NEXSEN | PRUET

David Black

Member

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PRACTICE AREAS

- Business Disputes
- Computer, Internet and Technology
- Electric Cooperatives
- Energy Law
- Government Contracts
- Intellectual Property
- Intellectual Property Litigation
- Lender Liability
- Litigation

INDUSTRIES

- Energy

BAR & COURT ADMISSIONS

- South Carolina
- U.S. District Court, District of South Carolina
- U.S. Court of Appeals, Fourth Circuit

EDUCATION

- University of South Carolina, B.A., 1995

J. David Black is an attorney in the firm's Columbia, SC office, practicing in the areas of complex civil litigation, business disputes, commercial litigation, class action defense, and intellectual property litigation.

David also practices in the area of electric-utility law including corporate governance issues, capital credit practices, electric-service rights, eminent domain, territorial assignment disputes, and all aspects of litigation, regulation and counseling, with an emphasis on cooperative organizations. David represents clients before the Public Service Commission as a regular part of his practice.

While in law school at the University of South Carolina, he received the Justice Ness Academic Honors Scholarship. Prior to joining Nexsen Pruet, Mr. Black served as law clerk to the Honorable Kenneth G. Goode of the Sixth Judicial Circuit.

David has an AV rating in Martindale Hubbell, the highest such rating available to any individual lawyer. In 2008, The State Newspaper's *Columbia Business Journal* highlighted David as a "rising star" in the South Carolina Business and Legal community. David is also an avid cyclist and runner. When he is away from the office he enjoys running marathons and competing in cycling races and other charitable events.

CAREER HIGHLIGHTS

- Clerk to the Honorable Kenneth G. Goode, Sixth Judicial Circuit (2000-2001)
- The State Newspaper, Columbia Business Journal, featured as a "Rising Star" in the South Carolina Business and Legal Community
- Martindale-Hubbell: AV Rated

continued

- University of South Carolina, J.D., 2000

David Black, *continued*

REPRESENTATIVE MATTERS

James Brown Litigation

10/2010

David Black and a team of Nexsen Pruet attorneys represented the James Brown Trust and Estate (Bauknight) in two separate appeals involving former trustees attempting to return to a position of authority over the trust and estate. Both appeals have been successfully resolved other than an award of attorneys fees that may be asserted against Cannon for contempt of court proceedings.

7/2010

David Black represented the James Brown Trust and Estate (Bauknight) in a declaratory judgment, accounting, and copyright action filed in the United States District Court for the Central District of California. In this matter, Ms.Hollander argued that she was entitled to over half of James Brown's royalties and intellectual property pursuant to an alleged oral agreement. Mr. Black filed a motion to dismiss on the basis of improper personal and subject matter jurisdiction. The District Court granted the motion ruling that personal and subject matter did not exist in the California federal court.

Corporate and Business Litigation

10/2009

David Black represented a multinational global 500 company in a products liability and accounting action challenging the design of drywall fasteners. Prior to engaging in lengthy discovery and mediation, he assisted the client in negotiating a favorable settlement dismissing both actions.

7/2009

David Black, and a team of Nexsen Pruet attorneys, represented a database developer in a contractual dispute concerning contract terms, payment, and the absence of a termination clause related to development of the database. After a weeklong trial in Federal District Court, the Court held that the contract did not run into perpetuity and that termination was proper on a prospective basis.

Electric Cooperative Litigation

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David Black, *continued*

8/2010

David Black represents Santee Electric Cooperative in a purported current member derivative class action challenging the Cooperative's compliance with statute, bylaws, and other corporate governance issues.

6/2009

David Black, and a team of Nexsen Pruet attorneys, represents seventeen South Carolina electric cooperatives in a purported former member class action challenging the cooperatives' compliance with statute, bylaws, and capital credit retirement policies. The former members seek early retirement of over 250 million dollars in capital credits.

5/2008

Marc Manos and David Black won a directed verdict in favor of their client, Aiken Electric Cooperative, Inc., in Edgefield County Circuit Court. The case involved a challenge to a substation expansion and multi-million dollar distribution line easement along a US. Highway.

