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Jonathan S. Massey has represented many leading business corporations, former Vice President Al Gore (in *Bush v. Gore*), Members of Congress, U.S. states, foreign countries, and eleemosynary institutions such as Harvard, Yale, and Princeton universities. His nearly three decades of practice have involved a broad variety of complex legal questions in trial and appellate courts, including antitrust, bankruptcy, telecommunications, securities, financial services, tax, environmental, and civil procedure questions, as well as federal and state constitutional issues.

Mr. Massey has argued over 40 cases in federal and state courts, including three in the U.S. Supreme Court. He has filed briefs in dozens of other matters, including more than 80 in the U.S. Supreme Court alone. He also has an active regulatory practice and has represented clients before the Federal Communications Commission, Federal Trade Commission, Environmental Protection Agency, Food & Drug Administration, and other federal agencies. In addition, he counsels clients in a wide range of non-litigation contexts and assists them in successfully resolving disputes outside the courthouse.

Education

- Harvard Law School, J.D., *magna cum laude*, 1988
- Editor, Harvard Law Review
- Harvard College, A.B., *magna cum laude*, 1985
- National Debate Champion, 1985
- Phi Beta Kappa, Harvard College

Clerkships

- Judge Abner J. Mikva, United States Court of Appeals for the D.C. Circuit, 1988-89
- Supreme Court Justice William J. Brennan, Jr., 1989 Term

Governmental Service

Deputy Special Counsel to Independent Counsel Lawrence Walsh (1993-1994).

Representative Matters

- *Bush v. Gore*, 531 U.S. 98 (2000); *Bush v. Palm Beach County Canvassing Bd.*, 531 U.S. 70 (2000) (represented Vice President Al Gore in the 2000 Florida election litigation).

- *Mississippi ex rel Hood v. AU Optronics Corp.*, 134 S. Ct. 736 (2014) (successfully briefed and argued Supreme Court Class Action Fairness Act case on behalf of the Attorney General of Mississippi).
- *Dole Food Co. v. Patrickson*, 538 U.S. 468 (2003) (successfully briefed and argued Supreme Court case involving Foreign Sovereign Immunities Act).
- *Cooper Industries, Inc. v. Leatherman Tool Group, Inc.*, 532 U.S. 424 (2001) (briefed and argued Supreme Court case presenting question of proper standard of appellate review in punitive damages cases).
- *West Virginia v. EPA*, No. 15A773 (U.S. Feb. 9, 2016) (successfully briefed first-ever Supreme Court stay of agency regulation prior to judicial review in lower courts).
- *State Farm Mut. Auto. Ins. Co. v. Campbell*, 538 U.S. 408 (2003); *Honda Motor Co. v. Oberg*, 512 U.S. 415 (1994); *TXO Production Co. v. Alliance Resources Corp.*, 509 U.S. 443 (1993) (briefed leading Supreme Court punitive damages cases).
- *Gratz v. Bollinger*, 539 U.S. 244 (2003) (filed amici brief on behalf of Harvard, Yale, Princeton, and other universities regarding affirmative action).
- *Amchem Products, Inc. v. Windsor*, 521 U.S. 591 (1997); *Ortiz v. Fibreboard Corp.*, 527 U.S. 815 (1999) (briefed leading Supreme Court cases on class action settlements).
- *Semtek Intern. Inc. v. Lockheed Martin Corp.*, 531 U.S. 497 (2001) (briefed leading Supreme Court case on preclusion principles in diversity cases).
- *Baker v. General Motors Corp.*, 522 U.S. 222 (1998) (briefed Supreme Court case on Full Faith and Credit Clause).
- *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 516 U.S. 869 (1996) (briefed leading Supreme Court scientific evidence case).
- *Santander Holdings USA, Inc. v. United States*, 844 F.3d 15 (1st Cir. 2016) (briefed and argued foreign tax credits case).
- *Chavez v. Dole Food Company, Inc.*, 836 F.3d 205 (3d Cir. 2016) (en banc) (successfully briefed and argued en banc appeal unanimously reversing panel decision and persuaded original authoring judge to switch vote as well).
- *Schramm v. JP Morgan Chase Bank, N.A.*, 655 Fed. Appx. 553 (9th Cir. 2016) (successfully briefed and won without oral argument appeal presenting question whether mortgage disclosures complied with the federal Truth in Lending Act).
- *In re Pfizer, Inc. Securities Litig.*, 819 F.3d 642 (2d Cir. 2016) (successfully briefed appeal of securities fraud case reversing district court's outcome-determinative exclusion of damages expert under Fed. R. Evid. 702 and *Daubert*).
- *O'Bannon v. NCAA*, 802 F.3d 1049 (9th Cir 2015), *cert. denied*, 2016 WL 5640199 (Oct. 3, 2016) (successfully briefed landmark appeal holding NCAA liable under federal antitrust law).
- *In re Murray Coal Co.*, 788 F.3d 330 (D.C. Cir. 2015) (briefed challenge to EPA Clean Power Plan).
- *Madstad Engineering, Inc. v. U.S. Patent and Trademark Office*, 756 F.3d 1366 (Fed. Cir. 2014), *cert. denied*, 135 S. Ct. 1398 (2015) (briefed and argued constitutional challenge to the First-Inventor-To-File provisions of the America Invents Act of 2011).

