

# FisherBroyles

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**Practice Areas:** Commercial Litigation; Intellectual Property; Litigation — Civil Pretrial and Trial Services; Mediation; Securities Litigation

**Bar Admissions:** Massachusetts; U.S. First Circuit Court of Appeals; U.S. Second Circuit Court of Appeals; U.S. District Court for Massachusetts; United States Supreme Court

**Education:** New York University School of Law, J.D.; College of William & Mary, B.A.

**Experience:** Locke Lord (formerly Edwards Angell Palmer & Dodge); Burns & Levinson, LLP

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"I am constantly focused on gaining the edge for my clients and providing them with great value. Gaining the edge means tireless focus on how to prevail at the earliest moment, mastery of current law as shown in my profession-leading books and articles, zealous concern for the client, and long mastery of courtroom and advocacy skills. Great value means understanding the client's strategic goals, using existing deep legal knowledge to avoid over-research, measuring each action against its likely result in the overall case, and passing on the savings from the FisherBroyles LLP business model."

Mr. Gilleran is a top-ranked litigator and thought leader in business and intellectual property disputes.

**Skilled litigator.** Mr. Gilleran represents companies and individuals in the defense and prosecution of extremely complex, fast-paced, risky, and sensitive business and intellectual property disputes.

**Recognized achievement.** Mr. Gilleran has received the SuperLawyer© award for many years including the most recent year. He also has the highest possible rating - Preeminent - from the Martindale-Hubbell lawyer rating service. He has been asked to speak on cutting edge Chapter 93A and intellectual property issues including patent litigation in Massachusetts and throughout in New England. He has been appointed to the Board of Editors of the Massachusetts Lawyers Weekly.

**Noted author.** Mr. Gilleran is the author of a book entitled The Law of Chapter 93A, the Massachusetts statute governing claims in business (and consumer) cases for triple damages and attorney's fees, which is published by the largest legal publisher. This book, on this critical subject, is cited frequently by Massachusetts courts, including the Supreme Judicial Court. He has also written many articles on trade secret litigation, patent litigation, business litigation and international litigation, which have been published in leading legal journals.

**Broad experience.** He has over 35 years of experience of handling disputes in many different subject matter areas including Chapter 93A and unfair and deceptive trade practices, trade secrets, trademarks, patents, internal corporate disputes, shareholder suits, sales of companies and assets, hedge funds, investment advisers, and local and international businesses.

### Representative Transactions Include

General Business Litigation, Including Claims for Unfair and Deceptive Trade Practices Under Chapter 93A

- Representation of businesses, financial institutions, and individuals in connection with breach of contract and misrepresentation claims with respect to all manner of sales of businesses, goods and securities, financings, commercial mortgages, commercial leases and international transactions
- Representation of businesses in the prosecution or defense of claims for multiple damages and attorney's fees under the Unfair and Deceptive Trade Practice Acts

Intellectual Property Litigation, Including Trade Secrets, Patents, Trademarks and Copyrights

- Representation in connection with employment non-disclosure of trade secret and non-compete agreements
- Representation in connection with the definition of a trade secret, independent derivation, prior art barring a claimed trade secret, calculation of damages for infringement and scope of trade secret injunctions
- Representation in connection with claims of patentable subject matter, patent infringement, patent obviousness and invalidity, inequitable procurement, false declaration of invention, on sale bar and declaratory judgment

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- Representation of licensors and global brands in international trademark litigation and international arbitration
- Successfully overturned in an appeal to the U.S. First Circuit Court of Appeals an injunction against a nominative fair use of a global brand trademark
- Successfully overturned injunctions in foreign countries compelling trademark licensors to maintain contact rights of terminated licensees
- Pursued violation of trademark claims against holdover licensees and unapproved sub-licensees

### Competition Litigation, Including Antitrust and False Advertising

- Representation in connection with claims of conspiracies in restraint of trade, monopoly and anticompetitive practices, including exclusive dealing contracts, most favored nation contracts and sham intellectual property claims
- Representation in connection with false advertising claims under the Lanham Act and the state Unfair and Deceptive Trade Practice Acts

### Securities Litigation

- Representation of investor against sellers and issuers
- Representation of shareholders against board and officers for breach of fiduciary duty
- Representation of mutual funds against bond and securities underwriters

### Presentations & Teaching Experience

- "Chapter 93A: A Multi-Headed Hydra," Social Law Library (September 2018)
- "Contract Drafting to Limit Risk Under Chapter 93A of Triple Damages and Attorney's Fees," Burns & Levinson, February 2016
- "Eight Years After KSR: The Federal Circuit Test for Non-Obviousness," Speaker, Boston Patent Law Association Seminar, June 2015
- "Seven Years After KSR: The Federal Circuit Test for Non-Obviousness," Speaker, New Hampshire Bar Association Intellectual Property Law Section CLE Presentation, May 2015

## Publications

### Books

- The Law of Chapter 93A, 52 Massachusetts Practice (2007 Ed, & Annual Updates; Thomson Reuters Westlaw)

### Articles

- Gilleran Prevails On Behalf of Investors Against Managing Director, Massachusetts Lawyers Weekly (July 9, 2020) [Behind paywall]
- "A Tale of Two Chapter 93As: Sharp Divergence Between Permissive State Court and Restrictive Federal Court," Massachusetts Lawyers Weekly, (July 2019) [Behind paywall]
- "Will 93A Continue to Apply to Trade Secrets - And Should It?" Massachusetts Lawyers Weekly, June 2016
- "Defendants' Stratagems and Plaintiffs' Counters in Trade Secret Litigation," Today's General Counsel, July 2014
- "Rapid Changes in Standards for Fees in IP Disputes," AP&S Client Alert, May 2014
- "Enhanced Remedies in IP Disputes Under Chapter 93A," Massachusetts Lawyers Weekly, September 2013
- "The Rise of Unfair and Deceptive Trade Practice Acts (Triple Damages)," American Bar Association, October 2011