



## Michael Gervais

### Partner

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## Overview

Michael Gervais is a skilled and accomplished trial lawyer who represents both plaintiffs and defendants in all types of high stakes commercial litigation. Gervais has amassed an impressive collection of litigation victories and favorable settlements for clients who vary from Fortune 500 industry leaders to classes of unfairly treated plaintiffs in several national high-profile lawsuits.

## Landmark Litigation

Gervais worked alongside Managing Partner, Neal Manne, Partner Lexie White, and Partner Joseph Grinstein representing a class of indigent misdemeanor arrestees pro bono in a landmark case to challenge the money bail scheme in Harris County, Texas. Along with Civil Rights Corps and the Texas Fair Defense Project, Gervais's work helped secure a sweeping preliminary injunction from a Houston federal judge, who struck down Harris County, Texas' money bail system. The decision focused national attention on the countrywide practice of jailing poor people because they are unable to afford bail when arrested for minor offenses and has been covered by national outlets such as [The New York Times](#), [The Houston Chronicle](#), and [Lawdragon](#). In the first year in which the injunctive relief was in effect, more than 12,000 people were released from jail.

In another high-profile class action, Gervais worked alongside Partners Kalpana Srinivasan, Steven Sklaver and Steve Morrissey representing Flo & Eddie, members of the 1960's rock group The Turtles, in addition to a class of copyright owners in a case against Sirius XM. In this landmark case it was established under California law, that these owners of sound recordings from before 1972 have the exclusive right to perform those recordings. Under a groundbreaking settlement, Sirius XM agreed to pay at least \$25.5 million (over \$16 million after fees and expenses) and royalties under a 10-year license that is valued up to \$62 million (over \$41 million after fees and expenses) as compensation for publicly performing without a license Pre-1972 sound recordings. The settlement was [approved by the Court](#), and has received widespread media coverage from publications such as [The New York Times](#), [Billboard](#), [The Hollywood Reporter](#), [Law360](#), [Rolling Stone](#), [Variety](#), [Reuters](#) and [Managing IP](#).

Additionally, Gervais won a complete dismissal for energy company, Vitol, of \$10 billion antitrust case filed in federal district court in Miami by a litigation trust asserting claims against numerous defendants on behalf of a Venezuelan national oil company. Gervais' firm, Susman Godfrey, was tapped to take the lead in briefing and arguing the motion to dismiss for the multi-party joint defense group. This win was reported on by [Wall Street Journal](#) and [Law360](#). The 11th Circuit Court of Appeals [affirmed the district court's decision](#) in 2021.

Most recently, Gervais was appointed by the court to serve on the Steering Committee to represent plaintiffs in a Biometric Information Privacy Act class action MDL against TikTok and its parent company. In

April 2021 Gervais and co-counsel asked the Court to approve a \$92 million litigation-wide settlement. In October 2021 U.S. District Judge John Lee granted Plaintiffs' motion for preliminary approval of the deal. If fully approved, this would end the 21 proposed class actions and mark one of the highest privacy-related settlements in the country.

### **U.S. Supreme Court Roots**

Before joining Susman Godfrey, Gervais served as a clerk at both the Supreme Court of the United States and in the Ninth Circuit U.S. Court of Appeals. These experiences have given him a unique perspective and a valuable background that supports the success he brings his clients in federal, district and state courts as well as in arbitration and at every level of litigation.

### Education

- Yale Law School (J.D.)
- American University (B.A., International Studies, *summa cum laude*)

### Clerkship

Law Clerk to the Honorable Stephen Breyer, Supreme Court of the United States

Law Clerk to the Honorable Alex Kozinski, United States Court of Appeals for the Ninth Circuit

### Notable Representations

#### **CURRENT LITIGATION**

***In Re: Tiktok, Inc Consumer Privacy Litigation (N.D. Ill.)*** Appointed by the U.S. District Court Northern District of Illinois to serve on the Steering Committee to represent plaintiffs in a Biometric Information Privacy Act class action MDL against TikTok and its parent company. In April 2021 Gervais and co-counsel asked the Court to approve a \$92 million litigation-wide settlement. In October 2021 U.S. District Judge John Lee granted Plaintiffs' motion for preliminary approval of the deal. If fully approved, this would end the 21 proposed class actions and mark one of the highest privacy-related settlements in the country.

***In re: Telescopes Antitrust Litigation (N.D. Cal.)*** Appointed to serve as co-lead counsel to indirect purchaser plaintiffs in a class action lawsuit against global telescope manufacturers and suppliers for engaging in a conspiracy to fix prices and allocate the market for telescopes.

***City of Sacramento v. Teva Pharmaceutical Industries, Ltd. et al.*** Represents the City of Sacramento in its opioid litigation that seeks to hold the major manufacturers and distributors of opioids responsible for the harm they've caused to the City.

