

## 2005 Year In Review Attorney Listing

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# Results

# Experience

2005 Year in Review

# Relationships

## GRAVES DOUGHERTY HEARON & MOODY

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We have included in this report descriptions of successful client representations, strategies or outcomes in matters, including transactional and adversarial proceedings. The results obtained were dependent on the facts of the particular matters described. Results will differ if based on different facts. Not all members of the firm are Certified by the Texas Board of Legal Specialization.

We are pleased to showcase for you some of the accomplishments and successes of our clients in 2005. We are grateful for the relationships that have allowed us to participate in those results.

-Mike McKetta, President, Graves Dougherty Hearon & Moody

2005 was a year of exceptional results for many of Graves Dougherty's clients. In many instances, these results are connected with relationships we have enjoyed over many years and with experience that our lawyers have developed over time.

We appreciate our clients allowing us to work with them towards achieving these results. All our efforts are focused on our clients: on achieving successful results for them, using our years of experience in the service of their needs, and keeping our relationships with them strong and vibrant.

Bringing together these three aspects of the practice of law—results, experience and relationships—is what enables us to serve our clients efficiently and effectively. On the following pages, you'll learn more about results our clients have achieved in 2005, and about the ways in which results, experience and relationships continued to define our mission of service to those who entrust us with their legal challenges.



## CORPORATE: A SIGNIFICANT ACQUISITION—AND A NOTABLE SALE

In a year of outstanding results for clients served by the firm's corporate practice, one of the highlights was the acquisition of DMX Music by our client THP Capstar Acquisition Corporation. Represented by a team of lawyers led by Rod Edens, and including Roy Snodgrass and Debbie Ramirez, THP Capstar succeeded in acquiring one of the world's leading suppliers of music to businesses including airlines, retail stores and cable companies. Because DMX Music is a major business group with a presence in more than 100 countries, the acquisition was a complex undertaking involving interests all over the world, as well as the coordination of many different parties and their attorneys. One important result of this successful acquisition is the relocation of DMX headquarters from Los Angeles to Austin, bringing new jobs and economic impact to the area. Principals of THP Capstar include Steve Hicks, John Cullen and Paul Stone. Rod Edens has for more than a decade represented business entities in which these individuals have had investments.

Rod Edens, along with Thomas Queen, also closed a significant sale of assets and stock by one of the firm's clients, Varel International, Ltd. The Texas-based company, one of the world's largest manufacturers of drill bits for the oil and gas industry, sold its assets and stock of a subsidiary to a private equity fund based in Colorado. Many attorneys worked together with Edens and Queen on this large transaction, which raised complex issues related to everything from the application of Hart-Scott-Rodino anti-trust legislation to compliance with U.S. export laws. The full team included Karen Bartoletti, Cliff Ernst, Helen Foster, Sandy Griffin, Orlesia Hawkins, Jim Laughead, Ed McHorse and Paul Saenz.



John Cullen, left, a shareholder in THP Capstar Acquisition Corporation, became president of DMX Music upon the acquisition of DMX by THP Capstar. Rod Edens led the Graves Dougherty team, which included Debbie Ramirez, in this large, complex acquisition. It brings a major entertainment business headquarters to the Austin area.



## REAL ESTATE: A BUSY YEAR AROUND THE BACKYARD

Graves Dougherty worked on several important real estate transactions involving land at Highway 71 West and Ranch Road 620 in Bee Cave. These activities began with a decision by the Baldwin family—clients of the firm for more than two decades—to develop a large tract of land that it owned in the area. Mike McKetta, president of the firm, represented the Baldwins in a lawsuit to determine how the land could be zoned and used. Once the family's right to develop the property was established, Alan Haywood stepped in to negotiate on the Baldwins' behalf with developers who hoped to build The Galleria, a mixed-use project, on the land. These negotiations ended with the successful sale of the property to the developers by the Baldwin family.

