

# E. Macey Russell

Partner

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“Macey is truly battle tested; and his 'seen-it-all-before' demeanor gave us the confidence to push on to victory when we were ready to throw in the towel.”

*EVP of General Counsel & Chief Compliance Officer –  
Avis Budget Group, Inc.*



E. Macey Russell is a partner in Choate’s Litigation Department, where he practices in the area of complex commercial litigation. Appointed by the Governor from 2011 until 2014, Macey Russell served as the Chair of the 21 member Judicial Nominating Commission which recommended judicial appointments at all levels throughout the Commonwealth. He served as Vice Chairman in 2010 and as a member from 2007 until 2010. In 2009, Litigation Counsel of America named Mr. Russell to its Trial Lawyer Honorary Society composed of less than one-half of one percent of American lawyers. In 2016, American Registry listed him among America’s Top 1% of all Professionals and he received AV Preeminent ratings from both Martindale-Hubble and the Judiciary. In 2017, Mr. Russell was elected as a Fellow in the College of Law Practice Management, an honorary organization made up of individuals who have made significant and sustained contributions to the field of law practice management over a period of years. In 2011, the American Bar Foundation named him a Fellow, which is reserved for one third of one percent of attorneys in his jurisdiction. Since 1989, Mr. Russell has been a frequent advisor and contributor to Harvard University Law School’s Trial Advocacy Workshop. Mr. Russell is listed in *Best Lawyers in America*.

Mr. Russell is a nationally recognized authority and lecturer on diversity and inclusion in the legal profession. In 2009, *Massachusetts Lawyers Weekly* named him a “Diversity Hero.” In 2011, the Boston Bar Association appointed Mr. Russell as Co-Chair of its Diversity and Inclusion Committee. The Burton Foundation and Library of Congress honored him with a 2011 Burton Award for excellence in legal writing for his co-authored article “Developing Great Minority Lawyers for the Next Generation.” In 2017, Mr. Russell was honored for his volunteer leadership of the Next Level youth football program at the 10th Annual Gala to Support Boys & Girls Club of Brockton. In 2018, Get Connected together with The Boston Foundation and Greater Boston Chamber of Commerce named him one of Boston’s 100 Most Influential People of Color.

## EDUCATION

Suffolk University Law School  
JD, 1983

Trinity College  
BA, 1980

## CLERKSHIP

Massachusetts Superior Court

## PRACTICE FOCUS

### Financial Institution and Complex Trial & Appellate Litigation

Representation of financial institutions, banks, businesses and corporations in disputes involving contracts, investments, lending arrangements, real estate and securities matters in state court, federal court and in arbitration.

## ADMISSIONS

Massachusetts

U.S. District Court,  
Eastern District of Michigan

U.S. District Court,  
Massachusetts

U.S. Court of Appeals,  
First Circuit

## PRACTICE AREAS

Complex Trial & Appellate  
Litigation

Financial Institution  
Litigation

## REPRESENTATIVE ENGAGEMENTS

### *Class Actions*

- Representation of financial institution as Massachusetts counsel in class action law suit involving claims of improperly preventing customers from making on-line payments to cure default prior to repossession of collateral.
- Representation of financial institution as Massachusetts counsel in multi-district class action law suit involving claims of improper fee notices to customers in violation of federal banking statutes.
- Represented financial institution in lease financing litigation matters and in class action case involving claims of improper insurance rebate procedures.
- Representation of corporation as Massachusetts counsel in multi-district consolidated class action case involving claims that fruit products contain unreasonably high levels of lead.

### *Investment Litigation*

- Representation of parent corporation in multiple lawsuits against claims brought by hedge fund investors for losses on theory that parent is liable for decision of its subsidiary corporation, as general partner, to engage Wall Street investment manager who stole partnership funds using Ponzi scheme.
- Representation of investment advisory firm in connection with claims brought by client against firm resulting from financial losses sustained by client in his stock portfolio.
- Representation of financial institution in action brought by investors against investment fund and its managers for fraud; case also addressed claims by investors that financial institution participated "in the fraud" indirectly by endorsing fund managers and creating vehicle to invest retirement funds into alternative investment vehicles.
- Representation of investment fund in litigation arising out of claims of discrimination in residential mortgage lending.

