



William Ken Tapscott

Partner

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Ken Tapscott has 22 years of civil litigation experience in the areas of personal injury, premises liability, toxic torts, breach of contract, breach of fiduciary duty, fraud, Deceptive Trade Practice Act, securities litigation, insurance/coverage litigation, real estate/landlord-tenant, and professional malpractice (legal, medical, etc.).

From 2007-2018, Ken served as Judge of Dallas County Court at Law #4, a civil court with unlimited monetary jurisdiction. During his twelve-year service as Judge, he delivered more than 425 cases to jury verdict and decided more than 1500 non-jury trials, more than any other civil district or county court at law judge in Dallas County during that time period. As a judge his performance was regularly reviewed by the Dallas Bar Association, and he was consistently rated one of the best judges in Dallas County for his temperament, impartiality, preparation, speed of decision-making, and knowledge of the law. He provides clients an honest assessment of their case and strong prosecution of any claim or defense that is needed.

Representative Experience

Significant “Affirmed” Decisions from the 5th District Court of Appeals:

2020:

- **Jessica Lane v. Paul Manfre**; 05-18-01305-CV (CC 18 00566-D): Regarding estoppel, release, and res judicata, and failure to challenge all independent grounds supporting the judgment.

2019:

- **Buck Porter v. A-1 Parts**; 05-17-01468-CV (CC 16 02644 D): Regarding attorney’s fees.

Services & Industries

- Products Liability
- Commercial Litigation
- Restaurants, Retail & Hospitality
- Mass Torts
- Professional Liability

- **KMS Retail Rowlett, LP f/k/a KMS Retail Huntsville, LP v. City of Rowlett, Texas**; 17-0850 (Texas Supreme Court): regarding constitutional use of eminent domain power.
- **Isidro Rosas and Maria Martinez v. Chih Ting Wang**; 05-18-01013-CV (CC 18 03072-D): Regarding landlord/tenant and eviction.
- **Daniel Hagood, P.C. and Fitzpatrick Hagood Smith and Uhl, LLP v. Kunal Kapai**; 05-18-01485-CV (CC 18 04027 D): Regarding the denial of a motion to compel arbitration.
- **Barbara Stegall, Individually and on behalf of the Estate of Joe Stegall v. TML Multistate Intergovernmental Employee Benefits Pool, Inc., and UMR, Inc.**; 05-18-00239-CV (CC 16-05440-D): regarding governmental immunity and pleas to the jurisdiction.

2018:

- **Gabriel Isaac v. Villas Del Zocalo 3**; 05-16-01338-CV (cc 16 05241 D): Regarding landlord/tenant and eviction.
- **Hertice Stephens v. Wal-Mart Stores Texas, LLC**; 05-17-00434-CV (CC 16 05851 D): Regarding sufficiency of a Motion to Continue Summary Judgment hearing.
- **Alberta Jackson v. Gainsco, Inc./Gainsco Auto Insurance and MGA Insurance Company, Inc.**; 05-16-01190-CV (cc 15 02629 D): Regarding DTPA claims barred by the statute of limitations.
- **Phoneternet, LLC and Adam Alfia v. Drawbridge Design**: 05-17-00890-CV (cc 16 04591 D): Reversed in part, affirmed regarding individual liability under contract.
- **Creditplex Auto Sales, LLC d/b/a Greenville Mitsubishi and Larry Jackson v. Christin Bishop**: 05-17-00461-CV (cc 13 01838 D): Regarding waiver of appellate issue and attorney's fees.
- **Michael Miller v. Lone Star HMA, L.P. and Mesquite HMA General, LLC**: 05-17-00954-CV (cc 15 04020 D): Regarding the striking of Plaintiff's expert on causation and the granting of summary judgment in a medical malpractice case.
- **Jose Hernandez v. Sun Crane and Hoist, Inc, JLB Partners, L.P., JLB Builders, LLC, Augur Drilling, Inc., and D'Ambra Construction Corporation**: 05-17-00719-CV (CC 15 00715 D): Regarding duty and control of general contractors on the worksite and summary judgment.

2017:

- **KMS Retail Rowlett, LP F/K/A KMS Retail Huntsville, LP v. The City of Rowlett**: 05-16-00402-CV (cc 15 01323 D): Regarding eminent domain and whether taking was for public use, evidentiary rulings, and attorney's fees.
- **Karen M. Stephens-Butler v. The Bank of New York Mellon, et al**: 05-16-

00315-CV (CC 15 5354 D): Regarding a declaration being sufficient to support a sworn petition for eviction and absence of reporter's record.

