

#### Practice Areas

- Litigation
- Energy Law
- Corporate, Securities & Finance
- Intellectual Property
- Insurance Law

#### Education

- University of Texas Law School, J.D., 1984
- Rice University, B.S., 1981

#### Honors

- Repeatedly named a "Texas Superlawyer" by Texas Monthly Magazine
- Million Dollar Advocates
- Rice University, Summa Cum Laude; Phi Beta Kappa; Tau Beta Pi
- University of Texas Law School, Honors; Order of the Coif; Texas Law Review

#### Bar Admissions

- Texas

#### Court Admissions

- Texas (state and federal)
- Fifth Circuit

## Ralph A. Midkiff

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Houston

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Ralph Midkiff has more than twenty years experience successfully representing clients in major business litigation cases throughout the United States, including winning a world record securities arbitration award for \$429 million in a case tried before the New York Stock Exchange. His practice includes representing clients in energy, oilfield services, petrochemicals, technology, financial services, securities, investments, money management, fraud, and other complex business and corporate litigation matters.

He graduated Summa Cum Laude from Rice University in 1981 with a Bachelor of Science degree. He was selected to membership in Phi Beta Kappa and Tau Beta Pi. He graduated with Honors from the University of Texas School of Law in 1984, where he was on the Texas Law Review and received the Order of the Coif (top ten percent of his class).

Mr. Midkiff practiced with Porter & Clements, LLP from 1984 to 1993, where he was a partner from 1989 to 1993. He was a partner with Clements, O'Neill, Pierce, Wilson and Fulkerson, LLP from 1993 to 2004. He established Zummo & Midkiff, LLP in 2005 and was a partner there until 2008. He joined Chamberlain as a shareholder in 2008.

Mr. Midkiff has broad experience in the types of business and corporate litigation generally encountered by companies, especially those in the energy, oil and gas, oilfield service, petrochemicals, technology, investment, and financial services industries. He has handled cases involving breach of contract, fraud, mergers and acquisitions, insurance coverage, unfair competition, tortious interference, investor and shareholder disputes, arbitration, employment disputes and executive compensation, protection of trade secrets and intellectual property, and many other business disputes.

Mr. Midkiff has an engineering background that is especially advantageous for his clients whose business involves proprietary technology and processes. His business clients include public and private companies, both domestic and international. His

## Ralph A. Midkiff, *Continued*

representative clients include companies in oil and gas exploration and production, petrochemicals, refining, oilfield services, investment funds, private equity, insurance, software, real estate development, private investors, and money managers.

A continuing part of his practice involves the defense and prosecution of fraud and breach of fiduciary duty cases seeking to recover losses from bad investments, securities and business transactions. He represents both plaintiffs and defendants on an hourly, contingent fee, and hybrid billing basis. He has handled cases for and against brokerage firms and stockbrokers, corporations, investment and commercial banks, insurance companies, officers and directors, partners, fiduciaries, and the like. He has handled cases involving financial losses arising from investments, securities, retirement savings, brokerage accounts, shareholder oppression, business acquisitions, insurance, partnerships, shareholder oppression, stock options, executive compensation, corporate wrongdoing, derivative suits, oil and gas ventures, real estate, trusts and estates, breach of fiduciary duty, forgery, self-dealing, kickbacks, conversion, theft of funds, churning, unsuitability, and other dissipation of assets. In the securities area, he began his career defending major banks and brokerage firms, but for the past ten years has also represented numerous customers, investors, retired persons, companies, and shareholders as plaintiff in suits to recover their losses.

The following are a few examples of representative<sup>[1]</sup> cases showing the types of cases he has handled in his business litigation practice:

- ***Lerma v. Perusquia, et al.*** Mr. Midkiff tried and recovered a world record securities arbitration award for \$429 million from the New York Stock Exchange against the broker in this case. The award also included a world record assessment of \$209 million in punitive damages. Mr. Midkiff showed that the broker had fraudulently wiped out many customers' accounts by means of fabricated account statements, forged transactions, kickbacks, self-dealing, and embezzlement used to operate a "pump and dump" scheme of securities fraud in worthless, penny gold stocks. The broker destroyed most of the records used in the scheme, giving rise to the defense that there was no evidence of fraud. The key to the case was Mr. Midkiff's work in finding documents, witnesses and information that were not destroyed, and then analyzing that information to piece together, reconstruct and prove the concealed fraud. This work was substantial, involving numerous trips, investigations and third party discovery in various places all over the world, such as Geneva, Colorado Springs, Vancouver, San Francisco, New York, Mexico City, Laredo, British Virgin Islands, and elsewhere. Mr. Midkiff turned over the case file to the FBI and U.S. Attorney, who then brought criminal charges which resulted in the broker being sentenced to seven years in federal prison. The SEC then used the same information to bar the broker from the securities industry for life and to fine the brokerage firm involved. The judgment against the broker is pending collection. Just prior to trial of the case, Mr. Midkiff reached a confidential settlement with three major brokerage firms and banks involved.
- ***Port Arthur Refinery Litigation.*** Mr. Midkiff successfully defended a major petrochemical company against large and complex litigation relating to construction of a \$250 million refinery expansion project. The claims included a construction dispute over \$50 million in alleged additional charges by the construction firm, two lawsuits in different courts to enforce arbitration rights, a mass tort dispute involving claims by approximately 90 workers alleging exposure to toxic chemicals during construction, and an ensuing dispute over allocation of costs with other petrochemical companies who were joint venture partners in the project. All of the disputes were settled on confidential terms.

