

# Elliot Clark

Shareholder

**Practices:** Business Litigation; Construction; Appellate

**Industries:** Higher Education; P3, Infrastructure & Project Finance; Real Estate

Elliot Clark is a shareholder in Winstead's Commercial Litigation and Construction practice groups. Elliot has been a trial lawyer for more than 20 years, focusing on complex commercial litigation cases and getting results for his clients. He is a first chair trial lawyer and has successfully argued appeals before state and federal courts of appeals. His practice covers a variety of commercial litigation areas, including large multi-party cases, construction disputes, real estate litigation, lender liability defense, landlord/tenant disputes, collections for financial institutions, insurance litigation, and complex commercial trial and appellate work.

## Representative Experience

- Lead trial counsel for Electric Reliability Council of Texas, Inc. ("ERCOT") in Multidistrict Litigation related to Winter Storm Uri involving hundreds of lawsuits
- Lead trial counsel and appellate counsel for ERCOT in dispute with Texas' largest municipally owned utility over pricing of energy in wholesale market. *ERCOT v. CPS Energy*, 648 S.W.3d 520 (Tex. App.—San Antonio 2021)
- Co-counsel for ERCOT in adversary proceeding and two-week trial brought by Brazos Electric Power Cooperative, Inc. seeking to avoid \$1.9 billion owed for energy purchased during historic winter event
- Obtained verdict after two-week jury trial involving dispute over offshore floating production unit
- Regional counsel handling landlord/tenant disputes for national company
- Trial and appeal of dispute over constitutionality of \$87 million tax: *Combs v. Texas Entertainment Ass'n, Inc.*, 347 S.W.3d 277 (Tex. 2011) (on remand)
- Represented multiple state universities in multi-party litigation over defective construction
- Successfully upheld favorable arbitration ruling over defective construction claim: *GJR Management Holdings, L.P. v. Jack Raus, Ltd.*, 126 S.W.3d 257 (Tex. App.—San Antonio 2003)
- Represented party on appeal to successfully overturn fraud judgment from jury trial. *Rancho La Valencia, Inc. v. Aquaplex, Inc.*, 383 S.W.3d 150 (Tex. 2012)
- Represented Texas county in dispute over international bridge project: *City of Laredo v. Webb County*, 220 S.W.3d 571 (Tex. App.—Austin 2007)
- Represented Texas county in dispute relating to construction of government center
- Successfully dismissed claim against lender trying to declare prepayment penalty in loan unenforceable: *Parkchester Holdings, Inc. v. GE Life and Annuity Assur. Co.*, 2004 WL 1114490 (5th Cir. 2004)



### Austin Office

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### Education

University of Texas School of Law

– J.D., 1999

Texas A&M University

– B.A., 1995

– *magna cum laude*

– Lechner Fellows Scholarship

– Eisenhower Leadership Development Program

- Represented business in dispute with City over right of City to claim sovereign immunity for breach of contract claims: *City of Houston v. United Water*, 201 S.W.3d 690 (Tex. App.—Houston 2006)
- Construction litigation involving complex commercial projects
- Contested-case proceedings before the Public Utility Commission of Texas
- Complex commercial litigation including fraud claims, breach of fiduciary duty claims and tortious interference claims
- Appeals before the Texas Supreme Court, intermediate appellate courts and Federal appellate courts
- Litigation involving workout matters for financial institutions, debt collection, contract claims, DTPA claims, fraud and embezzlement claims, and tax collection matters

## Professional & Community Service

- Volunteer Legal Services of Central Texas (Board of Directors)
- Austin Bar Association Construction Law Section: Past President
- State Bar of Texas
- American Bar Association
- Texas Young Lawyers Association
- Austin Bar Association Legal Build Committee - Habitat for Humanity

## Awards & Recognition

- Texas Rising Star, Thomson Reuters, 2008, 2012-2014
- *The Best Lawyers in America*, (BL Rankings, LLC), 2021-2024

## Admissions

- Texas, 1999
- U.S. Supreme Court
- U.S. Court of Appeals, Fifth Circuit
- U.S. District Court, Southern, Eastern and Western Districts of Texas