

# **JAMES N. WALTER, JR.**

Capell & Howard, P.C.  
150 South Perry Street  
Montgomery, Alabama 36104  
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## **EDUCATION**

### **Washington & Lee University**

B.S. Business Administration (1978)

- *Cum Laude*

### **University of Alabama School of Law**

Juris Doctor (1981)

- *Summa Cum Laude*
- *Editor-in-Chief Alabama Law Review*
- *Dean M. Leigh Harrison Scholar*
- *Hugo L. Black Scholar*
- *ODK National Leadership Honor Society*
- *Order of the Coif*
- *Jason's Senior Honor Society*

## **PROFESSIONAL EXPERIENCE**

Clerk, Honorable Truman M. Hobbs, Sr., United States District Judge for the Middle District of Alabama (1981-82).

Associate, Bradley, Arant, Rose & White (1982-85).

Shareholder, Capell & Howard, P.C. (1985-Present).

## **ALTERNATIVE DISPUTE RESOLUTION EXPERIENCE**

Chair, Alabama Supreme Court Commission on Dispute Resolution (2021-22)

Co-Chair, Alabama State Bar Dispute Resolution Section (2017-18)

Alabama Academy of Attorney Mediators

Best Lawyers - Montgomery, Alabama Mediator of the Year (2022)

Registered on the Alabama Center for Dispute Resolution Arbitrator and Mediator Rosters

Served as mediator in over 100 cases since 2014

American Arbitration Association Roster of Neutrals since 2014

Best Lawyers - Montgomery, Alabama Arbitration Lawyer of the Year (2021)

Served as arbitrator in over 50 cases since 2014

### **LITIGATION EXPERIENCE**

Over 30 years civil litigation experience in federal and state courts. Extensive experience in commercial litigation, accounting, antitrust, banking, class action, contracts, construction, government, insurance, products liability and real estate litigation. Successfully argued appeals before the Eleventh Circuit Court of Appeals, the Court of Appeals for the Federal Circuit and the Alabama Supreme Court. Has litigated dozens of cases in federal and state courts.

#### **Representative federal court appeals and district court cases include:**

*Aviation Contractor Employees, Inc. v. United States*, 945 F.2d 1568 (Fed. Cir. 1991)

- Successfully argued before the Federal Circuit Court of Appeals that government contractor is entitled to cost adjustments in providing flight training to student pilots at Fort Rucker.

*Wadley Crushed Stone Company, LLC v. Positive Step, LLC*, 34 F.4th 1251 (11th Cir. 2022)

- Successfully argued before the Eleventh Circuit Court of Appeals that equipment supplier is entitled to summary judgment based on UCC statute of limitations and is entitled to recover on counterclaim.

*Castleberry v. Goldome Credit Corporation*, 418 F.3d 1267 (11th Cir. 2005)

- Successfully argued before the Eleventh Circuit Court of Appeals that the FDIC is not required to indemnify bank for payment of attorneys' fees under loan portfolio sale agreement.

*Consult America, Inc. v. Rankin*, 464 Fed. Appx. 818 (11th Cir. 2012)

- Won dismissal of RICO case against insurance agency by the Eleventh Circuit Court of Appeals.

*Jim E. Pitts, d/b/a J.P.'s Collectibles v. Jose Canseco, Beverly Hills Sports Council, Inc., et al.*, Civil Action No. 90-C-144-N (M.D. Ala.)

- Successfully defended major league baseball player and sports agent in two-week jury trial relating to alleged failure to fulfill contractual obligations.

*Computerland Corp. v. AMAC, Inc., et al.*, Civil Action No. CV-87-T-191-N (M.D. Ala.)

- Successfully defended franchisor against franchisee's counterclaims in jury trial.

*Coleman v. Cannon Oil Company*, 849 F. Supp. 1458 (M.D. Ala. 1993)

- Successfully defended retail gasoline seller in three-week antitrust jury trial in which nominal damages were awarded.

*AAA Cooper Transportation v. Wes-Pak, Inc.*, 2012 WL 847470 (M.D. Ala. 2012)  
- Obtained dismissal of claims against Arkansas corporation for lack of personal Jurisdiction.

*Bama Bayou, LLC v. FDIC, as Receiver for Silverton Bank*,  
2011 WL 11048113 (S.D. Ala. 2011)  
- Obtained order transferring case against FDIC to proper district.

