



**Mark A. Waite**

**Partner**

**GLOBAL CO-CHAIR, INDUSTRIALS SECTOR  
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Mark has focused on complex litigation and counseling for nearly 30 years, with extensive experience in the areas of energy, construction, refining, petrochemicals and industrial operations. His combination of substantial outside trial experience and in-house global litigation responsibility positions him to understand the needs and earn the trust of clients, both in contentious disputes and proactive risk avoidance.

Mark handles major and complex litigation matters in many areas, including engineering and construction projects, joint venture relationships, commercial and contractual disputes, major personal injury claims, and incidents.

Following years as outside counsel for various clients, Mark joined a leading global refining and chemical company, where he served as of global litigation and oversaw high-value disputes, advised C-level executives, and led the company's legal health, safety and environmental functions. His role included analyzing and advising on contentious matters that were early in their development to determine if they could be resolved without formal legal proceedings, proactive risk avoidance, and serving as the lead legal department advisor for the company's Crisis Management Team, which is responsible 24/7 for corporate emergency response in the event of any incidents worldwide. Mark joined DLA Piper in 2017, blending his knowledge of business client needs into his global practice.

Mark's trial experience allowed him to earn certification in Civil Trial Law by the Texas Board of Legal Specialization. He has held that distinction since 2004.

- Litigation, Arbitration and Investigations
- Energy and Natural Resources
- Industrials

## REPRESENTATIVE EXPERIENCE

- Representation of manufacturer of components in wind turbines involved in alleged failure incidents
- Representation of pipeline surveying company in government investigations surrounding explosion incident
- Lead trial counsel for Illinois chemical facility pursuing claims against the supplier of two large industrial boilers which were part of a

boiler upgrade project. The boilers supply steam to the facility and to the chemical process and are critical to safe and reliable operation. Secured judgment for actual damages, attorneys' fees, and interest in favor of the plant owner following a six-day federal bench trial

- Advising confidential clients surrounding rights and obligations in power and natural gas purchase, supply, and related agreements in connection with Winter Storm Uri in 2021. Issues include price escalation, force majeure and related claims and defenses, and clients include end-use industrial purchasers, parties to financial transactions from energy trades, and supplying parties. Impacted sources include traditional power, renewable energy, and natural gas; and amounts at issue ranged from US\$30 million to more than US\$120 million
- Represented refinery owner in claims for over US\$10 million in property damages, repair costs and other impacts against parties involved in the design and construction of catalyst reactor modifications arising from 2017 EPA environmental regulations
- Represented major petrochemical facility in Corpus Christi, Texas to secure water facilities agreement between local governmental authorities and large volume users, including creation of funding vehicle to explore alternative water sourcing initiatives
- Represented high-density polyethylene pipe manufacturer in multi-party litigation in New Jersey filed by plaintiffs alleging property damage and personal injury due to major gas line explosion; secured dismissal of all claims against client following intensive analysis of pipe components and associated gas line system
- Prosecuted damages and injunctive relief claim by real estate lifecycle software and services provider against competitor for tortious interference and business disparagement
- Trial counsel for pro bono client in one of the early completely "virtual" trials held in Harris County, Texas state court during 2020 COVID-19 pandemic court closures, and secured Final Judgment in favor of client

## VITA

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- Texas

## Ausbildung

- J.D., University of Houston Law Center 1994  
*cum laude*
- B.B.A, Texas A&M University 1991  
*cum laude*

## Courts

- All Texas state and federal district courts
- United States Court of Appeals for the Fifth Circuit

## Mitgliedschaften

- Houston Bar Association – Litigation, Construction, and Oil, Gas & Energy Law Sections
- Fellow – Texas Bar Foundation
- Fellow – Houston Bar Foundation
- Texas Bar Association – Litigation and Construction Law Sections
- Member – Texas Association of Certified Civil Trial and Appellate Specialists
- Houston Volunteer Lawyers – Equal Access to Justice Society

## Certifications

Board Certified – Civil Trial Law, Texas Board of Legal Specialization (2004 - present)

## AKTUELLES

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## Publikationen

### Industrials Regulatory News and Trends

21 November 2022

Industrials Regulatory News and Trends

EPA expands its definition of PFAS chemicals; Hyundai asks for delay in implementation of EV tax credit; new Massachusetts law will affect recycling and organic waste.

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### Industrials Regulatory News and Trends

4 November 2022

Industrials Regulatory News and Trends

Major EV maker says incentives in IRA will help it compete; new EPA office to focus on environmental justice; space-station companies ask: who is in charge?

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### Industrials Regulatory News and Trends

7 October 2022

Industrials Regulatory News and Trends

Micron will build massive DRAM plant in upstate New York; plus updates on emissions goals, charging plans, space junk.

