

Paul Koning

ATTORNEY, PARTNER

Paul Koning is a professional liability litigator and advisor. For more than 30 years, Paul has represented top law firms and lawyers in high-stakes lawsuits and sensitive investigations regarding claims of professional misconduct, legal malpractice and breach of fiduciary duty. Paul also regularly defends lawyers against grievance complaints, appears as special counsel for lawyers facing motions for disqualification or sanctions, helps lawyers resolve intra-firm controversies, and handles client fee disputes.

While many firms and lawyers initially hire Paul based on his proficiency in the courtroom, they quickly discover his ability to serve as their on-call legal ethics and loss prevention advisor. Paul's deep experience in the "law of lawyering" enables him to devise immediate and practical solutions to the most challenging ethical dilemmas. He counsels national and small firms daily on issues such as conflicts of interest, the rights and duties of lawyers changing firms, client trust funds and files, lawyer advertising, litigation financing, plus many more.

Paul is regarded among peers as one of the region's most accomplished and knowledgeable authorities on legal malpractice and professional responsibility issues, including recognition by *Texas Lawyer* magazine in 2007 as one of the top five legal malpractice lawyers in Texas based on an eight-month survey of Texas attorneys. He is also a frequent speaker, author and teacher on professional liability and legal ethics. Among his other achievements, Paul wrote the Texas section of *The Law of Lawyers' Liability*, a highly regarded national resource first published in 2012. Paul is currently a member of the 2019 Legal Ethics Editorial Advisory Board of the national legal news service Law360 (Portfolio Media, Inc.).

Paul has dedicated substantial time and effort to the enhancement of professional responsibility and best practices for lawyers in Texas. He is one of nine Texas lawyers appointed by the Texas Supreme Court to the State Bar of Texas Professional Ethics Committee – the body charged with drafting legal ethics opinions for lawyers. Paul also served as co-chair of the American Bar Association Professional Liability Litigation Committee, was the designer and project coordinator of the American Bar Association's 50 State Survey of Legal Malpractice Law and was a panel chair on the State Bar of Texas Grievance Committee (District 6).

In addition to his professional liability practice, for many years Paul has represented businesses and individuals on both sides of the aisle in a broad range of complex commercial litigation matters. When cases are referred to alternative dispute resolution, Paul's training as an attorney-mediator offers special value in the process.

Paul is also an experienced appellate advocate, having briefed and argued many appeals before Texas state and federal appellate courts.



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CORE SERVICES

- Legal Malpractice Defense
 - State Bar Grievances
 - Fiduciary Duty Claims
 - Disqualifications
 - Intra-firm Litigation and Arbitration
 - Attorney-client Fee Disputes
 - On-call Legal Ethics Counseling
 - Outside General Counsel for Law Firms
 - Conflict of Interest Resolution
 - Expert Testimony
 - Business Litigation
 - Arbitration and Mediation
 - Appeals
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Bar Admissions

- Texas

Court Admissions

- U.S. Court of Appeals, 5th Circuit
- U.S. District Court, Eastern District of Texas
- U.S. District Court, Northern District of Texas
- U.S. District Court, Southern District of Texas
- U.S. District Court, Western District of Texas
- U.S. Supreme Court

Education

- Southern Methodist University, Dedman School of Law (JD, *cum laude*, 1981)
 - Leading Articles Editor, Southwestern Law Review
- Cornell University (AB, *with honors*, 1978)
 - Classics

Honors and Awards

- Best Lawyers in America, Woodward/White, Legal Malpractice, 2007-Present
- Best Lawyers in America, Woodward/White, Commercial Litigation, 2007-Present
- Best Lawyers in America, Woodward/White, Litigation-Real Estate, 2007-Present
- AV Preeminent, Martindale Hubbell
- Best Lawyers in Dallas, D Magazine, Professional Liability Litigation, 2012-Present
- Texas Super Lawyers, Thomson Reuters, Professional Liability Defense, 2005-Present
- Law360, Legal Ethics Editorial Advisory Board Member, Portfolio Media Inc., 2019
- "Go To Guide," Texas Lawyer, ALM Media, (eight month study naming top five legal malpractice lawyers in Texas), 2007
- "Go-To Lawyers for Lawyers in Trouble," Texas Lawyer, ALM Media, ("[T]heir peers across Texas say these seven are the attorneys they'd go to if they were in malpractice or grievance trouble. [These] are the lawyers whose names came up over and over again."), 2002

Associations

- American Bar Association, Litigation, Co-Chair, Professional Liability Litigation Committee, 2006-2009
- American Bar Association, Litigation, Designer and Project Coordinator, 50 State Survey of Legal Malpractice Law, Professional Liability Litigation Committee
- American Bar Association, Litigation, Co-Chair, 50 State Survey Committee, 2009-2010

