



William R. H. Merrill Partner

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Overview

Bill Merrill has been repeatedly named by his peers as one of [The Best Lawyers in America in Commercial Litigation](#), most recently in the 2021 Edition of The Best Lawyers in America (Woodward White Inc.). Merrill also has been recognized as a Super Lawyer in each of the last several years by *Texas Law & Politics* magazine (Thomson Reuters) – an honor awarded to the top 5% of lawyers in Texas. As a Susman Godfrey L.L.P. shareholder, he has successfully pursued a broad range of complex cases on behalf of his clients.



Mr. Merrill has represented individual and corporate clients in complex cases around the country, from Los Angeles to New York and from Houston to Chicago. His representations include both plaintiffs and defendants in litigation, trials and appeals in many practice areas, including Accounting Malpractice, Antitrust, Bankruptcy-Related Litigation, Breach of Contract, Construction, Eminent Domain, Employment, ERISA, Fiduciary Duty, False Claims Act (Qui Tam), Insurance, Intellectual Property, Negligence, Business Ownership Disputes, Personal Injury, Securities Fraud, and Toxic Tort, among others. Mr. Merrill has extensive experience in class actions and multi-party litigation and has been a repeat CLE speaker on issues surrounding multi-party litigation.

Mr. Merrill has represented clients in a broad range of industries, including the oil & gas, energy, petrochemical, construction, financial, entertainment, insurance, telecommunications, electronics and retail industries and he has represented numerous government entities. His clients have been equally diverse, including large companies, small companies, high net worth individuals, CEOs and a first round NFL draft pick.

In recent years, Mr. Merrill has focused a significant portion of his practice in the oil and gas, energy, petrochemical and financial industries. He has represented major players like Westlake Chemical Corporation, Apache, Mitsui Engineering & Shipbuilding and Macquarie Bank as well as small companies and individuals in both plaintiff and defense cases.

In December 2019, a Texas Court of Appeals upheld a \$4+ million jury verdict Merrill obtained for client Westlake Chemical Corporation in a contentious jury trial over alleged contractor safety issues. Two years earlier, Merrill was lead trial counsel to Westlake where he led the effort to secure the \$4.1 million jury verdict. Read more about the case [here](#).

In July 2019, the Fifth Circuit affirmed Merrill's \$43.2 million trial victory for Apache Deepwater LLC. This verdict was ranked as #41 on *Verdict Search's* Top 100 Verdicts of 2016 (ALM Media Properties, LLC, 2017), and re-published in *The National Law Journal's* article, "Top 100 Verdicts of 2016" (ALM Publication, May 2017 edition). In June 2017, the court granted Apache [final judgment for \\$48.7 million](#) based on the jury's \$43.2 million verdict, plus \$2.5 million in attorneys' fees and expenses, plus \$2.8 million in prejudgment interest. At the time the Fifth Circuit affirmed, the value of the award had grown to over \$49.9 million.

Education

- University of Texas at Austin (B.A. Plan II — Liberal Arts)
- University of Texas at Austin — now McCombs School of Business (MBA)
- University of Texas School of Law (J.D.)
- Member, The College of the State Bar of Texas

Notable Representations

Westlake Chemical Corporation v. James Construction Group, LLC and Primoris Services Corp. In December 2019, the Fourteenth Court of Appeals in Houston, Texas affirmed Westlake's Chemical Corporation's \$4.1 million verdict and vacated James Construction's \$1.2 million counterclaim. See the majority opinion [here](#). Merrill, who was lead trial counsel for Westlake and co-counsel on the appeal, led his team to a winning verdict for his client Westlake Chemical Corporation. The jury ruled in favor of Westlake on all three of the contractual provisions Westlake relied on, awarding more than \$4 million to Westlake. Westlake brought its case after a series of contractor safety issues, including a fatality, led the chemical company to remove James Construction's mechanical group from a \$400-million-plus construction project, resulting in delays and other costs.

Apache Deepwater LLC v. W&T Offshore, Inc. In this oil & gas breach of contract dispute, Merrill and a team from Susman Godfrey won a \$43,214,515.83 federal court jury verdict for Apache Deepwater LLC against W&T Offshore based on W&T's failure to pay its 49% share of the costs to plug and abandon three deepwater subsea wells in the Gulf of Mexico. Apache was the operator with a 51% interest in the wells; W&T had a 49% interest. Apache successfully and safely plugged and abandoned the wells with the Ensco 8505 drilling rig, in compliance with federal regulations. This P&A operation posed significant challenges, as the wells were approximately 30 miles from the nearest platform. W&T refused to pay its 49% share of the costs because it disagreed with Apache's decision to use drilling rigs to plug and abandon the wells rather than accepting W&T proposal to use an intervention vessel that (the trial evidence showed) was less capable and more risky. The court granted Apache final judgment for \$48.5 million based on the jury's \$43.2 million verdict, plus \$2.5 million in attorneys' fees and expenses, plus \$2.8 million in prejudgment interest. Apache's \$48.5 million judgment is in addition to a \$24.8 million partial payment from W&T to Apache 2 ½ months after Apache filed this lawsuit. The *National Law Journal* listed the jury's verdict as one of the Top 100 Verdicts of 2016. The verdict was confirmed by the Fifth Circuit Court of Appeals in July 2019. At the time the Fifth Circuit affirmed, the award was worth over \$49.9 million including pre- and post-judgment interest and attorneys' fees.

