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Related Services

Business and Commercial

Class Actions

Critical Motions / Appeals

Embedded Appellate Counsel
for Trial

Environmental

Product Liability /
Advanced Technologies

Education

Northwestern University School
of Law, J.D., *magna cum
laude*, 2011

Northwestern University, B.A.,
Political Science, History, &
Legal Studies, *cum laude*, 2008

Judicial Clerkships

Judge Eric L. Clay,
United States Court of Appeals
for the Sixth Circuit, 2012-2013

Judge Edward C. Prado,
United States Court of Appeals
for the Fifth Circuit, 2011-2012

Court Admissions

Michigan State Courts

Illinois State Courts

District of Columbia Courts

Derek J. Linkous *Member*

Derek Linkous focuses his practice on complex commercial litigation and leads BSP's embedded appellate counsel practice. He frequently represents manufacturers in state and federal courts throughout the country, assisting with presenting the most persuasive legal arguments and preserving the record. He has experience with a broad range of business litigation, including class actions, contract disputes, environmental issues, and product liability.

Representative Matters

Embedded Appellate Counsel for Trial

- Represented multiple automakers at trial as appellate counsel, leading motions in limine arguments, jury-instruction conferences, and record preservation
- Twice secured judgment as a matter of law as to punitive damages in product-liability cases before trial team ultimately obtained a complete defense verdict
- Won nonsuit on warnings claim before complete defense verdict in case involving allegations of exposure to carbon monoxide
- Eliminated standalone negligence claims in several trials, restricting the jury's consideration to strict-liability theories
- Secured pre-trial victories on motions *in limine* relating to experts and causation that precipitated a favorable settlement
- Won summary judgment on issue of future damages through an opinion that distinguished several unfavorable prior decisions
- Trimmed punitive damages claims on summary judgment involving transmission allegations
- Procured favorable settlement after pretrial motions practice in multiple-fatality case involving emerging technology
- Obtained trifurcated trial in a consumer-warranty action that paved the way for successful judgment as a matter of law motion

Appeals

- Obtained affirmance on appeal in the Tenth Circuit after leading successful summary judgment for automotive manufacturer in case involving advanced driver-assistance technologies
- Defended jury verdict in Michigan Court of Appeals in personal-injury case
- Won affirmance of a summary judgment dismissal of product-liability claims in the Tenth Circuit based on arguments about inadequate experts
- Avoided settlement enforcement on appeal to the California Court of Appeal in consumer-warranty action
- Achieved affirmance of summary disposition in a statutory-immunity case on behalf of a telecommunications provider in Michigan appellate courts
- Received dismissal for lack of appellate jurisdiction from Ninth Circuit in consumer-warranty case
- Won multiple appeals for employer in defense of dismissals of discrimination claims, including in the Sixth and Eighth Circuits
- Obtained vacatur of trial-court order purporting to re-open a putative RICO case against an automotive manufacturer after several years from Ohio Court of Appeals
- Served as appellate counsel to trucking manufacturer in \$80-million supply-contract dispute in the Sixth Circuit
- Represented *pro bono* a juvenile lifer in successful appeal of re-sentencing in the Michigan Court of Appeals
- Represented *pro bono* a criminal defendant in the Michigan Supreme Court for successful appeal establishing the duress defense to depraved-heart homicide



Supreme Court of the United States

United States Court of Appeals for the Fourth Circuit

United States Court of Appeals for the Fifth Circuit

United States Court of Appeals for the Sixth Circuit

United States Court of Appeals for the Eighth Circuit

United States Court of Appeals for the Ninth Circuit

United States Court of Appeals for the Tenth Circuit

United States Court of Appeals for the Eleventh Circuit

United States District Court for the Northern District of Illinois (Trial Bar)

United States District Court for the Central District of Illinois

United States District Court for the Southern District of Illinois

United States District Court for the Eastern District of Michigan

United States District Court for the Western District of Michigan

United States District Court for the Southern District of Texas

United States District Court for the Western District of Texas

United States District Court for the Eastern District of Wisconsin

Business and Commercial Litigation

- Defended closely-held corporation in bet-the-company alter ego action following bankruptcy of the corporation's subsidiary
- Represented medical professional in LLC member dispute, which led to minority member being able to buyout partners on favorable terms
- Compelled arbitration of a consumer-financing claim
- Secured favorable settlement in a software ownership dispute
- Defended alternative energy company in contract dispute with LLC member
- Represented LLC board members on fiduciary-duty counterclaims after securities-fraud suit was brought
- Won pre-discovery dismissal of employment-benefits suit
- Shepherded equity-stake valuation in LLC dispute
- Counseled automotive manufacturer in trademark and trade-dress litigation and parallel regulatory action
- Defended company in trade-secret and breach-of-contract action following the company's acquisition

