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Robbins, Russell, Englert, Orseck, Untereiner & Sauber LLP



Roy T. Englert, Jr.

PARTNER

Tel: **202.775.4503**

Fax: **202.775.4510**

renglert@robbinsrussell.com

V-CARD

Education :

J.D., *cum laude*, Harvard Law School, 1981

Executive Editor, *Harvard Law Review*

A.B., mathematics, Princeton University, 1978

Bar Admissions :

District of Columbia

Associate (inactive) member, Virginia Bar

ABOUT

For almost four decades, Roy Englert has been arguing high-stakes cases that address cutting-edge legal issues. His 21 arguments in the Supreme Court of the United States have resulted in 18 wins, 2 losses (1 by an equally divided Court), and 1 split decision. Those Supreme Court wins have

covered such disparate areas as bankruptcy, antitrust, the False Claims Act, the Freedom of Information Act, civil RICO, employment discrimination, administrative law, Article III standing, separation of powers, and the death penalty. Roy has argued numerous 9- and 10-figure cases, including a case reinstating \$4 billion worth of avoidance claims brought by the Madoff trustee; cases resulting in payments of more than \$1 billion and more than \$400 million to our clients; and a case relieving our clients of liability that had been set at more than \$400 million. Roy has particularly extensive antitrust appellate experience and has won a complete victory in every antitrust case he has ever argued in an appellate court, whether for a plaintiff, for a defendant, or for an *amicus curiae*.

Roy is consistently ranked in the top group of Supreme Court and appellate litigators. Chambers USA, for example, has given Roy top nationwide rankings for at least 15 consecutive years and wrote in a recent edition that he is “widely recognized as a ‘*fabulous appellate lawyer*’ with ... [the] ability to ‘*dig in and rip up the opposition*’ in high-stakes appellate work.” Super Lawyers regularly ranks Roy among the top appellate lawyers in Washington, DC, and in each of the last 3 years (2018-2020) has ranked him among the overall top 10 lawyers in the city.

Benchmark Litigation, The Legal 500, and Best Lawyers in America give Roy similar rankings.

Roy co-founded the firm in 2001, after 12 years in the Washington office of Mayer Brown. Earlier, he worked in the Office of the Solicitor General from 1986 to 1989. He has been an adjunct professor working with the Appellate Litigation Clinic at Georgetown for 15 school years and is involved in various law-reform and civic-education activities. In his spare time, Roy has been involved in the Olympic sport of judo for decades and currently serves as the president of a well-established nonprofit judo organization, and he has served on the board of directors of an award-winning nonprofit theater company.

Click here to view [full resume](#).

Professional Activities, Publications, and Honors

Member (appointed by Chief Justice Roberts), Committee on Rules of Practice and Procedure of the Judicial Conference of the United States, 2010 – 2016

Member, and President 2008-2009, Edward Coke Appellate Inn of Court

Fellow, American Academy of Appellate Lawyers

Former Member (2002-2010), Constitutional & Administrative Law Advisory Committee, National Chamber Litigation Center

Member, Outside Advisory Board, and frequent Moot Court Panelist, Georgetown Supreme Court Institute

Member, Program Committee, Supreme Court Historical Society

Moot Court Panelist, Supreme Court Seminar Faculty Member, and recipient, 2009 Supreme Court Seminar Special Recognition Award, National Association of Attorneys General

Profiled, Tony Mauro, *A Firm Arguing Its Way to the Top*, in *Legal Times*, Dec. 16, 2002, at 1; David F. Pike, *Low-Key Supreme Court Litigator Wins High-Profile Case*, in *L.A. Daily Journal*, Feb. 27, 2003, at 4; Jonathan Groner, *Leading Lawyers: Twelve of the D.C. Area's Go-To Appellate Litigators*, in *Legal Times*, July 19, 2004, at 1, 29, 34; *Leading Antitrust defence litigators – the best in the US*, *Global Competition Review*, April 2006, at 12, 23; Gavin Broady, *Robbins Russell's Happy Warrior*, *Law360*, June 24, 2014

Listed as a leading lawyer in appellate litigation, Best Lawyers in America; Chambers USA: America's Leading Lawyers for Business; Super Lawyers; The Legal 500; Benchmark: Litigation, The Guide to America's Leading Litigation Firms and Attorneys.

Co-author with Andrew L. Frey, *How to Write a Good Appellate Brief*, in *Litigation*, Winter 1994, at 6, reprinted in ABA Section of Litigation, *The Litigation Manual: Special Problems and Appeals* (3d ed., John G. Koeltl & John Kiernan, eds., 1999)

REPRESENTATIVE MATTERS

Argued and won constitutional separation-of-powers challenge to statute giving broad powers to bankruptcy judges to hear and decide claims by debtors against creditors. *Stern v. Marshall*, 564 U.S. 462 (2011).

