



FIRM OVERVIEW - National Practice in Litigation and Environmental Law

Baker • Wotring LLP is a nationally-recognized commercial litigation and environmental law firm providing innovative and results-oriented representation to domestic and international clients in significant and complex matters across the country for more than 16 years. Our lawyers have been retained in connection with some of the largest litigation and environmental matters in the country, including providing representation in connection with the Deepwater Horizon Gulf Oil Spill and other massive releases into waterways, catastrophic accidents and large-scale commercial litigation for energy, transportation, oil and gas, and industrial clients, among others. Since its inception, the Firm's clients have included governmental entities, Fortune 500 companies, railroads, port authorities, hospitals, businesses of all sizes and individuals. Baker • Wotring LLP is based in Houston, Texas and is a nationally-certified women and minority-owned firm, holding certifications from NAMWOLF (National Association of Minority and Women-Owned Law Firms), WBENC (Women's Business Enterprise National Council), NMSDC (National Minority Supplier Development Council), MBE (Minority Business Enterprise) from the City of Houston, and is a certified State of Texas HUB (Historically Underutilized Business).

Environmental Law

Our regulatory environmental attorneys have had decades of experience in handling large, complex multi-media and multi-party contamination cases. Our lawyers have successfully represented clients in Superfund sites across the country, making us leaders among Superfund and natural resource damages practitioners nationally. The Firm's practice includes the investigation of contamination issues, including source identification (current, historical, industrial, fingerprinting) and the coordination of cleanup, regulatory requirements, release reporting, and spill response. A substantial part of the environmental group's practice focuses on enforcement issues, multi-tenant and co-located facility environmental issues, contaminated waterways, air emissions, regulatory counseling associated with real estate, corporate and transactional due diligence, and addressing complex regulatory interpretive issues.

Environmental Law

Environmental Litigation, Contribution, & Cost Recovery

The Firm's attorneys have decades of experience in litigating contribution claims and cost-recovery actions. Our national dockets have included evaluating cost recovery opportunities under CERCLA and state law equivalents at more than 600 sites as part of corporate system-wide cost recovery programs, and our lawyers have successfully represented clients in contribution and cost-recovery cases in Superfund sites across the country. We have litigated contribution and cost recovery cases in numerous jurisdictions from coast-to-coast, achieving desired and often precedent-setting results for the Firm's clients.

In addition to possessing hands-on expertise in all facets of CERCLA litigation, our Firm also possesses a depth of experience in handling complex environmental cases. Our Firm is well-known for its experience in handling difficult multi-party and multi-media environmental cases. In addition to the difficulties of assessing responsibility to multiple parties for multiple impacts due to multiple constituents, the litigation of such complex environmental cases also frequently involves complicated corporate ownership issues which must be deciphered in order to impose liability on corporate successors, assigns, divested or merged entities, or parent companies as appropriate. Plant ownership and corporate structure can change dramatically from the time an offending constituent was produced or released to the present day when impacts are being assessed or discovered. Accordingly, it is critical that a litigation team be familiar with corporate structuring

issues and have the ability to trace liability and evaluate particular issues associated with liabilities retained, conveyed or arguably stranded in such vehicles or instruments as stock purchase agreements, holding companies and merger operations. Our attorneys have substantial experience in these areas, and we believe that our expertise in this regard, combined with our environmental regulatory and litigation knowledge, are extremely beneficial in complex environmental cases.

These skills are complemented by our Firm's distinctive ability to provide a combination of experienced environmental litigators with experienced environmental regulatory counseling attorneys specifically skilled in the intricacies of complex regulatory matters to most effectively address the intertwined litigation and regulatory/agency components that are unique to a full-service environmental litigation practice. For almost two decades, the Firm's lawyers have been deeply involved in numerous complex, multi-party environmental litigation. The availability of these multiple capacities in one firm, and the lawyers' long histories of working together to provide an innovative and comprehensive litigation and regulatory team, is unusual to find in a single law firm and makes the Firm a desirable choice as a full-service environmental legal provider.

