



Gary Cruciani

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Gary has been practicing complex commercial litigation since 1987. Prior to joining Diamond McCarthy as a partner in 2007, Gary practiced at McKool Smith P.C. for fifteen years, where he was one of the founding members of that firm.

Gary has handled a wide variety of complex commercial matters involving numerous different industries and his practice areas include antitrust, oil and gas, tax disputes, intellectual property and trade secrets, construction disputes, breach of fiduciary duty and partnership disputes, and general contract cases. While Gary has extensive experience representing both sides of the docket, his primary emphasis has been representing plaintiffs, either in class actions or in contingent fee business litigation cases.

Gary has tried a number of cases to judgment in both state and federal court and has represented clients in various jurisdictions, including Texas, New York California, Colorado, New Mexico, Mississippi, and others. In addition he has briefed and argued appeals before both state and federal courts.

Cases in which Gary has acted as either lead or co-lead counsel include the following:

- Represented thousands of class members in federal court in a major antitrust lawsuit against Xerox in a case involving alleged monopolistic conduct in the high-volume copier market. The class was certified, and the case resulted in a settlement of \$225 million in cash plus substantial non-monetary relief that the court valued as being worth additional hundreds of millions of dollars.
- Represented hundreds of royalty owners in federal court in a class action against Amoco and other oil companies for alleged underpayment of royalties in one of the world's largest carbon dioxide gas units. The class was certified, and the case settled for approximately \$50 million in cash plus substantial additional non-monetary relief involving changes in Defendants' business practices.
- Represented a class of bondholders for the Dallas Cowboys in a suit against the Dallas Cowboys and Jerry Jones for alleged breach of the terms of the bond ordinance that had been used to fund the construction of Texas Stadium and for certain equitable relief. The class was certified, and the Defendants discontinued the practices that allegedly violated the ordinance and agreed to substantial additional equitable relief sought by the class members.
- Represented a small software company in a breach of contract and theft of trade secret case involving the security alarm industry, which resulted in a \$14 million cash settlement as the jury was about to be selected.
- Secured a judgment in excess of \$3 million following a two-week jury trial on behalf of Dr Pepper Bottling Company of Texas in a claim for breach of a franchise agreement against Del Monte Corporation.

Location:

Dallas, Texas

Education:

University of Pittsburgh, 1982
B.A., Economics and Business
Administration

University of Tennessee Law
School, 1987
with High Honors

Areas of Practice:

Complex business litigation
Plaintiff class actions
Intellectual property and trade
secrets
Breach of fiduciary duty and
partnership disputes
Antitrust
Oil and gas

Admitted to Practice:

Texas, 1987

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- One of a team of lawyers who successfully defended a Dallas-based refining company that was sued for over \$200 million in a lawsuit filed by another refining company over a proposed merger that failed to close. Following a several week trial in Delaware Chancery Court, the Court issued a 116-page ruling addressing seminal legal issues under Delaware law, which resulted in a finding that the plaintiff had repudiated the agreement and entered a take-nothing judgment in favor of Gary's client.
- Successfully defended one of the nation's largest private equity firms, Hicks, Muse, Tate & Furst, that was sued for \$500 million as a result of a proposed merger that did not close due to an alleged material adverse change. Following Gary's argument of a summary judgment motion that resulted in the dismissal of the plaintiff's primary damages claims, the case settled on favorable terms for Gary's client.
- Represented a large Japanese financial institution in federal court in New York City in a case involving novel and significant legal issues relating to the commercial mortgage backed securities industry. Following a favorable Second Circuit opinion, the parties entered into a confidential settlement on terms that were extremely favorable to Gary's client.

Gary earned a double major in Economics and Business Administration from the University of Pittsburgh in 1982. He received his law degree from the University of Tennessee in 1987, where he graduated with High Honors, was a member of the Order of the Coif, and was an associate editor of the law review. He is a member of the State Bar of Texas and the Fifth Circuit Bar Association. He is admitted to practice before all of the federal courts in Texas, New Mexico, and Colorado as well as the Fifth and Tenth Circuit Courts of Appeal.