- **Michelle Smith v. Betty Connor:** 05-16-00873-CV (cc 16 2992 D): Regarding sufficiency of evidence in forcible detainer action.
- **Mark Mills v. David Carlock, Blaise Gormley, and Jackie Milander:** 05-16-01027-CV (CC 16 02498 D): Regarding dismissal under Chapter 27 of the Texas Civil Practice and Remedies Code (anti-SLAAP) and sanctions/attorney's fees.
- **Selene Martinez v. ABC Supply Co.:** 05-16-00157-CV (cc 14 03290 D): Regarding summary judgment in a premises liability case, denial of a motion for new trial, and refusing to take testimony at a hearing on a motion for new trial.
- **Shaneka Busby Baker v. Forrest Reggie Carr:** 05-16-00341-CV (cc 15 04681 D): Regarding landlord-tenant dispute and allegations of retaliation, breach of contract, discrimination, and failure to return security deposit.

2016:

- **Steven Lau, et al v James Reeder and Eddie Corbitt:** 05-14-01459-CV (cc 98-00869-D): Regarding summary judgment in a fraudulent inducement claim after denying two discovery motions, overruling objections to summary judgment evidence, and finding lack of subject matter jurisdiction.
- **Sheri Durham and Denise Jenkins, et al v. Children's Medical Center of Dallas:** 05-14-01464-CV (cc 11 01231 D): Regarding issue of first impression and whether the Texas Constitution's Open Courts Clause prevents the running of limitations against otherwise untimely filed survival and wrongful-death claims against her health-care providers. Additionally, no genuine fact issues regarding fraudulent concealment. Summary Judgment affirmed.
- **Barbara Sipriano v. Regional Finance Corporation of Texas and Abel Garcia:** 05-15-00397-CV (CC 13 02841-D): Regarding (non) waiver of right to arbitrate under allegations of substantially invoking the judicial process.
- **Cynthia M. Garza v. Wells Fargo Bank, N.A.:** 05-14-01578-CV (CC 14 04563 D): Regarding right to possession under claims of a void deed and lack of subject matter jurisdiction.
- **Lazo Technologies, Inc., et al v. Hewlett-Packard Company, et al:** 05-14-01060-CV (CC 12 06786 D): Regarding summary judgment, statute of limitations, and fraudulent concealment.
- **Gwendolyn Byars v. Otho D. Dilworth, III:** 05-14-01405-CV (CC 14 04374 D): Regarding due process, notice of trial, and failure to appear.
- **Tarnesha Taylor and Denise Jackson v. Brittani Hill:** 05-15-00385 CV (cc 13 05970 D): Regarding statute of limitations and failure to use due diligence in service as a matter of law.
- **Dena Burch v Texas Health Presbyterian Hospital Dallas:** 05-16-00003

CV (CC 13 06083 D): Regarding summary judgment in a premises liability case with a licensee and timing of a No-Evidence Motion for Summary Judgment.

- **Bill Moore v. Panini America, Inc.:** 05-15-01555-CV (CC 15 03079-D): Regarding granting of summary judgment in DTPA, fraud, negligent misrepresentation, and successor liability for breach of contract and breach of warranty causes of action.
- **Hejin Hong v. Nations Renovations, LLC:** 05-15-01036-CV (CC 14 00212 D): Regarding appeal of final judgment after jury trial for breach of contract and quantum meruit claims. Additionally, appeal of of directed verdict on counterclaims of DTPA, fraudulent inducement, and fraud. Finally, appeal of attorney's fee award and lack of segregation.
- **Elizabeth Jane Burks, et al v. John J. Duncan, PH.D, et al:** Regarding the striking of Plaintiff's medical expert, the denial of a continuance, and the directing of a verdict in favor of Defendants in a medical malpractice case in which Plaintiff's counsel announced "ready," when they really were not...

2015:

