

*Curriculum Vitae*

**ELLIS R. MIRSKY**

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***Overview:***

Fifty years of experience in private practice and in-house as vice president and chief of litigation for two large corporations focusing on all aspects of litigation and related insurance coverage as well as litigation management issues. Founded and served for 24 years as Executive Director of an international association of law firms (TRIALcom). Past Board member of The New York Bar Foundation (TNYBF.org) and the National Kidney Donor Organization (NKDO.org).

***Summary:***

Currently a solo practitioner focusing on pro bono service in the kidney transplant area, general counsel services for technology companies (computer data processing, outsourcing, Internet service provider, software developer, biotechnology and other small businesses).

Litigation and Insurance-related practice has included:

- a. litigation management and related strategic planning and cost optimization analyses for litigation and case management employing inventory management, resource allocation, task management, and insurance recovery activities;
- b. testifying expert witness at trial, deposition and panel arbitration on various insurance coverage and litigation issues, including notice, cooperation, reasonableness of defense efforts, costs and settlements in cases for CIGNA, Fireman's Fund, Lloyds of London and other large insurers in mass tort litigation (e.g., asbestos, breast implant);
- c. produced more than 60 cutting-edge litigation management CLE programs over the past 20 years for Practicing Law Institute, WESFACCA Corporate Counsel Association and The Network of Trial Law Firms, Inc.

Also, co-founded (1990) the International Policyholders Association, a national not-for-profit association protecting rights of insured corporations with long-tail IBNR claims and coverage with insolvent insurers; and co-founded (1992) of The Network of Trial Law Firms, Inc., a national not-for-profit trade association of as many as 27 trial and litigation law firms with more than 100 offices in the United States and Canada ([www.TRIAL.com](http://www.TRIAL.com)) providing continuing legal education to trial and client counsel as well as practice development services to member law firms.

Experience includes:

- a. expert witness and legal consulting assignments for insurers and law firms, including Commercial Union (Boston, MA), Aegis Insurance (Jersey City, NJ), Stroock & Stroock & Lavan (New York City), on litigation cost and insurance coverage issues.
- b. expert witness assignments and testifying, subject to cross-examination at trial, for insurers in insurance coverage litigation (cooperation, reasonableness, allocation, defense

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issues).

- c. general counsel work for LIT, Inc., a leading NYC-based provider of trial and litigation support services and related litigation management software (LIT was sold in 1998);
- d. general counsel work for Litigation Sciences, Inc., a provider of trial consulting services, including jury trial research, demonstrative evidence, courtroom presentation consulting (LSI was sold in 1996);
- e. general counsel work for Opus Resources, Inc., a temporary employment placement firm focusing on information technology professionals (Opus was sold in 1998);
- f. litigation management and cost-modeling consulting work for American President Lines, a shipping company, involved in mass tort (asbestos) litigation matters (litigation management, reserving analysis, insurance consumption projections, etc.);
- g. insurance policy drafting (intellectual property, claims made policy) for AIG Insurance Company (New York City).
- h. financial modeling of litigation scenarios, valuation of litigation inventories, assessment of strategic options, deployment of litigation resources and litigation management advice for Travelers, General Signal, American President Lines;
- i. Chief of litigation for two NYSE-listed diversified manufacturing and service companies (Combustion Engineering (“CE”) and GAF Corporation (“GAF”)) with large inventories of environmental, mass tort, products, commercial, insurance coverage and other litigation. Responsible for managing outside counsel and all aspects of litigation.

Created and ran CE’s wholly-owned subsidiary third-party claims administration (“TPA”) company, Connecticut Valley Claims Service Company (“CVSSC”), to manage CE’s large national asbestos inventory.

***Education:*** J.D., Fordham University School of Law, May, 1976  
M. Engineering, City College of New York, May, 1971  
B. Engineering, City College of New York, January, 1969  
Pi Tau Sigma, National Mechanical Engineering Honor Society, 1968  
Engineering Alumni Award, C.C.N.Y. School of Engineering, 1969

***Admitted:*** New York, 1977; S.D.N.Y.; E.D.N.Y.; U.S. Supreme Court

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***Experience:***

***June, 1993 to Present (including as Mirsky & Block, PLLC, January 1, 1998-2008, and Mirsky and Associates, PLLC, January 1, 2008 to present)***

