



## Barbara B. Edelman

Partner

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Barbara has extensive complex litigation experience and focuses on commercial litigation and many types of business disputes. Her litigation experience includes contract disputes, fiduciary duty claims, lender liability, fraud, negligent misrepresentation, trade secrecy, and financial class actions in state and federal courts.

Over the course of her career, Barbara has appeared in all of the federal district courts in Kentucky, numerous Kentucky circuit courts throughout the state and courts of other jurisdictions. She has tried more than 50 jury trials in state and federal courts and handled more than 30 appeals to the Kentucky Court of Appeals, Kentucky Supreme Court and the U.S. Court of Appeals for the Sixth Circuit.

She is a past member of the firm's Board of Directors and its Executive Committee.

Barbara was recently inducted into the University of Kentucky College of Law Hall of Fame, which recognizes distinguished alumni.

She is the 2012 recipient of the Fayette County Bar Association's highest honor - the Henry T. Duncan Award. This award recognizes a member of the bar whose integrity, leadership, and professional conduct exemplifies the highest ethical and professional standards that benefit the community.

Barbara is listed in *Best Lawyers*® in appellate practice, Bet-the-Company, litigation and commercial litigation. She has also been selected by Chambers & Partners - *Chambers USA*® in commercial litigation, Kentucky's *Super Lawyers*®, Kentucky's *Super Lawyers*® Top 25 Women and Top 50 Lawyers in the State, and *Benchmark Litigation* as a "Local Litigation Star," as well as a Top 250 Women in

Litigation in the nation.

In 2009, she was selected as a "Leading Woman in Central Kentucky" by *Business Lexington* and the Lane Report's "Top Women in Business." She is a frequent speaker on litigation and evidentiary issues. She has previously served on the Joint Rules Committee for the Eastern and Western Districts of Kentucky and on the Merit Selection Panel for the Sixth Circuit Court of Appeals to recommend nominees for the Bankruptcy Court of the Eastern District of Kentucky and on the Merit Selection Panel to select a federal magistrate judge for the Eastern District of Kentucky. She previously served as an assistant United States attorney for the Eastern District of Kentucky and the Department of Justice's Economic Fraud Commission.

## Services

- Litigation
- Class Action
- Appellate

## Education

- University of Kentucky College of Law (J.D.)
  - National Moot Court Team
- University of Kentucky (B.B.A., *with honors*)

## Bar Admissions

- Kentucky

## Court Admissions

- U.S. Supreme Court
- U.S. Court of Appeals for the Sixth Circuit
- U.S. District Court for the Eastern District of Kentucky
- U.S. District Court for the Western District of Kentucky

## Affiliations/Memberships

- Eastern and Western Districts of Kentucky, past Joint Local Rules Committee
- Sixth Circuit Court of Appeals Bankruptcy Court, Merit Selection Panel
- Magistrate/Judge for the Eastern District of Kentucky at London, Merit Selection Panel
- Federal Bar Association
- LexArts, past board member

- Fayette County Women's Bar Association, past president
- Kentucky Bar Association
- Kentucky Bar Association for Women, former treasurer
- Fayette County Bar Association
- University of Kentucky Law School Alumni Association, past president
- Governor's Counsel on Domestic Violence and Sexual Assault Civil Remedies Committee, former member
- Lexington Journal Club (14 attorney membership)
- St. Ives Journal Club (24 attorney membership), past chancellor
- Central Kentucky American Inn of Court, master
- Litigation Counsel of America, fellow

## Distinctions

- 2018 University of Kentucky College of Law Hall of Fame inductee
- 2012 Henry T. Duncan Award, highest honor of the Fayette County Bar Association
- Peer Review Rated AV in *Martindale-Hubbell*®
- *Bar Register of Preeminent Women Lawyers*™ (2013)
- "Top Women in Business," Lane Report
- *Chambers USA*®: *America's Leading Lawyers for Business*, Litigation: General Commercial
- *Best Lawyers*® (1995 - present)
  - "Lawyer of the Year" Lexington Appellate Practice (2014)
  - "Lawyer of the Year" Lexington Bet-the-Company Litigation (2012, 2013, 2015)
- *Benchmark Litigation*
  - "Local Litigation Star"
  - National "Top 250 Women in Litigation"
- Kentucky *Super Lawyers*®
  - Top 25 Women by *Law & Politics* (2008 - present)
  - Top 50 Lawyer by *Law & Politics*

## Experience

### **James A. Thompson and T.R. Technologies Ky, Inc. v. Edward L. Underwood, Crescent Capital Investments, Inc., et al.**

In this matter, the former owner of T.R. Technologies brought a claim for breach of contract, among other claims, stemming from his sale of a majority interest in his company to the defendants. The plaintiff was retained on a consulting basis to advise on the business. The defendants later determined that certain wrongdoings had

occurred and terminated the plaintiff from his consulting position. The plaintiff sued for breach of contract. We represented the defendants and filed counterclaims against the plaintiff for fraud, breach of fiduciary duty and negligent misrepresentation. The parties were seeking over \$10,000,000 in damages. The case was settled.