## Ralph A. Midkiff, *Continued*

- ***J.M. Huber Corp. v. PATCO.*** Mr. Midkiff tried and won this jury case in defense of claims for more than \$17 million in damages for unfair competition and patent infringement against this oilfield service company. Mr. Midkiff invalidated one of the patents in issue and proved non-infringement of another. Mr. Midkiff proved that the plaintiff had concealed and destroyed key documents and evidence relevant to the case. The United States District Court found that the defense effort was exceptional, and awarded the client nearly \$1 million in attorneys' fees and expenses. All claims were settled pending appeal.
- ***Major Oil Company v. Oilfield Service Co. vs. Insurance Carriers.*** Mr. Midkiff successfully represented an oilfield service company in defending against damages to a \$21 million gas well allegedly caused by the failure of a bridge plug/setting tool. All three of the company's insurers denied coverage and defense. Mr. Midkiff managed the defense of the underlying tort claims while prosecuting a parallel suit for insurance coverage for the client. All claims were resolved by settlement.
- ***Investment Fund v. Major Investment Bank.*** Mr. Midkiff successfully represented an investment bank in a suit over a \$50 million investment in debt securities from a leveraged buyout that failed. The case settled while on appeal.
- ***Amoco Retirees v. Major Brokerage Firm.*** Mr. Midkiff successfully recovered a confidential settlement for a large group of Amoco retirees who suffered major losses from unsuitable investments in a rollover of their company retirement accounts.
- ***Major Oil Company v. Insurance Companies.*** Mr. Midkiff successfully represented a major oil and gas company in insurance coverage suits to recover attorneys' fees and expenses associated with defense of various cases relating to a \$204 million trial judgment (later reversed) and related cases asserting claims that oil and gas wells had polluted the water aquifer in a central Texas county.
- ***Quinduno Energy LLC v. Petrosearch Energy Corp.*** Mr. Midkiff successfully obtained a multimillion dollar recovery of purchase price installments of cash and restricted stock owed to the plaintiff under an asset purchase agreement for the sale of oil and gas properties.
- ***Major Industrial Company v. Major Steel Fabrication Company.*** Mr. Midkiff tried and won this arbitration in Washington D.C. to recover damages over defects in the design and construction of a fleet of coal-carrying railroad cars sold to Houston Lighting & Power Co.
- ***BP Exploration LP v. Petroecuador, et al.*** Mr. Midkiff successfully defended against claims for contamination of a tanker load of gasoline sold in Houston for delivery in Ecuador. Mr. Midkiff's client was the only client to get out of the case by way of summary judgment and this victory was affirmed on appeal to the Fifth Circuit. All other parties were remanded for a second round of trial and appeal.
- ***Physician Practice Group v. Major Brokerage Firm.*** Mr. Midkiff successfully recovered a confidential settlement for a group of doctors who suffered large losses in 401(k) and IRA retirement accounts through unsuitable investment portfolios that were not properly diversified.

[1] These cases are representative of the type of cases handled. These cases are not representative of results in all cases. Results in prior cases are no guarantee or prediction that the same or similar results will be achieved in future cases. Case results vary and depend upon the specific factual and legal circumstances of each client's case.

## Ralph A. Midkiff, *Continued*

### Community

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- UT Health Center Advisory Board, Dental Branch
- March of Dimes Walk, Team Leader
- First United Methodist Church

### News

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- Melissa's Millions
- Where are Texas regulators in era of \$65 billion Ponzi scams?
- Eight Chamberlain Hrdlicka Attorneys Named Texas "Super Lawyers"
- Law Firm Keeps Calling, Litigator Comes Aboard

### Articles and Publications

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Mr. Midkiff and his cases have been featured many times in the Houston Chronicle, Houston Business Journal, Forbes, New York Times, Wall Street Journal, Texas Lawyer, National Law Journal, Institutional Investor Newsletter, and other publications

Mr. Midkiff is a frequent author and speaker on business, legal and investment issues. A partial listing of his published articles and presentations include:

- *Recovering Assets in Ponzi Schemes* (2009 Aspatore Publishing Co.).
- *Adverse Possession Issues Affecting Title to Oil & Gas Properties*, November 1, 2008.
- *Investment Litigation and Financial Fraud*, Houston Society of Financial Analysts, March 27, 2007.
- *Financial Litigation Update*, Bellaire Rotary Club, September 5, 2005.
- *What You Need To Know About Financial Fraud: How To Recover Losses In Bad Investments And Brokerage Accounts* for the 2004 Advanced Civil Litigation Course sponsored by the University of Houston School of Law.
- *Bad Investments and Fraud*, Rice University Alumni Business Network, October 9, 2004.
- *When Can an Investor Get His Money Back by Suing His Broker*, Houston Business Journal, Business Survival Guide, May 7, 2004.
- *Patent Litigation: Replay of an Actual Markman Hearing* for the Fourteenth Annual Institute on Intellectual Property Law (1998) sponsored by the Houston Intellectual Property Law Association and University of Houston School of Law.
- *Phase Severance of Gas Rights from Oil Rights*, 63 Texas Law Review 133 (1984).

### Professional Affiliations

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- Texas General Counsel Forum Board Member
- Litigation Section Member, Houston Bar Association, State Bar of Texas and American Bar Association
- Institute for Energy Law Advisory Board
- Oil, Gas & Mineral Law Section Planning Committee for Houston Bar Association
- Society of Petroleum Engineers

**Ralph A. Midkiff,** *Continued*

- American Institute of Chemical Engineers
- American Chemical Society
- Oil, Gas and Energy Resources Section Member, Houston Bar Association, State Bar of Texas and American Bar Association
- Intellectual Property Law Section Member, State Bar of Texas and American Bar Association
- Public Investors Arbitration Bar Association
- Securities Law Section Member, Houston Bar Association and American Bar Association
- Houston Producers Forum
- Life Fellow, Texas Bar Foundation
- University of Texas Health Science Center, Advisory Board

