



Brad N. Garcia

Partner

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Brad Garcia focuses his practice on appellate and complex litigation matters. He has drafted numerous briefs in the US Supreme Court and state and federal appellate and trial courts. Brad has presented argument in twelve appeals in federal and state appellate courts, including the First, Third, Fourth, Ninth, Eleventh, and Federal Circuits, as well as the California Court of Appeals and Maryland Court of Appeals. Brad has also argued multiple dispositive motions in trial court. He represents clients in a wide variety of matters, with a particular focus in patent and insurance law, but with experience spanning criminal law, class actions, ERISA, federal jurisdiction, product defect and liability, and other complex litigation matters.

Brad maintains an active pro bono practice, focusing on constitutional law as well as criminal and immigration-related matters. He also serves as a member of the Supreme Court and Appellate Advisory Board for the MacArthur Justice Center. He is the recipient of O'Melveny's Warren Christopher Values Award, an honor bestowed on those who exemplify the Firm's legacy of excellence, leadership, and citizenship.

Prior to joining O'Melveny, Brad was a law clerk for Associate Justice Elena Kagan on the US Supreme Court, and the Honorable Thomas B. Griffith on the US Court of Appeals, DC Circuit.

Admissions

Bar Admissions

District of Columbia
Maryland

Court Admissions

US District Court, District Of Columbia
US Court of Appeals, First, Second, Third, Fourth, Fifth, Sixth, Eighth, Ninth, Tenth, Eleventh, and Federal Circuits
US Supreme Court

Education

Harvard University, J.D.: *magna cum laude*; Editor, *Harvard Law Review*
Johns Hopkins University, B.A.,
International Studies and Economics

Experience

Representative US Supreme Court Matters

- *New York State Rifle & Pistol Association v. City of New York* — Contributed to merits brief and related filings on behalf of City of New York in significant Second Amendment case.
- *United States v. Sims* — Co-authored merits brief in a criminal case concerning the scope of the Armed Career Criminal Act.
- *China Agritech v. Resh* — Drafted merits briefs in the Supreme Court in important dispute concerning the scope of class action tolling under *American Pipe*.
- *Pereira v. Sessions* — Authored amicus brief on behalf of the American Immigration Lawyers Association in case regarding the necessary contents of a "notice to appear" to trigger the stop-time rule for purposes of immigration proceedings.
- *Evenwel v. Abbott* — Co-authored amicus brief on behalf of the NAACP Legal Defense Fund arguing that the one person, one vote doctrine requires counting total population when drawing electoral districts instead of only eligible voters.
- *Rucho v. Common Cause and Whitford v. Gill* — Co-authored amicus briefs for the Brennan Center arguing that federal courts should adjudicate partisan gerrymandering challenges in two landmark Supreme Court cases.

Representative State and Federal Appellate Court Matters

- *ACE American Insurance Company v. Exide Technologies, Inc.* — Briefed and argued Eleventh Circuit appeal, persuading the court to reverse a judgment based on the interpretation of a contract provision that had not been construed by any other court.
- *Keller v. Federal Insurance Company* — Successfully briefed and argued matter in the Ninth Circuit concerning the enforcement of a contractual limitations period in insurance dispute.
- *Lester v. United States* — Successfully briefed and argued Fourth Circuit case arguing that client should not have been deemed a career offender under the mandatory sentencing guidelines, ultimately leading to client's release from prison.
- *United States v. Swaby* — Successfully briefed and argued Fourth Circuit appeal, leading to reversal of district court's denial of motion to vacate on the basis that client's attorney had not informed him of the immigration consequences of his guilty plea, ultimately leading to client's ability to return to the United States with lawful status.
- *State v. Jackson* — Co-authored briefs and presented argument in a complex criminal appeal in the Maryland Court of Appeals.
- *Gamez v. ACE U.S.A.* — Successfully briefed and argued a case in the Eleventh Circuit addressing the application of a Florida statute to misrepresentations in insurance applications.
- *S.D. v. K.W.* — Authored briefs and successfully argued matter in the California Court of Appeals in successful effort to reverse a district court's dismissal of a suit for lack of subject matter jurisdiction.
- *Johnson Controls, Inc. v. Central National Insurance et al.* — Co-authored briefs persuading Wisconsin Court of Appeals to overturn \$70 million judgment in insurance dispute.
- *Kelley v. Fidelity Management Trust Co.* — Co-authored brief in the First Circuit successfully defending client's "float" practices in high-stakes ERISA appeal.

- *Ellis v. Fidelity Management Trust Co.* — Co-authored brief in the First Circuit successfully defending district court's grant of summary judgment in ERISA matter.
- *Narragansett Electric Company v. Century Indemnity Company* — Authored briefs successfully persuading Second Circuit to vacate a nearly \$10 million judgment on the basis that district court had misinterpreted the insurance contract at issue.
- *Nease v. Ford Motor Company* — Authored briefs in successful Fourth Circuit appeal that resulted in an important, precedential opinion concerning district court's gatekeeping obligations with respect to expert evidence.

Representative Federal Circuit Matters

- *Location Based Services v. Niantic* — Co-authored appellate brief successfully defending district court's invalidation of patent claims on Section 101 grounds.
- *Florida Atlantic University Research Corp. v. Top Victory Electronics* — Authored merits brief in successful defense of jury verdict of non-infringement.
- *Hitachi v. Top Victory Electronics* — Authored merits brief in successful defense of jury verdict finding asserted patents either invalid or not infringed.
- *Mentor Graphics v. Eve* — Assisted in argument preparation as well as en banc and certiorari strategy in case regarding apportionment of damages for lost profits and the application of assignor estoppel doctrine.

Professional Activities

Clerkships

- Honorable Elena Kagan, US Supreme Court
- Honorable Thomas B. Griffith, US Court of Appeals, DC Circuit

Board Member

- MacArthur Justice Center Supreme Court & Appellate Advisory Board

Honors & Awards

- US Supreme Court victory for China Agritech named a National Impact Case by *Benchmark Litigation California* (2019)