



Mark Trachtenberg

Partner
Houston

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PRACTICES Appellate, Litigation, Oil and Gas Litigation, Energy Litigation, Bankruptcy Litigation, Trials, Nuclear Verdicts

Mark Trachtenberg, who represents major companies in high-stakes appeals, is proud to be recognized by his peers as a top lawyer in his field. He was named as a [2023 and 2025 Lawyer of the Year](#)—Appellate Practice in Houston by *The Best Lawyers in America* directory. He was recognized as one of the top 100 lawyers in Texas and as one of the top appellate lawyers in the state by *Texas Super Lawyers* (Thomson Reuters). And he is highly [ranked in Chambers USA](#), 2019-2025 (Chambers and Partners) for appellate law in Texas, in which clients called Mark “truly stellar,” “an amazing practitioner with an eye towards tackling complicated issues,” a “top expert in appellate law who works extraordinarily well with his clients,” and an “excellent lawyer who has a unique way of writing that makes him stand out from the pack.”

Mark’s accomplishments for clients include:

- Obtaining reversal in the Texas Supreme Court of a \$22 million tortious interference and trade secret misappropriation judgment;
- After being hired to appeal the largest actual damages verdict for an injured worker in Texas history, obtaining (1) a historic \$117 million remittitur (reduction in the judgment) from the trial court and (2) a mediated settlement for a fraction of the original verdict after filing our opening brief on appeal;
- Obtaining reversal in the Texas Supreme Court of a multi-million judgment against our client and reinstatement of our client’s counterclaim in a dispute arising out of the termination of a gas transportation agreement;
- Obtaining a summary judgment in a False Claims Act case in which the plaintiffs had sought billions of dollars in damages against a major oil company, and successfully defending the appeal of the take-nothing judgment in the Fifth Circuit;
- Obtaining a take-nothing summary judgments against 23 plaintiffs in significant permissive appeal that vindicated a premises owner’s right to immunity under Texas’s workers’ compensation laws against personal-injury claims arising from an explosion;
- Obtaining reversal in the Texas Supreme Court of a \$14 million products liability judgment.

A highlight of Mark’s career has been his work on behalf of Texas public schools, an opportunity that arose from a law review article he authored on the history of Texas’s school finance litigation while at Yale Law School. Mark played a lead role in a lawsuit that resulted in an infusion of more than \$2 billion for public schools in Texas. He later served as lead counsel at trial and on appeal for a coalition of 88

school districts in a second lawsuit challenging the constitutionality of the state's school finance system.

Mark is a member of the American Academy of Appellate Lawyers and the American Law Institute. He recently served as the chair of the Houston Bar Association's Appellate Practice Section and currently serves as President of the Texas Association of Civil Trial and Appellate Specialists (TACTAS) and Vice-President with the Texas Supreme Court Historical Society. Mark is also dedicated to his community, previously serving as the chair of the Southwest Region of the Anti-Defamation League and on the Education Policy Committee of the United Way of Greater Houston.

Mark writes and speaks prolifically on a variety of topics, with a recent focus on arbitration issues, brief writing, and Fifth Circuit and Texas Supreme Court trends. He is board certified in civil appellate law by the Texas Board of Legal Specialization.

QUALIFICATIONS

EDUCATION

- J.D., Yale Law School, 1998, Editor, *Yale Law Journal*
- B.A., University of Pennsylvania, 1994, *summa cum laude*; Phi Beta Kappa

CLERKSHIPS

- Law Clerk, the Honorable Lee H. Rosenthal, United States District Judge for the Southern District of Texas (1998-99)

ADMISSIONS

- Texas

COURT ADMISSIONS

- United States Supreme Court
 - U.S. Court of Appeals for the Eleventh Circuit
 - U.S. Court of Appeals for the Fifth Circuit
 - U.S. Court of Appeals for the Ninth Circuit
 - U.S. District Court for the Eastern District of Texas
 - U.S. District Court for the Southern District of Texas
 - U.S. District Court for the Western District of Texas
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PUBLICATIONS AND SPEAKING ENGAGEMENTS

- "Proactively Managing the Risk of Nuclear Verdicts", co-presenter, Dallas Bar Association – Corporate Counsel Section monthly CLE, June 3, 2025.
- "[Appellate Review of Non-Economic Damages: Thoughts in Response](#)," co-author, *Texas Bar Journal*, January 2024.
- "[The Use of Scattergrams to Challenge Extreme Verdicts: A Case Study](#)," co-author, *The Texas Lawbook*, September 19, 2023.
- "[Arbitration-Related Litigation in Texas](#)," co-author, State Bar of Texas, 14th Annual Advanced Business Disputes Course, September 2022.

