

Kurt B. Gerstner

Attorney at Law

Tel: 82-2-2262-6078

Fax: 82-2-2279-5020

Email: kgerstner@leeinternational.com



Kurt Gerstner is an attorney at Lee International IP & Law Group. Before joining Lee International, Kurt was a shareholder and trial lawyer at Campbell Campbell Edwards & Conroy in Boston, Massachusetts.

Kurt has extensive civil litigation experience. For the past 34 years, Kurt has been representing his clients' interests in a wide variety of disputes involving many different industries and businesses, including class action litigation and international arbitrations. His commercial litigation experience includes contract actions, shareholder disputes, intellectual property litigation, trade secrets, false advertising, property disputes, employment matters, lender liability actions, construction disputes and debt collection actions.

Kurt has served as national counsel and regional counsel for a variety of clients, overseeing their negligence and products liability claims involving automobiles, heavy equipment, recreational devices, aviation products and firearms. He supervised his prior firm's asbestos product liability/ toxic tort practice where he managed more than 1,000 cases in the Northeast United States. Kurt's other product liability experience includes drug and medical devices, consumer products, chemicals, clothing, sporting goods, appliances and industrial equipment. Kurt also represents clients in aviation matters that include commercial litigation, property damage and personal injury claims. He has represented commercial airlines, airframe manufacturers, aviation engine manufacturers, component parts suppliers and aviation repair facilities.

Kurt also has represented clients in professional negligence matters including medical, accounting and legal malpractice actions. He uses his varied experiences to bring a fresh perspective and creativity to all of the matters he handles.

Primary Practice Areas

- Products Liability Defense
- Business and Commercial Litigation
- Intellectual Property
- Pharmaceutical/ Medical Devices Litigation
- Professional Liability
- Toxic Torts/ Mass Torts Defense
- Aviation
- Litigation Discovery/ E-Discovery
- Higher Education

Admissions/Qualifications

- Admitted to the bar, New York (1995); District of Columbia (1994); Massachusetts (1983); New Mexico (1982)
- U.S. District Courts New York, Massachusetts, Connecticut, Michigan, Vermont, New Mexico

Education

- Boston College Law School (J.D., cum laude, 1982)
- University of Rochester (B.A., 1979)

Kurt also has broad experience working with the higher education community, where he provides litigation defense and risk management advice to colleges, universities, their vendors and student organizations. He has frequently provided programs for colleges and universities, educating their teams and student groups on alcohol, hazing and sexual harassment and risk management practices. Kurt is also the founder and president of the Sigma Chi Bar Association, an organization of the fraternity alumni who are judges and lawyers located throughout North America. He has been a member of the planning committee for the University Risk Management and Insurance Association's Annual Conference and he has presented on a variety of topics including managing and insuring the risk of sexual abuse of minors on campus, risk management practices in today's students, and student alcohol use and hazing.

Kurt is a frequent speaker at legal education seminars for lawyers and non-lawyers covering such topics as risk management, employment law, trial practice skills, intellectual property, products liability, retailing, professional liability, and construction law issues. This includes a series of lectures on American product liability law and American intellectual property law that he presented for the Korean government's trade promotion organization, KOTRA, in New York, Los Angeles and Seoul. Kurt has also published numerous articles on commercial litigation, intellectual property, product liability, risk management and other legal topics.

In the course of his 34 years as a litigator and trial lawyer, Kurt has handled litigation matters in state and federal courts in more than 20 states in the U.S. He also helps to manage litigation matters and responses to government investigations in Korea involving product liability, intellectual property and commercial litigation, among others. He has extensive experience developing litigation strategies, litigation discovery and E-discovery compliance and case development and tactics. He has been recognized as a "Massachusetts Super Lawyer." He is one of the few lawyers in Korea that has been recognized in Who's Who Legal in the field of Product Liability Defense.

Representative Cases

Over 34 years as a trial lawyer, Kurt Gerstner has handled more than 1,000 litigation matters. Below are some representative cases reflecting the variety of the different types of litigation matters he has handled.

