

Chicago Daily Law Bulletin®

Volume 155, No. 56

Monday, March 23, 2009

Two lawyers who make it rain under the radar

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Two Chicago lawyers roll along in hard times as major rainmakers for their top firms and well known to high flying clients.

But in the news media, James F. Hurst of Winston & Strawn LLP and John J. Buttita at Jenner & Block LLP, go almost unnoticed.

The two deal with clients and matters that involve billions of dollars. They are among Chicago's unsung rainmakers.

Trial lawyer Hurst has litigated dozens of patent cases involving products with combined annual sales easily exceeding \$15 billion, according to his law firm.

Hurst's cases involved the highest selling cancer drug, the then-highest selling AIDS drug, and the widely used anti-depressant Prozac. His win in the Prozac case "stunned ... the entire pharmaceutical industry," according to Fortune magazine.

Hurst is a "huge" revenue producer at Winston, "one of the very top guys," said Thomas J. Frederick, chair of the Litigation Practice at Winston. Yet Hurst has been mentioned only once in Illinois news media in the last three years.

Buttita has not been mentioned once in Illinois or national media in the last three years, based on a Westlaw search.

Moreover, Buttita's practice, trust and estates, is considered a low revenue producer and in recent years has been dropped by many major law firms.

Yet Buttita is among the top 15 percent of partners at Jenner & Block in net fee collections annually since 2004, according to his law firm.

Buttita admits, "I have more than one client whose estates or current net worth is in excess of \$2 billion, and I would say the majority of my clients are in the \$100 million and up range."

Yet it's hard for Buttita to brag about specific achievements.

"Ask my wife, and she'll undoubtedly lament that I don't tell her anything," Buttita noted. "I know very few practitioners in this area who talk much about what they're working on and for whom."

The Law Bulletin sought out each of these unsung rainmakers to get them to explain how they do it.

Hurst avoided being interviewed for weeks, but then surprisingly opened up.

"It never occurred to me that I'd get involved in patent cases," Hurst related. "I started out at Winston right out of law school in 1989 ... because [Winston] had a reputation for having world-class trial lawyers."

"Then, when I was a young associate, Dan Webb and George Lombardi, two of our premier trial lawyers, asked me to work on a major patent case that was going to trial in North Carolina. That was in the early 1990s, and I've been handling patent cases ever since."

Hurst also handles complex commercial litigation.

According to Frederick, Hurst "has never lost an argument before the Federal Circuit," considered by many lawyers America's Supreme Court for patent cases.

Hurst has been to the Federal Circuit seven times with six wins and one decision pending, Frederick said.

Yet Hurst said he has no scientific degrees or technical background. According to his firm, he deals with cases on the cutting edge in chemistry, pharmaceuticals, surgical devices, DNA, and the Internet.

Hurst views the lack of scientific degrees as his advantage. "I like to think I can spot and avoid the scientific jargon nobody understands."

Hurst said he once tried a case in Pittsburg involving MRI (magnetic resonance imaging) machines against a lawyer who had a Ph.D. in physics.

"I don't think the judge understood 50 percent of what the other lawyer said. I was speaking a language the judge understood," Hurst recalled. "I won the case."

"The largest case I ever won was about the patents covering Prozac, which was a \$2 billion per year drug at the time. On the day we won [in 2001], the stock markets closed trading for our client, Barr Laboratories, and our opponent, Eli Lilly. When trading reopened near the close of business, Barr's stock nearly doubled in just 30 minutes while Eli Lilly lost almost \$35 billion in market capitalization."

Hurst got to try a case with Webb when Hurst was only a few years out of the University of Pennsylvania Law School. He

said he has been lead lawyer in most of his cases since 10 years ago when he was 35. He credits Winston & Strawn with giving young lawyers a chance.

"I also sought out pro bono criminal cases when I was younger, including even a murder trial," he said.

According to Frederick, Hurst helps other associates today. "He doesn't just keep associates in the library. He helps them get up on their feet" in trials and "get experience."

Frederick and Winston's managing partner Thomas P. Fitzgerald both said Hurst gets results for the client in private negotiations leading to confidential settlements and in major trials.

But compared to white collar criminal cases, intellectual property cases are "hard to synopsise in the media," Frederick noted.

Said Fitzgerald, "Hurst is a team player ... delivers results, and is fairly low key. I think he doesn't seek publicity. He lets his work do the talking."

Buttita of Jenner & Block said he worked his way through DePaul University School of Law and started out doing general business law at two small law firms here.

"I found that the best clients had tax and transactional issues, so I gravitated toward that. Over time, I became more focused on transfer tax issues and continued down that path."

Transfer tax issues involve efforts of wealthy people to turn over assets and businesses to family members or to leave assets and businesses to family members after death.

In 1984, Buttita joined Altheimer & Gray, where "I had the opportunity to work with some great lawyers who encouraged me to take a more comprehensive view of a client's problems, not merely that of a trusts and estates lawyer."

This means, Buttita said, "Seeing the problems that" the client "doesn't know they have."

Buttita became head of trusts and estates at Altheimer. When that firm went out of business, he joined Jenner & Block in July 2003.

Buttita broke into the big time when "he went to Wall Street," according to Myron

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Lieberman, a corporate lawyer who knew Buttita at Altheimer.

In New York, trusts and estates is not considered a major practice area, Lieberman said. Buttita “found a wide open field and developed a tremendous clientele of very wealthy people. I think the real secret to his success was cracking the New York market.”

Buttita adjusts that view slightly. He said in the early 1990s, he got a chance to advise a group of money managers on the West Coast. “That led to some other opportunities, particularly in New York. Clients at that level of financial and professional success tend to travel in similar circles,” Buttita added.

How does Buttita get and keep such

clients? “Stay on top of new developments,” Buttita said. “Be proactive and try to call clients before they call you. Be available to go anywhere most any time.”

“His address is American Airlines,” according to Lieberman.

“Adopt a ‘client problem is my problem’ attitude,” Buttita continued. Also, keep clients informed promptly of progress and give clients their answers fast.

Buttita also “projects an aura of confidence with clients,” Lieberman added. Moreover, “he’s just a very nice man. He’s a wonderful man.”

Buttita also credits team work with the other lawyers in the Private Client practice group he heads at Jenner.

Buttita “is an absolutely superb lawyer

in the technical sense,” said Jenner’s Chairman Anton R. Valukas. “He is a counselor and strategist of the first order.”

To other partners within the law firm, “you can pick up the phone at midnight on Sunday and he’s helpful and available to you,” Valukas added.

“Extremely particular purchasers of legal talent flock to him,” Valukas said.

“John’s private client practice requires a sophisticated and nuanced understanding of the law combined with discretion and empathy,” said Susan C. Levy, managing partner of Jenner.

“He is among the top practitioners in his field, and our partners continue to refer their clients to him for guidance in matters of profound personal importance.”