

## Stacy R. Obenhaus Of Counsel

[sobenhaus@foley.com](mailto:sobenhaus@foley.com)

Dallas

214.999.4868



Stacy Obenhaus has nearly four decades of experience as an appellate lawyer. He understands that a successful appeal requires cooperation with your trial counsel, a detailed review of the trial record, and a conservative analysis of the potential legal issues to successfully frame the case for appellate judges.

He has handled appeals in a wide variety of commercial and corporate litigation matters, with significant experience in contracts, business torts, bankruptcy, the oil and gas industry, and commercial transactions.

Stacy handles appeals in all the Texas appellate courts, in various other states' appellate courts, and in U.S. Courts of Appeals around the country.

He also routinely consults with trial counsel on the preparation of their case – analyzing causes of action and defenses, amending pleadings, revising proposed orders, drafting proposed jury charges, preparing the pretrial order, arguing the jury charge conference, and drafting post-verdict motions – and handling petitions for writ of mandamus on an emergency basis.

He has significant experience advising about collecting or enforcing judgements and about supersedeas matters during the appeal.

Since 1990 he has acted as ASCAP's local litigation counsel in the federal courts in Texas.

### Representative Experience

- *Perry Homes v. Cull*, 258 S.W.3d 580 (Tex. 2008). Seminal case establishing principle that litigation conduct can waive arbitration.
- *Hall CA-NV, LLC v. Radovan*, No. 05-19-01412-CV, 2022 WL 1657246 (Tex. App. – Dallas May 25, 2022). Reversing take-nothing judgement and rendering judgement for client on note and guarantee.
- *ETC Intrastate Procurement Co. v. JSW Steel (USA), Inc.*, 62 S.W.3d 168 (Tex. App. – Houston [14<sup>th</sup> Dist.] 2021). Establishing under U.C.C. that client's terms and conditions were adopted as contract

terms through email offer and acceptance.

- *Vikas WSP v. Economy Mud Prods. Co.*, 23 F.4<sup>th</sup> 442 (5<sup>th</sup> Cir. 2022). Reversing a \$40 million summary judgement against client.
- *In re Geomet Recycling LLC*, 578 S.W.3d 82 (Tex. 2019). Obtaining a writ of mandamus against a court of appeals to vacate its order lifting a stay.

## Awards and Recognition

- *Best Lawyers in America* – Appellate Practice (2020-2023)
- *Texas Super Lawyers*, a Thomson Reuters business, as published in *Texas Super Lawyers Magazine* – Appellate (2003-2010)
- *Martindale-Hubbell® Peer Review Ratings™ system* – AV Preeminent® 5.0 out of 5 Peer Review Rated

## Affiliations

- Board Certified, Civil Appellate Law, Texas Board of Legal Specialization (1992 – present)
- Member of the Appellate Section of the State Bar of Texas

## Community Involvement

- Lifetime Member of the Southern Poverty Law Center
- Lifetime Member of the Friends of the ACU Library

## Presentations and Publications

- Author, “Interlocutory Appeals,” *State Bar of Texas, 40<sup>th</sup> Annual Advanced Civil Trial*, (July, August, October 2017)
- Speaker, “28<sup>th</sup> Annual Advanced Civil Appellate Practice Course: Civil Appellate Practice 101: Messing with the Appellant,” *State Bar of Texas*, (September 2014)
- Author, “Where Do I Start in Drafting a Civil Jury Charge?” *Dallas Bar Association Headnotes*, (March 2014)
- Speaker. “27<sup>th</sup> Annual Advanced Civil Appellate Practice Course: Avoiding Briefing Waiver in the Texas Court of Appeals,” *State Bar of Texas*, (September 2013)
- Speaker, “The University of Texas School of Law 22<sup>nd</sup> Annual Conference on State and Federal Appeals: Ten Things the Texas Courts of Appeals Could Do Better (According to the Appellate Bar)”, (June 2012)
- Author, “Inherent Judicial Power and the Principles of Appellate Review,” *22:4 App. Advocate* 368-81, (Summer 2010)
- Author, “Some Practical Suggestions for Dealing with the Presumed Findings Rules in Texas Civil Procedure,” *16:4 App. Advocate* 5-9, (Spring 2004)
- Author, “It Ain’t Over ‘Til It’s Over: The Appellate Mandate in Texas Courts,” *15:4 App. Advocate* 4-11, (Winter 2003)

- Speaker, “The University of Texas School of Law 13<sup>th</sup> Annual Conference on State and Federal Appeals: Presumed Findings in Texas and Federal Civil Procedure,” (June 2003)
- Co-author, “The University of Texas School of Law 11<sup>th</sup> Annual Conference on State and Federal Appeals: The Texas Supreme Court by the Numbers – A Statistical Survey,” (May 2001)
- Author, “The Highway to Basra and the Ethics of Pursuit,” *Military Review* 51-57 No. 2, (March-April 2000)

## Languages

- French

## Sectors

- [Oil & Gas](#)

## Practice Areas

- [Appellate](#)
- [Business Litigation & Dispute Resolution](#)
- [Litigation](#)

## Education

- Southern Methodist University Perkins School of Theology (M.T.S., 2002)
- The University of Texas School of Law (J.D., 1985)
  - Articles editor, *Texas Law Review*
- Oklahoma Christian College (B.A., 1982)

## Admissions

- Texas (1988)
- Texas State Courts (1988)
- Supreme Court of Texas (1988)
- U.S. District Court, Eastern, Northern, Southern and Western Districts of Texas
- U.S. Court of Appeals, Third, Fifth, Seventh, Eighth, Tenth, Eleventh and Federal Circuits
- U.S. Supreme Court (1993)