



Lee Kaplan, Partner
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Lee Kaplan has tried dozens of cases in state and federal courts, representing plaintiffs and defendants ranging from Fortune 10 corporations to individuals. In recent years he has had two cases that landed in the top 25 verdicts in Texas for those years. His docket has included oil and gas, construction, securities, antitrust, patent and trademark infringement, the Foreign Corrupt Practices Act, fraud, theft of trade secrets, shareholder rights, and class actions. He frequently handles "high tech" cases and enjoys mastering complicated business dealings or scientific concepts in order to present them concisely to other lay people (particularly judges and juries). Lee also serves as an arbitrator, often named to panels by prior opposing counsel. Here are some recent examples of his results (omitting confidential arbitrations and settlements):

In 2017 he won a critical (and rare) ruling that Hyundai discriminated against a franchise dealer in vehicle allocations.

In 2015 he won a two-week federal jury trial alleging theft of trade secrets, obtaining a \$12.2 million verdict and judgment in addition to four stipulated judgments of \$28.5 million reached with four defendants prior to trial. *Quantlab Technologies Ltd. (BVI) and Quantlab Financial, LLC, vs. Vitaliy Godlevsky, Andriy Kuharsky, Anna Maravina, Ping An, Emmanuel Mamalakis, and SXP Analytics, LLC*, Case No. 09-cv-4039 in the United States District Court for the Southern District of Texas, Houston Division. The case was one of the top 25 verdicts in Texas in 2015. The Fifth Circuit affirmed the judgment in 2017.

In 2014, he served as an arbitrator in a four-week hearing of a \$100 million-plus construction dispute, having been appointed to the panel by a former opposing counsel.

In 2012, he tried a jury case as co-counsel for a Schlumberger affiliate in a patent infringement suit. He conducted the voir dire examination to select the jury and the direct and cross-examination of the damages experts. The jury returned a nine-figure verdict in the client's favor. The case was one of the top 25 verdicts in Texas in 2012. The case is currently on appeal, with the Federal Circuit having sustained damages of approximately \$20 million. The Supreme Court has granted certiorari to consider whether to reinstate over \$93 million in lost profits damages for his client. The case is set for oral argument.

He has been selected as a Texas "SuperLawyer" every year since 2003 and listed every year since 2007 in Chambers USA, Leading Lawyers for Business, for commercial litigation. Chambers has referred to him as "good on his feet" and quoted a peer who said "he just lights up the courtroom" and recognized him as among Texas' leading individual commercial litigators. He has been elected to membership in the American Law Institute.

Lee has been a contributor on the radio show "The Price of Business" commenting on diverse topics such as the competitive value of patent protection, factors that drive settlement negotiations in commercial litigation and suggestions on how employers can protect themselves from the loss of intellectual property or from unjustified lawsuits claiming that they have misappropriated others' trade secrets. Lee has been quoted for publication on various important legal issues, including the 2014 Texas Supreme Court case *Ritchie v. Rupe*, which overturned decades of Texas law and severely restricted or extinguished the rights of minority shareholders in Texas.

As an Eagle Scout and the father of an Eagle Scout, he now serves as an assistant scoutmaster for Troop 212.

EDUCATION AND EXPERIENCE

Princeton University

A.B., 1973, Woodrow Wilson Scholar

University of Texas Law School

J.D. with Honors, 1976

Friars; Order of Barristers

Chair, Board of Advocates

Law Clerk

to the Hon. Joe McDonald Ingraham, United States Court of Appeals for the Fifth Circuit
1976-1977

Founding Partner

Smyser Kaplan & Veselka, L.L.P., 1995-Present

Partner

Baker Botts, L.L.P., 1985-1995

Associate

Baker Botts, L.L.P., 1977-1984

PROFESSIONAL RECOGNITION

Board Certified in Civil Trial Law, Texas Board of Legal Specialization, 1996 -

Texas *Super Lawyer* by Thomson Reuters, 2003-2017

Chambers USA, "America's Leading Lawyers for Business," 2007-2018

Local Litigation Star by Benchmark Litigation, 2012-2017

Houston Top 100 Lawyer by *Super Lawyers* – Texas Edition, 2005-2009, 2013-2014, 2017

ADMISSIONS

State of Texas

United States Supreme Court

United States Court of Appeals for the Fifth Circuit

United States Court of Appeals for the Eleventh Circuit

United States District Court for the Federal Circuit

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

ORGANIZATIONS

- American Bar Association, Various Sections
- American Board of Trial Advocates
- American Intellectual Property Law Association
- American Law Institute
- Eagle Scout, Adult Leader for Troop 212
- Houston Bar Association, Litigation, Entertainment and Sports Law, and ADR Sections
- Houston Intellectual Property Law Association
- Houston Intellectual Property Inn of Court
- Institute for Transnational Arbitration
- London Court of International Arbitration
- State Bar of Texas Committee on Professionalism, 2005 - 2007; 2009 - 2010
- State Bar of Texas Committee on Pattern Jury Charges Vol. 3, 1983 - 1992; 1994 – 1998
- Texas Aerospace Commission, 1994 - 1999 (gubernatorial appointment)
- Texas Bar Foundation



