

Jonathan Michael Thomas

Partner

jmthomas@foley.com

Dallas

214.999.4734



Michael Thomas is a trial attorney focusing his practice in complex commercial and intellectual property litigation. He also has substantial experience handling high-risk securities matters, particularly matters involving registered investment advisory firms and independent advisors. Michael is a Dallas-based partner with the firm and a member of the Commercial Litigation Practice.

Michael has tried cases in both state and federal courts as well as arbitration in Texas, California, Florida, Colorado, New York, Utah, and Pennsylvania. His litigation style has earned him a reputation for being a creative, out-of-the-box problem solver, and a well-prepared advocate for his clients.

Michael routinely handles large, complex, multiparty matters including cases involving the proper management of registered investment advisory firms and supervision of independent advisors; theft of trade secrets; patent and copyright infringement; covenants not to compete; partnership disputes; breaches of contract and fiduciary duties, along with other business torts; employee theft, fraud, and embezzlement.

Michael has experience in all aspects of litigation in state and federal court and a significant amount of trial experience exceeding most of his peers. His experience includes all phases of trial including pre-trial proceedings, opening statements, closing arguments, expert witness preparation and examination, and direct and cross examination of witnesses.

As a trial lawyer with extensive trial experience, Michael has cultivated a reputation that stands out among his peers. Michael concentrates his practice on complex commercial and intellectual property litigation and has first-chair experience in both patent and securities jury trials. Michael has also led numerous trial teams in complex arbitrations of commercial and securities disputes. This breadth of experience in high-stakes environments has honed his skills in crafting compelling stories for his clients and simplifying complex issues for juries and arbitrators alike. Michael was honored as Litigator of the Week by Am Law Litigation Daily for the successful defense of Indect in the *Indect v. Park Assist* patent litigation case tried in the Southern District of California. Such recognition highlights his ability to lead a trial team and win significant cases, reinforcing

his standing as a formidable trial lawyer. In the court, he was described by a client as a “fierce and zealous advocate who go[es] above and beyond for...clients.” Michael’s comprehensive experience in commercial and patent litigation, combined with a proven track record of successful outcomes, positions him as a creative trial lawyer capable of delivering exceptional results for his clients.

Cases Tried or Otherwise Taken to Judgment

Securities and Financial Industry Cases

- ***Crysel v. Savino, et al*** (Superior Court of California, Complex Department)
 - Defended a registered investment advisory firm in claims that it was vicariously liable for the purported improper conduct of its independent agent. After four weeks of a jury trial, the court dismissed all claims against our client finding that there was no evidence of any wrongdoing against our client.
- ***Confidential Commercial Arbitration***
 - Defended a registered investment advisory firm in six separate arbitrations involving claims of an alleged Ponzi scheme. Obtained full defense arbitration award “zeroing out” claims for fraud, securities fraud and contract claims.
- ***Confidential Commercial Arbitration***
 - Defended investment advisor against claims that he sold unsuitable investments to his clients. Obtained a resolution in favor of the advisor.

Intellectual Property Cases

- ***Indect USA, Inc. v. Park Assist*** (Federal District Court for the Southern District of California)
 - Co-led the defense in a patent infringement jury trial, resulting in a verdict of non-infringement and a finding that Park Assist engaged in unfair competition by asserting baseless claims against our client.
- ***Amtgard International v. Aughts LLC*** (Trademark Trial and Appeal Board)
 - Secured cancellation of a trademark improperly registered by a former member attempting a hostile takeover of a charitable organization.

Commercial Litigation

- ***Park Place Motorcars, Ltd. v. Duncan, et al*** (Dallas County District Court)
 - Obtained US\$13m jury verdict in favor of Park Place Motorcars Ltd. and Park Place RB Ltd in fraud, theft, and fiduciary breach case against former independent contractor.
- ***In Re: Estate of Randall J. Broda*** (Circuit Four of the Fifteenth Judicial Circuit for Palm Beach County, Florida).
 - Defended company against attempted hostile take over from heir of a former member and CEO of the company. After a week long trial, Court returned a verdict forcing heirs to sell their interests in the Company back to the Company.
- ***Asset Protection Services v. Ahtna et al*** (Brownsville County District Court)

