

# David M. Gunn

Partner Houston

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David Gunn specializes in appeals. For the past three decades, he has done nothing but handle appeals, in both state and federal court, and on both sides of the docket.

Although appeals once revolved around attorney oratory, today's appellate courts do most of their work on the basis of written briefs, and a typical appellate judge has to read hundreds of those briefs every year. So David writes briefs that the reader will find both interesting and easy to follow.

Since arguing his first appeal in 1990, he has worked on briefs in hundreds of appeals and orally argued scores of them (arguing more than 25 times in the Texas Supreme Court). He has argued appeals as far east as Washington, D.C. and as far west as Denver, but most of his work takes place in the Fifth Circuit or in the Texas appellate courts. The subject matter of his work runs the spectrum of civil litigation – from oil and gas law to personal injury law to the law governing lawyers.

## REPRESENTATIVE EXPERIENCE

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- *Energy Transfer Partners, LP v. Enterprise Products Partners*, 593 S.W.2d 732 (Tex. 2020)
- *Golden Spread Elec. Coop. v. Emerson Process Mgmt.*, 954 F.3d 804 (5th Cir. 2020)
- *Energy Intelligence Group, Inc. v. Kayne Anderson Capital Advisors, LP*, 948 F.3d 261 (5th Cir. 2020)
- *Endeavor Energy Resources, LP v. Cuevas*, 593 S.W.3d 307 (Tex. 2019)
- *ExxonMobil Corp. v. Ins. Co. of State of Pennsylvania*, 568 S.W.3d 650 (Tex. 2019)
- *United Scaffolding, Inc. v. Levine*, 537 S.W.3d 463 (Tex. 2017)
- *Ineos USA, LLC v. Elmgren*, 505 S.W.3d 555 (Tex. 2016)
- *Plains Exploration & Production Co. v. Torch Energy Advisors*, 473 S.W.3d 296 (Tex. 2015)

## HONORS & AWARDS

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- Recognized in *Best Lawyers in America* for Appellate Practice, Bet-the-Company Litigation and Commercial Litigation, 2005 – 2022
- Recognized by *Benchmark Litigation* as a Litigation Star – United States, Appellate, 2012 – 2021 and a Local Litigation Star – Texas, 2014 – 2021
- Recognized in *Chambers USA* with a Band 1 ranking, the highest ranking attainable, in Litigation: Appellate (Texas), 2011 – 2022
- Selected by Thomson Reuters as a “*Top 100 Super Lawyer – Texas*,” “*Top 100 Super Lawyer – Houston*,” 2019-2020
- Named in Thomson Reuters *Texas Super Lawyers* – Appellate, 2003 – 2020

## PRACTICES

Appellate  
Energy Litigation

## ADMISSIONS

State Bar of Texas  
United States Supreme Court  
Texas Supreme Court  
United States Court of Appeals for the Fifth, Sixth, Ninth, Tenth and Federal Circuits  
United States District Courts for the Eastern and Southern Districts of Texas

## CLERKSHIPS

Houston 14th Court of Appeals (1987 – 1990)

## EDUCATION

L.L.M., The University of Houston Law Center, 1989

J.D., Baylor Law School, 1987

M.S., Massachusetts Institute of Technology, 1984

B.S., The University of Texas at Austin, Chemical Engineering, 1982

- *Benchmark Appellate* – 5th Circuit Litigation Star, 2012
- Appellate Practice Lawyer of the Year – *Houston, Texas’ Best Lawyers* 2011
- “Lawyer of the Year – Appellate Practice”, *Best Lawyers*, 2011

## PUBLICATIONS & PRESENTATIONS

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- *Storming the Casteel: Reflections on 20 Years of Presumed Harm*, 31<sup>st</sup> UT Annual Conference on State and Federal Appeals, 2021 (Panelist)
- *An Examination of Dictum in Texas Opinions*, 29th UT Annual Conference on State and Federal Appeals, June 2019, Austin, Texas
- *Casteel: To Infinity and Beyond*, 28th UT Annual Conference on State and Federal Appeals, June 2018, Austin, Texas
- *Mandamus*, State Bar of Texas 30th Annual Advanced Evidence & Discovery Course (2017)
- *Hearsay*, State Bar of Texas 27th Annual Advanced Evidence & Discovery Course (2014) (co-authored with Vincent Marable III)
- *Preserving Error & Crafting the Jury Charge*, State Bar of Texas 29th Annual Advanced Personal Injury Course (2013)
- “*Unpublished Opinions Shall Not Be Cited as Authority*”: The Emerging Contours of Texas Rule of Appellate Procedure 90(i), 24 St. Mary’s L.J. 115 (1992)
- *Unsupported Points of Error on Appeal*, 32 S. Tex. L. Rev. 105 (1990)
- *Trademark Survey Evidence*, 20 Tex. Tech. L. Rev. 1 (1989) (co-author with Lawrence E. Evans, Jr.)

## COMMUNITY INVOLVEMENT

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- Seven years as an elected city council member for Hilshire Village, Texas (after several years as an appointed member of the city’s Zoning Board of Adjustment)

