



## ERIC M. FRASER

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### OVERVIEW

Eric M. Fraser specializes in appeals. He is known for his work on high-profile and precedent-setting cases, often leading groundbreaking appeals with state and national significance. He has a particular focus on constitutional cases and major legal issues.

For example, Eric argued a nationally prominent appeal about Christian wedding vendors who challenged a law prohibiting sexual orientation-based discrimination. He argued a groundbreaking appeal about rights to fertilized human embryos upon divorce. He argued a series of four appellate arguments in challenges to a major pension plan's practices, winning each time.

Eric also handles patent, copyright and trademark litigation. He has represented four of the five largest technology companies in the world in intellectual property cases. He is a registered patent attorney with a degree in Physics.

Before joining private practice, Eric clerked on the U.S. Court of Appeals for the D.C. Circuit. He serves as a Ninth Circuit Appellate Lawyer Representative and previously chaired the Appellate Practice Section of the State Bar. He also regularly writes about appeals, including contributing to [SCOTUSblog](#), co-editing the azapp.com blog, and co-authoring a monthly column in *Arizona Attorney* magazine covering civil appeals. [Law360](#) featured Eric as one of five rising stars nationwide in 2020. He is also recognized by [Chambers USA](#), Benchmark Litigation's [40 & Under Hot List](#), [Best Lawyers](#), and [Southwest Super Lawyers](#) for his legal skills.

Eric has been tapped as a source for national news outlets including [CNN](#), [Fox News](#), [NBC Nightly News](#), and [CBS Evening News](#), alongside every major local television station in Arizona. He has also been featured in [The New York Times](#), [The Wall Street Journal](#), [Arizona Republic](#), [People Magazine](#), [Bloomberg Businessweek](#), [Law360](#), and many others.

### REPRESENTATIVE MATTERS

#### CASE HIGHLIGHTS

- Defended the constitutionality of a law prohibiting discrimination on the basis of sexual orientation in a lawsuit brought by a wedding stationery company.
- Represented a divorcing spouse in a dispute over frozen embryos.
- Defended the constitutionality of government action ending pension spiking.
- Established the legality of medical marijuana extracts.
- Overturned administrative actions against schools and universities for lack of rulemaking.

### PRACTICE AREAS

- Appeals
- Antitrust
- Intellectual Property Litigation

### EDUCATION

- **The University of Chicago Law School**
  - J.D., with *High Honors*, 2009
  - Order of the Coif
  - *University of Chicago Law Review*, Comment Editor
- **The University of Chicago Booth School of Business**
  - M.B.A. in Economics with *High Honors*, 2009
- **Pomona College**
  - B.A., *cum laude*, Physics, 2005

### CLERKSHIPS

- U.S. Court of Appeals, District of Columbia Circuit, Judge Douglas H. Ginsburg, 2009-2010

### BAR ADMISSIONS

- United States Patent and Trademark Office, 2012
- Arizona, 2009
- U.S. Supreme Court, 2016
- U.S. Court of Appeals, Ninth Circuit, 2011
- U.S. Court of Appeals, Federal Circuit, 2011
- U.S. District Court, District of Arizona, 2011
- U.S. Court of Appeals, District of Columbia Circuit, 2010

## CONSTITUTIONAL ISSUES

- [Cao v. PFP Dorsey Invs., LLC](#), \_\_\_ Ariz. \_\_\_ (App. 2022) (constitutionality of forced sales of condominiums)  
[Opening brief](#)  
[Oral argument](#)
- [Torres v. JAI Dining Svcs. \(Phoenix\), Inc.](#), \_\_\_ Ariz. \_\_\_ (App. 2022) (constitutionality of dram shop preemption statute)  
[Supplemental brief](#)  
[Oral Argument](#)
- [AFSCME AFL-CIO Local 2384 v. City of Phoenix](#), 249 Ariz. 105 (2020) (constitutional challenge to pension plan practice) (argued)  
[Response to Petition for Review](#)  
[Oral Argument](#)
- [Piccioli v. City of Phoenix](#), 249 Ariz. 113 (2020) (constitutional challenge to pension plan practice) (argued)  
[Response to Petition for Review](#)  
[Oral Argument](#)
- [Brush & Nib Studio, LC v. City of Phoenix](#), 247 Ariz. 269 (2019) (free-speech constitutional challenge) (argued)  
[Response to Petition for Review](#)  
[Supplemental Brief](#)  
[Response to Amicus Briefs](#)  
[Oral Argument](#)
- [Saban Rent-A-Car LLC v. Ariz. Dep't of Revenue](#), 244 Ariz. 293 (App. 2018) (dormant commerce clause and state constitutional issues) (argued), [aff'd](#) 246 Ariz. 89 (2019).  
[Opening Brief](#)  
[Cross-Appeal Answering Brief](#)  
[Oral Argument](#)
- [Puppies 'N Love v. City of Phoenix](#), 116 F. Supp. 3d 971 (D. Ariz. 2015) (summary judgment on dormant commerce clause challenge to Phoenix city ordinance banning the sale of cats and dogs) (argued)

