



## Jonathan D. Brightbill

Partner

Chair, Environmental Litigation and Enforcement Practice

Washington, DC

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An experienced trial and appellate lawyer, Jon was the nation's lead environmental law enforcement official as Acting Assistant Attorney General at the United States Department of Justice. He is uniquely positioned to represent clients in government enforcement and investigations, regulatory challenges and counseling, and complex civil litigation including "greenwashing" class actions, citizen suits, and CERCLA allocation. Jon is a national leader on legal issues relating to energy, climate change, environmental disclosure, and "green" advertising.

Jon represents public and private companies, corporate officers, and other individuals across white collar, regulatory defense, and government and internal investigation matters, rulemaking challenges and administrative litigation, and complex commercial disputes, citizen suits, class actions, and environmental torts. His commercial litigation experience encompasses business disputes, false and deceptive advertising, consumer protection and fraud, securities and disclosure litigation, and False Claims Act matters. He also has significant experience in antitrust and unfair competition matters, as well as intellectual property litigation involving trademarks, patents, and trade secrets.

**Jon served as the nation's lead environmental civil and criminal enforcement official and litigator** as Acting Assistant Attorney General for the Environment & Natural Resources Division (ENRD) of the U.S. Department of Justice (DOJ). Jon led ENRD's 425 lawyers, overseeing 6,500 active matters and managing an annual budget of more than US\$150M. Jon brings rare insight from the most senior levels of DOJ on white collar and regulatory enforcement, as well as on federal policymaking and rulemaking development and challenges. He speaks from experience on government decision-making processes and the arguments and perspectives that move government regulators and enforcers, best advising and positioning clients to respond to challenges.

**Jon is an experienced trial and appellate lawyer**, having spent years litigating and arguing many of the federal government's most environmental and natural resource-related cases in the district courts and courts of appeals during his time with the DOJ. He also litigates cases before the U.S. Supreme Court. Jon represents public and private companies and trade associations across a range of issues. At the D.C. Circuit, Jon argued the much-publicized *West Virginia v. EPA* case, *sub nom.*, and the Major Questions Doctrine, which the Supreme Court later recognized and established as national law. Additional notable cases included Navigable Waters Protection Rule and Clean Water Rule Repeal (10th Cir., district courts), the Affordable Clean Energy Rule (D.C. Cir.), defense of Environmental Protection Agency (EPA) actions on tolerances under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), the Toxic Substances Control Act (TSCA), and the Federal Food, Drug, and Cosmetic Act (FDCA) (9th Cir. *en banc*), among numerous others. Jon represented the United States in trial courts in both enforcement and defensive cases, including the federal enforcement action against Jeffrey Lowe and the Tiger King Park—of Netflix fame—securing a first-of-its-kind injunction for violations of the Endangered Species Act and Animal Welfare Act.

**Jon is a national leader in environmental and “greenwashing” litigation and ESG matters.** He defends clients in complex civil litigation, class actions, consumer deception, and public interest group suits, particularly regarding alleged environmental violations, the presence (or absence) of environmental contaminants or chemical constituents in products or food, sustainability, and other related claims. Jon counsels clients and corporate boards on ESG disclosure, climate, and sustainability, and helps them navigate and respond to public and shareholder interests.

**Jon litigates environmental, natural resource, and energy cases nationwide** and responds to government enforcement and investigations, covering all the major environmental and natural resources statutes, such as the Clean Air Act, the Clean Water Act, FIFRA (pesticides), FDCA (food safety), TSCA (toxics), CERCLA (land remediation), RCRA (waste), Natural Gas Act, Federal Power Act, Outer Continental Shelf Lands Act, Occupational Health and Safety Act, National Environmental Policy Act, Endangered Species Act, Migratory Bird Treaty Act, Marine Mammal Protection Act and Dolphin Protection Consumer Information Act, Federal Land Policy and Management Act, and numerous other land and resource management statutes. This included dozens of complex, multiparty CERCLA cost allocation cases, reflecting novel statutory and other interpretative issues litigated to the U.S. Supreme Court. His practice also includes litigation before administrative agencies, including EPA, FERC, and DOE.

