



## → Barclay R. Nicholson

### Partner

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Barclay Nicholson is a partner in the Business Trial Practice Group in the firm's Houston office.

### Areas of Practice

Barclay offers clients in-depth knowledge and expertise in energy-related, construction and commercial disputes. He has represented a broad range of clients from the largest of the Fortune 500 companies to entrepreneurial business owners. He has significant experience handling energy related litigation and has represented some of the world's major oil and gas producing and refining companies as well as some of the nation's biggest drilling and E&P companies along with representing several "alternative energy" companies. Barclay also has extensive experience in construction related disputes and has represented some of the largest construction companies, owners and general contractors in the nation. *Chambers USA*, America's Leading Lawyers for Business, noted Barclay for his litigation practice describing him as, "absolutely wonderful," "a very, very strong lawyer," "knowledgeable, responsive and accessible," "intelligent and good natured." Barclay has also been named as a "Best Lawyer in America" and as a "Texas Super Lawyer."

Within the area of energy litigation, Barclay is known for his expertise related to unconventional development and hydraulic fracturing. He has authored numerous articles and given speeches both across the nation and internationally on all aspects of unconventional oil and gas plays. Barclay is the author of the Analysis of Litigation Involving Shale & Hydraulic Fracturing which details all of the litigation across the country involving shale plays. Barclay is the editor and author of the ABA's Book, *The Shale Energy Revolution: A Lawyer's Guide*.

Barclay has assisted clients in all of North America's major exploration plays. Internationally, Barclay has been chosen to assist the US State Department Bureau of Energy and the US Department of Commerce, through its Commercial Law Development Program, in advising the countries of China, India, Iceland, Vietnam, Colombia, Chile, and Afghanistan on their energy programs and their energy resources and the regulatory and legal matters associated with those resources. This includes both conventional energy resources as well as alternative energy resources.

Most recently Barclay served on: the US/China Unconventional Oil & Gas Sustainable Development Workshop in Beijing, China, the Oil and Gas Sector Regulation and Long-Term Management in the Arctic Conference in Reykjavik, Iceland, the Regional Unconventional Gas Technical Workshop in Hanoi, Vietnam, the US/Mongolia Unconventional Oil & Gas Workshop in Ulanbator, Mongolia, the US/Afghanistan Cooperation on Extractive Industries Development Program that took place in Doha, Qatar, the US/Colombia Cooperation on Coal Bed Methane Extraction and Unconventional Resources in Bogota, Colombia, the US/India Cooperation on Unconventional Natural Gas Consultations in New Delhi, India and the US/Chile Consultations on Unconventional Natural Gas in Santiago, Chile.

In construction related litigation, Barclay has represented some of the nation's largest construction companies. He has routinely represented construction owners as well as general contractors and design professionals in construction defect and construction delay cases. Barclay has dealt with construction related litigation ranging from multi-story residential high rise buildings, to pipeline construction cases, to large scale commercial buildings. Most recently, Barclay has been involved in the litigation associated with the construction of the Millennium Tower in downtown San Francisco, which was featured on CBS's 60 Minutes. He has also been involved in litigation with other major construction projects in Los Angeles, Las Vegas and Texas. Barclay also has extensive experience in construction delay claims, especially those involving pipeline projects and refinery construction projects.

Barclay also routinely represents clients related to complex insurance issues and has handled a number of these cases as shown in more detail below. Further, Barclay recently served as Chair of the Houston Bar Association's Litigation Section, which has more than 1,200 members.

Barclay has handled commercial cases that involve amounts exceeding one billion dollars. He has represented clients in numerous proceedings both in the United States (in federal and state courts) and abroad (in the LCIA, ICC, UNCITRAL and ICDR). Additionally, he has represented clients before various administrative and congressional oversight boards.

Previously, Barclay served as Briefing Attorney for Justice Alberto Gonzales of the Texas Supreme Court, who later served as the United States Attorney General. He also served as Briefing Clerk for Chief Justice Thomas R. Phillips of the Texas Supreme Court.

## Honors

Chambers USA, Texas: Insurance, Chambers & Partners, 2011 - 2016

Best Lawyers in America, *Best Lawyers*, 2018 - 2024

Best Lawyers - Insurance Law, *Best Lawyers*, 2022

Texas Super Lawyer, *Super Lawyers*, 2015 - 2022

Texas Rising Star, *Super Lawyers*, 2005 - 2010, 2013

Texas Top Rated Lawyer, LexisNexis Martindale-Hubbell, 2013 - 2017

Legal 500, Listed Lawyer, 2022

Houston's Top Lawyers of 2014, H Texas Magazine, 2014

The Irish Legal 100, *Irish Voice*, 2014 - 2021

Who's Who in Energy Finalist, Houston Business Journal, 2013

Top Lawyers in Houston, H Texas Magazine, 2013, 2014

Houston's Top Lawyers, H Texas Magazine, 2006 - 2009

AV Rated Lawyer, LexisNexis Martindale-Hubbell

Lawyer on the Fast Track, Commercial Litigation, H Texas Magazine, 2004 - 2006

Who's Who in America, Marquis, 2012 - 2022

## Experience

Recent, significant litigation and arbitration activities include:

