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#### EDUCATION

- J.D., with High Honors, 1987, University of Tennessee Law School. Order of the Coif and associate editor of the law review.
- B.A., Economics and Business Administration, 1982, University of Pittsburgh.

#### COURT ADMISSIONS

- The U.S. District Court for the Northern, Southern, Eastern, and Western Districts of Texas
- The U.S. District Court for the District of New Mexico
- The U.S. District Court for the District of Colorado
- The U.S. Courts of Appeals for the Fifth and Tenth Circuits

#### BAR ADMISSIONS

- State Bar of Texas
- Dallas Bar Association
- Fifth Circuit Bar Association

## GARY CRUCIANI

### PRINCIPAL

Gary Cruciani is a Principal in McKool Smith's Dallas office. He has handled complex commercial litigation for a wide variety of clients for more than 20 years.

His commercial litigation expertise includes antitrust claims, oil & gas contracts, tax disputes, intellectual property and trade secret matters, construction claims, breach of fiduciary duty and partnership disputes, and general contract cases. Mr. Cruciani's courtroom track record includes representing both plaintiffs and defendants, with a particular emphasis on plaintiffs' class action claims and contingent fee business litigation.

Mr. Cruciani has served as first chair counsel in numerous cases tried to judgment in state and federal courts nationwide, including work in Texas, New York, California, Colorado, New Mexico, Mississippi, and others. In addition to his litigation experience, he also has presented appellate arguments and submitted briefs before state and federal courts of appeals across the U.S.

#### REPRESENTATIVE MATTERS

*City of San Antonio, Texas, et al. v. Hotels.com, L.P.* Represents plaintiffs in this class action against online travel companies for non-payment of transient occupancy taxes. The class of 175 Texas cities was certified in the U.S. District Court for the Western District of Texas.

*City of San Diego, California v. Hotels.com, L.P.* Represents the City of San Diego in this suit against online travel companies for non-payment of transient occupancy taxes filed in the California Superior Court.

Represented thousands of class members in federal court in a major antitrust lawsuit against Xerox in a case involving alleged monopolistic conduct in the high-volume copier market. The class was certified, and the case resulted in a favorable settlement plus substantial non-monetary relief.

**Class Plaintiffs.** Represented hundreds of royalty owners in federal court in a class action against Amoco and other oil companies for alleged underpayment of royalties in one of the world's largest carbon dioxide gas units. The class was certified, and the case settled favorably to the class with substantial additional non-monetary relief involving changes in Defendants' business practices.

**Class Plaintiffs.** Represented a class of bondholders for the Dallas Cowboys in a suit against the Dallas Cowboys and Jerry Jones for alleged breach of the terms of the bond ordinance that had been used to fund the construction of Texas Stadium and for certain equitable relief. The class was certified, and the Defendants discontinued the practices that allegedly violated the ordinance and agreed to substantial additional equitable relief sought by the class members.

Represented a small software company in a breach of contract and theft of trade secret case involving the security alarm industry, which resulted in a favorable settlement as the jury was about to be selected.

**Dr. Pepper Bottling Company of Texas.** Represented Dr. Pepper in a lawsuit claiming breach of a franchise agreement against Del Monte Corporation. After a two-week jury trial he secured a judgment in favor of Dr. Pepper.

**Holly Corporation.** Part of a team of lawyers who successfully defended Holly in a lawsuit filed by Frontier Oil Company over a proposed merger that failed to close. Following a trial in Delaware Chancery Court, the Court issued a 116-page ruling addressing seminal legal issues under Delaware law, which resulted in a finding that the plaintiff had repudiated the agreement and entered a take-nothing judgment in favor of Holly.

**Hicks, Muse, Tate & Furst.** Successfully defended one of the nation's largest private equity firms, that was sued for \$500 million as a result of a proposed merger that did not close due to an alleged material adverse change. Following Gary's argument of a summary judgment motion that resulted in the dismissal of the plaintiff's primary damages claims, the case settled on favorable terms for Hicks Muse.

Represented a large Japanese financial institution in federal court in New York City in a case involving novel and significant legal issues relating to the commercial mortgage backed securities industry. Following a favorable Second Circuit opinion, the parties entered into a confidential settlement on terms that were extremely favorable.

## ARTICLES

- Municipal Hotel Occupancy Tax Litigation Against Online Travel Companies  
*Municipal Lawyer, 2007*