

**Byron Henry**

Shareholder

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Practice Areas

- Business Litigation
- Civil Appeals

Practice Emphasis

Byron Henry is a Shareholder in the Appellate Law section of Cowles & Thompson, with his practice principally focusing on the areas of business litigation and civil appeals. Mr. Henry is a member of the State Bar College, the Dallas Bar Association, the Collin County Bar Association, the Federal Bar Association, and the Bar Association of the Fifth Federal Circuit. While active in the appellate sections of both the Dallas Bar Association and the State Bar of Texas, he also serves as the Chair of the Appellate Section of the Collin County Bar Association. He serves on a panel which provides weekly summaries of the opinions of the Fifth District Court of Appeals and also serves on the Judiciary and Fee Dispute Committees of the Dallas Bar Association.

Mr. Henry is Board Certified in Civil Appellate Law by the Texas Board of Legal Specialization. He is licensed to practice in Texas state courts as well as the United States District Courts for Northern and Eastern Districts of Texas, the United States Court of Appeals for the Fifth Circuit, and the Supreme Court of the United States. He has successfully argued cases in the Fort Worth and Dallas Courts of Appeal, and he has filed papers and briefs in many state and federal trial and appellate courts, including the U.S. Supreme Court, the Supreme Court of Texas, and the Fifth and Sixth Circuits. Mr. Henry also provides trial support in complex civil cases in the area of experts, summary judgment, jury charge practice, and post-judgment motion practice.

Special Honors

- Mr. Henry was named a "Texas Rising Star" in the Appellate area of law in the Texas Super Lawyer edition of *Texas Monthly and Law & Politics* magazine.

Representative Matters

- In October 2010, John Pease and Byron Henry successfully prosecuted a case for an oil and gas client involving multiple indemnity agreements with respect to a well blowout by obtaining a jury verdict awarding 100% of their client's damages.
- In August 2010, Byron Henry successfully defended a property management company in a case involving premises liability by obtaining affirmance in the Austin Court of Appeals of a take-nothing summary judgment in favor of his client.
- In July 2010, John Pease and Byron Henry successfully defended a property management company from allegations of premises liability resulting in a plaintiff's death by obtaining an affirmance in the Fort Worth Court of Appeals of a take-nothing summary judgment in favor of their client.
- In July 2010, John Pease and Byron Henry successfully defended a professional counselor from allegations of fraud and professional negligence by obtaining a take-nothing judgment in favor of their client at trial.
- On March 17, 2010, The Court of Appeals, Fifth District of Texas at Dallas, Overruled the Dallas Central Appraisal District's Second Motion for Rehearing in Response to the Court's December 16, 2009 Opinion On Motion for Rehearing. On December 16, 2009, the Court, on its own motion, withdrew its opinion of July 15, 2009 and vacated its judgment of that date, and issued a new opinion on DCAD's Motion for Rehearing. In the December 16, 2009 opinion, The Court of Appeals affirmed an unanimous jury verdict against DCAD that reversed its denial of an ad valorem tax exemption filed by the Firm's non-profit charitable organization, a veteran's organization. The jury found the non-profit charitable organization had an "incomplete improvement" that was under "physical preparation" as defined in the Texas Tax Code. **Richard Barrett-Cuetara** and **Byron K. Henry** filed the Appellee's Response to DCAD's First Motion for Rehearing. Richard Barrett-Cuetara was lead trial counsel in the unanimous jury verdict.

- On December 16, 2009, The Court of Appeals, Fifth District of Texas at Dallas, denied the Dallas Central Appraisal District's Motion for Rehearing. On the Court's own motion, it withdrew its opinion of July 15, 2009, vacated its judgment of that date and issued a new opinion on DCAD's Motion for Rehearing. The Court of Appeals affirmed an unanimous jury verdict against DCAD that reversed its denial of an ad valorem tax exemption filed by the Firm's non-profit charitable organization, a veteran's organization. The jury found the non-profit charitable organization had an "incomplete improvement" that was under "physical preparation" as defined in the Texas Tax Code. Richard Barrett-Cuetara and Byron K. Henry filed the Appellee's Response to DCAD's Motion for Rehearing. Richard Barrett-Cuetara was lead trial counsel in the unanimous jury verdict.
- On March 27, 2009, Byron Henry, along with Richard Barrett Cuetara, Steven Moses, and Mark Hill tried a jury case and obtained a six figure jury verdict along with an award of attorneys' fees and costs on behalf of its client. The litigation involved enforcement of two post-separation agreements (Separation, Release and Restructuring Agreement and Contribution and Indemnification Agreement) that related to the division of commercial shopping centers, the transfer of general partner interests, and liability of the managing general partner for committing "Bad Boy Guarantor" acts under the Indemnification Agreement. The Defendant was found liable for not indemnifying and reimbursing the Plaintiff for payment of ad valorem taxes to the lender.
- Successfully defended trial court's finding that immunity was waived for plaintiff's declaratory judgment and takings claims against in case involving a city's seizure and disposal of alleged stolen vehicles.
- Successfully defended summary judgment for client in breach of contract case regarding sale of apartment complex.
- Vacated judgment in excess of \$2 million and obtained dismissal of the case by successfully arguing plaintiff lacked standing as an unadmitted assignee of a limited partnership interest.
- Successfully defended summary judgment in favor of client for conversion.
- Successfully defended summary judgment in favor of client in breach of contract case by arguing plaintiff could not recover attorney's fees as damages.
- Obtained reversal of judgment after jury trial and rendition of judgment for client by arguing unidentified witness should have been excluded.
- Obtained reversal of judgment after jury trial and rendition of judgment for client by arguing plaintiff's civil theft claim was preempted by federal law.
- Successfully defended judgment in favor of client for fraud and punitive damages regarding unpaid sales commissions.
- Obtained reversal of judgment for client by restricted appeal for insufficient evidence on plaintiff's conversion claim.
- Successfully defended take-nothing judgment in favor of client holding that provisions of the Texas Transportation Code are preempted by federal law.
- Obtained summary judgment for client in a health care liability claim on plaintiff's claims under the Emergency Medical Treatment and Active Labor Act.
- Obtained dismissal and attorney's fees for client in a health care liability claim for failure to file an adequate expert report.

Memberships

- State Bar of Texas
- Dallas Bar Association (Judiciary and Fee Dispute Committees)
- Collin County Bar Association (Appellate Section—Chair, 2008)
- College of the State Bar of Texas
- Federal Bar Association
- Bar Association of the Fifth Federal Circuit

Education and Court Admissions

- J.D., Texas Wesleyan University School of Law, *cum laude*, 1997
 - Citation Editor, *Texas Wesleyan Law Review*
- B.S. in Political Science and History, Howard Payne University, 1994
- Admitted to the State Bar of Texas, 1998
- U.S. Supreme Court
- U.S. Court of Appeals for the Fifth Circuit
- U.S. District Court, Northern District of Texas
- U.S. District Court, Eastern District of Texas