*Bama Bayou, LLC v. FDIC, as Receiver for Silverton Bank*,  
Civil Action No. 1:11-CV-2281-ODE (N.D. Ga.)  
- Obtained order dismissing claims against FDIC for lack of subject matter jurisdiction.

*Gould v. National Life Insurance Company*, 990 F. Supp. 1354 (M.D. Ala. 1998)  
- Obtained order transferring case to insurer's home district.

*Daniels v. Mead Coated Board, Inc.*, 858 F. Supp. 1103 (M.D. Ala. 1994)  
- Obtained summary judgment for premises owner with respect to injuries to contractor's employee.

*Samson Plastic Conduit & Pipe Corp. v. Battenfeld Extrusionstechnix GMBH*,  
718 F. Supp. 886 (M.D. Ala. 1989)  
- Enforced choice of forum clause requiring litigation of claims in German courts.

**Representative state court appeals and cases include:**

*Ex parte Hampton Insurance Agency*, 85 So.3d 347 (Ala. 2011)  
- Obtained order from Alabama Supreme Court directing transfer of case against insurance agency to appropriate venue.

*Ex parte Excelsior Financial, Inc.*, 42 So.3d 96 (Ala. 2010)  
- Obtained order from Alabama Supreme Court directing dismissal of case against insurance broker for lack of personal jurisdiction.

*AstraZeneca LP, et al. v. State of Alabama*, 41 So.3d 15 (Ala. 2009)  
- Defended pharmaceutical company in three-week jury trial and on successful appeal of verdict to Alabama Supreme Court.

*Riscorp, Inc. v. Norman*, 915 So.2d 1142 (Ala. 2005)  
- Defended insurance company against shareholder claims in jury trial and on successful appeal of verdict to Alabama Supreme Court.

*Kershaw v. Kershaw*, 848 So.2d 942 (Ala. 2002)  
- Obtained decision from Alabama Supreme Court reversing trial court's order in estate dispute.

*Ex parte Allen*, 798 So.2d 668 (Ala. 2001)  
- Obtained decision from Alabama Supreme Court reversing trial court's denial of motion to compel arbitration.

*Kershaw Manufacturing Co. v. SouthTrust Bank*, 621 So.2d 1311 (Ala. 1993)  
- Obtained decision from Alabama Supreme Court affirming company's obligations under letter of credit.

### **PROFESSIONAL RECOGNITION AND AWARDS**

Listed in Best Lawyers in America - Arbitration  
Mediation  
Commercial Litigation  
Litigation – Banking and Finance  
Litigation – Securities  
Montgomery, Alabama Mediator of the Year (2022)  
Montgomery, Alabama Arbitrator of the Year (2021)

Listed in Alabama Super Lawyers - Alternative Dispute Resolution  
Business Litigation  
Civil Litigation-Defense

Fellow, Alabama Law Foundation  
Martindale-Hubbell AV Preeminent Rating  
Alabama State Bar Association Pro Bono Award (2014)

### **ADMITTED TO PRACTICE**

Alabama State Bar  
United States Supreme Court  
United States Court of Appeals for the Federal Circuit  
Eleventh Circuit Court of Appeals  
United States District Court for the Northern District of Alabama  
United States District Court for the Middle District of Alabama  
United States District Court for the Southern District of Alabama

### **MEMBERSHIPS, AFFILIATIONS AND ACTIVITIES**

Alabama State Bar  
American Arbitration Association Roster of Neutrals  
Chair, Alabama Supreme Court Commission on Dispute Resolution (2021-22)  
Co-Chair, Alabama State Bar Dispute Resolution Section (2017-18)  
Registered on the Alabama Center for Dispute Resolution Arbitrator and Mediator Rosters  
Bar Examiner in Equity, Alabama State Bar (1992-97)

## **PUBLICATIONS**

Comment, Local Legislation in Alabama: The Impact of *Peddycoart v. City of Birmingham*,  
32 Ala. L. Rev. 167 (1980)

*Award Vacated Due to Arbitrator's Failure to Disclose*, American Bar Association Section of  
Litigation Practice Points (2015)

## **COMMUNITY ACTIVITIES**

Montgomery YMCA Endowment Foundation  
Secretary/Treasurer

Church of the Ascension, Senior Warden (2016)

Montgomery Area Chamber of Commerce, Board of Directors (2018-19)

Hemophilia and Bleeding Disorders of Alabama, Inc.  
Board of Directors (2012-2015)