



Michael C. Lynch

Partner

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About

Chair of Kelley Drye's Litigation practice and a member of its Executive Committee, Michael Lynch is the consummate trial lawyer. He complements his formidable and agile courtroom presence with a strategic, big-picture perspective that informs his advice and approach and facilitates his development of creative, business-focused resolutions.

Whether advocating for his clients in a wide range of complex, high-stakes commercial and consumer-oriented disputes or providing holistic business and personal counsel to high-net-worth individuals and C-Suite executives, Michael is fiercely committed to protecting and advancing each client's unique interests.

Michael's trial experience is extensive and diverse, with advocacy skills he forged and honed as a prosecutor in New York City under the tutelage of the legendary Robert Morgenthau. The insights he gained during this formative time formed the foundation of Michael's consistent and lengthy record of success in his over two decades of trial practice at Kelley Drye.

He understands that disputes rarely unfold in a straight line, making comprehensive, multifaceted, and flexible strategies indispensable to obtaining the best outcomes for his clients. Michael's creativity, aggressive approach to discovery, and proven negotiation skills allow him to achieve business-oriented solutions to even the most complicated and consequential matters.

Some of the most prominent national and global brands have relied on Michael to parry multimillion dollar threats to their market shares, reputations, and bottom lines. He has the hands-on experience needed to litigate all aspects of single and multi-plaintiff claims and large-scale class actions involving commercial and consumer-oriented claims, including complex contract disputes, trademark and copyright, fraud, consumer fraud, privacy and data security, false advertising, and other business-related issues, as well as white-collar defense and investigations. Clients retain Michael again and again for his ability to balance "winning" versus more economical and discreet routes to resolution.

The problem-solving acumen and risk mitigation strategies that serve Michael's clients so well in litigation also help them outside the courtroom, where he has earned a reputation as a straight-shooting, insightful, and vigilant counselor for individuals with complex and intersecting concerns and priorities. Michael is the seasoned advocate, trusted advisor, and steadfast ally that businesses

and colleagues call upon when important investments, time, and other interests are on the line.

Experience

IP/Technology/Consumer Fraud

Obtained dismissal of all claims alleging a litany of fraud, breach of contract, and other torts claims on behalf of a global product and branding licensing agency and one its employees, who served as the licensing agent for a global media conglomerate. The plaintiff sought damages of over \$30 million from both the licensor and its agents arising from the alleged breach of a multi-million dollar licensing agreement for hair extensions.

Representing the largest privately held spirits company in the world, defending its claims to the HAVANA CLUB trademark and seeking cancellation of Cuba's putative registration in the D.C. District Court. This brand and related case is one of the most significant United States Patent and Trademark Office (USPTO) trademark cases in history and was profiled on "60 Minutes" in January 2017.

Representing a leading video game developer in a consumer class action lawsuit involving alleged claims of violation of California's false advertising and unfair competition laws in connection with the release of one of the most hotly anticipated video game releases in history.

Representing a leading video game developer in a dispute with a former executive.

Obtained full dismissal with prejudice of consumer class action claims alleging deceptive pricing by major national retailer. In 2017, the First Circuit affirmed the dismissal of the suit.

Represented the maker of cosmetic consumer products in a class action lawsuit. The suit claimed that the company's marketing was misleading and asserted claims of unjust enrichment, breach of contract and violation of the New Jersey Consumer Fraud Act. Negotiated a favorable settlement that was upheld during a fairness hearing over a vehement challenge by an objector.

Defending a sporting goods manufacturer against state consumer protection and false advertising claims relating to performance claims regarding its football helmets.

Defending a sports and entertainment representation firm in the Southern District of New York against claims of copyright infringement and breach of contract relating to a children's television series featuring star quarterback, Cam Newton.

Trial counsel for an in-store marketing company in the District Court in Minnesota prosecuting Sherman Act and Lanham Act claims. Secured a favorable settlement during trial.

Trial counsel defending a major nutritional supplement manufacturer in a Lanham Act jury trial involving comparative advertising claims in the Eastern District of New York. The jury unanimously found that our client's statement, used on wholesalers' and retailers' store-brand packaging for joint care products, inviting consumers to compare the products to a competitor's products, is not false and misleading and does not violate Section 43 of the Lanham Act.

