Appellate Practice

Quinn Emanuel has an extensive, nationwide appellate practice that focuses on briefing and arguing significant cases before the Supreme Court of the United States and the federal courts of appeals. The group also maintains an extensive practice before the appellate courts of California, Delaware, New York, and other states.

Our appellate experience spans all areas of our practice—from copyright, patent, trademark, and trade secret law to antitrust, arbitration, business torts, commercial contracts, financial products, insurance and reinsurance, media, securities, bankruptcy, products liability, and white-collar criminal defense. Our appellate group has received numerous accolades, including being named to *The National Law Journal*'s prestigious "Appellate Hot List."

Quinn Emanuel's appellate practice is uniquely intertwined with its trial practice. In addition to our deep bench of talented appellate practitioners, the firm's leading trial lawyers regularly argue and win significant appeals. Our appellate attorneys also regularly consult with trial teams to help craft arguments and build factual records primed for success on appeal. The interconnectedness of Quinn Emanuel's appellate and trial practices provides unmatched expertise throughout all phases of litigation.

RECENT REPRESENTATIONS

SUPREME COURT OF THE UNITED STATES:

Quinn Emanuel has an experienced and deep Supreme Court practice. Its lawyers have argued before the Supreme Court on numerous occasions and the firm has filed countless principal and amicus curiae briefs. Some of our representative wins include:

- We secured a decisive victory for **Cisco Systems** and two former executives at the U.S. Supreme Court, ending fifteen years of litigation. In a six-Justice opinion, the Court sharply narrowed the scope of claims that can be brought under the Alien Tort Statute and Torture Victim Protection Act, reducing litigation risks for U.S. businesses operating abroad.

- We represented **Elon Musk** and the **Tesla Board of Directors** in a landmark Delaware Supreme Court appeal challenging a lower court's decision to rescind Musk's $56 billion incentive compensation package. The Delaware Supreme Court reversed the Chancery Court's rescission order, finding that the remedy was improper and inequitable as it left Musk uncompensated for six years of substantial work already contributed to Tesla in satisfaction of the compensation package's hyperaggressive performance benchmarks. The court awarded the plaintiff only $1 in nominal damages and reduced the plaintiff's counsel fee award from $345 million to $54 million, affirming that Delaware courts will enforce bargains made with stockholders and validate stockholder choice. The decision restores Musk's options under the compensation package, which, at the time of decision, were worth approximately $140 billion.

- We secured a final, across-the-board victory for **Samsung** in a multi-year contract dispute with MPEG LA, a patent pool administrator, resulting in a judgment exceeding $40 million

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in Samsung's favor plus approximately $7 million in additional benefit for each year of the coming decade. The dispute arose after Samsung exercised its contractual right to leave a patent pool in 2020, and MPEG LA retaliated by engineering a vote to slash Samsung's post-termination royalties by 50%. Over eight rounds of litigation across New York's trial court, Appellate Division (First Department), and Court of Appeals, we achieved complete vindication of Samsung's interpretation of the contract: no amendment to royalty distributions can pass without the support of licensors collectively receiving 80% of prior-year royalties - a threshold Samsung alone has the power to block. The decision ends any further attempt to reduce Samsung's royalties without its consent.

- We won a seminal First Amendment victory for the **Americans for Prosperity Foundation** in *Americans for Prosperity Foundation v. Bonta*, protecting the rights of all nonprofits and their donors. The Supreme Court adopted our arguments as to why and how the First Amendment prohibits governments from making sweeping, unjustified demands that charities disclose the identities of their individual donors. According to the Court's decision, it is facially unconstitutional for the Attorney General of California to demand that charities report the names and addresses of their major donors.

- On behalf of our client **Samsung**, we obtained a landmark victory in *Samsung Electronics Co., Ltd. v. Apple Inc.*, the first design-patent case to reach the Supreme Court in over a century. A federal jury had awarded Apple $399 million—the entire profits on Samsung's accused Galaxy phones—for supposed design-patent infringement of certain narrow portions of an iPhone's appearance. After successfully petitioning for certiorari, we obtained a stunning 8-0 reversal vacating that award and adopting Samsung's argument that, in a multicomponent device, infringer's profits under Section 289 of the Patent Act are limited to profits from the component to which the patented design is applied. The high court win was one of the last chapters of the "smartphone wars" between Apple and Samsung, in which our firm represented Samsung in all trials and appeals.

- In *Sessions v. Morales-Santana*, we successfully challenged a federal statute that made it harder for unwed U.S.-citizen fathers than unwed U.S.-citizen mothers to pass citizenship to a child born abroad, which the Supreme Court held unconstitutional under the Fifth Amendment's principle of equal protection.

- In a case *The New York Times* called "the most important business decision" of its Term, we won a landmark unanimous victory for **Shell Oil** in *Kiobel v. Royal Dutch Petroleum*, which held that the Alien Tort Statute (ATS), enacted by the First Congress in 1789, does not provide a cause of action in U.S. courts for alleged violations of international law that take place in foreign countries. The decision greatly curtailed the availability of the ATS as a vehicle to sue corporations in U.S. courts for supposedly aiding and abetting foreign governments' wrongdoing.

- We obtained a 7-2 victory for **Roche** in *Bd. of Trustees of Leland Stanford University v. Roche Molecular Systems, Inc.*, which arose from a suit involving patents related to HIV treatment that had been developed in a collaboration between Stanford and Roche's predecessor. The Supreme Court sided with Roche, holding that it was a co-owner of the patents-in-suit and rejected Stanford's effort to void its contracts based on its receipt of federal funding, reasoning that the statute governing federal research funding does not give universities automatic ownership of patents.

- We secured a 6-2 victory for **Wyeth LLC** (part of Pfizer Inc.) in *Bruesewitz v. Wyeth*, which held that the National Childhood Vaccine Injury Act preempts state-law claims based on theories of defective design in governmentally approved child vaccines. The decision has significant implications for public health, as it removes design-defect claims that would

have increased manufacturers' costs and depressed vaccine supply and development.

- We won an 8-1 victory for **Shell Oil** in *Burlington Northern & Santa Fe Railway v. United States*, which greatly limited "arranger" liability under CERCLA and held that Shell could not be held liable as an arranger for shipping useful chemicals. The decision also clarified the standards for apportionment under CERCLA.

- In *Granholm v. Heald,* our lawyers obtained a 5-4 victory on behalf of **California vintners and Michigan consumers** challenging state laws imposing discriminatory restrictions on interstate shipments of wine. The Supreme Court held that the Twenty-First Amendment does not give states license to interfere with the national market in a way that violates the Dormant Commerce Clause.

