



GRAVES DOUGHERTY HEARON & MOODY

Graves, Dougherty, Hearon & Moody is an Austin, Texas-based law firm with more than 60 attorneys focused on delivering results that make a positive difference for clients and the community.

Founded in 1946, Graves Dougherty was established on the principles of hiring great people, practicing first-class law and focusing on accomplishing clients' goals.

The firm hires only the best people, and is committed to finding effective and innovative legal strategies that will ensure that your needs are not only met, but exceeded. Graves Dougherty's attorneys include a former U.S. Bankruptcy Judge, former state and federal prosecutors, a former U.S. Department of Justice Assistant Attorney General, a former general counsel to the Texas Governor and a former member of the U.S. Solicitor General's Office. Many have served as federal and state judges' law clerks. Our ranks include former law review editors, chancellors, and law school professors.

The 2013 edition of *The Best Lawyers in America*® — widely regarded as the definitive guide to legal excellence in the United States— includes 34 attorneys from Graves Dougherty, more than any other firm in Austin. The firm also has more listed lawyers in *Best Lawyers* in the fields of Administrative Law, Banking and Finance Law, Bankruptcy Litigation, Bankruptcy and Creditor Debtor Rights/Insolvency & Reorganization, Bet-the-Company Litigation, Energy Law, Natural Resources Law, and Trusts & Estates, than any other firm in Austin, and more listed lawyers in Administrative/Regulatory Law and Water Law than any other firm in Texas. Six Graves Dougherty attorneys are members of the prestigious American Law Institute. Shareholder Mike McKetta was named in 2004 to the highly respected American Law Institute-American Bar Association Committee on Professional Education. In 2006, McKetta was asked to serve on the Executive Committee, which is the governing body of the American Law Institute.

At Graves Dougherty, we recognize that our greatest achievements result from our clients' willingness to entrust important matters to us. We take this commitment seriously, striving to serve our clients in the manner that best fits their needs. We represent a wide range of clients including some of Texas' largest companies and major national companies, as well as smaller businesses, organizations, individuals and families.

Graves Dougherty is committed to serving the community that has sustained its success for more than sixty years. The firm serves through numerous pro bono and non profit activities and has been recognized as the Central Texas leader in pro bono service. Graves Dougherty works on many cases representing indigent clients from Volunteer Legal Services of Central Texas, and in 2008, the firm was honored by Volunteer Legal Services for its outstanding commitment to pro bono legal services.

At Graves Dougherty, we believe that the practice of law is both a profession and a vocation. We are dedicated to our clients, our community and to the highest principles of law and justice, and we strive to provide creative, timely, and effective advice and counsel.



GRAVES DOUGHERTY HEARON & MOODY

PRACTICE AREAS

Administrative & Regulatory Litigation

Since its founding, the firm has been known for its expertise in handling complex regulatory matters and related litigation. Today, the attorneys remain actively involved in cutting-edge issues stemming from competition in the electric and telecommunications markets, as well as current developments in areas including water, oil & gas, environmental issues and taxation.

Appellate Law

Graves Dougherty has been a leader in appellate law in Texas for over sixty years. We handle appeals in cases we try as well as cases tried by other lawyers. We often submit amicus curiae (friend of the court) briefs discussing the policy implications of cases pending in state and federal appellate courts, including the Texas Supreme Court and the U.S. Supreme Court.

Drawing on both our trial and appellate experience, we also provide valuable assistance in the trial court on dispositive motions, jury instructions, and error preservation.

Banking & Finance

We represent lenders and borrowers in a variety of commercial finance and lending transactions. Our practice includes: Revolving, Term and Other Commercial Lending Facilities; Receivables Financing; Equipment Leasing; Sale and Lease-Back Arrangements; Letters of Credit; Technology/Emerging Growth Company Financing; Real Estate Development Financing; Multi-Creditor Facilities

Commercial Transactions

Whether we are representing manufacturers, software providers or professional services firms, we understand what drives a client's bottom line – successfully delivering products and services to the global marketplace. We are experienced in structuring and negotiating enterprise critical relationships with suppliers, distributors, sales representatives and customers.

