



## **Cleland B. Welton II**

Counsel

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Cleland Welton is counsel in Mayer Brown's Supreme Court & Appellate practice, resident in the New York office. Cleland is an experienced litigator focused on briefing and argument in appellate courts across the United States, including the US Supreme Court. Cleland has briefed dozens of federal and state appeals covering subject-matter areas as diverse as patent law, contracts, insurance, arbitration, business torts, federal procedure, and administrative law. Cleland's practice also includes developing trial strategy as well as briefing critical and legally intensive issues in trial courts and before arbitration tribunals.

As lead counsel, Cleland has briefed and argued cases before the Second, Eighth, and DC Circuits, and has successfully represented clients on appeal, in federal district court, and in administrative proceedings. Most recently, after winning a *pro bono* immigration appeal in the Second Circuit, Cleland first-chaired the ensuing trial and prevailed—obtaining a grant of asylum for a client who previously had been slated for deportation.

Prior to joining Mayer Brown, Cleland was a member of the appellate practice in the New York office of another prominent international law firm. He previously served as a law clerk to the Hon. D. Brooks Smith of the US Court of Appeals for the Third Circuit, and to the Hon. Charles R. Simpson III of the US District Court for the Western District of Kentucky.

### **SELECTED EXPERIENCE**

#### **Northern Marianna Islands v. Canadian Imperial Bank of Commerce (Second Circuit)**

The Commonwealth of the Northern Mariana Islands sued CIBC to garnish bank accounts held by a delinquent taxpayer at a CIBC subsidiary.

#### **Coneff v. AT&T Corp. (Ninth Circuit)**

The plaintiffs in this case brought several putative nationwide class actions alleging that, after acquiring their wireless carrier, AT&T Mobility degraded their service in order to force them to switch to its network.

#### **Massachusetts v. Microsoft Corp. (D.C. Circuit)**

The United States, along with numerous states, brought antitrust complaints under Sections 1 and 2 of the Sherman Act against Microsoft Corp. relating to its Windows operating system.

#### **Abbott v. Lockheed Martin Corp. (Seventh Circuit)**

Participants in a 401(k) retirement plan brought an ERISA class action for breach of fiduciary duty against their employer.

### **Bemis v. State Farm Fire & Casualty Co. (Illinois)**

A chiropractor and his practice group brought a putative class action against our client, State Farm, for breach of contract and unjust enrichment arising from the insurer's alleged operation a "silent PPO."

### **Brinker Restaurant Corp. v. Superior Court (California)**

Plaintiffs filed a putative class action seeking monetary damages for alleged violations of a California law requirement meal and rest breaks for employees.

### **CSX Transportation, Inc. v. Peirce (Fourth Circuit)**

In series of appeals, we secured reversal of a ruling adverse to our client and defended favorable jury verdict.

### **CSX Transportation, Inc. v. McBride (U.S. Supreme Court)**

Plaintiff brought a FELA claim for injuries he allegedly suffered while adding and removing railroad cars for his employer, and our client, CSX Transportation.

### **Doe I v. Nestlé U.S.A., Inc. (Ninth Circuit)**

Plaintiffs sought damages from defendants under the Alien Tort Statute (ATS), alleging that defendants aided and abetted plaintiffs' labor violations in foreign country.

### **F. Hoffmann-La Roche Ltd. v. Empagran S.A. (D.C. Circuit) (U.S. Supreme Court)**

A number of foreign purchasers of vitamins brought a class action alleging a global conspiracy involving our client, F. Hoffmann-La Roche, to raise the price of vitamins.

### **First American Financial Corp. v. Edwards (U.S. Supreme Court)**

The Real Estate Settlement Procedures Act of 1974 forbids kickbacks in connection with any real estate settlement service that involves a federally supported or federally sponsored mortgage.

### **MD Mall Associates, LLC v. CSX Transportation, Inc. (Third Circuit)**

The owner of a shopping mall located adjacent to a right of way owned by our client, CSX, sued for negligence and trespass, alleging that storm water flowing from the right of way flooded the plaintiff's property.

### **Stoneridge Investment Partners LLC v. Scientific-Atlanta, Inc. (U.S. Supreme Court)**

Petitioners sued our client, Scientific-Atlanta, Inc., seeking to hold it liable for the purported Securities Act violations of another corporation with which our client did business.

### **Sterna v. CSX Transportation, Inc. (Illinois)**

Plaintiff sued our client, CSX Transportation, Inc. (CSXT) under the Federal Employer's Liability Act, seeking damages for alleged cumulative stress injuries.

**Weyerhaeuser Co. v. Ross-Simmons Hardwood Lumber Co., Inc. (U.S. Supreme Court)**

Respondent sued our client, Weyerhaeuser Co., alleging "predatory buying" in violation of Section 2 of the Sherman Act. A jury returned a verdict against Weyerhaeuser Co. and the Ninth Circuit affirmed.

**Swezey v. Merrill Lynch, Pierce, Fenner & Smith, Inc. (New York)**

Seeking to execute a judgment against the estate of the former Philippine President Ferdinand Marcos, plaintiff sought access to funds Marcos had entrusted to Merrill Lynch in New York.

**District of Columbia v. Heller (U.S. Supreme Court)**

In this challenge under the Second Amendment to the District of Columbia's ban on handguns, we filed an amicus brief on behalf of the City of Chicago and the Chicago Public Schools.

**Goldman, Sachs & Co. v. NECA-IBEW Health & Welfare Fund (U.S. Supreme Court)**

NECA-IBEW Health & Welfare Fund brought a putative class action under Sections 11 and 12(a)(2) of the Securities Act, alleging supposedly common misstatements relating to 17 different mortgage-backed securities underwritten and issued by Goldman Sachs and its affiliates.

**Honeywell Int'l Inc. v. EPA (D.C. Circuit)**

Honeywell and DuPont challenged the EPA's decisions authorizing certain trades of allowances by Arkema Inc. and another company under the EPA's cap-and-trade system for hydrochlorofluorocarbons.

**Lockheed Martin Corp. v. Retail Holdings, N.V. (Second Circuit)**

The parties in this case disputed ownership of an overfunded pension plan originally created by The Singer Corporation.

**Lockley v. CSX Transportation, Inc. (Pennsylvania)**

Albert Lockley brought suit against his employer, CSX Transportation, for neck injuries allegedly suffered while working for CSX. We represented CSX in its appeal of the liability judgment and in its appeal of an award of post-judgment interest.

**Mayo Collaborative Services v. Prometheus Laboratories, Inc. (U.S. Supreme Court)**

This case concerned the scope and validity of a patent that Prometheus Laboratories claimed over the testing of certain metabolites in blood to monitor appropriate medication dosages.

**Republic of the Philippines v. Pimentel (U.S. Supreme Court)**

Our client, the Philippine government, sought dismissal of a suit claiming a right to approximately \$35 million in assets that

Ferdinand Marcos allegedly stole from the Philippines during his time as the country's president.

**Shorts v. AT&T Corp. (West Virginia)**

In this case, the plaintiff brought a class action challenging the early termination fees charged by one of AT&T Mobility's predecessors.

**United States v. Renzi (Ninth Circuit)**

Our client, a former U.S. Congressman, was indicted on public-corruption and other charges stemming from his time in office and his operation of an insurance agency.

