

# Christopher D. Kratovil

## Member

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## Contact

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## Overview

Chris Kratovil is the issues and appeals counsel clients and other attorneys—within and outside Dykema—turn to with problems that are serious, thorny, novel, and have no obvious solution.

A “lawyer’s lawyer” and an expert on procedure, strategy, and tactics, Chris conjures innovative approaches and clever ideas other lawyers overlook.

A veteran commercial litigator consistently recognized by *Super Lawyers* as one of the Top 100 Lawyers in Texas regardless of specialty, Chris has extensive experience with “business divorce,” contract, fraud, trade secret, restrictive employment covenants, oil field, and real estate disputes.

He primarily represents middle-market clients, including closely-held companies and professional services firms, and high-net-worth individuals. Many of his business clients have a law department consisting of one or no in-house counsel. Known for unorthodox motions, claims, and defenses, he is skilled at blindsiding opponents throughout the litigation and appeals processes. Chris is also a formidable oral advocate, having presented dozens of appellate arguments and hundreds of arguments in trial courts.

Chris is frequently called on to handle critical short-fuse matters, including temporary injunctions and restraining orders. But he also has the patience and stamina for protracted litigation.

Many of his cases center on issues of first impression or legal ambiguities not previously adjudicated. Knowing that the arguments he raises will likely be appealed, he takes a long view, meticulously preserving the record to help appellate judges settle the law and find for his clients.

Ultimately, Chris recognizes that litigation is an ordeal for clients, and

## Areas of client focus

### Practices

Appellate and Critical Motions  
Class Action Defense  
Commercial Litigation  
Litigation  
Product Liability Defense  
Non-Compete, Unfair  
Competition, and Trade Secrets  
Real Estate Disputes

### Industries

Automotive and Transportation  
Dental Service Organizations  
(DSO)  
Gaming and Native American  
Law  
Managed Service Organizations  
Oil and Gas

his role is to allow them to focus on their businesses and minimize stresses and distractions.

Chris is comfortable in small-town Texas trial courts up to the Texas Supreme Court and U.S. Court of Appeals for the Fifth Circuit. He aspires to appear in court in as many of Texas's 254 counties as possible, and he's close to achieving his goal of arguing in each of Texas' 14 courts of appeals.

Away from the courtroom, Chris also regularly handles mediation, arbitration, and ADR proceedings. At a time when many litigants are forced into mandatory arbitration, Chris has developed a niche for challenging arbitration awards in court, a feat not easily achieved.

A proud Texan devoted to his family and the Dallas–Fort Worth Metroplex, Chris has helped drive Dykema's growth in the Lone Star State, including attracting high-quality lateral attorneys to the firm. As the firm's National Hiring Member, he is committed to further expanding the firm's reach with top-tier legal talent who will continue to offer a compelling value proposition to clients.

## Experience

- Lead appellate counsel to a major Dallas real estate developer in obtaining the reversal of a state trial court order that would have required the demolition of a newly constructed \$60 million apartment complex.
- Lead appellate counsel to a Collin County real estate developer in securing a grant of federal mandamus from the Fifth Circuit that removed a *lis pendens* on a more than \$300 million property, thereby allowing the sale of the property to move forward.
- Lead counsel to the developer of a large Dallas-area music venue in securing the release of over \$40 million in tax increment financing district funding owed by a municipality to the developer.
- Lead counsel to a Fortune 500 company in the removal of a *lis pendens* from a Collin County corporate campus valued at more than \$100 million, thereby allowing the sale of the campus to be completed.
- Lead counsel to a Fortune 1000 energy services company in a multi-state dispute over covenants not to compete and employee raiding.
- Lead appellate counsel to a Fortune 50 retailer in a case involving alleged malicious prosecution and defamation, securing victory in the Fifth Circuit.
- Lead appellate counsel to a major dental services organization in a series of interlocutory appeals involving the Texas anti-SLAPP statute, the TCPA.
- Lead appellate counsel to a major national mortgage servicer, prevailing in the Fifth Circuit in a wrongful foreclosure case.
- Co-lead counsel in the arbitration of a "business divorce" involving the founders of a major dental services organization.
- Lead appellate counsel to an energy drink manufacturer in the Fifth Circuit, securing partial reversal of summary judgment and restoration of claims for breach of contract, fraud and fraudulent inducement, and remanded back to the district court for trial.

