



# Richard D. Batchelder, Jr.

Partner

**BOSTON**

T +1 617 951 7515

F +1 617 235 0394

Richard.Batchelder@ropesgray.com

## Practice

Richard has advised Ropes & Gray clients for over 25 years in a wide range of complex business litigation matters before courts throughout the country. In recent years, Richard has handled a number of high profile contractual and indemnification disputes for life sciences and health care clients of the firm. In addition, he defended TJX and Target in class action lawsuits brought by financial institutions in the wake of two of the largest data breaches in U.S. history. He has advised many of the firm's private equity clients and their portfolio companies in numerous capacities, from analyzing litigation risk in proposed transactions to representing them in court post-acquisition. Richard served as the firm's hiring partner from 2011 to 2016, and was a member of the firm's diversity committee. Richard is active in *pro bono* matters at the firm, including submitting amicus briefs to the Supreme Court in *Barber v. Bryant*, on behalf of GLAD and NCLR, *Gloucester County Sch. Bd. v. G.G.* on behalf of The Equality Foundation, *Fisher v. University of Texas* on behalf of the National Association of Basketball Coaches, and assisting in the successful appeal before the 11th Circuit in an important free speech case involving a physician's right to discuss gun safety with their patients (*Wollschlaeger v. Governor of Florida*). Richard joined Ropes & Gray in 1991 following a federal court clerkship in Boston, and became a partner in 1999.

## Experience

- **D&O Action.** Representing former directors of portfolio company of New York based private equity firm in D&O Action in Alabama following bankruptcy of portfolio company
- **AstraTech, Inc.** (n/k/a as Dentsply IH Inc.). Lead trial lawyer in indemnification dispute in Business Litigation Section of Massachusetts Superior Court with Shareholders' Agent over disposition of \$6.3 million Escrow Fund; secured victory for client in liability phase after eight-day trial, and obtained nearly \$9 million judgment against the Shareholders' Agent which was recently upheld on appeal in the Supreme Judicial Court; obtained judgment in related case brought by majority shareholders.

## Education

- JD, *cum laude*, Cornell Law School, 1990; Senior Editor, *Cornell Law Review*
- BA, University of North Carolina at Chapel Hill, 1984

## Bar Admissions

- Massachusetts, 1990

## Court Admissions

- Supreme Court of the United States
- U.S. Court of Appeals for the First Circuit
- U.S. Court of Appeals for the District of Columbia
- U.S. Court of Appeals for the Eleventh Circuit
- U.S. District Court for the District of Massachusetts

- **Nationwide Children's Hospital.** Lead lawyer in contract dispute in United States District Court for Northern District of Illinois on behalf of largest pediatric hospital in the United States; obtained dismissal of all claims brought against NCH for royalties for certain inventions licensed by NCH to a third party on initial motion to dismiss and after plaintiff filed amended complaint, obtained dismissal with prejudice of plaintiff's primary claim, leading to a favorable resolution of the case.
- **Target Corp.** Represented Target in putative class action brought by financial institutions against Target in United States District Court for the District of Minnesota stemming from the data security breach Target announced in December 2013.
- **Genesco.** Represented Genesco in lawsuit the retailer brought against Visa in United States District Court for the Middle District of Tennessee arising out of fines and assessments imposed by Visa following data security breach.
- **Vapotherm, Inc.** Lead lawyer for Vapotherm, a New Hampshire-based medical device manufacturer, in expedited proceedings in the United States District Court for the Southern District of Ohio brought by a large healthcare distributor for breach of contract and other claims; secured denial of TRO and dismissal with prejudice of complaint.
- **Martha's Vineyard Zoning Dispute.** Lead lawyer representing group of residents in high profile case in Massachusetts Land Court brought by individuals seeking to prevent the residents from building a causeway to provide access to their properties; secured complete dismissal of all claims on jurisdictional grounds.
- **A Leading Consumer Technology Company.** Led legal team responding to recent cyber attack on the company's website.
- **Fortune 100 Insurance Company.** Co-lead counsel defending class action lawsuits brought against this insurance company following criminal cyber-attack on a certain portion of the company's computer network. Obtained complete dismissal of all claims.
- **Targus, Inc.** (portfolio company of Apax Partners). Lead lawyer in obtaining ruling from Massachusetts Appeals Court affirming summary judgment entered by lower court enforcing a multi-million dollar settlement agreement.
- **TJX.** Served as one of the lead lawyers representing TJX in class action litigation brought by financial institutions in federal court in Boston arising out of the largest data intrusion at that time in U.S. history; successfully argued against the financial institutions' motions for class certification and to amend their complaint, which led to dismissal of their claims; supervised team conducting review of millions of pages of documents for purposes of responding to discovery requests and CIDs arising out of data intrusion.
- **Eleme Medical, Inc.** Lead trial lawyer in a six-day arbitration trial in Chicago for a venture backed medical device company enforcing its exclusive rights to certain cutting-edge technology.

