



Kenneth M. Klemm

Shareholder

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Kenneth M. Klemm is a trial lawyer with deep experience defending clients across a variety of industries, including energy, oil and gas, chemical/petrochemical, motor carrier, and marine. Mr. Klemm has handled hundreds of cases throughout his 30-year-long career and has tried numerous cases to verdict.

Mr. Klemm, a shareholder in the Firm's New Orleans office, has been a commercial litigator for 30 years and primarily handles commercial disputes, personal and property damages, and related insurance issues. His clients have relied upon his advice and counsel for decades and span from regional businesses and individuals to large, multi-national corporations and insurance companies.

Mr. Klemm's experience includes breach of contract claims, royalty disputes, lease disputes, environmental and toxic tort claims, products liability, negligence, and insurance coverage disputes. What really sets him apart, however, is his experience trying cases and skill for doing it well. Mr. Klemm has tried numerous cases to verdict in both federal and state courts. He also has argued before Louisiana state appellate courts and the U.S. Court of Appeals for the Fifth Circuit and has been licensed in the U.S. Supreme Court since 1994.

Mr. Klemm has co-chaired the Firm's Oil and Gas Industry Service Team for nearly a decade and is a member of the Firm's [24 Hour Motor Carrier Emergency Response Team](#) comprised of attorneys across the Firm's footprint dedicated to providing clients with rapid, post-incident intervention and investigation.



Case Studies

- [Baker Donelson Drafts Pore-Space Lease Agreement for Carbon Capture and Sequestration \(CCS\) Project](#) - Pore-Space Lease Agreement



Representative Matters

Chemical/Petrochemical

- Defended a major chemical company in Louisiana against a significant environmental enforcement action by the U.S. government and contamination claims by local residents. In the federal enforcement action, the government sought civil penalties for violations of the Resource Conservation and Recovery Act, the Comprehensive Environmental Response, Compensation and Liability Act and the Clean Air Act. The surrounding residents sued for damages alleging trespass and other state law claims. After several days of trial in the enforcement action, the client concluded a favorable settlement with U.S. government.
- Defended and obtained dismissal of client and its employee for personal injuries to subcontractor's employee resulting from unintended pressure release at chemical plant.

Energy, Oil and Gas

- Obtained a favorable ruling on behalf of an energy corporation from the Louisiana Court of Appeal, Second Circuit, affirming the state court's holding after a trial that depth limitation language in a \$260 million mineral purchase agreement was unambiguous and that the corporation was the rightful owner of the oil, gas and minerals at issue, with the case demanding a detailed analysis of contract law, as well as an understanding of the complexities of geologic formations and correlative oil and gas well markers.

- Defended an energy corporation in a suit for the recovery of more than \$15 million in damages and expenses resulting from a natural gas well blowout, involving claims for negligence, breach of warranty and products liability arising from a defective gate valve and casing.
- Defended one of the largest natural gas producers in the United States in a blowout case against claims of gross negligence to preclude enforcement of limitation of liability, indemnity and allocation of risk provisions in a Master Service Agreement, with the court awarding nearly \$10 million in damages, including prejudgment interest, to the client.
- Obtained a \$2 million judgment for a natural gas transportation company in a case involving an explosion at oil and gas terminal facilities during construction.
- Represented clients in unitization proceedings before the Office of Conservation, Louisiana Department of Natural Resources.

Environmental and Toxic Tort

- Successfully defended a natural gas pipeline company in a legacy lawsuit alleging millions of dollars in contamination to property located in south Louisiana, with the defendant arguing that none of the constituents alleged to have contaminated the property could have originated from the defendant's operations. The court dismissed the company from the suit in one of the first instances after legislature enacted amendments to governing statute permitting dismissals after pretrial evidentiary hearing.
- Defended an independent oil and natural gas producer in a well blowout case in a Natural Resources Damage Assessment (NRDA), and against claims under the Oil Pollution Act (OPA) and for gross negligence, ultimately resulting in favorable resolutions of the NRDA, a civil penalty claim by the U.S. Coast Guard under the OPA and claims against the producer's well contractors.
- Defended international oilfield services provider in several suits involving significant numbers of plaintiffs for personal injury claims arising from Naturally Occurring Radioactive Material and Technologically Enhanced Naturally Occurring Radioactive Material.