### *Asset Based Litigation*

- Representation of financial institution in federal court litigation and related adversary proceeding in bankruptcy court involving claims of fraudulent conveyance of assets while litigation was pending.
- Represented various financial institutions in lender liability litigation arising out of claims of wrongful foreclosure, wrongful repossession of pledged assets, failure to fund or continue to fund loan obligations, and in connection with credit related claims.
- Representation of financial institution in floor plan financing litigation and related fraud claims.

***Real Estate Related Litigation***

- Representation of financial institution in connection with analysis of borrowers' defaults under \$250 million commercial real estate loan facility secured by properties in several states.
- Representation of client in litigation relating to claim to form real estate trust for benefit of heirs, and related claims for constructive trust or resulting trust.
- Representation of trustee of commercial real estate backed securities fund in lawsuit by borrower seeking modification of loan terms.
- Representation of client in eminent domain action over taking and valuation of property.
- Representation of client in action to quiet title to real estate in context of registration proceeding in land court.
- Representation of financial institution in litigation brought against developer of real estate and defense of lender liability claims.
- Representation of OREO-ARM of financial institution in litigation over sale of real estate and violations of restrictive covenants.
- Representation of financial institution in claims against loan servicer for refusing to grant loan modification of commercial note without trustee approval.
- Representation of trust as successor-in-interest to potential responsible party in Department of Environmental Protection Superfund clean-up action seeking to recover costs for allegedly contaminating public dump site over 60 years ago.
- Represented Federal Deposit Insurance Corporation with respect to bankruptcy of Bank of New England Corporation and its subsidiary, Bank of New England Mortgage Company, regarding value of mortgage loan servicing rights and potential fraudulent conveyance of servicing rights by the subsidiary banks.
- *Dr. Ben S. Branch, Trustee of Bank of New England Corporation v. Federal Deposit Insurance Corporation, Receiver for Bank of New England, US District Court*

***Consumer Litigation***

- Representation of financial institution in claims under Fair Credit Reporting Act involving challenges of financial institution reports to credit reporting agencies.
- Representation of financial institutions in claims under Fair Debt Collection Act.

***Commercial Litigation***

- Represented physician in federal court litigation and related arbitration for breach of contract including claims relating to physician privileges.
- Representation of company on action against former employee for misappropriation of trade secret and confidential information.
- Representation of companies and businesses in variety of commercial disputes arising out of sales of goods and provision of services.

- Representation of a technology corporation in connection with action following audit to recoup funds misappropriated by corporate officers who were prior owners hired post-acquisition to manage business.

### *Investigations*

- Conducted internal investigation of executive level officer for potential misconduct and misappropriation of confidential information.
- Conducted internal investigation on leaks of confidential board information.

## PUBLICATIONS AND PRESENTATIONS

**Faculty:** Harvard University Law School Trial Advocacy Workshop (1989-1990, 1992-1994, 1996-1998, 2000-2007, 2009-2010): taught all aspects of trial preparation including opening and closing arguments, examination and cross-examination of lay and expert witnesses and the use of demonstrative evidence at trial.

### *Author*

- "Groundhog's Day: The Continuing Decline of African American Partners in Law Firms – Is Anyone Willing to Help? (Strategies Exist to Solve the Problem)," *author*, January 2018.
- "The Decline in African American Partners: The Ethics of Diversity And The Economics of Inclusion - Competing Interests at the Symposium on the State of Diversity and Inclusion in the Legal Profession," *author*, Institute for Inclusion in the Legal Profession, June 2017.
- "Competing Interests: An ILLP Series," *lead author*, ILLP, May 2017.
- "Power of Partnering and Leveraging the Value of Diversity," *author*, SIFMA C&L 2017 Annual Seminar, March, 2017.
- "Litigation Case Assessment: Understanding your Adversaries and your Audience in a Changing World," *author*, *Defense Research Institute, Boston*, October 2016.
- "To Be or Not To Be, A Large Law Firm Partner – Why Law Firms and Corporate Clients Need to be Concerned About Declining Numbers of Diverse Partners," *co-author*, *Institute for Inclusion in the Legal Profession*, 2016.
- "Balancing the Value Proposition for Diversity and Inclusion with Other Core Value," *co-author*, *Institute for Inclusion in the Legal Profession*, 2016.
- "Taking Action to Make Diversity & Inclusion a Reality," *co-author*, *Institute for Inclusion in the Legal Profession*, 2016.
- "Diversity and the Law: Old Problem, New Approach," *quoted*, *The National Law Review*, April 2015.
- "The Decline in African American Law Partners: A Wakeup Call," *author*, *ILLP Review*, 2014.
- "Resisting Challenges to the Diversity Value Proposition," *author*, *ILLP Review 2012: The State of Diversity and Inclusion in the Legal Profession*, July 2013.

