

# Russ Falconer

## Partner

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Dallas

Russ Falconer is a litigation partner in Gibson Dunn's Dallas office. He practices in the firm's Litigation Department and handles the full gamut of complex, high-value disputes, including trials, appeals, class actions, and multidistrict litigation. He practices before state and federal courts at the trial and appellate levels. Russ has been recognized by *The Best Lawyers in America*®, as a *Super Lawyers* Texas Rising Star, and by *D Magazine* in its *Best Lawyers in Dallas* list.

Russ has successfully litigated complex commercial disputes involving a wide range of issues and claims, including misappropriation of trade secrets, breach of contract, business torts, restrictive covenants, data privacy, breach of fiduciary duty, fraud, personal jurisdiction, private transfer fee covenants, piercing the corporate veil, creditor derivative suits, and claims under federal aviation law, the federal securities laws, the federal antitrust laws, the Clean Air Act, the Copyright Act, the Lanham Act, the Texas Public Information Act, and various consumer protection statutes. Russ has extensive experience and expertise in acting as plaintiff's counsel for businesses needing to litigate commercial claims against other businesses.

### Recent Representative Experience

- As lead counsel to Keurig Dr Pepper, obtained dismissal on the pleadings of a nine-figure breach-of-contract dispute with a vendor.
- As lead counsel to the Lockton Companies, obtained multiple summary-judgment rulings from a federal court in Missouri upholding Lockton's contractual rights against former producer members and awarding attorneys' fees to Lockton.
- Obtained summary judgment for Vistra Corp. in Texas state court in a dispute with a natural-gas supplier arising out of Winter Storm Uri.
- Briefed and argued a successful plaintiff's side motion for summary judgment on liability for Keurig Dr Pepper against BA Sports Nutrition LLC (the manufacturer of Bodyarmor sports drink) and the Coca Cola Company that was recognized by *The Texas Lawbook* as its [2022 Business Litigation of the Year](#).
- As lead counsel to Baylor University, obtained a complete dismissal under Rule 12(b)(6) of a putative class action challenging Baylor's use of online learning in the early stage of the COVID-19 pandemic.
- Representing Vistra Corp. in litigation in state and federal court in California relating to the Moss Landing Battery Energy Storage Facility.
- Representing Nestle USA in antitrust litigation against X Crop. arising out of online advertising on Twitter.
- Represented LIV Golf and several professional golfers in antitrust litigation against the PGA Tour.



### Capabilities

Litigation  
Antitrust and Competition  
Appellate and Constitutional Law  
Class Actions  
Consumer Products and Retail  
Energy and Infrastructure  
Oil and Gas  
Product Liability  
Technology Litigation  
Trade Secrets  
Trials

### Credentials

#### Education

University of Texas - 2009 Juris Doctor  
University of Texas - 2006 Master of Arts  
Emory University - 2000 Bachelor of Arts

#### Admissions

Texas Bar

#### Clerkships

US Court of Appeals, 5th Circuit, Hon. Patrick E. Higginbotham, 2010 - 2011  
USDC, Northern District of Texas, Hon. A. Joe Fish, 2009 - 2010

- Helped Truck Insurance Exchange obtain a unanimous victory before the U.S. Supreme Court in *Truck Insurance Exchange v. Kaiser Gypsum Co.*, 144 S. Ct. 1414 (2024).
- Obtained a preliminary injunction allowing Delta Air Lines to continue operating at the Dallas Love Field Airport; successfully defended the preliminary injunction on appeal to the Fifth Circuit.
- Member of the trial team that successfully represented a major electricity generator in a bench trial of a Clean Air Act citizen suit; obtained a complete trial win on all claims and a post-judgment award of \$6.4 million in attorneys' fees.
- As lead counsel, obtained dismissal under Rule 12(b)(6) and successfully defended that dismissal on appeal in a case challenging Delta Air Lines' cargo ban on African big-game hunting trophies.
- Represented Facebook and Oculus as appellate counsel at trial and in post-trial proceedings after a \$500 million adverse jury verdict; persuaded the district court to set aside \$250 million of the verdict.

Russ graduated with highest honors from the University of Texas School of Law, where he was named the grand chancellor of the class of 2009 for having the highest GPA in his class after two years. After law school, Russ served as a judicial clerk to the Honorable Patrick Higginbotham of the United States Court of Appeals for the Fifth Circuit and to the Honorable A. Joe Fish of the United States District Court for the Northern District of Texas. Russ earned a Master of Arts in journalism from the University of Texas College of Communication in 2006 and a Bachelor of Arts in philosophy from Emory University in 2000. Before practicing law, Russ worked as a debate coach at the University of California and as a journalist at the *Austin American Statesman*.

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