

# Andrew Pearce

Shareholder, Litigation Group Chair

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Andrew Pearce began with BoyarMiller's Litigation Group in September 2007 after clerking at the firm during law school. Since joining the firm, he has represented both individuals and corporations in all types of commercial and business litigation. In all endeavors, Andrew strives to embody the mission of BoyarMiller: to provide counsel beyond expectations, build lasting relationships and make a meaningful difference in people's lives.

While at South Texas, Andrew received the Dean's Award for Outstanding Student Advocate, the Student Bar Association's Award for Outstanding Male Graduate, and election into the National Order of Barristers. He was chairman of the Board of Advocates, a member of Law Review, and represented South Texas College of Law's nationally recognized advocacy program at six varsity competitions.

Prior to law school, Andrew was an Account Manager for one of the largest industrial water-treating chemical manufacturers and distributors in North America. During that time, he worked closely with every municipality and oil and chemical refinery in the greater Houston area.

## EDUCATION

- JD, South Texas College of Law
  - South Texas Law Review, Member
  - The Order of the Barristers
- BJour, University of Texas

## AWARDS & RECOGNITIONS

- Texas Super Lawyers Rising Star (2013-2017)
- HBA President's Award recipient (2012)



- Dean's Award for Outstanding Student Advocate
- The Student Bar Association's Award for Outstanding Male Graduate

## AFFILIATIONS

- Texas Bar Foundation, Fellow
- Houston Young Lawyers Association Foundation Fellow
- Houston Bar Association, Member
- Texas Bar Association
- American Bar Association

## COMMUNITY

- HBA Litigation Section Chair (2018-2019)
- South Texas College of Law Houston Alumni Association Board of Directors (2019)
- HBA 2019 Civil/Appellate Bench Bar Conference Committee Member
- HBA Litigation Section Chair Elect (2017-2018)
- HBA Litigation Section Treasurer (2016-2017)



## COMMUNITY CONTINUED

- HBA John J. Eikenburg Law Week Fun Run Co-Chair (2012-2013) and Committee Member (2010-2017)
- HBA Habitat for Humanity Committee Member, (2013-2014)
- South Texas College of Law Houston Varsity Moot Court Program, Advocacy Adjunct

## RELEVANT REPRESENTATIVE MATTERS

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### BUSINESS LITIGATION

- Obtained judgment of more than \$9 million on behalf of entrepreneurs related to the sale of their valve company to a New York-based private equity firm. After the sale, the buyer asserted indemnification claims against the entrepreneurs based on pre-sale representations allegedly made by the entrepreneurs. In doing so, the buyer sought to avoid paying the bulk of the purchase price for the entrepreneurs' company. On competing summary judgment motions, the New York Supreme Court – Commercial Division rejected the buyer's claims (including claims for fraud, breach of contract, indemnification, and set-off) and granted the entrepreneurs' affirmative claims for breach of the various promissory notes at issue. The New York Court also awarded attorney's fees to the entrepreneurs.
- Won a unanimous jury verdict of \$1.3 million on behalf of two former partners of an accounting firm based on the accounting firm's failure to pay amounts owed to the partners following their separation from the firm, including amounts owed to them for the repurchase of their shares of stock in the accounting firm. The jury also unanimously rejected a counterclaim filed by the accounting firm in which the firm sought more than \$750,000 in damages based on alleged breaches of non-compete provisions, confidentiality provisions, and buy-sell provisions of the partners' employment agreements which would have required the former partners to pay the firm for any clients that left with the former partners.
- Obtained summary judgment in bill of review proceeding initiated to vacate default judgment in state district court, which had been rendered without proper service of process on non-resident defendant under the Texas long-arm statute.
- Represented supplier of oilfield steel for use in the oil and gas industry in a lawsuit brought by a competitor alleging a former employee provided our client (his new employer) with confidential customer lists, vendor contact information and sales data owned by his former employer. Successfully obtained transfer of lawsuit from United States District Court for the Northern District of Illinois to the Southern District of Texas based on argument that Texas was a more convenient forum as the location of material events, the residence of defendants and most potential non-party witnesses, as well as the relative interests of justice.
- Obtained dismissal of an antitrust action in federal court in Arizona.
- Won a jury verdict for a homeowner against a designer she hired to provide interior design services. Although our client paid the designer for several decorative pieces, the designer failed to purchase the items and then refused to return our client's money. The designer filed a counter-claim for the amount of money he alleged was still owed under the terms of the parties' agreement. A unanimous jury rendered a verdict in favor of our client finding that the designer breached their agreement.
- Representing a world leader in premium insulation coatings against former employees and distributor for misappropriation of its confidential information and trade secrets. Successfully obtained a temporary injunction to prevent the use and/or disclose our client's confidential insulating coating formulas and manufacturing processes.
- Won partial summary judgment on behalf of restaurateurs on a breach of fiduciary duty/usurpation of a valuable partnership opportunity and oppression claim filed by restaurateurs' partners. Also won a motion for partial summary judgment declaring a Right to Participate" clause contained in the Partnership's Operating Amendment invalid. Based on the alleged right to participate, the restaurateurs' partners claimed to have an interest in a subsequent endeavor created and developed by the restaurateurs. Summary judgment was awarded when it was shown that the "Right to Participate" clause was invalid, and subsequently, the Court failed to find any breach of fiduciary duty or oppression on the part of the restaurateurs. Ultimately, this summary judgment led to a favorable settlement of the entire dispute for our clients.

