



S.W.2d 728, 735-36 (Tex. App. – Houston [1st Dist.] 1998, pet. denied) (concluding that claimants were not relieved of burden to prove that attorneys’ fees under contingency arrangement were reasonable and necessary); *Volume Millwork, Inc. v. West Houston Airport Corp.*, 218 S.W.3d 722, 732 (Tex. App.—Houston [1st Dist.] 2006, pet. denied) (concluding that award of attorneys’ fees must be supported by evidence that fees were both reasonable and necessary). The factors include:

“(1) the time and labor required, the novelty and difficulty of the questions involved, and the skill required to perform the legal service properly;

(2) the likelihood...that the acceptance of the particular employment will preclude other employment by the lawyer;

(3) the fee customarily charged in the locality for similar legal services;

(4) the amount involved and the results obtained;

(5) the time limitations imposed by the client or by the circumstances;

(6) the nature and length of the professional relationship with the client;

(7) the experience, reputation, and ability of the lawyer or lawyers performing the services; and

(8) whether the fee is fixed or contingent on results obtained or uncertainty of collection before the legal services have been rendered.”

*Arthur Andersen & Co. v. Perry Equip. Corp.*, 945 S.W.2d 812, 818 (Tex. 1997). The *Andersen* court adopted the factors for determining reasonableness of attorneys’ fees from Rule 1.04 of the Texas Disciplinary Rules of Professional Conduct. *Arthur Andersen & Co. v. Perry Equip. Corp.*, 945 S.W.2d 812 (Tex. 1997). Generally, courts of appeals interpreting *Andersen* have concluded that “not all of the [1.04] the factors must be considered in every case.” *Petco Animal Supplies, Inc. v. Schuster*, 144 S.W.3d 554, 567 (Tex. App.—Austin 2004, no pet.); *Sandals v. Howerton*, 163 S.W.3d 829, 838 (Tex. App.—Dallas 2005, no pet.) (“[E]vidence on each of these factors is not necessary to determine the amount of an attorneys’ fee award.”).

## **II. Compensation for Time**

I am charging \$650.00 per hour for my time in connection with this matter and my paralegal Wendy Cassidy is charging \$170.00 per hour. These are our standard billing rates, and they are not dependent on my opinion in this case or the outcome of the litigation. Moreover, these are reasonable and customary for professionals of similar education and experience in Dallas, Texas. Finally, the Plaintiff has not imposed any limitations on my work in reaching my opinions in this matter.

### **III. My Investigation**

In my investigation, I was provided all of the documents contained on the attached flash drive and have done the following:

1. *Reviewed Pleadings, Orders, Written Discovery and Hearing Transcripts.* I reviewed the docket sheet, pleading index, written discovery, various hearing transcripts and key pleadings to ascertain the nature of the claims and defenses.
2. *Reviewed Appeal Briefing & Court of Appeals Opinion* – I have reviewed the briefing before the Court of Appeals as well as the opinion of the Court of Appeals.
3. *Depositions.* To date, I have been provided the transcripts and exhibits from the deposition of seven individuals and a corporate representative. The transcripts and exhibits for each deposition have been made available to me. I have reviewed all of those transcripts and various of the exhibits.
4. *Produced Documents.* I considered the volume of documents that were produced. I understand that the parties produced in excess of 51,000 pages.
5. *Interviewed Lawyers.* I interviewed all of the primary attorneys representing Mrs. Hopper to discuss (1) the legal and factual issues; (2) the complexities of the lawsuit; (3) their thoughts on segregation of fees; and (4) their individual billing practices. Specifically, I interviewed Mr. Loewinsohn, Mr. Yanof, Mr. Graham, Mr. Jennings and Ms. Schonwald.
6. *Reviewed Time Records.* I have reviewed the redacted invoices for all of Mrs. Hopper's attorneys.
7. *Counter Expert Report.* I anticipate reviewing any expert report provided by Defendants.

### **My Opinions**

#### **Overall Reasonableness of Fees**

I am familiar with the customary and reasonable attorneys' fee charged in the State of Texas for cases of this type. I am familiar with the work that has been done on this file. Based on my knowledge of the work done in this case, I have an opinion as to what reasonable attorneys' fees and costs would be in this matter for work to date. I also have an opinion as to what reasonable attorneys' fees and costs would be were Defendants to unsuccessfully appeal this matter to the Court of Appeals and to the Supreme Court.

For any particular litigation matter, there can be a range of fees that are reasonable, customary and necessary. It is my opinion, the attorneys' fees, more particularly described below, incurred for the work done by Mrs. Hopper's attorneys fall within that range. Therefore,

it is my opinion that the attorneys' fees incurred in this case are reasonable, customary, and necessary when judged by the applicable standard for fees and related expenses. It is also my opinion that the number of hours expended and the hourly rates charged by the attorneys in this case are reasonable, customary, and necessary.

As to the first *Andersen* factor, this was a hard fought litigation requiring a significant amount of time and labor because of the nature and extent of the claims as well as the experience level and number of the attorneys and expert opposing Mrs. Hopper. There were novel and difficult issues as admitted to by various deponents. For these reasons, representation of Mrs. Hopper required lawyers with significant skill and experience.

