

# Shawn Raymond's Track Record

## Key Commercial Litigation Cases

**August 2023**—A short 108 days after Intercontinental Exchange, Inc. (“ICE”) hired Kalpana Srinivasan, Alex Kaplan, and me to take over its defense against the Federal Trade Commission’s (“FTC”) lawsuit to prevent ICE from closing on its blockbuster \$11+ billion merger transaction with Black Knight, Inc., the FTC dismissed its case and agreed not to pursue any future efforts to block the merger. We assembled an all-star trial team of Susman Godfrey lawyers—adding Adam Carlis, Abby Noebels, Michael Kelso, Michael Gervais, Ale Salinas, Krisina Zuniga, and Jesse-Justin Cuevas—and evaluated the case, re-focused ICE’s litigation strategy, aggressively pushed the case (which involved more than 50 depositions and millions of pages of documents), and got the case ready for trial. We also took over all negotiations with the FTC and positioned the dispute in such a way that the FTC (for what is believed to be the first time ever) dismissed its lawsuit based on a binding term sheet rather than a fully executed consent order. After the FTC’s dismissal, ICE and the FTC entered into a consent order based on the term sheet, and ICE successfully closed on its transaction with Black Knight on September 5, 2023. As a little “thank you,” Kalpana and I helped ring the closing bell on the New York Stock Exchange on October 24, 2023.

**July 2022**—Hired less than six months before a preferentially set jury trial in Texas state court to represent a plaintiff in a nearly decade-long theft of trade secrets dispute between two manufacturing competitors, Vineet Bhatia, Laranda Walker, Meg Griffith, and I converted the case to binding arbitration, tried the case, and secured a non-appealable award, which, after the payment of the firm’s contingent fee, netted our client \$30,901,482.

**February 2022**—Vineet Bhatia, Weston O’Black, and I represented CenterPoint Energy in pursuing claims against various gas suppliers in connection with the unprecedented spikes in natural gas costs that occurred as a result of February 2021’s Winter Storm Uri. We helped CenterPoint recover for itself and for the benefit of all ratepayers a total net value (after factoring in attorney fees) of more than \$100 million.

**December 2021**—Erica Harris, Michael Kelso, and I successfully resolved our client TotalEnergies’ business interruption claims against Intercontinental Terminals Company in connection with a major chemical storage tank fire that began on March 17, 2019 at its petrochemical terminal located along the Houston Ship Channel. The fire resulted in the release of toxic benzene and other hazardous materials and forced shelter-in-place orders and the evacuation and closure of TotalEnergies’ massive polypropylene plant. The case settled for a confidential amount.

**November 2021**—In a career highlight case, I helped secure a \$626.25 million gross settlement (before calculating attorney fees) on behalf of the people of Flint, Michigan, in connection with

the city's water contamination crisis. The case involves complicated facts and novel legal theories, and we are continuing to pursue additional claims against two private engineering companies. I serve on the plaintiff class action leadership team along with Steve Morrissey, Vineet Bhatia, Jordan Connors, Katy Peaslee, and Ben Manne of Susman Godfrey and co-counsel Cohen Milstein Sellers & Toll PLLC and Pitt, McGehee, Palmer, Bonanni, & Rivers, P.C. and others. The trial court called the \$626.25 million settlement "a remarkable achievement" and the portion paid by the State of Michigan "one of the largest settlements in the State's history." In February 2022, *Law360* named Susman Godfrey the Environmental Practice Group of the Year based in part on our work in this litigation. The overall attorney fee amount will not be determined until the settlement claims process closes.

**December 2020**—*Thomson Reuters Westlaw* named Neal Manne, Joe Grinstein, and me "December's Pro Bono Heroes" for winning, along with co-counsel Wallace Jefferson and Rachel Ekery, a unanimous order from the Texas Supreme Court requiring the State of Texas to pay nearly \$2 million to our pro bono client, former death row inmate Alfred Dewayne Brown, for his 12 years and 62 days of wrongful imprisonment. In what the *Houston Chronicle* called a "miracle," we obtained an "actual innocence" finding for Mr. Brown from the same criminal trial court where he originally (and wrongly) had been sentenced to death. When the Texas Comptroller refused to approve Mr. Brown's application for compensation under Texas law, we filed a writ of mandamus with the Texas Supreme Court and persuaded the Court to find that Mr. Brown's application for compensation "met the high actual-innocence bar" and to order the Comptroller to approve and pay the nearly \$2 million that we argued Mr. Brown deserved.

