

**SAN DIEGO**

# Attorney

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# Thomas Frost

**COOL, CALM & COLLECTED**

# COOL, CALM & COLLECTED



Thomas Frost's commitment to capturing the facts and ensuring collectability has won him the loyalty of clients ranging from Fortune 500 companies to individual victims of financial and securities fraud

by Jennifer Hadley

“I front load cases with a tremendous amount of time and energy. I thoroughly research and analyze every potential claim and party at the outset of my representation, giving a tremendous amount of consideration to collectability issues,” says Thomas Frost, Managing Partner of The Frost Firm. “When I take responsibility for a person’s or a company’s financial dispute, I will leave no stone unturned and deliver a passionate and accurate presentation of the facts,” adds the San Diego native.

However, Thomas didn’t necessarily harbor lifelong aspirations of becoming an attorney. Born to a family of health care professionals, Frost discovered his passion for advocacy as the result of a speech class during his undergraduate work. “I discovered something powerful and evocative about public speaking. Whenever I engaged in public speaking, I experienced a great deal of anxiety immediately beforehand but after the first few words came out, a sense of calm and purpose overwhelmed my fears and energized me,” he says. Frost promptly set his sights on law school.

“As a first year law student at USC, it seemed like everyone in my class but me had attorneys in their families and knew exactly how to take law school exams and to otherwise succeed in law school. Shortly into my first year, I learned many students were taking practice exams based on professors’ old exam questions, which were readily available in the law school’s library. I spent countless hours writing and evaluating those practice exams and excelled on exams as a result of my hard work. But I learned a more important, seemingly obvious lesson in the cutthroat environment prevalent in law school. I

learned to always exhaustively search for any available strategic advantage in the law, and business in general, and expect your peers will do the same,” Frost says.

## Keeping His Cool

Though Frost was very clear that he needed to search for advantages, he admits that his foray into practice following law school had a few hiccups. “I struggled to find my way in a large firm environment,” he says. In 1999, he returned to San Diego from Los Angeles, and landed an interview with what was then Shustak, Jalil, & Heller, P.C., (now Shustak & Partners P.C.). With offices in San Diego and New York, “Erwin Shustak gave me a chance and served as my mentor for many years. I learned how to try cases with conviction, and equally important, how to run a law practice. When I was invited to be a named partner of the firm, it was both an honor and outstanding career opportunity. By 2013, it was a natural evolution to start my own firm,” Frost says.

The Frost Firm’s attorneys have recovered millions of dollars on behalf of clients including publicly traded companies, manufacturing firms, retailers, real estate development companies, recording studios, captive and independent insurance agencies, hedge funds, mutual funds, registered representatives and investors. Forums for representation have included Federal and State Courts, and high stakes arbitration before FINRA, JAMs and AAA.

Regardless of the venue, Frost is nothing if not over prepared. He enters each forum fully armed with facts and consequently,





Photography by Bauman Photographers

confidence. “Not long ago I watched Tom Hanks interviewed on *Inside the Actor’s Studio*. Asked what occupation least appealed to him he said, ‘A lawyer. That’s doing homework for a living.’ I was struck by his comment because on the one hand, he was right. As lawyers, doing homework is imperative no matter how experienced or successful we become. But I cannot imagine another profession or occupation I would rather pursue. Helping people in times of great need, while overcoming the unique challenges presented by a diverse clientele, is immensely gratifying. The hard work in practicing law doesn’t feel like homework, when I find empathy for clients,” Frost says.

By way of example, Frost recalls a case early on in his career. “One of the first cases I tried involved an investment dispute between a relatively sophisticated securities attorney and his financial advisor. I represented the attorney who lost his young family’s entire nest egg as a result of investment losses in his brokerage account. At the outset of the case, my hopes were dim. I worried that the FINRA Panel hearing the case would think my client must have known what his broker was doing, and therefore embraced the risk of the broker’s investment strategy. But as I came to know him, I believed in his case and in him. He really had no idea what his broker was up to, and truly believed his broker was treating his account as he would his own mother’s. I introduced evidence that the broker did

manage his mother’s account, and protected it, while leaving my client hanging out to dry.” Frost won a big six-figure award in the case, compensating his client for all of his monetary losses, plus interest, attorney’s fees and punitive damages, which are not commonly awarded in FINRA arbitrations.

The overwhelming majority of people who reach out to Frost have a similar story. “They come in, and they know that fraud has been committed or they’ve been financially oppressed, but they don’t understand how or why it happened. We block off an entire afternoon for an initial consultation, or longer if needed. We review documents to get a good handle on the issues before we even discuss a retainer. Once we determine what the case entails and where it will be litigated, we use our very close relationships with expert witnesses, who we value and rely heavily on, to help with reviewing the numbers and details,” Frost explains.

### Collectability as a Core Concern

Much of Frost’s preparation involves determining collectability for a client. After all, a huge award, of which his clients will never see a dime, is frankly rather hollow. As such, Frost says, “I give tremendous consideration to the issue of collectability at the outset of any case. There is no better feeling at the end of the case than when we have succeeded in helping a client through a financially catastrophic life event. To see the relief they feel in knowing that they can get their lives back on track

drives me to push cases along.”

