GRAVES DOUGHERTY HEARON & MOODY



PETER D. KENNEDY

Shareholder

Board Certified in Civil Appellate Law

APPELLATE LAW, CIVIL LITIGATION, INTELLECTUAL PROPERTY, INTERNET & INFORMATION SECURITY, MEDIA, FIRST AMENDMENT & PUBLIC ACCESS, TECHNOLOGY

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ABOUT

Pete Kennedy practices at the intersection of law and disruptive technologies, intellectual property, communications, and constitutional limits on governmental regulation.

He first earned national attention in 1993 as lead trial lawyer for Austin-based Steve Jackson Games in a lawsuit against the United States Secret Service that helped establish limits on searches and seizures of email. He has represented an array of clients in a wide variety of cases at trial and on appeal, from complex commercial disputes to matters involving intellectual property, technology, publishing, free speech, and constitutional law. Pete has developed a unique specialty representing companies and individuals accused of the unauthorized practice of law and advising companies and investors seeking to provide public access to innovative, tech-enabled information and services.

Pete is Board Certified in Civil Appellate Law by the Texas Board of Legal Specialization. He handles trials and appeals in state and federal courts in Texas and around the country. Pete successfully defended the anonymity of online reviewers at the Texas Supreme Court in *Glassdoor, Inc. v. Andra Group, L.P.*, 560 S.W.3d 281 (Tex. 2017), and obtained reversals of substantial jury verdicts against libel defendants in *Burbage v. Burbage*, 447 S.W.3d 249 (Tex. 2014) and Salinas v. Salinas, 365 S.W.3d 318 (Tex. 2012)

(per curiam).

Nature of Practice:

- Civil Litigation in state and federal trial and appellate courts
- Internet and communications risk assessment, counseling and litigation
- Copyright, trademark, trade secret and intellectual property protection, enforcement and litigation
- Libel defense, defamation, business disparagement, invasion of privacy, media law
- Constitutional litigation, including First Amendment free speech, commercial speech and advertising, religion, taxation and civil rights claims
- Unauthorized practice of law, professional regulation and legal ethics

PROFESSIONAL QUALIFICATIONS

- Admitted to the bar, 1988, Texas
- Board Certified in Civil Appellate Law by the Texas Board of Legal Specialization

COURT ADMISSIONS

- U.S. Supreme Court
- U.S. Court of Appeals for the Fifth, Sixth and Seventh Circuits
- U.S. District Court for the Western, Northern, Eastern and Southern District of Texas

EDUCATION

- Southwestern University (B.A. magna cum laude, 1985)
- University of Chicago School of Law (J.D., 1988)
    - Associate Editor, University of Chicago Law Review
    - Member, Mandel Legal Aid Clinic

EXPERIENCE

- Law Clerk, Thomas A. Fairchild, Senior Judge, U.S. Court of Appeals for the Seventh Circuit, 1988-1990
- Adjunct Professor, University of Texas School of Law, 1999-2002, Free Speech and the Internet

