



# Mark K. Sales

## Partner

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D 214.389.5320

## Locations

Dallas

### **Education**

- Baylor Law School (JD, *cum laude*, 1985)
- Texas A&M University (BS, 1979)

Clients trust Mark Sales to handle the most challenging probate, trust and related fiduciary duty litigation cases. He has resolved complex disputes involving a variety of issues, including will contests with significant assets and business interests at stake, allegations of fraud, self-dealing and mismanagement of assets by trust and estate fiduciaries, disputes over control of family businesses, pre-death asset transfers, trust modification proceedings, plus many more.

Mark also guides business clients through an extraordinarily broad range of commercial litigation before federal and state courts at the trial and appellate levels, including cases involving contract disputes, broken real estate deals, insurance claims, construction and design defects, products liability and personal injury defense.

Before joining Diamond McCarthy, Mark was a partner with Dykema Gossett, where he was a member of the Commercial Disputes practice group and co-chair of the Probate, Trust and Related Fiduciary Duty practice group. He also practiced for 25 years at then-Hughes & Luce, where he served on the Executive Committee and as Hiring Partner before the firm's merger with K&L Gates in 2008.

Mark is known as an active lion of the bar because of his significant leadership positions within the legal community, including President of the American Bar Association's Metro Bar Caucus from 2017 to 2018, Director of the State Bar of Texas from 2007 to 2010, President of the Dallas Bar Association in 2006 and President of the Dallas Association of Young Lawyers in 1994.

### **Representative Experience**

- Defended family partnerships in tax litigation with the IRS arising out of more than \$100 million of taxes owed
- Handled reformation suits for various high wealth and individual family trusts
- Represented various corporate fiduciaries in breach of fiduciary suits arising out of trusts and/or estates
- Represented client involving claims to remove her father as trustee of a \$1.3 billion trust
- Defended various insurers against claims of breach of contract, deceptive trade practices, violations of Texas Insurance Code, and for bad faith denial of coverage or delay in payment of claims, including claims for health, disability and life insurance benefits

- Defended claims of trade secrets and confidential/proprietary information arising out of a discovery dispute in a false advertising lawsuit
- Prosecuted a multi-million-dollar unfair competition and antitrust lawsuit
- Defended a large Dallas bank in various lender liability lawsuits
- Represented a real estate developer in a declaratory relief action brought against a savings and loan association and its successor to enjoin foreclosure proceedings on various real estate holdings
- Handled a mandamus action to set aside trial court's order requiring production of privileged documents based on theories of offensive use, joint representation, and subject matter waiver
- Defended electronics company in a \$50+ million consolidated action brought by former dealers and by a private realtor under the Federal False Claims Act arising out of the termination of its office automation equipment business
- Prosecuted \$30+ million claim for lost profits against financing sources for breach of contract
- Prosecuted breach of contract and malpractice suit arising out of a negligent due diligence investigation regarding the sale of an office/warehouse facility
- Obtained a \$6.9 million settlement in a wrongful death and survival suit against a trucking company and a road construction company on behalf of the heirs and beneficiary of the estate of an accountant who was fatally injured in a traffic accident
- Obtained a jury verdict of \$300,000 in a personal injury/products liability suit
- Defended a hospital in federal multi-district litigation panel involving more than one hundred personal injury lawsuits arising out of design, manufacture and sale of pedicle screw medical devices
- Prosecuted breach of contract and bad faith insurance claims arising out of insurance company's denial of disability benefits to a physician under an "own occupation" disability policy
- Defended and obtained take nothing jury verdict in a \$100+ million lawsuit against an oil company for breach of contract and fraud, involving a dispute over coal mining rights in the Republic of Colombia
- Defended and obtained a take nothing judgment in a \$3+ million lawsuit for alleged overcharging of drilling and operating expenses
- Defended hundreds of personal injury lawsuits arising out of manufacture and sale of asbestos-containing products
- Defended a computer chip manufacturing plant against personal injury claims of employees alleging that exposure to silica and silicon products caused them to contract scleroderma and Raynaud's phenomenon
- Defended a paint manufacturer against numerous suits brought by painters claiming that exposure to benzene and other chemicals contained in its paint products allegedly caused them to contract leukemia and/or lymphoma
- Defended a medical clinic against numerous negligence, malpractice and product liability claims arising out of injuries allegedly caused by the diet drug known as Phen-fen

### **Professional Associations**

- Member, American Bar Association House of Delegates (2017-present)
- President, American Bar Association Metro Bar Caucus (2017-2018)
- Dallas Bar Association
  - Immediate past president (2007)
  - President (2006)
  - President-elect (2005)
  - Vice-president (2004)

