

## MATTHEW E. PRICE, Partner

*Matthew E. Price focuses on constitutional and regulatory litigation for clients in an array of industries, including energy, telecommunications, media and entertainment, education and transportation. Recent matters have involved challenges to federal agency action under the Administrative Procedure Act; preemption and dormant commerce clause issues arising from state regulatory initiatives; and First Amendment rights. He has argued numerous appeals and dispositive motions. Most recently, in the Second Circuit and Seventh Circuit, he successfully defended state programs to compensate nuclear power plants for generating electricity without emitting carbon dioxide.*

Mr. Price is a member of the firm's Litigation Department, co-chair of the Energy Practice and a member of the Appellate and Supreme Court and Government Controversies and Public Policy Litigation Practices. Prior to joining Jenner & Block, Mr. Price clerked for Justice Stephen Breyer of the United States Supreme Court and for Judge Michael Boudin of the United States Court of Appeals for the First Circuit. He also served as a Bristow Fellow in the Office of the Solicitor General at the US Department of Justice.

Mr. Price has an active pro bono practice in the area of refugee and immigration law, and he has represented victims of human trafficking in civil litigation against their traffickers. He is the author of *Rethinking Asylum: History, Purpose, and Limits*, published by Cambridge University Press in 2009.

Mr. Price's practice focuses on constitutional and regulatory litigation, including challenges to federal agency action under the Administrative Procedure Act and matters involving preemption, the dormant commerce clause, and the First Amendment. Recent cases have involved a variety of different industries, including energy, telecommunications, media and entertainment, transportation, Native American rights, and education. In addition to litigating such matters in federal district court, federal and state courts of appeals, and the US Supreme Court, Mr. Price also frequently works with clients on matters pending before federal and state regulatory agencies to obtain a favorable regulatory outcome and to build an administrative record in anticipation of likely litigation.

In addition to the successful defense of state Zero Emission Credit programs for nuclear power plants, other recent successes include an Illinois Supreme Court victory concerning the statutory requirements to be a public utility; a Delaware Supreme Court victory concerning a commercial dispute over a wind generation contract; a DC Circuit victory as intervenor in defense of FERC's Capacity Performance reforms; and a successful verdict following a bench trial in a preemption challenge to a California renewable energy tariff.

Mr. Price has drafted comments for clients in connection with rulemakings or other matters before federal agencies including FERC, EPA, FCC, Department of the Interior and Department of Commerce, as well as several state public utility commissions.

Mr. Price's focus extends to First Amendment-related matters. He took a lead briefing role in a series of cases involving First Amendment limits to state tort liability under the right of publicity, and he played a key role in briefing the Firm's



## MATTHEW E. PRICE Partner

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### PRACTICE GROUPS

Appellate and Supreme Court Practice  
Energy  
Government Controversies and Public Policy  
Litigation  
Litigation

### INDUSTRY GROUPS

COVID-19 / Coronavirus Resource Center

### EDUCATION

Harvard Law School, JD, 2006; *magna cum laude*; Book Reviews Editor, *Harvard Law Review*

Harvard University, Ph D, 2005

Harvard University, AB, 1997; *magna cum laude*

### ADMISSIONS

District of Columbia, 2010

Massachusetts, 2007

### COURT ADMISSIONS

US District Court, District of Columbia

US District Court, District of Massachusetts

US Court of Appeals, Federal Circuit

US Court of Appeals, First Circuit

US Court of Appeals, Second Circuit

US Court of Appeals, Fourth Circuit

US Court of Appeals, Fifth Circuit

US Court of Appeals, Seventh Circuit

US Court of Appeals, Ninth Circuit

US Court of Appeals, Tenth Circuit

successful challenge in the Ohio Supreme Court to a \$15 million defamation verdict against a scientific society.

Mr. Price also represents clients in the media and telecommunications industries on matters of first impression concerning the application of privacy and copyright laws to emerging Internet-based technologies. He defended one of the nation's largest Internet service providers against a putative class action claiming violations of the Electronic Communications Privacy Act, resulting from a third party's use of data to provide targeted advertisements to the company's customers. After winning dismissal in district courts in Montana and Kansas, he successfully argued the appeal in the Tenth Circuit. He was also a core member of the team representing television broadcasters in a series of copyright cases involving the retransmission of broadcast signals over the Internet, culminating in a Supreme Court victory. In complex commercial litigation, Mr. Price frequently works with the Firm's trial teams to draft and argue dispositive motions and to build a record in anticipation of likely appeals.

Pro bono representation in the area of immigration and refugee law, and of victims of human trafficking, is central to Mr. Price's practice. He has successfully argued asylum appeals in the Seventh and Eleventh Circuits, and he won an important reversal by the Tenth Circuit of a district court decision that had barred victims of human trafficking from obtaining punitive damages under the Trafficking Victims Protection Act. He has also filed numerous amicus briefs on immigration-related issues on behalf of national organizations.

## Awards

- *Law360 MVP*  
Energy - 2018
- *Washington, DC Super Lawyers*  
"Rising Star" Appellate, Civil Litigation: Defense, Constitutional Law - 2014-2016, 2019
- *Legal 500 US*  
Industry Focus - Energy Litigation - Conventional Power - 2020  
Appellate - Supreme Courts (States and Federal) - 2020  
"Leading Lawyer" - Energy Litigation: Conventional Power - 2020

## Publications

- Co-Author, "*City of Arlington v. FCC*: The Death of *Chevron* Step Zero?"  
*Federal Communications Law Journal*, January 2014
- Client Alert: Tenth Circuit Decision Limits ECPA Liability of ISPs for Privacy Violations by Third Party Partner, January 8, 2013
- Client Advisory: D.C. Circuit Reverses Decision That Had Dramatically Expanded False Claims Act Liability, December 6, 2010
- "Rethinking Asylum: History, Politics, and Limits", 2009
- "Persecution Complex: Justifying Asylum Law's Preference for Persecuted People," 47 Harv. Int'l L.J. 413, 2006

US Court of Appeals, Eleventh Circuit

US Court of Appeals, DC Circuit

US Supreme Court

## JUDICIAL CLERKSHIPS

Justice Stephen Breyer, US Supreme Court, 2008 - 2009

Hon. Michael Boudin, US Court of Appeals, First Circuit, 2006 - 2007

- “Politics or Humanitarianism? Recovering the Political Roots of Asylum,” 19 Geo. Immigr. L.J. 277, 2005
- “Comment, Public Use -- Economic Development, Kelo v. City of New London”, 119 Harv. L. Rev. 287, 2005
- “Developments in the Law -- The Constitutionality of Immigration Federalism,” 118 Harv. L. Rev. 2247, 2005