Jon has unmatched experience litigating legal and technical issues relating to climate change. He argued in the courts of appeals—including the D.C. Circuit—regarding the most significant climate change regulations by EPA, as well as the preemptive scope of the Clean Air Act. Jon also litigated climate change-related credit and trading schemes and international agreements in district court. During Jon's time in leadership at ENRD, it successfully defeated one of the most wide-ranging lawsuits regarding climate change to date, obtaining a stay pending interlocutory appeal and dismissal just weeks before a scheduled three-month trial on federal government liability for climate change. In addition, Jon adds years of experience litigating false-advertising, consumer fraud, and financial-disclosures issues to effectively counsel clients on climate-related financial risk, ESG disclosures, and “green”-advertising issues.

While serving at the DOJ, Jon served with a U.S. delegation to China. There, he met with Chinese environmental enforcement officials, met leading judges on China's environmental court, and attended and taught seminars at the Chinese National Prosecutors College in Zhengzhou, PRC. A focus of the trip's meetings and seminars included comparative aspects of United States and Chinese law and evolving practices and standards in the enforcement of Chinese environmental law.

A successful trial lawyer prior to working at DOJ, Jon was a partner in the Washington, D.C. office of another global law firm. He not only represents clients in court but creatively counsels corporations on balancing business needs and realities with a broad range of litigation risks and compliance obligations.

Jon was an appellate clerk for the Honorable D. Brooks Smith, U.S. Court of Appeals for the Third Circuit. He worked in state government as an executive policy specialist for air, waste, land remediation, and radiation matters at the Pennsylvania Department of Environmental Protection.

## Key Matters

*Some of the experience represented below may have been handled at a previous firm.*

### LITIGATION

- Representing a major national trade association in a case challenging a regulatory ruling relating to energy production by the U.S. Department of Homeland Security, currently on appeal to the Fifth Circuit Court of Appeals after winning before the district court
- Successfully represented an LNG export company in petition for review challenging a regulatory action by the U.S. Department of Energy, including oral argument before the D.C. Circuit
- Represented a large retailer in a putative class action regarding sustainability advertising, obtaining dismissal of major claims
- Represented a national cruise line operator in a petition for review challenging a regulatory action by the U.S. Department of Transportation, including oral argument before the Second Circuit Court of Appeals
- Led the criminal and civil environmental enforcement of the United States at the U.S. Department of Justice, including review and approval of complaints, indictments, plea agreements, and civil settlements and consent decrees
- Trial and appellate counsel for clients across the federal district and appellate courts and the U.S. Supreme Court on cases covering all major environmental, natural resource, and energy statutes, including the Clean Air Act, Clean Water Act, CERCLA (land remediation), RCRA (waste), TSCA (toxic chemicals), FIFRA (pesticides), FDCA (food safety), Endangered Species Act, Outer Continental Shelf Lands Act, Natural Gas Act (FERC, DOE), Federal Power Act (FERC), Migratory Bird Treaty Act, Marine Mammal Protection and Dolphin Protection Consumer Information Acts, NEPA, Occupational Health and Safety Act, Lacey Act, and others
- Leads client response to criminal, civil, and administrative enforcement and congressional investigations, as well as internal investigations
- Defends clients in “greenwashing,” sustainability, and other ESG and consumer deception class-action and public interest lawsuits, successfully defeating numerous class actions on motions to dismiss, motions for summary judgment, and denial of class certification, or by inducing case abandonment
- Trial counsel for clients in property-taking, eminent domain, and related litigation, including the Helms–Burton Act
- Trial and appellate counsel in maritime and related regulatory litigation, including Jones Act disputes related to the U.S. Department of Transportation Maritime Administration, the U.S. Department of Homeland Security’s Customs and Border Patrol and Coast Guard agencies
- Trial counsel for clients in Endangered Species Act and public nuisance litigation
- Argues cutting-edge administrative, environmental, energy, and other legal issues in the appellate and district courts, including Affordable Clean Energy Rule and Clean Power Plan (D.C. Cir.), Navigable Waters Protection Rule and Clean Water Rule (10th Cir., district courts), FIFRA pesticide tolerances (9th Cir., *en banc*), FIFRA state law

preemption (9th Cir.), Section 303 Water Quality Standards (9th Cir.), CAA preemption of climate tort claims (9th Cir.), CAA RMP amendments (D.C. Cir.), and Endangered Species Act enforcement (E.D. Okla.)

