

Robert M. Manley

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A principal in McKool Smith's Dallas office, Robert Manley represents a variety of U.S. and international clients in cases involving complex commercial, investment, fiduciary duty, and intellectual property disputes. Robert recently won back-to-back jury verdicts in cases that demonstrate the nature of his dynamic practice. The first was a seven-week jury trial where he represented a real estate startup as a plaintiff against an investment bank in a fiduciary duty case—the substantial verdict was recognized as a VerdictSearch Top 100 Verdict and helped secure McKool Smith's inclusion in Law360's "Most Feared Plaintiffs Firm." Less than a month after concluding the first matter, Robert defended a Fortune 500 telecom company in another case—a three-week securities fraud jury trial, which resulted in a total defense verdict for his client. Robert then joined his partners Adam Ziffer and Michelle Migdon to represent TIAA-CREF in an insurance coverage trial in Wilmington, Delaware. The jury returned a substantial verdict for TIAA-CREF and judgment is pending.

Robert is recognized by the media and his legal peers as a pre-eminent trial lawyer. He has successfully tried matters around the country and is equally known for his creative approach to resolving clients' cases outside the courtroom. Robert teaches, writes, and lectures for legal audiences nationwide on trying cases and the art of unconventional dispute resolution (UDR). His proven ability to efficiently resolve cases outside the courtroom, combined with his impressive track record of winning trials, are why clients call on Robert again and again.

Before receiving his legal degree from the Southern Methodist University Dedman School of Law, Robert attended the Pushkin Institute in Moscow, Russia, and the Institute of European Studies in Vienna, Austria. He currently leads McKool Smith's Pro Bono Program.

Representative Matters

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300 Crescent Court
Suite 1500
Dallas, TX 75201

Education

J.D., Southern Methodist University
School of Law, 1993

The Pushkin Institute, Moscow, Russia,
1990

B.A. *cum laude*, University of Tulsa,
1989

Institute for European Studies, Vienna,
Austria, 1988

Court Admissions

State of Texas

The U.S. Court of Appeals for the Fifth
Circuit

The U.S. District Courts for the
Northern, Southern, Eastern, and
Western Districts of Texas

Bar Associations

American Bar Association

Texas State Bar Association

Fifth Circuit Bar Association

Ex. 2004
3M Company, Merck & Co., Inc., and Merck Sharp & Dohme Corp., v. Aptar France SAS
IPR2018-01055

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Commercial/mortgage-backed securities/investment matters:

- **TIAA-CREF v. Illinois National Insurance Company, et al.** Won a substantial verdict in a Wilmington, Delaware, jury trial against several insurers that denied coverage for TIAA-CREF following class actions resulting from TIAA-CREF's software implementation effort. The verdict was returned in December 2016 and the judgment is pending.
- **Schermerhorn et al. v. CenturyLink et al.** Won a take-nothing defense verdict and judgment for CenturyLink and several individual executives in a securities fraud mass-action lawsuit involving 64 plaintiffs that brought claims relating to investment in and the subsequent sale of control of a distressed company.
- **Scenic Land Company LLC, et al. v. Sterne Agee & Leach Inc., et al.** Won a substantial verdict in a seven-week jury trial for a hotel development client in a case against an investment bank for fraud, breach of fiduciary duty, and breach of contract. The verdict and judgment were reported as the largest in Hamilton County (Chattanooga) history and helped McKool Smith to be recognized again in Law360's "Most Feared Plaintiffs Firm" feature.
- **La Salle Bank, et al. v. UBS Warburg and UBS PaineWebber.** Represented the interests of a group of certificate holders in a \$704 million pool of mortgage-backed securities as part of a series of lawsuits against the securitization's sponsors and loan depositors to recover the plaintiffs' lost investment value.
- **John DeGroote Services LLC as Liquidating Trustee to the BearingPoint Liquidating Trust v. Ed Harbach, et al.** Represented the liquidating trustee for BearingPoint Inc. in numerous adversary proceedings involving preferences, fraudulent transfers, and other matters, assisting the trustee in recovering over **\$476 million** for distribution to BearingPoint Inc.'s creditors. As part of this effort, Robert represented the trustee in a breach of fiduciary duty/corporate governance lawsuit against BearingPoint's former chief executive officer and its board of directors.

