



**MATTHEW
BAUMGARTNER**

Shareholder

ADMINISTRATIVE & REGULATORY

LITIGATION, APPELLATE LAW, CIVIL

LITIGATION

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ABOUT

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

Mr. Baumgartner has significant experience in the following practice areas:

- Health care litigation, in which he represents national and Texas-based health insurers in a variety of regulatory and contested matters.
- Insurance litigation, in which he has represented and advised major insurers in matters before the Texas Department of Insurance, Division of Workers' Compensation, and in state and federal courts.
- Complex business litigation, including partnership and corporate disputes, breach of fiduciary duty litigation, franchise disputes, securities litigation and arbitration, Venture Capital-related litigation, and disputes related to Mergers & Acquisitions.
- ERISA litigation, in which he has represented and advised ERISA plan administrators.
- Banking law, in which he has represented national and state banks in complex commercial lending disputes.

- Environmental litigation, including the Clean Water Act, National Environmental Protection Act, and the Environmental Species Act.
- First Amendment and commercial defamation litigation.
- Employment litigation.

PROFESSIONAL QUALIFICATIONS

- Bar Associations: Texas, 2008; District of Columbia, 2007; Maryland, 2005.
- Federal Appellate Courts: United States Court of Appeals for the Fifth Circuit, the Federal Circuit, and the Tenth Circuit.
- 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), 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.

REPRESENTATIVE EXPERIENCE

Mr. Baumgartner's recent matters include:

- Trial and appellate counsel in large-scale billing disputes for air ambulance services covered by Texas workers' compensation insurance, including the following matters:
 - Lead appellate counsel in *Air Evac EMS, Inc. v. Kent Sullivan, et al.*, U.S. Court of Appeals for the Fifth Circuit, No. 18-50722 (pending, oral argument November 5, 2019). Lead trial counsel in the U.S. District Court for the Western District of Texas: Civil Action No. 1:16-cv-00060-SS.
 - Lead appellate counsel in *Texas Mutual Insurance Company, et al. v. PHI Air Medical, LLC*, Texas Supreme Court, No. 18-0216 (petition granted, December 13, 2019). Lead trial and appellate counsel in trial court and court of appeals.
- Lead trial counsel for the Defendants in *Eagle Air Med Corp, et al. v. Sentinel Air Medical Alliance, et al.*, In the United States District Court for the District of Utah, Case No. 2:16-cv-00176, concerning claims of commercial defamation in the healthcare billing context. Graves Dougherty obtained complete summary judgment dismissal of all claims filed against its clients.

- Lead trial counsel for Texas workers' compensation insurers in hospital billing dispute in *Vista Medical Center Hospital v. Texas Mutual Insurance Company, et al.* in Consolidated SOAH Docket No. 454-12-1961.M4, resulting in a rejection of the hospital's claims for increased payment based on complexity of hospital admissions.
- Lead trial and appellate counsel in Texas health plans' challenge to validity of the Texas Department of Insurance's out-of-network payment regulations. *Texas Association of Health Plans v. Texas Department of Insurance*, Case No. D-1-GN-18-003846, In the 419th District Court for Travis County, Texas.
- Appellate counsel in *Texas Mutual Insurance Company v. Integrated Claims Systems, LLC*, Case No. 2013-1431, In the United States Court of Appeals for the Federal Circuit.
- Appellate counsel in *Texas Indigenous Council and Antonio Diaz v. G.D. Simpkins et al.*, No. 12-50244 in the U.S. 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. The Fifth Circuit agreed, and reversed the dismissal.
- 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. *Brown v. Dejaset, Inc., et al.*, Cause No. D-1-GN-13-000731, In the 126th District Court for Travis County, Texas.
- Lead appellate and trial counsel representing local residents' environmental challenge to improperly permitted oil barge mooring facility. *Friends of Lydia Ann Channel v. U.S. Army Corps of Engineers, et al.*, Case No. 17-40259, In the U.S. Court of Appeals for the Fifth Circuit.
- Lead counsel for appellants in *Texas Mutual Insurance Company & Gloria Williams v. Jeff Palmer*, No. 05-12-00893-CV in the Dallas Court of Appeals, resulting in reversal and favorable judgment rendered for appellants.
- 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 asset sales.

- 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 GDHM successfully litigated the publishing companies' open records requests in the trial court.
- 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 also included appellate and *mandamus* briefing of bad-faith insurance claims handling issues in the Texas Supreme Court in the following matters: *Texas Mutual Ins. Co. v. Ruttiger*, Case No. 08-0751; *Texas Mutual Ins. Co. v. Morris*, Case No. 09-0495; *In re Texas Mutual Ins. Co. and Evie Villarreal*, Case No. 09-0508.
- Mr. Baumgartner's *pro bono* practice includes federal habeas petitions, First Amendment claims, and Americans With Disabilities Act (ADA) 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 AFFILIATIONS

- Texas State Bar Association
- Austin Bar Association
- Austin Young Lawyers' Association

- District of Columbia Bar
- Maryland State Bar Association
- American Bar Association

AWARDS AND HONORS

- Texas Civil Rights Project Kristi Couvillon Pro Bono Award, 2013
- *Texas Monthly*, Super Lawyers[®], published by Thomson Reuters, 2010-2019

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*, Michigan Law Review, Vol. 103, No. 8 (August 2005).