



## BEN L. MESCHES

Partner

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**PRACTICES:** Appellate, Litigation, Oil and Gas Litigation, Energy Litigation, Bankruptcy Litigation

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### DALLAS

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### EDUCATION AND CLERKSHIPS

- J.D., University of Texas School of Law, 2001, *with honors*; Member, *Texas Law Review*
- B.A., Political Science, Trinity University, 1998, *cum laude*
- Justice Harriet O'Neill, Texas Supreme Court (2001-2002)

### ADMISSIONS

- Texas

### COURT ADMISSIONS

- United States Supreme Court
- Texas Supreme Court
- U.S. Court of Appeals for the Third Circuit
- U.S. Court of Appeals for the Fifth Circuit
- U.S. Court of Appeals for the Seventh Circuit
- U.S. Court of Appeals for the Ninth Circuit

Chair of the Firm's Litigation Department, Ben Mesches successfully leads appellate and litigation teams in high-stakes cases at the crossroads of major public policy questions and emerging legal issues.

Recognized by *Chambers USA*, *Chambers and Partners* (2019-2020), as a leading Texas appellate lawyer, clients value Ben's experience and big-picture perspective, seek his counsel in developing crisis-management strategies in the aftermath of potentially crippling adverse trial court decisions, and praise his ability in "preparing us for" the ranges of issues and outcomes that "come up on appeal and what to expect" as litigation unfolds.

Board certified in civil appellate law by the Texas Board of Legal Specialization, Ben has been the architect of winning litigation strategies in the appellate courts. In 2019 alone, he has secured high-profile wins in these cases:

- In the Texas Supreme Court in a landmark case upholding the constitutionality of public pension reforms implicating nearly \$1 billion in pension assets.
- Before the Fifth Circuit in a wind-power dispute worth more than \$300 million, reversing—for the second time—a district court decision.
- At the Third Circuit in a trademark case in which the court held that a major pharmaceutical company owned intellectual property rights, defeating an \$80 million claim.

Ben's peers recognize his collaborative leadership style both inside the firm and within prestigious legal organizations. In addition to leading the firm's global litigation practice, he has served as President of the Texas Supreme Court Historical Society, the ABA's Council of Appellate Lawyers—the only national appellate-bench organization in the country—and Chair of the Dallas Bar Association's Appellate Section.

And Ben is regularly asked to write and speak on litigation and appellate practice topics, including post-judgment strategy; practice before the Texas Supreme Court; Fifth Circuit trends; bankruptcy appeals; and the selection and preservation of issues for appeal.

### Selected Publications and Speeches

- "[Appellate Year-in-Review: The Fifth Circuit and SCOTX](#)," co-author, *Texas Lawbook*,

- U.S. Court of Appeals for the Tenth Circuit
  - U.S. Court of Appeals for the Federal Circuit
  - U.S. District Court for the Northern District of Texas
  - U.S. District Court for the Southern District of Texas
  - U.S. District Court for the Western District of Texas
- December 26, 2019.
- “When the Heat is On: Handling Bonds, Stays, and Other Appellate Emergencies,” panelist, 2019 AJEI Summit, Washington, D.C., November 16, 2019.
  - “Chief Justice Jack Pope’s Influence on Jurisprudence,” presentation at the State Bar of Texas’ History of Texas and Supreme Court Jurisprudence course, Austin, Texas, April 28, 2017.

**Selected Client Representations**

*Ben’s recent appellate representations include:*

- In the Texas Supreme Court, won a landmark case upholding the constitutionality of public pension reforms implicating nearly \$1 billion in pension assets.
- Before the Fifth Circuit, reversed – for the second time – a district court decision in a wind-power dispute worth more than \$300 million.
- At the Third Circuit, defeating an \$80 million claim in a trademark case in which the court held that a major pharmaceutical company owned intellectual property rights.
- Led an appellate team in the Washington appellate courts in preserving an \$81.4 million railroad-divestiture transaction under attack by taxpayer challenges to the validity of the transaction (2014).
- At the Texas Supreme Court, invalidated a \$29 million liquidated damages provision arising in the context of the state’s burgeoning renewable energy industry (2014).
- In a closely-watched election case, led the appellate team that obtained emergency mandamus relief on the eve of the election (2013).
- In the Fifth Circuit, dismissal of derivative claims challenging a \$54 million merger in the healthcare industry (2013).
- In the Fifth Circuit, reversed a fee enhancement award granted to debtor’s financial advisor, clarifying legal standards applicable to fee claims under § 328(a) of the Bankruptcy Code (2012).
- Defeated preemption, commerce clause, and eminent domain claims related to natural gas production regulations in the Fifth Circuit (2010).
- Persuaded the Fifth Circuit Court to dismiss - on equitable mootness grounds - the appeal of a \$3.6 billion bankruptcy plan of reorganization of a global mining giant, challenged by a competing bidder and the company’s union (2010)

*Ben also closely collaborates with trial counsel on legal strategy, dispositive motion practice; preservation of error; jury charges; post-verdict motions and briefing; and planning for appeal. His recent trial representations include:*

- In federal district court in Oregon, a member of the trial team that defeated \$10 million trademark claims and obtained an order cancelling a trademark registration (2014).
- As lead appellate counsel in a fiduciary-duty case arising in the healthcare arena, obtained relief from a multi-million jury verdict with a successful motion for judgment notwithstanding the verdict (2012).
- In federal district court in Indiana, led the team that obtained dismissal of a suit—on

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personal-jurisdiction grounds—seeking \$200 million in damages related to a multi-billion dollar oil-and-gas transaction (2012).

- In an oil-and-gas ownership dispute alleging mutual and unilateral mistake in a deed, successfully argued the jury charge as part of a trial team that obtained a complete defense verdict (2011).
- In a multi-million dollar case under the Texas Securities Act in a Dallas federal court, secured favorable jury charge and motion for judgment as a matter of law rulings, resulting in the complete dismissal of the plaintiff's claims on the eve of closing argument (2009).

### Professional Recognition

- Board Certified in Civil Appellate Law by the Texas Board of Legal Specialization, 2007-Present
- Recognized by *Chambers USA*, Chambers and Partners, as one of the leading practitioners in Texas for Appellate, 2019-2020
- Selected for inclusion in *The Best Lawyers in America*, Woodward/White, Inc., Appellate, 2016-2021
- Recognized by *D Magazine*, D Magazine Partners, as a "Best Lawyer in Dallas" in Appellate, 2014-2019
- Recognized by *Texas Super Lawyers*, Thomson Reuters, as a Top 100 Texas lawyer, 2018, 2020
- Selected for inclusion in *Texas Super Lawyers*, Thomson Reuters, Appellate, 2014-2020
- Selected for *Texas Super Lawyers, Rising Stars*, Thomson Reuters, 2007-2014
- Dallas Bar Foundation - Fellow, 2009

### Professional and Community Activities

- Chair of the *Council of Appellate Lawyers*, the nation's only appellate bench-bar organization. In that capacity, he serves on the Board of the Appellate Judges Conference of the ABA's Judicial Division and the Appellate Judges Education Institute - a non-profit educating state and federal judges nationwide.
- *Texas Supreme Court Historical Society*: President-Elect; Board of Trustees; Fellow; and Chair of the Marketing Committee
- *Texas Board of Legal Specialization*: Member of the Exam Commission for Civil Appellate Law
- *Texas Law Review Association*: Member of the Board of Trustees
- *Dallas Bar Association, Appellate Section*: Served as Chair of the Appellate Section (2011) and member of the Advisory Council (2007-2012)
- *State Bar of Texas Appellate Section*: Website Committee Co-Chair (2011-present)