**Arizona v. Inter Tribal Council of Arizona, Inc. (U.S. Supreme Court)**

A group of Arizona residents and a group of nonprofit organizations filed suit to enjoin Arizona's Proposition 200, which required prospective voters to provide proof of U.S. citizenship in order to register to vote and cast ballots, even if they were using the Federal Form developed by the Election Assistance Commission.

**Arkema Inc. v. EPA (D.C. Circuit)**

In this case, we secured vacatur of a final rule promulgated by the Environmental Protection Agency ("EPA"). The rule provided allowances for the production of ozone-depleting substances under a cap-and-trade system.

**Boumediene v. Bush (U.S. Supreme Court)**

Foreign nationals detained at the U.S. Naval Base at Guantanamo Bay applied for writs of habeas corpus.

**Choate v. Indiana Harbor Belt Railroad Co. (Illinois)**

While trespassing on defendants' railroad tracks, plaintiff Dominic Choate was injured trying to jump onto a moving train in order to impress his girlfriend.

**Credit Suisse Sec. LLC v. Billing (U.S. Supreme Court)**

This case arose from antitrust claims asserted against several leading underwriters and mutual fund families. The plaintiffs challenged alleged conduct regarding the underwriting of initial public offerings during the "Internet bubble" in the late 1990s.

**Mazza v. American Honda Motor Co. (Ninth Circuit)**

Several car buyers brought a class action against American Honda Motor Company. The complaint asserted claims for unfair competition, false advertising, and unjust enrichment under California law.

**Polar Tankers, Inc. v. City of Valdez (U.S. Supreme Court)**

Polar Tankers, Inc. challenged a municipal ordinance that imposed a tax on certain boats and vessels. The ordinance contained several exceptions that largely limited its applicability to large oil tankers.

### **Sears, Roebuck & Co. v. Butler (U.S. Supreme Court)**

The plaintiffs allege that certain washers emit odors and produce false error codes. The Seventh Circuit ruled that these plaintiffs could represent a class of purchasers in several states asserting warranty claims.

### **Simpkins v. CSX Transp. (Illinois)**

The plaintiff, whose husband had worked for the defendant until 1965, alleged that she contracted lung cancer as a result of being exposed to asbestos fibers purportedly carried home on her husband's work clothes.

### **United States v. Castleman (U.S. Supreme Court)**

The Supreme Court granted the United States' petition to review the question whether James Castleman's Tennessee conviction for misdemeanor domestic assault by intentionally or knowingly causing bodily injury to the mother of his child qualifies as a conviction for a "misdemeanor crime of domestic violence" within the meaning of 18 U.S.C. § 922(g)(9).

### **Adoptive Couple v. Baby Girl (U.S. Supreme Court)**

The Indian Child Welfare Act of 1978 (ICWA), which was enacted in response to the wholesale removal of Indian children from their families, establishes federal rules to govern the adoption of Indian children.

### **Bell Atlantic Corp. v. Twombly (U.S. Supreme Court)**

Subscribers to local phone and internet services brought a class action against several telecommunications companies, alleging a conspiracy to end competition among themselves and to exclude potential competitors.

### **BSH Home Appliances Corp. v. Cobb (U.S. Supreme Court)**

Purchasers of front-loading clothes washing machines brought a class action against BSH, alleging that the washers are defective because they have a propensity to develop mold, mildew, and odors.

### **Citigroup Global Markets Inc. v. StoneMor Operating LLC (U.S. Supreme Court)**

Section 2 of the Federal Arbitration Act prohibits courts from imposing prerequisites to enforcement of an arbitration agreement that are not applicable to contracts generally, and the Supreme Court has repeatedly made clear that arbitration agreements must stand on equal footing with all other agreements.

### **CSX Transp., Inc. v. Pitts (Maryland)**

A locomotive engineer brought a personal injury action under the Federal Employers' Liability Act (FELA) against our client, CSX, for knee injuries he allegedly sustained while working in CSX's rail yards.

### **In re "Agent Orange" Product Liability Litigation (Second Circuit)**

Military veterans and their relatives sued chemical manufacturers in both state and federal court, alleging that the veterans had been injured by exposure to Agent Orange during their service in the Vietnam War.

### **Linde v. Arab Bank, PLC (Second Circuit)**

U.S. and foreign victims of terrorist attacks in the Middle East and their family members alleged that Arab Bank, Jordan's largest financial institution, violated the Anti-Terrorism Act and Alien Tort Statute by providing banking services to charities and individuals allegedly affiliated with terrorist organizations operating in the Middle East.

### **Pearson v. CSX Transp., Inc. (Eleventh Circuit)**

Plaintiffs' son died following a collision between his vehicle and a CSX Transportation (CSXT) freight train at a railroad crossing.

### **Priester v. Ford Motor Co. (South Carolina)**

Plaintiff brought a products liability action against Ford Motor Company, alleging that one of Ford's pick-up trucks was defectively designed because it utilized tempered, rather than laminated, glass in the vehicle side windows.

### **AT&T Mobility LLC v. Concepcion (U.S. Supreme Court)**

AT&T Mobility's customer agreements require disputes to be resolved on an individual basis in arbitration.

### **First National Bank of Wahoo v. Charvat (U.S. Supreme Court)**

Jarek Charvat used the defendant banks' automatic teller machines after accepting an on-screen notice that he would be charged a fee before being allowed to complete his transaction.

### **Highmark, Inc. v. Allcare Health Management Sys. (U.S. Supreme Court)**

Section 285 of the Patent Act permits a prevailing party to recover fees in "exceptional" cases. Attorneys' fees in patent infringement cases have grown substantially in recent years, and the threat of large fees fuels abusive claims and abusive defenses.

### **Morgan v. AT&T Wireless Services, Inc. (California)**

Customers of AT&T Mobility agreed that any disputes between the parties would be resolved by arbitration on an individual basis, thus barring class actions.

### **Octane Fitness, LLC v. Icon Health & Fitness, Inc. (U.S. Supreme Court)**

Section 285 of the Patent Act permits a prevailing party to recover fees in "exceptional" cases.

### **Schuette v. Coalition to Defend Affirmative Action (U.S. Supreme Court)**

Michigan voters approved a ballot initiative that banned the use of affirmative action in state universities and colleges.

### **Toyota Motor Corp. v. Choi (U.S. Supreme Court)**

Vehicle purchase and lease agreements often contain arbitration provisions.

**Zayed v. Associated Bank (Eighth Circuit)**

Perpetrators of a Ponzi scheme used accounts at several financial institutions in Minnesota, including Associated Bank, N.A. After the Ponzi scheme was uncovered, the perpetrators were prosecuted and jailed.

**Holt v. Hobbs (U.S. Supreme Court)**

Gregory Holt, a state inmate who is a Muslim, sought an exemption from his prison's no-facial-hair policy to grow a short beard consistent with his religious beliefs.

**Farina v. Florida Dep't of Corr. (Eleventh Circuit)**

In this case, we filed an amicus brief on behalf of religious and civil liberties organizations including Americans United for Separation of Church and State, American Civil Liberties Union, and Interfaith Alliance Foundation in support of the petitioner Anthony Farina's petition for habeas corpus to the Eleventh Circuit.