Construction Law

Graves Dougherty has extensive experience representing a wide variety of construction industry clients including land and building owners, developers, homebuilders, commercial and residential general contractors, subcontractors, suppliers, lenders, engineers and architects in the construction industry in numerous types of construction related disputes, development projects, and transactions.

Corporate & Securities

We advise clients on all matters involved in the structuring, formation and operation of corporations, general and limited partnerships, limited liability companies and other business entities. In addition, we help guide companies, investors, directors and founders through the complex deal points and legal issues that are involved in equity and debt offerings and other securities law matters.

Creditors' Remedies

The Creditors' Remedies Practice Group at Graves Dougherty combines the expertise of bankruptcy practitioners, civil litigators and real estate foreclosure practitioners who have represented creditors, debtors, equity security holders and other parties in interest for more than 25 years, with the savvy of long-time banking, finance and securities lawyers who know the economic ups and downs of multiple industries.



GRAVES DOUGHERTY HEARON & MOODY

PRACTICE AREAS CONTINUED

Employment Law

From the negotiation of executive employment agreements to the litigation of workplace discrimination claims, we provide our clients with experienced counsel on a full range of employment law matters. We advise employers on the multitude of employment issues that confront them daily, with particular emphasis on risk management and litigation prevention. When matters cannot be resolved outside of the courtroom, we work with our firm's Litigation Group to advocate effectively for our client in arbitration, trial court and appellate court settings.

Environment and Natural Resources: Oil, Gas, Land & Water

The firm's environment/natural resources section deals with all aspects of developing land and natural resources. The firm has handled numerous lawsuits involving interests in natural resources, and has represented clients before the Texas Railroad Commission and Texas Commission on Environmental Quality.

Oil & Gas: Representation of independent energy companies and land and mineral owners in transactions related to leasing, production, regulation, environmental issues, pipeline easements, title and royalty disputes.

Water: The firm has also been active in major water rights litigation, and regularly represents clients on issues of water rights, service area, and infrastructure development.

Environment: The firm focuses on helping clients manage or allocate environmental risk, in permitting, compliance, cleanup or contractual arrangements. The firm regularly assists clients seeking clearance from the Voluntary Cleanup Program or Innocent Owner Program, and assists clients with environmental aspects of sales, leases and acquisitions.

Estate Planning, Tax & Probate

Graves Dougherty has a large Estate Planning, Probate & Tax group, which includes six attorneys Board Certified in Estate Planning and Probate Law by the Texas Board of Legal Specialization. The firm's attorneys represent several generations of experience and have expertise in a variety of areas, enabling us to closely match their specialized knowledge with the specific needs of our clients.

Federal Tax Planning & Controversy

We have experience in all aspects of federal tax planning and controversy, including work done in the following areas: Taxation of C Corporations and Shareholders; Taxation of S Corporations and Shareholders; Taxation of Partnerships and Partners; Taxation of LLCs and Members; Disregarded Entities; Choice of Entity Decisions; Section 1031 Like-Kind Exchanges; Mergers and Acquisitions; Tax-Free Reorganizations; Employment Taxes; Employee vs. Independent Contractor Tax Issues; Representation of Taxpayers in IRS Audits; Tax-Exempt Organizations; Structuring Transactions to Qualify for Tax Credits, such as Low Income Housing Tax Credit

Intellectual Property

Graves Dougherty has a team of experienced lawyers who assist clients in identifying, establishing and commercializing intellectual property rights as well as defending those rights inside and outside the courtroom. Areas of focus include IP transactions and counseling; minimizing risk; litigation and arbitration; and strategic protection of trademarks.



GRAVES DOUGHERTY HEARON & MOODY

PRACTICE AREAS CONTINUED

Internet and Information Security

Graves Dougherty lawyers have broad experience in the fast-developing law governing computers, the Internet and information security. The firm's lawyers have counseled clients and handled lawsuits in precedent-setting cases applying libel, privacy and wiretapping laws to computers, electronic communications, and the Internet. For example, Pete Kennedy served as lead counsel in the landmark electronic civil liberties case, *Steve Jackson Games v. U.S. Secret Service*. Graves Dougherty lawyers are frequent speakers at conferences exploring computers, technology and the law.