### **Energy Related Representations include:**

- Lead arbitration counsel for a private equity backed mineral interest fund against a broker dealer claiming fees owed under various financing contracts
- Lead trial counsel in class action litigation involving environmental concerns related to unconventional oil and gas drilling operations
- Lead trial counsel in crude oil take-or-pay trading suit for Canadian based, international oil and gas company
- Lead trial counsel in crude by rail train derailment for US based crude by rail transportation company
- Lead trial counsel in litigation arising from multiple oil & gas leases and related service contracts
- Counseled companies regarding the disclosure of hydraulic fracturing fluids
- Lead trial counsel in dispute regarding Joint Operating Agreement between oil and gas operators
- Lead trial counsel in lawsuits involving claims of groundwater contamination due to hydraulic fracturing operations
- Lead trial counsel for major oil and gas drilling company in dispute regarding drilling operations
- Lead arbitration counsel for British LNG provider in commercial dispute concerning multiple multinational JOA and PSA contracts pending before LCIA
- Lead arbitration counsel for major oil producer in ICC arbitration involving a failed merger
- Trial counsel in trial court and Fifth Circuit Court of Appeals for multi-national oil and gas company in \$266 billion False Claims Act suit
- Arbitration counsel for Canadian oil and gas company in ICC arbitration dispute concerning West African offshore oil fields
- Arbitration counsel for major multinational producer and refiner in dispute with government over offshore oil rights
- Lead arbitration counsel for multinational oil producer and refiner over government related claims in ICC arbitration
- Lead trial counsel for International gas company in multiple take-or-pay contract disputes
- Lead trial counsel for regional drilling and exploration company in well damage case in Texas State Court
- Lead trial counsel for local oil and gas exploration company regarding a deceptive trade practices action pending in Federal Court in Houston

### **Commercial Litigation Representations include:**

- Lead trial counsel for national newspaper in complex breach of contract and breach of fiduciary duty case in state court
- Lead trial counsel for small manufacturing business owner in a state court dispute regarding a buy-sell agreement
- Lead trial counsel for crude by rail operator relating to contract dispute for rail terminals and railcar leases

- Lead attorney for oil field equipment manufacturer in contractual business dispute regarding a buy-out agreement
- Lead trial counsel for International law firm in a malpractice action
- Lead trial counsel for major media company in a wrongful death case
- Lead trial counsel for premises owner in a suit that involved catastrophic personal injury
- Prosecuted over 20 lawsuits on behalf of the City of Houston, as first chair attorney

#### **Construction Related Representations include:**

- Trial counsel for public entity involving alleged damage to surrounding buildings leading to high rise tower settlement and tilt in San Francisco, California
- Lead trial counsel for general contractor of a \$2 billion dollar construction project of multiple high rise condo towers in Las Vegas involving construction defects
- Lead trial counsel in defense of general contractor related to multi-story condo tower project in Miami
- Lead trial counsel in defense of general contractor related to development of large master planned community in Florida
- Lead trial counsel for general contractor related to \$1 billion dollar industrial complex in Denver
- Lead trial counsel for general contractor on school building construction alleging construction defect claims in Texas
- Lead trial counsel for general contractor of multi-story commercial building in Santa Monica involving construction defects
- Trial counsel for publicly traded mid-stream company related to construction delays of a multi-state pipeline project
- Lead trial counsel for one of the world's largest oil and gas companies in construction dispute involving multinational EPC contract
- Lead arbitration counsel for regional pipeline company in AAA arbitration involving construction delay dispute
- Trial counsel for national manufacturing company in bench trial in South Texas that resulted in a take nothing judgment and recovery on counter-claim

#### **First Party Insurance and Bad-Faith Representations include:**

- Trial counsel for *Fortune 500* Insurance Company in coverage and bad-faith lawsuits in state and federal court with exposure totaling over \$250 million
- Trial counsel for one of the world's leading insurance companies in a bad-faith trial lasting over four weeks in Jefferson Parish, State Court in Louisiana
- Trial counsel for multinational insurance company against bad-faith claims brought in Federal Court in Missouri
- Trial counsel for International insurance carrier in first party litigation case involving bad-faith claims arising out of excess insurance policy
- Trial counsel for National insurance company in appeal involving contractual dispute between companies which resulted in widely cited published court of appeals decision

- Trial counsel for National insurance company in case of first impression that involved bad-faith; case was won at summary judgment and subsequently upheld at appellate level and published opinion has become widely cited as precedent

#### **Intellectual Property Representations include:**

- Trial counsel for *Fortune 500* energy company in a week long complex patent infringement jury trial in Federal Court for the Eastern District of Texas
- Lead trial counsel for major media company as defendant in TV related technology matter in Federal Court for the Eastern District of Texas
- Trial counsel for International consumer electronics company in patent case involving MP3 players in Federal Court in Southern District of Texas
- Trial counsel for International medical device manufacturing company in patent case involving surgical devices in Federal Court for the Eastern District of Texas

## Articles

- 2023 Insurance Team Year-In-Review  
04.03.2024

Barclay has authored a number of articles on hydraulic fracturing litigation. He has also authored articles on other topics including: breach of contract damage issues, construction litigation issues, insurance coverage disputes, insurance bad faith and causation issues and international arbitration case studies. Barclay also has authored several articles for in-house legal departments. He also serves on the editorial board for both the Energy Law Report published by LexisNexis and the Oil & Gas E-Report published by the Institute for Energy Law.

