



David A. Calhoun

Partner

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Location

500 West Jefferson Street
Suite 2800
Louisville, KY 40202

Honors

Highest Professional AV Rating by *Martindale-Hubbell Law Directory*. "David is a bright and energetic lawyer who aggressively and competently advances the position of his client. He is a skilled litigator. He is very comfortable arguing before a jury. In my opinion, David Calhoun is an excellent lawyer deserving high marks" -- Peer review comment from Martindale-Hubbell.

Education

1996 - J.D., University of Louisville School of Law

1984 - B.A., University of Louisville

Admissions

Kentucky

United States District Courts for the Western and Eastern Districts of Kentucky

United States Courts of Appeals, Sixth, Seventh and Eleventh Circuits

David Calhoun is a member of the Firm's Litigation and Dispute Resolution Service Team, and also serves as the Firm's Deputy General Counsel and Deputy Partner in Charge of Ethics and Loss Prevention. He has more than 22 years of experience as a trial and appellate lawyer, serving as lead counsel for both plaintiffs and defendants in a wide variety of complex commercial, insurance, securities, intellectual property, and trust and estates disputes.

Mr. Calhoun's clients include manufacturers, insurance companies, banks, retail brokerage and financial advisory firms, and trust and estate fiduciaries.

Representative Matters

- *William Kennedy v. Life Insurance Company of North America*, United States District Court, Western District of Kentucky. Obtained summary judgment for disability insurer in an ERISA coverage dispute, and successfully defended that judgment against appeal.
- *Bari Kemper v. Life Insurance Company of North America*, United States District Court, Eastern District of Kentucky. Obtained summary judgment for disability insurer in a review of the denial of ERISA disability benefits, and successfully defended that judgment against appeal.
- *Branch Banking and Trust Company, Trustee v. Pacific Life Insurance Company*, United States District Court, Western District of Kentucky. Lead counsel for the trustee of a life insurance trust suing life insurer for breach of contract due to its failure to process a 1035 exchange of the trust's variable life insurance policy in compliance with the policy terms. Jury trial resulting in verdict for the trustee and a judgment awarding the trust over \$470,000 in damages. Affirmed on appeal.
- *National Trust Insurance v. Heaven Hill Distilleries, Inc.*, United States District Court, Western District of Kentucky. Lead counsel for insured manufacturer in an insurance coverage action involving the question of whether various policy exclusions barred coverage and whether the insurance company would be entitled to reimbursement of the cost of defending the underlying action. Obtained summary judgment for the insured manufacturer on the issue of recoupment of defense costs, resulting in the insurer voluntarily dismissing the action.
- *Century Indemnity Company v. Begley Company, et al.*, United States District Court, Eastern District of Kentucky. Lead counsel for insured company in declaratory judgment action involving disputed coverage for alleged environmental pollution claims.
- *American Air Filter Company, Inc. v. Universal Air Products, LLC*, United States District Court, Western District of Kentucky. Lead counsel for manufacturer suing a competitor for cyberpiracy and trademark infringement.
- *Big Rivers Electric Corporation v. City of Henderson, Kentucky, and Henderson Municipal Power & Light*, American Arbitration Association. Represented the City of Henderson and its municipal electrical utility in this AAA arbitration of a multi-million dollar dispute involving the interpretation of an amendment to an electrical power sales contract between Big Rivers and the City.
- *Cambridge Business Solutions, Inc. v. QuinStreet, Inc. and NarrowCast Group, LLC*, United States District Court, Western District of Kentucky. Lead counsel for the Defendants/Counterclaim Plaintiffs in a copyright infringement case involving custom computer software.
- *Julia Cain v. American Commerce Insurance Company*, 332 S.W.3d 81 (Ky. App. 2009). Defense of an insurance company against class action allegations of bad faith settlement practices and sales practice violations of the Kentucky Consumer Protection Act, all based on a novel argument as to the interpretation of the added reparation benefits section of the Kentucky Motor Vehicle Reparations Act. Obtained summary judgment for the insurer. Affirmed on appeal.
- *U.S. ex rel. Jose Bonilla v. ISP Chemicals, LLC and International Specialty*

Products, Inc., United States District Court, Western District of Kentucky. Lead counsel defending parent-sub chemical products manufacturers in this False Claims Act *qui tam* fraud and retaliation case prosecuted by a relator who was a former company chemist. Obtained dismissal of all claims in the suit with the consent of the United States.

- *Boze et al. v. General Electric Company*, United States District Court, Western District of Kentucky. Lead counsel defending GE Aviation in a combined federal False Claims Act retaliation case. Obtained summary judgment in favor of GE Aviation on all three plaintiffs' claims.
- *ATC Distribution Group, Inc. v. Whatever It Takes Transmissions & Parts, Inc.*, 402 F. 3d 700 (6th Cir. 2005). Defense of a transmission parts distributor, its owner, and four of its employees from claims of copyright and trademark infringement, unfair competition, misappropriation of trade secrets, trade defamation, breach of employment contracts and non-competes, breach of fiduciary duty and tortious interference that were brought by a competing transmission parts distributor. Obtained summary judgments for each of the defendants at the trial level. Affirmed on appeal.
- *XL Specialty Insurance Company v. Fort Knox National Company*, United States District Court, Western District of Kentucky. Representation of insured in coverage dispute involving applicability of D&O policy exclusions, resulting in amicable resolution.
- *N. Goldring Corp. and Magnolia Distribution v. Heaven Hill Distilleries, Inc.*, United States District Court Northern District of Florida; Eleventh Circuit U.S. Court of Appeals. Obtained summary judgment for a distilled spirits manufacturer on claims of wrongful termination of distributorship/franchise and breach of contract brought by two terminated distributors. Affirmed on appeal.
- *Kern et al. v. Davis, et al.*, Jefferson Circuit Court, Kentucky. Defended the director and majority shareholder of a closely held corporation against fraud, breach of fiduciary duty and various other claims brought by minority shareholders challenging the director's ownership percentage and control of the company.
- Insurance coverage opinion counsel for multiple insurers.
- Defense of multiple retail brokerage and financial advisory firms and their registered brokers and advisors in over thirty NASD/FINRA arbitration cases brought by investors alleging losses in the six and seven figure ranges.

Representative Clients

- Heaven Hill Distilleries, Inc.
- Branch Banking and Trust Company
- Mapfre/Commerce Insurance Companies
- Intellectual Property Insurance Services Company
- CIGNA/Life Insurance Company of North America

Other Professional Experience

- Infantry Officer, United States Army, 1984-1992

Professional Activities and Memberships

- Trial Practice Instructor, University of Louisville Brandeis School of Law, Spring 2018
- Vice President, University of Louisville Army ROTC Alumni Council