

Patrick F. Philbin, P.C.

**Partner****Washington, D.C.**

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Practice Areas

- Litigation
- Appellate Litigation
- Data Security & Privacy
- International Trade and National Security

Admissions

- 1995, Massachusetts 1997, District of Columbia

Clerk & Government

- **Chambers of the Honorable Clarence Thomas**, Associate Justice, United States Supreme Court; July 1993-July 1994

Chambers of the Honorable Laurence H. Silberman, U.S. Court of Appeals, D.C. Circuit; July 1992-July 1993

Education

- University of Cambridge, Diploma in Legal Studies, 1995
- Harvard Law School, J.D., 1992 *magna cum laude* Executive Editor, *Harvard Law Review*
- Yale University, B.A., History, 1989 *summa cum laude*, Phi

Professional Profile

Patrick Philbin's practice focuses on cases involving complex legal issues at both trial and appellate levels. He has represented clients in numerous cases in the federal courts of appeals and the Supreme Court and has argued before the International Court of Justice at The Hague.

From 2001 to 2005, Patrick served at the Department of Justice. There, his responsibilities centered on national security, intelligence, and terrorism issues. As a Deputy Assistant Attorney General in the Office of Legal Counsel from 2001 to 2003, Patrick advised the Attorney General, the Counsel to the President, and the Department of Defense on issues related to the War on Terrorism. As an Associate Deputy Attorney General from 2003 to 2005, Patrick assisted in overseeing the national security functions of the Department, including espionage, counterterrorism, and counterintelligence investigations and applications for electronic surveillance under the Foreign Intelligence Surveillance Act. He also had extensive experience with the Electronic Communications Privacy Act and the Stored Communications Act. Based on his experience in government, he assists clients with data security and privacy issues.

Representative Matters

Patrick's broad experience includes the following:

- Secured order vacating FCC rule relating to attributing ownership of television stations that are parties to certain joint sales agreements. *Prometheus Radio Project v. FCC*, 824 F.3d 33 (3rd Cir. 2016).
- Representing Syngenta in multi-district litigation alleging torts arising from the sale of an approved genetically modified corn seed.
- Secured dismissal of claims for lack of personal jurisdiction on ground that interpreting a state registration as requiring consent by out-of-state corporation to general jurisdiction would violate the Dormant Commerce Clause. *In re Syngenta AG MIR 162 Corn Litigation*, 2016 WL 2866166 (D. Kan. May 17, 2016).
- Advised major retailer in connection with incidents of credit card skimming and negotiations with state attorney general on response; averted investigation.
- Counseled multi-state retailer in connection with major data breach compromising payment card data.
- Successfully defended JNOV overturning \$140 million jury verdict in *Mformation Technologies, Inc. v. Research In Motion, Ltd.*, 764 F.3d 1392 (Fed. Cir. 2014).
- Secured dismissal of suit an alleging unconstitutional taking. See

Corsello v. Verizon New York, Inc., 916 F. Supp. 2d 334 (E.D.N.Y. 2013) (Irizarry, J.), *affirmed Kurtz v. Verizon New York, Inc.*, 758 F.3d 506 (2d Cir. 2014).

