

# Tom Forestier

Shareholder

**Practices:** Business Litigation; Energy Litigation

**Industries:** Sports Business & Media

Tom Forestier is a member of the Business Litigation Practice Group and Energy Practice Group. He served as chairperson of the firm's Diversity Committee from 2006-2010 and as the managing shareholder of the Houston office from 2010-2013. Tom is recognized for his experience in representing pipeline companies, electric utility companies, railroads, oil and gas and other energy companies, banks and other lending institutions, television stations and other media entities, condemning authorities, landowners and developers and insurance companies. He has represented local, regional, national and international clients in complex litigation in state and federal courts throughout the country in matters involving breach of contract claims, business tort claims, defamation and libel claims, invasion of privacy claims, eminent domain and condemnation.

Prior to establishing his private practice, Tom served as a briefing attorney to the Honorable James R. Nowlin, United States District Judge in the Western District of Texas, Austin Division.

Tom has served as a member of the Board of Trustees of the Lone Star College System, and he is the 2012 recipient of the Texas Minority Counsel Program (TMCP) Trailblazer Outside Counsel of the Year Award. The State Bar of Texas and the TMCP established the Trailblazer Outside Counsel of the Year Award to recognize an outside counsel who has consistently supported the TMCP's goals of diversity and inclusion. In 2011, he received the Lifetime Achievement Award from the Hispanic Bar Association of Houston. Tom was recognized as a 2014 Who's Who in Energy. In 2016-17, Tom served as the President and Chairman of the Board of Directors for the Houston Club, the premier business and social club in Houston founded in 1894. He is also a past chairman of the Board of the Directors of the Houston Golf Association and the immediate past Chairman of the Board of Directors of Wesley Community Center. He currently serves as General Counsel for the Houston Golf Association.

## Representative Experience

- **Commercial litigation**
  - Represented natural gas supplier in lawsuit involving claims of fraud and breach of fiduciary claims asserted against a natural gas utility company, the client and other natural gas suppliers
  - Represented natural gas supplier in class action lawsuit involving claims that suppliers conspired with a natural gas utility company to defraud residential customers by charging excessive rates
  - Represented international bank and co-chair of the Enron bankruptcy Creditors' Committee in connection with multi-year, global investigation launched by court appointed Examiner
  - Represented global company as general contractor sued for fraud and breach of contract relating to installation of cable infrastructure at NASA facility



