



Philip W. Collier

Title: Of Counsel

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Phil Collier is an attorney with the Firm who began practice with Stites & Harbison in 1980, was named partner in 1986 and served as a member of the firm's Management Committee (2001-2004). He is the former Chair of the firm's Business Litigation Service Group.

He has more than 31 years of litigation and trial experience, including complex litigation involving manufacturers, communications, investments, financial institutions, insurers and energy/mineral companies. He has deep experience in business torts, contract disputes, fights arising out of the purchase and sale of companies and their assets, and corporate governance struggles between directors, officers and shareholders.

CAPABILITIES

Practice Areas

- Airport Law
- Antitrust, Consumer Protection & Attorney General Defense
- Appellate Advocacy
- Arbitration, Mediation & Alternative Dispute Resolution
- Aviation
- Business Litigation
- Class Action, Mass Action & Multi-District Litigation
- Corporate Governance & Disclosure

- Environmental Litigation
- Financial Services Litigation
- Franchise & Distribution
- Gaming
- Insurance Coverage, Bad Faith & Regulatory Litigation
- Intellectual Property Litigation
- Litigation & Appeals
- Natural Resources & Environmental Surety Law
- Pretrial Practice & eDiscovery
- Product Liability Litigation
- Professional Liability Litigation
- Securities Litigation
- Sports & Entertainment

RECENT ASSIGNMENTS

- Prosecuted claims for recovery of tens of millions of dollars in costs required to clean-up groundwater contamination at 150+ acre chemical plant under terms of complex acquisition agreements. Won summary judgment requiring indemnification for the cost of the cleanup and all future cleanup costs. Also prosecuted claims against later plant operator based upon complex evidence of releases and contaminant transport over several decades. Presented and examined contaminant transport hydrogeologists, mechanical and structural engineers, process engineers and statisticians.
- Prosecuted claims against auditors, directors, officers, counsel and appraisers for the Liquidator of the largest financial institution to fail in Kentucky history—involving commercial real estate loan failures and false financial reporting. Secured judgments and settlements from all responsible parties and historically significant 8-figure recovery from the company's auditing firm.

- Secured dismissal of recently-filed antitrust tying claims which were premised upon an alleged market restricted to franchisees.
- Successfully defended an electrostatic precipitator maker against claims arising from the collapse of the exhaust ductwork system at a coal-fired power plant, which resulted in a plant shutdown.
- Successfully prosecuted RICO claims on behalf of mining company against transportation company to recover damages caused by kick-back schemes.
- Presented oral argument before the U.S. Supreme Court on behalf of an international container leasing company in a foreign commerce clause, import-export clause and federal pre-emption challenge to state sales tax on these leases.
- Prosecuted economic loss claims on behalf of a Canadian ethanol company arising from Ontario plant shutdown caused by fires and explosions. The challenge: recover commercial damages from CGL insurers—where the parties responsible (manufacturers of grain drying equipment) became insolvent just after the case was filed, and the insurers denied coverage in a parallel coverage action. The grain dryers designed and provided by the defendant caused grains being dried to ignite and the drying system and ductwork to catch fire and explode. The solution: a three-front attack to (a) provide liability, (b) secure application of Canadian law to the claims and defenses and (c) establish that the insurers provided coverage for loss of use of the ethanol plants until the defective drying system could be redesigned and modified. Successfully recovered \$5,500,000 from the insurers.
- Prosecuted claims for breach of an insurance policy, breach of the express duty to provide a reasonable defense, bad faith and violation of the Texas Deceptive Trade Practices-Consumers Protection Act—on behalf of a safety products manufacturer—in response to the insurer's attempts to wrest control of the manufacturer's defense of silicosis cases in Texas and Mississippi, and to interfere with their defense attorney's exercise of independent professional judgment by (a) arbitrarily demanding that defense fees be cut by fifty to sixty percent, (b) refusing to permit insured's counsel to participate in depositions, and (c) refusing to pay the fees and costs incurred by their silicosis defense firm and replacing it with a law firm that would follow its instructions. While the terms of settlement remain confidential, the case was resolved in a manner completely satisfactory to the client.

- Acted as special litigation committee (SLC) counsel to investigate claims of wrongdoing in recent litigation against bank directors and officers; in another SLC case, persuaded the Kentucky Court of Appeals to adopt a "good faith" standard for review of an SLC's recommendations.

BAR ADMISSIONS

- Kentucky
- U.S. Supreme Court

FIRM LEADERSHIP

- Former Chair, Business Litigation Service Group (1994-2000 and January 2005-February 2021)
- Management Committee (2001-04)

MEMBERSHIPS

- American Bar Association
- Kentucky Bar Association
- Louisville Bar Association

COMMUNITY INVOLVEMENT

- Highland Baptist Church, High School Bible study teacher

EDUCATION

University of Kentucky College of Law J.D. with distinction 1979

- Order of the Coif

- *Kentucky Law Journal*, Notes Editor

University of Kentucky B.A., Music and History with high distinction 1976

- Phi Beta Kappa

MORE THAN STITES & HARBISON

Phil is a jazz musician, and enjoys improvising a melody backed by a cooking rhythm section. He has pursued a passion for distance running for more than 40 years, enjoys digging in the dirt of a perennial garden, poetry and trekking in the mountains.

ACCOLADES

- *Martindale-Hubbell*® AV-Preeminent® Peer Review Rated
- *Best Lawyers in America*®, Bet-the-Company Litigation, Commercial Litigation, Banking & Finance Litigation and Mergers & Acquisitions Litigation (2006-23)
- *Best Lawyers in America*®, Louisville Area Lawyer of the Year for Bet-the-Company Litigation (2019)
- *Best Lawyers in America*®, Louisville Area Lawyer of the Year for Litigation-Banking & Finance (2016)
- *Best Lawyers in America*®, Louisville Area Lawyer of the Year for Bet-the-Company Litigation (2011)
- *Kentucky Super Lawyers*®, Business Litigation (2007-23)
- *Kentucky Super Lawyers*®, Top 50 Attorneys in Kentucky (2020)
- *Chambers USA*, "America's Leading Lawyers for Business," Litigation: General Commercial (2003-22)
- *Benchmark Litigation* magazine, Litigation Star (2010, 2013-23)
- *Louisville Magazine* Top Lawyer (2014, 2016)
- Litigation Counsel of America, Fellow

TESTIMONIALS

" Considered a "first-rate attorney" by his peers . . . offers significant depth of litigation and trial experience representing clients from a range of industries in complex business torts and contractual disputes. "

- *Chambers Commentary (USA), 2020*

" . . . bright and hard-working . . . represents a fine choice of counsel for disputes relating to the manufacturing, financial services and energy sectors. "

- *Chambers Commentary (USA), 2016*

" Extraordinarily thorough and bright . . . has the edge over others in sophisticated litigation . . . a bulldog in terms of preparation . . . honorable, skillful and feisty . . . reassuringly fair and good to work with or against . . . has a well-deserved reputation as an excellent commercial litigator by any measure. "

- *Chambers USA*