### **Anonymous Plaintiffs v. Large National Coal Company**

Our firm represented a large national coal company in its claims for breach of contract, fraud, misrepresentation and tortious interference with contract involving multiple coal contracts and assignments of contract for coal for a power company's North Carolina generating station. A settlement was ultimately reached.

### **Papa John's International, et al. v. Gary McCoy**

This is a case on appeal from the Floyd Circuit Court seeking a ruling on whether a franchisor with no involvement in its franchisee's day-to-day operations can be liable for torts allegedly committed by the franchisee's employees. We filed an amicus brief on behalf of the Kentucky Chamber of Commerce supporting Papa John's position. The case has been argued to the Kentucky Supreme Court and we are awaiting a decision.

### **Former Council Member v. Former Vice-Mayor**

The plaintiff was a former Lexington-Fayette Urban County Government council-member who brought claims against our client, the former Vice-Mayor of the Lexington-Fayette Urban County Government. In his claim, the plaintiff has alleged claims of defamation, tortious interference and abuse of process. We were successful in getting the case dismissed by the trial court on summary judgement which was recently affirmed by The Kentucky Court of Appeals.

### **Jaguar Cars, Inc. v. Blackhorse Motors**

Our firm represented Jaguar in a significant claim for breach of contract, RICO and fraud claims arising from a Jaguar dealer's conduct in submitting invalid warranty claims to the manufacturer. A favorable settlement was reached prior to trial.

### **Jaguar Cars, Inc. v. Kentucky Motor Vehicles Commission**

Our firm represented Jaguar in a claim alleging that the Commission was biased in favor of dealers and against manufacturers which prevented Jaguar from receiving a due process hearing before the Commission on its application to terminate the franchise of a Jaguar dealer. Jaguar prevailed, and this decision was affirmed on appeal in a published decision (*Jaguar v. Cottrell*, 1999 WL 34749489), with Jaguar also subsequently receiving an award of attorneys fees.

### **Resource Sales, Inc., Allied Resources, Inc., Cochise Coal Co., Inc. and SMCC, Inc. v. Louisville Gas & Electric Co. and Kentucky Utilities Co.; Resource Sales, Inc., Allied Resources, Inc., Cochise Coal Co., Inc. and SMCC, Inc. v. Western Kentucky Energy**

These companion cases concern disputes over two coal supply agreements. The coal producer declared force majeure and shut down one of its coal mines, thereby reducing (and ultimately stopping) all coal deliveries to our utility clients. Thereafter, our clients had to purchase coal at significantly higher prices than under the agreements, leading to approximately \$50 million in damages our utility clients now seek to recoup. The cases seek a declaratory judgment as well as breach of contract claims.

### **Restaurant Franchise Owner v. Landlord**

In this dispute, we represented an owner of a restaurant franchise in a dispute against a landlord over a lease valued in excess of \$5,000,000. Claims were made for breach of contract, injunctive relief and a declaratory judgment action. Following an injunction hearing in which our client was successful in enjoining the defendants, the case was settled.

### **Anonymous Plaintiffs v. ESOP Plan Trustees**

In this case, we represented two plan trustees of an ESOP on claims that were brought against them for breach of fiduciary duty and claims challenging the value of stock which had been sold by the plan trustees to the ESOP. The plaintiffs were seeking over \$30,000,000. Our representation of our clients began after judgment had been entered against the defendants on liability, but prior to a determination of damages. The matter was settled.

### **Ticona Polymers, Inc. v. Solutia, Inc.**

This case involved claims of breach of contract and breach of duty of good faith and fair dealing over a dispute involving a long term supply contract. The matter was disposed of on summary judgment; an appeal is pending.

### **Solutia Inc. v. FMC Corporation**

We advised the client with respect to all aspects of the case, which was originally filed in State Court in St. Louis, then dismissed and re-filed in the US Bankruptcy Court in NY following the client's Chapter 11 filing. The U.S. District Court withdrew the reference and assumed jurisdiction of the claims. We litigated these claims for a fraction of the cost that would have been incurred by New York counsel, and achieved a very favorable settlement for the client. The settlement was approved by the Bankruptcy Court without objection from any constituency in the bankruptcy. Following approval of the settlement by the Bankruptcy Court, all claims were dismissed.

