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Practice History

Smyser Kaplan & Veselka, L.L.P., partner 1995-present.
Baker Botts L.L.P., associate 1977-1984, partner 1985-1995.
Law Clerk to the Hon. Joe McDonald Ingraham, U.S. Court of Appeals for the Fifth Circuit, 1976-1977.

Areas of Practice

Over the past 45 years I concentrated almost exclusively on litigation, including arbitrations and appeals, and have tried dozens of cases in state and federal courts, representing plaintiffs and defendants. My docket has included patent and trademark infringement suits, trade secret misappropriation, oil and gas controversies, the Foreign Corrupt Practices Act, breach of contract, fraud, and other business torts. I am Board Certified in Civil Trial Law by the Texas Board of Legal Specialization and have been elected to membership in the American Law Institute. In the last few years I have served as an arbitrator in several matters, most of which involve controversies in excess of \$50 million. My first exposure to patent litigation occurred in the late 1980's when I represented Exxon in hotly-contested litigation against Lubrizol involving antifoulant technology and motor oil additives. Since then I have always had at least one patent case on my docket at all times (and usually several such cases). I have also served as a court-appointed mediator in various matters, including a complicated and very contentious multiple-party controversy involving alleged barratry and numerous assets and tax liens, a messy multimillion dollar intra-family dispute, and various large contract cases.

Education

University of Texas Law School (J.D., with honors, 1976). Friars; Order of Barristers; Chair, Board of Advocates.
Princeton University (A.B., 1973). Woodrow Wilson Scholar. Thesis, *The Houston Independent School District 1969-73: A Case Study of Change*.

Representative ADR work in IP and technology cases.

After co-founding our litigation boutique, I began receiving calls to mediate or arbitrate various matters, including IP and technical matters. I served as a panel member in a dispute over misappropriation of computer "middleware."

- I served as a panel member in a dispute over delays in construction of an electricity generation plant that required extensive technical education to reach a decision.
- I chaired a panel in a dispute over covenants not to compete.
- I have been on at least a dozen panels.
- I have mediated multiple trade secret and other IP cases over the past 15 years, often after being contacted by attorneys at large, mid-sized and small firms who were previously adverse to me in litigation, or where I previously mediated or arbitrated cases.

Recent Representative litigation work in IP and technology cases.

I continue in an active litigation and arbitration docket, with some of my more recent IP-related matters including:

- Representing a patentee in the U.S. Court of Federal Claims in a suit involving technology for rerouting returned mail;
- Representing an individual accused of developing and misappropriating trade secrets involving downhole technology that later resulted in four patents;
- defending an S&P 500 corporation in a patent infringement suit involving offshore drilling technology, settled in 2020 when our client declared bankruptcy.
- Lead counsel for a teeth alignment company prosecuting a patent infringement suit against a competitor, which settled in 2019 for \$51 million three days before jury trial;
- Lead counsel for Quantlab companies in 2015 in a successful two-week federal jury trial over theft of their trade secrets (which included research on high-frequency trading strategies as well as technology to implement those strategies). Several defendants settled prior to trial for stipulated damages of \$28.5 million each and injunctive relief. The jury awarded over \$12 million in damages against a former employee who was a research scientist at Quantlab and a Wisconsin attorney/investor who was the CEO of the company established to exploit these secrets; the Fifth Circuit affirmed the trial court in all respects in 2017.
- Multiple lawsuits over trade secret misappropriation and covenants not to compete, on both sides of the docket, obtaining injunctive relief and defeating efforts to obtain injunctive relief, including cases ranging from pumping technology to equipment used for multiple oilpatch tasks.

Certifications, Memberships, Appointments, and Honors

Board Certified in Civil Trial Law, Texas Board of Legal Specialization.

American Law Institute.

American Board of Trial Advocates.

Institute for Transnational Arbitration of the Center for American and International Law.

London Court of International Arbitration Users' Councils.

Listed in Chambers USA, *Leading Lawyers for Business*, Commercial Litigation, each year beginning in 2007.

Named as one of Texas' SuperLawyers by *Texas Monthly* each year beginning in 2003.

Texas Aerospace Commission, 1994-99 (gubernatorial appointment).

State Bar of Texas Committee on Professionalism, 2005-07, 2009-2011.

State Bar of Texas Committee on Pattern Jury Charges Vol. 3, 1983-92; 1994-98.
Houston Bar Association, State Bar of Texas, American Bar Association, Houston Intellectual
Property Law Association, American Intellectual Property Law Association, Texas Bar Foundation.

Other

Eagle Scout

Volunteer Adult Leader with Troop 212 in Houston.

Married to Diana M. Hudson, retired partner at Hunton Andrews Kurth, L.L.P.