



McKool Smith
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EDUCATION

- J.D., with honors, The University of Texas School of Law, 1996. Teaching Quizmaster; Friar Society; Women's Intercollegiate Athletics Council; Chancellor's Student Advisory Board; Chair, Cabinet of College Councils.
- B.S., with high honors and special honors, The University of Texas, 1993. Top Graduate in Advertising Department; Senior Fellows Honor Program; Robert & Virginia Pulver Scholarship in Advertising; Dean's List; Student Body Treasurer; Cactus Goodfellow.

COURT ADMISSIONS

- States of New York, Texas and California
- The U.S. District Court for the Southern District of New York
- The U.S. District Courts for the Northern, Southern, Eastern and Western Districts of Texas
- The U.S. District Courts for the Northern, Southern, Central and Eastern Districts of California
- The U.S. Courts of Appeals for the

GAYLE ROSENSTEIN KLEIN

PRINCIPAL

Gayle Klein (nee Rosenstein) is a Principal in the New York Office. Ms. Klein focuses on business litigation, particularly including disputes over complex financial transactions, breaches of fiduciary duty, theft of trade secrets, and violations of non-competition agreements. Ms. Klein regularly litigates against financial institutions and high profile companies.

Efficient discovery and rigorous trial preparation are the hallmarks of Ms. Klein's practice philosophy and the McKool Smith Method. Ms. Klein first seeks to understand her clients' ultimate goals and then designs case strategy around those goals. Her precision focus helps companies get out of litigation what is best for their businesses. Ms. Klein's confidence in her team's abilities often is demonstrated through the use of success-based fee engagements for both plaintiffs and defendants.

Ms. Klein was the youngest woman to have been elected litigation partner in one of the ten largest firms in the country. She was drawn to McKool Smith because of its ability to take on representations adverse to large banks and other significant companies. The Wall Street Journal recently recognized McKool Smith as one of the premier firms in the country taking on this kind of work. [Click here to access the article.](#) Ms. Klein is licensed to practice and has practiced law in New York, California, and Texas.

REPRESENTATIVE MATTERS

Highland Capital: Ms. Klein and Mike McKool won a motion to dismiss all causes of action against their client, Highland Capital, relating to a complex financial transaction to purchase a cable television company. Her client's subsidiary entered into a deal to purchase James Cable, and when the deal did not close, James Cable alleged that Highland Capital had orally agreed to fund the transaction, but, instead, prevented it from consummating. In a lengthy opinion, the court adopted McKool Smith's arguments that Highland Capital had no duty to fund the deal and that it cannot be liable for any breach of contract by its subsidiary.

American Airlines: Ms. Klein served as lead counsel for plaintiff American Airlines when its head of sales for the New York region suddenly resigned to join Delta Airlines in the identical position. Based upon evidence that the employee downloaded and copied certain information as he was leaving, Ms. Klein secured a three-week temporary restraining order precluding the employee from working for American's competitor while the court sorted through the legal issues.

Ninth and Eleventh Circuits

BAR ADMISSIONS

- American Bar Association
- State of New York
- State Bar of Texas
- State Bar of California
- Texas Bar Foundation
- New York City Bar Association
- Santa Clara (California) County Bar Association

National Home Builders: Ms. Klein serves as lead counsel for defendants KB Home, Lennar, Meritage Homes, Pulte Homes, Ryland, and Toll Brothers in a case brought by Wachovia Bank, in New York. In its suit, Wachovia claims that Ms. Klein’s clients and their subsidiaries breached their duties to construct a master planned community in Las Vegas, Nevada under various “completion guaranties.” Wachovia seeks to recover more than \$500 million from Ms. Klein’s clients. There are fewer than fifteen published opinions relating to completion guaranties, and this matter presents important legal issues that have never before been decided.

Finmeccanica: Ms. Klein served as counsel for Finmeccanica, an Italian company, in its claims that General Motors misappropriated Finmecannica’s hybrid and electric wheel drive motor technology and then improperly filed for an American patent claiming the technology as its own. Reached a highly favorable settlement on the eve of trial.

Bankruptcy Liquidating Trustee for Excite@Home. Counsel for the plaintiff bankruptcy trustee (for the company’s claims) in a misappropriation of trade secrets (high speed internet network design) and breach of fiduciary duty case. Reached a highly favorable settlement on the eve of trial.

United HealthGroup Incorporated. Counsel for this Fortune 100 company in a variety of matters, as both plaintiff and defendant. Notable representations include its stock option backdating matter, lawsuits against former employees (both with and without non-compete agreements), seeking to restrain their competitive activities with competitors, and nationwide class actions relating to payment of out-of-network reimbursements.

Airborne Health, Inc. Counsel for this dietary supplement company relating to its advertising claims, including in a nationwide class action consumer protection/false advertising case and administrative inquiries by the Federal Trade Commission and multiple state attorneys general.

Bertlesmann AG. Successfully sought a stay and appeal in the United States Ninth Circuit Court of Appeals a trial court’s order to produce all attorney-client communications relating to a \$50 million loan.

Hughes Electronics. Counsel for Hughes Electronics in a purchase price adjustment arbitration against Boeing resulting from the sale of Hughes’ satellite business to Boeing. Boeing sought adjustments of over \$650 million in the arbitration, which was conducted by KPMG LLP.

PROFESSIONAL ACTIVITIES

Madison Square Park Conservancy Board of Trustees (and Member of its Executive Committee);
Anti-Defamation League, New York Lawyers' Division; University of Texas School of Law Keeton Fellow;
Fifteen Madison Square North Condominium Association Board of Managers.