

FLANAGAN PARTNERS LLP



Thomas M. Flanagan concentrates his practice in complex business litigation and civil appeals in the state and federal courts of Louisiana. Mr. Flanagan has substantial experience in all aspects of commercial litigation, including contract claims, unfair trade practices, corporate and shareholder disputes, RICO claims, antitrust suits, securities claims, and health-care disputes. He is recognized as a seasoned trial lawyer to whom companies and individuals turn in high-stakes litigation. In a recent profile, *Chambers USA* reported on Mr. Flanagan: “His peers commend his advocacy skills. One source stated: ‘*He has a very sincere, likable way about him in front of the jury. He is outstanding*’ Another confirmed that he is ‘*bright, focused and tenacious.*’”

Mr. Flanagan is an Adjunct Associate Professor at Tulane Law School, where he teaches Civil Law Torts; a member of the American Law Institute; and an advocate recognized by *Best Lawyers in America* in, among other areas, bet-the-company litigation.

Mr. Flanagan graduated *magna cum laude* from Georgetown University. He earned his law degree *summa cum laude* at Tulane Law School, where he was first in his graduating class. After law school, he clerked for the Hon. John Minor Wisdom on the United States Court of Appeals for the Fifth Circuit.

Recent First-Chair Jury Experience

- Civil District Court, Orleans Parish (2015). Defense of an apartment-complex owner in this negligence case. After a three-day jury trial, the jury allocated only 15% fault to the defendant.
- Middle District of Louisiana (2012). Defense of the former board chairperson in this First Amendment retaliation case. After a three-day jury trial in the Middle District of Louisiana (Baton Rouge), the district judge granted the defense a judgment as a matter of law and dismissed all claims. The U.S. Fifth Circuit affirmed the ruling.
- Eastern District of Louisiana (2012). Representation of an environmental-remediation company in this \$18 million federal securities-fraud case arising from the Gulf oil spill. The plaintiffs were former investors. After a two-week trial in the Eastern District of Louisiana (New Orleans), the jury rejected the plaintiffs’ claims in their entirety and awarded them nothing. The court then denied the plaintiffs’ motion for a new trial and ordered them to pay the defendants over \$60,000 in court costs. The U.S. Fifth Circuit affirmed the jury’s verdict in its entirety.

Contact Details

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Education

Tulane Law School, J.D., 1989,
summa cum laude

- Order of the Coif
- Articles Editor, *Tulane Law Review*
- Faculty Medal, highest cumulative average

Georgetown University, A.B.,
1986, *magna cum laude*

Judicial Clerkship

Hon. John Minor Wisdom, U.S.
Fifth Circuit Court of Appeals,
1989-90

News & Recognition

- Best Lawyers in America, Appellate Practice (2008–18), Commercial Litigation (2013–18), Bet-the-Company Litigation (2015–2018)
- Best Lawyers in America, New Orleans Appellate Practice “Lawyer of the Year” (2018) (also in 2015)
- Profiled in Chambers USA, Louisiana General Commercial Litigation (2014–17)
- Top 50, Louisiana Super Lawyers® (2009–17)
- Top 50, New Orleans Super Lawyers® (2013–17)
- Litigation Star, Louisiana, Benchmark Litigation (2016–17)
- Recipient, Arceneaux Professionalism Award from the New Orleans Bar Association (2017)

- Civil District Court, Orleans Parish (2010). Representation of the plaintiff in this multi-million-dollar business dispute against a large bank. After a five-day jury trial and a verdict, the case settled on confidential terms.
- Civil District Court, Orleans Parish (2009). Representing local information-technology companies against developers/manufacturers of crime-camera technology. In this high-profile trade secrets/trade practices case, Mr. Flanagan took the lead role in challenging the plaintiffs' trade-secrets claim, which the jury rejected entirely.

