SCOTT DOUGLASS McCONNICO



David Shank

PARTNER

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Overview

Quote about David Shank from Chambers GuideDavid Shank is a first chair trial lawyer who represents plaintiffs and defendants in high-stakes disputes before federal courts, state courts, and arbitration panels around the country. David represents clients in a wide range of disputes, including those involving trade-secret misappropriation, securities fraud, class actions, and even rare and valuable art. He has extensive experience examining and cross-examining key witnesses at trial, and successfully arguing dispositive and many other motions in court. In addition to work at the trial level, David also has experience handling appeals for his clients.

Prior to joining Scott Douglass & McConnico in August 2015, David practiced with Susman Godfrey L.L.P. Before entering private practice, David served as a law clerk to Judge Barbara M.G. Lynn of the United States District Court for the Northern District of Texas.

Experience

Recent Wins

David is lead counsel for Expedia Group and its affiliates in multiple actions pending in federal courts in Florida and Delaware involving claims under the Helms-Burton Act for alleged trafficking in real property confiscated by the Cuban government.

- August 2026, Secured a complete defense verdict in Miami federal court
- September 2025, Secured complete defense judgment for Expedia Group and three of its subsidiaries when a federal trial court in Miami granted judgment as a matter of law, reversing verdicts totaling $119 million.

- August 2025, Secured a complete defense verdict for a global online travel company in an action filed under the Helms-Burton Act seeking $1.7 billion in damages. David led the team that tried the case to a jury in Delaware federal court in what was only the second trial in the history of the Helms-Burton Act.
- July 2024, Defeated Class Certification in Helms-Burton Act Claims

Secured a complete defense verdict in week-long jury trial for the management organization for one of the largest physician-owned health-care providers in Texas in a commercial property dispute.

Class Actions and Multi-district Litigation

Lead counsel for a global online travel company and its affiliates in multiple actions pending in federal courts in Florida and Delaware involving claims under the Helms-Burton Act for alleged trafficking in real property confiscated by the Cuban government. David obtained dismissal of one of the actions for failure to state a claim (which the Eleventh Circuit subsequently affirmed), obtained summary judgment of another of the actions (which was also affirmed on appeal), and secured voluntary dismissal of another of the actions after filing summary judgment motions.

Lead counsel for a global Internet vacation-rental marketplace in multiple putative class actions involving claims for fraud, breach of contract, and violations of several states' consumer protection statutes. After obtaining dismissal of all but one of the cases based on arbitration provisions, David defeated the plaintiffs' motion for class certification in the last remaining case in March 2020. You can read the district court's order denying class certification here.

Trial counsel for plaintiffs in an antitrust and commodities-fraud class action alleging manipulation in the futures and physical markets for WTI crude oil.*

Disputes Concerning Business Acquisitions and Breakups

Lead counsel for a global Internet vacation-rental marketplace in a suit arising from a prior acquisition transaction. The plaintiff sought $5 million in damages for alleged unpaid earnout compensation. Months after David and Scott Douglass were retained to take over as lead trial counsel, the case settled on favorable terms.

Trial counsel for one of the nation's largest equipment rental companies in a suit concerning contingent earnout payments following the acquisition of another company. The case settled on confidential terms not long after David took the depositions of the plaintiff's CEO and CFO.

Trial counsel for online retail company in a business-breakup dispute against its former co-owner and manager for breach of a non-competition agreement and breach of fiduciary duty. On the day the company filed suit, David obtained a temporary restraining order ex parte securing control of the company's domain name. Shortly thereafter, and without having to conduct any discovery, David helped negotiate and obtain a favorable settlement for the company.*

Trade Secret Disputes

Lead counsel for saltwater disposal well operator in a suit alleging misappropriation of trade secrets and aiding and abetting breach of fiduciary duty.

Trial counsel for environmental instrumentation and consulting company and two of its officers in derivative suit alleging trade-secret misappropriation and breach of fiduciary duty. David wrote and argued the company's successful motion to dismiss all claims based on lack of derivative standing.

Trial counsel for an owner of a closely held business in a suit against the business's co-owner and several related parties for misappropriating trade secrets and usurping a business opportunity related to a potential rail-spur project. The case resulted in a confidential settlement before trial.