LEE KAPLAN



REPRESENTATIVE MATTERS

Victory for Quantlab

Discussed briefly above, after winning a federal jury trial for the Quantlab companies in a significant trade secrets case in May 2015, Lee Kaplan, Ty Doyle and Alex Wolf secured a permanent injunction against the two defendants who elected not to resolve the case prior to trial. After extensive briefing and argument over the scope of the permanent injunction, the Court agreed with Quantlab that defendants Andriy Kuharsky and Emmanuel Mamalakis should be enjoined from use of Quantlab's trade secrets, including a two-year prohibition on participation in the automated high-frequency trading business without application to and approval from the Court. [Click here](#) for a copy of the Court's injunction. Kuharsky worked for Quantlab as a quantitative researcher for six years. Mamalakis is a Wisconsin attorney/investor who was the CEO of a company set up to exploit Quantlab's trade secrets. The Fifth Circuit affirmed the trial court in all respects in 2017.

WesternGeco v. ION Geophysical, et al.

Discussed briefly above, Mr. Kaplan served as co-counsel for WesternGeco who sued for infringement of four patents covering state-of-the-art technology for marine seismic surveys. He conducted voir dire and examination of both sides' damages experts. After a confidential settlement with one defendant during trial, WesternGeco obtained a favorable jury verdict against ION on all issues, including willful infringement, and actual damages of \$105.9 million (\$12.5 million in reasonable royalty and \$93.4 million in lost profits). The Court entered judgment for \$123.8 million. The case was appealed and the royalty damages were sustained, and the Supreme Court may now consider whether to reinstate the lost profits damage.

Oil and Gas

Mr. Kaplan successfully defended a Fortune 100 energy company in Alaska federal court and the [Ninth Circuit Court of Appeals](#) in a \$100 million lawsuit brought by another Fortune 100 energy company over an AMI agreement covering oil and gas leases.

Fraud and Contract

Mr. Kaplan successfully defended on appeal a summary judgment dismissing all common-law and statutory claims of breach of contract, fraud, and negligence in a case alleging approximately \$400 million in actual damages plus additional punitive damages for purported design problems in a catalytic cracking unit.

Securities Law

Mr. Kaplan represented the Special Committee of a board of directors in the successful defense of state court litigation arising out of a going-private transaction.

Additional Representative Matters

Mr. Kaplan represented former employees in a federal class action, recovering \$25 million plus \$3.5 million in attorney's fees for 1,900 former employees in a federal class action against a Fortune 500 company brought under the Employee Retirement and Income Security Act (ERISA).

Mr. Kaplan served as the lead attorney for Plaintiff Software Rights Archive in patent litigation against multiple computer search engine companies, including Google, AOL, and Yahoo, resolved confidentially.

Mr. Kaplan successfully defended a multimillion dollar patent infringement suit in a federal trial, obtaining a judgment that the patent was unenforceable due to inequitable conduct.

Mr. Kaplan obtained summary judgment for the real estate arm of a Fortune 10 energy company against a developer seeking to void restrictions on a large tract on a claim of "changed conditions."

Mr. Kaplan represented a former executive of an international construction firm who cooperated with the U.S. Government in a wide-ranging investigation of violations of the Foreign Corrupt Practices Act, resulting in corporate disgorgement and fines of \$1.7 billion. His client received a greatly reduced sentence for his assistance.

REPRESENTATIVE MATTERS (continued)

Mr. Kaplan obtained a \$9 million judgment (including price erosion damages) after being hired as lead plaintiff counsel by a Fortune 20 company just four months before a patent infringement trial. The court found infringement on both patents and granted a permanent injunction. All findings were affirmed on appeal.

He obtained summary judgment in Texas state court for a firm accused of various "toxic torts" at Louisiana petrochemical facilities; all other defendants settled in advance.

Mr. Kaplan has conducted special investigations for the Board of Directors of a Fortune 500 corporation and the Audit Committee of the Board of a NASDAQ-listed company.

On behalf of a national bank client, Mr. Kaplan obtained summary judgment in state district court against a medical center developer on claims of tortious interference, breach of confidentiality and negligence arising out of the bank's due diligence investigation.

In a claim alleging defamation and misappropriation of likeness, Mr. Kaplan obtained a summary judgment in federal court for a Fortune 500 technology company against plaintiff record promoters.

In Pennsylvania federal court, Mr. Kaplan obtained the voluntary dismissal of an antitrust suit alleging price discrimination and attempted monopolization by a commodity supplier.

Mr. Kaplan has also represented clients in numerous injunction proceedings, international and domestic arbitrations, mediations, and appeals, and as a mediator and an arbitrator.

Mr. Kaplan has served as an arbitrator in multiple arbitrations, many of which involved disputes in excess of \$50 million.