

KARL BAYER

Mediator, Arbitrator, Court Master and Technical Advisor

14900 Avery Ranch Boulevard C 200 Austin, Texas 78717 (512) 345-8537 karl@karlbayer.com

EDUCATION

- 1998 **The University of Texas at Austin**, classes in microbiology and digital systems design
- 1976 **University of Texas School of Law**, J.D.
- 1973 **Massachusetts Institute of Technology**, M.S. (Biomedical Engineering)
- 1971 **Rice University**, B.A. *cum laude* (Electrical Engineering)

EXPERIENCE

- 2015 **Kolar Bayer**
Partnered with Renée Quezada Kolar providing legal counsel for small businesses at fair value
- 1991-present **Karl Bayer, Dispute Resolution Expert**
Private mediator, arbitrator and court master in all areas of conflict; solo litigation and arbitration practice in business and intellectual property disputes, Austin, Texas
- 1997-1999 **Resolution Architects**
Partner, Conflict resolution consulting on public policy, health care, technology and environmental issues, Austin, Texas
- 1989-1991 **Gibbins, Winckler & Bayer** - Partner, Austin, Texas
- 1988-1989 **Bickerstaff, Heath & Smiley** - Special Counsel, Austin, Texas
- 1988 **Texas Supreme Court Candidate** - Democratic Nominee for Place 5
- 1982-1988 **Pluymen & Bayer Attorneys** - Partner , Austin, Texas
- 1981-1982 **Brown, Maroney, Rose, Barber & Dye** - Associate Attorney, Environmental, Utility and Technology Section, Austin, Texas
- 1980-1981 **U. S. Environmental Protection Agency** - Staff Attorney, Office of General Counsel, Pesticides and Toxic Substances, Washington, D.C.
- 1979-1980 **U. S. House of Representatives** - Legislative Director for Representative Kent Hance
- 1977-1979 **Grambling, Mounce, Sims, Galatzan & Harris** - Associate Attorney, Business Litigation El Paso, Texas
- 1975-1976 **Omnibus** - Founding Partner, Automated school bus routing, Austin, Texas and Washington, D.C.
- 1974-1977 **Texas Senate** - Legislative and Administrative Assistant to Senator Don Adams, Austin, Texas
- 1973 **Concord Research Corporation** - Staff Engineer, Design of radar tracking systems and computer systems for school desegregation, Boston, Massachusetts

ARBITRATION EXPERIENCE

1989-present Mr. Bayer has been appointed as an arbitrator in more than 100 cases with more than 40 going to final award. Approximately 75% of these cases have been commercial disputes and many of them have involved construction, technology or high-tech businesses. Mr. Bayer has also arbitrated construction, patent, trade secret and software license disputes, a government antitrust case, medical malpractice cases, employment disputes, family law disputes, real estate disputes and banking disputes.

MEDIATION EXPERIENCE

1989-present Mr. Bayer has mediated more than 3000 cases in virtually every area of the law. Although most of Mr. Bayer's mediations have been between private parties, he has also mediated several cases involving governments and major public policy issues. His current mediation practice usually involves complex litigation, intellectual property, construction, multiple parties or highly charged emotional issues.

SPECIAL MASTER EXPERIENCE

2006-present **Pretrial Discovery Master:** *Air Measurement Technologies, Inc., et al. v. Gary W. Hamilton, et al.*; Case No. SA-03-CA-0541-RF; In the United States District Court for the Western District of Texas, San Antonio Division

Pretrial Discovery Master: *Janaki Ramadoss, et al. v. Caremark, Inc.*; Case No. SA-99-CA-0914-RF; In the United States District Court for the Western District of Texas, San Antonio Division

Markman Master: *Spectranetics Corp. v. Medtronic, Inc.*; Case No. A-07-CA-548-SS; In the United States District Court for the Western District of Texas, Austin Division

Markman Master: *Levitation Arts, Inc. v. Fascinations Toys and Gifts, Inc.*; Case No. A-07-CA-990-SS; In the United States District Court for the Western District of Texas, Austin Division

Markman Master: *The Western Union Co. v. Moneygram Int'l, Inc.*; Case No. A-07-CA-00372-SS; In the United States District Court for the Western District of Texas, Austin Division