Our attorneys also are accustomed to working with a wide range of parties involved in the commercial real estate business, including shopping center owners, real estate investors, property management companies, industrial and residential developers, brokers, landlords and tenants, and others to assist with risk-related environmental matters associated with financing, deed recordations, institutional controls, insurance and evaluation of long-term real property exit strategy options, as well as advising them regarding environmental obligations and claims in the context of bankruptcy proceedings. Our environmental litigation team also has developed a particular niche in representing institutional landowners. From port authorities and governmental bodies to commercial landlords, we have aggressively represented these entities as both plaintiffs and defendants in property damage, nuisance, and cost recovery litigation associated with the release and/or migration of contaminants, historical contamination issues, and other environmental impacts involving real property. We have a history of proven results in contested administrative hearings and in court, making our lawyers well-suited to handle cases for large landowners and governmental or quasi-governmental landowners.

Environmental Law Environmental Regulatory Practice

Baker • Wotring's environmental regulatory practice includes the full spectrum of all environmental regulatory issues, such as the coordination of cleanup, regulatory requirements, release reporting, and spill response as well as the investigation of contamination, including source identification (current, historical, industrial, fingerprinting). We have represented site owners, operators, arrangers, transporters, innocent landowners, and redevelopers, assisting them with issues ranging from threshold liability matters, volumetric allocation of responsibilities, settlement negotiations and interpretation of regulatory cleanup standards. Our attorneys have negotiated numerous consent decrees, administrative orders and settlements, many of which contain extremely innovative components or strategies which were unique at the time, including issues associated with mixed funding sites, de minimis and de micromis settlements, innocent landowner issues, voluntary cleanup programs, natural resource damages, environmental justice issues, consistency with the National Contingency Plan, ROD amendments, and ESDs pertaining to a broad range of real property, real estate transactions, redevelopment and Brownfields sites. Our regulatory practice also focuses on agency enforcement issues, multi-tenant and co-located facility environmental

issues, regulatory counseling, corporate and transaction environmental due diligence and addressing complex regulatory interpretive issues. Our attorneys have an active practice advising clients in connection with real estate transactions associated with impacted properties, environmental due diligence and the assessment and structuring of transactions to quantify and address long-term liabilities associated with real estate matters and property acquisition and divestiture.

Environmental Law

Environmental Transactions & Risk Management

The Firm's attorneys have broad experience in transaction structuring, negotiation, and documentation concerning environmental liabilities and contaminated properties, representing both buyers and sellers across the United States. Importantly, the Firm's attorneys also possess uncommon and extensive experience with the application and negotiation of environmental risk management tools to transactions involving contaminated properties and environmental risk transfer and management, including Brownfield redevelopment. With the far-reaching depth of experience gained by the Firm's attorneys, we are able to cost-effectively identify and assess the environmental risks attendant to specific transactions and craft narrowly-tailored risk management strategies and tools focused on the specific transaction and the client's business objectives and risk tolerance. These tools have included traditional tools such as contractual indemnities, environmental escrow accounts, and purchase price deductions, and more progressive tools such as environmental insurance, trusts, and third-party environmental liability transfer.

The Firm's experience with environmental insurance and third party environmental liability transfer is extensive. The Firm's attorneys have participated in transactions involving environmental insurance ranging from combined finite cost-cap (coverage for known conditions) and PLL coverage (coverage for unknown, pre-existing and newly-created conditions) with integrated coverage for bodily-injury and property damage, including Natural Resource Damage claims, to more focused insurance programs addressing only a subset of risks while other risk management tools are employed against other risks. The Firm's attorneys have participated in every step of the insurance placement, working closely with the client and the insurer in the underwriting process to ensure a tightly underwritten policy through detailed technical, legal, and regulatory dialogue regarding site-specific risks; negotiating key financial terms such as premiums, limits, retentions, and attachment points; and negotiating policy terms, exclusions, and endorsements, including in many cases manuscripted policies specifically developed and negotiated for the specific transaction.

Similarly, the Firm's attorneys possess a unique understanding of the third-party liability transfer market, having participated in a wide range of environmental risk transfer transactions across many contexts. In these transactions, which can occur with or without environmental insurance, a third-party contractually assumes the environmental liabilities and risks associated with an impaired property. The Firm's attorneys have represented owners, buyers and sellers in transactions involving governmental settlements, operating and non-operating facility transfers, municipal setting designations, and Brownfield and other redevelopments.

