

David Fowler Johnson

Managing Shareholder - Fort Worth

Practices: Appellate; Business Divorce; Business Litigation; Fiduciary Litigation; Business Divorce for Majority Owners; Business Divorce for Minority Investors

Industries: Financial Services; Investment Management & Private Funds

David Fowler Johnson is widely recognized as one of the go-to fiduciary litigators in Texas. David's practice focuses on trust, estate, and closely held business disputes. A frequent writer and speaker, David is known around the state as a thought leader in the fiduciary area. His award-winning blog, [The Fiduciary Litigator](#), features recent case law, legislative changes, and other precedent that impacts fiduciaries in Texas. David received the JD Supra 2020 Readers' Choice Award for Wealth Management, which was his third year in a row for such an award. He was also named a "Go-To Thought Leader" in Fiduciary Litigation by the *National Law Review* in 2020.

David's experience in trust and estate disputes includes will contests, elder abuse, mental competency, undue influence, trust modification/reformation/clarification, breach of fiduciary duty and related claims. He also handles matters involving trust decanting, trust severance and joinder, account disputes, power of attorney disputes, suits for judicial instruction and discharges, heirship proceedings, suits to remove a fiduciary, and accountings. Additionally, David has a transactional practice for trust departments in providing legal opinions on the construction of trust documents, documenting release and consent agreements, resignations, successor appointments, modification of trusts, trust mergers, trust severances, etc. His recent trial experience in the trust and estate area includes:

- Representing a bank who was sued for allegedly making too many distributions to a primary beneficiary.
- Representing a bank in federal class action suit where trust beneficiaries challenged whether the bank was the authorized trustee of over 220 trusts.
- Representing a bank in state court regarding claims that it mismanaged oil and gas assets.
- Representing a bank who filed suit in probate court to modify three trusts to remove a charitable beneficiary that had substantially changed operations.
- Represented an individual executor of an estate against claims raised by a beneficiary for breach of fiduciary duty and an accounting.
- Represented an individual trustee against claims raised by a beneficiary for breach of fiduciary duty, mental competence of the settlor, and undue influence.

David has also been retained as an expert in the trust and estate area regarding compliance with fiduciary duties, fiduciary compensation, and elder abuse.

David's experience in closely-held business disputes (business divorce) includes enforcing minority ownership rights, shareholder-derivative litigation,



Fort Worth Office

817.420.8223 Direct

817.420.8201 Fax

dfjohnson@winstead.com

Education

Baylor Law School

- J.D., 1997
- *magna cum laude*
- Mid-Year Law Award, *Baylor Law Review*
- Academic Dean's List
- Recipient of multiple scholarships

Baylor University

- B.B.A., Accounting, 1994

advising majority owners regarding disputes with the minority owners. His recent trial experience in the closely-held business area includes:

- Representing a 50% owner of an umbrella company and a minority shareholder in over 100 other special asset entities in a business divorce where the assets totaled over \$100 million.
- Representing the majority owner in a limited partnership regarding a business divorce from a minority owner and former employee.
- Representing the majority owner in a business divorce from a minority owner who owned convertible notes.
- Represented a trustee and minority owner in a closely-held business dispute regarding the non-owner managers overcompensating themselves and poor performance.
- Representing a trustee and the minority owner of a business in a business divorce from the majority owners where the client was alleged to have overcompensated himself and engaged in self-dealing transactions.
- Representing a wife in a divorce proceeding regarding claims arising from closely-held businesses and family trusts.

David is one of twenty attorneys in Texas (of the 84,000 licensed) that has the triple Board Certification in Civil Trial Law, Civil Appellate and Personal Injury Trial Law by the Texas Board of Legal Specialization. David is currently on the board of the Texas Board of Legal Specialization, the Texas State Bar's group that certifies attorneys in specialties. He was previously on the commission that wrote and graded the civil trial law examination.