STATE SUPREME COURTS:

We have also obtained successful results for our clients in state Supreme Courts around the country. For example:

- We obtained a victory for **Mirae Asset Global Investments**, in the Delaware Supreme Court, which upheld a ruling we obtained in the Delaware Court of Chancery holding that the seller of a $5.8 billion portfolio of hotels had breached its sale agreement's ordinary course covenant when it shut down and curtailed operations in response to the Covid-19 pandemic. On that basis, and another breach of a closing condition related to insurance, the court released Mirae Asset from its obligation to purchase the properties from the Chinese-based seller, financial conglomerate Anbang Insurance.

- We convinced the Delaware Supreme Court to reverse a summary judgment against our clients, the **Heyman family trusts**, in connection with a $3.2 billion sale of the chemicals business International Specialty Products Inc. to Ashland LLC. In 2015, Ashland and related entities filed a complaint in the Delaware Superior Court seeking to hold the Heyman Parties liable under the parties' 2011 stock purchase agreement for a significant environmental remediation. We obtained a complete reversal of the Superior Court's grant of partial summary judgment in favor of the Ashland Parties on their claim seeking contractual indemnification for the underlying environmental liability. This is a significant win for our client and reaffirms Delaware law's contractarian approach.

- We obtained a victory from the Delaware Supreme Court in a unanimous opinion vacating an $82 million jury verdict and remanding for a new trial on far more favorable terms for our client **Express Scripts** and its subsidiary in a post-M&A dispute. Although the transaction agreement expressly prevented the buyer from recovering outside an agreed insurance policy for anything other than "deliberate" fraud, the buyer nonetheless obtained a jury instruction authorizing recovery for mere reckless misrepresentations, and subsequently obtained an $82 million verdict. The Delaware Supreme Court set important precedent in holding these jury instructions impermissibly failed to heed the parties' agreement to limit fraud to intentional fraud, requiring a new trial.

- We obtained a victory in the Delaware Supreme Court for client **Croda Inc.** in a class action filed by residents who claimed they had a higher risk of disease from being exposed to ethylene oxide emitted from one of its plants. A federal district court had dismissed their claims for failure to plead an injury because none of the class members had been diagnosed with an illness. On appeal, the Third Circuit certified a question of law to the Delaware Supreme Court regarding whether an increased risk of illness alone could qualify as an injury and support damages. The Delaware Supreme Court unanimously held that

increased risk of illness alone is not sufficient to state a claim for injury under Delaware law. The decision not only resolved all claims in Croda's favor, but it also set a significant precedent on an issue of first impression.

- We successfully represented a special litigation committee (SLC) of the **Baker Hughes** board of directors in an appeal to the Delaware Supreme Court, resulting in an affirmance of the Chancery Court's decision to terminate a billion-dollar-plus derivative suit brought by Baker Hughes shareholders against GE, GE-appointed shareholders on the GE board, and the Baker Hughes CEO (a former GE executive).

- We achieved a reversal from the Delaware Supreme Court of the Chancery Court's dismissal of claims brought by our client **BitGo** against Galaxy Digital in connection with a busted deal. In 2021, in what was reported to be the largest merger in the crypto industry at the time, Galaxy Digital agreed to purchase BitGo—a leading digital asset service provider—for about $1.2 billion. Galaxy later terminated the deal and refused to pay BitGo a $100 million break-up fee, asserting that BitGo had delivered audited financial statements that failed to comply with an ersatz technicality under the merger agreement. BitGo sued Galaxy. After the Chancery Court dismissed the case, the Delaware Supreme Court agreed with us and reversed the dismissal. In a unanimous opinion, the Court recognized there were reasonable disputes over the interpretation of the merger agreement.

- We successfully represented the **Washington Nationals** against the Baltimore Orioles in extended litigation that culminated in a unanimous win for the Nationals before the New York Court of Appeals (New York's highest court). Following two rounds of arbitration, the Nationals obtained an arbitral award entitling it to a greater share of television-rights fees paid by the regional network that covers Nationals games as well as Orioles games, over which the Orioles have control. After the New York trial court confirmed the arbitral award, the Orioles continued its challenge to the New York Court of Appeals, whose unanimous decision in favor of the Nationals establishes an important precedent reaffirming that parties will be held to their agreements to arbitrate, even where those agreements select industry insiders as arbitrators. As a result, the parties agreed that the Nationals would receive payment for the relevant years in accordance with the arbitral award.

- We obtained a complete appellate victory for **Southern California Gas Co. ("SoCalGas")** in a closely watched business cases in the California Supreme Court. In a unanimous decision, the court reaffirmed that California follows the economic loss rule, which holds that plaintiffs may not recover in negligence for purely economic losses caused by harm to third parties. The decision clarified California tort law and eliminated the potential threat of billions of dollars in liability against California businesses for purely economic harm in mass disaster cases.

- We won a 5-2 victory in the Florida Supreme Court for our client, **Smart & Safe Florida**, that will allow Floridians to vote on a constitutional amendment to legalize recreational marijuana under state law. The state's high court ruled, in an opinion that is "advisory" only in theory, that the summary of the amendment that will be presented to voters is not misleading.

- We won a resounding, precedent-setting decision from the D.C. Court of Appeals, which thoroughly vindicates our First Amendment arguments on behalf of **Unification Church International ("UCI")**. UCI is a DC religious non-profit that is caught in a religious schism dividing the Unification Movement along with the family of the late Reverend Moon. Following nearly a decade of litigation in DC courts that went against UCI, we were retained shortly before a remedial order was entered necessitating an emergency appeal: The

order posed an existential threat to the corporation by, e.g., imposing hundreds of millions of dollars in fines on individual directors and removing a majority of UCI's board while granting plaintiffs' rival faction say over replacements. Turning the tide, we won an emergency stay from the D.C. Court of Appeals, followed by expedited consideration of our appeal, and now a merits decision that holds most of the rival faction's claims to be altogether foreclosed by ecclesiastical abstention under the First Amendment.

- We won a First Amendment decision from the Connecticut Supreme Court on behalf of **Gartner**, a global leader in technology analysis that publishes reports ranking vendors and products in cutting-edge technology markets. An aggrieved vendor, NetScout Systems, Inc., sued Gartner, alleging defamation and unfair trade practices based on Gartner's ranking of NetScout in one of its renowned "Magic Quadrant" publications. The Court rejected NetScout's efforts and agreed with the trial court that NetScout's allegations lacked evidentiary support. The Connecticut Supreme Court's decision provides important First Amendment protections more broadly for all consumer reviews.

