

FisherBroyles

Name: Mark E. Wilson

Email: mark.wilson@fisherbroyles.com

Direct: +1.312.498.8078

Office: Chicago

Practice Areas: Litigation—Appellate; Litigation—Civil Pretrial and Trial Services; Litigation & Risk Management; Litigation—Banking, UCC, Consumer, Financial, Mechanic’s Lien, Bankruptcy, Real Estate, Intellectual Property; Arbitration and Mediation; Insurance—Professional liability, Property, CGL, Fidelity and Surety, Subrogation

Bar Admissions: Illinois; U.S. Supreme Court; U.S. Courts of Appeals, 5th, 7th and 10th Circuits; U.S. District Courts, N.D. Illinois, C.D. Illinois, W.D. Wisconsin, E.D. Michigan, W.D. Texas, N.D. Texas

Education: University of Minnesota Law School, J.D., Cum Laude, 1988; University of Minnesota Law Review; Kalamazoo College, B.A., 1985

Experience: Sidley & Austin; Lovells; Clausen Miller P.C.

Clerkship: Justice M. Jeanne Coyne, Minnesota Supreme Court, 1988-89

Mark is a highly experienced business trial lawyer. He has an unusual breadth and depth of experience over his twenty-nine year career, having first-chaired many cases to final jury verdict, final judicial decision and final arbitration award. His past experience includes work at leading international law firms, the Illinois Attorney General’s Office and an appellate clerkship after graduation from law school. Mark is known for relentless advocacy, meticulous attention to legal nuance and preparation, and innovative use of courtroom technology to maximize his client’s case at trial. Mark is highly experienced in appellate court rooms as well, having served as lead appellate counsel in many dozens of appeals presenting cutting-edge business and constitutional.

For several years, Mark’s practice has focused on commercial law with a special emphasis on banking and payments matters. The former head of the Banking Practice Group of the Chicago office of a leading international firm, Mark is regularly consulted by banks and fidelity insurers to handle intricate matters involving the Uniform Commercial Code; federal regulations and guidance on payments, including privacy authentication issues; wire, ACH, check and other types of financial fraud; security agreements; and commercial collections and disputes. He is the Co-Chair of the FisherBroyles TCPA Practice Group. He

has been retained as an expert witness on payment law issues. Other significant experience includes matters involving common law fraud, contract, warranty, commercial torts, product liability, bankruptcy, creditors' rights, mechanic's liens, lender liability, unfair competition, covenants not to compete, shareholder disputes, intellectual property, insurance and reinsurance. Significant matters include

- Lead Counsel for several dozen claimants/creditors in a bankruptcy of a leading grocery distributor, *In re Central Grocers, Inc.*, Bankr. N.D. Ill. No. 17-13886
- *Digital Ally, Inc. v. Z3 Technology, LLC*, 754 F.3d 802 (10th Cir. 2014) (jury verdict in favor of our client, appellate opinion announces multiple important holdings on commercial law, intellectual property licensing and appellate procedure)
- *Insoftvision, LLC v. MB Financial Bank, N.A.*, No. 1:10-cv-03377 (N.D. Ill. 2013) (not-guilty jury verdict when our client was sued over an allegedly fraudulent \$1.3 million wire transfer; case raised novel issues under the UCC that the court resolved in our client's favor)
- Multiple confidential arbitrations between insurers over professional liability coverages, where we prevailed on claims for \$75 million and resolved a \$200 million issue for the client.
- *Travelers Casualty & Surety Co. of America v. Wells Fargo Bank N.A.*, 374 F.3d 521 (7th Cir. 2004) (Posner, J.) (leading case on payment law and the intersection of common law and the UCC)
- *Gilmore v. Taylor*, 508 U.S. 333 (1993) (drafted successful petition for certiorari, petitioner's briefs and presented successful oral argument addressing 14th Amendment Due Process issue)

Affiliations

- Illinois Bankers Association: Associate Member liaison, published in *Illinois Banker*, selected for the Bank Fraud Task Force for 2011-2012, annual attendance at the Illinois Bank Counsel Conference.
- Chair, UCC Litigation Subcommittee, American Bar Association, Business Law Section, 2002-2008. Headed the ABA task force charged with drafting pattern jury instructions for UCC Articles 3 and 4.
- Member, Chicago Bar Association and its Financial Institutions Committee, Federal Practice Committee and Commercial Litigation Committee; Civil Litigation Committee; Appellate Lawyers Association and its Rules and Moot Court Committees.

Speaking and Presentations

Many speaking engagements on banking and financial insurance at the Chicago Bar Association Financial Institutions Committee, Creditors Bar Association, American Bar Association Annual Meeting, ABA Business Law Section Spring Meeting, ABA Fidelity and Surety Law Committee Mid-Winter Meeting, National Bond Claims Association, Fidelity Law Association and Chicago Surety Claims Association.

Publications

Many articles on commercial law and banking, including Mark E. Wilson, ACH and Wire Fraud: Emerging Exposures to Banks, COMMERCIAL & BUS. LITIG. NEWSLETTER (Spring 2011); Mark E. Wilson, The Relative Risks of Frauds and How to Prevent Them, ILLINOIS BANKER (Sept. 2009); Mark E. Wilson, Banks' Priority Rights Over Mechanic's Lien Claims for Unlienable Work, COMMERCIAL & BUS. LITIG. NEWSLETTER (Winter 2011).