***Private Consulting and Legal Practice -- Tarrytown, NY***

- ***AIG:*** NYC-based insurer for which I wrote and developed a claims-made patent insurance policy covering patent infringement liability (with copyright and trademark endorsements) and negotiated with potential insureds to tailor the policy to their needs; also, contributed to marketing efforts for D&O pollution coverage endorsement and deferred compensation insurance coverage ("Executive Edge").
- ***Aegis Insurance:*** NJ-based mutual utility company liability insurer for which I, together with Accountability Services, Inc., reviewed more than \$4 million in legal fees incurred by a utility company that was insured by a mutual D&O policy; also, I provided legal advice on D&O coverage (apportionment) issues.
- ***Al Anwa:*** California-based investor group for which I, together with Accountability Services, Inc., reviewed more than \$10 million in legal fees incurred in connection with a lawsuit involving management of a chain of Ritz Carlton luxury hotels.
- ***Blue Hill Data Services, Inc.:*** NY computer main frame outsource service provider for which I serve as outside general counsel.
- ***Chase Pharmaceutical Corporation:*** I served as co-counsel for an insured on a business interruption claim and obtained a mediated settlement with a large insurance consortium in excess of \$7 million.
- ***Commercial Union Insurance Co.:*** Boston-based insurer for which I, together with Accountability Services, Inc., performed a summary review of more than \$30 million in legal fees and disbursements expended by an insured.
- ***Greene Communications Co.:*** New York City-based "new media" company for which I provided general legal counsel and services.
- ***International Insurance Co.:*** Chicago-based insurer with insurance coverage litigation for which I provided resource material with regard to a large asbestos-related insurance coverage dispute.
- ***Lloyds:*** London underwriters for which I served as an expert witness on insurance coverage issues in an arbitration pursuant to the Wellington Agreement and as to which I was retained by Mendes & Mount in NYC.
- ***CNA:*** Chicago-based insurer for which I consulted in litigation management and cost control

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areas for mass tort litigation managed in Philadelphia.

- **Travelers:** Hartford-based insurer for which I created a financial model, similar to a depreciation schedule and, using Monte Carlo simulation, analyzed a multi-decade continuing railroad brake product problem for General Signal, a Travelers' insured.
- **CIGNA** and numerous other “occurrence” carriers –major insurers for which I served as an expert witness in breast implant insurance coverage litigation on notice and cooperation issues as well as claims presentation cost issues, by providing testimony at deposition and a jury trial before a special master.
- **American President Lines:** Oakland, California-based multi-modal transportation company for which I created financial models and applied Monte Carlo simulation to analyze mass tort, insurance and governmental subsidy aspects of a complex mass tort litigation problem affecting the shipping industry; also, I advised the CFO and Executive Committee concerning the adequacy of reserves as well as concerning on-going litigation strategy and planning.
- **Chevron Corporation:** San Francisco-based oil company for which I provided analysis and advice concerning mass tort and environmental litigation.
- **America's Favorite Chicken Co.:** Atlanta-based franchiser of Church's and Popeye's Fried Chicken with 2,200 retail outlets in 38 states for which I designed a litigation management computer system and trained legal department personnel in its use.
- **Sequa Corporation:** NYC-based diversified manufacturer with insurance coverage issues for which I assisted in the negotiation of insurance coverage settlements.
- **Treadwell Corporation:** NYC-based manufacturer with mass tort litigation and insurance coverage problems for which I assisted in resolving insurance coverage issues.
- **The Network of Trial Law Firms, Inc. (Tarrytown, NY):** In August, 1993, following a successful consulting assignment for a 55-lawyer firm winning all of the work of a large chemical company within that firm's jurisdiction, I formed a not-for-profit trade association consisting of law firms with trial and litigation practices to provide litigation management continuing legal education and to develop new business for those firms. That association has grown to include 24 trial and litigation law firms with 100 offices in the United States and Canada ([www.TRIAL.COM](http://www.TRIAL.COM)).
- **LIT (New York, NY):** I served as general counsel to LIT, Inc., a discovery management firm based in New York City. LIT was no. 36 on Inc. magazine's list of the 500 fastest-growing before it was acquired by Modis Professional Services.
- **Metropolitan Laboratories, Inc. (Hampton, VA) and Comprehensive Analytical Group, Inc. (Syracuse, NY) -- Environmental Testing Laboratory:** I served as outside general counsel for a multi-state environmental testing laboratory whose business includes sampling and testing for

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heavy metals, asbestos, petroleum, water, pesticides, PCB's, volatiles, and other contaminants.

***April, 1990 to June, 1993***

***Vice President and Chief of Litigation -- GAF Corporation -- Wayne, NJ***

Chief litigation manager responsible for in-house management of litigation and related insurance coverage issues, including mass tort (including asbestos), products, personal injury, property damage, employment, warranty, environmental litigation. Performed in-depth case management analyses, projections and strategic planning. Designed and implemented comprehensive systems for cost and results management and control. Worked closely with the Center for Claims Resolution (served as a member of Finance and Personnel Committees and represented GAF's CEO on the Board of Directors). Was principally involved in various aspects of asbestos litigation management for the consortium of 20 asbestos defendants, including projections, allocations and claims management as well as administrative settlement agreements with plaintiff attorneys.

