

TEXAS LAWYER

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LEGAL AWARDS
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TEXAS ATTORNEY OF THE YEAR FINALIST:: Jennifer Truelove



Courtesy photo

Jennifer Truelove of McKool Smith.

When Jennifer Truelove made the move roughly a decade ago from being first assistant district attorney in Harrison County to working at McKool Smith's office in Marshall, Texas, her new position required a slightly different skill set, but she also found that trial work remained the same at its core.

"Trying a case is trying a case," Truelove said. "It may be more involved, there may be more evidence, and it may take a lot more time leading up to the trial. But it's still about knowing what you have to prove and making sure you have that proof, and then telling a really good story. If you can do that, you'll have success."

Truelove, a principal with McKool Smith who has been named one of the finalists for Texas Lawyer's 2024 Attorney of the Year, has established herself as a

formidable litigator in East Texas, after helping to secure a \$1.4 billion settlement with Meta as well as more than a billion dollars in patent infringement verdicts for McKool Smith's clients.

At a time when the Eastern District of Texas Judge Rodney Gilstrap's court has been reestablished as the epicenter of patent litigation, Truelove's experience with juries in East Texas has paid off.

Earlier this month, Truelove and Steve J. Pollinger represented Mojo Mobility Inc. and won a \$192 million

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verdict against Samsung Electronics, arguing that Samsung integrated technology that Mojo’s founder, inventor Afshin Partovi, had patented.

Partovi “had a great story—just how hard he’d been working, and the back and forth with Samsung. ... He put his full life on the line for his business,” Truelove said. “That’s an easy story to tell.”

However, sometimes a story doesn’t always have a clear protagonist, like when Truelove represented G+ Communications—a company that had purchased patents related to 5G technology—in a lawsuit against Samsung. Even then, Truelove said, it is easy to get to the heart of a patent case before a jury.

“You always have to make sure you put a good jury in the box that’s going to be fair and listen to both sides,” she said. “You really have to make sure everybody who is sitting on that jury is OK with the concept that this is a property right.”

Patent rights have a lot in common with mineral rights, Truelove said.

“Maybe you didn’t even purchase them,” she said. “Maybe they got handed down to you, and maybe you’ve not done a lick of work to monetize them. But when it comes down to it, if someone finds minerals on your land and wants to take the gas out of the ground, you get paid. Because it’s a property.”

Meta Case

In July, McKool Smith and co-counsel Keller Postman helped the Texas attorney general secure a \$1.4 billion settlement with Meta Platforms Inc., after AG Ken Paxton sued and accused Meta, formerly known as Facebook, of capturing and using the personal biometric data millions of Texas residents without the authorization required by law.

It is the largest privacy settlement any attorney general has ever reached, dwarfing the \$390 million settlement a group of 40 states obtained in 2022 from Google, Paxton said in July.

“It sends a message to companies doing business in Texas that the attorney general’s office is watching—so follow the law,” Truelove said. “Like any other law on the books, once it gets enforced and enforced in a big way, like this was, hopefully that will act as a deterrent for other companies to behave the right way.”

Sam Baxter and Truelove with McKool Smith brought the case in collaboration with the attorney general and with Zina Bash, lead counsel for Keller Postman.

The AG’s office filed suit in 2022 in the 71st district court of Harrison County. It is the first lawsuit brought and settled under the state’s Capture or Use of Biometric Identifier Act of 2009.

The petition alleged that Meta unlawfully captured biometric identifiers from uploaded photos and videos for a commercial purpose without informed consent, disclosed those identifiers to others, and failed to destroy collected identifiers within a reasonable time. The suit also alleged Meta misrepresented whether and how it was using the information.

The state and private sector co-counsels brought forth claims that Facebook, for more than a decade, built an artificial intelligence empire while capturing intimate data, putting users’ well-being, safety and security at risk. Unbeknownst to most people, Meta ran facial recognition software on virtually every face contained in the photographs, capturing records of the facial geometry of the people depicted.

Truelove’s team also alleged that Meta violated the state’s Deceptive Trade Practices Act, or DTPA.

“I think you’re going to see other states taking notice,” Truelove said. “Not many states have biometric statutes on the books, but a lot of states have DTPA statutes that maybe lend themselves to going after organizations that are engaging in behavior that goes a little beyond the pale, as far as folks’ privacy is concerned. You might potentially see other states pursuing actions, even if they don’t have a biometric statute on the books, if they feel like their citizens’ rights have really been violated.”