**Holder v. Sawyers (U.S. Supreme Court)**

At issue in this immigration law case was whether a parent's years of residence after lawful admission to the United States may be imputed to an unemancipated minor child for purposes of satisfying the eligibility requirements for discretionary cancellation of removal or whether such a minor must meet those requirements on his or her own, without counting a parent's years of residence or immigration status.

**Kenny v. Kenny Industries (Illinois)**

In this case, respondent Kenny Industries appealed an order of the state trial court denying its motion for release from a judgment confirming the arbitrator's final award in favor of plaintiff, Kenney, arguing that the trial court erred in denying the motion because respondent retained the right to a setoff under the original contract in dispute.

**Kiobel v. Royal Dutch Petroleum Co. (U.S. Supreme Court)**

The question presented in this case was whether suits against corporations, as opposed to natural persons, for alleged violations of international law are cognizable under the Alien Tort Statute ("ATS").

**Lockheed Martin Corp. v. Abbott (U.S. Supreme Court)**

We represented Lockheed Martin Corporation in this class action lawsuit arising under the Employee Retirement Income Security Act (ERISA).

**Philip Morris USA v. Williams (U.S. Supreme Court)**

The Supreme Court granted our petition for certiorari and held that under the U.S. Constitution, state courts may not permit juries in individual cases to punish defendants for harms suffered by non-parties even where those harms arose from conduct similar to the conduct that injured the plaintiff.

### **Arkema v. EPA (Third Circuit)**

In this case, our client Arkema petitioned for review from a final rule, in which the Environmental Protection Agency (EPA) designated for testing in its Endocrine Disruptor Screening Program certain chemicals based on their physical and chemical properties.

### **Brown v. United Airlines, Inc. (U.S. Supreme Court)**

The preemption provision of the Airline Deregulation Act of 1978 provides that a state “may not enact or enforce a law, regulation, or other provision having the force and effect of law related to price, route, or service of an air carrier.”

### **Rosemond v. United States (U.S. Supreme Court)**

In this case, the Court granted certiorari to decide the requisite mental state for the offense of aiding and abetting the use of a firearm during and in relation to a crime of violence or drug trafficking crime, in violation of 18 U.S.C. § 924(c).

### **Agency for International Development v. Alliance for Open Society, Inc. (U.S. Supreme Court)**

The United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 required any group that accepted government funds for combating HIV/AIDS abroad to have a policy explicitly opposing prostitution and sex trafficking.

### **Bristol-Myers Squibb & Co. v. Matrix Labs. Ltd. (Second Circuit)**

Bristol-Myers Squibb maintains a patent over atazanavir, a drug used to treat HIV/AIDS.

### **Harbison v. Bell (U.S. Supreme Court)**

Federal Law (18 U.S.C. § 3559) authorizes funding to provide counsel to indigent death row inmates, including state defendants pursuing federal habeas relief.

### **McArdle v. AT&T Mobility LLC (Ninth Circuit)**

An AT&T customer sued AT&T on behalf of a putative class, claiming that the company violated consumer protection statutes by failing to adequately disclose certain charges.

### **United States v. Shellef (Second Circuit)**

Dov Shellef was tried and convicted for various tax crimes. The verdict was reversed on appeal and remanded for a new trial.

### **Amgen, Inc v. Connecticut Retirement Plans & Trust Funds (U.S. Supreme Court)**

Connecticut Retirement Plans and Trust Funds filed a securities-fraud complaint against Amgen, alleging Amgen made certain misrepresentations to the FDA during the approval process for a drug later marketed by Amgen.

### **Boeing Co. v. United States (U.S. Supreme Court)**



The Internal Revenue Code provides for special tax treatment of export sales made by an American manufacturer through a qualifying subsidiary.

**Chavez v. Nestlé USA, Inc. (Ninth Circuit)**

Plaintiffs filed suit against Nestlé under California’s false advertising and unfair competition laws, alleging that the labeling of certain Juicy Juice brand beverages (which are sold by Nestlé) was deceptive.

**Clements v. CSX Transp. Inc. (Eleventh Circuit)**

Following a train collision, plaintiff Jimmy Clements sued CSX Transportation, Inc. under the Federal Employees Liability Act for negligence.

**CSX Transportation, Inc. v. Hensley (Tennessee)**

Plaintiff Thurston Hensley sued his employer, CSX Transportation (“CSX”), under the Federal Employees Liability Act, alleging that CSX negligently caused his asbestosis and seeking damages for (among other things) a fear of developing cancer in the future.

**Johnmohammadi v. Bloomingdale’s, Inc. (Ninth Circuit)**

Plaintiff Fatemeh Johnmohammadi brought a putative class action against Bloomingdales under California law, seeking to recover unpaid overtime wages.

**Lockheed Martin Corp. v. Goodyear Tire & Rubber Co. (Sixth Circuit)**

Loral Corporation, predecessor of Lockheed Martin agreed in 1987 to acquire certain assets and liabilities related to Goodyear’s aerospace business in Ohio.

**Marmet Health Care Center v. Brown (U.S. Supreme Court)**

We represented one of the petitioners in its efforts to seek review of the West Virginia Supreme Court of Appeals’ holding that, as a categorical matter, agreements to arbitrate personal injury or wrongful death claims against nursing homes are unenforceable under West Virginia law.

**Neuros Co., Ltd. v. KTurbo, Inc. (Seventh Circuit)**

At trial, our clients (Neuros and APG) prevailed on a defamation claim, but lost on claims under the Lanham Act and Illinois’s Deceptive Trade Practices Act, against a competitor (KTurbo) who accused our clients of cheating and committing crimes in submitting performance information to a prospective customer.

**United Haulers Ass’n, Inc. v. Oneida-Herkimer Solid Waste Mgm’t Authority (U.S. Supreme Court)**

Certain counties in central New York passed “flow control” ordinances requiring that solid waste collected in those jurisdictions be taken to a particular facility owned by a state-created corporation to be processed.

### **United States v. Rodriguez (U.S. Supreme Court)**

The Armed Career Criminals Act requires that offenders who have been previously convicted of three or more serious offenses receive an enhanced sentence.

### **Wal-Mart Stores, Inc. v. Dukes (U.S. Supreme Court)**

Several female employees of Wal-Mart brought a putative class action against their employer, alleging that they were the victims of sex discrimination and seeking back-pay.

### **Taniguchi v. Kan Pacific Saipan, Ltd. (U.S. Supreme Court)**

The Court Interpreters Act, 28 U.S.C. § 1920(6), allows courts to award a prevailing party the costs of oral interpreters.

### **DePierre v. United States (U.S. Supreme Court)**

At the time of petitioner Frantz DePierre's conviction and sentence, federal law mandated a minimum 10-year sentence for persons convicted of drug offenses involving 50 grams or more of "a mixture or substance ...

### **Carr v. United States (U.S. Supreme Court)**

The case involved the federal Sex Offender Registration and Notification Act, which requires registration of sex offenders who travel in interstate commerce on pain of substantial criminal penalties.

### **United States v. Stevens (U.S. Supreme Court)**

The Third Circuit held that a federal statute criminalizing the creation, sale, or possession of a depiction of animal cruelty violates the First Amendment.

