



Barclay R. Nicholson

Partner

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Services

Construction & Infrastructure
Construction Litigation
Contracts & Commercial
Agreements
Complex Commercial Litigation

Industries

Construction & Infrastructure
Energy

Barclay Nicholson offers clients in-depth knowledge and expertise in energy-related, construction, and commercial disputes. He has represented a broad range of clients from the largest of the *Fortune* 500 companies to entrepreneurial business owners. Barclay has significant experience handling energy related litigation and has represented some of the world's major oil and gas producing and refining companies as well as some of the nation's biggest drilling and E&P companies along with representing several "alternative energy" companies. He also has extensive experience in construction related disputes and has represented some of the largest construction companies, owners, and general contractors in the nation. *Chambers USA, America's Leading Lawyers for Business*, noted Barclay for his litigation practice describing him as, "absolutely wonderful," "a very, very strong lawyer," "knowledgeable, responsive, and accessible," "intelligent and good natured." He has also been named as a "Best Lawyer in America" and a "Texas Super Lawyer."

Within the area of energy litigation, Barclay is known for his expertise related to unconventional development and hydraulic fracturing. He has authored numerous articles and given speeches both across the nation and internationally on all aspects of unconventional oil and gas plays. Barclay is the author of the *Analysis of Litigation Involving Shale & Hydraulic Fracturing* which details all of the litigation across the country involving shale plays. He is the editor and author of the ABA's Book, *The Shale Energy Revolution: A Lawyer's Guide*.

Barclay has assisted clients in all of North America's major exploration plays. Internationally, he has been chosen to assist the U.S. State Department Bureau of Energy and the U.S. Department of Commerce, through its Commercial Law Development Program, in advising the countries of China, India, Iceland, Vietnam, Colombia, Chile, and Afghanistan on their energy programs and their energy resources and the regulatory and legal matters associated with those resources. This includes both conventional energy resources as well as alternative energy resources.

Most recently Barclay served on the U.S./China Unconventional Oil & Gas Sustainable Development Workshop in Beijing, China, the Oil and Gas Sector Regulation and Long-Term Management in the Arctic Conference in Reykjavik, Iceland, the Regional Unconventional Gas Technical Workshop in Hanoi, Vietnam, the U.S./Mongolia Unconventional Oil and Gas Workshop in Ulanbator, Mongolia, the U.S./Afghanistan Cooperation on Extractive Industries Development Program that took place in Doha, Qatar, the U.S./Colombia Cooperation on Coal Bed Methane Extraction and Unconventional Resources in Bogota, Colombia, the U.S./India Cooperation on

Unconventional Natural Gas Consultations in New Delhi, India, and the U.S./Chile Consultations on Unconventional Natural Gas in Santiago, Chile.

In construction related litigation, Barclay has represented some of the nation's largest construction companies. He has routinely represented construction owners as well as general contractors and design professionals in construction defect and construction delay cases. Barclay has dealt with construction related litigation ranging from multi-story residential, high-rise buildings to pipeline construction cases to large scale commercial buildings. Most recently, he has been involved in the litigation associated with the construction of the Millennium Tower in downtown San Francisco, which was featured on CBS's 60 Minutes. He has also been involved in litigation with other major construction projects in Los Angeles, Las Vegas, and Texas. Barclay also has extensive experience in construction delay claims, especially those involving pipeline projects and refinery construction projects.

Barclay also routinely represents clients related to complex insurance issues and has handled a number of these cases as shown in more detail below. Further, he recently served as Chair of the Houston Bar Association's Litigation Section, which has more than 1,200 members.

Barclay has handled commercial cases that involve amounts exceeding one billion dollars. He has represented clients in numerous proceedings both in the United States (in federal and state courts) and abroad (in the LCIA, ICC, UNCITRAL, and ICDR). Additionally, he has represented clients before various administrative and congressional oversight boards.

Prior to joining the firm, Barclay was a partner in the Business Trial Practice Group at an international law firm in its Houston, Texas office. Previously, he was a partner in the Houston, Texas office of a global law firm where he focused his practice on energy and commercial disputes.

Barclay also served as Briefing Attorney for Justice Alberto Gonzales of the Texas Supreme Court, who later served as the U.S. Attorney General. He also served as Briefing Clerk for Chief Justice Thomas R. Phillips of the Texas Supreme Court.

Barclay has been a speaker on various topics at seminars and conventions as well as in the continuing legal education setting. He has also given in-house presentations to oil and gas companies, construction companies, and insurance companies in Houston, New York, London, and Chicago on a number of topics including electronic discovery and attorney-client privilege issues in major companies.