For example, he recalls representing orphan siblings who discovered when they reached adulthood that their LPL broker and trustee of their family trust defrauded them out of their entire inheritance and life savings over a 20-year period. “I recovered an award after trial of \$1.8 million and helped these young siblings get their adult lives back after suffering an overwhelming and devastating financial tragedy,” Frost says.

In another case, Frost recovered a \$5.4 million award after trial against the third-largest Spanish-language television network in the United States, and the President of that company who was based in Texas. Long before the Federal Court in California entered final judgment on the award, Frost already retained local counsel in Texas and completed all of the necessary paperwork to enforce the prospective judgment in Texas, where substantially all of the individual defendant’s assets were located. “We had to move fast because the network’s mounting debts raised serious concerns regarding a potential bankruptcy filing. My strategy to ensure the collect-ability of my client’s award depended, in part, on quickly and aggressively enforcing the award against the individual defendant, who actively was raising investment capital for another venture at that time. Frost’s strategy worked and the defendant arranged to satisfy the substantial judgment over approximately 10 years.

## Keeping Calm and Balanced

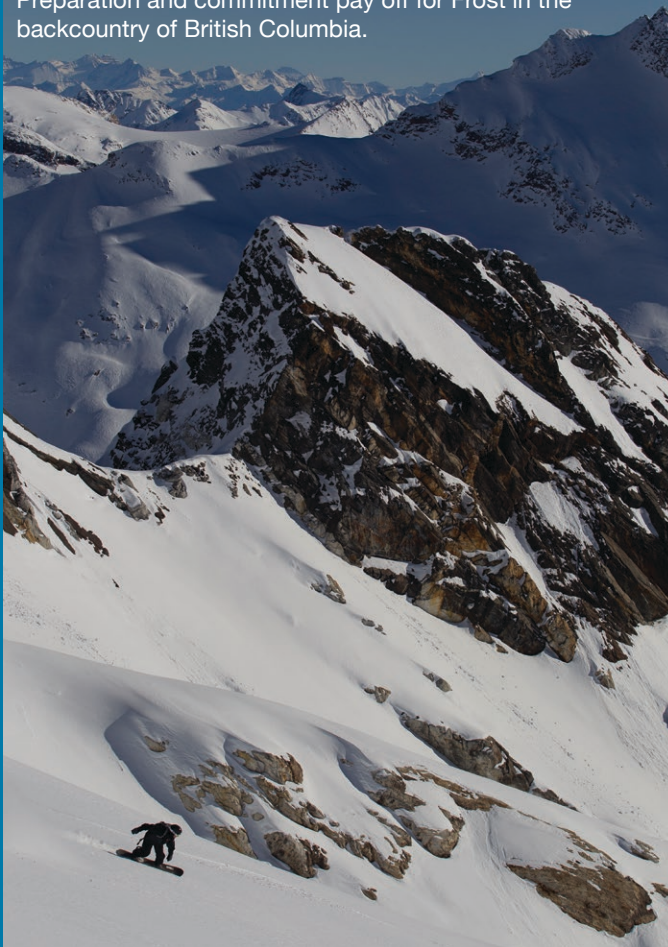
With preparation and collectability as Frost’s top priorities, he also focuses on remaining calm and cordial with opposing

counsel. “I’m surprised how many attorneys have conflicts with other attorneys. Attorney referrals are very important, especially in a close knit legal community like San Diego. In larger metropolitan areas, opponents may never see each other again after a case resolves, but those who practice corporate and securities law in San Diego for any length of time tend to see the same opponents on the other side of the courtroom more frequently,” he says.

To that end, Frost strives to practice law as a gentleman, by refusing to take the adversarial nature of litigation personally. “Diligence, skill and preparation speak volumes in the courtroom or at the negotiating table, whereas pettiness and aggression reflects poorly on a client’s position. I never underestimate the attorneys on the other side of a case, and always show my adversaries and their clients due respect,” he explains. Moreover, his professionalism has earned him recognition including being named a Top Attorney in the area of Corporate Litigation by the San Diego Daily Transcript in 2012 and 2014, and longstanding membership in the Million Dollar Advocates Forum for recovering million dollar and multimillion dollar awards after trial.

“Many of my clients over the years were referred by former opponents, which is the ultimate professional compliment. Maintaining consistently high standards of professionalism pays great dividends in the forms of referrals and a better quality of life,” he says. Indeed, for Frost, a high quality of life obviously includes a successful practice, so he takes steps to ensure that The Frost Firm remains successful through constantly reinvesting in

Preparation and commitment pay off for Frost in the backcountry of British Columbia.



Frost finds perspective offshore his Downtown offices.



# THE FROST FIRM TEAM



## AUDIE DE CASTRO

Of Counsel to the firm

“Audie de Castro is Of Counsel to the firm. Mr. de Castro focuses on corporate and securities transactional matters for the firm. Mr. de Castro’s professional experience as a CPA performing forensic accounting services is tremendously valuable to the

firm’s transactional clientele. With his financial background and business acumen, Mr. de Castro serves as corporate counsel to public and private companies, and handles complex and large transactions, such as mergers and acquisitions, securities offerings, licensing, distributorships, and commercial real estate deals.



