

**JOHN K. BOYCE, III**  
Attorney Arbitrator



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**Experience** 35+ years in a commercial transaction and litigation practice in state and federal trial and appellate courts. Extensive experience in the formation, maintenance, merger, and acquisition of a variety of business entities: corporations, limited liability corporations, limited partnerships, hedge funds, and preparation of various agreements connected therewith: cross-purchase, buy-sell, redemption, sale and leaseback transactions; preparation of securities memoranda and related compliance work; extensive commercial litigation for both lenders and borrowers involving financial transactions, lending agreements, guaranties, mortgages, contracts, and real estate; creditors' rights representing large publicly-held equipment lessors and financiers in collection matters; forensic accounting and professional malpractice; representing landowners, producers, and pipelines in oil and gas/energy royalty, lease, title, contract, regulatory, and transmission line easement disputes; AV rated by Martindale-Hubbell

**Arbitration Experience** arbitrator since the early nineties; participated in hearings lasting several days to several weeks; over the last ten years has handled domestic and international cases including:

chair of panel over breach of an indemnity clause contained in an asset contribution agreement for, *inter alia*, reduced "earn-out" payments attributable to attorneys' fees in collateral lawsuit

chair of panel of dispute whether a change of control or ownership in upstream, international entities triggered accelerated royalties for specific technology under the transfer provisions of an asset purchase agreement;

chair of panel over breach of "earn-out" provisions of IP acquisition agreement which turned on issues of infringement and invalidity of underlying medical device patents, fraudulent inducement and tortious interference;

panelist involving real estate developer in dispute with competing developer and lender over allegations of antitrust, tortious interference, and federal bank tying act violations

panelist in dispute between defrauded investors, in complex schemes, and professional liability carrier involving novel coverage issues in the enforcement of an existing arbitration award

served as panel chairman in multimillion dollar dispute involving 80+ parties growing out of the sale of series of interrelated limited partnership interests in high tech ventures which turned on issues of federal and

state securities laws, breach of fiduciary duty, and complex accounting claims;

panelist in case involving fiduciary negligence and fraud in connection with investment management firm's ("feeder fund") failure to perform due diligence over hedge fund investments;

member of three person panel involving claims between former owners and management team under a leveraged buy-out and redemption agreement concerning issues of breach of contract, breach of fiduciary duty, officer and director liability and accounting claims;

chair of panel involving claims of professional negligence against accounting firm for failure to identify related party and control relationships in Chinese subsidiary of US public company and failure to provide appropriate accounting advice to resolve issues stemming from whistleblower emails;

chair of panel involving competing claims of fraud, breach of contract, and complex accounting over twenty-five real estate projects each subject to a master development agreement and a Delaware series LLC operating agreement;

sole arbitrator in case involving claims of breach of contract and FDA regulations in the manufacturing of oncology drugs by pharmaceutical firm;

chair of panel involving breach of FDA regulations in manufacture of medical device by Korean affiliate of public company

panelist on three person panel to determine "fair value" of dissenting minority interest in bank holding company resulting from "squeeze out" and involving technical issues of appraisal methodology;

sole arbitrator in claims involving breach of contract, fiduciary duty, and accounting between physicians under limited partnership agreement;

chair of panel to determine breach of covenant not to compete between physician and radiology group;

panelist to determine claims of fraud, breach of contract, professional negligence and conspiracy in connection with "abusive" tax shelters

sole arbitrator involving breach of indemnity provisions of asset purchase agreement between two hospitals and management company re: claims of misallocation of Long Term Acute Facility (LTAC) and Private Hospital UPL Medicare Program funds and certification issues of LTAC facility;

sole arbitrator involving breach of recruiting contract and employment contract between hospital and physician re: alleged violations of Stark II regulations and Anti-Kickback statute

sole arbitrator involving Breach of Network Participation Agreement between physician and HMO re: payor/provider reimbursement

extensive additional experience involving negotiable instruments, investment securities, including initial public offerings, lending agreements, guaranties, foreclosures, real estate, oil and gas operations and other contract and partnership disputes, accounting fraud, and customer and investment manager disputes as well as construction and products liability claims

**Presentations and Publications** (most recent only)

co-author, "Guide to Best Practices in Commercial Arbitration) (4<sup>th</sup> Edition)  
(College of Commercial Arbitrators)

co-author, "Arbitration Texas Style", presentation to the 2017 Session of the Texas Legislature

speaker, "The Preliminary Hearing in Arbitration: International versus Domestic Perspectives",  
State Bar of Texas, ADR Road Show (2016)

speaker, "Deflategate and Trends in Arbitration", State Bar of Texas Construction Law Conference (2016)

faculty, AAA Panel Dynamics: Staying on Course When Things Don't Go As Planned" (2015)

speaker, "Legislative Update" Arbitration", State Bar of Texas Annual Convention (2015)

co-author, "Arbitration Texas Style" (2015) for the Texas Legislature

speaker and author, "Use of Arbitration Use in Fiduciary Disputes", State Bar of Texas, Fiduciary Litigation  
Conference (2014)

faculty, AAA Panel Dynamics: Effective Techniques for Panelists (2014)

speaker and author, "Arbitration Update", State Bar of Texas, Business Disputes Conference (2014)

speaker, "The Preliminary Hearing and Discovery", American Arbitration Association and the College of  
Commercial Arbitrators, "Managing an Effective Arbitration" Conference (2014)

author, "What Solo Litigators Need to Know About Arbitration", *Texas Bar Journal*, Vol. 76, No.11 (2013)

director and speaker, "Conducting Your First (or Next) Arbitration", State Bar of Texas, conference (Austin,  
2013)