### **Local Search Ass'n v. City and County of San Francisco (Ninth Circuit)**

We represented Yellow Pages publishers in a First Amendment challenge to a San Francisco ordinance outlawing the distribution of Yellow Pages directories without the recipient's prior or contemporaneous consent.

### **American Express Co. v. Italian Colors Restaurant (U.S. Supreme Court)**

We filed an amicus brief successfully arguing that the Federal Arbitration Act does not permit courts to refuse to enforce arbitration agreements based on an ad hoc assessment that individual arbitration might not be cost-effective.

### **City of Jersey City v. Consolidated Rail Corp. (D.C. Circuit)**

Our client, Consolidated Rail Corporation, sold property in Jersey City to developers after attempts to sell the property to Jersey City failed.

### **Minn-Chem, Inc. v. Agrium Inc. (Seventh Circuit; U.S. Supreme Court)**

A number of purchasers of fertilizer brought a class action alleging a global conspiracy involving our client, The Mosaic Company, to reduce output and raise the price of potash, a key ingredient in fertilizer.

**DPWN Holdings (USA), Inc. v. United Airlines, Inc. (Second Circuit)**

DHL's parent company, DPWN Holdings, United Airlines alleging that United had participated in a massive, international price-fixing conspiracy to charge inflated freight-forwarding fuel surcharges.

**Escriba v. Foster Poultry Farms (Ninth Circuit)**

Foster Farms terminated Maria Escriba after she failed to return to work for three consecutive days after the conclusion of a vacation.

**Friends of the Everglades v. EPA (Eleventh Circuit; U.S. Supreme Court)**

An "addition" of pollution from a "point source" to "the waters of the United States" must be permitted by EPA under the National Pollution Discharge Elimination System.

**George v. Edholm (Ninth Circuit)**

Clifford George was subjected to a strip search and, subsequently, a body cavity search conducted under forced general anesthesia. We obtained a victory for him in the Ninth Circuit in his Section 1983 civil rights suit.

**Grant Thornton, LLP v. FDIC (Fourth Circuit)**

Our client, Grant Thornton, was engaged to audit the First National Bank of Keystone, a federally-insured bank that had been the subject of intense regulatory scrutiny for many years.

**In re Volkswagen & Audi Warranty Extension Litigation (First Circuit)**

This appeal arose out of an award of attorneys' fees in a settled class action. The total benefits paid to the class under the settlement totaled approximately \$40 million.

**Poventud v. City of New York (Second Circuit en banc)**

According to the Supreme Court's decision in *Heck v. Humphrey*, 512 U.S. 477 (1994), a civil rights plaintiff may not use a Section 1983 suit to establish the invalidity of an outstanding state court conviction.

**Shaver v. Siemens Corp. (Third Circuit)**

We obtained interlocutory appellate review and reversal of the denial of Siemens Corporation's motion for summary judgment in the "hyper complicated" ERISA case, winning an absolute victory for our client.

**Tarrant Regional Water District v. Herrmann (U.S. Supreme Court)**

Texas's Tarrant Regional Water District sought to acquire water from Oklahoma by exercising its rights under the Red River

Compact, which governs the allocation and use of water from the Red River Basin among Texas, Oklahoma, Louisiana, and Arkansas.

#### **United States v. Windsor (U.S. Supreme Court)**

The question presented in this case was whether Section 3 of the Defense of Marriage Act, which prohibits the federal recognition of same-sex marriages that are recognized under state law, violated the Equal Protection Clause.

#### **Black v. CSX Transp., Inc. (Pennsylvania)**

The plaintiff in this case alleged that he contracted cancer as a result of being exposed to asbestos for a brief period in the 1950s, while employed in Kentucky by one of CSX's predecessors.

#### **Sells v. CSX Transportation, Inc. (Florida)**

The husband of the plaintiff in this case died from cardiac arrest. Plaintiff sued CSXT in the Circuit Court for Duval County, Florida under FELA, alleging that CSXT should have provided automated external defibrillators in the workplace, should have required employees to undergo mandatory training in cardiopulmonary resuscitation, and negligently delayed the arrival of emergency medical technicians.

#### **Council of the District of Columbia v. Gray (D.C. Circuit)**

We represent the D.C. Council in litigation regarding the right of the District of Columbia to spend its own tax dollars.

#### **Adams v. AT&T Mobility, LLC (Ninth Circuit)**

The named plaintiffs filed this putative nationwide class action claiming that AT&T violated the federal Telephone Consumer Protection Act by sending text-message advertisements to its wireless customers about upgrading their cellular telephones after AT&T acquired their former wireless provider.

#### **Verdugo v. Target Corp (California)**

In this action, plaintiffs alleged that Target had a duty to have an automatic external defibrillator (AED) available in its stores in case a customer underwent sudden cardiac arrest while shopping (as had plaintiffs' daughter/sister).

#### **Rock River Communications v. Universal Music Group (Ninth Circuit)**

In this case, our client, Rock River Communications, issued "Roots, Rock, Remixed," an album of remixes of early Bob Marley recordings that had been produced before the advent of federal copyright protection for phonorecordings.

#### **Department of Transportation v. Association of American Railroads (U.S. Supreme Court)**

Section 207 of the Passenger Rail Investment and Improvement Act of 2008 empowers Amtrak and the Federal Railroad Administration to jointly develop metrics and standards for the performance of Amtrak.

#### **Hancock v. AT&T Co. (Tenth Circuit)**

The plaintiffs in this case brought a multistate class action in federal court in Oklahoma on behalf of customers of AT&T, alleging that they were dissatisfied with AT&T's U-Verse service (which provides television, voice, and Internet services).

**Ferguson v. Corinthian Colleges, Inc. (Ninth Circuit)**

Former students at for-profit colleges brought a putative class action against the colleges, claiming that they were misled into enrolling and taking out student loans (which they could not repay) by assurances about their job prospects after completing their studies.

**Bemis v. State Farm Fire & Casualty Co. (Illinois)**

A chiropractor and his practice group brought a putative class action against our client, State Farm, for breach of contract and unjust enrichment arising from the insurer's alleged operation a "silent PPO."

**Abelesz v. OTP Bank (Seventh Circuit)**

A number of individuals brought suit against multiple Hungarian banks, arguing that various property expropriations occurred at predecessor institutions during World War II.

**American Broadcasting Companies, Inc. v. Aereo, Inc. (U.S. Supreme Court)**

The Supreme Court granted certiorari to consider the proper construction of the "Transmit Clause" of the Copyright Act as it relates to a company that permits users to watch television programs over the Internet.

**Astrue v. Capato (U.S. Supreme Court; Third Circuit)**

The Supreme Court granted certiorari to address whether a posthumously conceived child qualifies as a "child" for purposes of Social Security survivorship benefits.

**Bowman v. Monsanto Co. (U.S. Supreme Court)**

The Supreme Court granted certiorari to consider the question of patent exhaustion in the context of patented soybean seeds.

**Crowther v. Consolidated Rail Corp. (First Circuit)**

After CSX won a jury verdict on a plaintiff's Federal Employers Liability Act claim, we were retained to defend the victory.

