



**Jeff Potts, Partner**  
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Jeff Potts has successfully tried cases in the federal and state courts, as well as in arbitrations. Jeff mainly has an intellectual property and commercial trial practice, including patent, trade secret, contract, fraud and fiduciary duty cases. Lawyers who have worked with Jeff say that it is “a great experience, he is very smart, he is a fine strategist, and it is a pleasure to work with him on a case.”

Jeff works hard in every case to be the best-prepared lawyer. Judges and juries typically find the best-prepared lawyer the most credible; they look to that lawyer as the one they can trust. If being the best-prepared means taking the time to master a new area of law or extremely detailed facts, Jeff does so, without

additional charge to his client.

Jeff continuously evaluates with his clients their objectives and the litigation end game, and has had significant successes in finding strategies to derail an opposing case before trial. In a fraud, breach of contract, and breach of fiduciary duty case regarding the development of an oil and gas project, Jeff managed to exclude the plaintiffs’ damages experts and model before trial. Not only did Jeff’s client prevail in defending the case, but Jeff’s client also was awarded damages for its counterclaims and attorney fees. In another case alleging fraud, Jeff managed to get the case sent to arbitration, rather than the plaintiffs’ preferred trial court venue, in the first known Texas case applying the doctrine of incorporation by reference.

Jeff is also tenacious in pursuing his client’s interests. In a recent patent case, it took four motions and a mandamus to the Federal Circuit before a case was transferred from the plaintiff’s preferred court to another district. The case then settled favorably to Jeff’s client.

Jeff knows that lawyers are in the service business, and believes that all clients and co-counsel should get a measured, informed response within a very few hours, and never more than 24 hours. Jeff encourages continuous feedback from his clients and co-counsel, to make sure that his clients’ interests are best-served.

Jeff obtained both his undergraduate and law school degrees from Northwestern University, Phi Beta Kappa and with a J.D. cum laude. He was an articles editor for the Northwestern University Law Review and a member of the Order of the Coif. After law school, Jeff clerked for the Honorable Lee H. Rosenthal in the United States District Court for the Southern District of Texas.

## EDUCATION AND EXPERIENCE

### Northwestern University

B.A., Economics and Political Science, with honors, 1989

### Northwestern University School of Law

J.D., *Cum Laude*, 1992

Northwestern University *Law Review*; Order of the Coif

### Law Clerk

to the Hon. Lee H. Rosenthal, United States Court of Appeals for the Southern District of Texas  
1992-1994

### Partner

Smyser Kaplan & Veselka, L.L.P., 1998-Present

### Associate

Baker Botts, L.L.P., 1994-1997

## PROFESSIONAL RECOGNITION

Martindale Hubbell AV Preeminent Rating  
*Texas Rising Star* by SuperLawyers for 2004, 2005, 2007  
Designated in the Top Houston Lawyers by H Magazine, 2010



## ADMISSIONS

State Courts of Texas  
United States District Court for the Southern, Northern, Eastern, and Western Districts of Texas  
United States Court of Appeals for the Fifth Circuit  
United States Court of Appeals for the Federal Circuit  
United States Court of Federal Claims

## ORGANIZATIONS

- Houston Intellectual Property Inn of Court, Master and Awards Chair
- Houston Bar Association
- State Bar of Texas
- Texas Bar Foundation Fellow

## REPRESENTATIVE MATTERS

### **NO. 01-14-00467-CV HOUSTON PROGRESSIVE RADIOLOGY ASSOCIATES, PLLC, RODOLFO L. GARCIA, AND BRANDON C. STROH, Appellants v. STEPHEN B. LEE, M.D., P.A., DEAN PAUL CHAUVIN, JR., M.D., P.A., AND MICHAEL NGUYEN, M.D., Appellees**

SKV Announces Significant Appellate Victory. Plaintiffs sued SKV's clients for fraud and other causes of action arising out of a transaction by which they sold their ownership interests in a radiology practice and converted to employees of the practice. As part of that transaction, Plaintiffs simultaneously executed Membership Interest Transfer and General Release Agreements, which did not contain arbitration clauses, and Physician Employment Agreements which contained broad arbitration clauses. The Court of Appeals held that the trial court committed error by denying SKV's clients' motion to compel arbitration because the Transfer Agreements incorporate by reference the Employment Agreements. The First Court of Appeals also stayed the claims by another Plaintiff relating to the decision not to make him a member of the radiology practice, finding that the Plaintiff's claims involve the same operative facts and that the prosecution of his claims while the arbitration is proceeding could have a critical impact on the arbitration.