Meanwhile, across the highway, the developers of The Shops at the Galleria planned a retail project on land that had long been used by the popular Austin music venue The Backyard to provide parking for its patrons. Faced with the loss of the use of the land, Tim O'Connor of Direct Events, which operates The Backyard, turned to longtime friend and lawyer Terry Bray for help. Bray represented Direct Events in negotiations with the developers, and the parties ultimately reached an agreement for The Backyard to purchase a portion of the land for its continued use.



Tim O'Connor, right, of Direct Events, which owns and operates The Backyard, was represented by Terry Bray in negotiations with developers of land adjacent to the outdoor entertainment space. The parties ultimately agreed to the sale of a portion of the land to the music venue, enabling it to continue to provide services such as parking to patrons.



## LITIGATION: ADDING EXPERIENCE, ARGUING BEFORE THE STATE SUPREME COURT

The firm enjoyed a wealth of opportunities to expand its high-tech litigation practice in 2005. Reid Wittliff, Pete Kennedy and Orlesia Hawkins litigated several cases involving cutting-edge legal issues in the technology arena.

- **Trade Secrets.** The firm successfully prosecuted a theft of trade secrets case involving computerized designs for semiconductor manufacturing equipment.
- **The Can Spam Act.** The firm defended the first Can Spam Act case brought by the Texas Attorney General's Office; defended a case brought by Microsoft under the Act; and assisted clients with compliance issues under the Act.
- **Spyware.** The firm defended a civil privacy claim based on allegations of one person installing spyware on another's computer. The firm also took on the defense of the first case brought under the recently enacted Texas Consumer Protection against Computer Spyware Act.

The firm's litigation practice also won an important victory before the Texas Supreme Court for client State Farm Mutual Automobile Insurance Company. The Court reversed the certification of a class action against the company in which the plaintiffs were seeking billions of dollars in court-ordered dividends. The decision includes the important holding that trial courts must consider dispositive motions before class certification. Early in 2006, the trial court granted State Farm's plea to the jurisdiction, dismissing the case. Pete Schenkkan argued the case before the court; Bob Hearon and Mary Keeney played important roles in winning the Supreme Court review; Mike McKetta tried the certification hearing; and many, many others worked on the briefs in this case.



Scott McCown, front, executive director of the Center for Public Policy Priorities, sought Graves Dougherty's help to ensure that women raising children while earning less than \$2,500 a year would not lose their Medicaid benefits for failing to keep their children immunized or attending school. On a pro bono basis, Pete Schenkkan and Mary Keeney successfully argued a first case for the Center in state court and then successfully argued a second case for Medicaid recipients in federal district and appellate court.



## COMMUNITY: A TRADITION OF GIVING BACK

The Austin area has long benefited from Graves Dougherty's commitment to give back to its community, and 2005 was no exception. The firm hosted its sixth annual Engaging Conversations event last year, raising more than \$50,000 for Hospice Austin.

The firm also introduced its new Inside Views program in 2005, which is focused on generating discussions of important topics among community leaders. Inside Views events during the year featured discussions on issues such as the changing role of the news media, transportation challenges in Central Texas, and the state of health care in Central Texas.

Last year, the firm's efforts on behalf of the community were rewarded in many ways.

- Volunteer Legal Services (VLS) of Central Texas presented Graves Dougherty with its Joseph H. Hart Award. In the last two years, Graves Dougherty has taken more VLS cases than any other firm in Austin.
- The United Way Capital Area bestowed its "Outstanding Leadership Giving Campaign" award on Graves Dougherty.
- Twenty-one Graves Dougherty lawyers were selected in 2005 by their peers for inclusion in the 2006 edition of *The Best Lawyers in America*.
- Firm shareholders Mike McKetta and Karen Bartoletti were named winners in the *Austin Business Journal's* Best of Business Attorneys and Corporate Counsel awards.
- Clarke Heidrick received the People's Community Clinic's W. Neal Kocurek Award for Health Care Advocacy, recognizing his efforts on behalf of equitable healthcare.



Marjorie Mulanax is executive director of Hospice Austin, which was selected as the beneficiary of funds raised during the firm's annual Engaging Conversations event. She is pictured with Clark Lutz, Graves Dougherty shareholder and member of the Hospice Austin board of directors. More than \$50,000 was raised for Hospice Austin at the event.