

Mary-Ellen King

Partner

mking@thompsoncoe.com

512-827-2305



Mary-Ellen King is a multi-faceted, results driven, strategic leader and litigator with more than 19 years of experience in leading both legal and management operations. She has a strong history in identifying issues, guiding clients through litigation, assisting clients in capitalizing on areas of opportunity, advising clients on litigation avoidance, leading internal training efforts, developing effective teams and efficient processes, dispute resolution, litigation management, and trying cases.

Her primary focus is complex insurance litigation, commercial litigation, business litigation, and real estate litigation. She has extensive experience in representing insurers and insurance companies in complex litigation matters in the states of Texas, Louisiana, and Alabama and federal courts nationwide.

She has a history of being an aggressive and professional litigator with continued success in attaining favorable settlement where possible. If no settlement possible, she has a proven track record of obtaining favorable results via motion practice and trial.

Litigation

Mary-Ellen has expansive experience in large loss insurance defense litigation, mass tort litigation, catastrophe litigation, and insurance coverage litigation. Mary-Ellen handles all stages of litigation and has litigated hundreds of cases for insurers and insureds nationwide after Hurricanes Charley, Frances, Jeanne, Ivan, Dennis, Katrina, Rita, Wilma, Ike, Sandy, and Harvey.

She advises clients on the existence of insurance coverage related to the handling of insurance claims under commercial general liability, automobile, homeowners, personal and commercial property, and Standard Flood Insurance Policies. Mary-Ellen litigates insurance coverage disputes and extra-contractual liability lawsuits involving the duty of good faith and fair dealing, Stowers liability, the Texas Insurance Code, and the Deceptive Trade Practices Act. Mary-Ellen has a long history of representing multiple National Flood Insurance Program Write-Your-Own carriers following major flooding events.

From 2017-2020, Mary-Ellen served as in-house counsel for a Texas political subdivision where she managed internal litigation and outside counsel in various types of litigation matters with a focus on eminent domain litigation and real estate disputes.

Consulting & Training

As a service to her clients, Mary-Ellen provides seminars and training on a variety of topics related to business operations, risk management, claims management, and litigation.

Representative Experience

In 2016, obtained a \$0 defense jury verdict in Travis County in a minor impact auto collision with Stowers implications.

In 2016, obtained a favorable defense verdict in a Burnet County, Texas bench trial where the plaintiff was seeking over \$1 million dollars for injuries and lost wages related to a head on collision on Highway 281.

In 2015, obtained a favorable defense verdict in a first party underinsured motorist bystander injury case. Plaintiff sought damages in excess of \$1 million, and the jury returned a verdict of just over \$50,000 – approximately what had been tendered prior to the start of trial. Plaintiff's counsel was a well-known reptile theory litigator, and Mary-Ellen successfully fended off the reptile tactics with a comprehensive motion in limine and artful trial objections.

In 2021, she was on the trial team and was responsible for drafting the opposition that successfully defeated a Rule 12(b)(6) Motion to Dismiss in the Eighth Judicial District Court of Clark County, Nevada.

In 2016, Mary-Ellen, serving as national counsel for a National Flood Insurance Program Write-Your-Own Carrier, successfully defended and dismissed Plaintiff's breach of contract and extra-contractual claims, including common law fraud claims against the carrier. Plaintiff claimed that the insurer misrepresented the value of his home in its initial quote and renewal notices – representing to him that the cost to replace his home would be at least what was stated in the notice. The court ruled in favor of the carrier and in doing so recognized that the coverage limit stated in the renewal notices was not a material representation and that by its own terms, the policy was not a valued policy.

Mary-Ellen has successfully removed hundreds of cases to federal courts nationwide on the basis on federal question and diversity jurisdiction. In doing so, she has also successfully defeated motions to remands filed by the non-removing parties.

In 2007, she obtained a successful dismissal of a substantial portion of Plaintiff's claims in the Eastern District of Louisiana. Plaintiff was seeking state law-based claims, federal common law claims, constitutional challenges to the National Flood Insurance Act for violation of the non-delegation clause and claims under

the Federal Tort Claims Act. The court based its dismissal on the Fifth's Circuit decision in *Wright v. Allstate* and the intelligible principle doctrine.

