



Nicole J. Benjamin

Shareholder, Providence, RI

Call: 401.427.6212 | Fax: 401.351.4607 | Email: nbenjamin@apslaw.com

PRACTICE AREAS

[Intellectual Property](#)

[Litigation](#)

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[Products Liability/Toxic
Tort/Mass Torts](#)

[Intellectual Property
Litigation](#)

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[Sports](#)

[Cyber and Data Security](#)

EDUCATION

Roger Williams University
School of Law (J.D.,
magna cum laude, 2006)

University of Rhode
Island (B.A., *magna cum
laude*, 2003)

ADMISSIONS

Rhode Island

Massachusetts

Connecticut

New Hampshire

U.S. District Court,
District of Rhode Island

OVERVIEW

Nicole Benjamin is a litigator who has been recognized for her successes in [complex commercial litigation](#) and appellate advocacy. She also is President of the Rhode Island Bar Association.

Nicole has tried high-stakes litigation and regularly represents public and private companies in complex cases in federal and state court.

She has handled multi-district litigation and class actions and she has defended clients against antitrust, breach of contract, business tort, employment, intellectual property, products liability (including in aviation and drug and medical device cases), public nuisance and toxic tort claims.

Working out of the firm's Providence office, Nicole also has represented Rhode Island general officers, state departments and agencies and municipalities in matters of significant public importance, including constitutional challenges.

In addition to her trial court practice, Nicole has successfully briefed and argued cases in the First and Third Circuits and the Rhode Island Supreme Court.

REPRESENTATIVE MATTERS

Trial Court Matters

- After four years of litigation, including an appeal to the First Circuit and a successful petition for writ of advisory mandamus from the First Circuit, Nicole and her colleagues completed a three-week bench trial in which they defended against a constitutional challenge brought by the American Trucking Associations to the State of Rhode Island's implementation of truck tolls on the interstate. The case is now pending before the United States Court of Appeals for the First Circuit.
- On the eve of trial, Nicole and other members of AP&S's litigation team recently resolved a federal court case where they defended the world's largest toy

U.S. District Court,
District of
Massachusetts

U.S. District Court,
District of Connecticut

U.S. District Court,
District of New
Hampshire

U.S. Court of Appeals for
the First Circuit

U.S. Court of Appeals for
the Third Circuit

U.S. Tax Court

U.S. Supreme Court

manufacturer against trade secrets claims brought under state and federal law.

- In the wake of the United States Supreme Court's decision in *Murphy v. NCAA*, 138 S. Ct. 1461 (U.S. 2018), Nicole and her colleagues advised the Rhode Island Lottery as it became the first New England state to implement sports wagering and one of first in the country to implement online sports wagering. Nicole and her colleagues successfully defended the Rhode Island Lottery in subsequent Superior Court litigation challenging the constitutionality of both forms of wagering before the Rhode Island Supreme Court.
- For six years Nicole, along with the antitrust litigation team of a "Global Elite"-ranked international law firm, represented a leading specialty pharmaceutical company in a multi-district litigation antitrust case from its commencement through jury empanelment and its eventual resolution on the eve of trial.
- Nicole and her colleagues successfully defended a United States defense contractor in litigation brought by a Saudi Arabian company that claimed a right to commissions on the sale of military weapons to the Kingdom of Saudi Arabia and obtained affirmance of that judgment on appeal. *Arabian Support & Servs. Co. v. Textron Sys. Corp.*, 368 F. Supp. 3d 211 (D. Mass. 2019), *aff'd* 943 F.3d 42 (1st Cir. 2019).
- Nicole and her colleagues at AP&S have teamed up with a litigation group at one of the largest global law firms to defend a multinational oil and gas company in the first climate change lawsuit brought by a state alleging that fossil fuel manufacturers have created a public nuisance.
- Nicole represents an American manufacturer of aircraft engines in multi-jurisdictional products liability and wrongful death actions.
- Nicole successfully briefed and argued a motion for summary judgment, resulting in a declaration that, under Rhode Island law, zoning certificates are not legally binding and, therefore, are not appealable. The decision was identified by Rhode Island Lawyers Weekly as one of the most important decisions in 2016. *Little Compton Resorts, Inc. v. Zoning Bd. for Little Compton*, NC-2016-0262, 2016 R.I. Super. LEXIS 133 (R.I. Super. Ct. Nov. 22, 2016).
- From 2010 to 2023, Nicole and her colleagues represented the Governor, the General Treasurer and the Employees' Retirement System of the State of Rhode Island in multiple cases and a class action challenging the constitutionality of pension changes made by the Rhode Island legislature in 2009, 2010 and 2011. Nicole successfully briefed and argued a motion for summary judgment on a claim brought by a group of retirees. *In re Pension Cases*, KC-14-0345, 2015 R.I. Super. LEXIS 10 (R.I. Super. Ct. Mar. 26, 2015). Six of ten cases resulted in a settlement, which retained approximately 92 percent of the pension savings the state obtained through the challenged legislation. The settlement was approved after a three-day fairness hearing and in 2018, the Rhode Island Supreme Court affirmed the Superior Court's approval of the settlement. *Clifford v. Raimondo*, 184 A.3d 673 (R.I. 2018). Three other cases were dismissed and one remains pending before the Superior Court.