- **Dena Burch v. Texas Health Presbyterian Hospital Dallas:** 05-14-00665-CV (CC 13 06083 D): Regarding the interlocutory appeal of a denial of a Motion to Dismiss under TPRC Chapter 74 and the finding that no report was required.
- **Arthur Carson and Jewellen Moore v. El Capitan Apartments:** 05-13-01481-CV (CC 13 02017D): Regarding summary judgment after the filing of a bill of review and the failure to hold a hearing in a motion for new trial.
- **Marco Calvillo v. William Frazier a/k/a Bill Frazier:** 05-14-00013-CV (CC 12 00566 D): Regarding the granting of summary judgment in a "Dram Shop" case.
- **Lazarus Iroh, et al. v. Emmanuel Igwe, et al:** 05-13-00027-CV (CC 11 07596 D): Regarding a defamation case, a default judgment, and submitted jury questions.
- **Fritz Management, LLC v. Huge American Real Estate, Inc.:** 05-14-00681-CV (CC 14 00657 D): Regarding a suit for forcible detainer for commercial property (a Burger King) and whether the breach of lease was material.
- **Robert Perry II v., Federal National Mortgage Association:** 05-14-00022-CV (CC 13 05355 D): Regarding a forcible entry and detainer suit and issues regarding subject matter jurisdiction.
- **Sharlet O. Mitchell, et al v. Nuggeshali Satyu, et al:** 05-14-00479-CV (CC 13-03855 D): Affirmed in part; Regarding sufficiency of medical malpractice expert reports under Chapter 74 CPRC Motion to Dismiss.
- **Blackstone Medical, Inc. v. Phoenix Surgicals, LLC:** 05-13-00870-CV (CC 11 00902 D): Regarding an appeal of final judgment after jury trial

involving issues of statute of frauds, breach of contract, promissory estoppel, and improper measure of damages.

- **Robert R. Cole v. Gwendolyn Parker, Inc.:** 05-13-01655-CV (CC 13 00513-D): Regarding a court reporting company's ability to recover against a lawyer who fails to pay for a deposition.
- **Sun Tec Computer, Inc., et al v. The Recovar Group, LLC., et al:** 05-14-00257-CV (CC 13-00745 D): Regarding summary judgment rejecting a request for a declaratory judgment setting aside a receivership sale under a turnover order in another lawsuit.

2014:

- **Lucky Merk, LLC, et al v., Greenville Landmark Venture, et al:** 05-12-00848-CV (CC 10 02411 D): Regarding directed verdict, breach of contract/lease, and failure to preserve issues for appeal.
- **Seven Hills Commercial, LLC, et al v. Mirabal Custom Homes, et al:** 05-13-01306-CV (CC 12 06312 D): Affirmed in part; Regarding motion to compel arbitration.
- **Chris Gilbert and Glenn Janik v. Kate M. Moseley:** 06-13-00081-CV (CC 13 02405 D): Decision from the 6th District Court of Appeals after appeal transferred for docket equalization; Regarding monetary and death penalty sanctions.
- **Luisa Alonso v. Alliance AFT:** 05-13-01240-CV (CC 12 06040 D): Regarding alleged breach of contract and negligence against a labor union and summary judgment.
- **Masoud Kahrobaie, et al v. Wilshire State Bank:** 05-13-01233-CV (CC 11 07903 D): Regarding the denial of a new trial based on allegations of newly discovered evidence.
- **Chan Park v. Exxon Mobil Corporation:** 05-12-00856-CV (CC 11 02026 D): Regarding summary judgment granted in a "Timberwalk" premises liability case.
- **Methodist Hospitals of Dallas, et I v. Deborah Searcy:** 05-14-00375-CV (CC 13 05112 D): Regarding interlocutory appeal challenging court's refusal to dismiss case under Chapter 74 of CPRC and the failure of plaintiff to have an expert report in a case alleging general premises liability.
- **Woodhaven Partners, Ltd, et al v. Shamoun & Norman, LLP:** 05-11-01718-CV (CC 10 00907 D): Affirmed in part; Regarding evidentiary rulings in summary judgment, the granting of summary judgment, joint and several liability under Texas Tax Code 171.255, and attorney's fees.

2013:

- **Maryam Parviz-Khyavi v. Alcon Laboratories and Aetna Life Ins. Co.:** 05-11-00752-CV (CC 10 03942 D): Regarding summary judgment with

claims of unilateral contract, third-party beneficiary, and DTPA violations.