**Fitzgerald v. Barnstable School Committee (U.S. Supreme Court)**

Section 1983 permits an individual to bring a claim for a constitutional violation, including equal protection claims, against a state government official.

**Hana Financial, Inc. v. Hana Bank (U.S. Supreme Court)**

Trademark tacking permits a trademark owner to make insubstantial alterations to a mark without losing priority. Tacking is permitted in only the most narrow of circumstances; the two marks must qualify as "legal equivalents."

### **Rothstein v. UBS AG (Second Circuit)**

The Anti-Terrorism Act (ATA) creates a private cause of action against entities that engage in acts of terrorism.

### **United States v. Zepeda (Ninth Circuit en banc)**

The Indian Major Crimes Act establishes federal criminal jurisdiction over certain violent offenses committed by Indians within Indian Country.

### **Lelo Inc. v. ITC (Federal Circuit)**

Following an investigation, the International Trade Commission concluded that certain manufacturers violated Standard Innovation's patent claims relating to certain consumer electronics.

### **Sino Legend v. ITC (Federal Circuit)**

The International Trade Commission instituted a Section 337 investigation against Sino Legend, pursuant to a complaint that it misappropriated a competitor's trade secret in China.

### **Ninestar Technology Co. v. ITC (Federal Circuit; U.S. Supreme Court)**

The patent exhaustion doctrine provides that, following a first, authorized sale of a patented article, the patentee has exhausted its rights to the product.

### **Segin v. Stewart Title Guaranty (Federal Circuit)**

The America Invents Act creates a post-grant review mechanism at the Patent & Trademark Office for certain Covered Business Method ("CBM") patents.

### **Retirement Board v. The Bank of New York Mellon (Second Circuit)**

In a resounding victory for our client, the Second Circuit adopted our argument that the Trust Indenture Act, which extends certain statutory requirements and protections to trust instruments, doesn't apply to residential mortgage-backed securities.

### **Morrison v. National Australia Bank Limited (U.S. Supreme Court)**

After the Supreme Court granted certiorari to consider the extraterritorial reach of Section 10(b) of the Securities Exchange Act, we were retained by a series of European banking associations who appeared as amici.

### **buySAFE, Inc. v. Google, Inc. (Federal Circuit)**

Google retained us to defend it against patent infringement claims relating to e-commerce. buySAFE asserted claims as to third-party performance guarantees in the context of Internet commerce.

### **Alice Corporation Pty., Ltd., v. CLS Bank Int'l (U.S. Supreme Court)**

The Supreme Court has long held that Section 101 contains implicit exceptions to the scope of subject matter that is patentable.

**Berry v. CSX Transportation, Inc. (Kentucky)**

We defended a jury verdict against challenges in two consolidated appeals, successfully arguing that our client did not obstruct or create dangerous conditions on a roadway adjacent to our client's railroad tracks.

**Holder v. Gutierrez (U.S. Supreme Court)**

At issue in this immigration law case was whether a parent's years of residence after lawful admission to the United States may be imputed to an unemancipated minor child for purposes of...

**In re Wholesale Grocery Products Antitrust Litigation (Eighth Circuit)**

On behalf of the U.S. Chamber of Commerce, we filed an amicus brief arguing that the Federal Arbitration Act requires individual arbitration of the plaintiffs' federal antitrust claims in accordance with the parties' contractual agreements.

**Iskanian v. CLS Transportation Los Angeles, LLC (California)**

We filed an amicus brief and presented oral argument contending that California laws restricting individual arbitration of employment claims are preempted by the Federal Arbitration Act, among other issues.

**Kilgore v. KeyBank, N.A. (Ninth Circuit)**

We filed an amicus brief and presented oral argument before the en banc court, arguing that the Federal Arbitration Act preempts California's state-law rule prohibiting arbitration of public-injunction claims.

**Raniere v. Citigroup Inc. (Second Circuit)**

On behalf of a coalition of business groups, we filed an amicus brief successfully arguing that the Fair Labor Standards Act does not evince a congressional intent to preclude individual arbitration of wage-and-hour claims.

**Szekeres v. CSX Transportation, Inc. (Sixth Circuit)**

We argue that the district court correctly granted judgment to our client because the plaintiff's theory of causation was too attenuated to support recovery under FELA, among other issues.

**Bennett v. CSX Transportation, Inc. (Fourth Circuit)**

We obtained reversal of a multi-million-dollar verdict against our client, successfully arguing that the evidence at trial was legally and factually insufficient to sustain employer liability and front pay on the plaintiff's hostile-environment claims.

**Blake v. Ross (Fourth Circuit)**

Appealing the partial dismissal of our client's civil rights claims, we argue that the district court erred in allowing the defendants to belatedly raise a new affirmative defense and in holding that our client did not exhaust all administrative

remedies.

#### **Freshwater v. Mt. Vernon City School District Board of Education (Ohio)**

On behalf of a coalition of civil rights groups, we filed an amicus brief successfully arguing that a public school's termination of a science teacher for teaching his religious views on evolution does not violate the teacher's First Amendment rights.

#### **Ray Haluch Gravel Co. v. Central Pension Fund (U.S. Supreme Court)**

We obtained certiorari and successfully persuaded the Supreme Court that a decision that fully resolves the merits of the litigation, but leaves attorney's fees to be determined, is a "final decision" under 28 U.S.C. § 1291.

#### **United States v. Caso (D.C. Circuit)**

We successfully overturned our client's conviction for honest-services fraud, arguing that our client was legally innocent of that offense and that his criminal conviction cannot be sustained on the basis of less-serious offenses that the government never charged.

#### **Grayson v. AT&T Corp. (District of Columbia en banc)**

We filed an amicus brief successfully arguing that standing to sue under D.C. consumer-protection laws must be limited to plaintiffs who have suffered a personal injury.

#### **Tibble v. Edison Int'l (U.S. Supreme Court)**

Claims alleging breach of fiduciary duty under ERISA must be brought within six years. This case concerns whether a fiduciary-breach claim may be brought after six years, based on the fiduciary's supposed duty to monitor a decision previously made.

#### **McGhee v. Dittmann (Seventh Circuit)**

When a criminal defendant knowingly and voluntarily waives the assistance of counsel and seeks to represent himself at trial, the Sixth Amendment requires the court to grant the request. At his state criminal trial, Mr. McGhee asked to discharge his appointed defense counsel, and asked that he be permitted to respond to the state's case by speaking up for himself.

#### **CSX Transportation, Inc. v. Gilkison (Fourth Circuit)**

We successfully argued that the district court erred in dismissing our client's fraud and RICO claims as time-barred, leading to a \$1.3 million verdict for our client on remand.

#### **Caplinger v. Medtronic, Inc. (Tenth Circuit)**

Representing a major medical-device manufacturer, we argue that state-law tort claims alleging injury from the off-label use of a Class III medical device are expressly and impliedly preempted by federal law.

#### **Otis-Wisher v. Medtronic, Inc. (Second Circuit)**



Represented a major medical-device manufacturer, we argue that state-law tort claims alleging injury from the off-label use of a Class III medical device are expressly and impliedly preempted by federal law.