Other publications include:

- "INSIGHT: Covid-19 State Legislation Could Shake Up Insurance Contracts," *Bloomberg Law*, May 12, 2020
- "Colorado Enacts Sweeping Regulatory Changes to Oil and Gas Industry," Oil & Gas E-Report, Institute for Energy Law, June 2019
- "US court decision poised to impact underwriter ability," *Insurance Day*, Oct. 15, 2018
- "Supreme Court Holds Drilling Across Tracts not Trespass," *Oil & Gas E-Report*, Institute for Energy Law, January 2018
- "BLM asks 10th Circuit to Pause Review of Obama-era Fracking Rule," *International Law Office*, May 29, 2017
- "Possible link between local earthquakes and fracking," *International Law Office*, April 3, 2017
- "Pennsylvania DEP's negotiating power fracked," *International Law Office*, February 6, 2017
- "Oklahoma shuts down wastewater disposal wells after recent earthquake," *International Law Office*, October 10, 2016
- "Oklahoma Quakes Trigger Legal Concerns For Energy Cos.," *Law360*, February 4, 2016
- "Induced Earthquakes Shake Up Regulatory and Litigation Landscape," *The Energy Law Advisor*, August 2015
- "Induced Seismicity Legal Issues Break New Ground," *Law360*, May 15, 2015

- Quoted in "Texas Energy Regulator Taking Nimble Approach to Quakes," *Law360*, May 12, 2015
- "Man-Induced Earthquake Research Reverberates in Texas Legislature," *Texas Lawyer*, May 7, 2015
- "The Shale Energy Revolution: A Lawyer's Guide," *ABA Section of Litigation*, Spring, 2015
- "Local Fracking Bans: A Viable Threat or Mere Nuisance," *LawyerIssue*, March 14, 2015
- "Keeping a Lid on Trade Secrets," *Petroleum Economist*, February 9, 2015
- "Legal Strategies to Counter Fracking Bans," *Texas Lawyer*, January 7, 2015
- Quoted in "Industry, Enviro Dissect Mess of Litigation as Year Closes," *EnergyWire*, December 15, 2014
- Co-author, "Texas Railroad Commission Updates Rules for Pipeline Permit Applications," *The Energy Law Advisor*, December 3, 2014
- Co-author, "Nationwide November Ballot Results Involving Fracking," *Texas Lawyer*, November 17, 2014
- Co-author, "Texas Cites Other States In Fighting A Fracking Ban," *Law360*, November 13, 2014
- Co-author, "Seismic Events Shake Up Texas Rules On Injection Wells," *Law360*, November 7, 2014
- Co-author, "Fracking Contamination Lawsuit Raises Issue of Whether Indemnity Extends to Expense of Enforcing Indemnity Provision," IEL, *The Energy Law Advisor*, Volume 8, No. 5, November 2014
- "The Texas Railroad Commission's Proposed Rule Amendments Governing Injection Wells," *Energy Law Report*, October 2014
- "State and Federal Regulations of the Transport of Oil Products by Truck and Rail," *Rocky Mountain Mineral Law Foundation 60th Annual Institute*, September 2014
- "Pollution Exclusion: "Sudden and Accidental" applied to legacy clean-up sites," *Insurance Focus*, March, 2014
- "Nevada Drafts Hydraulic Fracturing Regulations," *Lexology*, February 27, 2014
- "Emergency Order Requires Testing and Classification of Crude Oil Transported by Rail," *Lexology*, February 26, 2014
- "New York Landowners Sue State Officials Over Delays in Hydraulic Fracturing Decision," *Lexology*, February 26, 2014
- "Montana Disclosure Regulations, Effective August 26, 2011," *Lexology*, February 25, 2014
- "Crude by Rail Safety Initiative Announce by U.S. Department of Transportation and the Association of American Railroads," *Lexology*, February 24, 2014
- "California Drought Being Used to Push for a Moratorium on Hydraulic Fracturing," *Lexology*, February 19, 2014
- "EPA's Inspector General Announces Research Concerning Potential Threats to Water Resources," *Lexology*, February 13, 2014
- "Shale Gas: A Practitioner's Guide to Shale Gas & Other Unconventional Resources," *Globe Law & Business*, February 2014
- "EPA Issues Final Permitting Guidance for Oil and Gas Hydraulic Fracturing Activities Using Diesel Fuels," *Lexology*, February 12, 2014
- "U.S. Dept. of Transportation Issues Notices of Probable Violations for Mislabeling Crude Oil Rail Shipments," *Lexology*, February 10, 2014

