



In the News

Waco IP Atty Calls Pilot License His 'Secret Weapon'

September 14, 2022 | (Time to read: 4 minutes)

By [Dani Kass](#) · [Listen to article](#)

Law360 (September 13, 2022, 4:28 PM EDT) — Munck Wilson Mandala LLP partner David Henry has made his personal plane and flying services central to his patent litigation practice in Waco, Texas, where he set up shop long before it became a patent hotspot.

By flying his Cessna 421 Golden Eagle to clients or courts, Henry said he's been able to bolster his practice, including by flying in to help with little notice, attending depositions in different places back to back and flying directly into smaller towns like Marshall, Texas. On a personal level, having his own plane has given Henry the freedom to live wherever he wants and have more time with his family, he said.

"It's not a secret, but it also seems like a secret weapon," Henry said.

Henry is the managing partner of Munck Wilson's Waco office, which he opened this year after more than a decade leading Gray Reed & McGraw LLP's intellectual property litigation group. He's also been an intellectual property law professor at Baylor Law School in Waco since 1994, and that job offer is what prompted him to get his pilot license that year.

"The triggering point was when I was offered the teaching slot," said Henry, then a partner at Gunn Lee & Miller PC. "At the time, I was living and practicing in San Antonio. It was a three-hour drive each way if everything went well. [Flying myself], I can do it in under an hour."

The first time he used flying for his private practice was after a call with a prospective client in a remote area. The client was still vetting firms and asked when they'd be able to meet with Henry in person.

"I said, 'Let me ask you this: Is there an airport in your town? Any airport?' And the prospective client says, 'I'm looking at the airport out my window,' and I said, 'How about I meet with you this afternoon?'" Henry said. "That flipped a switch. I realized I could be anywhere, anytime. More responsive. Get to clients. Get to court locations. [To travel to] Marshall, Texas, most people fly to Shreveport, Louisiana, or Dallas. I fly to Marshall."

At another point, the eight-seater plane allowed Henry to make sure a team of attorneys — including his client's general counsel and three of its in-house lawyers — attended depositions around the country on a tight deadline, whereas a "very prominent Los Angeles-based firm" on the other side had to send multiple teams, he said.

"The client was thrilled," he said. "It frankly saved the client a fortune because they were not paying three teams of lawyers who then have to coordinate. You can accomplish so much more, and situations like that can give you a competitive advantage."

Munck Wilson partner Eric Tautfest, who came with Henry from Gray Reed and often rides in the cockpit, said having the case's lead attorneys at all depositions helped ensure nothing was missed.

"You get better coherency and consistency throughout the case if you've got a smaller group working on the case," Tautfest said. "When you've got people who may not be as familiar with the case, it's not going to be as effective as if you could have the core team."

Not relying on a commercial airline schedule has also allowed the Texas attorneys to set their own schedule and give meetings with clients as much time as needed, Tautfest said. And there's no hassle with security lines or luggage.

"We jump on board, and we're off," Tautfest said. "If we need to change and go somewhere else in the middle of our trip, we can do that, too."

Henry added that clients don't get charged for flying, in part because he doesn't have the Federal Aviation Administration license required for charters, and in part to avoid the impression that flying is a hobby he wants clients to fund.

"It more than makes up for the expense in terms of saved time and not missing things," he said. "It's an investment in my business."

During the courts' initial shutdown amid the COVID-19 pandemic, Henry said his flying time was reduced "rather considerably" as trials, live hearings and in-person meetings were canceled.

"But now I'm flying more than I was before the pandemic to make up for it," he said.

Henry and his family moved to Waco in 1999, after five years of commuting between San Antonio and Baylor. The move was unheard of for practicing patent attorneys at the time.

"When I first announced to my then-partners and other friends that I was moving to Waco, they were aghast. Several described it as professional suicide," he said. "What they weren't accounting for is that it didn't matter where I lived, particularly because of aviation."

They also weren't accounting for the "surreal" turn of 2018, when Judge Alan Albright took over as sole district court judge in Waco and within a few years, about a quarter of the country's patent litigation was being filed there.

"All of a sudden Judge Albright arrives, and I'm on his [advisory] committee, and now everyone is asking, 'Where did you get your crystal ball?' There was a little vindication there," Henry said.

In late July, the chief judge of the Western District of Texas made it so patent cases filed in Waco will be randomly assigned to any of 12 judges in the district, rather than automatically assigned to Judge Albright, leaving many to speculate on whether Waco will drop off the map as fast as it rose to prominence.

"My personal belief is that Waco will remain a significant player in patent litigation," Henry said. "But for my own self-interest, it really doesn't matter."

Waco also became extremely important to his family, Henry said, noting that it's where his children met their spouses and where his grandkids live. The plane allowed him to get home easier and to bring his family with him on work trips, he said, albeit noting that they didn't tend to take it for recreational trips.

"This is how we had family time," he said. "When you have an airplane and you've got to go to various places, everyone goes with you. We had family time in ways that this profession often doesn't allow."

In Henry's 28 years as a pilot, he's met only one other attorney-pilot who flew for work, but he said that was 25 years ago. The only attorney-pilot he knows now doesn't use it for work. But he may be inspiring the pool to grow.

"I'd like to get my pilot license too, so I can be more of a contributor," Tautfest said. "I'm totally sold on it."

—Editing by Kelly Duncan and Emily Kokoll.

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