- We prevailed in an appeal to the Nevada Supreme Court on behalf the Board of Directors of **Reading International**, an internationally diversified company focused on cinema exhibition and real estate assets, in a dispute against its former CEO who had attempted to bring a purported derivative action for breach of fiduciary duty against the members of the Reading Board based upon their decision to terminate him, as well as a variety of subsequent board actions. The Nevada Supreme Court agreed with our argument that plaintiff lacked standing to bring his derivative suit and articulated, for the first time in Nevada, an eight-factor test to evaluate derivative standing.

- We obtained an important victory for **Google, LLC** in the Georgia Supreme Court against claims brought by Edible IP, the company that owns the "Edible Arrangements" trademark, alleging that Google's keyword advertising business constituted theft and conversion of the Edible Arrangements mark. Unlike in a prior federal claim, Edible's complaint specifically disclaimed consumer confusion. Instead, it asserted that its trademarks were property under Georgia law that Google was stealing. The Supreme Court unanimously affirmed the dismissal of Edible's claims, holding that no claim for trademark theft or conversion could be maintained without a showing of confusion.

LOWER FEDERAL AND STATE APPELLATE COURTS:

We have achieved numerous victories in other appellate courts throughout the United States. Below are examples of some of the results we have obtained for our clients:

ANTITRUST

- We represent numerous plaintiffs in two MDLs challenging the nation's four largest freight railroads' coordination of fuel surcharges as a violation of the antitrust laws. In the district court, the railroads argued that dozens of pieces of evidence should be excluded under a statutory provision particular to the railroad industry, 49 U.S.C. § 10706(a)(3)(B)(ii), which they claimed shielded the evidence from antitrust scrutiny. We prevailed in the district court, which denied the railroads' motion, and the D.C. Circuit largely affirmed the district court ruling. In the first decision interpreting this statutory provision, the D.C. Circuit held that a discussion or agreement may be excluded only if it concerns the participating rail carriers' shared interline traffic (i.e., shipments carried along two or more railroads' tracks)—and is not excludable if it is about single-line traffic (i.e., shipments moved by one carrier on its own tracks) or about freight traffic generally. This is an important ruling in ensuring that the railroads cannot broadly exclude evidence and thereby create a de facto immunity for their

antitrust violations.

- Acting for a group of plaintiffs including the **City of Philadelphia** and **Prudential**, we obtained a victory in the Second Circuit in antitrust litigation over financial institutions' manipulation of the U.S. Dollar London Interbank Offered Rate ("Libor"). The Second Circuit reversed a district court's dismissal of plaintiffs' antitrust claims, adopting our arguments and holding that even though the Libor-setting process was cooperative, Libor manipulation still constitutes horizontal price-fixing (a *per se* antitrust violation).

- Acting for **The Home Depot**, we persuaded the Second Circuit to overturn a $7.25 billion antitrust class-action settlement that had required more than 12 million merchants to release *all* current and future claims against Visa and MasterCard—without permitting merchants to opt out of that release. We convinced the Second Circuit that the class had been inadequately represented and that the insufficient relief and inability to opt out meant the settlement violated class members' due process rights.

ARBITRATION

- We obtained a decision from the Fifth Circuit enforcing a $722 million arbitration award for our client **Vantage Deepwater**—the largest ever enforced in that circuit. Following our arbitration win and district court confirmation victory, Petrobras argued on appeal that the arbitration award violated public policy. The Fifth Circuit rejected this argument, agreeing with our position that Petrobras' public-policy defense was just a disguised challenge to the factual findings and legal rulings of the arbitrators to which the court was required to defer. Additionally, in its first published opinion on the issue, the Fifth Circuit agreed with us that the district court was within its discretion to deny discovery from a dissenting arbitrator and the arbitration administrator.

- We represented **Solid Financial Technologies** in an appeal in the United States Court of Appeals for the Eighth Circuit regarding whether certain claims against Solid should be decided in arbitration. The district court said that the claims could proceed in court. We convinced the Eighth Circuit to reverse that decision and remand to district court for a summary trial on the narrow issue of whether the arbitration agreement was "effectively communicated" to the plaintiffs.

BANKRUPTCY

- On behalf of the **Federal Deposit Insurance Corporation (FDIC)**, Quinn Emanuel obtained a complete dismissal of an approximately $500 million case in a final, appealable order before the U.S. District Court for the District of Columbia, defending the FDIC's comprehensive receivership authority in connection with the resolution of Silicon Valley Bank.

- We represented French defense industry leader, **MBDA France SAS, French microchip manufacturer Soitec S.A., their U.S. affiliates**, and their officers, in a lawsuit brought by Swiss investment bank, Aldini AG, alleging that MBDA, Soitec, a U.S. technology company, and the French government deprived a French bankruptcy court, depriving Aldini AG of the opportunity to purchase distressed French electronics company Dolphin Integration S.A. We obtained dismissal on the merits and for lack of personal jurisdiction in the district court, led appellate briefing and argument for the appellees, and obtained summary affirmance of the dismissal order within a month of argument.

- We obtained a victory in the Second Circuit for **Charter Communications**, affirming the

district court's reversal of the bankruptcy court's $20 million sanction for a violation of automatic stay. Charter was sanctioned because it sent out mass mailers telling Windstream's Internet and TV customers to switch away from the company with an uncertain future in bankruptcy. Quinn was brought in only after the sanction was issued.

- We obtained a victory in the Fifth Circuit, affirming the bankruptcy court's rejection of CLO HoldCo's attempt to amend its proof of claim in the **Highland Capital Management** bankruptcy, and in doing so convinced the Fifth Circuit to articulate a new, heightened standard for amending bankruptcy claims after a bankruptcy plan is confirmed. Creditors seeking post-confirmation amendments to proofs of claim now must show "compelling circumstances" for the amendment.

- We represented **Regus Corporation** in a Third Circuit appeal involving a contract dispute. A bankruptcy court held a trial and ruled that Regus Corp. was liable for breach of contract, and that decision was affirmed by a district court. We then secured a 2-1 Third Circuit outright reversal for our client.

- We obtained an important victory in the Fifth Circuit for **Amplify Energy Corporation**, against three other energy companies that were challenging the chapter 11 reorganization plan of Amplify's wholly-owned subsidiary, Beta Operating Company, arguing that the chapter 11 plan impaired their rights in a $160 million trust because it would allow Beta to substitute the cash in trust with bonds. After successfully defending against the companies' challenges in both the bankruptcy court and district court, we prevailed in the companies' further appeal to the Fifth Circuit, which unanimously ruled in favor of Beta.

