

## Professional Liability

### Defending Malpractice Claims, Preserving Reputations

When professionals face claims for malpractice, their reputations and livelihoods are at stake. Andrews Kurth lawyers understand the sensitive personal nature of professional liability allegations and are skilled at defending our clients' reputations.

We have defended liability claims for a range of professionals, helping them to protect their valued reputations and uphold their professional standings. We have represented and counseled:

- Accountants
- Architects, Engineers and Design Professionals
- Attorneys
- Health Care Professionals

During decades of practice, our lawyers have represented professionals in trial courts and appellate courts, as well as before regulatory agencies and professional boards. We have won judgments in trials, summary judgments and motions to dismiss. We have also negotiated and mediated settlements on behalf of our professional clients.

### Straight Talk to Defend Professionals

The most daunting obstacle to defending professional liability claims is negotiating the "expectation gap" between a fact finder's perception of a professional's responsibilities and the responsibilities required by the profession.

In defending malpractice claims, we are skilled in educating the fact finder—judge, jury, mediator or administrative authorities—to understand the legal duties and standards of performance governing our client's professional practice.

To accomplish this educational process, Andrews Kurth lawyers work to craft compelling and effective defense strategies and tactics, applying understandable terms to explain sophisticated concepts. Plaintiffs have come to learn that our presence in a case indicates a committed and strongly fought defense.

### Accountants

Andrews Kurth has in-depth experience defending accountants against claims of malpractice. We have successfully defended claims made against Big Four accounting firms in shareholder class actions and individual suits.

Important issues encountered in defending accountants include the legal and professional standards governing the accountants' conduct, the application of federal securities laws and strategically positioning clients in multidefendant actions. Representative matters include:

- **Oil and Gas Accounting**—Secured dismissal of public accountant client from malpractice action brought by the foreign purchaser of a domestic oil and gas company.
- **Shareholder Class Action Involving Major Steel Company**—Obtained dismissal of accountant from class action involving inventory accounting, gain recognition and financial reporting issues.
- **Oil and Gas Accounting**—Won summary judgment for defendant accountants in malpractice action involving accounting and tax issues.
- **Shareholder Class Action Involving Telecommunications Company**—Secured nominal settlement for accountant in class action raising accounting, gain recognition and financial reporting claims.
- **Real Estate Accounting**—Won judgment for accountants in malpractice suit brought by investors in nursing home syndicate.
- **Financial Institutions**—Represented non-party accountants in litigation brought by bank-purchaser against the FDIC involving the accounting for goodwill.

## Professional Liability

Andrews Kurth also represents accountants during investigations and dealings before the Texas State Board of Public Accountancy and American Institute of Certified Public Accountants.

### Architects, Engineers and Design Professionals

Andrews Kurth defends architects, engineers and design professionals against claims of professional malpractice and negligence. Our experience involves defending them against claims that their design and architectural services were flawed.

Our background includes defending leading professionals in the restaurant and kitchen design industries and in the design of large retail buildings.

We've also handled numerous negligence and malpractice claims against an architecture firm involving homes built with Exterior Insulation and Finishing System (EIFS), a substitute stucco exterior.

### Attorneys

Andrews Kurth is respected for its handling of the complex substantive and technical issues that surround legal malpractice cases. Our lawyers have defended cases involving a wide variety of law firms, from global AmLaw leaders headquartered in New York to small boutique firms based in Texas.

Andrews Kurth's litigators with legal malpractice experience include highly trusted counselors, including one recognized in *The Best Lawyers in America, Legal Malpractice Law*. Another of our lawyers previously served as a counselor to the Federal Deposit Insurance Corporation (FDIC) and Resolution Trust Corporation (RTC) and investigated claims against law firms. Representative matters include:

- **Tax Transaction/Malpractice**—Settled a case against a law firm, while summary judgment was pending, accused of negligently structuring the tax aspects of a complex business transaction.
- **Commercial Litigation/Malpractice**—Favorably settled malpractice claims involving a law firm's representation of a client during a commercial dispute in San Antonio.
- **Malpractice and Fraud**—Defended a law firm in state court claims involving malpractice and fraud allegations made by a developer involving apartment projects in Harris County. We achieved summary judgment in favor of our clients.
- **Medical Malpractice/Legal Malpractice**—Defended a law firm accused of missing a statute of limitations in a medical malpractice case and settled favorably for the law firm.
- **Securities Fraud/Legal Malpractice**—Represented an Arizona lawyer and his law practice in a legal malpractice/securities fraud case involving a real estate investment project in Arizona. The suit was brought by a bankruptcy trustee in the United States Bankruptcy Court for Western District of Texas (San Antonio Division). The trustee alleged that our client failed to provide sound advice concerning the registration of securities and proper disclosures required under the state and federal securities statutes. We were able to achieve a favorable pre-trial settlement.

### Health Care Professionals

Andrews Kurth lawyers provide practical counsel and represent health care providers and provider organizations at trial, on appeal and in administrative and regulatory disputes.

**Regulatory Agency and Licensing Board Hearings.** For more than 30 years, we have counseled professional, licensed health care providers in private practice and academic settings, including representation in proceedings before licensing boards and regulatory agencies. We have represented health care providers in approximately 200 medical board investigations. Our experience gives us the capability to manage these challenges for our clients.

## Professional Liability

***Medical Malpractice and Qui Tam.*** Our health care trial lawyers counsel providers and institutions in all aspects of risk management and limiting professional liability, but there are circumstances where litigation is unavoidable. We regularly defend clients in court and on appeal in cases involving:

- Emergency Medical Treatment and Active Labor Act
- False Claims Act, billing fraud allegations
- Malicious credentialing claims
- Medical malpractice claims
- Nursing malpractice claims
- Products liability, defective products lawsuits involving pharmaceuticals and medical devices

Andrews Kurth lawyers have deep experience in the health care industry and are committed to representing the best interests of our health care clients.