



Craig Smyser, *Partner*

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Craig Smyser tries and appeals a broad range of complex business and personal injury cases.

- Mr. Smyser has tried more than 40 cases to a jury verdict, with trials in both state and federal courts.
 - Mr. Smyser has arbitrated dozens of cases.
 - Mr. Smyser has briefed and argued in the United States Supreme Court, the U.S. Court of Appeals for the Fifth Circuit, the Texas Supreme Court, and various Texas Courts of Appeals.
 - Mr. Smyser has been lead counsel in some of Houston's – and the nation's -- largest, most important, and heavily publicized matters.
- Lead counsel for former Enron CFO Andrew Fastow in more than 100 civil cases around the country. *In re ENRON CORPORATION SECURITIES LITIGATION; MDL 1446, Mark Newby, et al v. Enron Corp, et al.*, C.A. No. H-01-3624, in the United States District Court for the Southern District of Texas, Houston Division and other matters.
 - Lead counsel for Yukos International UK B.V., the international arm of the former Russian oil company, Yukos Oil, dismantled by the Russian Government after Yukos' CEO Mikhail Khodorovsky became a political opponent of Vladimir Putin, in various matters in the United States. *In re Yukos International UK B.V.; David Godfrey v. Lewis M. Linn*, Civ. Action No. H-07-26, and other matters.
 - Lead trial counsel for Schlumberger Technology Corp in action against former in-house counsel for breach of contract, misappropriation of trade secrets, misuse of confidential information, and breach of fiduciary duty. After leaving Schlumberger, the former counsel went to work for a patent-licensing firm whose business model involved acquiring patents and suing companies that it alleges infringe upon the patents. About nine months after former counsel left Schlumberger, a subsidiary of the company she worked for sued Schlumberger for patent infringement on a patent that counsel had involvement with while at Schlumberger. *Schlumberger Limited et al v. Rutherford*, 472 S.W.3d 881 (Tex.App.—Houston [1st Dist.] 2015).
 - Co-lead trial counsel for David's Supermarket's in a fraud case against a Fortune 50 company; the jury returned a \$450 million verdict against the company that resulted in suspension of trading of the company's stock. *David's Supermarkets, Inc. v. Fleming Food Companies, Inc., Fleming Foods of Texas, Inc., and James E. Stuard*, No. 246-93, in the 18th Judicial District Court, Johnson County, Texas.
 - Lead trial counsel in ICDR arbitration for one of the country's leading energy companies engaged in the Liquefied Natural Gas (LNG) related business against one of the world's largest integrated energy companies. The dispute involved technical issues in a multibillion contract related to LNG terminalling services and centered on accounting for payment of certain LNG cargos acquired to keep the LNG at contractually-required temperatures. In its Final Award, the panel resolved all issues in favor of SKV's client, awarding its full attorney fees and expenses.

Since founding SKV, Mr. Smyser has been consistently recognized for his and the firm's litigation skills. Sources in Chambers USA have designated him as a "remarkably impressive lawyer," "extremely efficient, smart and very selective," and possessing the ability to "explain to the client what the issues are and what the best way to approach them is."

Mr. Smyser is a member of the American Law Institute, the International Society of Barristers, and has been designated as a Super Lawyer every year since 2003, making the list of Top 100 Houston Super Lawyers 2007 through 2014 and the Top 100 in Texas in 2008. He has also served as the President of the Houston Chapter of the American Board of Trial Advocates as well as President of the Texas Association of Civil Trial and Appellate Specialists. In 2012, Mr. Smyser was appointed to the Attorney Admissions Committee for the United States District Court for the Southern District of Texas and reappointed for a second 3 year term in 2015. Mr. Smyser has authored numerous articles on contracts and commercial litigation and co-authored a text book on Texas Contract Law with Professor David Dow.

EDUCATION AND EXPERIENCE

University of Texas

B.A., Plan II with Honors, *Cum Laude*, Phi Beta Kappa 1973

University of Texas School of Law

J.D., 1980

Texas Law Review; Chair, Board of Advocates; Outstanding Advocate of the 1980 Class

Founding Partner

Smyser Kaplan & Veselka, L.L.P., 1995-Present

Partner

Vinson & Elkins, L.L.P., 1988-1995

Associate

Vinson & Elkins, L.L.P., 1980-1987

Political Editor

Houston Chronicle, 1975-1977

Reporter

Houston Chronicle, 1973-1975

PROFESSIONAL RECOGNITION

Named "America's Leading Lawyers for Business," Chambers USA, 2008 - 2018.

Selected for inclusion in "The Best Lawyers in America," 2010 – 2017.

Recognized in 2011, 2012, 2013, 2014, 2015, and 2016 editions of Benchmark Litigation for high quality of litigation work.

Named Local Litigation Star in 2013 - 2016 editions of Benchmark Plaintiff.

Named a *Super Lawyer*, 2003 – 2016.

