

## Craig Florence

### Partner

[cflorence@foley.com](mailto:cflorence@foley.com)

Dallas

214.999.4796

Austin



Craig Florence is a senior trial and corporate litigation lawyer representing private and public companies in contentious business divorces and other high-risk litigation. He is a partner in the firm's Business Litigation & Dispute Resolution Practice with more than 30 years of commercial litigation experience. He has an intimate understanding of business litigation in all its forms and has obtained substantial judgments and awards.

Craig has extensive experience handling business litigation, fiduciary duty lawsuits, trade secret claims, intellectual property disputes, health care litigation, midstream claims, FTC claims, and fraud claims. Frequently hired for business disputes, he brings a sophisticated understanding of how transactions are consummated and works closely with corporate lawyers to identify leverage and to assess the allocation of risk.

Craig also has significant appellate litigation experience, arguing before the Federal Circuit, the Fifth Circuit, the Texas Supreme Court, and the Dallas, Fort Worth, and San Antonio Court of Appeals, among others.

Craig has represented a range of clients, including:

- Advantage Midstream
- Barry Callebaut AG
- Brach's Confections Inc.
- Denton County Electric Cooperative Inc.
- Elite Surgical Affiliates
- Enterprise Financial Group, Inc.
- GameStop Inc.
- HeartPlace PA
- Heeling Sports Ltd.
- HomeServices of America, Inc.
- Longview Energy Co.

- Neora, Inc.
- Private Equity Partners Inc.
- Quanex Building Products Corp.
- Raytheon Technologies
- Socrates Health Solutions
- Southcross Energy Partners LP
- Southwest Agri-Plastics Inc.
- Sub-Zero, Inc.
- Vaisala Oyj

Craig Florence has more than 37 years of litigation experience across a breathtaking range of matters and controversies. In Craig's first arbitration, he obtained a multimillion-dollar award against a Fortune 500 company. It would be the first of many multimillion-dollar awards, judgments, and settlements Craig has obtained on behalf of his clients, including a multimillion exceptional case award that was subsequently appealed to the United States Supreme Court; a \$32.5 million settlement in connection with a stockholder oppression claim against its publicly traded majority shareholder; a multimillion-dollar award in favor of a defense contractor involving the design and manufacturing of an electron accelerator; a multimillion-dollar arbitration award on behalf of a European-based company in connection with a post-acquisition dispute against one of Dallas's largest companies; a multimillion-dollar judgment against a publicly traded energy company in a case involving a breach of a gas processing contract; and the settlement of LJM2 Liquidation Statutory Trust B's (related to Enron) fraudulent transfer action against LJM2's limited partners.

Craig's work is not limited to plaintiff's cases either. Recently, Craig served as lead counsel in a lawsuit filed by the Federal Trade Commission against Neora, Inc. and its owner. Craig's clients prevailed on all five claims asserted by the FTC. This victory represented the first time a direct selling company defeated the FTC's pyramid scheme claims in a trial, and the first significant victory of its kind since 1979. Leading industry publication Direct Selling News described the win as "historic." Others have lauded Craig's work, including Chambers USA, The Best Lawyers in America and Texas Super Lawyers. Craig has been also recognized by Am Law as "Litigator of the Week" and joined the Texas Million Dollar Verdict Hall of Fame in 2013. Craig's defense experience also reflects the depth of his experience, including successfully thwarting an incumbent director from orchestrating a hostile takeover of a board of directors; defending a manufacturer in a patent infringement action that resulted in a groundbreaking opinion by the Federal Circuit relating to provisional patent applications; defending a Dallas-based education company that settled following a two-week arbitration involving copyright, trade secret and patent claims; and the successful defense of an electric cooperative in a series of class action lawsuits involving capital credit and governance claims.

## Representative Experience

- *Federal Trade Commission v. Neora, Inc. and Jeff Olson* (Sept. 28, 2023, Judgment): Served as lead counsel in a trial victory on all of five claims asserted by the FTC (including pyramid scheme and deceptive income and product claims). This victory represented the first time a direct selling company

has defeated the FTC's pyramid scheme claims in a trial and the first significant victory of its kind since 1979. Leading industry publication *Direct Selling News* described the win as "historic," noting that had the FTC been successful in pursuing its pyramid scheme test, it would have had "a profound impact on the state of the law and negatively impact[ed] operations of a sizable portion of the United States economy."