#### **Hopkins v. BCI Coca-Cola Bottling Co. of Los Angeles (Ninth Circuit)**

We filed an amicus brief arguing that representative actions under California’s Private Attorney General Act of 2004 are subject to individual arbitration under the Federal Arbitration Act.

#### **Ameritech Corp. v. International Brotherhood of Electrical Workers (Seventh Circuit)**

This case arose from a series of arbitrations between an employer and a union representing many of its employees pursuant to a collective bargaining agreement.

#### **Illinois Tool Works v. Independent Ink, Inc. (U.S. Supreme Court)**

In an antitrust action alleging that a defendant engaged in illegal “tying” by conditioning the sale of one product on the purchase of a second product, the plaintiff ordinarily must show that the defendant had “market power” in the former product.

#### **Hartford Fire Insurance Co. v. California (U.S. Supreme Court)**

Under the McCarran-Ferguson Act, insurance companies are generally exempt from federal regulation—including the federal antitrust laws—except “to the extent that such business is not regulated by State Law.”

#### **Buckman Co. v. Plaintiffs’ Legal Comm. (U.S. Supreme Court)**

Plaintiffs sought damages from our client for alleged misstatements made to the FDA in seeking its approval of a medical device.

#### **Georgia-Pacific West, Inc. v. NEDC (U.S. Supreme Court)**

In this case, the Ninth Circuit held that every culvert and ditched that channeled rainwater runoff from forest roads was a discharge from a point source, requiring a Clean Water Act permit. We successfully challenged that holding before the Supreme Court.

#### **Los Angeles County v. Humphries (U.S. Supreme Court)**

In *Monell v. New York City Department of Social Services*, 436 U.S. 658 (1978), the Supreme Court ruled that civil rights claims could only be made against a municipality under 42 U.S.C. 1983 if a violation resulted from the municipality’s policy or custom.

#### **Caperton v. A.T. Massey Coal Co. (U.S. Supreme Court)**

Traditionally, in both British and American law, judges could be disqualified from participating in a case only if they had direct financial stakes in the case’s outcome.

#### **Hein v. Freedom From Religion Foundation, Inc. (U.S. Supreme Court)**

In *Flast v. Cohen*, the U.S. Supreme Court ruled that taxpayers had standing to challenge a law enacted by Congress that appropriated government funds in violation of the Establishment Clause.

### **Negusie v. Holder (U.S. Supreme Court)**

The Immigration and Naturalization Act allows for discretionary asylum for refugees, and it also limits officials' power to deport aliens whose lives or freedom would be threatened upon deportation.

### **Association of Irrigated Residents v. EPA (Ninth Circuit)**

A citizen group sued the EPA, arguing that the EPA did not have authority to amend state implementation plans under the Clean Air Act. On behalf of Foster Farms as an intervenor, we argued that the citizen group lacked standing to bring the suit, and that the EPA did have authority to take the actions in question

### **Saint Alphonsus Medical Center v. St. Luke's Health System (Ninth Circuit)**

Section 7 of the Clayton Act prohibits a merger when its effect "may be substantially to lessen competition, or to tend to create a monopoly."

### **Spencer v. United States (Eleventh Circuit en banc)**

The question presented in this en banc rehearing was whether an improper application of the career offender enhancement under the Sentencing Guidelines—an enhancement that typically doubles any give sentence—is "a fundamental defect which inherently results in a complete miscarriage of justice."

### **Salahuddin v. United States (U.S. Supreme Court)**

The question presented in this case is whether a conspiracy conviction under the Hobbs Act requires proof of an overt act.

### **Kerry v. Din (U.S. Supreme Court)**

In this case, a U.S. citizen, Fauzia Din, married a native and citizen of Afghanistan. After their marriage, Din petitioned for her husband to receive a U.S. visa, and his application was ultimately denied, allegedly because of his relationship to terrorist activity.

### **Berry v. Leslie (Eleventh Circuit en banc)**

In this case, we argued that a police officer who participated in a SWAT-style raid of the plaintiffs' barbershop should be liable for violating the plaintiffs' Fourth Amendment rights based on his integral participation in the raid, although he did not personally handcuff or search them.

### **Williams-Yulee v. The Florida Bar (U.S. Supreme Court)**

We filed a petition presenting the question whether a rule of judicial conduct that prohibits candidates for judicial office from personally soliciting campaign funds violates the First Amendment. The Court granted the petition, and the case has been argued.

### **Angeles v. Medtronic, Inc. (Minnesota Court of Appeals)**

The plaintiffs in this case allege that they were injured by their physicians' off-label use of a Class III medical device and that the device manufacturer improperly promoted off-label uses.

### **Butts v. Medtronic, Inc. (Minnesota Court of Appeals)**

The plaintiffs in this case allege that they were injured by their physicians' off-label use of a Class III medical device and that the device manufacturer improperly promoted off-label uses.

### **Anderson v. Medtronic, Inc. (Minnesota Court of Appeals)**

The plaintiffs in this case allege that they were injured by their physicians' off-label use of a Class III medical device and that the device manufacturer improperly promoted off-label uses.

### **Chesser v. Chesser (Fourth Circuit)**

Civil rights case concerning constitutional right to privacy.

### **Udac v. Takata, Corp. (Hawaii Court of Appeals)**

We obtained a new trial on liability and JMOL on punitive damages following a \$17 million verdict based on alleged defects in a seatbelt buckle that resulted in the plaintiff's paralyzation.

### **Leavey v. Unum Provident Corp. (Ninth Circuit)**

In an insurance bad-faith case, we successfully reduced a \$15 million punitive award to \$3 million and a \$4 million compensatory award to \$1.2 million on post-trial motions and defended that outcome on appeal.

### **Head v. Stripling (Georgia)**

We vacated the death sentence of a mentally retarded man and eventually convinced the state to accept a plea agreement imposing a life sentence.

### **Quanta Computer, Inc. v. LG Electronics, Inc. (U.S. Supreme Court)**

This case presented the questions whether the patent-exhaustion doctrine applies to method patents and to the first authorized sale of a component that substantially practices the patent.

### **Bryant v. Medtronic, Inc. (Eighth Circuit)**

In the first significant appellate medical-device preemption decision after the Supreme Court's decision in *Riegel*, we secured a total victory, dismissing all claims in a multi-district litigation.

### **Masterpiece Cakeshop, Inc. v. Craig (Colorado)**

This case concerns whether a place of public accommodation may refuse services for weddings of same-sex couples in states that prohibit discrimination on the basis of sexual orientation.

#### **BMW of North America, Inc. v. Gore (U.S. Supreme Court)**

The U.S. Supreme Court agreed with our argument that the punitive damages award in the case was grossly excessive, establishing the legal framework that has been foundational in punitive damages cases ever since.

#### **Missouri v. Harris (Ninth Circuit)**

Our amicus brief supported several States' dormant Commerce Clause and preemption challenge to a California law requiring costly switches to egg producers' cage systems as a condition of selling eggs in California.

#### **King v. Burwell (U.S. Supreme Court)**

We filed an *amicus* brief explaining that federal tax credits are an essential tool for broadening the risk pool and stabilizing the health insurance market.

#### **In re The Bank of New York Mellon (New York)**

We prevailed in our defense of the Bank of New York Mellon's historic \$8.5 billion settlement resolving claims related to mortgage-backed securities originated and serviced by Countrywide.