Selected as a Top 100 Houston *Super Lawyer*, 2007 - 2014.

Designated as a Top 100 Texas *Super Lawyer*, 2008.

Selected as one of the top attorneys in business litigation in the nationwide corporate counsel edition of *Super Lawyers*, 2009-2014.

Named to the top list for business litigation for the State of Texas by *Super Lawyers*, 2009 - 2014.

Selected by his peers as a Texas *Super Lawyer*, for 2009 - 2016 in Texas Monthly magazine.

Designated in the "Top Lawyers of Houston," H Texas Magazine, 2007 - 2014.

Selected as one of "The Best Lawyers in America," Texas Best Lawyers 2012 - 2014.

ADMISSIONS

State Courts of Texas

United States Supreme Court

United States Court of Appeals for the Fifth Circuit

United States District Courts for the Southern, Northern, Western, and Eastern Districts of Texas

Texas Supreme Court

United States Tax Court



CRAIG SMYSER

ORGANIZATIONS

American Law Institute, Member

International Society of Barristers, Member

American Bar Association

American Board of Trial Advocates, Member and Past President: Houston Chapter

Attorney Admissions Committee for the United States District Court for the Southern District of Texas, appointed 2012 to three-year term

American Bar Foundation

Houston Bar Association

Houston Philosophical Society

Houston Tennis Association, 2007 Board of Directors

Houston Urban Debate League, Member, Board of Directors

Texas Association of Board Certified Civil Trial and Appellate Specialists, Former President

Texas Board of Legal Specialization, Board Certified in Civil Appellate Law

Texas Board of Legal Specialization, Board Certified in Personal Injury Trial Law

Texas Bar Association

Former member and chair of the Board of Directors of the Houston City / Harris County Cultural Arts Council, Non-Profit Organization charged by the City of Houston and Harris County with allocating public funds to various area arts organizations.

Member and former President of the Board of Directors of Inprint, a non-profit organization dedicated to support of writing in the Houston area.

REPRESENTATIVE MATTERS

Some Significant Current Representations

- Represents Schlumberger Corporation as Plaintiff in a trade secrets and breach of fiduciary duty case against its former Deputy General Counsel
- Represents BNSF Railway Company in a dispute with the American Fuel & Petrochemical Manufacturers in which the AFPM seeks a declaration that BNSF is violating its common carrier obligations

Major LNG Terminalling and Breach of Contract Dispute

Mr. Smyser and SKV partner, Justin Waggoner represented an energy company primarily engaged in the Liquefied Natural Gas business in a dispute with one of the world's largest integrated energy companies. In an International Centre for Dispute Resolution arbitration, SKV's client won a complete victory involving a \$2 billion contract. The three-member arbitration panel unanimously agreed with SKV's client's positions, rejected all contrary claims, and awarded SKV's client all costs, including SKV's attorney's fees.

Physician Shareholder Derivative Jury Verdict for Shareholder

On June 13, 2013 the jury awarded SKV client, Dr. Fite and BEPA's other shareholders every penny of the nearly \$4,000,000 claim Dr. Fite asserted on BEPA's behalf and rejected every one of the Defendants' counterclaims that sought a total of some \$12 million. SKV partners Craig Smyser and Justin Waggoner tried the case for Dr. Fite. The case had been pending for nearly a decade as Defendants sought to derail the derivative claims by attempting to buy back and cancel Dr. Fite's share holdings, entering into a collusive settlement with a court-appointed receiver, and by taking the company into bankruptcy. Although SKV defeated each one of these attempts to deny their client her day in court, the last aborted bankruptcy effort in particular cost Defendants as the bankruptcy judge found that the company brought the bankruptcy in bad faith to obtain an advantage in the state court litigation, a result sustained by the U.S. District Court for the Western District of Texas and by the Fifth Circuit Court of Appeals.

Jury Verdict in Real Estate Fraud/Environmental Contamination Case

In April 2011, Mr. Smyser obtained a favorable jury verdict in a real estate fraud case involving a charge that SKV's client, Celotex, failed to disclose the presence of environmental contamination on the property and lied about what had been manufactured at the plant on the 12-acre tract near the intersection of I-10 and Loop 610. Plaintiff, a large real estate development firm, claimed it lost millions in the purchase and in lost profits. In addition, Plaintiff's law firm, with more than 60 individuals billing on the matter, claimed \$6 million in attorneys fees. Celotex hired Mr. Smyser three months before trial after the case had been pending over 9 years.

REPRESENTATIVE MATTERS (continued)

Dismissal of Shareholder Derivative Action on Behalf of \$4B Public Company

In 2013, Mr. Smyser and Chris Bryan successfully defended a \$4 billion public company in a shareholder derivative and class action suit arising out of a much-publicized potential \$100 million severance obligation to its former CEO. Following full briefing, the U.S. District Court for the Southern District of Texas, Houston Division, dismissed the claims, granting the company a complete victory.