Media, First Amendment and Public Access

For decades, Graves Dougherty lawyers have helped shape the law on issues affecting First Amendment rights, especially the law of libel, privacy, incitement and the public's right of access to courtrooms, government documents and meetings.

Lawyers at Graves Dougherty are frequent speakers on First Amendment, free speech, media law and religious liberty topics at continuing legal education courses, and have taught courses on media and law at the law school and university level. Graves Dougherty attorneys have broad experience representing all nature of media clients, including daily newspapers, local and national broadcasters, magazines, book publishers, film studios and Internet publishers of all sorts.

Mergers & Acquisitions

Because of our diverse client base, we have had the opportunity to negotiate merger and acquisition transactions involving companies in wide range of industries. We work with clients and their financial advisers through every stage of an acquisition, divestiture, reorganization or other extraordinary corporate event.

Real Estate

The supply of land may be fixed, but the challenges of real estate are infinite. Our lawyers have the skills to guide clients through real estate and construction matters, and the expertise to deal with the myriad land-use issues of a complex regulatory environment.

State and Local Tax Planning & Controversy

We have experience in all aspects of state and local tax planning and controversy, including work done in the following areas: Texas Franchise or "Margin" Tax; Property Tax; Sales & Use Taxes; Representation before Appraisal Districts and Appraisal Review Boards; Representation before Texas Comptroller of Public Accounts State Tax Due Diligence related to Mergers and Acquisitions; Voluntary Disclosure Agreements; Structuring Transactions to Qualify for Tax Exemptions; Advise Clients regarding Proposed Legislation

Tax Exempt/Non-Profit Organizations

An important part of our practice involves the representation of tax-exempt organizations, including not-for-profit hospitals, universities and foundations. We help clients navigate the complex federal, state and local issues involved in operating a tax-exempt organization.



GRAVES DOUGHERTY HEARON & MOODY

PRACTICE AREAS CONTINUED

Technology

Graves Dougherty regularly meets and exceeds the needs of clients in areas such as technology litigation, Internet regulation, and computer law consulting. The firm's attorneys include a number of experts in technology law, Internet law and Internet litigation. Representation covers a broad spectrum of technology areas ranging from semiconductor equipment manufacturing to wireless Internet access.

The firm represents established and emerging growth companies in the technology industry, as well as their founders and investors—from startups to Fortune 100 companies—on matters critical to their businesses. Additionally, the firm is experienced in assisting companies in other fields with technology-related needs.

Trial Litigation

Our reputation for vigorously representing clients at trial is built on more than fifty years of experience in the state and federal courts. Our cases range from routine contract disputes to high-profile trials, from high-stakes commercial litigation to the condemnation of small land parcels. We rely on keen analysis, meticulous preparation and an aggressive approach to represent our clients' interests. This litigation practice reaches beyond our home in Austin to the rest of the nation and abroad.

Water Law

The firm has been active in major water rights litigation, and regularly represents clients on issues of water rights, service area, and infrastructure development.



GRAVES DOUGHERTY HEARON & MOODY

Attorneys

Michelle Alcala
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Joseph R. Delgado
Will W. Dibrell
Rod T. Edens, Jr.
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Helen Currie Foster
John M. Harmon
R. Alan Haywood
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GRAVES DOUGHERTY HEARON & MOODY



David P. Smith

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Widely recognized as an authority in environmental and natural resources law and policy, David Smith recently returned to Texas – and private practice – after more than a decade in public service in both Austin and Washington, D.C. Mr. Smith has dealt with all major Texas and federal natural resources agencies as counsel, policy advisor or appointed official. As a result, Mr. Smith has a keen understanding of complex regulatory issues and agency processes, as well as strong relationships with key agency personnel.

