Henry J. Paoli

Attorney/Shareholder
Chair – Litigation Section
Chair – Appellate Law

Areas of Concentration

- Appeals & Appellate Law
- Construction Law
- Litigation

Education

J.D., Baylor University

B.S., *cum laude*, Marquette University

Admission & Qualifications

State Bar of Texas

United States Court of Appeals – Fifth & Tenth District

United States District Court Western District of Texas

Languages

- English

Contact Information

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Henry Paoli is a litigation attorney who practices in the areas of commercial litigation, defense of medical professionals in litigation, as well as appeals and appellate law. In addition to chairing the Firm's Litigation and Appellate Law sections, Mr. Paoli is also a construction lawyer with experience in all aspects of construction law.

Mr. Paoli is Board Certified in Civil Appellate Law by the Texas Board of Legal Specialization. In the entire State of Texas, there are less than 500 attorneys who are board certified in Civil Appellate Law by the Texas Board of Legal Specialization.

In the commercial litigation area, his experience includes the defense and prosecution of breach of contract claims, fraud claims, and business disputes.

In the civil rights area, he has regularly counseled and represented clients in the defense of civil rights claims that are based on 42 U.S.C. §1983. He also has extensive experience defending medical professionals and physicians in professional liability claims.

In the area of appeals, Mr. Paoli regularly represents clients in appeals that are pending before Texas appellate courts, the Supreme Court of Texas, the United States Court of Appeals for the Fifth Circuit, and the United States Court of Appeals for the Tenth Circuit. His appellate experience includes probate appeals, appeals from final judgments, and mandamus proceedings. He has also handled administrative appeals before Texas administrative agencies.

As a member of the firm's Construction Law practice group, Mr. Paoli has advised and represented construction companies, contractors, and real estate professionals. He also regularly represents clients in the defense of OSHA citations, filing and enforcing mechanic's liens, and enforcing claims in connection with payment or performance bonds for construction projects. He has presented numerous seminars to contractors in the construction industry.

Mr. Paoli is an active member of the El Paso Chapter of the Associated General Contractors. His construction law experience extends to all stages of the construction process, including determining the appropriate project delivery system; negotiating and drafting project documents; developing risk management programs; instituting contract administration and claims avoidance procedures; advising clients during the construction process; and handling claims through negotiation, mediation, arbitration, and trial. His litigation practice includes construction defect litigation, defending against liquidated damages claims, lawsuits to enforce or remove liens, and payment and performance bond claims involving government construction projects.

In the insurance area, Mr. Paoli has regularly worked with and represented clients in personal injury lawsuits, construction defect cases, and health care liability claims.

Representative Matters

- Lead trial counsel in a construction defect case involving a municipal project where the jury returned a verdict in excess of $500,000 in favor of the client and rejected counterclaims against the client that sought in excess of $300,000.
- Served as trial counsel for a defendant in a case involving claims of tortious interference with contract where the jury returned a complete defense verdict.
- Obtained defense verdict after a jury trial in a case involving a claim for lifetime income benefits.
- Obtained favorable judgment on behalf of a client in a case involving competing claims to construction equipment.
- Successfully handled an appeal that was pending before the United States Court of Appeals for the Fifth Circuit in a lawsuit involving claims of fraud and breach of contract.
- Obtained dismissal of a lawsuit on behalf of a client where an injunction was requested to prevent the construction of the client's medical office building.
- Obtained favorable jury verdict for a client involved in a workers' compensation dispute.
- Obtained summary judgment and dismissal of a lawsuit asserting claims of breach of contract, breach of warranty, and fraud in a case pending in the United States District Court for the Northern District of Texas.
- Prevailed at trial in obtaining a jury verdict for a client on a conversion claim.

Reported Cases

- ***In re Polymerica, LLC,* 296 S.W.3d 74 (Tex. 2009).** Successfully handled a mandamus petition on behalf of a client in a proceeding pending before the Supreme Court of Texas.
- ***In re Estate of Sidransky,* 420 S.W.3d 90 (Tex. App.- El Paso 2010).** Successful probate appeal.
- ***Bergholtz v. Southwestern Bell Yellow Pages, Inc.,* 324 S.W.3d 195 (Tex. App.–El Paso 2010)**. Successfully defended a client against a lost-profits claim in a commercial litigation case.
- ***In re Estate of Del Campo,* 2009 Tex. App. LEXIS 8675 (Tex. App.–El Paso 2009).** Successful appeal in a guardianship matter.
- ***Vicari v. Ysleta Indep. Sch. Dist.,* 2008 U.S. App. LEXIS 18713 (5th Cir. 2008).** Successful appeal before the United States Court of Appeals for the Fifth Circuit.

Presentations & Publications

- "Owner Non-Payment: How Can I Protect Myself" – ScottHulse Construction Law Newsletter.
- *Foul or No Foul: Dealing With and Defending OSHA Citations.* Lecture presented at the ScottHulse Labor & Employment Law Seminar in El Paso, Texas. March 4, 2015
- *A Guide to Your Legal Rights Under Construction Contracts*. Lecture presented at Associated General Contractors Seminar by ScottHulse and Associated General Contractors in El Paso, Texas. April 23, 2014
- *Surviving OSHA Citations: What You Probably Don't Know About OSHA & How It Can Impact Your Business*. Lecture presented in El Paso, Texas. 2013
- *Expedited Jury Trials and Procedures for Dismissing Baseless Claims*. Lecture presented at the 12th Annual Texas Minority Counsel Program of State Bar of Texas in El Paso, Texas. 2012
- *E-Filing – It's Here.* Lecture presented at the State Bar of Texas Advanced Civil Trial Seminar in Dallas, Texas. September 30, 2005
- Texas Construction Law Update (2017), presented at the 24th West Coast Casualty's Construction Defect Seminar - May 18 and 19, 2017.

Organizations

- El Paso Association of Contractors
- Border Industrial Association