- Lead trial lawyer for a federal subcontractor in a dispute with a prime contractor over attempted termination. Secured a restraining order to prevent the termination, won complete summary judgment on all claims, and, after a jury trial on attorneys' fees, obtained a full recovery of all fees incurred over four years of litigation.
- **Somma Food Group, LLC v. House of Raeford Farms, Inc. et al** (Dallas County District Court)
 - Co-chaired the trial team that obtained a US\$10m jury verdict in favor of food industry client against poultry manufacturers for supply of thousands of pounds of "boneless" chicken containing bone, plastic, and metal.
- **Silva v. Asset Protection Services, Inc.** (Federal District Court for the Eastern District of Texas)
 - Obtained a defense verdict in favor of an employer who was accused of discrimination. Jury returned a verdict finding that the employer did not discriminate against the Plaintiff.
- **Houreal Corporation v. Rescue Concepts Inc.** (Harris County District Court)
 - Represented a property owner in a breach of contract dispute in which Plaintiff accused property owner of failing to honor a right of first refusal. Obtained a take-nothing judgment on behalf of the property owner.

Bankruptcy Court and Adversary Proceedings

- **In Re Diamondback** (Federal Bankruptcy Court for the Northern District of Texas)
 - Defended the debtor in a dispute concerning assignment of intellectual property rights. After weeklong trial in bankruptcy court, we obtained a favorable result for the debtor that allowed them to reorganize and emerge from bankruptcy.
- **In Re Honda of Burlison** (Federal Bankruptcy Court for the Northern District of Texas)
 - Represented a business partner in a dispute over the operations of a Honda dealership. After successfully forcing the company into bankruptcy, we tried the case that ultimately led to a favorable sale of the dealership.

Pro Bono

- **En re Zungia** (Immigration Court of the United States)
 - Successfully obtained asylum for a woman who was brutally attacked and dismembered in her home country.

Other Representative Matters

Securities and Financial Industry Cases

- Led a national trial team on behalf of an independent investment advisor who sought to sever his relationship with his former RIA and join a new RIA. By preemptively filing suit in state district court in California, thereby defeating subsequent lawsuits filed in Federal District Court for the Northern District of Florida and a New Jersey based arbitration. Obtained a favorable settlement as a result of our early trial strategy and preemptive action.

- Represented Registered Investment Advisory Firm against the Securities and Exchange Commission against claims of failure to supervise and failure to adequately disclose material information on the firm's ADV. Obtained a favorable resolution on behalf of the firm.
- Obtained a Temporary Restraining Order and injunction (during COVID-19 when the courts were closed) in Collin County District Court on behalf of a registered investment advisory firm against the former CEO who was taking actions to harm the company and its relationships with its certified custodian. Ultimately, leveraged the injunction into a favorable settlement for the company.
- Represented a financial services firm against former employee who stole trade secrets upon her resignation. Obtained a favorable resolution leading to the return of all proprietary information to the firm.
- Defended a Registered Investment Advisory firm in a private arbitration in which the firm was accused of failing to supervise an advisor who was allegedly operating a Ponzi scheme. After early victories in the arbitration, successfully obtained a settlement in favor of the firm.
- Represented a financial services firm against a former board member who breached his fiduciary duty by diverting assets and clients to a competing firm. Obtained a favorable settlement in favor of the financial services firm.

Privacy and Cybersecurity

- Defended private company in the automotive industry in a national class action dispute pending in Federal District Court for the Northern District of Texas. Plaintiffs brought claims related to an alleged data breach and exposure of customers' personally identifiable information or PII. Successfully obtained dismissal of all claims in a Motion to Dismiss, which led to complete resolution of the dispute.
- Represented a company whose bank fell victim to a phishing attack and wired millions of dollars to an overseas bank account. Represented the company in asserting claims against the bank and successfully recovered all the stolen money on behalf of the company.

Intellectual Property

- Represented a small manufacturer against a nationally recognized manufacturer on claims for patent infringement. After nearly two years of litigation in the Federal Court for the Northern District of California, obtained a multimillion-dollar settlement on the eve of trial.
- Represented a healthcare tech company whose former chief technology officer claimed to own the company's source code. After a year of litigation in Federal Court for the Southern District of New York, obtained a complete victory in settlement securing the company's ownership in its intellectual property.
- Defended healthcare tech company in a breach of contract dispute in which former vendor attempted to claim an interest in source code that was developed independent of the vendor. The aggressive litigation strategy in a lawsuit filed in Dallas County District Court led to a favorable settlement in favor of the company.
- After a hardware design company successfully issued a take down notice on Amazon, we defended the company against injunction proceedings pending in Federal District Court for the Northern District of

Ohio. After successfully challenging the proposed injunction, the company reached a favorable resolution that protected their trade dress and design.