- “Developing Great Minority Lawyers for the Next Generation,” *co-author*, *ACC Docket*, July/August 2010.
- “Wider Pipeline is Vital to Progress,” *author*, *The National Law Journal*, October 19, 2009.

#### **Moderator**

- “How to Become a Judge – Practical Advice from Distinguished Justices,” *moderator*, MBLA, April 2017.
- “Makes Me Want to Holler: More Laws and Less Diversity in Financial Services,” *moderator*, National Bar Association Annual Convention, July 2016.
- “The Business Case for Diversity: Reality or Wishful Thinking?” *moderator*, American Bar Association Section of Litigation Annual Conference, Chicago, April 2013.
- “The Future of Boston Law Firms in a Global Economy,” *moderator*, *Boston Bar Association’s Diversity & Inclusion Section*, Boston, June 2012.

#### **Lecturer**

- “The Decline in African American Partners: The Ethics of Diversity And The Economics of Inclusion - Competing Interests at the Symposium on the State of Diversity and Inclusion in the Legal Profession,” *guest lecturer*, Institute for Inclusion in the Legal Profession, June 2017.
- “The Ethics of Diversity and the Economics of Inclusion – Competing Interests,” *speaker*, Institute for Inclusion in the Legal Profession, March, 2017.
- “NYU Diversity Forum,” *quest lecturer*, New York University, November 2, 2015.
- “Challenges of Diversifying Law Firms and Organizational Change,” *quest lecturer*, Bentley College, Waltham, MA, December 8, 2008.

#### **Panelist**

- “The State of Diversity and Inclusion in the Legal Profession Symposium,” *speaker*, *ILLP*, May 2018.
- “Diversity in Law Practice: Recent Legal Developments,” *speaker*, *PLI*, April 2018.
- “Leading and Managing Diversity, Inclusion, and High Performance,” *speaker*, ABA’s Career Advice Series Webinar, April 2018.
- “Moving Women into Positions of Leadership and How to Bring Men into the Conversation,” *panelist*, PLUS Foundation Women’s Leadership Network, March 2018.
- “A Call for Action: Moving the Diversity & Inclusion Needle Forward in the Legal Realm,” *panelist*, 2017 Inaugural Tri-state Legal Diversity Summit, September 2017.
- “National Black MBA Association: Diversity & Inclusion Executive Panel Discussion,” *panelist*, National Black MBA Association, April 2017.

- “Second Chances,” *speaker*, Prisoners’ Legal Services, November 2016.
- Inaugural 1L Diversity Fair, *panel*, DC Diversity Consortium, October 2016.
- “Trial Tactics,” *speaker*, Litigation Case Assessment: Understanding our Adversaries and Your Audience in a Changing World, October, 2016.
- “The Ethics of Diversity and the Economics of Inclusion,” *speaker*, IILP, October 2016.
- “New Year Invitational: My Brother’s Keeper,” *speaker*, The Group, ISI & 1844, New York, March 2016.
- “Spotlight on a Diversity Challenge: What does the absence of African American partners in multinational law firms herald for the future of the legal profession?” Lausanne, Switzerland, March 2016.
- “Investigating Whistleblower Complaints: Best Practices,” *speaker*, Morgan Stanley, New York, September 2015.
- “Best Practices for Promoting Diversity & Inclusion in the Legal Profession,” *speaker*, Plymouth County District Attorney’s Office, June 2015.
- “Let’s Get Real 2015: Surviving and Succeeding as a Diverse Attorney in Boston,” *speaker*, Boston Bar Association, June 2015.
- “The Decline in African American Law Partners: A Wake-Up Call,” *speaker*, Institute for Inclusion in the Legal Profession, New York, North Carolina, Washington, Chicago, Washington DC, Boston, 2015.
- “Why It Matters: The Case for Diversity & Inclusion in Legal Education and Employment,” *keynote speaker*, Suffolk University Law School, February 2015.
- “Extraordinary Men Sharing Health, Wealth and Wisdom,” *speaker*, Sigma Phi Pi Boule Conference, July 2014.
- “Under Colour of Law: Race and Ethnicity within the Legal Profession,” *panelist*, Institute for Inclusion in the Legal Profession, April 2014.
- “Demystifying the Path to the Bench,” *panelist*, Massachusetts Black Lawyer Association, February 2014.
- “Q1 Pierce Discussion Group,” *panelist*, Goodwin Proctor, January 2014.
- “Diversity in Legal Services and in the Boston Legal Community,” *speaker*, Boston Bar Association, January 2014.
- “The Lawyering Experience: Professional Development for First-Year Law Students,” *panelist*, New England School of Law, October 2014.
- “Navigating the Institutional Environment,” *speaker*, MBLA Rainmakers Roundtable, October 2014.
- “Diversity in Legal Services and in the Boston Legal Community,” *speaker*, Boston Bar Association’s Delivery of Legal Services and Diversity & Inclusion Sections, Boston, January 2014.

