

## Adam H. Charnes

### Partner

2001 Ross Avenue

Suite 4400 , Dallas , TX USA 75201

t 214.922.7106 | f 214.481.0517

1001 West Fourth Street , Winston-Salem , NC USA 27101

t 336.607.7382 | f 336.734.2602

acharnes@kilpatricktownsend.com



### Services

Appellate Litigation

Complex Commercial Litigation

Constitutional Litigation

Litigation

Product Liability

### Industries

Apparel, Accessories & Luxury

Goods

Automotive

Food, Restaurant & Beverage

Retail & Consumer Goods

Adam Charnes focuses his practice on appellate, constitutional, and complex commercial litigation. Mr. Charnes has extensive experience in cases pending in federal and state courts of appeals across the nation, including the United States Supreme Court. He also has been responsible for a broad range of business litigation matters, including contract, business torts, environmental, copyright, ERISA, and other commercial litigation. He regularly represents clients in constitutional litigation. Mr. Charnes is a fellow of the prestigious American Academy of Appellate Lawyers.

Following law school, Mr. Charnes served as a law clerk to Supreme Court Justice Anthony M. Kennedy and to Judge J. Harvie Wilkinson III of the U.S. Court of Appeals for the Fourth Circuit. Prior to joining the firm, he was an associate at a Washington, D.C. law firm and then was an executive-level in-house litigator for a Fortune 500 company. From 2002 to 2003, Mr. Charnes served as the Principal Deputy Assistant Attorney General for the Office of Legal Policy at the United States Department of Justice. At the Office of Legal Policy, he was responsible for various legal policy matters, including counter-terrorism policy and civil justice reform, and for assisting with the selection and confirmation of federal judges.

Mr. Charnes was awarded the Attorney General's Distinguished Service Award in July 2003. While at Harvard Law School, he was the recipient of the Sears Prize, awarded to the three students with the top academic performance during their first year of law school. Mr. Charnes was recognized in *The Best Lawyers in America*<sup>®</sup> for Appellate Practice, Commercial Litigation, and First Amendment Litigation in 2019 and the 11 years immediately preceding. He was also named a "Winston-Salem/Greensboro Lawyer of the Year" in 2019 in the

area of Appellate Practice by *The Best Lawyers in America*<sup>®</sup>. Mr. Charnes has been listed in the 2016 and the nine immediately preceding editions of *Chambers USA: America's Leading Lawyers for Business* in the area of General Commercial Litigation. He has been named a North Carolina "Super Lawyer" in 2019 and the seven years immediately preceding for Appellate Law, and one of the top 100 lawyers in North Carolina, by *Super Lawyers* magazine. Mr. Charnes was named a "Litigation Star" among North Carolina attorneys and a "Fourth Circuit Litigation Star" in the 2013 edition of *Benchmark Litigation*. He was also named a "Litigation Star" for North Carolina in 2014, 2015, and 2016 by *Benchmark Litigation*. Mr. Charnes is AV<sup>®</sup> rated by Martindale-Hubbell.\*

\*CV, BV, and AV are registered certification marks of Reed Elsevier Properties Inc., used in accordance with the Martindale-Hubbell certification procedure's standards and policies.

## Experience

Currently representing parties in several appeals from decisions by the Patent Trial and Appeal Board in *inter partes* reviews, including *Softview LLC v. Kyocera Corp.*, 592 Fed. Appx. 947, 592 Fed. Appx. 949 (Fed. Cir. 2015), *Tandus Flooring, Inc. v. Interface, Inc.* (Fed. Cir., pending), and *Prolitec, Inc. v. ScentAir Techs. Inc.*, 607 F. App'x 992 (Fed. Cir. 2015).

Briefed and argued on behalf of *DuPont in Big Vision Private Ltd. v. E.I. DuPont de Nemours and Co.*, 601 F. App'x 69 (2d Cir. 2015). The case involved claims of unfair competition arising joint laboratory trials.

Represented Ford Motor Co. in *Ford Motor Co. v. Johnson*, \_\_\_ S.W.3d \_\_\_, 2015 WL 5093275 (Tex. Ct. App.—Dallas 2015), involving whether venue was proper in this product liability case.

Represented the taxpayer in *Kearney Partners Fund, LLC v. United States*, \_\_\_ F.3d \_\_\_, 2015 WL 5944308 (11th Cir. 2015). The case involved the application of the "economic substance" rule to certain foreign currency transactions.

Represented NCR in *Astornet Technologies Inc. v. BAE Systems, Inc.*, 802 F.3d 1271 (Fed. Cir. 2015). The case involved whether the exclusive remedy for patent infringement by federal contractors was a suit against the United States in the Court of Federal Claims.

