

DAVID W. DEBRUIN, Partner

David W. DeBruin is a litigation counsel who has served as the managing partner of the Washington, DC office and as co-chair of the firm's Complex Commercial Litigation Practice. Mr. DeBruin has extensive litigation experience in energy matters, as well as in complex Supreme Court and appellate litigation. Mr. DeBruin draws on his experience as a former law clerk for Supreme Court Justice John Paul Stevens and as a former trial attorney at the Public Defender Service for the District of Columbia, where he handled a large number of jury and bench criminal trials. Mr. DeBruin has argued cases before the United States Supreme Court, numerous federal appellate courts, and state supreme courts.

In energy disputes, Mr. DeBruin provides extensive first-chair trial experience and deep proficiency in commercial energy markets. Mr. DeBruin has significant experience in hydroelectric power disputes and counsels on issues related to hydroelectric power. He is leading the representation of Exelon in a dispute with the State of Maryland concerning the Conowingo Hydroelectric Project. He also represented Exelon in connection with challenges to the recent merger of Exelon and Pepco Holdings, Inc., and he served as lead trial counsel in a case brought by Exelon, PSEG, Calpine and PPL in New Jersey involving state subsidies for construction of three natural gas generation facilities. He has been involved in contract disputes for natural gas deliveries, construction disputes in connection with new natural gas generating facilities in New England and a significant mischarging dispute at FERC, among other matters.

Mr. DeBruin also has extensive civil litigation experience beyond the energy industry. He has served as lead trial counsel for General Dynamics, General Electric, Honeywell, Prudential, and other companies in fraud, False Claims Act, and *qui tam* cases. He served as trial and appellate counsel for General Dynamics in the successful defense of an action brought by the United States in SDNY seeking more than \$300 million under the False Claims Act, and he has represented General Dynamics in billion-dollar contract dispute and government claims matters. He served as lead trial counsel for independent booksellers in an antitrust case that went to trial in federal court in San Francisco, obtaining significant injunctive relief.

In appellate matters, Mr. DeBruin has argued cases before the United States Supreme Court, almost every federal Circuit court, and state courts of last resort in New York, Ohio, Georgia, Texas, and other states. He argued and obtained a unanimous decision in favor of his clients in a RICO case, *Bridge v. Phoenix Bond & Indemnity Co.*, 553 U.S. 639 (2008), and he was appointed by the Supreme Court to argue and defend the judgment below in favor of the *United States in Clay v. United States*, 537 U.S. 522 (2003). Mr. DeBruin served as one of the principal lawyers for Theodore B. Olson in *Morrison v. Olson*, 487 U.S. 654 (1988), the case involving the constitutionality of the independent counsel statute. In *Grutter v. Bollinger*, 539 U.S. 306 (2003), Mr. DeBruin represented Microsoft, General Electric, and 63 other leading American businesses in support of the efforts of the University of Michigan to admit a diverse student body.



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PRACTICE GROUPS

Antitrust and Competition Law
Complex Commercial Litigation
Education
Energy
Government Contracts
Litigation
Native American Law
Professional Responsibility

EDUCATION

University of Michigan Law School, JD, 1980;
summa cum laude

Indiana University, BA, 1977; with highest distinction

ADMISSIONS

District of Columbia, 1980

COURT ADMISSIONS

US Supreme Court, 1988

Court of International Trade, 2011

US Court of Appeals, DC Circuit, 1981

District of Columbia Court of Appeals,
1980

US Court of Appeals, Second Circuit, 1993

US Court of Appeals, Third Circuit, 2002

US Court of Appeals, Fourth Circuit, 1998

US Court of Appeals, Fifth Circuit, 1997

US Court of Appeals, Sixth Circuit, 2001

US Court of Appeals, Seventh Circuit,
2010

US Court of Appeals, Ninth Circuit, 2014

Mr. DeBruin also maintains an active *pro bono* practice and currently serves as lead counsel for inmates on death row in Georgia, Alabama, and Texas. He served for many years on the Steering Committee of the ABA Death Penalty Representation Project and as Vice Chair of the Pro Bono Committee of the District of Columbia Bar. Among numerous awards, he was recognized by the District of Columbia Bar as its 2009 Pro Bono Lawyer of the Year, and in 2013 he received the Frederick Douglass Equal Justice Award from the Southern Center for Human Rights. He is recognized by *Chambers 2020* as Litigation: General Commercial – Band 1 (District of Columbia).

