

# TEXAS LAWYER

An **ALM** Publication

texaslawyer.com | August 2017

THE LEGAL AND LITIGATION DEPARTMENTS OF THE YEAR

WINNER: LARGE FIRM  
BRACEWELL



From left are partners Stephen B. Crain, Blair Looche, Richard Whiteley, Jeff Vaden, Brian Mitchell and Sean Gorman.

COURTESY PHOTO

# A UNIFIED TEAM EQUALS SUCCESS

BY MARY ALICE ROBBINS

**FOUNDED IN HOUSTON IN 1945 BY LAWYERS** who tried cases, Bracewell has always had a strong focus on litigation. But the firm's litigation section underwent a change in 2015, essentially becoming a litigation boutique inside a large law firm.

Houston partner Stephen Crain, head of the litigation section, said his intent was "to undo some boundaries and energize everybody to work together. I wanted to get away from the notion of creating little fiefdoms."

Instead of having its trial lawyers working in separate groups with separate subject areas, Bracewell has the lawyers work together as a unified team. And, as Crain noted, the section has a "flat hierarchy, not the old-fashioned command and control."

Sean Gorman, another Houston partner, said one of the measures of how effective Crain's efforts have worked is the fact that the litigation section is extremely busy. "We're getting hired a lot," Gorman said.

In 2016, Bracewell litigators handled a number of high-stakes cases for clients in various industries.

That included a jury trial in a patent infringement case, *Equistar Chemicals LP v. Westlake Chemical Corp.*, in the U.S. District Court for the Eastern District of Texas in Tyler. Equistar, a subsidiary of Lyondell Chemical Co., alleged that Westlake infringed its patent for polyolefin-based adhesive resins and method of making the adhesive resins.

Richard Whiteley, Bracewell's lead partner on the case, said Equistar sought about \$40 million for past infringement and future royalties and also alleged that Westlake willfully infringed the patent, which could have resulted in treble damages.

"It's always important in a patent case to simplify it," Whiteley said.

Whiteley said he and co-counsel King & Spalding Houston partner John Barr Jr. argued that Westlake did not infringe and did not minimize cross-linking to make its resins as Equistar had alleged. Westlake also went on the offense, alleging that Equistar's patent was invalid.

Barr, a former Bracewell partner, said, "It was a seamless trial team. ... Everybody pulled their weight and contributed to the outcome."

HOUSTON PARTNER STEPHEN CRAIN, HEAD OF THE LITIGATION SECTION, SAID HIS INTENT WAS "TO UNDO SOME BOUNDARIES AND ENERGIZE EVERYBODY TO

**WORK TOGETHER."**

Both Whiteley and Staci Wilson, a Bracewell associate who worked on Equistar, were comfortable in the courtroom and did a good job of explaining the complicated case to the jury, Barr said.

The jury returned its verdict on March 11, 2016, finding that Westlake did not infringe Equistar's patent and that the patent is valid. On Dec. 29, 2016, the court denied Equistar's motion for judgment as a matter of law that Westlake infringed the patent at issue and also denied Westlake's motion regarding the alleged invalidity of the patent.

Whiteley said both the plaintiff and defendant have appealed to the Federal Circuit Court of Appeals.

In another case that ended in 2016, Gorman led a Bracewell team that represented a Turkish manufacturer of steel fighting an ICC International Court of Arbitration award against it. Habas Sinai Ve Tibbi Gazlar Istihsal Endustrisi had negotiated with a Hong Kong company to sell 15,000 metric tons of steel rebar.

When the rebar was not delivered, the Hong Kong company initiated ICC proceedings in London and obtained an award against Habas. Seeking to enforce the award, the Hong Kong company filed *VSC Steel Co. Ltd. v. Habas Sinai Ve Tibbi Gazlar Istihsal Endustrisi A.S.* in a state district court in Harris County, the U.S. District Court for the Southern District of Texas and the U.S. District Court for the Southern District of New York.

VSC Steel asserted quasi in rem jurisdiction and filed applications for writs of prejudgment garnishment against Habas customers in the United States. To protect Habas and its U.S. customers, the Bracewell team developed a nuanced challenge to the U.S. courts' ability to exercise jurisdiction over Habas, and the courts accepted the jurisdictional arguments. After the Bracewell team fought VSC Steel to a standstill, the Hong Kong company considered its strategy and accepted a confidential worldwide settlement with Habas, dismissing the cases, Gorman said.

VSC Steel had been interfering with Habas' U.S. customer relationships, he said.

"We stopped that cold," he said. ■