



## Thomas G. Rohback

Partner

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### PRACTICE AREAS

Litigation

### EDUCATION

JD – Columbia University Law School (1978) Honors: Harlan Fiske Stone Scholar.

MA – Columbia University (1974)

BA, summa cum laude – Union College (1973) Honors: Nott Scholar. Phi Beta Kappa

### ADMISSIONS

New York

Pennsylvania

Connecticut

US Supreme Court

US Court of Appeals for the First Circuit

US Court of Appeals for the Second Circuit

US Court of Appeals for the Third Circuit

US Court of Appeals for the Sixth Circuit

US Court of Appeals for the Seventh Circuit

### PROFILE

Thomas Rohback is an experienced trial, appellate and class action lawyer, who was profiled by *The National Law Journal* among a group of "successful business litigators in the U.S. who used innovative tactics to help them win major trial victories." *Chambers USA* described him as "a first-class trial lawyer...and a brilliant cross-examiner." He has in-depth experience of trial and appellate litigation, and class actions throughout the USA. He has also been praised in *Chambers USA* as being "great at simplifying complex matters for a jury." During one year, Tom tried three federal court jury cases in a three-month period and obtained a directed verdict in each case.

Throughout the United States, Tom's cases have involved diverse areas of the law ranging from antitrust to anti-terrorism litigation. The industries in which he has represented clients include manufacturing, financial services, insurance, utilities and telecommunications.

### PROFESSIONAL ACTIVITIES

- American Bar Association, Sections of Antitrust and Litigation Law
- Connecticut Bar Association

### EXPERIENCE

#### Representative Cases Tried to Verdict:

- Successfully tried to verdict one of the very few class action cases ever to have gone to trial. This case involved allegations of unfair trade practices in which the plaintiff class claimed over \$100 million in compensatory damages and over \$300 million in punitive damages. In

US Court of Appeals for the Eighth Circuit

US Court of Appeals for the Eleventh Circuit

US District Court District of Connecticut

US District Court Northern District of Illinois

US District Court Eastern District of Michigan

US District Court Eastern District of New York

US District Court Northern District of New York

US District Court Southern District of New York

US District Court Western District of New York

US District Court Eastern District of Pennsylvania

US District Court Western District of Pennsylvania

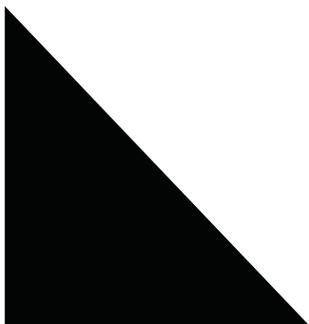
US District Court Eastern District of Tennessee

addition, plaintiffs sought to close down the defendant insurance company's entire "direct repair" program. Axinn was brought in as substitute counsel to try this class action after the class had been certified, and after class certification was affirmed on interlocutory appeal. After jury selection and trial lasting two months, the jury rejected almost all of plaintiffs' claims and awarded plaintiffs less than \$15 million. On appeal, the Connecticut Supreme Court unanimously reversed the trial judge's failure to award Axinn's client judgment notwithstanding the verdict on that claim, and directed the trial court to enter judgment for the client.

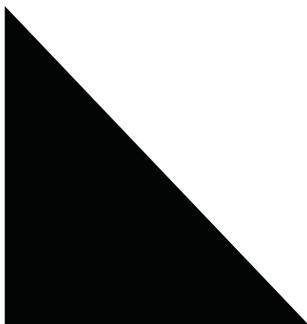
- Won a New York State Court jury verdict rejecting multimillion dollar claims of breach of fiduciary duties by directors and officers. Affirmed on appeal.
- Won a \$40,000,000 (SDNY) verdict in favor of bankruptcy trustee involving privately held corporation for breaches of fiduciary duties by directors and officers.
- Won a jury verdict (E.D. Pa.) rejecting claims of age and sex discrimination involving a failure to promote and subsequent discharge of top sales person.
- Won a jury verdict in state court in West Virginia on behalf of insurance company voiding life insurance policy for the deceased wife and mother of two West Virginia residents.
- Won a jury verdict (S.D. Ind.) rejecting claims for breach of contract involving oil and gas exploration, and awarding damages on counterclaim for fraud; aff'd 7<sup>th</sup> Cir.

#### Representative Dispositive Motions:

- Defeated motions for summary judgment (D. Maine) in case alleging tortious interference and breach of contract involving the raid on a company's entire work force in the field of energy conservation. Before reaching this stage, defendant had moved (unsuccessfully) to dismiss the case based on an arbitration provision. That issue was appealed to the 1st Circuit, where we won an affirmance. Subsequently, the District Court denied Defendant's motion for summary judgment. Faced with a jury trial and a demand for punitive damages based on allegations of raiding an entire work force, the defendant settled the case for a large dollar amount on the eve of trial on September 2, 2009.



