



Contact

**Lawrence I. Weinstein**

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Larry Weinstein is a partner in Proskauer's Litigation Department. He is co-head of the Firm's Intellectual Property Litigation Group, and also co-head of the Firm's False Advertising & Trademark Group. Larry is a distinguished trial lawyer and counselor who concentrates on Lanham Act and consumer class action false advertising litigation, advertising challenges before the National Advertising Division and the National Advertising Review Board, trademark, trade secret and copyright litigation and sports, art and other complex commercial cases.

Larry's clients include medical device and pharmaceutical companies, consumer products companies, fashion retailers and other owners and advertisers of the world's most well-recognized brands, as well as sports governing bodies, teams and leagues, gaming companies, an environmental organization, and art collectors.

Larry's reputation as a preeminent litigator is recognized by all the leading independent rating services. *U.S. News-Best Lawyers* named Proskauer "Law Firm of the Year 2013" in Advertising. *Chambers USA*, *US Legal 500* and *US News* each gave Proskauer's advertising litigation practice their highest rating of Band 1 in 2016 and in all previous years in which those publications rated advertising law practices. Larry is one of only three U.S. litigators who received a "Nationwide" Band 1 individual rating for "Advertising Litigation" in *Chambers USA's* 2016, 2015 and 2014 editions. His successes are noted by *US Legal 500*, which has identified Larry as a

“driving force” of Proskauer’s “distinguished” practice, “a hell of a litigator,” “an outstanding attorney” and “unquestionably a subject matter expert” in advertising and trademark law who is “worthy of trust” and who “represents his clients zealously.” *Chambers USA* has called Larry “a brilliant litigator,” “tough, determined and terrifically smart,” and “supremely effective in front of judges.” And *Institutional Investor Magazine*’s Benchmark Litigation survey has named him as one of New York State’s “litigation stars” in each of the last five years. Larry was inducted into the inaugural class of *The Legal 500* Hall of Fame in 2017.

Larry is a frequent speaker on the subject of litigating Lanham Act, consumer class action and NAD cases at the leading conferences on advertising law. Also a prolific author, he is the founder and an editor of Proskauer’s acclaimed advertising law blog, called [Watch This Space: Proskauer on Advertising](#).

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## Matters

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### False Advertising Litigation:

- *Jessani v. Monini North America, Inc.* (S.D.N.Y.) Represented Monini, the U.S. subsidiary of a large Italian olive oil manufacturer, in obtaining complete dismissal of a class action false advertising law suit brought by two consumers who alleged that the labeling of Monini’s White Truffle Flavored Extra Virgin Olive Oil misled them into believing that the product contains actual white truffle, when in fact there is no white truffle in the product. The court agreed with Monini that no reasonable consumer would understand the label to communicate that the product contained actual truffle, because the label simply represented that the product tasted like truffle, which plaintiffs acknowledged to be true, and that truffles were not on the label’s ingredient list.
- *Morrow v. PVH, et al.* (S.D. Cal. 2016)  
*Ramos v. PVH* (Cal. Supreme Court 2016), and  
*Dennis v. Ralph Lauren* (S.D. Cal. 2016). Representing the owners of the

Calvin Klein, Tommy Hilfiger, Van Heusen and Ralph Lauren brands in defense of putative class actions alleging false discount pricing at California outlet stores. Pending.

- *Fogarty v. Church & Dwight (N.J. Supreme Ct. 2016)*. Representing Church & Dwight in defense of putative class action alleging that client's deodorants are falsely labeled as "unscented". Pending.
- *Riedel, et al. v. Church & Dwight (E.D.N.Y. 2016)*. Representing Church & Dwight in defense of putative class action alleging that client's detergents contain undisclosed and non-functional "slack fill". Pending.
- *Church & Dwight v. SPD Swiss Precision Diagnostics (S.D.N.Y. 2015)*. Counsel to plaintiff Church & Dwight in a Lanham Act false advertising action in the Southern District of New York against competitor SPD Swiss Precision Diagnostics GmbH involving FDA-regulated home pregnancy tests. In a decision handed down July 1, 2015 following a two-week trial on the liability and injunction phase of this bifurcated case, the Court found the defendant liable for false advertising, ruled that the false advertising was intentional and egregious, and granted our client's request for a permanent injunction, a nationwide package recall and corrective advertising. The decision was affirmed by the U.S. Court of Appeals for the Second Circuit in July 2016, and has proceeded to the damages phase.
- *Par Sterile Products v. Fresenius Kabi USA (N.D. Ill. 2014)*. Counsel to defendant Fresenius in Lanham Act litigation involving prescription drugs. Complaint withdrawn following court order granting, in substantial part, defendant's motion to dismiss.
- *Branca v. Ralph Lauren, (S.D.N.Y. 2014)*. Counsel to defendant Ralph Lauren Corp. in putative class action litigation alleging false discount price advertising. Complaint withdrawn following filing of motion to dismiss.
- *Gambro Renal Products v. NxStage Medical (D. Mass. 2013)*. Counsel to defendant NxStage in defense of Lanham Act false advertising litigation involving marketing of Continuous Renal Replacement Therapy devices used in hospital intensive care units for patients suffering from catastrophic kidney failure. Case settled in January 2014.