- **Beryl Goldman v. Russell Buchanan**: 05-12-00050-CV (CC 10 01038-D): Regarding confirmation of an arbitration award and the refusal of the arbitrators to allow discovery.
- **CKH Family Limited Partnership, et al v. MGD/CCP Acquisition, LLC, et al**: 05-12-00573-CV (CC 11 00382 D): Regarding dismissal of a case involving a forum selection clause.
- **Raymond F. Herrmann, et al v. Goff Custom Homes, L.P.**: 05-12-00318-CV (CC 10 07910 D): Regarding summary judgment in favor of a general contractor in a premises liability case where there was no duty to inspect an independent contractor's work absent control of the work.
- **Stevie Jordan v. Dallas Housing Authority**: 05-12-00291-CV (CC 12 00722 D): Regarding legal sufficiency of evidence in a forcible entry and detainer case.
- **Big D Transmission & Auto Service, Inc. v. Kary Lynn Rollins**: 05-11-01019-CV (CC 11 00477 D): Regarding the denial of a motion for new trial after a default judgment.
- **Children's Medical Center of Dallas, et al v. Sheri Durham**: 05-12-00681-CV (CC 11 01231 D): Affirmed in part; interlocutory cross-appeal under Chapter 74 of CPRC regarding sufficiency of expert report for claims against individual health care providers and their employers under respondeat superior.
- **Bich Ngoc Nguyen v. Allstate Insurance Company and Lincoln Benefit Life Co**: 05-11-01120-CV (CC 09 09185 D): Regarding summary judgment in a breach of contract case and sustained evidentiary objections due to failure to cite specifically to summary judgment evidence.
- **James Phelps v. Clarence Edsall and Mid South Transport, Inc.**: 05-12-01169-CV (CC 10 07686): Regarding summary judgment failure to cite to specific summary judgment evidence.
- **Geleatha Mason v. Wells Fargo Bank, N.A.**: 05-12-01590-CV (CC 12 04876 D): Regarding evidentiary rulings and the granting of judgment in a forcible entry and detainer case.
- **Rosalynn Coleman v. Patrick Calvano, et al**: 05-12-00740-CV (CC 11 06496 D): Regarding summary judgment and the failure to cite specifically to evidence.

2012:

- **Lena Effel v. Robert Rosberg**: 05-10-00790-CV (CC 10 02881 D): Regarding judgment in a forcible entry and detainer case involving a life estate and tenancy at will.
- **Anthony Knight v. Latonya Minter**: 05-11-00829-CV (CC 11 00681 D): Regarding the denial of a new trial after claims of newly discovered evidence.

- **Melody Townsell v. Dadash, Inc.:** 05-10-01482-CV (CC 08 04942 D): Regarding the denial of a requested jury charge instruction for tow-truck drivers.
- **Joseph W. Sarno v. Marsaw & Associates and Terry Marsaw:** 05-10-01146-CV (CC 09 05288 D): Regarding claims of legal malpractice and the statute of limitations.
- **James H. Owen v. Jim Allee Imports, Inc.:** 05-10-01021-CV (CC 09-03189): Regarding monetary sanctions against counsel for violations of TRCP 13, CPRC 10, and DTPA 17.50.
- **Takashi Soda v. Michael Caney:** 05-10-00628-CV (CC 09 01241 D): Regarding summary judgment for claims of abuse of process, fraud by non-disclosure, intrusion upon seclusion, defamation, and intentional infliction of emotional distress.

2011:

- **Robert Schlichting v. Lehman Brothers Bank FSB:** 05-10-00223-CV (CC 09 07003 D): Regarding legal sufficiency of the evidence in a forcible detainer case.
- **Steven Darocy v. Linda Abildtrup, et al:** 05-10-00369-CV (CC 07 03703 D): Regarding legal sufficiency of evidence in a judgment finding violations of the Texas Securities Act and breach of fiduciary duty.
- **Alberto Hernandez v. Hammond Homes, Ltd., et al:** 05-09-01382-CV (CC 03 05977 D): Regarding summary judgment involving claims of negligence and premises liability against a homebuilder.
- **Southwestern Bell Telephone, L.P. v. Lakecious Edwards:** 05-09-00606-CV (CC 07 06814 D): Affirmed in part; Regarding Judgment Notwithstanding the Verdict for claims of retaliation and hostile work environment.
- **Kristy Gorman, et al v. Ngo H. Meng and Garry Hayden:** 05-09-01189-CV (CC 06 04322 D): Regarding the Court's duty to determine the applicability of Chapter 95 of the CPRC and that a premises defendant has no need to plead Chapter 95 as an affirmative defense.

2008:

- **Heritage Gardens Healthcare Center and Lyric Health Care v. Jeanetta Pearson:** 05-07-00722-CV (CC 06 16280 D): Regarding the denial of a motion to dismiss under Chapter 74 of CPRC challenging sufficiency of expert report.
- **Wayne Fowler v. Richard Litman, et al.:** 05-07-01056-CV (CC 05 00359 D): Regarding the granting of a special appearance motion and insufficient minimum contacts.

