



## 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 2023 Edition of The Best Lawyers in America (Woodward White Inc.). Merrill was named among the country's 500 Leading Litigators by *Lawdragon* in 2022 and 2023, named a Texas Trailblazer by *Texas Lawyer* in 2020 (ALM) and has been repeatedly recognized as a Super Lawyer by *Texas Law & Politics* magazine (Thomson Reuters). As a Susman Godfrey LLP shareholder, he has successfully pursued a broad range of complex cases on behalf of his clients.

#### COMPLEX LITIGATION

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 are equally diverse. They include 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 a major win, the Fifth Circuit affirmed Mr. 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, 2017), and re-published in *The National Law Journal's* article, "Top 100 Verdicts of 2016" (ALM, 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.

## PRO BONO

Merrill is currently serving pro bono as counsel to a class of students and their families, in a class action lawsuit against the Fairfax County schools and the Virginia Department of Education for violating the rights of students with disabilities under the Individuals with Disabilities and Education Act and the U.S. Constitution. Said Mr. Merrill in an interview with *The Richmond-Times*, "We are not going away. We are in this and committed for the long haul. If we have a setback like we did in the District Court on the motion to dismiss, that to us is just another opportunity to pursue another avenue ... If they knock us down in one place, we're going to pop up somewhere else. Until the system is fixed, we are all committed to do whatever it takes to get it fixed." [Read more.](#)

## Notable Representations

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### Representative Matters

- **Winter Storm Litigation** Handling numerous cases for multiple clients arising out of Winter Storm Uri. These cases, which span several states, involved force majeure, pricing, delivery and other issues in the gas and power markets. Several of these cases have been resolved, on very favorable terms. Several others remain pending.
- ***In re Caustic Soda Antitrust***. Defeated a class certification motion proposed by a group of six plaintiff companies who allege Susman Godfrey client, Westlake Chemical, and other defendant chemical companies colluded to inflate the price of products containing caustic soda.
- ***Virginia IDEA Class Action Litigation*** Working pro bono, representing a proposed class of disabled students and their parents against the Virginia Department of Education and Fairfax County School Board for systemic constitutional violations, as well as violations of the IDEA and related state laws. The case has received media attention from *The Richmond Times Press*, *Politico*, *The DCist*, and *Law.com*. [Read more.](#)

- **1701 Commerce Acquisition, LLC v. Macquarie US Trading, LLC** Secured affirmance of a \$17 million summary judgment ruling in favor of Macquarie US Trading LLC that dismissed claims of breach of contract by 1701 Commerce Acquisition LLC. Merrill led all efforts in the matter in both the district court and appellate court. [Read more.](#)
- **Fitzgerald v. Apache Corporation** Won a complete victory against the plaintiff in this large oil & gas royalty class action. Merrill led the SG team in briefing and arguing multiple motions to dismiss, which the court ultimately granted in full. The win was profiled in [Global Legal Chronicle](#). [Read more.](#)
- **Apache Deepwater LLC v. W&T Offshore, Inc.** 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. [Read more.](#)
- **Alley Theatre v. Hanover Insurance** Secured 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.](#)
- **Gareth Ashworth v. Team Industrial Service** Represented Gareth Ashworth, who 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 successfully mediated a resolution to the mutual satisfaction of the parties.
- **AD Gym LLC, et al. v. Rives Enterprises, et al.** 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.** 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** Represent 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.** 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** 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)** 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). 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*** 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.*** 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*** Successfully defended Buc-ee's Alabama in 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*** 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 secured a quick settlement favorable to Buc-ee's.
- ***Buc-ee's Ltd. v. Visa International Services*** 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*** Defended Houston Refining and Lyondell in 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*** 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.** 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** Handled several high stakes eminent domain cases related to major projects in Oklahoma for a large pipeline company.
- **Amelia Garza, et al. v. Amerada Hess Corp., et al.** 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 in 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.** 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 & Distinctions

- *Lawdragon* 500 Leading Litigator ([2022](#), [2023](#))
- Recommended Lawyer, Energy : Oil & Gas, *The Legal 500* ([2023](#), *Legalease*)
- Texas Trailblazer, *Texas Lawyer* ([2020](#), ALM)
- *America's Top 100 High Stakes Litigators*, (2020 – 2023, *America's Top 100 LLC*)
- Named one of The Best Lawyers in America in Commercial Litigation, since 2014 (Woodward White Inc.)
- Super Lawyer, *Texas Law & Politics* magazine (2012 – 2022, Thomson Reuters) – an honor awarded to the top 5% of lawyers in Texas

## Education

The University of Texas School of Law (J.D., )

## *Admissions*

### **The University of Texas (MBA, )**

- McCombs School of Business

### **The University of Texas (B.A. Plan II — Liberal Arts, )**

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### **Bar Admissions**

- Texas
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### **Court Admissions**

- U.S. District Court for the Southern District of Texas
- U.S. District Court for the Northern District of Texas
- U.S. District Court for the Eastern District of Texas
- U.S. District Court for the Western District of Texas
- U.S. District Court for the District of Colorado
- U.S. Court of Appeals for the Second Circuit
- U.S. Court of Appeals for the Fourth Circuit
- U.S. Court of Appeals for the Fifth Circuit
- U.S. Court of Appeals for the Sixth Circuit
- U.S. Court of Appeals for the Eleventh Circuit
- United States Supreme Court

## *Wins*

U.S. Supreme Court Declines Review of Susman Godfrey's \$48.7M Win for Apache

Susman Godfrey Secures Defensive Win for Apache in Royalties Class Action

Susman Godfrey Wins Partial Summary Judgment for Alley Theatre in Pro Bono Insurance Lawsuit over Coverage of Hurricane Harvey Damage

Susman Godfrey L.L.P. Wins Appeal in Cable Antitrust Class in Third Circuit

Double Whammy: Susman Godfrey Wins Federal Court Jury Verdict for Apache Corporation and Files Apache's Own \$31.5 Million Suit

Susman Godfrey Secures Affirmance of \$17 Million Summary Judgement Win from the Fort Worth Court of Appeals for Client Macquarie US Trading LLC

Susman Godfrey Obtains \$37.5 Million for Investors in Oil & Gas in Limited Partnerships

## *Leadership & Professional Memberships*

- Texas Bar Foundation