



John C. Connell

Partner

Business Litigation

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Overview

John practices civil litigation as first-chair trial attorney in jury and bench trials and appeals in state and federal courts. John's clients range from Fortune 100 companies to individuals in an array of complex commercial, employment, civil rights, communications law, health care and intellectual property matters. John's work has resulted in precedential reported opinions on issues of constitutional jurisprudence, as well as statutory and common law.

In January 2017, John appeared as counsel of record to argue before the Supreme Court of the United States, representing Simon Shiao Tam in *Matal v. Tam*, No. 15-1293. John was the primary author of the winning Tam brief argued before the Federal Circuit Court. As respondent, he defended the ruling of the Federal Circuit Court of Appeals, *In re Simon Shiao Tam*, 808 F.3d 1321 (Fed. Cir. 2015), arguing that the United States Patent and Trademark Office's denial of Mr. Tam's trademark, "The Slants," under the disparagement clause of §2(a) of the Lanham Act, was unconstitutional for violating the First Amendment. This appeal was considered by many as one of the most important matters before the Court last term, as well as one of the most significant First Amendment cases in many years.

On June 19, 2017, the Supreme Court handed down a unanimous 8-0 favorable **decision** in the high-profile case. The Court ruled that the Asian-American rock band, The Slants, were subject to viewpoint discrimination by virtue of the USPTO's denial of registration. Under the ruling, the landmark decision will likely put an end to the statutory bar that precluded an applicant from obtaining registration of a trademark that was deemed offensive by the government, including the case involving the Washington Redskins football team currently on appeal before the United States Court of Appeals for the Fourth Circuit.

A report of John's argument may be found at SCOTUSblog Case Updates:

<<http://www.scotusblog.com/2017/01/argument-analysis-justices-skeptical-federal-bar-disparaging-trademarks/>>.

In his **First Amendment & Media Communications Litigation practice**, John has represented local, regional and national companies in a broad variety of communications law issues, including national, regional, and local newspaper companies in New Jersey, Pennsylvania, and Delaware, national and local wire services, national television companies and local affiliates, regional and local cable stations, radio stations, a regional professional association, as well as local commercial companies, government officials, politicians, and private individuals. Among other things, John's work has resulted in precedential reported opinions on First Amendment jurisprudence, as well as public records and access issues. John has also testified at hearings of the New Jersey State Legislature and provided legal counsel on legislative issues concerning the adoption of New Jersey's Open Public Records Act, and lectured and written on these issues. He has also been retained as an expert consultant in communications law by Lloyds of London.

John also serves as Chair of the firm's **Appellate Practice**, handling both federal and State appeals.

John also has an active Civil Rights Defense & Constitutional Litigation practice, as well as being a member of the firm's **Labor & Employment Group**. For over 30 years, John has represented the Office of the Attorney General of New Jersey as Special Counsel to the New Jersey State Police and other state and county agencies, including the Department of Banking and Insurance and numerous County Prosecutor offices. In this role, he has provided defense representation in various matters involving claims of employment discrimination and civil rights violations under federal and state laws, and other tort matters. John was commended by the New Jersey State Police for his work defending the agency in a civil suit related to the fatal shooting of a suspect. John's civil rights and employment practice also includes representation of management of Fortune 100 corporations and privately held companies in litigation matters involving myriad employment issues, including age, gender and race discrimination, hostile work environment, sexual harassment, employment-at-will, wrongful discharge, privacy/confidentiality, whistle-blower, workplace and employment defamation and speech, Section 1983 claims, and ERISA.

Further, as a member of the firm's **Business Litigation Group**, John's experience includes litigation and counseling in a variety of complex commercial matters, such as real estate actions, corporate dissolution suits, shareholder derivative actions, insurance coverage disputes, construction law, and general contract and tort issues.

Additionally, John works in conjunction with Archer's **Intellectual Property Group** as trial counsel in litigated matters. He has experience in litigation in the fields of patent infringement, unfair competition, false advertising, copyright, and trademark actions.

Finally, as a member of the firm's **Healthcare Law Group**, in which John has represented hospital interests in a range of commercial, regulatory and patient care-matters.



