

Practice Areas

- Commercial Litigation
- Insurance Law
- Construction Law
- Admiralty & Maritime
- Intellectual Property

Education

- Southern Methodist University, Finance, BBA, magna cum laude, 1988
- Northwestern University School of Law, J.D., 1991

Honors

- Listed, Best Lawyers in America, 2024
- AV Rated Martindale Hubbell Law Directory based on peer rating review
- Texas Bar Foundation - Life Fellow
- Houston Bar Foundation - Sustaining Fellow
- Member of the College of the State Bar of Texas
- Texas Annotated Insurance Code 2008, Lexis Nexis; Contributing Editor
- Named a "Top Lawyer," Houstonia Magazine, 2019-2022

Christine Kirchner

Shareholder, General Counsel

Houston

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With over 30 years of experience in the courtroom and before arbitration tribunals, Christine Kirchner has successfully represented her clients in a variety of complex civil matters. Her client representation focuses on pre-litigation solutions such as risk management, a comprehensive review of the client's insurance programs, as well as successfully and efficiently navigating clients through the active phase of the dispute, whether that be in litigation or arbitration.

As a certified mediator since 2016, Ms. Kirchner also brings unique perspective to her clients in fashioning creative resolutions for complex business disputes where protracted litigation does not make good business sense. These resolutions frequently include commercial terms in addition to monetary terms to add to the company's bottom line -- as opposed to detracting from it.

Ms. Kirchner has represented clients in all forums, including state and federal courts, as well as binding arbitration before the AAA (American Arbitration Association), Financial Industry Regulatory Authority ("FINRA"), International Court of Arbitration and the ICDR (International Center for Dispute Resolution), Houston Maritime Arbitrators Association and other private alternate dispute resolution forums. Ms. Kirchner's civil litigation practice focuses on both complex commercial and tort matters. Ms. Kirchner's expertise in commercial matters ranges from complex construction, products liability, securities litigation, professional liability for financial professionals, minority and derivative shareholder claims, disputes related to ownership succession of closely held corporations, to wrongful competition and breach of contract actions. She has also handled *Qui tam* or whistleblower suits over the years for healthcare professionals and contractors facing claims related to violations of the False Claims Act.

Most recently, in conjunction with her tax and corporate transactional colleagues at the Firm, Ms. Kirchner has handled significant private company transaction disputes, including post acquisition indemnification claims against established escrows; shareholder and ownership contests; as well as partnership disputes and litigation

- John Henry Wigmore Scholar, Northwestern University School of Law
- President's Scholar, Southern Methodist University

Bar Admissions

- Illinois
- Texas

Court Admissions

- Court of Appeals for Fifth Federal Circuit
- U.S. District Court, All Districts of Texas
- Northern District of Illinois

Christine Kirchner, *Continued*

involving the invocation of buy/sell agreements.

She has represented aggrieved shareholders and members of various business entities to pursue improper and fraudulent practices with regard to entity operations, as well as defended entities and majority shareholders against claims of fraud, misrepresentation and breaches of fiduciary duties. Most disputes involve complex issues relating to financial operations of the entity, intellectual property, trade secrets or real estate interests.

Additionally, as a result of her years of practice in the tort area, Ms. Kirchner is a recognized construction and insurance law expert, representing carriers, and at times policyholders, in contractual disputes related to insurance coverage, as well as extra-contractual actions related to deceptive trade practice, statutory Insurance Code violations, the alleged mishandling of claims coverage, and opportunities to settle and protect the policyholder within policy limits.

Ms. Kirchner started her career in underwriting and with the formation of syndications for the offshore and London markets. Her experience in insurance includes all aspects from underwriting, coverage interpretation through claim resolution, including subrogation. Her intimate understanding of insurance contracts has enhanced her success in both insurance and construction litigation.

Ms. Kirchner also represents contractors and owners in a variety of construction and design professional litigation and arbitrations through final award phase, with a particular emphasis on multi-party proceedings that include complex indemnity and additional insured issues. She actively handles international disputes relating to procurement and construction projects, as well as offshore marine construction issues and property and contract related admiralty disputes. These include vessel and rig failures, as well as the arbitration of Party Charter agreements. She has also defended brokerage firms and other financial institutions, as well as registered representatives and financial professionals before self-regulatory organizations and in arbitration, state and federal courts.