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### Industrials Regulatory News and Trends

12 September 2022

Industrials Regulatory News and Trends

Application season may begin soon for new semiconductor program; California takes more steps to ensure plastics recycling; EPA waives fuel regulations after industrial accident.

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### Industrials Regulatory News and Trends

25 August 2022

Industrials Regulatory News and Trends

Chemical manufacturers call for federal solutions to shipping problems, head of NHTSA departs, court upholds FCC reallocation of a key spectrum block.

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### Industrials Regulatory News and Trends

12 August 2022

Industrials Regulatory News and Trends

CHIPS Act is major boost for US semiconductor manufacturing; FCC encourages manufacturing in space; recycling, PFAS, plastics.

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### Winter Storm Uri: Using the doctrine of impracticability or impossibility for breach of contract claims

14 April 2021

Because some potentially impacted contracts are governed by New York law, we examine these defenses in light of both New York and Texas law.

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### **ERCOT v Panda: The Texas Supreme Court's non-decision on ERCOT immunity**

29 March 2021

The outcome of *Panda* paves the way for the issue to return to the Court, likely next year.

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### **Force majeure provisions and the ISDA Power Annex**

22 February 2021

As climate change generates ever more severe weather events, market participants will likely need to assess the applicability of their force majeure claims under the Power Annex.

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- Co-author, "Practical Ethics of Witness Preparation;" *The Advocate (State Bar of Texas Litigation Section Report)*; Volume 89, Winter 2019
- Co-author, "\$1.2B Order Entered Against Petróleos de Venezuela: Q&As for PDVSA and Citgo Commodity Commercial and Trading Counterparties," *Pratt's Journal of Bankruptcy Law*, January 2019
- Co-editor, Texas construction law section of 50-state review treatise, 2009
- Author, "Houston Lawyers Helping Local Veterans" *Houston Lawyer*, September/October 2008
- Co-author, "Protecting Reserve Estimates and Future Revenue Projections from Discovery," *Energy Law Advisor*, June 2008
- Co-author, "EDD Showcase: Ignore EDD at Your Peril," *Law Technology News*, January 2006

## **Seminare und Veranstaltungen**

### **Vergangene**

#### **Alternative and sustainable materials – legal challenges now and around the corner, for industrial producers and the downstream chain**

14 September 2022

Industrial Sector CLE Speaker Series

Webinar

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## **SPEECHES AND SEMINARS**

- "Downstream 101", presented to Institute for Energy Law, Leadership Program, March 2021 (co-presenter)
- "Force Majeure Claims in a COVID-19 Environment," presented to Energy Bar Association, November 2020
- "Refining and Petrochemicals Contracts – Continuing Legal Education Panel," May 2019
- Co-presenter: "Texas Supreme Court Update: Contract Clauses Transactional lawyers Should Kill; Contract Clauses Transactional Lawyers Should Love", CLE, April 2019
- Moderator: Coffee and Conversation with Former Acting US Ambassador to China, April 2019
- Co-presented, Construction Law CLE, "Lump Sum Contracts–The Whole Pie and Some Avoidable Crumbles", Fall 2018 and Spring

2019

- "A Discussion of the Ethical and Liability Issues for In-House and Outside Counsel relating to Litigation," Texas Bar Association: Advanced Civil Trial Continuing Legal Education – series held throughout 2016 in major Texas cities
- "What Every Lawyer Needs to Know About Working With In-House Counsel," Texas Aggie Bar Association, 2016 Annual Conference
- Moderator, "Legal Department Obligations" surrounding repetitive product defect claims, Texas General Counsel Forum, June 2015
- "Legal Issues in Green Building," Basic Construction Law Course, State Bar of Texas, 2010
- "The Power of Collaboration in Sustainable Design," risk management portion, Texas Society of Architects, 2010
- "Challenges to Expert Testimony," Annual Conference for the Central Region, National Association of Corrosion Engineers, Houston, September 2008
- Moderator, "Evidence," University of Houston Continuing Legal Education, March 2008
- "A Day in the Life of an E-Discovery Case," T3: Trial Tactics & Technology, ALM Events, New York, December 2005 and 2006, London, and New York, November 2007
- "Engineering Risk and the Law – Case Histories and Lessons," Annual Conference for the Central Region, National Association of Corrosion Engineers, Houston, October 2006
- Frequent speaker at high schools and before community groups as part of the Houston Bar Association.

## NEWS

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### DLA Piper announces new sector leadership

10 March 2021

DLA Piper is pleased to announce several recent changes to the firm's sector leadership.

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### DLA Piper announces new office managing partners

3 March 2021

DLA Piper is pleased to announce changes to its office leadership in Austin, Houston, Minneapolis, Phoenix and Seattle.

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## MEDIA MENTIONS

- "DLA Piper Elevates 5 Attys To Office Managing Partner Roles," *Law360*, March 4, 2021
- "DLA Piper Picks Up Energy Litigator From LyondellBasell," *Law360*, November 3, 2017