

Timothy J. Thalken

Partner

402.978.5285

tthalken@fraserstryker.com



As a trial attorney with over 20 years of experience, Tim Thalken regularly represents clients involved in commercial disputes, negligence claims, insurance litigation, and claims brought under Section 1983 and ERISA. He also routinely handles regulatory investigations and appeals regarding tax assessments.

Tim's extensive trial, arbitration, administrative, and appellate experience includes:

- Successfully defending the constitutionality of Nebraska's education funding system brought by several school districts.
- Representing a client in litigation involving the storage of spent nuclear fuel which has resulted in a more than \$105 million in payments to his client.
- Second chairing a trial which secured a \$43.8 million jury verdict for his client for breach of contract, tortious interference, and anti-trust violations. This was believed to be the largest jury verdict in Nebraska history at the time it was entered.
- Obtaining summary judgment for a small business client in a multimillion-dollar ERISA claim brought against the client. The client was awarded over \$600,000 in attorney fees.
- Lead trial counsel in defense of a class action brought by retirees of a public utility, resulting in summary judgment being entered in favor of his client.
- Defending and settling a class-action lawsuit filed by public employee

Legal Services

Business & Commercial Litigation
Employee Benefits & ERISA
Taxation
Government & Regulatory
Insurance Defense
Personal Injury/Wrongful Death
Products Liability
Litigation

Who I Serve

Insurance & Financial Services
Commercial Trucking & Transportation
Energy & Natural Resources
Nonprofit Organizations

Admissions

Nebraska
U.S. District Court for the District of Nebraska
U.S. Court of Appeals for the Eighth Circuit
U.S. Supreme Court



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unions and retirees regarding the constitutionality of a city ordinance relating to retiree health care.

In addition to his trial practice, Tim advises commercial clients on property tax valuation matters, helping clients reduce their taxes. Tim has also drafted multiple legislative bills that have been enacted into law.

Tim has served as a Special Assistant Attorney General for the State of Nebraska in complex litigation matters, including a constitutional challenge to Nebraska's education funding statutes; a First Amendment retaliation claim, and is currently defending lawsuits brought by hundreds of public employees challenging changes made to their pension plans.

Throughout his career, Tim has devoted countless hours of service to his profession and his community. Appointed to serve on the Omaha Personnel Board by the Mayor of Omaha, and confirmed by the City Council, Tim was elected Chairperson of the Board in 2021. He is an active member of the Nebraska State Bar Association's Practice and Procedure Committee.

Experience

- [*Central Valley Ag Cooperative v. Daniel Leonard et. al.*](#), 400 F.Supp. 3d 819, aff'd 986 F.3d 1082 (8th Cir. 2021)(affirming summary judgment and award of attorney fees in favor of client in ERISA lawsuit) (Read more [HERE](#) and [HERE](#))
- [*Pitts v. Genie Industries, Inc.*](#), 302 Neb. 88, 921 N.W.2d 597 (2019) (affirming exclusion of plaintiff's expert witness under Daubert and granting summary judgment for client in product liability case alleging defective design and manufacture)
- [*Bennie v. Munn*](#), 822 F.3d 392 (8th Cir. 2016) cert. denied 137 S.Ct. 814 (2017) (Civil Rights First Amendment Retaliation)
- [*ACI Worldwide Corp. v. Baldwin Hackett & Meeks, Inc.*](#), 296 Neb. 818, 896 N.W.2d 156 (2017) (Breach of Contract, Tortious Interference, Antitrust)
- [*Bennie v. Munn*](#), 58 F.Supp.3d 936 (D. Neb. 2014) (Civil Rights First Amendment Retaliation)

Education

J.D., with distinction, University of Nebraska College of Law, 2001

B.A., Political Science, *summa cum laude*, with honors, with department distinction, Creighton University, 1998



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- [*Johnson v. United of Omaha Life Ins. Co.*](#), 775 F.3d 983 (2014) (ERISA)
- [*Haubold v. Nebraska Truck Center, Inc.*](#), No. A-11-364, Neb. App., July 24, 2012 (negligence claim dismissed)
- [*Dowd Grain Co., Inc. v. County of Sarpy*](#), 19 Neb. App. 550 (2012) (zoning appeal)
- [*Martin Marietta Materials, Inc. v. Cass County Bd. of Equalization*](#), 19 Neb. App. 891, 815 N.W.2d 201 (2012) (property tax assessment violated constitution)
- [*Profl Firefighters Ass'n of Omaha, Local 385 v. Zalewski*](#), 678 F.3d 640 (8th Cir. 2012) (class action civil rights challenge to constitutionality of city ordinance)
- [*Tran v. United of Omaha Life Ins. Co.*](#), 780 F.Supp.2d 965 (D.Neb. 2011) (ERISA)
- [*Freedom Financial Group, Inc. v. Woolley*](#), 280 Neb. 825, 792 N.W.2d 134 (2010) (legal malpractice)
- [*The Nebraska Coalition for Educational Equity and Adequacy v. Heineman*](#), 273 Neb. 531, 731 N.W.2d 164 (2007) (constitutional challenge to the state's education funding system)
- [*Kvamme v. State Farm Mut. Auto. Ins. Co.*](#), 267 Neb. 703, 677 N.W.2d 122 (2004) (uninsured motorist claim)
- [*Ferrell v. State Farm Ins. Co.*](#), 2003 W.L. 21058165 (Neb. App. May 13, 2003) (insurance coverage)
- [*Fuhrman v. State*](#), 265 Neb. 176, 655 N.W.2d 866 (2003) (State Tort Claim Act)
- [*Clayborne v. OPPD*](#), 211 F.R.D. 573 (D. Neb. 2002) (class certification denied in claim alleging racial discrimination)

Honors & Awards

- Rated AV® Preeminent by [Martindale-Hubbell®](#)
- Named the [Best Lawyers®](#) Litigation – ERISA “Lawyer of the Year” in Omaha (2020, 2023)
- Included in [The Best Lawyers in America®](#) since 2015 in the field of Litigation – ERISA (peer nominations)



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- Selected to 2016-2023 Great Plains Super Lawyers® list
- Selected to the 2013-2015 Great Plains Super Lawyers® Rising Stars list
- Listed in Omaha Magazine's "Top Lawyers in Omaha" for Litigation – ERISA (July/August 2021 Edition)

Professional Associations

- Nebraska State Bar Association
 - Practice and Procedure Committee (2016)
- Omaha Bar Association
- Eighth Circuit Bar Association
- Defense Research Institute
- Nebraska Defense Counsel Association – Legislative Committee
- Nuclear Energy Institute – Lawyers Committee

Community Involvement

- City of Omaha Personnel Board (2017-present)
 - Chair (2021-present)
 - Secretary (2020-2021)
- St. Margaret Mary Church Parish Council (2018-2022)
- Coach – Marian Jr. Crusader Basketball (2017-2021)
- Member – Moot Court Board
- Order of the Barrister
- Member – *Nebraska Law Review*
- Member – National Moot Court Team
- Alpha Sigma Nu National Jesuit Honor Society

Presentations & Publications

- Author, "[Taxable Costs in Civil Cases Under Nebraska Law.](#)" *The Nebraska Lawyer*, page 5-9, Mar-Apr. 2013