### **Sue Spencer v. Feather, Inc.**

Our firm won a defense verdict at a jury trial on behalf of our client, Feather, Inc., who had been sued by the plaintiff on Title VII claims for same sex harassment and retaliation.

### **Thomas & King, Inc. v. Ronald T. Reynolds consolidated with Ronald T. Reynolds v. Thomas & King, Inc.**

These consolidated cases concerned allegations by a minority shareholder of Thomas & King, Inc., the country's 8th largest restaurant franchise company, of improper management and self-dealing by our clients, members of the company's Board of Directors. Among the contested actions is a share offering plan that resulted in the ownership dilution of the minority shareholder and the cessation of payments to the minority shareholder under a non-compete agreement. Dinsmore took the lead on all discovery matters, managed a document production comprising well over two hundred thousand pages in paper and electronic form, and handled all aspects of discovery involving seven expert witnesses on valuation, corporate governance and restaurant-related issues. We won a motion to dismiss several counts of the plaintiff's Amended Complaint, and a motion for summary judgment on specific allegations of wrongdoing, resulting in the dismissal of all derivative claims and a limitation of direct claims to those relating solely to the share offering. Our Daubert motion succeeded in precluding any testimony from the minority shareholder's liability expert. We filed new dispositive motions on the remaining claims. The matter settled a few weeks prior to trial.

### **Host Communications, Inc. v. Sprint Communications, Inc.**

Our firm represented Host Communications, Inc. in a declaratory judgment action as to whether Host was responsible to pay Sprint for certain telephone services supplied Host for various sites and facilities during the NCAA Tournament pursuant to the terms of Sprint's NCAA Corporate Partner Agreement, or whether the filed rate

doctrine permitted Sprint to charge Host a rate higher than agreed upon by the parties. A favorable settlement was reached.

### **Big Sandy Company, L.P. v. Sidney Coal Company and Cliffs Mining**

Our firm represented Big Sandy, the owner of land in Eastern Kentucky, for breach of contract and other tort claims seeking proper payment of delinquent coal royalties and seeking to terminate a long term lease for failure to pay these royalties. In a split decision, an arbitration panel ruled that, while the lease could not be terminated, Sidney Coal Company had breached the lease and ordered Sidney to pay overdue royalties to Big Sandy.

### **Breach of Fiduciary Duties**

Our client and certain fellow minority investors sold an electronic manufacturing services company, to a global electronic manufacturer which renamed the business. Two former executives with the selling company remained in the employ of the new company in lesser capacities. Upon the sale, our client executed a non-compete agreement, as did the two former executives as employees of the new company. Following the expiration of his non-compete agreement, our client invested in a new business, and hired the two executives to join him at his new firm. The company sued our client and the two executives for purportedly violating fiduciary duties, breaching contracts, and misappropriating the company's trade secrets, employees and customer relationships. We assumed responsibility for this matter after a preliminary injunction hearing was held in which our client and the two executives were represented by prior counsel, at which an injunction was entered against one of the executives. Upon our entry into the matter, we moved for a judgment on the pleadings and secured the dismissal of three counts of the six-count complaint, preventing the company from pursuing any of our three clients in connection with the operations of the new business. We further obtained a dissolution of the injunction upon the executive, allowing him to serve as the chief executive of the new business. The company filed an interlocutory appeal of these rulings, but did not secure its requested emergent relief from the Kentucky Court of Appeals. The company opted not to pursue the remaining breach of fiduciary duty-related claims, and the case was dismissed in full.

### **City of Cold Spring v. Kentucky League of Cities, Inc., et al.**

Via a purported class action complaint, the City of Cold Spring, Kentucky filed a shareholder derivative suit against Kentucky League of Cities, Inc. and its affiliates (collectively, "KLC") concerning various alleged transactions identified in an audit report prepared by Kentucky State Auditor, Crit Luallen. In addition to the derivative action, Cold Spring also brought a separate class action alleging direct personal injury against KLC and the 27 individually named KLC board members, who are all current or former mayors of cities throughout Kentucky, and former executives. Cold Spring, seeking to certify a class of nearly 400 cities and municipalities with an interest in KLC, contends that KLC and its directors and officers breached various fiduciary duties to KLC's member cities, misappropriated corporate funds, wasted corporate assets, and made unauthorized loans to directors and officers. On a joint motion to dismiss filed by KLC and the individual defendants, the Fayette Circuit Court construed the law in KLC's favor, dismissing the class action and derivative suit.