- *Dow Chemical Corp. v. Blanco*, 67 A.3d 392 (Del. 2013) (successfully briefed and argued case on cross-jurisdictional class action tolling of statutes of limitation).
- *Connecticut Bar Ass'n v. U.S.*, 620 F.3d 81 (2d Cir. 2010) (briefed and argued First Amendment challenge to provisions of Bankruptcy Reform Act of 2005 restricting attorney speech).
- *Intercollegiate Broadcast System, Inc. v. Copyright Royalty Bd.*, 571 F.3d 69 (D.C. Cir. 2009), 574 F.3d 748 (D.C. Cir. 2009) (briefed challenge to copyright royalty rates on behalf of commercial webcasting services).
- *Newby v. Enron Corp.*, 542 F.3d 463 (5th Cir. 2008); *In re Enron Corp. Securities*, 535 F.3d 325 (5th Cir. 2008); *Fleming & Associates v. Newby & Tittle*, 529 F.3d 631 (5th Cir. 2008) (briefed and argued series of cases involving the ability of Enron shareholders to file state-law securities fraud claims in state court).
- *Collier v. Aksys, Inc.*, 179 Fed. Appx. 770 (2d Cir. 2006) (successfully briefed and argued case for hedge fund defendant in a civil securities fraud action).
- *Smart v. Wyeth*, 123 Fed. Appx. 465 (3d Cir. 2005), *cert. denied*, 546 U.S. 818 (2005) (briefed and argued appeal presenting question whether federal court that approved a class action settlement is permitted to regulate ongoing state trial court proceedings by requiring stipulation to a reverse bifurcation procedure).
- *In re Diet Drugs Prods. Liab. Litig.*, 385 F.3d 386 (3d Cir. 2004); *In re Diet Drugs Prods. Liab. Litig.*, 90 Fed. Appx. 643 (3d Cir. 2005); *In re Diet Drugs Prods. Liab. Litig.*, 431 F.3d 141 (3d Cir. 2005); *In re Diet Drugs Prods. Liab. Litig.*, 418 F.3d 372 (3d Cir. 2005); *In re Briscoe*, 448 F.3d 201 (3d Cir. 2006); *In re Wilson*, 451 F.3d 161 (3d Cir. 2006) (briefed and argued series of appeals involving challenges to the Diet Drugs Products Liability settlement).
- *Bank One, N.A. v. Shumake*, 281 F.3d 507 (5th Cir. 2002) (briefed and argued appeal presenting the question whether the prudential “tribal exhaustion” doctrine displaces the statutory command of the Federal Arbitration Act).
- *Roeder v. Islamic Republic of Iran*, 333 F.3d 228 (D.C. Cir. 2003) (represented U.S. citizens formerly held hostage in the U.S. Embassy in Tehran from 1979-1981 in a suit for damages against Iran).
- *First National Bank of Chicago v. Ackerley Communications, Inc.*, 28 Fed. Appx. 61 (2d Cir. 2002) (briefed and argued appeal presenting the question of the enforceability of an option under an interest-rate-swap agreement).
- *Pritchard v. Coram Healthcare Corp.*, No. B215010 (Cal. App. 2d Dist.) (briefed and argued appeal on behalf of health care provider in a multi-million-dollar medical malpractice case).
- *Patrickson v. Dole Food Co.*, 251 F.3d 795 (9th Cir. 2001) (per Kozinski, J.) (successfully briefed and argued Foreign Sovereign Immunities Act appeal).

Teaching

- Lecturer, Harvard Law School, 2014-Present

- Instructor in appellate advocacy, D.C. Bar course for new admittees, 2015-present
- Adjunct Professor of Law, Georgetown University Law Center, 1996-2000

Publications

- “The Two That Got Away: *First American Financial Corp. v. Edwards* and *Kiobel v. Royal Dutch Petroleum Co.*,” 6 Charleston L Rev. 63 (2012).
- “Wrong Ideas About Wrongful Death Statutes,” 33 Trial 24 (Jan. 1997).
- “Preemption of Medical Device Tort Claims: Recent Developments,” 31 Trial 26 (Nov. 1995).
- “The Florida Tobacco Liability Law: Fairy Tale Objections to a Reasonable Solution to Florida’s Medicaid Crisis,” 46 Fla. L. Rev. 591 (1995).