

Everett Upshaw
Upshaw PLLC
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EXPERIENCE

Upshaw PLLC, Managing Attorney 2012-2019, 2024-current; Attorney 2020-2024. Patent and related complex business litigation representation and management in competition with AmLaw 100 firms; lead responsibility for IPRs and other post-grant challenges; civil rights litigation; successful shifting of litigation costs to clients' competitors; external general counsel services including coordinating litigation positions and operations across cases involving multiple outside counsel and managing risks arising in other firms' representations; evaluating patents and structuring monetization programs; developing trainings and internal procedures assisting clients with compliance, patent licensing, discovery, and litigation management.

Nokia Inc., Senior Litigation Counsel 2008-2012; IPR Legal Counsel 2006-2008. Managed patent litigation, antitrust, securities class actions, and complex business litigation, as well as arbitrations, mediation, customs enforcement issues, patent office procedures, and negotiations in U.S. District Courts, the International Trade Commission, and other forums in 20 other countries, alone or in coordination with competitors, suppliers, and customers. Also advised internal business and support organizations; developed and managed standard operating procedures, cross-case functions, and computer platforms; while ensuring litigation and other operations supported business goals and company values.

Jones Day, Associate 2000-2006. IPR and general litigation representation, including sole or primary handling of all aspects of smaller litigation, enforcement, subpoena, contract, and administrative matters. Primary responsibility for aspects of large, bet-the-company commercial and patent litigation matters, including case development, witnesses, negotiations, and managing teams handling discovery, motion practice, and research.

Austin College, Associate Professor of Economics 1991-1997. Taught advanced courses in econometrics, applied microeconomics, and regulation in addition to research and administrative duties. Testified as an expert economic witness on damages issues.

EDUCATION

J.D., with honors, University of Texas at Austin School of Law, December 1999

- Texas Law Review, 1998-2000 (Book Review Editor, 1999-2000)
- Texas Review of Law and Politics, 1997-1998
- Member, Order of the Coif
- Dean's Achievement Awards in Antitrust and Professional Responsibility

Ph.D. in Economics, University of Texas at Austin, May 1991

- Concentrations: Economic History, Economic Development, Institutional Economics
- Dissertation: The University of Texas and the National Energy Plan

M.A. in Economics, University of Texas at Austin, December 1988

B.A. in Plan II Liberal Arts Honors Program, with High Honors and Special Honors,
University of Texas at Austin, December 1986

ADMISSIONS

State Bar of Texas, May 2000-present

U.S. Courts of Appeals for the Fifth, Tenth, and Federal Circuits

U.S. Court of Federal Claims

U.S. District Courts for the Northern, Southern, Eastern, and Western Districts of Texas

U.S. District Courts for the Northern, Eastern, and Western Districts of Oklahoma

Law Society of England & Wales, Solicitor 2009-2013; non-practicing 2013-present

SERVICE

EverettUpshaw.com – Advocate 2026-present

Texas Law Review Association – Life Member 2012-present

Dallas Bar Association – Member 2005-2018

- Sections—Intellectual Property Law; Antitrust & Trade Regulation; Business Litigation; Corporate Counsel; Solo & Small Firm; Trial Skills
- Committees—Lawyer Referral Service; Mentoring
- Member, 2013 Dallas Bar Association Antitrust Section Leadership Council

American Association for Justice – Member 2004-2016

- Sections—Business Torts; Solo & Small Firm
- Litigation Groups—Intellectual Property; Class Actions

- Newsletter Editor, American Association for Justice Business Torts Section, 2012-2013

Thomas Munson Foundation & Scholarship Fund – Legal Advisor & Board of Directors, 2011-2016

ABA Advisory Panel – Member 2012-2014

Southern Methodist University School of Law – Co-taught Patent Litigation course 2008

Scouting America – Cub Scout Pack 349 – Cubmaster, 2007-2009; Den Leader 2002-2007

Dallas Volunteer Attorney Program – *Pro bono* work 2003-2005, cited in connection with:

- Individual Jones Day *Pro Bono* Recognition Award;
- Jones Day's win of the 2005 State Bar of Texas W. Frank Newton Award; and
- Jones Day's win of the 2004 Dallas Volunteer Attorney Program *Pro Bono* Firm of the Year Award.

