

## H. Thomas Wells, Jr.

OF COUNSEL



### H. Thomas's Profile

Tommy's trial practice concentrates on complex mass tort, environmental, and product liability cases, often handling the defense of class actions or mass consolidated cases throughout the South. He has handled cases in Alabama, Virginia, California, Texas, Ohio, West Virginia, Pennsylvania, Indiana, Illinois, Tennessee, Georgia, Mississippi and the District of Columbia. Tommy is active in the American Bar Association, having served as the Association's President in 2008-2009. His skills as a litigator have been highly recognized throughout the years, including being listed in The Best Lawyers in America® and one of Alabama's Top Ten attorneys in Super Lawyers®. He is a Fellow of the International Academy of Trial Lawyers, the Litigation Counsel of America and the American College of Environmental Lawyers.

### H. Thomas's Experience

- Successfully defended automated traffic camera company in state court constitutional challenge to local Act and Ordinance authorizing use of red light cameras in traffic enforcement. Circuit Court of Jefferson County, Alabama granted Rule 12(b)(6) motion to dismiss. This case was consolidated with three other constitutional challenges to other red light camera ordinances. Orally argued cases to Alabama Supreme Court which held that Plaintiffs lacked standing and that the case did not present a justiciable controversy because Plaintiffs did not appeal the fines under the procedure set forth in the Ordinance and Act, and thus affirmed the dismissal of the action. *Moore v. City of Center Point*, \_\_\_ So. 3d \_\_\_, 2020 WL 2097546 (Ala. May 1, 2020).
- Successfully defended automated traffic camera company in federal Constitutional challenge to local Act and Ordinance authorizing use of red light cameras in the Middle District of Alabama. After oral argument, the U.S. Court of Appeals for the

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Eleventh Circuit affirmed the dismissal of all the federal claims, but left it to the District Court to decide whether to hear the state law claims. *Worthy v. City of Phenix City*, 930 F. 3d 1206 (11th Cir. 2019). The District Court dismissed the remaining state law claims on August 29, 2019, thus dismissing the entire case. *Worthy v. Phenix City*, Case No. 3:17 CV 73 (M.D. Ala. Aug. 29, 2019).

- Obtained 12(b)(6) dismissal by Northern District of Alabama of putative nationwide class action over rescission of old Southwest Airlines "Rapid Rewards" drink coupons, which contained no expiration date, and succeeded in having dismissal affirmed in the Eleventh Circuit in October, 2012; *Grimsley v. Southwest Airlines, Co.*, No. 2:11-cv-03420, 2012 WL 1339722 (N.D. Ala. April 17, 2012), *aff'd Baxley v. Southwest Airlines, Co.*, 491 Fed. Appx. 146 (11th Cir. 2012)
- Successfully pursued multi-million dollar business interruption claim for specialty chemical manufacturer against electrical contractor who failed to adequately seal electrical switchbox, leading to short circuit during rain event; the short circuit shut down the entire plant, causing production losses and lost profits
- Successfully defended major airline in suit by two passengers who alleged "bleed air" from the aircraft's jet engines contained toxic chemicals which caused them neurological injuries
- Successfully pursued substantial breach of contract claim against coal supplier for specialty chemical manufacturer, including assuring adequate coal deliveries for plant use until end of term
- Succeeded in obtaining unanimous affirmance by Alabama Supreme Court, after oral argument, of summary judgment entered in asbestos exposure case, in seminal statute of limitations decision; *Henderson v. MeadWestvaco*, 23 So. 3d 625 (2009)
- Obtained dismissal of all consumer fraud and unjust enrichment counts of putative nationwide class action in the Northern District of Illinois on Airline Deregulation Act federal preemption grounds, in action involving Southwest Airlines Business Select fares and their associated drink coupons, leaving only a breach of contract count remaining; settled breach of contract claim in December 2012 on 23(b)(3) class basis by agreeing to issue replacement coupons on a claims made basis; *Levitt v. Southwest Airlines, Co.*, 846 F. Supp. 2d 956 (N.D. Ill. 2012); settlement approved by U.S. District Court in Chicago; *In re Southwest Airlines Voucher Litig.*, 2013 U.S. Dist. LEXIS 120735 (Aug. 26, 2013); settlement affirmed by Seventh Circuit Court of Appeals on appeal of objectors; *Levitt v. Southwest Airlines Co. (In re Southwest Airlines Voucher Litigation)*, 799 F. 3d 701 (7th Cir. 2015)
- Obtained summary judgment for chemical manufacturer of methylene diisocyanate and methylene diisocyanate-containing formulated product against claims of in utero exposure via mother who worked in coal mines
- Obtained summary judgment on remaining claims in asbestos case remanded to the Northern District of Alabama from the Philadelphia MDL court; *Riggs v. Mead Corp.*, 2012 U.S. Dist. LEXIS 169440

