

Re: Christopher B. Wells  
Outline of Experience in Securities Litigation/Arbitration

Examples of Securities Broker/Securities Act Cases.

2010. Co-counsel with a national law firm in defense of underwriter of several collateralized debt obligations of roughly \$100 million each in cases brought by the Federal Home Loan bank of Seattle alleging securities fraud under Washington State Securities Act.

Assisted in defending the New York Stock Exchange ("NYSE Arca") in a case brought in federal district court in Seattle. Served as co-counsel to NYSE Arca's primary outside counsel, Milbank Tweed. Plaintiff alleged damages resulting from payments it made to reimburse customers who claimed to have lost money on trades induced by a stock price that was allegedly—but never actually—reported on the NYSE Arca electronic exchange and was far below the usual trading range for that stock. NYSE Arca filed a motion to dismiss on various grounds, including immunity accorded regulatory organizations. Immediately after our co-counsel's oral argument on July 13, the court dismissed the complaint against NYSE Arca with prejudice on several grounds.

2008-2009. In re 16(b) Litigation, No. C07-1549JLR (USDC, WDWA): Served as local counsel and participated in strategy and brief writing for ten investment bank-underwriters sued in 54 cases seeking hundreds of millions of dollars to be disgorged as short swing profits from issuers and underwriters in IPOs from 1998-2001. Cases were coordinated, omnibus motions to dismiss were filed by underwriters and issuers based on limitations period expiring and other grounds. Cases were dismissed on March 12, 2009 due to expired limitations period and inadequate demand upon issuer defendants.

FINRA Case No. 08-0450, *Neves v. WaMu Investments Inc.* (nka Chase Investment Services Corp.): Defended securities broker-dealer in customer arbitration alleging out of pocket losses over \$1 million and consequential damages over \$3 million based on unsuitable recommendations. Panel dismissed all claims, imposed forum fees on claimant, expunged individual representative's record of complaint and awarded \$50,000 attorney fees to brokerage firm.

FINRA Case No. 09-04075 *Lewandowski v. Loring Ward, Pershing, FSC Securities and Terwedo* and FINRA Case No. 08-04249, *Peterson v WaMu Investments* (nka Chase Investment Services Corp.): Appeared for investment adviser and clearing broker in one case and broker-dealer in another, and in both cases induced counsel for claimant to dismiss with prejudice.

2006-2007. Represented Canadian and U.S. individuals and U.S. Company in SEC investigation of stock transactions in OTCBB company, concerning possible registration, reporting and antifraud violations, market manipulation and insider trading. Represented a number of securities brokers-dealers and individuals in a variety of state securities regulatory investigations including suitability of variable annuity sales, supervision, registration of real estate notes and investment advisor conduct.

2004-2005. Defended many customer claims in arbitration cases. About ten went to hearings, but one was against a settlement recommendation and only one other award exceeded a claimant's settlement demand. Defended Canadian stockbroker in SEC administrative proceedings in Denver, CO, in which Enforcement Division alleged numerous violations against seven respondents, stemming from Reg S violations of stock traded in public company OTC. Division sought to disgorge \$27 million from Canadian client. Defeated anti-fraud claims and limited disgorged amount to \$1 million compensation admittedly earned and offered to Division all along, less taxes paid.

2003. Prosecuted securities broker-dealer's contribution claim against former rep who had fraudulently sold unapproved products concealed from firm, then filed bankruptcy when customers complained. In bankruptcy adversary proceeding, obtained \$1.4 million judgment of non-dischargeable debt to firm.

2003. Obtained dismissals of firms and brokers in two arbitrations involving high yield bond fund and tech stocks. Defended firm, two managers and rep who had advised retired claimants to mortgage home and invest in aggressive growth funds, violating managers' policy. Case had unavoidable exposure of \$30,000 - \$60,000. Tried to settle, but claimants demanded \$180,000. Obtained dismissal of two managers, and limited award against the firm and

rep to \$42,000.

