

Mike Seely

Partner

mseely@foley.com

Houston

713.276.5979



Mike Seely is a trial lawyer. A federal judge once characterized his cross-examination of a key witness in a multi-million dollar trade-secret case as “devastating.” Licensed to practice in both Texas and Oklahoma, Mike focuses on jury trials and arbitrations in the following areas:

- Oil and gas litigation
- Banking litigation
- Real estate litigation
- Complex commercial litigation
- Class action defense
- Insurance litigation
- Personal injury defense
- Real estate litigation
- Professional malpractice

Representing energy enterprises, including oil and gas producers, oilfield service companies, drilling companies, operators of oil and gas wells, working interest owners, and royalty owners, Mike handles breach of contract, trespass to try title, bad faith trespass, surface owner disputes, joint operating agreement disputes, oil and gas lease disputes, royalty owner disputes, wrongful death, and serious personal injury claims.

Mike represents real estate developers in water nuisance cases, eminent domain, lease disputes, easement disputes and lawsuits over purchase and sales agreements.

Mike also represents banks in various litigation matters in both state and federal court, including high-end collection work and recovery of collateral under the Uniform Commercial Code.

In addition, he represents insurance agents, professional land surveyors, engineers, metallurgist inspectors, and title companies in professional malpractice cases. Clients hire Mike as their litigation lawyer because his diligence ensures that there are no surprises, from a cost and budget standpoint to the potential risks and outcomes.

In his free time, Mike enjoys competing in World Championship Barbecue Competitions and coaching his daughter's softball and son's baseball teams.

Representative Experience

Oilfield Litigation

- Represented owner of oil and gas lease where neighboring operator drilled multiple horizontal wells through client's acreage. Obtained favorable settlement for client.
- Represented non-operating working interest owner in dispute where operating working interest owner claimed that client had failed to consent to the drilling of certain wells and therefore had limited interest in wells. Obtained favorable settlement that resulted in client obtaining full interest in wells.
- Represented lessee under oil and gas lease who claimed that lessor failed to timely drill oil and gas wells under the lease and therefore lease terminated. Obtained favorable settlement for client.
- Represented oilfield service company seeking payment for outstanding invoices that customer refused to pay based on allegation that drill pipe provided by client was defective. In a three-week jury trial, recovered all amounts due and owing to client.
- Represented oilfield service company accused of wrongfully terminating its agreement with its frac sand storage supplier. After a two-week jury trial, obtained favorable settlement for client.
- Represented oilfield service company in a dispute where customer refused to pay for goods and services provided by the client. In a three-day bench trial, recovered and collected the full amount of the outstanding invoices with interest, plus all attorneys' fees incurred by the client.
- Prosecuted claims of tubular distributor against party that sold client's product without client's permission. Obtained favorable settlement for the client that covered all of client's damages, plus all attorneys' fees incurred by the client.
- Prosecuted trespass to try title action on behalf of oil and gas lease owners against operator that was operating oil and gas well without valid lease. Obtained judgment clearing title to lease and recovering monetary damages for client.
- Represented oilfield service company in breach of contract claim to recover approximately half-million dollars of unpaid invoices. Settled claim on favorable terms to the client and recovered outstanding amounts owed.
- Represented royalty owner in dispute with lessor over lessor's right to retain acreage after expiration of primary term of lease. Obtained favorable settlement for royalty owner.
- Represented operator of oil and gas wells against non-operating working interest owner for failure to pay joint interest billing statements. Obtained summary judgment in favor of operator for all outstanding amounts owed and attorneys' fees incurred in prosecution of same.

- Represented non-operating working interest owner in dispute with operator over operations of oil and gas wells. Obtained favorable settlement for non-operating working interest owner.
- Represented oilfield service company in collection matters where customers failed to pay for goods and services, and it was necessary to obtain a judgment and institute post-judgment collection efforts.