- On behalf of our client, **G-I Holdings**, we won affirmance in the Third Circuit of the bankruptcy court's dismissal of an adversary proceeding filed by the New York City Housing Authority ("NYCHA"). The complaint sought to compel G-I to remove asbestos-containing materials from NYCHA's buildings, a $500-$600 million task. NYCHA sought to circumvent G-I's bankruptcy reorganization plan by arguing that its injunction claim was for equitable relief and not discharged under the bankruptcy code or G-I's plan. But we persuaded the bankruptcy court, the district court, and finally the Third Circuit that NYCHA's claim was ineligible for any exception to the discharge.

- We represented **Charter Communications** in an appeal from a bankruptcy court decision where Charter was sanctioned $20 million for violating the automatic stay, which is the largest sanction ever issued for an alleged stay violation. We obtained a complete reversal of the bankruptcy court's decision and $20 million award.

BUSINESS CONTRACTS AND TORTS

- Quinn Emanuel won mandamus relief from the Sixth Circuit for **Express Scripts**, reversing a ruling that allowed about 800 plaintiffs to add new claims against pharmacy benefit managers in the opioid MDL. The unanimous panel held that Rule 16 demands a plaintiff-by-plaintiff analysis of awareness and diligence before late amendments are allowed.

- We represented **Hyundai** and **Kia** in the MDL. After several months of negotiations and multiple mediation sessions, we reached a settlement with the consumer class. The settlement releases Hyundai and Kia from all consumer liability relating to the vehicle thefts. In exchange, Hyundai and Kia agreed to create a $145M settlement fund to compensate theft victims and to make available a free software upgrade that

addresses the alleged defect. Hyundai and Kia did not admit liability. Total value of the settlement, including the provision of anti-theft devices and vehicle software upgrades, is over $275 million. The district court preliminarily approved the settlement in 2023. Eighty-nine class members objected. In 2024, the district court overruled objections and entered final approval of the settlement.

- We represented **System Energy Resources, Inc.** and **Entergy Service, LLC** (together, "SERI") in a rehearing at the Federal Energy Regulatory Commission ("FERC") and in an appeal of FERC's order denying SERI of rent payment recovery during the renewal term of 21 years under the sale-leaseback agreement it entered in 1988. The appeal also concerned the implications of a so-called "uncertain tax position" SERI had taken on its ability to deduct future expenses of decommissioning the plant at the end of its life from the cost of goods (electricity) sold in the present. The appeal was resolved by settlement.

- We successfully represented client **Berkley Research Group (BRG)** in a nearly decade-long legal battle with competitor FTI Consulting. The dispute centered on three principals and several colleagues and clients leaving FTI to join BRG, which led to allegations of breach of contract, tortious interference, and violation of Massachusetts' unfair competition statute. The trial resulted in an unfavorable jury verdict and judicial award. However, the Massachusetts Appeals Court, in a unanimous decision, overturned the entire judgment and reversed the unfair trade practice damages, marking a substantial win for BRG and Quinn Emanuel.

- We obtained an affirmance by the Tenth Circuit of the district court's dismissal of putative class action claims for breach of fiduciary duties brought by a participant in the pension plan provided by our client, **Barrick Gold**. The lead plaintiff appealed the district court's dismissal of the complaint, seeking to leverage the Supreme Court's recent *Hughes* decision holding that Northwestern University could not escape a breach of fiduciary duty claim that its plan included imprudent investment options simply because the plan also included prudent investment options. Indicating the importance of the appeal, organizations including the U.S. Chamber of Commerce and the Investment Company Institute filed amicus briefs supporting Barrick Gold.

- We convinced the Second Circuit to uphold our trial victory in a high-stakes trademark battle for **LottoMatric N.Y. LLC**, involving the Plaintiff's JACKPOCKET mark and our client's JACKPOT.COM mark. Jackpocket, which had filed the case in hopes of preventing Jackpot.com's entry into the U.S. market for lottery courier services, argued that the district court had legally erred in its assessment of the likelihood-of-confusion factors. The Second Circuit unanimously affirmed, issuing a decision that further reinforces that trademark law permits competitors to use common, descriptive words in branding.

- We successfully secured a full affirmance of a judgment in favor of our client, **Express Scripts**, following a successful jury trial that rejected claims including alleged defamation, seeking over $1 billion dollars from Express Scripts. Following the verdict, the district court granted judgment to Express Scripts on CZ's remaining equitable claims. On appeal, we convinced the Ninth Circuit to fully affirm the decision below.

- We successfully defended **Len Blavatnik** and his co-venturer Victor Vekselberg in a $2 billion lawsuit filed by former Russian senator and oil tycoon Leonid Lebedev. Lebedev asserted claims of fraud, breach of fiduciary duty, breach of joint venture, and breach of contract, claiming that Blavatnik and Vekselberg failed to pay him his $2 billion share of the proceeds of their sale of oil company TNK-BP to Rosneft in 2013. Lebedev

filed suit in February 2014. After a decade of contentious litigation, involving proceedings and discovery around the world, including in Ireland, England, and Cyprus, and involving multiple rounds of summary judgment briefing and three appeals to the New York Supreme Court, First Department, we obtained an order from the First Department affirming dismissal on summary judgment of Lebedev's last remaining claim for breach of contract.

- In one of the last cases arising from the meltdown of the residential mortgage-back securities ("RMBS") market back in 2008, we obtained a resounding appellate victory in the Eighth Circuit for our client the **ResCap Liquidating Trust** (the "Trust"). The Trust was formed to purse claims for the benefit of creditors of the Residential Funding Company ("RFC"), which had gone bankrupt from claims resulting from the defective loans it had brought from mortgage originators and packaged into RMBS. After obtaining recoveries for the Trust exceeding *$1.3 billion*, one defendant declined to settle, leading to a bench trial in the District of Minnesota. The district court found PRMI liable for all damages sought and awarded attorneys' fees and costs that exceeded the damages, entering judgment for approximately $22 million. The Eighth Circuit affirmed the district court's judgment across the board in a unanimous decision. The court has now made binding and precedential law that completely vindicates the arguments we made in the countless briefs and motions that resulted in the $1.3 billion in settlements we had obtained for the Trust.

