

Susan A. Kidwell

Partner

Austin Los Angeles

susan.kidwell@troutman.com

D 512.305.4766



Susan handles complex appeals, evaluates and litigates difficult insurance-coverage matters, and focuses on preserving the record for appeal in high-stakes trials. Her clients appreciate her thorough and meticulous approach.

OVERVIEW

Susan brings more than 20 years of experience in appellate law, having handled nearly 100 appeals, including 25 oral arguments. She also represents insurers in first- and third-party coverage disputes and has extensive experience in administrative law, arbitration, statutory construction, and personal jurisdiction. Susan's clients range from insurance companies to corporate entities involved in complex litigation.

Susan has an ability to resolve high-exposure matters and save clients from prolonged litigation. Her vast experience in appellate law, combined with her commitment to client service, make her an asset to clients navigating their toughest legal challenges.

REPRESENTATIVE MATTERS

- **Insurance/Contract Construction:** Represents clients in disputes regarding the interpretation of written documents, including insurance policies, deed restrictions, and contracts. *See, e.g., Autobuses Lucano Inc. v. Lexington Ins. Co.*, 256 Fed. App'x 682 (5th Cir. 2007) (insurance policy).
- **Attorneys' fees:** Handles multiple appeals involving issues affecting the recovery of attorneys' fees. *See, e.g., Transverse LLC v. Iowa Wireless Servs*, 2023 WL 4056498 (5th Cir. 2021); *Transverse LLC v. Iowa Wireless Servs*, 992 F. 3d 336 (5th Cir. 2021); *Marina Pacific Homeowners Ass'n v. S. Cal. Fin. Corp.*, 11 Cal. App. 5th 54 (2017).
- **Statutory Construction:** Significant experience in appeals involving statutory construction matters, including first-impression questions on insurance, workers' compensation, and tax issues. *See, e.g., El Paso Healthcare Sys., Ltd. v. Murphy*, 518 S.W. 3d 412 (Tex. 2017); *Waldschmidt v. Reassure America Life Ins. Co.*, 271 S.W. 3d 173 (Tenn. 2008).
- **Administrative Law:** Handles a variety of appeals from administrative orders, including orders issued by the Texas Commission on Environmental Quality (TCEQ), Texas Comptroller of Public Accounts, Texas Department of Insurance (TDI), Texas Commission on Lawyer Discipline, Public Utility Commission of Texas (PUC), and local county appraisal districts. *See, e.g., Tex. Comm'n on Env'tl. Quality v. Brazos Valley Energy, LLC*, 582 S.W. 3d 277 (Tex. 2019); *Southwestern Bell Tel. Co., L.P. v. Mitchell*, 276 S.W. 3d 443 (Tex. 2007).

- **Personal Jurisdiction:** Significant experience at both the trial and appellate levels in matters challenging the power of courts to exercise personal jurisdiction over out-of-state defendants. *See, e.g., Levi v. Morrison & Foerster, LLP*, 2018 WL 5603189 (Cal. App. 2018); *Spir Star AG v. Kimich*, 310 S.W. 3d 868 (Tex. 2010).
- **Arbitration:** Represents clients in numerous appeals involving arbitration matters, including appeals of orders confirming and denying multimillion-dollar arbitration awards, original proceedings to compel arbitration against non-signatories to the arbitration agreement, and original proceedings and appeals to enforce arbitrator-selection provisions. *See, e.g., Americo Life, Inc. v. Myer*, 356 S.W. 3d 496 (Tex. 2011); *In re Serv. Corp. Int'l*, 355 S.W. 3d 655 (Tex. 2011); *In re Weekley Homes, L.P.*, 180 S.W. 3d 127 (Tex. 2005).
- **Mortgage Appeals:** Handles numerous state and federal appeals arising from mortgage litigation, including challenges to the validity of foreclosure proceedings, assignments of security instruments, and home-equity loans governed by the Texas Constitution. *See, e.g., Germain v. US Bank Nat'l Ass'n*, 920 F. 3d 269 (5th Cir. 2019); *Kirschner v. Deutsche Bank Nat'l Trust Co.*, 896 F. 3d 337 (5th Cir. 2018).
- **Amicus Support:** Prepares amicus briefs in important cases before the Supreme Court of the United States and the Supreme Court of Texas. *See, e.g.,* Brief of Amici Curiae Am. Bankers Ass'n et al., *Provident Savings Bank, FSB v. McKeen-Chaplin*, No. 17-371 (U.S. 2017, cert. denied) (FLSA overtime status of mortgage underwriters); Brief of Amicus Curiae Raise Your Hand Texas, *Morath v. Tex. Taxpayer & Student Fairness Coalition*, 490 S.W. 3d 826 (Tex. 2016) (constitutionality of Texas school finance system).