- Justice Rebeca Huddle & Mark Trachtenberg, *Texas Supreme Court Update*, State Bar of Texas 35th Annual Advanced Civil Appellate Course, Dec. 2, 2021. [[Presentation Slides](#)]
 - "[Arbitration-Related Litigation in Texas](#)," co-author and presenter, State Bar of Texas, 13th Annual Advanced Business Disputes Course, August 2021. [[Presentation Slides](#)]
 - "[Arbitration for Appellate Lawyers](#)," co-author and presenter, Houston Bar Association, Appellate Practice Section, May 13, 2021.
 - "[Briefing Beyond Words: How to use Visuals to Enhance your Written Advocacy and Transform your Briefs](#)," presenter, UT CLE's 30th Annual Conference on State and Federal Appeals, Austin, TX, June 4, 2020. [[Presentation Slides](#)]
 - "[Appellate Year-in-Review: The Fifth Circuit and SCOTX](#)," co-author, *Texas Lawbook*, December 26, 2019.
 - "[Arbitration-Related Litigation](#)," co-author, TexasBAR CLE's Business Disputes Course, September 2019.
 - "Arbitration-Related Litigation in Texas," co-author and presenter, TexasBarCLE's 10th Annual Business Disputes Course, Austin, Texas, September 26, 2018. View the [presentation](#) and [paper](#).
 - "[Fifth Circuit Update](#)," speaker, TexasBarCLE's 32nd Annual Course: Advanced Civil Appellate Practice, Austin, Texas, September 6, 2018.
 - "Preservation of Error," speaker, TexasBarCLE's 41st Annual Course: Advanced Civil Trial, Dallas, Texas, August 23, 2018.
 - "Strategies for Preparing the Respondent's Brief on the Merits in the Texas Supreme Court," presentation at the State Bar of Texas' [Practice Before the Texas Supreme Court course](#), Austin, Texas, April 28, 2017.
 - "[Effective Use of Technology on Appeal](#)," presentation at the American Bar Association Business Law Section's Spring Meeting, April 7, 2017.
 - "Preservation of Error," presentation to the State Bar of Texas, 6th Annual Advanced Trial Strategies Course, New Orleans, Louisiana, February 10, 2017.
 - "[Arbitration-Related Litigation in Texas](#)," presentation to the State Bar of Texas, 30th Annual Advanced Civil Appellate Practice, September 8-9, 2016.
 - "[Texas Supreme Court Update: Focus on Business, Energy and Interesting Cases](#)," presentation to the Association of Corporate Counsel Houston, April 22, 2016.
 - "*Recent Developments in Business and Corporate Litigation* Chapter 2: Appellate Practice," co-author, American Bar Association, June 2016.
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PROFESSIONAL AFFILIATIONS AND ENGAGEMENTS

- Member, American Academy of Appellate Lawyers
- Past Chair, Appellate Subcommittee of the Business and Corporate Litigation Committee of the American Bar Association's Business Law Section
- Past Chair of the Appellate Practice Section of the Houston Bar Association
- Member, Executive Committee of the Yale Law School Association, 2015-2017
- Member, American Law Institute (ALI)
- Vice-President, Texas Supreme Court Historical Society
- President, Texas Association of Civil Trial and Appellate Specialists
- Board member, Houston Volunteer Lawyers, 2017-2018
- Board member, *The Houston Lawyer* editorial board, 2005-2011
- Fellow, Texas Bar Foundation
- Member, Education Council, United Way of Greater Houston
- Frequent speaker at State Bar and Houston Bar Association Continuing Legal Education programs, on a variety of topics, including arbitration-related litigation, the Texas Supreme Court, preservation of error, legal writing, and oil and gas law
- Past chair, Anti-Defamation League, Southwest Region

- Special Assistant Disciplinary Counsel, Texas Commission for Lawyer Discipline
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SELECTED CLIENT REPRESENTATIONS