Prior to his legal practice, John was the Law Secretary to Hon. Thomas F. Shebell, Jr., P.J.A.D., Superior Court of New Jersey, Appellate Division, from 1986-1987.

Representative Experience

Media and Communications Law

- *Matal v. Tam*, __ U.S. __, No. 15-1293 (2017) (in a unanimous 8-0 decision, ruling that the disparagement clause of §2(a) of the Lanham Act is unconstitutional for violating the First Amendment), *aff'g In re Simon Shiao Tam*, 808 F.3d 1321 (Fed. Cir. 2015)
- *Aksal v. Gazeti*, 2017 N.J. Super. Unpub. LEXIS 758 (N.J. Super. Ct., App. Div., dec. March 28, 2017) (affirming dismissal of defamation action based on fair report privilege)
- *Collingswood Bd. of Educ. v. McLoughlin*, 2016 N.J. Super. Unpub. LEXIS 2307 (N.J. Super. Ct., App. Div., dec. Oct. 21, 2016) (affirming summary judgment in OPRA action)
- *Courier News vs. Hunterdon County Prosecutors Office*, 378 N.J. Super. 539 (App. Div. 2005) (in a case of first impression, obtained affirmance of OPRA fee application)
- *Weber v. Lancaster Newspapers, Inc., et al.*, 878 A.2d 63 (Pa. Super 2005) (summary judgment in defense of defamation action affirmed in part and reversed in part), *pet. denied*, 903 A.2d 539 (Pa. 2006) (remanded for jury trial, which concluded with verdict of no cause)
- *DeAngelis v. Hill*, 180 N.J. 1 (2004) (reversing denial of summary judgment for defense in defamation action, extending fair report privilege to non-media publications)
- *Glunk v. Associated Press et al.* (Pa. CCP, Chester County, Mar. 2004) (following discovery, obtained voluntary dismissal of defamation action)
- *Yeager vs. Daily Record*, Docket No. MRS-L-312-01 (N.J. Super. Ct., Law Div., Morris Cty., dec. Nov. 20, 2003) (after two-week jury trial, obtained directed verdict for defense in defamation action)
- *Courier News v. Hunterdon County Prosecutor's Office*, 2003 WL 22022961, 31 Media Law Rptr. 2022 (N.J. Super., Law Div., Hunterdon Cty.), *rev'd*, 358 N.J. Super. 373 (App. Div. 2003) (reversal of denial of summary judgment for plaintiff in public records action for 911 tapes on emergent interlocutory appeal)
- *Hopkins v. City of Gloucester*, 358 N.J. Super. 271 (App. Div. 2003) (reversing summary judgment for defense in defamation action, articulating the evidentiary standard for actual malice)
- *Southern New Jersey Newspapers Inc. v. Township of Mt. Laurel*, 141 N.J. 56 (1995) (affirming and remanding summary judgment for defense in public records action for gun permits)
- *Shuttleworth v. City of Camden*, 258 N.J. Super. 573 (App. Div.) (affirming summary judgment for plaintiff in public records action for jail records), *certif. denied*, 133 N.J. 429 (1992)



Appellate Advocacy

In addition to those listed herein:

- *State v. Brana*, 127 N.J. 64 (1992) (as pro bono criminal defense counsel, obtained reversal of conviction on double jeopardy grounds)
- Counsel for *amicus curiae* in *Mason v. City of Hoboken*, 196 N.J. 51 (2007), *George Harms Const. Co. Inc. v. New Jersey Turnpike Authority*, 137 N.J. 8 (1994), *Tormee Const. Inc. v. Mercer County Imp. Authority*, 143 N.J. 143 (1995), and *Koch v. Director, Div. of Taxation*, 17 N.J. Tax 321 (App. Div. 1997), rev'd, 157 N.J.1 (1999)
- *State v. Clark*, 191 N.J. 503 (2007) (counsel for the New Jersey Supreme Court's Advisory Committee on Judicial Conduct)

