

## Appellate

A successful civil appellate practice requires a team of specialized lawyers/advocates presenting persuasive argument to convince an audience of judges. Andrews Kurth lawyers have a history of representing major companies and individuals in state and federal court appeals throughout the United States. Whether we handle a case from the start of trial or are called in after the jury's verdict, our client's welfare and strategic position are our priorities from the minute we get started.

### Major clients—important issues

Our appellate lawyers represent large and small companies engaged in:

- Employee benefits
- Energy
- Financial services
- Health care
- Manufacturing
- Transportation

We are involved in disputes covering virtually every legal aspect of commercial activity:

- Antitrust
- Bankruptcy and business restructuring
- Breach of contract
- Foreclosures
- Fraud
- Insurance coverage
- Labor and employment
- Lender liability
- Medical malpractice
- Officer and director liability
- Patents, trademarks and trade secrets
- Personal injury or property damage
- Product liability and toxic torts
- Professional liability
- Securities law violations
- Tortious interference
- White collar crime

### A skilled litigation team

Our appellate lawyers handle most of Andrews Kurth's appeals from the firm's original trial work, and collaborate well with in-house and outside counsel to anticipate potential issues before they arise. We take an interdisciplinary approach that combines trial skill with business insight to realize the best outcome for our clients.

Andrews Kurth lawyers are trained in every step of the trial and appeals process. We:

- Present summary judgment and other pretrial motions
- Preserve error throughout the trial
- Prepare post-verdict motions

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- Research, analyze and write effective appellate briefs
- Present oral arguments
- Handle emergency proceedings such as petitions for writs of mandamus

The appellate group places a premium on being able to “team up” with trial counsel, both inside and outside the firm. We provide the support, expertise, and resources necessary for the trial lawyer to represent the client at maximum effectiveness. We can assist in all aspects of the case from pretrial motions designed to establish the client’s best legal defenses through representation in the appellate courts of last resort. Good teamwork not only frees trial counsel from the time invested in legal research, error preservation, and briefing, it also permits the trial lawyers to better know the legal battlefield on which they are assembling the facts.

### **Expertise in managed care, employee benefits and health care**

We have represented employee benefit insurers and administrators in state and federal courts across Texas and the rest of the nation. These representations involve several types of parties including benefits disputes between employees and the plan administrators as well as disputes against plan administrators brought by an employer or medical providers. These representations also take a myriad of forms, from personal injury lawsuits alleging catastrophic damages to injunctions brought against the client over a member’s benefits or the termination of a medical provider’s contracts. The one thing that each case has in common is the need for sophisticated, written advocacy, often on short notice, calculated to simplify a complex area of the law and persuade the court of a client’s position.

The collaboration of the appellate group with the firm’s managed care practice has resulted in the firm’s involvement in nearly every significant managed care dispute in the State of Texas since the mid-1990s as well as many of the significant disputes nationally. This experience with managed care and the Employee Retirement Income Security Act of 1974 (“ERISA”) also crosses over into many commercial disputes involving dispositions of companies and their pension plans. Likewise, with the addition of medical malpractice capabilities to the firm, the appellate group has logically become involved in written and oral advocacy on behalf of physicians and hospitals, resulting in significant experience with the regime of tort reform recently enacted by the Texas Legislature.

### **Expertise in toxic torts and premises liability**

We have defended manufacturing and insurance clients against tens of thousands of claims alleging personal injury and property damage from the effects of asbestos, benzene, silica and other substances. Huge financial stakes, and even the survival of companies, often are at risk in such toxic tort lawsuits.

- When a Texas district court denied our challenge to asbestos exposure suits against our client by 5,200 out-of-state plaintiffs, we sought review by the Supreme Court of Texas on the critical issue of whether a Texas court had personal jurisdiction over our client in all of these cases. Rather than risk an adverse result, the plaintiffs dismissed all of their cases—and our client never went to trial.
- When Norwegian plaintiffs brought a wrongful death case against our client, we filed a motion to dismiss for forum non conveniens and a motion that the court apply Norwegian law to several aspects of the case. On short notice, this endeavor involved working with Norwegian counsel to obtain certified copies of Norwegian law, certified translations of Norwegian law by a United Nations-certified translator, and an expert affidavit from Norwegian counsel on key differences between Norwegian and Texas law. With every possible “t” crossed and “i” dotted on the many procedural and substantive details, the matter settled promptly on the heels of the filing.
- Similarly, Andrews Kurth appellate lawyers responded on behalf of a large aerospace manufacturer to address navigation easements and trespass or nuisance issues. Within the ten-page limit required by local court rules for a motion to dismiss, Andrews Kurth’s advocacy secured a quick result: The plaintiffs dropped their lawsuit rather than respond.

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- When more than 80 corporate defendants sought our help in a personal injury asbestos suit by 250 plaintiffs, we secured a summary judgment based upon the statute of limitations—and the plaintiffs chose not to appeal.

### **Special expertise in complex bankruptcy matters**

The appellate section has been used to great effect in several multi-party and multifaceted bankruptcy cases as well. For example:

- Andrews Kurth's bankruptcy lawyers represented a chemical company in its Chapter 11 proceedings. The complex case could not proceed with a solid plan of reorganization because of the uncertainty created by more than 1,500 personal injury claims of asbestos exposure at the debtor's refinery. Because of our leading role in asbestos litigation in Texas, the firm had documentation on most of those who filed claims in the bankruptcy proceeding. We filed an omnibus motion for summary judgment addressing the 5,200 claims, and the matter was quickly resolved, permitting the plan or reorganization to go forward.
- In another Chapter 11 bankruptcy proceeding, an international energy company sought to reject energy contracts worth hundreds of millions of dollars. FERC intervened. Andrews Kurth's appellate team handled emergency motions for stay in the United States Court of Appeals for the Fifth Circuit, and are now spearheading the appellate briefing on such issues as the interplay of bankruptcy courts and federal regulatory agencies.

*There is too much at risk, financially and emotionally, to trust your interests on appeal to lawyers who may not get the right job done. Andrews Kurth appellate lawyers will give you straight talk and sound advice to protect your interests.*