Second, because of the substantial time commitment posed by the Lawsuit and the relative size of the firms Mrs. Hopper employed, the extensive work on this matter necessarily precluded the attorneys from taking on other cases. Indeed, interviews with Mrs. Hopper's attorneys demonstrated that they regularly turn down cases for a variety of reasons, including the quality of service for existing clients.

Third, the hourly rates charged by the firms for the attorneys and paralegals involved in this matter constitute normal, customary, and reasonable charges in Dallas and in the State of Texas generally for the services rendered. Based on my experience, knowledge of the Dallas legal market and education, I am familiar with rates charged by litigation attorneys in Dallas, Texas. In addition, I have spent numerous hours familiarizing myself with the pleadings, motions, hearings, discovery, allegations and claims in this case as well as the legal work necessarily performed in this case. I have previously been retained numerous times as an independent expert witness on the issue of the reasonableness and necessity of attorneys' fees.

The specific rates charged in this case were between \$375 and \$625 for partner attorney time, \$260-\$350 for associate attorney time, and \$160-\$175 for paralegal time.<sup>1</sup> These hourly rates are reasonable and within the normal parameters for professionals of similar skill and experience. Those hourly rates would be reasonable and customary for hourly billable work of the type performed by professionals who have extensive experience and a proven track record of success. In addition and based on specific discussions with each of the attorneys in charge of the bills for Mrs. Hopper, all attorneys at different times exercise their billing judgment and reduce the time billed or no charge for certain aspects of the services provided. This results in an even lower net rate than that found on the invoices and increases the reasonableness of the fees charged by Mrs. Hopper's attorneys. Furthermore, my opinion regarding the reasonableness of the hourly rates is confirmed and reinforced by the findings of an annual survey done by the Texas Lawyer and reproduced in my book on recovering attorneys' fees under Texas law.

Fourth, the dollar values and other intangibles involved in the various claims are significant.

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<sup>1</sup> In presenting evidence on attorneys' fees and services provided in relation to recoverable claims, it is appropriate to offer evidence of time spent by paralegals. See *World Help v. Leisure Lifestyles, Inc.*, 977 S.W.2d 662, 683 (Tex.App.—Fort Worth 1998) (court including the hours spent and hourly rate of legal assistants that helped with a recoverable claim in the award of attorneys' fees).

Fifth, an individual probate dispute is by definition a limited, one-time engagement.

Finally, the experience, reputation and ability of the attorneys performing the service is a factor strongly justifying the award. Mrs. Hopper's team was comprised of some of the finest, most successful and well respected attorneys in this town. See Exhibit B.

### Segregation

In order to prove that the attorneys' fees requested are reasonable and necessary, a plaintiff must show that the fees were incurred while suing the defendant they are seeking fees from and based on a claim that provides for the recovery of attorneys' fees. *Stewart Title Guar. Co. v. Sterling*, 822 S.W.2d 1, 11 (Tex. 1991). The Texas Supreme Court has provided that if attorneys' fees relate solely to a claim for which fees are not recoverable, a claimant must segregate recoverable from unrecoverable fees, but when *discrete legal services* advance both a recoverable and unrecoverable claim that they are so intertwined, they need not be segregated. *See Tony Gullo Motors I, L.P. v. Chapa*, 212 S.W.3d 299, 313-14 (Tex. 2006) (emphasis added). For example, the court explained that certain legal services such as: "[r]equests for standard disclosures, proof of background facts, depositions of the primary actors, discovery motions and hearings, [and] *voir dire* of the jury" wouldn't be barred from recovering attorneys' fees just because they served multiple purposes. *Tony Gullo Motors I, L.P. v. Chapa*, 212 S.W.3d 299, 313 (Tex. 2006). *Gullo* "does not require more precise proof for attorneys' fees than for any other claims or expenses." *Tony Gullo Motors I, L.P. v. Chapa*, 212 S.W.3d 299, 313-14 (Tex. 2006). Instead, the segregation requirement is met by offering expert opinion as to how much time was spent in relation to the recoverable claims verses the unrecoverable claims. *Tony Gullo Motors I, L.P. v. Chapa*, 212 S.W.3d 299, 313-14 (Tex. 2006) (holding that an opinion such as "95 percent of their drafting time" was spent on a recoverable claim would have sufficed to prove segregation of the unrecoverable claims from the recoverable claims).

There are four claims or bases upon which Mrs. Hopper claims she is entitled to recover her attorneys' fees:

1. Prepare and Defend Against Declaratory Judgment Action Claims Regarding Partition of Homestead and Related Issues;<sup>2</sup>
2. Breach of Contract Claims;<sup>3</sup>
3. Prepare and Defend Against Declaratory Judgment Claims Regarding Allocation of Hunton & Williams' Fees and Expenses;<sup>4</sup> and

<sup>2</sup> The statutory language of Chapter 37 provides that "In any proceeding under this chapter, the court may award costs and reasonable and necessary attorney's fees as are equitable and just TEX.CIV.PRAC. & REM.CODE § 37.009.

