

## Richard F. Whiteley

Partner

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Richard Whiteley, chair of the firm's construction litigation practice group, enjoys solving complex problems for his clients in an adversarial context, and believes an aggressive strategy of always preparing a case like it will ultimately go to trial is the best way to achieve the most favorable outcome. Richard has a wide range of experience in trial work and arbitration, with an emphasis on construction litigation, intellectual property litigation, products liability litigation, real estate litigation, condemnation and eminent domain matters, and other types of commercial litigation. Richard has tried and arbitrated cases involving condemnation and eminent domain matters, general contractual disputes, patent infringement, construction defects, manufacturing defects, trade secret misappropriation, trademark and copyright infringement, products liability, defamation, fraudulent transfers, real estate disputes, business disputes, deceptive trade practices, personal injury, and premises liability. In addition, Richard has experience with obtaining extraordinary and injunctive relief for clients, including temporary restraining orders, temporary injunctions and other writs. Richard has written numerous articles relating to construction contracts and litigation, including but not limited to force majeure issues, indemnity issues, consequential damages, defect claims, product liability issues, and effective construction contract drafting and negotiation and has been recognized as one of the more experienced construction lawyers in Texas.

### **Industries**

[Energy](#)

[Finance](#)

[Technology](#)

### **Practices**

[Litigation](#)

## Experience

### Museum of Fine Arts Houston

- representing client in construction litigation in Harris County, Texas against its architects regarding delay claims on a \$250 million campus redevelopment project

### Cementaid International Marketing, Ltd.

- obtained favorable settlement for client in regards to product defect claims asserted against waterproofing agent arising from Millennium Towers litigation in San Francisco

### Westlake Chemical

- obtained jury verdict of non-infringement for Westlake in a case involving allegations of patent infringement relating to a process for making polyolefin based adhesive resins with damages sought in excess of \$30 million

### NCI Group Inc.

- obtained favorable take nothing judgment for client after a three week jury trial in a case regarding claims of construction defects, products liability, deceptive trade practices, tortious interference and defamation related to sixteen construction projects in Texas, Oklahoma and Florida

### Parex inc.

- defended manufacturers of siding materials in jury trial against claims of products liability and obtained take nothing jury verdict for client

### Baker Hughes Incorporated

- obtained jury verdict in favor of the oil field services provider in a patent ownership dispute brought by a former employee of a new product development firm
- obtained favorable settlement for client before the American Arbitration Association in defending against claims of breach of software license agreement related to oilfield technology iPad application
- obtained favorable outcome for client at final arbitration hearing relating to dispute involving a cross-license agreement for oil field technology

### Adell, Harriman & Carpenter

- successfully defended investment advisor in a jury trial for breach of investment agreement and obtained take nothing judgment

# BRACEWELL

## **Individual**

- obtained favorable jury verdict for client in personal injury case that was fifteen times the amount of the final settlement offer
- obtained favorable settlement for client in construction defect case against contractor arising from Hurricane Harvey damage

## **Opportune**

- representing client in prosecuting a misappropriation of trade secrets case in Harris County, Texas

## **Texas Medical Center**

- assisted client in favorably resolving a ground lease dispute in the Texas Medical Center complex

## **Graham Media Group, Houston, Inc d/b/a KPRC**

- represented local NBC affiliate in dispute regarding defective construction issues on the site of its new broadcast station

## **Cheniere Energy**

- assisted client in responding to and favorably settling claims of patent infringement

## **JCBG, Inc. d/b/a West Houston Infiniti**

- obtained favorable settlement for client in prosecuting claims for defective construction and workmanship against general contractor related to car dealership remodeling and garage construction

## **OST/Almeda Corridors Redevelopment Authority**

- representing client in dispute regarding delay and defect in relation to redevelopment of Emancipation Park

## **City of Port Arthur, Texas**

- declaratory judgment action seeking to invalidate Bridge City's extension of its ETJ into Port Arthur

## **Houston Endowment**

- negotiated and drafted the construction agreements and underlying bid document for a new \$25 million headquarters building, designed by the winner of an international design competition, that will provide more space to work collaboratively with community partners and more accessibility to the people they serve

# BRACEWELL

## **Resource Environmental Solutions**

- assisted client with negotiation and drafting of construction contract for stormwater management and nutrient reduction project

## **Forefront Living**

- assisted client with negotiating and drafting construction contracts for an 18 acre senior living complex in Plano, Texas

## **The Menninger Clinic**

- assisted client in negotiating and drafting construction contracts for new headquarters office building

## **Memorial Park Conservancy**

- assisted client in negotiating and drafting construction contracts for the Eastern Glades and Landbridge projects

## **The Post Oak School**

- assisted client in negotiating and drafting construction contract for new school building

## **Concho Resources Inc.**

- assisted client with drafting construction and master service agreements

## **Sandbox Logistics, LLC**

- obtained summary judgment for client on trademark infringement claim against competitor

## **M.D. Anderson Physicians Network**

- successfully defended client and favorably settled dispute regarding Texas Public Information Act claims

## **South Texas Accelerated Research Therapeutics, LLP**

- successfully settled misappropriation and theft of trade secrets case for client in Western District of Texas

## **Radler Enterprises, Inc.**

- assisted client with negotiating a settlement against general contractor relating to construction defect claims in office building

