



**Todd & Weld** LLP

## Joseph M. Cacace

Partner

617-720-2626

[jcacace@toddweld.com](mailto:jcacace@toddweld.com)



**A seasoned trial and appellate litigator, Joseph Cacace has built a track record of success at all levels of federal and state courts and in arbitrations and mediations.**

Joseph M. Cacace's strategic counsel for clients draws upon his extensive experience representing plaintiffs and defendants in a wide range of matters.- A partner at the firm, Mr. Cacace handles complex civil disputes and appeals of all types – including business litigation, real estate litigation, class actions, civil rights cases, litigation against government agencies and employees, defamation matters raising First Amendment issues, and employment litigation and counseling.-

Mr. Cacace regularly handles cases involving multiple lawsuits in different jurisdictions, and those that involve government enforcement actions, bankruptcies, and receiverships.- He also maintains an active pro bono litigation practice.-

A member of the Amicus Brief and Appellate-Bench Bar Committees of the Massachusetts Bar Association, Mr. Cacace also serves on the Board of Governors of the Law Clerks' Society of the Massachusetts Supreme Judicial Court.- He previously served on the Large Law Firm Subcommittee of the Supreme Judicial Court's Steering Committee on Lawyer Well-Being.

He is a frequent presenter on civil litigation topics and has commented in the media on various legal issues.

Prior to joining Todd & Weld, Mr. Cacace represented clients in business litigation, intellectual property disputes, product liability actions, consumer class actions, and real estate disputes.- He also represented clients in criminal and immigration matters on a pro bono basis.- He served as a law clerk to the Honorable Robert J. Cordy of the Massachusetts Supreme Judicial Court.

### Practice Areas

- Business Litigation
- Appellate Litigation
- Media, First Amendment, and Defamation Law
- Employment Law and Litigation
- Real Estate Litigation
- Civil Rights Litigation
- Class Action/Mass Tort Litigation
- Professional Liability Litigation

## Representative Results

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### Appellate Results

- *Vo v. De Jager*-(Mass. App. Div. 2022) (Persuaded Appellate Division of Boston Municipal Court to vacate jury verdict and order new trial in defamation case based upon plaintiff's failure to identify the allegedly defamatory statements, evidentiary errors, and an erroneous jury instruction on the evidentiary impact of a prior criminal acquittal in a civil case)-
- *Judge Rotenberg Educ. Ctr., Inc. v. U.S. Food & Drug Admin., et al.*, -3 F.4th 390 (D.C. Cir. 2021) (Persuaded D.C. Circuit to vacate FDA's ban of electrical stimulation devices used to treat aggressive or self-injurious behavior because banning a medical device for a particular purpose regulates the practice of medicine in violation of 21 U.S.C. § 396)
- *Heagney v. Wong*, 915 F.3d 805 (1st Cir. 2019) (First appellate decision affirming plaintiff's verdict for employer's violation of M.G.L. c. 151B, § 4(9), which protects employees from having to disclose criminal charges that do not result in conviction)
- *Preston v. Nagel*, 857 F.3d 1382 (Fed. Cir. 2017)-(Persuaded U.S. Court of Appeals for the Federal Circuit-that the America Invents Act does not permit appellate review of an order remanding a case from federal to state court)
- *Chanowski v. Forman Industries, Inc.*, 2017 WL 4558256 (Mass. App. Ct. Oct. 13, 2017) (Rule 1:28) (Obtained ruling upholding trial court's order that defendants must permit plaintiffs to inspect corporate records and pay plaintiffs' attorneys' fees; obtained award of appellate attorneys' fees)

### Business Litigation – Closely Held Business Disputes, Shareholder Disputes, and Corporate Governance Litigation

- Persuaded a Massachusetts Superior Court judge to [grant a preliminary injunction](#)-in a shareholder dispute ordering that a newly elected board of directors and new corporate officers remain in place at a medical cannabis dispensary and cultivation company
- Secured a favorable settlement for 50 percent-shareholders of closely held regional manufacturing company related to arbitration of buyout dispute involving sophisticated business valuation issues and direct and derivative claims for breach of fiduciary duties and breach of contract

- Obtained and defended on appeal an order for inspection of corporate records and attorneys' fees after persuading Superior Court to dismiss various counterclaims and to strike a fraud-based affirmative defense

### **Business Litigation – Intellectual Property**

- Persuaded the U.S. Court of Appeals for the Federal Circuit to [reject](#) an argument that the America Invents Act overrides a statutory bar to appellate review of a remand order to state court
- Obtained a U.S. District Court order-remanding a business dispute to state court-implicating the America Invents Act

