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SUMMARY

I have extensive first chair experience on a variety of complex business and commercial litigation matters with special emphasis on the areas of antitrust and unfair/deceptive trade practices, business torts, securities fraud, intellectual property, fiduciary duty, franchise and distributorship controversies, regulatory proceedings, and a wide spectrum of contractual disputes. My representative clientele over the years has included individuals and a wide range of businesses in a variety of industries, including multi-national farm cooperatives, high tech companies, financial institutions, franchisors, national distributors, publishing companies, airlines, software developers, pharmaceutical companies, public interest organizations, manufacturing firms, online service providers, and many more.

Coupled with my litigation background, I also have experience serving as general counsel for a nation-wide publishing corporation and membership on the boards of several corporations and non-profit organizations. As a result, I understand the needs of businesses faced with a broad range of complex legal and regulatory issues, and I am well

equipped to counsel clients on risk analysis, legal/regulatory compliance, litigation avoidance and management, due diligence, IP protection, and making sound strategic decisions.

After law school, I served as law clerk to The Honorable Frank Theis, District Judge for the U.S. District Court for the District of Kansas, and then worked in private practice in Kansas City with the law firm of Weeks, Thomas & Lysaught. I joined the law firm of Winstead, Sechrest & Minick, PC, in Dallas, Texas in 1982 as a shareholder. During my tenure with the firm, I served as head of the litigation and IP litigation sections. I was general counsel for Travelhost, Inc. before joining Calhoun, Bhella & Sechrest LLP as one of the founding partners in 2013. I am also a partner in Marcheavant LLP, an intellectual capital consulting firm.

I am certified in civil litigation by the Texas Board of Legal Specialization. I am licensed to practice law in Kansas (1972), Texas (1983) and North Carolina (2006), and I am admitted to practice before numerous U.S. District Courts, the Fifth and Tenth Circuit U.S. Courts of Appeal, and the United States Supreme Court. I have been a member of the *Pro Bono* College of the State Bar of Texas since 1992. I am rated AV Preeminent 5.0 out of 5 for Legal Ability and Ethics by Marquis Martindale-Hubbell Peer Review Ratings, and I have been recognized as a Texas Super Lawyer on a number of occasions over the years. In 2017, I received the Marquis Who's Who Lifetime Achievement Award in Law.

DETAILED BIO

Education

- Northwest Missouri State University, B.S., 1969 [Student Union Board President (1967-1969); Blue Key National Honorary Fraternity; and Who's Who at Northwest Missouri State University]
- University of Kansas School of Law, J.D., 1972, [*Order of the Coif*; Kansas Law Review (Associate Editor)].

Professional

- Student Co-Director, Douglas County Legal Aid Society, Lawrence, Kansas (1971-72)
- Special Counsel, Appellate Briefing Clerk, Kansas Attorney General's Office (1971-72)
- Law Clerk for The Honorable Frank Theis, U. S. District Judge for the District of Kansas (1972-1974)
- Associate/Partner, Weeks, Thomas & Lysaught (Kansas City and Overland Park, Kansas) (1974-1982)
- Shareholder, Winstead, P.C. (1982-1996) [Litigation Section Coordinator (1990-1991) and Intellectual Property Litigation Coordinator (1992-1996)]
- General Counsel, TRAVELHOST, Inc. (1996 to 2013);
- Partner and Co-Founder, Calhoun, Bhella & Sechrest, LLP (2013 to present);
- Partner, Marcheavant, LLC (2015 to present).

Professional Licenses and Admissions

- Licensed/Admitted: State of Kansas Bar (1972)
- State of Texas Bar (1983)
- State Bar of North Carolina (2006)
- U. S. District Courts for Kansas; Western District of Arkansas; Western and Eastern Districts of Oklahoma; Northern, Southern, Western and Eastern Districts of Texas; Eastern District of North Carolina; and miscellaneous other Federal District Courts.
- U. S. Court of Appeals for Tenth Circuit; U. S. Court of Appeals for Fifth Circuit
- United States Supreme Court.

