



JAMES N. (NICK) BOEVING

Partner

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Nick Boeving represents clients in government investigations and complex commercial disputes. A former Assistant U.S. Attorney in the Southern District of New York, Nick has significant experience handling False Claims Act and FIRREA matters.

EDUCATION

Columbia School of Law, J.D., 2005, James Kent Scholar
Columbia Journal of Transnational Law, Editor-in-Chief, Philip C. Jessup International Law Moot Court

University of Arkansas, B.A., 2002, Political Science, *summa cum laude*

GOVERNMENT SERVICE

Assistant United States Attorney, United States Attorney's Office for the Southern District of New York

Trial Attorney, United States Department of Justice, Civil Rights Division

Law Clerk to The Honorable Debra A. Livingston, United States Court of Appeals for the Second Circuit

Law Clerk to The Honorable Diana E. Murphy, United States Court of Appeals for the Eighth Circuit

ADMISSIONS

Colorado
New York

HIGHLIGHTS

- Successfully represented a leading global chemical company in an investigation involving multiple federal agencies and international trade compliance issues.
- Successfully represented a Chinese national in an investigation involving multiple federal agencies and allegations of arms trading.
- Obtained dismissal of a federal RICO lawsuit against an insurance company client.
- Won reversal of a TRO that had shut down our client's manufacturing and distribution operations and threatened the company's viability.
- Won summary judgment in numerous cases in which plaintiffs alleged some form of employment discrimination or retaliation by a federal agency under Title VII or the Rehabilitation Act.
- Defeated a motion to compel a hospital's internal quality control review following the death of a patient, establishing a federal peer review privilege, and defeated a motion to compel the hospital's plan of correction.
- Defeated a summary judgment motion by a national insurance company in a multimillion dollar tax shelter case involving numerous cross-border structured finance transactions. Co-authored the appellate brief defending the denial of summary judgment in the U.S. Court of Appeals for the Second Circuit.

INDUSTRIES

- Financial Services
- Consumer Products & Services
- Healthcare
- Professional Services

PRACTICE AREAS

- Investigations & Compliance
- Commercial Litigation
- Appellate
- Employment

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BIOGRAPHY

Nick Boeving's legal practice focuses on government investigations and complex commercial litigation matters at the trial and appellate levels. Prior to joining WTO in 2014, Nick was an Assistant United States Attorney at the U.S. Attorney's Office in the Southern District of New York. He practiced in the civil division, where he managed and litigated numerous affirmative and defensive matters involving a variety of issues including investigations of fraud under the False Claims Act (FCA) and the Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA), commercial and tax shelter litigation, administrative law, medical malpractice and other torts, employment discrimination, and representing individuals in *Bivens* actions. He also worked as a trial attorney in the civil rights division of the United States Department of Justice in Washington, D.C., and was hired through the Attorney General's Honors Program. While there, he investigated and litigated potential violations of various Federal voting rights statutes including the Voting Rights Act, the Help America Vote Act, and the National Voter Registration Act.

Nick served two year-long judicial appellate clerkships, first for The Honorable Diana E. Murphy of the United States Court of Appeals for the Eighth Circuit, and then for The Honorable Debra A. Livingston of the United States Court of Appeals for the Second Circuit.

Nick earned his law degree from Columbia University School of Law, where he was the editor-in-chief of the *Columbia Journal of Transnational Law* and a James Kent Scholar. He was also awarded the David Berger Memorial Prize for excellence in international law and received the Parker School Certificate in International Law.

CASES

- Successfully represented a leading global chemical company in an investigation involving multiple federal agencies and international trade compliance issues.
- Successfully represented a Chinese national in an investigation involving multiple federal agencies and allegations of arms trading.
- Obtained dismissal for an insurance company client facing a civil RICO lawsuit in federal court, with risk of treble damages, for issuing a surety bond to a marijuana business as required by state regulations. The judge granted our client's motion to dismiss because the plaintiffs failed to plausibly allege injury sufficient to establish RICO standing.
- *EPMM Colorado v. Green Cross Colorado* (Denver Cnty. Dist. Ct. 2015) - Won reversal of a TRO that had been issued *ex parte* at the close of business on a Friday, effectively shutting down operations for a major manufacturing and distribution client, and subsequently won rejection of the injunction against WTO's client.

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- Defeated a summary judgment motion by a national insurance company in a multimillion dollar tax shelter case involving numerous cross-border structured finance transactions. Co-authored the appellate brief defending the denial of summary judgment in the U.S. Court of Appeals for the Second Circuit. The case involved overlap of the foreign tax credit regime established by Congress and common law doctrines, such as economic substance, as well as the underlying contours of the economic substance doctrine.
- Defeated a motion to compel a hospital's internal quality control review following the death of a patient, establishing a federal peer review privilege, and defeated a motion to compel the hospital's plan of correction.
- Won summary judgment in numerous cases in which plaintiffs alleged some form of employment discrimination or retaliation by a federal agency under Title VII or the Rehabilitation Act.
- Served as trial counsel in a multimillion dollar tax shelter trial involving what was once one of the largest investment banks in the United States. Successfully moved in limine to preclude and limit the scope of the expert testimony proffered by the plaintiff. The case concerned the interpretation of a decades-old bilateral tax treaty and the interplay of that treaty with U.S. tax laws and regulations.
- Won a complete defense verdict following a week-long jury trial rejecting the plaintiff's claim of employment discrimination by a federal agency.
- Successfully defended summary judgment wins before the U.S. Court of Appeals for the Second Circuit in multiple employment discrimination cases.
- Investigated a major FHA lender's mortgage lending and underwriting practices, and brought a civil fraud action under the FCA and FIRREA against the lender, its owner and CEO, and another senior employee. Defeated defendants' motions to dismiss the FCA and FIRREA claims.
- Conducted an investigation of a major national bank's foreign exchange program. Brought civil fraud action under FIRREA asserting claims of mail and wire fraud against the bank and an individual employee of the bank. Defeated the defendants' motions to dismiss the complaint. This was a case of first impression concerning the scope of FIRREA, and the court's opinion has since been followed by other judges.

TEACHING POSITIONS

Fordham Law School
Adjunct Professor, Fall 2013

BAR & COURT ADMISSIONS

Colorado
New York
U.S. Court of Appeals for the Eighth Circuit
U.S. Court of Appeals for the Second Circuit

JAMES N. (NICK) BOEVING

U.S. District Court for the District of Colorado

U.S. District Court for the Southern District of New York

ARTICLES & PRESENTATIONS

- "High Times: Marijuana and the Changing Landscape for Healthcare Providers and Hospital Administrators," presented to the Colorado Bar Association Health Law Section (January 18, 2017).
- "The Right to Be Present Before Military Commissions and Federal Courts: Protecting National Security in an Age of Classified Information," 30 Harv. J. L. & Pub. Pol'y 463 (2007).
- "Aggression, International Law and the ICC: An Argument for Withdrawal of Aggression from the Rome Statute," 43 Colum. J. Transnat'l L. 557 (2005).
- "Half Full...or Completely Empty?: Environmental ATS Claims Post-Sosa v. Alvarez-Machain," 18 Geo.Int'l Envtl. L. Rev. 109 (2005).