



David R. Fine

Partner

Harrisburg
+1.717.231.5820

david.fine@klgates.com

OVERVIEW

David Fine is an appellate lawyer with broad experience briefing and arguing appeals in both federal and state courts across the United States. He has practiced in the Second, Third, Seventh, Ninth, Eleventh and D.C. federal circuits; the Pennsylvania Supreme Court, Pennsylvania Superior Court and Pennsylvania Commonwealth Court; the Florida Supreme Court, the Florida Third District Court of Appeal and the Florida Fourth District Court of Appeal; the Texas Court of Appeals; the Arizona Court of Appeals, the Oregon Court of Appeals, the Louisiana Court of Appeals and the Maryland Court of Appeals. David frequently serves as lead counsel in briefing or arguing appeals (and sometimes in both), and he also provides consulting assistance to other lawyers pursuing or defending appeals. David writes and lectures on appellate advocacy, and the Pennsylvania Supreme Court appointed him to serve for seven years on its Appellate Court Procedural Rules Committee, completing his term as vice chair.

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

- Listed among the “Best Lawyers in America” in appellate practice, “bet-the-company litigation” and commercial litigation by U.S. News & World Report.
- Named a Pennsylvania “Super Lawyer” by Philadelphia Magazine and Law & Politics Magazine, 2004-2018.
- 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

- President-Elect, Third Circuit Bar Association, term beginning in 2023
- Chair, Pennsylvania Board of Law Examiners, 2020-2021
- Member of the Pennsylvania Board of Law Examiners (appointed by the Supreme Court of Pennsylvania (2015-present)
- Bar Association of the Federal Third Circuit (member of board of governors, 2013-present; secretary, 2019-present)
- Coordinator of Pennsylvania Supreme Court Pro Bono Pilot Program (appointed, 2015)
- Pennsylvania Supreme Court Appellate Court Procedural Rules Committee (appointed member, 2008-2014, vice chair, 2013-14)
- Pennsylvania Bar Association, Appellate Advocacy Committee (co-chair, 2011-2015)
- Lawyers' Advisory Committee of the U.S. Court of Appeals for the Third Circuit (appointed member, 2006-2009)
- Dauphin County Bar Association
- Pennsylvania Bar Association
- 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. 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)
- The Vista School/Vista Foundation (director and corporate secretary, 1999-2016; director and president, 2016-present)
- Keystone Autism Services (director, 2009-2016)
- 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 rules and advocacy, federal practice, civil litigation 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 Eleventh 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 Sixth 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*

- 14 January 2021, Pennsylvania Supreme Court to Consider Whether Business Registration Subjects an Out-of-State Company to General Personal Jurisdiction (*Alerts/Updates*)
- 30 June 2020, Pennsylvania Superior Court Defers Resolution of Jurisdiction-by-Registration Debate (*Alerts/Updates*)

- 9 August 2019, Pennsylvania Supreme Court Broadens Application of Work-Product Doctrine, Narrows Waiver (*Alerts/Updates*)
- 28 February 2019, Registration to Do Business in Pennsylvania as Implied Consent to General Personal Jurisdiction: An Unsettled Question in Pennsylvania (*Alerts/Updates*)
- 18 December 2018, Distressed Solutions: Preparing For and Dealing With Appeals (*Podcast*)
- 6 December 2018, Second Circuit Rejects Use of Rule 67 to Moot Class Representative's Claims (*Alerts/Updates*)
- November 2018, GC University: Ethical Engagements (*Webinar*)
- 30 October 2018, Third Circuit Makes Clear that District Judges Can Reject Outrageous Fee Petitions Outright (*Alerts/Updates*)
- 24 August 2018, Preservation of Issues: The Price of Admission to an Appeal (*Alerts/Updates*)
- 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 (*Alerts/Updates*)
- 5 June 2018, On Your *Marks*, Get Set, No (*Alerts/Updates*)
- 13 February 2018, *Hughes v. United States*: After 40 Years, Will the Supreme Court Hit the Marks? (*Alerts/Updates*)
- 21 June 2017, In a Series of Personal-Jurisdiction Cases, the Supreme Court Gives Businesses Tools Against Forum Shopping (*Alerts/Updates*)
- 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 (*Alerts/Updates*)

OTHER PUBLICATIONS

- 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

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

MEDIA MENTIONS

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

REPRESENTATIVE EXPERIENCE

- *United States v. Moffitt*, No. 17-1196 (3d Cir.) (pending). Pro bono appeal involving claims of ineffective assistance of counsel and sentencing entrapment.
- *In re Pendleton*, 732 F.3d 280 (3rd Cir. 2013) (favorable decision that there is a prima facie claim that *Miller v. Alabama* applies retroactively).
- *Keta Gas & Oil Co. v. Thomas E. Proctor*, No. 1975 MDA 2018 (Pa. Super.) (pending) (examining facets of Pennsylvania title-washing jurisprudence)
- *Kilmer v. Elexco Land Services, Inc.*, 990 A.2d 1147 (Pa. 2010) (favorable decision in a case of first impression that thousands of natural-gas leases are permissible under Pennsylvania's Minimum Royalty Act).

- *Humberston v. Chevron U.S.A., Inc.*, 75 A.3d 504 (Pa. Super. 2013) (favorable decision holding that the holder of a surface-use agreement has the right to install a freshwater impoundment for oil-and-gas production).
- *MERSCORP, Inc. v. Delaware Cty.*, 207 A.3d 855 (Pa. 2019) (filed amicus brief in support of prevailing party in case rejecting country recorders' argument that MERS system is unlawful)
- *I Drive Investors v. InterAmerican Asset Management Fund Ltd* , 257 So.3d 997 (Fla. 3d DCA 2018) (favorable decision affirming use of proceedings supplementary to enforce \$4.3 million overseas judgment in Florida).
- *ESecuritel Holdings, LLC v. Youghioghney Commc'ns-Texas, LLC*, No. 04-12-00302-CV, 2012 WL 6030141 (Tex. App. Dec. 5, 2012) (favorable decision compelling arbitration).
- *Lage v. Ocwen Loan Servicing*, 839 F.3d 1003 (11th Cir. 2016) (favorable decision holding 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).
- *Bartram v. U.S. Bank, National Association*, 211 So.3d 1009 (Fla. 2016) (favorable decision holding that Florida statute of limitations does not bar subsequent foreclosure action when previous action dismissed more than five years earlier).
- *Deutsche Bank Trust Company Americas v. Beauvais*, 188 So.3d 938 (Fla. 3d DCA 2016) (favorable en banc decision holding that Florida statute of limitations does not bar subsequent foreclosure action when previous action dismissed more than five years earlier).
- *McCullough v. World Wrestling Entertainment*, No. 16-1231 (2d Cir. 2016); *Haynes v. World Wrestling Entertainment*, No. 16-1237 (2d Cir. 2016) (favorable, published decision granting motion to dismiss appeals as arising from non-final order when district court dismissed claims of only some plaintiffs in consolidated cases).
- *Dobransky v. EQT Production Company*, No. 900 WDA 2019 (Pa. Super.) (pending) (examining application of Pennsylvania statutory employer doctrine to bar personal-injury claim).
- *Dobransky v. EQT Production Company*, No. AD-142-2014 (Greene Co. Pa.) (summary judgment for defense based on statutory employer doctrine in personal-injury case).