- Trial counsel in complex, multiparty CERCLA cases concerning hundreds of millions of dollars in cost allocation, and cases raising novel statutory and other interpretive issues that reached the U.S. Supreme Court
- Led petitions for review and appellate practices at the ENRD, setting case strategy, coauthoring briefing, and mooted and overseeing arguments for scores of cases to all of the nation's federal appellate courts, as well as merits, certiorari, and other briefs to the U.S. Supreme Court
- Achieved many civil litigation successes, including a jury verdict and multimillion dollar recovery in a five-week false advertising and unfair competition trial; approval of a US\$21.7B contested restructuring after a two-month bankruptcy trial; a US\$45M jury verdict in a patent infringement case; summary judgment in an international antitrust class action MDL for putative price fixing; a preliminary injunction after an evidentiary hearing on false advertising claims in the telecommunications sector; and a preliminary injunction leading to the repeal of unlawful environmental regulations
- Represented major commercial clients in the telecommunications, health care and nutrition, pharmaceutical, consumer products and retail, financial services, Internet, crypto, and automotive industries
- Defended dozens of large, high-stakes, complex class actions and MDL cases, including cases regarding PFAS chemical substances
- Litigated advertising, consumer fraud, and unfair trade and deception cases before district courts, the National Advertising Division (NAD), and National Advertising Review Board (NARB)
- Counseled clients in white collar and government investigations—including those relating to the FCPA, FCA, antitrust, and unfair competition—and before the Federal Trade Commission and state attorneys general
- Litigated on behalf of debtors and creditors in multibillion dollar bankruptcy and restructuring litigation and adversary proceedings, including disputes relating to commercial lending and corporate governance
- Represented the U.S. in litigation pursuing preemption of California, Maryland, Washington, and other state laws relating to pollution nuisance under the Clean Air Act, including oral argument before the Ninth Circuit Court of Appeals
- Represented major automakers in preemption litigation against the State of California, State of Vermont, and other states regarding the preemption of carbon dioxide emission regulations
- Represented major automakers in preemption litigation against the State of California regarding the preemption of their Zero Emission Vehicle mandate

# Recognitions

- *Lawdragon*
    - Recognized in the “500 Leading Global Litigators” guide for International Litigation & Investigations (2024)
    - Recognized in “The Green 500: The Leading Environmental Lawyers” guide for Environmental Enforcement and Litigation (2024–2025)
    - Recognized in the “500 Leading Litigators in America” guide for Complex Commercial Litigation, White Collar (Environmental Litigation & Regulatory) (2024–2025)
    - Recognized in the “500 Leading Energy Lawyers” guide for Energy & Environment (2024) and for Energy & Environment, Enforcement, Investigations, and Litigation (2025)
  - *Legal 500 US* – Recognized for Environmental: Litigation (2022–2024) and as a “Key Lawyer” in Dispute Resolution: Corporate Investigations and White Collar Criminal Defense (2022–2023)
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# Activities

- Adjunct Professor, Georgetown University Law Center
  - Environmental Law Advisory Committee, U.S. Chamber Litigation Center, U.S. Chamber of Commerce
  - Law360 Environmental Editorial Advisory Board, 2022
  - Federalist Society, Executive Committee Environmental Law & Property Rights practice group; member, Litigation, and Corporations, Securities, and Antitrust Practice Groups
  - American Bar Association, Member of ABA Bankruptcy E-Discovery Task Force, developing best practices and recommendations for conduct of eDiscovery in bankruptcy and restructuring matters, 2012–2018
  - District of Columbia Bar Association, CLE lecturer for seminars on:
    - Advertising and Unfair Competition Law, 2013–2015
    - Developments in Class Action Litigation, 2010–2014
    - Pretrial Skills & Effective Depositions, 2010–2012
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# Credentials

## EDUCATION

Jon received his J.D., *magna cum laude*, from the Georgetown University Law Center in 2002. He received his B.S., *cum laude*, in economics from the Wharton School of Business, University of Pennsylvania, in 1997.

