

## C. Elaine Howard

### Shareholder

#### **PRACTICE EMPHASIS:**

Litigation: Real Estate, Construction, Commercial & Employment

#### **EDUCATION:**

J.D., *magna cum laude*, University of Houston Law Center, 1994  
Law Review, Order of the Coif, Order of the Barons  
B.A. Economics, Political Science, Managerial Studies (triple major), Rice University, 1990

#### **ADMITTED:**

State Bar of Texas

#### **COURT ADMISSIONS:**

U.S. District Court, Northern, Southern, Eastern and  
Western Districts of Texas  
U.S. District Court, Western District of Oklahoma  
U.S. Court of Appeals, Fifth Circuit  
U.S. Court of Appeals, Tenth Circuit



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#### **Profile:**

Board Certified in Labor and Employment Law by the Texas Board of Legal Specialization, C. Elaine Howard is a trial attorney focusing on real estate and construction disputes, commercial litigation, and employment law. Ms. Howard distinguishes herself by partnering with clients to determine litigation goals up front, to re-evaluate those goals as the litigation progresses, and to advise, inform, and counsel clients to obtain those goals. Ms. Howard frequently becomes involved in disputes at the pre-litigation stage, advising clients on economical workout strategies to resolve the issue, as well as reducing time and expense. Ms. Howard has significant first chair trial, as well as appellate, expertise.

Her broad-based litigation practice allows her to understand the client's business and practices in a wide range of industries. In the real estate and construction context, she has handled construction litigation (including delay, defect, design, lien and collection matters), title claims, landlord/tenant disputes, adverse possession, Fair Housing Act violations, easements, foreclosure on real and personal property, and disputes arising out of the acquisition of real property. With this background, she has a unique insight into liabilities for owners and developers of properties. In commercial litigation, she has handled numerous cases involving lending practices, disputes over multi-million-dollar notes, contract disputes, securities fraud, and insurance regulation including the representation of credit unions and commercial banks in a wide variety of matters. In the employment context, she has handled claims involving race, gender, religion, national origin, ethnicity, age, and disability discrimination and harassment. She has handled matters involving the FLSA, advising clients on its application, representing them in suits over wages, and in retaliation claims. She has been involved in numerous cases involving workers' compensation retaliation, covenants not to compete, defamation, and breach of employment agreements. Ms. Howard advises her clients on risk avoidance, by reviewing and preparing employment policies, and advising on personnel decisions, such as employee leave, discipline, wages, and termination. She conducts workplace investigations and conducts employee training in anti-discrimination, sensitivity and diversity.

#### **Professional Recognition:**

Associated Builders and Contractors 2020 Board Member of the Year  
Houston Bar Foundation, Fellow  
Labor & Employment Law, Texas Board of Legal Specialization  
"Texas Super Lawyer," by Super Lawyers, a Thompson Reuters Business, in Texas Monthly, 2019 & 2020  
AV® Preeminent™ Peer Review Rating (5.0 out of 5), *Martindale-Hubbell*  
"Texas Rising Star," *Texas Monthly*, 2006

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#### **Affiliations:**

State Bar of Texas  
Commercial Real Estate Women (President Elect 2023; Board Member 2020-2022; Mentoring Committee Chair 2019; Programs Co-Chair, 2017-2018; Memberships Co-Chair, 2014;)  
Associated Builders and Contractors of Greater Houston (Board of Directors 2018-2023)  
Houston Bar Association  
Houston Bar Association, Labor and Employment Law Section (Chair, 2013-2014; Chair-Elect, 2012-2013)  
Houston Bar Association, Litigation Section  
Women's Finance Exchange

#### **Representative Experience:**

- Arbitrated matter involving product defect in construction materials.
- Represented developers, property owners and contractors on risk avoidance.
- Conducted over a hundred trainings to contractors regarding best practices during the uncertainties of COVID.
- Obtained numerous summary judgments on behalf of employers in cases involving allegations of discrimination or retaliation.
- First chair counsel representing lender in obtaining judgment in excess of \$9 million against individuals who were found to have fraudulently obtained a loan secured by real property.
- Represent lender in connection with real estate and construction loans.
- Analyzed numerous covenants not to compete for enforceability.
- Represent general contractors and subcontractors in connection with delay, lien, defect, design, and collection claims.
- Represent national restaurant entity in FLSA collective action.
- Represent numerous lenders, banks, credit unions and loan servicers in a wide variety of litigation matters
- First chair counsel and successful defense verdict in suit involving alleged fraudulent inducement of lease.
- First chair counsel and successful defense verdict in favor of landlord involving theft of personal property.
- Represented numerous employers during workplace investigations, administrative proceedings and through litigation of allegations of discrimination or retaliation.
- Represented land owner at trial involving oral partnership agreement which settled during trial.
- Obtained summary judgment on behalf of landlord and prevailed on appeal in one of the few reported cases on duty to mitigate damages.
- Represented landlords and tenants in hundreds of landlord/tenant disputes.
- Represented and obtained settlement for hospital in connection with construction claims against contractor and architect.
- Represented commodity suppliers in suits against purchasers involving UCC delivery and alleged joint venture claims.
- Represented numerous land owners in connection with disputed title claims.
- Represented lenders in actions involving both commercial and personal loans, and involving alleged negligence, fraud or violations of statutes in connection with lending practices.

