

Andrew S. Hicks

Partner

ahicks@shjlawfirm.com

P: 713.357.5152

F: 713.357.5160

Practice Areas

Arbitration

Energy

Healthcare

Trial

Education

University of Chicago Law School, J.D., 2001

University of Oklahoma, B.A., 1998,
magna cum laude

Admissions

Oklahoma State Bar

State Bar of Texas

U.S. District Court for the Eastern, Northern,
Southern, and Western Districts of Texas

U.S. District Court for the Western District
of Oklahoma



OVERVIEW

Andy represents plaintiffs and defendants in complex commercial disputes and tort claims. A tenacious trial lawyer and astute legal strategist, he has built an exceptional track record both in the courtroom and before arbitral tribunals in the United States and abroad.

With extensive experience in energy and healthcare matters, Andy is often called upon to represent participants in those industries. His practice includes a variety of disputes involving, among other things, energy industry transactions, joint operating agreements, the development, processing and sale of oil, gas and other commodities, partnerships and joint ventures, professional negligence, products liability, trade secrets, breaches of fiduciary duty, and other business torts.

Clients prize Andy's ability to "seize the heart of the matter and move quickly to a successful resolution." In addition to litigating and arbitrating cases, he provides strategic advice to minimize the risk of litigation and assists clients with negotiating, drafting, and enforcing arbitration clauses.

Andy began his legal career at Vinson & Elkins, where he focused on commercial litigation and international arbitration. He was later recruited by King & Spalding, where he practiced until co-founding Schiffer Hicks Johnson in 2007.

NOTABLE EXPERIENCE

Energy

- Represented client in a \$200 million expert determination concerning the construction of a gas processing plant in west Texas and the execution of a Gas Treatment and CO2 Delivery Agreement. Despite conceding liability for substantial penalties owing due to our client's failure to deliver contractually required volumes of CO2, we obtained a reduction in liability of approximately \$20 million by arguing offsets from a separate contract between the parties and compensation for CO2 deliveries from a time period not contemplated by the contract.
- Represented plaintiffs—two individuals and partners in an LNG project development company—in a usurpation of corporate opportunity and theft of trade secrets case. Filed suit in Texas state court against our clients' former partners and the "new" company they had formed, alleging that they had improperly transferred the intellectual property and other assets created by the partnership for their benefit. Through extensive research, we were able to show numerous similarities between the

Andrew S. Hicks

Partner
ahicks@shjlawfirm.com

P: 713.357.5152
F: 713.357.5160

original venture and the defendants' "new" organization, including virtually identical business plans, marketing materials, and substantive work. We sought damages of \$168 million; the case quickly resolved through a stock settlement that more than made our clients whole.

- Represented energy industry client in a \$100 million-plus domestic arbitration concerning the propriety of amounts charged by the operator under the parties' joint operating agreement.
- Represented major oil company in a dispute with LNG import facility regarding interpretation of our client's long-term Terminal Usage Agreement. Due to substantial pre-dispute research and analysis, we were able to favorably resolve this roughly \$400 million dispute through pre-arbitration negotiations.
- Represented the claimant, an energy services company, in a domestic arbitration involving breach of warranty and indemnity action against a technology company in claims related to a defective computerized fleet management system implemented by the client. After a fast track arbitration in which all depositions, expert reports, pre-hearing briefings, and the evidentiary hearing took place in 30 days, we obtained a favorable award for our client on all claims.
- Represented a major oil company in Texas state court in a breach of warranty and negligence action against a pipeline company related to the delivery of fluoride-contaminated natural gas liquids. As a result of the defendant's delivery of contaminated goods, our client's refinery incurred multimillion-dollar damages in damaged products and mitigation costs. We settled the case on terms favorable to our client prior to trial.
- Represented Houston-based exploration and production company in a \$20 million breach of warranty and product liability case against several steel manufacturing companies. Our client's 18,000-foot horizontal well was rendered a complete loss when the defendant manufacturers' casing separated during hydraulic fracturing operations. This case involved complex issues concerning the steel manufacturing process and attendant metallurgy, drilling and completions operations, and even the application of the laws of India to certain claims. After taking and defending over 30 depositions in roughly 45 days and defeating the defendants' numerous dispositive motions, we settled favorably with all but one defendant.
- Represented a major oil company in a pricing dispute related to a long-term supply contract. This ICDR arbitration concerned the price term applicable to petroleum coke sales and the interpretation of the agreement's market reopener clause.
- Represented an oil field equipment supplier in a dispute related to a substantial construction project in Canada. Claimant general contractor alleged that late deliveries and deliveries of off-spec goods by our client caused in excess of \$10 million in damages, including both delay damages and other liquidated damages. After extensive analysis and review of documents as well as significant negotiations with our client's counter-party, we settled the case on very favorable terms prior to the filing of suit.

Healthcare

- Represented a Houston-based hospital against a national health insurer seeking to recover \$15 million in claims payments for emergency care, alleging that it had been defrauded because freestanding emergency departments were not "hospital-based" for purposes of claim reimbursement. Our lawyers successfully invoked the Buckman preemption to argue that the insurer's claims—which were based on alleged misrepresentations to Medicare—were precluded by our client's Medicare designation as a provider-based entity (PBE). We defeated the insurer's claims in their entirety on summary judgment.

Andrew S. Hicks

Partner

ahicks@shjlawfirm.com

P: 713.357.5152

F: 713.357.5160

- Represented a publicly traded healthcare company in a fraud and breach of contract action against the financial advisory firm that took the company public. The case settled on favorable terms after we obtained a temporary injunction preventing the defendants from trading or pledging the stock they held in our client company.
- Defended a hospital against claims brought by a health insurer seeking the disgorgement of approximately \$20 million in claims paid due to allegedly improper coding of claims. We represented our client in parallel proceedings in state and federal court and ultimately negotiated a favorable settlement prior to trial.
- Represented a freestanding emergency department in a dispute with a health insurer regarding underpayment of claims, simultaneously defending against insurer's claim of improper coding and violations of Texas law. With approximately \$7 million in controversy, we negotiated a confidential settlement for our client the weekend before trial.

OTHER MATTERS

- Represented claimant in international arbitration involving a breach of contract action concerning employee benefit management services provided by our client. Prevailed on all claims, recovered the full measure of damages sought, and were awarded our attorneys' fees and costs.
- Represented commercial real estate company in a domestic arbitration administered by the AAA in a professional negligence and breach of contract claim against architect related to hotel renovation project.
- Representing the limited partners in approximately two dozen commercial real estate partnerships in numerous lawsuits contemporaneously filed by the general partner. We defeated the general partner's attempt to obtain a temporary injunction requiring our clients to approve certain transactions proposed by the general partner.

PUBLICATIONS AND SPEAKING

Guest lecturer, Energy Law Seminar at the University of Chicago Law School (2014-2016)

HONORS AND AWARDS

- Rising Star, *Texas Monthly* magazine (2005-2014)
- *Super Lawyers* (2014-2017)

PROFESSIONAL AFFILIATIONS

- State Bar of Oklahoma Bar Association
- State Bar of Texas Bar Association