Our attorneys also are accustomed to working with a wide range of parties involved in the commercial real estate business, including shopping center owners, real estate investors, property management companies, industrial and residential developers, brokers, landlords and tenants, and others to assist with risk-related environmental matters associated with financing, deed recordations, institutional controls,

insurance and evaluation of long-term real property exit strategy options, as well as advising them regarding environmental obligations and claims in the context of bankruptcy proceedings. Our environmental litigation team also has developed a particular niche in representing institutional landowners. From port authorities and governmental bodies to commercial landlords, we have aggressively represented these entities as both plaintiffs and defendants in property damage, nuisance, and cost recovery litigation associated with the release and/or migration of contaminants, historical contamination issues, and other environmental impacts involving real property. We have a history of proven results in contested administrative hearings and in court, making our lawyers well-suited to handle cases for large landowners and governmental or quasi-governmental landowners.

In addition to advising on risk and structure of transactions, the Firm's attorneys have conducted, directed, and managed due diligence and environmental and health and safety audits across a wide range of facilities and operations and in a myriad of contexts, ranging from ongoing compliance audits to extensive due diligence efforts attendant to the sale of the largest of industrial facilities. In this context, the Firm's attorneys work closely with and, where called upon, direct and manage environmental consultants and other environmental and health and safety professionals to produce a comprehensive and robust due diligence or audit result, empowering the client with the information necessary to successfully meet its business objectives.

Environmental Law Natural Resources

Our attorneys have developed significant experience in the area of Natural Resources Damage ("NRD") litigation that not only includes issues associated with the calculation and quantification of such damages, but the negotiation of innovative settlements and procedural negotiations with the trustee agencies. Our lawyers have negotiated precedential settlements with trustees, including an innovative and precedential interpretation of state NRD grants of authority leading to the actual delegation of natural resource regulatory authority from the government to another entity that had been deeded property from the state.

Our in-depth work in the area of NRD damage quantification on behalf of our clients has also allowed our attorneys to develop a very significant base of knowledge in quantification of sediment, fish, and avian impacts, in particular. Our Firm has spent years collaborating with the country's foremost scientific natural resource experts to develop comprehensive evaluations of surface water and sediments, groundwater soils, terrestrial and wetland plant communities, aquatic biota, wildlife, and species of special significance.

Aggressive and innovative strategies employed by our team of lawyers and their experts to identify and quantify impacts to resources have included caged-fish bioaccumulation studies, bioassay testing (benthic community and fish tissue), bird and wildlife receptor studies, avian toxicological screens, effects range impact evaluations, fate and transport modeling (including colloidal transport of pesticides), uptake and egg-shell thinning impacts, modeling of chemical degradation and attenuation, and fingerprinting and chemical-dating procedures to link impacts to a particular source. We have also coordinated work in evaluating migratory flyways, rookeries, primary habitat area studies and the evaluation of spatial and temporal distribution of persistent chemicals to those areas and resources.

Simultaneously with case development of identification and quantification of impacts, the Firm's attorneys have experience in linking the historical releases to the resource impacts by evaluation of selected indicator chemicals and their environmental distribution, mass balance analysis of historical production processes and feed materials, and reconstruction of relevant plant processes in order to fingerprint plant processes, constituents or markers to the particular operation of various sources. The Firm's attorneys have worked with experts to coordinate discovery and evidentiary matters to allow for the development of definitive process models of manufacturers of interest.

Environmental Law Contaminated Sediments

The Firm's litigation and regulatory environmental teams have developed a comprehensive knowledge of the issues particular to aquatic and contaminated sediment sites through their representation of public and private port authorities and port-related entities. Because of our years of experience in this area, our lawyers have developed an unusual understanding of the specific impacts to sediment, a unique resource that involves its own very specific set of damages and quantification methods. Coordination with the U.S. Army Corps of Engineers, NOAA and other governmental and trustee agencies with regard to resource protection issues, combined with the development of chemical forensic models and risk assessment considerations, have allowed our attorneys to become authorities on the most recent sediment issues, including the critical and topical areas of remediation and dredging of contaminated sediments. Working closely with relevant state and federal agencies, our attorneys have been extensively involved in the development of sediment remediation plans, subsurface testing, the evaluation of vertical hazard distribution in sedimentary environments, the assessment of suitable remedial technologies, and hazard quotient issues for contaminants of concern.