Trial and appellate counsel for RFID software company GlobeRanger Corporation in its suit against Software AG for trade secret misappropriation. At the end of a two-week jury trial, during which David handled several key witness examinations and legal arguments, the jury entered a verdict in favor of GlobeRanger. Texas Lawyer named the verdict to its list of Top 25 Texas Verdicts in 2014 and placed it in the top five intellectual property verdicts for that year.* As noted below, the Fifth Circuit

later affirmed the district court's judgment in a unanimous opinion.

Securities and Financial Industry Disputes

Trial counsel for hedge fund against allegations of fraud and breach of fiduciary duty brought by a large institutional investor seeking more than $100 million in damages. The case resulted in a confidential settlement before trial.

Trial counsel for several mutual funds in opt-out securities-fraud actions in New York federal court against AIG arising out AIG's misstatements and omissions to investors leading up to its 2008 bailout. The cases settled on confidential terms before trial.*

Trial counsel for two wealth managers in arbitration brought by their former employer, Morgan Stanley, before FINRA in New York. David conducted the primary direct examination in the wealth managers' case-in-chief and cross-examined the opposition's key witness. The arbitration panel denied Morgan Stanley's claims in their entirety and awarded the wealth managers a significant amount on their counterclaims.*

Trial counsel for defendants in a securities-fraud case involving hundreds of millions of dollars in New York federal court. David prepared the defendants' successful bench brief on an insider trading claim tried to the bench (which was separated from the other claims tried to the jury), on which the judge found no liability, eliminating $60 million in potential disgorgement liability. David also examined multiple key witnesses at trial on other claims.*

Oil & Gas, and Energy Related Disputes

Trial counsel for a major oil and gas producer in a confidential arbitration with a working-interest owner that sought hundreds of millions of dollars in damages. David wrote and argued the successful partial summary judgment motion on the claimant's claims for breach of fiduciary duty. After a two-week arbitration, the panel entered an award giving the working-interest owner $0 on its claims.

Trial counsel for the City of Austin in a lawsuit involving its municipally owned electric utility, Austin Energy, and a large commercial user, in which the plaintiff sought to invalidate a $200+ million component of Austin Energy's revenue base. David wrote and argued the City's successful motion to dismiss the case on standing grounds.

Art and Valuable Objects

Lead trial counsel for an individual in a dispute over the ownership of a rare, highly valuable violin. Not long after filing suit, and without having to engage in any significant discovery or motion practice, David negotiated a confidential settlement for his client.

Trial and appellate counsel New York art gallery L&M Arts in a dispute involving the sale of a Mark Rothko painting, in which the plaintiff sought over $20 million in damages. David wrote the successful summary judgment motion that resulted in dismissal of the plaintiff's fraud claim, and handled all pretrial evidentiary arguments and the cross-examination of L&M's co-defendant during the trial on the remaining breach of contract claim. At the end of the six-day trial, the jury rejected the plaintiff's request for a $20-plus million judgment, instead awarding only $500,000 in damages.* As noted below, the Fifth Circuit reversed the judgment on appeal, holding that L&M was entitled to a take-nothing judgment as a matter of law.

Appeals

Represented indigent criminal defendant in appeal of his conviction and 23-year sentence. David presented oral argument at the Fifth Circuit Court of Appeals, which issued an opinion vacating the conviction and sentence. You can listen to the audio recording of David's oral argument here.

Represented art gallery L&M Arts in its appeal of a breach of contract verdict entered against it, leading L&M's appellate briefing efforts. The Fifth Circuit reversed the judgment in a unanimous opinion resulting in a take-nothing judgment for L&M.

Represented software company GlobeRanger Corporation in the appeal of a verdict in its favor on a claim of trade-secret misappropriation, taking the lead in briefing GlobeRanger's appeal. The Fifth Circuit affirmed the judgment in a unanimous opinion.

(*denotes experience prior to joining Scott, Douglass & McConnico L.L.P.)