David is licensed and has practiced in the U.S. Supreme Court; the Fifth, Seventh, and Eleventh Federal Circuits; the Federal District Courts for the Northern, Eastern, and Western Districts of Texas; the Texas Supreme Court and various Texas intermediate appellate courts.

David also served as an adjunct professor at Baylor University Law School and Texas Wesleyan Law School. Over the course of his career, David has given over 300 legal education presentations to bar groups, industry groups, and clients in the fiduciary and general litigation areas. David has published twenty law review articles. These articles have been cited as authority repeatedly by the Texas Supreme Court and the Texas courts of appeals located in Amarillo, El Paso, Waco, Texarkana, Tyler, Beaumont, and Houston. Other jurisdictions also cite David's articles, such as the Supreme Court of Iowa and a federal district court in Pennsylvania. Authors and commentators also cite David's articles, including McDonald & Carlson in their *Texas Civil Practice* treatise and William V. Dorsaneo in the *Texas Litigation Guide* and in the *Baylor Law Review*. He has also been cited by *St. Mary's Law Journal*, *South Texas Law Review*, *Texas Tech Law Review*, *Texas Tech's Estate Planning and Community Property Law Journal*, *DePaul Law Review*, *Thurgood Marshall Law Review*, *Texas Business Litigation Treatise*, *Tennessee Law Review*, *ABA Family Law Quarterly*, *Houston Law Review*, *Arizona State Law Review*, *Oklahoma Law Review*, *Vanderbilt Journal of Entertainment and Technology Law*, *Texas Review of Law & Politics*, *The Scholar St. Mary's Law Review on Race and Social Justice*, *Wake Forest Law Review*, *Cardozo Journal of Conflict Resolution*, *Denver Law Review*, and *William & Mary Law Review*.

Professional & Community Service

- Texas Board of Legal Specialization, Board Member
- Member of Southwest Association of Bank Counsel
- Member of Tarrant County Probate Bar Association
- Member of Tarrant County Bar Association Business and Estate Section
- State Bar of Texas (Appellate Section)
 - Member Services Sub-Committee, 2005-2008; Co-Chair, 2007-2008
 - Rules Sub-Committee, Co-Chair 2009-2012
- Member of Bar Association of the Fifth Federal Circuit
- Eldon B. Mahon Chapter of the American Inns of Court (Master)
- Tarrant County Bar Association Appellate Section
 - CLE Committee, 2005-2008; Co-Chair 2007-2008
 - Appellate Section Leadership Committee, 2005-2007; Vice Chairperson 2008-2009; Secretary 2007-2008

- College of the State Bar of Texas
- Pro Bono Liaison for Winstead's Fort Worth Office
- Junior Achievement of the Chisholm Trail, Board of Directors (2012-2016)
- Fort Worth Sister Cities, Board of Directors (2014-2018)
- Carter Bloodcare Foundation, Board of Directors (2017-2020)
- Texas Supreme Court Historical Society, Board of Directors (2012-2016)
- American College of Trust and Estate Counsel, Fellow

Awards & Recognition

- *The Best Lawyers in America*, (BL Rankings, LLC), 2014-2024
- Top Attorney, *360 West Magazine*, 2019-2021
- "Go-To Thought Leader" in Fiduciary Litigation, *National Law Review*, 2020, 2022
- [JD Supra's Readers' Choice Award For Texas Fiduciary Litigator Blog](#), 2019-2023
- Texas Super Lawyers, Thomson Reuters, 2013-2023
- Texas Rising Star, Thomson Reuters, 2004-2012
- Tarrant County's Top Attorneys, *Fort Worth, Texas*, 2004-2023
- The Best Lawyers in Dallas, *D Magazine*, 2008 and 2009
- Outstanding Lead Article, *Texas Tech Law Review*, 2007
- The Best Dallas Lawyers Under 40, *D Magazine*, 2004 and 2006
- 40 Under 40, *Fort Worth Business Press*, 2003

Admissions

- Texas, 1997