



## **J. Clifford Gunter III**

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### **About Cliff**

Cliff Gunter has devoted more than 49 years of practice to providing strategic, effective trial representation to energy and a diverse array of other, major industrial and financial clients in complex, high stakes, multiple-party litigation, both internationally and domestically. Cliff has a lengthy history of representing clients in class action litigations in industries such as financial services, energy, transportation, electric utility, consumer products and securities. He has advised board of directors with respect to and has conducted numerous internal investigations on diverse subjects ranging from financial reporting issues, the Foreign Corrupt Practices Act, power trading and bidding, law enforcement and regulatory investigations and shareholder derivative claims. Cliff has advised clients on remedial and preventative measures in connection with these investigations.

He has compiled a long list of representative matters including cases tried to conclusion, cases settled during trial and before trial, appellate arguments, federal grand jury investigations and arbitrations. Cliff is a fellow of the American College of Trial Lawyers and International Academy of Trial Lawyers and an advocate of the American Board of Trial Advocates.

Representative cases over the last several years include jury trials involving issues of fraud, racketeering (RICO), theft of trade secrets, accounting malpractice, product liability, take-or-pay and pricing disputes relating to the energy industry, breach of contract in commercial litigation, construction litigation, energy and power issues relating to natural gas trading and electricity trading, antitrust and class actions involving shareholder securities fraud claims and derivative suits. His work also encompasses toxic tort and environmental litigation, representation of officers and directors in litigation brought by the Federal Deposit Insurance Corporation (FDIC), Resolution Trust Corporation (RTC) and Federal Savings and Loan Insurance Corporation (FSLIC) in connection with the failure of financial institutions, arbitration of several transnational gas sales contracts, and representation of multinational corporations on matters involving international projects finance issues. He represented a large Canadian power trading entity in state and federal court litigation and also in lengthy trial proceedings before an administrative law judge of FERC.

### **Recent Notable Matters**

***Aluminum Chemicals Bolivia Inc. v. Bechtel and XBI; Cause No. 97-51222*** — In the District Court of Harris County, Texas; Pat Mizell Judge; conversion, theft and piercing corporate veil; tried June 1999; Bill Jones, plaintiff's counsel

**Accountech Inc. et al. v HPSC Inc., Outsource Financial Inc. and Larry A. Rice Jr.; No. 110,998** — In the 268th Judicial District Court of Fort Bend County, Texas before Judge Brady G. Elliott; breach of contract; fraud, misrepresentation and Deceptive Trade Act. Jeff Dykes and others counsel for 17 plaintiffs; tried in November and December 2000

**Bay Pipeline Inc. v. Valero Transmission Co. and Reata Industrial Gas; No. 85-CI-12256** — Breach of Contract, Fraud and Antitrust claims; In the 37th Judicial District Court of Bexar County, Texas; D. Hull Youngblood, Small, Craig & Werkenthin, San Antonio, attorneys for plaintiff

**Bridges, John L. and Bridges & Company v. Carlisle Corporation d/b/a Carlisle Tire and Rubber Company; C.A. No. H-80-2500** — United States District Court for the Southern District of Texas, Houston Division; Antitrust case; Oscar Nipper, Houston, attorneys for plaintiff

**DuPont, Eugene III v. Southern National Bank, et al.; 771 F.2d874 (5th Cir. 1985)** — breach of family trust

**Exxon Mobil Corporation v. Enron Gas Processing Co., et al.** — In the 189th Judicial District Court, Harris County, Texas, Cause No. 2000-45242, attorneys for defendant Kinder Morgan Inc.; breach of contract and fraud regarding operation of Bushton gas processing plant; jury trial, June 2004

**Fife Corporation v. Clausing Corporation, et al.; C.A. No. 80-512 T** — In the United States District Court for the Western District of Oklahoma; Robert F. Wall, Winston & Strawn, Chicago, Illinois, attorneys for defendant, Clausing Corporation. Violations of Williams Act and Securities Exchange Act of 1934

**Flo-Trol Inc. vs. Grove Valve & Regulator Company and Modern Supply Company; C.A. No. H-81-1741** — In the United States District Court for the Southern District of Texas, Houston Division; John L. Jeffers, Baker & Botts, Houston, attorneys for Grove Valve and Regulator Co.; D. Kent Meyers, Crowe & Dunlevy, Oklahoma City, attorneys for Modern Supply Company; antitrust

**Gary E. Ervin, Timothy W. Ervin and Robert W. Ervin v. Richard William Powers, et al.; No. 2003; C11055** — In the 73rd Judicial District Court of Bexar County, Texas; Judge Karen Pozza; defend firm accused of accounting malpractice and fraud in connection with audit and preparation of financial statements; July 2008

**KN Energy Inc. v. Dorfman et. al.** — In the United States District for Eastern District of Texas; Judge William Steger; Doug Cawley counsel for plaintiffs; theft and fraud action, including RICO claims in connection with operation and sale of natural gas producing properties. Tried in May and June 1991

**KPMG Peat Marwick v. Houlihan et. al.** — In the District Court of Fort Bend County Texas; Judge Charles Dickerson; Dana Kirk and Pat Zummo, attorneys for plaintiffs; accounting malpractice in connection with real estate limited partnership; tried March & April 1990

***Liberty Glass Company, et al. v. Allstate Insurance Company, et al.; C.A. No. 74-H-681*** — In the United States District Court for the Southern District of Texas; Houston Division; George Pain, Farris, Pain and Horne, Houston, attorneys for the plaintiffs; antitrust

***Lively Exploration Company, et al. v. Valero Transmission Company; No. 2930*** — In the 112th Judicial District Court of Sutton County, Texas; Louis B. Paine and Everard B. Marseglia, Jr., Butler & Binion, attorneys for the plaintiffs; take or pay claims pursuant to gas purchase contract: defense verdict affirmed on appeal