Argued and won \$4 billion appeal, pertaining to application of the Bankruptcy Code and principles of comity among nations to fraudulent transfers involving foreign feeder funds, on behalf of the trustee responsible for remedying the frauds committed by Bernard Madoff. *In re Irving H. Picard, Trustee for the Liquidation of Bernard L. Madoff Investment Securities LLC*, ___ F.3d ___, 2019 WL 903978 (2d Cir. Feb. 25, 2019).

Argued and won high-dollar-value appeals in a Third Circuit bankruptcy case and a Second Circuit

contract case. *In re Trump Entertainment Resorts*, 810 F.3d 161 (3d Cir. 2016); *Chesapeake Energy Corp. v. The Bank of New York Mellon Trust Co., N.A.*, 773 F.3d 110 (2d Cir. 2014), on remand, 2015 WL 4191419 (S.D.N.Y. 2015), *aff'd*, 837 F.3d 146 (2d Cir. 2016), cert. denied, 137 S. Ct. 1815 (2017).

Represented creditors of the Republic of Argentina in lengthy litigation, involving multiple appeals and multiple cert. petitions, resulting ultimately in ten-figure payments to our clients in April 2016.

Argued and won Robinson-Patman Act case decided in 2010 by the United States Court of Appeals for the Third Circuit, building on a Supreme Court decision from 2006 in a case that Roy also argued and won. *Feesers, Inc. v. Michael Foods, Inc.*, 591 F.3d 191 (3d Cir. 2010); *Volvo Trucks North America, Inc. v. Reeder-Simco GMC, Inc.*, 546 U.S. 164 (2006).

Assisted the State of Alaska with its winning Supreme Court argument in a 2009 case involving a claim of a constitutional right to post-conviction DNA testing, and assisted the Commonwealth of Kentucky by arguing and winning a 2008 case involving a constitutional attack on the means used to carry out the death penalty by lethal injection. *District Attorney's Office v. Osborne*, 557 U.S. 52 (2009); *Baze v. Rees*, 553 U.S. 35 (2008).

Argued and won two different Supreme Court cases, decided in 2008 and 2007, involving the efforts of payphone service providers to collect millions of dollars in compensation from long-distance carriers. The Supreme Court decided issues pertaining to the existence of a private right of action under the Communications Act and to the Article III standing of assignees to pursue the providers' claims in federal court. *Sprint Communications Co. v. APCC Services, Inc.*, 554 U.S. 269 (2008); *Global Crossing Telecommunications, Inc. v. Metrophones Telecommunications, Inc.*, 550 U.S. 45 (2007).

Represented amici curiae in five different Supreme Court antitrust cases decided in a four-year period, all on the winning side. *Leegin Creative Leather Products, Inc. v. PSKS, Inc.*, 551 U.S. 877 (2007); *Credit Suisse Securities (USA) LLC v. Billing*, 551 U.S. 264 (2007); *Bell Atlantic Corp. v. Twombly*, 550 U.S. 554 (2007); *Texaco, Inc. v. Dagher*, 547 U.S. 1 (2006); *F. Hoffmann LaRoche Ltd. v. Empagran, S.A.*, 542 U.S. 155 (2004).

Represented creditors of Owens Corning and its subsidiaries in multiple related appellate proceedings. First won a writ of mandamus, after presenting two Third Circuit arguments, to compel recusal of a trial judge. Then served as co-counsel with a leading bankruptcy practitioner who argued to the Third Circuit and obtained a reversal of a "substantive consolidation" ruling that had the effect of shifting approximately \$1 billion of value among creditors. *In re Owens Corning*, 419 F.3d 195 (3d Cir. 2005), cert. denied, 547 U.S. 1123 (2006); *In re Kensington International Ltd.*, 368 F.3d 289 (3d Cir. 2004); *In re Kensington International Ltd.*, 353 F.3d 211 (3d Cir. 2003). See also *In re Kensington International Ltd.*, 351 F.3d 97 (3d Cir. 2003) (order granting stay).

Argued and won two cases in the Supreme Court in the 1998-1999 Term, and again argued and won two cases in the Supreme Court in the 2002-2003 Term, in disparate fields of law (bankruptcy, Americans with Disabilities Act, RICO, and milk regulation). *Bank of America National Trust & Savings Association v. 203 North LaSalle Street Partnership*, 526 U.S. 434 (1999); *Sutton v. United Air Lines, Inc.*, 527 U.S. 471 (1999); *Scheidler v. National Organization for Women*, 537 U.S. 393 (2003); *Hillside Dairy, Inc. v. Lyons*, 539 U.S. 59 (2003).