



## *Daniel S. Volchok*

### **PARTNER**

Vice Chair, Appellate and Supreme Court Litigation Practice

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Daniel Volchok's practice focuses on appellate litigation involving various areas of federal and state law, including arbitration, bankruptcy, civil rights, contracts, criminal law, due process, free speech, intellectual property, military law, Native American issues, preemption and tax. Mr. Volchok has filed numerous merits and amicus briefs in the US Supreme Court as well as state and federal appellate courts, and also participated in successful efforts to obtain or oppose certiorari.

Mr. Volchok also has an extensive Native American practice. He has represented tribes and nations in trial and appellate litigation, as well as in a variety of non-litigation matters involving federal, state and local governments as well as private entities and other tribes and nations.

Prior to joining the firm, Mr. Volchok clerked for the Honorable David H. Souter of the US Supreme Court and the Honorable David S. Tatel of the US Court of Appeals for the District of Columbia Circuit.

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## *Solutions*

Administrative Law

Environmental Litigation and  
Enforcement Defense

Appellate and Supreme Court  
Litigation

Litigation

Energy, Environment and  
Natural Resources

Native American Law

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## *Experience*

- Led a briefing team that secured a rare summary reversal by the US Supreme Court in ERISA litigation arising out of the Ninth Circuit.

- Led a team, on behalf of five tribes in San Diego and two non-Indian entities, that negotiated a settlement agreement with the United States and secured the passage of congressional legislation to bring an end to a century-old dispute and 40-plus years of litigation.
- Assisted in securing, on behalf of a New Mexico tribe, a nine-figure settlement of 10-year-old litigation against the United States alleging mismanagement of the tribe's resources.
- Assisted in securing, on behalf of two Oklahoma tribes, a nine-figure settlement of 10-year-old litigation against the United States alleging mismanagement of the tribes' resources.
- Led a team in the Tenth Circuit in representing a prisoner appealing the dismissal of his civil rights action. Argued the case to the court of appeals, which reversed the dismissal and, in doing so, praised WilmerHale "for providing not only free legal service ... but also providing such high caliber representation in briefing and at oral argument."
- Assisted with a successful appeal to the Tenth Circuit on behalf of an airline challenging a state's effort at regulation as preempted by federal law.
- Assisted with a successful appeal to the Tenth Circuit from a dismissal of a state-law tort and contract action concerning ownership of a newspaper in Salt Lake City.
- Assisted in securing a unanimous victory in the Supreme Court on behalf of a patent holder seeking to preserve a nine-figure infringement verdict.
- Assisted in securing a unanimous victory in the Supreme Court on behalf of a national bank sued for alleged violations of the Truth in Lending Act.
- Won a victory in the Seventh Circuit, securing affirmance of the dismissal of a complaint alleging violations of the Fair Labor Standards Act.
- Won a victory in the Ninth Circuit, securing affirmance of the dismissal of a complaint alleging violations of the Fair Labor Standards Act.
- Won a victory in the Utah Supreme Court, persuading the court to unanimously reverse its prior (unanimous) decision in the same litigation.
- Won a victory in the Fourth Circuit, securing affirmance of the dismissal of a complaint alleging violations of the False Claims Act.
- Assisted in securing a victory in the DC Circuit, which affirmed the dismissal of a complaint alleging violations of the False Claims Act.
- Assisted in securing a unanimous victory in the Supreme Court on behalf of a network that had been fined by the Federal Communications Commission for airing allegedly indecent material. The Court held that imposition of the fine was unconstitutional.
- Participated in a successful petition for Supreme Court review and then assisted with merits briefing in a case involving whether federal law allows arbitrators or courts to order class arbitration when the parties' arbitration agreement is silent as to such question.
- Participated in an appeal to a Federal Circuit on behalf of a patent holder, in a case involving infringement of a pioneering patent. The Federal Circuit affirmed the jury's substantial damages award and the district court's resulting permanent injunction. Led successful opposition to further review by the Supreme Court.

- Participated in defending against the government's appeal from a district court's high-profile dismissal, on due process and right-to-counsel grounds, of an indictment of thirteen individuals for tax fraud. The court of appeals affirmed the dismissal, holding that prosecutors had violated the defendants' Sixth Amendment rights by coercing the accounting firm KPMG, where the defendants had formerly been partners or employees, to stop paying the defendants' legal fees.
- Assisted in a successful appeal to the Tenth Circuit of criminal convictions on charges of conspiracy, wire fraud, money laundering and circumvention of internal controls against former executives of a public company. The court of appeals first reversed the district court's denial of bail pending appeal, and eventually threw out all of the convictions, barring a re-trial on most of them. *The Wall Street Journal* called the decision "a stunning reversal of a high-profile government prosecution."
- Participated in a successful appeal to the Second Circuit in a case challenging a state law that regulated airlines' provision of services during extended ground delays. Reversing the district court, the court of appeals held that the law was expressly preempted by federal law, and likely implicitly preempted as well.

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## Recognition

- Recognized in *Benchmark Litigation* as a "Litigation Star" in 2024.
  - Named a "Next Generation Partner" in the 2023 edition of *The Legal 500 United States* for his Native American law practice and recommended in 2017 for his Antitrust Civil Litigation and Class Actions practice.
  - Selected by peers for inclusion in *Best Lawyers in America* for his Native American law practice in 2020–2024.
  - Named to the Lawdragon 500 Leading Litigators in America list.
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## Credentials

### EDUCATION

JD, Harvard Law School, 2003

*magna cum laude*

MPA, Princeton University,  
1998

BA, Political Science, Columbia  
University, 1994

*magna cum laude*

### ADMISSIONS

District of Columbia

Maryland

### CLERKSHIPS

The Hon. David H. Souter, US  
Supreme Court, 2004 - 2005

The Hon. David S. Tatel, US  
Court of Appeals for the  
District of Columbia Circuit,  
2003 - 2004