Most recently, Mr. Smith served as Deputy Assistant Secretary of the Interior and Counselor for Fish and Wildlife and Parks, where he developed and oversaw implementation of policies for both the U.S. Fish and Wildlife Service and National Park Service. In this capacity, he was a member of the Secretary of the Interior's senior management team, working with political and career leadership across the Department of the Interior, the White House, Congress and other federal agencies. As former Secretary of the Interior Gale Norton noted, "David Smith has a national reputation as a problem-solver in conservation and parks management." He has testified before both the U.S. Senate and House of Representatives and has delivered speeches and position papers to national and international audiences on such topics as the Endangered Species Act, National Environmental Policy Act, Migratory Bird Treaty Act, Bald and Golden Eagle Act, National Wildlife Refuge System, the National Park System, and the Convention on International Trade in Endangered Species of Wild Fauna and Flora.

Mr. Smith went to Washington as one of the Bush administration's first appointees to the Department of the Interior, after serving on the Bush-Cheney Transition Team in late 2000 and early 2001. He previously served in the Appointments Office of then-Governor George W. Bush, overseeing all gubernatorial appointments in the areas of natural resources, conservation, real estate, housing, finance and water. Before devoting his career to public service, Smith was an attorney in private practice in Austin, where he concentrated on environmental and land-use issues on the federal, state and local levels.

Today, Mr. Smith counsels clients in dealings before Congress, the Texas Legislature, the U.S. Fish and Wildlife Service, the U.S. Army Corps of Engineers, the Environmental Protection Agency, the Texas Commission on Environmental Quality, the Texas Parks and Wildlife Department, and the Texas General Land Office, as well as other federal and state agencies.

Professional Qualifications

Admitted to State Bar of Texas, 1993,
Admitted to practice before the following courts:

- U.S. District Courts for the Western and Northern Districts of Texas

Education

Washington and Lee University (B.A., *cum laude*) 1990; NCAA Intercollegiate Baseball Letterman 1988, 1989, 1990; Scholar-Athlete Academic Honor Roll.

The University of Texas School of Law (J.D.) 1993; Teaching Quizmaster 1992-93.

Barrett & Smith PLLC – Partner, 2006 - 2011

United States Department of the Interior

Deputy Assistant Secretary and Counselor for Fish and Wildlife and Parks, 2002 – 2006;

Counselor to the Assistant Secretary for Fish and Wildlife and Parks, 2002

Special Assistant to the Secretary/Counselor to the Assistant Secretary for Fish and Wildlife and Parks, 2001 – 2002

Bush Cheney Transition Team – 2001

Office of Governor George W. Bush – Appointments Manager, 1997 – 2001

Private Law – Attorney, 1996 – 1997

Drenner & Stuart – Associate, 1994 – 1996

Thompson, Coe, Cousins & Irons – Associate, 1993 – 1994

Publications and Presentations

- Faculty Member and Author/Speaker, Texas Water Law Annual Conference (2010, 2011, 2013 and 2014)
 - *Endangered Species: An Overview (2014)*
 - *The ESA vs. Texas Water Law (2013)*
 - *Endangered Species Act: Surface Water and Other Emerging Issues in Texas (2011)*
 - *Endangered Species Act Issues: Surface Water, the Aransas Project, Guadalupe River Basin and Whooping Cranes; Is this the Tip of the Iceberg?(2010)*
- Faculty Member and Author/Speaker, CLE International Endangered Special Act Conservation and Litigation Conference (2013 and 2014)
 - *Recent Actions under the Multi-District Litigation Settlement Agreement (2014)*
 - *Listing Decisions in Crisis Mode (2013)*
- Faculty Member and Author/Speaker, The Austin Contractors & Engineers Association Central Texas Infrastructure Design & Construction Symposium (2013 and 2014)
 - *Impact of the Salamanders on development (Or, What are We supposed To Do Now That They Are Listed?) (2014)*
 - *Impact of the Four Central Texas Salamanders on Development (2013)*
- Faculty Member and Author/Speaker, CLE International Conference on Hydraulic Fracturing (2012)
 - *The Intersection of the Endangered Species Act with the Oil and Gas Industry*
- Faculty Member and Author/Speaker, Texas Utility Lawyers Annual Meeting (2012)
 - *Endangered Species and the Intersection with Utilities*
- Faculty Member and Author/Speaker, AALA Annual Agriculture Law Symposium (2011)
 - *Endangered Species Act Overview: A Gathering Storm? ESA Impacts on Water and Land Use*
- Faculty Member and Author/Speaker, Real Estate Center at Texas A&M Annual Outlook for TX Land Markets (2011)
 - *Fresh Water for Whooping Cranes – What Endangered Species Means to Landowners*

