



Duris L. Holmes

Partner

504.593.0659

dholmes@deutschkerrigan.com

Practices

Banking Law

Business & Commercial Transactions

Commercial Litigation

Franchising & Distribution

Intellectual Property

Trusts & Estates

Industries

Banking

Retail & Restaurant

Mr. Holmes has more than 25 years of experience as a business lawyer, representing clients in arbitration and litigation as well as handling transactional matters. He also represents franchisors with respect to disclosure, relationship and termination issues.

Mr. Holmes also helps clients in the matters of business organization, contracts, directors' and officers' liability, bankruptcy and intellectual property as well as trusts and estates.

Mr. Holmes is an Eagle Scout and remains active in Scouting, serving on the Executive Board of the Southeast Louisiana Area Council of the Boy Scouts of America and as a Cub Scout leader. He is also a member of the board of Advocates for Academic Excellence in Education, Inc., which is the sponsoring organization for Benjamin Franklin High School, recognized as one of the top high schools in the United States. In 2008, Mr. Holmes received the *CityBusiness* Leadership in Law Award as one of the top 50 lawyers in New Orleans.

Bar Admissions

Louisiana

U.S. Court of Appeals for the 5th Circuit

U.S. Court of Appeals for the Federal Circuit

U.S. District Court for the Eastern District of Louisiana

Education

J.D., Tulane University, *cum laude*, 1986, Order of the Coif, The Order of Barristers, Chief Justice – Tulane Moot Court Board

Louisiana Tech University, 1980-1983, Omicron Delta Kappa, Lambda Chi Alpha Fraternity, Pas president and director – Theta Psi Zeta Corporation of Lambda Chi Alpha Fraternity

Professional Associations

- American Bar Association
 - Forum on Franchising (Litigation and Dispute Resolution Division)
 - Intellectual Property Law Section (Franchising and Insurance Committees)
 - Chair, Securities Arbitration Subcommittee (Business and Corporate Litigation Committee of the Section of Business Law)
- Louisiana State Bar Association
 - Antitrust and Trade Regulation Law Section
 - Corporate and Business Law Section
 - Consumer Protection Section
 - Lender Liability & Bankruptcy Law Section
 - Intellectual Property Law Section
- New Orleans Bar Association
- American Bankruptcy Institute
- International Association of Privacy Professionals

Accolades

- *Martindale-Hubbell* AV® Preeminent™ Peer Review Rated Lawyer
- New Orleans *CityBusiness* Leadership in Law Award: Top 50 Lawyers in New Orleans, 2008

Representative Successes

- Intellectual Property - Board of Supervisors of the Louisiana State University and

Agricultural and Mechanical College, et al. v. Smack Apparel Company, et al

Robert E. Kerrigan, Jr. and Duris L. Holmes of Deutsch Kerrigan favorably held damages to less than 10% of the award being sought by plaintiffs in an intellectual property trial, despite the underlying decision of liability—which was decided before the firm’s involvement in the case—being heralded as a landmark opinion.

Several universities have trumpeted the Eastern District of Louisiana’s July 2006 decision in Louisiana State University v. Smack Apparel Co. as a landmark opinion due to its grant of trademark protection for the unregistered color schemes used by LSU, Ohio State, the University of Oklahoma, and the University of Southern California. The plaintiff universities sued a t-shirt maker and its president under state and federal law for selling six unlicensed t-shirts that used the colors of the universities together with other indicia they claimed suggested some affiliation with the schools.

Attorneys Robert E. Kerrigan, Jr. and Duris L. Holmes were brought into the case after cross motions were filed for summary judgment as to liability. The district court ruled for the plaintiffs as to liability finding that the color schemes were protected despite the fact that they were not registered trademarks. The case then proceeded to a damages trial in November 2006.

Duris Holmes tried the case with James A. Tilly of Oklahoma City. After a two day trial, despite onerous instructions to the jury that the defendants were liable for trademark infringement, the jury awarded plaintiffs only \$46,000, including less than one-half of the profits which Smack derived from the sale of the t-shirts. In post-trial rulings, the district court rejected the plaintiff universities attempts to obtain broad injunctive relief and enhanced damages for willful infringement of three times the amount of actual damages.

On August 28, 2007, the district court completed its consideration of the case when it refused to award the universities the almost \$1 million in attorney’s fees and costs they sought as an exceptional case under the Lanham Act. Instead, the court awarded slightly more than \$100,000 only to LSU on its state law claims, resulting in a total recovery by the plaintiffs of less than 10% of the monetary remedies they sought. The defendants previously appealed the liability and damages awards to the United States Court of Appeals for the Fifth Circuit, and the parties are considering their options for appeal as to the district court’s post-trial rulings.

Board of Supervisors of the Louisiana State University and Agricultural and Mechanical College, et al. v. Smack Apparel Company, et al., 550 F.3d 465 (5th Cir. 2008)

Publications

- “Lawyer Ethics Considerations and Admissibility Issues,” *Handbook on Global Social Media Law for Business Lawyers*, 101-111. ABA Publishing, 2017
- “Private Antitrust Litigation News – Model Civil RICO Jury Instructions,” *ABA Business Section Subcommittee Journal*
- “New Orleans Intellectual Property News,” New Orleans Bar Association *Intellectual Property Committee newsletter*, Editor

Presentations

- “ETHICS: Social Media in Litigation: Opening Pandora’s Box.” The Network of Trial Law Firms, ‘Litigation Management in a New York Minute’, 2018
- “Avoiding Business Formation Pitfalls,” Propeller Workshop Series, Propeller Incubator, January 2017
- “In-Depth Internet Investigations of Clients, Witnesses and Litigants,” Panel discussion, New Orleans Bar Association Bench Bar Conference, 2011
- “Intellectual Property Law for Non-IP Lawyers,” Presentation, March 20, 2008, New Orleans, LA
- “Disaster Planning and Recovery Scenarios,” Presentation, The Network of Trial Law Firms

Seminar, 2001

- “Preventing Attacks [on Web Sites] from Disgruntled Employees or Customers,” Presentation, The Network of Trial Law Firms Seminar, 2000
- “WIPO Copyright Treaty and Performances and Phonograms Treaty,” Presentation, National Business Institute Seminar, "Copyright Law for the Digital Age in Louisiana," 2000