

## Hon. Walter D. Kelley, Jr.



**Hon. Walter D. Kelley** is a FedArb special master, arbitrator and mediator for complex commercial, antitrust, intellectual property, class action and qui tam disputes. A former U.S. District Court judge for the Eastern District of Virginia, Judge Kelley brings federal judicial experience, appellate perspective and decades of business litigation experience to high-stakes mediations and arbitrations involving sophisticated parties. He also serves on the International Trade Commission’s Roster of Section 337 Mediators, where he mediates disputes involving patent infringement, trademark and trade dress

issues, trade secrets, and unfair competition in international commerce.

Judge Kelley was nominated by President George W. Bush, unanimously confirmed by the Senate and took office as a U.S. District Court judge in 2004. While on the bench, he heard a wide range of cases, issued more than 50 written opinions and sat by designation on the U.S. Court of Appeals for the Fourth Circuit.

After leaving the bench, he became a partner at Jones Day and later at Hausfeld LLP — where he litigated antitrust, commercial and intellectual property matters from both the defense and plaintiff side, including a \$111 million patent verdict against Apple, a \$25 million copyright verdict that was the largest in Virginia in 2015, and a \$55 million antitrust settlement on behalf of indirect purchasers. Earlier in his career, before taking the bench, he was a partner at what is now Troutman Pepper Locke.

As an arbitrator and mediator, Judge Kelley has resolved breach of contract, dissolution, shareholder derivative, fraud, banking and insurance coverage disputes, as well as dozens of ITC Section 337 investigations and related federal court cases. He has also mediated disputes involving patent infringement, unfair competition, private fund investment allocation, trust administration, class actions, trademark ownership, international distribution, fraudulent conveyance and environmental responsibility in M&A documents.

He has been recognized in Best Lawyers in America for commercial, antitrust and class action litigation; by Super Lawyers for antitrust litigation; and as a Lawdragon 500 Global Plaintiff Lawyer.

Judge Kelley's record spans the federal bench, the Fourth Circuit, defense-side litigation, plaintiff-side litigation with landmark verdicts, and active ADR practice — making him a strong fit for parties seeking a former federal judge with trial and settlement credibility across antitrust, intellectual property, commercial and class action matters.

## Areas of Expertise

- ANTITRUST (MERGERS AND CONDUCT LITIGATION)
- COMMERCIAL LITIGATION (CONTRACTS, CORPORATE CONTROL, M&A, PRIVATE INVESTMENTS)
- INTELLECTUAL PROPERTY (COPYRIGHT, PATENT INFRINGEMENT, TRADEMARK, TRADE SECRETS)
- QUI TAM ACTIONS

## REPRESENTATIVE MATTERS

### ANTITRUST/FRANCHISE

- Successfully represented a class of indirect purchasers in monopolization case involving actions taken to block the introduction of generic drugs. (*In re: Thalomid and Revlimid Antitrust Litigation*, 2:14-cv-6997 (D.N.J.)) The \$55 million settlement is one of the largest for end payors in an antitrust case.
- Obtained summary judgment for the defendant on all counts in a \$200 million antitrust case involving the marina and real estate development industries. (*Levine v. McLeskey*, 881 F. Supp. 1030 (E.D.Va. 1995), affirmed in part, vacated in part, 164 F.3d 210 (4<sup>th</sup> Cir. 1998))
- Obtained a defense jury verdict, after six weeks of trial in Wilmington, Delaware, on claims of attempted monopolization and resale price fixing. The claims were brought against an oil company by one of its franchisees. The Court had previously granted summary judgment on the claims of exclusive dealing, tying and monopolization. (*Kellam Energy, Inc. v. Duncan*, 668 F. Supp. 861 (D.Del. 1987))
- Successfully argued that payments made by a nationwide school photography company to public high schools did not constitute illegal brokerages prohibited by the Robinson-Patman Act. In ruling for the photography company, the United States Court of Appeals for the Fourth Circuit rejected two Virginia Attorney General opinions squarely on point. (*Stephen Jay Photography, Ltd. v. Olan Mills, Inc.*, 713 F. Supp. 937 (E.D.Va. 1989), aff'd, 903 F.2d 988 (4<sup>th</sup> Cir. 1990))
- Negotiated a \$10 million plus settlement for a chemical company that was the target of anticompetitive acts undertaken by an international cartel.