Markman Master: *Victor Company of Japan, LTD v. Intervideo Ink and Corel Corporation*; Case No. 1:08-CV -00041-SS; In the United States District Court for the Western District of Texas, Austin Division

Markman Master: *Xitronix Corporation v. KLA-Tencor Corporation, Individually and d/b/a KLA-Tencor, Inc.*; Case No. A:08-cv-723-SS; In the United States District Court for the Western District of Texas, Austin Division

Pretrial Discovery Master: *The Texas Medical Association and Certain Medical Providers v. Pacificare of Texas, Inc.*; Case No. GN-402266; In the 53rd District Court of Travis County, Texas

Markman Master: *CollegeNET, Inc. v. MarketLinx, Inc. et al.*; Case No. 1:09-CV-00544-SS; In the United States District Court for the Western Division of Texas, Austin Division

Markman Master: *Crossroad System, Inc. v. DataDirect Networks, Inc., et al.*; Case No. A-08-CA-861-SS; In the United States District Court for the Western Division of Texas, Austin Division

Markman Master: *Hydro-Quebec and The Board of Regents of the University of Texas System v. Valence Technology, Inc.*; Case No. A-06-CA-11_SS; In the United States District Court for the Western Division of Texas, Austin Division

Markman Master: *MonkeyMedia, Inc. vs. Apple, Inc.*; Case No.'s 1:10-cv-00319 and 1:10-cv-005533-SS; In the United States District Court for the Western Division of Texas, Austin Division

Markman Master: *DDB Technologies, L.L.C. v. ESPN, Inc., et al.*; Case No. 1:10-CV-246-JRN; In the United States District Court for the Western District of Texas, Austin Division

Markman Master: *Northpoint Technology, Ltd. v. The DirecTV, Inc., et al.*; Case No. 09-CV-506-JRN; In the United States District Court for the Western District of Texas, Austin Division

Markman Master: *High Point Sarl v. Sprint Nextel Corporation, et al.*; Case No. 09-2269-CM-DJW; In the United States District Court for the District of Kansas

Markman Master: *Board of Regents of the University of Texas System and the University of Texas at Austin v. 3D Systems, Inc.*; Case No. A 10 CA 871 SS; In the United States District Court for the Western District of Texas, Austin Division

Markman Master: *The Quantum World Corporation v. Dell, Inc., et al.*; Case No. 11 CV 5748 SS; In the United States District Court for the Western District of Texas, Austin Division

Markman Master: *Document Management Systems LLC. v. Google, Inc., et al.*; Case No. A-11-CA-332-SS; In the United States District Court for the Western District of Texas, Austin Division

Pretrial Discovery Master: *General Electric Company v. Mitsubishi Heavy Industries, LTD, et al.*; Case No. 3:10-CV-276-F; In the United States District Court Northern District of Texas, Dallas Division

Pretrial Discovery and Dispositive Motion Special Master: *High Point Sarl v. Sprint Nextel Corporation, et al.*; Case No. 09-2269-CM-DJW; In the United States District Court for the District of Kansas

Markman Master: *Click-to Call Technologies, LP. v. Oracle Corporation, et al.*; Case No. 1-12-CV-00468; In the United States District Court for the Western District of Texas, Austin Division

Markman Master: *Click-to Call Technologies, LP. V. EHarmony, Inc., et al.*; Case No. 1-12-CV-00469; In the United States District Court for the Western District of Texas, Austin Division

Technical Advisor: *MEMTech vs. Analog Devices et al.*; Case No. 6:11-cv-00025-LED –JDL; In the United States District Court for the Eastern District of Texas, Tyler Division

Technical Advisor: *KKG, LLC v. The Rank Group, PLC, et al.*; Case No. 2-11-CV-00012-JRG; In the United States District Court for the Eastern District of Texas, Marshall Division

Markman Master: *National Oilwell Varco, L.P. V. Omron Oilfield & Marine, Inc.*; Case No. A-12-CA-773-SS; In the United States District Court for the Western District of Texas, Austin Division

Markman Master: *Digonex Technologies, Inc. V. QCue, Inc.*; Case No. A-12-CA-801-SS; In the United States District Court for the Western District of Texas, Austin Division

