



Jonah M. Knobler

Partner

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Jonah M. Knobler practices in the firm's Litigation department. His practice centers on class action defense, false advertising litigation, copyright/trademark litigation, and food-and-drug litigation. He also handles appeals in numerous subject areas.

Mr. Knobler has well over a decade of experience representing manufacturers from a wide range of industries in high-stakes false advertising, consumer protection, civil RICO, and product liability suits. In particular, his practice has given him a keen understanding of FDA-regulated products and the surrounding regulatory landscape. He frequently litigates and publishes on cutting-edge legal topics of interest to these industries, such as standing, preemption, class certification, damages models, innovator liability, and commercial free speech. He also founded and co-edits the firm's false advertising blog, *Misbranded*.

In the IP arena, Mr. Knobler has litigated and settled numerous claims of copyright infringement, trademark infringement, and counterfeiting. He has represented major media companies, consumer product manufacturers, not-for-profits, and individual artists. Mr. Knobler published one of the first major articles analyzing the copyright implications of Internet streaming and downloading, which has been cited in *Nimmer on Copyright*, the *Oxford Handbook of Mobile Music Studies*, and U.S. Supreme Court briefing.

Mr. Knobler has also handled high-value appeals across a range of subject areas, from false advertising to product liability to civil RICO to insurance law. He has briefed and/or argued appeals in both the state and federal systems, including in the U.S. Supreme Court and most federal Courts of Appeals.

Mr. Knobler's professional awards and honors include being named a "Rising Star" by the *New York Law Journal*, a "Future Star" by *Benchmark Litigation*, a "Defender of Democracy" by Common Cause, and one of the "Best LGBT Lawyers under 40" by the National LGBT Bar.

Mr. Knobler's active *pro bono* practice focuses on voting rights and LGBTQ+ rights. He was among the respondents' merits counsel in the U.S. Supreme Court in *Rucho v. Common Cause*, and he continues to litigate issues concerning gerrymandering and redistricting.

From 2009 to 2010, Mr. Knobler served as a law clerk to the Honorable Danny J. Boggs of the U.S. Court of Appeals for the Sixth Circuit. From 2008 to 2009, Mr. Knobler served as a law clerk to the Honorable Frederic Block of the U.S. District Court for the Eastern District of New York. In 2004, Mr. Knobler held a McCleary Law Fellowship at the Human Rights Campaign.

Representative Matters

Food, Drug, and Cosmetic Litigation

- Represented a global pharmaceutical company in a putative civil RICO class action asserting false advertising and off-label marketing of a prescription medicine, which followed the manufacturer's guilty plea and settlement with the Department of Justice. Obtained dismissal of all civil claims and complete affirmance on appeal, in a decision named among the year's most important by *Drug and Device Law*.
- Represented a global pharmaceutical company in proceedings before a state supreme court in a product liability case brought by a patient who took a generic version of the client's drug. Persuaded the court to reject the "innovator liability" doctrine and hold that name-brand manufacturers cannot be held liable by consumers of generic analogues.
- Represented a major dietary supplement manufacturer in a putative consumer class action asserting false advertising and consumer protection claims regarding a patented vitamin supplement. Defeated class certification, largely by persuading the court that the plaintiffs' "hedonic regression" and "contingent valuation" damages models were flawed. Successfully opposed interlocutory appeal, then obtained summary judgment for client on all claims.
- Successfully handled the appeal of a cosmetics company whose flagship product had been enjoined nationwide for purported violations of the FDCA and parallel state law. Obtained an appellate ruling on novel Commerce Clause grounds narrowing the lower court's injunction to just one state, permitting the client to continue selling its product in the other 49.
- Represented a major confectionery company in a putative consumer class action asserting an obligation to disclose certain labor practices in the client's overseas supply chain. Moved to dismiss on various grounds, including lack of duty and commercial free speech. Obtained dismissal of all claims and successfully defended the judgment on appeal.
- Defended a major pet food manufacturer against Lanham Act false advertising claims asserted by a competitor, and against several copycat consumer class actions. Simultaneously litigated false advertising counterclaims against that competitor and novel third-party claims against the competitor's advertising agencies. Successfully defended a favorable class settlement of the consumer claims from the attacks of professional objectors, and obtained affirmance of the settlement on appeal.
- Represented a global beverage manufacturer in a putative consumer class action alleging failure to disclose added flavorings and consequent violations of FDCA standards of identity and state consumer protection laws. Persuaded the court to reject the plaintiffs' damages models and deny certification of a damages class, resulting in favorable pretrial resolution.
- Obtained favorable resolution prior to the class certification stage of putative food class actions involving "natural" claims, nutrient content claims, non-functional slack fill, and other asserted instances of mislabeling and misbranding.

