



Shain A. Khoshbin, PC

Co-Chair - High Stakes Litigation

Dallas

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At a Glance

Fierce Advocate

Bringing more than three decades of complex litigation experience in state and federal courts across the country, Shain's innovative representation of clients has led to successful defenses, substantial recoveries, and appeals vindicating his clients' rights.

Diverse Industry Experience

Shain has represented clients in a myriad of disputes in diverse industries, including disputes involving fraud, breaches of fiduciary duties, complex contractual relationships and receiverships, securities fraud, RICO violations, business torts, non-competition matters, and more.

Recognized High-Stakes Litigator

Shain is annually recognized as a Texas Super Lawyer, a Best Lawyer in America, and one of America's Top 100 High-Stakes Litigators.

Shain A. Khoshbin, PC is a partner at Munck Wilson Mandala in the complex litigation/dispute resolution group. Shain is an accomplished advocate who focuses – both inside and outside the courtroom – on overcoming tough obstacles and achieving successful results.

Outside the courtroom, Shain has summited Kilimanjaro (tallest freestanding mountain in the world), dived "The North Wall" in Grand Cayman (wall plunges in excess of 6000 feet past the reef), summited Shipton's Arch located to the northwest of Kashgar in China's Xinjiang Uyghur Autonomous Region (also known as the "Hole in Heaven" and said to be the world's tallest natural arch), and competed in the "Racing the Planet" Gobi Desert March (a 250 kilometer self-supported march across the Gobi Desert — also called "The Race of No Return").

Inside the courtroom, Shain is a fierce advocate for his clients. Steeped in complex business/commercial litigation for over three decades, Shain's innovative representation of clients has led to successful defenses, substantial recoveries, and appeals vindicating his clients' rights.

Shain has been selected as a “Best Lawyer in America” from 2022 through 2024 for commercial litigation. In addition, Shain repeatedly has been selected as a “Texas Super Lawyer” in business litigation, as published by Thomson Reuters in Texas Monthly, and has had the distinction of being named one of the Top 100 attorneys practicing in Dallas/Fort Worth by “Super Lawyers” in his respective practice. He also has been recognized among the nation’s top litigators in the “Super Lawyers” Corporate Counsel Editions and the “Super Lawyers” Business Editions, published by Thomson Reuters. Moreover, Shain is a Life Fellow of the American Bar Foundation. Membership in The Fellows is limited to one-third of one percent of lawyers licensed to practice in each jurisdiction. Shain also has been selected among America’s Top 100 High Stakes Litigators® 2018-2024 and as a Lifetime Charter Member of Rue Ratings’ “Best Attorneys of America” (limited to 100 attorneys in each state). Additionally, Shain is a Life Member of The Million Dollar Advocates Forum and Multi-Million Dollar Advocates Forum.

Shain fights for his clients’ rights across the country – on both sides of the docket. He has experience with matters involving business torts, fraud, and breaches of trust, fiduciary duties, and complex contractual relationships; securities fraud; partnership, investment, shareholder, and derivative disputes; RICO violations; hospitality management/franchising altercations; trade secret, unfair competition, and patent infringement battles; business disparagement, defamation, and tortious interference claims; receivership matters; executive employment and non-competition matters; industrial product liability and construction lawsuits; multi-party insurance coverage/bad faith claims; catastrophic manufacturing facility losses; defense of an employee wage/hour federal class action; and defense of a Fortune 500 company in premises liability/negligent hiring lawsuit involving a triple homicide.