Ms. Kirchner is a frequent author and speaker at construction and insurance-related seminars and conferences. Her clients range from individuals, private entities and closely held entrepreneurial companies to large national insurance carriers and public companies with large self-insured retentions.

Ms. Kirchner prides herself in understanding each individual client's business and operations, the unique challenges that a client may face with regard to risk

Christine Kirchner, *Continued*

management, contract drafting and resolving disputes. In doing so, she achieves an efficient and business-oriented outcome on behalf of her clients, regardless of the size or nature of the dispute or relative size of the client.

Representative Cases

- Has obtained 17 successful arbitration awards before various arbitral forums on behalf of clients involving offshore marine construction and domestic, as well as foreign power plant construction disputes.
- Received judgment in favor of client after successful prosecution of claims related to SREC forward contracts for solar development and market provider in the Northeast involving various regulatory issues. Court awarded all requested relief and attorney's fees. Civil Action No. 1:20-cv-11666; *Skyview Finance Company, LLC v. Kearsarge Trading LLC*; United States District Court, District of Massachusetts; 2022.
- Successful defense and resolution of owners of a privately-held midstream oil & gas company in a post-divestiture dispute involving more than \$25 million in alleged economic damages from purported breaches of a Stock Purchase Agreement involving claims ranging from operational and technical problems with the oil & gas assets purchased, GAAP accounting practices, and timing of various financial closing consideration; 2021.
- Arbitration award in favor of solar development client relating to development of facilities in northeast and issues related to contracts for sale of SRECs based off nameplate capacity of facilities: *Plymouth Rock Energy, LLC v. GSPP Onyx New Brunswick, LLC*; AAA Arbitration New York, New York; 2020.
- Successful defense of large design-build/ construction firm and denial of plaintiff's claims via summary judgment, resulting in full denial of Plaintiff's claims as a matter of law related to contractor's operation on government property. 2020: Civil Action No. 6:19-cv-241; *Richard G. Benton v. Whitesell-Green, Inc., New Action Mobile Industries, LLC, and Williams Scotsman, Inc.*; In the United States District Court for the Western District of Texas – Waco Division.
- Obtained complete defense verdict and recovery of client's fees in excess of \$1 million related to its defense of claims of misappropriation of trade secrets and breach of employment agreements with the inventor of proprietary technology. Bench trial 2019: Civil Action No. 4:12-cv-01811; *ATOM Instrument Corporation, et al. v. Petroleum Analyzer Company, L.P.*; In the United States District Court for the Southern District of Texas – Houston Division.
- Successful representation and defense of Seller of privately held food distribution business against Buyer's first party and third party indemnification claims against closing escrow. Claims included allegations of breaches of representations and warranties, as well as fraud in federal court seeking to recover in excess of the escrow cap. (Confidential settlement of federal court proceeding, 2019).
- Obtained substantial affirmative recovery for minority interest member in entity where private equity stakeholders improperly engaged in a "force out" of the founder and misappropriation of his intellectual property. (Confidential settlement of state court proceeding, 2019).
- Arbitration award successfully obtained in defense of a client in offshore marine construction dispute involving millions of dollars in alleged standby and disputed work charge claims. Arbitration 2017: *Gulf Contracting Limited v. Ranger Offshore, Inc.*; Private Arbitration Administered Pursuant to the Federal Arbitration Act and the Rules of the Houston Maritime Arbitrators Association, Harris County, Texas.