Briefed and argued on behalf of the defendants in *Alabama v. PCI Gaming Auth.*, 801 F.3d 1278 (11th Cir. 2015). The case involved whether Alabama has a state or federal cause of action to challenge the legality of gaming on certain parcels of tribal lands.

Briefed and argued on behalf of R.J. Reynolds in *Tatum v. RJR Pension Inv. Comm.*, 761 F.3d 346 (4th Cir. 2014).



The case involved a class action plaintiffs appeal of a defense verdict after a bench trial in an ERISA breach-of-fiduciary duty class action.

Briefed and argued on behalf of DuPont defending a \$919 million trade secrets verdict in *DuPont v. Kolon Industries, Inc.*, 564 Fed. Appx. 710 (4th Cir. 2014). DuPont alleged, and the jury found, that Kolon stole the trade secrets for DuPont's Kevlar<sup>®</sup> product.

Briefed and argued on behalf of Ford Motor Co. in *Conley v. Ford Motor Co.*, 757 S.E.2d 20 (Ga. 2014). Ford appealed a new trial order in a case where Ford prevailed at trial; the order was based on Ford's alleged failure to disclose its insurers during discovery and voir dire.

Briefed and argued on behalf of a class of state employees in *Sanders v. State Personnel Commission*, 762 S.E.2d 850 (N.C. 2014). The case involved whether the North Carolina state government violated personnel regulations in the hiring of "temporary" employees for a period of more than one year.

Briefed and argued on behalf of the plaintiffs in *IMT, Inc. v. City of Lumberton*, 738 S.E.2d 156 (N.C. 2013). Successfully obtained a Supreme Court ruling invalidating a city's privilege license fees under the North Carolina Constitution's Just and Equitable Tax Clause.

Briefed and argued on behalf of Nestlé Waters North America in *Eureka Water Co. v. Nestlé Waters North America*, 690 F.3d 1139 (10th Cir. 2012). Successfully overturned an adverse \$14 million jury verdict involving claims of breach of contract and tortious interference with contract.

Briefed and argued on behalf of a class of 500,000 individual Native Americans in *Cobell v. Salazar*, 679 F.3d 909 (D.C. Cir. 2012). The class action alleged that the United States breached its fiduciary duties to beneficiaries of the Individual Indian Money trust. Successfully defended a landmark \$3.4 billion class settlement with the United States government in an appeal in the D.C. Circuit brought by class objectors.

Briefed and argued on behalf of Ford Motor Co. in *Stark v. Ford Motor Co.*, 723 S.E.2d 753 (N.C. 2012). Represented Ford Motor Company in a petition for discretionary review and merits briefing in the North Carolina Supreme Court in an appeal from an adverse products liability ruling in the Court of Appeals. The Supreme Court reversed the lower court ruling against Ford in an opinion establishing favorable products liability law for manufacturers.

Briefed and argued on behalf of plaintiffs in *Hest Technologies, Inc. v. State ex rel. Perdue*, 725 S.E.2d 10 (N.C. App. 2012), *rev'd*, 2012 WL 6218202 (N.C. 2012). The case involved a First Amendment challenge to a state law

banning electronic sweepstakes.

Successfully represents Reynolds American Inc. in a bench trial of an ERISA class action alleging breach of fiduciary duty. The case arose from the 1999 spin-off of R.J. Reynolds Tobacco Co. from R.J.R. Nabisco. The claims stem from the liquidation of frozen non-employer stock funds and the subsequent appreciation of those securities.

Represents Krispy Kreme Doughnut Corp. in a complex breach of contract and tortious interference with contract case arising out of the award of company franchises in the Philippines.

Briefed and argued on behalf of AT&T in *Duval Wiedmann, L.L.C. v. Inforocket.com, Inc.*, 623 F.3d 496 (5th Cir. 2010). The case involves questions of New York contract law and federal patent law.

Briefed on behalf of one of the defendants in *Nisqually Indian Tribe v. Gregoire*, 623 F.3d 923 (9th Cir. 2010). The case involved questions of federal Indian law.

Co-counsel for the Tohono Oodham Nation in *United States v. Tohono Oodham Nation*, 131 S. Ct. 1723 (2011). The case involved the scope of the Court of Federal Claims' jurisdiction.

Briefed and argued on behalf of the defendant in *Olin Corp. v. P.H. Glatfelter Co.*, 369 Fed. App'x 430 (4th Cir. 2010). The case involved an alleged breach of an indemnification contract.