- We represented **Safeguard Properties** in a class action alleging consumer protection law violations. Within six months of being retained, we were successful in getting the class decertified and the case dismissed. Plaintiffs appealed the district court's dismissal of their class action and grant of summary judgment in Safeguard's favor and asked the Ninth Circuit to certify questions about Safeguard's "good faith" defense to the Washington Supreme Court. The Ninth Circuit declined Plaintiffs' certification request and affirmed the dismissal of the consumer protection claim, confirming that Safeguard acted in good faith under existing law and therefore could not be liable. As a result of this ruling, this former 19,000-plaintiff class action could only proceed as single plaintiff, non-class, individual trespass claim.

- In a case of great importance to the freedom to publish scientific research, we obtained a unanimous appellate victory in the Third Circuit in a case involving a drug company's trade libel lawsuit against a medical association and twelve doctors. Plaintiff **Pacira Biosciences** alleged that articles published in the association's peer-reviewed medical journal had made false and misleading statements that Pacira's pain medication was "not superior" to existing medications. The Third Circuit unanimously affirmed the district court's dismissal of the suit (which our firm had previously obtained) on the ground that the articles were nonactionable statements of scientific opinion. As the Third Circuit concluded, Pacira's critiques of the articles "may be the basis of future scholarly debate, but they do not form the basis for trade libel," and to allow the suit "would risk 'chilling' the natural development of scientific research and discourse."

- We obtained a $70 million post-trial victory, affirmed on appeal to the Federal Circuit, in a fraud case based on allegations that our client **Cisco** had delayed telling plaintiff XpertUniverse that a partnership application had been denied. After a jury awarded $70 million in damages, Cisco retained us for post-trial motions and appeal. We persuaded both the district court and the Federal Circuit that the evidence had been insufficient to support the award, and thus to enter and affirm judgment as a matter of law for Cisco.

- We successfully represented **Total Recall Technologies** in a Ninth Circuit appeal from an order granting summary judgment against our client based on Total Recall's partners' supposed lack of authority to sue on behalf of the company. Total Recall brought suit claiming that Oculus VR—which Facebook acquired in 2014 for $2 billion—had used a design its founder Palmer Luckey had created when he worked under exclusive contract with Total Recall, and that Luckey had taken the design with him when he founded his own company and used that design. On appeal, the Ninth Circuit reversed and remanded, agreeing with our position that any defect in authority had been retroactively cured and thus clearing the way for Total Recall's claims to proceed.

- We obtained a significant victory for our client, **Colgate-Palmolive Co.**, in a case alleging that Colgate's talcum powder products were contaminated with asbestos. The Pennsylvania Superior Court—Pennsylvania's intermediate appellate court—affirmed summary judgment in favor of Colgate, holding that the plaintiff had failed to present evidence that would support a jury finding that Colgate's Cashmere Bouquet Cosmetic Talcum Powder caused her disease.

- We obtained a unanimous victory for our client **Pinterest** in the New York Appellate Division, First Department, which affirmed the dismissal of all claims asserted against Pinterest in its very first lawsuit, a trade-secret case in which the plaintiff alleged that he had come up with the idea for the wildly successful Pinterest website only to have it misappropriated by Pinterest's first investor. The decision adopted our arguments in explaining that the plaintiff failed to state claims for aiding and abetting breach of fiduciary duty, trade-secret misappropriation, unjust enrichment, and unfair competition.

CONSTITUTIONAL LAW AND CIVIL RIGHTS

- We obtained a swift and decisive appellate victory for our client **Caruso Management Company** in the California Court of Appeal for the Second District. Our client operates The Grove, a beautiful shopping mall in Los Angeles. The Grove is owned by Rick Caruso, who was also a candidate for Mayor of Los Angeles. When a group of self-described political activists sought to hold marches of up to 30 to 50 persons through The Grove in opposition to Mr. Caruso's mayoral candidacy, The Grove declined their applications, citing The Grove's longstanding policies limiting the number and location of any speakers at the mall. The would-be marchers then filed a lawsuit against The Grove claiming a violation of their free speech rights under the California Constitution. After the plaintiffs obtained a preliminary injunction arguing that The Grove was selectively applying its regulations because the Caruso campaign had rented space at the mall for some campaign-related activities, we took over the case and immediately appealed. In the space of just 30 days we obtained a stay and then complete reversal of the injunction. The Court of Appeal held there can be no viewpoint discrimination unless speakers are similarly situated, and that comparing the Caruso campaign's paid-for activities with the would-be marches was apples to oranges.

CRIMINAL AND IMMIGRATION LAW

- We accomplished the "Herculean task" of establishing the actual innocence of our client, **Kerry Max Cook**, at the Texas Court of Criminal Appeals (the highest criminal court in Texas), after Mr. Cook had spent his life saddled with a conviction for a murder he did not commit. The allegations against Mr. Cook were "substantiated" by products of egregious prosecutorial misconduct, and after Mr. Cook was released from prison, his actual-innocence claim sat in a procedural purgatory for years as the relevant county clerk refused to transmit his records to the Court of Criminal Appeals despite

repeated orders from the Court. Despite these challenges, we assembled a comprehensive filing detailing evidence of Mr. Cook's innocence and the State's misconduct over the years, reciting what was previously presented to the Court in a piecemeal fashion in one fell swoop, convincing the Court to finally do what should have been done decades ago.

- We obtained an important asylum victory in the Fifth Circuit for our pro bono client **Samuel De Jesus Argueta-Hernandez** in his immigration appeal, reversing the Court's own prior adverse ruling in the case and vacating an adverse decision by the Board of Immigration Appeals. The upshot is a life-altering judgment for our client, who now has a good chance of staying in this country with his family, after fleeing El Salvador due to horrific death threats and an assassination attempt against his son by the notorious MS-13 gang. Following an adverse decision from the Fifth Circuit, we petitioned, alongside the United States, for rehearing, which the Court granted. On rehearing, the Court reversed its jurisdictional ruling, acknowledging that it would have had "disastrous consequences on the immigration and judicial systems." As a published, precedential opinion, this decision will benefit not only Mr. Argueta-Hernandez, but also thousands of other immigrants seeking relief in the Fifth Circuit.

DATA PRIVACY AND SECURITY

- We represented Perplexity in defending its agentic AI assistant against Amazon's efforts to block it from Amazon.com, securing a published Ninth Circuit decision vacating a preliminary injunction. The ruling – holding that it is an AI tool's user, not the tool itself, who "accesses" a website under the CFAA – is an important precedent for the agentic AI industry.