Barclay has been recognized repeatedly by:

- *Chambers USA*, Texas: Insurance (2011-2016)
- *Best Lawyers in America*®, Best Lawyer (2018-2026)
- *Best Lawyers in America*®, Best Lawyer: Insurance Law (2022)
- *Super Lawyers*, Texas Super Lawyer (2015- 2022)
- *Super Lawyers*, Texas Rising Star (2005-2010, 2013)
- *LexisNexis Martindale-Hubbell*, Texas Top Rated Lawyer (2013-2017)
- *Legal 500*, Listed Lawyer (2022)
- *H Texas Magazine*, Houston's Top Lawyer (2006-2009, 2013-2014)
- *Irish Voice*, The Irish Legal 100 (2014-2021)
- *Houston Business Journal*, Who's Who in Energy Finalist (2013)
- *H Texas Magazine*, Lawyer on the Fast Track, Commercial Litigation (2004-2006)
- *Marquis Who's Who in America*, (2012-2022)

- AV® rated by *LexisNexis Martindale-Hubbell*

Experience

Energy Related Representations:

- *Lead arbitration counsel for a private equity backed mineral interest fund against a broker dealer claiming fees owed under various financing contracts.
- *Lead trial counsel in class action litigation involving environmental concerns related to unconventional oil and gas drilling operations.
- *Lead trial counsel in crude oil take-or-pay trading suit for Canadian based, international oil and gas company.
- *Lead trial counsel in crude by rail train derailment for U.S. based crude by rail transportation company.
- *Lead trial counsel in litigation arising from multiple oil and gas leases and related service contracts.
- *Counseled companies regarding the disclosure of hydraulic fracturing fluids.
- *Lead trial counsel in dispute regarding Joint Operating Agreement between oil and gas operators.
- *Lead trial counsel in lawsuits involving claims of groundwater contamination due to hydraulic fracturing operations.
- *Lead trial counsel for major oil and gas drilling company in dispute regarding drilling operations.
- *Lead arbitration counsel for British LNG provider in commercial dispute concerning multiple multinational JOA and PSA contracts pending before LCIA.
- *Lead arbitration counsel for major oil producer in ICC arbitration involving a failed merger.
- *Trial counsel in trial court and Fifth Circuit Court of Appeals for multi-national oil and gas company in \$266 billion False Claims Act suit.
- *Arbitration counsel for Canadian oil and gas company in ICC arbitration dispute concerning West African offshore oil fields.
- *Arbitration counsel for major multinational producer and refiner in dispute with government over offshore oil rights.
- *Lead arbitration counsel for multinational oil producer and refiner over government related claims in ICC arbitration.
- *Lead trial counsel for International gas company in multiple take-or-pay contract disputes.

*Lead trial counsel for regional drilling and exploration company in well damage case in Texas State Court.

*Lead trial counsel for local oil and gas exploration company regarding a deceptive trade practices action pending in Federal Court in Houston.

Commercial Litigation Representations:

*Lead trial counsel for national newspaper in complex breach of contract and breach of fiduciary duty case in state court.

*Lead trial counsel for small manufacturing business owner in a state court dispute regarding a buy-sell agreement.

*Lead trial counsel for crude by rail operator relating to contract dispute for rail terminals and railcar leases.

*Lead attorney for oil field equipment manufacturer in contractual business dispute regarding a buy-out agreement.

*Lead trial counsel for international law firm in a malpractice action.

*Lead trial counsel for major media company in a wrongful death case.

*Lead trial counsel for premises owner in a suit that involved catastrophic personal injury.

*Prosecuted over 20 lawsuits on behalf of the City of Houston, as first chair attorney.

Construction Related Representations:

*Trial counsel for public entity involving alleged damage to surrounding buildings leading to high rise tower settlement and tilt in San Francisco, California.

*Lead trial counsel for general contractor of a \$2 billion dollar construction project of multiple high rise condominium towers in Las Vegas involving construction defects.

*Lead trial counsel in defense of general contractor related to multi-story condominium tower project in Miami.

*Lead trial counsel in defense of general contractor related to development of large master planned community in Florida.

*Lead trial counsel for general contractor related to \$1 billion dollar industrial complex in Denver.

*Lead trial counsel for general contractor on school building construction alleging construction defect claims in Texas.

*Lead trial counsel for general contractor of multi-story commercial building in Santa Monica involving construction defects.

*Trial counsel for publicly traded mid-stream company related to construction delays of a multi-state pipeline project.

*Lead trial counsel for one of the world's largest oil and gas companies in construction dispute involving multinational EPC contract.

*Lead arbitration counsel for regional pipeline company in AAA arbitration involving construction delay dispute.

*Trial counsel for national manufacturing company in bench trial in South Texas that resulted in a take nothing judgment and recovery on counter-claim.

First Party Insurance and Bad-Faith Representations:

*Trial counsel for *Fortune* 500 Insurance Company in coverage and bad-faith lawsuits in state and federal court with exposure totaling over \$250 million.