## **Montgomery County Municipal Utility District No. 9**

- successfully settled dispute for client against contractor relating to a defectively constructed water well

# BRACEWELL

## **Farouk Systems Inc.**

- obtained favorable settlement for commercial property owner in case alleging defective concrete and foundation in 100,000 square-foot warehouse

## **Cornerstone Building Brands**

- favorably settled claims against client regarding misappropriation of trade secrets

## **Gulf Coast Water Authority**

- assisted client with condemnation dispute

## **Atlantic Methanol Production Co.**

- obtained favorable settlement for client before the American Arbitration Association in construction dispute related to methanol facility
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## **Brownsville Public Utility Board**

- obtained judgment for client denying request for mandamus relating to Texas Public Information request

## **Prosperity Bancshares, Inc.**

- trademark infringement matter in Central District of Illinois

## **Northeastern Plastics, Inc.**

- obtained dismissal for client in patent infringement case in the U. S. District Court for the Eastern District of Texas

## **Advanced Production and Loading, Inc.**

- assisted in obtaining favorable settlement for client in patent infringement case in the U.S. District Court for the Southern District of Texas

## **Tousa, Inc.**

- participated in trial defending second lien lender clients against claims of fraudulent transfer in the U.S. Bankruptcy Court for the Southern District of Florida

## **TMC Enterprises, a division of Tasco Industries Inc.**

- assisted in obtaining favorable settlement for client in patent infringement case v. Autozone Inc., in the U.S. District Court of Central District of California; C.A. Western Division

## Credentials

### Education

- University of Houston Law Center, J.D., 1999, *magna cum laude*
- University of Houston, B.S., 1993, *cum laude*

### Bar Admissions

- Texas

### Affiliations

- State Bar of Texas, Construction Litigation Section
- Houston Bar Foundation, Director
- Houston Bar Association
- Texas Bar Foundation
- University of Houston Law Center Alumni Association, Director and Past President
- University of Houston Law Foundation, Director
- University of Houston Alumni Association, Director and Treasurer
- University of Houston Board of Visitors
- National Football League Players Association, Contract Advisor

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## Recognition

### *Chambers USA*

- Texas Construction, 2022 – 2024

### *The Legal 500 United States*

- Construction (including Construction Litigation), 2017 – 2018, 2023 – 2024 (Leading Lawyer, 2023 – 2024)
- Real Estate and Construction, 2014, 2016

### BL Rankings

- *Best Lawyers*, Litigation – Intellectual Property, 2024 – 2025

### Lawdragon Inc.

- *Lawdragon 500 Leading Litigators in America*, Commercial Litigation, including Construction, IP and Products Liability, 2024 – 2025

## Thomson Reuters

- *Texas Super Lawyers*, Rising Star, 2006, 2009 – 2010

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## Resources

### **Is Your Manufacturing Operation an “Essential Business” in the Age of the Coronavirus?**

Update

### **Stay-At-Home Orders – 10 Step Evaluation Process For Manufacturers**

Update

### **Expanded CISA Guidelines Broadens the Scope of “Essential Business” for Manufacturing and Construction Operations**

Update

### **Understand and Define Key Substantive Contract Provisions**

Article

### **Texas Supreme Court Clarifies Scope of Property Owners’ Statutory Protections**

Update

### **The New Rules: Liability Limitations for Construction Design Defects in Texas**

Update

### **The New Rules (Part 2): Restrictions on the Duty to Defend for Architects and Engineers**

Update

### **The COVID-19 Change Order**

Update

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## Publications & Speeches

- “The New Rules: Liability Limitations for Construction Design Defects in Texas” Bracewell Litigation Alert, September 22, 2021.
- “The New Rules (Part 2): Restrictions on the Duty to Defend for Architects and Engineers” Bracewell Litigation Alert, October 7, 2021.

# BRACEWELL

- “Texas Supreme Court Clarifies Scope of Property Owners’ Statutory Protections” *Bracewell Insight*, March 29, 2021.
- “Expanded CISA Guideline Broadens the Scope of “Essential Business” for Manufacturing and Construction Operations” *Bracewell Insight*, April 2, 2020.
- “Stay-At-Home Orders – 10 Step Evaluation Process for Manufacturers” *Bracewell Insight*, March 30, 2020.
- “Is Your Manufacturing Operation an “Essential Business” in the Age of the Coronavirus”? *Bracewell Insight*, March 24, 2020.
- “The Dotted Line: When should contractors use COVID-19 Liability Waivers” *Construction Dive*, August 25, 2020.
- “Understand and Define Key Substantive Contract Provisions” *Construction Executive*, December 6, 2019.
- “Define the Forum and Scope of Recovery in Contract Disputes” *Construction Executive*, November 29, 2019.
- “Public Entity Construction Contracts: The Pivotal Dispute Provisions” *Bracewell Litigation Update*, July 10, 2019.
- “Force Majeure, Now What?” *Bracewell Litigation Update*, April 19, 2018.
- “Steel and Aluminum Tariffs? Can You Turn to Your Force Majeure Clause?” *Bracewell Litigation Update* March 22, 2018.
- “Pitfalls of the Standard AIA Contract for Owners and Developers, *Bracewell Webinar Presentation*, June 15, 2017.
- “Do Contractors Have Blanket Indemnity?” *Law360*, August 15, 2016.
- “Effectively Managing Product Issues” *IndustryWeek Magazine*, June 2015.