### Houston Office

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### The Woodlands Office

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### Education

University of Texas School of Law

– J.D., 1987

University of Texas at Austin

– B.S., Petroleum Engineering, 1983

– The LBJ School of Public Affairs, Alfred P. Sloan Fellowship

- Represented international bank in injunction lawsuit brought in connection with Yukos Oil bankruptcy filed in the Southern District of Texas
- Represented national insurance company against class action litigation relating to fraudulent life insurance policy sales practices
- Represented national insurance company against claims of wrongful denial of disability insurance policy claims
- Represented insurance agent in lawsuit brought by another agent involving claims of deceptive trade and insurance practices and tortious interference
- Represented client in lawsuit arising out of asset purchase agreement relating to hydrogen sulfide removal technology
- **Condemnation/ eminent domain and land use litigation**
  - Represented and counseled private and public entities with the power of eminent domain, including pipeline companies, electric and gas utility companies, railroad companies, navigation districts and school districts, in acquiring thousands of miles of right of way and fee simple interests, to support infrastructure projects and expansion projects
  - Lead trial counsel and appellate team member on behalf of the pipeline company in *Texan Land & Cattle II, Ltd. v. ExxonMobil Pipeline Co.*, 579 S.W.3d 540 (Tex. App.—Houston [14th Dist.] 2019, no pet.) involving the interpretation of 100-year old oil and gas pipeline easements and the right to transport refined products including gasoline and diesel
  - Lead trial and appellate counsel on behalf of the pipeline company in *Morello v. Seaway Crude Pipeline Company, LLC*, 585 S.W.3d 1 (Tex. App.—Houston [1st Dist.] 2018, pet. denied) involving claims of the improper exercise of the power of eminent domain, routing complaints and alleged interference with land development plans
  - Lead trial and appellate counsel on behalf of pipeline company in *Occidental Chem. Corp. v. ETC NGL Transp., LLC*, 425 S.W.3d 354 (Tex. App.—Houston [1st Dist.] 2011, pet. denied) affirming trial court’s injunction prohibiting landowner interference with survey access by common carrier pipeline
  - Appellate team member on behalf the railroad company in *Burlington Northern and Santa Fe Ry. v. City of Houston*, 171 S.W.3d 240 (Tex. App.—Houston [14th Dist.] 2005, no pet.) involving a determination that the U.S. Surface Transportation Board’s permit preempted local governmental interference
  - Lead trial and appellate counsel on behalf of pipeline company in *R.R Mgmt Co. v. CFS La. Midstream Co.*, 428 F.3d 214 (5th Cir. 2005) involving a dispute relating to claims by a railroad management company for unilaterally increased annual rentals
  - Trial counsel and appellate team member on behalf of the private property owner in *John G. & Marie Stella Kenedy Mem. Found. v. Dewhurst*, 90 S.W.3d 268 (Tex. 2002) involving inverse condemnation claims and the adjudication of shoreline boundaries under Spanish and Mexican land grants adjacent to state-owned submerged lands
  - Represented property owners impacted by highway and road expansion and other public improvement projects
  - Advised clients and testified at state legislative hearings relating to eminent domain reform legislative efforts
- **Oil, Gas and Energy litigation**
  - Represented working interest owner in lawsuit involving claims brought by royalty owner against the operator for improper assignment of an oil and gas lease, failure to prevent drainage and other breach of oil and gas lease claims and breach of joint operating agreement claims
  - Lead trial counsel on behalf of royalty owners in lawsuit involving a dispute between competing top leases
  - Lead trial counsel on behalf of working interest owners in lawsuit involving a joint operating agreement dispute and an effort to remove the operator
  - Represented oil and gas lessee in lawsuit involving breach of oil and gas lease claims including failure to develop, failure to approve farm out, and royalty underpayment
  - Trial counsel on behalf of lignite mining company in lawsuit involving claims of fraud and royalty underpayment
  - Represented drilling company in dispute involving claims of breach of a drilling contract
  - Represented producer in take or pay natural gas contract lawsuits involving claims of force majeure and statute of limitations
  - Represented clients in negotiations relating to oil and gas leases and wind energy lease agreements

- **Media law, First Amendment law, defamation litigation, and crisis communication counseling**
  - Represented media outlets including local and national television broadcasters and newspapers and their investigative news reporting teams in connection with newsgathering issues, access issues, open records and open meetings disputes, subpoenas, and other pre-publication issues
  - Represented media outlets including local and national television broadcasters and newspapers and their investigative news reporting teams in lawsuits involving libel, slander, business disparagement, invasion of privacy and trespass claims
  - Counsel clients regarding crisis communication strategies relating to public controversies arising from public or private investigations

## Professional & Community Service

- State Bar of Texas
- Pennsylvania Bar Association
- American Bar Association
- American Bar Association Foundation (Fellow)
- Texas Bar Foundation (Life Fellow)
- Houston Bar Association
- Houston Bar Foundation (Fellow)
- The Woodlands Bar Association
- International Right of Way Association
- Bar Association of the Fifth Federal Circuit
- Northwest Assistance Ministries (Executive Board, Chair 2008-2009; Board of Trustees)
- Hispanic Bar Association of Houston (Board of Directors, 2006-present)
- Hispanic National Bar Association
- Mexican American Bar Association
- 2007-2009 Texas Minority Counsel Program, Steering Committee
- State Bar of Texas Racial Diversity in the Profession Committee
- St. Frances Cabrini Center for Immigrant Legal Assistance (Past Member, Advisory Committee)
- Houston Golf Association, official promoters of the Shell Houston Open (General Counsel and Chairman of the Board of Directors)
- University Unions Advisory Council (Life Member, Appointed by The University of Texas Board of Regents)
- Ex-Students' Association, University of Texas (Life Member)
- Texas Cowboys Alumni Association
- Institute for Energy Law (Center for American and International Law), Advisory Board Member
- University of Houston, Advanced Real Estate CLE (Past Advisory Committee Member)
- Houston Diversity Council (Co-Founder)
- Annual Golf Tournament benefiting the John Cooper School in The Woodlands, Texas (Chairman, Planning Committee, 2007-2009)
- Lehigh University, Parents' Council (Former Member)
- Louisiana State University, Family Association Advisory Council

## Awards & Recognition

- Texas Super Lawyers, Thomson Reuters, 2005-2020
- Houston's Top Lawyers, *H Texas*, 2006
- Who's Who in Energy, *Houston Business Journal*, 2014

## Admissions

- Texas, 1987
- Pennsylvania, 2011
- U.S. District Court Northern, Southern, Western and Eastern Districts of Texas
- U.S. Court of Appeals, Fifth Circuit