2002. Defended broker in arbitration in which customer alleged failure to sell short or recommend short sale of stock in internet retailer in which customers held restricted shares. Obtained dismissal with no liability. Defended firm in “selling away” case in Idaho state court; procured dismissal with no liability.
2001. Defended securities firm in series of selling away cases in California NASD arbitrations. Procured increasingly favorable settlements, declining to ten percent of out-of-pocket losses in final cases.
- 2000-01. *Buskey v. Morgan Stanley Dean Witter*. Headed team of attorneys in several law firms defending broker-dealer in Boise, Idaho state court case. Plaintiffs alleged unsuitable recommendations and churning, and sought over \$1 million in “well-managed portfolio compensation” and punitive damages. After successful summary judgment motions dismissing almost all claims, plaintiffs settled for \$15,000.
- 1999-2000. Regulatory matters. Represented several employees in regulatory investigations concerning trading in their employers’ publicly traded stock.
- 1999-2000. Defended firms and stockbrokers in NASD arbitrations that settled and induced one claimant to withdraw claims against broker by providing documents disproving claim at outset and citing legal authority for recovery of defense fees and costs. (Replaced two New York law firms who had been unable to induce the dismissal.)
- 1999-2000. *Getty v. Harmon*. Teamed with partners to defend stockbroker/insurance salesman in federal court class action in Seattle under the PSLRA, and served as special securities defense counsel in parallel grand jury proceedings. Subverted class damage theories to spark a settlement highly satisfactory to client and his insurance carrier.
1996. NASD Case No. 95-0537. Defended firm and assisted pro se former broker against customers claiming losses around \$150,000 from placing entire \$200,000 portfolio in non-public California real estate partnerships. Client firm was only required to repurchase one limited partnership investment for \$13,000 (then worth several thousand dollars), and former rep funded half of repurchase.
- 1995-96. NASD Case No. 94-12746. Defended individual broker against Montana state securities fraud claims by customers who invested in vermiculite mining venture. Before retaining counsel, client had been fined \$10,000 and barred from industry by NASD for selling away, and firm defended on selling away theory. Upon motion based on affirmative defenses, obtained no-liability defense verdict--dismissal of claims with prejudice at close of claimants’ case (enabling firm to avoid liability as well).
- 1994-95. AAA Case No. 75 136 00094; WDWA Bkcy. No. 95-00573. Prosecuted securities fraud and related claims on behalf of four investors who had lost \$405,000 in gold mining venture. Obtained AAA award of \$600,000, and in related bankruptcy proceeding settled with mining company and managers for \$535,000.
- 1993-1995. NASD Case No. 93-01590. Defended brokerage firm in \$2 million case in St. Louis brought by 35 investors throughout the country alleging securities fraud, RICO and other liability arising from real estate partnership syndication. Settled case for approximately 60% of out-of-pocket losses, recommended filing coverage action against E&O insurance carrier, which had denied coverage. No reported cases supported coverage arguments, but convinced federal district court in St. Louis to bar exclusions relied upon by carrier, obtained partial summary judgment by distinguishing precedents applicable to insurance rather than equity securities and followed up with extremely favorable settlement covering almost all of the payment made to the underlying claimants.
1994. *Albar, Inc.*, JAMS. Appointed as special master by Seattle JAMS Judge to assist in decision involving closely held corporation buy-out of minority shareholder-president by majority shareholder. Advised arbitration judge on issues of shareholder, director and officer responsibility, stock valuation and damage claims. Supervised ongoing business operations pending hearing.
- December 1993. NASD case No. 92-03433. Defended broker-dealer in NASD arbitration in Tampa, Florida. Claimant alleged securities fraud and other Florida statutory and common law liability based on unsuitable investments recommended by a top management official who had an exemplary record. Obtained no liability defense verdict.
- February 1993. *Arth v. Auravision*, (Washington State court) Pierce County Cause No. 86-2-01317-8 and *Pounds v. Auravision*, Pierce County Cause No. 86-2-01317-8. Defended accountant in two state court suits involving mas-