- "2014 – What is on the Horizon for the Insurance Industry?" Insurance Focus, February 2014
- "EU's Fracking Future Remains Uncertain After Guidance," Energy Law 360 and Environmental Law 360, February 13, 2014
- "Pennsylvania Court Reverses Decision to Reconsider Order Allowing Pre-Fracking Testing," Lexology, February 7, 2014
- "Pennsylvania Court to Consider Gag Rule Relating to Hydraulic Fracturing and Physicians," Lexology, February 6, 2014
- "Sustainable Shale Gas Growth Zones Proposed by President," Lexology, February 4, 2014
- "2014 - What is on the Horizon for the Insurance Industry?," Lexology, February, 3, 2014
- "Regulatory Complexity Governs Rail, Truck Oil Field Transportation," Oil & Gas Journal, January, 2014
- "Virginia Plans to Expand Disclosure of Fracking Chemicals," Lexology, January 31, 2014
- "California Court Dismisses Lawsuit Filed by Environmental Groups to Block Hydraulic Fracturing." Lexology, January 30, 2014
- "North Carolina Mining and Energy Commission Approves Trade Secret Protection for Chemicals Used in Hydraulic Fracturing", Lexology, January 29, 2014
- "What's shaking? Induced seismicity," Lexology, January 28, 2014
- "European Commission Issues Recommendation for Hydraulic Fracturing," Lexology, January 27, 2014
- "Pennsylvania Supreme Court Affirms Lower Court's Decision to Deny Legislators' Application to Intervene in Act 13 Lawsuit," Lexology, January 24, 2014
- "U.S. Department of Transportation Meets with Oil and Rail Industry Leaders to Discuss Transport Safety Issues," Lexology, January 23, 2014
- "Municipalities Urge Pennsylvania Supreme Court Not to Reconsider Its Decision Declaring Parts of Act 13 Unconstitutional," Lexology, January 22, 2014
- "Reuse of Acid Mine Water in Hydraulic Fracturing Operations Proposed in Pennsylvania," Lexology, January 21, 2014
- "Florida Considers Hydraulic Fracturing Disclosure Regulations," Lexology, January 20, 2014
- "Insurance and Hydraulic Fracturing," Insurance Focus, December 2013
- "Fracking Bans in Colorado and Ohio May Be Unenforceable," Law 360, November 21, 2013
- "Shale Gas and Hydraulic Fracturing: The Latest Developments," Global Infrastructure, Volume VII - October 2013
- "Hydraulic Fracturing as a Subsurface Trespass," The Energy Law Advisor, Volume 7, Number 3 - October 2013
- Interview "Shale We Dance?" The Oil & Gas Year, The Who's Who of the Global Energy Industry - Eagle Ford, Texas 2013
- "Lone Pine Order Overturned in Fracking Lawsuit," International Law Office, online media partner to Association of Corporate Counsel and International Bar Association, September 9, 2013
- Q & A with Barclay Nicholson, Attorney advises oil, gas firms on Fracking Suits, Thomson Reuters, By Mica Rosenberg, August 27, 2013

- "Insight: Arkansas Lawsuits Test Fracking Wastewater Link to Quakes" Reuters, August 27, 2013
- "Shale Gas in The United States: A Revolution" Infrastructure Journal, July 12, 2013
- Co-author, "Analysis of Litigation Involving Shale and Hydraulic Fracturing, Part 2" International Energy Law Review, 2013 Vol. 32 Issue 3, June 2013
- Interviewed, "Interior Department Extends Comment Period on Fracking Rule," NPR Radio, June 7, 2013
- Quoted in "Lawsuits linked to fracking increasing," San Antonio Express News Business Section, May 29, 2013
- Quoted in, "Shale boom's legal issues bubble to surface," Houston Chronicle Business Section, May 28, 2013
- Quoted in "A Fractured Market," CDR Commercial Dispute Resolution, May-June 2013
- Co-author, "Trade secrets and the regulation of hydraulic fracturing - Toward a global perspective," *Energy*, April 11, 2013
- "Energy Multi-Jurisdictional Guide 2013: Oil & Gas Q&A: United States," Practical Law Company, April 1, 2013
- Co-author, "Analysis of Litigation Involving Shale and Hydraulic Fracturing, Part 1," International Energy Law Review, 2013 Vol. 32 Issue 2, March 2013
- "Hydraulic Fracturing Frenzy: What's Up?," ABA Energy and Natural Resources Litigation Committee Newsletter, February 2013
- "Shale Gas and Other Unconventional Resources: A Practitioners Guide," *Globe Law and Business*, January 9, 2013, also available on Amazon.
- Co-author, "New Drilling and Recycling Regulations Proposed for Fracking" *International Law Office*, November 5, 2012
- "Fracking's Alleged Links to Water Contamination and Earthquakes," ABA Section of Litigation, Energy Litigation Committee, May 9, 2012
- "Hydraulic Fracturing As a Subsurface Trespass," ABA Energy Committee Newsletter, Vol. 9, No. 2, May, 2012
- Co-author, "Landowners Prevail in Dispute with Regulators Over Ownership of Under Ground Water," *Powell Shale Digest*, March 19, 2012
- "Courts Unclear when Fracturing is Subsurface Trespass," *The American Oil & Gas Reporter*, February 2012
- "Fracking Focus Shifts to Water," *Oil & Gas Investor*, February 2012
- "Fracking Focus Shifts to Water," *Unconventional Oil & Gas Center*, February 8, 2012
- Co-author, "Department of Interior Releases Draft Rule of Well Stimulation," *International Law Office*, February 27, 2012
- "States on Standby for Frack Rules," *Energy Bisnow*, February 24, 2012
- Interviewed, "Analysis: Green Groups Find Success Fighting Shale Oil Boom," Reuters, December 27, 2011 also published on Yahoo! News, MSNBC
- "Trends Emerge on Hydraulic Fracturing Litigation," *Oil & Gas Journal*, December 5, 2011 Issue
- "Texas Passes Law Requiring Disclosure of Chemicals Used in Hydraulic Fracturing Fluid," *The Houston Lawyer*, September/October 2011
- Co-author, "Tracking Fracking Case Law: Hydraulic Fracturing Litigation," *Natural Resources & Environment Magazine*, Fall 2011



