



# Matthew F. Prewitt

PARTNER

Matthew F. Prewitt is a trial lawyer with a national practice focused on the law governing confidential business and personal information and the IT systems used to store, analyze, and transmit that data. Matt is Co-Leader of the Trade Secrets, Noncompetes & Employee Mobility group.



## Industries

[Private Companies](#)

## Practices

[Complex Litigation](#)

[Corporate & Securities](#)

[Labor, Employment & OSHA](#)

[Patent](#)

[Privacy, Data Protection & Data Security](#)

[Trade Secrets, Noncompetes & Employee Mobility](#)

## Education

University of Chicago Law School, JD, with honors;  
Phi Kappa Phi graduate fellowship; Harvard Journal  
of Law and Public Policy Studies, Symposium Editor,  
1996

Delta State University, BA, 1993

## Offices

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Clients engage Matt for his ability to translate complex business and technology disputes into compelling courtroom advocacy.

A substantial part of Matt's practice is devoted to insider threat investigation and response, including protection of trade secrets and enforcement of nondisclosure agreements, noncompete agreements, and other restrictive covenants in commercial and employment relationships. Because of his experience litigating information technology-focused disputes, clients also choose Matt as their trial counsel for business disputes relating to software development and implementation, data security breaches, and IT outsourcing. Matt advises clients on protection of sensitive competitive and personal information, information governance, litigation preparedness and avoidance, and the intersection of trade secrets, noncompetes, data security, and data privacy.

As lead trial counsel in numerous high stakes trade secrets and noncompete cases, Matt has won emergency injunctive relief in expedited proceedings in more than 30 different U.S. jurisdictions. Matt has significant experience in enforcement proceedings to compel compliance with injunctions and to win remedies for violations of court orders. He has won case-terminating sanction awards for litigation misconduct and violation of injunctions in numerous suits.

As a trial lawyer regularly leading the prosecution and defense of complex, fast track TRO and preliminary injunction motions, Matt triages the potential factual and legal issues to develop a focused strategy. Matt applies these skills in "rescue" engagements where he is called upon to augment or replace prior trial counsel at advanced stages of litigation. These engagements have provided Matt substantive experience in a broad range of business, environmental, and mass tort disputes in both the trial courts and in bankruptcy proceedings.

Matt knows how to pivot from doing battle in the courtroom to using settlement discussions to build and strengthen business relationships. Matt's trade secrets and IT services disputes often arise in ongoing commercial relationships that require adept use of mediation, arbitration, and other methods of ADR to vindicate the client's rights while preserving the long-term commercial relationship. When writing or accepting a settlement check is not a viable option, Matt skillfully negotiates to resolve disputes through business terms that create value for both sides.

Matt is a Certified Information Privacy Professional (CIPP-US). He is an active participant in The Sedona Conference Working Group 1 (Electronic Document Production and Retention) and Working Group 12 (Trade Secrets). He is a member of the International Association of Privacy Professionals.

## Client Work

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### Trade Secrets, Restrictive Covenants, and Breach of Loyalty