Markman Master: *National Oilwell Varco, L.P. v. Pason Systems USA Corporation*; Case No. A-12-CA1113-SS; In the United States District Court for the Western District of Texas, Austin Division

Markman Master: *Global Sessions LP, et al. v. Wells Fargo Bank, N.A.*; Case No. A-13-CA-690-SS; In the United States District Court for the Western District of Texas, Austin Division

Markman Master: *Global Sessions LP, et al. v. TD Bank Group, et al.*; Case No. A-13-CA-692-SS; In the United States District Court for the Western District of Texas, Austin Division

Markman Master: *Fisher-Rosemount System, Inc. v. Invensys Systems, Inc.*; Case No. 1:13-CV-00587-SS; In the United States District Court for the Western District of Texas, Austin Division

Markman Master: *Versata Software, Inc., et al. v. Zoho Corporation*; Case No. 1:13-cv-00371-SS; In the United States District Court for the Western District of Texas, Austin Division

Markman Master: *Crossroads Systems, Inc. v. Tandberg Data Corporation*; Case No. 1:13-CA-1026-SS; In the United States District Court for the Western District of Texas, Austin Division

Markman Master: *Crossroads Systems, Inc. v. Oracle*; Case No. 1:13-CA-895-SS; In the United States District Court for the Western District of Texas, Austin Division

Markman Master: *Crossroads Systems, Inc. v. Huawei Technologies CO. LTD.*; Case No. 1:13-CA-1025-SS; In the United States District Court for the Western District of Texas, Austin Division

Markman Master: *Crossroads Systems, Inc. v. Dell, Inc.*; Case No. 1:13-CA-1023-SS; In the United States District Court for the Western District of Texas, Austin Division

Markman Master: *Crossroads Systems, Inc. v. Dot Hill Systems Corp.*; Case No. 1:13-CA-800-SS; In the United States District Court for the Western District of Texas, Austin Division

Markman Master: *Crossroads Systems, Inc. v. Cisco Systems, Inc.*; Case No. 1:14-CV-148-SS; In the United States District Court for the Western District of Texas, Austin Division

Markman Master: *Crossroads Systems, Inc. v. NetApp, Inc.*; Case No. 1:14-CV-149-SS; In the United States District Court for the Western District of Texas, Austin Division

Markman Master: *Crossroads Systems, Inc. v. Quantum Corporation*; Case No. 1:14-CV-150-SS; In the United States District Court for the Western District of Texas, Austin Division

Markman Master: *Dataquill Ltd v. Apple, Inc.*; Case No. 1:13-CV-706-SS; In the United States District Court for the Western District of Texas, Austin Division

Markman Master: *Wavetronix LLC v. Iteris, Inc., et al.*; Case No. 1:14-CV-970-SS; In the United States District Court for the Western District of Texas, Austin Division

Markman Master: *Pono Paani, LLC v. Belkin International, Inc.*; Case No. 1:14-CV-01089-SS; In the United States District Court for the Western District of Texas, Austin Division

Markman Master: *Fortune Products, Inc. v. Smith's Consumer Products, Inc.*; Case No. 1:14-CV-00803-SS; In the United States District Court for the Western District of Texas, Austin Division

Markman Master: *Gilmour Innovations Intellectual Property, LLC v. Nike, Inc.*; Case No. 1:15-CV-00592-SS; In the United States District Court for the Western District of Texas, Austin Division

Markman Master: *A PTY Ltd. v. Amazon.com, Inc., et al.*; Case No.'s 1:15-CV-154-159-RP; In the United States District Court for the Western District of Texas, Austin Division

Markman Master: *Allure Energy, Inc. v. Honeywell International, Inc.*; Case No. 1:15-CV-00079-SS; In the United States District Court for the Western District of Texas, Austin Division

Markman Master: *Yeti Coolers, LLC v. Nash Manufacturing, Inc.*; Case No. 1:15-CV-00464-RP; In the United States District Court for the Western District of Texas, Austin Division

Markman Master: *Yeti Coolers, LLC v. RTIC Coolers, LLC*; Case No. 1:15-CV-00597-RP; In the United States District Court for the Western District of Texas, Austin Division