**April 2020**—Trey Peacock, Krisina Zuniga, co-counsel Scott Hastings, and I secured a nearly \$40 million judgment for client Repeat Precision LLC – the defendant! – in a case brought by Diamondback Industries, Inc. in federal court in Waco, Texas, that involved a little bit of everything: patent infringement, antitrust, theft of trade secrets, breach of contract, and tortious interference. After a bench trial, the court dismissed with prejudice all of Diamondback's affirmative claims and awarded \$39,946,902 in damages (not including attorney's fees and costs) to Repeat Precision for its counterclaims against Diamondback. The court wrote this about my questioning of Diamondback's CEO at trial: "Mr. Drury's credibility, in particular, was shredded on cross-examination."

**November 2018**—Erica Harris, Adam Carlis, and I defeated a nearly \$9 million title benefit arbitration claim brought against our energy client in connection with a purchase and sale agreement for oil and gas properties. The arbitrator not only disallowed in its entirety the other side's \$8.94 million title benefit claim, but awarded our client \$784,000 in title defect claims.

**June 2018**—Winning any case in front of the U.S. Supreme Court is a big deal, but securing a 9-0 decision makes victory at the highest court in the land even sweeter. That's what happened in our Vitamin C price fixing class action case. Justice Ginsburg wrote the unanimous opinion reversing the Second Circuit's dismissal of the \$162-million judgment that Jim Southwick, co-class counsel, and I secured in March 2013 following a three-week jury trial in federal court in Brooklyn, NY. The case returned to the appellate court, where the Second Circuit once again reserved the district court's judgment and dismissed the case on foreign sovereign immunity grounds.

**November 2017**—Gaining zero traction with its insurance carriers in securing insurance coverage to defend itself against a government-led Foreign Corrupt Practices Act investigation and related lawsuits, Cobalt International hired Eric Mayer, Adam Carlis, Scott Fulford, and me to level the playing field. We secured multi-million dollar settlements from two insurance carriers.

**March 2017**—Geoff Harrison and I settled a \$20-million breach-of-contract lawsuit relating to an expansion of an ethylene and propylene chemical plant. Our petrochemical industry client alleged that the contractor, a global engineering services and construction company, breached the parties' engineering and procurement contract by failing to meet industry and contractual standards and failing to comply with its warranties. Armed with a detailed certificate of merit prepared by our professional engineering experts, we also alleged claims for negligence and engineering malpractice based on the contractor's schedule mismanagement, delays, failure to use 3D laser scans, and problematic structural and isometric drawings. The settlement agreement does not allow disclosure of the parties' names or the settlement dollar amount.

**November 2015**—In what is believed to be the largest settlement ever in U.S. history achieved by a single whistleblower in a False Claims Act case, Bill Carmody, Arun Subramanian, Matthew Berry, Steven Shepard, Elisha Barron, Andres Healy, and I teamed up with Vogel Slade & Goldstein, the U.S. Attorney's Office for the Southern District of New York, and a dozen different state attorneys general to secure a total of \$465 million in settlements from Novartis Pharmaceuticals Corp., Accredo Health Group, and Bioscrip Corp. The case involved claims that Novartis defrauded the Medicare and Medicaid programs by illegally paying kickbacks to pharmacies so that they would recommend to doctors and patients six of Novartis' specialty medications. I took key depositions in this historic case and handled much of the day-to-day case strategy throughout discovery, which involved tens of millions of pages of documents and dozens of depositions. FBI Assistant Director in Charge, Diego Rodriguez, noted that this "settlement with Novartis should serve as a warning to companies who choose to operate their businesses with kickbacks rather than honesty – those companies will pay more in the long run." The National Law Journal named Susman Godfrey the 2016 winner of its "Elite Trial Lawyer" in the category of pharmaceuticals because of this "significant win."