Our Firm has significant experience in litigation associated with contaminated sediment cases and in working with natural resource damages experts to develop comprehensive evaluations of surface water and sediments, groundwater, soils, terrestrial and wetland plant communities, aquatic biota, wildlife and species of special significance. In recent cases, we have assessed damages to these resources with respect to impacts from DDT, DDD and DDE ("DDX compounds"), Lindane and BHC, chlorobenzenes, arsenic, dioxins, furans, PAHs and PCBs, among other constituents.

In the highly scientific and specialized area of natural resources litigation, it is especially important to have developed a cadre of credible and highly qualified experts with which to prove the impact to resources and to quantify damages. Our Firm has advanced the scientific aspects of our cases by directing and collaborating with the country's foremost scientific natural resources experts to develop comprehensive evaluations of surface water and sediments, groundwater, soils, terrestrial and wetland plant communities, aquatic biota, wildlife and species of special significance. Our attorneys are skilled in the presentation of these types of scientific experts and in facilitating the scientific component of the case with the strategic use of such credentialed experts.

Litigation

National Recognition – True Litigators

As true trial lawyers, our lawyers are a constant presence at the courthouse and go to trial with a frequency not often seen in today's legal climate. Firm trial teams have spent weeks and months in trial numerous times in complex cases involving personal injury, death and catastrophic injury, commercial disputes, environmental litigation, as well as arguing appeals in various appellate courts. We have achieved precedent-setting results and made new law, with results from our cases published, cited to and relied upon by other courts and practitioners around the country. The depth of actual courtroom experience, bench strength and proven trial record have made Baker • Wotring LLP a repeat choice of sophisticated clients who need experienced, tried-and-true litigators to handle their complex, high-stakes litigation.

Our Firm handles a wide variety of litigation, ranging from individual personal injury cases to complex multi-party litigation on both a regional and national basis. Our cases involve almost every area of practice, including unfair trade practices, commercial disputes, breach of contract actions, personal injury, healthcare liability, medical devices, catastrophic explosion and toxic torts, among other areas. Our environmental litigators, who frequently collaborate with the regulatory team on matters that are both in litigation and under regulatory enforcement, offer an extremely effective combination of integrated environmental cost recovery and property damage litigation experience.

Multi-District Litigation and Mass Torts

The Firm's attorneys have extensive experience in multidistrict litigation and mass torts in Texas and throughout the country. Our attorneys have experience representing clients both seeking and opposing the creation of multidistrict litigation, as well as representing clients in ongoing multidistrict litigation. In the mass-tort area, the Firm's attorneys have represented clients in litigation involving tens of thousands of claimants in lawsuits throughout the country, including coordinating strategy, discovery, and briefing. The Firm has acted as national and regional coordinating counsel in mass torts in areas as varied as asbestos, silica, and repetitive-stress injuries. The Firm handled the defense of the company that designed the navigation system and fire suppression system in the Deepwater Horizon Gulf Oil Spill matter. The Firm has also represented allied health professionals in multidistrict/class action cases involving antitrust and ERISA. In one instance, our objections to class certification in a health-related class allowed us to obtain a more advantageous settlement for our clients.

Litigation

Commercial Litigation

The Firm enjoys a full-scale commercial litigation practice that includes litigation arising from a wide variety of commercial disputes, including oil and gas, breach of contract, construction, products liability matters, professional liability matters, international sale of goods contracts, securities matters, and tax shelters, among others. Our commercial litigation attorneys have considerable trial experience representing plaintiffs and defendants in suits involving partnership and corporate formation, alter-ego and de-facto mergers, corporate divestitures, civil-RICO, fraud and negligent misrepresentation, tortious interference, appeals, professional liability, indemnity matters, and appellate matters.

In gaining that valuable experience, the Firm's attorneys have developed an insight into the importance of early case evaluation in commercial matters, establishing clear lines of communication with the client, and making a realistic assessment of the risks and benefits of litigating a commercial dispute as opposed to seeking early resolution. Our attorneys, as trial attorneys, are capable of litigating any matter when necessary to maximize the potential return for the client. However, they are also aware that the expenditure of funds in pursuing commercial litigation should be done with the expectation of increasing the client's chances of success in litigation, and achieving client goals.

