
Administrative Law

Clients rely on our team of experienced regulatory litigators and former government officials to handle all aspects of administrative law litigation.

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Regulations and orders issued by federal agencies, as well as other actions taken by agencies and agency officials, have monumental consequences for American businesses and professionals. Our attorneys have substantial experience both litigating challenges to agency actions under the Administrative Procedure Act (APA) or otherwise and representing clients in agency proceedings. We work with trade associations and large and small businesses in a wide range of industries to challenge federal agency actions that transgress statutory or constitutional limits. We also represent parties that support agency actions—including decisions to deregulate—that are challenged by others.

Our team includes lawyers who have served in senior positions at a broad range of federal agencies—including the Department of Justice, the agency tasked with defending challenges in court—and have substantial knowledge of and experience in specific regulated industries. We regularly advise clients at every stage of the administrative process—from developing initial legal strategy and drafting comments during the rulemaking process to litigating in federal district or appellate courts across the country—and we are particularly well equipped to address novel and complex statutory and constitutional issues that arise during administrative law proceedings or resulting litigation.

Significant agency actions are almost always challenged in court, either by the industry or party being regulated or by third parties objecting to agency deregulatory efforts or urging more stringent regulation. Parties that support agency actions challenged by others often intervene in the litigation to help defend the action at issue. Before litigation even begins, parties must ensure that their interests are represented before the agency in question. We represent clients during agency proceedings of all types, and we have challenged—and in other contexts, defended—regulations and orders by a wide range of federal agencies, including the:

- Department of Agriculture
- Department of Defense
- Department of Education
- Department of Energy
- Department of Health and Human Services (HHS)
- Department of Homeland Security
- Department of Housing and Urban Development (HUD)
- Department of Interior (DOI)
- Department of Justice (DOJ)
- Department of Labor (DOL)
- Department of Transportation
- Consumer Financial Protection Bureau (CFPB)
- Drug Enforcement Administration
- Environmental Protection Agency (EPA)
- Federal Aviation Administration
- Federal Communications Commission (FCC)
- Federal Energy Regulatory Commission (FERC)
- Financial Stability Oversight Council (FSOC)
- Federal Trade Commission (FTC)
- Food and Drug Administration (FDA)
- Patent and Trademark Office (PTO)
- Securities and Exchange Commission (SEC)
- Federal banking agencies such as the Federal Reserve Board and Office of the Comptroller of the Currency (OCC)

Key Contacts



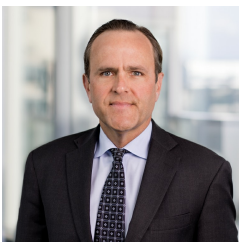
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Related Solutions

Experience

Obtained a preliminary injunction and temporary restraining order on behalf of a leading medical provider in an emergency preliminary injunction challenge to a midnight rule promulgated by HHS.

Represented trade associations in APA litigation challenging the Fiduciary Rule promulgated by the DOL to regulate the life insurance and financial services industries.

Litigated an immigration case in which the US Supreme Court held that an agency policy was arbitrary and capricious, only the second time that has happened.

Represented a major passenger railroad company as intervenor in an APA action in the Eighth Circuit in defense of a rule promulgated by the Surface Transportation Board.

Represented an intervenor and served as co-counsel to a petitioner in a challenge to an FCC order implementing the Telephone Consumer Protection Act.

Represented an association of property and casualty insurers in an APA challenge to a rulemaking by the HUD that applied disparate impact analysis under the Fair Housing Act to homeowners insurers.

Challenged FERC's approval of a pipeline lease on the grounds that it was discriminatory and would harm existing pipeline customers.

Represented a major financial institution in a federal court challenge to penalties assessed by FERC for alleged manipulation of pricing in wholesale electric energy markets.

Obtained a stay of the FCC's wireless E911 location accuracy requirements from the DC Circuit.

Represented Native American tribes in APA suits challenging or defending actions by the DOI, including defending a decision by the DOI to allow a tribe to develop a gaming facility on a parcel of land in California under the Indian Gaming Regulatory Act and to take that land into trust for the tribe under the Indian Reorganization Act.

Represented an intervenor in the DC Circuit in its defense of an EPA rule allowing up to 15% ethanol to be blended with gasoline.

Challenged a decision by the secretary of HHS to exclude a former executive at a medical device manufacturer from participation in federal healthcare programs based upon his conviction of a strict liability misdemeanor offense as contrary to law and beyond the scope of the secretary's authority.

Litigated multiple APA challenges to decisions by the PTO improperly calculating the length of patent term adjustments.

Successfully defended clients in FTC privacy, information security and advertising investigations.

Represented a major student loan servicer in enforcement litigation initiated by the CFPB.

Represented a company in litigation contesting enforcement of a civil investigative demand issued by the CFPB.

Represented an individual former bank employee in administrative enforcement proceedings initiated by the OCC.

Challenged the FCC's application of its indecency policy on several grounds, including the APA, and also challenged the FCC's children television regulations as contrary to law.

Challenged a regulation issued by the Federal Election Commission under the APA.

Submitted comments to the FCC on behalf of a communications company in FCC Open Internet rulemaking proceedings.

Represented a major prescription drug wholesaler in an APA challenge to a Drug Enforcement Administration order suspending the registration of one of the company's distribution facilities.

Persuaded the Small Business Administration's Office of Hearings and Appeals to reverse its previous ruling concerning a telecommunications company's classification under the Small Business Act.

Represented a trade association as an amicus, before both the district court and the DC Circuit, in an APA challenge to the FSOC systemically important financial institution designation of a life insurance company.

Advised a major life insurance company in connection with its designation as a systemically important financial institution by the FSOC.

Represented a major business organization as an amicus in support of a petition challenging the portions of an SEC and Federal Reserve Board rule issued under the Dodd-Frank Act that placed credit-risk-retention requirements on managers of collateralized loan obligations.

Prepared comments on behalf of a trade association in response to Notices of Proposed Rulemaking from the US Patent and Trademark Office regarding America Invents Act trials and patent prosecution requirements.

Advised a trade association in connection with litigation challenging the DOL overtime rules.

Submitted comments on behalf of trade groups regarding a DOJ rulemaking adjusting False Claims Act penalties for inflation.

Advised a major national programmer on regulatory and litigation options in connection with the FCC's set-top-box rulemaking.