Christine Kirchner, *Continued*

- Obtained summary judgment for a pre-employment screening firm accused of negligence in a wrongful death suit arising out of a high-profile work place shooting involving media exposure for the client. Upheld on appeal. *Kuentz v. Cole Systems Group, Inc.*, 541 S.W.3d 208 (Tex. App.—Houston [14th Dist.] 2017, rehearing denied, rehearing en banc denied).
- Obtained summary judgment for a national insurance carrier denying coverage to an insured for five lawsuits arising out of a catastrophic industrial crane accident at a nuclear power plant resulting in serious personal injury to numerous workers, and a lengthy disruption in operations. Insurance coverage at risk included \$7 million in indemnity coverage plus potential unlimited cost of defense. Upheld on appeal that the carrier had no duty to defend. *Hartford Cas. Ins. Co., et al. v. DP Engineering, L.L.C., et al.*, 827 F.3d 423 (5th Cir. 2016).
- Obtained multi-million dollar result on behalf of local oil and gas distributor against a major national lender related to faulty and fraudulent credit facilities. (Confidential settlement of federal court proceeding, 2015).
- Successfully prosecuted claims in an international arbitration on behalf of an engineering entity against a German parts supplier over defective equipment and design for an environmental centrifugal processing facility in Kuwait. 2014 AAA ICDR Arbitration.
- Successfully defended closely held company accused of fraud and breach of fiduciary obligations against minority stakeholder claims in excess of \$10 million, and successfully prevailed on counter-claims for conversion, fraud and breach of fiduciary duty by the company's President. Jury trial: Cause No. 12CV2311; *Charlene May and Greg May, Individually and on behalf of JMFA-Greggy Girl, Inc. v. John M. Floyd, Cher Floyd, JM Floyd & Associates, Greggy Girl, L.P., John M. Floyd & Associates, Inc., John M. Floyd & Associates I, Ltd., Champagne Realty Services, Inc., Chase Management Services, Inc., INXS Texas, Ltd., and JMFA-Greggy Girl, Inc.*; In the District Court of Galveston, Texas; 56th Judicial District. (2014).
- Obtained defense ruling as a matter of law in \$96 million dollar False Claims Act case against a federal contractor performing work for the US Dept. of Defense. Summary judgment awarded 2013: Civil Action No. 4:05-cv-00895; *United States of America, et rel., Jal B. Guzder v. MKM Engineers Inc.; Khodadad Irani; Gurinder M. Rana; PIKA International, Inc.; and Tirandaz Kasnavia*; In the United States District Court for the Southern District – Houston Division.
- Represented a specialty business-valuation firm concerning a dispute over a valuation performed for a high-profile transaction involving the sale of St. Luke's Hospital in which some of the partners later claimed various breaches of professional duties and securities laws after becoming unhappy with the transaction; confidential settlement 2012.
- Obtained multimillion dollar judgment on behalf of restoration contractor against property owner for fraudulent conversion of insurance proceeds. Jury trial Cause No. 2009-09890; *Unlimited Restoration, Inc. v. Boxer Property Management Corp. and 1002 Gemini Interests, LLC*, In the 113th Judicial District Court for Harris County, Texas. (2011).
- Successful defense of critical burn and death case against bottle distribution company and full recovery of losses from gunpowder manufacturer and packager. Civil Action No. 1:06cv0622; *Kelly Wales, Individually and Scotty Wales, Individually and as Independent Administrator of the Estate of James Amos Wales v. Alliant Techsystems Inc. d/b/a Alliant Powder*; In the United District Court for the Eastern District of Texas – Beaumont Division. (2009).
- Successful defense of major hospital client in connection with wrongful death premises liability claim involving third party criminal activity on premises. (2007).
- Arbitration award in favor of maritime client in connection with sale of assets in the Houston port and successful defense against commercial fraud allegations. Arbitration No. 50 T 132 00282 03; *Roland Malins-Smith, Jose Perez and Seafreight Agencies, Inc. v. J. Barry Snyder, Signet Maritime Corp. and Signet Seafreight Shipping Co.* (2005).

Christine Kirchner, Continued

- Judgment as a matter of law during federal bench trial concerning product liability claims in maritime context as well as breach of contract issues. Civil Action No. H-00-0157; *Condux S.A. de C.V. v. Ships Machinery International, Inc.*; In the United States District Court for the Southern District of Texas, Houston Division. (2003).
- Prevailed in multi-million dollar extra-contractual bad faith and coverage lawsuit seeking in excess of \$39 million dollars for coverage due to alleged "Stowers" violation by carrier in the handling of defense and failure to settle the case within policy limits. Case was significant in developing late notice defense in Texas with no prejudice requirement under advertising injury coverage in liability policies. *New Era of Networks, Inc. v. Great Northern Insurance Company, et al.*, 2003 WL 23573645 (S.D. Texas) (2003).
- Successful defense of premises liability case involving catastrophic injuries/quadriplegic on behalf of premises owner on basis of third party crime and successfully developed concept of proportionate responsibility on "John Doe" Defendant. *James Bravo Palacio, et al. v. Greystar Management Services, L.P., et al.*, 110 S.W.3d 493 (Tex. App. – Waco 2003, no pet.).
- Houston 14th Court of Appeals case clarifying non-recourse instruments under Texas law; *Steven Fein v. R.P.H., Inc., Trustee*, 68 S.W.2d 3 (Tex. App. – Houston [14th Dist.] 2002).
- Fifth Circuit case of first impression concerning Federal Arbitration Act preemption of state arbitration laws; *OPE International L.P. v. Chet Morrison Constructors, Inc.*, 258 F.3d 443 (5th Cir. 2001).