- Author, "Key Issues Plague the Eagle Ford shale play in South Texas," *Houston Business Journal*, week of August 19-25, 2011
- Interviewed, "Examining Texas' Hydraulic Fracturing Disclosure Law," *E&P Magazine*, Hart Energy, August 2, 2011
- Co-author, "Texas Joins States Requiring Disclosure of Hydraulic Fracturing Fluids," *International Law Office*, June 27, 2011
- "Fracking and the Courts," *Oil and Gas Investor*, July 2010
- *Harris County Bench Book*
  - Editor in Chief, 2007
  - Editor, 2004 – 2006

## Construction & Infrastructure Law Blog Posts

- "Texas Central Wins Authority to Take Land for High-Speed Rail System," September 27, 2022

## Speaking Engagements

Barclay has given speeches on various topics at seminars and conventions as well as in the continuing legal education setting. Barclay has also given in-house presentations to oil and gas companies, construction companies and insurance companies in Houston, New York, London and Chicago on a number of topics including electronic discovery and attorney-client privilege issues in major companies.

- "Covid Claims and Construction Delays - What Construction Companies Need to Know," New York, New York, 2021
- "Covid Claims and Construction Delays - A Look at Claims in 2020", Boston, Massachusetts, 2020
- Energy Litigation Update, New York, New York, 2020
- Construction Defect Course, New York, New York, February 2018
- Update on Construction Defect Law, Defense Construction Course, Houston, Texas, 2017
- Panelist at the 2016 Construction Law Conference, Las Vegas, March 2016
- "Seismic Activity and Unconventional Oil and Gas Activity," Institute for Energy Law, Pittsburgh, Pennsylvania, September 10-11, 2015
- "Arctic Upstream Fiscal Terms Overview & Analysis," Oil and Gas Sector Regulation and Long-Term Management in the Arctic, Reykjavik, Iceland, August 18-19, 2015
- 13th Annual Energy Litigation Conference for the Institute of Energy Law, Houston, Texas, November 6, 2014
- Panelist at the 2014 Houston Oil and Gas Investment Arbitration Conference, Houston, Texas, October 31, 2014
- American Agricultural Law Association Annual Education Symposium, Albuquerque, New Mexico, October 19-21, 2014
- "Litigation Developments in Hydraulic Fracturing," Texas Alliance of Energy Producers First Annual Oil, Gas and Environmental Law Forum, Houston, Texas, September 16, 2014

