

Michael S. Gardner

PARTNER

Michael has successfully represented clients in wide-ranging types of disputes and practice areas including, hospitality, fiduciary, bankruptcy, environmental, securities, intellectual property, trade secret, oil & gas, labor and employment, insurance, real estate, antitrust, education, and white-collar criminal defense.

Michael's advocacy has earned him the respect of his peers. He has been named to the Texas Super Lawyers list by Texas Super Lawyers, a magazine published by Thompson Reuters, in the area of business litigation in 2004 and 2007 through 2014. Only five percent of lawyers in the state are selected. Michael was also recognized by D Magazine as one of "The Best Lawyers Under 40 in Dallas" in 2004 and 2006, and was named a "Rising Star" by Texas Super Lawyers in 2004.

REPRESENTATIVE MATTERS

Hospitality

In re M Waikiki LLC (federal bankruptcy court, Honolulu, Hawaii)

Represented resort owner in connection with its termination of long-term hotel management agreement with Edition, the lifestyle hotel brand in the Marriott International family, ousting edition from the property, and installing new management company at resort. Represented owner as special litigation counsel in bankruptcy, including weeklong estimation hearing.

Cheeca Holdings, LLC v. Rock Resorts International, LLC (JAMS arbitration, Chicago, Illinois)

Represented hotel management company in prosecuting claims for wrongful termination of contract and in defending against claims of mismanagement in four-week arbitration hearing.

Destination Telluride Hotel, LLC, et al. v. The Lodge at Mountain Village Owners Association, Inc. (state court, Telluride, Colorado, and state appellate court, Denver, Colorado)

Represented hotel management company and affiliate in connection with termination of operating agreements and claims against ownership. Engagement included trial and successful appeal of various issues.

Hyatt Corporation, et al. v. BMC – The Benchmark Management Company (state court, Montgomery County, Texas)

Represented hotel management company in defending against claims for tortious interference with contract and misappropriation of trade secrets.

Santa Barbara Hospitality, N.V. v. Hyatt Curacao, N.V. (Curaçao court and International Centre for Dispute Resolution)

Represented resort owner in international litigation (TRO hearing in Curaçao) and in an international arbitration in connection with its termination of long-term hotel management agreement with Hyatt, ousting Hyatt from the property, and installing new management company at hotel.



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Contract

John P. Rochon, et al. v. Mary Kay Holding Corp. (state court, Dallas, Texas)

Represented former CEO of Mary Kay and others in prosecuting claims against former employer for millions of dollars of compensation and carried interest pursuant to various agreements.

Fraud

Hammond Properties, Inc. v. Shelton Dunhill, Ltd. (state court, Dallas, Texas)

Represented defendant against claims for breach of contract, fraud, negligence, and deceptive trade practices, in connection with the sale of condominiums valued at several million dollars. Negotiated favorable settlement for client through mediation.

Insurance Coverage

RSR Corp., et al. v. AIU Ins. Co., et al. (state court, Marshall, Texas)

Obtained tens of millions of dollars in settlements from approximately fifty insurance carriers in connection with clients' claims for insurance coverage related to, among other things, CERCLA cleanup costs incurred at numerous environmental sites across the United States.

Pharos Capital Group, LLC, et al. v. Nutmeg Ins. Co. (federal and state court, Dallas, Texas)

Represented insured party in prosecuting claims against insurer for breach of contract, violations of the Texas Insurance Code, and bad faith.

Hollywood Casino Corp., Shreveport v. Lexington Ins. Co. (federal court, Shreveport, Louisiana)

Represented casino-hotel project in claim for insurance coverage relating to tornado damage to the project during construction.

Securities

Flandana Holdings Limited v. Access Capital Advisors (Guernsey) (London Court of International Arbitration, London, England)

Represented claimant, a Cyprus company, against respondent, a private equity "fund of funds," in prosecuting claims arising from breach of partnership agreements and other contracts. The matter was governed, in part, by English law and, in part, by Guernsey law.

State of New York v. Barrett Wissman (state court, New York, New York)

Represented defendant in connection with the New York Attorney General's highly publicized investigation and prosecution of allegations of corruption of the Office of the New York Comptroller and the New York State Common Retirement System by managers of alternative investment funds, state officials, and certain other politically connected individuals. (Also represented same person in related matters with the United States Securities and Exchange Commission and the New Mexico State Investment Council).

RICO

Bruce K. Siddle, et al. v. Pharos Capital Partners, L.P., et al. (federal courts in East St. Louis, Illinois, and Nashville, Tennessee, and the United States Court of Appeals for the Sixth Circuit, Cincinnati, Ohio)

Represented private equity fund managers and private equity funds in defending against RICO and fraud claims asserted by minority owner of portfolio company. Obtained judgment dismissing all claims against clients and secured an award against plaintiffs of over \$1 million in attorneys' fees and litigation costs. Obtained affirmance of the dismissal on appeal to the Sixth Circuit.

Intellectual Property

Geotag, Inc. v. Frontier Communications Corp., et al. (federal court, Marshall, Texas)
Represented inventor and patent owner in obtaining discovery in patent infringement action.

Real Estate Litigation

Shops Dunhill Ratel, LLC v. Apple Texas Restaurants, Inc. (Tex. Dist. Ct.)
Represented client in seeking damages for breach of commercial real estate lease.

Felicia Wimbrey v. US Homes, Inc. (state court, Denton, Texas)
Represented developer in prosecuting claims for breach of real estate sale agreement and violation of the Texas Civil Practice and Remedies Code.

Environmental

United States v. RSR Corporation, et al. (federal court, Seattle, Washington)
Represented lead recycling and smelting company, and affiliates, in defense of claim by the Department of Justice, Environmental Division, alleging that pollution was caused by clients and seeking recovery of millions of dollars in CERCLA cleanup fees.

Bankruptcy

In re Lewis Equipment Co., Inc., et al. (federal bankruptcy court, Fort Worth, Texas)
Represented principal of various bankrupt construction companies in connection with claims for breach of contract arising from personal guaranties of corporate debt.

COURT ADMISSIONS

Supreme Court of Texas

U.S. District Court, Northern District of Texas

U.S. District Court, Eastern District of Texas

U.S. District Court, Western District of Wisconsin

U.S. District Court, Northern District of Illinois

U.S. District Court, Northern District of Maryland

U.S. Court of Appeals, 5th Circuit

U.S. Court of Appeals, 6th Circuit

U.S. Court of Appeals, 11th Circuit

U.S. Court of Federal Claims

EDUCATION

JD, The George Washington University School of Law, 1997

BA, Brigham Young University, 1994

PUBLICATIONS

“Don’t Pay That Legal Bill On An Hourly Basis,” Dallas Business Journal, June 14, 2009

Co-author of "Justicia Para Todos - Ensuring Due Process for Linguistic Minorities," Utah Bar Journal

SELECTED HONORS

Selected to the Texas Super Lawyers list – 2004 and 2007-2014

Named one of “The Best Lawyers Under 40 in Dallas” by D Magazine – 2004 and 2006

Selected to the Texas Super Lawyers “Rising Star” list – 2004

Best Lawyers in Dallas, D Magazine, 2016

Best Lawyers in America, 2016-2017

SPEAKING ENGAGEMENTS

Joint Sessions in Mediation – Essential or Irrelevant, Mesquite Bar Association, March 19, 2014

The Joint Session – Essential or Irrelevant?, March 11, 2014, Dallas Bar Association Alternative Dispute Resolution Section.