



## **DANIEL P. MACH**

**Partner**

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## **BIOGRAPHY**

Dan has over a decade of experience in both trial and appellate litigation. His work includes matters involving complex commercial, environmental, administrative and employment law, energy sector and oil and gas disputes, financial institution and investment fund litigation, and corporate governance shareholder claims. He has appeared and argued in state and federal courts, the New York Public Service Commission, private arbitration tribunals, and various regulatory agencies. In class action and mass action matters, he has worked on “both sides of the v,” bringing the benefit of his familiarity with the other sides’ anticipated next moves when defending corporate clients.

Dan has experience serving as briefing and appellate preservation counsel in high-stakes, bet-the-company litigation, including in one of the most-watched patent infringement trials of 2018 (concerning 3D metal printing technology). He has handled or assisted in many appeals from trial verdicts, dispositive motion rulings, and class certification decisions. Clients value his strategic

input and role in refining arguments to advance each case, through highest-quality briefing, argument presentation, and witness preparation to build the best record possible for the inevitable appeal.

Dan's significant appellate experience includes:

- An emergency First Circuit appeal to preserve a stay of creditor litigation pending negotiations of a restructuring plan of public debt obligations under the Puerto Rico Oversight, Management, and Economic Stability Act;
- An en banc review in the 11th Circuit on the question of whether to overturn circuit precedent on the application of judicial estoppel in bankruptcy proceedings;
- A 4th Circuit appeal to preserve an order dismissing a consumer mass tort litigation against a carmaker based on alleged misrepresentations about mileage;
- A 2nd Circuit appeal establishing the court's leading precedent on the extraterritorial reach of the civil RICO statute; and,
- Authoring a Supreme Court amicus brief on behalf of the Brennan Center for Justice defending the full counting of mail-in ballots in Pennsylvania following the 2020 election.

Dan also regularly advises clients on current and expected changes in the law with potential liability considerations, through legal analysis of potential or recent lawmaking, agency proposed rulemaking, and financial and energy market trends. Most recently, he has presented analyses and presentations on litigation risks arising from several emerging trends in markets and the law. Those include the rise of ESG financing in 2020 and 2021 and anticipated regulatory actions in response, recent Supreme Court decisions concerning clients' potential exposure to state-law "climate tort" claims seeking damages or injunctive relief for historic carbon emissions, and toxic tort liabilities in litigation over PFAS chemical contamination.

Prior to joining BCLP, Dan worked as of counsel for a global litigation firm. Most notably in this role, Dan guided large teams of lawyers on multi-billion dollar cases at every stage of litigation, from pleading, to discovery and summary judgment, to trial, and again on appeal. He is known for "reading the room" in the courtroom or at deposition and for tailoring his oral argument and witness questioning to effectively persuade judges or elicit answers from witnesses. In all of Dan's matters, he has built the trust of clients through his candid advice, rigorous analysis, judgment, and adept execution of cases from the outset to build a strong record and develop compelling arguments through trial and appeal.

Dan clerked for the Honorable F. Dennis Saylor IV of the U.S. District Court for the District of Massachusetts and for the Honorable Susan P. Graber of the U.S. Court of Appeals for the Ninth Circuit.

## CLERKSHIPS

Clerkship, Honorable Susan P. Graber, U.S. Court of Appeals for the Ninth Circuit, 2012-2013

Clerkship, Honorable F. Dennis Saylor IV, U.S. District Court for the District of Massachusetts, 2011-2012

## ADMISSIONS

- New York, 2012

## EDUCATION

- Harvard Law School, J.D., cum laude, 2011
- Harvard University, A.B., magna cum laude, 2007

## RELATED PRACTICE AREAS

- Business & Commercial Disputes
- Litigation & Dispute Resolution
- Environment
- Real Estate
- Class Actions
- Brownfields
- Citizen Suits/NIMBY
- Clean Air Act
- Clean Water Law
- Compliance Audits and Internal Investigations
- Cost Recovery Litigation (Superfund/CERCLA and State equivalents)
- Criminal Enforcement
- Endangered Species (ESA)
- Environmental Review (NEPA and State EIS laws)
- Hazardous Materials Transportation (HMTA)
- Hazardous Waste (RCRA)
- Insurance Counseling
- International Environmental Law
- Oil Spills
- Pesticides (FIFRA)
- Reporting Requirements (EPCRA, CERCLA, Prop 65 and other state laws)
- Safe Drinking Water (SDWA)

- Solid Waste and Landfills
- Toxic Substances Regulation (TSCA)
- Transactional Work, Including SEC Disclosures
- Underground Injection Control (UIC)
- Water Rights
- Wetlands
- Mobile Source Emissions and Fleet Management
- Appellate

## EXPERIENCE

- In an employment class action brought to the firm after the plaintiffs won class certification and the decision had been affirmed on interlocutory appeal, Dan designed and implemented a strategy to reopen discovery and build a broader record on damages quantification issues, leading to a successful motion to decertify the class and resolve the case favorably for the client.
- Defended a major energy utility client in federal court against multi-billion-dollar claims brought by a state attorney general under theories of consumer protection law, antitrust, and ratepayer overcharges. He and the team developed focused, streamlined discovery plan and legal theory of federal regulatory preemption due to applicable FERC filed-rate tariffs that minimized client litigation costs and ultimately resulted in the dismissal of all claims at summary judgment.
- Represented oil and gas companies in shareholder corporate governance disputes in Delaware Chancery Court, crude oil supply contract claims in arbitration, and various other claims arising from oil & gas operations, including liabilities from the 2010 Deepwater Horizon oil spill and vicarious liabilities due to overseas assets and affiliations with foreign state national companies designated as potential terrorist sponsors under U.S. laws.
- Represented the State of New York after the attorney general's office recused itself in defending the constitutionality of a groundbreaking criminal justice reform statute creating a Commission on Prosecutorial Conduct charged with investigating complaints of prosecutorial misconduct such as improper bias in charging or sentencing decisions or willful violations of defendants' rights to disclosure of exculpatory evidence. The litigation resulted in decisions before the trial judge and the appellate court upholding the law in all material respects.
- Managed through discovery and class certification a plaintiff-side antitrust suit on behalf of a class of hedge funds and institutional investors against several major banks on allegations of

an antitrust conspiracy to boycott new, innovative entrants to the multi-trillion dollar securities lending market in violation of the Sherman Act, to maintain an opaque, inefficient market structure that allowed the banks to impose and profit from non-competitive lending and borrowing prices on class members.

- Dan has litigated energy project siting, construction and system interconnection approvals, and rate/tariff proceedings for conventional and renewable energy clients across the country, before state public service regulators, FERC, and the Nuclear Regulatory Commission, as well as in judicial review actions in state and federal appellate courts.

## RELATED INSIGHTS

Webinars

Oct 26, 2023

**Mass and Class Actions: A Guide to U.S. Securities Fraud, Mergers & Acquisitions, and Mass Torts Litigation**

News

Apr 12, 2023

**BCLP ranks in Global Investigations Review's 'GIR 100 2022'**

News

Oct 24, 2022

**Experienced litigation partner joins BCLP's New York office**