- Faculty Member and Author/Speaker, The University of Texas School of Law Texas Water Law Institute (2010)
 - *The Role of Endangered Species in Water Management – Which is More Endangered: Texas’ Autonomy over State Water Resources or the Whooping Crane?*
- Faculty Member and Author/Speaker, Texas Water Conservation Annual Conference (2009)
 - *Endangered Species Overview*

Professional Affiliations

- Austin Bar Association
- State Bar of Texas
- American Bar Association

Community

- LBJ Library Future Forum Board of Directors; Chairman 2013-2015
- Texas Foundation for Innovative Communities; Board of Directors
- Tuesday Club
- Mountain States Legal Foundation, Board of Litigation
- The Texas Lyceum, Alumni; Past Director; Past Vice President – Nominations
- The University of Texas School of Law, Past Non-Practicing Alumni Advisory Council
- Washington and Lee University Alumni Association of Central Texas, Past Board of Directors; Past Secretary/Treasurer
- Real Estate Council of Austin; Past member Development Process Committee, Past member Endangered Species Committee



GRAVES DOUGHERTY HEARON & MOODY



G. Douglas Kilday

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Civil Litigation
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Doug Kilday is a trial lawyer with more than twenty years of experience handling complex business-related cases in a wide variety of areas, including contracts, real estate, construction, wind energy, oil & gas, fiduciary duties, and professional liability. He has tried cases for both plaintiffs and defendants, and has represented clients in both state and federal court and in arbitration proceedings.

Representative Experience

Construction Litigation

- Represented general contractor for wind energy project in \$56 million lawsuit filed against the owner to recover additional costs incurred due to construction delays, acceleration, scope increases, unforeseen subsurface conditions, design changes, and events of force majeure;
- Represented developer of 270-unit condominium project in arbitration proceeding against general contractor and architect, and in subsequent state court litigation against architect and its engineering subconsultants, over multi-million-dollar claims for construction delays, liquidated damages, and various design and construction defects;
- Defended national engineering firm in \$24 million dispute over collapse and vertical deflections in portions of large diameter raw water pipeline;
- Represented owner's association for 32-story condominium and hotel building in prosecution of construction and design defect claims;
- Defended national engineering firm in \$7 million dispute over weld failures and leaks in large diameter raw water pipeline;
- Defended HVAC subcontractor in multi-party arbitration proceedings involving mold, negative pressurization, design defect claims, and construction defect claims involving \$5.6 million in alleged damages to a six-story, 140-unit hotel;
- Defended general contractor in jury trial over "quantum meruit" claims alleged by masonry subcontractor, resulting in favorable, take-nothing judgment;
- Defended general contractor of food processing plant in \$1.1 million claim alleged by electrical subcontractor;
- Represented homeowner in claims against general contractor for defective waterproofing and extensive water damages and wood rot;
- (See *also* "Wind and Solar Energy Litigation," below);

Business and Commercial Litigation

- Represented several companies and individuals from Texas and Mexico in successful challenge to personal jurisdiction of California state court in \$20 million lawsuit for alleged breach of joint venture agreement;
- Represented biotechnology company in prosecution of breach of contract claims against independent contractor for delays in completing clinical trials;
- Defended buyer of company's stock in \$2.5 million lawsuit for alleged breach of stock purchase agreement;
- Defended equipment manufacturer in jury trial over claims for breach of warranty, deceptive trade practices, and fraud;
- Represented property owner in lawsuit filed against City, requiring City to honor commitments for water and wastewater services without payment of substantial amounts for "capital recovery fees";