Markman Master: *Emerson Process Management, LLLP v. Wetrolan*; Case No. 1:15-CA-416-SS; In the United States District Court for the Western District of Texas, Austin Division

2005-2006 **Markman Master:** *Silicon Laboratories, Inc. v. Ali NikNejad and Axiom Microdevices, Inc.*, Case No. A-04-CA-155-SS; In the United States District Court for the Western District of Texas, Austin Division

Markman Master: *Board of Regents of the University of Texas System v. Benq America Corp., et al.*; Case No. A-05-CA-181-SS; In the United States District Court for the Western District of Texas, Austin Division

Markman Master: *Pavilion Technologies, Inc. v. Emerson Electric Co., et al.*; Case No. A 05-CA-898-SS; In the United States District Court for the Western District of Texas, Austin Division

2004-2005 **Markman Master:** *Crossroads Systems Corp. v. Dot Hill Systems Corp.*; Case No. A-03 CV-754 SS; In the United States District Court for the Western District of Texas, Austin Division

2002 **Markman Master:** *VIA Technologies v. Intel Corporation*; Case No. A-01-CA-602-SS; In the United States District Court for the Western District of Texas, Austin Division

Markman Master: *Pavilion Technologies, Inc. v. Computer Associates International, Inc.*; Case No. A-01-CA-507 SS; In the United States District Court for the Western District of Texas, Austin Division

2000 **Pretrial Discovery Master:** *Western Aircraft, Inc. v. Grupo Nacional Provincial, S.A., et al.*; Case No. DR 97-CV-090-WWJ; In the United States District Court for the Western District of Texas, Del Rio Division

1997 **Markman Master:** *Crystal Semiconductor Corporation v. Opti, Inc. and Tritech Microelectronics International PTE Ltd.*; Case No. A-97CA-026-SS; In the United States District Court, Western District of Texas, Austin Division. Reported at 246 F.3d 1336.

PROFESSIONAL ACTIVITIES

2014 – present Present Chair, Admissions and Disciplinary Committee, U.S. District Court, Western District of Texas, Adjunct Instructor, University of Texas School of Law, “Commercial Arbitration Practice”; Member of the advisory board of The Kay Bailey Hutchison Center for Energy, Law and Business at the University School of Law

2011 - 2013 Coach for the Annual Willem C. Vis International Commercial Arbitration Moot Competition, Adjunct Instructor, University of Texas School of Law, “International Commercial Arbitration: Principles of Effective Representation”

2000-present Disciplinary Committee, Electronic Filing Committee, US District Court, Western District of Texas

2000-present Annual Guest Lecturer on Alternative Dispute Resolution, Texas Civil Litigation: Pretrial and Trial Strategy Course, University of Texas School of Law

1999-present Magistrate Selection and Review Committees, US District Court, Western District of Texas

1996-1999 Supreme Court Advisory Committee on Court-Annexed Mediation

1996 Lecturer: "Alternative Methods of Dispute Resolution", St. Mary's Law School -- Anáhuac University Law School, Mexico City, Mexico

1992-1996 State Bar of Texas Pattern Jury Charge Committee, Volume 3 (Malpractice, Premises & Products)

1987-1996 Board of Directors, Legal Aid Society of Central Texas (President 1991)

1993-1995 State Bar of Texas Rules of Evidence Committee

1994-1995 Lecturer: "Alternative Methods of Dispute Resolution: Conciliation, Mediation and Arbitration," St. Mary's Law School -- University of Monterrey Law School Joint Venture, Monterrey, Mexico

1993 Lecturer: "Negotiations", St. Mary's Law School -- University of Monterrey Law School Joint Venture, Monterrey, Mexico

1987-1993 Instructor, "Winning at Trial", University of Texas School of Law

1991-1995 Guest lecturer on Professional Responsibility, University of Texas School of Law

1992 Member, Governor's Environmental Agency Transition Committee

1991-1992 President, Texas Consumer Association
Member, Air Control Board Task Force on Compliance History

