

## Kenneth N. Hickox, Jr.

### PARTNER

For over twenty years, Ken has worked in partnership with his clients to overcome business challenges by obtaining successful outcomes in settlement conferences, mediations, domestic and international arbitrations, trials, and appeals arising in multiple jurisdictions, numerous federal and state courts, and even the High Court of Justice for England and Wales. These successes have come in a variety of practice areas, including commercial contracts, hospitality, fiduciary obligations, legal malpractice, bankruptcy, policyholder insurance coverage, securities, intellectual property, trade secret, oil & gas, employment, real estate, and education.

Ken's clients range from sole proprietorships to Fortune 50 companies, and include small business owners, high wealth individuals, real estate developers, hotel owners, hedge funds, and multi-billion international corporations. He has earned victories for clients that he has worked closely with from the first day that a challenge has arisen, as well when asked to take over a case only weeks before trial.

Ken has a passion for his work, which means he loves going to trial. He takes pride in developing a "story" of the case from the outset that focuses discovery and motion practice on the facts and issues that truly matter. That process not only streamlines the litigation and minimizes costs, but ensures that Ken can present a case at trial in a comprehensive, yet easily understood, manner.

Ken knows that litigation frequently involves risks unrelated to the actual facts, and costs can be significant. That's why his first priority is to thoroughly understand his client's business, the relevant industry, and how the particular facts of the case impact them. He then gives a frank assessment of the strengths and weaknesses of a case, discusses options, and lays out what can be expected in light of how his client wishes to proceed. He can then achieve the ideal outcome for a particular situation, be that a quick pre-suit resolution or putting the client in the best position to win at trial.

### REPRESENTATIVE MATTERS

#### Contract

*Porton Capital Technology Funds v 3M UK Holdings Ltd* (High Court of Justice for England and Wales)  
Obtained a de minimis bench trial verdict for multinational corporation sued for tens of millions of dollars by plaintiff alleging breach of an earn-out provision in a contract for the sale of medical testing product that defendant determined was not commercially viable.



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*Rochon v. Akin Gump Strauss Hauer & Feld (District Court, Dallas County, Texas)*  
Successfully represented plaintiff in case alleging that his former law firm breached its fiduciary duties to him by representing his previous employer, which plaintiff had sued for violations of his employment contract.

*International Paper v. Affiliated FM Insurance Co. (California Superior Court, San Francisco)*  
On litigation team that obtained a nearly \$100 million jury verdict against insurer for breach of contract and bad faith in denying insurance coverage for claims related to failure of hardboard siding manufactured by Masonite Corporation.

## **Hospitality**

*Karang Mas Sejahtera v. The Ritz-Carlton Hotel Company, LLC (U.S. District Court, Maryland)*  
Obtained a multimillion dollar jury verdict – including \$10 million in punitive damages – for the owner of the Ritz Carlton Bali for breach of fiduciary duties and breach of a territorial restriction in the Ritz Carlton's management agreement with the hotel.

## **Real Estate**

*Meyer v. Christie (U.S. District Court, Kansas)*  
Obtained jury verdict for millions of dollars, including punitive damages, for construction company and owners against defendants for breach of an oral partnership agreement and breach of fiduciary duties involving the construction of a multi-family apartment complex in Junction City, Kansas. Verdict upheld on appeal to U.S. Court of Appeals for the Tenth Circuit.

## **Torts Law**

*Commerce Street Capital, LLC v. Dos Rios Partners, L.P. (County Court at Law, Dallas)*  
Obtained summary judgment for defendant against claim by financial broker for tortious interference with contract.

## **Energy, Oil & Gas**

*SEC vs. McNaul (United States District Court, Kansas)*  
In a case of first impression, obtained ruling that a law firm could not independently assert work product protection after clients waived privilege by successfully urging the district court to adopt the “entire file” approach when determining the extent to which the firm must produce privileged or work product documents.

## **Arbitration**

*James and Jackson, LLC v. Willie Gary, LLC (Supreme Court of Delaware)*  
In a case of first impression, successfully argued for Delaware to adopt the view that, where an arbitration clause provides that the arbitration was to be conducted in accordance with the rules of the American Arbitration Association, that constitutes clear and unmistakable evidence of the parties' intent to have an arbitrator determine substantive arbitrability.

## **Intellectual Property**

*In re Certain Components for Installation of Marine Autopilots with GPS or IMU (U.S. International Trade Commission)*  
Successfully represented plaintiff in case alleging that it had infringed on patents used in multifunction displays for boating navigation units.

## **Litigation**

Pharos Capital v. Deloitte & Touche, et al. (U.S. District Court, Southern District of Ohio)

Successfully represented private equity fund in multi-district litigation seeking recovery of damages that plaintiff incurred as a result of fraudulent stock offerings by a health care financing company.

## **General**

Benavidez v. Irving Independent School District (U.S. District Court, Northern District of Texas)

Representing a pro bono plaintiff, obtained verdict that school district was in violation of the Voting Rights Act because its makeup of five single-member trustee districts and two at-large districts denied Hispanic voters the opportunity to meaningfully participate in the electoral process. Attorney's fees and costs awarded, and district agreed to move to a seven single-member district electoral plan.

## **EDUCATION**

J.D., Marshall-Wythe School of Law, College of William & Mary, 1995

B.S.F.S. (International Relations), Georgetown University School of Foreign Service, 1982

## **OTHER WORK EXPERIENCE**

1982-1992, U.S. Department of Defense, Operations Specialist (worked throughout Latin America)

## **COURT ADMISSIONS**

Texas State Bar

District of Columbia Bar

West Virginia Bar

United States Court of Appeal for the Fourth Circuit

United States Court of Appeal for the Tenth Circuit

United States Court of Appeal for the Eleventh Circuit

United States District Court for the Northern District of Texas

United States District Court for the District of Columbia

United States District Court for the Southern District of West Virginia

United States District Court for the Northern District of West Virginia

American Bar Association

Dallas Bar Association