

Theodore J. Folkman

Shareholder
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**Areas of Concentration**

Business Litigation

Experience

Ted Folkman concentrates his practice in complex business and commercial litigation. After his clerkship with Judge Ann Aldrich of the U.S. District Court in Cleveland, he was an associate at Hill & Barlow before joining Murphy & King in 2003. He has represented businesses, non-profit institutions, and government agencies in many industries, including health care, financial services and private equity, close corporations in a variety of fields, and professional services firms, and in many types of disputes, including shareholder disputes, trade secret disputes, claims against fiduciaries, insurance and reinsurance disputes, claims of securities fraud and other types of fraud, claims under ERISA, and commercial breach of contract cases. He also regularly represents individual clients in land use and other disputes. He has resolved disputes in the trial courts as well as in alternative dispute resolution forums and has argued cases in the Appeals Court and the Supreme Judicial Court.

Mr. Folkman is a frequent writer and speaker on civil procedure and other topics and is the author of *Letters Blogatory*, a blog covering developments in the field of international judicial assistance and private international law. He is active in the Boston Bar Association, having served as the chairman of the Massachusetts Practice and Procedure Committee and as a member of several other bar committees.

Representative Engagements

- Successfully settled a claim of breach of contract and tortious interference on behalf of a major sport equipment manufacturer against an athlete endorser and a competitor.
- Successfully settled a claim of actuarial malpractice on behalf of a major Boston law firm against the administrator of the firm's defined benefit pension plan.
- Defended a government agency at trial against a breach of contract claim, and established, as a matter of first impression in Massachusetts, that the agency was not liable for lost profits under the doctrine of constructive termination for convenience.
- Successfully settled a claim on behalf of a major Boston hospital against an self-insured employer and the administrator of its insurance plan for misrepresentation of coverage, and obtained a ruling from the federal court that the claim was not preempted by ERISA.

Education

Princeton University, A.B., *magna cum laude*, 1996
Columbia University, M.A., 1997
Harvard Law School, J.D., *cum laude*, 2000

Bar and Court Admissions

Massachusetts
U.S. District Court, District of Massachusetts
U.S. Court of Appeals, First Circuit
U.S. Court of Appeals, Federal Circuit
U.S. Supreme Court

Recent Publications

Theodore J. Folkman & David L. Evans, *Choice of Law*, in *International IP Arbitration* (T. Halket ed.) (forthcoming).

Theodore J. Folkman & Penny Gilbert, *Using US Pretrial Discovery To Your Advantage*, Commercial Dispute Resolution, Dec. 14, 2010.

Theodore J. Folkman, *Choice of Forum When Seeking Prejudgment Injunctive Relief*, Mass. Lawyers Weekly, Apr. 12, 2010.

Professional Involvement

Boston Bar Association

American Bar Association

Federal Circuit Bar Association

Reported Cases

Bradston Assocs., LLC v. Cabral, 70 Mass. App. Ct. 822, 877 N.E.2d 638 (2007).

Children's Hosp. Corp. v. Kindercare Learning Centers, Inc., 360 F.Supp.2d 202 (D. Mass. 2005).

Honors

Editor, Harvard Journal on Legislation

2006 and 2007. Named a Massachusetts "Rising Star" by Law & Politics and Boston Magazine.