



## Melanie Black Dubis

Partner

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t 919.890.4158



Melanie Dubis handles complex patent, securities, and other business disputes at the trial and appellate level for corporate and individual clients in the pharmaceutical, manufacturing, insurance, financial services, and technology industries.

She has experience in North Carolina state and federal courts, the U.S. Courts of Appeals for the Fourth and Federal Circuits, and in arbitration proceedings.

Melanie has represented generic pharmaceutical manufacturers in patent litigation under the Hatch-Waxman Act, served as national defense counsel in class action lawsuits involving insurance regulations pending in multiple federal jurisdictions, and defended clients in false advertising and unfair competition claims filed by the Federal Trade Commission (FTC). She also represents corporations and their boards of directors in derivative actions.

She appreciates that her clients benefit from doing business in a thriving business region with a high quality of life, and she plays an active role in keeping the Raleigh-Durham area at the top of the “best of” lists through service on numerous boards and committees.

## REPRESENTATIVE EXPERIENCE

### Accounting and Financial Services Defense

- Obtained a defense award for claims of breach of contract, defamation, tortious interference with prospective advantage, and wrongful termination. *Carlson v. LPL Financial, LLC* FINRA Case No. 14-0001.
- Defended accounting firm against claims of negligence and negligent misrepresentation. After depositions of more than 50 witnesses, including experts, the case, in which more than \$100 million of damages were alleged, was resolved. *Harco v. BDO Seidman, LLP*, North Carolina Business Court (2006-2009).
- Successfully defended Ernst & Young against securities fraud claims arising out of alleged false and misleading quarterly financial statements and audit opinion. The court dismissed all claims on a Rule 12(b)(6) motion on the grounds that the complaint failed to plead scienter. *aaiPharma v. Ernst & Young, LLP*, 521 F.Supp.2d 507 (E.D.N.C. 2007).



### RALEIGH OFFICE



### PRACTICE AREAS

Litigation  
 Antitrust & Trade  
 Regulation  
 Professional Negligence  
 Defense  
 Intellectual Property  
 Litigation  
 Class Action Defense



### EDUCATION

Vanderbilt University  
 JD, 1995  
 University of North Carolina  
 at Chapel Hill  
 BA, with honors, 1992



### ADMISSIONS

North Carolina, 1995



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### Class Action Litigation

- Obtained dismissal of purported class action claims asserted against insurance broker. Represented client as national counsel in similar cases filed in multiple jurisdictions resulting in a nationwide settlement. *Petruzzo v. Healthextras, Inc. et al.* 5:12-CV-112-FL (E.D.N.C.).
- Defended alleged class action filed in state court arising out of federal claims filed by the FTC. *Federal Trade Commission v. Oil-Chem Research Corp.* (M.D.N.C. and N.C. Superior Court).

### Unfair and Deceptive Trade Practices and Trade Secret Litigation

- Obtained dismissal of all claims by independent contractors asserted against international manufacturer and distributor regarding alleged breaches of distribution agreements and other alleged tortious conduct. *Melvin Colon, et al. v. Bimbo Food Bakeries Distribution, LLC, et al.*, 15:14-CV-316-D (E.D.N.C.).
- Represented individual defendant in case alleging inter alia, trade secret misappropriation, breach of fiduciary duty, and unfair and deceptive trade practices. Plaintiff's motion for preliminary injunction was denied. After plaintiff's Chapter 75 claims were dismissed on a Rule 12(b)(6) motion, plaintiff dismissed all other claims. *Voyager Pharmaceutical Corp. v. Bowen, et al.*, North Carolina Business Court (2006-2008).

### Intellectual Property Litigation

- Represented several generic pharmaceutical manufacturers in patent litigation under the Hatch-Waxman Act, including *Granutec, Inc. v. Shalala*, 139 F.3d 889 (4th Cir. 1998); *TorPharm Inc. v. Novopharm, Ltd.*, 48 U.S.P.Q.2d 1471 (E.D.N.C. 1998); *TorPharm Inc. v. Genpharm Inc.*, 250 F.3d 754 (Fed. Cir. 2000)
- Represented plaintiffs in patent infringement action related to variable speed pump technology. *Pentair Water Pool and Spa, et al. v. Hayward Industries, Inc., et al.* 5:11-CV-459 (E.D.N.C).

### Shareholder Litigation

- Obtained TRO, preliminary injunction and summary judgment on behalf of company against shareholders purporting to act on behalf of the



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company. *Vellers, Inc. v. Taren J. Patterson, et al.* 13CVS5834 (N.C. Business court).

- Defended officers and directors of a Fortune 500 company against shareholder derivative claims of bad faith and breach of fiduciary duties arising out of the sale of an industrial park adjacent to the Las Vegas Motor Speedway. The Chancery Court held that the defendant directors' decisions were protected by the business judgment rule and granted summary judgment. The Chancery Court's ruling was upheld by the Delaware Supreme Court. *In re Speedway Motorsports, Inc. Derivative Litigation*, 2003 WL 22400758 (Del. Ch. 2003), aff'd, No. 546, 2003 (Del. Sup. Ct. May 12, 2004).

### Other Reported Cases

- Represented low-wealth school districts in what has been described as one of "the most important North Carolina Supreme Court rulings in living memory." The Leandro case established the state constitutional right to a sound basic education for all public school students in North Carolina. After a five-week trial, the trial court ruled in the plaintiff low-wealth school districts' favor. The trial court's rulings were largely upheld by the Supreme Court in 2004. Since 2004, the case has resulted in an increase of more than \$1 billion in funding for at-risk students in every county of North Carolina. *Hoke County Board of Education v. State*, 358 N.C. 605 (2004).