Prosecuted claims of breach of a non-compete agreement, breach of fiduciary duty, unfair competition, violations of the Lanham Act and related claims in District Court in Iowa on behalf of a media publishing company. Supervised a team of attorneys in all phases of discovery, summary judgment and trial preparation. Reached a successful settlement just prior to trial.

Successfully moved to dismiss a class action antitrust/price-fixing action pending in the Northern

District of California against three Japanese chemical and trading companies.

Lead counsel defending an Internet marketing company in Colorado state court against claims of theft of trade secrets, unfair competition and other claims relating to search engine optimization techniques alleged by the plaintiff to have been proprietary. Secured a favorable settlement during mediation only two weeks prior to trial.

Lead counsel in defending a manufacturer of precision hospital equipment against claims of trademark and intellectual property infringement. Michael's aggressive discovery approach and creative thinking drove the ultimate business solution to the litigation.

Lead counsel for an Internet marketing company in successfully opposing an emergency motion for injunctive relief relating to claims of trademark infringement.

Represented an online marketing and consumer good company against false advertising claims brought by the Federal Trade Commission (FTC). Negotiated a favorable settlement following discovery.

Financial Services/Investments

Served on the jury trial team that defended a major financial institution in state court in Houston, Texas, against claims of conflict of interest and breach of contract brought by distressed debt hedge funds in connection with the bank's role as indenture trustee on certain Global Crossing debt. The case settled favorably on the eve of closing arguments.

Served on the jury trial team in the Southern District of New York for a major financial institution in a \$2.1 billion lawsuit against 11 insurance companies that refused to honor surety bonds issued to backstop certain commodities transactions involving Enron. A favorable settlement for our client was reached during jury deliberations.

Defended a major financial institution as indenture trustee in a multibillion-dollar multidistrict litigation against claims of breach of duties brought by noteholders of a bankrupt health care company.

Advised a major financial institution in connection with certain Collateralized Debt Obligation (CDO) transactions, including a CDO squared and other asset-backed financial instruments.

Representing an online broker-dealer against claims of aiding and abetting, control person liability, negligence, unjust enrichment and fraudulent transfer asserted ostensibly on behalf of the bankrupt estate of a customer who pleaded guilty to conducting a Ponzi scheme.

Lead counsel representing one of the world's largest integrated oil/energy/chemical companies in an arbitration involving a crude oil transaction.

Internal Investigations/White-Collar Crime

Served on the team that successfully moved to dismiss a RICO action brought against a telecommunications equipment company that sought more than \$200 million in damages for allegations that they and other defendants engaged in a pattern of racketeering designed to secure competitive advantages from the Saudi Arabian government in the performance of a \$4.3 billion telecommunications project in Saudi Arabia. The court granted the motion to dismiss, with prejudice and without leave to replead, before any discovery.

Performed an internal investigation for a New York state not-for-profit agency to respond to a state investigation involving the misappropriation of taxpayer funds, no-show employees and related allegations. Guided our client through the investigation, negotiated survival of the agency with state investigators, and assisted the client in implementing new executive leadership and reforming board governance and corporate compliance policies.

Representing SUNY in the Department of Justice's investigation of Governor Cuomo's economic incentive plan known as "Buffalo Billions."

Performed an internal investigation of the U.S. operations of a large foreign conglomerate that uncovered corporate malfeasance, including the misappropriation of corporate funds, breaches of fiduciary duty and falsification of business records. Recovered a large portion of the misappropriated funds.

Represented a broker-dealer in an insider trading investigation.

Represented an international real estate brokerage whose employees were witnesses in a real estate/mortgage fraud investigation.

Commercial Disputes

Represented a global institutional investment firm in a successful ten day arbitration hearing regarding claims by a former employee, which resulted in an arbitrator dismissing all claims and awarding Claimant zero dollars from a demand of over \$27 million.

Successfully obtained dismissal of a putative class action filed against an acclaimed, international art fair at the motion to dismiss stage. Dismissal was affirmed by the Second Circuit of Appeals following oral argument.