## MAJOR LEGAL ISSUES

- [Torres v. Terrell](#), 248 Ariz. 47 (2020) (disposition of frozen embryos upon divorce) (argued)  
[Petition for Review](#)  
[Supplemental Brief](#)  
[Oral Argument](#)
- [State v. Jones](#), 246 Ariz. 452 (2019) (legality of medical marijuana extracts)  
[Amicus Brief](#)

## ADMINISTRATIVE LAW

- [Legacy Education Group v. Arizona State Board for Charter Schools](#), 2018 WL 2107482 (Ariz. App. 2018) (administrative law challenge regarding lack of agency rulemaking) (argued)  
[Opening Brief](#)  
[Oral Argument](#)
- [Perez-Guzman v. Lynch](#), 835 F.3d 1066 (9th Cir. 2016) (administrative law in immigration dispute) (argued)  
[Oral Argument](#)
- [Arizona State Univ. v. Arizona State Retirement Sys.](#), 237 Ariz. 246 (App. 2015) (administrative law challenge regarding lack of agency rulemaking)  
[Opening Brief](#)

## APPEALS FROM JURY TRIALS

- [Torres v. JAI Dining Svcs. \(Phoenix\), Inc.](#), 250 Ariz. 147 (App. 2020) (intervening/superseding cause) (argued)  
[Opening Brief](#)  
[Oral Argument](#)
- [McClure v. Country Life Ins. Co.](#), 795 F. App'x 548 (9th Cir. 2020) (joint venture and expert witness issues) (argued)  
[Answering Brief](#)  
[Oral Argument](#)

- [Ryan v. Henry, 2018 WL 456195 \(Ariz. App. 2018\)](#) (ownership and control of company) (argued)  
[Oral Argument](#)
- [Markham Contracting Co. Inc. v. First Am. Title Ins. Co., 2013 WL 3828690 \(Ariz. App. 2013\)](#) (appeal from jury trial) (argued)  
[Answering Brief](#)  
[Oral Argument](#)

## INTELLECTUAL PROPERTY & ANTITRUST

- [Aerotec Int'l, Inc. v. Honeywell Int'l Inc., 836 F.3d 1171 \(9th Cir. 2016\)](#) (antitrust claims, including monopolization, exclusive dealing, tying, and price discrimination)  
[Answering Brief](#)
- [eMove, Inc. v. SMD Software, Inc., 569 F. App'x. 527 \(9th Cir. 2014\)](#) (appeal in false advertising case) (argued)  
[Answering Brief](#)  
[Oral Argument](#)
- [Honeywell Int'l, Inc. v. W. Support Grp., Inc., 947 F. Supp. 2d 1077 \(D. Ariz. 2013\)](#) (summary judgment on copyright eligibility for technical manuals) (argued)

## OTHER LEGAL ISSUES

- [Thompson/McCarthy Coffee Co. v. RepublicBankAZ N.A., 2019 WL 6713432 \(Ariz. App. 2019\)](#) (waiver of affirmative defense) (argued)  
[Opening Brief](#)  
[Oral Argument](#)
- [Arizona State Univ. v. Arizona State Retirement Sys., 242 Ariz. 387 \(App. 2017\)](#) (prejudgment interest) (argued)  
[Opening Brief](#)  
[Oral Argument](#)
- [Markham Contracting v. FDIC, 240 Ariz. 360 \(App. 2016\)](#) (equitable subrogation)  
[Opening Brief](#)

