

David B. West

Member

San Antonio

Weston Centre
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Areas Of Practice

Litigation

Probate, Trust & Fiduciary
Litigation

Financial Services Litigation –
Consumer

Real Estate Litigation

Industries

Financial Industry Group

Bar Admissions

Texas, 1982

Court Admissions

United States Court of Appeals
Fifth Circuit

United States Court of Appeals
Tenth Circuit

United States Tax Court

United States District Court
Northern District of Texas

United States District Court
Western District of Texas

United States District Court
Southern District of Texas

Education

- The University of Texas School of Law, J.D., 1981
- The University of Texas at Austin, Masters of Public Affairs, 1975
- Austin College, B.A., Government and Business, Austin Scholar, Pi Gamma Mu, 1973

Personifying "knowledge, preparation, professionalism and integrity" (client quote, *Best Law Firms* 2018), David West has been a trusted advisor to financial institutions, trust departments, businesses, families and nonprofits for more than 30 years. He handles banking disputes involving the UCC, data privacy, check fraud, and officer and director liability; trust and probate litigation; and business disputes involving fiduciary liability, contracts, business torts, real estate and insurance issues. He has represented clients in approximately 50 jury and non-jury trials and arbitrations in federal and state court and counsels clients on internal policies and practices and litigation avoidance. David is Board Certified in Civil Trial Law by the Texas Board of Legal Specialization.

Experience

Financial Institution Litigation

- UCC/Check Fraud/Data Privacy. Representation of banks in disputes involving check and account fraud, fraud involving remotely created checks, fraud involving wire transfers, check kites, elder fraud, protection of personal identifiable information and Uniform Commercial Code disputes.
- Lender Liability. Representation of banks in disputes with borrowers involving financial and loan structures, construction claims, fraud by third parties, and tortious interference.
- Officer/Director Liability. Defense of former board members of failed bank against claims asserted by FDIC for breach of fiduciary duty; counseling of board members regarding fiduciary obligations.
- Breach of Contract. Representation of banks in contract disputes with vendors, use of forged letters of administration to obtain estate funds.
- Protection of Personally Identifiable Information. Representation of health care provider in theft of personal identification information.
- Home Equity Lending. Representation of banks in suits to set aside/enforce home equity loans.
- Counseling on Accounts. Counseling to banks, credit unions and investment brokers on powers of attorney, estates, trusts, guardianships and rights of fiduciaries to transact business on accounts and safe deposit boxes.

Trust and Estate Litigation

David B. West (Cont.)

- Representation of fiduciaries and nonprofits in disputes involving determination of title to minerals, failure to reserve oil and gas interests in sale of real property.
- Representation of families in disputes involving estates, trusts, family limited partnerships, and limited liability corporations, and restructure of estate plans to resolve family disputes.
- Representation of nonprofit beneficiary in suit against executrix to recover estate assets, damages for self-dealing and breach of fiduciary.
- Representation of large church in multi-million dollar property dispute involving validity of trust clause in constitution of denomination; case involved neutral principals of law doctrine, First Amendment issues, charitable gifts, and injunction issues.
- Defense of trustee/beneficiary in claims over diversification and investment of assets in \$22 million trust.
- Suits for declaratory judgment to construe wills and trusts and define the rights and interests of parties; suits to modify trusts to prevent adverse tax consequences and change corporate form of nonprofits.
- Partition Suits. Representation of families in suits to partition ranches, damages for breach of fiduciary duty by trustee.
- Will Contests. Representation of families in claims to remove executor, set aside will and recover real property and mineral interests.
- Guardianships. Defense of trustee against claims for loss of value of investment during temporary guardianship.

Business and Real Estate Litigation

Public/Private Investment.

- Representation of nonprofit in temporary injunction action to stop construction of \$200 million performing arts center.
- Defense of economic development corporation against claims of unauthorized use of public funds for construction of public park improvements.

Breach of Contract.

- Defense of lignite mine owner in \$22 million breach of contract claim.
- Denial of general contractor claims; award in favor of "landscaping company."

Real Estate/Construction Litigation

- Title Dispute. Representation of bank in dispute against title company to recover loss of improvements to real property resulting from city enforcement action, demolition order
- Easement. Disputes involving easements, rights of access to ranch property.
- Construction Disputes. Representation of home owners in suit to recover damages against builder of multi-million dollar home; defense of building contractor against claims by home-owners for breach of warranty, breach of contract, and DTPA violations.
- Manufacturing. Representation of window manufacturer for claims of breach of warranty for design and manufacture of windows.

