

## Kay Lynn Brumbaugh



### Partner

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### PRACTICE AREAS

Intellectual Property  
Litigation  
Antitrust  
Litigation  
Intellectual Property

### EDUCATION

JD, 1992, University of Virginia School of Law, Judicial Clerkship with the Honorable Sam B. Hall, Jr., US District Judge for the Eastern District of Texas, Marshall and Texarkana Divisions (1992-1993)  
BBA, 1989, High Honors, The University of Texas

### ADMITTED

Texas 1992  
US Court of Appeals for the Fifth Circuit  
US District Court for the Northern District of Texas  
US District Court for the Southern District of Texas  
US District Court for the Eastern District of Texas  
US District Court for the District of Colorado

Kay Lynn represents clients in the areas of antitrust litigation and counseling, class actions, and other complex commercial and business litigation matters. She also represents clients in connection with investigations by the Federal Trade Commission, the Department of Justice Antitrust Division and various states' attorneys general. Her antitrust representation encompasses assisting clients in obtaining antitrust clearance from federal and state authorities in connection with merger and acquisition transactions. Kay Lynn has provided representation for clients in many industries including energy, food and beverage, franchising and distribution, direct sales, consumer products, manufacturing, health care, insurance, commercial explosives, internet and e-commerce, transportation, telecommunications, and vitamins.

Kay Lynn was profiled as one of the "up and coming" antitrust lawyers in Texas in Chambers USA, America's Leading Lawyers for Business (2007 and 2008). She has also been recognized as a Texas "Super Lawyer" by Texas Monthly every year since 2003 and she was named one of the "Best Lawyers in Dallas Under 40" by D Magazine in 2002 and 2004.

### REPRESENTATIVE EXPERIENCE

- Defense jury verdict in antitrust class action in which bread buyers in the state of Texas alleged price-fixing conspiracy
- Assisted natural gas company in obtaining approvals from the Federal Trade Commission and the Texas Attorney General to buy assets ordered to be divested from the Conoco-Phillips merger
- Serving as Texas counsel to companies in ongoing patent infringement matters
- Dismissal and summary judgment affirmed by the Fifth Circuit Court of Appeals in case alleging exclusive dealing, monopolization and state law tort claims
- Defense summary judgment granted in monopolization and price discrimination case brought against major manufacturer by large group of terminated dealers
- Motion to dismiss granted in favor of distributor sued by competitor for alleged violations of state and federal antitrust laws
- Defeated class certification in price-fixing conspiracy case; order denying class certification affirmed by the Fifth Circuit Court of Appeals

## Kay Lynn Brumbaugh

- Represented national hotel and real estate franchisors in multiple breach of contract and trademark lawsuits against franchisees
- Design and implementation of antitrust compliance programs for clients in many industries
- *Harmar v. Coca-Cola Enterprises* - District Court of Morris County, Tx - trial and appeal of rule of reason antitrust case, 218 S.W.3d 671 (Tex. 2006)

### ARTICLES/PUBLICATIONS

- "Retrospective Review of Petroleum Industry Mergers" (with Jerry Beane), *Competition Law360* (November 17, 2008)
- ABA Section of Antitrust, *Market Definition In Antitrust: Theory and Case Studies*, publication expected in 2009. Kay Lynn has responsibility for the Natural Resource Markets chapter and is the author of the Oil sub-section.
- ABA Section of Antitrust Law, *Antitrust Law Developments 6th Ed.* (2007). Kay Lynn co-authored the Natural Gas section of the Regulated Industries chapter.
- ABA Section of Antitrust Law, *Antitrust Compliance: Perspectives and Resources for Corporate Counselors* (2005). Kay Lynn co-authored an essay.
- *Inside the Minds: The Art & Science of Antitrust Law: Leading Lawyers on Competition, Litigation and Globalization* (Aspatore, Inc. Oct. 2003). Kay Lynn authored a chapter.

### BRIEFINGS, SEMINARS & SPEECHES

- "Re-Thinking Litigation-Related Boilerplate Provisions: Do They Avoid or Encourage Litigation?" presented to the Andrews Kurth Business Transactions Section (September 2007)
- "Antitrust Issues in Franchising," Fundamentals of Franchising, American Bar Association Forum on Franchising in conjunction with the Dallas Bar Association (March 2007)
- "A Texas Antitrust Case from Trial through Appeal to the Texas Supreme Court" (co-presenter), Speech to the Texas State Bar Antitrust & Business Litigation Section at the State Bar of Texas Annual Meeting (June 2005)

### PROFESSIONAL/CIVIC AFFILIATIONS

#### Member

- Dallas Bar Association, Antitrust Section (Council Member, 2007 - present)
- State Bar of Texas, Antitrust and Business Litigation Section (Council Member, 2002-2005)
- American Bar Association, Antitrust and Litigation Sections and Forum on Franchising

#### Civic Affiliations

- Friends of WRR, the City of Dallas-owned classical music radio station
  - Board of Directors (2007)
- Junior Associates of the Dallas Museum of Art
  - An Affair of the Art, Underwriting Co-Chair (2006-2007) and Underwriting Committee (2005-2006)
- New Friends/New Life, Advisory Board Member (2004-present)
- MENTTIUM mentee (2005-2006)
- United Way of Dallas, Young Leaders' Society and Women's Leadership Council

### HEADLINE NEWS

- Thirty-Five Andrews Kurth Partners Named in Texas Super Lawyers 2008 (October 3, 2008)

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- Andrews Kurth Receives High Rankings in Chambers USA Guide (June 25, 2007)