*Trial counsel for one of the world's leading insurance companies in a bad-faith trial lasting over four weeks in Jefferson Parish, State Court in Louisiana.

*Trial counsel for multinational insurance company against bad-faith claims brought in Federal Court in Missouri.

*Trial counsel for international insurance carrier in first party litigation case involving bad-faith claims arising out of excess insurance policy.

*Trial counsel for national insurance company in appeal involving contractual dispute between companies which resulted in widely cited published court of appeals decision.

*Trial counsel for national insurance company in case of first impression that involved bad-faith; case was won at summary judgment and subsequently upheld at appellate level and published opinion has become widely cited as precedent.

Intellectual Property Representations:

*Trial counsel for *Fortune* 500 energy company in a weeklong complex patent infringement jury trial in Federal Court for the Eastern District of Texas.

*Lead trial counsel for major media company as defendant in TV related technology matter in Federal Court for the Eastern District of Texas.

*Trial counsel for international consumer electronics company in patent case involving MP3 players in Federal Court in Southern District of Texas.

*Trial counsel for International medical device manufacturing company in patent case involving surgical devices in Federal Court for the Eastern District of Texas.

*Experience gained by attorney prior to joining Kilpatrick

Education

University of Houston Law Center J.D. (1999) *magna cum laude*, *Houston Law Review*, Associate Editor

University of Texas at Austin B.A., Psychology and History (1995) *with honors*

Admissions

Colorado (2007)

New York (2009)

Texas (1999)

Court Admissions

U.S. Court of Appeals for the Fifth Circuit

U.S. District Court for the Eastern District of Arkansas

U.S. District Court for the Eastern District of Texas

U.S. District Court for the Northern District of Texas

U.S. District Court for the Southern District of Texas

U.S. District Court for the Western District of Arkansas

U.S. District Court for the Western District of Texas

Professional & Community Activities

American Bar Association

International Energy & Natural Resources Committee, Vice-Chair (2011-2021)

Energy Litigation Committee, Senior Leadership and Programs Chair (2013-2016)

Construction Law, Litigation and Dispute Resolution Committee (2017, 2021)

Business Torts Litigation Committee, Committee Leadership (2011-2012)

International Law Section, Steering Group (2014-2015)

Environment, Energy and Resources Section

Litigation Section

Tort and Insurance Practice Section, Former Co-Chair

Continuing Legal Education Committee, Standing Committee Member

Advisory Panel

State Bar of Texas

Litigation Section

Oil, Gas & Energy Resources Section

Construction Section

Professional Liability Section

Federal Bar Association

College of the State Bar of Texas (2006-2021)

Pro Bono College of the State Bar of Texas (2006-2021)

Houston Bar Foundation, Fellow

Texas Bar Foundation, Fellow

Houston Bar Association

Chair of the Litigation Section (2013-2014)

Chair-Elect of the Litigation Section (2012-2013)

Continuing Legal Education Committee (2011-2012)

Membership Committee (2011-2012)

Dispute Resolution Committee, Board of Director (2008-2010)

Speakers Bureau Committee (2008 - 2009, 2011-2012)

Professionalism Committee (2007-2009)

Fee Disputes Committee (2006-2008)

The General Counsel Forum

Board Member and Corporate Secretary (2013-2021)

Energy Law Report, published by LexisNexis, Board of Editors (2014-2018)

Houston Young Lawyers Association

Bench Book Committee, Chair and Editor-in-Chief (2005-2007)

World Affairs Council of Houston

Association of International Petroleum Negotiators

Houston Claims Association

Texas Independent Producers & Royalty Owners Association

The Institute for Energy Law

Vice-Chair and Member of the Executive Committee (2014-2017)

Oil and Gas E-Report, Editor (2021)

Member of the Advisory Board

Independent Petroleum Association of America

Member of Land & Royalty Committee

Member of Environment & Safety Committee

Energy & Mineral Law Foundation

Rocky Mountain Mineral Law Foundation

Texas Association of Defense Counsel Texas

Supreme Court Historical Society

New York State Bar Association

Colorado State Bar Association

Strauss Fellow, Next Generation Project Texas, LBJ School of Public Affairs, The University of Texas

Insights

[News Releases](#)

Kilpatrick Adds Leading Construction Energy Partner in Houston

February 4, 2026

Publication

Colorado Enacts Sweeping Regulatory Changes to Oil and Gas Industry

June 1, 2019

Publication

US court decision poised to impact underwriter ability

October 15, 2018

Publication

Supreme Court Holds Drilling Across Tracts not Trespass

January 1, 2018

Publication

BLM asks 10th Circuit to Pause Review of Obama-era Fracking Rule

May 29, 2017