Click [here](#) to view additional commercial/investment representations.

Unconventional dispute resolution case studies:

- **"Hire a judge ... and a jury."** Represented investors' interests in a complex investment case against a group of financial institutions. The biggest challenge was the anticipated four- to five-year wait before the court would actually hear the trial. Through imaginative negotiations, the parties agreed by contract to retain a retired judge to hear all matters associated with the lawsuit and, using a borrowed courtroom and local citizens recruited to act as the jury, the parties then proceeded to litigate the matter in normal fashion, including submitting pretrial motions, conducting voir dire, and proceeding to "trial." In the end, Robert's clients made a significant recovery in a fraction of the time that otherwise would have been required to resolve the matter at trial.
- **"Saving face."** Represented a multinational corporation that was sued for allegedly causing the demise of one of its clients as a result of failures in the nationwide software integration. Robert favorably resolved the matter after requesting and making a diplomatic, unilateral presentation to the opposing party—who itself had fiduciary duties to stakeholders—regarding its failure to maintain the alleged failed software system. The matter was resolved at the opposing party's request shortly thereafter without any public allegations of spoliation.
- **"Tell it to the judge."** Represented a Fortune 500 company in a contentious intellectual property dispute that was expected to last for years. Ultimately, the potential damages became the focal point of the case, and Robert convinced the opposing party to conduct a joint "summary trial" in the court's chambers, which resulted in a favorable settlement for his client.

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- **“Now that I’m here, where am I?”** Robert’s teams routinely prepare early case assessments (ECA) for their clients—thereby the clients know very early in the litigation process the merits of positions, the likely course litigation will take, and are provided an early opportunity to explore a business resolution to the dispute. This practice of preparing ECAs has led to several successful settlements for Robert’s clients without extensive litigation or trial.
- **“We can do this the easy way, or ...”** When initiating a lawsuit, Robert often drafts and serves the defendant with a lengthy complaint, annotated to, and quoting from, case documents while publicly filing a “bare bones” complaint with the court. This allows the parties to evaluate some of the substance of the pending lawsuit without unnecessarily making public allegations, frequently leading to an early resolution.

For a further outline of some techniques Robert uses to resolve cases outside the courtroom, see his UDR Presentation [here](#).

Intellectual property matters:

- **Freescall Semiconductor, Inc. v. LSI Corporation.** Represented Freescall in an investigation before the International Trade Commission involving U.S. Patent Nos. 5,775,798; 6,473,349 B1 and 5,467,455 generally directed to the packaging and manufacture of semiconductor chips.
- **Mediatek, Inc. v. Sanyo Elec. Co., Ltd., et al. and Mediatek v. Matsushita Electric Industrial Co.** Represented Mediatek in patent infringement lawsuits involving U.S. Patent Nos. 5,867,819 and 6,118,486, which are generally directed to audio decoding and the synchronization and processing of multiple formatted video signals.
- **Maxim Integrated Products v. Freescall Semiconductor, Inc.** Represented Freescall in a patent infringement case involving U.S. Patent Nos. 5,008,615; 5,172,214; 5,200,362; 5,476,816; 5,593,538; 5,776,798; 5,861,347; 4,951,005; 5,081,454; 5,089,722; 5,195,655; 5,434,739; 5,124,632 and 5,946,177. The patents are generally directed to the design, packaging and manufacture of semiconductor chips.
- **ConnecTel v. Cisco Systems.** Represented Cisco in a patent infringement suit involving U.S. Patent Nos. 6,016,307; 6,144,641; 6,456,594; and 6,473,404, which are generally directed to multiprotocol telecommunications routing and optimization.
- **Brilliant Technologies v. InFocus Corp.** Represented InFocus in an intellectual property licensing dispute covering a projection system with a folded optical path involving U.S. Patent No. 6,859,239.
- **Raindance Communications, Inc. v. WebEx.** Represented Raindance in a patent infringement lawsuit involving U.S. Patent Nos. 6,535,909 and 6,621,834, which are generally directed to voice transmission over network protocols and the recording and playback of collaborative web browsing sessions.

Click [here](#) to view additional intellectual property representations.

