



Michael L. Fialkoff

Senior Associate

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Overview

Michael Fialkoff, a commercial litigator, is committed to resolving his clients' complex business and contractual disputes in a timely and cost-effective manner. He works closely with clients to ensure that the litigation strategy for a case fits with business goals and realities. Michael assists clients with litigation related to contractual disputes, intellectual property disputes, and disputes under the New Jersey Franchise Practices Act. Michael is also a member of the firm's Automotive Dealership Practice group and represents dealerships in high-stakes, class action litigation involving New Jersey's Consumer Fraud Act, Truth in Consumer Contract Warranty and Notice Act, and New Jersey's Automotive Sales Practices Regulations.

In addition to his commercial litigation work, Michael has an active fiduciary and probate litigation practice, and represents both fiduciaries and beneficiaries in complex estate matters.

Michael has obtained numerous favorable rulings for clients, including:

- Summary judgment dismissing all claims in an expansive trademark litigation in which the plaintiff asserted infringement of more than a dozen trademarks, which was affirmed by the Third Circuit Court of Appeals
- Summary judgment dismissing breach of contract and other claims asserted by a franchisee against a national hotel chain
- Dismissal of a putative class action challenging an alleged kickback scheme between a mortgage loan servicer and property insurance companies related to lender-placed insurance
- Dismissal of a patent infringement lawsuit alleging infringement of three software patents, on the grounds that the asserted patents were invalid
- Summary judgment on behalf of a trust beneficiary against a trustee who converted trust assets for his own personal use

Michael is also actively involved in pro bono work, including prisoners' rights cases and guardianship proceedings. As part of his pro bono work, he obtained a first-of-its-kind ruling from the New Jersey Appellate Division that indigent parents are entitled to appointed counsel in child abuse cases before the Office of Administrative Law.

Michael was a summer associate with Day Pitney in 2014. Prior to joining the firm, he served as a judicial intern to the Honorable Alison J. Nathan of the Southern District of New York and to the Honorable Paul W. Armstrong of the Superior Court of New Jersey.

Outside of the firm, Michael is actively involved with the Jewish Bar Association of New Jersey and serves as the Chair of its Student Outreach

Practices & Industries

Automotive

Complex Commercial Litigation

Fiduciary and Probate Litigation

Franchise & Distribution

Litigation

Committee. Michael is also a member of the Executive Committee for the Crohn's & Colitis Foundation – New Jersey Chapter's annual Take Steps charity walk.

Education and Credentials

Education

University of Michigan Law School, J.D., *cum laude*, 2015, *Michigan Telecommunications and Technology Law Review*, Articles Editor

University of Michigan, B.A., with Honors and Highest Distinction, 2011

Admissions

State of New Jersey

State of New York

U.S. District Court, District of New Jersey

Recognition and Community

No aspect of this advertisement has been approved by the highest court of any state. Prior results do not guarantee a similar outcome. See Awards Methodology.

Recognitions

Selected to the list of New Jersey *Super Lawyers* Rising Stars (Thomson Reuters), Business Litigation, 2023-2024

Insights

NJ Appellate Division Holds 'Clickwrap' Arbitration Provision Enforceable
November 7, 2024

July Chai, Jewish Bar Association of New Jersey
July 18, 2024

Mootness Fees Are Losing Traction in Del. And Federal Courts
August 2, 2023

New Jersey Federal Civil Procedure
December 22, 2022

College 'Super Conferences' May Wind Up on Defense with Antitrust Law
September 7, 2022

New York Court of Appeals Adopts Commonsense Approach to Authenticating Screenshots of Text Messages
August 9, 2022

New Jersey Federal Civil Procedure
December 23, 2020

Supreme Court Removes Obstacle for Plaintiffs Asserting Takings Claims in Federal Court
June 26, 2019

Authenticating Social Media Evidence in NJ Courts
March 6, 2017

Supreme Court Short-Circuits Defense Strategy to Pick Off Class Rep
January 25, 2016

News

Michael L. Fialkoff to Chair Jewish Bar Association of New Jersey's Student Outreach Committee
January 27, 2025

Liberty State Park Take Steps Walk for Crohn's and Colitis Foundation
June 12, 2022

Lakeland Completes Merger With 1st Constitution
January 11, 2022

Fox News Must Face Ex-Ad Client's Accounting Scheme Suit
April 8, 2021

Day Pitney Honors Three Attorneys for Pro Bono Service
March 3, 2020

New Jersey Appellate Division Rules in Favor of Day Pitney Pro Bono Client, Holds Indigent Defendants Have a Right to Counsel in Administrative Child Abuse Proceedings
June 18, 2019

In The Media

Day Pitney Sponsors Crohn's & Colitis Foundation's Take Steps Charity Walk in New Jersey
Crohn's & Colitis Foundation, June 13, 2021

Day Pitney's Pro Bono Tax Team Wins NJ Supreme Court Appeal Involving Religious Use
The Record, Law 360, July 16, 2020