



## Jared R. Kessler

Partner

Miami

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Jared concentrates his practice on complex commercial litigation, with a focus on defending against consumer class actions, and routinely represents clients in the consumer packaged goods, food and beverage, and manufacturing industries.

Jared represents clients against class action claims, business torts and contract disputes, and corporate and partnership governance disputes. He regularly defends clients in jurisdictions around the country against consumer claims of false or misleading packaging and advertising, and allegations of deceptive trade practices. For example, he has defended an international pet food manufacturer against false advertising claims seeking over US\$300M in damages and an international hotel chain against claims of deceptive billing practices at several of its on-property restaurants.

In recognition of his work, Jared has repeatedly appeared on the *Florida Super Lawyers*' "Rising Stars" list and is recognized by the publication *The Best Lawyers in America* among its "Ones to Watch" for commercial litigation.

## Key Matters

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

## **Class Action Litigation**

- Defended maker of all-natural cocktail mixes in putative class action brought under California’s Consumer Legal Remedies Act (CLRA) alleging company’s claim that its products contained “No Preservatives” was false or misleading because the company used citric acid as an ingredient in its products. After filing a motion to dismiss, the plaintiff voluntarily dismissed his claims.
- Defended a multinational pet food manufacturer in putative class action brought under California’s Consumer Legal Remedies Act (CLRA) and the California False Advertising Law (FAL) premised on allegations that manufacturer’s packaging included misrepresentations and material omissions relating to miniscule levels of naturally occurring heavy metals in the food and the sources of certain ingredients. Based on a *Daubert* challenge, secured the exclusion of the plaintiffs’ proposed survey expert and damages expert and assisted in defeating the plaintiffs’ efforts to certify a class.
- Defended international manufacturer of barbeque grills and accessories in a putative class action alleging violations of the Magnuson-Moss Warranty Act (MMWA), and Illinois, Massachusetts, and New York consumer protection statutes. Drafted motion to dismiss that was granted by the Court and, despite being given leave to file an amended complaint, plaintiffs made no amended filing and the Court entered judgment in company’s favor.
- Assisted in securing summary judgment win against putative class action claims alleging that miniscule amount of naturally occurring heavy metals present in pet food rendered certain packaging statements untrue or misleading in violation of the Wisconsin Deceptive Trade Practices Act
- Defended an international hotel chain in the Southern District of Florida against putative class action claims alleging violations of the Florida Deceptive and Unfair Trade Practices Act (FDUTPA) and Miami-Dade County ordinances. Following three rounds of motion to dismiss briefing, obtained a favorable settlement.
- In putative class action alleging false advertising in violation of the Wisconsin Deceptive Trade Practices Act, successfully moved to exclude plaintiffs’ survey expert and damages expert through a *Daubert* motion described by the court as “pivotal to the case.” Following the experts’ exclusion, assisted in securing summary judgment win that was affirmed by the United States Court of Appeals for the Seventh Circuit.
- Defended a boutique hotel group in the Southern District of Florida against putative class action claims alleging unfair and deceptive business practices relating to automatic gratuity and services charges billed to guests at restaurants located on resort property. After multiple rounds of motion to dismiss briefing, the Court dismissed all claims.
- Defended international pet food manufacturer against false and deceptive advertising claims brought under the Michigan Consumer Protection Act (MCPA). Successfully obtained summary judgment in favor of the manufacturer based on an argument that because the distribution of its products was regulated by the Michigan Feed Law, the manufacturer’s advertising activities were exempt from the MCPA.
- Defended international pet food manufacturer against false advertising claims brought under New York’s General Business Law § 349 and § 350. As part of the representation, drafted a *Daubert* motion that resulted in partial exclusion of plaintiffs’ consumer survey and damages expert. Ultimately, the case was won on summary judgment in the manufacturer’s favor.
- Assisted in defense of a telehealth provider of online and on-demand health care delivery services and software in the Southern District of Florida against a putative nationwide class action lawsuit raising claims arising from an alleged data breach. Following a motion to dismiss the plaintiff voluntarily dismissed all claims and the Court entered a dismissal with prejudice.
- Defended national supplier of novelty goods against putative class action claims brought under the FDUTPA and alleging deceptive practices relating to the assessment of shipping and handling charges

## **Commercial Litigation**

- Represented South Florida–based non-profit organization in claims against former employee who engaged in rampant self-dealing. Successfully resolved the case after a day-long mediation with a settlement providing a

substantial recovery of funds by the organization.

