

David J. Lender

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David Lender is Co-Chair of Weil's global Litigation Department and has over 20 years of experience trying and litigating complex international commercial disputes in state and federal courts around the country, as well as in arbitration proceedings.

Mr. Lender's multi-disciplinary practice encompasses matters involving RICO, patent, antitrust, consumer fraud, and contracts issues, among others, including in the class action context. He has tried numerous cases to verdict – many of which have resulted in his clients obtaining, or avoiding, hundreds of millions of dollars in damages.

Mr. Lender's notable recent engagements include:

- › Successfully representing General Electric in a multi-jurisdictional dispute with Japan-based Mitsubishi Heavy Industries Ltd. regarding wind turbine technology, including a \$170 million jury verdict against MHI in a patent infringement litigation in Texas federal court – a significant victory that The Wall Street Journal called “closely watched in the estimated \$12 billion U.S. market for wind energy equipment.” Mr. Lender was recognized as one of The American Lawyer's “Litigators of the Week” for his role in obtaining this verdict.
- › Serving as lead nationwide counsel for Credit Suisse and its affiliates in a series of multi-jurisdictional, multi-faceted disputes worth billions of dollars relating to syndicated real estate loans made to resort developments across the U.S., including obtaining the dismissal of all claims and defeating class certification in a \$24 billion RICO class action in Idaho federal court.
- › Representing GE's healthcare division in a patent infringement action brought by a competitor, Hill-Rom, relating to hand-hygiene compliance monitoring systems for use in hospitals and healthcare facilities. Defeated Hill-Rom's motion for a preliminary injunction, and ultimately secured a favorable global settlement resolving all claims.
- › Serving as lead trial counsel for ExxonMobil in a number of disputes in state and federal courts relating to the use of MTBE as an additive in gasoline. The actions have been brought by various states, including Vermont and New Jersey, seeking to recover for alleged groundwater contamination at sites throughout those states.
- › Successfully representing Dow Chemical in highly publicized, multi-jurisdictional litigation brought by Greenpeace, including obtaining the dismissal of a RICO case in Washington, DC federal court, and the dismissal, affirmed on appeal, of an invasion of privacy case in DC Superior Court and the DC Court of Appeals. Greenpeace alleged that Dow and other companies engaged in illegal surveillance and stole information about Greenpeace's investigation of the companies' conduct and alleged impact on the environment.

Mr. Lender's other significant trial and litigation achievements include:

- › Winning a complete defense jury verdict for ESPN in New York Supreme Court in a \$231 million lawsuit brought by Modi Entertainment Network regarding the launch of the ESPN channel in India, a case requiring the application of both New York and Indian law.
- › Securing a \$417 million jury verdict for Exxon Mobil Corporation against Saudi Basic Industries Corporation, one of the largest petrochemical companies in the world, in Delaware Superior Court, where he asserted claims for breach of contract and usurpation under Saudi Arabian law.

Practice Areas:

- › Complex Commercial Litigation

Sectors:

- › Energy
- › Financial Services
- › Technology

Admissions:

- › US Court of Appeals 2nd Cir.
- › US Court of Appeals 3rd Cir.
- › US Court of Appeals 4th Cir.
- › US Court of Appeals 9th Cir.
- › Eastern District New York
- › US Ct App Federal Circuit
- › New York State
- › Southern District New York
- › US Supreme Court
- › US Tax Court

Education:

- › Duke University (Bachelor of Arts (B.A.), cum laude, 1990)
- › Duke University School of Law (Juris Doctor (J.D.), with high honors, 1993)

- › Serving as co-lead counsel for ESPN in a \$1 billion defamation lawsuit brought by boxing promoter Don King, whom he deposed before obtaining summary judgment.
- › Representing Sotheby's in a number of litigations relating to its auctions, including winning a complete defense verdict involving a consignment of 17th-century New Mexican furniture and decorative arts.

Mr. Lender has played an instrumental role in protecting his clients' valuable technology, much of which gears the ubiquitous products and daily transactions underpinning the economy today. In 2015, following oral argument before the Federal Circuit, Mr. Lender secured for Microsoft the affirmation of a lower court's decision granting summary judgment of non-infringement and invalidity, a ruling that dismissed a patent infringement action relating to an invention that enables certain capabilities of speech recognition and word processing software. In 2012, Mr. Lender won a major appellate victory for StubHub before the North Carolina Court of Appeals, which, on an issue of first impression, ruled that StubHub was immune from liability under the federal Communications Decency Act for the unlawful price of concert tickets resold by third parties on its website – a decision of critical importance to Internet websites and the growth of e-commerce. In 2013, Financial Times highlighted Mr. Lender's work on this and other matters in the "Lawyers to the Innovators" section of the publication's annual "US Innovative Lawyers" report.

Mr. Lender is a recognized expert, author and frequent lecturer on electronic discovery issues. He is the co-author of the leading treatise on the subject, entitled *Electronic Discovery: Law and Practice*, originally published by Aspen Publishers in 2003, author of *Privilege Issues in the Age of Electronic Discovery*, originally published by BNA in 2008, and head of the Firm's E-Discovery Task Force.

He is regularly recognized as a leading trial lawyer and litigator by Legal 500, Chambers USA, and Benchmark Litigation. In 2017, Chambers USA again recognized him as among the top commercial litigators in New York, with clients noting that he "consistently delivers winning results at extremely efficient cost," while the 2017 edition of Legal 500 named him among the leading trial lawyers nationwide. In 2012, he was recognized as one of five "Class Action MVPs" nationwide by Law360 and named among the Lawdragon 500 Leading Lawyers in America.

Mr. Lender is on the Executive Board of New York Lawyers for the Public Interest and recently won a jury verdict in the Southern District of New York for a prisoner in a §1983 lawsuit.

Mr. Lender received his J.D. degree with High Honors, Order of the Coif from the Duke University School of Law in 1993, and his B.A. degree, cum laude, from Duke University in 1990. He currently serves on the Board of Visitors of Duke University School of Law.

Notable Representations