

# Brad G. Hubbard

## Partner

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Dallas

Brad Hubbard is a partner in the Dallas office of Gibson, Dunn & Crutcher. He is a member of the firm's Appellate and Constitutional Law Practice Group.

Brad has been recognized as a "Rising Star" appellate practitioner by *Law360* in its feature of "attorneys under 40 whose legal accomplishments belie their age" and as one of *Lawdragon's* "500 X – The Next Generation," which identifies lawyers "who will define where the legal profession of our country goes" and "whose leadership will be called upon by businesses and individuals when they face their crossroads." In addition, he was named as one of *D Magazine's* "Best Lawyers in Dallas," an appellate "Rising Star" by *Super Lawyers*, a "Future Star" by *Benchmark Litigation*, and "One to Watch" in appellate practice by *Best Lawyers: Ones to Watch in America*,<sup>TM</sup> which recognizes attorneys for "outstanding professional excellence in private practice."

Brad is a trusted appellate advocate and counselor. He has represented clients in their most complex, high-stakes, time-sensitive matters before the U.S. Supreme Court, the Texas Supreme Court, and state and federal courts of appeals throughout the country. Brad has presented argument before the Fifth and Tenth Circuits; second-chaired arguments in the Texas Supreme Court, the Fifth, Sixth, and Seventh Circuits, and the First, Fifth, and Fourteenth Texas Courts of Appeals; and conducted direct, cross, and redirect examination of witnesses at trial. Brad has successfully litigated cases involving arbitration, antitrust, class actions, the constitution, contracts, products liability, trade secrets, the False Claims Act, RICO, and state and federal criminal law.

Brad's most significant victories include reversing the largest judgment in the history of the False Claims Act in the Fifth Circuit; prevailing in the Texas Supreme Court in a case of first impression about scope of section 230 of the Communications Decency Act; slashing a record-breaking \$125 million verdict to less than \$2 million in the Texas Supreme Court and Corpus Christi court of appeals; reversing a half-billion-dollar jury verdict in the San Antonio court of appeals and preserving that win in the Texas Supreme Court; reversing a seven-figure verdict in the Texas Supreme Court; reversing an eight-figure verdict in the Dallas court of appeals; and prevailing in several eight-figure arbitration cases in the Fifth Circuit. Brad has also helped clients preserve significant wins in the U.S. Supreme Court, the Texas Supreme Court, and the Fifth, Sixth, and Seventh Circuits.

His pro bono victories include persuading a unanimous U.S. Supreme Court to reinstate his client's religious-liberty claims against two Kansas police officers; defeating an Establishment Clause challenge to a justice of the peace's volunteer chaplaincy program in the Fifth Circuit; protecting the First Amendment rights of the Kountze ISD cheerleaders in the Texas Supreme Court; and giving voice to crime victims and their families in a number of important criminal cases before the U.S. Supreme Court.

### Recent Representative Matters:



### Capabilities

Appellate and Constitutional Law  
Trials

### Credentials

#### Education

University of Chicago - 2013 Juris Doctor  
University of Missouri - 2010 Master of Accounting  
University of Missouri - 2010 Bachelor of Science

#### Admissions

Texas Bar

#### Clerkships

US Court of Appeals, 5th Circuit, Hon. James C. Ho, 2018  
US Court of Appeals, 8th Circuit, Hon. Steven M. Colloton, 2013 - 2014