Additional Matters

- Represented trucking manufacturer in multiple product-liability cases involving advanced driver-assistance features
- Secured pre-discovery dismissal for world's largest metal options exchange in putative multi-billion-dollar antitrust class action
- Won summary disposition for manufacturer accused of neighborhood-wide groundwater contamination from volatile organic compounds (VOCs)
- Represented automotive manufacturer in multiple class actions alleging loss of a "benefit of the bargain" based on a claimed defect
- Litigated on behalf of nuclear power plant operator in international arbitration related to defective steam generators
- Preserved work-product protection for investigator employed by automotive manufacturer
- Defended worldwide religious organization in multi-plaintiff negligence, fraud, and conspiracy action, including multiple appeals to the state supreme court
- Advised digital marketing company on investigations, including vendor disputes and employment-related matters
- Counseled national athletic association in class action related to concussions in college sports
- Defended individual investor in defamation action
- Counseled specialty insurance company in securities class action related to executive compensation

Professional Memberships & Activities

- Federal Bar Association for the Eastern District of Michigan, *Appellate Practice Co-Chair* and *Sustaining Member*
- Northwestern Law Alumni Club of Detroit, *Ambassador*
- State Bar of Michigan, Appellate Section, *Member*

Honors & Awards

Michigan Lawyers Weekly, "Go-To Lawyer" for Business Transactions (2024)

DBusiness Top Lawyers (2024)

Michigan Lawyers Weekly, *Leaders in the Law* (2021)

Michigan Super Lawyers, *Rising Star* (2019 – present)

Inclusion in *The Best Lawyers in America*® *Ones to Watch: Appellate Practice* (2021 – present), *Commercial Litigation* (2021 – present), *Mass Tort Litigation/Class Action - Defendants* (2021 - present)

State Bar of Michigan Pro Bono Honor Roll (2021), *Tier 2 – 50-99 hours*

Order of the Coif

Phi Beta Kappa

Presentations & Publications

- “Dos and Don’ts of Opening Statements in the Sixth Circuit” FBA Newsletter, September 2023 Issue, co-author (2023)
- “Beyond Mere Preservation: Partnering to Prepare the Best Record for Appeal” *Oakland County Bar Association LACHES*, April 2023 Issue, co-author (2023)
- “Navigating the Politics of Appeal” presented to DRI Appellate Advocacy Seminar (November 2022)
- “Settlement Fundamentals and Tactics (MI)” Lexis Practical Guidance (updated annually)
- “Remote Deposition Stipulated Protocol and Proposed Order (MI)” Lexis Practical Guidance (updated annually)
- “Abundant Data: ADAS Features Enabling Early Understanding of Crash Dynamics” presented to DRI Strictly Automotive Seminar (September 2021)
- “SCOTUS Key Business Case Review & Preview” presented to Association of Corporate Counsel-Michigan (August 2021)
- “‘People v. Bennett’ and the importance of pro bono” Michigan Lawyers Weekly (April 2021)
- “Teaming Up: Appellate and Trial Counsel Partnering to Win” DRI For the Defense (March 2021)
- “Better Know a Sixth Circuit Judge,” co-moderated to FBA’s Eastern District of MI Chapter (2021)
- “Federal Bar Association – Appellate Practice Panel,” co-moderated to FBA’s Eastern District of MI Chapter (2019)
- “Internal Investigations – Key Considerations for Companies and Their Counsel,” co-presented to FBA’s Eastern District of MI Chapter (2019)
- “Panel Effects, Whistleblowing Theory, and the Role of Legal Doctrine,” co-author, 158 U. Pa. L. Rev. PENumbra 83 (2009)

Prior Experience

Prior to joining Bush Seyferth PLLC, Derek worked as an associate at Latham & Watkins LLP in Chicago and Washington, D.C., and Sperling & Slater, P.C., a litigation boutique in Chicago.

Before entering private practice, Derek clerked for Judge Eric L. Clay of the United States Court of Appeals for the Sixth Circuit and for Judge Edward C. Prado of the United States Court of Appeals for the Fifth Circuit. During law school, he interned for Judge Amy J. St. Eve then of the United States District Court for the Northern District of Illinois.

Derek received his J.D., *magna cum laude*, from Northwestern University School of Law. There, he served as Senior Articles Editor of the *Northwestern University Law Review*, President of the Julius H. Miner Moot Court Competition, and a member of the Northwestern Supreme Court Clinic. He received his B.A., *cum laude*, in Political Science, History, and Legal Studies from Northwestern University.