

## B. David L. Foster

Partner

Austin

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Dave has extensive experience defending financial institutions in high-stakes litigation, representing stakeholders in significant securities litigation, and navigating complex real property and business disputes, making him a reliable advocate for clients' diverse legal needs.

### OVERVIEW

Dave represents banks, mortgage servicers, and other financial institutions in class actions, mass actions, and individual cases in both state and federal courts, as well as arbitration proceedings. His practice spans consumer finance, real property investment and development disputes, and securities litigation, where he represents investors, directors, officers, and issuers in cases involving securities fraud and registration irregularities under Blue Sky Laws.

Dave's financial services clients include lenders, mortgage servicing companies, and government-sponsored enterprises. He has handled numerous class actions and multidistrict litigation, particularly those involving Texas home equity loans, foreclosure fees, and securitization processes. Additionally, he advises clients on origination and servicing practices, evaluates portfolio risk, and defends against whistleblower claims.

In real property disputes, Dave represents private real estate investment and development firms, property owners, and contractors in various litigation matters. His securities litigation experience includes representing both companies and investors in complex financial disputes.

Dave is the managing partner of the firm's Austin office.

### REPRESENTATIVE MATTERS

#### Financial Services Litigation

- Assists lenders, mortgage servicing companies, and government-sponsored enterprises in numerous putative class actions, multidistrict litigation, individual litigation, and appeals regarding unique requirements of Texas home equity loans under Section 50(a)(6) of the Texas Constitution.
- Represents a mortgage servicing company in a putative class action regarding the effect and scope of forbearance programs.
- Represents a mortgage servicing company in a putative class action challenging foreclosure fees and

distribution of excess sale proceeds.

- Represents loan servicers and trusts in putative class actions challenging the validity of the securitization process and corresponding real property filings.
- Represents mortgage servicing company in a putative class action challenging the application of set-aside fees and mortgage insurance premiums in home equity consumer mortgages (HECMs or reverse mortgages).
- Repeated representation of consumer finance companies in disputes relating to the Uniform Commercial Code (UCC), Truth-In-Lending Act (TILA), Real Estate Settlement Procedures Act (RESPA), Telephone Consumer Protection Act (TCPA), and other consumer statutes.
- Advises clients on origination and servicing practices, as well as evaluates portfolio risk.
- Investigates and defends whistleblower (False Claims Act (FCA)) claims.
- Responds to Civil Investigative Demands (CIDs) from CFPB, HUD, state attorneys general, and the DOJ.
- Frequently asked to take over “problem” cases approaching trial or on appeal.
- Handles general banking disputes ranging from safe deposit boxes, wire fraud, and elder financial abuse (EFA) to commercial accounts and loans.

## **Real Property Disputes**

- Varied representation of multiple private real estate investment and development firms relating to their real estate assets.
- Represents real estate investors in business divorce strategy and litigation.
- Represents both property owners and contractors in construction litigation.
- Represents both landowners and tenants in commercial lease disputes.
- Represents commercial and residential landowners in a variety of disputes and venues.
- Represents nationwide telecommunications provider in both leasehold and consumer disputes.
- Represents a luxury condominium developer relating to disputes over purchase contracts and disclosures statements.
- Represents a landowner in an environmental dispute.

## **Securities Litigation**

- Repeated representation of various companies in actions brought by investors in mortgage-backed securities.
- Trial counsel for a group of Florida investors against issuer and related shareholders and stakeholders.
- Trial counsel for a manager of investment funds in an action brought by investors for alleged violations of the Texas Securities Act seeking over \$35 million.
- Representation of an investment partnership in a derivative action brought by the Chapter 11 Trustee of an issuer seeking over \$72 million for alleged secondary securities fraud liability.
- Repeated representation of issuers, investors, sellers, and control persons related to private investment disputes under Blue Sky Laws. These actions include disputes over material misrepresentations in offering statements (PPMs) and registration exemption.
- Provide exposure analysis for issuers at time of private securities offerings.

## **Business Litigation**

- Represents apartment complex owners in putative class actions relating to water submetering, pest control, and cleaning fees.
- Represents an electronic filing and service provider in a putative class action asserting state antitrust violations,

among other claims.

- Represents a medical insurance company in various contract disputes.
- Represents investment companies, property management companies, and related principals in various litigation about alleged mismanagement of assets.
- Represents a medical device supplier in a \$50 million contract dispute.
- Represents an artificial turf manufacturer and installer in non-compete, trade secret, and design disputes.
- Represents accounting firms and individual malpractice actions.

## AWARDS

- *Texas Super Lawyers®*, Business Litigation (2025)
- *Super Lawyers® Texas Rising Star*, Business Litigation (2008-2016)

## TOP AREAS OF FOCUS

- Business Litigation
- Consumer Financial Services
- Financial Services Litigation
- Real Estate Litigation
- Securities Litigation

## ALL AREAS OF FOCUS

- Business Litigation
- Class Action
- Consumer Financial Protection Bureau (CFPB)
- Consumer Financial Services
- Financial Services Litigation
- Litigation + Trial
- Mortgage Lending + Servicing
- Real Estate Litigation
- Securities Litigation

## PROFESSIONAL/COMMUNITY INVOLVEMENT

- Member, Travis County Bar Association
- Member, State Bar of Texas
- Volunteer youth sports coach
- Volunteer, Mobile Loaves & Fishes
- Past committee member, Austin Habitat for Humanity Legal Build
- Pro bono representation, Volunteer Legal Services

## EDUCATION AND CERTIFICATIONS

### EDUCATION

- Texas Tech University School of Law, J.D., *magna cum laude*, 2001, Order of the Coif, Fifth Circuit editor, *Texas Tech Law Review*, Member, National Moot Court Teams, Regents Scholarship
- The University of Texas at Austin, B.B.A., 1998, finance

## **BAR ADMISSIONS**

- Texas

## **COURT ADMISSIONS**

- U.S. Court of Appeals, Fifth Circuit
- U.S. District Court, Western District of Texas
- U.S. District Court, Northern District of Texas
- U.S. District Court, Southern District of Texas
- U.S. District Court, Eastern District of Texas

## **PUBLICATIONS**

- Author, "The Texas Business Court's First Thirty Days", Locke Lord QuickStudy, October 21, 2024.
- Author, "Texas Justices' PNC Opinion Clarifies Subrogation Questions," *Law360*, May 23, 2023.
- Author, "Texas Supreme Court Clarifies How Equitable Subrogation Operates for Texas Home Loans," Locke Lord QuickStudy, May 15, 2023.
- Author, "Texas Supreme Court Affirms a Lender's Equitable Subrogation Rights Following Expiration of the Statute of Limitations on the Lender's Lien," Locke Lord QuickStudy, January 29, 2021.