Membership

- International Association of Defense Counsel (IADC)
 - Past Chair of Business Litigation Committee
 - Member of Product Liability, Intellectual Property, Transportation, Medical Device and ADR Committees
- Defense Research Institute (DRI)
 - Product Liability Committee member
 - Commercial Litigation Committee Steering Committee member
 - Intellectual Property Committee member
- Transportation Lawyers Association
 - International Sub-committee member

- **Jaikins v. Caterpillar** - Represented Caterpillar in defense of class action product liability case. Plaintiff alleged that large marine engines used in yachts and commercial vehicles had a design defect. Plaintiffs sought economic damages for engine repairs and alleged reduced value of the engines. USDC Michigan.
- **Dennis Vanguard v. Gulfstream** - Represented Gulfstream in international arbitration raising product liability claims. Plaintiff alleged that three Gulfstream airplanes (GIV and GVs) were defective. Seeking economic damages.
- **In re 9/11 Litigation** - Represented US Airways airline in personal injury and property damage litigation arising from terrorist attacks involving hijacking of airplanes and crashing them into World Trade Center. Plaintiffs alleged that US Airways and others were negligent in allowing the terrorist attacks to occur. Property damage claims exceeded USD \$20 billion and included claims for destruction of World Trade Center towers and numerous surrounding buildings. USDC NY.
- **Christmas Tree Stores** - Product recall. Assisted national retail client with designing and implementing recall of product imported from China that had exploded, causing property damage and potential personal injuries. Worked with client and reported and obtained US Consumer Product Safety Commission consent to recall plan.
- **General Electric Litigation** - Represented GE in product liability case alleging aircraft engines were defective, causing a crash in Paris that killed multiple European high level businessmen. USDC MA.
- **Maytag Litigation** - Represented Maytag in defense of product liability claims alleging defective home appliances. Claims included allegations that appliances caused fire damage and leakage which caused water damage. Various courts.
- **Monsanto v. Oakhurst** - Represented Monsanto as plaintiff in false advertising litigation. Monsanto brought suit against company that misrepresented safety and wholesomeness of products supplied by Monsanto in television, radio, internet and other print advertisements and in the defendant's product labels. USDC MA.
- **Ford Motor Company Litigation** - Represented Ford in defense of numerous automotive product liability litigation matters and in business disputes with its dealers. Product liability claims covered a wide range of automotive components and systems including electrical and computer systems. Claims also included toxic substances actions, alleging that consumers, employees and repair people were caused to develop cancer from exposure to chemicals and asbestos contained in

Ford products. Lawsuits took place in various courts located in many different states including MA, ME, VT, NY, CT, RI, PA and HI.

- Amerex Litigation - Represented Amerex in defense of multiple product liability actions alleging that fire suppression systems and sensors manufactured by Amerex were defective and failed to operate properly to suppress and contain fires. Various courts.
- Foresco v. Oh - Represent a Korean company plaintiff in a commercial litigation matter for breach of contract action against a US defendant. Action seeks recovery of approximately USD \$1.5 million for goods sold and delivered. Work has included preparing written discovery responses, assisting with document collection and production, identifying and preparing company witness for depositions and defending company witness in depositions. USDC NY.
- Wood Recycling Insurance Litigation - Represented plaintiff company in a multimillion dollar lawsuit against an insurance company for bad faith in failing to pay an insurance claim after a fire destroyed the business of Wood Recycling. USDC MA.
- Bodycote v. Nalco - Represented Nalco in a multimillion dollar product liability and negligence action alleging that water treatment/ anti-corrosion chemical system was defective, leading to the explosion and destruction of a factory. MA.
- Gonyea v. Office Max - Defended Office Max in an adversary litigation matter filed in Bankruptcy Court in which debtor manufacturing company alleged that Office Max failed to properly market and merchandise the debtor's products. US Bankruptcy Court MA.
- Airline AED Litigation - Defended United Airlines, Northwest Airlines and Frontier Airlines in various litigation matters alleging the airlines were negligent in failing to provide automatic external defibrillators (AEDs) and other medical services on their flights. Suits in various courts including USDC MN and MA.
- Medical Device Litigation - Defended multiple medical device manufacturers in product liability actions alleging that medical devices designed and manufactured by those companies were defective. Clients have included Johnson & Johnson, Depuy, Synthes and Nuvasive. Various courts including CA and MA.
- Firearms Litigation - Defense of product liability litigation against firearms manufacturers alleging that various model firearms were defective leading to personal injuries and deaths. Manufacturers included American Derringer Corp and Lorcin Engineering. Suits filed in multiple states including TX, MS, CA, OH, KY.
- Corporate Litigation - Numerous lawsuits involving corporate and commercial disputes related to M&A activities, shareholder and partner

disputes and other corporate governance disputes. Lawsuits in MA courts.

- Consumer and Commercial Finance Litigation - Represented Nissan Motors Acceptance Corp and multiple banks in numerous litigation matters arising from consumer and commercial financing transactions. Plaintiffs alleged that banks and financing companies committed unfair and deceptive acts and business practices in connection with financing transactions. Multiple courts in MA, NH, ME and NM.
- Intellectual Property Litigation - Represented defendants in a variety of patent, trademark and copyright infringement litigation matters. Patent infringement actions included electrical components and sensors. USDC MA.

