



## David A. Pluchinsky

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### **PROFILE**

A veteran litigator, David Pluchinsky devotes his practice to commercial, real property and product liability disputes in Texas, nationally and internationally. He has defended and prosecuted complex and multi-forum litigation for clients and has extensive experience in trial and appellate work in both state and federal courts as well as arbitration. Additionally, David has extensive knowledge of the technical and legal developments relating to eDiscovery, and efficiently guides his clients in navigating complex eDiscovery processes and related issues.

David's broad litigation experience includes commercial disputes, business tort claims, international tort claims, civil RICO claims, antitrust cases, contract disputes, products liability claims, environmental litigation, and qui tam matters. His practice has focused on businesses in the energy and chemical sectors confronted with complex commercial disputes.

### **EDUCATION**

- J.D., Vanderbilt University Law School, 1987
- B.A., magna cum laude, Economics and Political Science, University of Pennsylvania, 1984

### **BAR ADMISSIONS**

- Texas
- U.S. District Court, Northern District of Texas
- U.S. District Court, Southern District of Texas
- U.S. District Court, Eastern District of Texas
- U.S. District Court, Western District of Texas
- U.S. District Court, District of Colorado
- U.S. District court, District of Columbia
- U.S. Court of Appeals, Fifth Circuit
- U.S. Court of Federal Claims

## REPRESENTATIVE EXPERIENCE

- **Oil and Gas Exploration Rights:** Represented various oil and gas exploration companies in defense of claims alleging loss of lease rights and international exploration concessions as well as royalty and lease payment disputes.
- **Gas Processing Agreements:** Represented various natural gas processors and oil and gas exploration companies in disputes relating to the purchase of natural gas liquids under a gas processing agreement and related transportation agreements.
- **Service and Supply Agreements:** Represented chemical companies in a breach of utility service contracts and feedback supply agreements.
- **Business Interruption:** Represented refiners and chemical companies in various disputes for business Interruption damages resulting from off-spec feedstock as well as equipment failure.
- **Oil and Gas Exploration Concession:** Represented an oil and gas exploration company in defense of a suit for the alleged loss of oil and gas rights in the Timor Sea.
- **Leasehold Interest Disputes:** Represented an oil and gas exploration company in disputes related to assignments of a working leasehold interest.
- **Gas Processing Agreement:** Represented a gas processor in a dispute relating to the purchase of natural gas liquids under a gas processing agreement.
- **Natural Gas Qui tam Action:** Represented a natural gas purchaser in a qui tam action.
- **Royalty Disputes:** Represented several oil and gas exploration companies in royalty disputes.
- **Breach of Steam Supply Contract:** Represented a chemical company in a breach of a steam supply contract dispute.
- **Delay Damages Dispute:** Represented a Qatari chemical company in a delay damages dispute against a U.S. contractor for the late completion of a chemical complex.
- **Easement Disputes:** Represented chemical companies and oil and gas exploration companies in easement disputes and related easement issues.
- **Business Interruption:** Represented a chemical company in a business interruption case based on a supplier's delivery of off-spec product.
- **Offshore Pipeline:** Represented an individual in seeking to recover an ownership interest in an offshore pipeline system.

- **Take-or-Pay Dispute:** Represented an oil and gas producer in a take-or-pay dispute in the High Commercial Court of England and the United States District Court for the Southern District of Texas.
- **Leasehold Interest Termination:** Represented oil and gas exploration companies in disputes relating to the termination of leasehold interests.
- **Natural Gas Transportation Contract Dispute:** Represented a gas producer in a transportation contract dispute relating to quality, pricing, and the ability of the transporter to terminate the contract.
- **Facilities Purchase Option Dispute:** Represented a working interest owner regarding its exercise of an option to acquire an interest in gas processing facilities and related pipelines.
- **Antitrust Litigation:** Represented several oil and gas exploration companies in antitrust litigation against several service companies that formed a worldwide conspiracy to fix prices and monopolize the relevant market.
- **Class Action Litigation:** Represented a boiler manufacturer in class action litigation resulting from chemical plant explosion.
- **Breach of Fiduciary Duty:** Represented a major Texas intrastate pipeline company in breach of fiduciary duty case against pipeline operator.
- **Breach of Pipeline Agreement:** Represented a partner of a major Texas intrastate pipeline in a breach of pipeline operating agreement matter.
- **Take-or-Pay, Pricing and Ratable Take Dispute:** Represented a chemical company in several gas take-or-pay cases which also involved pricing and ratable take issues.
- **Natural Gas Class Action:** Represented a chemical company in a class action involving the purchase of natural gas.
- **Natural Gas Transportation Contract Dispute:** Represented a chemical company in a gas transportation contract dispute.
- **Breach of Steam Supply Agreement:** Represented a refiner in a business disruption and breach of steam supply agreement.
- **Breach of Supply Agreement:** Represented a refiner in a breach of CBO supply agreement.
- **Maximum Take Obligation Dispute:** Represented a refiner in a dispute regarding the maximum take obligation under a gasoline purchase agreement.
- **Debarment Appeal:** Represented an export business and several of its employees in appeal of debarment decision that resulted in termination of debarments.