Insurance Coverage

- Represented national insurer in suits in Florida and Louisiana by hotel operating companies for property damage and business interruption claims, allegedly caused by Hurricane Katrina to various properties. In Louisiana, the client obtained a favorable settlement after nearly a month of trial on liability and damages issues. Likewise, the Florida suits were settled on a favorable basis.
- Obtained favorable settlements for London underwriters in various control of well (COW) and operators' extra expense (OEE) subrogation claims arising from well blowouts and other casualties.

Marine

- Received a favorable settlement on behalf of an oil and gas producer in claims resulting from the capsizing of a lift boat, with the settlement including the payment of attorneys' fees and costs for defense and indemnity claims.
- Represented an international metals trading firm in a maritime seizure action, obtaining an expeditious release of cargo and an award of attorneys' fees and costs against the party seizing the property.
- Successfully defended client in obtaining order from federal court enforcing defense and indemnity obligations in marine personal injury suit.

Motor Carrier

- Successfully defended against claims for brain-related and other personal injury damages arising from a motor carrier accident.
- Defended and resolved numerous personal injury and property damage suits arising from motor carrier accidents.

Products Liability

- Represented an energy corporation in a products liability and negligence suit for the recovery of more than \$20 million in damages resulting from defective coiled tubing and check valves in equipment

supplied and manufactured by other entities, after the client incurred significant expense in remedial operations and lost profits due to production delays arising from the equipment's malfunction.

- Litigated and then negotiated a favorable settlement for an oilfield equipment manufacturer in a products liability and negligence suit alleging more than \$30 million in damages to an offshore oil and gas well resulting from the premature activation of a piece of equipment. The settlement included a significantly discounted payment to resolve all claims.
- Successfully defended a manufacturer at trial in a products liability suit arising from the malfunction of a vessel engine.



Professional Honors & Activities

- Listed in *The Best Lawyers in America*® for Admiralty and Maritime Law (2010 – 2024); Product Liability Litigation - Defendants (2012 – 2024); Transportation Law (2017 – 2024); Oil and Gas Law (2019 – 2024); Energy Law (2023, 2024)
- Named the Best Lawyers® 2023 and 2018 Transportation Law "Lawyer of the Year" in New Orleans
- Listed in *Chambers USA* as a leading Energy & Natural Resources: Oil & Gas lawyer in Louisiana since 2011
- Recognized as a "Top Lawyer" in Maritime Law by *New Orleans Magazine* (2010); Transportation Law (2018, 2020); Energy Law (2017, 2019, 2021 – 2023); Oil and Gas (2020 – 2023); Natural Resources Law (2019, 2020)
- Listed in *Louisiana Super Lawyers* in Energy & Natural Resources (2007 – 2008, 2015 – 2024)
- Named to *CityBusiness*' Leadership in Law Class of 2012
- Member – American and Federal Bar Associations
- Member – Louisiana Chemical Industry Alliance
- Advisory Board Member – Institute for Energy Law
- Vice Chair – Institute for Energy Law's Executive Committee (2018 – 2020)
- Councilor – Dartmouth College Alumni Council (2014 – 2017)
- Member – Energy Editorial Advisory Board, *Law360* (2011)
- Co-chair – Trial Evidence Committee, American Bar Association Section of Litigation (2018 – present)
- Co-chair – Pretrial Practice & Discovery Committee, American Bar Association (2015 – 2018)
- Co-chair – Energy Litigation Committee, American Bar Association (2012 – 2015; Programs Subcommittee, 2009 – 2010)
- Member – Louisiana, New Orleans, New Jersey and New York Bar Associations
- Proctor Member – Maritime Law Association of the United States
- Member – Rocky Mountain Mineral Law Foundation
- Vice President – Program, Southeast Louisiana Council – Boy Scouts of America (2020 – present)
- Executive Board, Southeast Louisiana Council – Boy Scouts of America (2010 – present)
- District Chair, Southeast Louisiana Council – Boy Scouts of America (2010 – 2013)
- President and Area Enrollment Director – Dartmouth Club of the Gulf Coast (2000 – 2017)
- Senior Lieutenant, Krewe of Endymion
- Law Clerk, Honorable George Arceneaux, Jr., U.S. District Judge for the Eastern District of Louisiana (1990 – 1992)
- Captain, Battalion Intelligence Officer, Louisiana Army National Guard (1990 – 1992)
 - Active duty in Operation Desert Shield/Desert Storm
- Lieutenant, Tactical Intelligence Officer, New Jersey Army National Guard (1986 – 1990)
- Lieutenant, Intelligence Production Officer, Department of the Army (1988)
- Member – [Baker Donelson's 24-Hour Transportation Emergency Response Team](#)