PROFESSIONAL ASSOCIATIONS

National: American Board of Trial Advocates; American Law Institute (members consultative group for the Restatement of the Law of International Arbitration); Austin IP Inn of Court; International Academy of Mediators; National Academy of Distinguished Neutrals; "Best Lawyers in America"; AV Preeminent Rating from Martindale-Hubbell; "Texas SuperLawyers"; American Bar Association; Federal Bar Association; Austin Intellectual Property Law Association

State: State Bar of Texas; Texas Bar Foundation

Regional: Austin Bar Association; Austin Association of Attorney Mediators (President 2004)

PUBLICATIONS

2015 Publisher, "Strategies for Mediating The Underlying Case Along With The Coverage Dispute", Insurance Coverage CLE Seminar, American Bar Association, Litigation Section

2005-present Author, "Disputing", blog focusing on Texas and Fifth Circuit opinions pertaining to arbitration, mediation, and dispute resolution in healthcare, www.disputing.com

2013 Author, "Mediation of Technology Cases", Technology Law Conference, University of Texas School of Law

2011 Author, "Mediator's View of Effective Settlements", Advanced Personal Injury Law Course, The State Bar of Texas

Author, "E-Discovery Update and the Use of Special Masters". Litigation Update Course. State Bar of Texas.

Panel Member, "Insurance (Show me the Money!)", 35th Annual Page Keeton Civil Litigation, University of Texas School of Law

2010 Author, "Evidence and Discovery In Arbitration", 23rd Annual Advanced Evidence and Discovery, The State Bar of Texas

- Author, "Arbitration: The New Litigation?", Business Torts Institute, The State Bar of Texas
- Author, "Arbitration: The New Litigation?", 34rd Annual Page Keeton Civil Litigation Conference, University of Texas School of Law
- "State of the Art Dispute Resolution: ADR, Mediation and Arbitration—Lessons from Construction Disputes". Construction Law Conference, University of Texas School of Law
- 2009 Author, "Arbitration: What's a Trial Lawyer To Do?", 33rd Annual Page Keeton Civil Litigation Conference, University of Texas School of Law
- Author, "Arbitration: What's a Trial Lawyer to Do?", Business Torts Institute, State Bar of Texas
- 2008 Author, "Discovery Issues in Arbitration Proceedings", 21st Annual Advanced Evidence and Discovery Conference, The State Bar of Texas
- 2007 Author, "Arbitration", Bench Bar "007", Austin Bar Association
- 2006 Author, "Arbitration". Page Keeton Civil Litigation Conference, University of Texas School of Law
- 2005 Author, "Standards of Review as Applied to Arbitral Decisions", Business Disputes and Litigation in the Digital Age, The State Bar of Texas
- 2001 Author, "Domain Names: Understanding What's New, How to Protect Your Client's Presence", High-Tech Megacourse: the New High Tech Industry, The State Bar of Texas
- Author, "Liability of Pharmacists," University of Houston Law Foundation Program on Medical Malpractice, Medical Device and Pharmaceutical Litigation
- Author, "Getting and Protecting Electronic Information" South Texas College of Law Advanced Civil Trial Law Conference
- 2000 TTLA Advanced Personal Injury Course: "Pre-Settlement Liens and Preserving Entitlement"
- Author, "State law Causes of Action in High-Tech Litigation" State Bar of Texas Advanced High Tech Litigation Program
- 1998 Author, "Pharmacists' Liability: Analysis of the Development of a Duty to Warn", Medical Malpractice, Medical Device & Pharmaceutical Litigation Seminar, University of Houston Law Center
- 1997 Author, "ADR in Complex Medical Malpractice/Pharmaceutical/Medical Device Liability Litigation", Advanced Course Medical Malpractice, Pharmaceutical and Medical Device Litigation, State Bar of Texas, Santa Fe
- Author, "Ten Suggestions For Managed Care Law Suits," Dynamic Advocacy Seminar, Texas Trial Lawyers Association, Whitefish, Montana
- 1996 Author, "Opinion Evidence After *Daubert* and *Robinson*", Medicine for Lawyers Conference, The University of Texas School of Law
- 1995 Author, "ADR in the Medical Malpractice Context", Advanced Medical Malpractice Course, State Bar of Texas, Santa Fe
- Author, "New Relevancy and Admissibility Problems", University of Houston Law Center