- Prevailed in a “landmark decision” (*Texas Lawbook*) reversing \$663 million judgment, “the largest in the history of the False Claims Act,” on behalf of a leading Texas manufacturer in a “legal war for its financial life and its reputation” (*Dallas Morning News*). *U.S. ex rel. Harman v. Trinity Industries, Inc.*, No. 15-41172, 872 F.3d 645 (5th Cir. 2017), *cert. denied* No. 17-1149, 139 S. Ct. 784 (2019). Successfully obtained dismissal of over a dozen related state-law suits filed by same relator.
- Secured emergency stay pending appeal and, in one of the “biggest Texas rulings of 2021” (*Law360*, Dec. 17, 2021), ultimately persuaded the Texas Supreme Court to dismiss plaintiffs’ common-law claims ground-breaking case of first impression about the scope of section 230 of the Communications Decency Act of 1996; defeated plaintiffs’ attempt to secure U.S. Supreme Court review, despite support from 25-state coalition. *In re Facebook*, No. 20-0434, 625 S.W.3d 80 (Tex. 2021), *cert denied* 21-549, 142 S. Ct. 1087 (U.S. 2022).
- Slashed a \$125 million verdict by 99 percent (to under \$2 million), and eliminated the largest emotional-distress award in Texas history (\$63 million). *Signature Industrial Services, LLC v. International Paper Co.*, No. 20-0396, 638 S.W.3d 179 (Tex. 2022), *aff’g in part and rev’g in part* No. 13-18-00186-cv, 628 S.W.3d 541 (Tex. App.—Corpus Christi 2021).
- Eliminated “record-setting \$740 million trade secrets theft and fraud judgment” (*Law360*, June 4, 2020), for leading title insurance provider, and successfully preserved that victory in the Texas Supreme Court. *Title Source, Inc. v. HouseCanary, Inc.*, No. 04-19-00044-cv, 612 S.W.3d 517 (Tex. App.—San Antonio 2020), *denied* No. 20-0683 (Tex. 2022).
- Obtained complete victory for leading provider of credit-monitoring services by securing reversal of decision refusing to send claims under federal Credit Creditor Repair Organization Act—brought as a putative, eight-figure class action—to arbitration. *Forby v. One Technologies, L.P.*, No. 20-10088 (5th Cir. 2021) [argued].
- Won preliminary injunctive relief from emergency arbitrator, secured judicial confirmation of that preliminary injunctive relief in case involving multi-billion-dollar, exclusive distribution agreement, and persuaded courts to dismiss one related case and stay the other pending arbitration. *Vital Pharmaceuticals, Inc. v. PepsiCo, Inc.*, No. 0:20-cv-62415 (S.D. Fla.); *Quash Seltzer, LLC v. PepsiCo, Inc.*, No. 0:21-cv-60191 (S.D. Fla.).
- Prevailed on every issue in a nine-figure, eight-day arbitration about an exclusive distribution agreement between energy-drink supplier and leading beverage distributor; defeated every ground of appeal raised by supplier in AAA appeal. *PepsiCo, Inc. v. Vital Pharmaceuticals, Inc.*, No. 0:22-cv-60805 (S.D. Fla.).
- Secured emergency stay pending appeal in high-profile First Amendment case against Texas Justice of the Peace Wayne Mack, permitting him to continue allowing volunteer chaplains to perform brief, optional, and interfaith opening ceremonies before court sessions while the Fifth Circuit adjudicated the merits of his appeal. Vindicated that stay by persuading the Fifth Circuit to render judgment in favor of Judge Mack, which ensured that he can continue to honor the volunteer chaplains. *Freedom from Religion Foundation, Inc. v. Mack*, No. 21-20279, 4 F.4th 306 (5th Cir.2021) (stay pending appeal), 49 F.4th 941 (5th Cir. 2022) (merits) [argued].
- Overturned a \$7.25 million verdict on statute-of-frauds grounds in one of the “biggest Texas Supreme Court rulings of 2018” (*Law360*, Apr. 13, 2018). *Hill v. Shamoun & Norman, LLP*, No. 16-0107, 544 S.W.3d 724 (Tex. 2018). After the district court compelled plainly overbroad and improper discovery on remand, persuaded the Fifth Court to stay the discovery order pending resolution of our mandamus petition—also persuaded the State to file an amicus brief in support of our mandamus petition. *In re Albert G. Hill*, No. 05-19-00394-cv (Tex. App.—Dallas 2019).
- Persuaded a unanimous Supreme Court to reinstate pro se plaintiff’s religious-

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liberty claims against police officers who forced her to stop praying in her own home; garnered amicus support from the State of Texas and numerous former federal prosecutors. *Sause v. Bauer*, No. 17-742 (U.S.). Argued Ms. Sause's case in the Tenth Circuit and drew a strong concurrence from Chief Judge Tymkovich, which set the stage for the Supreme Court victory. *Sause v. Bauer*, No. 16-3231 (10th Cir.) [argued].