Professional Honors

- Who's Who in American Law
- Who's Who in America; Men of Achievement
- Who's Who in Litigation, Dallas Business Journal (1993)
- Texas Super Lawyer, Texas Monthly and Law & Politics Magazines (2003-2008).
- Rated AV Preeminent 5.0 out of 5 for Legal Ability and Ethics by Marquis Martindale-Hubbell Peer Review Ratings
- Member, *Pro Bono College* of State Bar of Texas (1992 to present)
- Marquis Who's Who Lifetime Achievement Award (2017)

Areas of Specialization

- Board Certified *Civil Litigation* - Texas Board of Legal Specialization
- *Antitrust/Trade Practices*: Individual and multi-district litigation representation (plaintiff and defendant) involving unfair trade practices, price fixing, bid rigging, monopolization, Robinson-Patman Act price discrimination, group boycotts, tying arrangements and territorial exclusivity arrangements. Non-litigation experience includes performance of antitrust audits, analyses of potential mergers/acquisitions, establishing antitrust compliance programs/ guidelines, representation of clients in criminal grand jury and civil enforcement investigations, and providing general advice. Industries encompassed include oil companies (major and independents), cement, corrugated box, soft drink bottlers, computer hardware/software, agricultural cooperatives, dairy products, food packaging and distribution, plumbing and asphalt products. Also, substantial experience with handling non-compete disputes.
- *Securities*: Litigation of state and federal securities matters of a wide ranging variety (plaintiff and defendant) involving broker accounts, limited partnership/closely held corporate investments, commodities/ options transactions, insider trading, public offerings, and tax shelter transactions. Non-litigation experience includes arbitration of disputes, representation of clients in connection with SEC civil and criminal enforcement investigations, etc. Clients represented include individuals, brokerage firms, trustees, financial institutions, underwriters, private corporations, and general and limited partners/members.
- *Intellectual Property Matters*: Lawsuits involving breach of warranty/DTPA claims involving computer hardware and software, theft of trade secrets (computer software programs, customer lists, and miscellaneous other types of trade secrets), copyright infringement (computer software programs, computer hardware mask works, manuals, etc.), violations of technology licensing agreements, trademark infringement claims (trade names, logos, grey market goods, and trade dress), patent infringement, breach of confidentiality agreements/fiduciary duties, and enforcement of non-compete agreements. Non-litigation experience includes advising clients on various matters involving copyrights, trademarks, contractual warranty provisions, high technology licensing agreements, and various forms of contractual disputes. Also, prosecution of trademark applications, handling of domain name disputes, drafting various intellectual property documents, and general protection corporate intellectual property.
- *General*: Litigation, arbitration and general corporate experience in a wide variety of other general business/commercial matters (franchises, distributorships, civil RICO, lender liability, environmental, products liability, common law fraud and DTPA, non-compete, employment disputes, real estate fraud, ERISA, unfair competition, tortious interference, medical provider disputes, bankruptcy matters, construction disputes, insurance disputes, failed financial institutions, letters of credit, natural gas pricing disputes, corporate mismanagement, partnership

- disputes, shareholder derivative suits, etc.). Also, substantial litigation and administrative proceeding experience in a wide variety of matters involving disputes with state and federal governmental regulatory agencies.
- *Corporate*: General corporate matters of a wide variety, including: contract drafting and negotiation; intellectual property prosecution, monitoring, protection & agreements; handling and supervision of litigation; licensing; employee relations; workplace enforcement issues; policies, procedures and business/marketing practices; corporate compliance auditing; interfacing with outside tax, patent and corporate counsel; miscellaneous equity matters; insurance matters; customer disputes and collection matters; managing start-up company (executive and legal).