1992. *Braun v. Smith*, USDC/WD WA Case No. C88-1587R (federal court in Seattle). In class action alleging over \$7 million in damages, defended prominent Seattle law firm that had acted as bond counsel in municipal securities offering. Filed summary judgment motion, then negotiated settlement for much less than remaining cost of defense.
- February 1992. NASD Case No. 91-00612. 84-year-old widow sought \$250,000 plus attorney fees alleging securities fraud and other statutory and common law liability for unsuitable investments by broker who transferred from one respondent firm to another. Defended one firm, secured cooperation by all respondents' counsel and advanced successful affirmative defense theories leading to no liability verdict for all respondents.
1991. *In Re Nordstrom Securities Litigation*, USDC/WD WA, Cause No. C90-295C. Teamed with other Lane Powell lawyers defending client Nordstrom in shareholder class action fraud on the market lawsuit alleging federal and state securities fraud and other statutory and common law liability. Interviewed traders and securities analysts in brokerage firms throughout the United States and deposed several. The class plaintiffs alleged roughly \$200 million liability, and settled for \$7.5 million, half the amount reserved by our client.
- September 1991. *Bennett v. Malony et al.*, (Washington State Court) King County Cause No. 86-2-08163-1. Defended attorney who served as escrow agent in financing of condominium development. Plaintiff, the Masonic Lodge of Washington, sought \$250,000 plus attorney fees based on state securities act and other grounds. At trial, obtained predominantly defense verdict (well below plaintiff's and below client's last settlement offer) despite numerous errors by trial court. The trial judge altered the jury verdict and increased damages to \$250,000. Appealed for client and obtained reversal of trial court's j.n.o.v. and reversal of trial court's denial of defense motion for directed verdict, resulting in no liability verdict for client and recovery of costs on appeal. Appellate opinion describing case at 63 Wn. App. 180, 817 P.2d 868 (1991).
1990. *Hollinger v. Titan Capital Corp.*, 914 F.2d 1564 (9th Cir. 1990) (en banc). Defended brokerage firm in federal court lawsuit in Seattle commenced around 1986 alleging federal and state securities fraud and other state common law and statutory liability. Obtained summary judgment dismissal of claims against client brokerage firm, notwithstanding that rep had defalcated plaintiffs' funds. Represented brokerage firm in nationally prominent appeal in which Ninth Circuit altered its test for control person liability under the federal securities acts. Part of the summary judgment was reversed and remanded, then settled. (Later supplied briefs and guidance to the attorney who obtained a summary judgment upheld on appeal in a subsequent control person case—*Hauser v. Farrell*, 14 F.3d 1338 (9th Cir. 1994).
1989. *Glenham v. Palzer*, USDC, WD WA (federal court in Seattle) Cause No. C87-849WD. Defended attorney who acted as escrow agent for mortgage broker in racketeering case predicated on federal securities fraud in which about 30 plaintiffs sought damages of \$1.5 million (trebled under RICO to \$4.5 million). Obtained summary judgment dismissal of claims (led briefing for numerous defendants). Settled plaintiffs' appeal for negligible amount, and Ninth Circuit affirmed summary judgment in favor of remaining defendants in 1991 - U.S. App. LEXIS 26873.
1989. *Winchester Gold Corporation, et al. v. American Mining Co., et al.* (Washington State Court) Spokane County Cause No. 88-202289-0. Defended corporate managing partner and directors and officers of limited partnership comprised of public mining companies in \$2.5 million state court suit in Spokane. Individual clients were founders of Pegasus Gold Company. After a year of litigation, negotiated settlement of claims for about \$800,000. Plaintiffs had alleged securities and management fraud, diversion of partnership funds, usurpation of opportunities and interest in \$90 million transaction for world's largest copper/nickel deposit.
1989. *McGrath, et al. v. Sentra Securities Corporation, et al.*, USDC, WD WA, Cause No. C87-475WD and FPI/Agritech Securities Litigation, (federal court in Seattle, transferred to San Francisco/Hawaii) MDL No. 763. Defended brokerage firm in \$2.5 million federal court lawsuit brought by about 30 plaintiffs alleging federal and state securities, RICO and other statutory and common law liability. This lawsuit was combined with six others into a multidistrict class action alleging \$150 million damages. After our initial discovery requests, threat of a summary judgment motion and brief negotiations, class plaintiffs agreed to dismiss client brokerage firm without prejudice. Class plaintiffs later settled with a number of defendants, and obtained a multimillion dollar judgment against a

1987. *Auty, et al. v. Teuscher/Badger Mountain South*. Defended attorney in securities/RICO case brought by investor in real estate syndications. Obtained no liability dismissal.
1986. *Burris v. Philatelic/Wilkinson*, King County Cause No. 85-2-198891. Defended securities broker in suit involving stamp program tax shelter. Obtained no liability dismissal.
1985. *Howey v. Michie*, Spokane County Cause No. 84-2-00505-4. Defended attorney in suit alleging state securities and other liability brought by investor in plastics business in which attorney was involved. Obtained no liability defense verdict at bench trial in Spokane.
1984. *Anderson v. Aurotek, Inc.*, reported at 774 F.2d 927 (9th Cir. 1986). Prosecuted securities fraud and related claims in gold mining tax shelter against promoters and affiliated professionals. Obtained \$500,000 summary judgment for plaintiffs. Summary judgment was affirmed as to some and reversed as to other defendants on appeal, then settled.
1983. *In re WPPSS Securities Litigation*, MDL No. 551. Acted as securities litigation strategist on team of Lane Powell attorneys defending Oregon Public Utility Districts in \$2.2 billion class action brought by thousands of public utility bond purchasers. One of the earliest “fraud on the market” cases. Formulated defense that market makers were aware of the allegedly concealed information, which was factored into the market price, thereby refuting bondholders’ contention they paid prices artificially inflated by concealment of adverse information. Procured extremely favorable settlement.