



Bryan M. Haynes

Partner

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Bryan Haynes devotes his practice to representing businesses in disputes and regulatory compliance matters initiated by governmental agencies, including by state Attorneys General, and in other commercial litigation. Bryan is an accomplished trial attorney who has served as lead counsel in state and federal courts across the country.

Bryan is a member of the firm's [Tobacco Law](#) practice and is focused on representing tobacco manufacturers, distributors, retailers and suppliers in all aspects of their businesses, including regulatory compliance, Food and Drug Administration (FDA) requirements, administrative disputes involving a federal or state governmental entity, commercial agreements and tobacco taxation matters.

Follow Bryan's ongoing analysis and commentary on developments in tobacco law at <http://www.tobaccolawblog.com/>.

Representative Matters

Tobacco

- Advise clients regarding compliance issues arising under legislation granting tobacco regulatory authority to the FDA.
- Represent electronic cigarette companies with respect to regulatory issues, including issues with the FDA.
- Representation of tobacco companies in connection with Master Settlement Agreement (MSA) compliance issues, including negotiations with state regulators and litigation in state and federal courts.
- Advise tobacco product manufacturers and distributors regarding compliance with the Prevent All Cigarette Trafficking (PACT) Act.
- Represented an entity in the purchase of a tobacco manufacturing business, including advice regarding associated federal and state regulatory issues.
- Advise clients regarding regulatory issues associated with starting a tobacco manufacturing business.
- In the course of approximately one year, obtained three preliminary injunctions and/or temporary restraining orders as lead counsel on behalf of tobacco

Practice

- Tobacco
- Consumer Financial Services
- Enforcement Actions and Investigations

Education

- George Mason University (J.D., magna cum laude, 1998)
George Mason Law Review
- Virginia Polytechnic Institute & State University (B.A., 1993)

Work Experience

- Partner, Troutman Sanders LLP, 2007-Present
- Associate, Troutman Sanders LLP, 2003-2006
- Judicial Clerk to The Honorable Diane Gilbert Sypolt, U.S. Court of Federal Claims, Washington, D.C., 1998-1999

Bar and Court Admissions

- Virginia, 1998
- District of Columbia, 1999
- U.S. District Court for the Eastern District of Virginia
- U.S. District Court for the Western District of Virginia
- U.S. Bankruptcy Court for the Eastern District of Virginia
- U.S. Court of Appeals for the Fourth Circuit
- U.S. Court of Appeals for the First Circuit
- U.S. Court of Appeals for the Sixth Circuit
- U.S. Court of Appeals for the District of Columbia
- U.S. Court of Federal Claims
- U.S. Court of Appeals for the Federal Circuit
- U.S. District Court for the District of Columbia
- U.S. Bankruptcy Court for the District of Columbia Circuit
- Supreme Court of Virginia

Distinctions

- Selected as a Super Lawyer in Administrative Law by *Law & Politics' Virginia Super Lawyers Magazine*

companies in disputes with states and the federal government.

- Represent tobacco product manufacturers in commercial disputes with distributors. Obtained a \$5.2 million judgment on behalf of a cigarette manufacturer against a distributor after a two-day trial. *Virginia Brands, LLC v. Kingston Tobacco, Inc.*, Case No. 4:10CV00009, 2010 U.S. Dist. LEXIS 131116 (W.D. Va. Dec. 10, 2010).
- Represent tobacco distributors and retailers in tax disputes, including the successful defense of distributors in tax disputes with state Departments of Revenue. Advise tobacco manufacturers and distributors regarding federal and state taxation issues.
- Represented tobacco company in regulatory dispute with Virginia attorney general. *Citland, Ltd. v. Virginia*, 45 Va. App. 268, 610 S.E. 2d 321 (2005).
- Counsel to national trade association in constitutional challenges to state tobacco statutes.

(2012-2016).

- Selected as a Virginia "Rising Star" in Business Litigation by *Law & Politics' Virginia Super Lawyers Magazine* (2007-2011).
- Selected as *Legal Elite* by *Virginia Business* magazine in Civil Litigation (2010) and Legislative/Regulatory/Administrative (2013).

Other Business Litigation

- Successfully defended an automobile manufacturer in a multi-million dollar ownership transfer dispute, obtaining dismissal of all plaintiffs' claims and establishing a key judicial precedent regarding the standing of prospective franchisees to sue. *Rochester Lincoln-Mercury, Inc. v. Ford Motor Co.*, 248 F.3d 46 (1st Cir.).
- Obtained summary judgment for major automobile manufacturer in multi-million dollar dispute with dealership regarding enforceability of release in dealership's sales and service agreement. Decision was affirmed on appeal. *Rochester Ford Sales v. Ford Motor Co.*, 287 F. 3d 32 (1st Cir.).
- Litigated numerous commercial and residential real estate disputes, representing developers, builders and landowners.
- Obtained a declaratory judgment and specific performance on behalf of a purchaser enforcing a \$39 million real estate contract involving 1,898 acres in Chesterfield County. Client was also awarded attorneys' fees and costs. Decision was affirmed on appeal to the Virginia Supreme Court. *Cangiano v. LSH Building Co.*, 271 Va. 171, 623 S.E. 2d 889 (2006).
- Represented the purchaser in a real estate contract dispute. Obtained a judgment in excess of \$1 million after a two-day trial. Decision was affirmed on appeal to the Virginia Supreme Court. *Ventures Development v. Ashe* (Brunswick Cir. 2008).
- Substantial experience with business tort claims, including tortious interference with contract, trade secret, fraud, and breach of fiduciary duty claims.
- Substantial experience with disputes regarding the ownership of closely-held businesses.
- Obtained a pre-filing injunction against a vexatious litigant before the U.S. District Court for the Eastern District of Virginia.