Recent Appellate Experience

- Louisiana Supreme Court (2017). Serving as co-counsel for the petitioner in a *res nova* matter concerning revised tax-sale legislation, successfully obtained the reversal of an unfavorable appellate-court ruling.
- Louisiana First Circuit Court of Appeal (2017). Representing the defendant/appellant in this personal-injury matter, obtained the complete reversal of one claim and a 60% reduction in damages awarded for a second claim.
- Louisiana First Circuit Court of Appeal (2016). Representing the defendant/appellant, obtained the complete reversal of a precedent-settling award under the Louisiana Unfair Trade Practice and Consumer Protection Act.
- Louisiana Supreme Court (2014). Representing the petitioner in an oil-and-gas dispute, obtained the reversal in part of a large judgment based on an option agreement and the resuscitation of the petitioner's reconventional demand against the respondents.
- Louisiana Supreme Court (2014). Representing a plaintiff in a putative class action against a major health insurer, enrolled after the Louisiana Supreme Court granted the insurer's writ application and docketed the case for full review. After oral argument, prevailed in a 5-2 ruling that allowed the insured to sue the health insurer for contract liability arising from an in-network provider's balance-billing.
- U.S. Fifth Circuit Court of Appeals (2014). Representing a national title insurer, successfully won on summary judgment the dismissal of a venture-capital firm's claim against the title insurer for reimbursement of a \$10 million loan balance. The Fifth Circuit unanimously affirmed the judgment.
- Louisiana Fourth Circuit Court of Appeal (2014). Representing an injured plaintiff on appeal, defended the lower court's award of \$4.66 million in damages. The appellate court unanimously affirmed appellee.
- Louisiana Supreme Court (2012). Representing a public utility company post-judgment in a case of first impression, obtained a unanimous reversal by the Supreme Court of a lower-court opinion construing the Overhead Power Line Safety Act, La. R.S. 45:141-146, in a manner adverse to utility companies' interests.
- U.S. Fifth Circuit Court of Appeals (2011). Enrolling on appeal to represent the plaintiff, successfully petitioned the Fifth Circuit to reverse a summary judgment dismissing a \$4 million property-damage claim.
- Louisiana Supreme Court (2010). Representing the defendant subsidiary before the Supreme Court in a serious personal-injury case, successfully defended a divided appeals-court decision dismissing the plaintiff's case.

Other Recent Engagements

- Representing hospitals in litigation, against a major health insurer, seeking compensation for tens of millions of dollars in underpayments for medical services.
- Representing a closely held firm against claims alleging trade-secret violations and tortious interference with the development of a petrochemical facility.
- Representing businesses accused of violating state antitrust laws and federal RICO statutes and resisting alleged damages exceeding \$200 million.
- Representing the majority shareholder/officer/director of a real estate holding company in a suit alleging breach of fiduciary duty.
- Representing an oilfield-service company in litigation against investors who breached a promise to acquire the company and related assets.
- Representing, as appellate counsel, an independent mineral-exploration company ordered to pay millions in contract-based damages.
- Representing a law firm in a contractual dispute over a multi-million-dollar legal fee.
- Representing, as local counsel, a national manufacturer of swimming-pool products in multi-district litigation in which the plaintiffs allege antitrust violations.
- Representing a public university in high-profile litigation in which the plaintiffs seek to impose liability on the school for the consequences of off-campus, prohibited hazing activities.

- Representing, as appellate counsel, a Fortune 500 Company in multiple challenges to seven-figure personal-injury judgments.

Professional Affiliations

- Tulane Law School, Adjunct Associate Professor of Law teaching Civil Law Torts
- Member, American Law Institute
- Member, Tulane Law Review Board of Advisory Editors
- Member, Board of Governors of the Bar Association of the Fifth Federal Circuit
- Director, New Orleans Bar Association
- President, Federal Bar Association—New Orleans Chapter (2004–05)
- Member, Louisiana State, Federal, and New Orleans Bar Associations
- Member, House of Delegates, Louisiana State Bar Association (2001–07)
- Director, St. Thomas More Catholic Lawyers Association (2003–07)
- Assistant Bar Examiner, Business Entities and Negotiable Instruments (2001–13)
- Director, Tulane/Canal Neighborhood Development Corporation (2000–17)
- Member, Louisiana Board of Legal Specialization, Appellate Practice Advisory Commission
- Co-chair, Louisiana State Bar Association Continuing Legal Education Program Committee
- Chair, LSBA Advanced Appellate Practice Seminar (2015, 2017)
- Chair, New Orleans Bar Association Complex Litigation Committee