### **Large National Coal Company v. Power Producer**

Our firm represented the Plaintiff in this lawsuit, a large national coal company, for bad faith breach of a long term requirements contract which resulted in significant reductions in the tonnages of coal purchased from our client. A favorable settlement was reached while the case was pending in arbitration.

## **Bankruptcy Trustee v. Thoroughbred Farm Owner**

Defended fraudulent conveyance claims filed over transfer of property.

## **Class Action Plaintiffs v. Credit Company and Law Firm**

This was a class action claim against our client, a law firm, in which the plaintiff alleged violations of the Fair Debt Collection Act in collection proceedings. The plaintiffs sought in excess of \$20,000,000. After discovery, we successfully obtained summary judgment on behalf of our client.

## **City of Maysville v. Commonwealth of Kentucky, Finance and Administration Cabinet**

In this matter, we represent an organization of municipal governments across the Commonwealth of Kentucky. On behalf of our client, we filed a declaratory judgment action for interpretation of Kentucky funding statutes seeking a declaration from the Franklin Circuit Court that the statutes required that certain court fees be provided to Kentucky cities, rather than to Kentucky Sheriff's offices. The Franklin Circuit Court ruled in favor of our client on a Motion for Judgment on the Pleadings. The opponent appealed to the Kentucky Court of Appeals, and the case was ultimately settled in our client's favor.

## **Douglas Industries, Inc. and JAIR United, Inc. v. Lear Siegler Services, Inc.**

Our firm defended Lear against claims that it had failed to pay \$2.5 million owed to the plaintiffs for repairs they allegedly completed and parts they allegedly supplied on Lear's behalf to the Kingdom of Saudi Arabia and the Royal Saudi Air Force for F-5 aircraft and J-785 engines under certain U.S. defense contracts. A favorable settlement was reached prior to trial.

## **Former Client v. Kentucky Law Firm**

Defended law firm and its partners in a matter involving coal property valuation issues.

## **Francine Jackman, et al. v. Check Into Cash of Kentucky**

This is a class action claim brought against our client and its principal, alleging that certain transactions by the clients violated Kentucky deferred deposit statutes and constituted violations of Kentucky usury laws. The parties litigated this matter for a number of years. Portions of the case were appealed to the Sixth Circuit Court of Appeals, where we were successful on behalf of our clients in affirming a ruling by the lower district court that certain members of the purported class were ordered to arbitrate their claims rather than litigate them. This ruling was affirmed by the Sixth Circuit Court of Appeals. The plaintiffs' petition for writ of certiorari to the U.S. Supreme Court was denied. Later, the US District Court initially ruled that class certification would be denied, but later reversed itself and certified the class. The plaintiffs were seeking in excess of \$40,000,000. The case was settled following the certification of the class.

## **Automobile Parts Manufacturer v. Health Insurer**

We represented a manufacturer of automobile parts in a claim against its health insurer for breach of contract, breach of fiduciary duty and negligent misrepresentation in a dispute over the defendant's alleged failure to provide insurance coverages as promised. Our client sought over \$1,000,000 in damages. The matter was settled.

## **Defended against claims of wrongful discharge and defamation stemming from sexual harassment investigation**

An employee of our client Pamida, a former chain of department stores, was terminated following an investigation into claims of sexual harassment. The employee alleged that he was terminated as a result of reporting his concerns about “waste, fraud and abuse,” including the sale of out-dated over-the-counter medicine, and he filed a suit against our client claiming wrongful discharge in violation of public policy and defamation resulting from the investigation. We thoroughly investigated the claims, and determined that the employee’s termination was valid. We then obtained summary judgment on all the claims. *Stargle v. Pamida, Inc.*, 2007 U.S. District LEXIS 50579 (W.D. Ky. 2007).

## **Defended an employer who faced claims of gender discrimination and retaliation from a former employee**

We represented CHA Health in a matter when an employee filed suit after resigning her employment and was not rehired for her position after reapplying approximately one month later. After failing to be re-hired, the employee filed suit alleging that our client violated Kentucky’s Civil Rights Act and Equal Pay Act. She later amended her claims to include an allegation that she was not re-hired because of her sexual orientation, which she framed under a gender discrimination/sexual stereotyping theory, saying that she did not conform to gender and sexual stereotypes. The Kentucky Court of Appeals upheld summary judgment in favor of our client, and the Kentucky Supreme Court denied the plaintiff’s filing for discretionary review. *Crockett v. CHA HMO, Inc.*, 2008 Ky. App. LEXIS 103 (Ky. App. 2008).