



HON. LEONARD B. AUSTIN

Associate Justice, Supreme Court of the State of New York, Appellate Division, Second Judicial Department (Ret.)

The Honorable Leonard B. Austin has enjoyed a remarkable legal career, which culminated in his ascension to the Appellate Division, Second Department as an Associate Justice in March 2009. He served there, with distinction, for nearly 13 years, handling approximately 1,000 matters yearly, involving a wide breadth of complex subject areas.

Justice Austin was assigned to the Commercial Division in Nassau County for 9 years, during which time he heard and resolved well over 2,000 cases addressing a wide variety of commercial matters, including corporate (limited liability company and partnership dissolutions; shareholder derivative claims), employment issues (including restrictive covenants), and construction contract claims. In addition, he has heard and tried numerous medical and dental malpractice, product liability, and real estate cases. While serving in the trial court, he handed down approximately 500 decisions each year of which more than nearly 100 were published annually. He also developed a streamlined method of handling construction cases that has served as a model throughout the state.

During his tenure in the Commercial Division, Justice Austin, at the behest of his colleagues, drafted the original Statewide Rules of the Commercial Division of the Supreme Court which required mediating between upstate and downstate concerns to reach a consensus. In addition, he has served on the Pattern Jury Instruction Committee which is responsible for drafting jury charges and regularly updated commentaries on the law. He was also a member of the Chief Judge's Commercial Division Advisory Council.

His distinguished judicial career began in 1999, when he was assigned to serve in a dedicated Matrimonial Part in Suffolk County. During that time, he worked collaboratively with parties in fostering resolutions that were in the best interest of all involved, including the children, by recommending creative solutions to difficult financial and emotional issues.

Prior to serving on the bench, Justice Austin was engaged in a successful law practice for 21 years at which time he focused primarily on complex commercial litigation, matrimonial and family issues, personal injury, real estate matters, as well as appeals. Additionally, in 1980 and 1981, he served as counsel to the Speaker of the New York State Assembly as his representative to the Agriculture Committee and the Commerce and Industry Committee.

In 2023, Justice Austin was once again voted a Top 10 Arbitrator in the *New York Law Journal* "Best Of" survey for the second year in a row. He can facilitate the settlement of cases involving a wide range of practice areas. He is a hard-working and detail-oriented jurist known for his intelligence, patience, and ability to assist in the resolution of even the most complex matters.

In a letter of thanks, one of the attorneys in a class action case handled by Justice Austin stated, "I could never argue too much with your legal positions, and without your assistance and patience the case would never have settled." Additionally, according to the New York Judge Reviews and The Robing Room, some attorneys who have appeared before him have commented:

- "Brilliant jurist genuinely wants to help people and do justice...always listens to both sides before making a decision.;"
- "He is hands-on, proactive, practical, efficient, intelligent. I have nothing but good things to say about Judge Austin.;"
- "He has a strong preference for settling cases.;"

- “He is relentless about trying to get cases resolved from the first day you show up...always pushing some way to get the matter resolved.,” “Very committed to doing the right thing.,” and
- “I would say he is a very effective at getting cases resolved for the benefit of both parties.”

Justice Austin has authored numerous opinions that have significantly impacted New York jurisprudence and practice. Such opinions addressed issues of conflict of laws, long-arm jurisdiction, burden of proof in no-fault threshold cases, discovery sanctions, dissolution of limited liability companies, inheritance rights of second adopted children, the rights of a biological mother in surrogacy birth, tolling the statute of limitations in an accounting malpractice claim, and vicarious liability of a landlord and co-tenants in a dog bite case.

Furthermore, Justice Austin authored several articles dealing with equitable distribution, consumer law, and class actions. He also served as the President of the American College of Business Court Judges, the Theodore Roosevelt Inn of Court, and Presiding Justice (President) of the Judicial Section of the New York State Bar Association. He is also active in the Supreme Court Justices Association. Justice Austin is also a frequent lecturer to the Bar in the fields of e-discovery, appellate practice, commercial and matrimonial law, and civil practice. He is an Adjunct Professor of Law at Hofstra University School of Law where he teaches New York Civil Procedure and Litigation Drafting Skills.

AREAS of EXPERIENCE

- Business/Commercial/Corporate
- Consumer
- Employment
- Matrimonial / Family Matters
- Partnership Law
- Negligence
- Construction
- Torts and Product Liability
- Medical and Dental Malpractice
- Real Estate

