



JAMES R. MOZINGO

MOZINGO | SIMPSON | QUARLES
PLLC

- BUSINESS & COMMERCIAL LITIGATION
- BANKRUPTCY & DEBTOR/CREDITOR RELATIONS
- BUSINESS & COMMERCIAL TRANSACTIONS

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Born May 15, 1953 in Hattiesburg, Mississippi, Jim graduated in 1971 from Gulfport High School, earned his B.A. in Politics from Washington & Lee University in 1975, and was awarded his Juris Doctor “with distinction” in 1978 from Mississippi College School of Law. While at Mississippi College School of Law he served as Associate Editor of the Mississippi College Law Review.

Mr. Mozingo was admitted to the Mississippi Bar in September 1978. After a brief stint in private practice, Jim served as assistant city attorney for the City of Jackson, Mississippi until September 1981. During his two and one-half years as assistant city attorney Jim served as “general counsel” to the Jackson Fire Marshall, the Federal Programs Department and the Building & Permit Department, as well as being the City’s legal liaison with the Jackson Redevelopment Authority. He also served as the City’s coordinator of the Greater Jackson Industrial Center. During this period Mr. Mozingo obtained significant experience in construction matters, real estate acquisitions and eminent domain litigation, contracting (particularly with the Federal government or with Federal funds), personnel matters and municipal liability litigation.

Since returning to private practice in 1981 Jim has focused his practice in the representation of small and medium sized businesses, including business and commercial transactions of all kinds, and in the areas of business and commercial litigation, bankruptcy and debtor/creditor relations. Jim has served as general counsel to numerous businesses and organizations, including public bodies and business corporations, large and small.

Mr. Mozingo has received the highest ranking (AV - Preeminent) in the peer-rated *Martindale-Hubbell* law listings and is a Fellow of the Mississippi Bar Foundation. He is also listed in *Mid-South Super Lawyers*, another exclusive ranking of attorneys. Jim is licensed to practice in all Mississippi courts, state and federal, and is a member of the bars of the 5th, 6th and 11th Circuit Courts of Appeal as well as the United States Supreme Court. In addition to all Mississippi courts, Jim has appeared in courts in Florida, Tennessee, Arkansas, Texas, and Louisiana, and has handled significant commercial arbitration proceedings in St. Louis, Atlanta, Nashville and Knoxville.

BUSINESS TRANSACTIONS

Business transactions are the underlying basis of the great majority of Mr. Mozingo's litigation and bankruptcy experience, but he has handled a large number of the transactions themselves, including:

- **Sales, purchases or dissolutions of businesses**, including newspaper and commercial printing businesses; heavy equipment dealerships; commercial laundry businesses; insurance agencies; wholesale and retail parts distributorships; furniture manufacturing facilities; professional practices;
- **Privatization contracts**, including municipal water, wastewater treatment and incinerator plant operation and management contracts;
- **Corporate agreements**, including shareholder agreements; partnership agreements; operating agreements for LLC's and LLP's; dissolution and withdrawal agreements; employment agreements; non-competes;
- **Commercial real estate**, including acquisition; options; leases; lease-purchases; development; operation; restructuring;
- **Financing arrangements** of all kinds;
- **Business contracts**, including sales and marketing agreements; output and requirements contracts; distributorship and dealership agreements; consignment agreements; commercial leases of real and personal property.

Mr. Mozingo has handled transactions throughout Mississippi, in Florida, Texas, Arkansas, Kentucky, Illinois, Indiana, Kansas, Tennessee, South Carolina, Oklahoma, Washington and Louisiana, as well as in Canada, Italy and Spain and with companies in the Far East.

