

MARSHALL S. NEY

LITIGATION

PARTNER

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— BIOGRAPHY

Marshall S. Ney is a member of the firm's Management Committee and serves as counsel to businesses, school districts and individuals in most types of complex and commercial disputes, employment claims and education disputes. His experience is extensive and includes class action litigation, noncompetition agreements, trade secrets, corporate dissolutions, discrimination suits, business contracts, education law and special education law.

Marshall has more than 30 years of litigation experience and serves as counsel for many school districts across the state, including two of the state's largest districts. He has also served as Associate General Counsel for a Fortune 10 company with responsibility for commercial, employment and personal injury litigation.

— EDUCATION

- University of Arkansas at Little Rock School of Law, J.D.; 1991
 - Assistant Editor, *Law Journal*
- Southern Methodist University, B.B.A., 1986

— NOTEWORTHY

- Appointed Commissioner, Arkansas State Park, Recreation and Travel Commission, 2025
- Appointed Member, Arkansas Supreme Court Professional Conduct Committee, Panel C, 2018-2022 (Chair 2022)
- Appointed Member, Arkansas Supreme Court Professional Conduct Committee, Panel A, 2023-present
- Listed in *The Best Lawyers in America*, since 2009
 - Commercial Litigation
 - Litigation – Banking & Finance
 - Litigation – Bankruptcy
 - Litigation – Intellectual Property
 - Litigation – Labor and Employment
 - Named "Lawyer of the Year," Litigation: Labor & Employment, Fayetteville, 2013
- Selected to the *Mid-South Super Lawyers* List, since 2009

Practice Areas

Litigation

- Lifetime Achievement selection among America's Top 100 Attorneys
- Rated AV Preeminent by Martindale-Hubbell

— KEY MATTERS

- *Baker v. Bentonville School District*, United States District Court for the Western District of Arkansas, Fayetteville Division, 2022 U.S. Dist. LEXIS 133560, July 27, 2022
- *Bentonville School District v. Sitton*, Supreme Court of Arkansas, 2022 Ark. LEXIS 110, April 14, 2022
- *Does v. Key*, United States District Court for the Eastern District of Arkansas, 2021 U.S. Dist. LEXIS 22357, November 19, 2021
- *DWDubbell Ark., LLC v. Bushey*, United States District Court for the Western District of Arkansas, 2021 U.S. Dist. LEXIS 183629, September 24, 2021
- *J.B. Hunt Transport, Inc. v. BNSF Ry. Co.*, United States Court of Appeals for the Eighth Circuit, 9 F.4th 663, 2021 U.S. App. LEXIS 24126, August 13, 2021
- *Crosby v. Little*, United States District Court for the Western District of Arkansas, Fayetteville Division, U.S. Dist. LEXIS 174281, Sep 23, 2020
- *Richardson v. Omaha Sch. Dist.*, United States District Court for the Western District of Arkansas, Harrison Division, U.S. Dist. LEXIS 168363, Oct 22, 2020
- *Richardson v. Omaha Sch. Dist.*, United States Court of Appeals for the Eighth Circuit, 957 F.3d 869, Apr 27, 2020
- *Bentonville Sch. Dist. v. Smith*, United States Court of Appeals for the Eighth Circuit, 795 Fed. Appx. 992, Mar 06, 2020
- *Albright v. Mt. Home Sch. Dist.*, United States Court of Appeals for the Eighth Circuit 926 F.3d 942, Jun 12, 2019
- *Richardson v. Omaha Sch. Dist.*, United States District Court for the Western District of Arkansas, Harrison Division, U.S. Dist. LEXIS 59005, Apr 05, 2019
- *Parrish v. Bentonville Sch. Dist.*, United States Court of Appeals for the Eighth Circuit, 896 F.3d 889, Jul 24, 2018
- *In re Tyson Foods, Inc. Sees. Litig.*, United States District Court for the Western District of Arkansas, Fayetteville Division, U.S. Dist. LEXIS 55355, Mar 31, 2018
- *Rooney v. Rock-Tenn Converting Co.*, United States Court of Appeals for the Eighth Circuit, 878 F.3d 1111, Jan 09, 2018
- *In re Tyson Foods, Inc. Sees. Litig.*, United States District Court for the Western District of Arkansas, Fayetteville Division 275 F. Supp. 3d 970, Jul 26, 2017
- *Rooney v. Rock-Tenn Converting Co.*, United States District Court for the Western District of Arkansas, Fayetteville Division 200, F. Supp. 3d 816, Aug 02, 2016
- *Brittany O v. Bentonville Sch. Dist.*, United States District Court for the Western District of Arkansas, Fayetteville Division, U.S. Dist. LEXIS 34865, Mar 15, 2016
- *Brittany O. v. Bentonville Sch. Dist.*, United States District Court for the Eastern District of Arkansas, Western Division, U.S. Dist. LEXIS 7220, Jan 22, 2015
- *Brittany Q. v. Bentonville Sch. Dist.*, United States District Court for the Eastern District of Arkansas, Western Division, U.S. Dist. LEXIS 158755, Nov 07, 2014 *Warren V. Krispy Kreme Doughnuts*, No. 14-1254, United States Court Of Appeals For The Eighth Circuit, 577 Fed. Appx. 628; 2014 U.S. App. LEXIS 17961, September 17, 2014
- *Busch V. Wal-Mart Stores, Inc.*, Case No. 5:12-CV-05079, UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF ARKANSAS, FAYETTEVILLE DIVISION, 2014 U.S. Dist. LEXIS 69140, May 16, 2014
- *Our Cmty., Our Dollars V. Bullock*, No. CV-14-827, SUPREME COURT OF ARKANSAS, 2014 Ark. 457; 2014 Ark. LEXIS 587, October 31, 2014