In 2007, Mary-Ellen obtained a favorable motion for summary judgment result for her insurer client in the Southern District of Alabama. She argued and successfully won a MSJ precluding a fraud claim based on misrepresentations by the insurance adjuster against a WYO Program Carrier. At the time, this was the first case of its kind in the federal of Alabama where the court ruled in favor of the WYO Program Carrier. The court also granted a motion for summary judgment for failure to file a proof of loss based on the 11th Circuit's ruling in *Shuford v. Fidelity*.

Prior to the 11th Circuit's ruling in *Shuford*, Mary-Ellen argued and successfully won a motion for summary judgement precluding Plaintiffs' recovery for failure to meet the conditions precedent to filing a lawsuit.

Awards & Recognition

WESTLAKE ROTARY CLUB

Rotarian of the Year

2022

MARTINDALE-HUBBELL

Silver Client Champion Rated

MARTINDALE-HUBBELL

AV Preeminent Peer Review Rated

Related Services

Business and Commercial

Insurance

Publications & Speaking Engagements

One Hundred Thirty-One Carriers Jointly File Subrogation Lawsuit For Proceeds Paid From Winter Storm

Uri

Jan 5, 2022

Update & Recap: Winter Storm Uri and Impact on Gulf Coast Coverage Cases

December 2021

Pandemic Practice Pointers

Austin Lawyer, official publication of the Austin Bar Association

Nov 1, 2021

Pandemic Practice Pointers

Austin Lawyer, official publication of the Austin Bar Association

November 2021

Louisiana Single Deductible Statute

Thompson Coe

January 5, 2022

Alfa Life and Health Insurance Compendium

Avoiding the Bad Faith Setup

CLM Southwest Conference

Exempt Employees under the Fair Labor Standards Act

The Alabama Municipal Journal

Flood Insurance 101; Filing the Proof of Loss for Hurricanes Gustav and Ike Claims

Texas Young Lawyers Association E-News

June/July 2009

I Love Insurance podcast

Order Out of Chaos: Adjusting Claims and Litigating Weather Related Catastrophes

CLM Magazine

The Fair Labor Standards Act: A Brief Overview

The Alabama Municipal Journal

Weathering the Storm: Weather-Related Claims and Litigation

CLM Annual Conference

Winter Storm Uri: Presenting, Adjusting, and Litigating Claims

Austin Lawyer

Education, Admissions & Activities

EDUCATION

University of Alabama School of Law

J.D., 2002

University of Alabama

B.A., 1999

BAR ADMISSIONS

Texas

2009

Louisiana

2006

Alabama

2002

COURT ADMISSIONS

United States Court of Appeals

Fifth and Eleventh Circuit

United States District Court of Texas

Northern, Southern, Eastern, Western

United States District Court of Alabama

Middle, Northern, Southern

United States District Court of Louisiana

Eastern, Middle, Western

PROFESSIONAL AND COMMUNITY ACTIVITIES

Bar Association of the Fifth Federal Circuit

Louisiana Association of Defense Counsel

Texas RioGrande Legal Aid

Board member, 2021

Westlake Chamber of Commerce

Women's Symphony League of Austin

Board member, New Member Coordinator

Rotary Club of Austin Westlake

Rotary International

Paul Harris Fellow

Austin Bar Association

Executive Committee, Treasurer 2021-2022; Board of Directors, 2019-2021; Director of the Year, 2019-2020; Leadership Academy Member, 2013; Judicial Reception Committee Chair, 2010-2014; Solo Small Firm Section Chair, 2013-2014; Vice Chair 2012-2013, Programming Committee Chair, 2011-2012

Austin Bar Foundation

Gala Co-Chair, 2019-2021

Austin Young Lawyers Association

Board member, 2013-2014; Outstanding Young Lawyer, 2012

Dripping Springs Rotary Club

President 2015-2016; Foundation Chair, 2016-2017

Claims and Litigation Management Alliance (CLM)

President, Austin Chapter