<sup>3</sup> The statutory language of Chapter 38 provides that "a person may recover reasonable attorneys' fees from an individual or corporation, in addition to the amount of a valid claim and costs, if the claim is for: (1) rendered services; (2) performed labor; (3) furnished material; (4) freight or express overcharges; (5) lost or damaged freight or express; (6) killed or injured stock; (7) a sworn account; and (8) an oral or written contract." TEX.CIV.PRAC. & REM.CODE § 38.001.

<sup>4</sup> The statutory language of Chapter 37 provides that "In any proceeding under this Chapter, the court may award costs and reasonable and necessary attorney's fees as are equitable and just. TEX.CIV.PRAC. & REM.CODE § 37.009.

4. DTPA.<sup>5</sup>

Based on my investigation, experience and education, it is my opinion that a reasonable fee for the necessary services for each of the causes of actions, segregating the recoverable from the non-recoverable, is as set forth in the far right column of the chart below:

	GRAHAM	JENNINGS	LFD	TCCT	OPINION REGARDING FEES <sup>6</sup>
<b>Preparing and Defending Against Declaratory Judgment Action Claims Regarding Partition of Homestead and Related Issues</b>	\$415,141.65	\$1,727,993.16	\$510,355.31	\$220,771	\$2,586,835.01
<b>Breach of Contract</b>	\$533,753.55	\$1,915,565.35	\$558,657.76	\$220,771	\$2,905,872.89
<b>Preparing and Defending Against Declaratory Judgment Action Claims Regarding H&amp;W Fee &amp; Expense Allocation</b>	NA	NA	\$462,052.86	NA	\$462,052.86
<b>DTPA</b>	\$539,684.14	\$1,971,565.35	\$562,039.01	NA	\$2,765,959.65

**Appellate Fees**

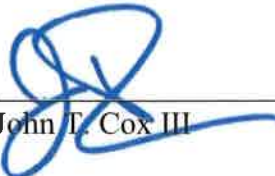
Additional attorneys' fees may be incurred if Defendants appeal an adverse verdict. A reasonable fee for the necessary services for the representation of Mrs. Hopper in the appellate process are as set forth below:

1. through the Court of Appeals is \$200,000.00;
2. At the petition for review stage in the Supreme Court of Texas is \$50,000;
3. At the merits briefing stage in the Supreme Court of Texas is \$75,000; and
4. For representation through oral argument and the completion of proceedings in the Supreme Court of Texas is \$50,000.

<sup>5</sup> The Texas Deceptive Trade Practice Act (DTPA) found in Chapter 17 of the Business and Commerce Code, provides "each consumer who prevails shall be awarded court costs and reasonable and necessary attorneys' fees."

<sup>6</sup> For all but the H&W fees allocation, this column represents the total for all firms for each stated claim with a 10% reduction to conservatively account for potentially duplicative work both inside and among the law firms representing Mrs. Hopper.

I reserve the right to supplement this opinion based on further work done by the attorneys involved between now and trial as well as further review and consideration.



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John T. Cox III







## PROFILE

Trey Cox is consistently recognized as one of the country's best trial lawyers. He has spent over 20 years helping clients, from Fortune 500 corporations to entrepreneurs, resolve large, complicated, and often high profile business disputes. His jury trial experience and courtroom success have earned him the distinction of being double Board Certified in Civil Trial and Civil Pre-Trial by the National Board of Trial Advocacy.

Progressive and innovative, Trey has earned a reputation as a pioneer in combining technology and neuroscience to maximize jury communication and persuasion. He serves on the faculty of Southern Methodist University Law School and the National Institute for Trial Advocacy. He has lectured throughout the country, and authored numerous legal articles, white papers and books.

Trey received a B.A., magna cum laude, from Washington & Lee University, and his J.D., with honors, from the University of Virginia School of Law. After graduation, Trey clerked for the U.S. Court of Appeals for the Fifth Circuit.

## HONORS / AWARDS

- Selected as a member of the American Board of Trial Advocates (ABOTA)
- Honored as a "Leader in His Field" in Chambers & Partners' *Chambers USA Guide to Leading Lawyers – General Commercial Litigation (Texas)*, 2009-2016
- Listed as a "Texas Super Lawyer" by Thomson Reuters (as seen in *Texas Monthly*), for twelve consecutive years, 2004-2015
- Named one of the "Top 100 Super Lawyers in Texas" by Thomson Reuters, 2015
- Listed as one of the "500 Top Litigators in America" by *Lawdragon*, 2015
- Recognized by his peers in *D Magazine* as one of the "Best Lawyers in Dallas" for five consecutive years and prior to that "Best Lawyer Under 40" for five consecutive years
- Listed as one of the "Best Lawyers® in America", 2009-2016
- Recognized as a "Litigation Star" by *Benchmark Litigation: The Definitive Guide to America's Leading Litigation Firms & Attorneys*, 2012-2016
- Selected as a "2013 Top Rated Lawyer in Intellectual Property" by *American Lawyer Media* and *Martindale-Hubbell*
- Selected by the *Dallas Business Journal* as a "Defender" in 2008, and "One of the 10 Metroplex Litigators Worth Having on Your Side"
- AV-rated by *Martindale-Hubbell*
- Named one of the "Best and Brightest Business Leaders" in the *Dallas Business Journal's* "40 Under 40" survey
- Winner of an *International Law Office/Lexology* "2013 Client Choice Award" in Litigation







