

Appellate, Constitutional, and Administrative Law



Proven Experience

Our clients need lawyers with expertise in litigating complex legal issues and the ability to seamlessly handle cases from inception to final judgment and appeal. King & Spalding has established an excellent reputation for successfully representing clients in major appeals in virtually every litigation forum, including before the U.S. Supreme Court, federal and state trial and appellate courts, government agencies, and national and international arbitration panels. We represent clients in appeals for cases that we originally tried—often seeking to retain the favorable results garnered by our trial counsel. We are frequently retained to handle high-profile appeals in cases tried by other firms. And clients often contact us to handle significant matters before the U.S. Supreme Court.

In 2015, King & Spalding's appellate practice was selected as "Firm of the Year" for the Supreme Court and Appellate category.

Strategic Thinking From Inception Through Appeal

Our D.C.-based national appellate practice group is led by three partners: Daryl L. Joseffer, a former principal deputy in the Office of the Solicitor General; Jeffrey S. Bucholtz, a former acting assistant attorney general for the Civil Division of the U.S. Department of Justice; and Ashley C. Parrish, an appellate specialist with extensive experience handling strategic litigation and administrative law matters. The practice is supported by two other appellate partners, a counsel, and several associates, all of whom held prestigious appellate clerkships before joining the firm, including some who clerked for the U.S. Supreme Court.

Our D.C.-based national appellate practice is supplemented by a deep bench of respected lawyers across the country with practice-area-specific appellate expertise. Examples include Chilton Davis Varner, who has served as appellate counsel for several of the country's largest pharmaceutical, medical device, and automotive manufacturers; Merritt McAlister, who focuses on representing financial and healthcare sector clients; Paul R. Johnson, a certified specialist in California appeals; Adam M. Conrad, who specializes in intellectual property appeals before the Federal Circuit; and Shawn Stephens, who is based in Texas and is recognized as one of the leading appellate lawyers in the Southwest.

Our appellate lawyers are sought out for their strategic advice and counseling, persuasively written briefs, and superior oral advocacy skills. They excel in handling difficult, groundbreaking cases in which the stakes are high, the legal questions are untested, and innovative thinking is required. And they are respected for their ability to simplify technical issues and convey our clients' positions in a clear, straightforward, and persuasive fashion, achieving outstanding results both on appeal and in framing legal arguments at the trial or administrative level.



In 2012, King & Spalding was ranked among the 25 “most decorated law firms” in *The American Lawyer’s* Litigation Power Rankings.

In addition to representing clients in high-profile appeals, the firm’s appellate practice provides strategic counseling and advice on legal issues well before cases reach the appellate level. We assist our clients with agency comments, citizen petitions, pretrial motions, jury instructions, critical motions and objections during trial, post-trial motions, and pre-appellate evaluation and mediation of cases. Our appellate lawyers also analyze pending legislation and regulations to assess their constitutionality and to evaluate the viability of legal challenges.

Nationally Recognized

- In 2014, King & Spalding’s appellate practice was selected as “Appellate Practice Group of the Year” by *Law360*.
- *Chambers* and *Legal 500* have recognized King & Spalding as having one of the nation’s leading national appellate practices.
- *Legal 500* has described our appellate lawyers as “extremely talented and creative lawyers” and praised their “exceptional brief-writing and oral advocacy skills.”
- Daryl Joseffer is highly recommended by *Benchmark* for Federal Circuit appeals.
- Ashley Parrish was recently named by *Law360* as a “rising star,” one of only five appellate lawyers nationwide chosen for this recognition.

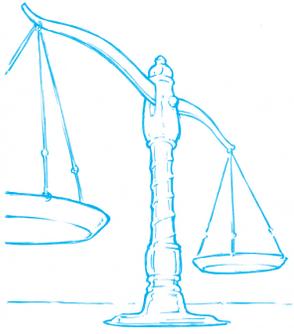
Representative Matters

U.S. Supreme Court

- Representing clients in major cases before the U.S. Supreme Court. In the past 12 months, we have litigated five merits cases before the U.S. Supreme Court, including *University of Texas Southwestern Medical Center v. Nassar* (discrimination law), *Walden v. Fiore* (venue/personal jurisdiction), *Millbrook v. United States* (sovereign immunity), *PPL Corporation v. Comm’r of IRS* (tax law), and *Bond v. United States* (treaty power).
- Filing *amicus curiae* briefs in major cases before the U.S. Supreme Court. In *Atlantic Marine v. U.S. District Court*, the Court recently issued an unprecedented order directing the parties to discuss at oral argument the *amicus* brief we filed on behalf of Professor Stephen Sachs.

Product Liability / Class Action / Other Major Litigation

- Representing a major pharmaceutical manufacturer in product liability cases both at trial and in appeals before the U.S. Courts of Appeals for the Seventh, Tenth, and Eleventh Circuits.
- Representing a major pharmaceutical manufacturer on appeal before the U.S. Court of Appeals for the Eleventh Circuit after successfully obtaining dismissal of False Claims Act litigation alleging off-label marketing practices.
- Representing a client in a significant arbitration appeal before the U.S. Court of Appeals for the Ninth Circuit on an issue of first impression in that court; argued appeal and obtained key victory for client.
- Representing a product manufacturer in a personal injury lawsuit in Florida state court; handled oral argument and successfully obtained reversal of adverse trial judgment on grounds that trial court improperly excluded evidence of potential alternative causes of injury.
- Representing a diagnostic testing company in False Claims Act litigation against the government before the U.S. Court of Appeals for the Sixth Circuit; argued appeal and achieved major victory holding that government’s claims failed as a matter of law.
- Representing a manufacturer in appeal defending against trial court order denying the Federal Trade Commission’s motion for contempt of a 2006 consent decree; argued the appeal before the Eleventh Circuit and obtained a favorable decision that resulted in the government deciding not to pursue further litigation.



Product Liability / Class Action / Other Major Litigation (cont'd)

- Representing a major client in an appeal, following settlement, concerning plaintiffs' entitlement to attorney fees under California law; handled oral argument and obtained favorable ruling in an improper precedent-setting opinion limiting an award of attorney fees in private commercial disputes.

Administrative Litigation

- Representing an association for independent power producers before the U.S. Court of Appeals for the D.C. Circuit in a statutory and administrative law challenge to the Federal Energy Regulatory Commission's "demand response" rulemaking.
- Representing the domestic furniture industry in an international trade appeal before the U.S. Court of Appeals for the Federal Circuit, defending the constitutionality of the Continued Dumping and Subsidy Offset Act; handled oral argument and obtained a favorable decision worth potentially hundreds of millions to the domestic industry.
- Representing an energy association before the U.S. Court of Appeals for the Ninth Circuit, successfully defending market-based regulations promulgated by the Federal Energy Regulatory Commission.
- Representing a major pharmaceutical manufacturer in a lawsuit against the United States seeking a ruling that FDA regulations prohibiting truthful speech about off-label uses violate the First Amendment and statutory requirements.

Federal Circuit Patent/Technology Appeals

- Representing a technology client in patent appeals involving a wide range of technologies and issues before the U.S. Court of Appeals for the Federal Circuit.
- Representing a client in a closely watched World Wide Web patent case, successfully defending a jury verdict invalidating patents relating to web technology that plaintiffs alleged had been infringed merely because defendants owned a website; handled oral argument before the Federal Circuit and obtained summary affirmance.
- Representing a software manufacturer in a major *en banc* patent infringement case before the U.S. Court of Appeals for the Federal Circuit; handled oral argument, prevailed in court of appeals, and opposed petition for *certiorari* to the U.S. Supreme Court before case favorably settled.

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