- Obtained summary judgment on behalf of a specialty chemical manufacturer in an antitrust suit brought by a competitor. The United States District Court in Cleveland, Ohio ruled that a monopolist does not have to share its advantageous supply arrangements with competitors if alternatives (albeit more expensive ones) are available. (*National Sweetwater, Inc. v. Technical Products Corporation*, Case No. 90-cv-1533 (S.D. Oh., Dec. 20, 1991))
- Obtained a multi-million-dollar settlement from a Fortune 500 fast food franchisor on behalf of a multiple restaurant franchisee. The case involved the franchisor's attempts to terminate various franchise agreements. (*Robert J. Kubicki & Janice A. Kubicki and RJK of Gloucester, Inc. v. McDonald's Corporation, et al.*, Civil Action No. 4:93cv00072 (E.D. Va.))
- Obtained a multi-million-dollar settlement and buyout from a hotel franchisor on behalf of a franchisee/hotel co-owner. (*Virginia Investors Assoc., et al. v. Guest Quarters Hotels, L.P., et al.*, Civil Action No. 90-1281-N, E.D. VA.)

### **MISCELLANEOUS COMMERCIAL CASES**

- *Saharkhiz v. Nokia Corporation (Finland)*, 1:10-cv-912 (E.D. Va. 2010). (Defended Nokia in an Alien Tort Claims Act case)
- *Hintz v. Experian Information Solutions, Inc.*, Civil Action No. 3:09-cv-291 (E.D. Va. 2009). (Defended Experian in a Fair Credit Reporting Act class action)
- *McLeskey v. Davis Boat Works, Inc.*, 2000 WL 1008793 (4<sup>th</sup> Cir., July 21, 2000) (obtained the reversal of a grant of summary judgment on claims involving piercing the corporate veil and operating through a dissolved corporation)
- *Communications Facility Management Corporation v. Metromedia Hotelnet, Inc.* 14 F.3d 46 (3d Cir. 1993) (unpublished) (represented appellant in reversal of district court's abstention under Colorado River)
- *Sentara Enterprises, Inc. v. CCP Associates*, 243 Va. 39, 413, S.E.2d 595 (1992) (represented appellant in lease renewal appeal)
- *Daughtrey v. Ashe*, 243 Va. 73, 413 S.E.2d 336 (1992) (persuaded the Virginia Supreme Court, in a case of first impression, to extend the reach of section 2-313 of the Uniform

Commercial Code)

- *Superior Equipment Sales, Inc. Employee Stockownership Plan, et al. v. Sherman L. Reece*, Civil Action No. 2:03cv184 (E.D. Va.) (negotiated \$1.8 million settlement of securities fraud and ERISA claims arising from an ESOP leveraged buyout)
- *PRA Receivables Management, LLC v. CrediTrends Technology Corporation, et al.*, Civil Action No. 2:03cv304 (E.D. Va.) (representing publicly traded company in suit to rescind the purchase of \$200 million in credit card debt)

## **SHAREHOLDER/PARTNERSHIP DISPUTES**

- Obtained the reversal of a grant of summary judgment in a multimillion-dollar case brought by limited partner alleging fraud and breach of contract in the operation of a real estate partnership. (*Cranbrook Investors, Ltd. v. Great Atlantic Management Co.*, 1999 WL 1020534 (4<sup>th</sup> Cir., Nov. 10, 1999))
- Obtained a ruling in a derivative action that officers and directors of a corporate general partner owe a fiduciary duty directly to the limited partners in the partnership. (*Tropical Gardens, Ltd. v. Joseph*, CL99-1593 (Virginia Beach Circuit Court, Jan. 20, 2000))
- Has served as counsel in numerous other majority/minority shareholder and partnership disputes.

## **INTELLECTUAL PROPERTY**

- Won (as member of trial team) \$111 million verdict in June 2025 for infringement of patented method for saving power when using mobile phones. *TOT Power Control, S.L. v. Apple, Inc.*, Case No. 21-cv-1302 (D. Del.)
- Won \$25 million jury verdict for secondary infringement of music composition copyrights. *BGM Rights Management (US), LLC v. Cox Enterprises, Inc.*, 1:14-cv-01611 (E.D. Va.) This was the largest verdict in Virginia in 2015.
- Won a \$5.2 million jury verdict for infringement of copyrighted architectural plans. *Kipp-Flores, L.L.C. v. Signature Homes, L.L.C., et al.*, Civil Action No. 2:00cv831 (E.D. Va. 2001). This was the second largest verdict in Virginia in 2001.

