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Michael P. Flammia

MEMBER
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Mike Flammia focuses his practice in business litigation, regulatory litigation, grand jury investigations and other criminal matters, employment, insurance defense, insurance coverage, education law, and complex personal injury litigation, including medical malpractice. Mike defends and advises individuals and businesses on complex business disputes and government investigations, including U.S. Department of Justice, and attorney general investigations. Mike is a seasoned litigator with substantial trial, appellate and alternative dispute resolution experience.

REPRESENTATIVE MATTERS

- Argued before the Massachusetts Supreme Judicial Court and obtained a unanimous 70-page opinion affirming a successful trial court result protecting a client's treatment program from government bad faith conduct. *Judge Rotenberg Educ. Ctr., Inc. v. Comm'r of Dep't of Developmental Servs.*, 492 Mass. 772 (2023).
- Argued before the U.S. Court of Appeals for the District of Columbia Circuit, and successfully vacated a device ban promulgated by the U.S. Food and Drug Administration. *Judge Rotenberg Educ. Ctr., Inc. v. FDA*, 3 F.4th 390 (D.C .Cir. 2021); *Judge Rotenberg Educ. Ctr., Inc. v. FDA*, No. 20-1087 (D.C. Cir. Nov. 22, 2021) (order denying petition for rehearing en banc).
- Lead trial attorney in a forty-four day trial against the Commonwealth of Massachusetts and the Massachusetts Attorney General's Office, defeating the Commonwealth's attempt to vacate a Consent Decree that protects a residential education and treatment program and its clients from government bad faith. *Judge Rotenberg Educ. Ctr., Inc., et al. v. Comm'r of the Dep't of Dev. Servs., et al.*, No. 86E-0018-GI (Mass. Prob. Ct. June 20, 2018).
- Successfully obtained a preliminary injunction in U.S. District Court requiring the Washington, D.C. Department on Disability Services to immediately remove a client from a psychiatric hospital and place him in a community-based program. Secured permanent funding for the client in a community-based program.
- Successfully defended clients in investigations conducted by the U.S. Department of Justice, Massachusetts Attorney General, U.S. Food and Drug Administration, Massachusetts Division of

PRACTICE AREAS:

Litigation

Commercial Litigation

Education

STATE ADMISSIONS:

Massachusetts

New York

COURT ADMISSIONS:

Supreme Court of the United States

U.S. Court of Appeals for the First Circuit

U.S. Court of Appeals for the Second Circuit

U.S. Court of Appeals for the District of Columbia Circuit

U.S. District Court for the District of Massachusetts

U.S. District Court for the Northern District of New York

U.S. District Court for the District of Columbia

EDUCATION:

J.D., Boston University School of Law, 1988, *cum laude*

B.A., Boston University, 1985, *cum laude*

Occupational Licensure, Massachusetts Department of Children and Families, Massachusetts Department of Developmental Disabilities, Massachusetts Disabled Persons Protection Commission, and many other federal and state agencies.

- Lead trial attorney in a four-week trial against the Massachusetts Attorney General's Office successfully resulting in contempt findings against the Commonwealth of Massachusetts and a court order placing a state agency into receivership for the first time in Massachusetts history. Successfully defended the contempt and receivership judgment in the state's appeal to the Massachusetts Supreme Judicial Court. *Judge Rotenberg Educ. Ctr., Inc. v. Comm'r of Dep't of Mental Retardation*, No. 86E-0018-GI (Mass. Super. Ct. Oct. 6, 1995).
- Advises hundreds of businesses on regulatory compliance, employment matters, business disputes, crisis management, media relations, subpoenas, leases, licenses, permitting, and many other business-related legal issues.
- Advises nonprofits on governance, regulatory compliance, medicolegal issues, legislative issues, ADA protection, insurance issues, and malpractice defense.
- Lead trial counsel in defending a bank in a lender liability case resulting in a judgment of dismissal of all claims against the bank.
- Successfully obtained a preliminary injunction in U.S. District Court against a state education agency prohibiting it from enforcing its new regulation against clients consisting of over 50 families with special needs children. *Alleyne v. New York Dep't of Educ.*, 2006 WL 8452655 (N.D.N.Y. Sept. 8, 2006)
- Successfully represents health care institutions and human services programs in collecting large receivables from governmental agencies for services rendered.
- Court appointed to represent a wealthy incompetent individual suffering from Alzheimer's, and after a two-week trial as lead counsel successfully recovered all of the client's assets which she conveyed prior to her guardianship.
- Lead trial attorney in a four-week trial resulting in freeing a foreign woman being abused and exploited by a prominent clergyman. Successfully prosecuted civil claims against the clergyman resulting in recovering his assets as compensation for damages.
- Lead trial attorney in hundreds of court evidentiary hearings, successfully representing a treatment program including issues of competency and treatment needs.
- Successfully defended many clients against grand jury investigations and criminal charges including capital crimes, abuse, obstruction of justice, health care fraud, and OUI.
- Successfully defended doctors in malpractice cases.
- Successfully defended insurance companies in coverage cases and successfully prosecuted declaratory judgment actions on behalf of insurance companies with coverage disputes.
- Successfully prosecuted claims against a heating system installer resulting in a multimillion-dollar recovery for the client, a church that had burned to the ground.
- Successfully defended employers in claims filed with the

Massachusetts Commission Against Discrimination.

- Represents banks and businesses on debt collection and workouts.
- Advises schools and parents on education and special education law, licensing, approvals, regulatory compliance, IDEA issues, and rate setting.
- Represents clients in probate court on guardianship hearings, competency hearings, extraordinary treatment/substitute judgment hearings, and trust and estates litigation.

PROFESSIONAL AFFILIATIONS

- American Bar Association
- Massachusetts Association of Criminal Defense Lawyers

COMMUNITY INVOLVEMENT

- The New England Council, Member of the Board of Directors (2018 – Present)
- Vesper Country Club, Member of the Executive Committee (2017 – 2019)
- Bridgewell, Inc., Member of the Board of Directors. Bridgewell, Inc. is a major provider of residential services, employment services, and clinical services to individuals with disabilities in Massachusetts (2011-2017)
- Board Member Reading, MA Community Planning and Development Commission (1996-2004)

AWARDS AND RECOGNITION

- Selected for inclusion as The Best Lawyers in America 2023 – 2027 for Commercial Litigation
- Selected for inclusion in The Legal 500 Boston City Elite rankings (Commercial Litigation) 2026
- Attained an AV® Preeminent™ rating from Martindale-Hubbell

NEWS AND INSIGHTS

MEDIA COVERAGE

- Frequently interviewed by various media outlets including The New York Times, New York Daily News, The Boston Globe, Boston Herald, Boston Business Journal, ABA Journal, The Patriot Ledger, Anderson Cooper 360, Fox News, Anderson Live, Emily Rooney Show, and National Public Radio.
- "DC Circ. Tosses FDA's Electric Shock Harnesses Ban," Law360. July 2021.
- Allie Reed, *Use of Electric Shocks on Disabled People Upheld by Court (2)*, BLOOMBERG LAW (September 7, 2023).

SPEAKING ENGAGEMENTS

- American Bar Association Conference, Lecturer
- Massachusetts Continuing Legal Education, Lecturer