

Appeals and Analysis

Thoughtful. Exacting. Creative. Persuasive. Whether contesting a case on appeal or crafting a critical motion or the jury charge in a trial court, that's how Carrington Coleman's appellate lawyers approach every challenge.

No "off-the-rack" representations here. Every case is different, and every case demands original, creative thought and analysis. We look at a problem from all sides to come up with the legal and evidentiary arguments that will best persuade the court on appeal or at trial. Our appellate group shares decades of experience briefing and arguing to appellate courts across the state and the nation. We are also heavily involved with cases at trial, crafting jury charges and dispositive motions, as well as helping trial counsel preserve error in case an appeal becomes necessary.

The successes that breed confidence

Some may call our record of appellate success impressive for our size. We say size doesn't matter. Regardless of the forum or the complexity of the legal issues, our clients have good reason to be confident in our abilities. We've succeeded in appeals involving a wide range of significant issues, such as non-compete and non-solicitation provisions, waivers of reliance that preclude fraud claims, knotty discovery and procedural disputes, the rights of minority shareholders and other corporate governance questions, the Texas Citizens Participation Act, and others.

Many ways to deliver value

When the issues are complex, whether on the defense or plaintiff's side, larger firms may pile on a team of lawyers right from the start. We call that over-lawyering, and we just don't do it. We assess the case and the problems it presents and assemble the right team to address them, not an army of lawyers "just in case." Our clients also appreciate that we communicate intricate ideas precisely, concisely, and persuasively, not delivering reams of paper when what's needed is a straightforward answer.

Majority Shareholder in Closely Held Company

Client Issue: Our client, the majority shareholder in a technology company worth over \$100 million, was sued by the minority shareholder for alleged breaches of fiduciary duty, breach of contract, and claims of shareholder oppression. After a trial, our client was ordered to issue a one-time \$85 million dividend, as well as to pay the plaintiff damages and attorneys' fees.

Approach: Carrington Coleman prepared and tried the case with a potential appeal in mind, working with the client to build a record showing fairness to the plaintiff and errors by the trial court, while constantly preserving arguments regarding flaws in the underlying causes of action.

Outcome: Carrington Coleman capitalized on that careful planning on appeal, where the court of appeals reversed and rendered, making important rulings about the duties owed between shareholders. Based on briefing in this case and another case handled by Carrington Coleman at the same time, the Texas Supreme Court severely limited the cause of action for "shareholder oppression," forever changing the landscape of shareholder disputes in Texas.

Areas of Focus

Appeals in state and federal appellate courts, and trial courts as well

In matters of any complexity, from trial to appeal and sometimes back, clients rely on Carrington Coleman's appellate lawyers' skilled and thoughtful analysis and clear, concise presentation of their case.

We know the judges and they know us.

Through the firm's 60 years of lawyering in Dallas, Carrington Coleman and its attorneys know and are known by state and federal judges on both the appellate and trial court benches. Those judges know what to expect from us, and they respect the quality and integrity we bring to every representation. Like our clients, judges know they can rely on us. And for good reason.

Handling the most complex issues

It takes a certain mindset to enjoy digging deeply into the complex matters of law and judicial process that appellate matters often entail. But that's who Carrington Coleman's appellate lawyers are. It's what gets them up in the morning and keeps them up late into the night, searching for the edge their clients' problems demand.

Significant Matters

- *Cardiac Perfusion Services, Inc. v. Hughes*, 436 S.W.3d 790 (Tex. 2014)
 - Minority shareholder rights. Along with *Ritchie v. Rupe*, established that “a claim for shareholder oppression is only available under section 11.404 of the Texas Business Organizations Code, and that the only remedy available under that statute is a rehabilitative receivership.”
- *Italian Cowboy Partners, Ltd. v. The Prudential Insurance Company of America*, 341 S.W.3d 323 (Tex. 2011)
 - Established standard for waiver-of-reliance-on-representation clauses in contracts sufficient to preclude claims for fraudulent inducement.
- *In re Cook*, 629 S.W.3d 591 (Tex. App.—Dallas April 28, 2021, orig. proceeding) (en banc)
 - *En banc* Court of Appeals overturned panel decision and granted mandamus requiring trial court to allow client to designate responsible third party.
- *Brenner v. Centurion Logistics, LLC*, No. 05-20-00308-CV, 2020 WL 7332847 (Tex. App.—Dallas Dec. 14, 2020)
 - Secured reversal of trial court’s denial of motion to dismiss under TCPA for law-firm client’s conduct in the underlying lawsuit
- *In re Cook*, No. 05-19-01283-CV, 2020 WL 2552881 (Tex. App.—Dallas May 20, 2020, orig. proceeding)
 - Obtained mandamus overturning trial court protective order and requiring Attorney General of Texas, in his private capacity, to sit for deposition and respond to questions regarding, among other things, facts related to pending criminal charges.
- *In re Rittenmeyer*, 558 S.W.3d 789 (Tex. App.—Dallas Aug. 22, 2018, orig. proceeding)
 - Court of appeals originally denied mandamus seeking to vacate trial court order requiring executrix to produce privileged materials, including draft wills. Court reversed that decision on Carrington Coleman motion for rehearing, granting mandamus to preclude the production ordered by the trial court.
- *RBC Capital Markets, LLC v. Highland Capital Mgmt., L.P.*, No. 05-13-00948-CV, 2015 WL 7873712 (Tex. App.—Dallas Dec. 4, 2015)
 - Secured reversal of \$21 million judgment in breach-of-contract/securities case, with rendition of a take-nothing judgment on appeal.

Primary Contacts

Ken Carroll

Senior Counsel

214.855.3029

kcarroll@ccsb.com