## TIMOTHY J. O’LEARY

Of Counsel to the firm

Timothy J. O’Leary is Of Counsel to the Firm based in the San Diego office. Mr. O’Leary focuses his practice on labor and employment litigation. Mr. O’Leary’s labor and employment practice encompasses all aspects of employment law, including state and

federal court proceedings, administrative hearings before EEOC, DFEH, OSHA, and the California Labor Commissioner, and employer counseling. Mr. O’Leary has had substantial courtroom and trial experience in the area of employment law, so he understands the importance of preventive personnel practices and the diligent administration of employment policies and regulations to avoid costly litigation.



## CRAIG H. WENDLAND, ESQ.

Senior Associate

Craig H. Wendland is a Senior Associate in the Civil Business Litigation and Transaction Practice in The Frost Firm’s Downtown San Diego Office. Mr. Wendland has dedicated his practice to the representation of a broad range of clients in the fields of telecommunications, medicine,

software, the life sciences and high technology in a variety of Business Transaction, Litigation and Intellectual Property matters. Mr. Wendland’s primary practice focuses on complex civil litigations, licensing and commercial disputes involving biotechnology, the high sciences and other emerging technologies. Mr. Wendland’s experience also extends to complex securities transactions and litigation, derivative actions and arbitrations.



## GENEVIEVE M. RUCH, ESQ.

Associate

Genevieve M. Ruch is an attorney with the Frost Firm. Ms. Ruch works on a variety of matters with the firm’s partners, including business and corporate litigations, securities litigations and arbitrations, intra-industry FINRA arbitrations, and contractual disputes. Ms. Ruch

graduated from San Diego State University, majoring in Political Science with a minor in Business Management. She attended the University of San Diego School of Law and graduated cum laude, earning many high-grade awards throughout her law school career. Ms. Ruch was a member of the San Diego Law Review and served as a Comments Editor.



## KAROLYN RODRIGUEZ

Paralegal

Karolyn Rodriguez is a Paralegal in the Firm’s San Diego office. Ms. Rodriguez assists the Firm’s attorneys with document productions, electronic discovery, pleadings, research, case management, trial preparation and audio-visual presentations.



## NAOMI NUNEZ

Administrator

Naomi Nunez is the Firm’s Administrator, based in our San Diego office. Naomi manages the accounting and billing departments and completes a variety of administrative duties. She works closely with the Firm’s CPA, as well as Firm Partners to coordinate

management tasks and complete financial and billing audits.

the firm, in his hometown community, and in his personal life.

“When I experience some measure of financial success in a given month or year, I try not to rest on my laurels, and instead consider hiring another associate or paralegal, and pursue advertising opportunities. Incremental growth not only frees up time to focus on the big picture, but also almost universally pays dividends down the road,” he says.

As far as reinvesting in the San Diego community, The Frost Firm is well known for their charitable contributions and volunteer work. “Our attorneys have devoted hundreds of hours to a wide range of pro bono matters, and received the California State Bar’s Wiley M. Manuel Award for Pro Bono Legal Services for our work giving back to the community,” Frost says proudly. Similarly, the attorneys at The Frost Firm have also been honored with the San Diego Volunteer Lawyer Program’s Distinguished Service Award.

Finally, Frost has also learned to make time for himself and his family, in order to maintain a better balanced quality of life. Married to Jemma since 2007, Frost is quick to give credit to his wife for not only putting her nursing career on hold to be home with their 4 year old daughter, Keira, but for her support and encouragement when it came to launching his own firm. “She convinced me anything was possible and we embraced the risk together to flourish for the sake of our young family,” he says.

Whenever possible, family time is spent enjoying the outdoors. “I enjoy sailing, surfing and snowboarding. They are each meditative in their own ways and help me to reflect on and balance family, career, cases and life in general. I believe engaging in these physical meditative pursuits gets me out of my head and activates right-brain creativity in my decision-making, which otherwise may be missing from a life [spent exclusively] in the office,” he says. ■

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“Quality time with my young family means everything,” says Frost.

**EXPERIENCE**

» **EDUCATION**

- University of Southern California Law Center, Los Angeles, California  
J.D. - 1996
- University of California, Los Angeles, California  
B.A. - 1992

» **PROFESSIONAL ASSOCIATIONS AND MEMBERSHIPS**

- California State Bar Association
- San Diego County Bar Association
- Public Investors Arbitration Bar Association
- American Association of Justice
- Consumer Attorneys of California
- Association of Trial Lawyers of America

» **BAR ADMISSIONS**

- California
- U.S. District Court Southern District of California
- U.S. District Court Central District of California
- U.S. Court of Appeals 9th Circuit

» **AWARDS**

- “Top Attorney 2012” in the area of Corporate Litigation, as selected by the Editors of the San Diego Daily Transcript.
- “Top Attorney 2014” in the area of Corporate Litigation, as selected by the Editors of the San Diego Daily Transcript.
- Longstanding member of the Million Dollar Advocates Forum for successfully recovering seven figure awards after trial.