



## Timothy S. Durst

Partner

Dallas

D: +1-972-360-1923

tdurst@omm.com

Tim Durst is a Chambers-ranked, first-chair trial lawyer with years of courtroom experience handling complex and high-stakes disputes. He has taken to trial a wide range of cases including patent, trade secrets, contract, fraud, and fiduciary duty disputes. He has tried cases in Texas and on both coasts, in state and federal courts, and before arbitration panels. Tim has handled litigation in more than 20 different states and has worked within a variety of industries, including technology, energy, banking, retail, and healthcare.

Tim leads high-performing litigation teams from start to finish by focusing on the client's objectives and mapping out an effective trial strategy, which then guides development of the case through discovery and trial. This yields a trial-ready case and frequently presents opportunities for litigated or negotiated business resolutions short of trial.

Tim is consistently recognized in the legal press and in *Chambers USA*, citing his handling of "high-stakes commercial litigation, with noted experience in intellectual property and contractual disputes." Clients say "He is a top lawyer," and "He has an excellent reputation."

A recognized leader in the community service sphere, he enjoys being active in several different community and professional groups, including having served as chair of the national board of directors of the Leukemia & Lymphoma Society, chairing his college's foundation board, and serving as trial counsel for court-appointed and pro bono cases, including for prisoner, indigent, and homeless litigants.

### Admissions

#### *Bar Admissions*

Texas

#### *Court Admissions*

United States Courts of Appeals for the Federal, Third, Fifth, Tenth and District of Columbia Circuits

United States District Courts for the Northern, Southern, Eastern and Western Districts of Texas

United States District Court for the District of Columbia

United States District Court for the District of Colorado

United States Supreme Court

### Education

Northwestern University School of Law, J.D., *cum laude*

Washburn University of Topeka, B.A., *summa cum laude*

Tim has been a regular speaker and writer on litigation, intellectual property, and business topics, including trial skills, professionalism, litigation strategy, evidentiary and pleading matters, sealing of courtrooms for trade secret litigation, and the litigation realities of partnership and joint venture formation.

## Experience

### Select Trial Experience

- Patent cases related to telecommunication networks and devices, manufacturing processes, consumer products, software, and financial services.
- Complex commercial disputes involving breach of contract, business torts, fraud, fiduciary duty issues, and failed joint ventures and other business deals for clients including multinational oil and gas companies, large real estate concerns, and a start-up medical device company
- Trade secrets defense and prosecution related to business and technical employee information, telecommunications technology, and manufacturing processes, for clients including a start-up international energy exploration company, a medical device/service company, a telecommunications equipment company, and a multinational food and beverage company
- Cases related to financial institutions, qui tam claims, including fiduciary duty issues, government control/take-over, and fraud, for clients including a large investment firm, banks, and government agencies
- Injunction and other live-evidence final hearings related to intellectual property rights, preservation of financial situations, environmental conditions, government takeover of financial institutions, and municipal obligations to a homeless population

### Additional Litigation Experience

- Manufacturer of Oil Field Equipment – patent and trade secret litigation between two private-equity backed competitors related to oil field services technology
- Retail Electricity Provider – patent infringement litigation related to pollution reduction technology, and commercial litigation related to post-merger indemnity disputes
- International Auto-racing Organization – patent infringement litigation related to driver-safety technology
- Multinational Communications Company – defense verdict in patent jury trial and multiple other patent infringement cases (including declaratory judgment actions), including claims related to network operations, internet search and online directory services, location services, content filtering, wi-fi equipment, home automation, video processing, and content streaming, including favorable dispositive motion results
- Multinational Consumer Electronics Company – defense of patent, trade secrets, and copyright claims in several cases involving a variety of technological areas related to mobile phones and other devices, smart-home, and virtual reality technologies, including favorable dispositive motion results and proactive declaratory judgment proceedings
- Leading Online and On-air Retailer – defense of numerous patent infringement cases and claims related to e-commerce, online sales and retail products; indemnity-related commercial disputes

