Jason C. Schwartz

Partner

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Jason C. Schwartz is a litigation partner in the Washington, D.C. office of Gibson Dunn, co-chair of the Labor & Employment Practice Group, General Counsel of the law firm and a member of the firm's Executive Committee. Jason was recognized as an MVP in employment law seven times, awarded by *Law360* to "attorneys whose achievements in major litigation or transactions have set a new standard for accomplishment in corporate law." *Law360* referred to Jason as "an expert dismantler of worker class actions."

Jason is ranked in Band 1 in Labor & Employment by *Chambers USA*, which stated, "He is a whip-smart, results-oriented and zealous advocate who is really committed to the client. His judgment is impeccable." According to *Chambers USA*, "[c]lients note: He's an excellent litigator with a good sense of the client's needs in a business environment. He's just a pleasure to work with. He's disciplined, a great writer and gets great results." Forbes named Jason to its inaugural America's Top 200 Lawyers 2024 list. He is recognized as a Top 50 Labor & Employment Litigator in the U.S. by *Benchmark Litigation*; on the Top 100 list of the Nation's Most Powerful Employment Attorneys by *Human Resource Executive* magazine; as a Top Lawyer in Employment Defense by *Washingtonian Magazine*; as a Leading Partner in Labor & Employment Disputes by *The Legal 500 US*; by *Lawdragon 500 Leading Corporate Employment Lawyers* for Labor & Employment (Litigation); in *The Best Lawyers in America* in the Employment Law-Management category; as a Super Lawyer by *Washington, D.C. Super Lawyers*; and as an *Am Law Litigation Daily* "Litigator of the Week" for his win in an independent contractor misclassification/wage-and-hour class action. He is a Fellow of the College of Labor & Employment Lawyers.

The American Lawyer named the practice group Jason co-leads as the Labor & Employment Litigation Department of the Year in its most recent competition. *The American Lawyer* noted, "with novel labor and employment issues swirling, Gibson Dunn's litigators set standards and settle the law," and that a case "typical for Gibson Dunn's labor and employment team" is "high-profile," "cutting-edge," and "a victory." The group was also recently recognized for the thirteenth time, more times than any other firm, as a *Law360* Employment Practice Group of the Year and won *The National Law Journal*'s D.C. Labor & Employment Litigation Department of the Year competition for the last ten years in a row.

Jason's practice includes sensitive workplace investigations, high-profile trade secret and non-compete matters, wage-hour and discrimination class actions, Sarbanes-Oxley and other whistleblower protection claims, executive and other significant employment disputes, labor union controversies, and workplace safety litigation.

Recent representative matters include:

- Won precedent-setting arbitration appeal relating to Amazon Flex drivers (*Harper v. Amazon* (3rd Cir. 2021));

Capabilities

Labor and Employment
Appellate and Constitutional Law
Class Actions
ESG: Risk, Litigation, and Reporting
Executive Compensation and Employee Benefits
Higher Education
Intellectual Property
Law Firm Defense
Litigation
Privacy, Cybersecurity, and Data Innovation
Sports Law
State Attorneys General
Tech and Innovation
Technology Litigation
Trade Secrets

Credentials

Education

Georgetown University - 1998 Juris Doctor
George Washington University - 1994 Bachelor of Arts

Admissions

Virginia Bar
District of Columbia Bar
Maryland Bar

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- Won decertification of nationwide FLSA collective action (*Bah v. Enterprise Rent-A-Car* (D. Mass. 2023));
- Won motion to dismiss and prevailed on appeal in nationwide wage-and-hour class action regarding tax reform bonuses and paid volunteer time (*McPhee v. Lowe's* (4th Cir. 2021));
- Won appeal of closely-watched COVID-safety and whistleblower retaliation action brought by New York Attorney General (*People v. Amazon* (First Appellate Department 2022));
- Won dismissal of Fair Credit Reporting Act class action (*Downing v. Lowe's* (D. Az. 2023));
- Won dismissal and prevailed on appeal in highly-publicized COVID-safety and race discrimination class action (*Smalls v. Amazon* (2nd Cir. 2022));
- Led high-profile workplace investigations for a Special Committee of the Board of Directors of Wynn Resorts and for Vox Media; and
- Prevailed at trial in manager exemption PAGA action (*Ortiz v. Amazon* (N.D. Cal. 2022)).

Jason has also successfully tried several sensitive whistleblower matters for major national employers, and he prevailed in a precedent-setting Labor Department appeal of one of the first Sarbanes-Oxley whistleblower cases to proceed to trial. He prevailed for Enterprise Rent-A-Car in a case of first impression in which the U.S. Court of Appeals for the Third Circuit created a new joint employer test (*the Enterprise test*) and affirmed summary judgment for a parent corporation in a series of wage-hour class actions, defeating the plaintiffs' effort to form a nationwide class (*In re Enterprise Rent-A-Car Wage & Hour Employment Practices Litig.* (3rd Cir. 2012)). In another case of first impression, he successfully argued in the Utah Supreme Court against the recognition of a tort for spoliation of evidence. In addition, he served as lead trial counsel for a retailer in a highly-publicized OSHA enforcement action relating to crowd control at a day-after-Thanksgiving sale.

Jason also has significant experience in administrative law and rulemakings. He served as counsel to the Fair Labor Standards Reform Coalition, and he played a leading role in preparing comments on behalf of the business community relating to the U.S. Department of Labor's overtime exemption regulations.

Jason served for many years as the Secretary of the Retail Litigation Center, and he testified before Congress regarding OSHA enforcement programs on behalf of the U.S. Chamber. He frequently speaks and writes on employment law and trade secret related topics. He is the co-author of the treatise *Whistleblower Law: A Practitioner's Guide*, published by American Lawyer Media/Law Journal Press, and he previously authored the annual "Trade Secrets Litigation Round-Up" published by Bloomberg BNA.

Jason earned his law degree *magna cum laude* from Georgetown University Law Center, where he was elected to the Order of the Coif and received the George Brent Mickum III Prize and the Charles A. Keigwin Award for the best academic record in first year courses. From 1995 to 1996, he worked as a Legislative Assistant to Congressman Jon D. Fox. Jason received a B.A. degree in international affairs *cum laude* in 1994 from The George Washington University.

Jason is admitted to practice in the District of Columbia, Virginia and Maryland, as well as in numerous federal courts. He served for many years as an officer and board member of the Charles E. Smith Jewish Day School, currently serves as a member of the Washington Lawyers Committee of the U.S. Holocaust Memorial Museum, and provides pro bono employment counsel to numerous community organizations.

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