

PRACTICE CONTACTS

- James W. Holbrook, III
- Elizabeth Kniffen

Zelle attorneys think smart, dig deep and talk straight. We focus on the end game – understanding our clients’ goals and the most efficient ways to achieve them.

When clients ask for advice, we give them our candid evaluation and recommendations – not a raft of disclaimers. Our approach typically involves comprehensive early case assessment and development of an overall strategy. Whether the goal is victory in trial or arbitration, or negotiation of a favorable resolution before or after litigation begins, the client’s needs and objectives come first. We partner with our clients in all phases of a case, keeping them up-to-date and involved.

Our attorneys offer extensive trial experience in state and federal courts and regularly represent clients in arbitrations and other alternative dispute resolution proceedings. A substantial portion of our cases involve class actions and/or multi-district litigation. Our clients range from large Fortune 100 corporations to smaller businesses and individuals.

Our cases are staffed efficiently by core teams. We offer flexible fee arrangements, including blended rates, reduced hourly rates with a contingent fee component, project-based fees, and in appropriate cases, contingent fee arrangements. Because we work on both sides of the docket, we bring efficiencies honed in our plaintiff’s cases to enhance the value we provide in defense matters.

REPRESENTATIVE MATTERS

Motor Fuel Temperature Sales Practices Litigation.

Zelle is defending a major integrated oil company in a case involving claimed violations of consumer protection statutes and various common law claims under the laws of 25 states. The core allegation is that it is deceptive to sell motor fuel at retail in uniform volumetric gallons without adjusting for the effect of temperature on the energy content of the fuel.

ABA 2000, ABA Founders LLC, ABA Operations LLC v. Mizlou Television Network, Inc. (C.D. Cal.).

Zelle attorneys represented the professional basketball organization in a suit filed against an alleged independent television network for breach of contract

and intentional interference with prospective business relationships. The case included allegations that Mizlou Television Network interfered with the ABA plaintiffs' negotiations for the national television broadcast of their playoff games. This case was settled favorably for our clients.

Weyerhaeuser Co. v. Thermogas Co., 620 N.W.2d 819 (Iowa).

Zelle attorneys represented Weyerhaeuser Co. in this action for negligence, strict liability, breach of contract and breach of express and implied warranties based upon allegation that a liquid petroleum fuel tank exploded prematurely. Weyerhaeuser asserted that the tank was defective, and that were it not defective, the tank would have withstood a fire at its facility for the three minutes it took the fire fighters to arrive on scene. Over Weyerhaeuser's objection, the trial court permitted the jury to consider Weyerhaeuser's comparative fault, and the jury found Weyerhaeuser 70% at fault for the damages it suffered. On appeal, the Iowa Supreme court reversed, agreeing with Weyerhaeuser that the district court erred in (1) directing a verdict for the tank distributor on Weyerhaeuser's claims of strict liability and breach of implied warranty of merchantability, (2) refusing to instruct the jury that the cause of the fire was legally irrelevant with respect to the negligence of Weyerhaeuser, and (3) refusing to give the jury a *res ipsa loquitur* instruction on Weyerhaeuser's negligence claim against the tank distributor.

Business tort, breach of contract, unfair competition action (N.D.Cal., Cal. Super. Ct., San Francisco Cty., Cal. Super. Ct., Contra Costa Cty.).

Zelle attorneys represent a corporate client in a number of cases involving claims for breach of fiduciary duties, fraud, fraudulent concealment, breach of contract, malicious prosecution, interference with prospective economic advantage, unfair competition and conspiracy to breach fiduciary duties. They are also defending the same client against claims by the defendant and other parties, which include allegations of unfair competition, private nuisance, interference with prospective economic advantage and business relations, and wrongful termination of employment.

Breach of contract, licensing agreement (N.D.Cal.).

Zelle attorneys represented a Silicon Valley company in a contractual dispute arising out of certain licensing agreements. This case was settled on terms favorable to our client.

Commercial Litigation

Business tort and other claims arising out of sale of business (N.D.Cal. and American Arbitration Association, San Francisco, California).

Zelle attorneys represented a party in an arbitration proceeding and in a federal court proceeding involving disputes surrounding the sale of part of a business. The case includes allegations of fraud, negligent misrepresentation, breach of fiduciary duty and securities violations.

Chrysler Corporation v. Iacocca (Mich. Cir. Ct., Oakland Cty.); Iacocca v. Chrysler Corporation (Cal. Super. Ct., Los Angeles Cty.).

Zelle attorneys represented Chrysler Corporation in disputes concerning Lee Iacocca's alliance with Kirk Kerkorian in alleged corporate control matters, as they related to litigation concerning Mr. Iacocca's Chrysler stock options. Shortly after Zelle attorneys succeeded in obtaining the dismissal of Mr. Iacocca's California action against Chrysler, the matter was settled.

Business tort, breach of contract, unfair competition action (Cal. Super. Ct., San Francisco Cty.).

Zelle attorneys represented a plaintiff food company in a complex action for breach of contract, fraud, negligence and interference with business relations. The plaintiff alleged that various defendants failed to promote its food products as required by certain contractual, fiduciary and other obligations, and that they interfered with ongoing and prospective business relationships of the plaintiff. The matter settled prior to trial.

Breach of contract - arbitration action (American Arbitration Association, Dallas, Tex.).

Zelle attorneys represented a party in a binding arbitration before a single arbitrator of the American Arbitration Association. This arbitration arose out of the sale of the stock of a company by our client and others to another company. The latter company sought to recover a portion of an escrow fund that was created pursuant to the stock purchase agreement.

Fiduciary duty claims (U.S. Bankr. E.D.N.Y.).

Zelle attorneys represented a former chief executive officer and directors of a company in this action against them for, among other claims, breach of fiduciary duty in connection with a leveraged buy-out.

Breach of contract, noncompetition clause action (M.D.Tenn.).

Zelle attorneys represented a manufacturer of sewing machines in a suit involving contractual disputes arising out of its purchase of defendant's business. A preliminary injunction was obtained concerning the parties' non-competition clauses. The case settled.

Trade secret theft, trade disparagement action (Ill. Cir. Ct., Cook Cty., N.D.Ill., 7th Cir., C.D.Cal.).

Zelle attorneys represented one of the top financial printers in various litigation involving competitors in the same business category. The disputes concerned allegations of stealing trade secrets and employees, as well as trade disparagement and other violations. Settlements were reached in all cases.