



Joshua Tropper

Of Counsel

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Joshua Tropper concentrates his practice in the areas of intellectual property and technology law, as well as appellate litigation.

Mr. Tropper has extensive experience in counseling, licensing and litigation to protect clients' copyrights, trademarks, patents and trade secrets.

Representative Matters

- Assisted U.S. and overseas clients in the oil distribution and freight forwarding business to respond effectively to business disparagements.
- Defended summary judgment in favor of automobile manufacturer and dealer, against buyer who claimed injuries caused by defects in the vehicle, on appeal to the Georgia Court of Appeals and Georgia Supreme Court.
- Won federal injunction against impostor who fraudulently registered corporate name of client in the mortgage industry as part of a scheme to prevent legal papers from reaching the client.
- Won reversal on appeal of adverse judgment against lender in Florida, based on statute of limitations.
- Successfully appealed to California Court of Appeal to overturn adverse judgment in securities litigation.
- Won jury verdict in Los Angeles County on behalf of partner excluded from profits of enterprise.
- Defeated claim by defaulting borrower that TILA permitted rescission of loan before closing, by successful appeal to Maryland's highest court.
- Won summary judgment against antitrust claims asserted by competitor of gasoline distributor.
- Successfully appealed personal injury claim against hotel chain.
- Defended title documents in numerous appeals in federal and Georgia courts from a wide variety of quiet title, contract and fraud claims.
- Upheld on appeal the right of contracting parties to make agreements to transfer title to security instruments, effective retroactively.
- Successfully defended "bill of peace" obtained by mortgage servicer on appeal from collateral attack by borrower.
- Won reversal of Florida judgment refusing to honor "safe harbor" provision in condominium declaration.
- Guided U.S. and overseas clients in medical devices, construction materials, franchising and cosmetics through the registration process for protection of trademarks at the state, federal and international levels.
- Advised clients on defense against claims asserted by patent "trolls."
- Designed and implemented strategies for establishing protectable trademark and trade dress rights in marks requiring secondary meaning.
- Helped victim of \$150 million Ponzi scheme to obtain maximum recovery relative to others involved.
- Managed successful defense of antitrust claims against software licensor.
- Negotiated enhanced position for corporate officer in connection with restructuring of corporation's finances.
- Represented marketers of low-cost pharmaceuticals in strategic litigation initiated by manufacturers of branded products to forestall competition.

- Won an appeal before the Fifth Circuit Court of Appeals on behalf of mortgage company. Affirming the District Court's summary judgment, the Fifth Circuit agreed that a lender may unilaterally abandon the acceleration of the loan maturity by the lender's conduct. The borrowers, whose loan was accelerated in 2009, sued for a declaratory judgment that the lender's lien had become void because the lender failed to foreclose within the four years after acceleration. They further argued that there was insufficient evidence that our client had abandoned the acceleration and that, as a matter of law, abandonment of the acceleration could only be done by joint action between the borrower and the lender, not by the lender's unilateral action. Based on scant Texas case law, our client argued the lender could unilaterally abandon the acceleration and that joint action with the borrower was not required. The Fifth Circuit agreed with the district court and our client, holding that our client's conduct in sending account statements demanding only past due sums as well as sending a new notice of default and intent to accelerate were sufficient evidence that our client had abandoned the prior acceleration of the loan. This opinion is important to the lending and servicing industries because sometimes foreclosures cannot be effectuated in four years following acceleration, particularly if there has been litigation between the parties, servicing transfers and excessive loss mitigation efforts.
- Preserved a judgment on appeal to the 11th Circuit that contractual exclusive choice of forum was not binding on a third party, permitting a suit initiated by a third party in a contractual forum to be transferred to a more convenient forum.
- In the Texas Court of Appeals, successfully avoided a claim of forfeiture involving a home equity loan issued without full compliance with the state constitution.
- In state and federal appeals in Florida, established that the five-year statute of limitation for enforcement of a mortgage lien barred only installments older than five years, regardless of previous unsuccessful acceleration attempts.
- For a banking institution, won reversal on appeal to establish that there is no private right to enforce VA lending regulations.
- Defended on appeal a judgment that a borrower who claimed a TILA right to rescind within three years, instead of the automatic statutory three-day limit, had to raise the issue in a first case or be precluded from asserting it in later litigation.
- Tried, and defended on appeal to U.S. Ninth Circuit, claim by founder of California technology startup for payment of loans and deferred compensation.



Professional Honors & Activities

- Member – State Bar of Georgia, Intellectual Property Law Section, Technology Law Section
- Member – American Bar Association, Intellectual Property Section
- Member – State Bar of California, Intellectual Property Law Section
- Member – American Intellectual Property Law Association
- Member – National Association of American Wineries



Publications

- "FDA's Compliance Policy Guide on Marketed Unapproved Drugs," *UPDATE*, FDLI's magazine (January/February 2012)



Speaking Engagements

- "Point Break 2.0: The Trademark Preliminary Injunction Hearing," State Bar of Georgia, Intellectual Property Section (April 2016)



Education

- Harvard Law School, J.D., 1979
- John F. Kennedy School of Government, M.P.P., 1979

- Columbia University, B.A., 1975



Admissions

- New York, 1980
- California, 1984
- U.S. Supreme Court, 1988
- Georgia, 1998
- Massachusetts, 2002
- Ninth Circuit Court of Appeals, 1983
- Eleventh Circuit Court of Appeals, 2004
- Fourth Circuit Court of Appeals, 2012
- Federal Circuit Court of Appeals, 2012
- U.S. Court of Appeals for the Fifth Circuit
- U.S. District Courts in California, Colorado, Georgia, Massachusetts, New York, Tennessee and Wisconsin