Obtained a complete dismissal of an over \$50 million lawsuit asserting claims for breach of contract, breach of fiduciary duty, fraudulent inducement, negligent misrepresentation, and gross negligence against a real estate investment company and its managing principals arising from the parties' joint investment in a real estate development project in Miami, Florida.

Defending a leading entertainment company against multiple class actions claiming technical difficulties experienced during live-stream of highly anticipated pay-per-view event, resulting in favorable nationwide settlement resolving consumer claims that was approved by Nevada federal district court.

Represented a branded apparel, footwear and brand management company in a dispute involving the alleged breach of a distribution agreement for handbags and other goods. We obtained dismissal of the suit after the court agreed that there was no subject matter jurisdiction for the claims to be heard in federal court.

Represented the largest privately held spirits company in the world as a defendant in a complex commercial/IP dispute involving a multiyear, multimillion-dollar exclusive marketing agreement with a major sports franchise. After extensive discovery and prevailing on numerous discovery motions, we successfully negotiated a settlement.

Represented a landlord in New York Supreme Court in a complex litigation against a commercial tenant who refused to pay rent while asserting claims for breach of contract and fraud totaling over \$20 million in damages. We successfully obtained a preliminary injunction permitting the landlord to

regain access to the premises and obtained an early court ruling that the tenant was likely in violation of a lease provision governing lease assignments. We then moved for summary judgment seeking an eviction before discovery commenced, and the parties successfully settled all claims moments before oral argument.

Served on the jury trial team in a complex commercial litigation involving a dispute arising out of the creation of the first pay cable television channel in India in the New York State Commercial Division Court. Guided our client (foreign nationals) through intricacies and nuances of the U.S. court system and litigation practices. Supervised a team of attorneys in all phases of discovery, summary judgment and trial.

Lead counsel representing the seller of a Midtown Manhattan office building prosecuting claims for breach of Purchase and Sale Agreement by ostensible purchaser, winning a motion for summary judgment allowing the seller to retain a \$38.5 million deposit on the sale, plus interest. The judgment was affirmed by a five-member panel of judges in the New York state Court of Appeals.

Represented a technology company in a commercial dispute relating to a recall effort in the European Union.

Advised a hedge fund in connection with an investment in Bernard L. Madoff Investments Securities LLC.

Represented a large multinational shipping company in the Southern District of New York against admiralty attachment claims in connection with a contract of affreightment agreement.

Defended a leading technology company in a series of claims for unpaid advertising expenses resulting from the bankruptcy of one of its advertising agents.

Honors

Featured as a local litigation star in *Benchmark Litigation* 2018, 2019 and 2023.

Recommended in *US Legal 500* for his work in the areas of Product Liability, Mass Tort and Class Action: Consumer Products, 2017-2023, IP-Trademarks Litigation, 2018 and Marketing and Advertising Litigation, 2017 and 2023.

Listed in New York *Super Lawyers*, 2011-2023.

Named one of *Law 360's* "Securities Lawyers Under 40 to Watch."

Selected as one of the Irish Legal 100 by *Irish America Magazine*, 2009 and 2016-2021.

Affiliations

Morgenthau Alumni Group

American Bar Association

Irish-American Bar Association

Clever Commuter, board of directors

Clever Commuter, board of directors

Related Services

Litigation
Commercial Litigation
Consumer Class Action Defense
Trademark and Copyright Litigation
White Collar, Investigations and Compliance
Advertising and Marketing
Advertising Technology
e-Discovery
Fashion and Retail
Financial Institutions
Intellectual Property
Manufacturing
Technology
Media and Entertainment
Food and Drug
Blockchain and Cryptocurrency

Education

Fordham University School of Law, J.D.
University of Richmond, B.A.

Admissions

New York

Courts

U.S. Supreme Court
U.S. Court of Appeals-First Circuit
U.S. Court of Appeals-Second Circuit
U.S. District Court-Southern District of New York
U.S. District Court-Eastern District of New York
U.S. District Court-District of Colorado
U.S. District Court-Northern District of Illinois