

# Tate Hemingson

## Member

**Tate Hemingson** regularly guides clients through pre-suit demands and negotiations, injunctive relief, trials, enforcement and collection of judgments, and appeals, always keeping in focus the client's best interests and objectives.

Tate is an experienced litigator as both plaintiff and defense counsel. He also advises on complex procedural and legal issues at the trial level and also conducts appeals before both state and federal appellate courts.

Tate represents a variety of clients - multi-national corporations, closely-held companies, financial institutions, landlords and tenants, and individuals - in a broad range of business, contractual, franchise, and real estate matters, as well as business torts. In addition to general business disputes, he frequently assists financial institutions in enforcing commercial loans, collecting foreclosure deficiencies, and defending foreclosure rights. He also guides clients on disputes involving real property, including assisting landlords and tenants with lease disputes and other property issues.

### Experience

#### Commercial Litigation Matters

- Represented multinational manufacturer in breach of contract and business tort dispute with former representative.
- Defended national department-store chain against various types of claims, from personal injury to employment-related disputes.
- Obtained temporary restraining order requiring turnover of important documents and information related to a breach of contract.
- Represented national importer and distributor in a complicated case involving competing claims of breach of contract, fraud, and tortious interference stemming from dispute over multi-year import agreement.
- Represented various businesses and individuals in prosecuting and defending against breach of contract and business tort claims.
- Prepared expert reports on the recoverability and reasonableness of attorney's fees for both plaintiff and defense.
- Pursued multiple garnishment actions and judgment collection against debtors.

#### Financial Litigation Matters

- Represented multiple financial institutions in both state and federal courts to enforce commercial loans and guaranties and collect post-foreclosure deficiencies from borrowers and guarantors, with particular experience in Texas' anti-deficiency statute obtaining favorable settlements and judgments.
- Oversaw pursuit of defaulted borrowers in guarantors in out-of-state actions, including foreclosure and other remedies.
- Obtained \$1.7 million summary judgment in federal court against borrower and guarantor for recovery of post-foreclosure deficiencies following default on commercial loans, successfully defending against multiple counterclaims and defenses raised by borrower and guarantor.
- Defended financial institutions against injunctive relief sought by borrowers to prevent foreclosure. Represented banks in multiple garnishment actions to ensure legal compliance and protect bank's interests.

#### Franchise Matters

- Pursued claims against franchisor for deceptive trade practices and representations in sale of franchise.
- Defended multi-national corporation against claims of wrongful termination of franchise agreement following an acquisition of competitor.
- Second-chaired defense of national health-care industry franchisor in multi-week arbitration against franchisee claims of territory interference and breach of the franchise agreement, obtaining satisfactory result for franchisor.
- Counseled multi-unit franchisee of national franchisor with negotiating terms of area development agreement, store leases, and modifications and amendments to franchise agreements.



### Office

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### Education

J.D., Southern Methodist University, Dedman School of Law, Dallas, Texas, 2011, SMU Law Review Association, Executive Board Member; Journal of Air Law and Commerce, Managing Editor  
Ph.D., University of Wisconsin, Madison, Wisconsin, 2008, Classics  
M.A., University of Oregon, Eugene, Oregon, 2004  
B.A., The University of Texas at Austin, Austin, Texas, 2001

### State Bar Licenses

Texas

### Court Admissions

U.S. District Ct., E.D. of Texas  
U.S. District Ct., N.D. of Texas  
U.S. District Ct., S.D. of Texas  
U.S. District Ct., W.D. of Texas  
U.S. Court of Federal Claims  
U.S. Court of Appeals, 5th Circuit

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## Real Estate and Retail Matters

- Represented national shopping center owner in lease enforcement actions and advised on other lease disputes.
- Represented landlords and tenants in disputes over lease terms, compliance, and allowed usage, seeking business-oriented solutions where possible.
- Pursued commercial and residential eviction actions against defaulted tenants.
- Represented oil and gas company in post-acquisition dispute over conveyance of interests in hundreds of wells.
- Represented real estate buyers and sellers against claims for misrepresentation and Deceptive Trade Practice Act violations.

## Appellate Matters

- Secured reversal of temporary injunction preventing property owner's specific use of property. *4415 W Lovers Lane, LLC v. Stanton*, 05-17-01363-CV, 2018 WL 3387384 (Tex. App.—Dallas July 12, 2018, no pet.)
- Drafted appellate briefs on issues of untimely disclosure of expert witnesses and factual and legal sufficiency of damages.
- Drafted brief successfully defending arbitration award from attack on multiple grounds. *Infinity Capital II, LLC v. Strasburger & Price, LLP*, No. 01-15-00691-CV, 2016 Tex. App. LEXIS 8673 (Tex. App.-Houston [1st Dist.] Aug. 11, 2016, pet. denied).
- Drafted appellee brief successfully defending grant of final summary judgment by state trial court. *TCI Luna Ventures, LLC v. Branch Banking & Trust Co.*, No. 05-13-01221, 2015 Tex. App. LEXIS 9078 (Tex. App.-Dallas Aug. 27, 2015).
- Co-writer of brief in successful appeal before the Fifth Circuit Court of Appeals reversing dismissal of suit for lack of subject matter jurisdiction for banking client. *Eagle TX I SPE, LLC v. Sharif & Munir Enterprises, Inc. et al.*, No. 14-10353, 2015 U.S. App. LEXIS 2816 (5th Cir. February 23, 2015).
- Successfully defended dismissal of breach of contract claim against pastor on First Amendment grounds. *Reese v. Gen. Assembly of Faith Cumberland Presbyterian Church in Am.*, 425 S.W.3d 625 (Tex. App.-Dallas 2014, no pet.).
- Secured reversal of temporary injunction preventing bank foreclosure of commercial properties. *Branch Banking & Trust Co. v. TCI Luna Ventures, LLC*, No. 05-12-00653-CV, 2013 Tex. App. LEXIS 4538, 2013 WL 1456651 (Tex. App.-Dallas Apr. 9, 2013).

## Practices, Industries & Services

Franchise & Licensing  
Litigation  
Real Estate

## Areas of Emphasis

Appellate  
Business Litigation  
Commercial Litigation  
Financial Services Litigation  
Foreclosures, Loan Modifications and Lender's Remedies

## Memberships

- Dallas Bar Association, Franchise & Distribution Section, Chair (2016), Litigation Section, Appellate Section
- Lake Highlands Exchange Club, Member

## Honors

- Named among Texas Super Lawyers Rising Stars by Thompson and Reuters (2016-2021)

## Presentations

- Presenter, "Case Law Update" Housing Authorities of Texas Symposium, Clark Hill (November 2020)

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- Presenter, "Recent Rules and Court Decisions Impacting Public Housing," Housing Authorities of Texas Symposium, Clark Hill Strasburger (November 2018)
  - Co-presenter. "Recent Developments in Franchise Case Law," Dallas Bar Association's Franchise and Distribution Section (February 2017)