#### **Speeches and Publications:**

"Can an Injured General Contractor Employee Sue You?," AM Monthly Law Alert, March 2022  
"Interpreting the New Texas Vaccine Passport Law," AM Monthly Law Alert, June 2021  
"How 'Constitutional Carry' Impacts your Business," AM Monthly Law Alert, May 2021  
"Impact of Executive Orders on Employers," AM Monthly Law Alert, February 2021  
"FFCRA Updates," AM Law Alert, January 2021  
"FFCRA Obligations Now that Schools are (Kind Of) Opening, AM Monthly Law Alert, September 2020  
"Workplace Plans for Employee Reporting," AM Monthly Law Alert, June 2020

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*Speeches and Publications (Cont'd)*

"Negotiating Business Uncertainty," panelist for Houston Business Leaders Forum, June 2020  
"Coronavirus: What Re-Opening Texas Means for Construction," ABC Greater Houston podcast, April 2020.  
"Federal Judge Halts Dallas Paid Sick Leave Ordinance," AM Monthly Law Alert, March 2020  
"Understanding Recovery of Attorneys' Fees," AM Monthly Law Alert, February 2020  
"New Overtime Rule Changes Salary Test for Exempt Workers," AM Monthly Law Alert, October 2019  
"Update on Paid Time Off Ordinances," AM Monthly Law Alert, July 2019  
"EEO-1 Filing Deadline Change," AM Monthly Law Alert, April 2019  
"Dealing with Governmental Entities," Associated Builders and Contractors, April 2019  
"Department of Labor Issues Two Notices in March," AM Monthly Law Alert, March 2019  
"Texas High Speed Rail Hits Roadblock," AM Monthly Law Alert, February 2019  
Featured Speaker, American Academy of Attorneys-CPAs, September 2018  
"Ethical Issues in Negotiations," State Bar of Texas, Advanced Real Estate Law Course, July 2018  
"Best Practice Tips for Employers," Associated General Contractors (Austin Chapter) Panelist, June 2018  
"Resolving Boundary Disputes," HalfMoon Education Seminar, June 2018  
"Landlord's Liability to Third Persons," Houston Bar Association, Real Estate Section, March 2018  
"Update on Owner Exposure for Premises Liability and Nuisance," State Bar of Texas, Advanced Real Estate Drafting, March 2018  
"The Miscellaneous Sections of a Contract," State Bar of Texas, Essentials of Business Law, March 2018  
"Resolving Boundary Disputes," HalfMoon Seminar on Land and Water Law, Austin, January 2018  
"Protecting Your Employees and Your Company During the #MeToo Movement," AM Law Alert, January 2018  
"A Litigator Looks at Your Transaction Documents," Corporate Counsel Review, Journal of the Corporate Counsel Section of the State Bar of Texas, November 2017  
"Electronic Employee Arbitration Agreements," AM Monthly Law Alert, April 2017  
"Drafting to Avoid Committing Fraud: The Battle Over Representations and Reliance," State Bar of Texas Advanced Real Estate Drafting, March 2017  
"Can You Discipline Employees for Political Protests?" AM Monthly Law Alert, February 2017  
"Resolving Boundary Disputes," HalfMoon Seminar on Land and Water Law, Houston, December 2016  
"Time to Change the Federal Labor Law Poster," AM Monthly Law Alert, September 2016  
"New Department of Labor Regulations for Contractors," AM Monthly Law Alert, July 2016  
"Miscellaneous Sections of a Contract" Advanced Real Estate Law Course, State Bar of Texas, July 2016  
"DOL Issues New Overtime Regulations," AM Monthly Law Alert, May 2016  
"Social Media and Legal Ethics Present Tricky Problems," AM Monthly Law Alert, November 2015  
"What is HERO and What Does it Say?" AM Monthly Law Alert, October 2015  
"The Most Heavily Litigated Deal Provisions: Trial Lawyer's Perspective," Advanced Real Estate Law Course, July 2014  
"Collections Jeopardy," 29th Annual Real Estate Conference, South Texas College of Law, June 2014  
"Those Paragraphs at the Bottom You Don't Really Read: Trial Attorneys Discuss the Boilerplate," 28th Annual Real Estate Conference, South Texas College of Law, June 2013  
"Problems with Foreclosures: A Legal Analysis of Current Events," Advanced Real Estate Seminar, State Bar of Texas, July 2012  
"The Benefit of Hindsight: A Trial Attorney's Tips to Transactional Attorneys on the Election of Lease Remedies," 27th Annual Real Estate Conference, South Texas College of Law, June 2012  
"Economic and Mental Anguish Damages in Employment Cases: Tip from the Experts," Moderator, HBA Labor & Employment Seminar, March 2012  
"Landlord and Tenant Drama and Trauma," 44th Annual William W. Gibson, Jr. Mortgage Lending Institute, September 2010