Briefed and argued on behalf of South Carolina Governor Mark Sanford in *Edwards v. South Carolina*, 383 S.C. 82, 678 S.E.2d 412 (2009), and *Sanford v. McMaster*, No. 3:09-cv-01322-JFA (D.S.C.). The cases involved the constitutionality of a South Carolina statute directing the Governor to accept, over his objection, certain federal stimulus funds.

Briefed on behalf of Zino Davidoff in *Zino Davidoff SA v. CVS Corp.*, 571 F.3d 238 (2d Cir. 2009). The case involved whether the sale of products from which production codes were removed constituted trademark infringement.

Briefed and argued on behalf of Wake Forest University's North Carolina Baptist Hospital in *North Carolina Baptist Hosp. v. Novant Health, Inc.*, 195 N.C. App. 721, 673 S.E.2d 794 (2009). The case involved an appeal of a preliminary injunction prohibiting a competitor from opposing a certificate of need application.

Co-counsel for DuPont in *Kennedy v. Plan Administrator for DuPont Savings & Investment Plan*, 129 S. Ct. 865 (2009). The case involved the impact of a divorce decree that did not qualify as a "QDRO" under ERISA.



Represented the City of Winston-Salem and Forsyth County, N.C., in *Blinson v. State of North Carolina*, 651 S.E.2d 268 (N.C. App. 2007), *appeal dismissed & petition for discr. review denied*, 362 N.C. 355, 661 S.E.2d 240 (2008). The plaintiffs asserted constitutional and statutory challenges to economic development incentives given to Dell, Inc.

Argued on behalf of BellSouth in *Bryan v. BellSouth Communications, Inc.*, 492 F.3d 231 (4th Cir. 2007). The appeal involved the propriety of a district court injunction against further litigation of a class action in state court.

Briefed and argued on behalf of Nestlé in Michigan Citizens for *Water Conservation v. Nestlé Waters North America, Inc.*, 479 Mich. 280, 737 N.W.2d 447 (2007), and *Michigan Citizens for Water Conservation v. Nestlé Waters North America, Inc.*, 269 Mich. App. 25, 709 N.W.2d 174 (2005). The case involved a challenge under Michigan's common law of groundwater, state environmental law, and the public trust doctrine to groundwater pumping by Nestlé Waters.

Briefed and argued on behalf of the Animal Legal Defense Fund in *Animal Legal Defense Fund v. Woodley*, 181 N.C. App. 594, 640 S.E.2d 777 (2007), *appeal dismissed & petition for discr. review denied*, 361 N.C. 690, 652 S.E.2d 254 (2007). The case involved the constitutionality of a statute granting broad standing to "any person" to sue for the removal of mistreated animals.

Briefed and argued on behalf of Nestlé Waters in *Nestlé Waters North America, Inc. v. Bollman*, 505 F.3d 498 (6th Cir. 2007). The case involved the arbitrability of a contractual dispute.

Argued on behalf of the defendants in *Shepard v. Ocwen Federal Bank*, 361 N.C. 137, 638 S.E.2d. 197 (2006). The case involved the statute of limitations for usury.

Briefed and argued on behalf of Lowe's in *General Elec. Co. v. Lowe's Home Centers, Inc.*, 279 Ga. 77, 608 S.E.2d 636 (2005). The case involved the application of the economic loss rule under Georgia tort law.

Briefed and argued on behalf of WorldCom in *Guglielmo v. WorldCom, Inc.*, 148 N.H. 309, 808 A.2d 65 (2002). The case involved unfair trade practices claims.

Represented former police officer Bruce Abramski in a successful cert petition and in merits briefing before the U.S. Supreme Court. The case concerned the authority of the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) to restrict when lawful gun owners can purchase firearms for other lawful gun owners. *Abramski* was the most prominent gun case of the October 2013 term and drew significant media attention.



## **Education**

Harvard Law School, J.D. (1991) *magna cum laude*

Princeton University, A.B. (1988) *summa cum laude*

## **Admissions**

Texas (2014)

North Carolina (2003)

District of Columbia (1994)

Pennsylvania (inactive) (1993)

## **Court Admissions**

U.S. Supreme Court (1997)

U.S. Court of Appeals for the First Circuit (1998)

U.S. Court of Appeals for the Second Circuit (2007)

U.S. Court of Appeals for the Third Circuit (2011)

U.S. Court of Appeals for the Fourth Circuit (1994)

U.S. Court of Appeals for the Fifth Circuit (2009)

U.S. Court of Appeals for the Sixth Circuit (2000)

U.S. Court of Appeals for the Seventh Circuit (2011)

