



## Dan Himmelfarb

Partner

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Dan Himmelfarb has argued dozens of cases in appellate courts across the country, including 12 in the US Supreme Court, and has filed briefs in many more. He has particular experience in the areas of torts, administrative law, criminal law, Indian law, constitutional law and statutory interpretation. Dan's appellate work has earned him recognition in Chambers USA, The Legal 500 United States, The National Law Journal's "Appellate Hot List," The Best Lawyers in America and Washington DC Super Lawyers. He is co-author of two appellate treatises, Supreme Court Practice and Federal Appellate Practice. Before joining Mayer Brown, Dan served as an Assistant US Attorney in the Southern District of New York and then as an Assistant to the US Solicitor General. Dan graduated from Princeton University and Yale Law School, where he was a member of the Yale Law Journal, and then clerked for Judge J. Michael Luttig on the Fourth Circuit and Justice Clarence Thomas on the Supreme Court.

### SELECTED EXPERIENCE

#### **Arkema Inc. v. EPA (D.C. Circuit)**

In this case, we secured vacatur of a final rule promulgated by the Environmental Protection Agency ("EPA"). The rule provided allowances for the production of ozone-depleting substances under a cap-and-trade system.

#### **Arkema v. EPA (Third Circuit)**

In this case, our client Arkema petitioned for review from a final rule, in which the Environmental Protection Agency (EPA) designated for testing in its Endocrine Disruptor Screening Program certain chemicals based on their physical and chemical properties.

#### **Caperton v. A.T. Massey Coal Co. (U.S. Supreme Court)**

Traditionally, in both British and American law, judges could be disqualified from participating in a case only if they had direct financial stakes in the case's outcome.

#### **CSX Transportation, Inc. v. Gilkison (Fourth Circuit)**

We successfully argued that the district court erred in dismissing our client's fraud and RICO claims as time-barred, leading to a \$1.3 million verdict for our client on remand.

#### **CSX Transportation, Inc. v. Hensley (Tennessee)**

Plaintiff Thurston Hensley sued his employer, CSX Transportation ("CSX"), under the Federal Employees Liability Act, alleging that CSX negligently caused his asbestosis and seeking damages for (among other things) a fear of developing cancer in the future.

#### **CSX Transportation, Inc. v. McBride (U.S. Supreme Court)**

Plaintiff brought a FELA claim for injuries he allegedly suffered while adding and removing railroad cars for his employer, and our client, CSX Transportation.

#### **CSX Transportation, Inc. v. Peirce (Fourth Circuit)**

In series of appeals, we secured reversal of a ruling adverse to our client and defended favorable jury verdict.

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**Jupiter Medical Center, Inc. v. Visiting Nurse Association of Florida, Inc. (U.S. Supreme Court)**

Our certiorari petition in this case asks the Supreme Court to resolve a split in the circuits on the question whether, under the Federal Arbitration Act, courts have the authority to vacate an arbitral award on the ground that the underlying contract, as interpreted by the arbitrators, is illegal.

**Lockheed Martin Corp. v. Goodyear Tire & Rubber Co. (Sixth Circuit)**

Loral Corporation, predecessor of Lockheed Martin agreed in 1987 to acquire certain assets and liabilities related to Goodyear's aerospace business in Ohio.

**Lockheed Martin Corp. v. Retail Holdings, N.V. (Second Circuit)**

The parties in this case disputed ownership of an overfunded pension plan originally created by The Singer Corporation.

**Priester v. Ford Motor Co. (South Carolina)**

Plaintiff brought a products liability action against Ford Motor Company, alleging that one of Ford's pick-up trucks was defectively designed because it utilized tempered, rather than laminated, glass in the vehicle side windows.

**Ray Haluch Gravel Co. v. Central Pension Fund (U.S. Supreme Court)**

We obtained certiorari and successfully persuaded the Supreme Court that a decision that fully resolves the merits of the litigation, but leaves attorney's fees to be determined, is a "final decision" under 28 U.S.C. § 1291.

**Rosemond v. United States (U.S. Supreme Court)**

In this case, the Court granted certiorari to decide the requisite mental state for the offense of aiding and abetting the use of a firearm during and in relation to a crime of violence or drug trafficking crime, in violation of 18 U.S.C. § 924(c).

**Szekeres v. CSX Transportation, Inc. (Sixth Circuit)**

We argue that the district court correctly granted judgment to our client because the plaintiff's theory of causation was too attenuated to support recovery under FELA, among other issues.

**Taniguchi v. Kan Pacific Saipan, Ltd. (U.S. Supreme Court)**

The Court Interpreters Act, 28 U.S.C. § 1920(6), allows courts to award a prevailing party the costs of oral interpreters.

**United States v. Renzi (Ninth Circuit)**

Our client, a former U.S. Congressman, was indicted on public-corruption and other charges stemming from his time in office and his operation of an insurance agency.

**Wal-Mart Stores, Inc. v. Dukes (U.S. Supreme Court)**

Several female employees of Wal-Mart brought a putative class action against their employer, alleging that they were the victims of sex discrimination and seeking back-pay.