



## Rick Milvenan

*Partner*

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## PRACTICE AREAS

*Complex Business  
Litigation*

*Intellectual Property  
Litigation*

*General Litigation*

*Professional Liability  
Litigation*

*Appellate*

Rick Milvenan handles state and federal court litigation, counseling and contract negotiations relating to communications, antitrust, commercial, intellectual property and securities matters. His representative clients include communications and high technology companies.

## Representative Experience

### Complex Business Litigation

Rick's substantial experience in this area includes:

- Represented the Chancellor of a university system in defense of a challenge by a regent to obtain private student information collected in a study of admissions. After an evidentiary hearing, a plea to the jurisdiction was granted dismissing the case based on a sovereign immunity, which was affirmed by the Court of Appeals and the Texas Supreme Court.
- Represented certain Texas and Missouri telecommunication carriers in regulatory disputes with another carrier. Rick received favorable opinions from the U.S. District Court for the Western District, Austin Division and the U.S. Court of Appeals for the Fifth Circuit, on appeal from the United States Bankruptcy Court of the Eastern District of Texas.
- Represented a commercial tenant in a dispute with a building owner regarding access to common areas and obtained a temporary restraining order and temporary injunction on behalf of the tenant; the case then settled favorably.
- Obtained dismissal of antitrust claims on behalf of a telecommunications company in an action brought by a paging company in federal court in Austin. The dismissal was affirmed by the Fifth Circuit.
- Represented various companies in responding to Civil Investigative Demands (CIDs) issued by the Texas Attorney General.
- Defended a video provider in federal courts in San Antonio and Austin regarding Communications Act and copyright claims related to licenses to carry professional boxing matches. The cases were successfully settled.
- Represented a venture capital firm in state court in Los Angeles in defense of a fraud and misrepresentation suit relating to the acquisition of an Austin high-tech company. The venture capital firm successfully challenged jurisdiction in California court and obtained dismissal of claims.
- Represented a video provider who successfully sought and obtained a temporary restraining order and temporary injunction in state court in Austin, preventing a real estate investment trust from

interfering with the video provider's right to serve multiple dwelling units. The temporary injunction was affirmed on appeal.

- Represented a media company in a breach of contract case removed to federal court. Plaintiffs sought remand, but after discovery on the personal jurisdiction issue, the federal court dismissed the case for lack of personal jurisdiction. The Fifth Circuit affirmed.
- Represented a communications company in state court in Dallas in defense against claims of fraud and conversion related to termination of a vendor. The court dismissed the case and the Court of Appeals affirmed.
- Defended a medical technology manufacturer against a claim of securities fraud in federal district court in Austin; the case was successfully settled.
- Defended a private equity firm against a securities fraud claim in state district court in Austin, which was favorably settled.
- Represented a venture capital firm in defense of securities fraud class action in federal court in Chicago. The matter related to the business failure of a competitive local exchange carrier. The case was successfully resolved by settlement.
- Represented a video provider sued for alleged antitrust violations, tortious interference, and breach of contract claims in its acquisition of several cable systems. The video provider obtained summary judgment in federal court in Austin, which was affirmed by the Fifth Circuit.
- Represented a broadband communications silicon chip manufacturer in an antitrust action brought by a rival manufacturer in federal court in Austin. The action was favorably settled.

## Intellectual Property Litigation

Rick's substantial experience in this area includes:

- Represent a streaming video player manufacturer accused of patent infringement concerning screen mirroring and casting in a case in federal district court in Waco. Served on the trial team in obtaining a jury verdict of noninfringement.
- Represent a patent holder asserting infringement in two cases in Waco related to the semiconductor manufacturing process.
- Represent a patent holder asserting infringement related to OLED technology in Waco.
- Defended a subscription video-on-demand service in a patent infringement case. The case was dismissed after an intrer partes review at PTAB.
- Represented six major motion picture studios in a claim of patent infringement in federal district court in Austin that was successfully settled.
- Represented a phone application software creator in a patent infringement case in federal court in the Eastern District of Texas; case dismissed after reexam.
- Represented a technology manufacturing supplier in a patent infringement case in federal district court in Austin, which was favorably settled.
- Represented a manufacturer in both federal and state courts in Midland involving claims of patent infringement, trademark claims and related state common law claims. Received summary judgment on the patent and trademark claims and the case settled while on appeal to the Fifth Circuit.
- Obtained summary judgment on behalf of a national retailer in a patent infringement action in

federal district court in Austin.