- Represented an internet website operator in litigation involving the domain name's alleged infringement of the plaintiff's trademark.

News, Publications, Presentations, and Speaking Engagements

- Author, "[FDA Prevails in Court in Round One Over Cigars](#)," *Smokeshop*, June 2018.
- Co-author, "[Tussling Over Preemption: Emerging Battleground Between State Authorities and Student Loan Servicers](#)," *Business Law Today*, May 15, 2018.
- Co-author, "[FDA's Hand Can't Be Forced On 'Natural' Tobacco Labeling](#)," *Law360*, May 10, 2018.
- Author, "[Rethinking the Substantial Equivalence Process](#)," *Smokeshop*, April 2018.
- Presenter, "The E-Cigarette Regulatory Environment: The Past, Present and Future of State & Local Regulations," ABA Center for Professional Development, April 24, 2018.
- Author, "[Selling Tobacco Online? Know the Law](#)," *Smokeshop*, February 2018.
- Co-author, "[Challenging The FDA on 'Natural' Cigarettes](#)," *Law360*, August 22, 2017.
- Author, "New rules wrong to equate e-cigs with the real deal," *Daily Journal*, May 26, 2016.
- Quoted, "[U.S. fans of Cuban cigars still have long wait before they can be sold here](#)," *Tampa Bay Times*, May 22, 2016.
- Author, "[Design Patents Build Strong, Valuable Brands](#)," *Smokeshop*, December 2015.
- Moderator, "E-cigarettes post deeming—an outlook for ENDS products," The Food and Drug Law Institute 2015 FDA Regulation of Tobacco Products Conference, Washington, DC, October 21, 2015.
- Author, "Descriptor Under Scrutiny: Modified Risk Snag," *Smokeshop*, October 2015.
- Author, "[FDA's Deeming Regulations: Hope for the Best, Prepare for the Worst](#)," *Smokeshop*, August 2015.
- Quoted, "[Cig Label Fight Shows Growing Pains in New FDA Oversight](#)," *Law360*, June 3, 2015.
- Speaker, "Excise Taxation by Relative Product Risk and the IOM/NRC on Illicit Trade," [Tobacco Merchants Association \(TMA\)](#), Williamsburg, VA, May 18, 2015.
- Speaker, "Planning for The Final Deeming," [Smoke Free Alternatives Trade Association \(SFATA\) Conference](#) (SFATA), Chicago, IL, May 4, 2015.
- Quoted, "[Tobacco Deal Ruling Could Boost Other States In Pa.'s Boat](#)," *Law360*, April 13, 2015.
- Mentioned, "[Starbuzz Tobacco Fights TTB On \\$3.5M Excise Tax, Levy](#)," *Law360*, April 2, 2015.

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- Author, "[New York Sues Delivery Services](#)," *Smokeshop*, April 2015.
 - Quoted, "Product Liability Legislation And Regulation To Watch In 2015," *Law360*, January 2, 2015.
 - Author, "[Pennsylvania's Legal Battle Over MSA Payments Keeps Twisting](#)," *Smokeshop*, February 2015.
 - Author, "[A Regulatory Lawyer Predicts the 2015 US Regulatory Landscape](#)," *Vapor Digest*, January 2015.
 - Co-author, "[Hey Legislators: Vaping Products Don't Belong in the MSA!](#)" *Smokeshop*, December 2014.
 - Co-author, "[Premium Cigars Face Regulation Strangulation under FDA](#)," *Smokeshop*, October 2014.
 - Moderator, "The Regulation (on not!) of E-Cigarettes," American Bar Association Section of State and Local Government Law 2014 Fall Council Meeting, Denver, CO, October 9, 2014.
 - Quoted, "[US tobacco giants want lion's share of e-cigarette business](#)," *France 24*, September 1, 2014.
 - Co-author, "[Decision Time at FDA: Deciding Premium Cigars' Fate](#)," *Smokeshop*, June 2014.
 - Speaker, "Vapors, Myths and Reality Double Header," [Vapor World Expo](#), Chicago, IL, May 8, 2014.
 - Quoted, "[Sen. Schumer and FDA on E-Cigarettes](#)," *WETM 18*, July 22, 2014.
 - Quoted, "[Quality Issues Push E-Cigarette Production to U.S. from China](#)," *Reuters*, July 7, 2014.
 - Quoted, "[FDA eases into regulating e-cigarettes](#)," *Richmond Times-Dispatch*, April 24, 2014.
 - Quoted, "[FDA's Timid E-Cig Proposal Plays Into Industry's Hands](#)," *Law360*, April 24, 2014.
 - Quoted, "[E-cigs: The battle happening on nicotine's next front](#)," *The Washington Post*, April 7, 2014.
 - Co-author, "[E-Cigs at the Forefront](#)," *Smokeshop*, February 2014.
 - Quoted, "[FDA Cigarette Regulations Protect Big Tobacco, Not Public Health](#)," *reason.com*, February 27, 2014.
 - Quoted, "[Lobbyists Amp Up Efforts To Sell Washington On E-Cigarettes](#)," *Its All Politics*, NPR Blog, February 26, 2014.
 - Quoted, "[States Acting Hastily In Pushing E-Cigarette Taxes](#)," *Law360*, February 24, 2014.
 - Speaker, "[Past, Present and Future of FDA Regulation of Tobacco Products](#)," Tobacco Plus Convenience Expo (TPC), January 30, 2014.
 - Co-author, "[Disputed 2003 MSA Payments Resolved](#)," *Smokeshop*, December 2013.
 - Author, "Understanding the Tobacco Control Act and FDA Investigative Process," *Inside the Minds: Recent Developments in Food and Drug Law – Leading Lawyers on Dealing with Increased Enforcement, Keeping Up-to-Date with FDA Requirements, and Developing Compliance Practices*, Thomson

