



Ben L. Mesches

Partner

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PRACTICES Appellate, Litigation, Oil and Gas Litigation, Energy Litigation, Bankruptcy Litigation, U.S. Supreme Court, Power and Renewables Litigation

Ben Mesches leads the firm's Appellate Practice Group, serves on the firm's Board of Directors, and he successfully guides appellate and litigation teams in high-stakes cases in state and federal courts nationwide.

Ben is ranked as a leading Texas appellate lawyer by *Chambers USA* (Chambers and Partners, 2019-2023). The prestigious directory praises Ben as "an intellectual force," commends him as "a tremendous brief writer and terrific oral advocate" and describes him as "precise and in complete command" in court.

Ben is board certified in civil appellate law by the Texas Board of Legal Specialization. He has deep experience before the Texas Supreme Court, having been tasked with arguing major D&O, constitutional, pension, and energy cases in recent years. And he has amassed a string of high-profile wins in appellate courts across the country:

- In the Sixth Circuit, on behalf of a major financial institution, persuaded the Court to reverse the district court on a novel coverage question involving the insurability of certain bankruptcy claims under Ohio law. (2024).
- In the Dallas Court of Appeals, secured a ruling upholding the constitutionality of statutory changes to a public pension plan involving nearly \$1 billion of plan assets. (2023).
- In the Fifth Circuit, prevailed in a complex commercial dispute alleging contract, tort, and antitrust claims seeking in excess of \$50 million (2022).
- In a closely watched case involving the standards governing the enforceability of forum selection clauses, persuaded the California Supreme Court to grant review (2022).
- In a precedent-setting insurance coverage dispute involving a cybersecurity breach, secured reversal in the Fifth Circuit on behalf of a corporate policyholder (2021).
- In back-to-back terms, won constitutional cases at the Texas Supreme Court challenging legislative pension reforms impacting billions of dollars in pension funds (2019-20).
- In the Fifth Circuit, he secured reversals in a renewable-energy dispute involving a \$300 million power contract (2017, 2019).
- In the Third Circuit, defeated an \$80 million claim in a trademark case in which the court held that a major pharmaceutical company owned disputed intellectual property rights (2019).

Ben's peers recognize his collaborative leadership style. At the firm, Ben led the firm's global litigation practice from 2016-2022 and serves on the firm's Board of Directors. He was president of the Texas

Supreme Court Historical Society, chair of the American Bar Association's Council of Appellate Lawyers—the only national appellate bench-bar organization in the country—and chair of the Dallas Bar Association's Appellate Section.

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

QUALIFICATIONS

EDUCATION

- J.D., The University of Texas School of Law, 2001, *with honors*; Member, *Texas Law Review*
- B.A., Political Science, Trinity University, 1998, *cum laude*

CLERKSHIPS

- Justice Harriet O'Neill, Texas Supreme Court (2001-2002)

ADMISSIONS

- Texas

COURT ADMISSIONS

- Texas Supreme Court
 - United States Supreme Court
 - U.S. Court of Appeals for the Second Circuit
 - 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 Sixth Circuit
 - U.S. Court of Appeals for the Seventh Circuit
 - U.S. Court of Appeals for the Eighth Circuit
 - U.S. Court of Appeals for the Ninth Circuit
 - 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
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PROFESSIONAL AFFILIATIONS AND ENGAGEMENTS

- Past 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*: Past President; Board of Trustees; and Fellow
 - *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)
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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 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).

AWARDS AND RECOGNITIONS

- 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, 2019-2023

- Selected for inclusion in *The Best Lawyers in America*, Woodward/White, Inc., Appellate, 2016-2024; Commercial Litigation, 2022-2024
- Recognized by *The Legal 500 U.S.*, Legalese, 2022
- Included in the *Lawdragon 500 Leading Litigators in America* guide, 2023-2024
- Recognized by *D Magazine*, D Magazine Partners, as a "Best Lawyer in Dallas" in Appellate, 2014-2019, 2021-2023
- Recognized in 2022 for having been included in *Super Lawyers*, Thomson Reuters, top-attorney lists for 10 years or more
- Recognized by *Texas Super Lawyers*, Thomson Reuters, Top 100 in Texas , 2017-2018 and 2020-2023
- Recognized by Texas Super Lawyers, Thomson Reuters, Top 100 in Dallas/Fort Worth, 2017-2023
- Selected for inclusion in *Texas Super Lawyers*, Thomson Reuters, Appellate, 2013-2023
- Selected for *Texas Super Lawyers, Rising Stars*, Thomson Reuters, 2005, 2007-2013
- Dallas Bar Foundation - Fellow, 2009