



JEAN-CLAUDE ANDRÉ

Partner

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BIOGRAPHY

Jean-Claude's (J.C.) practice focuses on high-profile matters that address some of the most challenging legal issues, including constitutional issues, issues of statutory and regulatory interpretation, jurisdictional issues, preemption, class-certification issues, sovereign immunity, and efforts to obtain and defeat discretionary appellate review. J.C. co-leads the Appellate and Supreme Court Group.

Between private practice and government, J.C. has personally briefed and/or argued hundreds of distinct appeals before the U.S. Supreme Court, various U.S. Circuit Courts of Appeals, the California Supreme Court, and the California Court of Appeal, including dozens of briefs and 3 arguments before the U.S. Supreme Court and over 100 briefs and 45 arguments before the Ninth Circuit. He

regularly writes, speaks, and teaches about the Supreme Court, Ninth Circuit and California appellate practice, and appellate advocacy generally. For example, J.C. is co-editor of Thomson Reuters' treatise, *Federal Appeals: Jurisdiction and Practice*, and the lead editor of the *Appellate Lawyer Representatives' Guide to Practice in the United States Court of Appeals for the Ninth Circuit*, which the Ninth Circuit publishes on its [website](#).

Prior to joining BCLP, J.C. served as the West Coast head of the national Supreme Court and Appellate Practice of an international law firm. J.C. also served as an Assistant United States Attorney (AUSA) and, for four years, as the appellate chief at the Office of the United States Attorney for the Central District of California—the largest and most-populous federal district in the country. In addition to serving as the appellate chief, during his lengthy tenure as an AUSA, J.C. maintained an active district court caseload and was otherwise extensively involved in many of the office's most high-profile investigations and prosecutions.

For his work before the U.S. Supreme Court, J.C. was recognized in 2014 by Reuters' *The Echo Chamber* as one of an "elite cadre" of the 66 "most influential" lawyers practicing before the Supreme Court. In 2017, the judges of the United States Court of Appeals for the Ninth Circuit selected J.C. to serve as an Appellate Lawyer Representative to the Ninth Circuit Judicial Conference – a role in which J.C. studies and proposes improvements on a wide range of matters of importance to the court, including rule changes, alternative dispute resolution, and educational programs designed to aid the court and its district courts in improving the administration of justice. In 2019, the Los Angeles County Bar Association appointed J.C. as a member of the State Appellate Judicial Evaluation Committee, which evaluates persons whose names are submitted by the Governor for possible nomination to the California Supreme Court and the Court of Appeal, and makes recommendations on whether the candidate should be nominated. And most recently, J.C. was elected to be a Fellow of the American Academy of Appellate Lawyers—an invitation-only association of the country's most-respected appellate lawyers dedicated to advancing the administration of justice and promoting the highest standards of professionalism and advocacy in the appellate courts.

CIVIC INVOLVEMENT & HONORS

- Member, Board of Directors, Constitutional Rights Foundation (2019-present)
- Council of Parent Attorneys & Advocates, Distinguished Service Award (2020)
- Executive Office of United States Attorneys Director's Award for "Superior Performance as an Assistant United States Attorney – Appellate" (2017)

PROFESSIONAL AFFILIATIONS

- Fellow, American Academy of Appellate Lawyers
- Appellate Lawyer Representative, Ninth Circuit Judicial Conference
- Member, Litigation Section Executive Board, Los Angeles County Bar Association
- Member, State Appellate Judicial Evaluation Committee, Los Angeles County Bar Association

CLERKSHIPS

- Clerkship, Honorable Harry Pregerson, U.S. Court of Appeals for the Ninth Circuit, 2003-2004
- Clerkship, Honorable A. Andrew Hauk, U.S. District Court for the Central District of California, 2000-2001

ADMISSIONS

- California, 2001
- United States Courts of Appeals for the First, Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth, Ninth, Tenth, Eleventh, District of Columbia and Federal Circuits

United States Court of Appeals for Veterans Claims

United States Court of International Trade

United States District Courts for the Central, Eastern, Northern and Southern District of California