Arbitration

- Represented a steel supplier pursuing an alter-ego claim against the parent company of a defunct customer who owed more than a million dollars. In a week-long arbitration, client was awarded entire amount of unpaid invoices and attorneys' fees against parent company on an alter-ego claim.
- Represented a steel supplier pursuing a breach of contract claim against a customer who short-paid invoices by nearly US \$1m based on a claim that supplier failed to timely deliver the promised steel. Obtained award for client for all amounts short-paid, plus all attorneys' fees incurred in the prosecution of the claim in arbitration.
- Represented purchaser of oil and gas assets in arbitration arising from dispute under purchase and sale agreement.
- Represented oilfield service company in arbitration where it was alleged that service company breached its contract for purchase or frac sand. Obtained favorable settlement for oilfield service company.

Class Action Defense

- Represented insurance carrier responsible for inspecting a heating boiler in a middle school where a class of more than 160 students and teachers allegedly experienced carbon monoxide poisoning. Defeated class certification, and then obtained summary judgment, confirmed on appeal, absolving carrier and its inspector of any wrongdoing.
- Lead counsel for an oil and gas producer in a class action brought by royalty owners claiming that their royalty payments had been improperly charged post-production expenses. The class involved approximately 3,571 oil and gas leases, with approximately 84 varying royalty provisions, covering up to 521 wells in seven counties.

Complex Commercial Litigation

- Represented industrial gas provider in trade secret dispute, where competitor allegedly hired client's entire regional sales force and then began soliciting client's customers. After obtaining a temporary injunction prohibiting such conduct, defendant filed for bankruptcy. Successfully had the bankruptcy dismissed as a bad-faith bankruptcy, in which the court declared the cross-examination of the key witness as "devastating." Obtain favorable settlement for client.
- Represented manufacturer of industrial gasses seeking recovery of unpaid invoices. Lead counsel in a four-day jury trial, where client was awarded the entire amount of unpaid invoices and all attorneys' fees incurred.

- Successfully represented manufacturer of industrial gasses after customer unilaterally decided to short-pay invoices. Lead counsel in a five-day bench trial. Affirmed on appeal.
- Represented manufacturer of industrial gasses seeking recovery of unpaid invoices. After a four-day jury trial, client was awarded the entire amount of unpaid invoices and all attorneys' fees incurred.
- Represented manufacturer in a dispute with trucking company, where trucking company's failure to adhere to terms of the party's agreement cost client approximately US \$500,000. In a three-day bench trial, recovered the full amount of client's damages with interest, plus all attorneys' fees incurred by the client.
- Defended Harris County Assistant District Attorney accused of violating plaintiffs' First Amendment rights under Section 1983. Obtained a dismissal of all claims, which was affirmed in part on appeal.
- Represented majority partners in dispute with minority partner over terms of oral partnership agreement. Obtained favorable settlement.

Banking Litigation

- Represented lender seeking to recover outstanding amounts owed under a promissory note from a third-party who assisted borrower with absconding with collateral used to secure loan. After a one-week jury trial, client received verdict awarding in full amount of outstanding amount due on loan, plus punitive damages.
- Represented bank accused of conspiring with customer's chief financial officer, who absconded with millions of dollars of customer's funds. Obtained summary judgment absolving bank of all liability.
- Represented bank accused of wrongfully closing customer's account. Obtained summary judgment absolving bank of all liability.
- Represented lender against third-party who purchased certain collateral used to secure \$15 million loan. Obtained favorable settlement for client.
- Represented lender against borrower who defaulted on a \$300,000 loan. Recovered full amount of principal and interest owed, plus attorneys' fees incurred in prosecuting suit.
- Represented lender against borrower who defaulted under promissory note. Obtained judgment in excess of \$1 million.
- Represented lender whose collateral was sequestered by third party asserting a constitutional lien. Obtained favorable settlement for lender.

Personal Injury Defense

- Represented professional baseball team in defending a personal injury suit in which the plaintiffs sought in excess of \$1 million. Obtained summary judgment dismissing the plaintiffs' claims. Affirmed on appeal.
- Represented professional basketball team in defending a wrongful death claim arising out of the death of one of its players.
- Represented oilfield service company accused of gross negligence in the death of its employee. Obtained summary judgment dismissing all claims against client.