**BUSINESS LITIGATION CONTINUED**

- Defended an LTE cellular network provider in a lawsuit by a California-based wireless broadband network component provider in an action for breach of a contract to purchase component parts necessary to build an LTE network in West Texas.
- Represented individuals in disputes arising out of partnership agreements or other corporate entities, including limited liability companies and close corporations.
- Represented a homeowner in a dispute against home builder for failure to timely complete construction and subsequent refusal to return Earnest Money, Change Order Funds and Good Faith Money.
- Represented radio personalities in a lawsuit filed against them alleging breach of their affiliation and syndication agreements.
- Affirmed by the Fifth Circuit in a dispute involving opposing party's attempt to compel arbitration.

**CAPITAL FORMATION/PRIVATE PLACEMENT**

- Obtained summary judgment from Supreme Court of the State of New York, Commercial Division, and affirmed by New York Appellate Division, First Department. Representing sellers of a valve distribution company in claims brought by the buyer for alleged damages and claims for indemnification based on the terms of the parties' Stock Purchase Agreement. Sellers filed counterclaims for the amounts owed under the Stock Purchase Claims, as well as for fraud against the private equity firm that purchased the company and its principals.

**EMPLOYMENT LITIGATION**

- Won a unanimous jury verdict of \$1.3 million on behalf of two former partners of an accounting firm based on the accounting firm's failure to pay amounts owed to the partners following their separation from the firm, including amounts owed to them for the repurchase of their shares of stock in the accounting firm. The jury also unanimously rejected a counterclaim filed by the accounting firm in which the firm sought more than \$750,000 in damages based on alleged breaches of non-compete provisions, confidentiality provisions, and buy-sell provisions of the partners' employment agreements which would have required the former partners to pay the firm for any clients that left with the former partners.

- Represented employees in lawsuits against former employers based on employer's refusal to pay past due compensation or to honor obligations under employment agreements and/or severance agreements.
- Won a summary judgment on behalf of a software utilities and management company and its chief executive officer on a breach of contract claim filed by two of the company's former employees. The former employees claimed they were owed approximately \$360,000 based on an amendment to an original purchase agreement regarding the sale of a software program. Summary judgment was awarded when it was shown that the amendment lacked material terms and was unenforceable as a matter of law. Following summary judgment, the former employees settled their remaining claims on very favorable terms for our clients.
- Representing supplier of oilfield steel for use in the oil and gas industry in a lawsuit brought by a competitor alleging a former employee provided our client (his new employer) with confidential customer lists, vendor contact information and sales data owned by his former employer. Successfully obtained transfer of lawsuit from United States District Court for the Northern District of Illinois to the Southern District of Texas based on argument that Texas was a more convenient forum as the location of material events, the residence of defendants and most potential non-party witnesses, as well as the relative interests of justice.
- Represented a health care system in South Texas in a lawsuit against former insurance agents for violations of the Texas Insurance Code, violations of the Texas Theft Liability Act, conversion, fraud, fraud by non-disclosure, negligent misrepresentation, and breach of contract.
- Represented employers in the defense of employment discrimination claims.



## REAL ESTATE LITIGATION

- Pursued claims on behalf of a developer for breach of a contract following its attempt to purchase a piece of real estate. The client executed an agreement to purchase the property with an agent for the seller, but was then informed that the property's tenant had exercised its right of first refusal to purchase the property. Our client subsequently learned that the seller backed out of the sale with the tenant and our client sought to enforce its original purchase agreement. The seller argued that the agent who brokered the deal did not have authority to execute the agreement with our client. The parties settled the lawsuit on favorable terms to our client.
- Successfully defended both a no-evidence and a traditional motion for summary judgment moving to dismiss all claims filed by a mixed-use real estate developer against its former joint-venture partner.
- Represented real estate developer in dispute arising from the seller's breach of a contract for the sale of real estate. The seller executed the contract for sale to the developer, but refused to close the sale, claiming the agent that brokered the deal did not have authority to negotiate on its behalf.
- Represented commercial landlords and tenants in disputes involving non-payment of rent and other lease-related disputes.