Litigation

Personal Injury, Premises Liability, and Product Liability

Our Firm has represented clients in all type of personal injury actions including toxic torts, construction accidents, non-subscriber cases, slips, falls and trips, burns and explosions, medical malpractice, products liability, vehicle accidents, and other injury causing events. We are regularly called to the scene of accidents to assist in the investigation and claims handling for our large clients, providing us with the ability to assist in preserving evidence for future use. We have handled cases involving heavy equipment such as forklifts, scissor lifts, front-end loaders, bucket lifts, scaffolding, barricades, and traffic signs. Our cases have frequently involved litigation over the MUTCD, and FRA, OSHA, MSHA, NTSB, and TxDOT regulations.

The Firm's attorneys have extensive experience in multidistrict litigation and mass torts in Texas and throughout the country. We have represented clients both seeking and opposing the creation of multi-district litigation, as well as representing clients in ongoing MDLs. In the mass-tort area, the Firm's attorneys have represented clients in litigation involving hundreds of claimants in lawsuits requiring coordinating defense strategy, discovery and briefing. The Firm handled the defense of the company that designed the navigation and fire suppression system in the Deepwater Horizon Gulf Oil Spill matter. The Firm has also represented allied health professionals in MDLs and class action cases that encompassed complex antitrust and ERISA issues. We have handled a docket of personal injury actions for a client, implementing the client's strategy at selectively targeting cases for trial, successfully reducing the docket until it ceased to exist.

We have represented clients in all aspects of product liability litigation including claims of design defect, failure to warn, manufacturing defects, and breach of warranty. We have extensive experience in handling claims of violations of the Texas Deceptive Trade Practices Act and other consumer protection statutes. We have handled product liability for products ranging from medical devices to construction equipment to products containing allegedly harmful chemical compounds causing illness, injury, and death. Our attorneys successfully argued to the Supreme Court of Texas in a product liability case that there is no duty in Texas to warn danger that would be open and obvious to the average user of the product.

Litigation

Healthcare, Medical, & Pharmaceutical Litigation

The Firm's attorneys are experienced in a wide variety of matters involving medical liability, medical device and pharmaceutical cases, having handled hundreds of pharmaceutical, medical device and nutritional matters in state and federal courts, including multi-district litigation. Our attorneys have been involved in all aspects of such litigation, ranging from written discovery, depositions, retention of experts, examination of liability issues, indemnification analysis, preemption and other general briefing, and oral argument before special masters and trial and appellate courts. The Firm's attorneys are also experienced in handling cases

involving diet drug litigation, products liability cases involving heart valve devices, imaging devices and breast implants, blood product cases, and matters related to endoscopic devices.

Our attorneys have also defended hospitals, physicians and nurses in medical malpractice cases throughout their legal careers. In connection with this representation, our attorneys also have defended hospitals in cases involving claims made by plaintiffs regarding malfunctioning and defective medical devices at the hospital including such devices as cell saver technology, hospital beds, jet ventilators, nasogastric tubes, and various catheters. These cases involve catastrophic injuries and wrongful death allegations made in trial and appellate courts throughout Texas. As a result of this experience, they have extensive knowledge regarding anatomical, medical, pharmaceutical, and biological issues and their interaction with operating and maintaining medical devices. The Firm also employs licensed nurse paralegals who provide invaluable medical and legal support to this practice area.

Litigation

Appellate Practice

The Firm's appellate lawyers have established a vibrant, cutting-edge appellate practice that has achieved precedent-setting results for our clients. In the last two years alone, our appellate lawyers have orally argued appeals at the Texas Supreme Court, the United States Courts of Appeals for the Third, Fifth, and Tenth Circuits, and numerous Texas Courts of Appeals.

Our active trial docket results in frequent courtroom appearances for our appellate lawyers, who assist in all phases of litigation -- from drafting of initial pleadings to framing and arguing the jury charge. The Firm's appellate lawyers are also regularly called in to assist other firms at both the trial and appellate stages.

Our appellate lawyers have served as judicial law clerks for the Supreme Court of Texas and the United States Court of Appeals for the Fifth Circuit. This has given them insight into how appellate judges think and what arguments are persuasive.

The Firm's appellate lawyers have achieved precedent-setting results in a broad variety of cases. They have established that companies targeted in CERCLA cases have the right to intervene to object to settlements that could bar their ability to seek contribution. They ended the negligent-credentialing claim in medical malpractice cases. They established that a company does not have to warn a sophisticated user about open and obvious defects. They have also changed the way disability law applies to the cruise industry.

