

Reagan W. Simpson

PARTNER

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Credentials

- The University of Texas School of Law
J.D., *with high honors*
- The University of Texas
B.A., *with highest honors*
- Law Clerk to the
Hon. Thomas Gibbs Gee,
U.S. Court of Appeals for the Fifth Circuit
- Admitted to Practice:
Texas

Reagan's practice focuses on complex commercial litigation and appeals in the areas of tort, personal injury, and commercial torts. He is a Fellow of both the American College of Trial Lawyers and the American Academy of Appellate Lawyers, a distinction that has been obtained by only a small number of practicing lawyers in the United States. Reagan is also an Advocate-level member of the American Board of Trial Advocates and a member of the American Law Institute.

Reagan was honored with the 2023 Justice Eugene A. Cook Professionalism Award by the Houston Bar Association, the 2020 Chief Justice Jack Pope Professionalism Award by the Texas Center for Legal Ethics, and selected for the 2020 Gregory S. Coleman Outstanding Appellate Lawyer Award by the Texas Bar Foundation in recognition of his 46 years of commitment to excellence, mentorship, and professionalism. The awards, along with many years of recognition by *Chambers and Partners*, *Best Lawyers in America*, and *Texas Super Lawyers*, reflect his standing as one of the State's and nation's premier appellate practitioners.

Reagan is admitted to practice in all state courts in Texas, the United States Supreme Court, United States Courts of Appeals for the Fifth and Eleventh Circuits, and the United States District Courts for the Southern, Northern, Western, and Eastern Districts of Texas, Central District of Illinois, and the Northern District of Florida.

Experience

- *In re Deepwater Horizon*. Successfully argued on behalf of Transocean, as well as its insurers, to the Texas Supreme Court that BP was not entitled, by virtue of additional insured provisions in the drilling contract and insurance policies, to claim \$750 million of Transocean's insurance coverage for BP's liability for subsea pollution arising out of the Deepwater Horizon Macondo well explosion and oil spill.

- *Pneumo Abex v. Jones and Illinois Asbestos Litigation*. In December 2019 in the Illinois Supreme Court, Reagan obtained a reversal of the Appellate Court decision in the *Jones v. Pneumo Abex* case, which had overturned the trial court's summary judgment for the client in this long-standing asbestos conspiracy litigation. The Supreme Court's decision in *Jones* established the standard of review for summary judgments in this litigation in which Reagan has obtained more than 120 summary judgments state-wide after trying and then appealing adverse decisions and upholding a key defense. Essentially, Reagan has reversed the course of costly asbestos conspiracy litigation in Illinois. He has now won six appeals and reversed judgments awarding a total of more than \$100 million. In the first of those appeals, Reagan also secured a landmark ruling that no duty was owed in a household exposure claim.
- *JSW v. MM Steel*. Upheld in the Fifth Circuit a \$150 million award of treble damages in a group boycott case under the per se rule of liability. The United States Supreme Court denied certiorari.
- *Masterson v. Episcopal Church of the Good Shepherd*. Obtained a landmark ruling from the Texas Supreme Court in a church property case, the first such ruling by that court since 1909. Representing an Episcopal Church in west Texas, obtained confirmation from the court that Texas applies neutral principles in deciding disputes between church factions seeking control over church property after a doctrinal split.
- *IBM v. Lufkin Industries*. Reversed a multi-million-dollar award against IBM in a dispute over the installation of a business software system and extended the law on the effectiveness of disclaimers of reliance.
- *Sabre Travel v. Deutsche Lufthansa*. Upheld in the Texas Supreme Court a ruling that a tort claim by Lufthansa against Sabre is not preempted by the Airline Deregulation Act.
- *Kelly v. Houston Methodist*. Upheld the dismissal of a suit against the hospital seeking to challenge the constitutionality of a statute allowing decisions to terminate life-sustaining care on the ground that the hospital never withheld life-sustaining care.
- *Confidential Client*. Represented an electric generation plant in an arbitration involving complex breach of contract and declaratory judgment claims valued at over \$90 million brought by a part-owner and purchaser of the plant's capacity after it raised various challenges to the plant's administration of the power purchase agreement, calculation of the reservation payment, and pass-through of costs. Following a one-week arbitration hearing, a three-arbitrator panel issued a unanimous decision in our client's favor on each of the significant claims.
- *ExxonMobil Corp. v. USDOT, PHMSA, Office of Pipeline Safety*. Successfully challenged violations found by the U.S. Pipeline & Hazardous Materials Safety Administration after a leak in Exxon's pipeline in Mayflower, Arkansas. In vacating the violations and million-dollar penalties, the Fifth Circuit held that Exxon did comply with the regulations and had not received fair notice of new agency standards.
- *Regal Entertainment v. iPic-Gold Class Entertainment*. Upheld in the Houston First Court of Appeals, a temporary injunction barring Regal's anticompetitive conduct of boycotting films licensed by major studios to iPic Houston.