- *Cook County, Illinois, Circuit Court.* In a complex trade secrets dispute between competitors involving extensive cross-border discovery, Matt won summary judgment for our client on all claims and an award of attorney fees as a sanction against plaintiff for commencing the suit in bad faith and submitting materially false affidavits to the court. The victory was profiled in a “How They Won It” feature in *Law360* and reported widely in the legal press as the first time an Illinois court had awarded a trade secrets defendant its entire fees for a complex, multi-year litigation.
- *Travis County, Texas, District Court.* In a suit arising from the resignation of our client’s former general manager and his attempt to form a competing business with our client’s long-term exclusive supplier, Matt won a TRO and a criminal contempt finding against the supplier, which was sustained on expedited appeal to the Texas Supreme Court on the eve of a jury trial. Before the jury, Matt won a substantial verdict of both actual and punitive damages.
- *Maricopa County, Arizona, Superior Court.* Matt was engaged as “rescue” trial counsel for defendants in a suit arising from alleged employee raiding of a competitor to form a new business. Matt was engaged only one month before the two-week jury trial and won a unanimous defense verdict on all claims.
- *Delaware Court of Chancery.* Matt represented a private equity investor in a suit against a selling co-founder and selling shareholder of an acquired business, who secretly formed a competing business with other former employees post-closing. After obtaining the employees’ videotaped confessions admitting the scheme, Matt won a favorable settlement.
- *Southern District of Texas US District Court, Northern District of California US District Court, and Eastern District of California Bankruptcy Court.* In a multi-forum litigation, Matt first won a TRO against a departing executive and then, when the defendant attempted to frustrate enforcement by filing a bankruptcy petition and feigning mental illness, won a bad faith dismissal of the bankruptcy case, followed by civil contempt awards against the defendant and two co-conspirators who assisted him to violate the TRO and hide assets, followed by RICO and business tort claims against the contemnors and other associates. The matter was resolved by a confidential global settlement.
- *Kings County, New York Supreme Court for Kings County and US District Court, Eastern District of New York.* In a confidential arbitration of complex environmental claims, our clients’ retained expert secretly changed sides and authored a report for the opposing parties. Matt commenced litigation that raised novel issues of the interplay between arbitration and litigation in a court of record. The matter was resolved by a confidential settlement.
- *Cook County, Illinois, Circuit Court.* Matt won a TRO on New Year’s Eve, shutting down a competing business secretly formed by three of plaintiff’s executives while still employed with plaintiff. Following entry of the TRO, the parties reached a confidential settlement.\*

### Software Development and Implementation and IT Outsourcing

- *Northern District of Illinois US District Court.* As lead counsel in a high profile litigation arising from a partially completed ERP software implementation, Matt represented the defendant, a prominent global IT services firm. Matt developed and successfully executed a strategy for early resolution by pursuing extensive discovery of the technical basis for plaintiff’s claim of software defects. The parties reached a settlement shortly after the court allowed our client’s experts access to inspect on premises the opposing party’s live production environment and after a single fact witness deposition, where Matt examined the plaintiff’s project sponsor.
- *Confidential Mediation, Houston, Texas.* Matt was lead counsel for a global IT services and consulting firm in a dispute with a major retail provider of gas and electricity over our client’s development, implementation, and staffing of the billing and accounting platforms. We obtained a favorable resolution for our client at a confidential mediation by presenting a granular root cause analysis of the alleged defects and errors.
- *Confidential Mediation, Wilmington, Delaware.* Our client was hired to develop, implement, and staff an outsourced billing and revenue cycle management function for a major regional hospital network as part of a post-merger integration. After go live, aged A/R skyrocketed, and the customer blamed our client. For unrelated business reasons, our client wanted to resolve the dispute quickly without litigation. In preparation for a confidential mediation, Matt led a team that included our client’s technical project leads and retained experts and developed a root cause analysis, created a full expert report with hundreds of pages of supporting exhibits, and made a detailed presentation to rebut the hospitals’ claims in just 30 days, resulting in a favorable settlement for our client.
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*Hennepin County, Minnesota, District Court.* Our client was engaged to develop and implement timekeeping, billing, and docketing applications for a law firm. Our client was fired prior to completion of the project for alleged cost overruns, which plaintiff attempted to embellish in the litigation with allegations of fraud. Matt successfully guided the case to early resolution in mediation in the early stages of document discovery and without depositions.

## Spoliation and Concealment of Electronic Evidence

- *Kane County, Illinois, Circuit Court.* Matt won a contempt motion by proving in a multi-day bench trial through circumstantial evidence that defendant had copied and hidden sensitive competitive data in violation of a TRO. The parties reached a settlement following the court's decision holding defendant in contempt.
- *Middle District of Florida US District Court.* Matt brought a motion for case-dispositive sanctions, presenting evidence of destruction and concealment of electronic evidence and false testimony by defendants in an attempt to conceal their copying, retention, and use of our client's electronic data. Following a week-long bench trial on our client's sanctions motion for default judgment, conducted via Zoom during the COVID pandemic, the parties reached a settlement.
- *Northern District of California US District Court.* Matt brought a motion for case-dispositive sanctions, presenting evidence that co-defendants had used an encrypted chat application to communicate and then withheld from discovery and attempted to destroy the chats. Following a hearing, the parties reached a settlement of the litigation.
- *Northern District of Illinois US District Court.* Matt won a default judgment as a sanction by proving at a bench trial the opposing party's intentional alteration and destruction of file access history metadata. The decision is widely cited as a landmark early decision pre-dating the eDiscovery amendments to the Federal Rules. *Krumwiede v. Brighton Associates, L.L.C., 2006 WL 1308629 (N.D. Ill. 2006)* \*

\*Handled prior to joining ArentFox Schiff.

