



John E. Petite

Of Counsel

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John Petite is a business litigator, with an emphasis on antitrust and trade regulation litigation and intellectual property litigation.

John leverages his litigation expertise to counsel clients on a wide array of pricing, incentive, trademark enforcement and other distribution issues, helping them avoid disputes altogether whenever possible. He also advises clients on franchise and intellectual property issues associated with asset acquisition and divestment. For example, John represented a major oil company in connection with its sale of retail marketing assets associated with its \$2.6 billion sale of a refinery, and a private equity firm on its billion-dollar purchase of branded and unbranded fuel terminals and retail assets, and subsequent resale of some of those retail assets.

John works on matters involving claims of unlawful franchise termination, including termination of motor fuel marketing franchises. He also regularly defends claims against oil companies for alleged unlawful motor fuel pricing practices and purportedly unlawful deed restrictions or brand covenants associated with the sale of gas stations. John provides business counseling to an array of distributors about pricing and incentive programs, as well as territory and similar restrictions designed to maximize the competitiveness of distribution networks.

In his intellectual property practice, John handles trademark and copyright infringement claims and manages enforcement programs for large franchisors and other intellectual property owners. In addition to litigation of such claims in federal court, John represents clients in responding to office actions by the U.S. Patent and Trademark Office (USPTO) and in litigating contested proceedings before the Trademark Trial and Appeal Board (TTAB), primarily with respect to claims of likelihood of confusion.

He also frequently litigates claims against employees, such as non-compete, non-solicitation and confidentiality agreements that implicate employers' interests in trade secrets or customer relationships, and claims against competitors for false advertising or misappropriation of trade secrets. Similarly, John provides pre-publication review of advertising and promotional programs for compliance with the Lanham Act and state laws. He has handled right of publicity and related privacy claims in connection with advertising campaigns.

Practices & Industries

- Advertising, Media & Communications
- Franchising & Distribution Industry
- Health Care
- Restrictive Covenants
- Energy Industry
- Distribution
- Established & Growing Franchisors
- Litigation & Dispute Resolution
- Regulatory & Antitrust Law
- Appellate Litigation
- Energy Litigation
- Health Care Litigation
- Franchising & Distribution
- Energy
- Health Care & Regulated Industries
- Convenience Retailing
- Oil & Gas
- Renewables
- Utilities

John's antitrust experience led him to defend hospitals and other health care providers in medical staff privileges litigation, where physicians often allege unfair competition. His work in that area has yielded significant published state and federal court decisions under the federal Health Care Quality Improvement Act of 1986 (HCQIA) and Missouri's rule of non-review (by which the judiciary generally defers to the quality of care decisions of health care providers), and with respect to alleged violations of medical staff bylaws.

In addition, John frequently litigates constitutional issues, including First Amendment issues, successfully defending defamation and privacy claims for media organizations, brokerage firms (Form U-5 filings), health care providers (data bank reports submitted pursuant to the HCQIA) and other defendants. He has also prosecuted:

- First Amendment attacks on state and federal legislation
- Fifth Amendment property rights, such as attacks on a municipality's exercise of the power of eminent domain or franchisees' claims under state right of first refusal laws
- Commerce Clause, Due Process Clause, Supremacy Clause, and Equal Protection Clause challenges to state trade regulation, franchise relationship and merchandising practices statutes.

Similarly, John regularly defends both public enforcement actions and private claims under the Missouri Merchandising Practices Act and similar deceptive trade practices or consumer protection statutes. Such claims have included putative class actions alleging the wrongful charging of fees or surcharges by sellers large and small.

John practices in state and federal court, before the USPTO and the TTAB, and in arbitral forums. He has tried bench and jury trials and arbitration hearings and has extensive appellate experience, with numerous victories in the Eighth Circuit, Fourth Circuit and Missouri and Illinois courts of appeals.

Education

- Washington University School of Law (J.D., 1993)
- Boston College (B.A., 1989)

Bar Admissions

- Missouri
- Illinois
- U.S. District Court, Eastern District of Missouri
- U.S. Court of Appeals, Third Circuit
- U.S. Court of Appeals, Fourth Circuit
- U.S. Court of Appeals, Eighth Circuit
- U.S. Supreme Court

Professional Affiliations

- American Bar Association (*Planning Committee Co-Chair, Petroleum Marketing Committee of the Environment, Energy and Resources Section*)
- Missouri Bar Association
- Illinois Bar Association

- Bar Association of Metropolitan St. Louis

Awards & Honors

- Named *Best Lawyers*® Franchise Law "Lawyer of the Year" in the St. Louis area (2026)
- Named to *The Best Lawyers in America*®, Commercial Litigation (2024-2026); Franchise Law (2024-2026); Litigation - Intellectual Property (2024-2026)
- AV Preeminent®, Martindale-Hubbell® Peer Review Ratings™