Texas National Guard – Private First Class, Co. G, 143rd (Airborne) Infantry Regiment (Rifleman—MOS 11B1P) 1988-1989, Honorable Discharge

PUBLICATIONS

The Changing Landscape of Patent Litigation, TRIAL, v. 50 no. 2, February 2014, at 44-51

Antitrust Class Actions, ABA SECTION OF ANTITRUST LAW, ANTITRUST LAW DEVELOPMENTS 928, 963 (5th ed. 2002)

Risk Allocation from the Designer's Perspective (with Robert Meyers), REAL ESTATE LAW & PRACTICE COURSE HANDBOOK, SERIES NO. N-480, HANDLING CONSTRUCTION RISKS: ALLOCATE NOW OR LITIGATE LATER 147-180 (Kenneth M. Cushman ed., 2002)

RICO and Labor Law (assisting contributor), ABA SECTION OF LABOR AND EMPLOYMENT LAW, THE DEVELOPING LABOR LAW 2322-2441 (4th ed. 2001)

Texas Law Regarding FDCA-Related Tort Claims (with Mark Hall), ABA PHARM. & BIOL. SUBCOMM., 50 STATE SURVEY OF FDCA-RELATED TORT CAUSES OF ACTION (2001)

An Economist's View of Research on Term Limits, 76 SOC. SCI. Q. 730-733 (1995)

Reforming the Legal and Regulatory Systems (contributor), NATIONAL POLICY FORUM, LISTENING TO AMERICA, 105-120 (1994)

SELECTED CASES

Patent cases are typically shrouded in protective orders and settled before litigation. These cases were selected because unusual and significant legal outcomes related to specific lawyering efforts are independently verifiable from the public record.

Network System Technologies, LLC v. Samsung Electronics Co., Ltd. et al., Case No. 2:22-cv-00481-JRG (J. Gilstrap, E.D. Tex.—Marshall). Saved litigation costs and took significant settlement pressure off defendant One Plus by staying case pending resolution of plaintiff’s slower case against Qualcomm, under the customer-suit exception, where plaintiff had attempted to structure the case to foreclose this possibility, in a jurisdiction generally disfavoring stays.

Buffalo Patents, LLC v. ZTE Corp., Case No. W-21-CV-01065-ADA (W.D. Tex.). Cooperatively argued and briefed motion achieving rare dismissal for improper service and lack of jurisdiction against foreign defendant in court disfavoring dismissals.

TriOptima AB v. Quantile Technologies Ltd., Case No. 2:19-CV-00390-JRG (E.D. Tex.). Cooperatively argued and briefed motion achieving rare dismissal for lack of jurisdiction against foreign defendant in jurisdiction disfavoring dismissals.

AGIS Software Development, LLC v. ZTE Corp. et al., Case No. 2:17-CV-00517-JRG (E.D. Tex.), *In re ZTE (USA) Inc.*, 890 F.3d 1008 (Fed. Cir. 2018), *et al.* Helped coordinate and participated in argument and briefing across several cases establishing applicability of *TC Heartland* venue standard in patent cases and ending years of litigation against ZTE (USA) Inc. in the Eastern District of Texas.

Nokia Corp. v. Apple Inc., C.A. No. 09-791-GMS (D. Del.); *Certain Electronic Devices, Including Mobile Phones, Portable Music Players, and Computers*, Inv. 337-2702 (U.S. International Trade Commission et al.), *et al.* One of several internal counsel managing forty cases around the world, constituting “the most bitterly contested patent dispute that this industry has seen to date” (New York Times) involving essential and nonessential patents, materially benefitting Nokia’s operating margin and increasing Nokia’s stock price (as disclosed in SEC filings).

Terrence Gore v. Experian Information Solutions, Inc., 3:03-cv-02949 (N.D. Tex.). Obtained summary judgment from a federal court in a case of first impression recognizing limitations on the enforceability of certain state court judgments under Texas law.