- Conference Co-Chair, 5th Annual Law of Shale Plays Conference, Pittsburgh, Pennsylvania, September 4-5, 2014
- "Hydraulic Fracturing," 27th Annual Energy Law Institute for Attorneys and Landmen by the AAPL, HAPL and AIPN, Houston, Texas, August 27-28, 2014
- "Liability in Hydraulic Fracturing," The Seminar Group, Seattle, Washington, August 8, 2014
- "State and Federal Regulations of the Transport of Oil Products by Truck and Rail," 60th Annual Institute of the Rocky Mountain Mineral Law Foundation, Vail, Colorado, July 17-19, 2014
- "Roundtable on Regulatory Harmonization, Compliance, and Enforcement," Regional Unconventional Gas Technical Workshop, Hanoi, Vietnam, June 12-13, 2014
- "Subsurface Trespass by Hydraulic Fracturing: An Emerging Shale Play Issue," 35th Annual Institute of the Energy & Mineral Law Foundation, The Greenbriar Resort, White Sulphur Springs, West Virginia, June 1-3, 2014
- "Key Provisions in Production Sharing Contracts: Conventional vs. Unconventional," US/China Unconventional Oil & Gas Sustainable Development Workshop, Beijing, China, May 12-13, 2014
- "Deepwater and Unconventional E&P in Columbia Forum: U.S. Unconventional Litigation," Offshore Technology Conference, Houston, Texas, May 5, 2014
- "EPA Guidance for Diesel Fuel Hydraulic Fracturing," Law Seminars International, Web event, April 17, 2014
- Conference Co-Chair, 3rd Annual Hydraulic Fracking Seminar, Bacara Resort & Spa - Santa Barbara, California, February 27 - 28, 2014
- "Hydraulic Fracturing: The Hypes and Realities," Clean Frac'ing Conference, Houston, Texas, February 17-18, 2014
- "Harnessing Domestic Shale Play Opportunities," American Leaders Minimizing Risks in Upstream Oil and Gas Contract Management, Houston, Texas, February 11-12, 2014
- Presenter and Participant, "US/Colombia Cooperation on Coal Bed Methane Extraction and Unconventional Resources," U.S. Commerce Department Commercial Development Law Program, Colombia Ministry of Mines and Energy, Bogota, Colombia, January 20-23, 2014
- "Update on the Conflict Over Hydraulic Fracturing and Best Practices for Minimizing Surface and Groundwater Impacts," Tribal Energy in the Southwest, Sandia Resort & Casino, Albuquerque, New Mexico, December 9 & 10, 2013
- "Damages in the Shale Business: Anything Different from the Usual Oil and Gas Dispute?" 4th Annual Institute for Energy Law and International Bar Association's Section on Energy, Environment, Natural Resources International Oil & Gas Law Conference, London, England, December 4-6, 2013
- "To Drink or Not to Drink? Water Use and Disposal Issues in Hydraulic Fracturing," 2013 AICPA/PDI National Oil and Gas Conference, Denver, Colorado, November 13-15, 2013
- "Ten Things Everybody Should Know About an Oil & Gas Lease," National Oil & Gas Royalty Conference, Houston, Texas, October 22, 2013
- "Hydraulic Fracturing: The Hype and The Realities: A Look at the Regulations and the Lawsuits," 2013 Clean Fracking Communication & Technology Conference, Beaver Creek, Colorado, October 8-9, 2013
- "Reducing Risk in Oil and Gas Development," Oil & Gas Development in Montana, Billings, Montana, October 2, 2013

- Co-presenter, "Fracking: Water Rights, Water Quality, Where/How to Get a Secure Water Supply, Insuring Fracking Operations, Liability Issues, and Environmental Issues," 13<sup>th</sup> Annual Montana Water Law, Helena, Montana, September 17-18, 2013
- "Fracking Updates," ExxonMobil Global Litigation Retreat, Austin, Texas September 16, 2013
- "Fracturing – The Hype and the Realities: A Look at Regulations and Lawsuits," 26<sup>th</sup> Annual Energy Law Institute for Attorneys and Landmen, South Texas College of Law, with AIPN, AAPL, HAPL, Houston, Texas, August 28-29, 2013
- "Hydraulic Fracturing: Risks in Water Quality and Supply," Lorman Audio Conference, August 21, 2013
- "What's Fracking in the Courts? A Review of Hydraulic Fracturing Cases and Litigation Strategy," Review of Oil & Gas Law XXVIII - Dallas Bar Association Energy Law Section, Dallas, Texas July 18-19, 2013
- Presenter and Participant U.S. - Afghanistan Cooperation on Extractive Industries Development Program, U.S. Department of Commerce Commercial Law Development Program, Doha, Qatar, June 25 - July 2, 2013
- "Recent Developments in Hydraulic Fracturing," 22 Annual Beach and Bar Symposium - Environmental Hot Topics 2013, Sandestin, Florida June 13-16, 2013
- Co-chair and presenter, "Hydraulic Fracturing Litigation: What's Happening in the Courts," 2<sup>nd</sup> Hydraulic Fracturing Conference, Houston, Texas, June 14, 2013
- "What the Frac Is Frac'ing? Its Impact and Legal Issues," Houston Association of Legal Professionals, Houston, Texas, June 11, 2013
- Co-chair, Institute for Energy Law's 4<sup>th</sup> Law of Shale Plays Conference, Fort Worth, Texas, June 6-7, 2013
- "Update on Hydraulic Fracturing Regulations and Litigation," Executive meeting Mountain States Legal Foundation, Denver, Colorado, June 5, 2013
- "Preparing for the Future: How Acting Now – In Advance of Regulation – Will Benefit Workers and Limit Future Liability," 3<sup>rd</sup> Proppants Summit, Houston, Texas, May 22, 2013
- "Hydraulic Fracturing Litigation: Risks and Rewards," ABA Chemical Products and Toxic Tort Regional Meeting, New York, New York, May 13, 2013
- "What the Frac Is Frac'ing? Its Impact and Legal Issues," Houston Paralegal Association, Galveston, Texas May 3, 2013
- Hydraulic Fracturing Conference, The Seminar Group, Bacara Resort & Spa, Santa Monica, California, February 8, 2013
- Presenter and Participant, "US/Chile Cooperation on Unconventional Natural Gas," U.S. Commerce Department Commercial Development Law Program, Chile Ministry of Energy, Santiago, Chile, January 27-29, 2013
- Interviewed by National Public Radio, "Tracing the Culprit if Fracking Pollutes Water Supplies," January 22, 2013
- "Dealing with Community Challenges," Permian Basin Infrastructure & Development Summit, Dallas, Texas, January 14-16, 2013
- "Investment Opportunities in the Proppants Value Chain," 2<sup>nd</sup> Proppants Summit, Houston, Texas, December 4-6, 2013
- "User's Perspectives," 2<sup>nd</sup> Proppants Summit, Houston, Texas, December 4-6, 2012

