

Meet Chris Nolland: The Master of Bowties and Litigation Settlements

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May 25, 2014 – Dallas lawyer Chris Nolland is handling some of the biggest dollar and most high-profile business lawsuits in Texas.

Nolland has a client suing the Bass family for \$470 million over a failed Las Vegas real estate deal and another client seeking to collect a \$120 million jury verdict against Mercedes-Benz.

He represented Harold Simmons' daughter in the fight over his \$1 billion estate, a grand-daughter battling over the estate of Mary Kay Ash, bondholders who sued the Dallas Cowboys for cannibalizing the "Blue Parking" at the old stadium, and Houston billionaire Howard Marshall III in the estate battle involving Anna Nicole Smith.

Yet Nolland never takes any depositions. He doesn't argue the finer points of the law to the judges, doesn't pick juries and never cross-examines witnesses. In fact, Nolland avoids courtrooms all together.

During the past two decades, the former trial lawyer turned mediator has quietly pioneered a new specialized legal practice called settlement counsel.



Chris Nolland

"I am hired by one side or the other in high-dollar and very complex business disputes to do one thing: find a way to settle the litigation to the satisfaction and benefit of my client," says Nolland, whose clients have pocketed more than \$600 million as a result of his handy work.

Nolland was one of the first lawyers in the U.S. to recognize in the early 1990s that there was a market in the world of business litigation for someone who focuses on nothing else but advocating for a negotiated resolution.

Despite Nolland's extraordinary success, very few lawyers have followed his lead. But many legal experts predict that is about to change. The American Bar Association's Litigation Section last year formed a special committee to focus on the concept of settlement counsel.

And a growing number of business litigators who have worked with or against Nolland in settlement negotiations say they are convinced the role of separate settlement counsel is legitimate and helpful.

"Chris Nolland may be the single most influential business lawyer that people have never heard of," says Dallas trial lawyer Scott Hershman, who represents corporations and financial institutions in securities and commercial lawsuits against other companies.

"I hire Chris in every case and I plan to hire him in every future case," says Hershman. "Every case I have hired Chris to handle has settled and I bet that none of them would have never settled without Chris.

"Chris saves my clients hundreds of thousands of dollars in legal fees by having the cases settled and he puts millions of dollars into my clients' pockets," he says. "I'm surprised more lawyers >

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don't use settlement counsel, but I think once they've started witnessing the benefits, they will."

Nolland has even convinced corporate general counsel, who can get stingy when paying the legal bills, that the role of settlement counsel is valuable.

"I definitely see the benefits of having counsel who focuses exclusively on settlement, especially in cases where the legal issues are complex and the finances at stake are high enough to justify it," says Robb Voyles, the general counsel of Houston-based Halliburton.

Voyles says he had never heard of a settlement counsel until a few years ago when he met Nolland, who had been hired by his adversary in a large commercial lawsuit.

"Chris's imagination in developing a settlement structure was obvious," he says. "I saw his ability to communicate with us and to convince his own clients that the settlement agreement, while not perfect, was acceptable."

The concept of settlement counsel briefly captured public attention in 1997 when cigarette companies and 31 state attorneys general hired lawyers separate from those doing battle in court to help them reach a \$240 billion national settlement to reimburse states for medical expenses for sick smokers.

But two years before the tobacco lawsuits were even filed, Nolland discovered the job of settlement counsel. Or maybe the future of settlement counsel found him.

Lawyers at McKool Smith, who were representing a client in a trade secrets dispute, asked Nolland to get involved in the case.

"I didn't have time to get involved in the litigation, but I agreed to help with settlement negotiations," he says. "The case settled the night of trial for seven-digits."

Nolland says he knew right away that he wanted to be a settlement counsel full-time, but he wasn't sure he could convince clients to hire him.

The "breakthrough case," according to Nolland, came in 1998 when lawyers for one of Harold Simmons' daughters hired him as settlement counsel.

But all of Nolland's efforts were rebuffed. One of Simmons' lieutenants told Nolland that he was nothing more than "a used car salesman."

"What are you talking about?" Nolland responded. "Used car salesmen are the best negotiators."

Nolland says the family dynamic and personal embarrassment of family members kept the case from

settling. So, the Simmons family dispute went to trial. The testimony in open court before family, friends and the media was painful and personal.

The jury, after days of deliberation, was unable to reach a unanimous verdict.

"I think Simmons sat through the trial for two weeks and realized that it was not a wise business decision to put his fate in the hands of six jurors who didn't know him and weren't sophisticated about business matters," says Nolland. "About a week after the trial, Simmons changed his position, which had been pretty extreme, and the settlement came together pretty quickly on Christmas Eve."

Each daughter got \$50 million and Simmons remained in control over the trusts. >



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“It is not possible for everyone involved in litigation to achieve their goal of complete victory,” says Nolland. “But it is possible for me to help both sides reach a resolution that is satisfactory.

“The key is to have the other side feel that they are not getting a shitty deal,” he says.

Jeff Kaplan, a former state and federal judge in Dallas, says that Nolland experiences so much success as a settlement negotiator because he does an excellent job educating the parties about the strengths and weaknesses in their case and he isn’t afraid to tell his own client that his or her case is flawed.



David Beck

“While the trial lawyers are buried in zealously advocating for the client and focused on winning, Chris sees the bigger picture,” says Houston trial attorney David Beck. “And it helps significantly that Chris approaches settlement negotiations from the business perspective.

“I had never heard of settlement counsel before I met Chris, but I have no doubt that Chris’s success means we will see more,” he says.

Nolland’s most recent victory and one of his biggest came last year when former BearingPoint Inc. general counsel-turned-bankruptcy liquidation trustee John DeGroote hired Nolland to work his magic.

DeGroote was sifting through the ashes of BearingPoint trying to recover what was left of the \$2.3 billion business consulting firm following the economic crash that thrust the KPMG spinoff into bankruptcy.

He sued the company’s directors, officers and their insurance carriers for massive breaches of fiduciary duty that led to the corporation’s

demise. But the case was mired in layers of litigation that threatened to string out the matter for several years, meaning that creditors would receive little.

DeGroote brought Nolland on board as part of his legal team just before the case was scheduled for mediation in March 2013.

“Chris analyzed the case from all sides, put together a 15-page settlement negotiation plan that literally became our roadmap,” says DeGroote. “I put a great deal of faith in Chris’s hands and he made a material difference.”

Nolland says the plan, which he does for every case, included an opening settlement offer, a list of information he wanted to learn about the other side and identified key items that he could exploit in pursuance of a settlement.

“There were about 30 people on the other side – executives and directors and the lawyers who represented them, their insurance carriers and their lawyers,” says Nolland. “Each defendant had differing culpabilities and differing financial resources. And the insurance companies always want to stick together.”

After more than 12 hours of intense back and forth negotiations, Nolland convinced his own client to dismiss a petition seeking sanctions against the defendants for violating a court order. He persuaded three former BearingPoint directors to drop their own lawsuit against DeGroote.

And Nolland guided all parties toward a middle, more reasonable ground on money. In the end, the insurance companies coughed up \$55 million and the officers and directors admitted no liability or wrongdoing.

“This case was as complex as it gets, but Chris Nolland made me a believer in the concept of settlement counsel,” DeGroote says.

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