



Mark A. Shank

Senior Counsel

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D 214.389.5323

Locations

Dallas

Related Practices

Complex Commercial Litigation

Alternative Dispute Resolution, US Domestic Arbitration, and Mediation

Education

- Southwest Missouri State University (BS, *magna cum laude*, 1976)
- Southern Methodist University Dedman School of Law (LLM, 1984)
- University of Missouri - Columbia School of Law (JD, 1979)

Mark Shank is well-known and respected in Texas and across the nation as a trial lawyer, strategist, arbitrator, mediator and negotiator. He has significant experience in a multitude of industries as an advocate in commercial litigation, employment disputes and arbitration matters.

With his remarkably broad background in high-stakes controversies, Mark is transitioning his practice focus toward alternate dispute resolution, regularly serving as an arbitrator or mediator in a wide range of business and employment disputes. He is a licensed AAA arbitrator and a Fellow of the College of Commercial Arbitrators and the Chartered Institute of Arbitrators – two of the most prestigious ADR professional organizations. Clients also call on Mark to serve as an independent investigator in corporate malfeasance and workplace misconduct matters.

Mark continues to help clients on both sides of the docket facing difficult business issues, such as departing employees, high-exposure contract claims, officer and director liability, employment discrimination, wage and hour disputes and retaliation cases. He also has deep experience in litigation involving covenants not-to-compete, confidentiality and trade secrets. In addition, Mark represents clients in disputes and transactions concerning executive compensation and related issues.

Mark is in high demand as a lecturer on current arbitration, business, employment and trade secret issues. He is also a prolific author, including the definitive book on Texas law as it treats departing employees.

A stalwart of numerous bar associations and foundations in Texas, Mark previously served as Director of the State Bar of Texas and President of the Dallas Bar Association.

Board Certified in Civil Trial Law and Labor and Employment Law by the Texas Board of Legal Specialization.



Representative Experience

Arbitrations / Mediations

Mark has served as a neutral in disputes involving a variety of issues, including:

- Trade Secrets
- Shareholder Derivative actions
- Technology, Software and Hardware
- Executive claims for compensation and stock
- Breach of Fiduciary Duty/Duty of Loyalty
- Covenants Not-to-Compete
- Attorneys' Fees

- Rights to Patent Portfolio
- Healthcare Disputes
- FLSA
- Employment Discrimination
- Breach of Contract

Throughout his career, Mark has also been a sought-after advocate in the following types of disputes:

- Multiple representations of clients in commercial and employment discrimination arbitrations
- Representation in a wide range of arbitrations under collective bargaining agreements.
- Service as an arbitrator for the American Arbitration Association and other arbitration providers, and as a private arbitrator in a wide range of commercial and employment disputes

Commercial Litigation

- Investigation involving alleged financial malfeasance and appropriateness of tax treatment within a publicly traded company
- Defense and resolution of a shareholder's derivative action involving claims of wrongdoing by the CEO and CFO and involving an interpretation of Texas and Delaware law
- Defense and resolution of Class Action matters under Rule 23 Federal Rules of Civil Procedure, and state law equivalents in a wide variety of areas, including employment law and the FCRA
- Investigation involving alleged officer malfeasance and unfair treatment within publicly traded companies
- Resolution of claims by a member of a medical partnership against the other partners, involving partnership claims and disability claims
- Prosecution of a claim involving contempt of court and failure to deliver source code
- Representation of a closely held software company in claims for injunctive relief and alleged self-dealing involving ownership of stock and intellectual property
- Prosecution and defense of numerous injunction matters involving claims of theft, trade secrets and intellectual property, inevitable disclosure, covenants not to compete, breach of duty of loyalty and related matters
- Representation in a software piracy claim

Labor and Employment Litigation

Mark has handled a wide variety of employment matters including ones involving:

- All types of discrimination claims under Texas and Federal Law
- Numerous FLSA class and collection action and individual claims
- Departing employee claims of all types
- Claims for executive compensation, stock, bonuses, and related matters
- Numerous other statutory and common law claims

