



MICHAEL J. NORTON

PARTNER

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PROFILE

Foulston Siefkin Partner Michael Norton, a litigator in the firm's Wichita office, defends and prosecutes a range of commercial, intellectual property, and real estate disputes. His clients include large, public corporations, and closely held businesses from the aerospace, insurance, construction, health care, and financial services arenas; government entities; and individuals. Michael regularly handles federal district and appellate court cases, Trademark Trial and Appeal Board actions, and litigation filed in Kansas state courts. He joined Foulston Siefkin in 1998.

Michael's practice encompasses aerospace and other contract disputes, trademark enforcement, copyright protection, products liability, construction claims, defamation cases, and torts. He is particularly sensitive to helping business clients resolve matters in the most effective, efficient manner. Applying his skills at the negotiation table and in ADR proceedings, he frequently crafts solutions that avoid prolonged litigation. When litigation is necessary, he is a formidable advocate for his clients at all stages of the process, from coordinating e-discovery and taking depositions to presenting evidence at trial and delivering powerful arguments to the court.

Serving as first-chair in jury trials or as lead counsel in high-stakes litigation, Michael has successfully argued his clients' positions in a range of commercial and civil matters. For example, he defended the City of South Hutchinson, Kansas, in a dispute over amounts owed to a company constructing a multimillion-dollar wastewater treatment facility and won summary judgment at trial. The decision, affirmed by the Kansas Court of Appeals and the Kansas Supreme Court, resulted in the seminal opinion on the application of liquidated damages in Kansas.

In other noteworthy wins for his clients, Michael prevailed in trademark enforcement actions on behalf of a large independent bank with locations across Kansas, Oklahoma, and Arkansas; won a jury verdict and punitive damages for a well-known author in a defamation case; and obtained dismissal of claims filed in the U.S. against a UK-based health care system.

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Numerous legal publications list Michael among the best litigators in the country and region. While he has earned the respect of clients and colleagues for his many accomplishments, Michael's personal definition of success is particularly high: not to win at all costs, but to achieve the best result the "right way" – through perseverance, hard work, and integrity.

Michael's love of new technology has made him the unofficial go-to advisor for family, friends, and colleagues on everything from the latest document management software to entertainment devices. He also applies that knowledge to help solve clients' technology-related legal issues. Michael attributes his work ethic and desire to establish long-lasting relationships with clients to growing up in a small Oklahoma town.

When he's not working, Michael enjoys spending time with his wife and four children and traveling.

Education

- Texas Tech University (J.D., 1998)
- Cameron University (B.A., *cum laude*, 1995)

Admissions

- Kansas (1998)
- Oklahoma (2019)
- U.S. District Court for the District of Kansas (1998)
- U.S. District Court for the Western District of Missouri (2019)

PRACTICE AREAS

- Litigation & Disputes
- Product Liability
- Construction
- Insurance Defense Litigation
- Intellectual Property
- Trade Secret & Noncompete Litigation
- Trust & Estate Litigation

