



Robert F. Tom

Shareholder

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Robert F. Tom represents clients in litigation involving contract disputes, banking and financial services disputes, and product liability claims.

With an emphasis on commercial, banking, financial services and product liability litigation, Mr. Tom represents clients in all aspects of litigation in state and federal courts. He is aggressive in the representation of his clients and their interests, but, understanding the needs of the client, he also seeks to obtain resolution of disputes in the most cost-effective manner. In his almost 15 years of practice, he has tried numerous cases to judges, juries, and arbitrators.

In regard to his banking and financial services litigation experience, Mr. Tom has successfully defended clients against claims asserting violations of the Fair Credit Reporting Act (FCRA), Telephone Consumer Protection Act (TCPA), Home Affordable Modification Program (HAMP), Fair Debt Collection Practices Act (FDCPA), Truth in Lending Act (TILA) and Right to Financial Privacy Act (REPA).

Mr. Tom routinely defends clients against common law claims, such as breach of contract, breach of fiduciary duty, conversion, negligence, tortious interference, inducement of breach of contract, civil conspiracy and fraud. Mr. Tom is also experienced in creditors' rights litigation, is well-versed in limited-recourse guaranty issues, and has obtained numerous restraining orders, injunctions and receivership appointments on behalf of lenders and servicers.

In addition to his commercial litigation practice, Mr. Tom also has significant experience defending manufacturers and retailers in product liability litigation, involving drugs, medical devices, and food and food labeling.

Representative Matters

- Defended a client in a three-day jury trial in a breach of contract action arising out of a lease dispute. Obtained a unanimous jury verdict in favor of the client which resulted in a global settlement of nine related cases and a settlement amount of more than \$1 million for the client.
- Represented a financial institution in a lawsuit alleging violations of the Telephone Consumer Protection Act based on more than 400 alleged telephone calls to the plaintiff's cellular phone.
- Defended a pharmaceutical company in a product liability lawsuit alleging that prescription medication manufactured by the company was inadequately labeled; obtained dismissal of the lawsuit on a motion to dismiss.
- Represented a medical device company and obtained dismissal, through motion to dismiss, of a product liability lawsuit alleging a defective medical device, negligence, failure to warn, and breach of express and implied warranties.
- Defended a financial institution in a lawsuit alleging improper withdrawals of funds from a checking account which resulted in the plaintiff's voluntary dismissal of the case.
- On a motion to dismiss, obtained dismissal of a financial institution from a lawsuit alleging breach of contract and fraud arising out of a mortgage transaction; successfully defended dismissal of the lawsuit on appeal.

- Defended a grocery store in a product liability class action alleging that certain foods from the store were mislabeled as "All Natural;" after successfully removing the case to federal court and prevailing on the plaintiff's motion to remand, the plaintiff voluntarily dismissed the lawsuit.
- Defended a grocery store in a product liability lawsuit alleging that food purchased from the store was improperly labeled, causing the minor plaintiff to have a severe allergic reaction.
- Defended a grocery store and hemp manufacturer in a product liability lawsuit alleging that food purchased by the plaintiff was defective and improperly labeled; obtained dismissal of the lawsuit on motion to dismiss.
- Obtained the reversal of a trial court's denial of a motion to dismiss the claims against a national mortgage servicing company based on the Home Affordable Modification Program (HAMP), and established Tennessee law that there is no private right of action under HAMP.
- Defended an international automobile manufacturer in a class action lawsuit alleging violations of the Tennessee Consumer Protection Act and breach of implied warranties under Tennessee law. After filing motions to dismiss and to strike class action allegations on behalf of the automobile manufacturer, the plaintiff filed a notice of voluntary dismissal dismissing his case.
- Defended a national insurance company in federal court against claims of breach of contract, violations of the Tennessee Consumer Protection Act and fraud, among others, based on the denial of an insurance claim for \$1 million under an insurance policy. Obtained dismissal with prejudice from the district court, then argued before the Sixth Circuit Court of Appeals and secured an affirmance of the dismissal.
- Successfully defended a national financial institution against Home Affordable Modification Program (HAMP), Tennessee Consumer Protection Act (TCPA), Truth in Lending Act (TILA) and breach of contract claims. Obtained dismissal of the HAMP, TCPA and breach of contract claims on a motion to dismiss, and negotiated a global settlement with the plaintiff and co-defendant, which resulted in dismissal of the remaining TILA claim with the client having to pay nothing.
- Successfully defended a bank against a breach of contract claim brought by the bank's client after the client's former treasurer embezzled funds out of the client's checking account, because the checks were not properly payable within the meaning of UCC Article 4 and the terms of the deposit agreement governing the account. After filing a motion to strike the jury demand and a motion for judgment on the pleadings, the bank client voluntarily dismissed its claims.
- Successfully defended city school system in a jury trial in a breach of contract action in which a locally-owned bus company was seeking millions of dollars in damages. After a seven-day jury trial, the jury deliberated for less than two hours before returning a complete defense verdict.
- Defended a financial institution in a declaratory judgment action against the plaintiff's assertions that two loans had been discharged and released, and successfully prosecuted a counterclaim for breach of contract, receiving the full amount of damages sought plus attorneys' fees. Successfully argued before the Tennessee Court of Appeals and obtained an affirmance of the trial court's judgment, in addition to an award of appellate attorneys' fees.
- Obtained summary judgment for a national financial institution in a lawsuit alleging multiple violations of the Right to Financial Privacy Act.
- Represented a ground lease acquisition company in a breach of contract case involving a lease default and ownership of a billboard structure. One of nine related cases, it was the first to go to trial. After the client obtained a favorable jury verdict, the opposing party entered into a global settlement with the client regarding all nine cases. The settlement called for the opposing party to turn over a number of billboard structures and pay the client more than \$1 million in damages.
- Represented a ground lease acquisition company in an unlawful detainer and replevin action for the recovery of real property and three billboards.
- Defended a bank in a case involving a partnership and its ownership of real properties.
- Defended a board of education in a \$2.8 million jury trial involving a breach of contract brought by a bus vendor to service school routes. Achieved defense verdict with no liability.

