SpencerFane®

Michael R. MacPhail

Partner

Contact

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Overview

Michael MacPhail represents securities industry clients in a variety of high-stakes disputes in which he defends their business and reputational interests and mitigates their potential legal exposure. His clients include publicly traded corporations and their boards of directors, investment advisors, broker-dealers, transfer agents, accounting firms, law firms, licensed individuals, and shareholders. Mike handles disputes involving civil and criminal investigations, enforcement actions, and private litigation. He also represents clients in parallel criminal investigations by federal grand juries, U.S. Attorney's Offices, and the U.S. Department of Justice.

Backed by more than three decades of experience in securities regulation and enforcement, including 13 years of experience as a U.S. Securities and Exchange Commission (SEC) enforcement attorney, Mike frequently pursues securities litigation before the SEC, Financial Industry Regulatory Authority (FINRA), Public Company Accounting Oversight Board (PCAOB), Colorado Division of Securities, Colorado Board of Accountancy, and other state securities regulators throughout the Western U.S. He investigated possible violations of federal securities laws in his former SEC enforcement role and eventually served as a branch chief, then as deputy assistant director with supervisory authority over a team of accountants, attorneys, and paralegals.

Within his current shareholder and cryptocurrency dispute practice, Mike defends corporations, officers, and directors against claims by shareholders, including claims brought as putative class actions or as derivative claims, including those brought under Section 10(b) of the Securities Exchange Act of 1934 and state "blue sky" laws. He has particular experience in prosecuting or defending statutory or common law claims involving alleged fraud, fraudulent concealment, and breach of fiduciary duty and has represented several cryptocurrency companies in private disputes involving, among other things, short-selling and disclosure issues.

Mike also represents clients in disputes concerning advertising, consumer lending, mortgage foreclosures, debt collection and management, and franchisee issues. During these disputes, he deals directly with the Federal Trade Commission (FTC), the Commodity Futures Trading Commission (CFTC), the Colorado Department of Regulatory Agencies (DORA), and the Colorado Attorney General's Office.

Additionally, Mike has specialized experience defending publicly held companies and their officers and directors, broker-dealers and investment advisers, and accounting firms and CPAs during government investigations. He responds to pre-litigation subpoenas, prepares clients for testimony, and Wells Notices of intended charges.

Early in his career, Mike worked as a staff attorney for the U.S. Court of Appeals for the D.C. Circuit, where he advised panels of judges including current U.S. Supreme Court Justice Clarence Thomas and the late Justice Ruth Bader Ginsburg.

Education

- University of California Hastings College of the Law, 1988 (J.D.)
- Oberlin College, 1985 (B.A.), *cum laude*

Bar Admissions

- Colorado

Court Admissions

- U.S. Court of Appeals for the District of Columbia
- U.S. District Court for the District of Colorado

Community Involvement

- Denver Rotary Club Foundation, President, 2022-2023

Distinctions

- *Best Lawyers in America*, Litigation – Banking and Finance, 2023, 2027; Securities Regulation, 2027
- *Colorado Super Lawyers,* Securities Litigation, 2012-2025
- *Securities Docket*, Enforcement Elite, 2024-2026

Memberships

- Colorado State Bar Association, Securities Subsection

Presentations and Publications

- "FDA-SEC Issues Memorandum of Understanding. How Does this Change their Information Sharing and What Does the Future Hold for Life Science Companies?," *AZBio*, October 2026
- "Protecting Your Book and License: RIA Risk Mitigation Strategies," Spencer Fane Webinar, October 2026
- "Juggling Compliance Risks – Maintaining the Balance," Private Fund Forum, The National Society of Compliance Professionals, Denver, April 2016

Related Experience

- Represented a NYSE-listed public company in an SEC investigation of suspected insider trading / "tipping" by a former executive.

- Led internal investigation for the board of a NYSE-listed public company involving an SEC investigation of false statements involving its customer.
- Defended a large privately held construction company and publicly traded medical device company in SEC investigations of alleged accounting improprieties by customers acting as the clients' counterparties, resulting in the SEC asserting no claims against the clients.
- Represented a Fortune 50 public company in SEC investigation of its financial restatement, resulting in a favorable settlement.
- Defended investment advisory firm in SEC investigation of alleged fee overcharges and accompanying inadequate disclosures, resulting in a favorable settlement.