



**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 thirteen years, handling approximately 1,000 matters yearly, involving a wide breadth of complex subject areas.

In 2000, Justice Austin was assigned to the Commercial Division in Nassau County and served there 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, Justice Austin 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 2022, Justice Austin was voted a Top 10 Arbitrator in the New York Law Journal Best Of Survey. 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 as well an article entitled, *The Impact of New York's Commercial Division on Banking Litigation*, which appeared in the *Banking Law Journal*. 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.

In addition, he is 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
- Trade Secrets
- Partnership Law
- Negligence
- Construction
- Torts and Product Liability
- Medical and Dental Malpractice
- Real Estate

## REPRESENTATIVE MATTERS (Selected)

### *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)

- In 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 Reports**

- 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)

- *Sodexo 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)

## HONORS and AWARDS

- New York Law Journal Best of Survey, 2022, Top Ten – Best Individual Arbitrator Category
- Elected a Charter Member of the Alumni Hall of Fame, Maurice Dean School of Law, Hofstra University, 2021
- Distinguished Alumni Award, Hofstra University School of Law, 2010
- Neil T. Shayne Distinguished Service Award, Jewish Lawyers Association of Nassau County, 2009
- Long Beach Lawyers Association Man of the Year, 2009
- Community Service Award, Veterans of Foreign Wars, 1993

## LECTURES

- 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
- Panelist, *Evidence and Preserving Issues for Appeal*, New York State Bar Association, Commercial and Federal Litigation Section, 2018
- Lecturer, *Employment Agreements, Restrictive Covenants and Trade Secrets*, Maurice A. Deane School of Law, 2018
- Panelist, *Hot Topics in Civil Litigation*, Nassau County Bar Association, 2018
- Lecturer - *2018 Residential Mortgage Foreclosure Seminar: Appellate Division Case Update*, Office of Court Administration, 2018
- Panelist, *Basic Lessons on Ethics and Civility*, New York State Bar Association, 2017
- Panelist, *View from the Bench: Hot Topics in Litigation*, Nassau County Bar Association, 2017
- Panelist - *Practicing in the Appellate Division, 2nd Department*, Nassau Lawyers Association, 2017
- Lecturer, *2016 Foreclosure Seminar: Case Law Update*, Office of Court Administration, 2016
- Panelist, *Basic Lessons on Ethics and Civility*, New York State Bar Association, 2016
- Panelist - *The New Maintenance Law - Temporary and Permanent and Acknowledgments of Marital Agreements, Appellate Division, Second Department Law Department*, 2016
- Panelist, *Evidence*, 2016 Matrimonial Seminar, 2016
- Panelist, *New York Appellate Courts: The Insiders' View*, New York State Bar Association, 2015
- Panelist, *Introductory Lessons on Ethics and Civility*, New York State Bar Association, 2015
- Panelist, *The Experts' Guide to Appellate Practice: The Basics and Beyond*, New York County Lawyers Association, 2014
- Panelist, *Basic Lessons on Civility and Ethics*, New York State Bar Association, 2014
- Panelist, *Appellate Practice Tips - From the Bench and the Bar; Brief Writing and Oral Advocacy 101*, New York State Bar Association Young Lawyers Section, 2014
- Panelist, *Professionalism and Modern Law Practice: Views from the Bench and Bar*, New York State Bar Association "Risk Management 360," 2014
- Panelist, *Successful Strategies for Winning, Commercial Cases in New York State Courts*, Nassau County Bar Association, 2013
- Panelist, *Commercial Litigation in New York State Courts: Appellate Practice*, Suffolk County Bar Association Academy of Law, 2012
- Panelist, *Basic Lessons in Ethics and Civility in Everyday Lawyering*, New York State Bar Association, 2012
- Lecturer, *Motor Vehicle Litigation Post-Perl*, Nassau-Suffolk Trial Lawyers, 2012
- Panelist, *Prevailing in Wrongful Death Cases: New Changes to the PJI*, Suffolk Bar Association Academy of Law, 2012

## PUBLICATIONS

- 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
- Co-author, *New York State Class Actions*, New York Law Journal, 2015, 2016
- Author, *Improve Education, But Do Not Create Specialty Appellate Courts*, New York Law Journal (Op-Ed), 2015
- Co-author, *New York State Class Actions: Making It Work - Fulfilling the Promise: Some Recent Positive Developments and Why CPLR 901(B) Should Be Repealed*, 77 Albany Law Review, 2014
- Co-author, *Class Actions in 2013 and Call to Repeal CPLR §901(b)*, New York Law Journal, 2013
- Co-author, *New York State Consumer Law and Class Actions: 2012-2013*, New York State Bar Association Journal, 2013

- Author, *Family Law Review, View From the Bench*, New York State Bar Association, Fall/Winter 2001
- Author, *The Impact of New York Supreme Court's Commercial Division on Bank Litigation*, Banking Law Journal, 2001
- Author, *Divorce Battleground: What is Your Medical License Worth Today?*, Physicians Management Magazine, 1989
- Author, *Punish Illegal Peddlers, Not Innocent Parties*, Crain's NY Business, 1987
- Author, *License Status in M.D. Divorces: (Two Parts)*, American Medical News, 1987

## **JUDICIAL EXPERIENCE**

- Justice of the Supreme Court, Elected, 1998 | Re-elected, 2012
  - 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**

- 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, 1980
- United States Court of Appeals, Second Circuit
- United States District Court
  - Eastern District of New York
  - Southern District of New York
  - 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., 1977
  - Teaching Fellow in Property and Legal Research and Writing
  - Moot Court Honors
  - St John's School of Law Charles M. Sparacio Trial Advocacy Team, First Place
- Georgetown University, B.A., 1974
- Jewish Theological Seminary, Summer 1973