His successes — in and out of the courtroom — have earned him accolades from his clients and distinguished members of the legal community throughout the nation. Over the years, Alan has earned a reputation not only for his legal astuteness, but also for his tireless dedication to successfully and aggressively representing the interests of his clients. As a senior partner in the firm, Alan brings to each case a wealth of experience in both state and federal courts and arbitrations, and has been selected to provide legal services to individuals, partnerships, and corporations of every size successfully representing both plaintiffs and defendants. Alan's expertise includes such complex areas of the law as real estate, contracts, partnerships, securities, class actions, oil and gas, construction, sports litigation, insurance, intellectual property, professional liability and fraud disputes, wrongful death and product liability claims, and he has successfully represented clients in both domestic and international arbitrations. Alan has represented public corporations, privately held business interests and individuals, including high profile celebrities and athletes such as Kenny Rogers, Shaquille O'Neal and Hakeem Olajuwon.

Alan's efforts have earned both favorable outcomes for his clients and the respect of his peers, as reflected in his impressive list of honors.

In 2015, ballots were sent to more than 80,000 lawyers in the State of Texas to name the top *Texas Super Lawyers*, a *Thompson Reuters* service. As a result of that balloting and a blue ribbon panel review, and as in past years, Alan was named in *Texas Monthly* magazine as one of the Top 100 Lawyers in the State of Texas. Alan was also honored, as in past years, as one of the top 100 Lawyers in the Dallas/Fort Worth region.

For the year 2016, as well as in past years, Alan has been selected as one of only 19 lawyers in Dallas



and only one of 43 lawyers in the State of Texas to be included in both the Best the Company Litigation and Commercial Litigation categories for the *Best Lawyers in America*, by *Woodward White*, a listing of the top lawyers in America based on more than two million confidential evaluations of lawyers nationwide.

In 2016, as in past years, Alan also was recognized by his peers and *D Magazine* as one of the best business litigators in the Dallas/Fort Worth area, and in 2015, *American Lawyer Media* and Martindale-Hubbell selected Alan as a 2015 legal leader in real estate law.

Alan was also selected in 2015 for membership into the National Trial Lawyers Top 100 Civil Plaintiffs Trial Lawyers for the year 2015.

In 2010, Alan was selected by the Advisory Board of Litigation Counsel of America for Fellowship in the Litigation Counsel of America. The LCA is an honorary trial lawyer society whose membership is limited to less than one-half of one percent of American lawyers. The Texas LCA Fellow delegation includes only approximately 252 lawyers, judges and/or law professors in the State of Texas. Fellows are selected based upon excellence and accomplishment in litigation, both at the trial and appellate levels, and superior ethical reputation.

In 2006, Alan and his partner, Jim Flegle, were named among the inaugural class of “The Defenders” by *The Dallas Business Journal*. This elite designation recognizes “the most brilliant legal minds in the Dallas/Fort Worth area” – an honor bestowed upon only 15 lawyers for their notable work in commercial defense litigation.

## REPRESENTATIVE CASES

## HONORS

## PROFESSIONAL MEMBERSHIPS

## PUBLICATIONS AND PRESENTATIONS

## EDUCATION

*“If anyone asked me who I’d hire if my back was against the wall; its a no brainer... Alan Loewinsohn.”*

**GREGORY S. COURTWRIGHT**

In 2006, Alan and his partner, Jim Flegle, were named among the inaugural class of “The Defenders” by *The Dallas Business Journal*. This elite designation recognizes “the most brilliant legal minds in the Dallas/Fort Worth area” – an honor bestowed upon only 15 lawyers for their notable work in commercial defense litigation.

## REPRESENTATIVE CASES

- ▶ Represented oil and gas company sued by investors for \$25 million. Jury ruled in favor of LFDS client awarding the plaintiffs no money. The Trial Court entered judgment confirming the jury verdict and the judgment was upheld on appeal.
- ▶ Represented executor of estate and general partner of partnership sued for breach of fiduciary duty and to dissolve the partnership. Jury ruled in favor of LFDS clients finding no liability for breach of fiduciary duty. Judge ruled in favor of LFDS clients and did not terminate the partnership.
- ▶ Represented three prominent Dallas lawyers who sued former clients for failure to pay legal fees in connection with a settlement. Former clients countersued and alleged legal malpractice and related claims. After a bench trial, Federal Judge entered judgment in favor of lawyers in excess of \$25 million and dismissed all counterclaims.
- ▶ Represented Utah based clients who were sued in Utah State Court with claims against them totaling \$87 million. Obtained summary judgments in favor of clients dismissing all claims.
- ▶ Represented Dallas based real estate firm sued in Vermont Federal Court in class action involving a Vermont ski resort. Obtained a summary judgment dismissing all claims against LFDSS client. Summary judgment was upheld by United States Court of Appeals for the Second Circuit.
- ▶ Represented Mexico based hotel management company in international arbitration. Obtained multi-million dollar arbitration award in favor of

LFDS client, which was upheld by the United States Court of Appeals for the Second Circuit.