- *Trewin, et al. v. Church & Dwight* (D.N.J. 2012). Counsel to Church & Dwight in defense of purported consumer class action false advertising litigation involving Church & Dwight's Arm & Hammer® Essentials Natural Deodorant product label statements. Case settled.
- *Excel v. Dyson* (D. Mass. 2012). Counsel to Dyson in defense of Lanham Act false advertising suit concerning hand dryer advertisements. Defeated plaintiff's preliminary injunction motion. Case settled in April 2014.
- *SPD Swiss Precision Diagnostics v. Church & Dwight* (D.N.J. 2009). Counsel to Church & Dwight in two Lanham Act false advertising litigations concerning advertising for FDA-regulated home pregnancy test kits. Case settled, April 2013.
- *Richins et al v. Hofstra University* (New York Supreme Court, Nassau Co. 2012). Counsel to Hofstra in defense of false advertising suit brought by a purported class of law students and law school graduates alleging that Hofstra's published statistics on the job placement of its graduates constituted false advertising. Motion to dismiss amended complaint for failure to state claim granted, appeal dismissed.
- *Dyson v. Bissell Homecare* (N.D. Illinois 2010). Counsel to Dyson, plaintiff in Lanham Act false advertising litigation challenging a competitor's vacuum cleaner advertising. Case settled in 2013 following order granting summary judgment in favor of Dyson on liability.
- *Gordon, et al. v. Church & Dwight*, 2010 U.S. Dist. LEXIS 32777 (N.D. Cal. 2010). Won dismissal of consumer class action challenging Church & Dwight's labeling of FDA-regulated Class II medical device.
- *Gifford, et al. v. U.S. Green Building Council, et al.* (S.D.N.Y. 2011). As counsel to USGBC, won dismissal of deceptive advertising class action challenging the LEED environmental rating system for commercial and residential buildings.
- *Dyson v. Garry Vacuums, et al.* (C.D. Cal. 2010). Counsel to Dyson, plaintiff in Lanham Act false advertising litigation challenging vacuum cleaner advertising. Case settled.

- *Dyson v. Euro-Pro* (D. Mass. 2009). Counsel to Dyson, plaintiff in Lanham Act false advertising litigation challenging vacuum cleaner advertising. Case settled.
- *ACE American Ins. v. Wachovia Ins. Agency and Scottsdale Ins.*, 306 Fed. Appx 727 (3d Cir. 2009). Counsel to Scottsdale Ins., defendant in Lanham Act false advertising, trade secret misappropriation and breach of contract litigation. Plaintiff's motion for preliminary injunction denied by N.J. District Court. Decision affirmed by Third Circuit, case dismissed.
- *Merix Pharmaceutical v. GlaxoSmithKline Consumer Healthcare, et al.* (N.D. Illinois 2008) and *GlaxoSmithKline Consumer Healthcare, et al. v. Merix Pharmaceutical.* (D.N.J. 2008). Counsel to Merix in Lanham Act false advertising litigations between marketers of anti-herpetic drugs. Negotiated global settlement.
- *In re PepsiCo Bottled Water Marketing and Sales Practices Litigation* (S.D.N.Y. 2008). Counsel to PepsiCo in multi-district consumer class actions challenging PepsiCo's advertising of Aquafina bottled water. Court granted PepsiCo's motion to dismiss all class actions on ground that plaintiffs' claims were preempted by the Food, Drug & Cosmetic Act.
- *United States Cellular v. T-Mobile USA* (N.D. Illinois 2007). Counsel to T-Mobile USA, defendant in Lanham Act false advertising litigation. Case settled.
- *S.C. Johnson & Son v. Clorox*, 241 F.3d 232 (2d Cir 2001). Counsel to S.C. Johnson, plaintiff in Lanham Act false advertising litigation. Decision in favor of SC Johnson issued by district court and affirmed by U.S. Court of Appeals for Second Circuit.
- *S.C. Johnson & Son. v. Clorox*, 930 F. Supp. 753 (E.D.N.Y. 1996). Counsel to S.C. Johnson, plaintiff in Lanham Act false advertising litigation. Preliminary injunction against Clorox granted, and case then settled.