- We obtained a significant victory for **hiQ Labs, Inc.** over LinkedIn Corporation in the Ninth Circuit, which held in precedential opinion that scraping data from a public website does not violate the Computer Fraud and Abuse Act ("CFAA"). The Ninth Circuit held that the statute's prohibition on accessing a computer network "without authorization" does not extend to public websites. This holding represents a significant win for the open internet and prevents website operators from invoking the federal computer hacking statute to enforce their terms of service against users who access only data that is not password-protected.

EDUCATION

- We obtained a unanimous affirmance by the First Circuit of the summary judgment we had obtained for our client **Boston University** in the District of Massachusetts. We won the appeal on an alternative ground that the district court did not reach: that Massachusetts had enacted a statute that immunized Massachusetts colleges and universities from student refund claims based on the transition to remote education in spring 2020. Over arguments that the statute was unconstitutionally retroactive, we secured a unanimous opinion from the First Circuit. The Court dispatched the unconstitutionality argument so thoroughly and persuasively that the decision will now stand as a guidepost to resolving the remaining Massachusetts COVID-19 cases in the university defendants' favor._

- We obtained a resounding victory for our client the **University of Rhode Island** ("URI") in the First Circuit in an action claiming that the University breached its contracts with students when the COVID-19 pandemic forced classes online. We convinced the District of Rhode Island to dismiss the tuition claims and grant URI summary judgment on the fee claims. The First Circuit unanimously affirmed both rulings in a

groundbreaking, precedential opinion—the first victory by a university in a federal circuit court appeal in a comparable COVID case. We pioneered a novel strategy for URI, relying on the affirmative defense of impossibility and frustration of purpose—URI could not stay open after then-Governor Raimundo ordered all public gatherings to shut down. This decision provided a pathway for other universities facing pending COVID-19 claims.

- We represented the **Kamehameha Schools**, the world's largest private K-12 educational trust, obtaining an 8-7 *en banc* victory in the Ninth Circuit that held that the schools do not engage in "race discrimination in contracting" in violation of 42 U.S.C. § 1981 by giving an admissions preference to the Native Hawaiian schoolchildren for whose benefit they were founded by one of Hawaii's last monarchs.

ENVIRONMENTAL LAW

- We represented **TRC** in a case against Chevron where we obtained a $120 million jury verdict and then won an appellate victory that reinstated that verdict after an erroneous new trial order by the trial court. TRC and Chevron are oil producers operating adjacent well fields in Kern County, California. TRC claimed that Chevron's negligent steaming operations created dangerous conditions that forced TRC to suspend operations; Chevron counterclaimed against TRC. The case proceeded to trial before a California jury, which found for TRC and awarded TRC $73 million in damages and $47 million in prejudgment interest. After trial, the trial court found the verdict supported by substantial evidence, but granted Chevron a new trial on the ground that one of the jurors had not disclosed a 40-year-old felony conviction that allegedly rendered him statutorily ineligible to serve as a juror. TRC appealed and Chevron cross-appealed. In a unanimous, precedential opinion, the California Court of Appeal ruled for TRC and against Chevron, reversing the new trial order and directing the trial court to reinstate the judgment in favor of TRC. With post judgment interest, the final award to TRC will exceed $150 million.

- We convinced the Fourth Circuit to affirm the dismissal of three consumer class and mass actions against **Hyundai Motor America, Inc.** and a number of Virginia-based Hyundai dealerships arising from facts relating to the Environmental Protection Agency's imposition of civil fines on Hyundai for asserted Clean Air Act violations involving the method used to calculate vehicle mileage estimates for Elantra model years for 2011-2013.

- We obtained *five* significant Ninth Circuit victories for **Shell**, defeating petitions for review challenging the Bureau of Ocean Energy Management's approvals of Shell's plans for gas and oil exploration in Alaska's Camden Bay and Chukchi Sea and related challenges to EPA's issuance of Clean Air Act permits. The court held, among other things, that the agencies were entitled to significant deference when interpreting the relevant statutes, interpreting their own regulations, and making technical and scientific assessments.

GOVERNMENT AND REGULATORY LAW

- We represented **DJI**, the world's leading commercial and recreational drone manufacturer, in a landmark challenge to the U.S. Department of Defense's designation of DJI as a "Chinese Military Company" under Section 1260H. We obtained a groundbreaking decision from the U.S. Court of Appeals for the D.C. Circuit - the first appellate ruling to address the statute - reversing in part and remanding a district court decision that had narrowly upheld

the designation, and opening the door for DJI potentially to review the classified evidence used against it.

- We secured a complete en banc reversal for **Ancestry.com**, defeating an open-records demand that sought to force Pennsylvania's state archive to turn over Ancestry's proprietary digitized records, indexes, and metadata. The ruling, decided on the broadest possible grounds, protects Ancestry's investments in Pennsylvania and establishes favorable precedent against similar Right to Know challenges in other states.

- We successfully represented **United Parcel Service** ("UPS") in the D.C. Circuit, which granted our petition for review of an order of the Postal Regulatory Commission that had allowed the Postal Service to unfairly compete with other package-delivery services by misclassifying huge portions of its costs. In a unanimous opinion, the D.C. Circuit agreed with our arguments that the Commission's order was arbitrary, capricious, and contrary to law, describing it as "largely incomprehensible."

- In a major victory for **PG&E** in the California Court of Appeal for the Third District, we greatly limited California utilities' litigation exposure from wildfires by eliminating the threat of punitive damages for the 2015 Butte Fire. The court held that, in light of PG&E's extensive vegetation management program along its 135,000 miles of powerlines, PG&E could not possibly be found to have consciously disregarded the risk of tree-related wildfires. In addition to saving PG&E from potentially billions of dollars in punitive damages, the decision created important new California law protecting companies that institute risk management programs from the threat of such damages.

- We obtained a significant pro bono victory in the Federal Circuit for **a Gulf War veteran**. Our client sought disability benefits following a pulmonary embolism that resulted in a heart attack. The Veterans Administration denied benefits, and the Board of Veterans Appeals affirmed. On appeal to the U.S. Court of Appeals for Veterans Claims, that court held that the Board's decision rested on legal error but excused that error as harmless based on its own factual findings. We pursued a further appeal to the Federal Circuit, which vacated the decision as exceeding the Veterans Court's authority and expressly held that that court may not make factual findings in conducting harmless error review. This is an important decision as it ensures that the findings relevant to disability determinations will be made by experts not judges.