***IQVIA, Inc. v. Veeva Systems (D.N.J.)*** Represent Veeva Systems, a CRM and master data management technology company, in federal court antitrust litigation against healthcare data and information technology provider IQVIA, Inc. The case involves antitrust issues relating to master data management and alleged trade secrets.

***Sanchez et al. v. Dallas County Jail, et al.*** Partnering with the ACLU of Texas, Civil Rights Corps, and the Next Generation Action Network Legal Advocacy Fund; working pro bono in a federal class-action lawsuit for urgent relief to remedy the Dallas County Jail's ongoing failure to manage the extraordinary risks COVID-19 poses to its detainees, staff, and the larger community.

***Helen Hanks vs. The Lincoln Life & Annuity Company of New York; Voya Retirement Insurance and Annuity Company (S.D.N.Y.)*** Litigating this breach of contract case on behalf of a certified class of insurance policy holders against Voya Retirement Insurance and Annuity Company over allegations that Voya improperly raised insureds cost-of-insurance charges, resulting in millions of dollars in unlawful overcharges.

## **PAST WINS**

***David McLaughlin v. HomeLight, Inc. et al. (C.D. Cal.)***: Successfully obtained on behalf of HomeLight a dismissal with prejudice a Lanham Act claim brought in California federal court. Read the Court's order [here](#).

***PDVSA US Litigation Trust v. Lukoil Pan Americas LLC et al (S.D. Fl.)*** Won a complete dismissal for Vitol of \$10 billion antitrust case filed in federal court in Miami by a litigation trust, represented by David Boies, asserting claims on behalf of the Venezuelan national oil company. Susman Godfrey was tapped to take the lead in briefing and arguing the motion to dismiss for the multi-party joint defense group. The 11th Circuit Court of Appeals [affirmed the district court's decision](#) in 2021.

***ODonnell et al. v. Harris County, et al.*** In this landmark constitutional case coming out of Harris County, Texas, won a landmark ruling in 2017, and was later affirmed in 2018, by the U.S. Court of Appeals for the Fifth Circuit, that the system of cash bail used in Harris County, Texas, violated the Due Process and Equal Protection rights of the thousands of misdemeanor arrestees. Gervais served on this case pro bono and was an active and critical part of the team from the filing of the Complaint to the consent decree entered by the district court following settlement.

***Flo & Eddie v. Sirius XM (C.D. Cal.)*** Served on a team from Susman Godfrey that was co-lead counsel to Flo & Eddie (the founding members of 70's music group, The Turtles) along with a class of owners of pre-1972 sound recordings for copyright violations by music provider Sirius XM. Flo & Eddie settled with Sirius XM on behalf of the class in a deal worth millions and approved by the Court in May 2017. Sirius XM agreed to pay at least \$25.5 million (over \$16 million after fees and expenses) and royalties under a 10-year license that is valued up to \$62 million (over \$41 million after fees and expenses)

***Bahnsen et al. v. Boston Scientific Neuromodulation Corp (D.N.J.)*** Secured favorable settlement for whistleblower clients against Boston Scientific Neuromodulation Corp. Gervais was instrumental in obtaining critical deposition testimony and document discovery, defeating the defendant's motion for summary judgement, and arguing and winning crucial motions in limine that ultimately led to settlement.

## **Honors and Distinctions**

- ["They've Got Next: The 40 Under 40" Bloomberg Law](#) (Bloomberg, 2021)
- ["How I Made Partner" Law.com](#) (ALM, July 2021)
- [Minority Leader of Influence: Attorneys](#), *Los Angeles Business Journal* (2021)
- Founding Member, 1844. 1844 is a group of black male lawyers practicing primarily in BigLaw and in-house legal departments around the country. The group's name "1844" is in reference to the year that the first black person, Macon Bolling Allen, was admitted to practice law in America. The purpose of 1844 is to build genuine relationships between its members and leverage those relationships to help them develop personally and professionally and give back to their communities. 1844 has been widely lauded for its exceptional work, including the New York City Bar Association's 2016 Diversity and Inclusion Champion Award.
- Founding Member, Black BigLaw Pipeline ("BBP"). BBP's purpose is to serve as a powerful and unique resource for reshaping diversity and, specifically, the experience of Black attorneys in the legal profession.
- Former Chairperson, Susman Godfrey Diversity Committee

- Term Member, Yale Law School Executive Committee
- Southern California Rising Star, Super Lawyers (2020, 2021, Thomson Reuters)
- 2017 Fellow, Associate Leadership Institute (NYC Bar)

## Professional Associations and Memberships

California State Bar

New York State Bar