## Boards, Memberships & Certifications

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- American Bar Association, Section of Litigation, Expert Witnesses Committee, Co-Chair (2015), Vice Chair (2012–2015)
- International Association of Privacy Professionals
- The Sedona Conference, Working Group 1 on Electronic Document Production and Retention, Drafting Team for Commentary on Bring Your Own Device (BYOD) Security, Privacy, and Discovery, Working Group 11 on Data Security and Privacy Liability, Drafting Team for Data Privacy Law Primer, and Working Group 12 (Trade Secrets).
- Certified Information Privacy Professional (CIPP-US)
- University of Chicago Law School, Alumni Admissions Committee (2007-2011)
- Global Citizenship Experience School, Board of Directors (2013-Present)
- Lincoln Park Conservancy, Board of Directors (2021-Present)

## Professional Activities

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- Chicago-Kent College of Law, Complex Civil Litigation, Data Privacy Law, Adjunct Professor (2008–present)
- Matt oversees our firm's work as legal counsel for Global Citizenship Experience, a lab school developing curriculum modules and providing teacher training focused on Chicago's at-risk urban schools and a scholarship fund for disadvantaged high school students.
- Matt represented a playwright as plaintiff in a Lanham Act suit arising from false attribution of a play about civil rights martyr Emmett Till. He also represented an indigent plaintiff in a civil rights suit for false arrest and use of excessive force.

## Previous Work

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- Honorable John E. Sprizzo, U.S. District Court, Southern District of New York (1997 – 1999)

## Publications, Presentations & Recognitions

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### Publications

#### Recent Articles on Cybersecurity and Data Privacy

- “Consumer Data Encryption and the Autonomous Digital Self,” *The Circuit Rider* (Apr. 2016)
- “The Cybersecurity Aspects of Responding to Government Agency Demands for Trade Secrets Information,” (co-author) *TerraLex Connections* (Feb. 5, 2016)
- “Cybersecurity ‘Elevator Speech,’” (interviewee) *Security Magazine* (Apr. 2015)
- “Managing Cybersecurity Risk for Experts and Consultants,” *American Bar Association Section of Litigation* (Mar. 23, 2015)
- “No One Is Too Small To Hack,” *Computerworld* (Feb. 17, 2015)
- “Does Your Company Need a CISO?” *Law Technology News* (Sep. 21, 2014)

#### Recent Articles on Trade Secrets

- “Jurisdiction in the Information Age,” (co-author) Chapter 16 in *Intellectual Property Law*, IICLE (2017)
- “Protecting Trade Secrets in the Era of Cyberbreach,” *Law Technology News* (Feb. 20, 2015)
- “Regulatory: Think Twice Before Asserting a Trade Secrets Claim,” *Inside Counsel* (Aug. 28, 2013)

#### Recent Articles on E-Discovery, Electronic Data Forensics, and IT Expert Testimony

- “Oh, Yeah – Don’t Forget About the Trial Counsel,” *The National Law Journal* (Jan. 28, 2013)