## AWARDS

- [Chambers USA, America's Leading Lawyers for Business, Litigation: Appellate, 2020-2022](#)
- [Best Lawyers®, Appellate Practice, 2020-2022](#)
- [Law360 Rising Star, Appellate, 2020](#)
- [Benchmark Litigation: 40 & Under Hot List, 2018-2022](#)
- [Southwest Super Lawyers, Appeals, 2013-2022](#)

## MEDIA

### NATIONAL TELEVISION COVERAGE

- [CNN](#), "An Arizona Woman Can't Use Her Embryos After Divorce, state Supreme Court Rules"
- [Fox News](#), "AZ Artists Challenge Phoenix Discrimination Ordinance"
- [NBC Nightly News](#), NBC Nightly News Broadcast, January 25, 2020
- [CBS Evening News](#), "Arizona Woman Fights to Keep Frozen Embryos"

### NATIONAL NEWSPAPER/MAGAZINE COVERAGE

- [The New York Times](#), "A Spur in the Filibuster Fight: A Court's Workload and Politics"
- [The Wall Street Journal](#), "Mayor Bill de Blasio's Wi-Fi Plan Draws Critics"

- [People Magazine](#), "Arizona Cancer Survivor Can't Use Her Frozen Embryos After Divorce, Court Rules"
- [Bloomberg Businessweek](#), "Would Regulation Make Airlines' Mileage Programs Less Maddening?"
- [Vice](#), "Planned Parenthood: In a divorce, who gets custody of the embryos?"

## LOCAL MEDIA RECOGNITION

- [AZ Mirror](#), "In Arizona, you can be forced to sell your condo"
- [Arizona Republic](#), "Woman can't use fertilized embryos without ex-husband's consent, Arizona Supreme Court rules"
- [Arizona Republic](#), "Phoenix artists don't have to make LGBTQ wedding invitations, Arizona Supreme Court rules"
- [Arizona Republic](#), "Phoenix LGBT wedding invitation case back in court"
- [Arizona Republic](#), "Is 'heterosexuals only' the same as 'whites-only?' Arizona Supreme Court will answer that"
- [Arizona Capitol Times](#), "Gay discrimination case could turn on question of message conveyed"
- [Phoenix Business Journal](#), "Online patrol: Law plays catch-up with evolving cyber security business regulations"
- Eric has been featured in nearly every major television station in Phoenix commenting on his cases or providing legal analysis on current news matters.

## LEGAL PUBLICATIONS

- [Bloomberg Law](#), "Public Pensions May Rethink Vacation Payouts After Court Ruling"
- [Law360](#)

## ACTIVITIES

### PROFESSIONAL ACTIVITIES

- Ninth Circuit Appellate Lawyer Representative, 2017–Present
- State Bar of Arizona, Appellate Practice Section, Chair, 2020–2021; Executive Council, 2015–Present
- State Bar of Arizona, Intellectual Property Law Section, Chair, 2020–2021; Executive Council, 2015–Present
- Arizona Court of Appeals Pro Bono Attorney Coordinator, 2019–Present
- State Bar of Arizona, Antitrust Law Section, Chair, 2016–2017; Executive Council, 2014–Present
- Arizona Appellate Handbook Committee, 2014–Present
- Judicial Review of Administrative Decisions Rules Study Group, 2016–2017

### COMMUNITY ACTIVITIES

- Phoenix–Taipei Sister Cities Committee, Cultural Trade Exchange Program; 2013–Present

## INSIGHTS

### RECURRING WRITING CONTRIBUTIONS

- [SCOTUSblog](#) – Eric contributes opinion analysis, commentary on SCOTUS news, case previews and more.
- [Arizona Appellate Handbook](#) (2020) (co-author of chapter on interlocutory appeals)

- *Civil Appellate Highlights* – Eric contributes to the monthly column in Arizona Attorney with Joseph N. Roth.
- [Arizona Appeals](#) – Eric contributes content for Practical Law with Hayleigh S. Crawford.