***Lone Star Beer Company of Austin Inc., d/b/a Canada Dry of Austin v. Royal Crown Bottling Company of Dallas Inc., et al.; C.A. No. SA-77-CA-19*** — In the United States District Court for the Western District of Texas; San Antonio Division; Judge Jon Wood, San Antonio; Theo F. Weiss, San Antonio, attorneys for plaintiff; Charles R. Shaddox, Groce, Locke & Hebdon, attorney for defendant, Canada Dry Corporation; antitrust

***Marshall Contractors Inc. v. Integrated Gas Systems Inc.; No. 94CPetrolite v. Micro-Bac & Fred Brown; In the United States District Court for the WesteA-553-JN*** — In the United States District Court for the Western District of Texas; Austin Division; Breach of construction contract; conversion and counterclaim for breach of construction contract; lost profits and contractual damages; Bill Andrews and Henry Kollenberg, attorneys for Plaintiff; Trial Judge, Lucius Bunton; tried to conclusion in October 1995

***Petrolite v. Micro-Bac & Fred Brown*** — In the United States District Court for the Western District of Texas; Judge Lucius Bunton; Jim Boldrick and Meadows & Welch counsel for the plaintiffs; defamation and theft of trade secrets litigation; tried April 1990 and argued to 5th Circuit Court of Appeals in January 1992

***State of Kansas, ex rel., Robert T. Stephan, Attorney General v. Peter Kiewit Sons' Co., Peter Kiewit Sons' Inc. and Prairie States Construction Company; Nos. 82-CV-524, 828 and 829*** — In the District Court of Shawnee County, Kansas; Charles A. Briscoe, Jr., Scott, Quinlan & Hecht, Topeka, Kansas, co-counsel; Wayne F. Hundley, Deputy Attorney General, counsel for plaintiff; antitrust

***Tennessee Gas Pipeline Company v. Shell Oil Company, et al.; No. 83-11342*** — In the 333rd Judicial District Court of Harris County, Texas; Charles R. Gregg, Hutcheson & Grundy, Houston, and Murphy Moss, Lemle, Kelleher, Kohlmeyer & Matthews, New Orleans, Louisiana, attorneys for defendants; breach of contract regarding operation of Ycloskey gas processing plant

***Southdown Inc. v. Moore McCormack Resources Inc. and Paul R. Tregurtha; No. 88-557*** — In the United States District Court for the Southern District of Texas, Houston Division; Judge Lynn N. Hughes; Richard N. Caldwell, Mayor, Day & Caldwell, Houston, attorneys for the defendants. 686 F.Supp595 U.S.D.C. SD TX 1988; Williams Act and Securities Exchange Act of 1934

***Omegatech vs. Martek*** — United States Court of Appeals for the Fourth Circuit; May, 2007; breach of earn out agreement as part of merger and acquisition. Mark Gately opposing counsel

**Public Utility District No.1 of Snohomish County, et al. v. Dynegy Power Marketing, et al.; No. 03-55191** — United States Court of Appeals for the Ninth Circuit (2004), attorneys for defendant BC Hydro Corporation

**International Finance Corporation; No. 94-20500; Oliver Resources, plc. and Oliver Resources (Argentina) S.A., v. International Finance Corporation** — United States Court of Appeals, 5th Circuit, New Orleans; Attorneys for Plaintiff, Block & Muscat and David Yeargin and Mark Yudof; contractual issues with respect to Joint Operating Agreement for exploration and production of hydrocarbons from the Neuquen Basin in Argentina; argued before the United States Court of Appeals for the 5th Circuit in April 1995

**Powerex Corporation v. Reliant Energy Services** — Argued before the United States Court of Appeals for the 9th Circuit, April 2007

**In Re: Service Corporation International** — In the United States Court of Appeals for the 5th Circuit, September 2000; interlocutory appeal of orders relating to denial of class certification and class membership; issues relating to entry of Final Judgment

**Siderius Inc. v. Wallace Company Inc. and Texas Commerce Bank National Association; No. 16,997** — In the Court of Civil Appeals for the First Supreme Judicial District of Texas Sitting at Houston, Texas; Grant Cook, Reynolds, Allen & Cook, attorneys for Wallace Co. Inc.; Alvin M. Owsley Jr., Baker & Botts, attorneys for Texas National Bank of Commerce National Association; 583 S.W.2d 852

## Education

The University of Texas School of Law, LL.B  
1967

The University of Texas at Austin, Bachelor of Arts  
1965

## Noteworthy

*Chambers USA*, Texas Litigation: General Commercial, 2007 - 2023; Texas Litigation: Energy & Natural Resources, 2010 - 2020

*The Legal 500 United States*, Energy: Litigation, 2008 - 2013, 2019; Energy: Regulatory, 2013 - 2014; Litigation: Supreme Court and Appellate, 2014

Euromoney PLC, *Benchmark Litigation*, Texas Local Litigation Star, 2013 - 2015, 2010

BL Rankings, *Best Lawyers*, 2008 - 2021; 2024

Thomson Reuters, *Texas Super Lawyers*, 2003 - 2022

Thomson Reuters, *Super Lawyers*, Corporate Counsel Edition, 2008 - 2009

Thomson Reuters, *Top 100 Texas Super Lawyers*, 2006

## **Affiliations**

State Bar of Texas

State Bar of Colorado

Houston Bar Association

Houston Bar Association, Fellow

American College of Trial Lawyers, Fellow

American Board of Trial Advocates, Fellow

## **Bar Admissions**

Texas

Colorado

## **Languages**

Conversational Spanish