Reported decisions illustrating successes of the Firm's appellate lawyers include:

- *Critical Path Resources, Inc. v. Cuevas*, ___ S.W.3d ___, 2019 WL 1532343 (Tex. App.—Houston [14th Dist.] 2018, no pet. h.) (won affirmance in refinery-explosion case; the Court of Appeals held that jury's verdict of over \$100 million in personal-injury damages was supported by the evidence)
- *JBS Carriers, Inc. v. Washington*, 513 S.W.3d 703 (Tex. App.—San Antonio 2017, pet. filed) (won affirmance of jury verdict in wrongful-death case, with the court of appeals increasing client's damages by over \$500,000 more than awarded in judgment)

- *Wal-Mart Stores, Inc. v. Forte*, 497 S.W.3d 460 (Tex. 2016) (filed amicus brief on behalf of Texas local governments and local-government elected officials; Texas Supreme Court adopted clients' position that government suits for civil penalties are not subject to Texas Civil Practice and Remedies Code Chapter 41's provisions regarding exemplary damages)
- *Kelsey-Seybold Med. Group PA v. Great-West Healthcare of Texas, Inc.*, 611 Fed. Appx. 841 (5th Cir. 2015) (won reversal of summary judgment, the Court of Appeals held that healthcare provider's claims against insurance company were not preempted by ERISA and ordered case remanded to state court)
- *Bigham v. Se. Tex. Env'tl.*, 458 S.W.3d 650 (Tex. App.—Houston [14th Dist.] 2015, no pet.) (won reversal and rendition of \$2.6 million judgment in breach-of-fiduciary-duty and breach-of-contract case) *Benge v. Williams*, 472 S.W.3d 684 (Tex. App.—Houston [1st Dist.] 2014, pet. granted) (won reversal of \$2 million judgment in medical-malpractice case based on error in jury charge)
- *Danet v. Bhan*, 436 S.W.3d 793 (Tex. 2014) (per curiam) (won reversal of court of appeals' opinion in a *pro bono* child-custody case)
- *Int'l Paper Co. v. Harris County*, 445 S.W.3d 379 (Tex. App.—Houston [1st Dist.] 2013, no pet.) (won affirmance of denial of temporary injunction; in case of first impression in Texas, the Court of Appeals held that a government entity using contingency-fee counsel to bring a civil-penalty case did not violate the defendants' constitutional rights)
- *Seeberger v. BNSF Railway Co.*, No. 01-12-00583-CV, 2013 WL 5434141 (Tex. App.—Houston [1st Dist.] Sep. 26, 2013, pet. denied) (mem. op.) (won affirmance of order granting new trial solely on damages in a FELA railroad-worker injury case; the Court of Appeals held that federal law—not Texas law—governed whether damages-only retrials were allowed in FELA cases)
- *Huffman v. Union Pac. R.R. Co.*, 675 F.3d 412 (5th Cir. 2012) (won reversal of \$600,000 judgment in a FELA railroad-worker injury case; Fifth Circuit ordered district court to enter judgment in favor of client)
- *Raynor v. Moores Mach. Shop, LLC*, 359 S.W.3d 905 (Tex. App.—Houston [14th Dist.] 2012, no pet.) (won reversal of summary judgment in wrongful-death case)
- *Spence v. The ESAB Group, Inc.*, 623 F.3d 212 (3d Cir. 2010) (won reversal of summary judgment in trucking-accident case; Third Circuit held that a shipper who loads cargo onto a truck has a duty to make sure that the cargo is secured).
- *United States v. Albert Investment Co.*, 585 F.3d 1386 (10th Cir. 2009) (won reversal of order denying intervention in a CERCLA case; Tenth Circuit held that non-settling potentially responsible parties in CERCLA cases had the right to intervene to object to settlements that would cut off their contribution rights).
- *Garrett v. Borden*, 283 S.W.3d 852 (Tex. 2009) (per curiam) (won reversal of dismissal in a statutory-interpretation case).
- *Spector v. Norwegian Cruise Line, Ltd.*, 125 S.Ct. 2169 (2005) (established that Americans with Disabilities Act applies to cruise ships).
- *King v. Dallas Fire Ins. Co.*, 85 S.W.3d 185 (Tex. 2002) (established that "occurrence" in an insurance policy is determined from the insured's viewpoint).
- *Sauder Custom Fabrication, Inc. v. Boyd*, 967 S.W.2d 349 (Tex. 1998) (established that defendant does not have to warn sophisticated users about open and obvious defects).

