

Kenneth O. Simon

Ken Simon has more than 30 years experience as a judge and litigator. After law school graduation in 1979 he began his career in a litigation firm in Mobile, Alabama. In 1983, he was one of 13 people named as White House Fellows and served as a Special Assistant to Attorney General William French Smith. In that position he worked for the Attorney General and his Chief of Staff, working directly with assistant attorneys general, bureau directors, and other senior Department of Justice officials. Later, as an Assistant Director and Branch Chief of the U.S. Securities and Exchange Commission's Division of Enforcement in Washington, D.C., he supervised investigations of possible violations of the federal securities laws. Since coming to Birmingham in 1989, he has served as a trial court judge in Jefferson County, Alabama's largest judicial district, and has developed a reputation as a skilled litigator, mediator/arbitrator, and advisor to public agencies. He has also contributed to the Birmingham community through service on the boards of numerous charitable agencies.

Mediation & Arbitration/Special Master/Receiver Appointments

Ken is one of the most experienced ADR specialists in the Alabama legal community, having mediated hundreds of disputes, serving as an arbitration and mediation Atlanta panelist for JAMS, and acting as a special master in large and complex cases. He has mediated and arbitrated a wide variety of cases including securities, business torts, consumer litigation, class actions, products liability, employment litigation, environmental litigation, personal injury, and shareholder disputes. Mr. Simon is listed in *The Best Lawyers in America* for Alternative Dispute Resolution, and was named *Best of the Bar* in Alternative Dispute Resolution by the Birmingham Business Journal. He is AV Preeminent Rated by Martindale Hubbell.

- Mediated or arbitrated several hundred cases on a state-wide and regional basis, including Atlanta, Memphis, St. Louis, and Sarasota.
- Panelist, JAMS Atlanta office
- Member, Academy of Court-Appointed Masters
- Former Member, Alabama Supreme Court Commission on Alternative Dispute Resolution
- Adjunct Professor of Law, Cumberland School of Law:
Alternative Dispute Resolution, 1999
- Special Master, Fannie Wayne, et al. v. Monsanto, et al., Jefferson County Circuit Court involving the resolution of all discovery and pretrial matters in PCB litigation involving approximately 4,500 cases;

- Appeals Special Master, Tolbert, et al. v. Monsanto, U.S. District Court for the Northern District of Alabama involving the resolution of all claimant appeals in a PCB settlement involving approximately 18,000 claimants;
- Receiver in SEC v. Heyman, U.S. District Court for the Northern District of Alabama, involving the handling of claims by and distribution of payments to several hundred investors from funds recovered from a pyramid scheme;
- Court Monitor in Jackson v. Birmingham Board of Education, U.S. District Court for the Northern District of Alabama (monitored and investigated the local city school board's compliance with federal guidelines under Title IX of the Civil Rights Act of 1964);
- Special Master in litigation involving the investigation of various matters in a dispute between shareholders of a large private company;
- Special Master in litigation Grand Knights of Pythias v. Bamaco Bingo LLC involving the pretrial resolution of disputes between the operators of a large gaming operation and the management of the finances of the operation;
- Special Master in pretrial matters involving litigation against several major cigarette manufacturers;
- Receiver, Berkadia v. Center Point Building Owners LLC (a multimillion dollar foreclosure proceeding involving a large shopping center)
- Receiver, Peoples v. Lambert (receiver of a local nonprofit organization).

Professional Honors And Affiliations

- White House Fellow/Special Assistant to the Attorney General, 1983-84
- Walter P. Gewin Award for Outstanding Contributions to CLE in Alabama 2000
- Fellow, Alabama Law Foundation
- American Bar Association, Chairman, Sub-Committee on Securities Enforcement, 1998-99; Chairman, Committee on Consumer and Personal Rights, 1999-2002
- Birmingham Bar Association, Executive Committee, 1996-99
- Jefferson County Judicial Commission, 1999-2005

Publications

Ken has written extensively in the areas of securities law, trial practice, and alternative dispute resolution. His writings have appeared in statewide, national, and international publications. Among the articles, outlines, and publications he has authored are the following:

- “*Consumer Arbitration: Is It Fair?*” (American Bar Association Litigation Section, 2008)
- “*Rules for Surviving Cross-Examination*” (American Bar Association Young Lawyers Division, 2007)
- “*Questioning the Witness*” (Alabama Defense Lawyers Association Workshop, 2005)
- “*SEC Enforcement: Civil and Criminal Considerations in Dealing with the SEC in Financial Fraud Cases*” (ABICLE, 2004)
- “*Getting It Right the First Time: Tips for Avoiding Legal Malpractice*” (Attorneys Insurance Mutual of Alabama, 2003)
- “*Keys to a Successful Mediation*” (Alabama Young Lawyers Seminar, 1999)
- “*Batson Challenges in the Aftermath of Purkett*” (ABICLE, 1997)
- “*How to Create the Winning Image for Your Client*” International Commercial Litigation (June 1996)
- “*The Law of Expert Testimony in Alabama*” Alabama Defense Lawyers Association Journal (April 1996)
- “*Mediation and the Courts*” 16 Birmingham Bar Association Bulletin 8 (Summer 1995)
- “*An Overview of Jury Trials*” 54 The Alabama Lawyer 3 (1993)
- “*Summary Judgment Practice and Procedure*” 9 Alabama Defense Lawyers Association Journal (1993)
- “*Recent SEC Enforcement Cases Involving Broker-Dealers, Registered Representatives, and Investment Advisors*” (1992)
- “*Liability of Attorneys, Accountants, and Other Professionals Under the Securities Laws*” (Cumberland School of Law, 1992)
- “*The Duty of Broker-Dealers to Supervise Sales and Back-Office Operations*” (1991)
- “*Overview of Federal Securities Law: The Securities Act of 1933 and the Securities Exchange Act of 1934*” (1991)

- “*What is a Security?*” (Cumberland School of Law, 1990)
- “*Recent Developments and Enforcement Activity Involving Beneficial Ownership Reporting, Tender Offers and Insider Trading*” (Practicing Law Institute, 1989) (with Gary Lynch)

Education

- University of South Alabama, 1976, B.A.;
 - President’s List;
 - Dean’s List;
 - SGA President, Vice-President; Sophomore Senator; Freshman Senator;
 - Howard Mahan Award (presented to the Outstanding History Graduate);
 - Blanche Cox Award (presented to the University’s Outstanding Student);
 - Political Science Department Special Award for Outstanding Leadership in Student Government; Phi Eta Sigma (freshman honorary);
 - Who’s Who Among Colleges and Universities;
 - HEW College Intern;
 - Omicron Delta Kappa (leadership honorary);
 - Delta Sigma Tho-Tau Kappa Alpha (debate honorary);
 - Political Science Honorary);
 - Varsity Debate Team.
- University of Alabama School of Law, 1979, J.D.
 - National Moot Court Team;
 - Order of the Barristers;
 - Bench and Bar Legal Honor Society;
 - *Am Jur* Book Awards in Labor Arbitration and Philosophy of Law

Peer Rating

Martindale Hubbell, AV Preeminent Rated
Best Lawyers in America, Alternative Dispute Resolution
 Birmingham Business Journal, *Best of the Bar*, Alternative Dispute Resolution
 Birmingham Business Journal, *Best of the Bar*, Governmental Relations