Real Estate Litigation

- Defended owner of downtown office building in jury trial to resolve dispute with primary occupant over interpretation of lease option in real estate document;
- Represented Lake Travis homeowner in jury trial, defeating claims of alleged implied easement by necessity across homeowner's property;
- Represented developer and holder of real estate option in lawsuit filed by title company over settlement arising from option, resulting in favorable, take-nothing summary judgment in favor of our client;
- Represented owner and developer of golf course and residential community in litigation to construe deed restriction and to enforce right of first refusal for adjacent 63 acre tract;
- Represented co-developer of multi-use project in asserting breach of fiduciary duty claims against general partner following foreclosure and subsequent undisclosed purchase made by affiliate of general partner;
- Represented purchasers of foreign property bought at local auction in claims over seller's failure to deliver title;

Wind and Solar Energy Litigation

- Represented developers and sellers of 278-megawatt wind energy project in prosecution of breach of contract claim against buyers of the project;
- Represented general contractor for wind energy project in \$4.5 million dispute with transmission system subcontractor;
- Represented general contractor and operator of solar energy facility in multi-party litigation over fires that destroyed two inverter houses at the facility;
- Defended developers and operators of wind energy facility in lawsuits filed by landowners for alleged breach of lease and easement agreements;
- Represented wind energy developer in defending claims filed by former employee who sought multi-million-dollar bonus under disputed provision in contract;
- Represent wind energy developers, and construction contractor for wind energy projects, in various disputes;

Auditor and Director/Officer Liability

- Defended national accounting firm in \$270 million lawsuit for audit malpractice, resulting in favorable, take-nothing summary judgment that was affirmed on appeal, *Turoff v. McCaslin, et al.*, 222 S.W.3d 664 (Tex. App. – Waco 2007, no pet.);
- Defended national accounting firm in \$74 million lawsuit for audit malpractice, resulting in favorable, take-nothing summary judgment;
- Prosecuted breach of fiduciary duty claims against former corporate officer of home health agency in state court jury trial, and in subsequent bankruptcy proceedings resulting in summary judgment that state court judgment was non-dischargeable;

Oil & Gas

- Represented lessors in successful prosecution of claims for additional royalties owed under oil and gas leases, and successfully defended judgment in appeal to U.S. Court of Appeals for the Fifth Circuit, *Yturria v. Kerr-McGee Oil & Gas Onshore, LLC*, 291 Fed. Appx. 626, 2008 WL 4155830 (5th Cir. 2008). Total paid to clients: \$1.15 million (\$939,000 in royalties, \$120,000 in attorneys' fees, \$19,000 in expert witness fees, \$74,000 in interest);

Trust and Probate Litigation

- Represented adopted relative in declaratory judgment lawsuit to determine whether trusts drafted in the 1930s included future adopted descendants;
- Represented co-executors of Estate in bench trial to determine apportionment of estate taxes among beneficiaries, and to determine whether bank accounts were assets of the Estate;
- Represented beneficiaries and executors in will contests, will construction proceedings, and fiduciary litigation;

Pro Bono

- Worked with other lawyers in representation of death row inmate in post-conviction habeas corpus proceedings before Texas Court of Criminal Appeals, U.S. District Court, U.S. Court of Appeals for the Fifth Circuit, and U.S. Supreme Court;
- Represented church in citizen dispute over temporary use of vacant property within adjacent cemetery as a construction staging area for redevelopment of church property, resulting in denial of citizen group's request for injunction and dismissal of lawsuit.

Professional Qualifications

Admitted to State Bar of Texas, 1993.