Publications/Activities

- Potential Liability Arising from Mass Epidemics, International Association of Defense Counsel (IADC), Midyear Meeting, Scottsdale, Arizona (2017)
- Hanjin Shipping's Bankruptcy: Is it sailing toward liquidation?, ASIAN MENA COUNSEL MAGAZINE FOR THE IN-HOUSE COMMUNITY (2017)
- Defending Damages Claims Involving Foreign Plaintiffs, International Association of Defense Counsel (IADC) Trial Techniques and Tactics Committee Newsletter (March 2017)
- Staying Afloat When There is an International Shipping Company Bankruptcy - Hanjin Shipping: A Case Study, The Transportation Lawyer, Vol. 18, No. 3 (December 2016)
- The New Normal: International Litigation and Its Implications for Trial Lawyers, DEFENSE COUNSEL JOURNAL (July 2016)
- The Challenges Faced by Transportation Lawyers When Clients Are Shipping Goods Worldwide: "We're Not in Kansas Anymore!", Transportation Lawyers Association Annual Conference, Destin, FL (April 2016)
- Around the World: How Litigation Strategy is Going Global, International Association of Defense Counsel, Mid-Year Meeting, Pebble Beach, CA (February 2016)
- Turning a Sow's Ear into a Silk Purse: Converting Software Copyright Infringers into Paying Licensees, DRI: The IP Update (December 2015)
- Criminalization of Corporate Conduct in Asia, Asia Regional Meeting of the International Association of Defense Counsel, Hong Kong (October 2015)
- Proof of Patent Damages: A Korean Approach, International Association of Defense Counsel (IADC) Intellectual Property Committee Newsletter (June 2015)
- Transportation Lawyers: Anticorruption Statute Violations Can Stop Your

Client Cold, The Transportation Lawyer, Vol. 16, No. 4 (February 2015)

- Foreign Companies – Beware of Violating Korean Criminal Laws That You Didn't Know Existed, Business Korea (Nov, 2014)
- IP Law in Korea: Patent Infringement Litigation and Trademark and Copyright Enforcement, Asia Regional Meeting of the IADC, Hong Kong (2014)
- Class Action Lawsuits in the US Related to Food and Beverage Mislabeling, Global Window, KOTRA-Korea Trade-Investment Promotion Agency (2014)
- How to “Bet the Company” Without Even Trying, For the Defense, DRI (July 2014)
- The FBPA: South Korea's Act to prevent bribery of foreign officials. ASIAN MENA COUNSEL MAGAZINE FOR THE IN-HOUSE COMMUNITY (2014)
- The 9/11 Attacks: Defending Complex Commercial and Property Damage Claims, International Association of Defense Counsel, Annual Meeting, Maui, Hawaii (2013)
- Ten Tips for Obtaining Expert Discovery, The Business Suit, DRI Commercial Litigation Committee Newsletter, (July, 2013)
- Jury Focus Groups Without Breaking the Bank: Alternatives to Jury Consultants, International Association of Defense Counsel (IADC) Business Litigation Committee Newsletter (June 2013)
- Risk Management Best Practices for College Fraternities, Sigma Phi Society, University of Vermont, Burlington, VT (2013)
- Defending Commercial Class Actions: Recent Cases May Be Giving the Defense an Edge, International Association of Defense Counsel, Mid-Year Meeting, Boca Raton, FL (2013)
- Innovative Techniques for Defending Damages Claims in High Stakes Commercial Litigation, International Association of Defense Counsel, Mid-Year Meeting, Boca Raton, FL (2013)
- Identifying, Managing and Insuring the Risk of Sexual Abuse of Minors on Campus, University Risk Management and Insurance Association Annual Conference, Providence, RI (2012)
- Imbuing Effective Risk Management Practices in Today's Millennial Students, University Risk Management and Insurance Association Annual Conference, Providence, RI (2012)
- Mock Trial: Smart Strategies for Managing Difficult Risks - Student Group Alcohol Use and Hazing, University Risk Management and Insurance Association Annual Conference, Portland, OR (2011)
- Risk Management: Alcohol and Hazing Mock Trial, Balfour Leadership Training Workshop, Sigma Chi International Fraternity, Chapel Hill, NC (2011)