- In force majeure litigation arising out of Winter Storm Uri, we provided appellate support in a jury trial that culminated in Marathon obtaining a \$9.8 million judgment and a take-nothing judgment on Koch Energy's \$123 million counterclaims. The Haynes and Boone team led a successful amicus campaign in related litigation before the Fifth Circuit and played a key role in developing the strategy, jury charge, and other legal briefing before and during the six-day jury trial.
- Persuaded the Texas Supreme Court to reverse an approximately \$8 million judgment against our client and to reinstate our client's breach of contract counterclaim and attorneys' fees claim in a dispute arising out of the termination of a gas transportation agreement. The Court eviscerated Rainbow Energy's case on remand by rendering a take-nothing judgment on Rainbow tort and contract repudiation claims against our client and holding that Rainbow's lost profits damages model failed as a matter of law.
- Submitted an amicus brief on behalf of the International Franchise Association in an important franchise law case before the Texas Supreme Court. Adopting the reasoning of the amicus brief, the Court reversed an adverse decision against a franchisor and clarified that, under Texas law, a franchisor can be held liable for the actions of a franchisee's employee only if the franchisor exercised specific control over the conduct allegedly causing the injury.
- Successfully reversed a \$3.8 million jury verdict and obtained a take-nothing judgment from the Texas Fourteenth Court of Appeals in Houston on behalf of Great Lakes Dredge & Dock Company in a high-stakes maritime personal injury case.
- In refinery construction dispute, assisted trial team with strategy, legal briefing, and preparing and arguing the jury charge in a trial that resulted in a favorable judgment of approximately \$35 million.
- Won a very significant permissive appeal that vindicated a premises owner's right to immunity under Texas's workers' compensation laws against scores of personal-injury claims arising from an explosion, and which should stand as an important precedent for employers and premise owners across the state of Texas for years to come. ([Press Release](#) | Media Coverage by [Law360](#))
- After being hired post-verdict to handle the appeal of the largest actual damages award for an injured worker in Texas history, we persuaded the trial court to grant a historic \$117 million remittitur, reducing the plaintiffs' award from \$353 million to \$235 million. Then, after the filing of our opening appellate brief, we obtained a mediated settlement for a fraction of the original verdict.
- Persuaded the Texas Supreme Court to deny review of a petition seeking reversal of sizable products liability judgment.
- In a case involving numerous overlapping arbitration awards, persuaded the Court to confirm the most favorable awards, reject the opposition's vacatur arguments, and enter a partial final judgment awarding our clients \$99 million for their fiduciary duty, professional malpractice and conversion claims.
- Persuaded the Texas Supreme Court to deny review of two separate petitions for review (and a motion for rehearing) in an oil-and-gas dispute about the scope of a tax foreclosure deed.
- Persuaded the court of appeals to vacate a \$7 million arbitration award on the basis of evident partiality.
- Persuaded the Texas Supreme Court to affirm a favorable decision from the Austin Court of Appeals for Travis Central Appraisal District. In doing so, the Texas Supreme Court articulated holdings of importance to the Texas property-tax framework and the authority of Texas appraisal districts, which included that trial courts have broad jurisdiction to hear appeals from appraisal districts by trial de novo and that appraisal districts may present evidence of fair-market value whenever the property's appraised value is at issue in those proceedings (overruling a prior

intermediate court of appeals decision to the contrary). The result of these holdings will be to enhance the accuracy and fairness of property appraisals statewide.