Appellate Matters

- In a case concerning an attorney's ethical duty of loyalty, Nicole succeeded in obtaining reversal of a district judge's grant of summary judgment on the basis that the district court had improperly conflated the fact of damage with damages when ruling on a claim for breach of fiduciary duty.
Avco Corp. v. Turner, No. 21-2750, 2022 U.S. App. LEXIS 20256 (3rd Cir. 2022).
- Nicole successfully represented Rhode Island's Governor and Speaker of the House of Representatives on a petition for writ of advisory mandamus to the United Court of Appeals for the First Circuit, obtaining reversal of the district court's ruling on the application of the legislative privilege to subpoenaed documents and testimony in a dormant Commerce Clause challenge to the state's implementation of tractor trailer truck tolling. *Am. Trucking Ass'ns v. Alviti*, 14 F.4th 76 (1st Cir. 2021).
- On behalf of the Governor, the General Treasurer and the Employees' Retirement System of the State of Rhode Island, Nicole successfully briefed and argued in the United States Court of Appeals for the First Circuit, obtaining affirmance of the district court's dismissal of constitutional challenges brought by a municipality's public safety employees to significant pension reform legislation enacted by the Rhode Island General Assembly in 2011. *Cranston Firefighters, IAFF Local 1363 v. Raimondo*, 880 F.3d 44 (1st Cir. 2018).
- Nicole successfully briefed and argued an issue of first impression in the Rhode Island Supreme Court, resulting in the recognition of a statutory right for trustees to recover their attorneys' fees when a trust beneficiary refuses, without any basis, to release the trustee of his or her fiduciary duties. *In re Bagdis Living Trust Agreement*, 136 A.3d 1122 (R.I. 2016).
- On behalf of the Rhode Island Bar Association as amicus curiae, Nicole briefed and argued issues of first impression related to the unauthorized practice of law before the Rhode Island Supreme Court, resulting in a decision that drafting deeds and examination of title for marketability constitutes the practice of law.
- In \$60 million litigation, Nicole and her colleagues defended charitable corporations that had been sued, in three separate lawsuits, for alleged undue influence and fraud in connection with charitable donations that had been made to the charitable corporations via will, trusts and lifetime gifts. Obtained summary judgment on behalf of AP&S' clients in the trial court in all three cases and successfully defended those judgments on appeal before the Rhode Island Supreme Court.

Other Matters

- Nicole regularly advises a regional sports association that serves as the governing body for youth and adult clubs on its legal obligations and players' rights.