Civil Rights Defense

- *Estate of Pasquale v. Gloucester County Prosecutor's Office, et al.*, Docket No. GLO-1474-14 (N.J. Super. Ct., Law Div., Gloucester Cty., May 2017) (voluntary dismissal with prejudice of civil rights claim of allegedly negligent investigation of a missing child later found murdered, through a coordinated aggressive approach to discovery).
- *Morillo v. Monmouth Cty. Sheriff's Officer Torres*, 222 N.J. 104 (2015) (in case of first impression involving qualified immunity for charge of unlawful weapons possession, obtained reversal of denial of summary judgment)
- *Hill v. New Jersey State Trooper Algor*, 85 F.Supp.2d 391 (D.N.J. 2000) (concluding in three-week jury trial returning unanimous verdict of no cause for action in civil rights action)
- *Orsatti v. New Jersey State Police*, 71 F.3d 480 (3d Cir. 1995) (precedential decision, adopting the objective reasonableness standard for qualified immunity, and reversing denial of summary judgment for defense in civil rights action for alleged negligence in conduct of investigation).

Employment Law

- *Frett v. City of Camden*, 2016 N.J. Super. Unpub. LEXIS 1484 (N.J. Super. Ct., App.Div., dec. June 28, 2016) (affirming summary judgment for defense in Conscientious Employee Protection Act action)
- *Pflaumer v. State, Div. of State Police*, 2007 N.J. Super. Unpub. LEXIS 2285 (N.J. Super. Ct., App.Div., dec. July 19, 2007) (affirming summary judgment for defense in NJLAD, disparate treatment, and hostile work environment action)

Business Litigation

- *Finderne Management Co., Inc. v. Barrett*, 402 N.J. Super. 546 (App.Div. 2008) (affirmance of dismissal of claim for consumer fraud for personal financial planning services)



- *Koken v. Reliance Insurance Co.*, 846 A.2d 778 (Pa.Cmwlt. 2004) (denial of petition for injunctive relief and relief from stay to compel liquidator to submit to arbitration of setoff claim involving insurers and insolvent insurer under reinsurance treaties).

Intellectual Property

- *Innovative Patents, L.L.C., etc. v. Brain-Pad, Inc.*, Civil Action No. 07-680 (D.Del. 2007) (summary judgment dismissing patent infringement action), *appeal dismissed*, 416 Fed. Appx. 904 (Fed. Cir. 2011).
- *NESEA Construction, Inc., etc. v. Activar, Inc.*, Civil Action No. 07-4499 (D.N.J. 2008) (favorable settlement of patent infringement action).

Healthcare Law

- *In re Application of Virtua-West Jersey Hospital Voorhees for Certificate of Need*, 194 N.J. 413 (2008) (affirmance and remand of Commissioner's certificate of need decision)
- *In re J.M.*, 292 N.J. Super. 225 (Ch. Div. 1996) (first impression decision related to innovative neurohealth therapies)

Professional and Community Involvement

- Member, New Jersey Supreme Court Advisory Committee on Public Access to Court Records
- Member, Due Diligence Committee (Judicial Appointment Review), Camden County Bar Association
- Founder, Former Chair and Member, Media and Communications Law Committee, New Jersey State Bar Association
- Member, Editorial Board and Former Member, Corporate Board of Directors, *New Jersey Lawyer Magazine*, New Jersey State Bar Association
- Member, First Amendment Committee, American Bar Association
- Member, Committee on the Rules of Evidence, New Jersey Supreme Court (2008 to present)
- Member, Editorial Board, *New Jersey Law Journal*
- Member, New Jersey Media Lawyers Association
- New Jersey Editor, Privacy Law Survey, Media Law Resource Center
- Member, Employment Law & State Legislation & Internet Committees, Media Law Resource Center
- Adjunct Professor, Communications Law, Rowan University, School of Communications
- Member, Camden/Burlington Operating Board and Vice Chair, Campaign Cabinet, United Way of Greater Philadelphia and Southern New Jersey