Seminars & Speeches

The Fiduciary Duty, Notable Legal Changes Impacting Trust and Estates and the Financial Services Industry
November 21, 2019

Recent Litigation, Texas Bankers Association Wealth Management & Trust Conference, San Antonio, Texas
April 18, 2019

Overview of New Texas Statute Governing Powers of Attorney, Texas Association of Bank Counsel (TABC) Webinar
January 25, 2018

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The Eagle Ford Impact: Regional Economic Conditions Affecting Texas Banks, San Antonio, Texas
May 18, 2016

Conflicts Analysis in Estate Planning: A guide to the Duties and Privileges, Docket Call, San Antonio Estate Planners Council, Estate Planning, Probate and Guardianship Seminar, San Antonio, Texas
February 11-12, 2016

Banking Issues Involving Probate, Trust and Guardianships, San Antonio Credit Union, San Antonio, Texas
February 3, 2016

Non-Probate Transfers: Using Powers of Attorney at Financial Institutions, Docket Call, San Antonio, Texas
February 25, 2014

Membership Has It's Privileges: (And Duties), USLAW Fall Conference, Washington, D.C.
October 2012

Trends in Litigation, San Antonio Bar Association
October 15, 2012

Lender Liability: a Case Study, presentation to bank clients

Dodd Frank's Conflicting Goals: Good Underwriting Practices v. Fair Lending Practices, USLAW Banking Conference, Charlotte, N.C.
February 7, 2012

Publications

"Church and State: Determining Ownership of Church Property After Schism"
June 30, 2020
Texas Lawyer

"It's the Trustee's Burden: Can It Be Delegated?"
February 20, 2020
NextGen Financial Services Report

"Accessing and Protecting Digital Assets: Fiduciary Duties in a Digital World"
February 28, 2019
NextGen Financial Services Report

"Avoid Probate Court: Head to Your Bank Instead"
November 12, 2018
Westlaw Journal Bank & Lender Liability (bi-weekly print publication)

"Avoid Probate Court: Head to Your Bank Instead"
October 4, 2018
NextGen Financial Services Report

"Recovering Data Breach Losses from Non-Contractual Parties"
June 22, 2018
CPO Magazine

"2017 Texas Legislative Recap of New Laws Affecting Financial Institutions Operating in Texas," Co-Author
August 14, 2017
NextGen Financial Services Report

News

David West Named a Legal Influencer by Lexology
April 24, 2019

Texas Lawyer Announces Pro Bono Case Victory for Ruiz, Truss, West, and Galván
August 15, 2017

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Memberships & Involvement

- Texas Association of Bank Counsel, Member
- Chair, US LAW Financial Institutions and Banking Committee, 2012-2014
- San Antonio Estate Planners Council
- Founder and Chair, Litigation Section, San Antonio Bar Association, 2003
- San Antonio Bar Association, Board of Directors, 2007-2008
- Texas Bar Foundation, Life Fellow
- San Antonio Bar Foundation
- The College of the State Bar of Texas
- Review of Litigation Law Review, Writer
- University of Texas, Legal Research Board, Writer
- William S. Sessions American Inns of Court, Member

Community/Civic Activities

- First Presbyterian Church, San Antonio, Texas, Elder
- Morningside Ministries, Chairman of the Board
- Bexar County Detention Ministries, Board Member
- Luke's Hospital Foundation, Board Member
- Alamo Heights School Foundation, Board Member

Awards & Recognition

- *San Antonio Magazine*, "2019 Top Attorneys," Banking Financial
- *SA Scene*, "San Antonio's Best Lawyers," 2014
- Best Lawyer in San Antonio, Litigation-Banking and Finance, 2013
- Recognized in *Texas Super Lawyers*[®] for Business Litigation, Banking, and Estate Planning & Probate, 2009-Present
- Recognized in *The Best Lawyers in America*[®] for Commercial Litigation, Banking & Finance Litigation and Trusts and Estates Litigation, 2011-Present. Copyright 2015 by Woodward/White, Inc., Aiken, SC
- Recognized as a "Legal Influencer" and recipient of the Lexology Content Marketing Award for Q1 2019
- Martindale Hubbell-AV Preeminent Peer Review Rating (15 years)
- Chair, Litigation Department at Dykema, 2006-2011
- Firm Management Advisory Committee, 1997-2003