

D. Mitchell McFarland



Overview

Shareholder [Houston](#)
700 Milam Street, Suite 2700
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Education

J.D. from The University of Texas School of Law with honors
B.B.A. from The University of Texas at Austin with highest honors

Bar Admissions

Texas
United States Court of Appeals for the Fourth, Fifth, Ninth and Eleventh Circuits
United States District Court for the Eastern, Northern, Southern and Western Districts of Texas
United States Supreme Court

Related Practices

Litigation
Antitrust
Appellate
Arbitration
Construction Litigation
Energy Litigation
Personal Injury & Wrongful Death
Products Liability
Real Estate Litigation

With more than 35 years of experience, Mitch has gained a reputation for successfully taking complex business cases to trial. Mitch has extensive experience with disputes in the oil and gas industry representing producers, pipelines and midstream players. His practice covers an array of complex commercial litigation, products liability claims, construction litigation, partnership disputes and personal injury litigation.

He served as a member of a national trial team defending a manufacturer of silicone breast implants and participated in four successful jury trials for his client on those matters. He has also served as Texas regional counsel in welding fume litigation, hernia patch claims and contact lens solution claims.

Mitch is actively involved in numerous leadership roles within Munsch Hardt. He currently serves on the Firm's management team as a member of the Board of Directors, as well as the Compensation and Operations Committees.

Related Industries

Construction
Energy
Manufacturing
Real Estate
Technology & Telecommunications
Transportation

Achievements

Thomson Reuters – Texas Super Lawyers (2011-2018)

Memberships

American Bar Association, Litigation Section (Former Subcommittee Chairman)
Defense Research Institute
Houston Bar Association
International Association of Defense Counsel (Former Committee Chairman; Satellite Trial Academy, Director, South Texas College of Law, 2009; Trial Academy, Instructor, Stanford University, 2004)
State Bar of Texas
Texas General Counsel Forum (Houston Board of Directors)

Experience

Energy Litigation

Represented the developers of a crude-by-rail terminal facility located at the Houston Ship Channel. An international marketer of crude products became the exclusive customer of the project. A dispute arose regarding start up performance tests which impacted the guaranteed monthly payments due by the customer that totaled more than \$9 MM. Additional disputes arose regarding alleged events of default and the daily offload capacity. This claim would allow the customer to terminate the agreement and avoid more than \$65 MM in payments. After eight days in trial, the matter was settled on very favorable terms to our client.

Energy Litigation

Successfully represented a major coke terminal operator in an arbitration of a \$61 MM breach of contract claim related to the collapse of a coke pit wall at a refinery. At trial, we successfully proved that the operator complied with its contractual obligations in full and that the cause of the coke pit wall failure was a result of defects in the design and construction of the coke pit by the refinery's EPC contractor. The arbitrator ruled that the refinery take nothing on its claims.

Construction Litigation

Represented a Fortune 500 pipeline owner in a suit for delays and damages against the EPC contractor on an \$86 MM compressor station project that involved six compressor stations. After a six day trial, we obtained an \$18.5 MM jury verdict for our client on its claims and a zero verdict on the EPC contractor's counterclaims for extra work and impact claims. The trial court reduced the award to \$3 MM asserting the claims were barred under the contract as consequential damages. On appeal, the First Court of Appeals reinstated claims totaling more than \$5.5 MM.

Energy Litigation

Represented a major gas marketing company in a suit by a power plant claiming more than \$7 MM in damages alleging that gas delivered to the plant did not meet gas quality specifications. We prevailed on summary judgment with a take nothing judgment for our client based on the contractual bar against consequential damages and other issues. After five appellate opinions, including two by the Texas Supreme Court, the trial court judgment in favor of our client was affirmed.

Personal Injury

Served as state wide counsel for a major manufacturer in numerous suits filed in Texas where plaintiffs claim injury due to exposure to welding fumes.

Products Liability

Served as state wide counsel for a major medical device manufacturer in products liability claims related to hernia patches.

Products Liability

Served as state wide counsel for a major medical products company on products liability claims related to contact lens solution.

Products Liability

Served as part of a national trial team for a major manufacturer on product liability claims related to silicone breast implants. Served as part of the trial team that secured the first jury trial victory in Harris County by an implant manufacturer. That was followed by four other defense verdicts for client over the next three years. Served as part of the trial team that secured the first directed verdict for an implant manufacturer in the country, achieved after plaintiff's causation experts were excluded on *Daubert* grounds.

Newsroom

Speech: Cross Examination of Plaintiff's Black Box and Accident Reconstruction

Speech: Direct Examination of Plaintiff's Product Defect

In The News: Engineering Firm Hit With \$21M Suit Over Terminal Project

Press Release: Seventeen Munsch Hardt Attorneys Included on 2018 Texas Super Lawyers List

In The News: Fueled by energy litigation practice, law firm to double Houston headcount

Press Release: Munsch Hardt Expands Houston Office Due to Continued Growth

Press Release: Seventeen Munsch Hardt Attorneys Recognized as 2017 Texas Super Lawyers

Press Release: Munsch Hardt Congratulates its 14 Texas Super Lawyers

In The News: Lawyers Duct Tape Managing Partners to the Wall-for Charity

Speech: Lost Profits in Commercial Litigation: Proving and Defending Damages

Speech: Risk Shifting in the Oil Patch

Press Release: Thirteen Munsch Hardt Attorneys Recognized as 2015 Texas Super Lawyers

In The News: Texas Justices Say Court Misread Gas Contract Ruling

Press Release: Munsch Hardt Welcomes Eight Attorneys from Harrison Bettis McFarland to Houston Office

Press Release: Munsch Hardt, Harrison Bettis McFarland Join Forces to Propel Strategic Growth in Texas

Speech: Essentials for Lost Profits Litigation: Keys to Prove, Analyze and Defend

Speech: Proving Difficult Damages

Speech: The Jury is Listening – Things You Don't Know But Think You Do

Article: Big Numbers