I also helped to found and I served as the first Executive Vice President of International Policyholders Association ("IPA"), a non-profit corporate association of 25 large corporations which protected rights of insured corporations in the estates of insolvent insurers with policies covering long-tail claims (e.g., asbestos, pharmaceutical, etc.).

***October, 1983 to March, 1990***

***Vice President and Chief of Litigation -- Combustion Engineering, Inc. -- Stamford, CT***

Formed and ran the litigation management department for CE, a Fortune 128 multi-national diversified manufacturing conglomerate. Responsible for litigation, including mass tort (asbestos, silica), commercial, products, unfair competition, environmental and related insurance coverage issues; and D&O. Formed and ran wholly-owned subsidiary with 20 employees managing all asbestos and workers compensation claims.

From 1983 - 1989 I was the company's principal in-house attorney managing all litigation against the company and its subsidiaries, as well as advising the risk management department on insurance issues.

In 1989 I conceived and formed a wholly-owned subsidiary to operate as a third-party administrator, Connecticut Valley Claims Service Company ("CVCSC"). CVCSC negotiated administrative settlements with plaintiff attorneys as Travelers had done previously. CVCSC also managed administrative settlements, processed the documentation required by our administrative settlement agreements, paid settlement and defense amounts which were then allocated to insurance policies and the insured as appropriate.

***December, 1975 to October, 1983***

***Litigation Associate -- Rosenman & Colin -- New York, NY***

Litigation associate in large New York law firm with diversified litigation practice including products, insurance coverage, product liability, class action, shareholder, and other commercial matters.

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***June, 1973 to December, 1975***  
***Engineer -- Ebasco Services, Inc. -- New York, NY***

Performed safety analysis and licensing of commercial nuclear power plants. Assisted in the defense of nuclear power plant license applications before Nuclear Regulatory Commission staff.

***January, 1969 to June, 1973***  
***Engineer -- Curtiss-Wright Corporation -- Woodridge, NJ***

Performed stress, heat transfer and vibration analysis of naval nuclear power propulsion systems in accordance with Defense Department and A.S.M.E. standards.

***Publications:***

- Hocus Pocus: Using Crystal Ball to Bring Litigation Into Focus, winner of TechnoPost Writing Competition, July 31, 1998 (article on Monte Carlo simulation for litigation defense and expenditure cost projection, reserve setting, and strategic planning).
- Cutting Litigation Costs, Revisited -- Two New Frontiers That Could Save Millions: Management (not merely Electronic) Techniques for Cutting Document Expenses and Cost and Productivity Advantages of Wholesale Technolegals over Retail Paralegals, The Revitalizing Litigation Management Report, Sep., '95, pp. 7-13.
- The Lawyer's Role in Crisis Management - An Alternative Approach, Law Dept. Mgt. Advisor, Oct. 1, '91, pp. 7-10.
- Buying Opportunities for Alert Corporate Purchasers of Legal Service, N.J.L.J., Jun. 20, '91; reprinted in Fulton Co. Daily Report, San Francisco Reporter and Newsletter of the Corp. Coun. Committee of the Sec. on Litigation of the ABA.
- Legal Auditing: Controlling Outside Counsel Costs, Docket, The Journal of the American Corporate Counsel Assoc. (co-authored with J. Ringel), Spring, '90, vol. 8, no. 2, pp. 38-42.
- Getting to Coverage with Your Insurers, Environ. Hazards. J., Prentice-Hall, Feb. '90, vol. 2, no. 2, pp. 8-12.
- Use of Third-Party Administrators For Corporations, Environ. Hazards. J., Prentice-Hall, Apr. '90, vol. 2, no. 4, pp. 10-15; also chap. in "Litigation Management," Business Laws, Inc.
- Taming Litigation Costs, American Lawyer, Mar. '91; reprinted in Law Dept. Mgt. Advisor, Sep. 1, '91.
- Attorneys Using Technology, Metropolitan Corporate Counsel, '94
- The Lure of the Web -- The World Wide Web, That is, Corporate Legal Times, Dec., '94

***Quoted or Mentioned:***

- Connecticut Law Tribune, Apr. 4, '94; Nov. 1, 93; Oct. 28, '91, p. 9
- Fortune, Sep. 21, '92, p.120.
- The Burlington Free Press, Oct. 23 '91, p.5A.
- Litigation News, ABA Section on Litigation, Aug. '91, p.5.
- The National Law Journal, Nov. 26, 90, p. 15.