- Negotiated a \$1 million plus settlement for infringement of copyrighted architectural plans. *Grimstead v. Tidewater Seniors Apartments, L.P.*, Civil Action No. 2:02cv535 (E.D. Va. 2003).
- Obtained dismissal on the first day of trial of a patent licensing claim brought against a chemical company in the federal district court in Los Angeles, California. The dismissal was affirmed after argument before the United States Court of Appeals for the Ninth Circuit in San Francisco. *Sweetwater Chemical Company v. Technical Products Corporation*, 1992 U.S. App. LEXIS 33363 (9th Cir.)
- Has served as lead counsel and as co-counsel in numerous patent infringement actions
- Has served as lead counsel in numerous non-patent intellectual property cases involving trade secrets and false advertising as well as the infringement of copyrights, trademarks and common law rights.

### **SIGNIFICANT ADR ENGAGEMENTS**

- Arbitrated breach of contract, dissolution and shareholder derivative claims asserted against large medical practice *Gehring v. Mt. Vernon Internal Medicine, P.C.*, Civil Action No. CL 2014-05895 (Fairfax VA Circuit Court)
- Arbitrated breach of contract and fraud claims between two regional banks involving the sale of \$100 million in HELOC loans. *M&T Bank v. First Tennessee Bank.*, 13-cv-977 (W.D.N.Y.)
- Arbitrated a pre-filing coverage dispute between two insurance companies (2009)
- Successfully mediated dozens of ITC Section 337 investigations and related USDC cases involving patent infringement, trademark/trade dress and unfair competition in numerous distinct lines of international commerce. (2010 to present)
- Successfully mediated a pre-filing case under 28 U.S.C. § 1981 involving alleged discriminatory allocation of investments to private fund advisors. (2026)
- Successfully mediated USDC malicious prosecution case that followed dismissal of the criminal indictment of General Michael Flynn. *Flynn v. United States*, Civil Action No.

8:23-cv-485 (M.D. Fla.) (2026)

- Successfully mediated USDC case involving the alleged misadministration of a Trust that Yahoo! created to benefit Chinese dissidents. *DePu v. Oath Holdings, Inc.*, Civil Action No. 1:17-cv-635 (D.D.C.) (2025)
- Successfully mediated USDC class action against national credit union involving overdraft fees. *Lloyd v. Navy Federal Credit Union*, Civil Action No. 3:17-cv-01280 (S.D. Cal.) (2018)
- Successfully mediated pre-filing breach of contract and fraud claims involving a pre-IPO financing (2015-16)
- Successfully mediated trademark ownership dispute between two restaurant chains. *Yun v. Lee*, Cancellation No. 92/059, 120 (USPTO-TTAB)
- Successfully mediated breach of contract and business relationships litigation between overseas manufacturer and domestic distributor. *Polygroup, Ltd. v. General Foam Plastics Corp.*, No. 3:12-cv-48 (E.D. Va. 2012)
- Successfully mediated multi-party fraudulent conveyance litigation related to the personal guaranty of business debt. *TD Bank, N.A. v. Pearl*, Civil Action No. 12-01-315 (D.D.C.)
- Successfully mediated litigation involving seller responsibility for environmental claims per M & A documents. *Western Refining Yorktown, Inc., v. BP North America, Inc.*, 4:08-cv-118 (E.D. Va.)

## **EDUCATION**

**Washington & Lee University** J.D., *magna cum laude*, 1981

- Order of the Coif
- Lead Articles Editor, Washington & Lee Law Review
- Omicron Delta Kappa

**Washington & Lee University** B.A., *cum laude*, 1977

## **BAR AND COURT ADMISSIONS**

- 1982 Virginia State Bar  
Virginia Supreme Court and all lower courts  
United States District Court for the Eastern District of Virginia  
United States Court of Appeals for the Fourth Circuit
- 1984 United States District Court for the Western District of Virginia
- 1992 United States Court of Appeals for the Ninth Circuit
- 1993 United States Supreme Court
- 2002 United States Court of Appeals for the Federal Circuit
- 2008 District of Columbia Bar
- 2008 United States District Court for the District of Columbia
- 2012 United States Bankruptcy Court for the Eastern District of Virginia
- 2015 United States Court of Federal Claims

