



## John T. Winemiller

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### Legal Background and Experience

1997-2000 University of Tennessee College of Law. John was Editor in Chief of the Tennessee Law Review, graduated summa cum laude, and was awarded the Order of the Coif.

2000-2002 Law clerk to the Honorable Curtis L. Collier, Chief Judge of the United States District Court for the Eastern District of Tennessee.

2002-2003 Law clerk to the Honorable James L. Dennis, Judge of the United States Court of Appeals for the Fifth Circuit.

2003-2008 Hunton & Williams LLP.

In April 2008, John moved to Merchant & Gould's newly opened Tennessee office, where he is a part of the Firm's litigation team. In addition to intellectual property litigation, John's legal practice and background includes a variety of commercial litigation matters, including the defense of class action, toxic tort, and product liability suits, as well as securities, contractual, real estate, and employment disputes.

John has successfully litigated cases before federal courts in the Eastern, Middle, and Western Districts of Tennessee, chancery and circuit courts throughout Tennessee and Kentucky, and state and federal courts of appeal in Tennessee.

Among other matters, John is currently representing a mortgage lender in complex litigation arising out of an alleged multi-million dollar Ponzi scheme related to speculative housing developments and a Fortune 100 manufacturer in products liability and personal injury actions.

In 2010, John obtained the dismissal of a \$1.5 million economic damages claim in a product liability action against a Fortune 100 manufacturer, resulting in a quick settlement on favorable terms.

In 2009, John represented a Fortune 250 environmental services provider in million-dollar municipal contract dispute and a national engineering services firm in a million-dollar construction fee dispute. His efforts positioned both cases for settlement on favorable terms. Also in 2009, John was part of a trial team that obtained a directed verdict for a financial services company sued for fraud and violation of the consumer protection act.

In 2008, John represented an internet retailer in defense of a Lanham Act suit involving alleged cyber squatting. He obtained a partial dismissal, which positioned the case for settlement on favorable terms. Kaiya Eve Couture LLC v. My Trendy Girl, Inc., Case No. CV 07-6294 (C.D. Cal., dismissed June 19, 2008).

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## John T. Winemiller (Continued)

In 2007, John obtained summary judgment for a Fortune 250 insurance broker in a multimillion-dollar coverage dispute. *Anderson Tully Co. v. Federal Ins. Co., Aon Risk Servs., Inc. of Missouri and Aon Fin. Servs. Group, Inc.*, Case No. 05-cv-02627 (W.D. Tenn., judgment entered Sept. 24, 2007). The decision was upheld on appeal. *Anderson-Tully Co. v. Aon Risk Servs. of Missouri, Inc., Aon Fin. Servs. Group, Inc.*, No. 08-5524 (6th Cir. Sept. 23, 2009). Also in 2007, John obtained judgment on the pleadings in a personal injury action against a Fortune 25 pharmaceutical company. *McCandless v. Pfizer, Inc. et al.*, Case No. 06-cv-051 (Tenn. Cir. Ct., dismissed Feb. 5, 2007).

In 2006, John obtained a favorable jury verdict for a nationwide book wholesaler in a contract dispute. *American Book Co. v. Fortner*, Case No. 163506-2 (Tenn. Ch. Ct., judgment entered June 2, 2006).

In 2005, John obtained summary judgment for a Fortune Global 500 company in a million-dollar contract dispute. *Triple H Distributing, Inc. v. Henkel Corp. et al.*, No. 2:04-cv-02108 (W.D. Tenn., judgment entered Mar. 18, 2005).

In 2004, John represented an internet company in the prosecution of a Lanham Act claim against a cyber squatter. The court's order granting his jurisdictional motion established precedent in the Sixth Circuit for service of process via email against cyber squatters. See *Popular Enterprises v. Webcom Media Group, Inc.*, 225 F.R.D. 560 (E.D. Tenn. 2004).

John comments on practicing law, "I am fortunate to represent a broad range of intellectual property and commercial litigation clients, ranging from metals manufacturers to infrastructure engineers and from financial institutions to internet entrepreneurs. This breadth of work requires me to continually learn about new businesses and technologies and to apply legal principles in new and changing environments. I thrive on finding creative solutions to difficult challenges. I know that hard work and sound judgment produce well-reasoned advice and favorable results."

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John is an adjunct professor at the University of Tennessee College of Law, where he teaches pretrial litigation.

Atlanta

Prior to becoming a lawyer, John received a Ph.D. and M.A. in music history and theory from the University of Chicago, where he taught before joining the faculty of the State University of New York at Stony Brook. His scholarly research focuses on the nexus between the creative process and eighteenth-century conceptions of intellectual property. His interest in the cultural history of copyright law led him to law school and, ultimately, to Merchant & Gould.

Denver

Knoxville

### Representative Publications

"The Endangered Species Act and the Imprecise Scope of the Substantial Effects Analysis," 18 *Tulane Environmental Law Journal* 159 (2004).

Madison

Casenote, *United States v. Scheffler*, 77 *Tennessee Law Review* 331 (1998).

"Recontextualizing Handel's Borrowings," 15 *Journal of Musicology* 444 (1997).

Minneapolis

"Borrowing, Copyright, and Proprietary Authorship," 8 *American Handel Society Newsletter* 1 (1993).

### Other

Omaha

- Chair, Federal Practice Section, Tennessee Bar Association
- Graduate, Tennessee Bar Association Leadership Law Class of 2006
- Past Chair, Knoxville Bar Association Law Week Committee
- Award of Merit Recipient, National Center for Missing and Exploited Children
- Steering Committee Member, The Performing Arts & Lecture Series
- Board Member, The Actors Co-op, Inc.
- Graduate, Carleton College magna cum laude
- Personal interests include reading, historic preservation, music performance, exercise, and travel

Seattle

Washington DC