

# Daily Journal

SEPTEMBER 16, 2020

## TOP 100 — 2020

### CIVIL LITIGATION

## Peter K. Stris

**S**tris represents clients in complex business cases. In his ninth argument before the U.S. Supreme Court, he prevailed 9-0 last year for client Wall-Street.com, a small company later sold to The Motley Fool.

In the Copyright Act question at issue, the justices agreed with Stris' position that a copyright infringement suit cannot be filed until the copyright has been successfully registered by the U.S. Copyright Office. *Fourth Estate Public Benefit Corp. v. Wall-Street.com*, 17-571 (SCOTUS, op. issued March 4, 2019).

"It was an IP case, and that's a lot of what we do here," Stris said of his firm's practice. "So to get to do IP before the Supreme Court and also to be on the defense side was a lot of fun." He explained that he usually finds himself arguing for the plaintiff at the high court. "It's more relaxing to be on the defense side before a business-oriented court. Also, we were pretty confident we were right."

The challenge was to overcome policy arguments endorsed by several circuit courts and treatise authors and persuade the justices that copyright owners have to wait to sue until registration is official. The question arose when Fourth Estate alleged

Wall-Street.com infringed its copyrights in news articles by displaying them after its subscription had expired. Fourth Estate submitted a registration application to the Copyright Office, but sued before it had been processed. Lower courts dismissed the suit and Fourth Estate petitioned for high court review.

In an ongoing case, Stris represents a wealthy couple in a suit claiming that Fidelity Investments Inc.'s charitable fund badly mishandled a \$100 million donation. So far he's fought off a motion to dismiss and secured denial of summary judgment and won most of his own motion for summary judgment on Fidelity's affirmative defenses. Trial was set for April 2020 but has now been rescheduled for October. *Fairbairn v. Fidelity Investments Charitable Gift Fund*, 3:18-cv-04881 (N.D. Cal., filed Aug. 10, 2018).

"The pandemic affected this case because we were set for a jury trial but post-Covid we agreed to do a bench trial remotely," Stris said. "Our clients are immunocompromised with Lyme disease. In fact, that's partly what their gift was for, to fund Lyme research. So they couldn't travel to court with the virus raging."

Stris said part of their gift was in stock,



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which Fidelity's money managers sold all at once, causing its value to plummet. "That was totally botched, it looked like fire sale selling. Clear negligence. We want to hold charities responsible in this path-breaking case."

— John Roemer