Education

- University of Miami School of Law (J.D., 1995)
- University of Alabama-Huntsville (B.S., 1992)
 - Business Administration
 - Magna Cum Laude

Bar Admissions

- Texas, 1997
- Indiana, 1997
- Alabama, 1995

Court Admissions

- United States District Court, Northern District of Texas

Professional and Community Activities

- Dallas Bar Association, 1997-Present
- Dallas Area Habitat for Humanity, Volunteer, 2005-Present
- Dallas Bar Association High School Mock Trial Competition, Volunteer, 2007-2018
- Annual volunteer for Dallas Bar Association and Habitat for Humanity Annual Build.
- 2014 Judge Merrill Hartman Support Award Winner from Dallas Bar Association for consistent service with Habitat for Humanity.
- “Core” Volunteer 2006-2011 (minimum 12 Saturdays per year), and annual volunteer 2012-present.
- Courthouse Committee Co-Chair, 2009

Speeches and Presentations

- Ten Tips (actually more) for Being a Better Litigator. 2017 presentation to Dallas Area Young Lawyers at monthly “Coffee with the Court.”
- Trial Tips from the Bench. 1/11/17 Dallas Bar Association presentation with Judges Moye and Parker. Moderated by Judge Greenberg.
- Judge’s Panel at Texas Trial Lawyers Car Wreck Seminar. October 6, 2016 panel discussion with Judges Ken Molberg and Bonnie Goldstein. Moderated by Jason Franklin.
- How to Better Litigate the Routine Car Wreck Case. Advanced Personal Injury Law Course, 2015, Texas Bar CLE. Panel discussion with Jim Cole and Mark Stradley.
- New Local and State Rules from 2013 and 2014: An Update and Traps for the Unwary! March 6, 2014 presentation and panel discussion at Dallas Bar Association with Judge Martin Hoffman and Robert Tobey, moderator.
- New Rules in Texas Civil Litigation CLE. February 17, 2014 panel discussion at Dallas Bar Association with Judge Martin Hoffman and panelist Monica Latin. Moderated by Elizabeth Wilson. Hosted by DAABA, DHBA, JLTLA, and DAYL.
- New Rules of Texas Civil Procedure. March 13, 2013 presentation hosted by Wilson Elser firm. Panelists with Chase Deits and Bill Akins.
- New Civil Rules Are On The Way and Lawyers and Judges Need to Know Their Impact. February 7, 2013 panel discussion with Judge Martin Hoffman, Keith O’Connell, Bryan Pope, and Robert Tobey concerning proposed 2013

civil rules of procedure.

- What's New and Different in the State Courts: Don't Go To Court Without These Tips. September 2012 panel presentation at Dallas Bar Association Bench/Bar Retreat with Judges Tena Callahan, Tonya Parker, and John Creuzot.
- Consumer and Commercial Law Course. August 16, 2012 Texas Bar CLE judicial panel with Judges Craig Smith and Tonya Parker. Moderated by Caren Locke.
- The Proposed Rules on Expedited Trial and Motions to Dismiss. June 7, 2012 panel discussion at Dallas Bar Association with Judges Carlos Cortez and Gena Slaughter, along with panelists Dan Worthington, Quentin Brogdon, and Jerry Fazio (moderator).
- Advanced Personal Injury Course 2011. July 8, 2011 presentation/panel discussion on "The Plaintiff: The Most Neglected Witness" with Carmen Mitchell and Thomas Fee.
- Conversation with Judges Ken Tapscott and Jim Jordan. April 7, 2011 panel discussion hosted/moderated by Sean Hamada (Judiciary Committee of Dallas Bar Association) regarding court practices and successful trial strategies.
- Civil Procedure: A View From the Bench. February 26, 2009 Lorman Educational CLE with panelists/Judges Cortez, Curry, Hoffman and Montgomery.
- Hot Topics in Personal Injury and Insurance Litigation. September 2008 panel discussion at Dallas Bar Association Bench/Bar Retreat.
- Successful Strategies for New Lawyers. September 4, 2008 panel discussion with Judge Royal Ferguson and Justices Catharina Haynes and Carolyn Wright.
- What Civil Court Judges Want You to Know. January 25, 2008 National Business Institute CLE with panelists/ Judges Ashby, Montgomery, Raggio, Murphy, Cortez, and Hoffman.
- Practices and Procedures of Dallas County Judges. July 25, 2007 panel discussion at Belo/Dallas Bar Association with Judges Carlos Cortez, Gena Slaughter, and King Fifer.

Professional Recognition

- Reviewed by the Dallas Bar Association in 2009, 2011, 2013, 2015, and 2017 as one of the Best Civil Judges in Dallas County. The results of the polls may be found at <http://www.dallasbar.org/judiciary>.