- *Peace v. American General Life Ins. Co.*, 462 F.3d. 437 (5th Cir. 2006) (won reversal of summary judgment in ERISA case).
- *SMI Realty Mgmt. Corp. v. Underwriters at Lloyd's London*, 179 S.W.3d 619 (Tex. App.—Houston [1st Dist.] 2005, pet. denied) (won reversal of summary judgment in insurance-coverage case).
- *Nikolouzos v. St. Luke's Episcopal Hosp.*, 162 S.W.3d 678 (Tex. App.—[14th Dist.], 2005, no pet.) (won dismissal of appeal of temporary restraining order).
- *Davis v. Methodist Hosp.*, 997 S.W.2d 788 (Tex. App.—Houston [1st Dist.] 1999, no pet.) (won affirmance of summary judgment in libel case related to hospital credentialing).

Industrial Accidents, Catastrophic Releases, & Emergency Response

The Firm's emergency response team mobilizes in direct response to major industrial accidents, often being among the first to arrive at the scene. The Firm's representation in this regard has included conducting and managing accident response teams, OSHA and MHSA investigations, release reporting, and litigation resulting from major industrial accidents, whether it be a plant upset, explosion, derailment, pipeline rupture, or other type of catastrophic accident. Our attorneys employ a comprehensive approach to coordinating the investigation, claims, third-party litigation, and environmental regulatory response to major accidents by handling cause and origin investigations, regulatory interaction, hazardous materials response, and defense of claims arising out of such accidents and explosions. In addition, our attorneys work with companies to devise, test and drill on emergency response simulations, tabletop exercises and response plan review to assist in corporate readiness in the event of a major release, accident or emergency, including conducting internal investigations in the aftermath of such an event.

Oil & Gas / Pipeline Practice

Our litigators and regulatory attorneys bring a combined base of knowledge and experience to represent clients in a wide range of issues involving petroleum and chemical product pipelines. Our attorneys have conducted pipeline contamination and incident investigations; handled litigation relating to pipeline injection issues, pipeline ruptures, reserves ownership issues, royalty disputes and indemnity matters; and resolved complex cases involving mixed plume hydrocarbon contamination from hundreds of active or abandoned pipelines, coordination of extensive pipeline investigations and characterizations of mixed plumes, and funding of environmental remediation trusts to cover future costs.

In addition to oil and gas litigation, the Firm's attorneys have a wide variety of transactional experience drafting and addressing pipeline removal agreements, relocation/lowering of pipelines, drilling and title issues, negotiation of joint venture and operating agreements, pipeline rights-of-way matters, easement amendments, pipeline encroachments, access and testing issues, as well as lease, contract, indemnity and litigation issues associated with pipeline and crude/chemical transport.

Ports & Port-Related Business

The Firm has represented port authorities in numerous substantial matters involving complex environmental and litigation matters and has developed a special appreciation of the issues particular to ports and port-related businesses, including managing environmental risks, operational and legal issues raised by contaminated sediments, port tenant audit systems, and environmental litigation.

Through the years, the Firm's attorneys have developed a substantial body of knowledge regarding the myriad of issues particular to bulk terminals, liquid terminals, pipelines, fueling and transportation areas, seaports and other port-related industries. Representative litigation matters pertaining to ports include cases that addressed complex issues associated with dredging and disposal of contaminated sediments, provided for multi-million indemnification protection for the imposition of future regulatory requirements, resolved mixed plume hydrocarbon contamination from hundreds of active or abandoned pipelines, coordination of extensive pipeline investigations and characterizations of mixed plumes and funding of environmental remediation trusts to cover future costs. In addition, our ports-related practice group provides legal services pertaining to many other environmental, regulatory, commercial and litigation issues for our port-related clients, including areas such as:

- Local sponsor and cooperation agreements between ports and the United States Army Corps of Engineers.
- Confined Disposal Facilities/Dredge Disposal Areas' regulatory status, discharge, placement, and construction.
- Contaminated sediments, including the evaluation of such sediments for human health and ecological risk in situ, the effect of hydraulic and specialized environmental dredging techniques, and the characterization of such materials for upland, inland, and open water disposal.
- The development and implementation of sediment management guidelines under the corresponding USACE manuals and regulatory schemes.
- Assessment of wetlands, determining the jurisdictional nature of wetlands and mitigation issues associated with impacted wetlands.
- Section 401 and other federal, state, and local permitting for port operations.
- Co-located facility permitting, co-mingled storm water and emissions calculations, and compliance.
- Spill control and countermeasure plans for ports and terminals.
- Mobile fueling issues, off-loading, and quarantine issues.
- Negotiating and drafting leases, pipeline easements, tariffs and indemnity agreements governing the relationships between ports and their tenants and neighboring operators.
- Development of tenant audit systems and educational programs for port users.
- Environmental insurance placement covering port facilities, including CDFs.
- Wastewater treatment/processing issues.

