

JOHN MCFARLAND

Partner



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Biography

John McFarland represents clients facing high-stakes business litigation, whether as a plaintiff or a defendant. Over the course of his twenty-plus year career, he has tried many cases in the state and federal courts of Texas, including cases involving breach of fiduciary duty, breach of contract, shareholder and partnership disputes, commercial fraud, tortious interference, and business dissolution. He has successfully briefed and presented oral argument to the Fifth Circuit and the Texas state courts of appeal. His broad experience in trial and appeals further gives him the insight necessary to give strategic advice designed to position, avoid, or minimize potential litigation. With over fifty years' experience between them, John and his partner Jeff Joyce formed Joyce + McFarland LLP in 2008, a boutique litigation firm aimed at providing top flight services and value to clients who know the difference.

John has achieved the rating of AV Preeminent, Martindale-Hubbell's highest rating for both ethical standards and ability, and has been recognized as a Texas Rising Star and a Super Lawyer for the past several years by *Law & Politics Magazine* published in *Texas Monthly*, and as one of Houston's Top Lawyers by *H Texas* and *Houstonia* magazines. Avvo.com has rated him 10/10 for the past ten years.

Education and Admissions

The University of Texas School of Law, J.D., 1995

University of Texas at Austin, B.A., 1991 (Plan II)

Admitted to practice: Texas, 1995; U.S. Court of Appeals, Fifth Circuit; U.S. District Court, Southern District of Texas.

Activities and Affiliations

Editor, State Bar of Texas (Editorial Board Member, Litigation Section Newsletter), 2007-2015

Member: State Bar of Texas; American Bar Association; Fifth Circuit Bar Association; Houston Bar Association Fellow; Houston Bar Foundation; Texas Bar Foundation

Representative Trials

In a state court jury trial in Harris County, successfully defended hospital and related entities against claims seeking over \$22 million in damages for breach of contract, tortious interference, and other claims.

Successful defense of lender in state court jury trial of lender liability suit seeking \$6.5 million in fraud damages plus exemplary damages for the lender's alleged fraud in inducing the loan and the real estate purchase, resulting in a take-nothing verdict as to all claims.

Successful defense of bank in state court jury trial of wrongful foreclosure suit brought by a company claiming to have obtained title to the foreclosed-upon property before the bank's judgment lien attached to the property, resulting in a take-nothing judgment as to all claims.

Successful prosecution of shipper's Carmack Amendment claims in federal bench trial, resulting in judgment and recovery against the carrier for the full amount of damages after application of settlement credits.

Successful defense of sweat-equity business partner in federal court jury trial of claims of fraud and breach of contract brought by investor partners seeking damages, plus attorney's fees and exemplary damages.

In a state court jury trial in Harris County, obtained judgment in favor of landlord seeking to enforce billboard lease to recover holdover rent, and a declaration that ownership of the billboard transferred to the landlord.

Defense of rifle barrel manufacturer in state court jury trial of product liability claims seeking \$1 million in damages based on the barrel explosion on a custom rifle, resulting in 50/50 allocation of liability between the manufacturer of the custom rifle and the client barrel manufacturer. The judgment against the client barrel manufacturer was reversed on appeal.

Representative Appeals

Representing the appellant defendants, obtained amended judgment striking \$2.1 million in lost profits from amounts awarded against hospital client and related parties.

In two separate appeals for different clients facing take-nothing judgments on their claims under the Carmack Amendment, obtained reversal and remand for new trials.

Appealing a take-nothing judgment on lender client's claims against the guarantors for liability under the nonrecourse exception in a CMBS loan, obtained a reverse-and-render, resulting in a judgment awarding over \$10 million to the lender against the guarantors.

Representing the appellee defendant, successfully defended take-nothing summary judgment in favor of tenant in landlord's breach of contract claim for over \$3 million in damages and summary judgment in favor of tenant for the prorated value of the furniture and fixtures left in the leased premises.

Representing the appellee defendant, successfully reversed judgment in favor of products liability

plaintiff on claims based on the barrel failure of a custom rifle.

Representing the appellant plaintiff, successfully reversed judgment in favor of a contractor on electrical subcontractor's claims for nonpayment and obtained rendition of judgment in favor of the electrical subcontractor.

Representative Settlements

Favorable settlement defending claims brought against exclusive US distributor of machine products by the international manufacturer resulting in dismissal of all claims and settlement proceeds paid to the defending client.

Walk-away settlement of claims brought against client, a Chinese manufacturer of machine products, by its exclusive US distributor for breach of contract and tortious interference, secured after obtaining summary judgment on most claims.

Prosecution of electrical subcontractor's claims through trial and appeal, resulting in successful settlement exceeding \$1 million for the amounts owed and attorney's fees incurred in prosecuting the claims.

Prosecution of partner's claims for breach of contract, fraud, and breach of fiduciary duty seeking to recover \$1.244 million in profits owed to him by his partner, resulting in an agreed judgment for the full amount owed, plus prejudgment interest and attorney's fees.

Representative Arbitrations

Successful defense of claims brought by seller of business against the buyer for fraud, breach of contract, and other claims.

Defense of securities broker in suit brought on forgivable promissory note, resulting in an order overturning the arbitrator's award in favor of the brokerage house for the arbitrators' "manifest disregard of the law."

Representative Publications

Arbitration is Destroying the World, *State Bar of Texas Litigation Section Newsletter*, 2008

Best Defense When Debtor Goes on the Offensive, *Houston Business Journal*, 2007

Federal Update, *State Bar of Texas Litigation Section Newsletter*, 2007

View from the Bench, *State Bar of Texas Litigation Section Newsletter*, 2007

The End of the Arbitration Era, *Texas Business Litigation Journal*, 2007

Representative Presentations

The Fifth Amendment in Civil Litigation Evidence without Witnesses

Injunctions and Other Extraordinary Remedies Negligent Misrepresentation and Attorney Liability