## **BAR AND COURT ACTIVITIES**

- Permanent Member, Fourth Circuit Judicial Conference (2001 to present)
- American Arbitration Association National Roster of Commercial Arbitrators (2018 to present)
- International Trade Commission Roster of Mediators for Section 337 Investigations (2009 to present)
- Master and Co-founder, Pauline Newman IP American Inn of Court in Alexandria, VA (2011 to present)
- Master, James Kent American Inn of Court in Norfolk, Virginia (2002 to 2008)
- Commissioner in Chancery for the Circuit Court of the City of Norfolk, Virginia (2000 to 2004)
- Chairman, Virginia State Bar's Section of Antitrust, Franchise and Trade Regulation Law (1990-91)
- Delegate, American Bar Association's House of Delegates (1989-91)
- President, Virginia State Bar Young Lawyers Conference (1988-89)

## **CIVIC ACTIVITIES/AWARDS**

- Fellow, Litigation Counsel of American (elected in 2016)
- 2016 Outstanding Alumnus Award, Washington & Lee University School of Law
- Independent Bipartisan Advisory Commission on Redistricting in VA (2011)
- 2006 Distinguished Alumnus Award, Washington & Lee University
- 2005 Distinguished Alumni Award, Norfolk Collegiate School

## PUBLICATIONS

- W.D. Kelley, Jr., *Can a Non-Signatory Compel Arbitration?*, Hausfeld Competition Bulletin (Summer 2021), reprinted in <https://www.lexology.com/library/detail.aspx?g=7d4102cf-afd6-41d8-a0eb-efb5671c0e37> (nominated for a Concurrences Annual Writing Award)
- W. D. Kelley, Jr., *Arbitrability -Which Is To Be Master?*, Hausfeld Competition Bulletin (Winter 2019), reprinted in <https://www.lexology.com/library/detail.aspx?g=c96af729-7741-4c4f-8dbe-e60958a345dd>
- W. D. Kelley, Jr., *When Does Stealth Contracting for Arbitration Become Too Sneaky?*, Hausfeld Competition Bulletin (Summer 2018), reprinted in [www.lexology.com/library/detail.aspx?g=b39d9ef2-c74f-42ec-a441-a319292dfa8a](http://www.lexology.com/library/detail.aspx?g=b39d9ef2-c74f-42ec-a441-a319292dfa8a).
- W. D. Kelley, Jr., *Can State Law Render Arbitration Agreements Unenforceable?*, Hausfeld Competition Bulletin (Summer 2017), reprinted in [www.lexology.com/library/detail.aspx?g=242430c1-a67e-4190-879c-b8aa8d7bb475](http://www.lexology.com/library/detail.aspx?g=242430c1-a67e-4190-879c-b8aa8d7bb475)
- W. D. Kelley, Jr., *United States Arbitration Update*, Hausfeld Competition Bulletin (Spring 2017), reprinted in [www.lexology.com/library/detail.aspx?g=55effe2-4176-4dac-9e76-31bd93da9be7](http://www.lexology.com/library/detail.aspx?g=55effe2-4176-4dac-9e76-31bd93da9be7)
- W. D. Kelley, Jr., *Mandatory Arbitration in the United States and Europe*, Hausfeld Competition Bulletin (Winter 2016), reprinted in <https://www.lexology.com/library/detail.aspx?g=55e3ffe2-4176-4dac-9e76-31bd93da9be7>
- W. D. Kelley, Jr., *Exceptions to the Recovery of Lost Profits in Virginia*, VSB Litigation News - Vol. IV No. 4 (Winter 1998)
- W. D. Kelley, Jr., *Recovery of Lost Profits in Virginia*, VSB Litigation News - Vol. IV No. 3 (Fall 1997)
- Antitrust And The Media (co-author). This three-hundred page compendium is published annually by the Practising Law Institute as part of the program materials of Communications Law Seminar
- Vertical Restraints And Other Distribution Issues. This outline was published by the Virginia Law Foundation in 1990 as part of a Continuing Legal Education lecture series
- Antitrust Law In Virginia: A Comprehensive Digest of Federal and State Antitrust Decisions and Developments. (Contributing Editor). Published by the Virginia State Bar Antitrust Law Section in 1989
- Overview of Federal and Virginia Law Concerning Experts. This monograph was published by the Norfolk-Portsmouth Bar Ass'n in 1989
- W.D. Kelley, Jr., *Antitrust Compliance Programs: They're Not Just For Big Business Anymore*, 35 Va. Bar News 19 (Oct. 1986)