Reported Decisions

United States Supreme Court

- *Gilmore v. Taylor*, 508 U.S. 333 (1993) (drafted successful petition for certiorari, petitioner's briefs and presented successful oral argument)
- *Illinois Dep't of Corrections v. Flowers*, 505 U.S. 1239 (1992) (drafted successful petition for certiorari and successful motion to reverse the Seventh Circuit's denial of a motion to stay the appellate mandate)

United States Courts of Appeal

- *First American Bank v. FRB of Atlanta*, 842 F.3d 487 (7th Cir. 2016)
- *Digital Ally, Inc. v. Z3 Technology, LLC*, 754 F.3d 802 (10th Cir. 2014)
- *Union Asset Management Holding A.G. v. Dell, Inc.*, 669 F.3d 632 (5th Cir. 2012)
- *Blue Cross Blue Shield of Massachusetts, Inc. v. BCS Ins. Co.*, 671 F.3d 635 (7th Cir. 2011)
- *BCS Ins. Co. v. Wellmark, Inc.*, 410 F.3d 349 (7th Cir. 2005)
- *Travelers Cas. & Sur. Co. of Am. v. Wells Fargo Bank N.A.*, 374 F.3d 521 (7th Cir. 2004)
- *Travelers Indem. Co. v. Engel*, 81 F.3d 711 (7th Cir. 1996)
- *Hill v. City of Indianapolis*, 17 F.3d 1016 (7th Cir. 1994) (amicus brief)

- *Landers Seed Co., Inc. v. Champaign Nat'l Bank*, 15 F.3d 729 (7th Cir. 1994)
- *In re Marchiando*, 13 F.3d 1111 (7th Cir. 1994)
- *In re Roberson*, 999 F.2d 1132 (7th Cir. 1993)
- *Burgess v. Ryan*, 996 F.2d 180 (7th Cir. 1993)
- *MSA Realty Corp. v. State of Illinois*, 990 F.2d 288 (7th Cir. 1993)
- *Reed v. Gardner*, 986 F.2d 1122 (7th Cir. 1993)
- *Barnhill v. Doiron*, 958 F.2d 200 (7th Cir. 1992)
- *Rose v. Lane*, 910 F.2d 400 (7th Cir. 1990)

State Supreme Courts

- *Travelers Cas. & Sur. Co. v. Washington Tr. Bank*, 186 Wn.2d 921, 383 P.3d 512 (2016)
- *Strategic Resources Co. v. BCS Life Ins. Co.*, 367 S.C. 540, 627 S.E.2d 687 (2006)
- *Doe v. Gainer*, 162 Ill. 2d 15, 642 N.E.2d 114 (1994)

State Appellate Courts

- *Henry v. Waller*, 2012 IL App (1st) 102068 (2012)
- *Meng v. Maywood Proviso State Bank*, 301 Ill. App. 3d 128 (1st Dist. 1998)
- *Phillips Electronics, N.V. v. New Hampshire Ins. Co.*, 295 Ill. App. 3d 895 (1st Dist. 1998)
- *People v. Provenzano*, 265 Ill. App. 3d 33 (2nd Dist. 1994)
- *Hickey v. Huber*, 263 Ill. App. 3d 560 (1st Dist. 1994)
- *Wheat v. Wilbur*, 261 Ill. App. 3d 323 (3rd Dist. 1994)
- *May v. Central Illinois Public Service Co.*, 260 Ill. App. 3d 41 (5th Dist. 1994)
- *Kostopoulos v. Poladian*, 257 Ill. App. 3d 95 (1st Dist. 1993)
- *Worthen v. Village of Roxana*, 253 Ill. App. 3d 378 (5th Dist. 1993)
- *Bates v. Wilbur*, 245 Ill. App. 3d 377 (3rd Dist. 1993)
- *Grigoleit v. Pollution Control Bd.*, 245 Ill. App. 3d 337 (4th Dist. 1993)
- *David Blumenfeld, Ltd. v. Department of Professional Regulation*, 263 Ill. App. 3d 981 (1st Dist. 1993)
- *People ex rel Hartigan v. Anderson*, 232 Ill. App. 3d 273 (3rd Dist. 1992)
- *Gallagher Drilling, Inc. v. Department of Revenue*, 228 Ill. App. 3d 490 (4th Dist. 1992)

Noteworthy District Court Decisions and Bankruptcy Appeals:

- *Travelers Casualty & Surety Co. v. Washington Trust Bank*, 86 F. Supp. 3d 1148 (E.D. Wash. 2015)
- *Digital Ally, Inc. v. Z3 Technology, LLC*, 864 F. Supp. 2d 1050 (D. Kan. 2012)
- *U.S. Fidelity and Guaranty Co. v. Bank of Bentonville*, 29 F. Supp. 2d 553 (W.D. Ark. 1998)
- *Vaughn v. Illinois State Scholarship Comm'n*, 151 B.R. 481 (C.D. Ill. 1993)
- *In re Marchiando*, 142 B.R. 246 (N.D. Ill. 1992)
- *In re Roberson*, 138 B.R. 885 (N.D. Ill. 1992)