### **Business Litigation**

- Secured favorable settlement for ophthalmologist after filing suit against former partner for breaches of contract and fiduciary duty in connection with breakup of the business
- Represented judgment creditor in fraudulent transfer action; obtained injunctive relief and dismissal of abuse of process claims under anti-SLAPP statute; secured favorable settlement
- Represented car wash equipment distribution company in breach of contract dispute with car wash owner, which settled after obtaining favorable evidentiary ruling immediately before trial

### **Professional Liability**

- Represented a large environmental and infrastructure consulting business in professional negligence claim against accounting firm, which resulted in a favorable settlement after mediation

### **Defamation and Employment Discrimination**

- Obtained a [\\$1.5 million federal court jury verdict](#) on behalf of a law enforcement official for defamation and job discrimination

### **Civil Rights, Personal Injury, and Tort Claims**

- -government's motion to dismiss Federal Tort Claims Act lawsuit filed on behalf of children separated from their parents at the border in putative damages class action seeking compensation for the children and the establishment of a fund for ongoing mental health treatment and monitoring
- [Persuaded](#) a federal district court judge in Massachusetts to permit a civil rights class action lawsuit to proceed against the City of Methuen, its police chief, and several individual police officers for using a factually inaccurate and coercive Spanish-language advice-of-rights form during OUI arrests
- Represented minor student in lawsuit against municipality, school officials, and former teacher for sexual harassment and abuse by former teacher, which settled favorably after mediation following summary judgment briefing

### **Real Estate Litigation**

- On behalf of a condominium unit owner, persuaded a Massachusetts Superior Court judge to deny the defendants' motion to dismiss the owner's complaint arising from catastrophic damage to the owner's unit due to the alleged failure of the condominium association and property manager to maintain and repair the condominium's -common areas, including leaking steam pipes;-settled case favorably before trial after aggressive discovery efforts revealed powerful evidence of liability

## **Construction**

- Represented general contractor in multi-party construction dispute arising out of delay claim in connection with residential historic rehabilitation project in Boston, which resulted in favorable settlement on first day of arbitration
- Obtained default against general contractor and favorably settling claims on behalf of subcontractor in construction dispute concerning residential subdivision in southern New Hampshire

## **Class Action**

- Defense of putative class actions under the federal Telephone Consumer Protection Act, resulting in favorable settlements and dismissals with prejudice

## **Criminal Matters**

- Defended individual charged with federal tax obstruction in multi-defendant federal criminal tax evasion prosecution, resulting in favorable plea agreement and sentence of home detention

## **Experience**

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- Todd & Weld LLP, 2013-present
- Goodwin Procter LLP, 2010-2013
- Law Clerk to the Honorable Robert J. Cordy, Supreme Judicial Court of Massachusetts, 2008-2009

## **Bar Admissions**

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- Massachusetts
- New Hampshire
- U.S. District Court, Massachusetts
- U.S. District Court, New Hampshire
- U.S. Court of Appeals, First Circuit
- U.S. Court of Appeals, Federal Circuit
- U.S. Court of Appeals, D.C. Circuit

## **Education**

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- Suffolk University Law School (J.D., *summa cum laude*, 2008) Editor-in-Chief, *Suffolk University Law Review*; Suffolk University Law Faculty Outstanding Student Award
- Boston College (B.A., *cum laude*, 2003)

## Professional Activities

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- Massachusetts Bar Association, Member, Appellate Bench Bar Committee, and Member, Amicus Brief Committee, 2017-present
- Member, Large Law Firm Subcommittee of Supreme Judicial Court Steering Committee on Lawyer Well-Being, 2018-2019
- American Bar Association
- Massachusetts Bar Association
- New Hampshire Bar Association
- Boston Bar Association

## Publications/Presentations

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- Presenter, Getting the Benefit of the Bargain in Breach of Contract Claims, MCLE, September 2021
- Panel Chair, Prevailing in COVID-19 Litigation, MCLE Webinar, February 2021
- Presenter, Social Media Inside and Outside of the Workplace, Real Estate Bar Association, November 2020
- Presenter, How to be Successful in Remote Court Hearings, MCLE, July 2020
- Presenter, Social Media Issues Inside and Outside the Workplace, MCLE's 22nd Annual Paralegal Conference, June 2020
- "Safely navigating the ethical perils of social media,"-*Massachusetts Lawyers Weekly*, Feb. 10, 2020
- "Taxing discovery: Understanding when returns are privileged,"-*Massachusetts Lawyers Weekly*, March 5, 2018
- "Compelling Evidence from Non-parties in Arbitration,"-*Massachusetts Lawyers Weekly*, May 5, 2015
- "Plurality Decisions in the Supreme Court of the United States: A Reexamination of the-Marks-Doctrine After-*Rapanos v. United States*," 41 Suffolk U.L Rev. 97 (2007)