INDUSTRIES

- Construction
- Aviation & Aerospace

RELEVANT EXPERIENCE

- Lead opposition counsel for bank in Trademark Trial and Appeal Board in opposition against foreign company attempting to use infringing mark in U.S. market. Obtained TTAB judgment in favor of client, preventing the registration of the infringing mark. *Intrust Fin. Corp.*, Opposition No. 91204456, 2016 WL 7010639 (November 8, 2016).
- Lead defense counsel for aerospace manufacturer in breach of technology contract lawsuit. Case involved issues related to securing and protecting confidential information. Obtained favorable settlement for client. United States District Court, Central District of California (2016).
- Lead defense counsel for rancher accused of negligently allowing his cattle to escape their fenced pasture. Plaintiffs sought more than \$1,000,000 in damages. Obtained summary judgment dismissing the lawsuit. Dismissal upheld by the Kansas Court of Appeals. *Beneke v. Smith*, No. 111722, 2015 WL 2137134 (Kan. Ct. App. May 1, 2015), review denied (January 29, 2016), and *Kiraly v. Smith*, No. 111635, 2015 WL 2134571 (Kan. Ct. App. May 1, 2015), review denied (January 29, 2016).
- Lead discovery counsel for aerospace manufacturer in breach of contract lawsuit filed by supplier in Utah. Discovery issues included the application of the proportionality doctrine. Obtained favorable rulings on discovery disputes and assisted in obtaining favorable settlement for client. Second Judicial District Court, Davis County, Utah (2015).
- Defense counsel for aerospace manufacturer in plaintiff's breach of contract action against supplier. Obtained partial summary judgment in favor of client. United States District Court, District of Kansas (2015).
- Lead defense counsel for home health care company accused of negligence and wrongful death. Plaintiffs sought more than \$3,000,000 in damages. Case involved the determination of duties under the Kansas Home and Community Based Services Physically Disabled ("HCBS/PD") waiver program. Obtained summary judgment dismissing all claims against client. No appeal of dismissal. 18th Judicial District, Sedgwick County, Kansas (2014).
- Co-counsel defending a defamation counterclaim against client who posted statements about her supervisor on Facebook. Obtained summary judgment dismissing all counterclaims against client. *Debord v. Mercy Health Sys. of Kansas, Inc.*, 860 F. Supp. 2d 1263, 1279 - 1283 (D. Kan. 2012), aff'd, 737 F.3d 642 (10th Cir. 2013).
- Lead defense counsel for clients accused of negligence and violation of the Kansas Consumer Protection Act in the sale of a horse. Case involved the application of the Kansas Assumption of Risk of Domestic Animal Activity statute (K.S.A. 60-4001 *et seq.*). Obtained summary judgment dismissing the lawsuit. No appeal of dismissal. 25th Judicial District, Kearny County, Kansas (2013).
- Lead defense counsel for member of United Kingdom's National Health Service against doctor who alleged trade libel and tortious interference with business relationships and a variety of other claims in California. Obtained dismissal of all claims under the doctrine of *forum non conveniens*. No appeal of dismissal. *Dibdin v. S. Tyneside NHS Healthcare Tr.*, No. CV 12-00206 DDP PLAX, 2013 WL 327324 (C.D. Cal. Jan. 29, 2013).
- Lead defense counsel for insurance company accused of breaching the under insured motorist provisions of its insurance policy. Obtained summary judgment dismissing all claims against client. Dismissal upheld by the Kansas Court of Appeals. *Runte v. Shelter Ins. Companies*, 281 P.3d 1146 (Kan. Ct. App. 2012).
- Lead defense counsel for aerospace supplier in breach of contract action by a sub-supplier. Obtained favorable settlement for client. 18th Judicial District, Sedgwick County Kansas (2010).
- Lead defense counsel in *Carrothers Const. Co., L.L.C. v. City of South Hutchinson*, 288 Kan. 743, 207 P.3d 231 (Kan. 2009), the seminal opinion on the application of liquidated damages in Kansas. Obtained summary judgment dismissing the lawsuit. The Kansas Court of Appeals and the Kansas Supreme Court affirmed in the city's favor.
- Lead defense counsel for engineering firm in negligence and breach of contract action arising out of the design and construction of feed yard retention ponds. Plaintiff sought more than \$1,400,000 in damages. Obtained favorable settlement for client. United States District Court, District of Kansas

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(2009).

- Defense counsel for religious organization accused of breaching its fiduciary duty and conversion. Case involved the determination of whether a person who was directly antagonist to the majority of the members of an unincorporated association was a proper class representative. Court ruled in favor of our client, finding that the plaintiff was not an adequate representative. The ruling was upheld by the Kansas Court of Appeals and the case was dismissed. *Thai Hong Mai v. Catholic Diocese of Wichita*, 170 P.3d 443 (Kan. Ct. App. 2007).
- Plaintiff's trial counsel for renowned author in defamation lawsuit against self-publishing company. Obtained verdict in favor of client and punitive damages award against publisher. Client was awarded more than \$470,000 in damages. 18th Judicial District, Sedgwick County, Kansas (2006).

PROFESSIONAL MEMBERSHIPS, AFFILIATIONS, AND HONORS

- Selected by peers for inclusion in *The Best Lawyers in America*® in the areas of Commercial Litigation, Insurance Law, and Personal Injury Litigation – Defendants, 2013-2020
- Selected for inclusion in Missouri & Kansas Super Lawyers® List Rising Star, 2008-2013 (a Thomson Reuters business)
- Named a Local Litigation Star by *Benchmark Litigation* in General Commercial, Insurance, Intellectual Property, and Product Liability, 2015-2016 & 2018-2020
- Wichita Business Journal / 40 Under 40 Business Leader , 2012
- American Bar Association
- Kansas Bar Association
- Wichita Bar Association
- Kansas Association of Defense Counsel
- Defense Research Institute

COMMUNITY INVOLVEMENT

- KPTS Channel 8, Board of Trustees (2012-2017)
- YMCA Youth Sports Coach
- Wichita Heights Softball League Youth Coach
- Trees for Life, Board Member