- American Bar Association, Litigation, Co-Chair, Attorneys' Liability Subcommittee, Professional Liability Litigation Committee
- State Bar of Texas, Professional Ethics Committee, October 2014 to present
- State Bar of Texas, Standing Committee on Professionalism, 2003-2006
- State Bar of Texas, Past member and Panel Chair of District 6A Grievance Committee
- Association of Professional Responsibility Lawyers, Member
- Texas Bar Foundation, Life Fellow
- Dallas Bar Foundation, Life Fellow

Publications

- "Legal Malpractice in Texas - The Basics" (White Paper, updated September 2017)
- "State of Texas," in *The Law of Lawyers' Liability*, First Chair Press, 2012
- "Disqualification Doesn't Necessarily Mean Damages," *Texas Lawyer*, November 21, 2011
- "Legal Malpractice Law - State of Texas," appearing in *50 State Survey of Legal Malpractice Law*, ABA Professional Liability Litigation Committee, 2009-11
- Contributor (Texas), *Legal Malpractice Law Review* (www.legalmalpracticelawreview.com)
- "Lost Punitive Damages - Where Have They Gone?," *ABA Professional Liability Litigation Alert*, May 1, 2006
- "Tort Reform and Legal Malpractice," *Texas Lawyer*, August 18, 2003
- "California Decision Limits Client's Recovery of Damages," *Texas Lawyer*, October 29, 2001
- "Biting the Hand That Fed You? May Former In-House Counsel Accept Representation Adverse to the Organization?" *The Executive Lawyer*, 2000
- "Save Yourself Some Grief During a Grievance Hearing," *Texas Lawyer*, July 24, 2000
- "Legal Ethics for In-House Counsel -- Selected Issues," *59 Tex. Bar J.* 22, 1996

Presentations

- "Legal Fees and How to Ethically Collect Them," *ABA Section of Litigation Live Webinar*, November 21, 2019 (with Ronald Minkoff and Merri Baldwin)
- "Practical and Ethical Issues of Litigation Finance," *Dallas Bar Association, Business Litigation Section*, November 12, 2019 (with Jonathan Erwin, John Garda and Dean Gresham)
- "Lessons Learned From Representing Lawyers," *Texas A&M University School of Law*, November 13, 2018
- "Firing Bad Clients and Recovering When You're Fired," *Managing Your Success: Practice Management at the Next Level, UT Law CLE*, February 9, 2018
- Guest Lecturer, "Tax Practice and Professional Responsibility," *SMU Dedman School of Law*, Fall 2008-10; Spring 2015-18
- "Conflicts of Interest," *Plano Bar Association*, April 1, 2016
- "Conflict of Interest Quandaries," *Dallas Bar Association, Business Litigation Section*, March 8, 2016
- "Commercial Litigation Financing: What Lawyers Need to Know When Clients Ask," *Dallas Bar Association, Friday Clinic*, January 15, 2016 (with Charles Agee and Lucian Pera)
- "Top 10 Ethics Issues That Get Tax Professionals in Trouble for Malpractice," *University of Texas 62nd Annual Taxation Conference and 2014 Stanley M. Johanson Estate Planning Workshop*, December 5, 2014
- "The Top Ten Things That Get Tax Lawyers in Trouble for Malpractice," *ABA Section of Taxation*, December 11, 2013
- "How to Not Get Your Name in the Back of the Bar Journal," *Dallas Association of Young Lawyers*, June 25, 2013
- "Lateral Conflicts -- A Migratory Mess," *Dallas Bar Association, 2012 Ethics Fest*, May 10, 2012
- "Lateral Conflicts Illuminated," *Dallas Bar Association, Legal Ethics Committee*, November 9, 2011
- "Links Between Professionalism and Legal Malpractice," *Dallas Association of Young Lawyers Leadership Class*, October 20, 2011