### Trademark Litigation:

- *Double Down, Inc. v. IGT et al.* (D.Nev. 2016). Representing world's largest online gaming company in defense of trademark infringement action. Pending.

- *Hospital for Special Surgery v. Methodist Hospitals of Dallas* (N.D. Tex. 2009). Counsel to plaintiff Hospital for Special Surgery. Case settled.
- *Dell v. Tiger Direct* (S.D.N.Y. 2010). Counsel to defendant Tiger Direct. Case settled.
- *S.C. Johnson & Son v. Reedsdale Sales., et al.* (D.N.J. 2006). Counsel to S.C. Johnson in trademark counterfeiting litigation. Case settled.

### Copyright Infringement Litigation:

- *Onofrio v. Reznor, 2000 U.S. App LEXIS 2835* (9th Cir. 2000). Counsel to rock musician Trent Reznor of Nine Inch Nails, defendant in copyright infringement case. Summary judgment in favor of client granted and affirmed by U.S. Court of Appeals for Ninth Circuit.
- *A&M Records, et al. v. Napster Inc, 114 F. Supp. 2d 896* (N.D. Cal. 2000). Represented plaintiff Recording Industry Association of America in the famous copyright infringement litigation against Napster. Preliminary injunction granted against Napster.
- *Roth v. Pritikin, 710 F.2d 934* (2d Cir. 1983). Defense counsel in landmark copyright infringement case. Trial verdict in favor of client, author Nathan Pritikin, affirmed by Second Circuit.

### Trade Secret Litigation:

- *SG Cowen Securities v. Messih, 224 F.3d 79* (2d Cir 2000). Defense counsel in trade secret misappropriation and non-compete litigation. Preliminary injunction against client denied. Affirmed on appeal by U.S. Court of Appeals for the Second Circuit.
- *Monovis, v. Aquino, 905 F. Supp. 1205* (W.D.N.Y. 1994). Plaintiff's counsel in trade secret misappropriation case. After six week trial, verdict entered in favor of client.

- *Norton v. Gordon Hickory, et al.* (Mass. Superior Ct. 1991). Defense counsel in trade secret misappropriation case. Complete defense jury verdict in favor of client.

## Commercial Litigation:

- *Castillo v. Tyson*, 268 A.D. 2d 336 (N.Y. App. Div. 2000). Counsel to boxer Mike Tyson, in class action litigation arising from Tyson-Holyfield “ear biting” fight. Plaintiffs’ suit dismissed on motion. Dismissal affirmed by Appellate Division, First Department.
- *Orent v. Hungry Man, Inc.* (N.Y. Sup. Ct. 2009). Defense counsel in shareholder dissolution proceeding. Case settled.

## Practices

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Copyright, False Advertising & Trademark, Intellectual Property, Non-Compete & Trade Secrets, Product Liability & Consumer Litigation

## Industries

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Hospitality, Gaming & Leisure, Life Sciences, Health Care, Entertainment, Technology, Media & Telecommunications

## Education

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New York University School of Law, J.D., 1978

Order of the Coif

John Norton Pomeroy Scholar Articles

Editor, *New York University Law Review*, 1977-1978

Johns Hopkins University, M.A., 1975

Johns Hopkins University, B.A., 1974

## Admissions & Qualifications

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New York

## Clerkships

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U.S. Court of Appeals, Third Circuit - Hon. James Hunter, III

## Court Admissions

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U.S. Supreme Court

U.S. Court of Appeals, Eleventh Circuit

U.S. Court of Appeals, Second Circuit

U.S. Court of Appeals, Third Circuit

U.S. Court of Appeals, Ninth Circuit

U.S. District Court, New York, Eastern District

U.S. District Court, New York, Southern District

U.S. District Court, New York, Western District

## Memberships

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International Trademark Association

American Bar Association (Private Advertising Law Committee of ABA Antitrust Section)

National Advertising Review Council

## Awards & Recognition

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Chambers USA: Nationwide: Advertising Litigation (Band 1) 2010-2019

Chambers USA: Media & Entertainment: Advertising 2006-2009

The Legal 500 United States Hall of Fame 2017-2019

The Legal 500 United States: Media, Technology & Telecoms: Marketing & Advertising (Leading Lawyer): 2007-2016, 2019

The Legal 500 United States: Intellectual Property – Trademarks: Litigation: 2009-2014, 2018

Institutional Investor, Benchmark Litigation Guide Local Litigation Star - New York 2011-2017, 2019

Best Lawyers in America 2007-2020

New York Super Lawyers 2009-2019

The National Law Review: Go-To Thought Leader 2019