- *Valero Refining v. Galveston County Appraisal District*. Obtained rulings from the Texas Supreme Court favorable to all issues presented in an ad valorem tax appeal. Specifically, the Supreme Court held that a taxpayer may appeal appraisal of separate accounts established by the taxing authority relating to a single petrochemical facility.
- In two mandamus proceedings, also arising in ad valorem tax disputes, the Firm succeeded in barring discovery of Valero Refining's highly sensitive financial information. The Houston and Galveston Appraisal Districts sought the information for use in the income method of valuing Valero's refineries. In both proceedings, the First Court of Appeals held that the information was a trade secret and that the district courts abused their discretion in ordering discovery because two available and alternative valuation methods would not require disclosure of Valero's financial information.
- Obtained mandamus relief for law firm client in a legal malpractice case arising out of a federal court order dismissing a mass tort suit arising out of an offshore drilling rig disaster in the Bay of Campeche, Mexico. In the underlying suit, a federal court had dismissed the suit on the ground of forum non conveniens with a return jurisdiction clause. The court of appeals granted mandamus relief requiring dismissal of the malpractice suit because the claim was premature. The Texas Supreme Court denied mandamus relief requested by the plaintiffs.
- *Sneed v. Webre*. Successfully represented an individual shareholder and board member of a family-run mining company before the Texas Supreme Court in connection with a shareholder derivative suit that had been dismissed in district court for lack of standing and then reversed by the court of appeals. The Supreme Court agreed with our client's position that the Texas Legislature removed the many procedural hurdles and standing requirements that must ordinarily be met when bringing a derivative claim if the claim is brought on behalf of a closely-held corporation.
- *TXI Transportation Co. v. Hughes*. Represented a trucking company in securing a ruling in the court of appeals that reversed the award of \$6.6 million in exemplary damages in this case arising from a car-truck collision that resulted in four deaths. In the Texas Supreme Court, the remainder of the case was reversed, including the award of \$15.7 million in compensatory damages. The Supreme Court held that a new trial was required because of the trial court's erroneous admission of inflammatory evidence about the immigration status of the truck driver, who had a good driving record and a Texas commercial drivers' license. Assisted in the second trial which resulted in a defense verdict.
- *Escoto v. Nabors Drilling*. Obtained a ruling from the Texas Supreme Court that the company had no responsibility for a multi-death automobile accident allegedly caused by an employee who fell asleep while driving from a remote location after a 12-hour night shift.
- *ExxonMobil Corp. v. Altimore*. Obtained a take-nothing judgment, overturning an award of exemplary damages, in an asbestos household exposure case on the ground that there was no evidence of grossly negligent conduct.

- Gained a take-nothing judgment in an asbestos case involving lung cancer in which the court of appeals held that there is no scientific support for attributing lung cancer to a heavy smoker who had no demonstrable lung injury from asbestos fibers, which decision overturned an award of exemplary damages.
- *Duenez v. F.F.P. Operating Partners*. In a landmark dram shop case, obtained a holding from the Texas Supreme Court that the seller of alcoholic beverages is not vicariously responsible for the conduct of its intoxicated customer.
- Successfully obtained and upheld a take-nothing judgment notwithstanding a \$23 million verdict in a multiple wrongful death case arising out of a vehicular collision on the ground of no causation.
- Overturned an award of \$164 million in a wrongful death suit tried in Jefferson County, Texas, resulting in a rendition of a take-nothing judgment in favor of a surface mining company.
- Upheld a summary judgment in a commercial dispute over the failure of a syngas unit based on the economic loss rule.
- Upheld a partial summary judgment in a commercial fraud case brought by a real estate developer against a lending institution.
- Obtained mandamus relief that ended a claim of alleged nuisance relating to the operation of a petrochemical facility on the basis of no standing as a matter of law and later, in the same litigation, obtained mandamus relief from the trial court's failure to dismiss personal injury claims that lacked supporting evidence.
- Obtained mandamus relief against a discovery order requiring production of employee records for a non-party witness employed by a corporate defendant.
- Obtained mandamus relief in a tax appraisal case in which the taxing authority sought trade secret information on profit margins and other data from a major refinery.
- Obtained mandamus relief against an order consolidating two benzene cases for trial.
- Reversed a summary judgment of no-coverage in a dispute over insurance coverage for settled securities claims against an oil and gas exploration company.
- Successfully tried a welding rod products liability case to a defense verdict in Brazoria County, Texas in 2005 after the first trial of that case ended in a hung jury and assisted in trying another welding rod case to a defense verdict in Galveston, Texas in 2007.
- Overturned a \$122 million judgment and won a take-nothing judgment on appeal in a refinery explosion case.
- In the Texas Supreme Court, won a take-nothing judgment reversing a \$40 million wrongful death verdict arising from another refinery explosion.
- Overturned a \$51 million judgment in a securities fraud case and obtained a ruling from the Fifth Circuit that the client had no liability.