- "State and Local Regulations," CLE Austin Hydraulic Fracturing Conference, Austin, Texas, November 30, 2012
- "Current Issues in Hydraulic Fracturing," Lorman Audio Conference, Internet, November 13, 2012
- Presenter and Participant, "US/India Cooperation on Unconventional Natural Gas," U.S. State Department Bureau of Energy and U.S. Department of Commerce Commercial Development Law Program, India Ministry of Petroleum & Natural Gas, New Delhi, India, November 5-6, 2012
- "Hydraulic Fracturing," ABA Toxic Tort Committee, Mass Tort, New York, New York, October 29, 2012
- "The Exploration, Development and Production of Natural Gas by Hydraulic Fracturing," Unconventional Gas Seminar with Bennett Jones LLP, Toronto, Canada, October 23, 2012
- "Where New Hydraulic Fracturing Techniques in Various Shale Plays Embrace New Regulations," Texas Alliance of Energy Producers, October 17-18, 2012
- "Water Trading Markets for Oil and Gas," Water & Energy Upstream Supply & Demand Management Strategies, Houston, Texas, October 4-5, 2012
- "Overview of Current Developments Concerning Shale Gas and Hydraulic Fracturing," HAPL (Houston Association of Professional Landmen), Houston, Texas October 4, 2012
- "Overview of Current Developments Concerning Shale Gas and Hydraulic Fracturing," HalfMoon Seminars, Houston, Texas, September 20, 2012
- "Hydraulic Fracturing Litigation," In-House Presentation to ExxonMobil, Houston, Texas September 11, 2012
- "Fracking – Rules and Regulations," 25th Energy Law Institute for Attorneys and Landmen Co-Sponsored with AAPL (American Association of Professional Landmen), AIPN (Association of International Petroleum Negotiators), HAPL (Houston Association of Professional Landmen), South Texas College of Law, Houston, Texas August 29-30, 2012
- "Hydraulic Fracturing Litigation," In-House Presentation to ExxonMobil, Fairfax, Virginia August 22, 2012
- "Hydraulic Fracturing: What Is It and Why Should You Care?" 20th Anniversary Conference on Arizona Water Law, Biltmore Resort & Spa, Phoenix, Arizona, August 9-10, 2012
- "Water Pollution and Disposal Issues Related to Hydraulic Fracturing," Institute for Energy Law Conference on Shale Gas, Ft. Worth, Texas, June 6-7, 2012
- Conference Co-Chair and Speaker, "Federal and State Update on Hydraulic Fracturing," Water Law Institute Conference on Hydraulic Fracturing Environmental Quality and America's Energy Future, St. Regis Hotel, Houston, Texas, June 7-8, 2012
- "Hydraulic Fracturing: An Update on the Issues," Houston Bar Association Oil, Gas & Mineral Law Section, Houston, Texas, May 22, 2012
- "What Estate Planners Need to Know About Oil and Gas Leasing," Amarillo Area Estate Planning Council, Twenty-First Annual Institute on Estate Planning, Amarillo College of Business & Industry, May 3-4, 2012
- "Hydraulic Fracturing – Are the Regulators Coming or Not?" Young Professionals in Energy International Summit, Las Vegas, Nevada, April 23-25, 2012
- "Hydraulic Fracturing on Trial: Possibilities, Pollution, and Preemption," Plenary Session of 41st Annual American Bar Association Conference on Environmental Law, Salt Lake City, Utah, March 22-24, 2012
- "Hydraulic Fracking and Other Current Issues Impacting Oil & Gas Leases," 2012 Oil & Gas Conference of Texas Bankers Association, San Antonio, Texas, March 8-9, 2012