Speeches and Professional Publications

- NOTE, The Latest Chapter in the Continuing Controversy Regarding Professional Service Corporations—The Roubik Case, 19 Kan. L. Rev. 349 (1970)
- COMMENT, Wyman Y. James: Welfare's at the Door, 19 Kan. L. Rev. 486 (1971)
- Federal District Court Opinion Digests for Kansas Bar Journal (1978-1982)
- State Bar of Texas Professional Development Program, Selected Issues in Law 1989 Analyses -- 1990 Forecast: "The 'SUPERPOWERS' OF THE AGENCIES—The *D'Oench, Duhme* Doctrine, 12 U.S.C. § 1823(e) and the Federal Holder in Due Course Doctrine" (Houston and Austin 1989)
- State Bar of Texas Professional Development Program, 13th Annual Advanced Civil Trial Course, "Litigation Involving the FDIC" (Dallas 1990)
- Member of Dallas, Texas, Citizens Group for approval and construction of super-collider, super-conductor (SSC);
- Dallas United Nations Association, Human Rights Expo, "The Rule of Law and Human Rights" (Dallas 1990 & 1991).

Civic Affairs and Memberships

- Northwood Hills Elementary School (former Co-President of P.T.A.)
- Westwood Junior High School (former Co-President of P.T.A.)
- World Business Academy (member)
- Institute of Noetic Sciences (member)
- Campaign for the Earth (former Coordinator of Government and Politics Strategic Area and Chapter of "Global Report")
- Dallas United Nations Association (former Member, Board of Directors)

- Wings of Spirit Foundation (Co-founder, V. President, Board of Directors -- 1995 to present)

Client Counseling Specialties

- *Consulting Support and Advisory Services*: business creation and organization, business planning, deal structures, product development strategies, transactional support, competitive analysis and strategies, product/business differentiation, branding, etc.
- *Due Diligence*: business practices, risk analysis (competitive and regulatory), M&A, IP and product valuations, etc.
- *Litigation*: analysis, avoidance, offensive and defensive strategic planning, alternative dispute resolution and settlement strategies, oversight, and supervision
- *IP*: protection, monetization, enforcement, competitive IP blocking strategies, post-issue patent review strategies, transactional support, contract review and negotiations, technology development and transfers, licensing, outsourcing, product strategies, and overall strategic planning, guidance and advisory services (patent, copyright, trademark, and trade secrets)
- *Risk & Compliance Review*: litigation risk and regulatory compliance analysis of policies, procedures, business practices, contractual arrangements, investor relations, pricing practices, employment practices, etc.
- *Internal Investigations*: technology/trade secret leaks and/or disclosures of confidential information, self-dealing, breach of non-compete agreements, insider trading, conflicts of interest, whistleblower issues, and potential regulatory violations (environmental, securities, anti-trust, employment, etc.)
- *External Competitor Investigations*: trade secret theft or misappropriation, tortious interference with contractual and business relations, anti-competitive behavior and/or practices, IP infringements, etc.

Experience Highlights¹

- Creation, management of implementation, and ongoing compliance review and monitoring of company-wide processes, procedures, and business/marketing practices for largest U.S. travel magazine distributorship, as well as handling all attendant legal/regulatory issues, administrative proceedings, and litigation.

¹ NOTE: RESULTS OBTAINED ON BEHALF OF OTHER CLIENTS IN PARTICULAR CASES ARE IN NO WAY INDICATIVE OF FUTURE RESULTS IN SIMILAR MATTERS. THE RESULTS IN ANY CASE ARE ENTIRELY DEPENDENT UPON THE SPECIFIC FACTUAL AND LEGAL CIRCUMSTANCES PERTAINING TO EACH CLIENT'S CASE. AN ATTORNEY CAN NEVER GUARANTEE THE ULTIMATE OR LIKELY RESULTS IN ANY CASE.