- Lead counsel in the preparation and filing of an amicus curiae brief on behalf of 20 members of the Texas Legislature in successful efforts to overturn a plastic bag ban in Laredo, Texas (*Laredo Merchants Association v. City of Laredo, Texas*).
- Appellate counsel to Ford Motor Company in a successful mandamus action to the Texas Supreme Court, establishing the principle that litigants cannot seek discovery from the employer of an opposing expert witness. *In re Ford Motor Co.*, 427 S.W.3d 396 (Tex. 2014).
- Lead appellate counsel to the homeowners of the Air Park Estates neighborhood in Carrollton, Texas, in a major property rights case against developer Henry Billingsley and the City of Carrollton, who were held to have engaged in an unconstitutional scheme to seize real property from the homeowners without paying just compensation. *Noell v. City of Carrollton*, –S.W.3d–, 2014 Tex. App. LEXIS 3880 (Tex. App.—Dallas April 9, 2014, pet. filed).
- Lead appellate counsel to ABC Hotel & Restaurant Supply, Inc., a major Austin-based hospitality supply company, in securing the affirmance of a \$1 million trial court judgment arising out of a failed corporate acquisition. *Friedman & Assocs. v. ABC Hotel & Rest. Supply, Inc.*, 412 S.W.3d 561, (Tex. App.—Amarillo 2013, no pet.).
- Lead appellate counsel to *amici curiae* Texas Legal Services Foundation and Texas Alliance Against Sexual Assault in supporting Texas Attorney General Greg Abbott and Comptroller Susan Combs in the successful defense of the constitutionality of the so-called “pole tax” that imposes a tax on all sexually oriented businesses in Texas, with the revenue from such tax used to support social services for Texans adversely impacted by such businesses. *Entm’t Ass’n v. Combs*, 2014 Tex. App. LEXIS 5034 (Tex. App.—Austin May 9, 2014).
- Appellate counsel to the Equipment Leasing and Finance Association, a national trade group, in the preparation of an amicus brief to the United States Supreme Court in *RadLAX Gateway Hotel, LLC v. Amalgamated Bank*, 132 S.Ct. 2065 (2012).
- Lead appellate counsel to Mr. Balakrishna Shagrithaya, co-founder and 47% owner of ARGO Data Resource Corporation, in a \$90 million shareholder oppression and fraud lawsuit currently pending after full briefing before the Texas Supreme Court.
- Lead trial counsel to Bosch Rexroth AG, a major international engineering and manufacturing consortium, in the defense of a \$20 million wrongful death and products liability lawsuit filed by Rusty Hardin & Associates in State District Court in Harris County, Texas. The matter was resolved via a confidential settlement.
- Lead trial counsel to DeLaval, Inc., the world’s largest maker of dairy farm and milking equipment, in a series of wrongful death investigations and related products liability actions.
- Texas counsel to Key Safety Systems, the leading domestic seat belt maker, in two high-exposure wrongful death and products liability lawsuits.
- Lead appellate counsel in the successful vacatur of a commercial arbitration award based on the arbitrator’s failure to render his award by the deadline set by the parties—a first of its kind result under Texas law *Sims v. Bldg. Tomorrow’s Talent, LLC*, 2014 Tex. App. LEXIS 4671 (Tex. App.—Amarillo April 30, 2014, pet. filed).
- Primary draftsman of briefs in a victory before the U.S. Supreme Court on behalf of taxpayers challenging the legality of secretive procedures used by the U.S. Tax Court, *Ballard v. Commissioner of Internal Revenue*, 544 U.S. 40 (2005).
- Primary author of winning briefs to the en banc Fifth Circuit in that court’s leading decision on venue transfers under 28 U.S.C. § 1404(a), resulting in the issuance of a writ of mandamus against the United States District Court for the Eastern District of Texas. *In re Volkswagen II*, 545 F.3d 304 (5th Cir. 2008) (en banc).