## JOURNALS, LAW REVIEWS, AND BOOK CHAPTERS

- [Why and How to Moot Cases on Appeal](#), Arizona Attorney (April 2022) (with Hayleigh Crawford)
- [Local Gov'ts Must Note Lessons In Religious Exception Ruling](#), Law360 (June 23, 2021) (with Josh Bendor)
- [Remote Appellate Oral Arguments](#), Ariz. Attorney (March 2021) (with Krissa M. Lanham)
- *The Chicago Tradition and Judge Ginsburg* (with Barak Orbach & D. Daniel Sokol), in *An Antitrust Professor on the Bench: Liber Amicorum* 43 (Nicholas Charbit et al. eds., 2018) (book chapter)
- [The Overhaul of the Arizona Rules of Civil Appellate Procedure](#), Ariz. Attorney 52 (Jan. 2015) (with Thomas L. Hudson & Joseph N. Roth)
- [The Jurisdiction of the D.C. Circuit](#), 23 Cornell J.L. & Pub. Pol'y 131 (2013) (lead author)
- [The Role of Economic Analysis in Competition Law](#) (with Douglas H. Ginsburg), in *Intellectual Property, Competition Law, and Economics in Asia* (Ian McEwin ed., 2011) (book chapter)
- [Antitrust and the Google Books Settlement: The Problem of Simultaneity](#), 2010 Stan. Tech. L. Rev. 4
- [A Postmortem Look at Citywide WiFi](#), 14 No. 2 J. Internet L. 1 (2010)
- [The Failure of Public WiFi](#), 14 J. Tech. L. & Pol'y 161 (2009)
- [Reducing Fraud against the Government: Using FOIA Disclosures in Qui Tam Litigation](#), 75 U. Chi. L. Rev. 497 (2008). Reprinted in 49 False Claims Act & Qui Tam Q. Rev. 159 (2008)

## SPEAKING ENGAGEMENTS

- [A Conversation with Paul Clement](#) (State Bar of Arizona) (2021)
- [Appellate Oral Arguments By Remote Video](#) (State Bar of Arizona) (2020)
- Annual IP CLE in the Garden (all-day seminar) (State Bar Intellectual Property Law Section) (Chair) (2020)
- [Judgment Entered: Now What?](#) (State Bar of Arizona Appellate Practice Section) (2020)
- Arizona Supreme Court Review (half-day seminar) (Co-chair, panelist) (2019)
- [Compelled Speech or Public Accommodation?](#) (Federalist Society) (2019)
- [Brush & Nib and Beyond: New Frontiers in LGBT Rights](#) (American Constitution Society) (2019)
- Ninth Circuit Judicial Conference (2019)
- [Antitrust in the Age of Populism](#) (State Bar of Arizona Antitrust Section) (2019)
- [Inclusion: The Legal Landscape Affecting Religion and People of Faith](#) (State Bar of Arizona Religious Liberties Law Section) (2019)
- [Federal Pro Bono Opportunities](#) (Federal Bar Association) (2019)
- SCOTUS IP Cases Review (State Bar Intellectual Property Law Section) (2019, 2017)
- Amicus Briefs on Appeal (Moderator) (State Bar of Arizona Appellate Practice Section) (2019)
- [Working with the Court of Appeals](#) (all-day seminar) (Co-chair) (2018, 2016)
- [First Mondays Live Podcast](#) (Co-chair; guest panelist) (State Bar of Arizona Appellate Practice Section) (2018)
- [Open for Business? Non-Discrimination Best Practices and Legal Advice](#) (Arizona LGBT Bar Association) (2018)

- [Arizona Supreme Court Review](#) (half-day seminar) (Co-chair; moderator) (2017)
- The Record on Appeal (State Bar of Arizona Appellate Practice Section) (Moderator) (2017)
- Internet Advertising Update (State Bar of Arizona Intellectual Property Law Section and Antitrust Law Section) (Moderator) (2017)
- Professional Licensing After *North Carolina Board of Dental Examiners* (State Bar of Arizona Antitrust Law Section and Administrative Law Section) (Moderator) (2016)
- Copyright and Fair Use Basics for Educators (2016)
- Special Actions in the Court of Appeals (State Bar of Arizona Appellate Practice Section) (Moderator) (2016)
- Beyond the Boilerplate: Writing Effective Cease-and-Desist Letters (Association of Corporate Counsel) (2016)
- Banking and the Free Society (Las Vegas, NV) (2016)
- US Airways–American Airlines Merger: Antitrust/Competition Issues and Effects of the Recent Merger (State Bar of Arizona Business Law and Antitrust Sections) (2014)
- Lessons from *United States v. Apple*: Risky Contract Terms for Non-Monopolists (Association of Corporate Counsel) (2014)
- Freedom and the Financial Markets (Washington, DC) (2012)