3/2008

Marc Manos and David Black filed an Amicus Brief for the Electric Cooperatives of South Carolina, Inc., portions of which the South Carolina Court of Appeals heavily relied on in its opinion in *City of Newbery v. Newberry Elec. Coop., Inc.*, 2008-UP-200 (S.C. Ct. App. March 24, 2008).

8/2007

David Black and a Nexsen Pruet team represented a South Carolina electric cooperative in a federal lawsuit concerning annexation, territorial service rights, and a $16 million dollar infrastructure investment. Through mediation, he assisted the client in negotiating a favorable settlement that will preserve the electric cooperative's post annexation territorial service rights.

Intellectual Property Litigation

11/2008

David Black represented a nationally recognized award winning home plan designer in a copyright and trademark action involving the illegal publication

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David Black, *continued*

of house plan renderings. Without the aid of a mediator, he assisted the client in negotiating a favorable settlement ending years of litigation.

12/2003

David Black and a team of Nexsen Pruet attorneys represented a United Kingdom software developer in a copyright action involving point of sale computer source code. Without the aid of a mediator, they assisted the client in negotiating a favorable settlement that will provide international protection for the software code.

Recording Industry Association of America ("RIAA")

1/2007

Mr. Black and a team of Nexsen Pruet attorneys represent the Recording Industry Association of America (RIAA) in more than sixty federal actions filed throughout South Carolina involving copyright infringement and illegal peer-to-peer file sharing.

South Carolina Pharmacy Benefit Manager Contract

9/2005

Marc Manos, David Black and a Nexsen Pruet team convinced the Procurement Review Panel to reverse a Chief Procurement Officer order, awarding the firm's health care industry client a multi-million dollar state contract for pharmacy benefit management.

8/2004

Mr. Black participated in a marathon 17-hour procurement protest hearing involving the award of the State Employee Pharmacy Benefit Manager Contract. A later settlement resulted in the contract being awarded to Nexsen Pruet's client.

REPORTED DECISIONS

Cannon v. Georgia Attorney General, In re: James Brown, et al., 725 S.E.2d 698 (S.C. 2012)

Jacqueline Hollander v. The Irrevocable Trust Established by James Brown in August 1, 2000 et al. 2:10-cv-03357-PSG –AJW (2010).

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David Black, *continued*

In Re: Protest of Express Scripts, Inc.; Appeal of Medco Health Solutions, Inc., South Carolina Procurement Decisions, SCPD Case No. 2005-8 (October 6, 2005).

SCE&G v. Aiken Electric Cooperative, Inc., and the South Carolina Public Service Commission, 2005 UP 292 (Ct. App. 2005)

In Re: Protest of Palmetto Unilect, LLC; Diebold Election Systems; iPServices, LLC; Maximus, Inc.; and Election Systems & Software, Inc. Appeal of Palmetto Unilect; Diebold Election Systems; and Election Systems & Software, Inc., South Carolina Procurement Decisions, 2004 WL 2516305, SCPD Case No. 2004-6 (July 1, 2004).

SCE&G v Palmetto Electric Cooperative, Inc., South Carolina Public Service Commission Decisions, Case No. 2002-0192-E (October 23, 2003).

Carolina Trucks and Equipment, Inc., v. Volvo Trucks, N.A., 2003 WL 23873007 (4th Cir. Jan 21, 2003)(No. 02-2410).

SCE&G vs. Aiken Electric Cooperative, Inc., South Carolina Public Service Commission Decisions, Case No. 2000-0242-E (April 23, 2002).

CIVIC AND PROFESSIONAL MEMBERSHIPS

- South Carolina Bar Association, Litigation Section
- American Bar Association, Litigation and Energy Sections
- Member, South Carolina Bar Resolution of Fee Disputes Board
- Member, South Carolina Public Service Commission Advisory Committee
- Member, Electric Cooperative Bar Association