Experience

- Lead counsel defending company and executive in securities fraud lawsuit brought by the Colorado Securities Commissioner seeking eight-figure restitution award. Replaced former lead counsel for clients in what already was a decade-long battle, after trial court already found that the general partnership interests at issue were securities under Colorado law (subsequent to the Commissioner’s appeal of trial court’s earlier decision on that issue), after liability judgment already was entered by trial court against clients, and soon before damages portion of the trial proceedings. After trying the damages portion of the proceedings as lead counsel, judgment resulted in less than 20% of the restitution amount sought by the Commissioner. Clients still appealed the judgment, including the conclusion that the interests at issue were securities; and the Commissioner filed a cross-appeal. After oral argument, the Court of Appeals reversed the judgment based on the threshold issue – namely, whether the interests were securities – and remanded with directions. Now siding with defendants’ argument, the Court of Appeals disagreed with the prior Court of Appeals decision in the case and noted that: “Accordingly, cognizant of our decision’s whiplash effect, but nevertheless convinced that the prior division’s decision is out of step with the applicable law, we reverse and remand. . . .” The Commissioner petitioned for certiorari on the threshold issue, which was granted by the Colorado Supreme Court. After oral argument, the Colorado Supreme Court, in an *en banc* opinion, affirmed in part, reversed in part, and again remanded to the trial court for further findings consistent with opinion.
- Lead counsel representing marketing company in trademark infringement and business disparagement lawsuit against global producer and distributor of filmed entertainment that maligned client on national television. Achieved reversal of summary judgment against client after oral argument in the Dallas Court of Appeals, and winning the subsequent appeal to the Texas Supreme Court by defendants. Then achieved reversal of second summary judgment against client after oral argument in the Eastland Court of Appeals, and winning the subsequent appeal to the Texas Supreme Court by defendants. Achieved confidential settlement for client soon after second victory in Texas Supreme Court.
- Lead counsel defending company, partnership, and senior executives in securities fraud action brought by Ohio Division of Securities and its Attorney General. After five-day administrative trial, Hearing Officer chosen by the Division itself issued a recommendation of complete defense victory for clients. After the Division rejected the recommendation and still imposed a business-threatening Final Cease & Desist Order, clients appealed that Final Order. Clients again prevailed when the Court reversed the Division’s Final Order. The Division appealed that decision to the Court of Appeals. After oral argument, the Court of Appeals dismissed the Division’s action altogether.
- Lead counsel representing Dallas-based company in complex litigation involving former President’s termination. After filing mandamus of trial court order and presenting oral argument on behalf of the company, successfully obtained order from Dallas Court of Appeals finding that trial court abused its discretion by not ordering former President to

return company's confidential documents and by not disqualifying former President's counsel. After oral argument in the Texas Supreme Court regarding Court of Appeals' order, achieved confidential settlement.

- Lead counsel defending oil and gas companies at trial in Pecos, Texas, winning defense verdict on breach of contract claim asserted by publicly held drilling services company seeking seven-figure damages award.
- Lead appellate counsel representing Fortune 500 client after trial court dismissed that company's seven-figure claim against the owners and operators of the Warwick Hotel. After being retained as appellate counsel, filed appeal and won reversal of dismissal after oral arguments before the Houston Court of Appeals twice (once before and once after obtaining a remand from the Texas Supreme Court).
- Lead counsel representing plaintiff in complex, triple derivative action involving multiple defendants and causes of action (including securities violations, breaches of fiduciary duties, fraud, and receivership). Within a month of moving for receivership, for expedited discovery, and for a live hearing, achieved confidential settlement.
- Argued and won summary dismissal in federal court of plaintiffs' negligent hiring and premises liability claims seeking millions of dollars against Fortune 1000 restaurant corporation client arising out of triple homicide, which was affirmed by Fifth Circuit.
- Represented plaintiff at trial that resulted in eight-figure patent infringement verdict for client in federal case involving motion detection technology. Trial court later granted defendant's JMOL.
- Represented claimant in FINRA arbitration against Goldman Sachs in Los Angeles, California, where arbitration panel entered seven-figure award in favor of client.
- Lead counsel defending clients against breach of fiduciary duty and trade secret misappropriation claims brought by international defense contractor. After replacing clients' prior attorneys, successfully achieved dismissal of clients from lawsuit without any damages or other relief awarded against them.
- Defended Fortune Global 500 electrical supplies distributor in federal court against unfair competition claims, successfully achieving dismissal of plaintiff patent holder's claims.
- Lead counsel representing company with over 25,000 employees concerning implementation of new human capital/workforce management software system, where client was sued for alleged damages. Within a few months after filing a detailed counterclaim, achieved a walkaway settlement before a single deposition was taken – with client paying zero dollars to plaintiff.
- Lead defense counsel in federal court action in Central District of California, where investment banking firm sued hospitality company client for breach of contract, promissory fraud, and declaratory judgment relating to \$28.3 million deal and \$38.15 million deal for the purchase of hotels. After removing the lawsuit to federal court, achieved dismissal of lawsuit for lack of jurisdiction and, subsequently, confidential settlement.
- Represented Netherlands-based luxury resort owner in connection with lawsuit filed in Curacao by publicly held hotel management company/franchisor seeking to enjoin owner's termination and removal of management company and its brand from the resort on the Island of Curacao, resulting in denial by Curacao court of relief sought by management company/franchisor.
- Lead counsel representing world leader in thermoelectric technology after publicly held manufacturing company allegedly terminated its supply contract and demanded millions in damages. Achieved confidential settlement with payment made to client (instead of to manufacturing company) less than seven months after filing federal court action and receiving defendant's answer.
- Lead counsel in commercial litigation in which securities fraud counterclaims brought against clients by defendant and its executives seeking seven-figure damages award. After causing two of the counter-plaintiffs to withdraw their claims against clients and filing motion for sanctions seeking to dismiss the securities fraud claims against clients in their entirety, achieved confidential settlement.