Experience

- Successfully defended and obtained dismissal of defamation claim against client seeking \$2.5 million in damages in federal court in Austin.
- Successfully defended private hospital from physician's state law claims seeking injunctive relief to reinstate him to medical staff and for damages based on alleged termination of his medical staff privileges and membership. The physician alleged that the hospital violated its bylaws and the Illinois Hospital Licensing Act (IHLA) when revoking his privileges. Appellate court affirmed summary judgment that the hospital immune from damages under HCQIA and reversed trial court and entered summary judgment in hospital's favor on claim for injunctive relief based on alleged violation of hospital bylaws and IHLA. *Murfin v. St. Mary's Hosp.*, 2016 IL App (5th) 140136-U (Ill. App. Ct. 5th Dist. 2016).
- Provided counsel to BP in connection with Petroleum Marketing Practices Act issues and the \$2.6 billion sale of its Texas City refinery.
- Counseled CST Brands on contract documents for dealer relationships in connection with the divestment of about 100 station properties.
- Counseled a buyer on Petroleum Marketing Practices Act issues in connection with the acquisition and later divestment of Gulf's retail assets.
- Successfully defended private hospital from state law claims for temporary restraining order, preliminary and permanent injunctive relief, and declaratory judgment, brought by staff physician who claimed that his medical staff membership and clinical privileges were improperly terminated in violation of the hospital's medical staff bylaws. The Circuit Court dismissed the claims after a full evidentiary hearing on the physician's petition for a preliminary injunction. The decision was affirmed by the Missouri Court of Appeals for the Eastern District. *Adem v. Des Peres Hospital, Inc.*, 515 S.W.3d 810 (2017), *transfer denied* (Feb 28, 2017), *transfer denied* (May 02, 2017).
- Successfully defended private hospital from state law claims for injurious falsehood and tortious interference with contract and business expectancy brought by staff physician who claimed that his medical staff membership and clinical privileges were improperly terminated. The decision was affirmed by the Eighth Circuit. *Johnson v. SSM Health Care St. Louis*, 2013 U.S. Dist. LEXIS 12412 (E.D. Mo. January 30, 2013).
- Successfully prosecuted claim to enforce brand covenants/deed restrictions critical to major oil refiner's distribution network in Virginia. *BP Prods. N. Am., Inc. v. Stanley*, 669 F.3d 184 (4th Cir. 2012).
- Successfully defended major oil refiner against contract and tort claims for bad faith, discriminatory and predatory pricing. *Self v. Equilon Enterprises, LLC*.
- Successfully defended petroleum marketer against Missouri Attorney General's issuance of a Civil Investigative Demand (CID) directed at alleged violations of the

Missouri Motor Fuel Marketing Act's below-cost pricing prohibition. *Ports Petroleum, Inc. of Ohio v. Nixon*, 37 S.W.3d 237 (Mo. 2001).

- Successfully defended private hospital from state antitrust and related common law claims for tortious interference with contract, defamation, retaliatory discharge, malicious prosecution, abuse of process and civil conspiracy brought by staff physician who claimed that his medical staff privileges and employment contract were improperly terminated. *Misischia v. St. John's Mercy Medical Center*, 30 S.W.3d 848 (Mo.Ct.App. 2000).
- Successfully defended private hospital from federal antitrust and related state law claims for breach of contract, tortious interference with contract, defamation, and intentional and negligent infliction of emotional distress brought by staff physician who claimed that his medical staff privileges were improperly restricted and later terminated. *Sugarbaker v. SSM Health Care*, 187 F.3d 853 (8th Cir. 1999).
- Authored hospital association's amicus brief that shaped court's opinion that medical staff bylaws do not form an enforceable contract. *Zipper v. Health Midwest*, 978 S.W.2d 398 (Mo. Ct. App. 1998).
- Successfully defended private hospital against claim by staff physician seeking to enjoin hospital from reporting peer review action to National Practitioner Data Bank. *Sugarbaker v. SSM Health Care*, 946 S.W.2d 280 (Mo.Ct.App. 1997).
- Successfully defended local television station against claims brought by subjects of breaking news story for alleged civil rights violations and related state law claims of invasion of privacy. *Parker v. Boyer*, 93 F.3d 445 (8th Cir. 1996).
- Successfully prosecuted contract claims against, and defended counterclaims for tortious interference with contract brought by, former physician employee. *SSM Health Care, Inc. v. Deen*, 890 S.W.2d 343 (Mo.Ct.App. 1994).

News & Media

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