### **Beach Capital Partnership, L.P. v. DeepRock Venture Partners LP and Paul Touradji**

SKV partners Jeff Potts and Land Murphy obtained a jury verdict vindicating their clients DeepRock Venture Partners, LP and Paul Touradji. Plaintiffs Gary Beach, Beach Capital Partnership, LP, Playa Oil & Gas GP, LLC and Playa Oil & Gas, LP brought claims totaling \$162 million against DeepRock Venture Partners, LP and Paul Touradji, primarily alleging a failure to develop an oil and gas salt dome prospect in southern Louisiana. On the first day of trial, 55th District Court Judge Jeff Shadwick conducted a hearing regarding the adequacy of Plaintiffs' oil and gas valuation experts and damage model. After extensive direct testimony and cross examination by Mr. Potts, Judge Shadwick excluded the Plaintiffs' experts and \$139 million of Plaintiffs' alleged damages. After a three-week trial, the jury awarded Plaintiffs nothing on their remaining claims for approximately \$23 million, but did award DeepRock \$1.75 million on its counterclaims against Gary Beach for breach of contract and breach of fiduciary duty. Smyser Kaplan & Veselka, L.L.P. was co-counsel with Sean O'Brien from O'Brien, L.L.P., New York, New York. The Houston First Court of Appeals subsequently affirmed on all issues.

## REPRESENTATIVE MATTERS (continued)

Representative areas of practice:

- Breach of contract / commercial torts - Plaintiff counsel in breach of contract and fraud cases against a number of insurance companies. Plaintiff counsel for an Italian forging company in a breach of contract case regarding specialty products, which settled for confidential amount. Defense co-counsel for New York hedge fund in oil and gas partnership dispute involving claims and counterclaims for breach of contract, breach of fiduciary duty, and fraud, where final judgment awarded nothing on plaintiffs' claims and a successful settlement on the hedge fund's counterclaims. Plaintiff co-counsel also obtained a verdict for a working interest owner against an E&P company for failing to act as a prudent operator.
- Patents - Defense co-counsel for an oil and gas services company in a patent infringement case regarding shearing of tubular in a blowout preventer. Defense co-counsel for oil and gas services company in cases involving patents relating to the offshore acquisition of seismic data. Defense co-counsel for oil and gas company in case involving offshore platform technology. Plaintiff co-counsel for patent claims relating to the processing of seismic data reflection points. Defense co-counsel for oil and gas company for patents relating to drill ship configuration. Plaintiff co-counsel in case involving web search technology. Plaintiff co-counsel in infringement cases relating to remote control of personal computers, multiple successful settlements.
- Unfair competition - Defense counsel in the successful resolution and dismissal of a Lanham Act case brought against a plastic surgeon. Defense counsel in case involving alleged cyber-squatting and Lanham Act passing off claims.
- Trade secrets - Plaintiff co-counsel for a trading company claiming trade secret theft, tortious interference with contract and unfair competition with respect to derivatives information, obtained a successful settlement. Plaintiff counsel for companies and defense counsel for individuals in multiple cases involving trade secrets and departing employees.
- Antitrust - Defense co-counsel for an Italian chemicals company in the resolution of a federal antitrust and tort case brought by an American chemicals company claiming \$700 million in compensatory damages.
- Government investigations - Defense counsel for individuals subject to Department of Justice (DOJ) and Commodity Futures Trading Commission (CFTC) investigations; no charges brought.
- Personal injury, plaintiff - Plaintiff counsel in case involving employee death from explosion at a chemical company, confidential settlement. Plaintiff counsel for person permanently injured in a rear-end collision caused by commercial truck, confidential settlement.
- Medical malpractice, defense - Defense co-counsel in labor and delivery, brain-injured baby cases for a hospital system, cases resolved to client's satisfaction.
- ERISA - Plaintiff counsel for a number of former employees of Fortune 500 company pursuing severance claims, confidential successful settlement. Plaintiff counsel for senior employees of Fortune 500 company bringing breach of employment contract and severance claims, confidential settlements.