

Jay Ward Brown
Partner

brownjay@ballardspahr.com

Tel 202.508.1136

Fax 202.661.2299

Washington, DC



Areas of Focus

Litigation, Media and
Entertainment Law

Background & Experience

Jay Ward Brown has been representing news and entertainment companies for more than two decades. He has litigated libel, privacy, copyright, subpoena, and access matters in the U.S. Supreme Court, federal and state appellate courts, and trial courts around the country.

Jay has been described in *Chambers USA* as “a lawyer who delivers continuously high-quality service,” possesses “impeccable analysis and impressive writing skills,” and has a “friendly, approachable and attentive demeanor [that] sees clients wanting to use him exclusively.”

For a number of years, Jay served as national defamation counsel to the NAACP and was privileged to accept the NAACP’s Civil Rights Champion Award “for outstanding pro bono service and commitment to advancing civil rights and social justice.”

As a public television journalist before law school, Jay produced or wrote many of the late Fred W. Friendly’s award-winning programs on the Constitution, the press, law, and ethics. In 2007, Jay took a three-year leave from private practice to help Hiscox, a Lloyd’s of London insurance syndicate, open its U.S. claims operations. He headed the company’s North American media claims unit until he returned to his law practice in 2010. Mr Brown was one of the founding attorneys of the highly regarded First Amendment boutique law firm *Forrester Sullivan Kosh & Schultz* in 1997, which

LEVINE SULLIVAN KOCH & SCHULZ III 1997, WHICH merged with Ballard Spahr in October 2017.

Representative Experience

- Defended CBS in a defamation action arising from a news report on its New York television station about a federal raid on an adult entertainment club in New York. The New York Court of Appeals affirmed the dismissal of three individual plaintiffs' defamation claims against CBS. The court held that the news report was not "of and concerning" the three plaintiffs, allegedly managers of the club, as none were mentioned or otherwise reasonably understood as referred to in the report.
- Defended former New York Governor Eliot Spitzer and Slate.com in a defamation action filed by a former insurance executive arising out of a piece of commentary by Gov. Spitzer regarding a series of criminal prosecutions he had initiated while attorney general. The district court granted the defendants' motion for judgment on the pleadings, and dismissal of the action was affirmed on appeal.
- Successfully defended *Washington City Paper* in the defamation action filed by Washington Redskins owner Daniel Snyder over a profile titled "The Cranky Redskins Fan's Guide to Dan Snyder." After City Paper filed its motion to dismiss invoking the District of Columbia's then-brand new anti-SLAPP statute, Snyder voluntarily dismissed his lawsuit.
- Served as lead counsel for a coalition of national news organizations that successfully moved several times to intervene and to obtain access to the proceedings and record during the first September 11-related criminal prosecution. Among other successes, Jay persuaded the Fourth Circuit to issue a writ of mandamus ordering the trial judge to provide same-day access to trial

exhibits.

- Served as lead counsel for Clear Channel Communications and its sports journalist Paul Finebaum in the Alabama Supreme Court in a defamation action brought by another sports broadcaster who claimed that Finebaum had, on air, implied he was homosexual. After Jay first persuaded the Supreme Court to reverse its initial refusal to hear an interlocutory appeal from a trial court order denying summary judgment, the court reversed on the merits and rendered judgment for Finebaum.
- With his colleague Lee Levine, successfully represented the media defendants in *Bartnicki v. Vopper*, a landmark U.S. Supreme Court case arising out of the radio broadcast of a tape recording of a cell phone conversation between two teachers' union officials. The Supreme Court upheld the dismissal of the plaintiffs' claims under the federal wiretap act and reaffirmed the principle that the press cannot be held liable for publishing truthful information about a matter of public concern absent a governmental interest of the highest order, at least where it played no role in the source's unlawful acquisition of the information.

Professional Highlights

Professional Activities

Media Law Resource Center, Defense Counsel
Section, Treasurer

Media Law Resource Center Institute, past Board of
Trustees member and past Chair

Law360, past Media and Entertainment Editorial
Advisory Board

ABA Tort Trial & Insurance Practice Section,
Media, Privacy & Defamation Law Committee, past
Vice Chair

vice chair

ABA Forum on Communications Law, past
Governing Board

Trinity College, Adjunct Instructor in Law of Mass
Communications, 1999-2003

University of Maryland School of Journalism,
Adjunct Instructor in Media Law, 1995-1996

Recognition & Accomplishments

Washington, D.C., Super Lawyers, media &
advertising, 2007, 2016-2018

*Chambers USA: America's Leading Lawyers for
Business*, ranked nationwide for media &
entertainment law and First Amendment litigation,
and in Washington, D.C., for media &
entertainment law

The Best Lawyers in America Washington, D.C.,
Media Lawyer of the Year, 2014; top media lawyer,
2013-2018

American Bar Association Silver Gavel Award for
Public Service

Publications

Newsgathering and the Law, Lexis Law Publishing
4th ed., Supplement 2013 and 2015

"Mind the Gap: Companies Face Marketing-Related
Legal Claims That Their CGL Insurance Policies
No Longer Cover," *Risk & Insurance*, December
2011

"'The Assange Effect': WikiLeaks, The Espionage
Act and the Fourth Estate," Media Law Resource
Center Bulletin, August 2011

"The Reporter's Privilege in the Third Circuit," *The
Reporter's Privilege Compendium*, 2006

Education

New York University School of Law (J.D. 1992,
cum laude)
Fellow, Arthur Garfield Hays Civil Liberties
Program

Columbia University Graduate School of
Journalism (M.S. 1985, *with honors*)

University of Minnesota at Minneapolis (B.A.
1984)
Phi Beta Kappa

Admissions

District of Columbia

Maryland

New York

Virginia

U.S. Supreme Court

U.S. Courts of Appeals for the Second, Third,
Fourth, Eighth, Ninth, and District of Columbia
Circuits

U.S. District Court for the District of Columbia

U.S. District Court for the District of Maryland

U.S. District Courts for the Eastern, Northern, and
Southern Districts of New York

U.S. District Courts for the Eastern and Western
Districts of Virginia