- “Increasing Diversity in Our Practice,” *speaker*, Massachusetts Defense Lawyers Association, Boston, April 2013.
- “Your Practice, Your Bar Leadership and Your Life... It’s a Balancing Act,” *speaker*, Boston Bar Association Bar Leadership Institute for Affinity Bar Associations, Boston, April 2013.
- “By Any Means Necessary – Effecting Change With the Tools in Your Hands,” *panelist*, Harvard Black Law Students Association Spring Conference, March 2012.
- “Achievable Next-Generation Strategies for Diversity and Inclusion,” *co-organizer*, Charles Hamilton Houston Institute for Race and Justice at Harvard Law School, Cambridge, MA, May 2011.
- “Establishing a Culture of Excellence in Your Organization: Beyond Diversity and Inclusion,” *panelist*, ABA Business Law Section Spring Meeting, April 15, 2011.
- “Alone at the Top: Are Enough Minorities Climbing the Large Law Firm Ladder,” *guest speaker*, Boston College Law School, Newton, MA, February 5, 2009.
- “Affinity Groups and Diversity Initiatives,” *guest speaker*, The 16<sup>th</sup> Annual Marketing Partner Forum, The Hildebrandt Institute, Dana Point, CA, January 28, 2009.
- “Selling Litigation—Three Successful Rainmakers Share Their Secrets,” *panelist*, The Hildebrandt Institute, Virtual Seminar, May 21, 2008.

## PROFESSIONAL AND COMMUNITY INVOLVEMENT

Mr. Russell co-chairs the Firm’s Diversity and Inclusion Committee and is a member of the Firm’s Hiring Committee.

### **Mr. Russell is active in several legal organizations, including:**

- Member, Trial Law Institute, Litigation Counsel of America
- Member, Diversity Law Institute, Litigation Counsel of America
- Chair, Alcohol Task Force (Alcoholic Beverage Control Commission) (7 member body) to review alcoholic beverage industry and regulatory structure in Massachusetts (2017 - 2018).
- Fellow, Litigation Counsel of America, LLC (2009 – present).
- Member, The Fellows of the American Bar Foundation (August 2011 – present).
- Board of Directors, Center for Law and Education (May 2009 – 2010).
- Co-Chair, Diversity and Inclusion Section, Boston Bar Association (2011 – 2013).
- Steering Committee, Boston Bar Association’s Diversity and Inclusion Section (September 2010 – 2011).
- Co-Chair, Pipeline Subcommittee, Boston Bar Association’s Diversity and Inclusion Section (September 2010 – 2011).

- Chairman, Commonwealth of Massachusetts' Judicial Nominating Commission (2011 – 2014); Vice Chairman (2010 – 2011); Member (2007 – 2010).
- Executive Committee, Boston Lawyers Group (2008 – present).
- Charles Hamilton Houston Institute for Race and Justice at Harvard Law School Leadership Advisory Council (April 2011 – present), Pro Bono – “School to Prison Pipeline Project” (2008 – 2014).
- Dean’s Advisory Committee, Suffolk University Law School (2005 – 2011).
- Member, Boston Bar Foundation Grants Committee (2006 – 2010).

**Mr. Russell is also active in several non-profit organizations including:**

- Board Member, A Better City (February 2015 – present).
- Founder, College Football Program, Brockton Boys and Girls Club (January 2015 – present).
- Board of Trustees, Suffolk University, Boston, MA (October 2011 – present).
- Board of Overseers, Beth Israel Deaconess Medical Center, Boston, MA (October 2011 – present).
- Board of Fellows, Trinity College, Hartford, CT (2009 – 2012).
- President, Director and Founder, The Boston Leadership Development Foundation, Inc. (2006 – 2008).
- Founder, President and Chairperson, The Reaching Back Foundation, Inc., Boston, MA (1996 – present).