Presentations

- Managing Risk and Exposure for Employment Related Claims Through Insurance Coverage; The Association of Corporate Counsel, Georgia Chapter; July 2014.
- Texas Annotated Insurance Code; Lexis Nexis 2013 Edition, Contributing Editor. Texas Annotated Insurance Code; Lexis Nexis 2012 Edition, Contributing Editor. Texas Annotated Insurance Code; Lexis Nexis 2011 Edition, Contributing Editor. Texas Annotated Insurance Code; Lexis Nexis 2010 Edition, Contributing Editor. Texas Annotated Insurance Code; Lexis Nexis 2009 Edition, Contributing Editor.
- Texas Prompt Payment Statute: Answering Unanswerable Questions When the Clock is Ticking; Winter 2009. Texas Annotated Insurance Code; LexisNexis 2008 Edition, Contributing Editor.
- Texas Annotated Insurance Code; LexisNexis 2007 Edition, Contributing Editor.
- The Unintended, Unworkable and Counterintuitive Application of Article 21.55 of the Texas Insurance Code in the Context of Third Party Insurance Claims, Winter 2006.
- *Strategies for Avoiding Traps and Pitfalls in Time-limit and Policy Limit Demands: An Overview of the Stowers Doctrine Under Current Texas Law*, Spring 2005.
- *Common Insurance Coverage Battles in the Construction Defect Arena: Unresolved Disputes Between Insureds, Additional Insureds and Their Carriers*, South Texas College of Law Insurance Law Summit, January 2005.
- *Hype or Reality? The Moldy Situation in Texas*, Spring 2002; In-house training to Everest National Insurance Company.

Other Information

- Proficient in German language.
- Culturally diverse, extensive travel, post-graduate work and overseas residency.

Christine Kirchner, Continued

Community Activities

- Camp Sangamon for Boys in Vermont; Supporter and Fundraiser.
- The Awty International School, Member of the Head of School Search Committee (2021-2022); Trustee (2015-2021); Chair of the Advancement Committee 2015-2018.
- Mission of Yahweh (Women and Children's Shelter serving Northwest Houston). Ongoing activities and fundraising; Honorary Gala Chair, 2015; Gala Chair, 2014; Gala Auction Committee, 2013.
- Mercury Orchestra – Patron and Fundraising Underwriter.
- Home Safe Home Gala, Aid to Victims of Domestic Abuse (AVDA); ongoing support and fundraising.
- Northwestern University School of Law; Admissions and Interview Committee. (2000 – 2010).
- Pro bono ad valorem tax work for local economically disadvantaged businesses. (Ongoing).

News

- Key Steps for Keeping the "Civil" in CID 2020.
- Chamberlain Hrdlicka Attorneys named to Houstonia Magazine's 2019 Top Lawyers Houstonia Magazine's 2018 Top Lawyers.
- Why We Should Pay Attention to the Ewing CGL Case 'Do Over' in Texas.
- How Liberty Mutual Prepared for Ballenger's Bankruptcy, ENR.com, January 2013.
- The Struggle To Achieve Equity Partner Status.

Seminars and Presentations

- Managing Risk and Exposure for Employment Related Claims Through Insurance Coverage; The Association of Corporate Counsel, Georgia Chapter; July 2014.

Professional Affiliations

- American Bar Association (Tort Insurance Practice Section; Insurance Coverage Section)
 - Federal Bar Association
 - Texas Bar Association
 - TADC (Texas Association Defense Counsel) DRI (Defense Research Institute)
 - Garland Walker Inns of Court CEB (Counsel on Ethical Billing)
 - CLM - Claims Litigation Management
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