



Emily A. Fitzgerald

Senior Associate

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Related Services

Litigation ■ Commercial ■ Appellate ■ Oil & Gas Litigation

Emily A. Fitzgerald is a senior associate in Alston & Bird's Litigation & Trial Practice Group who focuses her practice on appellate law and oil and gas litigation. She has represented a variety of clients before the United States Supreme Court, Texas Supreme Court, and various federal and state courts of appeal. Emily also has extensive trial and arbitration experience before various courts and tribunals.

Emily's issues and appeals practice includes collaborating with trial teams throughout all stages of litigation by preparing and arguing dispositive motions, motions in limine, jury charges, and post-trial matters, as well as consulting on error preservation. Emily also maintains a trial practice focused on commercial disputes and oil and gas matters involving, among other issues, lease-termination and title actions, royalty disputes, and midstream litigation.

Before joining the firm, Emily was an associate at a multinational firm. She previously clerked for the Hon. Jeffrey S. Boyd of the Supreme Court of Texas and the Hon. Lavenski R. Smith, Chief Judge of the U.S. Court of Appeals for the Eighth Circuit.

She earned her J.D. from the University of Texas School of Law, where she served as editor-in-chief of *The Review of Litigation*. Emily also earned her B.A., magna cum laude, from the University of Arkansas.

Representative Experience

Appellate Matters

- Received a favorable opinion from the Fort Worth Court of Appeals holding that the client's due process rights were violated when the trial court entered final judgment without sufficient notice.
- Preserved the trial court's holding that a non-party lacked standing to challenge a client's bona-fide-purchaser status in an appeal arising from a foreclosure sale in New York.
- Opposed review by the Texas Supreme Court, preserving an appellate victory for a mineral interest owner in a royalty dispute.
- Obtained victory for a Texas electricity provider on an issue of first impression that required the Texas Supreme Court to interpret a statute that creates a tax exemption for pollution-control equipment.
- Opposed certiorari at the U.S. Supreme Court, after the Court requested responsive briefing, preserving a defense victory for a railroad client in a multibillion-dollar class action.

- Represented the Texas Oil and Gas Association as amicus curiae before the Texas Supreme Court in a case requiring interpretation of critical and customary oil and gas lease language.
- Obtained reversal of the trial court's declaration that an easement was void for a retailer client on appeal to the Houston Court of Appeals (14th Dist.).

Trials & Arbitrations

- Represented a railroad as an appellate specialist during a two-week jury trial, in which the railroad successfully secured a multimillion-dollar verdict on all contract and tort claims; represented the railroad on appeal until settlement.
- Defended an oil and gas client against multimillion-dollar breach of contract claims in a week-long arbitration; handled witness preparation and examination, as well as all briefing and discovery.
- Defended an oil and gas client during two-week arbitration with an amount in controversy exceeding \$100 million; handled witness preparation, conducted direct examination of industry expert, cross-examined claimant's technical witness, and handled all briefing.
- Defended nutrition company in a multiweek jury trial with an amount in controversy exceeding \$30 million; conducted cross examinations, presented closing argument, and handled directed verdict motions, charge conference, and post-trial motions.

Publications & Presentations

Publications

- "What Texas Business Court Could Mean for Oil, Gas Cases," *Law360*, November 15, 2023.
- "Environment, Energy, and Resources Law: The Year in Review 2020," Oil and Gas Committee Report, American Bar Association, May 2021.
- "Oil and Gas Update: Legal Developments in 2020 Affecting the Oil and Gas Exploration and Production Industry," Rocky Mountain Mineral Law Foundation, 2021.
- "[Ape]rsonhood," *The Review of Litigation*, Vol. 34, No. 2, Spring 2015.

Presentations

- "Force Majeure: Excusing Nonperformance in Chaotic Times," Dallas-Fort Worth Association of Lease and Title Analysts, Dallas, TX, April 18, 2023.
- "When Unlawful Possession Becomes Legal, Who Owns What?," Texas Journal of Oil, Gas, & Energy Law Symposium, February 25, 2021.
- "Postmodern Duhig," Oil, Gas & Mineral Title Examination, TexasBarCLE, June 18-29, 2020.
- "Postmodern Duhig," Dallas Bar Association Energy Section, Dallas, TX, November 20, 2019.
- "Duhig: Past, Present and Future," DFW Association of Land and Title Analysts Meeting, Dallas, TX, October 17, 2019.

Professional & Community Engagement

- State Bar of Texas, Appellate and Advocacy Section
- Dallas Bar Association, Appellate Law Section Council
- Texas Bar College

Accolades

- *The Best Lawyers in America*®, Ones to Watch: Appellate Practice and Commercial Litigation, 2021–2024.

Court Admissions

- U.S. Supreme Court
- U.S. Court of Appeals for the Fifth Circuit
- U.S. Court of Appeals for the Eighth Circuit
- 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 Western District of Texas

Education

- University of Texas (J.D., 2015)
- University of Arkansas (B.A., 2012)

Admitted to Practice

- Texas