- Successfully defended dismissal for lack of personal jurisdiction over private equity funds, see *Cornerstone Healthcare Group Holding, Inc. v. Reliant Splitter, L.P.*, 2014 WL 2538881 (Tex.App.-Dallas, June 05, 2014), and secured dismissal on appeal for lack of personal jurisdiction over general partner of private equity funds, see *Nautic Management VI, L.P. v. Cornerstone Healthcare Group Holding, Inc.*, 2014 WL 2807980 (Tex. App.-Dallas, June 18, 2014).
- *Sun Capital Partners III, L.P. v. New England Teamsters and Trucking Industry Pension Fund*, 724 F.3d 129 (1st Cir. 2013).
- In a purported consumer class action seeking more than \$100 million in damages, secured and successfully defended on appeal denial of class certification. *Corsello v. Verizon New York Inc.*, 967 N.E.2d 1177 (N.Y. 2012).
- Served as national coordinating counsel for Verizon Wireless for litigation arising from divestiture transactions required by DOJ consent decree relating to acquisition of Alltel Corporation.
- Successfully defended, on behalf of GTE Reinsurance Company Ltd., the Rhode Island Voluntary Restructuring for Solvent Insurers Act against a claim that it violated the Contract Clause.
- After removing breach of contract action to federal court, secured dismissal of claims seeking injunctive relief that threatened to derail a \$200 million transaction. Case settled after key claims were dismissed.
- Secured dismissal of consumer fraud claims in purported class action in state court against a major telecommunications carrier.
- Successfully compelled arbitration and represented major defense contractor in a classified (TS/SCI) arbitration concerning a teaming agreement dispute.
- Appointed Special United States Attorney in the Eastern District of Virginia to defend against motion by John Walker Lindh, the “American Taliban,” seeking privileged combatant status.
- Argued on behalf of the United States before the International Court of Justice in *Mexico v. United States* (the *Avena* case).
- Successfully challenged FCC spectrum allocation rulemaking on behalf of National Public Radio. *NPR v. FCC*, 254 F.3d 226 (D.C. Cir. 2001).
- Successfully secured federal court jurisdiction over a challenge to portions of the Michigan Telecommunications Act as preempted by federal law and secured a ruling striking down part of the Michigan Telecommunications Act. See *GTE North Inc. v. Strand*, 209 F.3d 909 (6th Cir. 2000) and *Verizon North Inc. v. Engler*, 257 F.3d 587 (6th Cir. 2001).

Memberships & Affiliations

D.C. Circuit Advisory Committee on Procedures

Law360's Advisory Editorial Board on Privacy and Consumer Protection

Other Distinctions

The Attorney General's Award for Excellence in Furthering the Interests of U.S. National Security, June 2004.

Office of the Secretary of Defense, Exceptional Civilian Service Award for Support to the Secretary of Defense in the War on Terror, October 2002.

Seminars

Panelist at symposium: *Combating Terrorism: Charting the Course for a New Administration*, The Center on Law, Ethics, and National Security, Duke University, April 11, 2008

Paper: *Executive Power and the Benefits of Constitutional Uncertainty*, presented at conference: The United States Supreme Court: Contested Constitutional Doctrines, Michigan State University, March 28, 2008

Testimony before the Subcommittee on the Constitution, Civil Rights, and Civil Liberties; House Committee on the Judiciary; Oversight Hearing on the Reform of The State Secrets Privilege, January 29, 2008

Testimony before the Senate Committee on the Judiciary; Hearing: "FISA Amendments: How to Protect Americans' Security and Privacy and Preserve the Rule of Law and Government Accountability," October 31, 2007

Panelist, FISA Modernization: National Security Surveillance in the 21st Century, Georgetown University Law Center, September 10, 2007

Testimony before the House Armed Services Committee; Hearing: "Upholding the Principle of Habeas Corpus for Detainees," July 26, 2007

Testimony before the House Armed Services Committee; Hearing: "The Military Commissions Act of 2006 and the Future of the Detention and Interrogation Facilities at the U.S. Naval Station, Guantanamo Bay, Cuba," March 29, 2007

Panelist, Study Group on National Security Law and Policy: The Way Forward, Institute of Politics, Kennedy School of Government, February 28, 2007

Panelist, "Presidential Powers: An American Debate," Center for Law and Security, New York University Law School, April 2006

Panelist, "King George or Commander-in-Chief? President Bush's Theory of Executive Power and the Constitution," American University Washington College of Law, March 2006

Prior Experience

U.S. Department of Justice

Associate Deputy Attorney General, June 2003-November 2005

Deputy Assistant Attorney General, Office of Legal Counsel, September
2001-June 2003

Kirkland & Ellis, Washington, D.C.

Partner, 1998-2001

Associate, 1995-1998