



## **David M. Hymer**

Founding Partner  
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*“My approach to law is simple. I see what needs to be done, and I do it. I enjoy the process of taking a case from inception to conclusion.”*

### **Practice Areas**

Workers' Compensation • Nonsubscriber • Transportation • Premises Liability • Construction • Employment & Labor

David Hymer is a founding partner in the law firm of Hermes Sargent Bates, L.L.P. who focuses on employment-related liability and personal injury. His practice is devoted to defending personal injury lawsuits, including workers' compensation, nonsubscriber and other employer liability, premises liability, automobile and transportation accidents.

### **Representative Experience**

- The investigation and preparation which resulted in the Texas Department of Insurance – Division of Workers' Compensation finding that the claimant, a restaurant manager that suffered quadriplegic injuries from a motor vehicle accident when taking the restaurant's deposit to the bank, was not in the course and scope of employment and a multiple million-dollar workers' compensation claim was averted.
- Obtained a summary judgment in favor of an apartment complex and management company for claimed injuries due to a claimed toxic mold exposure of residents.
- After another firm was not successful before the Texas Workers' Compensation Commission, obtained a summary judgment concerning the compensability of the claim. The injuries involved a serious head injury with a permanent mental deficiency.
- Recovered over \$1.2 million after convincing the carrier to pursue a potential subrogation recovery in a dram shop claim instead of simply accepting the minimal policy limits from a drunk driver's insurer.
- Investigated and broke open a scheme among plant workers to stage and fraudulently report workers' compensation claims in a manufacturing plant, resulting in victories before the Texas Department of Insurance – Division of Workers' Compensation and eventual criminal prosecution.
- Successfully defended certified self-insured employer and workers' compensation carriers in a bad faith litigation resulting from denial of benefits.
- Tried workers' compensation claim of a national convenience store employee involving intoxication defense, resulting in a favorable jury verdict for the carrier.

- Successfully defended claim for Restraining Order and obtained a Summary Judgment in defending a municipality from alleged violations of constitutional rights by an apartment complex owner due to Cowboys Stadium and the traffic management plan instituted by the municipality.
- Served as expert witness for insurance carriers and third party administrator in workers' compensation bad faith litigation.
- Retained as expert witness for an attorney sued in legal malpractice claim arising from workers' compensation matters and provided the legal analysis resulting in dismissal of the legal malpractice lawsuit
- Consulted, wrote and implemented occupational accident plans for employers in Texas who opted to become nonsubscribers

### **Certifications**

- Board Certified in Workers' Compensation Law by the Texas Board of Legal Specialization – since 2004

### **Bar Admissions**

- State Bar of Texas – 1989
- United States District Courts for the Northern, Eastern, Southern and Western Districts of Texas
- United States Court of Appeals for the Fifth Circuit

### **Education**

- Bachelor of Arts Degree from Texas A&M University in 1986
- Juris Doctor Degree from Texas Tech University School of Law in 1989.
  - Board of Barristers Member
  - Phi Delta Phi
  - President, Student Bar Association

### **Awards & Recognitions**

- Rated AV by Martindale-Hubbell
- Selected as a "Texas Super Lawyer" by *Texas Monthly* and *Law & Politics Magazine*, 2004 – 2007
- Selected as a "Texas Super Lawyer" in Workers' Compensation Law in *Super Lawyer Corporate Counsel Edition* in 2008
- Board Certified in Workers' Compensation Law by the Texas Board of Legal Specialization – since 2004

### **Publications & Presentations**

- Presenter, "Winning Strategies for Workers' Compensation Claims," Texas Workers' Compensation Forum, Dallas, Texas, September 14, 2006; "Changes to Texas Workers' Compensation Law," Introduction to Workers' Compensation, Lorman Educational Services, July 26, 2006.
- Presenter, "Texas Nonsubscriber Law," to LSG Sky Chef (Dallas) (March 19, 2012)
- Presenter, "Avoiding Bad Faith in Workers' Compensation Claims," to Berkley Specialty Underwriting Managers, LLC (Irving) (September 16, 2011).