Publications

- Co-author – "Considerations on the Use of Depositions at Trial," *Litigation News*, ABA Section of Litigation (December 2020)
- "Federal District Court in Montana Enjoins Dredge or Fill Activities Under Nationwide Permit and Halts New Pipeline Projects," Institute for Energy Law's Oil & Gas E-Report (July 2020)
- Co-author – "OSHA Issues Guidelines for Oil and Gas Industry Workers and Employers," republished in *Texas Lawyer* (July 2020)
- Co-author – "How Will the Coronavirus Pandemic Impact Litigation and Dispute Resolution in the Future?," republished in *New Orleans CityBusiness* (May 2020)
- Co-author – "Coronavirus: Oil and Gas Industry – Essential Workers under Louisiana's Stay-at-Home Order," republished in *New Orleans CityBusiness* (March 22, 2020)
- Co-author – "Federal Fifth Circuit Holds Debtor-in-Possession Lessee is Bona Fide Purchaser," Institute for Energy Law's Oil & Gas E-Report (October 2018)
- Moderator – "Water Rights and Their Impact on Shale Gas Development," *The Shale Energy Revolution: A Lawyer's Guide*, Energy Litigation Committee of the American Bar Association's Section of Litigation (2015)
- Featured – "On Site With: Q&A with Kenneth M. Klemm from Baker Donelson," *Energy Executive* (Summer/Fall 2014)
- Co-author – "States Focusing on Water Usage Rights Issues," *The American Oil and Gas Reporter* (November 2013)
- "Anti-fracking Suits Face Formidable Hurdles," *The National Law Journal* (December 2012)
- Co-author – "A Light at the End of the Tunnel? BOEMRE Clarifies New Safety Regulations for Deepwater Drilling and Issues First Permits After Moratorium," Louisiana Oil and Gas Association Industry Report (Spring 2011)



Speaking Engagements

- "20th Annual Energy Litigation Conference" (November 2021)
- Moderator – "Views from the Bench," 14th Annual Institute for Energy Law Energy Litigation Conference (November 2015)
- "Oilfield Contamination Litigation Update," 2015 Energy and Environmental Law Summit, Louisiana State Bar Association (October 2015)
- "Implied Covenants: Recent Developments in Failure to Develop Cases and Other Implied Obligations Under Mineral Leases," 57th Annual Rocky Mountain Mineral Law Institute, Santa Fe, New Mexico (July 2011)



Webinars

- Coronavirus: Issues Affecting the Oil and Gas Industry (March 30, 2020)



Education

- Fordham University School of Law, J.D., 1990
 - Assistant Editor – Lloyd's Maritime Newsletter of North America
 - Notes & Articles Editor – *International Law Journal*
- Dartmouth College, B.A., 1986
- Distinguished Military Graduate from Reserve Officers Training Corps program at Norwich University



Admissions

- Louisiana, 1993
- New York, 1990

- New Jersey, 1990
- U.S. Supreme Court, 1994
- U.S. Court of Appeals for the Second Circuit, 1994
- U.S. Courts of Appeals for the Third and Fifth Circuits, 1993
- U.S. District Courts for the Eastern, Middle and Western Districts of Louisiana, 1993
- U.S. District Courts for the Northern, Southern, Eastern and Western Districts of New York, 1993
- U.S. District Court for the District of New Jersey, 1990
- U.S. District Court for the Southern and Eastern Districts of Texas, 2010