

DAVID H. MARION PENN BIOGRAPHY

A. A Penn Family

David H. Marion is part of a four-generation University of Pennsylvania family which may hold more Penn degrees than any other family, at least in recent Penn history, if not longer.

David's father Louis, (College '23, Law '26) brought him and his older brother Arthur to Franklin Field for Penn Football from David's age of four – when David played with toys in the stands, but did learn to sing every Penn song. Years later, both David and Arthur earned degrees from Wharton, and David continued onto Penn Law, graduating Magna Cum Laude in 1963. Since that time, David's three children – and their three spouses – have each earned at least two (in some cases 3) Penn degrees, including one from Penn Law for Charles, while Arthur's son graduated from Penn Medical School. The 4th generation at Penn is represented by his grand-daughters Cameron Hayes, Class of 2021 and Amelia Marion, Class of 2022.

B. Academic Leadership

After being admitted to Yale University (which David jokingly calls his “safety” school), David came to Penn when he learned he had won a Mayor's full scholarship by reason of his almost perfect S.A.T. score. As an undergraduate, he was elected President of his social fraternity, Alpha Epsilon Pi, President of Penn's Chapter of the Beta Gamma Sigma Honorary Business Fraternity, membership in the Wharton Advisory Council, the Interfraternity Council, the Hillel Foundation, and the John Marshall Pre-Law Society. He was also Managing Editor of the Record Yearbook.

He was accepted (again) by Yale Law School, but again came to Penn on a full tuition academic scholarship. He again excelled academically, ranking first in his class after his first year, thereby qualifying for the Penn Law Review. In his second year, he was elected Editor-in-

Chief of the Law Review, won the Harrison Cup Moot Court competition, and was named to the Order of the Coif Honor Society. He graduated Magna Cum Laude and was elected President of his graduating class.

C. Alumni Service to Penn Law School

David has demonstrated his loyalty by being an annual and generous “Benefactor”/contributor and active organizer and fund raiser for his class’s five-year reunions. He was active for years on the Law Alumni Society including serving as its President. He served as an adjunct professor, teaching appellate advocacy to Penn students many of whom still credit David with teaching them how to write effective briefs and succeed in appellate courts. He also represented Penn as a faculty member at the Salzburg (Austria) Seminar in American Studies, demonstrating American trial practice as contrasted with European and civil law trial procedure. Later he served as a member of the Penn Law Board of Overseers. Since his graduation, he has also frequently been an informal advisor and sounding board for the Deans, including Jefferson Fordham, Louis Pollack, Bernard Wolfman and others. For his service to Penn, David has received the University’s Alumni Award of Merit and the Law School’s Distinguished Service Award.

D. Legal Career

(1) David concentrates his practice in business litigation, antitrust and securities class actions, professional liability and communications law, and alternate dispute resolution. David has acted as both plaintiffs and defense counsel in litigation involving ERISA, securities, Civil Rights Act Violations, RICO actions and class actions.

David has achieved numerous noteworthy victories throughout his career including substantial jury verdicts before federal and state courts, the successful defense of a major public utility in a precedent-setting federal ERISA class action and in an employment discrimination case, and victories in the U.S. Supreme Court and a member of state and federal appellate courts. He has been appointed by the U.S. District Court as Receiver on Motion of the Securities and Exchange Commission, and as a Special Master in a number of complex federal cases.

(2) David began his legal career as a law clerk to Judge Abraham L. Freedman in the US District Court for Eastern Pennsylvania and the US Third Circuit Court of Appeals. In his first year of practice, Richardson Dilworth, then the head of the Dilworth firm, asked him to defend a major credit reporting agency in a trade libel case claiming damages in 7 figures. His obtaining a defense verdict in his first jury trial led to his handling an extraordinary number of trials and appeals from his earliest days of practice, and to his amassing an extraordinary record of success. In an almost 54-year career of trial practice – handling litigation and appeals from San Juan, Puerto Rico to Vancouver, British Columbia, Hawaii and in many courts in between – he has never lost an injunction case (whether seeking or opposing one); never lost an appeal in litigation where he both handled the trial and argued the appeal; and only lost one jury trial, defending one of many cases he has handled for other law firms, and where the jury’s verdict was far below his client’s settlement offer.

