



## DAVID H. HARPER

Partner

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**PRACTICES:** Litigation, Intellectual Property, Intellectual Property Litigation, Media and Entertainment Litigation, Energy Litigation, Oil and Gas, Oil and Gas Litigation, Patent Litigation, Trade Secret Litigation, Trademark Litigation, Higher Education; **INDUSTRIES:** Media, Entertainment and Sports, Technology, Internet, Domain Name Disputes, Sports Law

### DALLAS

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### EDUCATION AND CLERKSHIPS

- J.D., Harvard Law School, 1991, *cum laude*; Senior Editor, *Journal of Law and Public Policy*
- B.B.A., Economics and Finance, Baylor University, 1988, *summa cum laude*

### ADMISSIONS

- Texas

### COURT ADMISSIONS

- United States Supreme Court
- Texas Supreme Court
- U.S. Court of Appeals for the Fifth Circuit
- U.S. Court of Appeals for the Tenth Circuit
- U.S. District Court for the Northern District of Texas
- U.S. District Court for the Eastern District of Texas
- U.S. District Court for the Southern District of Texas

David Harper is a Haynes and Boone partner, trial lawyer and member of the firm's board of directors. David solves clients' complex business problems and implements their strategies both in the courtroom and the boardroom as a trusted business advisor. He has served as lead counsel for the most significant and complex disputes clients have - ranging from semiconductor fabrication patent and trade secrets, oil and gas transactions, public pensions, or disputes about the sale of major businesses.

Teams that David has led or co-led have achieved remarkable success. For example, his team recently successfully defended a major semiconductor fabrication company in a patent infringement case in which the plaintiff conceded defeat in the trial court after a favorable Markman ruling. He successfully defended clients in a multi-week trial and then on appeal against claims of copyright infringement regarding video distribution rights. He also led a team that defeated claims in the trial court of alleged theft of software as trade secrets. Likewise in business disputes, he recently pursued claims for fraud against sellers of a business to a major work wear manufacturing company which was then mutually settled. David and the Haynes and Boone team he led won a multi-year battle defeating claims of alleged shareholder oppression in the Texas Supreme Court. And, he defended and resolved multiple lawsuits against the prominent founder of a major independent oil and gas company from claims about buyouts of other investors.

David's skills are sought out by boards seeking him as a member, including Baylor University, where he has served for several years as the chair of multiple committees. David has also served in significant leadership roles in the firm, including as the co-chair of the firm's overall litigation practice, chair of the IP Litigation practice, and on multiple firm management committees.

David has been recognized in *The Best Lawyers in America*, Woodward/White, Inc., for Litigation - Intellectual Property, 2014-2020; *Texas Super Lawyers*, Thomson Reuters, 2003-2019; *D Magazine's* "Best Lawyers in Dallas" (2009 and 2018), *D Magazine* Partners, and is peer-review rated as AV Preeminent by *Martindale Hubbell Law Directory*.

### Selected Client Representations

#### Intellectual Property

- Defense of provider of police video camera technology against claims of patent

- U.S. District Court for the Western District of Texas
  - infringement by competitor.
  - Successful defense in the trial court of Taiwan Semiconductor Manufacturing Company in patent litigation regarding lithography technology (*DSS Technology Management, Inc. v. Taiwan Semiconductor Mfg. Co., Ltd.*, No. 2:14-cv-199-RSP, 2015 WL 1737732 (E.D. Tex. April 8, 2015) (upheld by 642 Fed. App'x 1006 (Fed. Cir. 2016))).
  - Successful defense of alleged theft of trade secret claims related to software (*Spear Marketing v. ARGO Data Resources*, 2013 WL 2149570 (N.D. Tex.).)
  - Successful defense at trial of claims of copyright infringement, breach of license agreement and misappropriation of name brought by nationally syndicated radio show host against stage play production company and DVD distributor. (*Baisden v. I'm Ready Productions*, 693 F.3d 491 (5<sup>th</sup> Cir. 2012).)
  - Part of successful TSMC trial team winning claims of theft of semiconductor trade secrets as plaintiff against Chinese fab, SMIC.
  - Successfully trying claims of breach of copyright license and distribution agreement for creator of Barney® children's television series.
  - Trying and defeating claims of software copyright infringement brought by former employee against major car rental company (*Wood v. Cendant Corporation and Avis Holdings Group, Inc.*, 2006 WL 2045839 (N.D. Okla.).)
  - Securing summary judgment on claims that domain name registrar did not violate federal Anti-cybersquatting Consumer Protection Act of 1999 and Texas trademark anti-dilution statute (*Lockheed Martin v. Network Solutions, Inc.*, 141 F. Supp. 2d 648 (N.D. Tex. 2001)).

### Complex Business Disputes

- Defense of Dallas Police and Fire Pension System against multiple challenges to pension plan, including in *Degan v. Dallas Police and Fire Pension System*.
- Prosecution of fraud claims related to sale of business unit to major work wear manufacturer (settled).
- Successful defense of claims of shareholder oppression and breach of fiduciary duty at trial and appeal brought against privately held software company (*ARGO Data Resources v. Shagrithaya*, 380 S.W.3d 249 (Tex. App.—Dallas 2012, *pet. denied*)).
- Defending a trust against multi-million dollar claims of fraud, breach of fiduciary duty and conspiracy in a real estate transaction.

### Media, Libel and Invasion of Privacy

- Obtained summary judgment for financial publisher over alleged violations of federal and state securities laws. *Reynolds v. Murphy*, 188 S.W.3d 252 (Tex. App.—Fort Worth 2006) and *Reynolds v. Murphy (II)*, 266 S.W.3d 141 (Tex. App.—Fort Worth 2008).
- Multiple successful defenses of author of *Stolen Valor* in libel claims brought by individuals making false claims of military service and honors.

### Professional Recognition

- Named in *The Best Lawyers in America*, Woodward/White, Inc., for Litigation -

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Intellectual Property, 2014-2020

- Named a Best Business Lawyer in Dallas for Business Litigation by *D Magazine*, *D Magazine Partners*, 2009, 2018
- Named in *Texas Super Lawyers*, Thomson Reuters, 2003-2019
- Named in Best Lawyers Under 40 by *D Magazine*, *D Magazine Partners*, 2002, 2004 and 2006
- *Martindale Hubbell Law Directory* with a Peer Review Rating of AV Preeminent

#### **Professional and Community Activities**

- Deacon, Park Cities Baptist Church, including service as Chairman of Deacons and President of Trustees
- Board of Regents, Baylor University, including service as Chair, Academic and Student Affairs Committee (2009-2018)
- President, Harvard Law School Association of Texas
- Co-Editor, Libel Defense Resource Center's Annual Survey of Privacy and Related Claims Against the Media
- Trustee, Trinity Christian Academy
- State Bar of Texas
- American Bar Association
- American Intellectual Property Law Association (AIPLA)
- Dallas Bar Association (Past Co-Chair, Media Relations Committee)
- Life Fellow, Texas Bar Foundation
- W.M. "Mac" Taylor, Jr. American Inn of Court (Master, 2008-Present)
- Advocates for Community Transformation (ACT), Executive Committee of Advisory Board