#### **Crews v. Farina (U.S. Supreme Court)**

We successfully opposed a petition for certiorari that sought to reimpose a previously-vacated death sentence on our client.

#### **Horne v. Department of Agriculture (U.S. Supreme Court)**

The question was whether the Fifth Amendment's "categorical rule" that the government must pay just compensation when it takes private property applies to personal property as well as to land.

#### **Gordon v. Braxton (Fourth Circuit)**

The issue in this case is what standard of review applies in federal court when a state court fails to adequately consider a prisoner's habeas corpus claims.

#### **Autor v. Pritzker (D.C. Circuit)**

We represented plaintiffs in this case in their challenge of the Executive Branch's policy of forbidding registered lobbyists from serving on International Trade Advisory Committees.

#### **CGB Occupational Therapy, Inc. v. Sunrise Assisted Living, Inc. (Third Circuit)**

The Third Circuit agreed with our argument that a \$2 million punitive award that was more than 18 times the compensatory damages was unconstitutionally excessive, reducing it to \$750,000.

### **Galarneau v. Merrill Lynch, Pierce, Fenner & Smith, Inc. (First Circuit)**

This is one of the rare cases in which an appellate court has held that although there was sufficient evidence to support the underlying tort claim, there was insufficient evidence to support punitive damages.

### **Simon v. San Paolo U.S. Holding Co. (California)**

In this seminal decision, the California Supreme Court embraced several arguments advanced by Mayer Brown in its amicus brief for the Chamber of Commerce.

### **Turley v. ISG Lackawanna, Inc. (Second Circuit)**

In this case involving workplace racial harassment by the plaintiff's co-workers, we obtained a reduction of a \$24 million punitive judgment against their employer to \$2.5 million.

### **Jupiter Medical Center, Inc. v. Visiting Nurse Association of Florida, Inc. (U.S. Supreme Court)**

Our certiorari petition in this case asks the Supreme Court to resolve a split in the circuits on the question whether, under the Federal Arbitration Act, courts have the authority to vacate an arbitral award on the ground that the underlying contract, as interpreted by the arbitrators, is illegal.

### **Lompe v. Sunridge Partners, LLC (Tenth Circuit)**

We filed an amicus brief for the Chamber of Commerce identifying several significant errors in the trial court's decision to approve punitive damages of \$25.5 million when compensatory damages were \$2.7 million.

### **Quicken Loans Inc. v. Brown (Supreme Court)**

On behalf of the Chamber of Commerce of the United States of America, we filed an amicus brief arguing that state courts should not be able to insulate their decisions from Supreme Court review by disingenuously finding waiver of federal constitutional claims or defenses.

### **Obergefell v. Hodges (Supreme Court)**

On behalf of Americans United for Separation of Church and State, we filed an amicus brief arguing that religiously based objections to the right of same-sex couples to marry are not valid reasons to refuse to recognize the right.

### **Shapiro v. Mack (U.S. Supreme Court)**

We won a 9-0 victory in the Supreme Court, affirming our client's right to present his constitutional challenge to Maryland's 2011 congressional redistricting map to a special three-judge district court.

### **France v. United States (U.S. Supreme Court)**

The question presented in this case, over which there is an acknowledged conflict between the Seventh and Eighth Circuits, is whether disability payments are "earnings" within the meaning of Section 303 of the Consumer Credit Protection Act, 15

U.S.C. § 1673(a).

**Dillon v. BMO Harris Bank, N.A. (Fourth Circuit)**

The Federal Arbitration Act allows a party to renew a request for arbitration in order to address evidentiary disputes over the existence or authenticity of an arbitration agreement.

**Spokeo, Inc. v. Robins (U.S. Supreme Court)**

Under Article III of the U.S. Constitution, a plaintiff must allege that he or she has suffered an “injury-in-fact” to establish standing to sue in federal court.

**Poole v. CSX Transportation, Inc. (Florida)**

We successfully defended a summary judgment in favor of CSX Transportation, Inc., persuading the Florida appellate court that when it comes to duties owed to trespassers on land, there is no distinction between the “active” and “passive” negligence of the landowner.

**American Farm Bureau Federation v. EPA (Eighth Circuit)**

This case involved a challenge to EPA’s Freedom-of-Information-Act release of detailed private information concerning family farmers and ranchers throughout the country.

**American Trucking Associations, Inc. v. New York State Thruway Authority (Second Circuit)**

We secured reversal from the Second Circuit of a district court’s ruling that the State of New York was a necessary party to a dormant Commerce Clause suit filed against the New York State Thruway Authority, which is a public corporation under state law.

**Gifford v. McCarthy (New York)**

This case concerns whether a place of public accommodation may refuse services for weddings of same-sex couples in states that prohibit discrimination on the basis of sexual orientation.

**PHH Corp. v. Consumer Financial Protection Bureau (D.C. Circuit)**

We filed an amicus brief arguing that the Consumer Financial Protection Bureau’s order requiring a defendant to pay \$109 million in disgorgement violated due process.

**In re Triplett (U.S. Supreme Court)**

We filed an original petition for a writ of mandamus and habeas corpus in the Supreme Court on behalf of a federal prisoner seeking collateral relief from his sentence based on the Court’s decision in *Johnson v. United States*.

**Salazar v. Galvan (Seventh Circuit)**

We appealed to the Seventh Circuit on behalf of a mother whose minor son was ordered returned to his father in Mexico under the Hague Convention.

**In re Whirlpool Corp. Front-Loading Washer Products Liability Litigation (Glazer v. Whirlpool Corp.) (Sixth Circuit)**

We represent a washing machine manufacturer on appeal, defending a judgment for the manufacturer in a suit alleging that certain of its front-loading washing machines are defective.

**Universal Health Servs., Inc. v. United States ex rel. Escobar (U.S. Supreme Court)**

We filed an amicus brief arguing that the False Claims Act does not authorize implied-certification liability.

**CSX Transp., Inc. v. General Mills, Inc. (Eleventh Circuit)**

We represent a railroad, challenging the dismissal of an indemnity action. The case presents a choice-of-law question regarding collateral estoppel and a question of contractual interpretation.

**American Farm Bureau Federation v. EPA (U.S. Supreme Court)**

We filed a petition challenging EPA's establishment of a federal regulatory scheme governing pollutant loading in the Chesapeake Bay watershed.

**Halo Electronics, Inc. v. Pulse Electronics, Inc. and Stryker Corp. v. Zimmer, Inc. (U.S. Supreme Court)**

This case addresses what standard a district court should apply in deciding whether to enhance damages for patent infringement under the Patent Act.

**Dunnet Bay Construction Co. v. Blankenhorn (U.S. Supreme Court)**

We filed a cert petition on behalf of a construction company denied a public contract under a discriminatory government scheme.

**Utah v. Strieff (U.S. Supreme Court)**

We filed an amicus brief in a Fourth Amendment case involving searches incident to arrest performed after unlawful *Terry* stops.

**U.S. Army Corps of Engineers v. Hawkes Co. (Supreme Court)**

We filed an amicus brief arguing that "jurisdictional determinations" by the Army Corps of Engineers are final agency actions and subject to immediate judicial review.

