Joel Kurtzberg

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Joel Kurtzberg, Co-Chair of Cahill's First Amendment & Media Litigation practice group, focuses his practice on general commercial litigation with extensive experience in First Amendment/media law, privacy, insurance/reinsurance, securities law, and antitrust.

Joel frequently appears on behalf of newspapers, broadcasters, journalists, social media companies, and others on First Amendment issues and other constitutional matters but has just as regularly appeared on behalf of insurance companies in large coverage and reinsurance disputes and leading companies (and their officers and directors) in securities and antitrust actions.

Joel's legal work has been recognized by the *Financial Times* and the *National Law Journal* as being both innovative and effective. In 2015, *The National Law Journal* named Joel to its "Litigation Trailblazers" list, which recognizes fifty top legal professionals in the United States who have changed the practice of litigation through the use of innovative legal strategies. In 2016, Joel's work in the closely-watched case *Amarin Pharma Inc., et al*. v. *Food and Drug Administration, et al.* led the *Financial Times* to rank Cahill as a "Standout" firm in the Changing and Influencing Regulation category of its North American Innovative Lawyers Awards. In 2020, *The National Law Journal* recognized him as a Political Activism/First Amendment Rights Trailblazer, an honor awarded to legal professionals who have "moved the needle" and made a significant mark on legal practice by using litigation to bring about political change and further First Amendment rights.

"Joel is a meticulous, careful and thorough litigator. He takes a collaborative approach to each case, which keeps clients informed and reassured. There's no one else I'd want in a First Amendment case." – *Chambers USA*

Joel is ranked in "Band 1" in Media & Entertainment: First Amendment Litigation in the New York region by *Chambers USA*, where clients note, "he is a world-class defence counsel" and "exceptionally smart." They go on to say, "He is strategic and never loses sight of the big picture." He is also ranked among the top First Amendment litigators in the country by *Media Law International*. Joel has been recognized as a Local Litigation Star by *Benchmark Litigation* and as "Lawyer of the Year" several times by *Best Lawyers* for his work in Litigation - First Amendment Law in New York City – an honor bestowed upon a single First Amendment practitioner in New York City each year. In 2020, the *National Press Photographers Association* named Joel a recipient of the Alicia Calzada First Amendment Award, in recognition of his work on behalf of photojournalist Jason Nicholas in *Nicholas v. Bratton*. This award from the NPPA recognizes those who have worked to promote and advance the First Amendment, especially as it relates to visual journalists. *The Legal 500* also recommends Joel as one of the leading commercial and antitrust class action litigators in the country, and *Super Lawyers* ranks him as one of New York's top business litigators.

Joel has been an Adjunct Professor at Brooklyn Law School, where he has taught a class about Mass Media Law. He has also been an Adjunct Professor at Fordham University School of Law, where he has co-taught a class about Internet Law that focuses on First Amendment, intellectual property, and privacy issues in cyberspace.

SELECTED MATTERS

Selected First Amendment matters:

- Representation of New York newspaper in defamation case about article alleging sexual impropriety of former New York City police officers.
- Representation of New York newspaper in defamation case about article about allegedly deceptive reporting about election fraud.
- Representation of facial recognition company in defending privacy claims brought under the Illinois Biometric Information Privacy Act and other state privacy statutes on First Amendment and other grounds.
- Representation of third-party delivery service in First Amendment challenge to law requiring disclosure of customer information to restaurants.
- Representation of photojournalist in constitutional challenge to New York City's rules governing suspension of press credentials.
- Representation of Amarin Pharma Inc. in a First Amendment challenge of FDA regulations concerning off-label promotion of prescription drugs.
- Representation of newspaper reporter and book author, James Risen, in responding to grand jury and trial subpoenas seeking confidential source information.
- Representation of food manufacturer in challenge to FDA's proposed rule requiring information about added sugars on nutrition labeling.
- Representation of newspaper and magazine reporters in responding to third party subpoenas seeking confidential source information in a criminal investigations directed at the disclosure of Valerie Plame's identity as a CIA operative.
- Representation of cyber-intelligence firm in defamation case concerning Internet advertising.
- Representation of tobacco manufacturer in challenging FDA's proposed graphic warnings in tobacco products labeling.
- Representation of newspaper reporters in responding to third party subpoenas seeking confidential source information as part of a civil Privacy Act case brought by Wen Ho Lee.
- Representation of a leading entertainment company in right of publicity, copyright, and First Amendment dispute over the use of robots alleged to look like actors who played characters of "Norm" and "Cliff" on TV show *Cheers*.
- Representation of the Brooklyn Museum of Art in its legal battles with Mayor Rudolph Giuliani.
- Representation of leading record companies in wrongful death and unfair business practices dispute concerning whether teenage murder was caused by targeted sales of CDs of the death metal band Slayer to minors.
- Representation of songwriters guild in filing *amicus* brief in United States Supreme Court defending the constitutionality of the Copyright Term Extension Act.
- Representation of a leading bookseller in criminal prosecution for distribution of child pornography stemming from sale of photography books of renowned art photographers.
- Representation of international media *amici* in appeal of denial of motion to quash subpoena directed at former Washington Post journalist Jonathan Randal in case of first impression before International Criminal Tribunal for the Former Yugoslavia.
- Representation of a leading broadcasting company in its application for access to televise and/or get faster access to audio recordings of Supreme Court oral argument.
- Representation of tobacco manufacturer, retailers, and retailer associations in various challenges to city and federal laws restricting tobacco advertising.
- Representation of a consortium of small business owners and advertising associations in challenging tobacco advertising restrictions imposed by The City of New York.

