

# Robert Hernquist

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**“I am a trial attorney who concentrates his practice in all aspects of commercial and complex civil litigation.”**

Rob's experience includes shareholder disputes, banking and real estate matters, and business torts, such as fraud, unfair trade practices, and misappropriation of intellectual property. The bulk of his caseload arises from investments, business contracts and leases, banking and real estate transactions, shareholder disputes, and construction projects. A number of those cases have garnered national media attention. He has also successfully litigated cases involving non-compete agreements, libel/defamation, and constitutional issues.

## Business Litigation

- Construction and Development
- Financial Institutions
- Hospitality
- Intellectual Property Litigation

Due to the multifaceted nature of his litigation practice, Rob also has significant experience in associated procedural areas of law that are complex or nuanced, such as alter-ego claims, derivative actions, receiverships, injunctions, claim and delivery/replevin, contempt proceedings, evictions, execution upon judgments, and the Uniform Fraudulent Transfer Act.

Prior to joining Howard & Howard, he was a partner at one of Nevada's largest and most illustrious law firms. His clients have ranged from small businesses to Fortune 500 corporations to government agencies, such as the FDIC, and he has represented a broad variety of industries including gaming, sports and entertainment, banking and investment funds, solar energy, healthcare, manufacturing, aerospace, commercial landlords, taverns and nightclubs, and contractors and materialmen.

In 2015, Rob was approached by the State Bar of Nevada and asked to assist with the *Nevada Civil Practice Manual*, a civil litigation guide published by LexisNexis. He was a contributing author to the sixth

edition, authoring Chapter 18 on "Offers of Judgment." He was also an editor for the fifth edition, where he updated and edited Chapter 25 on "Post Trial Motions."

## **Representative Matters**

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- Represented the co-owner of a construction company in the buyout of his membership interest. We obtained a favorable settlement.
- Represented a former state court judge in litigation involving claims of breach of fiduciary duty and negligence. We obtained dismissal of all claims.
- Represented a hookah lounge in administrative hearing after Southern Nevada Health District revoked its permits and attempted to permanently close the establishment. We obtained reinstatement of the health permits.
- Represented a member of a financial services company in a tort action. We obtained transfer of the action based upon a forum selection clause. *Morse v. Ten X Holdings, LLC*, 2017 WL 4079264 (D. Nev. Sept. 13, 2017).
- Represented a commercial property owner defendant in litigation involving allegations of breach of a restrictive covenant. The plaintiff was represented by one of the most respected trial attorneys in Nevada. We obtained a favorable settlement following an evidentiary hearing where plaintiff's request for preliminary injunction was denied.
- Co-counsel in representing an industrial products manufacturer in a multi-week, wrongful death trial in Nevada. We obtained a complete defense verdict on all claims against our client.
- Represented a tutoring franchisor in litigation against a franchisee that continued using the franchisor's trade secrets, marks, and trade dress following termination of the franchise agreement. We prevailed against the franchisee's efforts to have the claims dismissed and removing the case to federal court, and obtained an injunction enjoining franchisee's wrongful conduct following an evidentiary hearing.
- Represented a commercial property owner in a mechanic's lien action. We obtained expungement of the mechanic's lien, and on appeal, we obtained a ruling that Nevada law requires an award of legal fees to an owner when a mechanic's lien is expunged. *One Trop LLC v. Verma*, 2016 WL 3896347 (Nev. App. July 13, 2016).
- Represented a hedge fund in an action against a borrower. After an evidentiary hearing, we obtained a ruling allowing our client to pursue a UCC foreclosure sale, and denying the borrower's request for a preliminary injunction enjoining the sale. *First 100, LLC v. Omni Fin., LLC*, 2016 WL 2980673 (D. Nev. May 23, 2016).
- Represented a gaming manufacturer in defense of intellectual property and contract claims. We obtained summary judgment in favor of our client on all claims.
- Represented a physical therapist in a tort action. We obtained dismissal of all claims, which was upheld on appeal, and on cross-appeal, we obtained a ruling that our client was entitled to an award of attorneys' fees due to the frivolous nature of the plaintiff's claims. *Loo v. Deets*, 2016 WL 1567037 (Nev. Apr. 15, 2016).
- Represented a construction manager and obtained dismissal of a multimillion-dollar construction defect action based on a third-party plaintiff's failure to comply with applicable statutory requirements.
- Represented the estate of a pop singer in an infringement action against counterfeiters. We

obtained an injunction and seizure order under the Lanham Act against "John Doe" counterfeiters. This case was significant in that it presented substantial jurisdictional and ripeness concerns because the defendants' identities were unknown.

- Represented a gaming resort in an action against a nightclub that featured a number of provocative drug- and sex-themed adult entertainment vignettes. We obtained an injunction enjoining conduct of the nightclub. We developed case strategy with the client, drafted all pleadings and motions, managed all discovery, including overseeing a four-attorney document review team, and second chaired a nine-day evidentiary hearing where responsibilities included questioning over half of the witnesses.
- Obtained dismissal of counterclaims against individual executives of corporate client based on the fiduciary shield doctrine.
- Represented a property owner in an action involving damage caused by encroaching tree roots. We obtained an injunction requiring our client's neighbor to remove two trees due to encroaching tree roots following a two-day evidentiary hearing, and then obtained summary judgment resulting in a finding of alter ego, and judgments of \$30,000 in compensatory damages, \$80,000 in attorneys' fees and \$100,000 in punitive damages, all of which were upheld on appeal. *Prestige of Beverly Hills, Inc. v. Weber*, 2012 WL 991696 (Nev. Mar. 21, 2012) (affirming judgment).
- Represented the Federal Deposit Insurance Corporation in dozens of matters during the height of the economic downturn. We obtained the dismissal of numerous suits based on FIRREA and other federal banking regulations.
- Within 24 hours of being retained, we obtained a temporary restraining order that froze all assets of an in-house attorney who allegedly embezzled over \$1MM from our client.
- Represented a shoe manufacturer in a copyright and trademark infringement action arising out of the sale of counterfeit footwear accessories. We obtained a seizure order, permanent injunction, and a \$56MM judgment.

## Education

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- Loyola University Chicago School of Law, 2007
  - J.D., *cum laude*
- Loyola University Chicago, 2001
  - Certificate in Paralegal Studies, with honors
- DePaul University, 1996
  - B.S., Business Administration

## Memberships

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- Clark County Bar Association

## Admissions

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- Nevada, 2007
- U.S. District Court, District of Nevada, 2007
- U.S. Court of Appeals, Ninth Circuit, 2007

## Professional Achievements

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- *The Best Lawyers in America*®, 2019-2027
  - "Lawyer of the Year," 2027
- Mountain States *Super Lawyers*, 2013-2026
- Mountain States *Super Lawyers*, "Rising Stars," 2012
- *Nevada Business Magazine*, "Legal Elite," 2014-2019; 2021
- Legal Aid Center of Southern Nevada, "50-Hours Club," 2013-2014
- *Desert Companion Magazine*, "Top Lawyers," 2012-2014
- *Vegas, Inc.*, "Top Lawyers," 2013
  - Business Litigation
- Martindale-Hubbell® AV Preeminent® Peer Review Rating