U.S. Court of Appeals for the Ninth Circuit (2007)

U.S. Court of Appeals for the Tenth Circuit (2010)

U.S. Court of Appeals for the Eleventh Circuit (1999)

U.S. Court of Appeals for the District of Columbia Circuit (1993)

U.S. Court of Appeals for the Federal Circuit (2009)

U.S. District Court for the District of Columbia (1994)

U.S. District Court for the Western District of Michigan (1998)

U.S. District Court for the Middle District of North Carolina (2004)

U.S. District Court for the Eastern District of North Carolina (2005)

U.S. District Court for the Western District of North Carolina (2005)

U.S. District Court for the Eastern District of Texas (2015)

U.S. District Court for the Northern District of Texas (2015)



## Clerkships

U.S. Supreme Court - Anthony M. Kennedy

U.S. Court of Appeals for the Fourth Circuit - J. Harvie Wilkinson, III

## Professional & Community Activities

Judicial Conference of the U.S. Court of Appeals for the Fourth Circuit, Permanent Member

Fellow, American Academy of Appellate Lawyers

Fellow, Litigation Counsel of America

Master, William "Mac" Taylor, Jr., American Inn of Court

Federal Bar Association, Middle District of North Carolina Chapter, Past President

North Carolina Bar Association, Appellate Practice Section, Member

Texas State Bar, Appellate Section, Member

Dallas Bar Association, Appellate Law Section, Member

Harvard Law Review, Past Executive Editor

## Insights

### Events

Treaty Fishing Rights and Sovereign Immunity at the Supreme Court

April 12, 2019

### Publications

4th Circuit Civil Appeals Practice Notes

March 13, 2019

### News Releases

Kilpatrick Townsend Attorneys Named 2019 North Carolina Super Lawyers

January 28, 2019

### In The News

Jury Is Out on Kavanaugh Impact on SCOTUS

December 17, 2018

### News Releases

Motion for Stay Granted in High-Profile Indian Child Welfare Act Case



December 3, 2018

[News Releases](#)

Official Statement: Indian Child Welfare Case Brackeen v. Zinke Ruling  
October 8, 2018

[News Releases](#)

Statement Regarding Ruling Striking Down the Indian Child Welfare Act  
October 5, 2018

[News Releases](#)

Seven Kilpatrick Townsend Attorneys Recognized in Benchmark Litigation 2018  
September 24, 2018

[News Releases](#)

Best Lawyers in America® Names Kilpatrick Townsend Attorneys 2019 Lawyers of the Year  
August 21, 2018

[In The News](#)

Record-Breaking Recognition for Kilpatrick Townsend in The Best Lawyers in America® 2019  
August 20, 2018

[In The News](#)

Adam Charnes Quoted in "Kennedy's Retirement Leaves His Future Law Clerks in Limbo"  
June 29, 2018

[In The News](#)

Adam Charnes Quoted in "When Partisan Passion Raged, Kennedy Was The Vote To Get"  
June 28, 2018

[In The News](#)

Adam Charnes Quoted in "A Kennedy Concurrence Fuels Speculation on Chevron's Future—And His"  
June 21, 2018

[News Releases](#)





Kilpatrick Townsend Attorneys Named 2018 North Carolina Super Lawyers  
February 6, 2018

#### [In The News](#)

The Cases Corporate America Will Be Watching  
October 2, 2017

#### [In The News](#)

Adam Charnes Quoted by The National Law Journal re: "Supreme Court Preview: Blockbuster Cases Likely to Deliver a Contentious, Consequential Fall Term"  
August 29, 2017

#### [News Releases](#)

Record-Breaking Recognition for Kilpatrick Townsend in The Best Lawyers in America® 2018  
August 15, 2017

#### [In The News](#)

Adam Charnes Quoted in Wall Street Journal re: "Justice Neil Gorsuch Leans Conservative, Fulfilling Expectations"  
June 28, 2017

#### [Publications](#)

When Must a Prevailing Party Cross-Appeal?  
March 22, 2017

#### [In The News](#)

Judge Neil Gorsuch Gets High Marks From Dallas Attorney  
March 20, 2017

#### [In The News](#)

Kilpatrick Townsend Counsels Agua Caliente in Win "9th Circ. Upholds Calif. Tribe's Groundwater Rights"  
March 7, 2017

#### [In The News](#)

Kilpatrick Townsend's Adam Charnes Quoted by BBC Radio re: Supreme Court of the United States Nominee Judge Neil Gorsuch



