



Anton Metlitsky

Partner

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Anton Metlitsky is an accomplished lawyer whose practice focuses specifically on appellate and complex litigation matters. Anton's diversified legal experience is considerable. He has drafted numerous briefs in the US Supreme Court and state and federal appellate and trial courts. The Supreme Court appointed Anton during its 2017 Term to brief and argue *Lucia v. Securities and Exchange Commission*, a precedent-setting case concerning the scope of the Constitution's Appointments Clause. Anton has also presented oral argument in the US Courts of Appeals for the Federal, Second, Fourth, Sixth, Ninth, and District of Columbia Circuits, as well as the New York Court of Appeals and Appellate Division.

Anton's practice spans both civil and criminal matters, and includes a wide range of subject matters, including federal constitutional law, federal jurisdiction and procedure, antitrust law, patent law, securities law, ERISA, bankruptcy law, insurance law, administrative law, international and foreign affairs law, trademark, and federal preemption. Anton has also authored several law journal articles on various topics of federal law, and participated in panels and CLE presentations concerning Supreme Court litigation, the Alien Tort Statute, and effective legal writing.

Based on his accomplishments as an appellate advocate, the *National Law Journal* recognized Anton as a Litigation "Trailblazer" in 2018. *Law360* also named Anton a 2013 "Rising Star"—one of five appellate attorneys under 40 nationwide to be recognized. Within O'Melveny, Anton is the recipient of a Warren Christopher Values Award, an honor bestowed on those who

Admissions

Bar Admissions

District of Columbia

New York

Court Admissions

US Supreme Court

US Court of Appeals, Second, Third, Fourth, Fifth, Sixth, Seventh, Ninth, Eleventh, District of Columbia, and Federal Circuits

US District Court, Southern District of New York and Eastern District of Texas

Education

Harvard University, J.D., 2005:
magna cum laude

University of Pennsylvania, B.A., B.S.,
1999: *summa cum laude*

exemplify the firm's legacy of excellence, leadership, and citizenship.

Experience

Representative US Supreme Court Matters

- *Lucia v. Securities and Exchange Commission* — Appointed by the Court to file a brief and argue in support of the D.C. Circuit's judgment, concerning whether SEC Administrative Law Judges are "Officers of the United States" within the meaning of the Appointments Clause of the Constitution.
- *China Agritech v. Resh* — Authored successful petition for certiorari and merits briefs in dispute concerning the scope of class action tolling under *American Pipe*
- *Merrill Lynch v. Manning* — Co-authored merits briefs in important dispute concerning the scope of the exclusive federal jurisdiction provision of the Exchange Act of 1934
- *Wellness International v. Sharif* — Co-authored merits brief in major test of the authority of bankruptcy judges under Article III of the US Constitution
- *Chadbourne & Parke LLP v. Troice* — Co-authored petition for certiorari and merits briefs in a high-profile securities fraud class action arising from the multi-billion dollar Ponzi scheme perpetrated by Allen Stanford.
- *Kurns v. Railroad Friction Products Corp.* — Co-authored the successful certiorari-stage and merits briefs in federal preemption case with potentially significant consequences for preemption of asbestos-related tort claims, as well as tort claims in other contexts.
- *CompuCredit v. Greenwood* — Co-authored the successful certiorari-stage and merits briefs in federal arbitration case concerning the enforceability of agreements to arbitrate federal statutory cause of actions.
- *Hosanna-Tabor v. EEOC* — Co-authored merits brief in a highly significant First Amendment case concerning the scope of the "ministerial exception" to the federal anti-discrimination laws.
- *City of Arlington v. FCC* — Co-authored the merits brief for intervenor-respondent Cellco Partnership d/b/a Verizon Wireless, arguing that federal agencies should not get Chevron deference concerning the scope of their own jurisdiction.
- *Jesner v. Arab Bank* — Authored amicus brief on behalf of a group of amici led by the Chamber of Commerce of the United States of America successfully arguing that the Alien Tort does not recognize claims against corporations.
- *Hollingsworth v. Perry* — Co-authored amicus brief, cited by the Court, setting forth the theory of Article III standing that the Court ultimately adopted in rejecting the right of the proponents of California's Proposition 8 to appeal the invalidation of that provision in federal court.
- *Kiobel v. Royal Dutch Petroleum* — Co-authored two amicus briefs arguing that the Alien Tort Statute does not recognize claims against corporations, and that the Statute also does not recognize claims for conduct occurring within the territory of a foreign sovereign.
- *Nat'l Federation of Independent Business v. Sebelius* — Co-authored amicus brief on behalf of the Chamber of Commerce of the United States of America, arguing that if the "individual mandate" in the Patient Protection and Affordable Care Act is invalidated as unconstitutional, then the Act should be invalidated in its entirety, because the mandate is non-severable from the remainder of the Act.