Admitted to practice before the following courts:

- U.S. Supreme Court
- U.S. Court of Appeals, Fifth Circuit;
- U.S. District Courts for the Western, Northern, Southern, and Eastern Districts of Texas;

Education:

- Rhodes College (B.A., cum laude, 1990)
 - Rhodes "Hall of Fame"
 - Intercollegiate Mock Trial
 - 1990 National Championship
 - Outstanding Attorney Award (Top Ten)
 - Kepple Writing Prize (Best Academic Paper).
- Washington & Lee University (J.D., cum laude, 1993).
 - John W. Davis Moot Court Competition, Best Oral Advocate, 1991
 - Capital Defense Digest*, Editor, 1992-1993
 - Moot Court Board, 1992-1993

Law Clerk to the Honorable Jerome Turner, U.S. District Court, Western District of Tennessee, 1993-1994.

Professional Affiliations

- Austin Bar Association (Civil Litigation Section)
- American Bar Association (Litigation Section)
- State Bar of Texas (Litigation Section and Construction Law Section)

Awards and Honors

- AV[®] Preeminent[™] Peer Review Rating, Martindale.com
- *Texas Monthly*, Rising Star, published by Thomson Reuters, 2005-2007

Community

- Leadership Austin, Class of 2012-2013
- Cub Scouts
 - Den Leader, 2014-Present
- Big Brothers Big Sisters of Central Texas
 - Board of Directors, 1999-2004
 - Board Chair, 2002-2003
 - Capital Campaign Committee, Present
- Covenant Presbyterian Church
 - Elder
 - Member of Session (Governing Body), 2007-2010
 - Co-Chair, Capital Campaign Committee, 2007-2010
 - Chair, Mission Committee, Present



GRAVES DOUGHERTY HEARON & MOODY



Matthew B. Baumgartner

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Mr. Baumgartner is a trial and appellate lawyer who represents Graves Dougherty clients in a variety of litigation matters in both state and federal court. Mr. Baumgartner recognizes that when clients become involved in litigation, the stakes are often very high. Mr. Baumgartner has an uncompromising commitment to achieve the best possible outcome for Graves Dougherty clients, and prides himself on working with clients to craft and execute the right strategy for each case.

Representative Experience

Mr. Baumgartner's recent representation of Graves Dougherty clients includes:

- Appellate counsel in *Texas Mutual Insurance Company v. Integrated Claims Systems, LLC*, No. 2013-1431 in the United States Court of Appeals for the Federal Circuit. Along with Graves Dougherty attorneys Pete Schenkkan and Matt Powers, Mr. Baumgartner's briefing to the Federal Circuit challenges the jurisdictional dismissal GDHM client Texas Mutual's lawsuit seeking a judgment that patent infringement claims by ICS were without merit.
- Appellate counsel in *Texas Indigenous Council and Antonio Diaz v. G.D. Simpkins et al.*, No. 12-50244 in the United States Court of Appeals for the Fifth Circuit. Mr. Baumgartner briefed and argued to the Fifth Circuit that GDHM's pro bono clients' First Amendment claims had been improperly dismissed on procedural grounds. The Fifth Circuit agreed, and reversed the dismissal and remanded the case to proceed on the merits.
- Lead trial counsel for founding member of an Austin start-up entity who had been ousted in connection with a new round of funding. GDHM was able to obtain a temporary injunction for its client that then led to a mutually agreeable settlement.
- Lead appellate counsel in *Texas Mutual Insurance Company & Gloria Williams v. Jeff Palmer*, No. 05-12-00893-CV in the Dallas Court of Appeals. Mr. Baumgartner also served as counsel in the 2012 trial of *Jeff Palmer v. Texas Mutual Insurance Company*, Cause No. 07-8017 in Dallas County District Court, in which he participated in the trial and argued the jury charge and trial motions.
- Trial court representation of a FINRA-registered investment advisory company. Mr. Baumgartner achieved complete summary judgment dismissal of the plaintiff's claims of fraud, negligence, unfair trade practices and Texas Securities Act violations. *O'Grady v. Mandalay Financial, LLC, et al.*, Cause No. D-1-GN-08-003415 in Travis County District Court.
- Representation of Texas-based health care provider in a series of minority shareholder claims arising from an asset sale.