**Gillette v. California Franchise Tax Board (U.S. Supreme Court)**

The question presented in this certiorari petition is whether the Multistate Tax Compact has the status of a contract that binds its signatory States.

### **Moyle v. Liberty Mutual Retirement Benefit Plan (Ninth Circuit)**

The question presented in this appeal is whether a class of 1,166 employees may be entitled to an equitable remedy requiring Liberty Mutual to pay them pension benefits because Liberty Mutual failed to anticipate and clear up their misunderstanding of the terms of the plan when they were hired.

### **National Association of Manufacturers v. Department of Defense (U.S. Supreme Court)**

We successfully persuaded a unanimous Supreme Court to reverse the Sixth Circuit and hold that challenges to the WOTUS Rule are properly brought in the district courts.

### **Kindred Nursing Centers Limited Partnership v. Clark (U.S. Supreme Court)**

The U.S. Supreme Court granted our petition for certiorari to decide whether the Federal Arbitration Act preempts a state-law rule that singles out arbitration for disfavored treatment.

### **Impression Products, Inc. v. Lexmark International, Inc. (U.S. Supreme Court)**

The U.S. Supreme Court has granted our petition for certiorari. In our opening brief, we argue that the Federal Circuit's decision is inconsistent with over one hundred and fifty years of Supreme Court jurisprudence regarding patent exhaustion.

### **Dziadek v. The Charter Oak Fire Insurance Company (Eighth Circuit)**

We filed an amicus brief for several groups addressing the proper treatment of prejudgment interest under the Supreme Court's due process guideposts for reviewing punitive awards.

### **Manuel v. City of Joliet (U.S. Supreme Court)**

The Court considered the constitutional basis for a Section 1983 claim arising from allegedly improper pretrial detention.

### **Weaver v. Commonwealth of Massachusetts (U.S. Supreme Court)**

This U.S. Supreme Court merits case raises the issue of whether a defendant who demonstrates that his lawyer's deficient performance resulted in structural error must show actual prejudice to obtain a new trial.

### **DiracTV, LLC v. Hall (U.S. Supreme Court)**

We filed a petition for certiorari seeking review of a Fourth Circuit decision announcing a novel test for "joint employment" under the FLSA.

### **American Trucking Associations, Inc. v. New York State Thruway Authority (Second Circuit)**

We are appealing a district court's decision that Congress authorized the New York State Thruway Authority to collect excessive tolls that would otherwise violate the Constitution's Commerce Clause.



**Epic Systems Corp. v. Lewis; Ernst & Young LLP v. Morris; NLRB v. Murphy Oil USA, Inc. (U.S. Supreme Court)**

We drafted an *amicus* brief for the U.S. Chamber of Commerce in a Supreme Court case involving a National Labor Relations Board rule prohibiting agreements to arbitrate employment disputes on an individual basis.

**Freeman Investment Management Co., Inc. v. Frank Russell Company (Ninth Circuit)**

Appellant FIMCO asserted claims for breach of the parties' nondisclosure agreement (NDA) and misappropriation of trade secrets arising out of Russell's development of a style index that incorporated volatility, among other attributes.

**Natan v. CitiMortgage, Inc. (Ninth Circuit)**

We successfully defended CitiMortgage in an appeal challenging CitiMortgage's denial of plaintiffs' application for a mortgage modification.

**Ames v. Ohle (Louisiana)**

This appeal addressed whether plaintiff produced sufficient evidence to defeat summary judgment on plaintiff's respondeat-superior and a direct-fraud claims.

**In re Google Referrer Header Privacy Litigation (Ninth Circuit)**

Google successfully defended the district court's approval of a class-wide settlement in this Internet privacy case.

**Trump v. International Refugee Assistance Project; Trump v. Hawaii (U.S. Supreme Court)**

In these consolidated cases, the International Refugee Assistance Project and the State of Hawaii are challenging President Trump's second executive order barring nationals of six countries from entering the United States.

**Scott v. Cricket Communications LLC (Fourth Circuit)**

We prevailed on appeal of a district court decision that had remanded a class action to state court based on purportedly insufficient evidence of the amount in controversy.

**Weyerhaeuser Company v. U.S. Fish and Wildlife Service (U.S. Supreme Court)**

The US Supreme Court granted our petition and will review the Fifth Circuit's costly and erroneous decision upholding the designation of our client's uninhabitable land as "critical habitat" of the dusky gopher frog.

**Chambers v. Whirlpool Corporation (Ninth Circuit)**

We are asking the Ninth Circuit to reverse the district court's excessive award of \$15 million in attorneys' fees to class counsel for obtaining a settlement that provides class members with \$2 to \$5 million in benefits.

**In re Sears, Roebuck and Co. Front-Loading Washer Products Liability Litigation (Seventh Circuit)**

We persuaded the Seventh Circuit to cut the fee award to plaintiffs' attorneys nearly in half.

#### **Dietz v. Cypress Semiconductor Corporation (Tenth Circuit)**

We persuaded the Tenth Circuit to reverse the Department of Labor's Administrative Review Board in an employee whistleblower action under Sarbanes Oxley.

#### **Stitt v. Citibank, N.A. (Ninth Circuit)**

This appeal challenges the district court's rulings rejecting claims challenging property-inspection fees under RICO, fraud, and unjust-enrichment theories, and denying plaintiffs' motion for attorneys' fees.

#### **Nellum v. United States, No. 17-1694 (U.S. Supreme Court)**

Our petition for certiorari presents the question whether conviction under a statute prohibiting acts that cause bodily harm is a "crime of violence," subjecting the defendant to longer imprisonment under the U.S. Sentencing Guidelines, even though the statute does not require physical force as an element of the offense.

#### **Hughes v. United States (US Supreme Court)**

We filed an amicus brief for a number of industry groups concerning the proper interpretation of *Rapanos v. United States*, 547 U.S. 715 (2006) under the *Marks* framework.

#### **Raymond J. Lucia v. Securities and Exchange Commission (U.S. Supreme Court)**

We filed an amicus brief for the US Chamber of Commerce in a Supreme Court case involving the question of whether SEC administrative law judges must be appointed in accordance with the Constitution's Appointments Clause.

#### **Murco Wall Prods., Inc. v. Galier (US Supreme Court)**

We persuaded the Supreme Court to vacate and remand a state court decision applying an improper test for specific personal jurisdiction.

#### **Knick v. Township of Scott (U.S. Supreme Court)**

We have argued that the Supreme Court should overturn its prior decision in Williamson County and restore federal court oversight of state takings of private property.

#### **Dutra Group v. Batterton (U.S. Supreme Court)**

We filed an amicus brief on behalf of maritime industry organizations urging the Supreme Court to hold that punitive damages are unavailable in cases brought under the maritime-law doctrine of unseaworthiness.

#### **Putnam Investments, LLC v. Brotherston (U.S. Supreme Court)**

Our amicus brief argued that the Supreme Court should resolve a circuit split over the allocation of the burden of proof for

duty-of-prudence actions under ERISA.

**Saccameno v. U.S. Bank National Association (Seventh Circuit)**

We filed an amicus brief on behalf of the Chamber of Commerce addressing several recurring issues involving application of the Supreme Court's guideposts for assessing the excessiveness of punitive damages.