out the heart of their exhibits and that gutted their reach for astronomical damages." In some cases, Chittenden says, clients may be best served by "going toe-to-toe" with litigants to get them to the point where they see the benefit in settling a case rather than trying it.

### Drive to Succeed

Chittenden's parents taught him the value of hard work and perseverance while he grew up in Elmhurst in the 1950s and 1960s.

"I had a lot of different jobs as a youth and through college and law school. I worked with people from all walks of life and that has helped me tremendously in understanding and relating to jurors as well as developing trial themes for my cases."

Chittenden studied environmental biology at the University of Illinois, earning his bachelor's degree in 1979. He earned his J.D. in 1982 from Southern Methodist University School of Law. He entered law school thinking that environmental law would be his specialty. But something else piqued his interest.

"I took a trial advocacy class early on and quickly realized I wanted to be a trial lawyer and litigator and the competition that goes with that," he recalls.

Chittenden got a chance to try cases while still in law school, working as a summer intern

with the DuPage County State's Attorney's Office in 1981. Under Illinois Supreme Court Rule 711, senior law students could practice under an attorney's guidance. As an intern, Chittenden tried misdemeanor cases, often with only a couple of hours to determine the required elements of proof, interview witnesses and prepare for trial.

"A couple of us ended up being thrown into the mix very quickly and trying misdemeanor cases on short notice," Chittenden recalls. "I learned a lot from that experience—it focused me on the need to think quickly and put a case together with whatever evidence you have at the time. I learned you have to make the best with what you have." That early experience probably cemented Chittenden's passion for litigation. But one mentor and longtime family friend also guided Chittenden's footsteps.

Judge William J. Bauer, of the United States Court of Appeals for the Seventh Circuit, has known Chittenden since he was a youth growing up in Elmhurst.

Bauer, former DuPage County state's attorney, U.S. attorney, and federal district judge, says Chittenden didn't know if he wanted to be a biologist or a lawyer. "He would have made a good one of whatever he wanted to be," Bauer says. "He's a very bright man. He's moved ahead as a lawyer beautifully as I knew he would."

Chittenden's philosophy for successful litigation is to streamline and simplify often complex cases in terms the trier of fact understands. Focus on the elements of the claim or defense and develop a trial theme early on, he believes.

"Recognize you don't have to have all the pieces of the puzzle; it's OK to leave some things for the jury to infer. When you're deposing and putting on more witnesses than needed, you're not only litigating inefficiently, but the case can easily get out of hand and lose focus. Then the client isn't happy even if you win."

He adds, "Every case has warts, so the key is to not get hung up on making your case perfect but to make the most compelling presentation with what you have to work with."

Examples of the firm's versatility and litigation expertise are easy to find. Some years ago, Chittenden received a call from a broker-dealer client who had been sued by an agent for wrongful discharge. The client faced a federal court jury's verdict of \$9 million, mostly in punitive damages. The client asked Chittenden to handle the appeal. But Chittenden first argued for the trial court to grant his client a new trial solely on punitive damages and got it.

Chittenden then successfully argued that the jury in the new trial should decide whether his client was even liable for punitive damages, not

just the amount. That effectively opened the door to a complete retrial of the issues and, after several days of trial, the case settled for the relatively small amount awarded by the first jury as compensatory damages.

But Chittenden's firm makes the case for its clients as plaintiffs, too. Recently, Chittenden represented a major financial services company that issued a \$600 million corporate-owned life insurance program in litigation to recover damages and rescind the program that he alleged had been procured by a massive fraud.

While simultaneously navigating the client through related regulatory issues, CMN obtained both rescission of the program and a multi-million dollar recovery for the client. Chittenden also recently recovered more than \$6 million for two leading health insurance carriers in a regulatory proceeding against a state agency that, he argued, had improperly collected assessments on federal Medicare Advantage premiums.

That creativity and constant dedication to finding the best solution is what clients appreciate most. As one client put it, "Chittenden understands the clients—their objectives and goals; his goal is always to ensure he meets the clients' goals."

While his firm's success rate is high, Chittenden says, victories are not as simple as a courtroom win.

"Success is when a client is happy with the result," Chittenden says. "In our work, that can mean a win in the courthouse, a sensible settlement, or finding a solution to a regulatory or business issue for the client." ■