REPRESENTATIVE MATTERS

Published Decisions: Appellate Division

- Loughlin v Meghji, 186 AD3d 1633 (dissent)
- Rosario v Our Lady of Consolation Nursing and Rehabilitation Care Center, 186, AD3d 1426 (dissent)
- Askari v McDermott, Will & Emery, LLP, 179 AD3d 127 (opinion)
- Matter of Koegel, 160 AD3d 11 (opinion)
- America/International 1994 Venture v Mau, 146 AD3d 40 (opinion)
- Matthew H. (Anonymous) v County of Nassau, 131 AD3d 135 (opinion)
- Maimonides Medical Center v First United American Life Insurance Co., 116 A.D.3d 207 (opinion)
- People v. Brown, 122 AD3d 133, lv denied 24 NY3d 1042
- re Askin, 113 AD3d 72 (opinion)
- Dee v Rakower, 112 AD3d 204 (opinion)
- Boyle v Starwood Hotels & Resorts Worldwide, Inc., 110 AD3d 938 (dissent), affd, 23 NY3d 1012
- In re Svenningsen, 105 A.D.3d 164 (opinion)
- Arpino v F.J.F. & Sons Electric Co. Inc., 102 A.D.3d 201 (opinion)
- T.V. v New York Dept. of Health, 88 A.D.3d 290 (opinion)
- Perl v. Meher, 74 A.D.3d 930 (dissent), reversed 18 N.Y.3d 208

- Matter of 1545 Ocean Avenue LLC, 72 A.D.3d 121 (opinion)
- Symbol Technologies, Inc. v. Deloitte & Touche, LLP, 69 A.D.3d 191 (opinion)

Supreme Court: Official Report

- Ballas v. Virgin Media, Inc., 18 Misc. 3d 1106 (2007), affd., 60 A.D.3d 712
- Goldstein v. Saltzman, 13 Misc.3d 1023 (2006)
- Bitetto v. F. Chau & Associates LLP, 10 Misc.3d 595 (2005)
- Joachim v. Flanzig, 3 Misc.3d 371 (2004)
- Sutton Associates v. Lexis-Nexis, 196 Misc.2d 30 (2003)
- Reliastar Life Ins. Co. of New York v. Leopold, 192 Misc.2d 385 (2002)
- Fiorenti v. Central Emergency Physicians, PLLC, 187 Misc.2d 805 (2001)
- Eredics v. Chase Manhattan Bank, 186 Misc. 2d 19 (2000), affd., 292 A.D.2d 338 (2nd Dept. 2002), affd., 98 N.Y.2d 606 (2003).
- Middle Village Assoc. v. Pergament Home Centers, Inc., 184 Misc. 2d 552 (2000)

Published On-line by State Reporter (Selected from more than 200 published decisions)

- JMF Consulting Group III v. Beverage Marketing USA, Inc., 22 Misc.3d 1119(A)
- Glickenhause v Karp, 2009 WL 564599, affd. 60 AD3d 630 (2nd Dept. 2009)
- Fine Cut Diamonds Corp. v. Shetrit, 22 Misc.3d 1117(A) (2009)
- Sutphin Management Corp. v Rep 755 Real Estate, LLC, 20 Misc.3d 1135(A) (2008)
- Kaprall v WE: Women's Entertainment LLC, 20 Misc.3d 1132(A) (2008), affd., 74 A.D.3d 1151
- Sutton & Edwards, Inc. v 68-60 Austin Street Realty Corp., 20 Misc.3d 1101(A) (2008)
- Autz v Fagan, 16 Misc.3d 1140(A) (2007)
- Gristede's Operating Corp./Namdor v Centre Financial LLC, 16 Misc.3d 1132(A) (2007)
- Tyree Organization, Ltd. v Cashin Associates, P.C., 16 Misc.3d 1118(A) (2007)
- Beverage Marketing USA, Inc. v South Beach Beverage Co., Inc., 15 Misc.3d 1124(A) (2007), affd., 58 A.D.3d 657 (2nd Dept. 2009)
- Riark LLC v Dacosto, 14 Misc.3d 1240(A) (2007)
- Techon Contracting, Inc. v Incorporated Vill. of Lynbrook, 14 Misc.3d 1240 (2007)
- Tyree Organization, Ltd. v Cashin Associates, P.C., 14 Misc.3d 1220(A) (2007)
- D.A.S. Contracting Corp. v Nova Casualty Co., 14 Misc.3d 1213(A) (2007)
- Kantor v Mesibov, 14 Misc.3d 1228(A) (2006)
- Maini v Syscore Consulting Corp., 13 Misc.3d 1215(A) (2006)
- Cohen v Nassau Educators Federal Credit Union, 12 Misc.3d 1164(A), affd., 37 A.D.3d 751 (2nd Dept. 2007)
- Wisell v Indo-Med Commodities, Inc., 11 Misc.3d 1089(A) (2006), on reargument, 14 Misc.3d 1209(A) (2006)
- Tal Tours (1996) Inc. v Goldstein, 9 Misc.3d 1117(A) (2005), affd., 34 A.D.3d 786 (2nd Dept. 2006)
- Erlichman v Encompass Ins. Co., 4 Misc.3d 1002(A) (2004)
- Treeline Garden City Plaza LLC v UBS Warburg Real Estate Investments, 3 Misc.3d 1009(A) (2004)
- Spector v Toys "R" Us, Inc., 2 Misc.3d 1006(A) (2004), affd. 12 A.D.3d 358 (2nd Dept. 2004)
- Harbor Footwear Grp., Ltd. v ASA Trading, 1 Misc.3d 911(A) (2004)
- Stanley Tulchin Associates, Inc. v Grossman, 2002 WL 31466800, 2002 NY Slip Op. 50428 (2002)