Selected Securities matters:

- Representation of Underwriter Defendants in Section 11 litigation concerning alleged misrepresentations and omissions in connection with IPO offering documents.
- Representation of individual officers and directors in financial services industry in Section 10(b)(5) litigation.

Selected Insurance and Reinsurance matters:

- Representation of a major insurance company in $400 million contract dispute with reinsurers.
- Acted as coverage counsel to leading insurance company in $100 million environmental insurance dispute.
- Representation of a leading insurance company in $3 billion-plus fraud dispute concerning disclosure of available insurance in settlement of securities class actions.

Selected Antitrust matters:

- Defense counsel for a financial institution in price fixing case involving the setting of the London Interbank Offered Rate ("LIBOR") for the U.S. Dollar.
- Defense counsel for an offshore marine contractor in bid-rigging claims in U.S. and Europe arising from indictments and guilty pleas of competitor.
- Defense counsel for pharmaceutical company in Hatch-Waxman antitrust litigation accusing company of illegally stalling generic competition for the drug Remeron®.
- Defense counsel for leading fax paper manufacturer in price-fixing case in thermal fax paper industry.
- Defense counsel for a British holding company against antitrust conspiracy charges in multidistrict class action in the payment card industry.

Other Commercial Litigation matters:

- Represented former subprime mortgage originator and servicer in consumer fraud litigation against the Massachusetts Attorney General.
- Represented former subprime mortgage originator in contract dispute with mortgage servicer.

Professional Activities

Joel currently serves as a member of Law360's Media & Entertainment Editorial Advisory Board and the Advisory Board for the National Coalition Against Censorship, a non-profit that promotes freedom of thought, inquiry, and expression. He is also currently the Chair of Cahill's Publications Committee and has previously served as the Chair of the Media Law Committee for the New York State Bar Association.

Joel was also an editor of the American Bar Association's First Amendment and Media Litigation Committee Newsletter and has been an active member of the New York State Bar Association's Media Law Committee, the American Bar Association's First Amendment and Media Litigation Committee, and the Association of the Bar of the City of New York's Communications and Media Law Committee. He was elected to be a member of The American Law Institute in 2007.

Joel is also a "coach" for the Brooklyn Tech High School's mock trial and moot court teams. He has also done a considerable amount of *pro bono* work with Sanctuary for Families, an organization dedicated to serving victims of domestic violence. In 2018, Sanctuary for Families honored Joel with The Abely Pro Bono Achievement Award which honors individuals who have made a difference in the lives of victims of domestic violence and who embody compassion, zeal, energy and dedication. In 2003, 2014, and 2015, Joel received awards for Excellence in Pro Bono Advocacy from Sanctuary for Families' Center for Battered Women's Legal Services. He currently serves as a member of Sanctuary for Families' Legal Advisory Committee. Joel has also been named one of the *New York Law Journal's* "Lawyers Who Lead by Example" in 2016 in the Pro Bono category for "an outstanding record of providing crucial legal services to poor or nearly poor New Yorkers."

Between college and law school, Joel spent two years teaching junior high school students in inner city New Orleans through the Teach for America program. Joel joined the Firm in 1997, after completing his clerkship and became a partner in 2005.

Education

Harvard Law School, J.D., 1996, *magna cum laude*

Harvard University, A.B., 1991, *magna cum laude, Phi Beta Kappa*

Practices

First Amendment & Media Litigation

Commercial Litigation

Antitrust Litigation

Insurance and Reinsurance Litigation

Antitrust & Trade Regulation

Cryptocurrency and FinTech

Securities Litigation, Regulation & Enforcement

White Collar Defense & Investigations

Clerkship/Government Service

Honorable Sarah S. Vance, United States District Court, Eastern District of Louisiana, 1996-1997

Admissions

New York

U.S. Supreme Court

New York Supreme Court Appellate Division, Second Department

U.S. District Court, E.D. New York

U.S. District Court, S.D. New York

U.S. District Court, District of Columbia

U.S. District Court, N.D. of Illinois

U.S. Court of Appeals, First Circuit

U.S. Court of Appeals, Second Circuit

U.S. Court of Appeals, Fourth Circuit

U.S. Court of Appeals, Sixth Circuit

U.S. Court of Appeals, Seventh Circuit

U.S. Court of Appeals, Ninth Circuit

U.S. Court of Appeals, Eleventh Circuit