INSURANCE

- We represented subsidiaries of **AIG** in successfully persuading the Second Circuit to reverse a $34 million judgment after a jury trial in a reinsurance dispute. After a jury had found AIG liable for fraudulently inducing the plaintiff to enter into six reinsurance agreements, the district court had rescinded the agreements and ordered AIG to pay over $34 million, including $5.75 million in punitive damages. Taking the unusual step of overturning a jury verdict, the Second Circuit unanimously reversed, holding that the claims were barred by the statute of limitations because the plaintiff reinsurer was on notice of key facts from which it could have inferred its claims years prior to filing suit—including from the terms of a contract it had signed but claimed not to have read.

- We obtained a win in the California Court of Appeal for **QBE Insurance (Europe) Limited** and **Beazley Syndicate 2623/623 at Lloyd's**, securing reversal of a $12 million judgment. The two insurers had issued policies that were initially found to cover losses to restaurants related to feared contamination of fresh spinach; we persuaded the

Court of Appeal that the plaintiffs had not shown that the losses were caused by conduct covered by the policies, as opposed to market-wide events.

PATENTS

- We represented **Life Spine** against Globus Medical, a much larger competitor, in a multi-year patent dispute over eight patents that Globus asserted against Life Spine's spinal implant products. We eliminated seven of the patents through IPR proceedings, summary judgment, and trial, and secured a Federal Circuit reversal of the Patent Trial and Appeal Board invalidating the last remaining patent's final claims. The result is expected to wipe out the $9.5 million jury verdict entered against Life Spine, delivering a clean sweep for our client.

- We represented **Taction Technology** in a patent infringement suit against Apple involving technology that enables vibration functionality in iPhones and Apple Watches. After the district court granted summary judgment to Apple based on prosecution history disclaimer and local rule violations, we successfully appealed to the Federal Circuit, which reversed the summary judgment and remanded for trial, finding the district court improperly imported two limitations from the specification in construing the disclaimer and abused its discretion in applying its own local rules and striking our infringement expert's report.

- We successfully represented **IPCom** in defending against a claim for damages brought by Deutsche Telekom alleging anti-competitive discrimination following a patent license agreement concluded by the parties in 2013. The Court of Appeal affirmed the District Court's decision to dismiss the complaint, upholding the distribution of risk contractually agreed upon by the parties.

- We obtained a major appellate victory for **Caltech** in the Federal Circuit in Broadcom's and Apple's appeal of a $1.1 billion patent infringement judgment our firm obtained for Caltech after a jury trial. The case concerns Caltech's inventions related to error correction in digital communications that are practiced by Broadcom's Wi-Fi chips and Apple's devices using those chips. Broadcom and Apple argued on appeal that the district court had erred by denying them judgment as a matter of law on infringement, admitting and excluding various expert testimony related to damages, and precluding certain invalidity defenses, among other issues. A 2-1 panel majority rejected almost all of those arguments, upholding the liability judgment for Caltech and making new law limiting patent estoppel based on proceedings before the Patent Trial and Appeal Board. The court remanded for a new trial on damages because the jury had found two different royalty rates, one for Broadcom and one for Apple. After Apple filed a cert petition regarding patent estoppel and the Supreme Court called for the views of the Solicitor General, we convinced the Solicitor General to recommend that cert be denied. The Supreme Court agreed with that recommendation.

- We represented **Avery Dennison** in an appeal after a trial where, represented by prior counsel, Avery Dennison was found to have infringed a patent directed to the creation of RFID tags—a tracking system. The district court awarded $36 million in patent royalty damages, then increased that amount by $4 million in pre-judgment interest, $55,000 in costs, $2.25 million in attorneys' fees—and $20 million as a discovery sanction. On appeal, the Federal Circuit issued a published decision vacating the sanction award and reversing the grant of summary judgment against Avery Dennison as to the validity of the patent claim, while remanding for a new trial and for reconsideration of the sanction.

- We represent **C.R. Bard, Inc.** in a patent case relating to power injectable vascular access ports pending in the District of Utah. The district court granted summary judgment and invalidated all three of Bard's asserted patents as patent ineligible under Section 101. The Federal Circuit reversed and held that all three patents were directed to eligible subject matter as a matter of law.

- We had a 4-0 clean sweep for **Fitbit** at the Federal Circuit, invalidating Valencell's patents and keeping Fitbit's alive. Valencell had launched high-stakes patent litigation against Fitbit's heart-rate tracking technology, and also against Apple in a parallel action over the Apple Watch. After Apple settled, our client was alone in fielding four concurrent appeals before the Federal Circuit. We won them all.

- We successfully defended **SemaConnect, Inc.** in a patent infringement lawsuit brought by one of its competitors, ChargePoint, Inc. SemaConnect won a contract to install electric vehicle charging stations as part of the $15 billion settlement of Volkswagen's vehicle emissions scandal. We successfully sought and obtained dismissal of ChargePoint's complaint at the pleading stage on an expedited schedule. ChargePoint appealed the district court's decision to the Federal Circuit, which affirmed our victory in a precedential decision.

- We represented **Olaplex, Inc.** in successfully defending the Patent Trial and Appeal Board's rejection of L'Oreal USA's petition seeking invalidation of certain claims of Olaplex's patent on a groundbreaking process to protect hair during bleaching treatments. The Federal Circuit rejected L'Oreal USA's argument that the claims—which concerned the percentage amount by which hair breakage was reduced—were an inherent result of the other steps of Olaplex's patented process.

- We successfully obtained an affirmance from the Federal Circuit on behalf of our client, **Bio-Rad Laboratories**, that 10x Genomics's commercial products infringe Bio-Rad's patents, keeping in place an exclusion order from the U.S. International Trade Commission that prevents importation of 10x's infringing product.

- We obtained a complete reversal in the Federal Circuit of an $85 million judgment of patent infringement against **Google**. Plaintiff SimpleAir, Inc. had sued Google, Microsoft, and numerous other providers of smartphones and software, claiming its patents covered the technology used to send notifications to mobile devices. Google, while represented by previous counsel, had been found by two juries to infringe and to owe $85 million in royalties. On our successful appeal, the Federal Circuit reversed the district court's key claim construction ruling.

- We represented **Google**, **AOL**, **IAC**, **Target**, and **Gannett** in litigation accusing Google's AdWords and AdSense systems of patent infringement. We obtained reversal of a jury verdict of infringement and validity and an award of $30.5 million in damages. The Federal Circuit held that all of the asserted patent claims invalid for obviousness.

SECURITIES AND BANKING

- We represented more than a dozen clients, including **ACP Re, Ltd., AmTrust Financial, and Tower Group International, Ltd.**, on appeal to the New York Appellate Division (First Department) from a summary judgment decision that rejected every argument our clients had made in a trust preferred securities dispute seeking more than half a billion dollars in damages. Working with co-counsel and multiple amici, we showed that the trial court had disregarded undisputed facts and well-settled legal principles, and a unanimous panel granted our appeal in full, reversing the decision and dismissing the

claims against our clients. The ruling resolved difficult questions of successor liability, alter ego, tortious interference, fraud, breach of fiduciary duty and choice of law between New York and Bermuda law.