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- Wall Street Journal, Nov. 12, '90.
- N.J.L.J., Nov. 22, '90, p.26 (quoted with photo); Feb 7, '91; Oct. 10, '91
- (quoted with photo); and Aug. 17, '92, p.1, (quoted with photo)
- Who's Who in American Law, 5th Ed., '87-'88.
- Business Insurance, May 7, '90; Feb. 10, '92; and Mar. 9, '92.

***Public and CLE Speaking:***

American Bar Association

- Crisis Management, Business Law Section, St. Thomas, VI, Nov. '94
- Litigation Management, Law Firm Management Comm., Wash. DC, Sep. '93
- Cost Control, Nat. Inst. on Lit. Mgt., Boston, MA, May '91
- Computers - Tying in Outside Counsel, Jun. '90
- Litigation Management, Eastern Regional Workshop, Jun., '90, Oct. '91

American Corporate Counsel Association ("ACCA")

- Cost Control, National Meeting, Los Angeles, '90

American Law Firm Association ("ALFA")

- PCs on the Road, Jacksonville, FL, '92
- The Future of Self-Insurance, San Francisco, Jun. '90
- Litigation Management, Los Angeles, Sep. '91
- Use of Computers, Philadelphia, '89
- Cost Control, Maui, Nov. '88

Business Development Associates

- Leveraging Your Power as the Corporate Client, New York, NY, Nov. '94

Business Strategy Network

- Financial Disclosure of Environmental Liabilities, New York, NY, May '94
- Claims and Litigation Mgt. for Insurers and Self-insureds, New York, NY, Dec. 1-2, '94, San Francisco, March 19-20, 1995

Canadian Bar Assoc. and Canadian Corp. Coun. Assoc. Joint Meeting

- Litigation Management, Toronto, Nov. '90

Corporate Bar Assoc. of Westchester and Fairfield (formerly "WESFACCA")

- Tech-Day, the Lawyer's Electronic Tool Box, co-chair, 1-day prog., Stamford, Oct. 94
- Litigation Management Monikers, chair, 1-day prog., Stamford, Apr., May '94
- Crisis Management, chair, evening prog., Stamford, Mar. '90
- Auditing Invoices for Legal Services, chair, evening prog., Stamford, Feb. '90
- Litigation Management Supercourse, chair, one-day prog., Stamford, Oct. '89
- Computers and Attorneys, chair, evening, Stamford, Apr. '89.
- Managing Uninsured Litigation, chair, ½ day, Greenwich, Apr. '87

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Defense Research Institute ("DRI")

- Litigation Management, Miami, Oct. '91

Federation of Insurance and Corporation Counsel ("FICC")

- Alternative Dispute Resolution, Hot Springs, VA, Jul. '89

International Association of Defense Counsel ("IADC")

- The Art of Litigation Management, Greenbrier, WV, Jul. '92

Institute of Internal Auditors ("IIA")

- Reviewing and Controlling Costs, Vermont Chap., Oct. '91
- Litigation Management and Legal Auditing, So. N. Eng. Chap., Nov. '92
- Litigation Management and Legal Auditing, Granite State Chap., Oct. '94

National Association of Attorneys General ("NAAG")

- Managing Outside Counsel, Washington, DC, October, '95.

New Jersey Corporate Counsel Association

- Legal Fees Management, Morristown, NJ, Oct. '90

New York State Bar Association, Committee on Corporate Counsel

- The Lawyer's Role in Crisis Management, New York, Oct. '90
- Counsel Connect, Internet and Attorneys, New York, Jun. '94

Prentice-Hall Insurance Litigation Institute

- Getting to Coverage with Your Insurer, New York and Los Angeles, Dec. '89
- Managing Litigation, New York, Nov. '87

Practicing Law Institute ("PLI")

- Using Technology, New York, Dec. '90
- Litigation Management, New York, Dec. '88; '89; '91; '93
- Attorney-client and Work Product Privileges of Inhouse Coun., New York, Dec. '89
- Litigation Management Supercourse, Chair, Mar., NY, '90; '91; and SF '92; '93; and '94
- Dispute Resolution Alternatives Supercourse, Chair, New York, Oct. '93
- Corporate Law Department Management, New York, Dec. '94, Jan. '95

Price Waterhouse

- Legal Economics, Legal Tech '92, New York, Feb. '92

Risk Insurance Management Society ("RIMS")

- Employment and the Law, Moderator, Boston, Apr. '90

Stamford (CT) Area Bar Association

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- Alternative Dispute Resolution, panelist, Stamford, Feb. '90

Tuoro College, Fuchsberg Law Center

- Demonstrative Evidence, Huntington, NY, Dec. 16, '94

Yale Law School

- 1-1/2 hr presentation to complex litigation law school class, New Haven, CT, Nov. 9, '92

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