## SEMINAR FACULTY

- *Mediation at the ITC*, presented at the international Trade Commission Trial Lawyers Association Annual Fall Meeting (October 2025)
- *Alcohol Industry Competition Report: One Year Later*, presented at the National Alcohol Beverage Control Association's Annual Meeting (March 2023)
- *Competitive Spirits*, presented at the National Alcohol Beverage Control Association's Annual Meeting (March 2022)
- *Antitrust in the Amazon World*, American Bar Association Webinar (May 2018)
- *Issues in Modern Cross-Border Mass Torts Litigation*, American Bar Association Webinar (April 2019)
- *Winning Your Case Before Trial: Tips and Advice for Maximizing a Mock Trial*, ABA Litigation Section, Mass Torts Committee Telephone Program (March 30, 2018)
- *Here Comes The Judge*, presented at the National Alcohol Beverage Control Association's Annual Meeting (March 2018)
- *Antitrust: Collaboration or Collusion?*, presented at the National Alcohol Beverage Control Association's Annual Meeting (March 2017)
- *Judges' Panel – Expert Evidence and the Role of Experts*, presented at the International Association for the Protection of Intellectual Property ("AIPPI") World Congress in Milan, Italy (September 2016)
- *Governmental Liabilities and Immunities*, presented at the National Alcohol Beverage Control Association Annual Meeting (March 2016)
- *Hot Topics in Copyrights*, presented at the Pauline Newman IP Inn of Court (October 2015)
- *Current Issues in NPE Litigation*, presented at the Pauline Newman IP Inn of Court (November 2012)
- *The Economic Aspects of Intellectual Property*, presented at the Pauline Newman IP Inn of Court (March 2012)
- *Mediation and Arbitration Clauses in Corporate Agreements: Do We Want Them? What Should They Say? How Far Can They Go?*, presented at Virginia Bar Association's Annual Summer Meeting (July 2010)
- *Advocacy In Mediation*, presented at The McCammon Group's annual meeting (December 2009).
- *Markman Practice: A Practical Approach to Brief Writing and Hearing Presentation*, presented at Indiana CLE Foundation Litigation Summit (November 2008)
- *Intellectual Property Litigation in United States District Courts*, presented at Chinese Hi-tech Enterprise and US IP Litigation Strategy forum in Shenzhen, Shanghai and Beijing, China (May 2007)
- *Antitrust Litigation Ethics: From Soup To Nuts*, ABA Section of Antitrust Law, Washington, D.C. (April 2007)
- *Educating Yourself About Electronic Discovery*, presented at the Virginia Bar Association's Annual Meeting (January 2007)
- *Federal Sentencing After United States v. Booker*, presented by Norfolk-Portsmouth Bar Ass'n (July 2006)

- *Practicing Law in a House of Mirrors: Dilemmas Posed by Shifting Alliances and Latent Conflicts When Representing Multiple Parties*, presented at the Virginia State Bar's Annual Meeting (June 2006)
- *Business Divorces: When Closely Held Companies Fall Apart*, presented at Norfolk Circuit Court Bench/Bar Conference (April 2006)
- *Common Pitfalls in Patent Infringement Litigation*, presented at the Seventh Annual Intellectual Property Symposium, University of Texas School of Law (February 2006)
- *Current Trends in Architectural Copyright Law*, presented at the National Association of Home Builders annual meeting (January 2006)
- *Architectural Copyright Law: Current Trends and Tips*, presented at the National Association of Home Builders annual meeting (January 2003)
- *Architectural Copyright Law and Practice*, presented at the Virginia Society of the American Institute of Architects annual meeting (November 2002)
- *Insider Tips and Tricks of the Trade: What Every Young Litigator Should Know*, presented at the Virginia Bar Association's 112<sup>th</sup> Annual Meeting (January 2002)
- *Chair, Disputes in Closely Held Businesses*, sponsored by Committee on Continuing Legal Education of the Virginia Law Foundation. Presented in Richmond and McLean, Virginia in February 2001
- *"Antitrust, Franchise and Trade Regulation Law,"* sponsored by Committee on Continuing Legal Education of the Virginia Law Foundation in 1990
- *"Basics of Choosing and Examining Experts,"* sponsored by the Continuing Legal Education Committee of the Norfolk-Portsmouth Bar Ass'n in 1989