- Chair, Board of Directors (2002)
- Chair, Finance Committee (1998-2003)
- Member of the Business Litigation and Probate Sections
- State Bar of Texas
  - Director (2007-present)
  - Chair, Administration of the Rules of Evidence Committee (1994 and 1996-2003)
  - Member (1986-present)
- Dallas Bar Foundation
  - Chair (2014)
  - Trustee (2007 to present)
- Texas Bar Foundation
  - Life Fellow
  - Nominations Co-Chair for Dallas District 6 (2013-2014)
- Dallas Association of Young Lawyers (DAYL), President (1994)
- Dallas Association of Young Lawyers Foundation, Director (1999-2004)
- Patrick E. Higginbotham American Inn of Court, Barrister (2002-2004)
- International Society of Barristers, Member (2007-2023)

### **Bar Admissions**

- Texas

### **Honors and Awards**

- Recipient of AV Preeminent Attorney Rating from Martindale-Hubbell® (2020, 2023 – 2024)
- Recognized as “Lawyer of the Year” by *Best Lawyers* in the category of Litigation – Trusts and Estates (2020 Edition)
- Recognized in *The Best Lawyers in America* for work in the areas of Commercial Litigation, Trusts and Estates Litigation (2015 and 2019 Editions)
- Recognized in *The Best Lawyers in America* by Woodward/White, Inc., Aiken, SC (2013-19)
- Recognized in *Texas Super Lawyers* for Estate & Trust Litigation (2004-19, 2023, 2024) and Business Litigation, Thomson Reuters (2004-19)
- Named in “Best Lawyers in Dallas” list by *D Magazine* (2012)
- Recipient of the 2006 Pro Bono Appreciation Award presented by Legal Aid of Northwest Texas

### **Resources**

- Diamond McCarthy is pleased to announce five attorneys have received “Best Lawyers 2021” recognitions and one “One’s to Watch 2021”
- 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 Partners Mark K. Sales and Christopher D. Sullivan Recognized as “Lawyer of the Year” by Best Lawyers
- Forensic Accountants Role in Fiduciary Litigation Involving High Net Worth Clients, Private Company Investments, Trusts and Estates
- “Compelling Trust Beneficiaries to Arbitrate in Texas,” Co-Author (DBA Headnotes, July 2013)
- “Trust Reformation” (Smart Business Dallas, February 2011)
- “Codifying the Good Faith & Probable Cause Exception”, Co-Author (DBA Head Notes, January 2011)

- "The Attorney-Client Privilege in Will and Trust Contests", Co-Author (DBA Headnotes, October 2009)
- "Trust Modification: Helpful Techniques to Fix What is Broken", Co-Author (Estate Planning Counsel of Central Texas, March 2008)
- "Taking Advantage of New Opportunities for Trust Modification", Contributor (DBA Headnotes, August 2007)
- "Trust Modification" (State Bar of Texas 31st Annual Advanced Estate Planning and Probate Course, June 2007)
- "Judicial Construction and Modification of Trusts: Practical Advice for the Client" (May 2007)
- "Rare Fifth Circuit Victory of Evidentiary Points" (November 2005)
- "H&L Attorney Takes Office as DBA President" (January 2005)
- "The New Texas Rules of Evidence: Changes – Part I," DBA Headnotes (April, 1998)
- "New Rules Changes – Part II," DBA Headnotes (May, 1998)
- "Procedural Pitfalls in Probate and Trust Litigation", Author (Texas Lawyer, 1998)
- "The 1998 Texas Rules of Evidence: Changes Made and Changes Rejected", Author (State Bar of Texas Professional Development Program)
- "The 1997 Texas Rules of Evidence: Changes Made and Changes Rejected", Author (Southern Methodist University Law Institute on Practicing Law Under the New Rules of Trial and Appellate Procedure, 1997)
- "Key Issues in Tort Litigation Involving Foreign Defendants in the United States", Author (American Conference Institute on Successful Strategies in Toxic Tort Litigation, 1996)
- "Investigating, Preparing and Presenting Witnesses", (Patrick E. Higginbotham American Inn of Court, 1995)
- "Toxic Tort Update", Author (State Bar Eleventh Annual Litigation Update Institute, 1995)
- "Key Aspects of Texas Tort Reform Relating To Venue and To Deceptive Trade Practices", Author (Eighth Annual Baylor Litigation Institute, 1995)
- "The International Challenge: Handling Products Liability Claims Involving Foreign-Country Defendants in Texas Courts", Author (9 Tex. Personal Injury L. Rptr. 17, 1991)
- "Government Contract Defense: Sharing the Protective Cloak of Sovereign Immunity After McKay v. Rockwell International Corp.", Author (37 Bay L. Rev. 181, 1985)