



Over, Under, Around...Through

# We Do What it Takes to Win



**WINNER**

Michigan Firm of the Year

Bush Seyferth



## CRITICAL MOTIONS & APPEALS OVERVIEW

The critical motions and appeals briefing team at Bush Seyferth PLLC (BSP Law) includes attorneys who have clerked for the U.S. Courts of Appeals for the Fifth, Sixth, and Seventh Circuits, the Michigan Supreme Court, and various federal district courts. Team members pride themselves on quickly digesting complex technical matters and mastering novel legal issues to deliver understandable and persuasive arguments to trial and appellate courts.

During the pre-trial and trial phases of any litigation, BSP Law maximizes its clients' prospects on appeal, including through Rule 702 challenges, motions *in limine*, and dispositive and post-verdict motions. BSP assists clients with appellate matters in state and federal courts across the country. Our litigation defense includes

- Theme development and case strategy
- Dispositive motions
- Motions in limine, including expert motions
- Trial briefing
- Record preservation, including embedded appellate support
- Appeals
  - Briefing
  - Argument
  - Moot arguments
  - Consultation

## CRITICAL MOTIONS & APPEALS CORE TEAM



### Stephanie A. Douglas

University of Michigan Law School  
*Clerkships:* U.S. Court of Appeals for the Sixth Circuit & U.S. District Court for the Eastern District of Michigan



### Derek J. Linkous

Northwestern University School of Law  
*Clerkships:* U.S. Court of Appeals for the Sixth Circuit & U.S. Court of Appeals for the Fifth Circuit



### Susan M. McKeever

Villanova School of Law  
*Clerkships:* U.S. District Court for the Eastern District of Michigan & U.S. District Court for the District of New Jersey



### Nicole K. Haelterman

Wayne State University Law School  
*Clerkships:* U.S. Circuit Court, Sixth Circuit & U.S. District Court for the Western District of Michigan



### Zakary A. Drabczyk

Wayne State University Law School  
*Clerkship:* U.S. District Court for the Eastern District of Michigan



### Gordon J. Kangas

University of Michigan Law School  
*Clerkships:* U.S. Circuit Court, Sixth Circuit & U.S. District Court for the Eastern District of Michigan



### Henry T. Holland

Wayne State University Law School  
*Clerkships:* U.S. Circuit Court, Sixth Circuit & Michigan Supreme Court

## CRITICAL MOTIONS

- Represented a plaintiff in a multi-state insurance action, defeated a dispositive motion, and obtained an 8-figure, pre-discovery settlement.
- Won summary judgment on issue of future damages through an opinion that distinguished several unfavorable prior decisions.
- In automotive class actions, led strategy and briefing to successfully defeat motion to compel production of company trade secrets and to require production of information plaintiffs' counsel used as basis for suit.
- In intellectual property dispute, architected successful defense of motion for sanctions preventing defense of \$2 billion demand.
- Won complex post-transfer conflict-of-law motion that foreclosed punitive damages and capped non-economic damages.

## APPEALS

- Obtained affirmance on appeal in the Tenth Circuit after leading successful summary judgment for automotive manufacturer in case involving advanced driver-assistance technologies.
- Argued appeal in Sixth Circuit, obtaining published ruling that class claims for allegedly inflated fuel-economy estimates depended on proof of fraud on the regulator, and were thus impliedly preempted.
- Before Sixth Circuit, obtained affirmance of summary judgment of hybrid § 301 claims under the Labor Management Relations Act and workers' compensation retaliation claim under Kentucky law.
- Led complex NAFTA tax appeal in the Federal Circuit, resulting in a published opinion overturning adverse judgment.
- Representing manufacturer in international executive's employment dispute seeking \$30 million damages, obtained summary judgment on multiple grounds and preserved judgment on appeal.
- In contract action against financial services company, sustained federal jurisdiction and won with-prejudice dismissal of appeal.
- Successfully represented the Michigan Legislature in Michigan trial and appellate courts in a constitutional and statutory challenge to Governor Whitmer's executive orders.
- Obtained interlocutory review and published precedent holding Michigan common-law claims based on ownership of leased vehicles preempted by federal law, and remanding for entry of defense judgment.

## EMBEDDED APPELLATE COUNSEL FOR TRIAL

Even better than an appellate reversal is winning in the trial court. Embedding an appellate specialist on a trial team can provide significant benefits: persuasive briefing improves the client's odds of success in the trial court and preserves the record for any appeal. That is where BSP Law's embedded appellate counsel team thrives.

A subset of BSP Law's broader Critical Motions & Appeals team, our embedded appellate counsel work to distill complex issues for busy trial judges, taking leading roles on motions in limine, expert challenges, jury instructions, verdict forms, directed-verdict motions, and the bevy of other filings that come in the run-up to and during a trial.

### SOME RECENT RESULTS INCLUDE:

- Secured judgment as a matter of law as to punitive damages in product-liability cases before trial team ultimately obtained a complete defense verdict; no appeal followed (Indiana state court).
- Won nonsuit on warnings claim before complete defense verdict in case involving allegations of exposure to carbon monoxide; appeal dismissed (California state court).
- Won affirmance of a summary judgment dismissal of product-liability claims in the Tenth Circuit based on arguments about inadequate experts (New Mexico federal court).
  - Additionally represented multiple manufacturers for pretrial and trial as appellate counsel, leading motions in limine arguments, jury-instruction conferences, and record preservation (federal court: Connecticut, Delaware, Florida, Georgia, Kentucky, Louisiana, Michigan, South Carolina, Wisconsin; state court: Connecticut, Florida, Illinois, Maryland, Michigan, North Carolina, Pennsylvania, West Virginia).