United States Supreme Court

EDUCATION

- University of Virginia, J.D., 2000
- University of Virginia, M.A., 2000
- University of California-Davis, B.S., 1997
- University of California-Davis, B.A., 1997

RELATED PRACTICE AREAS

- Appellate
- Business & Commercial Disputes

- Litigation & Dispute Resolution
- Class Actions & Mass Torts
- White Collar
- Investigations
- Securities Litigation and Enforcement

EXPERIENCE

- *Harris v. Med. Transportation Mgmt., Inc.*, 77 F.4th 746 (D.C. Cir. 2023), *cert. denied*, No. 23-658, 2024 WL 674822 (U.S. Feb. 20, 2024) (successfully petitioned for Federal Rule of Civil Procedure 23(f) discretionary appellate review, briefed, argued, and obtained reversal of an order certifying a wage-and-hour “issues class”)
- *Hollins v. Walmart Inc.*, 67 F.4th 1011 (9th Cir. 2023): Briefed, argued, and obtained 2-1 affirmance for the defendants-appellees holding that the federal Food, Drug, and Cosmetic Act and its implementing regulations preempt consumers’ state-law challenges to the name of a dietary supplement’s primary ingredient and the use of that ingredient’s name as the name of the product
- *Olson v. Doe*, 12 Cal.5th 669 (2022): Briefed, argued, and obtained 7-0 reversal for the respondent in an appeal asking whether filing a civil lawsuit against a co-party to an agreement “not to disparage one another” breaches the non-disparagement agreement
- *Aguilar v. Walgreen Co.*, 47 F.4th 1115 (9th Cir. 2022): Briefed, argued, and obtained published opinion dismissing for lack of jurisdiction challenges to order invalidating class action opt-out elections and issuing a new class notice to correct opt-out counsel’s misstatements to potential class members
- *Ranchers-Cattlemen Action Legal Fund, United Stockgrowers of America v. Vilsack*, 6 F.4th 983 (9th Cir. 2021), *cert. denied*, 142 S. Ct. 2867 (2022): Briefed, argued, obtained affirmance, and successfully opposed certiorari on behalf of beef producer trade organizations and cattle ranchers of summary judgment rejecting First Amendment challenge to the national beef checkoff program
- *Prudencio v. Midway Importing, Inc.*, 831 Fed. Appx. 808 (9th Cir. 2020): Briefed, argued and obtained affirmance of dismissal of claims seeking to impose chain-of-distribution liability for health-and-beauty product allegedly falsely labeled by manufacturer
- *LG Electronics, Inc. v. Lovers Tradition II, LP*, No. 05-19-1304-CV, 2020 WL 4281965 (Tex. Ct. App. July 27, 2020), *pet. for rev. dismissed* Nov. 5, 2021 (No. 20-0832): Briefed for the

appellant and obtained reversal of trial court's finding that it could constitutionally exercise personal jurisdiction over the non-resident appellant