SEMINARS / PUBLICATIONS

Publications

- Contributing author to American Bar Association’s The Law of Class Action: Fifty State Survey 2025 and author of its chapter on class action law in Rhode Island. This text is additionally published by Thomson Reuters as a supplement to the hard bound volumes of the prestigious Newberg and Rubenstein on Class Actions.
- May it Please the New Rhode Island Supreme Court, RI Lawyers Weekly (January 2021).
- Five Things the Rhode Island Supreme Court Wants You To Know About Civil and Appellate Practice, Rhode Island Bar Journal (May/June 2017).
- Roger Williams University School of Law: The First Twenty Years – The Rise of Rhode Island’s Law School, 19 Roger Williams U. L. Rev. 638 (2014) (co-author).
- Closing Argument – Reflections on the First Twenty Years, RWU Law Magazine (Jan. 2014).
- Rhode Island chapter of Fifty-State Survey, The Law of Class Action (American Bar Association 2012) (co-author).
- Rhode Island chapter of State-by-State Survey of the Statutes of Limitation and Repose Applicable to Pharmaceutical and Medical Device Litigation (American Bar Association, 2012) (co-author).
- “Military Trials of Terrorists: From the Lincoln Conspirators to the Guantanamo Inmates,” 39 Northern Kentucky L. Rev. 609 (2012) (co-author).
- “Introduction of International Law,” World History Encyclopedia, ABC-CLIO, 2011.
- Rhode Island chapter of A Practitioner’s Guide to Class Actions (American Bar Association 2010) (co-author).
- “Close-Hauling Toward Simplified Eligibility Under the Longshore and Harbor Workers’ Compensation Act,” 35 Tulane Maritime Law J. 45 (Winter 2010) (co-author).
- “Still a Frightening Unknown: Achieving a Constitutional Balance between Civil Liberties and National Security during the War on Terror,” 12 Roger Williams U. L. Rev. 675 (2007) (co-author).
- “Unlocking America’s Courthouse Doors: Restoring a Presumption of First Amendment Access as a Means of Reviving Public Faith in the Judiciary,” 11 Roger Williams U. L. Rev. 193 (2005).

Seminars

- Ethics of Direct and Cross Examination, District of Rhode Island Litigation Academy (co-presented with Chief Judge McConnell), November 2023.
- Recent Developments in the Law – Courts, Civil Procedure and Evidence, Rhode Island Bar Association CLE, November 2023.
- Report on Wellbeing and DEI Initiatives, Panelist, New England Bar Association Annual Meeting, Salem, MA, November 2023.
- Can You DIG It? What in-house and outside counsel need to know about dual-purpose

attorney-client communications after the U.S. Supreme Court's dismissed as improvidently granted order in *In re Grand Jury*, Rhode Island Bar Association CLE, October 2023.

- Strengths-Based Leadership for High Performing Legal Teams, Presenter, Corporate Counsel Symposium in Philadelphia, PA, Federation of Defense and Corporate Counsel, October 2023.
- Charting a Path Forward for Diversity, Equity and Inclusion after *SFFA*, Papitto Opportunity Connection Connector Conference, October 2023.
- Obtaining and Admitting Mobile Phone Evidence at Trial: Call Logs, Text Messages, and Location Data, Stafford CLE, August 2023.
- The Lawyer Stories Podcast – Roger Williams Law Grad becomes President of RI Bar Association, Episode 149, August 2023.
- The Edward Gallogly Inn of Court, 2023 Honorable Edward Newman Seminar, Refresh and Renew Your Evidence! Digital and Social Media Evidence (May 2023).
- Deposition Ethics, District of Rhode Island Litigation Academy (co-presented with Chief Judge McConnell), May 2023.
- Social Media Use and Other Complex Jury Issues, Client In-House CLE, May 2023
- Can You Dig It? What In-House and Outside Counsel Need To Know About Attorney Client Communications After The U.S. Supreme Court's Dismissed As Improvidently Granted Order In *In re Grand Jury*, AP&S Ethics Seminar, May 2023.
- Social Media Use and Other Complex Jury Issues, Rhode Island Bar Association CLE, February 2023.
- Recent Developments in the Law – Courts, Civil Procedure and Torts, Rhode Island Bar Association CLE, November 2022.
- Social Media Use and Other Complex Jury Issues, Oklahoma Bar Association Criminal Law Section's 2022 Forensic Academy, August 2022.
- Obtaining Mobile Phone Evidence Without the Individual Device, Strafford CLE (July 2022)
- Mobile Phone Evidence at Trial: Obtaining and Admitting Call Logs, Text Messages and Location Data, Strafford CLE, January, 2022.
- Recent Developments in the Law – Courts, Civil Procedure and Torts, Rhode Island Bar Association CLE, November 2021.
- Moderator, Coming Together: An Open Conversation with O. Rogeriee Thompson, Circuit Judge of the First Circuit of Appeals and John J. McConnell, Jr., Chief Judge of the District of Rhode Island, Rhode Island Bar Association CLE, June 2021.
- Mobile Phone Evidence at Trial: Obtaining and Admitting Call Logs, Text Messages and Location Data, May, 2021.
- Recent Developments in the Law – Courts, Civil Procedure, Torts and Insurance, Rhode Island Bar Association CLE, October 2020.