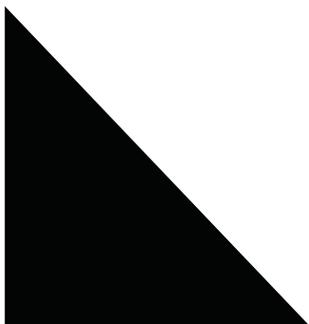
- Obtained dismissal of \$100,000,000 (D. Mass) claim in putative class action involving short sellers' attempts to manipulate securities prices through derogatory postings on defendant's Internet message board; aff'd 1<sup>st</sup> Cir.
- Obtained decision from 11th Circuit reversing dismissal and reinstating claims for theft of proprietary airplane tooling blueprints. The case settled promptly on remand.
- Obtained dismissal of \$112,000,000 (SDNY) claim of alleged tortious interference involving a disputed software licensing and hosting agreement.
- Defeated State of Connecticut's claims for temporary injunction to prevent State's office buildings from being deprived of heat and air conditioning in multi-million dollar action. The State's emergency appeals to the Appellate Court and the Connecticut Supreme Court were dismissed.
- Obtained (SDNY) dismissal of multimillion dollar breach of contract and breach of fiduciary duty claims for lack of personal jurisdiction; aff'd 2 Cir.
- Obtained (D. N.J.) dismissal of multimillion dollar claims for breach of contract involving the willful discontinuance of Internet service. This decision was affirmed by the 3rd Circuit Court of Appeals; rehearing en banc was denied.
- Won summary judgment for Time Warner Telecom which had entered into a ruinous contract that was causing it to lose \$2 million a month. After defeating plaintiff's motion for a TRO seeking to prevent Time Warner Telecom from stopping service, the parties submitted cross-motions for summary judgment. The court (SDNY) granted Time Warner's motion and dismissed plaintiff's multi-million dollar complaint. In its lengthy, published opinion, the court also denied the plaintiff's cross motion for summary judgment, thereby allowing Time Warner to proceed to trial on its counterclaims against the plaintiff.
- Defeated Goodrich's motion for summary judgment; won cross-motion (N.D. Ohio); when court of appeals determined contract was ambiguous, Goodrich collapsed in the face of a jury trial having argued unsuccessfully that its contract was so clear as to eliminate the need for any trial.



- Successfully defended application of out-of-state statute in New Jersey (D.N.J.) in face of challenges under Commerce Clause, Contract Clause, and Due Process Clause.

Representative Class Actions:

- Obtained permission from Eleventh Circuit Court of Appeals to take interlocutory appeal pursuant to Federal Rule 23(f) of district court's order granting class certification after predecessor firm briefed unsuccessful opposition to class certification; successfully argued motion before Judicial Panel on Multidistrict Litigation to consolidate eight class actions alleging Mead Johnson engaged in false advertising.
- Represented Travelers in multi-defendant putative class action involving New Mexico insurance law compliance issues. Defeated challenge to CAFA jurisdiction, won a 55-page decision dismissing Complaint against Travelers.
- Represented Hartford Underwriters Ins. Co. in successful motion to dismiss class action where class representatives were found to lack standing regarding claims that defendant insurance companies unfairly denied full payment for medical expenses.
- Negotiated phone card settlement of four putative class actions brought by purchasers of cell phone insurance against Asurion and cellular phone service providers, including Verizon, Spring, and Cellular One, and served as lead counsel for the defendants in the settlement, which included approximately 40 million class members.
- Won dismissal of three consolidated class actions brought by subscribers in Pennsylvania, challenging the company's late fee policy under Voluntary Payment Doctrine.
- Won summary judgment in three consolidated putative class actions in Vermont based on the Filed Rate Doctrine despite a previous order from the Vermont Public Service Board which held that Adelphia's late fees were "unlawful" and found that Adelphia's late fees had never been approved by the Public Service Board.
- Defeated class certification in two putative class actions, with plaintiffs represented by Los Angeles' "Trial Lawyer of the Year," seeking \$160 million in damages for violations of California consumer protection laws, where court found each of seven named class representatives to be an



inadequate class representative.

Representative Arbitrations:

- Represented Airbus as claimant in confidential ICC Arbitration seated in Geneva, Switzerland. Confidential award issued in favor of Airbus after one week of hearings in New York.
- Successfully defended subsidiary of Energy East in confidential AAA Arbitration. All discovery and hearings occurred within one month from the appointment of arbitrator.
- Successfully defended clients against claims of diversion of corporate opportunity involving independent power projects to be built in Gaza and Yemen (with some witnesses testifying via video teleconference).
- Defeated claims by disgruntled joint venture partner for breach of exclusivity provisions of software licensing agreement concerning patented software involving collection and subrogation.

## HONORS

- Senior Fellow of Litigation Counsel of America, The Trial Lawyer Honorary Society
- *Connecticut Law Tribune*, Professional Excellence Award (2016)
- *National Law Journal* "Winning" Litigator (2011)
- *Chambers USA* – Connecticut: Litigation (2005 – 2021)
- *Super Lawyers* (2006, 2009 – 2019)