- Erased a \$10 million judgment against a hospital in a malpractice case, which resulted in a ruling that the hospital had no liability whatsoever and a significant re-examination of joint enterprise liability by the Texas Supreme Court.
- Successfully set aside an award against a major lending institution in favor of the guarantor and borrower in a non-recourse loan for commercial property.
- Served as both trial and appellate counsel, before and during trial, in major personal injury cases pending throughout Texas.

Professional Honors & Affiliations

- Fellow: American Academy of Appellate Lawyers
- Fellow: American College of Trial Lawyers
- Advocate: American Board of Trial Advocates (ABOTA), past President of the Houston ABOTA Chapter, and past Member of Board of the Texas State Chapter of ABOTA
- Member: American Law Institute
- Board Certified in Civil Trial Law, Texas Board of Legal Specialization, since 1985
- Board Certified in Civil Appellate Law, Texas Board of Legal Specialization, since 1988
- American, Texas, and Houston Bar Foundations
- 2023 Justice Eugene A. Cook Professionalism Award, Houston Bar Association
- 2020 Chief Justice Jack Pope Professionalism Award, Texas Center for Legal Ethics
- 2020 Gregory S. Coleman Outstanding Appellate Lawyer Award, Texas Bar Foundation
- *Best Lawyers in America* 2023 Houston Lawyer of the Year – Personal Injury Defense and Appellate; 2017 Houston Personal Injury Defense Lawyer of the Year; 2016 & 2010 Houston Appellate Lawyer of the Year; and 2013 Austin Appellate Lawyer of the Year
- *Best Lawyers in America* in Appellate, Bet-the-Company, Commercial Litigation, Energy Law, and Personal Injury Defense Litigation
- *Chambers USA: America's Leading Business Lawyers* in Texas Appellate, 2004-2023
- "Texas Super Lawyer" in Appellate; recognized in the Top 100 Lawyers in Texas, Top 100 Lawyers in Houston, and South Texas, and the Top 50 of Central & West Texas Region, *Thomson Reuters*
- *Who's Who in American Law*, 1994-1995, 8th Edition (pub. 1993)

Presentations & Publications

- *The Trial Lawyer's Guide to Attorney-Client Privilege and Work-Product Doctrine*, American Bar Association, 2023 (co-editor)

- “Preserving Appellate Complaints in Federal Courts,” American Bar Association, 2020 (editor)
- “Joint Defense Privilege,” *The Attorney-Client Privilege in Civil Litigation: Protecting and Defending Confidentiality*, published by American Bar Association, 2019 (seventh edition chapter co-author)
- “Special Appearance,” *The Advocate*, Fall 2015 (co-author)
- “Effective Amicus Practice,” published by American Bar Association, author of first edition and co-author of the second, third and fourth editions
- “Modern Civil Discovery,” published by Aspen
- “Law & Practice of Insurance Coverage Litigation,” published by West Group, first edition co-editor
- “Considerations in Settling the Underlying Case in Appleman on Insurance Law & Practice,” second edition chapter co-author
- Articles and papers in numerous journals including the *Oklahoma Law Review*, *St. Mary’s Law Journal*, *Texas Tech Law Review*, *The Texas Bar Journal*, *The Houston Lawyer*, and publications of the TIPS Section of the ABA