

California Powerhouse: Hueston Hennigan

By **Gina Kim**

Law360 (August 4, 2022, 2:02 PM EDT) --Hueston Hennigan LLP has been unstoppable in high-stakes litigation on both sides of the "v" over the past year, scoring a massive victory for Monster Energy for \$175 million in a trademark infringement case, and securing a landmark defense win for Endo Pharmaceuticals in opioid litigation, with billions at stake.

The Southern California-based firm also obtained a complete defense win in July 2021 for PricewaterhouseCoopers LLP in a case initiated by a former employee and whistleblower Mauro Botta following a bench trial. This case and many others earned Hueston Hennigan, the smallest firm being recognized, a spot on Law360's California Powerhouses list.

Botta sued PwC and seven of its partners, claiming he was fired and retaliated against for filing a whistleblower complaint with the U.S. Securities and Exchange Commission accusing PwC of misconduct. But a California federal judge dismissed his suit, finding that Botta failed to link his complaint to the SEC with his firing.

But the work is far from over for the legal titans for the rest of 2022; Hueston Hennigan has about half a dozen trials left to go, a number that founding partner John C. Hueston said shows a "historically busy trial cycle for the firm."

"Our goal by the end of this year is to complete a record run of trials and have everyone's health intact," he said. "This is a hallmark of our work. Clients come to us with matters they really think will go to trial, and that's why I keep telling our firm, let's emphasize the numbers because it's easy to talk, but we're actually walking the walk."

Founded in 2015, Hueston Hennigan started off with only about a dozen attorneys. Since then, the firm has grown to 72 on staff, with offices in Los Angeles and Newport Beach.

Looking back nearly a decade ago as the firm's founding partners were on the verge of launching their own shop, the group was confident in what they were about to build, said partner Moez M. Kaba.

"It's been terrific to see how things have come together, and continue coming together," he said. "The best piece of advice I would've given myself then would be to take on challenging opportunities to develop your skills as a trial lawyer."



Added Hueston: "You'll never get to the top of your profession unless you're willing to have confidence in yourself and take risks as entrepreneurs — and even with your reputation. With skills and development, you can succeed at the highest level of practice."

From the start, the founding partners had a vision of launching a national boutique focused not only on building a powerhouse team of formidable trial attorneys, but also molding and mentoring younger associates to become skilled courtroom litigators, ready to face off against anyone on the other side of the table.

The goal was to be the go-to, premier trial firm with a diverse practice, covering corporate, contracts, intellectual property, white collar, business litigation and more.

"Every one of our cases is truly a team effort," said Kaba. "Everyone leaves it all out there. We leave nothing behind."

It's that attitude that served the firm well in its crusade on behalf of its highest-profile clients in the last year, from Monster Energy and PwC to Kaiser Permanente and Endo Pharmaceuticals.

Hueston Hennigan represented Monster in a massive April arbitration victory on behalf of Monster and Orange Bang, which accused sports supplement and drink maker Vital Pharmaceuticals of ripping off the "Bang" trademark for energy drinks, in violation of a prior agreement between Orange Bang and Vital.

Monster agreed to help Orange Bang defend its rights in exchange for half of any recovery. In April, an arbitrator awarded Monster and Orange Bang \$175 million plus a 5% future royalty.

"In order to be a credible trial firm, you must have teams that truly relish going to trial," Kaba said. "It helps bring a focus to the case, ask the right questions, and zero in on the things that will matter most to prevail in front of a judge, jury or some other fact-finder. It brings both discipline and creativity to our cases that we think sets us apart."

Hueston Hennigan's big break with Endo Pharmaceuticals came in 2018, when the company selected it over other top-notch firms to do some national trial work. Endo eventually tapped the firm as the counsel of record for a \$50 billion state court bench trial in which Endo, Johnson & Johnson, Teva Pharmaceuticals and Allergan PLC were accused of creating a "public nuisance" by causing the opioid crisis.

Last November, after a monthslong bench trial, Orange County Superior Court Judge Peter J. Wilson ruled that the city of Oakland and the counties of Orange, Los Angeles and Santa Clara failed to prove an actionable public nuisance for which Endo and the three other drugmakers were liable. The decision was finalized in December.

"We were by far the smallest firm, and we were very grateful for the confidence," Hueston said. "Frankly, everyone was betting this was a case that couldn't be won, but we knew this could be won with the right approach to the facts and the law."

The entire team was focused and remained aggressive throughout the long, complex trial, and it crafted a narrative to tell the story from the company's point of view of why prescription pain medication was critical in the health care industry, and how Endo's conduct didn't fit within any of the elements required

to establish a public nuisance, Kaba said.

The opioid litigation taught the firm some crucial lessons.

"John has a saying that we've lived by in all of our trials, which is: 'We've got to go out there and try to win every day,'" Kaba said. "So what I tell our team is that even on the day the other side gets their key witness on the stand, we still try to win that day."

Also in November, the firm secured a victory for ClearOne in its long-running spat with competitor Shure in an infringement dispute relating to a microphone array that uses a ceiling tile to deliver audio through an acoustically transparent outer surface, which allows the technology to be mostly out of sight.

A Delaware federal jury ultimately ruled that ClearOne didn't infringe the patent owned by Shure, while also concluding that the entire patent wasn't valid to begin with.

That same month, Hueston Hennigan helped Kaiser defeat emergency attempts to block its COVID-19 vaccination policy for its staff, more than 4,000 of whom fought against the enforcement of the policy, which terminated those that didn't get the vaccine or receive an exemption.

As soon as the court rejected the employees' petition seeking emergency relief, Hueston Hennigan moved to dismiss, and the employees subsequently dropped their suit.

Hueston Hennigan's work extends beyond the private sector. In January 2021, it made a \$10 million pledge when it launched the Social Justice Legal Foundation, a separate entity that focuses on public work, criminal justice reform and civil rights, representing children of undocumented immigrants, members of the LGBTQIA community, victims of police misconduct, and more.

When asked what the future holds for Hueston Hennigan, Hueston and Kaba both expressed excitement about the firm's advocacy for its clients and litigating their most challenging cases. They emphasized the importance of growing nationally while attracting and mentoring the best and brightest attorneys and law clerks.

"We hope to continue what we've been doing, and to keep doing it at the highest levels," Kaba said.

"We wanted to be one of the leading national trial firms, and we feel we rang the bell regionally from the start," Hueston added. "We've been very excited and grateful to our clients for coming to the West Coast with their most important cases. Our next step is to make that national footprint more concrete."

--Additional reporting by Lauren Berg, Dave Simpson, Adam Lidgett, Craig Clough and Jeff Overley.
Editing by Adam LoBelia.