- ▶ Represented Dallas based investment firm who sued New York based securities broker for fraud and breach of contract. Obtained a \$10+ million judgment for LFDS client from Federal Court Judge after bench trial.
- ▶ Represented Shaquille O’Neal and Hakeem Olajuwon who were sued by promoter in New Jersey State Court. Obtained dismissal by the Court of all claims against O’Neal and Olajuwon.
- ▶ Represented Dallas Area Rapid Transit who was sued by former in-house counsel. Obtained jury verdict dismissing all claims against DART.
- ▶ Represented Dallas based real estate firm against Kansas City law firm in lease dispute. Obtained a multi-million dollar judgment from Federal Judge after a bench trial that -was upheld on appeal by the United States Court of Appeals for the Tenth Circuit.
- ▶ Represented in arbitration Dallas based Fortune 500 company suing an accounting firm for professional negligence. Obtained a confidential multi-million dollar award in favor of LFDS client.

#### HONORS

#### PROFESSIONAL MEMBERSHIPS

#### PUBLICATIONS AND PRESENTATIONS

#### EDUCATION

In 2006, Alan and his partner, Jim Flegle, were named among the inaugural class of “The Defenders” by *The Dallas Business Journal*. This elite designation recognizes “the most brilliant legal minds in the Dallas/Fort Worth area” – an honor bestowed upon only 15 lawyers for their notable work in commercial defense litigation.

## REPRESENTATIVE CASES

## HONORS

- ▶ Named one of Best Lawyers in *D Magazine* for 2016, 2015, 2014, 2013, 2012, 2011, 2010, and 2005
- ▶ Selected by fellow members of the Texas Bar Association to be named among the Top 100 *Texas Super Lawyers*, a *Thompson Reuters* service in 2015, 2014, 2013, 2012, 2011, 2010, 2009, 2008, 2007, 2006, 2005, 2004 and 2003
- ▶ Selected by fellow members of the Texas Bar Association to be named among the Top 100 Super Lawyers in the Dallas/Fort Worth region for 2015, 2014, 2013, 2012, 2011, 2010, 2008, 2006, 2005 and 2004
- ▶ Selected to be included in 2016, 2015, 2014, 2013, 2012, 2011, 2010, 2009, 2008, and 2007 editions of *The Best Lawyers in America*, by *Woodward White*
- ▶ Selected in 2010, 2008, and 2007 as a member of the *Lawdragon* 3000-Leading Plaintiffs’ Lawyers in America, recognizing the top 3,000 plaintiffs’ lawyers in the country
- ▶ Selected in 2006 as member of the *Lawdragon* 3000-Leading Lawyers in America, recognizing the top less than one percent of the legal profession in the country
- ▶ Member of American Board of Trial Advocates
- ▶ Martindale-Hubbell Bar Register of Prominent Lawyers
- ▶ Higginbotham Inn of Court

In 2006, Alan and his partner, Jim Flegle, were named among the inaugural class of “The Defenders” by *The Dallas Business Journal*. This elite designation recognizes “the most brilliant legal minds in the Dallas/Fort Worth area” – an honor bestowed upon only 15 lawyers for their notable work in commercial defense litigation.

#### REPRESENTATIVE CASES

#### HONORS

#### PROFESSIONAL MEMBERSHIPS

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- ▶ State Bar of Texas
- ▶ Various Federal Courts and Courts of Appeals
- ▶ Dallas Trial Lawyers Association
- ▶ Association of Trial Lawyers of America
- ▶ American Bar Association

#### PUBLICATIONS AND PRESENTATIONS

#### EDUCATION



In 2006, Alan and his partner, Jim Flegle, were named among the inaugural class of “The Defenders” by *The Dallas Business Journal*. This elite designation recognizes “the most brilliant legal minds in the Dallas/Fort Worth area” – an honor bestowed upon only 15 lawyers for their notable work in commercial defense litigation.

#### REPRESENTATIVE CASES

#### HONORS

#### PROFESSIONAL MEMBERSHIPS

#### PUBLICATIONS AND PRESENTATIONS

#### EDUCATION

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Alan received his B.S. from Northwestern University in 1976 and his J.D. from the University of Virginia in 1979.

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KERRY F. SCHONWALD

[✉ kerrys@lfdslaw.com](mailto:kerrys@lfdslaw.com)

[☎ 214-572-1714](tel:214-572-1714)

[✉ vCard](#)

Kerry focuses her practice on complex commercial litigation in both state and federal court as well as commercial arbitrations. She has a broad range of experience representing both plaintiffs and defendants including in business torts, contract disputes, and other complex commercial disputes. Kerry has represented clients in a variety of industries including commercial real estate, oil and gas, securities, and the film and television industry.