LITIGATION AND ARBITRATION

Mr. Mozingo, as lead counsel, has handled the **Litigation** or **Arbitration** of a variety of business and commercial issues on behalf of both plaintiffs and defendants, trial and appellate, including, cases in the following fields:

- **Contracts**, including international and domestic supply contracts; business sales and acquisitions; sales of goods, as well as goods and services; employment agreements, including non-competes; product development contracts; lending agreements; real estate; product warranties;
- **Construction**, including owners; general contractors; subcontractors and materialmen; bonding companies and lenders; architects and engineers; construction liens and stop payment notices;
- **Corporate**, including dissolutions; shareholder / owner disputes and buyouts; withdrawals of principals and partners; shareholder claims; officers and directors liability; limited liability company malfeasance; breaches of fiduciary duty;
- **Business Torts**, including fraud and misrepresentation; interference with contracts and business relations; predatory practices, including antitrust;
- **Insurance Coverages**, including insurance coverage disputes/analysis including bad faith insurance claims; property damage from fire, wind, water and mold; business interruption; completed operations and other business coverages; products liability (other than personal injury); environmental;
- **Finance**, including commercial debt collection; lender liability; securities fraud; real estate;
- **Professional Liability**, including accountants; attorneys; appraisers; bankruptcy trustees and other fiduciaries; architects and engineers; insurance agents;
- **State and Municipal Government**, including licensing/disciplinary boards, including doctors (Board of Medical Licensure), nurses (Board of Nursing), pharmacists (Board of Pharmacy), attorneys (Board of Bar Admissions) and contractors (Board of Contractors); sales and use taxes, including exemptions (Mississippi State Tax Commission); municipal annexation; government contracts; governmental liability; eminent domain; medicaid audit and reimbursement;
- **Environmental liability**, including wastewater discharges; liability of pollution control system operators; liability of contract operators of governmental facilities; Clean Water Act; RCRA; CERCLA.

BANKRUPTCY - DEBTOR/CREDITOR RELATIONS

In the area of **Bankruptcy** Mr. Mozingo has served as a bankruptcy trustee and represented:

- **Trustees**, both in recovering assets and determining claims and in litigating the liability of trustees;
- **Secured creditors** of all kinds, including asset based lenders and real estate lenders;
- **Lien and Equitable Claimants**;
- **Unsecured creditors** of all kinds, including unsecured creditors' committees;
- **Lessors** of real estate, equipment, vehicles;
- **Debtors engaged in business**, primarily in Chapter 11, but also in Chapters 7, 9, 12 and 13;
- **Insurance carriers**;
- **"White Knights" and Purchasers** of assets and businesses from bankruptcy estates.

Mr. Mozingo also has substantial experience in other types of **Debtor-Creditor matters**, including:

- **Pre-bankruptcy workouts**
- **Foreclosure and repossession**
- **Re-financing**
- **Debt restructuring**
- **Acquisitions in lieu of foreclosure**
- **Receiverships**
- **Assignments for the benefit of creditors**

REPRESENTATIVE CASES

- ***Kinwood Capital Group, L.L.C. v. BankPlus (In re Northlake Dev. L.L.C.)***, 643 F.3d 448, 2011 U.S. App. LEXIS 11993, 54 Bankr. Ct. Dec. (LRP) 233 (5th Cir. Miss. 2011);
- ***City of Belmont v. Mississippi State Tax Com'n***, 860 So.2d 289, 2003 WL 1563546 (Miss. 2003);
- ***In re E.L. Garner, Inc.***, 276 B.R. 483 (Bkrcty. N.D. Miss. 2000);
- ***In re Viscount Furniture Corporation***, 133 B.R. 360, 15 UCC Rep.Serv.2d 1315 (Bkrcty. N.D. Miss. 1991);
- ***Knight v. Sharif***, 875 F.2d 516 (5th Cir. 1989);
- ***In re Barrier***, 776 F.2d 1298 (5th Cir.1985);
- ***In the Matter of Bruneau's, Inc.***, 642 F.2d 146 (5th Cir. ,1981).