His clients have included, for example, the Philadelphia Inquirer and Daily News, a local TV station, the Saturday Evening Post, Newsweek, Parade, “Seventeen” and Philadelphia Magazines, Dun & Bradstreet Corp., the Daily Racing Form, the Philadelphia Bulletin, Microsoft, Oracle, AAA-Mid-Atlantic, the American Cemetery Association, Philadelphia

Electric Company (PECO), Cybex Corp., five major Philadelphia law firms and a Buffalo, New York law firm.

(3) Representative Matters

- Successfully argued in the United States Supreme Court in a case establishing plaintiffs' burden to prove falsity in First Amendment libel cases
- Successful appeals before the Pennsylvania Supreme Court including a case liberalizing grant of summary judgment for defendants
- Successfully represented a major public utility before the Third Circuit Court of Appeals in a precedent-setting ERISA case
- Secured the affirmance by the Third Circuit Court of Appeals of a seven-figure unfair competition jury verdict against a major broadcasting network.
- Secured a plaintiffs' class action jury verdict in the US District Court (E.D. PA.) in a vertical price-fixing antitrust case
- Secured a seven-figure jury verdict in the US District Court (E.D. PA.) against a munitions manufacturing company
- Successfully resolved a "whistle-blower" – generated class action in Cleveland challenging a major corporation's sales practices
- Achieved affirmance by the Second Circuit United States Court of Appeals of the grant of summary judgment against a group of craft labor unions which had alleged that David's publishing client's move of its operations to another state constituted an unfair labor practice

E. Recognition & Community Involvement

(1) David is a former Chancellor of the Philadelphia Bar Association and former President of the Philadelphia Lawyers Club, is the National Chancellor of the Tau Epsilon Rho Law Society and serves on the Anti-Defamation League Board of Directors. He was elected by his peers as a Fellow of the American College of Trial Lawyers, the International Academy of Trial Lawyers and the American Academy of Appellate Lawyers, and holds leadership positions in a number of non-profit organizations.

David was the recipient of the prestigious Judge Learned Hand Award in 2013. In congratulating David, University President Amy Gutmann wrote: "From being President of your class to your recent naming as the 2013 First Amendment Lawyer of the Year, your outstanding achievements speak for themselves. We are proud to call you one of our own..." At the presentation, former Law School Dean Mike Fitts said of him: "It's such a pleasure...to participate in a Tribute to someone we all love and admire – David Marion. He is quite simply one of the finest lawyers Penn Law has produced.... David epitomizes Penn Law's highest values... values we must preserve if our profession is to thrive... [His] continued success... sets an astounding example and tremendous precedent for future Penn Law graduates."

David has been listed in Chambers USA as a leading lawyer in commercial litigation since that honor's inception in 2003, described as a "very highly regarded trial attorney." For many years, David has been selected in a survey of his peers as a Pennsylvania "Super Lawyer"; and he is uniquely listed by *Best Lawyers in America* in six categories of law practice: Appellate Practice; Bet-the-Company Litigation; Commercial Litigation; First Amendment Law; Legal Malpractice Law – Defendants; and Media Law.

(2) Memberships and Community Service

Anti-Defamation League Board of Directors, Executive Committee

Tau Epsilon Rho Law Society, National Chancellor

Philadelphia Bar Association, Former Chancellor

Lawyers Club of Philadelphia, Former President

Rotary Club of Philadelphia, Former President

Federation of Jewish Agencies, Board of Directors

Philadelphia Bar Association – chaired the Federal Courts Committee, Bench-Bar Conference Committee and Senior Lawyers Committee

University of Pennsylvania Law Alumni Society, Former President

University of Pennsylvania Law School, Board of Overseers

Beth Shalom Congregation Board of Directors

F. David is a frequent contributor of articles in legal publications, and a frequent panelist or speaker in CLE programs, and to area high school students about careers in the law.