- *Lapointe V. New Tech., Inc.*, No. CV-13-899, COURT OF APPEALS OF ARKANSAS, DIVISION TWO, 2014 Ark. App. 346; 437 S.W.3d 126; 2014 Ark. App. LEXIS 465; 38 I.E.R. Cas. (BNA) 834, June 4, 2014
- *United Food & Commer. Workers Int'l Union V. Wal-Mart Stores, Inc.*, No. CV-14-7, SUPREME COURT OF ARKANSAS, 2014 Ark. 517; 2014 Ark. LEXIS 645, December 11, 2014
- *Jarrett V. Panasonic Corp. Of N. Am.*, No. 4:12-Cv-00739-SWW, UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF ARKANSAS, WESTERN DIVISION, 8 F. Supp. 3d 1074; 2013 U.S. Dist. LEXIS 97983, June 21, 2013
- *Maumelle Med. Clinics, Inc. V. Wal-Mart Stores Ark., LLC*, No. 12-1579, UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT, 492 Fed. Appx. 709; 2012 U.S. App. LEXIS 23514, October 30, 2012, Submitted, November 16, 2012
- *B & B Hardware, Inc. V. Fastenal Co.*, No. 11-2954, No. 12-1066, UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT, 688 F.3d 917; 2012 U.S. App. LEXIS 17540; 78 U.C.C. Rep. Serv. 2d (Callaghan) 474, June 14, 2012
- *Simmons-Ellison V. Wal-Mart Stores, Inc.*, Case No. 11-5070, UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF ARKANSAS, FAYETTEVILLE DIVISION, 2012 U.S. Dist. LEXIS 46719; 114 Fair Empl. Prac. Cas. (BNA) 1137, April 3, 2012, Decided, April 3, 2012
- *Graham V. Stonebridge Life Ins. Co.*, No. 4:10CV02022 JLH, UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF ARKANSAS, WESTERN DIVISION, 2011 U.S. Dist. LEXIS 140264, December 6, 2011, Decided, December 6, 2011
- *Evans V. Wal-Mart Stores E., L.P.*, Case. No. 2:08-CV-2110, UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF ARKANSAS, FORT SMITH DIVISION, 2009 U.S. Dist. LEXIS 80511, September 4, 2009, Decided, September 4, 2009
- *Wal-Mart Stores V. RLI Ins. Co.*, No. 01-1898WA, UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT, 292 F.3d 583; 2002 U.S. App. LEXIS 11080, January 14, 2002, Submitted , June 5, 2002
- *Peacock V. 21st Century Wireless Group*, No. 01-1751 , UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT, 285 F.3d 1079; 2002 U.S. App. LEXIS 6767, November 12, 2001
- *Yamaha Motor Corp. V. Richard's Honda Yamaha*, 00-846, SUPREME COURT OF ARKANSAS, 344 Ark. 44; 38 S.W.3d 356; 2001 Ark. LEXIS 123, March 1, 2001
- *Kidd V. Bass Hotels & Resorts, Inc.*, NO. 4:98-CV-00560 WRW, UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF ARKANSAS, WESTERN DIVISION, 136 F. Supp. 2d 965; 2000 U.S. Dist. LEXIS 20592; 2000-2 Trade Cas. (CCH) P73,045, August 16, 2000
- *Yamaha Motor Corp. V. Stroud*, No. 98-3870, UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT, 179 F.3d 598; 1999 U.S. App. LEXIS 11356, May 10, 1999, Submitted , June 3, 1999
- *Richison V. Boatmen's Ark., Inc.*, CA 98-418, COURT OF APPEALS OF ARKANSAS, DIVISION THREE, 64 Ark. App. 271; 981 S.W.2d 112; 1998 Ark. App. LEXIS 824, December 16, 1998
- *Hall V. Modern Woodmen Of Am.*, No. 94-3995, UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT, 68 F.3d 1120; 1995 U.S. App. LEXIS 30849, October 6, 1995
- *Mcneill V. Security Benefit Life Ins. Co.*, No. 93-1424, UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT, 28 F.3d 891; 1994 U.S. App. LEXIS 16740, February 17, 1994
- *Yamaha Motor Corp., U.S.A. V. Riney*, No. 93-2197, UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT, 21 F.3d 793; 1994 U.S. App. LEXIS 6536, December 16, 1993, Submitted , April 7, 1994
- *Allison V. Security Benefit Life Ins. Co.*, No. 91-3488, UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT, 980 F.2d 1213; 1992 U.S. App. LEXIS 31718, April 14, 1992

— ASSOCIATIONS AND MEMBERSHIPS

- American Bar Association

- Arkansas Bar Association, Member – Antitrust and Trade Regulation Committee, 1992–2000
- Arkansas Bar House of Delegates, 2000–2002
- Bentonville Public Schools Board of Education, Board Member, 2003–2011
- Arkansas Children’s Hospital Foundation, Board Member, 2012–present
- The Jones Center, Board Member, 2023–present
- Walton Arts Center, Board Member, Corporate Leadership Council, 2015 – present

— **ADMISSIONS**

- Admitted to Practice in Arkansas, 1991
- United States District Courts for the Western and Eastern Districts of Arkansas, 1991
- United States Court of Appeals for the Eighth Circuit, 1991
- United States Supreme Court, 2020
- United States Court of Appeals for the Federal Circuit, 2022

— **RECOGNITION**