- Unauthorized Practice of Law in Real Estate, Rhode Island Bar Association Title Standards Committee, October 2020.
- Obtaining and Admitting Mobile Phone Evidence at Trial: Call Logs, Text Messages, and Location Data, Strafford Webinar, April 2020.
- Emerging Data Types: Privacy Considerations, Panelist, Women in eDiscovery – Boston Chapter CLE, March 2020.
- Recent Developments in the Law – Courts and Civil Procedure 2019, Rhode Island Bar Association CLE, November 2019.
- You Can Bet On It! Sports Wagering in Rhode Island, Pawtucket Bar Association CLE, September 25, 2019.
- Don't Get Caught in the Regulatory Web! Lessons for In-House and Government Attorneys from Mistakes Made by Domino's, Amazon, Nike and Others About Website ADA Compliance, Adler Pollock & Sheehan CLE, May 2019.
- Ethics in eDiscovery: A View from the Parties, CLE, February 2019.
- Electronic Discovery for Colleges and Universities, January 2019.
- Recent Developments in the Law – Courts and Civil Procedure 2018, Rhode Island Bar Association CLE, October 2018.
- Ethical Considerations in the Global Data Environment, Safeguarding Client Information in 2018 CLE, May 2018.
- Voir Dire and Jury Selection, Social Media Use and Other Complex Jury Issues, NBI, May 2018.
- Recent Developments in the Law – Courts and Civil Procedure 2017, Rhode Island Bar Association CLE.
- ESI for Plaintiffs, Solo Practitioners and Small Firms – How to Catch Up Electronically With the Big Guys, Rhode Island Bar Association Annual Meeting, June 2017 (panelist).
- Legal Considerations for the "Smart" Workplace, Adler Pollock & Sheehan CLE, April 2017.
- E-Discovery Basics, Rhode Island Bar Association Government Lawyers Committee CLE, November 2016.
- Recent Developments in the Law – Courts and Civil Procedure 2016, Rhode Island Bar Association CLE, November 2016.
- Women's Leadership Network Seminar, Roger Williams University School of Architecture, Art History and Historic Preservation, October 2016 (panelist).
- How to Get Your Social Media, Email and Text Evidence Admitted (and Keep Theirs Out), NBI, June, 2016 (co-presenter).
- When Courts of Law and Public Opinion Collide, RI Bar Association Annual Meeting, June 2016 (co-presenter).
- Adding New Sources of E-Discovery to Your Litigation Toolkit, CLE hosted by the Rhode Island Department of Attorney General, May 2016.

- Social Media and the Practice of Law: How Facebook, LinkedIn, and Twitter Can Help You Fulfill Your Duty of Competency, Federal Bar Association, Rhode Island Chapter, Lunch and Learn Series, April 2016.
- Representing Your Client in Federal Court, NBI, November 2015 (co-presenter).
- Recent Developments in Courts and Civil Procedure 2015, Rhode Island Bar Association CLE, October 2015.
- Supreme Ghostbusting, Email Gatekeeping and Other Issues of First Impression, July 2015.
- Voir Dire and Jury Selection, NBI, February 2015 (co-presenter).
- Recent Developments in Courts and Civil Procedure 2014, RI Bar Association CLE, October 2014.
- Everything You Don't Know About E-Discovery (But Wish You Did), NBI, June 2014 (co-presenter).
- Appellate Practice CLE, RI Bar Association Annual Meeting, June 2014 (co-presenter).
- Premises Liability Update, Rhode Island Bar Association Title Standards and Practices Committee, December 2013.
- Incorporating Social Media into Your Marketing Plan – An Introduction to Connecting, Tweeting, Friending and Blogging, The Environmental Business Council of New England RI Chapter Program, May 2013 (panelist).
- Moderator, Civil Liberties and Wartime, Rhode Island Bar Association Annual Meeting, June 2012.
- Keeping it Local: From Coffee Milk to Del's Lemonade, Tips on Finding a Local Audience, National Conference of Law Reviews, March 2012 (co-presenter).
- May It Please The Court: Best Practices for Rhode Island Supreme Court Appeals, CLE, September 2011, March 2012 (co-presenter).
- Rhode Island Appellate Practice: Some Tips and Pitfalls, CLE, April 2011 (co-presenter).
- Electronic Discovery: Unraveling Email Strings and Strands, CLE, April 2011 (co-presenter).