Reported Decisions

- *Naranjo v. Inzunza*, 94 Cal. App. 5th 732 (2023).
- *Heckman v. Gonzalez-Caballero*, 65 F. 4th 222 (5th Cir. 2023).
- *Transverse L.L.C. v. Iowa Wireless Servs.*, 992 F. 3d 336 (5th Cir. 2021).
- *Easterling v. HAL Pac. Props., L.P.*, 522 P. 3d 1258 (Idaho 2023).
- *W. Mktg., Inc. v. AEG Petroleum, LLC* 616 S.W. 3d 903 (Tex. App.—Amarillo 2021, pet. denied).
- *Tex. Comm'n on Envtl. Quality v. Brazos Valley Energy, LLC*, 582 S.W. 3d 277 (Tex. 2019).
- *Germain v. US Bank Nat'l Ass'n*, 920 F. 3d 269 (5th Cir. 2019).
- *Kirschner v. Deutsche Bank Nat'l Trust Co.*, 896 F. 3d 337 (5th Cir. 2018).
- *El Paso Healthcare Sys., Ltd. v. Murphy*, 518 S.W. 3d 412 (Tex. 2017).
- *Marina Pacifica Homeowners Ass'n v. S. Cal. Fin. Corp.*, 11 Cal. App. 5th 54 (2017).
- *Americo Life, Inc. v. Myer*, 440 S.W. 3d 18 (Tex. 2014).
- *Americo Life, Inc. v. Myer*, 356 S.W. 3d 496 (Tex. 2011).
- *In re Serv. Corp. Int'l*, 355 S.W. 3d 655 (Tex. 2011).
- *Meyer v. Christie*, 634 F. 3d 1152 (10th Cir. 2011).
- *ERI Consulting Eng'rs v. Swinnea*, 318 S.W. 3d 867 (Tex. 2010).
- *Peavey Elec. Corp. v. Baan U.S.A., Inc.*, 10 So. 3d 945 (Miss. App. 2009).
- *Waldschmidt v. Reassure America Life Ins. Co.*, 271 S.W. 3d 173 (Tenn. 2008).
- *Southwestern Bell Tel. Co., L.P. v. Mitchell*, 276 S.W. 3d 443 (Tex. 2007).
- *Cluck v. Comm'n for Lawyer Discipline*, 214 S.W. 3d 736 (Tex. App.—Austin 2007, no pet.).
- *Myer v. Americo Life, Inc.*, 469 F. 3d 731 (8th Cir. 2006).
- *In re Weekley Homes, L.P.*, 180 S.W. 3d 127 (Tex. 2005).

AWARDS

- *Best Lawyers of America*®, Appellate Practice (2019-2026)
- *Chambers USA: Litigation: Appellate* (2022-2026)
- *Super Lawyers*® Texas, Appellate (2020-2024)
- Travis County Women Lawyers' Association, Pro Bono Attorney Award (2019)

- *Super Lawyers*® Texas Rising Star, Appellate (2006-2011)

TOP AREAS OF FOCUS

- Appellate + Supreme Court

ALL AREAS OF FOCUS

- Appellate + Supreme Court
- Insurance + Reinsurance
- Litigation + Trial

PROFESSIONAL/COMMUNITY INVOLVEMENT

- Member, State Bar of Texas
- Member, Austin Bar Association, Civil Appellate Section
- Chair, Property Insurance Section, Federation of Defense & Corporate Counsel
- Member, Adult and Evensong Choirs of the Episcopal Church of the Good Shepherd
- Black belt instructor, Third Coast Martial Arts

EDUCATION AND CERTIFICATIONS

EDUCATION

- The University of Texas School of Law, J.D., *with honors*, 2001
- The University of Texas at Austin, Ph.D., 1993, musicology
- Northwestern University, M.M., 1984, music history
- Wesleyan University, B.A., *with high honors*, 1982, music and economics

BAR ADMISSIONS

- Texas
- California

COURT ADMISSIONS

- Supreme Court of the United States
- U.S. District Court, Western District of Texas
- U.S. District Court, Eastern District of Texas
- U.S. District Court, Southern District of Texas
- U.S. District Court, Northern District of Texas
- U.S. District Court, Northern District of California
- U.S. Court of Appeals, Fifth Circuit
- U.S. Court of Appeals, Seventh Circuit
- U.S. Court of Appeals, Eighth Circuit
- U.S. Court of Appeals, Tenth Circuit

- U.S. Court of Appeals, Eleventh Circuit
- U.S. Court of Appeals, Federal Circuit

CLERKSHIPS

- Hon. James A. Baker, Supreme Court of Texas, 2001-2002

SPEAKING ENGAGEMENTS

- Speaker, “Issues To Watch in Summary-Judgment Appeals,” TexasBarCLE: Civil Appellate Practice 101 Course, 38 Annual Advanced Civil Appellate Practice, September 4, 2024.
- Speaker, “Supreme Court Roundup,” Federation of Defense & Corporate Counsel Annual Symposium, October 23, 2023.
- Moderator, “The Nitty-Gritty Details: A Discussion Regarding Non-Substantive Elements of Briefs,” Austin Bar Association Civil Appellate Section CLE, May 18, 2023.
- Moderator, “An Evening with the Texas Supreme Court,” Austin Bar Association, Civil Appellate Section, September 29, 2022.
- Speaker, “Texas Supreme Court Update,” State Bar of Texas CLE, December 18, 2020.
- Speaker, “Summary Judgment Update,” TexasBarCLE: Advanced Civil Appellate Practice, September 9, 2020.

PUBLICATIONS

- Author, “The Texas Supreme Court Grapples With Standard for Recovering and Reviewing Noneconomic Damages,” *Locke Lord QuickStudy*, June 20, 2023.
- Author, “Property Insurance Section Law Update for May 2022,” *Locke Lord*, June 2, 2022.
- Author, “Insurance Implications of Texas ‘8 Corners’ Rulings,” *Law360*, February 25, 2022.
- Author, “The Texas Supreme Court Approves the Broader Use of Extrinsic Evidence to Determine an Insurer’s Duty to Defend,” *Locke Lord QuickStudy*, February 16, 2022.
- Author, “Texas Supreme Court Answers Certified Question Regarding an Insurer’s Duty to Defend,” *Locke Lord QuickStudy*, March 25, 2020.
- Author, “The Fifth Circuit Clarifies RESPA Obligations for Mortgage Servicers and Sends a Warning that RESPA Should Not Be Used as a Weapon To Avoid Mortgage Payments or Delay Foreclosure,” *Locke Lord QuickStudy*, April 9, 2019.