Awards

- Chambers USA Band 2 recognized practitioner in Litigation: General Commercial, Texas: Austin & Surrounds, 2024, 2025, 2026
- Chambers USA Up and Comers in Litigation: General Commercial, Texas: Austin & Surrounds, 2022, 2023
- The Best Lawyers in America® in Commercial Litigation, 2027
- Texas Super Lawyers®, Business Litigation, 2026
- Best Lawyers®: Ones to Watch, Commercial Litigation, by BL Rankings, 2021 – 2025
- Texas Super Lawyers® Rising Stars, Business Litigation, 2016-2023

Articles & Presentations

- Federal Civil Court Update, Austin Lawyer (monthly since Nov. 2019)
- Changes to Motions to Dismiss in Texas, Texas Bar CLE 11th Annual Business Disputes Course, September 25, 2019 (panel moderator, and co-author with April L. Farris, Thomas S. Leatherbury, and Geoffrey Gannaway)
- Ethics for Business Lawyers: An Overview of Considerations for Common Situations, UT Law CLE 27th Annual LLC, LPs, and Partnerships Conference, July 11, 2018 (co-author and co-presenter with Kennon Wooten)
- Pushing the Boundaries on Issues Relevant to Technology Companies & Trade Secrets, Austin Bar Association Bench Bar Conference, April 2018 (co-presenter with Stefanie Scott Shah and Jonathan Kaplan)
- Common Interest Doctrine – Including Multi-State Privilege Issues, Texas Bar CLE Advanced Business Law Course, November 2017 (co-author and co-presenter with Mary Byars)
- The Common Interest Doctrine (or Lack Thereof) in Texas, Texas Bar CLE Webcast, December 2016 (co-author and co-presenter with Mary Byars)
- What General Litigators Need to Know About Copyright Preemption, Litigation Section, Austin Bar Association, October 2016
- Ethical Challenges in Preparing and Presenting Witnesses, 40th Annual Page Keeton Civil Litigation Conference, October 2016 (co-author with Steve McConnico)
- Forget What You Might “Know” About the Texas Attorney Fee Statute, Headnotes, September 2015 (co-author with Omar Ochoa)
- Wish List from Chambers: Easy Ways to Improve Written and Oral Advocacy, Texas Lawbook, 2013 (co-author with The Honorable Barbara M.G. Lynn)

News & Insights

- John Ellis and David Shank named Partners in the Firm
- Seven SDM Lawyers Named to Texas Rising Stars®
- Six SDM Lawyers Named to Texas Rising Stars®
- SDM Defeats Motion for Class Certification in HomeAway Traveler-Fee Dispute
- SDM Lawyers Recognized as 2021 Texas Rising Stars®
- SDM Lawyers Recognized in The Best Lawyers in America, 2022 Edition
- Chambers Guide Continues to Rank SDM in Top Tier

- 13 SDM Lawyers Recognized in Best Lawyers® 2023 Honors
- SDM Lawyers Recognized as 2023 Texas Rising Stars®
- Chambers Guide Continues to Rank SDM in Top Tier
- SDM Secures Complete Defense Verdict in Jury Trial
- SDM Lawyers Recognized In Best Lawyers® 2024
- Chambers Guide notes SDM as "a go-to litigation boutique in Austin."
- SDM Defeats Class Certification in Helms-Burton Act Claims
- SDM Lawyers Recognized In Best Lawyers® 2025
- SDM continues to be ranked in Chambers USA
- SDM wins defense verdict on billion-dollar Helms-Burton Act claim
- SDM wins complete defense judgment in Miami federal court, reversing verdicts totaling $119 million
- SDM continues to be ranked in Chambers USA
- SDM Lawyers Recognized in 2027 Best Lawyers® Awards and Best Lawyers Ones to Watch® in America
- SDM Secures Complete Defense Verdict in latest Expedia Trial
- SDM Lawyers Recognized in 2026 Texas Super Lawyers®

Practice Areas

- Appellate
- Class Action Litigation
- Intellectual Property Litigation
- Securities & Complex Financial Litigation
- Business Litigation & Torts
- Fiduciary Duty Litigation
- Governmental Entity Litigation

Education

- University of Texas School of Law, J.D., with honors, 2010
  - Articles Editor, Texas Law Review
  - Order of the Coif
  - Teaching Quizmaster
  - National Champion, 18th Annual Duberstein Moot Court Competition
- Trinity University, B.A., Economics, Political Science, and Middle Eastern Studies (triple major), 2006

Admissions

- State Bar of Texas
- United States District Courts for the Northern, Southern, and Western Districts of Texas
- United States Courts of Appeals for Third, Fifth, and Eleventh Circuits

Activities

- Life Fellow, Texas Bar Foundation
- Member, Austin Bar Association, Civil Litigation Section
- Member, Austin Young Lawyers Association