



## David R. Fine

### Partner

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## OVERVIEW

David Fine is an appellate lawyer with broad experience briefing and arguing appeals in both federal and state courts across the United States. Chambers USA has ranked David as a Band 1 appellate lawyer in Pennsylvania. *Best Lawyers in America*® has listed David for the past dozen years. David has practiced in the Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth, Ninth, Tenth, Eleventh and D.C. federal circuits; the Pennsylvania Supreme Court; the Pennsylvania Superior Court; the Pennsylvania Commonwealth Court; the Arizona Court of Appeals; the Delaware Supreme Court; Florida Supreme Court; the Florida Third District Court of Appeal; the Florida Fourth District Court of Appeal; the Louisiana Court of Appeals; the Maryland Court of Appeals; the New York Court of Appeals; the New York Appellate Division; the Oregon Supreme Court; the Oregon Court of Appeals; and the Texas Court of Appeals. David also provides consulting services to clients and lawyers developing appellate strategies. David currently serves as the president of the Third Circuit Bar Association. David is a fellow of the American Academy of Appellate Lawyers. He has served by appointment of the Pennsylvania Supreme Court on that court's Appellate Court Procedural Rules Committee (2008-15), Pennsylvania Board of Law Examiners (2015-21; chair, 2020-21), and Pennsylvania Interest on Lawyers' Trust Accounts Board (2021-present; secretary, 2022-present). He frequently writes and lectures on appellate advocacy.

## PROFESSIONAL BACKGROUND

From 1992 to 1994, David served as a law clerk for the Honorable William W. Caldwell of the U.S. District Court for the Middle District of Pennsylvania. Prior to attending law school, David worked as a broadcast reporter.

## ACHIEVEMENTS

- Recognized by *Chambers USA* with a Band 1 ranking for Litigation: Appellate in Pennsylvania, 2023
- Listed in *The Best Lawyers in America*® in Harrisburg
  - Appellate Practice, 2012-2024
  - Bet-the-Company Litigation, 2015-2024
  - Commercial Litigation, 2013-2024

- Recipient of "Lawyer of the Year" by *The Best Lawyers in America*® for Appellate Practice in Harrisburg, 2022
- Named to the Pennsylvania Super Lawyers list by *Philadelphia Magazine* and *Law and Politics Magazine*, 2004-2023
- Awarded Outstanding Service Award by the United States District Court for the Middle District of Pennsylvania, 2008
- Named by *American Lawyer Media* as one of 30 Pennsylvania "Lawyers on the Fast Track", 2004

## PROFESSIONAL / CIVIC ACTIVITIES

- Appointed by Pennsylvania Supreme Court to serve on Interest on Lawyer Trust Accounts Board, May 2021 (elected secretary, 2022)
- Third Circuit Bar Association (member, Board of Governors, 2013-present; president, 2023-present)
- Fellow of the American Academy of Appellate Lawyers, 2023-present.
- Pennsylvania Board of Law Examiners (member, 2015-2021; chair, 2020-2021)
- Pennsylvania Supreme Court Appellate Court Procedural Rules Committee (appointed member, 2008-2014, vice chair, 2013-14)
- Coordinator of Pennsylvania Supreme Court Pro Bono Pilot Program (appointed, 2015)
- Pennsylvania Bar Association, Amicus Curiae Brief Committee (2015-present; co-chair, 2018-present)
- Pennsylvania Bar Association, Appellate Advocacy Committee (co-chair, 2011-2015)
- Pennsylvania Bar Association, Civil Litigation Section (council member, 2003-2009; chair, 2008-2009)
- Federal Bar Association (Middle District of Pennsylvania Chapter, President, 2001-2002)
- Lawyers' Advisory Committee of the U.S. Court of Appeals for the Third Circuit (appointed member, 2006-2009)
- Lawyers' Advisory Committee of the U.S. District Court for the Middle District of Pennsylvania (appointed member, 1999-2005; committee chair, 2003-2005)
- Merit Selection Panel for Magistrate Judge Retention, U.S. District Court for the Middle District of Pennsylvania (chair, 2005)
- Dauphin County Bar Association
- The Vista School/Vista Foundation (director and corporate secretary, 1999-2016; director and president, 2016-2021)
- Pennsylvania Special Education Advisory Panel (gubernatorially appointed member 2004-2010; vice-chair, 2007-2010)

