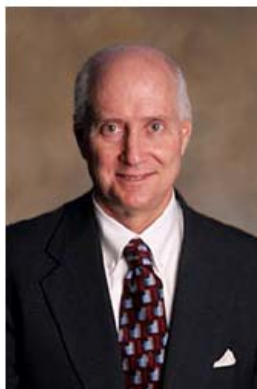


PROFILE

MARK L. AUSTRIAN



Present

Member, Kelley Drye & Warren, LLP

Adjunct Associate Professor American University Washington College of Law (2004-)

Background

Admitted to Bar

New York State Bar and District of Columbia Bar

U.S. Supreme Court

U.S. District Court for the District of Columbia, Southern and Eastern Districts of New York, Eastern District of Pennsylvania, and District of Maryland

U.S. Court of Appeals for the District of Columbia, First, Second, Third, Fourth, Sixth, and Eighth Circuits

Education

University of Pennsylvania Law School (J.D., 1970, *cum laude*);
University of Pennsylvania Law Review; Board of Officers (Vol. 118),
Developments and Research Editor

University of Pennsylvania Wharton School of Finance (B.S., 1967)

Mr. Austrian's diversified experience covers a wide range of litigation areas, including:

- Lead Trial Counsel in IP validity and infringement trial.

- Counsel to the State of Nebraska in a two-month trial in Federal District Court concerning licensing of a nuclear waste facility. Extensive use of computer technology to present evidence.
- Winning a defense verdict for Merrell Dow Pharmaceuticals Inc. in a six-week jury trial in Pennsylvania Federal Court involving a claim that the pharmaceutical product, Bendectin, caused serious heart defects. Then, successfully trying and arguing the appeal on behalf of Merrell Dow Pharmaceuticals Inc. in a nine-week birth defect case before a District of Columbia jury. *Richardson v. Richard-Merrell, Inc.*, 847 F.2d 823 (D.C. Cir. 1988); cert. denied, 110 S. Ct. 218 (1989).
- Defeating a retaliatory patent infringement action filed in Delaware and a motion for preliminary injunction, on behalf of Jacobs Vehicle Equipment Systems, Inc. in Connecticut Federal Court, where certain patents were asserted against Jacobs' diesel engine brake technology.
- Negotiating a \$10 million settlement for Allegheny Ludlum Corporation in a patent infringement action against Nippon, the world's largest steel producer.
- Serving as counsel for GTE in actions brought in United States District Courts in Michigan, Illinois, Indiana, Kentucky and various state regulatory agencies in connection with disputes arising under the Telecommunications Act of 1996.
- Successfully defending Jacobs Vehicle Systems, Inc. in a seven-day evidentiary hearing in Connecticut State Court on a preliminary injunction motion where plaintiffs asserted Jacobs improperly terminated their distributorships.
- Achieving a successful ruling for Weyerhaeuser Corporation in a bench trial in Maryland Federal Court involving a dispute over who was responsible for contamination at a Baltimore facility.
- Attaining favorable results for manufacturers of bicycles, light fixtures, chemicals, small diesel engines, lawn mowers, chipper/shredders and other consumer goods before the Consumer Product Safety commission, including advice on potential reporting requirements, freedom of information requests, defense of enforcement proceedings and advice on product recalls and comments on proposed regulations.
- Serving as counsel for a consortium of manufactures of outdoor power equipment on product liability issues.

Prior to joining Kelley Drye, Mr. Austrian was an associate in the law firm of Davis Polk & Wardwell in New York City. Mr. Austrian served as a law clerk to The Honorable Orrin Judd, United States District Court for the Eastern District of New York.

Professional Activities

Member, American Law Institute (Member, Consultation Group, Complex Litigation Project)

Board of Directors, The William B. Bryant Inn of Court

*Board of Directors, Council for Court Excellence (D.C. Jury Project Study
Committee Member)*

Member, Defense Research Institute

Georgetown Law School E-Discovery Advisory Board

Teaching, Publications and Presentations

- “Preparing Your Defense with Electronic Case Management. For the Defense (July 2005)
- Faculty, National Institute for Trial Advocacy (1985-)(Patent Litigation Program; Advanced Trial Program; Computer Technology Program; Expert Witness Program; Deposition Program)
- “Timing is Everything – Fulfilling the Promise of *Markman*”, Federal Circuit Bar Journal, Volume 9, No. 1 (1999)
- “Toxic Torts and the Courtroom of the Future,” For the Defense (May 1999)
- “Complex Trials: A Scientific Reference Manual for Judges”, For the Defense (Aug. 1995)
- “Expert Evidence in Toxic Tort Litigation”, For the Defense (Feb., 1988)
- “Informed Consent and Women of Childbearing Age in Investigational Studies: A Lawyer’s Perspective”, Drug Information Journal, Vol. 30 (1996)
- “CPSC Flexes its Enforcement Muscle”, For the Defense (Mar. 1992)
- “Companies Should Carefully Watch New Broadened CPSC Reporting Requirements”, Product Safety & Liability Reporter (Nov. 1991)
- “Keeping Animal Studies out of Toxic Tort Cases: A Powerful New Tool for Business”, Working Paper Series, Washington Legal Foundation (1990)
- Defense Lawyer’s Perspective, Justine Prevails in [Toxic Tort] Litigation”, BNA Civil Trial Manual (1988)
- Contributor, Effective Use of Courtroom Technology. A Judge’s Guide to Pretrial and Trial (NITA, 2003)
- Lecturer, Courtroom Technology in Programs before the Federal Trade Commission and Federal Deposit Insurance Corporation