SPEAKING AND EDUCATIONAL EXPERIENCE

A frequent speaker to legal and other professional organizations, and at educational programs for clients, Mr. Mozingo has spoken at dozens of **continuing legal education programs** on such subjects as:

- **Damages in business and commercial litigation** (featured in 2003, 2006 and 2008 on the topic of “Damages in Business and Commercial Litigation” in seminars sponsored by the University of Mississippi Center for Continuing Legal Education and in October 2010, “Presenting Damages in Commercial Mediation” (with partner Lydia Quarles) for the Professional Education Group);
- **Bankruptcy** (various issues including the representation of secured creditors, unsecured creditors, lessors and lessees, professionals, business debtors and overviews of the bankruptcy process for the general practitioner (authored chapter in the *Bankruptcy Practitioners Guide* released by the University of Mississippi Law School);
- **Commercial Lending** (featured in *LLC's and Commercial Real Estate Lending After Kinwood Capital* sponsored by the University of Mississippi Center for Continuing Legal Education, October 6, 14 and 28, 2011), various other topics, including **negotiating loan documents, negotiating workout agreements, and lender liability**;
- **Commercial Debt Collection**;

- **Legal and Professional Ethics** (e.g., *Honesty and the Consequences of Not Being Honest*);
- **Environmental liability** (e.g., *Preventing an Environmental Violation from Becoming a Criminal Case*)
- **Negotiation**

In addition to his presentations to legal audiences, Mr. Mozingo has presented programs for numerous **other professional groups**, including:

- **Gulf Coast Society of CPA's** (bankruptcy)
- **Mississippi Bankers Association** (lender liability)
- **Mississippi Municipal Association** (privatization of public services; effective board meetings)
- **Mississippi Water Environment Association** (wastewater liability issues; professional ethics)
- **American Council of Engineering Companies** (MS)(preventing environmental liability from becoming criminal)
- **National Conference of Bar Examiners** (due process; conditional admission)
- **Mississippi Trucking Association** (Things Business Managers and Owners Need to Know About the Law)
- **Southern Association of Workers Compensation Administrators** (SAWCA)(insolvency of self-insureds)
- **Mississippi Water and Wastewater Operators' Association** (legal liability of operators)
- **Mississippi Roadbuilders Association** (civil vs. criminal liability for environmental issues)
- **National State Trucking Associations** (liabilities of non-profits and their board members)

PUBLIC SERVICE AND ACTIVITIES

- **Mississippi Board of Bar Admissions.** Mr. Mozingo served as a member of the Mississippi Board of Bar Admissions by appointment of the Mississippi Supreme Court from 1988-2009 and as its chairman from 2002-2009 when he retired at the end of his seventh term . He is also a former vice-chair of the Board and a former chairman of the Board's Committee on Character and Fitness. During his twenty-one (21) years on the Board, Mr. Mozingo was responsible for examining primarily in the fields of business organizations and bankruptcy.
- **Mississippi Bar Complaints Tribunal.** Upon his retirement from the Mississippi Board of Bar Admissions in November, 2009, Mr. Mozingo was appointed to the Mississippi Bar Complaints Tribunal by Mississippi Chief Justice William Waller where he continues to serve.
- **National Conference of Bar Examiners.** During his tenure on the Mississippi Board of Bar Admissions, Mr. Mozingo was active nationally in bar admissions work with the National Conference of Bar Examiners. He served on the NCBE's Education Committee and Multistate Essay Examination Policy Committee. In addition Mr. Mozingo spoke on several occasions at national educational programs for bar examiners sponsored by NCBE.
- **Committee Memberships**
 - Governor's Constitutional Study Commission (1985)
 - State Auditor's Privatization Task Force (1993)
 - Mississippi Bar's Ad Hoc Committee on Pro Hac Vice Admission to the Bar (2002)
 - Mississippi Supreme Court's Committee on Impaired Lawyers (2006-09)
 - Mississippi Supreme Court's Committee on Reciprocity Admission to the Bar (2007-09)
 - Secretary of State's Business Courts Study Committee (2008-09)
- **Fellow** of the **Mississippi Bar Foundation**
- **President** of the **Central Mississippi Chapter** of the **Washington & Lee University Alumni Association** (1989-2009)
- **President** of the **Mississippi College School of Law Alumni Association** (2003-04)
- **Professional Associations:** The Mississippi Bar; American Bar Association; Federal Bar Association; Mississippi Bankruptcy Conference; American Bankruptcy Institute; Mississippi Water Environment Association (past-president); Water Environment Federation.