- *Doğan v. Barak*, 932 F.3d 888 (9th Cir. 2019): Briefed, argued and obtained affirmance and holding that the former Prime Minister of the State of Israel was entitled to foreign official immunity from a suit seeking to hold him liable for torts committed during a military interdiction of suspected militants that he authorized while the Minister of Defense
- *Council of Parent Attorneys & Advocates, Inc. v. DeVos*, 365 F. Supp. 3d 28 (D.D.C. 2019), appeal dismissed, No. 19-5137, 2019 WL 4565514 (D.C. Cir. Sept. 18, 2019): Lead counsel in obtaining invalidation under the Administrative Procedure Act of the Department of Education's attempted delay of implementation of ameliorative special education regulations
- *Kisor v. Wilkie*, 139 S. Ct. 2400 (2019): Lead counsel for *amici curiae* urging reversal in a case regarding deference to agencies' interpretations of their own ambiguous regulations (judgment reversed 9-0)
- *United States v. Christensen*, 828 F.3d 763; 624 Fed. Appx. 466 (9th Cir. 2015), *cert. denied*, 137 S. Ct. 628; 137 S. Ct. 2109 (2017): Briefed for the government-appellee and obtained affirmances in a six-defendant post-trial appeal presenting dozens of issues, including racketeering, computer access fraud, and bribery issues arising from the Anthony Pellicano and Terry Christensen wiretapping scandal
- *United States v. Chhun*, 744 F.3d 1110 (9th Cir. 2014), *cert. denied*, 574 U.S. 853 (2014): Briefed, argued and obtained affirmance for the government-appellee in a post-trial appeal regarding a conspiracy to overthrow the sitting government of Cambodia
- *United States v. McTiernan*, 695 F.3d 882 (9th Cir. 2012), *cert. denied*, 568 U.S. 1125 (2013): Briefed, argued and obtained affirmance for the government-appellee in an appeal regarding illegal private-party wiretapping by private investigator and Hollywood film producer
- *United States v. Meredith*, 685 F.3d 814; 485 Fed. Appx. 185 (9th Cir. 2012), *cert. denied*, 568 U.S. 993 (2012): Briefed, argued and obtained affirmances for the government-appellee in a three-defendant appeal following tax-fraud trial presenting dozens of issues, including First Amendment issues
- *Ali v. Bureau of Prisons*, 552 U.S. 214 (2008): Briefed and argued for the petitioner in a Federal Tort Claims Act case alleging that federal prison officials discriminatorily destroyed the petitioner's devotional objects
- *LaRue v. DeWolff, Boberg & Associates, Inc.*, 552 U.S. 248 (2008): Briefed and obtained 9-0 reversal for the petitioner in an employee-benefits case regarding whether a 401(k) participant

whose account was diminished by the plan administrators' breach of their fiduciary duties may recover damages from the administrators

- *Jones v. Bock*, 549 U.S. 199 (2007): Briefed, argued and obtained 9-0 reversal for the petitioners in three consolidated cases involving, among other things, whether the petitioners were required by Rule 8 of the Federal Rules of Civil Procedure or the Prison Litigation Reform Act to negatively plead one of the respondents' affirmative defenses
- *Winkelman v. Parma City Sch. Dist.*, 550 U.S. 516 (2007): Briefed, argued and obtained 7-2 reversal for the petitioners in a case regarding whether the Individuals with Disabilities Education Act creates independent, enforceable rights for parents in the special education of their disabled children
- *Former Employees of IBM Corp. v. Chao*, 435 F. Supp. 2d 1335 (Ct. Int'l Trade 2006), aff'd, 292 Fed. Appx. 902 (Fed. Cir. 2007): Briefed, argued and obtained unemployment benefits for displaced IBM software engineers challenging the Secretary of Labor's denial of such benefits
- *Smith v. Superior Court*, 39 Cal. 4th 77 (2006): Lead counsel for *amici curiae* urging reversal in an appeal regarding statutory penalties for untimely payment of wages (judgment reversed 7-0)
- *Copley Press, Inc. v. Superior Court*, 39 Cal. 4th 1272 (2006): Lead counsel for *amici curiae* urging reversal of a California Public Records Act disclosure order (judgment reversed 6-1)

RESOURCES

PUBLICATIONS

- Leaders of Influence: Litigators & Trial Attorneys by the *Los Angeles Business Journal*, 2023
- "Rule 23(f) Petitions in the Ninth Circuit: A Data-Driven Analysis," *The Recorder*, August 20, 2020 (co-authored with David R. Carpenter and Paula C. Salazar).
- "Supreme Court to Examine Discovery Rule in FDCPA Cases," *Daily Journal*, October 8, 2019.
- "Chambers Appellate Overview 2019," *Chambers and Partners*, 2019.
- "Chambers Appellate Overview 2018," *Chambers and Partners*, 2018 (co-authored with Andrew Talai).
- "My Supreme Court Debut: Calm, Confidence And Poise," *Law360*, November 14, 2017.

- Co-author, "Appellate Motion Practice," *61 United States Attorneys' Bulletin* 48, January 2013.

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