- Represented oilfield service company in an investigation by OSHA after the death of one of its employees.
- Represented landowner in defense of personal injury claims brought by contractor. Obtained favorable settlement for client.
- Represented manufacturer of industrial pumps alleged to have contributed to serious burns suffered by plaintiff in manufacturing facility. Obtained dismissal of all claims.
- Represented commercial manufacturer against plaintiff alleged to have been injured by fellow co-worker in an altercation at manufacturing facility, and then who alleges he was terminated as a result of the incident. Obtained summary judgment dismissing all of plaintiff's claims.

Real Estate Litigation

- Represented landowner in condemnation action brought by pipeline company. Settled for significantly more than awarded at Commissioner's hearing.
- Represented landowner in condemnation action brought by municipality. Settled for significantly more than awarded at Commissioner's hearing.
- Represented property owner in claims brought under Texas Water Code after neighboring landowner diverted water onto client's property. Obtained favorable settlement for client.
- Represented landowner in lawsuit against commercial tenant, who breached the parties' lease. Obtained favorable settlement for landlord.

Insurance Litigation

- Represented insured in dispute with its carrier over coverage for personal injury claims. Obtained full coverage for insured, including recovery of attorneys' fees incurred as a result of suit brought to declare parties' rights under insurance policy.

Professional Malpractice Litigation

- Defended registered land surveyor in a lawsuit where the plaintiff alleged that surveyor's faulty survey cost developer in excess of US \$1m in damages. Obtained summary judgment absolving surveyor of all liability in both contract and tort.
- Represented title company in defense of claims of professional malpractice. Obtained favorable settlement at mediation.
- Represented insurance agents accused of failing to obtain adequate windstorm coverage prior to Hurricane Ike. Obtained summary judgment dismissing all of the plaintiff's claims against client.
- Represented multiple insurance agents in defense of claims of professional malpractice. Obtained favorable settlement for client.
- Represented metallurgical inspector against professional malpractice claims. Obtained favorable settlement for client at mediation.

Contract Drafting and Negotiation

- On a pro bono basis, drafted the bylaws for the International Barbeque Cookers Association.
- Negotiated product supply and distribution agreements between some of the top competition barbecue cookers in the country and national retailers.

Published Opinions

- *Reliance Ins Cov. Hibdon*, 333 S.W.3d 364 (Tex App. – Houston [14th Dist] 2011, pet denied)
- *Martinez v. Houston McLane Company, Inc.*, 414 S.W.3d 219 (Tex. App – Houston [1st Dist.] 2013, pet denied)
- *Amegy Bank Nat. Ass'n v. DB Private Wealth, Ltd.*, 2014 WL 1876708 (M.D. Fla 2014)
- *Sand Storage, LLC v. Trican Well Service, L.P.*, 2014 WL 7205233 (S.D. Tex. 2014)
- *Culbertson v. Lykos*, 790 F.3d 608 (5th Cir. 2015)
- *Godines v. Precision Drilling Company, L.P.*, 2018 WL 2460302 (Tex. App.—Eastland 2018, no pet.)
- *Schrock v. Amegy Bank of Texas, N.A.*, 2019 WL 6905028 (Tex. App.—Houston [1st Dist.] 2019, no pet.)
- *ETC Intrastate Procurement Company, LLC v. JSW Steel (USA), Inc.*, 620 S.W.3d 168 (Tex. App.—Houston [14th Dist.] 2021, no pet.)
- *Renouf v. Aegis Relocation Company Corp.*, 641 F. Supp.3d 439 (N.D. Ohio 2022).
- *Siana Oil & Gas Co., LLC v. White Oak Operating Co., LLC, et al*, 2022 WL 17981572 (Tex. App.—Houston [1st Dist.] Dec. 29, 2022, no pet.).
- *Harris County-Houston Sports Authority v. Chilel*, 2013 WL 1789444 (Tex. App.—Houston [14th Dist.] 2013).
- *O'Brien v. Corinthian Point Yacht and Racquet Club, Inc.*, 2015 WL 5438784 (Tex. App.—Beaumont 2015).
- *Matheson Tri-Gas, Inc. v. Atmel Corp.*, 347 S.W.3d 339 (Tex. App.—Dallas 2011)
- *Amegy Bank NA v. Deutsche Bank Alex.Brown*, 619 Fed.Appx. 923 (11th Cir. 2015).
- *Snapp v. James Machine Works, LLC*, 2021 WL 6504103 (E.D. Okla. 2021).
- *Carolina Mineral Partners LLC v. Jay-Bee Production Company*, 2023 WL 7391872 (N.D. W. Va. 2023).
- *Hopper v. Jay-Bee Oil & Gas, Inc.*, 2023 WL 3695614 (N.D. W. Va. 2023).
- *Kaess v. BB Land, LLC*, 2023 WL 5515741 (N.D. W. Va. 2023)
- *NetTax, LLC v. DVL Protected Cell, Inc.*, 2023 WL 3019070 (W.D. Va. 2023).
- *Amir v. International Bank of Commerce*, 419 S.W.3d 687 (Tex. App.—Houston [1st Dist.] 2013).
- *S. KingKing, LLC v. Precision Energy Services, Inc.*, 555 S.W.3d 200 (Tex. App.—Houston [1st Dist.] 2018).
- *Robison v. Continental Casualty Company*, 2022 WL 17819601 (5th Cir. 2022).
- *Eagle Railcar Services, L.P. v. Matheson Tri-Gas, Inc.*, 2023 WL 4681162 (Tex. App.—Tyler 2023).
- *Talisman Energy USA, Inc. v. Matrix Petroleum, LLC*, 2016 WL 7379254 (Tex. App.—San Antonio 2016).
- *Upshaw v. National Basketball Association*, 2019 WL 1932062 (E.D. Mich. 2019).