In re Caustic Soda Antitrust Litigation. Merrill is lead counsel for Westlake Chemical Corporation in its defense of a group of nationwide antitrust cases relating to the production and sale of Caustic Soda in the United States.

Alley Theatre v. Hanover Insurance. Merrill worked with a Susman Godfrey pro bono team to secure a

partial summary judgment win for Houston's historic Alley Theatre in an insurance coverage lawsuit. The suit claimed the theatre was not properly reimbursed by Hanover Insurance Company for claims related to business interruption losses sustained during Hurricane Harvey. Read more about the case [here](#).

Gareth Ashworth v. Team Industrial Service. Plaintiff Gareth Ashworth sold his company to Team Industrial Service and alleged he was later forced out of the company. The dispute revolved around Mr. Ashworth's constructive termination and Team Industrial Service's failure to pay alleged earn-out payments. Merrill led efforts on the matter and successfully mediated a resolution to the mutual satisfaction of the parties.

AD Gym LLC, et al. v. Rives Enterprises, et al. Merrill served as lead counsel for Trenton Williams, Washington Redskins player and first round 2010 NFL draft pick (#4 pick overall). This matter related to an investment Williams and Adrian Peterson made in Houston gym, O'Athletik. Merrill and co-counsel Rusty Hardin & Associates and Daly & Black secured a TRO in late 2016 to prevent other owners in the gym from exercising control of the gym. Merrill and his co-counsel ultimately secured a settlement satisfactory to Mr. Williams and Mr. Peterson.

Schulein, et al. v. Petroleum Development Corp., et al. Merrill handled day-to-day management of this plaintiffs' class action litigation in Santa Ana federal court on behalf of more than 7000 limited partners who invested in 12 oil and gas limited partnerships. Plaintiffs alleged the defendants made false and misleading statements and omitted material information regarding the value of the assets held by the partnerships in proxy statements used to solicit votes in favor of mergers that caused the investors to be cashed out of their investments. On the eve of trial, after three years of hard fought litigation - and following the court's denial of defendants' class decertification motion, partial motions for summary judgment and a motion that the plaintiffs weren't entitled to seek punitive damages, the case was settled for \$37.5 million in March 2015, with the class receiving approximately \$24 million.

Executive Compensation Disputes. Mr. Merrill has represented multiple C-Suite executives in compensation disputes with major companies. These disputes have been resolved very favorably, resulting in millions of dollars in payments to his clients.

W&T Offshore, Inc. v. Apache Corp. Merrill and a team from Susman Godfrey won a two week federal court jury trial for Apache Corporation and defeated plaintiff, W&T Offshore's, multi-million dollar breach of contract claims arising out of the allocation of offshore oil and gas production in the Gulf of Mexico. It took the jury just 45 minutes to return its verdict finding that Apache fully complied with the parties' contract and rejecting W&T's claims. Before trial, Susman Godfrey won a partial summary judgment for Apache against W&T's fraud, conversion, and other claims, and knocked the alleged damages down from \$20 million to \$4.7 million. The court agreed that the bulk of W&T's "windfall" damages theories were based on an "impossible result" and were "unreliable as a matter of law."

Engineers and Constructors, Inc. v. Gray Construction. Merrill served as lead counsel for Mitsui Engineering and Shipbuilding subsidiary, Engineers and Constructors, Inc., in \$100 million construction dispute. With less than two hours' notice, Merrill and his team defeated Gray's attempted TRO and beat back Gray's efforts to disrupt the construction project. Mitsui was able to complete the construction project and negotiate a large confidential settlement with Gray Construction.

In re Lehman Bros. Holdings, Inc. (Bankruptcy). Merrill and a team from Susman represented former Lehman subsidiary, Lehman Bros. International (Europe) ("LBIE"), in the Lehman Bros. bankruptcy. LBIE hired the firm approximately three months before the Bankruptcy plan confirmation hearing to challenge the Lehman Bros. bankruptcy plan. Just over a month after hiring Susman, LBIE secured a favorable settlement with the Debtor.

In the Matter of Fisco Master Fund, L.P. v. UBS AG (FINRA Arbitration). Merrill represented FISCO in a

nine-figure FINRA arbitration against international investment bank, UBS AG. FISCO asserted that UBS executed an improper and excessive margin call in relation to FISCO's prime brokerage account at UBS. UBS settled with FISCO for a favorable, confidential amount just one day before the Arbitration was scheduled to begin.