- Lead Counsel in successful effort to prevent the confirmation and enforcement of a \$27 million arbitration award against a foreign utility company in Federal District Court.
- Lead appellate counsel for one of the nation's largest defense contractors in a dispute with a major union concerning the interpretation and application of the parties' collective bargaining agreement, ultimately resulting in a victory for the defense contractor in the Fifth Circuit.
- Co-lead counsel in obtaining the dismissal in federal district court of a \$25 million fraud and breach of fiduciary duty lawsuit against a major national law firm.
- Assisted with successful petition for writ of mandamus in the United States Court of Appeals for the Federal Circuit, resulting in the issuance of a writ of mandamus against the United States District Court for the Eastern District of Texas on a venue issue in a patent case.
- Lead counsel in the preparation and filing of an *amicus curiae* brief with the Texas Supreme Court on behalf of a United States Senator.
- Lead counsel in preparation and filing *amicus curiae* brief in the Texas Supreme Court on behalf of a Texas Representative and a state association.
- Prepared winning briefs to the Supreme Court of Texas on behalf of a policyholder in a commercial insurance coverage dispute.
- Lead counsel in obtaining set-aside of seven-figure default judgment in multi-tiered complex commercial proceedings involving Texas, federal and bankruptcy procedural law issues.
- Co-counsel in preparation of *amicus curiae* brief on behalf of law professors in the first major piece of "global warming litigation" heard by the Supreme Court of the United States.
- Primary draftsman of winning briefs to the Fifth Circuit in a trademark case concerning the attempted re-litigation of "secondary meaning" of a descriptive trademark.
- Author of prevailing briefs to the Fifth Circuit on behalf of appellant taxpayers accused of engaging in elaborate civil tax fraud and "kick-back" scheme.
- Obtained certification of a novel question of Texas insurance law from the Fifth Circuit to the Supreme Court of Texas.
- Author of briefs to the Fifth Circuit resulting in reversal of the trial court's grant of judgment notwithstanding the verdict in a precedent-setting multimillion dollar age discrimination lawsuit.
- Assisted with briefing in the Fifth Circuit in an appeal resulting in the reversal of a jury verdict based on cumulative evidentiary errors by the trial judge.
- Obtained reversal from the Dallas Court of Appeals of a grant of summary judgment in UCC Article 9 foreclosure appeal.
- As appellate counsel, preserved a favorable class-action settlement against appellate challenges brought by multiple dissatisfied class members in the Texas Supreme Court.
- As trial counsel in an appointed federal criminal case, achieved the partial acquittal of an inmate who had allegedly escaped from incarceration and assaulted armed guards.

## Credentials

### Education

- University of Texas School of Law, J.D., 2000, with honors, Order of the Coif Administrative Editor of the *Texas Law Review*
- University of Notre Dame, B.A. *magna cum laude*, 1997
- Cistercian Preparatory School, Irving, Texas, 1993

## Bar Admissions

- Texas

## Professional Recognition

- Recognized in *The Best Lawyers in America*® for Appellate Practice; Commercial Litigation; Litigation - Real Estate, 2016-2024
- Recognized as one of the "Top 100 Lawyers in Texas" and one of the "Top 100 Lawyers in Dallas/Fort Worth," *Texas Super Lawyers*®, 2016-2023
- Recognized in *Texas Super Lawyers*® for Appellate and Business Litigation, 2014-2023
- Named a "Best Lawyer in Dallas" by *D Magazine*, 2011-2022
- 2020 Strategic Partner Award for Empowerment presented by DXC Technology
- Recognized in *Texas Super Lawyers*® as a Rising Star for Appellate, 2007-2013

## Affiliations

### Professional

- Current Chair of the Appellate Section of the Dallas Bar Association
- Former Chair of the Business Litigation Section of the Dallas Bar Association
- State Bar of Texas Appellate Section, Committee Chair, 2010-2017
- Higginbotham Inn of Court, Associate, 2005-2006
- William "Mac" Taylor American Inn of Court, Bencher, 2017 – present
- Dallas Association of Young Lawyers, Leadership Class, 2003
- Dallas Volunteer Attorney Program Volunteer

### Community

- Cistercian Preparatory School Alumni Association, Board of Directors, President, 2007-2008
- Lamplighter School Alumni Council, 2005-2008
- Notre Dame Alumni Club of Dallas
- Texas Law Review Association, former managing director and board member, 1999-2000
- Leadership Las Colinas-Irving Class of 2008-2009
- Hackberry Creek Homeowners Association Board of Directors, 2013-2014

### Related Employment

- Law Clerk, Honorable Edith H. Jones, U.S. Court of Appeals for the Fifth Circuit