Copyright and Trademark

- Represented a major news and financial information company in a copyright dispute against a commercial "news clipping" service that had crawled, reproduced, and distributed the client's articles without authorization. Obtained a substantial pre-litigation settlement on behalf of client.
- Represented a major international news and financial information company in a copyright and "hot news" misappropriation suit against a financial news aggregator. Obtained an injunction and multi-million-dollar judgment on behalf of client.
- Represented an award-winning photographer and documentarist in copyright claims against various individuals and entities that reproduced the client's work on the Internet without authorization.
- Represented a major consumer product manufacturer in trademark litigation against dozens of parties who produced and/or sold counterfeit versions of the client's product. Obtained a precedent-setting \$20 million judgment against the counterfeiters and favorable settlements from numerous wholesalers who had trafficked in the counterfeits.

Pro Bono

- Served as co-counsel to the plaintiffs (a nonpartisan organization, a state political party, and 15 North Carolina voters) in *Rucho v. Common Cause*, a lawsuit before the U.S. Supreme Court challenging North Carolina's congressional map as an unconstitutional partisan gerrymander. Served as lead drafter of plaintiffs' briefs and motions in the Supreme Court.
- Prepared and filed *amicus* briefs in the U.S. Supreme Court on behalf of nonprofits, cities and counties, officeholders, and private individuals in cases including *Bostock v. Clayton County* and *Harris Funeral Homes v. EEOC* (application of Title

VII to LGBT employees); *Obergefell v. Hodges* (marriage equality); *Gloucester County School Board v. G.G.* (trans students' rights); *Gill v. Whitford* (partisan gerrymandering); and *Evenwel v. Abbott* (one person one vote).

- Serving as counsel for *amicus* InterACT: Advocates for Intersex Youth in *Zzyym v. Pompeo*, a case now on appeal to the U.S. Court of Appeals for the Tenth Circuit challenging the State Department's refusal to grant passports to people who identify as intersex.
- Represented a national disability rights group and several state disability rights groups in litigation before the U.S. Court of Appeals for the Second Circuit seeking relief for two individuals with intellectual disabilities who had been denied the right to live together as a married couple.

Admissions

- U.S. Supreme Court
- U.S. Court of Appeals for the First, Second, Fourth, Sixth, Seventh, Eighth, Ninth, Tenth, and Federal Circuits
- U.S. District Court, Southern and Eastern Districts of New York
- New York

Languages

- Spanish

Professional Activities

HONORS:

- *Benchmark Litigation* Future Star (2023)
- *Premier Appellate Lawyers* (2021)
- *Benchmark Litigation* Under 40 Hotlist (2017, 2018, 2019, 2020, 2021)
- *Super Lawyers* Rising Star (2013, 2014, 2015, 2016, 2017, 2018, 2019)
- Common Cause Defender of Democracy (2019)
- *New York Law Journal* Rising Star (2019)
- National LGBT Bar Association Best LGBT Lawyers Under 40 (2018)

Publications

- "[The Supreme Court is At War With Itself On Extraterritoriality](#)," *Law360* (July 17, 2023)
- "[Courts Are Right To Limit Disclosure Requirements For Cos.](#)," *Law360* (September 1, 2020)
- "[How High Court TM Profits Ruling Bears On False Advertising](#)," *Law360* (May 1, 2020)
- "[INSIGHT: Don't Expect High Court's Romag Ruling to Upend Trademark Litigation](#)," *Bloomberg Law* (May 1, 2020)
- "[Paint It Black: The Ninth Circuit OKs RICO Liability For Failure To Warn About Drug Safety Risks](#)," *Drug and Device Law Blog* (December 12, 2019)
- "[Merck v. Albrecht: Victories, Uncertainties & Opportunities From Supreme Court's Return to Branded-Drug Preemption](#)," *Washington Legal Foundation* (June 28, 2019)
- "[NY's Legislature Should Fix Runaway Consumer Class Action Damages—Not Make Them Worse](#)," *New York Law Journal* (May 17, 2019)
- Co-Author, "[Frank v. Gaos: Cy Pres Gets Its Day at the Supreme Court](#)," *Bloomberg Law* (June 8, 2018)
- "[Seventh Circuit Issues Strong Endorsement of Learned Intermediary Doctrine in Medical-Device MDL](#)," *Washington Legal Foundation* (April 2018)

- "City Select v. BMW: Ascertainability Is Alive And Well In The Third Circuit," Bloomberg BNA's *Class Action Litigation Report* (September 2017)
- "Petrobras Renounces 2nd Circ. 'Preference' For Class Cert.," *Law360* (July 2017)
- "Petrobras Does Little To Clarify Class Ascertainability," *Law360* (July 2017)
- "Town Of Chester: An Answer On Class-Member Standing?," *Law360* (June 2017)
- "Tyson Foods: Victory in Defeat for Class-Action Defendants?," Bloomberg BNA's *Class Action Litigation Report* (April 2016)
- "Class Actions in the Second Circuit: Do Plaintiffs Have Unfair Advantage?," *New York Law Journal* (March 2015)
- "Public Performance Rights in Music Downloads: United States v. ASCAP and Beyond," *Journal of Internet Law* (June 2008)
- "Performance Anxiety: The Internet and Copyright's Vanishing Performance/Distribution Distinction," *Cardozo Arts & Entertainment Law Journal* (December 2007)

Education

- Harvard Law School (J.D., *cum laude*, 2006)
- Harvard University (B.A., *cum laude*, 2003)
 - Phi Beta Kappa