- Persuaded the Texas Supreme Court to grant mandamus relief enabling the client to obtain discovery from third-party medical providers regarding amounts and rates paid or incurred by patients who were similarly-situated to plaintiffs. This discovery was sought in connection with client's defense against plaintiffs' multi-million-dollar damage claims for past medical expenses.
- Persuaded Fifth Circuit to affirm a take-nothing summary judgment in favor of fracking engine manufacturer in products liability action seeking \$15 million in damages arising from fire at a wellsite.
- Represented in the trial court and Fifth Circuit a partner at a major law firm who had rendered an arbitration award that was later vacated by the district court, based on allegations that had acted improperly in agreeing to serve as an arbitrator. Our client sought to intervene in the lawsuit to address the district court's factual misstatements and participated in the appeal. The Fifth Circuit reversed the trial court's vacatur and held that our client had not acted improperly, providing complete vindication to his reputational interest.
- Persuaded the Texas Supreme Court to vacate a \$16.5 million judgment and deny injunctive relief in a highly contentious trade secret dispute. The suit was filed after the assets of a partnership, EMC Products, LP, were sold to our client VHSC in a foreclosure sale. Following the foreclosure, EMC Products, LP and related parties obtained a judgment against VHSC (and other defendants) for allegedly appropriating EMC's trade secrets and tortiously interfering with its contracts. A six-year long appellate battle culminated in the Texas Supreme Court's opinion reversing the judgment and rendering a take-nothing judgment in favor of VHSC. More information about the case can be found [here](#).
- Successfully defended Tokai Carbon, Ltd. against one of its principal competitors, Orion Engineered Carbons, LLC, defeating a request for a temporary injunction that could have negatively impacted Tokai's business. Following a full-day hearing and a post-hearing briefing, a Harris County court found that Orion's application for temporary injunction "is without merit in all respects and should be denied."
- Represented client injured on the job in a unique "appellate arbitration" proceeding arising from a \$15 million arbitration award in our client's favor. After the defendant-employer appealed the initial award to a second arbitrator (per the parties' arbitration agreement), Haynes and Boone briefed and argued all appellate issues and secured a full affirmance of the initial award.
- In this ERISA stock drop case, persuaded the district court to dismiss the plaintiffs' second amended class action complaint for failure to state a claim under the Supreme Court's heightened pleading standard for ERISA breach of fiduciary actions.
- Obtained multi-million dollar settlement of client's indemnity claims against primary and excess insurers arising out of personal injury settlements paid out by our client. Our client's hand was significantly strengthened by obtaining the dismissal of the insurers' declaratory judgment claims for lack of subject-matter jurisdiction and through rounds of summary judgment briefing in support of our client's own claims.
- Defeated class action bid for AT&T in a suit in federal court in Houston brought by property owners alleging that AT&T telephone cable buried underneath their properties — pursuant to easements that had been granted to AT&T in the 1950s — were contaminating their properties.
- Persuaded a federal district court to grant our client's motion to dismiss the plaintiffs' lawsuit for lack of subject matter jurisdiction. The plaintiff had brought the lawsuit seeking a declaration that it owed no indemnity for personal injury settlements paid out by our client because the contract containing the indemnity had terminated. The motion to dismiss centered on whether the underlying contract was a maritime contract giving rise to the court's admiralty jurisdiction. In a 30-page opinion, the district court agreed with our client that the contract was not maritime, and thus that it had no admiralty jurisdiction over the dispute.
- In this ERISA stock drop case, persuaded the district court to dismiss the plaintiffs' second amended class action complaint for failure to state a claim under the Supreme Court's heightened

pleading standard for ERISA breach of fiduciary actions.

AWARDS AND RECOGNITIONS

- Recognized as a “Lawyer of the Year” – Appellate Practice – in Houston in *The Best Lawyers in America*, Woodward/White, Inc., 2023 and 2025
- *Chambers USA*, Chambers and Partners, Litigation– Appellate Practice – in Houston: Appellate, Texas, 2019-2025
- Recognized in *The Best Lawyers in America*, Woodward/White, Inc., for Appellate and Commercial Litigation, 2016-2025, Bet-the-Company Litigation, 2025
- Recognized by *Benchmark Litigation*, Euromoney Institutional Investor PLC, as "Bankruptcy & Appellate Commercial Litigation Star", 2025
- Ranked in *The Legal 500 U.S.*, Legalease Ltd., 2024-2025
- Board Certified in Civil Appellate Law, Texas Board of Legal Specialization
- Included in [Law360's Legal Lions of the Week](#), May 9, 2025.
- Recognized in 2022 for having been included in *Super Lawyers*, Thomson Reuters, top-attorney lists for 10 years or more
- Recognized as one of the top 100 lawyers in Texas by *Texas Super Lawyers*, Thomson Reuters, 2020-2025
- Recognized as one of the top 100 lawyers in Houston by *Texas Super Lawyers*, Thomson Reuters, 2016-2025
- Selected for inclusion in *Texas Super Lawyers*, Thomson Reuters, 2013-2025
- Selected for inclusion in *Texas Super Lawyers* - Rising Stars Edition, Thomson Reuters, 2004-2013
- Named a Future Star in *Benchmark Litigation*, Euromoney Institutional Investor PLC, 2013-2022
- Profiled in cover article of [2010 Texas Super Lawyers](#) magazine - Rising Stars Edition, Thomson Reuters, 2010