REPRESENTATIVE MATTERS

- **Wrongful death/catastrophic injury:** Obtained and defended on appeal summary dismissals of multiple wrongful death and personal injury lawsuits filed in federal, state, and probate court arising from mass casualty event at music festival. *Smit v. SXSW Holdings Inc.*, 903 F.3d 522 (5th Cir. 2018); *Nguyen v. SXSW Holdings, Inc.*, 580 S.W.3d 774 (Tex. App. – Austin 2019, pet. denied).
- **Personal injury:** Obtained and defended on appeal injury claim against festival organizer arising from falling camera during live concert. *Fagerberg v. Steve Madden, Ltd.*, No 3-33-00286-CV, 2015 WL 4076978 (Tex. App. – Austin July 3, 2015, pet. denied).
- **Commercial Litigation:** obtained favorable jury verdict for claim against seller of community hospital
- **Trademark:** Won federal court jury trial for Texas bourbon distillery, defeating infringement claim and obtaining a finding that opponent's trademark was abandoned. *Allied Lomar, Inc. v. Lone Star Distillery, LLC*, 2017 WL 1187949 (W.D. Tex. March 28, 2017)), *aff'd*, 2018 WL 3486835 (5th Cir. July 18, 2018).
- **Computer privacy and internet litigation:** Defended anonymity of employees who posted online reviews from legal proceeding seeking to reveal their identities. *Glassdoor, Inc. v. Andra Group, LP*, 575 S.W.3d 523 (Tex. 2019). Represented operators and users of computer systems in lawsuits against government officials for unauthorized computer seizures. *Guest v. Leis*, 225 F.3d 325 (6th Cir. 2001); *Steve Jackson Games, Inc. v. United States Secret Service*, 816 F. Supp. 432 (W.D. Tex. 1993), *aff'd*, 36 F.3d 457 (5th Cir. 1994).
- **Spyware**: Represented ex-employee in lawsuit against former employer for clandestine installation of computer spyware and use of intercepted electronic communications.
- **Copyright:** Represented a variety of national, regional and local clients in prosecuting and defending claims of copyright infringement.
- **Libel/media defense:** Represented local, regional and national print and broadcast companies in the defense of libel, business disparagement, invasion of privacy, incitement and related claims. Assists print and electronic publishers of all kinds in liability risk assessment and prepublication review.
- **Anti-SLAPP:** Won dismissal of libel lawsuit brought by City Councilmember-elect against online investigative journalism project, with award of fees and sanctions.
- **Commercial speech:** Represented craft brewery, distributor and retailer in successful challenge to restrictive beer advertising and labeling laws. *Authentic Beverage Co. v. Texas Alcoholic Beverage Commission*, 835 F. Supp.2d 227 (W.D. Tex. 2011).

- **Open records/open government:** Assists companies in protecting trade secrets from disclosure under the FOIA and the Texas Public Information Act. Represented legal self-help publisher in original action before Texas Supreme Court resulting in the opening to public scrutiny operations of the Texas Unauthorized Practice of Law Committee. *Nolo Press v. Unauthorized Practice of Law Committee*, 991 S.W.2d 768 (Tex. 1999).
- **Unauthorized practice of law:** Represents national and local companies and individuals in investigations and litigation involving allegations of the unauthorized practice of law, risk mitigation and related regulatory issues.
- **Class actions:** Defeated effort to certify national class action in lawsuit against online retailer. *Solotko v. Legalzoom.com, Inc.*, 2013 WL 3724770 (Tex. App. – Austin, July 11, 2013, pet. denied).
- **Arbitration:** Enforced consumer arbitration agreements on behalf of online retailer and computer manufacturer. *Legalzoom.com, Inc. v. McIllwain*, 2013 Ark. 370 (Ark. 2013); *Smith v. Gateway, Inc.*, 2002 WL 1728615 (Tex. App. – Austin 2002, no pet.).
- **Religious freedom:** Secured religious tax exemption for nontheistic religious congregation. *Strayhorn v. Ethical Society of Austin*, 110 S.W.3d 458, (Tex. App. – Austin 2003, pet. denied).
- **Trade secret litigation:** Represented internet banking company alleging theft of trade secrets and unauthorized access to computer network; Represented computer chip equipment manufacturer in trade secret theft suit against parts fabricator.