## ADMISSIONS

- District of Columbia

## CLERKSHIPS

- USCA - Third Circuit for the Honorable D. Brooks Smith
- USCA - Third Circuit for the Honorable D. Brooks Smith

## Related Insights & News

- ["What Does 'New' Mean? Agency Action Post-Chevron,"](#) The Federalist Society, Moderator, Oct. 29, 2024
- ["Crypto, Data Centers, and Climate: A Look at Federal and State Regulation of the Environmental Effects of Bitcoin,"](#) The Federalist Society, Moderator, July 30, 2024
- "Environmental Protection Agency Issues New Civil and Criminal Environmental Enforcement Policy," *Pratt's Energy Law Report*, Contributor, July 2024
- ["Pushing Pause on Liquefied Natural Gas Exports: Can the Department of Energy Halt LNG Exports to Save the Planet?"](#) *Federalist Society Review*, Contributor, March 27, 2024
- ["Ruling in La. May Undercut EPA Enviro Justice Efforts,"](#) Law360, Contributor, March 28, 2024
- ["Electric Vehicles: Policies and Obstacles,"](#) American Enterprise Institute, Speaker, Feb. 20, 2024
- "Energy Offshore - Litigation Impacting Energy Export and Offshore Development," IEL Litigation Conference, Speaker, Nov. 2, 2023
- "Class Actions and Government Enforcement on Product Claims and Related ESG Issues," Retail Law Conference, Speaker, Oct. 27, 2023
- "Federal Permitting Reform: Now or Never?" Federalist Society, Panelist, Oct. 18, 2023
- ["What New EPA Enforcement Initiatives Mean For Industry,"](#) Law360, Sept. 18, 2023
- ["Court Decisions Could Upend Biden's Electric Vehicle Agenda,"](#) PoliticoPro, Sept. 13, 2023

### Speaking Engagements

Moderator, "Crypto, Data Centers, and Climate: A Look at Federal and State Regulation of the Environmental Effects of Bitcoin, the Federalist Society" (June 30, 2024)

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### RECOGNITIONS

Winston Attorneys Featured on the 2025 *Lawdragon* 500 Leading Energy Lawyers List

MARCH 6, 2025

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### BLOG

EPA Administrator, Lee Zeldin, Announces Five Pillars to Guide the EPA's Work

FEBRUARY 25, 2025

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### BLOG

U.S. Government Proposes Trade Sanctions Against Chinese-Built or -Operated Vessels

FEBRUARY 24, 2025

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### BLOG

President Trump Declares National Energy Emergency; Seeks to Boost Domestic Fossil Fuel Production

FEBRUARY 14, 2025

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## BLOG

A New Federal Permitting System on the Horizon: How Trump's Executive Order Prioritizes Streamlining Federal Permits and Emphasizes American Energy Investments

FEBRUARY 13, 2025

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## BLOG

President Trump Signs Executive Order Withdrawing the United States From Paris Agreement

FEBRUARY 13, 2025

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## BLOG

Unleashing Alaska's Extraordinary Resource Potential

FEBRUARY 13, 2025

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## RECOGNITIONS

Winston Attorneys Featured on the 2025 *Lawdragon* 500 Leading Environmental Lawyers — The Green 500 List

FEBRUARY 4, 2025

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## BLOG

Legal Scholars Discuss How *Loper Bright* Will Impact Courts, Congress, and Agencies

NOVEMBER 25, 2024

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## SPEAKING ENGAGEMENT

Jonathan Brightbill Moderates Federalist Society Panel on What To Expect in a Post-Chevron World

OCTOBER 29, 2024

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## BLOG

California's First-in-the-Nation Climate Disclosure Laws Will Move Forward with Limited Delay Under Recent Amendment

OCTOBER 17, 2024

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## SEMINAR/CLE

U.S. Election Insights Series

OCTOBER 10, 2024 - OCTOBER 22, 2024

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# Capabilities

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