In appellate matters, Mr. DeBruin has argued cases before the United States Supreme Court, numerous federal appellate courts, and state supreme courts. Mr. DeBruin argued and obtained a unanimous decision in favor of his clients in *Bridge v. Phoenix Bond & Indemnity Co.*, 128 S. Ct. 2131 (2008), and he was appointed by the Supreme Court to argue and defend the judgment below in favor of the United States in *Clay v. United States*, 537 U.S. 522 (2003). Mr. DeBruin also served as one of the principal lawyers for Theodore B. Olson in *Morrison v. Olson*, 487 U.S. 654 (1988), the case involving the constitutionality of the independent counsel statute, and for Jose Padilla in *Rumsfeld v. Padilla*, 542 U.S. 426 (2004), the case involving the right of the President to detain an American citizen seized in this country as an “enemy combatant.” In *Grutter v. Bollinger*, 539 U.S. 306 (2003), and *Gratz v. Bollinger*, 539 U.S. 244 (2003), Mr. DeBruin represented Microsoft Corporation, General Electric Company and 63 other leading American businesses in support of the efforts of the University of Michigan to admit a diverse student body in its Law School and College of Arts and Sciences. Among many other cases, Mr. DeBruin also served as lead counsel for General Dynamics Corporation in a successful defense of a trial court judgment rejecting claims of the United States in a \$300 million action brought under the False Claims Act, *United States v. General Dynamics Corp.*, 19 F.3d 770 (2d Cir. 1994); he represented Steelcase, Inc. and persuaded the Court of Appeals to reverse an \$8 million judgment for compensatory and punitive damages against the company and direct that judgment be entered for Steelcase, dismissing the case, *Propulsion Technologies, Inc. v. Attwood Corporation*, 369 F.3d 896 (5th Cir. 2004); and he represented Black & Decker Corporation in *National Union Fire Ins. Co. v. Emhart Corp.*, 11 F.3d 1524 (10th Cir. 1993), in which the Court of Appeals reversed a \$10 million judgment against Black & Decker and directed that judgment be entered for the company, ending the case.

In energy litigation, Mr. DeBruin has extensive experience. He is leading the representation of Exelon in challenges in Maryland and the District of Columbia to the recent merger of Exelon and Pepco Holdings, Inc. Mr. DeBruin also served as lead trial counsel in a case brought by Exelon, PSEG, Calpine and PPL in New Jersey involving state subsidies for construction of three natural gas generation facilities. He has also been involved in contract disputes for natural gas deliveries, construction disputes in connection with new natural gas generating facilities in New England and a significant mischarging dispute at FERC, among other matters.

In securities, fraud and other white collar litigation, Mr. DeBruin also has handled a wide range of matters. He recently represented the audit committee

US Court of Appeals, Tenth Circuit, 1992
US Court of Appeals, Eleventh Circuit, 2010
US Court of Appeals, Federal Circuit, 1995
US District Court, District of Columbia, 1984
US District Court, District of Maryland, 1990
US District Court, Western District of Michigan, 2001
US District Court, Eastern District of Michigan, 2016
US Court of Federal Claims, 1995

JUDICIAL CLERKSHIPS

Justice John Paul Stevens, US Supreme Court, 1981 - 1982

Hon. Harry T. Edwards, US Court of Appeals, DC Circuit, 1980 - 1981

of a major corporation in connection with a confidential internal investigation, and he has represented the former CEO of BISYS Group, Inc., the former CFO of SIRVA, Inc., and other corporate officials in SEC investigations, shareholder securities class actions, and shareholder derivative suits. Mr. DeBruin has represented General Dynamics Corporation, General Electric Company, Honeywell International and other companies in fraud, False Claims Act, and *qui tam* cases. In other criminal litigation, Mr. DeBruin represented several employees of General Electric in an antitrust price-fixing case involving industrial diamonds, and several persons affiliated with the Hsi Lai Temple, in California, in a case involving allegations of illegal campaign finance contributions.

In other civil litigation, Mr. DeBruin served as lead counsel for plaintiffs in an antitrust price discrimination action involving the bookselling industry, in which the American Booksellers Association and 26 independent bookstores brought claims against chain retailers Barnes & Noble and Borders. Mr. DeBruin also has handled matters for clients before the Federal Election Commission, the Securities and Exchange Commission, and the former Interstate Commerce Commission, and he has represented witnesses in several congressional investigations. In 1986, Mr. DeBruin served as Special Counsel to the Judiciary Committee of the United States House of Representatives in connection with the impeachment proceedings involving Judge Harry E. Claiborne, the first impeachment proceedings in the United States Senate in the modern era.

Awards

- Albert E. Jenner Pro Bono Award - 2018
- Jenner & Block Mentorship Award - 2020
- *Best Lawyers in America* - 2015-2020
Criminal Defense: White Collar
- *Chambers USA*
Litigation: General Commercial (District of Columbia) - 2016-2020
- District of Columbia Bar
2009 Pro Bono Lawyer of the Year
- Jerold S. Solovy Public Service Award - 2013
- *Lawdragon Magazine*
3000 Leading Lawyers in America - 2010
- *Legal 500*
Energy Litigation - Conventional Power - 2020, 2021
- Southern Center for Human Rights
Frederick Douglass Equal Justice Award - 2013
- *Washington DC Super Lawyers*
Appellate - 2014-2015
Business Litigation - 2010-2016, 2019
Communications - 2015
Franchise/Dealership - 2014

Publications

- Co-Author, Client Alert: "Five Key Federal Grants Compliance Tips as COVID-19 Comes More Under Control", March 18, 2021
- Co-Author, Client Alert: What Colleges and Universities Can Expect from the American Rescue Plan, March 15, 2021

Speaking Engagements

- Panelist, "Case Studies of Noteworthy Issues before the Federal Administrative Agencies," Law Seminars International, January 23, 2020
- Minority Corporate Counsel Association 2013 Pathways to Diversity Conference, September 16, 2013
- "Private Attorney General Actions Under DC Law," District of Columbia Bar, Washington, DC, June 16, 2006
- Panelist, "Buyer Liability Under Section 2(f) of Robinson-Patman Act: The Emergence of Modern "Power Buyers" and Other Issues," American Bar Association Teleconference, November 07, 2003