Lee R. Crain

Partner

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New York

Lee R. Crain is a litigation partner in the New York office Gibson Dunn. His practice focuses on a broad range of high-stakes trial and appellate litigation in both federal and state courts. He represents clients in financial services, media and entertainment, technology, energy, and healthcare sectors in their most pressing commercial litigation, first amendment, labor and employment, cross-border, and appellate matters.

Lee has considerable experience with crisis counseling and fast-paced, emergency litigation and has led teams seeking or defending against temporary restraining orders and preliminary injunctions in multiple matters. He has represented clients in employment disputes, including lawsuits regarding restrictive covenants, trade secrets, confidentiality obligations, whistleblower retaliation, and employment discrimination. He has experience in a variety of other commercial disputes, including contract disputes, cross-border litigation, lawsuits to recover U.S. discovery to use in proceedings abroad, and judgment-confirmation proceedings. Lee has substantial experience in appellate matters in the federal and State appellate courts, including in New York's high court.

A frequent thought leader and author, Lee's articles on the First Amendment and defamation law have appeared in *Bloomberg Law* and *Law360*. The *American Lawyer* has recognized him in its "Litigators of the Week" feature. *Best Lawyers: Ones to Watch® in America* recognized him for his Appellate Practice. *Benchmark Litigation* named Lee as a "Future Star" and included him in its "40 & Under" list, which identifies "the best and brightest litigators across the US." Lee has been recognized by *Lawdragon* as a "Global Leader in Crisis Management" and was named among the "500 Leading Global Entertainment, Sports & Media Lawyers." Lee was the recipient of the Federal Bar Council's Thurgood Marshall Award for Exceptional Pro Bono Service in its Rising Star category. He is also the recipient of Gibson Dunn's 2020 Frank Wheat Memorial Award, "given annually to individual lawyers and teams that have demonstrated leadership and initiative in their pro bono work, obtained significant results for their pro bono clients, and served as a source of inspiration to others."

First Amendment.

- Represented CNN and White House correspondent Jim Acosta as well as Playboy's White House Correspondent Brian J. Karem in multiple victories that prohibited members of the Trump administration from suspending Mr. Acosta's and Mr. Karem's press pass credentials.
- Represented Deon Jones in historic six-figure jury trial verdict, including punitive damages, against an LAPD officer who shot Mr. Jones while he was peacefully protesting.
- Represented executives of the U.S. Agency for Global Media and Voice of America in First Amendment litigation against members of the Trump Administration, culminating in the firm's victory in *Turner v. USAGM*, which confirmed that

Capabilities

Litigation

Administrative Law and Regulatory Practice

Appellate and Constitutional Law

Crisis Management

First Amendment and Free Expression

Labor and Employment

Media, Entertainment, and Technology

Privacy, Cybersecurity, and Data Innovation

Product Liability

Tech and Innovation

Technology Litigation

Transnational Litigation

Trials

White Collar Defense and Investigations

Credentials

Education

University of Michigan - 2014 Juris Doctor

University of Pennsylvania - 2010 Bachelor of Arts

Admissions

New York Bar

Clerkships

USDC, Southern District of New York, Hon. Sidney H. Stein, 2015 - 2016

US Court of Appeals, 9th Circuit, Hon. Paul J. Watford, 2014 - 2015

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government-employed journalists have First Amendment rights. *Turner v. U.S. Agency for Global Media*, 2021 WL 2201669 (D.D.C. May 17, 2021).

Defamation Defense.

- Defeated defamation claims in *Kogan v. Facebook* as well as in *O'Keefe v. Twitter*, in which James O'Keefe of Project Veritas claimed Twitter had defamed him when it de-platformed him on the ground that he violated Twitter's terms.
- Represented journalists in cross-border defamation litigation, including through opposing potential judgment-enforcement proceedings under the federal "SPEECH Act" as well as by pursuing discovery in aid of foreign defamation defense in multiple actions brought under 28 U.S.C. § 1782.

Employment Litigation

- Regularly represents companies in restrictive covenants and trade secrets/confidential information disputes involving departing employees, including representing clients in the financial services, modeling, manufacturing, technology (including artificial intelligence) and health care industries.
- Regularly represents companies in employment discrimination and whistleblower retaliation lawsuits, including providing oral argument in an appeal before the New York Appellate Division that affirmed the dismissal of a whistleblower retaliation claims against the healthcare company and prevailing in compelling to arbitration employment claims against Uber.