- Lead defense counsel defeating emergency Rule 202 Petition concerning multi-million-dollar business torts dispute and, subsequently, defeating application for temporary restraining order and emergency motion for discovery (after hearing before magistrate).
- Lead counsel representing national temporary housing company in state court false advertising/unfair competition lawsuit and tandem federal court “anti-cybersquatting” lawsuit against industry competitor, resulting in successful transfer of domain names to client and confidential monetary settlement within six months of replacing client’s former counsel in state court action and filing the federal action.
- Represented publicly traded innovation company in complex litigation in Minnesota, including claims against its former law firm for breach of fiduciary duties with respect to firm’s representation of the State of Minnesota in lawsuit against company alleging damage to the state’s natural resources (reported by the Star Tribune in 2014 to be “potentially the largest of its kind brought by the State of Minnesota”).
- Represented hotel chain in California temporary injunction proceedings concerning company’s “flagship hotel” in Monterey, California, securing status quo regarding removal of management company from the hotel.
- Represented a leading metal recycling and smelting company in complex litigation against Chilean-based competitor involving claims and counterclaims seeking tens of millions of dollars for breach of contract and fiduciary duty, unfair competition, and trade secret misappropriation, involving discovery efforts across the globe.
- Represented clients in New York state court asserting claims seeking millions of dollars in damages for breach of contract and tortious interference against various defendants located across the globe in connection with acquisition of international ultra-luxury hotel chain.
- Represented oil and gas company in AAA arbitration against drilling contractor seeking eight-figure damages award, and defended company and its affiliates in connection with lawsuit filed by contractor in the Cayman Islands seeking receivership and damages.
- Lead counsel defending apparel manufacturing company in commercial litigation concerning breach of purchase/sale and distribution contract with vendor, achieving confidential settlement soon after replacing the client’s prior attorneys.
- Lead counsel defending worldwide hotel chain and affiliates in commercial litigation involving telecommunications contracts for hotels in New York and Michigan, achieving confidential settlement.
- Lead counsel for nationally known mobile home manufacturer and subrogating carrier in New York federal court in complex litigation involving national fire detection and protection vendor/installation/service contract and catastrophic manufacturing facility loss causing over \$17 million in damages, achieving confidential settlement.