(Nov. 29, 2012)

- Defended Fortune 100 chemical company in mass tort actions pending in Alabama and West Virginia; obtained settlement the night before opening arguments to the empanelled jury in Tuscaloosa, Alabama
- Successfully defended operator of coal preparation facility in a multi-week “bellwether” jury trial of trespass and nuisance claims due to air pollution from industrial facility
- Successfully defended steel fabricator in federal environmental enforcement action tried to a jury in the U.S. District Court for the Northern District of Alabama; Defendant had been charged by EPA with violating Clean Air Act permitting rules; U.S. v. Nucor, 17 F.2d 1249, (N.D. Ala. 1998), vacated by agreement, 2002 U.S. Dist. Supp. LEXIS 27933 (May 6, 2002)
- Obtained decision from U.S. Supreme Court invalidating discriminatory state tax on hazardous waste disposal facility in Alabama; case was filed in state trial court, and favorable U.S. Supreme Court ruling (after trial, appeal to state supreme court, and certiorari petition) was announced only two years after the original complaint was filed. Chemical Waste Mgt. v. Hunt, 504 U.S. 334 (1992)
- Defeated motion for class certification in nuisance/trespass case against manufacturer alleged to be responsible for property damage due to air emissions in the U.S. District Court for the Middle District of Alabama
- Won settlement of hundreds of asbestos cases for premises defendant in state court in Beaumont, Texas
- Won arbitration of post-settlement allocation proceeding between co-defendants and insurance carriers; Arbitrators upheld allocation that attributed only 30% of total damages to client
- As court-appointed co-lead counsel, won case for mining industry in proceedings in Washington, D.C. alleging widespread, nationwide tampering with personal respirable dust samples in underground mines of numerous companies

## H. Thomas's Awards

- Chambers USA: Leading Practitioner in the area of Environmental Law (2018-Present)
- The Best Lawyers in America® for Energy Law, Litigation: Environmental, Mass Tort Litigation/Class Actions: Defendants, Natural Resources Law, Product Liability Litigation: Defendants (2006-present)
- Best Lawyers® “Lawyer of the Year” for Litigation - Environmental (2021), Natural Resources Law (2022)
- Mid-South Super Lawyers for Class Action (2016 - present)
- Recognized as a "Litigation Star" by Benchmark Litigation
- Alabama Super Lawyers for Environmental Litigation, Class Action/Mass Torts, Personal Injury Defense: Products (2008-2015); "Top 50 Alabama Super Lawyers" (2009-2012, 2019); "Top

- 10 Alabama Super Lawyers" (2008-2009)
  - Who's Who Legal: Environment (2010-2015, 2017)
  - Who's Who Legal: Litigation (2016 - 2017)
  - Who's Who Legal: Product Liability Defence (2017, 2018)
  - The International Who's Who of Commercial Litigators (2012-2013)
  - The International Who's Who of Product Liability Defense Lawyers (2005-present)
  - The International Who's Who of Litigation (2014-2015)
  - Martindale-Hubbell AV® Preeminent Rating
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Maynard, Cooper & Gale P.C.



2022

## H. Thomas's Affiliations and Civic Involvement

### Affiliations

- American Bar Association, President (2008-2009); House of Delegates, Chair (2002-2004); Section of Litigation, Chair (1999-2000); Alabama State Delegate (1992-2001)
- American Bar Foundation, Fellow
- Diversity Law Institute, Elected Member
- Trial Law Institute
- American Law Institute
- Litigation Counsel of America, Fellow
- International Academy of Trial Lawyers, Fellow
- Alabama State Bar
- Inns of Court
- Birmingham Bar Association
- American College of Environmental Lawyers (ACOEL), Fellow
- Law 360, Editorial Board for Environmental Law

### Civic Involvement

- The University of Alabama, Member of President's Cabinet
- Birmingham Metro YMCA, Board of Directors, Chair (2003-2006)
- Shoal Creek, Board of Governors, (2004-2009)

## Bar Admissions

State Bar: Alabama

U.S. District Court: Alabama (Northern, Middle, Southern)

U.S. Court of Appeals: Fifth Circuit, Seventh Circuit, Eleventh Circuit, D.C. Circuit, Armed Forces

U.S. Supreme Court

## Education

- University of Alabama School of Law
  - (1975, J.D, Order of the Coif; Alabama Law Review, Senior Editor; Farrah Order of Jurisprudence)
- Suffolk University
  - (2008, Doctor of Laws, Honorary)
- University of Alabama
  - (1972, B.A, with honors; Phi Beta Kappa)