Before joining Loewinsohn Flegle Deary in 2010, Kerry spent four years in the litigation section of

Locke Lord Bissell & Liddell, LLP. She also served as a judicial clerk to the Honorable W. Royal Furgeson, Jr. in the Western District of Texas in 2005 and 2006.

## HONORS

## PROFESSIONAL MEMBERSHIPS

## ADMISSIONS

## EDUCATION



Locke Lord Bissell & Liddell, LLP. She also served as a judicial clerk to the Honorable W. Royal Furgeson, Jr. in the Western District of Texas in 2005 and 2006.

## HONORS

- ▶ Kerry was honored by her peer members of the Texas Bar by being named a “Rising Star” among Texas Attorneys in 2015, 2014, 2013, and in 2012 for Business Litigation. Kerry was also chosen to be a Barrister in the Patrick Higginbotham American Inn of Court in 2013, 2014, 2015, and 2016.

## PROFESSIONAL MEMBERSHIPS

## ADMISSIONS

## EDUCATION

Locke Lord Bissell & Liddell, LLP. She also served as a judicial clerk to the Honorable W. Royal Furgeson, Jr. in the Western District of Texas in 2005 and 2006.

## HONORS

## PROFESSIONAL MEMBERSHIPS

- ▶ State Bar of Texas
- ▶ Dallas Association of Young Lawyers
- ▶ Dallas Bar Association
- ▶ The Patrick Higginbotham American Inn of Court

## ADMISSIONS

## EDUCATION

Locke Lord Bissell & Liddell, LLP. She also served as a judicial clerk to the Honorable W. Royal Furguson, Jr. in the Western District of Texas in 2005 and 2006.

## HONORS

## PROFESSIONAL MEMBERSHIPS

## ADMISSIONS

- ▶ All Texas State Courts
- ▶ United States District Court for the Northern District of Texas
- ▶ United States District Court for the Western District of Texas
- ▶ United States District Court for the Eastern District of Texas
- ▶ United States Court of Appeals for the Fifth Circuit

## EDUCATION

Locke Lord Bissell & Liddell, LLP. She also served as a judicial clerk to the Honorable W. Royal Furgeson, Jr. in the Western District of Texas in 2005 and 2006.

## HONORS

## PROFESSIONAL MEMBERSHIPS

## ADMISSIONS

## EDUCATION

Kerry earned her Bachelor's Degree in finance with honors from the University of Texas at Austin in 2000, and she earned her J.D. from the University of Missouri School of Law in 2005. While in law school, Kerry was a member of the Editorial Board of the Missouri Law Review and was a member of the Order of the Coif.

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## Michael Lynn Graham

### Dallas, Texas Estate Planning Attorney & Managing Partner

Mr. Graham is the Senior Lawyer of The Graham Law Firm, P. C. During his 30+ years of law practice Mr. Graham was with the law firm of Baker & Botts, LLP for 22 years, first as a partner in the Houston Business and Estate Planning group, and then as partner in charge of B&B's Business and Estate planning group in Dallas. In 1994, Mr. Graham founded the law firm of Graham & Smith, LLP which limited its practice to substantial matters involving business and estate planning, administration of estates and trusts, and fiduciary based litigation. On January 1, 2006, the Graham Law Firm, P. C. was formed to continue that specialty practice, still based in the Park Cities area of Dallas, Texas.



Michael Lynn Graham  
Attorney at Law  
[E-mail](#)

Mr. Graham received his J.D., cum laude, from Baylor School of Law (1972), and BBA from Baylor University (1971). He is Board Certified in Estate Planning and Probate Law in Texas. Mr. Graham's professional activities include: Fellow of, and past Regent of, the American College of Trust and Estate Counsel; Past Supervisory Council Member of the American Bar Association's Real Property, Probate and Trust Law Section, Co-Chair of the Digital Signature Committee; Past President of the Texas Academy of Probate and Trust Lawyers; Past Chair of the Real Estate, Probate and Trust Law Section of the State Bar of Texas; and Fellow of the International Academy of Estate and Trust Lawyers.

Mr. Graham also believes that each of us have a responsibility to give back to the local and national communities in which we work and live. He currently serves on the Board of Directors of Baylor University Medical Center, the Board of Directors of The Jack and Jane Hamilton Baylor Heart and Vascular Hospital, and the Board of Directors of ODC Therapy, Inc, a Dallas based biotech development company currently engaged in Stage 2 FDA trials treating patients with, and seeking a cure for, Stage IV metastatic melanoma. Mr. Graham is a past Treasurer / Vice President of Finance of the Dallas Symphony Association. Mr. Graham and his wife, June live in University Park (close to SMU University) and attend Park Cities Baptist Church, where they are active in teaching in the International Class and take a great interest in those who are either temporarily or permanently in the United States from Asia and South America.

