

#### Practice Areas

- Litigation
- Appellate Law

#### Education

- University of Houston Law Center, J.D., 1993
- University of Texas at Austin, B.B.A., 1990, high honors

#### Honors

- Named Texas "Super Lawyer," 2005 to present
- Houston Journal of International Law, Chief Casenote and Comment Editor, University of Houston Law Center

#### Bar Admissions

- Texas
- Board Certified Civil Appellate Law, Texas Board of Legal Specialization

#### Court Admissions

- U.S. Supreme Court
- U.S. Court of Appeals for the Fifth Circuit
- U.S. Court of Appeals for the Seventh Circuit
- U.S. Court of Appeals for the D.C. Circuit
- U.S. Court of Appeals for the Federal Circuit

## Kevin D. Jewell

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Houston

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Kevin Jewell's practice emphasizes civil appellate work. Since 1997, in the Texas Supreme Court alone, he has briefed and/or argued over 20 cases in which the Texas Supreme Court has granted review. Mr. Jewell has presented over 75 oral arguments, collectively, in the Texas Supreme Court, U.S. Courts of Appeals for the Fifth and Tenth Circuits, and all fourteen districts of the Texas intermediate Courts of Appeals. In both state and federal intermediate appellate courts, his win/loss ratio is over 2:1.

Mr. Jewell has been board certified by the Texas Board of Legal Specialization in civil appellate law since 1998. Throughout his career, he has handled all stages of appellate matters from preparation of the jury charge and post-trial proceedings to final disposition before all Texas courts of appeals, the U.S. Courts of Appeals, and the U.S. Supreme Court. He typically handles all aspects of post-verdict activity, including motions, *supersedeas* bond issues, and post-judgment discovery matters. He has prepared over 150 appellate briefs on a variety of matters, including commercial contract disputes, employment issues, workers compensation, governmental liability, premises liability, medical malpractice, DTPA, and insurance coverage disputes.

In addition to appellate work, a substantial portion of Mr. Jewell's practice includes general litigation in the areas of commercial issues, torts, employment, governmental liability, insurance defense, indemnity, Stowers claims, coverage work, and declaratory judgment actions.

#### Significant Cases

In his appellate practice, Kevin's results in the Supreme Court of Texas have been noteworthy. In cases granted by the Supreme Court, the client has obtained relief in every matter. Among the significant cases he has handled on appeal:

- *Clark v. Sell*, 2011 WL 182159, 54 Tex. Sup. Ct. J. 484 (January 21, 2011) (interpreting Civil Practice and Remedies Code § 101.106(f))
- *Fresh Coat, Inc. v. K-2*, 318 S.W.3d 893 (Tex. 2010) (construing seller's indemnity rights against manufacturer of defective products)

- U.S. Court of Appeals for the Tenth Circuit
- U.S. District Courts for the Southern, Eastern, Northern and Western Districts of Texas

## Kevin D. Jewell, *Continued*

- *City of Pasadena v. Smith*, 292 S.W.3d 14 (Tex. 2009) (landmark decision regarding jurisdiction of hearing examiners on appeal from police officer suspension)
- *City of Galveston v. State*, 217 S.W.3d 466 (Tex. 2007) (counsel for amici curiae). In a seminal decision of first impression, the Supreme Court held the State of Texas could not sue a municipality under the Tort Claims Act absent a waiver of immunity by the municipality.
- *Wal-Mart Stores, Inc. v. Johnson*, 106 S.W.3d 718 (Tex. 2002). The *Johnson* case clarified Texas law regarding standards for evidence spoliation.
- *Wal-Mart Stores, Inc. v. Rodriguez*, 92 S.W.3d 502 (Tex. 2002). *Rodriguez* resolved conflict in Texas law on the elements of a false imprisonment claim against company that reports suspected crime to the police.
- *Wal-Mart Stores, Inc. v. Reece*, 81 S.W.3d 812 (Tex. 2002), and *Wal-Mart Stores, Inc. v. Gonzalez*, 968 S.W.2d 934 (Tex. 1998). *Reece* and *Gonzalez* are two of the most important decisions in Texas premises liability law because they clarify standards of proof relating to circumstantial evidence and constructive notice in premises liability suits.
- *Southwest Key Program, Inc. v. Gil-Perez*, 81 S.W.3d 269 (Tex. 2002). *Southwest Key* was the first Supreme Court decision to address negligence and causation in the context of sports injuries.
- *Telthorster v. Tennell*, 92 S.W.3d 457 (Tex. 2002). The *Telthorster* case decided that the “risk” and “need” factors applicable to evaluating a police officer’s conduct in an emergency response context do not apply to injuries allegedly suffered during an ordinary arrest.
- *Wal-Mart Stores, Inc. v. Sturges*, 52 S.W.3d 711 (Tex. 2001). *Sturges* is a landmark Texas case establishing the elements of proof applicable to a claim for tortious interference with prospective contracts.
- *Keck, Mahin & Cate v. National Union*, 20 S.W.3d 692 (Tex. 2000) This case analyzed the availability and scope of a comparative fault defense in the context of equitable subrogation claim by an excess insurer against a primary insurer and defense counsel.
- *Wal-Mart Stores, Inc. v. Lane*, 31 S.W.3d 282 (Tex. App.—Corpus Christi 2000, pet. denied). *Lane* reversed a multi-million dollar judgment in a gender discrimination and defamation suit.
- *Blum v. Lanier*, 997 S.W.2d 259 (Tex. 1999). *Blum* is a landmark case regarding the standing of litigants, and jurisdiction of courts, where citizens challenge a city’s misleading ballot language describing a proposed city charter amendment.

