



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; and food-and-drug law.

Mr. Knobler has over a decade of experience representing global and national pharmaceutical, food, beverage, cosmetic, and dietary supplement manufacturers in high-stakes false advertising, consumer protection, civil RICO, and product liability suits. His practice has given him a keen understanding of FDA-regulated industries 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. Mr. Knobler has also handled key appeals in both the state and federal systems, including in the U.S. Supreme Court and most federal Courts of Appeals. His active *pro bono* practice presently focuses on voting rights and LGBT rights.

Recently, Mr. Knobler was named to the National LGBT Bar Association's 2018 "Best LGBT Lawyers Under 40," which recognizes 40 LGBT legal professionals "who have distinguished themselves in their field and have demonstrated a profound commitment to LGBT equality." He was also named to *Benchmark Litigation's* 2017 and 2018 "Under 40 Hotlist," which recognizes "practitioners ... aged 40 or younger [who] have been deemed the most promising emerging talent in their respective litigation communities ... by peers and clients."

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.

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- 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 major dietary supplement manufacturer in litigation against dozens of parties who produced and/or sold counterfeit versions of the client's product. Obtained a precedent-setting \$20 million summary judgment award against the counterfeiters and favorable settlements from numerous wholesalers who had trafficked in the counterfeits. The litigation resulted in criminal prosecution and conviction of the central defendants under conspiracy and anti-counterfeiting laws.
- 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.

Pro Bono and Public Interest

- Currently representing 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. At the trial level, obtained the first-ever ruling by a federal court striking down a state's congressional plan on this basis.
- Prepared and filed *amicus* briefs in the U.S. Supreme Court and the U.S. Courts of Appeals on behalf of nonprofits, cities and counties, officeholders, and private individuals in major cases including *Obergefell v. Hodges* (marriage equality); *Gloucester County School Board v. G.G.* (trans students' rights); *Gill v. Whitford* (partisan gerrymandering); and *Evenwel v. Abbott* (consideration of noncitizens in redistricting).
- 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.
- Successfully represented a local television station in litigation against the City of New York and the NYPD seeking access to police body-camera footage under the New York Freedom of Information Law.

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Education

- Harvard Law School (J.D., *cum laude*, 2006)
 - Nathan Burkan Prize for Copyright Law (American Society of Composers, Authors and Publishers)
 - *Harvard Civil Rights - Civil Liberties Law Review*
- Harvard University (B.A., *cum laude*, 2003)
 - Phi Beta Kappa

Admissions

- U.S. Supreme Court
- U.S. Court of Appeals for the 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:

- National LGBT Bar Association's 2018 "Best LGBT Lawyers Under 40"
- *Benchmark Litigation's* 2017 "Under 40 Hotlist"

Publications

- 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)

In the Media

- "[Justices' Doubts In Google Row Fuel Legal Aid Worries](#)," *Law360* (November 4, 2018)
- "[Charities Could Be Out \\$5.3M if SCOTUS Rejects Google Deal](#)," *Bloomberg Law* (October 2019)
- "[DOJ Opposes Another Class Deal, Another Court Ignores It](#)," *Bloomberg Law* (August 2018)
- "[Free Speech Food Fights on the Rise](#)," *Bloomberg BNA's Product Safety & Liability Reporter* (May 2018)
- "[DOJ's Mixed Result in Class Case Still a Win for Business](#)," *Bloomberg Big Law Business* (April 2018)
- "[\\$3B Petrobras Accord To Fuel More Shareholder Class Actions](#)," *Law360*(January 2018)
- "[Big Fights Ahead Over Where Class Actions Can Be Filed](#)," *Bloomberg Big Law Business* (December 2017)
- "[Posner Leaves 'Enormous Imprint' on Class Actions](#)," *Litigation on Bloomberg Law* (September 2017)

Misbranded Blog

Misbranded is Patterson Belknap's blog covering false advertising litigation—both consumer class actions and competitor suits—with a particular focus on FDA-regulated products (foods/beverages, pharmaceuticals, cosmetics, and dietary supplements). Writing from the industry perspective, we provide timely updates on important cases, surveys of litigation trends, and in-depth analyses of “hot” legal issues. Our firm pioneered the modern practice of false advertising law more than 40 years ago, bringing the first competitor suits under the Lanham Act. In the decades since, we have continued to practice at the cutting edge, handling many of the field's most groundbreaking cases on behalf of the nation's best-known businesses. Today, led by [Steven A. Zalesin](#), our team advocates creatively, strategically, and efficiently on behalf of our clients at all phases of litigation, from pre-complaint demands to Supreme Court appeals.

All's Not Well(er) in Pennsylvania: Court Sanctions Defendant For Contact With Putative Class Members

March 7, 2019

There is nothing inherently wrong with outreach to putative members of an uncertified class—whether by the named plaintiff's counsel or by the defendant's counsel. As the ABA has recognized, “[b]oth plaintiffs’ counsel and defense counsel have legitimate need to reach...

Court Hits “Dislike” On Social-Media Advertising Class Action

March 5, 2019

The rise of social media has redefined advertising, giving businesses exciting new ways to reach consumers and deliver their messages. To no one's surprise, it has also provided new fodder for advertising class actions. However, as one plaintiff recently learned...

Class Damages Models After Comcast: Rigorous Proof or Expert's Promise?

March 4, 2019

In *Comcast v. Behrend*, 569 U.S. 27 (2013), the Supreme Court held that a plaintiff cannot obtain class certification with an inadequate damages model. In the years since, courts have diverged over how much a plaintiff must do to satisfy...

Conjoint Analysis: No Silver Bullet for Calculating Class-Wide Damages

March 1, 2019

Over the last few years, “conjoint analysis” has become the methodology du jour for false advertising plaintiffs seeking to demonstrate they can calculate class-wide damages. Conjoint analysis is so named because it is used to study the joint effects of...

Compelled Product Disclosures After *NIFLA* – First Impressions

February 27, 2019

This is an exciting time for manufacturers on guard against compelled disclosures in their product labeling or advertising. Late last June, the Supreme Court decided *National Institute of Family & Life Advocates v. Becerra*, 138 S. Ct. 2361 (2018) (“NIFLA”),...

Do “Reasonable Consumers” Read The Ingredient List?

February 22, 2019

By law, packaged foods and beverages must bear an accurate list of their ingredients “in descending order of predominance by weight.” 21 C.F.R. § 101.4. Consumers routinely sue food and beverage companies alleging that they were misled about the presence...

When You’re A False Advertiser, But It’s Someone Else’s Fault

Contribution and Indemnity Under The Lanham Act

February 21, 2019

Many statutes, including the Lanham Act, impose strict liability for false advertising. Business may therefore incur liability even if a third party was partially or wholly at fault for the challenged inaccuracy. For example, a cosmetics company that advertises its...