Railroad Operations & Litigation

The Firm represents some of the nation's largest railroads involving a wide array of issues and areas affecting their core operations, including crossing accidents, environmental matters, emergency response, claims under the Federal Employers Liability Act ("FELA"), and all other areas of railroad operation. The attorneys at the Firm have tried well over a hundred cases throughout Texas on behalf of railroads involving damages for death, catastrophic brain damage, coma, loss of limb and paraplegia and quadriplegia, and they have responded to some of the most serious accidents and derailments our clients have faced. Their FELA experience involves trials for claims of muscular-skeletal injury, trauma, lower extremity disorders, and cumulative trauma. Our attorneys have achieved a record of success for their clients of which they are justifiably proud.

Our attorneys are often asked to respond to the scene of the accident on the initial response team, side-by-side with our clients, to assist in coordinating the investigation and the immediate response to any safety,

environmental, or forensic issues. We take pride in our 24-hour availability to our clients should an emergency arise requiring our counsel. Our attorneys try cases in the toughest venues and look forward to the challenge of assisting our clients to resolve their most serious issues in any forum.

Together with their experience in representing railroads in personal injury actions, our attorneys also have developed a wealth of experience in representing our railroad clients in matters involving environmental laws and regulations, hazmat issues and releases and reporting requirements. The Firm represents its clients in resolving a wide variety of legal issues arising out of impacted industrial properties. We have assessed hundreds of properties owned by railroads to determine the origination, scope, and identity of potential contaminants from tenants and other parties and have been successful in resolving the attendant clean-up obligations and cost recovery claims both against our clients and on behalf of our clients, including recovering clean-up costs from other responsible parties through negotiated settlements and litigation. Our attorneys routinely apply their experience in the application of environmental laws to resolving a multitude of issues arising out of operational properties and other real estate holdings involved in railroad operations.

The demonstrated experience our attorneys bring to litigation and its environmental practice makes the Firm ideally suited to handling the complex interplay of various civil and statutory laws that apply to all aspects of railroad and other industrial operations.

Partnering and Diversity Opportunities – Minority and Woman-Owned Business Enterprise (MWBE) Certifications

Baker • Wotring LLP brings a wealth of knowledge, flexibility and capabilities to assist clients as they explore a variety of legal programs designed to partner their legal resources and produce combined efficiencies, reduced legal costs and in some cases, the ability to meet their diversity goals with lawyers who have been vetted for their ability to produce high-quality legal work for the largest of companies. Our attorneys have worked at some of the nation's largest and most elite law firms and are well-versed in the handling of complex litigation and national dockets for a wide variety of clients. Our size and structure allows us to enjoy the flexibility of participating in a variety of team structures, partnering relationships with clients or other firms, and to participate in innovative and collaborative programs that could benefit the client in their efforts to form regional or national counsel teams that are diverse in nature.

As a nationally-certified woman and minority-owned firm, Baker • Wotring LLP is accustomed to partnering with majority firms on cases and dockets to form a robust and diverse legal team that may also serve the mutual clients' gender, minority, diversity and inclusion goals. Baker • Wotring LLP holds certifications from NAMWOLF (National Association of Minority and Women Owned Law Firms), WBENC (Women's Business Enterprise National Council), NMSDC (National Minority Supplier Development Council), MBE (Minority Business Enterprise) from the City of Houston, and the State of Texas as a Historically Underutilized Business (HUB). The Firm has frequently been recognized for its long-term commitment and work in promoting gender fairness and inclusion initiatives designed to advance opportunities for women and minorities in the legal profession.



We recognize the power of partnering and welcome the opportunity to team with in-house corporate legal departments and other law firms across the country in innovative and collaborative arrangements that can benefit our clients.