**July 2015**—Serving as co-lead counsel, Eric Mayer and I, working with Matthew Behncke, secured a complete summary judgment victory for their clients Quanta Services and Quanta's founder and former CEO and Chairman of the Board, John Colson, in a \$30 million lawsuit filed by Patrick Devaney and his consulting company, Trident Ventures, Inc. Devaney, a former Navy Seal, provided consulting services through Trident for Quanta from 2004 until 2012. I handled all facets of the legal strategy of the case, deposed Devaney and presented Colson and Quanta's current CEO for deposition. Over the course of the litigation, plaintiffs filed seven petitions asserting 18 causes of action against Quanta and Colson, most of which centered on their claim that plaintiffs were entitled to a partnership or joint venture interest worth millions in Quanta's international and government business. Quanta and Colson won summary judgment on all of plaintiffs' claims against them, and plaintiffs were ordered to pay costs.

**May 2014**—LyondellBasell Industries and its subsidiary Houston Refining LP hired Geoff Harrison, Trey Peacock, and me to conduct an internal investigation into what they ultimately concluded was a \$76+ million kickback scheme perpetrated by a former marine charter manager employee. The Susman Godfrey team compiled substantial evidence establishing that the former employee and certain of his co-conspirators had engaged in tortious and illegal conduct in an international conspiracy involving conduct in Belize, the British Virgin Islands, Greece, Switzerland, the U.S., and Venezuela. They provided information and assistance to the U.S. Attorney's office, which secured plea agreements from multiple participants in the kickback scheme, including multi-year prison sentences and \$139 million in civil forfeiture awards. They also filed civil lawsuits against several national and international defendants, asserted pre-lawsuit civil claims against other potential defendants, and handled associated insurance disputes, which, along with proceeds collected from the government forfeitures, led to the recovery of \$75+ million in cash and other consideration. Mr. Raymond was actively involved in all aspects of the litigation, including briefing, discovery, and trial preparation.

**March 2013**—After a three-week jury trial in federal court in Brooklyn, NY, Susman Godfrey's Jim Southwick and I, along with Boies Schiller and Hausfeld LLP, obtained a historic \$162 million judgment against two Chinese pharmaceutical companies for violating U.S. antitrust laws by fixing the price of Vitamin C exported to the United States. This is the first time a mainland Chinese company has been held liable for civil antitrust violations in a U.S. courthouse. The nine-figure-judgment came on the heels of a \$22.5 million settlement with two other co-conspirators that took place the day before closing arguments. The verdict received coverage in *The New York Times* and *The Wall Street Journal*. It even caught the attention of the Ministry of Commerce of the People's Republic of China, which issued a statement suggesting "harm" to U.S. interests if the verdict is not overturned. After the Second Circuit reversed the judgment, the U.S. Supreme Court reversed the Second Circuit's dismissal and sent the case back to the Second Circuit for further consideration. The Second Circuit ultimately reversed the district court's judgment a second time on foreign sovereign immunity grounds.

**November 2012**—Following a two-and-a-half year battle in a \$300 million case brought by the United States, Susman Godfrey's Vineet Bhatia, Rick Hess and I secured a complete victory for their client, KBR. After claiming that KBR had violated the False Claims Act by billing the Army for costs associated with armed private security contractors in Iraq, the United States gave up by filing a voluntary motion to dismiss – with no strings attached. The federal district court ordered the dismissal of all claims against KBR. I handled much of the day-to-day management of the case.

**October 2012**—In what may be the first time a Chinese company has settled a U.S. civil price-fixing cartel case, Jim Southwick and I, along with co-counsel from Boies Schiller & Flexner LLP and Hausfeld LLP, secured court approval – without a single objector – for a \$9.5 million settlement with Aland (Jiangsu) Nutraceutical Co. Ltd. in an antitrust price-fixing class action brought on behalf of direct purchasers of Vitamin C against Chinese Vitamin C manufacturers. I took the key deposition of the individual who served as Aland's CEO during the relevant time.

**October 2012**—Hired by S&P 500 company Quanta Services, Inc. about one month before the Markman Hearing involving Quanta’s key patent known commercially as the LineMaster robotic arm, I took over the prosecution of this patent infringement case, which had been pending for nearly a year. Following my argument, the court issued a ruling that construed all of the terms at issue in favor of Quanta. Shortly thereafter, the defendants stipulated as to infringement, and the case settled.