### Presentations

- “Data Privacy and Cybersecurity 2023-2024: Hot Topics and Trends,” NBI (Dec. 13, 2023)
- “Hot Topics in Trade Secrets Protection, Enforcement, and Litigation,” University of Illinois Chicago IP Law Conference (Dec. 15, 2023)
- “Trade Secret Enforcement Trends,” University of Illinois Chicago IP Law Conference (Nov. 10, 2023)
- “Data Privacy Primer, Second Edition,” The Sedona Conference Working Group 11 Midyear Meeting 2023 (Nov. 2, 2023)
- “How to Make Yourself a Defensible Expert Witness,” 2023 Expert Summit, Forensic Expert Witness Association, speaker (Oct. 9, 2023)
- How to Bring Illinois Employee Handbooks Into Compliance, The National Business Institute, speaker (Mar. 21, 2023)
- “Trade Secrets Protection, Enforcement, and Litigation,” Sandpiper Partners LLC, Conference (Oct. 27, 2022)
- “Ethics Issues in Trade Secret Disputes,” The Sedona Conference WG12 Annual Meeting 2022, Reston, VA (Sep. 7, 2022)
- “Take Charge: Protecting Your Company Against Cyber Crime,” General Counsel Conference Midwest, Chicago, IL (Jun. 14, 2022)
- “COVID-19 Legal Issues Spotting for In-House Counsel,” Webinar (Apr. 1, 2020)
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- “The 13th Annual Institute Program on eDiscovery: Protecting Privacy, Confidentiality, and Privilege in Civil Litigation,” The Sedona Conference, Charlotte, NC (Mar. 7, 2019)
- “HR Cybersecurity Case Study Featuring a panel from Amalgamated Sugar,” (moderator) 2017 NCFC Human Resources Conference, Rosemont, IL (Oct. 27, 2017)
- “Privacy, Innovation, and Growing a Business Domestically and Internationally,” (panelist) Northwestern Journal of International Law and Business and the Donald Pritzker Entrepreneurship Law Center Symposium, Chicago, IL (Apr. 14, 2017)
- “Is Your Data Safe? Cybersecurity and Protection of Trade Secrets under the Defend Trade Secrets Act,” (panelist) FCBA/IPLAC IP Law Symposium, Chicago, IL (Mar. 15, 2017)
- “Protection of Employers’ Confidential Information,” (speaker) Schiff Hardin Labor and Employment Webinar Series (Oct. 19, 2016)
- “Data Breach Case Law Update and Data Privacy Primer,” The Sedona Conference Working Group 11 on Data Security and Privacy Liability Annual Meeting (Dec. 1, 2015)
- “Discovery of ESI Involving ‘Bring Your Own Devices’,” Sedona Conference Working Group 1: Electronic Documents Retention and Production Annual Meeting (Oct. 29, 2015)
- “Class-Action Review,” Cybersecurity Law Conference (Oct. 15, 2015)
- “Trade Secrets and Cybersecurity: Protecting Intellectual Property, Mitigating Loss and Navigating Legal Responses,” Webinar (Sep. 24, 2015)
- “How To Develop A Trade Secrets Protection Plan For A Global Business,” 4th Annual Global IPR Conclave (Sep. 10, 2015)
- “BYOD: Preservation and Discovery from Mobile Devices,” The Sedona Conference Sedona Conference Working Group 1 Midyear Meeting (Apr. 29, 2015)
- “A Crisis in Confidence – Replacing Your Company’s Trial Counsel in HighStakes Litigation,” (panelist) Association of Corporate Counsel, Chicago, IL (Jun. 24, 2014)
- “Controlling Risk While Preparing for Trade Secret Litigation,” Network of Trial Law Firms, New York, NY (Aug. 9, 2013)
- “Managing Trade Secret Litigation,” (moderator) Network of Trial Law Firms, San Diego, CA (Nov. 10, 2012)
- “Case Study: Spoliation,” National Conference on Managing Electronic Records, Chicago, IL (May 8, 2012)

## Recognitions

- Crain’s Chicago Business, Notable Gen X Leaders in Law 2022
- The Best Lawyers in America, *Best Lawyers* (2023-2024)
- Client Service All-Star, BTI Consulting Group (2022)
- *The Legal 500 United States* – Intellectual Property: Trade Secrets (2016-Present)

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## Bar Admissions

[Illinois](#)

[New York](#)

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## Court Admissions

[US Court of Appeals, 5th Circuit](#)

[US Court of Appeals, 7th Circuit](#)

[US Court of Appeals, 10th Circuit](#)

[US District Court, Northern District of California](#)

[US District Court, Central District of Illinois](#)

[US District Court, Northern District of Illinois \(Trial Bar\)](#)

[US District Court, District of Nebraska](#)

[US District Court, Eastern District of New York](#)

[US District Court, Northern District of New York](#)

[US District Court, Southern District of New York](#)

[US District Court, Eastern District of Wisconsin](#)