- Multinational Engineering and Construction Firm – defended in qui tam false claims act case where court granted motion to dismiss for failure to state a claim; prosecution of declaratory judgment action against hedge fund related to convertible indentures, with summary judgment ruling in client's favor and appellate court affirmance (plus fees recovery) and defense of commercial, tort, and intellectual property litigation
- Multinational Food and Beverage Company and its affiliates – defense of trade dress and patent infringement claims, assertion of claims against store-brand snack manufacturer, and multiple injunction proceedings regarding new product launches
- Major Multinational Petroleum Companies – commercial litigation related to corporate governance issues and the domestic and international exploration, production, processing, and marketing of natural gas and oil, including favorable trial and dispositive motion results and seven figure recoveries of defense fees; prosecution of litigation against Chinese National Offshore Oil Co. resulting in the client securing rights in substantial Indonesian LNG facility; misappropriation of trade secrets lawsuit against former employees and a start-up company, resulting in an injunction limiting the scope of the new business
- Telecommunications Equipment Company – prosecution and defense of various commercial and intellectual property claims, including prosecution and defense of trade secrets and patent claims at trial
- Telecommunications Network and Equipment Company – defense and favorable resolution of patent holding company patent infringement suits targeting online directories and other service offerings
- Global Medical Device Company – patent and trade secret litigation and arbitration against Boston Scientific

#### **Experience with Substantive Topics**

- Complex commercial disputes – contract and tort matters, post-merger issues, corporate governance, licensing, failed business deals, fraud, convertible indentures, private equity investments, regulatory enforcement, environmental damages, construction projects, and investment JV disputes
- Patent owners and alleged infringers – prosecution and defense of patent infringement claims, including related to the internet of things, telecom, software, medical device, commodities trading, e-commerce, food and beverage, automotive, and consumer goods industries
- Energy litigation – international and domestic disputes related to exploration and production, AMI clauses, investments, production sharing contracts, joint ventures, LNG facilities, and other contracts and plant issues; counseling and litigation strategy advising related to 2021 Texas winter storm disruptions; disputes involving assets in the U.S., Africa, Asia, and Central and South America
- Trade secret litigation – assertion and defense of misappropriation claims and injunction proceedings in a variety of industries and contexts (including theft of secrets in China and cases involving movement of employees and non-compete agreements)
- Environmental claims – defense of clean-up cost recovery actions and MTBE litigation; strategic analysis of climate change tort suits
- Publicly traded companies – change of control litigation, hedge fund litigation, class action securities litigation, shareholder derivative litigation, state securities law claims, and internal and government investigations

- Professional liability defense – representation of two major law firms in defense of claims arising from their handling of patent litigation

## Professional Activities

### Affiliations

- American Bar Association, Litigation and Intellectual Property Law Sections
- American Intellectual Property Law Association
- Dallas Bar Association, Litigation and Intellectual Property Law Sections
- Leukemia & Lymphoma Society, National Board of Directors, Past Chair; North Texas Chapter Trustee and Past President
- Washburn University Foundation, Past Chair of Board of Directors and Trustees

## Honors & Awards

- Recognized as a "Litigation Star" by *Benchmark Litigation* in Intellectual Property, Commercial and Advertising (2023)
- Ranked in *Chambers USA* for Litigation: General Commercial 2018-2022
- Listed in *The Best Lawyers in America*, "Lawyer of the Year" 2020-2021, (Woodward/White Inc.), 2007-2022
- Recognized as a Texas Super Lawyer (Thomson Reuters), 2004-2022
- Recognized by *Dallas 500*, The 500 Most Influential Business Leaders In Dallas-Fort Worth, 2017-2022
- Nonprofit Board Leader of the Year, Center for Non-Profit Management, 2014 (Excellence in Board Leadership, Finalist 2008)
- Washburn University Alumni Fellow, 2010 (distinguished alumni award)
- Recognized by Legal 500 as a leading lawyer in the area of IP litigation, 2007