- **XOJet, Inc.** (portfolio company of TPG). Successfully brought a complaint in the Northern District of California on behalf of a private aviation company against an aircraft manufacturer to rescind hundreds of millions of dollars in contract obligations to buy additional aircraft from that manufacturer.
- **PNC Bank.** Represented the lender of a major real estate development on the Boston waterfront in a case brought in federal court in Boston by the original developer of that project, obtaining dismissal of a key count in the complaint and settling the remaining counts; also obtained dismissal of a complaint in federal court in Boston on behalf of the seller of three multi-million dollar residential units in a case brought by the buyer of those units; successfully argued appeal of dismissal in First Circuit.
- **Bain Capital.** Obtained summary judgment in Delaware Chancery Court on behalf of a former portfolio company of Bain Capital in a case brought by a former shareholder of that company.
- **Miami Cruiseline Holdings.** (portfolio company of Berkshire Partners). Obtained a multi-million dollar settlement of a claim against Reliance Insurance Company.
- **Defamation case.** Obtained a complete dismissal with prejudice against our client, a well-known counterterrorism expert, in a high profile defamation action brought in Massachusetts Superior Court.
- **Caspian Capital Management.** Lead lawyer in a four-day trial in New York state court in a case involving the removal for cause of a portfolio manager.
- **University of Miami.** Assisted Miami in its successful move from the Big East Conference to the ACC.
- **Harvard University.** Successful defense verdict at trial in 2002 after remand in employment discrimination case, *Abramian v. President & Fellows of Harvard College*, 432 Mass. 107 (2000); successful dismissal in tenure review case, *Berkowitz v. President & Fellows of Harvard College*, 58 Mass. App. Ct. 262, review denied, 440 Mass. 1101 (2003).

## Awards

- *The Best Lawyers in America* (2015-present)
- *Massachusetts Super Lawyers* (2010, 2012 – present)
- *Who's Who in America* (2011 – present)
- *Who's Who in the World* (2012 – present)

## Publications

- Quoted, "Masterpiece Cake Quartet | Gov. Christie Goes to Court | Recusal Watch," *The Supreme Court Brief* (December 5, 2017)

- Quoted, Ropes & Gray Works to Make Diversity Part of its DNA (Forum, Vol. 1, Ed. 2, 2015)
- Quoted, “Dealing with a Data Breach,” *Law Technology News* (Dec. 2, 2014)

## Presentations

- Panelist, “NCAA Panel,” 2017 Sports Symposium at Harvard Law School (March 2017)
- Panelist, “Cybersecurity Law in an Insecure World,” Columbia Law School (March 2016)
- Co-presenter, “Data Breach Triage 101: Be Prepared to Hit the Ground Running,” ALM’s cyberSecure Event (December 2015)
- Co-presenter, “First Responders: How Outside Counsel & Forensic Investigators Help Clients Respond to a Data Breach,” Cybersecurity and Data Protection Legal Summit (December 2014)