Transnational Litigation.

- Served as lead coordinating counsel successfully representing a former Prime Minister of Mongolia in litigation brought in seven countries seeking $250 million in damages and asset freezes of property around the world. Represented the former Prime Minister in multiple actions in federal court discovery actions resulting in the recovery of case-dispositive evidence.
- Represented clients in multiple international arbitration confirmation proceedings, including successfully opposing a sham $18 billion arbitral award against Chevron.

High-Stakes Commercial Litigation.

- Represented AMC in eight-figure profit participation litigation in New York State court over the hit television series *The Walking Dead*, including prevailing in an appeal that led to the dismissal of key claims.
- Represented Lynn Tilton and Patriarch Partners in a variety of matters, including during a two-week bench trial in the Delaware Court of Chancery, in multiple appeals before the Delaware Supreme Court and in New York State, and in a jury trial in New York State Supreme Court.

Appellate Litigation.

- Won a landmark decision from New York's highest court in *Congel v. Malfitano*, which, in a question of first impression, established standards for dissolution of partnerships under New York law.
- Prevailed before the high court in *UBS v. Kainer*, which adopted new civil procedure law for New York State.
- Achieved a unanimous victory dismissing a whistleblower retaliation suit in *Frey v. Health Management Systems, Inc*., 151 N.Y.S.3d 879 (1st Dept. 2021).

Lee has a vibrant pro bono practice focused most prominently on the First Amendment, gun safety litigation, and other civil rights and constitutional claims. Lee has argued pro bono cases in federal trial and appellate courts, including the United States Court of

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Appeals for the D.C. Circuit. Lee has represented in particular the Giffords Law Center to Prevent Gun Violence in multiple matters, including in *California v. Bureau of Alcohol, Tobacco, Firearms & Explosives* in which Giffords prevailed on summary judgment in litigation challenging the federal government's failure to properly regulate AR-style "ghost guns." Lee was also an integral member of the Gibson Dunn team the Giffords Law Center honored with its 2021 Odgers Pro Bono Partner Award. Lee also has significant experience representing journalists and protesters in civil rights litigation across the country.

Lee graduated first in his class from the University of Michigan Law School, *summa cum laude*, where he received the Henry M. Bates Memorial Scholarship Award—the law school's highest honor. He also received the Daniel H. Grady Prize and the Class of 1908 Memorial Scholarship, for highest class standing at the end of the second and third years, respectively. Lee served as an editor on the *Michigan Law Review* and was elected to the Order of the Coif. Lee graduated *magna cum laude* from the University of Pennsylvania with a bachelor's degree in history and a minor in Spanish.

Lee served as a law clerk to the Honorable Paul J. Watford of the United States Court of Appeals for the Ninth Circuit and the Honorable Sidney H. Stein of the United States District Court for the Southern District of New York. He is admitted to practice in the State of New York as well as before the United States District Courts for the Southern and Eastern Districts of New York and the District of Columbia as well as the United States Courts of Appeals for the Second, Ninth, and District of Columbia Circuits. He is also admitted in the United States Supreme Court.

Select Recent Thought Leadership.

- Regularly co-authors Supreme Court amicus briefs in cases involving the First and Second Amendments, including in *NetChoice v. Paxton*, *United States v. Rahimi*, *Bruen v. New York*, and many others.
- Lecturer, Appellate Advocacy 2024, Practicing Law Institute (April 16, 2024).
- Co-Author, The Founders' Broad Views of Press Freedom in Online-Speech Cases Should Be Upheld, *Daily Journal*(December 6, 2023).
- Co-Author, Accessing the Courts: Why New York Should Eliminate the Dreaded, Needless and Unduly Complex 'Certificate of Conformit*y*, *New York Law Journal*(September 6, 2023).
- Co-Author, How NY SLAPP Defendants Can Recover Fees In Fed. Court, *Law360* (August 29, 2023).
- Co-Author, Coming Soon to Court: General Personal Jurisdiction of All Out-of-State Businesses in NY, *New York Law Journal* (July 4, 2023).
- Co-Author, A Federal Jury Verdict Rules on Policing the Police at Protests, *Bloomberg Law* (March 28, 2023).

Co-Author, *New York Times v. Sullivan* Is Safe From Sarah Palin, *Bloomberg Law* (February 25, 2022).

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