- Defended a technology manufacturer in a patent license dispute in federal district court in Austin. A jury awarded no damages to the plaintiff.
- Represented a real estate company in federal court in San Antonio in defense of a claim for trademark infringement, trademark dilution, misappropriation and unfair competition. The claim was favorably settled.
- Represented a media company in a trademark infringement and dilution action in federal court in Austin. The action was successfully resolved by the parties entering into a license agreement.

## **Professional Liability Litigation**

- Represented a law firm in a malpractice claim related to foreclosure issues in Los Angeles; the case was favorably resolved.
- Represented a law firm in a purported class action related to Texas foreclosure practices; the case was favorably settled.
- Represented a major law firm in legal malpractice cases in state court in Dallas and Corpus Christi related to a private loan transaction supported by a public surety bond. The actions were favorably settled.

## **Appellate**

- Briefed and argued in the Fifth Circuit concerning appeal of summary judgments in case involving ownership of patents and trademarks; case settled before the opinion issued.
- Successfully briefed and argued defense of bankruptcy ruling concerning the automatic stay in the Fifth Circuit.
- Briefed defense of temporary injunction on appeal to the Austin Court of Appeals in a dispute between commercial landlord and tenant; case settled before the opinion issued.
- Successfully briefed and argued defense of ruling of dismissal of antitrust case in the Fifth Circuit relating to telecommunications.
- Successfully defended a dismissal based of purported late fee class action in the San Antonio Court of Appeals.
- Successfully defended a dismissal of a purported late fee class action in the Fifth Circuit.
- Briefed and successfully argued defense of a summary judgment in the Corpus Christi Court of Appeals related to communications equipment issues.
- Successfully briefed and argued defense of temporary injunction in the Austin Court of Appeals related to business access.
- Successfully defended dismissal on jurisdiction of a media company in the Fifth Circuit.
- Successfully briefed and argued defense of dismissal of business conversion claims in the Dallas Court of Appeals.
- Successfully briefed and argued defense of dismissal based on lack of subject matter jurisdiction in the Austin Court of Appeals.

## **Class Action Litigation**

Rick's class action work includes representing a communications company in multiple state and federal jurisdictions. His experience includes:

- Defended against a late fee class action in state court in Alice, Texas. The case was dismissed after special exceptions and the dismissal was affirmed by the Fourth Court of Appeals in San Antonio.
- Defended against late fee class actions in state court in Waco, Rio Grande City and Laredo. The cases were dismissed after special exceptions.
- Defended a company in federal court in Laredo against a class action claim alleging that its late fees and equipment leases violated the Racketeer Influenced and Corrupt Organizations Act (RICO). The case was dismissed and its dismissal was affirmed by the Fifth Circuit.
- Defended in Edinburg state court against a class action alleging that the company's late fees and equipment leases violated various Texas laws. Summary judgment was granted for the client and the Thirteenth Court of Appeals in Corpus Christi affirmed.

## **Professional Associations & Community Involvement**

- State Bar of Texas: Antitrust & Business Litigation Section (Vice Chair 2015-2016, Chair 2016 - 2017)
- Austin Bar Association

## **Professional Recognition**

- Texas Super Lawyers list, a Thomson Reuters service, Business Litigation (2007-2010)

## **Court Admissions**

- Supreme Court of the United States
- United States Courts of Appeal for the Fifth, Tenth, D.C. and the Federal Circuits
- United States District Courts for the Eastern, Northern, Southern and Western Districts of Texas

## **Bar Admissions**

- Texas

## **Education/Professional Background**

- The University of Pennsylvania Law School, J.D., 1983 (*magna cum laude*, Order of the Coif, Editor, *University of Pennsylvania Law Review*)
- The University of Texas, B.A., 1980 (highest honors, Phi Beta Kappa)