- Pennsylvania Autism Task Force (appointed member, 2003-2004)

## ADDITIONAL BACKGROUND

- Frequent lecturer on appellate advocacy, federal practice, civil litigation, legal writing, and oil-and-gas issues in continuing legal education courses and industry seminars
- Published articles: *The Washington Post*, *The San Francisco Chronicle*, *The Philadelphia Inquirer*, *The ABA Journal*, *The National Law Journal*, *The American Lawyer*, *Findlaw's Writ*, *Exceptional Parent Magazine*, *The Pennsylvania Lawyer* and several law reviews

## EDUCATION

- J.D., University of Toledo College of Law, 1992 (*cum laude*)
- M.S., Northwestern University, 1988 (*with distinction*)
- B.S., Cornell University, 1987

## ADMISSIONS

- Bar of Pennsylvania
- Supreme Court of the United States
- United States Court of Appeals for the District of Columbia Circuit
- United States Court of Appeals for the Eighth Circuit
- United States Court of Appeals for the Eleventh Circuit
- United States Court of Appeals for the Fifth Circuit
- United States Court of Appeals for the Fourth Circuit
- United States Court of Appeals for the Ninth Circuit
- United States Court of Appeals for the Second Circuit
- United States Court of Appeals for the Seventh Circuit
- United States Court of Appeals for the Sixth Circuit
- United States Court of Appeals for the Tenth Circuit
- United States Court of Appeals for the Third Circuit
- United States Court of Appeals for Veterans Claims
- United States District Court for the District of Colorado

- United States District Court for the Eastern District of Pennsylvania
- United States District Court for the Middle District of Pennsylvania
- United States District Court for the Western District of Pennsylvania

## THOUGHT LEADERSHIP POWERED BY HUB

- September 2023, September 2023 Accolades
- 30 June 2023, US Supreme Court Holds Business Registration Subjects Out-of-State Companies to General Personal Jurisdiction
- 4 May 2022, Can a State Require a Corporation to Consent to General Personal Jurisdiction as a Condition of Doing Business in the State? The U.S. Supreme Court Is Set to Decide
- 26 January 2022, Pennsylvania Supreme Court Rejects Business Registration as Means for Consent to Personal Jurisdiction
- 24 January 2022, Pennsylvania Civil Rule Amendment Affects "Snap" Removal to Federal Court
- 28 July 2021, Pennsylvania Supreme Court Confirms Limits of Discovery Rule—For Now
- July 2021, July 2021 Accolades
- May 2021, May 2021 Accolades
- 14 January 2021, Pennsylvania Supreme Court to Consider Whether Business Registration Subjects an Out-of-State Company to General Personal Jurisdiction
- 30 June 2020, Pennsylvania Superior Court Defers Resolution of Jurisdiction-by-Registration Debate
- 9 August 2019, Pennsylvania Supreme Court Broadens Application of Work-Product Doctrine, Narrows Waiver
- 28 February 2019, Registration to Do Business in Pennsylvania as Implied Consent to General Personal Jurisdiction: An Unsettled Question in Pennsylvania
- 18 December 2018, Distressed Solutions: Preparing For and Dealing With Appeals
- 6 December 2018, Second Circuit Rejects Use of Rule 67 to Moot Class Representative's Claims
- November 2018, GC University: Ethical Engagements
- 30 October 2018, Third Circuit Makes Clear that District Judges Can Reject Outrageous Fee Petitions Outright
- 24 August 2018, Preservation of Issues: The Price of Admission to an Appeal
- 17 July 2018, A *Janus*-faced Standard? Chief Justice Roberts's Approach to *Stare Decisis* at the Threshold of a Post-Justice Kennedy Supreme Court

- 5 June 2018, *On Your Marks, Get Set, No*
- 13 February 2018, *Hughes v. United States*: After 40 Years, Will the Supreme Court Hit the Marks?
- 21 June 2017, In a Series of Personal-Jurisdiction Cases, the Supreme Court Gives Businesses Tools Against Forum Shopping
- 2 June 2017, There's No Place Like Home: The U.S. Supreme Court Emphasizes the Constitutional Limits on Personal Jurisdiction and Constrains Forum Shopping