**Practice Areas:** Probate, Trusts and Estates, Fiduciary Law.  
[Review Articles](#) Written by Michael L. Graham


The Graham Law Firm assists clients in the areas of Estate Planning, Wills, Trusts, Revocable Living Trusts, Durable Powers of Attorney, Business Succession Planning, Probate Administration, Trust Litigation, Asset Protection, Estate Administration, and Estate Tax Planning, in Highland Park, Dallas, and Serving Clients Throughout Texas

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Tweets by @Graham\_Law\_Firm

- 

**Michael Graham**  
@Graham\_Law\_Firm

Great to see InterActive Planning featured! Excited to be part of such a diverse group of @IBMWatson Partners [ibm.co/1H88RmG](http://ibm.co/1H88RmG)

27 Oct
- 

**Michael Graham**  
@Graham\_Law\_Firm

Thrilled to have @Cariloop as one of the first anchor relationships in

Michael L. Graham



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## MICHAEL (MIKE) A. YANOF

### Partner

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### Dallas

700 North Pearl Street  
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Dallas, Texas 75201  
214-871-8270 direct  
214-871-8209 fax

### Assistant:

Joni R. Sullivan  
214-880-2511 direct  
jsullivan@thompsoncoe.com

### Overview

Mike Yanof represents professionals and businesses from the boardroom to the courtroom, from trials to the Texas Supreme Court. He has extensive experience representing professionals and companies ranging from doctors to lawyers, nurses to insurance agents, hospitals to law firms, managed care companies to title companies, executives to employees. His depth of experience is not only in the range of client specialties represented, but in the arena he assists them. In this regard, Mike has extensive experience advising clients in their businesses as outside general counsel, and in representing them at every level of trial, appellate and administrative proceedings. He brings a unique skill set, with the ability to be as comfortable trying cases in front of juries and judges as he is arguing cases on appeal before appellate courts. Mike has first-chair tried dozens of cases to jury verdict. He has handled dozens more on appeal, including cases of first impression before the Texas Supreme Court and Fifth Circuit Court of Appeals. He has also handled dozens of cases before Texas administrative boards, including the Texas Medical Board, Texas Board of Nursing, Texas Department of Health, and Texas Board of Chiropractic Examiners.

### Representative Experience

- *In Re Radmax*, 720 F.3d 285 (5th Cir. 2013) (granting mandamus relief in a case of first impression before the court)
- *Packard Eng'g Assocs. v. The Sally Group L.L.C.*, 398 S.W.3d 389 (Tex. App. - Beaumont 2013, no pet.) (case of first impression before the court)
- *Zanchi v. Lane*, 408 S.W.3d 373 (Tex. 2013) (case of first impression before the Court)
- *Scoresby v. Santillan*, 346 S.W.3d 546 (Tex. 2011) (case of first impression before the Court)
- *Stockton v. Offenbach*, 336 S.W.3d 610 (Tex. 2011) (case of first impression before the Court)
- *Murphy v. Russell*, 167 S.W.3d 835 (Tex. 2005) (case of first impression before the Court)
- Obtained a defense verdict on behalf of an attorney sued for legal malpractice and DTPA violations
- Obtained a plaintiff's verdict on behalf of a corporate wellness company against another company, with the jury's findings voiding remaining contractual obligations and awarding lost profits resulting from the breach.

- Represented a client accused of engaging in a Ponzi scheme and embezzling approximately \$12.5 million from his employer.
- Obtained a defense verdict on behalf of an obstetrician and professional association in a case involving allegations of an improper forceps assisted vaginal delivery resulting in a permanent nerve injury to the mother.
- Obtained a defense verdict on behalf of a urologist in a case involving allegations of improper bladder repair and follow-up leading to a permanent and disabling nerve injury.
- Obtained a defense verdict on behalf of a hospital and resident in a case involving allegations of improper removal of a percutaneous nephrostomy tube resulting in near-fatal hemorrhage.
- Obtained a defense verdict on behalf of a hospital and resident in a case involving allegations of failure to timely perform an angioplasty after myocardial infarction resulting in death of a patient.
- Obtained a defense verdict on behalf of an internist in a case involving allegations of failure to diagnose bacterial pneumonia resulting in sepsis, coma and permanent injury.
- Obtained a defense verdict on behalf of an interventional cardiologist in a case involving allegations of the negligent placement of a stent during an interventional procedure resulting in the death of the patient.
- Obtained a defense verdict on behalf of an obstetrician in a case involving allegations of failure to properly manage shoulder dystocia and delivery of a baby resulting in permanent Erb's Palsy of the left arm.
- Tried a case on behalf of an anesthesia group involving allegations of wrongful termination and defamation by a terminated physician in the group.
- Extensive trial and appellate experience regarding first party insurance and managed care cases, including bad faith, prompt pay and ERISA.
- Serves as outside general counsel for Cardiology Consultants of Texas, a large cardiology group.