Representative Cases

- *Central Properties v. Fairway Gardenhomes, LLC*, et al, 2017 WL 2837152 (La. 2017)
- *Krieger v. USDT Properties/Mutual of Omaha Bank*, 199 So. 3d 1194 (La. App. 1st Cir. 2016)
- *Blanks v. Entergy Gulf States LA, LLC*, 189 So. 3d 599 (La. App. 3d Cir. 2016)
- *Slaughter v. Board of Supervisors of Southern University and Agricultural and Mechanical College*, 197 So. 3d 165 (La. App. 1st Cir. 2016)
- *Chatman v. Southern University*, 197 So. 3d 366 (La. App. 4th Cir. 2016)
- *Olympia Minerals, LLC v. HS Resources, Inc.*, 171 So. 3d 878 (La. 2014)
- *Emigh v. West Calcasieu Cameron Hosp.*, 145 So. 3d 369 (La. 2014)
- *In re West Feliciana Acquisition, L.L.C.*, 744 F.3d 352 (5th Cir. 2014)
- *Sabillon v. Max Specialty Ins. Co.*, 137 So. 3d 707 (La. App. 4th Cir. 2014)
- *Moreno v. Entergy Corp.*, 105 So. 3d 40 (La. 2012)
- *Contogouris v. WestPac Resources, LLC*, 2012 WL 3017521 (La. 2012)
- *C.R. Pittman Construction Co. v. National Fire Insurance Co. of Hartford*, 453 Fed. Appx. 439 (5th Cir. 2011)
- *Moreno v. Entergy Corp.*, 62 So. 3d 704 (La. 2011)
- *Dean v. Entergy Louisiana, LLC*, 2010-887 (La. App. 5th Cir. 2010)
- *Rainey v. Entergy Gulf States, Inc.*, 35 So. 3d 215 (La. 2010)
- *Stone v. Entergy Services, Inc.*, 9 So. 3d 193 (La. App. 4th Cir. 2009)
- *Benefit Recovery, Inc. v. Donelon*, 521 F.3d 326 (5th Cir. 2008)
- *Neikirk v. Resource Management, Inc.*, 983 So. 2d 106 (La. App. 5th Cir. 2008)
- *In re Crutcher-Tufts Resources, Inc.*, 504 F.3d 535 (5th Cir. 2007)
- *Abraham v. Richland Parish Hosp. Serv. Dist. I-B*, 938 So. 2d 1163 (La. App. 2d Cir. 2006), *writ denied*, 948 So. 2d 124 (La. 2007)
- *Louisiana Health Service & Indemnity Co. v. Rapides Healthcare System*, 461 F.3d 529 (5th Cir. 2006)
- *Whitley v. Regional Transit Authority*, 913 So. 2d 169 (La. App. 4th Cir. 2005)
- *Crutcher v. Tufts*, 898 So. 2d 529 (La. App. 4th Cir. 2005)
- *BizCapital Business & Industrial Development Corp. v. Union Planters Corp.*, 884 So. 2d 623 (La. App. 4th Cir. 2004), *writ denied*, 889 So. 2d 267 (La. 2005)
- *In re Tufts Oil and Gas-III*, 871 So. 2d 476 (La. App. 5th Cir. 2004)
- *Royal Street Grocery, Inc. v. Entergy New Orleans, Inc.*, 811 So. 2d 120 (La. App. 4th Cir. 2002)

Representative Cases

- *In re Transit Management of Southeast Louisiana, Inc.*, 311 N.L.R.B. 30 (2000)
- *Thornton v. General Motors Corp.*, 136 F.3d 450 (5th Cir. 1998)
- *Production Supply Co. v. Fry Steel, Inc.*, 74 F.3d 76 (5th Cir. 1996)
- *Acme Refrigeration Supplies, Inc. v. Acme Refrigeration of Baton Rouge*, 961 F. Supp. 936 (E.D. La. 1996)
- *Diez v. Daigle*, 686 So. 2d 966 (La. App. 4th Cir. 1996)
- *IP Timberlands Operating Co., Ltd. v. Denmiss Corp.*, 657 So. 2d 282 (La. App. 1st Cir. 1995)
- *Fayard v. Landry*, 651 So. 2d 1370 (La. App. 5th Cir. 1995)
- *United States v. Cavin*, 39 F.3d 1299 (5th Cir. 1994)