- Prevailed as the plaintiff in a two-day bench trial in the U.S. District Court for the Northern District of Georgia on behalf of our client, a national investment management firm. Based on the evidence and arguments presented at trial, the court awarded our client compensatory damages for claims of breach of contract, fraud, and civil conspiracy, among others. The judge also held two corporate defendants personally liable and awarded punitive damages and attorneys' fees to our client.
- Won a motion to dismiss on behalf of a doctor and his corporation in a federal class action lawsuit alleging that they unlawfully engaged in the corporate practice of medicine.



Professional Honors & Activities

- Tennessee Bar Association's 2014 Leadership Law Program
- Leadership Council on Legal Diversity Fellow (2013); Regional Committee (2014); Outreach Committee (2014)
- Secretary – Tennessee Asian Pacific American Bar Association (2009 – 2013)
- Listed in *The Best Lawyers in America*® for Mass Tort Litigation/Class Actions - Defendants (2022 – 2024)
- Chosen as a "Best of the Bar Honoree" by *Memphis Business Journal* (2023)
- Listed in *Mid-South Super Lawyers*, Business Litigation (2019, 2020)
- Listed as a *Mid-South Super Lawyer* Rising Star, Business Litigation (2012 – 2018)
- Member – National Asian Pacific American Bar Association (NAPABA)
 - Member – Litigation Committee
- Managing Editor, *Tulane Maritime Law Journal*
- CALI Excellence for the Future Award in Conflict of Laws
- Named to Lawyers of Color's Inaugural Hot List (2013)



Publications

- "TCPA Compliance Policy," *Practical Guidance*® (August 2023)
- "Trends in Overdraft Fee and NSF Litigation" (August 2019)
- "Providing Clarity to an Evolving TCPA," *Collection Advisor* (March 2017)



Speaking Engagements

- Co-speaker – "Diversity and Inclusion of Asian American Professionals in the Legal Community," AUSA office, Memphis, Tennessee (May 2019)
- Moderator – "Risks and Emerging Issues in Privacy and Data Security," NAPABA Southeast Regional Conference (August 2014)
- "Landlord-Tenant Issues in Business Bankruptcy," NAPABA Bankruptcy, Restructuring & Creditors'/Debtors' Rights Committee webinar (July 2014)
- Moderator – "When the Jury Does Not Look Like You," 2013 National Asian Pacific American Bar Association annual convention, Kansas City, Missouri (November 2013)



Webinars

- The Fair Credit Reporting Act – What Furnishers Need to Know (September 2022)
- Ethics During the Time of Pandemic (December 2020)
- How We Got Here and the Laws that Impacted Our Journey (May 2020)



Education

- Tulane University Law School, J.D., 2004, cum laude
 - Member – Asian Pacific American Law Students Association
- Emory University, B.B.A., 2000



Admissions

- Florida, 2004
- Tennessee, 2007
- Arkansas, 2013
- United States Court of Appeals for the Sixth Circuit
- United States Court of Appeals for the Eleventh Circuit
- United States District Court for the Eastern and Western Districts of Arkansas
- United States District Court for the Middle and Southern Districts of Florida
- United States District Court for the Middle and Western Districts of Tennessee