## Professional & Community Activity

- State Bar of Texas
- Dallas Bar Association
- Deacon and Sunday school teacher, Park Cities Baptist Church
- Defense Research Institute
- State Bar of Texas Appellate Section
- Texas Supreme Court Historical Society

## Speeches & Presentations

- 'Recovering Medical Expenses in Personal Injury Cases,' presented at Damages in Civil Litigation Seminar, Feb. 2014
- 'Getting the Jury Charge Right, and What to do if it's not,' presented at Houston Trial Lawyers' Association, Feb. 2014
- 'You Just Thought You Knew Texas Insurance Law; The Potential Impact of the Supreme Court's Decision in *Lennar v. Markel*,' Thompson Coe Coverage Seminar, October, 2013
- 'The Law of Informed Consent and Practical Implications,' Medical Center of Lewisville Nursing Risk Management Seminar, Lewisville, Texas
- 'Defending the Brain Damaged Baby Case,' Texas Association of Defense Counsel Annual Meeting, Dallas, Texas

- 'Chronic Pain Patients,' Texas Association of Defense Counsel Annual Meeting, Dallas, Texas
- 'Legal Aspects of OB/GYN,' The University of Texas Southwestern Medical Center at Dallas Department of OB/GYN Risk Management Seminar, Dallas, Texas
- 'Closing the Loop: The Importance of Documentation and Communication,' Health Texas/Baylor Health Care System Physician Risk Management Seminar, Dallas, Texas
- 'Recovery of Damages,' American Academy of Legal Nurse Consultants, Dallas, Texas

## Professional Recognition

- Named Best Lawyers in Dallas 2016 - Tort Product & Medical Liability Litigation: Defense
- Named Best Lawyers in Dallas 2015 - Tort Product & Medical Liability Litigation: Defense
- Named a Texas Rising Star by Thomson Reuters, 2004-2005

## Michael A. Yanof



## Practices

- Appellate
- Health Care

## Industries

- Health Care
- Insurance

## Education

- Texas Tech University School of Law
- Louisiana Tech University

## Bar Admissions

- Texas
- United States Court of Appeals Fifth Circuit
- United States District Court Northern, Eastern and Southern District of Texas

## E-Alerts

12.23.13 Texas Supreme Court denies rehearing and refuses to further clarify insurers' rights and duties in Lennar Corp. v. Markel American Insurance Co.

**News**

09.12.14 Lexington Off Hook For Fired Trucker's \$5M Arbitration Win

01.07.13 Thompson Coe Attorneys Obtain Dismissal of Bad Faith Suit in Fifth Circuit

**Publications**

01.03.09 "Getting Stiffed No Longer Needs To Be a Cost of Doing Business: Texas Prompt Pay Provisions" Baylor University Medical Center Proceedings

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## **James Albert Jennings**



**"AV" PEER-REVIEW RATED FOR OVER 25 YEARS IN A ROW**

**Born:** Patras, Greece.

**Bar Admission:** Texas 1978.

**Courts:** U.S. Supreme Court; U.S. Court of Appeals, Fifth Circuit; U.S. District Court for Northern and Eastern District of Texas.

**Education:** University of Texas (B.A. with high honors 1975; J.D. 1978). Phi Beta Kappa (*junior year*); Phi Eta Sigma, *Junior Fellow*. Instructor, Legal Interviewing, University of Texas Law School, 1978.

**Speaker:** CLE Seminars; The Entrepreneur in a Small Firm Context, American Bar Association Annual Meeting, 1985; American Bar Association, 1986.

**Legal Organizations:** Board Certified, Labor and Employment Law, Texas Board of Legal Specialization since 1995. Fellow, Texas Bar Foundation; American Bar Association; Dallas Bar Association (Corporate Counsel Section - Member 1990-2005, Officer 2000-2004, Chairman 2004-2005; Legal Ethics Committee - Member 1999-2001; Employment Law Section - Officer 2002-2005); State Bar of Texas (Labor and Employment Law Section Member).

**Languages:** Spanish and Greek.

**Practice Areas:** Employment Law Litigation, including Executive Termination, Sexual Harassment, Employee Benefits, Employment Contracts, Human Resources, Wrongful Termination, etc.; Complex Commercial Litigation; Complex Probate Litigation; Complex Business Litigation; Securities Litigation; Construction Law; Real Estate Litigation; Family Law; Intellectual Property; Trade Secrets; Trademarks; Legal Malpractice.

## **Kenneth B. Tomlinson**



**Born:** Lakewood, California.

**Bar Admission:** Texas 1987.

**Courts:** U.S. District Court for Northern, Southern, and Eastern Districts of Texas; U.S. Court of Appeals, Fifth Circuit.

**Education:** University of Houston Law Center (J.D. 1987, Order of the Barons; Associate Editor of Law Review); University of California at Los Angeles (B.S. 1984, Blue Key; Manager of UCLA Varsity Basketball Team).

**Legal Organizations:** Dallas Bar Association (litigation section); Texas Bar Association (litigation section).

**Practice Areas:** Complex Business/Commercial Litigation, including Construction, Energy, Toxic Tort, Insurance, Landlord/Tenant, Real Estate, Probate and Banking Litigation.