

## George W. Mykulak

### Partner

George Mykulak is a first chair trial and appellate attorney with almost four decades of diverse commercial litigation experience representing public and private companies. He regularly litigates in federal and state judicial, administrative, and arbitral proceedings throughout the United States in connection with a variety of franchise/distribution, internet, shareholder, contract/business tort, and real estate disputes. Many of his cases are published decisions, and several are cases of first impression.

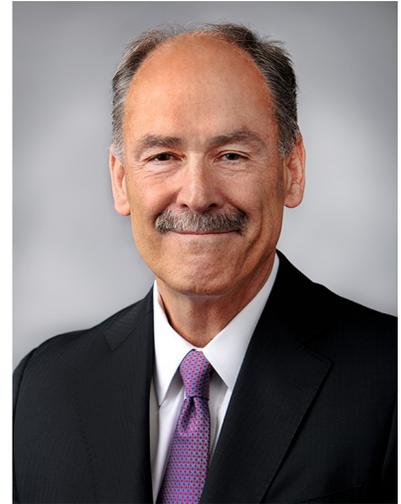
With a practice largely focused on franchise controversies, particularly those arising in the automotive industry, George counsels and represents domestic and import motor vehicle manufacturers and distributors, an international towing and recovery equipment distributor, restaurants and fast food franchisors on a wide spectrum of franchise/distribution issues including franchise establishments, relocations and terminations, national market withdrawals, encroachment and branding issues, incentive plans, bankruptcy, vicarious liability, audits and rights of first refusal.

In addition to his motor vehicle and franchise practice, George serves as litigation counsel for the world's largest on-line marketplace for family care in connection with CDA/Section 230 and safety issues.

Throughout his career, George has successfully integrated both pro bono and public interest into his active practice.

George's representative experience in connection with motor vehicle franchise/distribution disputes includes:

- Represented a domestic motor vehicle franchisor in successfully defending more than 400 arbitrations commenced by former dealers in 48 states under federal legislation enacted in response to the franchisor's bankruptcy. Involved in strategy, selection of arbitrators, retention of experts, outside trial counsel training, discovery, settlements, and prehearing preparation. Tried and/or resolved almost 20 cases during a three-month period and then successfully defended the franchisor at trial in the Eastern District of New York and on appeal before the Second Circuit.
- Successfully defended a motor vehicle franchisor in a seven-day administrative proceeding commenced by four Connecticut dealers challenging the establishment of a new dealer and then obtained affirmance in two state appellate courts.
- Obtained dismissals on behalf of an import motorcycle distributor on the eve of trials in New York and Virginia, prompting the Virginia legislature to amend the governing statute in response.



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### Washington, D.C. Office

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- Obtained dismissal of statutory and common law claims asserted by a dealer in the Northern District of Illinois based on the dealer's failure to disclose them in prior bankruptcy proceedings.
- Successfully represented a New England motor vehicle distributor in resolving litigations pending in New Hampshire and Massachusetts.
- Successfully represented domestic and import motor vehicle franchisors in four separate Chapter 11 proceedings commenced by dealers in the Southern District and Eastern District of New York that resulted in the franchisors regaining control of the franchises. In one case, obtained dismissal of dealer's statutory and common law claims in the Eastern District of New York.
- In separate cases of first impression under New Jersey Franchise Act amendments, successfully defended a motor vehicle franchisor in administrative proceedings commenced by existing dealers seeking to prevent the establishment of competing dealerships:
  - Following a 10-day trial and the filing of an amicus brief by the New Jersey dealer association, obtained a final ruling and appellate affirmance in favor of the franchisor under the amended statute.
  - Obtained a final ruling that the protesting dealer lacked standing because the 2011 amendment expanding New Jersey's "relevant market area" for protests could not be retroactively applied.
- In cases of first impression, successfully challenged the New Hampshire Motor Vehicle Industry Board's jurisdiction over a tow equipment distributor and over the establishment of a Vermont dealer.
- Obtained a favorable appellate clarification of the two year/two-mile exemption under the Pennsylvania Board of Vehicles Act and then defeated the dealer's applications for further appellate review before the Commonwealth Court and the Pennsylvania Supreme Court. In a related case brought in Pennsylvania state court by the same dealer seeking damages, obtained a dismissal based on the franchise contract's integration clause.
- Successfully defended a commercial van distributor in several judicial and administrative challenges to its announced discontinuation of a vehicle line. Through motions or negotiations, obtained dismissals in eight matters, including cases in federal courts sitting in Tennessee and Georgia, as well as an affirmance from the Sixth Circuit.
- Obtained a ruling from the Southern District of New York firmly rejecting precedent that had recognized the standing of an individual shareholder to assert claims on behalf of a terminated corporate dealership.
- In Indiana state courts, obtained summary judgment and appellate affirmance in a potential class action brought by dealers challenging

amendments to the dealer agreements.

*Admitted in Massachusetts.*

### **Legal Services**

- Litigation & Dispute Resolution
- Franchise & Distribution
- Appellate
- Automotive Industry

### **Education and Honors**

- Boston College Law School (J.D., *cum laude*, 1981)
  - *International & Comparative Law Review*, Articles and Citations Editor
  - Grimes Moot Court/Mock Trial Judge
- Yale University (B.A., 1977)
  - Major: English

### **Bar Admissions**

- Massachusetts

### **Court Admissions**

- Supreme Court of the United States
- U.S. Court of Appeals, 1st Circuit
- U.S. Court of Appeals, 2nd Circuit
- U.S. Court of Appeals, 6th Circuit
- U.S. Court of Appeals, 7th Circuit
- U.S. District Court, District of Massachusetts

### **Professional and Civic Activities**

- Massachusetts Supreme Judicial Court Standing Committee on Pro Bono Legal Services, member
- Massachusetts Board of Bar Overseers, hearing officer
- Lawyers Clearinghouse on Affordable Housing and Homelessness, board of directors, past president
- American Bar Association, Litigation Section Forum on Franchising and Senior Attorneys Division, member
- Boston Bar Association, Business Litigation Section, Steering Committee for Annual Meeting, 2014
- Boston Bar Foundation Society of Fellows
  - Steering Committee, John & Abigail Adams Benefit, 2014–2016
  - Fellows Committee, 2015–2017
- Litigation Counsel of America, senior fellow



## Professional Recognition

- *Best Lawyers in America*®, Commercial Litigation and Franchise Law, 2020-2022
- *Chambers USA*®, Litigation: General Commercial - Massachusetts, 2020, 2021
- New England/Massachusetts *Super Lawyers*®, Business Litigation, 2010–present; Franchise and Dealership Law, 2004
- AV Preeminent® Rating by *Martindale-Hubbell*, 1996–present