Vitro S.A.B. de C.V. Bankruptcy Litigation. Merrill represented Vitro S.A.B. de C.V., a multi-billion-dollar Mexican glass manufacturer, in litigation related to its multi-venue international bankruptcy proceedings. This litigation included a major breach of contract and tort action in New York State court against several major investment funds as well as coordinating with and assisting Vitro's bankruptcy counsel in proceedings in Texas and Mexico.

Johnson Broadcasting, Inc., et al. v. Universal Television Limited, et al. Merrill defended Universal Studios' subsidiary, Universal Television, in a \$75 million fraud lawsuit related to a television licensing agreement. Merrill successfully procured a settlement in which his client paid nothing and received a significant payment on its \$1.2 million counterclaim.

Oasis Travel Center, LLC v. Buc-ee's Alabama, LLC. Merrill represented Buc-ee's Alabama in the defense of an antitrust lawsuit and TRO brought under the Alabama Motor Fuel Marketing Act's predatory pricing provisions. After several discussions with Merrill about the legal and factual problems with Plaintiff's case and the alleged TRO, opposing counsel dismissed the case.

Buc-ee's Ltd. v. Christus Santa Rosa Health Care Corporation. Merrill represented Buc-ee's in a dispute over a ground lease on a property Buc-ee's had leased to a health care facility in New Braunfels, Texas. Merrill led the effort to file suit and secured a quick settlement favorable to Buc-ee's.

Buc-ee's Ltd. v. Visa International Services. Merrill represented Buc-ee's as an opt-out in a nationally covered Visa/MasterCard antitrust litigation. Buc-ee's ultimately chose to opt back into the class which Merrill accomplished through strategic negotiation with opposing counsel and approval of the court.

Citgo Petroleum Corporation v. Houston Refining LP and Lyondell Chemical Company. Merrill represented Houston Refining and Lyondell in the defense of a breach of contract lawsuit related to allegedly contaminated jet fuel that Houston Refining sold to Citgo. The dispute centered on the quality of the jet fuel and whether the jet fuel degraded before or after delivery. The case was resolved in a mutually agreeable settlement.

Comcast Antitrust Litigation. Merrill was a member of the team that represented the plaintiff class against Comcast in an antitrust matter alleging that Comcast illegally established a monopoly in the Philadelphia area. The parties settled for \$50 million after remand from the U.S. Supreme Court.

Choiceparts, LLC v. General Motors Corp., et al. Merrill was a member of the team that represented Choiceparts in this antitrust lawsuit in the Northern District of Illinois against GM, Ford and DaimlerChrysler related to the destruction of Choiceparts business resulting from concerted action by these three large automakers. The case was resolved by settlement.

Pipeline Eminent Domain Cases. Merrill handled several high stakes eminent domain cases related to major projects in Oklahoma for a large pipeline company.

Macquarie Bank Limited and Macquarie Energy. Merrill represented Macquarie Bank and Macquarie Energy in various disputes and potential litigation related to energy and financial matters.

Amelia Garza, et al. v. Amerada Hess Corp., et al. Merrill played an integral role in the representation of a class of approximately 3,000 property owners in a litigation related to property devaluation resulting from fires, explosions, and toxic releases of Benzene and Hexavalent Chromium from

nearby refineries in Corpus Christi, Texas. The lawsuit forced the buy-out of hundreds of homes in one of the most affected areas and in several multi-million dollar settlements. The case involved multiple trials and multiple trips to the Corpus Christi Court of Appeals, before the final defendant settled.

Gutierrez, et al v. Amerada Hess Corp., et al. Merrill took a lead role in representing 9 individuals in personal injury claims related to their exposure to benzene and hexavalent chromium released from several refineries in the “refinery row” area of Corpus Christi, Texas. Merrill oversaw day-to-day operations of this matter and, in particular, led the effort to discuss, agree upon, and settle these cases with the majority of defendants. He successfully secured large, confidential settlements with the defendants, giving significant recoveries to each of his clients.

Honors and Distinctions

Named one of [America’s Top 100 High Stakes Litigators](#) in 2020 (America’s Top 100 LLC)

Named one of The Best Lawyers in America in Commercial Litigation, since 2014 (Woodward White Inc.)

Recognized as a Super Lawyer every year since 2017 by *Texas Law & Politics* magazine (Thomson Reuters) – an honor awarded to the top 5% of lawyers in Texas.

Professional Associations and Memberships

- State Bar of Texas
- Texas Bar Foundation
- State Bar of Georgia
- United States District Court, Southern District of Texas
- United States District Court, Northern District of Texas
- United States District Court, Eastern District of Texas
- United States District Court, Colorado
- United States Court of Appeals, Second Circuit
- United States Court of Appeals, Fourth Circuit
- United States Court of Appeals, Fifth Circuit
- United States Court of Appeals, Eleventh Circuit
- US Supreme Court