



Mark A. Shank, Esq.
Diamond McCarthy, LLP

Panelist Video

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Current Employer-Title Diamond McCarthy, LLP - Senior Counsel

Profession Attorney/Arbitrator/Mediator - Civil Litigation
Former law professor, Southern Methodist University School of Law (10 years)
Author, Texas Litigators' Guide to Departing Employee Cases

Work History Senior Counsel, Diamond McCarthy, LLP, 2018 - Present ; Partner, Gruber Hail
Johansen Shank LLP, 2009-2018; Partner, K&L Gates (formerly Hughes & Luce,
LLP), 2001-09; Partner, Clark West Keller, LLP (and predecessor firm), 1981-01.

Experience General/Industry - Broad experience in Arbitration, Mediation, and Litigation, and
as a Neutral and Advocate in various industries including technology,
telecommunications, transportation, energy, finance, healthcare, banking, financial
services, real estate, hospitals, hotels and hospitality, retail, manufacturing,
employee staffing and leasing, grocery, recruiting and executive search and legal
(law firm). As a neutral, involving the following types of disputes: intellectual
property, trade secrets, confidentiality, covenants not to compete, breach of
fiduciary duty and duty of loyalty; licensing agreements technology, software, and
hardware; healthcare, including prompt pay, disputes between providers and
payers, disputes between providers and hospitals/clinics, healthcare related
software, disputes among providers, practice disputes; shareholder and partnership
matters, business litigation, breach of contract, and officer/director liability and
derivative claims; dispute over patent portfolio; executive compensation, bonus,
stock grants, and stock options; defamation; collective and class actions; FLSA
claims, including overtime, minimum wage, fluctuating work weeks, exemptions
and "off the clock" claims; labor and employment matters of all types, statutory,
common-law and contractual.

Labor and employment law experience:

Over 40 years experience representing clients in all types of employment disputes.

Expertise, both as an advocate, and as a neutral in:

Fair Labor Standards Act (FLSA) and wage and hour disputes including overtime,
minimum wage, misclassification, fluctuating work
week, exemptions and "off the clock" claims;

Collective, class and mass actions;

Discrimination (gender, race, ethnicity, national origin,
pregnancy/maternity/paternity, sexual orientation, GINA);

Disability and FLMA;

Workplace harassment

Independent contractor;

Executive employment;

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Severance;
Stock, grants, options and phantom stock;
Incentive compensation, bonuses and commissions;
Benefits;
Erisa;
Whistleblower;
Collective Bargaining;
Public employer issues;
Workplace investigation;
Breach of employment agreement;
Workplace defamation;
Texas nonsubscriber;
Intentional infliction of emotional distress;
Retaliation.

Over the last 5 years I have been selected in over 30 employment cases.

**Alternative Dispute
Resolution Experience**

Member of Commercial and Employment Panels of the American Arbitration Association since 1996.
Selected as a neutral in over 300 matters.

**Alternative Dispute
Resolution Training**

2021 AAA-ICDR Panel Conference; ACE20 Cyber Security: A Shared Responsibility, 2020; AAA/ICDR/AAA Mediation.org Panel Conference, 2019; Arbitrator Performance and Demeanor ~ Meeting Participant Expectations, 2018; AAA Chairing an Arbitration Panel ACE05, 2017; AAA Dealing with Difficult Attorneys in Arbitration, ACE13, 2016; AAA/ICDR/Mediation.org; Panel Conference, 2016; AAA eDiscovery: Arbitration in a Digital World ACE12, 2015; AAA Top Techniques for Improving Arbitration Case Management Efficiency, 2015; AAA Conducting Research & Investigations: The Arbitrator's Authority ACE09, 2014; AAA Managing the Arbitration Process for Efficiency & Economy Following the Preliminary Hearing, 2012; AAA, ADR Strategies That Save Time and Money, 2010; AAA Arbitration Awards: Safeguarding, Deciding & Writing Awards ACE01, 2010; DBA, Annual Labor and Employment Law Update, 2009; AAA Arbitrator Ethics & Disclosure ACE03, 2007, 2004; AAA Dealing With Delay Tactics in Arbitration ACE04, 2005; AAA Arbitrator Update, 2002; AAA Employment Arbitrator II Training: Advanced Case Management Issues, 2002; Faculty, AAA Employment Arbitrator Training, 1999; Faculty, AAA Panel Retreat, 1997; AAA Employment Arbitrator Training, 1996

Professional Licenses

Admitted to the Bar: Missouri, 1979; Texas, 1981; U.S. District Court: Western District of Missouri; Northern, Eastern, Southern, and Western Districts of Texas; U.S. Court of Appeals, Fifth Circuit; U.S. Supreme Court; Board Certified in Civil Trial Law and Labor and Employment Law by the Texas Board of Legal Specialization.

**Professional
Associations**

Fellow, College of Commercial Arbitrators
Chartered Institute of Arbitrators

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The AAA provides arbitrators to parties on cases administered by the AAA under its various Rules, which delegate authority to the AAA on various issues, including arbitrator appointment and challenges, general oversight, and billing. Arbitrations that proceed without AAA administration are not considered "AAA arbitrations," even if the parties were to select an arbitrator who is on the AAA's Roster.

Best Lawyers in America, Arbitrations
Dallas Bar Association (Past President 2001)
State Bar of Texas (Board of Directors 2004-2006)
State Bar Employment Law Section (Chair 1998- 1999)
Dallas Bar Employment Law Section (Chair) 1994)
State Bar Litigation Section (Council 2012-2018)
State Bar of Texas ADR Section
Dallas Bar ADR Section
ABOTA.

Education

Southwest Missouri State University (BS, Political Science-1976); University of Missouri (JD-1979); Southern Methodist University (LLM-1984); LLM in labor and employment law.

Publications and Speaking Engagements

Substantial number of speaking and writing engagements; list provided upon request.
Author, Texas Litigators' Guide to Departing Employees Cases
Speaking engagements: 2019 Texas Bar CLE Webcast - Update on Arbitration Law in Texas; DBA Labor & Employment Law Section - What Arbitrators Want; State Bar of Texas Damages in Civil Litigation - Show Me The Money; Recent Developments Regarding Employment Law Damages in Trade Secret Cases (2019-2020); North Dallas Chamber of Commerce - COVID and Top Employment Law Issues for 2021;

Locations Where Parties Will Not be Charged for Travel Expenses

Dallas area; Austin area. May charge for associate attorney at rate of not more than \$265.00 per hour

Citizenship Languages Locale

United States of America
English
Dallas, Texas, United States of America

Compensation

Cancellation Period: 0 Days
Comment: Compensation rates, established by the AAA, are set forth in the applicable Consumer Arbitration Rules.

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