- Obtained a TRO against a manufacturer to prohibit the sale of a product that infringed a copyrighted pattern. Successfully leveraged the injunction obtained in Denton County District Court, into a favorable settlement, which included a favorable settlement payment and destruction of the offending inventory.
- Defended an accused patent infringer that plugs used on hobby remote control cars infringed certain alleged patents. After a year of litigation, successfully obtained a settlement in favor of the accused infringer.
- Represented a company who purchased the name and likeness of a local celebrity for use in connection with the promotion of their business. Successfully obtained injunctive relief in Dallas County District Court preventing the local celebrity from using his name and likeness to promote other competing businesses.

Commercial Litigation

- Obtained a judicial foreclosure on a commercial property in Federal District Court for the Southern District of Texas on an emergency motion when local government was not handling foreclosures due to COVID-19.
- Defended a charitable organization that was accused of failing to properly disperse charitable proceeds. After a year of litigation, successfully negotiated a resolution that favored the charity.
- Defended company against theft of trade secrets and violations of covenants not to compete in Federal District Court for the Southern District of Texas. After defeating requests for injunctive relief, obtained a favorable settlement which resulted in a zero dollar payment to the plaintiff.
- Represented financial services firm in a business dispute pending in the Federal District Court for South Carolina with former business partner. After filing summary judgment, Plaintiff dismissed claims against the financial services firm with a zero dollar payment. Case resolved with a zero-dollar payment from the firm.
- Represented waste management services company against former employee who made violent threats against her former employer and colleagues after her termination. Successfully obtained a restraining order that prevented former employee from continuing to make such threats.
- Defended former executives and their newly created entity against claims of breach of a noncompete. By preemptively filing suit in state district court in California, thereby defeating subsequent lawsuits filed in Federal District Court for the Southern District of Texas. Obtained a favorable settlement as a result of our early trial strategy and preemptive action.
- Represented a board of directors against claims from a former CEO that the board improperly terminated him. After a year of litigation in Dallas County District Court, we successfully obtained a resolution where the former CEO recovered no alleged damages.
- Obtained summary judgment on all claims in defense of theft of trade secrets and tortious interference claims in Tarrant County District Court.

- Member of a trial team who obtained a multimillion-dollar settlement on the eve of a bench trial in Bankruptcy Court for the Northern District of Texas against a real estate developer who fraudulently transferred assets in advance of filing for bankruptcy.

While in law school, Michael worked for the Equal Employment Opportunity Commission focusing on religious and other discrimination claims. He also served as a judicial intern in the 116th Judicial District Court in Dallas. Following law school, Michael joined one of the preeminent litigation boutiques in Dallas, where he handled commercial lawsuits in federal, bankruptcy and state courts. He also coached a highly successful mock trial team at SMU, in which he taught law students the art of trial advocacy.

Awards and Recognition

- Recognized, Texas Rising Star by Super Lawyers®, a Thomson Reuters business, as published in *Texas Super Lawyers Magazine* (2019-2022)

Affiliations

- Member, State Bar of Texas
- Member, Dallas Bar Association
 - Labor and Employment Section
 - Litigation Section

Community Involvement

- Member, Greater Irving-Las Colinas Chamber of Commerce
- Member, Dallas Regional Chamber Young Professionals (YP)
- Member, Dallas Christian Legal Society

Sectors

- [Cloud Computing Infrastructure & Solutions](#)
- [Innovative Technology](#)

Practice Areas

- [Commercial Litigation](#)
- [Litigation](#)
- [Product Liability](#)
- [Securities Enforcement & Litigation](#)

Education

- Southern Methodist University Dedman School of Law (J.D., magna cum laude, 2010)
 - Senior Staff Editor, *SMU Law Review* (2009-2010), Staff editor (2008-2009)
 - Member, Order of the Coif
 - Member, Order of the Barristers

- National Finalist, ABA Labor and Employment Law Mock Trial Competition (2010), National Semi-Finalist (2008), Regional Champion (2007, 2009)
- Finalist, Georgetown National White Collar Mock Trial Competition (2008)
- Coach, ABA Labor and Employment Mock Trial Team (2012-present)
- The University of Texas at Arlington (B.A., summa cum laude, 2006)
 - English

Admissions

- Texas
- Texas State Courts
- U.S. District Court for the Eastern, Northern, Southern and Western Districts of Texas
- U.S. District Court of Colorado
- U.S. Appeals Court for the Federal Circuit