PROFESSIONAL AFFILIATIONS

- Member, American Bar Association, Austin Bar Association, Fifth Circuit Bar Association.
- Board of Councilors, Texas Civil Rights Project.
- Co-Chair, ABA Subcommittee on Interactive Services, 1996-1997.
- Selected to Super Lawyers, recognized in Intellectual Property Litigation (2005 – 2010, 2025 – 2026)

AWARDS AND HONORS

- Austin Monthly's "2026 Top Attorneys" list, *Recognized in Appellate*
- Listed in *The Best Lawyers in America*® published by Woodward/White, Inc.:
  - Litigation – First Amendment (2005 – 2024)
  - Litigation – Intellectual Property (2011 – 2024)
  - Commercial Litigation (2009 – 2024)
  - Austin First Amendment Litigation Lawyer of the Year (2017, 2022)
- AV® Preeminent™ Peer Review Rating, Martindale.com

PUBLICATIONS AND PRESENTATIONS

- "A Twenty-First Century Encounter with Prohibition: The First Amendment Meets Texas' Arcane Alcohol Advertising Laws," Journal of the Texas Supreme Court Historical Society, Spring 2017
- "Third-Party Online Content," Association of Alternative Newsmedia Conference, July 2016
- "Market Disruption by Sharing Economy Business Models," ABA Real Property, Trust and Estate Law Section Spring Symposia, May 2016
- "State Bar Exposure to Antitrust Liability," ABA Antitrust Law Section Spring Meeting, April 2016
- "Constitutional Limits to State Law Take-Down Remedies for Online Speech," Harris County (Texas) Judicial Conference, May 2015
- "It's Five O'Clock Somewhere: The New World of Booze," University of Texas Land Use Conference, March 2014
- "Speecheasy: Can Tied House Rules Restricting Alcohol Advertising Survive a First Amendment Challenge in the Age of Social Media" (panel), National Conference of State Liquor Administrators, June 2013
- "What Does That Language Mean?" Judicial and Litigator Perspectives on Technology License Drafting and Disputes" (panel), University of Texas Technology Law Conference, May 2012
- "A Practical Guide for Corporate Counsel and Technology Lawyers on How to Respond to Requests for Information," University of Texas Technology Law Conference, May 2011.
- "Advertising Law for Wineries," Wine Law, Law Seminars International, October 2010
- "*Internet Libel – The Anonymous Writer and the Online Publisher*," 52 The Advocate, 59 (Fall 2010).
- "Digital Millennium Copyright Act Practice Guide," University of Texas Technology Law Conference, May 2008
- "The Reporter's Privilege," Austin Bar Association Bench-Bar Conference, May 2008
- "Libel," State Bar of Texas, Causes of Action, April 2008
- "Cyber Torts," University of Texas Computer and Technology Law Conference, June 2005
- "Unauthorized Practice of Law by Computer," University of Texas Computer and Technology Law Institute, May 2004
- "Liability Risks for Law Firms," University of Texas Computer Law Conference, May 2001
- "Malpractice by Lack of Technical Expertise," University of Texas Computer Law Conference, May 2000
- "Key Ethics, Professional Responsibility, and Malpractice Issues for Technology Lawyers," (panel), University of Texas Computer Law Conference, May 1999
- "Web Site Due Diligence," University of Texas Computer Law Conference, May 1998

- “Electronic Discovery and Electronic Evidence,” Travis County Bar Association, Technology and the Law Seminar, December 1997
- “Communicating with Clients On-Line: Confidentiality, Privilege, and Authentication,” University of Texas Computer Law Conference, May 1997
- “Computers and the Schools: Some Legal Issues and Non-Issues,” University of Texas School Law Conference, March 1997
- *Lawyers On-Line: What are the Obligations and Risks?* 6 Austin Lawyer 14 (Fall 1997) with J. Roger Williams, Jr.
- *The Supreme Court and Cyberspace: Pending Challenges to the Communications Decency Act*, Communications Lawyer, Vol. 14, No. 3 (Fall 1996)
- *Publishing on the Internet: Protections and Pitfalls*, 4 Texas Intellectual Property Law Journal 33 (1995) with James A. Hemphill
- *Symposium: First Amendment and the Media: Regulating Interactive Communications on the Information Superhighway*, 5 Fordham Intellectual Property, Media & Entertainment Law Journal 279, 329 (1995)