- Served as outside litigation counsel to world's then largest farmer owned and operated cooperative in a variety of complex litigation matters, including successfully representing the interests of individual farmers and farm cooperatives in litigation and regulatory proceedings seeking to limit their ability to effectively take advantage of federal rules and regulations designed to enable farmers to compete with large multi-national grain and chemical corporations, as well as successful defense of lawsuit seeking \$25 million damages for alleged breach of contract in connection with purchase of output of 2 anhydrous ammonia plants.
- Represented a variety of clients in U.S. Department of Justice civil and criminal antitrust investigations/proceedings, as well as civil class actions and individual lawsuits, pertaining to price fixing and other anticompetitive behavior in the oil, dairy, plumbing, food supply, steel, soft drink bottling, and computer product industries -- including participation in representing client in "Big Eight Case" seeking to massively restructure petroleum industry.
- Represented trustee bank in class action lawsuit brought on behalf of returning Vietnam POW's and others in connection with nation-wide modular home securities investment scheme.
- Represented major shareholder of publicly held company in connection with alleged SEC insider trading securities violation resulting in finding of no violation.
- Managed structuring of statutory framework for establishment of tax exempt Port Authority Act to entice construction of automobile manufacturing plant; development of litigation strategy for obtaining expedited rulings of State's highest court on constitutionality; and active involvement in handling litigation solidifying legality of reconstituted authorizing act and tax exemption provisions enabling project to move forward.
- During the savings and loan crisis, oversaw and managed the orderly prosecution and disposition of over 3,500 lawsuits involving the assets of 35 failed thrifts acquired by clients.
- Served as chief arbitrator of 3 member arbitration panel appointed by U.S. District Judge in dispute involving price redetermination under 4 gas purchase and supply contracts post-deregulation between Mesa Petroleum and Kansas Power & Light. Arbitration award confirmed and adopted by U.S. District Court.
- Represented client in thwarting regional airline takeover attempt resulting in injunction, removal of airline management, and awarding of right to control of airline to client.

- Represented large coal mining company overturning administrative order of state corporation commission finding client in violation of Mined-Land Conservation & Reclamation Act.
- Represented regional hospital in dispute with large national health insurance carrier regarding continuing denials of certain hospital reimbursements for services deemed not to be "reasonable and necessary" in violation of applicable federal regulations.
- Prosecuted numerous state and federal lawsuits on behalf of major client for violations of non-compete agreements, tortious interference, and conspiracy, as well as successfully defending repeated legal challenges to the enforceability of client's non-compete agreements.
- Managed and participated in successful resolution of administrative proceeding against client arising from FTC's assertion of alleged non-compliance with the Franchise Act threatening to put client out of business.
- Represented nationally recognized rare coin dealer/expert in suit against insurance carrier for failure to pay claim for substantial value of stolen coins, as well as participation with client, in conjunction with local and federal authorities, in sting operation to reclaim stolen coins from Columbian drug ring.
- Represented manufacturer of surface acoustic wave devices in successful conclusion to suit accusing client of chemical contamination of headers allegedly resulting in malfunctioning of devices and substantial damages to wholesale supplier's customers.
- Represented numerous clients on both sides in cases involving allegations of unfair competition, DTPA violations, fraud, misrepresentation, breach of fiduciary duties, and various other related business torts.
- Defended and prosecuted trademark, copyright and patent infringement lawsuits (food packaging, restaurants, clothing, domain names, computer software, biotech, etc.), as well as cases involving alleged thefts of trade secrets and/or violations of confidentiality agreements.
- Successfully represented client in suit brought by Ralph Lauren alleging trademark infringement arising from client's parody on clothing products of man falling off horse.
- Successfully represented client in suit brought by Blue Bell Creameries alleging trademark in "Homemade Vanilla Ice Cream" and asserting infringement of same, as well as ice cream carton trade dress, by client's competitive product.

- Represented landowners to enjoin potential adverse environmental impacts on clients' property rights, as well as prosecution of inverse condemnation litigation against local and federal governmental agency actions causing substantial diminution in value of clients' property interests without just compensation.
- Successfully represented terminated chief executive officer and minority shareholder in suit against corporation, officers and directors, and majority shareholders for breach of contract, wrongful termination, breach of fiduciary duty, minority shareholder oppression, and conspiracy.
- Successful representation of healthcare insurance only provider in suit alleging fraud, DTPA claims, and violations of state insurance code.
- Representation of citizen challenge to approval of construction of cell tower in suburban community