- "Malpractice Tips for the Beginning Lawyer," *Dallas Bar Association, Transition to Law Committee*, July 31, 2009
- "The Ethical Lawyer: Malpractice Avoidance and Honoring the Practice of Law," *TexasBarCLE Webcast*, March 1, 2011 (with Jett Hanna, Robert Schuwerk and Robert Tobey)
- "Lawyers as Defendants," *Lawyer and Law Firm Disputes - Problems and Prevention, Texas Bar CLE*, September 17, 2010 (with Mark Lanier)
- "Why Should I? The Intersection of Professionalism and Legal Malpractice," *Dallas Bar Association, North Dallas Friday Clinic*, March 12, 2010
- "The Intersection of Professionalism and Legal Malpractice," *Dallas Bar Association, Morris Harrell Professionalism Committee*, August 4, 2009
- "Malpractice Tips for the Beginning Lawyer," *Dallas Bar Association, Transition to Practice Committee*, September 16, 2011
- "When Bad Things Happen to Smart Lawyers," *ABA Business Law Section Annual Meeting*, April 11, 2008
- "Red Flags and Grey Areas: Practical Tips on Intake and Conflicts," *Second Annual National Program of the Firm Counsel Project*, April 10, 2008
- "The Top Ten Things That Get Attorneys, CMIs, CPAs and Other Tax Professionals in Trouble for Malpractice," *2008 ABA/IPT Advanced Sales/Use Tax Seminar and Advanced Income Tax Seminar*, March 11, 2008
- "The Top Ten Things That Get Tax Lawyers in Trouble for Legal Malpractice," *ABA Young Lawyers Division Conference*, October 5, 2007
- "Tax Link Live: The Top 10 Things That Get Tax Lawyers in Trouble for Malpractice," *ABA Section of Taxation*, April 11, 2007
- Guest Lecturer, "Ethical Dilemmas in Legal Practice," *SMU Dedman School of Law*, Fall 2006, 2007
- "Selected Ethics and Claim Avoidance Issues in Litigation," *Hidalgo County Bar Association "Legends of Litigation" Conference*, April 27, 2006
- "Claim Avoidance for Business Lawyers -- Cutting the Common Threads," *Business Law Section of the State Bar of Texas*, 2002
- "Applying the Legal Ethics Rules to In-House Counsel - Anomalies and Surprises," *Texas General Counsel Forum*, 2000
- "The Impact of Tort Reform on Lawyer Liability," presented to *the American Bar Association Standing Committee on Lawyer's Professional Liability* with Ed Hendricks, 1996
- "The Effect of Legal Malpractice Claims on Confidential Communications," presented at *St. Mary's Twelfth Annual Procedural Law Institute -Litigation Malpractice*, 1990

Representative Experience

- Defense of local and national law firms and attorneys in numerous multi-million dollar professional liability actions
- Representation of lawyers, law firms, corporations and public agencies in connection with a wide variety of legal ethics and professional responsibility issues
- Representation of lawyers in disciplinary proceedings (grievances)
- Representation of law firms and lawyers in connection with dissolution, withdrawal and other intra-firm issues and disputes
- Representation of law firms and their clients as special counsel in connection with motions to disqualify and motions for sanctions
- Defense of a real estate developer against a former business associate's allegation of partnership on a multi-million dollar project
- Representation of beneficiaries seeking to disqualify fiduciaries for undue influence and conflicts of interest
- Arbitrations of stock churning and unsuitability claims against national brokerage firms, in one instance resulting in an arbitration award of treble damages
- Representation of a limited partner of a major league baseball franchise in a challenge to the general partner's attempts to amend the partnership agreement

- Numerous appearances before the Texas Courts of Appeals, the Texas Supreme Court and the United States Court of Appeals for the Fifth Circuit
- Expert testimony in professional liability cases
- Numerous appearances before the Texas Courts of Appeals, the Texas Supreme Court and the United States Court of Appeals for the Fifth Circuit, including the following:
- *McKool Smith, P.C. v. Curtis Int'l, Ltd.*, 650 Fed. Appx. 208 (5th Cir. 2016) (affirming confirmation of arbitration award in attorney-client fee dispute)
- *Roehrs v. Conesys, Inc.*, 332 Fed. Appx. 184 (5th Cir. 2009) (successful defense of military contractor against claims of tortious interference and conspiracy)
- *Geiserman v. MacDonald*, 893 F.2d 787 (5th Cir. 1990) (establishing need for expert testimony in legal malpractice cases, and affirming dismissal)
- *Scher v. Deutsche Bank Tr. Co. Americas*, 4:13CV203, 2014 WL 11514689 (E.D. Tex. Feb. 25, 2014), *report and recommendation adopted* 2014 WL 11515646 (Mar. 28, 2014), *aff'd* 634 Fed. Appx. 435 (5th Cir. 2015) (obtaining dismissal of claims against law firm based on attorney immunity doctrine)
- *Reilly v. Rangers Management, Inc.*, 727 S.W.2d 527 (Tex. 1987) (protecting rights of limited partner in the Texas Rangers organization against attempt to dilute partnership interests)
- *Axcess Int'l, Inc. v. Baker Botts, L.L.P.*, 05-14-01151-CV, 2016 WL 1162208 (Tex. App.—Dallas Mar. 24, 2016, pet. denied) (finding there was no evidence of causation in case arising from patent representation)
- *Ahrens & DeAngeli, p.l.l.c. v. Flinn*, 318 S.W.3d 474 (Tex. App.—Dallas 2010, pet. denied) (dismissing for lack of personal jurisdiction claims against non-Texas lawyers accused of conspiring against Florida resident)
- *BDO Seidman, LLP v. Bracewell & Patterson, LLP*, No. 05-02-00636-CV, 2003 WL 124829 (Tex. App.—Dallas Jan. 16, 2003, pet. denied) (affirming summary judgment for law firm regarding multi-million dollar claim for contribution brought by former co-defendant)
- *CLS Associates, Ltd. v. A__ B__*, 762 S.W.2d 221 (Tex. App.—Dallas 1988, no writ) (seminal Texas decision establishing that claim for legal malpractice is mandatory counterclaim to claim for attorneys' fees)