Representative State and Federal Appellate Court Matters

- *Flo & Eddie v. Sirius XM* — Co-authored merits briefs leading to landmark rulings in the New York Court of Appeals and Florida Supreme Court concerning the scope of common-law copyright protection for pre-1972 sound recordings.
- *KeySpan Gas East Corp. v. Century Indemnity Co.* — Co-authored successful merits briefs in New York Court of Appeals resulting in a precedent-setting decision rejecting policyholders' position insurers are liable for the cost of remediating environmental contamination that occurred when insurance was "unavailable" in the market.
- *Century Indemnity Corp. v. Global Reinsurance* — Co-authored merits briefs in successful effort to convince New York Court of Appeals to alter its precedent concerning the interpretation of reinsurance contracts.
- *Pacific Alliance Asia Opportunity Fund L.P. v. Kwok Ho Wan* — Successfully briefed and argued matter in New York's Appellate Division (First Department) concerning novel forum non conveniens issue.
- *Santomenno v. Transamerica Life Insurance Company* — Co-authored merits briefs convincing the Ninth Circuit to reverse district court's denial of motion to dismiss class action ERISA complaint.
- *Finerty v. Ford Motor Co.* — Authored merits briefs and successfully argued case holding that parent corporation cannot be held liable in strict products liability for products manufactured and sold by its subsidiary, even if the parent influenced the subsidiary's design and marketing of the allegedly defective product
- *Balintulo v. Ford Motor Co.* — Co-authored trial court and appellate briefs in successful effort to dismiss class-action complaint seeking to hold Ford and a co-defendant liable for aiding and abetting the South African apartheid government's human-rights abuses
- *United States v. Grimm* — Co-authored post-trial motions and appellate briefs in successful statute-of-limitations challenge to criminal conspiracy convictions in the Second Circuit.
- *Verizon v. FCC* — Co-authored merits brief in successful challenge to the FCC's recent "net neutrality" order in the DC Circuit.
- *Sarei v. Rio Tinto* — Co-authored appellate briefs and petition for certiorari resulting in the complete dismissal of decade-old Alien Tort Statute litigation.
- *Dennison v. MONY Life Retirement Income Security Plan* — Co-authored trial and appellate briefs resulting in dismissal of class action seeking ERISA benefits under a retirement plan's anti-cutback provision.
- *Rothstein v. UBS* — Co-authored merits brief in precedent-setting Second Circuit appeal concerning standing under the Anti-Terrorism Act.
- *Stuart v. Huff* — Co-authored the merits brief in successful First Amendment challenge before Fourth Circuit to a North Carolina ultrasound regulation, and authored merits brief and argued interlocutory appeal concerning the rights of interested parties to intervene on the side of a state Attorney General in cases challenging the constitutionality of a state statute.
- *In re Prudential Retirement Insurance And Annuity Company* — Co-authored the successful petition for a writ of mandamus in appeal to Seventh Circuit requesting extraordinary mandamus relief to reverse a district court order requiring disclosure of sensitive documents over which Prudential had asserted a claim of privilege.

- *In re Air Cargo Shipping Services Antitrust Litigation* — Co-authored successful briefs in long-running antitrust litigation in which Second Circuit affirmed the dismissal of all state law claims on the grounds those claims are preempted by the Airline Deregulation Act.
- *In re DPH Holdings Corp.* — Co-authored successful briefs before the Second Circuit in appeal arising out of the Delphi Corporation's 2005 bankruptcy.
- *People of the State of New York v. Greenberg* — Co-authored amicus brief in the New York Court of Appeals in an important case concerning the scope of New York's Martin Act, and whether the Attorney General's action to collect private damages under that Act is preempted by federal law.

Professional Activities

Clerkships

- Honorable John G. Roberts, Jr., US Supreme Court
- Honorable Merrick Garland, US Court of Appeals, District of Columbia Circuit

Author

- "Common Strategies in Petitions for Leave To Appeal," (co-author Jennifer Sokoler) *New York Law Journal* (2017)
- "The Alien Tort Statute, Separation of Powers, and the Limits of Federal-Common-Law Causes of Action," *Columbia Journal of Transnational Law* (2013)
- "Commentary: What's Left of the Alien Tort Statute," SCOTUSBlog (April 2013)
- "The Alien Tort Statute, Federal Common Law, and Corporate Human Rights Litigation," *Georgetown Journal of International Law* (November 2012)
- "Indirect Purchaser Standing In Federal Court: Take 2" (co-authors Ken O'Rourke and Mark Davies), *Law360* (October 12, 2009)
- Note, "How Clear is Clear in Chevron's Step One?" 118 *Harv. L. Rev.* 1687 (2005)

Recent Panels

- "*The Ramifications of Lucia v. SEC*," National Association of Women's Judges Annual Conference (October 2018)
- Supreme Court Roundup, Center for Constitutional Governance at Columbia Law School (October 2018)

Honors & Awards

- Recognized by *The American Lawyer* as a "Litigator of the Week" (2019)
- US Supreme Court victory for China Agritech named a National Impact Case by *Benchmark Litigation California* (2019)
- Recognized by the *National Law Journal* as a Litigation "Trailblazer" (2018)
- Recommended by *The Legal 500* in "Dispute resolution: Appellate: Supreme Court (federal and state)" category (2017-2019)
- Recognized by *Law360* as an Appellate "Rising Star" in 2013

Languages

- Russian