

## Ephraim McDowell

Partner



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Supreme Court and Appellate  
Commercial Litigation

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Ephraim is a partner in Cooley's Supreme Court and appellate practice. He has argued five cases before the US Supreme Court, as well as numerous cases in courts of appeals and district courts. Before joining Cooley, Ephraim served in the Office of the Solicitor General at the US Department of Justice, where he argued Supreme Court cases involving securities, tax, healthcare and free speech and filed roughly 80 Supreme Court briefs at the merits and certiorari stages. In private practice, Ephraim briefs and argues dispositive motions and appeals and provides strategic counseling to clients facing complex legal issues. He delivers clear writing, creative thinking and persuasive advocacy in high-stakes litigation from district court through the Supreme Court.

Ephraim has represented financial technology companies in numerous cases raising novel interpretive issues under federal consumer protection statutes and financial regulations. He has also represented technology and artificial intelligence companies in cases concerning the First Amendment, Section 230 of the Communications Decency Act and copyright law. He frequently litigates issues of arbitrability under the Federal Arbitration Act and class certification under Rule 23 of the Federal Rules of Civil Procedure. And he regularly litigates against the government in cases involving the separation of powers, administrative law and free speech.

Ephraim clerked for Justice Elena Kagan of the US Supreme Court and Chief Judge Merrick Garland of the US Court of Appeals for the DC Circuit. He graduated summa cum laude from Harvard Law School, where he received the Fay Diploma (awarded to the graduate with the highest grade point average) and served as a Supreme Court Chair on the Harvard Law Review.

### Ephraim's representative matters:

- Secured appellate reversal of \$40 million judgment in Delaware Supreme Court on behalf of individual client
- Successfully briefed and argued motion to dismiss indictment of former Federal Bureau of Investigation Director James Comey
- Appellate counsel for artificial intelligence company Anthropic in copyright class action
- Appellate counsel for financial technology companies MoneyLion, EarnIn and Brigit in class actions brought under federal and state consumer protection laws
- Appellate counsel for Google in Section 230 appeal

- Counsel for YouTube in First Amendment suit challenging California's regulation of Internet feeds
- Appellate counsel for technology company Socure in fraud case under New York law
- Supreme Court counsel for Federal Reserve Board Governor Lisa Cook and Federal Trade Commissioner Rebecca Slaughter, challenging their purported removals from office
- *National Rifle Association of America v. Vulliamis*: Successfully briefed and argued Supreme Court case involving a government regulator's alleged First Amendment violation\*
- *Advocate Christ Medical Center v. Becerra*: Successfully briefed and argued Supreme Court case upholding a US Department of Health and Human Services Medicare regulation\*
- *Poliselli v. Internal Revenue Service*: Successfully briefed and argued Supreme Court case upholding an IRS summons practice\*
- *Macquarie Infrastructure Corp. v. Moab Partners*: Briefed and argued Supreme Court case concerning the scope of the Securities and Exchange Commission's Rule 10b-5 securities fraud cause of action\*
- *Riley v. Bondi*: Briefed and argued Supreme Court case concerning judicial review of immigration removal orders\*
- *Consumer Financial Protection Bureau Community Financial Services Association*: Principal drafter of briefs persuading the Supreme Court to uphold the CFPB's funding structure against an Appropriations Clause challenge\*
- *Moore v. United States*: Principal drafter of briefs persuading the Supreme Court to uphold a federal income tax provision against a 16th Amendment challenge\*
- *Kennedy v. Braidwood Management*: Principal drafter of briefs persuading the Supreme Court to uphold an Affordable Care Act provision requiring insurers to cover preventive services recommended by a task force\*
- *Turkiye Halk Bankasi v. United States*: Principal drafter of briefs persuading the Supreme Court to uphold the federal government's authority to prosecute a foreign-owned bank\*

\* Representation handled before joining Cooley

## Education

Harvard Law School JD, summa cum laude

Hamilton College BA, summa cum laude

## Admissions & Credentials

District of Columbia

New York

## Court Admissions

US Supreme Court

US Court of Appeals for the District of Columbia Circuit

US Court of Appeals for the First Circuit

US Court of Appeals for the Second Circuit

US Court of Appeals for the Fourth Circuit

US Court of Appeals for the Fifth Circuit

US Court of Appeals for the Seventh Circuit

US Court of Appeals for the Ninth Circuit

US Court of Appeals for the Eleventh Circuit