

Jeff L. Todd

Shareholder, Industry Group Leader

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Overview

Jeff Todd is a trial lawyer whose practice is concentrated on business litigation before state and federal courts, arbitrations and administrative proceedings. He has litigated a wide variety of cases involving business disputes, anti-trust violations, intellectual property rights, oil and gas law, real estate matters, and issues affecting the healthcare industry.

In addition, he currently serves as co-chair of the firm's Agriculture and Equine Industry Group and is actively involved in legal matters affecting the industry, including crop insurance disputes, landowner rights, water law disputes, environmental matters, wind farm leases and business contracts. His work within the industry includes assisting Oklahoma lawmakers in drafting the Livestock Owner's Lien Act of 2011, a law which protects agriculture producers by ensuring they maintain a security interest in their livestock until payment is fully secured.

Since joining McAfee & Taft in 1997, he has represented energy companies, manufacturers, Indian gaming vendors, real estate developers, abstract and title companies, commercial property landowners, financial institutions, auto dealerships, agricultural landowners and producers, and HMOs, hospitals and physician groups.

While in law school, Jeff was honored with the 1997 Award of Excellence for Student Scholarship from the American Agricultural Law Association. He was also the recipient of the Rocky Mountain Mineral Law Foundation Scholarship for Legal Excellence, the Cecil L. Hunt Memorial Scholarship and the Frank C. Love Memorial Scholarship.

Jeff's achievements have earned him recognition as a "Local Litigation Star" by *Benchmark Litigation* as well as inclusion in the prestigious *Chambers USA Guide to America's Leading Lawyers for Business*, *The Best Lawyers in America* (agriculture law, commercial litigation; eminent domain and condemnation law; environmental litigation; real estate litigation; water law) and

Admissions

Oklahoma, 1997

U.S. District Courts for the Eastern, Western and Northern Districts of Oklahoma

U.S. District Courts for the Northern and Southern Districts of Texas

U.S. District Court for the District of Colorado

U.S. District Court for the District of Nebraska

U.S. Court of Appeals for the Federal Circuit

U.S. Courts of Appeal for the Fifth and Tenth Circuits

U.S. Tax Court

Education

J.D., with highest honors, University of Oklahoma, 1997; Order of the Coif; Note Editor, *Oklahoma Law Review*; Legal Research and Writing teaching assistant

B.A., Northwestern Oklahoma State University, 1994

Professional Organizations and Memberships

Oklahoma County Bar Association

Oklahoma Bar Association

American Agricultural Law Association

Oklahoma Super Lawyers. He was selected by *Best Lawyers* as the “Oklahoma City Eminent Domain and Condemnation Lawyer of the Year” for 2015 and 2020 and “Oklahoma City Water Lawyer of the Year” for 2017 and 2019, honors only given to a single lawyer in each legal specialty in each market.

Representative Experience

Commercial Disputes:

- Obtained dismissal in Pottawatomie County, Oklahoma, for the producer of a youth rodeo event in a personal injury lawsuit involving allegations of negligence and defective equipment after defense filed motion and supporting affidavit showing incident was covered by the Oklahoma Livestock Activities Liability Act.
- Successfully represented a national manufacturer and marketer of electronic gaming systems in a case alleging that a competitor violated the Oklahoma Antitrust Act, Oklahoma Deceptive Trade Practices Act, and Oklahoma common law by unfairly competing in the marketing and sale of electronic bingo games in the Oklahoma Native American gaming market. Obtained partial summary judgment on the major issues that the competitor was marketing a Class III game as Class II which led to a \$16 million settlement.
- Successfully defended a seller of over-the-road trucks and trailers against charges of breach of contract, negligence and fraud. Obtained judgment on the pleadings of the plaintiff’s negligence and breach of contract claims and was granted a Rule 50 motion for judgment as a matter of law on the fraud claim at the conclusion of plaintiff’s case in chief.
- Successfully defended a national title insurance company in a lawsuit alleging bad faith in refusing coverage of an insured’s claim under its title policy. After a trial on the merits, received a judgment holding the title company did not act unreasonably or in bad faith.

Condemnation and Landowner Rights:

- Obtained \$978,425.75 judgment following jury verdict on behalf of a real estate development company that sought just compensation in a condemnation case involving the taking of property by the Oklahoma Department of Transportation for the purpose of reworking the interchange of two interstate highways. The jury award exceeded the court-appointed commissioners’ award by 137%.
- Obtained dismissal on behalf of Oklahoma landowner in dispute with Texas landowner over ownership of land along the Oklahoma/Texas border. The U.S. District Court for the Northern District of Texas held that Oklahoma v. Texas, 252 U.S. 372

Civic Involvement and Leadership

Oklahoma Cattlemen’s Association

Oklahoma Farm Bureau

Sirloin Club of Oklahoma

(1920), was superseded by the Red River Boundary Compact and that the disputed land was in Oklahoma. Ruling affirmed on appeal by the Fifth Circuit. It appears this is the first court case explicitly holding that the Red River Boundary Compact supersedes the earlier U.S. Supreme Court case.