Reuters, 2014.

- Co-author, "[Compelled Commercial Speech: the Food and Drug Administration's Effort to Smoke Out the Tobacco Industry through Graphic Warning Labels](#)," *Food and Drug Law Journal*, 2013.
- Speaker, Tobacco Merchants Association's FDA Regulation of E-Cigarettes Conference, Leesburg, Virginia, October 30, 2013.
- Speaker, "[Exploring Tobacco Product Standards: Opportunities and Challenges](#)," Food and Drug Law Institute FDA Regulation of Tobacco Products Conference, October 29, 2013.
- Quoted, "[Awaiting FDA, States Pursue Their Own E-Cigarette Rules](#)," *The Washington Post*, October 29, 2013. Quoted, "[Already Messy, E-Cigarette Regs Likely To Grow More Chaotic](#)," *Law360*, August 13, 2013.
- Quoted, "[FDA backs low-nicotine cigarette research as it weighs new regulatory power](#)," *Washington Post*, July 30, 2013.
- Quoted, "[UK Stalling On Plain Packaging Jeopardizes Global Adoption](#)," *Law360*, July 15, 2013.
- Author, "[Regulating Cigars](#)," *Smokeshop*, June 2013.
- Quoted, "[Regulators Eye Crackdown On Rising Use Of Tobacco Discounts](#)," *Law360*, May 22, 2013.
- Author, Lexis Internal Revenue Code Explanations – Tobacco Tax Provisions.
- Speaker, "[Deeming Regulations – A Conversation](#)," *Tobacco Merchants Association's 98th Annual Meeting & Conference*, Williamsburg, VA, Thursday, May 16, 2013.
- Author, "[The Big Chill](#)," *Smokeshop*, April 2013.
- Panelist, "[Tobacco Product Deeming Regulations – Are They Appropriate and What Should They Look Like?](#)" Food and Drug Law Institute Annual Meeting, Washington, DC, April 23, 2013.
- Quoted, "[Zeller takes reins at FDA's Center for Tobacco Products](#)," *The Washington Post*, March 3, 2013.
- Interview, "[Fox 5 Investigates – E-Cigarettes](#)," *Fox 5 DC*, February 8, 2013
- "The Split On FDA Requirement Of Graphic Smoking Warnings," *Law360*, January 10, 2013.
- Quoted, "[Tobacco Dispute Threatens Funding of Children's Programs](#)," *Kansas Health Institute News Service*, September 17, 2012.
- Seminar Presenter, "Basics of Tobacco Regulation for the Cigarette Manufacturer", March 31, 2009 and January 18, 2011.
- "[The PACT Act: The Latest Federal Tobacco Regulations Introduce Sweeping New Requirements for Tobacco Product Shipments](#)," *Smokeshop Magazine*, June 2010.
- "[Classifying Electronic Cigarettes: Are They Drugs/Medical Devices, Tobacco Products, Both or Neither? The Industry's Future Weighs in the Balance as Regulators – and Courts – Decide the Answer](#)," *Smokeshop Magazine*, February 2010.

- Panelist, "Towards An Industry Advisory Group," *Tobacco Merchants Association 94th Annual Meeting & Conference*, Williamsburg, VA, May 19, 2009.
- "[Congress Again Considers FDA Regulation: An inside look at the newest tobacco legislation being considered by Congress,](#)" *Smokeshop Magazine* , April 2007.
- "[Pre-Filing Injunctions: A Practical Solution to the Problem of Harassing Pro Se Litigants,](#)" *V.B.A. News Journal* , Vol. XXXII, No. 4, August/September 2006.
- "[Cases Involving Government Agencies Present Unique Discovery Issues,](#)" *Atlantic Coast In-House Counsel*, July 2005.

Professional and Community Involvement

- Food & Drug Law Institute, Tobacco Committee