

# Dennis Fan

435 West 116th St., New York, NY 10027  
dennis.fan@law.columbia.edu

## EMPLOYMENT

### Columbia Law School

Associate Clinical Professor of Law, 2024–present  
Director, Appellate Litigation Clinic, 2024–present  
Lecturer in Law, 2022–2024

### New York State Office of the Attorney General

Senior Assistant Solicitor General, 2022–2024

### U.S. Department of Justice, Civil Division

Attorney, Appellate Staff, 2017–2022  
Counsel to the Assistant Attorney General, 2021

### Hon. James E. Boasberg, U.S. District Court for the District of Columbia

Law Clerk, 2016–2017

### Hon. Denny Chin, U.S. Court of Appeals for the Second Circuit

Law Clerk, 2015–2016

## EDUCATION

### Columbia Law School, J.D., 2015

James Kent Scholar, 2013–2015; Harlan Fiske Stone Scholar, 2012–2013  
Jane Marks Murphy Prize; Young B. Smith Prize  
Editor-in-Chief, COLUMBIA LAW REVIEW

### Swarthmore College, B.A., 2011

Political Science (major), Mathematics (minor), with Honors

Damascus University, Damascus, Syria, 2009 (study abroad)

## **PUBLICATIONS**

Why the Missing Submarine Didn't Need to Pass a Federal Safety Check,  
SLATE (June 22, 2023)

No Idea What the Future Holds: The Retrospective Evidence Dilemma,  
114 COLUM. L. REV. 1503 (2016) (student note)

## **PRESENTATIONS**

Administrative Records, Administrative Law Conference (Nov. 2023)

Civil Procedure Through a Justice Lens, Columbia Law School (Nov. 2023)

Pathways to Leadership Workshop for the Public Sector,  
Harvard Law School (Jan. 2023)

Careers in Litigation, Asian American Bar Association of New York (July 2022)

Legal Writing Workshop: Making Persuasive Narrative Choices,  
The Appellate Project (Feb. 2022)

Careers at the DOJ, Georgetown University Law Center (Oct. 2021)

Parallel Circuits: An Electrifying Comparison of the Different Practices in the  
Federal Courts of Appeals, Federal Circuit Bar Association (Apr. 2021)

## **REPRESENTATIVE CASES**

### **U.S. Supreme Court (merits cases)**

*Consumer Financial Protection Bureau v. Community Financial Services Ass'n of America, Inc.*, 601 U.S. 416 (2024) (whether the CFPB's funding mechanism violates the Constitution's Appropriations Clause) (counsel for amicus curiae)

*Trump v. Mazars USA, LLP*, 601 U.S. 416 (2020) (whether the House of Representatives' subpoenas for the personal financial information of the President violate the separation of powers) (counsel for amicus curiae)

*Food Marketing Institute v. Argus Leader Media*, 588 U.S. 427 (2019) (whether FOIA Exemption 4's protection for confidential business records requires a showing of competitive harm) (counsel for amicus curiae)

*Fourth Estate Public Benefit Corp. v. Wall-Street.com, LLC*, 586 U.S. 296 (2019) (whether registration of a copyright occurs when the Copyright Office registers the work or when the copyright owner applies for registration) (counsel for amicus curiae)

*Culbertson v. Berryhill*, 586 U.S. 53 (2019) (whether the Social Security Act's statutory cap on attorney's fees in judicial proceedings also limits the fees available before SSA) (counsel for respondent)

### **U.S. Courts of Appeals (published cases)**

*Davidson v. United Auto Credit Corp.*, 65 F.4th 124 (4th Cir. 2023) (whether auto loans that cover the purchase of a car and separate insurance products are covered by the Military Lending Act) (counsel for amicus curiae)

*China Telecom (Americas) Corp. v. Federal Communications Commission*, 57 F.4th 256 (D.C. Cir. 2022) (whether the FCC properly revoked a foreign telecom company's license to operate lines in the United States) (co-counsel for respondents)

*United States v. China Telecom (Americas) Corp.*, 55 F.4th 939 (D.C. Cir. 2022) (whether FISA electronic surveillance pertaining to a foreign telecom company was authorized) (counsel for appellee)

*Steigerwald v. Commissioner of Social Security*, 48 F.4th 632 (6th Cir. 2022) (whether attorney's fees under the Social Security Act are available in a class action challenging agency inaction) (argued for appellant)

*United Food & Commercial Workers Union v. U.S. Department of Agriculture*, 36 F.4th 777 (8th Cir. 2022) (whether pork-processing plants can intervene after summary judgment in a case challenging a USDA rule) (argued for appellee)

*Northport Health Services of Arkansas, LLC v. U.S. Department of Health & Human Services*, 14 F.4th 856 (8th Cir. 2021) (whether HHS's rule regarding arbitration in nursing homes violates the Federal Arbitration Act) (argued for appellees)

*Cause of Action Institute v. White House Office of Management & Budget*, 10 F.4th 849 (D.C. Cir. 2021) (whether internet browsing histories are agency records under FOIA) (argued for appellees)

*New LifeCare Hospital of North Carolina, LLC v. Becerra*, 7 F.4th 1215 (D.C. Cir. 2021) (whether HHS's policy requiring hospitals to seek Medicaid reimbursement prior to Medicare reimbursement for certain claims is reasonable) (argued for appellee)

*Marasco & Nesselbush LLP v. Collins*, 6 F.4th 150 (1st Cir. 2021) (whether SSA's policy of refusing to disburse attorney's fees to attorneys who enter agency employment is reasonable) (argued for appellees)