- Obtained a multimillion-dollar judgment against a publicly traded company in a case involving the breach of a gas processing contract; the case settled on confidential terms following entry of judgment.
- Successfully defended an electric cooperative in a series of class action lawsuits involving capital credit and governance claims.
- Represented at the trial court a health insurance company in a patent infringement action involving computerized information management systems and obtained an exceptional case award of \$5.2 million. Subsequently appealed to the United States Supreme Court, where the case stands as one of the leading cases on exceptional case findings.
- Represented the special committee of the board of directors of a publicly traded company in its investigation into stockholder oppression by its majority stockholder and the resulting litigation against the majority stockholder; obtained a \$32.5 million settlement.
- Successfully represented a company in thwarting an incumbent director from orchestrating a hostile takeover of its board of directors.
- Defended a Dallas-based company in a copyright infringement and trade secret arbitration involving computer software; case settled following a two-week arbitration.
- Represented a European-based company in a post-acquisition dispute against one of Dallas' largest publicly traded companies, resulting in a substantial arbitration award for the client.
- Successfully obtained a substantial arbitration award in a breach of contract action involving the design and manufacturing of an electron accelerator.
- Successfully represented a *Fortune* 500 financial institution against another *Fortune* 500 company; obtained a substantial arbitration award in favor of the client.
- Represented LJMS Liquidation Statutory Trust B (related to Enron) in a fraudulent transfer action against LJM2's limited partners; case settled on confidential terms.
- Successfully defended a company in a parent infringement action; the Federal Circuit's opinion is the first to construe the scope of the written description requirement as it relates to provisional patent applications.
- Successfully settled tortious interference, trade secret, and defamation claims seeking over \$80 million.
- Represented an investor defrauded out of \$30 million in a complex Ponzi scheme, including a trial resulting in recovery of \$1.5 million against a recipient of some of the stolen funds.
- Successfully defended a health plan services company in an arbitration against its former president.
- Conducted oral arguments before the Federal Circuit, the Fifth Circuit, the Texas Supreme Court and the Dallas, Fort Worth and San Antonio Court of Appeals, among others.

## Awards and Recognition

- *Am Law* “Litigator of the Week” in the U.S. (October 6, 2023) for *FTC v. Neora* litigation
- Selected by his peers for inclusion in *The Best Lawyers in America*® in the field of Commercial Litigation (2014 – 2023)
- Selected for inclusion to the Texas Super Lawyers® list in the field of Business Litigation (2006 – 2023)
- Recognized, *Chambers USA: America’s Leading Lawyers for Business* (Tom Wicker ed., Chambers & Partners)
  - Litigation: General Commercial (2016)
- Texas Million Dollar Verdict Hall of Fame (2013)
- Recognized as a Leader in Diversity by the Dallas Business Journal, 2023

## Affiliations

- Member, State Bar of Texas
- Fellow, Texas Bar Foundation
- Former Chair, Aid to the Homeless Committee, Dallas Bar Association
- Member, Texas Center for Legal Ethics

## Community Involvement

- Austin College Board of Trustees
- Carter BloodCare (current member, former Chairman)
- Texas Appleseed Board of Directors
- Dallas Citizens Council (former member)
- Austin College Alumni Board (former member)
- Preservation Dallas Board of Trustees (former member)
- Graduate, Dallas Regional Chamber®, Leadership Dallas
- Jingle Bell Run (former co-chair)
- Honorary Board Member, Briana Haley Foundation

## Sectors

- [Racial Justice & Equity](#)

## Practice Areas

- [Antitrust & Competition](#)
- [Business Litigation & Dispute Resolution](#)
- [Energy Litigation](#)
- [FTC Consumer Protection](#)
- [IP Litigation](#)
- [Litigation](#)

## Education

- Baylor University School of Law (J.D., cum laude, 1987)



FOLEY & LARDNER LLP

- Austin College (B.A., with honors, 1984)

## **Admissions**

- Texas (1987)
- U.S. District Court for the Eastern, Northern, Southern and Western Districts of Texas
- U.S. Court of Appeals for the Federal Circuit (1990)
- U.S. Court of Appeals for the Second Circuit (2020) and Fifth Circuit (1990)