

PARTNER

Joshua Irwin Schiller

New York

55 Hudson Yards
20th Floor
New York, NY 10001
Phone 212 446 2300

San Francisco

44 Montgomery Street
41st Floor
San Francisco, CA 94104



PROFILE

Josh is an experienced trial lawyer and recognized as an accomplished litigator in intellectual property law and the application of fair use law in the field of copyright. His practice areas also include intellectual property litigation, crisis management and government response, art and music law, entertainment, the first amendment, securities, civil rights, antitrust, and bankruptcy and restructuring. He has litigated in a variety of complex matters on behalf of clients throughout the United States and various other parts of the globe.

Since joining Boies Schiller Flexner at the tipping point of the financial crisis in 2008, Josh's litigation experiences have ranged from defending the fantasy sports company DraftKings in bet-the-company litigation to suing the Boy Scouts of America over discrimination against gay and lesbian adult employees and volunteers.

As an associate at BSF, Josh joined David Boies in the fight for equality for the LGBT community, beginning with the successful trial and appellate litigation overturning Proposition 8 and restoring the constitutional right of all Californian citizens to marry the person they love. In 2015, Josh represented two individuals who faced discrimination by the Boy Scouts of America, which at the time maintained a policy discriminating against the employment of any openly gay adult. As a direct result of pressures caused by employment discrimination claims brought by Boies Schiller Flexner in Colorado and New York, the Boy Scouts of America rightfully chose to remove the policy in the summer of 2015. Josh's pro bono work extends to a variety of other matters, including serving as outside intellectual property counsel for the Dia Foundation.

PRACTICES

Intellectual Property
Securities and Shareholder Disputes
Media and First Amendment
Constitutional Law
Sports and Gaming
Employment Disputes
Appellate
Technology
Commercial Disputes
Art and Cultural Assets
Copyright, Trademarks, and Trade Secrets
Artificial Intelligence

EDUCATION

Columbia Law School, J.D., *Stone Scholar*; Joseph Solomon Scholarship in Media and Art Law, Best Oral Argument, 1L Moot Court
Yale University, B.A., American Studies

ADMISSIONS

Bars

New York
California
U.S. Supreme Court
U.S. Court of Appeals: Second Circuit

Josh is a member of the Board of Visitors of Columbia Law School and co-chair of the Harlan Fiske Stone Society. He graduated from Columbia Law in 2008 and was a Harlan Fiske Stone Scholar and a recipient of the Joseph Solomon Media Law Scholarship. Josh graduated from Yale in 2003.

EXPERIENCE

Josh's recent experience includes:

- Representing Harry Macklowe in his high-profile divorce case, which included significant disagreement over the value of the couple's art collection and likely will conclude with the auction of approximately \$700 million worth of art
- Arguing successfully an emergency application for a stay of an order shutting down DraftKings and another DFS company Fanduel which the Appellate Division later turned into a permanent stay paving the way for an ultimate resolution of the NYAG's claims after the passing of a law regulating Daily Fantasy Sports in New York
- Representing Salesforce (SFDC) in matters ranging from intellectual property and employment law to competition law
- Representing Texas based biopharmaceutical company Pain Therapeutics, Inc. and its officers in class-action litigation regarding federal securities which went to trial in July 2015
- Arguing successfully the landmark case *Prince v. Cariou* in the U.S. Court of Appeals for the Second Circuit on behalf of the appropriation artist Richard Prince. The Second Circuit ruled that Mr. Prince's art was protected as fair use, saving it from destruction under an injunction imposed by a district court
- Winning an injunction against Diageo, the world's leading premium drinks business, causing it to cease marketing and distributing its Explorers' Club whiskeys. The injunction was issued under a rarely used New York statute that is specifically targeted to protect charitable organizations such as Josh's client, a venerable New York institution called The Explorers Club
- Representing Hampton Creek against Unilever's false advertising suit over "Just Mayo," which ended in the voluntary withdrawal of a complaint and motion for preliminary injunction by Unilever which had claimed irreparable harm to its mayonnaise products
- On behalf of CBS, defeating a motion to dismiss fraud claims against the DISH Networks in a case involving DISH's Primetime Anytime and AutoHop commercial skipping technology that is proceeding towards trial
- Recovering an insurance payment for Barclays relating to an oil tanker that sank off the coast of Portugal in 1989. The insurance payment had been frozen by Standard Chartered and held for nearly 25 years on behalf of its client the Central Bank of Libya
- Representing Bruno Mars in connection with litigation

U.S. Court of Appeals: Fourth Circuit

U.S. Court of Appeals: Fifth Circuit

U.S. Court of Appeals: Ninth Circuit

U.S. Court of Appeals: Tenth Circuit

U.S. District Court: Southern District of New York

U.S. District Court: Eastern District of New York

AWARDS AND ASSOCIATIONS

×

Co-chair, Harlan Fiske Stone Society, Columbia Law School

Member, Columbia Law School Board of Visitors

PUBLICATIONS & PRESENTATIONS

Co-author, **How The Warhol Copyright Case Affects Fair Use Protection**, Law360 (May 2023)

Slowly At First, Then In Rapid Course: LGBTQ Rights Rulings in the Decade Since Perry v. Schwarzenegger, The Recorder (August 2020)

Copyright © 2024 Boies Schiller Flexner LLP.
All Rights Reserved.

Attorney Advertising.
Prior results do not guarantee a similar outcome.