**April 2012**—A three-member arbitrator panel issued a unanimous ruling in favor of a large electric utility company represented by Vineet Bhatia, Rob Safi, and me in a multi-million dollar breach of contract claim brought by the subsidiary of one of the world’s largest energy companies. The Panel also ordered the other side to pay nearly \$1 million in attorney fees and expenses. The claims arose from curtailments at a wind farm that were ordered by the regional grid operator. The other side sought millions of dollars in damages for power production losses as well as declaratory relief that would have required my client to pay for future curtailment losses, which likely would have amounted to tens of millions of dollars. Following a four-day arbitration hearing, the entire panel – including the arbitrator picked by the other side – rejected all of the other side’s claims and ordered it to pay every penny in attorney fees and arbitration expenses requested by my client – \$962,071.34 to be exact.

**March 2012**—After securing the dismissal of Oaktree Capital Management from a multi-million dollar fraud case just as the jury panel was about to enter the courtroom, Trey Peacock and I helped secure for the remaining defendant (the CEO of a Houston-based oil and gas company) a judgment notwithstanding the verdict that the Texas Court of Appeals upheld. The appellate court’s affirmance of the of the trial court’s dismissal was based entirely on evidence I presented to the jury and legal arguments Trey and I made to the court.

**July 2011**—The board of directors of a Fortune 1000 company hired Vineet Bhatia and me to evaluate the merits of a decade-old \$100+ million executive compensation case. After receiving this advice, the company immediately hired us to help lead the defense of the case, which was going to arbitration within 120 days. Their legal strategy resulted in the case settling favorably for the company prior to the start of the hearing.

**May 2010**—It’s one thing for a plaintiff to wave the white flag on the courthouse steps; it’s quite another thing for it to happen in the courtroom itself with a jury panel waiting in the hallway. That’s precisely what Trey Peacock and I made happen on May 19, 2010 for its client Oaktree Capital Management, one of the premier private equity firms in the United States. As 48 potential jurors were about to enter the courtroom for jury selection, Trey and I won a dismissal with prejudice of all claims against Oaktree. The investment banker plaintiff had sought \$7+ million in damages for alleged fraud and breach of fiduciary duty based on the assertion that Oaktree and the CEO of a publicly traded oil and gas company had conspired to cut the plaintiff out of a \$40 million transaction. In exchange for the dismissal with prejudice, Oaktree paid ... nothing. Not one penny. And not anything else for that matter. Jim Ford, a Managing Director at Oaktree, called the result a “great outcome” and noted, “We were confident that the jury would find in our favor, but thanks to Trey’s and Shawn’s hard work and legal skills, we never

had to find out. We were completely vindicated and able to avoid the cost and uncertainty inherent in any jury trial. We couldn't be happier with their representation." Immediately after the plaintiff dismissed all claims against Oaktree, the remaining defendant hired Trey and I to help its current lawyers try the case.

**April 2009**—Following an intense, consolidated discovery period in which I deposed all key adverse witnesses in this \$14 million breach of contract case brought against Consentino USA – the maker of Silestone – by one of Consentino's largest distributors, Trey Peacock and I settled the matter on terms that, while confidential, led Consentino's founder and President, Roberto Contreras, to comment: "You went above and beyond to secure a positive result. Your preparation was impeccable and you out-lawyered your opponent at every turn."

**July 2008**—After the trial court certified a Texas-wide class action against The Hertz Corporation in connection with the company's rental car fuel-service charge, Hertz asked Eric Mayer, Bill Merrill, and me to take the lead on the appeal, which they won. The Court of Appeals for the Thirteenth District Court of Texas reversed the trial court's class certification order and decertified the class on all claims. I served as the primary author of Hertz's appellate briefs.

**August 2007**—Steve Susman and I, along with New York co-counsel, won the appeal of a trial court's order granting summary judgment for their client, IntercontinentalExchange, Inc. ("ICE"), in a copyright infringement case brought by the New York Mercantile Exchange, Inc. ("NYMEX") in federal court in New York. The Second Circuit Court of Appeals upheld the dismissal of all of NYMEX's claims against ICE.

**March 2007**—Ophelia Camiña and I obtained a plaintiff-side verdict in a fraud case brought against three defendants in state district court in Dallas, Texas. The jury found all three defendants liable for fraud or negligent misrepresentation and awarded actual and punitive damages against one of the defendants.