## OTHER PUBLICATIONS

- "Using Rule 23(f) To Review Class Certification Orders," *Law360*, 22 April 2024
- Co-author, "The Middle District Manual," *PBI Press*, 11th ed., 2018
- Contributing Author, "Third Circuit Appellate Practice Manual," *PBI Press*, 3rd ed., 2017
- "A Bad Reason for Rejecting Judges," *The Philadelphia Inquirer*, 20 September 2007
- "Free Speech vs. Thoughtless Speech," *The Philadelphia Inquirer*, 28 March 2006
- "Allow Television Coverage," *National Law Journal*, 19 December 2005
- "No Politics in Third Branch," *National Law Journal*, 6 December 2004
- "Ousting Roy Moore: Judges Showing Backbone," *National Law Journal*, 22 December 2003
- "Cure for Malpractice Premiums Lies With Congress," *New York Law Journal*, 17 March 2003
- "Two Lawyers Say: Limit Damages, Fees," *The Philadelphia Inquirer*, 8 January 2003
- "Cure for High Premiums," *The National Law Journal*, 23 September 2002
- "Enabling Behavior," *The American Lawyer*, May 2001
- "Keeping Mum Kills Precedents," *The National Law Journal*, 19 February 2001
- "What's Past is Prologue," *The Orange County Lawyer*, February 2001

## NEWS & EVENTS

- 1 June 2023, K&L Gates Receives Firm, Individual Rankings in 2023 *Chambers USA* Guide
- 24 March 2023, K&L Gates Team Obtains Appellate Victory for Mortgage Lender in NY Tax Foreclosure Case
- 18 August 2022, More Than 350 K&L Gates Lawyers Named Among 2023 Best Lawyers in America, Ones to Watch
- 19 August 2021, Nearly 300 K&L Gates Lawyers Named Among 2022 Best Lawyers in America, Ones to Watch

- 5 February 2021, K&L Gates' Harrisburg Lawyers Secure Victory in Pro Bono Third Circuit Appeal
- 10 September 2020, K&L Gates Prevails on Summary Judgment in False Advertising Action Against Content Recommendation Platform

## MEDIA MENTIONS

- Featured Profile, "Reaching Beyond the Practice," *The Pennsylvania Lawyer*, July/August 2021
- U.S. Supreme Court Refuses To Hear Trust's Mineral Rights Due Process Case, Mealey's Fracking Report, 3 May 2021
- Judge Enjoins Philadelphia From Restricting Vape Sales To Adults-Only Stores, Mealey's Toxic Tort/Environmental, 29 April 2021

## AREAS OF FOCUS

- Appellate Litigation
- Commercial Disputes
- Oil and Gas
- Power

## REPRESENTATIVE EXPERIENCE

- Represented mortgage company in obtaining unanimous holding from New York Court of Appeals that party with property interest in real property has a right to offer proof that county did not properly serve notice of tax sale.
- Represented multinational investment bank and financial services company in obtaining holding from the US Court of Appeals for the Sixth Circuit that lender is not liable for tortious interference with business relations for declining to give consent to debtor's sale of assets.
- Represented inmate *pro bono* in US Court of Appeals for the Third Circuit in obtaining sentence reduction under federal First Step Act.
- Represented mortgage lender in obtaining holding from Florida Supreme Court that Florida statute of limitations does not bar subsequent foreclosure action when previous action dismissed more than five years earlier.
- Represented oil and gas company in obtaining holding from Pennsylvania Supreme Court that thousands of natural gas leases are enforceable under Pennsylvania's Minimum Royalty Act.
- Represented oil and gas company in obtaining holding from Pennsylvania Superior Court that the holder of a surface-use agreement has the right to install a freshwater impoundment for oil and gas production.

- Represented mortgage-lending company in obtaining holding from the US Court of Appeals for the Eleventh Circuit that Real Estate Settlement Procedures Act does not require lender to consider loss-mitigation application submitted less than 37 days before foreclosure sale even if sale is later rescheduled.
- Represented oil and gas company in obtaining summary judgment in the US District Court for the Middle District of Pennsylvania against constitutional challenge to Pennsylvania's Act 85 related to cross-unit drilling.
- Represented oil and gas company in obtaining summary judgment in the US District Court for the Middle District of Pennsylvania against class action claims that lease royalties were improperly calculated.