HONORS

- Inaugural recipient of the Nicole J. Benjamin Leadership Award, awarded by Leadership Rhode Island, December 2022.
- Inducted into the Cranston Hall of Fame, October 2022.
- *Best Lawyers' 2023* Lawyer of the Year, Appellate Practice, Providence.
- Recognized as a Leader in the Law, 2022 Excellence in the Law Awards, Rhode Island Lawyers Weekly.
- Recipient of the 2022 Threads of Leadership Award by Leadership Rhode Island.

- Recognized as a 2021 Trailblazer in Business by R.I.S.E. (Realizing Inspiration & Sustaining Excellence).
- Selected by her peers for inclusion in the 2019 – 2024 editions of The Best Lawyers in America® in the field of Commercial Litigation and Appellate Practice.
- AV rated by *Martindale-Hubbell*, its highest rating for attorneys.
- Recognized by Chambers USA America's Leading Business Lawyers in the area of Litigation: General Commercial.
- Professional Excellence in the Law, Appellate, Rhode Island Monthly, 2019 – 2024.
- Selected as a Rhode Island *Super Lawyer* 2021-2023.
- Named Rhode Island Rising Star 2012 – 2020, by the publishers of Super Lawyers.
- Named 40 Under Forty by Providence Business News.
- Recipient of the 2017 Rhode Island Bar Journal Lauren E. Jones, Esq. Writing Award.
- Recipient of the Roger Williams University School of Law 2016 Alumni Service Award.
- Magna cum laude graduate of Roger Williams University School of Law and the University of Rhode Island

PROFESSIONAL AFFILIATIONS

- Member, The Federation of Defense & Corporate Counsel
 - Chair, Aviation Law Section
 - State Representative
 - Member, Communications Committee
 - Member, Corporate Counsel Symposium Planning Committee
- Rhode Island Bar Association
 - President, Rhode Island Bar Association (2023 – 2024).
 - President Elect, Rhode Island Bar Association (2022-2023).
 - Treasurer, Rhode Island Bar Association (2021-2022).
 - Secretary, Rhode Island Bar Association (2020 – 2021).
 - Chair, Annual Meeting (2021).
 - Editor-in-Chief, Rhode Island Bar Journal (2019 – 2020).
 - Executive Committee, Rhode Island Bar Association (2016 – present).
 - Co-Chair, Rhode Island Bar Association Strategic Planning Committee (2017).
 - Delegate, Rhode Island Bar Association House of Delegates (2010 – present).
 - Member (2006 – present).
- Fellow, Rhode Island Bar Foundation (2011 – present).

- Member, American Bar Association (2023 – present).
- Fellow, American Bar Foundation (2023 – present).
- Federal Bar Association (R.I. Chapter).
 - Vice President, Membership Chair (2019 – present).
 - Treasurer (2017 – 2019).
 - Secretary (2016-2017).
- Member, Rhode Island Advisory Council, New England Legal Foundation.
- Chair, Rhode Island Superior Court Business Calendar Commercial Litigation Subcommittee (2019 – 2020).
- Co-chair, 2017 District Conference for the United States District Court for the District of Rhode Island, “The eLawyer Era and the Court – Challenges for the Future” (2017).

IN THE COMMUNITY

- Board of Directors, Roger Williams University School of Law (2014 – present).
 - Vice Chair (2020 – present).
- Trustee, Roger Williams University (2020 – present).
 - Executive Committee
 - Chair, Recruitment, Retention and Student Life Committee (2023 – present).
 - Member, Academic Affairs Committee (2020 – present).
- Board of Governors, Leadership Rhode Island
 - Chair (2020 – present).
 - Secretary (2014 – 2019).
 - Member, Iota II Class (2013).
- Board of Directors, Women’s Resource Center
 - Past-President, Executive Committee and Chair, Governance Committee (2019 –2020).
 - President (2018 – 2019).
 - Vice President (2017 – 2018).
 - Secretary (2015 – 2017).
 - Chair, Development Committee (2017 – 2018).
- Board of Governors, The University Club (2019 – 2023)
 - Secretary (2022 – 2023).
 - UClub Women Committee (2019 – present).
- Co-chair, Roger Williams University School of Law 20th Anniversary Honorary

Committee (2013 – 2014).

- Roger Williams University School of Law Alumni Association
 - President (2010-2012).
 - Vice President (2008-2010).
 - Ex Officio Member, Roger Williams University School of Law Advisory Board (2010 – 2012).
- Member, Rhode Island Supreme Court Bridge the Gap Working Group (2010 – 2011).
- Board of Directors, Poverello Center (2011).