- We represented **Tesla** in a case involving their groundbreaking Autopilot self-driving technology and obtained a unanimous appellate victory that reversed a trial court order exposing our client to billions of dollars in punitive damages.

- We obtained a victory in the First Circuit in a case of first impression concerning the SEC's ability to recover funds from innocent transferees. Our client, a retired doctor living in Germany facing a multi-million-dollar judgment despite having done nothing wrong, had been named as a so-called "relief defendant" for having received proceeds of securities fraud without a legitimate claim. The SEC had convinced the district court to exercise personal jurisdiction over our client, though he had insufficient minimum contacts with the United States, on the theory that the actual defendant's contacts could be imputed to the relief defendant. On appeal, we distinguished all other situations in which one individual's minimum contacts can permissibly be imputed to another.

- We obtained a complete victory in the Second Circuit for our clients **Mickey Gooch** and **Colin Heffron**, former Chairman and CEO of interdealer broker GFI Group. In a unanimous decision, the Second Circuit affirmed the district court's summary judgment ruling dismissing a Rule 10b-5 securities fraud case. The court held that no reasonable investor would have relied, in making an investment decision, on the general statement in a press release that a proposed deal represented "a singular and unique opportunity to return value." The decision brought a decisive end to a long-running case and reaffirmed that "vague and indefinite expressions of corporate enthusiasm" are no basis for securities fraud class actions, a ruling that will aid future defendants.

- We successfully appealed, on behalf of **Iraq Telecom Limited**, a district court's decision to reduce a previously obtained $100 million attachment order against a Lebanese bank to $3 million. We had obtained an ex parte order from the district court, authorizing an asset freeze of up to $100 million in aid of the already issued arbitral award and in furtherance of a pending arbitration proceeding. The district court reduced the attachment to $3 million, largely on the grounds that Lebanon's ongoing financial crisis presented an extraordinary circumstance, and that the attachment could worsen Lebanon's financial crisis. The Second Circuit held that the court abused its discretion in reducing the attachment without considering whether an alternative attachment amount would have been appropriate and remanded for a revised attachment of not less than $17 million. This case presents a matter of exceptional importance in the availability of pre-judgment attachment relief, especially in cases against foreign banks in cross-border litigation.

- We achieved a remarkable across-the-board victory for the **Federal Housing Finance Agency**, as Conservator for Fannie Mae and Freddie Mac, in the Second Circuit, which affirmed our $800+ million trial win against Nomura and RBS. In an exhaustive, 147-page opinion, the court found "no merit in any of Defendants' arguments." Because FHFA had settled related cases, the decision vindicated our years-long litigation strategy as precedent, helping set important standards for securities markets.

- We obtained a unanimous affirmance from the Third Circuit of a complete trial victory for **C3.ai**, including an award of attorneys' fees and expenses. Former stockholders of E2.0, a company acquired by C3, sued C3 as well as its founder and its former CEO for

alleged securities fraud under 10(b) of the Securities Exchange Act of 1934, common law fraud, and breach of contract, seeking over $68 million in damages. After we obtained a complete defense victory at trial, E2.0 appealed the contract claim and the award of attorneys' fees, but the Third Circuit agreed with the trial court that E2.0 had failed to prove damages on that claim and affirmed the judgment for C3 in its entirety.

TRADEMARK AND COPYRIGHT

- We represented **IlliquidX Limited** in a breach of confidence and trade secrets claim arising from the breakdown of a joint venture to establish a sanctions-compliant fund investing in distressed Venezuelan sovereign debt. After the venture collapsed, Altana Wealth and Brevent Advisory set up a competing fund using IlliquidX's confidential investment strategy. The High Court found in our client's favour in February 2025, and the Court of Appeal unanimously dismissed the defendants' appeal on 10 July 2026, reaffirming the legal test for "public domain" information under English law.

- We represented **Block, Inc.** (formerly, Square, Inc.) in a trademark infringement case brought by H&R Block, Inc. Block, Inc. serves as a holding company for a suite of services, including a peer-to-peer money transfer service, Cash App. H&R Block alleged that Block, Inc.'s use of its corporate name and Cash App's green rounded square logo with a white dollar sign in connection with its new tax preparation service, Cash App Taxes, infringed H&R Block's various BLOCK trademarks and green square logo. After the district court issued a preliminary injunction for H&R Block, we appealed, obtained a stay pending appeal, and then obtained a decision reversing the preliminary injunction. The Eighth Circuit held that it was clear error for the district court to find a likelihood of substantial consumer confusion given the dissimilarity of the marks and the lack of any evidence of "a single customer who used Cash App thinking it was an H&R Block product."

- We represented music streaming service **Rhapsody (n/k/a "Napster")** in a class action brought by songwriters alleging copyright infringement. The district court awarded $1.7 million in fees—more than *thirty times* the amount paid to class members. The Ninth Circuit unanimously reversed in a precedential opinion, stating that the award would "likely make the average person shake her head in disbelief" and was not reasonable under Rule 23. The decision establishes that a fee must be considered in light of the actual benefit to the class—the claims made—and not a "hypothetical settlement cap," and that "except in extraordinary cases, a fee award should not exceed the value that the litigation provided to the class."

- We obtained a victory in the Ninth Circuit for our client **Snail Games USA, Inc. and Wildcard Properties LLC**, the copyright owners of a popular video gamed called Ark: The appeal involved important issues of statutory interpretation concerning Section 512 of the Copyright Act—a DMCA provision that governs the extrajudicial process for alerting online platforms of infringement, allowing those platforms to remove the work and avoid monetary liability for copyright infringement. The Ninth Circuit held in our favor, concluding that the declaratory judgment plaintiff seeking a preliminary injunction compelling retraction of a DMCA take down notice is seeking a mandatory injunction and bears the burden of establishing the Supreme Court's *Winter* factors for such relief.

- We represented **Vimeo** in a copyright infringement lawsuit brought by the music industry, which sought to compel Vimeo to proactively monitor and remove users' videos that feature allegedly infringing music. In a unanimous ruling, the Second Circuit rejected these claims and affirmed Vimeo's summary judgment win below,

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upholding the important safe harbor protections afforded by the Digital Millennium Copyright Act for platforms such as Vimeo that host user-generated content.