Dismissal of Trade Secret Case Brought by Major Oil Field Services Company

Mr. Smyser and SKV partner, Land Murphy, represented Drillformance LLC against its competitor Halliburton, obtaining a dismissal of Plaintiff Halliburton Energy Services, Inc.'s misappropriation of trade secrets case. Halliburton filed the claim for Temporary Restraining Order and Temporary Injunction in April 2013 claiming that two former Halliburton employees in Oman disclosed confidential information to Drillformance after they resigned their positions in Halliburton's Oman operations early in 2013. SKV defeated Halliburton's request for a temporary restraining order, obtained document and deposition discovery on an expedited basis, and obtained an order dismissing Halliburton's claims with prejudice with no temporary injunction granted.

Additional Representative Matters

- Mr. Smyser represented indigenous inhabitants of the Ecuadorian Amazon rain forest in an environmental and pollution case against Chevron in multiple district courts.
- Mr. Smyser was successful in obtaining an arbitration panel award in September 2011 for the entire amount of damages sought by a national accounting and litigation services firm in its insurance policy coverage dispute with Certain Lloyd's Underwriters.
- Mr. Smyser represented a large institutional client in two separate proceedings, one in arbitration, one in state court, in breach of contract and fraud claims against national health insurers. The case was successfully settled.
- Mr. Smyser successfully represented the founder of a group of ambulatory surgery centers that he rolled up and sold in a 2010 arbitration with the acquiring company on allegations of breach of representations and warranties in the sales agreement.
- Mr. Smyser defeated effort of Russian company, a stalking horse for the Russian government, to take discovery in Southern District of New York in aid of the company's effort to capture control of Yukos Finance B.V., one of the companies escaping the Russian government's seizure of Yukos Oil and imprisonment in Siberia of its CEO.
- In federal court in Los Angeles, California, Mr. Smyser obtained a dismissal on forum non conveniens grounds of an international hotel and time-sharing group in class action consumer fraud case.
- Mr. Smyser represented a large institutional client in arbitration against a national insurance company. The suit was settled in 2008.
- Mr. Smyser obtained reversal of a temporary injunction entered in federal court against the City of Houston on the grounds that its sign ordinance violated the United States Constitution. The United States Courts of Appeals for the Fifth Circuit affirmed the U.S. District Court's ruling and the United States Supreme Court denied the Petition for Writ of Certiorari seeking review of the Fifth Circuit's constitutional ruling.
- Mr. Smyser obtained a Mandatory Temporary Injunction in November 2007 on behalf of the City of Houston requiring a billboard company to lower a 90' high structure built overnight in the Afton Oaks residential neighborhood to 17' and to remove the top part of the billboard structure that contained the sign's advertising.
- Mr. Smyser obtained a Temporary Restraining Order and Preliminary Injunction in the U.S. District Court for the Southern District of Texas on behalf of officers of Yukos Oil International, the privately-owned branch of Yukos Oil Company, now controlled by the Russian State in a dispute to prevent payment from a \$15 million trust.
- In civil litigation pending in jurisdictions throughout the United States, Mr. Smyser represented Andrew Fastow, former Chief Financial Officer of Enron Corp. First obtaining a stay of all civil litigation against Mr. Fastow in the Southern District of Texas, including the securities class action *Newby v. Fastow et al.* Then he obtained dismissal in a number of suits, including dismissal by Class Action Plaintiffs in *Newby*.
- Mr. Smyser represents an international hotel and time-share group in a dispute over rights to intellectual property and website names.

REPRESENTATIVE MATTERS (continued)

- Mr. Smyser represented the City of Houston in defeating a request by wrecker drivers for a Temporary Restraining Order to prevent enforcement of the City's "Safe Clear" ordinance.
- In a dispute with the Houston Rockets, Mr. Smyser represented the Houston Sports Authority and successfully negotiated a confidential settlement related to the construction of Toyota Center.
- Mr. Smyser drafted the lawsuit and organized the effort that successfully prevented a major political party from substituting its hand-picked candidate on the ballot to replace a United States Congressman who had allegedly moved out of his district.
- Mr. Smyser obtained Summary Judgment in U.S. District Court on behalf of a the largest non-profit hospital organization in the Southwest in a major personal injury matter involving brain-damage. The United States Courts of Appeals for the Firth Circuit Affirmed the Summary Judgment in an opinion that has attracted considerable commentary.
- In a class-action securities fraud case in the Southern District of New York, Mr. Smyser represented Chairman of the Board of Philip Services. The case settled without payment by the Chairman.
- Mr. Smyser represented an oil refinery in a mass environmental tort claim. The claim settled for nuisance value.
- In a legal malpractice claim, Mr. Smyser obtained summary judgment against a major personal injury lawyer.
- In an election contest, Mr. Smyser represented former Houston Mayor Bill White and obtained summary judgment in his behalf.