

Weil's Administrative Law & Regulatory Practice, part of the Appeals & Strategic Counseling Group, is dedicated to helping clients navigate the shifting landscape of the administrative state. We develop solutions for the many administrative and regulatory problems facing businesses today, and help clients formulate holistic, strategic plans to address the risks tied to government regulation and enforcement. We bring to bear strategic outlook, foresight, creativity, and cross-disciplinary expertise.

The Challenge for Businesses

Administrative governance at both the state and federal levels continues to expand, particularly through enforcement actions that test creative new legal theories and seek to forge new policy outside of the rulemaking process. Though the U.S. Supreme Court has of late issued decisions that somewhat restrict agency power, it has also left many questions unanswered.

We expect agencies will continue to push statutory boundaries to implement major policy programs and interpret their authority broadly. Businesses must proactively prepare for new regulatory developments and retain qualified legal counsel to respond quickly and efficiently. Weil fulfills this need.

Weil's Full-Service Practice

Weil's Administrative Law & Regulatory Practice offers full service representation for clients that are or could be affected by regulatory action. With a view towards any and all other needs that your business may have, Weil can help:



Challenge unlawful agency actions in administrative proceedings or before federal courts;



Monitor administrative trends relevant to your business and advise on opportunities to help guide the law;



Advise and defend your company against agency investigations and enforcement proceedings;



Craft strategy to prevent follow-on litigation from other state or federal agencies, or from civil plaintiffs' lawyers; and



Work collaboratively with you and all key stakeholders across the business to manage regulatory risk.

The Weil Advantage



Deep Bench of Former Clerks and Government Lawyers: Weil brings a top flight team of former federal clerks and top government litigators with extensive administrative law and appellate experience.



Industry Leaders: Our attorneys have litigated some of the most influential and high-stakes lawsuits in recent years, and are recognized as industry leaders.



Cross-Disciplinary Expertise: Because administrative law implicates many subject areas, Weil draws on expertise across the Firm. We employ a diverse set of skills and resources to offer creative and comprehensive solutions for any regulatory issue.



Proven Success in High-Profile Administrative Law Matters: Weil's attorneys have substantial experience and expertise in administrative law practice, recently defending high-profile enforcement actions and challenging the constitutionality of agency structures, among other things.

SUPREME COURT LITIGATION

- **United States v. Arthrex** (U.S. 2021) – Mark Perry litigated this important Supreme Court case regarding whether the Administrative Patent Judges of the PTAB had been constitutionally appointed. Mark successfully persuaded the Court to offer the opposing side a limited remedy for the unconstitutional appointment, which ultimately resulted in confirmation of his client's victory before the PTAB.
- **Lucia v. SEC** (U.S. 2018) – Mark Perry obtained a landmark ruling in this case, in which the Court held that the administrative law judges of the SEC are "Officers of the United States" within the meaning of the Appointments Clause and thus had not been constitutionally appointed.
- **Corner Post Inc. v. Board of Governors of the Federal Reserve System** (U.S.) – Weil submitted an amicus brief on behalf of the U.S. Chamber of Commerce in this case involving the statute of limitations for legal challenges to agency rulemakings. Weil argued that lower courts' policy justifications for limiting the timeframe for filing such challenges were unfounded and contrary to the statute.
- **CFPB v. Community Financial Services Association of America** (U.S.) – Weil submitted an amicus brief on behalf of the New England Legal Foundation in this challenge to the CFPB's funding structure, arguing that the CFPB's broad scope of powers required close scrutiny of its funding mechanisms.

ADMINISTRATIVE RULE & ORDER CHALLENGES

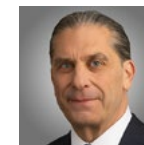
- **Nasdaq Stock Market LLC v. SEC**, 38 F.4th 1126 (D.C. Cir. 2022) – Josh Wesneski represented a national securities exchange in a successful challenge to an SEC order vesting unregulated individuals with supervisory authority over the national market system.
- **Johnson v. Copyright Royalty Board** (D.C. Cir. 2020) – Led by Greg Silbert, and partnering with the Intellectual Property practice group, Weil represented music streamers in a successful appeal from a rate-setting order by the Copyright Royalty Board. The D.C. Circuit agreed that the Copyright Royalty Board had failed to provide adequate notice of the final rate structure and had failed to reasonably explain the basis for its decision.
- **New York Stock Exchange LLC v. SEC** (D.C. Cir. 2020) – Josh Wesneski represented a national securities exchange in persuading the D.C. Circuit to strike down a novel pilot program installed by the SEC as beyond the agency's statutory authority.

* Experience includes engagements our attorneys have handled at other firms.

ADMINISTRATIVE ACTION DEFENSE

- **FTC v. Meta Platforms** (N.D. Cal. 2023) – Members of Weil's Antitrust, Complex Commercial Litigation, and Appeals & Strategic Counseling Groups worked together to defeat the FTC's bid to enjoin Meta's acquisition of a virtual reality startup. After Weil obtained complete victory at the district court, the FTC abandoned the in house administrative proceedings.
- **FTC v. IQVIA** (S.D.N.Y. 2023) – Members of Weil's Antitrust, Complex Commercial Litigation, and Appeals & Strategic Counseling Groups teamed up to defend against the FTC's effort to halt an acquisition by a large healthcare data and services company of a digital advertising firm.
- **FTC v. The Kroger Co.** (D. Or.) – Members of Weil's Antitrust, Complex Commercial Litigation, and Appeals & Strategic Counseling Group are working together to defend against the FTC's effort to enjoin a merger between two large grocery store companies.

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