



Kelly P. Dunbar

PARTNER

WASHINGTON DC
+ 1 202 663 6262
KELLY.DUNBAR@WILMERHALE.COM

Kelly Dunbar is a leader of the firm's Administrative Law Group and focuses his practice on government and regulatory litigation, administrative rulemakings, civil litigation, and appellate matters. Mr. Dunbar regularly counsels clients regarding regulatory strategy and litigation, represents them before administrative agencies, and litigates Administrative Procedure Act (APA), constitutional, and other matters in federal courts across the country.

Mr. Dunbar's administrative law practice spans agencies across the federal government, including the Federal Communications Commission, the Department of Transportation, the Department of Labor, the Department of the Interior, the Department of Health and Human Services, the Financial Stability Oversight Council, the Food and Drug Administration, the Surface Transportation Board, the Consumer Financial Protection Bureau, and the Department of Agriculture. These matters involve complex statutes and regulations governing a wide range of clients, including telecommunications companies, cable operators, airlines, insurance companies, health care providers, Indian tribes, and railroads.

Mr. Dunbar also has an active appellate practice. He represents clients in matters before multiple federal courts of appeals, state high courts, and the United States Supreme Court, and he has presented oral argument on behalf of clients in multiple federal courts (appellate and district). He also has substantial experience representing Indian tribes in complex civil litigation, appeals, and administrative proceedings involving land into trust, gaming, jurisdictional, and sovereign immunity issues.

Mr. Dunbar joined the firm after serving as an attorney-adviser in the Office of Legal Counsel at the Department of Justice. During his time at the Department, Mr. Dunbar assisted in drafting opinions resolving legal disputes between and among executive branch agencies and in providing advice on a range of APA, constitutional, executive privilege, and statutory issues to the Office of the Attorney General, the White House, and other executive branch agencies.

Professional Activities

Mr. Dunbar is admitted to practice before the US Supreme Court, the US Courts of Appeals for the First, Fourth, Fifth, Eighth, Ninth, Tenth, and District of Columbia Circuits, and the US District Courts for the District of Columbia, the Northern District of Florida, the Western District of Michigan, and the District of Maryland.

Solutions

Litigation	Administrative Law	Appellate and Supreme Court Litigation
Cybersecurity and Privacy	Government and Regulatory Litigation	Big Data

Experience

- Mr. Dunbar has represented numerous individual, corporate, and associational clients in administrative, civil, and criminal matters, including:
 - obtaining a preliminary injunction and temporary restraining order on behalf of a leading medical provider in an APA challenge to an emergency rule promulgated by the Department of Health and Human Services;
 - representing trade associations in successful APA litigation challenging the Fiduciary Rule promulgated by the Department of Labor to regulate the life insurance and financial services industries, resulting in vacatur of the Rule;
 - representing a communications client in an enforcement proceeding by the Federal Communications Commission under the Open Internet rules;
 - representing a major passenger railroad company as intervenor in an APA action in defense of a rule promulgated by the Surface Transportation Board;
 - representing domestic citrus growers in an APA challenge to the Department of Agriculture's decision to permit the importation of foreign citrus products into the United States;
 - representing a leading global security company in an APA whistleblower appeal under the Sarbanes Oxley Act;
 - advising a major insurance company with respect to Dodd-Frank issues involving the Financial Stability Oversight Council;
 - submitting an amicus brief on behalf of a trade association in an APA challenge to the Financial Stability Oversight Council's designation of a non-bank financial institution as a systemically important financial institution;
 - counseling a national air carrier with respect to federal regulations and orders pertaining to international aviation issues;
 - securing multiple trial and appellate court victories in high-profile litigation challenging a state voter photo ID law;

- representing an Indian tribe in an APA challenge to adverse land-into-trust decisions by the Department of the Interior;
- representing DC public charter schools before the DC Circuit in a constitutional challenge to District of Columbia school funding practices;
- counseling a development corporation with respect to a title dispute with the Department of the Interior over land ownership;
- counseling a government contractor with respect to small business regulations involving the US Small Business Administration;
- representing a major financial institution in class-action litigation involving alleged violations of state law property inspection fees;
- securing an appellate victory for an Indian tribe with respect to trust acquisition of land for purposes of casino gaming, and represented the tribe in related district court litigation and before a federal agency;
- securing a US Supreme Court victory for a bankruptcy trustee in case involving the interpretation of the Bankruptcy Code;
- securing a US Supreme Court victory for a state defending its legislative reapportionment plan from constitutional challenge; and
- securing a victory in the New York Court of Appeals for a major university in a challenge to its expansion plan.

Recognition

- Recommended in the 2017 edition of *The Legal 500 United States* in the area of telecoms and broadcast: regulatory

Credentials

EDUCATION

JD, Yale Law School, 2004

Articles Editor, Yale Law Journal, Editor, Yale Journal on Regulation, Potter Stewart Prize

MA, Communication Studies,
Baylor University, 1999

BA, History, Baylor University,
1997

magna cum laude

*Phi Beta Kappa, Glenn R. Capp
Debate Forum*

GOVERNMENT EXPERIENCE

Department of Justice

Office of Legal Counsel

Attorney Advisor

ADMISSIONS

District of Columbia

New York

CLERKSHIPS

The Hon. Douglas H.
Ginsburg, US Court of
Appeals for the District of
Columbia Circuit, 2004 - 2005