Rankings & Honors

- Robert is a fellow in the Litigation Counsel of America (LCA), which is a trial lawyer honorary society composed of less than one-half of one percent of U.S. lawyers. Fellowship in the LCA is highly-selective and by invitation only. Fellows are selected based upon effectiveness and accomplishment in litigation, both at the trial and appellate levels, and superior ethical reputation.

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- Robert's recent jury verdict in the Scenic Land case helped McKool Smith to be recognized again as Law360's "Most Feared Plaintiffs Firm"
- Repeatedly recognized in *Best Lawyers in America* for Securities and Intellectual Property Litigation
- Repeatedly recognized as a *Texas Super Lawyers* by Thomson Reuters' legal division in *Texas Monthly* magazine
- Repeatedly recognized as a Best Lawyers in Dallas by *D Magazine*
- Received the Client Choice Award for Litigation by *Texas International Law Office* and *Lexology*
- Repeatedly recognized as one of the Best Lawyers Under 40 [... back when he was, in fact, under 40] by *D Magazine*
- Master, Higginbotham American Inn of Court
- Member, College of the State Bar of Texas

Community & Professional Activities

- National Institute of Trial Advocacy, Gulf Coast Regional Program
- Faculty, National Institute of Trial Advocacy, Southern Regional Trial Skills Program, 1998-present
- Adjunct professor of trial advocacy at Southern Methodist University Dedman School of Law, 2001-present
- Co-chair, Dallas Heart Ball with Dana Manley
- Co-chair, General Counsel Forum 12th Annual Conference

Publications

Contributor; "Daubert Challenges to Financial Experts;" PricewaterhouseCoopers' *Daubert* Study; June 3, 2016
06.03.2016

"Trying the Complex Case" [The Science and Art]
Presented to The Dallas Bar Association

Effective Litigation Management: Doing a Good Job at "Herding Cats"
Presented to the Texas State Bar's Annual Advanced In-House Counsel Course, Dallas, Texas

"Annual Civil Case Law Update"
Presented to: the Texas Center for the Judiciary's Regional Conferences in Austin, and in Dallas, Texas.

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"Reduce Your Legal Fees Now: 'Unconventional' Dispute Resolution"

Association of Corporate Counsel, Austin Chapter, with John DeGroote, John DeGroote Services LLC; General Counsel Forum 2010 Annual Conference, with Stacy Goff, CenturyTel, Inc.; Dallas Bar Association

"Federal Rule 502(b) Inadvertent Disclosure"

Presented during an E-Discovery Briefing, Crescent Hotel, Dallas, Texas.

"Ten Tools of Persuasion" [For the Courtroom and Boardroom]

Presented to: The Federal Bar Association, Dallas Chapter; The Dallas City Attorney's Office, Dallas Texas; The Dallas Bar Association; The Northern District Federal Clerk's Conference; and the National Institute for Trial Advocacy, Mid-West Regional.

"Help Me Help You" [A Practical Guide to the Attorney Client Privilege]

Presented to: The Association of Corporate Counsel, Chapter Annual Conference, in both Austin, Texas and Dallas, Texas; The Dallas Bar Association; and Various Fortune 500 Corporate Legal Departments.

"Patent Trolls" [Measures and Countermeasures]

Presented in a national webcast for the Association of Corporate Counsel with Mallun Yen, Head IP Counsel, Cisco Systems, Inc; and John DeGroote, Chief Litigation Counsel, BearingPoint, Inc.

"Closing Arguments" [The Will and the Way]

Presented to: The National Institute of Trial Advocacy; Southern Regional Trial Skills Programs, and the Lorman Education Services Seminar, "Trial Practice"

Other articles and presentations:

"Voor Dire" [In it to Win it], Presented to the National Institute of Trial Advocacy, Southern Regional Trial Skills Programs.

"Negotiation: Ten Things to Think About—A Non-Exhaustive List," Co-presenter, Dallas Association of Young Lawyers, Dallas, Texas (July 2004 and September 2005)

"Unconventional' Dispute Resolution" [Getting it Done], Presented to The association of Corporate Counsel, The General Counsel Forum Annual Conference, and The Dallas Bar Association

Speaking Engagements

Speaker; Texas Lawyer's In-House Counsel Event, "Unconventional Dispute Resolution;" Dallas, TX
09.15.2016