- *Matheson Tri-Gas, Inc. v. E-B Display Company, Inc.*, 2021 WL 1701062 (S.D. Tex. 2021).
- *In re Johnson*, 2017 WL 3701221 (N.D. Ga. 2017).
- *Schlumberger Technology Corp. v. Turnkey E&P Inc.*, 2009 WL 5220648 (S.D. Tex. 2009).
- *Matheson Tri-Gas, Inc. v. Maxim Integrated Products, Inc.*, 444 S.W.3d 283 (Tex. App.—Dallas 2014).
- *In re Exco Services, Inc.*, 2020 WL 1951582 (S.D. Tex. 2020).

Awards and Recognition

- Texas Rising Star by Super Lawyers®, a Thomson Reuters business, as published in *Texas Super Lawyers Magazine*
 - Business Litigation (2013-2018)

Affiliations

- Member, State Bar of Texas
- Member, Houston Young Lawyers Association
- Adjunct Professor, South Texas College of Law (2008-2012)
- Fellow, Texas Bar Foundation

Publications and Presentations

- “Legal Issues for Texas Civil Engineers and Professional Land Surveyors,” Austin, TX (November 19, 2015)
- “Legal Issues in Texas Professional Land Surveying,” Austin, TX (January 16, 2015)
- “Legal Issues in Texas Professional Land Surveying,” Austin, TX (February 7, 2014)
- “Whats the Deal?” *Well Servicing Magazine* (August 1, 2013)

Sectors

- [Energy & Infrastructure](#)

Practice Areas

- [Commercial Litigation](#)
- [Consumer Law, Finance & Class Action Group](#)
- [Energy Litigation](#)
- [Litigation](#)

Education

- South Texas College of Law, (J.D., cum laude, 2007)
 - Member, South Texas Law Review (2006-2007)
 - Member, Order of the Lycae
 - Member, Order of Barristers
 - Recipient, Dean’s Outstanding Student Advocate Award
 - Recipient, NITA Tournament of Champions – Best Advocate (2006)

- Recognized, Dean's List
- Texas A&M University, (M.L.E.R.E., 2000)
 - Land Economics & Real Estate
 - President, Land Economics & Real Estate Association (2000)
- Texas A&M University, (B.S., 1998)

Admissions

- Texas (2007)
- Oklahoma (2019)
- U.S. District Court for the Eastern, Northern, Southern, and Western Districts of Texas
- Previously admitted *pro hac vice* in New York, Florida, Michigan, and North Dakota