Professional Associations

- State Bar of Texas
 - Director (2002-2005)
- Chair, Labor and Employment Law Section (1998-1999)
- Member, Litigation Council (2012-present)
- Chair, Texas Bar Foundation (2008-2009)

- Fellows Chair, Texas Bar Foundation (2020)
- Chair, Dallas Bar Foundation (2010)
- Board of Trustees, Dallas Bar Foundation (2002-2010)
- Dallas Bar Association
 - President (2001)
 - Vice President (1998) and Chair (1997)
 - Chair, Labor and Employment Law Section (1994)
- Fellow of the Chartered Institute of Arbitrators
- Fellow of the College of Commercial Arbitrators (2018)
- Fellow of the College of Labor and Employment Law (2008)
- Trustee, The Center for American and International Law Research
- Chair, Vice President and Secretary, Texas Young Lawyers Association (1986-1990)
- Texas General Counsel Forum Board of Directors (2001-2005)
- President, Dallas Association of Young Lawyers (1986)
- The College of the State Bar of Texas
- Fellow of the American Bar Association (2016)
- Fellow of the Texas Bar Foundation (1986)
- Dallas Breakfast Group
 - Board Member
 - Chair (2006- 2012)
- Leadership Dallas (1994)
- Member, East Dallas Chamber of Commerce (1998)
- Board of Directors, Professional Bank (2005-2010)
- Vice-Chairman of the M5M Foundation Board (2016-present)

Bar Admissions

- Texas
- Missouri

Honors and Awards

- “Senior Statespeople” in Labor & Employment – Texas, Chambers and Partners, London
- Texas Super Lawyer, Law & Politics Magazine and Texas Monthly (2003-present)
 - Top 100 Lawyers in Texas
 - Top 100 Lawyers in Dallas
- Best Lawyers in America
 - Arbitration (2019)
 - Commercial Litigation and Labor & Employment Litigation (1995-present)
- D CEO Dallas 500 – The most Powerful Business Leaders in Dallas-Fort Worth (2016)
- Best Lawyers in Dallas, D Magazine (2001-present)
- The World’s Leading Business Lawyers, Chambers and Partners, London
- Member, American Board of Trial Advocates (2002-present)
- American College of Labor Lawyers (2010)
- “Best Lawyers Annual Guide to Labor & Employment Law,” Corporate Counsel (2008-present)
- Justinian Award, Dallas Bar Foundation (2016)
- Judge Sam Williams Local Bar Leadership Award (2005 – 2006)
- DAYL Foundation Award of Excellence, November (2006)
- Habitat for Humanity Board of Directors Award (2013)
- “Go-To” Lawyers: Labor and Employment, Texas Lawyer (2003)
- President’s Citation of Merit, State Bar of Texas (2003)

- Most Outstanding Member, East Dallas Chamber of Commerce (1998, 2010)
- Dallas Volunteer Project Pro Bono Service Award (2001)
- AV rated by *Martindale-Hubbell*

Resources

- Texas Lawbook: Departing Employee Litigation Webcast
- Diamond McCarthy is pleased to announce five attorneys have received “Best Lawyers 2021” recognitions and one “One’s to Watch 2021”
- Diamond McCarthy Senior Counsel Mark A. Shank Elected Fellows Chair of Texas Bar Foundation
- Seven Diamond McCarthy Attorneys Recognized as 2019 Texas “Super Lawyers”, with One Additionally Recognized with Two “Top 100” Recognitions
- Five Diamond McCarthy Attorneys Selected as “Best Lawyers in America” by Best Lawyers
- Diamond McCarthy Senior Counsel Mark A. Shank Receives Top Recognition by Chambers and Partners
- Diamond McCarthy’s Mark A. Shank Interviewed in Of Counsel Magazine
- Diamond McCarthy’s Mark Shank (Dallas) Inducted as a Fellow in the College of Commercial Arbitrators
- Diamond McCarthy’s Mark Shank (Dallas) Recognized on Texas and D/FW’s “Top 100 Lawyers List” & “Best Lawyers In America”
- Diamond McCarthy Welcomes Mark A. Shank as Senior Counsel in Dallas