- Author, "Case Law and Legislative Update on Punitive Damages", The University of Texas School of Law Products Liability and Personal Injury Conference
- 1994 Author, "ADR in Complex Medical/Pharmaceutical Liability Litigation", Advanced Course Medical Malpractice, Pharmaceutical and Medical Device Litigation, State Bar of Texas
- Author, "Car Wrecks and Drunk Drivers on the Information Superhighway", Dynamic Advocacy Seminar, Texas Trial Lawyers Association
- Author, "Common Relevancy Problems - Admissibility of Prior Occurrence Evidence after Moriel", Advanced Evidence and Discovery Institute, University of Houston Law Foundation
- Author, "Assessing and Evaluating the Malpractice Case: Plaintiff's View", Medical Malpractice Seminar, National Business Institute
- Author, "Environmental Cases: Sick Building Syndrome", Premises Liability Seminar, Texas Trial Lawyers Association
- Author, "Other Occurrence Evidence, Gross Negligence and Exemplary Damages, Post Moriel", The University of Texas School of Law Products Liability and Personal Injury Conference
- 1993 Author, "Domestic Torts", The Rutter Group-Texas Family Law Treatise
- Author, "Damages Update", UT Product Liability Conference, University of Texas School of Law
- Author, "Habit and Character Evidence", Advanced Evidence and Discovery Course, State Bar of Texas
- Author, "Torts", Advanced Family Law Drafting Course, State Bar of Texas
- Author, "ADR Update", Advanced Civil Trial Course, State Bar of Texas
- Author, "Duty or Damage?, Emotional Distress and Mental Anguish Following *Boyles v. Kerr* and *Twyman v. Twyman*", Butterworth's Texas Personal Injury Law Reporter
- Author, "Toxic Torts - Plaintiff's Perspective", South Texas School of Law Environmental Symposium
- 1992 Author, "Update on Architect and Engineer Liability", The University of Texas School of Law Construction Law Conference
- Author, "Professionalism", Advanced Personal Injury Law, State Bar of Texas
- Author, "Environmental Insurance Litigation", The University of Texas School of Law Product Liability and Personal Injury Conference
- Author, "Insurance Coverage in Toxic Torts", The University of Texas School of Law Product Liability and Personal Injury Conference
- 1991 Author, "Attorney Work-Product and Attorney-Client Privilege", Discovery in the New Age, Texas Trial Lawyers Association
- Author, "Current Developments in Deceptive Trade Practices", Advanced Personal Injury Law Conference, State Bar of Texas

- 1990 Author, "Medical Negligence", Advanced Practice Pointers and Trial Techniques, Texas Trial Lawyers Association
- 1989 Author, "Intentional and Negligent Infliction of Emotional Distress", Domestic Torts, South Texas College of Law
- Author, "Computers as a Tool of Presenting Information Persuasively", The University of Texas School of Law Product Liability and Personal Injury Conference
- 1988 Author, "Repeal of the Interspousal Immunity: Torts Come to Family Law", Marriage Dissolution Institute, State Bar of Texas
- Author, "Deceptive Trade Practices Act: A Primer", The University of Texas School of Law Product Liability and Personal Injury Conference
- 1987 Author, "Strategic Consideration in Selecting a Products Theory", The University of Texas School of Law Product Liability and Personal Injury Conference
- Author, "Toxic Tort Developments", American Conference on Chemical Labeling
- Author, "Trying Marital and Family Torts after *Price*", Family Law Seminar The University of Texas School of Law
- 1986 Author, "Voir Dire in Product Liability Cases", The University of Texas School of Law Product Liability and Personal Injury Conference
- 1985 Executive Producer of 45 minute educational documentary sponsored by the Texas Bar Foundation entitled "The Earth, the Air, the Water, and ... the Law"
- "Governmental Regulation of Recombinant DNA Research and Manufacturing Processes" Comprehensive Biotechnology, Vol. 3, Chapter 63 (1985).
- 1983 Co-author of "Federal Regulation of Emerging Genetic Technologies", 36 Vanderbilt Law Review, 461 (1983)
- 1973 Author, "The Length and Organization of the Parallel Fibers of the Turtle Cerebellum", Masters Thesis, Massachusetts Institute of Technology. (1973)