



Michael Kabat

Partner

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PRACTICE AREAS

*Complex Business
Litigation*

General Litigation

*Intellectual Property
Litigation*

Appellate

INDUSTRIES

Technology

Oil & Gas

Michael represents clients in complex commercial and civil litigation disputes. He has represented clients and defendants in a wide variety of disputes in federal and state trial and appellate courts, as well as arbitral forums. His civil litigation experience includes breach of contract, business torts, fraud, officer and director liability, employment contracts, condemnation, construction, unfair competition, oil and gas, and products liability. In the areas of technology and intellectual property, his experience includes patent, trademark, copyright infringement, licensing disputes, and trade secret litigation.

Representative Experience

Complex Commercial Litigation

Michael has substantial experience in commercial litigation, which includes:

- Representing real estate development company in suit to recover on surety bond after general contractor filed for bankruptcy and walked off job. Obtained successful settlement on behalf of client early in the litigation by engaging in informal discovery process and mediation.
- Representing foreign oil and gas products company in defending against lawsuit filed in Harris County District Court. Case was successfully removed to federal court and an order compelling arbitration in accordance with the parties' agreement was obtained.
- Representing international oil and gas company in multi-million dollar products liability lawsuit against manufacturer of casing used in 22 oil and gas wells in the Bakken and Three Forks formations. After extensive written discovery and depositions, including expert discovery, the client was able to reach a confidential settlement on the eve of trial.
- Representing life insurance company in defending a breach of contract lawsuit regarding alleged failure to issue policies in which Plaintiff sought over \$50 million in damages. After engaging in discovery and depositions, a complete summary judgment was obtained dismissing Plaintiff's claims.
- Obtaining a temporary restraining order and temporary injunction on behalf of an Austin client in a lease dispute with a commercial landlord.
- Representing a consortium of telecommunications clients in a regulatory dispute with another carrier in multiple cases in the Western and Eastern Districts of Texas and the Eastern District of Texas Bankruptcy Court. A favorable opinion was obtained from the Western District of Texas, remanding disputes back to state commissions.

- Representing a technology manufacturer in defending breach-of-contract and fraud claims arising out of a license dispute in the Western District of Texas. A take-nothing jury verdict was entered in favor of the client.
- Representing a cable operator in a lawsuit involving claims of trespass, conversion, unauthorized use of property, negligence, gross negligence, and aiding and abetting liability. The action was settled prior to trial.
- Obtaining summary judgment on behalf of a water well owner against claims alleging permanent nuisance, declaratory relief and monetary damages for diminished property value.
- Representing financial institutions and businesses in collecting on notes, security agreements and other contracts through litigation and arbitration, including obtaining writs of sequestration, garnishment and execution.

Intellectual Property and Trade Secret Litigation

Michael's experience in intellectual property litigation includes:

- Representing Austin based company against claims of trademark infringement and unfair competition relating to sale of health food product in Western District of Texas. Defeated motion for preliminary injunction that would have prevented sale of product throughout United States after three day evidentiary hearing.
- Representing utility company in trademark infringement and dilution action against competitor.
- Representing Austin-based software company in software licensing dispute against aerospace manufacturer. Case successfully settled after filing arbitration claim with WIPO utilizing expedited action procedures.
- Defending software company against allegations of trade secret misappropriation and aiding and abetting breach of fiduciary duties in Western District of Texas. Case favorably settled after two day temporary injunction hearing in which the Court denied Plaintiff's request for injunctive relief.
- Representing closely held company in litigation against ex officer and shareholder, ensuring that company's trade secrets were protected from disclosure.
- Representing corporation against ex-employees who had improperly acquired confidential and trade secret information for use in competing business. All information was returned and case favorably settled after conducting forensic examination of ex-employees' laptops.
- Defending surveillance products company in patent infringement lawsuit in Eastern District of Texas. Case favorably settled.
- Representing Austin software company in patent infringement lawsuit in Eastern District of Texas. Case favorably settled.
- Representing a manufacturer in litigation in state and federal courts in Midland involving claims of patent infringement, false marking, trademark infringement, false advertising and related state law claims. Michael, along with other firm members, obtained summary judgment on the patent and trademark claims, and the case subsequently settled.
- Prosecuting claims of trademark infringement, dilution and unfair competition on a statewide basis in all federal districts in Texas on behalf of an oil and gas industry client against more than forty different gas station operators and owners.

Publications & Presentations

- Team Leader, *Expectations of Privacy in a Digital Age*, Robert W. Calvert Inn of Court, Austin, TX (November 2018)
- Co-presenter, *A DACA Christmas Carol*, Robert W. Calvert Inn of Court, Austin, TX (December 2017)
- Co-presenter, *A Second Look at Ferguson: Fines, Fees, Costs, and the Question of Debtors' Prisons*, Robert W. Calvert Inn of Court, Austin, TX (April 2017)
- Co-Presenter, *Regulating the Sharing Economy*, Robert W. Calvert Inn of Courts, Austin, TX (February 2016)
- Key Takeaways from a Recent Employee Data Breach — The Biggest Threat May be Internal (September 24, 2015)
- Co-Presenter, *Texas Voter ID & Voting Rights*, Robert W. Calvert American Inn of Courts, Austin, TX (January 2015)
- Co-Author, *How to Make the Condemnation Process Work for You*, Flick Report (December 2007/January 2008)

Professional Associations & Community Involvement

- State Bar of Texas
- Austin Bar Foundation (Fellow)
- Austin Bar Association: Litigation Section
- Austin Baylor Lawyers Network (Steering Committee)
- Baylor Bear Foundation
- Volunteer Legal Services

Professional Recognition

- Texas Super Lawyers Rising Stars list, a Thomson Reuters service, Business Litigation (2013-2019)
- Barrister, Robert W. Calvert American Inn of Courts (2014-2021)

Court Admissions

- United States Courts of Appeals for the Fifth Circuit and Federal Circuit
- United States District Courts for the Eastern, Northern, Southern and Western Districts of Texas

Bar Admissions

- Texas

Education/Professional Background

- Baylor University School of Law, J.D., 2005 (*summa cum laude*; Order of the Barristers; Senior Notes & Comments Editor, *Baylor Law Review*)
- Baylor University, B.B.A., 2002 (*summa cum laude*; Highest-ranking student in Hankamer School of

Business; Outstanding Student in Economics Award, 2002)