

## Thomas I. Elkind

### Partner/Retired



Thomas Elkind is a partner and litigation lawyer with Foley & Lardner LLP. Thomas represents clients in the financial, construction and real estate industries in a variety of matters, including public and private construction, development, financing and employment disputes. He has served as chair of the Boston Office Litigation Department and as chair of the Boston Office IP Department and is presently a member of the firm's Construction, Commercial Litigation, Consumer Financial Services, and International Practices. Thomas is also a member of the Technology, Health Care, and Hospitality & Leisure Industry Teams.

Prior to joining Foley, Thomas was a member of the firm Epstein Becker & Green P.C., where he was chairman of the Construction Practice.

Thomas's litigation experience spans all phases of pre-trial motion practice, including injunction proceedings, summary judgment motions, jury and bench trials, and appeals. He has argued successfully before the Massachusetts Supreme Judicial Court in cases involving development rights, mechanics' liens, condominium unit expansion rights and the interpretation of wills and trusts.

Thomas has extensive experience representing clients in construction arbitrations and in the mediation of a wide range of commercial disputes. He also currently serves as an arbitrator on the International Institute for Conflict Prevention & Resolution's Boston ADR Panel. He has served as an arbitrator for the American Arbitration Association and as a mediator in construction cases.

### Representative Experience

- Representation of a supplier of fabricated steel in a dispute involving the defective construction of a major office building in Boston, Mass.
- Representation of a supplier of sophisticated technology in connection with the clean up of Boston Harbor
- Representation of the owner of a defectively constructed multi-family cooperative housing complex in Lincoln, Mass.

- Representation of a condominium trust and unit owners in a claim against an architect for the negligent design of the project bathrooms in Boston, Mass.
- Representation of the owner of a steam generation project in Cambridge, Mass.
- Representation of owners of various residential properties in connection with claims of defective construction
- Representation of architects and engineers accused of negligent design of a variety of construction projects
- Representation of lenders, borrowers and real estate brokers in a variety of cases involving consumer protection claims

### **Awards and Recognition**

Thomas has been Peer Review Rated as AV® Preeminent™, the highest performance rating in Martindale-Hubbell's peer review rating system and has repeatedly been included in the *Massachusetts Super Lawyers®* lists. Only 5% of the lawyers in the state are selected.

### **Affiliations**

Thomas is a member of the Boston Bar Association and was a past chair of the Appellate Committee of its Litigation Section. He also routinely represents indigent tenants in eviction cases and makes contributions to his community. He has been honored by the Volunteer Lawyers Project of the Boston Bar Association for his commitment to the representation of the indigent and has received the Boston Bar Association's President's Award for providing pro bono assistance to victims and small business owners affected by the Boston Marathon bombing. He is a past president and a member of the board of the Newton Commonwealth Foundation (which oversees the management of a municipal golf course); is a past president of the board of directors, and a current member of the board of trustees of the West Suburban YMCA in Newton, Mass.; and has been honored by the Mayor of Newton for his community service.

### **Presentations and Publications**

Thomas often speaks before business and professional groups on topics including alternate dispute resolution, employment, and real estate law. His publications and presentations include:

- "Court Limits Use of Zip Codes in Massachusetts Credit Card Transactions," *CFSL Bulletin*, March 29, 2013
- "Penalties Getting Tougher for Wayward Financial Institutions," *CFSL Bulletin*, February 25, 2013
- "Avoiding and Resolving International Business Disputes," *Foley Executive Briefing Series*, February 1, 2013
- "CFPB Proposes Revisions to Rules on International Money Transfers by Consumers," *CFSL Bulletin*, January 18, 2013
- "Asian Arbitration Options: Which One is Right for You?," *Foley Legal News: Eye on China Quarterly Newsletter*, January 3, 2013
- "National Mortgage Database Formed," *CFSL Bulletin*, December 14, 2012

- “Under Construction,” an interview regarding U.S. construction laws published in the British magazine ACQ, March 2011
- “Reducing Your Exposure to Employment Litigation with Effective Policies and Procedures,” Foley Executive Briefing Series, March 9, 2011
- “Green Construction — Avoiding the Black Holes of Environmentally Friendly Construction Techniques,” Foley Executive Briefing Series, December 16, 2009
- “Micron v. Rambus: Beware the Consequences of Spoliation,” *Foley Legal News: IP Litigation*, April 1, 2009 (*ECommerce* requested permission to re-print)
- “Welcome to the Jungle: A Nursing Home Administrator’s Guide to Litigation and Government Investigations,” The New England Alliance of the American College of Health Care Administrators (ACHCA) Winter New England Regional Conference & Annual Meeting, January 22, 2009
- “Litigation Challenges for Life Sciences Companies — Addressing Your Exposure,” Foley Executive Briefing Series, January 7, 2009
- “Alternatives to Litigation in Resolving Real Estate or Construction Disputes,” *Mass High Tech*, September 10, 2001

## Reported Decisions

- *Federal National Mortgage Association v. Jose Nunez*, 460 Mass. 511 (2011)
- *National Lumber Co. v. United Cas. & Sur. Ins. Co.*, 440 Mass. 723 (2004)
- *National Lumber Co. v. LeFrancois Constr. Corp.*, 430 Mass. 663 (2000)
- *Strauss v. Oyster River Condo. Trust*, 417 Mass. 442 (1994)
- *Von Henneberg v. Generazio*, 403 Mass. 519 (1988)

## Education

- Stanford Law School (J.D., 1976)
  - Member, *Stanford Law Review*
- University of Pennsylvania (B.A., 1972)
  - Phi Beta Kappa
- Completed a course in Green Building and LEED fundamentals presented by The Associated General Contractors of America

## Admissions

- Massachusetts
- New York
- U.S. District Court, District of Massachusetts
- U.S. Court of Appeals for the First Circuit
- U.S. Supreme Court