



Michael Kimberly

Partner

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Michael is a nationally recognized appellate lawyer. He has argued nine cases before the U.S. Supreme Court and delivered more than 40 appellate arguments in courts across the country, including every general federal court of appeals and numerous state courts. With a remarkable success rate, Michael has won two of every three cases he has argued.

In addition to his appellate practice, Michael regularly challenges federal agency actions under the Administrative Procedure Act and contests state laws and regulations on preemption and constitutional grounds. Across both trial and appellate courts, Michael has briefed and argued over 200 cases, with deep experience in areas such as tax law, environmental regulation, the Commerce Clause, federal preemption, Medicare, ERISA, the First Amendment, copyright, and bankruptcy. Michael also collaborates closely with trial teams to craft effective litigation strategies and develop persuasive dispositive motions.

Recognized nationally for his Supreme Court and appellate work, Michael has been praised as a “brilliant writer” and “incredibly strategic thinker” by *Chambers USA*. *The Legal 500 US* has consistently recommended him since 2017, and major publications—including *The National Law Journal*, *The Washington Post*, and Reuters—have described him as a leading figure in Supreme Court advocacy.

While in law school, Michael served as editor of *The Yale Law Journal* and executive editor of the *Yale Law & Policy Review*.

Michael formerly clerked for The Honorable Michael Hawkins on the U.S. Court of Appeals for the Ninth Circuit.

Key Matters

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

RECENT APPELLATE VICTORIES

- *Boyette v. Montefiore Medical Center*, 2025 WL 48108 (2d Cir. 2025) – successfully defended dismissal of ERISA breach-of-fiduciary-duty class action on standing and pleading grounds
- *Medical Imaging Technology Association v. Library of Congress*, 103 F.4th 830 (D.C. Cir. 2024) – successfully established that the Library of Congress is subject to suit under the APA
- *Appvion Retirement Savings and Employee Stock Ownership Plan v. Buth*, 99 F.4th 928 (7th Cir. 2024) – successfully defended dismissal of an ERISA breach-of-fiduciary duty class action
- *Chamber of Commerce v. Lierman*, 90 F.4th 679 (4th Cir. 2024) – obtained reversal of a dismissal on ripeness grounds of First Amendment challenge to a “no stating the tax” law
- *Matter of Comptroller of Maryland*, 328 A.3d 811 (Md. App. Ct. 2024) – retained by Potomac Edison to successfully appeal a tax court decision worth \$10 million annually
- *Scott v. University of Chicago Medical Center*, 107 F.4th 752 (7th Cir. 2024) – successfully defended the dismissal of a complaint concerning compelled vaccinations in the maternity ward
- *Medicaid & Medicare Advantage Products Association v. Emanuelli Hernandez*, 58 F.4th 5 (1st Cir. 2023) – successfully defended invalidation of state law under Medicare preemption
- *BDO USA, LLP v. Jia-Sobota*, 283 A.3d 699 (D.C. 2022) – obtained reversal of a denial of a motion to compel arbitration on waiver grounds
- *Louisiana Independent Pharmacies Association v. Express Scripts*, 41 F.4th 473 (5th Cir. 2022) – successfully defended dismissal of a reverse-preemption suit on jurisdictional grounds
- *Virginia Hospital & Healthcare Association v. Kimsey*, 2022 WL 604049 (4th Cir. 2022) – obtained reversal of the dismissal of a Medicaid preemption and Takings Clause case

RECENT REGULATORY LITIGATION VICTORIES

- *Americans for Beneficiary Choice v. DHHS*, 2024 WL 3297527 (N.D. Tex. 2024) – obtained preliminary injunction against enforcement of the Medicare Compensation Rule
- *International Fresh Produce Association v. DOL*, – F. Supp. 3d – (S.D. Miss. 2024) – obtained preliminary injunction on preclusion grounds against a farm worker union rights regulation
- *Wild Virginia v. Council on Environmental Quality*, 56 F.4th 281 (4th Cir. 2022) – intervened for trade groups in defense of favorable regulation, successfully obtaining dismissal of the suit

Recognitions

- *Chambers USA*, Nationwide Appellate Law, 2021-present
 - District of Columbia Courts, Capital Pro Bono Honor Roll, 2023
 - *The Legal 500 US*, Dispute Resolution: Appellate-Courts of Appeals/Appellate – Leading Lawyer, 2023-present
 - *The Legal 500 US*, Dispute Resolution: Appellate-Courts of Appeals/Appellate – Next Generation Leader, 2017-2022
 - *Benchmark Litigation US*, 40 & Under Hot List, 2017-2021
 - *The National Law Journal*, Energy & Environmental Trailblazer, 2017
 - Law360, Appellate Rising Star, 2016
 - *The American Lawyer*, Litigator of the Week, 2016
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Activities

- The NYU Institute of Judicial Administration, board of advisors
 - Georgetown Supreme Court Institute, member
 - Yale Law School, visiting lecturer in law
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Credentials

EDUCATION

Michael earned his J.D. from Yale Law School in 2008, where he served as editor of *The Yale Law Journal* and executive editor of the *Yale Law & Policy Review*. Michael received his B.A., *summa cum laude*, from Princeton University in 2003 and received his M.A. from the University of Pennsylvania in 2005.

ADMISSIONS

- District of Columbia
- Maryland

Related Insights & News

PRESS RELEASE

Winston & Strawn Welcomes Michael Kimberly as Co-Chair of the Appellate & Critical Motions Practice
MAY 27, 2025

Capabilities

Advertising Litigation	Antitrust/Competition	Appellate & Critical Motions	
Bankruptcy Litigation & Investigations	Class Actions & Group Litigation		
Commercial Litigation & Disputes	Copyright-Infringement Litigation		
Environmental Litigation & Enforcement	ERISA Litigation	Financial Services Litigation	
Litigation/Trials	Mergers & Acquisitions	Product Liability & Mass Torts	Project Finance
Securities, M&A & Corporate Governance Litigation	Tax Controversy & Criminal Tax		
Technology Antitrust	Trademark Litigation, Prosecution & Brand Protection		