February 6, 2017

#### [In The News](#)

Adam Charnes Quoted in The Wall Street Journal, re: "Judge Neil Gorsuch Has Admirers Across the Ideological Spectrum"

February 2, 2017

#### [News Releases](#)

Kilpatrick Townsend Attorneys Named 2017 North Carolina Super Lawyers

January 30, 2017

#### [In The News](#)

KT is...Trending, October 15-21, 2016

October 24, 2016

#### [In The News](#)

Kilpatrick Townsend's Adam Charnes Interviewed by Attorney at Law Magazine-North Carolina Triangle Magazine re: "Charnes Gives Supreme Court Update to Association of Corporate Counsel"

October 18, 2016

#### [In The News](#)

KT is...Trending, October 7-14, 2016

October 17, 2016

#### [Events](#)

U.S. Supreme Court Update Webinar

October 13, 2016

#### [Events](#)

U.S. Supreme Court and North Carolina Appellate Review

October 5, 2016

#### [Publications](#)

Charnes Gives Supreme Court Update to Association of Corporate Counsel

October 1, 2016



### Events

U.S. Supreme Court Update

September 27, 2016

### In The News

Kilpatrick Townsend's Media Report September 9-15, 2016

September 16, 2016

### In The News

Kilpatrick Townsend's Media Report September 2-8, 2016

September 9, 2016

### News Releases

Kilpatrick Townsend Earns Record-Breaking Recognition in Annual Best Lawyers in America 2017

August 16, 2016

### News Releases

Eight Kilpatrick Townsend Attorneys Named to 2016 Benchmark Litigation

August 9, 2016

### In The News

Kilpatrick Townsend's Media Report June 17-23, 2016

June 24, 2016

### News Releases

Kilpatrick Townsend Once Again Achieves Recognition From Chambers USA 2016

May 31, 2016

### Publications

Fourth Circuit Misconstrues North Carolina's Statute of Repose -- and State's High Court Cannot Help

May 13, 2016

### In The News

Kilpatrick Townsend's Media Report May 6-12, 2016

May 13, 2016



### [In The News](#)

Kilpatrick Townsend's Media Report March 4-10, 2016

March 11, 2016

### [Alerts](#)

Persistence Pays Off in R.J. Reynolds ERISA Defense

February 29, 2016

### [In The News](#)

Kilpatrick Townsend's Media Report February 17-25, 2016

February 26, 2016

### [In The News](#)

Kilpatrick Townsend's Media Report January 28 - February 4, 2016

February 4, 2016

### [News Releases](#)

Kilpatrick Townsend Attorneys Named 2016 North Carolina Super Lawyers

January 15, 2016

### [In The News](#)

Kilpatrick Townsend's Media Report December 25, 2015 - January 7, 2016

January 8, 2016

### [In The News](#)

Kilpatrick Townsend's Media Report December 3-10, 2015

December 11, 2015

### [In The News](#)

Kilpatrick Townsend's Media Report October 2-8, 2015

October 9, 2015

### [In The News](#)

Kilpatrick Townsend's Media Report August 28-September 3, 2015

September 4, 2015



### [In The News](#)

Kilpatrick Townsend's Adam Charnes, David Smith, and Mark Reeves Noted as Counsel to The Poarch Band of Creek Indians by Law360 re: "Ala. Can't Bring Casino Suit Against Tribe, 11th Circ. Says"

September 3, 2015

### [News Releases](#)

Kilpatrick Townsend Earns Record-Breaking Recognition in Annual Best Lawyers in America 2016

August 19, 2015

### [In The News](#)

Kilpatrick Townsend's Media Report May 22-28, 2015

May 29, 2015

### [News Releases](#)

Kilpatrick Townsend Once Again Achieves Recognition From Chambers USA 2015

May 22, 2015

### [In The News](#)

Kilpatrick Townsend's Media Report May 8-14, 2015

May 15, 2015

### [In The News](#)

Kilpatrick Townsend's Media Report March 6-12, 2015

March 13, 2015

### [In The News](#)

Kilpatrick Townsend's Media Report February 6-12, 2015

February 13, 2015

### [In The News](#)

Kilpatrick Townsend's Media Report January 23-29, 2015

January 30, 2015

### [In The News](#)

Data Shows Impact of PTO's Secretive Patent Program

January 29, 2015



### [News Releases](#)

Kilpatrick Townsend Attorneys Named 2015 North Carolina Super Lawyers

January 28, 2015

### [Publications](#)

Secret Patent-Examination Program: Rare But Consequential

January 27, 2015

### [In The News](#)

Kilpatrick Townsend's Media Report December 19, 2014 - January 8, 2015

January 9, 2015