



Theodore J. Sawicki

Senior Counsel

+1 404 881 7639 | tod.sawicki@alston.com

Atlanta | One Atlantic Center, 1201 West Peachtree Street, Suite 4900 | Atlanta, GA 30309-3424

Charlotte | Vantage South End, 1120 South Tryon Street, Suite 300 | Charlotte, NC 28203-6818

Related Services

Litigation ■ Securities Litigation ■ ERISA Litigation ■ Commercial ■ White Collar, Government & Internal Investigations ■ Investment Products ■ Financial Services Litigation ■ Special Purpose Acquisition Companies (SPACs) ■ M&A Litigation

Tod is a seasoned first-chair trial lawyer with experience in securities, fiduciary, ERISA, and executive and professional liability matters (both civil and criminal) in complex, high-dollar matters across the country. Tod has been lead counsel in court cases and arbitrations in 27 states and Puerto Rico.

Tod is senior counsel in the firm's Securities Litigation Group and is one of the group's leaders in investment, ERISA and fiduciary litigation, arbitration, regulatory counseling, and representation. Tod regularly speaks and writes on the topics of arbitration, securities litigation, and SEC regulatory issues and trends.

Tod traveled to Dubai to present a program on securities enforcement and market oversight along with representatives of the SEC and the Dubai Financial Services Authority. Tod traveled to Croatia as part of a Financial Services Volunteer Corps independent expert assessment team evaluating shareholder rights following that country's privatization effort, and then provided commentary and proposed revisions to the Varazdin, Croatia OTC Market Surveillance and Enforcement Rules.

Tod is listed in the 2015–2024 editions of *The Best Lawyers in America*® for securities litigation.

Representative Experience

- Lead counsel in obtaining a federal civil jury verdict on behalf of eight directors and officers of a failed community bank sued personally by the FDIC for breach of fiduciary duty.
- Lead counsel for an investment adviser and related mutual fund companies in the defense of an ERISA class action alleging prohibited transactions and fiduciary breaches, resulting in poor investment performance.
- Lead counsel in the defense of a state court class action brought on behalf of a public school teacher and employee participants in the state's retirement system alleging fraud on the part of a leading annuity company.
- Lead counsel for a national broker-dealer firm in the defense of a series of FINRA customer arbitration claims alleging that the recommendations of variable annuities and nontraded REITs to early retirees were unsuitable, based on misleading representations, omissions, and constituted breaches of fiduciary duty.
- Lead counsel for a life policy investor claiming \$40 million in policy proceeds in a series of federal court interpleader actions.
- Lead counsel in obtaining an acquittal for an investment adviser charged with six felony counts of investment adviser fraud, false writings, and attempted theft by deception arising out of the operation of an investment program.

- Lead counsel in the defense of a national broker-dealer firm sued in state court by family trusts that suffered \$26 million in losses allegedly caused by a representative's undisclosed activities away from the firm.
- Defended the investment management arm of a major international financial services company accused of securities fraud in connection with the restructuring of a large privately held promotional products company.
- Lead counsel in obtaining a complete defense victory in FINRA arbitration for a wholesale broker-dealer of a major annuity manufacturer in market timing.
- Lead counsel representing a variable annuity distributor in a series of NASD arbitrations alleging fraudulent sales practices.
- Lead counsel for the directors of a large, privately held Florida corporation in defense of a federal court shareholder derivative action alleging mismanagement and improper disregard of minority interests and seeking \$63 million in damages. Obtained complete summary judgment on the eve of the trial.
- Lead counsel for the largest video poker operator in South Carolina in defense of federal RICO claims in two South Carolina federal court trials. Case settled at the end of the second trial.
- Co-lead counsel for a billion-dollar public company in an injunction action against a hostile tender offeror and separately filed shareholder class actions.
- Lead counsel in obtaining judgment as a matter of law for a public company sued for fraud by a rebuffed acquisition target.
- Co-lead counsel defending a publicly traded REIT in a federal securities class action that settled the day before trial due to the dismissal of virtually all of the plaintiff's class claims and exclusion of the plaintiff's purported damages expert under Daubert.
- Lead counsel in several actions for injunctive and declaratory relief in the federal courts of Arizona, California, Colorado, New York, and Virginia on behalf of national broker-dealer firms prohibiting the arbitration of claims brought by investors who never had a formal customer relationship with the client.
- Lead counsel defending an international insurance brokerage against a multimillion-dollar claim arising out of bonding for Venezuelan military contracts. Case settled after the jury trial, with a reversal and remand after appeal.
- Lead counsel for a national broker-dealer/registered investment adviser in a purported class action alleging wrongdoing in connection with an asset allocation program. Defeated the class certification and led the matter toward a settled resolution.
- Lead counsel to a regional broker-dealer in a nationally followed SEC administrative proceeding alleging fraudulent markups in government agency zero coupon bond and municipal bond transactions.
- Lead counsel to an investment adviser in complex litigation involving a Dallas hedge fund regarding alleged misrepresentations about the fund's investment program, improper investments, and misappropriation of fund assets.
- Lead counsel for executive officers in several SEC investigations and enforcement actions including insider trading and accounting restatements.

Publications & Presentations

Publications

- "Bank Director and Officer Liability in FDIC Cases: Implications of the Loudermilk Trial," *Corporate Disputes*, January-March 2017.

- “Minority Shareholder Litigation,” in *Georgia Business Litigation 2016*, ALM Media Properties LLC, July 18, 2015.

Professional & Community Engagement

- National Society of Compliance Professionals, former board member
- Securities Industry and Financial Markets Association
- Georgia Appellate Practice and Educational Resource Center, Inc., board of directors
- State Bar of Georgia
- The Florida Bar
- North Carolina State Bar

Court Admissions

- Middle District of Georgia
- Northern District of Georgia
- Southern District of Georgia
- Middle District of Florida
- U.S. Court of Appeals for the Third Circuit
- U.S. Court of Appeals for the Fourth Circuit
- U.S. Court of Appeals for the Eleventh Circuit

Education

- Emory University (J.D., 1985)
- Duke University (B.A., 1982)

Languages

- French

Admitted to Practice

- Georgia
- Florida
- North Carolina
- U.S. Supreme Court