

## Jessica L. Ellsworth

Partner

Washington, D.C.

### Biography

Having argued more than 60 appeals, Jessica Ellsworth focuses her practice on the Supreme Court and courts of appeals. She has extensive experience in appellate courts and a keen ability to help clients solve litigation challenges.

Jess has handled appeals of motions to dismiss through jury trials, on issues ranging from patent and trademark disputes to class actions, statutory interpretation, and jurisdictional issues.

Jess has regularly worked with the higher education community. She successfully sought dismissal of a class action against a university leaving on a single plaintiff pursuing an individual action. She has handled False Claims Act (FCA) cases for numerous academic medical centers and other higher education entities. And she has represented the American Council on Education in cases involving higher education admissions, net neutrality, and Deferred Action for Childhood Arrivals (DACA).

Jess is a leader in administrative law where she regularly pursues and defends against Administrative Procedures Act challenges to government agency action, and she has a niche practice in litigating dispositive motions and appeals in FCA cases. She has represented clients in every federal court of appeals and a dozen state



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### Practices

Administrative and Public Law

Education

Health Law

Litigation Services

Pharmaceuticals and Biotechnology  
Regulatory

Commercial Litigation

Banking and Finance Litigation

Products Law

Technology Litigation

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### Industries

Aerospace and Defense

appellate courts. In all these matters, she brings her appellate perspective to developing and managing case strategy to achieve her clients' goals.

Whether defending a trial court win or seeking to overcome a trial court loss, Jess crafts winning briefs and persuasively argues cases. Working in our Chambers-ranked Appellate practice, Jess was named a Super Lawyers Rising Star for appellate litigation from 2013- 2016, and a Super Lawyer for appellate litigation in 2019. Her clients span the automotive, pharmaceutical, life sciences, and financial services industries, among others, successfully litigating motions to dismiss, motions for summary judgment, and appeals.

She has successfully litigated motions to dismiss, motions for summary judgment, and appeals across all these industries.

Jess served as a judicial clerk to the Honorable Martha Craig Daughtrey of the U.S. Court of Appeals for the Sixth Circuit and the Honorable Rebecca Beach Smith of the U.S. District Court for the Eastern District of Virginia. While in law school, Jessica was named Best Oralist by then-U.S. Supreme Court Justice David Souter in the Harvard Law School Ames Moot Court Competition.

## Representative experience

Successfully moved to dismiss all class action allegations against a university in suit brought on behalf of current and former female students.

Successfully defended numerous public and private universities in False Claims Act litigation.

Successfully represented a pharmaceutical company in a game-changing personal jurisdiction case in the Supreme Court.

Successfully represented an Indian tribe in the

Automotive

Consumer

Education

Energy and Natural Resources

Financial Institutions

Insurance

Life Sciences and Health Care

TMT

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## Areas of focus

Appellate and Supreme Court Litigation

Administrative Procedure Act

Antitrust and Competition Litigation

Class Actions and Group Litigation

Hospitals and Health Care Providers

Judicial Review

Pharmaceuticals and Biotechnology

Product Litigation

False Claims Act and Qui Tam

Cell, Tissue, and Gene Therapies

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## Education and admissions

### Education

J.D., Harvard Law School, 2001

B.A., Dartmouth College, magna cum laude, 1998

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## Bar admissions and

Supreme Court on a matter of tribal sovereign immunity.

Prevailed in precedential appeal on design patents in the Federal Circuit.

Successfully argued appeals involving the False Claims Act in the Second, Third, Fourth, Fifth, Sixth, Eighth, Ninth, and Eleventh Circuits.

Prevailed in precedential Telephone Consumer Protection Act appeals setting limits on unilateral consent revocation (Second Circuit) and the contours of the advertising prohibition (Third Circuit).

Obtained discretionary review, and reversal by the Ninth Circuit, of a district court ruling on an issue under the Class Action Fairness Act.

Obtained reversal of judgment entered after a bench trial in a trade dress dispute based on lack of personal jurisdiction.

Successfully argued a D.C. Circuit appeal involving the Foreign Sovereign Immunities Act and personal jurisdiction.

Successfully argued a summary judgment motion in an Administrative Procedures Act case involving complex issues of agency delegation.

Prevailed in a challenge to the FDA's denial of orphan drug exclusivity and obtained order directing FDA to grant such exclusivity.

Obtained reversal of the judgment in a multimillion dollar jury verdict in the Delaware Supreme Court based on legal error in the damages analysis.

Argued a successful appeal in the Virginia Supreme Court for a university involving a statutory interpretation question of first impression.

Dedicated a decade to seeking, and ultimately obtaining, a green card for a Kurdish Iraqi asylum

## qualifications

District of Columbia

Virginia

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## Court admissions

U.S. Supreme Court

U.S. Court of Appeals, Federal Circuit

U.S. Court of Appeals, District of Columbia Circuit

U.S. Court of Appeals, First Circuit

U.S. Court of Appeals, Second Circuit

U.S. Court of Appeals, Third Circuit

U.S. Court of Appeals, Fourth Circuit

U.S. Court of Appeals, Fifth Circuit

U.S. Court of Appeals, Sixth Circuit

U.S. Court of Appeals, Seventh Circuit

U.S. Court of Appeals, Eighth Circuit

U.S. Court of Appeals, Ninth Circuit

U.S. Court of Appeals, Tenth Circuit

U.S. Court of Appeals, Eleventh Circuit

U.S. District Court, Eastern District of Virginia

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## Awards and rankings

- Dispute Resolution: Product Liability, Mass Tort, and Class Action: Automotive/Transport, *Legal 500 US*, 2016-2019
- Dispute Resolution: Appellate, *Legal 500 US*, 2015, 2017-2019
- Legal Elite, Appellate Law, *Virginia Business magazine*, 2011-2012, 2014, 2016
- Rising Star (Appellate), *Washington, D.C. Super Lawyers*, 2013-2016
- Transport: Rail and Road (Litigation), *Legal 500 US*, 2019

## Latest thinking and events

- Press Releases
  - Hogan Lovells files lawsuit along with civil rights organizations and Harvard CHLPI challenging rule removing ACA's non-discrimination protections
- Insights
  - COVID-19 class actions against universities
- Analysis
  - ADG Insights: Roadmap for False Claims Act enforcement in 2020
- Hogan Lovells Publications
  - FCA Guide: 2019 and the road ahead *Hogan Lovells*
- Hogan Lovells Publications
  - It's Auer Over but the Shouting *Appellate Alert*
- Published Works
  - INSIGHT: Defendants May Seek to Use Discovery to Soften Impact of SCOTUS Decision *Bloomberg Law*