- Presenter, "Avoiding Bad Faith in Workers' Compensation Claims," to Gallagher Bassett (Houston) (March 18, 2010).
- Presenter, "Avoiding Bad Faith in Workers' Compensation Claims," to Broadspire (February 26, 2009).
- Presenter, "Winning Strategies for Workers' Compensation Claims," Texas Workers' Compensation Forum, Dallas, Texas, September 14, 2006; "Changes to Texas Workers' Compensation Law," Introduction to Workers' Compensation, Lorman Educational Services, July 26, 2006.
- Presenter, "Avoiding Bad Faith in Workers' Compensation Claims," to Unitrin (June 15, 2006).
- Presenter, "Avoiding Bad Faith in Workers' Compensation Claims," to Sedgwick CMS (April 20, 2006).
- Presenter, teleconference on "Workers' Compensation Reform: Analysis of HB 7" (February 23, 2006).
- Author, "Comp Commission Won't Be Missed" published in *Dallas Business Journal*, August 26, 2005.
- Author and Presenter, "Workers' Compensation Reform is coming to Texas, but will we be better off?," Hermes Sargent Bates 2005 Employment Law Conference.
- Texas Workers' Compensation Law: 2003 Legislative Changes
- Texas Supreme Court Considers the Baker Case
- Texas Supreme Court Considers the *Downs* Case
- Conducts courses for clients, insurance carriers and adjusters on workers' compensation issues and personal injury litigation.
- Author, on numerous chapters of *Advanced Workers' Compensation in Texas*, published by the National Business Institute (1996-1999) and has co-authored a manual entitled "*Texas Workers' Compensation Manual*."
- Frequent lecturer and author, on workers' compensation, claims handling, the Deceptive Trade Practices Act, bad faith and legal ethics.
- Author and lecturer, on various topics including workers' compensation law, insurance claims handling, ethics and litigation.
- Author and speaker, "Adjudicating the Workers' Compensation Case-The Carrier's Perspective" at National Business Institute's *Advanced Workers' Compensation Seminar*, Dallas, Texas (May 13, 2003).
- Author and speaker, "Legislative Changes Concerning the Texas Workers' Compensation Statute" at Lorman Education Services' *Workers' Compensation in Texas*, Dallas Texas (November 9, 2001).
- Author and speaker, "Overview of Texas Workers' Compensation, Return to Work and Employers' Rights Issues" and "Improving the Return to Work Process" at Lorman Education Services' *Return to Work Issues in Workers' Compensation in Texas*, Fort Worth, Texas (July 6, 2001).
- Author and speaker, "Important Issues in Claims Handling for Employers and Carriers" at Lorman Education Services' *Introduction to Workers' Compensation*, Fort Worth, Texas (June 22, 2001) and Dallas, Texas (May 3, 2001).
- Author and speaker, "Update 2001: Texas Workers' Compensation Law: Appeals Panel Decisions, Appellate Court Decisions, and New Legislation" at the DFW CMSA 9<sup>th</sup> Annual Conference, Hilton DFW Lakes Hotel, Grapevine, Texas (March 30, 2001).

- Author and speaker, "Overview of Texas Workers' Compensation, Return to Work and Employers' Rights Issues" and "Improving the Return to Work Process" at Lorman Education Services' Return to Work Issues in Workers' Compensation in Texas, Dallas, Texas (February 23, 2001).
- Author and speaker, "Medical Issues Arising in Workers' Compensation Claims" and "Disputing the Compensability of Workers' Compensation Claims and Defenses to Claims" at Lorman Education Services' Workers' Compensation in Texas, Fort Worth, Texas (December 7, 2000).
- Author and speaker, "Update in Workers' Compensation Law" at Lorman Education Services' Workers' Compensation in Texas, Dallas, Texas (November 10, 2000)
- Author and speaker, "Workers' Compensation Hearings in Texas: Techniques and Strategies" for National Business Institute, Fort Worth, Texas (September 14, 2000) and Dallas, Texas (September 7, 2000).
- Author and speaker, "Impact of Texas Appellate Court Decisions on Workers' Compensation Litigation" at Workers' Comp Publication's Workers' Compensation Rules and Litigation Course in Dallas, Texas (February 11, 2000).

### **Memberships**

- State Bar of Texas
- Dallas Bar Association
- Texas Association of Defense Counsel
- Defense Research Institute
- Trucking Industry Defense Association
- Fellow, Texas Bar Foundation

### **Community Service**

- Troop Committee Chair for Boy Scout Troop 840, which is one of the largest Boy Scout Troops in the area and is Commissioner for other Boy Scout Troops and Packs.
- Lead Advisor for 90 mile backpacking trek at Philmont Boys Scout Ranch in 2008
- An avid woodworker and amateur carpenter, he regularly volunteers to build or repair houses with his church, Dallas Area Habitat for Humanity and other community service groups.
- Appeals & Discipline Committee (Committee Member and then Chairman), Board Member, Commissioner and Coach for the Coppell Youth Soccer Association
- Daryl Response Team, United Methodist Committee on Relief. Providing assistance to communities in early days after a major disaster.

### **Personal**

David was born in Houston, Texas on July 28, 1964. He enjoys woodworking, camping, hiking and spending time with his wife and 3 children.