



Jane Metcalf

Partner

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Jane Metcalf is a Partner in the firm's Litigation department. Her practice focuses on complex commercial litigation, with an emphasis on class action defense, advertising disputes, unfair competition, and data privacy and security. Jane's diverse client base includes cutting-edge financial technology firms; Fortune 500 companies in the pharmaceutical, food and beverage, and home care industries; financial services firms; and national retailers. While her primary focus is advertising litigation and class action defense, she has a broad range of experience in complex commercial litigation. She has represented clients in civil enforcement proceedings and commercial disputes throughout the United States, and her trial experience includes serving as lead trial counsel to a multinational consumer goods company in a breach of contract dispute with a vendor.

Jane is nationally ranked in *Chambers USA* in the area of Advertising Litigation, and *The Legal 500* has named her a national "Leading Partner" in that area. Clients appreciate Jane's pragmatism, strategic creativity, and excellent client service; they describe her as "excellent and always quick to respond," and "extremely easy to work with" and have stated that she "comes up with great strategy and is an excellent writer." Prior to joining Patterson Belknap, Jane clerked for the Hon. Paul G. Gardephe of the United States District Court for the Southern District of New York and the Hon. Raymond J. Lohier, Jr. of the United States Court of Appeals for the Second Circuit. She is a *magna cum laude* graduate of the University of Michigan Law School.

Select Representative Matters

Class Action Defense

Jane has served as lead defense counsel in numerous class actions, an area where she deploys creative solutions and has amassed a record of outstanding results. Clients turn to her to defend class actions touching on topics that range from cybersecurity to food ingredients to recyclability. Select representative matters include:

- Representing a top financial technology company in a consumer class action relating to cybersecurity and prepaid card security issues. On behalf of that client, Jane and her team obtained an early award of summary judgment based on the named plaintiff's testimony, and then successfully moved for a six-figure sanctions award based on the plaintiffs' lawyers' failure to investigate their claims. Jane also successfully represented a national pharmacy chain in a consumer class action relating to prepaid card security, obtaining dismissal of most claims at the pleading stage, followed by swift summary judgment on the remaining claim based on the named plaintiff's testimony.
- Represented a national financial institution in a consumer class action alleging that payment cards did not function as advertised. There, she obtained an early dismissal with prejudice along with an award of sanctions for the plaintiffs' failure to preserve relevant discovery.
- Represented a leading beverage company in a consumer class action alleging misleading advertising of its world-famous zero-calorie soft drink. Obtained dismissal of the complaint at the pleading stage, then successfully argued the plaintiff's

appeal to the Second Circuit, resulting in a precedential opinion regarding the “reasonable consumer” standard for consumer fraud claims.

- Represented a top confectionery company in class actions relating to “slack fill” and food ingredients. Obtained summary judgment in both cases based on the named plaintiffs’ testimony.
- Represented a home care and consumer products company in a class action relating to the efficacy of water filters at removing contaminants from tap water. There, Jane and her colleagues obtained dismissal of all claims at the pleading stage.
- Representing a leading bottled water brand in a purported class action, challenging claims of recyclability.

Advertising and Unfair Competition

Jane also represents Fortune 500 clients in advertising and unfair-competition disputes with competitors. Her experience in this realm, on behalf of both plaintiffs and defendants, includes Lanham Act litigation, unfair competition suits under state law, and disputes before the National Advertising Division and National Advertising Review Board (NAD/NARB). Jane is also skilled at negotiating and defusing competitor disputes at the pre-litigation stage. Select representative matters include:

- Successfully defended a health care benefit technology company against competitor claims of defamation, tortious interference, and unfair competition under Florida law. Defeated application for a preliminary injunction and achieved rapid stipulation of dismissal of all claims.
- Successfully defended a leading beverage company against nonprofit organization’s and religious leaders’ claims that the company had misled District of Columbia consumers about the sugar content of its products, leading to adverse health consequences.
- Represented a home care products company in its pursuit of Lanham Act suit against chief competitor, alleging misleading advertising of numerous products. Jane and her colleagues defeated the plaintiff’s motion to dismiss, successfully arguing for the viability of Lanham Act claims based on misleading comparison. The case culminated in a satisfactory settlement.
- Defended a leading beverage company in the NAD/NARB against competitor’s challenge to marketing claims on sports drinks. After NAD’s initial unfavorable decision, Jane successfully argued the appeal before the NARB and obtained a full reversal, vindicating the truth and accuracy of her client’s claims.
- Represented a leading home care products company in challenging competitor advertising at the NAD, prompting the competitor’s agreement to discontinue all claims.
- Currently representing a financial technology company in putative consumer protection suit by the San Francisco City Attorney’s Office alleging vulnerability of payment cards to third-party fraud.
- Currently representing a leading pharmaceutical and healthcare products company in a trade dress and trademark infringement suit against a competitor in federal court in Minnesota. Successfully argued and defeated motion for judgment on the pleadings.

Complex Commercial Litigation

Jane also maintains a diverse commercial litigation practice beyond the class action and unfair competition spaces. Jane has represented clients in employment and contract disputes from the pre-litigation stage through trial, and has also defended clients in civil enforcement proceedings by state attorneys general. Select representative matters include:

- Currently representing a financial technology company in a False Claims Act case seeking to expand the reach of Delaware escheat law. In that case, Jane and her team obtained a ruling disqualifying the relator’s lead counsel after uncovering his improper appropriation and review of privileged documents.
- Represented a technology company in an employment matter involving threatened claims of retaliation by a terminated executive, culminating in resolution.
- Representing a technology company in Section 1983 suit in Georgia federal court alleging constitutional violations and defamation by municipal government actors.
- Served as first-chair trial counsel to a leading beverage manufacturer in a breach of contract arbitration with a construction vendor, defeating primary damages claims.

- Represented an elite financial services firm in arbitration of defamation claim brought by former employee.

Admissions

- U.S. Courts of Appeals, Second Circuit; Fifth Circuit; Ninth Circuit; Federal Circuit
- U.S. District Court, Southern and Eastern Districts of New York
- New York

Professional Activities

SPEAKING ENGAGEMENTS:

- Speaker, "AI Ethics for CPG Attorneys," Consumer Brand Association's CPG Legal Forum (February 26, 2025)
- Speaker, "Crisis De Jure: Ethical Considerations for In-House Counsel in Product Recall Situations" and "Playground or Battleground: Examining Jurisdictional Trends in CPG Litigation," CPG Consumer Brands Legal Forum (February 27, 2024)
- Moderator, "False Advertising and Lanham Act Litigation Round Up," CPG Consumer Brands Legal Forum (February 24, 2023)

Education

- University of Michigan Law School (J.D., *magna cum laude*)
 - Order of the Coif
 - Clarence Darrow Scholar
 - Associate Editor, *Michigan Journal of Race & Law*
- Yale University (B.A., *magna cum laude*)
 - Phi Beta Kappa