New York Law Journal (selected from more than 350 published decisions)

- Sodexho Management Inc. v Nassau Health Care Corp., p. 19, col. 3 (10/6/04), affd., 23 A.D.3d 370 (2nd Dept. 2005)
- Lipco Electrical Corp. v ASG Consulting Corp., p. 20, col. 3 (8/26/04)
- Lipton v American Institute of Certified Public Accountants, p.21, col. 4 (8/5/03)
- Krasinski v The Polemeni Organization, LLC, p. 17, col. 1 (6/19/03)
- Adikes v North Fork Bancorporation, p. 26, col. 5 (6/20/02)

LECTURES and PUBLICATIONS

- Panelist, *Building on a Solid Foundation: Arbitrating Construction Disputes*, CLE webinar presented through the New York State Academy of Trial Lawyers, 2023
- Author, *Arbitration Construction Disputes: Building on a Solid Foundation*, New York Law Journal ADR Special Report, 2023
- Author, *Reflections on Entering the World of ADR or How I Found Something To Do To Keep Me Out of the House After Retirement*, New York Law Journal, 2022
- Panelist, *Residential Mortgage Foreclosure: Review and Update*, 2020, Appellate Division, Second Department
- Speaker, *Current Commercial Decisions in the Second Department*, Nassau County Bar Association Academy of Law Commercial Litigation Committee, 2020
- Lecturer, *May it Please the Court? Civility and Decorum in the Courtroom*, Nassau County Bar Association Academy of Law, 2019
- Lecturer, *2019 Residential Mortgage Foreclosure Seminar: Appellate Update/Motion Practice*, Office of Court Administration, 2019
- Panelist, *Real Life Ethics for Trial Lawyers*, Nassau Suffolk Trial Lawyers Association, 2019
- Panelist, *Pattern Jury Instructions*, Suffolk County Bar Association Academy of Law, 2019
- Panelist, *Bridge-the-Gap I: Ethics and Skills for Newly Admitted New York Attorneys*, 2019
- Panelist, *A View from the Appellate Bench*, Nassau County Bar Association Academy of Law, 2019
- Panelist, *New York Appellate Practice*, New York State Bar Association, 2019
- Lecturer, *Mind Your Manners: Civility & Courtroom Decorum*, Nassau County Bar Association Academy of Law, 2019
- Panelist, *Mediation Matters: Trends, Successes and Disappointments in Court-Sanctioned Mediation*, Nassau County Bar Association Academy of Law, 2019

HONORS and AWARDS

- *New York Law Journal* "Best Of" survey, Top Ten - Best Individual Arbitrator Category, 2022, 2023
- Elected a Charter Member of the Alumni Hall of Fame, 2021, Maurice Dean School of Law, Hofstra University

JUDICIAL EXPERIENCE

- Justice of the Supreme Court, Elected, 1998, Re-elected, 2012
 - Associate Justice, Appellate Division, Second Judicial Department, 2009-2021
 - Associate Justice, Appellate Division, Second Judicial Department, 2009-2021
 - Assigned to the Commercial Division, 2001-2009
 - Nassau County, assigned to a Dedicated Matrimonial Part and the Commercial Division, 2000
 - Suffolk County, assigned to a Dedicated Matrimonial Part, 1999

QUASI JUDICIAL EXPERIENCE

- Nassau County District Court, Small Claims Arbitrator and Case Arbitrator, 1986-1998
- Office of Court Administration, Matrimonial Fee Arbitrator, 1996-1998

LEGAL EXPERIENCE

- Adjunct Professor of Law, Hofstra University School of Law, 2002-Present
- Private Practice, Leonard B. Austin, P.C., 1993-1998
- Partner, Wolfson, Grossman & Austin, 1988-1990
- Partner, Stillman, Herz & Austin, 1980-1988
- Associate Counsel, Hon. Stanley Fink, Speaker, New York State Assembly, Counsel to the Commerce and Industry and Agricultural Committees, 1980-1981
- Partner, Stillman & Austin, 1979-1980
- Private Practice, Leonard B. Austin, P.C., 1978-1979

PROFESSIONAL LICENSES and ADMISSIONS

- New York State Bar
- United States Court of Appeals, Second Circuit
- United States District Court, Eastern District of New York
- United States District Court, Southern District of New York
- United States District Court, Northern District of New York
- Florida State Bar

PROFESSIONAL AFFILIATIONS and ASSOCIATIONS

- New York State Bar Association
- Nassau County Bar Association
- Suffolk County Bar Association
- New York State Women's Bar Association, Nassau County Chapter
- New York State Trial Lawyers Association
- Association of Justices of the Supreme Court, Executive Board, 2014-Present
- Florida Bar Association
- Jewish Lawyers Association of Nassau County, Board of Directors, 2008-Present
- Life Fellow, The New York Bar Foundation

EDUCATION

- Hofstra University School of Law, J.D.
- Georgetown University, B.A.