- Represented manufacturer of heated clothing in potential dispute with distributor and advised on company's obligations under Reese's Law and 16 C.F.R. § 1263.3, concerning Button Cell or Coin Batteries.
- Assisted in defense of international manufacturer against fraud-based claims asserted by one of its customers and seeking over US\$100M in damages. During the representation, was a member of the trial team that defended during a nearly four-week jury trial.
- Represented a leading media network in claims seeking injunctive relief and damages against former executive and his new employer, resulting in resolution of all claims and the execution of new network license agreements.
- Represented multinational manufacturer of confectionary products in dispute with one of its international distributors.
- Represented manufacturer of industrial security system equipment in dispute with one of its international distributors. Obtained summary judgment for damages exceeding US\$1M.
- Assisted in the defense of an international beer brand against claims for, among other things, deceptive and unfair trade practices.
- Defended global fiber optics company against, among other things, trespass claims seeking more than US\$100M in damages.
- Represented former NBA player in dispute concerning multimillion-dollar new construction home in Miami.
- Assisted in defending the owner of a high-value interchange property in eminent domain proceedings instituted by Florida Department of Transportation.
- Assisted in representing a national ornamental plant supplier in trademark infringement claims and won summary judgment as to liability on claims seeking US\$13M in damages.

#### **Corporate and Partnership Governance Litigation**

- Represented limited partner in dispute with general partner concerning the disposition of an approximately US\$35M real estate development project.
- Defended majority members of limited liability company in two separate actions in Miami-Dade circuit court brought by minority member alleging mismanagement and breaches of fiduciary duty.
- Defended a minority member of a limited liability company against claims for, among other things, breach of fiduciary duty and negotiated a voluntary dismissal of all claims against the member.

## **Recognitions**

- Listed, *The Best Lawyers in America*, "Ones to Watch," Commercial Litigation, 2021-2022
  - Listed, *The Legal 500 US*, Dispute Resolution - Product Liability, Mass Tort and Class Action- Defense: Consumer Products (Including Tobacco), 2022
  - Listed, *Super Lawyers, Florida Super Lawyers*, "Rising Star," 2018-2022
  - Recipient, "40 Under 40 Outstanding Lawyers of South Florida Award", Cystic Fibrosis Foundation, 2016
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# Activities

- Co-Chair, Make-A-Wish Champions, Make-A-Wish Foundation, Southern Florida Chapter, 2017–2018
  - Chair-Elect, Make-A-Wish Champions, Make-A-Wish Foundation, Southern Florida Chapter, 2016–2017
  - Member, Federal Bar Association
  - Member, Dade County Bar Association
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# Credentials

## EDUCATION

Jared received his B.S. from George Mason University in 2007. In 2011 he received his J.D., *summa cum laude*, from University of Miami School of Law, where he was a member of the Order of the Coif and articles and comments editor of the *University of Miami Law Review*.

## ADMISSIONS

- Florida
- District of Columbia

## CLERKSHIPS

- USDC - Southern District of FL for the Honorable Robert N. Scola, Jr.

# Related Insights & News

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## BLOG

Protein Power: Defendants Are Beating Back Allegations of Misleading Protein Content

AUGUST 10, 2023

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## NEWS

2022 Pro Bono Impact Report

MAY 1, 2023

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## BLOG

“Carbon-Neutral” Advertising May Lead to Litigation

JANUARY 30, 2023

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## BLOG

Dark Chocolate Manufacturers Face Wave of Heavy Metal Exposure Litigation

JANUARY 24, 2023

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#### **BLOG**

PFAS Mislabeling Consumer Class Actions on the Rise in 2023

DECEMBER 21, 2022

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#### **BLOG**

SCOTUS May Weigh in—Class Members and Article III Standing

SEPTEMBER 15, 2022

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#### **RECOGNITIONS**

Winston & Strawn Attorneys Recognized in *Best Lawyers: Ones to Watch in America 2023*

AUGUST 18, 2022

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#### **PRESS RELEASE**

Winston & Strawn's Expanding Miami Office Adds Two Partners: A Leading Corporate / Financial Services Lawyer and an Experienced Litigator

JUNE 29, 2022

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## Capabilities

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Litigation/Trials

Class Actions & Group Litigation

Commercial Litigation & Disputes

Corporate Governance