- Shocking News: Absence of a Defibrillator May Lead to Liability for Failure to Treat Victims of Sudden Cardiac Arrest, Medical Defense and Health Law Committee Newsletter, International Association of Defense Counsel (2010)
- Fraternity Legal Liabilities: How to Stay Out of Trouble, Kappa Eta Chapter, Sigma Chi Fraternity, Harvard University (2010)
- New Reporting Requirements under the Medicare Secondary Payer Statute, International Association of Defense Counsel Midyear Meeting, Naples, FL, (2010)
- Alcohol/Drug Risk Mitigation, Sigma Chi Fraternity Connecticut/ Rhode Island Province Conference, New Haven, CT (2010)
- International Discovery: Do You Need It and How Do You Obtain It., American Bar Association, Washington, D.C. (2009)
- Accident Investigations by the National Transportation Safety Board, Aviation and Space Law Committee Newsletter, International Association of Defense Counsel (2009)
- Behind The Curtain: Insight into the Aviation Practice from Go-Team to Trial, Aviation & Space Law Committee, Tort Trial & Insurance Practice Section, American Bar Association, Washington, D.C. (2009)
- Avoiding Legal Liabilities for Fraternities, Sigma Chi Fraternity North Atlantic Province Conference, Boston, MA, 2009
- Party Risk Management: Mock Trial, Balfour Leadership Training Workshop, Sigma Chi International Fraternity, Chapel Hill, NC, 2009
- New Reporting Requirements under Medicare Secondary Payer Statute: Settling/Paying Party Beware, IADC Webinar, 2009
- Damages in Complex Commercial Litigation, Program Chair, DRI, Boston, MA, 2008
- Consumer Surveys in False Advertising and Trademark Infringement Cases, DRI Annual Meeting, Chicago, IL, 2008
- Electronic Presentations Prior to and During Trial, Kansas Association of Defense Counsel Annual Conference, Kansas City, KS, 2008
- Party Risk Management: Mock Trial, Balfour Leadership Training Workshop, Sigma Chi International Fraternity, Columbia, MO, 2008
- Consumer Confusion under the Lanham Act and the Use of Survey Evidence, Intellectual Property Litigation, DRI, Chicago, IL, 2008
- Where and How to Use Electronic Presentations Prior to and During Trial, Linking Technology to Victory, Massachusetts Continuing Legal Education, Boston, MA, 2008
- Complex Commercial Litigation, Smart Strategies for Hard Cases, Program Chair, DRI, Phoenix., AZ, 2007

- Practicing in the District Court, District Court Survival Guide Seminar, Massachusetts Bar Association, Boston, MA, 2006
- September 11th Litigation after Closure of VCF and Issuance of Kean Commission Report: What's Left and What's Next, DRI Annual Meeting, Washington, DC, 2005
- A Complex Solution (a Jerry Taylor mystery), AuthorHouse, 2005
- Prosecution and Defense of False Advertising Claims under the Lanham Act, DRI Intellectual Property and Litigation Seminar, Chicago, IL, 2004
- A Cross-Border Perspective: Personal Tort Liability for Directors and Officers, For The Defense (Defense Research Institute), March, 2003
- Defibrillator Liability Revisited, The Risk Management Letter, Vol. 24, Issue 1, 2003
- Developments In Professional Malpractice Litigation Part II: Accountant Auditor Malpractice Litigation, D&O and E&O Liability: The New Environment (Defense Research Institute), Boston, MA, 2003
- Payment Bonds and Performance Bonds, Construction Issues In Massachusetts (Lorman Educational Services), Boston, MA, 2002
- Packaging Software Contracts, For The Defense (Defense Research Institute), June, 2002 International Discovery for Commercial Litigation, DRI Annual Meeting, San Francisco, CA, 2002
- Practical Considerations for Defending Suits Involving Violations of Non-Competition Agreements, The Business Suit (DRI Commercial Litigation Committee), Summer, 2001
- Lenders' and Title Insurers' Perspectives, Construction Lien Law In Massachusetts (Lorman Educational Services), Boston, MA, 2001
- Failure to Provide a Defibrillator Could Lead To Premises Liability, The Risk Management Letter, Vol. 21, Issue 6, 2000
- Lenders' and Title Insurers' Perspectives, Construction Lien Law In Massachusetts (Lorman Educational Services), Boston, MA, 2001
- Failure to Provide a Defibrillator Could Lead To Premises Liability, The Risk Management Letter, Vol. 21, Issue 6, 2000
- Liquor and Hazing Liability, Leadership Training Workshops, Sigma Chi Fraternity International, 1987-1988, Western Connecticut State University 1989, Boston University 1990, Massachusetts Institute of Technology 1990 and 1991, Northeastern University 1992, Boston College, 1995
- American Product Liability Law for Korean Companies Doing Business in the United States, Korea Trade Promotion Center (KOTRA), New York, NY, 1990, Los Angeles, CA, and Seoul, Republic of Korea, 1992
- Responsibility & Liability: Two Other 'Names of the Game, Paint Check, August, 1991
- Avoiding Lender Liability for Hazardous Waste Cleanup: Training for

Commercial Loan Officers, US Trust, Boston, MA, 1991

- Managing Personnel in a Bi-Cultural Environment: Identifying and Resolving Legal Issues, The Korea Society, New York, 1991