*Huawei Technologies USA, Inc. v. Federal Communications Commission*, 2 F.4th 421 (5th Cir. June 18, 2021) (whether the FCC properly barred a foreign telecom company from obtaining universal service funds) (co-counsel for respondents)

*Garcia v. United States*, 986 F.3d 513 (5th Cir. 2021) (whether the Coast Guard owes a duty under maritime law to swimmers in a shipping canal) (argued for appellee)

*Apple, Inc. v. Voip-Pal.com, Inc.*, 976 F.3d 1316 (Fed. Cir. 2020) (whether the Patent Trial and Appeal Board appropriately sanctioned a patent owner for ex parte communications with the government) (argued for intervenor)

*New York v. National Highway Transportation Safety Administration*, 974 F.3d 87 (2d Cir. 2020) (whether NHTSA properly declined to adjust its civil penalties for inflation) (argued for respondents)

*Osen, LLC v. U.S. Central Command*, 969 F.3d 102 (2d Cir. 2020) (whether disclosures relating to terrorist attacks waived the Department of Defense's right under FOIA Exemption 1 to withhold photos of the attacks) (co-counsel for appellant)

*U.S. Postal Service v. Postal Regulatory Commission*, 963 F.3d 137 (D.C. Cir. 2020) (whether the Postal Regulatory Commission properly disclosed revenue and cost data regarding certain international mail) (argued for respondent)

*Parents for Privacy v. Barr*, 949 F.3d 1210 (9th Cir. 2020) (whether students challenging a school district's bathroom policy have Article III standing to sue the Department of Education) (argued for appellees)

*Bolton v. United States*, 946 F.3d 256 (5th Cir. 2019) (whether FBI and IRS agents acted within the scope of their employments when they made allegedly false statements about a criminal defendant) (argued for appellee)

*Trump v. Deutsche Bank AG*, 943 F.3d 627 (2d Cir. 2019) (whether the House of Representatives' subpoenas for the personal financial information of the President violate the separation of powers) (counsel for amicus curiae)

*Arthrex, Inc. v. Smith & Nephew, Inc.*, 935 F.3d 131 (Fed. Cir. 2019)  
*OSI Pharmaceuticals, LLC v. Apotex Inc.*, 939 F.3d 1375 (Fed. Cir. 2019)  
(whether the USPTO's inter partes review system violates the Due Process Clause or the Taking Clause) (argued for intervenor)

*American Clinical Laboratory Ass'n v. Azar*, 931 F.3d 1195 (D.C. Cir. 2019) (whether a Medicare statute's bar on judicial review precludes review of HHS's definition of laboratories used in setting reimbursement rates) (argued for appellee)

*Al-Turki v. Tomsic*, 926 F.3d 610 (10th Cir. 2019) (whether the FBI violated due process in denying an inmate's international prison transfer to Saudi Arabia) (counsel for appellees)

*Harrington v. Berryhill*, 906 F.3d 561 (7th Cir. 2018) (whether district courts have ancillary jurisdiction over disputes between social-security claimants and their attorneys in social-security cases) (argued for appellee)

*Shell Offshore, Inc. v. Tesla Offshore, L.L.C.*, 905 F.3d 915 (5th Cir. 2018) (whether a sonar-surveying vessel is a towing vessel under Coast Guard regulations) (counsel for amicus curiae)

### **New York Court of Appeals & Appellate Division (published cases)**

*Matter of Trump v. Engoron*, 40 N.Y.3d 1090 (2024)  
*Matter of Trump v. Engoron*, 222 A.D.3d 505 (2023)  
(whether gag orders in a civil enforcement action against the Trump Organization and its executives are proper) (counsel for respondent)

*Matter of Frid v. McDonald*, 41 N.Y.3d 907 (2024)  
*Matter of Frid v. McDonald*, 222 A.D.3d 620 (1st Dep't 2023)  
(whether administrative subpoenas issued to a physician based on a complaint of medical mistreatment are supported) (argued for respondents)

*Matter of State of New York v. Ramel J.*, 223 A.D.3d 830 (2d Dep't 2024) (whether an individual is a detained sex offender for purposes of the Mental Hygiene Law based on an intervening offense) (argued for respondent)

*People v. Trump*, 217 A.D.3d 609 (1st Dep't 2023) (whether the State properly brought a civil enforcement action against the Trump Organization and its executives) (counsel for respondent)

*Matter of People v. JUUL Labs, Inc.*, 212 A.D.3d 414 (1st Dep’t 2023) (whether there is personal jurisdiction over JUUL’s co-founders in a deceptive-marketing suit) (argued for respondent)

*Matter of Kirby Forensic Psychiatric Facility v. Karmi K.W.*, 211 A.D.3d 532 (1st Dep’t 2022) (whether a detained criminal defendant continues to suffer from a dangerous mental disorder) (argued for appellant)

*Ugo-Alum v. New York State Department of Motor Vehicles*, 211 A.D.3d 500 (1st Dep’t 2022) (whether the DMV’s notice process for driving points is constitutional) (argued for appellant)

*People v. Image Plastic Surgery, LLC*, 210 A.D.3d 444 (1st Dep’t 2022) (whether a doctor’s advertising for stem-cell treatment is deceptive) (argued for respondent)

## **ACTIVITIES**

Local Rules Advisory Committee, U.S. Court of Appeals for the Second Circuit

Advisory Committee, Davis Polk Leadership Initiative, Columbia Law School

Board of Directors, South Brooklyn Sanctuary

Volunteer, South Brooklyn Mutual Aid

Mentor, The Appellate Project

## **AFFILIATIONS**

Alumni of Color Committee, Columbia Law School

National Asian Pacific American Bar Association

Asian American Bar Association of New York

Federal Bar Council

## **BAR MEMBERSHIP**

New York, 2016