## Kevin D. Jewell, *Continued*

- *Black v. Food Lion, Inc.*, 171 F.3d 308 (5th Cir. 1999). *Black* was the first case in the nation to apply the *Daubert* factors to exclude medical causation testimony on “fibromyalgia.”
- *Hammerly Oaks, Inc. v. Edwards*, 958 S.W.2d 387 (Tex. 1997). *Hammerly Oaks* reaffirmed Texas law regarding application of the “vice principal” doctrine to the availability of exemplary damages against a corporation.

### Representative Published Opinions

- *Elliott v. Hollingshead*, 327 S.W.3d 824 (Tex. App. - Eastland 2010, no pet.) (enforcing worker's compensation carrier's subrogation rights)
- *JoJo's Restaurants, Inc. v. McFaddin*, 117 S.W.3d 279 (Tex. App.—Amarillo 2003, pet. denied) (reversing/rendering judgment in parking lot shooting on causation grounds)
- *Wal-Mart Stores, Inc. v. Johnson*, 106 S.W.3d 718 (Tex. 2002) (discussing standards for evidence spoliation)
- *Wal-Mart Stores, Inc. v. Rodriguez*, 92 S.W.3d 502 (Tex. 2002) (discussing standards for false imprisonment claim against company that reports suspected crime)
- *Wal-Mart Stores, Inc. v. Reece*, 81 S.W.3d 812 (Tex. 2002) (resolving conflict regarding proof of notice)
- *Southwest Key Program, Inc. v. Gil-Perez*, 81 S.W.3d 269 (Tex. 2002) (discussing causation in sports injury context)
- *Telthorster v. Tennell*, 92 S.W.3d 457 (Tex. 2002) (holding that *Wadewitz* risk/need analysis does not apply in ordinary arrest context)
- *Wal-Mart Stores, Inc. v. Sturges*, 52 S.W.3d 711 (Tex. 2001) (landmark case on tortious interference with prospective contracts)
- *Keck, Mahin & Cate v. National Union*, 20 S.W.3d 692 (Tex. 2000) (analyzing availability and scope of comparative fault defense in context of equitable subrogation claim by excess insurer against primary insurer/ defense counsel)
- *Wal-Mart Stores, Inc. v. Garza*, 27 S.W.3d 64 (Tex. App.—San Antonio 2000, pet. denied) (distinction between premises defect and negligent activity)
- *Wagner v. Bay City*, 227 F.3d 316 (5th Cir. 2000) (reversing denial of summary judgment in favor of police officers on qualified immunity)
- *Wal-Mart Stores, Inc. v. Lane*, 31 S.W.3d 282 (Tex. App.—Corpus Christi 2000, pet. denied) (reversing multi-million dollar judgment in gender discrimination and defamation suit)
- *In re Burlington Northern*, 12 S.W.3d 891 (Tex. App.—Houston [14th Dist.] 2000, orig. proceeding) (validity of injunction order)
- *Blum v. Lanier*, 997 S.W.2d 259 (Tex. 1999) (landmark case regarding standing of litigants, and jurisdiction of courts, where citizens challenge city's misleading ballot language describing proposed city charter amendment)
- *Black v. Food Lion, Inc.*, 171 F.3d 308 (5th Cir. 1999) (application of *Daubert* factors to exclude medical causation testimony on “fibromyalgia”)
- *Wal-Mart Stores, Inc. v. Holland*, 1 S.W.3d 91 (Tex. 1999) (exemplary damages; recoverability of attorney's fees under article 8307c)
- *Wal-Mart Stores, Inc. v. Gonzalez*, 968 S.W.2d 934 (Tex. 1998) (circumstantial evidence in premises liability suits)
- *Wal-Mart Stores, Inc. v. Resendez*, 962 S.W.2d 539 (Tex. 1998) (false imprisonment case; detention reasonable as a matter of law)

## Kevin D. Jewell, *Continued*

- *Wal-Mart Stores, Inc. v. Deggs*, 968 S.W.2d 354 (Tex. 1998) (abuse of discretion in refusing to allow withdrawal of deemed admissions)
- *Hammerly Oaks, Inc. v. Edwards*, 958 S.W.2d 387 (Tex. 1997) (vice principal doctrine; no exemplary damages against corporation)
- *National Union Fire Ins. Co. v. Burnett*, 968 S.W.2d 950 (Tex. App.—Texarkana 1997, no writ) (recoverability of lifetime benefits under workers' compensation act for head injury)

### Seminars & Presentations

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Regular presenter at CLE seminars, including:

- "101.106 Delimna," Texas Bar CLE, Suing and Defending Governmental Entities, July 2010
- "A Practical Guide for Navigating Alternative Bond Rules," State Bar of Texas, 21st Annual Advanced Civil Appellate Practice Course, September 6-7, 2007
- "Premises Liability and Security Cases", Personal Injury Law Conference, South Texas College of Law CLE, March 2004

### News

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- High Court to Decide Indemnity Issue in Construction Case
- Eight Chamberlain Hrdlicka Attorneys Named Texas "Super Lawyers"

### Articles and Publications

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"*Defense Update: No Exemplary Damages Against Corporation Absent 'Vice Principal' Relationship*," For The Defense (DRI), April 1998, at 3

"*City of El Centro v. United States: Illegal Aliens, Implied Contracts, and Restrictive Government Responsibility*," 15 Hous. J. Int'l L. 209 (1992)

### Professional Affiliations

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- 2007 Editorial Board, Houston Lawyer, Houston Bar Association
  - Spring 1996, Adjunct professor, Legal Writing, University of Houston Law Center
  - American Bar Association
  - Texas Bar Association
  - Houston Bar Association
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