**August 2006**—Along with Tom Paterson and co-counsel in New Mexico, I represented the New Mexico State Land Office and settled a lawsuit with OXY USA, Inc. and an affiliate for underpayment of royalties allegedly owed to the state for CO<sub>2</sub> produced from the Bravo Dome CO<sub>2</sub> Unit in northeastern New Mexico. OXY agreed to pay \$11.6 million in cash to settle. In addition, OXY agreed to make changes to its methodology for calculating royalty payments by, among other things, tying the value of CO<sub>2</sub> for royalty purposes to the price of oil. The state's economic expert estimated that the value of those changes equaled approximately \$16.6 million, for a total settlement value of approximately \$28.2 million. The court awarded attorneys' fees of \$1.4 million from the settlement. In a press release announcing the settlement, Commissioner of Public Lands Pat Lyon said, "This is a great day for New Mexico's school children, as they will benefit from this."

**March 2006**—In a case involving a missing urn at a Houston mausoleum that garnered local media attention, Neal Manne and I defended Congregation Beth Israel pro bono. Prior to trial,

they secured a settlement that did not involve the Temple having to pay even a penny of damages. The Temple agreed to buy back two niches at the mausoleum for market value, and the plaintiffs agreed to give some of the repurchase money back to the Temple as a donation to a program for summer camp scholarships.

**September 2005**—Serving as lead counsel, Steve Susman and I won summary judgment for their client, IntercontinentalExchange, Inc. ("ICE"), in a copyright infringement case brought by the New York Mercantile Exchange, Inc. ("NYMEX") in federal court in New York. NYMEX claimed that ICE violated its intellectual property rights and sued for copyright infringement, service mark infringement, violation of the federal and New York State Anti-Dilution statutes, and tortious interference with contract. NYMEX sought tens of millions of dollars in damages and an order barring ICE from referencing NYMEX settlement prices. The court granted ICE'S motion for summary judgment and denied NYMEX's crossmotion for summary judgment.

**June 2004**—I settled a RICO suit brought on behalf of his client, Equistar Chemical Company. The settlement amount equaled more than 100% of the damages Equistar suffered as a result of a scheme to steal stainless steel fittings and valves from the company's La Porte, Texas, warehouse.

**August 2003**—Barry Barnett, Geoff Harrison, and I settled a \$120 million-plus breach of contract claim against Lucent Technologies, Inc. ten months after convincing the Fifth Circuit Court of Appeals to overturn the trial judge's order dismissing the claims based on the pleadings. I handled much of the day- to-day discovery and mock tried the case for the client. The case settled shortly thereafter for a confidential amount. **July 2003**—Steve Susman and I won a \$30 million jury verdict for Cavalry Investments L.L.C. against two Bank of America subsidiaries. As a second-year lawyer, I gave the opening statement and put on and cross examined half the witnesses. SG alleged that the defendants breached their contract with Cavalry to sell a portfolio of subprime automobile loans. After a six-day trial, the jury found for Cavalry on every issue. The National Law Journal ranked this as the 36th largest verdict in the United States for 2003. The Texas Lawyer listed it as the 6th largest verdict in Texas for 2003. The case later settled for a confidential amount.

**July 2003** – Steve Susman and I won a \$30+ million jury verdict for Cavalry Investments L.L.C. against two Bank of America subsidiaries that breached their contract with Cavalry to sell a portfolio of subprime automobile loans. After a six-day trial, the jury found for Cavalry on every issue. The National Law Journal ranked this as the 36th largest verdict in the United States for 2003. The Texas Lawyer listed it as the 6th largest verdict in Texas for 2003.

**February 2003**—Michael Lee, Carolyn Courville, and I settled a \$5 million breach of contract and fraud case against one of world's largest finance companies for a confidential amount.

**September 2002**—Ophelia Camina and I represented Minnesota-based Famous Dave's Barbeque company in a temporary injunction hearing against Colter's, the largest barbeque chain in

North Texas. Colter's had obtained a temporary restraining order that prevented Famous Dave's from opening two of its restaurants. After expedited discovery and a four-day mini-trial, Ms. Camina and I persuaded the judge to deny Colter's request for an injunction.

**April 2002**—In an arbitration that Neal Manne, Harry Susman, and I tried, we won a \$3 million arbitral award for three senior executives against Cambrian Capital Corp., a mezzanine finance venture owned by Mirubeni Corp., Dominion Capital, and Jefferies & Co. After a one-week trial, the executives won on their claim that Cambrian had breached an equity participation agreement. The arbitrator rejected all of Cambrian's counterclaims.

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