- Obtained a jury verdict on behalf of an Oklahoma landowner who sought just compensation in a condemnation case involving a 7.24-acre permanent easement taken by a public utility for the purpose of constructing a transmission system across the landowner's property. The jury award exceeded the court-appointed commissioners' award by 172%. As a result, the client/landowner was awarded its attorney's fees, appraisal fees and costs against the utility company.
- Obtained a jury verdict on behalf of landowners who sought just compensation in a condemnation case involving the partial taking by the Oklahoma Department of Transportation of a 3.6-acre tract of land located near the junction of two major interstate highways. The jury award of nearly \$1 million exceeded ODOT's appraised value by more than 55%, and the court awarded more than \$100,000 in attorney's fees, appraisal fees and costs.

Federal Crop Insurance Disputes:

- Obtained a multimillion indemnity payment in the District of Colorado on behalf of a Colorado farming partnership whose Group Risk Income Protection (GRIP) crop insurance policy was voided by a National Appeals Division (NAD) of the U.S. Department of Agriculture proceeding. The court overturned the NAD ruling, awarded attorney's fees under the Equal Access to Justice Act, and determined enhanced attorney rates were justified due to Jeff's "special competence in understanding farming practices as well as the complexities of the Federal Crop Insurance Act, the operation of the Federal Crop Insurance Corporation, the Risk Management Agency, the Group Risk Income Protection policy and the factual context in which this dispute arose."
- Obtained an insurance indemnity payment in excess of \$700,000 in the District of Colorado on behalf of a group of Colorado farmers who had been denied insurance coverage on certain acreage under their GRIP policies based on claims they had failed to follow good farming practices. The court determined the Risk Management Agency's denial of the farmers' claims to be arbitrary and capricious and also awarded enhanced attorney's fees in the matter.
- Obtained an arbitration decision and multimillion indemnity payment on behalf of a Colorado agricultural partnership whose insurance provider cancelled its federal crop insurance policy insuring more than 4,000 acres of corn after determining that mistakes on the insurance application were intentional misrepresentations. The arbitrator declared the policy should be reinstated and found the mistakes to be simple errors which were corrected in timely manner pursuant to RMA procedure.
- Obtained a favorable ruling in the Southern District of Texas in favor of a Texas agricultural partnership whose NAD appeal was denied due to its alleged untimeliness. The court ultimately ruled there was no substantial evidence to support the NAD director's decision.
- Successfully represented a group of more than 90 Texas corn farmers with respect to an adverse decision by RMA pertaining to their GRIP crop insurance policies. The issue involved RMA's manipulation of the applicable "final county yield," a key component in calculating the GRIP indemnity. Established that RMA's adjustment of the yields published by the National Agricultural Statistics Service (NASS) was arbitrary and capricious because it was based on "good farming practice" determinations which were later retracted. The NAD Director found RMA's actions erroneous, and RMA later agreed to a settlement that included payment of more than \$3 million in unpaid indemnity plus a large portion of attorney's fees and costs to the group.
- Successfully represented a group of 24 Colorado corn farmers in connection with their GRIP policies by establishing that RMA arbitrarily and capriciously manipulated the final county yields in an effort to lower the indemnities due to every GRIP policyholder in the county. NAD rejected RMA's determination and made it clear that indemnity payments should be calculated on the official, published NASS data instead. The

decision led to a group recovery of over \$1 million in unpaid indemnity plus interest. Also obtained a ruling under the Equal Access to Justice Act that RMA's actions were not substantially justified leading to an award of attorney's fees under the Act.

- Successfully represented a Colorado ranch in an arbitration proceeding involving its Pasture, Rangeland, and Forage (PRF) Rainfall Index crop insurance policy which insured grassland and hayland against drought. The ranch's insurance company retroactively revised the PRF policy and re-designated all the hayland acres to grassland acres. After establishing the ranch's clear intent and ability to hay all of the land designated as hayland in the arbitration proceeding, a favorable settlement was obtained.

Intellectual Property:

- Obtained a jury verdict and judgment in the amount of \$1,583,202 in favor of an industrial equipment manufacturer in a patent infringement case. Judgment affirmed on appeal.
- Obtained a jury verdict and judgment in the amount of \$2,165,253 in favor of a horse trailer manufacturer in a patent infringement case.

Qui Tam:

- Obtained summary judgment on behalf of Oklahoma Youth Exposition, Inc. in a *qui tam* action alleging that payments made to the nonprofit corporation by a state agency for the express purpose of hosting an annual statewide youth stock show violated provisions of the Oklahoma Constitution. Judgment affirmed on appeal.

Honors and Awards

- Listed in the *Chambers USA Guide to America's Leading Lawyers for Business*
- Named a "Local Litigation Star" by *Benchmark Litigation*
- Selected by peers for inclusion in *The Best Lawyers in America* (commercial litigation; eminent domain and condemnation law; environmental litigation; real estate litigation; water law)
- Named "Oklahoma City Eminent Domain and Condemnation Lawyer of the Year" for 2015 and 2020 and "Oklahoma City Water Lawyer of the Year" for 2017 and 2019 by *The Best Lawyers in America*
- Listed in *Oklahoma Super Lawyers*
- Rated AV Preeminent by Martindale-Hubbell Peer Review Ratings