



Daniel C. Bitting

PARTNER

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Overview

Dan's practice focuses on complex business litigation, including fiduciary duty litigation, securities violations, professional malpractice claims, intellectual property disputes, shareholder claims, property disputes, and oil, gas and energy litigation. He handles cases with millions of dollars at stake yet also represents businesses and individuals in smaller disputes. He has decades of trial and appellate experience in both state and federal courts, including serving as lead counsel in jury trials and appellate arguments. Dan understands that the best resolution of many disputes is a satisfactory settlement but he believes that the best settlements come from being fully prepared and able to try the case if necessary.

Experience

Business Disputes

As lead counsel, obtained successful settlement of founder and former officers indemnification claim against high tech company.

Won summary judgment on interpretation of partnership agreement in law firm divorce resulting in Dan's client receiving all accounts receivables.

Negotiated settlement of multi-million dollar fraud and breach of contract claims arising out of supply contract dispute.

Defeated claims for lost profits and other consequential damages in arbitration over allegedly defective software and hardware, leading to favorable settlement.

Obtained temporary injunction and negotiated settlement of dispute over ownership of intellectual property in technology company.

Negotiated resolutions of numerous "business divorces."

Negotiated settlements of numerous contract disputes, both before and after litigation.

Employment Litigation

Won jury trial in defense of sex discrimination claims.

Won defense judgment in employee's slander case against employer.

Negotiated severance package for manager accused of sexual harassment.

Defended sexual harassment suits.

Fiduciary Duty Litigation

As lead counsel won judgment removing executor, based on findings of misappropriation of fiduciary property.

Won judgment against breach of fiduciary duty claims against executor.

Won judgment that trustee breached its fiduciary duties as a matter of law.

Obtained defense judgment for attorney against securities fraud and legal malpractice claims.

Successfully defended fiduciary duty, conspiracy, deceptive trade practices and fraud claims arising from survival and wrongful death settlements.

Defended and negotiated settlement of securities fraud class action.

Intellectual Property Litigation

Obtained favorable settlement of patent infringement and Lanham Act claims through pre-suit mediation.

Negotiated settlement of trade secret dispute.

Obtained temporary injunction and negotiated settlement of dispute over ownership of intellectual property in technology company.

Tried trademark ownership claim to jury.

Oil and Gas Litigation

As lead counsel on appeal to the United States Court of Appeals for the Fifth Circuit, obtained reversal of the trial court's judgment and rendition of judgment in favor of Dan's client on the interpretation of an area of mutual interest agreement. The judgment allowed client to retain valuable oil and gas interests in the prolific DuBose field.

As lead counsel prevailed in jury trial on property remediation claims against oil and gas lessee.

As lead counsel obtained dismissal of claims for violation of Safe Drinking Water Act and claims under orphan well regulations against oil and gas company.

Represented lessor in suit for underpayment of royalties, including royalties on carbon dioxide.

Represented lessee in defending lease termination claims brought by top lease holder.

Represented various operators in defending illegal drainage suits.

Represented operator in suit for well damage.

Represented lessee in suit for royalty underpayment and lease termination.

Represented lessee in suit for failure to protect against drainage and failure to develop.

Represented non-operating working interest owner in suit under gas balancing agreement.

Represented various lessees in suits for underpayment of royalties.

Represented plaintiff in successful suit for theft of oil production.

Represented pipeline in litigation with other pipeline over gas sales contract.

Represented operator/seller in suits against pipeline/buyer for breaches of "take or pay" gas purchase contracts.

Assisted in representation of plaintiff-operator in winning jury trial on illegal drainage and damages claims.

Professional Malpractice Litigation

As lead counsel obtained defense judgment for attorney against securities fraud and legal malpractice claims.

As lead counsel successfully defended fiduciary duty, conspiracy, deceptive trade practices and fraud claims arising

from survival and wrongful death settlements.

As lead counsel won defense judgment on legal malpractice claims arising out of divorce.

As lead counsel won jury trial in defense of legal malpractice claims.

As lead counsel won bench trial in defense of medical malpractice claims against county doctor.

As lead counsel won multiple summary judgments against medical malpractice claims against county doctor.

Real Estate Litigation

As lead counsel won jury trial in property rights dispute, including award of all attorneys' fees requested for client.

As lead counsel negotiated settlement of land use dispute involving Lake Travis Marina.

As lead counsel won lawsuit over land use restrictions, allowing development of marina on Lake Travis and won subsequent appeal.

Awards

- Order of the Coif
- Chancellor
- West Publishing Award for highest average in class, 1988
- Phi Kappa Phi Fellowship, 1985-86
- Texas Law Review, 1986-88

Articles & Presentations

- "Ethics in Contracting: Intentional Drafting & Unintentional Creation," 17th Annual Course - Advanced In-House Counsel, Business Law and Corporate Counsel Sections of the State Bar of Texas, August 2018.
- "Recovery of Attorney's Fees in Probate Litigation," 32nd Annual Estate Planning & Probate Section CLE, Austin Bar Association, May 2018.
- "Navigating the World of Probate and Fiduciary Litigation," Civil Litigation Section of the Austin Bar Association, May 2018.
- "The Texas Oil and Gas Industry: Its Present Shape and Future Outlook" - Panel Moderator, Texas Aggie Bar Association Annual Conference, March 2018.

- "Drafting Wills and Trusts for Efficient Administration" - Panel Moderator, Estate Planning, Guardianship and Elder Law Conference, August 2017.
- "Liability Risks in Trust and Estate Planning and Administration" - Presented at Annual Estate Planning and Probate Section CLE, Austin Bar Association, May 2017.
- "Litigation Strategies for In-House Counsel," Corporate Counsel Review—volume XXXVI – May 2017, Number 1.
- "Litigation 101: You've Been Sued. Now What?" - Presented at In-House Counsel 101, August 10, 2016 San Antonio, TX
- "Ethical Issues That Can Get Lawyers Sued" – Presented at 2016 Hays County Bench Bar Conference
- "Common Ethical Problems That Can Get lawyers Sued" – Presented at the 11th Annual Conference of the Texas Aggie Bar Association, March 2010
- "So You've Been Sued: What Now?" – Presented at 38th Annual Corporate Counsel Institute, Houston, April 7-8, 2016 and Dallas, May 5, 2016
- Ethical Issues for the Non-Litigator in Litigation, Presentation at the 16th Annual Conference of the Texas Aggie Bar Association, March 7, 2015.
- Guest Lecturer on Computer Evidence in Litigation, for the Elements of Computing in Society class at the University of Texas at Austin, 2014 – 2015.

News & Insights

- Dan Bitting and Cindy Saiter prevail on appeal

Practice Areas

- Appellate
- Business Litigation & Torts
- Fiduciary Duty Litigation
- Intellectual Property Litigation
- Professional Malpractice, Licensing & Regulation
- Class Action Litigation
- Personal Injury & Products Liability
- Securities & Complex Financial Litigation
- Oil & Gas Litigation

Education

- Texas A & M University, B.A., summa cum laude, 1985
- University of Texas School of Law, J.D. with high honors, 1988

Admissions

- State Bar of Texas
- United States Supreme Court
- U.S. District Court for the Eastern, Northern, Southern, and Western Districts of Texas
- U.S. Court of Appeals
- Fifth Circuit

Activities

- Member, Litigation Section, State Bar of Texas
- Member, Austin Bar Association
- Member, Senior Aggie Leadership Council