## CLIENT ALERTS

- "Trade Secrets: What In-House Counsel Need to Know," September 2017
- "The FTC's Intel Case Serves as a Reminder that Single Firm Conduct can also Violate the Antitrust Laws," November 2010
- "Department of Justice and Federal Trade Commission Issue Revised Horizontal Merger Guidelines," August 2010
- "Leniency Programs and Increased Criminal Penalties make Antitrust Compliance Programs Essential," August 2010



### Related Practices:

Litigation • Antitrust & Trade Regulation • Professional Negligence Defense • Intellectual Property Litigation • Class Action Defense



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- "Antitrust Compliance Programs Are Needed Now More Than Ever," May 2005

### PUBLICATIONS

- "Fourth Circuit Review: Two Rulings Impacting Employers, Police, and All Internet Users," Law.com, September 2019
- "Uniting to Fight the Second Opioid Crisis: A Rise in HIV Infections," The News & Observer, October 2017
- "Legal Tactics to Protect Against Cyberbullying," November 2015

### SPEAKING ENGAGEMENTS

- "A View From the Bench," Moderator, Carolinas Business Litigation Year in Review, February 2019
- "Trade Secrets as a Top Threat to Innovative Companies," Directors Roundtable Institute , November 2018
- "A View From the Bench," Moderator, Carolinas Business Litigation Year in Review, February 2018
- "Hot Topics for North Carolina Antitrust Lawyers and In-House Counsel," N.C. Bar Association, October 2017
- "One Trial, Three Supreme Court Decisions, And 13 Years of Hearings," UNC School of Law, October 2017
- "Trade Secrets: What In-House Counsel Need to Know," Benchmark Women in Litigation Forum, September 2017
- "Purposeful Career Development," Chamber Professional Women's Luncheon, July 2017
- "The Remedial Phase of Leandro," Education Law Section Annual Meeting, November 2005
- "Boards and Social Media," National Association of Corporate Directors, Research Triangle Chapter



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- "Leandro and Potential Future Litigation in State Courts," N.C. School Boards Association 13th Annual School Law Conference
- "Litigating Complex Commercial Disputes in North Carolina: Recent Key Decisions of the North Carolina Business Court," NCBA Antitrust & Complex Business Disputes Law Annual Meeting
- "Managing Social Media For Your Company," Association of Corporate Counsel, Research Triangle Chapter
- "Managing the Legal Challenges of Social Media," NCBio Biotech Manufacturers Forum
- "The New Water Cooler: Legal Adventures in Social Networking," Parker Poe Client Seminar and CLE

## HONORS

- *The Best Lawyers in America* in Commercial Litigation, Antitrust Litigation, 2013-2020; Securities Litigation, 2017-2020
- *Benchmark Litigation*, Local Litigation Star in North Carolina, 2014-2020; Future Star in North Carolina, 2013
- *North Carolina Super Lawyers*, 2014-2019; Rising Star, 2009
- North Carolina Foundation for Public School Children's Champion for Children Award, 2014
- Featured in "10 People to Watch in 2013" by the *Triangle Business Journal*
- *Chambers USA: Women in Law Awards* 2013 – Nominee, Up-and-Coming Litigation Lawyer of the Year
- *Chambers USA: America's Leading Lawyers* in General Commercial Litigation, 2012-2013
- *Triangle Business Journal*, Women in Business Award, 2011
- *North Carolina Lawyers Weekly*, Leaders in the Law Award, 2011
- *Business North Carolina* magazine's "Legal Elite" Young Guns, 2007
- *Triangle Business Journal's* 40 Under 40, 2006



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- Litigation Counsel of America, Fellow, 2013-present
- International Association of Defense Counsel (IADC)
- Martindale-Hubbell AV® Preeminent™ in Commercial Litigation; Business Torts; Intellectual Property Litigation; Antitrust; Trade Regulation; Securities Litigation
- Phi Beta Kappa
- John W. Wade Scholar, Vanderbilt University Law School

### MEMBERSHIPS

- Carolina Ballet, Board of Directors, Chair, 2011-2015, Board Member, 2005-2017; Development Committee, Chair, 2010-2011
- North Carolina Bar Association, Antitrust and Complex Business Disputes Law Section, Council, 2015-present; Quality of Life Committee, 2011-2015; Appellate Rules Advisory Committee, 2003-2010; Civil Practice and Procedure Committee, Litigation Section Council, Chair, 2005-2006
- Greater Raleigh Chamber of Commerce, Board of Directors, 2015-present; Education Committee, 2010-present; Communications Committee, 2010-2011
- Alliance of AIDS Services – Carolina, Board of Directors, Chair, 2014-present, Board Member, 2013-present; Pro Bono General Counsel, 2001-2013
- Girl Scouts of America, N.C. Coastal Pines Council, Board of Directors, 2018-present
- Wake County Bar Association, Bench Bar Committee, 2008-2018
- Suzie M. Sharpe Inn of Court, 2000-present
- Connected Women of North Carolina, Advisory Board, 2010-2012
- Leadership America - North Carolina, Board of Directors, 2005-2007
- Vanderbilt Law Review, Senior Student Writing Editor