Focus Areas

Commercial Litigation

Securities Litigation

Hospitality

Appellate

Business Breakups & Partnership Disputes

Energy / Oil & Gas

Corporate Governance Litigation

Employment Litigation

Cybersecurity & Data Privacy

Speeches / Publications

- Lead defense trial attorney in the ABA's Historical Trial — *Terror in San Francisco: The 1916 Preparedness Day Bombing Trial*, at the 2007 American Bar Association Annual Meeting in San Francisco, California.
- Lead defense trial attorney in the ABA's Historical Trial — *Murder at Madison Square Garden: The Trial of Harry Thaw for the Killing of Stanford White*, at the 2008 American Bar Association Annual Meeting in New York, New York.
- "Trial mentor" in the ABA's Historical Trial — *The Insanity Trial of Mrs. Abraham Lincoln*, at the 2009 American Bar Association Annual Meeting in Chicago, Illinois.
- Presentation of *Defending The Restaurant Murder Case*, at the 2009 Hospitality Law Conference in Houston, Texas.
- Article Legal Ethics & Professionalism on the Agenda, Dallas Bar Association Headnotes, Vol. 29, June 1, 2005.
- 2006 presentation of *Intellectual Property & Insurance: The New Frontier*, at FM Global Corporate Headquarters in Johnston, Rhode Island.
- Article *Company Trash—Talk Websites & The Stored Communications Act: The Internet As The "Office Water Cooler" Of the 21st Century*, Hospitality Lawyer, September 2009 In-House Counsel Newsletter and October 2009 Legal Newsletter.
- Presentation of *Negotiation 101: Preparing for Settlement*, at the 37th Annual Risk Industrial Management Society Conference in Dallas, Texas.
- Article *BUSINESS DIVORCES IN TEXAS: Recent Case On "Disguised Dividends," Alleged "Squeeze Out," Improper Buy-Out, And Shareholder Oppression*, ABA Commercial & Business Litigation Section, November 2010.
- Article *INFRINGING ON A SONG, PICTURE OR OTHER ARTWORK WITHOUT A REGISTERED COPYRIGHT: Another Circuit Follows The Fifth Circuit Approach To Allow Filing A Lawsuit Under The Copyright Act Without A Certificate Of Registration*, EIN Presswire, June 9, 2010.
- December 2016 presentation of *CIVIL CYBER CLAIMS: Computer Fraud And Abuse Act In Business Disputes*, at Interstate Batteries Headquarters in Dallas, Texas.
- Presentation of *Mold Subrogation – Making Sure Your Recovery Doesn't Become Toxic*, at the 2003 Nationwide Insurance Summit in Canton, Ohio.
- Article *MINORITY SHAREHOLDER OPPRESSION IN TEXAS & MAJORITY SHAREHOLDER TAX RETURNS: When An Irresistible Force Meets An Immovable Object*, LinkedIn, October 2010.
- Quoted in TechTarget article published October 31, 2017, *LinkedIn case raises employee privacy concerns*, written by Patrick Thibodeau.
- Article *Voluntarily Gutting Your Subrogation Claim*, NASP Subrogator Magazine, Winter 2003.
- Article *DISCLOSURE OF INTERNAL INVESTIGATIONS: Recent Federal Case Discussing "Selective Waiver" Of Work Product Privilege*, ABA Commercial & Business Litigation Section, December 2010.
- Article *Unilateral Contracts & Future Payment Promises To At-Will Employees: Vanegas v. American Energy Services Adds Clarity to "Illusory Contracts"*, Hospitality Lawyer, March 2010 In House Counsel Newsletter and May 2010 Legal Newsletter.
- Article *Maximizing Subrogation Recoveries*, NASP Subrogator Magazine, Fall 2002.
- Panelist for 2008 Macalester College Legal Studies Program Roundtable Discussion, *What I Wish I Had Known About Law School And Legal Careers*, at Macalester College in St. Paul, Minnesota.
- Article *Turning The Tables in Construction Defect Cases & The Mold Mayhem*, NASP Subrogator Magazine, Spring/Summer 2004.

- June 2010 DCA Seminar on *Premises Liability & Workplace Violence in Texas*, in Dallas, Texas.
- Article *OIL & ANTITRUST AKIN TO OIL & WATER? Fifth Circuit Refrains From Adjudicating Opec Price-Fixing Claims*, ABA Commercial & Business Litigation Section, February 2011.
- Closing speech at the 2013 *Future Leaders Program Showcase*, at St. Mark's School of Texas in Dallas, Texas.
- Judge in the 2013 and 2018 DBA High School Mock Trial Competition, in Dallas, Texas.
- Judge in the 2014 and 2015 International Public Policy Forum Debate, at New York University in New York, New York.
- Article *United States v. Novartis AG: A Good Primer On Adequate Allegations Of Qui Tam Fraud, The First-to-File Rule, And The Public Disclosure Bar*, ABA Commercial & Business Litigation Section, June 2015.
- September 2015 seminar on *The Art Of Advocacy: Top Ten Rules For Opening Statements & Closing Arguments*, for the Hillcrest High School Mock Trial Team in Dallas, Texas.
- Article *Mock Trials In Business Litigation: Choosing When and How To Do It Cost-Effectively*, Corporate Counsel, May 5, 2016.
- Article *Cybercrimes in Civil Litigation: Using the CFAA To Go "On the Offensive,"* Corporate Counsel, March 22, 2017.
- July 2017 seminar on *Hotel Litigation*, at La Quinta Corporate Headquarters in Irving, Texas.
- June 2017 seminar on Top Ten Rules: *The Art of Advocacy for Non-Profit Startup*, for "Spark Tank Camp" in Dallas, Texas.
- December 2017 seminar on *Hotel Data & The Computer Fraud and Abuse Act*, at Phoenix American Hospitality Corporate Headquarters in Dallas, Texas.
- Article *Password-Sharing May Be a Federal Crime Under the Muddled Waters of the CFAA*, Cybersecurity, Law & Strategy (Law Journal Newsletters), February 2018 Corporate Counsel, January 5, 2018.
- Article *Fraudulent Inducement And Breach Of Contract: The Texas Supreme Court Clarifies The Need For Separate Jury Questions*, Texas Lawyer, July 19, 2018.
- Moderator and speaker for presentation, *Data Protection & Cybersecurity*, at the NACDL 14th Annual White Collar Seminar on November 9, 2018, in Washington, D.C.
- Quoted in TechTarget article published September 13, 2019, *HiQ Labs vs LinkedIn case OK's robot monitoring of employees*, written by Patrick Thibodeau
- Article TEXAS APPELLATE COURT ADDRESSES FREE SPEECH IN CONTEXT OF ANTI-SLAPP STATUTE: PART 1 – *Opinion provides good case study on impact of recent amendments to Lone Star State anti-SLAPP statute*, ABA Commercial & Business Litigation Section, October 3, 2019.
- Article TEXAS APPELLATE COURT ADDRESSES FREE SPEECH IN CONTEXT OF ANTI-SLAPP STATUTE: PART 2 – *How the court addressed important issues of alter ego, vicarious liability and agency, and summary of efforts to narrow scope of anti-SLAPP statutes*, ABA Commercial & Business Litigation Section, October 24, 2019.
- January 2022 seminar on *The Art Of Advocacy: Top Ten Rules For Opening Statements & Closing Arguments*, for the Emmett J. Conrad High School Mock Trial Team in Dallas, Texas.
- Article *More Efficient International Service of Process: To Hague, or not to Hague, that is the question*, Featured Law Article, International Law Section, State Bar of Texas, March 4, 2022, also circulated by Inter-American Bar Association in Washington, D.C., March 31 and April 20, 2022.
- January 2023 seminar on *The Art of Advocacy: Top Ten Rules for Opening Statements & Closing Arguments*, for the St. Mark's School of Texas Mock Trial Team in Dallas, Texas.