- Former Chair, Board of Trustees, Goodwill Industries of Southern New Jersey (1988-present)
- Former Chair, Board of Trustees, American Red Cross, Camden County Chapter (1990-present)
- Member, Past President and Board of Directors, Rotary Club of Camden City, New Jersey (1987-present)
- Assistant District Governor at Large, Group Study Exchange Chair, Legislation Chair, and Counsel, Rotary International District 7640 (1996-present)
- Former President, Haddonfield Civic Association (1994-present)
- Cofounder, Member, and Chair, Board of Trustees, Camden Center for Law and Social Justice (1994-present)
- Immediate Past President, Board of Trustees, Columbia University Club of Philadelphia
- Member, Columbia University Alumni Association's, Associations and Clubs Committee
- Chair, Board of Trustees, Community Foundation of South Jersey
- Nominations Chair, Board of Trustees, Camden County College Foundation (2001-present)
- Member, Board of Trustees, Camden County Police Foundation
- Immediate Past Chair, Board of Trustees, Haddonfield Foundation (2002-2017)
- Chair, Board of Trustees, Haddonfield Municipal Alliance (2007-2017)
- Member, St. Rose of Lima (R.C.) Church, Haddon Heights, New Jersey
- Human Resources (Vice Chair), Board Development, Bylaws, and Heritage Committees, Tavistock Country Club, Haddonfield, New Jersey
- Member, Board of Trustees, Symphony in C

Past Speaking Engagements and Seminars

- Speaker, Webinar- Discrimination Law for Inmates: *Brown v. State of New Jersey* Department of Corrections and Beyond, *NJSBA* (Sept. 2018)
- Lawline.com/IPWeek, *Lee v. Tam*, New York City (Oct. 2017)
- Virginia State Bar Annual Meeting, *Lee v. Tam*, Virginia Beach, VA (June 2017)
- 27th Annual Program in Intellectual Property Seminar, *Keynote Program: Lee v. Tam*, University of Dayton School of Law (June 2017)
- Rutgers Law School, Intellectual Property Law Association, *Lee v. Tam*, Camden, NJ (Feb. 2017)
- New Jersey Judicial College, *New Mental Health Care Privilege Panel*, Newark, NJ (Nov. 2016)



- Mercer County Inns of Court, *New Mental Health Care Privilege Panel*, West Trenton, NJ (Oct. 2016)
- American University/Washington College of Law, *SCOTUS Series: Lee v. Tam*, Washington, D.C. (Internet-simulcast) (Jan. 2017)
- New Jersey Black Law Enforcement Officer's Annual Conference, *Police Misconduct Liability*, Piscataway, NJ (Aug. 2016)

Select Articles

- *2023 NJ Open Public Records and Public Meetings*, *Gann Law* (2023)
- *From 'Reefer Madness' to the War on Drugs to Legal Recreational Marijuana*, *New Jersey Lawyer* (October 2022)
- *Delaware Court Latest to Point the Twitter Finger: Tweets Can Constitute Actionable Expressions of Fact*, *MediaLawLetter* (January 2022)
- *Instead of Clarifying Trademark Law, Brunetti Provides the Roadmap for Future Uncertainty*, *New Jersey Lawyer* (October 2020)
- *Message From the Special Editors*, *New Jersey Lawyer* (October 2020)
- *Judiciary*, *New Jersey Lawyer Magazine* (Feb. 2018)
- Westlaw Journal Intellectual Property (Thomson Reuters Expert Analysis), *Forward to the past: The Slants' attorneys ponder trademark disparagement* (June 2017)
- American Law Journal/WFMZ-TV, *Cable Program: Lee v. Tam*, Allentown PA (Jan. 2017)

In the News

- "Case Addresses First Amendment Issues When Judge Gets Disparaged Online," *New Jersey Law Journal* (4/8/21)
- "The Positive Perspective," *POP FM 99.9* (8/13/20)

Credentials

Education

- Rutgers University, JD
- New York University, MPA
- Columbia University, BA

Bar Admissions



- New Jersey
- Pennsylvania
- U.S. Court of Appeals for the Federal Circuit
- U.S. Court of Appeals for the Third Circuit
- U.S. District Court for the District of New Jersey
- U.S. District Court for the Eastern District of Pennsylvania
- U.S. District Court for the Middle District of Pennsylvania
- U.S. Supreme Court

Offices

- Voorhees, NJ

Areas of Focus

Practice

- Appellate Practice
- Business Litigation
- Civil Rights Defense & Constitutional Litigation
- Intellectual Property

Industries

- Media, Internet & Advertising