author, "Has Positive Software Been Positive for Disclosure?", American Arbitration Association, *Dispute  
Resolution Journal*, Vol. 68, No.2 (2013)

speaker and author, "How to Write a Bad Arbitration Clause", State Bar of Texas, "Advanced Business Law"  
conference (Dallas,2013)

speaker and author, "Arbitration in Employment Disputes", State Bar of Texas, "Essentials of Business Law"  
conference (Houston, 2013)

speaker, "Arbitration Primer", Bell County Bench-Bar Conference (2012)

speaker and facilitator, "Regaining Speed and Economy in Dispute Arbitration, American Arbitration  
Association (San Antonio, 2011)

speaker, "Overview of Trends in Arbitration and Mediation", American Bar Association Webinar (2011)

speaker, "Crossing the Borderline: When Neutrals Consider Changing Roles", Texas Association of Mediators  
Annual Conference (2011)

speaker, "Current Trends in Alternative Dispute Resolution: What's Hot and What's Not", American Bar Association Webinar (2010)

speaker, "Federal and State Legislation Affecting Arbitration", State Bar of Texas Annual Meeting (2010)

speaker and author, "Arbitration Roundtable", ADR Section, State Bar of Texas (Houston) (2010)

speaker and author, "Arbitration Roundtable", ADR Section, State Bar of Texas (Austin) (2010)

speaker and author, "Legislative Developments in Arbitration", State Bar of Texas Webcast ( 2010)

panelist, "Arbitration: Point & Counterpoint", State Bar of Texas, College of the Bar Summer School (2009)

speaker and author, "Trends in Arbitration Law", State Bar of Texas, Annual Meeting (2009)

speaker, "Bench Trial v. Arbitration: Motions to Compel/Motions to Vacate Award", San Antonio Bar Association Bench-Bar Conference (2009)

course director and moderator, "Advanced Mediation: Skills & Techniques", Alternative Resolution Section, State Bar of Texas (2009)

speaker, "Emerging Trends in ADR in the Workplace: Navigating the Future", Association For Conflict Resolution (ACR), 8<sup>th</sup> Annual Conference (2008)

moderator of panel discussion, "Arbitration Perspectives", State Bar of Texas, Annual Meeting (2008)

panelist: "Arbitration: The Good, The Bad, and The Ugly", William S. Sessions Inn of Court, State Bar of Texas (2007)

author and speaker, "The Ties that Keep On Binding: Case Law Update" Alternative Dispute Resolution Conference, State Bar of Texas ( 2007)

speaker, "Arbitration Roundtable", ADR Section, State Bar of Texas (Fort Worth) (2007)

author and speaker, "Awards and Appeals-So You Thought You Were Done", Arbitration Institute, Texas Institute of Continuing Legal Education (2006)

author and speaker, "The Sea Always Changes: Case Law and Legislative Update", Alternative Dispute Resolution Conference, State Bar of Texas (2006)

author, "Arbitrator Disclosure: Standards & Growing Challenges"  
ALTERNATIVE RESOLUTIONS, vol. 15, no. 1 (2006)

author, "Consumer Arbitration in Texas," and editor, "Dispute Resolution - Texas Style," 3rd ed., State Bar of Texas, Alternative Dispute Resolution Section (2006)

speaker, "ADR Update and More", Texas Institute for CLE telephone conference (2005)

author, "Arbitration in Banking and Financial Transactions," SAN ANTONIO BUSINESS JOURNAL; (2005)

author and speaker, "The Role of the CPA in Arbitration," San Antonio CPA Chapter; February 2005

author and speaker, "Use of Arbitration in Real Estate Disputes," San Antonio Bar, Real Estate Section; (2005)

author, "An Arbitration Primer," SAN ANTONIO LAWYER (2004)

author, "Arbitration in Estates and Trusts," ALTERNATIVE RESOLUTIONS, vol. 14, no. 4 (2004)

author and speaker, "Arbitration Primer: an Alternative Dispute Resolution Tool for Your Professional Responsibility Repertoire," Advanced Estate Planning and Probate course, State Bar of Texas, (2004)

**Professional Licenses** Admitted to Texas Bar, 1978; U.S. District Court: Western, Southern, and Northern Districts of Texas; U.S. Court of Appeals: Fifth Circuit; former Registered Investment Advisor, Texas Securities Board (Series 65 license)(currently inactive)

### **Professional Associations**

Past Chair, Alternative Dispute Resolution Section, State Bar of Texas

Fellow, College of Commercial Arbitrators

Member, Association of Attorney Mediators (AIM)

Chartered Institute of Arbitrators (MCI Arb)

Chair, Texas Arbitration Council

Member, State Bar of Texas Minimum Continuing Education Committee (2016-2019)

Member, State Bar of Texas Continuing Education Committee (2010-2016)

College of the State Bar

Life Fellow, Texas Bar Foundation

San Antonio Bar Association.

### **Other Professional Associations**

arbitration panelist:

American Arbitration Association: Commercial Panel (Large Complex Case and Securities subpanels)

International Center for Dispute Resolution (ICDR)

Int'l Institute for Conflict Prevention and Resolution (CPR Institute):

Banking, Accounting, and Financial Services Panel, Hedge Funds Panel, San Antonio ADR Panel; Master Mediator Panel

American Health Lawyers Association(AHLA)

Financial Industry Regulatory Panel (FINRA)

adjunct professor, Strauss School of Dispute Resolution, Pepperdine University School of Law

Texas Monthly "Super Lawyer"

**Education** University of Texas at Austin (BA, Economics, with high honors, Phi Beta Kappa, 1975 and Juris Doctor, 1978)

(revised 9/17)