

Appellate

Persuasive Appellate Strategies from the Start

A successful appeal requires a team of specialized lawyers skilled at presenting "straight talk" to an audience of judges.

Our Appellate Practice Group is uniquely equipped for that task, both from serving in the judicial branch as well as advocating for clients in the full spectrum of civil appeals.

Appellate Specialists with Judicial Credentials

The Andrews Kurth Appellate Practice Group is built around lawyers who have experienced appellate decision making from the other side of the bench. The group is led by former Supreme Court Justice Scott Brister. Brister began his judicial service as a trial judge, and served as Chief Justice of the Fourteenth Court of Appeals before completing his two decades of judicial service in the Supreme Court of Texas. Brister and every other lawyer within the Appellate Practice Group served as a briefing attorney or "judicial clerk" before beginning the private practice of law. Both partners within the Appellate Practice Group, Scott Brister and Kendall Gray, are Board Certified by the Texas Board of Legal Specialization in Civil Appellate Law.

Due to these credentials, clients can expect more than mere skill in the mechanics of appellate practice. Clients can expect a level of written scholarship and oral advocacy specifically directed to their issues of which the courts will take genuine notice.

Appellate Specialists on Your Team

No time is too early to get an appellate lawyer onto the team—even to the point of knowing your elements of proof by drafting a jury charge before filing the initial pleadings. Thus, the Appellate Practice Group has participated in every step of the trial and appeals process, including:

- Presenting summary judgment and other pretrial motions
- Preserving error throughout the trial
- Preparing post-verdict motions
- Researching, analyzing and writing effective appellate briefs
- Presenting oral arguments
- Handling emergency proceedings such as mandamus petitions

How we work is determined exclusively by the client and its trial lawyers. We highly value the ability to collaborate with in-house and outside counsel in service of the client. Teamwork is key; credit is not.

Appellate Specialists in Your Industry

While we are equipped to handle any area of the substantive law in any procedural setting, the Appellate Practice Group has acquired particular expertise in:

- Employee Benefits, Managed Care and Health Care
- Intellectual Property Litigation
- Toxic Torts and Premises Liability
- Complex Bankruptcy Matters

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- Energy Litigation

Employee Benefits, Managed Care and Health Care

The collaboration of the Appellate Practice Group with the firm's managed care practice means we have represented the industry in nearly every significant and precedential managed care dispute in the State of Texas since the mid-1990s, as well as many of the significant disputes nationally.

Our experience with managed care and the Employee Retirement Income Security Act of 1974 ("ERISA") also crosses over into many commercial disputes involving plan sponsors and medical providers.

Further strengthened by our medical malpractice capabilities, the Appellate Practice Group's focus includes written and oral advocacy on behalf of physicians and hospitals, and significant experience with the regime of tort reform enacted by the Texas Legislature and debated nationwide.

Intellectual Property Litigation

The invention that was described by the engineers for the PTO must now be persuasively understood by a federal judge at the Markman hearing and a juror of laypersons at the trial. In our view, this level of persuasion and understanding will not occur without "straight talk" from a translator equipped to distill the essence of the claimed invention into plain English. With experience in both intellectual property disputes as well as daily working expertise with written persuasion, the Appellate Practice Group is uniquely positioned to perform that function.

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.

Because huge financial stakes, and even the survival of companies, are often at risk in such toxic torts lawsuits, we act decisively and definitely and are often effective in obtaining case dismissal.

Complex Bankruptcy Matters

The Appellate Practice Group is a highly effective resource in large and complex bankruptcy cases. The group is uniquely qualified to act as de facto translator for a Bankruptcy Court undertaking to decide a substantive issue governed by non-bankruptcy law—often from a state that is far-removed from the bankruptcy venue. A client proceeding solely with counsel skilled in the Bankruptcy Code is not fully equipped for this task.

Energy Litigation

Energy litigation is the cross-roads between the common and the complex. The cases will typically involve workaday issues of contract or fraud, but with a unique technical or specialized overlay: trade secrets, proprietary data, geology, regulatory compliance, environmental responsibilities, employment or joint venture relationships, fiduciary issues. The Appellate Practice Group has successfully handled such issues from the trial level onward.