## Honors and Awards

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- Named to 2023-Best Lawyers in America: Ones to Watch-Commercial Litigation; Litigation – Labor and Employment
- Named to 2022-Best Lawyers in America: Ones to Watch, Commercial Litigation
- Named by-Super Lawyers-to Massachusetts Rising Stars for Business Litigation, 2015-2021

## In the Community

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- Board of Governors, Law Clerks' Society of the Supreme Judicial Court of Massachusetts

## News & Insights

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- Joseph Cacace offers choice-of-law analysis in news article
- Joseph Cacace quoted in Boston Globe column on border separation court ruling
- 17 Todd & Weld Attorneys Selected to Boston Magazine's 2022 Top Lawyers
- Eight Todd & Weld attorneys recognized in 2023 Best Lawyers: Ones to Watch in America
- Joseph Cacace offers insight into recent choice-of-law ruling in MA Business Litigation Session
- Joseph Cacace elected to partnership at Todd & Weld LLP
- Joe Cacace quoted in Boston Globe article on potential compensation for immigrant families separated at border
- 30 Todd & Weld attorneys named 2021 Massachusetts Super Lawyers and Rising Stars
- Eight Todd & Weld attorneys selected to Ones to Watch from Best Lawyers
- Joseph Cacace to present on strategies for successfully litigating breach of contract cases
- Todd & Weld receives Law Firm Pro Bono Award at MBA's Access to Justice event
- Joseph Cacace quoted in Boston Globe on potential payments to immigrant families separated at border
- Todd & Weld attorneys to present on how to prevail in COVID-19 litigation
- Joe Cacace quoted in news article detailing FTCA lawsuit filed on behalf of migrant children separated from families at border
- 30 Todd & Weld attorneys named 2020 Massachusetts Super Lawyers and Rising Stars
- Joseph Cacace and Elizabeth Olien to present on effective advocacy in remote court hearings
- Joe Cacace to present at MCLE's 22nd Annual Paralegal Conference
- In published article Joseph Cacace analyzes ethical perils lawyers face on social media
- 31 Todd & Weld attorneys named 2019 Massachusetts Super Lawyers and Rising Stars
- SJC panel report addresses attorney well-being
- Howard Cooper, Joseph Cacace argue in federal court against dismissal of case seeking damages for migrant children separated from families at border
- Joe Cacace quoted in WGBH article on client's effort to clear his name in overtime scandal
- Joe Cacace quoted in news article on border separation lawsuit
- Joseph Cacace quoted in article on suit seeking damages for migrant children separated from families at border
- Joe Cacace quoted in article on whether Trump Emoluments Clause lawsuit could reveal tax returns
- Joseph Cacace comments in article on recent revisions to state's appellate rules
- Joseph Cacace to serve on Large Law Firm Subcommittee of newly created SJC Steering Committee on Lawyer Well-Being

- 30 Todd & Weld attorneys named 2018 Massachusetts Super Lawyers and Rising Stars
- Children sue Trump Administration officials for damages in class action over trauma caused by unlawful detention and separation from their parents
- Joseph Cacace in article published by Mass. Lawyers Weekly analyzes discoverability of tax returns
- Nick Carter quoted in news article on appeal of \$1.5M verdict for client
- NBC Boston airs report on firm's class action vs. City of Methuen over faulty and coercive OUI form
- 24 Todd & Weld attorneys named 2017 Massachusetts Super Lawyers and Rising Stars
- Joseph Cacace quoted in articles reporting on significant Federal Circuit ruling in favor of clients
- Joe Cacace participates in event featuring former SJC Justice Robert Cordy
- Joseph Cacace appointed to two MBA committees

## Results

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- Judge rejects government's request to dismiss suit seeking compensation, mental health care payments for children forcibly separated from families at border
- Firm obtains preliminary injunction in shareholder dispute litigation
- Federal judge allows civil rights lawsuit to proceed against City of Methuen over faulty and coercive OUI form
- Firm obtains two Top Ten largest 2017 jury verdicts in Massachusetts
- Howard Cooper, Joseph Cacace obtain precedential ruling defining limits of appellate review of remand order related to patent counterclaims