- *“Dual Purpose” Communications, the Attorney-Client Privilege, and the “Primary Purpose” Test in Texas: SCOTUS Punts, But Does Texas?* Texas Lawyer, February 6, 2023.
- Article *How Derivative Will Derivative Claims Go?*, Law360, April 13, 2023.
- Article *Are Texas Anti-SLAPP Motions Proper Legal Vehicles to Challenge Standing and, Thus, Subject Matter Jurisdiction?* Detailed analysis in recent oil and gas trade secret case, Texas Lawyer, May 15, 2023.
- Chair of the Arbitration Panel for Final Regional Round of 2023 American Bar Association’s National Arbitration Competition, hosted by Mississippi College School of Law, November 11, 2023.
- Article *Securities, Cryptocurrencies, And Swaps: SDNY’s Recent Decision Addressing Whether Digital Asset Transactions Are Regulated Securities*, New York Law Journal, January 11, 2024.

Education

DePaul University College of Law, JD, 1990

DePaul University Law Review, member; Access to Excellence Program and Rule 711 Attorney, Office of the Illinois Attorney General; American Jurisprudence Award for Legal Writing/Advocacy

Macalester College, BA, 1987

Law and Society; Philosophy; CORE: Speech & Communications

Highest Honors for thesis, "Perjury and the Lawyer's Conflict of Duty;" Macalester Hill Scholar; Thomas E. Hill Award (outstanding work in philosophy); National Achievement Academy Collegiate Award

Associations & Memberships

- The Artist Outreach, Board of Directors
- American Bar Association
- American Association for Justice
- Federal Circuit Bar Association
- Bar Association of the Fifth Federal Circuit
- Texas Bar Association
- Illinois Bar Association
- Dallas Bar Association
- Chicago Bar Association

Honors & Awards

- Best Lawyers in America
2022-2024
- Texas Super Lawyers, Thomson Reuters
2007 – 2024
- Super Lawyers “Top 100 Attorneys in Dallas/Fort Worth”, Thomson Reuters
2011 – 2012

- “Top Litigators” in Super Lawyers Corporate Counsel Edition 2008-2012, and Super Lawyers Business Edition 2013-2018
- American Bar Foundation, Life Fellow
- America’s Top 100 High Stakes Litigators® 2018 – 2024
- Rue Ratings’ “Best Attorneys of America”, Lifetime Charter Member
- The Million Dollar Advocates Forum, Life Member
- Multi-Million Dollar Advocates Forum, Life Member

Bar Admissions

Texas, 1990

Illinois, 1992

U.S. Supreme Court

U.S. Court of Appeals for the Federal Circuit

U.S. Court of Appeals for the Fifth Circuit

U.S. District Court for the Northern District of Texas

U.S. District Court for the Eastern District of Texas

U.S. District Court for the Western District of Texas

U.S. District Court for the Northern District of Illinois

U.S. District Court for the District of Colorado