- "Preparing for Your Deposition," 13th Annual Windstorm Insurance Conference, Orlando, Florida, January 30-February 2, 2012
- "Hydraulic Fracturing and Shale Gas Update," Breakfast Club of Houston, January 11, 2012
- "Oil and Gas Leasing Disputes & Solutions: *Best Practices for Avoiding Common Issues Arising from Hydraulic Fracturing (Fracking) Extraction Agreements*," LexisNexis® Webinar, December 20, 2011
- "Shale Gas Plays: The Hotbeds," Gas Drilling Operations Conference, HB Litigation Conference, Dallas, Texas, December 13, 2011
- Program Chair and Speech, "Litigation Arising from Various Lease Contacts and Oil and Gas Related Contracts," 13th Annual Energy Contract Management in Oil and Gas, Houston, Texas, December 5-6, 2011
- "Ten Things Everyone Should Know About a Current Oil & Gas Lease," Society of Louisiana Certified Public Accountants Oil & Gas Workshop, Lafayette, Louisiana, November 29-30, 2011
- "Water Issues in Oil and Gas Development: Fracking and Wastewater Disposal Issues," The Second Annual Conference on Tribal Water Law, Las Vegas, Nevada, October 27-28, 2011
- "EPA Announces Plans to Regulate 'Fracking'," Marketplace - American Public Media Radio Interview by Scott Tong, October 21, 2011
- "Next Generation Project Texas Energy Seminar," The Robert S. Strauss Center for International Security and Law, The University of Texas at Austin, October 20-21, 2011
- "Ten Things Everybody Should Know About an Oil and Gas Lease," National Oil & Gas Royalty Conference, Houston, Texas, October 17, 2011
- "Overview of Fracking Law: a U.S. Perspective," Fraser Milner Casgrain Fracking Seminar, Calgary, Alberta, October 12, 2011
- "Fracking – Are the Regulators Coming or Not? A Review of the State of the Industry," 57th Annual Rocky Mountain Mineral Law Institute, Santa Fe, New Mexico, July 21-23, 2011
- "Gulf Oil Spill: Developments & Economic Losses for Claims," Property Loss Research Bureau, 2011 Claims Conference, Nashville, Tennessee, April 3-6, 2011
- "Case Law Update on Bad Faith Topics from Texas, Louisiana, Mississippi and Florida," 12th Annual Windstorm Insurance Conference, Houston, Texas, January 24-27, 2011

## Memberships

- American Bar Association
  - International Energy & Natural Resources Committee, Vice-Chair (2011 - 2021)
  - Energy Litigation Committee, Senior Leadership and Programs Chair (2013 - 2016)
  - Construction Law, Litigation and Dispute Resolution Committee (2017; 2021)
  - Business Torts Litigation Committee, Committee Leadership (2011 - 2012)
  - International Law Section, Steering Group (2014 - 2015)
  - Environment, Energy and Resources Section
  - Litigation Section
  - Tort and Insurance Practice Section, Former Co-Chair

- Continuing Legal Education Committee, Standing Committee Member
- Advisory Panel
- State Bar of Texas
  - Litigation Section
  - Oil, Gas & Energy Resources Section
  - Construction Section
  - Professional Liability Section
- Federal Bar Association
- College of the State Bar of Texas (2006 - 2021)
- Pro Bono College of the State Bar of Texas (2006 - 2021)
- Houston Bar Foundation, Fellow
- Texas Bar Foundation, Fellow
- Houston Bar Association
  - Chair of the Litigation Section (2013 - 2014)
  - Chair-Elect of the Litigation Section (2012 - 2013)
  - Continuing Legal Education Committee (2011 - 2012)
  - Membership Committee (2011 - 2012)
  - Dispute Resolution Committee, Board of Director (2008 - 2010)
  - Speakers Bureau Committee (2008 - 2009, 2011 - 2012)
  - Professionalism Committee (2007 - 2009)
  - Fee Disputes Committee (2006 - 2008)
- The General Counsel Forum
  - Board Member and Corporate Secretary (2013 - 2021)
- Energy Law Report, Published by LexisNexis, Board of Editors (2014 - 2018)
- Houston Young Lawyers Association
  - Bench Book Committee, Chairman and Editor-in-Chief (2005 - 2007)
- World Affairs Council of Houston
- Association of International Petroleum Negotiators
- Houston Claims Association
- Texas Independent Producers & Royalty Owners Association
- The Institute for Energy Law
  - Vice-Chair and Member of the Executive Committee (2014 - 2017)
  - Editor *Oil and Gas E-Report* (2021)
  - Member of the Advisory Board
- Independent Petroleum Association of America

- Member of Land & Royalty Committee
- Member of Environment & Safety Committee
- Energy & Mineral Law Foundation
- Rocky Mountain Mineral Law Foundation
- Texas Association of Defense Counsel
- Texas Supreme Court Historical Society
- New York State Bar Association
- Colorado State Bar Association
- Strauss Fellow, Next Generation Project Texas, LBJ School of Public Affairs, The University of Texas

## Practices

Bankruptcy and Restructuring

Construction

Distressed Real Estate Loan Workouts and Enforcement

Energy, Infrastructure and Project Finance

ESG and Sustainability

Intellectual Property

International Arbitration

Litigation

Real Estate, Energy, Land Use & Environmental

## Industries

Construction

Energy, Infrastructure and Project Finance

ESG and Sustainability

Financial Services

Hospitality

Insurance

Multifamily Housing

Private Equity

Transportation

## Education

J.D., University of Houston, 1999

B.A., University of Texas, 1995

While in law school Barclay was Associate Editor of the *Houston Law Review*. He was also selected to be a member of the Order of the Coif and is also member of the Order of the Barons. He is licensed to practice law in the State of Texas, the State of New York, the State of Colorado, and in the United States District Courts for the Southern, Northern and Western and Eastern Districts of Texas, and for Eastern and Western Districts of Arkansas, as well as the Fifth Circuit Court of Appeals.

## Admissions

Texas

New York

Colorado