- **Agency Show cause Action:** Represented an export business in agency action to establish business was entitled to a license under the Perishable Agriculture and Commodities Act.
- **Products Liability Litigation:** Assisted a manufacturer in investigation and compliance matters in connection with the defense of litigation arising out of a series of product liability cases.
- **Oil Spill Dispute:** Represented an oil and gas exploration company in the defense of numerous claims that damages from oil allegedly resulted from oil production operations.

## HONORS

- Best *Lawyers in America* 2019-2020, Listed in Texas for Commercial Litigation
- Texas' "Top Rated Lawyers®," ALM/LexisNexis, 2012
- Texas Super Lawyer, *Thomson Reuters*, 2006-2008

## PUBLICATIONS AND SPEECHES

- *Legaltech West Coast*, Panelist, "Protecting Against Cyber Hacking and Computer Fraud," June 2016
- *Practical Law*, Co-author, "Enforcing Arbitration Awards in Texas," June 2015
- Speaker, "Legal Analytics and the Business of Law Summit," November 2014
- LegalTech West Coast, Speaker and Section Chair, "Biz Dev for the Small Firm," June 2014
- eDiscovery for Oil and Gas, Speaker, "Early Case Assessment and Strategizing with your eDiscovery Team," May 2012
- The Litigation Summit and Expo, Speaker, "E-Discovery Evolved Part 3: Trends, Technology and Planning for the Future," November 2011
- The Institute of Internal Auditors, panelist, "E-Discovery Basics," February 2011
- T3 (Trial Tactics & Technology), ALM Events, "The Necessity for a 'Litigation Readiness and Hold' Program to Protect Yourself and Your clients," November 2007
- West Legal Works, "Electronic Discovery After the new Federal Rules: Strategies for Coping with the Latest Challenges and Intricacies," September 2007
- *Houston Business Journal* – Business Survival Guide, Co-author, "Court System may Offer Cost-Effective Alternative to Arbitration," April 2007

- *National Law Journal*, Co-author, “‘And They’re Off!’: How Federal Courts are Implementing the December 2006 Amendments to the Federal Rules of Civil Procedure: Allocating Burdens and Costs and Access to Opponents’ Systems and Equipment in Electronic Information Discovery,” Edited version published as “How the Courts are Applying New Rules,” March 2007
- *American Lawyer and Corporate Counsel*, co-author, “The Illusory Safe harbor of Rule 37(F),” December 2006
- T3 (Trial Tactics & Technology), ALM Events, Panelist, “E-Discovery Amendments to the Federal Rules of Civil Procedure: Exploring the Day-to-Day Impact for Legal Teams,” December 2006
- *Andrews Litigation Reporter* (various industry editions), Co-author, “Federal Rule of Civil Procedure 26(b)(2)(B) and The 2006 Amendments: How the Federal Courts Will Implement Two-Tier Discovery of Electronic Information,” November 2006
- *American Lawyer*, Co-author, “Controlling the Cost of E-Discovery Through Preparation and an Organized Response,” December 2005
- *Houston Business Journal*, “How Does Arbitration Differ from Mediation and Civil Litigation?,” May 2004
- *The Advocate*, “The Basics of Confirming, Vacating, Modifying and Correcting an Arbitration Award Under the Federal Arbitration Act and the Texas Arbitration Act,” 2003
- *Texas Business Litigation: Forms and Commentary*, Co-author, West Group, 1997

## **PROFESSIONAL ACTIVITIES, MEMBERSHIPS & AFFILIATIONS**

- State Bar of Texas
- American Bar Association
- Houston Bar Association
- The institute for Energy Law Advisory Board
- Fellow of the Texas Bar Foundation
- Board of Directors, Family Services of greater Houston
- Board of Directors, Bo’s Place
- Advisory Board of Directors, Spring Spirit Baseball