- Trial and appellate representation of Texas' largest workers' compensation insurer, in which Graves Dougherty attorneys achieved complete summary judgment dismissal of the plaintiff's "bad-faith" claims handling allegations. *Charles E. Durst, Jr. v. Texas Mutual Insurance Company*, No. 04-09-00430-CV, 2010 WL 3332198 (Tex. App.—San Antonio Aug. 25, 2010, pet. denied)
- Second-chaired trial representing two major newspaper publishing companies, in which Graves Dougherty successfully litigated the publishing companies' open records requests.
- Represented a large commercial bank in litigation arising from defaults on real estate investment loans. Following summary judgment, GDHM achieved a favorable settlement requiring repayment of substantial amounts to the bank.
- Mr. Baumgartner's recent practice has included appellate and mandamus briefing of bad-faith claims handling issues in the workers' compensation context on behalf of Texas' largest workers' compensation insurer, including: *Texas Mutual Ins. Co. v. Ruttiger*, Case No. 08-0751 in the Texas Supreme Court; *Texas Mutual Ins. Co. v. Morris*, Case No. 09-0495 in the Texas Supreme Court; *In re Texas Mutual Ins. Co. and Evie Villarreal*, Case No. 09-0508 in the Texas Supreme Court.
- Mr. Baumgartner's pro bono practice includes First Amendment and Americans With Disability Act litigation in federal court, as well as representation of clients referred through GDHM's on-going partnership with Volunteer Legal Services.

Before joining Graves Dougherty Mr. Baumgartner was a litigation associate at the Washington, D.C. firm Wilmer Cutler Pickering Hale and Dorr, LLP, from 2006 to 2007, where his experience included:

- Federal False Claims Act litigation involving U.S.A.I.D. construction contracts in the Middle East.
- Representation of a major mutual fund advisor in a federal SEC investigation into marketing and advertising practices.
- Representation of a private defense contractor in a federal investigation leading to the indictment and conviction of a United States Congressman on federal bribery and corruption charges.

Professional Qualifications

Bar Associations: Texas, 2008; District of Columbia, 2007; Maryland, 2005.

Appellate Courts: Fifth Circuit Court of Appeals; Federal Circuit Court of Appeals.

Federal District Courts: Western District of Texas; Southern District of Texas.

Education: University of Texas at Austin (B.A., with High Honors and Special Honors in Government, 2000), Phi Beta Kappa, 2000; University of Michigan Ford School of Public Policy (M.P.P., 2002); University of Michigan Law School (J.D., cum laude, 2004), Associate and Contributing Editor, Michigan Law Review (2003-04).

Associate, Wilmer, Cutler, Pickering, Hale and Dorr, LLP, Washington, D.C., October 2006 - August 2007

Law Clerk, U.S. District Judge William Wayne Justice, Austin, TX, August 2005 - August 2006

Interim Director, Common Cause of Michigan, Ann Arbor, MI, February 2002 - February 2003

Awards and Honors

- Texas Civil Rights Project Kristi Couvillon Pro Bono Award, 2013
- *Texas Monthly*, Super Lawyers® Rising Star, published by Thomson Reuters, 2010-2014

Publications and Presentations

- "Pleas to the Jurisdiction in Texas Administrative Law," *Texas Tech Administrative Law Journal*, Vol. 11, No. 1 (Fall 2009), co-author Pete Schenkkan.
- Speaker: 4th Annual Advanced Texas Administrative Law Seminar, August 27-28, 2009, Administrative and Public Law Section of the State Bar of Texas, Austin Bar Association Administrative Law Section and The University of Texas School of Law.
- *SWANCC's Clear Statement: A Delimitation of Congress's Commerce Clause Authority to Regulate Water Pollution*, published in *Michigan Law Review*, Vol. 103, No. 8 (August 2005).

Professional Affiliations

- Texas State Bar Association
- Austin Bar Association
- Austin Young Lawyers' Association
- District of Columbia Bar
- Maryland State Bar Association
- American Bar Association