

Daily Journal

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Top

100

Lawyers
2022



Top
100 | PETER K. STRIS

STRIS & MAHER LLP
LOS ANGELES
APPEALS, ERISA,
COMPLEX BUSINESS
LITIGATION

Peter K. Stris and his firm are perhaps best known as appellate attorneys. Stris himself has argued 10 cases before the U.S. Supreme Court plus prevailed against petitions for certiorari in several more.

He insists, however, that he and his firm are primarily trial lawyers. “That’s the bread and butter,” he said.

“We focus on major legal disputes where our firm’s involvement can be transformative,” Stris said. “We’ve become known ... as the place that you go when there’s something unusual and novel about the dispute, and it’s going to require the development and execution of a legal strategy.”

In what he considers one of his biggest victories, a jury found his client liable for false advertising to a competitor who was seeking as much as \$61 million, plus trebling. By the time the case had gone through a jury trial, a court trial, an appeal and a retrial, the plaintiff received just \$60,000 plus costs. *Grasshopper House v. Clean & Sober Media*, 2:18-cv-00923 (C.D. Cal., filed Feb. 2, 2018).

The plaintiff ran a high-end rehabilitation treatment center in Malibu, while Stris’ client had once owned a competitor but later purchased an online news and review site about the industry. The site published a scathing, one-star review of the plaintiff’s facility, prompting the litigation. After the jury’s adverse verdict, Stris got the plaintiff’s

lone damages expert disqualified with a Daubert motion.

“Once there was no more damages expert, there was nothing left to do,” he said. “We just didn’t come back to court.” The judge then excused the jury and held a court trial on the equitable remedy of disgorging profits. In that second trial, Stris was able to put in evidence that the plaintiff also had posted false advertising, so the judge only awarded \$60,000.

His firm handles all manner of complex civil litigation, but he has developed real expertise in the very complex area of ERISA. He currently is defending the city of Seattle’s special wage law for hotel workers’ health care and is hoping the Solicitor General’s office will advise the Supreme Court to deny cert. Advocating before the SG’s office has “become an important, strategic piece of Supreme Court practice,” he said.

And he is handling several appeals challenging identical arbitration provisions that have begun showing up in many pension plans. He argues that the provisions violate a portion of ERISA that allows representative actions. He will argue one such case before the 3rd Circuit in November. *Henry v. Wilmington Trust NA*, 21-2801 (3rd Circ., filed Oct. 1, 2021).

“It’s a really important issue,” he said.

— Don DeBenedictis

Daily Journal

SEPTEMBER 15, 2021

TOP 100 2021

PETER K. STRIS

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— TOP 100 —



Stris, the lead name partner of the national appellate and complex litigation boutique he founded in 2007, has argued nine cases before the U.S. Supreme Court. He is prepping for his tenth—a copyright infringement case on behalf of the defendant, fast-fashion retailer H&M.

He describes the matter as a battle against a notorious copyright troll that bears many similarities to another copyright case that he won before the Supreme Court in 2019: *Fourth Estate Pub. Benefit Corp. v. Wall-Street.com*.

The new case is *Unicolors Inc. v. H&M Hennes & Mauritz LP*. In the underlying litigation, Unicolors asserted that H&M sold garments that infringed a design for which it had a registered copyright. A jury agreed, but a 9th U.S. Circuit Court of Appeals panel reversed. The panel found that Unicolors knowingly included inaccurate information in its registration application, triggering mandatory referral to the Copyright Office to assess whether those inaccuracies were material.

Unicolors argues that referral to the Copyright Office requires a showing of intent-to-defraud, not merely knowledge of inaccuracies, and it persuaded the Supreme Court to take the case to resolve a circuit split on that issue. *Unicolors Inc. v. H&M Hennes & Mauritz LP*, 20-915 (S. Ct., cert. granted June 1, 2021). H&M's lawyers at Nixon Peabody LLP added Stris to the team to lead the Supreme Court merits briefing and argument.

According to Stris: "The only stakeholders who benefit from the misapplication of a fraud standard are copyright trolls like the plaintiff here." He continued: "Make no mistake. Their business model is to register copyrights on thousands of designs through improper applications. Those registrations are then used to extract settlements through hundreds of questionable lawsuits and thousands of baseless demand letters. We're confident the court will reject

this attempt to misread and misuse the Copyright Act."

Stris is also awaiting a decision on a possible 11th Supreme Court showdown, this one in a massive environmental lawsuit. He represents Florida and Utah counties who sued Volkswagen, under state law, for recalling sold vehicles and installing illegal emissions-cheating software. Volkswagen convinced the trial court to dismiss the lawsuits as impliedly preempted by the Clean Air Act.

Stris persuaded the 9th Circuit to reverse. Volkswagen has asked the Supreme Court to review that ruling, which, the carmaker contends, could expose it to more than \$11 billion in claims annually. *Volkswagen Group of America Inc. v. Environmental Protection Commission of Hillsborough County, Florida*, 20-994 (S. Ct., cert. petition filed Jan. 21, 2021).

"We think Volkswagen's petition should be denied. But if the Supreme Court takes the case, I'm cautiously optimistic that our clients will prevail again," Stris said.

"Business is good," he added. But meanwhile, his immediate focus in early August was on family matters. "My wife and I have a little girl coming this month. My son is 12, so it's been a long time since I changed a diaper." Fortunately, he has no arguments scheduled for a couple of months.

— John Roemer

Daily Journal

SEPTEMBER 16, 2020



CIVIL LITIGATION

Peter K. Stris

Stris 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