- Represented the U.S. Chamber of Commerce, the Texas Association of Business, and the Washington Legal Foundation in three personal jurisdiction cases before the Texas Supreme Court. *American Campus Communities, Inc. v. Berry*, No. 21-0874 (Tex.); *Luciano v. SprayFoamPolymers.com, LLC*, No. 18-350 (Tex.); *Cessna Aircraft Co. v. Garcia*, No. 19-0381 (Tex.)
- Prevailed on high school cheerleaders' First Amendment free-speech claim against their school district, which included persuading the Texas Supreme Court to revive their claims after the court of appeals had ruled them moot. *Matthews v. Kountze Independent School District*, No. 14-0453, 484 S.W.3d 416 (Tex. 2016), No. 09-13-00251-cv (Tex. App.—Beaumont).

Brad also maintains an active pro bono practice, focusing on religious liberty and crime victims' rights. He received the firm's 2021 Frank Wheat Memorial Award for his commitment to pro bono work. In addition to victories for Judge Mack, Ms. Sause, and the Kountze cheerleaders described above, Brad has also represented a number of crime victims and crime victims' organizations before the U.S. Supreme Court—to make sure voice is given to the voiceless. This includes representing Pablo Castro's children in his murderer's RLUIPA challenge to Texas's enforcement of his capital sentence. Justice Kavanaugh quoted our brief while questioning the advocates during oral argument, and Justice Thomas extensively cited (and quoted from) our brief in his dissenting opinion. *Ramirez v. Collier*, No. 21-5592, 142 S. Ct. 1264 (U.S. 2022). Brad also represented the victims' families in *Bucklew v. Precythe*, No. 17-8151, 139 S. Ct. 1222 (U.S. 2019) (method of execution), and *Kahler v. Kansas*, No. 18-6135, 140 S. Ct. 1021 (U.S. 2020) (Kansas's insanity test), a bipartisan coalition of members of congress in *United States v. Briggs*, No. 19-108, 141 S. Ct. 467 (U.S. 2020) (statute of limitations for rape under Uniform Code of Military Justice), and prominent victims' rights organizations in *Kansas v. Boettger*, No. 19-1051 (U.S.) (state statute proscribing violent threats), and *Arizona v. Goodman*, No. 18-391 (U.S.) and *Arizona v. Martinez*, No. 16-1489 (U.S.) (denial of bail to sex offenders).

In addition, Brad recently represented Senators Dianne Feinstein, Jon Kyl, and Orrin Hatch—the drafters and co-sponsors of Crime Victims' Rights Act—in a case brought by Courtney Wild, one of Jeffrey Epstein's victims, both before the U.S. Supreme Court and the en banc Eleventh Circuit, where Judge Hull dedicated two pages of her dissenting opinion to the arguments presented in our brief. Ms. Wild, represented by Judge Paul Cassell, alleged that federal prosecutors violated her right to confer with and be treated fairly by prosecutors by secretly negotiating a non-prosecution agreement with Epstein in 2007. *Wild v. U.S. District Court for the Southern District of Florida*, No. 21-351 (U.S.); *In re Courtney Wild*, No. 19-13843, 994 F.3d 1244 (11th Cir. 2021) (en banc).

Brad served as one of the inaugural law clerks to the Honorable James C. Ho of the U.S. Court of Appeals for the Fifth Circuit. And, before joining the firm, Brad served as a law clerk to the Honorable Steven M. Colloton of the U.S. Court of Appeals for the Eighth Circuit.

Brad graduated with Honors from the University of Chicago Law School in 2013, where he served as Managing Editor of *The University of Chicago Law Review*. He was a Kirkland & Ellis Scholar and a member of the Order of the Coif. While at the Law School, he was a John M. Olin Fellow in Law and Economics and received the Chicago Bar Association Federal Tax Section's Award for Academic Achievement in Taxation. Brad received his Bachelor's and Master's in Accountancy, *summa cum laude*, from the University of Missouri, where he was a four-year letter winner and captain of the nationally ranked men's swim team.

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He is a member of the Texas bar and is admitted to practice before the U.S. Supreme Court, the U.S. Courts of Appeals for the Third, Fifth, Sixth, Seventh, Ninth, Tenth, and Eleventh Circuits, and the U.S. District Courts for the Northern, Southern, Eastern, and Western Districts of Texas.

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